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FIRST SESSION

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SENATE—*Tuesday, January 7, 1997*

The seventh day of January being the day prescribed by House Concurrent Resolution 230, as amended, for the meeting of the 1st session of the 105th Congress, the Senate assembled in its Chamber at the Capitol, at 12 noon.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Your glory fills this hallowed Senate Chamber. We exalt You as Sovereign of our beloved Nation, and we are exhilarated as we prepare to witness the divine encounter between You and the Senators-elect as they are sworn in. You have destined them for greatness as leaders of our Nation. They are here by Your choice and are accountable to You for how they lead this Nation under Your guidance. May the awesome vows that they take and the immense responsibilities they assume bring them to the knees of their hearts with profound humility and an unprecedented openness to You. Save them from the seduction of power, the addiction of popularity and the aggrandizement of pride. Lord, keep their priorities straight: You and their families first; the good of our Nation second; consensus around truth third; party loyalties fourth; and personal success last of all.

May they never forget that they are here to serve and not to be served. Consistently replenish the reserves of strength and courage so often drained by pressure and stress. Anoint their minds with Your spirit and guide them as they seek to know and do Your will in the crucial issues before our Nation. This can be America's finest hour awaiting leaders imbued with Your power. May it be, Lord, in Your holy name. Amen.

CERTIFICATE OF ELECTION AND CREDENTIALS

The VICE PRESIDENT. The Chair lays before the Senate one certificate of election to fill an unexpired term and the credentials of 33 Senators elected for 6-year terms beginning on January 3, 1997.

All certificates, the Chair is advised, are in the form suggested by the Senate or contain all the essential requirements of the form suggested by the Senate. If there be no objection, the reading of the above-mentioned certificates will be waived and they will be printed in full in the RECORD.

The documents ordered to be printed in the RECORD are as follows:

STATE OF COLORADO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Wayne Allard was duly chosen by the qualified electors of the State of Colorado a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January 1997.

Witness: His excellency our governor Roy Romer, and our seal hereto affixed at the City and County of Denver this 6th day of December, in the year of our Lord 1996.

By the Governor:

ROY ROMER,
Governor.

STATE OF MONTANA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Max Baucus was duly chosen by the qualified electors of the State of Montana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd day of January, 1997.

Witness: His excellency our Governor Marc Racicot, and our seal hereunto affixed at the City of Helena, the Capital, this 2nd day of December, in the year of our Lord 1996.

By the Governor:

MARC RACICOT,
Governor.

STATE OF DELAWARE

To the President of the Senate of the United States:

Be it known, an election was held in the State of Delaware, on Tuesday, the fifth day of November, in the year of our Lord one thousand nine hundred and ninety-six, that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Laws of the State of Delaware, in that behalf, for the election of a Senator for the people of the said State, in the Senate of the United States.

Whereas, the official certificates or returns of the said election, held in the several counties of the said State, in due manner made out, signed and executed, have been delivered to me according to the laws of the said State, by the Superior Court of the said counties; and having examined said returns, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Senator, I have found Joseph R. Biden, Jr., to be the person highest in votes, and therefore duly elected Senator of and for the said State in the Senate of the United States for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and ninety-seven.

I, Thomas R. Carper, Governor, do therefore, according to the form of the Act of the General Assembly of the said State and of the Act of Congress of the United States, in such case made and provided, declare the said Joseph R. Biden, Jr., the person highest in votes at the election aforesaid, and therefore duly and legally elected Senator of and for the said State of Delaware in the Senate of the United States, for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and ninety-seven.

Given under my hand and the Great Seal of the said State, in obedience to the said Act of the General Assembly and of the said Act of Congress, at Dover, the 14th day of November in the year of our Lord one thousand nine hundred and ninety-six and in the year of the Independence of the United States of America the two hundred and twenty-first.

By the Governor:

THOMAS R. CARPER,
Governor.

STATE OF KANSAS

CERTIFICATE OF ELECTION FOR UNEXPIRED TERM

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred ninety-six, Sam Brownback was duly chosen by the qualified electors of the State of Kansas a Senator to succeed Sheila Frahm for the unexpired term beginning on the sixth of November, nineteen hundred ninety-six, and ending at noon on the third day of January, nineteen hundred ninety-nine, to fill the vacancy in the representation from said State in the Senate of the United States.

●This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Witness: His Excellency our governor Bill Graves, and our seal hereto affixed at Topeka, Kansas, this twenty-seventh day of November, in the year of our Lord, nineteen hundred ninety-six.

By the Governor:

BILL GRAVES,
Governor.

STATE OF GEORGIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Max Cleland was duly chosen by the qualified electors of the State of Georgia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor Zell Miller, and our seal hereto affixed at the Capitol, in the City of Atlanta, this 18th day of November, in the year of our Lord 1996.

By the Governor:

ZELL MILLER,
Governor.

STATE OF MISSISSIPPI

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Thad Cochran was duly chosen by the qualified electors of the State of Mississippi, a Senator from this State to represent the State of Mississippi in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

Done at the Capitol in the City of Jackson, this the 11th day of December, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America, the two hundred and twenty-first.

By the Acting Governor:

——— ———,
Lt. and Acting Governor.

STATE OF MAINE

Know ye, that Susan M. Collins of Bangor in the County of Penobscot on the fifth day of November, in the year One Thousand Nine Hundred and Ninety-Six, was chosen by the electors of this State, a United States Senator in the One Hundred Fifth Congress of the United States of America to represent the State of Maine in the United States Senate, for the term of six years, beginning on the third day of January, in the year Nineteen Hundred and Ninety-Seven.

In testimony whereof, I have caused the Great Seal of the State to be affixed, given under my hand at Augusta this fourth day of December in the year One Thousand Nine Hundred and Ninety-Six.

ANGUS S. KING, Jr.,
Governor.

STATE OF IDAHO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Larry Craig was duly chosen by the qualified electors of the State of Idaho a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1997.

Witness: His excellency our governor Philip E. Batt, and our seal hereto affixed at Boise this 20th day of November, in the year of our Lord 1996.

By the Governor:

PHILIP E. BATT,
Governor.

STATE OF NEW MEXICO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Pete Domenici was duly chosen by the qualified electors of the State of New Mexico a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our governor Gary Johnson, and our seal hereto affixed at Santa Fe this 9th day of December, in the year of our Lord 1996.

By the Governor:

GARY JOHNSON,
Governor.

STATE OF ILLINOIS

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred and ninety-six, Richard J. Durbin was duly chosen by the qualified electors of the State of Illinois, a Senator from said State, to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and ninety-seven.

Witness: His excellency our governor, Jim Edgar, and our seal hereto affixed at the City of Springfield this twenty-fifth day of November, in the year of our Lord nineteen hundred and ninety-six.

By the Governor:

JIM EDGAR,
Governor.

STATE OF WYOMING

CERTIFICATE OF ELECTION

Whereas according to the official returns of the General Election held in the State of Wyoming on the 5th day of November 1996, regularly transmitted to the office of the Secretary of State and duly canvassed by the State Canvassing Board, it appears that Michael B. Enzi has been duly elected for the office of United States Senator.

Now, therefore, I, Jim Geringer, Governor of Wyoming, do hereby certify that he is elected for the term of six years from the third day of January 1997.

In witness whereof, I have hereunto set my hand and caused the Great Seal of Wyoming to be affixed. Given at Cheyenne this 20th day of November 1996.

JIM GERINGER,
Governor.

STATE OF TEXAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Phil Gramm was duly chosen by the qualified electors of the State of Texas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1997.

Witness: His excellency our governor George W. Bush, and our seal hereto affixed at Austin, Texas this 4th day of December, in the year of our Lord 1996.

By the Governor:

GEORGE W. BUSH,
Governor.

STATE OF NEBRASKA

At an election held on the 5th day of November, 1996 Chuck Hagel was elected to the office of United States Senator for the term of 6 years.

Given at Lincoln, Nebraska this 11th day of December, 1996.

BENJAMIN NELSON,
Governor.

STATE OF IOWA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Tom Harkin was duly chosen by the qualified electors of the State of Iowa a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

In testimony whereof, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 6th day of December in the year of our Lord one thousand nine hundred ninety-six.

TERRY E. BRANSTAD,
Governor.

STATE OF NORTH CAROLINA

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Jesse Helms was duly chosen by the qualified electors of the State of North Carolina a Senator from said state to represent said state in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1997.

Witness: His excellency our governor James B. Hunt, Jr., and our seal hereto affixed at Raleigh this 11th day of December, in the year of our Lord 1996.

By the Governor:

JAMES B. HUNT, Jr.,
Governor.

STATE OF ARKANSAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, the Honorable Tim Hutchinson was duly chosen by the qualified electors of the State of Arkansas as a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997, the vote being:

Tim Hutchinson	445,942
Winston Bryant	400,241
Total votes cast	846,183

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Arkansas to be affixed this 4th day of December, 1996.

MIKE HUCKABEE,
Governor.

STATE OF OKLAHOMA

CERTIFICATE OF ELECTION FOR SIX YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November 1996, James M. Inhofe was duly chosen by the qualified electors of the State of Oklahoma a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor Frank Keating and out seal hereto affixed at Oklahoma City, Oklahoma this 14th of November in the year of our Lord 1996.

By the Governor:

FRANK KEATING,
Governor.

STATE OF SOUTH DAKOTA

CERTIFICATE OF ELECTION

This is to Certify, That on the fifth day of November, nineteen hundred ninety-six, at a general election Tim Johnson was duly chosen by the qualified voters of the State of South Dakota to the office of United States Senator for the term of six years, beginning the third day of January, nineteen hundred ninety-seven.

In witness whereof, We have hereunto set our hands and caused the Seal of the State to be affixed at Pierre, the Capital, this 27th day of November nineteen hundred ninety-six.

WILLIAM J. JANKLOW,
Governor.

THE COMMONWEALTH OF MASSACHUSETTS

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred and ninety-six John F. Kerry was duly chosen by the qualified electors of the Commonwealth of Massachusetts a Senator from said Commonwealth to represent said Commonwealth in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and ninety-seven.

Witness: His Excellency, our Governor, William F. Weld, and our seal hereto affixed at Boston, this twenty-seventh day of November in the year of our Lord nineteen hundred and ninety-six.

By His Excellency the Governor:

WILLIAM F. WELD,
Governor.

STATE OF LOUISIANA

ELECTION PROCLAMATION

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Mary L. Landrieu was duly chosen by the qualified electors of the State of Louisiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor M.J. "Mike" Foster, Jr., and our seal hereto affixed at the City of Baton Rouge this 20th day of November, 1996.

By the Governor:

M.J. "MIKE" FOSTER, Jr.,
Governor.

STATE OF MICHIGAN

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Carl Levin was duly chosen by the qualified electors of the State of Michigan a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 1997.

Given under my hand and the Great Seal of the State of Michigan this 6th day of December, in the Year of our Lord, One Thousand Nine Hundred Ninety-Six.

By the Governor:

JOHN ENGLER,
Governor.

COMMONWEALTH OF KENTUCKY

To all to Whom These Presents Shall Come, Greeting:

Know Ye, That Honorable Mitch McConnell having been duly certified, that on November 5, 1996, was duly chosen by the qualified electors of the Commonwealth of Kentucky a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd day of January 1997.

I hereby invest the above named with full power and authority to execute and discharge the duties of the said office according to law. And to have and to hold the same, with all the rights and emoluments thereunto legally appertaining, for and during the term prescribed by law.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Commonwealth to be hereunto affixed. Done at Frankfort, the 25th day of November in the year of our Lord one thousand nine hundred and 96 and in the 205th year of the Commonwealth.

By the Governor:

PAUL E. PATTON,
Governor.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CERTIFICATE OF ELECTION

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, John F. Reed was duly chosen by the qualified electors of the State of Rhode Island and Providence Plantations a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His Excellency our Governor Lincoln C. Almond, and our seal affixed on this 27th day of November, in the year of our Lord 1996.

LINCOLN C. ALMOND,
Governor.

STATE OF KANSAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred ninety-six, Pat Roberts was duly chosen by the qualified electors of the State of Kansas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third of January, nineteen hundred ninety-seven.

Witness: His Excellency our governor Bill Graves, and our seal hereto affixed at Topeka, Kansas, this twenty-seventh day of November, in the year of our Lord, nineteen hundred ninety-six.

By the Governor:

BILL GRAVES,
Governor.

STATE OF WEST VIRGINIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, 1996, Jay Rockefeller was duly chosen by the qualified electors of the State of West Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1997.

Witness: His excellency our Governor Caston Caperton, and our seal hereto affixed at Charleston this 12th day of December, in the year of our Lord 1996.

By the Governor:

GASTON CAPERTON,
Governor.

STATE OF ALABAMA

CERTIFICATE OF ELECTION

To the President of the Senate of the United States:

For a six-year term in the United States Senate.

This is to certify that on the fifth day of November, 1996, the Honorable Jeff Sessions was duly chosen by the qualified electors of the State of Alabama as a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1997.

Witness: His excellency our governor the Honorable Fob James, and our seal hereto affixed at the Alabama State Capitol this sixth day of December, in the year of our Lord 1996.

FOB JAMES,
Governor.

STATE OF NEW HAMPSHIRE

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred and ninety six Bob Smith was duly chosen by the qualified electors of the State of New Hampshire a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the third day of January, nineteen hundred and ninety-seven.

Witness: His Excellency, Governor Steve Merrill and the Seal of the State of New Hampshire hereto affixed at Concord, this twentieth day of November, in the year of Our Lord nineteen hundred and ninety-six.

By the Governor, with advice of the Council:

STEVEN MERRILL,
Governor.

STATE OF OREGON

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Gordon Smith was duly chosen by the qualified electors of the State of Oregon a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor, John Kitzhaber, and our seal hereto affixed at Salem, Oregon this 5th day of December, in the year of our Lord 1996.

By the Governor:

JOHN KITZHABER,
Governor.

STATE OF ALASKA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that in an election held on the 5th day of November, 1996 and certified on the 27th day of November, 1996, Ted Stevens was duly elected by the qualified voters of the State of Alaska to serve as Senator from Alaska to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor Tony Knowles, and our seal hereto affixed at Juneau, Alaska this 4th day of December, in the year of our Lord 1996.

TONY KNOWLES,
Governor.

STATE OF TENNESSEE

CERTIFICATE OF ELECTION TO UNITED STATES SENATOR

This is to certify, That at the General Election held on the 5th day of November, A.D., 1996, Fred Thompson was duly elected to this office as appears from the official returns and certificates on file in the Office of Secretary of State.

In testimony whereof I, Don Sundquist, Governor of the State of Tennessee, have hereunto set my hand and caused the Great Seal to be affixed, at the Capitol, in Nashville, on this 9th day of December, A.D., 1996.

DON SUNDQUIST,
Governor.

STATE OF SOUTH CAROLINA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the Secretary of the Senate of the United States:

This is to certify that on the fifth day of November, 1996, Honorable Strom Thurmond was duly chosen by the qualified electors of the State of South Carolina as Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January 1997.

Witness: His excellency our Governor, David M. Beasley, and our seal hereto affixed at Columbia, South Carolina this twenty-first day of November, in the year of our Lord, 1996.

By His Excellency:

DAVID M. BEASLEY,
Governor.

STATE OF NEW JERSEY

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

This is to certify that on the fifth day of November, 1996, Robert G. Torricelli, was duly chosen by the qualified electors of the State of New Jersey, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd day of January, 1997.

Given, under my hand and the Great Seal of the State of New Jersey, this twenty-seventh day of November in the year of Our Lord one thousand nine hundred and ninety-six and of the Independence of the United States, the two hundred and twentieth.

By the Governor:

CHRISTINE TODD WHITMAN,
Governor.

COMMONWEALTH OF VIRGINIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, John W. Warner was duly chosen by the qualified electors of the Commonwealth of Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 1997.

Witness: His excellency our Governor, George Allen, and our lesser seal hereto affixed at Richmond this 26th day of November, in the year of our Lord 1996.

By the Governor:

GEORGE ALLEN,
Governor.

STATE OF MINNESOTA

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Paul David Wellstone was duly chosen by the qualified electors of the State of Minnesota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our governor Arne H. Carlson, and our seal hereto affixed at St. Paul, Minnesota this 19th day of November, in the year of our Lord 1996.

ARNE H. CARLSON,
Governor.

The VICE PRESIDENT. The majority leader.

WELCOME AND CONGRATULATIONS TO SENATORS

Mr. LOTT. Mr. President, first I wish to extend my welcome and congratulations to all of the newly elected Senators. We look forward to working with you in a bipartisan way for the best interests of our country. I know that we have a few of our retiring Senators here and we want to wish them a fond adieu and the very best in the future. Senator JOHNSTON there from Louisiana needs to be careful; he might change his mind and raise his hand and try to get sworn in again.

This is a magnificent occasion, and it is an honor to serve as the majority leader in this great body and to work with my friend, Senator DASCHLE, from South Dakota.

THE OATH WE TAKE

Mr. LOTT. Mr. President, today marks the 105th time since 1789 that newly elected Senators have stood before this body's Presiding Officer at the start of a new Congress to pledge their support for the Constitution of the United States. I would like to take advantage of this special event in the life of each new Congress to comment briefly about the origins of the oath we take.

There is a good deal of confusion about the oath and its origin. Some believe that the Constitution prescribes its specific text and that all Senators since 1789 have taken and signed the oath in the form that we know today. Neither is true. While the Constitution specifies a separate oath for the President, it leaves to Congress the responsibility of preparing an oath for its Members and all other Federal officeholders.

The Oath Act of June 1, 1789, was the first legislation passed by the Senate and the first law signed by President George Washington. It prescribed the following simple oath: "I ________ do solemnly swear (or affirm) that I will support the Constitution of the United States." On June 4, 1789, Senate President John Adams administered that new oath to all Senators, setting a pattern that future Presiding Officers followed, without controversy, for the next 74 years.

The outbreak of the War Between the States quickly transformed the act of oath-taking, which had become a routine procedure after 1789, into one of enormous significance. At a time of uncertain and shifting loyalties, President Abraham Lincoln ordered all Federal civilian personnel to retake the prewar oath of allegiance. When Congress convened for a brief emergency session in the summer of 1861, Members supplemented the President's action by passing a law requiring civil officers to take an expanded oath in support of the Union. Although Congress did not then apply this August 1861 oath to its own Members, its text is the earliest direct predecessor of the oath we take today.

When Congress returned for its regular session in December 1861, Members who believed that the Union had more to fear from northern traitors than from southern soldiers fundamentally revised the August 1861 statute in July 1862 by adding an "Ironclad Test Oath" provision. This war-inspired test oath required civil servants and military officers to swear not only to future loyalty, as required by the existing oaths, but also to affirm that they had never previously supported hostilities against the United States. Those who failed to take the 1862 test oath would not receive a salary; those who swore falsely would be prosecuted for perjury and forever denied Federal employment.

The 1862 oath's second section incorporated a more polished and graceful rendering of the hastily drafted 1861 oath in language that is identical to the oath we take today.

Early in 1864, the Senate adopted a rule specifying that all newly elected Members must not only orally agree to the test oath, but also "subscribe" to it by signing a printed copy. This condition reflected a wartime practice in which military and civilian authorities required anyone wishing to do business with the Federal Government to sign a copy of the test oath. The requirement included Confederate prisoners of war seeking parole and southerners who wished to be reimbursed for goods confiscated by foraging Union troops. Our modern practice of signing the oath comes from this period.

At the end of the war in 1865, the test oath stood as a formidable barrier to President Andrew Johnson's moderate reconstruction policies, designed to allow residents of the South to participate in their own government. While the President pushed for a rapid reintegration of Southern States, those in Congress who wished to impose a harsh peace insisted on the test oath, which had been created in part to prevent ex-Confederates from taking Federal positions. Many of the oath's drafters specifically had in mind blocking the return of one of my direct Senate predecessors—Jefferson Davis.

The Constitution's 14th amendment, ratified in 1868, permitted Congress to remove barriers to service by former Confederates through a two-thirds vote of both Houses. Congress then enacted an oath for those in this category, allowing them to ignore the test oath's first section, regarding past loyalties, and subscribe only to its second section pledging future allegiance. That 1868 oath is identical to the one we take today.

As postwar tensions eased, Congress in 1871 dropped the requirement for a two-thirds vote of both Houses for former Confederates entering congressional service or government employment. For another 13 years, however, all oath takers who were not former Confederates were required to take the full test oath. In 1877, to further complicate matters, the Senate amended its rules to require that Senators take not only the 1862 or the 1868 oath, but also the original oath of 1789.

Reflecting the confusion surrounding these multiple requirements, the Senate's archives contain no signed oaths for the years between 1871 and 1880. From 1880 until 1884, nearly 20 years after the war's conclusion, newly elected southern Senators who had participated in that conflict signed the 1868 oath, while all the others signed the 1862 test oath.

On January 11, 1884, as part of a general revision of its rules, the Senate replaced specific references to the rules of 1862 and 1868 with the simple statement that is now Rule III of our Standing Rules: "The oaths or affirmations required by the Constitution and prescribed by law shall be taken and subscribed by each Senator, in open Senate, before entering upon his duties." Seven weeks later, bringing to a close nearly a quarter century of confusion and acrimony, the Senate repealed the 1862 test oath. From that day to this, the high solemn oath "prescribed by law" has been the oath of 1868.

LOUISIANA ELECTION CONTEST

Mr. LOTT. Mr. President, before the Chair presents the certification of election for the swearing in to begin, I would like to take a moment to speak about the seating of one of our new colleagues who will be sworn in within the next few minutes. I am referring to the seating of Senator-elect LANDRIEU. The Senate has received petitions from the citizens of the State of Louisiana contesting the election of Senator-elect LANDRIEU.

As most of you know, direct election of U.S. Senators began as a result of the 17th amendment to the Constitution in 1913. Since that time, the Senate has called into question a number of election results. However, only on four occasions have the challenges been successful in persuading the Senate to overturn the outcome of an election. The U.S. Constitution leaves it entirely up to the Senate to decide what evidence it deems relevant for overturning an election.

At this point, the seating of Senator-elect LANDRIEU has been called into question as a result of investigative material by the Senate Rules Committee. The Senate Rules Committee is reviewing the evidence, and I am confident they will come to a conclusion as to whether the allegations should be dismissed or investigated further in a swift and timely manner.

With all of that in mind, Senator-elect LANDRIEU will take the oath of office with her colleagues but will be seated without prejudice. The seating without prejudice has occurred a number of times in U.S. Senate history. The term means without prejudice to the right of the Senate to determine the outcome of the questioned election.

I should like to quote from majority leader Taft of Ohio when he stated that "These Senators should be permitted to take the oath and to be seated. It is my further view that the oath is taken without prejudice to the right of anyone contesting the seat to proceed with the contest and without prejudice to the right of anyone protesting or asking expulsion from the Senate to proceed."

In the case of our colleague, Senator-elect LANDRIEU, she will shortly begin her new role as a U.S. Senator from the State of Louisiana and the Rules Committee will continue to investigate the allegations. I know the Democratic leader concurs with this procedure of seating Senator-elect LANDRIEU without prejudice, and we are both hopeful that the Rules Committee will conclude its investigation and make its ruling in a swift and responsible fashion. It is possible that later today, after discussions with the Democratic leader, we will be able to reach a further colloquy and perhaps a consent agreement with respect to any motion the Rules Committee may make at a later date in response to those allegations. After consulting with the Democratic leader, I hope to propound a consent agreement that would limit debate on any motion so that the full Senate would be able to resolve the matter very quickly.

I now yield to the Democratic leader for any comments he may wish to make on the subject.

The VICE PRESIDENT. The Democratic leader is recognized.

SWEARING IN OF SENATORS

Mr. DASCHLE. Mr. President, let me begin by thanking the distinguished majority leader for his comments and welcoming him to the 105th Congress, as we welcome all of the newly elected Members to this prestigious body. As the Senator also noted, we have a number of former colleagues who have now reached the height of "citizen," and we welcome them in their new positions as well. The families are here. We all note their presence and recognize what an important day and a memorable day it is for not only the Senators-elect, but for the families as well.

We begin this session with much hope and good will. And I think the remarks just made by the majority leader concerning Senator LANDRIEU are reflective of that. I would like to believe that the administration of the oath of Senator-elect LANDRIEU will not prejudice in any way the Senate's constitutional power to judge the Louisiana election. Neither will the pendency of Mr. Jenkins' petition diminish in any way the effect of the oath that will now be administered to Senator-elect LANDRIEU.

Just as in recent cases of Senators COVERDELL, Packwood, and FEINSTEIN, all Senators sworn in today are Senators in every sense of the word. Those were the sentiments of leaders in those instances, and I believe they are just as appropriate today.

I yield the floor, and I thank the distinguished majority leader.

Mr. LOTT. Mr. President, I think we are ready to proceed.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the 33 Senators to be sworn will now present themselves at the desk in groups of four as their names are called in alphabetical order, the Chair will administer their oaths of office.

The clerk will read the names of the first group.

The legislative clerk called the names of Mr. ALLARD, Mr. BAUCUS, Mr. BIDEN, and Mr. BROWNBACK.

These Senators, escorted by Mr. CAMPBELL, Mr. BURNS, Mr. ROTH, and former Senator Dole, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The Senate will be in order. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. CLELAND, Mr. COCHRAN, Ms. COLLINS, and Mr. CRAIG.

These Senators, escorted by Mr. NUNN, and Mr. COVERDELL, Mr. LOTT, Mr. Cohen, and Ms. SNOWE, and Mr. KEMPTHORNE, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The Senate will be in order. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. DOMENICI, Mr. DURBIN, Mr. ENZI, and Mr. GRAMM.

These Senators, escorted by Mr. BINGAMAN, Mr. SIMON, and Ms. MOSELEY-BRAUN, former Senator Wallop and Mr. Thomas, and Mrs. Hutchison, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. HAGEL, Mr. HARKIN, Mr. HELMS, and Mr. HUTCHINSON.

These Senators, escorted by Mr. KERREY, Mr. GRASSLEY, Mr. FAIRCLOTH, and Mr. BUMPERS, respectively, advanced to the desk of the Vice President, the oath prescribed by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. INHOFE, Mr. JOHNSON, Mr. KERRY of Massachusetts, and Ms. LANDRIEU.

These Senators, escorted by Mr. NICKLES, Mr. DASCHLE, Mr. KENNEDY, Mr. BREAUX, and Mr. Johnston, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. LEVIN, Mr. MCCONNELL, Mr. REED of Rhode Island, and Mr. ROBERTS.

These Senators, escorted by Mr. ABRAHAM, Mr. FORD, Mr. CHAFEE, Mr. PELL and Mrs. Kassebaum, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. ROCKEFELLER, Mr. SESSIONS, Mr. SMITH of New Hampshire, and Mr. SMITH of Oregon.

These Senators, escorted by Mr. BYRD, Mr. SHELBY, Mr. GREGG, and Mr. WYDEN, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. STEVENS, Mr. THOMPSON, Mr. THURMOND, and Mr. TORRICELLI.

These Senators, escorted by Mr. MURKOWSKI, Mr. FRIST, Mr. HOLLINGS, and Mr. LAUTENBERG, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. WARNER and Mr. WELLSTONE.

These Senators, escorted by Mr. ROBB and Mr. GRAMS, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

Mr. LOTT addressed the Chair.

The VICE PRESIDENT. The majority leader is recognized.

CALL OF THE ROLL

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 1]

Abraham
Allard
Ashcroft
Baucus
Biden
Bingaman
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

The VICE PRESIDENT. A quorum is present.

NOTIFICATION TO THE HOUSE OF REPRESENTATIVES

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the House that a quorum is present, ask that it be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. LOTT. Before that is completed, Mr. President, for the information of all Senators, there are a number of traditional resolutions and unanimous consent requests that we will need to work through now. We have discussed these, and they have been cleared with the Democratic leader. There are a number of them. It will take some time. We do not at this time anticipate any recorded vote. I wanted the Senators to be aware of that.

So I renew my request.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 1) was considered and agreed to, as follows:

S. RES. 1

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

NOTIFICATION TO THE PRESIDENT

Mr. LOTT. Mr. President, I send a resolution to the desk creating a committee consisting of two Senators to notify the President that a quorum of each House is assembled, ask that it be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 2) was considered and agreed to, as follows:

S. RES. 2

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

Mr. LOTT. Mr. President, in order that we may carry out the direction of this resolution, we will ask for a quorum call at this point so the Democratic leader and I can move across the Hall to the Vice President's office to make the traditional call.

With that, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I report to the Senate that Senator DASCHLE and I have spoken to the President and have assured him that we have taken the necessary actions to swear in our Members and establish our quorum, and we are ready to do business. He said he was glad to hear that and he is ready to go to work.

HOUR OF DAILY MEETING

Mr. LOTT. Mr. President, I send a resolution to the desk fixing the daily meeting of the Senate at 12 noon.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 3) fixing the daily meeting of the Senate at 12 noon.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Without objection, it is so ordered.

The resolution (S. Res. 3) was agreed to.

The resolution is as follows:

S. RES. 3

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

PROVIDING FOR THE COUNTING OF THE ELECTORAL VOTES ON JANUARY 9, 1997

Mr. LOTT. Mr. President, I send a concurrent resolution to the desk providing for the counting of electoral votes on January 9 at 1 p.m.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 1) to provide for the counting on January 9, 1997, of the electoral votes for President and Vice President of the United States.

The VICE PRESIDENT. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Without objection, the concurrent resolution is agreed to.

The concurrent resolution (S. Con. Res. 1) was agreed to, as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Thursday, the 9th day of January 1997, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

ELECTION OF THE HONORABLE STROM THURMOND AS PRESIDENT PRO TEMPORE OF THE SENATE

Mr. LOTT. Mr. President, it is now with great pleasure and truly indeed an honor that I send a resolution to the desk electing Senator STROM THURMOND as the President pro tempore of the Senate.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 4) electing STROM THURMOND, a Senator from the State of South Carolina, to be President pro tempore of the Senate of the United States.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Without objection, it is so ordered.

The resolution (S. Res. 4) was agreed to.

The resolution is as follows:

S. RES. 4

Resolved, That Strom Thurmond, a Senator from the State of South Carolina, be, and he is hereby, elected President of the Senate pro tempore, to hold office during the pleasure of the Senate, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

ADMINISTRATION OF OATH TO SENATOR STROM THURMOND AS PRESIDENT PRO TEMPORE OF THE SENATE FOR THE 105TH CONGRESS

The VICE PRESIDENT. The Senator from South Carolina, to be escorted by the majority leader, Mr. LOTT, the Democratic leader, Mr. DASCHLE, the former President pro tempore, Mr. BYRD, and the Senator from South Carolina, Mr. HOLLINGS, will present himself at the desk to take the oath of office.

The President pro tempore advanced to the desk of the Vice President; the oath was administered to him by the Vice President; and he subscribed to the oath in the official oath book.

[Applause, Senators rising.]

[Mr. THURMOND assumed the chair.]

Mr. DASCHLE addressed the Chair.

The PRESIDENT pro tempore. The distinguished Democratic leader.

CONGRATULATIONS TO THE PRESIDENT PRO TEMPORE

Mr. DASCHLE. Mr. President, on behalf of all the Members of the Democratic caucus, let me congratulate the President pro tempore on his ascension to this position once again. He has served ably in the last Congress and he has gained the respect of many new Members who did not have the opportunity to work with him in the past. I know that will be the case once more in the 105th Congress.

So we join with our Republican colleagues in congratulating and wishing you well on your election and expressing the hope that we can continue to work so ably together, as you have so clearly demonstrated the ability to do in the last Congress.

The PRESIDENT pro tempore. Thank you, very much.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The able majority leader.

Mr. LOTT. Mr. President, I would like to congratulate the distinguished Senator from South Carolina for his reelection. Once again the people of South Carolina have shown their usual good judgment. And I also congratulate you on your being reelected as the President pro tempore. Your leadership and your determination to pass good legislation for the best interests of our country and the honorable way in which you serve as the Senator for your great State and as leader in the Senate is one for which we are all very proud and one that as such sets an example for all of us to emulate. We congratulate you and wish you the very best in the 105th Congress. We know you will do your traditional good work.

The PRESIDENT pro tempore. Thank you for your kind words.

[Applause, Senators rising.]

Mr. LOTT. Mr. President, I would be delighted to yield to the distinguished Senator from West Virginia.

SENATE PRECEDENTS

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

For the record, and without being critical of anyone, I am sure that we have followed late precedent in notifying the House and notifying the President after the President pro tempore is elected.

When the Senate first met on April 6th, 1789, after having been delayed 34 days for the lack of a quorum, the first order of business was the election of a President pro tempore, who is a constitutional officer. The Senate is required to elect a Member of the body to serve as the President pro tempore in the absence of the Vice President.

When the Senate met on April 6th, 1789 there was no Vice President. There was no President. And once the President pro tempore was elected—his name was John Langdon from New Hampshire—the Senate then notified the House that it was organized and ready to count the electoral ballots.

So the selection of the President pro tempore was first because the Senate had to have a Presiding Officer. And there was no Vice President. There was no Vice President until April 21st of 1789 when the Vice President, John Adams, took the oath of office.

So I say this because sometimes we vary from precedent without thinking about it. And it escaped my notice that this was done, I think, in the last Congress when the President pro tempore was elected.

But in any event, for the record, I hope that in the future we will follow the practice of the Members of the Senate of 1789, when a President pro tempore is to be elected.

In the old days they elected a President pro tempore perhaps for the occasion, or one for a single day. But the practice now is that we elect a President pro tempore, who serves until another is elected—he retires, or passes on to another world, or his party loses control and a new President pro tempore is elected, or until his own term as Senator expires and he is reelected, as was the case today.

I thank all Senators for their indulgence. And especially I thank our two fine leaders. I am also very favorably impressed with both leaders. I know that they are going to do the Senate proud and do all of us proud.

Mr. LOTT. Mr. President, I thank the distinguished Senator from West Virginia for that information. And certainly we want to follow the precedents very closely. I will make sure that we look carefully at those and be prepared to elect a President pro tempore first the next time. Certainly, my feeling is that there is no higher honor nor greater responsibility nor greater opportunity than electing the Senator from South Carolina as the leader and as President pro tempore of the Senate.

So I thank Senator BYRD for his comments.

NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the President of the election of Senator THURMOND, and ask that the resolution be reported by title, agreed to, and that motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 5) notifying the President of the United States of the election of a President pro tempore.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 5) was agreed to, as follows:

S. RES. 5

Resolved, That the President of the United States be notified of the election of STROM THURMOND, a Senator from the State of South Carolina, as President pro tempore.

NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A PRESIDENT PRO TEMPORE OF THE SENATE

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the House of the election of Senator THURMOND, and ask that the resolution be reported by title, agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 6) notifying the House of Representatives of the election of a President pro tempore of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 6) was agreed to, as follows:

S. RES. 6

Resolved, That the House of Representatives be notified of the election of STROM THURMOND, a Senator from the State of South Carolina, as President pro tempore.

EXTENDING THE LIFE OF THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES AND THE PROVISIONS OF SENATE CONCURRENT RESOLUTION 48

Mr. LOTT. Mr. President, I send a concurrent resolution to the desk extending the life of the Joint Inaugural Committee, and ask that the resolution be reported by title, agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 2) to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 48.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 2) was agreed to, as follows:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 1997, the joint committee created by Senate Concurrent Resolution 47 of the One Hundred Fourth Congress, to make the necessary arrangements for the inauguration is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 1997, the provisions of Senate Concurrent Resolution 48 of the One Hundred Fourth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President of the United States, and for other purposes, are hereby continued with the same power and authority.

UNANIMOUS-CONSENT AGREEMENTS

Mr. LOTT. Mr. President, these unanimous-consent requests are those of the standing orders—for example, the setting of leaders' time each day—which are obtained at the beginning of each Congress which govern our day-to-day activities. As in the past, these consents have been cleared with the Democratic leader. Therefore, I send to the desk 11 unanimous-consent requests and ask for their immediate consideration en bloc, that the requests be agreed to en bloc, and that the various consents be shown separately in the RECORD.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, the Ethics Committee be authorized to meet during the session of the Senate.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, there be a limitation of 15 minutes each upon any rollcall vote, with the warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10-minute duration, the warning signal be sounded at the beginning of the last 7½ minutes.

Mr. President, I ask unanimous consent that during the Congress, it be in order for the Secretary of the Senate to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate.

Mr. President, I ask unanimous consent that the majority and minority leaders may daily have up to 10 minutes each on each calendar day following the prayer and disposition of the reading of, or the approval of, the Journal.

Mr. President, I ask unanimous consent that the Parliamentarian of the House of Representatives and his three assistants be given the privilege of the floor during the 105th Congress.

Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXVIII, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report unless specific request is made in the Senate in each instance to have such a report printed.

Mr. President, I ask unanimous consent that the Committee on Appropriations be authorized during the 105th Congress to file reports during adjournments or recesses of the Senate on appropriation bills, including joint resolutions, together with any accompanying notices of motions to suspend rule XVI, pursuant to rule V, for the purpose of offering certain amendments to such bills or joint resolutions, which proposes amendments shall be printed.

Mr. President, I ask unanimous consent that, for the duration of the 105th Congress, the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossments of all Senate-passed bills and resolutions, Senate amendments to House bills and resolutions, Senate amendments to House amendments to Senate bills and resolutions, and Senate amendments to House amendments to Senate amendments to House bills or resolutions.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, when the Senate is in recess or adjournment, the Secretary of the Senate be authorized to receive messages from the President of the United States, and—with the exception of House bills, joint resolutions, and concurrent resolutions—messages from the House of Representatives; and that they be appropriately referred; and that the President of the Senate, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, Senators be allowed to leave at the desk with the journal clerk the names of two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted, and that the Sergeant at Arms be instructed to rotate such staff members as space allows.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, it be in order to refer treaties and nominations on the day when they are received from the President, even when the Senate has no executive session that day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I yield to the distinguished Senator from West Virginia for some comments in regard to this particular resolution prior to the time we go to the next one.

Mr. BYRD. Mr. President, have the unanimous consent requests been agreed to, en bloc?

The PRESIDING OFFICER (Mr. JEFFORDS). They have been.

Mr. BYRD. I had hoped to be recognized before they were agreed to. But I take the floor now just to inquire of the Chair and to inquire of both leaders, during the leader time each day, are we talking about 10 minutes for speeches only? I do not think there has been any controversial motion ever made during the 10 minutes of either leader's time, and I think, for the RECORD, we ought to clarify this, that the 10 minutes are to be used for speeches or for unanimous consent requests but that no motion will be in order during those 10 minutes for either leader.

I say this because it seems to me—and I have not seen it happen, but I think it could happen—during the 10 minutes if there were a very controversial motion and a Senator or group of Senators were attempting to hold the floor and not let that motion be made, their leader could come in and claim his time, which he has a right to do, and during the 10 minutes I am concerned that he might make a controversial motion. This might never happen, and there might be other ways—I am sure there would be—to challenge that, but just in order that we do not have to worry about it, I wonder if it is agreed that during the 10 minutes no controversial motion will be made.

What is controversial? I should think we ought to know when either leader seeks to make a motion. If the motion is likely to be controversial, I hope that it would not be made during that period of 10 minutes.

Mr. LOTT. Mr. President, this unanimous consent request is that the majority and minority leaders may have up to 10 minutes each on each calendar day following the prayer and the disposition of the reading of or the approval of the Journal. It does not indicate any limitation as to what may be done in that 10 minutes. This is the language that has been used traditionally. It was taken from previous opening day unanimous consent requests that are traditionally done en bloc as we have done here today.

I know of no incident where this has been abused or any series of abuses of this 10-minute time by the leaders, certainly not during my time, and I do not remember it during Senator Dole's time. As far back as I have knowledge, I do not think that has been done.

I know that the leaders, Senator DASCHLE and I, will work together very carefully, and we have already indicated to each other we do not intend to pull surprises. And certainly if we were going to make any motion during that 10-minute period, we would have, I believe, an obligation to notify each other of such a plan.

But I do feel that it is not limited to just debate only. I would like to have the opportunity before we limit it in any way to go back and look carefully at what the precedents have been and how it has been dealt with in the past, and make sure we understand what we could or could not do. We are in no way enlarging upon what has been done in the past. Once again, in all due diligence and caution, I would want to make sure we are not giving up a right that in fact the leaders may need in the future.

Mr. DASCHLE. Mr. President, I think the distinguished senior Senator from West Virginia makes a very good point. I think the point of his inquiry in large measure has to do with whether or not either side will surprise the other with regard to tactics involving the leaders' time that would in some way assist the leaders in doing something for which there has not been proper notification. I believe, as the distinguished majority leader has indicated, both sides are going to make a good faith effort to assure that we are not surprised. I believe in this case that effort will be practiced as well as promised.

I think there have been occasions, and I can recall vaguely the occasions, where we have been working under a time agreement and, as a result of negotiations between both sides, have come up with a compromise substitute amendment, through a process that involves the leaders, that may allow us to expedite the legislative process, wherein the leaders will use their time to make the case involving that particular amendment and then offer the amendment at the end of that period of time as an alternative to the pending measure.

It would be my hope we could continue to work with that understanding because on some occasions we are out of time, and were it not for the leaders' time, we might not be able to address such a compromise. Of course, we still have the avenue of asking for unanimous consent, but the leaders' time gives us another option in that regard. So I think the distinguished Senator from West Virginia is right on the mark with regard to the concern he raises, and I think I am satisfied that I have the assurances from the majority leader in this case there will not be surprises and we will use this time prudently.

Mr. LOTT. Mr. President, if I could be recognized for a moment more before the distinguished senior Senator from West Virginia comments.

Mr. BYRD. Sure.

Mr. LOTT. I think that, once again, as we try very hard to make sure we preserve the decorum we should have in this Chamber and we have kind of gotten away from—the Senator from West Virginia has noted that fact to me, and I have heard him—we are going to try some things to effect that in fact and in appearance also. We have had a situation where maybe too many staff members are getting in the Chamber and blocking passages. We are going to try to address that.

Also, if we are going to be able to work together in a cordial and civil manner, it is going to be important we be honest with each other and fair and we notify each other when we are fixing to take action and we not have surprises.

That is the way I intend to proceed. I am sure we will have some bumps along the road. The Senate is an island of tranquility in many respects in this city. We have heavy responsibilities on which we need to act, and it is going to take give-and-take, cooperation, and I am absolutely committed to that approach. That will be the way I will proceed with regard to this 10 minutes and everything else that I try to do.

Mr. BYRD. Mr. President, I thank both Senators. I am fully satisfied with the colloquies that have resulted from my inquiry.

May I say to the distinguished majority leader that I do not believe we had the 10 minutes for each leader back when I was the majority leader the first time in 1977. I think this practice grew up in that period or soon thereafter. But in any event, as I thought I said earlier, I have never known—I cannot remember a time in which such a provocative situation might arise. I have never known that to happen. I have never known any majority leader or minority leader to transgress upon the confidence of the membership in giving its acquiescence to the request. It is just that I thought there could be such a situation. I thought we ought to try to clarify it and thus prevent some future misunderstanding. I am satisfied with what has been said.

While I have the floor, so that I will not impose upon the leaders too much, there was a second request made, and it was agreed to, and I just rise at this time to compliment the leaders on making this unanimous consent request and also on the progress that is being made and being discussed to which the majority leader has just referred, anent disorder in the Chamber.

In recent years, we have allowed too much gathering of staffs and too many conversations to go on in the rear of the Chamber, and it does not do the Senate credit. I can remember when we had no benches; we even had no seats in the rear of the Chamber. The staff stood when they came to the floor. They stood or sat on the floor of the Chamber, which I did not like. And it was for that reason that I had, when I was majority whip, chairs brought into the Chamber and a large davenport so staffs would at least have a place to sit.

And then, later, I had the gallery—this gallery here to the northeast, I guess it is—assigned to staff. Then I had these handsome benches and the bannister put back here so the staffs could be appropriately accommodated. I am glad that the request includes the words, "and that the Sergeant at Arms be instructed to rotate such staff members as space allows." I want to thank the leaders for including that language.

I especially want to take the floor here so that the Sergeant at Arms and all Senators—the leaders need our cooperation as well—so that the Sergeant at Arms and all Senators will be well aware that when more staff members are in the Chamber than the seating accommodations will allow, then there is a special gallery for staffs, and I would hope that the Sergeant at Arms would help us to keep the number of staff people in the Chamber down. I assure both leaders they will have my cooperation. I try, as I see that there are too many staff people—and I have two or three staff persons—I try to send mine out so as to leave only one. I am very much heartened by the letters that I have received from both leaders in response to concerns such as this, that I have expressed.

I foresee that we Senators are going to be even more proud of our leaders in the future than perhaps we have been at some times in the past. I see not only a willingness but a desire on the part of both leaders to have Members speak to them about matters that concern us. As I have noted, I followed through on that, and that has not been the end of it. Both leaders have written to me to let me know that they are aware of a matter and that they are working on it. I thank both, and I think it is to the credit of the two leaders, and certainly will redound to the credit of the Senate, if we can have better order in the coming days.

I thank both leaders.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. I thank again the Senator from West Virginia for his comments. I am pleased that he noted this unanimous-consent agreement. The Sergeant at Arms is on the floor. We have discussed this matter, and we are undertaking procedures to set up this rotation of staff members. We are making sure that Senators are informed of that. We will remind Senators, probably on the 21st, of a number of these types of things so that they will not be surprised, and call on Members on both sides for their cooperation and courtesy. In fact, at the concluding part of our unanimous consent request today I will make a few comments about how we are going to try to reestablish some of the proper procedures, respect for each other's needs as Senators, and call on our Senators to be aware of that and to assist us as we try to do that. So we are not going to forget and, while we are not going to be dictatorial about it, we are going to try our very best to ask our Senators to recognize this is in the best interests of the institution and will allow us to do our work in a more efficient and effective way, I do believe.

Mr. BYRD. I thank the leader. We owe it to the Senate, we owe it to the membership, we owe it to the people of the United States of America with whom the power resides.

I thank the leader.

LEGISLATION ON AN APPROPRIATIONS BILL

Mr. LOTT. Mr. President, originally I had thought that at this point the Senate would grant a unanimous consent that would in effect make null and void the precedent set in March of 1995 with respect to legislation on an appropriations bill. Having spoken with the Democratic leader, we both feel, now, that the Senate would be better served by conducting a rollcall vote that would overturn the precedent.

Needless to say, this vote would occur at the first opportunity the Senate has during the appropriations process this year, at least we think that would be the appropriate time for it to occur. The Democratic leader has indicated to me that he would support such an action in the early summer of this year as we begin the appropriations process, and I look forward to his cooperation at that time, when we have the vote which would reinstate the point of order with respect to legislation on an appropriations bill.

I believe, and I think the Democratic leader would agree, that the process has been abused in recent months. There seems to be a growing use of this opportunity, and, in some of the discussions that we had at the end of the session last year, I believe that point was made by the Senator from South Dakota and perhaps the Senator from West Virginia. I think it was an unintentioned precedent that was set. I do not think it is in the best interests or the long-term interests of the Senate. I would like for us to preserve rule XXVI of the Standing Rules of the Senate. I think the Senate would be better served if we would do that, preserve that rule. So we will look for the opportunity, the best opportunity we can find, to consider changing back that precedent.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. The overturning of the Chair, back in March 1995, had far-reaching consequences, as the majority leader has indicated. By overturning the Chair, the Senate no longer had the legislation on appropriations point of order to keep legislative riders from being added to crucial appropriations bills. Many on this side of the aisle believe the point of order should be restored. However, we also believe that this situation should be remedied in the same way that it was imposed on the Senate; that is, by rollcall vote. So I intend to work with the majority leader to see if we can, by rollcall vote, restore this point of order at some point in the early months of the 105th Congress.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—INTRODUCTION OF LEGISLATION

Mr. LOTT. Mr. President, I ask unanimous consent that the introduction of Senate bills, concurrent, joint, and simple resolutions not be in order prior to Tuesday, January 21.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. This now establishes Tuesday, January 21, as the first day in which Members may introduce legislation. I will inform my colleagues that Members may make statements during the next day or two regarding any proposed legislation, however all Senators must wait until January 21 to formally introduce such legislation.

I might note that we have been working very aggressively to get organized quickly. We agreed early on the committee ratios. I believe both parties now have decided most of their committee membership. The committee chairmen will be elected by their respective committees today, ratified by our conference tomorrow. I assume the same thing will occur or has occurred on the Democratic side. Hopefully, by Thursday we will have available to the Senate the list of all the committee membership and we will be ready for business.

There are a number of committees that intend to start hearings this week on some issues, as I understand it, like airbags; perhaps some early hearings on confirmations of the President's nominations. Again, next week I understand that there will certainly be hearings on the nominees that the President has submitted to the Senate. We are anxious to cooperate with the President, work expeditiously on these nominations from the Executive Calendar, and the day after inauguration, or certainly that week of the inauguration, we hope to have some of these nominations ready for a vote of the full Senate. I believe the cooperation by the Democratic leader in this effort will allow us to concentrate on that. And then we will have our opportunity to introduce our first bills on the 21st, make our statements, and get going for business. So I appreciate your cooperation, Senator DASCHLE.

Mr. DASCHLE. If the majority leader will yield for a moment to let me make a comment, I fully share the views expressed by the leader with regard to the timeframe within which legislation will be considered and introduced. We will be holding a conference tomorrow to talk in part about the intentions of our caucus to introduce the first 10 bills, numbered S. 11 through S. 20. But let me also emphasize how appreciative we are with regard to the early consideration of some of the nominees by the administration. They have emphasized, on a number of occasions, their desire to have their people in place as quickly as possible. That requires, of course, early consideration and early confirmation of many of these nominees. The distinguished majority leader again has reiterated his desire to do that, and I am appreciative of that and will work with him to accommodate that schedule.

So, I think we are doing the very best we can in meeting all of the different demands that we have upon us, schedulewise, and I appreciate very much the interest in moving ahead on many of these nominations.

The PRESIDING OFFICER. The majority leader.

ORDER FOR RECESS

Mr. LOTT. I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 12:30 on Thursday, January 9.

The PRESIDING OFFICER. Is there objection? Hearing no objection, so ordered.

Mr. LOTT. Mr. President, for the information of all Senators, on Thursday, January 9, at 12:40 p.m., the Senate will proceed as a body to the Hall of the House of Representatives for the counting of the electoral votes at 1 p.m. Senators are asked to be prompt and in the Chamber no later than 12:30 on Thursday. Following the counting of the votes, the Senate will adjourn until Tuesday, January 21, 1997.

PROVIDING FOR ADJOURNMENT OF THE SENATE

Mr. LOTT. Mr. President, I send an adjournment resolution to the desk providing for adjournment of the Senate over until Tuesday, January 21. I ask unanimous consent that it be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. WELLSTONE. Mr. President, I have had some discussion with the majority and minority leaders on this question. I feel very strongly, and I think that an overwhelming majority of people in the country feel, that there is no more important thing we can do than to pass a reform bill and get a lot of this big money out of politics.

In this last election cycle, we saw the worst of the worst on top of a system that has not worked well for the people in the country. I feel like we should not—go into recess and we ought to get started on this. I wonder if the majority leader can make a commitment that within the first 100 days, we will at least have such a bill on the floor of the Senate.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I will say to the distinguished Senator that it is my intent to urge early consideration of the issues that came to the forefront during the campaign and the election last year. I have asked the Governmental Affairs Committee to be the only committee to take a look at some of the alleged violations that occurred—perhaps some illegalities even, in terms of contributions during the campaign—to see if there is anything there that will justify proceeding further. I am not prejudging that at all.

I also have had an early conversation with the chairman of the Rules Committee and have asked him to have some early hearings—and these are not intended to be dilatory at all—hearings to get into, seriously, what happened, what needs to be done, to see if we can find a way that we can come to an agreement on a bill that can pass the Senate, one that will not be filibustered by the Democrats or by the Republicans. Clearly, we have some disagreements on what the solutions are, but I fear that if we try to put a specific date on it, it will make the likelihood of our success less likely or more difficult.

I think that the Senate should proceed always with thought and thoroughness and try to see where we can come together. We can establish right here right now what we can't agree on. The question is what can we agree on. So we are intent on working on that.

The various committees have some things they are going to have to work on. The Rules Committee has an assignment right now that they are going to have to work on. I am going to urge Senator WARNER not to let that interfere with getting together in a bipartisan way to see if we can come up with some agreement.

We have the confirmations which we will be trying to do. We have a lot of things coming to the forefront. I am hoping, for instance, that we can take up and consider the so-called ISTEA bill, the highway bill, before the Easter recess. It is a reauthorization we have to do. It is very important all across this country. I am not saying it is as important or more important than campaign finance reform. I am just saying there is a lot of work we need to do.

On the 21st, it is my hope and desire, after notification of the Democratic leader, to inform all Senators what the bills are that we hope to deal with before the Easter recess, perhaps on the floor. It will not be all inclusive.

I will be happy to talk further with the Senator from Minnesota. We are not going to try to shove this aside. I don't think we can. There are too many questions raised by this election. There are too many questions about how contributions are made, who makes them, how much they can make. I don't think we have all the answers yet, though, and to say we are going to do it in a 100-day demarcation—I have not even had a chance to look at the calendar and see what that means. It might be during the middle of the period that we said we would be out for the Easter recess.

I have tried working with Senator DASCHLE to tell Members more this year than has usually been the case what they can expect or anticipate in terms of being out. I would like, at least, to have us sit down and look at the calendar and see what this means and how it affects other things, such as budget negotiations, the importance of bringing it up before the Easter recess. The law requires we act before April 15 on the budget resolution. Why don't we try to do it before April 15 and comply with the law? In order to do that, and the way that time falls, there is only 1 week after the Easter recess before the 15th.

I am hoping we will do—the House and Senate working with the administration—the budget resolution before the Easter recess so we can come back and get the final agreement on the conference report.

That is why I ask the Senator, if he will, to give us the opportunity to show our good faith to work seriously on this matter, but without any arbitrary deadline before we even have a chance to sit down and see what it means on the calendar.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, can I also make a comment? Let me, first, compliment the distinguished Senator from Minnesota for his adamant endorsement of the need to move ahead on campaign finance reform. I share his utter frustration and extraordinary concern for the current method with which we finance our campaigns. I share it to the degree that I intend to offer, as the very first bill that I will introduce, in consultation, of course, with our conference tomorrow, S. 11, a campaign finance reform bill built upon the remarkable work done by a previous majority leader, Senator BYRD, years ago, as well as Senators FEINGOLD, KERRY, and others who have played a key role in this debate in the past. I will do so with every expectation that we can succeed, at long last, to pass meaningful, comprehensive campaign finance reform this year. And I feel as strongly as the Senator from Minnesota that the legislation should be considered as early as possible. It is long overdue.

But, as the majority leader has indicated, some of that work is already being done, and there are other issues that must also be considered on a timely basis. For example, I am concerned—and I discussed this again with the President as recently as yesterday—about the need to accelerate consideration of the chemical weapons treaty, because if we are not able to complete our work on that particular measure prior to the first part of April, we will suffer extraordinary diplomatic and legal consequences in the international community.

So not only do we have the budget, but we have the chemical weapons treaty and a number of other issues that will have to be addressed. That does not mean we cannot begin to work and work through all of the issues relating to campaign finance reform in a timely, meaningful and, hopefully, bipartisan fashion. We must do that, but we don't need immediate floor time necessarily to do that. We do need a commitment on both sides to begin working together to finally enact fair, meaningful reform.

The majority leader has given me that commitment in the discussions we have had with regard to both the committees, as well as his individual efforts, to come to some resolution on this matter. I am hopeful we can do that.

So, in working with the Senator from Minnesota, and certainly with the majority leader and others, I believe we are off to a start that ought to ensure some optimism with regard to our prospects for success on campaign finance reform this year.

Mr. WELLSTONE. Mr. President, reserving the right to object, I appreciate the discussions that I have had with the majority leader and minority leader. I was trying to get back to them as they were going through the resolutions.

I guess when I hear the majority leader and minority leader speak about this and other business that we have to transact, while I absolutely am convinced about their commitment, it just brings into even sharper focus for me the need for this body to make a commitment: that we will by the end of 100 days have a bill on the floor of the Senate. We have been talking about this for a long, long time. I don't have the experience some Senators do. I am just starting my second term. But every single time this has come up, speeches have been made, and then we end up not passing a reform bill. I think nothing could be more important than for us to make a commitment.

What about within the first 4 months as opposed to the first 3 months? Can the majority leader make a commitment that he will do everything possible to try to have a bill on the floor of the Senate within a 4-month period? That is reasonable, and that is all I am asking for.

I think the majority leader is committed to this. I want to say to my friend, and he is a friend, that of course I am not judging what the specific content will be. I am not requesting any commitment to a particular content, but I am requesting a commitment that we go on record and—you know, if we had to have a vote on this, then I think it would be a vote as to whether or not Senators, Democrats and Republicans, are serious about taking action within a 4-month period, which is very reasonable. I do not know how many votes there would be, but I think that is what it is about. I want to be counted as someone who is willing to make a commitment to this.

Would the majority leader be willing to make a commitment that certainly with his considerable skill and ability he will, along with the minority leader with his skill and ability, that the two of them together as leadership, will make a commitment that within the first 4 months they will do everything possible to take action and have the debate that the people in the country are ready for and pass—and pass—the piece of legislation? We do not have to say "pass," but at least bring a bill to the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, just a bit of history, as I recall it. Of course, we have passed campaign finance reform bills in the past. I voted for the one that is in law now. I believe, in more recent history, there have been occasions when maybe—I know the Senate passed a bill one year. I think it wound up languishing in the House. And then the reverse, I think, has happened. I really believe from my time in watching the Senate that some time is your ally, giving things an opportunity to be carefully considered and percolate along a little bit.

Last year a lot of people talked about how we were able to get a lot of legislation passed at the end of the session. One of the reasons is a lot of those bills had been in the mill for months, some of them 2 years, some of them 10 years. But they finally were ready, and they, in most instances, had broad support. So there is a history of our making a run at it. We make a stand, we make a statement; we get nothing. Are we interested in making a statement about our concern, or are we interested in getting something done? I think the latter is the case.

When you talk about 4 months, for instance, are you talking about April? Once again, if you are—January, February, March, April—you are not talking about much difference from the first request. When you add again, when you look at the budget issue, when you look at the potential for when we deal with the Chemical Weapons Treaty, if we do come to that agreement, that understanding, I believe there is a significance to April 15 for that.

I just again implore my colleague from Minnesota not to try to set a specific date. This is not going to be your last opportunity. This is only your first opportunity. You will have an opportunity to witness our conduct and judge whether or not it is being seriously discussed. There are a lot of people with a lot of different interests here that Senators have who have worked on it in the past, like Senator FEINGOLD or Senator MCCAIN and Senator MCCONNELL, and others who feel more concerned about it this year than they did even a year ago.

I have talked with a lot of Senators already and outside groups that are concerned in all kinds of ways about how we do this. We are not ignoring it at all. You are working on it. We are working on it. We are already making progress. You have a bill that perhaps is the same bill, perhaps with some modification, as the bill last year sponsored by Senators FEINGOLD, MCCAIN and others. But let us get started. Let us see how we do. And the Senator can witness our advent.

Mr. DASCHLE. Mr. President, if I could just also respond to a couple things.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. First of all, let me say I have not had the opportunity to talk with Senator FEINGOLD and Senator MCCAIN and Senator JOHN KERRY and others, including Senator LEVIN, who expressed a real interest in this issue as to what timeframe they would propose.

I would like to seize on the phrase that the distinguished Senator from Minnesota used just a moment ago. That is "make your best effort." He said, "Will you make your best effort?" And he suggested a timeframe. I think I can say on behalf of both leaders—certainly for myself—that we are going to make our best effort. He knows my resolve to get this effort accomplished in a successful way. I think the distinguished majority leader has also expressed a determined interest in finding ways to do it.

We will make our best effort and we will do everything possible to bring this to the floor at the earliest possible time with the greatest degree of expectation that we will succeed. It is my hope that we will succeed in 100 days or 4 months or at some timeframe within the first part of this year. I wish we had succeeded in previous Congresses. And I have a very strong sense of urgency about reforming the system as soon as possible so that we can restore some public faith in our electoral system and get on with other pressing business. Still, I think what is more important than the day we start floor consideration is the sincerity of the effort itself and a commitment to that effort on the part of both sides. I think that you have heard that demonstrated again this morning.

Mr. WELLSTONE. Mr. President, I will not drag this on. I have some mixed feelings. I think I will have to object because, again, I have tremendous respect for both leaders, but when I hear language about "best effort," "within as reasonable a time period as possible," it just represents really not any kind of specific commitment at all.

I will just say that those who have worked on the reform—and the Senator mentioned many; the Senator mentioned Republicans as well as Democrats—every one of them has said, if we let this drag on, we are going to have more and more acrimony, given all sorts of hearings and whatnot coming up, and we are going to make a huge mistake. We need to make this a priority of this 105th Congress, and we need to focus on this, and we need to get the job done. I think a 4-month period is more than reasonable just to have a commitment from the leadership to make every effort possible. I am willing to go with that language to have such a piece of legislation on the floor of the Senate, understanding that this is the core issue.

I think really this is an issue that people are talking about more than any other issue in the country right now. I do not think it is unreasonable. I thought 100 days, and I thought 4 months. I do not think it would be unreasonable at all for me to make this request. I do not know why the leadership would not be able to say we will make every effort possible to have this bill on the floor within the next 4 months. And if not, then I think I will object.

Mr. LOTT. Mr. President, before the objection is heard, I would like to make one additional point.

If the Senator objects, then we will have to put in a quorum and go with another alternative, which would be to basically have to recess over until every 3 days and the House and the Senate then will have to make arrangements to come in every third day, to call our staff to be here, and to go through the costs of doing that. I just do not think that is the way we want to begin the year, going through an exercise that is not necessary, that does cost time and money, without accomplishing anything.

I again implore the Senator to think about what we have had to say, and I ask him not to object at this point on our opening day. This is just the kickoff. Let us not fumble on the first play and look at the alternative.

The alternative, if the Senator objects—we are not going to get a recorded vote on it. We are going to go to another alternative, which will lead to inconvenience and costs without any positive results. I hope the Senator will also factor that into his feelings. The Senator has not, and I have not, allowed this to become acrimonious or partisan. I do not want it to be. But the Senator would leave us no option at this point on our first day but to consider another route.

So I remind the Senator one more time, too, that last year there were enough different times that I made some commitments to him that were not necessarily well received on my side. But we kept our word. We got the job done. I may not be able to do just that same sort of thing this time. But I hope that the majority leader's assurances on opening day, based on my relatively short time but the record that I have, would have weight with the Senator from Minnesota. We are asking the Senator, both of us, the leaders, to give us this opportunity to show our good intentions. Then if the Senator is not satisfied with it, come back again.

Mr. DASCHLE. Mr. President, if I could also add, the majority leader has referenced times when we have very willingly accommodated the Senator from Minnesota. I can recall on a number of occasions over the last 24 months requests made by the distinguished Senator from Minnesota that we have been able to accommodate to suit schedules and to suit other legislative needs. I will certainly look forward to accommodating his needs and requests during the 105th Congress.

I hope that Senators who have objections will notify me personally prior to the time they are going to come to the floor with indications of this kind. It is cumbersome and certainly has created difficulties for Senators who are not here. So it is my hope, too, to accommodate Senators, to demonstrate again a willingness to work together, again, with the clear understanding that I am every bit as committed as he has indicated he is to campaign finance reform. I also urge the Senator to cooperate and to work with us on this particular matter.

Mr. WELLSTONE. Mr. President, finally, and so we can move forward, just one more time for the context, this is the core issue. That is why I come to the floor. I know other Senators feel the same. I do not lay any claim to more righteousness about it. This is a core issue.

People in the country have just absolutely lost their confidence in this political process. I do not think they are real optimistic about our taking any action. In all due respect to the leadership, I have heard too many of my own colleagues talk about reform and then dismiss it, saying it is not going to really happen. I already hear the discussions of how people can raise money for the next cycle.

The only request I made of leadership today—and the wording really is, I think, very modest. It was just a commitment from the leadership. I started out 100 days, at least within the next 4 months, that the leadership would make a commitment to do everything possible to get a reform bill on the floor of the Senate. That is all I asked for.

Now, Mr. President, the majority leader said, well, the only alternative is to go into recess. That is not the only alternative. That is not my alternative. We have a vote. We can have a vote on adjournment. I know what the vote will be. I am sure there will be an overwhelming vote for adjournment. But if there are only two people, one, or three that say, "No, we are ready to take on this reform and get to work," I am proud to be counted as the one or two or three. This is not the only alternative.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DASCHLE. Mr. President, I withhold for a moment.

Mr. MCCAIN. Mr. President, I was watching on television the discussion going on here. I just urge my colleague from Minnesota to let us go ahead with the ordinary historical business of the Senate. He and I share the same zeal, dedication, and effort toward getting this issue done. I appreciate the comments of the majority leader and of the distinguished Democrat leader.

I think at this point it would not be appropriate for us to begin the very first day of the U.S. Senate, the first day of the new term, for us to begin on this note. I think we will have plenty of time to adopt that strategy and tactic. I do not like for us to discomfort our colleagues on this day of celebration for both new and reelected Members. I think that the issue has to be addressed as quickly as possible. I believe that American public opinion will demand that we move forward. I do not think there is any doubt about it.

I urge my friend from Minnesota to let the Senate move forward on this day, this very important day, before we have to start calling people back here and going into quorum calls and that kind of thing. This is, if I may say in all due respect to my friend from Minnesota, not appropriate on this day. I urge my friend from Minnesota allow the Senate to move forward, again, reemphasizing my commitment to him that we will move forward in a bipartisan fashion on this compelling issue.

Mr. DASCHLE. I suggest the absence of a quorum.

Mr. WELLSTONE. Could I ask my colleague from Arizona—I do not think it puts him on the spot—I have no question about his commitment or the commitment of any number of other Senators. I find it puzzling that the only thing I asked for today—because I do have a real fear this is just going to get put off and we are not going to take action—the only thing I asked for, and maybe my colleague did not hear this, was a commitment from the leadership to do everything possible, I used that word, and I started with 100 days, within 4 months, and get a bill on the floor. That is all I ask for.

I think it would be very important to get that kind of a leadership commitment.

Mr. DASCHLE. Mr. President, I had suggested the absence of quorum. I think we need to have the opportunity——

The PRESIDING OFFICER. Does the majority leader yield?

Mr. LOTT. Mr. President, I join the distinguished Democratic leader in suggesting the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I have listened to my three colleagues, and having been sworn in today I understand their point about the occasion. So what I want to do, in the spirit of the special day today, I withdraw my objection, but I want to go on record, I am going on record today that I am going to have the same amendment dealing with our recess in February if we do not get to work on this. We should not be taking a recess in February if we are not going to take up this piece of legislation of reform as soon as possible, that we are dragging it out, and I can see what is going to happen.

So today I will not object, but I will come out with a similar initiative, I say to my colleague from Arizona, and maybe we should be working today and saying we should not be in recess in February.

Mr. DASCHLE. Mr. President, let me thank the distinguished Senator from Minnesota for his cooperation this afternoon. He feels very, very strongly about this issue and has confirmed that again in a colloquy over the last half hour. I appreciate very much his resolve and intend to work with him very carefully and closely to see that we expeditiously consider this very important legislation.

Mr. LOTT. Mr. President, did the Chair rule that the unanimous-consent request was approved?

The PRESIDING OFFICER. The unanimous-consent request has been approved.

The concurrent resolution (S. Con. Res. 3) was agreed to, as follows:

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on Thursday, January 9, 1997, pursuant to a motion made by the Majority Leader or his designee, in accordance with the provisions of this resolution, it stand recessed or adjourned until 12:00 noon on Tuesday, January 21, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution; and that when the House adjourns on Thursday, January 9, 1997, it stand adjourned until 10:00 a.m. on Monday, January 20, 1997; that when the House adjourns on Monday, January 20, 1997, it stand adjourned until 12:00 noon on Tuesday, January 21, 1997; and that when the House adjourns on Tuesday, January 21, 1997, it stand adjourned until 12:30 p.m. on Tuesday, February 4, 1997, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

COMMENDING SENATOR ROBERT C. BYRD FOR HIS YEARS OF PUBLIC SERVICE

Mr. DASCHLE. Mr. President, I send a resolution to the desk commending Senator ROBERT C. BYRD for his years of public service, that the clerk read the resolution, that upon its reading, it be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. KYL). The clerk will report.

The legislative clerk read as follows:

S. RES. 7

Whereas, the Honorable Robert C. Byrd has dutifully and faithfully served the people of West Virginia since January 8, 1947;

Whereas, for 50 years, he had dedicated himself to improving the lives and welfare of the people of West Virginia and the United States,

Whereas, his 50-year commitment to public service has been one of total dedication to serving the people of his beloved state and to the highest ideals of public service,

Whereas, he has held more legislative offices than anyone else in the history of his state, and is the longest serving Senator in the history of his state: Now, therefore, be it

Resolved, That the U.S. Senate congratulates the Honorable Robert C. Byrd, the senior Senator from West Virginia, for his 50 years of public service to the people of West Virginia and to the United States of America.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Senator Robert C. Byrd.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 7) was agreed to.

Mr. LOTT. Mr. President, I want to heartily endorse this resolution. I thank the people of West Virginia for electing Senator ROBERT C. BYRD to these many offices, both in West Virginia and here in the U.S. Senate. He is truly a monumental Senator in terms of importance and perspective in the history of the Senate. I sat here in my chair a month ago and listened to Senator BYRD speak to the new Senators about this institution, about its history and the importance of it and the significance that it has played in the role of this country. It was extremely interesting and, also, in some respects, intimidating because he made us aware of what an awesome responsibility we have here in the U.S. Senate. I enjoyed it thoroughly.

I appreciate his friendship. I have found that he is one that you can go to for counsel and for advice. Even sometimes when he does not agree with what you are trying to do, he will give you a straight answer as to what you could do under the rules. He has a lighter side you don't always see here, but we know he has been seen playing a little fiddle and talking about Billy Byrd, his dog. He is quite a Senator. We appreciate so much his contribution to this institution. I am delighted that we are doing this resolution recognizing his 50 years of outstanding service to West Virginia and the United States.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, tomorrow marks the momentous day in the life and career of one of this Chamber's most esteemed and respected Members. Fifty years ago, on January 8, 1947, ROBERT C. BYRD took his seat in the West Virginia State Legislature, thus beginning a remarkable half century of public service. I have quite an extensive statement that I wish to make following the completion of our resolution and consideration. I must again congratulate our distinguished Senator for a remarkable career. We saw another demonstration of his intellect and his institutional memory and the remarkable contribution he makes to that just this afternoon as he talked about the early days of this Senate and how the President pro tempore was selected and the length of time it took and the degree to which we followed procedure in ensuring that we notify both the President and the House of Representatives in proper order. It was a small yet very significant contribution to our dialog this morning and, again, a reminder of what an invaluable and remarkable Senator ROBERT C. BYRD is.

I will have much more to say after we complete our work. I commend him.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 7) was agreed to.

(Mr. KYL assumed the chair.)

Mr. ROCKEFELLER. Mr. President, I am very, very proud to be a part of this resolution and to thank Senator ROBERT C. BYRD on behalf of the people of West Virginia certainly, but also, frankly, the people of the United States and the whole process of order, which is the way we govern ourselves. I think extraordinary in history, he is the third Senator to be elected to seven 6-year terms—a remarkable accomplishment.

The Almanac of American Politics says that ROBERT C. BYRD is the kind of Senator that the Founding Fathers had in mind when they, in fact, wrote the Constitution about the way the Senate ought to be. That should not come as a surprise to any of us who know him well.

We have heard so many times the fact of his being a truly self-made person, something which his junior colleague could not claim in quite the same fashion. But we know that he is the son of a coal miner, and we know about the law degree while he was in the House of Representatives. What we have to keep emphasizing, though, is what he means not just to the State, not just to the country, but to this institution, because more than any other person that I have read about in history, or know about, he is the conscience of the Senate. When we have a lack of civility, when we lose our sense of bipartisanship, when there is anger on the floor of the Senate, when the process breaks down, he grieves. He grieves not on behalf of himself, but on behalf of this thing called "governance," which is pretty fundamental for the future of our country. I think he worries about that. I know that he places the U.S. Senate as a particularly responsible body for what is going to happen to our future and how it will happen. Will it be done in a way that is bipartisan and civil—the business of civility in this greatest deliberative body in the world?

I will more or less conclude on this. I really think of him in moral terms. From time to time, when I give speeches, I like to refer to when you are really doing your best work, you are following an inner moral compass. I think that I started talking about that after watching Senator BYRD, not only when I was Governor of West Virginia and before, but also here in the U.S. Senate. He really operates out of a moral compass. He does what he thinks is right. He has a very strict sense of the discipline of what ought to happen in this body. Sometimes he lectures us on that, and sometimes people are briefly impatient with that, but they always stand back because they know he is right. They know he is right. They know he speaks for the U.S. Senate, which he reveres so much.

Let me close by saying that on this coming Saturday there is going to be a statue inside the West Virginia Capitol, which is not really much smaller than the one we stand in at the present moment. It is a statue of Senator BYRD. There is no other statue of any other political person in the West Virginia State Capitol. There will be a lot of people there, and for good reason—because the relationship and the chemistry between Senator BYRD and the people of West Virginia is something that is profoundly moving and important and refreshing, frankly.

We honor him for serving for 50 years, which means he has been out amongst the people all this time. He has never changed. The people of West Virginia have really never changed. He is a man of values speaking to a people of values. It is interesting. As he begins to talk, you see people fall silent. They realize they don't want to miss what Senator BYRD might be saying because they know it is not going to be trivial or political, and it is going to be important. It is going to have to do with fundamental values and the fundamental nature of the way this country ought to be and the way the State of West Virginia ought to be.

So I look forward to being with him this coming Saturday. I join with the distinguished majority leader, the

Democratic leader, and the distinguished Senator from Nevada in praising and being grateful to my senior colleague.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I appreciate very much the two leaders allowing me to speak. I can say that it has been somewhat of an inconvenience for me to wait until the business of the body has been completed before we got to this matter. But the inconvenience to this Senator is so minor compared to the service that has been rendered in this body to the people of West Virginia, and to this country, by the Senator from West Virginia, that it is hardly worth talking about.

I am happy to be here to talk about somebody for whom I have great feelings. I have served in public office since 1964. My first public office was 33 years ago. During that period of time I have had the good fortune to serve with great men and women, but I can honestly say I have never served with the likes of Senator ROBERT C. BYRD.

As far as this Senator is concerned, he is a unique individual. I hope some day that Senator BYRD will complete what I understand he is working on, and that is the story about his life. I know a little bit about the life of Senator BYRD. I am an avid history fan, and every bit and piece I can find, and have found, about Senator BYRD I have tried to comprehend and understand.

With someone of this magnitude, we sometimes wonder how he arrived at the point where he has such accolades pushed in his direction every day.

I know that his first election was an interesting election, one where, seated often, as I understand, in the West Virginia State legislature were many, many people who were running for that office. Senator BYRD, being the person that he is, decided he needed to be a little bit different, to kind of stand out in the crowd, to be elected. So he decided that he would be different from the rest. The people would give long speeches telling why they should be elected to the State legislature. Senator BYRD would get their attention by playing a tune on his fiddle and singing a song. Senator BYRD was elected.

Early in his career he decided to run for the West Virginia State Senate. But, as happens in a lot of States, there are kingmakers saying, "You run for this, you don't run for this, this isn't the appropriate time to run." Someone who was a national figure thought that there would be other people who would be better qualified to serve in the West Virginia State Legislature. The great John L. Lewis, president of the Mine Workers, got word to Senator BYRD that he should not run. Of course, we all know now Senator BYRD, and that was the wrong thing to say to this man from the hills of West Virginia. He took on the leader of the Mine Workers, someone that literally brought the country to a standstill. But this man could not bring ROBERT BYRD to a standstill. He ran and was elected.

Everyone knew that this man was close to the miners—may not have been close to labor, but he was close to the miners. And he was elected.

Well, his career is outstanding. I can truly say that one of the most pleasant moments of my life was when I came to the Senate some 10 years ago and was notified that I could be on the Appropriations Committee. That, to me, was so memorable that I will never forget it. I have done my best to serve on the Appropriations Committee in a manner that I think is good for the State of Nevada, and hopefully good for the country. One person I look to as an example in that committee has been the person who was chairman, and is now ranking member of that committee, Senator ROBERT C. BYRD.

I learned early on that the man carried in his pocket, as I now do, a copy of the United States Constitution. He carries that Constitution with him, not because he probably couldn't recite to the Presiding Officer, and to this Senator, every word in the Constitution from memory, if he chose to do so. But I think the reason he carries it there, next to his heart, is because he believes the Constitution is as important as any document in this country.

We all know the rules that guide this body, and the person that knows them better than anyone else in this body—and probably knows them better than anyone else in the history of this body—is the Senator from West Virginia, who we are honoring today with this resolution.

Mr. President, I had the good fortune to be a member of a delegation that met in West Virginia with British Parliamentarians. We had the ministers from Great Britain. We had other leaders. We met in West Virginia. After having been there, I understand some of the songs that come out of West Virginia, such as, "The West Virginia hills where I was born, and all is beautiful there."

What I am about to tell the Senate, and even though I was there, I find hard to believe. We had some entertainment, some music—blue-grass music. It was exciting. They asked Senator BYRD, "Tell us a song you would like to hear." And he said, "There are more pretty girls than one." They played that song. It was a great song. I have heard it many times since.

Then he handed out notebooks to the Members of the Senate and to the Parliamentarians. From memory, without a note, he proceeded to recite the reign of the British monarchs, the date they served office, their names, and what they did. That took about 40 minutes or so for him to do, or maybe an hour. The British Parliamentarians were flabbergasted. They had never heard anything like this in their lives. But, as happens in this body, there are many times that we hear things that we have not heard any time in our lives, except from the Senator from West Virginia.

I could tell you about the remarks he made on the Senate floor about the Roman Empire, about which a course at the University of Nevada at Las Vegas is now being taught, using the text of his lectures here on the Senate floor.

Mr. President, the people of West Virginia should know that whether he was leading the debate on the Panama Canal treaty, or other international or domestic matters, that his No. 1 priority has always been the people of West Virginia. It has been a great example for all of us: to be involved in international and national affairs, but to never lose sight of the fact that you are elected by the people from your State and that the people in your State should have first priority. That is the most important lesson I have learned from the Senator from West Virginia.

I express to the Senator, through the Presiding Officer, my affection, my admiration, and my respect, and I hope that, in some manner, my public service to the people of the State of Nevada will be as well-served as the Senator from West Virginia has served the people of West Virginia.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, Plato thanked the gods for having been born a man, and he thanked them for the good fortune of having been born a Greek. He thanked them for having permitted him to live in the age of Sophocles.

Mr. President, I am very thankful for many things. I am thankful for the respect of my colleagues. My colleagues upon more than one occasion—undoubtedly many of them—have been angered by things that I have said. I am sure they have been frustrated with me from time to time over the many years. But they have always been forgiving, understanding, and most considerate. And I thank them. I thank, of course, the Supreme Governor of the World for having let me live to serve for 50 years the people of West Virginia.

The psalmist tells us, "the days of our years are threescore years and ten; and if by reason of strength they be fourscore years, yet is their strength labour and sorrow; for it is soon cut off, and we fly away." I thank God for his mercy and his kindness and his love, for having let me live to serve the people of West Virginia 50 years.

I thank the people of West Virginia for having demonstrated the faith and confidence in me to reelect me these many times over a period of a half century.

Queen Mary I of England lost the port of Calais to the French. Mary served from 1553 to 1558. She said, "When I am dead and opened, you will find 'Calais' written on my heart." I say to the people of West Virginia, "West Virginia" will always be indelibly engraved with blood upon my heart until it returns to the dust.

I must thank a very understanding and forgiving and considerate woman—my wife Erma—who has served with me these 50 years. I think that our spouses sacrifice beyond what people generally know when we serve in this body. Come next May 29, we will have been married 60 years. I had to have a forgiving and understanding and cooperative wife who was as dedicated to the people of West Virginia as I, to have done it.

Finally, Mr. President, let me thank my staff. I have always been blessed with a good staff. I was once told by the chief chaplain of General Patch's army in World War II that a true mark of genius is to be able to surround oneself with able, committed people. I have had that kind of staff over these many years, a staff that likewise has overlooked my foibles, idiosyncrasies, and has been cooperative and kind and has helped me when I had to walk through the valley of despair—at my grandson's death. They, too, have served the people of West Virginia and the people of the Nation.

I apologize to the leaders for imposing on their valuable time. I know how it works. They have other things to do, other demands are made upon them and other business is there to take care of, other errands to run, and other services to perform, but always there is some straggling Senator who comes to the floor who wants to take some time and talk. But I thank them, and I hope that over the years, whatever disappointments I bring upon them, I can have the opportunity to make amends and to support them in the good work that they do.

And so I thank all today for the privilege and the honor that have been bestowed upon me by the Senators on both sides of the aisle. I have also been very fortunate in having had two good colleagues in these 38 years. I had Senator Randolph to begin with and now I have Senator ROCKEFELLER, who is a very fine colleague. I could not ask for a better colleague than either of them. Senator ROCKEFELLER has been especially supportive and deferential and kind to me. And so I have many things, Mr. President, for which to be grateful.

HARRY REID has impressed me in the years he has been in the Senate. As a member of the Appropriations Committee, many times I have asked him to chair subcommittee hearings when I could not be there to do so, and he has always done an excellent job.

He, too, is a Senate man. He is dedicated to the institution. I have had many conversations with him. I feel highly privileged to have him as my friend.

Tennyson said, "I am a part of all that I have met." How rich I am in that I am a part of HARRY REID and JAY ROCKEFELLER and TOM DASCHLE and TRENT LOTT.

I thank both leaders again for their consideration in giving me this time. I yield the floor.

GRANTING FLOOR PRIVILEGES

Mr. LOTT. Mr. President, did the Senator from South Dakota have a resolution he wanted to send to the desk concerning Senator CLELAND?

Mr. DASCHLE. Mr. President, I do have a resolution, and I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 8) granting floor privileges.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 8) reads as follows:

S. RES. 8

Resolved, That an employee in the office of Senator Max Cleland, to be designated from time to time by Senator Cleland, shall have the privilege of the Senate floor during any period when Senator Cleland is in the Senate chamber during the 105th Congress.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I believe we have completed now the customary list of resolutions and unanimous-consent requests. I do have a statement that I would like to make on this opening day, and then I believe the Senator from South Dakota might have some additional remarks he would want to include in the RECORD with regard to Senator BYRD. Also, after I complete this statement, I will ask unanimous consent there be a period of morning business until 5 o'clock. But at this point I would like to make some opening remarks with regard to how we would like to proceed this year and some discussion about the legislative schedule.

Mr. DASCHLE. Mr. President, if I could apologize to the distinguished majority leader, I have a couple of Senators who have been waiting for me for about a half-hour and I need to get into the room. Out of respect for the Senator, I should stay and listen to his eloquence and his visionary comments about his plans for the 105th, and I apologize. I would like to come back and make a statement with regard to the opening day as well as Senator BYRD, and I will do so at a later time. But I apologize up front to the distinguished majority leader for my absence as he makes his remarks.

Mr. LOTT. I am sure he will read them in the RECORD, Mr. President, and will have some comment later.

LEGISLATIVE SCHEDULE

Mr. LOTT. Mr. President, it is customary on this opening day of Congress to lay out the highlights of the legislative schedule ahead of us and discuss whatever procedural problems or changes might be in the offing.

First of all, I am not going to give today a finite list, or a list that we will have on the agenda that we will try to complete before the Easter recess, but I will do that on the 21st. I do want to mention some of the bills that I think have a high priority that we will be taking up early on in this session.

It is no great secret that I would like to make the schedule of the Senate more predictable. I think that will help us all do a better job. One of the things that I could not understand when I first came to the Senate was the inability to make any kind of plans as to when we would begin; when would we end; could I get home for supper with my family; would I be able to go back to my State and be with my constituents. The uncertainty is killing in many respects, and so I am going to work very hard as majority leader this year to try to give some greater degree of predictability. I will not always be able to do it, but I will work with the minority leader as he leads the Democrats to try to make that information available as to when we will come in. We will try not to go late every night.

We will try not to go late every night. In fact, my hope is we will finish up at a very reasonable hour, hopefully 6 o'clock every week, Monday, Tuesday, Wednesday. We may have to go late to some extent on Thursday. We will need to be in on some Fridays and some Mondays, but I will try my best, again cooperating with the Members of the other side of the aisle and their leadership, to make that information known to the Members as early as possible so they can make some plans as to when they can be with their families or be with their constituents.

As a first step in that effort, last month I provided the Democratic leader and to all the Members on the Republican side of the aisle and to the Democratic Members, a calendar outlining the recess periods for the first session of the 105th Congress. I strongly intend to follow that calendar. But, obviously, any Senator who tries to delay our session or cause us problems can mess up those good intentions. But, barring emergencies, there is no reason why the Senate should not be able to function with a high degree of predictability about the timetable. That will require cooperation from our colleagues all throughout the year, as we get ready to have the President's Day recess period, or as we go to the

Easter period, or even later on in the year.

With that in mind, I want to mention, in a general way, several matters I hope the Senate will be able to consider prior to the scheduled Easter recess. It is not inclusive, and it may not be that we will be able to get to these issues. It will depend on conversations on both sides of the aisle, communication with the leadership on both sides, meetings with the chairmen, and it will also depend on the ability of committees to act. I will be more specific later on this month, as I indicated.

By early February, the President should have submitted to us a detailed budget for fiscal year 1998. How that will take shape—and what degree of cooperation might be involved there—remains to be seen. But, one way or the other, the Senate will have to consider a budget for the year ahead. I hope that we will come to an agreement on balanced budget over a period of years. It will take a lot of effort, but a lot of progress, I believe, was made last year and the gap between the Congress and the President was closed perceptibly over those past months there, the last months of 1995 and early 1996. We ought to pick up where that ended and see if we cannot come to an agreement that would lead us to a balanced budget over a period of years. Needless to say, that budget is going to be one that will be negotiated between the parties in the House and the Senate, and with the President.

Toward the same goal the Senate should, I believe, in due course, consider, again, a balanced budget amendment to the Constitution. I know there are those who do not agree with that here in the Senate and they will certainly have ample opportunity to be heard and make their case. But I have noticed that good intentions do not accomplish the job. Even a plan to get us to a balanced budget does not always get us there, and we have not had a balanced budget now in some, I guess, 28 years or so; 1969 was the last balanced budget. So it looks like it will have been 30 years that we will have gone as a Federal Government without a balanced budget. I think the plan is not enough. I think that the constitutional amendment will add a great deal of weight to that desire and, in fact, require us to have a balanced budget.

The Senate will, also in due course, consider the numerous nominations in the executive branch as the President restructures his administration for a second term. It is my intention to deal with those nominations expeditiously and fairly. I think the President is entitled to make his selections for Cabinet Secretaries and other administration positions and expect them to be considered early and in a fair manner by the Senate. We will do that. As I indicated earlier, we will begin hearings, either this week or certainly next week, and we hope to begin to have votes on those the week of January the 20th and 21st, right after the inauguration. Some of them may have some difficulty, may take more time, but, we are going to move forward as rapidly as we can.

On both sides of the aisle there is considerable interest in taking up some of the reauthorizations that come due this year. These should not be diminished. They are very important. Certainly one of those is the ISTEA or Inter-service Transportation Efficiency Act; that is the highway bill. This legislation is as complicated as it is important. It will not be partisan. It will not be regional. It will not even be philosophical. It will vary from State to State. Sometimes you have States right next to each other that have different views on how those funds should be distributed between highways or mass transit, and what the formula would be for distribution between the States. I think a lot of work needs to be done, but it is very important. Transportation and infrastructure in America is essential to our economic growth and development, and the free movement of Americans all over this country. I hope we can get this done, out of committee and on the floor of the Senate and completed by the Easter recess. It will take an extraordinary degree of cooperation and consensus, but the only way you get that done is to get started.

Also, in the same area of transportation, there are a number of other proposals we need to consider such as the problems that we are finding with airbags in passenger vehicles. Parents throughout America now are concerned about the safety of their children in their cars. How do we go as long as we have without realizing the danger that they impose? Now it seems like every week we hear of another incident where some child was injured as a result of the airbag. There are, I presume, some solutions. But we need to think about that and work on it.

We should also address the crisis in American education. I am a product of what I think was a good public education system in America. My mother was a schoolteacher for 11 years. I worked for the University of Mississippi for 3 years, in their placement and financial aid office and in the alumni office. I worked with the student loan programs. I worked with the work-study program. I know the importance of financial aid. I know the importance of good, quality education.

But over the years, since the 1960's, as we spent more and more money, it seems that the quality of education has continued to go down. You have children in high school who cannot read. You have children who do not have discipline. You have children assaulting teachers. You have drugs in junior high school. I am sure it is even in elementary school. These are major concerns. We may not have the answers in Washington. I think probably the answers really are at the local level. But we need to think about this problem and work with State officials and local officials, administrators, teachers, parents, and children to see if we cannot find some ways to improve education, the accessibility of education in America, the safety of education in America. We cannot tolerate violence and drugs in our public schools, so we need to focus on this issue and we need to do it soon.

The Senate should affirm as a matter of principle that no child has to attend a school where he or she is in danger of assault or is exposed to narcotics. I therefore hope that we will bring legislation to the Senate soon that gives youngsters and their families the same choice in education that more affluent families enjoy in America.

The Senate should also consider ways to give families the flexibility they need to balance their responsibilities at home and on the job. Employers and employees should be able to arrange comp time, flex time, and family-wage provisions without interference from Government. The President has indicated that he supports the flextime and the comp time, at least the flextime, and I think we ought to find out exactly what we can do in terms that have flexibility for parents on the job, but work with the employers and employees together to find these solutions.

By the same token, employees should have the flexibility to work in concert with management for their mutual benefit. They should not be locked into an approach to labor relations that presumes conflict and discourages cooperation. So I hope we will be able to bring the TEAM Act to a vote in the near future.

Other legislative items that we might be able to work on during the next 2 months should include reauthorization of IDEA, the Individuals with Disabilities Education Act. This legislation is a very difficult balancing of conflicting interests. To his great credit, Senator FRIST came close to working it out last fall, but, frankly, the clock kind of just ran out and we could not complete the job. This time I am confident that we will bring in more consideration of various views and complete this very important legislation.

In the area of criminal justice, the Senate should allow the death penalty for drug kingpins. There continue to be tremendous problems in this area and this is one place where we can provide some additional penalties that will hopefully allow us to deal with the drugs that are pushed upon our children.

For small businesses, we should permit the electronic filing of forms with

SBA and other Government agencies. This is the 20th century. It is almost the next millennium. Let us get with modern technology. It saves money, it saves time, and it probably saves jobs, if we will move to this opportunity for small businesses.

For adoptive families, we should make it easier and more secure for adoption to occur. Senator DEWINE and others have been working along those lines.

Finally, to fulfill a provision of the omnibus appropriations bill of last September, the Senate will vote sometime during the month of February on a Presidential recommendation concerning the AID's population program. This vote is locked in and required by law.

This is not—again I repeat—not an exclusive list. By the time the Senate settles down to legislative business on January 21st, it is likely to be revised after I have had the benefit of the views of Members on both sides of the aisle and the committee chairmen and committee leaders on both sides.

We might add other items or delete some I mentioned as being just too time consuming as we try to deal, certainly, with the budget agreement and other issues that are going to be required by law or by their urgency, in terms of possible treaties, as well as confirmations.

Both the Democratic leader and I are hopeful this can begin a pattern of advance notification of recesses and floor agenda. But we have to stress that its successful implementation will require all Members to act in a cooperative and courteous manner with respect to the needs of all other Members.

Let me mention one case in point. Members should be aware there is a 15-minute limitation with respect to rollcall votes. Past practice has allowed for an additional 5 minutes, so-called overtime, for Members who are running late. However, the 5-minute overtime soon turns into 7 minutes, 8 minutes, 9 minutes, or even more. The entire Senate repeatedly has been inconvenienced in that way.

We try to be reasonable: Senators don't hear the bells; sometimes they get caught on the subway; sometimes the elevators are not operating; sometimes for very good and valid reasons they are out in the city or across State lines and they are trying very hard to get back here, and we have had to use some judgment.

But, as we try to allow that latitude, it continues to grow and expand, and the time to take a vote can easily run up to 30 minutes, and that inconveniences all the other Senators who are here ready to do business and go on to the next amendment or perhaps the next vote.

So we are going to try very hard to stick with the 15-minute vote with a 5-minute overtime. Once again, the leaders will have to be willing sometimes to say, "We have to cut this vote off." I have had to do that when it has involved Senators on this side of the aisle, as well as the other side. I think maybe if we make it clear we mean business a couple of times, Senators will be more inclined to come over and vote when the time begins and within the allotted time. But, again, we will use discretion wherever it is really necessary.

I hope we can continue to provide all Senators advance information about scheduling, especially such matters as evening sessions and Mondays and Fridays. If we all are able to plan in advance, our work will be better, I believe, because we will have certainty and will not be as exhausted as we sometimes get when we go late into the night. Our constituents will be better served, and our families will be much happier as a result of it.

I look forward to the challenges we have before us in the Senate. I had some people say when I was home in Mississippi, "You must get tired thinking of getting back and getting to work."

I said, "Absolutely not." This is what it is all about. This is a great opportunity to try to make a contribution for the people you love, your family, your community, your State, and your country. If we approach it that way, if we decide we are going to work together, hard going as it may be sometimes, to do what is right for our country, there will be no limit to what we can accomplish.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LOTT. I will be glad to yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I congratulate the distinguished majority leader on the speech that he has made outlining what he hopes to achieve in a general way, without going into specifics, in the months and weeks and days ahead.

May I say, as one who has been majority leader, who has been minority leader, who has been President pro tempore, who has been a chairman of a committee, who has been a Senator like all 100 Senators, that I am particularly encouraged by these two leaders that we now have in the Senate.

I think that with respect to the minority leader, no one could be more considerate of his colleagues, more thoughtful, more eager to reach out and to bring them in to hear what they have to say, to work with them. No one is more eager to work with the majority leader than our current minority leader.

And may I say with respect to our current majority leader, I think we have a leader who is interested in the Senate, who is interested in putting the Senate where it ought to be—first—and who is interested in improving the decorum in the Senate so that the people who view this Senate, through that all-seeing electronic eye, will see a truly premier upper House.

We have students, we have professors, we have young people in high school, we have lawyers, State legislators, and people in all walks of life watching the Senate daily when it is in session, and they expect to see the best.

I have been a member of the State legislature in West Virginia, in both houses, but even in the State legislatures—and they are closest to the people—even there they will look to the U.S. Senate and to the other body across the way for inspiration.

It saddens me to see a Presiding Officer in this Senate reading magazines or a newspaper or books when he is supposed to be presiding. Millions of people are watching, as well as visitors in the galleries, and I wonder if they go away thinking the Presiding Officer doesn't have much interest in the body if he is not listening to what is being said. He should be aware and alert to what is going on and ready to protect the rights of every Senator while debate is under way.

I think we have a majority leader now and a minority leader who are going to bring these things to the attention of the Members. We, all 100 of us, owe these leaders our very best support when they are trying to do the right thing: Trying to make the Senate what the framers intended it to be.

I really am encouraged, because I think that Senator LOTT is a man in that mold. He is bright, he has an endearing personality, he has an art of persuasiveness that will win many battles. He is considerate, he is patient, and a leader has to have all of these attributes. I thank him for all of these things.

Mr. LOTT. Mr. President, I renew my great appreciation for the Senator from West Virginia, and I appreciate very much his remarks. I hope we can live up to his comments and expectations; we are going to work very hard to do that. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I, too, would like, again, to express my gratitude to the distinguished Senator from West Virginia for his kind remarks throughout the day, again most recently. I appreciate very much the manner with which he has expressed himself. It is an honor for me to be complimented in public by the distinguished Senator from West Virginia, and he has done so generously.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for morning business until the hour of 5 p.m. today, with Senators permitted to speak for up to 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 105TH CONGRESS

Mr. DASCHLE. Mr. President, let me first congratulate, again, all of our new colleagues and their families for this very momentous occasion. It is one of the most thrilling things for me to watch new Senators come down the aisle, accompanied by a colleague, to raise their right hand and to take the oath of office. I can recall so vividly my own experience in that regard now twice. I know, having had that experience, what a remarkable and what a memorable opportunity it is for any woman or man.

Let me also again reiterate my gratitude to the majority leader for his remarks and for the kindnesses that he has shown to me and to our caucus as we have worked through the schedule, worked through the committees, worked through the many procedural matters that we had to discuss today. We begin the 105th Congress with renewed hope, with optimism, with good will.

There is much to do, and there is much need to do it together. We have had many months of competitive political effort, and now it is time to govern. Franklin Roosevelt once said, "The future lies with those wise political leaders who recognize that the great public is interested more in government than in politics." Let us recognize that and seize the future. Let us summon the best in all of those around us as we call upon the best within ourselves to join in common purpose and in common cause. I have no doubt that our efforts here during the course of the 105th Congress will, by any standard, then be judged a success.

Mr. President, I indicated when I introduced the resolution relating to Senator BYRD that I had a statement. I would like at this time to make that statement.

ROBERT C. BYRD'S 50 YEARS OF PUBLIC SERVICE

Mr. DASCHLE. Mr. President, tomorrow, January 8, 1997, will mark a momentous day in the life and career of one of this chamber's most esteemed and respected Members.

Fifty years ago, on January 8, 1947, before this Senator was born, ROBERT C. BYRD took his seat in the West Virginia State Legislature, thus beginning a remarkable half-century of public service.

On this golden anniversary of the beginning of a remarkable career, I want to take a few minutes to call attention to this achievement, to congratulate him for it, and to thank him for his service to the people of West Virginia and the United States.

Fifty years of public service. That is a long time. Perhaps I can illustrate.

It translates into two terms in the West Virginia House of Delegates, one term in the West Virginia State Senate, three terms in the U.S. House of Representatives, and seven terms in the U.S. Senate.

Since ROBERT BYRD began serving the people of West Virginia, 10 Presidents have occupied the White House—that is nearly one-fourth of all Presidents in American history. ROBERT BYRD began serving the people of West Virginia before 20 Members of this Chamber, including this Member, were born. Before there was a CIA; before there was a Marshall plan; before the Korean war.

When ROBERT BYRD began his political career, Harry Truman had not yet upset Dewey or dismissed Gen. Douglas MacArthur. Senator Joe McCarthy had not yet begun his infamous Red-baiting. Lyndon Johnson was still in the House of Representatives, and he was being joined by John Kennedy and Richard Nixon, both of whom were taking their first congressional seats.

When ROBERT BYRD began his remarkable half-century career in public service, it was 2 years before the Soviet Union had tested its first atomic bomb, 10 years before the Soviet Union launched sputnik, and 12 years before there were 50 States in our Union.

Five decades is indeed a long time, but it is not for longevity alone that we recognize and applaud the senior Senator from West Virginia. We recognize our esteemed and respected colleague for the quality as well as the quantity of his public service. His lifelong commitment to public service has been one of total dedication to serving the people of his beloved State and to the highest ideals of public service. And the people of West Virginia have honored him for it.

In ROBERT BYRD's 50 years in public service, he has won every election in which he has been a participant. In 1970, he received the largest percentage of the total vote ever accorded a person running for the Senate in a contested election in the State of West Virginia.

In 1976, he was the first person in West Virginia history to win a Senate seat without opposition in a general election. He has held more legislative offices than anyone else in the history of his State. He is one of only three U.S. Senators in history to be elected to seven 6-year terms. He is the longest-serving Senator in the history of his State. And, on January 13, Senator BYRD will have served 38 years and 10 days in the Senate, becoming the fourth-longest-serving Senator in U.S. history—behind Senators Hayden, THURMOND, and Stennis.

West Virginians are not only pleased with their man in Washington; they are proud of him. They have honored him with nearly every honor the State has to offer; this includes being selected as the West Virginian of the Year three different times—the only person ever selected more than once.

This Saturday, January 11, a 10-foot, 1,500-pound statue of Senator BYRD will be unveiled and formally dedicated in his honor in the West Virginia State Capitol. No other person in the history of the State has had such an honor bestowed upon him or her. The statue appropriately depicts Senator BYRD holding the Constitution and pointing to the section of the document that provides Congress with the power of the purse.

Of course, West Virginians are in the process of renaming the State after him. Every town you go into, it seems you can find something named after ROBERT C. BYRD. His name is prominently displayed on hospitals, university buildings, roads, and bridges throughout the State. There is the Robert C. Byrd High School in Harrison County, and the U.S. Senator Robert C. Byrd Center for Legislative Studies at Sheperd College, in beautiful Sheperdstown. There is the Robert C. Byrd Community Center in Pine Grove, the Robert C. Byrd Visitor Center in historic Harpers Ferry, and the much-needed Robert C. Byrd Cancer Research Center.

Last year, the Governor of West Virginia, Gaston Caperton, called Senator BYRD "West Virginia's most beloved son * * * truly a legend in his own time." Truly he is, Mr. President, and ROBERT C. BYRD has become a legend in the U.S. Senate, as well.

More than two-thirds of his 50 years of public service has been in this Chamber. The standards he has set here, the principles for which he has stood, the service he has rendered to this Chamber and every member in it, have all been in the best traditions of American government. For this reason, the "Almanac of American Politics" could write that ROBERT BYRD "may come closer to the kind of Senator the Founding Fathers had in mind than any other."

He is the Senate's foremost historian—"the custodian of the Senate's ideals and values," as Senator Nunn has called him.

He has held more leadership positions in the U.S. Senate than any other Senator in history, and he has cast more votes than any other Senator in history.

He was the first man in the history of the Senate to hold the job of Senate majority leader, lose it, and then gain it back again. "That fact," wrote Michael Barone, "tells us something about the determination, the combination of hard work and ambition which have propelled this coal miner's son to the top ranks of the American Congress."

I love that description, so I want to repeat it: "the combination of hard work and ambition which have propelled this coal miner's son to the top ranks of the American Congress." This is a remarkable statement about a remarkable man. An orphan boy who was raised by a coal miner in the hills of West Virginia, who once pumped gas at a filling station and worked as a produce salesman to make a living, who worked as a meat cutter and a welder in the shipyards of Baltimore and Tampa in order to feed his family, has risen to and succeeded at the very top of our government.

His life, in the words of President Clinton, is a "testament to the idea that public discourse and public life can be a thing of very high honor."

One of Senator BYRD's favorite quotes is Horace Greeley's observance that:

> Fame is a vapor;
> Popularity an accident;
> Riches take wing;
> Those who cheer today may curse tomorrow;
> Only one thing endures: character.

Mr. President, as Senate Democratic Leader, I salute the enduring character of ROBERT C. BYRD while I congratulate him for 50 years of outstanding public service. And I thank the people of West Virginia for their wisdom in keeping him here with us.

Mr. President, I now yield the floor.

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

PROTESTS IN BELGRADE

Mrs. HUTCHISON. Mr. President, I think it is important today as we see a transference of power in Congress after duly-held elections that we pause to support the people who are standing, as we speak, in a frozen public square in Serbia, who are trying to have the same rights that we enjoy today in America. I think we must stand with the people of Serbia who have for 8 weeks been standing in the freezing cold to demand the results of their recent elections be implemented.

Mr. President, the world watches in awe at the display of popular sovereignty in the former Yugoslavian Republic of Serbia. In 8 weeks it has built from a few thousand to over 400,000 people who have risen up in peaceful opposition to the regime of Slobodan Milosevic on whom the Clinton administration has pinned part of its hopes in the Balkans.

We cannot help but admire the courage, the bravery, the commitment of the young people and the young at heart who are standing up for democracy. They are trying to bring about change through moral suasion and the strength of their convictions. As they do that, they remind the world that all governments everywhere borrow power from the people they serve, and the people can take that power back when they determine that they must.

We have had many debates on this floor regarding the future in that most unfortunate part of the world. Today, we have tens of thousands of Americans on the ground in and around Bosnia to try to keep a tenuous peace, to keep the military factions apart that only recently were at war.

We are in Bosnia at great cost. Our Balkans policy is confused. We have spent $5 billion and the meter is still running. Our troops will be on the ground for at least another year. At the same time, in neighboring Serbia, we are seeing the best example of peaceful self-determination. The people of Serbia are united on the principle of fair and democratic elections. The Milosevic regime is hanging on to an Old World order that will not remain. It will not remain because of the strength of the people.

The United States should not stand idly by. The administration needed President Milosevic to reach the peace agreement in Dayton. So there has been a tendency to turn a blind eye to his faults, his protection of war criminals, his antidemocratic actions. But it is clear the people of Serbia are rising up and they are saying, "No more." Because the administration helped create this situation in the Balkans, I think we have a special responsibility to exercise our influence on President Milosevic to honor the will of the Serbian people.

Last month, representatives from the Organization for Security and Cooperation in Europe were invited to Serbia to investigate the election crisis. They attempted in vain to persuade President Milosevic to accept the municipal election results in 14 of 19 of Serbia's largest cities.

The people are protesting to send a clear message that their votes matter and that no regime has the right to nullify the will of the people, from whom all governments borrow power.

Mr. President, we pray that President Milosevic will accept the will of his people. We pray that this crisis will be resolved peacefully, and we pray that democracy will triumph in Serbia.

Mr. President, I am urging President Clinton today to speak out with a clear, strong voice that the United States stands behind the Serbian people and that the results of the free elections that were held should be implemented. It is time for the peaceful demonstrators in Belgrade, in their fight for a self-determined nation and freedom, to prevail. I urge the President to use his influence with President Milosevic to stand down and let the results of those elections go forward.

Mr. President, we are beginning a new session of Congress. We had elections, and now we are implementing the will of the people. It has been thus for over 200 years in this country. Maybe some of us take that right for granted—the right to vote and the right to know that our vote will be counted fairly.

Mr. President, it is the time for Americans to ask everyone in the world to salute the people who are standing today, this very minute, freezing in Republic Square in Belgrade, standing for the right to do what we have done in the last few hours in Congress, and that is have a peaceful transition of power after duly held elections.

Mr. President, the people of Serbia have spoken. It is time that all the people in the world stand behind them so that their spoken word will prevail.

LOUISIANA CONTESTED ELECTION

Mr. WARNER. I have discussed with Majority Leader LOTT the procedures he proposed today with regard to the seating of Senator LANDRIEU and the review of Mr. Jenkins' petition contesting the election of Senator LANDRIEU.

I agree with and fully support the actions taken by the majority leader. I would like to take a moment to explain the actions the Rules Committee has taken thus far concerning this contest and those procedures which we anticipate following in the future.

The Senate is the Constitutional judge of the qualifications of each Senator. Article I, section 5 of the U.S. Constitution, states that the Senate is the "Judge of the Elections, Returns, and Qualifications of its own Members. . . ."

The Secretary of State of Louisiana has certified that MARY LANDRIEU defeated Louis "Woody" Jenkins by 5,788 votes in the 1996 U.S. Senate race, and this morning Senator LANDRIEU was sworn in "without prejudice." This action is in accordance with the precedents of the Senate, which recognize that the Senate generally defers to the certification of the State until the Senate has had the opportunity to review such petitions and evidence as may be submitted by the contestants or gathered by the committee.

On December 5, 1996, Mr. Jenkins exercised his right to file a petition of election contest with the Vice President of the United States. That petition was referred to the Senate Committee on Rules and Administration, chaired by myself with the distinguished Senator from Kentucky Mr. FORD, serving as the ranking Democrat.

On December 18, 1996, Mr. Jenkins submitted an amended petition along with considerable documents related to the allegations in his petition. These allegations go to the heart of the integrity of the election process on November 5 in Louisiana, and Mr. Jenkins' steps, thus far, merit thorough consideration by the Rules Committee.

In consultation with Committee members, and consistent with precedent, Senator FORD and I engaged two attorneys to serve as outside counsel for the Committee, and their letters of engagement are attached for the record. Bill Canfield was selected by the Republicans, and Bob Bauer was chosen by the Democrats. Their assignment is to review the petition and all documents submitted to the Committee relating to the petition and to advise the Committee as to whether the petition should be dismissed or, if not, what further courses of action the Committee should consider.

As a means to providing equity to both candidates, the committee advised then Senator-elect LANDRIEU of her right to file material for consideration, and a copy of the letter from the committee to her counsel is attached for the record. Senator LANDRIEU's attorney has indicated that she will respond by January 17, 1997.

Mr. Jenkins will then be given time to examine any material submitted by Senator LANDRIEU and provide the committee with a surrebuttal. After reviewing all of the filings, our outside counsel will promptly provide the committee with their respective opinions. I anticipate the two counsel will have some areas of their opinions reflecting a concurrence of views and recommendations.

It is my intention to then hold a committee business meeting on counsels' reports immediately thereafter and determine the next step in this process. I am hopeful that we will be able to hold this meeting early in February.

These procedures will allow and ensure a fair and equitable review of the allegations. Senator LANDRIEU, Mr. Jenkins, and the citizens of Louisiana, as well as the entire country, expect and deserve no less.

The above outline of committee procedures, so far, parallels the actions of the Rules Committee in the Huffington-Feinstein contested election in 1995.

SENATOR BYRD'S ADDRESS TO NEW SENATORS—AND RETURNING SENATORS, TOO

Mr. KENNEDY. Mr. President, on December 3 as part of the orientation program for new Senators, our distinguished colleague from West Virginia, Senator ROBERT C. BYRD, delivered an eloquent address in this chamber emphasizing the indispensable role of the Senate in American democracy.

Senator BYRD is well known as a scholar and historian of the Senate. I believe his address will be of interest and importance to all Senators as we begin the new session, and I ask unanimous consent that it be printed in the RECORD.

REMARKS BY U.S. SENATOR ROBERT C. BYRD AT THE ORIENTATION OF NEW SENATORS, DECEMBER 3, 1996

Good afternoon and welcome to the United States Senate Chamber. You are presently occupying what I consider to be "hallowed ground."

You will shortly join the ranks of a very select group of individuals who have been honored with the title of United States Senator since 1789 when the Senate first convened. The creator willing, you will be here for at least six years.

Make no mistake about it, the office of United States Senator is the highest political calling in the land. The Senate can remove from office Presidents, members of the Federal judiciary, and other Federal officials but only the Senate itself can expel a Senator.

Let us listen for a moment to the words of James Madison on the role of the Senate.

"These [reasons for establishing the Senate] were first to protect the people against their rulers: secondly to protect the people against the transient impression into which they themselves might be led. [through their representatives in the lower house] A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of government most likely to secure their happiness, would first be aware, that those charged with the public happiness, might betray their trust. An obvious precaution against this danger would be to divide the trust between different bodies of men, who might watch and check each other . . . . It would next occur to such a people, that they themselves were liable to temporary errors, through want of information as to their true interest, and that men chosen for a short term, [House members], . . . might err from the same cause. This reflection would naturally suggest that the Government be so constituted, as that one of its branches might have an opportunity of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, would be that they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. *A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils*, ..."

Ladies and gentlemen, you are shortly to become part of that all important, "necessary fence," which is the United States Senate. Let me give you the words of Vice President Aaron Burr upon his departure from the Senate in 1805. "This house," said he, "is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hand of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor." Gladstone referred to the Senate as "that remarkable body—the most remarkable of all the inventions of modern politics."

This is a very large class of new Senators. There are fifteen of you. It has been sixteen years since the Senate welcomed a larger group of new members. Since 1980, the average size class of new members has been approximately ten. Your backgrounds vary. Some of you may have served in the Executive Branch. Some may have been staffers here on the Hill. Some of you have never held federal office before. Over half of you have had some service in the House of Representatives.

Let us clearly understand one thing. The Constitution's Framers never intended for the Senate to function like the House of Representatives. That fact is immediately apparent when one considers the length of a Senate term and the staggered nature of Senate terms. The Senate was intended to be a continuing body. By subjecting only one-third of the Senate's membership to reelection every two years, the Constitution's framers ensured that two-thirds of the membership would always carry over from one Congress to the next to give the Senate an enduring stability.

The Senate and, therefore, Senators were intended to take the long view and to be able to resist, if need be, the passions of the often intemperate House. Few, if any, upper chambers in the history of the western world have possessed the Senate's absolute right to unlimited debate and to amend or block legislation passed by a lower House.

Looking back over a period of 208 years, it becomes obvious that the Senate was intended to be significantly different from the House in other ways as well. The Constitutional Framers gave the Senate the unique executive powers of providing advice and consent to presidential nominations and to treaties, and the sole power to try and to remove impeached officers of the government. In the case of treaties, the Senate, with its longer terms, and its ability to develop expertise through the device of being a continuing body, has often performed invaluable service.

I have said that as long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.

The Senate was intended to be a forum for open and free debate and for the protection of political minorities. I have led the majority and I have led the minority, and I can tell you that there is nothing that makes one fully appreciate the Senate's special role as the protector of minority interests like being in the minority. Since the Republican Party was created in 1854, the Senate has changed hands 14 times, so each party has had the opportunity to appreciate first-hand the Senate's role as guardian of minority rights. But, almost from its earliest years the Senate has insisted upon its members' right to virtually unlimited debate.

When the Senate reluctantly adopted a cloture rule in 1917, it made the closing of debate very difficult to achieve by requiring a super majority and by permitting extended post-cloture debate. This deference to minority views sharply distinguishes the Senate from the majoritarian House of Representatives. The Framers recognized that a minority can be right and that a majority can be wrong. They recognized that the Senate should be a true deliberative body—a forum in which to slow the passions of the House, hold them up to the light, examine them, and, thru informed debate, educate the public. The Senate is the proverbial saucer intended to cool the cup of coffee from the House. It is the one place in the whole government where the minority is guaranteed a public airing of its views. Woodrow Wilson observed that the Senate's informing function was as important as its legislating function, and now, with televised Senate debate, its informing function plays an even larger and more critical role in the life of our nation.

Many a mind has been changed by an impassioned plea from the minority side. Important flaws in otherwise good legislation have been detected by discerning minority members engaged in thorough debate, and important compromise which has worked to the great benefit of our nation has been forged by an intransigent member determined to filibuster until his views were accommodated or at least seriously considered.

The Senate is often soundly castigated for its inefficiency, but in fact, it was never intended to be efficient. Its purpose was and is to examine, consider, protect, and to be a totally independent source of wisdom and judgment on the actions of the lower house and on the executive. As such, the Senate is the central pillar of our Constitutional system. I hope that you, as new members will study the Senate in its institutional context because that is the best way to understand your personal role as a United States Senator. Your responsibilities are heavy. Understand them, live up to them, and strive to take the long view as you exercise your duties. This will not always be easy.

The pressures on you will, at times, be enormous. You will have to formulate policies, grapple with issues, serve the constituents in your state, and cope with the media. A Senator's attention today is fractured beyond belief. Committee meetings, breaking news, fundraising, all of these will demand your attention, not to mention personal and family responsibilities. But, somehow, amidst all the noise and confusion, you must find the time to reflect, to study, to read, and, especially, to understand the absolutely critically important institutional role of the Senate.

May I suggest that you start by carefully reading the Constitution and the Federalist papers. In a few weeks, you will stand on the platform behind me and take an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic; to bear true faith and allegiance to the same; and take this obligation freely, without any mental reservation or purpose of evasion; and to well and faithfully discharge the duties of the office on which you are about to enter: So help you God."

Note especially the first 22 words, "I do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic . . ."

In order to live up to that solemn oath, one must clearly understand the deliberately established inherent tensions between the 3 branches, commonly called the checks and balances, and separation of powers which the framers so carefully crafted. I carry a copy of the Constitution in my shirt pocket. I have studied it carefully, read and reread its articles, marveled at its genius, its beauty, its symmetry, and its meticulous balance, and learned something new each time that I partook of its timeless wisdom. Nothing will help you to fully grasp the Senate's critical role in the balance of powers like a thorough reading of the Constitution and the Federalist papers.

Now I would like to turn for a moment to the human side of the Senate, the relationship among Senators, and the way that even that faced of service here is, to a degree, governed by the constitution and the Senate's rules.

The requirement for super majority votes in approving treaties, involving cloture, removing impeached federal officers, and overriding vetoes, plus the need for unanimous consent before the Senate can even proceed in many instances, makes bipartisanship and comity necessary if members wish to accomplish much of anything. Realize this. The campaign is over. You are here to be a Senator. Not much happens in this body without cooperation between the two parties.

In this now 208-year-old institution, the positions of majority and minority leaders have existed for less than 80 years. Although the positions have evolved significantly within the past half century, still, the only really substantive prerogative the leaders possess is the right of first recognition before any other member of their respective parties who might wish to speak on the Senate Floor.

Those of you who have served in the House will now have to forget about such things as the Committee of the Whole, closed rules, and germaneness, except when cloture has been invoked, and become well acquainted with the workings of unanimous consent agreements. Those of you who took the trouble to learn *Deschler's Procedure* will now need to set that aside and turn in earnest to *Riddick's Senate Procedure.*

Senators can lose the Floor for transgressing the rules. Personal attacks on other members or other blatantly injudicious comments are unacceptable in the Senate. Again to encourage a cooling of passions, and to promote a calm examination of substance, Senators address each other through the Presiding Officer and in the third person. Civility is essential here for pragmatic reasons as well as for public consumption. It is difficult to project the image of a statesmanlike, intelligent, public servant, attempting to inform the public and examine issues, if one is behaving and speaking in a manner more appropriate to a pool room brawl than to United States Senate debate. You will also find that overly zealous attacks on other members or on their states are always extremely counterproductive, and that you will usually be repaid in kind.

Let us strive for dignity. When you rise to speak on this Senate Floor, you will be following in the tradition of such men as Calhoun, Clay, and Webster. You will be standing in the place of such Senators as Edmund Ross (KS) and Peter Van Winkle (WEST VIRGINIA), 1868, who voted against their party to save the institution of the presidency during the Andrew Johnson impeachment trial.

Debate on the Senate Floor demands thought, careful preparation and some familiarity with Senate Rules if we are to engage in thoughtful and informed debate. Additionally, informed debate helps the American people have a better understanding of the complicated problems which besiege them in their own lives. Simply put, the Senate cannot inform American citizens without extensive debate on those very issues.

We were not elected to raise money for our own reelections. We were not elected to see how many press releases or TV appearances we could stack up. We were not elected to set up staff empires by serving on every committee in sight. We need to concentrate, focus, debate, inform, and, I hope, engage the public, and thereby forge consensus and direction. Once we engage each other and the public intellectually, the tough choices will be easier.

I thank each of you for your time and attention and I congratulate each of you on your selection to fill a seat in this August body. Service in this body is a supreme honor. It is also a burden and a serious responsibility. Members' lives become open for inspection sand are used as examples for other citizens to emulate. A Senator must really be much more than hardworking, much more than conscientious, much more than dutiful. A Senator must reach for noble qualities—honor, total dedication, self-discipline, extreme selflessness, exemplary patriotism, sober judgment, and intellectual honesty. The Senate is more important than any one or all of us—more important than I am; more important than the majority and minority leaders; more important than all 100 of us; more important than all of the 1,843 men and women who have served in this body since 1789. Each of us has a solemn responsibility to remember that, and to remember it often.

Let me leave you with the words of the last paragraph of Volume II, of *The Senate: 1789-1989:* "Originally consisting of only twenty-two members, the Senate had grown to a membership of ninety-eight by the time I was sworn in as a new senator in January 1959. After two hundred years, it is still the anchor of the Republic, the morning and evening star in the American constitutional constellation. It has had its giants and its little men, its Websters and its Bilbos, its Calhouns and its McCarthys. It has been the stage of high drama, of comedy and of tragedy, and its players have been the great and the near-great, those who think they are great, and those who will never be great. It has weathered the storms of adversity withstood the barbs of cynics and the attacks of critics, and provided stability and strength to the nation during periods of civil strife and uncertainty, panics and depressions. In war and in peace, it has been the sure refuge and protector of the rights of the states and of a political minority. And, today, the Senate still stands—the great forum of constitutional American liberty!"

TRIBUTE TO LARRY PRESSLER

Mr. LOTT. Mr. President, earlier today, we witnessed the oath of office being given to the new junior Senator from South Dakota, the Honorable TIM JOHNSON. I join with all my colleagues in welcoming him to the U.S. Senate. I wish him well. However, I do want to take a moment to pay tribute to the gentleman he succeeded—a man of integrity, of kindness, and of singular achievement—Senator Larry Pressler.

I have known Larry Pressler throughout his entire 22 year career of public service in the Congress, beginning with his first election to the House of Representatives in 1974. Though a young man when he first took the oath of Office, he already had distinguished himself in other fields—as student body president at the University of South Dakota, a Rhodes Scholar, a U.S. Army Lieutenant in Vietnam, and a Harvard Law and Kennedy School graduate.

I knew then that the people of South Dakota had sent an exceptional human being. I didn't realize how right I was at the time. In 1978, he was elected to the Senate—the first of several Vietnam veterans we are honored to call our Senate colleagues. For 18 years—

three terms in office—he served the Senate, his State and his country ably and responsibly.

All who know or have known Larry Pressler are keenly aware how much he holds public service in high regard. He considers it his life's calling, and he certainly responded well to the call. He knows that effective public service begins with public trust at home—the faith that he chose to represent their views and interests in Washington will do so with honor and integrity. Little did Larry know that not long after he came to the Senate, that basic principle of public trust would be put to the test. It would come in the form of FBI agents posing as Arab sheiks who attempted to bribe Larry as part of their so-called ABSCAM investigation. Larry strongly refused. His response drew national acclaim. The Federal District Judge who presided over the trial singled out Larry's action, stating that he "acted as citizens have a right to expect their elected representatives to act."

That single act, perhaps more than any other, capsulized and defined the values of Larry Pressler—the values he was brought up to practice first on his father's farm in Humboldt, SD, and the same values he practiced every day for 22 years in Congress. Just as important, his action during ABSCAM reminded all of us of that vital link between effective public service and sustained public trust.

Public trust was not just a core value Larry Pressler practiced in his own life, but a basic principle he sought to instill in government practice. He worked overtime to be sure South Dakotans were treated fairly by the Federal Government, whether it was as routine as a timely Social Security check, or as complex as environmental protection enforcement.

Larry was the first to oppose President Clinton's nomination of Zoe Baird because he sensed early on that her past actions damaged the level of public trust needed in our Nation's chief law enforcement officer. He was right.

Larry has been a superb watchdog of Federal agencies that oversee air safety because of his concern both for the safety and security of air travelers, and the faith travelers place in these agencies and carriers to ensure their safety. He was right on the mark again.

Larry also has been an outspoken champion of our efforts to reform the cancerous corruption and waste that has infected the United Nations to the point of near ineffectiveness. As a supporter of the United Nations, Larry is concerned that continued United Nations mismanagement would erode the public's support and trust in the world body. Some people in the United Nations are listening. Indeed, largely because of the persistence and diligence of our friend and former colleague from South Dakota, the United Nations today now has an inspector general to investigate waste, fraud and abuse, and is beginning to take seriously this body's demands for real, concrete reform.

Persistence and diligence—that best describes the style of Larry Pressler's approach to public service, and it has paid off for the State of South Dakota and the Nation. His last campaign slogan was "Fighting and Winning for South Dakota." That's a good example of truth in advertising. Whether it was rail service or air service, wheat prices or cattle prices, Ellsworth Air Force Base in Rapid City or the EROS Data Center in Sioux Falls, Larry Pressler fought and won for South Dakota.

Internationally, Larry Pressler is known and respected for his efforts on nuclear nonproliferation, and human rights causes in China, Cyprus, Armenia, Turkey, and Kosova. I'm sure there are many around the world who will miss Larry Pressler's commitment to these and other important causes.

But perhaps Larry Pressler's greatest achievements as a Senator came in his last 2 years in office, when he served as chairman of the Commerce, Science, and Transportation Committee. Chairman Pressler presided over one of the most productive and bipartisan periods of legislating by a single Senate committee perhaps in the history of this body. At the end of the 104th Congress, I had the opportunity to detail this extraordinary record of accomplishment. Chairman Pressler reported 97 bills and resolutions out of the Commerce Committee—more than any other Senate Committee during the 140th Congress. Of those, 87 became law.

Of that 87, perhaps the most heralded was the Telecommunications Act of 1996, the most important economic growth legislation to become law in a decade. This piece of legislation was Larry Pressler's life for well over a year.

It's fair to say that the Telecommunications Act would not be law today if not for Larry Pressler. It passed with extraordinary support because Larry Pressler took the time to work with virtually every Member of Congress—House and Senate—to see that their concerns were addressed. He demonstrated bipartisanship, fairness as well as toughness, but perhaps most important are the two qualities I mentioned earlier—persistence and diligence.

Those qualities also were shared by Larry Pressler's staff. Indeed, both his personal and committee staff deserve a tribute and our thanks as well. They were a great team. Many are from South Dakota. Many have served with Larry Pressler for more than a decade. Several for as long as he was a Senator and a select few even worked for him in the House. Larry, one of our more regular participants at our weekly Senate Bible study, often joked that Abraham died leaning on his staff. Well, it's safe to say Larry Pressler succeeded leaning on his staff. I know Larry Pressler is very proud of all his dedicated staff. I also know that all the staff are proud of Larry Pressler—proud to have worked with him and for the people of South Dakota.

They are not alone. All of us are proud to have worked with our distinguished colleague from South Dakota. I say this not just as a colleague, but as a dear friend. My wife, Tricia, and I have enjoyed the countless times we have spent with Larry, his lovely wife, Harriet and their wonderful daughter, Laura. I am hopeful there will be many more good times ahead.

F. Scott Fitzgerald once wrote: "Vitality shows in not only the ability to persist but the ability to start over." I have seen the vitality of Larry Pressler as a persistent and dedicated public servant for his state and nation. I am confident Larry will demonstrate that same vitality as he starts a new, a private life that will bring professional success and personal satisfaction.

So today, Larry Pressler finds himself in a position all of us will be placed in—a point where past service is subject not to the approval of voters but to the scrutiny of history. Mr. President it is safe to say history will treat Larry Pressler quite well, and will see him as we do—as a model public servant. To paraphrase the words of Saint Paul known and referred to often by my friend from South Dakota, Larry Pressler stayed the course, fought the good fight and kept the faith.

APPOINTMENTS DURING ADJOURNMENT

Mr. LOTT. Mr. President, the following appointments were made pursuant to law during the sine die adjournment of the Senate:

To the National Gambling Impact Study Commission, pursuant to Public Law 104–169, Dr. Paul Moore, of Mississippi and Dr. James Dobson, of Colorado (Oct. 4, 1996)

To the National Committee on Vital, and Health Statistics, pursuant to Public Law 104–191, Richard K. Harding, of South Carolina (Nov. 4, 1996)

To the Senate Delegation to the North Atlantic Assembly during the Second Session of the 104th Congress, to be held in Paris, France, Nov. 17–21, 1996, pursuant to 22 U.S.C. 1928a–1928d, Senators HATCH, WARNER, GRASSLEY, SPECTER, MURKOWSKI, COATS, and BENNETT (Nov. 8, 1996)

To the National Gambling Impact Study Commission, pursuant to Public Law 104–169, Leo McCarthy, of California (Nov. 25, 1996).

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

SEATING OF SENATOR LANDRIEU

Mr. LOTT. Mr. President, earlier today, the Senate seated Senator MARY L. LANDRIEU without prejudice to the Senate's constitutional power to be the judge of the election of its Members. In so seating Senator LANDRIEU, the rights of any person or entity involved in the election contest petition are also preserved.

As a practical matter, what this means is that Senator LANDRIEU has the same rights and privileges as any other Senator with no limitation. However, her election has been contested and, as in other cases in recent history, depending on the resolution of this dispute in the Rules Committee, the Senate may ultimately be required to consider a report from the Rules Committee or not once they find out the details of what transpired.

Senator WARNER, the chairman of the Rules Committee, and Senator WENDELL FORD, ranking member, have met and discussed this matter. Senator DASCHLE and I have discussed it. They have retained counsel who are reviewing the material that is available, and at some point, once they have had an opportunity to review that and hear from the interested parties, namely Senator LANDRIEU and the candidate, Woody Jenkins, then they will make a determination depending on the facts as to whether or not an investigation and subsequent action would be required by the Rules Committee.

The Senate may take any of several courses of action. It may dismiss the petition at that time; it may declare the election to be set aside and call for a special election to fill the seat; or the Senate may declare the petitioner the winner of the election and replace the Senator already seated. Each one of those have been done at various times in the past.

But again, I think it is very important that we not prejudge anything. I do not think any Senator knows many of the details of what is involved. The committee of jurisdiction is working on it, and we should allow them to proceed in a careful but thorough and bipartisan way.

Obviously, we are removed from making any determination today, and we should be. We are just seeing that the allegations are being investigated and, as soon as possible, the Senate Rules Committee, then, will make a formal decision on whether to go forward. It is my intention, and I know it is the intention of the Democratic leader and Senator WARNER and Senator FORD, that the investigation will be thorough and fair, and that it will be handled expeditiously, and that it will be in accordance with all the rules that are established in the past with regard to what the Senate protocol is in these matters.

Not only should the investigation be fair, it should be conducted in a manner that allows us to do the people's business. That is the primary reason for seating Senator LANDRIEU without prejudice. We want to allow the Senate to proceed to its business with all 100 Senators present, accounted for, and involved in the process, while we gather whatever facts that are there and are available and need to be known. At such time as the Rules Committee makes a recommendation of disposition, the report is highly privileged and will then be subject to the Senate for consideration.

I think it is important that we apply the same fair principles to the consideration of the Rules Committee report, should one be issued. Under ordinary procedures, as with most business of the Senate, such a report would be fully debatable and subject to the usual rules and filibusters and cloture votes. However, I believe that the American people, and particularly this institution, would be better served if we agree in advance that ample opportunity will be given to all Senators for debate and consideration of any such Rules Committee report, but that ultimately debate will draw to a close, the matter will be decided, and we can move on to other business of our country that we have been sent here to accomplish.

I know, in the case a few years ago, maybe it was in the 1970's, there was a matter that was contested based, as I recall it, purely on the closeness of the election. The Senate spent 6 months and over 40 votes until it was finally resolved by setting aside the election, calling for another election, and that occurred and Senator Durkin was elected. I hope we do not have anything like that occur this year. My presumption at the beginning is nothing of that kind. There may be no further action on this, other than what happened in the Feinstein matter and in the Coverdell matter, but I would feel a need to clarify what the rules would be, or to identify what the rules will be as we proceed. I will, therefore, offer a unanimous-consent agreement which incorporates my desire to be fair to all parties but also to ensure that the matter does not become mired in a lengthy or purely partisan situation.

So, I ask unanimous consent that any resolution reported by the Committee on Rules recommending a disposition of the matter of the Louisiana Senate election of 1996 be laid before the Senate for immediate consideration following the request of the majority leader, after notification of the minority leader.

I further ask unanimous consent that time for debate on such resolution be limited to not more than 30 hours, equally divided in the usual form, and that at the conclusion of that time the Senate proceed immediately to a vote on the Rules Committee resolution, with no amendments being in order.

The PRESIDING OFFICER. Is there objection? The minority leader.

Mr. DASCHLE. Mr. President, let me commend the distinguished majority leader for the manner with which he has brought this matter to the floor. We have had a number of opportunities to consult with regard to his intention to make this unanimous-consent request. He has ably outlined the options available to the Rules Committee just now. He has also indicated his desire to ensure that we expedite the consideration of the report of the Rules Committee at the appropriate time.

I share his confidence in the leadership of the Rules Committee. Senator WARNER is a man of impeccable credibility, and Senator FORD has also led that committee in a similar manner. I know that he and Senator WARNER have talked about this matter already and I know that both of them are determined to bring this matter to, not only a successful conclusion, but an objective consideration at the earliest possible date.

There is no desire, let me emphasize, there is no desire to hinder the progress of the Rules Committee or the Senate itself, as we expeditiously consider the resolution and the ultimate seating of Senator LANDRIEU. As the distinguished majority leader has said, Senator LANDRIEU was seated today without prejudice, as were Senator COVERDELL and Senator FEINSTEIN in previous Congresses. So, it is with every expectation that Senator LANDRIEU will continue to present herself to the Senate with all the credibility of any other Senator that I am sure this matter will be resolved in a fair and expeditious manner at the appropriate time.

I am concerned, however, that this particular consent request would require that the minority give up the motion to proceed to the debate and the right to debate the resolution fully if we see some need to go beyond the 30 hours. And it does not allow amendments. So, with every assurance to the majority leader that we intend to work with him in expediting this matter in an objective and fair way, I will object this afternoon to the unanimous-consent request and pledge my support in working with him to resolve this matter without the need for such an agreement today.

The PRESIDING OFFICER. Objection is heard. The unanimous-consent request is not agreed to.

Mr. LOTT. Mr. President, I do want to say I appreciate the distinguished Democratic leader's comments. I know he is sincere in those and he knows that I will keep him informed of what is happening in the Rules Committee. It could be that the Rules Committee would come to the same conclusion that they did in the so-called Feinstein and the Coverdell matters. My only goal in asking this unanimous consent is that, if it does go beyond that, that there be some way it be brought to a reasonable conclusion with ample time for Senators to be able to have debate and discussion of the issues that are involved but without it being endlessly debated, or filibustered, if you will. But my hope is we can work through that. It may not even come to that, but I understand the Senator's position and I heard what he said and I am satisfied that, if we do need to work out some arrangement as to how something would be considered in the future, we will find a way to come to an amicable agreement. I thank the Senator for his comments.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383, a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. The notice publishes proposed amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act.

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: PROPOSED AMENDMENTS TO PROCEDURAL RULES

NOTICE OF PROPOSED RULEMAKING

Summary: The Executive Director of the Office of Compliance is publishing proposed amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act (P.L. 104-1, 109 Stat. 3). The proposed amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this Notice in the Congressional Record.

Addresses: Submit written comments (an original and ten copies) to the Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipts of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 426-1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724-9250. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224-2705.

SUPPLEMENTARY INFORMATION:

I. Background

The Congressional Accountability Act of 1995 ("CAA" or "Act") was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 303 of the CAA directs that the Executive Director of the Office of Compliance ("Office") shall, subject to the approval of the Board of Directors ("Board") of the Office, adopt rules governing the procedures for the Office, and may amend those rules in the same manner. The procedural rules currently in effect, approved by the Board and adopted by the Executive Director, were published December 22, 1995 in the Congressional Record (141 Cong. R. S19239 (daily ed., Dec. 22, 1995)). Amendments to these rules, approved by the Board and adopted by the Executive Director, were published September 19, 1996 in the Congressional Record (142 Cong. R. H10672 and S10980 (daily ed., Sept. 19, 1996)). The proposed revisions and additions that follow establish procedures for consideration of matters arising under Parts B and C of title II of the CAA, which are generally effective January 1, 1997.

A summary of the proposed amendments is set forth below in Section II; the text of the provisions that are proposed to be added or revised is found in Section III. The Executive Director invites comment from interested persons on the content of these proposed amendments to the procedural rules.

II. Summary of Proposed Amendments to the Procedural Rules

(A) Several revisions are proposed to provide for consideration of matters arising under sections 210 and 215 (Parts B and C of title II) of the CAA. For example, technical changes in the procedural rules will be necessary in order to provide for the exercise of various rights and responsibilities under sections 210 and 215 of the Act by the General Counsel, charging individuals and entities responsible for correcting violations. These proposed revisions are as follows:

Section 1.01 is proposed to be amended by inserting references to Parts B and C of title II of the CAA in order to clarify that the procedural rules now govern procedures under those Parts of the Act.

Section 1.02(i) is proposed to be amended to redefine the term "party" to include, as appropriate, a charging individual or an entity alleged to be responsible for correcting a violation.

Section 1.03(a)(3) is to be revised to provide for, as appropriate, the filing of documents with the General Counsel.

Section 1.04(d) is proposed to be amended to provide for appropriate disclosure to the public of decisions under section 210 of the CAA and to provide, in accordance with section 416(f) of the CAA, that the Board may, at its discretion, make public decisions which are not otherwise required to be made public.

Section 1.05(a) is to be revised to allow for a charging individual or party or an entity alleged to be responsible for correcting a violation to designate a representative.

Sections 1.07(a), 5.04 and 7.12 are to be revised to make clear that Section 416(c), relating to confidentiality requirements, does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing officers and the Board under section 215.

Section 5.01(a)(2), (b)(2), (c)(2) and (d) is proposed to be amended to allow for the filing of complaints alleging violation of sections 210 and 215 of the CAA.

Section 7.07(f), relating to conduct of hearings, is to be revised to provide that, if the representative of a charging party or an entity alleged to be responsible for correcting a violation has a conflict of interest, that representative may be disqualified.

Section 8.03(a) relating to compliance with final decisions is to be revised to implement sections 210 and 215 of the CAA.

Section 8.04 "Judicial Review" is proposed to be revised to state that the United States Court of Appeals for the Federal Circuit shall have jurisdiction, as appropriate, over petitions under sections 210(d)(4) and 215(c)(5) of the Act.

(B) Proposed Subpart D of these regulations implements the provisions of section 215(c) of the CAA, which sets forth the procedures for inspections, citations, notices, and notifications, hearings and review, variance procedures, and compliance regarding enforcement of rights and protections of the Occupational Safety and Health Act, as applied by the CAA. Under section 215(c), any employing office or covered employee may request the General Counsel to inspect and investigate places of employment under the jurisdiction of employing offices. A citation or notice may be issued by the General Counsel to any employing office that is responsible for correcting a violation of section 215, or that has failed to correct a violation within the period permitted for correction. A notification may be issued to any employing office that has failed to correct a violation within the permitted time. If a violation remains uncorrected, the General Counsel may file a complaint against the employing office with the Office, which is submitted to a hearing officer for decision, with subsequent review by the Board. Under section 215(c)(4), an employing office may apply to the Board for a variance from an applicable health and safety standard. In considering such application, the Board shall exercise the authority of the Secretary of Labor under sections 6(b) and 6(d) of the Occupational Safety and Health Act of 1970 ("OSHAct") to issue either a temporary or permanent variance, if specified conditions are met.

The Executive Director has modeled these proposed rules under section 215(c), to the greatest extent practicable, on the enforcement procedures set forth in the regulations of the Secretary of Labor to implement comparable provisions of the OSHAct (29 C.F.R., parts 1903 and 1905). The proposed rules do not follow provisions of the Secretary's regulations that are inapplicable, incompatible with the structure of the Office of Compliance, and/or inconsistent with the express statutory procedures of section 215(c) of the CAA. In addition, the Secretary has identified some provisions of Part 1903 as "general enforcement policies rather than substantive or procedural rules, [and thus] such policies may be modified in specific circumstances where the Secretary or his designee determines that an alternative course of action would better serve the objectives of the Act." 29 CFR §1903.1. These enforcement policies (such as the Secretary's policy regarding employee rescue activities, 29 C.F.R.

§1903.14(f)) are not included in these rules. Enforcement policies, if any, should be issued by the General Counsel, to whom investigatory and enforcement authorities are assigned under section 215.

The Board finds that the proposed rules govern "procedures of the Office." Thus, they may appropriately be issued under section 303 of the CAA.

III. Text of proposed amendments to procedural rules

§1.01 Scope and Policy

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Parts A, B, C, and D of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for variances and compliance, investigation and enforcement under Part C of title II and procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§1.02(i)

(i) *Party*. The term "party" means: (1) an employee or employing office in a proceeding under Part A of title II of the Act; (2) a charging individual, an entity alleged to be responsible for correcting a violation, or the General Counsel in a proceeding under Part B of title II of the Act; (3) an employee, employing office, or as appropriate, the General Counsel in a proceeding under Part C of title II of the Act; or (4) a labor organization, individual employing office or employing activity, or, as appropriate, the General Counsel in a proceeding under Part D of title II of the Act.

§1.03(a)(3)

(3) *Faxing documents*. Documents transmitted by FAX machine will be deemed filed on the date received at the Office at *202-426-1913*, or, in the case of any document to be filed or submitted to the General Counsel, on the date received at the Office of the General Counsel at *202-426-1663*. A FAX filing will be timely only if the document is *received* no later than 5:00 PM Eastern Time on the last day of the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner, provided that the status report indicates the date of the FAX, the receiver's FAX number, the number of pages included in the FAX, and that transmission was completed.

§1.04(d)

(d) *Final decisions*. Pursuant to section 416(f) of the Act, a final decision entered by a Hearing Officer or by the Board under section 405(g) or 406(e) of the Act, which is in favor of the complaining covered employee, or in favor of the charging party under section 210 of the Act, or reverses a Hearing Officer's decision in favor of a complaining covered employee or charging party, shall be made public, except as otherwise ordered by the Board. The Board may make public any other decision at its discretion.

§1.05(a)

(a) An employee, other charging individual or party, a witness, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

§1.07(a)

(a) *In General*. Section 416(a) of the CAA provides that counseling under section 402 shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations. Section 416(b) provides that all mediation shall be strictly confidential. Section 416(c) provides that all proceedings and deliberations of hearing officers and the Board, including any related records shall be confidential, except for release of records necessary for judicial actions, access by certain committees of Congress, and publication of certain final decisions. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing officers and the Board under section 215. See also sections 1.06, 5.04 and 7.12 of these rules.

SUBPART D COMPLIANCE, INVESTIGATION, ENFORCEMENT AND VARIANCE PROCEDURES UNDER SECTION 215 OF THE CAA (OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970)

Inspections, Citations, and Complaints

Sec.
4.01 Purpose and scope
4.02 Authority for inspection
4.03 Request for inspections by employees and employing offices
4.04 Objection to inspection
4.05 Entry not a waiver
4.06 Advance notice of inspection
4.07 Conduct of inspections
4.08 Representatives of employing offices and employees
4.09 Consultation with employees
4.10 Inspection not warranted; informal review
4.11 Imminent danger
4.12 Citations
4.13 Posting of citations
4.14 Failure to correct a violation for which a citation has been issued; notice of failure to correct violation; complaint
4.15 Informal conferences

Rules of Practice for Variances, Limitations, Variations, Tolerances, and Exemptions

4.20 Purpose and scope
4.21 Definitions
4.22 Effect of variances
4.23 Public notice of a granted variance, limitation, variation, tolerance, or exemption
4.24 Form of documents
4.25 Applications for temporary variances and other relief
4.26 Applications for permanent variances and other relief
4.27 Modification or revocation of orders
4.28 Action on applications
4.29 Consolidation of proceedings
4.30 Consent findings and rules or orders
4.31 Order of proceedings and burden of proof

INSPECTIONS, CITATIONS AND COMPLAINTS

§4.01 Purpose and scope.

The purpose of sections 4.01 through 4.15 of this subpart is to prescribe rules and procedures for enforcement of the inspection and citation provisions of section 215(c)(1) through (3) of the CAA. For the purpose of sections 4.01 through 4.15, references to the "General Counsel" include any designee of the General Counsel.

§4.02 Authority for inspection.

Under section 215(c)(1) of the CAA, upon written request of any employing office or covered employee, the General Counsel is authorized to enter without delay and at reasonable times any place of employment under the jurisdiction of an employing office; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employing office, operator, agent or employee; and to review records required by the CAA and regulations promulgated thereunder, and other records which are directly related to the purpose of the inspection.

§4.03 Requests for inspections by employees and covered employing offices.

(a) *By covered employees and representatives.* (1) Any covered employee or representative of covered employees who believes that a violation of section 215 of the CAA exists in any place of employment under the jurisdiction of employing offices may request an inspection of such place of employment by giving notice of the alleged violation to the General Counsel. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or the representative of the employees. A copy shall be provided to the employing office or its agent by the General Counsel or the General Counsel's designee no later than at the time of inspection, except that, upon the written request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the General Counsel.

(2) If upon receipt of such notification the General Counsel's designee determines that the notice meets the requirements set forth in subparagraph (1) of this section, and that there are reasonable grounds to believe that the alleged violation exists, he or she shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists. Inspections under this section shall not be limited to matters referred to in the notice.

(3) Prior to or during any inspection of a place of employment, any covered employee or representative of employees may notify the General Counsel's designee, in writing, of any violation of section 215 of the CAA which he or she has reason to believe exists in such place of employment. Any such notice shall comply with the requirements of subparagraph (1) of this section.

(b) *By employing offices*. Upon written request of any employing office, the General Counsel or the General Counsel's designee shall inspect and investigate places of employment under the jurisdiction of employing offices under section 215(c)(1) of the CAA. Any such requests shall be reduced to writing on a form available from the Office.

§4.04 Objection to inspection.

Upon a refusal to permit the General Counsel's designee, in exercise of his or her official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employing office, operator, agent, or employee, in accordance with section 4.02 or to permit a representative of employees to accompany the General Counsel's designee during the physical inspection of any workplace in accordance with section 4.07, the General Counsel's designee shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The General Counsel's designee shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the General Counsel, who shall take appropriate action.

§4.05 Entry not a waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action or citation under the CAA.

§4.06 Advance notice of inspections.

Advance notice of inspections may be given under circumstances determined appropriate by the General Counsel.

§4.07 Conduct of inspections.

(a) Subject to the provisions of section 4.02, inspections shall take place at such times and in such places of employment as the General Counsel may direct. At the beginning of an inspection, the General Counsel's designee shall present his or her credentials to the operator of the facility or the management employee in charge at the place of employment to be inspected; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records specified in section 4.02 which he or she wishes to review. However, such designation of records shall not preclude access to additional records specified in section 4.02.

(b) The General Counsel's designee shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately, any employing office, operator, agent or employee of a covered facility. As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.

(c) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employing office.

(d) At the conclusion of an inspection, the General Counsel's designee shall confer with the employing office or its representative and informally advise it of any apparent safety or health violations disclosed by the inspection. During such conference, the employing office shall be afforded an opportunity to bring to the attention of the General Counsel's designee any pertinent information regarding conditions in the workplace.

(e) Inspections shall be conducted in accordance with the requirements of this subpart.

§4.08 Representatives of employing offices and employees.

(a) The General Counsel's designee shall be in charge of inspections and questioning of persons. A representative of the employing office and a representative authorized by its employees shall be given an opportunity to accompany the General Counsel's designee during the physical inspection of any workplace for the purpose of aiding such inspection. The General Counsel's designee may permit additional employing office representatives and additional representatives authorized by employees to accompany the designee where he or she determines that such additional representatives will further aid the inspection. A different employing office and employee representative may accompany the General Counsel's designee during each different phase of an inspection if this will not interfere with the conduct of the inspection.

(b) The General Counsel's designee shall have sole authority to resolve all disputes as to who is the representative authorized by the employing office and employees for the purpose of this section. If there is no authorized representative of employees, or if the General Counsel's designee is unable to determine with reasonable certainty who is such representative, he or she shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

(c) The representative(s) authorized by employees shall be an employee(s) of the employing office. However, if in the judgment of the General Counsel's designee, good cause has been shown why accompaniment by a third party who is not an employee of the employing office (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the General Counsel's designee during the inspection.

(d) The General Counsel's designee may deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection. With regard to information classified by an agency of the U.S. Government in the interest of national security, only persons authorized to have access to such information may accompany the General Counsel's designee in areas containing such information.

§4.09 Consultation with employees.

The General Counsel's designee may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of section 215 of the CAA which he or she has reason to believe exists in the workplace to the attention of the General Counsel's designee.

§4.10 Inspection not warranted; informal review.

(a) If the General Counsel's designee determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a notice of violation under section 4.03(a), he or she shall notify the party giving the notice in writing of such determination. Upon the request of the complaining party or the employing office, the General Counsel, at his or her discretion, may hold an informal conference in which the complaining party and the employing office may present their views orally and in writing. After considering all written and oral views presented, the General Counsel may affirm, modify, or reverse the designee's determination and furnish the complaining party and the employing office with written notification of this decision and the reasons therefor. The decision of the General Counsel shall be final and not reviewable.

(b) If the General Counsel's designee determines that an inspection is not warranted because the requirements of section 4.03(a)(1) have not been met, he or she shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of section 4.03(a)(1).

§4.11 Citations.

(a) If, on the basis of the inspection, the General Counsel believes that a violation of any requirement of section 215 of the CAA, or of any standard, rule or order promulgated pursuant to section 215 of the CAA, has occurred, he or she shall issue a citation to the employing office responsible for correction of the violation, as determined under section 1.106 of the Board's regulations implementing section 215 of the CAA. A citation may be issued even though after being informed of an alleged violation by the General Counsel, the employing office immediately abates, or initiates steps to abate, such alleged violation. Any citation shall be issued with reasonable promptness after termination of the inspection.

(b) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the CAA, standard, rule, regulation, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.

(c) If a citation is issued for a violation alleged in a request for inspection under section 4.03(a)(1), or a notification of violation under section 4.03(a)(3), a copy of the citation shall also be sent to the employee or representative of employees who made such request or notification.

(d) After an inspection, if the General Counsel determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under section 4.03(a)(1) or a notification of violation under section 4.03(a)(3), the informal review procedures prescribed in 4.15 shall be applicable. After considering all views presented, the General Counsel shall affirm the previous determination, order a reinspection, or issue a citation if he or she believes that the inspection disclosed a violation. The General Counsel shall furnish the party that submitted the notice and the employing office with written notification of the determination and the reasons therefor. The determination of the General Counsel shall be final and not reviewable.

(e) Every citation shall state that the issuance of a citation does not constitute a finding that a violation of section 215 has occurred.

§4.12 Imminent danger.

(a) Whenever and as soon as a designee of the General Counsel concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided for by section 215(c), he or she shall inform the affected employees and employing offices of the danger and that he or she is recommending the filing of a petition to restrain such conditions or practices and for other appropriate relief in accordance with section 13(a) of the OSHAct, as applied by section 215(b) of the CAA. Appropriate citations may be issued with respect to an imminent danger even though, after being informed of such danger by the General Counsel's designee, the employing office immediately eliminates the imminence of the danger and initiates steps to abate such danger.

§4.13 Posting of citations.

(a) Upon receipt of any citation under section 215 of the CAA, the employing office shall immediately post such citation, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employing office's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employing offices are engaged in activities which are physically dispersed, the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employing office shall take steps to ensure that the citation is not altered, defaced, or covered by other material.

(b) Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The pendency of any proceedings regarding the citation shall not affect its posting responsibility under this section unless and until the Board issues a final order vacating the citation.

(c) An employing office to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the Board, and such notice may explain the reasons for such contest. The employing office may also indicate that specified steps have been taken to abate the violation.

§4.14 Failure to correct a violation for which a citation has been issued; notice of failure to correct violation; complaint.

(a) If the General Counsel determines that an employing office has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, he or she may issue a notification to the employing office of such failure prior to filing a complaint against the employing office under section 215(c)(3) of the CAA. Such notification shall fix a reasonable time or times for abatement of the alleged violation for which the citation was issued and shall be posted in accordance with section 4.13 of these rules. Nothing in these rules shall require the General Counsel to issue such a notification as a prerequisite to filing a complaint under section 215(c)(3) of the CAA.

(b) If after issuing a citation or notification, the General Counsel believes that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification pursuant to section 215(c)(3) of the CAA. The complaint shall be submitted to a Hearing Officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The procedures of sections 7.01 through 7.16 of these rules govern complaint proceedings under this section.

§4.15 Informal conferences.

At the request of an affected employing office, employee, or representative of employees, the General Counsel may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, or notice issued by the General Counsel. The settlement of any citation or notice at such conference shall be subject to the approval of the Executive Director under section 414 of the CAA and section 9.05 of these rules. If the conference is requested by the employing office, an affected employee or the employee's representative shall be afforded an opportunity to participate, at the discretion of the General Counsel. If the conference is requested by an employee or representative of employees, the employing office shall be afforded an opportunity to participate, at the discretion of the General Counsel. Any party may be represented by counsel at such conference.

RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS

§4.20 Purpose and scope.

Sections 4.20 through 4.31 contain rules of practice for administrative proceedings to grant variances and other relief under sections 6(b)(6)(A) and 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, as applied by section 215(c)(4) of the CAA.

§4.21 Definitions.

As used in sections 4.20 through 4.31, unless the context clearly requires otherwise—

(a) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970, as applied to covered employees and employing offices under section 215 of the CAA.

(b) *Party* means a person admitted to participate in a hearing conducted in accordance with this subpart. An applicant for relief and any affected employee shall be entitled to be named parties. The General Counsel shall be deemed a party without the necessity of being named.

(c) *Affected employee* means an employee who would be affected by the grant or denial of a variance, limitation, variation, tolerance, or exemption, or any one of the employee's authorized representatives, such as the employee's collective bargaining agent.

§4.22 Effect of variances.

All variances granted pursuant to this part shall have only future effect. In its discretion, the Board may decline to entertain an application for a variance on a subject or issue concerning which a citation has been issued to the employing office involved and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending before the General Counsel, a hearing officer, or the Board until the completion of such proceeding.

§4.23 Public notice of a granted variance, limitation, variation, tolerance, or exemption.

Every final action granting a variance, limitation, variation, tolerance, or exemption under this part shall be made public. Every such final action shall specify the alternative to the standard involved which the particular variance permits.

§4.24 Form of documents.

(a) Any applications for variances and other papers that are filed in proceedings under sections 4.20 through 4.31 of these rules shall be written or typed. All applications for variances and other papers filed in variance proceedings shall be signed by the applying employing office, or its representative, and shall contain the information required by section 4.25 or 4.26 of these rules, as applicable.

§4.25 Applications for temporary variances and other relief.

(a) *Application for variance.* Any employing office, or class of employing offices, desiring a variance from a standard, or portion thereof, authorized by section 6(b)(6)(A) of the OSHAct, as applied by section 215 of the CAA, may file a written application containing the information specified in paragraph (b) of this section with the Board. Pursuant to section 215(c)(4) of the CAA, the Board may refer any matter appropriate for hearing to a hearing officer under subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The procedures set forth at sections 7.01 through 7.16 of these rules shall govern hearings under this subpart.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A specification of the standard or portion thereof from which the applicant seeks a variance;

(4) A representation by the applicant, supported by representations from qualified persons having first-hand knowledge of the facts represented, that the applicant is unable to comply with the standard or portion thereof by its effective date and a detailed statement of the reasons therefor;

(5) A statement of the steps the applicant has taken and will take, with specific dates where appropriate, to protect employees against the hazard covered by the standard;

(6) A statement of when the applicant expects to be able to comply with the standard and of what steps the applicant has taken and will take, with specific dates where appropriate, to come into compliance with the standard;

(7) A statement of the facts the applicant would show to establish that (i) the applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date; (ii) the applicant is taking all available steps to safeguard its employees against the hazards covered by the standard; and (iii) the applicant has an effective program for coming into compliance with the standard as quickly as practicable;

(8) Any request for a hearing, as provided in this part;

(9) A statement that the applicant has informed its affected employees of the application by giving a copy thereof to their authorized representative, posting a statement, giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means; and

(10) A description of how affected employees have been informed of the application and of their right to petition the Board for a hearing.

(c) *Interim order*—(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The hearing officer to whom the Board has referred the application may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties and the terms of the order shall be made public. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.26 Applications for permanent variances and other relief.

(a) *Application for variance.* Any employing office, or class of employing offices, desiring a variance authorized by section 6(d) of the OSHAct, as applied by section 215 of the CAA, may file a written application containing the information specified in paragraph (b) of this section, with the Board. Pursuant to section 215(c)(4) of the CAA, the Board may refer any matter appropriate for hearing to a Hearing Officer under subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;

(4) A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment to employees which are as safe and healthful as those required by the standard from which a variance is sought;

(5) A certification that the applicant has informed its employees of the application by (i) giving a copy thereof to their authorized representative; (ii) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (iii) by other appropriate means;

(6) Any request for a hearing, as provided in this part; and

(7) A description of how employees have been informed of the application and of their right to petition the Board for a hearing.

(c) *Interim order*—(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The hearing officer to whom the Board has referred the application may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties and the terms of the order shall be made public. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.27 Modification or revocation of orders.

(a) *Modification or revocation.* An affected employing office or an affected employee may apply in writing to the Board for a modification or revocation of an order issued under section 6(b)(6)(A), or 6(d) of the OSHAct, as applied by section 215 of the CAA. The application shall contain:

(i) The name and address of the applicant;

(ii) A description of the relief which is sought;

(iii) A statement setting forth with particularity the grounds for relief;

(iv) If the applicant is an employing office, a certification that the applicant has informed its affected employees of the application by:

(A) Giving a copy thereof to their authorized representative;

(B) Posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and

(C) Other appropriate means.

(v) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employing office; and

(vi) Any request for a hearing, as provided in this part.

(b) *Renewal.* Any final order issued under section 6(b)(6)(A) of the OSHAct, as applied by section 215 of the CAA, may be renewed or extended as permitted by the applicable section and in the manner prescribed for its issuance.

§4.28 Action on applications.

(a) *Defective applications.* (1) If an application filed pursuant to sections 4.25(a), 4.26(a), or 4.27 does not conform to the applicable section, the Hearing Officer or the Board, as applicable, may deny the application.

(2) Prompt notice of the denial of an application shall be given to the applicant.

(3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.

(4) A denial of an application pursuant to this paragraph shall be without prejudice to the filing of another application.

(b) *Adequate applications.* (1) If an application has not been denied pursuant to paragraph (a) of this section, the Office shall cause to be published a notice of the filing of the application.

(2) A notice of the filing of an application shall include:

(i) The terms, or an accurate summary, of the application;

(ii) A reference to the section of the OSHAct applied by section 215 of the CAA under which the application has been filed;

(iii) An invitation to interested persons to submit within a stated period of time written data, views, or arguments regarding the application; and

(iv) Information to affected employing offices, employees, and appropriate authority having jurisdiction over employment or places of employment covered in the application of any right to request a hearing on the application.

§4.29 Consolidation of proceedings.

On the motion of the Hearing Officer or the Board or that of any party, the Hearing Officer or the Board may consolidate or contemporaneously consider two or more proceedings which involve the same or closely related issues.

§4.30 Consent findings and rules or orders.

(a) *General.* At any time before the receipt of evidence in any hearing, or during any hearing a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the Hearing Officer, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.

(b) *Contents.* Any agreement containing consent findings and rule or order disposing of a proceeding shall also provide:

(1) That the rule or order shall have the same force and effect as if made after a full hearing;

(2) That the entire record on which any rule or order may be based shall consist solely of the application and the agreement;

(3) A waiver of any further procedural steps before the Hearing Officer and the Board; and

(4) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Hearing Officer for his or her consideration; or

(2) Inform the Hearing Officer that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefor, the Hearing Officer may accept such agreement by issuing his or her decision based upon the agreed findings.

§4.31 Order of proceedings and burden of proof.

(a) *Order of proceeding.* Except as may be ordered otherwise by the Hearing Officer, the party applicant for relief shall proceed first at a hearing.

(b) *Burden of proof.* The party applicant shall have the burden of proof.

§5.01(a)(2)

(a)(2) The General Counsel may file a complaint alleging a violation of section 210, 215 or 220 of the Act.

§5.01(b)(2)

(b)(2) A complaint may be filed by the General Counsel

(i) after the investigation of a charge filed under section 210 or 220 of the Act, or

(ii) after the issuance of a citation or notification under section 215 of the Act.

§5.01(c)(2)

(c)(2) Complaints filed by the General Counsel. A complaint filed by the General Counsel shall be in writing, signed by the General Counsel or his designee and shall contain the following information:

(i) the name, address and telephone number of, as applicable, (A) each entity responsible for correction of an alleged violation of section 210(b), (B) each employing office alleged to have violated section 215, or (C) each employing office and/or labor organization alleged to have violated section 220, against which complaint is brought;

(ii) notice of the charge filed alleging a violation of section 210 or 220 and/or issuance of a citation or notification under section 215;

(iii) a description of the acts and conduct that are alleged to be violations of the Act, including all relevant dates and places and the names and titles of the responsible individuals; and

(iv) a statement of the relief or remedy sought.

§5.01(d)

(d) Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions: that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments, as appropriate, relate to the violations for which the employee has completed counseling and mediation, or relate to the charge(s) investigated and/or the citation or notification issued by the General Counsel; and that permitting such amendments will not unduly prejudice the rights of the employing office, the labor organization, or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

§5.04 Confidentiality.

Pursuant to section 416(c) of the Act, all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of Hearing Officers and the Board under section 215. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a matter.

§7.07(f)

(f) If the Hearing Officer concludes that a representative of an employee, a witness, a charging party, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits for hearing and decision established by the Act, the affected party shall be afforded reasonable time to retain other representation.

§7.12

Pursuant to section 416 of the Act, all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in section 416(d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it. This provision shall not apply to proceedings under section 215 of the Act, but shall apply to the deliberations of Hearing Officers and the Board under that section.

§8.03(a)

(a) Unless the Board has, in its discretion, stayed the final decision of the Office during the pendency of an appeal pursuant to section 407 of the Act, and except as provided in sections 210(d)(5) and 215(c)(6), a party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all other parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved.

§8.04 Judicial review.

Pursuant to section 407 of the Act, (a) the United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of:

(1) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II;

(2) a charging individual or respondent before the Board who files a petition under section 210(d)(4);

(3) the General Counsel or a respondent before the Board who files a petition under section 215(c)(5); or

(4) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3) of the Act.

(b) The U.S. Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II of the Act.

(c) The party filing a petition for review shall serve a copy on the opposing party or parties or their representative(s).

Signed at Washington, D.C. on this 20th day of December, 1996.

RICKY SILBERMAN,
Executive Director,
Office of Compliance.

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of adoption of regulation and submission for approval was submitted by the Office of Compliance, U.S. Congress. The notice contains final regulations related to the extension of rights and protections under the Americans With Disabilities Act of 1990 (Regulations under section 210 of the Congressional Accountability Act of 1995).

The Congressional Accountability Act requires this notice be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published September 19, 1996, in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing section 210 of the Congressional Accountability Act of 1995 ("CAA").

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540-1999. Telephone: (202) 724–9250. TDD: (202) 426–1912.

SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 ("CAA"), P.L. 104–1, was enacted into law on January 23, 1995. 2 U.S.C. §§ 1301 *et seq.* In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and entities within the legislative branch. Section 210(b) provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Titles II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§ 12131-12150, 12182, 12183, and 12189 ("ADA") shall apply to specified Legislative Branch entities. 2 U.S.C. §1331(b). Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of services, programs, or activities by any "public entity." Section 210(b)(2) of the CAA defines the term "public entity" for Title II purposes as any entity listed above that provides public services, programs, or activities. 2 U.S.C. §1331(b)(2). Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards.

Section 210(e) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1331(e). Section 210(e) further states that such regulations "shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.* Section 210(e) further provides that the regulations shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (b), the entity responsible for correction of a particular violation. 2 U.S.C. §1331(e).

On September 19, 1996, the Board published in the Congressional Record a Notice of Proposed Rulemaking ("NPR") (142 Cong. Rec. S11019 (daily ed., Sept. 19, 1996)). In response to the NPR, the Board received three written comments.[1] After full consideration of the comments received in response to the proposed regulations, the Board has adopted and is submitting these regulations for approval by the Congress.

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[1] One of these commenters made no comments regarding any specific portion of the proposed rules.

I. Summary of Comments and Board's Final Rules

A. Request for additional rulemaking proceedings

One commenter requested that the Board withdraw its proposed regulations and engage in what it termed "investigative rulemaking," which apparently is to include discussions with involved parties regarding the nature and scope of the regulations. This request was also made by the commenter regarding the proposed rules under section 215, which the Board has discussed in the preamble to the final rules submitted concurrently with these rules. The Board determines that further rulemaking proceedings are not required for the reasons set forth in the preamble to the final rules under section 215.

B. Specific issues regarding adoption of the Attorney General's title II regulations

1. Self-evaluation, notice, and designation of responsible employee and adoption of grievance provisions (sections 35.105, 35.106, and 35.107).—The Board proposed adoption of the Attorney General's regulations at sections 35.106 through 35.107, which require covered entities to conduct a self-evaluation of their facilities for compliance with disability access requirements and to provide notice to individuals informing them of their rights and protections under the ADA and, for entities that employ 50 or more employees, to maintain the self-evaluation on file and available for inspection for three years, designate a responsible employee, and adopt a grievance procedure.

One commenter argued that, although these sections are within the scope of regulations to be adopted under section 210(e), there is "good cause" not to adopt the self-evaluation requirements of section 35.105. In the commenter's view, the General Counsel's inspections under section 210(f) of the CAA serve the same purpose as the self-evaluation under section 35.105 of the Attorney General's regulations. The Board does not agree.

In order to modify an adopted regulation, the Board must have good cause to believe that the modification would be "more effective" for the implementation of the rights and responsibilities under section 210. 2 U.S.C. §1331. That a regulatory requirement may arguably serve the same purpose as other statutory requirements of the CAA does not establish that its elimination would result in a "more effective" implementation of section 210 rights and protections.

On the contrary, requiring entities to conduct a self-evaluation after January 1, 1997 (the effective date of section 210), and requiring larger entities to retain a record of that self-evaluation, would likely assist the General Counsel in conducting the section 210(f) inspections for the 105th Congress in an expeditious manner. Moreover, it is conceivable that a self-evaluation might reveal information or raise accessibility issues that may not arise from the General Counsel's inspections. Thus, in the Board's view, requiring entities to proactively investigate their facilities and activities for compliance, rather than placing sole reliance on the General Counsel's inspections, would enhance overall compliance with section 210. Because there is no "good cause" to modify section 35.105, the Board adopts it, as proposed in the NPR.

2. Employment discrimination provisions (section 35.140).—The Board proposed adoption of the employment discrimination provisions of section 35.140 as part of its regulations under section 210(e) of the CAA. But the Board also proposed to add a statement that, pursuant to section 210(c) of the CAA, section 201 provided the exclusive remedy for any such act of employment discrimination.

Two commenters recommended that the Board not adopt section 35.140. One commenter argued that section 35.140 implements title I of the ADA (which is not incorporated into section 210 of the CAA). The two commenters also argued that the Board's adoption of section 35.140 might be misinterpreted as an adoption of the ADA regulations of the Equal Employment Opportunity Commission ("EEOC") and, therefore, constitute improper executive branch enforcement of the CAA.

The Board has carefully considered these comments and, after doing so, has determined that adoption of section 35.140, as proposed, is appropriate. Contrary to the commenter's statement, section 35.140 was promulgated by the Attorney General to implement title II of the ADA, which the Attorney General has interpreted to apply to all activities of a public entity, including employment. *See* 56 Fed. Reg. at 35707 (preamble to final rule regarding part 35). Accordingly, since section 35.140 implements a provision of title II of the ADA that is made applicable to covered entities under section 210(b) of the CAA, it is within the scope of Board rulemaking authority and mandate under section 210(e) of the CAA.

The EEOC's ADA regulations referenced in section 35.140 are effective only insofar as such regulations are relevant to a covered employee's claim under title II of the ADA, as applied by section 210. By adopting section 35.140, the Board does not intend to establish rights or provide substantive legal rules applicable to any claim under title I of the ADA, as applied by section 201 of the ADA; however, the Board recognizes that this distinction between titles I and II of the ADA may, as a practical matter, be blurred since both types of claims might conceivably be brought in a single employment discrimination case under section 201 of the CAA. Moreover, adoption of section 35.106 would not constitute executive branch enforcement since any claim (and the resulting interpretation of the law thereof) would be in a proceeding under section 201 of the CAA before the hearing officer of the Office and/or before the Board.

Accordingly, section 35.106 will be included within the Board's final regulations.

3. Substitution of the terms "disability" for "handicaps" and "TTY's" for "TDD's" (sections 35.150, and sections 35.104 and 35.161).—The Board will substitute the term "disability" for "handicap" in section 35.150(b)(2)(ii) of the regulations, as recommended by a commenter.

In sections 35.104 and 35.161 and elsewhere in the proposed regulations, the Board substituted the term "text telephones" ("TTY's") for "telecommunication devices for the deaf" ("TDD's"), which was used in the text of the regulations. The Board will use the terms used by the Attorney General in the regulations, as recommended by one commenter.

4. Subpart F (compliance procedures).—In the NPR, the Board determined that Subpart F, which sets forth administrative enforcement procedures under title II of the ADA, implements provisions of the ADA which are applied by section 210(b) of the CAA and, therefore, is within the Board's rulemaking authority under section 210(e)(2). The Board expressed its intention to adopt Subpart F as regulations under section 210(e), but also to incorporate those provisions into the Office's procedural rules, with appropriate modification to conform to section 210 and preexisting provisions of the Office's procedural rules.

Two commenters have requested that the provisions of Subpart F, with the Board's intended modifications to conform to the statute, be included within the Board's regulations herein so that the text of those regulations may be considered and approved by the Congress. As the Board determined in the NPR, Subpart F is within the scope of rulemaking under section 210(e). Moreover, the provisions of Subpart F apply only to claims under section 210 of the CAA and are in no way duplicative of other procedures already adopted under section 303 of the CAA. Accordingly, the final regulations include Subpart F, with appropriate modification to conform to the statutory procedures of section 210(e). The Board will renumber Subpart F as new Part 2 of the final regulations to make clear that such procedures govern proceedings under section 210, including those brought under title II or title III. There is "good cause" to have one set of procedures governing claims under section 210.

C. Specific issues regarding the Attorney General's title III regulations

1. Section 36.104 (definitions).—One commenter recommended that the definition of "place of public accommodation" in proposed section 36.104, which lists the kinds of facilities or activities that may meet the definition, delete references to terms such as "inn," "hotel," "motel," "motion picture house," etc., since such facilities do not exist within the Legislative Branch. But the definition of "place of public accommodation" contained in section 36.104 tracks the statutory language of section 301(7) of the ADA. The terms used in section 36.104 are merely representative examples of the types of facilities that fall within the 12 categories of "places of public accommodation" in the statute. *See* 56 Fed. Reg. at 7458 (preamble to Attorney General's title III regulations). The Board finds no basis for concluding that deletion of these references would be "more effective" for the implementation of title II to covered entities. Accordingly, the Board will not alter this definition.

2. Section 36.207 (places of public accommodation in private residences).—The Board proposed adoption of section 36.207 of the Attorney General's title III regulations, which deal with the situation where all or part of a residence may be used as a place of public accommodation. One commenter requested that the Board exempt House Members' residences from this regulation because, in the commenter's view, it would be unnecessary and burdensome for a Member, potentially in office for only two years, to be required to incur large financial expenses in making modifications to his/her home to comply with section 210.

The commenter's concern is apparently based on the erroneous assumption that compliance with section 210 would, in all

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except to encourage the Board to ensure that the anti-retaliation provisions of section 207 of the CAA are applied to the statutory and regulatory proceedings under section 210. As the Board noted in NPR, although section 207 provides a comprehensive retaliation protection for employees (including applicants and former employees who may invoke their rights under section 210), section 207 does not apply to nonemployees who may enjoy rights and protections against discrimination under section 210.

cases, require a Member using his/her residence as a District Office to make expensive and extensive physical alterations in the residence to meet the law's requirements. On the contrary, as the General Counsel made clear in his Report to the Congress on compliance with section 210, "[a]lthough it is sometimes the case that accessibility requires barrier removal as the only effective option, most covered entities can meet ADA requirements by modifying the way their programs are operated to ensure that individuals with disabilities may have access to them." General Counsel's Report at p. 5. Moreover, to the Board's knowledge, no Member is required to use his/her residence as a location for the Member's public activity. Thus, one option for that Member would be to locate his/her public activity (the District Office, constituent meetings, public gatherings, etc.) in a separate office or other appropriate facility. Still other compliance options in this context (including technical assistance to meet accessibility standards) may be acceptable to the General Counsel, who has enforcement authority regarding compliance under section 210.

In any event, the Board may not entertain a request to exempt any entity by regulation from the coverage of the CAA, in whole or in part, without statutory authorization. Nothing in section 210, the provisions of the ADA applied thereunder, or the Attorney General's regulations adopted by the Board, authorizes the Board to provide regulatory exemptions from the public accommodations accessibility requirements. *See White* v. *INS*, 75 F.3d 213, 215 (5th Cir. 1996) (agency cannot promulgate even substantive rules that are contrary to statute).

The Board also declines the commenter's suggestion that the Board modify section 35.207 to impose section 210 requirements only if the Member uses the home as a public accommodation "regularly or on a day-to-day basis." If an entity's facility or activity constitutes a "place of public accommodations" under the provisions of title III of the ADA, as applied by section 210 of the CAA, the duty to meet accessibility requirements applies, regardless of whether the operator of the public accommodation maintains the accommodation on a permanent, temporary, seasonal, or intermittent basis. Under the statute, once the conditions of coverage are met, the obligation to ensure accessibility attaches so long as the portion of the facility at issue continues to constitute a "place of public accommodation." This statutory requirement cannot be altered by the Board.

3. Section 36.305(c) (access to multiplex cinemas).—The Board will delete proposed section 36.305(c) (relating to accessibility standards for multiplex cinemas) from its final regulations, as recommended by two commenters, because it does not appear to have any conceivable applicability to facilities in the Legislative Branch.

4. Capitol buildings and grounds as historical properties.—One commenter has requested that the Board issue regulations declaring the Capitol Buildings and grounds as historical properties for section 210 purposes, based on statutes the commenter contends establish the recognition of the historic nature of such properties by Congress. *See, e.g.*, 40 U.S.C. §§ 71a, 162-63. However, neither section 210 of the CAA, the provisions of the ADA applied thereunder, nor the Attorney General's regulations adopted by the Board authorizes the Board to declare in its regulations any particular properties as historic. The historic nature of such properties, if relevant in a proceeding under section 210, may be raised and established by the appropriate responding entity before the General Counsel in an investigatory proceeding and/or before the hearing officer or the Board in an appropriate adjudicatory proceeding.

D. Future changes in text of disability access standards

The commenters generally agreed with the Board's proposed approach regarding future changes in the regulations of the Attorney General and/or the Secretary of Transportation. However, one commenter suggested that the Board expressly state the manner and frequency by which it and the Office plan to inform covered entities and employees of such changes in such rules and materials. As stated in the NPR, the Board will make any changes in the regulations under the procedures of section 304 of the CAA. Those changes will be made as frequently as needed and it is impossible in the abstract for the Board to establish a pre-set schedule under which as yet unanticipated and unknown changes to regulations will be made.

One commenter expressed concern that the Board not make changes to any external documents or standards without following the rulemaking procedures of section 304 of the CAA. The Board agrees that any changes to the regulations themselves should be subject to ordinary rulemaking procedures under section 304. However, adoption of changes to the text of external documents, such as the ADA Accessibility Guidelines for Buildings and Facilities included as an appendix to the Attorney General's part 36 regulations, should not be subject to notice and comment under section 304 unless the Attorney General makes changes to such external documents pursuant to a notice and comment procedures of the APA. Where changes in those standards are adopted by the Attorney General without notice and comment under the Administrative Procedure Act, such changes are not within the Board's definition of "substantive regulations to implement" the ADA and thus the notice and comment procedures would not be required to make such changes under the CAA. *See* 142 Cong. Rec. at S11020. Of course, if changes in the appendices and other external documents are made by the Attorney General pursuant to the notice and comment procedures of the APA, the Board would likewise be required to follow the procedures of section 304 of the CAA to adopt those changes.

E. Technical and nomenclature changes

One commenter has suggested a number of technical and nomenclature changes to the text of the proposed regulations. The Board has considered each of the suggested changes and, where appropriate, incorporated them into the final regulations. However, unless otherwise expressly stated, by making such changes, the Board does not intend a substantive change in the meaning of the regulations.[2]

II. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and entities should be approved by the Congress by concurrent resolution.

Signed at Washington, D.C. on this 20th day of December, 1996

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress the following regulations:

ADOPTED REGULATIONS

APPLICATION OF RIGHTS AND PROTECTIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS (SECTION 210 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 210 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Notice of protection
1.104 Authority of the Board
1.105 Method for identifying the entity responsible for correction of violations of section 210

§1.101 Purpose and scope.

(a) *Section 210 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the legislative branch. Section 210(b) of the CAA provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Title II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§ 12131-12150, 12182, 12183, and 12189 ("ADA") shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician and

(9) the Office of Compliance.

2 U.S.C. §1331(b). Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of public services, programs, activities by any "public entity." Section 210(b)(2) of the CAA provides that for the purpose of applying Title II of

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[2] An example of one technical or nomenclature change that the Board does not adopt is the suggestion that the term "public" be deleted from proposed section 35.102(a) (modifying "services, programs, or activities"), since it does not appear in the text of the Attorney General's regulations. However, in contrast to title II of the ADA, which applies to *all* activities of a covered public entity (whether public or nonpublic), section 210(b)(2) makes clear that a Legislative Branch entity is a defined covered entity if it "provides public services, programs, or activities." Thus, the addition of the term "public" in proposed section 35.102(a) is a "technical" change in the Attorney General's regulations required by the language of section 210(b) of the CAA.

the ADA the term "public entity" means any entity listed above that provides public services, programs, or activities. Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act." 2 U.S.C. §1361(f)(1).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and to report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1, 35, 36, 37, and 38) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 210(e) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 210, including the method of identifying entities responsible for correcting a violation of section 210. Part 35 contains the provisions regarding nondiscrimination on the basis of disability in the provision of public services, programs, or activities of covered entities. Part 36 contains the provisions regarding nondiscrimination on the basis of disability by public accommodations. Part 37 contains the provisions regarding transportation services for individuals with disabilities. Part 38 contains the provisions regarding accessibility specifications for transportation vehicles.

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act or CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

(b) *ADA* means the provisions of the Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12131-12150, 12182, 12183, and 12189) applied to covered entities by Section 210 of the CAA.

(c) The term *covered entity* includes any of the following entities that either provides public services, programs, or activities, and/or that operates a place of public accommodation within the meaning of section 210 of the CAA: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(d) *Board* means the Board of Directors of the Office of Compliance.

(e) *Office* means the Office of Compliance.

(f) *General Counsel* means the General Counsel of the Office of Compliance.

§1.103 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 210 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§1.104 Authority of the Board.

Pursuant to sections 210 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections against discrimination on the basis of disability in the provision of public services and accommodations under the incorporated provisions of the ADA. Section 210(e) of the CAA directs the Board to promulgate regulations implementing section 210 that are "the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1331(e). The regulations issued by the Board herein are on all matters for which section 210 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) [of section 210 of the CAA]" that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Attorney General and the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Attorney General and/or the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulations or of the statutory provisions of the CAA upon which they are based.

§1.105 Method for identifying the entity responsible for correction of violations of section 210.

(a) *Purpose and Scope.* Section 210(e)(3) of the CAA provides that regulations under section 210(e) include a method of identifying, for purposes of this section and for categories of violations of section 210(b), the entity responsible for correcting a particular violation. This section 1.105 sets forth the method for identifying responsible entities for the purpose of allocating responsibility for correcting violations of section 210(b).

(b) *Categories of violations.* Violations of the rights and protections established in section 210(b) of the CAA that may form the basis for a charge filed with the General Counsel under section 210(d)(1) of the CAA or for a complaint filed by the General Counsel under section 210(d)(3) of the CAA fall into one (or both) of two categories:

(i) *Title II violations.* A covered entity may violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of those provisions of Title II of the ADA (sections 210 through 230), applied to Legislative Branch entities under section 210(b) of the CAA.

(ii) *Title III violations.* A covered entity may also violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of those provisions of Title III of the ADA (sections 302, 303, and 309) applied to Legislative Branch entities under section 210(b) of the CAA.

(c) *Entity Responsible for Correcting a Violation of Title II Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title II of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that is a "public entity," as defined by section 210(b)(2) of the CAA, and that provides the specific public service, program, or activity that forms the basis for the particular violation of Title II rights and protections set forth in the charge of discrimination filed with the General Counsel under section 210(d)(1) of the CAA or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA. As used in this section, an entity provides a public service, program, or activity if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(d) *Entity Responsible for Correction of Title III Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title III of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that "operates a place of public accommodation" (as defined in this section) that forms the basis, in whole or in part, for the particular violation of Title III rights and protections set forth in the charge filed with the General Counsel under section 210(d)(1) of the CAA and/or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA.

(i) Definitions.

As used in this section:

Public accommodation has the meaning set forth in Part 36 of these regulations.

Operates, with respect to the operations of a place of public accommodation, includes the superintendence, control, management, or direction of the function of the aspects of the public accommodation that constitute an architectural barrier or communication barrier that is structural in nature, or that otherwise forms the basis for a violation of the rights and protections of Title III of the ADA as applied under section 210(b) of the CAA.

(ii) As used in this section, an entity operates a place of public accommodation if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(e) *Allocation of Responsibility for Correction of Title II and/or Title III Violations.* Where more than one entity is deemed an entity responsible for correction of a violation of Title II and/or Title III rights and protections under the method set forth in this section, as between those parties, allocation of responsibility for complying with the obligations of Title II and/or Title III of the ADA as applied by section 210(b), and for correction of violations thereunder, may be determined by contract or other enforceable arrangement or relationship.

PART 2—INVESTIGATION AND ENFORCEMENT PROCEDURES

Sec.

2.101 Charge filed with the General Counsel
2.102 Service of charge or notice of charge
2.103 Investigations by the General Counsel
2.104 Mediation
2.105 Dismissal of charge
2.106 Complaint by the General Counsel

2.107 Settlement of complaints
2.108 Compliance date

§2.101 Charge filed with the General Counsel.

(a) Who may file.

(1) Any qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), as applied by section 210 of the CAA and section 35.104 of the Board's regulations thereunder, who believes that he or she has been subjected to discrimination on the basis of a disability in violation of section 210 of the CAA by a covered entity, may file a charge against any entity responsible for correcting the violation with the General Counsel. A charge may not be filed under section 210 of the CAA by a covered employee alleging employment discrimination on the basis of disability; the exclusive remedy for such discrimination are the procedures under section 201 of the CAA and subpart B of the Office's procedural rules.

(b) *When to file.* A charge under this section must be filed with the General Counsel not later than 180 days from the date of the alleged discrimination.

(c) *Form and Contents.* A charge shall be written or typed on a charge form available from the Office. All charges shall be signed and verified by the qualified individual with a disability (hereinafter referred to as the "charging party"), or his or her representative, and shall contain the following information:

(i) the full name, mailing address, and telephone number(s) of the charging party;

(ii) the name, address, and telephone number of the covered entit(ies) against which the charge is brought, if known (hereinafter referred to as the "respondent");

(iii) the name(s) and title(s) of the individual(s), if known, involved in the conduct that the charging party claims is a violation of section 210 and/or the location and description of the places or conditions within covered facilities that the charging party claims is a violation of section 210;

(iv) a description of the conduct, locations, or conditions that form the basis of the charge, and a brief description of why the charging party believes the conduct, locations, or conditions is a violation of section 210; and

(v) the name, address, and telephone number of the representative, if any, who will act on behalf of the charging party.

§2.102 Service of charge or notice of charge

Within ten (10) days after the filing of a charge with the General Counsel's Office (excluding weekends or holidays), the General Counsel shall serve the respondent with a copy of the charge, by certified mail, return receipt requested, or in person, except when it is determined that providing a copy of the charge would impede the law enforcement functions of the General Counsel. Where a copy of the charge is not provided, the respondent will be served with a notice of the charge within ten (10) days after the filing of the charge. The notice shall include the date, place and circumstances of the alleged violation of section 210. Where appropriate, the notice may include the identity of the person filing the charge.

§2.103 Investigations by the General Counsel

The General Counsel or the General Counsel's designated representative shall promptly investigate each complaint alleging violations of section 210 of the CAA. As part of the investigation, the General Counsel will accept any statement of position or evidence with respect to the charge which the charging party or the respondent wishes to submit. The General Counsel will use other methods to investigate the charge, as appropriate.

§2.104 Mediation

If, upon investigation, the General Counsel believes that a violation of section 210 may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 403 of the CAA and the Office's procedural rules thereunder, between the charging party and any entity responsible for correcting the alleged violation.

§2.105 Dismissal of charge

Where the General Counsel determines that a complaint will not be filed, the General Counsel shall dismiss the charge.

§2.106 Complaint by the General Counsel

(a) After completing the investigation, and where mediation under section 2.104, if any, has not succeeded in resolving the dispute, and where the General Counsel has not settled or dismissed the charge, and if the General Counsel believes that a violation of section 210 may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation.

(b) The complaint filed by the General Counsel under subsection (a) shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405 of the CAA. Any person who has filed a charge under section 2.101 of these rules may intervene as of right with the full rights of a party. The procedures of sections 405 through 407 of the CAA and the Office's procedural rules thereunder shall apply to hearings and related proceedings under this subpart.

§2.107 Settlement of Complaints

Any settlement entered into by the parties to any process described in this subpart shall be in writing and not become effective unless it is approved by the Executive Director under section 414 of the CAA and the Office's procedural rules thereunder.

§2.108 Compliance Date

In any proceedings under this section, if it is demonstrated by the entity responsible for correcting the violation that new appropriated funds are necessary to comply with an order requiring correction of a violation of section 210, compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

PART 35—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC SERVICES, PROGRAMS, OR ACTIVITIES

Subpart A—General

Sec.

35.101 Purpose.
35.102 Application.
35.103 Relationship to other laws.
35.104 Definitions.
35.105 Self-evaluation.
35.106 Notice.
35.107 Designation of responsible employee and adoption of grievance procedures.
35.108–35.129 [Reserved]

Subpart B—General Requirements

35.130 General prohibitions against discrimination.
35.131 Illegal use of drugs.
35.132 Smoking.
35.133 Maintenance of accessible features.
35.134 [Reserved]
35.135 Personal devices and services.
35.136–35.139 [Reserved]

Subpart C—Employment

35.140 Employment discrimination prohibited.
35.141–35.148 [Reserved]

Subpart D—Program Accessibility

35.149 Discrimination prohibited.
35.150 Existing facilities.
35.151 New construction and alterations.
35.152–35.159 [Reserved]

Subpart E—Communications

35.160 General.
35.161 Telecommunication devices for the deaf (TDD's).
35.162 Telephone emergency services.
35.163 Information and signage.
35.164 Duties.
35.165–35.169 [Reserved]
35.170–35.189 [Reserved]
35.190–35.999 [Reserved]

Subpart A—General

§35.101 Purpose.

The purpose of this part is to effectuate section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*) which, *inter alia*, applies the rights and protections of subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150), which prohibits discrimination on the basis of disability by public entities.

§35.102 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all public services, programs, and activities provided or made available by public entities as defined by section 210 of the Congressional Accountability Act of 1995.

(b) To the extent that public transportation services, programs, and activities of public entities are covered by subtitle B of title II of the ADA, as applied by section 210 of the Congressional Accountability Act, they are not subject to the requirements of this part.

§35.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§35.104 Definitions.

For purposes of this part, the term—

Act or CAA means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

ADA means the Americans with Disabilities Act (42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Auxiliary aids and services includes—

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

Board means the Board of Directors of the Office of Compliance.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1)(i) The phrase *physical or mental impairment* means—

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

(iii) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

General Counsel means the General Counsel of the Office of Compliance.

Historic preservation programs means programs conducted by a public entity that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under State or local law.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term *illegal use of drugs* does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term *individual with a disability* does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended.

§ 35.105 Self-evaluation.

(a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

(b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

(c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§ 35.106 Notice.

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the public services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the CAA and this part.

§ 35.107 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

(b) *Complaint procedure.* A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.

§§ 35.108–35.129 [Reserved]

Subpart B—General Requirements

§ 35.130 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

(b)(1) A public entity, in providing any public aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the public aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the public aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with a public aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate public aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with public aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any public aid, benefit, or service to beneficiaries of the public entity's program;

(vi) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;

(vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the public aid, benefit, or service.

(2) A public entity may not deny a qualified individual with a disability the opportunity to participate in public services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's public program with respect to individuals with disabilities; or

(iii) That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control.

(4) A public entity may not, in determining the site or location of a facility, make selections—

(i) That have the effect of excluding individuals with disabilities from, denying them the public benefits of, or otherwise subjecting them to discrimination; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the public service, program, or activity with respect to individuals with disabilities.

(5) A public entity, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the public programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The public programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.

(7) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the public service, program, or activity.

(8) A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any public service, program, or activity, unless such criteria can be shown to be necessary for the provision of the public service, program, or activity being offered.

(c) Nothing in this part prohibits a public entity from providing public benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities beyond those required by this part.

(d) A public entity shall administer public services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(e)(1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit provided under the CAA or this part which such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

(f) A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

(g) A public entity shall not exclude or otherwise deny equal public services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§35.131 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public entity shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public entity shall not deny public health services, or public services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public entity from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in paragraph (c) of this section shall be construed to encourage, prohibit, restrict, or authorize the conduct of testing for the illegal use of drugs.

§35.132 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in transportation covered by this part.

§35.133 Maintenance of accessible features.

(a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§35.134 [Reserved]

§35.135 Personal devices and services.

This part does not require a public entity to provide to individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

§§35.136–35.139 [Reserved]

Subpart C—Employment

§35.140 Employment discrimination prohibited.

(a) No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity.

(b)(1) For purposes of this part, the requirements of title I of the Americans With Disabilities Act ("ADA"), as established by the regulations of the Equal Employment Opportunity Commission in 29 CFR part 1630, apply to employment in any service, program, or activity conducted by a public entity if that public entity is also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(2) For the purposes of this part, the requirements of section 504 of the Rehabilitation Act of 1973, as established by the regulations of the Department of Justice in 28 CFR part 41, as those requirements pertain to employment, apply to employment in any service, program, or activity conducted by a public entity if that public entity is not also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(c) Notwithstanding anything contained in this subpart, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of the CAA.

§§35.141–35.148 [Reserved]

Subpart D—Program Accessibility

§35.149 Discrimination prohibited.

Except as otherwise provided in §35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

§35.150 Existing facilities.

(a) *General.* A public entity shall operate each public service, program, or activity so that the public service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or

(3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with §35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the public benefits or services provided by the public entity.

(b) *Methods*—(1) *General*. A public entity may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its public services, programs, or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of §35.151. In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer public services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(2) *Historic preservation programs*. In meeting the requirements of §35.150(a) in historic preservation programs, a public entity shall give priority to methods that provide physical access to individuals with disabilities. In cases where a physical alteration to an historic property is not required because of paragraph (a)(2) or (a)(3) of this section, alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with disabilities into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance*. Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made by within three years of January 1, 1997, but in any event as expeditiously as possible.

(d) *Transition plan*. (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop, within six months of January 1, 1997, a transition plan setting forth the steps necessary to complete such changes. A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

(2) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the CAA, including covered offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

(3) The plan shall, at a minimum—

(i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its public programs or activities to individuals with disabilities;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

§35.151 New construction and alterations.

(a) *Design and construction*. Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 1, 1997.

(b) *Alteration*. Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 1, 1997.

(c) *Accessibility standards*. Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) (Appendix B to Part 36 of these regulations) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to Part 36 of these regulations) shall be deemed to comply with the requirements of this section with respect to those facilities, except that the elevator exemption contained at 4.1.3(5) and 4.1.6(1)(j) of ADAAG shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Alterations: Historic properties*. (1) Alterations to historic properties shall comply, to the maximum extent feasible, with section 4.1.7 of UFAS or section 4.1.7 of ADAAG.

(2) If it is not feasible to provide physical access to a historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of §35.150.

(e) *Curb ramps*. (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

(2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.

§§35.152–35.159 [Reserved]

Subpart E—Communications

§35.160 General.

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a public service, program, or activity conducted by a public entity.

(2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

§35.161 Telecommunication devices for the deaf (TDD's).

Where a public entity communicates by telephone with applicants and beneficiaries, TDD's or equally effective telecommunication systems shall be used to communicate with individuals with impaired hearing or speech.

§35.162 Telephone emergency services.

Telephone emergency services, including 911 services, shall provide direct access to individuals who use TDD's and computer modems.

§35.163 Information and signage.

(a) A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible public services, activities, and facilities.

(b) A public entity shall provide signage at all inaccessible entrances to each of its public facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible public facilities. The international symbol for accessibility shall be used at each accessible entrance of a public facility.

§35.164 Duties.

This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the public service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the public benefits or services provided by the public entity.

§§35.165–35.169 [Reserved]

§§35.170–35.999 [Reserved]

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS

Subpart A—General

Sec.

36.101 Purpose.
36.102 Application.
36.103 Relationship to other laws.
36.104 Definitions.
36.105–36.199 [Reserved]

Subpart B—General Requirements

36.201 General.
36.202 Activities.
36.203 Integrated settings.
36.204 Administrative methods.
36.205 Association.
36.206 [Reserved]
36.207 Places of public accommodations located in private residences.
36.208 Direct threat.
36.209 Illegal use of drugs.
36.210 Smoking.
36.211 Maintenance of accessible features.
36.212 Insurance.
36.213 Relationship of subpart B to subparts C and D of this part.
36.214–36.299 [Reserved]

Subpart C—Specific Requirements

36.301 Eligibility criteria.
36.302 Modifications in policies, practices, or procedures.
36.303 Auxiliary aids and services.
36.304 Removal of barriers.
36.305 Alternatives to barrier removal.
36.306 Personal devices and services.
36.307 Accessible or special goods.
36.308 Seating in assembly areas.
36.309 Examinations and courses.
36.310 Transportation provided by public accommodations.
36.311–36.399 [Reserved]

Subpart D—New Construction and Alterations

36.401 New construction.
36.402 Alterations.
36.403 Alterations: Path of travel.
36.404 Alterations: Elevator exemption.
36.405 Alterations: Historic preservation.
36.406 Standards for new construction and alterations.
36.407 Temporary suspension of certain detectable warning requirements.
36.408–36.499 [Reserved]
36.501–36.608 [Reserved]
Appendix A to Part 36—Standards for Accessible Design
Appendix B to Part 36—Uniform Federal Accessibility Standards

Subpart A—General

§36.101 Purpose.

The purpose of this part is to implement section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*) which, *inter alia*, applies the rights and protections of sections of title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

§36.102 Application.

(a) *General*. This part applies to any—

(1) Public accommodation; or

(2) covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes.

(b) *Public accommodations*. (1) The requirements of this part applicable to public accommodations are set forth in subparts B, C, and D of this part.

(2) The requirements of subparts B and C of this part obligate a public accommodation only with respect to the operations of a place of public accommodation.

(3) The requirements of subpart D of this part obligate a public accommodation only with respect to a facility used as, or designed or constructed for use as, a place of public accommodation.

(c) *Examinations and courses. The requirements of this part applicable to covered entities that offer examinations or courses as specified in paragraph (a) of this section are set forth in §36.309.*

§36.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§36.104 Definitions.

For purposes of this part, the term—

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

ADA means the Americans with Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, 42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Covered entity means any entity listed in section 210(a) of the CAA insofar as it operates a place of public accommodation.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a covered entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term "illegal use of drugs" does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

Place of public accommodation means a facility, operated by a covered entity, whose operations fall within at least one of the following categories—

(1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;

(2) A restaurant, bar, or other establishment serving food or drink;

(3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(4) An auditorium, convention center, lecture hall, or other place of public gathering;

(5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) A terminal, depot, or other station used for specified public transportation;

(8) A museum, library, gallery, or other place of public display or collection;

(9) A park, zoo, amusement park, or other place of recreation;

(10) A nursery, elementary, secondary, undergraduate, or postgraduate covered school, or other place of education;

(11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

Public accommodation means a covered entity that operates a place of public accommodation.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Specified public transportation means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

Subpart B—General Requirements

§36.201 General.

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any covered entity who operates a place of public accommodation.

§36.202 Activities.

(a) *Denial of participation.* A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(b) *Participation in unequal benefit.* A public accommodation shall not afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(c) *Separate benefit.* A public accommodation shall not provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(d) *Individual or class of individuals.* For purposes of paragraphs (a) through (c) of this section, the term "individual or class of individuals" refers to the clients or customers of the public accommodation that enter into the contractual, licensing, or other arrangement.

§36.203 Integrated settings.

(a) *General.* A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(b) *Opportunity to participate.* Notwithstanding the existence of separate or different programs or activities provided in accordance with this subpart, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different.

(c) *Accommodations and services.* (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit available under this part that such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

§36.204 Administrative methods.

A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.

§36.205 Association.

A public accommodation shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§36.206 [Reserved]

§36.207 Places of public accommodation located in private residences.

(a) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this part, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by this part.

(b) The portion of the residence covered under paragraph (a) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by customers or clients, including restrooms.

§36.208 Direct threat.

(a) This part does not require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that public accommodation when that individual poses a direct threat to the health or safety of others.

(b) *Direct threat* means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

(c) In determining whether an individual poses a direct threat to the health or safety of others, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk.

§ 36.209 *Illegal use of drugs.*

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public accommodation shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public accommodation shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public accommodation from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in this paragraph (c) shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

§ 36.210 *Smoking.*

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in places of public accommodation.

§ 36.211 *Maintenance of accessible features.*

(a) A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 36.212 *Insurance.*

(a) This part shall not be construed to prohibit or restrict—

(1) A covered entity that administers benefit plans from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(2) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(3) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to applicable laws that regulate insurance.

(b) Paragraphs (a)(1), (2), and (3) of this section shall not be used as a subterfuge to evade the purposes of the CAA or this part.

(c) A public accommodation shall not refuse to serve an individual with a disability because its insurance company conditions coverage or rates on the absence of individuals with disabilities.

§ 36.213 *Relationship of subpart B to subparts C and D of this part.*

Subpart B of this part sets forth the general principles of nondiscrimination applicable to all entities subject to this part. Subparts C and D of this part provide guidance on the application of the statute to specific situations. The specific provisions, including the limitations on those provisions, control over the general provisions in circumstances where both specific and general provisions apply.

§§ 36.214–36.299 *[Reserved]*

Subpart C—Specific Requirements

§ 36.301 *Eligibility criteria.*

(a) *General.* A public accommodation shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

(b) *Safety.* A public accommodation may impose legitimate safety requirements that are necessary for safe operation. Safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

(c) *Charges.* A public accommodation may not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids, barrier removal, alternatives to barrier removal, and reasonable modifications in policies, practices, or procedures, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

§ 36.302 *Modifications in policies, practices, or procedures.*

(a) *General.* A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(b) *Specialties*—(1) *General.* A public accommodation may refer an individual with a disability to another public accommodation, if that individual is seeking, or requires, treatment or services outside of the referring public accommodation's area of specialization, and if, in the normal course of its operations, the referring public accommodation would make a similar referral for an individual without a disability who seeks or requires the same treatment or services.

(2) *Illustration—medical specialties.* A health care provider may refer an individual with a disability to another provider, if that individual is seeking, or requires, treatment or services outside of the referring provider's area of specialization, and if the referring provider would make a similar referral for an individual without a disability who seeks or requires the same treatment or services. A physician who specializes in treating only a particular condition cannot refuse to treat an individual with a disability for that condition, but is not required to treat the individual for a different condition.

(c) *Service animals*—(1) *General.* Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(2) *Care or supervision of service animals.* Nothing in this part requires a public accommodation to supervise or care for a service animal.

(d) *Check-out aisles.* A store with check-out aisles shall ensure that an adequate number of accessible check-out aisles is kept open during store hours, or shall otherwise modify its policies and practices, in order to ensure that an equivalent level of convenient service is provided to individuals with disabilities as is provided to others. If only one check-out aisle is accessible, and it is generally used for express service, one way of providing equivalent service is to allow persons with mobility impairments to make all their purchases at that aisle.

§ 36.303 *Auxiliary aids and services.*

(a) *General.* A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

(b) *Examples.* The term "auxiliary aids and service" includes

(1) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(c) *Effective communication.* A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

(d) Telecommunication devices for the deaf (TDD's). (1) A public accommodation that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls on more than an incidental convenience basis shall make available, upon request, a TDD for the use of an individual who has impaired hearing or a communication disorder.

(2) This part does not require a public accommodation to use a TDD for receiving or making telephone calls incident to its operations.

(f) *Alternatives.* If provision of a particular auxiliary aid or service by a public accommodation would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or in an undue burden, i.e., significant difficulty or expense, the public accommodation shall provide an alternative auxiliary aid or service, if one exists, that would not result in such an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations offered by the public accommodation.

§36.304 Removal of barriers.

(a) *General.* A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

(b) *Examples.* Examples of steps to remove barriers include, but are not limited to, the following actions—

(1) Installing ramps;

(2) Making curb cuts in sidewalks and entrances;

(3) Repositioning shelves;

(4) Rearranging tables, chairs, vending machines, display racks, and other furniture;

(5) Repositioning telephones;

(6) Adding raised markings on elevator control buttons;

(7) Installing flashing alarm lights;

(8) Widening doors;

(9) Installing offset hinges to widen doorways;

(10) Eliminating a turnstile or providing an alternative accessible path;

(11) Installing accessible door hardware;

(12) Installing grab bars in toilet stalls;

(13) Rearranging toilet partitions to increase maneuvering space;

(14) Insulating lavatory pipes under sinks to prevent burns;

(15) Installing a raised toilet seat;

(16) Installing a full-length bathroom mirror;

(17) Repositioning the paper towel dispenser in a bathroom;

(18) Creating designated accessible parking spaces;

(19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain;

(20) Removing high pile, low density carpeting; or

(21) Installing vehicle hand controls.

(c) *Priorities.* A public accommodation is urged to take measures to comply with the barrier removal requirements of this section in accordance with the following order of priorities.

(1) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

(2) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.

(3) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

(4) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(d) *Relationship to alterations requirements of subpart D of this part.* (1) Except as provided in paragraph (d)(2) of this section, measures taken to comply with the barrier removal requirements of this section shall comply with the applicable requirements for alterations in §36.402 and §§36.404-36.406 of this part for the element being altered. The path of travel requirements of §36.403 shall not apply to measures taken solely to comply with the barrier removal requirements of this section.

(2) If, as a result of compliance with the alterations requirements specified in paragraph (d)(1) of this section, the measures required to remove a barrier would not be readily achievable, a public accommodation may take other readily achievable measures to remove the barrier that do not fully comply with the specified requirements. Such measures include, for example, providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by the alterations requirements. No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.

(e) *Portable ramps.* Portable ramps should be used to comply with this section only when installation of a permanent ramp is not readily achievable. In order to avoid any significant risk to the health or safety of individuals with disabilities or others in using portable ramps, due consideration shall be given to safety features such as nonslip surfaces, railings, anchoring, and strength of materials.

(f) *Selling or serving space.* The rearrangement of temporary or movable structures, such as furniture, equipment, and display racks is not readily achievable to the extent that it results in a significant loss of selling or serving space.

(g) *Limitation on barrier removal obligations.* (1) The requirements for barrier removal under §36.304 shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(2) To the extent that relevant standards for alterations are not provided in subpart D of this part, then the requirements of §36.304 shall not be interpreted to exceed the standards for new construction in subpart D of this part.

(3) This section does not apply to rolling stock and other conveyances to the extent that §36.310 applies to rolling stock and other conveyances.

§36.305 Alternatives to barrier removal.

(a) *General.* Where a public accommodation can demonstrate that barrier removal is not readily achievable, the public accommodation shall not fail to make its goods, services, facilities, privileges, advantages, or accommodations available through alternative methods, if those methods are readily achievable.

(b) *Examples.* Examples of alternatives to barrier removal include, but are not limited to, the following actions—

(1) Providing curb service or home delivery;

(2) Retrieving merchandise from inaccessible shelves or racks;

(3) Relocating activities to accessible locations.

§36.306 Personal devices and services.

This part does not require a public accommodation to provide its customers, clients, or participants with personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; or services of a personal nature including assistance in eating, toileting, or dressing.

§36.307 Accessible or special goods.

(a) This part does not require a public accommodation to alter its inventory to include accessible or special goods that are designed for, or facilitate use by, individuals with disabilities.

(b) A public accommodation shall order accessible or special goods at the request of an individual with disabilities, if, in the normal course of its operation, it makes special orders on request for unstocked goods, and if the accessible or special goods can be obtained from a supplier with whom the public accommodation customarily does business.

(c) Examples of accessible or special goods include items such as Brailled versions of books, books on audio cassettes, closed-captioned video tapes, special sizes or lines of clothing, and special foods to meet particular dietary needs.

§36.308 Seating in assembly areas.

(a) *Existing facilities.* (1) To the extent that it is readily achievable, a public accommodation in assembly areas shall—

(i) Provide a reasonable number of wheelchair seating spaces and seats with removable aisle-side arm rests; and

(ii) Locate the wheelchair seating spaces so that they—

(A) Are dispersed throughout the seating area;

(B) Provide lines of sight and choice of admission prices comparable to those for members of the general public;

(C) Adjoin an accessible route that also serves as a means of egress in case of emergency; and

(D) Permit individuals who use wheelchairs to sit with family members or other companions.

(2) If removal of seats is not readily achievable, a public accommodation shall provide, to the extent that it is readily achievable to do so, a portable chair or other means to permit a family member or other companion to sit with an individual who uses a wheelchair.

(3) The requirements of paragraph (a) of this section shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(b) *New construction and alterations.* The provision and location of wheelchair seating spaces in newly constructed or altered assembly areas shall be governed by the standards for new construction and alterations in subpart D of this part.

§36.309 Examinations and courses.

(a) *General.* Any covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

(b) *Examinations.* (1) Any covered entity offering an examination covered by this section must assure that—

(i) The examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills (except where those skills are the factors that the examination purports to measure);

(ii) An examination that is designed for individuals with impaired sensory, manual, or speaking skills is offered at equally convenient locations, as often, and in as timely a manner as are other examinations; and

(iii) The examination is administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements are made.

(2) Required modifications to an examination may include changes in the length of time permitted for completion of the examination and adaptation of the manner in which the examination is given.

(3) A covered entity offering an examination covered by this section shall provide appropriate auxiliary aids for persons with impaired sensory, manual, or speaking skills, unless that covered entity can demonstrate that offering a particular auxiliary aid would fundamentally alter the measurement of the skills or knowledge the examination is intended to test or would result in an undue burden. Auxiliary aids and services required by this section may include taped examinations, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print examinations and answer sheets or qualified readers for individuals with visual impairments or learning disabilities, transcribers for individuals with manual impairments, and other similar services and actions.

(4) Alternative accessible arrangements may include, for example, provision of an examination at an individual's home with a proctor if accessible facilities or equipment are unavailable. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

(c) *Courses.* (1) Any covered entity that offers a course covered by this section must make such modifications to that course as are necessary to ensure that the place and manner in which the course is given are accessible to individuals with disabilities.

(2) Required modifications may include changes in the length of time permitted for the completion of the course, substitution of specific requirements, or adaptation of the manner in which the course is conducted or course materials are distributed.

(3) A covered entity that offers a course covered by this section shall provide appropriate auxiliary aids and services for persons with impaired sensory, manual, or speaking skills, unless the covered entity can demonstrate that offering a particular auxiliary aid or service would fundamentally alter the course or would result in an undue burden. Auxiliary aids and services required by this section may include taped texts, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print texts or qualified readers for individuals with visual impairments and learning disabilities, classroom equipment adapted for use by individuals with manual impairments, and other similar services and actions.

(4) Courses must be administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements must be made.

(5) Alternative accessible arrangements may include, for example, provision of the course through videotape, cassettes, or prepared notes. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

§36.310 Transportation provided by public accommodations.

(a) *General.* (1) A public accommodation that provides transportation services, but that is not primarily engaged in the business of transporting people, is subject to the general and specific provisions in subparts B, C, and D of this part for its transportation operations, except as provided in this section.

(2) *Examples.* Transportation services subject to this section include, but are not limited to, shuttle services operated between transportation terminals and places of public accommodation and customer shuttle bus services operated by covered entities

(b) *Barrier removal.* A public accommodation subject to this section shall remove transportation barriers in existing vehicles and rail passenger cars used for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift) where such removal is readily achievable.

(c) *Requirements for vehicles and systems.* A public accommodation subject to this section shall comply with the requirements pertaining to vehicles and transportation systems in the regulations issued by the Board of Directors of the Office of Compliance.

§§36.311—36.400 [Reserved]

Subpart D—New Construction and Alterations

§36.401 New construction.

(a) *General.* (1) Except as provided in paragraphs (b) and (c) of this section, discrimination for purposes of this part includes a failure to design and construct facilities for first occupancy after July 23, 1997, that are readily accessible to and usable by individuals with disabilities.

(2) For purposes of this section, a facility is designed and constructed for first occupancy after July 23, 1997, only—

(i) If the last application for a building permit or permit extension for the facility is certified to be complete, by an appropriate governmental authority after January 1, 1997 (or, in those jurisdictions where the government does not certify completion of applications, if the last application for a building permit or permit extension for the facility is received by the appropriate governmental authority after January 1, 1997); and

(ii) If the first certificate of occupancy for the facility is issued after July 23, 1997.

(b) *Place of public accommodation located in private residences.*

(1) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subpart, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by the new construction and alterations requirements of this subpart.

(2) The portion of the residence covered under paragraph (b)(1) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by employees or visitors of the place of public accommodation, including restrooms.

(c) *Exception for structural impracticability.* (1) Full compliance with the requirements of this section is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(2) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.

(3) If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.

(d) *Elevator exemption.* (1) For purposes of this paragraph (d)—

Professional office of a health care provider means a location where a person or entity regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility housing the "professional office of a health care provider" only includes floor levels housing at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(2) This section does not require the installation of an elevator in a facility that is less than three stories or has less than 3000 square feet per story, except with respect to any facility that houses one or more of the following:

(i) A professional office of a health care provider.

(ii) A terminal, depot, or other station used for specified public transportation. In such a facility, any area housing passenger services, including boarding and debarking, loading and unloading, baggage claim, dining facilities, and other common areas open to the public, must be on an accessible route from an accessible entrance.

(3) The elevator exemption set forth in this paragraph (d) does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in paragraph (a) of this section. For example, in a facility that houses a professional office of a health care provider, the floors that are above or below an accessible ground floor and that do not house a professional office of a health care provider, must meet the requirements of this section but for the elevator.

§36.402 Alterations.

(a) *General.* (1) Any alteration to a place of public accommodation, after January 1, 1997, shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) An alteration is deemed to be undertaken after January 1, 1997, if the physical alteration of the property begins after that date.

(b) *Alteration*. For the purposes of this part, an alteration is a change to a place of public accommodation that affects or could affect the usability of the building or facility or any part thereof.

(1) Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

(2) If existing elements, spaces, or common areas are altered, then each such altered element, space, or area shall comply with the applicable provisions of appendix A to this part.

(c) *To the maximum extent feasible*. The phrase "to the maximum extent feasible," as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

§36.403 Alterations: Path of travel.

(a) *General*. An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

(b) *Primary function*. A "primary function" is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer services lobby of a bank, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public accommodation or other covered entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, and restrooms are not areas containing a primary function.

(c) *Alterations to an area containing a primary function*. (1) Alterations that affect the usability of or access to an area containing a primary function include, but are not limited to—

(i) Remodeling merchandise display areas or employee work areas in a department store;

(ii) Replacing an inaccessible floor surface in the customer service or employee work areas of a bank;

(iii) Redesigning the assembly line area of a factory; or

(iv) Installing a computer center in an accounting firm.

(2) For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

(d) *Path of travel*. (1) A "path of travel" includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.

(2) An accessible path of travel may consist of walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

(3) For the purposes of this part, the term "path of travel" also includes the restrooms, telephones, and drinking fountains serving the altered area.

(e) *Disproportionality*. (1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

(2) Costs that may be counted as expenditures required to provide an accessible path of travel may include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

(ii) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

(iii) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a telecommunications device for deaf persons (TDD);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f) *Duty to provide accessible features in the event of disproportionality*. (1) When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

(2) In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom;

(iv) Accessible telephones;

(v) Accessible drinking fountains; and

(vi) When possible, additional accessible elements such as parking, storage, and alarms.

(g) *Series of smaller alterations*. (1) The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(2) (i) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alterations to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate.

(ii) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alterations.

§36.404 Alterations: Elevator exemption.

(a) This section does not require the installation of an elevator in an altered facility that is less than three stories or has less than 3,000 square feet per story, except with respect to any facility that houses the professional office of a health care provider, a terminal, depot, or other station used for specified public transportation.

For the purposes of this section, "professional office of a health care provider" means a location where a person or entity employed by a covered entity and/or regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility that houses a "professional office of a health care provider" only includes floor levels housing by at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(b) The exemption provided in paragraph (a) of this section does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in this subpart. For example, alterations to floors above or below the accessible ground floor must be accessible regardless of whether the altered facility has an elevator.

§36.405 Alterations: Historic preservation.

(a) Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), or are designated as historic under State or local law, shall comply to the maximum extent feasible with section 4.1.7 of appendix A to this part.

(b) If it is determined under the procedures set out in section 4.1.7 of appendix A that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of subpart C of this part.

§36.406 Standards for new construction and alterations.

(a) New construction and alterations subject to this part shall comply with the standards for accessible design published as appendix A to this part (ADAAG).

(b) The chart in the appendix to this section provides guidance to the user in reading appendix A to this part (ADAAG) together with subparts A through D of this part, when determining requirements for a particular facility.

Appendix to §36.406

This chart has no effect for purposes of compliance or enforcement. It does not necessarily provide complete or mandatory information.

	Subparts A–D	ADAAG
Application, General.	36.102(b)(3): public accommodations.	1,2,3,4.1.1.

	Subparts A–D	ADAAG
Definitions	36.102(c): commercial facilities 36.102(e): public entities 36.103 (other laws) 36.401 ("for first occupancy") 36.402(a)(alterations) 36.104: facility, place of public accommodation, public accommodation, public entity.	3.5 Definitions, including: addition, alteration, building, element, facility, space, story.
	36.401(d)(1)(i), 36.404(a)(1): professional office of a health care provider	4.1.6(i), technical infeasibility.
	36.402: alteration; usability 36.402(c): to the maximum extent feasible	
	36.401(a) General . .	4.1.2.
New Construction: General.	36.207 Places of public accommodation in private residences.	4.1.3.
Work Areas		4.1.1(3).
Structural Impracticability.	36.401(c)	4.1.1(5)(a).
Elevator Exemption.	36.401(d) 36.404	4.1.3(5).
Other Exceptions		4.1.1(5), 4.1.3(5) and throughout.
Alterations: General.	36.402	4.1.6(1).
Alterations Affecting an Area Containing A Primary Function; Path of Travel; Disproportionality.	36.403	4.1.6(2).
Alterations: Special Technical Provisions.		4.1.6(3).
Additions	36.401–36.405	4.1.5.
Historic Preservation.	36.405	4.1.7.
Technical Provisions.		4.2 through 4.35.
Facilities		6.
Business and Mercantile.		7.
Libraries		8.
Transient Lodging (Hotels, Homeless Shelters Etc.).		9.
Transportation Facilities.		10.

§36.407 Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 4.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§36.408—36.499 [Reserved]

§§36.501—36.608 [Reserved]

APPENDIX A TO PART 36—STANDARDS FOR ACCESSIBLE DESIGN

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

APPENDIX B TO PART 36—UNIFORM FEDERAL ACCESSIBILITY STANDARDS

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (CAA)

Subpart A—General

Sec.
37.1 Purpose.
37.3 Definitions
37.5 Nondiscrimination.
37.7 Standards for accessible vehicles.
37.9 Standards for accessible transportation facilities.
37.11 [Reserved]
37.13 Effective date for certain vehicle lift specifications.
37.15–37.19 [Reserved]

Subpart B—Applicability

37.21 Applicability: General.
37.23 Service under contract.
37.25 [Reserved]
37.27 Transportation for elementary and secondary education systems.
37.29 [Reserved]
37.31 Vanpools.
37.33–37.35 [Reserved]
37.37 Other applications.
37.39 [Reserved]

Subpart C—Transportation Facilities

37.41 Construction of transportation facilities by public entities.
37.43 Alteration of transportation facilities by public entities.
37.45 Construction and alteration of transportation facilities by covered entities.
37.47 Key stations in light and rapid rail systems.
37.49–37.59 [Reserved]
37.61 Public transportation programs and activities in existing facilities.
37.63–37.69 [Reserved]

Subpart D—Acquisition of Accessible Vehicles by Public Entities

37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.
37.73 Purchase or lease of used non-rail vehicles by public entities operating fixed route systems.
37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.
37.77 Purchase or lease of new non-rail vehicles by public entities operating demand responsive systems for the general public.
37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.
37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.
37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.
37.85–37.91 [Reserved]
37.93 One car per train rule.
37.95 [Reserved]
37.97–37.99 [Reserved]

Subpart E—Acquisition of Accessible Vehicles by Covered Entities

37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.
37.103 [Reserved]
37.105 Equivalent service standard.
37.107–37.109 [Reserved]
37.111–37.119 [Reserved]

Subpart F—Paratransit as a complement to fixed route service

37.121 Requirement for comparable complementary paratransit service
37.123 ADA paratransit eligibility: Standards
37.125 ADA paratransit eligibility: Process.
37.127 Complementary paratransit for visitors.
37.129 Types of service.
37.131 Service criteria for complementary paratransit.
37.133 Subscription service.
37.135 Submission of paratransit plan.
37.137 Paratransit plan development.
37.139 Plan contents.
37.141 Requirements for a joint paratransit plan.
37.143 Paratransit plan implementation.
37.145 [Reserved]
37.147 Considerations during General Counsel review.
37.149 Disapproved plans.
37.151 Waiver for undue financial burden.
37.153 General Counsel waiver determination.
37.155 Factors in decision to grant undue financial burden waiver.
37.157–37.159 [Reserved]

Subpart G—Provision of Service

37.161 Maintenance of accessible features: General.
37.163 Keeping vehicle lifts in operative condition public entities.
37.165 Lift and securement use.
37.167 Other service requirements.
37.169 Interim requirements for over-the-road bus service operated by covered entities.
37.171 Equivalency requirement for demand responsive service by covered entities not primarily engaged in the business of transporting people.
37.173 Training requirements.
Appendix A to Part 37—Standards for Accessible Transportation Facilities
Appendix B to Part 37—Certifications

Subpart A—General

§37.1 Purpose.

The purpose of this part is to implement the transportation and related provisions of titles II and III of the Americans with Disabilities Act of 1990, as applied by section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 et seq.).

§37.3 Definitions.

As used in this part:

Accessible means, with respect to vehicles and facilities, complying with the accessibility requirements of parts 37 and 38 of these regulations.

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

ADA means the Americans with Disabilities Act of 1990 (42 U.S.C. §§12131–12150, 12182, 12183, and 12189) as applied to covered entities by section 210 of the CAA.

Alteration means a change to an existing facility, including, but not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical or electrical systems are not alterations unless they affect the usability of the building or facility.

Automated guideway transit system or *AGT* means a fixed-guideway transit system which operates with automated (driverless) individual vehicles or multi-car trains. Service may be on a fixed schedule or in response to a passenger-activated call button.

Auxiliary aids and services includes:

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone headset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, closed and open captioning, text telephones (also known as TTYs), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; or

(4) Other similar services or actions.

Board means the Board of Directors of the Office of Compliance.

Bus means any of several types of self-propelled vehicles, generally rubber-tired, intended for use on city streets, highways, and busways, including but not limited to minibuses, forty- and thirty-foot buses, articulated buses, double-deck buses, and electrically powered trolley buses, used by public entities to provide designated public transportation service and by covered entities to provide transportation service including, but not limited to, specified public transportation services. Self-propelled, rubber-tired vehicles designed to look like antique or vintage trolleys are considered buses.

Commuter bus service means fixed route bus service, characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation.

Covered entity means any entity listed in section 210(a) of the CAA that operates a place of public accommodation within the meaning of section 210 of the CAA.

Demand responsive system means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including but not limited to specified public transportation service, which is not a fixed route system.

Designated public transportation means transportation provided by a public entity (other than public school transportation) by bus, rail, or other conveyance (other than transportation by aircraft or intercity or commuter rail transportation) that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The term *physical or mental impairment* includes, but is not limited to, such contagious or noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; or

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities; or

(4) The phrase *is regarded as having such an impairment* means

(i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or covered entity as having such an impairment.

(5) The term *disability* does not include

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania;

(iii) Psychoactive substance abuse disorders resulting from the current illegal use of drugs.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Fixed route system means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

General Counsel means the General Counsel of the Office of Compliance.

Individual with a disability means a person who has a disability, but does not include an individual who is currently engaging in the illegal use of drugs, when a public or covered entity acts on the basis of such use.

Light rail means a streetcar-type vehicle operated on city streets, semi-exclusive rights of way, or exclusive rights of way. Service may be provided by step-entry vehicles or by level boarding.

New vehicle means a vehicle which is offered for sale or lease after manufacture without any prior use.

Office means the Office of Compliance.

Operates includes, with respect to a fixed route or demand responsive system, the provision of transportation service by a public or covered entity itself or by a person under a contractual or other arrangement or relationship with the entity.

Over-the-road bus means a bus characterized by an elevated passenger deck located over a baggage compartment.

Paratransit means comparable transportation service required by the CAA for individuals with disabilities who are unable to use fixed route transportation systems.

Private entity means any entity other than a public or covered entity.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Purchase or lease, with respect to vehicles, means the time at which a public or covered entity is legally obligated to obtain the vehicles, such as the time of contract execution.

Public school transportation means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

Rapid rail means a subway-type transit vehicle railway operated on exclusive private rights of way with high level platform stations. Rapid rail also may operate on elevated or at grade level track separated from other traffic.

Remanufactured vehicle means a vehicle which has been structurally restored and has had new or rebuilt major components installed to extend its service life.

Service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Solicitation means the closing date for the submission of bids or offers in a procurement.

Station means where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but this term does not include flag stops (i.e., stations which are not regularly scheduled stops but at which trains will stop board or detrain passengers only on signal or advance notice).

Transit facility means, for purposes of determining the number of text telephones needed consistent with §10.3.1(12) of Appendix A to this part, a physical structure the primary function of which is to facilitate access to and from a transportation system which has scheduled stops at the structure. The term does not include an open structure or a physical structure the primary purpose of which is other than providing transportation services.

Used vehicle means a vehicle with prior use.

Vanpool means a voluntary commuter ride-sharing arrangement, using vans with a seating capacity greater than 7 persons (including the driver) or buses, which provides transportation to a group of individuals traveling directly from their homes to their regular places of work within the same geographical area, and in which the commuter/driver does not receive compensation beyond reimbursement for his or her costs of providing the service.

Vehicle, as the term is applied to covered entities, does not include a rail passenger car, railroad locomotive, railroad freight car, or railroad caboose, or other rail rolling stock described in section 242 or title III of the Americans With Disabilities Act, which is not applied to covered entities by section 210 of the CAA.

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "*common wheelchair*" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

§37.5 Nondiscrimination.

(a) No covered entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

(b) Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

(c) An entity shall not require an individual with a disability to use designated priority seats, if the individual does not choose to use these seats.

(d) An entity shall not impose special charges, not authorized by this part, on individuals with disabilities, including individuals who use wheelchairs, for providing services required by this part or otherwise necessary to accommodate them.

(e) An entity shall not require that an individual with disabilities be accompanied by an attendant.

(f) An entity shall not refuse to serve an individual with a disability or require anything contrary to this part because its insurance company conditions coverage or rates on the absence of individuals with disabilities or requirements contrary to this part.

(g) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

§37.7 Standards for accessible vehicles.

(a) For purposes of this part, a vehicle shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in part 38 of these regulations.

(b)(1) For purposes of implementing the equivalent facilitation provision in §38.2 of these regulations, the following parties may submit to the General Counsel of the applicable operating administration a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services and is subject to the provisions of subpart D or subpart E of this part; or

(ii) The manufacturer of a vehicle or a vehicle component or subsystem to be used by such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of part 38 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved]

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in part 38; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation services subject to the provisions of subpart D of this part, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity that provides transportation services subject to the provisions of subpart E of this part, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel of the concerned operating administration on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitation in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office.

(c) Over-the-road buses acquired by public entities (or by a contractor to a public entity as provided in §37.23 of this part) shall comply with §38.23 and subpart G of part 38 of these regulations.

§37.9 Standards for accessible transportation facilities.

(a) For purposes of this part, a transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in Appendix A to this part.

(b) Facility alterations begun before January 1, 1997, in a good faith effort to make a facility accessible to individuals with disabilities may be used to meet the key station requirements set forth in §37.47 of this part, even if these alterations are not consistent with the standards set forth in Appendix A to this part, if the modifications complied with the Uniform Federal Accessibility Standard (UFAS) or ANSI A117.1 (1980) (American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped). This paragraph applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are contained in UFAS or ANSI A117.1, as applicable.

(c) Public entities shall ensure the construction of new bus stop pads are in compliance with section 10.2.1(1) of appendix A to this part, to the extent construction specifications are within their control.

(d)(1) For purposes of implementing the equivalent facilitation provision in section 2.2 of appendix A to this part, the following parties may submit to the General Counsel a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services subject to the provisions of subpart C of this part, or any other appropriate party with the concurrence of the General Counsel.

(ii) The manufacturer of a product or accessibility feature to be used in the facility of such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of appendix A to part 37 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved];

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in appendix A to this part; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation facilities, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate medial, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles

or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitations in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office .

§37.11 [Reserved]

§37.13 Effective date for certain vehicle lift specifications.

The vehicle lift specifications identified in §§38.23(b)(6) and 38.83(b)(6) apply to solicitations for vehicles under this part after December 31, 1996.

§37.15 Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 3.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§37.17–37.19 [Reserved]

Subpart B—Applicability

§37.21 Applicability: General.

(a) This part applies to the following entities:

(1) Any public entity that provides designated public transportation; and

(2) Any covered entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system.

(b) Entities to which this part applies also may be subject to CAA regulations of the Office of Compliance (parts 35 or 36, as applicable). The provisions of this part shall be interpreted in a manner that will make them consistent with applicable Office of Compliance regulations. In any case of apparent inconsistency, the provisions of this part shall prevail.

§37.23 Service under contract.

(a) When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

(b) A public entity which enters into a contractual or other arrangement or relationship with a private entity to provide fixed route service shall ensure that the percentage of accessible vehicles operated by the public entity in its overall fixed route or demand responsive fleet is not diminished as a result.

§37.25 [Reserved]

§37.27 Transportation for elementary and secondary education systems.

(a) The requirements of this part do not apply to public school transportation.

(b) The requirements of this part do not apply to the transportation of school children to and from a covered elementary or secondary school, and its school-related activities, if the school is providing transportation service to students with disabilities equivalent to that provided to students without disabilities. The test of equivalence is the same as that provided in §37.105. If the school does not meet the criteria of this paragraph for exemption from the requirements of this part, it is subject to the requirements of this part for covered entities not primarily engaged in transporting people.

§37.29 [Reserved]

§37.31 Vanpools.

Vanpool systems which are operated by public entities, or in which public entities own or purchase or lease the vehicles, are subject to the requirements of this part for demand responsive service for the general public operated by public entities. A vanpool system in this category is deemed to be providing equivalent service to individuals with disabilities if a vehicle that an individual with disabilities can use is made available to and used by a vanpool in which such an individual chooses to participate.

§§37.33–37.35 [Reserved]

§37.37 Other applications.

(a) Shuttle systems and other transportation services operated by public accommodations are subject to the requirements of this part for covered entities not primarily engaged in the business of transporting people. Either the requirements for demand responsive or fixed route service may apply, depending upon the characteristics of each individual system of transportation.

(b) Conveyances used by members of the public primarily for recreational purposes rather than for transportation (e.g., amusement park rides, ski lifts, or historic rail cars or trolleys operated in museum settings) are not subject to the requirements of this part. Such conveyances are subject to the Board's regulations implementing the non-transportation provisions of title II or title III of the ADA, as applied by section 210 of the CAA, as applicable.

(c) Transportation services provided by an employer solely for its own employees are not subject to the requirements of this part. Such services are subject to the requirements of section 201 of the CAA.

§37.39 [Reserved]

Subpart C—Transportation Facilities

§37.41 Construction of transportation facilities by public entities.

A public entity shall construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. For purposes of this section, a facility or station is "new" if its construction begins (i.e., issuance of notice to proceed) after December 31, 1996.

§37.43 Alteration of transportation facilities by public entity.

(a)(1) When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations.

(2) When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a primary function, the entity shall make the alteration in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of the alterations. *Provided*, that alterations to the path of travel, drinking fountains, telephones and bathrooms are not required to be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if the cost and scope of doing so would be disproportionate.

(3) The requirements of this paragraph also apply to the alteration of existing intercity or commuter rail stations by the responsible person for, owner of, or person in control of the station.

(4) The requirements of this section apply to any alteration which begins (i.e., issuance of notice to proceed or work order, as applicable) after December 31, 1996.

(b) As used in this section, the phrase *to the maximum extent feasible* applies to the occasional case where the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the entity shall provide the maximum physical accessibility feasible. Any altered features of the facility or portion of the facility that can be made accessible shall be made accessible. If providing accessibility to certain individuals with disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to individuals with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

(c) As used in this section, a *primary function* is a major activity for which the facility is intended. Areas of transportation facilities that involve primary functions include, but are not necessarily limited to, ticket purchase and collection areas, passenger waiting areas, train or bus platforms, baggage checking and return areas and employment areas (except those involving non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, very narrow passageways, or freight [non-passenger] elevators which are frequented only by repair personnel).

(d) As used in this section, a *path of travel* includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, parking areas, and streets), an entrance to the facility, and other parts of the facility. The term also includes the restrooms, telephones, and drinking fountains serving the altered area. An accessible path of travel may include walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps, clear floor paths through corridors, waiting areas, concourses, and other improved areas, parking access aisles, elevators and lifts, bridges, tunnels, or other passageways between platforms, or a combination of these and other elements.

(e)(1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 percent of the cost of the alteration to the primary function area (without regard to the costs of accessibility modifications).

(2) Costs that may be counted as expenditures required to provide an accessible path of travel include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area (e.g., widening doorways and installing ramps);

(ii) Costs associated with making restrooms accessible (e.g., grab bars, enlarged toilet stalls, accessible faucet controls);

(iii) Costs associated with providing accessible telephones (e.g., relocation of phones to an accessible height, installation of amplification devices or TTYs);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f)(1) When the cost of alterations necessary to make a path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, then such areas shall be made accessible to the maximum extent without resulting in disproportionate costs;

(2) In this situation, the public entity should give priority to accessible elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom (where there are one or more restrooms);

(iv) Accessible telephones;

(v) Accessible drinking fountains;

(vi) When possible, other accessible elements (e.g., parking, storage, alarms).

(g) If a public entity performs a series of small alterations to the area served by a single path of travel rather than making the alterations as part of a single undertaking, it shall nonetheless be responsible for providing an accessible path of travel.

(h)(1) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alteration to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel is disproportionate;

(2) For the first three years after January 1, 1997, only alterations undertaken between that date and the date of the alteration at issue shall be considered in determining if the cost of providing accessible features is disproportionate to the overall cost of the alteration.

(3) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alteration.

§37.45 Construction and alteration of transportation facilities by covered entities.

In constructing and altering transit facilities, covered entities shall comply with the regulations of the Board implementing title III of the ADA, as applied by section 210 of the CAA (part 36).

§37.47 Key stations in light and rapid rail systems.

(a) Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in §37.43 of this part.

(b) Each public entity shall determine which stations on its system are key stations. The entity shall identify key stations, using the planning and public participation process set forth in paragraph (d) of this section, and taking into consideration the following criteria:

(1) Stations where passenger boardings exceed average station passenger boardings on the rail system by at least fifteen percent, unless such a station is close to another accessible station;

(2) Transfer stations on a rail line or between rail lines;

(3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports;

(4) End stations, unless an end station is close to another accessible station; and

(5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

(c)(1) Unless an entity receives an extension under paragraph (c)(2) of this section, the public entity shall achieve accessibility of key stations as soon as practicable, but in no case later than January 1, 2000, except that an entity is not required to complete installation of detectable warnings required by section 10.3.2(2) of appendix A to this part until January 1, 2001.

(2) The General Counsel may grant an extension of this completion date for key station accessibility for a period up to January 1, 2025, provided that two-thirds of key stations are made accessible by January 1, 2015. Extensions may be granted as provided in paragraph (e) of this section.

(d) The public entity shall develop a plan for compliance for this section. The plan shall be submitted to the General Counsel's office by July 1, 1997.

(1) The public entity shall consult with individuals with disabilities affected by the plan. The public entity also shall hold at least one public hearing on the plan and solicit comments on it. The plan submitted to General Counsel shall document this public participation, including summaries of the consultation with individuals with disabilities and the comments received at the hearing and during the comment period. The plan also shall summarize the public entity's responses to the comments and consultation.

(2) The plan shall establish milestones for the achievement of required accessibility of key stations, consistent with the requirements of this section.

(e) A public entity wishing to apply for an extension of the January 1, 2000, deadline for key station accessibility shall include a request for an extension with its plan submitted to the General Counsel under paragraph (d) of this section. Extensions may be granted only with respect to key stations which need extraordinarily expensive structural changes to, or replacement of, existing facilities (e.g., installations of elevators, raising the entire passenger platform, or alterations of similar magnitude and cost). Requests for extensions shall provide for completion of key station accessibility within the time limits set forth in paragraph (c) of this section. The General Counsel may approve, approve with conditions, modify, or disapprove any request for an extension.

§§37.49–37.59 [Reserved]

§37.61 Public transportation programs and activities in existing facilities.

(a) A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(b) This section does not require a public entity to make structural changes to existing facilities in order to make the facilities accessible by individuals who use wheelchairs, unless and to the extent required by §37.43 (with respect to alterations) or §37.47 of this part (with respect to key stations). Entities shall comply with other applicable accessibility requirements for such facilities.

(c) Public entities, with respect to facilities that, as provided in paragraph (b) of this section, are not required to be made accessible to individuals who use wheelchairs, are not required to provide to such individuals services made available to the general public at such facilities when the individuals could not utilize or benefit from the services.

§§37.63–37.69 [Reserved]

Subpart D—Acquisition of Accessible Vehicles by Public Entities

§37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a new bus that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if it applies for, and the General Counsel grants, a waiver as provided for in this section.

(c) Before submitting a request for such a waiver, the public entity shall hold at least one public hearing concerning the proposed request.

(d) The General Counsel may grant a request for such a waiver if the public entity demonstrates to the General Counsel's satisfaction that—

(1) The initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) Hydraulic, electromechanical, or other lifts for such new buses could not be provided by any qualified lift manufacturer to the manufacturer of such new buses in sufficient time to comply with the solicitation; and

(3) Any further delay in purchasing new buses equipped with such necessary lifts would significantly impair transportation services in the community served by the public entity.

(e) The public entity shall include with its waiver request a copy of the initial solicitation and written documentation from the bus manufacturer of its good faith efforts to obtain lifts in time to comply with the solicitation, and a full justification for the assertion that the delay in bus procurement needed to obtain a lift-equipped bus would significantly impair transportation services in the community. This documentation shall include a specific date at which the lifts could be supplied, copies of advertisements in trade publications and inquiries to trade associations seeking lifts, and documentation of the public hearing.

(f) Any waiver granted by the General Counsel under this section shall be subject to the following conditions:

(1) The waiver shall apply only to the particular bus delivery to which the waiver request pertains;

(2) The waiver shall include a termination date, which will be based on information concerning when lifts will become available

for installation on the new buses the public entity is purchasing. Buses delivered after this date, even though procured under a solicitation to which a waiver applied, shall be equipped with lifts;

(3) Any bus obtained subject to the waiver shall be capable of accepting a lift, and the public entity shall install a lift as soon as one becomes available;

(4) Such other terms and conditions as the General Counsel may impose.

(g)(1) When the General Counsel grants a waiver under this section, he/she shall promptly notify any appropriate committees of Congress.

(2) If the General Counsel has reasonable cause to believe that a public entity fraudulently applied for a waiver under this section, the General Counsel shall:

(i) Cancel the waiver if it is still in effect; and

(ii) Take other appropriate action.

§37.73 *Purchase or lease of used non-rail vehicles by public entities operating a fixed route system.*

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after January 31, 1997, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used vehicle for use on its fixed route system that is not readily accessible to and usable by individuals with disabilities if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) An initial solicitation for used vehicles specifying that all used vehicles are to be lift-equipped and otherwise accessible to and usable by individuals with disabilities, or, if an initial solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to used vehicle dealers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§37.75 *Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.*

(a) This section applies to any public entity operating a fixed route system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a bus or other vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing; or

(2) Purchases or leases a bus or other vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a bus or other motor vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that including accessibility features required by this part would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a fixed route system, any segment of which is included on the National Register of Historic Places, and if making a vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity has only to make (or purchase or lease a remanufactured vehicle with) those modifications to make the vehicle accessible which do not alter the historic character of such vehicle, in consultation with the National Register of Historic Places.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places, and shall rely on its advice in making determinations of the historic character of the vehicle.

§37.77 *Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.*

(a) Except as provided in this section, a public entity operating a demand responsive system for the general public making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) If the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities, it may purchase new vehicles that are not readily accessible to and usable by individuals with disabilities.

(c) For purposes of this section, a demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(1) Response time;

(2) Fares;

(3) Geographic area of service;

(4) Hours and days of service;

(5) Restrictions or priorities based on trip purpose;

(6) Availability of information and reservations capability; and

(7) Any constraints on capacity or service availability.

(d) A public entity, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, make a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. A public entity shall make such a certificate and retain it in its files, subject to inspection on request of the General Counsel. All certificates under this paragraph may be made in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year.

(e) The waiver mechanism set forth in §37.71(b)-(g) (unavailability of lifts) of this subpart shall also be available to public entities operating a demand responsive system for the general public.

§37.79 *Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.*

Each public entity operating a rapid or light rail system making a solicitation after January 31, 1997, to purchase or lease a new rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

§37.81 *Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.*

(a) Except as provided elsewhere in this section, each public entity operating a rapid or light rail system which, after January 31, 1997, purchases or leases a used rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used rapid or light rail vehicle for use on its rapid or light rail system that is not readily accessible to and usable by individuals if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) The initial solicitation for used vehicles made by the public entity specifying that all used vehicles were to be accessible to and usable by individuals with disabilities, or, if a solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to manufacturers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used rapid or light rail vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§37.83 *Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.*

(a) This section applies to any public entity operating a rapid or light rail system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a light or rapid rail vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing;

(2) Purchases or leases a light or rapid rail vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a rapid or light rail vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that doing so would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a rapid or light rail system any segment of which is included on the National Register of Historic Places and if making a rapid or light rail vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity need only make (or purchase or lease a remanufactured vehicle with) those modifications that do not alter the historic character of such vehicle.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places and shall rely on its advice in making a determination of the historic character of the vehicle.

§§37.85–37.91 [Reserved]

§37.93 One car per train rule.

(a) The definition of accessible for purposes of meeting the one car per train rule is spelled out in the applicable subpart for each transportation system type in part 38 of these regulations.

(b) Each public entity providing light or rapid rail service shall ensure that each train, consisting of two or more vehicles, includes at least one car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no case later than December 31, 2001.

§37.95 [Reserved]

§§37.97–37.99 [Reserved]

Subpart E—Acquisition of Accessible Vehicles by Covered Entities

§37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.

(a) *Application.* This section applies to all purchases or leases of vehicles by covered entities which are not primarily engaged in the business of transporting people, in which a solicitation for the vehicle is made after January 31, 1997.

(b) *Fixed Route System, Vehicle Capacity Over 16.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) *Fixed Route System, Vehicle Capacity of 16 or Fewer.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of 16 or fewer passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of §37.105 of this part.

(d) *Demand Responsive System, Vehicle Capacity Over 16.* If the entity operates a demand responsive system, and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of §37.105 of this part.

(e) *Demand Responsive System, Vehicle Capacity of 16 or Fewer.* Entities providing demand responsive transportation covered under this section are not specifically required to ensure that new vehicles with seating capacity of 16 or fewer are accessible to individuals with wheelchairs. These entities are required to ensure that their systems, when viewed in their entirety, meet the equivalent service requirements of §§37.171 and 37.105, regardless of whether or not the entities purchase a new vehicle.

§37.103 [Reserved]

§37.105 Equivalent service standard.

For purposes of §37.101 of this part, a fixed route system or demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(a)(1) Schedules/headways (if the system is fixed route);

(2) Response time (if the system is demand responsive);

(b) Fares;

(c) Geographic area of service;

(d) Hours and days of service;

(e) Availability of information;

(f) Reservations capability (if the system is demand responsive);

(g) Any constraints on capacity or service availability;

(h) Restrictions priorities based on trip purpose (if the system is demand responsive).

§§37.107–37.109 [Reserved]

§§37.111–37.119 [Reserved]

Subpart F—Paratransit as a Complement to Fixed Route Service

§37.121 Requirement for comparable complementary paratransit service.

(a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

(b) To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of §§37.123–37.133 of this subpart. The requirement to comply with §37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden.

(c) Requirements for complementary paratransit do not apply to commuter bus systems.

§37.123 CAA paratransit eligibility standards.

(a) Public entities required by §37.121 of this subpart to provide complementary paratransit service shall provide the service to the CAA paratransit eligible individuals described in paragraph (e) of this section.

(b) If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be CAA paratransit eligible only for those trips for which he or she meets the criteria.

(c) Individuals may be CAA paratransit eligible on the basis of a permanent or temporary disability.

(d) Public entities may provide complementary paratransit service to persons other than CAA paratransit eligible individuals. However, only the cost of service to CAA paratransit eligible individuals may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

(e) The following individuals are CAA paratransit eligible:

(1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

(i) An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in §37.167(g) of this part.

(ii) An individual using a common wheelchair is eligible under this paragraph if the individual's wheelchair cannot be accommodated on an existing vehicle (e.g., because the vehicle's lift does not meet the standards of part 38 of these regulations), even if that vehicle is accessible to other individuals with disabilities and their mobility wheelchairs.

(iii) With respect to rail systems, an individual is eligible under this paragraph if the individual could use an accessible rail system, but

(A) there is not yet one accessible car per train on the system; or

(B) key stations have not yet been made accessible.

(3) Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

(i) Only a specific impairment-related condition which prevents the individual from traveling to a boarding location or from a disembarking location is a basis for eligibility under this paragraph. A condition which makes traveling to boarding location or from a disembarking location more difficult for a person with a specific impairment-related condition than for an individual who does not have the condition, but does not prevent the travel, is not a basis for eligibility under this paragraph.

(ii) Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph. The interaction of such barriers with an individual's specific impairment-related condition may form a basis for eligibility under this paragraph, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location.

(f) Individuals accompanying a CAA paratransit eligible individual shall be provided service as follows:

(1) One other individual accompanying the CAA paratransit eligible individual shall be provided service.

(i) If the CAA paratransit eligible individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible individual.

(ii) A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant;

(2) Additional individuals accompanying the CAA paratransit eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the CAA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to CAA paratransit eligible individuals.

(3) In order to be considered as "accompanying" the eligible individual for purposes of this paragraph, the other individual(s) shall have the same origin and destination as the eligible individual.

§37.125 CAA paratransit eligibility: process.

Each public entity required to provide complementary paratransit service by §37.121 of this part shall establish a process for determining CAA paratransit eligibility.

(a) The process shall strictly limit CAA paratransit eligibility to individuals specified in §37.123 of this part.

(b) All information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility shall be made available in accessible formats, upon request.

(c) If, by a date 21 days following the submission of a complete application, the entity has not made a determination of eligibility, the applicant shall be treated as eligible and provide service until and unless the entity denies the application.

(d) The entity's determination concerning eligibility shall be in writing. If the determination is that the individual is ineligible, the determination shall state the reasons for the finding.

(e) The public entity shall provide documentation to each eligible individual stating that he or she is "CAA Paratransit Eligible." The documentation shall include the name of the eligible individual, the name of the transit provider, the telephone number of the entity's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant.

(f) The entity may require recertification of the eligibility of CAA paratransit eligible individuals at reasonable intervals.

(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

(1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application.

(2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it;

(3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

(h) The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to CAA eligible individuals who establish a pattern or practice of missing scheduled trips.

(1) Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips which are missed due to operator error) shall not be a basis for determining that such a pattern or practice exists.

(2) Before suspending service, the entity shall take the following steps:

(i) Notify the individual in writing that the entity proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction;

(ii) Provide the individual an opportunity to be heard and to present information and arguments;

(iii) Provide the individual with written notification of the decision and the reasons for it.

(3) The appeals process of paragraph (g) of this section is available to an individual on whom sanctions have been imposed under this paragraph. The sanction is stayed pending the outcome of the appeal.

(i) In applications for CAA paratransit eligibility, the entity may require the applicant to indicate whether or not he or she travels with a personal care attendant.

§37.127 Complementary paratransit service for visitors.

(a) Each public entity required to provide complementary paratransit service under §37.121 of this part shall make the service available to visitors as provided in this section.

(b) For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region.

(c) Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are CAA paratransit eligible, under the criteria of §37.125 of this part, in the jurisdiction in which they reside.

(d) With respect to visitors with disabilities who do not present such documentation, the public entity may require the documentation of the individual's place of residence and, if the individual's disability is not apparent, of his or her disability. The entity shall provide paratransit service to individuals with disabilities who qualify as visitors under paragraph (b) of this section. The entity shall accept a certification by such individuals that they are unable to use fixed route transit.

(e) A public entity shall make the service to a visitor required by this section available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service required by this section.

§37.129 Types of service.

(a) Except as provided in this section, complementary paratransit service for CAA paratransit eligible persons shall be origin-to-destination service.

(b) Complementary paratransit service for CAA paratransit eligible persons described in §37.123(e)(2) of this part may also be provided by on-call bus service or paratransit feeder service to an accessible fixed route, where such service enables the individual to use the fixed route bus system for his or her trip.

(c) Complementary paratransit service for CAA eligible persons described in §37.123 (e)(3) of this part also may be provided by paratransit feeder service to and/or from an accessible fixed route.

§37.131 Service criteria for complementary paratransit.

The following service criteria apply to complementary paratransit required by §37.121 of this part.

(a) *Service Area*—(1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

(ii) Within the core service area, the entity also shall provide service to small areas not inside any of the corridors but which are surrounded by corridors.

(iii) Outside the core service area, the entity may designate corridors with widths from three fourths of a mile up to one and one half miles on each side of a fixed route, based on local circumstances.

(iv) For purposes of this paragraph, the core service area is that area in which corridors with a width of three-fourths of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served.

(2) *Rail.* (i) For rail systems, the service area shall consist of a circle with a radius of¾ of a mile around each station.

(ii) At end stations and other stations in outlying areas, the entity may designate circles with radii of up to 1½ miles as part of its service area, based on local circumstances.

(3) *Jurisdictional Boundaries.* Notwithstanding any other provision of this paragraph, an entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area.

(b) *Response Time.* The entity shall schedule and provide paratransit service to any CAA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means.

(1) The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times, comparable to normal business hours, on a day when the entity's offices are not open before a service day.

(2) The entity may negotiate pickup times with the individual, but the entity shall not require a CAA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

(3) The entity may use real-time scheduling in providing complementary paratransit service.

(4) The entity may permit advance reservations to be made up to 14 days in advance of a CAA paratransit eligible individual's desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of §37.131(b) and (c).

(c) *Fares*. The fare for a trip charged to a CAA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

(1) In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.

(2) The fares for individuals accompanying CAA paratransit eligible individuals, who are provided service under §37.123(f) of this part, shall be the same as for the CAA paratransit eligible individuals they are accompanying.

(3) A personal care attendant shall not be charged for complementary paratransit service.

(4) The entity may charge a fare higher than otherwise permitted by this paragraph to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization).

(d) *Trip Purpose Restrictions*. The entity shall not impose restrictions or priorities based on trip purpose.

(e) *Hours and Days of Service*. The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

(f) *Capacity Constraints*. The entity shall not limit the availability of complementary paratransit service to CAA paratransit eligible individuals by any of the following:

(1) Restrictions on the number of trips an individual will be provided;

(2) Waiting lists for access to the service; or

(3) Any operational pattern or practice that significantly limits the availability of service to CAA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A) Substantial numbers of significantly untimely pickups for initial or return trips;

(B) Substantial numbers of trip denials or missed trips;

(C) Substantial numbers of trips with excessive trip lengths.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

(g) *Additional Service*. Public entities may provide complementary paratransit service to CAA paratransit eligible individuals exceeding that provided for in this section. However, only the cost of service provided for in this section may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

§37.133 Subscription Service.

(a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.

(b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is excess non-subscription capacity.

(c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

§37.135 Submission of paratransit plan.

(a) *General*. Each public entity operating fixed route transportation service, which is required by §37.121 to provide complementary paratransit service, shall develop a paratransit plan.

(b) *Initial Submission*. Except as provided in §37.141 of this part, each entity shall submit its initial plan for compliance with the complementary paratransit service provision by June 1, 1998, to the appropriate location identified in paragraph (f) of this section.

(c) *Annual Updates*. Except as provided in this paragraph, each entity shall submit its annual update to the plan on June 1 of each succeeding year.

(1) If an entity has met and is continuing to meet all requirements for complementary paratransit in §§37.121–37.133 of this part, the entity may submit to the General Counsel an annual certification of continued compliance in lieu of a plan update. Entities that have submitted a joint plan under §37.141 may submit a joint certification under this paragraph. The requirements of §§37.137(a) and (b), 37.138 and 37.139 do not apply when a certification is submitted under this paragraph.

(2) In the event of any change in circumstances that results in an entity which has submitted a certification of continued compliance falling short of compliance with §§37.121–37.133, the entity shall immediately notify the General Counsel in writing of the problem. In this case, the entity shall also file a plan update meeting the requirements of §§37.137–37.139 of this part on the next following June 1 and in each succeeding year until the entity returns to full compliance.

(3) An entity that has demonstrated undue financial burden to the General Counsel shall file a plan update meeting the requirements of §§37.137–37.139 of this part on each June 1 until full compliance with §§37.121–37.133 is attained.

(4) If the General Counsel reasonably believes that an entity may not be fully complying with all service criteria, the General Counsel may require the entity to provide an annual update to its plan.

(d) *Phase-in of Implementation*. Each plan shall provide for full compliance by no later than June 1, 2003, unless the entity has received a waiver based on undue financial burden. If the date for full compliance specified in the plan is after June 1, 1999, the plan shall include milestones, providing for measured, proportional progress toward full compliance.

(e) *Plan Implementation*. Each entity shall begin implementation of its plan on June 1, 1998.

(f) *Submission Locations*. An entity shall submit its plan to the General Counsel's office

§37.137 Paratransit plan development.

(a) *Survey of existing services*. Each submitting entity shall survey the area to be covered by the plan to identify any person or entity (public or covered) which provides a paratransit or other special transportation service for CAA paratransit eligible individuals in the service area to which the plan applies.

(b) *Public participation*.

Each submitting entity shall ensure public participation in the development of its paratransit plan, including at least the following:

(1) *Outreach*. Each submitting entity shall solicit participation in the development of its plan by the widest range of persons anticipated to use its paratransit service. Each entity shall develop contacts, mailing lists and other appropriate means for notification of opportunities to participate in the development of the paratransit plan.

(2) *Consultation with individuals with disabilities*. Each entity shall contact individuals with disabilities and groups representing them in the community. Consultation shall begin at an early stage in the plan development and should involve persons with disabilities in all phases of plan development. All documents and other information concerning the planning procedure and the provision of service shall be available, upon request, to members of the pubic, except where disclosure would be an unwarranted invasion of personal privacy.

(3) *Opportunity for public comment*. The submitting entity shall make its plan available for review before the plan is finalized. In making the plan available for public review, the entity shall ensure that the plan is available upon request in accessible formats.

(4) *Public hearing*. The entity shall sponsor at a minimum one public hearing and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements; and

(5) *Special requirements*. If the entity intends to phase-in its paratransit service over a multi-year period, or request a waiver based on undue financial burden, the public hearing shall afford the opportunity for interested citizens to express their views concerning the phase-in, the request, and which service criteria may be delayed in implementation.

(c) *Ongoing requirement*. The entity shall create an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. This includes, but is not limited to, the development of the initial plan, any request for an undue financial burden waiver, and each annual submission.

§37.139 Plan contents.

Each plan shall contain the following information:

(a) Identification of the entity or entities submitting the plan, specifying for each—

(1) Name and address; and

(2) Contact person for the plan, with telephone number and facsimile telephone number (FAX), if applicable.

(b) A description of the fixed route system as of January 1, 1997 (or subsequent year for annual updates), including—

(1) A description of the service area, route structure, days and hours of service, fare structure, and population served. This includes maps and tables, if appropriate;

(2) The total number of vehicles (bus, van, or rail) operated in fixed route service (including contracted service), and percentage of accessible vehicles and percentage of routes accessible to and usable by persons with disabilities, including persons who use wheelchairs;

(3) Any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service.

(c) A description of existing paratransit services, including:

(1) An inventory of service provided by the public entity submitting the plan;

(2) An inventory of service provided by other agencies or organizations, which may

in whole or in part be used to meet the requirement for complementary paratransit service; and

(3) A description of the available paratransit services in paragraphs (c)(2) and (c)(3) of this section as they relate to the service criteria described in §37.131 of this part of service area, response time, fares, restrictions on trip purpose, hours and days of service, and capacity constraints; and to the requirements of CAA paratransit eligibility.

(d) A description of the plan to provide comparable paratransit, including:

(1) An estimate of demand for comparable paratransit service by CAA eligible individuals and a brief description of the demand estimation methodology used;

(2) An analysis of differences between the paratransit service currently provided and what is required under this part by the entity(ies) submitting the plan and other entities, as described in paragraph (c) of this section;

(3) A brief description of planned modifications to existing paratransit and fixed route service and the new paratransit service planned to comply with the CAA paratransit service criteria;

(4) A description of the planned comparable paratransit service as it relates to each of the service criteria described in §37.131 of this part—service area, absence of restrictions or priorities based on trip purpose, response time, fares, hours and days of service, and lack of capacity constraints. If the paratransit plan is to be phased in, this paragraph shall be coordinated with the information being provided in paragraphs (d)(5) and (d)(6) of this paragraph;

(5) A timetable for implementing comparable paratransit service, with a specific date indicating when the planned service will be completely operational. In no case may full implementation be completed later than June 1, 2003. The plan shall include milestones for implementing phases of the plan, with progress that can be objectively measured yearly;

(6) A budget for comparable paratransit service, including capital and operating expenditures over five years.

(e) A description of the process used to certify individuals with disabilities as CAA paratransit eligible. At a minimum, this must include—

(1) A description of the application and certification process, including—

(i) The availability of information about the process and application materials in accessible formats;

(ii) The process for determining eligibility according to the provisions of §§37.123–37.125 of this part and notifying individuals of the determination made;

(iii) The entity's system and timetable for processing applications and allowing presumptive eligibility; and

(iv) The documentation given to eligible individuals.

(2) A description of the administrative appeals process for individuals denied eligibility.

(3) A policy for visitors, consistent with §37.127 of this part.

(f) Description of the public participation process including—

(1) Notice given of opportunity for public comment, the date(s) of completed public hearing(s), availability of the plan in accessible formats, outreach efforts, and consultation with persons with disabilities.

(2) A summary of significant issues raised during the public comment period, along with a response to significant comments and discussion of how the issues were resolved.

(g) Efforts to coordinate service with other entities subject to the complementary paratransit requirements of this part which have overlapping or contiguous service areas or jurisdictions.

(h) The following endorsements or certifications:

(1) a resolution adopted by the entity authorizing the plan, as submitted. If more than one entity is submitting the plan there must be an authorizing resolution from each board. If the entity does not function with a board, a statement shall be submitted by the entity's chief executive;

(2) a certification that the survey of existing paratransit service was conducted as required in §37.137(a) of this part;

(3) To the extent service provided by other entities is included in the entity's plan for comparable paratransit service, the entity must certify that:

(i) CAA paratransit eligible individuals have access to the service;

(ii) The service is provided in the manner represented; and

(iii) Efforts will be made to coordinate the provision of paratransit service by other providers.

(i) a request for a waiver based on undue financial burden, if applicable. The waiver request should include information sufficient for the General Counsel to consider the factors in §37.155 of this part. If a request for an undue financial burden waiver is made, the plan must include a description of additional paratransit services that would be provided to achieve full compliance with the requirement for comparable paratransit in the event the waiver is not granted, and the timetable for the implementation of these additional services.

(j) Annual plan updates. (1) The annual plan updates submitted June 1, 1999, and annually thereafter, shall include information necessary to update the information requirements of this section. Information submitted annually must include all significant changes and revisions to the timetable for implementation;

(2) If the paratransit service is being phased in over more than one year, the entity must demonstrate that the milestones identified in the current paratransit plans have been achieved. If the milestones have not been achieved, the plan must explain any slippage and what actions are being taken to compensate for the slippage.

(3) The annual plan must describe specifically the means used to comply with the public participation requirements, as described in §37.137 of this part.

§37.141 Requirements for a joint paratransit plan.

(a) Two or more public entities with overlapping or contiguous service areas or jurisdictions may develop and submit a joint plan providing for coordinated paratransit service. Joint plans shall identify the participating entities and indicate their commitment to participate in the plan.

(b) To the maximum extent feasible, all elements of the coordinated plan shall be submitted on June 1, 1998. If a coordinated plan is not completed by June 1, 1998, those entities intending to coordinate paratransit service must submit a general statement declaring their intention to provide coordinated service and each element of the plan specified in §37.139 to the extent practicable. In addition, the plan must include the following certifications from each entity involved in the coordination effort:

(1) a certification that the entity is committed to providing CAA paratransit service as part of a coordinated plan.

(2) a certification from each public entity participating in the plan that it will maintain current levels of paratransit service until the coordinated plan goes into effect.

(c) Entities submitting the above certifications and plan elements in lieu of a completed plan on June 1, 1998, must submit a complete plan by December 1, 1998.

(d) Filing of an individual plan does not preclude an entity from cooperating with other entities in the development or implementation of a joint plan. An entity wishing to join with other entities after its initial submission may do so by meeting the filing requirements of this section.

§37.143 Paratransit plan implementation.

(a) Each entity shall begin implementation of its complementary paratransit plan, pending notice from the General Counsel. The implementation of the plan shall be consistent with the terms of the plan, including any specified phase-in period.

(b) If the plan contains a request for a waiver based on undue financial burden, the entity shall begin implementation of its plan, pending a determination on its waiver request.

§37.145 [Reserved]

§37.147 Considerations during General Counsel review.

In reviewing each plan, at a minimum the General Counsel will consider the following:

(a) Whether the plan was filed on time;

(b) Comments submitted by the state, if applicable;

(c) Whether the plan contains responsive elements for each component required under §37.139 of this part;

(d) Whether the plan, when viewed in its entirety, provides for paratransit service comparable to the entity's fixed route service;

(e) Whether the entity complied with the public participation efforts required by this part; and

(f) The extent to which efforts were made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions.

§37.149 Disapproved plans.

(a) If a plan is disapproved in whole or in part, the General Counsel will specify which provisions are disapproved. Each entity shall amend its plan consistent with this information and resubmit the plan to the General Counsel's office within 90 days of receipt of the disapproval letter.

(b) Each entity revising its plan shall continue to comply with the public participation requirements applicable to the initial development of the plan (set out in §37.137 of this part).

§37.151 Waiver for undue financial burden.

If compliance with the service criteria of §37.131 of this part creates an undue financial burden, an entity may request a waiver from all or some of the provisions if the entity has complied with the public participation requirements in §37.137 of this part and if the following conditions apply:

(a) At the time of submission of the initial plan on June 1, 1998—

(1) The entity determines that it cannot meet all of the service criteria by June 1, 2003; or

(2) The entity determines that it cannot make measured progress toward compliance in any year before full compliance is required. For purposes of this part, measured progress means implementing milestones as scheduled, such as incorporating an additional paratransit service criterion or improving an aspect of a specific service criterion.

(b) At the time of its annual plan update submission, if the entity believes that circumstances have changed since its last submission, and it is no longer able to comply by June 1, 2003, or make measured progress in any year before 2003, as described in paragraph (a)(2) of this section.

§37.153 General Counsel waiver determination.

(a) The General Counsel will determine whether to grant a waiver for undue financial burden on a case-by-case basis, after considering the factors identified in §37.155 of this part and the information accompanying the request. If necessary, the General Counsel will return the application with a request for additional information.

(b) Any waiver granted will be for a limited and specified period of time.

(c) If the General Counsel grants the applicant a waiver, the General Counsel will do one of the following:

(1) Require the public entity to provide complementary paratransit to the extent it can do so without incurring an undue financial burden. The entity shall make changes in its plan that the General Counsel determines are appropriate to maximize the complementary paratransit service that is provided to CAA paratransit eligible individuals. When making changes to its plan, the entity shall use the public participation process specified for plan development and shall consider first a reduction in number of trips provided to each CAA paratransit eligible person per month, while attempting to meet all other service criteria.

(2) Require the pubic entity to provide basic complementary paratransit services to all CAA paratransit eligible individuals, even if doing so would cause the public entity to incur an undue financial burden. Basic complementary paratransit service shall include at least complementary paratransit service in corridors defined as provided in §37.131(a) along the public entity's key routes during core service hours.

(i) For purposes of this section, key routes are defined as routes along which there is service at least hourly throughout the day.

(ii) For purposes of this section, core service hours encompass at least peak periods, as these periods are defined locally for fixed route service, consistent with industry practice.

(3) If the General Counsel determines that the public entity will incur an undue financial burden as the result of providing basic complementary paratransit service, such that it is infeasible for the entity to provide basic complementary paratransit service, the Administrator shall require the public entity to coordinate with other available providers of demand responsive service in the area served by the public entity to maximize the service to CAA paratransit eligible individuals to the maximum extent feasible.

§37.155 Factors in decision to grant an undue financial burden waiver.

(a) In making an undue financial burden determination, the General Counsel will consider the following factors:

(1) Effects on current fixed route service, including reallocation of accessible fixed route vehicles and potential reduction in service, measured by service miles;

(2) Average number of trips made by the entity's general population, on a per capita basis, compared with the average number of trips to be made by registered CAA paratransit eligible persons, on a per capita basis;

(3) Reductions in other services, including other special services;

(4) Increases in fares;

(5) Resources available to implement complementary paratransit service over the period covered by the plan;

(6) Percentage of budget needed to implement the plan, both as a percentage of operating budget and a percentage of entire budget;

(7) The current level of accessible service, both fixed route and paratransit;

(8) Cooperation/coordination among area transportation providers;

(9) Evidence of increased efficiencies, that have been or could be effectuated, that would benefit the level and quality of available resources for complementary paratransit service; and

(10) Unique circumstances in the submitting entity's area that affect the ability of the entity to provide paratransit, that militate against the need to provide paratransit, or in some other respect create a circumstance considered exceptional by the submitting entity.

(b)(1) Costs attributable to complementary paratransit shall be limited to costs of providing service specifically required by this part to CAA paratransit eligible individuals, by entities responsible under this part for providing such service.

(2) If the entity determines that it is impracticable to distinguish between trips mandated by the CAA and other trips on a trip-by-trip basis, the entity shall attribute to CAA complementary paratransit requirements a percentage of its overall paratransit costs. This percentage shall be determined by a statistically valid methodology that determines the percentage of trips that are required by this part. The entity shall submit information concerning its methodology and the data on which its percentage is based with its request for a waiver. Only costs attributable to CAA-mandated trips may be considered with respect to a request for an undue financial burden waiver.

(3) Funds to which the entity would be legally entitled, but which, as a matter of State or local funding arrangements, are provided to another entity and used by that entity to provide paratransit service which is part of a coordinated system of paratransit meeting the requirements of this part, may be counted in determining the burden associated with the waiver request.

Subpart G—Provision of Service

§37.161 Maintenance of accessible features: general.

(a) Public and covered entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§37.163 Keeping vehicle lifts in operative condition: public entities.

(a) This section applies only to public entities with respect to lifts in non-rail vehicles.

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

(f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

§37.165 Lift and securement use.

(a) This section applies to public and covered entities.

(b) All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances. The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

(c) (1) For vehicles complying with part 38 of these regulations, the entity shall use the securement system to secure wheelchairs as provided in that part.

(2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

(3) The entity may require that an individual permit his or her wheelchair to be secured.

(d) The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

(e) The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

(f) Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

(g) The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle. Provided that an entity is not required to permit such individuals to use a lift Model 141 manufactured by EEC, Inc. If the entity chooses not to allow such individuals to use such a lift, it shall clearly notify consumers of this fact by signage on the exterior of the vehicle (adjacent to and of equivalent size with the accessibility symbol).

§37.167 Other service requirements.

(a) This section applies to public and covered entities.

(b) On fixed route systems, the entity shall announce stops as follows:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2) The entity shall announce any stop on request of an individual with a disability.

(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

(d) The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

(e) The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of these regulations.

(f) The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

(g) The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the entity, preclude the safe use of the stop by all passengers.

(h) The entity shall not prohibit an individual with a disability from traveling with a respirator or portable oxygen supply, consistent with applicable Department of Transportation rules on the transportation of hazardous materials.

(i) The entity shall ensure that adequate time is provided to allow individuals with disabilities to complete boarding or disembarking from the vehicle.

(j)(1) When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following person to move in order to allow the individual with a disability to occupy the seat or securement location:

(i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary);

(ii) Individuals sitting in or a fold-down or other movable seat in a wheelchair securement location.

(2) This requirement applies to light rail and rapid rail systems only to the extent practicable.

(3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

(4) In all signage designating priority seating areas for elderly persons or persons with disabilities, or designating wheelchair securement areas, the entity shall include language informing persons sitting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability. This requirement applies to all fixed route vehicles when they are acquired by the entity or to new or replacement signage in the entity's existing fixed route vehicles.

§37.169 Interim requirements for over-the-road bus service operated by covered entities.

(a) Covered entities operating over-the-road buses, in addition to compliance with other applicable provisions of this part, shall provide accessible service as provided in this section.

(b) The covered entity shall provide assistance, as needed, to individuals with disabilities in boarding and disembarking, including moving to and from the bus seat for the purpose of boarding and disembarking. The covered entity shall ensure that personnel are trained to provide this assistance safely and appropriately.

(c) To the extent that they can be accommodated in the areas of the passenger compartment provided for passengers' personal effects, wheelchairs or other mobility aids and assistive devices used by individuals with disabilities, or components of such devices, shall be permitted in the passenger compartment. When the bus is at rest at a stop, the driver or other personnel shall assist individuals with disabilities with the stowage and retrieval of mobility aids, assistive devices, or other items that can be accommodated in the passenger compartment of the bus.

(d) Wheelchairs and other mobility aids or assistive devices that cannot be accommodated in the passenger compartment (including electric wheelchairs) shall be accommodated in the baggage compartment of the bus, unless the size of the baggage compartment prevents such accommodation.

(e) At any given stop, individuals with disabilities shall have the opportunity to have their wheelchairs or other mobility aids or assistive devices stowed in the baggage compartment before other baggage or cargo is loaded, but baggage or cargo already on the bus does not have to be off-loaded in order to make room for such devices.

(f) The entity may require up to 48 hours' advance notice only for providing boarding assistance. If the individual does not provide such notice, the entity shall nonetheless provide the service if it can do so by making a reasonable effort, without delaying the bus service.

§37.171 Equivalency requirement for demand responsive service operated by covered entities not primarily engaged in the business of transporting people.

A covered entity not primarily engaged in the business of transporting people which operates a demand responsive system shall ensure that its system, when viewed in its entirety, provides equivalent service to individuals with disabilities, including individuals who use wheelchairs, as it does to individuals without disabilities. The standards of §37.105 shall be used to determine if the entity is providing equivalent service.

§37.173 Training.

Each public or covered entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among individuals with disabilities.

APPENDIX A TO PART 37—STANDARDS FOR ACCESSIBLE TRANSPORTATION FACILITIES

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, SE., Washington, DC 20540–1999.]

APPENDIX B TO PART 37—CERTIFICATIONS

Certification of Equivalent Service

The (name of agency) certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

(1) Response time;
(2) Fares;
(3) Geographic service area;
(4) Hours and days of service;
(5) Restrictions on trip purpose;
(6) Availability of information and reservation capability; and
(7) Constraints on capacity or service availability.

This certification is valid for no longer than one year from its date of filing.

____
signature
____
name of authorized official
____
title
____
date

Existing Paratransit Service Survey

This is to certify that (name of public entity(ies)) has conducted a survey of existing paratransit services as required by section 37.137(a) of the CAA regulations.

____
signature
____
name of authorized official
____
title
____
date

Included Service Certification

This is to certify that service provided by other entities but included in the CAA paratransit plan submitted by (name of submitting entity(ies)) meets the requirements of part 37, subpart F of the CAA regulations providing that CAA eligible individuals have access to the service; the service is provided in the manner represented; and, that efforts will be made to coordinate the provision of paratransit service offered by other providers.

____
signature
____
name of authorized official
____
title
____
date

Joint Plan Certification I

This is to certify that (name of entity covered by joint plan) is committed to providing CAA paratransit service as part of this coordinated plan and in conformance with the requirements of part 37, subpart F, of the CAA regulations.

____
signature
____
name of authorized official
____
title

date

Joint Plan Certification II

This is to certify that (name of entity covered by joint plan) will, in accordance with section 37.141 of the CAA regulations, maintain current levels of paratransit service until the coordinated plan goes into effect.

signature

name of authorized official

title

date

PART 38—CONGRESSIONAL ACCOUNTABILITY ACT (CAA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES

Subpart A—General

Sec.
38.1 Purpose.
38.2 Equivalent facilitation.
38.3 Definitions.
38.4 Miscellaneous instructions.

Subpart B—Buses, Vans and Systems

38.21 General.
38.23 Mobility aid accessibility.
38.25 Doors, steps and thresholds.
38.27 Priority seating signs.
38.29 Interior circulation, handrails and stanchions.
38.31 Lighting.
38.33 Fare box.
38.35 Public information system.
38.37 Stop request.
38.39 Destination and route signs.

Subpart C—Rapid Rail Vehicles and Systems

38.51 General.
38.53 Doorways.
38.55 Priority seating signs.
38.57 Interior circulation, handrails and stanchions.
38.59 Floor surfaces.
38.61 Public information system.
38.63 Between-car barriers.

Subpart D—Light Rail Vehicles and Systems

38.71 General.
38.73 Doorways.
38.75 Priority seating signs.
38.77 Interior circulation, handrails and stanchions.
38.79 Floors, steps and thresholds.
38.81 Lighting.
38.83 Mobility aid accessibility.
38.85 Between-car barriers.
38.87 Public information system.
38.91–38.127—[Reserved]

Subpart F—Over-the-Road Buses and Systems

38.151 General.
38.153 Doors, steps and thresholds.
38.155 Interior circulation, handrails and stanchions.
38.157 Lighting.
38.159 Mobility aid accessibility. [Reserved]

Subpart G—Other Vehicles and Systems

38.171 General.
38.173 Automated guideway transit vehicles and systems.
38.175 [Reserved]
38.177 [Reserved]
38.179 Trams, similar vehicles, and systems.
Figures in Part 38
Appendix to Part 38—Guidance Material

Subpart A—General

§38.1 Purpose.

This part provides minimum guidelines and requirements for accessibility standards in part 37 of these regulations for transportation vehicles required to be accessible by section 210 of the Congressional Accountability Act (2 U.S.C. 1331, *et seq.*) which, *inter alia*, applies the rights and protections of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 *et seq.*) to covered entities within the Legislative Branch.

§38.2 Equivalent facilitation.

Departures from particular technical and scoping requirements of these guidelines by use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the vehicle. Departures are to be considered on a case-by-case basis by the Office of Compliance under the procedure set forth in §37.7 of these regulations.

§38.3 Definitions.

See §37.3 of these regulations.

§38.4 Miscellaneous instructions.

(a) *Dimensional conventions.* Dimensions that are not noted as minimum or maximum are absolute.

(b) *Dimensional tolerances.* All dimensions are subject to conventional engineering tolerances for material properties and field conditions, including normal anticipated wear not exceeding accepted industry-wide standards and practices.

(c) *Notes.* The text of these guidelines does not contain notes or footnotes. Additional information, explanations, and advisory materials are located in the Appendix.

(d) *General terminology.* (1) *Comply with* means meet one or more specifications of these guidelines.

(2) *If*, or *if * * * then* denotes a specification that applies only when the conditions described are present.

(3) *May* denotes an option or alternative.

(4) *Shall* denotes a mandatory specification or requirement.

(5) *Should* denotes an advisory specification or recommendation and is used only in the appendix to this part.

Subpart B—Buses, Vans and Systems

§38.21 General.

(a) New, used or remanufactured buses and vans (except over-the-road buses covered by subpart G of this part), to be considered accessible by regulations issued by the Board of Directors of the Office of Compliance in part 37 of these regulations, shall comply with the applicable provisions of this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible buses be retrofitted with lifts, ramps or other boarding devices.

§38.23 Mobility aid accessibility.

(a) *General.* All vehicles covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift or ramp) complying with paragraph (b) or (c) of this section and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location. At least two securement locations and devices, complying with paragraph (d) of this section, shall be provided on vehicles in excess of 22 feet in length; at least one securement location and device, complying with paragraph (d) of this section, shall be provided on vehicles 22 feet in length or less.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes, transmission, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception.* Where the lift is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"), the requirements of this paragraph prohibiting the lift from being stowed while occupied shall not apply if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(3) *Emergency operation.* The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift and is intended to be stowed while occupied.

(4) *Power or equipment failure.* Platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers.* The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the platform during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the platform is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically raise or close, or a supplementary system shall automatically engage, and remain raised, closed, or

engaged at all times that the platform is more than 3 inches above the roadway or sidewalk and the platform is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged, or disengaged by the lift operator, provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface.* The platform surface shall be free of any protrusions over¼ inch high and shall be slip resistant. The platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the platform surface to 30 inches above the platform, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface of the platform. (See Fig. 1)

(7) *Platform gaps.* Any openings between the platform surface and the raised barriers shall not exceed⅝ inch in width. When the platform is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and the vehicle floor shall not exceed½ inch horizontally and⅝ inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp.* The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8, measured on level ground, for a maximum rise of 3 inches, and the transition from roadway or sidewalk to ramp may be vertical without edge treatment up to¼ inch. Thresholds between¼ inch and½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection.* The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll or pitch) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the platform.

(10) *Platform movement.* No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction.* The lift shall permit both inboard and outboard facing of wheelchair and mobility aid users.

(12) *Use by standees.* Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The platform may be marked to indicate a preferred standing position.

(13) *Handrails.* Platforms on lifts shall be equipped with handrails on two sides, which move in tandem with the lift, and which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp*—(1) *Design load.* Ramps 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface.* The ramp surface shall be continuous and slip resistant; shall not have protrusions from the surface greater than¼ inch high; shall have a clear width of 30 inches; and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold.* The transition from roadway or sidewalk and the transition from vehicle floor to the ramp may be vertical without edge treatment up to¼ inch. Changes in level between¼ inch and½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers.* Each side of the ramp shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope.* Ramps shall have the least slope practicable and shall not exceed 1:4 when deployed to ground level. If the height of the vehicle floor from which the ramp is deployed is 3 inches or less above a 6-inch curb, a maximum slope of 1:4 is permitted; if the height of the vehicle floor from which the ramp is deployed is 6 inches or less, but greater than 3 inches, above a 6-inch curb, a maximum slope of 1:6 is permitted; if the height of the vehicle floor from which the ramp is deployed is 9 inches or less, but greater than 6 inches, above a 6-inch curb, a maximum slope of 1:8 is permitted; if the height of the vehicle floor from which the ramp is deployed is greater than 9 inches above a 6-inch curb, a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment.* When in use for boarding or alighting, the ramp shall be firmly attached to the vehicle so that it is not subject to displacement when loading or unloading a heavy power mobility aid and that no gap between vehicle and ramp exceeds⅝ inch.

(7) *Stowage.* A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps, including portable ramps stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop or maneuver.

(8) *Handrails.* If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than⅛ inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(d) *Securement devices*—(1) *Design load.* Securement systems on vehicles with GVWRs of 30,000 pounds or above, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,000 pounds per securement leg or clamping mechanism and a minimum of 4,000 pounds for each mobility aid. Securement systems on vehicles with GVWRs of up to 30,000 pounds, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,500 pounds per securement leg or clamping mechanism and a minimum of 5,000 pounds for each mobility aid.

(2) *Location and size.* The securement system shall be placed as near to the accessible entrance as practicable and shall have a clear floor area of 30 inches by 48 inches. Such space shall adjoin, and may overlap, an access path. Not more than 6 inches of the required clear floor space may be accommodated for footrests under another seat provided there is a minimum of 9 inches from the floor to the lowest part of the seat overhanging the space. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area, provided the seats, when folded up, do not obstruct the clear floor space required. (See Fig. 2)

(3) *Mobility aids accommodated.* The securement system shall secure common wheelchairs and mobility aids and shall either be automatic or easily attached by a person familiar with the system and mobility aid and having average dexterity.

(4) *Orientation.* In vehicles in excess of 22 feet in length, at least one securement device or system required by paragraph (a) of this section shall secure the wheelchair or mobility aid facing toward the front of the vehicle. In vehicles 22 feet in length or less, the required securement device may secure the wheelchair or mobility aid either facing toward the front of the vehicle or rearward. Additional securement devices or systems shall secure the wheelchair or mobility aid facing forward or rearward. Where the wheelchair or mobility aid is secured facing the rear of the vehicle, a padded barrier shall be provided. The padded barrier shall extend from a height of 38 inches from the vehicle floor to a height of 56 inches from the vehicle floor with a width of 18 inches, laterally centered immediately in back of the seated individual. Such barriers need not be solid provided equivalent protection is afforded.

(5) *Movement.* When the wheelchair or mobility aid is secured in accordance with manufacturer's instructions, the securement system shall limit the movement of an occupied wheelchair or mobility aid to no more than 2 inches in any direction under normal vehicle operating conditions.

(6) *Stowage.* When not being used for securement, or when the securement area can be used by standees, the securement system shall not interfere with passenger movement, shall not present any hazardous condition, shall be reasonably protected from vandalism, and shall be readily accessed when needed for use.

(7) *Seat belt and shoulder harness.* For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with all applicable provisions of part 571 of title 49 CFR, shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

§38.25 Doors, steps and thresholds.

(a) *Slip resistance.* All aisles, steps, floor areas where people walk and floors in securement locations shall have slip-resistant surfaces.

(b) *Contrast.* All step edges, thresholds, and the boarding edge of ramps or lift platforms shall have a band of color(s) running the full width of the step or edge which contrasts from the step tread and riser, or lift or ramp surface, either light-on-dark or dark-on-light.

(c) *Door height.* For vehicles in excess of 22 feet in length, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 68 inches. For vehicles of 22 feet in length or less, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 56 inches.

§38.27 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that seats in the front of the vehicle are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them. At least one set of forward-facing seats shall be so designated.

(b) Each securement location shall have a sign designating it as such.

(c) Characters on signs required by paragraphs (a) and (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background either light-on-dark or dark-on-light.

§38.29 Interior circulation, handrails and stanchions.

(a) Interior handrails and stanchions shall permit sufficient turning and maneuvering space for wheelchairs and other mobility aids to reach a securement location from the lift or ramp.

(b) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows persons with disabilities to grasp such assists from outside the vehicle while starting to board, and to continue using such assists throughout the boarding and fare collection process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used on vehicles in excess of 22 feet in length, a horizontal passenger assist shall be located across the front of the vehicle and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the front door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) For vehicles in excess of 22 feet in length, overhead handrail(s) shall be provided which shall be continuous except for a gap at the rear doorway.

(d) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(e) For vehicles in excess of 22 feet in length with front-door lifts or ramps, vertical stanchions immediately behind the driver shall either terminate at the lower edge of the aisle-facing seats, if applicable, or be "dog-legged" so that the floor attachment does not impede or interfere with wheelchair footrests. If the driver seat platform must be passed by a wheelchair or mobility aid user entering the vehicle, the platform, to the maximum extent practicable, shall not extend into the aisle or vestibule beyond the wheel housing.

(f) For vehicles in excess of 22 feet in length, the minimum interior height along the path from the lift to the securement location shall be 68 inches. For vehicles of 22 feet in length or less, the minimum interior height from lift to securement location shall be 56 inches.

§38.31 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread or lift platform.

(b) Other stepwells and doorways, including doorways in which lifts or ramps are installed, shall have, at all times, at least 2 foot-candles of illumination measured on the step tread, or lift or ramp, when deployed at the vehicle floor level.

(c) The vehicle doorways, including doorways in which lifts or ramps are installed, shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§38.33 Fare box.

Where provided, the farebox shall be located as far forward as practicable and shall not obstruct traffic in the vestibule, especially wheelchairs or mobility aids.

§38.35 Public information system.

(a) Vehicles in excess of 22 feet in length, used in multiple-stop, fixed-route service, shall be equipped with a public address system permitting the driver, or recorded or digitized human speech messages, to announce stops and provide other passenger information within the vehicle.

(b) [Reserved]

§38.37 Stop request.

(a) Where passengers may board or alight at multiple stops at their option, vehicles in excess of 22 feet in length shall provide controls adjacent to the securement location for requesting stops and which alerts the driver that a mobility aid user wishes to disembark. Such a system shall provide auditory and visual indications that the request has been made.

(b) Controls required by paragraph (a) of this section shall be mounted no higher than 48 inches and no lower than 15 inches above the floor, shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

§38.39 Destination and route signs.

(a) Where destination or route information is displayed on the exterior of a vehicle, each vehicle shall have illuminated signs on the front and boarding side of the vehicle.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front "headsigns", with "wide" spacing (generally, the space between letters shall be1/16 the height of upper case letters), and shall contrast with the background, either dark-on-light or light-on-dark.

Subpart C—Rapid Rail Vehicles and Systems

§38.51 General.

(a) New, used and remanufactured rapid rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(c) Existing vehicles which are retrofitted to comply with the "one-car-per-train rule" of §37.93 of these regulations shall comply with §§38.55, 38.57(b), 38.59 of this part and shall have, in new and key stations, at least one door complying with §§38.53(a)(1), (b) and (d) of this part. Removal of seats is not required. Vehicles previously designed and manufactured in accordance with the accessibility requirements of part 609 of title 49 CFR or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of §37.93 of these regulations.

§38.53 Doorways.

(a) *Clear width.* (1) Passenger doorways on vehicle sides shall have clear openings at least 32 inches wide when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of accessible vehicles operating on an accessible rapid rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* Where new vehicles will operate in new stations, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between each vehicle door at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus⅝ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap

between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

§ 38.55 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§ 38.57 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided to assist safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) Handrails, stanchions, and seats shall allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid user circulation and shall be kept to a minimum in the vicinity of doors.

(c) The diameter or width of the gripping surface of handrails and stanchions shall be 1¼ inches to 1½ inches or provide an equivalent gripping surface and shall provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface.

§ 38.59 Floor surfaces.

Floor surfaces on aisles, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

§ 38.61 Public information system.

(a)(1) *Requirements.* Each vehicle shall be equipped with a public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted. Each vehicle operating in stations having more than one line or route shall have an external public address system to permit transportation system personnel, or recorded or digitized human speech messages, to announce train, route, or line identification information.

(2) *Exception.* Where station announcement systems provide information on arriving trains, an external train speaker is not required.

(b) [Reserved]

§ 38.63 Between-car barriers.

(a) *Requirement.* Suitable devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Acceptable solutions include, but are not limited to, pantograph gates, chains, motion detectors or similar devices.

(b) *Exception.* Between-car barriers are not required where platform screens are provided which close off the platform edge and open only when trains are correctly aligned with the doors.

Subpart D—Light Rail Vehicles and Systems

§ 38.71 General.

(a) New, used and remanufactured light rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b)(1) Vehicles intended to be operated solely in light rail systems confined entirely to a dedicated right-of-way, and for which all stations or stops are designed and constructed for revenue service after the effective date of standards for design and construction § 37.21 and § 37.23 of these regulations, shall provide level boarding and shall comply with § 38.73(d)(1) and § 38.85 of this part.

(2) Vehicles designed for, and operated on, pedestrian malls, city streets, or other areas where level boarding is not practicable shall provide wayside or car-borne lifts, mini-high platforms, or other means of access in compliance with § 38.83(b) or (c) of this part.

(c) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(d) Existing vehicles retrofitted to comply with the "one-car-per-train rule" at § 37.93 of these regulations shall comply with § 38.75, § 38.77(c), § 38.79(a) and § 38.83(a) of this part and shall have, in new and key stations, at least one door which complies with §§ 38.73(a)(1), (b) and (d). Vehicles previously designed and manufactured in accordance with the accessibility requirements of 49 CFR part 609 or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of § 37.93 of these regulations.

§ 38.73 Doorways.

(a) *Clear width.* (1) All passenger doorways on vehicle sides shall have minimum clear openings of 32 inches when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of each vehicle operating on an accessible light rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* The design of level-entry vehicles shall be coordinated with the boarding platform or mini-high platform design so that the horizontal gap between a vehicle at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height. Vertical alignment may be accomplished by vehicle air suspension, automatic ramps or lifts, or any combination.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

(4) *Exception.* Where it is not operationally or structurally practicable to meet the horizontal or vertical requirements of paragraphs (d)(1), (2) or (3) of this section, platform or vehicle devices complying with §38.83(b) or platform or vehicle mounted ramps or bridge plates complying with §38.83(c) shall be provided.

§ 38.75 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Where designated wheelchair or mobility aid seating locations are provided, signs shall indicate the location and advise other passengers of the need to permit wheelchair and mobility aid users to occupy them.

(c) Characters on signs required by paragraphs (a) or (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§ 38.77 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) At entrances equipped with steps, handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) At all doors on level-entry vehicles, and at each entrance accessible by lift, ramp, bridge plate or other suitable means, handrails, stanchions, passenger seats, vehicle driver seat platforms, and fare boxes, if applicable, shall be located so as to allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid circulation and shall be kept to a minimum in the vicinity of accessible doors.

§38.79 Floors, steps and thresholds.

(a) Floor surfaces on aisles, step treads, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All thresholds and step edges shall have a band of color(s) running the full width of the step or threshold which contrasts from the step tread and riser or adjacent floor, either light-on-dark or dark-on-light.

§38.81 Lighting.

(a) Any stepwell or doorway with a lift, ramp or bridge plate immediately adjacent to the driver shall have, when the door is open, at least 2 footcandles of illumination measured on the step tread or lift platform.

(b) Other stepwells, and doorways with lifts, ramps or bridge plates, shall have, at all times, at least 2 footcandles of illumination measured on the step tread or lift or ramp, when deployed at the vehicle floor level.

(c) The doorways of vehicles not operating at lighted station platforms shall have outside lights which provide at least 1 foot candle of illumination on the station platform or street surface for a distance of 3 feet perpendicular to all points on the bottom step tread. Such lights shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§38.83 Mobility aid accessibility.

(a)(1) *General.* All new light rail vehicles, other than level entry vehicles, covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift, ramp or bridge plate) complying with either paragraph (b) or (c) of this section and sufficient clearances to permit at least two wheelchair or mobility aid users to reach areas, each with a minimum clear floor space of 48 inches by 30 inches, which do not unduly restrict passenger flow. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required.

(2) *Exception.* If lifts, ramps or bridge plates meeting the requirements of this section are provided on station platforms or other stops required to be accessible, or mini-high platforms complying with §38.73(d) of this part are provided, the vehicle is not required to be equipped with a car-borne device. Where each new vehicle is compatible with a single platform-mounted access system or device, additional systems or devices are not required for each vehicle provided that the single device could be used to provide access to each new vehicle if passengers using wheelchairs or mobility aids could not be accommodated on a single vehicle.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes, propulsion system, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception.* Where physical or safety constraints prevent the deployment at some stops of a lift having its long dimension perpendicular to the vehicle axis, the transportation entity may specify a lift which is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"). The requirements of paragraph (b)(2)(i) of this section prohibiting the lift from being stowed while occupied shall not apply to a lift design of this type if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(iii) *Exception.* The brake or propulsion system interlocks requirement does not apply to a station platform mounted lift provided that a mechanical, electrical or other system operates to ensure that vehicles do not move when the lift is in use.

(3) *Emergency operation.* The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift intended to be stowed while occupied.

(4) *Power or equipment failure.* Lift platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers.* The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the lift during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the lift is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically rise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the lift is more than 3 inches above the station platform or roadway and the lift is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged or disengaged by the lift operator provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface.* The lift platform surface shall be free of any protrusions over¼ inch high and shall be slip resistant. The lift platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the lift platform surface to 30 inches above the surface, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface. (See Fig. 1)

(7) *Platform gaps.* Any openings between the lift platform surface and the raised barriers shall not exceed⅝ inch wide. When the lift is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and vehicle floor shall not exceed½ inch horizontally and⅝ inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp.* The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8 measured on level ground, for a maximum rise of 3 inches, and the transition from the station platform or roadway to ramp may be vertical without edge treatment up to¼ inch. Thresholds between¼ inch and½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection.* The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the lift platform.

(10) *Platform movement.* No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction.* The lift shall permit both inboard and outboard facing of wheelchairs and mobility aids.

(12) *Use by standees.* Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The lift may be marked to indicate a preferred standing position.

(13) *Handrails.* Platforms on lifts shall be equipped with handrails, on two sides, which move in tandem with the lift which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp or bridge plate* (1) *Design load.* Ramps or bridge plates 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp or bridge plate distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps or bridge plates shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface.* The ramp or bridge plate surface shall be continuous and slip resistant, shall not have protrusions from the surface greater than¼ inch, shall have a clear width of 30 inches, and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold.* The transition from roadway or station platform and the transition from vehicle floor to the ramp or bridge plate may be vertical without edge treatment up to¼ inch. Changes in level between¼ inch and½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers.* Each side of the ramp or bridge plate shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope.* Ramps or bridge plates shall have the least slope practicable. If the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 3 inches or less above the station platform a maximum slope of 1:4 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 6 inches or less, but more than 3 inches, above the station platform a maximum slope of 1:6 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 9 inches or less, but more than 6 inches, above the station platform a maximum slope of 1:8 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is greater than 9 inches above the station platform a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment.* (i) *Requirement.* When in use for boarding or alighting, the ramp or bridge plate shall be attached to the vehicle, or otherwise prevented from moving such that it is not subject to displacement when loading or unloading a heavy power mobility aid and that any gaps between vehicle and ramp or bridge plate, and station platform and ramp or bridge plate, shall not exceed⅝ inch.

(ii) *Exception.* Ramps or bridge plates which are attached to, and deployed from, station platforms are permitted in lieu of vehicle devices provided they meet the displacement requirements of paragraph (c)(6)(i) of this section.

(7) *Stowage.* A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps or bridge plates, including portable ramps or bridge plates stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop.

(8) *Handrails.* If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than⅛ inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

§38.85 Between-car barriers.

Where vehicles operate in a high-platform, level-boarding mode, devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Appropriate devices include, but are not limited to, pantograph gates, chains, motion detectors or other suitable devices.

§38.87 Public information system.

(a) Each vehicle shall be equipped with an interior public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted.

(b) [Reserved].

38.91–38.127 [Reserved]

Subpart F—Over-the-Road Buses and Systems

§38.151 General.

(a) New, used and remanufactured over-the-road buses, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) Over-the-road buses covered by §37.7(c) of these regulations shall comply with §38.23 and this subpart.

§38.153 Doors, steps and thresholds.

(a) Floor surfaces on aisles, step treads and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All step edges shall have a band of color(s) running the full width of the step which contrasts from the step tread and riser, either dark-on-light or light-on-dark.

(c) To the maximum extent practicable, doors shall have a minimum clear width when open of 30 inches, but in no case less than 27 inches.

§38.155 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(b) Where provided within passenger compartments, handrails or stanchions shall be sufficient to permit safe on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

§38.157 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread.

(b) The vehicle doorway shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§38.159 Mobility aid accessibility. [Reserved]

Subpart G—Other Vehicles and Systems

§38.171 General.

(a) New, used and remanufactured vehicles and conveyances for systems not covered by other subparts of this part, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle or conveyance are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

§38.173 Automated guideway transit vehicles and systems.

(a) Automated Guideway Transit (AGT) vehicles and systems, sometimes called "people movers," operated in airports and other areas where AGT vehicles travel at slow speed (i.e., at a speed of no more than 20 miles per hour at any location on their route during normal operation), shall comply with the provisions of §38.53(a) through (c), and §§38.55 through 38.61 of this part for rapid rail vehicles and systems.

(b) Where the vehicle covered by paragraph (a) of this section will operate in an accessible station, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between a vehicle door at rest and the platform shall be no greater than 1 inch and the height of the vehicle floor shall be within plus or minus½ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(c) In stations where open platforms are not protected by platform screens, a suitable device or system shall be provided to prevent, deter or warn individuals from stepping off the platform between cars. Acceptable devices include, but are not limited to, pantograph gates, chains, motion detectors or other appropriate devices.

(d) Light rail and rapid rail AGT vehicles and systems shall comply with subparts D and C of this part, respectively. AGT systems whose vehicles travel at a speed of more than 20 miles per hour at any location on their route during normal operation are covered under this paragraph rather than under paragraph (a) of this subsection.

§ 38.175 [Reserved]

§ 38.177 [Reserved]

§ 38.179 Trams, similar vehicles and systems.

(a) New and used trams consisting of a tractor unit, with or without passenger accommodations, and one or more passenger trailer units, including but not limited to vehicles providing shuttle service to remote parking areas, between hotels and other public accommodations, and between and within amusement parks and other recreation areas, shall comply with this section. For purposes of determining applicability of §§ 37.101 or 37.105 of these regulations, the capacity of such a vehicle or "train" shall consist of the total combined seating capacity of all units, plus the driver, prior to any modification for accessibility.

(b) Each tractor unit which accommodates passengers and each trailer unit shall comply with § 38.25 and § 38.29 of this part. In addition, each such unit shall comply with §§ 38.23(b) or (c) and shall provide at least one space for wheelchair or mobility aid users complying with § 38.23(d) of this part unless the complete operating unit consisting of tractor and one or more trailers can already accommodate at least two wheelchair or mobility aid users.

Figures in Part 38—[Copies of these figures may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999.]

APPENDIX TO PART 38—GUIDANCE MATERIAL

This appendix contains materials of an advisory nature and provides additional information that should help the reader to understand the minimum requirements of the guidelines or to design vehicles for greater accessibility. Each entry is applicable to all subparts of this part except where noted. Nothing in this appendix shall in any way obviate any obligation to comply with the requirements of the guidelines themselves.

I. Slip Resistant Surfaces Aisles, Steps, Floor Area Where People Walk, Floor Areas in Securement Locations, Lift Platforms, Ramps

Slip resistance is based on the frictional force necessary to keep a shoe heel or crutch tip from slipping on a walking surface under conditions likely to be found on the surface. While the dynamic coefficient of friction during walking varies in a complex and nonuniform way, the static coefficient of friction, which can be measured in several ways, provides a close approximation of the slip resistance of a surface. Contrary to popular belief, some slippage is necessary to walking, especially for persons with restricted gaits; a truly "non-slip" surface could not be negotiated.

The Occupational Safety and Health Administration recommends that walking surfaces have a static coefficient of friction of 0.5. A research project sponsored by the Architectural and Transportation Barriers Compliance Board (Access Board) conducted tests with persons with disabilities and concluded that a higher coefficient of friction was needed by such persons. A static coefficient of friction of 0.6 is recommended for steps, floors, and lift platforms and 0.8 for ramps.

The coefficient of friction varies considerably due to the presence of contaminants, water, floor finishes, and other factors not under the control of transit providers and may be difficult to measure. Nevertheless, many common materials suitable for flooring are now labeled with information on the static coefficient of friction. While it may not be possible to compare one product directly with another, or to guarantee a constant measure, transit operators or vehicle designers and manufacturers are encouraged to specify materials with appropriate values. As more products include information on slip resistance, improved uniformity in measurement and specification is likely. The Access Board's advisory guidelines on Slip Resistant Surfaces provides additional information on this subject.

II. Color Contrast—Step Edges, Lift Platform Edges

The material used to provide contrast should contrast by at least 70%. Contrast in percent is determined by:

Contrast = $[(B_1 - B_2)/B_1]$ x 100

Where B_1 = light reflectance value (LRV) of the lighter area and B_2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

III. Handrails and Stanchions

In addition to the requirements for handrails and stanchions for rapid, light, and commuter rail vehicles, consideration should be given to the proximity of handrails or stanchions to the area in which wheelchair or mobility aid users may position themselves. When identifying the clear floor space where a wheelchair or mobility aid user can be accommodated, it is suggested that at least one such area be adjacent or in close proximity to a handrail or stanchion. Of course, such a handrail or stanchion cannot encroach upon the required 32 inch width required for the doorway or the route leading to the clear floor space which must be at least 30 by 48 inches in size.

IV. Priority Seating Signs and Other Signage

A. *Finish and Contrast*. The characters and background of signs should be eggshell, matte, or other non-glare finish. An eggshell finish (11 to 19 degree gloss on 60 degree glossimeter) is recommended. Characters and symbols should contrast with their background either light characters on a dark background or dark characters on a light background. Research indicates that signs are more legible for persons with low vision when characters contrast with their background by at least 70 percent. Contrast in percent is determined by:

Contrast = $[(B_1 - B_2)/B1]$ x 100

Where B_1 = light reflectance value (LRV) of the lighter area and B_2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

The greatest readability is usually achieved through the use of light-colored characters or symbols on a dark background.

B. *Destination and Route Signs*. The following specifications, which are required for buses (§ 38.39), are recommended for other types of vehicles, particularly light rail vehicles, where appropriate.

1. Where destination or route information is displayed on the exterior of a vehicle, each vehicle should have illuminated signs on the front and boarding side of the vehicle.

2. Characters on signs covered by paragraph IV.B.1 of this appendix should have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front "headsigns," with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and should contrast with the background, either dark-on-light or light-on-dark, or as recommended above.

C. *Designation of Accessible Vehicles*. The International Symbol of Accessibility should be displayed as shown in Figure 6.

V. Public Information Systems

There is currently no requirement that vehicles be equipped with an information system which is capable of providing the same or equivalent information to persons with hearing loss. While the Department of Transportation assesses available and soon-to-be available technology during a study conducted during Fiscal Year 1992, entities are encouraged to employ whatever services, signage or alternative systems or devices that provide equivalent access and are available. Two possible types of devices are visual display systems and listening systems. However, it should be noted that while visual display systems accommodate persons who are deaf or are hearing impaired, assistive listening systems aid only those with a partial loss of hearing.

A. *Visual Display Systems*. Announcements may be provided in a visual format by the use of electronic message boards or video monitors.

Electronic message boards using a light emitting diode (LED) or "flip-dot" display are currently provided in some transit stations and terminals and may be usable in vehicles. These devices may be used to provide real time or pre-programmed messages; however, real time message displays require the availability of an employee for keyboard entry of the information to be announced.

Video monitor systems, such as visual paging systems provided in some airports (e.g., Baltimore-Washington International Airport), are another alternative. The Architectural and Transportation Barriers Compliance Board (Access Board) can provide technical assistance and information on these systems ("Airport TDD Access: Two Case Studies," (1990)).

B. *Assistive Listening Systems*. Assistive listening systems (ALS) are intended to augment standard public address and audio systems by providing signals which can be received directly by persons with special receivers or their own hearing aids and which eliminate or filter background noise. Magnetic induction loops, infra-red and radio frequency systems are types of listening systems which are appropriate for various applications.

An assistive listening system appropriate for transit vehicles, where a group of persons or where the specific individuals are not known in advance, may be different from the system appropriate for a particular individual provided as an auxiliary aid or as part of a reasonable accommodation. The appropriate device for an individual is the type that individual can use, whereas the appropriate system for a station or vehicle will necessarily be geared toward the "average" or aggregate needs of various individuals. Earphone jacks with variable volume controls can benefit only people who have slight hearing loss and do not help people who use hearing aids. At the present time, magnetic induction loops are the most feasible type of listening system for people who use hearing aids equipped with "T-coils", but people without hearing aids or those with hearing aids not equipped with inductive pick-ups cannot use them without special receivers. Radio frequency systems can be extremely effective and inexpensive. People without hearing aids can use them, but people with hearing aids need a special receiver to use them as they are presently designed. If hearing aids had a jack to allow a by-pass of microphones, then radio frequency systems would be suitable for people with and without hearing aids. Some listening systems may be subject to interference from other equipment and feedback from hearing aids of people who are using the systems. Such interference can be controlled by careful engineering design that anticipates feedback sources in the surrounding area.

The Architectural and Transportation Barriers Compliance Board (Access Board) has published a pamphlet on Assistive Listening Systems which lists demonstration centers across the country where technical assistance can be obtained in selecting and installing appropriate systems. The state of New York has also adopted a detailed technical specification which may be useful.

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of adoption of regulation and submission for approval was submitted by the Office of Compliance, U.S. Congress. The notice contains final regulations related to provisions of the Occupational Safety and Health Act of 1970 (Regulations under section 215 of the Congressional Accountability Act of 1995.)

The Congressional Accountability Act requires this notice be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published September 19, 1996, in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing section 215 of the Congressional Accountability Act of 1995 ("CAA").

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540-1999. Telephone: (202) 724-9250. TDD: (202) 426-1912.

SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 ("CAA"), P.L. 104-1, was enacted into law on January 23, 1995. 2 U.S.C. §§1301 *et seq.* In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and employing offices within the legislative branch. Section 215(a) provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970, 29 U.S.C. §654 ("OSHAct"). 2 U.S.C. §1341(a).

Section 215(d) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1341(d). Section 215(d) further states that such regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.* Section 215(d) further provides that the regulations "shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation." *Id.*

On September 19, 1996, the Board published in the Congressional Record a Notice of Proposed Rulemaking ("NPR") (142 Cong. Rec. S11019 (daily ed., Sept. 19, 1996)). In response to the NPR, the Board received four written comments, two of which were from offices within the Legislative Branch and two of which were from labor organizations. After full consideration of the comments received in response to the proposed regulations, the Board has adopted and is submitting these regulations for approval by the Congress pursuant to section 304(c) of the CAA.

I. Summary of Comments and Board's Final Rules

A. Request for additional rulemaking proceedings

One commenter requested that the Board withdraw its proposed regulations and engage in what it terms "investigative rulemaking," a process that apparently is to include discussions with involved parties regarding the nature and scope of the regulations. This commenter expressed the concern that affected parties had not been sufficiently involved in the rulemaking process and have been discouraged from providing meaningful comments. Specifically, the commenter objected to the following actions of the Board: (1) providing a comment period of no more than 30 days; (2) issuing a notice of proposed rulemaking without first issuing an advance notice of proposed rulemaking; (3) issuing proposed regulations under section 215 concurrently with proposed regulations under section 210 and shortly before the Congress had adjourned *sine die;* (4) stating in the NPR that nomenclature and other technical changes were made to the adopted regulations, but not specifically cataloguing each of those changes in the summary of the proposed rules; and (5) not providing a record of consultations between the Office and representatives of the Department of Labor in the NPR.

The Board has considered each of the above concerns and, after careful evaluation of them, has determined that further rulemaking proceedings, with their concomitant costs and delay, are not warranted in this context.

1. The request for an extended comment period and for "investigatory" rulemaking.—The rulemaking procedure employed by the Board in this context is substantially similar to that employed by the Board with respect to every other regulation promulgated thus far under the CAA; and it complies with the required procedures under section 304 of the CAA. Specifically, section 304(b) generally requires the Board to issue a notice of proposed rulemaking and to provide a comment period of at least 30 days. The Board has done so. Nor is there any reason to believe that a significant extension of the comment period beyond 30 days or a resort to alternative forms of rulemaking would result in a different rulemaking comment record, either qualitatively or quantitatively: The Board's rulemaking record includes an extensive report from its General Counsel—a report which itself was prepared on the basis of an extensive investigation by the General Counsel and with the invited participation of all employing offices. In addition, the General Counsel met with representatives of a number of employing offices prior to the inspections, including the Architect of the Capitol, concerning the appropriate standards to be applied to Legislative Branch facilities. Moreover, no commenter claimed an inability in this rulemaking proceeding to adequately present its views through written submissions. Indeed, the only specific request for an extension of the comment period came from this particular commenter, who requested an extension of only one day, which was granted. No request for further time was sought by the commenter or by any other person or organization. Finally, a review of the comments received tends to reinforce the Board's view that an extended comment period, hearings, and/or other additional forms of rulemaking proceedings would only result in the addition to the record of information which would at most duplicate or corroborate the written comments without providing further insight into or elucidation of the issues involved.

2. Failure to issue an Advance Notice of Proposed Rulemaking.—Although not expressly provided for in the Administrative Procedure Act ("APA"), an advance notice of proposed rulemaking ("ANPR") is sometimes used by administrative agencies to seek information from the public to assist in framing a notice of proposed rulemaking and to narrow the issues during the public comment period on the proposed rules ultimately developed. *See, e.g.*, 52 Fed. Reg. 38,794 (1987) (preliminary notice for Medicare anti-kickback regulations). Thus, in prior rulemakings, the Board has sometimes used ANPRs to obtain views regarding interpretation of statutory provisions in the CAA that had not previously been interpreted by the Board and to obtain general information regarding conditions within the Legislative Branch that may bear on rulemaking questions. *See, e.g.*, 141 Cong. Rec. S14542 (daily ed. Sept. 28, 1995) (ANPR seeking information regarding, *inter alia*, the standard for determining whether and to what extent regulations under the CAA should be modified for "good cause;" whether regulations imposing notice posting and recordkeeping requirements are included within the CAA; whether certain regulations constituted "substantive regulations;" and whether the concept of "joint employer status" is applicable under the CAA). From these prior rulemaking proceedings, the Board has developed a body of interpretations of the CAA upon which it has drawn in developing the proposed rules in this rulemaking.

In contrast to those earlier rulemaking proceedings, here no ANPR was necessary or appropriate. Both the Board and its statutory appointees have now had over a year's experience in addressing regulatory issues governing the Legislative Branch and have collected a body of institutional knowledge and experience that makes the open-ended information gathering techniques such as an ANPR less needed. Indeed, the rulemaking experience under the CAA over the last year has shown that ANPRs have become less useful over time. For example, although the Board received twelve separate responses to the first ANPR that it issued in September of 1995, the most recent ANPR issued by the Board, regarding rulemaking under section 220(e), elicited only 2 comments directed to section 220(e), neither of which addressed the precise questions posed by the Board in that ANPR. *See* 142 Cong. Rec. S5552 (daily ed. May 23, 1996) (NPR regarding section 220(e)). And, in this context, there is no reason to believe that further comments beyond those received in response to the NPR would have been received had an ANPR been issued.

More to the point, there is no reason to believe that procedures other than the traditional notice-and-comment procedures outlined in section 304 of the CAA would develop any further useful information in the context of rulemaking under section 215 especially given the information already gathered by the Office regarding these issues. Among other things, the General Counsel has conducted an inspection of all facilities within the Legislative Branch for compliance with health and safety standards under sections 215 and disability access standards under section 210, utilizing as guidelines standards that were in a form virtually identical to the regulations which the Board has proposed. The General Counsel also sent detailed inspection questionnaires to each Member of the House of Representatives and to each Member of the Senate regarding compliance with health and safety and disability access standards in District and Home State offices. The General Counsel's reports regarding compliance issues under sections 210 and 215 of the CAA were submitted June 28, 1996 and detailed the application of safety and health and disability regulations to conditions within the legislative branch. Copies of those reports were delivered in July 1996 to each Senator and Representative, to each committee of Congress, and to representatives of every other employing office in the Legislative Branch, including the commenter. No comments were received from anyone concerning the appropriateness of applying any such regulations to Legislative Branch offices, and the commenter has not provided any here.

Where, as here, an ANPR would not likely result in receipt of additional useful information to develop a proposed rule, there is also the concern that its use might be viewed as evidence of procrastination in the face of an obligation to proceed quickly with important rulemaking activity. *Cf. United Steelworkers of America* v. *Pendergrass*, 819 F.2d 1263, 1268 (3d Cir. 1987) (challenge to OSHA's failure to issue revised rule on hazard communication in response to court remand; court was extremely critical of OSHA having published an ANPR to supplement original record); Administrative Conference of the United States Recommendation No. 87-10, "Regulation by the Occupational Safety and Health Administration," *published at* 1 C.F.R. §305.87-10, ¶3(e) (1989) (recommending that agency should not routinely use ANPR's as an information-gathering technique and that they should be used only when information not otherwise available to the agency "is likely to be forthcoming" in response to the ANPR). This is particularly true where, as here, the Office of Compliance, through the General Counsel, has already gathered a considerable body of experience and information regarding the conditions of operations and facilities within the Legislative Branch and how the regulations proposed by the Board would likely affect those operations and facilities. Nothing has been offered by any commenter to suggest a new area of inquiry or information which was not considered by the Board in the NPR that might affect the Board's decision regarding any of the regulatory matters contained in the NPR. In the absence of any such showing, additional rulemaking proceedings are neither required nor desirable.

3. The timing of the notice of proposed rulemaking.—The commenter's argument regarding the timing of the issuance of the regulations also does not require additional rulemaking proceedings.

Despite the commenter's suggestion to the contrary, there is nothing unusual or unprecedented about the Board issuing simultaneously two notices of proposed rulemaking implementing two separate sections of the CAA. For example, on November 28, 1995, the Board issued concurrent notices of proposed rulemaking to implement the rights and protections of *five* major sections of the CAA: sections 202 (Family and Medical Leave Act), 203 (Fair Labor Standards Act), 204 (Employee Polygraph Protection Act), and 205 (Worker Adjustment Retraining and Notification Act). *See, e.g.*, 141 Cong. Rec. S17627-S17652, S17603-27, S17656-64, S17652-56 (daily ed., Nov. 28, 1995). The volume of regulations covered by those five notices (and the collective complexity and diversity of the legal and interpretative rulemaking issues involved in promulgating those five sets of proposed regulations) was significantly greater than the proposed regulations at issue here and those proposed under section 210. The commenter has not shown that there is anything about the nature and extent of the regulations in the current rulemaking proceedings that has impeded the ability of any commenter to provide useful and comprehensive comments.

Similarly, the timing of the issuance of proposed regulations here was not only appropriate, but it also was necessary. Sections 210 and 215 of the CAA become effective on January 1, 1997, a date which was set by the CAA , not by the Board. The proposed regulations were developed and issued as soon as practicable given, *inter alia*, the need of the Board and all interested persons to first have the benefit of the General Counsel's investigation and reports and the need to first complete rulemaking on sections of the CAA that contained earlier effective dates, such as sections 203-207 (effective January 23, 1996) and section 220 (effective October 1, 1996). The proposed regulations were issued when they were in order to afford commenters the earliest practical opportunity to comment on the proposed regulations so that final regulations could be adopted by the Board before the effective date of section 215 of the CAA.

The schedule of Congress cannot be a determinative factor for the Board in deciding when to issue proposed regulations. The CAA applies whether the Congress is in session or not; and the CAA imposes deadlines that must be met whether the Congress is in session or not. The session of Congress is relevant to the date of publication of regulations, which is why the Board submitted the NPR to the Congress prior to adjournment *sine die*, so that the NPR could be published (in accordance with section 304(1) of the CAA) for comment prior to January 1, 1997. The rights and protections of the CAA continue while Congress is in recess, and the CAA requires that employing offices and Members meet their obligations whether Congress is in session or not.

4. Technical and nomenclature changes.—As with prior rulemakings, the Board has proposed to make technical and nomenclature changes to make the language of the adopted regulations fit more naturally to situations arising within the Legislative Branch. *See, e.g.*, 142 Cong. Rec. at S225 (daily ed. Jan. 22, 1996) (final regulations regarding section 203 of the CAA). However, the Board has made clear that such changes are not intended to affect a substantive change in the regulations. *Id.* Examples of such changes include the following substitutions: "employing office" for "employer," "covered employee" for "employee," definitions of "employing office" (including the list of offices set forth in the CAA) for the definition of "employer," and deleting provisions regarding interstate commerce as a basis for jurisdiction (which is not a requirement of the CAA).

The Board disagrees with the commenter's argument that failing to catalogue each of these changes in the preamble somehow hinders commenters' ability to provide effective comments regarding the proposed regulations. Where significant changes in the substance of the regulations have been proposed, such changes have been summarized and discussed in the preamble to the proposed regulations. However, as in past notices of proposed rulemaking, the Board has generally described the nature of proposed technical and nomenclature changes and has made clear that such changes are not intended to effect a significant or substantive change in the nature of the regulations adopted. Moreover, the complete text of the proposed regulations, including technical and nomenclature changes, has been made available for review as part of the NPR. It is the responsibility of commenters to review and comment on these matters; while the Board desires reasonably to assist this process, it cannot do the commenters' work; and there is absolutely no reason to delay rulemaking on this basis.

5. Record of comments and public meetings.—Finally, the Board rejects the suggestion that it publish a summary of the discussions that have occurred between the Office and representatives of the Secretary of Labor and other agencies. Those discussions have not been with members of the Board; and the public record is solely for matters presented to the Board by outside persons. General discussions with outside persons by staff of the Office of Compliance are not properly part of that record; nor are discussions between staff and the Board properly part of that record. There is no legal basis or precedent for making such discussions part of the record; and to do so would improperly chill inter-agency and intra-agency deliberations and communications.

B. Regulations that the Board proposed to adopt

1. Substantive health and safety standards at Parts 1910 and 1926, 29 CFR.—In the NPR, the Board proposed that otherwise applicable health and safety standards of the Secretary's regulations published at Parts 1910 and 1926 of Title 29 of the Code of Federal Regulations ("29 CFR") be adopted with only limited modifications. All commenters agreed in general with the Board's proposal.

2. Recordkeeping requirements contained in substantive health and safety standards of Parts 1910 and 1926.—The Board further proposed to include within its regulations recordkeeping requirements contained in the substantive health and safety standards of Parts 1910 and 1926, 29 CFR. One commenter took issue with this decision, arguing that adoption of such requirements is contrary to the intent of the CAA. The Board disagrees.

Section 215(d)(2) provides that the Board regulations shall be "the same as" the regulations of the Secretary implementing the health and safety standards of section 5 of the OSHAct. Where, as here, a recordkeeping or posting requirement is expressly contained in and inextricably intertwined with a substantive health and safety standard, the Board is required to adopt the standard as written under section 215(d)(2), unless there is good cause to believe that not including the recordkeeping or posting requirement would be "more effective for the implementation of the rights and protections" under section 215. In contrast to the general recordkeeping regulations that implement section 8(c) of the OSHAct (discussed at section I.C.2., *infra*), adoption of the health and safety standards, including those specific recordkeeping requirements that are part and parcel of such standards, is authorized (if not compelled) by section 215(d)(2).

The commenter does not offer any basis for concluding that excluding such recordkeeping or posting requirements would be "more effective" for implementing the rights and protections of the health and safety standard at issue. On the contrary, there is every reason to believe that the substantive health and safety protections contained in subpart Z of Part 1910, such as the rules relating to employee exposure, would be less effective without a requirement that employing offices document such exposure.

C. Regulations that the Board proposes not to adopt

1. Rules of procedure for variances, procedure regarding inspections, citations, and notices.—The Board proposed not to adopt as regulations under section 215(d) provisions of the Secretary's regulations that did not constitute health and safety standards and/or were not promulgated to implement the provisions of section 5 of the OSHAct. 142 Cong. Rec. at S11020. In doing so, the Board noted that, with respect to those regulations that dealt with procedures of the Office, the Executive Director might, where appropriate, decide to propose comparable provisions pursuant to a rulemaking undertaken in accordance with section 303 of the CAA.

All four commenters took issue with the Board's decision. Two commenters argued that, because sections 8, 9 and 10 of the OSHAct (which include provisions governing variances and the procedure for inspections, citations, and penalties) are referenced in section 215(c) of the CAA, the Secretary's regulations implementing those sections (Parts 1903 and 1905, 29 CFR) are within the Board's mandatory rulemaking authority under section 215(d)(2). These commenters characterized the Board's decision as a refusal to adopt the variance, citations, and inspections regulations because they are "procedural" as opposed to "substantive" regulations, which the commenters believe is inconsistent with the Board's resolution of a similar issue in the context of the Board's section 220 regulations. *See* 142 Cong. Rec. at S5072 (daily ed. May 15, 1996) (NPR regarding section 220) (procedural rules "can in fact be substantive regulations" and the fact that the "regulations may arguably be procedural in content is, in the Board's view, not a legally sufficient reason for not viewing them as 'substantive' regulations."). Two other commenters argued that regulations covering the subject of variances, citations, and similar other matters cannot be issued as rules governing the procedures of the Office under section 303 of the CAA, because to do so would improperly circumvent Congress' ability to review and pass on substantive regulations prior to their implementation (since section 303 regulations require no congressional approval). A third commenter argued that rules regarding variances, inspections, and citations should be issued by the Board as substantive regulations, rather than by the Executive Director under section 303 of the CAA; however, this commenter did not offer a legal basis for this argument. Finally, a fourth commenter argued that the Part 1903 regulations should be issued as part of the current rulemaking, regardless whether they are issued as substantive regulations under section 215(d)(2) of the CAA or as procedures of the Office under section 303 of the CAA.

After carefully considering these various comments, the Board has again determined that it would not be legally appropriate to adopt the Secretary's regulations at Parts 1903 and 1905, 29 CFR, as regulations under section 215(d)(2). Contrary to the commenters' characterization, the Board excluded Parts 1903 and 1905 from the proposed regulations, not because they were "procedural" as opposed to "substantive," but because they were not within the scope of the Board's rulemaking authority under section 215(d)(2) of the CAA. Section 215(d)(2) provides that the regulations issued by the Board to implement section 215 "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement *the statutory provisions referred to in subsection (a)* [of section 215]," except for modification of those regulations for "good cause." The only "statutory provision[] referred to in subsection (a)" of section 215 is section 5 of the OSHAct, which sets forth the substantive health and safety standards applicable to employers. Thus, only the regulations of the Secretary that implement the substantive health and safety standards of section 5 of the OSHAct are within the scope of the Board's rulemaking authority under section 215(d)(2). Because the Secretary's health and safety standards contained in Parts 1910 and 1926 implement section 5 of the OSHAct, such regulations may be included within the proposed regulations; but the Secretary's regulations regarding variance procedures, inspections, citations and notices, set forth at Parts 1903 and 1904, were promulgated to implement sections 8, 9, and 10 of the OSHAct, statutory provisions which are not "referred to in subsection (a)" of section 215. Thus, the plain language of section 215(d)(2) excludes such regulations from the scope of the Board's rulemaking mandate under section 215(d)(2).

The commenters apparently read section 215(d)(2)'s requirement that the Board's regulations be "the same as substantive regulations promulgated by the Secretary of Labor" as including any regulation promulgated by the Secretary to implement *any* provision of the OSHAct referred to in *any* subsection of section 215, including subsection (c). But the Board may not properly ignore the requirement of section 215(d)(2) that the regulations be promulgated "to implement the statutory provisions referred to in subsection (a)." To do so would violate the cardinal rule of statutory construction that a statute should not be read as rendering any word or phrase therein mere surplusage. *See Babbitt* v. *Sweet Home Ch. of Commun. for Greater Or.*, 115 S.Ct. 2407, 2413 (1995).

The only way in which regulations implementing provisions of the OSHAct referred to in subsection (c) could be considered within the scope of regulations under section 215(d)(2) would be by speculating that Congress' specific reference to subsection (a) was inadvertent. However, such "[s]peculation loses, for the more natural reading of the statute's text, which would give effect to all of its provisions, always prevails over a mere suggestion to disregard or ignore duly created law as legislative oversight." *United Food and Commercial Workers* v. *Brown Group, Inc.*, 116 S.Ct. 1529, 1533 (1996).

Furthermore, because section 215(c) sets forth a detailed enforcement procedure which is significantly different from the procedures of the OSHAct, it is doubtful that the drafters intended to include regulations implementing OSHAct enforcement procedures as part of the Board's rulemaking under section 215(c)(2). Instead, given the significant differences between the two statutory enforcement provisions, it is reasonable to conclude that Congress did not intend the Board to presume that the regulations regarding such procedures should be "the same" as the Secretary's procedures, as they generally must be if they fell within the Board's substantive rulemaking authority under section 215(d)(2). Thus, the commenters' interpretation is not supported by either the text or the legislative history of section 215.[1]

For this reason, the Board must also reject the commenter's suggestion that it "modify" the proposed regulations to include the Secretary's Part 1903 and 1904 regulations. The Board cannot adopt as a "modification" regulations that are not within the scope of section 215(d)(2). *See* 141 Cong. Rec. S17603, 17604 (daily ed. Nov. 28, 1995) ("Because the Board's authority to modify the Secretary's regulations for 'good cause' does not authorize it to adopt regulatory requirements that are the equivalent of statutory requirements that Congress has omitted from the CAA * * * "); *see also MCI Telecommunications* v. *American Tel. & Tel.*, 114 S.Ct. 2223, 2230 (1994) (FCC's statutory authority to "modify any requirement" under section of tariff statute did not authorize FCC to make basic and fundamental changes in regulatory scheme; term "modify" connotes moderate or incremental change in existing requirements).

2. General recordkeeping requirements.—In the NPR, the Board proposed not to adopt regulations implementing the general recordkeeping requirements of section 8(c) of the OSHAct. The Board determined that section 8(c) of the OSHAct is neither a part of the rights and protections of section 5 of the OSHAct nor a substantive health and safety standard referred to therein. Thus, regulations promulgated by the Secretary to implement the recordkeeping requirements are not within the scope of the Board's rulemaking under section 215(d)(2).

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[1] Even under the commenters' narrow reading of section 215(d)(2), Part 1905 (rules of practice and procedure relating to variances) is not a "substantive regulation." Part 1905 was issued by the Secretary as a "rule of agency procedures and practice" and thus was not promulgated after notice and comment. *See* 36 Fed. Reg. 12,290 (June 30, 1971) ("The rules of practice [Part 1905] shall be effective upon publication in the Federal Register (6-30-71).").

Two commenters asked the Board to reconsider this decision and to issue regulations implementing section 8(c) of the OSHAct. The Board has considered these comments and finds no new arguments or statutory evidence therein to support a change in the Board's original conclusion. The arguments offered by the commenters were substantially the same as those that were considered and rejected by the Board in an earlier rulemaking on an essentially identical issue. *See* 141 Cong. Rec. S17603, 17604 (daily ed. Nov. 28, 1995) (resolving identical issue in the context of rulemaking under section 203 of the CAA).

D. Method for identifying responsible employing office

In section 1.106 of the proposed regulations, the Board set forth a method for identifying the employing office responsible for correction of a particular violation. Under proposed section 1.106, correction of a violation of section 215(a) "is the responsibility of any employing office that is a creating employing office, a controlling employing office, and/or a correcting employing office, as defined by this section, to the extent that the employing office is in a position to correct or abate the hazard or to ensure its correction or abatement."

1. General comments regarding section 1.106.—One commenter argued that section 1.106 should be significantly revised or a different method developed by the Board because: (1) the definitions of "creating," "exposing," "controlling," and "correcting" employer are allegedly vague and confusing and give insufficient guidance to employing offices regarding their responsibilities; and (2) section 1.106 contemplates the possibility that more than one employing office may be held responsible for correcting a violation, which is said to be contrary to section 215 (which the commenter argues prohibits the imposition of joint responsibility) and, assuming that more than one employing office may properly be held responsible under section 1.106, the Board should provide a mechanism for allocating joint responsibility among multiple offices. The Board has considered each of these arguments and, as explained below, finds no reason to depart substantially from the proposed regulations as issued.

a. Definition of "creating," "exposing," "controlling," and "correcting" employing office.—The commenter argued that the definitions of "creating," "exposing," "controlling," and "correcting" employing office are vague and confusing because allegedly "they do little more than imply that an employing office can be responsible in almost all situations" and allegedly do not give any more guidance on this issue than before the proposed regulations were submitted. However, the commenter has not explained how the provisions of proposed section 1.106 can fairly be seen as vague or confusing. To be sure, proposed section 1.106 states general principles that will need to be applied in the context of actual factual situations by the General Counsel and, ultimately, by the Board. But this is the case with almost every rule of law, whether stated in a statute, a regulation, or a judicial decision. The fact that the text of a regulation on its face does not purport to provide a clear answer to every hypothetical question that may be posed by a party is not a reason to deem a regulation to be unclear. In the course of individual cases before the General Counsel and ultimately the Board, application of these rules will be made to specific situations. Without further elaboration by the commenter as to the nature of the purported ambiguity, there is no reason to believe that further clarification or elaboration in section 1.106 is needed.

b. Joint responsibility.—The commenter argued that section 1.106 authorizes assigning correction responsibility to more than one employing office, which it said to be is contrary to the CAA. In support of its argument, the commenter seized upon the provisions of section 215(d)(3), which direct the Board to develop a method for identifying "the employing office, not employing offices," and section 415, which states that funds to correct violations may be paid only from funds appropriated "to the employing office or entity responsible for correcting such violations." (emphasis in original of comment). According to the commenter, these provisions establish a statutory prohibition on the imposition of "joint" responsibility for section 215 violations. Again, the Board disagrees.

First, it is an elementary rule of statutory construction that reference to persons or parties in statutory language stated in the singular is presumed to include the plural. *See, e.g.*, 1 U.S.C. §1 ("In determining the meaning of any Act of Congress, unless the context indicates otherwise—words importing the singular include and apply to several persons, parties, or things").

Second, nothing in the language of section 215 suggests that the General Counsel and the Board must determine *the* (e.g., "sole") employing office responsible for correction. On the contrary, the language of section 215, including other subsections not cited by the commenter, suggests that more than one office may have responsibilities for the safety and health of a covered employee. For example, by applying section 5 of the OSHAct, section 215(a) of the CAA imposes a duty on each employing office to provide to its employees employment and a place of employment free of recognized hazards. Section 215(a) makes clear that other entities (in addition to the employing office) may also have a duty to those employees regarding such hazards "irrespective of whether the entity has an employment relationship" with that employee. Section 215(a)(2)(C). *See also* subsection (c)(2) (A) and (B) (authorizing the General Counsel to issue a citation or notice to "*any* employing office responsible for correcting a violation") (emphasis added).

Third, adoption of a rule that requires the General Counsel in an investigatory proceeding or the hearing officer and/or the Board in an adjudicatory proceeding to determine a single employing office responsible for correction of a violation would be unworkable (and in some cases impossible to apply) and would be inconsistent with similar principles applied under the OSHAct. In the private sector, where a single employer controls the working conditions and working environment of the employees, that employer is solely accountable under the OSHAct for providing safe working conditions for its employees. Similarly, in situations under section 215 of the CAA where the alleged violation involves a one-employing office workplace that is under the sole authority and jurisdiction of that office, section 1.106 would not be needed to resolve the issue of responsibility for correction. However, as the Board noted in NPR, the vast majority of workplaces in the Legislative Branch are not conventional, one-employing office workplaces. Instead, there are a number of employing offices and entities (including, but not limited to, the Architect of the Capitol, the Sergeants-At-Arms, the Chief Administrative Officer of the House, Senate and House committees, and individual Members) that have varying degrees of actual or apparent jurisdiction, authority, and responsibility for the physical location in which the violation occurred and, therefore, for correction of violations. Section 1.106 is needed to address such situations; and it can workably do so only by imposing responsibility on several covered entities.

In private sector worksites where the working environment is controlled by more than one employer, such as in construction or other activities involving subcontractors, OSHA's longstanding policy has been to hold multiple employers responsible for the correction of workplace hazards in appropriate cases. Thus, when safety or health hazards occur on multi-employer worksites in the private sector, OSHA will issue citations not only to the employer whose employees were exposed to the violation, but also to other employers, such as general contractors or host employers, who can reasonably be expected to have identified or corrected the hazard by virtue of their supervisory role over the worksite. See OSHA Field Inspection Reference manual ("FIRM"), OSHA Instruction CPL 2.103 at III–28,29 (1994). This multi-employer policy does not confer special burdens on these superintending employers, but merely recognizes that employers with overall administrative responsibility for an ongoing project or worksite are responsible under the OSHAct for taking reasonable steps to correct the violation, or to require correction of hazards to the extent of their authority and/or responsibility. There is no legal basis for excusing employing offices under the CAA from similar responsibilities.

As noted in the NPR, the employing office's responsibility for correction is only to the extent that it is "in a position to correct or abate the hazard or to ensure its correction or abatement." In addition, the duties of the employing office under section 1.106 are no more than to exercise the power or authority that it may possess, singularly or together with other employing offices, to ensure the correction of the hazard. The Board finds no compelling reason to reconsider this rule.

The Board also declines the commenter's suggestion that it adopt rules allocating responsibility in what it characterizes as "joint" liability situations. Contrary to the commenter's assumption, the responsibility under section 1.106 is not "joint" but "several." That is, the employing office is only responsible to the extent that it is a "creating," "exposing," "controlling," and/or "correcting" employing office and to the extent that it is "in a position to correct or abate the hazard or to ensure its correction or abatement." Thus, if the facts establish that a particular employing office only "exposed" its employees to a hazard (but did not create the hazard or have control over the workspace involved), that employing office discharges its responsibility (and abates its "share" of a citation) by ceasing the activity that exposes its employees to the hazard (by not sending its employees to the area, providing personal protective equipment, etc.). Even though the "exposing" employing office has discharged its responsibility (and is, therefore, no longer a "responsible employing office" with respect to that violation), the "violation" at that worksite is not abated until the condition creating the hazard is eliminated. In most cases, that responsibility will be assigned to the "correcting" employing office. However, in some cases, the "controlling" employing office (the one with legal authority to control the area) may be a different office than the "correcting" employing office and, therefore, may need to be a party to any proceeding so that complete relief can be granted by the hearing officer to ensure correction of the violation.

For all of the above reasons, the Board will adopt section 1.106, as modified below, as part of its final regulations.

2. Recommended modifications to section 1.106(c).—One commenter took issue with the following portion of section 1.106(c):

"In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitute a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, the employing office is in violation if, and only if, it permits its employees to utilize such equipment or facilities."

According to the commenter, this statement fails to recognize the affirmative defense to a violation in situations involving multi-employer worksites where the cited employer does not have the ability to recognize or abate the offending condition or has taken reasonable alternative measures to protect its employees from the hazard. *See Anning Johnson Co.* v. *OSHRC*, 516 F.2d 1081 (7th Cir. 1975). The Board agrees with the commenter that employing offices should have the benefit of this affirmative defense in such a situation. Accordingly, the Board will incorporate the commenter's suggested language (which has been modified to conform to the elements of the multi-employer affirmative defense). As amended, the passage in section 1.106(c) will be revised to read as follows:

"In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitute a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, an employing office that did not create or control a violation may avoid liability if, and only if, it proves either that it took reasonable alternative measures to protect its employees against the hazard or that it lacked sufficient expertise to recognize that the equipment or facilities did not meet applicable health and safety standards or otherwise constituted a violation of section 215(a)."

E. Future changes in text of health and safety standards

The commenters generally agreed with the Board's proposed approach regarding changes in the substantive health and safety standards. However, two commenters suggested that the Board expressly state the manner and frequency with and by which it plans to submit changes in substantive rules, and the manner and frequency with and by which the Office will advise employees and employing offices of changes to external documents.

As stated in the NPR, the Board will make any changes in the substantive health and safety standards under the rulemaking procedures of section 304 of the CAA. Those changes will be made as frequently as needed. It is impossible for the Board to establish a pre-set schedule under which as yet unanticipated and unknown changes will be made. Similarly, the frequency by which the Office may issue information to employing offices and employing offices regarding the requirements of the CAA will be based on the appropriate professional judgment of the Office and its statutory appointees in the particular circumstances that issues arise; it cannot be specified in advance.

F. Comments on specific provisions

1. Specific standards of Part 1910 incorporated by reference.—One commenter recommended that the Board not adopt the following provisions that were included within the proposed regulations, which the commenter contended are inapplicable to operations of the Legislative Branch: 1910.104 (relating to installation of bulk oxygen systems), 1910.216 (relating to mills and calenders in the rubber and plastics industries), and 1910.266 (relating to logging operations). Upon further consideration, the Board will delete these provisions from its final regulations, as recommended by the commenter.

This commenter also recommended that the Board exclude from the final regulations sections 1910.263 (safety and health standards relating "to the design, installation, operation and maintenance of machinery and equipment used in a bakery"), and section 1910.264 (standards relating to "laundry machinery and operations"). Because the terms "bakery" and "laundry" are not defined in the regulations, it is not clear that these sections are inapplicable to conditions or facilities within the Legislative Branch. Accordingly, out of an abundance of caution, the Board will retain sections 1910.263 and 1910.264 in the final regulations.

Finally, for the reasons set forth in section I.B.2, *supra*, the Board declines the commenter's suggestion that sections 1910.1020 (access to employee exposure and medical records) and 1910.1200 (hazard communication) not be included within the Board's final regulations because they may require employing offices to make or maintain records to meet these substantive health and safety standards.

2. Section 1.104 (Notice of protection).—Two commenters argued that proposed section 1.104 should be deleted since they fear that the section may be interpreted as a notice posting or recordkeeping "requirement." On the contrary, section 1.104 merely provides that, consistent with section 301(h) of the CAA, the Office will make information regarding the CAA available to employing offices in a manner suitable for posting. This identical provision has been included in prior regulations promulgated by the Board and approved by Congress. *See, e.g.*, Final Rules Under Section 204 of the CAA, section 1.6, 141 Cong. Rec. at S265 (daily ed. Jan. 22, 1996).

3. Sections 1.102 (Definition of "covered employee") and 1.105 (Authority of the Board).—Two commenters took issue with the Board's inclusion of proposed sections 1.102 (defining "covered employee") and 1.105 (stating the Board's authority to promulgate regulations under the CAA) because they contend that such provisions are inconsistent with the CAA and/or not needed. The Board is satisfied that these sections are consistent with the CAA and will be retained. As with proposed section 1.104, proposed sections 1.102 and 1.105 have been included in several prior regulations promulgated by the Board and approved by Congress. *See, e.g.*, Final Rules regarding section 203 of the CAA, sections 501.102, 501.104, 141 Cong. Rec. at S226; Final Rules regarding section 204 of the CAA, sections 1.2 and 1.7, 141 Cong. Rec. at S264-65.

4. Section 1900.1 (Purpose and Scope).—Proposed section 1900.1 sets forth the purpose and scope of the Board's adoption of the occupational safety and health standards of Parts 1910 and 1926, 29 CFR. Subsection (b) makes clear that only the substantive health and safety standards of Parts 1910 and 1926 are adopted by reference and that other materials not relating to health and safety standards are not adopted. One commenter requested further clarification because, in the commenter's view, "there is no indication of what is 'excluded'" by the reference. On the contrary, section 1900.1(b) gives an illustration of the types of material not adopted by reference: rules that relate to laws such as the Construction Safety Act, but have no relation to the OSHAct; and statements or references to the duties and/or authorities of the Assistant Secretary of Labor (since such authorities are assigned by the CAA to the General Counsel). In the Board's view, section 1900.1 adequately describes the scope of its incorporation of standards under Parts 1910 and 1926.

G. Technical and nomenclature changes

Two commenters have requested that the Board list the technical and nomenclature changes that it has made to the adopted regulations. Since the Board does not intend by the changes to effect a substantive change in the meaning of the adopted regulations, it is unclear what purpose, if any, would be served by such a list. The regulations adequately set forth the extent of such technical and nomenclature changes. Proposed section 1900.2 states that, except where inconsistent with the definitions, provisions regarding scope, application and coverage, and exemptions provided in the CAA or other sections of these regulations, the definitions, provisions regarding scope, application and coverage, and exemptions provided in Parts 1910 and 1926, 29 CFR, as incorporated into these regulations, shall apply under these regulations. For example, any reference to "employer" in Parts 1910 and 1926 shall be deemed to refer to "employing office." The commenter identified a number of other miscellaneous statements in the NPR and the proposed rules therein that it contends are vague and ambiguous or misleading, and/or inconsistent with its reading of the CAA, for which the commenter suggests technical corrections and clarifications. The Board has considered all of these suggestions and, as appropriate, has adopted them.

II. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

Signed at Washington, D.C. on this 20th day of December, 1996.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress the following regulations:

ADOPTED REGULATIONS

APPLICATION OF RIGHTS AND PROTECTIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (SECTION 215 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 215 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Sec.

1.101 Purpose and scope
1.102 Definitions
1.103 Coverage
1.104 Notice of protection
1.105 Authority of the Board
1.106 Method for identifying the entity responsible for correction of violations of section 215

§1.101 Purpose and scope.

(a) *Section 215 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the Legislative Branch. Section 215(a) of the CAA provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 ("OSHAct"), 29 U.S.C. §654. Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees, and a specific duty to comply with occupational safety and health standards promulgated under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders which are applicable to their actions and conduct. Set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA.

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1 and 1900) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 215, including the method of identifying entities responsible for correcting a violation of section 215. Part 1900 contains the substantive safety and health standards which the Board has adopted as substantive regulations under section 215(e).

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act or CAA* means the Congressional Accountability Act of 1995 (Pub.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. §§651, et seq.), as applied to covered employees and employing offices by Section 215 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) The term *employing office* includes any of the following entities that is responsible for correction of a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such violation occurs: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(k) *Board* means the Board of Directors of the Office of Compliance.

(l) *Office* means the Office of Compliance.

(m) *General Counsel* means the General Counsel of the Office of Compliance.

§1.103 Coverage.

The coverage of Section 215 of the CAA extends to any "covered employee." It also extends to any "covered employing office," which includes any of the following entities that is responsible for correcting a violation of section 215 (as determined under section 1.106), irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

§1.104 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 215 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§1.105 Authority of the Board.

Pursuant to section 215 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of section 215(a). Section 215(d) of the CAA directs the Board to promulgate regulations implementing section 215 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1341(d). The regulations issued by the Board herein are on all matters for which section 215 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 215 of the CAA]" that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§1.106 Method for identifying the entity responsible for correction of violations of section 215.

(a) *Purpose and scope.* Section 215(d)(3) of the CAA provides that regulations under section 215(d) include a method of identifying, for purposes of this section and for categories of violations of section 215(a), the employing office responsible for correcting a particular violation. This section sets forth the method for identifying responsible employing offices for the purpose of allocating responsibility for correcting violations of section 215(a) of the CAA. These rules apply to the General Counsel in the exercise of his authority to issue citations or notices to employing offices under sections 215(c)(2)(A) and (B), and to the Office and the Board in the adjudication of complaints under section 215(c)(3).

(b) *Employing Office(s) Responsible for Correcting a Violation of Section 215(a) of the CAA.* With respect to the safety and health standards and other obligations imposed upon employing offices under section 215(a) of the CAA, correction of a violation of section

215(a) is the responsibility of any employing office that is an exposing employing office, a creating employing office, a controlling employing office, and/or a correcting employing office, as defined in this subsection, to the extent that the employing office is in a position to correct or abate the hazard or to ensure its correction or abatement.

(i) *Creating employing office* means the employing office that actually created the hazard forming the basis of the violation or violations of section 215(a).

(ii) *Exposing employing office* means the employing office whose employees are exposed to the hazard forming the basis of the violation or violations of section 215(a).

(iii) *Controlling employing office* means the employing office that is responsible, by agreement or legal authority or through actual practice, for safety and health conditions in the location where the hazard forming the basis for the violation or violations of section 215(a) occurred.

(iv) *Correcting employing office* means the employing office that has the responsibility for actually performing (or the authority or power to order or arrange for) the work necessary to correct or abate the hazard forming the basis of the violation or violations of section 215(a).

(c) *Exposing Employing Office Duties.* Employing offices have direct responsibility for the safety and health of their own employees and are required to instruct them about the hazards that might be encountered, including what protective measures to use. An employing office may not contract away these legal duties to its employees or its ultimate responsibilities under section 215(a) of the CAA by requiring another party or entity to perform them. In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitutes a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, an employing office that did not create or control a violation may avoid liability if, and only if, it proves either that it took reasonable alternative measures to protect its employees against the hazard or that it lacked sufficient expertise to recognize that the equipment or facilities did not meet applicable health and safety standards or otherwise constituted a violation of section 215(a). It is not the responsibility of an employing office to effect the correction of any such deficiencies itself, but this does not relieve it of its duty to use only equipment or facilities that meet the requirements of section 215(a).

PART 1900—ADOPTION OF OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Sec.
1900.1 Purpose and scope
1900.2 Definitions; provisions regarding scope, applicability, and coverage; and exemptions
1900.3 Adoption of occupational safety and health standards

§1900.1 Purpose and scope.

(a) The provisions of this subpart B adopt and extend the applicability of occupational safety and health standards established and promulgated by the Occupational Safety and Health Administration ("OSHA") and set forth at Parts 1910 and 1926 of title 29 of the Code of Federal Regulations, with respect to every employing office, employee, and employment covered by section 215 of the Congressional Accountability Act.

(b) It bears emphasis that only standards (i.e., substantive rules) relating to safety or health are adopted by any incorporations by reference of standards prescribed in this Part. Other materials contained in the referenced parts are not adopted. Illustrations of the types of materials which are not adopted are these. The incorporation by reference of part 1926, 29 CFR, is not intended to include references to interpretative rules having relevance to the application of the Construction Safety Act, but having no relevance to the Occupational Safety and Health Act. Similarly, the incorporation by reference of part 1910, 29 CFR, is not intended to include any reference to the Assistant Secretary of Labor and the authorities of the Assistant Secretary. The authority to adopt, promulgate, and amend or revoke standards applicable to covered employment under the CAA rests with the Board of Directors of the Office of Compliance pursuant to sections 215(d) and 304 of the CAA. Notwithstanding anything to the contrary contained in the incorporated standards, the exclusive means for enforcement of these standards with respect to covered employment are the procedures and remedies provided for in section 215 of the CAA.

(c) This part incorporates the referenced safety and health standards in effect as of the effective date of these regulations.

§1900.2 Definitions, provisions regarding scope, applicability and coverage, and exemptions.

(a) Except where inconsistent with the definitions, provisions regarding scope, application and coverage, and exemptions provided in the CAA or other sections of these regulations, the definitions, provisions regarding scope, application and coverage, and exemptions provided in Parts 1910 and 1926, 29 CFR, as incorporated into these regulations, shall apply under these regulations. For example, any reference to "employer" in Parts 1910 and 1926 shall be deemed to refer to "employing office." Similarly, any limitation on coverage in Parts 1910 and 1926 to employers engaged "in a business that affects commerce" shall not apply in these regulations.

(b) The provisions of section 1910.6, 29 CFR, regarding the force and effect of standards of agencies of the U.S. Government and organizations that are not agencies of the U.S. Government, which are incorporated by reference in Part 1910, shall apply to the standards incorporated into these regulations.

(c) It is the Board's intent that the standards adopted in these regulations shall have the same force and effect as applied to covered employing offices and employees under section 215 of the CAA as those standards have when applied by OSHA to employers, employees, and places of employment under the jurisdiction of OSHA and the OSHAct.

§1900.3 Adoption of occupational safety and health standards.

(a) *Part 1910 Standards.* The standards prescribed in 29 CFR part 1910, Subparts B through S, and Subpart Z, as specifically referenced and set forth herein at Appendix A, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(b) *Part 1926 Standards.* The standards prescribed in 29 CFR part 1926, Subparts C through X and Subpart Z, as specifically referenced and forth herein at Appendix B, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(c) *Standards not adopted.* This section adopts as occupational safety and health standards under section 215(d) of the CAA the standards which are prescribed in Parts 1910 and 1926 of 29 CFR. Thus, the standards (substantive rules) published in subparts B through S and Z of part 1910 and subparts C through X and Z of part 1926 are applied. As set forth in Appendix A and Appendix B to this Part, this section does not incorporate all sections contained in these subparts. For example, this section does not incorporate sections 1910.15, 1910.16, and 1910.142, relating to shipyard employment, longshoring and marine terminals, and temporary labor camps, because such provisions have no application to employment within entities covered by the CAA.

(d) Copies of the standards which are incorporated by reference may be examined at the Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999. The OSHA standards may also be found at 29 CFR Parts 1910 and 1926. Copies of the standards may also be examined at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, and their regional offices. Copies of private standards may be obtained from the issuing organizations. Their names and addresses are listed in the pertinent subparts of Parts 1910 and 1926, 29 CFR.

(e) Any changes in the standards incorporated by reference in the portions of Parts 1910 and 1926, 29 CFR, adopted herein and an official historic file of such changes are available for inspection at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

APPENDIX A TO PART 1900 REFERENCES TO SECTIONS OF PART 1910, 29 CFR, ADOPTED AS OCCUPATIONAL SAFETY AND HEALTH STANDARDS UNDER SECTION 215(D) OF THE CAA

The following is a reference listing of the sections and subparts of Part 1910, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes any appendices to that section.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart B—Adoption and Extension of Established Federal Standards

Sec.
1910.12 Construction work.
1910.18 Changes in established Federal standards.
1910.19 Special provisions for air contaminants.

Subpart C—General Safety and Health Provisions [Reserved]

Subpart D—Walking—Working Surfaces

1910.21 Definitions.
1910.22 General requirements.

1910.23 Guarding floor and wall openings and holes.
1910.24 Fixed industrial stairs.
1910.25 Portable wood ladders.
1910.26 Portable metal ladders.
1910.27 Fixed ladders.
1910.28 Safety requirements for scaffolding.
1910.29 Manually propelled mobile ladder stands and scaffolds (towers).
1910.30 Other working surfaces.

Subpart E—Means of Egress

1910.35 Definitions.
1910.36 General requirements.
1910.37 Means of egress, general.
1910.38 Employee emergency plans and fire prevention plans.
Appendix to Subpart E—Means of Egress

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

1910.66 Powered platforms for building maintenance.
1910.67 Vehicle-mounted elevating and rotating work platforms.
1910.68 Manlifts.

Subpart G—Occupational Health and Environmental Control

1910.94 Ventilation.
1910.95 Occupational noise exposure.
1910.96 [Reserved]
1910.97 Nonionizing radiation.

Subpart H—Hazardous Materials

1910.101 Compressed gases (general requirements).
1910.102 Acetylene.
1910.103 Hydrogen.
1910.104 [Reserved]
1910.105 Nitrous oxide.
1910.106 Flammable and combustible liquids.
1910.107 Spray finishing using flammable and combustible materials.
1910.108 Dip tanks containing flammable or combustible liquids.
1910.109 Explosives and blasting agents.
1910.110 Storage and handling of liquefied petroleum gases.
1910.111 Storage and handling of anhydrous ammonia.
1910.112 [Reserved]
1910.113 [Reserved]
1910.119 Process safety management of highly hazardous chemicals.
1910.120 Hazardous waste operations and emergency response.

Subpart I—Personal Protective Equipment

1910.132 General requirements.
1910.133 Eye and face protection.
1910.134 Respiratory protection.
1910.135 Head protection.
1910.136 Foot protection.
1910.137 Electrical protective devices.
1910.138 Hand Protection.

Subpart J—General Environmental Controls

1910.141 Sanitation.
1910.143 Nonwater carriage disposal systems. [Reserved]
1910.144 Safety color code for marking physical hazards.
1910.145 Specifications for accident prevention signs and tags.
1910.146 Permit-required confined spaces.
1910.147 The control of hazardous energy (lockout/tagout).

Subpart K—Medical and First Aid

1910.151 Medical services and first aid.
1910.152 [Reserved]

Subpart L—Fire Protection

1910.155 Scope, application and definitions applicable to this subpart.
1910.156 Fire brigades.
Portable Fire Suppression Equipment
1910.157 Portable fire extinguishers.
1910.158 Standpipe and hose systems.
Fixed Fire Suppression Equipment
1910.159 Automatic sprinkler systems.
1910.160 Fixed extinguishing systems, general.
1910.161 Fixed extinguishing systems, dry chemical.
1910.162 Fixed extinguishing systems, gaseous agent.
1910.163 Fixed extinguishing systems, water spray and foam.
Other Fire Protective Systems
1910.164 Fire detection systems.
1910.165 Employee alarm systems.
Appendices to Subpart L
Appendix A to Subpart L—Fire Protection
Appendix B to Subpart L—National Consensus Standards
Appendix C to Subpart L—Fire Protection References for Further Information
Appendix D to Subpart L—Availability of Publications Incorporated by Reference In Section 1910.156 Fire Brigades
Appendix E to Subpart L—Test Methods for Protective Clothing

Subpart M—Compressed Gas and Compressed Air Equipment

1910.166 [Reserved]
1910.167 [Reserved]
1910.168 [Reserved]
1910.169 Air receivers.

Subpart N—Materials Handling and Storage

1910.176 Handling material—general.
1910.177 Servicing multi-piece and single piece rim wheels.
1910.178 Powered industrial trucks.
1910.179 Overhead and gantry cranes.
1910.180 Crawler locomotive and truck cranes.
1910.181 Derricks.
1910.183 Helicopters.
1910.184 Slings.

Subpart O—Machinery and Machine Guarding

1910.211 Definitions.
1910.212 General requirements for all machines.
1910.213 Woodworking machinery requirements.
1910.215 Abrasive wheel machinery.
1910.216 [Reserved]
1910.217 Mechanical power presses.
1910.218 Forging machines.
1910.219 Mechanical power-transmission apparatus.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

1910.241 Definitions.
1910.242 Hand and portable powered tools and equipment, general.
1910.243 Guarding of portable powered tools.
1910.244 Other portable tools and equipment.

Subpart Q—Welding, Cutting, and Brazing

1910.251 Definitions.
1910.252 General requirements.
1910.253 Oxygen-fuel gas welding and cutting.
1910.254 Arc welding and cutting.
1910.255 Resistance welding.

Subpart R—Special Industries

1910.263 Bakery equipment.
1910.264 Laundry machinery and operations.
1910.265–1910.267 [Reserved]
1910.268 Telecommunications.
1910.269 Electric power generation, transmission, and distribution.

Subpart S—Electrical

General
1910.301 Introduction.
Design Safety Standards for Electrical Systems
1910.302 Electric utilization systems.
1910.303 General requirements.
1910.304 Wiring design and protection.
1910.305 Wiring methods, components, and equipment for general use.
1910.306 Specific purpose equipment and installations.
1910.307 Hazardous (classified) locations.
1910.308 Special systems.
1910.309–1910.330 [Reserved]
Safety-Related Work Practices
1910.331 Scope.
1910.332 Training.
1910.333 Selection and use of work practices.
1910.334 Use of equipment.
1910.335 Safeguards for personnel protection.
1910.336—1910.360 [Reserved]
Safety-Related Maintenance Requirements
1910.361—1910.380 [Reserved]
Safety Requirements for Special Equipment
1910.381—1910.398 [Reserved]
Definitions
1910.399 Definitions applicable to this subpart.
Appendix A to Subpart S—Reference Documents
Appendix B to Subpart S—Explanatory Data [Reserved]
Appendix C to Subpart S—Tables, Notes, and Charts [Reserved]

Subparts U–Y—[Reserved]

1910.442—1910.999 [Reserved]
Subpart Z—Toxic and Hazardous Substances
1910.1000 Air contaminants.
1910.1001 Asbestos.
1910.1002 Coal tar pitch volatiles; interpretation of term.
1910.1003 13 Carcinogens (4-Nitrobiphenyl, etc.)
1910.1004 alpha-Naphthylamine.
1910.1005 [Reserved]
1910.1006 Methyl chloromethyl ether.
1910.1007 3,3'-Dichlorobenzidine (and its salts).
1910.1008 bis-Chloromethyl ether.
1910.1009 beta-Naphthylamine.
1910.1010 Benzidine.
1910.1011 4-Aminodiphenyl.
1910.1012 Ethyleneimine.
1910.1013 beta-Propiolactone.
1910.1014 2-Acetylaminofluorene.
1910.1015 4-Dimethylaminoazobenzene.
1910.1016 N-Nitrosodimethylamine.
1910.1017 Vinyl chloride.
1910.1018 Inorganic arsenic.
1910.1020 Access to employee exposure and medical records.
1910.1025 Lead.
1910.1027 Cadmium.
1910.1028 Benzine.
1910.1029 Coke oven emissions.
1910.1030 Bloodborne pathogens.
1910.1043 Cotton dust.
1910.1044 1,2-dibromo-3-chloropropane.
1910.1045 Acrylonitrile.
1910.1047 Ethylene oxide.
1910.1048 Formaldehyde.
1910.1050 Methylenedianiline.
1910.1096 Ionizing radiation.
1910.1200 Hazard communication.
1910.1201 Retention of DOT markings, placards and labels.
1910.1450 Occupational exposure to hazardous chemicals in laboratories.

APPENDIX B TO PART 1900 REFERENCES TO SECTIONS OF PART 1926, 29 CFR ADOPTED AS OCCUPATIONAL SAFETY AND HEALTH STANDARDS UNDER SECTION 215(D) OF THE CAA

The following is a reference listing of the sections and subparts of Part 1926, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes the appendices to that section.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Subpart C—General Safety and Health Provisions

Sec.
1926.20 General safety and health provisions.
1926.21 Safety training and education.
1926.22 Recording and reporting of injuries. [Reserved]
1926.23 First aid and medical attention.
1926.24 Fire protection and prevention.
1926.25 Housekeeping.
1926.26 Illumination.
1926.27 Sanitation.
1926.28 Personal protective equipment.
1926.29 Acceptable certifications.
1926.31 Incorporation by reference.
1926.32 Definitions.
1926.33 Access to employee exposure and medical records.
1926.34 Means of egress.
1926.35 Employee emergency action plans.

Subpart D—Occupational Health and Environmental Controls

1926.50 Medical services and first aid.
1926.51 Sanitation.
1926.52 Occupational noise exposure.
1926.53 Ionizing radiation.
1926.54 Nonionizing radiation.
1926.55 Gases, vapors, fumes, dusts, and mists.
1926.56 Illumination.
1926.57 Ventilation.
1926.58 [Reserved]
1926.59 Hazard communication.
1926.60 Methylenedianiline.
1926.61 Retention of DOT markings, placards and labels.
1926.62 Lead.
1926.63 Cadmium (This standard has been redesignated as 1926.1127).
1926.64 Process safety management of highly hazardous chemicals.
1926.65 Hazardous waste operations and emergency response.
1926.66 Criteria for design and construction for spray booths.

Subpart E—Personal Protective and Life Saving Equipment

1926.95 Criteria for personal protective equipment.
1926.96 Occupational foot protection.
1926.97 [Reserved]
1926.98 [Reserved]
1926.99 [Reserved]
1926.100 Head protection.
1926.101 Hearing protection.
1926.102 Eye and face protection.
1926.103 Respiratory protection.
1926.104 Safety belts, lifelines, and lanyards
1926.105 Safety nets
1926.106 Working over or near water.
1926.107 Definitions applicable to this subpart.

Subpart F—Fire Protection and Prevention

1926.150 Fire protection.
1926.151 Fire prevention.
1926.152 Flammable and combustible liquids.
1926.153 Liquefied petroleum gas (LP-Gas).
1926.154 Temporary heating devices.
1926.155 Definitions applicable to this subpart.

Subpart G—Signs, Signals, and Barricades

1926.200 Accident prevention signs and tags.
1926.201 Signaling.
1926.202 Barricades.
1926.203 Definitions applicable to this subpart.

Subpart H—Materials Handling, Storage, Use, and Disposal

1926.250 General requirements for storage.
1926.251 Rigging equipment for material handling.
1926.252 Disposal of waste materials.

Subpart I—Tools—Hand and Power

1926.300 General requirements.
1926.301 Hand tools.
1926.302 Power operated hand tools.
1926.303 Abrasive wheels and tools.
1926.304 Woodworking tools.
1926.305 Jacks—lever and ratchet, screw and hydraulic.
1926.306 Air Receivers.
1926.307 Mechanical power-transmission apparatus.

Subpart J—Welding and Cutting

1926.350 Gas welding and cutting.
1926.351 Arc welding and cutting.
1926.352 Fire prevention.
1926.353 Ventilation and protection in welding, cutting, and heating.
1926.354 Welding, cutting and heating in way of preservative coatings.

Subpart K—Electrical

General
1926.400 Introduction.
1926.401 [Reserved]
Installation Safety Requirements
1926.402 Applicability.
1926.403 General requirements.
1926.404 Wiring design and protection.
1926.405 Wiring methods, components, and equipment for general use.
1926.406 Specific purpose equipment and installations.
1926.407 Hazardous (classified) locations.
1926.408 Special systems.
1926.409–1926.415 [Reserved]
Safety-Related Work Practices
1926.416 General requirements.
1926.417 Lockout and tagging of circuits.
1926.418–1926.430 [Reserved]
Safety-Related Maintenance and Environmental Considerations
1926.431 Maintenance of equipment.
1926.432 Environmental deterioration of equipment.
1926.433–1926.440 [Reserved]
Safety Requirements for Special Equipment
1926.441 Battery locations and battery charging.
1926.442–1926.448 [Reserved]
Definitions
1926.449 Definitions applicable to this subpart.

Subpart L—Scaffolding

1926.450 [Reserved]
1926.451 Scaffolding.
1926.452 Guardrails, handrails, and covers.
1926.453 Manually propelled mobile ladder stands and scaffolds (towers).

Subpart M—Fall Protection

1926.500 Scope, application, and definitions applicable to this subpart.
1926.501 Duty to have fall protection.
1926.502 Fall protection systems criteria and practices.
1926.503 Training requirements.
Appendix A to Subpart M—Determining Roof Widths
Appendix B to Subpart M—Guardrail Systems
Appendix C to Subpart M—Personal Fall Arrest Systems
Appendix D to Subpart M—Positioning Device Systems
Appendix E to Subpart M—Sample Fall Protection Plans

Subpart N—Cranes, Derricks, Hoists, Elevators, and Conveyors

1926.550 Cranes and derricks.
1926.551 Helicopters.
1926.552 Material hoists, personnel hoists and elevators.
1926.553 Base-mounted drum hoists.
1926.554 Overhead hoists.
1926.555 Conveyors.
1926.556 Aerial lifts.

Subpart O—Motor Vehicles and Mechanized Equipment

1926.600 Equipment.
1926.601 Motor vehicles.
1926.602 Material handling equipment.
1926.603 Pile driving equipment.
1926.604 Site clearing.

Subpart P—Excavations

1926.650 Scope, application, and definitions applicable to this subpart.
1926.651 Specific Excavation Requirements.
1926.652 Requirements for protective systems.
Appendix A to Subpart P—Soil Classification
Appendix B to Subpart P—Sloping and Benching
Appendix C to Subpart P—Timber Shoring for Trenches
Appendix D to Subpart P—Aluminum Hydraulic Shoring for Trenches
Appendix E to Subpart P—Alternatives to Timber Shoring
Appendix F to Subpart P—Selection of Protective Systems

Subpart Q—Concrete and Masonry Construction

1926.700 Scope, application, and definitions, applicable to this subpart.
1926.701 General requirements.
1926.702 Requirements for equipment and tools.
1926.703 Requirements for cast-in-place concrete.
1926.704 Requirements for precast concrete.
1926.705 Requirements for lift-slab construction operations.
1926.706 Requirements of masonry construction.
Appendix to Subpart Q—References to subpart Q of Part 1926

Subpart R—Steel Erection

1926.750 Flooring requirements.
1926.751 Structural steel assembly.
1926.752 Bolting, riveting, fitting-up, and plumbing-up.
1926.753 Safety Nets.

Subpart S—Tunnels and Shafts, Caissons, Cofferdams, and Compressed Air

1926.800 Underground construction.
1926.801 Caissons.
1926.802 Cofferdams.
1926.803 Compressed air.
1926.804 Definitions applicable to this subpart.
Appendix A to Subpart S—Decompression Tables

Subpart T—Demolition

1926.850 Preparatory operations.
1926.851 Stairs, passageways, and ladders.
1926.852 Chutes.
1926.853 Removal of materials through floor openings.
1926.854 Removal of walls, masonry sections, and chimneys.
1926.855 Manual removal of floors.
1926.856 Removal of walls, floors, and material with equipment.
1926.857 Storage.
1926.858 Removal of steel construction.
1926.859 Mechanical demolition.
1926.860 Selective demolition by explosives.

Subpart U—Blasting and Use of Explosives

1926.900 General provisions.
1926.901 Blaster qualifications.
1926.902 Surface transportation of explosives.
1926.903 Underground transportation of explosives.
1926.904 Storage of explosives and blasting agents.
1926.905 Loading of explosives or blasting agents.
1926.906 Initiation of explosive charges—electric blasting.
1926.907 Use of safety fuse.
1926.908 Use of detonating cord.
1926.909 Firing the blast.
1926.910 Inspection after blasting.
1926.911 Misfires.
1926.912 Underwater blasting.
1926.913 Blasting in excavation work under compressed air.
1926.914 Definitions applicable to this subpart.

Subpart V—Power Transmission and Distribution

1926.950 General requirements.
1926.951 Tools and protective equipment.
1926.952 Mechanical equipment.
1926.953 Material handling.
1926.954 Grounding for protection of employees.
1926.955 Overhead lines.
1926.956 Underground lines.
1926.957 Construction in energized substations.
1926.958 External load helicopters.
1926.959 Lineman's body belts, safety straps, and lanyards.
1926.960 Definitions applicable to this subpart.

Subpart W—Rollover Protective Structures; Overhead Protection

1926.1000 Rollover protective structures (ROPS) for material handling equipment.
1926.1001 Minimum performance criteria for rollover protective structures for designated scrapers, loaders, dozers, graders, and crawler tractors.
1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction.
1926.1003 Overhead protection for operators of agricultural and industrial tractors.

Subpart X—Stairways and Ladders

1926.1050 Scope, application, and definitions applicable to this subpart.
1926.1051 General Requirements.
1926.1052 Stairways.
1926.1053 Ladders.
1926.1054–1926.1059 [Reserved]
1926.1060 Training Requirements.
Appendix A to Subpart X—Ladders

Subpart Z—Toxic and Hazardous Substances

1926.1100 [Reserved]
1926.1101 Asbestos.
1926.1102 Coal tar pitch volatiles; interpretation of term.
1926.1103 4-Nitrobiphenyl.
1926.1104 alpha-Naphthylamine.
1926.1105 [Reserved]
1926.1106 Methyl chloromethyl ether.
1926.1107 3,3'-Dichlorobenzidine (and its salts).
1926.1108 bis-Chloromethyl ether.
1926.1109 beta-Naphthylamine.
1926.1110 Benzidine.
1926.1111 4-Aminodiphenyl.
1926.1112 Ethyleneimine.
1926.1113 beta-Propiolactone.
1926.1114 2-Acetylaminofluorene.
1926.1115 4-Dimethylaminoazobenzene.
1926.1116 N-Nitrosodimethylamine.
1926.1117 Vinyl chloride.
1926.1118 Inorganic arsenic.
1926.1127 Cadmium.
1926.1128 Benzene.
1926.1129 Coke oven emissions.
1926.1144 1,2-dibromo-3-chloropropane.
1926.1145 Acrylonitrile.
1926.1147 Ethylene oxide.
1926.1148 Formaldehyde.

Appendix A to Part 1926—Designations for General Industry Standards

OFFICE OF COMPLIANCE REPORT TO CONGRESS

Mr. THURMOND. Mr. President, pursuant to section 102(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1302(b)), the Board of Directors of the Office of Compliance has submitted a report to Congress. This document is titled a "Review and Report of the Applicability to the Legislative Branch of Federal Law Relating to Terms and Conditions of Employment and Access to Public Services and Accommodations."

Section 102(b) requires this report to be printed in the CONGRESSIONAL RECORD, and referred to committees with jurisdiction. Therefore I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REVIEW AND REPORT OF THE APPLICABILITY TO THE LEGISLATIVE BRANCH OF FEDERAL LAW RELATING TO TERMS AND CONDITIONS OF EMPLOYMENT AND ACCESS TO PUBLIC SERVICES AND ACCOMMODATIONS

[Prepared by the Board of Directors of the Office of Compliance Pursuant to Section 102(b) of the Congressional Accountability Act of 1995 (PL 104-1), Dec. 31, 1996]

SECTION 102(b) REPORT

Section 102(a) of the Congressional Accountability Act (CAA) lists the eleven laws that "shall apply, as prescribed by this Act, to the legislative branch of the Federal Government." Section 102(b) directs the Board of Directors (Board) of the Office of Compliance to: "review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations."

And, on the basis of this review, "[b]eginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph (I) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch."

In preparing this report, the Board has reviewed the entire United States Code to identify those laws and associated regulations of general application that relate to terms and conditions of employment or access to public accommodations and services. In other words, the Board has reviewed those provisions of law that confer employment rights or benefits on or affect workplace conditions of employees, and that create a corresponding mandate for employers, or that relate to access to public services or accommodations. The Board excluded from consideration those laws that, although employment-related, *(1)* are specific to narrow or specialized industries or types of employment not found in the legislative branch (*e.g.*, employment in maritime or mining industries, or the armed forces, or employment in a project funded by federal grants or contracts); *or (2)* establish government programs of research, data-collection, advocacy, or training, but do not establish correlative rights and responsibilities for employees and employers (*e.g.*, statutes authorizing the Women's Bureau of Labor Statistics); *or (3)* authorize, but do not require, that employers provide benefits to employees, (*e.g.*, so-called "cafeteria plans" authorized by 26 U.S.C. 125).

For ease of reference, the results of this research are presented in four tables, each of which contains a matrix of analysis consisting of four parts. The first column of each table lists the name or a short description of the law; the second gives the United States Code citation and any relevant Code of Federal Regulations citation; the third summarizes the provision of law to illustrate the extent to which it relates to terms and conditions of employment or access to public services or accommodations; and, the fourth analyzes the extent of the provision's application in the legislative branch. Because many statutes are either silent or ambiguous in their definition of coverage, and because the issue is only infrequently litigated, it is often difficult to determine definitively whether a statute is applicable to the legislative branch. The Board has generally followed the principle that coverage must be clearly and unambiguously stated.

Table A lists and reviews those provisions of law relating to terms and conditions of employment or access to public accommodations and services that are generally applicable in the private sector and/or in state and local government, and that are already applicable to entities in the legislative branch of the federal government. This table includes nine of the statutes made applicable to the legislative branch by the CAA.[1]

Table B lists and reviews those provisions of law that apply only in the federal public sector, and have no application in the private sector or in state or local governments. Table B includes the two exclusively federal factor laws applied to the legislative branch by the CAA.[2] Also listed in this table are the civil service laws in title 5 of the United States Code, the employment-related laws applicable to Congress and the President, and a variety of other employment-related laws applicable only in the federal public sector.

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[1] The nine CAA statutes treated in Table A are: the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Employment Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.), the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.), and Chapter 43 (relating to uniformed services employment and reemployment) of title 38, United States Code. (See Table B for the two CAA statutes applicable only in the federal public sector.)

[2] The two statutes made applicable to the legislative branch by the CAA are: Chapter 71 (relating to federal service labor-management relations) of title 5, United States Code, and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

Table C lists and reviews five private sector and/or state and local government provisions of law that do not apply in the legislative branch. The five provisions of law listed in this table are: the Government Employees Rights Act of 1991, a provision of the Immigration Reform Control Act, the National Labor Relations Act, the Employee Retirement Income Security Act, and provisions of the Consolidated Omnibus Budget Reconciliation Act of 1998 (COBRA). In the fourth column of this table, the Board identifies other provisions of law, currently applicable in the legislative branch, that confer similar or related rights and protections to those provided by the five private sector provisions of law. Those provisions that, in the Board's view, create corresponding rights and protections for the legislative branch are: the antidiscrimination provisions of the Congressional Accountability Act, Legislative Branch Appropriations Acts, the Federal Service Labor-Management Relations Statute provisions, as applied by the Congressional Accountability Act, the Federal Employees Retirement System provisions, and the Federal Employees Health Benefits Program, respectively.

Table D contains the Board's review of thirteen other private sector and/or state and local government provisions of law that do not apply or have very limited application to entities in the legislative branch. The first entry in the table discusses a provision in the Immigration Reform and Control Act, which forbids discrimination by employers on the basis of national origin or citizenship status. Entry two prohibits employment discrimination based on the fact that an employee has declared personal bankruptcy. Entry three prohibits an employer from firing an employee because that employee's wages have been subject to garnishment. The fourth provision in Table D prohibits an employer from discharging an employee because that employee was called to serve on a jury. The next two entries, title II and III of the Civil Rights Act of 1964, prohibit discrimination on the basis of race, color, religion, or national origin in the provision of public accommodations and services. The final two entries review the employee protection provisions contained in seven environmental protection statutes.

Having completed the review and analysis summarized in the tables, the Board next considered the basis on which to decide whether those statutes that were currently inapplicable to the legislative branch "should" be applied to the legislative branch. The statutory mandate of Section 102(b) could be interpreted to require the Board to report on whether all the provisions analyzed in the tables should or should not now be made fully applicable to all entities within the legislative branch. The Board did not do so because, as even a cursory review of those tables demonstrates, that task is the work of many hands and many years. Moreover, section 102(b)(2), in mandating that the Board report biennially, argues for accomplishing such statutory change on an incremental basis through an ongoing reporting process. Accordingly, the Board has decided to focus this, its first report, on the statutes in Table D, for which there is currently no coverage in the legislative branch, and to defer consideration of those provisions of private and public sector laws in tables A, B, and C, not currently fully applicable to the legislative branch, for discussion in future reports.

The Board's rationale for setting these priorities in its first biennial report derives from its reading of the CAA and from prudential institutional concerns. Because the statute does not give direct guidance, the Board set its priorities from the priorities found in the CAA. The CAA focuses almost entirely on private sector law, applying to the legislative branch only two exclusively federal public sector provisions of law. This reading of the legislative priorities established in the CAA is supported by the statement of Senator Grassley, one of the bill's sponsors, who called for an end to the situation in which "[t]here is one set of protections for people in the private sector whose employees are protected by the employment, safety and civil rights laws, but no protection, or very little protection for employees on Capitol Hill."[3] The Board has determined likewise to focus attention in its first biennial report on private sector law. Further, the Board made its first priority the cases where, as Senator Grassley put it, there is currently "no protection, or very little protection" in the legislative branch. Accordingly, the Board focused on reporting on private sector laws found in Table D that currently have no or very limited application to entities in the legislative branch.

The Board next considered how to treat the statutes in the other tables. Because the CAA itself was concerned almost exclusively with the application of private sector law to the legislative branch, the Board gave the federal sector statutes found in Table B a low priority. Further, determining which currently inapplicable provisions of federal civil service law could and "should" be applied to the legislative branch and, if so, to which entities, is difficult. Table B indicates how disparate the application of federal sector laws currently is in the legislative branch and the difficulty in finding a rational organizing principle. Some of the statutes or provisions of statutes already apply to some entities within the legislative branch, but not to others; while a number do not have any application to any entity within the legislative branch. Moreover, the executive branch and the Congress are presently in the process of reexamining the application of federal civil service law in some parts of the executive branch. While such review is underway, the Board has determined that it would be premature to consider applying to the Congress the very provisions at issue. Additionally, such determinations involve, in part, weighing the merits of the protections afforded by CAA against those provided under other statutory schemes. But in this, its first year of administering the CAA, it would be premature for the Board to make such comparative judgments. Therefore, in light of the priorities established by the CAA and the prematurity of review at this time, the Board decided to defer reporting on the statutes listed in Table B for future reports.

Likewise, prudential concerns led the Board to defer consideration of the statutes found in Table C. Although Table C comprises a universe of statutes that are currently inapplicable to entities in the legislative branch, the Congress has already applied comparable provisions to legislative branch entities. As the Board gains rulemaking and adjudicatory experience in the application of the CAA to the legislative branch, the Board will be better situated to formulate recommendations about appropriate changes in those different statutory schemes. Thus, the Board has determined to defer consideration of the laws in table C in this first report.

Table A, as noted above, comprises the universe of private sector law and/or state and local government law that Congress has, with only limited exception, already applied to the legislative branch, including nine of the laws made applicable by the CAA. Because of the obvious importance of these laws to the CAA, the Board intends to undertake a more in depth study of the specific exceptions created by Congress, with the goal of issuing an interim report prior to December 31, 1998 with regard to whether and to what degree the provisions excepted from the laws set forth in Table A should be made applicable to the legislative branch.

Turning now to those statutes in Table D that currently do not apply to the legislative branch, the Board reports below on whether those provisions should or should not be applied to the legislative branch. Because a major goal of the CAA was to achieve parity with the private sector, the Board has determined that, if our review reveals no impediment to applying the provision in question to the legislative branch, it should be made applicable.

Prohibition against discrimination based on national origin or citizenship status (8 U.S.C. 1324b)

Section 1324b of the Immigration Reform and Control Act (IRCA) prohibits employment discrimination by employers of three or more employees against a person because of national origin or citizenship status. This section of IRCA, on its face, does not appear to apply to entities in the legislative branch. The national origin discrimination provisions of IRCA, by their terms, do not apply to any employer that is covered by Title VII. 8 U.S.C. 1324b(a)(2)(B). The CAA already applies the rights and protections of Title VII to legislative branch employment and therefore, IRCA's national origin discrimination provisions would not apply, even if IRCA was generally extended to the legislative branch.

While IRCA prohibits citizenship status discrimination generally, it permits such discrimination to the extent such discrimination is required by federal, state, or local law, regulation, or executive order. 8 U.S.C. 1324b(a)(2)(C). Thus, IRCA gives governments an "override" power with respect to their own hiring practices, and in establishing employment in a government contract with private employers, to require American citizenship as a condition of employment. IRCA, if applied to the legislative branch, would likewise allow legislative branch entities, by law or regulation, to require American citizenship as a condition of employment in any covered facility. The legislative branch has, in the context of appropriations bills, imposed citizenship restrictions on federal government hiring. *See, e.g.*, Pub. L. No. 104-52, title VI, §606, 109 Stat. 497 (Nov. 19, 1995) (except as otherwise provided, no part of any appropriation contained in this or any other act shall be used to pay the compensation of any officer or employee of the Government of the U.S. whose post of duty is the continental U.S. unless such person is a U.S. citizen or intended citizen or meets other specified requirements). Therefore, application of this section of IRCA would be without significant effect.

Prohibition against discrimination on the basis of bankruptcy (11 U.S.C. 525)

Section 525(a) provides that "a government unit" may not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under the bankruptcy statutes. This provision currently does not apply to the legislative branch. For the reason stated above, the Board reports that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

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[3] 141 Cong. Rec. S622 (daily ed. Jan. 9, 1995).

Prohibition against discharge from employment by reason of garnishment (15 U.S.C. 1674(a))

Section 1674(a) prohibits discharge of any employee because his or her earnings "have been subject to garnishment for any one indebtedness." This section is limited to private employers, so it currently has no application to the legislative branch. For the reason set forth above, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

Prohibition against discrimination on the basis of jury duty (28 U.S.C. 1875)

Section 1875 provides that no employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States. This section currently does not cover legislative branch employment. For the reason set forth above, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

Titles II and III of the Civil Rights Act of 1964 (42 U.S.C. 2000a to 2000a–6, 2000b to 2000b–3)

These titles prohibit discrimination or segregation on the basis of race, color, religion, or national origin regarding the goods, services, facilities, privileges, advantages, and accommodations of "any place of public accommodation" as defined in the Act. Although the CAA incorporated the protections of titles II and III of the ADA, which prohibit discrimination on the basis of disability with respect to access to public services and accommodations, it does not extend protection based upon race, color, religion, or national origin. Since those protections of titles II and III of the Civil Rights Act do not currently apply to entities in the legislative branch, the Board has determined that the rights and protections afforded by titles II and III of the Civil Rights Act of 1964 against discrimination with respect to places of public accommodation should be applied to employing offices within the legislative branch.

Employee protection provisions in the environmental protection statutes (15 U.S.C. 2622; 33 U.S.C. 1367; 42 U.S.C. 300j–9(i), 5851, 6971, 7622, 9610)

These provisions generally protect an employee from discrimination in employment because the employee has commenced, or caused to be commenced, proceedings under the applicable statutes, has testified or is about to testify in any such proceedings, or has participated or is about to participate in any way in such proceedings. It is unclear to what extent, if any, these provisions apply to entities in the legislative branch. Furthermore, even if applicable or partially applicable, it is unclear whether and to what extent the legislative branch has the type of employees and employing offices that would be subject to these provisions. Consequently, the Board reserves judgment on whether or not these provisions should be made applicable to the legislative branch at this time.

Thus, pursuant to section 102(b), the Board submits this review and report, concluding that the following provisions of law, summarized in Table D, should be applied to the legislative branch: 11 U.S.C. 525 (bankruptcy); 15 U.S.C. 1675(a) (garnishment); 28 U.S.C. 1875 (jury duty); and titles II and III of the Civil Rights Act of 1964 (42 U.S.C. 2000a to 2000a–6, 2000b to 2000b–3) (public accommodations and services).

(The analysis and conclusions in this review and report are being made solely for the purposes set forth in section 102(b) of the Congressional Accountability Act. Nothing in this review and report is intended or should be construed as a definitive interpretation of any factual or legal question by the Office of Compliance or its Board of Directors.)

(The Board of Directors of the Office of Compliance gratefully acknowledges the contributions of Lawrence B. Novey and Nicola O. Goren for their work on this review and report.)

TABLE A—PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENT PROVISIONS OF LAW AND RIGHTS AND PROTECTIONS ALREADY APPLICABLE IN THE LEGISLATIVE BRANCH

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Restrictions on garnishment	15 U.S.C. 1673 5 C.F.R. parts 581 and 582 generally (Regulations of the Office of Personnel Management)	Provision restricts the amount by which an employee's earnings may be subject to garnishment to satisfy employee debts to creditors.	Provisions of law apply in the legislative branch by virtue of 5 U.S.C. 5520a.
Provision relating to promise of employment for political activity.	18 U.S.C. 600	Provision prohibits the promise of employment, position, or compensation etc. made possible by an Act of Congress, to any person as consideration, favor or reward, for political activity, support, opposition, or in connection with any primary election or political convention.	Provisions apply in the legislative branch.
Provision relating to deprivation of employment for political contribution.	18 U.S.C. 601	Provision prohibits the causing or attempting to cause any person to make a political contribution through the denial or deprivation, or threat thereof, of any employment, position, or work in or for any agency or other entity of Government of the United States where such employment, position, or work is made possible by an Act of Congress.	Provisions apply in the legislative branch.
Provisions relating to peonage and involuntary servitude	18 U.S.C. 1581 and 1584	Provisions establish criminal penalties for holding anyone in a condition of peonage or involuntary servitude.	Provisions apply in the legislative branch.
Fair Labor Standards Act and the Portal to Portal Act (FLSA).	29 U.S.C. 201 to 219 29 U.S.C. 251 to 262. 29 C.F.R. parts 510 to 580 generally, and part 775 (Regulations of the Secretary of Labor). 142 Cong. Rec. S3924 to S3949 (April 23, 1996) (Regulations of the Office of Compliance).	Provisions govern overtime pay, minimum wage, and child labor protections. Also require that women receive equal pay for equal work. The provisions of the Portal to Portal Act generally allow an employer to use as a defense a good faith reliance upon applicable interpretative bulletins of the Secretary of Labor.	Certain provisions of the FLSA were made applicable to the legislative branch by section 203 of the CAA. Among those not made applicable are those relating to record-keeping, notice posting, and the power of the Department of Labor to audit employers and enforce the law. The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where good cause exists to modify them.
Discrimination on the basis of age	29 U.S.C. 621 to 633a 29 C.F.R. parts 1625 to 1627 (Interpretations, procedures, etc. of the Equal Employment Opportunity Commission).	The Age Discrimination in Employment Act of 1967 prohibits employment discrimination against persons 40 years of age and over.	Section 201(a) of the CAA requires that "[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on—. . . (2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967." Section 201(b)(2) also provides that the remedy for a violation would be "(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 . . .; and (B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act." The Board has not adopted substantive regulations on age discrimination.
Occupational Safety and Health Act of 1970	29 U.S.C. 651 to 677 29 C.F.R. parts 1900 to 1926 (Regulations of the Occupational Safety and Health Administration, Dept. of Labor). 142 Cong. Rec. H10711 to H10719, S11019 to S11027 (Sept. 19, 1996) (proposed Regulations of the Office of Compliance).	Protects the safety and health of employees from physical, chemical, and other hazards in their places of employment.	Certain provisions were made applicable to the legislative branch by the CAA, effective January 1, 1997. Among those not made applicable are those relating to record keeping. The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where cause exists to modify them.

TABLE A—PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENT PROVISIONS OF LAW AND RIGHTS AND PROTECTIONS ALREADY APPLICABLE IN THE LEGISLATIVE BRANCH—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Provisions relating to lie detector tests	29 U.S.C. 2001 to 2009 29 C.F.R. part 801 (Regulations of the Secretary of Labor). 142 Cong. Rec. S3917 to S3924 (Apr. 23, 1996) (Regulations of the Office of Compliance).	The Employee Polygraph Protection Act of 1988 restricts the use of lie detector tests by employers.	Section 204 of the CAA states that no employing office may require a covered employee to take a lie detector test "where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988 . . .". Section 204 also applies the waiver provisions of section 6(d) and a remedy "as would be appropriate if awarded under section 6(c)(1) of that Act." The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where good cause exists to modify them.
Provisions relating to notification in the event of mass layoffs or closings.	29 U.S.C. 2101 to 2109 20 C.F.R. part 639 (Regulations of the Employment and Training Administration, Dept. of Labor). 142 Cong. Rec. S3949 to S3952 (Apr. 23, 1996) (Regulations of the Office of Compliance).	The Worker Adjustment and Retraining Notification Act assures employees of notice in advance of office or plant closings or mass layoffs in certain situations.	Section 205 of the CAA states that no employing office may close or order a mass layoff "within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act . . ." if the employing office has not given employees 60 days written notice. Section 205 further states that a remedy for a violation would be "such remedy as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a)" of that Act. The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where good cause existed to modify them.
Family and Medical Leave Act	29 U.S.C. 2601 to 2654 29 C.F.R. part 825 (Regulations of the Secretary of Labor). 142 Cong. Rec. S3896 to S3917 (Apr. 23, 1996) (Regulations of the Office of Compliance).	Entitles eligible employees to up to twelve weeks of unpaid leave for certain family and medical reasons.	Certain provisions of the law were made applicable to the legislative branch by section 202 of the CAA. Among those not made applicable are those relating to record keeping. The CAA generally required that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where good cause exists to modify them.
Uniformed Services Employment and Reemployment Rights	38 U.S.C. 4301 to 4333 5 C.F.R. part 353 for executive branch (Regulations of the Office of Personnel Management).	Provisions protect employment rights for individuals who serve in the military and other uniformed services.	Section 206 of the CAA makes it unlawful to discriminate against an eligible employee "within the meaning of subsections (a) and (b) of section 4311 of title 38, United States Code," or "deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38, United States Code," or "deny to an eligible employee benefits within the meaning of section 4316, 4317, and 4318 of title 38, United States Code." The CAA also applies such remedy "as would be appropriate if awarded under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38, United States Code."
Provisions relating to Social Security Insurance	42 U.S.C. 401 to 433 20 C.F.R. parts 404, 410, 416 (Regulations of the Social Security Administration). 42 C.F.R. parts 405, 406, 424 (Regulations of the Health Care Financing Administration, HHS).	Provisions entitle former employees to disability and old-age insurance payments in certain situations.	Provisions apply in the legislative branch. However, employment in the legislative branch prior to 1984 and employment of individuals after 1984 who chose to remain in the civil service retirement system are not covered employment for purposes of social security.
Title VII of the Civil Rights Act of 1964—Equal Employment Opportunities.	42 U.S.C. 2000e to 2000e–17; damages in 42 U.S.C. 1981a(a)(1) and (b). 29 C.F.R. part 1601 generally (Procedural regulations of the Equal Employment Opportunity Commission).	Provisions prohibit discrimination in employment based on race, color, religion, sex, or national origin.	Certain provisions of the law were made applicable to the legislative branch by section 201 of the CAA. Those not made applicable include the provision allowing for punitive damages, and those vesting enforcement authority in the Equal Employment Opportunity Commission and the Attorney General. The Board has not promulgated substantive regulations concerning these anti-discrimination provisions.
Discrimination in employment on the basis of disability	42 U.S.C. 12101 to 12213 29 C.F.R. parts 1602, 1614, 1640, 1641 (Record keeping and reporting requirements of the Equal Employment Opportunity Commission).	Title I of the Americans with Disabilities Act of 1990 generally prohibits discrimination in employment on the basis of disability.	Section 201 of the CAA requires that "[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on—. . . (3) disability, within the meaning of . . . sections 102 through 104 of the Americans with Disabilities Act of 1990 . . .". The CAA also provides that the remedy for a violation would be "(A) such remedy as would be appropriate if awarded under section . . . 107(a) of the Americans with Disabilities Act of 1990 . . .; and (B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes . . .". The Board has not adopted substantive regulations on disability discrimination.
Discrimination in the provision of public services and accommodations on the basis of disability.	42 U.S.C. 12101 to 12213 28 C.F.R. part 35 (Regulations of the Attorney General). 49 C.F.R. parts 27, 37, 38 (Regulations of the Secretary of Transportation). 142 Cong. Rec. H10676 to H10711, S10984 to S11019 (Sept. 19, 1996) (proposed Regulations of the Office of Compliance).	Titles II and III of the Americans with Disabilities Act of 1990 generally prohibit discrimination in the provision of public services and accommodations on the basis of disability.	Section 210 of the CAA states that "the rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990" shall apply to covered entities, effective January 1, 1997. Section 210 further states that the remedy for a violation would be "such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990." The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Attorney General and the Secretary of Transportation, except where good cause exists to modify them.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Provisions relating to the Congress	2 U.S.C. 31 to end (except sections 1201–1202, 1301–1438, discussed below).	Provisions include sections relating to compensation levels, rules for travel reimbursement, and other compensation and employment benefit-related allowances for Members of Congress, their staffs, and the staffs of many legislative branch agencies.	Provisions apply to various entities within the legislative branch.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Congressional Accountability Act of 1995 (CAA)	2 U.S.C. 1301 to 1438 142 Cong. Rec. S3896 to S3952 generally (Apr. 23, 1996) (Regulations of the Board of Directors and the Executive Director of the Office of Compliance).	The CAA applies eleven federal employment and labor laws to the legislative branch.	Provisions of law and regulations apply to covered offices within the legislative branch.
Provisions relating to the President	3 U.S.C. 101–209	Provisions establish compensation levels and other monetary allowances for the President, Vice President, the White House staff, and the United States Secret Service Uniformed Division.	Provisions do not apply in the legislative branch.
Presidential and Executive Office Accountability Act	PL 104–331	Provisions apply eleven federal employment and labor laws to the executive branch.	Provisions do not apply in the legislative branch. However, this law is comparable to the Congressional Accountability Act of 1995, which does apply in the legislative branch.
Privacy Act	5 U.S.C. 552a Regulations pursuant to the Privacy Act are promulgated by each individual agency subject to the Act.	The Privacy Act protects from disclosure records maintained by agencies on individuals. With respect to federal employees, the Privacy Act protects them from unwanted access into their personal files.	Provisions do not apply in the legislative branch.
Provisions establishing the Merit Systems Protection Board and Office of Special Counsel.	5 U.S.C. 1201 to 1222 5 C.F.R. parts 120 to 1209 (Regulations of the Merit Systems Protection Board). 5 C.F.R. parts 1800 to 1850 (Regulations of the Office of Special Counsel).	The Merit Systems Protection Board was established to hear, adjudicate, and enforce many employment and labor disputes for employees in the competitive service. The Office of Special Counsel was established to protect employees in the executive branch from prohibited employment practices.	Provisions apply to the Government Printing Office and to legislative branch agencies that have positions in the competitive service.
Merit Systems Principles and Prohibited Personnel Practices.	5 U.S.C. 2301 to 2305 5 C.F.R. parts 300 & 720 (Regulations of the Office of Personnel Management).	Provisions establish principles to be applied in the implementation of federal personnel management, and prohibit discriminatory personnel practices.	Provisions and regulations apply to the Government Printing Office.
Authority to hire personal assistants for handicapped employees.	5 U.S.C. 3102 Regulations are promulgated by each individual agency subject to these provisions.	Provision authorizes agencies to employ personal assistants for handicapped employees, including blind and deaf employees.	Provision applies to the General Accounting Office and the Library of Congress.
Restriction on employment of relatives.	5 U.S.C. 3110 5 C.F.R. part 310 (Regulations of the Office of Personnel Management).	Provision restricts the employment, appointment, promotion, and advancement by public officials of relatives.	Provisions apply to "an office, agency, or other establishment in the legislative branch."
Provision relating to appointment of disabled veterans	5 U.S.C. 3112 5 C.F.R. 720.301 et seq. (Regulations of the Office of Personnel Management).	Provision allows agencies to make noncompetitive appointments of disabled veterans.	Provision applies to agencies in the legislative branch that have positions in the competitive service.
Senior Executive Service	5 U.S.C. 3131 to 3136, 3391 to 3397, 3591 to 3596, 4311 to 4315, 4507. 5 C.F.R. parts 214, 293, 317, 352, 359, 412, 430 (Regulations of the Office of Personnel Management).	Provisions throughout title 5 relate to terms and conditions of employment within the Senior Executive Service, including compensation, benefits, incentives, qualifications, removal, and performance appraisals.	Provisions do not apply in the legislative branch.
Civil Service	5 U.S.C. 3301 5 C.F.R. parts 771 & 930 (Regulations of the Office of Personnel Management).	Provision empowers the President to prescribe regulations for the admission of individuals into the civil service in the executive branch, and to ascertain fitness of applicants.	Provisions do not apply in the legislative branch.
Competitive Service	5 U.S.C. chapter 33 5 C.F.R. generally (Regulations of the Office of Personnel Management).	Provisions create the competitive service and relate to terms and conditions of employment within the competitive service including, appointment, examinations, qualifications, preference eligibility for veterans and certain other individuals, separation, promotion, and assignments.	Provisions apply only to legislative branch agencies that have positions in the competitive service.
Political Recommendations	5 U.S.C. 3303	Provision requires that appointments to positions in the competitive service, the senior executive service, or the excepted service be made without regard to any recommendation or statement by any Member of Congress or congressional employee, any elected official of the government of any State, county, city or other subdivision or any other individual or organization making the recommendation on the basis of the applicant's party affiliation.	Provisions apply only to legislative branch agencies that have positions in the competitive service.
Ramspeck Act provisions	5 U.S.C. 3304(c) 5 C.F.R. parts 315 to 316 (Regulations of the Office of Personnel Management).	Provisions give preference for transfer to the competitive service for certain legislative branch employees with at least 3 years of service, and certain judicial branch employees with at least 4 years of service, who are involuntarily separated without prejudice from the legislative or judicial branch and transfer to the competitive service within 1 year of separation.	Provisions apply to employees in the legislative branch who are paid by the Secretary of the Senate or the Clerk of the House of Representatives.
Selective Service Registration	5 U.S.C. 3328 5 C.F.R. part 300 (Regulations of the Office of Personnel Management).	Provisions make a person required to register under the Selective Service who has not done so ineligible to apply to a position within an Executive agency.	Provision applies to the General Accounting Office.
Part-Time Career Employment Opportunities	5 U.S.C. 3401 to 3408 5 C.F.R. part 340 generally (Regulations of the Office of Personnel Management).	Provisions require the heads of agencies to establish and maintain a program for part-time career employment. Restricts agencies' ability to abolish filled full-time positions to make room for part-time positions. Also protects full-time employees from being forced into part-time status.	Provisions apply to the Architect of the Capitol, the Botanic Garden, the General Accounting Office and the Library of Congress.
Retention preference	5 U.S.C. 3501 to 3504 5 C.F.R. parts 351 & 432 (Regulations of the Office of Personnel Management).	Provisions create retention preferences and notice requirements in case of reduction in force, transfer of agency functions or replacement of an agency by another agency.	Provisions of law do not apply in the legislative branch (the General Accounting Office was removed from coverage by the General Accounting Office Personnel Act). However, the Office of Personnel Management's regulations apply to employees in the legislative branch whose positions are in the competitive service.
Reemployment after service with an international organization.	5 U.S.C. 3581 to 3584 5 C.F.R. 352.301 et seq. (Regulations of the Office of Personnel Management).	Provisions protect the benefits, leave, and employment of certain employees who transfer temporarily to an international organization.	Provisions apply in the legislative branch.
Training	5 U.S.C. 4101 to 4119 5 C.F.R. part 410 generally (Regulations of the Office of Personnel Management).	Provisions require the head of each agency to establish, operate, and maintain programs for training of employees in or under the agency in conformity with this law.	Provisions apply to the Government Printing Office, the Library of Congress, and the General Accounting Office. Section 4119 allows Architect of the Capitol to apply provisions of the law deemed necessary for the training of employees of the Architect of the Capitol and the Botanic Garden.
Performance Appraisals	5 U.S.C. 4301 to 4305 5 C.F.R. parts 430 & 432 generally (Regulations of the Office of Personnel Management).	Provisions require each agency to develop performance appraisal systems to provide periodic appraisals of job performance of employees and to use the results of the performance appraisals in personnel decisions.	Provisions apply to the Government Printing Office.
Incentive awards for superior accomplishments	5 U.S.C. 4501 to 4509 5 C.F.R. part 451 (Regulations of the Office of Personnel Management).	Provisions allow the head of an agency to reward employees in the form of a cash award over and above their regular salary, or, under OPM regulations, to give employees paid time off as an award in recognition of superior accomplishment.	Provisions apply to the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, and the Library of Congress.
Awards for cost saving disclosures	5 U.S.C. 4511 to 4513	Provisions allow the Inspector General or other designated official of an executive agency to pay a cash award to an employee of the agency whose disclosure of fraud, waste, or mismanagement has resulted in cost savings for the agency.	Provisions apply to the General Accounting Office.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Awards to law enforcement officers for foreign language capabilities.	5 U.S.C. 4521 to 4523	Provisions allow an agency to pay a cash award to law enforcement officers who possess and make substantial use of 1 or more foreign languages in the performance of official duties.	Provisions apply to the Architect of the Capitol, the Government Printing Office, the Library of Congress, and the Botanic Garden. (It has not been ascertained whether any of these agencies have the type of employee that would be covered by this provision.)
Pay Systems	5 U.S.C. 5101 to 5392 5 C.F.R. generally (Regulations of the Office of Personnel Management).	Provisions establish the General Schedule classification system for pay, locality-based comparability payments, pay systems for other government entities, the Executive Schedule classification system, prevailing rates, grade and pay retention, and payment in certain circumstances of employees' student loans.	Most provisions apply to one or more legislative branch agencies, including the Library of Congress, the Government Printing Office, the Architect of the Capitol, and the Botanic Garden.
Withholding Pay	5 U.S.C. 5511 to 5520a Regulations are promulgated by each individual agency subject to these provisions.	Allows withholding from employees' pay for payments such as debts to the United States, District of Columbia income taxes, other state taxes, state retirement systems, city or county income or employment taxes, debts owed to creditors following a legal process.	Most provisions apply in the legislative branch.
Dual Pay and Dual Employment	5 U.S.C. 5531 to 5537 5 C.F.R. parts 550 & 553 (Regulations of the Office of Personnel Management).	Provisions impose restrictions on dual government employment, extra pay, and receiving two or more government paychecks at the same time.	Statutory provisions apply throughout the legislative branch. The regulations of the Office of Personnel Management apply to the General Accounting Office.
Premium Pay	5 U.S.C. 5541 to 5550a 5 C.F.R. parts 550 and 551 (Regulations of the Office of Personnel Management).	Provisions allow for overtime pay for hours worked over 40 in a workweek or hours worked over 8 in a day, compensatory time off, and premium pay for holidays and Sundays, for certain employees of the Federal Government.	Statutory provisions apply to covered employees of covered legislative branch agencies, including the Library of Congress, the Botanic Garden, the Architect of the Capitol, the General Accounting Office and, in part, to the Government Printing Office as well. The regulations of the Office of Personnel Management apply to the General Accounting Office.
Payment for accumulated and accrued annual leave	5 U.S.C. 5551 to 5553	Provisions allow for employees to receive a lump sum payment for accumulated and accrued annual leave upon separation from government service.	Provisions apply in the legislative branch.
Payments to missing employees	5 U.S.C. 5561 to 5570 32 C.F.R. part 718 (Regulations of the Department of the Army, DOD) 22 C.F.R. part 19 (Regulations of the Secretary of State).	Provisions allow for payments to employees who are missing in certain circumstances.	Provisions apply to the General Accounting Office.
Settlement of Accounts	5 U.S.C. 5581 to 5584 4 C.F.R. parts 33, 91, 92 (Regulations of the General Accounting Office).	Provisions allow for payment of money due to an employee at the time of death of the employee and, in certain circumstances, for recoupment by the government of overpayments or erroneous payments to employees.	Provisions apply in the legislative branch.
Severance pay and Back pay	5 U.S.C. 5595 to 5597 5 C.F.R. 550.701 et seq., 550.801 et seq. (Regulations of the Office of Personnel Management).	Provisions allow for severance pay upon separation from government service and back pay due to unjustified personnel actions in certain circumstances.	Provisions generally apply to the General Accounting Office, the Government Printing Office, and the Library of Congress.
Travel and subsistence expenses; Mileage allowances	5 U.S.C. 5701 to 5709 41 C.F.R. parts 301 to 304 (Federal Travel Regulations).	Provisions establish rules and policies regarding per diems and traveling on official business, transportation expenses, mileage and related allowances, and subsistence and travel expenses for federal employees.	Provisions generally apply in the legislative branch.
Travel and transportation expenses for new appointees, student trainees, and transferred employees.	5 U.S.C. 5721 to 5735 5 C.F.R. part 572 generally (Regulations of the Office of Personnel Management).	Provisions establish rules and policies for travel and transportation reimbursement for new appointees, student trainees, transferred employees, employees assigned to danger areas, and storage and other miscellaneous expenses.	Provisions apply to the General Accounting Office, the Library of Congress, the Botanic Garden, the Government Printing Office.
Basic 40-hour workweek; work schedules	5 U.S.C. 6101 5 C.F.R. part 610 (Regulations of the Office of Personnel Management).	Provisions establish the 40-hour workweek and work schedules in the federal government.	Statutory provisions apply to the General Accounting Office, and are optional for the Library of Congress, the Botanic Garden, the Architect of the Capitol. The regulations of the Office of Personnel Management apply to the General Accounting Office.
Holidays	5 U.S.C. 6103 and 6104 5 C.F.R. 610.301 et seq. (Regulations of the Office of Personnel Management).	Provisions establish statutory public holidays for government employees; also entities daily, hourly, or piecework employees to be paid for holidays.	Provisions apply in the legislative branch.
Flexible and Compressed Work Schedules	5 U.S.C. 6120 to 6133 5 C.F.R. 610.401 et seq. (Regulations of the Office of Personnel Management). 5 C.F.R. 2472.6 (Regulations of the Federal Labor Relations Authority).	Provisions allow the heads of agencies to establish flexible work schedule programs and compressed work week schedules, within certain guidelines.	Statutory provisions apply to the General Accounting Office, the Government Printing Office, and the Library of Congress. The regulations of the Office of Personnel Management apply to the General Accounting Office. The Federal Labor Relations Authority regulations apply to the Government Printing Office and the Library of Congress.
Annual and Sick Leave	5 U.S.C. 6301 to 6312 5 C.F.R. part 630 (Regulations of the Office of Personnel Management).	Provisions establish rules for government employees to accrue and accumulate annual and sick leave.	Provisions apply in the legislative branch except they do not apply to employees of the House of Representatives or the Senate.
Leave for jury or witness service	5 U.S.C. 6322	Provision entitles government employees to leave without loss of, or reduction in pay, or leave, for jury duty or to be a witness in a judicial proceeding in which the United States, the District of Columbia or a State or local government is a party. In certain situations, an employee called as a witness will be considered on official duty status.	Provision applies in the legislative branch except for individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.
Military Leave; Reserves and National Guardsmen	5 U.S.C. 6323	Provision entitles government employees to leave without loss of, or reduction in pay, etc. in connection with certain reserve duties, military training.	Provision applies in the legislative branch.
Absence resulting from hostile action abroad	5 U.S.C. 6325	Provision entitles government employees not to have leave charged to their account for up to one year if their leave is due to an injury incurred while serving abroad and resulting from war, insurgency, mob violence, or similar hostile action and not due to the employee himself.	Provision applies in the legislative branch.
Absence for funerals of immediate relatives in the Armed Forces.	5 U.S.C. 6326 5 C.F.R. part 630 (Regulations of the Office of Personnel Management).	Provision entitles employees whose immediate relative has died as a result of wounds, disease or injury incurred while serving in the armed forces in a combat zone, to up to three days leave, without loss of pay, leave, etc.	Provisions applies to the General Accounting Office.
Absence in connection with serving as a bone-marrow or organ donor.	5 U.S.C. 6327	Provision entitles employees to leave without loss of or reduction in pay, leave, etc. when such employees need leave to serve as a bone-marrow or organ donor.	Provision applies to the General Accounting Office.
Voluntary transfers of leave and Voluntary Leave Bank Program.	5 U.S.C. 6331 to 6373 5 C.F.R. part 630 (Regulations of the Office of Personnel Management).	Provisions establish policies under which annual leave accrued or accumulated by an employee may be (1) transferred to the annual leave account of any other employee if the recipient requires additional leave due to a medical emergency, or (2) contributed to a leave bank established by the employment agency and made available to any employee requiring it due to a medical emergency.	Provisions apply in the legislative branch except they do not apply to employees of the House of Representatives or the Senate.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Family and Medical Leave	5 U.S.C. 6381 to 6387 5 C.F.R. part 630 Regulations of the Office of Personnel Management).	Provisions entitle an employee to take leave for certain family and medical related reasons.	Provisions apply in the legislative branch except they do not apply to employees of the House of Representatives or the Senate. Under section 202 of the CAA, the General Accounting Office and the Library of Congress are removed from coverage of these provisions and made subject to provisions of title 29 U.S.C., governing family and medical leave, effective one year after the study required by section 230 of the CAA is transmitted to Congress. Furthermore, employees of certain other legislative branch entities are included within the terms of both 5 U.S.C. 6381 to 6387 and section 202 of the CAA, which applies certain provisions of title 29, U.S.C., relating to family and medical leave. (See table A)
Federal Service Labor-Management Provisions	5 U.S.C. 7101 to 7135 5 C.F.R. chapter 24 generally (Regulations of the Federal Labor Relations Authority). 142 Cong. Rec. H10369 to H10384, S10405 to S10420 (Sept. 12, 1996) (Regulations of the Office of Compliance under section 220(d) of the CAA.	Provisions protect the rights of employees in the Federal Government to form, join, or assist any labor organization, or to refrain from any such activity, without fear of penalty or reprisal.	Chapter 71 of title 5 and applicable regulations apply to the Government Printing Office and the Library of Congress. Certain provisions of chapter 71 were made applicable to the legislative branch by section 220 of the CAA. Among those provisions not made applicable are those relating to injunctive relief. However, the CAA generally required that the Board of Directors of the Office of Compliance issue implementation regulations that are the same as substantive regulations of the Federal Labor Relations Authority except where good cause existed to modify them.
Provisions relating to Anti-Discrimination in Employment	5 U.S.C. 7201 to 7204 5 C.F.R. 720.101 et seq. (Regulations of the Office of Personnel Management).	Provisions establish policy to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin. Provisions prohibit discrimination on the basis of martial status or handicapping condition. Require executive agencies to recruit minorities.	Provision prohibiting discrimination on the basis of marital status or handicapping condition applies to competitive service positions in the legislature branch.
Employees' right to petition Congress	5 U.S.C. 7211	Provision protects employees' rights to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof.	Provision applies in the legislative branch.
Employment Limitations	5 U.S.C. 7311 to 7313 5 C.F.R. part 732 (Regulations of the Office of Personnel Management).	Provide that an individual is ineligible to accept or hold a position in the Government of the United States or District of Columbia for certain specified reasons including if he advocates or is a member of an organization that advocates the overthrow of government; participates in a strike or asserts the right to strike, or is a member of an organization that asserts the right to strike against the U.S. or D.C. government.	Statutory provisions apply to the legislative branch. Office of Personnel Management regulations apply to competitive service positions in the legislative branch.
Political Participation	5 U.S.C. 7321 to 7326 5 C.F.R. parts 733 to 734 (Regulations of the Office of Personnel Management).	Imposes various restrictions on the political activities of Federal employees.	Provisions apply to entities in the legislative branch with positions in the competitive service.
Foreign Gifts and Decorations	5 U.S.C. 7342 Regulations are promulgated by each individual agency subject to these provisions.	Establishes and limits the right of government employees to accept gifts or decorations from foreign governments.	Provisions apply to employees in the legislative branch, as well as Members of Congress.
Misconduct	5 U.S.C. 7351 to 7353 5 C.F.R. part 2635 generally (Regulations of the Office of Government Ethics)	Prohibits gifts to superiors and prohibits certain gifts to employees.	Statutory provisions apply to employees in the legislative branch. Regulations of the Office of Government Ethics apply only in the executive branch.
Adverse Actions	5 U.S.C. 7501 to 7543 5 C.F.R. parts 752, 930, 990 (Regulations of the Office of Personnel Management).	Creates disciplinary proceedings and sanctions for employees under the Merit Systems Protections Board system.	Provisions apply to competitive service positions in the legislative branch.
Safety Programs	5 U.S.C. 7902	Requires the heads of agencies to develop and support organized safety promotion to reduce accidents and injuries among employees of the agency.	Provisions apply in the legislative branch. (NB: Executive Order 12196, which was promulgated under 5 U.S.C. 7902 and sets forth specific duties for heads of federal agencies in establishing health and safety programs, covers only executive branch agencies.)
Employee Assistance Programs relating to drug and alcohol abuse.	5 U.S.C. 7904	Requires the heads of Executive agencies to establish employee assistance programs for drug and alcohol abuse for employees of the agency.	Provisions apply to GAO.
Compensation for Work Injuries	5 U.S.C. 8101 to 8193 20 C.F.R. parts 1, 10, 25 (Regulations of the Office of Worker's Compensation Programs, Dept. of Labor). 5 C.F.R. part 353 (Regulations of the Office of Personnel Management).	Provisions establish systems for compensation and job retention for employees injured, disabled or killed on the job.	Provisions apply in the legislative branch.
Civil Service Retirement and Federal Employees Retirement Systems.	5 U.S.C. 8301 to 8407 5 C.F.R. parts 831, 841 to 846 (Regulations of the Office of Personnel Management). 5 C.F.R. chapter 16 (Regulations of the Federal Retirement Thrift Supervision Board).	Provisions establish retirement systems for employees of the United States Government (and others) and include annuities, thrift savings, retirement on disability, and early retirement.	Provisions apply in the legislative branch.
Unemployment Compensation	5 U.S.C. 8501 to 8525 20 C.F.R. parts 609 & 614 (Regulations of the Employment and Training Administration, Dept. of Labor).	Provisions establish systems for payment of unemployment compensation by states to former federal employees.	Provisions apply in the legislative branch except they do not apply to Members of Congress.
Life Insurance	5 U.S.C. 8701 to 8716 5 C.F.R. parts 870 to 874 (Regulations of the Office of Personnel Management).	Provisions establish system for life insurance for government employees.	Provisions apply in the legislative branch.
Health Insurance	5 U.S.C. 8901 to 8914 5 C.F.R. parts 890 to 891 (Regulations of the Office of Personnel Management).	Provisions establish health insurance system for government employees. Provisions include continuation coverage similar to COBRA's. (See Table C).	Provisions apply in the legislative branch.
Provisions relating to criminal penalties for government employees.	18 U.S.C. 203, 205, 207 to 209 Regulations are promulgated by each individual agency subject to these provisions.	Provisions imposed criminal penalties on certain government employees for, among other things, soliciting or taking bribes, acting as an agent or attorney for bringing claims against the United States, and for participating in an official capacity in official proceedings in which the employee may have a personal interest. The provisions also prohibit former government employees from participating in certain types of actions following their departure from the government.	Provisions apply in the legislative branch.
Provisions relating to illegal government employee contracts.	18 U.S.C. 431 to 443	Provisions impose criminal penalties on certain government employees for entering into contracts which, among other things, create a conflict of interest, or exceed appropriation amounts.	Certain provisions apply in the legislative branch.
Provisions relating to accounting generally for public money.	18 U.S.C. 643	Provisions imposes criminal penalties for embezzlement of public monies by an officer, employee or agent of the United States, or of any department or agency thereof.	Provisions apply in the legislative branch.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Criminal penalties for certain violations by United States employees.	18 U.S.C. 1913, 1915 to 1918	Provisions impose criminal penalties on officers and employees of the United States, or of any department or agency thereof, for a variety of transgressions, including lobbying with appropriate moneys, unauthorized employment and disposition of lapsed appropriations, interference with civil service examinations, and disloyalty and asserting the right to strike against the government.	Provisions apply in the legislative branch.
Provisions relating to discrimination on the basis of disability.	29 U.S.C. 701 to 797(b) Regulations are promulgated by each individual agency subject to these provisions.	The Rehabilitation Act of 1973 requires affirmative action in federal employment, requires federal buildings to be accessible, and bars discrimination on the basis of disability by federal agencies.	The Rehabilitation Act and applicable regulations apply to the Government Printing Office and the Library of Congress. Section 201 of the CAA requires that "[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on— . . . (3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973. . ." The CAA also provides that the remedy for a violation would be "(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973. . .; and (B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes. . .". The Board has not adopted substantive regulations on employment-related disability discrimination.
Government Accounting Office Personnel Act	31 U.S.C. 731 to 736, 751 to 755 4 C.F.R. parts 2 et seq. (Regulations of the Comptroller General and of the GAO Personnel Appeals Board).	Provisions authorize the Comptroller General to establish a personnel system for GAO, and create the Personnel Appeals Board System for GAO employees. These provisions require that the personnel system for GAO include rights and protections based on various provisions of employment and civil service law.	Provisions and regulations apply to the General Accounting Office.
Provisions relating to terms and conditions of employment for postal employees.	39 U.S.C. 1001 to 1011, 1201 to 1209 39 C.F.R. parts 211, 255, 265, 760, 761, 946 (Regulations of the Postal Service).	Provisions establish framework for determining salaries, benefits, and leave for employees of the Postal Service.	Provisions do not apply in the legislative branch.
Provision relating to substance abuse among government and other employees.	42 U.S.C. 290dd	Provision generally prohibits, with some exceptions, the denial of federal civilian employment or a federal professional license or right solely on the grounds of prior substance abuse.	Provisions apply in at least parts of the legislative branch. (See ***Judd*** v. ***Billington***, 863 F.2d 103 (1988) (provision applies to employee of the Library of Congress).)
Provisions relating to enforcement of child support and alimony orders.	42 U.S.C. 659 to 662 Regulations are promulgated by each individual agency subject to these provisions.	Provisions allow for the garnishment of wages of employees of the United States government for payment of child support and alimony.	Provisions apply in the legislative branch.
Provisions relating to design and construction of public buildings to accommodate physically handicapped persons.	42 U.S.C. 4151 to 4157 41 C.F.R. parts 101 to 119 generally (Regulations of the General Services Administration)	Provisions require that United States public buildings and facilities be constructed to insure wherever possible that physically handicapped persons will have access and use of the building or facility.	Provisions of the law appear to apply on their face in the legislative branch. However, there is no enforceable right or remedy in the legislative branch. The standards enunciated by GSA in their regulations are, however, the same standards as those applied under title II of the ADA, which does apply in the legislative branch by virtue of section 210 of the CAA.

TABLE C—PRIVATE-SECTOR AND STATE AND LOCAL GOVERNMENT PROVISIONS OF LAW FOR WHICH CORRESPONDING RIGHTS AND PROTECTIONS UNDER OTHER FEDERAL-SECTOR LAWS COVER THE LEGISLATIVE BRANCH

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Government Employees Rights Act of 1991 (GERA)	2 U.S.C. 1201–1220	As amended by the CAA, GERA protects the rights of certain elected officials of State and local government and their confidential assistants with respect to their public employment, to be free from discrimination on the basis of race, color, religion, sex, national origin, age, and disability.	GERA does not apply to the legislative branch (except with respect to claims that arose before the effective date of the CAA). However, corresponding rights and protections of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act were made applicable in the legislative branch by the CAA.
Immigration Reform and Control Act (IRCA) provisions	8 U.S.C. 1324a 8 C.F.R. part 274a (regulations of the Immigration and Naturalization Service).	Provision of IRCA makes it illegal for employers to hire unauthorized aliens and requires employers to verify employment authorization.	Provision of IRCA does not apply in the legislative branch. However, the legislative branch has, in the context of appropriations bills, imposed citizenship restrictions (and, therefore some form of employment verification) on federal government hiring. (See, e.g. P.L. 104–52, title VI, 606, 109 Stat. 497 (Nov. 19, 1995)).
National Labor Relations Act (NLRA)	29 U.S.C. 141 to 187 29 C.F.R. parts 100 to 103, 1401 to 1430 (Regulations of the National Labor Relations Board).	Encourages the practice of collective bargaining and protects the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.	The NLRA does not apply in the legislative branch. However, the corresponding rights and protections of 5 U.S.C. chapter 71 were made applicable in the legislative branch by the CAA.
Employment Retirement Income Security Act (ERISA)	29 U.S.C. 1001 to 1461 29 C.F.R. chapter 25 (Regulations of the Pension and Welfare Benefits Administration, Dept. of Labor).	ERISA governs the funding, vesting, and administration of pension plans with the goal of protecting interstate commerce, the Federal taxing power, and the interests of participants and beneficiaries of private pension plans.	ERISA does not apply in the legislative branch. However, the legislative branch is covered by the corresponding rights and protections of civil service provisions through the Federal Employee Retirement System (5 U.S.C. 8301 to 8479).
COBRA provisions	29 U.S.C. 1161 to 1169	Provisions require most employer-sponsored group health plans to offer employees the ability to continue receiving health benefits in certain situations, for certain period of time, and for certain premiums.	COBRA does not apply to government insurance plans. However, continuation coverage similar to that under COBRA was enacted for federal employees in the Federal Employees Health Benefits Amendments Act of 1988, codified at 5 U.S.C. 8905a. The Federal Employees Health Benefits Program, which includes the continuation coverage provided by the 1988 Act, is available to all federal employees, including legislative branch employees.

TABLE D—PRIVATE-SECTOR AND STATE AND LOCAL GOVERNMENT LAWS THAT DO NOT APPLY OR CREATE NO ENFORCEABLE RIGHT IN THE LEGISLATIVE BRANCH

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Immigration Reform and Control Act (IRCA)	8 U.S.C. 1324b 28 C.F.R. part 44 (regulations of the Department of Justice)	Provision of IRCA prohibits employers from discriminating based on national origin or citizenship status.	IRCA does not, by its terms, appear to apply to the legislative branch. However, the national origin discrimination provisions do not apply to any employer that is covered by Title VII of the Civil Rights Act of 1964, and consequently, would not apply in the legislative branch. Further, with respect to the citizenship provisions, IRCA gives an "override" power to federal government agencies and employers by allowing them to exempt themselves from application of these provisions by regulation.
Prohibition of discrimination on the basis of bankruptcy	11 U.S.C. 525	Provision prohibits discrimination in employment by any "governmental unit" against any person who is or has been bankrupt or a debtor under this Act. Provision also applies in the private sector.	Although "governmental unit" includes the United States and a department, agency or instrumentality of the United States, as well as state and local governments, it is not clear that the provision applies in the legislative branch.
Restriction on discharge from employment by reason of garnishment.	15 U.S.C. 1674(a)	Provision prohibits the discharge of an employee by reason of the fact that his earnings have been subjected to garnishment. Imposes a fine of up to $1000 or imprisonment for willful violations..	Provision applies in the private sector, where the Secretary of Labor has jurisdiction to enforce the law. However, the circuits are split as to whether this section allows for a private civil suit against an employer. As for government employers, it appears that, because there is no waiver of sovereign immunity, this provision creates no enforceable right in the legislative branch.
Protection of Juror's Employment Act	28 U.S.C. 1875	Law prohibits an employer from discharging, threatening to discharge, intimidating, or coercing any permanent employee because of the employee's jury service, or attendance in connection with such service, in any court of the United States. The provision allows an individual claiming discrimination under this law to sue in district court. Remedies may include reinstatement, damages for lost wages or other benefits, and a civil penalty of up to $1000.	Provision does not appear to apply in the legislative branch.
Title II of the Civil Rights Act of 1964 (Title II)	42 U.S.C. 2000a to 2000a–6	Title II prohibits discrimination on the basis of race, color, religion, or national origin, in the provision of public accommodations.	Title II does not apply in the legislative branch.
Title III of the Civil Rights Act of 1964 (Title II)	42 U.S.C. 2000b to 2000b–3	Title III prohibits discrimination on the basis of race, color, religion, or national origin, in the provision of public services and facilities..	Title III does not apply in the legislative branch.
Environmental Protection Statutes: Safe Drinking Water Act, Water Pollution Control Act, Toxic Substances Control Act, Solid Waste Disposal Act, Clean Air Act, and Energy Reorganization Act of 1974.	42 U.S.C. 300j–9(i); 33 U.S.C. 1367; 15 U.S.C. 2622; 42 U.S.C. 6971; 42 U.S.C. 7622; 42 U.S.C. 5851. 29 C.F.R. 24.2 (Enforcement Procedures of the Secretary of Labor).	These statutory employee protection provisions provide that no employer subject to the provisions of the Federal statute of which these protective provisions are a part may discharge or otherwise discriminate against the employee with respect to compensation, terms, conditions, or privileges of employment because the employee, or any person acting on his behalf pursuant to the employee's request, commenced, or caused to be commenced proceedings under the statutes, testified or is about to testify in any such proceedings, or assisted or participated, or is about to assist or participate in any manner in proceedings under those statutes.	None of these statutes appears to apply to employing offices in the legislative branch.
Comprehensive, Environmental Response, Compensation, and Liability Act. (CERCLA).	42 U.S.C. 9610 29 C.F.R. 24.2 (Enforcement procedures of the Secretary of Labor).	Provides that no person shall fire or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has provided information to a State or to the Federal Government, filed, instituted, or caused to be filed or instituted any proceedings under CERCLA, or has testified or is about to testify in any administration or enforcement proceedings under CERCLA.	42 U.S.C. 9620 applies CERCLA to each department, agency, and instrumentality of the United States (including the executive, legislative, and judicial branches of government) to the same extent, both procedurally and substantively, as any nongovernmental entity. It is unclear whether and to what extent there are facilities and operations of entities within the legislative branch that would come within the coverage of section 9620 and, therefore, within the coverage of section 9610. Moreover, given that the exclusive means of enforcement of section 9610 is through the Secretary of Labor, an executive agency, such employee protection provisions would not likely apply to legislative branch entities.

INDEX OF STATUTORY AND REGULATORY PROVISIONS REVIEWED

TITLE 1 UNITED STATES CODE—GENERAL PROVISIONS

No provisions were found in title 1 that relate to the terms and conditions of employment.

TITLE 2 UNITED STATES CODE—THE CONGRESS

1. *2 U.S.C. 31 to end* (except sections 1201–1220, 1301–1438, discussed below. Table B.

2. *2 U.S.C. 1201 to 1220*—the Government Employees Rights Act of 1991. Table C.

3. *2 U.S.C. 1301 to 1438*—the Congressional Accountability Act of 1995. *142 Cong. Rec. S3896 to S3952* generally—Regulations issued by the Board of Directors and the Executive Director of the Office of Compliance. Table B.

TITLE 3 UNITED STATES CODE—THE PRESIDENT

4. *3 U.S.C. 101 to 209*—the President. Table B.

5. *P.L. 104–331*—The Presidential and Executive Office Accountability Act. Table B.

TITLE 4 UNITED STATES CODE—FLAG AND SEAL, SEAT OF GOVERNMENT AND THE STATES

No provisions were found in title 4 that relate to the terms and conditions of employment.

TITLE 5 UNITED STATES CODE—GOVERNMENT ORGANIZATION AND EMPLOYEES

6. *5 U.S.C.*—Privacy Act. *Regulations* pursuant to the Privacy Act are promulgated by each individual agency subject to the Act. Table B.

7. *5 U.S.C. 1201 to 1222*—Provisions establishing the Merit Systems Protection Board and Office of Special Counsel. *5 C.F.R. parts 12000 to 1209*—Regulations of the Merit Systems Protection Board. *5 C.F.R. parts 1800 to 1850*—Regulations of the Office of Special Counsel. Table B.

8. *5 U.S.C. 1501 et seq.*—Provisions applying Hatch Act type restrictions to state and local employees in certain circumstances relates to grants to states. Not included in report.

9. *5 U.S.C. 2301 to 2305*—Provisions establishing Merit Systems Principles. *5 C.F.R. parts 300 & 720*—Regulations of the Office of Personnel Management. Table B.

10. *5 U.S.C. 3102*—Authority to hire personal assistants for handicapped employees. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

11. *5 U.S.C. 3110*—Restriction on employment of relatives. *5 C.F.R. part 310*—Regulations of the Office of Personnel Management. Table B.

12. *5 U.S.C. 3112*—Provision relating to appointment of disabled veterans. *5 C.F.R. 720.301 et seq.*—Regulations of the Office of Personnel Management. Table B.

13. *5 U.S.C. 3131 to 3136, 3391 to 3397, 3591 to 3596, 4311 to 4315, 4507*—Senior Executive Service. *5 C.F.R. parts 214, 293, 317, 352, 359, 412, 430*—Regulations of the Office of Personnel Management. Table B.

14. *5 U.S.C. chapter 33* general—Competitive Service. *5 C.F.R.* generally—Regulations of the Office of Personnel Management. Table B.

15. *5 U.S.C. 3301*—Civil Service. *5 C.F.R. parts 771 & 930*—Regulations of the Office of Personnel Management. Table B.

16. *5 U.S.C. 3303*—Political Recommendations. Table B.

17. *5 U.S.C. 3304(c)*—Ramspeck Act provisions. *5 C.F.R. parts 315 to 316*—Regulations of

the Office of Personnel Management. Table B.

18. *5 U.S.C. 3328*—Selective Service Registration. *5 C.F.R. part 300*—Regulations of the Office of Personnel Management. Table B.

19. *5 U.S.C. 3401 to 3408*—Part-Time Career Employment Opportunities. *5 C.F.R. part 340*—Regulations of the Office of Personnel Management. Table B.

20. *5 U.S.C. 3501 to 3504*—Retention preference. *5 C.F.R. parts 351 & 432*—Regulations of the Office of Personnel Management. Table B.

21. *5 U.S.C. 3581 to 3584*—Reemployment after service with an international organization. *5 C.F.R. 352.301 et seq.*—Regulations of the Office of Personnel Management. Table B.

22. *5 U.S.C. 4101 to 4119*—Training. *5 C.F.R. part 410*—Regulations of the Office of Personnel Management. Table B.

23. *5 U.S.C. 4301 to 4305*—Performance Appraisals. *5 C.F.R. parts 430 & 432*—Regulations of the Office of Personnel Management. Table B.

24. *5 U.S.C. 4501 to 4509*—Incentive awards for superior accomplishments. *5 C.F.R. part 451*—Regulations of the Office of Personnel Management. Table B.

25. *5 U.S.C. 4511 to 4513*—Awards for cost saving disclosures. Table B.

26. *5 U.S.C. 4521 to 4523*—Awards to law enforcement officers for foreign language capabilities. Table B.

27. *5 U.S.C. 5101 to 5392*—Pay Systems. *5 C.F.R. generally*—Regulations of the Office of Personnel Management. Table B.

28. *5 U.S.C. 5511 to 5520a*—Withholding Pay. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

29. *5 U.S.C. 5531 to 5537*—Dual Pay and Dual Employment. *5 C.F.R. parts 550 & 553*—Regulations of the Office of Personnel Management. Table B.

30. *5 U.S.C. 5541 to 5550*—Premium Pay. *5 C.F.R. parts 550 and 551*—Regulations of the Office of Personnel Management. Table B.

31. *5 U.S.C. 5551 to 5553*—Payment for accrued and accumulated annual leave. Table B.

32. *5 U.S.C. 5561 to 5570*—Payments to missing employees. *32 C.F.R. part 718*—Regulations of the Department of the Army, DOD. *22 C.F.R. part 19*—Regulations of the Secretary of State. Table B.

33. *5 U.S.C. 5581 to 5584*—Settlement of Accounts. *4 C.F.R. parts 33, 91, 92*—Regulations of the General Accounting Office. Table B.

34. *5 U.S.C. 5595 to 5597*—Severance pay and Back pay. *5 C.F.R. 550.701 et seq., 550.801 et seq.*—Regulations of the Office of Personnel Management. Table B.

35. *5 U.S.C. 5701 to 5709*—Travel and subsistence expenses; Mileage allowances. *41 C.F.R. parts 301 to 304*—Federal Travel Regulations. Table B.

36. *5 U.S.C. 5721 to 5735*—Travel and transportation expenses for new appointees, student trainees, and transferred employees. *5 C.F.R. part 572*—Regulations of the Office of Personnel Management. Table B.

37. *5 U.S.C. 6101*—Basic 40-hour workweek; work schedules. *5 C.F.R. part 610*—Regulations of the Office of Personnel Management. Table B.

38. *5 U.S.C. 6103 and 6104*—Holidays. *5 C.F.R. 610.301 et seq.*—Regulations of the Office of Personnel Management. Table B.

39. *5 U.S.C. 6120 to 6133*—Flexible and Compressed Work Schedules. *5 C.F.R. 610.401 et seq.*—Regulations of the Office of Personnel Management. *5 C.F.R. 2472.6*—Regulations of the Federal Labor Relations Authority. Table B.

40. *5 U.S.C. 6301 to 6312*—Annual and Sick Leave. *5 C.F.R. part 630*—Regulations of the Office of Personnel Management. Table B.

41. *5 U.S.C. 6322*—Leave for jury or witness service. Table B.

42. *5 U.S.C. 6323*—Military Leave; Reserves and National Guardsmen. Table B.

43. *5 U.S.C. 6325*—Absence resulting from hostile action abroad. Table B.

44. *5 U.S.C. 6326*—Absence for funerals of immediate relatives in the Armed Forces. *5 C.F.R. part 630*—Regulations of the Office of Personnel Management. Table B.

45. *5 U.S.C. 6327*—Absence in connection with serving as a bone-marrow or organ donor. Table B.

46. *5 U.S.C. 6331 to 6340*—Voluntary Transfers of Leave. *5 C.F.R. parts 630*—Regulations of the Office of Personnel Management. Table B.

47. *5 U.S.C. 6361 to 6363*—Voluntary Leave Bank Program. *5 C.F.R. part 630*—Regulations of the Office of Personnel Management. Table B.

48. *5 U.S.C. 6381 to 6387*—Family and Medical Leave. *5 C.F.R. part 630*—Regulations of the Office of Personnel Management. Table B.

49. *5 U.S.C. 7101 to 7135*—Federal Service Labor-Management Relations Provisions. *5 C.F.R. chapter 24*—Regulations of the Federal Labor Relations Authority. *142 Cong. Rec. H10369 to H10384, S10405 to S10420*—Regulations of the Office of Compliance. Table B.

50. *5 U.S.C. 7201 to 7204*—Provisions relating to Anti-Discrimination in Employment. *5 C.F.R. 720.101 et seq.*—Regulations of the Office of Personnel Management. Table B.

51. *5 U.S.C. 7211*—Employees' right to petition Congress. Table B.

52. *5 U.S.C. 7311 to 7313*—Employment Limitations. *5 C.F.R. part 732*—Regulations of the Office of Personnel Management. Table B.

53. *5 U.S.C. 7321 to 7326*—Political Participation. *5 C.F.R. parts 733 & 734*—Regulations of the Office of Personnel Management. Table B.

54. *5 U.S.C. 7342*—Foreign Gifts and Decorations. Regulations are promulgated by each individual agency subject to this provision. Table B.

55. *5 U.S.C. 7351 to 7353*—Misconduct. *5 C.F.R. part 2635*—Regulations of the Office of Government Ethics. Table B.

56. *5 U.S.C. 7501 to 7543*—Adverse Actions. *5 C.F.R. parts 752, 930, 990*—Regulations of the Office of Personnel Management. Table B.

57. *5 U.S.C. 7902*—Safety Programs. Table B.

58. *5 U.S.C. 7904*—Employee Assistance Programs relating to drug and alcohol abuse. Table B.

59. *5 U.S.C. 8101 to 8193*—Compensation for Work Injuries. *20 C.F.R. parts 1, 10, 25*—Regulations of the Office of Worker's Compensation Programs, Department of Labor. *5 C.F.R. part 353*—Regulations of the Office of Personnel Management. Table B.

60. *5 U.S.C. 8301 to 8479*—Civil Service Retirement and Federal Employees Retirement System.

5 C.F.R. parts 831, 841 to 846—Regulations of the Office of Personnel Management.

5 C.F.R. chapter 16—Regulations of the Federal Retirement Thrift Supervision Board. Table B.

61. *5 U.S.C. 8501 to 8525*—Unemployment Compensation.

20 C.F.R. parts 609 & 614—Regulations of the Employment and Training Administration, Department of Labor. Table B.

62. *5 U.S.C. 8701 to 8716*—Life insurance.

5 C.F.R. parts 870 to 874—Regulations of the Office of Personnel Management. Table B.

63. *5 U.S.C. 8901 to 8914*—Health Insurance. *5 C.F.R. parts 890 & 891*—Regulations of the Office of Personnel Management.

TITLE 6 UNITED STATES CODE—BONDS

Title 6 of the United States Code has been repealed.

TITLE 7 UNITED STATES CODE—AGRICULTURE

No provisions were found in title 7 that related to the terms and conditions of employment.

TITLE 8 UNITED STATES CODE—ALIENS AND NATIONALITY

64. *8 U.S.C. 1324a*—Provisions of the Immigration Reform and Control Act, regarding unlawful employment of aliens.

8 C.F.R. part 274a—Regulations of the Immigration and Naturalization Service, Department of Justice. Table C.

65. *8 U.S.C. 1324b*—Provisions of the Immigration Reform and Control Act, regarding unfair employment-related practices.

28 C.F.R. part 44—Regulations of the Department of Justice. Table D.

TITLE 9 UNITED STATES CODE—ARBITRATION

No provisions were found in title 9 that related to the terms and conditions of employment.

TITLE 10 UNITED STATES CODE—ARMED FORCES

No provisions were found in title 10 that related to terms and conditions of employment, other than those provisions involving terms and conditions of employment of members of the armed forces specifically.

TITLE 11 UNITED STATES CODE—BANKRUPTCY

66. *11 U.S.C. 525*—Protection against discriminatory treatment on basis of bankruptcy. Table D.

TITLE 12 UNITED STATES CODE—BANKS AND BANKING

No provisions were found in title 12 that related to the terms and conditions of employment.

TITLE 13 UNITED STATES CODE—CENSUS

No provisions were found in title 13 that related to the terms and conditions of employment, other than those provisions involving compensation and dual and temporary employment of employees of the census bureau.

TITLE 14 UNITED STATES CODE—COAST GUARD

No provisions were found in title 14 that relate to terms and conditions of employment, other than those provisions involving terms and conditions of employment of members of the coast guard specifically.

TITLE 15 UNITED STATES CODE—COMMERCE AND TRADE

67. *15 U.S.C. 1673*—Restrictions on Garnishment.

5 C.F.R. parts 581 and 582 generally—Regulations of the Office of Personnel Management. Table A.

68. *15 U.S.C. 1674a*—Restriction on discharge from employment by reason of garnishment. Table D.

69. *15 U.S.C. 2622*—Toxic Substances Control Act (Employee protection provisions). Table D.

TITLE 16 UNITED STATES CODE—CONSERVATION

No provisions were found in title 16 that related to the terms and conditions of employment, other than the establishment of a variety of commissions and boards.

TITLE 17 UNITED STATES CODE—COPYRIGHTS

No provisions were found in title 17 that relate to the terms and conditions of employment.

TITLE 18 UNITED STATES CODE—CRIMINAL CODE

70. *18 U.S.C. 203, 205, 207 to 209*—Provisions relating to criminal penalties for government employees. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

71. *18 U.S.C. 431 to 443*—Provisions relating to illegal government employee contracts. Table B.

72. *18 U.S.C. 600*—Provision relating to promise of employment for political activity. Table A.

73. *17 U.S.C. 601*—Provision relating to deprivation of employment for political contribution. Table A.

74. *18 U.S.C. 643*—Provision relating to accounting generally for public money. Table B.

75. *18 U.S.C. 1581 and 1584*—Provisions relating to peonage and involuntary servitude. Table A.

76. *18 U.S.C. 1913, 1915 to 1918*—Criminal penalties for certain violations by officers or employees of the United States. Table B.

TITLE 19 UNITED STATES CODE—CUSTOMS AND DUTIES

No provisions were found in title 19 that relate to the terms and conditions of employment, other than provisions involving terms and condition of employment for customs officers specifically.

TITLE 20 UNITED STATES CODE—EDUCATION

No provisions were found in title 20 that relate to terms and conditions of employment, other than those provisions involving terms and conditions of employment of certain teachers specifically.

TITLE 21 UNITED STATES CODE—FOOD AND DRUGS

No provisions were found in title 21 that relate to the terms and conditions of employment.

TITLE 22 UNITED STATES CODE—FOREIGN RELATIONS AND INTERCOURSE

No provisions were found in title 22 that relate to the terms and conditions of employment, other than provisions establishing agencies such as the IMF, the Foreign Service, the Peace Corps, and USIA.

TITLE 23 UNITED STATES CODE—HIGHWAYS

No provisions were found in title 23 that relate to the terms and conditions of employment.

TITLE 24 UNITED STATES CODE—HOSPITALS AND ASYLUMS

No provisions were found in title 24 that relate to the terms and conditions of employment.

TITLE 25 UNITED STATES CODE—INDIANS

No provisions were found in title 25 that relate to terms and conditions of employment, other than those that involve the hiring of Indians within the Indian Office specifically.

TITLE 26 UNITED STATES CODE—INTERNAL REVENUE CODE

No provisions were found in title 26 that relate to terms and conditions of employment.

TITLE 27 UNITED STATES CODE—INTOXICATING LIQUORS

No provisions were found in title 27 that relate to the terms and conditions of employment.

TITLE 28 UNITED STATES CODE—JUDICIARY

77. *28 U.S.C. 1875*—Protection of Juror's Employment Act. Table D.

TITLE 29 UNITED STATES CODE—LABOR

78. *29 U.S.C. 141 to 187*—National Labor Relations Act. *29 C.F.R. parts 100 to 103 and 1401 to 1430*—Regulations of the National Labor Relations Board. Table C.

79. *29 U.S.C. 201 to 219*—Fair Labor Standards Act. *29 C.F.R. parts 510 to 580*—Regulations of the Secretary of Labor. *142 Cong. Rec. S3924 to S3949*—Regulations of the Office of Compliance. Table A.

80. *29 U.S.C. 251 to 262*—the Portal to Portal Act. *29 C.F.R. part 775*—Regulations of the Secretary of Labor. *142 Cong. Rec. S3924 to S3949*—Regulations of the Office of Compliance. Table A.

81. *29 U.S.C. 621 to 633a*—Age Discrimination in Employment Act of 1967. *29 C.F.R. parts 1625 to 1627*—Interpretations of the Equal Employment Opportunity Commission. Table A.

82. *29 U.S.C. 651 to 677*—Occupational Safety and Health Act. *29 C.F.R. parts 1900 to 1926*—Regulations of the Secretary of Labor. *142 Cong. Rec. H10711 to H10719, S11019 to S11027*—Proposed regulations of the Office of Compliance. Table A.

83. *29 U.S.C. 701 to 797(b)*—The Rehabilitation Act of 1973. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

84. *29 U.S.C.A. 1001 to 1461*—Employee Retirement Income Security Act (ERISA). *29 C.F.R. chapter 25*—Regulations of the Pension and Welfare Benefits Administration, Department of Labor. Table C.

85. *19 U.S.C. 1161 to 1169*—COBRA provisions. Table C.

86. *29 U.S.C. 2001 to 2009*—Employee Polygraph Protection Act. *29 C.F.R. part 801*—Regulations of the Secretary of Labor. *142 Cong. Rec. S3917 to S3924*—Regulations of the Office of Compliance. Table A.

87. *29 U.S.C. 2101 to 2109*—Worker Adjustment Retraining and Notification Act. *20 C.F.R. part 639*—Regulations of the Employment and Training Administration, Department of Labor. *142 Cong. Rec. S3949 to S3952*—Regulations of the Office of Compliance. Table A.

88. *29 U.S.C. 2601 to 2654*—Family and Medical Leave Act. *29 C.F.R. part 825*—Regulations of the Secretary of Labor. *142 Cong. Rec. S3896 to S3917*—Regulations of the Office of Compliance. Table A.

TITLE 30 UNITED STATES CODE—MINERAL LANDS AND MINING

No provisions were found in title 30 that relate to terms and conditions of employment other than those that involve terms and conditions of employment for individuals in the mining industry specifically.

TITLE 31 UNITED STATES CODE—MONEY AND FINANCE

89. *31 U.S.C. 731 to 736, 751 to 755*—Government Accounting Office Personnel Act. *4 C.F.R. parts 2 et seq.*—Regulations of the Comptroller General and of the GAO Personnel Appeals Board. Table B.

TITLE 32 UNITED STATES CODE—NATIONAL GUARD

No provisions were found in title 32 that relate to terms and conditions of employment other than those that involve terms and conditions of employment for members of the National Guard specifically.

TITLE 33 UNITED STATES CODE—NAVIGATION AND NAVIGABLE WATERS

90. *33 U.S.C. 1367*—Water Pollution Control Act (Employee protection provisions). Table D.

TITLE 34 UNITED STATES CODE—NAVY

Incorporated into title 10 of the United States Code.

TITLE 35 UNITED STATES CODE—PATENTS

No provisions were found in title 35 that relate to terms and conditions of employment.

TITLE 36 UNITED STATES CODE—PATRIOTIC SOCIETIES AND OBSERVANCES

No provisions were found in title 36 that relate to terms and conditions of employment.

TITLE 37 UNITED STATES CODE—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

No provisions were found in title 37 that relate to terms and conditions of employment other than those that involve terms and conditions of employment for members of the uniformed services.

TITLE 38 UNITED STATES CODE—VETERAN'S BENEFITS

91. *38 U.S.C. 4301 to 4333*—Uniformed Services Employment and Reemployment Rights. *5 C.F.R. part 353* for executive branch—Regulations of the Office of Personnel Management. Table A.

TITLE 39 UNITED STATES CODE—POSTAL SERVICE

92. *39 U.S.C. 1001 to 1011, 1201 to 1209*—Terms and conditions of employment for postal employees. *39 C.F.R. parts 211, 255, 265, 760, 761, 946*—Regulations of the Postal Service. Table B.

TITLE 40 UNITED STATES CODE—PUBLIC BUILDINGS, PROPERTY, AND WORKS

No provisions were found in title 40 that relate to terms and conditions of employment other than those that involve contractor laws and the establishment of Boards and Commissions.

TITLE 41 UNITED STATES CODE—PUBLIC CONTRACTS

No provisions were found in title 41 that relate to terms and conditions of employment other than those that involve contractor laws.

TITLE 42 UNITED STATES CODE—PUBLIC HEALTH AND WELFARE

93. *42 U.S.C. 290dd*—Provision relating to substance abuse among government and other employees. Table B.

94. *42 U.S.C. 300j–9(i)*—Safe Drinking Water Act (employee protection provisions). Table D.

95. *42 U.S.C. 401 to 433*—Provisions relating to Social Security Insurance. *20 C.F.R. parts 404, 410, 416*—Regulations of the Social Security Administration. *42 C.F.R. parts 405, 406, 424*—Regulations of the Health Care Financing Administration, Health and Human Services. Table A.

96. *42 U.S.C. 659 to 662*—Provisions relating to enforcement of child support and alimony orders. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

97. *42 U.S.C. 2000a to 2000a–6*—Title II of the Civil Rights Act of 1964. Table D.

98. *42 U.S.C. 2000b to 2000b–3*—Title III of the Civil rights Act of 1964. Table D.

99. *42 U.S.C. 2000e to 2000e–17*—Title VII of the Civil Rights Act of 1964. *29 C.F.R. part 1601* generally—Procedural regulations of the Equal Employment Opportunity Commission. Table A.

100. *42 U.S.C. 4151 to 4157*—Provisions relating to design and construction of public buildings to accommodate physically handicapped persons. *41 C.F.R. parts 101 to 119* generally—Regulations of the General Services Administration. Table B.

101. *42 U.S.C. 5851*—Energy Reorganization Act of 1974 (Employee protection provisions). Table D.

102. *42 U.S.C. 6971*—Solid Waste Disposal Act (Employee protection provisions). Table D.

103. *42 U.S.C. 7622*—Clean Air Act (Employee protection provisions). Table D.

104. *42 U.S.C. 9610*—Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA) (Employee protection provisions). *29 C.F.R. 24.2*—Enforcement procedures of the Secretary of Labor. Table D.

105. *42 U.S.C. 12101 to 12213*—The Americans with Disabilities Act of 1990. *29 C.F.R. parts 1602, 1614, 1640, 1641*—Record keeping and reporting requirements of the Equal Employment Opportunity Commission. *28 C.F.R. part 35*—Regulations of the Attorney General. *49 C.F.R. parts 27, 37, 38*—Regulations of the Secretary of Transportation. *142 Cong. Rec. H10676 to H10711, S10984 to S11019*—Proposed regulations of the Office of Compliance. Table A.

TITLE 43 UNITED STATES CODE—PUBLIC LANDS

No provisions were found in title 43 that relate to the terms and conditions of employment.

TITLE 44 UNITED STATES CODE—PUBLIC PRINTING AND DOCUMENTS

No provisions were found in title 44 that relate to the terms and conditions of employment.

TITLE 45 UNITED STATES CODE—RAILROADS

No provisions were found in title 45 that relate to terms and conditions of employment other than those that prescribe terms and conditions of employment for railroad employees specifically, and the establishment of Boards and Commissions.

TITLE 46 UNITED STATES CODE—SHIPPING

No provisions were found in title 46 that relate to terms and conditions of employment other than those that prescribe terms and conditions of employment for shipping industry employees specifically.

TITLE 47 UNITED STATES CODE—TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

No provisions were found in title 47 that relate to terms and conditions of employment.

TITLE 48 UNITED STATES CODE—TERRITORIES AND INSULAR POSSESSIONS

No provisions were found in title 48 that relate to terms and conditions of employment.

TITLE 49 UNITED STATES CODE—TRANSPORTATION

No provisions were found in title 49 that relate to terms and conditions of employment other than those that prescribe terms and conditions of employment for common carrier employees specifically.

TITLE 50 UNITED STATES CODE—WAR AND NATIONAL DEFENSE

No provisions were found in title 50 that relate to terms and conditions of employment other than those that prescribe terms and conditions of employment for CIA employees specifically.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT—PM 1

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to the requirements of 42 U.S.C. 3536, I transmit herewith the 31st Annual Report of the Department of Housing and Urban Development, which covers calendar year 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT—PM 2

Thee PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

In accordance with the requirements of section 657 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7267), I transmit herewith the 31st Annual Report of the Department of Energy, which covers the years 1994 and 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

REPORT CONCERNING THE BIENNIAL REPORT ON HAZARDOUS MATERIALS—MESSAGE FROM THE PRESIDENT—PM 3

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with Public Law 103–272, as amended (49 U.S.C. 5121(e)), I transmit herewith the Biennial Report on Hazardous Materials Transportation for Calendar Years 1994–1995 of the Department of Transportation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

REPORT CONCERNING THE APPOINTMENT OF THE UNITED STATES TRADE REPRESENTATIVES—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 4

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on January 7, 1997, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

I am pleased to transmit herewith for your immediate consideration and enactment legislation to provide a waiver from certain provisions relating to the appointment of the United States Trade Representative.

This draft bill would authorize the President, acting by and with the advice and consent of the Senate, to appoint Charlene Barshefsky as the United States Trade Representative, notwithstanding any limitations imposed by certain provisions of law. The Lobbying Disclosure Act of 1995 amended the provisions of the Trade Act of 1974 regarding the appointment of the United States Trade Representative and the Deputy United States Trade Representatives by imposing certain limitations on their appointment. These limitations only became effective with respect to the appointment of the United States Trade Representative and Deputy United States Trade Representatives on January 1, 1996, and do not apply to individuals who were serving in one of those positions on that date and continue to serve in them. Because Charlene Barshefsky was appointed Deputy United States Trade Representative on May 28, 1993, and has continued to serve in that position since then, the limitations in the Lobbying Disclosure Act, which became effective on January 1, 1996, do not apply to her in her capacity as Deputy United States Trade Representative and it is appropriate that they not apply to her if she is appointed to be the United States Trade Representative.

I have today nominated Charlene Barshefsky to be the next United States Trade Representative. She has done an outstanding job as Deputy United States Trade Representative since 1993 and as Acting United States Trade Representative for the last 9 months. I am confident she will make an excellent United States Trade Representative. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

MESSAGES FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1996, the Secretary of the Senate, on October 4, 1996, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mrs.

MORELLA) has signed the following enrolled bills:

S. 39. An act to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

H.R. 3539. An act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

H.R. 3723. An act to amend title 18, United States Code, to protect proprietary economic information, and for other purposes.

Under the authority of the order of the Senate of January 4, 1996, the enrolled bills were signed on October 4, 1996, during the sine die adjournment of the Senate by the President pro tempore (Mr. THURMOND).

Under the authority of the order of the Senate of January 4, 1996, the Secretary of the Senate, on October 9, 1996, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mrs. MORELLA) has signed the following enrolled bills and joint resolutions:

S. 342. An act to establish the Cache La Poudre River Corridor.

S. 1004. An act to authorize appropriations for the United States Coast Guard, and for other purposes.

S. 1194. An act to promote the research, identification, assessment, and exploration of marine mineral resources, and for other purposes.

S. 1649. An act to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes.

S. 1887. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2078. An act to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire.

S. 2183. An act to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

S. 2197. An act to extend the authorized period of stay within the United States for certain nurses.

S. 2198. An act to provide for the Advisory Commission on Intergovernmental Relations to continue in existence, and for other purposes.

H.R. 632. An act to enhance fairness in compensating owners of patents used by the United States.

H.R. 1087. An act for the relief of Nguyen Quy An.

H.R. 1281. An act to express the sense of the Congress that the United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

H.R. 1776. An act to establish United States commemorative coin programs, and for other purposes.

H.R. 1874. An act to modify the boundaries of the Talladega National Forest, Alabama.

H.R. 3155. An act to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the State of Florida for study and potential addition to the National Wild and Scenic Rivers System.

H.R. 3249. An act to authorize appropriations for a mining institute to develop domestic technological capabilities for the recovery of minerals from the Nation's seabed, and for other purposes.

H.R. 3378. An act to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors.

H.R. 3568. An act to designate 51.7 miles of the Clarion River, located in Pennsylvania, as a component of the National Wild and Scenic Rivers System.

H.R. 3632. An act to amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition.

H.R. 3864. An act to amend laws authorizing auditing, reporting, and other functions by the General Accounting Office.

H.R. 3910. An act to provide emergency drought relief to the city of Corpus Christi, Texas, and the Canadian River Municipal Water Authority, Texas, and for other purposes.

H.R. 4036. An act making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations.

H.R. 4083. An act to extend certain programs under the Energy Policy and Conservation Act through September 30, 1997.

H.R. 4137. An act to combat drug-facilitated crimes of violence, including sexual assaults.

H.R. 4194. An act to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes.

H.J. Res. 193. Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact.

H.J. Res. 194. Joint resolution granting the consent to the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bills and joint resolutions were signed on October 9, 1996, during the sine die adjournment of the Senate by the President pro tempore (Mr. THURMOND).

Under the authority of the order of the Senate of January 4, 1996, the Secretary of the Senate, on October 18, 1996, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mrs. MORELLA) has signed the following enrolled bills:

H.R. 3219. An act to provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes.

H.R. 3452. An act to make certain laws applicable to the Executive Office of the President, and for other purposes.

H.R. 4283. An act to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bills and joint resolutions were signed on October 18, 1996, during the sine die adjournment of the Senate by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 4, 1996, he had presented to the President of the United States, the following enrolled bill:

S. 39. An act to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

The Secretary of the Senate reported that on October 9, 1996, he had presented to the President of the United States, the following enrolled bills:

S. 342. An act to establish the Cache La Poudre River Corridor.

S. 1004. An act to authorize appropriations for the United States Coast Guard, and for other purposes.

S. 1194. An act to promote the research, identification, assessment, and exploration of marine mineral resources, and for other purposes.

S. 1649. An act to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes.

S. 1887. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2078. An act to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire.

S. 2183. An act to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

S. 2197. An act to extend the authorized period of stay within the United States for certain nurses.

S. 2198. An act to provide for the Advisory Commission on Intergovernmental Relations to continue in existence, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1. A communication from the Chairman of the Federal Election Commission, transmitting, the budget request for fiscal year 1998; to the Committee on Rules and Administration.

EC–2. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report relative to tuition payment assistance; to the Committee on Rules and Administration.

EC–3. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to tomatoes grown in Florida, (FV96-966-2) received on October 30, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Irish potatoes grown in Maine, (FV95-950-1) received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to fresh fruits, vegetables, and other products (FV95-306) received on October 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to regulations under the export grape and plum act (FV96-35-1) received on October 17, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to assessment rate for marketing orders, (FV96-927-2) received on October 9, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of four rules including a rule relative to dried prunes in California, (FV96-993-1, 945-1, 929-3) received on October 3, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to the eastern Colorado milk order, (DA-96-13) received on October 25, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to olives grown in California and imported olives (FV96-932-3) received on October 25, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–11. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to domestically produced peanuts, (FV96-998-3) received on October 28, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–12. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to brucellosis in cattle, received on October 30, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–13. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to importation of fruit trees from France, received on October 1, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–14. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Japanese beetle, received on November 1, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–15. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to importation of horses, received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–16. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to commuted traveltime periods, received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–17. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to viruses, serums, toxins, and analogous products, received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–18. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to remove interstate movement regulations, received on October 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–19. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to viruses, serums, toxins, and analogous products, received on October 4, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–20. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to a change in disease status, received on October 4, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–21. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to karnal bunt, received on October 4, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–22. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, the report of a rule relative to burley tobacco, (RIN0560–AE47) received on October 1, 1996; to Committee on Agriculture, Nutrition, and Forestry.

EC–23. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, the report of a rule relative to the disaster reserve assistance program, received on October 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–24. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to agreements for the development of foreign markets, (RIN0551–AA24) received on October 4, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–25. A communication from the Administrator of the Grain Inspection and Stockyards Administration, Department of Agriculture, the report of a rule relative to protection for purchasers of farm products, (RIN0580–AA13) received on October 17, 1996; to Committee on Agriculture, Nutrition, and Forestry.

EC–26. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of a major rule relative to dairy tariff-rate quote licensing, received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–27. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB74) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–28. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB98) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–29. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB58) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–30. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB60) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–31. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB02) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–32. A communication from the Assistant Secretary for Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to agriculture acquisition regulation, (RIN0599–AA00) received on October 1, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–33. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Horse Protection Enforcement Act for fiscal year 1995; to the Committee on Agriculture, Nutrition, and Forestry.

EC–34. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on foreign ownership of U.S. agricultural land for calendar year 1995; to the Committee on Agriculture, Nutrition, and Forestry.

EC–35. A communication from the Acting Executive Director of the Commodities Futures Trading Commission, transmitting, pursuant to law, the report of a rule relative to inflation adjusted civil monetary penalties, received on October 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–36. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of a rule relative to adjusting civil money penalties for inflation, (RIN3052–AB74) received on October 25, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–37. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "Willful Misconduct" (RIN2900–AI26) received on November 1, 1996; to the Committee on Veterans' Affairs.

EC–38. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "Contract Program for Veterans With Alcohol and Drug Dependence Disorders" (RIN2900–AH77) received on November 1, 1996; to the Committee on Veterans' Affairs.

EC–39. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "Federal Civil Penalties Inflation Adjustment" (RIN2900–AI48) received on October 31, 1996; to the Committee on Veterans' Affairs.

EC–40. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "Evidence of Dependents and Age" (RIN2900–AH51) received on October 31, 1996; to the Committee on Veterans' Affairs.

EC–41. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "VA Acquisition Regulation: Service Contracting" (RIN2900–AG67) received on October 31, 1996; to the Committee on Veterans' Affairs.

EC–42. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "Schedule for Rating Disabilities; Mental Disorders" (RIN2900–AF01) received on October 27, 1996; to the Committee on Veterans' Affairs.

EC–43. A communication from the President of the United States, transmitting, pursuant to law, the report on continued production of the naval petroleum reserves; to the Committee on Armed Services.

EC–44. A communication from the President of the United States, transmitting, pursuant to law, a report on ballistic missiles; to the Committee on Armed Services.

EC–45. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–46. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on continued production of the naval petroleum reserves; to the Committee on Armed Services.

EC–47. A communication from the Secretary of the Navy, transmitting, pursuant to law, a proposal to transfer a battleship; to the Committee on Armed Services.

EC–48. A communication from the Under Secretary of Defense, transmitting, pursuant to law, notice of fund transfers; to the Committee on Armed Services.

EC–49. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on opportunities for greater efficiencies in the operation of the military exchanges, commissary stores, and other morale, welfare and recreation activities; to the Committee on Armed Services.

EC–50. A communication from the Director of the Defense Procurement, Under Secretary of Defense, transmitting, pursuant to law, a rule entitled "The Pilot Mentor-Protege Program" received on October 15, 1996; to the Committee on Armed Services.

EC–51. A communication from the Director of the Defense Procurement, Under Secretary of Defense, transmitting, pursuant to law, a rule entitled "The Defense Federal Acquisition Regulation Supplement" received on September 27, 1996; to the Committee on Armed Services.

EC–52. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92–12; to the Committee on Appropriations.

EC–53. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92–27; to the Committee on Appropriations.

EC–54. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the Anti-Terrorism Assistance Program; to the Committee on Appropriations.

EC–55. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–56. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–57. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–58. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–59. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–60. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–61. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–62. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–63. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–64. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–65. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–66. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, transmitting, pursuant to law, the report of rule relative to Food Stamp Program regulations, received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–67. A communication from the Deputy Under Secretary Natural Resources and Environment, Department of Agriculture, transmitting, pursuant to law, the report under the Wilderness Act; to the Committee on Energy and Natural Resources.

EC–68. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the electric and hybrid vehicles program for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC–69. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the report of rule relative to Bonneville Power Administration, received on October 1, 1996; to the Committee on Energy and Natural Resources.

EC–70. A communication from the Secretary of Energy, transmitting, pursuant to law, the report relative to alternative fuel vehicles in Federal fleets; to the Committee on Energy and Natural Resources.

EC–71. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report entitled "Emissions of Greenhouse Gases in the United States 1995"; to the Committee on Energy and Natural Resources.

EC–72. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the report of a rule relative to personnel assurance program, received on October 22, 1996; to the Committee on Energy and Natural Resources.

EC–73. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to Outer Continental Shelf Leases, (RIN1010–AC07) received on October 24, 1996; to the Committee on Energy and Natural Resources.

EC–74. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–75. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to Outer Continental Shelf Leases, (RIN1010–AC15) received on October 24, 1996; to the Committee on Energy and Natural Resources.

EC–76. A communication from the Assistant Secretary for Fish and Wildlife and Parks, transmitting, pursuant to law, the report of rule relative to national parks system units in Alaska, (RIN1024–AC19) received on October 15, 1996; to the Committee on Energy and Natural Resources.

EC–77. A communication from the Acting Director of the Office of Surface Mining, Department of Interior, transmitting, pursuant to law, the report of two final rules including one relative to the Ohio Regulatory Program, received on October 23, 1996; to the Committee on Energy and Natural Resources.

EC–78. A communication from the Acting Director of the Office of Surface Mining, Department of Interior, transmitting, pursuant to law, the report of a final rule relative to North Dakota abandoned Mine Land Reclamation Program, received on October 4, 1996; to the Committee on Energy and Natural Resources.

EC–79. A communication from the National Service Officer of the American Gold Star Mothers, transmitting, pursuant to law, the report of the audit of financial statements for 1995 and 1996; to the Committee on the Judiciary.

EC–80. A communication from the Assistant Attorney General, transmitting, pursuant to law, the report relative to the rule entitled "Grants Program for Indian Tribes"; to the Committee on the Judiciary.

EC–81. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, the rule entitled "Communications with the Patent and Trademark Office" (RIN0651-AA70) received on October 29, 1996; to the Committee on the Judiciary.

EC–82. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the rule entitled "Visas Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended" received on September 27, 1996; to the Committee on the Judiciary.

EC–83. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation entitled "The Child Support Recovery Amendments Act of 1996"; to the Committee on the Judiciary.

EC–84. A communication from the Secretary of Education, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–85. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the rule entitled "Employer Sanctions Modifications" received on October 2, 1996; to the Committee on the Judiciary.

EC–86. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule concerning the Port Passenger Accelerated Service Program received on October 9, 1996; to the Committee on the Judiciary.

EC–87. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the rule entitled "Collection of Fees Under the Dedicated Commuter Lane Program" received on October 11, 1996; to the Committee on the Judiciary.

EC–88. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation to include American Samoa in the Act of October 5, 1984; to the Committee on the Judiciary.

EC–89. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation entitled "The International Crime Control Act of 1996"; to the Committee on the Judiciary.

EC–90. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, the report of the audit of financial statements for 1995 and 1996; to the Committee on the Judiciary.

EC–91. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on the Judiciary.

EC–92. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated September 1, 1996; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, and to the Committee on Government Affairs.

EC–93. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the final sequestration report for fiscal year 1997; referred jointly, pursuant to the order of January 30, 1975, as modified by the order April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on the Judiciary, to the Committee on Labor and Human Resources, to the Committee on Small Business, to the Committee on Veterans' Affairs, to the Select Committee on Intelligence, and to the Committee on Indian Affairs.

EC–94. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Notice 96–54, received on October 29, 1996; to the Committee on Finance.

EC–95. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–105, received on October 1, 1996; to the Committee on Finance.

EC–96. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–106, received on October 1, 1996; to the Committee on Finance.

EC–97. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–108, received on October 15, 1996; to the Committee on Finance.

EC–98. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–112, received on October 21, 1996; to the Committee on Finance.

EC–99. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–116, received on October 24, 1996; to the Committee on Finance.

EC–100. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Procedure 250588–96, received on November 1, 1996; to the Committee on Finance.

EC–101. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Procedure 96–49, received on October 7, 1996; to the Committee on Finance.

EC–102. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Procedure 96–50, received on October 31, 1996; to the Committee on Finance.

EC–103. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Notice 96–51, received on September 27, 1996; to the Committee on Finance.

EC–104. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Notice 96–52, received on September 27, 1996; to the Committee on Finance.

EC–105. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Ruling 96–41, received on October 22, 1996; to the Committee on Finance.

EC–106. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Ruling 96–45, received on September 27, 1996; to the Committee on Finance.

EC–107. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Ruling 96–50, received on September 27, 1996; to the Committee on Finance.

EC–108. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Ruling 96–52, received on October 18, 1996; to the Committee on Finance.

EC–109. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of two rules relative to Revenue Ruling 96–51, received on October 3, 1996; to the Committee on Finance.

EC–110. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, a rule relative to an Action on Decision, received on October 17, 1996; to the Committee on Finance.

EC–111. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, a rule relative to an Action on Decision, received on October 17, 1996; to the Committee on Finance.

EC–112. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, a rule relative to Revenue Procedure 96-48, received on September 27, 1996; to the Committee on Finance.

EC-113. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule relative to a Treasury Regulation, (RIN1545-AM98) received on October 9, 1996; to the Committee on Finance.

EC-114. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule relative to a Treasury Regulation, (RIN1545-AU08) received on October 9, 1996; to the Committee on Finance.

EC-115. A communication from the Chief Counsel of the Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a final rule relative to United States Savings Bonds, received on October 15, 1996; to the Committee on Finance.

EC-116. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to recovery of overpayments, received on September 27, 1996; to the Committee on Finance.

EC-117. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to services under Medicare Part B, received on September 27, 1996; to the Committee on Finance.

EC-118. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to ambulatory surgical center payment rates, received on October 1, 1996; to the Committee on Finance.

EC-119. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to limitations on aggregate payments, (RIN0938-AH44) received on October 8, 1996; to the Committee on Finance.

EC-120. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to monthly actuarial rates, (RIN0938-AH42) received on October 30, 1996; to the Committee on Finance.

EC-121. A communication from the Chief of Staff of the Social Security Administration, transmitting, pursuant to law, the report of a final rule relative to lawful admission for permanent residence, (RIN0960-AD90) received on October 31, 1996; to the Committee on Finance.

EC-122. A communication from the Chief of Staff of the Social Security Administration, transmitting, pursuant to law, the report of a final rule relative to overpayment appeals and waiver rights, (RIN0960-AD99) received on October 30, 1996; to the Committee on Finance.

EC-123. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the Generalized System of Preferences (GSP) program, received on October 18, 1996; to the Committee on Finance.

EC-124. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the worker adjustment assistance training funds under the Trade Act of 1974; to the Committee on Finance.

EC-125. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the Caribbean Basin Recovery Act; to the Committee on Finance.

EC-126. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the report entitled "Arms Control, Nonproliferation and Disarmament Studies Completed in 1995"; to the Committee on Foreign Relations.

EC-127. A communication from the Assistant Attorney General (Civil Rights Division), transmitting, pursuant to law, the rule entitled "Redress Provisions for Persons of Japanese Ancestry" (RIN1190-AA42) received on October 31, 1996; to the Committee on the Judiciary.

EC-128. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a rule concerning Personnel Security Activities received on November 4, 1996; to the Committee on Energy and Natural Resources.

EC-129. A communication from the Chairman of the Senate Delegation and Chairman of the House of Representatives Delegation of the Canada-United States Interparliamentary Conference, transmitting, pursuant to law, the annual report for 1996; to the Committee on Foreign Relations.

EC-130. A communication from the Assistant Attorney General, transmitting, pursuant to law, the report on the administration of the Foreign Agents Registration Act for the calendar year 1995; to the Committee on Foreign Relations.

EC-131. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-132. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-133. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to a rule on nonimmigrant visas received on October 18, 1996; to the Committee on Foreign Relations.

EC-134. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the notice of intention relative to the Hashemite Kingdom of Jordan; to the Committee on Foreign Relations.

EC-135. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the United Nations and United Nations-affiliated agencies; to the Committee on Foreign Relations.

EC-136. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a rule concerning the Work For Others Program received on November 4, 1996; to the Committee on Energy and Natural Resources.

EC-137. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the Selected Acquisition Reports for the period July 1 through September 30, 1996; to the Committee on Armed Services.

EC-138. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period April 1, 1996 through September 30, 1996; ordered to lie on the table.

EC-139. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "Diseases Associated with Exposure to Certain Herbicide Agents" (RIN2900-AI35) received on November 8, 1996; to the Committee on Veterans' Affairs.

EC-140. A communication from the Chairman of the U.S. Advisory Commission on Public Diplomacy, transmitting, pursuant to law, the report entitled "A New Diplomacy for the Information Age"; to the Committee on Foreign Relations.

EC-141. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-142. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-143. A communication from the Principal Deputy Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to Saudi Arabia; to the Committee on Appropriations.

EC-144. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92-09; to the Committee on Appropriations.

EC-145. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Waste Isolation Pilot Plant; to the Committee on Energy and Natural Resources.

EC-146. A communication from the Acting Assistant Secretary of the Interior for Land Minerals Management, transmitting, pursuant to law, a rule entitled "Grazing Administration, Exclusive of Alaska" (RIN1004-AB89) received on November 22, 1996; to the Committee on Energy and Natural Resources.

EC-147. A communication from the Acting Director of the Office of Surface Mining, Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, a rule entitled "Grazing Administration, Exclusive of Alaska" (RIN1004-AB89) received on November 22, 1996; to the Committee on Energy and Natural Resources.

EC-148. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a rule entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf" (RIN101004-AC03); to the Committee on Energy and Natural Resources.

EC-149. A communication from the Director of the Office of Insular Affairs, Department of the Interior, transmitting, pursuant to law, a rule entitled "Changes In Procedures For the Insular Possessions Watch Program" (RIN0625-AA46) received on October 30, 1996; to the Committee on Energy and Natural Resources.

EC-150. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of thirteen rules including one relative to revision of Class E airspace (RIN2120-AA64, AA66), received on October 10, 1996; to the Committee on Commerce, Science, and Transportation.

EC-151. A communication from General Counsel, Department of Transportation, transmitting, pursuant to law, the report of thirteen rules including one relative to revision of Class E airspace (RIN2120-AA64, AA65, AA66), received on October 10, 1996; to the Committee on Commerce, Science, and Transportation.

EC–152. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of seven rules including one relative to Class E airspace (RIN2120–AA64, AA66), received on October 3, 1996; to the Committee on Commerce, Science, and Transportation.

EC–153. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of three rules including one relative to standard instrument approach procedures (RIN2120–AA65), received on October 31, 1996; to the Committee on Commerce, Science, and Transportation.

EC–154. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule relative to airworthiness directives (RIN2120–AA64), received on October 28, 1996; to the Committee on Commerce, Science, and Transportation.

EC–155. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of two rules including one relative to crashworthiness protection (RIN2115–AE47), received on November 14, 1996; to the Committee on Commerce, Science, and Transportation.

EC–156. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of twenty-five rules including one relative to airworthiness directives (RIN2120–AA63, AA64, AA65, AA66, AC43, AD74), received on November 14, 1996; to the Committee on Commerce, Science, and Transportation.

EC–157. A communication from the Secratary of Commerce, transmitting, pursuant to law, the report entitled "Historic Rational, Effectiveness and Biological Efficiency of Existing Regulations for the U.S. Atlantic Bluefin Tuna Fisheries"; to the Committee on Commerce, Science, and Transportation.

EC–158. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Commerce, Science, Transportation.

EC–159. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, the report of a rule relative to establishment of recordal fees, (RIN0651–AA90) received October 23, 1996; to the Committee on Commerce, Science, and Transportation.

EC–160. A communication from the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to the Endangered Species Act, received on November 13, 1996; to the Committee on Commerce, Science, and Transportation.

EC–161. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to fisheries of the Northeastern United States (RIN0648–AH06) received on November 20, 1996; to the Committee on Commerce, Science, and Transportation.

EC–162. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to fisheries of the Northeastern United States (RIN0648–AH05) received on October 31, 1996; to the Committee on Commerce, Science, and Transportation.

EC–163. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to fisheries of the Northeastern United States (RIN0648–AJ26) received on November 12, 1996; to the Committee on Commerce, Science, and Transportation.

EC–164. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Gulf of Mexico Fisheries Disaster Program (RIN0648–ZA19), received on October 23, 1996; to the Committee on Commerce, Science, and Transportation.

EC–165. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the North Pacific Fisheries Research Plan (RIN0648–AI95), received on November 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–166. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone Off Alaska, received on November 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–167. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the North Pacific Fisheries Research Plan (RIN0648–ZA20), received on November 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–168. A communication from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting, pursuant to law, the biennial report on the Coastal Zone Management Act for fiscal years 1994 and 1995; to the Committee on Commerce, Science, and Transportation.

EC–169. A communication from the Associate Director of the National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Faster Quality Act (RIN0693–AA90); to the Committee on Commerce, Science, and Transportation.

EC–170. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "The Community Residential Care Program" (RIN2900–AH61) received on December 2, 1996; to the Committee on Veterans' Affairs.

EC–171. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on Vietnam-era and Disabled Veterans; to the Committee on Veterans' Affairs.

EC–172. A communication from the Assistant Secretary of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a proposed plan for the use and distribution of the White Mountain Apache Tribe's judgment funds; to the Committee on Indian Affairs.

EC–173. A communication from the Assistant Secretary of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule (RIN1035–AA00) received on December 19, 1996; to the Committee on Indian Affairs.

EC–174. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–175. A communication from the Special Assistant to the President and Senior Director for Legislative Affairs, National Security Council, transmitting, pursuant to law, a report on the Livingston ABM Amendment; to the Committee on Appropriations.

EC–176. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 95–06; to the Committee on Appropriations.

EC–177. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–11; to the Committee on Appropriations.

EC–178. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96–03; to the Committee on Appropriations.

EC–179. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96–05; to the Committee on Appropriations.

EC–180. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–09; to the Committee on Appropriations.

EC–181. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, a rule received on December 2, 1996; to the Committee on Foreign Relations.

EC–182. A communication from the Chairman of the J. William Fulbright Foreign Scholarship Board, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Foreign Relations.

EC–183. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to Iraq; to the Committee on Foreign Relations.

EC–184. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice relative to Iraq; to the Committee on Foreign Relations.

EC–185. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to United States Prisoners of War and Missing in Action; to the Committee on Foreign Relations.

EC–186. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–187. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–188. A communication from the President of the United States, transmitting, pursuant to law, the report of seven new deferrals of budgetary resources; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, and to the Committee on Foreign Relations.

EC–189. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Final Sequestration Report for fiscal year 1997; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on the Judiciary, to the Committee on Labor and Human Resources, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Rules and Administration, to the Committee on Small Business, to the Committee on Veterans Affairs, to the Committee on Indian Affairs, to the Select Committee on Ethics, to the Select Committee on Intelligence, and to the Special Committee on Aging.

EC–190. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report of the Cooperative Threat Reduction Program Plan; to the Committee on Armed Services.

EC–191. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "The Uses and Counterfeiting of U.S. Currency in Foreign Countries"; to the Committee on the Judiciary.

EC–192. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule entitled "Adjustment of Status to That of Person Admitted for Permanent Residence: Interview" (RIN1115–AD15) received on December 2, 1996; to the Committee on the Judiciary.

EC–193. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, a rule entitled "Changes in Signature and Filing Requirements for Correspondence Filed in the Patent and Trademark Office" (RIN0651–AA55) received on November 27, 1996; to the Committee on the Judiciary.

EC–194. A communication from the Director of the Office for Victims of Crime, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report on the programs and activities of the Office for Victims of Crime; to the Committee on the Judiciary.

EC–195. A communication from the Deputy Assistant Administrator of the Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, a rule entitled "Distribution of Chemical Import/Export Declaration" (RIN1117–AA21) received on October 31, 1996; to the Committee on the Judiciary.

EC–196. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, a rule affecting expansion of the Board of Immigration Appeals (RIN1125–AA17) received on December 24, 1996; to the Committee on the Judiciary.

EC–197. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule entitled "Revocation of Naturalization" (RIN1115–AD45) received on October 31, 1996; to the Committee on the Judiciary.

EC–198. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled "Visas: Regulations Pertaining to Both Nonimmigrants and Immigrants" received on November 7, 1996; to the Committee on the Judiciary.

EC–199. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled "Visas: Regulations Pertaining to Both Nonimmigrants and Immigrants" received on December 4, 1996; to the Committee on the Judiciary.

EC–200. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, four rules including a rule entitled "Incoming Publications: Nudity and Sexually Explicit Material or Information" (RIN1120–AA59, 1120–AA50, 1120–AA21, 1120–AA45); to the Committee on the Judiciary.

EC–201. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, a report on the continuing need for existing bankruptcy judgeship positions; to the Committee on the Judiciary.

EC–202. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, a report entitled "Study of Judicial Branch Coverage"; to the Committee on the Judiciary.

EC–203. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report entitled "U.S. Navy Ship Solid Waste Compliance Plan for MARPOL Annex V Special Areas"; to the Committee on Armed Services.

EC–204. A communication from the Secretary of the Panama Canal Commission, transmitting, pursuant to law, a rule entitled "Proposal to Increase Tolls and Apply Certain Rules For Measurement of Vessels" received on December 19, 1996; to the Committee on Armed Services.

EC–205. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to nuclear, biological, and chemical weapons; to the Committee on Armed Services.

EC–206. A communication from the Chair of the Defense Environmental Response Task Force, Under Secretary of Defense, transmitting, pursuant to law, the report for fiscal year 1996; to the Committee on Armed Services.

EC–207. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison at the Air Force Development Test Center, Eglin Air Force Base, Florida; to the Committee on Armed Services.

EC–208. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison at Keesler Air Force Base, Mississippi, and Lackland AFB, Texas; to the Committee on Armed Services.

EC–209. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison at Bolling Air Force Base, Washington, DC; to the Committee on Armed Services.

EC–210. A communication from the Director of the Office of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a rule entitled "Civilian Health and Medical Program of the Uniformed Services" received on November 20, 1996; to the Committee on Armed Services.

EC–211. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to Medicare late enrollment penalties; to the Committee on Armed Services.

EC–212. A communication from the Director of the Washington Headquarters Services, Department of Defense, transmitting, pursuant to law, a rule entitled "Civilian Health and Medical Program of the Uniformed Services" (RIN0720–AA29) received on December 19, 1996; to the Committee on Armed Services.

EC–213. A communication from the Secretary of Defense, transmitting notice of four retirements; to the Committee on Armed Services.

EC–214. A communication from the Director of the Defense Procurement (Acquisition and Technology), Under Secretary of Defense, transmitting, pursuant to law, five rules including a rule entitled "Defense Federal Acquisition Regulation Supplement" (DFARS Case 96–D023, D332, D334, D320, D330); to the Committee on Armed Services.

EC–215. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the coke oven emission control program for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC–216. A communication from the Secretary of Energy, transmitting, pursuant to law, the quarterly report on the Exxon Stripper Well Oil Overcharge Funds as of June 30, 1996; to the Committee on Energy and Natural Resources.

EC–217. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Automotive Technology Development Program for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC–218. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the report of a rule relative to human resource management, received on October 30, 1996; to the Committee on Energy and Natural Resources.

EC–219. A communication from the Chair of the Federal Regulatory Commission, transmitting, pursuant to law, the report of a rule relative to the Federal Power Act, received on December 27, 1996; to the Committee on Energy and Natural Resources.

EC–220. A communication from the Assistant Secretary for Water and Science, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to acreage limitation and water conservation (RIN1006–AA32) received on December 11, 1996; to the Committee on Energy and Natural Resources.

EC–221. A communication from the Acting Director of the Office of Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Kentucky Regulatory Program, received on December 14, 1996; to the Committee on Energy and Natural Resources.

EC–222. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Exclusive Economic Zone off Alaska, received on December 6, 1996; to the Committee on Commerce, Science, and Transportation.

EC–223. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Fisheries of the Northeastern United States, received on December 9, 1996; to the Committee on Commerce, Science, and Transportation.

EC–224. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Exclusive Economic Zone off Alaska, received on December 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–225. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Scallop Registration Area D, received on December 9, 1996; to the Committee on Commerce, Science, and Transportation.

EC–226. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of four rules including one rule relative to Exclusive Economic Zone off Alaska, received on December 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–227. A communication from the Acting Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Monterey Bay National Marine Sanctuary (RIN0648–AH92) received on December 13, 1996; to the Committee on Commerce, Science, and Transportation.

EC–228. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to species bycatch allowances (RIN0648–xx73) received on December 6, 1996; to the Committee on Commerce, Science, and Transportation.

EC–229. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Fishery Management Plan (RIN0648–AH28) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–230. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Fishery Management Plan (RIN0648–AG29) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–231. A communication from the Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Fishery Management Plan (RIN0648–AD91) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–232. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the List of Fisheries for 1997 (RIN0648–AH33) received on December 30, 1996; to the Committee on Commerce, Science, and Transportation.

EC–233. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Sea Turtle Conservation (RIN0648–AH89) received on December 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC–234. A communication from the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services, transmitting, pursuant to law, a rule entitled "Alaska, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and Demonstration Projects" (RIN0584–AC14) received on November 20, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–235. A communication from the Assistant Secretary of Agriculture for Marketing and Regulatory Programs, transmitting, pursuant to law, a rule entitled "Fees for Commodity Inspection" (RIN0580–AA48) received on December 17, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–236. A communication from the Under Secretary of Agriculture for Rural Development, transmitting, pursuant to law, three rules including a rule entitled "Rural Business Loan Program Streamlining" (RIN0575–AA09, 0575–AB99, 0575–AB59); to the Committee on Agriculture, Nutrition, and Forestry.

EC–237. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, three rules including a rule entitled "Accounting and Reporting Requirements" (RIN3052–AB54, 3052–AB61, 3052–AB73); to the Committee on Agriculture, Nutrition, and Forestry.

EC–238. A communication from the Administrator of the Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, sixteen rules including a rule entitled "Tomatoes Grown in Florida" (FV96–966–1, 981–4, 989–3, 905–4, 906–2, 911–1, 920–3, 987–1, 920–3, 998–2, 906–3, 955–1, 984–1 IFR); to the Committee on Agriculture, Nutrition, and Forestry.

EC–239. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, three rules including a rule entitled "Importation of Fruits and Vegetables" (95–098–3, 96–045–1, 96–074–1); to the Committee on Agriculture, Nutrition, and Forestry.

EC–240. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, two rules including a rule entitled "Report for Commission Interpretation"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–241. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, two rules including a rule entitled "Foreign Donation of Agricultural Commodities" (7 CFR Part 1499, 1485); to the Committee on Agriculture, Nutrition, and Forestry.

EC–242. A communication from the Acting Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, three rules including a rule entitled "Dairy Indemnity Payment Program" (RIN0560–AE97, 0560–AE45, 0560–AE46); to the Committee on Agriculture, Nutrition, and Forestry.

EC–243. A communication from the Administrator of the Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Grading and Inspection" (RIN0581–AB43) received on December 31, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–244. A communication from the Administrator of the Food and Consumer Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Revisions in Use and Disclosure Rules" (RIN0584–AC00) received on January 2, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–245. A communication from the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the report of the dissolution study; to the Committee on Armed Services.

EC–246. A communication from the Director of the Office of Administration and Management, Secretary of Defense, transmitting, pursuant to law, a rule entitled "Inflation Adjustment of Civil Monetary Penalties" received on January 2, 1997; to the Committee on Armed Services.

EC–247. A communication from the Assistant Secretary of the Army (Civil Works) transmitting, pursuant to law, a rule entitled "Cooper River and Tributaries, Charleston, South Carolina, Danger Zones and Restricted Areas" received on December 19, 1996; to the Committee on Environment and Public Works.

EC–248. A communication from the Director of the National Institutes of Health, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "National Institute of Environmental Health Sciences Hazardous Substances Basis Research and Training Grants" (RIN0925–AA03) received on December 19, 1996; to the Committee on Environment and Public Works.

EC–249. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Agency for Toxic Substances and Disease Registry for fiscal year 1993, 1994, and 1995; to the Committee on Environment and Public Works.

EC–250. A communication from the General Counsel of the Secretary of Transportation, transmitting, pursuant to law, a rule entitled "Emergency Relief Program" (RIN2125–AD60) received on December 19, 1996; to the Committee on Environment and Public Works.

EC–251. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report under the Superfund Amendments and Reauthorization

Act for fiscal year 1996; to the Committee on Environment and Public Works.

EC–252. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, a rule entitled "Determination of Endangered Status for Lesquerella perforata" (RIN:AC42) received on December 19, 1996; to the Committee on Environment and Public Works.

EC–253. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure of safeguards information for the period July 1 through September 30, 1996; to the Committee on Environment and Public Works.

EC–254. A communication from the Director of the Office of the Congressional Affairs of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, seven rules including a rule entitled "Interim Guidance On Transportation of Steam Generators"; to the Committee on Environment and Public Works.

EC–255. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, twenty-three (23) rules including a rule entitled "National Priorities List for Uncontrolled Hazardous Waste Sites" (FRL5601–7, 5668–3, 5665–9, 5658–6, 5658–7, 5659–9, 5658–4, 5658–5, 5671–1, 5670–5, 5670–2, 5665–8, 5666–1, 5659–7, 5654–7, 5664–3, 5664–6, 5665–1, 5657–5, 5649–8, 5662–8, 5667–8, 5662–5); to the Committee on Environment and Public Works.

EC–256. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report on environmental monitoring of organotin for the period April 1991 through June 1992; to the Committee on Environment and Public Works.

EC–257. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, four rules including a rule entitled "Medicare Program; Changes Concerning Suspension of Medicare Payments, and Determinations of Allowable Interest Expenses" (RIN0938–AC99, AH45, AH08, AH41); to the Committee on Finance.

EC–258. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled "Certain Provisions of the National Voter Registration Act of 1993" (RIN0970–AB32) received on November 22, 1996; to the Committee on Finance.

EC–259. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled "Certain Provisions of the National Voter Registration Act of 1993" (RIN0970–AB34) received on December 6, 1996; to the Committee on Finance.

EC–260. A communication from the Acting U.S. Trade Representative, Executive Office of the President, transmitting, pursuant to law, a report concerning eliminating or reducing foreign unfair trade practices for the period January 1995 through June 1996; to the Committee on Finance.

EC–261. A communication from the President of the United States, transmitting, pursuant to law, a report relative to broom corn brooms; to the Committee on Finance.

EC–262. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Requirement of Return and Time for Filing" (RIN1545–AU65) received on January 2, 1997; to the Committee on Finance.

EC–263. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, two announcements (96–133, 97–1); to the Committee on Finance.

EC–264. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, eighteen Treasury regulations including a regulation entitled "Sale of Seized Property" (RIN1545–AU13, 1545–AE94, 1545–AS19, 1545–AT48, 1545–AU52, 1545–AS52, 1545–AT64, 1545–AS94, 1545–AT92, 1545–AS14, 1545–AT91, 1545–AR57, 1545–AS09, 1545–AS30, 1545–AT19, 1545–AU44, 1545–AS04, 1545–AU47, 1545–AT25); to the Committee on Finance.

EC–265. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 92–62 received on December 17, 1996; to the Committee on Finance.

EC–266. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 92–65 received on December 18, 1996; to the Committee on Finance.

EC–267. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, thirteen Revenue Rulings (96–61, 96–63, 96–56, 96–58, 96–59, 96–64, 97–1, 97–3, 97–4, 96–53, 96–54, 96–57, 96–60); to the Committee on Finance.

EC–268. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, eighteen Revenue Procedures (96–38, 96–52, 96–53, 96–54, 96–55, 96–56, 96–57, 96–58, 96–60, 96–59, 96–61, 96–63, 96–62, 96–64, 97–3, 97–8, 97–9, 97–5); to the Committee on Finance.

EC–269. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, twenty-one Notices (96–64, 96–65, 96–66, 96–67, 96–68, 97–1, 97–2, 97–3, 97–4, 97–6, 97–7, 97–10, 97–11, 96–53, 96–55, 96–57, 96–58, 96–59, 96–60, 96–61, 96–62); to the Committee on Finance.

EC–270. A communication from the Inspector General of the Department of Commerce, transmitting, pursuant to law, a report on the export license application screening process; to the Committee on Banking, Housing, and Urban Affairs.

EC–271. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–272. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operations of the Exchange Stabilization Fund for fiscal year 1995; to the Committee on Banking, Housing, and Uban Affairs.

EC–273. A communication from the Under Secretary of Commerce for Export Administration, transmitting, pursuant to law, the report on the imposition of foreign policy export controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–274. A communication from the Acting Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, a rule entitled "Book-Entry Procedure" received on December 17, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–275. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on fair housing programs for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–276. A communication from the Acting Secretary of the Board of the National Credit Union Administration, transmitting, pursuant to law, four rules including a rule entitled "Supervisory Committee Audits and Verifications"; to the Committee on Banking, Housing, and Urban Affairs.

EC–277. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–278. A communication from the Assistant Secretary of Commerce for Export Administration, transmitting, pursuant to law, two rules including a rule entitled "Revisions to the Export Administration Regulations: License Exceptions" (RIN0694–AB51, AB09); to the Committee on Banking, Housing, and Urban Affairs.

EC–279. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–280. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–281. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, four rules including a rule entitled "Iranian Transactions Regulations"; to the Committee on Banking, Housing, and Urban Affairs.

EC–282. A communication from the Federal Register Liaison Officer of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, four rules including a rule entitled "Subsidiaries and Equity Investments"; to the Committee on Banking, Housing, and Urban Affairs.

EC–283. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, nineteen rules including a rule entitled "Streamlining of the Supportive Housing Program Regulations" (FR–4022, 2206, 4072, 4091, 4089, 4088, 3982, 4038, 4077, 4148, 4112, 4154, 4095, 4139, 3324, 4081, 4116, 4136); to the Committee on Banking, Housing, and Urban Affairs.

EC–284. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, two rules including a rule entitled "Fiscal Service"; to the Committee on Banking, Housing, and Urban Affairs.

EC–285. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, four rules including a rule entitled "Amendment of Budgets Regulation" (96–71, 96–80, 96–81, 96–79); to the Committee on Banking, Housing, and Urban Affairs.

EC–286. A communication from the Legislative and Regulatory Activities Division, Administrator of National Banks, Comptroller of the Currency, transmitting, pursuant to law, eight rules including a rule entitled "Sales of Credit Life Insurance"

(RIN1557–AB49, AB40, AB37, AB42, AB41, AB45, AB12, AB27); to the Committee on Banking, Housing, and Urban Affairs.

EC–287. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, five rules including a rule entitled "Adjustments to Civil Monetary Penalty Amounts" (RIN3235–AG47, AG78, AF54); to the Committee on Banking, Housing, and Urban Affairs.

EC–288. A communication from the Assistant to the Board of Governors of the Federal Reserve Board, transmitting, pursuant to law, eleven rules including a rule entitled "Reimbursement for Providing Financial Records" (Docket Numbers R–0934, 0938, 0928, 0892, 0936, 0939, 0931, 0946, 0937, 0841, 0929); to the Committee on Banking, Housing, and Urban Affairs.

EC–289. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on rules on home-equity credit; to the Committee on Banking, Housing, and Urban Affairs.

EC–290. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on funds availability schedules and check fraud at depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC–291. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the Libyan emergency; to the Committee on Banking, Housing, and Urban Affairs.

EC–292. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the Iran emergency; to the Committee on Banking, Housing, and Urban Affairs.

EC–293. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the emergency with respect to significant narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–294. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to processing export license applications; to the Committee on Banking, Housing, and Urban Affairs.

EC–295. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to the Chinese FY–1 meteorological satellite; to the Committee on Banking, Housing, and Urban Affairs.

EC–296. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to the SINOSAT project; to the Committee on Banking, Housing, and Urban Affairs.

EC–297. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the emergency with respect to significant narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–298. A communication from the President of the United States, transmitting, pursuant to law, a report on the administration of export controls on encryption products; to the Committee on Banking, Housing, and Urban Affairs.

EC–299. A communication from the President of the United States, transmitting, pursuant to law, notice relative to the continuation of the Iran emergency; to the Committee on Banking, Housing, and Urban Affairs.

EC–300. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the emergency regarding weapons of mass destruction; to the Committee on Banking, Housing, and Urban Affairs.

EC–301. A communication from the President of the United States, transmitting, pursuant to law, notice relative to the Governments of Serbia and Montenegro; to the Committee on Banking, Housing, and Urban Affairs.

EC–302. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency caused by the lapse of the Export Administration Act of 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–303. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–304. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Lithuania; to the Committee on Banking, Housing, and Urban Affairs.

EC–305. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–306. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of the Philippines; to the Committee on Banking, Housing, and Urban Affairs.

EC–307. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Qatar; to the Committee on Banking, Housing, and Urban Affairs.

EC–308. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of Uzbekistan; to the Committee on Banking, Housing, and Urban Affairs.

EC–309. A communication from the Acting Deputy Secretary of Education, transmitting, pursuant to law, a report relative to paperwork; to the Committee on Labor and Human Resources.

EC–310. A communication from the Chair of the U.S. Commission On Child and Family Welfare, transmitting, pursuant to law, a report entitled "Parenting Our Children: In the Best Interest of the Nation"; to the Committee on Labor and Human Resources.

EC–311. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Labor and Human Resources.

EC–312. A communication from the Secretary of Education and the Secretary of Labor, transmitting jointly, pursuant to law, a report on activities under the School-to-Work Opportunities Act; to the Committee on Labor and Human Resources.

EC–313. A communication from the Acting Deputy Assistant Secretary of Labor, Office of Labor-Management Standards, transmitting, pursuant to law, a rule entitled "Permanent Replacement of Lawfully Striking Employees by Federal Contractors" (RIN1294–AA15); to the Committee on Labor and Human Resources.

EC–314. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the audit of the Student Loan Marketing Association's financial statements for calendar year 1995; to the Committee on Labor and Human Resources.

EC–315. A communication from the Office of the Assistant Secretary of Health and Human Services, Administration For Children and Families, transmitting, pursuant to law, a rule on the Developmental Disabilities Program (RIN0970–AB11) received on October 1, 1996; to the Committee on Labor and Human Resources.

EC–316. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, transmitting, pursuant to law, a rule entitled "Occupational Exposure to 1,3-Butadiene" (RIN1218–AA83) received on November 4, 1996; to the Committee on Labor and Human Resources.

EC–317. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, transmitting, pursuant to law, a rule entitled "North Carolina State Plan; Final Approval Determination" received on December 16, 1996; to the Committee on Labor and Human Resources.

EC–318. A communication from the Assistant Secretary of Labor for Mine Safety and Health, transmitting, pursuant to law, two rules including a rule entitled "First Aid at Metal and Nonmetal Mines" (RIN1219–AA97, AA27); to the Committee on Labor and Human Resources.

EC–319. A communication from the Assistant Secretary of Labor for Employment and Training, transmitting, pursuant to law, three rules including a rule entitled "Unemployment Insurance Program Letter 30–96 and 37–96" (RIN1205–AB13); to the Committee on Labor and Human Resources.

EC–320. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, six rules including a rule entitled "Payment of Premiums": to the Committee on Labor and Human Resources.

EC–321. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, fourteen rules including the final regulations for the Federal Family Education Loan Program; to the Committee on Labor and Human Resources.

EC–322. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to institutions of higher education; to the Committee on Labor and Human Resources.

EC–323. A communication from the Director of the National Institutes of Health, Public Health Services, Department of Health and Human Services, transmitting, pursuant to law, four rules including a rule entitled "Grants for Research Projects" (RIN0905–AC02, AD56, AA15, AE00); to the Committee on Labor and Human Resources.

EC–324. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, eleven rules including a rule entitled

"Extralabel Drug Use in Animals" (RIN0910-AA47, AA01, AA23, AA31); to the Committee on Labor and Human Resources.

EC-325. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, five rules including a rule entitled "Civil Money Penalty Inflation Adjustments" (RIN0991-AZ00, 0910-AA60, 0910-AA09, 0970-AB55); to the Committee on Labor and Human Resources.

EC-326. A communication from the Administrator of the Health Resources and Services Administration, Public Health Services, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Grants for Nurse Practitioner and Nurse Midwifery Programs" (RIN0906-AA40); to the Committee on Labor and Human Resources.

EC-327. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report relative to the Prescription Drug User Fee Act for fiscal year 1996; to the Committee on Labor and Human Resources.

EC-328. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the effectiveness of demonstration projects to address child access problems; to the Committee on Labor and Human Resources.

EC-329. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on childhood lead poisoning prevention activities for fiscal years 1993 and 1994; to the Committee on Labor and Human Resources.

EC-330. A communication from the Secretary of Education, transmitting, a draft of proposed legislation entitled "The Presidential Honors Scholarship Act of 1996"; to the Committee on Labor and Human Resources.

EC-331. A communication from the Secretary of Education, transmitting, pursuant to law, a report on efforts to assure the free appropriate public education of all children with disabilities; to the Committee on Labor and Human Resources.

EC-332. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to vocational education programs; to the Committee on Labor and Human Resources.

EC-333. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report entitled "Scientific and Engineering Research Facilities at Colleges and Universities: 1996"; to the Committee on Labor and Human Resources.

EC-334. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report entitled "Women, Minorities, and Persons With Disabilities in Science and Engineering"; to the Committee on Labor and Human Resources.

EC-335. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the program operations of the Office of Workers' Compensation Programs for fiscal year 1995; to the Committee on Labor and Human Resources.

EC-336. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report covering the administration of the Employee Retirement Income Security Act for calendar year 1994; to the Committee on Labor and Human Resources.

EC-337. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on training and employment programs for program year 1992 and fiscal year 1993; to the Committee on Labor and Human Resources.

EC-338. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of seven rules including one rule relative to prohibition of oxygen generators (RIN2137-AC89, 2115-AA97, 2127-AF63, 2105-AC59, 2120-AA66, 2127-AG14, 2125-AD92); to the Committee on Commerce, Science, and Transportation.

EC-339. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to power brake regulations (RIN2130-AA73, 2127-AG60), received on January 2, 1997; to the Committee on Commerce, Science, and Transportation.

EC-340. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of eight rules relative to Airworthiness Directives (RIN2120-AA64), received on January 2, 1997; to the Committee on Commerce, Science, and Transportation.

EC-341. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of thirty-one rules including one rule relative to Airworthines Directives, (RIN2120-AA64, AA65, AA66, AG27, AD47), received on December 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC-342. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of five rules including one rule relative to hazardous materials regulations (RIN2130-AB00, 2127-AG54, 2115-AE72, 2127-AD01, 2127-AG20), received on October 31, 1996; to the Committee on Commerce, Science, and Transportation.

EC-343. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of six rules including one rule relative to Airworthiness Directives, (RIN2120-AG30, 2120-AA64) received on November 21, 1996; to the Committee on Commerce, Science, and Transportation.

EC-344. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of nine rules relative to Airworthiness Directives, (RIN2120-AA64) received on November 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC-345. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of four rules relative to Class E Airspace, (RIN2120-AA66) received on November 4, 1996; to the Committee on Commerce, Science, and Transportation.

EC-346. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of three rules including one rule relative to commercial fishing regulations (RIN21115-AF35, 2105-AC63, 2105-AB62), received on November 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC-347. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of six rules including one rule relative to drawbridge regulations (RIN2115-AE46, AA-97, AF17); to the Committee on Commerce, Science, and Transportation.

EC-348. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of five rules relative to Class E Airspace, (RIN2120-AA66) received on October 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC-349. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to notice of arrivals, (2115-AF29 , AF19); to the Committee on Commerce, Science, and Transportation.

EC-350. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of three rules including one rule relative to Safety Zones, (RIN2137-AC94, 2115-AA97, 2115-AF34) received on October 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC-351. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of eight rules relative to Airworthiness Directives (RIN2120-AA64); to the Committee on Commerce, Science, and Transportation.

EC-352. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to Maritime Security Program Regulations, (RIN2133-AB24, 2125-AD96) received on October 18, 1996; to the Committee on Commerce, Science, and Transportation.

EC-353. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of four rules including one rule relative to Airworthiness Directives, (RIN2120-AA64, AG28, AF43) received on October 18, 1996; to the Committee on Commerce, Science, and Transportation.

EC-354. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of six rules including one rule relative to roadway worker protection, (RIN2130-AB13, 2130-AA86, 2132-AA57, 2115-AF35, 2115-AA97, 2115-AF11) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC-355. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of three rules including one rule relative to commercial fishing regulations, (RIN2115-AF35, 2125-AD62, 2105-AB62) received on December 3, 1996; to the Committee on Commerce, Science, and Transportation.

EC-356. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of six rules relative to Airworthiness Directives, (RIN2120-AA64) received on December 12, 1996; to the Committee on Commerce, Science, and Transportation.

EC-357. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of seven rules including one rule relative to railroad accident reporting, (RIN2115-AE01, 2115-AE46, 2130-AA58, 2127-AG14) received on December 5, 1996; to the Committee on Commerce, Science, and Transportation.

EC-358. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of five rules including one rule relative to Airworthiness Directives, (RIN2120-AA64, AA65, AA66) received on December 5, 1996; to the Committee on Commerce, Science, and Transportation.

EC-359. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to Airworthiness Directives, (RIN2120–AA64) received on December 9, 1996; to the Committee on Commerce, Science, and Transportation.

EC–360. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of sixteen rules including one rule relative to Class E Airspace, (RIN2120–AA64, 2120–AA65, 2120–AA66, 2120–AF93, 2105–AC63,) received on December 5, 1996; to the Committee on Commerce, Science, and Transportation.

EC–361. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of eighteen rules including one rule relative to Airworthiness Directives, (RIN2120–AA64, AA66, AD47, AE83) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–362. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of six rules including one rule relative to appliance labeling; to the Committee on Commerce, Science, and Transportation.

EC–363. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of three rules including one relative to FM broadcast stations, received on October 8, 1996; to the Committee on Commerce, Science, and Transportation.

EC–364. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of five rules including one relative to FM broadcast stations, received on November 4, 1996; to the Committee on Commerce, Science, and Transportation.

EC–365. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of six rules including one relative to FM broadcast stations, received on September 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–366. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to pay telephone provisions, received on November 22, 1996; to the Committee on Commerce, Science, and Transportation.

EC–367. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to competitive bidding, received on November 22, 1996; to the Committee on Commerce, Science, and Transportation.

EC–368. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to filing requirements, received on November 22, 1996; to the Committee on Commerce, Science, and Transportation.

EC–369. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to interstate interexchange marketplace, received on November 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–370. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to citizenship requirements, received on October 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–371. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to competitive bidding, received on October 21, 1996; to the Committee on Commerce, Science, and Transportation.

EC–372. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of nine rules including one rule relative to TV broadcast stations; to the Committee on Commerce, Science, and Transportation.

EC–373. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to amateur radio service, received on November 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–374. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of nine rules including one rule relative to domestic ship and aircraft radio stations; to the Committee on Commerce, Science, and Transportation.

EC–375. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to FM broadcast stations, received on December 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–376. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of seventeen rules including one rule relative to FM broadcast stations, received on December 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–377. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of ten rules including one rule relative to yellowtail rockfish; to the Committee on Commerce, Science, and Transportation.

EC–378. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of eleven rules including one rule relative to other rockfish; to the Committee on Commerce, Science, and Transportation.

EC–379. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to consolidation of all Alaska regulations, (RIN0648–AI18) received on October 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–380. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of two rules including one rule relative to Fisheries of the Northeastern United States, (RIN0648–AH70, AJ25) received on September 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–381. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Atlantic bluefin tuna fishery, received on October 15, 1996; to the Committee on Commerce, Science, and Transportation.

EC–382. A communication from the Acting Deputy Assistant Administrator of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone off Alaska, (RIN0648–AI96) received on September 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–383. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone off south Atlantic states, (RIN0648–AI92) received on September 11, 1996; to the Committee on Commerce, Science, and Transportation.

EC–384. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Statistical Area 610 of the Gulf of Alaska, received on September 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–385. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to spawning area closures, (RIN0648–AE50) received on October 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–386. A communication from the Assistant Administrator of the National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to graduate research fellowships, (RIN0648–ZA24) received on October 10, 1996; to the Committee on Commerce, Science, and Transportation.

EC–387. A communication from the Assistant Secretary for Communication, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Public Telecommunications Facilities Program, (RIN0660–AA09) received on November 6, 1996; to the Committee on Commerce, Science, and Transportation.

EC–388. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Commerce, Science, and Transportation.

EC–389. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report under the Federal Cigarette Labeling and Advertising Act for 1994; to the Committee on Commerce, Science, and Transportation.

EC–390. A communication from the Secretary of the Federal Maritime Commission, transmitting, pursuant to law, the report of rule relative to collection of debts, received on September 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–391. A communication from the Secretary of the Federal Maritime Commission, transmitting, pursuant to law, the report of rule relative to civil monetary penalties, received on October 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–392. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 527, received on December 12, 1996; to the Committee on Commerce, Science, and Transportation.

EC–393. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 346, received on December 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC–394. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 527, received on October 10, 1996; to the Committee on Commerce, Science, and Transportation.

EC–395. A communication from the Secretary of the Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule relative to the Small Business Program, received on October 9, 1996; to the Committee on Commerce, Science, and Transportation.

EC–396. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, an appeal letter regarding the fiscal year 1998 budget request; to the Committee on Commerce, Science, and Transportation.

EC–397. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report regarding the fiscal year 1998 budget request; to the Committee on Commerce, Science, and Transportation.

EC–398. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the fiscal year 1998 budget request; to the Committee on Commerce, Science, and Transportation.

EC–399. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on the National Implementation Plan for Modernization of the National Weather Service for Fiscal Year 1997; to the Committee on Commerce, Science, and Transportation.

EC–400. A communication from the Acting Chief Financial Officer and Assistant Secretary for Administration, transmitting, pursuant to law, the report of a rule relative to civil monetary penalties, (RIN0690–AA27) received on October 22, 1996; to the Committee on Commerce, Science, and Transportation.

EC–401. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Metals Initiative for fiscal year 1995; to the Committee on Commerce, Science, and Transportation.

EC–402. A communication from the Director of the Bureau of Transportation Statistics, transmitting, pursuant to law, the annual report for 1996; to the Committee on Commerce, Science, and Transportation.

EC–403. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report on increased air traffic over Grand Canyon National Park; to the Committee on Commerce, Science, and Transportation.

EC–404. A communication from the Chairman of the Interagency Coordinating Committee on Oil Pollution Research, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the biennial report for fiscal years 1993 and 1994; to the Committee on Commerce, Science, and Transportation.

EC–405. A communication from the Administrator of the Federal Aviation Administration, Department of Commerce, transmitting, the report on the ninety day safety review as of September 16, 1996; to the Committee on Commerce, Science, and Transportation.

EC–406. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Status of the Public Ports of the United States" for years 1994 and 1995; to the Committee on Commerce, Science, and Transportation.

EC–407. A communication from the Secretary of Transportation, transmitting, pursuant to law, the progress report on the transition to quieter airplanes for 1995; to the Committee on Commerce, Science, and Transportation.

EC–408. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–409. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–410. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–411. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–412. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–413. A communication from the Chairman of the National Endowment For the Arts, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–414. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–415. A communication from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–416. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–417. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–418. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–419. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–420. A communication from the Office of the Public Printer, U.S. Government Printing Office, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–421. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–422. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–423. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–424. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–425. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–426. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–427. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–428. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–429. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–430. A communication from the Chairman and General Counsel of the U.S. Government National Labor Relations Board, transmitting jointly, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–431. A communication from the Attorney General, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–432. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–433. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–434. A communication from the Chairman and Chief Executive Office of the Farm Credit Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–435. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–436. A communication from the Chairman of the U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–437. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–438. A communication from the President and Chief Executive Office of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–439. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–440. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–441. A communication from the Deputy Independent Counsel, Office of the Independent Counsel, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–442. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–443. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–444. A communication from the Chief Financial Officer of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–445. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–446. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–447. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–448. A communication from the Inspector General of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–449. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–450. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–451. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–452. A communication from the Executive Secretary of the Barry M. Goldwater Scholarship and Excellence In Education Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–453. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–454. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–455. A communication from the Chairman of the Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–456. A communication from the Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–457. A communication from the Director of Selective Service, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–458. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–459. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–460. A communication from the Director of the Woodrow Wilson Center, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–461. A communication from the Chairman of the U.S. Commission For the Preservation of America's Heritage Abroad, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–462. A communication from the Director of the U.S. Office of Government Ethics, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–463. A communication from the Acting Museum Director of the U.S. Holocaust Memorial Museum, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–464. A communication from the Chairperson of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–465. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–466. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-467. A communication from the Chair of the U.S. Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-468. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-469. A communication from the President of the African Development Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-470. A communication from the Executive Director of the Marine Mammal Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-471. A communication from the Office of Special Counsel, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-472. A communication from the Executive Director of the State Justice Institute, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-473. A communication from the Director of the Morris K. Udall Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-474. A communication from the Executive Director of the Japan-United States Friendship Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-475. A communication from the Executive Director of the U.S. Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-476. A communication from the Executive Director of the National Education Goals Panel, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-477. A communication from the Chairman of the U.S. Nuclear Waste Technical Review Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-478. A communication from the President of the Inter-American Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-479. A communication from the President and Chief Executive Officer of the U.S. Enrichment Corporation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-480. A communication from the Director of the National Gallery of Art, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-481. A communication from the Office of Independent Counsel, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-482. A communication from the Office of Independent Counsel, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-483. A communication from the Office of Independent Counsel, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-484. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-363 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC-485. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-387 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC-486. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-413 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-487. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-414 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-488. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-415 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-489. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-432 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-490. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-433 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-491. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-454 adopted by the Council on November 7, 1996; to the Committee on Governmental Affairs.

EC-492. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-493. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule entitled "Allocation of Earnings" received on December 2, 1996; to the Committee on Governmental Affairs.

EC-494. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report under the Program Fraud Civil Remedies Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC-495. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, three rules including a rule entitled "Definition of Basic Pay"; to the Committee on Governmental Affairs.

EC-496. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the report under the Program Fraud Civil Remedies Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC-497. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Excepted Service Employee Failed to Comply with the District's Residency Requirement"; to the Committee on Governmental Affairs.

EC-498. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Certification of the Fiscal Year 1997 Revenue Estimates in Support of the District of Columbia General Obligation Bonds (Series 1996A)"; to the Committee on Governmental Affairs.

EC-499. A communication from the Inspector General of the Corporation For National Service, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-500. A communication from the Vice President and Treasurer of the Farm Credit Financial Partners, transmitting, pursuant to law, the annual report of the Group Retirement Plan for the Agricultural Credit Associations and the Farm Credit Banks in the First Farm Credit District for calendar year 1995; to the Committee on Governmental Affairs.

EC–501. A communication from the Federal Reserve Employee Benefits Systems, transmitting, pursuant to law, the annual reports for the plan year 1995; to the Committee on Governmental Affairs.

EC–502. A communication from the President of the United States, transmitting, pursuant to law, a report concerning locality pay; to the Committee on Governmental Affairs.

EC–503. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the U.S. Government for fiscal year 1996; to the Committee on Governmental Affairs.

EC–504. A communication from the Chairman of the U.S. Arctic Research Commission, transmitting, pursuant to law, the annual reports for fiscal years 1994 and 1995; to the Committee on Governmental Affairs.

EC–505. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, a report entitled "District of Columbia Department of Corrections Short-Term Improvements Plan"; to the Committee on Governmental Affairs.

EC–506. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistant Authority, transmitting, pursuant to law, the annual report on progress for fiscal year 1996; to the Committee on Governmental Affairs.

EC–507. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistant Authority, transmitting, pursuant to law, a revised annual report on progress for fiscal year 1996; to the Committee on Governmental Affairs.

EC–508. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistant Authority, transmitting, pursuant to law, a report entitled "Children in Crisis: A Report on the Failure of D.C. Public Schools"; to the Committee on Governmental Affairs.

EC–509. A communication from the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–510. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a report relative to the Federal Employees Health Benefits program; to the Committee on Governmental Affairs.

EC–511. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Statistical Programs of the U.S. Government: Fiscal Year 1997"; to the Committee on Governmental Affairs.

EC–512. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to accounts containing unvouchered expenditures; to the Committee on Governmental Affairs.

EC–513. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for September 1996; to the Committee on Governmental Affairs.

EC–514. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for October 1996; to the Committee on Governmental Affairs.

EC–515. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for November 1996; to the Committee on Governmental Affairs.

EC–516. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–517. A communication from the Attorney-Advisor, Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Payment to Financial Institutions" (RIN1510–AA30) received on December 19, 1996; to the Committee on Governmental Affairs.

EC–518. A communication from the Deputy General Counsel of the U.S. Office of Government Ethics, transmitting, pursuant to law, a rule entitled "Interpretation, Exemptions and Waiver Guidance Concerning 18 U.S.C. 208" (RIN3209–AA09) received on December 11, 1996; to the Committee on Governmental Affairs.

EC–519. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Governmentwide Policy, General Services Administration, transmitting, pursuant to law, four rules including a rule entitled "Civil Monetary Penalties Inflation Adjustment" (RIN3090–AG18, AG26, AG09, AG14); to the Committee on Governmental Affairs.

EC–520. A communication from the Chairman of the Board Contract Appeals, General Services Administration, transmitting, pursuant to law, two rules including a rule entitled "Rules of Procedure for Travel and Relocation Expenses Cases" (RIN3090–AG29, AF99); to the Committee on Governmental Affairs.

EC–521. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, two rules including a rule relative to the Privacy Program; to the Committee on Governmental Affairs.

EC–522. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, six additions to the procurement list; to the Committee on Governmental Affairs.

EC–523. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, seven rules including a rule entitled "Training" (RIN3206–AF99, AG31, AH56, AH10, AH55); to the Committee on Governmental Affairs.

EC–524. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, four rules including a rule entitled "Voting Rights Program" (RIN3206–AH69, AH54, AH41, AG78); to the Committee on Governmental Affairs.

EC–525. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Exotic Newcastle Disease in Birds and Poultry" (RIN0579–AA22) received on November 6, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–526. A communication from the Secretary of Transportation, transmitting, pursuant to law, notice of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC–527. A communication from the Office of Insular Affairs, Department of the Interior, transmitting, pursuant to law, a report entitled "The Impact of the Compacts of Free Association on the U.S. Territories and Commonwealths and on the State of Hawaii"; to the Committee on Energy and Natural Resources.

EC–528. A communication from the Director of the Bureau of the Census, Department of Commerce, transmitting, pursuant to law, a rule entitled "Collection of Canadian Province of Origin Information on Customs Entry Records" (RIN0607–AA21) received on November 22, 1996; to the Committee on Finance.

EC–529. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, a rule relative to the Debt Collection Improvement Act of 1996 (RIN1512–AB62) received on October 30, 1996; to the Committee on Finance.

EC–530. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a Presidential Determination relative to a peace monitoring force; to the Committee on Foreign Relations.

EC–531. A communication from the U.S. Arms Control and Disarmament Agency, U.S. Information Agency, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–532. A communication from the Acting Director of the Federal Register, National Archives, transmitting, pursuant to law, a report relative to the Certificates of Ascertainment of the electors of the President and Vice President of the United States; ordered to lie on the table.

EC–533. A communication from the Acting Director of the Federal Register, National Archives, transmitting, pursuant to law, a report relative to the Certificates of Ascertainment of the electors of the President and Vice President of the United States; ordered to lie on the table.

EC–534. A communication from the Deputy Under Secretary of Defense (Environmental Security), transmitting, pursuant to law, the report of the Defense Environmental Restoration Program for fiscal year 1995; to the Committee on Environment and Public Works.

EC–535. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, the audit report of Superfund financial transactions for fiscal year 1995; to the Committee on Environment and Public Works.

EC–536. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, informational copies of a Federal Space Situation Report; to the Committee on Environment and Public Works.

EC–537. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report relative to the Comprehensive Environmental Response Compensation and Liability Act; to the Committee on Environment and Public Works.

EC–538. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Alaska Demonstration Programs"; to the Committee on Environment and Public Works.

EC–539. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Surface Transportation Research and Development Plan; to the Committee on Environment and Public Works.

EC–540. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, two rules including a rule entitled "Certification Acceptance" (RIN2125–AD62, 2135–AA09); to the Committee on Environment and Public Works.

EC–541. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, two rules including a rule entitled "Removal of Subchapter D" (RIN1018–AD72, AD62); to the Committee on Environment and Public Works.

EC–542. A communication from the Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report under the Toxic Substances Control Act for fiscal year 1994; to the Committee on Environment and Public Works.

EC–543. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of the implementation of the Waste Isolation Pilot Plant Land Withdrawal Act; to the Committee on Environment and Public Works.

EC–544. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of the study of hazardous air pollutant emissions from electric utility steam generating units; to the Committee on Environment and Public Works.

EC–545. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, four rules including a rule entitled "Policy and Procedure for Enforcement Actions" (RIN3150–AF37); to the Committee on Environment and Public Works.

EC–546. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, eight rules including a rule entitled "Endangered and Threatened Wildlife and Plants" (RIN1018–AE05, AC01, AC47, AD50, AD25, AD58, AC56, AD46); to the Committee on Environment and Public Works.

EC–547. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a rule entitled "St. Marys Falls Canal and Locks" received on October 21, 1996; to the Committee on Environment and Public Works.

EC–548. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report of fully-authorized unconstructed projects; to the Committee on Environment and Public Works.

EC–549. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a flood damage reduction project the Rio Guanajibo, Puerto Rico; to the Committee on Environment and Public Works.

EC–550. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to an environmental restoration project for the Willamette River, McKenzie Subbasin, Oregon; to the Committee on Environment and Public Works.

EC–551. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, a draft of proposed legislation to modify the Oakland Inner Harbor, California navigation project; to the Committee on Environment and Public Works.

EC–552. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to authorized project modifications for flood damage reduction along the Ramapo River at Oakland, New Jersey; to the Committee on Environment and Public Works.

EC–553. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules (FRL5672–5, 5666–8) received on December 31, 1996; to the Committee on Environment and Public Works.

EC–554. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, twenty-six rules including a rule entitled "Significant New Uses of Certain Chemical Substances (FRL5651–3, 5651–2, 5629–4, 5650–7, 5651–7, 5654–8, 5572–9, 5648–7, 5644–2, 5282–1, 5649–5, 5650–5, 5650–6, 5648–4, 5640–4, 5647–9, 5574–7, 5575–1, 5574–9, 5574–8, 4964–3, 5656–7, 5655–6, 5650–8, 5646–7, 5645–4); to the Committee on Environment and Public Works.

EC–555. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, seven rules including one rule relative to air quality (FRL5554–9, 5393–8, Environment and Public Works.

EC–556. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, nineteen rules including one rule relative to air quality (FRL5638–9, 5629–7, 5639–2, 5637–8, 5608–1, 5634–9, 5636–2, 5635–9, 5633–8, 5615–6, 5645–1, 5610–9, 5640–8, 5643–2, 5640–2, 5636–6, 5635–6, 5635–4, 5638–1, 5613–4, 5617–2, 5641–5, 5641–7, 5642–1); to the Committee on Environment and Public Works.

EC–557. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, twenty-three rules including a rule entitled "Control Strategy: Ozone; Tennessee" (FRL5637–A, 5637–3, 5619–8, 5631–2, 5631–6, 5630–4, 5630–5, 5466–9, 5630–9, 5620–1, 5619–6, 5612–7, 5613–3, 5629–5, 5634–4, 5612–6, 5618–8, 5619–4, 5628–6, 5616–6, 5613–1, 5617–4, 5618–2); to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–1. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

Senate Joint Resolution No. 27

Whereas, In 1853, the United States Congress granted to the State of California the 16th and 36th sections of every township of public land to support the public education system in California, a grant long held by the courts to create a "solemn agreement" between the federal government and the state; and

Whereas, In California, the State Teachers' Retirement System is the beneficiary of revenues derived from those school lands; and

Whereas, Those revenues are a significant source of income to the retired teachers of the state; and

Whereas, Elk Hills Naval Petroleum Reserve Numbered 1 contains two school land sections rich in oil reserves and constituting the two most valuable school land sections in the state; and

Whereas, The inclusion of these school lands within the petroleum reserve in 1912 made them unavailable to the state, with the result being that the State Teachers' Retirement System is deprived of substantial income; and

Whereas, Ever since 1976, the federal government has been producing oil and gas from the naval petroleum reserves at the maximum efficient rate and selling its production to gain further general revenues for the United States Treasury; and

Whereas, The federal government has stated that the role of the national petroleum reserves "has evolved over time from an emergency source of oil to an income-generating federal business asset," and that "federal ownership and operation of the reserves is not essential to the national energy policy goals and objectives"; and

Whereas, The Department of Energy proposes to sell Elk Hills Naval Petroleum Reserve Numbered 1, as part of the President's 1996 Budget submission to Congress calling for the privatization of the naval petroleum reserves, and has earmarked 9 percent of the anticipated proceeds from privatization to be paid to the State of California to benefit the Teacher's Retirement Fund; and

Whereas, Congress has passed, and the President has signed, legislation to compensate California after the sale of Elk Hills Naval Petroleum Reserve Numbered 1; and

Whereas, That compensation will be based on an agreement between the State of California and the Department of Energy; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress to expedite the agreement by the Department of Energy for recognizing the valid claim of this state to the two school land sections within the reserve, and to compensate California's retired teachers for their 9 percent interest in the reserve upon its sale; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of the Interior, the Secretary of Energy, and the Secretary of Defense.

POM–2. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

Senate Joint Resolution No. 45

Whereas, Alameda has a long history associated with the U.S. Navy and Naval Air Forces, and Alameda was shaped by the birth of aviation technology and is proudly and inextricably linked to the military's presence; and

Whereas, The acquisition of the aircraft carrier *Hornet* (CV–12) would preserve a vital part of the U.S. military history and its establishment as a museum would be a fitting memorial to Alameda's contributions to U.S. efforts in World War II, the Korean War, and the Vietnam War; and

Whereas, In the 18 months of combat during World War II, the aircraft and gunners of the U.S.S. *Hornet* (CV–12) destroyed 1,410, enemy planes, sank 73 ships, and damaged more than 400 vessels, including the first hits on the Japanese battleship Yamato, which was sunk on April 7, 1945, as it steamed toward Okinawa; and

Whereas, The U.S.S. *Hornet* (CV–12), a 53-year old Essex Class carrier is one of eight warships that bore that name, but it was the most decorated of them all, earning a presidential unit citation and seven battle stars in action during World War II, the Korean War, and the Vietnam War; and

Whereas, The first U.S. Navy aircraft carrier named "*Hornet*" was CV–8 (Yorktown Class, including: *Enterprise*/CV–6 and *Yorkton*/CV–5) laid down in September 1939 by the Newport News Shipbuilding & Drydock Company. It was launched on December 14, 1940, and commissioned on October 20, 1941; it displaced 20,000 tons, measured 761 feet long, and had a complement of 2,200 personnel; and

Whereas, The *Hornet* (CV–8) was designed with the benefit of real operating experience, sharing the basic design principles of a large, open hangar deck topped by a thin, rectangular wood and steel flight deck; and

Whereas, On April 2, 1942, the U.S.S. *Hornet* (CV–8) having just completed its workups, left Alameda with an unusual deckload of 16 Army Air Corps B–25 Mitchell bombers commanded by Lt. Colonel James "Jimmy" Doolittle, sailing to join a task force with *Enterprise* (CV–6) targeting the Japanese Cities of Tokyo, Nagoya, Yokohama, and Kobe; and

Whereas, On April 18, 1942, still some miles to the east of the intended launch point, the ships of the task force were sighted by Japanese picket boats. Faced with the decision whether to abort the mission, push on to the planned launch point against an alerted enemy, or launch immediately with full knowledge that the B–25s lacked the range to reach their intended landing fields in China, "Doolittle's Raiders" launched immediately, and struck the first successful attack upon the homeland of Japan; and

Whereas, The *Hornet* (CV–8) was further involved during World War II in the Central and South Pacific carrying out operations in the Battle of Midway, June 4–6, 1942, and the Battle of Santa Cruz Islands, where it received six Japanese bomb hits, two torpedo hits, and two hits by suicide aircraft, and sank on October 27, 1942; and

Whereas, The second U.S. Navy aircraft carrier named "*Hornet*" was CV–12 (modernized Essex Class, including 19 ships), constructed by the Newport News Shipbuilding & Drydock Company, and launched August 29, 1943. The *Hornet* (CV–12) was commissioned November 29, 1943, it displaced 38,500 tons, measured 889 feet long, carried 45 aircraft, and had a complement of 2,400 personnel; and

Whereas, In June, 1945, a typhoon ripped a 24-foot gash in the forward section of the flight deck, but the *Hornet* (CV–12) was simply turned around and the aircraft were launched off the stern; and

Whereas, Postwar modernization of the *Hornet* (CV–12) under the Fleet Rehabilitation and Modernization program allowed it to be refitted with improved elevators, a reinforced flight deck, increased aviation fuel storage, and other features for operating jet aircraft including modernization of its aircraft arresting system. These refittings increased the *Hornet's* ability to operate advanced aircraft and to improve antisubmarine capabilities; and

Whereas, The aircraft carrier *Hornet* (CV–12) contributed to U.S. efforts in World War II, the Korean War, and the Vietnam War, and served as the command ship for recovery of the *Apollo* XI and XII reentry vehicles; and

Whereas, The aircraft carrier *Hornet* (CV–12) was decommissioned on June 26, 1970, and is in good structural condition, and will soon be considered for sale as military surplus; and

Whereas, The McDonald Douglas F/A 18 *Hornet* multiple-role air superiority/ground attack aircraft that has become the fleet's principal carrier-based fixed wing aircraft, was named in honor of the aircraft carrier U.S.S. *Hornet*; and

Whereas, In 1995, the weathered-gray warship was scheduled for demolition despite its 1991 designation as a National Historic Landmark; and

Whereas, The decision to demolish the ship outraged former crew members, who recruited approximately 100 volunteers and embarked on a campaign to save the ship; and

Whereas, The Aircraft Carrier Hornet Museum is proposed to be permanently berthed in Alameda at Pier No. 2 and to be secured by eight 2-inch chains to existing chain pads welded on the shell, and would immeasurably enhance the maritime ambience of the regional shipyards, the Port of Oakland, and the Alameda Naval Air Station; and

Whereas, The Aircraft Carrier Hornet Foundation (ACHF) has arranged to acquire four 110-foot long by 34-foot wide YCs for mooring (that are certified as suitable for use associated with nuclear submarines) from Mare Island Naval Shipyard. This arrangement will provide a 440-foot long parallel load distribution plane from the hull to the fenders of the pier; and

Whereas, Use of this system of chain attachment to the pier bollards in conjunction with the four YCs will provide an arrangement of positive mechanical attachment sufficient to secure the ship and withstand 100-year weather requirements; and

Whereas, The carrier museum would be an attraction to both domestic and foreign tourists, thereby enhancing the global competitive position of the San Francisco Bay area; and

Whereas, According to the Historic Naval Ships Association, a 1994–95 survey shows attendance to similar historic U.S. naval ship museums as follows: battleship *Texas* (BB–35)—300,000; battleship *Arizona* (BB–39)—1.5 million; battleship *North Carolina* (BB–55)—225,000; battleship *Massachusetts* (BB–59)—140,000; battleship *Alabama* (BB–60)—245,000; aircraft carrier *Intrepid* (CV–11)—410,000; aircraft carrier *Lexington* (CV–16)—340,000; submarine *Bowfin* (SS–287)—195,000; submarine *Pampanito* (SS–383)—250,000; 3-masted frigate *Constitution*—420,000; and

Whereas, The added attraction of a carrier museum would result in longer tourist stays, with consequent increases in retail sales, hotel and motel occupancy, and restaurant patronage, resulting in higher sales and transient occupancy tax revenues; and

Whereas, Estimates indicate that establishment of the proposed museum and cultural center would employ up to 150 people within three years, and would annually infuse between 12 and 22 million dollars into the local economy; and

Whereas, A carrier museum could be used as an ongoing exposition to showcase Alameda's leadership in aerospace and defense technology, to develop educational programs for schoolaged children, and to provide entertainment attractions based on naval aviation history; and

Whereas, The presence of a military museum in Alameda would promote positive community relations between the citizens and the military; and

Whereas, Support for legislation pending before the 104th Session of the U.S. Congress entitled "The World War II Education and Research Act" would authorize that at least one site per state be officially designated a National World War II Education and Research Center; and

Whereas, The purposes of this Congressional Act are to enable industry, universities, research facilities, presidential libraries, museums, and public and private sector organizations to make available to the public all relevant information on the collective war effort involving the military, industrial, and civilian sectors; and

Whereas, The Aircraft Carrier Hornet Foundation intends to raise sufficient resources from various possible sources (donations, pledges, venture capital, and revenue bonds) to pay for all relevant startup costs and to develop a long-range master plan to do all of the following: (1) include a 1940–60's museum in hangar bays 1, 2, and 3, with an emphasis on Pacific theater battles including airplanes and artifacts from that era; (2) incorporate Airwings, Squadrons, Marine Detachments, and Reserve and Veterans Associations called "Bringing the Ship Back to Life"; (3) provide mobile displays and exhibits in hangar bays for large community-sponsored events; and (4) establish *Apollo* XI and *Apollo* XII displays; and

Whereas, The Alameda Reuse and Redevelopment Association (ARRA), which will be responsible for the base after the Navy leaves in 1997, has indicated its willingness to enter into an interim lease of one of the piers for this purpose, and to adopt a resolution in support of the U.S.S. *Hornet* renovation project; and

Whereas, A group of Alameda citizens have established a nonprofit corporation and a committee, along with the support of the ARRA, the World War II Education and Research Commission, the Mayor and City Council of Oakland, the San Francisco Veterans' Affairs Commission, the City of Vacaville, the Oakland Navy League, the Aircraft Carrier Hornet Foundation, the Historic Naval Ships Association, and the Smithsonian Institution, to pursue the acquisition of the aircraft carrier *Hornet* (CV–12); now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That in order to enhance the public's awareness of the contributions of the citizens of the State of California and the County of Alameda to military preparedness and, in particular, naval aviation history, and to enhance the region's economy by increasing tourism and creating new employment opportunities, the Legislature of the State of California endorses the efforts to acquire the aircraft carrier U.S.S. *Hornet* (CV–12) as a permanent museum, educational, and entertainment complex to be located in Alameda; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States, the Secretary of Defense, and the Joint Chiefs of Staff to the Department of Defense, to support the efforts of the citizens of the State of California and the County of Alameda to acquire the aircraft carrier *Hornet*; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, and the Joint Chiefs of Staff of the Department of Defense, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–3. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

Whereas, The recent worldwide conflicts have highlighted again the contributions of this nation's military and retired veterans; and

Whereas, Integral to the success of our military forces are those servicemen and servicewomen who have made a career of defending their country, who in peacetime may be called away to places remote from their families and loved ones, and who in war face the prospect of death or of serious disabling wounds as a constant possibility; and

Whereas, Legislation has been introduced by the United States Congress to remedy an inequity applicable to military careerists; and

Whereas, The inequity concerns those veterans who are both retired and disabled and who, because of an antiquated law that dates back to the nineteenth century, are denied concurrent receipt of full retirement pay and disability compensation pay, but instead may receive one or the other or must waive an amount of retirement pay equal to the amount of disability compensation pay; and

Whereas, No such deduction applies to the federal civil service so that a disabled veteran who has held a nonmilitary federal job for the requisite duration receives full longevity retirement pay undiminished by the subtraction of disability pay; and

Whereas, A statutory change is necessary to correct this injustice and discrimination in order that America's occasional commitment to war in pursuit of national and international goals may be matched by an allegiance to those who sacrificed on behalf of those goals; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the Congress of the United States to amend Chapter 71 (commencing with Section 1401) of Title 10 of the United States Code, relating to the compensation of retired military personnel, to permit full concurrent receipt of military longevity retirement pay and service-connected disability pay; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–4. A resolution adopted by the Operation Combined Accident Reduction Effect relative to highway safety; to the Committee on Commerce, Science, and Transportation.

POM–5. A resolution adopted by the Operation Combined Accident Reduction Effect relative to safety belt laws; to the Committee on Commerce, Science, and Transportation.

POM–6. A resolution adopted by the Charter Township of Van Buren, Michigan relative to hazardous materials; to the Committee on Environment and Public Works.

POM–7. A resolution adopted by the Chamber of Commerce of Paradise, Michigan relative to Lake Superior; to the Committee on Environment and Public Works.

POM–8. A resolution adopted by the City of Melvindale, Michigan relative to hazardous wastes; to the Committee on Environment and Public Works.

POM–9. A resolution adopted by the Charter Township of Brownstown, Michigan relative to hazardous wastes; to the Committee on Environment and Public Works.

POM–10. A resolution adopted by the Mayor and Council of the Borough of Little Silver, Michigan relative to ocean dumping; to the Committee on Environment and Public Works.

POM–11. A resolution adopted by the Keane Valley Congregational Church of the City of Syracuse, New York relative to Adirondacks; to the Committee on Environment and Public Works.

POM–12. A resolution adopted by the Interfaith Council to Assist Vietnamese Refugees relative to asylum; to the Committee on Foreign Relations.

POM–13. A resolution adopted by the Lithuanian American Council and Lithuanian American Community of the City of Cicero, Illinois relative to Russia; to the Committee on Foreign Relations.

POM–14. A resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

Whereas, For one hundred and fifty years, Liberia and the United States have maintained a direct and cordial relationship; and

Whereas, Liberia, a former member of the League of Nations and founding member of the United Nations, now faces total disintegration; and

Whereas, Liberia has been burdened with a brutal civil war for the past six years that has displaced more than one-half of the country's population and claimed the lives of approximately 250,000 Liberians; and

Whereas, The brunt of the protracted civil war has been borne by the elderly, women, children, and their relatives living abroad, including in California; and

Whereas, A sizable portion of Liberian citizens in the United States reside in the State of California and contribute to the growth of this state and those citizens are individually and collectively impacted by the destruction of their people in Liberia, West Africa; and

Whereas, The leadership of Liberia has reneged on more than a dozen signed peace agreement; and

Whereas, The citizens of Liberia are being held hostage by the opposing forces resulting in a breakdown of the civil society and the government; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature hereby respectfully memorializes the President and Congress to ameliorate the situation in Liberia and seek a permanent resolution to Liberia's conflict; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–15. A resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on Foreign Relations.

SENATE RESOLUTION

Whereas, The Republic of Poland is a free, democratic and independent nation with a long and proud history; and

Whereas, The North Atlantic Treaty Organization (NATO) is dedicated to the preservation of freedom and security of its member nations; and

Whereas, The Republic of Poland desires to share in both the benefits and obligations of NATO in pursuing the development, growth and promotion of democratic institutions and ensuring free market economic development; and

Whereas, The Republic of Poland recognizes its responsibilities as a democratic nation and wishes to exercise such responsibilities in concert with members of NATO; and

Whereas, The Republic of Poland desires to become part of NATO's efforts to prevent the extremes of nationalism; and

Whereas, The security of the United States is dependent upon the stability of Central Europe; therefore be it

Resolved, That the Senate of Pennsylvania respectfully urge the President of the United States and the Congress of the United States to support the Republic of Poland's petition for admission to the North Atlantic Treaty Organization; and be it further

Resolved, That the Senate of Pennsylvania respectfully urge the President of the United States and Congress to support the establishment of a timetable for the admission of the Republic of Poland to the North Atlantic Treaty Organization; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to Jerzy Kozminski, Ambassador, of the Republic of Poland.

I certify that the foregoing is a true and correct copy of Senate Resolution No. 154, introduced by Senators Jack Wagner, Gerald J. La Valle, Richard A. Kasunic, Clarence D. Bell, Roy C. Afflerbach, Michael A. O'Pake, James J. Rhoades, J. Barry Stout, Joseph M. Uliana, Jay Costa, Jr., Leonard J. Bodack, John E. Peterson, Melissa A. Hart and Raphael J. Musto, and adopted by the Senate of the Commonwealth of Pennsylvania the seventh day of October in the year of our Lord, one thousand nine hundred and ninety-six.

POM–16. A resolution adopted by the Village of Bridgeview, Illinois relative to the English language; to the Committee on Governmental Affairs.

POM–17. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

SENATE JOINT RESOLUTION NO. 52

Whereas, Breast cancer is the most common cancer found in women, with one in every eight women likely to develop breast cancer in her lifetime, 183,400 new diagnoses of breast cancer each year, and 46,240 deaths from breast cancer expected in 1996; and

Whereas, In the United States, every 15 minutes, five new diagnoses of breast cancer and one death as a result of breast cancer will occur, and worldwide, every 30 seconds, a new diagnosis of breast cancer and a death as a result of breast cancer will occur; and

Whereas, The cause or causes of this disease have not been identified and no cure is available at this time, which indicates that more intense research is needed to improve care and treatment and to find a cure for this dreadful disease; and

Whereas, Dr. Balazs "Ernie" Bodai, M.D., F.A.C.S., chief of surgery at Kaiser Permanente Medical Center in North Sacramento, contributing his own money and time, has developed a proposal for a voluntary method to raise additional breast cancer research funds; and

Whereas, The proposal provides that additional breast cancer research funds would be collected from postal patrons who wish to donate one cent ($0.01) per first-class postage stamp purchased, by requesting a special breast cancer postal stamp and paying one cent ($0.01) more than the rate that would otherwise apply, with the extra one cent ($0.01) going into a special fund called the Cure Breast Cancer (CBC) fund; and

Whereas, Dr. Bodai has undertaken an extensive campaign to garner public and private support for the Cure Breast Cancer fund by establishing an organization that is tax exempt for purposes of Section 501(c)(3) of the Internal Revenue Code and ensuring that all administrative costs will be raised separately and all postal donations will go directly into research to find the cause and cure for breast cancer; and

Whereas, The Cure Breast Cancer postal stamp donation program has received favorable attention from the media and endorsements from breast cancer organizations, corporations, medical groups, and elected officials, leading to the introduction of federal legislation to enable implementation of the Cure Breast Cancer postal stamp donation program; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature memorialize the Congress and the President to enact the federal legislation that has been introduced in the House of Representatives and Senate to enable the implementation of the Cure Breast Cancer postal stamp donation program and memorialize the Board of Governors of the United States Postal Service to implement this program to allow voluntary collection of supplemental breast cancer research funds; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–18. A resolution adopted by the Council of the City of Long Branch, California relative to allegations concerning the sale of illegal drugs; to the Select Committee on Intelligence.

POM–19. A petition from a citizen of the State of Louisiana relative to the seating in the U.S. Senate of a citizen from the State of Louisiana, received on December 5, 1996; to the Committee on Rules and Administration.

POM–20. A resolution adopted by the White House Conference on Library and Information Services Taskforce relative to libraries; to the Committee on Labor and Human Resources.

POM–21. A petition from a citizen of the State of Tennessee relative to the seating of the U.S. Senate of a citizen from the State of Tennessee; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 1. A resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

S. Res. 2. A resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

S. Res. 3. A resolution fixing the hour of daily meeting of the Senate; considered and agreed to.

S. Res. 4. A resolution to elect Strom Thurmond, a Senator from the State of South Carolina, to be President pro tempore of the Senate of the United States; considered and agreed to.

S. Res. 5. A resolution notifying the President of the United States of the election of a President pro tempore; considered and agreed to.

S. Res. 6. A resolution notifying the House of Representatives of the election of a President pro tempore of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself, Mr. LOTT, Mr. ROCKEFELLER, and Mr. SARBANES):

S. Res. 7. A resolution commending Senator Robert Byrd for fifty years of public service; considered and agreed to.

By Mr. DASCHLE:

S. Res. 8. A resolution granting floor privileges; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 1. A concurrent resolution to provide for the counting on January 9, 1997, of the electoral votes for President and Vice President of the United States; considered and agreed to.

S. Con. Res. 2. A concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 48; considered and agreed to.

S. Con. Res. 3. A concurrent resolution providing for a recess or adjournment of the Senate from January 9, 1997 to January 21, 1997, and an adjournment of the House from January 9, 1997 to January 20, 1997, from January 20, 1997 to January 21, 1997, and from January 21, 1997 to February 4, 1997; considered and agreed to.

SENATE CONCURRENT RESOLUTION 1—RELATIVE TO ELECTORAL VOTES FOR PRESIDENT AND VICE PRESIDENT

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Thursday, the 9th day of January 1997, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

SENATE CONCURRENT RESOLUTION 2—RELATIVE TO THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 1997, the joint committee created by Senate Concurrent Resolution 47 of the One Hundred Fourth Congress, to make the necessary arrangements for the inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 1997, the provisions of Senate Concurrent Resolution 48 of the One Hundred Fourth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President of the United States, and for other purposes, are hereby continued with the same power and authority.

SENATE CONCURRENT RESOLUTION 3—RELATIVE TO THE ADJOURNMENT OF THE SENATE

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on Thursday, January 9, 1997, pursuant to a motion made by the Majority Leader or his designee, in accordance with the provisions of this resolution, it stand recessed or adjourned until 12 noon on Tuesday, January 21, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution; and that when the House adjourns on Thursday, January 9, 1997, it stand adjourned until 10 a.m. on Monday, January 20, 1997; that when the House adjourns on Monday, January 20, 1997, it stand adjourned until 12 noon on Tuesday, January 21, 1997; and that when the House adjourns on Tuesday, January 21, 1997; it stand adjourned until 12:30 p.m. on Tuesday, February 4, 1997, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 1—RELATIVE TO INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. LOTT submitted the following resolution; which was considered and agreed to.

S. RES. 1

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

SENATE RESOLUTION 2—RELATIVE TO INFORMING THE PRESIDENT THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. LOTT submitted the following resolution; which was considered and agreed to.

S. RES. 2

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

SENATE RESOLUTION 3—RELATIVE TO FIXING THE HOUR OF DAILY MEETING

Mr. LOTT submitted the following resolution; which was considered and agreed to.

S. RES. 3

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

SENATE RESOLUTION 4—RELATIVE TO ELECTING SENATOR STROM THURMOND AS PRESIDENT PRO TEMPORE

Mr. LOTT submitted the following resolution; which was considered and agreed to.

S. RES. 4

Resolved, That Strom Thurmond, a Senator from the State of South Carolina, be, and he is hereby, elected President of the Senate pro tempore, to hold office during the pleasure of the Senate, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

SENATE RESOLUTION 5—RELATIVE TO NOTIFYING THE PRESIDENT OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. LOTT submitted the following resolution; which was considered and agreed to.

S. RES. 5

Resolved, That the President of the United States be notified of the election of Strom Thurmond, a Senator from the State of South Carolina, as President pro tempore.

SENATE RESOLUTION 6—RELATIVE TO NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. LOTT submitted the following resolution; which was considered and agreed to.

S. RES. 6

Resolved, That the House of Representatives be notified of the election of Strom Thurmond, a Senator from the State of South Carolina, as President pro tempore.

SENATE RESOLUTION 7—COMMENDING SENATOR ROBERT C. BYRD FOR 50 YEARS OF PUBLIC SERVICE

Mr. DASCHLE (for himself, Mr. LOTT, Mr. ROCKEFELLER, and Mr. SARBANES) submitted the following resolution; which was considered and agreed to.

S. RES. 7

Whereas, the Honorable Robert C. Byrd has dutifully and faithfully served the people of West Virginia since January 8, 1947;

Whereas, for 50 years, he had dedicated himself to improving the lives and welfare of the people of West Virginia and the United States,

Whereas, his 50-year commitment to public service has been one of total dedication to serving the people of his beloved state and to the highest ideals of public service,

Whereas, he has held more legislative offices than anyone else in the history of his state, and is the longest serving Senator in the history of his state: Now, therefore, be it

Resolved, That the U.S. Senate congratulates the Honorable Robert C. Byrd, the senior Senator from West Virginia, for his 50 years of public service to the people of West Virginia and to the United States of America.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Senator Robert C. Byrd.

SENATE RESOLUTION 8—GRANTING FLOOR PRIVILEGES

Mr. DASCHLE submitted the following resolution; which was considered and agreed to.

S. RES. 8

Resolved, That an employee in the office of Senator Max Cleland, to be designated from time to time by Senator Cleland, shall have the privilege of the Senate floor during any period when Senator Cleland is in the Senate chamber during the 105th Congress.

AUTHORITY FOR COMMITTEE TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, January 7, 1997 at 4 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SONS OF THE AMERICAN REVOLUTION

• Mr. LIEBERMAN. Mr. President, I would like to take a few moments to acknowledge the Sons of the American Revolution, Gen. David Humphreys Branch, and the East Haven Historical Society. In a combined effort, these three groups have placed a marker on the northeast corner of the East Haven Town Green as a memorial to the Marquis de Lafayette, general in the Continental Army. General Lafayette and his troops camped on that site en route to support the American and French forces at Providence, RI, on July 26, 1778.

The dedication took place on May 27, 1996, in observance of Memorial Day. The ceremony included planes from the Connecticut Air National Guard flying overhead. Mayor Henry Luzzi of East Haven introduced State Representative Michael P. Lawlor, 99th District, as the guest speaker. Representative Lawlor spoke of General Lafayette's concern for our newly formed Government and his firm dedication to the cause of freedom. General Lafayette served at his own expense as a volunteer using his personal funds to supply the troops under his command and soon reached virtual bankruptcy. Additionally, he forged a friendship between two nations which has lasted to the present time. When he died in 1834, soil from each of the individual United States was placed on his grave. I commend the Sons of the American Revolution, Gen. David Humphreys Branch, and the East Haven Historical Society for their efforts and dedication to preserving the history of the United States.•

MONITORING THE NEW LINE-ITEM VETO AUTHORITY

• Mr. FEINGOLD. Mr. President, on the first of January, the clock began ticking on an historic 8-year experiment. The Line-Item Veto Act became effective on that date, a law that provides the President with significant new authority to cancel discretionary spending and new entitlement spending, along with an extremely limited ability to cancel new spending done through the Tax Code.

Though the version enacted was flawed in several ways, I supported this new authority to provide the President with some additional flexibility to eliminate inappropriate spending. I do not believe the line-item veto is the whole answer to our deficit problem, or even most of the answer, but it certainly can be part of the answer.

A key part of the new Presidential authority is the sunset clause. Unless Congress renews this authority, it will expire. The sunset clause will put the burden on those who want to retain the authority to demonstrate the experiment has worked.

Mr. President, though the continuing Federal budget deficits justify granting this temporary authority to the President on a trial basis, there are many extremely serious issues surrounding this proposal that merit close monitoring over the next several years. At the time I voted for the final version of this new authority last year, I announced my intention to form a line-item veto watchdog project to regularly monitor how this new law is implemented over the next 8 years, and I am pleased to take this opportunity to report on that project.

Mr. President, joining me in this line-item veto watchdog project are a number of distinguished observers of Federal policymaking, including Norman Ornstein of the American Enterprise Institute, Stephen Moore of the CATO Institute, and Demetri Coupanis on behalf of the Concord Coalition. In addition, several individuals from my home State of Wisconsin have also agreed to participate in the project. They include State Senator Lynn Adelman, State Representative Dave Travis, and attorney Fred Wade of Madison. Each of those three individuals has a deep interest in the partial veto authority granted to Wisconsin's Governors and brings a critical perspective to the new authority given the President.

Mr. President, though we have no prior experience at the Federal level, many in this body who have served in State government may have seen the use of line-item veto authority at the State level. Indeed, much of the support for a Federal line-item veto stems from the State experience. But few other States, if any at all, have witnessed the abuses of line-item veto authority that we have seen in Wisconsin. That abuse has been bipartisan—Governors of both parties have used Wisconsin's partial veto authority in ways it is safe to say no one anticipated when that authority was first contemplated. For example, Wisconsin's current Governor, Governor Thompson, has used the veto authority not only to rewrite entire laws, but actually to increase spending and increase taxes.

Mr. President, given that history, the participation of Senator Adelman, Representative Travis, and attorney Wade will be invaluable in helping us monitor potential abuses of the new Presidential authority.

Mr. President, the watchdog project will be monitoring and chronicling a number of aspects of the Presidential power—first, the actual amount of Federal spending eliminated by the President's use of the line-item veto. Reducing unnecessary spending was the central argument for this new authority, and keeping track of how much spending is eliminated will be useful in seeing how effective this new tool actually is. It may also help encourage Presidents to make sure that they are making full use of this new authority as we will attempt to track missed opportunities as well as successes.

The watchdog project will also monitor instances where the new authority is abused by the executive branch. Some have suggested that the line-item veto could be used to coerce Members of Congress to toe the line on an administration's policies through the threat to cancel spending in home States. If a President starts misusing the line-item veto authority as a club to get votes on nominations or other policy matters, the public ought to hear about it, and our project will seek to document this kind of abuse if it takes place.

Mr. President, the watchdog project will also look for examples of excess spending that escape scrutiny because of loopholes in the new law. Some already are speculating on the different techniques that may be attempted to avoid the reach of this new Presidential power.

Mr. President, in this regard, I am especially concerned that the sections of the line-item veto authority that deal with tax expenditures were too narrowly drawn, and that many new special interest tax breaks could escape the line-item veto pen. Along with my good friend in the other body, Representative TOM BARRETT of Milwaukee, I have introduced legislation to address this weakness in the new law, and will do so again this session. It makes no sense to provide the President with this new authority while protecting one of the fastest growing areas of spending in the Federal budget, an area that includes unjustified subsidies to some of the wealthiest individuals and corporations in the world.

Mr. President, the watchdog group will also monitor efforts to twist the line item authority beyond its stated purpose. As I noted above, in Wisconsin, the partial veto authority has been abused by our Governors by striking out single letters in appropriation bills to create new words and new meanings to legislation. In some cases, the Wisconsin statute has been used to actually increase State spending. The new Federal law does not, on its surface, appear to allow for that kind of abuse, but our project will be monitoring that aspect of implementation of the new law as well.

Other aspects of the new law that warrant review are also sure to present themselves as we begin its actual use later this session, and I welcome suggestions from my colleagues who are interested in this historic new law.

It is critical that we track closely how the new authority is being used so that when it expires in 8 years, Congress and the public will have some measurable criteria by which to assess its effectiveness.•

BURTON P. RESNICK

• Mr. LIEBERMAN. Mr. President, I rise today to honor Burton P. Resnick on the occasion of his birthday. Mr. Resnick turned 60 on November 28, 1996.

Mr. Resnick is the President of Jack Resnick & Sons, Inc. The company, founded by his father in 1928, has been a leader in real estate development, construction, ownership, and management of business in New York for many years. Today Jack Resnick & Sons, Inc., controls and operates over 5 million square feet of first-class real estate in prime locations in New York City. In recognition of his outstanding work in the field of real estate, Mr. Resnick was named chairman emeritus of the Board of Governors of the Real Estate Board of New York.

Burton P. Resnick is also extremely involved with numerous philanthropic and charitable organizations. One of his highest honors was being appointed by President Clinton to the Holocaust Memorial Council. He is chairman of the Executive Committee of the Board of Trustees of Yeshiva University and Chairman of the board of Overseers of Albert Einstein College of Medicine. He is also a member of the board of directors of the Hebrew Home for the Aged at Riverdale, NY, as well as Chairman of the Building Committee.

Mr. Resnick assists the National United Jewish Appeal through his role as vice chairman of the organization. He also serves as national campaign vice chairman of the Anti-Defamation League.

Burton P. Resnick's dedication to helping the community through his outstanding achievements and accomplishments is highly commendable and I take this time to wish him a very happy birthday.•

THE 220TH ANNIVERSARY OF THE FOUNDING OF THE U.S. CAVALRY

• Mr. LIEBERMAN. Mr. President, I rise today to recognize the 220th anniversary of the U.S. Cavalry. The anniversary occurred on December 16, 1996.

It was in the town of Wethersfield, CT, under orders by the First Continental Congress, that Revolutionary troops organized the 1st Cavalry Regiment in the Continental Army. Today, the town of Wethersfield, located in my home State of Connecticut, is proud to be recognized as the birthplace of the U.S. Cavalry.

Recognized by the U.S. Department of the Army's Center of Military History, the 2d Continental Light Dragoons—Sheldon's Horse—were organized in Wethersfield. This was the first dragoon regiment to become a part of the Continental Army. Training ground for this regiment had been created by a Wethersfield native, Capt. Benjamin Tallmadge. This regiment made numerous contributions in the Revolutionary War by participating in combat in northern New Jersey and the defense of Philadelphia.

The town of Wethersfield played a vital role in America's independence. From the historic Webb House, where Gen. George Washington met with Comte de Rochambeau to discuss strategies for the Battle of Yorktown, to the modern development of the Silas Deane Highway, the quaintness of Wethersfield is intermingled with the heroic greatness of the U.S. Cavalry. With origins in Wethersfield, the U.S. Cavalry fought epic battles at Brandy Station during the Civil War and the Punity Expedition before World War I.

The U.S. Cavalry now based in Fort Riley, KS, will be forever linked with Wethersfield and the State of Connecticut. I applaud the efforts of Deputy Mayor Richard Sparveri, Town Councilman Brendan T. Flynn, the Wethersfield Historical Society, Wethersfield Tourism Task Force, Mr. John Conway, Mr. Arthur Hutchinson, and so many others who have brought this significant part of American history into the spotlight it greatly deserves.●

ORDER OF BUSINESS

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105-1

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on January 7, 1997, by the President of the United States: protocols to the 1980 Conventional Weapons Convention, Treaty Document No. 105-1.

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the following Protocols to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects: the amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II or the amended Mines Protocol); the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III or the Incendiary Weapons Protocol); and the Protocol on Blinding Laser Weapons (Protocol IV). Also transmitted for the information of the Senate is the report of the Department of State with respect to these Protocols, together with article-by-article analyses.

The most important of these Protocols is the amended Mines Protocol. It is an essential step forward in dealing with the problem of anti-personnel landmines (APL) and in minimizing the very severe casualties to civilians that have resulted from their use. It is an important precursor to the total prohibition of these weapons that the United States seeks.

Among other things, the amended Mines Protocol will do the following: (1) expand the scope of the original Protocol to include internal armed conflicts, where most civilian mine casualties have occurred; (2) require that all remotely delivered anti-personnel mines be equipped with self-destruct devices and backup self-deactivation features to ensure that they do not pose a long-term threat to civilians; (3) require that all nonremotely delivered anti-personnel mines that are not equipped with such devices be used only within controlled, marked, and monitored minefields to protect the civilian population in the area; (4) require that all anti-personnel mines be detectable using commonly available technology to make the task of mine clearance easier and safer; (5) require that the party laying mines assume responsibility for them to ensure against their irresponsible and indiscriminate use; and (6) provide more effective means for dealing with compliance problems to ensure that these restrictions are actually observed. These objectives were all endorsed by the Senate in its Resolution of Ratification of the Convention in March 1995.

The amended Mines Protocol was not as strong as we would have preferred. In particular, its provisions on verification and compliance are not as rigorous as we had proposed, and the transition periods allowed for the conversion or elimination of certain noncompliant mines are longer than we thought necessary. We shall pursue these issues in the regular meetings that the amended Protocol provides for review of its operation.

Nonetheless, I am convinced that this amended Protocol will, if generally adhered to, save many lives and prevent many tragic injuries. It will, as well, help to prepare the ground for the total prohibition of anti-personnel landmines to which the United States is committed. In this regard, I cannot overemphasize how seriously the United States takes the goal of eliminating APL entirely. The carnage and devastation caused by anti-personnel landmines—the hidden killers that murder and maim more than 25,000 people every year—must end.

On May 16, 1996, I launched an international effort to this end. This initiative sets out a concrete path to a global ban on anti-personnel landmines and is one of my top arms control priorities. At the same time, the policy recognizes that the United States has international commitments and responsibilities that must be taken into account in any negotiations on a total ban. As our work on this initiative progresses, we will continue to consult with the Congress.

The second of these Protocols—the Protocol on Incendiary Weapons—is a part of the original Convention but was not sent to the Senate for advice and consent with the other 1980 Protocols in 1994 because of concerns about the acceptability of the Protocol from a military point of view. Incendiary weapons have significant potential military value, particularly with respect to flammable military targets that cannot so readily be destroyed with conventional explosives.

At the same time, these weapons can be misused in a manner that could cause heavy civilian casualties. In particular, the Protocol prohibits the use of air-delivered incendiary weapons against targets located in a city, town, village, or other concentration of civilians, a practice that caused very heavy civilian casualties in past conflicts.

The executive branch has given very careful study to the Incendiaries Protocol and has developed a reservation that would, in our view, make it acceptable from a broader national security perspective. This proposed reservation, the text of which appears in the report of the Department of State, would reserve the right to use incendiaries against military objectives located in concentrations of civilians where it is judged that such use would cause fewer casualties and less collateral damage than alternative weapons.

The third of these three Protocols—the new Protocol on Blinding Lasers—prohibits the use or transfer of laser weapons specifically designed to cause permanent blindness to unenhanced vision (that is, to the naked eye or to the eye with corrective devices). The Protocol also requires Parties to take all feasible precautions in the employment of other laser systems to avoid the incidence of such blindness.

These blinding lasers are not needed by our military forces. They are potential weapons of the future, and the

United States is committed to preventing their emergence and use. The United States supports the adoption of this new Protocol.

I recommend that the Senate give its early and favorable consideration to these Protocols and give its advice and consent to ratification, subject to the conditions described in the accompanying report of the Department of State. The prompt ratification of the amended Mines Protocol is particularly important, so that the United States can continue its position of leadership in the effort to deal with the humanitarian catastrophe of irresponsible landmine use.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

RECESS UNTIL THURSDAY, JANUARY 9, 1997, AT 12:30 P.M.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now stand in recess under the previous order.

There being no objection, the Senate, at 5:07 p.m., recessed until Thursday, January 9, 1997, at 12:30 p.m.

NOMINATIONS

Executive nominations received by the Senate January 7, 1997:

DEPARTMENT OF STATE

MADELEINE KORBEL ALBRIGHT, OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF STATE, VICE WARREN CHRISTOPHER, RESIGNED.

DEPARTMENT OF DEFENSE

WILLIAM S. COHEN, OF MAINE, TO BE SECRETARY OF DEFENSE, VICE WILLIAM J. PERRY.

DEPARTMENT OF STATE

BILL RICHARDSON, OF NEW MEXICO, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS, VICE MADELEINE KORBEL ALBRIGHT.

UNITED STATES CAPITOL

ALAN M. HANTMAN, OF NEW JERSEY, TO BE ARCHITECT OF THE CAPITOL FOR THE TERM OF 10 YEARS, VICE GEORGE MALCOLM WHITE.

THE JUDICIARY

ERIC L. CLAY, OF MICHIGAN, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE RALPH B. GUY, JR., RETIRED.

MERRICK B. GARLAND, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE ABNER J. MIKVA, RETIRED.

WILLIAM A. FLETCHER, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE WILLIAM ALBERT NORRIS, RETIRED.

RICHARD A. PAEZ, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CECIL F. POOLE, RESIGNED.

M. MARGARET MCKEOWN, OF WASHINGTON, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE J. JEROME FARRIS, RETIRED.

ARTHUR GAJARSA, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE HELEN WILSON NIES, RETIRED.

JAMES A. BEATY, JR., OF NORTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE JAMES DICKSON PHILLIPS, JR., RETIRED.

ANN L. AIKEN, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON, VICE JAMES H. REDDEN, RETIRED.

LAWRENCE BASKIR, OF MARYLAND, TO BE A JUDGE OF THE U.S. COURT OF FEDERAL CLAIMS FOR A TERM OF 15 YEARS, VICE REGINALD W. GIBSON, RETIRED.

JOSEPH F. BATAILLON, OF NEBRASKA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA VICE LYLE E. STROM, RETIRED.

COLLEEN KOLLAR-KOTELLY, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE HAROLD H. GREENE, RETIRED.

RICHARD A. LAZZARA, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA VICE JOHN H. MOORE II, RETIRED.

DONALD M. MIDDLEBROOKS, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE JAMES W. KEHOE, RETIRED.

JEFFREY T. MILLER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA VICE GORDON THOMPSON, JR., RETIRED.

SUSAN OKI MOLLWAY, OF HAWAII, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF HAWAII VICE HAROLD M. FONG, DECEASED.

MARGARET M. MORROW, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE RICHARD A. GADBOIS, RETIRED.

ROBERT W. PRATT, OF IOWA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF IOWA VICE HAROLD D. VIETOR, RETIRED.

CHRISTINA A. SNYDER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE EDWARD RAFEEDIE, RETIRED.

CLARENCE J. SUNDRAM, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK VICE CON. G. CHOLAKIA, RETIRED.

THOMAS W. THRASH, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA VICE ROBERT L. VINING, JR., RETIRED.

MARJORIE O. RENDELL, OF PENNSYLVANIA, TO BE U.S. CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE WILLIAM D. HUTCHINSON, DECEASED.

HELENE N. WHITE, OF MICHIGAN, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE DAMON J. KEITH, RETIRED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DONNA HOLT CUNNINGHAME, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, (NEW POSITION), TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOSE-MARIE GRIFFITHS, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2001, VICE SHIRLEY ADAMOVICH, TERM EXPIRED.

DEPARTMENT OF STATE

MADELEINE MAY KUNIN, OF VERMONT, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PRINCIPALITY OF LIECHTENSTEIN.

FEDERAL ELECTION COMMISSION

JOHN WARREN MCGARRY, OF MASSACHUSETTS, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2001. (REAPPOINTMENT)

DEPARTMENT OF EDUCATION

DONALD RAPPAPORT, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF EDUCATION, VICE DONALD RICHARD WURTZ, RESIGNED.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

KAREN SHEPHERD, OF UTAH, TO BE U.S. DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE LEE F. JACKSON, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARTHUR I. BLAUSTEIN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE BRUCE D. BENSON, TERM EXPIRED.

NATIONAL COUNCIL ON DISABILITY

DAVE NOLAN BROWN, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1998, VICE JOHN A. GANNON, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

LORRAINE WEISS FRANK, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE MIKISO HANE, TERM EXPIRED.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

HANS M. MARK, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING APRIL 17, 2002. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SUSAN FORD WILTSHIRE, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE HELEN GARY CRAWFORD, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

CHARLENE BARSHEFSKY, OF THE DISTRICT OF COLUMBIA, TO BE U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, VICE MICHAEL KANTOR.

SMALL BUSINESS ADMINISTRATION

AIDA ALVAREZ, OF NEW YORK, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, VICE PHILIP LADER.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANDREW M. CUOMO, OF NEW YORK, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE HENRY G. CISNEROS, RESIGNED.

DEPARTMENT OF COMMERCE

WILLIAM M. DELAY, OF ILLINOIS, TO BE SECRETARY OF COMMERCE, VICE MICHAEL KANTOR.

DEPARTMENT OF LABOR

ALEXIS M. HERMAN, OF ALABAMA, TO BE SECRETARY OF LABOR, VICE ROBERT B. REICH.

DEPARTMENT OF TRANSPORTATION

RODNEY E. SLATER, OF ARKANSAS, TO BE SECRETARY OF TRANSPORTATION, VICE FEDERICO PENA.

EXECUTIVE OFFICE OF THE PRESIDENT

JANET L. YELLEN, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS, VICE JOSEPH E. STIGLITZ, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

THOMAS J. BARRETT
JOHN F. MC GOWAN
TERRY M. CROSS
JAMES D. HULL
GEORGE N. NACCARA

THE FOLLOWING INDIVIDUAL FOR APPOINTMENT AS A PERMANENT REGULAR COMMISSIONED OFFICER IN THE U.S. COAST GUARD IN THE GRADE OF LIEUTENANT COMMANDER:

LAURA H. GUTH

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY FOR PROMOTION TO THE GRADE INDICATED:

To be commander

ROBERT R. ALBRIGHT II
LUCRETIA A. FLAMMANG

To be lieutenant commander

JAMES R. DIRE

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD RESERVE FOR PROMOTION TO THE GRADE INDICATED:

To be captain

FRANCIS C. BUCKLEY

To be commander

SHARON K. RICHEY
ALLEN K. HARKER

PURSUANT TO THE PROVISIONS OF 14 U.S.C. 729, THE FOLLOWING NAMED COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF CAPTAIN:

RONALD G. DODD
JOHN M. RICHMOND
MICHAEL E. THOMPSON

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF CAPTAIN:

JOSEPH F. AHERN
JEFFREY G. LANTZ
ADAN D. GUERRERO
WALTER S. MILLER
MARK E. BLUMFELDER
RICHARD W. GOODCHILD
JON T. BYRD
DAVID W. RYAN
JEFFREY A. FLORIN
JOHN C. SIMPSON
WILLIAM C. BENNETT
JOEL R. WHITEHEAD
JAMES J. LOBER, JR.
WAYNE D. GUSMAN
MICHAEL J. DEVINE
SCOTT F. KAYSER
JAMES B. CRAWFORD
WILLIAM J. HUTMACHER
GLENN L. SNYDER
DOUGLAS P. RUDOLPH
JOHN L. GRENIER
TIMOTHY S. SULLIVAN
MARK G. VANHAVERBEKE
JAMES SABO
PAUL C. ELLNER
STEVEN A. NEWELL
DOUGLAS E. MARTIN
RICHARD M. BROOKS

THE FOLLOWING RESERVE OFFICER OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF CAPTAIN:

CATHERINE M. KELLY

PURSUANT TO THE PROVISIONS OF 14 U.S.C. 729, THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF COMMANDER:

ROY F. WILLIANS
THEODORE B. ROYSTER
GEORGE J. SCHULER
JACQUELINE V. WYLAND
LAWRENCE A. GASS
KRISTIN Q. CORCORAN

MARYELLEN M. COLELLA
DAVID A. MAES
JOHN J. MADEIRA
JEANNE CASSIDY
CHARLES E. POLK
JOHN A. HOLUB
JOHN W. LONG
MICHAEL D. OAKS
ANN M. COURTNEY
ANTHONY B. CANORRO
LARRY L. JONES
MATTHEW P. BERNARD
MAUREEN B. HARKINS
ROBERT W. GRABB
WAYNE C. DUMAS
MARK A. JONES
STEPHEN N. JACKSON
WILLIAM C. HANSEN
JOSEPH A. KEGLOVITS
DAVID P. ROUNDY
THOMAS PLESNARSKI
WARREN E. SOLODUK
DAVID H. SULOUFF
ROBERT C. LUDWICK
RICHARD A. REYNOLDS
DOUGLAS A. ASH
DAVID G. O'BRIEN
JOSEPH J. RIORDAN
NEEDHAM E. WARD
ROBERT Q. AMMON
BRIAN D. MURPHY
VIRGIL F. BATEMAN
SALVATORE BRILLANTE
NANCY A. MAZUR
MICHAEL A. CICALESE
SIDNEY J. DUCK
PHILIP J. JORDAN
JOSEPH P. CAIN

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF COMMANDER:

GEORGE A. RUSSELL, JR.
PATRICK J. CUNNINGHAM, JR.
DANE S. EGLI
JEFFREY S. GORDEN
BRET K. MCGOUGH
JODY B. TURNER
MARK L. MCEWEN
MARK A. SKORDINSKI
DONALD K. STROTHER
FRANCIS X. IRR, JR.
ROBERT A. FARMER
RICHARD M. KASER
KURTIS J. GUTH
GARY E. FELICETTI
DANIEL A. LALIBERTE
KURT W. DEVOE
ROBERT J. LEGIER
ROBERT E. KORROCH
THOMAS P. OSTEBO
MARK A. PRESCOTT
KENNETH H. SHERWOOD
MARK S. GUILLORY
PRESTON D. GIBSON
DAVID L. HILL
MICHAEL P. FARRELL
RICHARD A. STANCHI
SCOTT S. GRAHAM
MARK R. DEVRIES
KENNETH R. BURGESS, JR.
WARREN L. HASKOVEC
JENNIFER L. YOUNT
BARRY P. SMITH
WILLIAM D. LEE
JOHN R. LINDLEY, JR.
ROBERT R. O'BRIEN, JR.
SCOTT G. WOOLMAN
WILLIAM W. WHITSON, JR.
LARRY E. SMITH
MARK A. FROST
MITCHELL R. FORRESTER
PATRICK J. NEMETH
CURTIS A. STOCK
CHRISTOPHER K. LOCKWOOD
BARRY L. DRAGON
MICHAEL D. BRAND
BRUCE E. GRINNELL
BRIAN K. SWANSON
ROBERT J. MALKOWSKI
BRIAN J. GOETTLER
CHARLES W. RAY
STEPHEN J. MINUTOLO
VIRGINIA K. HOLTZMAN-BELL
MATTHEW M. BLIZARD
RICHARD A. RENDON
BRYAN D. SCHRODER
JOHN W. YAGER, JR.
MARSHALL B. LYTLE III
THOMAS D. CRIMAN
STEPHEN J. OHNSTAD
CAROL C. BENNETT
THOMAS E. HOBAICA
DAVID S. STEVENSON
JAMES T. HUBBARD
GEORGE P. VANCE, JR.
ROBERT M. ATKIN
CHRISTINE D. BALBONI
MARK D. RUTHERFORD
PATRICK B. TRAPP
DENNIS D. BLACKALL
BRADLEY R. MOZEE
RICHARD J. FERRARO
RICHARD L. MATTERS
EKUNDAYO G. FAUX
DAVID L. LERSCH
RICKI G. BENSON
NORMAN L. CUSTARD, JR.
GREGORY B. BREITHAUPT
FREDERICK J. KENNEY, JR.
THOMAS K. RICHEY
DAVID M. GUNDERSEN
JAMES E. TUNSTALL
JOHN R. OCHS
TIMOTHY J. DELLOT
TOMAS ZAPATA
PETER V. NEFFENGER
DANIEL R. MACLEOD
ROBERT M. WILKINS
TIMOTHY G. JOBE
RICKEY W. GEORGE
STEVEN E. VANDERPLAS
STEVEN J. BOYLE
DENNIS A. HOFFMAN
JEFFREY N. GARDEN
KEVIN G. QUIGLEY
RONALD D. HASSLER
KENNETH D. FORSLUND
DENNIS M. SENS
ALVIN M. COYLE
MELISSA A. WALL
CURTIS A. SPRINGER
CHRISTIAN BROXTERMAN
ELMO L. ALEXANDER II

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

BRIAN C. CONROY
ARLYN R. MADSEN, JR.
KEITH F. CHRISTENSEN
TIMOTHY J. CUSTER
SCOTT A. KITCHEN
JACK W. NIEMIEC
RHONDA F. GADSDEN
GLEN B. FREEMAN
ROBERT C. LAFEAN
THOMAS J. CURLEY III
JEROME R. CROOKS, JR.
CHARLES A. HOWARD
MARK A. HERNANDEZ
ROBERT E. ASHTON
ABRAHAM L. BOUGHNER
GLENN F. GRAHL, JR.
ANNE L. BURKHARDT
THOMAS M. MIELE
ANTHONY T. FURST
DUANE R. SMITH
KEVIN K. KLECKNER
JAMES A. MAYORS
WYMAN W. BRIGGS
GWYN R. JOHNSON
GEOFFREY L. ROWE
JOHN M. SHOUEY
EDWARD R. WATKINS
WILLIAM S. STRONG
RICHARD C. JOHNSON
JAMES O. FITTON
TERRY D. CONVERSE
MARK C. RILEY
ERIC A. GUSTAFSON
CHRISTOPHER E. AUSTIN
RICHARD R. JACKSON, JR.
PETE V. ORTIZ, JR.
PAUL D. LANGE
RONALD J. MAGOON
CHRIS J. THORNTON
DOUGLAS W. ANDERSON
NATHALIE DREYFUS
KURT A. CLASON
GREGORY W. MARTIN
NONA M. SMITH
WILLIAM H. RYPKA
GERALD F. SHATINSKY
STEVEN M. HADLEY
JOHN F. EATON, JR.
DAVID H. DOLLOFF
STEPHEN E. MAXWELL
DAVID W. LUNT
WILLIAM J. MILNE
GREGORY W. BLANDFORD
DOUGLAS C. LOWE
EDDIE JACKSON III
MATTHEW T. BELL, JR.
MARC D. STEGMAN
WILLIAM G. HISHON
LARRY A. RAMIREZ
BENJAMIN A. EVANS
TRACY L. SLACK
THOMAS C. HASTING, JR.
WILLIAM H. OLIVER II
TALMADGE SEAMAN
MARK E. MATTA
JANIS E. NAGY
SALVATORE G. PALMERI, JR.
MARK D. RIZZO
SPENCER L. WOOD
RICARDO RODRIGUEZ
RANDALL A. PERKINS III
TIMOTHY B. O'NEAL
ROBERT P. MONARCH
EDWARD J. HANSEN, JR.
DONALD J. MARINELLO
CHARLES A. MILHOLLIN
DENNIS D. DICKSON
TIMOTHY N. SCOGGINS
GENE W. ADGATE
BARRY J. WEST
JEFFREY W. JESSEE
GEORGE A. ELDREDGE
SCOTT E. DOUGLASS
JOHN K. LITTLE
SAMUEL WALKER VII
ROBERT R. DUBOIS
ROBERT J. HENNESSY
THOMAS E. CRABBS
STEVEN D. STILLEKE
JOHN S. KENYON
DOUGLAS J. CONDE
WILLIAM R. CLARK
DONNA A. KUEBLER
TIMOTHY A. FRAZIER
ROCKY S. LEE
RANDY C. TALLEY
ROBERT M. CAMILLUCCI
CHRISTOPHER B. ADAIR
ERIC C. JONES
JOHN R. LUSSIER
MELVIN W. BOUBOULIS
MELISSA BERT
ANITA K. ABBOTT
VERNE B. GIFFORD
SCOTT N. DECKER
PETER W. GAUTIER
MATTHEW T. RUCKERT
CHRISTOPHER M. SMITH
ANTHONY J. VOGT
JAMES A. CULLINAN
DONALD R. SCOPEL
GWEN L. KEENAN
RICHARD J. RAKSNIS
MARC A. GRAY
GRAHAM S. STOWE
CHRISTOPHER P. CALHOUN
KYLE G. ANDERSON
JONATHAN P. MILKEY
MATTHEW J. SZIGETY
RUSSEL C. LABODA
ANDEW P. KIMOS
JOHN T. DAVIS
ANTHONY R. GENTILELLA
JOHN G. TURNER
RAMONCITO R. MARIANO
LEIGH A. ARCHBOLD
DANA G. DOHERTY
PAUL E. FRANKLIN
STEVEN A. SEIBERLING
SCOTTIE R. WOMACK
RONALD H. NELSON
HENRY M. HUDSON, JR.
FRANK D. GARDNER
RALPH MALCOLM, JR.
DONALD N. MYERS
RICHARD A. PAGLIALONGA
JAMES E. HAWTHORNE, JR.
JAY A. ALLEN
GORDON A. LOEBL
GARY T. CROOT
SAMUEL L. HART
WEBSTER D. BALDING
CHRISTOPHER N. HOGAN
THOMAS D. COMBS III
BEVERLY A. HAVLIK
THOMAS H. FARRIS, JR.
TIMOTHY E. KARGES
DAVID SELF
JOHN D. GALLAGHER
ROBERT G. GARROTT
GREGORY W. JOHNSON
SCOTT A. MEMMOTT
GREGORY P. HITCHEN
RICHARD W. SANDERS
JASON B. JOHNSON
RAYMOND W. PULVER
STUART M. MERRILL
JOSEPH E. VORBACH
KEVIN E. LUNDAY
BRIAN R. BEZIO
CHRISTINE L. MACMILLIAN
JOANNA M. NUNAN
JOSEPH SEGALLA
JOHN J. PLUNKETT
CHRISTOPHER M. RODRIGUEZ
PATRICK P. O'SHAUGHNESSY
ANTHONY POPIEL
MATTHEW L. MURTHA
JAMES M. CASH
DWIGHT T. MATHERS
PAULINE F. COOK
ROBERT J. TARANTINO
JOHN E. HARDING
CRAIG S. SWIRBLISS
JOHN J. ARENSTAM
JOHN M. FITZGERALD
KIRK D. JOHNSON
DAVID R. BIRD
WILLIAM B. BREWER
WILLIAM G. KELLY

I NOMINATE THE FOLLOWING RESERVE OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

MONICA L. LOMBARDI
LATICIA J. ARGENTI
SLOAN A. TYLER
KAREN E. LLOYD
MICHAEL E. TOUSLEY
THOMAS F. LENNON
DONALD A. LACHANCE II

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. LLOYD W. NEWTON, 5211

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. MAXWELL C. BAILEY, 0835
BRIG. GEN. WILLIAM J. DENDINGER, 3556
BRIG. GEN. DENNIS G. HAINES, 8791
BRIG. GEN. CHARLES R. HENDERSON, 0660
BRIG. GEN. CHARLES R. HOLLAND, 4055
BRIG. GEN. SILAS R. JOHNSON, JR., 2407
BRIG. GEN. THOMAS J. KECK, 7294
BRIG. GEN. RODNEY P. KELLY, 8032
BRIG. GEN. RONALD E. KEYS, 5357
BRIG. GEN. DAVID R. LOVE, 7046
BRIG. GEN. EARL W. MABRY II, 2663
BRIG. GEN. RICHARD C. MARR, 7645
BRIG. GEN. WILLIAM F. MOORE, 9750
BRIG. GEN. THOMAS H. NEARY, 0508
BRIG. GEN. SUSAN L. PAMERLEAU, 8423
BRIG. GEN. ANDREW J. PELAK, JR., 7135
BRIG. GEN. GERALD F. PERRYMAN, JR., 9961
BRIG. GEN. ROGER R. RADCLIFF, 8907
BRIG. GEN. RICHARD H. ROELLIG, 6384
BRIG. GEN. LANSFORD E. TRAPP, JR., 7799
BRIG. GEN. THOMAS C. WASKOW, 1732
BRIG. GEN. CHARLES J. WAX, 3013
BRIG. GEN. JOHN L. WOODWARD, JR., 3961
BRIG. GEN. MICHAEL K. WYRICK, 5017

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. GARY A. AMBROSE, 0398
COL. FRANK J. ANDERSON, JR., 9288
COL. THOMAS L. BAPTISTE, 1125
COL. BARRY W. BARKSDALE, 4599
COL. LEROY BARNIDGE, JR., 7882
COL. RANDALL K. BIGUM, 5457
COL. RICHARD B. BUNDY, 7270
COL. SHARLA J. COOK, 0473
COL. TOMMY F. CRAWFORD, 8769
COL. CHARLES E. CROOM, JR., 6468
COL. RICHARD W. DAVIS, 4196
COL. ROBERT R. DIERKER, 7380
COL. JERRY M. DRENNEN, 2464
COL. CAROL C. ELLIOT, 7798
COL. PAUL W. ESSEX, 6243
COL. MICHAEL N. FARAGE, 3352
COL. RANDALL C. GELWIX, 4009
COL. JAMES A. HAWKINS, 6268
COL. GARY W. HECKMAN, 6559
COL. HIRAM L. JONES, 6366
COL. JOSEPH E. KELLEY, 2386
COL. CHRISTOPHER A. KELLY, 6369
COL. JEFFREY B. KOHLER, 6694
COL. EDWARD L. LAFOUNTAINE, 5918
COL. WILLIAM J. LAKE, 1783
COL. DAN L. LOCKER, 0497
COL. TEDDIE M. MCFARLAND, 0563
COL. MICHAEL C. MCMAHAN, 7967
COL. DUNCAN J. MCNABB, 2295
COL. RICHARD A. MENTEMEYER, 6097
COL. JAMES W. MOREHOUSE, 7472
COL. PAUL D. NIELSEN, 2184
COL. THOMAS A. ORIORDAN, 0904
COL. BENTLEY B. RAYBURN, 1485
COL. REGNER C. RIDER, 7161
COL. GARY L. SALISBURY, 4579
COL. KLAUS O. SCHAFER, 3320
COL. CHARLES N. SIMPSON, 2150
COL. ANDREW W. SMOAK, 5760
COL. JOHN M. SPEIGEL, 5018
COL. RANDALL F. STARBUCK, 7495
COL. SCOTT P. VANCLEEF, 7075
COL. GLENN C. WALTMAN, 8185
COL. CRAIG P. WESTON, 3970
COL. MICHAEL P. WIEDEMER, 1040
COL. MICHAEL W. WOOLEY, 9379
COL. BRUCE A. WRIGHT, 5759

IN THE ARMY

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be major general

BRIG. GEN. LARRY G. SMITH, 2572

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10 UNITED STATES CODE, 14101, 14315, AND 12203(A):

To be major general

BRIG. GEN. WILLIAM F. ALLEN, 7630
BRIG. GEN. CRAIG BAMBROUGH, 1885
BRIG. GEN. PETER A. GANNON, 8325
BRIG. GEN. FRANCIS R. JORDAN, JR., 8000

To be brigadier general

COL. HERBERT L. ALTSHULER, 8024
COL. MICHAEL W. BEASLEY, 5949
COL. JAMES P. COLLINS, 2607
COL. JAMES W. COMSTOCK, 5456
COL. WILLIAM S. CRUPE, 1989
COL. ALAN V. DAVIS, 9373
COL. JOHN F. DEPUE, 7819
COL. BERTIE S. BUEITT, 9842
COL. CALVIN D. JAEGER, 4491
COL. JOHN S. KASPER, 8271
COL. RICHARD M. O'MEARA, 9750
COL. JAMES C. PRICE, 4708
COL. RICHARD O. WIGHTMAN, JR., 6480

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be brigadier general

COL. MITCHELL M. ZAIS, 7282

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE U.S. MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. JOSEPH T. ANDERSON, 6299
BRIG. GEN. RAYMOND P. AYRES, JR., 5986
BRIG. GEN. EMIL R. BEDARD, 9035
BRIG. GEN. CHARLES F. BOLDEN, JR., 5603
BRIG. GEN. EARL B. HAILSTON, 8306
BRIG. GEN. BRUCE B. KNUTSON, JR., 7136
BRIG. GEN. GARY S. MCKISSOCK, 8973
BRIG. GEN. WILLIAM L. NYLAND, 8595

BRIG. GEN. RONALD G. RICHARD, 8683

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. AIR FORCE IN ACCORDANCE WITH SECTIONS 618, 624, AND 628 TITLE 10, UNITED STATES CODE:

LINE OF THE AIR FORCE

To be major

SAMUEL R. BAKALIAN, JR., 5796
KEITH P. FEAGA, 0635
BRAD L. SABO, 1123
PETER L. VAN VLECK, 3689
JAMES M. WALSH, 7240
JAMES E. WALTRIP, 1061

MEDICAL CORPS

To be lieutenant colonel

CARL G. SIMPSON, 4805

To be major

MARTIN L. ABBINANTI, 3363
THOMAS S. HOFFMAN, 8646
JEROME J. SCHULTE, 7378
MARIO A. SILVA, 6795

THE FOLLOWING-NAMED OFFICER FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

LINE OF THE AIR FORCE

To be captain

JERRY A. WEIHE, 3916

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 AND 628, TITLE 10, UNITED STATES CODE:

To be major

MEDICAL CORPS

ROBERT J. METZ, 7759
GEORGINA L. MURRAY, 2976
MICHAEL R. NELSON, 5281

MEDICAL SERVICE CORPS

To be major

DANIEL V. CHAPA, JR., 1846

VETERINARY CORPS

To be major

KATHLEEN W. CARR, 5901

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 OF TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

OWEN, H. BLACK, 2473
SCOTT C. BLACK, 1918
DONALD H. DUBIA, 6513
VICTOR L. HORTON, 7393
CALVIN L. LEWIS, 3271
ROBERT MC FETRIDGE, 0011
SARAH P. MERCK, 0703
KENT R. MEYER, 1964
ROBERT L. MINOR, 1612
PATRICK J. PARRISH, 4068
JAMES D. SCHMIDLI, 0330
ROBERT L. SWANN, 1725
DENISE K. VOWELL, 2492
KARL K. WARNER, 6443
RONALD W. WHITE, 6879
DALE N. WOODLING, 4403

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be major

RANDEL D. MATNEY, 9810

THE FOLLOWING-NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADES INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be colonel

*RONALD P. TURNICKY, 9774

ARMY COMPETITIVE

To be lieutenant colonel

ROBERT E. KEMPFE, 0414
JARVIS NEWSOME, 6950

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

LINDA S. BURGAN, 8128
STEPHEN D. HARVEY, 7739

MEDICAL CORPS

To be lieutenant colonel

*MATTHEW W. RAYMOND, 7344

THE FOLLOWING-NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be lieutenant colonel

JOHN E. RUETH, 4944
DOUGLAS R. YATES, 4392

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

To be colonel

PHILLIP J. TODD, 6906

THE FOLLOWING-NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

EMMANUEL M. CHIAPARAS, 5182

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624, 628, AND 531:

To be lieutenant colonel

*BENJE H. BOEDEKER, 2621
*BEVERLY I. MALINER, 2894

To be major

BRUCE F. BROWN, 4467
THADDEUS J. KROLICKI, 9237
MARTHA K. LENHART, 8343

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 531:

To be major

*RUPERT H. PEETE, 2733

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERICK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 531:

To be lieutenant colonel

4673X, 0001
VIRGINIA P. PRUGH, 3723

To be major

*SCOTT A. SVABEK, 1627

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

MARK S. ACKERMAN, 8490
RICHARD J. ANDERSON, 7981
ROBERT J. BARHAM, 1566
WILLIAM T. BARTO, 5423
GARY J. BROCKINGTON, 2724
JEFFREY L. CADDELL, 5844
JANET W. CHARVAT, 0064
MARK CREMIN, 1862
ALLEN R. GOSHI, 5613
ANNE EHRSAMHOLLAND, 2116
MICHAEL J. FUCCI, 8541
JILL M. GRANT, 4569
MARK E. HENDERSON, 4137
STEPHEN R. HENLEY, 5651
ANDY K. HUGHES, 1624
MUSETTA T. JOHNSON, 0279
KAREN L. JUDKINS, 2077
JOHN KASTENBAUER, 4187
LAUREN B. LEEKER, 1267
JAMES K. LOVEJOY, 7204
REYNOLD MASTERTON, 1369
EVERETT MAYNARD, JR., 4914
HOWARD O. MC GILLIN, 0036
RICHARD B. O'KEEFFE, 8227
FRANCES E. OLMSTED, 4763
TIMOTHY PENDOLINO, 9905
EDITH M. ROB, 6538
MARK P. SPOSATO, 5886
DONNA L. WILKINS, 8366

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

CHAPLAIN CORPS

To be major

*WILLIAM M. AUSTIN, 0962
*SHERMAN W. BAKER, 3577
*WILLIAM T. BARBEE, 8144
*ORMAN W. BOYD, 6173
*KAREN D. BRANDON, 2864
*BRENT V. CAUSEY, 6334
*PHILLIP C. CONNER, 6984
*STEPHEN P. DEMIEN, 3625
*THOMAS G. EVANS, 1305
*PETER J. FREDERICH, 8671
*WILBERT C. HARRISON, 5421
*STEVEN L. JORDAN, 4117
*SCOTT H. KAMINSKY, 0873
*PAUL R. KERR, 9542
*YOUN H. KIM, 3775
*DENNIS S. KRUMLAUF, 1562
*WILLIAM H. LIPTROT, 4206
*MARTIN E. MATTHIS, 1686
*ROBERT J. MEYER, 6215
*GLENN R. MOSTELLER, 6869
*DAVID A. NEETZ, 0827
*MARSHALL PETERSON, 9506
*JIM L. PITTMAN, 4163
*PAUL A. RODGERS, 7326
*STEPHEN M. RUSS, 4744
*DAVID H. SCHARFF, 9323
*PEARLEAN SCOTT, 3610
*WILLIAM D. SMITH, 7508
*ALLEN M. STAHL, 1545
*KENNETH W. STICE, 4005

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

JAMES W. BROWN, 1131

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be colonel

CHRIS J. GUNTHER, 8678

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be major

DOUGLAS S. KURTH, 4880

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

To be lieutenant colonel

RANDALL N. MILLER, 2308
MICHAEL B. SAGASER, 8967
GARY W. SCHENKEL, 6667

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CONGRESS:

SUPPLY CORPS

To be captain

BRUCE G. LALONDE, 3461

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE NAVY UNDER 12203 OF TITLE 10, UNITED STATES CONGRESS:

To be captain

GARY D. BUMGARNER, 0967
WALTER E. MARDIK, 3914
REYNALDO RESENDEZ, 2635

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CONGRESS:

UNRESTRICTED LINE

To be captain

THOMAS J. CAMPBELL, 7288
STEVENS K. SHEGRUD, 2453

To be commander

VITO M. MENZELLA, 3313

MEDICAL SERVICE CORPS

To be commander

JOHN A. D'ALESSANDRO, 5911

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be commander

TIMOTHY F. ARCHER, 7287
DAVID B. MORGAN, 7602

MEDICAL SERVICE CORPS

To be commander

PATRICK J. KELLY, 3333

MEDICAL CORPS

To be lieutenant commander

KENNETH M. LANKIN, 0620

DENTAL CORPS

To be lieutenant commander

KIMBROUGH M. HORNSBY, 3928
MELANIE J. LARSON, 0148

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

UNRESTRICTED LINE

To be commander

DONALD L. BEEM, 3398

UNRESTRICTED LINE

To be lieutenant commander

JAMES E. REED, 7164

MEDICAL CORPS

To be lieutenant colonel

PETER A. KHAMVONGSA, 8148
NELSON A. NIEVES, 2980

MEDICAL SERVICE CORPS

To be lieutenant colonel

EDGARDO PEREZ-LUGO, 9404

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE. THE OFFICER MARKED BY AN ASTERISK (*) IS ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

MEDICAL SERVICE CORPS

To be colonel

RICHARD H. AGOSTA, 3188
PRISCILLA M. ALSTON, 8891
MICHAEL D. BERNDT, 5344
LEE W. BRIGGS, 0976
JOHN H. BROWN, 5460
BRUCE W. BURNEY, 7914
DAVID C. BURNS, 6265
CLYDE D. BYRNE, 7623
LYLE W. CARLSON, 4390
LARRY J. CLARK, 1537
EDWARD O. CRANDELL, 9500
MELINDA E. DEFFER, 0681
ROBERT R. ENG, 4375
RONALD D. FANCHER, 6557
JACK C. FARRIS, 3768
ROGER W. FOXHALL, 2425
JEFFREY A. GERE, 3470
HARRY R. GOOD, 4103
JOSEPH M. HARMON, 1154
MONTIE S. JOHNSON, 1798
TERRY A. KLEIN, 0252
MORRIS R. LATTIMORE, 8106
DAVID B. MCCRADY, 2522
ROBERT J. MYERS, 8420
VIRGIL J. PATTERSON, 7907
DAVID M. PENETAR, 7345
RANDY PERRY, 4041
KOTU K. PHULL, 0923
TERRY M. RAUCH, 0456
DANIEL D. REMUND, 3794
RENE J. ROBICHAUX, 3104
JAMES A. ROMANO, 5084
HARVEY G. SOEFER, 6292
PHILLIP W. SWINNEY, 8528
BRUCE F. SYLVIA, 2456
ALAN K. THOMPSON, 3432
RANDAL L. TREIBER, 6989
DAVID W. WILLIAMS, 1389

ARMY MEDICAL SPECIALIST CORPS

To be colonel

ANN P. AMOROSO, 0363
MARGARE APPLEWHITE, 1903
GAIL D. DEYLE, 8286
REBECCA S. STOREY, 5077

VETERINARY CORPS

To be colonel

CHARLES KELSEY, JR., 0895
GEORGE E. MOORE, 7546
ROBERT R. SMITH, 7851
DEWAYNE G. TAYLOR, 5241

NURSE CORPS

To be colonel

SANDRA L. BRUNKEN, 6005
ANDREA B. CALDWELL, 2933
ANNIE M. CAYLOR, 5022
LOIS J. DICKINSON, 5382
JOAN P. EITZEN, 6900
LENORE S. ENZEL, 8295
SUZANNE S. EVANS, 6543
LARK A. FORD, 1636
MELISSA A. FORSYTHE, 3984
ANN E. HALLIDAY, 7238
ROY A. HARRIS, 1158
DANIEL J. JERGENS, 8212
CATHY J. JOHNSON, 2410
*SUSAN A. KAPLAN, 9336
CHERY KILIANHOFFER, 4242
EILEEN B. MALONE, 4523
MARYANN MONTEITH, 1008
CAROL J. PIERCE, 7473
CATHERINE K. ROCCO, 2315
KATHLEEN L. SIMPSON, 4862
CHRISTIE A. SMITH, 1909
REID M. STEVENSON, 2446
MICHAEL V. WALSH, 5779

IN THE NAVY

THE FOLLOWING-NAMED SUPPLY CORPS OFFICERS, TO BE REAPPOINTED IN THE LINE OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(A) OF TITLE 10, UNITED STATES CODE.

LINE

To be lieutenant commander

MARCIAL B. DUMLAO, 4006

To be lieutenant

GREGORY D. GJURICH, 3729
STEVEN B. HEMMRICH, 5686
EDWARD S. HUNTER, 2516
MATTHEW K. LINCE, 9091
JUDITH E. MANFULL, 4225
RODNEY O. MATTHEWS, 6940
BRUCE J. WEIDNER, 5019
SCOTT E. WHITMORE, 7886

To be lieutenant (junior grade)

CHRIS D. AGAR, 4987
MICHAEL G. EARL, 0614

To be ensign

SHELLEY ANDERSON, 9495
MARK E. NIETO, 6575

THE FOLLOWING-NAMED CIVIL ENGINEER CORPS OFFICER, TO BE REAPPOINTED IN THE LINE OF THE U. S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(A) OF TITLE 10, UNITED STATES CODE.

To be lieutenant (junior grade)

ERIC C. CAHILL, 2288

THE FOLLOWING-NAMED MEDICAL SERVICE CORPS OFFICERS, TO BE REAPPOINTED IN THE LINE OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(A) OF TITLE 10, UNITED STATES CODE.

To be lieutenant

TRACIE L. CRAWSHAW, 6189
BRYANT W. KNOX, 3311

THE FOLLOWING-NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE LINE OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 OF TITLE 10, UNITED STATES CODE.

To be lieutenant

NADIM ABUHAIDAR, 6897
CLETE D. ANSELM, 6238
RICKY D. BALCOM, 1466
DAVID L. BECK, 7633
LAURA L. BELLOS, 1977
WILLIAM L. BLACKER, 0206
BRADFORD J. BOGARD, 8695
DANIEL F. BOSCOLA, 6707
PATRICK C. CAREY, 4064
TIMOTHY M. CLESEN, 8512
JAMES CLUXTON, 4512
DAVID J. DEMERS, 8903
TRENT R. DEMOSS, 8961
THAD J. DOBBERT, 7672
KEVIN T. DOUPE, 0422
ALAN R. DUNSTON, 0391
JASON C. EHRET, 7684
JAMES M. ELLIS, 8052
JUAN M. ENTENZA, 9279
ROLANDO ESTRUGO, 7663
JAMES J. FALCONE, 9781
GERARD R. FEAGLES, 2921
JAMES M. FILIPSKI, 0053
MERL W. FUCHS, 2194
JEFFREY B. GRIGGS, 6205
JEFFREY L. HAMMER, 7421
SCOTT V. HANNA, 5406
JON J. HANSON, 4565
LINDA M. HASCHART, 5054
RICHARD W. HAUPT, 3812
THOMAS H. HAWLEY, 1128
ERIC J. HEITMAN, 7939
GERALD R. HERMANN, 7923
KIM D. HILL, 1990
MICHAEL J. HOLDER, 0299
PETER S. JONES, 6510
THOMAS P. JUHL, 0724
MATTHEW S. JUTTE, 4294
TRACI A. KEEGAN, 1305
ANDREW L. KESSLER, 3594
GREGORY S. KIRKWOOD, 0844
GREGORY A. KISER, 4956
RICHARD D. LEONARD, 1441
REGINALD D. LEUTHEN, 9377
JONATHAN A. LEWIS, 2139
ROGER J. LUCAS, 1731
MICHAEL C. MABEE, 3126
MARK M. MARTY, 3514
CHAD A. MCCAIN, 2753
PETER P. MCDONOUGH, JR., 9003
MICHAEL G. MCFERREN, 6496
WALTER L. MEARES, 9914
ERNST MENGELBERG, 2130
ERIC B. MICHAELSON, 6598
JEROME T. MORICK 8252
LAURA J. MOTLEY, 0847
JOEL M. MULLEN, 1235
ARJAY J. NELSON, 9871
CHRISTOPHER M. NERNEY, 8053
JOHN R. NOLTING, 7481
WILLIAM W. OLMSTEAD, 4320
SUSAN E. PAPP, 6741
OSCAR J. PATINO, 9246
WANDA G. POMPEY, 8927
MARY P. POWERS, 1047
JASON R. PRICKETT, 5023
TODD W. RADER, 7930
RUSS C. RAINES, 2832
JOHN H. RAMSEY, 9453
JOSEPH W. REEVES, 6930
ANNE M. ROPER, 3285
ROBERT L. RUBINO, JR., 2527
EDWARD F. SCHMITT, 9244
KEITH L. SELBY, 9190
THOMAS J. SIU, 0085
JEFFREY E. SMITH, 7753
JOSEPH M. SNOWBERGER, 2244
SHELBY STRATTON, 0960
JOHN C. SWEDBERG, 3508
JOHN N. TURNIPSEED, 9809
PETER J. WALLIS, 8884
KENNETH L. WEEKS III, 7894
DONALD L. WILBURN, JR., 2614
PAUL J. WILSON, 4820
DARSHAN M. WOODS, 5769
GREGORY A. YANOK, 7675

To be lieutenant (junior grade)

COLLEEN M. BARIBEAU, 9919
CHRISTOPHER J. BASHAM, 4042
RODNEY T. BEHREND, 8283
TANIA M. BISHOP, 4225
LISA C. BRAUN, 2524
PAUL G. BROTZE, 2893
STEVE K. BRUNO, 1465
ANTHONY T. BUTERA, 0092
ROSETTA BUTLER, 5416
SANDRA Y. CONNER, 4872
LAUREL P. FALLS, 3055
STEPHEN T. FAUST, 0047
RAY A. FRANKLIN II, 3975
MICHAEL G. FRANTZ, 4521
ERIC H. FRITZ, 7236
GREGORY J. GAHLINGER, 0236
MICHAEL L. GALES, 9952
NOAH J. GENGLER, 3766
GEOFFREY L. GERBER, 5169
STEVEN J. HALL, 1336
JASON R. HAMMONS, 6914
JOHN P. HIBBS, 8567
EDGARD T. HIGGINS III, 5501
JONATHAN L. JACKSON, 7865
DONALD R. JONES, JR., 2724
COREY J. KENISTON, 4270
MICHAEL J. KOEN, 4180
LUKE A. KOLBECK, 3074
JEFFREY J. KUGELE, 1922
GEORGE M. LANDIS III, 9122
JONATHAN D. LIPPS, 5662
CHRISTOPHER B. LOUNDERMON, 9258
JAY J. MATTHEWS, 0250
RICHARD C. MCDANIEL, 5456
PATRICK W. MCNALLY, 9097
PATRICK E. MONDOR, 8033
INGRID M. MUELLER, 4045
JAMES M. MUSE, 2844
COLEY R. MYERS III, 9312
NEAL M. NOTTROTT, 9873
CURTIS E. OELRICHS, 9687
RONALD J. O'GRADY, 0894
INGRID M. RADER, 6842
STEPHEN C. RANCOURT, 8266
PAUL C. RAWLEY, 1410
DAVID R. ROSETTER, 3935
KORY L. SCHROEDER, 7562
FRANK A. SCRIVENER III, 5705
SHANTI R. SETHI, 3705
BILL T. SHEETS, 3017
THEODORE J. STARINSHAK, 3694
KENNETH A. STRONG, 7993
KARL R. TENNEY, 0170

JEFFREY S. TIPPIE, 5491
ERIC D. WEBSTER, 3321
CHRIS F. WHITE, 7927

To be ensign

MICHAEL S. ANSLEY, 6049
JEFFREY M. BIERLEY, 5102
DWIGHT A. BLAHA, 0197
MANUEL BRITO, 9634
ROBERT B. BRYANT, 5599
MICHAEL W. BYERS, 8818
DANIEL B. CALDWELL, 6640
JOHN M. CAPUANO, 5563
ADAM R. CAUDILL, 8029
TODMUND E. COLE, 8261
CHRISTOPHER R. COX, 5597
MARVIN W. CUNNINGHAM, 5038
STEVEN M. DUPONT, 2773
JAMES A. DUTTON, 8520
DANIEL W. ETTLICH, 1343
KEVIN L. ETZKORN, 6683
JAMES R. FELTS, 1356
JAMES R. FINK, 9723
KYLE P. FREEMAN, 1390
DAVID C. GARCIA, 4855
ROBERT C. GETTY, 8263
NOEL D. GONZALEZ, 7435
PETER F. HECK, 2505
RYAN J. HEILMAN, 8286
CHAD F. HENNINGS, 1515
TRENTON D. HESSLINK, 0540
DOUGLAS M. JARRARD, 9019
LEE R., JOHNSON, JR., 8953
CHRISTOPHER K. KETE, 5167
TODD M. KNAPP, 1437
JACK R. MASIH, 5370
ANDREW T. MILLER, 5243
MICHAEL R. MORELAND, 3108
CONSTANTIN C. MOWRY, 6532
KEVIN S. MOYER, 9285
MICHAEL P. MULCARE, 3037
ANDREW G. PETERSON, 6508
TODD M. PICHE, 6720
DAVID A. PRATHER, 9333
TIMOTHY M. RAGLIN, 9118
JON M. RICCITELLO, 3067
BARRY F. RODRIGUES, 2133
STEVEN E. RUMPH, 8627
ROBERT D. SANDERS, 0722
JOHN M. SANDIDGE, 3711
JASON E. SMALL, 6013
MICHAEL R. SOWA, 5406
KEVIN J. SUH, 4718
CHUONG N. THAI, 7976
ANDREW W. VELO, 4285
ANTHONY D. VENA, 2526
STEVEN R. VONHEEDER, 3162
WAYNE C. WALL, 9253
MARK C. WEBSTER, 4528
BRYAN D. WHITCOMB, 2803
MICHAEL L. WOODS, 8122

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE MEDICAL CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be captain

WILLIAM A. LISTON, 6871

To be commander

FRANK A. CHAPMAN, 5957
DAVID W. FERGUSON, 3273
WARREN P. KLAM, 3628
ALAN R. ROWLEY, 2586

To be lieutenant commander

TIMOTHY P. COLLINS, 9494
ASHA S. V. DEVEREAUX, 8355
MICHAEL E. HOFFER, 5485
RANDALL N. HYER, 3104
DAVID M. LARSON, 8781
MICHAEL LEE, 3902
LYNN L. LEVENTIS, 3631
CRAIG T. MALLAK, 6735
MARTIN MC CAFFREY, 8641
TERENCE M. MC GEE, 0207
GEORGE J. MC KENNA, 8205
PATRICK T. NOONAN, 8771
WILLIAM B. POSS, 6062
ROBERT J. ROOKSTOOL, 5694
SCOTT SHAY, 9265
RICKY L. SNYDER, 9716
ANTOINE P. WASHINGTON, 0438
RICHARD B. WOLF, 1870
DANIEL J. ZINDER, 5920

To be lieutenant

ANTHONY G. BATTAGLIA, 8622
SHIUYUEH L. BAXTER, 5726
CHRISTOPHER E. DEVEREAUX, 4119
TIM B. HOPKINS, 0252
MICHAEL A. ILLOVSKY, 2611
LIONEL N. JACOB, 2175
CHRISTOPHER J. JANKOSKY, 9015
KATHLEEN C. LEONE, 2414
RICHARD D. QUATTRONE, 8812
KIRBY J. SCOTT, 4279
WILLIAM A. SRAY, 9005

THE FOLLOWING-NAMED LINE OFFICERS, TO BE REAPPOINTED IN THE SUPPLY CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(B) OF TITLE 10, UNITED STATES CODE.

SUPPLY CORPS

To be lieutenant

KEITH A. HOPSON, 3581
MARK TUELL, 4380

To be lieutenant (junior grade)

WILLIAM T. HOOVER, 5470
SEAN A. SCIARA, 4977
ROBERT W. YAROSZ, 9772

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE SUPPLY CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

SUPPLY CORPS

To be lieutenant

SETH T. BURGESS, 0344
GARY B. CLARK, 4237
ROBERT CSORBA, 0813
DANIEL F. CUMMINGS, 3821
KENNETH DIXON, 8266
JOHN W. HANKFORTH, 9740
PAUL D. HANSON, 4655
COREY D. KRAMER, 2421
RICKY A. KUSTURIN, 3823
BRIAN E. LOEFSTEDT, 6304
THOMAS R. MARSZALEK, 3149
MICHAEL L. PARKER, 9113
LISLE O. PICKFORD, 5763
JON H. STEEN, 4956
DAVID T. VEAL, 7819

To be lieutenant (junior grade)

EDWARD C. AGU, 8512
JARROD W. FLORES, 2136
OVELL HAMILTON, 6591
WILLIAM K. JAMES, 4334
DARRELL L. MATHIS, 9488
CLIFFORD R. SHEARER, 8128
RICARDO WILSON, 4246

THE FOLLOWING-NAMED LINE OFFICERS TO BE REAPPOINTED IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(B) OF TITLE 10, UNITED STATES CODE.

CIVIL ENGINEER CORPS

To be lieutenant

WILLIAM C. DUERDEN, 9943
MARTIN B. HARRISON, 8597
ROBERT S. HOUSE, 7728
CHAD H. LEE, 8356
SHAUGN E. OSTROWSKI, 5390
DARREN D. PETRO, 9264
STEPHEN K. REVELAS, 4004
SEREATHA Y. STERN, 2416
SCOTTY W. WALTERMIRE, 5286

To be lieutenant (junior grade)

TIMOTHY L. ALLEN, 6995
ERIC J. HAWN, 7901
WILLIAM B. SCALLY, 2691

To be ensign

COREY M. AVENS, 4160
JAMES L. HASAN, 4308
BRANNEN G. MC ELMURRAY, 5980

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

CIVIL ENGINEER CORPS

To be lieutenant

STEVEN M. BECKER, 5730
DAVID A. BELL, 3953
JAMES J. BOUDO, 6925
ALTON M. BRADLEY, 4779
FERNANDO CHAVEZ, 1138
BRIAN L. ERICKSON, 0833
PHILIP M. GENT, 2000
DALE R. HARTMANN, 1560
CHARLES E. MENDOZA, 5247
TIMOTHY J. ROGERS, 6682
GREGORY A. SCOTT, 1750
MICHAEL R. SPAULDING, 4508
CRAIG B. SPRAY, 3032
CHARLES R. WILSON, 1531

To be lieutenant (junior grade)

BRANDIE S. HAYDEN, 9941
FRANCIS S. KURY, 1880
HEATH K. POPE, 9417
MICHAEL R. SAUM, 3532
RUSSELL V. SEIGNIOUS, 4757

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE JUDGE ADVOCATE GENERAL'S CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant

LESLIE K. BURNETT, 1110
JEFFREY A. FISCHER, 0620
GEORGE M. FRUCHTERMAN, 1542
ELIZABETH K. FUGLESTAD, 7261
HOLIDAY HANNA, 1500
DAVID M. HARRISON, 0455
ERROL D. HENRIQUES, 4859
MICHAEL R. HOGAN, 8710
MATTHEW R. HYDE, 8580
ANTHONY Z. KALAMS, 6492
ANN F. LAMB, 9003
JAMES M. RYAN, 4377
DARLENE S. SIMMONS, 3333
DAVID G. WILSON, 7046

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE DENTAL CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

DENTAL CORPS

To be lieutenant commander

JOANNE R. ADAMSKI, 6388
SPIROS APOSTOLAKIS, 0749
JOY MEADE, 0978

To be lieutenant

SMITH C. E. BARONE, 9108
GLENDA M. CALEY, 0997
MICHELE A. CARTER, 8927
PETER C. COLELLA, 5562
GEORGE A. GROW, 6541
WILLIAM R. K. DAVIDSON, 5785
MASOUD EGHTEDARI, 7316
KIMBERLY K. ERICKSON, 1691
TIMOTHY M. FRENCH, 9431
GREGORY GANSER, 1219
KURT HUMMELDORF, 2155
KARLA A. IYONMAHAN, 8026
JONATHAN B. JUNKIN, 9961
JOSEPH P. LUKASIEWICZ, 3444
RODERICK M. M ACINTYRE, 1983
WILLIAM W. MAK, 4661
KEVIN J. OTTE, 3535
CHARLES W. I. PADDOCK, 0754
VICTOR T. Y. PAK, 7572
CHARLES W. PATTERSON, 9684
PETER A. RUOCCO, 7417
SONIA Q. SCHEERER, 0411
HELEN N. SEMPIRA, 5098
ADAM P. STRIMER, 6954
TODD E. SUMNER, 8159
TIMOTHY B. TINKER, 5151
PAUL R. YETTER, 5624

THE FOLLOWING-NAMED LINE OFFICERS, TO BE REAPPOINTED IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

MEDICAL SERVICE CORPS

To be lieutenant

JAMES R. CASSATA, 2661
TIMOTHY A. MEYER, 8456

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

MEDICAL SERVICE CORPS

To be lieutenant

DAVID M. BARTHOLOMEW, 3291
SIMON J. BARTLETT, 1804
SEAN BIGGERSTAFF, 1633
CYNTHIA A. CHARGOIS, 3926
ANDREW M. DAVIDSON, 7224
DANNY W. DENTON, 0069
TODD S. GIBSON, 0464
DANA P. GLASER, 1484
VINCENT T. HILL, 7781
BARBARA R. IDONE, 0398
SUSAN E. JACKSON, 0254
CHRISTOPHER M. JACOBSON, 9669
KIMBERLY M. KAUFFMAN, 2489
LAURIE A. LEVY, 5179
JOHN D. NOGAN, 8386
SAMUEL T. OLAIYA, 1295
PAMELA A. O'LOUGHLIN, 8183
BYRON Y. OWENS, 5199
STEVEN D. PIGMAN, 3110
BRIAN D. POMIJE, 9961
GREGORY J. PRUNIER, 0675
JENNIFER S. RYDELL, 1752
MARY S. SEYMOUR, 3958
LILLIAN M. SHEPHERD, 9818
RUSSELL D. SHILLING, 1754
JOHN THOMAS, 5744
BRUCE A. THOMPSON, 1642
JEFFREY C. TROWBRIDGE, 5274
TIMOTHY H. WEBER, 8305

To be lieutenant (junior grade)

PAUL D. ALLEN, 2812
PAUL R. CAUCHON, 1349
VALENTIN E.H. CONDE, 2221
JOHN E. HANNON IV, 6021
JAMES HERBST, 4549
BRIAN E. HUTCHISON, 1890
TINA M. JANGEL, 8978
BARBARA S. KANNEWURF, 4954
MICHAEL G. LUTTE, 8943

SCOTT A. MCKENZIE, 3035
ANDREW B. SEAL, 0328
BRIAN G. TOLBERT, 1869

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE NURSE CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

NURSE CORPS

To be lieutenant

JAMES E., BABCOCK II, 8011
LINDA M. BLANKENBIJL, 1781
CHERYL W. BLANZOLA, 4884
ELISABETH J. BUCK, 0010
PATRICIA CORLEY, 1807
NATALIE K.M. FRENKEN, 6612
ROBIN D. GIBBS, 2808
DEBORAH A. GRISSINGER, 9377
PATRICIA A. HETRICK, 1746
WILLIAM J. HILL, JR., 3736
CLARISSA L. HO, 4147
CONSTANCE E. HYMAS, 0624
MARGARET A. JACOBSEN, 2985
SHARON W. KINGSBERRY, 2107
DAVID P. LEVAN, 6190
REBECCA A. MALARA, 7611
KENDRA A.T. MANNING, 4551
JACQUELINE M. MENZIES, 4934
JULIE C. MOORE, 7146
JULIE Y. MOORE, 4508
LISA M. MORTENSEN, 9450
REBECCA A. OHLENBUSCH, 1505
CATHY J. OLSON, 6172
PAMELA J. PORTER, 6067
KAREN S. PRUETT, 0260
SABRINA L. PUTNEY, 5115
MARY A. SMITH, 8758
DIANNE STANTONSANCHEZ, 7911
AMY M. STEVENS, 5491
REGINA D. STMARK, 6190
DANA G. STUARTMAGDA, 3464
TRACY B. SWANSON, 3474
NELIDA R. TOLEDO, 6001
DICK W. TURNER, 2289
DAVID W. WEEKS, 5721
LAURA A. WOLFGANG, 4560
MARY A. YONK, 3406
MARIA A. YOUNG, 2075

To be lieutenant (junior grade)

JANINE D. ALLEN, 2083
PAUL B. ARP, 0251
JUSTIN M. BENNETT, 5567
MARK I. BISBEE, 9159
JEFFREY W. BLEDSOE, 9684
ANDREW M. CARTER, 7051
DANIEL J. CROSBY, 2628
EVE D. CURRIE, 6972
ERNEST E. DUNCAN, 2691
RHONDA R. DYER, 5916
DAVID C. FISHER, 4298
ANDREW A. GALVIN, 4321
JAMES E. GOSS, 9056
DERRICK HERNANDEZ, 6836
MERCED HERNANDEZ, 4855
KATHY A. HUEY, 8801
MARY E. JACOBS, 3444
JEAN L. P. LORD, 8713
KATHY L. MATTHES, 2409
CATHERINE M. MCNEAL, 8901
MICHAEL L. NICK, 4160
DEBBIE O'HARE, 6440
FRANCES C. PERDUE, 8157
FRANCES C. RYAN, 4899
ASSANATU I. SAVAGE, 2615
RENEE M. SIDLEY, 6795
MICHAEL D. SIMONS, 2020
PATRICIA M. TAYLOR, 2413
GENE D. TRUESDELL, 6501
DAVID J. WALKER, 4485
TERESA J. WATTERS, 2279
ALTON R. WIGGINS, 1160
SHARI D. WOHL, 2469
GEORGE A. ZANGARO, 3193

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE LINE AS LIMITED DUTY OFFICERS OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5589(A) OF TITLE 10, UNITED STATES CODE.

LIMITED DUTY OFFICERS, LINE

To be lieutenant (junior grade)

RONALD E. FOUDRAY, 3744
REBECCA L. KIRK, 2207

HOUSE OF REPRESENTATIVES—*Tuesday, January 7, 1997*

This being the day fixed by the 20th amendment of the Constitution of the United States, and Public Law 104–296 for the meeting of the Congress of the United States, the Members-elect of the 105th Congress met in their Hall, and at 12 noon were called to order by the Clerk of the House of Representatives, Hon. Robin H. Carle.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Oh, gracious God, from whom we have come and to whom we belong, we offer this prayer of thanksgiving and gratitude for all the blessings You have freely bestowed on us and the people of this Nation, and also for the responsibilities that You have entrusted to those who serve in this place.

On this first day of a new Congress, we speak with the words of the Psalmist: Oh, give thanks to the Lord for He is good, for His steadfast love endures forever. Grant us, oh God, a keen awareness of the areas of life where we can serve the people of the land, and, as the scripture says, let justice flow down as waters and righteousness like an ever flowing stream.

May we continue to build on the foundations laid down from the early days of the Nation, that in all things we may do justice, love mercy, and ever walk humbly with you.

May Your benediction, oh God, that is new every morning and is with us all the days of our lives, be upon all who serve in this place now and evermore, amen.

PLEDGE OF ALLEGIANCE

The CLERK. The Members-elect and their guests will please rise and join in the Pledge of Allegiance to the flag.

The Clerk led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

The CLERK. Representatives-elect, this is the day fixed by the 20th amendment to the Constitution and Public Law 104–296 for the meeting of the 105th Congress and, as the law directs, the Clerk of the House has prepared the official roll of the Representatives-elect.

Certificates of election covering 435 seats in the 105th Congress have been received by the Clerk of the House, and the names of those persons whose credentials show that they were regularly elected as Representatives in accordance with the laws of their respective States or of the United States will be called.

Without objection, the Representatives-elect will record their presence by electronic device and their names will be reported in alphabetical order by States, beginning with the State of Alabama, to determine whether a quorum is present.

There was no objection.

The call was taken by electronic device, and the following Representatives-elect responded to their names:

[Roll No. 1]

ANSWERED "PRESENT"—432

ALABAMA

Aderholt
Bachus
Callahan
Cramer
Everett
Hilliard
Riley

ALASKA

Young

ARIZONA

Hayworth
Kolbe
Pastor
Salmon
Shadegg
Stump

ARKANSAS

Berry
Dickey
Hutchinson
Snyder

CALIFORNIA

Becerra
Berman
Bilbray
Bono
Brown
Calvert
Campbell
Capps
Condit
Cox
Cunningham
Dellums
Dixon
Dooley
Doolittle
Dreier
Eshoo
Farr
Fazio
Filner
Gallegly
Harman
Herger
Horn
Hunter
Kim
Lantos
Lewis
Lofgren
Martinez
Matsui
McKeon
Millender-McDonald
Miller
Packard
Pelosi
Pombo
Radanovich
Riggs
Rogan
Rohrabacher
Roybal-Allard
Royce
Sanchez
Sherman
Stark
Tauscher
Thomas
Torres
Waters
Waxman
Woolsey

COLORADO

DeGette
Hefley
McInnis
Schaefer
Schaffer
Skaggs

CONNECTICUT

DeLauro
Gejdenson
Johnson
Kennelly
Maloney
Shays

DELAWARE

Castle

FLORIDA

Bilirakis
Boyd
Brown
Canady
Davis
Deutsch
Diaz-Balart
Foley
Fowler
Goss
Hastings
McCollum
Meek
Mica
Miller
Ros-Lehtinen
Scarborough
Shaw
Stearns
Thurman
Weldon
Wexler
Young

GEORGIA

Barr
Bishop
Chambliss
Collins
Deal
Gingrich
Kingston
Lewis
Linder
McKinney
Norwood

HAWAII

Abercrombie
Mink

IDAHO

Chenoweth
Crapo

ILLINOIS

Blagojevich
Costello
Crane
Davis
Evans
Ewing
Fawell
Gutierrez
Hastert
Hyde
Jackson
LaHood
Lipinski
Manzullo
Porter
Poshard
Rush
Shimkus
Weller
Yates

INDIANA

Burton
Buyer
Hamilton
Hostettler
McIntosh
Pease
Roemer
Souder
Visclosky

IOWA

Boswell
Ganske
Latham
Leach
Nussle

KANSAS

Moran
Ryun
Snowbarger
Tiahrt

KENTUCKY

Baesler
Bunning
Lewis
Northup
Rogers
Whitfield

LOUISIANA

Baker
Cooksey
Jefferson
John
Livingston
McCrery
Tauzin

MAINE

Allen
Baldacci

MARYLAND

Bartlett
Cardin
Cummings
Ehrlich
Gilchrest
Hoyer
Morella
Wynn

MASSACHUSETTS

Delahunt
Frank
Kennedy
Markey
McGovern
Meehan
Moakley
Neal
Olver
Tierney

MICHIGAN

Barcia
Bonior
Camp
Conyers
Dingell
Ehlers
Hoekstra
Kildee
Kilpatrick
Knollenberg
Levin
Rivers
Smith
Stabenow
Stupak
Upton

MINNESOTA

Gutknecht
Luther
Minge
Oberstar
Peterson
Ramstad
Sabo
Vento

MISSISSIPPI

Parker
Pickering
Taylor
Thompson
Wicker

MISSOURI

Blunt
Clay
Danner
Emerson
Gephardt
Hulshof
McCarthy
Skelton
Talent

MONTANA

Hill

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

NEBRASKA

Barrett
Bereuter
Christensen

NEVADA

Ensign
Gibbons

NEW HAMPSHIRE

Bass
Sununu

NEW JERSEY

Andrews
Franks
Frelinghuysen
LoBiondo
Menendez
Pallone
Pappas
Pascrell
Payne
Rothman
Roukema
Saxton
Smith

NEW MEXICO

Richardson
Schiff
Skeen

NEW YORK

Ackerman
Boehlert
Engel
Flake
Forbes
Gilman
Hinchey
Houghton
Kelly
King
LaFalce
Lazio
Lowey
Maloney
Manton
McCarthy
McHugh
McNulty
Molinari
Nadler
Owens
Paxon
Quinn
Rangel
Schumer
Serrano
Slaughter
Solomon
Towns
Velázquez
Walsh

NORTH CAROLINA

Ballenger
Burr
Clayton
Coble
Etheridge
Hefner
Jones
McIntyre
Myrick
Price
Taylor
Watt

NORTH DAKOTA

Pomeroy

OHIO

Boehner
Brown
Chabot
Gilmor
Hall
Hobson
Kaptur
Kasich
Kucinich
LaTourette
Ney
Oxley
Portman
Pryce
Regula
Sawyer
Stokes
Strickland
Traficant

OKLAHOMA

Coburn
Istook
Largent
Lucas
Watkins
Watts

OREGON

Blumenauer
DeFazio
Furse
Hooley
Smith

PENNSYLVANIA

Borski
Coyne
Doyle
English
Fattah
Foglietta
Fox
Gekas
Goodling
Greenwood
Holden
Kanjorski
Klink
Mascara
McDade
McHale
Murtha
Peterson
Pitts
Shuster
Weldon

RHODE ISLAND

Kennedy
Weygand

SOUTH CAROLINA

Clyburn
Graham
Inglis
Sanford
Spence
Spratt

SOUTH DAKOTA

Thune

TENNESSEE

Bryant
Clement
Duncan
Ford
Gordon
Hilleary
Jenkins
Tanner
Wamp

TEXAS

Archer
Armey
Barton
Bentsen
Bonilla
Brady
Combest
DeLay
Doggett
Edwards
Frost
Gonzalez
Granger
Green
Hall
Hinojosa
Jackson-Lee
Lampson
Ortiz
Paul
Reyes
Sandlin
Sessions
Smith
Stenholm
Thornberry
Turner

UTAH

Cannon
Cook
Hansen

VERMONT

Sanders

VIRGINIA

Bateman
Bliley
Boucher
Davis
Goode
Goodlatte
Moran
Pickett
Scott
Sisisky
Wolf

WASHINGTON

Dicks
Dunn
Hastings
McDermott
Metcalf
Nethercutt
Smith, Adam
Smith, Linda
White

WEST VIRGINIA

Mollohan
Rahall
Wise

WISCONSIN

Barrett
Johnson
Kind
Kleczka
Klug
Neumann
Obey
Petri
Sensenbrenner

WYOMING

Cubin

□ 1233

The CLERK. The quorum call discloses that 432 Representatives-elect have responded to their name. A quorum is present.

ANNOUNCEMENT BY THE CLERK

The CLERK. The Clerk will state that credentials, regular in form, have been received showing the election of the Honorable CARLOS ROMERO-BARCELÓ as Resident Commissioner from the Commonwealth of Puerto Rico for a term of 4 years beginning January 3, 1997; the election of the Honorable ELEANOR HOLMES NORTON as Delegate from the District of Columbia; the election of the Honorable DONNA M. CHRISTIAN-GREEN as Delegate from the Virgin Islands; the election of the Honorable ENI F.H. FALEOMAVAEGA as Delegate from American Samoa; and the election of the Honorable ROBERT A. UNDERWOOD as Delegate from Guam.

ELECTION OF SPEAKER

The CLERK. Pursuant to law and to precedent, the next order of business is the election of the Speaker of the House of Representatives for the 105th Congress.

Nominations are now in order.

The Clerk recognizes the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Madam Clerk, as chairman of the Republican Conference, I am honored and privileged to welcome my colleagues, their families, and the American people to this historic day.

Two years ago we began a new chapter in American history, one of faith in the strength, creativity and goodness of Americans; one where we humbly recognize that although the people sent us here to do their business, we cannot do our job without their consent and their support.

With their support, we began to change America by reforming Washington. And together, we will ensure our reforms improve Americans' quality of life. We will balance the budget, provide permanent tax relief, safer streets, better schools, a cleaner environment, and longer healthier lives with more affordable health care. It is an ambitious agenda, but it is what we were sent here to do. And we owe the American people nothing less.

With pride in what we have accomplished in the past and anticipation of what we can do together in the future, I am directed by a unanimous vote of the Republican Conference to present the name of the Honorable NEWT GINGRICH, a Representative-elect from the State of Georgia, for election to the office of Speaker of the House of Representatives for the 105th Congress.

QUESTION OF PRIVILEGE OFFERED BY MR. FAZIO OF CALIFORNIA

The CLERK. The Clerk now recognizes the gentleman from California [Mr. FAZIO] for a nomination.

Mr. FAZIO of California. Madam Clerk, I rise to a question of the highest constitutional privilege. I offer a resolution which calls for the postponement of the election of the Speaker of the House until the Committee on Standards of Official Conduct completes its work on the matters concerning Representative NEWT GINGRICH of Georgia. The resolution requires the House to proceed immediately to the election of an interim Speaker who will preside over the House until that time.

I ask for the immediate consideration of the resolution.

The CLERK. Section 30 of the Revised Statutes of the United States, which is codified in section 25 of title 2, United States Code, reads in part as follows:

At the first session of Congress after every general election of Representatives, the oath of office shall be administered by any Member of the House of Representatives to the Speaker; and by the Speaker to all Members and Delegates present, and to the Clerk, previous to entering on any other business.

This has been the law since June 1, 1789.

The precedent recorded in Hinds' Precedents of the House at volume 1, section 212, recites that, "at the organization of the House the motion to proceed to the election of a Speaker is of the highest privilege." On that occasion, the Clerk stated that "the duty of the House to organize itself is a duty devolved upon it by law, and any matter looking to the performance of that duty takes precedence in all parliamentary bodies of all minor questions."

The Clerk cites both the statute and the precedent as controlling her decision, consistent with the modern practice of the House, to recognize nominations for Speaker.

Mr. FAZIO of California. Madam Clerk, given the unprecedented nature of the circumstance, I urge that the Clerk permit the Representatives-elect a vote on the motion that I have submitted.

The CLERK. Is the gentleman from California appealing the ruling of the Clerk?

Mr. FAZIO of California. Madam Clerk, if the gentlewoman does not permit a vote under the extraordinary circumstance we face today, I would appeal the ruling of the Clerk.

The CLERK. The gentleman may appeal from the Clerk's ruling on the question of order as to the priority of business.

The question is, Shall the decision of the Clerk stand as the judgment of the House?

Mr. BOEHNER. Madam Clerk, I move to lay the appeal on the table.

Mr. FAZIO of California. Madam Clerk, on that I demand the yeas and nays on the motion to table made by the majority.

The CLERK. The question is on the motion offered by the gentleman from Ohio [Mr. BOEHNER] to lay the appeal on the table.

The question was taken; and the Clerk announced that the ayes appeared to have it.

Mr. FAZIO of California. Madam Clerk, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 210, not voting 0, as follows:

[Roll No. 2]

YEAS—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—210

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The CLERK. The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Madam Clerk, it was obviously the desire of the minority that we resolve our leadership issues in a different manner today given the unprecedented ethical problems that confront our last Speaker. We hope that over the next month the Committee on Standards of Official Conduct can bring us a resolution of the issues that are currently before it and allow us to resolve those issues here on the floor. And so given that hope that we will be able to work together to agree on a schedule to proceed to a conclusion of this phase, it would be then my privilege as chairman of the Democratic Caucus, directed by unanimous vote of that caucus, to present for election to the Office of the Speaker of the House of Representatives for the 105th Congress the name of the Honorable RICHARD A. GEPHARDT, a Representative-elect from the State of Missouri.

The CLERK. The Honorable NEWT GINGRICH, a Representative-elect from the State of Georgia, and the Honorable RICHARD A. GEPHARDT, a Representative-elect from the State of Missouri, have been placed in nomination.

Are there any further nominations?

There being no further nominations, the Clerk will appoint tellers.

The Clerk appoints the gentleman from California [Mr. THOMAS], the gentleman from Connecticut [Mr. GEJDENSON], the gentlewoman from New Jersey [Mrs. ROUKEMA], and the gentlewoman from Connecticut [Mrs. KENNELLY].

The tellers will come forward and take their seats at the desk in front of the Speaker's rostrum.

The roll will now be called, and those responding to their names will indicate by surname the nominee of their choice.

The reading clerk will now call the roll.

The tellers having taken their places, the House proceeded to vote for the Speaker.

The following is the result of the vote:

[Roll No. 3]

GINGRICH—216

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)

GEPHARDT—205

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (CA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

LEACH—2

Campbell
Forbes

MICHEL—1

Leach

WALKER—1

Smith, Linda

PRESENT—6

Gephardt
Hostettler
Klug
Morella
Neumann
Wolf

NOT VOTING—1

Gingrich

□ 1406

The CLERK. The tellers agree in their tallies that the total number of votes cast for a person by name is 425, of which the Honorable NEWT GINGRICH of the State of Georgia has received 216, the Honorable RICHARD A. GEPHARDT of the State of Missouri has received 205, the Honorable JAMES LEACH of the State of Iowa has received 2 votes, the Honorable ROBERT MICHEL has received 1 vote, and the Honorable ROBERT WALKER has received 1 vote, with 6 voting "present."

Therefore, the Honorable NEWT GINGRICH of the State of Georgia, having received a majority of all votes cast by name for a candidate, is duly elected Speaker of the House of Representatives for the 105th Congress.

PARLIAMENTARY INQUIRY

The CLERK. The gentleman from California.

Mr. FAZIO of California. Madam Clerk, a parliamentary inquiry. I simply wish to ask the Clerk at this point if the rules or the Constitution require the Speaker to receive the votes of a majority of all the Members, or is there some other rule that comes into play at a time like this?

The CLERK. The Clerk is guided by the precedent recorded in Cannon's Precedents of the House at volume 6, section 24. On that occasion in 1923, when the House also comprised 435 seats, Speaker Gillett was elected by the votes of 215 of the Members-elect present and voting by surname, a quorum being present.

The Clerk also cites Hinds' volume 1, section 216 for this principle.

Mr. FAZIO of California. Further inquiry, Madam Clerk. Had all those Members who voted present cast their vote for another Member, would that have prevented the election of the Speaker?

The CLERK. The Clerk will not respond to that inquiry.

Therefore, the Honorable NEWT GINGRICH, of the State of Georgia, is duly elected Speaker of the House of Representatives for the 105th Congress, having received a majority of all votes cast by name for a candidate.

The Clerk appoints the following committee to escort the Speaker-elect to the Chair: The gentleman from Missouri [Mr. GEPHARDT], the gentleman from Texas [Mr. ARMEY], the gentleman from Texas [Mr. DELAY], the gentleman from Ohio [Mr. BOEHNER], the gentleman from California [Mr. FAZIO], the gentleman from Georgia [Mr. COLLINS], the gentleman from Georgia [Mr. BISHOP], the gentleman from Georgia [Mr. DEAL], the gentleman from Georgia [Mr. KINGSTON], the gentleman from Georgia [Mr. LINDER], the gentlewoman from Georgia [Ms. MCKINNEY], the gentleman from Georgia [Mr. BARR], the gentleman from Georgia [Mr. CHAMBLISS], and the gentleman from Georgia [Mr. NORWOOD].

The committee will retire from the Chamber to escort the Speaker-elect to the chair.

The Sergeant at Arms announced the Speaker-elect of the House of Representatives of the 105th Congress, who was escorted to the chair by the Committee of Escort.

□ 1415

Mr. GEPHARDT. Ladies and gentlemen of the House, I will be brief. In that the Republicans have retained their majority in the House and I did not get enough votes, it is my responsibility to hand the gavel to the Speaker of the House, NEWT GINGRICH of Georgia.

Mr. GINGRICH. Thank you, DICK.

Let me say to those who voted for me, from the bottom of my heart, thank you; to those who voted for someone else, I hope that I can work with you in such a way that you feel that I am capable of being Speaker of the whole House and representing everyone.

To the freshmen and their families and all the young people who are here today, you are part of a wonderful experience. Just as in less than 2 weeks we will welcome the President for an inaugural, we here in the legislative branch also celebrate a remarkable moment which the entire world watches, a time when an entire Nation voluntarily decides how to govern itself, and does so in such a manner that there is a sense among the entire country that freedom is secure and that every citizen can participate.

This is the 105th time we have done this as a country. Every 2 years. The first one actually did not occur until April 1, 1789, because while everyone was supposed to show up in March for the brandnew Congress, they could not find a quorum. And then they all came together, and there are wonderful stories by people who were there written in their diaries and their letters about the fact that they were just folks from all over, of many different backgrounds.

Back then they would all have been male and they would all have been white and they would all have been property owners. Today we have extended democracy and freedom to levels that the Founding Fathers could not have imagined, and any citizen anywhere in the planet watching through C-SPAN and through the networks and seeing this room and its diversity can appreciate the degree to which America opens its doors and its hearts to all people of all backgrounds to have a better future.

In addition to the elected Members, we are very fortunate to have a professional staff on both sides of the aisle and a professional staff serving on a nonpartisan basis.

And let me say that I think that Robin Carle stood well as the Clerk of the House in representing all of us in establishing the dignity. And I thought that in the interchanges between her and Chairman FAZIO that the world could see legitimate partisanship engaged in legitimately exactly the way it should be, in a professional, in a courteous, in a firm way on both sides. And I think that is part of what we have to teach the world.

In just a few moments, my dear friend JOHN DINGELL, who represents a tradition in his district, who has fought all these years for all that he believes in, who in the last Congress served so ably in helping pass the telecommunications bill, is going to swear me in. And I am going to ask that I will then have a chance to swear him in.

But before that, if I might, I say to my dear friend, my wife is here and my mother and my relatives. And 2 years ago they were here with my father. He is not here today, as I think all of you know. He was an infantryman. He served this country. He believed in honor, duty, country.

Let me say to the entire House that 2 years ago when I became the first Republican Speaker in 40 years, to the degree I was too brash, too self-confident, or too pushy, I apologize. To whatever degree in any way that I have brought controversy or inappropriate attention to the House, I apologize.

It is my intention to do everything I can to work with every Member of this Congress, and I would just say, as with telecommunications in Congressman DINGELL's case, on welfare reform, on line-item veto, on telecommunications reform, on steps toward a balanced budget, again and again, we found a bipartisan majority willing to pass significant legislation, willing to work together.

There is much work to be done. I have asked Chairman HENRY HYDE of the Committee on the Judiciary to look at the issue of judicial activism. He has agreed to hold hearings looking at that issue.

I think all of us should focus on increasing American jobs through world sales, and I have asked Chairman ARCHER to look at the whole issue of taxation and how it affects American job creation.

I have also asked the Ways and Means Committee to look at oversight on NAFTA, on the World Trade Organization, because the fact is, we have to move the legislative branch into the information age. If there are going to be continuing bodies around the world, then Chairman GILMAN in International Relations and Chairman ARCHER and others have to get in the habit, I think, of a kind of aggressive oversight, reporting to the Nation on whether or not our interests are being protected.

I have also asked Chairman ARCHER to prepare a series of hearings looking at the entire issue of how we revise the entire Tax Code, whether we go toward a flat tax or whether we replace the income tax with a sales tax, or what we do, but to begin a process that, frankly, may take 4 to 6 years but is the right direction for the right reason.

Finally, I have asked Chairman SPENCE on the Committee on National Security both to look at the issue of national missile defense and to look at the question of military reform.

Let me say to all of my friends on both sides of the aisle, we have every opportunity through reform to shrink the Pentagon to a triangle. We have every opportunity to apply the lessons of downsizing, the lessons of the information age, and just because something is in uniform does not mean it has to be saluted. But instead, we should be getting every penny for our taxpayers, and we in the Congress should be looking at long-term contracting as one way to dramatically lower the cost of defense.

But I want to talk about one other area, and here I just want to say there is something more than legislation. Each of us is a leader back home, and I want to just talk very briefly about three topics, and it is about these children and their America, children on both sides of the aisle, children from all backgrounds and every State.

I think we have to ask the question, as leaders, beyond legislation: How do we continue to create one Nation under God, indivisible, with liberty and justice for all? I believe most Americans, whether native born or immigrant, still desire for us to be one Nation. So let me briefly talk about three areas that I think are vital.

I am going to talk just a second about race, drugs, and ignorance. First let me ask all of you, do we not need to rethink our whole approach to race? And let me draw the parallel to Dick Fosbury. He was a high jumper in the 1968 Olympics in Mexico City. He developed an entire new approach which is now used by everyone, yet for 6 years the U.S. Olympic Committee rejected it.

My point is very simple. I do not believe any rational American can be comfortable with where we are on the issue of race, and I think all of us ought to take on the challenge, as leaders, beyond legislation, beyond our normal jobs, of asking some new questions in some new ways.

After all, what does race mean when, if based on merit alone, ethnic Asians would make up a clear majority at the University of California at Berkeley?

What does race mean when colleges recruit minorities in the name of inclusiveness and diversity and then segregate them in their own dormitories?

What does race mean when many Americans cannot fill out their Census forms because they are an amalgam of races?

And furthermore, if those of us who are conservatives say that bureaucracy and compulsion is not the answer, then what are we going to say to a child born in a poor neighborhood with a broken home and no one to help them rise, who has no organic contact to prosperity and has no organic contact to a better future?

I mentioned this in passing 2 years ago, and one of the failures I would take some of the responsibility for, we did not follow up. But I want to put it right on the table today that every one of us, as a leader, has an obligation to reach out beyond party and beyond ideology and as Americans to say one of the highest values we are going to spend the next 2 years on is openly dealing with the challenge of meaning that, when we say in our Declaration that we are endowed by our Creator with certain unalienable rights including life, liberty, and the pursuit of happiness, that every child in every neighborhood of every background is endowed by God, and every time America fails to meet that, we are failing to meet God's test for the country we should be.

Let me say second about drugs, I think we have to redefine and rethink our approach to drugs.

One of my close friends had her 19-year-old sister overdose, and her 19-year-old sister today is in a coma and celebrated her 20th birthday in that coma.

Drugs are not statistics. As CHARLIE RANGEL told me at breakfast just 2 years ago, drugs are real human beings being destroyed. Drugs are real violence. If we did not have drugs in this country, the amount of spouse abuse, the amount of child abuse, the amount of violence would drop dramatically. And so I want to suggest that we should take seriously reaching across all barriers in establishing an all-out effort.

The Columbia University Center for Addiction and Substance Abuse has done a fascinating study. The center found that one of the best predictors of whether a child will stay free of drugs is whether he or she practices a religion. Joe Califano, Lyndon Johnson's former advisor and Jimmy Carter's Secretary of Health and Human Services, says that religion is part of the solution to our drug problems and to drug treatment itself. Alcoholics Anonymous refers to a higher power.

I do not know what all the answers are, but I do know that if we love these children, in addition to fighting racism and reaching out to every child, we need to decide that we are prepared to have the equivalent of an abolitionist movement against drugs and to do what it takes so that none of these children ends up in a coma celebrating their birthday or end up dead.

□ 1430

Lastly, we need to pay closer attention to a word you do not hear much anymore: Ignorance. Traditionally ignorance ranked with pestilence, hunger, war as abominations upon humanity, but in recent years the word "ignorance" has been cleaned up and refined into some aspect of educational failure.

I mean by ignorance something deeper. It is not about geography in the third grade. It is about learning the work ethic, it is about learning to be a citizen, it is about learning to save, it is about all the things that make us functional. It is about the things that allow virtually everybody in this room to get up each morning and have a good life. There are too many places in America where people are born into dysfunction, educated into dysfunction and live in dysfunction, and we should find a way to reach out in this modern era and use every tool at our fingertips, from computers to television to radio to personal volunteerism, so that every family that today happens to be dysfunctional has a chance within the next few years to learn to be functional, and I think we should take ignorance as serious a problem as drugs or race.

We in the Congress have one place we have an obligation beyond any other, and that is this city, and I want to commend the gentlewoman from the District of Columbia, ELEANOR HOLMES NORTON, for the leadership she has shown and the courage she has shown day after day and week after week. She and the gentleman from Virginia, TOM DAVIS, and the gentleman from New York, JIM WALSH, worked their hearts out over the last 2 years, and I believe it is fair to say that in some ways we have begun to make progress.

It is not easy, it has to be done carefully, it cannot violate the right of the citizens of this city. But let us be candid. First, this is our National Capital. We have a unique obligation on both sides of the aisle to care about Washington because we are today to Washington what a State government would be back home to your town. We have an unusual obligation to Washington.

Second, it is our National Capital, and people looked at me as though I lost my mind 1½ years ago when I met with Mayor Barry and I said, "You know, our vision ought to be the finest capital city in the world," and that ought to be our vision.

And furthermore, if we are going to talk honestly about race and we are going to talk honestly about drugs and we are going to talk honestly about ignorance, we owe it to every citizen of this District, every child in this District, to have a decent chance to grow up and to go to a school that succeeds in a neighborhood that is drug-free and safe, with an expectation of getting a job in a community that actually cares about them and provides a better future, and we should take on as a Congress all responsibilities to the District of Columbia, and we should do it proudly, and we should not be ashamed to go back home and say, "You're darn right we're helping our National Capital because we want you to visit it with pride, and we want you to know that you can say to anyone anywhere in the world come to America and visit Washington, it is a great city."

Let me close with this final thought, and I appreciate my friend, the gentleman from Michigan [Mr. DINGELL] standing there, and I apologize for having drawn him forward particularly since he is standing on one foot. But this has been a very difficult time, and to those who agonized and ended up voting for me, I thank them. Some of this difficulty frankly I brought on myself. We will deal with that in more detail later, and I apologize to the House and the country for having done so. Some of it is part of the natural process of partisan competition.

This morning a very dear friend of mine said that he was going to pray to God that I would win today and I asked him not to and I asked him to pray to God that whatever happens is what God wants, and then we would try to understand it and learn from it. Let me put that forward in the same thing for all of us as we approach the next 2 years.

I was really struck about a month ago when I walked down to the Lincoln Memorial and I read the Second Inaugural, which is short enough to be on the wall, and 12 times in that Inaugural Lincoln refers to God. I went back and read Washington's First Inaugural, which is replete with reference to America existing within God's framework. I read Jefferson's First Inaugural, since he is often described as a deist, which refers to the importance and the power of providence. All of my colleagues can visit the Jefferson Memorial where he says, around the top it is inscribed, "I have sworn upon the altar of God Almighty eternal hostility against all forms of tyranny over the minds of man."

We have much to be proud of as Americans. This is a great and a wonderful system. We have much to be ashamed of as Americans, from drug addiction to spouse and child abuse, to children living in ignorance and poverty surrounded by the greatest wealthiest nation in the world, to a political system that clearly has to be overhauled from the ground up if it is going to be worthy of the respect we want and cherish.

I would just suggest to all of my colleagues that until we learn in a nonsectarian way, not Baptist, not Catholic, not Jewish, in a nonsectarian way, until we learn to reestablish the authority that we are endowed by our Creator, that we owe it to our Creator and that we need to seek divine guidance in what we are doing, we are not going to solve this country's problems.

In that spirit, with my colleagues' prayers and help, I will seek to be worthy of being Speaker of the House, and I will seek to work with every Member sent by their constituents to represent them in the U.S. Congress.

And I now call on my dear friend, the senior Member of the House and wonderful person, the gentleman from Michigan [Mr. DINGELL]. I am ready to take the oath of office, and I ask the Dean of the House of Representatives, the honorable gentleman from Michigan [Mr. DINGELL] to administer the oath.

Mr. DINGELL then administered the oath of office to Mr. GINGRICH of Georgia, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

(Applause, the Members rising.)

SWEARING IN OF MEMBERS

The SPEAKER. According to the precedents, the Chair will swear in all Members of the House at this time.

For what purpose does the gentleman from California rise?

PARLIAMENTARY INQUIRIES

Mr. HUNTER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. HUNTER. Mr. Speaker, In lieu of requesting Representative-elect SANCHEZ to step aside, is it the fact that a notice of contest filed on behalf of Robert Dornan pursuant to the law is on file with the Clerk?

The SPEAKER. The Chair is advised by the Clerk that a notice of contest pursuant to the statute, section 382 of title 2, United States Code, has been filed with the Clerk. Under section 5 of article I of the Constitution and the statute, the House remains the judge of the elections of its Members. The seating of a Member-elect does not prejudice a contest over final right to the seat.

Mr. HOYER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Mr. Speaker, am I correct that the gentlewoman from California [Ms. SANCHEZ], has been duly certified by the Secretary of State as duly elected from the 46th District of California?

The SPEAKER. That is the information that has been submitted to the Chair by the Clerk.

If the Members will rise, the Chair will now administer the oath of office.

The Members-elect and Delegates-elect and the Resident Commissioner-elect rose, and the Speaker administered the oath of office to them as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are all now Members of the U.S. Congress.

□ 1445

PERSONAL EXPLANATION

Mr. SAM JOHNSON of Texas. Mr. Speaker, due to delayed airline flights, I missed a vote held earlier today to elect the Speaker of the House. Had I been present, I certainly would have voted for the gentleman from Georgia [Mr. GINGRICH].

The SPEAKER. The Chair recognizes the gentleman from Ohio [Mr. BOEHNER].

MAJORITY LEADER

Mr. BOEHNER. Mr. Speaker, as chairman of the Republican Conference, I am directed by that conference to notify the House officially that the Republican Members have selected as their majority leader the gentleman from Texas, the Honorable RICHARD K. ARMEY.

MINORITY LEADER

Mr. FAZIO of California. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as minority leader the gentleman from Missouri, the Honorable RICHARD A. GEPHARDT.

MAJORITY WHIP

Mr. BOEHNER. Mr. Speaker, as leader of the Republican Conference I am directed by that conference to notify the House officially that the Republican Members have selected as our majority whip the gentleman from Texas, the Honorable TOM DELAY.

MINORITY WHIP

Mr. FAZIO of California. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as minority whip the gentleman from Michigan, the Honorable DAVID E. BONIOR.

ELECTION OF CLERK OF THE HOUSE, SERGEANT AT ARMS, AND CHAPLAIN

Mr. BOEHNER. Mr. Speaker, I offer a privileged resolution (H. Res. 1) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1

Resolved, That Robin H. Carle, of the Commonwealth of Virginia, be, and she is hereby, chosen Clerk of the House of Representatives:

That Wilson S. Livingood, of the Commonwealth of Virginia, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives; and

That Reverend James David Ford, of the Commonwealth of Virginia, be, and he is hereby, chosen Chaplain of the House of Representatives.

Mr. FAZIO of California. Mr. Speaker, I have an amendment to the resolution, but before offering the amendment, I request that there be a division of the question on the resolution so that we may have a separate vote on the Chaplain.

The SPEAKER. The question will be divided.

The question is on agreeing to that portion of the resolution providing for the election of the Chaplain.

That portion of the resolution was agreed to.

AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA

Mr. FAZIO of California. Mr. Speaker, I offer an amendment to the remainder of the resolution offered by the gentleman from Ohio [Mr. BOEHNER].

The Clerk read as follows:

Amendment offered by Mr. FAZIO of California:

That Marti Thomas, of the District of Columbia, be, and she is hereby, chosen Clerk of the House of Representatives;

That Sharon Daniels, of the State of Maryland, be, and she is hereby, chosen Sergeant at Arms of the House of Representatives; and

That Steve Elmendorf, of the District of Columbia, be, and he is hereby, chosen Chief Administrative Officer of the House of Representatives.

The SPEAKER. The question is on the amendment offered by the gentleman from California [Mr. FAZIO].

The amendment was rejected.

The SPEAKER. The question is on the remainder of the resolution offered by the gentleman from Ohio [Mr. BOEHNER].

The remainder of the resolution was agreed to.

The SPEAKER. Will the officers-elect present themselves in the well of the House?

The officers-elect presented themselves at the bar of the House and took the oath of office as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You have been sworn in as officers of the House.

NOTIFICATION TO SENATE OF ORGANIZATION OF THE HOUSE

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 2) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 2

Resolved, That the Senate be informed that a quorum of the House of Representatives has assembled; that Newt Gingrich, a Representative from the State of Georgia, has been elected Speaker; and Robin H. Carle, a citizen of the Commonwealth of Virginia, has been elected Clerk of the House of Representatives of the One Hundred Fifth Congress.

The resolution was agreed to.

COMMITTEE TO NOTIFY THE PRESIDENT OF THE UNITED STATES OF THE ASSEMBLY OF THE CONGRESS

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 3) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 3

Resolved, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make, the gentleman from Texas [Mr. ARMEY] and the gentleman from Missouri [Mr. GEPHARDT].

AUTHORIZING THE CLERK TO INFORM THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF THE SPEAKER AND THE CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 4) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 4

Resolved, That the Clerk be instructed to inform the President of the United States that the House of Representatives has elected Newt Gingrich, a Representative from the State of Georgia, Speaker; and Robin H. Carle, a citizen of the Commonwealth of Virginia, Clerk of the House of Representatives of the One Hundred Fifth Congress.

The resolution was agreed to.

RULES OF THE HOUSE

Mr. ARMEY. Mr. Speaker, by direction of the House Republican Conference, I call up a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Fourth Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Fourth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Fifth Congress, with the following amendments:

SECTION 1. POSTPONEMENT OF CORRECTIONS VOTES.

In clause 5(b)(1) of rule I, strike subdivisions (E) and (F), and insert in lieu thereof the following:

"(E) the question of agreeing to a motion to recommit a bill considered pursuant to clause 4 of rule XIII;

"(F) the question of ordering the previous question on a question described in subdivision (A), (B), (C), (D), or (E);

"(G) the question of agreeing to an amendment to a bill considered pursuant to clause 4 of rule XIII; and

"(H) the question of agreeing to a motion to suspend the rules.".

SEC. 2. OBSOLETE REFERENCES TO "CONTINGENT FUND".

(a) In clause 8 of rule I—

(1) in the first sentence, strike "contingent fund of the House" and insert in lieu thereof "applicable accounts of the House described in clause 1(h)(1) of rule X"; and

(2) in the second sentence, strike "contingent fund" and insert in lieu thereof "applicable accounts of the House described in clause 1(h)(1) of rule X".

(b) In clause 1(c) of rule XI, strike "contingent fund of the House" and insert in lieu thereof "applicable accounts of the House described in clause 1(h)(1) of rule X".

(c) In clause 4(a) of rule XI, strike "contingent fund of the House" and insert in lieu thereof "applicable accounts of the House described in clause 1(h)(1) of rule X".

(d) In clause 6(f) of rule XI, strike "contingent fund" and insert in lieu thereof "applicable accounts of the House described in clause 1(h)(1) of rule X".

SEC. 3. DRUG TESTING IN THE HOUSE.

In rule I, add the following new clause at the end:

"13. The Speaker, in consultation with the Minority Leader, shall develop through an appropriate entity of the House a system for drug testing in the House of Representatives. The system may provide for the testing of any Member, officer, or employee of the House, and otherwise shall be comparable in scope to the system for drug testing in the executive branch pursuant to Executive Order 12564 (Sept. 15, 1986). The expenses of the system may be paid from applicable accounts of the House for official expenses.".

SEC. 4. POLICY DIRECTION AND OVERSIGHT OF CHIEF ADMINISTRATIVE OFFICER.

(a) In clause 1 of rule V, strike "the Speaker and" in both places it appears.

(b) In clause 2 of rule V, strike "the Speaker or".

SEC. 5. BUDGET JURISDICTION CHANGES.

(a) In clause 1(d)(3) of rule X (relating to the Committee on the Budget), strike "congressional budget process" and insert in lieu thereof "budget process."

(b) In clause 1(g)(4) of rule X (relating to the Committee on Government Reform and Oversight), strike "Budget and accounting measures, generally" and insert in lieu thereof "Government management and accounting measures, generally."

SEC. 6. DESIGNATING COMMITTEE ON EDUCATION AND THE WORKFORCE.

(a) In clause 1(f) of rule X, strike "Committee on Economic and Educational Opportunities" and insert in lieu thereof "Committee on Education and the Workforce".

(b) In clause 3(c) of rule X, strike "Committee on Economic and Educational Opportunities" and insert in lieu thereof "Committee on Education and the Workforce".

SEC. 7. REQUIREMENT OF APPROVAL FOR SETTLEMENT OF CERTAIN COMPLAINTS.

In clause 4(d) of rule X—

(a) strike "The Committee" and insert in lieu thereof "(1) The Committee";

(b) strike "(1) examining" and insert in lieu thereof "(A) examining";

(c) strike "(2) providing" and insert in lieu thereof "(B) providing";

(d) strike "(3) accepting" and insert in lieu thereof "(C) accepting"; and

(e) add the following new subparagraph at the end:

"(2) An employing office of the House of Representatives may enter a settlement of a complaint under the Congressional Accountability Act of 1995 that provides for the payment of funds only after receiving the joint approval of the chairman and the ranking minority party member of the Committee on House Oversight concerning the amount of such payment.".

SEC. 8. SPECIAL AUTHORITIES FOR CERTAIN REPORTS.

(a) In clause 1(b) of rule XI—

(1) designate the existing matter as subparagraph (1); and

(2) add the following new subparagraphs at the end:

"(2) A proposed investigative or oversight report shall be considered as read in committee if it has been available to the members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).

"(3) A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

"(4) After an adjournment of the last regular session of a Congress sine die, an investigative or oversight report may be filed with the Clerk at any time, provided that if a member gives timely notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with the report.".

(b) In clause 1(d) of rule XI, add the following new subparagraph at the end:

"(4) After an adjournment of the last regular session of a Congress sine die, the chairman of a committee may file a report pursuant to subparagraph (1) with the Clerk at any time and without approval of the committee, provided that a copy of the report has been available to each member of the committee for at least seven calendar days and includes any supplemental, minority, or additional views submitted by a member of the committee."

SEC. 9. COMMITTEE DOCUMENTS ON INTERNET.

In clause 2(e) of rule XI, add the following new subparagraph at the end:

"(4) Each committee shall, to the maximum extent feasible, make its publications available in electronic form.".

SEC. 10. INFORMATION REQUIRED OF PUBLIC WITNESSES.

In clause 2(g) of rule XI, amend subparagraph (4) to read as follows:

"(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial oral presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.".

SEC. 11. COMMITTEES' SITTINGS.

In clause 2(i) of rule XI, strike subparagraph (1) and the designation "(2)".

SEC. 12. EXCEPTIONS TO FIVE-MINUTE RULE IN HEARINGS.

In clause 2(j)(2) of rule XI—

(a) strike "Each" and insert in lieu thereof "(A) Subject to subdivisions (B) and (C), each"; and

(b) add the following new subdivisions at the end:

"(B) A committee may adopt a rule or motion permitting an equal number of its majority and minority party members each to question a witness for a specified period not longer than 30 minutes.

"(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods.".

SEC. 13. REPEAL OF INFLATION IMPACT STATEMENT REQUIREMENT; ESTABLISHMENT OF CONSTITUTIONAL AUTHORITY STATEMENT REQUIREMENT.

In clause 2(l) of rule XI, amend subparagraph (4) to read as follows:

"(4) Each report of a committee on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.".

SEC. 14. FILING OF REPORTS AFTER TIME FOR VIEWS.

In clause 2(l)(5) of rule XI—

(a) in the first sentence, strike "three calendar days" and insert "two additional calendar days after the day of such notice"; and

(b) after the second sentence, insert the following new sentence: "When time guaranteed by this subparagraph has expired (or, if sooner, when all separate views have been received), the committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time.".

SEC. 15. COMMITTEE RESERVE FUND.

In clause 5(a) of rule XI, strike "Any such primary expense resolution" and insert in lieu thereof the following: "A primary expense resolution may include a reserve fund for unanticipated expenses of committees. An amount from such a reserve fund may be allocated to a committee only by the approval of the Committee on House Oversight. A primary expense resolution".

SEC. 16. CORRECTIONS CALENDAR CHANGES.

In clause 4(a) of rule XIII—

(a) strike "On" and insert in lieu thereof "At any time on";

(b) strike "after the Pledge of Allegiance,"; and

(c) strike "the bills in numerical order which have" and insert in lieu thereof "any bill that has";

SEC. 17. DYNAMIC ESTIMATION OF EFFECTS OF MAJOR TAX LEGISLATION.

In clause 7 of rule XIII, add the following new paragraph at the end:

"(e)(1) A report from the Committee on Ways and Means on a bill or joint resolution designated by the Majority Leader (after consultation with the Minority Leader) as major tax legislation may include a dynamic estimate of the changes in Federal revenues expected to result from enactment of the legislation. The Joint Committee on Taxation shall render a dynamic estimate of such legislation only in response to a timely request from the chairman of the Committee on Ways and Means (after consultation with the ranking minority member of the committee). A dynamic estimate pursuant to this paragraph may be used only for informational purposes.

"(2) In this paragraph 'dynamic estimate' means a projection based in any part on assumptions concerning probable effects of macroeconomic feedback. A dynamic estimate shall include a statement identifying all such assumptions.".

SEC. 18. APPROPRIATIONS PROCESS CHANGES.

In clause 2 of rule XXI—

(a) in paragraph (a), strike "in any" and insert in lieu thereof "in a";

(b) amend paragraph (b) to read as follows:

"(b) No provision changing existing law shall be reported in a general appropriation bill, including a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation, except germane provisions that retrench expenditures by the reduction of amounts of money covered by the bill, which may include those recommended to the Committee on Appropriations by direction of a legislative committee having jurisdiction over the subject matter thereof, and except rescissions of appropriations contained in appropriation Acts.";

(c) amend paragraph (c) to read as follows:

"(c) No amendment to a general appropriation bill shall be in order if changing existing law, including an amendment making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation. Except as provided in paragraph (d), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation."; and

(d) in paragraph (d), strike "and amendments not precluded by paragraphs (a) or (c) of this clause have been considered".

SEC. 19. CLARIFYING DEFINITION OF INCOME TAX RATE INCREASE.

(a) In clause 5(c) of rule XXI, add the following new sentence at the end: "For purposes of the preceding sentence, the term 'Federal income tax rate increase' means any amendment to subsection (a), (b), (c) (d), or (e) of section 1, or to section 11(b) or 55(b) of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.".

(b) In clause 5(d) of rule XXI, amend the second sentence to read as follows: "For purposes of the preceding sentence—

"(1) the term 'Federal income tax rate increase' means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section; and

"(2) a Federal income tax rate increase is retroactive if it applies to a period beginning prior to the enactment of the provision.".

SEC. 20. UNFUNDED MANDATE CLARIFICATION.

In clause 5 or rule XXIII, amend paragraph (c) to read as follows:

"(c)(1) In the Committee of the Whole, an amendment proposing only to strike an unfunded mandate from the portion of the bill then open to amendment, if otherwise in order, may be precluded from consideration only by specific terms of a special order of the House.

"(2) In this paragraph, 'unfunded mandate' means a Federal intergovernmental mandate the direct costs of which exceed the threshold otherwise specified for a reported bill or joint resolution in section 424(a)(1) of the Congressional Budget Act of 1974.".

SEC. 21. DISCHARGE PETITION CLARIFICATION

In clause 3 of rule XXVII—

(a) strike "either a special order of business, or";

(b) strike "any public bill or resolution favorably reported" and insert in lieu thereof "a public bill or resolution reported";

(c) Strike "*Provided*" the first place it appears and insert in lieu thereof the following: "*Provided*, That a Member may not file a motion to discharge the Committee on Rules from consideration of a resolution providing for the consideration of more than one public bill or resolution, or admitting or effecting a nongermane amendment to a public bill or resolution: *Provided further*".

SEC. 22. PROHIBITING THE DISTRIBUTION OF CAMPAIGN CONTRIBUTIONS IN THE HALL OF THE HOUSE.

In rule XXXII, add the following new clause at the end:

"5. No Member, officer, or employee of the House of Representatives, or any other person entitled to admission to the Hall of the House or rooms leading thereto by this rule, shall knowingly distribute any political campaign contribution in the Hall of the House or rooms leading thereto.".

SEC. 23. REPEAL OF OBSOLETE EMPLOYMENT PRACTICES RULE.

(a) Rule LI (Employment Practices) is repealed.

(b) Rule LII (Gift Rule) is redesignated as rule LI.

SEC. 24. TECHNICAL AMENDMENTS.

(a) In clause 5(a) of rule I, insert before the last sentence the following: "A recorded vote taken pursuant to this paragraph shall be considered a vote by the yeas and nays.".

(b) In clause 1(h)(1) of rule X, strike "House Information Systems" and insert in lieu thereof "House Information Resources."

(c) In clause 2(g)(3) of rule XI, strike "the House Information Systems" and insert in lieu thereof "House Information Resources".

(d) In clause 2(k)(5)(B) of rule XI—

(1) strike "a majority of the members of"; and

(2) strike "determine" and insert "determines".

(e) In clause 2(l)(6) of rule XI, insert after "concurrent resolution on the budget" the following: "(except that a Saturday, Sunday, or legal holiday on which the House is in session shall not be excluded under such section)".

(f) In clause 4(a) of rule XXII, strike "indorsed" and insert in lieu thereof "endorsed".

(g) In clause 6 of rule XXIII, strike "after the reporting of the bill by the committee but".

(h) In clause 4 of rule XLIII—

(1) In clause "excepted" and insert in lieu thereof "except"; and

(2) strike "rule LII" and insert in lieu thereof "rule LI".

(i) In clause 13 of rule XLIII, strike "by House" and insert in lieu thereof "by the House".

SEC. 25. SELECT COMMITTEE ON ETHICS.

In clause 4(e) of rule X, add the following new subparagraph at the end:

"(3) Effective as of noon on January 3, 1997, there is hereby established in the One Hundred Fifth Congress a Select Committee on Ethics. Effective as of noon on January 3, 1997, each Member who served as a member of the Standing Committee on Standards of Official Conduct at the expiration of the One Hundred Fourth Congress is hereby appointed as a member of the select committee. A resignation from the select committee shall be deemed effective upon notice to the House. A vacancy on the select committee shall be filled by appointment by the Leader of the party concerned. The select committee shall have jurisdiction only to resolve the Statement issued by the Investigative Subcommittee of the standing Committee on Standards of Official Conduct in the One Hundred Fourth Congress relating to the official conduct of Representative Gingrich of Georgia and otherwise report to the House on the activities of that investigative subcommittee. In the exercise of that jurisdiction, the select committee shall possess the same authority as, and shall conduct its proceedings under the same rules, terms, and conditions (including extension of the service and authority of the staff and of the outside counsel commissioned by the investigative subcommittee under the same terms and conditions as in the One Hundred Fourth Congress and effective as of noon on January 3, 1997) as those applicable to the standing Committee on Standards of Official Conduct in the One Hundred Fourth Congress, except that the select committee may file reports in separate volumes with the Clerk when the House is not in session and the time otherwise guaranteed by clause 2(l)(5) of rule XI for submission of separate views shall be computed as two calendar days after the day on which the report is ordered. Expenses of the select committee may be paid from applicable accounts of the House. The select committee shall cease to exist upon final disposition by the House of a report designated by the select committee as its final report on the matter, or at the expiration of January 21, 1997, whichever is earlier.".

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished minority leader, the gentleman from Missouri [Mr. GEPHARDT], or his designee, pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for debate purposes only.

Mr. Speaker, I ask unanimous consent that the time allocated to me under this previous unanimous consent request be conceded to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us today adopts the Rules of the House from the 104th Congress as the Rules of the House for the 105th Congress together with some 25 amendments thereto.

Mr. Speaker, I will be the first to concede that the House rules package certainly is not as bold and as innovative as the package of 31 House Rules changes we offered at the beginning of the 104th Congress, January 4, 1995. My colleagues will recall that historic day consumed over 14 hours as we provided for an extended debate and separate votes on major changes in how this House was going to operate. Among other things, we provided in that package for the elimination of three committees and 32 subcommittees, thereby shrinking the size of this Congress and setting an example for the rest of Government, the Federal Government down to local levels; a one-third reduction in committee staff and funding; the elimination of proxy voting in committees; a three-fifths vote on income tax rate increases; the first ever comprehensive audit of House finances; term limits on the Speaker and committee and subcommittee chairmen, like myself, who no longer can serve more than 6 years as chairman of the Committee on Rules; new sunshine rules to open committee hearings and meetings to the public, and to the broadcast media; an overhaul of the administrative operations of this House.

Mr. Speaker, today's rules package is indeed modest by comparison, and that is as it should be. We should not have to reinvent the wheel every 2 years, though we certainly should be willing to realign and to balance those wheels to ensure that they continue to turn smoothly and efficiently.

Mr. Speaker and Members of the House, the 104th Congress was the innovative Congress. The 105th Congress will be the implementation Congress, both legislatively and procedurally. As chairman of the Committee on Rules, I made clear from the outset of my chairmanship that congressional reform is a dynamic, evolutionary and incremental process, and that we should never become complacent and rest on the reform laurels of the past. For that reason, we conducted a series of four hearings in our Committee on Rules last summer entitled, "Building on Change, Preparing for the 105th Congress", which now is starting today.

We sent a questionnaire to all House committee chairmen and to ranking minority members on that side of the aisle, assessing our past reforms and soliciting opinions on new reform proposals. We invited all House Members to testify before the Committee on Rules on their reform ideas, and some 47 House Members from both sides and both parties respond today to that invitation with both written and oral testimony before our committee.

We also heard from outside students of the Congress, from major think tanks around this country on the basis of our survey and hearings and further discussions within our Republican Conference and leadership. We bring this resolution to the House today for your consideration and your approval.

For the most part, this resolution consists of numerous minor and technical changes from the rules of the last Congress, but it nevertheless contains some significant changes which I would like to briefly summarize at this time.

I will be placing a more detailed section by section summary and analysis in the RECORD following my remarks to make a more complete legislative history. So briefly, let me just say that first we have proposed a number of rules changes that affect our committees. Committees may adopt rules or motions to permit extended questioning of witnesses beyond the usual 5-minute rule, by both Members or staff with equal time for the majority and the minority parties. Nongovernmental witnesses at committee hearings will be required to submit with their written testimony in advance their academic and professional credentials, and a disclosure by source and amount of Federal grants and contracts over the last 3 years. The prohibition on committees sitting while the House is considering amendments would be repealed.

As my colleagues know, we waived that time after time which took up a great deal of time in this body. So we feel, since both parties agreed to it last year, that we would repeal it entirely. Inflation impact statement requirement for committee reports would be repealed, but replaced by a constitutional authority statement requirement to cite the specific powers granted to Congress on which the legislation is based. Dynamic scoring estimates on major tax legislation, designated by the majority leader, could be included in Committee on Ways and Means reports for informational purposes only. Committees would be permitted to file joint reports on investigations or studies jointly conducted.

Investigation and oversight reports would be considered as read if available to committee members at least 24 hours in advance of their consideration.

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Such reports, properly approved, could be filed after the sine die adjournment of a Congress, provided at least 7 calendar days are allowed for filing those views.

The time for filing views on the committee reports during a session would be shortened from 3 to 2 days, excluding Saturdays, Sundays, and legal holidays, and committees would have the automatic right to file 1 hour after the deadline for such views.

This is a proposal made by the chairman, the gentleman from Massachusetts, [Mr. MOAKLEY], before the Joint Committee on Congressional Reform in the 103rd Congress and included in his chairman's substitute for that bill.

It was a good idea then, JOE, and it is a good idea today.

We did not object to Chairman MOAKLEY'S proposal at that time when we were in the minority, and we certainly are going to offer it today in the spirit of bipartisanship.

Committees would be required, to the maximum extent feasible, to put their publications on the Internet. By publications, we intend this to include written committee materials that are otherwise made available to the public. That information ought to appear on the Internet.

The omnibus committee funding resolution could include a reserve fund for unanticipated contingencies that would not be allocated without the approval of the Committee on House Oversight. Since we are now on a 2-year committee funding cycle, this only makes good sense. It is not always possible to project committee needs 2 years in advance.

The name of the Committee on Economic and Educational Opportunities would be changed to the Committee on Education and the Workforce, and the jurisdiction over the presidential budget process would be shifted from the Committee on Government Reform and Oversight to the Committee on the Budget.

Mr. Speaker, beyond these changes that affect committees, this resolution contains a few other provisions that should be noted here today. The distribution of campaign contributions on the House floor in the Speaker's lobby and in the cloakrooms would be prohibited by rules of the House.

The Speaker, in consultation with the minority leader, shall develop, and this is very important and speaks to the point that our Speaker GINGRICH made earlier this afternoon, that we shall develop a system for drug testing in the House that is comparable in scope to the system that is applied in the executive branch since 1986. What this means, in effect, is that the Speaker may require mandatory or random drug testing of we Members, officers or employees of the House of Representatives, which means our staff and anyone employed by the House, but he shall implement a system at the very least comparable in scope to the program in effect in the executive branch pursuant to Ronald Reagan's executive order 12564.

Those tests would be paid for from official expense allowances of either the Members, the committees or the officers, the departments that they run.

Mr. Speaker, let me just say, the random drug testing has been so extremely effective in the executive branch, particularly in the military where illegal drug use dropped, and Members ought to listen to this, dropped from an average of 25 percent back in the early 1980's—25 percent of the enlisted personnel were using illegal drugs in one form or another—it dropped it down to less than 5 percent in just 4 years. I have no doubt that we will accomplish the same results here in the House.

Mr. Speaker, this rule does not prejudge what means of testing may be used; that is, whether it should be urine specimen or hair sample. That will be worked out by the designated entity of the Speaker in developing this system. This is a natural follow-on to the Congressional Accountability Act, in which the Congress has applied to itself the same workplace standards that apply to the executive branch and the private sector. We should be no different than others when it comes to ensuring a drug-free workplace, and this is going to help us do that.

The definition of income tax rate increases for purpose of the three-fifths vote rule and the prohibition on retroactive tax rate increases would be confined to specified sections of the Internal Revenue Code; namely, those sections dealing with individual, corporate, and alternative minimum tax rates.

More flexibility would be allowed for considering Correction Day bills out of order on the second and fourth Tuesdays of the month, and for postponing demands for rollcall votes on any amendments or motions to recommit.

Approval by the chairman and ranking minority member of the Committee on Government Reform and Oversight of proposed financial settlements in Congressional Accountability Act employee complaints would be codified in House rules. That means there is going to have to be a bipartisan agreement as to those settlements. That is the way it should be, to make sure we stick within our budgetary allocations.

The right of the majority leader to offer a motion to rise and report on appropriation bills, once the final lines have been read, would have priority over other motions to amend, and so-called made-known limitation amendments would be prohibited under the new rules.

Finally, the membership and authority of the Ethics Committee of the 104th Congress with respect to matters concerning the gentleman from Georgia [Mr. GINGRICH] would be extended through January 21 of this year to permit it to report any recommendations to the House.

Mr. Speaker, that completes my summary of the substantial provisions of this resolution. There are other minor and technical changes that have been recommended by the Parliamentarian that are included in this resolution.

Mr. Speaker, I include for the RECORD the following document titled "Highlights of Provisions in Proposed House Rules Package for the 105th Congress."

The material referred to is as follows:

HIGHLIGHTS OF PROVISIONS IN PROPOSED HOUSE RULES PACKAGE FOR THE 105TH CONGRESS

Committees could adopt rules or motions to permit designated majority and minority members to question witnesses for more than five-minutes (but not more than 30-minutes per side, per witness), and to permit questioning of witnesses by majority and minority staff on an equal time basis.

Non-governmental witnesses would be required to submit in advance, as part of their written testimony, a curriculum vitae and a disclosure by source and amount of Federal grants and contracts received by them and the organizations they represent for the current and preceding two fiscal years.

The inflation impact statement requirement for committee reports would be repealed and replaced by a required "Constitutional Authority Statement" citing the specific powers granted to Congress on which the legislation is based.

Dynamic scoring estimates could be included in Ways and Means Committee reports on major tax legislation designated by the majority leader, for informational purposes.

Committees would have automatic leave until an hour after midnight on the second day after approving a measure or matter to file their report with the Clerk if notice has been given of intention to file views.

Committees would be authorized to file joint investigative and oversight reports with other committees, and to file properly approved investigative and oversight reports after a Congress has adjourned provided at least 7 calendar days are allowed for the filing of additional and minority views.

Omnibus committee expense resolutions could include a "reserve fund" for unanticipated committee expenses, with specific allocations subject to approval.

Committees would be required to put their publications on the Internet to the maximum extent feasible.

The definition of "income tax rate increases" would be tied to specific tax rates in the IRS Code (or higher new tax rates) for purposes of the three-fifths vote rule on such increases and the prohibition on retroactive tax rate increases.

The distribution of campaign contributions on the House floor and rooms leading thereto (cloak rooms and Speaker's Lobby) would be prohibited.

The Speaker, in consultation with the Minority Leader, would develop through an appropriate House entity a system for drug testing that may include any Member, officer or employee and that is otherwise comparable in scope to the present system for drug testing in the Executive Branch.

The Ethics Committee of the 104th Congress would be extended through Jan. 21, 1997, as a select committee to complete action on its subcommittee's report on Representative GINGRICH.

Section-by-Section Summary of Draft Resolution Adopting House Rules for the 105th Congress

Sec. 1. Postponement of Corrections Votes: The Speaker's current authority to postpone votes on final passage of a measure would be extended to any manager's amendment, and any motion to recommit a bill (or any previous question thereon), considered under the Corrections Day process. (Rule I, clause 5(b)(1))

Sec. 2. Obsolete References to "Contingent Fund": Five obsolete references to the House "contingent fund" would be changed to "applicable accounts of the House". (Rule I, clause 8, in two instances; Rule XI, clauses 1(c), 4(a), and 6(f))

*Sec. 3. Drug Testing in the House: The Speaker, in consultation with the Minority Leader, shall develop through an appropriate entity of the House a system for drug testing that may include any Member, officer or employee of the House and that is otherwise comparable in scope to the present system for drug testing in the Executive Branch. (Rule 1, clause 13).

Sec. 4. Policy Direction, and Oversight of Chief Administrative Officer: The Speaker's authority over the assignment of functions, policy direction and oversight of the CAO would be eliminated, leaving such authority exclusively with the House Oversight Committee, as it now is with respect to other House officers. (Rule V, clause 1)

Sec. 5. Budget Jurisdiction Changes: The Budget Committee would have jurisdiction over "budget process, generally" (and not just "congressional budget process"). The Committee on Government Reform and Oversight's jurisdiction over "budget and accounting measures, generally," would be changed to "government management and accounting measures, generally." (Rule X, clauses 1(d)(3) and 1(g)(4))

*Sec. 6. Designating Committee on Education and the Workforce.—The name of the Committee on Economic and Educational Opportunities would be changed to the Committee on Education and the Workforce. (Rule X, clauses 1(f) and 3(c))

Sec. 7. Requirement of Approval for Settlement of Certain Complaints: The provisions of section 2 of H. Res. 401 adopted by the House in the 104th Congress (April 16, 1996) would be extended to the 105th Congress. The provisions require the joint approval of the chairman and ranking minority member of the House Oversight Committee of the amount of a proposed settlement of a complaint under the Congressional Accountability Act before the employing House office can enter a settlement. (Rule X, clause 4(d))

Sec. 8. Special Authorities for Certain Reports: (a) proposed investigative or oversight reports would be considered as read if available to committee members at least 24 hours in advance of their consideration; (b) committees would be authorized to file joint investigative or oversight reports with other committees on matters on which they had conducted joint studies or investigations; (c) committees would be authorized to file investigative or oversight reports after the final adjournment of a second session if they were properly approved and at least 7 calendar days are permitted for filing views; and (d) committee final activity reports could be filed after an adjournment without formal approval if at least 7 calendar days are permitted for filing views. (Rule XI, clauses 1(b) and (d))

Sec. 9. Committee Publications on Internet: Committees would be required, to the maximum extent feasible, to make all committee publications available in electronic form. (Rule XI, clause 2(e))

Sec. 10. Information Required of Public Witnesses: Each committee shall require, to the greatest extent practicable, witnesses appearing in a non-governmental capacity to include with their advance written testimony a curriculum vitae and disclosure by source and amount of Federal government grants and contracts received by them and any entity they represent for the current and preceding two fiscal years. (Rule XI, clause 2(g))

Sec. 11. Committees' Sittings: The current prohibition on committees sitting while the House is considering legislation under the five-minute rule (except by leave of the House), would be repealed. (Rule XI, clause 2(I))

Sec. 12. Exceptions to Five-Minute Rule in Hearings: Committees would be authorized to adopt a special rule or motion (a) to permit selected majority and minority members (in equal numbers) to take more than 5-minutes in questioning witnesses, but not more than 30 minutes per side, per witness; and (b) to permit the questioning of witnesses by staff provided that staff for the minority is given equal time and opportunity to do so. (Rule XI, clause 2(j)(2))

Sec. 13. Repeal of Inflation Impact Statement Requirement; Establishment of Constitutional Authority Statement Requirement: The current requirement for inflation impact statement in committee reports on bills would be repealed. A new "Constitutional Authority Statement" would be required in committee reports citing the specific powers granted to Congress by the Constitution on which the proposed enactment is based. (Rule XI, clause 2(l)(4))

Sec. 14. Filing of Reports After Time for Views: The period for filing views on reports would be changed from three full days after the day on which a bill or matter is ordered reported to three days counting the day on which the matter is ordered reported. Moreover, a committee would have the automatic right to arrange to have until an hour after midnight on the third day to file its report with the Clerk if intention to file views is announced. (Rule XI, clause 2(l)(5))

Sec. 15. Committee Reserve Fund: Committee primary expense resolutions reported by the House Oversight Committee may include a reserve fund for unanticipated expenses provided that any allocation from such fund to a committee is approved by the House Oversight Committee. (Rule XI, clause 5(a))

Sec. 16. Corrections Calendar Changes: The Corrections Day rule would be amended to permit consideration of Corrections bills at any time on a Corrections Day (as opposed to immediately after the Pledge), and to permit bills to be called up in any order from the Calendar (as opposed to only in the numerical order in which they appear on the Calendar). (Rule XIII, clause 4(a))

Sec. 17. Dynamic Estimation of Effects of Major Tax Legislation: A report by the Ways and Means Committee on major tax legislation (as designated by the majority leader in consultation with the minority leader) may include an estimate of the change in revenues resulting from the enactment of the legislation on the basis of assumptions that estimate the probable dynamic macroeconomic feedback effects of such legislation. The Joint Tax Committee would be required to produce such an estimate if requested by the chairman of the Ways and Means Committee. Such estimates shall be for informational purposes only. (Rule XIII, clause 7)

Sec. 18. Appropriations Process Changes: No provision could be reported in a general appropriations bill, or considered as an amendment thereto, making the availability of funds contingent on the receipt or possession of information not required by existing law except germane provisions that retrench expenditures. The current right of the Majority Leader or a designee to offer the motion to rise and report at the end of the reading of appropriations bills for amendment would be clarified to ensure that the motion could not be preempted by the offering of regular amendments. (Rule XXI, clause 2 (a), (b), (c), and (d))

Sec. 19. Clarifying the Definition of Income Tax Rate Increase: The definition of Federal income tax rate increases for purposes of the rules requiring a three-fifths vote on such increases and prohibiting retroactive income tax rate increases would be narrowed to include only increases in existing specific statutory Federal income tax rates in the Internal Revenue Code of 1986 (sec. 1 (a)-(e), sec. 11(b), or sec. 55(b)) or adding new income tax rates to the highest of such specific income tax rates. (Rule XXI, clause 5 (c) and (d))

Sec. 20. Unfunded Mandate Clarification: The current rule permitting an amendment to strike an unfunded mandate from a bill unless otherwise precluded by a special order of the House would be clarified by specifying that the reference to section 424(a)(1) of the Budget Act is to a "Federal intergovernmental mandate" whose direct costs exceed the threshold amounts specified in that section of the Budget Act. (Rule XXIII, clause 5(c))

Sec. 21. Discharge Petition Clarification: The existing discharge rule would be amended to clarify that petitions may be filed on resolutions from the Rules Committee providing for the consideration of any unreported or any reported measure (not just those reported "favorably"), that such special rules may provide for the consideration of only one measure, and that the special rule may not provide for the consideration of non-germane amendments to such a measure. (Rule XXVII, clause 3)

Sec. 22. Prohibiting the Distribution of Campaign Contributions in the Hall of the House: No Member, officer, or employee of the House could knowingly distribute campaign contributions on the House floor or rooms leading thereto. (Rule XXXII, clause 5)

Sec. 23. Repeal Obsolete Employment Practices Rule: The House "Employment Practices" rule, which has been replaced by the Congressional Accountability Act, would be repealed, and Rule LII (Gift Rule) would be redesignated as rule LI. (Rule LI)

Sec. 24. Technical Amendments: (a) A recorded vote taken pursuant to clause 5(a) of rule I (postponement of certain votes) shall be considered a vote by the yeas and nays; (b) and (c) Obsolete references to the "House Information Systems" would be changed to the "House Information Resources"; (d) The procedures for a committee vote on whether to close an investigatory hearing because testimony might tend to defame, degrade or incriminate any person would be changed to clarify that the hearing would not be closed if a majority of those voting (a committee majority being present)—instead of a majority of committee members—determine that the evidence or testimony would not tend to defame, degrade or incriminate any person. (Rule XI, clause 2(k)(5)(B); (e) The layover requirement for budget committee reports on budget resolutions would be conformed to those for other committee reports to the extent that Saturdays, Sundays or legal holidays on which the House is in session would be counted as days of availability of the report. (Rule XI, clause 2(l)(6)); (f) The spelling of "endorsed" would be corrected in rule XXII, clause 4(a); (g) The rule giving special protections to Members who have pre-printed their amendments in the Congressional Record would apply to any measure under consideration and not just to those reported by a committee. (Rule XXIII, clause 6); (h) The word "excepted" would be changed to "except" before "as provided in rule LI (Gift Rule)" in clause 4 of rule XLIII; and (I) the words "by House" would be changed to "by the House" in clause 13 of rule XLIII (relating to the non-disclosure oath or affirmation required for access to classified information).

*Sec. 25. Select Committee on Ethics: The Committee on Standards of Official Conduct of the 104th Congress would be re-established in the 105th Congress as a select committee for a period ending on January 21, 1997, for the purpose of completing its work on the report issued by its subcommittee involving the official conduct of Representative NEWT GINGRICH.

*Denotes changes from summary and GPO "Committee Print" of resolution released on Friday, January 3, 1997.

SECTION-BY-SECTION ANALYSIS OF RESOLUTION ADOPTING HOUSE RULES FOR THE 105TH CONGRESS

Introduction: As in the past, the introductory paragraph of the resolution adopts the rules of the previous Congress, in this case the 104th Congress, together with applicable provisions of law or concurrent resolution that constituted House Rules in the previous Congress, as the Rules of the House of the new Congress (the 105th Congress), together with the amendments listed in the resolution. In the case of this resolution, following this introductory paragraph are 25 sections containing direct amendments to the Rules of the 104th Congress, listed generally in the order in which the Rules are amended, from Rule I through Rule II.

Section 1. Postponement of Corrections Votes: Clause 5(b)(1) of House Rule I ("Duties of the Speaker") currently lists those matters on which the Speaker may postpone a demand for a rollcall vote until later in the same day or for up to two legislative days. These include votes on the previous question and on passing a bill. On January 20, 1995, the House adopted H. Res. 168, abolishing the Consent Calendar and replacing it with a new Corrections Calendar on which the Speaker could place bills that had been reported from committees and placed on the Union Calendar. The Corrections Calendar is called on the second and fourth Mondays of each month, and bills called from it are subject to one hour of debate, are not subject to amendments except committee amendments or amendments offered by the chairman of the primary committee or a designee, are subject to one motion to recommit with or without instructions, and require a three-fifths vote for passage. The amendment proposed by this section would extend the Speaker's right to postpone votes to amendments offered to Corrections bills and to the motion to recommit. (See section 16 below for other Corrections Calendar changes.)

Section 2. Obsolete References to the "Contingent Fund:" When the Rules of the 104th Congress were adopted, the term "contingent fund" of the House was generally replaced by the term "applicable accounts of the House." However, some instances of the use of the term "contingent fund" were overlooked at that time. The purpose of this section is to replace the remaining for obsolete references to the contingent fund.

Section 3. Drug Testing in the House: This section would amend House Rule I ("Duties of the Speaker") by adding a new clause 13 that requires the Speaker, in consultation with the Minority Leader, to develop a system for drug testing in the House that may include testing of any Member, officer or employee and that is otherwise comparable in scope to the system for drug testing in the Executive Branch pursuant to Executive Order 12564. Moreover, it authorizes expenses for the new drug testing system to be paid from the applicable accounts of the House as official expenses. The policy of the Drug-free Workplace Program in the Executive Branch is to test applicants for certain positions classified as "sensitive," relating to national security, law enforcement, public health or safety, etc. Periodic random testing is also required for incumbents of these positions. The Executive Branch system authorizes the head of each agency to designate such other employees as the employer deems appropriate for such testing according to specific criteria. The Executive system does not require testing of elected officials (the President and Vice President), but cabinet officers and most sub-cabinet, Senate-confirmable officials are "preferred" for testing (except where impractical). In the case of the Executive Office of the President, which includes the White House, all applicants for employment are pre-tested, and most employees are designated for periodic, random testing. Nothing in this section should be construed as pre-determining or precluding what means of testing may be chosen by the House (whether by hair sample or urine specimen). The standard of comparability with the Executive system refers only to the scope of persons to be tested.

Section 4. Policy Direction and Oversight of Chief Administrative Officers: This section strikes the Speaker as one of two entities providing policy direction and oversight of the Chief Administrative Officer, thereby leaving this responsibility exclusively with the House Oversight Committee, as it now is with respect to other House officers.

Section 5. Budget Jurisdiction Changes: The jurisdiction of the Budget Committee is changed by striking "congressional budget process" and inserting in lieu, "budget process." The jurisdiction of the Government Reform and Oversight Committee is changed by striking "budget and accounting measures, generally," and replacing it with "Government management and accounting measures, generally." The intent of this is to give the Budget Committee jurisdiction over the President's budget process as well as the congressional budget process, and thereby to avoid duplication with the Government Reform and Oversight Committee in this area. This change will not alter Government Reform and Oversight's existing legislative jurisdiction over such matters as government management and reorganization, the Office of Management and Budget's management, regulatory, and other coordinating functions, or the General Accounting Office.

Section 6. Designating Committee on Education and the Workforce: The name of the Committee on Economic and Educational Opportunities would be changed to the Committee on Education and the Workforce.

Section 7. Requirement of Approval for Settlement of Certain Complaints: This section incorporates the language of section 2 of H. Res. 401, 104th Congress, adopted by the House on a voice vote on April 16, 1996. Since a simple House resolution loses its force and effect at the end of a Congress, it was decided in this instance to incorporate its provisions in the standing Rules of the House for the 105th Congress. The section requires that before any financial settlement can be entered into by an employing office of the House with an employee under the Congressional Accountability Act, the amount of the proposed settlement must be jointly approved by the chairman and ranking minority member of the House Oversight Committee which has responsibility for monitoring House expenditures from various accounts to ensure they remain within amounts budgeted.

Section 8. Special Authorities for Certain Reports: (a) The first subsection provides that if a proposed investigative or oversight report has been made available to the members of a committee at least 24 hours prior to its consideration (excluding Saturdays, Sundays, and legal holidays except when the House is in session), it shall be considered as read. The purpose of this provision is to both encourage the advance distribution of such reports and to avoid prolonged delays that could result if any member demanded that the report be read in full. Since such reports, unlike bills, are not read by section or paragraph for amendment, this in no way affects the right of members to offer amendments to any portion of the report once it has been considered as read. (b) A report on an investigation or study conducted jointly by two or more committees could be filed jointly with the House. This in no way alters the requirement that each committee must act individually in compliance with House rules, including a majority quorum to approve the report and the opportunity and time for filing supplemental, minority, or additional views by members of each committee if requested at the time of the report's approval. (c) An investigative or oversight report could be filed by a committee with the Clerk after the sine die adjournment of the last regular session of the Congress, and members would have seven calendar days in which to file their views to be included with the report if timely notice is given of the intention to file views. "Timely notice" is the same as required under existing House rules: the notice must be given at the time of approval of the report. Such authority to file in the past has been secured by unanimous consent of the

House or special resolution. This will obviate the need for special leave of the House for filing a report when the House is not in session. Moreover, this extends to seven calendar days time for filing views in recognition of the fact that it will probably take longer for members of the committee to develop and submit their views if the Congress had adjourned and they are away from their Washington offices. (d) The final activity reports of committees may be filed after the adjournment sine die of the last regular session of a Congress without approval of the committee, provided seven calendar days are allowed for the filing of views. The current rule for activity reports is an anomaly in that it does not technically allow for filing an unapproved reports. However, the practice of filing such reports has long been recognized as a practical matter since such reports usually are not drafted until after a Congress has finally adjourned. The right to file views with such reports has always existed, though only recognized and utilized in the last several congresses. This only changes that right to the extent that it expands to seven calendar days the time in which such views may be submitted, dating from the day on which the report is made available to the members.

Section 9. Committee Documents on the Internet: This section requires House committees, "to the maximum extent feasible," to make their "publications" available in electronic form. The purpose of this section is to encourage committees to make every effort practicable to ensure that what is available to the public in printed form also be made available electronically. It is expected that, early in the 105th Congress, further guidelines will be developed between the Committee on House Oversight, House Information Resources, and various committees, outlining what materials should be made available and on what web sites. As a general rule of thumb, the term "publications" should be interpreted to mean printed materials of the committee which are generally made available for distribution to the public.

Section 10. Information Required of Public Witnesses: Committees shall require, to the greatest extent practicable, that non-governmental witnesses include as part of their written testimony that is already required by House Rules to be submitted in advance, both a curriculum vitae and a disclosure by source and amount of federal grants and contracts received by them and any organizations they represent at that hearing in the current and preceding two fiscal years, to the extent that such information is relevant to the subject matter of, and the witness' representational capacity at, that hearing. The purpose of these new requirements is to give committee members, the public, and the press a more detailed context in which to consider a witness' testimony in terms of their education, experience, and the extent to which they or the organizations being represented have benefited from Federal grants and contracts related to their appearance. It is not the intention of this section, for instance, to require individuals to disclose the amounts of Federal entitlements they have received, such as from Medicare or Social Security or other income support payments or individual benefits, or to require farmers to disclose amounts received in crop or commodity price support payments. Instead, the disclosure requirement is designed to elicit information from those who have received Federal grants or contracts for the purpose of providing the government or other individuals or entities with specified goods, services, or information. While failure to comply fully with this requirement would not give rise to a point of order against the witness' testifying, it could result in an objection to including the witness' written testimony the hearing record in the absence of such disclosure.

Section 11. Committees' Sittings: The prohibition on committees' sitting while the House is considering amendments under the five-minute rule is repealed. This provision had originally been repealed at the beginning of the 103rd Congress, but was reinstituted with the adoption of House Rules at the beginning of the 104th Congress. Because the requirement was waived by the House almost daily given the realities of committee and House floor scheduling, it was found to be impractical and impossible to enforce. This repeal should in no way be construed as authorizing committees to sit while the House is conducting a rollcall vote with the limited, 15-minutes in which to respond. The current prohibition on committees' sitting while there is a joint, House-Senate session or meeting would be retained.

Section 12. Exceptions to Five-Minute Rule in Hearings: Committees would be given the discretion, either by committee rule or motion, to provide an exception to the current 5-minute rule limitation on members' questioning of witnesses. The rule or motion could permit designated majority and minority party members or staff to question witnesses for a period longer than their usual, 5-minute entitlement. It is the clear intent of this rule that any such time be equally divided between the majority and minority parties. In the case of member questioning, not more than 30 minutes per party of such extended questioning could be used for any witness. A motion under this House rule would not be privileged for any member of a committee to offer. Instead, it would be at the discretion of the chair to recognize a member to offer such a motion. While the rule does not specifically limit staff questioning to 30 minutes per side, it is not expected that committees would grant a longer period for staff questioning unless all committee members present have first had an opportunity to question the witness.

Section 13. Repeal of Inflation Impact Statement Requirement; Establishment of Constitutional Authority Statement Requirement: The current House Rule requirement that committee reports on public measures include a detailed, analytical statement on whether the legislation would have an inflationary impact on prices and costs in the operation of the national economy, would be repealed. The provision would be replaced by a requirement that committees include in their reports on public bills and joint resolutions a "constitutional authority statement" citing the specific powers granted to the Congress by the Constitution to enact the proposed law. It is expected that committees will not rely only on the so-called "elastic" or "necessary and proper" clause and that they will not cite the preamble to the Constitution as a specific power granted to the Congress by the Constitution. A point of order would not lie against consideration of a bill so long as the report on the measure includes a "constitutional authority statement" that cites specific powers in the Constitution granted to the Congress on which the committee claims measure is based. A point of order would not lie on grounds that the authority statement is otherwise inadequate, inaccurate, or constitutionally unsound, since it is not within the province of the Chair, by House precedent and practice, to rule on questions of constitutionality.

Section 14. Filing of Reports After Time for Views: The current three-day time-frame for filing views on committee reports would be reduced to two days after the day on which the measure or matter is ordered reported. Moreover, committees would have the automatic right to file their reports with the Clerk up to one-hour after the expiration of this time period, provided that a request had been made to file views. Two things should be noted: first, the right for late filing of a report is not automatic if no opportunity to file views has been requested; and, second, the rule requires that committees "arrange" with the Clerk for late filing when views have been requested. They should not expect that the Clerk's office will be open late every night to receive filed reports. Finally, committees may file sooner than the expiration of the second day if they know that all views have been received. They should therefore advise committee members to notify them by a time certain (preferably later on the day of approval) if they intend to file views since a request made by any member protects the right of all members to file views.

Section 15. Committee Reserve Fund: This section authorizes the Committee on House Oversight to include with its biennial, primary expense resolution for committees a "reserve fund" for unanticipated committee expenses. The actual allocation of any money from the reserve fund would be subject to approval by the House Oversight Committee. This is similar to a provision contained in the Senate's biennial committee funding resolution. Since it is sometimes difficult to accurately project total expenses for a two-year period given unexpected developments and demands on a committee over the course of a Congress, this reserve fund is designed to be used in such extraordinary circumstances without the need for a supplemental expense resolution. Committees should not expect that this reserve fund will be readily available for all committees to tap at any time. Instead, it is anticipated that it will be relatively limited in amount for use only in extraordinary, emergency or high priority circumstances, and that any proposals for its allocation will be carefully scrutinized and coordinated at the highest levels before it is put to a vote by the House Oversight Committee. Other committee requests beyond their initial, biennial budget authorization will still require a supplemental expense resolution to be approved by the House.

Section 16. Corrections Calendar Changes: This section would make two changes in the order of consideration of bills from the Corrections Calendar. (See section 1 above for an explanation of the Corrections Calendar and changes made in the postponement of certain votes on Corrections bills.) First, it would no longer be required that the Corrections Calendar be called immediately after the Pledge of Allegiance on a Corrections Day (the second and fourth Tuesdays of each month). It could be called at any time on a Corrections Day. Second, it would no longer be required that bills on the Corrections Calendar be called in the numerical order in which they appear on the Corrections Calendar. They could be called in any order, so long as they have been on the Calendar for at least three legislative days. The main purpose of these changes is to permit the Leadership, in working with committee chairmen, to have the maximum flexibility possible in scheduling both Corrections bills and Suspension bills on such days.

Section 17. Dynamic Estimation of Effects of Major Tax Legislation: This section would permit the House majority leader, after consultation with the minority leader, to designate certain legislation as "major tax legislation." It is anticipated that the designation would be in the form of a publicly-released letter from the majority leader to the chairman of the Ways and Means Committee. The designation in turn would authorize the Committee on Ways and Means to include in its report on the legislation a dynamic estimate of changes in Federal revenues expected to result from enactment. The Joint Committee on Taxation shall only provide such an estimate to the Ways and Means Committee in response to a timely request from its chairman (after consultation with the ranking minority member). Such estimates shall be for informational purposes only. This means that in no way are they to be depended upon or looked to for purposes of enforcement or scorekeeping under the terms of the Congressional Budget Act. "Dynamic estimate" is defined as meaning a projection based in any part on assumptions concerning the probable effects of macroeconomic feedback resulting from the enactment of the legislation. The estimate shall include a statement identifying all such assumptions.

Section 18. Appropriations Process Changes: This section makes two changes regarding the consideration of appropriations bills. First, it would make clear that the Appropriations Committee could not report, nor could an amendment be considered by the House, that makes the availability of funds contingent upon the receipt or possession of information by the funding authority if such information is not required by existing law. This is designed to prohibit the consideration of so-called "made known" provisions and amendments which in the past have been used as a technical loophole to circumvent the prohibition on legislating in an appropriations measure. The second provision would make clear that, once the final lines of a bill have been read for amendment, and it is in order to consider so-called limitation amendments, other amendments could not be offered as a means of preempting the right of the majority leader or a designee to offer the privileged motion that the Committee of the Whole rise and report the bill to the House. This simply makes clear that the right granted to the majority leader to offer the motion to rise and report during the limitation amendment process has precedence over any motion to amend.

Section 19. Clarifying Definition of Income Tax Rate Increase: This section clarifies the definition of "income tax rate increases" for the purposes of clauses 5(c) and (d) of House Rule XXI which require a three-fifths vote on any amendment or bill containing such an increase, and prohibits the consideration of any amendment or bill containing a retroactive income tax rate increase, respectively. A "federal income tax rate increase" is any amendment to subsection (a), (b), (c), (d), or (e) of section 1 (the individual income tax rates), to subsection (b) of section 11 (the corporate income tax rates), or to subsection (b) of section 55 (the alternative minimum tax rates) of the Internal Revenue Code of 1986 which (1) imposes a new percentage as a rate of tax and (2) thereby increases the amount of tax imposed by any such section.

Thus, paragraphs (c) and (d) of Rule XXI clause 5 would apply only to specific amendments to the explicitly stated income tax rate percentages of Internal Revenue Code sections 1(a), 1(b), 1(c), 1(d), 1(e), 11(b) and 55(b). The rules are not intended to apply to provisions in a bill, joint resolution, amendment, or conference report merely because those provisions increase revenues or effective tax rates. Rather, the rules are intended to be an impediment to attempts to increase the existing income tax rates. The rules would not apply, for example, to modifications to tax rate brackets (including those contained in the specified subsections), filing status, deductions, exclusions, exemptions, credits, or similar aspects of the Federal income tax system and mere extensions of an expiring or expired income tax provision. In addition, to be subject to the rule, the amendment to Internal Revenue Code section 1(a), 1(b), 1(c), 1(d), 1(e), 11(b), or 55(b) must increase the amount of tax imposed by the section. Accordingly, a modification to the income tax rate percentages in those sections that results in a reduction in the amount of tax imposed would not be subject to the rule.

Section 20. Unfunded Mandate Clarification: This section clarifies that the right to offer a motion to strike an unfunded mandate provision from a bill, unless precluded by special order of the House, applies to unfunded Federal intergovernmental mandates that exceed the threshold contained in section 424(a)(1) of the Budget Act. The clause being amended (clause 5(c) of rule XXIII) merely referenced the applicable section of the Budget Act and did not make clear that its reference is to intergovernmental mandates as opposed to private section mandates.

Section 21. Discharge Petition Clarification: This section makes clear the original intent of permitting discharge petitions on resolutions from the Rules Committee was for the purpose of a resolution making in order the consideration of a single measure that has been introduced for at least 30 legislative days (and not multiple measures), and that such a resolution may only make in order germane amendments to such a measure. Without this clarification, the intent of allowing discharge petitions on resolutions from the Rules Committee could completely distort the purposes of the discharge rule by making in order completely unrelated matters. Members should be fully aware when signing a discharge petition that it is being confined to the subject matter of the bill being made in order for consideration by the resolution they are being asked to discharge from the Rules Committee.

Sec. 22. Prohibiting the Distribution of Campaign Contributions in the Hall of the House: House Rule XXXII ("Of Admission to the Floor") would be amended by adding a new clause 5 prohibiting the knowing distribution of campaign contributions in the Hall of the House or rooms leading thereto by any Member, officer, employee or other person having floor privileges. The "rooms leading thereto" are commonly understood under the rule as being the majority and minority cloakrooms and the Speaker's Lobby.

Section 23. Repeal of Obsolete Employment Practice Rule: House Rule LI, relating to House Employment Practices, is repealed as obsolete because it has been replaced by the provisions of the Congressional Accountability Act (Public Law 104–1). House Rule LII, the Gift Rule, is consequently redesignated as Rule LI.

Section 24. Technical Amendments: This section makes nine technical amendments to the Rules of the 104th Congress for purposes of the Rules of the 105th Congress, as follows:

(a) A recorded vote taken pursuant to clause 5(a) of rule I shall be considered a vote by the yeas and nays. This in no way changes the existing threshold for demanding a recorded vote, but simply avoids a possible second vote on the same question if someone should demand the Yeas and Nays.

(b) and (c) Two references to the "House Information Systems" are replaced by its redesignated name, "House Information Resources."

(d) This subsection clarifies the provisions for closing investigative hearings if it is asserted that any information to be disclosed may tend to defame, degrade or incriminate any person. Whereas a quorum for taking testimony (which may be as few as two of the members) is required to vote on closing an investigative hearing for such purposes, the current rule goes on to read that the hearing may only be kept open if a majority of members of the committee, a majority being present, determine that it would not tend to defame, degrade or incriminate any person. The proposed amendment strikes "a majority of the members of," leaving the subsection to read: "only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person." In short, this would restore the concept of majority, rather than super-majority rule by requiring that a majority of those voting (rather than a majority of the total membership of the committee), a majority being present, are sufficient to keep the hearing open.

(e) This subsection clarifies that the layover period for reports on budget resolutions shall include days on which the House is in session (including any Saturday, Sunday, or legal holiday), thereby conforming it to the language that applies to the layover period for other committee reports.

(f) This subsection corrects the spelling of the word "endorsed" in clause 4(a) of rule XXIII.

(g) This subsection would amend clause 6 of rule XXIII to ensure that certain rights of Members to offer amendments in the Committee of the Whole if they have been preprinted in the Congressional Record would apply to unreported as well as reported bills.

(h) This subsection amends clause 4 of rule XLIII (Code of Official Conduct) in two ways: first, by changing the word "excepted" to "except," and secondly, by changing the reference to the "Gift Rule" from rule LII to rule LI (see section 22 above).

(i) This subsection would replace the term "by House" to "by the House" in clause 13 of rule XLIII (Code of Official Conduct)

Sec. 25. Select Committee on Ethics: This section would extend until January 21, 1997, the membership and authority of the Committee on Standard of Official Conduct of the 104th Congress as a select committee of the 105th Congress for the purpose of taking final action on its subcommittee report on the conduct of Representative Gingrich. Any vacancies would be filled by the majority or minority leaders concerned.

The provision is necessary since the Committee of the 104th Congress officially expired at noon on January 3rd, 1997, and thus has no authority in the new Congress to make any recommendations or report to the House on the pending case. The new select committee will be considered to have been created at noon on January 3rd to ensure continuity.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 6, 1997.
Hon. GERALD B.H. SOLOMON,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my understanding of the proposed change to clause 5 (c) and (d) of Rule XXI of the Rules of the House, regarding the definition of income tax rate increase.

Specifically, subsections (c) and (d) of Rule XXI clause 5 are clarified by defining "Federal income tax rate increase." A "federal income tax rate increase" is any amendment to subsection (a), (b), (c), (d), or (e) of section 1 (the individual income tax rates), to subsection (b) of section 11 (the corporate income tax rates), or to subsection (b) of section 55 (the alternative minimum tax rates) of the Internal Revenue Code of 1986 which (1) imposes a new percentage as a rate of tax and (2) thereby increases the amount of tax imposed by any such section.

Thus, subsections (c) and (d) of Rule XXI clause 5 would apply only to specific amendments to the explicitly stated income tax rate percentages of Internal Revenue Code sections 1(a), 1(b), 1(c), 1(d), 1(e), 11(b) and 55(b). The rules are not intended to apply to provisions in a bill, joint resolution, amendment, or conference report merely because those provisions increase revenues or effective tax rates. Rather, the rules are intended to be an impediment to attempts to increase the existing income tax rates. The rules would not apply, for example, to modifications to tax rate brackets (including those contained in the specified subsections), filing status, deductions, exclusions, exemptions, credits, or similar aspects of the Federal income tax system and mere extensions of an expiring or expired income tax provision.

In addition, to be subject to the rule, the amendment to Internal Revenue Code section 1(a), 1(b), 1(c), 1(d), 1(e), 11(b), or 55(b) must increase the amount of tax imposed by the section. Accordingly, a modification to the income tax rate percentages in those sections that results in a reduction in the amount of tax imposed would not be subject to the rule.

These rules are designed as a barrier to attempts to increase the existing income tax rates. Had the House rules included subsections (c) and (d) since 1989, they would have applied to the creation of the 36% and 39.6% income tax rates and 26% and 28% alternative minimum tax rates in the Omnibus Budget Reconciliation Act of 1993. They would also have applied to the proposed creation of a 36% income tax rate in H.R. 4210, as passed by the Congress in 1992 and vetoed by President Bush. Subsection (c) would have applied as well to the creation of the 31% income tax rate and 24% alternative minimum tax rate in the Omnibus Budget Reconciliation Act of 1990.

I would appreciate your confirmation of this understanding. Thank you again for your and your staff's ongoing assistance to the Committee on Ways and Means. With best personal regards.

Sincerely,

BILL ARCHER,
Chairman.

HOUSE RULES COMMITTEE

SOLOMON RELEASES COMPARATIVE LEGISLATIVE DATA FOR 103RD & 104TH CONGRESSES

WASHINGTON, D.C.—Rules Committee Chairman Gerald B. Solomon (R–NY) today released comparative legislative data for the 103rd and 104th Congresses that, in his words, "demonstrate that the new Republican Congress has been both more open and more deliberative than the Democrat-controlled 103rd Congress."

Solomon observed, "While we enacted fewer laws than the previous Congress, most objective observers agree that this has been the most productive Congress in at least a generation. Obviously, the productivity of a Congress cannot and should not be measured by the number of laws enacted but rather by their thrust and direction. The laws we enacted in the 104th Congress have set a dramatic new course for the government. Moreover, the data show that we spent more time considering legislation in the 104th Congress under a more open and deliberative process."

The data, compiled by the Rules Committee staff, show that the 104th Congress enacted 333 measures into law compared to 465 in the 103rd Congress. However, when non-substantive commemoratives enacted in the 103rd Congress (like "National Clown Week"), which were banned in the 104th Congress, are subtracted from total public laws, the number of substantive enactments is much closer—384 laws in the 103rd Congress compared to 333 in the 104th Congress.

The more open process in the 104th Congress is borne out in the data compiled by the Rules Committee staff. While the House passed 611 bills in the 104th Congress, using 4 hours of session per bill, in the 103rd Congress the House passed 757 bills with 2.5 hours of floor time per bill.

Recorded votes per bill passed were also up in the 104th Congress—with 2.2 votes per bill passed compared to 1.4 votes per bill passed in the 103rd Congress.

A further indication that the House was more deliberative in the 104th Congress is reflected in the percentage of unreported measures passed by the House. While 29% of the measures passed by the House in the 104th Congress had not been reported by a committee, 39% of the measures passed in the 103rd Congress were never reported.

Further enhancing House deliberations was the amendment process provided by special rules reported from the Rules Committee. Open or modified open rules for amendments in the 104th Congress comprised 57% of total rules compared with 46% open or modified open rules in the 103rd Congress.

According to Solomon, "The House was able to produce its impressive track record of legislative accomplishments in the historic 104th Congress more because of, rather than in spite of, the substantial streamlining and down-sizing in its structure, resources and operations at the beginning of the new Congress." The opening day House reforms in the 104th Congress resulted in the reduction of 3 committees and 32 subcommittees, a reduction of 684 committee staff (−34%), and a reduction in overall appropriations for the House in the two-year cycle of $122.9 million from the 103rd Congress.

Solomon concluded, "I think we have demonstrated that the Republicans have been able to legislate and govern with common sense while at the same time setting an example for the rest of the government that down-sizing and economizing on operations can enhance rather than hinder the ability to provide more effective and efficient government for the American taxpayer."

COMPARATIVE LEGISLATIVE DATA FOR THE HOUSE IN THE 103RD AND 104TH CONGRESSES

[Compiled by House Rules Committee Staff]

Item	103rd Congress	104th Congress
Days in Session	265	289
Hours in Session	1,887	2,445
Average Hours Per Day	7.1	8.5
Total Public Measures Reported	544	518
Total Public Measures Passed	757	611
Reported Measures Passed	462	437
Unreported Measures Passed	295	174
Unreported Measures as Percent of Total	39%	29%
Total Public Laws Enacted	465	333
Commemorative Measures Enacted	81	0
Commemoratives as Percent of Total Laws	17%	0%
Substantive Laws (Total Laws Minus Commemoratives)	384	333
Total Roll Call Votes	1,094	1,321
Roll Call Votes Per Measure Passed	1.4	2.2
Congressional Record Pages	22,575	24,495
Record Pages Per Measures Passed	29.8	40.1
Session Hours Per Measure Passed	2.5	4
Open/Modified Open Rules	46 (44%)	86 (57%)
Structured/Modified Closed Rules	49 (47%)	43 (28%)
Closed Rules	9 (9%)	22 (15%)
Committees/Subcommittees	23/118	20/86
Committee Staff	2,001	1,317
Appropriations for House (in millions)	$1,477,945	$1,355,025

Note: The public measures referred to above are public bills and joint resolutions. Four reported public measures were defeated in each Congress; 78 reported public measures remained on the Calendars of the House at the end of the 103rd Congress; 77 at the end of the 104th.

Sources: "Resume of Congressional Activity," Daily Digest, Congressional Record; "Survey of Activities," Committee on Rules; Congressional Research Service reports on "Committee Numbers, Sizes, Assignments and Staff," and "Legislative Branch Appropriations;" House Calendars.

ADOPTING HOUSE RULES FOR A NEW CONGRESS: THE TURN OF THE CENTURY TURN FROM OPEN, RULES COMMITTEE PROPOSALS TO CLOSED, MAJORITY CAUCUS RECOMMENDATIONS

(By Don Wolfensberger)

Introduction: George Galloway, in his History of the United States House of Representatives, observes that, "the customary practice in *post bellum* days, when a new House met was to proceed under general parliamentary law, often for several days, with unlimited debate, until a satisfactory revision of former rules had been effected." (p. 48)

Galloway goes on to cite examples of such extended debate on the rules for a new Congress, for instance, that after the revision of the 1880 general rules (which included making the Rules Committee a permanent standing committee of the House): "Two days were consumed at the beginning of the 48th Congress (1883), 4 days at the 49th (1885), 6 days at the 51st (1889), 9 days at the 52d (1891), and 6 days at the opening of the 53rd Congress (1893)." (Id.)

And Galloway concludes this discussion as follows: On three of these occasions 2 months or more elapsed before the amended code was finally adopted, in striking contrast to the celerity with which the old rules have been rushed through in recent times. (Id.)

Prior to 1880, rules revisions were reported from the Select Committee on Rules (if one had been appointed for that Congress), and these proposed changes were debated under an open amendment process. Even after the Rules Committee became a standing committee in 1880, this practice apparently continued for well over a decade. However, neither the available histories of the House and the Rules Committee or the precedents pinpoint the exact Congress in which this practice was abandoned in favor of considering House Rules recommended by the majority party caucus under a closed amendment process.

The first hint we get of a change is in A History of the Committee on Rules, a 1983 Rules Committee print, in which it is noted that, "The rules of the House were not substantially altered between 1895 and 1910, when the rules were amended directly on the House floor to strip Speaker Cannon of his membership, chairmanship and appointment authority of the Rules Committee and the committee was enlarged from 5 to 10 members, elected by the House. (p. 81)

A few pages later, in discussing the Democrats' retaking of the House and pounding the final nail in the coffin of "Czar Speaker," by providing for the election of all committees by the House, the book notes that the rules resolution making that and other changes had been "agreed upon in the Caucus." (p. 99) And the footnote to that observation states the following: It was customary at this time for the majority party's candidate for the chairmanship of the Rules Committee to introduce changes in the House rules, agreed upon by the Caucus. (Id.)

But nowhere in any of the commentary of Galloway or the Rules Committee History covering the years between 1895 and 1911 is the origin of this custom identified. To better pin this down, a search was made of the House Journals between the 53rd Congress (1893–94) and the 60th Congress (1907–08). Below is a running account of the adoption of House Rules at the beginning of each of those Congresses.

The 53rd Congress (1893–95): On August 8, 1893, the House adopted a resolution authorizing the Speaker to appoint a Committee on Rules and the temporary adoption of House rules from the preceding Congress which were referred to the Rules Committee for recommendations for any further changes in the new Congress. On August 29, 1892, Representative Catchings (D-Miss.), the second ranking majority member on the Rules Committee (Speaker Crisp was the chairman), reported back a resolution making 14 recommended changes the rules of the previous Congress. Catchings offered a motion, by unanimous consent, to proceed to consider the rules resolution by paragraph for amendment, with 5 minutes of debate allowed for and against each amendment. He then moved the previous question on his resolution. Representative Thomas Brackett Reed (R–ME), the ranking Republican on the Rules Committee (and its former chairman and House Speaker from 1889–91), made the point of order that is was not in order to move the previous question on the resolution. The Speaker (Crisp) overruled the point of order saying the previous question was in order. Catchings nevertheless withdrew his order of business resolution and the House proceeded to debate the resolution containing the rules changes recommended by the Rules Committee.

On August 30th, Catchings propounded a unanimous consent request to close debate on the rules resolution at 2 p.m. that day and to then proceed to consider amendments to the resolution by paragraph under the five-minute rule. There was no objection, and the House proceeded to consider amendments on August 31, and September 1, 2, and 6. It is apparent from the Journal's summary of amendments that the entire body of House Rules was open to amendment, and not just the 14 changes recommended by the Rules Committee. On September 6, Rep. Burrows (R–MI), the second-ranking minority member of the 5-member Rules Committee, offered a final substitute to in effect adopt the Rules of the 51st Congress with one change. The substitute was rejected, 65 to 149, and the House subsequently adopted the rules package as amended by voice vote.

The 54th Congress (1895–97): On December 2, 1895, when Republicans had retake control of the House, the House adopted H. Res. 5, adopting the rules of the 51st Congress (the last Republican Congress) as the rules of the 54th Congress, "until otherwise ordered." On January 10, 1896, Rep. Henderson (R–IA), the second-ranking Republican on the Rules Committee, called-up the first of two reports (Nos. 29, 120) reported by the Rules Committee to amend House Rules. Henderson asked unanimous consent that, after consideration of the proposed amendments was completed for amendment, the House then proceeded to consider amendments to the rules, beginning with Rule, I. Numerous amendments were considered on January 10th and 11th. On January 23rd, the House took up the second of the Rules Committee reports (No. 120), considering of three additional amendments. It too was subject to numerous amendments, one of the final of which was an amendment by the minority to substitute the rules of the 53rd Congress (when the Democrats were last in control). It was rejected. Because the various amendments recommended by the Rules Committee was considered and disposed of individually, as with the January 10th report, there was no vote on final adoption.

55th Congress (1897–99): On March 15, 1897, Rep. Henderson (R–IA), the second-ranking Republican on the Rules Committee, called-up a resolution adopting the rules of the 54th Congress as the rules of the 55th Congress "until further notice." The resolution was debated but not opened to amendment. Rep. Henderson moved the previous question, at which point an attempt was made to offer an amendment on grounds that the previous question does not exist when the House is operating under general parliamentary law. The Speaker overruled the point of order saying the previous question does exist under general parliamentary law of the House. The previous question was then adopted, 182–154, and the resolution was subsequently adopted by voice vote. That is no indication of any subsequent Rules Committee action on reporting a further revision in the rules.

56th Congress (1899–1901): On December 4, 1899, Rep. John Dalzell (R–PA), the second-ranking Republican on the Rules Committee (with Speaker Reed's retirement, Rep. Henderson had become the new Speaker and chairman of the Rules Committee), called up a resolution adopting the rules of the 55th Congress as the rules of the 56th Congress. This time the resolution carried no phrases ("until otherwise ordered" or "until further notice) holding out the expectation of further recommendations from the Rules Committee. The resolution was debated without amendments being entertained, after which Rep. Dalzell moved the previous question. The previous question was adopted by voice vote, after which the resolution was adopted, 178 to 159.

57th Congress (1901–03): On December 2, 1901, Rep. Dalzell called up H. Res. 2, adopting the rules of the 56th Congress as the rules of the 57th Congress with four modifications: (1) carrying forward the special orders of 1900 regarding the consideration of pension, claims and private bills: (2) converting a Select Committee on the Census into a standing committee; (3) creating a Select Committee on Industrial Arts and Exhibitions; and (4) continuing a Select Committee on Documents. After debate on the resolution, Rep. Dalzell moved the previous question which was adopted, 180–143. Rep. Richardson (D–TN) then offered a motion to commit the resolution to the Committee on Rules when it was appointed. The motion was rejected, 143 to 186. A demand was then made to divide the question on the resolution and both parts were adopted by voice vote.

58th Congress (1903–05): On November 9, 1903, Rep. Dalzell, still the second ranking Republican on the Rules Committee (Rep. Joe Cannon had been elected Speaker and thus chairman of the Rules Committee) offered H. Res. 1, adopting the rules of the 57th Congress as the rules of the 58th Congress together with two modifications: (1) carrying forward the special orders of 1900 on the consideration of pension, claims and private bills; and (2) converting the Select Committee on Industrial Arts and Exhibitions into a standing committee. After debate, the previous question was ordered by voice vote and the resolution was adopted, 193 to 167.

59th Congress (1905–1907): On December 4, 1905, Rep. Dalzell called up H. Res. 8 adopting the rules of the 58th Congress as the rules of the 59th Congress with one modification, carrying forward the special orders of 1900 on the consideration of pension and claims bills. After debate, the previous question was ordered, 228 to 196, and the resolution was subsequently adopted by voice vote.

60th Congress (1907–1909): On December 2, 1907, Rep. Dalzell called up H. Res. 28, adopting the rules of the 59th Congress as the rules of the 60th Congress. After debate, the previous question was ordered, 199 to 164, after which the resolution was adopted, 198 to 160.

61st Congress (1909–1911): Notwithstanding Galloway's claim that no significant rules changes were adopted between 1895 and 1910, the facts indicate otherwise with respect to the opening day of the 61st Congress. The beginning of this Congress marked the opening round in the revolt against Speaker Cannon by Republican insurgents and the minority Democrats. On opening day of the 61st Congress, March 16, 1909, when the usual resolution adopting the rules of the previous Congress as the rules of the new Congress was offered, the Republican insurgents joined with the Democratic minority to defeat the previous question in order to offer their own substitute rules package offered by Minority Leader Champ Clark (D–MO). The Clark substitute would have limited the powers of the Speaker to appoint committees and also would have enlarged the Rules Committee. Clark immediately moved the previous question on his substitute. But Cannon, anticipating this action, had conspired with a junior Democrat, Rep. John Fitzgerald of New York, who protested being gagged and urged defeat of the previous question on the Clark substitute so that he could offer his own amendments to the rules. Fitzgerald prevailed by defeating the previous question, 180 to 203. He then offered his amendments that then provided for a new, unanimous consent calendar, strengthened the Calendar Wednesday rule, and permitted the motion to recommit to be offered by the opponents to a measure (previously the right to recommit was exercised by the bill's manager), and prohibited the Rules Committee from issuing a rule denying this right. The Fitzgerald substitute was adopted when 23 Democrats joined with him and the regular Republicans.

Conclusions: While it appears from the above study that the Rules Committee discontinued its role of reporting revisions in House Rules at the beginning of a Congress after the 54th Congress (1895–97), and the House thereafter began to simply adopt the rules of the new Congress on opening day under the hour-rule, with no amendments allowed, it was not until the 61st Congress that any serious effort was made to defeat the previous to provide for the consideration of substantial changes in the rules resolution offered by the majority. But even then, the effort was a bipartisan one, forged between the minority Democrats and the insurgent Republicans, and it was defeated by a further bipartisan compromise offered by a few minority Democrats and the regular Republicans.

It was not until 1911, when "King Caucus" emerged to replace "Czar Speaker," that the Caucus fully assumed the role of reporting significant rules changes on opening day. And the precedent had already been set with the previous question fight of 1909 to use the attempted defeat of that procedural motion to highlight the minority's rules alternative rules package.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the 11th time I have been sworn in as a Member of Congress. To this day, I still get chills when I approach the Capitol or if I move onto the floor of the House. Every single day we go to work in a Chamber where America pushed the frontier and rebuilt the Nation, they put the GI bill through for college education, a place where we paid to land a man on the Moon. From the podium behind me Franklin Roosevelt spoke of a day which will live in infamy, and from this Chamber democracy has given ordinary men and women more rights and more dignity than this world has ever known.

So, Mr. Speaker, this is a special place. All of us are privileged to serve here. But with that privilege comes responsibility, a responsibility to hold this House and this Nation to the highest possible standards. We are not defined simply by the laws we pass, but by the example we set.

If we want an America where laws are respected, where the rights of the minority are protected, and where the voices of all are heard, we have got to have a House that respects the law, that protects the minority and allows those voices to be heard; because, Mr. Speaker, every time we look the other way when somebody breaks the rules, we just do not damage the integrity of this House, we send a message to every child in Michigan, in California, in Georgia, that lying pays, that cheating works, that wrongdoing goes unpunished. Sometimes saying we are sorry just is not enough.

We are here this afternoon to decide the rules of this House, but the rules have no meaning if they are ignored and betrayed. If we want an America that rewards virtue and punishes wrongdoing, we need to have a Congress that rewards virtue and punishes wrongdoing.

I am afraid we have taken a tremendous step backward here today. There is an ethical cloud hanging over this House that will only get darker in the days to come. We could have postponed today's vote for Speaker, but the majority voted against it. Soon this tragedy will move from the Halls of Congress to the court of public opinion. Sometime in the next few weeks, the nonpartisan outside counsel will present the facts to the American people in an open public hearing. Finally the American people will be able to decide for themselves who is right and who is wrong.

This case goes to the heart of our constitutional system. At issue is the ethical character of the man second in line to the Presidency. These are serious charges, and the Ethics Committee must be allowed adequate time to spell out the truth.

In recent days some in the Republican leadership have tried to force a rush to judgment, but today the outside counsel himself requested the committee be given additional time to consider this case. Subsequently we will be offering a motion today that gives the Ethics Committee adequate time to fully resolve this case. I urge my colleagues to support it.

We have heard a lot of talk about freedom and democracy here today, but sadly we moved away from those principles in the last Congress. Instead of open public hearings we saw closed-door meetings. Instead of free speech we saw closed rules that shut down debate. Instead of freedom of expression we saw one case after another when voices were shut down in this House. We even saw the Government shut down twice to force an opinion through.

But this rules package before us today makes the problem worse, not better. We cannot build a foundation of trust by giving House committees slush funds to conduct sham investigations, by rolling back minority rights, or by completely ignoring the other side. But that is what in many respects this rules package does. It is shameful and it is wrong. Let us turn good words into good deeds. Let us work together on something that really matters.

We all know that the current campaign finance system is completely undermining our democracy. We believe it is time to get money out of politics and return power to the people. That is why, Mr. Speaker, I urge my colleagues to vote no on the previous question.

If the previous question is defeated, we will offer a Democratic reform package that strikes seven sections in the proposed Republican House rules package. It requires that sufficient time be provided for the Ethics Committee to complete its investigation of the Speaker's pending ethics violation and it requires the House to consider substantive campaign finance legislation within the next 100 days.

Mr. Speaker, I include for the RECORD the text of the amendment.

The motion to commit referred to is as follows:

MOTION TO COMMIT

Mr. ________ moves to commit the resolution H. Res. ___ to a select committee comprised of the Majority Leader and the Minority Leader with instructions to report back the same to the House forthwith with only the following amendments:

In section 25, after "standing Committee on Standards of Official Conduct in the One Hundred and Fourth Congress" insert the following "and related matters brought forth by the Investigative Subcommittee".

In the last sentence of section 25, strike ", or at the expiration of January 21, 1997, whichever is earlier".

Again, Mr. Speaker, I urge my colleagues to vote no on the previous question. Then I urge my colleagues to support the request of the outside counsel and support the motion to make sure the Ethics Committee is not railroaded, is not pressured, and has the time to spell out the truth.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland [Mr. CARDIN], the distinguished ranking member of the subcommittee of the Committee on Standards of Official Conduct.

Mr. CARDIN. Mr. Speaker, I thank my friend, the gentleman from Michigan, for yielding me this time.

Mr. Speaker, I rise as the ranking member of the executive subcommittee that is charged with the investigation of the gentleman from Georgia [Mr. GINGRICH]. Our subcommittee has worked in a professional, bipartisan manner. We are proud of the product that we have brought forward to the full Ethics Committee and to this House. We want to make sure that the process continues in a professional, bipartisan manner.

On behalf of all four members of the committee, two Democrats and two Republicans, we are disappointed by one provision in the rules package that puts a limit on the remaining time in which we can work, which is unrealistic. The special counsel has told us that that limit could very much impact the manner in which we carry out our work and prevent us from continuing in a professional, bipartisan manner.

I want to stress the point: We come as two Democrats and two Republicans, in a bipartisan manner, and ask the Members to change one provision in the rules package.

I am very disappointed. A month ago the gentleman from Florida [Mr. GOSS], and myself met with the gentleman from Texas [Mr. ARMEY], and the gentleman from Missouri [Mr. GEPHARDT], in an effort to avoid this day, when we are on the floor without a rule on which we are in agreement in carrying out the work of our committee.

We recognized at that time that there may be a need for us to continue our work into the new Congress. We were assured that we would have bipartisan cooperation. Unfortunately, that broke down today. I regret that.

We understand that putting January 21 as the deadline for our subcommittee jeopardizes our work. Let me quote, if I might, from Mr. Cole, our special counsel, a person who is far more objective than, I would say, anyone else in this Chamber:

> In analyzing the time necessary for a sanction hearing and a vote on the House floor, I have recommended a schedule that will allow this to be accomplished in a fair and orderly fashion. In doing that, however, it will be necessary for the vote on the House floor to occur after January 21, 1997. Each member of the subcommittee has carefully considered the recommended schedule and agrees it is the best course in which to proceed. This schedule has been communicated to leaderships of both parties and unanimously recommended by the subcommittee and the special counsel that it be adopted.

If we keep this time limit in, let me just explain some of the problems we are going to run into. We do not have adequate time to prepare for the public sanction hearing. In the last several days and weeks we have been totally consumed, because of what has happened out there, with partisan attacks by both Democrats and Republicans. We have tried to keep this on a bipartisan basis. Give us the time to complete it in a bipartisan fashion.

□ 1515

It forecloses certain options that the full committee may need to do. Now, let me tell you, we know more, the four of us, than any of the other Members of the House as to what is involved in this investigation. It may be necessary for us to call additional witnesses. The schedule makes it impossible for us even to consider that. It is wrong for the full House to deny the ethics committee those options. It is wrong for the full House to say that we cannot have adequate time to prepare our report so you know what you are doing when we vote.

I want to thank the Democratic leadership because they are going to give us a motion to commit that will give us a chance to return to a bipartisan understanding on bringing this matter to a successful conclusion. I will urge my colleagues to vote "yes" on that motion to commit. The only change, the only change is to remove that January 21 deadline so that we have adequate time in order to do our work in a bipartisan basis.

Let me just tell my colleagues one other thing: Some people say, why could we not get it done earlier, why have we not done things quicker. Special counsel has also referred to that in his report where he is very clear about the work of the four members of our subcommittee. We have worked every day on this issue. We have met with Members. We have talked among ourselves. And we have worked in what we think is the best interests of this House.

We think that we deserve the respect of this House to give us the time that we say that we need. This is not coming from the two Democrats, this is coming from the two Democrats and the two Republicans. For the life of me, I do not understand how this House can deny the ethics committee the time that it needs in order to complete this work. I urge my colleagues to support the motion to commit.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes and 30 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON], distinguished chair of the Committee on Standards of Official Conduct, someone who has done yeoman work that we are all so proud of in this body.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of the rules package, and I regret that we must discuss this on the floor of the House. But it is because the Ethics Committee has two responsibilities. One is to the completion of the work before it, and the other is to the Members of the House.

I would just like to comment on this issue of timetable. Between Christmas and New Year's the subcommittee members and the counsel and the full committee members spent many, many hours discussing this issue on the phone. We spent 3 days specifically negotiating a time schedule that then was issued under my name, the name of my ranking member and of our counsel. It was bipartisan, supported by Democrats and Republicans and the special counsel alike, and it was a good-faith effort.

At the time we were negotiating it, I wanted desperately to have the hearings before today's opening, and I felt it was possible. I also have great respect for the other members of the committee and particularly for the members of the subcommittee and yielded to their desire not to try to do it before the 9th. Our early discussions, since they involved also extending the membership on this committee of a number of Members who had announced they were not going to serve, focused on the date of January 14. We knew that was tight, but that was our focus as a result of my interest.

When I learned that the leadership was comfortable with the 21st, we all agreed on the 21st. I reluctantly, and some others reluctantly, but at that time we all said, this gives us ample time; and so we gave the House notice. Members made their plans, and we issued the schedule.

Now, there is concern at this time about two things, one is the ability and the right of the subcommittee to prepare itself for the hearings. I have talked at length with the special counsel, and that problem can be dealt with. We are going to be able to give the subcommittee and the special counsel time, the time they request before the hearings. It does leave us a little pressed in terms of writing the report.

During our discussions, it was never brought up that we might need 6 days to write the report. I regret that. I do understand that. This is not a matter of malice. This is a matter, this is the kind of thing that sometimes happens. But it does give us some significant time to write that report, and in fact much of that report is already written.

I understand it has to be brought together, different umbrella language, and so on and so forth, but I believe the report can be issued. I commit to the Members that as soon as the hearings are complete, which I think will be at least a week before the vote, once those hearings are complete, I will commit to every Member of this body that they can call the ethics committee and we will provide the transcripts of the two counsels' full statement. They will have plenty of time to read and understand the basis on which the allegations were brought forward. That will mean that they will only need to read and understand the package of sanctions offered by the committee and that is a much smaller body of reading.

I believe because we will honor the 3-day layover that they will have the time they need and we will have the opportunity to vote knowingly after an orderly process by sticking to the additional timetable. I do appreciate the pressure this puts on the counsel and his staff in terms of writing the report. We discussed that even 2 days after Christmas. A lot of writing has been in progress, a lot of writing has been done. We will work together as we always have and, if we feel we face, at the end, an insurmountable barrier, we will try to deal with that, too. But in fairness to the Members of the House and the schedules they have laid and to our responsibility to conclude this matter, I urge support of the rules package today.

Mr. BONIOR. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Washington, [Mr. MCDERMOTT], distinguished ranking member of the Committee on Standards of Official Conduct.

Mr. MCDERMOTT. Mr. Speaker, I rise today to offer an amendment, a motion to commit because I believe the committee must have an orderly process, one that is fair and allows sufficient time for both the Members and the American people to understand the importance of these proceedings. Special counsel, as you heard from my colleague from Maryland, has proposed to the subcommittee, which by unanimous vote has accepted and supported the counsel's recommendation, for a process that will allow the House and this process to go in an orderly and fair way.

I am sure that, if the chair of the committee were to bring this motion to the committee, there would be a majority of the committee that would support this proposed schedule because the counsel has been fair, evenhanded, and has done a very professional job and we respect his work.

Yet for some reason the Republican leadership seems bent on forcing this process to be concluded by inauguration day. What is proposed is that this will, this process will begin on the 13th, with hearings in the House in open session for the American public; how many days that takes, no one knows. And then there will be a couple of days or a day or however long to discuss what the sanctions should be. Then a report must be written, and it must lay on the desk for 3 days before we vote on the 20th.

That means from the 13th to the 20th, you have 8 days. If you are going to have hearings and people able to think, you are not going to have 3 days for it to lay on the desk so that the Members of this House can read and know what they are voting on.

I suspect there will be an effort to waiver that rule when we come back here or some way to get around it so that people do not have the time to actually look at it.

Now, it is in my view very sad, it has been said, that what has been a very professional job is now being forced into a schedule which is designed for political damage control. Demanding that that vote occur on inauguration day, we are going to come in here at 9:00 in the morning, called to order. This issue will be laid before the House. We will have an hour's discussion or whatever. We will vote on it and go around the building and inaugurate the President. That is not an orderly, thoughtful process. People will arrive here on Monday and with no reading of this, it will have been 3 days, Saturday, Sunday, Monday; and they will be expected to vote on it out here in a sensible way. That is not orderly. It is not a good process.

Now, you can only guess why they wanted that. The House deserves better than this. After 2 years of an incredibly slow process, the House can take a few extra days to do the job right. I urge the Members to support this motion to commit this back and have an orderly process date set in it.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY], majority leader.

Mr. ARMEY. Mr. Speaker, I would like to address this issue not as a member of the committee, the ethics committee, not even as a Member who deigns to presume that he knows what is going on in the ethics committee with respect to this case, in fact, as a Member who has purposely kept himself as uninformed as is possible out of respect for the committee, its jurisdictional rights and its obligations for confidence, but as a Member that has said on this floor on several occasions and in public on several occasions, the committee must be respected for its professionalism, for its ability, and for its objectivity. We are lost if we cannot find a way to do that with the committee. We have no place to put our confidence in the search for justice and fair evaluation.

Indeed, the special counsel is a person whom I have acknowledged must be a person of ability, competence, and objectivity.

Now, then, when I learned on December 21 that the committee, the subcommittee, with the advice and the assistance of the special counsel, had come to a conclusion of the case and was willing to put a result before the Speaker, I concluded in my mind, they must have concluded their work. They must have heard all they needed to hear, had all the witnesses they needed to hear from, considered all the documents and the reports. Why would I conclude that they would have done anything less than the full and complete evaluation of the material needed to have come to a conclusion and put a bill of alleged violations before the Speaker?

I then later subsequently understood that the Speaker had accepted the conclusions. There must be technical language. I am sorry I cannot say what that is. But in any event, that there was some chance that the full committee might be able to operate and conclude their work even before this day. And then I was informed, and this is an important point, that one of the reasons it was impossible for the full committee to do that was that the ranking member, the gentleman from Washington [Mr. McDermott], was in Europe on vacation with his family and that he felt, and justly so, that those plans that he and his family made ought to be respected in the scheduling of time.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding to me.

I just wanted to correct the record on that because the subcommittee was in constant contact with the ranking member and chairman since December 21 to deal with the schedule, and at no time was there any delay caused because of someone being out of town. Mr. Cole, in his public statement today, has reaffirmed the position that there has been absolutely no delay in this case and in fact every day our committee met on conference calls.

Mr. ARMEY. Mr. Speaker, forgive me, I did not mean for the gentleman to think that I am being accusatory. I am only going by what I read in the papers. Of course, we all realize that the newspapers are not always reliable. But I believe I read that the gentleman from Washington [Mr. McDERMOTT] had been reported in the papers as saying, I do not want to interrupt my vacation.

I do not want to quarrel with the gentleman about that. I just want to say that, as I had that understanding, perhaps imperfectly so, I felt, yes, the Member who works and toils long and hard and finally has an opportunity to fulfill the obligation and the commitment and the opportunity they had to vacation with their family should have respect in the process. I will return to that point later.

□ 1530

Now, again, if the gentleman will let me complete my statement, I do not wish to quarrel about this. I wish to clarify a few points.

Then I understood that the committee, even long-distance phone calls and conference calls and so forth, came to some negotiations regarding a timetable that would require this part of the rules package that is before us today, the existence of a select committee that reinstates the life of the Committee on Standards of Official Conduct as we have known it, with jurisdiction over this case as its continues into this Congress. This is what we have done.

I was sitting at home with my wife looking at different colors of green and finally trying to come to the conclusion of which drapes I would in fact perhaps get hung when my fax announced a message. The message I received over my fax as I too struggled to have some time, in conformity with the announced schedule of the House, to tend to my life, says the chairwoman and the ranking member of the committee, along with Special Counsel Cole, announced the following schedule.

They had come to a conclusion. These people that I believed to be able, competent, professional, objective, fair people, thorough in their proceedings, who had sat down and talked among themselves in what I assumed would be in full cognizance of what was required in time and effort to complete their work, announced a schedule. Came over my fax.

And then as I responded to that schedule and examined what would need be done now by the body as a whole and all the Members scattered all over the country dealing with their commitments, I said I must see about scheduling floor action, completing the work and scheduling floor action.

I had at least one phone call from a member of the committee in which it was suggested to me that perhaps we could do this by the 14th of January. The committee suggestion to me was perhaps by the 14th of January.

I was the one who had said the 14th of January would be disruptive to preexisting, already undertaken travel plans of a large number of Members about which I knew, and would be inconvenient to them. Could the committee please go with the 21st instead of the 14th? When the committee said that we could do that, I assumed that a committee of professional people, with a special counsel capable and able of understanding what needs be done to complete their work, who was given—if the gentleman will let me complete my statement, I will complete. A person under those circumstances would say if these groups of professional people have said, yes, we agree to accept a week later than that which we proposed, what reason would I not have to conclude that they could do so?

Now, just last night, just last night, as we were preparing these rules, I was asked to consider a different date, after I had done what? I had announced the schedule to the Members of this Congress, Republican and Democrat alike, to all the staff of this Congress. And I had made specific commitments on my own word to two people in particular, in order to obtain their service on the committee through the agreed-upon times suggested to me by the committee itself, that they would not have to do this service beyond the 21st.

I have not set dates arbitrarily. I have no agenda here except an orderly, respectful addressing of the needs of all the Members of the House, within the context of what I believe to be the conclusion that any reasonable person would have made about the competent ability of professionals thus respected to have suggested properly and with some degree of full necessity and accuracy what they thought were their time needs.

So if the time that my colleagues requested and announced in their announcement is now not acceptable to them, I find a very difficult problem understanding then why I should then therefore continue to hold to my clinging belief that they are professional, competent, able people that can assess what their needs are and make a request of them.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Washington, [Mr. MCDERMOTT] the distinguished ranking member of the committee.

Mr. MCDERMOTT. Mr. Speaker, with all due respect to the majority leader, sometimes things change. We made that decision on the best information available to us. None of us, not a single person said they would not come back if it made sense, but the bipartisan subcommittee said it could not be done. So that is why we set the timetable we did.

Within the last 3 days, I received, in December, a letter from the Speaker's attorney saying, "We want an expedited hearing. We are ready to go. We want this thing to go just right now." And suddenly yesterday they call us and say they want us to delay this to begin on the 13th.

Now, what happened between December when they said they were ready to go and then suddenly they say, yesterday they call Mr. Cole and say, "We are not ready to go. Do not have any hearings until the 13th. We need time to prepare."

Now if the gentleman cannot respond to things changing, it seems to me he is terribly rigid in setting a date. In this place we find over and over again, we set a date, it may not work just the way we thought. I think that when we have the subcommittee come together, with the special counsel—if it was just Democrats begging for this, that would be one thing, but we are talking about two Republicans and two Democrats and the special counsel saying this is a reasonable schedule.

Now, for the gentleman not to respond to that in a positive way seems to me to suggest he has some other agenda. I do not know what it is, but, clearly, it is not in preserving the orderly process of the Committee on Standards of Official Conduct.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. I would ask the Speaker to let us know how much time is available to each side.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Michigan [Mr. BONIOR] has 14 minutes remaining, the gentleman from New York Mr. [SOLOMON] has 5 minutes remaining, and the gentleman from Michigan [Mr. BONIOR] is recognized.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I know that the goal that all of us share is to do justice, and over the last 8 months an extraordinary thing has happened. A bipartisan subcommittee of the Committee on Standards of Official Conduct has come together and acted in a careful, deliberate and responsible way to come forward with a finding that produced two miracles: It was both unanimous and it operated within the confidentiality that meets the highest standards that this House could expect.

It took 8 months to do that; 8 months of careful work. Does the full committee and, if needed, the full House, require 8 months to do that? I do not believe so. Does it require 8 weeks to do that? I do not think so. But can that same measure, that same quality of work be done in 8 days, from the 13th to the 21st? I do not think so, and we should not plan on it.

I have seen the room that is the repository of the work of this subcommittee. It is filled with shelf after shelf of indexed, loose-leaf notebooks that represent the work, the documents and the testimony that they have poured over over those 8 months, and the packing crates, the dozens and dozens of packing crates, that represent even further work.

I have read the 22 pages of the statement of alleged violations. I have read through several hundred pages of draft discussion documents that represent the work that the committee reported on, and I have looked through the hundreds of pages of selected primary documents that serve as the underpinnings of those documents.

I have read not only the selected examples of violations and sanctions that the Ethics staff has prepared, but I have read the full CRS analysis of the summaries of violations deep into the last century and the way this Congress has handled them. Others not on the subcommittee but on the full committee may have done as much, but I can suggest to my colleagues that no one has done more, and I am not done.

But I have reached one clear conclusion in this matter, and that is that to do justice to the work of the subcommittee, we cannot be rushed. To do justice, even more importantly, to the respondent in this case, the man we just elected Speaker, we cannot be rushed. And most importantly of all, to do justice to this House demands not only a higher standard of ethical behavior but a higher standard of work in rendering that justice. It cannot be done in 8 days. It may not take 8 months, or it may not take 8 weeks, but it cannot be done in 8 days.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas, Mr. RON PAUL, my former classmate from 1978.

Mr. PAUL. Mr. Speaker, I wish to express my concern about some of the rule changes.

DRUG TESTING

We are now being asked to support rule changes that will require random drug testing of all Members and staff. Drug usage in this country, both legal and illegal, is a major problem and deserves serious attention. However, the proposal to test randomly individuals as a method to cut down on drug usage is ill-advised and should not be done without serious thought.

The real issue here is not drugs, but rather the issues of privacy, due process, probable cause, and the fourth amendment. We are dealing with a constitutional issue of the utmost importance. It raises the question of whether or not we understand the overriding principle of the 4th amendment.

A broader, but related question is whether or not it's the Government's role to mold behavior any more than it's the Government's role to mold, regulate, tax, impede the voluntarism of economic contractual arrangements. No one advocates prior restraint to regulate journalistic expression even though great harm has come over the centuries from the promotion of authoritian ideas. Likewise, we do not advocate the regulation of political expression and religious beliefs however bizarre and potentially harmful they may seem. And yet we casually assume that it's the role of government to regulate personal behavior to make one act more responsibly.

A large number of us do not call for the regulation or banning of guns because someone might use a gun in an illegal fashion. We argue that it's the criminal that needs regulated and refuse to call for diminishing the freedom of law-abiding citizens because some individual might commit a crime with a gun. Random drug testing is based on the same assumption made by anti-gun proponents. Unreasonable effort at identifying the occasional and improbable drug user should not replace respect to our privacy. Its not worth it.

While some are more interested in regulating economic transactions in order to make a "fairer" society, others are more anxious to regulate personal behavior to make a "good" society. But both cling to the failed notion that governments, politicians, and bureaucrats know that is best for everyone. If we casually allow our persons to be searched, why is it less important that our conversations, our papers and our telephones not be monitored as well. Vital information regarding drugs might be obtained in this manner. We who champion the cause of limited government ought not be promoters of the revolving eye of big brother.

If we embark on this course to check randomly all Congressional personnel for possible drug usage, it must be noted that the two most dangerous and destructive drugs in this country are alcohol and nicotine. To not include these in the efforts to do good, is inconsistent—to say the least.

I have one question. If we have so little respect for our own privacy, our own liberty, and our own innocence, how can we be expected to protect the liberties, the privacy and the innocence of our constituents for which we have just sworn an oath to do?

This legislation is well motivated, as is all economic welfare legislation. The good intentions in solving social problems—when violence is absent—perversely uses government power, which inevitably hurts innocent people while rarely doing anything to prevent the anticipated destructive behavior of a few.

The only answer to solving problems like this is to encourage purely voluntary testing programs whereby each individual and member makes the information available to those who are worried about issues like this.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time, and I ask that the RECORD reflect my support of the rules and particularly in its maintaining its prohibition of proxy voting.

Mr. BONIOR. Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time. I rise as a member of the special investigative committee of the Ethics Subcommittee on this unfortunate case that we are looking into, and I rise in support of the motion to recommit.

There are many areas where I might have some disagreement with the rules package, but I am very pleased that the Democratic leadership has given us an opportunity to present the motion to recommit around the timetable.

With all respect in the world for our colleagues, and that means every single colleague in this House of Representatives, I believe that we need to heed the request of the special counsel for an additional amount of time for a few reasons.

First of all, and I say this without questioning the motivation of anyone on either side of the aisle about why the rules are in the package the way they are, the simple fact is that the special counsel, and by unanimous vote of the subcommittee, two Democrats and two Republicans, supporting the timetable that the special counsel has put forth, are making this request. And I believe that the burden is on those who would deny the special counsel that extended time.

Why do we need more time? Several things have happened that have not been addressed here yet, or forgive me if I have not heard them. I would like to associate myself with those remarks.

First of all, one of the members of the Committee on Standards of Official Conduct has decided to leave the committee, so it required the appointment of a new committee member who has to become familiarized with the facts in the case, because this is a facts-driven, facts-based case.

And without going into any of the material aspects of it or any of the substance of this case, but only to process and only to time, I thought I would never see the day when the chair of the Committee on Standards of Official Conduct would come to the floor and say that she would turn down the request of the special counsel to the committee for a couple more weeks to complete the work of the committee. I say that very regrettably.

On our subcommittee, chaired by the gentleman from Florida, Mr. PORTER GOSS, and with two Democrats and two Republicans, we have worked in a very bipartisan fashion all along and continue to in supporting the request of the special counsel.

I do not and never did think it was appropriate to have a vote on this important matter on Inauguration Day. Do my colleagues think that vote is going to take place without any debate? That would not be right.

So I say to my colleagues in the House of Representatives, and I say this with the highest regard for the distinguished majority leader, not impugning any of his motives in this or anyone else on either side of the aisle, whatever we think about the resolution of the case, I think we must agree that if the special counsel says he needs a couple more weeks, we must give him those weeks unless we can prove why that should not happen. The burden of proof is with those who would vote against the special counsel.

□ 1545

Mr. Speaker, I also want to make another point as to why more time is necessary. Because of a flurry of accusations and representations about the confidential work of the subcommittee that came out, it required us to go down another tangent to deal with that, and it necessitated a statement by the special counsel that the reports that were floating out there were inaccurate.

So in 1 week the special counsel has had to deem those rumors inaccurate and come out with his own statement asking for more time, in which he says each member of the subcommittee has carefully considered this recommended schedule and agrees it is the best course on which to proceed.

I urge my colleagues to vote for the motion to commit.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking member of the Rules Committee.

Mr. MOAKLEY. Mr. Speaker, I thank the distinguished leader for the time.

Mr. Speaker, I had hoped to speak today about the Republican rules package as it pertains to the rules of the House. But unfortunately the rules package has been changed very dramatically and now addresses the issue of the ethics investigation of the Speaker.

I believe, Mr. Speaker, that it helps no one, neither Democrats nor Republicans, for unresolved investigations to drag on and on. But I also believe that we do have a responsibility to all the people who sent us here to make sure that absolutely every Member of Congress, no matter how powerful, abides by the rules of this House and that the House rules are applied fairly and consistently to every one of us.

Mr. Speaker, I have here a letter from the nonpartisan independent counsel for the Ethics Committee in which he and the entire subcommittee ask for more time, ask for more time, to complete their investigation. But the rules package prevents them from having that time and in doing so, Mr. Speaker, further compromises the honor of this institution.

Mr. Speaker, I urge my colleagues to oppose this rules package and to support the motion to commit. We must give the ethics members and the independent counsel enough time to finish the job that they started.

The SPEAKER pro tempore [Mr. LAHOOD]. The gentleman from Michigan [Mr. BONIOR] has 6½ minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 5 minutes remaining.

Mr. BONIOR. Mr. Speaker, I yield 1¾ minutes to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, today our Republican colleagues have told us and told America that NEWT GINGRICH represents the most ethical person that they could find to lead this House of Representatives, and now by this rules resolution they also tell America how little confidence they have in their judgment.

Once again the Republican leadership, through this rules package, is trying to pervert the ethics process, to afford special treatment to Speaker GINGRICH that he does not deserve. He once said on the floor of this House that the Speaker should be held to a higher standard of ethical conduct. Today we move in the opposite direction with this rules package, because he is going to be assured a lesser standard of conduct that would not be available to any ordinary American citizen anywhere in this country.

What is happening? The investigative subcommittee, Republicans and Democrats alike, and the special counsel, who was finally appointed after month upon month of delay, come forward and say, "We can't do our job fairly and thoroughly if we are rushed into doing all this before January 21. Please give us the time to do our job fairly."

And the Republican leadership, the gentleman from Texas [Mr. ARMEY] standing right here, says no, we are not going to give you the time to do your job the way the American people would want that job done and the way any American prosecutor would want to have the opportunity to do that job.

I would say this rules package, just like the misconduct of Speaker GINGRICH itself, is a discredit, a dishonor, and a disgrace to this House and it should be rejected.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. I thank the chairman for yielding me this time.

Mr. Speaker, I simply want to state that my comments are in connection with section 9 of the resolution dealing with the proposal that each committee shall, to the maximum extent feasible, make its publications available in an electronic form. I strongly support this.

Mr. Speaker, I rise to indicate my strong support for section 9 of the resolution, which adds the following sub-paragraph at the end of clause 2(e) of rule XI, as follows:

> (4) Each Committee shall, to the maximum extent feasible, make its publications available in electronic form.

I strongly support this addition to the rules, but also want to clarify how I interpret this.

I am committed to making all House documents available over the Internet as rapidly as possible. There are still many technical problems involved, as well as political issues to be dealt with. However, I believe that this statement is an excellent guiding principle, and I believe this proposed rule change should be interpreted as a means of achieving that objective.

In particular, I believe it absolutely essential that every document available in hard copy also be made available on the Internet at the same time or earlier than the hard copy is available. The Congress owes the public at least that much and preferably more.

I furthermore hope that, through the years, all House committees will develop the standard practice of making many documents available on the Internet which are currently not available, and that committees will continue to make progress in that direction.

From my activities in the computerization of the House, and in my service as a member of the Committee on House Oversight, I will seek to achieve these objectives, while recognizing the authority and responsibilities that each committee chairman has in dealing with business before his or her committee.

Thank you for the opportunity to make these comments. Once again, I wish to indicate my strong support for this proposed rule change. I only wish it went further.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. MILLER], the ranking minority member of the Resources Committee.

Mr. MILLER of California. I thank the gentleman for yielding me this time, and I would just encourage my colleagues to vote against the previous question so that we would have an opportunity in the rules of this House to have a deadline set on the consideration of campaign finance reform by the House of Representatives.

Those who are new to the House of Representatives will soon see that usually the party in power deals with campaign finance reform through delay and dilatory tactics until we can get it at such a time that we pass it to the Senate in the last moments of the first session, and then it falls prey to a filibuster in the Senate, and then at some point the leader in the Senate will announce that the Senate must get on with the important business of the Nation, and campaign finance reform will have to be withdrawn from the calendar. That is why we do not get campaign finance reform.

Unfortunately, in this session of the Congress, the 100th legislative day falls sometime late in September. If we deal with campaign finance reform late in September, there will be no finance reform and the argument will be made that it certainly cannot take effect in the next campaign, it will have to be 2 years later. So we are talking about 4 years from now to have campaign finance reform.

It is too important to the people of this country. The system we have now is a cesspool. It has got to be corrected. It permeates every decision made in this body, it permeates every decision made in the executive branch, and it permeates every decision made in the Senate, and that has got to stop. It dictates what we bring up, what we do not bring up, amendments that are offered and amendments that are not offered. That has got to stop, and we have got to return the business of this country back to the people of this country.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Colorado [Mr. SKAGGS], a member of the Appropriations Committee.

Mr. SKAGGS. I thank the gentleman for yielding me the time.

Mr. Speaker, we should be concerned here today, as well, with the first amendment's guarantee of the rights of all Americans to petition their government. We ought to welcome their participation in our own committee work.

But what are we doing in these rules? We are creating a new and absurd barrier to public participation in House hearings by saying that any nongovernmental witness testifying in committee will have to file, as a precondition, a full report of all contracts, subcontracts, grants, subgrants received by that individual, his organization, or anyone he is representing.

What in the world are we trying to do here? I think erect a barrier a la the old Istook amendment to discourage and intimidate citizens from around the country in coming to talk to us about the public's business.

What will this mean? What unworkable prospect can we look forward to under this crazy proposal? Well, the head of the Farm Bureau, wanting to testify about agricultural policy, will have to disclose every Federal agricultural aid, grant, or contract received by every member of the Farm Bureau. That is nuts.

The chairman of the board of regents of the University of New York, if he wishes to testify before a committee of this House, will have to file as a precondition of that testimony a full report of every contract, subcontract, grant, and subgrant received by any member of the faculty at any campus at any institution run by the regents of the State of New York.

Either this provision will be observed largely in the breach, or only selectively (preferentially?) applied in which case we should reject it. Or, it will actually be uniformly enforced to create a mountain of paper and a real impediment to public participation, in which case we should reject it even more emphatically.

What are we inflicting on ourselves in this provision of this rules package? It is yet another reason, along with the many others that have been suggested, why it should be rejected.

Mr. SOLOMON. Mr. Speaker, I yield myself 20 seconds just to respond.

The gentleman is absolutely wrong. Farmers would not have to report any of their subsidies.

Let me tell you who is interested in this: the Heritage Foundation, the National Taxpayers Union, the Wall Street Journal; and, more than that, the taxpayers of my district want to know who is coming here testifying for more handouts, and they want to know where that money is coming from. They want them to be accountable.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], the distinguished chairwoman of the Ethics Committee.

Mrs. JOHNSON of Connecticut. I thank the chairman for yielding me the time.

Mr. Speaker, I have enormous respect for the members of the Ethics Committee who served on the subcommittee. I have great respect for the other members of the Ethics Committee that have worked hard together over 2 years, and I regret as deeply as you do that we are discussing this matter on the floor of the House. It is unfortunate that it came to us 10 minutes before the Republicans were convening a very important conference that went on very late. By the time I finished discussing the matter with my leadership, working on compliance, frankly, everyone was gone.

I have studied carefully your proposal. I talked with Mr. Cole about it extensively this morning. Your proposal is no different than the old timetable in terms of the amount of time for public hearing and the amount of time for committee deliberation. It is distinctly different in the amount of time for preparation, and I felt that was a very important point, that the subcommittee has some request for participating in presentation.

We can give you 4½ of the 5 days you are requesting for preparation if we meet this evening instead of tomorrow morning, so tomorrow morning will be a better work space, either for Mr. Cole, who needs a day to work by himself, or for everyone. We can accommodate 4½ of the 5 days.

What we cannot accommodate is the report writing time. He had asked 2 days to complete the report. We can accommodate that. We cannot accommodate the 4 additional days that he had asked for members to review. Now, that means we have to work with him and be part of that review. We know what a lot of the material is about.

As to the concern of the gentlewoman from California [Ms. PELOSI] about voting on Inauguration Day, this was slipped to the next day. That was originally the plan, but it has been moved, and members will stay over.

But we simply, when I look at what we can accommodate, we can truly accommodate everything important because remember, your proposal only asked till the 25th, not the 21st, so we only had a 4-day problem. We can slip 1 day. That brings it down to 3 days and so on and so forth. This is a manageable problem.

The time for hearings and committee deliberations will be identical. Even though I am going to oppose your motion to commit, I am absolutely ready to honor the concerns that lay behind your proposal, and I regret that we were unable to work it out beforehand.

But my leadership felt, with, I think, some good reason, that they had made a commitment to the members that they trusted our timetable, which was also supported by all the members and Mr. Cole, and it is just unfortunate but not irreconcilable, not irreparable and does not need to interfere with the quality either of our deliberations or our work.

Mr. CARDIN. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Maryland.

Mr. CARDIN. I thank the gentlewoman for yielding.

Let me just point out one thing. Although we requested about 30 days ago what the transition rule would look like, we got our first draft of it yesterday morning. So we just got the transition rule yesterday morning.

The second point I would point out is that Mr. Cole and the subcommittee, they are very familiar with the voluminous documents. We do not have enough time to get a quality report to the House under this time schedule.

Mrs. JOHNSON of Connecticut. The transition rule could not be worked out until we were done, and so we are here. I hope we will work well together to complete the work on this important case.

Mr. MOAKLEY. Mr. Speaker, I yield 45 seconds to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, in the very brief time I have, I regret that this package of rule changes has come down to debate on just one of those changes. Overall it is a pretty good rules change, but there is one that is grossly inadequate.

As we meet right now on the floor of the House of Representatives, the Transportation Committee, of which I am a member, is meeting in the Rayburn Building. I cannot be in two places at once. We should have a House rule that prohibits the committees meeting while the House is in session. Instead, you are offering a rules change that would remove the last prohibition against the committees meeting while the House is in session. That is a gross mistake. And because we have a mistake, I will vote against your package.

Mr. Speaker, I would hope that the gentleman from New York [Mr. SOLOMON] would be good enough to allow the Members to vote on some of these changes individually, because overall it is a good package and I would like to help pass your package. But I cannot let the terrible wrong of one change make up for some of the good of the others.

□ 1600

Mr. MOAKLEY. Mr. Speaker, I yield 45 seconds to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, I rise today in support of the minority rules package, specifically the rule requiring prompt House action on campaign finance reform. As my colleagues know, we have heard a lot around here about the 1996 campaign and how it proves once and for all that our electoral system is out of control. But it is only the minority package, the Democratic rules package, that requires the House to deal with campaign finance reform.

Today make no mistake about it. The minority plan being offered by the Democrats would require this House to act on campaign finance reform because as we get down the road here there are going to be efforts to get around this one way or the other like that we had in the last session.

We have a chance right now to set the record straight and debate campaign finance reform and require it. However, the majority has offered a rules package that does not make that requirement.

Mr. MOAKLEY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 15 seconds.

Mr. MOAKLEY. Mr. Speaker, I urge a "no" vote on the previous question, and I include for the RECORD the amendment I would offer if the previous question is defeated, as follows:

DEMOCRATIC REFORM PACKAGE TO BE OFFERED IF THE PREVIOUS QUESTION IS DEFEATED

AMENDMENT TO BE OFFERED TO H. RES. ——

(1) In section 8(a)(2), strike the proposed new subparagraph (2) [providing that investigative and oversight reports will be considered as read under certain circumstances] and redesignate accordingly.

(2) Strike section 10 [placing information burdens on certain public witnesses].

(3) Strike section 12 [making exceptions to the five-minute rule in hearings].

(4) Strike section 14 [reducing the time for Members to file supplemental, minority, or additional views]

(5) Strike section 15 [creating a slush fund for committees]

(6) Strike section 17 [permitting dynamic estimates in certain instances]

(7) Strike section 18 [making changes in the appropriations process]

(8) in the last sentence of section 25, strike ", or at the expiration of January 21, 1997, whichever is earlier".

(9) At the end of the resolution, add the following new section:

"SECTION ____. SUBSTANTIVE CAMPAIGN FINANCE REFORM.

(a) The Committee on House Oversight is directed to report to the House not later than April 7, 1997, a bill to provide for substantive campaign finance reform.

(b) Not later than ten calendar days after the Committee on House Oversight has reported a bill pursuant to subparagraph (a), the Committee on Rules shall report a resolution providing for the consideration of such bill in the Committee of the Whole House on the State of the Union under an open amendment process. If the Committee on House Oversight has not reported a bill as required by the date specified in subparagraph (a), the Committee on Rules shall report not later than ten calendar days after such date a resolution providing for consideration in the Committee of the Whole of the first bill introduced in the 105th Congress providing for substantive campaign finance reform under an open amendment process.

(c) if the Committee on Rules has not reported a resolution pursuant to subparagraph (b) by the date specified, it shall be in order for any Member, as a matter of highest privilege, on any day thereafter, to move that the House resolve into the Committee of the Whole House on the State of the Union for the consideration of the first bill introduced in the 105th Congress providing for substantive campaign finance reform, the bill shall be subject to two hours of general debate to be equally divided between the proponents and opponents of the bill, and shall then be considered for amendment under the five-minute rule.".

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield the remainder of the time, 1 minute and 45 seconds, to the gentleman from Claremont, CA [Mr. DREIER], the vice chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend from Glens Falls, and with that I yield briefly to my friend, the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I had planned to speak longer, but I do not have time. But the only thing I would like to point out is I oppose this because there is not a date certain for ending this committee. We had an agreement that it would be in writing on the 21st. This merely just takes out the 21st date and leaves an open end so this committee can go on forever and ever, and therefore I oppose this motion.

Mr. DREIER. Mr. Speaker, I thank my friend for his contribution and, Mr. Speaker, I rise in strong support of this rules package and strong support in passage of the previous question.

This is a very thoughtful package that builds on what we did in the beginning of the 104th Congress. My colleague from Pennsylvania, Mr. GEKAS, stood up and praised the fact that we did away with proxy voting. He appreciated the fact that we reaffirmed our commitment, the elimination of proxy voting, so Members would show up for work. We also have had Congress comply with laws imposed on every other American. These are the kinds of commonsense reforms that the American people want us to have.

Now my colleagues on the other side of the aisle are trying with what they would offer if they were to defeat the previous question, they want to eliminate disclosure. They do not want witnesses to provide information to committees when they come forward to testify. If we defeat the previous question, they would be able to make that in order and it would be wrong if they were to proceed with that.

With that I would say also that I am very pleased with another item in this package, Mr. Speaker, and that is the provision which calls for dynamic scoring. Today I introduced H.R. 14 with my colleagues the gentleman from Virginia [Mr. MORAN], the gentleman from Pennsylvania [Mr. ENGLISH], and the gentleman from Texas [Mr. HALL], a bipartisan package to take the top rate on capital gains from 28 percent down to 14 percent to encourage economic growth. This is a very important package which will allow us to move ahead with that, and with that I urge a "yes" vote on the previous question.

Mr. DINGELL. Mr. Speaker, tucked away in the package of rules changes being proposed by the Republican majority is a reduction in the time permitted for the minority to file its views on legislation reported by a committee. The change would reduce the number of days for filing these views from 3 days to 2 days.

I find it ironic indeed that during the 40 years of control by the Democratic Party, we never considered limiting this fundamental right of the minority to file views on legislation. Yet after just 2 years in control of the House, the Republicans now have found the granting of 3 whole days to the minority to file its views as somehow being too onerous.

What is the motivation of this change? Was there some important business we failed to complete in the 104th Congress because of the 3 day filing period? Of course not. Certainly there appears to be no rush to pass legislation in this Congress. If that were the case we would be in session for more than the proposed 10 days over the next 2 months.

The reason seems pretty obvious. The majority wants to make it harder for Members to hear the arguments being made by the minority. They know that the logistics of drafting dissenting views and circulating them for signatures takes time, and if they can limit the time, they hope they can limit the debate.

It is truly shameful that a party which served in the minority for 40 years would be so quick to trample on one of the most important minority rights—namely, the right to express your views.

Mr. GOSS. Mr. Speaker, I thank the gentleman, the distinguished chairman of our Rules Committee Mr. SOLOMON, for all his diligent work on behalf of the rules of this House. I wish all of my colleagues a happy new year and look forward to working with all of you for a productive session.

As Members know, this time 2 years ago the new Republican majority brought forward a bold and comprehensive package of rules changes geared toward creating a more open, more responsive and more effective House. With those landmark changes we began a new era of management of this institution—one that fostered greater deliberation and public accountability. Today we bring forth a second installment, by design more moderate in scope and targeted toward refining the major improvements we made in 1995.

I was proud to have assisted in crafting this package, working with our chairman and my colleague DAVID DREIER in holding unprecedented public hearings to solicit suggestions from our colleagues and outside witnesses. Those four hearings—held in the late summer and early fall—greatly assisted our efforts to design this targeted package of rules changes. It is my hope that this exercise becomes standard procedure. Mr. SOLOMON has already described the details of this package, which all Members by now have had the opportunity to scrutinize and review. I would just like to point out three specific changes that I think are particularly important. The first is the incorporation of dynamic scoring—in effect providing official recognition of what many of us have known for some time: that legislation does affect the way people act. It's about time we became more accurate and sophisticated in our budget scoring efforts and began attempting to remove some of the institutional bias towards profligate spending.

Second, I am pleased that we were able to provide for the establishment of a suitable drug testing policy for this House. This is a matter on which the private sector and even the executive branch have moved while this House has lagged behind. It's time we brought ourselves into line with the times and this rules package paves the way for that to happen. Finally, we are continuing our important efforts to modernize Congress and open the legislative process to the sunshine of public scrutiny by asking our committees, to the maximum extent feasible, to put their publications on the Internet. We are all committed to expanding public access to and understanding of the workings of this Congress—and clearly opening up the committee process is integral to that effort. One last note on a topic that has received considerable attention recently—this rules package does temporarily reconstitute the Committee on Standards of Official Conduct from the previous Congress, to allow it to complete its pending business.

All in all, Mr. Speaker, I think this is a practical and workable package of rules changes, one that builds on the enormous success of the rules rewrite we conducted in 1995—making technical adjustments where the past 2 years' experiences have suggested modifications are needed, and taking additional steps to enhance the openness, deliberation, and accountability of this body.

Mr. BARTON of Texas. Mr. Speaker, I would like to thank Chairman Solomon for allowing me the time to express my support for the provision in the 105th Congress House Rules Package which requires that the Speaker of the House, in consultation with the minority leader, develop a system for drug testing the Members, staff and officers of the House of Representatives. I appreciate Chairman Solomon's commitment to ensuring that this provision is a part of the package.

In the past several Congresses, I have introduced a bill that would require Members of Congress to be mandatorily drug tested. Since 1989, I have followed this practice myself, by paying out of my own pocket to have both my staff and myself randomly drug tested. However, I have continued to work hard to see that mandatory drug testing be implemented in the entire House of Representatives.

I believe that Members of Congress should be mandatorily drug tested, just as our constituents working in federal agencies and private industry are tested. We should not hold ourselves to a different standard than those we represent. As Members of Congress, we have an obligation to not only set policy, but to set an example for those we represent, and show them that we are held accountable for our actions, just as they are asked to be accountable in their jobs.

Furthermore, considering the recent rise of drug use among teens in this country, we must send a message to young people that drug abuse is dangerous and wrong, by taking action to institute mandatory drug testing for Members of Congress.

I am greatly encouraged by this language in the House Rules Package for the 105th Congress. With this provision, we have the opportunity to institute a tough policy on drug testing for Members and staff in the House of Representatives. I urge my colleagues to support this House Rules Package, which I know the chairman himself and the staff of the House Rules Committee has put a lot of work into.

I appreciate Chairman Solomon's willingness to work with me personally on an issue I feel strongly about, especially for the language specifying that the system of drug testing may provide for testing of any Member, officer, or employee of the House.

I would especially like to recommend that the drug testing system developed for the House contain a provision that Members of the House of Representatives, in particular, be required to submit to mandatory, random drug tests. Although the traditional method of drug testing is urinalysis, I would like to see the final regulations leave the options open so that Members may have the choice of other methods of testing in addition to urinalysis.

Again, I thank the chairman for the time and commend him for his long-standing championship of drug testing so that we may fight the war against drugs and make the Congress more accountable to those we represent.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 221, nays 202, not voting 10, as follows:

[Roll No. 4]

YEAS—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Barrett (NE)
Blagojevich
Brady
Brown (FL)
Condit
Cooksey
Peterson (PA)
Sanford
Torres
Weller

☐ 1615

Mr. CONYERS changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION TO COMMIT OFFERED BY MR. McDERMOTT

Mr. McDERMOTT. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. McDERMOTT moves to commit the resolution (H. Res. 5), to a select committee comprised of the Majority Leader and the Minority Leader with instructions to report back the same to the House forthwith with only the following amendment:

In the last sentence of section 25, strike ", or at the expiration of January 21, 1997, whichever is earlier".

PARLIAMENTARY INQUIRIES

Mr. SOLOMON. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, due to the noise, I did not hear the Clerk read and I have three different motions to commit.

The SPEAKER pro tempore. The Clerk will re-report the motion.

The Clerk re-reported the motion.

☐ 1630

Mr. SOLOMON. So there is no date at all in what the gentleman just read.

Mr. DOGGETT. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will state it.

Mr. DOGGETT. Mr. Speaker, is this the vote to accept the independent counsel's recommendations for the orderly——

Mr. SOLOMON. Regular order, Mr. Speaker.

Mr. DOGGETT. Consideration of the Gingrich ethics complaint requested——

Mr. SOLOMON. Regular order.

Mr. DOGGETT. By both the Republicans and Democrat members of the——

Mr. SOLOMON. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

The motion to commit is not debatable under general parliamentary procedure applicable to the House.

Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit offered by the gentleman from Washington [Mr. McDERMOTT].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. McDERMOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 205, nays 223, not voting 4, as follows:

[Roll No. 5]

YEAS—205

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Goss
Green
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schiff
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NAYS—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Condit
Gutierrez
Sanford
Torres

☐ 1645

Mr. GREENWOOD and Mr. ROBERT SCHAFFER of Colorado changed their vote from "yea" to "nay."

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 226, nays 202, not voting 4, as follows:

[Roll No. 6]

YEAS—226

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly

Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—4

McInnis
Richardson
Stabenow
Torres

□ 1705

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 5.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from New York?

There was no objection.

MESSAGES FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed resolutions and concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. RES. 1

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

S. RES. 2

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

S. RES. 6

Resolved, That the House of Representatives be notified of the election of Strom Thurmond, a Senator from the State of South Carolina, as President pro tempore.

S. CON. RES. 1

Concurrent resolution to provide for the counting on January 9, 1997, of the electoral votes for President and Vice President of the United States.

S. CON. RES. 2

Concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 48.

S. CON. RES. 3

Concurrent resolution providing for a recess or adjournment of the Senate from January 9, 1997 to January 21, 1997, and an adjournment of the House from January 9, 1997 to January 20, 1997, from January 20, 1997 to January 21, 1997, and from January 21, 1997 to February 4, 1997.

COMPENSATION OF CERTAIN MINORITY EMPLOYEES

Mr. GEPHARDT. Mr. Speaker, I offer a resolution (H. Res. 6) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 6

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, the six minority employees authorized therein shall be the following named persons, effective January 3, 1997, until otherwise ordered by the House, to wit: Steve Elmendorf, George Kundanis, Marti Thomas, Sharon Daniels, Dan Turton, and Laura Nichols, each to receive gross compensation pursuant to the provisions of House Resolution 119, Ninety-fifth Congress, as enacted into permanent law by section 115 of Public Law 95–94. In addition, the Minority Leader may appoint and set the annual rate of pay for up to three further minority employees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ESTABLISHING THE CORRECTIONS CALENDAR OFFICE

Mr. BOEHNER. Mr. Speaker, I offer a resolution (H. Res. 7) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 7

Resolved,

SECTION 1. CORRECTIONS CALENDAR OFFICE.

There is established in the House of Representatives an office to be known as the Corrections Calendar Office, which shall have the responsibility of assisting the Speaker in the management of the Corrections Calendar under the Rules of the House of Representatives. The Office shall have not more than five employees—

(1) who shall be appointed by the Speaker, in consultation with the minority leader; and

(2) whose annual rate of pay shall be establish by the Speaker, but may not exceed 75 percent of the maximum annual rate under the general limitation specified by the order of the Speaker in effect under section 311(d) of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a 2a).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR RECESS OR ADJOURNMENT OF THE SENATE FROM JANUARY 9, 1997, TO JANUARY 21, 1997; AND FOR ADJOURNMENT OF THE HOUSE FROM JANUARY 9, 1997, TO JANUARY 20, 1997, AND FROM JANUARY 21, 1997 TO FEBRUARY 4, 1997

The SPEAKER pro tempore laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 3) to provide for a recess or adjournment of the Senate from January 9, 1997, to January 21, 1997; and for adjournment of the House from January 9, 1997, to January 20, 1997, and from January 21, 1997, to February 4, 1997

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on Thursday, January 9, 1997, pursuant to a motion made by the Majority Leader or his designee, in accordance with the provisions of this resolution, it stand recessed or adjourned until 12:00 noon on Tuesday, January 21, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution; and that when the House adjourns on Thursday, January 9, 1997, it stand adjourned until 10:00 a.m. on Monday, January 20, 1997; that when the House adjourns on Monday, January 20, 1997, it stand adjourned until 12:00 noon on Tuesday, January 21, 1997; and that when the House adjourns on Tuesday, January 21, 1997, it stand adjourned until 12:30 p.m. on Tuesday, February 4, 1997, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FAZIO of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 198, not voting 12, as follows:

[Roll No. 7]

YEAS—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)

NAYS—198

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—12

Hoekstra
McInnis
Rangel
Richardson
Ros-Lehtinen
Smith (NJ)
Smith (OR)
Stokes
Torres
Weldon (PA)
Yates
Young (FL)

☐ 1729

Mr. METCALF changed his vote from "nay" to "yea."

So the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR A JOINT SESSION TO COUNT ELECTORAL VOTES

The SPEAKER pro tempore (Mr. LAHOOD) laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 1) to provide for the counting on January 9, 1997, of the electoral votes for the President and Vice President of the United States.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Thursday, the 9th day of January 1997, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of the President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CONTINUATION OF JOINT COMMITTEE TO MAKE INAUGURATION ARRANGEMENTS

The SPEAKER pro tempore laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 2) to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of Senate Concurrent Resolution 48 and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 1997, the joint committee created by Senate Concurrent Resolution 47 of the One Hundred Fourth Congress, to make the necessary arrangements for the inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 1997, the provisions of Senate Concurrent Resolution 48 of the One Hundred Fourth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President of the United States, and for other purposes, are hereby continued with the same power and authority.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF JOINT COMMITTEE TO MAKE NECESSARY ARRANGEMENTS FOR THE INAUGURATION ON JANUARY 20, 1997

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 2, 105th Congress, the Chair announces the Speaker's appointment as members of the joint committee to make the necessary arrangements for the inauguration of the President-elect and the Vice President-elect of the United States on the 20th day of January 1997, the following Members of the House: Mr. GEPHARDT of Missouri, Mr. GINGRICH of Georgia, and Mr. ARMEY of Texas.

PROVIDING FOR ATTENDANCE AT INAUGURAL CEREMONIES ON JANUARY 20, 1997

Mr. SOLOMON. Mr. Speaker, I offer a privileged resolution (H. Res. 8) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 8

Resolved, That at 10:30 a.m. on Monday, January 20, 1997, the House shall proceed to the West Front of the Capitol for the purpose of attending the inaugural ceremonies of the President and Vice President of the United States; and that upon the conclusion of the ceremonies the House stands adjourned until noon on Tuesday, January 21, 1997.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING OF THE HOUSE OF REPRESENTATIVES

Mr. SOLOMON. Mr. Speaker, I offer a privileged resolution (H. Res. 9) and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 9

Resolved, that unless otherwise ordered, before Monday, May 12, 1997, the daily meetings of the House shall be at 2 p.m. on Mondays; at 11 a.m. on Tuesdays and Wednesdays; and at 10 a.m. on all other days of the week; and that from Monday, May 12, 1997, until the end of the first session, the daily meeting of the House shall be at noon on Mondays; at 10 a.m. on Tuesdays, Wednesdays and Thursdays; and at 9 a.m. on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER OR HIS DEPUTY TO ADMINISTER THE OATH OF OFFICE TO THE HONORABLE FRANK TEJEDA

Mr. GEPHARDT. Mr. Speaker, I offer a privileged resolution (H. Res. 10) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 10

Whereas, Frank Tejeda, a Representative-elect from the 28th District of the State of Texas, has been unable from illness to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election: Now, therefore, be it

Resolved, That the Speaker, or deputy named by him, is hereby authorized to administer the oath of office to the Honorable Frank Tejeda at San Antonio, Texas, and that such oath be accepted and received by the House as the oath of office of the Honorable Frank Tejeda.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF THE HONORABLE ORLANDO GARCIA TO ADMINISTER OATH OF OFFICE TO THE HONORABLE FRANK TEJEDA

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 10, 105th Congress, the Chair announces the Speaker's appointment of the Honorable Orlando Garcia, Federal District Court Judge, to administer the oath of office to the Honorable FRANK TEJEDA.

AUTHORIZING THE SPEAKER OR HIS DEPUTY TO ADMINISTER THE OATH OF OFFICE TO THE HONORABLE JULIA CARSON

Mr. GEPHARDT. Mr. Speaker, I offer a privileged resolution (H. Res. 11) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 11

Whereas, Julia Carson, a Representative-elect from the Tenth District of the State of Indiana, has been unable from illness to appear in person to be sworn as a Member of the House, and there being no contest or question as to her election: Now, therefore, be it

Resolved, That the Speaker, or deputy named by him, is hereby authorized to administer the oath of office to the Honorable Julia Carson at Indianapolis, Indiana, and that such oath be accepted and received by the House as the oath of office of the Honorable Julia Carson.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF THE HONORABLE S. HUGH DILLON TO ADMINISTER OATH OF THE OFFICE OF THE HONORABLE JULIA CARSON

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 11, 105th Congress, the Chair announces the Speaker's appointment of the Honorable S. Hugh Dillon, Federal District Court Judge, to administer the oath of office to the Honorable JULIA CARSON.

ELECTION OF MAJORITY MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. BOEHNER. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 12) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 12

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees:

Committee on Agriculture: Mr. Smith of Oregon, Chairman; Mr. Combest; Mr. Barrett of Nebraska; Mr. Boehner; Mr. Ewing; Mr. Doolittle; Mr. Goodlatte; Mr. Pombo; Mr. Canady; Mr. Smith of Michigan; Mr. Everett; Mr. Lucas; Mr. Lewis of Kentucky; Mrs. Chenoweth; Mr. Hostettler; Mr. Bryant; Mr. Foley; Mr. Chambliss; Mr. LaHood; Mrs. Emerson; Mr. Moran of Kansas; Mr. Blunt; Mr. Pickering; Mr. Bob Schaffer of Colorado; Mr. Thune; Mr. Jenkins; and Mr. Cooksey.

Committee on Appropriations: Mr. Livingston, Chairman; Mr. McDade; Mr. Young of Florida; Mr. Regula; Mr. Lewis of California; Mr. Porter; Mr. Rogers; Mr. Skeen; Mr. Wolf; Mr. DeLay; Mr. Kolbe; Mr. Packard; Mr. Callahan; Mr. Walsh; Mr. Taylor of North Carolina; Mr. Hobson; Mr. Istook; Mr. Bonilla; Mr. Knollenberg; Mr. Miller of Florida; Mr. Dickey; Mr. Kingston; Mr. Parker; Mr. Frelinghuysen; Mr. Wicker; Mr. Forbes; Mr. Nethercutt; Mr. Neumann; Mr. Cunningham; Mr. Tiahrt; Mr. Wamp; Mr. Latham; Mrs. Northup; and Mr. Aderholt.

Committee on Banking and Financial Services: Mr. Leach, Chairman; Mr. McCollum; Mrs. Roukema; Mr. Bereuter; Mr. Baker; Mr. Lazio; Mr. Bachus; Mr. Castle; Mr. King; Mr. Campbell; Mr. Royce; Mr. Lucas; Mr. Metcalf; Mr. Ney; Mr. Ehrlich; Mr. Barr of Georgia; Mr. Fox; Mr. LoBiondo; Mr. Watts of Oklahoma; Mrs. Kelly; Mr. Paul; Mr. Weldon of Florida; Mr. Ryun; Mr. Cook; Mr. Snowbarger; Mr. Riley; Mr. Hill; and Mr. Sessions.

Committee on the Budget: Mr. Kasich, Chairman; Mr. Hobson; Mr. Shays; Mr. Herger; Mr. Bunning; Mr. Smith of Texas; Mr. Miller of Florida; Mr. Franks of New Jersey; Mr. Smith of Michigan; Mr. Inglis of South Carolina; Ms. Molinari; Mr. Nussle; Mr. Hoekstra; Mr. Shadegg; Mr. Radanovich; Mr. Bass; Mr. Neumann; Mr. Parker; Mr. Ehrlich; Mr. Gutknecht; Mr. Hilleary; Ms. Granger; Mr. Sununu; and Mr. Pitts.

Committee on Commerce: Mr. Bliley, Chairman; Mr. Tauzin; Mr. Oxley; Mr. Bilirakis; Mr. Dan Schaefer of Colorado; Mr. Barton of Texas; Mr. Hastert; Mr. Upton; Mr. Stearns; Mr. Paxon; Mr. Gillmor; Mr. Klug; Mr. Greenwood; Mr. Crapo; Mr. Cox; Mr. Deal of Georgia; Mr. Largent; Mr. Burr of North Carolina; Mr. Bilbray; Mr. Whitfield; Mr. Ganske; Mr. Norwood; Mr. White; Mr. Coburn; Mr. Lazio; Mrs. Cubin; Mr. Rogan; and Mr. Shimkus.

Committee on Education and the Workforce: Mr. Goodling, Chairman; Mr. Petri; Mrs. Roukema; Mr. Fawell; Mr. Ballenger; Mr. Barrett of Nebraska; Mr. Hoekstra; Mr. McKeon; Mr. Castle; Mr. Sam Johnson of Texas; Mr. Talent; Mr. Greenwood; Mr. Knollenberg; Mr. Riggs; Mr. Graham; Mr. Souder; Mr. McIntosh; Mr. Norwood; Mr. Paul; Mr. Peterson of Pennsylvania; and Mr. Bob Schaffer of Colorado.

Committee on Government Reform and Oversight: Mr. Burton of Indiana, Chairman; Mr. Gilman; Mr. Hastert; Mrs. Morella; Mr. Shays; Mr. Schiff; Mr. Cox; Ms. Ros-Lehtinen; Mr. McHugh; Mr. Horn; Mr. Mica; Mr. Davis; Mr. McIntosh; Mr. Souder; Mr. Scarborough; Mr. Shadegg; Mr. LaTourette; Mr. Sanford; Mr. Ehrlich; Mr. Sununu; Mr. Sessions; Mr. Pappas; Mr. Brady; and Mr. Snowbarger.

Committee on House Oversight: Mr. Thomas, Chairman; Mr. Boehner; Mr. Ehlers; Mr. Ney; and Ms. Granger.

Committee on International Relations: Mr. Gilman, Chairman; Mr. Goodling; Mr. Leach; Mr. Hyde; Mr. Bereuter; Mr. Smith of New Jersey; Mr. Burton of Indiana; Mr. Gallegly; Ms. Ros-Lehtinen; Mr. Ballenger; Mr. Rohrabacher; Mr. Manzullo; Mr. Royce; Mr. King; Mr. Kim; Mr. Chabot; Mr. Sanford; Mr. Salmon; Mr. Houghton; Mr. Campbell; Mr. Fox; Mr. McHugh; Mr. Graham; Mr. Blunt; and Mr. Moran of Kansas.

Committee on the Judiciary: Mr. Hyde, Chairman; Mr. Sensenbrenner; Mr. McCollum; Mr. Gekas; Mr. Coble; Mr. Smith of Texas; Mr. Schiff; Mr. Gallegly; Mr. Canady; Mr. Inglis of South Carolina; Mr. Goodlatte; Mr. Buyer; Mr. Bono; Mr. Bryant; Mr. Chabot; Mr. Barr of Georgia; Mr. Jenkins; Mr. Hutchinson; Mr. Pease; and Mr. Cannon.

Committee on National Security: Mr. Spence, Chairman; Mr. Stump; Mr. Hunter; Mr. Kasich; Mr. Bateman; Mr. Hansen; Mr. Weldon of Pennsylvania; Mr. Hefley; Mr. Saxton; Mr. Buyer; Mrs. Fowler; Mr. McHugh; Mr. Talent; Mr. Everett; Mr. Bartlett of Maryland; Mr. McKeon; Mr. Lewis of Kentucky; Mr. Watts of Oklahoma; Mr. Thornberry; Mr. Hostettler; Mr. Chambliss; Mr. Hilleary; Mr. Scarborough; Mr. Jones; Mr. Graham; Mr. Bono; Mr. Ryun; Mr. Pappas; Mr. Riley; and Mr. Gibbons.

Committee on Resources: Mr. Young of Alaska, Chairman; Mr. Tauzin; Mr. Hansen; Mr. Saxton; Mr. Gallegly; Mr. Duncan; Mr. Hefley; Mr. Doolittle; Mr. Gilchrest; Mr. Calvert; Mr. Pombo; Mrs. Cubin; Mrs. Chenoweth; Mrs. Smith of Washington; Mr. Radanovich; Mr. Jones; Mr. Thornberry; Mr. Shadegg; Mr. Ensign; Mr. Smith of Oregon; Mr. Cannon; Mr. Brady; Mr. Peterson of Pennsylvania; Mr. Hill; Mr. Bob Schaffer of Colorado; and Mr. Gibbons.

Committee on Rules: Mr. Solomon, Chairman; Mr. Dreier; Mr. Goss; Mr. Linder; Ms. Pryce; Mr. Diaz-Balart; Mr. McInnis; Mr. Hastings; and Mrs. Myrick.

Committee on Transportation and Infrastructure: Mr. Shuster, Chairman; Mr. Young of Alaska; Mr. Petri; Mr. Boehlert; Mr. Bateman; Mr. Coble; Mr. Duncan; Ms. Molinari; Mr. Ewing; Mr. Gilchrest; Mr. Kim; Mr. Horn; Mr. Franks of New Jersey; Mr. Mica; Mr. Quinn; Mrs. Fowler; Mr. Ehlers; Mr. Bachus; Mr. LaTourette; Mrs. Kelly; Mr. LaHood; Mr. Baker; Mr. Riggs; Mr. Bass; Mr. Ney; Mr. Metcalf; Mrs. Emerson; Mr. Pease; Mr. Blunt; Mr. Pitts; Mr. Hutchinson; Mr. Cook; Mr. Cooksey; Mr. Thune; Mr. Pickering; and Ms. Granger.

Committee on Ways and Means: Mr. Archer, Chairman; Mr. Crane; Mr. Thomas; Mr. Shaw; Mrs. Johnson of Connecticut; Mr. Bunning; Mr. Houghton; Mr. Herger; Mr. McCrery; Mr. Camp; Mr. Ramstad; Mr. Nussle; Mr. Sam Johnson of Texas; Ms. Dunn; Mr. Collins; Mr. Portman; Mr. English of Pennsylvania; Mr. Ensign; Mr. Christensen; Mr. Watkins; Mr. Hayworth; Mr. Weller; and Mr. Hulshof.

Committee on Standards of Official Conduct: Mr. Hansen, Chairman.

Mr. BOEHNER (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MINORITY MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 13) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 13

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

COMMITTEE ON AGRICULTURE

Charles Stenholm, Texas; George Brown, Jr., California; Gary Condit, California; Collin Peterson, Minnesota; Calvin Dooley, California; Eva Clayton, North Carolina; David Minge, Minnesota; Earl Hilliard, Alabama; Earl Pomeroy, North Dakota; Tim Holden, Pennsylvania; Scotty Baesler, Kentucky; Sanford Bishop, Jr., Georgia; Bennie Thompson, Mississippi; Sam Farr, California; John Baldacci, Maine; Marion Berry, Arkansas; Virgil Goode, Virginia; Mike McIntyre, North Carolina; Debbie Stabenow, Michigan; Bobby Etheridge, North Carolina; Chris John, Louisiana.

COMMITTEE ON APPROPRIATIONS

David Obey, Wisconsin; Sidney Yates, Illinois; Louis Stokes, Ohio; John Murtha, Pennsylvania; Norm Dicks, Washington; Martin Sabo, Minnesota; Julian Dixon, California; Vic Fazio, California; Bill Hefner, North Carolina; Steny Hoyer, Maryland; Alan Mollohan, West Virginia; Marcy Kaptur, Ohio; David Skaggs, Colorado; Nancy Pelosi, California; Peter Visclosky, Indiana; Thomas Foglietta, Pennsylvania; Esteban Torres, California; Nita Lowey, New York; Jose Serrano, New York; Rosa DeLauro, Connecticut; James Moran, Virginia; John Olver, Massachusetts; Ed Pastor, Arizona; Carrie Meek, Florida; David Price, North Carolina; Chet Edwards, Texas.

COMMITTEE ON BANKING AND FINANCIAL SERVICES

Henry Gonzalez, Texas; John LaFalce, New York; Bruce Vento, Minnesota; Charles Schumer, New York; Barney Frank, Massachusetts; Paul Kanjorski, Pennsylvania; Joseph Kennedy, Massachusetts; Floyd Flake, New York; Maxine Waters, California; Carolyn Maloney, New York; Luis Gutierrez, New York; Lucille Roybal-Allard, California; Thomas Barrett, Wisconsin; Nydia Velázquez, New York; Melvin Watt, North Carolina; Maurice Hinchey, New York; Gary Ackerman, New York; Ken Bentsen, Texas; Jesse Jackson, Illinois; Cynthia McKinney, Georgia; Carolyn Kilpatrick, Michigan; Jim Maloney, Connecticut; Darlene Hooley, Oregon; Julia Carson, Indiana (When Sworn).

COMMITTEE ON THE BUDGET

John Spratt, South Carolina; Louise Slaughter, New York; Alan Mollohan, West Virginia; Jerry Costello, Illinois; Patsy Mink, Hawaii; Earl Pomeroy, North Dakota; Lynn Woolsey, California; Lucille Roybal-Allard, California; Lynn Rivers, Michigan; Lloyd Doggett, Texas; Bennie Thompson, Mississippi; Ben Cardin, Maryland; Scotty Baesler, Kentucky; David Minge, Minnesota; Ken Bentsen, Texas; Jim Davis, Florida; Brad Sherman, California; Robert Weygand, Rhode Island.

COMMITTEE ON COMMERCE

John Dingell, Michigan; Henry Waxman, California; Edward Markey, Massachusetts; Ralph Hall, Texas; Bill Richardson, New Mexico; Rick Boucher, Virginia; Thomas Manton, New York; Edolphus Towns, New York; Sherrod Brown, Ohio; Bart Gordon, Tennessee; Elizabeth Furse, Oregon; Peter Deutsch, Florida; Bobby Rush, Illinois; Anna Eshoo, California; Ron Klink, Pennsylvania; Bart Stupak, Michigan; Eliot Engel, New York; Albert Wynn, Maryland; Gene Green, Texas; Karen McCarthy, Missouri; Ted Strickland, Ohio; Diana DeGette, Colorado; Tom Sawyer, Ohio.

COMMITTEE ON EDUCATION AND THE WORKFORCE

William Clay, Missouri; George Miller, California; Dale Kildee, Michigan; Matthew Martinez, California; Major Owens, New York; Donald Payne, New Jersey; Patsy Mink, Hawaii; Robert Andrews, New Jersey; Tim Roemer, Indiana; Robert Scott, Virginia; Lynn Woolsey, California; Carlos Romero-Barceló, Puerto Rico; Chaka Fattah, Pennsylvania; Earl Blumenauer, Oregon; Ruben Hinojosa, Texas; Carolyn McCarthy, New York; John Tierney, Massachusetts; Ron Kind, Wisconsin; Loretta Sanchez, California; and Harold Ford, Jr., Tennessee.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Henry Waxman, California; Tom Lantos, California; Robert Wise, West Virginia; Major Owens, New York; Edolphus Towns, New York; Paul Kanjorski, Pennsylvania; Gary Condit, California; Collin Peterson, Minnesota; Carolyn Maloney, New York; Thomas Barrett, Wisconsin; Eleanor Holmes-Norton, District of Columbia; Chaka Fattah, Pennsylvania; Tim Holden, Pennsylvania; Elijah Cummings, Maryland; Dennis Kucinich, Ohio; and Rod Blagojevich, Illinois.

COMMITTEE ON HOUSE OVERSIGHT

Sam Gejdenson, Connecticut.

COMMITTEE ON INTERNATIONAL RELATIONS

Lee Hamilton, Indiana; Sam Gejdenson, Connecticut; Tom Lantos, California; Howard Berman, California; Gary Ackerman, New York; Eni Faleomavaega, American Samoa; Matthew Martinez, California; Donald Payne, New Jersey; Robert Andrews, New Jersey; Robert Menendez, New Jersey; Sherrod Brown, Ohio; Cynthia McKinney, Georgia; Alcee Hastings, Florida; Pat Danner, Missouri; Earl Hilliard, Alabama; Walter Capps, California; Brad Sherman, California; Robert Wexler, Florida; Dennis Kucinich, Ohio; Steve Rothman, New Jersey.

COMMITTEE ON THE JUDICIARY

John Conyers, Michigan; Barney Frank, Massachusetts; Charles Schumer, New York; Howard Berman, California; Rick Boucher, Virginia; Jerrold Nadler, New York; Robert Scott, Virginia; Melvin Watt, North Carolina; Zoe Lofgren, California; Sheila Jackson-Lee, Texas; Maxine Waters, California; Marty Meehan, Massachusetts; William DeLahunt, Massachusetts; Robert Wexler, Florida; Steve Rothman, New Jersey.

COMMITTEE ON NATIONAL SECURITY

Ronald Dellums, California; Ike Skelton, Missouri; Norman Sisisky, Virginia; John Spratt, North Carolina; Solomon Ortiz, Texas; Owen Pickett, Virginia; Lane Evans, Illinois; Gene Taylor, Mississippi; Neil Abercrombie, Hawaii; Frank Tejeda, Texas (When Sworn); Martin Meehan, Massachusetts; Robert Underwood, Guam; Jane Harman, California; Paul McHale, Pennsylvania; Patrick Kennedy, Road Island; Rod Blagojevich, Illinois; Sylvester Reyes, Texas; Tom Allen, Maine; Vic Snyder, Arkansas; Jim Turner, Texas; Allen Boyd, Florida; Adam Smith, Washington.

COMMITTEE ON RESOURCES

George Miller, California; Edward Markey, Massachusetts; Nick Rahall, West Virginia; Bruce Vento, Minnesota; Dale Kildee, Michigan; Sam Gejdenson, Connecticut; Bill Richardson, New Mexico; Peter DeFazio, Oregon; Eni Faleomavaega, American Samoa; Neil Abercrombie, Hawaii; Solomon Ortiz, Texas; Owen Pickett, Virginia; Frank Pallone, New Jersey; Calvin Dooley, California; Carlos Romero-Barcelo, Puerto Rico; Maurice Hinchey, New York; Robert Underwood, Guam; Sam Farr, California; Patrick Kennedy, Rhode Island; Adam Smith, Washington; William Delahunt, Massachusetts; Chris John, Louisiana; Donna Green, Virgin Islands.

COMMITTEE ON RULES

John Joseph Moakley, Massachusetts; Martin Frost, Texas; Tony P. Hall, Ohio; Louise Slaughter, New York.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

James Oberstar, Minnesota; Nick Rahall, West Virginia; Robert Borski, Pennsylvania; William Lipinski, Illinois; Robert Wise, West Virginia, James Traficant, Ohio; Peter DeFazio, Oregon; Bob Clement, Tennessee; Jerry Costello, Illinois; Glenn Poshard, Illinois; Bud Cramer, Jr., Alabama; Eleanor Holmes-Norton, District of Columbia; Jerrold Nadler, New York; Pat Danner, Missouri; Robert Menendez, New Jersey; James Clyburn, South Carolina; Corrine Brown, Florida; James Barcia, Michigan; Bob Filner, California; Eddie Bernice-Johnson, Texas; Frank Mascara, Pennsylvania; Gene Taylor, Mississippi; Juanita Millender-McDonald, California; Elijah Cummings, Maryland; Max Sandlin, Texas; Ellen Tauscher, California; Bill Pascrell, New Jersey; Jay Johnson, Wisconsin; Leonard Boswell, Iowa; Jim McGovern, Massachusetts.

COMMITTEE ON WAYS AND MEANS

Charles Rangel, New York; Pete Stark, California; Robert Matsui, California; Barbara Kennelly, Connecticut; William Coyne, Pennsylvania; Sander Levin, Michigan; Benjamin Cardin, Maryland; Jim McDermott, Washington; Gerald Kleczka, Wisconsin; John Lewis, Georgia; Richard Neal, Massachusetts; Michael McNulty, New York; William Jefferson, Louisiana; John Tanner, Tennessee; Xavier Becerra, California; Karen Thurman, Florida.

Mr. FAZIO of California (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, I offer an additional privileged resolution (H. Res. 14) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 14

Resolved, That the following named Member be and is hereby elected to the following standing committees:

Committee on Banking and Financial Services: Bernard Sanders of Vermont.

Committee on Government Reform and Oversight: Bernard Sanders of Vermont.

Mr. FAZIO of California (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to enunciate an essential rule of decorum.

It is an essential rule of decorum in debate that Members should refrain from references in debate to the conduct of other Members where such conduct is not the question actually pending before the House by way of a report from the Committee on Standards of Official Conduct or by way of any question of the privileges of the House. The principle is documented on pages 168 and 226 of the House Rules and Manual and reflects the consistent rulings of the Chair in prior Congresses and applies to one-minutes and special-order speeches.

Neither the filing of a complaint before the Committee on Standards of Official Conduct, nor the conduct of investigations in prior Congresses, nor the publication in another forum of charges that are personally critical of another Member, justify references to such charges on the floor of the House. This includes references to the motivations of Members who file complaints and to Members of the Committee on Standards of Official Conduct.

Clause 1 of rule XIV is a prohibition against engaging in personality in debate. It derives from article I, section 5 of the Constitution, which authorizes each House to make its own rules and to punish its Members for disorderly behavior and has been part of the rules of the House in some relevant form since 1789. This rule supersedes any claim of a Member to be free from questioning in any other place.

On January 27, 1909, the House adopted a report that stated the following, which is recorded in Cannon's Precedents, volume 8, at section 2497:

"It is * * * the duty of the House to require its Members in speech or debate to preserve that proper restraint which will permit the House to conduct its business in an orderly manner and without unnecessarily and unduly exciting animosity among its Members."

This report was in response to improper references in debate to the President, but clearly reiterated a principle that all occupants of the Chair in prior Congresses, both Republican and Democratic, have held to be equally applicable to Members' remarks in debate toward each other.

The Chair asks and expects the cooperation of all Members in maintaining a level of decorum that properly dignifies the proceedings of the House and respects proper rulings of the Chair.

PARLIAMENTARY INQUIRIES

Mr. FAZIO of California. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. FAZIO of California. Is it the Speaker's contention that he is stating what has been the rules of the House for many years?

The SPEAKER pro tempore. The purpose of reading this is that we have adopted the rules, and this follows the precedents that have been set previously by previous Congresses, both Democrat and Republican, and the Chair wanted to reiterate it for all Members, particularly new Members.

Mr. FAZIO of California. Mr. Speaker, further inquiry. Does it require a Member to rise on the floor to ask for the enforcement of the rule, or is that at the discretion of the Speaker or his designee?

The SPEAKER pro tempore. Either the Chair or a Member may initiate points of order.

Mr. FAZIO of California. So if it is not the position of a Member who perhaps hears a rule being violated and brings it to the Speaker's attention, the Speaker would be in a position to enforce it from the Chair. Would the Speaker therefore be required to do it under all circumstances and show no discretion?

The SPEAKER pro tempore. The Chair normally uses its initiative to enforce the rule with respect to references to the President and Members of the Senate.

Mr. FAZIO of California. Members of the House, I infer, would need to have the rule applied to them by an objection arising from among the membership?

The SPEAKER pro tempore. That has generally been the practice of the Chair.

Mr. FAZIO of California. I appreciate that.

The SPEAKER pro tempore. Not invariably.

ADJOURNMENT TO THURSDAY, JANUARY 9, 1997

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Thursday, January 9, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE NOT WITHSTANDING ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, February 4, 1997, the Speaker and the Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, FEBRUARY 5, 1997

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday Rule be dispensed with on Wednesday, February 5, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE ON PROCEDURES FOR THE 105TH CONGRESS

The SPEAKER pro tempore. Policies of the Chair, January 7, 1997:

The Chair customarily takes this occasion on the opening day of a Congress to announce his policies with respect to particular aspects of the legislative process. The Chair will insert in the RECORD announcements by the Speaker concerning, first, privileges of the floor; second, the introduction of bills and resolutions; third, unanimous consent requests for the consideration of bills and resolutions; fourth, recognition for 1-minute speeches, morning hour debate and special orders; fifth, decorum in debate; sixth, the conduct of votes by electronic device and, seventh, the distribution of written material on the House floor.

These announcements where appropriate will reiterate the origins of the stated policies. The Speaker intends to continue in the 105th Congress the policies reflected in these statements. The policy announced in the 102d Congress with respect to judicial concepts related to clause 5(b) of rule XXI, tax and tariff measures, will continue to govern but need not be reiterated as it is adequately documented as precedent in the House Rules and Manual.

The announcements referred to follow:

1. PRIVILEGES OF THE FLOOR

The Speaker's instructions to the former Doorkeeper and the Sergeant-at-arms announced on January 25, 1983, and on January 21, 1986, regarding floor privileges of staff will apply during the 105th Congress. The Speaker's policy announced on August 1, 1996, regarding floor privileges of former Members will also apply during the 105th Congress.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 25, 1983

The SPEAKER. Rule XXXII strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension or waiver of that rule. As reiterated as recently as August 22, 1974, by Speaker Albert under the principle stated in Deschler's Procedure, chapter 4, section 3.4, the rule strictly limits the number of committee staff permitted on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member has an amendment actually pending during the five-minute rule. To this end, the Chair requests all Members and committee staff to cooperate to assure that not more than the proper number of staff are on the floor, and then only during the actual consideration of measures reported from their committees. The Chair will again extend this admonition to all properly admitted majority and minority staff by insisting that their presence on the floor, including the areas behind the rail, be restricted to those periods during which their supervisors have specifically requested their presence. The Chair stated this policy in the 97th Congress, and an increasing number of Members have insisted on strict enforcement of the rule. The Chair has consulted with and has the concurrence of the Minority Leader with respect to this policy and has directed [the Doorkeeper] and the Sergeant-at-arms to assure proper enforcement of the rule.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 21, 1986

The SPEAKER. Rule XXXII strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension or waiver of that rule. As reiterated by the Chair on January 25, 1983, and January 3, 1985, and as stated in chapter 4, section 3.4 of Deschler-Brown's Procedure in the House of Representatives, the rule strictly limits the number of committee staff on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to members' personal staff except when a member's amendment is actually pending during the five-minute rule. It also does not extend to personal staff of members who are sponsors of pending bills or who are engaging in special orders. The Chair requests the cooperation of all members and committee staff to assure that only the proper number of staff are on the floor, and then only during the consideration of measures reported from their committees. The Chair is making this statement and reiterating this policy because of concerns expressed by many members about the number of committee staff on the floor during the last weeks of the first session. The Chair requests each chairman, and each ranking minority member, to submit to the [Doorkeeper] Sergeant-at-arms a list of staff who are to be allowed on the floor during the consideration of a measure reported by their committee. Each staff person should exchange his or her ID for a "committee staff" badge which is to be worn while on the floor. The Chair has consulted with the Minority Leader and will continue to consult with him. The Chair has furthermore directed the [Doorkeeper and] Sergeant-at-arms to assure proper enforcement of rule XXXII.

ANNOUNCEMENT BY THE SPEAKER, AUGUST 1, 1996

The SPEAKER. The Chair will make a statement. On May 25, 1995, the Chair took the opportunity to reiterate guidelines on the prohibition against former Members exercising floor privileges during the consideration of a matter in which they have a personal or pecuniary interest or are employed or retained as a lobbyist.

Clause 3 of House rule XXXII and the subsequent guidelines issued by previous Speakers on this matter make it clear that consideration of legislative measures is not limited solely to those pending before the House. Consideration also includes all bills and resolutions either which have been called up by a full committee or subcommittee or on which hearings have been held by a full committee or subcommittee of the House.

Former Members can be prohibited from privileges of the floor, the Speaker's lobby and respective Cloakrooms should it be ascertained they have direct interests in legislation that is before a subcommittee, full committee, or the House. Not only do those circumstances prohibit former Members but the fact that a former Member is employed or retained by a lobbying organization attempting to directly or indirectly influence pending legislation is cause for prohibiting access to the House Chamber.

First announced by Speaker O'Neill on January 6, 1977, again on June 7, 1978, and by Speaker Foley in 1994, the guidelines were intended to prohibit former Members from using their floor privileges under the restrictions laid out in this rule. This restriction extends not only to the House floor but adjacent rooms, the Cloakrooms, and the Speaker's lobby.

Members who have reason to know that a former Member is on the floor inconsistent with clause 3, rule XXXII, should notify the Sergeant-at-arms promptly.

2. INTRODUCTION OF BILLS AND RESOLUTIONS

The Speaker's policy announced on January 3, 1983, will continue to apply in the 105th Congress.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 3, 1983

The SPEAKER. The Chair would like to make a statement concerning the introduction and reference of bills and resolutions. As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress, several hundred bills have been introduced. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if he is unable to refer all the bills that may be introduced. Those bills which are not referred and do not appear in the Record as of today will be included in the next day's Record and printed with a date as of today.

The Chair has advised all officers and employees of the House that are involved in the processing of bills that every bill, resolution, memorial, petition or other material that is placed in the hopper must bear the signature of a Member. Where a bill or resolution is jointly sponsored, the signature must be that of the Member first named thereon. The bill clerk is instructed to return to the Member any bill which appears in the hopper without an original signature. This procedure was inaugurated in the 92nd Congress. It has worked well, and the Chair thinks that it is essential to continue this practice to insure the integrity of the process by which legislation is introduced in the House.

3. UNANIMOUS-CONSENT REQUESTS FOR THE CONSIDERATION OF BILLS AND RESOLUTIONS

The Speaker will continue to follow the guidelines recorded in section 757 of the House Rules and Manual conferring recognition for unanimous-consent requests for the consideration of bills and resolutions only when assured that the majority and minority floor leadership and committee and subcommittee Chairmen and ranking minority members have no objection. Consistent with those guidelines, and with the Chair's inherent power of recognition under clause 2 of rule XIV, the Chair, and any occupant of the Chair appointed as Speaker pro tempore pursuant to clause 7 of rule I, will decline recognition for unanimous-consent requests for consideration of bills and resolutions without assurances that the request has been so cleared. This denial of recognition by the Chair will not reflect necessarily any personal opposition on the part of the Chair to orderly consideration of the matter in question, but will reflect the determination upon the part of the Chair that orderly procedures will be followed; that is, procedures involving consultation and agreement between floor and committee leadership on both sides of the aisle. In addition to unanimous-consent requests for the consideration of bills and resolutions, section 757 of the House Rules Manual also chronicles examples where the Speaker applied this policy on recognition to other related unanimous-consent requests, such as requests to consider a motion to suspend the rules on a nonsuspension day and requests to permit consideration of nongermane amendments to bills. Such applications of the Speaker's guidelines will continue in the 105th Congress.

As announced by the Speaker, April 26, 1984, the Chair will entertain unanimous-consent requests to dispose of Senate amendments to House bills on the Speaker's table if made by the chairman of the committee with jurisdiction, or by another committee member authorized to make the request.

4. RECOGNITION FOR ONE-MINUTE SPEECHES AND SPECIAL ORDERS

The Speaker's policy announced on January 25, 1984, with respect to recognition for one-minute speeches will apply during the 105th Congress with the continued understanding that the Chair reserves the authority to restrict one-minute speeches at the beginning the legislative day. The Speaker's following policies announced in the 104th Congress will also continue through the 105th Congress: (1) the Speaker's residual policy for the recognition of special-order speeches absent an agreement between the leaderships to the contrary; and (2) the Speaker's policy for recognition for "morning hour" debate and restricted special-order speeches, announced on May 12, 1995, with the further clarification that reallocations of time within each leadership special-order period will be permitted with notice to the Chair.

ANNOUNCEMENT BY THE SPEAKER, AUGUST 8, 1984, RELATIVE TO RECOGNITION FOR ONE-MINUTE SPEECHES

The SPEAKER. After consultation with and concurrence by the Minority Leader, the Chair announces that he will institute a new policy of recognition for "one-minute" speeches and for special order requests. The Chair will alternate recognition for one-minute speeches between majority and minority Members, in the order in which they seek recognition in the well under present practice from the Chair's right to the Chair's left, with possible exceptions for Members of the leadership and Members having business requests. The Chair, of course, reserves the right to limit one-minute speeches to a certain period of time or to a special place in the program on any given day, with notice to the leadership.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 4, 1995, RELATIVE TO "RESIDUAL" POLICY FOR RECOGNITION FOR SPECIAL-ORDER SPEECHES

The SPEAKER. Absent an agreement between the leaderships regarding recognition for requests to address the House for "special-order speeches" at the end of legislative business, the Chair will decline recognition for permission to address the House for any period extending more than one week in advance of the request. In accordance with the Speaker's policy as enunciated on August 8, 1984, the Chair will first recognize Members who wish to address the House for five minutes or less, alternating between majority and minority Members in the order in which those permissions were granted by the House. Thereafter, the Chair will recognize Members who wish to address the House for longer than five minutes up to one hour, again alternating between majority and minority Members in the order in which those permissions were granted by the House. However, unlike the Speaker's policy of August 8, 1984, the Chair will alternate daily between parties recognition for the first special order longer than five minutes regardless of the order in which permissions were granted.

ANNOUNCEMENT BY THE SPEAKER JANUARY 4, 1995, RELATIVE TO SPECIAL-ORDER SPEECHES AND MORNING-HOUR DEBATE

The SPEAKER. Upon consultation with the Minority Leader, the Chair announces that the format for recognition for "morning-hour" debate and restricted special-order speeches, which began on February 23, 1994, will continue [through the 105th Congress], as outlined below:

On Tuesdays, following legislative business, the Chair may recognize Members for special-order speeches up to midnight, and such speeches may not extend beyond midnight. On all other days of the week, the Chair may recognize Members for special-order speeches up to four hours after the conclusion of five-minute special-order speeches. Such speeches may not extend beyond the four-hour limit without the permission of the Chair, which may be granted only with advance consultation between the leaderships and notification to the House. However, at no time shall the Chair recognize for any special-order speeches beyond midnight.

The Chair will first recognize Members for five-minute special-order speeches, alternating initially and subsequently between the parties regardless of the date the order was granted by the House. The Chair will then recognize longer special orders speeches. The four-hour limitation will be divided between the majority and minority parties. Each party is entitled to reserve its first hour for respective leaderships or their designees. Recognition will alternate initially and subsequently between the parties, regardless of the date the order was granted by the House.

The allocation of time within each party's two-hour period (or shorter period if prorated to end by midnight) is to be determined by a list submitted to the Chair by the respective leaderships. Members may not sign up for any special-order speeches earlier than one week prior to the special order, and additional guidelines may be established for such sign-ups by the respective leaderships.

Pursuant to clause 9(b)(1) of rule I, the television cameras will not pan the Chamber, but a "crawl" indicating morning hour or that the House has completed its legislative business and is proceeding with special-order speeches will appear on the screen. Other television camera adaptations during this period may be announced by the Chair.

The continuation of this format for recognition by the Speaker is without prejudice to the Speaker's ultimate power of recognition under clause 2 of rule XIV should circumstances so warrant.

5. DECORUM IN DEBATE

The Speaker's policies with respect to decorum in debate announced on January 3, 1991, and January 4, 1995, will apply during the 105th Congress as supplemented by an announcement made by the Speaker earlier today.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 3, 1991

The SPEAKER. It is essential that the dignity of the proceedings of the House be preserved, not only to assure that the House conducts its business in an orderly fashion but to permit Members to properly comprehend and participate in the business of the House. To this end, and in order to permit the Chair to understand and to correctly put the question on the numerous requests that are made by Members, the Chair requests that Members and others who have the privileges of the floor desist from audible conversation in the Chamber while the business of the House is being conducted. The Chair would encourage all Members to review rule XIV to gain a better understanding of the proper rules of decorum expected of them, and especially: First, to avoid "personalities" in debate with respect to references to other Members, the Senate, and the President; second, to address the Chair while standing and only when and not beyond the time recognized, and not to address the television or other imagined audience; third; to refrain from passing between the Chair and the Member speaking, or directly in front of a Member speaking from the well; fourth, to refrain from smoking in the Chamber; and generally to display the same degree of respect to the Chair and other Members that every Member is due.

The Speaker's announcement of January 4, 1995, will continue to apply in the 105th Congress as follows:

The Chair would like all Members to be on notice that the Chair intends to strictly enforce the limitations on debate. Furthermore, the Chair has the authority to immediately interrupt Members in debate who transgress rule XIV by failing to avoid "personalities" in debate with respect to references to the Senate, the President, and other Members, rather than wait for Members to complete their remarks.

Finally, it is not in order to speak disrespectfully of the Speaker; and under the precedents the sanctions for such violations transcend the ordinary requirements for timeliness of challenges. This separate treatment is recorded in volume 2 of Hinds' Precedents, at section 1248 and was reiterated on January 19, 1995.

6. CONDUCT OF VOTES BY ELECTRONIC DEVICE

The Speaker's policy announced on January 4, 1995, will continue through 105th Congress.

The SPEAKER. The Chair wishes to enunciate a clear policy with respect to the conduct of electronic votes.

As Members are aware, clause 5 of rule XV provides that Members shall have not less than 15 minutes in which to answer an ordinary rollcall vote or quorum call. The rule obviously establishes 15 minutes as a minimum. Still, with the cooperation of the Members, a vote can easily be completed in that time. The events of October 30, 1991, stand out as proof of this point. On that occasion, the House was considering a bill in the Committee of the Whole under a special rule that placed an overall time limit on the amendment process, including the time consumed by rollcalls. The Chair announced, and then strictly enforced, a policy of closing electronic votes as soon as possible after the guaranteed period of 15 minutes. Members appreciated and cooperated with the Chair's enforcement of the policy on that occasion.

The Chair desires that the example of October 30, 1991, be made the regular practice of the House. To that end, the Chair enlists the assistance of all Members in avoiding the unnecessary loss of time in conducting the business of the House. The Chair encourages all Members to depart for the Chamber promptly upon the appropriate bell and light signal. As in recent Congresses, the cloakrooms should not forward to the Chair requests to hold a vote by electronic device, but should simply apprise inquiring Members of the time remaining on the voting clock.

Although no occupant of the Chamber would prevent a Member who is in the well of the Chamber before the announcement of the result from casting his or her vote, each occupant of the Chair will have the full support of the Speaker in striving to close each electronic vote at the earliest opportunity. Members should not rely on signals relayed from outside the Chamber to assume that votes will be held open until they arrive in the Chamber.

7. USE OF HANDOUTS ON HOUSE FLOOR

The Speaker's policy announced on September 27, 1995, will continue through 105th Congress.

The SPEAKER. A recent misuse of handouts on the floor of the House has been called to the attention of the Chair and the House. At the bipartisan request of the Committee on Standards of Official Conduct, the Chair announces that all handouts distributed on or adjacent to the House floor by Members during House proceedings must bear the name of the Member authorizing their distribution. In addition, the content of those materials must comport with standards of propriety applicable to words spoken in debate or inserted in the Record. Failure to comply with this admonition may constitute a breach of decorum and may give rise to a question of privilege.

The Chair would also remind Members that pursuant to clause 4, rule XXXII, staff are prohibited from engaging in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Staff cannot distribute handouts.

In order to enhance the quality of debate in the House, the Chair would ask Members to minimize the use of handouts.

APPOINTMENT AS MEMBERS OF THE HOUSE OFFICE BUILDING COMMISSION

The SPEAKER pro tempore (Mr. LAHOOD). The Chair announces the Speaker's appointment, pursuant to the provisions of 40 United States Code 175 and 176, the Chair appoints the gentleman from Texas [Mr. ARMEY] and the gentleman from Missouri [Mr. GEPHARDT] as Members of the House Office Building Commission to serve with himself.

APPOINTMENT OF INSPECTOR GENERAL FOR THE HOUSE OF REPRESENTATIVES FOR THE 105TH CONGRESS

The Chair announces, pursuant to the provisions of section 2 of rule VI, the Speaker, majority leader, and minority leader jointly appoint Mr. John W. Lainhart IV, to the position of inspector general for the House of Representatives for the 105th Congress.

A FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

BIENNIAL REPORT ON HAZARDOUS MATERIALS TRANSPORTATION FOR CALENDAR YEARS 1994-95—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Transportation and Infrastructure.

To the Congress of the United States:

In accordance with Public Law 103-272, as amended (49 U.S.C. 5121(e)), I transmit herewith the Biennial Report on Hazardous Materials Transportation for Calendar Years 1994-1995 of the Department of Transportation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

ANNUAL REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking and Financial Services.

To the Congress of the United States:

Pursuant to the requirements of 42 U.S.C. 3536, I transmit herewith the 31st Annual Report of the Department of Housing and Urban Development, which covers calendar year 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

ANNUAL REPORT OF THE DEPARTMENT OF ENERGY, 1994 AND 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce.

To the Congress of the United States:

In accordance with the requirements of section 657 of the Department of Energy Organization Act (Public Law 95-91; 42 U.S.C. 7267), I transmit herewith the Annual Report of the Department of Energy, which covers the years 1994 and 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

WAIVER FROM CERTAIN PROVISIONS RELATING TO THE APPOINTMENT OF UNITED STATES TRADE REPRESENTATIVE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. DREIER) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered printed.

To the Congress of the United States:

I am pleased to transmit herewith for your immediate consideration and enactment legislation to provide a waiver from certain provisions relating to the appointment of the United States Trade Representative.

This draft bill would authorize the President, acting by and with the advice and consent of the Senate, to appoint Charlene Barshefsky as the United States Trade Representative, notwithstanding any limitations imposed by certain provisions of law. The Lobbying Disclosure Act of 1995 amended the provisions of the Trade Act of 1974 regarding the appointment of the United States Trade Representative and the Deputy United States Trade Representatives by imposing certain limitations on their appointment. These limitations only became effective with respect to the appointment of the United States Trade Representative and Deputy United States Trade Representatives on January 1, 1996, and do not apply to individuals who were serving in one of those positions on that date and continue to serve in them. Because Charlene Barshefsky was appointed Deputy United States Trade Representative on May 28, 1993, and has continued to serve in that position since then, the limitations in the Lobbying Disclosure Act, which became effective on January 1, 1996, do not apply to her in her capacity as Deputy United States Trade Representative and it is appropriate that they not apply to her if she is appointed to be the United States Trade Representative.

I have today nominated Charlene Barshefsky to be the next United States Trade Representative. She has done an outstanding job as Deputy United States Trade Representative since 1993 and as Acting United States Trade Representative for the last 9 months. I am confident she will make an excellent United States Trade Representative. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TIME TO SOLVE THE NATION'S PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I am, in fact, delighted to be the first person to give special orders, and obviously the gentleman from California [Mr. DREIER] was scheduled to be, but he is presiding in the chair.

I had the great fortune as a freshman Member of the 104th Congress to be the first to deliver a 1-minute speech on this floor. I return to Congress very proud that the members of the 16th District have chosen to ask me to serve them once again in this very high honor in the U.S. Congress.

We had a lot of debate today, a lot of acrimony, a lot of discussion about the future of this Congress and its Speaker. We have concluded that debate with reelecting NEWT GINGRICH, the gentleman from Georgia, as Speaker.

I implore Members on all sides of the aisle, both sides of the aisle, that it is now time to come together, in the spirit of this country, in the pride of this Nation, to start solving our Nation's problems, to start solving our Nation's ills, to focus on things that will make people's lives better rather than focusing on things that will destroy people's individual lives. This Chamber and this Government is bigger than this Member, it is bigger than the Speaker, it is bigger than anybody else's ego. It is about helping Americans help themselves. It is about instilling in our children a knowledge and a wisdom that through hard work, you can overcome any adversity.

But if this Chamber operates much like it did in the 104th Congress, with bitterness and rancor and personal animosity, we will not set an example for the future leaders of this Nation. We will not set an example for children to look up to this body and say, "I, too, would like to be a leader in the Congress. I, too, would like to serve my community." We will denigrate into an embarrassment.

So I ask my fellow Members, from all walks of life, from all localities, to think first about what is good for America, not what is good for the Republican Party or the Democratic Party, what is good for this Nation. A balanced budget, saving our Nation from fiscal crisis. The education of our children, to prepare them for the 21st century, to prepare them with skills that will give them jobs that will allow them to provide for themselves and their families.

To reach beyond partisanship, in a spirit of cooperation, to fight together against crime that threatens every American, crime in our schools, violence against our teachers, crimes in our malls and in our communities that frighten our citizens, regardless whether they be seniors or young adults. To work together on Medicare fraud and abuse, and save our Medicare Program so that we will have a system that ensures that every American will receive Medicare when they grow to the day to need it.

Let us also cause special focus on the illnesses that hurt our American citizens: AIDS, Alzheimer's disease, Parkinson's disease, cancer, leukemia, tuberculosis, to name but a few. Sudden infant death syndrome, to name another. If we would use our energies to focus our resources through the National Institutes of Health to try and find cures for these diseases, we will do more for humanity in this Chamber, we will do more for the future of this world and this Nation than any 5-minute speech or any special order or any rancor or debate.

This Nation has given 435 individuals the chance to represent their communities. I know that the Members are up to the task of facing that challenge. I know that each Member, regardless of their party, deeply loves this Nation.

But I also know that if we proceed in the 105th as we did in the 104th with gridlock, acrimony, personal attack, and negativity, that none of the successes will be possible. We will be mired in failure, mired in debate that is nonproductive. So I ask in this first day of the new Congress that we join together to make every citizen proud of the conduct of each individual Member and all Members of this House; that the Democrats join me in working with Speaker GINGRICH, in assuring that the Speakership is respected, that the institution of governance of the House of Representatives is brought to the highest standard, and that we work together for all of the best interests of this Nation.

□ 1800

ELECTION OF THE SPEAKER OF THE HOUSE: A HISTORIC DAY

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, we have heard several allusions throughout the day of the nature of the historic event in which we participated, the election of the Speaker of the House for the 105th session. That is more than rhetoric, Mr. Speaker.

Have Members ever heard of the name of Jonathan Dayton? Jonathan Dayton of New Jersey was elected Speaker of the House in the fifth session in 1797. So when we say today's event was historical, we really mean it. It is a repetition of the preservation of our liberties that emanated from the first and second terms of George Washington and the Fifth Congress, which marked his exit from public service, and has run down to today, when we repeated the process in the preservation of those same liberties which they fought so hard to create for us in the first place.

So the message for the day for our constituents is that the election of the Speaker today is a purely political process. When we say "political process," that does not demean it, because many in the world today will say, he is a politician, or he is involved in politics, denoting the worst in humanity. But the preservation of our liberties to which I have made reference, beginning with the First Congress and then reendorsed in the Fifth Congress and here today in the 105th, became part and parcel of our history because of the political process it involves.

So we had the spectacle today of the minority Democrats nominating their favorite son while the Republicans chose to nominate the gentleman from Georgia, Mr. GINGRICH. What happened? Through the political process, GINGRICH has been elected Speaker of the House. We should honor that. It is the duty and right of the majority to select one of its own to lead the agenda for the ensuing Congress, and we have done so. Now it is time to put everything aside and proceed with that very same agenda.

I also want to comment on some other part of the proceedings here today that was very important but very likely accepted by the general public, because we have not made it clear. When we established the rules of the House, and the gentleman from California [Mr. DREIER, alluded to it in his prefatory remarks during the debate on the rules, we were reendorsing, reconfirming here today, historically what the 104th Congress under the majority Republicans was able to fashion; and the 104th Congress, one step of which, in which I was personally involved and of which I am very proud, is the elimination of proxy voting in committee.

When I came to the Congress, I had a matter that I wanted to put in front of the Committee on the Judiciary having to do with the death penalty for assassination of the President, God forbid that that should ever occur, and some other features. On the first time that I proposed this to the Committee on the Judiciary, I was outvoted 30 to 15. Fifteen Republicans voted with me, two Democrats voted on the other side. How could I lose 30 to 15? By the use of the chairman at that time of the proxy vote, which he had in hand, and voted his colleagues on the committee no, no, no, against my proposition.

We have eliminated that forever. The Committee on Rules was bright enough to be able to do so. We reendorsed it today.

I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I want to congratulate my friend for his very fine statement. I would say that we did a survey of committee chairmen and others in leadership positions on the impact of proxy voting, to see whether or not they liked it. It has made it, in fact, more difficult, but in trying to get the Congress to comply with the laws that other Americans have to comply with, showing up for work seems to be sort of a natural. We do have that.

But committee chairmen, in the survey that we had that was sent back, overwhelmingly supported the idea of maintaining the elimination of proxy voting. My friend was entirely right on that statement. I thank him for his compliment.

Mr. GEKAS. I thank the gentleman. This is a historic day. Speaker Jonathan Dayton in 1797, the Speaker of the House duly elected by a political process then in the Fifth Congress, would be proud of us if he were here today. We have adopted rules, put our election of committee people into action, and now we are prepared for the work of the people and the agenda of the 105th Congress.

WHAT IS BEST FOR OUR COUNTRY?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today because we are about to begin the work of the people's business and all is not right in the House of the people. All is not right with the person who is supposed to lead the 105th Congress to do the business of the people. There is a cloud hanging over the chair of the Speaker, a cloud that has never existed in the history of this Chamber of the people, a chamber that is constitutionally charged to carry out the sacred business of representative democracy.

And yet, we are asked to carry on the people's business like nothing happened, like we haven't swept anything under the rug, like the faint odor of a political deal is not seeping into this hallowed Chamber.

Mr. Speaker, I am reminded of the time when a fellow Texan, Jim Wright sat up there under similar circumstances. There was a time when a cloud hung over his head, when the position of the Speaker, the chair of the third highest elected representative of the people was called into question.

And, Speaker Jim Wright did the right thing. Speaker Wright did what was good for the House of Representatives and the Nation. He cleared the skies over the speaker's chair. He took himself out of the way of interrupting the legislative course that we now are charged with setting. He didn't wait for the Ethics Committee to find a stain on the Speaker's chair. He knew in his conscience what was best for the country and so does every Member in this body.

Do we really want to begin the 105th Congress with the first mark on the Speaker's chair? I think not and I'm sure all right thinking Members feel the same. Jim Wright knew how to bow out with a sense of class and what a true "higher ethical standard" for the Speaker really is.

Do we really want to return to the "in your face" style of politics on the very first day of this new Congress? Do we really want to begin a new Congress waiting to see what the Speaker's fate is for his admitted ethical transgressions? Do we really want to be lead by someone who is destined to be disciplined by the 105th Congress?

I respectfully submit that the example of former Speaker Jim Wright is one that needs to be the model for this righteous body. Anything less is an insult to the dignity and the integrity of the office of Speaker.

Mr. Wright acted on behalf of his country and stepped aside, Mr. GINGRICH also knows the right thing to do.

LET THE PUBLIC DECIDE CAMPAIGN FINANCE REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, today I am introducing the Let the Public Decide Campaign Finance Reform Act. Two developments over the last year have demonstrated that for all practical purposes there are no longer any campaign finance rules in this country. One development is the series of court decisions which have resulted in special interest groups being able to get around virtually all limits of existing campaign finance law. They are allowed to do so by engaging in so called independent expenditures or by issuing promotion schemes which maintain the fiction that such groups are not involved in individual campaigns. The second development is the recent series of news stories involving large contributions of so-called soft money to both political parties. The result is that wealthy people and groups can skirt the intention of Congress to limit the amount of influence that wealthy individuals or organizations can have on the political process.

Merely tinkering with existing campaign laws will have no real effect. It will do no good for instance, to pass feel good legislation which would cut the $5,000 limit on contributions by political action committees if companies who finance those political action committees can make indirect expenditures 20 or 30 times as large through other means.

For me, the last election was the last straw on campaign finance. I honestly believe that this problem can only be addressed with a flat out elimination of all private money in general elections. That will eliminate the soft money problem and many of the other spectacles we have seen recently. The legislation I am pushing contains a congressional finding that the existing system has so corrupted public confidence in its own form of government that Congress must take major steps for campaign finance which so far have been blocked by the courts. We are doing so because some constitutional scholars suggest that we may be able to move the Supreme Court to change its mind if Congress makes such a finding. But, if the Supreme Court continues to block the kind of reforms I have in my bill, the bill provides for an immediate consideration by the Congress of a constitutional amendment which would give Congress the authority it needs to regulate campaign spending.

The only way to fundamentally change the current system is to take out all private money from financing general elections. I make no apology for reaching that conclusion. In a democracy, elections are not private events; they are the most public events that occur in our national life. Elections belong to the people and they should be financed that way, not by the well-heeled and well-connected.

The Let the Public Decide Campaign Reform Act would:

Forbid all private funding in general elections. But, the public must understand that political campaign cannot be financed through immaculate conception. Elections would be financed by voluntary contributions from individuals to a Grass Roots Good Citizenship Fund. To raise the necessary funding, the Federal Election Commission would be required to conduct a major national television advertising campaign informing the public of the opportunity to eliminate the influence of interest groups on elections by making voluntary contributions to that fund. Those voluntary contributions would be supplemented by a one-tenth of 1 percent to be paid by all corporations with profits above $10 million.

Eliminate the "soft money" loophole, which allows huge amounts of money from wealthy individuals and corporations to go to political parties and benefit congressional candidates.

Establish spending limits on how much congressional candidates can spend, with some flexibility because of the different costs to run for office in different parts of the country.

Allow the American public to determine the amount of money each candidate receives in the general election by basing the amount on the electoral support that the candidate or his preceding party nominees received in that district over the last 5 elections. It would also allow third-party and independent candidates to receive public funding based on their demonstrated public support.

Allow private money to be contributed only to primary elections based on the principle that each political party has its own basic constituencies, and that the parties themselves have a role in deciding how their own nominees are chosen;

Distinguish in primary elections between broad-based "little people" PAC's and "High Roller" PAC's, and limit contributions from "High Roller" PAC's.

Under my bill, the American people themselves would actually be able to decide how much will be spent on congressional campaigns and how much each candidate will receive. Democracy cannot function if American citizens do not themselves take responsibility for supporting the most public events that occur in this country—our own national elections.

REDUCING THE TAX RATE ON CAPITAL GAINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I have taken out this special order, and as we all saw, I got in the chair before I was able to deliver it, so I am pleased that my friend, the gentleman from Florida, was able to deliver the first special order of the 105th Congress.

Mr. Speaker, I have taken this time out to talk about legislation which I very proudly introduced today with a number of my colleagues. We know that the message that came from last November's election was that the American people want us to put the partisan political pyrotechnics aside and they want us to do a job.

I am very gratified that we saw Democrats and Republicans alike, embrace what for lack of a better term, have to be considered traditional Republican themes. The themes that the President ran on, the themes that Republicans and many Democratic candidates for Congress ran on, were balancing the budget, trying to reduce the size and scope of government, reducing the tax burden on working Americans. Those are the sorts of things that I believe a majority of this institution want to see us deal with.

I think we do have an opportunity to proceed in a bipartisan way. We have gone through an extraordinarily difficult and challenging day, and the next couple of weeks are going to be tough, but I hope and pray that we will be able to put the battles that we have seen in the media over the past couple of weeks behind us and do what I believe the American people want us to do, and that is govern.

I have done what I believe is my bit here on the opening day. I am very pleased that I was able to join with Democrats and Republicans in introducing legislation which will go a long way toward dealing with one of the problems that we have in this country, and that is lack of available capital.

What I have done is introduced a bill which is numbered H.R. 14. It is H.R. 14 because it is going to take the top 28-percent rate on capital gains and reduce that to 14 percent as a top rate.

In years past we have heard this rhetoric that reducing the tax on capital gains is nothing but a tax cut for the rich. But I was gratified that in the Presidential campaign, Bill Clinton talked about reducing the tax rate on capital gains for homeowners. He wanted to target it. I happen to believe very strongly that rather than targeting it, we should allow the American people to make a determination as to exactly which capital asset they have that they want to sell and have a lower rate on capital gains for. I want them to be able to make that decision themselves.

In the past we have heard that there is a tremendous cost to reducing the tax rate on capital gains. The fact of the matter is we have, with this bill, done a great deal of study on it. It is not only a theoretical study, but it is empirical evidence which has shown, going all the way back to 1921 when Andrew Mellon was Treasury Secretary under President Warren G. Harding, reducing that top rate increases revenues to the Treasury. John F. Kennedy we know did it in the early 1960's, Ronald Reagan did it in the 1980's, and we have a good opportunity to do this today.

What will it create? It will create, I believe, a tremendous flow in revenues to the Treasury. Why? Because there is between $7 trillion and $8 trillion of locked-in capital that is there. People are not willing to sell it because of the punitive tax rate that exists. So, clearly in the first years we would see a great boost.

In 1993, when I assembled the zero capital gains tax caucus, we found over a 7-year period a 15-percent capital gains tax rate would increase the gross domestic product by $1.3 trillion, create 1 million jobs, and generate $220 billion in revenues to the Federal Treasury.

I am convinced that we can do this in a bipartisan way, so much so that of the original cosponsors, there are two Republicans and three Democrats. I am very pleased that my colleague, the gentlewoman from Kansas City, MO, KAREN MCCARTHY, has joined as a lead cosponsor of this; a great member of the Committee on Ways and Means, the gentleman from Pennsylvania, PHIL ENGLISH, who is beginning his second term, has joined in this; the gentleman from Virginia, Mr. JIM MORAN, a Democrat, has joined as an original cosponsor; and the leader of the Blue Dogs on this issue is the gentleman from Texas, Mr. RALPH HALL. So we have three Democrats and two Republicans.

While some pundits out there may like to argue that the era of bipartisanship is over, they are wrong, because on the opening day we have begun in a bipartisan way to deal with this very important question of reducing that top rate on capital gains to help middle-income wage earners and all Americans, and those at the bottom end of the spectrum, as we try to get capital into the inner city and other spots which are desperately in need, as Speaker GINGRICH mentioned in his acceptance speech today.

Mr. Speaker, I wish everyone a very happy, prosperous, and healthy 1997.

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AMERICA'S POLICIES IN CUBA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 20 minutes as the designee of the majority leader.

Mr. MCCOLLUM. Mr. Speaker, I take this opportunity to have this few minutes of conversation about a very important topic on this first day of Congress. Just a couple of days ago, on January 3d of this year, President Clinton announced his decision to suspend for the second time Title III of what is known as the Cuban Liberty and Democratic Solidarity Act, otherwise known as the Helms-Burton law. This is a very significant event, and one which I fear is going to lead to lots more problems rather than solutions with relationships that we have in this western hemisphere, with the United States and Cuba and our allies.

Let me explain this and put it in context. Cuba has been a dictatorship under Fidel Castro for some 37 years. During that time I think the world is fully aware of the many human rights violations this dictator has committed and his regime has committed. I think the world is probably also fully aware that Cuba and Fidel Castro remain only one of two Communist dictatorships left after the fall of the Soviet Union and changes around the world and tendencies towards more democracies, as we have seen in the last decade or so.

It is shameful that we have today, only 90 miles across the ocean from the United States, just 90 miles away, a Communist dictatorship of the nature Fidel Castro runs. We have tried over the years since the failure of the Bay of Pigs, which indeed was tragic and a shameful part of our history, frankly, that we did not support that invasion fully as it should have been supported. We have tried numerous times since then in small, incremental ways, to either oust Fidel Castro or to change his policies. It should be abundantly clear to anyone who has observed this man over the years that he is not about to change his stripes. He is not about to give up his ruthless power. He is not going to do that voluntarily at least.

For those who wish democracy in Cuba, I can only say I hope there is democracy, like you do, but it is wishful thinking if you think it is going to come about as long as Fidel Castro is in power. The only way to see democracy in Cuba and to see our hemisphere Democratic and to have normal relations again with that small Nation state to the south is for Fidel Castro to leave office and for those who supported him for all these years to end that support.

Let me tell the Members the biggest problem facing us in seeing that accomplished in the current time frame. It is not from the Soviet Union. It does not exist anymore. It is not from Russia. It is not from some far-flung place. It is from our allies in Europe and in Canada and in Mexico who supply the currency, who supply the economic support necessary to prop up this regime, either directly through their governments, or more frequently, through companies or business entities that invest in Cuba that are involved in providing the liquidity and the capital that allow him to continue to exist.

He makes modest changes in how he does business, which have no bearing in reality upon ever becoming truly democratic or allowing a true market system to work, and he is given a reward to do this by the continued open door policies of these allies who pour these dollars in through the businesses that operate there.

In Title III of the law that is known as Helms-Burton that was passed by the last Congress, there was a provision very important to stopping this. That provision stated that an American business or an individual who had been harmed because a business at one time before Castro in Cuba that was American had been confiscated by Castro, confiscated by the Cuban Government after the revolution that brought Castro to power, a person, an American situated in this case, either a business or an individual, could sue a company or a business in another nation, Europe or Canada or Mexico or wherever, who did business by investing in and supporting in some way the business entity that had been confiscated that had previously been an American-owned business in Cuba; sue in the courts of the United States for damages, sue in order to be able to recover the lost value of the property that had been confiscated from the companies doing business to allow Cuba to continue to exist by propping up the confiscated property and the business that might have been confiscated, if you will.

What President Clinton has done is succumbed to our allies who have said, oh, this is horrible. You are going to allow our businesses in our countries to be sued for damages by American citizens because they are investing in Cuba and in formerly American property interests in Cuba.

And President Clinton, who has the power under this bill, and I am not at all sure he ought to have it, but he has the power under this bill for every 6-month period to waive these provisions, just on January 3d, a few days ago, January 3d of this year, for the second time since Helms-Burton has been the law, chose to waive it and say we are not going to enforce that at this point in time.

□ 1815

There can be no lawsuits, no litigation in American courts against foreign corporations, foreign business interests that invest in previously owned American property in Cuba or American interests in Cuba. That is a horrible decision by the President. It is outrageous what he did. It is something that kowtows to the big business interests of our allies and is detrimental to everything that we believe in and to the best interests of our national security and our interests in this hemisphere.

Our interest is in having democracy in Cuba and that can only happen when the noose is tied tightly enough around Castro and the current Cuban regime that he is ousted and that a new government comes into place. The economy of that country is dependent upon these investments and anything we can do to stop the money from flowing and the support from flowing into this government and into its economy is essential and important and critical, not only to the freedom-loving people who want to be free in Cuba, Cuban Americans and Cubans everywhere, but also to America, the United States' national security interest.

I submit that the President has also played a lot of politics with this. He has indicated that while he is only doing it for 6 months that he plans to make this suspension indefinite, that he apparently has no intention of ever letting title III become law and effective and allow these lawsuits to take place. That is not what he indicated when he first signed that bill. There was no indication of that. He said to the Cubans of the world and the Cuban American community in particular, I am signing Helms-Burton, I am proud of it, support me in the next election, support my party in the next election and you will see that I am true to my word and we will tighten the noose around Castro and bring about more democracy.

Oh, I know there are those who are going to say, well, there is some bargaining going on, there is some quid pro quo, there is some progress being made, and so on and so forth.

There is no real progress being made. Castro's playing us for a sucker, if that is the case, and this administration is blind to that fact. You cannot have your cake and eat it, too, Mr. President. You must understand that if we are to end this tyrannical dictatorship south of the United States, only 90 miles off our coast, a true embargo has to be enforced, a true economic embargo. And this provision, this title III provision of the Helms-Burton law allowing Americans to sue in court companies abroad that are doing business and investing in American interests, formerly American interests in Cuba, has to be allowed to go forward. And if it does, then and only then do we have a chance of ousting Castro in some more peaceable manner other than short of some invading force, which none of us are predicting or expecting or advocating.

But we do need to do what we have to do, and I believe, Mr. President, that you have made a very big mistake in this regard, and I think it borders upon hypocrisy for others to say that this is a wonderful piece of legislation and then we are not going to let it go into play and not going to enforce it. That is exactly what some have said.

I hope and pray that my colleagues will join with me in the next few months as we go back and revisit this issue legislatively. If the President is not willing to enforce title III of Helms-Burton and is going to continue to waive it, then I would suggest it is within our power and this Congress should pass a law that says that that provision of title III is no longer eligible for waiver, that it indeed is the law of this land, that Americans who formerly had an interest in Cuba can sue foreign companies investing in those property interests in Cuba, to heck with what the President has to say about it. He should not even have a say at all, if that is the way he is going to act on this proposition.

I would urge my colleagues to examine it. It is a very important ingredient in our foreign policy. We should never have allowed a dictatorship to exist for 37 years of such a vile nature as we have in Castro south of here, just 90 miles off our coast. And there is no reason, no reason to allow our allies and their business interests to continue to prop up that dictatorship with its human rights violations any longer. The time has long since passed to do something about it. Let us act in this Congress to force the hand of this President and to allow American citizens to sue, at the very least to try to bring some pressure that can be legitimately brought on the Cuban regime in addition to enforcing the embargo and whatever else we can do within our powers.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JOHN) to revise and extend their remarks and include extraneous material:)

Mrs. THURMAN, for 5 minutes, today.

Ms. FURSE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. OBEY, for 5 minutes, today.

(The following Members (at the request of Mr. GEKAS) to revise and extend their remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, on January 9.

Mr. GEKAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. JOHN) and to include extraneous material:)

Mr. MATSUI.
Mrs. MEEK of Florida.
Mr. KLECZKA.
Mr. CONDIT.
Mr. LANTOS.
Mr. POMEROY.
Mr. MENENDEZ.
Mr. VENTO.
Ms. DELAURO.
Ms. ESHOO.
Mr. MCGOVERN.
Mr. OBEY.
Mr. MILLER of California.
Mrs. MALONEY.
Mr. FILNER.
Mr. STARK.
Mr. DINGELL.
Mr. POSHARD.
Ms. SLAUGHTER.
Ms. KAPTUR.
Mr. NEAL of Massachusetts.

(The following Members (at the request of Mr. GEKAS) and to include extraneous material:)

Mr. GILMAN in five instances.
Mr. GALLEGLY.
Mr. SOLOMON.
Mr. SHUSTER.
Mr. YOUNG of Alaska in three instances.
Mr. BEREUTER in two instances.
Mr. MCCOLLUM in ten instances.
Mr. CRAPO in two instances.
Mr. HAYWORTH.
Mr. DAVIS of Virginia.
Mr. QUINN in two instances.
Mr. EHLERS.
Mr. KING.
Mr. BARTON of Texas.
Mr. ARCHER.
Mrs. KELLY.
Mr. PITTS in two instances.

Mrs. JOHNSON of Connecticut.
Mr. RADANOVICH.
Mrs. CUBIN.
Ms. ROS-LEHTINEN.
Mr. GEKAS.
Mrs. ROUKEMA.
Ms. DUNN of Washington.
Mr. CUNNINGHAM in eight instances.
Mr. GOODLING.
Mr. BAKER in two instances.

ADJOURNMENT

Mr. McCOLLUM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until Thursday, January 9, 1997, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of Agriculture, transmitting the annual report on foreign investment in U.S. agricultural land through December 31, 1995, pursuant to 7 U.S.C. 3504; to the Committee on Agriculture.

2. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Almonds Grown in California; Change in Quality Control Requirements [Docket No. FV96–981–3FIR] received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Irish Potatoes Grown in Maine; Termination of Marketing Order No. 950 [Docket No. FV95–950–1FR] received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Domestically Produced Peanuts Handled by Persons Subject to Peanut Marketing Agreement No. 146; Changes in Terms and Conditions of Indemnification [Docket No. FV96–998–3 FR] received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Milk in the Iowa Marketing Area; Revision of Pool Supply Plant Shipping Percentage [DA–96–11] received October 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Tomatoes Grown in Florida; Partial Exemption from the Handling Regulation for Single Layer and Two Layer Place Packed Tomatoes [Docket No. FV96–966–2 IFR] received October 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Relaxation of Pack and Marking Requirements [Docket No. FV96–958–3 FIR] received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Raisins Produced From Grapes Grown in California; Assessment Rate [Docket No. FV96–989–3 IFR] received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Assessment Rates for Specified Marketing Orders [Docket No. FV96–927–2 FIR] received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Milk in the Eastern Colorado Marketing Area; Suspension of Certain Provisions of the Order [DA–96–13] received October 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Olives Grown in California and Imported Olives; Establishment of Limited-Use Olive Grade and Size Requirements [Docket No. FV96–932–3 FIR] received October 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

12. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Kiwifruit Grown in California; Reduction of Reporting Requirements [Docket No. FV96–920–3 IFR] received October 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

13. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Regulations Issued Under the Export Grape and Plum Act; Exemption from Size Regulations for Black Corinth Grapes [Docket No. FV96–35–1 IFR] received October 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

14. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards) [Docket No. FV–95–306] received October 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

15. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Assessment Rate for Domestically Produced Peanuts Handled by Persons Not Subject to Peanut Marketing Agreement No. 146 and for Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts [Docket No. FV96–998–2 FIR] received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

16. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Revision of Pack and Size Requirements [Docket No. FV96–906–3 FIR] received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

17. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Domestic Dates Produced or Packed in Riverside County, California; Assessment Rate [Docket No. FV96–987–1 FIR] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

18. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Walnuts Grown in California; Assessment Rate [Docket No. FV96–984–1 IFR] received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

19. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Limes Grown in Florida and Imported Limes; Increase in the Minimum Size Requirement [Docket No. FV96–911–1FR] received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

20. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Change in Reporting Requirements [Docket No. FV96–906–2 FR] received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

21. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; and Import Regulations (Grapefruit); Relaxation of the Minimum Size Requirement for Red Grapefruit [Docket No. FV96–905–4 IFR] received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

22. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Almonds Grown in California; Interest and Late Payment Charges on Past Due Assessments [Docket No. FV96–981–4 FR] received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

23. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Raisins Produced From Grapes Grown in California; Assessment Rate [Docket No. FV96–989–3 FIR] received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

24. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Kiwifruit Grown in California; Reduction of Reporting Requirements [Docket No. FV–96–920–3 FIR] received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

25. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports [Docket No. 96–074–1] received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

26. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Importation of Horses from CEM Countries [Docket No. 95–054–2] received October 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

27. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Brucellosis in Cattle; State and

Area Classifications; Louisiana [Docket No. 96–043–1] received October 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

28. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Japanese Beetle; Domestic Quarantine and Regulations [Docket No. 95–087–2] received November 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

29. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Viruses, Serums, Toxins, and Analogous Products; Licenses, Inspections, Records, and Reports [Docket No. 93–072–2] received October 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

30. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Commuted Traveltime Periods; Overtime Services Relating to Imports and Exports [Docket No. 95–049–1] received October 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

31. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Exotic Newcastle Disease in Birds and Poultry; Chlamydiosis in Poultry [Docket No. 87–090–3] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

32. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—CEM; Remove Interstate Movement Regulations [Docket No. 96–040–1] received October 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

33. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Brucellosis in Cattle; State and Area Classifications; New Mexico [Docket No. 96–045–1] received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

34. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Correction of Trading Records (17 CFR Part 1) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

35. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Report for Commission Interpretation (Appendix A to Part 3 of Commission Regulations) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

36. A letter from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's "Major" final rule—Child Support Deduction (RIN: 9584–AB58) received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

37. A letter from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Simplification of Program Rules (RIN: 0584–AB60) (Amendment No. 364) received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

38. A letter from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Treatment of Educational and Training Assistance (RIN: 0584–AB93) (Amendment No. 374) received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

39. A letter from the Under the Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Food Stamp Program, Regulatory Review: Alaska, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and Demonstration Projects (RIN: 0584–AC14) (Amendment No. 371) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

40. A letter from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's "Major" final rule—Food Stamp Program: Certification Provisions of the Mickey Leland Childhood Hunger Relief Act (RIN: 0584–AB76) (Amendment No. 375) received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

41. A letter from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Monthly Reporting on Reservations Provision of the Food Stamp Program Improvements Act of 1994 (RIN: 0584–AB98) (Amendment No. 365) received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

42. A letter from the Director, Office of Regulatory Management, Environmental Protection Agency, transmitting the Agency's final rule—Propiconazole; Pesticide Tolerances for Emergency Exemptions (RIN: 2070–AB78) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

43. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid Pesticide Tolerance; Emergency Exemptions [FRL–5575–1] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

44. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Pesticide Tolerance for Emergency Exemptions [FRL–5574–9] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

45. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Triadimefon; Pesticide Tolerance for Emergency Exemptions [FRL–5574–8] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

46. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Metalochlor Pesticide Tolerance; Emergency Exemption For Use on Spinach [FRL–5574–7] November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

47. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Book-entry Procedures for Farm Credit Securities (RIN: 3052–AB73) received December 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

48. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Organization and Functions; Privacy Act Regulations; Organization; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; Definitions (RIN: 3052–AB61) received December 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

49. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Accounting and Reporting Requirements (RIN: 3052–AB54) received December 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

50. A letter from the Acting Administrator, Farm Service Agency, transmitting the Agency's final rule—Disaster Reserve Assistance Program—received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

51. A letter from the Acting Administrator, Farm Service Agency, transmitting the Agency's final rule—1996 Marketing Quotas and Price Support Levels for Fire-Cured (type 21), Fire-Cured (types 22–23), Dark Air-Cured (types 35–36, Virginia Sun-Cured (type 37), Cigar-Filler and Binder (types 42–44 and 53–55), and Cigar-Filler (type 46) tobaccos (RIN: 0560–AE46) received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

52. A letter from the Acting Administrator, Farm Service Agency, transmitting the Agency's final rule—1996-Crop Peanuts Amended National Poundage Quota (RIN: 0560–AE45) received November 25, 1996, pursuant to 5 U.S.C. 801 (a)(1)(A); to the Committee on Agriculture.

53. A letter from the Acting Administrator, Farm Service Agency, transmitting the Agency's final rule—Dairy Indemnity Payment Program [Workplan Number 96–050] (RIN: 0560–AE97) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

54. A letter from the Administrator, Foreign Agricultural Service, transmitting the Service's final rule—Agreements for the Development of Foreign Markets for Agricultural Commodities (RIN: 0551–AA24) received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

55. A letter from the Administrator, Foreign Agricultural Service, transmitting the Service's final rule—Agreements for the Development of Foreign Markets for Agricultural Commodities (RIN: 0551–AA24) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

56. A letter from the Administrator, Foreign Agricultural Service, transmitting the Service's final rule—Foreign Donation of Agricultural Commodities [7 CFR Part 1499] received December 3, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

57. A letter from the Administrator, Grain Inspection, Packers and Stockyards Administration, transmitting the Administration's final rule—Clear Title—Protection for Purchasers of Farms Products (RIN: 0580–AA13) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

58. A communication from the President of the United States, transmitting a report of seven new deferrals of budgetary resources, totaling $3.5 billion—received in the U.S. House of Representatives December 5, 1996, pursuant to 2 U.S.C. 684(a) (H. Doc. No. 105–15); to the Committee on Appropriations and ordered to be printed.

59. A letter from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act—Air Force violation, case No. 92–12, which totaled $371,392, occurred when the Ogden Air Logistics Center, Hill Air Force Base [AFB], Ogden, UT, improperly used industrial fund facilities monies in excess of the $200,000 statutory limit at the time for minor construction to purchase 12 mobile home trailers for the Utah Test and Training Range, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

60. A letter from the Principal Deputy Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act—Air Force violation case No. 92–27, which totaled $478,093, occurred in the fiscal year 1987 operation and maintenance [O&M], Air Force appropriation at Ramstein Air Base, Germany, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

61. A letter from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act—Air Force violation, case No. 92–09, which totaled $464,800, occurred at Ramstein Air Base, Germany, when personnel in the 377th Civil Engineering Group improperly used the fiscal year 1987 operation and maintenance [O&M], Air Force appropriation to alter and add to an existing recreation center, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

62. A letter from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act—Air Force violation, case No. 92–11, which totaled $37,779, occurred at the O'Hare International Air Force Reserve Station, Chicago, IL, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

63. A letter from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act—case No. 95–06, occurred in the research, development test and evaluation [RDT&E] merged account, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

64. A letter from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report of two violations of the Anti-Deficiency Act—Navy violations, case No. 96–03, which totaled $635,060, occurred in the fiscal year 1995 operation and maintenance, Navy [O&M,N] appropriation, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

65. A letter from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report on a violation of the Anti-Deficiency Act—Army violation, case No. 96–05, which totaled $126,193, occurred at a regional contracting office in Brussels, Belgium, when the Procurement Contracting Branch Chief obligated fiscal year 1993 Defense-wide appropriations for severable service contracts to meet requirements properly chargeable to the fiscal year 1994 Defense-wide appropriation, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

66. A letter from the Secretary of Transportation, transmitting a report of a violation of the Anti-Deficiency Act—Department of Transportation, Office of the Secretary, transportation planning, research and development account [TPR&D], appropriations symbol 69X0142, in fiscal year 1994, in the amount of $928,423, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

67. A communication from the President of the United States, transmitting a report certifying that continued production from the naval petroleum reserves for a period of 3 years from April 5, 1997, is in the national interest, pursuant to 10 U.S.C. 7422(c)(2)(B); to the Committee on National Security.

68. A letter from the Principal Deputy Under Secretary of Defense (Comptroller), Department of Defense, transmitting notification that the Secretary has invoked the authority granted by 41 U.S.C. 3732 to authorize the military departments to incur obligations in excess of available appropriations for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies, pursuant to 41 U.S.C. 11; to the Committee on National Security.

69. A letter from the Under Secretary of Defense, transmitting the Secretary's selected acquisition reports [SAR's] for the quarter ending September 30, 1996, pursuant to 10 U.S.C. 2432; to the Committee on National Security.

70. A letter from the Secretary of the Navy, transmitting notification of the proposed transfer of the battleship ex-*Missouri* (BB–63) to the U.S.S. *Missouri* Memorial Association, Inc., Honolulu, HI, a nonprofit organization, pursuant to 10 U.S.C. 7308(c); to the Committee on National Security.

71. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Pilot Mentor-Protege Program [DFARS Case 96–D317] received October 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

72. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Restructuring Costs/Bonuses [DFARS Case 96–D332] received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

73. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Foreign Machine Tools and Powered and Non-Powered Valves [DFARS Case 96–D023] received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

74. A letter from the Director of Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Restructing Costs [DFARS Case 96–D334] received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

75. A letter from the Director of Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Notice of Termination [DFARS Case 96–D320] received December 4, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

76. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Individual Compensation [DFARS Case 96–D330] received December 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

77. A letter from the Director of Office of Administration and Management, Department of Defense, transmitting the Department's final rule—Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Five Separate Changes [DOD 6010.8–R] (RIN: 0720–AA26) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

78. A communication from the President of the United States, transmitting a report pursuant to section 242 of the National Defense Authorization Act for fiscal year 1997; to the Committee on National Security.

79. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–2, reporting that it is in the national interest for the Export-Import Bank to make a loan of approximately $383 million to the People's Republic of China, pursuant to 12 U.S.C. 635(b) (2) (D) (ii); to the Committee on Banking and Financial Services.

80. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–3, reporting that it is in the national interest for the Export-Import Bank to make a loan of approximately $409 million to the People's Republic of China, pursuant to 12 U.S.C. 635(b)(2)(D)(ii); to the Committee on Banking and Financial Services.

81. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting a copy of the 18th monthly report as required by the Mexican Debt Disclosure Act of 1995, pursuant to Public Law 104–6, section 404(a) (109 Stat. 90); to the Committee on Banking and Financial Services.

82. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting a copy of the 19th monthly report as required by the Mexican Debt Disclosure Act of 1995, pursuant to Public Law 104–6, section 404(a) (109 Stat. 90); to the Committee on Banking and Financial Services.

83. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Bank Holding Companies and Change in Bank Control (Regulation Y) [Docket No. R–0936) received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

84. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Consumer Leasing [Regulation M; Docket No. R–0892] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

85. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Review of Restrictions on Director, Officer and Employee Interlocks, Cross-Marketing Activities, and the Purchase and Sale of Financial Assets Between a Section 20 Subsidiary and an Affiliated Bank or Thrift [Docket No. R–0701] received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

86. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final

rule—Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Loans to Holding Companies and Affiliates [Regulation O; Docket N. R–0939] received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

87. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Review of Restrictions on Director, Officer and Employee Interlocks, Cross-Marketing Activities, and the Purchase and Sale of Financial Assets Between a Section 20 Subsidiary and an Affiliated Bank or Thrift [Docket No. R–0701] received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

88. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Loan Guarantees for Defense Production [Docket No. R–0928] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

89. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records [Docket No. R–0934] received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

90. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Department's report entitled "Report to the Congress on Funds Availability Schedules and Check Fraud at Depository Institutions"; to the Committee on Banking and Financial Services.

91. A letter from the Under Secretary for Rural Development, Department of Agriculture, transmitting the Department's "Major" final rule—Reengineering and Reinvention of the Direct Section 502 and 504 Single Family Housing (SFH) Program (RIN: 0575–AB99) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

92. A letter from the General Counsel, Department of Housing and Urban Development; transmitting the Department's final rule—Streamlining Hearing Procedures [Docket No. FR–4022–F–02] (RIN: 2501–AC19) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

93. A letter from the General Counsel, Department of Housing and Urban Development; transmitting the Department's final rule—Public and Indian Housing Performance Funding System: Incentives [Docket No. FR–4072–I–01] (RIN: 2577–AB65) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

94. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Office of the Assistant Secretary for Community Planning and Development; Shelter Plus Care Program; Streamlining [Docket No. FR–4091–F–01] (RIN: 2506–AB86) received October 15, 1996, pursuant to U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

95. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Office of the Assistant Secretary for Community Planning and Development; Supportive Housing Program; Streamlining [Docket No. FR–4089–F–01] received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

96. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Streamlining the Emergency Shelter Grants Program [Docket No. FR–4088–F–01] (RIN: 2506–AB84) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

97. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Displacement, Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Programs; Streamlining Changes [Docket No. FR–3982–F–01] (RIN: 2501–AC11) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

98. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Opportunities for Youth; Youthbuild Program Streamlining and Amendment of Interim Rule [Docket No. FR–4038–N–02] (RIN: 2506–AB79) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

99. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Consolidated HUD Hearing Procedures for Civil Rights Matters [Docket No. FR–4077–F–01] (RIN: 2501–AC27) Received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

100. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Amendments to Regulation X, the Real Estate Settlement Procedures Act: Withdrawal of Employer-Employee and Computer Loan Origination Systems (CLOs) Exemptions; Notice of Delay of Effectiveness of Rule [Docket No. FR–3638–N–07] (RIN: 2502–AG26) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

101. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Proprietary Data Submitted by the Federal National Mortgage Associate (Fannie Mac) and the Federal Home Loan Mortgage Corporation (Freddie Mac)—Final Order (FR–1439) received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

102. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Combined Income and Rent (FR–3324) received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

103. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Community Development Block Grant Program for States; Community Revitalization Strategy Requirements and Miscellaneous Technical Amendments; (FR–4081) received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

104. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Disposition of HUD-Acquired Single Family Property; Streamling (FR–4116) received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

105. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Streamlining of Part 245 Tenant Participation in Multifamily Housing Projects (FR–4136) received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

106. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Streamlining the Single Family Components of the Single Family-Multifamily Regulations [Docket No. FR–4112–F–01] (RIN: 2502–AG80) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

107. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Amendments to Regulation X, the Real Estate Settlement Procedures Act Regulation (Withdrawal of Employer-Employee and Computer Loan Origination Systems (CLOs) Exemptions) [Docket No. FR 4148–F–01] received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

108. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Revised Restrictions on Assistance to Noncitizens [Docket No. FR–4154–I–01] (RIN: 201–AC36) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

109. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—The Secretary of HUD's Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac): Book-Entry Procedures [Docket No. FR–4095–I–01] (RIN: 2501–AC35) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

110. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Qatar, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

111. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to the Republic of Uzbekistan, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

112. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to the Republic of the Philippines, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

113. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Mexico, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

114. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Assessments (RIN: 3064–xxxx) (12 CFR Part 327) received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

115. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Suspension and Exclusion of Contractors and Termination of Contracts (RIN: 3064–AB76) received October 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

116. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Risk-Based Capital Standards: Market Risk (RIN: 3064–AB64) received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

117. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the semiannual report on the Affordable Housing Disposition Program which covers the reporting period defined as January 1, 1996 through June 30, 1996, pursuant to Public Law 102–233, section 616 (105 Stat. 1787); to the Committee on Banking and Financial Services.

118. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the semiannual report on the activities and efforts relation to utilization of the private sector, pursuant to 12 U.S.C. 1827; to the Committee on Banking and Financial Services.

119. A letter from the Deputy Director of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Special Assessments [12 CFR Part 327] (RIN: 3064–AB59) received December 4, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

120. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Amendment of Budgets Regulation [No. 96–71] received October 28, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

121. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Revision of Financing Corporation Operations Regulation [No. 96–80] received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

122. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Regulations Governing Book-Entry Federal Home Loan Bank Securities [No. 96–79] received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

123. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting a copy of the Board's report on rules on home-equity credit under the Truth in Lending Act, pursuant to 15 U.S.C. 1613; to the Committee on Banking and Financial Services.

124. A letter from the Assistant to the Board of Governors, Federal Reserve System, transmitting the System's final rule—Policy Statement on Payments System Risk; Modified Procedures for Measuring Daylight Overdrafts [Docket No. R–0937] received December 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

125. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Extensions of Credit to Insiders and Transactions with Affiliates [Docket No. 96–23] (RIN: 1557–AB40) received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

126. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Assessment of Fees; National Banks; District of Columbia Banks [Docket No. 96–27] (RIN: 1557–AB41) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

127. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Leasing [Docket No. 96–28] (RIN: 1557–AB45) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

128. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Treasury, transmitting the Office's final rule—Rules, Policies, and Procedures for Corporate Activities [Docket No. 96–24] (RIN: 1557–AB27) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

129. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting the Office's final rule—Conflicts of Interest, Corporate Opportunity and Hazard Insurance [No. 96–111] (RIN: 1550–AA89) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

130. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting the Office's final rule—Corporate Governance [No. 96–112] (RIN: 1550–AA87) received November 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

131. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting the Office's final rule—Amendments Implementing Economic Growth and Regulatory Paperwork Reduction Act [No. 96–113] (RIN: 1550–AB05) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

132. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2635, H.R. 3074, S. 1675, and S. 1965, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

133. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 3056, H.R. 1791, H.R. 2594, H.R. 3068, H.R. 3118, H.R. 3458, H.R. 3539, H.R. 3871, H.R. 3916, H.R. 4167, H.R. 4168, and S. 1711, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

134. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 543, H.R. 1514, H.R. 1734, H.R. 1823, H.R. 2579, H.R. 3005, H.R. 3159, H.R. 3166, H.R. 3723, H.R. 3815, S. 39, and S. 1973, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

135. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 3452 and H.R. 4283, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

136. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 632, H.R. 3632, S. 1887, H.R. 3910, H.R. 4194, S. 342, S. 1004, S. 1649, S. 2183, and H.R. 1776, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

137. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2512, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

138. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of S. 640, S. 1505, H.R. 4137, and S. 2078, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

139. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 4236, pursuant to Public Law 101–508, section 13101 (a) (104 Stat. 1388–582); to the Committee on the Budget.

140. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 3610, pursuant to Public Law 101–508, section 13101 (a) (104 Stat. 1388–578); to the Committee on the Budget

141. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 3666, H.R. 3675, and H.R. 3816, pursuant to Public Law 101–508, section 13101 (a) (104 Stat. 1388–578); to the Committee on the Budget

142. A letter from the Secretary of Labor, transmitting a report on training and employment programs for program year [PY] 1992 and fiscal year [FY] 1993, pursuant to 29 U.S.C. 777a; to the Committee on Education and the Workforce.

143. A letter from the Secretary of Health and Human Services, transmitting a report on the effectiveness of demonstration projects to address child access problems, pursuant to 42 U.S.C. 1315 note; to the Committee on Education and the Workforce.

144. A letter from the Secretary of Labor, transmitting a report covering the administration of the Employee Retirement Income Security Act [ERISA] during calendar year 1994, pursuant to 29 U.S.C. 1143(b); to the Committee on Education and the Workforce.

145. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final

rule—Federal Family Education Loan Program (Due Diligence Requirements) (RIN: 1840-AC35) received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

146. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Family Educational Rights and Privacy (RIN: 1880-AA65) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

147. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Federal Family Education Loan (FFEL Program (Guaranty Agencies—Conflicts of Interest) (RIN: 1840-AC33) received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

148. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Student Assistance General Provisions (RIN: 1840-AC39) received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

149. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Student Assistance General Provisions (RIN: 1840-AC36) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

150. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Federal Pell Grant Program (RIN: 1840-AC34) received November 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

151. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Student Assistance General Provisions, Federal Perkins Loan Program, Federal Work-Study Program, Federal Supplemental Educational Opportunity Grant Program, Federal Family Education Loan Programs, William D. Ford Federal Direct Loan Program, and Federal Pell Grant Program (RIN: 1840-AC37) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

152. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Drug and Alcohol Abuse Prevention (RIN: 1810-AA83) received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

153. A letter from the Assistant Secretary of Labor for Mine Safety and Health, Department of Labor, transmitting the Department's final rule—Approval, Exhaust Gas Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines (RIN: 1219-AA27) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

154. A letter from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting the Department's final rule—Occupational Exposure to 1,3-Butadiene (RIN 1218-AA83) received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

155. A letter from the Assistant Secretary of Labor for OSHA, Occupational Safety and Health Administration, transmitting the Administration's final rule—North Carolina State Plan; Final Approval Determination [Docket No. T-031] [29 CFR Part 1952] received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

156. A letter from the Deputy Executive Director and Chief Operation Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits (29 CFR Part 4044) received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

157. A letter from the Deputy Executive Director and Chief Operation Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Rate for Valuing Benefits (29 CFR Part 4044) received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

158. A letter from the Deputy Executive Director and Chief Operation Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Submission of Reportable Events; Annual Report of the Pension Benefit Guaranty Corporation (RIN: 1212-AA80) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

159. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Payment of Premiums; Late Payment Penalty Charges, received December 3, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

160. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age [29 CFR Part 4044] received December 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

161. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits [29 CFR Part 4044] received December 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

162. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans [29 CFR Parts 4011 and 4022] received December 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

163. A letter from the Secretary of Education, transmitting the Department's final rule—Student Assistance General Provisions (RIN: 1840-AC39) received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

164. A letter from the Secretary of Education, transmitting the Department's final rule—Federal Family Education Loan Program (Due Diligence Requirements) (RIN: 1840-AC35) received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

165. A letter from the Secretary of Education, transmitting the Department's final rule—Federal Family Education Loan (FFEL) Program (Guaranty Agencies—Conflicts of Interest) (RIN: 1840-AC33) received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

166. A letter from the Secretary of Education, transmitting the Department's final rule—Family Educational Rights and Privacy (RIN: 1880-AA65) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

167. A letter from the Secretary of Education, transmitting the Department's final rule—Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Federal Pell Grant Program (RIN: 1840-AC34) received November 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

168. A letter from the Secretary of Education, transmitting the Department's final rule—Student Assistance General Provisions (RIN: 1840-AC36) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

169. A letter from the Secretary of Education, transmitting the Department's final rule—Student Assistance General Provisions, Federal Perkins Loan Program, Federal Work-Study Program, Federal Supplemental Educational Opportunity Grant Program, Federal Family Education Loan Programs, William D. Ford Federal Direct Loan Program, and Federal Pell Grant Program (RIN: 1840-AC37) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

170. A letter from the Secretary of Education, transmitting the final report on the Department's study of the status of States' systems of core standards and measures of performance for vocational education programs; to the Committee on Education and the Workforce.

171. A letter from the Secretary of Education, transmitting the biennial report on title III HEA Strengthening Institutions Program and the waivers approval list of schools with significant minority enrollment; to the Committee on Education and the Workforce.

172. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Implementation of the Statutory Provisions of the Head Start Act, as amended (RIN: 0970-AB55) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

173. A letter from the Secretary of Health and Human Services, transmitting the fourth annual report to Congress on progress in achieving the performance goals referenced in the Prescription Drug User Fee Act of 1992 [PDUFA], for the fiscal year 1996, pursuant to 21 U.S.C. 379g note; to the Committee on Commerce.

174. A letter from the Secretary of Health and Human Services, transmitting a copy of the fiscal years [FY] 1993, 1994, and 1995 Report of the Agency for Toxic Substances and Disease Registry [ATSDR], pursuant to Public Law 99-499, section 110(10) (100 Stat. 1641); to the Committee on Commerce.

175. A letter from the Secretary of the Commission, Consumer Product Safety Commission, transmitting the Commission's final rule—Small Business (Part 1020) received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

176. A letter from the Assistant Secretary for Communications and Information, Department of Commerce, transmitting the Department's final rule—Public Telecommunications Facilities Program [Docket No. 960524148–6243–02] (RIN: 0660–AA09) received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

177. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a copy of a report entitled "Emissions of Greenhouse Gases in the United States 1995," pursuant to Public Law 102–486, section 1605(a); to the Committee on Commerce.

178. A letter from the General Counsel, Department of Energy, transmitting the Department's final rule—Office of Defense Programs; Personnel Assurance Program; Human Reliability Policies—received October 28, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

179. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Adverse Side Effects of Air Bags (National Highway Traffic Safety Administration) [Docket No. 74–14; Notice 103] (RIN: 2127–AG14) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

180. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Adverse Side Effects of Air Bags Correcting Amendment (National Highway Traffic Safety Administration) [Docket No. 74–14; Notice 105] (RIN: 2127–AG14) received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

181. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Tennessee FRL–5639–2] received October 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

182. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Plans, Texas and Louisiana; Revision to the Texas and Louisiana State Implementation Plans Regarding Negative Declarations for Source Categories Subject to Reasonably Available Control Technology [FRL–5629–7] received October 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

183. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Authorization of State Hazardous Waste Management Program Revision [FRL–5638–9] received October 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

184. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plan; Louisiana; 15 Percent Rate-of-Progress Plan [FRL–5636–6] received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

185. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clear Air Act Approval and Promulgation of State Implementation Plan for Montana; Revisions to the Montana Air Pollution Control Program [FRL–5635–6] received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

186. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Visible Emissions Rules for Allegheny County Pertaining to Blast Furnace Slips [FRL–5635–4] received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

187. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Ohio: Authorization of State Hazardous Waste Management Program [FRL–5638–1] received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

188. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Reclassification; Nevada—Clark County Nonattainment Area; Carbon Monoxide [FRL–5644–8] received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

189. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Interim Approval of Operating Permits Program; New York [FRL–5646–7] received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

190. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Control of Air Pollution; Amendments to Emission Requirements Applicable to New Nonroad Compression-Ignition Engines At or Above 37 Kilowatts: Provisions for Replacement Compression-Ignition Engines and the Use of On-Highway Compression-Ignition Engines in Nonroad Vehicles [FRL–5645–4] received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

191. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Designation of Areas for Air Quality Planning Purposes; State of Connecticut [FRL–5611–5] received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

192. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Arizona Redesignation of the Yavapai-Apache Reservation to a PSD Class I Area [FRL–5634–4] received October 28, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

193. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Glenn County and Siskiyou County Air Pollution Control Districts [FRL–5610–9] received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

194. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan Revision, South Coast Air Quality Management District [FRL–5640–8] received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

195. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Attainment Extension for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide Nonattainment Area [FRL–5643–2] received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

196. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District [FRL–5640–2] received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

197. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Illinois [FRL–5615–6] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

198. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Petition by Guam for Exemption from Anti-Dumping and Detergent Additization Requirements for Conventional Gasoline [FRL–5636–2] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

199. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Ventura County Air Pollution Control District and South Coast Air Quality Management District [FRL–5633–8] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

200. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Protection of Stratospheric Ozone: Listing of Substitutes of Ozone-Depleting Substances [FRL–5635–9] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

201. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approval Numbers Under the Paperwork Reduction [FRL–5634–9] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

202. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers [FRL–5634–4] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

203. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act

Final Interim Approval of Operating Permits Program; Direct Final Interim Approval of Operating Permits Program; Pinal County Air Quality Control District, Arizona [FRL–5642–1] received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

204. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Texas; Control of Sulfuric Acid Mist Emissions from Existing Sulfuric Acid Production Plants and Total Reduced Sulfur from Existing Kraft Pulp Mills [FRL–5629–5] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

205. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Condition Special Exemption from Requirements of the Clean Air for the Territory of American Samoa, the Commonwealth of the Northern Mariana Islands, and the Territory of Guam [FRL–5645–1] received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

206. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District [FRL–5642–8] received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

207. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [FRL–5613–4] received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

208. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Underground Storage Tank Program: Approved State Program for Massachusetts [FRL–5617–2] received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

209. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District [FRL–5641–5] received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

210. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District [FRL–5641–7] received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

211. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program; New Jersey and the U.S. Virgin Islands [FRL–5637–8] received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

212. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Rhode Island [FRL–5608–1] received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

213. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Control Strategy: Ozone; Tennessee [FRL–5637–1] received October 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

214. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Maintenance Plan for Air Quality Planning Purposes for the State of Washington; Carbon Monoxide [FRL–4637–3] received October 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

215. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Prevention of Significant Deterioration: NO2 and PM–10 Increments [FRL–5619–8] received October 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

216. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maine; Stage II Vapor Recovery [FRL–5620–1] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

217. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans State: Approval of Revisions to the Knox County Portion of the State of Tennessee's State Implementation Plan (SIP) [FRL–5619–6] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

218. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of State Implementation Plans; Prevention of Significant Deterioration (PSD); Louisiana and New Mexico [FRL–5612–7] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

219. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Amendment to Massachusetts' SIP (for Ozone and Carbon Monoxide) for Establishment of a South Boston Parking Freeze [FRL–5613–3] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

220. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Revised Carbon Monoxide (CO) Standard for Class I and II Nonhandled New Nonroad Phase I Small Spark-Ignition Engines [FRL–5650–6] received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

221. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Use of Alternative Analytical Test Methods in the Reformulated Gasoline Program [FRL–5650–5] received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

222. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Approval of MP–10 Implementation Plan for the Follansbee Area [FRL–5649–5] received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

223. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's "Major" final rule—Financial Assurance Mechanisms for Local Government Owners and Operators of Municipal Solid Waste Landfill Facilities [FRL–5654–3] received November 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

224. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Florida: Approval of Revisions to Florida Regulations [FRL–5640–4] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

225. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Designation of Areas for Air Quality Planning Purposes; Indiana [FRL–5647–9] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

226. A letter from the Director, Office of Regulatory Management, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for the States of North Dakota, Utah, Colorado and Montana [FRL–5282–1] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

227. A letter from the Director, Office of Regulatory Management, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; West Virginia; SO2: New Manchester-Grant Magisterial District, Hancock County Implementation Plan [FRL–5644–2] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

228. A letter from the Director, Office of Regulatory Management, Environmental Protection Agency, transmitting the Agency's final rule—Designation of Areas for Air Quality Planning Purposes; Indiana [FRL–5648–7] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

229. A letter from the Director, Office of Regulatory Management, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Full Approval of Operating Permits Program; the State of New Mexico and Albuquerque/

Bernalillo County [FRL–5654–8] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

230. A letter from the Director, Office of Regulatory Management, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland 1990 Base Year Emission Inventory; Correction [FRL–5650–8] received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

231. A letter from the Director, Office of Regulatory Management, Environmental Protection Agency, transmitting the Agency's final rule—Designation of Areas of Air Quality Planning Purposes; State of Nebraska [FRL–5655–6] received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

232. A letter from the Director, Office of Regulatory Management, Environmental Protection Agency, transmitting the Agency's final rule—Withdrawl from Federal Regulations of Human Health Water Quality Criteria Applicable to Idaho [FRL–5656–7] received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

233. A letter from the Administrator, Environmental Protection Agency, transmitting a copy of the Interim Final Report to Congress on the study of hazardous air pollutant [HAP] emissions from electric utility steam generating units; to the Committee on Commerce.

234. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting the Toxic Substances Control Act [TSCA] Report for fiscal year 1994, pursuant to 15 U.S.C. 2629; to the Committee on Commerce.

235. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Acid Rain Program; Continuous Emission Monitoring Rule Technical Revisions [FRL–5650–7] (RIN: 2060–AF58) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

236. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Regulation of Fuels and Fuel Additives: Minor Revisions [FRL–5651–3] received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

237. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Extension of Interim Revisited Durability Procedures for Light-Duty Vehicles and Light-Duty Trucks [FRL–5651–2] received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

238. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Montana Board of Oil and Gas Conservations; Underground Injection Control (UIC) Program; Primacy Program Approval [FRL–5629–4] received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

239. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Wisconsin; Final Full Program Determination of Adequacy of State Municipal Solid Waste Landfill Permit Program [FRL–5651–7] received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

240. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Significant New Uses of Certain Chemical Substances [FRL–4964–3] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)A); to the Committee on Commerce.

241. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework Facilities and Shipbuilding and Ship Repair (Surface Coating) Operations [AD–FRL–5601–7] (RIN–2060–AE02, 2060–AD98) received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

242. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Interim Approval, Operating Permits Program; State of Alaska and Clean Air Act Final Approval in Part and Disapproval in Part, Section 112(1) Program Submittal; State of Alaska [AD–FRL–5658–4] received December 4, 1996, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Commerce.

243. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Protection of Stratospheric Ozone: Reconsideration of the Ban on Fire Extinguishers [FRL–5658–7] (RIN: 2060–AG19) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

244. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks; Rule Clarifications [AD–FRL–5658–5] (RIN: 2060–AC19) received December 4, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

245. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's "Major' final rule—Nitrogen Oxides Emission Reduction Program [AD–FRL–5666–1] (RIN: 2060–AF48) received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

246. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (Memphis, Tennessee) [MM Docket No. 96–16] received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

247. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended [CC Docket No. 96–61] received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

248. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Kiowa, Kansas) [MM Docket No. 96-65; RM–8773] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

249. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Parts 2, 25, and 90 of the Commission's Rules to Allocate the 13.75–14.0 GHz Band to the Fixed-Satellite Service [ET Docket No. 96–20] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

250. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Temecula, California) [MM Docket No. 95–81; RM–8649] received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

251. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Reynoldsville, Pennsylvania) [MM Docket No. 96–75] received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

252. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wittenberg, Wisconsin) [MM Docket No. 96–31; RM–8761] received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

253. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wilson Creek, Washington and Pendleton, Oregon) [MM Docket No. 95–163; RM–8715] received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce. January 7, 1997.

254. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (Woodward, Oklahoma) [MM Docket No. 96–44; RM–8745] received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

255. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (Waverly, New York and Altoona, Pennsylvania) [MM Docket No. 96–11; RM–8742] received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

256. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Shell Knob, Missouri) [MM Docket No. 96–138; RM–8822] received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

257. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Salem and Cherokee Village, Arkansas) [MM Docket No. 96–4; RM 8733] received October 13, 1996,

pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

258. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 [CC Docket No. 96–98]; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers [CC Docket No. 95–185] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

259. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Tehachapi, California) [MM Docket No. 96–129; RM–8814] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

260. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Romney, West Virginia) [MM Docket No. 94–137; RM–8532] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

261. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Princeville, Hawaii) [MM Docket No. 96–52; RM–8755] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

262. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202 (b), Table of Allotments, FM Broadcast Stations (Stamping Ground and Nicholasville, Kentucky) [MM Docket No. 95–28; RM–8593; Rm–8696] received November 5, 1996, pursuant to U.S.C. 801(a)(1)(A); to the Committee on Commerce.

263. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hemphill, Texas) received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

264. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use (ET Docket No. 94–32] received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

265. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Section 309(j) of the Communications Act—Competitive Bidding [PP Docket No. 95–253] received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

266. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Parts 20, 21, 22, 24, 26, 80, 87, 90, 100, and 101 of the Commission's Rules To Implement Section 403(k) of the Telecommunications Act of 1996 (Citizenship Requirements) (FCC 96–396) received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

267. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Section 309(j) of the Communications Act—Competitive Bidding (PP Docket No. 93–253]; Amendment of Part 22 of the Commission's Rules to Provide for the Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rates [CC Docket No. 90–6] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

268. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Revision of Filing Requirements [CC Docket No. 96–23] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

269. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 [CC Docket No. 96–128]; Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation [CC Docket No. 91–35]; Petition of the Public Telephone Council to Treat Bell Operating Company Payphones as Customer Premises Equipment; Petition of Oncor Communications Requesting Compensation for Competitive Payphone Premises Owners and Presubscribed Operator Services Providers; Petition of the California Payphone Association to Amend and Clarify Section 68.2(a) of the Commission's Rules; Amendment of Section 69.2 (m) and (ee) of the Commission's Rules to, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

270. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Batesville, Arkansas) [MM Docket No. 96–153; RM–8804] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

271. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Clifton, Tennessee) [MM Docket No. 96–163; RM–8841] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

272. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (El Dorado, Arkansas) [MM Docket No. 96–131; RM–8810] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

273. A letter from the Managing Director, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Limon, Colorado) [MM Docket No. 96–156; RM–8840] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

274. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Pontotoc, Winona, Coffeeville and Rienzi, Mississippi, and Bolivar, Middleton, Selmer and Ramer, Tennessee) [MM Docket No. 91–152; RM–7085; RM–7092; RM–7225; RM–7352; RM–7437; RM–7714; RM–7845; RM–7846; RM–7847] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

275. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Ukiah, California) [MM Docket No. 96–9; RM–8736] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

276. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Keaau, Hawaii) [MM Docket No. 96–155; RM–8828] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

277. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Parts 80 and 87 of the Commission's Rules to Permit Operation of Certain Domestic Ship and Aircraft Radio Stations Without Individual Licenses [WT Docket No. 96–82] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

278. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—In the Matter of Implementation of Section 309(j) of the Communications Act—Competitive Bidding (Tenth Report and Order) [FCC 96–447, PP Docket No. 93–253] received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

279. A letter from the Secretary, Federal Trade Commission, transmitting the report to Congress for 1994 pursuant to the Federal Cigarette Labeling and Advertising Act, pursuant to 15 U.S.C. 1337(b); to the Committee on Commerce.

280. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guides for the Use of Environmental Marketing Claims (16 CFR Part 260) received October 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

281. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guides for Select Leather and Imitation Leather Products (16 CFR Part 24) received October 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

282. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule") (16 CFR Part 305) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

283. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Deceptive Advertising and Labeling of Previously Used Lubricating Oil (16 CFR Part 406) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

284. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Recision of the Guides for the Mirror Industry (16 CFR Part 21) received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

285. A letter from the Director, Regulations Policy Management Staff, Office of

Policy, Food and Drug Administration, transmitting the Administration's final rule—Protection of Human Subjects; Informed Consent Verification [Docket No. 95N–0359] received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

286. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Extralabel Drug Use in Animals [Docket No. 96N–0081] (RIN: 0910–AA47) received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

287. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Prominence of Name of Distributor of Biological Products [Docket No. 95N–0295] received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

288. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Humanitarian Use Devices; Stay of Effective Date of Information Collection Requirements [Docket No. 91N–0404] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

289. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph for OTC First Aid Antibiotic Drug Products [Docket No. 95N–0062] (RIN: 0910–AA01) received November 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

290. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Over-the-Counter Drug Products Intended for Oral Ingestion that Contain Alcohol; Amendment of Final Rule [Docket No. 95N–0341] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

291. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Lowfat and Skim Milk Products, Lowfat and Nonfat Yogurt Products, Lowfat Cottage Cheese: Revocation of Standards of Identify; Food Labeling, Nutrient Content Claims for Fat, Fatty Acids, and Cholesterol Content of Foods [Docket Nos. 95P–0125, 95P–0250, 95P–0261, and 95P–0293] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

292. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Medical Device Recall Authority [Docket No. 93N–0260] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

293. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Reclassification of Acupuncture Needles for the Practice of Acupuncture [Docket No. 94P–0443] received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

294. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Policy and Procedure for Enforcement Actions; Departures from FSAR [NUREG–1600] received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

295. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Revision to the NRC Enforcement Manual [NUREG/BR–0195, Rev. 1] received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

296. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Disposal of High-Level Radioactive Wastes in Geologic Repositories; Design Basis Events [10 CFR Part 60] (RIN: 3150–AD51) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

297. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Reactor Site Criteria Including Seismic and Earthquake Engineering Criteria for Nuclear Power Plants and Denial of Petition from Free Environment [10 CFR Parts 21, 50, 52, 54, and 100] (RIN: 3150–AD93) received December 4, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

298. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act [10 CFR Part 20] (RIN: 3150–AF31) received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

299. A letter from the Director of Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—General Statement of Policy and Procedure for Enforcement Actions; Policy Statement—received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

300. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the nondisclosure of safeguards information for the quarter ending September 30, 1996, pursuant to 42 U.S.C. 2167(e); to the Committee on Commerce.

301. A letter from the Director of Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Constraint on Releases of Airborne Radioactive Materials to the Environment for Licensees Other than Power Reactors [Regulatory Guide 4.20] received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

302. A letter from the Director of Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Environmental Review for Renewal of Nuclear Power Plant Operating Licenses [10 CFR Part 51] (RIN: 3150–AD63) received December 17, 1996, pursuant to 5 U.S.C. 801 (a)(1)(A); to the Committee on Commerce.

303. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Recordkeeping and Confirmation Requirements for Securities Transactions [Docket No. 96–25] (RIN: 1557–AB42) received November 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

304. A letter from the Administrator, Public Health Service, transmitting the Service's final rule—Grants for Nurse Practioner and Nurse Midwifery Programs (RIN: 0906–AA40) received October 8, 1996, pursuant to 5 U.S.C. 801(A)(1)(A); to the Committee on Commerce.

305. A letter from the Secretary of Energy, transmitting the Department's 35th quarterly report to Congress on the status of Exxon and Stripper Well oil overcharge funds as of June 30, 1996; to the Committee on Commerce.

306. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medical Devices: Current Good Manufacturing Practices (CGMP) Final Rule; Quality System Regulation [Docket No. 90N–0172] (RIN: 0910–AA09) received October 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

307. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicaid Program; Final Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1996 [MB–100–N] (RIN: 0938–AH44) received October 8, 1996, pursuant to 5 U.S.C. 801(a)(a)(A); to the Committee on Commerce.

308. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Additional Requirements for Facilities Transferring or Receiving Select Agents (RIN: 0905–AE70) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

309. A letter from the Secretary of Health and Human Services, transmitting a report on the effectiveness of childhood lead poisoning prevention activities under the Lead Contamination Control Act of 1988; to the Committee on Commerce.

310. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Periodic Reporting of Unregistered Equity Sales (RIN: 3235–AG47) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

311. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Streamlining Disclosure Requirements Relating to Significant Business Acquisitions (RIN: 3235–AG47) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

312. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Custody of Investment Company Assets with Futures Commission Merchants and Commodity Clearing Organizations [Release No. IC–22389; File No. S7–15–94] (RIN: 3235–AF97) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

313. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Australia (Transmittal No. 02–97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

314. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Norway (Transmittal No. 01–97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

315. A letter from the Director, Defense Security Assistance Agency, transmitting notification of an amendment to the NATO Continuous Acquisition and Life-cycle Support [CALS] Memorandum of Understanding [MOU] (Transmittal No. 19–96), pursuant to

22 U.S.C. 2767(f); to the Committee on International Relations.

316. A letter from the Director, Defense Security Assistance Agency, transmitting the quarterly reports in accordance with sections 36(a) and 26(b) of the Arms Export Control Act, the 24 March 1979 report by the Committee on Foreign Affairs, and the seventh report by the Committee on Government Operations for the fourth quarter of fiscal year 1996, 1 July 1996–30 September 1996, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

317. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Germany for defense articles and services (Transmittal No. 97–03), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

318. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Spain for defense articles and services (Transmittal No. 97–04), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

319. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 97–02), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

320. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 97–06), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

321. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to the Taipei Economic and Cultural Representative Office in the United States [TECRO] Transmittal No. 04–97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

322. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of Navy's proposed lease of defense articles to the North Atlantic Treaty Organization (Transmittal No. 06–97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

323. A letter from the Under Secretary for Export Administration, Department of Commerce, transmitting a notice of a transfer of items from the U.S. munitions list to the Commerce control list, pursuant to 22 U.S.C. 2349aa–2(d)(4)(A)(iii); to the Committee on International Relations.

324. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting an unclassified report on the Loan Guarantees to Israel Program and on economic conditions in Israel, pursuant to Public Law 102–391, section 601 (106 Stat. 1701); to the Committee on International Relations.

325. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandum of justification for Presidential determination regarding the drawdown of defense articles and services for Eritrea, Ethiopia, and Uganda, pursuant to 22 U.S.C. 2318(a)(1); to the Committee on International Relations.

326. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary's determination and justification to exercise the authority granted him under section 451 of the Foreign Assistance Act of 1961, as amended, authorizing assistance to support a cease-fire agreement between the two main Kurd groups in northern Iraq, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on International Relations.

327. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification for fiscal year 1997 that no U.N. agency or U.N. affiliated agency grants any official status, accreditation, or recognition to any organization which promotes and condones or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization, pursuant to Public Law 103–236, section 102(g) (108 Stat. 389); to the Committee on International Relations.

328. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Saudi Arabia (Transmittal No. DTC–5–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

329. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–8, and the Statement of Justification authorizing the furnishing of assistance from the Emergency Refugee and Migration Assistance Fund to meet the urgent needs of refugees, victims of conflict, and other persons at risk in and from northern Iraq, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on International Relations.

330. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Australia (Transmittal No. DTC–4–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

331. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 96–56: Drawdown of Commodities, Services, and Training from the Department of Defense for the Economic Community of West African States' Peacekeeping Force [ECOMOG], Pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

332. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 96–55: Determination to Authorize the Furnishing of Non-Lethal Emergency Military Assistance to the States Participating in the Economic Community of West African States' Peacekeeping Force [ECOMOG] under section 506(a)(1) of the Foreign Assistance Act, pursuant to 22 U.S.C. 2318(a)(1); to the Committee on International Relations.

333. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of memorandum of justification for drawdown under section 506(a)(2) of the Foreign Assistance Act of 1961 to support Kurdish evacuees from northern Iraq, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on International Relations.

334. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

335. A communication from the President of the United States, transmitting notification that the emergency declared with respect to significant narcotics traffickers centered in Colombia is to continue in effect for 1 year beyond October 21, 1996—Received in the United States House of Representatives October 15, 1996, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 105–4); to the Committee on International Relations and ordered to be printed.

336. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995—Received in the United States House of Representatives October 23, 1996, pursuant to 50 U.S.C. 1703(c) (H. Doc. No. 105–6); to the Committee on International Relations and ordered to be printed.

337. A communication from the President of the United States, transmitting notification that the Iran emergency is to continue in effect beyond November 14, 1996—Received in the United States House of Representatives October 30, 1996, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 105–7); to the Committee on International Relations and ordered to be printed.

338. A communication from the President of the United States, transmitting a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council—Received in the United States House of Representatives November 6, 1996, pursuant to Public Law 102–1, section 3 (105 Stat. 4) (H. Doc. No. 105–9); to the Committee on International Relations and ordered to be printed.

339. A communication from the President of the United States, transmitting notification that the national emergency with respect to the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction"—[WMD]) and the means of delivering such weapons is to continue in effect beyond November 14, 1996—Received in the United States House of Representatives November 12, 1996, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 105–10); to the Committee on International Relations and ordered to be printed.

340. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979—Received in the United States House of Representatives November 15, 1996, pursuant to 50 U.S.C. 1703(c) (H. Doc. No. 105–11); to the Committee on International Relations and ordered to be printed.

341. A communication from the President of the United States transmitting revisions to the provisions that apply to the Department of Commerce in the Export Administration Regulations, 15 CFR Part 730 et seq.—Received in the United States House of Representatives November 15, 1996, pursuant to 50 U.S.C. 1703(b) (H. Doc. No. 105–12); to the Committee on International Relations and ordered to be printed.

342. A communication from the President of the United States transmitting a report on developments concerning the national emergency declared by Executive Order No. 12924 of August 19, 1994, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979—Received in the United

States House of Representatives December 2, 1996, pursuant to 50 U.S.C. 1703(c) and 50 U.S.C. 1641(c) (H. Doc. No. 105–14); to the Committee on International Relations and ordered to be printed.

343. A communication from the President of the United States transmitting a report on developments concerning the national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S/M") and the Bosnian Serbs—Received in the United States House of Representatives December 9, 1996, pursuant to 5 U.S.C. 1703(c) (H. Doc. No. 105–16); to the Committee on International Relations and ordered to be printed.

344. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

345. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

346. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

347. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

348. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandom of Justification for Presidential Determination (96–57) regarding the drawdown of defense articles and services from the stocks of DOD for disaster assistance to Colombia, Venezuela, Peru, and the Countries of the Eastern Caribbean Regional Security System [RSS], pursuant to Public Law 101–513, section 547(a) (104 Stat. 2019); to the Committee on International Relations.

349. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

350. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective November 27, 1996, the danger pay rate for all areas in Columbia was designated at the 15 percent level, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

351. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 97–05), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

352. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Blocked Persons, Specially Designated Nationals, Specially Trained Terrorists, Specially Designated Narcotics Traffickers, and Blocked Vessels; Removal of Entry (31 CFR Chapter V) received October 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

353. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Iranian Transactions Regulations (31 CFR Part 560) received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

354. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Narcotics Traffickers, and Blocked Vessels; Removal of Specially Designated Nationals of the Federal Republic of Yugoslavia (Serbia & Montenegro) (Office of Foreign Assets Control) [31 CFR Chapter V] received December 4, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

355. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Revisions to the Export Administration Regulations: License Exceptions [Docket No. 961122325–6325–01] (RIN: 0694–AB51) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

356. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Licensing of Key Escrow Encryption Equipment and Software {Docket No. 960918265–6296–02] (RIN: 0694–AB09) received December 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

357. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of U.S. citizen expropriation claims and certain other commercial and investment disputes, pursuant to Public Law 103–236, section 527(f); to the Committee on International Relations.

358. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification and justification of waivers of the prohibition against contracting with firms that comply with the Arab League boycott of the State of Israel and of the prohibition against contracting with firms that discriminate in the award of contracts on the basis of religion, pursuant to Public Law 103–236, section 565(b); to the Committee on International Relations.

359. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report pursuant to section 3 of the Arms Export Control Act; to the Committee on International Relations.

360. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Reporting Requirements for Foreign Gifts and Decorations (RIN: 3090–AG14) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

361. A letter from the Chairman, J. William Fulbright Foreign Scholarship Board, transmitting the Board's 1995 annual report, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on International Relations.

362. A communication from the President of the United States, transmitting a report to Congress that it is in the national interest of the United States to terminate the suspensions under section 902(a)(3) and section 902(a)(5) of the Foreign Relations Authorization Act, fiscal years 1990 and 1991 insofar as such restrictions pertain to the SINOSAT project; to the Committee on International Relations.

363. A communication from the President of the United States, transmitting a report to Congress that it is in the national interest of the United States to lift the suspensions under sections 902(a)(3) and 902(a)(5) of the Foreign Relations Authorization Act, fiscal years 1990 and 1991 insofar as such restrictions pertain to the Chinese FY–1 meteorological satellite; to the Committee on International Relations.

364. A communication from the President of the United States, transmitting a report on the United States participation in Rowanda and the Great Lakes region of eastern Zaire—received in the United States House of Representatives December 3, 1996 (H. Doc. No. 105–13); to the Committee on International Relations and ordered to be printed.

365. A letter from the Chairman, U.S. Advisory Commission on Public Diplomacy, transmitting the Commission's annual report entitled "A New Diplomacy for the Information Age", pursuant to 22 U.S.C. 1469; to the Committee on International Relations.

366. A letter from the Director, Office of Administration, Executive Office of the President, transmitting the White House personnel report for the fiscal year 1996, pursuant to 3 U.S.C. 113; to the Committee on Government Reform and Oversight.

367. A communication from the President of the United States, transmitting a report on the Federal agencies' implementation of the Privacy Act of 1974, as amended for the calendar years 1992 and 1993, pursuant to 5 U.S.C. 552a; to the Committee on Government Reform and Oversight.

368. A letter from the Commissioner of Social Security Administration, transmitting the Administration's accountability report for fiscal year 1996, pursuant to Public Law 101–410 section 6 (104 Stat. 892); to the Committee on Government Reform and Oversight.

369. A letter from the Secretary of Agriculture, transmitting the semiannual report of the inspector general for the period April 1, 1996 through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

370. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Office of the Inspector General and the Secretary's semiannual report on final action taken on inspector general audits for the period from April 1, 1996 through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

371. A letter from the Secretary of Energy, transmitting the semiannual report on activities of the inspector general for the period April 1, 1996, through September 30, 1996 and the semiannual report on inspector general audit reports for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

372. A letter from the Secretary of the Interior, transmitting the semiannual report of the inspector general for the period April 1, 1996 through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

373. A letter from the Secretary of Labor, transmitting the semiannual report of the Department's inspector general and the Department of Labor's semiannual management report to Congress covering the period April 1, 1996 through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

374. A letter from the Secretary of Transportation transmitting the semiannual report of the Office of Inspector General for the period ended September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

375. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–432, "New Hires Police Officers, Fire Fighters and Teachers Pension Modification Amendment Act of 1996" received November 6, 1996, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

376. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–433, "BNA Washington Inc., Real Property Tax Deferral Temporary Amendment Act of 1996" received November 6, 1996, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

377. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–415, "Real Property Tax Rates for Tax Year 1997 Temporary Amendment Act of 1996" received November 6, 1996, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

378. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–414, "Economic Recovery Conformity Temporary Act of 1996" received November 6, 1996, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

379. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–413, "Oyster Elementary School Modernization and Development Project Temporary Act of 1996" received November 6, 1996, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

380. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–363, "Modified Reduction-in-Force Temporary Amendment Act of 1996" received October 4, 1996, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

381. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–387, "Closing of a Public Alley in Square 375, S.O. 95–54, Act of 1996" received October 4, 1996, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

382. A letter from the Interim Auditor, District of Columbia, transmitting a copy of a report entitled "Excepted Service Employee Failed to Comply With the District's Residency Requirement", pursuant to D.C. Code, section 47–117(d); to the Committee on Government Reform and Oversight.

383. A letter from the Interim District of Columbia Auditor, transmitting a copy of a report entitled "Certification of Fiscal Year 1997 Revenue Estimates in Support of the District of Columbia General Obligation Bonds" (Series 1996A), pursuant to D.C. Code, section 47–117(d); to the Committee on Government Reform and Oversight.

384. A letter from the Acting Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in September 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

385. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in October 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

386. A letter from the Chairperson, Appraisal Subcommittee Federal Financial Institutions Examination Council, transmitting the Appraisal Subcommittee of the Federal Financial Institutions Examination Council's combined annual report under the Inspector General Act and annual statement under the Federal Managers Financial Integrity Act, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

387. A letter from the Treasurer, Army & Air Force Exchange Service, transmitting the annual report for the plan year ended 31 December 1993, pursuant to Public Law 95–595; to the Committee on Government Reform and Oversight.

388. A letter from the Attorney General of the United States, transmitting the semiannual report on activities of the inspector general for the period April 1, 1996, through September 30, 1996, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

389. A letter from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List (ID #97–002) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

390. A letter from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List (ID #97–001) received October 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

391. A letter from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List (ID #96–007) received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

392. A letter from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List (ID # 96–0060) received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

393. A letter from the Executive Director, Committee for Purchase from People Who are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List (ID #97–003) received November 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

394. A letter from the Consumer Product Safety Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

395. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's consolidated report for the year ending September 30, 1996 on the Federal Managers' Financial Integrity Act and the results of internal audit and investigative activities, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

396. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Department Acquisition Regulations (RIN: 2105–AC59) received October 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

397. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistant Authority, transmitting the Authority's revised report to the Congress, pursuant to Public Law 104–8 section 224; to the Committee on Government Reform and Oversight.

398. A letter from the Chairman, District of Columbia Financial Responsibility and Management Assistant Authority, transmitting the Authority's annual report setting forth the progress made by the District government in meeting the objectives and the assistance provided by the Authority to the District government, pursuant to Public Law 104–8 section 224; to the Committee on Government Reform and Oversight.

399. A letter from the Chairman, District of Columbia Financial Responsibility and Management Assistant Authority, transmitting notification that the Authority has approved several resolutions and orders, as well as a recommendation, concerning the operation and management of the District of Columbia Public Schools; to the Committee on Government Reform and Oversight.

400. A letter from the Chief Financial Officer, Export-Import Bank of the United States, transmitting the Bank's report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

401. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Release of Information [BOP–1015–F] (RIN: 1120–AA21) received December 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

402. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Privacy Act Regulations (RIN: 3064–AB80) received October 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

403. A letter from the Chairman, Federal Housing Finance Board, transmitting the semiannual report on activities of the inspector general covering the 6-month period ending September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b): to the Committee on Government Reform and Oversight.

404. A letter from the Chairman, Federal Maritime Commission, transmitting the Commission's semiannual report on the activities of the inspector general for the period April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

405. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the Board's semiannual report on

the activities of the Office of Inspector General for the 6-month period ending September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

406. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Correction of Administrative Errors (5 CFR Part 1605) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

407. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Thrift Savings Plan Participation for Certain Employees of the District of Columbia Financial Responsibility and Management Authority (5 CFR Part 1620) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

408. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Allocation of Earnings (5 CFR Part 1645) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

409. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Definition of Basic Pay; Thrift Savings Plan Loans (5 CFR Parts 1600, 1620, and 1655) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

410. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting the Board's report in accordance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

411. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's semiannual report on the activities of the Office of Inspector General for the period ending September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

412. A letter from the Vice President and Treasurer, Financial Partners, Inc., transmitting the annual report of the group retirement plan for the Agricultural Credit Associations and the Farm Credit Banks in the First Farm Credit District, covering the plan year January 1, 1995, through December 31, 1995, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

413. A letter from the Public Printer, Government Printing Office, transmitting the semiannual report on the activities of the Office of the Inspector General for the 6-month period ending September 30, 1996, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

414. A letter from the President, Inter-American Foundation, transmitting the Foundation's annual report for fiscal year 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

415. A letter from the Executive Director, Japan-United States Friendship Commission, transmitting the Commission's annual report for fiscal year 1996, pursuant to 22 U.S.C. 2904(b); to the Committee on Government Reform and Oversight.

416. A letter from the Executive Director, Marine Mammal Commission, transmitting the Commission's report for fiscal year 1996 under both the Inspector General Act and the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

417. A letter from the Chairman, National Capital Planning Commission, transmitting the Commission's annual report, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5 (b); to the Committee on Government Reform and Oversight.

418. A letter from the Chairman of the Board, National Credit Union Administration, transmitting the Administration's semiannual report on the activities of the inspector general for April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

419. A letter from the Chairman, National Endowment for the Arts, transmitting the semiannual report of the inspector general and the semiannual report on final action for the National Endowment for the Arts, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

420. A letter from the President, National Endowment for Democracy, transmitting the annual report for fiscal year 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

421. A letter from the Director, National Gallery of Art, transmitting the fiscal year 1995 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

422. A letter from the Chairman, National Labor Relations Board, transmitting the Board's semiannual report on the activities of the Office of the Inspector General for the period April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

423. A letter from the Chairman, National Science Board, transmitting the Board's semiannual report from the inspector general covering the activities of her office for the period April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

424. A letter from the Chairman, National Transportation Safety Board, transmitting the consolidated report for fiscal year 1996, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

425. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting the Corporation's annual report under the Inspector General Act, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

426. A letter from the Chairman, Nuclear Waste Technical Review Board, transmitting the Board's consolidated report under the Inspector General Act of 1978, as amended, and the Financial Integrity Act, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

427. A letter from the Director, Office of Government Ethics, transmitting the consolidated annual report of the Office of Government Ethics covering the Inspector General Act of 1978 and the Federal Financial Managers' Integrity Act of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

428. A letter from the Independent Counsel, Office of Independent Counsel, transmitting the annual report on audit and investigative activities, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

429. A letter from the Deputy Independent Counsel, Office of Independent Counsel, transmitting the annual report on audit and investigative activities, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

430. A letter from the Deputy Independent Counsel, Office of Independent Counsel, transmitting the annual report on audit and investigative activities, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

431. A letter from the Acting Director, Office of Management and Budget, transmitting a report entitled "Statistical Programs of the United States Government: Fiscal Year 1997," pursuant to 44 U.S.C. 3504(e)(2); to the Committee on Government Reform and Oversight.

432. A letter from the Deputy Director, Office of Personnel Management, transmitting the Office's final rule—Retirement, Health, and Life Insurance Coverage for DC Financial Control Authority Employees (RIN: 3206–AG78) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

433. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Cost-of-Living Allowances (Nonforeign Areas); Partnership Pilot Project (RIN: 3206–AH56) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

434. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Family and Medical Leave [5 CFR Parts 630 and 890] (RIN 3206–AH10) received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

435. A letter from the Director, Office of Personnel Management, transmitting notification that OPM has approved the final plan for a personnel management demonstration project for the Department of the Air Force, submitted by the Department of Defense, pursuant to Public Law 103–337, section 342(b) (108 Stat. 2721); to the Committee on Government Reform and Oversight.

436. A letter from the Director, Office of Personnel Management, transmitting the semiannual report on activities of the inspector general for the period of April 1, 1996, through September 30, 1996, and the management response for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

437. A letter from the Director, Office of Personnel Management, transmitting notification of a proposed OPM demonstration project—pay for applied skills system, Department of Veterans Affairs [VA]; notice, pursuant to 5 U.S.C. 4703(b)(4)(B); to the Committee on Government Reform and Oversight.

438. A letter from the Director, Office of Personnel Management, transmitting a report on any benefit changes that will have a

significant impact on a broad segment of the enrollees in the FEHB program; to the Committee on Government Reform and Oversight.

439. A letter from the Special Counsel, Office of Special Counsel, transmitting the fiscal year 1996 reports of the U.S. Office of Special Counsel required by the Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

440. A letter from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting the Corporation's eight annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

441. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting the Commission's semiannual report on the activities of the Office of the Inspector General covering April 1, 1996, through September 30, 1996, and the management report on financial action on audits with disallowed costs for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

442. A letter from the Chairman, Postal Rate Commission, transmitting the Commission's semiannual report in accordance with the Inspector General Act of 1978, as amended, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

443. A letter from the Chairman, Railroad Retirement Board, transmitting the Board's annual report on the Program Fraud Civil Remedies Act for fiscal year 1996, pursuant to 31 U.S.C. 3810; to the Committee on Government Reform and Oversight.

444. A letter from the Secretary of Housing and Urban Development, transmitting notification that it is in the public interest to award a contract to ABT Associates, Inc., to provide technical assistance to HUD and the Camden Partnership in the administration of HUD-funded community development, HOME, and homeless shelter programs, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Reform and Oversight.

445. A letter from the Secretary of Labor, transmitting the semiannual report on the activities of the Office of the Inspector General for the period from April 1, 1996, through September 30, 1996, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

446. A letter from the Secretary of Veterans Affairs, transmitting the semiannual report on activities of the inspector general for the period April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

447. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's semiannual report on the activities of the inspector general together with the management response, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

448. A letter from the Director, Selective Service System, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1996, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

449. A letter from the Secretary, Smithsonian Institution, transmitting the semiannual report on the activities of the Office of the Inspector General for the period of April 1, 1996, through September 30, 1996, and the management response for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

450. A letter from the Executive Director, State Justice Institute, transmitting the Institute's annual report, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

451. A letter from the Director, The Morris K. Udall Foundation, transmitting the annual report for the year ending September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

452. A letter from the Chairman, U.S. Equal Employment Opportunity Commission, transmitting the Commission's semiannual report on the activities of the Office of Inspector General for the period ending September 30, 1996 and the statutorily required management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

453. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the Board's annual report, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

454. A letter from the Director, U.S. Trade and Development Agency, transmitting the Agency's annual report, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

455. A letter from the Staff Director, U.S. Commission on Civil Rights, transmitting the Commission's annual report on its compliance with the Inspector General Act of 1978 pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

456. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's semiannual report on the activities of the Office of Inspector General for the period April 1, 1996 through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

457. A letter from the Acting Museum Director, U.S. Holocaust Memorial Museum, transmitting the consolidated report on accountability and proper management of Federal resources as required by the Inspector General Act and the Federal Financial Manager's Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

458. A letter from the Director, U.S. Information Agency, transmitting the semiannual report on activities of the Inspector General for the period April 1, 1996, through September 30, 1996, also the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

459. A letter from the Inspector General U.S. Information Agency, transmitting activities of the inspector general, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

460. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's semiannual report on the activities of the inspector general for the period April 1, 1996 through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

461. A letter from the Director, Woodrow Wilson Center, transmitting the Center's annual report for fiscal year 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

462. A letter from the Librarian of Congress, transmitting the annual report of the Library of Congress Trust Fund Board for the fiscal year ending September 30, 1995, pursuant to 2 U.S.C. 163; to the Committee on House Oversight.

463. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicaid Administration for Children and Families (45 CFR Part 205.50); Aid to families with Dependent Children (RIN: 0970–AB32) received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Oversight.

464. A letter from the Deputy Under Secretary for Natural Resources and Environment, Department of Agriculture, transmitting notification of the intention to accept a 90-acre land donation to be added to wilderness areas, pursuant to 16 U.S.C. 1135(a); to the Committee on Resources.

465. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the White Mountain Apache Tribe's (Tribe) judgment funds in Docket 22–H, before the U.S. Court of Federal Claims, pursuant to 25 U.S.C. 1402(a) and 1404; to the Committee on Resources.

466. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—National Park System Units in Alaska (National Park Service) (RIN: 1024–AC19) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

467. A letter from the Assistant Secretary for Fish and Wildlife and Plants, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population of California Condors in Northern Arizona (Fish and Wildlife Service) (RIN: 1018–AD62) received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

468. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Oil and Gas and Sulphur Operations in the Outer Continental Shelf (RIN: 1010–AC03) received November 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

469. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Outer Continental Shelf Lease Terms (RIN: 1010–AC15) received October 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

470. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Allow Lessees More Flexibility in Keeping Leases in Force Beyond Their Primary Term (RIN: 1010–AC07) received October 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

471. A letter from the Acting Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Grazing Administration, Exclusive of Alaska; Development and Completion of Standards and Guidelines; Implementation of Fallback Standards and Guidelines [WO–330–1020–00–24–1A] (RIN: 1004–AB89) received November 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

472. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting the Department's final rule—Acreage Limitation and Water Conservation Rules and Regulations (Bureau of Reclamation) (RIN: 1006–AA32) received December 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

473. A letter from the General Counsel, Department of Housing and Urban Development transmitting the Department's final rule—Protection and Enhancement of Environmental Quality [Docket No. FR–2206–F–03] (RIN: 2501–AA30) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

474. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Listing of the Central California Coast Coho Salmon as Threatened in California (RIN: 1018–AE05) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

475. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Endangered and Threatened Species; Threatened Status for Central California Coast Coho Salmon Evolutionarily Significant Unit (ESU) [Docket No. 950407093–6298–03; I.D. 012595A] received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

476. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Reductions [Docket No. 951227306–5306–01; I.D. 102996A] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

477. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting Requirements in the Gulf of Alaska [Docket No. 960129018–6018–01; I.D. 093096D] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

478. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Nontrawl Sablefish Mop-Up Fishery [Docket No. 951227306–5306–01; I.D. 092596B] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

479. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod [Docket No. 960129019–6019–01; I.D. 081696B] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

480. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Fisheries Research Plan; Interim Groundfish Observer Program [Docket No. 960717195–6280–02; I.D. 070196E] (RIN: 0648–AI95) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

481. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 19 [Docket No. 961021289–6289–01; I.D. 100196C] (RIN: 0648–AJ26) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

482. A letter from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—West Coast Salmon Fisheries; Northwest Emergency Assistance Plan—Washington Salmon License Buy Out [Docket No. 960412111–6297–04; I.D. 102396C] received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

483. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the Bearing Sea and Aleutian Islands [Docket No. 960129019–6019–01; I.D. 102596A] received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

484. A letter from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Northeastern United States; Amendment 8 to the Summer Flounder and Scup Fishery Management Plan; Resubmission of Disapproved Measures [Docket No. 960520141–6277–04; I.D. 073096D] (RIN: 0648–AH05) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

485. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Gulf of Alaska [Docket No. 960129018–6018–01; I.D. 093096A] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

486. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the Bearing Sea and Aleutian Islands [Docket No. 960129019–6019–01; I.D. 100196B] received October 8, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

487. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Atlantic Tuna Fisheries; Adjustments [I.D. 100296D] received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

488. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 [Docket No. 960129018–6018–01; I.D. 093096B] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

489. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Gulf of Mexico Fisheries Disaster Program; Revisions [Docket No. 960322092–6284–03; I.D. 100796A] (RIN: 0648–ZA19) received October 28, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

490. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Trawl Gear Rockfish Fishery in the Bering Sea and Aleutian Islands [Docket No. 960129019–6019–01; I.D. 100796C] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

491. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Gulf of Alaska [Docket No. 960129018–6018–01; I.D. 100496B] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

492. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 [Docket No. 960129018–6018–01; I.D. 101896A] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

493. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component [Docket No. 960807218–6244–02; I.D. 100296E] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

494. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Bering Sea Subarea [Docket No. 960129019–6019–01; I.D. 100296H] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

495. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fraser River Sockeye and Pink Salmon Fisheries; Inseason Orders [I.D. 101696A] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

496. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting Requirements; Pacific Ocean Perch and "Other Red Rockfish" in the Bering Sea Subarea [Docket No. 960129019–6019–01; I.D. 100296G] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

497. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Inshore Component of Pollock in the Bering Sea Subarea [Docket No. 960129019–6019–01; I.D. 101596F] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

498. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Offshore Component of Pollock in the Bering Sea Subarea [Docket No. 960129019–6019–01; I.D. 101696B] received October 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

499. A letter from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Northeastern United States; Amendment 9 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan [Docket No. 960805216–6307–03; I.D. 071596E] (RIN: 0648–AH06) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

500. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Monkfish Exempted Trawl Fishery [Docket No. 961008281–6281–01; I.D. 091896B] (RIN: 0648–AJ25) received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

501. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Interim 1997 Harvest Specifications [Docket No. 961126333–6333–01; ID 110496A] (RIN: 0648–XX73) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

502. A letter from the Director, Office of sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Trawl Gear in the Gulf of Alaska [Docket No. 960129018–6018–01, ID 120296A] received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

503. A letter from the Acting Director, Office of Sustainable Fisheries, National Marines Fisheries Service, transmitting the Service's final rule—Scallop Fishery Off Alaska; Shelikof District Registration Area K [Docket No. 960129018–6018–01; I.D. 102996B] received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

504. A letter from the Acting Director, Office of Sustainable Fisheries, National Marines Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 960129019–6019–01; I.D. 110896C] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

505. A letter from the Acting Director, Office of Sustainable Fisheries, National Marines Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Tanner Crab Bycatch Allowances for Vessels Using Trawl Gear in Zone 1 of the Bering Sea and Aleutian Islands [Docket No. 960129019–6019–01; I.D. 110186A] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

506. A letter from the Director, Office of Sustainable Fisheries, National Marines Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands [Docket No. 960129019–6019–01; I.D. 110496B] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

507. A letter from the Acting Director, Office of Sustainable Fisheries, National Marines Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery; Closure in Registration Area M [Docket No. 960502124–6190–02; I.D. 103196D] received November 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

508. A letter from the Assistant Administrator, National Ocean Service, transmitting the Service's final rule—Announcement of Graduate Research Fellowships in the National Estuarine Research Reserve System for Fiscal Year 1997 [Docket No. 960910251–6251–01] RIN: 0648–ZA24) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

509. A letter from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands Area; Interim 1997 Harvest Specifications [Docket No. 961114318–6318–01; ID 110496A] (RIN: 0648–XX71) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

510. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery; Closure in District 16 of Registration Area D [Docket No. 960502124–6190–02; ID 112796B] received December 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

511. A letter from the Acting Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Regulation to Prohibit the Attraction of White Sharks in the Monterey Bay National Marine Sanctuary [Docket No. 950222055–6228–03] (RIN: 0648–AH92) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

512. A letter from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Trawl Closure to Protect Red King Crab [Docket No. 9608–30240–6338–02; ID 082796A] (RIN: 0648–AH28) received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

513. A letter from the Acting Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands; Initial Regulations [Docket No. 960919266–6336–02; ID 082096D] (RIN: 0648–AD91) received December 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

514. A letter from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 12 [Docket No. 950810206–6288–06; ID 070296D] (RIN: 0648–AG29) received December 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

515. A letter from the Acting Director, Office of Surface Mining, transmitting the Office's final rule—Indiana Regulatory Program [IN–119–FOR; State Amendment No. 94–5] received October 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

516. A letter from the Acting Director, Office of Surface Mining, transmitting the Office's final rule—Ohio Regulatory Program [OH–237; Amendment No. 71] received October 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

517. A letter from the Acting Director, Office of Surface Mining, transmitting the Office's final rule—Colorado Regulatory Program [SPATS No. CO–030–FOR] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

518. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Kentucky Regulatory Program [KY–208–FOR] received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

519. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Oklahoma Regulatory Program [SPATS No. OK–019–FOR] received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

520. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Texas Regulatory Program [SPATS No. TX–031–FOR] received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

521. A letter from the Secretary of Commerce, transmitting the Department's report entitled "Historic Rationale, Effectiveness and Biological Efficiency of Existing Regulations for the U.S. Atlantic Bluefin Tuna Fisheries.", pursuant to section 310 of Public Law 104–43, the Fisheries Act of 1995; to the Committee on Resources.

522. A letter from the Assistant Attorney General, Department of Justice, transmitting the report on the administration of the Foreign Agents Registration Act covering the calendar year 1995, pursuant to 22 U.S.C. 621; to the Committee on the Judiciary.

523. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Rules of Practice for Hearings [Docket No. R–0938] received October 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

524. A letter from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, transmitting the Bureau's final rule—Implementation of Debt Collection Improvement Act of 1996 With Respect to the Civil Penalties Provision of the Alcohol Beverage Labeling Act of 1988 (96R–023P) (RIN: 1512–AB62) received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

525. A letter from the Chair, Commission on Child and Family Welfare, transmitting a copy of the final report of the Commission on Child and Family Welfare, pursuant to Public Law 102–521, section 5(i) (106 Stat. 3407); to the Committee on the Judiciary.

526. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Adjustment of Civil Monetary Penalties for Inflation (17 CFR Part 143) received October 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

527. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Foreign Assets Control Regulations, Cuban Assets Control Regulations, Iranian Assets Control Regulations, Libyan Sanctions Regulations, Iranian Transactions Regulations, Iraqi Sanctions Regulations; Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, UNITA (Angola) Sanctions Regulations, Terrorism Sanctions Regulations, Implementation of Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (31 CFR Parts 500, 515, 535, 550, 560, 575, 585, 590 and 595) received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

528. A letter from the Acting Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce, transmitting the Department's final rule—Civil Monetary Penalties; Adjustment for Inflation [Docket No. 961021291–6291–01] (RIN: 0690–AA27) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

529. A letter from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Communications with the Patent and Trademark Office [Docket No. 951006247–6255–02] (RIN: 0651–AA70) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

530. A letter from the Assistant Attorney General, Civil Rights Division, Department of Justice, transmitting the Department's final rule—Redress Provisions for Persons of Japanese Ancestry: Guidelines for Individuals Who Relocated to Japan as Minors During World War II [AG Order No. 2056–96] (RIN: 1190–AA42) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

531. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's final rule—Grants Program for Indian Tribes [OJP No. 1099] (RIN: 1121–AA41) received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

532. A letter from the Director, Office for Victims of Crime, Department of Justice, transmitting a report on the programs and activities of the Department's Office of Crime (OVC), pursuant to 42 U.S.C. 10601 et seq.; to the Committee on the Judiciary.

533. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Visas: Regulations Pertaining to Both Nonimmigrants and Immigrants Under the Immigration and Nationality Act, as amended [Public Notice 2463] received November 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

534. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation of Immigrants under the Immigration and Nationality Act, as Amended (Bureau of Consular Affairs) [Public Notice 2478] received December 3, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

535. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Seaway Regulations and Rules: Inflation Adjustment of Civil Monetary Penalty (RIN: 2135–AA09) received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

536. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Federal Civil Penalties Inflation Adjustment (RIN: 2900–AI48) received October 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

537. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation (RIN: 3052–AB74) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

538. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Federal Prison Industries (FPI) Inmate Work Programs: Sick Call Status [BOP–1060–F] (RIN: 1120–AA50) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

539. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Incoming Publications: Nudity and Sexual Explicit Material or Information [BOP–1064–I] (RIN: 1120–AA59) received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

540. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Unescorted Transfers and Voluntary Surrenders [BOP–1041–F] (RIN: 1120–AA45) received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

541. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Rules of Practice and Procedure (12 CFR Part 308) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

542. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's 17th annual report to Congress pursuant to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, pursuant to 15 U.S.C. 18a(j); to the Committee on the Judiciary.

543. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Debt Collection Improvement Act of 1996 (16 CFR Parts 1, 305, 306, and 460) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

544. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Revocation of Naturalization [INS No. 1634–93] (RIN: 1115–AD45) received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

545. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Establishment of a Dedicated Commuter Lane (DCL) System Costs Fee for Participation in the Port Passenger Accelerated Service (PORTPASS) Program [Docket No. 1794–96] (RIN: 1115–AD82) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

546. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Collection of Fees Under the Dedicated Commuter Lane Program; Port Passenger Accelerated Service (PORTPASS) Program [Docket No. 1675–94] (RIN: 1115–AD82) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

547. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Adjustment of Status to That of Person Admitted for Permanent Residence: Interview [INS Docket No. 1373–95] (RIN: 1115–AD12) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

548. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Adjustment of Civil Monetary Penalties for Inflation (RIN: 3150–AF37) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

549. A letter from the Deputy Director, Office of Personnel Management, transmitting the Office's final rule—Voting Rights Program (RIN: 3206–AH69) received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

550. A letter from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Patent and Trademark Office, transmitting the Office's final rule—Changes in Signature and Filing Requirements for Correspondence Filed in the Patent and Trademark Office [Docket No. 961030301–6301–01] (RIN: 0651–AA55) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

551. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare and State Health Care Programs and Program Fraud Civil Remedies: Fraud and Abuse; Civil Money Penalties Inflation Adjustments (RIN: 0991–AZ00) received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

552. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Adjustments to Civil Monetary Penalty Amounts [Release Nos. 33–7361; 34–37912; IC–22310; IA–1596] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

553. A letter from the Adjutant General, Veterans of Foreign Wars of the U.S. transmitting the financial audit for the fiscal year ended August 31, 1996, together with the auditor's opinion, pursuant to 36 U.S.C. 1101(47) and 1103; to the Committee on the Judiciary.

554. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting the fourth report on a list of projects which have been authorized, but for which no funds have been obligated during the preceeding 10 full fiscal years, pursuant to 33 U.S.C. 579a; to the Committee on Transportation and Infrastructure.

555. A letter from the Administrator, Federal Aviation Administration, transmitting a report entitled "Increased Air Traffic over Grand Canyon National Park," pursuant to

Public Law 102–581, section 134(b) (106 Stat. 4888); to the Committee on Transportation and Infrastructure.

556. A letter from the Assistant Secretary of the Army for Civil Works, Department of the Army, transmitting a draft of proposed legislation to modify the Oakland Inner Harbor, CA, navigation project; to the Committee on Transportation and Infrastructure.

557. A letter from the Assistant Secretary of the Army for Civil Works, Department of the Army, transmitting a copy of "Ramapo River at Oakland, New Jersey Flood Protection Project," to the Committee on Transportation and Infrastructure.

558. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting the Department's final rule—St. Mary's Falls Canal and Locks, Michigan; Use, Administration, and Navigation (33 CFR Part 207) received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

559. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Cessna Model 560 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–267–AD, Amdt. 39–9844, AD 96–24–06] (RIN: 2120–AA64) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

560. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Using Agency for Restricted Area 2202B (R–2202B), Big Delta, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–30], (RIN: 2120–AA66) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

561. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28739, Amdt. No. 1768] (RIN: 2120–AA65) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

562. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28740, Amdt. No. 1769] (RIN: 2120–AA65) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

563. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28738, Amdt. No. 1767] (RIN: 2120–AA65) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

564. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Groveland, CA (Federal Aviation Administration) [Docket No. 96–AWP–10] received October 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

565. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives, LITEF GmbH Attitude Heading System (AHRS) Unit Model LCR–92, LCR–92S, and LCR–92H (Federal Aviation Administration) (RIN: 2120–AA64) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

566. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Alteration of VOR Federal Airways; LA (Federal Aviation Administration) [Airspace Docket No. 94–ASW–14] (RIN: 2120–AA66) received October 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

567. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace, Lee's Summit, MO (Federal Aviation Administration) [Docket No. 96–ACE–15] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

568. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace, Hays, KS (Federal Aviation Administration) [Docket No. 96–ACE–16] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

569. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace, Murrieta/Temecula, CA (Federal Aviation Administration) [Docket No. 96–AWP–2] (RIN: 2120–AA66) (1996–0161) received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

570. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace, Grundy, VA (Federal Aviation Administration) (RIN: 2120–AA66) (1996–0160) received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

571. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace, Tonopah, NV (Federal Aviation Administration) (RIN: 2120–AA66) (1996–0143) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

572. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace, Knob Noster, MO (Federal Aviation Administration) [Airspace Docket No. 96–ACE–17] (RIN: 2120–AA66) (1996–0165) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

573. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Removal of Class E5 Airspace; Hemingway, SC (Federal Aviation Administration) [Docket No. 96–ASO–26] (RIN: 2120–AA66) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

574. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E2 Airspace, London, KY (Federal Aviation Administration) [Airspace Docket No. 96–ASO)–14] (RIN: 2120–AA66) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

575. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Weedsport, NY (Federal Aviation Administration) [Airspace Docket No. 96–AEA–06] (RIN: 2120–AA66) (1996–0171) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

576. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Anvik, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–18] (RIN: 2120–AA66) (1996–0170) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

577. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Selawik, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–12] (RIN: 2120–AA66) (1996–0169) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

578. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Port Heiden, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–17] (RIN: 2120–AA66) (1996–0168) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

579. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace, Knob Noster, MO (Federal Aviation Administration) [Airspace Docket No. 96–ACE–12] (RIN: 2120–AA66) (1996–0167) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

580. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D and Class E Airspace; Bethel, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–4] (RIN: 2120–AA66) (1996–0157) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

581. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Sand Point, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–3] (RIN: 2120–AA66) (1996–0156) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

582. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Wrangell, St. Paul Island, Petersburg, and Sika, AK; Establishment of Class E Airspace at Nostak, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–2] (RIN: 2120–AA66) (1996–0155) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

583. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Ketchikan, AK (Federal Aviation Administration) [Airspace Docket No. 95–AAL–4] (RIN: 2120–AA66) (1996–0154) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

584. A letter from the General Counsel, Department of Transportation, transmitting

the Department's final rule—Revision of Class E Airspace; Cordova, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–8] (RIN: 2120–AA66) (1996–0153) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

585. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Buckland, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–5] (RIN: 2120–AA66) (1996–0152) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

586. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Cold Bay, Nome, and Tanana, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–9] (RIN: 2120–AA66) (1996–0151) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

587. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Wainwright, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–11] (RIN: 2120–AA66) (1996–0150) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

588. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Homer, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–13] (RIN: 2120–AA66) (1996–0149) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

589. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Bettles, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–15] (RIN: 2120–AA66) (1996–0148) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

590. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, and Model MD–88 Airplanes (Federal Aviation Administration) [Docket No. 95–NM–214–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

591. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Beech (Raytheon) Model BAe 125 Series 1000A and Model Hawker 1000 Airplanes (Federal Aviation Administration) [Docket No. 95–NM–167–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

592. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) Airplanes (Federal Aviation Administration) [Docket No. 96–NM–208–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

593. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes (Federal Aviation Administration) [Docket No. 94–NM–222–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

594. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A and –300A Series Airplanes, and Model Avro 146–RJ70A, –RJ85A, and –RJ100A Airplanes (Federal Aviation Administration) (Docket No. 95–NM–251–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

595. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model Avro 146–RJ70A, –RJ85A, and –RJ100A Airplanes (Federal Aviation Administration) [Docket No. 95–NM–213–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

596. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; HB Aircraft Industries AG Model HB–23 2400 Hobbyliner/Scanliner Sailplanes (Federal Aviation Administration) [Docket No. 95–CE–39–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

597. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model 4100 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–68–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

598. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–10–15 Airplanes (Federal Aviation Administration) [Docket No. 96–NM–24–AD] (RIN: 2120–AA64) received November 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

599. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–240–AD] (RIN: 2120–AA64) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

600. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model HS–748 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–198–AD] (RIN: 2120–AA64) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

601. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CFM International CFM56–2/–2A/–3/–3B/–3/–5 Series Turbofan Engines (Federal Aviation Administration) [Rules Docket No. 96–ANE–15] (RIN: 2120–AA64) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

602. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes and C–9 (Military) Airplanes (Federal Aviation Administration) [Docket No. 96–NM–91–AD] (RIN: 2120–AA64) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

603. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters (Federal Aviation Administration) [Docket No. 96–SW–25–AD] (RIN: 2120–AA64) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

604. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 777–200 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–205–AD] (RIN: 2120–AA64) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

605. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospace Technologies of Australia Pty Ltd. (formerly Government Aircraft Factory) Models N22B, N24A, and N22S Airplanes (Federal Aviation Administration) [Docket No. 95–CE–103–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

606. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–251–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

607. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–200, –300, –400 Series Airplanes (Federal Aviation Administration) [Docket No. 94–NM–226–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

608. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Shorts Model SD3–60 and SD3–SHERPA Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–09–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

609. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–6 Airplanes (Federal Aviation Administration) [Docket No. 95–CE–85–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

610. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes (Federal Aviation Administration) [Docket No. 94–NM–221–AD] (RIN: 2120–AA64)

received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

611. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–100 and –200 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–06–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

612. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes and Model Avro 146–RJ Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–40–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

613. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–232–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

614. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes (Federal Aviation Administration) [Docket No. 96–NM–53–AD] (RIN: 2120–AA64) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

615. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes (Federal Aviation Administration) [Docket No. 95–CD–40–AD] (RIN: 2120–AA64) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

616. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3–60 SHERPA Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–122–AD] (RIN: 2120–AA64) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

617. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft PA23, PA31, PA31P, PA31T, and PA42 Series Airplanes (Federal Aviation Administration [Docket No. 95–CE–56–AD] (RIN: 2120–AA64) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

618. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft PA31, PA31P, PA31T, and PA42 Series Airplanes (Federal Aviation Administration) [Docket No. 95–CE–84–AD] (RIN: 2120–AA64) received October 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

619. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Change Using Agency for Restricted Areas 2202 (R–2202), Big Delta, AK; R–2203, Eagle River, AK; R–2205, Yukon, AK; and R–2211, Blair Lakes, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–20] (RIN: 2120–AA66) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

620. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Change to Restricted Areas R–6714A, E, F, G, and H, Yakima, WA (Federal Aviation Administration) [Airspace Docket No. 96–ANM–16] (RIN: 2120–AA66) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

621. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Rules of Practice for Federally-Assisted Airport Proceedings (Federal Aviation Administration) [Docket No. 27783; Amendment No. 13–27, 16] (RIN: 2120–AF43) received October 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

622. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Maritime Security Program [Docket No. R–163] (RIN: 2133–AB24) received October 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

623. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Operation of Motor Vehicles by Intoxicated Minors [NHTSA Docket No. 96–007; Notice 2] (RIN: 2127–AG20) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

624. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Electronic Records of Shipping Articles and Certificates of Discharge (U.S. Coast Guard) [CGD 94–004] (RIN: 2115–AE72) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

625. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Realignment of VOR Federal Airway V–421; CO (Federal Aviation Administration) [Airspace Docket No. 95–ANM–6] (RIN: 2120–AA66) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

626. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28702; Amdt. No. 1757] (RIN: 2120–AA65) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

627. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28700; Amdt. No. 1755] (RIN: 2120–AA65) received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

628. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28727; Amdt. No. 1762] (RIN: 2120–AA65) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

629. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28728; Amdt. No. 1763] (RIN: 2120–AA65) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

630. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28726; Amdt. No. 1761] (RIN: 2120–AA65) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

631. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes (Federal Aviation Administration) [Docket No. 26140; Amendment No. 25–88] (RIN: 2120–AC43) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

632. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Protective Breathing Equipment; Correction (Federal Aviation Administration) [Docket No. 27219; Amendment No. 121–261] (RIN: 2120–AD74) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

633. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28676; Amdt. No. 1752] (RIN: 2120–AA65) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

634. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28698; Amdt. No. 399] received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

635. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Incentive Grant Criteria for Drunk Driving Prevention Programs (National Highway Traffic Safety Administration) [Docket No. 89–02; Notice 9] (RIN: 2127–AD01) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

636. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—List of Nonconforming Vehicles Decided To Be Eligible for Importation (National Highway Traffic Safety Administration) [Docket No. 96–097; Notice 1] (RIN: 2127–AG57) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

637. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Consumer Information Regulations; Fees for Course Monitoring Tires (National Highway Traffic Safety Administration) [Docket No. 96–88; Notice 1] (RIN: 2127–AG54) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

638. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Railroad Administration Enforcement of the Hazardous Materials Regulations; Penalty Guidelines (RIN: 2130–AB00) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

639. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28715; Amdt. No. 1759] received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

640. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28716; Amdt. No. 1760] (RIN: 2120–AA65) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

641. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Motor Carrier Transportation; Redesignation of Regulations from the Surface Transportation Board Pursuant to the ICC Termination Act of 1995 (Federal Highway Administration) (RIN: 2125–AD96) received October 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

642. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Prohibition Against Certain Flights Within the Territory and Airspace of Iran (Federal Aviation Administration) [Docket No. 28690; Special Federal Aviation Regulation (SFAR) No. 76] (RIN: 2120–AG28) received October 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

643. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28714; Amdt. No. 1758] received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

644. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT3D Series Turbofan Engines [Docket No. 95–ANE–45; Amendment 39–9815; AD 96–23–10] (RIN: 2120–AA64) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

645. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model 4101 Airplanes (Federal Aviation Administration) [Docket No. 96–NM–258–AD; Amendment. 39–9817; AD 96–23–12] (RIN: 2120–AA64) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

646. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model 4101 Airplanes (Federal Aviation Administration) [Docket No. 96–NM–259–AD; Amendment 39–9816; AD 96–23–11] (RIN: 2120–AA64) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

647. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–8–102 and –103 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–163–AD; Amendment No. 39–9822; AD 96–23–17] (RIN: 2120–AA64) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

648. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Canadair Model CL–215–1A10 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–82–AD; Amendment No. 39–9819; AD 96–23–13] (RIN: 2120–AA64) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

649. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Issuance of Third-Class Airman Medical Certificates to Insulin-Treated Diabetic Airman Applicants (Federal Aviation Administration [Docket No. 26493] (RIN: 2120–AG30) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

650. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Anacostia River, Washington, DC (U.S. Coast Guard) [CGD05–081] (RIN: 2115–AE47) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

651. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Crashworthiness Protection Requirements for Tank Cars; Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks [Docket Nos. HM–175A and HM–201; Amdt. Nos. 171–137, 172–144, 173–245, 179–50, and 180–8] (RIN: 2137–AB89 and 2137–AB40) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

652. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Air Brake Systems Air Compressor Cut-In [Docket No. 90–3; Notice 7] (RIN: 2127–AF63) received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

653. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regattas and Marine Parades (U.S. Coast Guard) [CGD 95–054] (RIN: 2115–AF17) received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

654. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; San Pedro Bay, CA (U.S. Coast Guard) [COTP Los Angeles-Long Beach 96–003] (RIN: 2115–AA97) received November 25, 1996, pursuant to 5 U.S.C. 81(a)(1)(A); to the Committee on Transportation and Infrastructure.

655. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: Searsport Lobster Boat Races, Searsport, ME (U.S. Coast Guard) [CGD01–96–022] (RIN: 2115–AE46) received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

656. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: Christmas Parade of Boats (U.S. Coast Guard) [CGD07–96–048] (RIN: 2115–AE46) received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

657. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; Gulf Intracoastal Waterway, Houma, LA (U.S. Coast Guard) [COTP Morgan City, LA 96–002] (RIN: 2115–AA97) received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

658. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Cerritos Channel, CA (U.S. Coast Guard) [CGD11–90–03] (RIN: 2115–AA47) received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

659. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Siox City, IA (Federal Aviation Administration) [Airspace Docket No. 96–ACE–11] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

660. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Penn Yan, N.Y. (Federal Aviation Administration) [Airspace Docket No. 96–AEA–10] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

661. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class D Airspace; Blytheville, AR (Federal Aviation Administration) [Airspace Docket No. 96–ASW–29] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

662. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Allowable Carbon Dioxide in Transport Category Airplane Cabins (Federal Aviation Administration) [Docket No. 27704, Amdt. No. 25–89] (RIN: 2120–AD47) received December 2, 1996, pursaunt to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

663. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Falsification of Security Records (Federal Aviation Administration) [Docket No. 28745; Amendment Nos. 107–9 and 108–141] (RIN: 2120–AG27) received December 2, 1996, pursuant to 5 U.S.C. to the

Committee on Transportation and Infrastructure.

664. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Direct Final Rule; Request for Comments—Amendment to Class E Airspace, Imperial, NE (Federal Aviation Administration) [Docket No. 96–ACE–20] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

665. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Saluda, VA (Federal Aviation Administration) [Airspace Docket No. 96–AEA–08] (RIN: 2120–AA66) (1996–0172)) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

666. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Phoenix, Deer Valley Municipal Airport, AS (Federal Aviation Administration) [Airspace Docket No. 96–AWP–16] (RIN: 2120–AA66) (1996–0174)) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

667. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Grand Canyon-Valle Airport, AZ (Federal Aviation Administration) [Airspace Docket No. 95–AWP–3] (RIN: 2120–AA66) (1996–0173)) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

668. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Dexter, ME, Correction (Federal Aviation Administration) [Airspace Docket No. 95–ANE–23] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

669. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Miller, SD, Correction (Federal Aviation Administration) [Airspace Docket No. 96–AGL–11] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

670. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Hazen, ND (Federal Aviation Administration) [Airspace Docket No. 96–AGL–10] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

671. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Tomahawk, WI (Federal Aviation Administration) [Airspace Docket No. 96–AGL–14] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

672. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Montauk, NY (Federal Aviation Administration) [Airspace Docket No. 96–AEA–09] (RIN: 2120–AA66) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

673. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Air Tractor, Inc, Models AT–250, AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–402, AT–501, and AT–502 Airplanes (Federal Aviation Administration [Docket No. 96–CE–49–AD, Amdt. 39–9833, AD 96–24–08] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

674. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1123, 1124, and 1124A Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–173–AD, Amdt. 39–9835, AD 96–24–11] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

675. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Textron Lycoming Reciprocating Engines (Federal Aviation Administration) [Docket No. 96–ANE–31, Amdt. 39–9826, AD 96–23–03] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

676. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR72 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–140–AD, Amdt. 39–9836, AD 96–24–12] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

677. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Allison Engine Company Model 250–C47B Turboshaft Engines (Federal Aviation Administration) [Docket No. 96–ANE–41, Amdt. 39–9834, AD 96–24–09] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

678. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–80–AD, Amdt. 39–9827, AD 96–24–01] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

679. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–8–100 and –300 Airplanes (Federal Aviation Administration) [Docket No. 93–NM–194–AD, Amdt. 39–9814, AD 96–23–09] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

680. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–400 "Combi" Airplanes (Federal Aviation Administration) [Docket No. 96–NM–255–AD, Amdt. 39–9829, AD 96–24–03] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

681. A letter from the General Counsel, Department of Transportation, transmitting, the Department's final rule—Airworthiness Directives; Boeing Model 737 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–261–AD, Amdt. 39–9818, AD 96–23–51] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

682. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Allied Signal Commercial Avionics Systems CAS–81 Traffic Alert and Collision Avoidance Systems (TCAS) as installed, but not Limited to Various Transport Category Airplanes (Federal Aviation Administration) [Docket No. 96–NM–81–AD, Amdt. 39–9824, AD 95–26–15 R1] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

683. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospace Technologies of Australia Nomad Models N22B, N22S, and N24A Airplanes (Federal Aviation Administration) [Docket No. 95–CE–93–AD, Amdt. 39–9831, AD 96–24–05] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

684. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospace Technologies of Australia, Nomad Models N22B, N22S, and N24A Airplanes (Federal Aviation Administration) [Docket No. 95–CE–75–AD, Amdt. 39–9830, AD 96–24–04] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

685. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines (Federal Aviation Administration) [Docket No. 93–ANE–79, Amdt. 39–9820, AD 96–23–14] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

686. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT8D–200 Series Turbofan Engines (Federal Aviation Administration) [Docket No. 96–ANE–02, Amdt. 39–9821, AD 96–23–15] (RIN: 2120–AA64) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

687. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28735, Amdt. No. 1765] (RIN: 2120–AA65) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

688. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28736, Amdt. No. 1766] (RIN: 2120–AA65) received December 2,

1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

689. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28734, Amdt. No. 1764] (RIN: 2120–AA65) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

690. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; Sunken Vessel *Empire Knight*, Boon Island, Maine (U.S. Coast Guard) [CGD01–95–1411] (RIN: 2115–AA97) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

691. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Rada Fajardo, East of Villa Marina, Fajardo, PR (U.S. Coast Guard) [CGD07–96–068] (RIN: 2115–AE46) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

692. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Railroad Accident Reporting (Partial Response to Petitions for Reconsideration) (Federal Railroad Administration) [FRA Docket No. RAR–4, Notice No. 14] (RIN: 2130–AA58) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

693. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Railroad Accident Reporting (Adjustment of Dollar Threshold for Reporting Certain Accidents) (Federal Railroad Administration) [FRA Docket No. RAR–4, Notice No. 15] (RIN: 2130–AA58) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

694. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls; Partial Suspension of Regulation (U.S. Coast Guard) [CGD 91–045] (RIN: 2115–AE01) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

695. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Holiday Boat Parade of the Palm Beaches; Palm Beach, FL (U.S. Coast Guard) [CGD07–96–053] (RIN: 2115–AE46) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

696. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Key West Super Boat race; Key West, FL (U.S. Coast Guard) [CGD07–96–049] (RIN: 2115–AE46) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

697. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Donier Model 328–100 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–230–AD, Amdt. 39–9828, AD 96–24–02] (RIN: 2120–AA64) received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

698. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Continental Airlines Boat Parade; Fort Lauderdale, FL (U.S. Coast Guard) [CGD07–96–067] (RIN: 2115–AE46) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

699. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Implementation of Drug Testing in Foreign Waters (U.S. Coast Guard) [CGD 95–011] (RIN: 2115–AF02) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

700. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Single State Insurance Registration; Receipt Rule; Continued Suspension of Effectiveness (Federal Highway Administration) (RIN: 2125–AD92) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

701. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–224–AD, Amdt. 39–9752, AD 96–19–04] (RIN: 2120–AA64) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

702. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–25–AD, Amdt. 39–9783, AD 96–21–06] (RIN: 2120–AA64) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

703. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes and Model Avro 146–RJ Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–41–AD, Amdt. 39–9786, AD 96–21–09] (RIN: 2120–AA64) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

704. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Shorts Model SD3–30, –60, and –SHERPA Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–08–AD, Amdt. 39–9784, AD 96–21–07] (RIN: 2120–AA64) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

705. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft PA31, PA31P, and PA31T Series Airplanes (Federal Aviation Administration) [Docket No. 95–CE–45–AD, Amdt. 39–9788, AD 96–21–11] (RIN: 2120–AA64) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

706. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3–30 and SD3–SHERPA Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–07–AD, Amdt. 39–9785, AD 96–21–08] (RIN: 2120–AA64) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

707. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Effluent Limitations Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Point Source Category [FRL–5648–4] received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

708. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Water Quality Standards for Pennsylvania [FRL–5659–9] (RIN: 2040–AC78) received December 4, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

709. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Loan Guarantees for Construction of Treatment Works; Removal of Legally Obsolete Rule [FRL–5658–6] received December 4, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

710. A letter from the Director of Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Interim Guidance on Transportation of Steam Generators [NRC Generic Letter 96–07] received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

711. A letter from the Secretary of Transportation, transmitting the Department's second annual report entitled "Alaska Demonstration Programs"; to the Committee on Transportation and Infrastructure.

712. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule—Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings [STB Ex Parte No. 527] received October 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

713. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule—Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings (November 15, 1996, modifying rules issued October 1, 1996)— [STB Ex Parte No. 527] received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

714. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule—Rail General Exemption Authority—Exemption of Hydraulic Cement [Ex Parte No. 346 (Sub-No. 34)] received December 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

715. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army dated February 27, 1996, submitting a report together with accompanying papers and illustrations—received in the U.S. House of Representatives November 12, 1996, pursuant to section 204 of the 1970

Flood Control Act (Public Law 91–611) (H. Doc. No. 105–17); to the Committee on Transportation and Infrastructure and ordered to be printed.

716. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army dated February 1, 1996, submitting a report together with accompanying papers and illustrations—received in the U.S. House of Representatives November 21, 1996, pursuant to section 204 of the 1970 Flood Control Act (Public Law 91–611) (H. Doc. No. 105–18); to the Committee on Transportation and Infrastructure and ordered to be printed.

717. A letter from the Secretary of Commerce, transmitting the Department's report entitled "National Implementation Plan For Modernization Of The National Weather Service For Fiscal Year 1997," pursuant to Public Law 102–567, section 703(a) (106 Stat. 4304); to the Committee on Science.

718. A letter from the Director, National Science Foundation, transmitting a report entitled "Scientific and Engineering Research Facilities at Colleges and Universities: 1996", pursuant to 42 U.S.C. 7454(c); to the Committee on Science.

719. A letter from the Administrator, Small Business Administration, transmitting "Building the Foundation for a New Century—First Annual Report on Implementation of the 1995 White House Conference on Small Business," pursuant to 15 U.S.C. 631 note; to the Committee on Small Business.

720. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Diseases Associated with Exposure to Certain Herbicide Agents (Prostate Cancer and Acute and Subacute Peripheral Neuropathy) (RIN: 2900–AI35) received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

721. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Contract Program for Veterans With Alcohol and Drug Dependence Disorders (RIN: 2900–AH77) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

722. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Willful Misconduct (RIN: 2900–AI26) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

723. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Evidence of Dependents and Age (RIN: 2900–AH51) received October 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

724. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Community Residential Care Program and Contract Program for Veterans With Alcohol and Drug Dependence Disorders (RIN: 2900–AH61) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

725. A letter from the National Adjutant, the Disabled American Veterans, transmitting the report of the proceedings of the organization's 75th National Convention, including their annual audit report of receipts and expenditures as of December 31, 1995—received in the U.S. House of Representatives, November 14, 1996, pursuant to 36 U.S.C. 90i and 44 U.S.C. 1332 (H. Doc. No. 105–8); to the Committee on Veterans' Affairs and ordered to be printed.

726. A letter from the Acting U.S. Trade Representative, Office of the U.S. Trade Representative, transmitting the President's determination that title IV of the Trade Act of 1974 should no longer apply to Romania and his proclamation of the permanent extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Romania, pursuant to 10 U.S.C. 2437(a); to the Committee on Ways and Means.

727. A communication from the President of the United States, transmitting his determination that Malaysia should be graduated from the GSP program because it is sufficiently advanced in economic development and improved in trade competitiveness, also other determinations—received in the U.S. House of Representatives, October 17, 1996, pursuant to 19 U.S.C. 2462 (H. Doc. No. 105–5); to the Committee on Ways and Means and ordered to be printed.

728. A letter from the Secretary of Labor, transmitting the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

729. A letter from the Director, Bureau of the Census, transmitting the Bureau's final rule—Collection of Canadian Province of Origin Information on Customs Entry Records [Docket No. 960606162–6293–02] (RIN: 0607–AA21) received November 22, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

730. A letter from the Chief Counsel, Bureau of the Public Debt, transmitting the Bureau's final rule—Providing More Flexible Program Changes for the State and Local Government Series (SLGS) Securities Program (31 CFR Part 344) received October 28, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

731. A letter from the Chief Counsel, Bureau of the Debt, transmitting the Bureau's final rule—Providing Explicitly For The Recognition of Federal Judicial and Federal Administrative Forfeitures of Series EE and HH United States Savings Bonds (31 CFR Part 353) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

732. A letter from the Chief Counsel, Bureau of the Public Debt, transmitting the Bureau's final rule—Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Regulations Governing Payments by the Automated Clearing House Method on Account of United States Securities (31 CFR Parts 356 and 370) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

733. A letter from the Acting Assistant Secretary for Import Administration, Department of Commerce, transmitting the Departments' final rule—Changes in Procedures for the Insular Possessions Watch Program [Docket No. 960508126–6126–01] (RIN: 0625–AA46) (Department of Commerce and Department of the Interior) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

734. A letter from the Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule—Unemployment Insurance Program (Letters 30–96 and 37–96) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

735. A letter from the Acting U.S. Trade Representative, Executive Office of the President, transmitting a report on recent developments regarding implementation of section 301 of the Trade Act of 1974; to the Committee on Ways and Means.

736. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Work Opportunity Tax Credit—Supplementary Instructions for Form 8850 (Announcement 96–116) received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

737. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Magnetic Media Filing Requirements for Information Returns (RIN: 1545–AU08) received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

738. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment of gain from the disposition of interest in certain natural resource recapture property by S corporations and their shareholders (RIN: 1545–AM98) received October 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

739. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 96–49) received October 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

740. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Indian Tribal Casinos and Reporting Under Title 31 (Notice 96–57) received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

741. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories (Rev. Rul. 96–54) received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

742. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Qualified State Tuition Programs (Notice 96–58) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

743. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Guidance for qualification as an acceptance agent, and execution of an agreement between an acceptance agent and the Internal Revenue Service relating to the issuance of certain taxpayer identifying numbers (Rev. Proc. 96–52) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

744. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Interim Guidance on Sections 877, 1494, 6039F, and 6048 (Notice 96–60) received November 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

745. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Pension Plan Limitations (Notice 96–55) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

746. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Qualified Pension, Profit-Sharing, and Stock Bonus Plans (Rev. Rul. 96–53) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

747. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Closing agreements (Rev. Proc. 96-50) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

748. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 96-52) received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

749. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Transition Relief for SIMPLES (Announcement 96-112) received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

750. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Advance Pricing Agreement Revenue Procedure (Revenue Procedure 96-53) received November 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

751. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Deposits of Excise Taxes (RIN: 1545-AT25) received November 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

752. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Developing Interim Requirements for Designated Delivery Services Under Section 7502(f) of the Internal Revenue Code (Announcement 96-108) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

753. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Action on Decision in Brown Group, Inc. v. Commissioner (77 F.3d 217) received October 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

754. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Action on Decision in Velinsky v. Commissioner (Dkt. No. 5469-94) received October 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

755. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 96-51) received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

756. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update (Notice 96-54) received October 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

757. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Educational Assistance Programs (Rev. Rul. 96-41) received October 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

758. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Information Reporting for Discharges of Indebtedness: Waiver of Penalties in Certain Circumstances For Foreign Financial Entities [Notice 96-61] received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

759. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issue for Property [Revenue Ruling 96-57] received November 21, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

760. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 96-59] received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

761. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Logos and Identifying Slogans on Substitute Forms 1099 [Notice 96-62] received November 15, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

762. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories (Revenue Ruling 96-60) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

763. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Nondiscrimination Rules for Plans Maintained by Governments and Tax-Exempt Organizations [Notice 96-64] received December 3, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

764. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Medical Savings Accounts [Notice 96-53] received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

765. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Estate Tax Regulations for a Qualified Domestic Trust [Revenue Procedure 96-54] received November 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

766. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Requirements to Ensure Collection of Section 2056A Estate Tax [TD 8686] (RIN: 1545-AT64) received November 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

767. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Source of Income from Sales of Inventory and Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction [TD 8687] (RIN: 1545-AT92) received November 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

768. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment of a Trust as Domestic or Foreign—Changes Made by the Small Business Protection Act [Notice 96-65] received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

769. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Taxation of Fringe Benefits [26 CFR 1.61-21] [Revenue Ruling 96-58] received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

770. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Credit [Revenue Ruling 96-59] received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

771. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Cessation of Donor's Dominion and Control [26 CFR 25.2511-2] [Revenue Ruling 96-56] received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

772. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters [26 CFR 601.201] [Rev. Proc. 96-55] received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

773. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Certain Elections Under the Omnibus Budget Reconciliation Act of 1993 [TD 8688] (RIN: 1545-AS14) received December 11, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

774. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Definitions Relating to Application of Exclusion under Section 127 of the Internal Revenue Code [Notice 96-68] received December 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

775. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Interest Rate [Rev. Rul. 96-61] received December 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

776. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Setting Forth the Inflation Adjusted Items for 1997, Including the Tax Rate Tables, the Standard Deduction, and Several Other Items [Rev. Proc. 96-59] received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

777. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Extension of Test of Mediation Procedure for Appeals [Announcement 97-1] received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

778. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Sale of Seized Property [TD 8691] (RIN: 1545-AU13 received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

779. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Reissuance of Mortgage Credit Certificates [TD 8692] (RIN: 1545-AR57) received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

780. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability [Rev. Proc. 96-58] received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

781. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Optional Standard Mileage Rates for Employees, Self-Employed Individuals, or Other Taxpayers To Use in Computing the Deductible Costs of Operating a Passenger Automobile for Business, Charitable, Medical, or Moving Expense Purposes [Rev. Proc. 96–63] received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

782. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability [Rev. Proc. 96–64] received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

783. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters [Rev. Proc. 96–56] received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

784. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Diesel Fuel Excise Tax; Special Rules for Alaska [TD 8693] (RIN: 1545–AU52) received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

785. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Disclosure of Return Information to the U.S. Custom Service [TD 8694] (RIN: 1545–AS52) received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

786. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Disclosure of Return Information to Procure Property or Services for Tax Administration Purposes [TD 8695] (RIN: 1545–AT48) received December 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

787. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Application of Section 401(a)(9) to Employees who Attain Age 70½ in 1996 [Notice 96–67] received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

788. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Employee Plans and Exempt Organizations; Requests for Certain Determination Letters and Applications For Recognition of Exemption [Announcement 96–133] received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

789. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Deductability, Substantiation, and Disclosure of Certain Charitable Contributions [TD 8690] (RIN: 1545–AS94) received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

790. A communication from the President of the United States, transmitting a report concerning his actions in response to the ITC safeguards investigation of broom-corn brooms, pursuant to section 203(b)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

791. A letter from the Secretary of Agriculture, transmitting the Department's "Major" final rule—Dairy Tariff-Rate Import Quota Licensing (7 CFR Part 6) received October 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

792. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1997 [OACT–054–N] (RIN: 0938–AH08) received November 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

793. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare Program; Part A Premium for 1997 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement [OACT–053–N] (RIN: 0938–AH45) received November 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

794. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Foster Care Maintenance Payments, Adoption Assistance, Child and Family Services (RIN: 0970–AB34) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

795. A letter from the Inspector General, Social Security Administration, transmitting the Administration's final rule—Civil Monetary Penalties, Assessments and Recommended Exclusions (RIN: 0960–AE23) received April 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

796. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Overpayment Appeal and Waiver Rights (RIN: 0960–AD99) received October 29, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

797. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Evidence of Lawful Admission for Permanent Residence in the United States (RIN: 0960–AD90) received October 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

798. A letter from the National Security Council, transmitting on behalf of the President the report to Congress called for in section 406 of the Department of State and Related Agencies Appropriations Act, 1997; jointly, to the Committees on Appropriations and International Relations.

799. A letter from the Deputy Under Secretary of Defense (Environmental Security), Department of Defense, transmitting a report on the Defense Environmental Restoration Program for fiscal year 1995, pursuant to 10 U.S.C. 2706(a)(1); jointly, to the Committees on National Security and Commerce.

800. A letter from the Secretary of Energy, transmitting notification that the Department has submitted drafts of all nine chapters of the compliance certification application to the Environmental Protection Agency, pursuant to Public Law 102–579 section 8(d)(1); jointly, to the Committees on National Security and Commerce.

801. A letter from the Secretary of Labor, transmitting the Department's annual report to Congress on the fiscal year 1995 program operations of the Office of Workers' Compensation Programs [OWCP], the administration of the Black Lung Benefits Act [BLBA], the Longshore and Harbor Workers' Compensation Act [LHWCA], and the Federal Employees' Compensation Act for the period October 1, 1994, through September 30, 1995, pursuant to 30 U.S.C. 936(b); to the Committee on Education and the Workforce.

802. A letter from the Secretary of Energy, transmitting a copy of the Federal Alternative Motor Fuels Program fifth annual report to Congress, July 1996, pursuant to 42 U.S.C. 6374c; jointly, to the Committees on Commerce and Science.

803. A letter from the Secretary of Energy, transmitting the Department's ninth annual report to Congress summarizing the Department's progress during fiscal year 1995 in implementing the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act, pursuant to Public Law. 99–499, section 120(e)(5) (100 Stat. 1669); jointly, to the Committees on Commerce and Transportation and Infrastructure.

804. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1997 [OACT–052–N] (RIN: 0938–AH42) received October 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); jointly, to the Committees on Commerce and Ways and Means.

805. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Revisions to Payment Policies and Five-Year Review of and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1997 [BPD–852–FC] (RIN: 0938–AH40) received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); jointly, to the Committees on Commerce and Ways and Means.

806. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Physician Fee Schedule Update for Calendar Year 1997 and Physician volume Performance Standard Rates of Increase for Federal Fiscal Year 1997 [BPD–853–FN] (RIN: 0938–AH41) received November 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); jointly, to the Committees on Commerce and Ways and Means.

807. A letter from the Director, Defense Security Assistance Agency, transmitting a report on deliveries to the Government of Bosnia and Herzegovina, pursuant to Public Law 104–107, section 540(c) (110 Stat. 736); jointly, to the Committees on International Relations and Appropriations.

808. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the Department's intent to obligate funds to support United States efforts in Bosnia, pursuant to 22 U.S.C. 2394–1(a); jointly, to the Committees on International Relations and Appropriations.

809. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting obligation of funds for additional program proposals for purposes of nonproliferation and disarmament fund activities, pursuant to 22 U.S.C. 5858; jointly, to the Committees on International Relations and Appropriations.

810. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–10: Continued Vietnamese Cooperation in Accounting for United States Prisoners of War and Missing in Action (POW/MIA); jointly, to the Committees on International Relations and Appropriations.

811. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1998 budget request,

pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on House and Oversight and Appropriations.

812. A letter from the Chairman, Federal Election Commission, transmitting an addendum to the fiscal year 1998 budget request with respect to tuition assistance; jointly, to the Committees on House and Oversight and Appropriations.

813. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification that Thailand has adopted a regulatory program governing the incidental taking of certain sea turtles, pursuant to Public Law 101-162, section 609(b)(2) (103 Stat. 1038); jointly, to the Committees on Resources and Appropriations.

814. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to include American Samoa in the Act of October 4, 1984 (98 Stat. 1732, 48 U.S.C. section 1662a), dealing with territories of the United States, and for other purposes; jointly, to the Committees on Resources and the Judiciary.

815. A letter from the Secretary of Transportation, transmitting the Department's third edition of the surface transportation research and development plan, pursuant to Public Law 102-240, section 6009(b)(8) (105 Stat. 2177); jointly, to the Committees on Transportation and Infrastructure and Science.

816. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's budget request for fiscal year 1998, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Transportation and Infrastructure and Appropriations.

817. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's amended budget request for fiscal year 1998; jointly, to the Committees on Transportation and Infrastructure and Appropriations.

818. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Safety Board's appeal letter to OMB regarding the fiscal year 1998 budget request, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Transportation and Infrastructure and Appropriations.

819. A letter from the Chairman, Railroad Retirement Board, transmitting a copy of the U.S. Railroad Retirement Board's 1996 annual report to the President and the Congress, pursuant to 45 U.S.C. 231f(b)(6); jointly, to the Committees on Transportation and Infrastructure and Appropriations.

820. A letter from the Associate Director, National Institute for Standards and Technology, transmitting the Institute's final rule—Procedures for Implementation of the Fastener Quality Act [Docket No. 960726209-6209-01] (RIN: 0693-AA90) received October 7, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); jointly, to the Committees on Science and Commerce.

821. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare Program; Changes Concerning Suspension of Medicare Payments, and Determination of Allowable Interest Expenses [BPO-118-FC] (RIN: 0938-AC99) received December 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); jointly, to the Committees on Ways and Means and Commerce.

822. A letter from the Director, Office of Management and Budget, transmitting a report that identifies accounts containing unvouchered expenditures that are potentially subject to audit by the comptroller general, pursuant to 31 U.S.C. 3524(b); jointly, to the Committees on Appropriations, the Budget, and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted November 26, 1996]

Mr. SOLOMON: Committee on Rules. Survey of activities of the House Committee on Rules, 104th Congress (Rept. 104-868). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 18, 1996]

Mr. STUMP: Committee on Veterans' Affairs. Activities of the Committee on Veterans' Affairs for the 104th Congress (Rept. 104-869). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 19, 1996]

Mr. LIVINGSTON: Committee on Appropriations. Report on activities of the Committee on Appropriations during the 104th Congress (Rept. 104-870). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 20, 1996]

Mr. SHUSTER: Committee on Transportation and Infrastructure. Summary of legislative and oversight activities of the Committee on Transportation and Infrastructure for the 104th Congress (Rept. 104-871). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. Report on legislative and oversight activity of the Committee on Ways and Means for the 104th Congress (Rept. 104-872). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 31, 1996]

Mrs. MEYERS: Committee on Small Business. Report of the summary of activities of the Committee on Small Business during the 104th Congress (Rept. 104-873). Referred to the Committee of the Whole House on the State of the Union.

[Submitted January 2, 1997]

Mr. CLINGER: Committee on Government Reform and Oversight. Report on the activities of the Committee on Government Reform and Oversight during the 104th Congress (Rept. 104-874). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Economic and Educational Opportunities. Report on the activities of the Committee on Economic and Educational Opportunities during the 104th Congress (Rept. 104-875). Referred to the Committee of the Whole House on the State of the Union.

Mrs. JOHNSON of Connecticut: Committee on Standards of Official Conduct. Report in the matter of Representative Barbara-Rose Collins (Rept. 104-876). Referred to the House Calendar.

Mr. LEACH: Committee on Banking and Financial Services. Report on the activities of the Committee on Banking and Financial Services during the 104th Congress (Rept. 104-877). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. Report on legislative and oversight activities of the Committee on Resources during the 104th Congress (Rept. 104-878). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. Report on the activities of the Committee on the Judiciary during the 104th Congress (Rept. 104-879). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASICH: Committee on the Budget. Activities and summary report of the Committee on the Budget during the 104th Congress (Rept. 104-880). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Agriculture. Report on the activities of the Committee on Agriculture during the 104th Congress (Rept. 104-881). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. Report on the activity of the Committee on Commerce during the 104th Congress (Rept. 104-882). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. Legislative review activities report of the Committee on International Relations during the 104th Congress (Rept. 104-883). Referred to the Committee of the Whole House on the State of the Union.

Mr. SPENCE: Committee on National Security. Report of the activities of the Committee on National Security during the 104th Congress (Rept. 104-884). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on House Oversight. Report of the activities of the Committee on House Oversight during the 104th Congress (Rept. 104-885). Referred to the Committee of the Whole House on the State of the Union.

Mrs. JOHNSON of Connecticut: Committee on Standards of Official Conduct. Report of the activities of the Committee on Standards of Official Conduct during the 104th Congress (Rept. 104-886). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALKER: Committee on Science. Summary of activities of the Committee on Science during the 104th Congress (Rept. 104-887). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BALLENGER (for himself, Mr. GOODLING, Mrs. MYRICK, Ms. DUNN of Washington, Ms. MOLINARI, Mr. GREENWOOD, Mr. SHAYS, Mr. STENHOLM, Ms. PRYCE of Ohio, Mr. DOOLEY of California, Mr. UPTON, Mrs. FOWLER, Mr. FOX of Pennsylvania, Ms. GRANGER, Mr. CAMPBELL, Mr. PETRI, Mr. FAWELL, Mr. RIGGS, Mr. KNOLLENBERG, Mr. NORWOOD, Mr. BURR of North Carolina, Mr. HERGER, Mr. BARRETT of Nebraska, Mr. MCKEON, Mr. CUNNINGHAM, Mr. GRAHAM, Mr. INGLIS of South Carolina, Mr. HAYWORTH, Mr. MILLER of Florida, Mr. COBURN, Mr. MCCOLLUM, Mr. EHLERS, Mr. BARTLETT of Maryland, Mr. GOSS, Mr. GOODLATTE, Mr. MCINTOSH, Mr. LATOURETTE, Mr. NEY, Mr. BUNNING of Kentucky, Mr. BOEHNER, and Mr. SMITH of Texas):

H.R. 1. A bill to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector; to the Committee on Education and the Workforce.

By Mr. LAZIO of New York:

H.R. 2. A bill to repeal the U.S. Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MCCOLLUM (for himself, Mr. COBLE, Mr. BARR of Georgia, Mr. BRYANT, and Mr. CANADY of Florida):

H.R. 3. A bill to combat violent youth crime and increase accountability for juvenile criminal offenses; to the Committee on the Judiciary.

By Mr. SHUSTER (for himself and Mr. OBERSTAR):

H.R. 4. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLING (for himself, Mr. RIGGS, Mr. CASTLE, Mr. PETRI, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. MCKEON, Mr. TALENT, Mr. GREENWOOD, Mr. KNOLLENBERG, Mr. GRAHAM, Mr. SOUDER, Mr. MCINTOSH, Mr. NORWOOD, and Mr. CUNNINGHAM):

H.R. 5. A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes; to the Committee on Education and Workforce.

By Mr. MCKEON (for himself, Mr. GOODLING, Mr. CLAY, and Mr. KILDEE):

H.R. 6. A bill to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BILBRAY (for himself, Mr. ARCHER, Mr. BALLENGER, Mr. BEREUTER, Mr. BRYANT, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. GOODLATTE, Mr. HERGER, Mr. HORN, Mr. HUNTER, Mr. INGLIS of South Carolina, Mr. JONES, Mr. MCCOLLUM, Mr. MCINTOSH, Mr. MCKEON, Mr. PACKARD, Mr. RADANOVICH, Mr. RIGGS, Mr. ROHRABACHER, Mr. ROYCE, Mr. SKEEN, Mr. TRAFICANT, Mr. WAMP, Mr. WELDON of Florida, and Mr. WELLER):

H.R. 7. A bill to amend the Immigration and Nationality Act to deny citizenship at birth to children born in the United States of parents who are not citizens or permanent resident aliens; to the Committee on the Judiciary.

By Mr. BILBRAY (for himself, Mr. BARTON of Texas, Mr. FILNER, Mr. HUNTER, Mr. CUNNINGHAM, Mr. CALVERT, Mr. BONO, and Mr. CONDIT):

H.R. 8. A bill to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicles emissions, and for other purposes; to the Committee on Commerce.

By Mr. SERRANO:

H.R. 9. A bill to waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEACH (for himself, Mrs. ROUKEMA, Mr. CASTLE, and Mr. LAZIO of New York):

H.R. 10. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H.R. 11. A bill to amend the Federal Election Campaign Act of 1971 to prohibit political action committees from making contributions or expenditures for the purpose of influencing elections for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. SCHUMER (for himself and Mr. NADLER):

H.R. 12. A bill to prevent handgun violence and illegal commerce in handguns; to the Committee on the Judiciary.

By Mr. BASS:

H.R. 13. A bill to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that act only by donation or exchange, or otherwise with the consent of owner of the lands; to the Committee on Resources.

By Mr. DREIER (for himself, Ms. MCCARTHY of Missouri, Mr. ENGLISH of Pennsylvania, Mr. MORAN of Virginia, and Mr. HALL of Texas):

H.R. 14. A bill to amend the Internal Revenue Code of 1986 to provide maximum rates of tax on capital gains of 14 percent for individuals and 28 percent for corporations and to index the basis of assets of individuals for purposes of determining gains and losses; to the Committee on Ways and Means.

By Mr. THOMAS (for himself, Mr. BILIRAKIS, and Mr. CARDIN):

H.R. 15. A bill to amend the title XVIII of the Social Security Act to improve preventive benefits under the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DINGELL:

H.R. 16. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Commerce, and in pollution to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY:

H.R. 17. A bill to amend the Internal Revenue Code of 1986 to encourage retirement savings by allowing more individuals to make contributions to individual retirement plans, and for other purposes; to the Committee on Ways and Means.

H.R. 18. A bill to amend the Internal Revenue Code of 1986 to increase to 100 percent the amount of the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

H.R. 19. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for higher education expenses; to the Committee on Ways and Means.

By Mr. MICA:

H.R. 20. A bill to authorize the Architect of the Capitol to establish a Capitol Visitor Center under the East Plaza of the U.S. Capitol, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CONYERS:

H.R. 21. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes; to the Committee on the Judiciary.

By Mr. MCHUGH:

H.R. 22. A bill to reform the postal laws of the United States; to the Committee on Government Reform and Oversight.

By Mr. CLAY:

H.R. 23. A bill to amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BARR of Georgia:

H.R. 24. A bill to provide for State credit union representation on the National Credit Union Administration Board, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. EHLERS:

H.R. 25. A bill to amend the Internal Revenue Code of 1986 to provide that the percentage of completion method of accounting shall not be required to be used with respect to contracts for the manufacture of property if no payments are required to be made before the completion of the manufacture of such property; to the Committee on Ways and Means.

By Mr. BARR of Georgia (for himself and Mr. STUMP):

H.R. 26. A bill to amend title 18, United States Code, to provide that the firearms prohibitions applicable by reason of a domestic violence misdemeanor conviction do not apply if the conviction occurred before the prohibitions became law; to the Committee on the Judiciary.

By Mr. BARTLETT of Maryland (for himself, Mr. BARTON of Texas, Mr. SOLOMON, Mr. COBLE, Mr. CALLAHAN, Mr. CUNNINGHAM, Mr. CALVERT, Mr. BARCIA of Michigan, Mr. YOUNG of Alaska, Mr. DOOLITTLE, Mr. STUMP, Mr. COLLINS, Mrs. CHENOWETH, Mr. COBURN, Mr. CONDIT, Mr. BURTON of Indiana, Mr. HOLDEN, Mr. SKEEN, Mr. CRANE, and Mr. HALL of Texas):

H.R. 27. A bill to protect the right to obtain firearms for security, and to use firearms in defense of self, family, or home, and to provide for the enforcement of such right; to the Committee on the Judiciary.

By Mr. BEREUTER:

H.R. 28. A bill to amend the Housing Act of 1949 to extend the loan guarantee program for multifamily rental housing in rural areas; to the Committee on Banking and Financial Services.

By Mr. RANGEL (for himself, Mr. GEPHARDT, Mrs. MALONEY of New York, Mr. CUMMINGS, Mr. NEAL of Massachusetts, Mr. KENNEDY of Massachusetts, Ms. JACKSON-LEE, Mr. PORTMAN, Mr. SERRANO, Mr. CONYERS, Mr. SABO, Mr. UNDERWOOD, Mrs. MEEK of Florida, Mr. PAYNE, Mr. PALLONE, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Ms. WATERS, Mr. JEFFERSON, Ms. NORTON, Mr. NADLER, Mr. JACKSON, Mr. HASTINGS of Florida, Ms. DELAURO, Mr. MATSUI, and Mr. BARRETT of Wisconsin):

H.R. 29. A bill to designate the Federal building located at 290 Broadway in New York, NY, as the "Ronald H. Brown Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. EHLERS:

H.R. 30. A bill to amend title 11 of the United States Code to make nondischargeable a debt for death or injury caused by the debtor's operation of watercraft or aircraft while intoxicated; to the Committee on the Judiciary.

By Mr. BAKER (for himself and Mr. KANJORSKI):

H.R. 31. A bill to reform the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. BAKER (for himself, Mr. BACHUS, and Mr. LAZIO OF NEW YORK):

H.R. 32. A bill to terminate the property disposition program of the Department of Housing and Urban Development providing single family properties for use for the homeless; to the Committee on Banking and Financial Services.

By Mr. BEREUTER:

H.R. 33. A bill to amend the Housing and Community Development Act of 1992 to extend the loan guarantee program for Indian housing; to the Committee on Banking and Financial Services.

H.R. 34. A bill to amend the Federal Election Campaign Act of 1971 to prohibit individuals who are not citizens of the United States from making contributions or expenditures in connection with an election for Federal office; to the Committee on House Oversight.

H.R. 35. A bill to provide a more effective remedy for inadequate trade benefits extended to the United States by other countries and for restrictions on free emigration imposed by other countries; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself, Mr. BERMAN, Mr. GILMAN, Mr. CRANE, and Mr. MATSUI):

H.R. 36. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia; to the Committee on Ways and Means.

By Mr. BILIRAKIS:

H.R. 37. A bill to amend title 39, United States Code, to exempt veterans' organizations from regulations prohibiting the solicitation of contributions on postal property; to the Committee on Reform and Oversight.

By Mr. BILIRAKIS (for himself and Mr. NORWOOD):

H.R. 38. A bill to provide a minimum survivor annuity for the unremarried surviving spouses of retired members of the Armed Forces who died before having an opportunity to participate in the survivor benefit plan; to the Committee on National Security.

By Mr. YOUNG of Alaska (for himself and Mr. CUNNINGHAM):

H.R. 39. A bill to reauthorize the African Elephant Conservation Act; to the Committee on Resources.

By Mr. CONYERS (for himself, Mr. FATTAH, Mr. FOGLIETTA, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MEEK of Florida, Mr. OWENS, Mr. RUSH, and Mr. TOWNS):

H.R. 40. A bill to acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to examine the institution of slavery, subsequent de jure and de facto racial and economic discrimination against African-Americans, and the impact of these forces on living African-Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes; to the Committee on the Judiciary.

By Mr. GINGRICH:

H.R. 41. A bill to provide a sentence of death for certain importations of significant quantities of controlled substances; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 42. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to any employer who employs a member of the Ready Reserve or of the National Guard for a portion of the value of the service not performed for the employer while the employee is performing service as such a member; to the Committee on Ways and Means.

H.R. 43. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to any employer who employs a member of the Ready Reserve or of the National Guard for a portion of the compensation paid by the employer while the employee is performing service as such a member; to the Committee on Ways and Means.

H.R. 44. A bill to amend title 10, United States Code, to provide limited authority for concurrent payment of retired pay and veterans' disability compensation for certain disabled veterans; to the Committee on National Security, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLEMENT:

H.R. 45. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 15-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 and related beneficiaries and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 46. A bill to repeal the provision of law under which pay for Members of Congress is automatically adjusted; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 47. A bill to make Members of Congress ineligible to participate in the Federal Employees' Retirement System; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 48. A bill to limit the duration of certain benefits afforded to former Presidents, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT:

H.R. 49. A bill to amend title 39, United States Code, to prevent the U.S. Postal Service from disclosing the name or addresses of any postal patrons or other persons, except under certain conditions; to the Committee on Government Reform and Oversight.

H.R. 50. A bill to provide for the operation of a combined post exchange and commissary store at Castle Air Force Base, CA, a military installation selected for closure under the base closure laws, in order to ensure that adequate services remain available to the numerous members of the Armed Forces, retired members, and their dependents who reside in the vicinity of the installation; to the Committee on National Security.

H.R. 51. A bill to amend title 10, United States Code, to provide that persons retiring from the Armed Forces shall be entitled to all benefits which were promised them when they entered the Armed Forces; to the Committee on National Security.

H.R. 52. A bill to establish a code of fair information practices for health information, to amend section 552a of title 5, United States Code, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Government Reform and Oversight, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ESHOO (for herself, Mr. ROTHMAN, Mr. FARR of California, Mr. UNDERWOOD, Mr. HASTINGS of Florida, Mr. KENNEDY of Rhode Island, Mr. FROST, Ms. NORTON, Mr. MENENDEZ, Ms. JACKSON-LEE, and Mr. GREEN):

H.R. 53. A bill to amend the Internal Revenue Code of 1986 to establish a Higher Education Accumulation Program [HEAP] under which individuals are allowed a deduction for contributions to HEAP accounts; to the Committee on Ways and Means.

By Mr. FARR of California (for himself, Mr. CAMPBELL, Ms. ESHOO, Mr. RIGGS, Mr. FAZIO of California, Mr. CUNNINGHAM, Mr. LANTOS, and Ms. LOFGREN):

H.R. 54. A bill to amend the Andean Trade Preference Act to prohibit the provision of duty-free treatment under the act for live plants and fresh cut flowers described in chapter 6 of the Harmonized Tariff Schedule of the United States; to the Committee on Ways and Means.

By Mr. FORBES:

H.R. 55. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 relating to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 56. A bill to authorize establishment of a Department of Veterans Affairs ambulatory care facility in Brookhaven, NY; to the Committee on Veterans' Affairs.

By Mr. FROST:

H.R. 57. A bill to amend the Federal Credit Union Act to clarify that residents of certain neighborhoods which are underserved by depository institutions may become members of any Federal credit union which establishes a branch in such neighborhood; to the Committee on Banking and Financial Services.

By Ms. FURSE (for herself, Mr. NETHERCUTT, Mr. DINGELL, Mr. BEREUTER, Mr. BOUCHER, Mr. DAVIS of Virginia, Mr. DEAL of Georgia, Mr. WAXMAN, Mr. WYNN, Mr. SKEEN, Mr. SAWYER, Mr. RUSH, Ms. ESHOO, Mr. NEY, Mr. RAMSTAD, Mrs. KENNELLY of Connecticut, Mr. GREEN, Mr. BROWN of Ohio, Mr. PALLONE, Ms. PRYCE of Ohio, Mr. POMEROY, Mr. SERRANO, Mr. ENGEL, Mr. MARKEY, Mr. MANTON, Mr. WATTS of Oklahoma, Mr. STUPAK, Mr. STARK, Mr. TOWNS, Mr. GORDON, Mrs. MORELLA, Mr. KLINK, Mr. CONDIT, Mr. DEUTSCH, Mrs. MYRICK, Ms. SLAUGHTER, Mr. MCKEON, Mr. HALL of Ohio, Mr. HAMILTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BARRETT of Wisconsin, Mr. KILDEE, Mr. ACKERMAN, Mr. YATES, Mr. WOLF, Mr. ANDREWS, Mr. BALDACCI, Mr. PETRI, Mr. BLUMENAUER, Mr. BONIOR, Ms. PELOSI, Mr. SCHIFF, Mr. WATT of North Carolina, Mr. UNDERWOOD, Mr. CARDIN, Mr. CLAY, Ms. DELAURO, Mr. FAZIO of California, Mr. LAFALCE, Mrs. MALONEY of New York, Mrs. MINK of Hawaii, Mr. RAHALL, Mr. SABO, Mr. MARTINEZ, Mr. MASCARA, Mr. GEPHARDT, Mr. GEJDENSON, Mr. WAMP, Mr. DEFAZIO, and Ms. HOOLEY of Oregon):

H.R. 58. A bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLATTE (for himself, Mr. DICKEY, Mr. HAYWORTH, Mr. LARGENT, Mr. DAVIS of Virginia, Mr. STUMP, Mr. MILLER of Florida, Mr. TAYLOR of North Carolina, Mr. BARRETT of Nebraska, Mr. LINDER, Mr. CUNNINGHAM, Mr. BURR of North Carolina, Mr. BLILEY, Mr. BARTON of Texas, Mr. SCARBOROUGH, Mr. HANSEN, Mr. CALVERT, Mrs. MYRICK, Mr. BONILLA, Mr. MCKEON, Mr. BALLENGER, Mr. ISTOOK, and Mr. GRAHAM):

H.R. 59. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Education and the Workforce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYWORTH:

H.R. 60. A bill to authorize the Secretary of the Interior to provide assistance to the Casa Malpais National Historic Landmark in Springerville, AZ; to the Committee on Resources.

By Mr. HERGER:

H.R. 61. A bill to direct the Secretary of Agriculture to assure that the operations of the Forest Service are free of racial, sexual, and ethnic discrimination; to the Committee on Agriculture.

H.R. 62. A bill to provide relief to State and local governments from Federal regulation; to the Committee on Government Reform and Oversight.

H.R. 63. A bill to designate the reservoir created by Trinity Dam in the Central Valley project, CA, as Trinity Lake; to the Committee on Resources.

By Mr. HERGER (for himself and Ms. DUNN of Washington):

H.R. 64. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment for the amount of the maximum benefit under the special estate tax valuation rules for certain farm, and so forth, real property; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself and Mr. NORWOOD):

H.R. 65. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation; to the Committee on National Security.

By Mr. COBURN (for himself and Mr. BROWN of Ohio):

H.R. 66. A bill to amend title XVIII of the Social Security Act to provide protections for Medicare beneficiaries who enroll in Medicare managed care plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER:

H.R. 67. A bill to amend the Internal Revenue Code of 1986 to allow a credit or refund of motor fuel excise taxes on fuel used by the motor of a highway vehicle to operate certain power takeoff equipment on such vehicle; to the Committee on Ways and Means.

By Mr. HOLDEN (for himself, Mr. BEREUTER, Mr. BORSKI, Mr. BOUCHER, Ms. BROWN of Florida, Mr. CONDIT, Mr. DEFAZIO, Mr. DELLUMS, Mr. EVANS, Mr. FROST, Mr. GREEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Ms. MCKINNEY, Mr. STUPAK, Mr. OWENS, and Mr. SMITH of New Jersey):

H.R. 68. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 69. A bill to amend the Internal Revenue Code of 1986 to increase to 100 percent the amount of the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. INGLIS of South Carolina (for himself and Mr. SANFORD):

H.R. 70. A bill to amend the Federal Election Campaign Act of 1971 to prohibit multicandidate political committee contributions and expenditures in elections for Federal office; to the Committee on House Oversight.

By Mr. KNOLLENBERG:

H.R. 71. A bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage and overtime requirements individuals who volunteer their time in order to enhance their occupational opportunities; to the Committee on Education and the Workforce.

H.R. 72. A bill to amend title 17, United States Code, to allow the making of a copy of a computer program in connection with the maintenance or repair of a computer; to the Committee on the Judiciary.

H.R. 73. A bill to amend section 101 of title 11 of the United States Code to modify the definition of single asset real estate and to make technical corrections; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia (for himself, Mr. MORAN of Virginia, Ms. NORTON, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. CONYERS, Mr. TOWNS, Ms. PELOSI, Mr. FLAKE, Mr. HALL of Ohio, Mr. OBERSTAR, Mr. FAZIO of California, Mr. KENNEDY of Massachusetts, Mr. GONZALEZ, and Mr. SHAYS):

H.R. 74. A bill to protect the voting rights of homeless citizens; to the Committee on the Judiciary.

By Ms. MCCARTHY of Missouri (for herself, Mr. FAZIO of California, Mr. FROST, Mr. LUTHER, Ms. LOFGREN, Mr. MASCARA, Ms. RIVERS, Ms. KAPTUR, Mr. PALLONE, Mr. CUMMINGS, Mr. DOYLE, Mrs. KENNELLY of Connecticut, Mr. BLUMENAUER, Mr. KENNEDY of Rhode Island, Mr. DOOLEY of California, Mr. FATTAH, Mr. JACKSON, Ms. MILLENDER-MCDONALD, Mr. BOSWELL, and Ms. JACKSON-LEE):

H.R. 75. A bill to establish the National Commission on the Long-Term Solvency of the Medicare Program; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Virginia (for himself, Mr. WATTS of Oklahoma, Mr. HEFNER, and Mr. DEAL of Georgia):

H.R. 76. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employee Health Benefits Program; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY:

H.R. 77. A bill to amend the Federal Election Campaign Act of 1971 to limit expenditures in House of Representatives elections; to the Committee on House Oversight.

By Mr. REGULA:

H.R. 78. A bill to assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RIGGS:

H.R. 79. A bill to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe; to the Committee on Resources.

By Mr. ROEMER:

H.R. 80. A bill to require the return of excess amounts from the representational allowances of Members of the House of Representatives to the Treasury for deficit reduction; to the Committee on House Oversight.

H.R. 81. A bill to designate the U.S. courthouse located at 401 South Michigan Street in South Bend, IN, as the "Robert K. Rodibaugh United States Bankruptcy Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. SCHUMER (for himself and Ms. SLAUGHTER):

H.R. 82. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable by providing tax benefits to individuals who save for, or pay for, higher education; to the Committee on Ways and Means.

By Mr. SCHUMER:

H.R. 83. A bill to enhance and protect retirement savings; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SLAUGHTER:

H.R. 84. A bill to amend the Communications Act of 1934 to require radio and television broadcasters to provide free broadcasting time for political advertising; to the Committee on Commerce.

H.R. 85. A bill to improve the regulation of explosives and explosive materials, and to prevent the use of explosives against persons and the unlawful use of explosives against property; to the Committee on the Judiciary.

By Mr. SMITH of Michigan (for himself, Mr. SMITH of Oregon, Mr. STENHOLM, Mr. SKEEN, Mr. BARCIA, Mr. BARRETT of Wisconsin, Mr. BOEHNER, Mr. EVANS, Mr. HOSTETTLER, Mr. NORWOOD, Mr. POMEROY, Ms. STABENOW, Mr. COMBEST, Mr. MCHUGH, Mr. WELLER, Mr. SOLOMON, Mr. POMBO, Mr. BOSWELL, Mr. CHAMBLISS, Mr. LATHAM, Mr. BLUNT, Mr. PETERSON of Minnesota, Mr. HILL, Mr. EWING, Mr. HASTERT, Mr. KINGSTON,Mr. HERGER, Mr. THUNE, Mr. FROST, and Mr. MCINNIS, Mr. PARKER, Mr. NETHERCUT, Mr. SENSENBRENNER, and Mr. CRAPO):

H.R. 86. A bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 87. A bill to oppose the provision of assistance to the People's Republic of China by any international financial institution; to the Committee on Banking and Financial Services.

H.R. 88. A bill to suspend Federal education benefits to individuals convicted of drug offenses; to the Committee on Education and the Workforce.

H.R. 89. A bill to require preemployment drug testing with respect to applicants for Federal employment; to the Committee on Government Reform and Oversight.

H.R. 90. A bill to require random drug testing within the executive branch of the Government; to the Committee on Government Reform and Oversight.

H.R. 91. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reduce funding if States do not enact legislation that requires the death penalty in certain cases; to the Committee on the Judiciary.

H.R. 92. A bill to require random drug testing of Federal judicial branch officers and employees; to the Committee on the Judiciary.

H.R. 93. A bill to prohibit the importation of foreign-made flags of the United States of America; to the Committee on Ways and Means.

By Mr. BATEMAN:

H.R. 94. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from overtime compensation for firefighters and rescue squad members who volunteer their services; to the Committee on Education and the Workforce.

By Mr. SOLOMON:

H.R. 95. A bill to ensure that Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the Department of Agriculture; to the Committee on the Judiciary, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 96. A bill to provide regulatory assistance for small business concerns, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UPTON:

H.R. 97. A bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress after leaving office from representing foreign governments before the U.S. Government; to the Committee on the Judiciary.

By Mr. VENTO:

H.R. 98. A bill to regulate the use by interactive computer services of personally identifiable information provided by subscribers to such services; to the Committee on Commerce.

By Mr. WHITE (for himself and Mr. HORN):

H.R. 99. A bill to establish a temporary commission to recommend reforms in the laws relating to elections for Federal office; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UNDERWOOD (for himself, Mr. ABERCROMBIE, Mr. BONIER, Mr. CLAY, Mr. DELLUMS, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Ms. CHRISTIAN-GREEN, Mr. HINCHEY, Mr. HOLDEN, Mr. LAFALCE, Mr. LEWIS of Georgia, Mr. MARTINEZ, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. NADLER, Ms. NORTON, Mr. PASTOR, Mr. ROMERO-BARCELO, Mr. TORRES, Mr. TOWNS, and Mr. YATES):

H.R. 100. A bill to establish the Commonwealth of Guam, and for other purposes; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOEHNER:

H. Res. 1. Resolution electing officers of the House of Representatives; considered and agreed to.

By Mr. ARMEY:

H. Res. 2. Resolution electing officers of the House of Representatives; considered and agreed to.

H. Res. 3. Resolution authorizing the Speaker to appoint a committee to notify the President of the assembly of the Congress; considered and agreed to.

H. Res. 4. Resolution authorizing the Clerk to inform the President of the election of the Speaker and the Clerk; considered and agreed to.

H. Res. 5. Resolution adopting the Rules of the House for the 105th Congress; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 6. Resolution providing for the designation of certain minority employees; considered and agreed to.

By Mr. BOEHNER:

H. Res. 7. Resolution establishing the Corrections Day Calendar Office; considered and agreed to.

By Mr. SOLOMON:

H. Res. 8. Resolution providing for the attendance of the House at the inaugural ceremonies of the President and Vice President of the United States; considered and agreed to.

H. Res. 9. Resolution fixing the daily hour of meeting for the 105th Congress; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 10. Resolution authorizing the Speaker's designee to administer the oath of office to Representative-elect Frank Tejeda; considered and agreed to.

H. Res. 11. Resolution authorizing the Speaker's designee to administer the oath of office to Representative-elect Julia Carson; considered and agreed to.

By Mr. BOEHNER:

H. Res. 12. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. FAZIO of California:

H. Res. 13. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

H. Res. 14. Resolution electing Representative SANDERS of Vermont to the Committees on Banking and Financial Services and Government Reform and Oversight; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

1. By the SPEAKER: Memorial of the Senate of the State of California, relative to the compensation of retired military personnel; to the Committee on National Security.

2. Also, memorial of the Senate of the State of California, relative to the aircraft carrier U.S.S. *Hornet* (CV-12); to the Committee on National Security.

3. Also, memorial of the General Assembly of the State of New Jersey, relative to memorializing the President and Congress of the United States to require the Federal Communications Commission to approve the assignment of new area codes specifically designated for facsimile machines, modems, cellular phones, and pagers; to the Committee on Commerce.

4. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 154 urging the President of the United States and Congress to support establishment of a timetable for the admission of the Republic of Poland to the North Atlantic Treaty Organization; to the Committee on International Relations.

5. Also, memorial of the General Assembly of the State of New Jersey, relative to urging the President and Congress of the United States to support the admission of the Republic of Poland to the North Atlantic Treaty Organization; to the Committee on International Relations.

6. Also, memorial of the Senate of the State of California, relative to resolution of the conflict in Liberia; to the Committee on International Relations.

7. Also, memorial of the Senate of the State of California, relative to a cure breast cancer postal stamp donation program; to the Committee on Government Reform and Oversight.

8. Also, memorial of the Senate of the Northern Marianas Commonwealth Legislature of the Mariana Islands, relative to Senate Joint Resolution No. 10-7 requesting the U.S. House of Representatives to convey nonvoting delegate status to the Commonwealth of the Northern Mariana Islands; to the Committee on Resources.

9. Also, memorial of the Senate of the State of California, relative to school lands; jointly, to the Committees on National Security and Commerce.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1. By the SPEAKER: Petition of Maria Luisa Costell Gaydos, petitioner, relative to articles of impeachment against Carol Los Mansmann, circuit judge, U.S. Court of Appeals—Third Circuit; to the Committee on the Judiciary.

2. Also, petition of Cecil Ray Taylor, U.S. citizen and petitioner, relative to complaint on military involvement in misprision of treason and other criminal acts; to the Committee on the Judiciary.

PROCEEDINGS OF THE HOUSE AFTER SINE DIE ADJOURNMENT OF THE 104TH CONGRESS 2D SESSION AND FOLLOWING PUBLICATION OF THE FINAL EDITION OF THE CONGRESSIONAL RECORD OF THE 104TH CONGRESS

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 3(b)(1)(B) of Public Law 104–169, and section 7 of House Resolution 546, 104th Congress, authorizing the Speaker and the minority leader to appoint commissions, boards, and committees authorized by law or by the House, the Speaker on October 28, 1996, appointed the following members to the National Gambling Impact and Policy Commission on the part of the House: Ms. Kay Coles James, Virginia; and Mr. J. Terrence Lanni, Nevada.

ENROLLED BILL SIGNED AFTER SINE DIE ADJOURNMENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed on October 23, 1996, by the Speaker pro tempore [Mrs. MORELLA]:

H.R. 4236. An act to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, January 6, 1997.

Hon. NEWT GINGRICH,
The Speaker,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following messages from the Secretary of the Senate on Monday, January 6, 1997 at 2:06 p.m.:

That the Senate failed of passage (veto message) H.R. 1833.

With warm regards,

ROBIN H. CARLE, *Clerk,*
U.S. House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 30, 1996.

Hon. NEWT GINGRICH,
Speaker of the House,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that the Keeper of Records, Legislative Resource Center, Office of the Clerk, has been served with a subpoena for documents issued by the United States District Court for the District of Massachusetts.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

ROBIN H. CARLE.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES AFTER SINE DIE ADJOURNMENT

Mr. BROWNBACK submitted the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 26, 1996.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR NEWT: Attached please find a copy of the letter I have sent to Kansas Governor Bill Graves informing him that I am resigning from the House of Representatives effective at 12:00 p.m. central time on Wednesday, November 27th, 1996.

It has been an honor and a privilege to serve with you in the House of Representatives. We enacted reforms during the 104th Congress that has moved this country in the right direction. I look forward to continuing to work with you to balance the federal budget, reduce the size, scope, and intrusiveness of the federal government, and restore the American Dream.

Sincerely,

SAM BROWNBACK,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
WASHINGTON, DC, NOVEMBER 25, 1996.

Gov. BILL GRAVES,
State Capitol, Topeka, KS.

DEAR GOVERNOR GRAVES: For the past two years, it has been my privilege to serve the people of Kansas' Second District as their elected Representative in the U.S. Congress. It has been an eventful tenure.

These are remarkable times, and public servants have a tremendous opportunity and responsibility for making America a better place.

There is much work to be done, and the people rightly expect that we will begin it in earnest. Toward that end, I am scheduled to be sworn in as a U.S. Senator for Kansas at 2:00 p.m. central time, Wednesday, November 27, 1996. Accordingly, I am resigning my seat in the U.S. House of Representatives effective at 12:00 p.m. central time, Wednesday, November 27, 1996.

The work of renewing America is unfinished. I see cause for great hope as I believe we are now clearly focused on those very problems which most confound us. There has never been a challenge which the American nation recognized clearly and approached resolutely which we did not overcome. We have cause for great Thanksgiving.

Sincerely,

SAM BROWNBACK.

COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 2, 1996.

Hon. NEWT GINGRICH,
The Speaker,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the original Certificate of Election received from the Honorable Ron Thornburgh, Secretary of State, State of Kansas, indicating that, according to the results of the General Election held on November 5, 1996, and pursuant to K.S.A. 25–3503(d), which states, "In the event that any vacancy occurs . . . on or after the date of any general election of state officers and before the term of office in which the vacancy has occurred expires, votes cast for the office of congressman in the district in which such vacancy occurs shall be deemed to have been cast to fill such vacancy for the unexpired term, as well as for election for the next regular term," the Honorable Jim Ryun was elected to the office of Representative in Congress, from the Second Congressional District, State of Kansas.

With warm regards,

ROBIN H. CARLE.

COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 2, 1996.

Hon. NEWT GINGRICH,
The Speaker,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the original Certificate of Election received from the Honorable Rebecca McDowell Cook, Secretary of State, State of Missouri, indicating that, according to the results of the Special Election held on November 5, 1996, the Honorable Jo Ann Emerson was elected to the office of Representative in Congress, from the Eighth Congressional District, State of Missouri.

With warm regards,
ROBIN H. CARLE.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES AFTER SINE DIE ADJOURNMENT

Mr. THORNTON submitted the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 14, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Enclosed herewith please find a copy of my letter of resignation as a Member of Congress, effective at noon on January 1, 1997 which I have tendered to the appropriate Arkansas State Authority.

Best personal regards,
RAY THORNTON.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 19, 1996.

Hon. SHARON PRIEST,
Secretary of State, The Capitol, Little Rock, AR.

DEAR MADAM SECRETARY: Pursuant to the results of the general election of November 5, 1996, I will be taking office as an Associate Justice of the Arkansas Supreme Court on January 1, 1997. I therefore hereby submit my resignation as Arkansas second district Representative in the United States Congress to you effective at noon on January 1, 1997. Until that time I will continue to carry out my duties as your Congressman.

Best personal regards,
RAY THORNTON.

COMMUNICATION FROM STAFF MEMBER OF THE HONORABLE ANNA ESHOO AFTER SINE DIE ADJOURNMENT

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 18, 1996.

Hon. NEWT GINGRICH,
Speaker of the House,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served a subpoena issued by the United States District Court for the Eastern District of Michigan.

After consultation with the General Counsel, I will make the determination required by Rule L.

Sincerely,
CAROL D. RICHARDSON.

COMMUNICATION FROM STAFF MEMBER OF THE HONORABLE BOBBY RUSH AFTER SINE DIE ADJOURNMENT

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 12, 1996.

Hon. NEWT GINGRICH,
Speaker of the House,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the Municipal Court of the State of California, County of San Mateo, South San Francisco Branch.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
ANNE REAM,
Field Representative.

RESIGNATION OF LAW REVISION COUNSEL FOR THE HOUSE OF REPRESENTATIVES AFTER SINE DIE ADJOURNMENT

U.S. HOUSE OF REPRESENTATIVES
Washington, DC, September 16, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This past April, I completed 26 years of service with the House of Representatives, first as Assistant Law Revision Counsel and later as Law Revision Counsel for the Committee on the Judiciary and, since the establishment of the Office of the Law Revision Counsel in 1975, as Law Revision Counsel for the House of Representatives. Together with prior executive branch service, my total service is nearing 38 years. Accordingly, I have concluded it is time to retire. I am most grateful for having had the privilege of serving the House as Law Revision Counsel. With your approval my termination as Law Revision Counsel will become effective November 30, 1996.

Permit me to provide a brief overview of the Office of the Law Revision Counsel. Functions of the Office include the classification of new laws to the United States Code, the preparation and publication of the Code, the preparation of bills to enact titles of the Code into positive law and to repeal obsolete and superseded statutes, and the provision of advice and assistance to the Committee on the Judiciary in carrying out its functions with respect and codification.

The Office functions with a staff of 18, all of whom have been appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. All have expressed the desire for career service in the Office. This has resulted in low turnover and in a highly motivated, productive staff. My Deputy and the two Senior Counsels have accumulated 60 years of service with the Office. Accumulated service of the seven Assistant Counsels totals 74 years and that of the seven support staff 69 years.

Methods and procedures for the preparation and publication of the United States Code have been modernized. Working with the Government Printing Office, the transition from hot metal to electronic typesetting and composition for printing of the Code was implemented commencing with the 1976 main edition. A computer system was installed in the Office for use in maintaining the code database and updating it to include newly enacted laws. The system permits the text of new laws to be extracted from the bills database and efficiently incorporated into the Code database. Benefits resulting from modernization include increased productivity, virtually error-free text, timelier publication, and substantial reduction in typesetting costs. Main editions of the code were published for 1976, 1982, 1988, and 1994, and annual cumulative Supplements were published for each of the intervening years.

The Code database is also utilized for a computerized Code Research and Retrieval system for the legislative branch and for the annual production of the Code on CD–ROM. Response to the availability of the Code on CD–ROM has been exceptional, with thousands being purchased from the Superintendent of Documents at a unit cost of about $35. Commencing in January 1995, the Code and the Code classifications of new laws have been made available (utilizing the Code database) on the House Internet Law Library and on the Government Printing Office Internet access. Usage of the House Internet Law Library to access the Code is increasing significantly each month, with user totals for August in excess of 100,000. The Internet Law Library has been the subject of numerous good reviews and comments from both user groups and individual users.

As a result of bills prepared by the Office and transmitted to the Committee on the Judiciary, three titles of the Code have been enacted into positive law without substantive change and numerous obsolete and superseded laws repealed. Assistance was provided to the Committee in connection with the substantive revision and enactment into positive law of a fourth title of the Code. Bills to enact three other titles have been transmitted to the Committee and a bill relating to another title is in preparation.

What has been accomplished could not have been done without the assistance and expertise of an outstanding staff. I am truly indebted to them. The Office has enjoyed a close working relationship with the Committee on the Judiciary with regard to its consideration of bills to enact titles of the Code into positive law, for which I am most appreciative. I also gratefully acknowledge the assistance of the support offices of the House, particularly House Information Resources and the Office of the Legislative Counsel, and of the Government Printing Office.

Respectfully yours,
EDWARD F. WILLETT, *Jr.*

APPOINTMENT OF ACTING LAW REVISION COUNSEL FOR THE HOUSE OF REPRESENTATIVES AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of 2 U.S.C. 285c and section 7 of the House Resolution 546, 104th Congress, authorizing the Speaker and the minority leader to appoint commissions, boards, and committees authorized by law or by the

House, the Speaker on December 1, 1996 appointed Mr. John R. Miller as acting law revision counsel for the House of Representatives.

HOUSE BILLS AND JOINT RESOLUTION APPROVED BY THE PRESIDENT AFTER SINE DIE ADJOURNMENT

The President, subsequent to the sine die adjournment of the 2d session, 104th Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the following titles:

On August 13, 1996:

H.R. 1975. An act to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

On August 20, 1996:

H.R. 2739. An act to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes;

H.R. 3139. An act to redesignate the United States Post Office building located at 245 Centereach Mall on Middle Country Road in Centereach, New York, as the "Rose Y. Caracappa United States Post Office Building";

H.R. 3448. An act to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standard Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that Act;

H.R. 3834. An act to redesignate the Dunning Post Office in Chicago, Illinois, as the "Roger P. McAuliffe Post Office"; and

H.R. 3870. An act to authorize the Agency for International Development to offer voluntary separation incentive payments to employees of the agency.

On August 21, 1996:

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance and for other purposes; and

H.R. 3680. An act to amend title 18, United States Code, to carry out the international obligations of the United States, under the Geneva Conventions to provide criminal penalties for certain war crimes.

On August 22, 1996:

H.R. 3734. An act to provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997.

On September 9, 1996:

H.R. 3845. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes.

On September 16, 1996:

H.R. 3269. An act to amend the Impact Aid program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property, and for other purposes.

H.R. 3517. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of defense for the fiscal year ending September 30, 1997, and for other purposes.

H.R. 3754. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes.

On September 18, 1996:

H.R. 740. An act to confer jurisdiction on the United States Court of Federal Claims with respect to land claims of Pueblo of Isleta Indian Tribe.

On September 21, 1996:

H.R. 3396. An act to define and protect the institution of marriage.

On September 22, 1996:

H.R. 4018. An act to make technical corrections in the Federal Oil and Gas Royalty Management Act of 1982.

On September 23, 1996:

H.R. 3230. An act to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

On September 25, 1996:

H.R. 1642. An act to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of Cambodia, and for other purposes.

On September 26, 1996:

H.R. 3666. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes.

On September 30, 1996:

H.J. Res. 197. Joint resolution waiving certain enrollment requirements with respect to any bill or joint resolution of the One Hundred Fourth Congress making general or continuing appropriations for the fiscal year 1997;

H.R. 3610. An act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes;

H.R. 3675. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes; and

H.R. 3816. An act making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes.

On October 1, 1996:

H.J. Res. 191. Joint resolution to confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu, also known as Mother Teresa;

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex;

H.R. 2428. An act to encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law;

H.R. 2464. An act to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes;

H.R. 2512. An act to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes;

H.R. 2679. An act to revise the boundary of the North Platte National Wildlife Refuge, to expand the Pettaquamscutt Cove National Wildlife Refuge, and for other purposes;

H.R. 2982. An act to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama;

H.R. 3120. An act to amend title 18, United States Code, with respect to witness retaliation, witness tampering and jury tampering;

H.R. 3287. An act to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, Nebraska;

H.R. 3553. An act to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission; and

H.R. 3676. An act to amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition.

On October 2, 1996:

H.R. 2366. An act to repeal an unnecessary medical device reporting requirement;

H.R. 2504. An act to designate the Federal Building located at the corner of Patton Avenue and Otis Street, and the United States courthouse located on Otis Street, in Asheville, North Carolina, as the "Veach-Baley Federal Complex";

H.R. 2685. An act to repeal the Medicare and Medicaid Coverage Data Bank;

H.R. 3060. An act to implement the Protocol on Environmental Protection to the Antarctic Treaty;

H.R. 3074. An act to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone;

H.R. 3186. An act to designate the Federal building at 1655 Woodson Road in Overland, Missouri, as the "Sammy L. Davis Federal Building";

H.R. 3400. An act to designate the Federal building and United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the "Roman L. Hruska Federal Building and United States Courthouse";

H.R. 3710. An act to designate the United States courthouse under construction at 611 North Florida Avenue in Tampa, Florida, as the "Sam M. Gibbons United States Courthouse"; and

H.R. 3802. An act to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide for public access to information in an electronic format, and for other purposes.

On October 8, 1996:

H.R. 1350. An act to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes;

H.R. 3056. An act to permit a county-operated health insuring organization to qualify as an organization exempt from certain requirements otherwise applicable to health insuring organizations under the Medicaid program notwithstanding that the organization enrolls Medicaid beneficiaries residing in another county.

On October 9, 1996:

H.R. 657. An act to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas;

H.R. 680. An act to extend the time for construction of certain FERC licensed hydro projects;

H.R. 1011. An act to extend deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio;

H.R. 1014. An act to authorize extension of time limitation for a FERC-issued hydroelectric license;

H.R. 1031. An act for the relief of Oscar Salas-Velázquez;

H.R. 1290. An act to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes;

H.R. 1335. An act to provide for the extension of a hydroelectric project located in the State of West Virginia;

H.R. 1366. An act to authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mt. Hope Waterpower Project;

H.R. 1791. An act to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services;

H.R. 2501. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes;

H.R. 2508. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes;

H.R. 2594. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes;

H.R. 2630. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois;

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge, and for other purposes;

H.R. 2695. An act to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania;

H.R. 2700. An act to designate the building located at 8302 FM 327, Elmendorf, Texas, which houses operations of the United States Postal Service, as the "Amos F. Longoria Post Office Building";

H.R. 2773. An act to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes;

H.R. 2816. An act to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes;

H.R. 2869. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky;

H.R. 2967. An act to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes;

H.R. 2988. An act to amend the Clean Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency Rules;

H.R. 3068. An act to accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act;

H.R. 3118. An act to amend title 38, United States Code, to reform eligibility for health care provided by the Department of Veterans Affairs, to authorize major medical facility construction projects for the Department, to improve administration of health care by the Department, and for other purposes;

H.R. 3458. An act to increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes;

H.R. 3539. An act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes;

H.R. 3546. An act to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina, and for other purposes;

H.R. 3660. An act to make amendments to the Reclamation Wastewater and Groundwater Study and Facilities Act, and for other purposes;

H.R. 3871. An act to waive temporarily the Medicaid enrollment composition rule for certain health maintenance organizations;

H.R. 3877. An act to designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the "David H. Pryor Post Office Building";

H.R. 3916. An act to make available certain Voice of America and Radio Marti multilingual computer readable text and voice recordings;

H.R. 3973. An act to provide for a study of the recommendations of the Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives;

H.R. 4138. An act to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes;

H.R. 4167. An act to provide for the safety of journeymen boxers, and for other purposes; and

H.R. 4168. An act to amend the Helium Act to authorize the Secretary to enter into agreements with private parties for the recovery and disposal of helium on Federal lands, and for other purposes.

October 11, 1996:

H.J. Res. 198. Joint resolution appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for the counting in Congress of the electoral votes for President and Vice President cast in December 1996;

H.R. 543. An act to reauthorize the National Marine Sanctuaries Act, and for other purposes;

H.R. 1514. An act to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefits of propane consumers and the public, and for other purposes;

H.R. 1734. An act to reauthorize the National Film Preservation Board, and for other purposes;

H.R. 1823. An act to amend the Central Utah Project Completion Act to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and November 26, 1985, and for other purposes;

H.R. 2297. An act to codify without substantive change laws related to transportation and to improve the United States Code;

H.R. 2579. An act to establish the National Tourism Board and the National Tourism Organization to promote international travel and tourism to the United States;

H.R. 3005. An act to amend the Federal securities laws in order to promote efficiency and capital formation in the financial markets, and to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation;

H.R. 3159. An act to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes;

H.R. 3166. An act to amend title 18, United States Code, with respect to the crime of false statement in a Government matter;

H.R. 3259. An act to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 3723. An act to amend title 18, United States Code, to protect proprietary economic information, and for other purposes; and

H.R. 3815. An act to make technical corrections and miscellaneous amendments to trade laws.

On October 13, 1996:

H.R. 4137. An act to combat drug-facilitated crimes of violence, including sexual assaults.

On October 14, 1996:

H.R. 4083. An act to extend certain programs under the Energy Policy and Conservation Act through September 30, 1997.

On October 19, 1996:

H.J. Res. 193. Joint resolution granting the consent of Congress to the Emergency Management assistance Compact;

H.J. Res. 194. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact;

H.R. 632. An act to enhance fairness in compensating owners of patents used by the United States;

H.R. 1087. An act to the relief of Nguyen Quy An;

H.R. 1281. An act to express the sense of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war cries should make these records public;

H.R. 1874. An act to modify the boundaries of the Talladega National Forest, Alabama;

H.R. 3155. An act to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole creek, and Rock Springs Run in the State of Florida for study and potential addition to the National Wild and Scenic Rivers System;

H.R. 3249. An act to authorize appropriations for a mining institute or institutes to develop domestic technological capabilities for the recovery of minerals from the Nation's seabed, and for other purposes;

H.R. 3378. An act to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors;

H.R. 3568. An act to designate 51.7 miles of the Clarion River, located in Pennsylvania, as a component of the National Wild and Scenic Rivers System;

H.R. 3632. An act to amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition;

H.R. 3864. An act to amend laws authorizing auditing, reporting, and other functions by the General Accounting Office;

H.R. 3910. An act to provide emergency drought relief to the City of Corpus Christi, Texas, and the Canadian River Municipal Water Authority, Texas, and for other purposes;

H.R. 4036. An act making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations; and

H.R. 4194. An act to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes.

October 20, 1996:

H.R. 1776. An act to establish United States commemorative coin programs, and for other purposes.

October 26, 1996:

H.R. 3219. An act to provide Federal assistance for Indian tribe in a manner that recognizes the right of tribal self-governance, and for other purposes;

H.R. 3452. An act to make certain laws applicable to the Executive Office of the President, and for other purposes; and

H.R. 4283. An act to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

November 12, 1996:

H.R. 4236. An act to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes.

SENATE BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT AFTER SINE DIE ADJOURNMENT

The President, subsequent to the sine die adjournment of the 2d session, 104th Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the Senate of the following titles:

On August 6, 1996:

S. 531. An act to authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes;

S. 1316. An act to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes;

S. 1757. An act to amend the Development Disabilities Assistance and Bill of Rights Act to extend the Act, and for other purposes; and

S.J. Res. 20. Joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland.

On September 24, 1996:

S. 1669. An act to name the Department of Veterans Affairs medical center in Jackson, Mississippi, as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center".

On October 1, 1996:

S. 533. An act to clarify the rules governing removal of cases to Federal court, and for other purposes;

S. 677. An act to repeal a redundant venue provision, and for other purposes;

S. 1636. An act to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the "Mark O. Hatfield United States Courthouse", and for other purposes; and

S. 1995. An act to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

On October 2, 1996:

S. 1507. An act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes; and

S. 1834. An act to reauthorize the Indian Environmental General Assistance Program Act of 1992, and for other purposes.

On October 3, 1996:

S. 919. An act to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes;

S. 1675. An act to provide for the nationwide tracking of convicted sexual predators, and for other purposes;

S. 1965. An act to prevent the illegal manufacturing and use of methamphetamine; and

S. 2101. An act to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

On October 9, 1996:

S. 1577. An act to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001;

S. 1711. An act to amend title 38, United States Code, to improve the benefits programs administered by the Secretary of Veterans Affairs, to provide for a study of the Federal programs for veterans, and for other purposes;

S. 1802. An act to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes;

S. 1931. An act to provide that the United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the "L. Clure Morton United States Post Office and Courthouse";

S. 1970. An act to amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes;

S. 2085. An act to authorize the Capitol Guide Service to accept voluntary services;

S. 2100. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police;

S. 2153. An act to designate the United States Post Office building located in Brewer, Maine, as the "Joshua Lawrence Chamberlain Post Office Building", and for other purposes; and

S.J. Res. 64. Joint resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

On October 11, 1996:

S. 39. An act to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes;

S. 811. An act to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes;

S. 1044. An act to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes;

S. 1467. An act to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes;

S. 1973. An act to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes; and

S. 2197. An act to extend the authorized period of stay within the United States for certain nurses.

On October 12, 1996:

S. 640. An act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; and

S. 1505. An act to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

On October 14, 1996:

S. 2078. An act to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire.

On October 19, 1996:

S. 342. An act to establish the Cache La Poudre River Corridor;

S. 1004. An act to authorize appropriations for the United States Coast Guard, and for other purposes;

S. 1194. An act to promote the research, identification, assessment, and exploration of marine mineral resources, and for other purposes;

S. 1649. An act to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes;

S. 1887. An act to make improvements in the operation and administration of the Federal courts, and for other purposes;

S. 2183. An act to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; and

S. 2198. An act to provide for the Advisory Commission on Intergovernmental Relations to continue in existence, and for other purposes.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS AFTER SINE DIE ADJOURNMENT

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted November 26, 1996]

Mr. SOLOMON: Committee on Rules. Survey of activities of the House Committee on Rules, 104th Congress (Rept. 104–868). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 18, 1996]

Mr. STUMP: Committee on Veterans' Affairs. Activities of the Committee on Veterans' Affairs for the 104th Congress (Rept. 104–869). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 19, 1996]

Mr. LIVINGSTON: Committee on Appropriations. Report on activities of the Committee on Appropriations during the 104th Congress (Rept. 104–870). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 20, 1996]

Mr. SHUSTER: Committee on Transportation and Infrastructure. Summary of legislative and oversight activities of the Committee on Transportation and Infrastructure for the 104th Congress (Rept. 104–871). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 31, 1996]

Mr. ARCHER: Committee on Ways and Means. Report on legislative and oversight activity of the Committee on Ways and Means for the 104th Congress (Rept. 104–872). Referred to the Committee of the Whole House on the State of the Union.

[Submitted January 2, 1997]

Mrs. MEYERS: Committee on Small Business. Report of the summary of activities of the Committee on Small Business during the 104th Congress (Rept. 104–873). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. Report on the activities of the Committee on Government Reform and Oversight during the 104th Congress (Rept. 104–874). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Economic and Educational Opportunities. Report on the activities of the Committee on Economic and Educational Opportunities during the 104th Congress (Rept. 104–875). Referred to the Committee of the Whole House on the State of the Union.

Mrs. JOHNSON of Connecticut: Committee on Standards of Official Conduct. Report in the matter of Representative Barbara-Rose Collins (Rept. 104–876). Referred to the House Calendar.

Mr. LEACH: Committee on Banking and Financial Services. Report on the activities of the Committee on Banking and Financial Services during the 104th Congress (Rept. 104–877). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. Report on legislative and oversight activities of the Committee on Resources during the 104th Congress (Rept. 104–878). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. Report on the activities of the Committee on the Judiciary during the 104th Congress (Rept. 104–879). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASICH: Committee on the Budget. Activities and summary report of the Committee on the Budget during the 104th Congress (Rept. 104–880). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Agriculture. Report on the activities of the Committee on Agriculture during the 104th Congress (Rept. 104–881). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. Report on the activity of the Committee on Commerce during the 104th Congress (Rept. 104–882). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. Legislative review activities report of the Committee on International Relations during the 104th Congress (Rept. 104–883). Referred to the Committee of the Whole House on the State of the Union.

Mr. SPENCE: Committee on National Security. Report of the activities of the Committee on National Security during the 104th Congress (Rept. 104–884). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on House Oversight. Report of the activities of the Committee on House Oversight during the 104th Congress (Rept. 104–885). Referred to the Committee of the Whole House on the State of the Union.

Mrs. JOHNSON of Connecticut: Committee on Standards of Official Conduct. Report of the activities of the Committee on Standards of Official Conduct during the 104th Congress (Rept. 104–886). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALKER: Committee on Science. Summary of activities of the Committee on Science during the 104th Congress (Rept. 104–887). Referred to the Committee of the Whole House on the State of the Union.

EXTENSIONS OF REMARKS

THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. ARCHER. Mr. Speaker, today I am introducing a joint resolution to amend the Constitution in order to mandate the U.S. Congress to commit to balancing the Federal budget and remove the burdens of large Federal deficits off of the American people. This legislation is essential to the future of our Nation as we stand on the threshold of the 21st century. The costs of maintaining our national debt have absorbed increasing proportions of national savings that would otherwise have been available to finance investment, either public or private. Today, interest payments alone on the debt are the largest item in the budget, comprising over 20 percent of all Federal spending.

This type or irresponsible spending and management must end. Now the 105th Congress has the opportunity to do just that. My balanced budget amendment is very similar to the language that passed the House of Representatives in 1995 by a vote of 300 to 132. However, the most important distinction of my amendment from the 1995 language is the provision specifying the vote margin needed to waive the balanced budget requirement. Under the previously passed bill, three-fifths of the whole House and Senate were required to waive the balanced budget requirements. My amendment sets a more stringent and imperative requirement of two-thirds of those present and voting—the same margin necessary to pass a constitutional amendment.

I hope that my colleagues, on both sides of the aisle, agree that actions speak louder than words. We've talked about our commitment to balancing the budget for long enough, it's time to do it.

INTRODUCTION OF GUNS AND DRUNKS LEGISLATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONYERS. Mr. Speaker, I wouldn't have thought it was necessary to introduce a bill prohibiting gun sellers from selling guns to obviously intoxicated individuals, but it is.

As the law stands, you can't sell alcohol to someone who is clearly drunk because that person might hurt himself or others, but you can sell a drunk a dangerous firearm. Even without a law, common sense might dictate that you don't sell a gun to a drunk, but unfortunately, not everyone uses their common sense.

Deborah Kitchen, a mother of five, was shot by her ex-boyfriend and left paralyzed from the neck down a mere half an hour after the man bought a $100 rifle at a K–Mart in Tampa, FL. The man had consumed a case of beer and nearly a fifth of whiskey before he bought the gun. He was so incapacitated at the time of the purchase that the store clerk had to fill out the Federal firearm registration form.

Ms. Kitchen successfully sued K–Mart for negligence, but the retail chain has appealed, denying any liability. K–Mart doesn't think it did anything wrong in selling the drunk the gun that paralyzed Ms. Kitchen. If gun sellers cannot act responsibly on their own, it is up to us to force them to act responsibly. No one should sell a gun to a drunk, period. My bill would make it a Federal crime to sell a gun to a drunk in an effort to ensure that there won't be any more Deborah Kitchens in the future.

RECOGNIZING THE CONTRIBUTIONS OF MINNESOTAN HUMAN RIGHTS ADVOCATE BARBARA FREY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. VENTO. Mr. Speaker, I rise today in recognition of an extraordinary Minnesotan, Barbara Frey. For 11 years as executive director of Minnesota Advocates, an internationally recognized human rights organization which has played an instrumental part in human rights work, Ms. Frey has poured her tireless energy and efforts into the establishment of the cause of fighting human rights abuses on a worldwide basis. While Barbara Frey will be relinquishing that role, I can safely predict as her Representative and friend that she will continue to make a major contribution to our community and society. Ms. Frey's accomplishments will provide a sound basis and status for her future work in Minnesota and internationally.

Some people have one job; Barbara Frey has several. In addition to her work at Minnesota Advocates, Ms. Frey may add to her resume work as an adjunct professor of human rights at the University of Minnesota Law School. In addition, every Sunday she delivers food-shelf donations to the needy from St. Francis Cabrini Catholic Church. She also coaches girls basketball and teaches a weekly course at St. Paul's Expo Magnet School, where her daughter, Maddie, is a student. Ms. Frey recently paid a visit to the White House on International Human Rights Day to be honored by President Clinton for her efforts to promote women's rights.

Whether educating Minnesota's students or reprimanding military leaders about human rights violations, Barbara Frey has approached her valuable work with the same passion of conviction, courage, and purpose of mission. St. Paul, MN, is fortunate to be home to this most talented and dedicated individual, whose work provides important lessons for us and for our children. I'm sure my colleagues will join me in paying tribute to Ms. Frey, and I join in applauding her numerous local and international contributions. Her important work signifies a task well done on a subject that must remain in our consciousness, both today and tomorrow.

INTRODUCTION OF THE RECONSTRUCTIVE BREAST SURGERY BENEFITS ACT OF 1997

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. ESHOO. Mr. Speaker, I rise today to introduce the Reconstructive Breast Surgery Benefits Act of 1997 to guarantee that insurance companies cover the cost of reconstructive breast surgery that results from mastectomies for which coverage is already provided. In addition, the legislation would secure insurance coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased one when reconstructive surgery on the diseased breast is performed.

In 1995, an estimated 182,000 American women were diagnosed with breast cancer, and 85,000 of them underwent a mastectomy as part of their treatment. Reconstructive breast surgery often is an integral part of the mental and physical recovery of women who undergo this traumatic, disfiguring procedure. Unfortunately, insurance companies don't always see it that way. Even though many of them are willing to pay for mastectomies, they sometimes balk at covering breast reconstruction. This legislation would put an end to this shortsighted practice and guarantee that women with breast cancer are not victimized twice—first by the disease, then by their insurance companies.

According to the American Society of Plastic and Reconstructive Surgeons [ASPRS], a significant number of women with breast cancer must undergo mastectomy or amputation of a breast in order to treat their disease appropriately. The two most common types of reconstruction—tissue expansion followed by an implant insertion and flap surgery—can restore the breast mound to a natural shape. Most breast reconstruction requires a series of procedures that may include an operation on the opposite breast for symmetry.

Even though studies show that fear of losing a breast is a leading reason why many women do not participate in early breast cancer detection programs, many general surgeons don't

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

even present reconstruction as an option for mastectomy candidates. Unfortunately, many women are unaware that reconstruction is an option following mastectomy, and they put off testing and/or treatment for breast cancer until it is too late.

A recent ASPRS survey—with an error range of ±1.9 percent—indicates that 84 percent of respondents had up to 10 patients who were denied insurance coverage for breast reconstruction of the amputated breast. Of those surgeons who support State legislation to address this problem and reported denied coverage, the top three procedures denied most often were symmetry surgery on a nondiseased breast, revision of breast reconstruction, and nipple areola reconstruction. The top five States of residence of those patients reporting denied coverage are Florida, California, Texas, Pennsylvania, and New York.

California and Florida also are among the 13 States that have passed laws requiring breast reconstruction coverage after mastectomy. However, State laws alone, such as the California and Florida laws, do not provide adequate protection for women because States do not have jurisdiction over interstate insurance policies provided by large companies under the Employee Retirement Income Security Act [ERISA]. As a result, even women in States that have attempted to address this issue are still at risk of being denied coverage for reconstructive surgery.

The Reconstructive Breast Surgery Benefits Act would amend the Public Health Service Act and ERISA to do the following: require health insurance companies that provide coverage for mastectomies to cover reconstructive breast surgery that results from those mastectomies, including surgery to establish symmetry between breasts; prohibit insurance companies from denying coverage for breast reconstruction resulting from mastectomies on the basis that the coverage is for cosmetic surgery; prohibit insurance companies from denying a woman eligibility or continued eligibility for coverage solely to avoid providing payment for breast reconstruction; prohibit insurance companies from providing monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this act; prohibit insurance companies from penalizing an attending care provider because such care provider gave care to an individual participant or beneficiary in accordance with this act; and prohibit insurance companies from providing incentives to an attending care provider to induce such care provider to give care to an individual participant or beneficiary in a manner inconsistent with this act.

On the other hand, the Reconstructive Breast Surgery Benefits Act would not: Require a woman to undergo reconstructive breast surgery; apply to any insurance company that does not offer benefits for mastectomies; prevent an insurance company from imposing reasonable deductibles, coinsurance, or other cost-sharing in relation to reconstructive breast surgery benefits; prevent insurance companies from negotiating the level and type of reimbursement with a care provider for care given in accordance with this act; and preempt State laws that require coverage for reconstructive breast surgery at least equal to the level of coverage provided in this act.

Mr. Speaker, women who have breast cancer suffer enough without having to worry about whether or not their insurance companies will cover reconstructive surgery. I urge my colleagues in helping to give these women peace of mind and the coverage they need by supporting the Reconstructive Breast Surgery Benefits Act.

CONCERNING A CONGRESSIONAL FAILURE TO COMPLY WITH THE CONSTITUTION DURING THE 104TH CONGRESS

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. SKAGGS. Mr. Speaker, I want to call to the attention of the House what appears to be a failure of the Congress to comply with a clear and basic constitutional mandate.

Section 7 of article I—known as the presentment clause—says "Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States" for approval or veto. Nothing could be clearer—if a bill is passed by both bodies, it must be presented to the President. The Constitution does not allow for any exceptions. Yet during the 104th Congress, an exception was made on one occasion, the constitutional mandate notwithstanding.

As Members who served in the last Congress will remember, last year the leadership of both the House and Senate decided to expedite our adjournment by combining various 1997 appropriations usually dealt with in separate measures into a single omnibus appropriations bill. It was also decided, for tactical reasons, to have two versions of that omnibus bill—one being a conference report on a 1997 defense appropriations measure, the other being a new, freestanding bill, H.R. 4278. H.R. 4278 came to be known in Capitol parlance as the "clone" omnibus appropriations bill.

Accordingly, on September 28, 1996, the House agreed to consider the conference report and also agreed that if the conference report was adopted, H.R. 4278, the clone bill, also would be deemed passed.

The House did pass the conference report on September 28, and on September 30, 1996, both that conference report and H.R. 4278 were considered and approved by the Senate as well. In fact, the Senate passed the clone bill, without amendment, by a separate rollcall vote of 84 to 15.

In short, last year two omnibus 1997 appropriations bills were passed in identical form by both the House and the Senate. Constitutionally, both bills had equal standing, and both should have been presented to the President. Even though the President predictably would have let one die by pocket veto.

This requirement was not met. The conference report was presented to the President and was signed into law. But the normal, constitutional procedures were not followed with respect to the other bill, H.R. 4278.

Before a bill can be presented to the President, it must be enrolled and signed by the Speaker and by the President of the Senate, or others empowered to act for them, to attest that it has in fact been passed by both bodies. And, before a House bill—such as H.R. 4278—can be enrolled, the bill and related papers must be returned to the House by the Senate. In the case of H.R. 4278, evidently, this normally routine step was not taken. The bill was not returned to the House, and so it was never enrolled, never signed by the Speaker or anyone else authorized to sign it, and never presented to the President—despite the clear mandate of the Constitution.

We should see this failure to comply with the Constitution as a serious and troubling matter.

Because I understood that the breakdown had occurred on the other side of the Capitol, I raised the matter with the majority leader of the Senate in a telephone conversation and, subsequently, in a letter which I ask unanimous consent be included in the RECORD at the conclusion of my remarks.

As I noted then, I can understand why, as a practical matter, it might seem redundant to send two identical bills to the President. But the Constitution doesn't give Members of Congress—even leaders—the authority to selectively withhold from the President any bill that has passed both Houses. And while in this case refusing to send H.R. 4278 to the President won't make a practical differencedsince an identical measure has been signed into law—it is easy to imagine how it could set a bad, even a dangerous precedent in other circumstances.

It was my hope, Mr. President, that when this matter was called to the attention of the leadership, steps would be taken to make sure that H.R. 4278 was duly enrolled, signed, and presented to the President. Unfortunately, that did not occur and, now that a new Congress has begun, it evidently cannot occur.

That is very regrettable and, as I've already said, something that I think we need to take seriously. As Members of Congress, we have each sworn to uphold the Constitution. If we are to be faithful to that oath, we must make sure that Congress in the future meets its constitutional requirements, including those imposed by the presentment clause.

Mr. Speaker, for the information of the House, I include at this point my letter of December 23, 1996, to the majority leader of the Senate concerning this matter.

HOUSE OF REPRESENTATIVES,
Washington, DC, December 23, 1996.

HON. TRENT LOTT,
Senate Majority Leader,
Washington, DC.

DEAR TRENT: Thanks very much for calling me at home a second time last week; sorry to have missed your first try. I greatly appreciate having been able to talk with you about the so-called "clone" omnibus appropriations bill. As I mentioned, I have some serious concerns about the way the bill has been handled.

On September 28, the House agreed to consider the conference report regarding H.R. 3610 (the omnibus consolidated appropriations bill for fiscal 1997) and agreed that, upon adoption of that conference report, H.R. 4278 (a separate, identical measure) would also be considered as passed.

As you know, the House did pass the conference report, and on September 30, both the conference report and H.R. 4278 were considered and approved by the Senate as well, the latter being passed without amendment by a vote of 84–15 (rollcall number 302). However, while H.R. 3610 was presented to the President on September 30 (and signed into law as P.L. 104–208), I understand that the Senate has not yet returned to the House the papers related to H.R. 4278, and as a consequence the House (where the bill originated) has been unable to take the steps necessary for the bill to be presented to the President in accordance with Section 7 of Article I of the Constitution (the "presentment clause").

It's true that enactment of P.L. 104–208 means that enactment of H.R. 4278 would be redundant. However, the presentment clause's requirement that "Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States" does not provide an exception for such circumstances. I am unaware of any Constitutional authority for a measure passed in identical form by both the House and Senate to be selectively withheld from presentment to the President for his approval or veto.

It seems to me that any failure to fulfill the requirements of the Constitution in this case would set a troublesome precedent. While it has no practical consequence in this instance, a decision here not to complete the mandated administrative steps after passage could be cited later as precedent for a similar inaction carrying more problematic results. Therefore, I urge you to take all necessary steps to ensure that H.R. 4278 can be properly enrolled and presented to the President, as required by the Constitution.

Thank you very much for you attention and assistance.

With best personal regards,
Sincerely yours,
DAVID E. SKAGGS.

PERSIAN GULF SYNDROME HEALTH BENEFITS EXTENSION ACT OF 1997

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. QUINN. Mr. Speaker, I rise today to introduce legislation which extends priority healthcare to Persian Gulf war veterans who served in Israel and Turkey. My bill is entitled the "Persian Gulf Syndrome Health Benefits Extension Act of 1997." The bill has received bipartisan support and passed the House of Representatives by voice vote in 1996.

Men and women who served during the Persian Gulf war in Israel and Turkey were originally excluded from the definition of in-theatre operations. Many of these soldiers suffer from similar undiagnosed medical problems that may be related to service during the Persian Gulf war.

Throughout my service on the House Committee on Veterans' Affairs, I have emphasized the need to alleviate the suffering of those individuals afflicted with Persian Gulf war illnesses. It is time to simply care for our veterans who so bravely fought for our country.

CHRIS LEWIS—A POSITIVE FORCE IN OUR COMMUNITY

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. FILNER. Mr. Speaker, I rise today to pay special tribute to Chris Lewis, president of the Chula Vista Chamber of Commerce for this past year, 1996.

Throughout the past year, Chris urged local business and community leaders to "accentuate the positive." That spirit helped bring more than twenty new businesses to the city of Chula Vista in 1996, and it laid the groundwork for continued economic development.

During Chris' term as president, the Chula Vista Chamber of Commerce expanded its involvement in the education of our children, the training of our Olympic athletes, and the training of our future civic leaders.

Indeed, Chris Lewis has accentuated the positive by creating and fostering a positive atmosphere for local residents and local businesses. The Chula Vista Chamber of Commerce has laid the framework for long-term economic expansion with the founding of the Chula Vista Convention and Visitors Bureau and the renovation of the Chula Vista Visitors' Information Center.

Mr. Speaker, on behalf of the residents of Chula Vista and the 50th Congressional District, I thank Chris Lewis for his service to our community, and I ask the citizens of our community to continue to work for its betterment.

REDUCE LEGAL IMMIGRATION LEVELS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. STUMP. Mr. Speaker, a reduction in immigration is essential to improving the country's economy and social weaknesses. With this in mind, I am today introducing legislation to cut the number of legal immigrants who enter our country each year.

Once again, I am sponsoring the Immigration Moratorium Act. The legislation provides for a significant, but temporary, reduction in legal immigration levels. Under my bill, immigration would be limited to the spouses and minor children of U.S. citizens, a reduced number of refugees and employment-based immigrants, and a limited number of immigrants who are currently waiting in the immigration backlog. Total immigration under my proposed moratorium would be less than 300,000 per year. The moratorium would end after approximately 5 years, provided no adverse impact would result from an immigration increase.

A temporary moratorium is a sound response to our present situation that allows for unprecedented and unmanageable levels of immigrants. Currently, the United States admits about 1 million legal immigrants annually, more than any other industrialized nation in the world. Based upon recent trends, this number will continue to climb unless we take the necessary steps to restore immigration to reasonable levels. I am extremely troubled by the fact that study after study has shown that the excessive immigration we are experiencing exacerbates many of the country's most disturbing problems, such as overcrowded jails, inadequately funded schools and hospitals, violent crime and unemployment. Moreover, legal immigration is costly and has a significant impact on our ability to balance the budget. For example, the projected net cost to taxpayers of legal immigration will be $330 billion over the next 10 years.

Mr. speaker, Americans have repeatedly voiced their concerns about the potentially grave consequences associated with unrestrained immigration. A recent Wall Street Journal/NBC News poll showed 52 percent support a 5-year moratorium on legal immigration. A Roper poll shows the majority of Americans prefer no more than 100,000 annually. A host of additional polls consistently show a similar sentiment. We would be negligent in our roles as Federal legislators to ignore such compelling public demand for change.

Last Congress, we enacted legislation that addressed some of the country's most pressing illegal immigration problems. Unfortunately, an attempt to improve our legal immigration policies was thwarted. The 105th Congress should not repeat last year's mistake. We should, instead, finish the immigration reform job by evaluating America's immigration needs and devising a policy that will allow us to meet these needs without further burdening American taxpayers.

INTRODUCTION OF THE HMONG VETERANS NATURALIZATION ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. VENTO. Mr. Speaker, today I am introducing the Hmong Veterans Naturalization Act, which would ease naturalization requirements for the Hmong, of Laos, who fought alongside the United States Armed Forces during the Vietnam war. Hmong of all ages fought and died alongside U.S. soldiers, and as a result of the brave position they took and their loyalty to the United States, the Hmong, tragically, lost their homeland. Between 10,000 and 20,000 Hmong were killed in combat and over 100,000 had to flee to refugee camps to survive.

Although it wasn't apparent then, their actions had a major impact on achieving today's global order and the positive changes of the past decade. Extreme sacrifices were made by those engaged in the jungles and the highlands, whether in uniform or in peasant clothing and for those whose homeland became the battlefield. For their heroic efforts, the Lao-Hmong veterans deserve this recognition and consideration.

Many Hmong who survived the conflict were welcomed to the United States and today should be honored for the contributions they are making to our communities in my Minnesota district and to our Nation. Their success in rebuilding their families and communities in the United States stands as a tribute to their strength, but their cause would be greatly helped by passage of the legislation I am introducing today, the Hmong Veterans Naturalization Act.

While it is clear that the Hmong served bravely and sacrificed dearly in the Vietnam war, many of those who did survive and made it to the United States, are separated from other family members and are having a difficult time adjusting to life in the United States. Fortunately, there is something we can do to speed up the process of family reunification and ease the adjustment of the Hmong into U.S. society, at no cost to the Federal Government.

My legislation makes the attainment of citizenship easier for those who served in the special guerrilla units by waiving the English language test and residency requirement. The greatest obstacle for the Hmong in becoming a citizen is passing the English test. Written characters for Hmong have only been introduced recently, and whatever changes most Hmong who served may have had to learn a written language were disrupted by the war.

This bill would also waive the residency requirement for those who served in order to speed up the process of family reunification. Current law permits aliens or noncitizen nationals who served honorably during World War I, World War II, the Korean conflict, and the Vietnam war to be naturalized regardless of age, period of residence, or physical presence in the United States. There is a well-established precedent of modifying naturalization requirement for military service, recently reaffirmed by passage of legislation granting citizenship to those who served in the Filipino Scouts during World War II.

The Hmong stood by the United States at a crucial time, and that service deserves recognition. Today we should stand with the Lao-Hmong in their struggle to become citizens and to live a good life in our Nation.

THE PRESIDENTIAL DEBATE REFORM INITIATIVE

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, today I am introducing the Presidential Debate Reform Act. The situation surrounding the current Presidential election has highlighted some of the flaws in our current method for selecting a President and Vice President of the United States of America. One critical flaw involves the way Presidential debates are scheduled.

My legislation would create the framework for deciding the participants and structure of Presidential debates. This framework would include a commission of three people nominated by the President. The President would nominate one person from a list submitted by the Republican National Committee, one person from a list submitted by the Democratic National Committee, and one person who is unaffiliated submitted jointly by the RNC and the DNC. These commissioners would then schedule several debates.

One such debate would be optional and include any candidate who is on the ballot in 50 States or polls at 5 percent in popular polls among likely voters. This could include major party candidates, although it would provide a forum for lesser known candidates to express their views.

The commission would also establish debates for the Vice Presidential and Presidential candidates. These would be for the major party candidates as well as anyone polling over 5 percent in polls taken after the optional debate. Participation in these debates would be mandatory. The penalty for not participating in the debate, other than perhaps embarrassment, would be a reduction in the amount of Federal funds that candidate's party will receive to run the next convention. The reduction would be equal to the fraction of mandatory debates missed. I cannot imagine that a party would want to miss out on $3 million—approximately the amount that would be lost to pay for the 1996 conventions through missing one debate.

This has nothing to do with whether I think certain people should or should not participate in debates. I do think that we need to have an established framework with defined ground rules to ensure the fairness in the system.

Mr. Speaker, I think this is a good bill and I look forward to hearing feedback from my colleagues. I expect to offer this legislation at the beginning of the next Congress and hope to hear meaningful debate.

INTRODUCTION OF GUN SAFETY ACT OF 1997

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONYERS. Mr. Speaker, this bill addresses the problem of the proliferation of cheaply made, easily concealed weapons. This is particularly critical in dealing with our juvenile crime problem. The Office of Juvenile Justice and Delinquency Prevention reports that most juveniles who purchase guns obtain them from informal sources for less than $100.

This bill would put an end to the proliferation of these cheap and dangerous guns by requiring States to set up criteria for guns to be sold within that State's borders. The criteria to be considered would include concealability, safety, quality, and utility for legitimate activities. Any State that chooses not to participate in the program would simply lose some of its Byrne grant money for crime problems.

In addition, in an effort to prevent the numerous accidental deaths of children every year, this bill would require gun manufacturers to install magazine safeties in every gun so that adults can be sure that they have not accidentally left a bullet in the chamber of a gun, even when the magazine is not in the gun.

Because cheap and poorly made handguns are dangerous—and even more dangerous in the hands of the serious juvenile offenders who have easy access to them, and because we need to make certain that guns include all possible safety precautions—I urge my colleagues to join me in sponsoring this legislation.

TRIBUTE TO MURIEL GOLDHAMMER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. FILNER. Mr. Speaker, today, I rise to honor the outstanding contributions of Muriel Goldhammer to the community of San Diego and to the entire southern California region.

Muriel Goldhammer, a native San Diegan, is now retired and is planning to reside parttime in Israel, beginning on January 14, 1997. Before she makes this move, it is fitting that she be recognized for her work in Jewish community relations, in health issues, and in political and civic activities in San Diego, CA.

Before her retirement, Muriel served as director of urban affairs at the University of California, San Diego Extension and as faculty at the School of Public Administration at San Diego State University. She is the author of several publications on public policy issues.

She is currently serving on the steering committee of the San Diego Area Resource Center and on the past presidents council of Hadassah of southern California; on the institutional review board of the Children's Hospital and Health Center; and on the board of directors of the American Jewish Committee.

She was formerly president of the California Southwest Region of Hadassah and a member of their national board. She was the founder and former president of the San Diego chapter of Parents of North American Israelis, as well as executive vice president of their international board of directors and international convention chair. Muriel was founder and chair of the San Diego Zionist Council, which from 1948 to 1958 set up a speakers' bureau on issues of concern to Israel and sent several non-Jewish civic leaders on study tours to Israel.

She has also been deeply involved in health issues, serving on the Coordinating Council for Education in the Health Sciences; as president of the Comprehensive Health Planning Association for San Diego, Imperial, and Riverside Counties; and the board of directors of the San Diego Mental Health Association; and on the Governor's advisory board of the San Diego Treatment Center for the Mentally Ill.

As a member of the political and civic community of San Diego, Muriel served as president and on the board of directors of the League of Women Voters in San Diego and California; on the civil rights committee of the National League of Women Voters; on the boards of directors of the National Conference of Christians and Jews and the San Diego Urban League; on the United Way allocations committee; on the Mayor's committee on uniform hearing procedures; and on the blue ribbon committee on restructuring the San Diego Convention and Visitors' Bureau.

Mr. Speaker, these worthy contributions by such an intelligent, dedicated, and motivated woman were recognized by the celebration of "Muriel Goldhammer Day" on January 5, 1997, an event sponsored by the Point Loma Hadassah and Hadassah Southern California.

It is truly fitting that the House of Representatives join in this recognition, and I appreciate the opportunity to call attention to the life-long work of Muriel Goldhammer toward making this world a better place.

LIMIT CONGRESSIONAL TERMS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. STUMP. Mr. Speaker, as one who has consistently maintained that term limits are an integral part of congressional reform, I am pleased to reintroduce a resolution to limit Representatives to three 4-year terms.

The current system of unlimited 2-year terms hinders the advancement of legislation that is in the Nation's best interest. Members are distracted by reelection concerns and often sacrifice what it best for the country in favor of parochial interests. Under a system of limited terms, the Congress would be a citizen legislative body as the Framers of the Constitution intended. Moreover, congressional term limits promote government efficiency and are conducive to a smaller Federal Government, as Members would be less compelled to support unnecessary pork-barrel spending.

Although the 104th Congress was not successful in advancing a term limits amendment, I am encouraged that the House leadership has not abandoned this worthy cause. We will have an opportunity in the opening days of this Congress to vote on a proposed amendment to the U.S. Constitution to limit our terms and send a message to the public that we are dedicated to building upon last Congress' reforms.

Mr. Speaker, support for term limits remains strong among voters. I encourage my colleagues to favorably respond to their call and vote to limit congressional terms.

INTRODUCTION OF LIVABLE WAGE ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. VENTO. Mr. Speaker, today I am introducing legislation intended to take a major step forward toward a livable wage for working men and women in our country. Too often American workers are forced to take jobs that pay substandard wages and have few or no health benefits. At a time when U.S. corporations are making record profits and the economy is strong and stable, it seems unreasonable that working families must struggle and cannot make ends meet. It is unconscionable for corporations to sacrifice fair wages for their workers in pursuit of inflated profit margins, and it is doubly so when these businesses are performing work on behalf of the Federal Government—when the workers' taxes which pay for Federal services and products perpetuate such depressed compensation.

My legislation is straightforward, simple and just; if you are a Federal contractor or subcontractor you will be required to pay wages to your employees that exceed the official poverty line for a family of four. This would be fair and equitable compensation achieved by law. When a business contracts for services or materials with the Federal Government and benefits from working families' taxpayer dollars, at the very least it should be required to pay its employees a livable wage.

As of March 4, 1996, the official poverty line for a family of four is $15,600. This is obviously not an exorbitant wage. Imagine a family of four trying to live on this amount or less. It may not seem possible, but it is done every day in this country. There are serious disparities in our society when hard-working men and women, holding down full-time jobs, cannot earn enough to bring their families out of the poverty cycle, while company executives earn an average of 70 times that of their average employee.

My bill does not attempt to alleviate this disparity throughout the business sector, but it does require those corporate entities receiving taxpayer dollars to be accountable to their workers. This is a reasonable and practical bill. It allows companies to count any benefits, such as health care, which they provide for employees as part of their wage determination, and it provides an exemption for small businesses and bona fide job training or apprenticeship programs.

I urge my colleagues to join me in supporting this legislation to help ensure the American worker receives a fair day's pay for a fair day's work.

THE INSPECTOR GENERAL FOR MEDICARE AND MEDICAID ACT OF 1997

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. QUINN. Mr. Speaker, I rise today to introduce the Inspector General For Medicare and Medicaid Act of 1997.

I was prompted to introduce this legislation when seniors in western New York continuously approached me at my town meetings last year with concerns about this issue. Many of us in Congress and throughout the country share their concerns that waste, fraud, and abuse within Medicare and Medicaid Programs have reached an excessive level which threatens the financial stability of our most vulnerable populations.

For instance, one of my constituents gave me copies of his personal medical statements which showed that he was billed three times for the same procedure, amounting to $2,367 in charges. Most people do not scrutinize their medical statements; which helps for fraud to be easily overlooked. in the end, seniors are forced to dip into their life savings.

My bill would establish an exclusive, full-time and independent Office of Inspector General [IG] for the Medicare and Medicaid Programs. This office would be charged with detecting, identifying and preventing waste, fraud and abuse within the Medicare and Medicaid Programs.

This IG office would be required to issue semiannual reports to Congress consisting of recommendations on preventing waste, fraud and abuse within the Medicare and Medicaid Programs.

The IG office would also be responsible for coordinating any audits, investigations, and other activities which promote efficiency in the administration of the Medicare and Medicaid Programs.

The need for this legislation comes down to dollars and cents. According to a 1995 GAO report, unchecked and improper billing alone would cost Medicare in excess of $3 billion over the next 5 years. Furthermore, health fraud has been estimated to cost between 3 and 10 percent of every $1 used to meet the health needs of America's seniors and indigent populations. I think you would agree that this funding would be better spent as a reinvestment in providing healthcare to our Nation's elderly, disabled, and poor citizens.

To further compound the problem, GAO also reported that physicians, suppliers, and medical laboratories have about 3 chances out of 1,000 of having Medicare audit their billing practices in any given year.

At the conclusion of the July 1995 GAO report to Congress, one of the main policy recommendations was to "enhance Medicare's antifraud and abuse efforts."

My bill simply responds to this need. I contend that with a separate IG office we can only expand on identifying and preventing fraud, waste, and abuse in healthcare. Based on HHS data, within a 4-year time frame, we have saved $115 for every $1 spent on inspector general operations.

In 1995, the Office of the IG saved $9.7 million per employee. This savings was accomplished with employees working on diversified case loads. It is my understanding that employees in the IG's office do not specialize in Medicare and Medicaid fraud, but must focus on several issues at one time. With a more specialized personnel, other HHS programs such as welfare and head start stand to benefit as well. By magnifying our focus to Medicare and Medicaid fraud, waste, and abuse, I am confident that we will see an increased return of our investment.

ROCKY MOUNTAIN NATIONAL PARK WILDERNESS

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. SKAGGS. Mr. Speaker, today I am introducing the Rocky Mountain National Park Wilderness Act of 1997.

This bill, essentially identical to ones that I introduced in the 103d and 104th Congresses, is intended to provide important protection and management direction for some truly remarkable country, adding some 240,700 acres in the park to the National Wilderness Preservation System.

Covering 91 percent of the park, the wilderness will include Longs Peaks and other major mountains, glacial cirques and snow fields, broad expanses of alpine tundra and wet meadows, old-growth forests, and hundreds of lakes and streams. Indeed, the proposed wilderness will include examples of all the natural ecosystems present in the park.

The features of these lands and waters that make Rocky Mountain a true gem in our national parks system also make it an outstanding wilderness candidate.

The wilderness boundaries for these areas are carefully located to assure continued access for use of existing roadways, buildings and developed areas, privately owned land, and water supply facilities and conveyances—including the Grand River Ditch, Long Draw Reservoir, and the portals of the Adams Tunnel. All of these are left out of wilderness.

The bill is based on National Park Service recommendations. Since these recommendations were originally made in 1974, the north and south boundaries of Rocky Mountain National Park have been adjusted, bringing into the park additional land that qualifies as wilderness. My bill will include those areas as well. Also, some changes in ownership and management of several areas, including the removal of three high mountain reservoirs, make it possible to include designation of some areas that the Park Service had found inherently suitable for wilderness.

In 1993, we in the Colorado delegation finally were able to successfully complete over a decade's effort to designate additional wilderness in our State's national forests. I anticipate that in the near future, the potentially more complex question of wilderness designations on Federal Bureau of Land Management lands will capture our attention.

Meanwhile, I think we should not further postpone resolution of the status of the lands within Rocky Mountain National Park that have been recommended for wilderness designation. Also, because of the unique nature of its resources, its current restrictive management policies, and its water rights, Rocky Mountain National Park should be considered separately from those other Federal lands.

We all know that water rights was the primary point of contention in the congressional debate over designating national forests wilderness areas in Colorado. The question of water rights for Rocky Mountain National Park wilderness is entirely different, and is far simpler.

To begin with, it has long been recognized under the laws of the United States and of Colorado—including in a decision of the Colorado Supreme Court—that Rocky Mountain National Park already has extensive Federal reserved water rights arising from the creation of the national park itself.

Division One of the Colorado Water Court, which has jurisdiction over the portion of the park that is east of the continental divide, has already decided how extensive the water rights are in its portion of the park: the court has ruled that the park has reserved rights to all water within the park that was unappropriated at the time the park was created. As a result of this decision, in the eastern half of the park there literally is no more water with regard to which either the park or anybody else can claim a right.

So far as I have been able to find out, this has not been a controversial decision, because there is a widespread consensus that there should be no new water projects developed within Rocky Mountain National Park. And because the park sits astride the continental divide, there's no higher land around from which streams flow into the park, meaning that there is no possibility of any upstream diversions.

On the western side of the park, the water court has not yet ruled on the extent of the park's existing water rights there. However, as a practical matter, the Colorado-Big Thompson Project has extensive, senior water rights that give it a perpetual call on all the water flowing out of the park to the west and into the Colorado River and its tributaries. Thus, as a practical matter under Colorado water law, nobody can get new consumptive water rights to take water out of the streams within the western side of the park.

And it's important to emphasize that any wilderness water rights amount only to guarantees that water will continue to flow through and out of the park as it always has. This preserves the natural environment of the park. But it doesn't affect downstream water use. Once water leaves the park, it will continue to be available for diversion and use under Colorado law.

Against this backdrop, my bill deals with wilderness water rights in the following ways:

First, it explicitly creates a Federal reserved water right to the amount of water necessary to fulfill the purposes of the wilderness designation. This is the basic statement of the reserved water rights doctrine, and is the language that Congress used in designating the Olympic National Park Wilderness, in Washington, in 1988.

Second, the bill provides that in any area of the park where the United States, under existing reserved water rights, already has the right to all unappropriated water, then those existing rights shall be deemed sufficient to serve as the wilderness water rights, too. This means that there will be no need for any costly litigation to legally establish new water rights that have no real meaning. Right now, this provision would apply in the eastern half of the park. If—as I expect—the water court with jurisdiction over the western half of the court makes the same ruling about the park's original water rights that the eastern water court did, then this provision would apply to the entire park.

The bill also specifically affirms the authority of Colorado water law and its courts under the McCarran amendment. And the bill makes it clear that it will not interfere with the Adams Tunnel of the Colorado-Big Thompson Project, which is an underground tunnel that goes under Rocky Mountain National Park.

Why should we designate wilderness in a national park? Isn't park protection the same as wilderness, or at least as good?

The wilderness designation will give an important additional level of protection to most of the national park. Our National Park System was created, in part, to recognize and preserve prime examples of outstanding landscape. At Rocky Mountain National Park in particular, good Park Service management over the past 82 years has kept most of the park in a natural condition. And all the lands that over covered by this bill are currently being managed, in essence, to protect their wilderness character. Formal wilderness designation will no longer leave this question to the discretion of the Park Service, but will make it clear that within the designated areas there will never be roads, visitor facilities, or other manmade features that interfere with the spectacular natural beauty and wilderness of the mountains.

This kind of protection is especially important for a park like Rocky Mountain, which is relatively small by western standards. As surrounding land development and alteration has accelerated in recent years, the pristine nature of the park's backcountry has become an increasingly rare feature of Colorado's landscape.

Further, Rocky Mountain National Park's popularity demands definitive and permanent protection for wild areas against possible pressures for development within the park. While only about one-tenth the size of Yellowstone National Park, Rocky Mountain sees nearly the same number of visitors each year.

This bill will protect some of our Nation's finest wild lands. It will protect existing rights. It will not limit any existing opportunity for new water development. And it will affirm our commitment in Colorado to preserving the very features that make our State such a remarkable place to live.

ROCKY MOUNTAIN NATIONAL PARK WILDERNESS ACT OF 1996—FACT SHEET

WILDERNESS BOUNDARIES

The bill will designate the Rocky Mountain National Park Wilderness, which will include 91 percent of the park. The wilderness area will include a total of 240,700 acres, in four separate sections:

The northernmost section of wilderness is 82,040 acres north of Fall River Road and east of the Grand River ditch. It includes large areas of alpine, sub-alpine-forest, wet-meadow, and montane-forest ecosystems. The dominant geographic features are the Mummy Range and Specimen Mountain. This portion of the wilderness extends to the park's north boundary, adjoining the existing Comanche Peak Wilderness on the Roosevelt National Forest.

A relatively small section of the wilderness lies between Fall River Road and Trail Ridge Road, and includes approximately 4,300 acres. This section includes forested mountainside of lodgepole pine, Englemann spruce and subalpine fir, and the park's trademark expanse of alpine tundra and sub-alpine forest.

Another fairly small section west of the Grand River Ditch, which comprises approximately 9,260 acres, is generally above timberline, featuring steep slopes and peaks of the Never Summer Mountains, including 12 peaks reaching over 12,000 feet in elevation. This area adjoins the existing Neota Wilderness on the Roosevelt National Forest and Never Summer Wilderness on the Routt National Forest.

The largest portion of the wilderness—approximately 144,740 acres—is south of Trail Ridge Road and generally bounded on the east, south, and west by the park boundary. This area contains examples of every ecosystem present in the park. The park's dramatic stretch of the Continental Divide, featuring Longs Peak (which has an elevation of 14,251 feet) and other peaks over 13,000 feet, dominate this area. Former reservoir sites at Blue Bird, Sand Beach, and Pear Lakes, previously breached and reclaimed, are included in the wilderness. The new wilderness incorporates a portion of the Indian Peaks Wilderness that was transferred to the park in 1980, when the boundary between the park and the Arapaho-Roosevelt National

Forest was adjusted to follow natural features.

AREAS EXCLUDED FROM WILDERNESS DESIGNATION

The following areas are not included in the wilderness designation:

Roads used for motorized travel, water storage and conveyance structures, buildings, and other developed areas are not included in wilderness.

Parcels of privately owned land or land subject to life estate agreements in the park are also not included.

Water diversion structures (see below).

WATER RIGHTS

The legislation explicitly creates a federal reserved water right for a quantity of water sufficient to fulfill the purposes of the wilderness designation. The priority date is the date of enactment of the bill. This general provision is identical to the provision included in the 1988 legislation designating part of Olympic National Park, in the state of Washington, as wilderness.

The legislation, however, includes special provisions reflecting the unique circumstances of Rocky Mountain National Park, where a reservation on wilderness water rights is probably just a theoretical matter. A Colorado water court with jurisdiction over the portion of the park east of the Continental Divide has ruled that the federal government already has rights to all previously unappropriated water in the park, through the federal reserved water right arising from the creation of the national park. Recognizing this, a special provision of the bill provides that for this area those existing reserved water rights shall be deemed sufficient to serve as the wilderness reserved rights; this will prevent unnecessary water rights adjudication.

West of the Continental Divide, where a different water court has jurisdiction, a determination has not yet been made of the extent of the national park's existing reserved rights in that portion of the park. If that water court determines (as the water court in the east already has) that the federal government already has reserved water rights to all previously unappropriated water in the western portion of the park, then those water rights, too, would be deemed sufficient to satisfy the reservation of new wilderness water rights for that portion of the park.

However, as a legal and practical matter, the Colorado-Big Thompson Project of the Bureau of Reclamation has senior water rights outside and downstream from the park that are so extensive that the project has a perpetual call on all water flowing into the Colorado River and its tributaries from all portions of the national park west of the Contential Divide. As a result, it is not possible under Colorado law for anybody to acquire new consumptive water rights within the western half of the park, so there could not be any new water development that could be affected by the new wilderness water rights.

Further, of course, the new wilderness water rights would be only for in-stream flows (not for diversion and/or consumption), and therefore would amount only to a guarantee or continued natural water flows through and out of the park. Once water leaves the park, it would continue to be available for appropriation for other purposes of the same extent as it is now.

EXISTING WATER FACILITIES

Boundaries for the wilderness designated in this bill are drawn to exclude existing water storage and water conveyance structures, assuring continued use of Grand River Ditch and its right-of-way; the east and west portals of the Adams Tunnel of the Colorado-Big Thompson Project (CBT); CBT gaging stations; and Long Draw Reservoir. The bill includes an explicit provision guaranteeing that it will not restrict or affect the operation, maintenance, repair, or reconstruction of the Adams Tunnel, which diverts water under Rocky Mountain National Park (including lands that would be designated as wilderness by the bill). The bill also deletes a provision of the original national park designation legislation that gives the Bureau of Reclamation unrestricted authority to develop water projects within the park.

PROTECTING AMERICAN WORKERS ACT OF 1997

HON. JOHN CONYERS, JR.

OFOF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONYERS. Mr. Speaker, the Protecting American Workers Act of 1997 will reform the current temporary employment immigration H–1B program and eliminate abuses by employers which hurt American workers. A recent audit by the Department of Labor's inspector general found that the programs which allow entry to thousands of temporary and permanent foreign workers fail to adequately protect the jobs, wages, and working condition of U.S. workers.

For far too long, employment based immigration has been used to displace American workers, instead of filling temporary employment shortages. My legislation will permit the Department of Labor to administer an employment based immigration program that serves the temporary needs of employers while at the same time protecting the American worker.

The bill will amend the H–1B skilled temporary visa program as follows:

No-Layoff provision to the H–1B program (Section 2(a)(2))—Under this section of the bill an employer will have to attest that an American worker was not laid off or otherwise displaced and replaced with H–1B nonimmigrant foreign workers within 6-months prior to filing or 90 days following the application and within 90 days before or after the filing of a petition based on that application.

Requirement to Recruit in the U.S. Labor Market (Section 2(a)(3)—Each petitioning employer will have to attest that it had attempted to recruit a U.S. worker, offering at least 100 percent of the actual wage or 100 percent of the prevailing wage, whichever is greater, paid by the employer for such workers, as well as the same benefits and additional compensation provided to similarly-employed workers by the employer.

Special rules for Dependent employers (Section 2(b))—A petitioning employer who is dependent on H–1B workers (4 or more H–1B employees in a workforce of less than 41 workers or at least 10 percent of employees if at least 41 workers):

a. would have to take "timely, significant, and effective steps" to recruit and retain sufficient U.S. workers to remove as quickly as reasonably possible the dependence on H–1B foreign workers.

b. would be required to pay an annual fee (based on the H–1B's annual compensation) in order to employ an H–1B worker—5% in the first year; 7.5% in the second, and 10% in the third. Fees will be paid into private industry—specific funds that would use the money solely to finance training or education programs for U.S. workers to reduce the industry's dependency on foreign workers.

Increased penalties (Section 2(c)—Penalties are increased for false H–1B employer attestations.

Job contractors obligations (Section 2(a)(5))—Petitioning employers who are job contractors (as defined by the Department of Labor), would be required to make the same attestations as would the direct employers.

Peirod of admission reduced (Section 2(d)(2))—The maximum stay under an H–1B visa is reduced to 3 years, instead of the existing 6 years.

Residence abroad requirement (Section 2(e))—H–1B workers required to have a residence abroad that they have no intention of abandoning.

For many years the hardworking American worker has been forced to compete with underpriced foreign workers. The current H–1B program allows this unfair competition to occur even on our own soil. I urge the expeditious adoption of this measure during the 105th Congress.

REPEAL THE NATIONAL VOTER REGISTRATION ACT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. STUMP. Mr. Speaker, I am again introducing legislation to repeal the National Voter Registration Act of 1993, the so-called "motor voter" bill.

The law went into effect on January 1, 1995. It requires States to establish voter registration procedures to allow individuals to register to vote through the mail and when they are conducting other government-related business, such as applying for a driver's license or at certain public assistance agencies.

Supporters of motor voter have argued that easing voter registration requirements would invigorate voter turnouts. However, as last year's elections clearly displayed, the law did not meet its goal. Although massive numbers of new voters were placed on the rolls under motor voter, they did not take the initiative to cast their ballots. In fact, a mere 49 percent of eligible Americans voted, the lowest voter turnout since 1924. More than 90 million registered voters failed to vote.

While voter apathy under motor voter is unsettling, there is another, more compelling, reason to rethink the soundness of the law. It has allowed for voter fraud on a national scale. The law does not contain a provision to preclude illegal registration and voting. Moreover, motor voter creates obstacles for State election officials who are dedicated to maintaining the accuracy of their voter rolls. It requires States to keep registrants who fail to vote or who are unresponsive to voter registration correspondence to be maintained on voter registration rolls for years. As a result, children, cats, dogs, a pig, deceased people, and noncitizens registered to vote. In North

Carolina, thanks to motor voter, a 14-year-old boy registered and voted. Mr. Speaker, participation in the electoral process is one of our most precious rights of citizenship. We should not make a mockery of voting by unnecessarily exposing it to fraud.

The National Voter Registration Act is nothing more than a costly and dispensable Federal mandate on the States. The States carry the responsibility of administering all elections. They should, therefore, be allowed to exercise their discretion over registration procedures free of unwarranted Federal intervention.

Motor voter has been tested and it failed miserably. I strongly encourage my colleagues to join me in repealing the law.

TRIBUTE TO THE LATE BRIAN D. MYERS, SR.

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. SOLOMON. Mr. Speaker, it's with the deepest sorrow that I note the loss of a volunteer fireman in the line of duty in our district on the first day of the year.

Brian D. Myers, Sr., was a hero in every sense of the word. They are all heroes, these men and women from all walks of life who give so generously of their time and who, as Brian Myers' loss reminds us, risk their lives to give their rural communities outstanding fire protection.

Brian Myers, Sr., was a member of the Schuyler Hose Co., which responded to a restaurant fire on New Year's Day. The details are still not known, but we do know that Myers was last seen inside the burning structure fighting the blaze. His son, Brian Jr., and another fireman were also injured.

Mr. Speaker, as a former volunteer fireman myself in my hometown of Queensbury for over 20 years, I know the sacrifices these volunteers make. Every year, they save countless lives and billions of dollars worth of property in New York State alone. Their dedication is matched by their increasing professionalism. We owe them an enormous debt of gratitude. Tragically, our debt to Brian Myers, Sr., cannot be repaid.

Typical of volunteer firemen, Myers was active in other community endeavors, especially at his church. He will be missed by his family, his fire company, and his community.

Mr. Speaker, I ask all members to join me in expressing heartfelt condolences to his widow, Ronalee, and the rest of the family, and a posthumous salute to a fallen hero, Brian D. Myers, Sr., of Schuylerville, NY.

CONSUMER INTERNET PRIVACY PROTECTION ACT OF 1996

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. VENTO. Mr. Speaker, the age of the Internet puts more and more Americans online—evolving faster than we ever imagined. Each day new companies and industries grow out of the constant technological innovation that has come to symbolize this information superhighway. The Internet has reached into our schools, businesses, and homes. It has allowed average Americans sitting in the privacy of their living rooms to connect with and explore the world. The Internet provides us with entertainment, information, and communication. But with all the wonders of the Internet comes the potential for problems. Today, I am introducing the Consumer Internet Privacy Protection Act of 1997 in an effort to address just one such glaring problem.

To gain access to the Internet's endless web of sites, users must work through an Internet provider or server. While these servers provide a valuable service to their customers, they are also capable of collecting an enormous amount of personal information about these individual consumers. Besides the personal information an Internet server may collect when they enroll a subscriber, servers are also capable of identifying the sites their subscribers visit. Without doubt such information would be quite valuable to those interested in marketing, while providing servers with yet another source of revenue for providing such personal and private information about consumers. The result—subscribers are inundated with junk mail and/or e-mail, based on such sales of their profiles to third parties.

My legislation is intended to inform and protect the privacy of the Internet user by requiring servers to obtain the written consent of their subscribers before disclosing any of their personal information to third parties. In addition, my bill requires a server to provide its subscribers access to any personal information collected by the server on its users, along with the identity of any recipients of such personal information.

While this bill addresses many concerns, I do not view this legislation as a final draft, complete with every detail, but rather as a first step down a road we are bound to travel. Obviously, issues involving the Internet are new and complex and deserve careful and thoughtful consideration. The Internet touches an incredible and increasing number of people and industries, and it is clear that the perspective and input from these interests are vital to the success of this process.

As the Internet becomes a more integral part of our daily lives, it is important that we in Congress take a commonsense approach, like this proposed legislation, to ensure the citizens of our Nation are able to benefit and retain a voice in the use of this technology without involuntarily sacrificing their personal privacy. My legislation will not hamper the growth and innovation of the Internet in any way. It will merely provide an opportunity for the consumers of Internet services to protect their privacy if they so wish. After all, the preservation of our privacy is one of our Nation's most cherished freedoms, which unchecked technology must not be allowed to circumvent.

END THE ABUSE OF PUSH POLLS

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. PITTS. Mr. Speaker, in recent years, many campaigns have used unsubstantiated allegations against an opponent in their polls. While these push polls may be sound politics to some, I believe that the use of negative, suggestive, and unfounded information in a poll fails to meet the democratic goal of persuading voters with truth and fairness.

That's why I introduced the Push Poll Disclaimer Act today. This bill will discourage the practice of slandering a candidate in a Federal election under the guise of a legitimate poll. The Push Poll Disclaimer Act will require that any person or organization conducting a poll by telephone give the source of any information provided in the poll, or a statement that there is no source if this is the case. Further, my bill will require that the identity of the person or group sponsoring the poll, as well as the identity of the caller, be disclosed.

Mr. Speaker, it is vital that we work together to reduce the negative impact push polls have on the Federal election process. I urge that the provisions in my bill be included in the larger campaign finance reform bill which is expected to be considered this Congress. I thank the Speaker, and look forward to working with him during the 105th Congress on this important issue.

BASEBALL FANS AND COMMUNITIES PROTECTION ACT OF 1997

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONYERS. Mr. Speaker, today I am introducing the "Baseball Fans and Communities Protection Act of 1997." It is time that Congress finally steps up to the plate and ends baseball's antitrust exemption which was at the root of the debilitating strike of 1994–95.

Professional baseball is the only industry in the United States that is exempt from the antitrust laws without being subject to alternative regulatory supervision. This circumstance resulted from an erroneous 1922 Supreme Court decision holding that baseball did not involve "interstate commerce" and was therefore beyond the reach of the antitrust laws. Congress has failed to overturn this decision despite subsequent court decisions holding that the other professional sports were fully subject to the antitrust laws.

There may have been a time when baseball's unique treatment was a source of pride and distinction for the many loyal fans who loved our national pastime. But with baseball suffering more work stoppages over the last 25 years than all of the other professional sports combined—including the 1994–95 strike which ended the possibility of a World Series for the first time in 90 years and deprived our cities of thousands of jobs and millions of dollars in tax revenues—we can no longer afford to treat professional baseball in a manner enjoyed by no other professional sport.

The bill I am introducing today is based on a legislation approved by the Senate Judiciary Committee last Congress and is similar to legislation adopted by the House Judiciary Committee during the 103d Congress partially repealing the antitrust exemption. Because concerns have previously been raised that by repealing the antitrust exemption we could somehow be disrupting the operation of the minor leagues, or professional baseball's ability to limit franchise relocation or jointly negotiate network broadcasting arrangements, the legislation carefully eliminates these matters from the scope of the new antitrust coverage.

After advocating repeal of the exemption for many years, I believe the time is finally ripe for enactment of this legislation. In the past some legislators had objected to legislating in this area because of their hesitancy to take any action which could impact the ongoing labor dispute. But because the owners and players have recently agreed to enter into a new collective bargaining agreement, this objection no longer exists.

In addition, the baseball owners have agreed to work with the players to seek a partial repeal of the antitrust exemption as part of their new labor accord. Their memorandum of understanding provides, "[t]he clubs and the [Major League Baseball Players Association] will jointly request and cooperate in lobbying the Congress to pass a law clarifying that Major League baseball players are covered under the antitrust laws (i.e., that major league players will have the same rights under the antitrust laws as do other professional athletes, e.g., football and basketball players), along with a provision which makes it clear that passage of the bill does not change the application of the antitrust laws in any other context or with respect to any other person or entity."

I have asked that the bill be introduced as H.R. 21, in honor of the courageous center fielder, Curt Flood. Mr. Flood, one of the greatest players of his time, risked his career when he challenged baseball's reserve clause after he was traded from the St. Louis Cardinals to the Philadelphia Phillies. Although the Supreme Court rejected Flood's challenge in 1972, we all owe a debt of gratitude for his willingness to challenge the baseball oligarchy.

Professional baseball is now a more than $2 billion annual business and the time has long since passed when it could be contended that baseball did not constitute "interstate commerce." There is bipartisan support in both the House and Senate for taking action on this issue, and I look forward to Congress finally repealing the longstanding anomaly of baseball's antitrust exemption.

THE STATE WATER SOVEREIGNTY PROTECTION ACT

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CRAPO. Mr. Speaker, I rise to introduce the State Water Sovereignty Protection Act, a bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regulate water, and for other purposes.

Since 1866, Congress has recognized and deferred to the States the authority to allocate and administer water within their borders. The Supreme Court has confirmed that this is an appropriate role for the States. Additionally, in 1952, the Congress passed the McCarran amendment which provides for the adjudication of State and Federal water claims in State water courts.

However, despite both judicial and legislative edicts, I am deeply concerned that the administration, Federal agencies, and some in the Congress are setting the stage for ignoring long established statutory provisions concerning State water rights and State water contracts. The Endangered Species Act, the Clean Water Act, the Federal Land Policy Management Act, and proposed wilderness legislation have all been vehicles used to erode State sovereignty over its water.

It is imperative that States maintain sovereignty over management and control of their water and river systems. All rights to water or reservations of rights for any purposes in States should be subject to the substantive and procedural laws of that State, not the Federal Government. To protect State water rights, I am introducing the State Water Sovereignty Protection Act.

RAY CALHOUN DAY CELEBRATED IN CONGRESS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. SOLOMON. Mr. Speaker, every now and then, you come across an individual who exemplifies the spirit and ethics on which this country was found. Ray Calhoun from the town of Hoosick, NY, in my congressional district is just such a man in every aspect of his life. I have had the privilege of knowing Ray for better than a quarter of a century now in both public and private life and it is with great pride that I call him friend.

Mr. Speaker, there are so many things I admire about Ray I don't even know where to start so why not with the beginning. Ray was born on Christmas eve 1922 and raised on his father's dairy farm. They were a family farm and supplied local citizens and stores with fresh milk. As was typical at the time, Calhoun's farm became part of the fabric of the local community as the Calhoun's, Ray and his father and brother, became renowned for their service and pride in their work.

Ray remained on that farm for the first 50 years of his life. It was there, rising at the crack of dawn, plowing and tending to the fields, harvesting the crops, and looking after the herd that Ray Calhoun, the man, was shaped.

So it seems to me, Mr. Speaker, that we owe a lot to that farm. For it was there that Ray Calhoun developed his tremendous work ethic, his inner pride, and most importantly to those in Hoosick and the surrounding area, his willingness to do more than the norm.

Mr. Speaker, nothing better exemplifies Ray's pride and resolve than the event that caused him to reluctantly leave the family farm business he so loved. You see, a tragic farming accident cost Ray his leg. Yet, as he recuperated at his home, I paid him a visit along with the current town supervisor, John Murphy. It was there, in the face of so much adversity that Ray decided to serve the community he so loved and run for town supervisor of Hoosick. Little did we know then that his decision would bear a second career of 23 years in public service. Not only did Ray go on to two successful terms as town supervisor, but he served as the town clerk from 1977 until just this past December 31, 1996, when he retired from public service. But those of us who know him know that Ray will still be seen about town, whether it be at church, or at the many civic organizations he also belongs to and has served.

I've always been one to judge people based on what they return to their community. Ray Calhoun has given all he can and then some. But to me Mr. Speaker, he's even more than that. Ever since my mother and I were left by my natural father shortly after I was born, I have always looked to men I admire as a father figure. For me, Ray has always been just such a father image. Someone I more than admire, someone I have tried to model myself after in life.

Mr. Speaker, we all would do ourselves and our communities a great service to model ourselves after Ray Calhoun. At this time, I would ask that you and all Members of the House rise with me and the town of Hoosick, NY, in recognition of a great American on his day, Ray Calhoun Day, to be celebrated this January 12, 1997.

INTRODUCING CROWN JEWEL LEGISLATION

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. DUNN. Mr. Speaker, it gives me great pleasure today to introduce the Crown Jewel National Parks Act. This legislation will require the President to submit a specific budget request for our 54 national parks so that for the first time, our national parks would have their own specific and separate line-item to ensure that their funding is a top priority.

We are truly blessed in this Nation with a national park system that is second to none and serves this Nation as one of the top vacation choice of families, individuals and visitors world-wide.

In my State of Washington, we have the good fortune of having three national parks. Mount Rainier National Park, the North Cascades National Park, and the Olympic National Park. Like many of our older national parks, they are suffering from lack of funding creating maintenance and construction backlogs that continue to build up year after year. Also, the popularity of our parks has increased dramatically over the last decade and funding for roads and trails has not kept pace.

While we significantly increased funding for the National Park Service in the 104th Congress, we must not allow money from one park account to be haphazardly moved to another without any constraints. Our national parks are too important to be left to the discretion of bureaucrats.

Mr. Speaker, I look forward to working with my colleagues in the 105th Congress to enact this legislation.

CREATION OF A "RETIREE VISA"

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, I am introducing legislation to create a retiree visa for various people who would like to spend some of their retirement years in the United States. Let me give you an example of how this will work by using August and Gerda Welz as an example.

August and Gerda Welz have spend more than $380,000 in the United States since taking up a residence in Palm Coast, FL, 3 years ago. Native Germans, the Welzs saw Florida as an ideal place to spend their retirement years, with its pleasant climate and sound economy. They own a home, pay taxes, and volunteer in the community.

What they did not realize, however, was how many problems they would encounter in meandering through the United States' immigration laws.

To encourage more business and tourist travel to the United States, the Immigration and Naturalization Service established the Visa Waiver Pilot Program [VWPP], which has benefited many citizens from eligible countries. Narrow in scope, however, it only pertains to those who come to the United States for 90 days or less. Couples such as the Welzs represent the growing number of foreign travelers who wish to stay for an extended period of time or even retire in the United States. Unfortunately, they must still jump through an unreasonable number of hoops.

Having to navigate through such a complex set of rules and regulations is an unnecessary disincentive to foreign tourists looking to retire in the United States. My legislation would help remedy this.

The proposed visa would be available to citizens from those countries participating in the VWPP, as well as Canada. This diverse group includes countries such as Japan, Spain, and Germany. Applicants would have to be at least 55 years of age, own a residence in the United States, maintain health coverage, and receive income at least twice the Federal poverty level. The applicant would also be required to maintain a residence in his or her country of citizenship.

Perhaps the most attractive feature is that the visa would be valid for up to 4 years, alleviating the burdensome expense of frequent travel. It would be renewable as long as the application was filed from the retiree's country of citizenship.

Mr. Speaker, it is important to clarify that the proposed visa would only be available to nonimmigrants, and would not provide work authorization or eligibility for any Federal means-tested programs. In its simplest terms, the visa would serve as a much needed mechanism in which foreign retirees would have the opportunity to comfortably reside in the United States.

It goes without saying that ensuring proper immigration procedures is critical to our Nation's well-being. Still, there is absolutely no reason to discourage anyone from coming to Florida—or anywhere else in the United States—to retire.

Foreign travelers supply a healthy boost to our economy, and are an important part of many of our communities. By simplifying the process for this unique group of retirees, this proposal would provide new and exciting opportunities to couples such as the Welzs—a practice that would benefit all parties involved.

TRAFFIC STOPS STATISTICS ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONYERS. Mr. Speaker, African-Americans across the country are familiar with the offense of DWB, driving while black. There are virtually no African-American males—including Congressmen, actors, athletes, and office workers—who have not been stopped at one time or another for an alleged traffic violation, namely driving while black.

Law enforcement representatives may admit to isolated instances of racially targeted police stops, but they deny that such harassment is routine. the numbers belie this argument. Although African-Americans make up only 14 percent of the population, they account for 72 percent of all routine traffic stops. This figure is too outrageous to be a mere coincidence.

The Ninth Circuit Court of Appeals reached a similar conclusion after considering the 1993 case of a Santa Monica police officer who was found to have violated the rights of two black men he stopped and arrested at gunpoint. The court found that the case was an example of how police routinely violate the constitutional rights of minorities, particularly black men, by stopping them without just cause.

But lawsuits alone cannot solve this problem. Last November, the American Civil Liberties Union sought a fine for contempt of court against the Maryland State police, arguing that police are still conducting a disproportionate number of drug searches of cars driven by African-Americans almost 2 years after agreeing to stop as a result of a 1992 lawsuit.

Despite the agreement, State police statistics show that 73 percent of cars stopped and searched on Interstate I–95 between Baltimore and Delaware since January 1995 were conducted on the cars of African-Americans despite the fact that only 14 percent of those driving along that stretch were black. Moreover, police found nothing in 70 percent of those searches.

The evidence clearly shows that African-Americans are being routinely stopped by police simply because they are black. It is exactly this sort of unfair treatment that leads minorities to distrust the criminal justice system. If we expect everybody to abide by the rules, we must ensure that those rules are applied equally to everybody, regardless of race.

In many ways, this sort of harassment is even more serious than police brutality. Not to minimize the problem of brutality, but these stops, this sort of harassment is more insidious. Almost every African-American man will be subject to this sort of unfair treatment at least once, if not many times. And no one hears about this, no one does anything about it.

With brutality on the other hand, these days, incidents of brutality at least come to light. The culprits may not be punished for their acts, but it is getting harder for the police to brutalize minorities without any fear of reprisals.

The same cannot be said for harassing traffic stops. Police can stop the cars of minorities with total impunity. In fact, the Supreme Court recently expanded police powers by holding that police need not inform individuals stopped that they have a right not to consent to a search of their vehicles.

Thus it appears that the problem of police stops is only going to increase. For this reason, I am introducing the Traffic Stops Statistics Act. This bill will force police departments to keep track of the race and alleged traffic infractions of those they stop. It will also require them to note the rationale for any subsequent search and the contraband recovered in the course of that search. In this way, we will increase police awareness of the problem of targeting minorities for car searches and we can discover the extent of the problem and hopefully reduce the number of discriminatory traffic stops.

INTRODUCTION OF THE HIGHER EDUCATION ACCUMULATION PROGRAM ACT OF 1997

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. ESHOO. Mr. Speaker, I rise today to renew my drive to help parents save for their children's higher education by introducing the Higher Education Accumulation Program [HEAP] Act of 1997. This initiative, which I also introduced in the prior two Congresses, establishes special IRA-like savings accounts so that parents are motivated to save for their children's higher education.

There is no greater investment that families can make in their future than giving their children a chance to pursue higher education. Unfortunately, tuition increases have made college unaffordable for so many families. As a result, families are being forced to go deeper into debt or tap into their life savings in order to give their children a chance to prepare themselves for the 21st century.

Under my initiative, parents can deposit up to $5,000 per year tax deferred in a HEAP account for their child's college or other higher education. Only one child can be the beneficiary of each HEAP accounts. While multiple HEAP accounts could be established by a family, parents would be limited to a maximum tax deferment of $15,000 per year. Married parents filing separate returns would be limited to $2,500 in deferments per account, up to a maximum of $7,500.

With a HEAP account, one-tenth of any amount withdrawn for educational expenses—including tuition, fees, books, supplies, meals, and lodging—at eligible institutions would be included in the gross income of the beneficiary for tax purposes each year over a 10-year period. If a person withdrew money from a HEAP account for purposes other than paying for higher education, that money would be subject to a 10-percent penalty on top of the income tax rate that would apply at the time of withdrawal.

According to the Government Accounting Office [GAO], tuition at 4-year public colleges and universities—where two-thirds of U.S. college students attend classes—has increased 234 percent over the past 15 years. In contrast, median household income rose only 82 percent and the cost of consumer goods rose just 74 percent in the same period. GAO also has found that increases in grant aid have not kept up with tuition increases at 4-year public colleges. As a result, families are relying more on loans and personal finances to pay for school. For example, in fiscal year 1980, the average student loan was $518; in fiscal year 1995, it rose to $2,417, an increase of 367 percent.

The U.S. Department of Education reports that for the 1994–95 academic year, annual undergraduate charges for tuition, room, and board were estimated to be $5,962 at public colleges and $16,222 at private colleges. Between 1980 and 1994, college tuition, room, and board at public institutions increased from 10 to 14 percent of median family income—for families with children 6 to 17 years old. At private institutions, these costs increased from 23 to 41 percent of median family income between 1979 and 1993.

Mr. Speaker, making higher education more affordable for more families must be a top priority for the 105th Congress. I urge my colleagues to join me in this effort to provide a much-needed helping hand to American families.

REPEAL THE ESTATE TAX

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. PITTS. Mr. Speaker, today I introduced a bill to repeal the estate tax which has burdened so many farmers and small business owners in the 16th District of Pennsylvania. With the repeal of this tax, more families in Lancaster and Chester Counties can hold onto their hard-earned family legacies.

Mr. Speaker, the estate tax is one of America's most illogical taxes. After a person's death the IRS collects between 37 and 55 percent of all assets transferred which are valued at more than $600,000. The "death tax" discourages savings, penalizes the sound practices of capital formation and investment, and puts many family owned farms and businesses in jeopardy after the loss of a loved one.

In addition, Mr. Speaker, the estate tax is expensive to collect. The IRS spends approximately 65 percent of the revenue it collects from this tax on enforcement of the estate tax code. Further, the estate tax accounts for less than 1 percent of annual Federal revenue. Finally, it is expected that the repeal of this tax could create an increase in revenue for the Federal Government in the future, as families will be able to invest their savings and generate more taxable income.

Mr. Speaker, the reason many people work so hard is to make life better for their children. New businesses, especially minority-owned firms, face enough obstacles without having the rewards of hard work snatched away at the end of the first generation. I think it's time that we give control of life savings back to the people who have earned them. Let's make sure that farms that have stayed in the family for generations aren't sold off due to a bad tax policy. Let's end the outrageous practice of punishing thrift and financial security. Let's end the bias against savings and capital formation. Let's encourage saving, investment, and sound, life-long financial management which can provide for a family past a single generation. Let's repeal the estate tax and empower our Nation's families.

STATEMENT ON THE INTRODUCTION OF THE SOFTWARE EXPORT EQUITY ACT

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. DUNN. Mr. Speaker, on this, the first day of the 105th Congress, I introduce the Software Export Equity Act and urge my colleagues to support its swift enactment. The Software Export Equity Act enjoys tremendous bipartisan support as demonstrated by the members that join me as original cosponsors, Messrs. MATSUI, HERGER, JEFFERSON, CRANE, NEAL of Massachusetts, MCCRERY, MCDERMOTT, ENGLISH of Pennsylvania, and WELLER.

Today, the U.S. software industry is a vital and growing part of the U.S. economy, exporting more than $26 billion worth of software annually. U.S. software companies perform a majority of this development work here in the United States. This measure will do more to ensure the competitivess of the U.S. software industry worldwide than any other single legislative change we can enact.

Congress enacted the FSC rules to assist U.S. exporters in competing with products made in other countries which have more favorable tax rules for exports. The FSC statute was carefully crafted to ensure that only the value-added job creating activity qualified for FSC benefits. When the statute was enacted in 1971, the U.S. software industry did not exist. However, due to a narrow IRS interpretation of the FSC rules, the U.S. software industry is the only U.S. industry that does not generally receive this export incentive. Nearly every other U.S. manufactured product—from airplanes to toothpaste—qualify for FSC benefits. Although the Treasury Department recognized the inconsistency in providing FSC benefits to licenses of films, tapes and records, all industries that were in existence when the law was created, but not to licenses of software, they stated their belief that this problem needed to be addressed in legislation rather than by regulation. Treasury has further stated their strong support for legislation to extend FSC benefits for licenses of computer software.

To illustrate the inequitable IRS interpretation of FSC rules with regard to software exports, suppose we have two CD ROM's—one containing a musical recording, the other containing a multimedia software product that also provides music. If the master of the musical recording is exported with a right to reproduce it overseas, the export qualifies for FSC benefits. If the master of the computer software is exported with a right to reproduce it overseas, the export does not qualify for FSC benefits, a result that makes no sense from either a policy or practical perspective. The ability to export software, accompanied by a right to reproduce that software in the local market, is essential to the way the software industry does business. Denying the benefits of the FSC rules to software exported through established industry distribution networks poses an impediment to the competitiveness of U.S. manufactured software.

The United States is currently the world leader in software development, employing hundreds of thousands of individuals in high-wage, high-skilled U.S. jobs. Much of the expansion of the industry is due to the growth of exports. The software industry, like other U.S. exports, needs FSC benefits to remain competitive and keep U.S. jobs here at home. FSC benefits are extremely important in encouraging small and medium-sized software companies to enter the export market by helping them equalize the cost of exporting. In addition, FSC benefits are needed to help keep high-paying software development jobs in the United States at a time when foreign governments are actively soliciting software companies to move those jobs to their countries. I do not propose any special or unique treatment, nor seek any new or special tax benefit. All that I propose in this measure is fair treatment under existing law.

If the goal of this Congress is to pass legislation promoting economic opportunity and growth in America, then common sense dictates that we enact the Software Export Equity Act.

THE FAIR TRADE OPPORTUNITIES ACT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1996

Mr. BEREUTER. Mr. Speaker, America's precious trade leverage is being eroded by outdated trade laws which undermine our Government's credibility and provide little incentive for countries to open their markets. These laws desperately need to be revised. Today, I have introduced legislation, the Fair Trade Opportunities Act, which abolishes the MFN trade status process while giving the President of the United States broad but flexible authority to raise tariffs on those countries which are not members of the World Trade Organization or which still prohibit emigration.

American companies and workers deserve the right to compete for markets and consumers throughout the world. They deserve our best effort to pry open foreign markets so they can freely sell their products and services. Bluffing and posturing during Congress' annual MFN process does nothing to help them. Giving countries which are not members of the World Trade Organization a "free-ride" to our own markets without reciprocal benefits is not fair to American workers.

The Fair Trade Opportunities Act responds to post-cold war realities by restoring U.S. trade sanction credibility and providing the President with the tools to open foreign markets. It should be considered in the 105th Congress if the U.S. Government hopes to reclaim America's precious trade leverage and give our export companies and workers equitable access to foreign markets.

THE FAIR TRADE OPPORTUNITIES ACT

Introduced by Representative Doug Bereuter (R–NE) on January 7, 1996.—This legislation was introduced in the last few days of the 104th Congress as the Fair Trade Opportunities Act (H.R. 4289). It was slightly modified, and then reintroduced on the first day of the 105th Congress.

Eliminates outdated U.S. trade law distinction between "market" and "nonmarket" economies and replaces it with a more appropriate distinction in the post-Cold War Era between member and nonmember countries of the World Trade Organization (WTO).—Under current U.S. trade law, market economy countries receive normal tariff status automatically and nomarket economy countries must go through an annual Jackson-Vanik certification process. The Fair Trade Opportunities Act replaces this Cold War Era distinction with two categories of tariffs—normal tariff status for WTO members and potential "snap-back" tariffs for non-WTO countries.

Abolishes annual Most-Favored Nation (MFN) process for 17 countries which require annual waiver or certification of compliance with Jackson-Vanik requirements.—The President will no longer have to certify that these 17 countries meet Jackson-Vanik requirements before they are entitled to MFN or normal tariff status. Also, Congress' self-imposed, annual review of the President's certification is eliminated. [Congress retains Constitutional right (Article 1, Section 8) to raise tariffs on any country at any time.]

Abolishes Smoot-Hawley (Column #2) tariffs for all countries except those countries which have not concluded commercial agreements with the United States (i.e. Vietnam).—Realistically, these Smoot-Hawley tariffs are only imposed on pariah, bad-actor states, or countries which do not have commercial agreements with the United States. For political, economic, and domestic commercial reasons, threats to impose Smoot-Hawley tariffs on other countries are hollow and not taken seriously by foreign governments. Despite the rancorous debates in Congress over the extension of MFN to some countries, Congress is also quite unlikely to impose Smoot-Hawley tariffs because of the harm it would inflict on U.S. companies and workers.

Replaces Smoot-Hawley tariffs with broad and flexible Presidential authority to raise tariffs (snap-back) on countries which are not members of WTO.—On a one-time basis and within six-months of the enactment of the legislation, the President is required to determine if non-WTO countries are "not according adequate trade benefits" to the United States. If the President makes such a finding, then the President shall impose snap-back tariffs on that country six-months after the determination. In imposing snap-back tariffs, the President has wide discretion to determine both the amount of the tariff and on which categories of products the snap-back tariffs will be imposed. However, under no circumstances can the President exceed the legislation's snap-back tariff ceiling which is the pre-Uruguay round MFN tariff rates, i.e., the Column #1 tariff rates in effect on December 31, 1994.

Enhances United States Trade Representative's negotiating leverage with countries which are not WTO members and provides a strong incentive for those countries to liberalize their trade laws and practices and to improve their WTO accession offers.—Between enactment of the legislation and the President's one-time, six-month determination and twelve-month imposition of snap-back tariffs, this legislation gives those non-WTO countries time to modify their trade regimes so as to give American exporters a fair chance to compete for consumers in their markets. After the President's determination and imposition of tariffs, the Fair Trade Opportunities Act gives the President the authority to withdraw the snap-back tariffs if that country either joins the WTO or the President certifies that the country is according the United States adequate trade benefits. In addition, the President can modify, but not eliminate, the snap-back tariffs for any reason.

Provides President with discretionary authority to impose snap-back tariffs on countries which unduly restrict emigration.—The legislation's emigration standard which triggers the presidential snap-back authority is identical to the current freedom of emigration language in the Jackson-Vanik law.

Does nothing to change current U.S. sanctions laws with regard to rogue or pariah states such as Cuba, Iran, Iraq, Libya, and North Korea.—Many countries, such as the pariah or bad-actor states, retain normal tariff status with the United States but are prohibited from some or all trading with the United States because of U.S. sanctions laws.

THE FAIR TRADE OPPORTUNITIES ACT

COMMON QUESTIONS REGARDING THE LEGISLATION'S IMPACT ON THE PEOPLE'S REPUBLIC OF CHINA

What is Congressman Bereuter's motivation for the bill?—During the Summer of 1996 in the height of the China Most-Favored Nation (MFN) debate, Congressman Doug Bereuter (R-NE) promised an attempt to "end [that] futile debate." He also vowed to introduce legislation which comprehensively solved the problems created by the MFN process, which with respect to China, he said, only served to damage Sino-American relations. Not long after his statement, Bereuter met with Administration officials and realized that many countries, as well as China, have little or no incentive to become members of the World Trade Organization because they already enjoy full WTO tariff benefits under U.S. MFN law.

Recognizing that other countries, such as the European Union, do not automatically extend MFN benefits to nonmembers of the WTO, Bereuter's legislation attempts to combine both a carrot (the equivalent of permanent MFN, i.e. normal tariff status) and a stick (minor snap-back tariff increases) approach to induce countries into joining the WTO and eventually gaining normal tariff status permanently under U.S. law. This approach steers a delicate middle ground between those who wish to assert America's commercial and foreign policy interests more aggressively and those who believe American interests are best served by engaging countries, such as China and Russia, mutliaterally.

Recognizing that the legislation is not China-specific, how would the Fair Trade Opportunities Act affect China's current trade status and its WTO accession negotiations?—If the Bereuter bill were signed into law, the President of the United States would no longer have to annually certify that China was complying with the Jackson-Vanik law. Likewise, the United States Congress would not have an automatic, expedited procedural mechanism for rejecting any Presidential decision. [Although Congress may, at any time, vote any amount of tariff increases on China because of its Constitutional authority in Article I, Section 8.] In short, the current China MFN process would be abolished.

On a one-time basis and within six-months of the enactment of the legislation, the President would be required to determine if China is "not according adequate trade benefits" (defined in existing law) to the United States. If the President makes such a finding, then the President shall impose snap-back tariffs on China six-months after that determination. In imposing snap-back tariffs, the President has wide discretion to determine both the amount of the tariff and on which categories of products the snap-back tariffs will be imposed. However, under no circumstances can the President exceed the legislation's snap-back tariff ceiling which is the pre-Uruguay round MFN tariff rates, i.e., the Column #1 tariff rates in effect on December 31, 1994.

A study by the Congressional Research Service estimates that if the President were to utilize his full snap-back authority on the top 25 Chinese exports to the United States (based on 1995 figures), an additional $325 million in tariff revenue would be generated for the U.S. treasury. (This estimate is not adjusted to reflect any downward demand for the product due to the increased tariff.)

The President would be required to terminate the imposed snap-back tariffs on China on the date China becomes a WTO member or on the date the President determines that China is according adequate trade benefits to the United States, whichever is earlier. The President would also be able to modify the snap-back tariffs for any reason as long as the appropriate congressional committees are notified.

A PLAN TO BOOST SAVINGS AND INVESTMENT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, I am introducing a bill today which will help all Americans save for their retirement years. It is no secret that our current savings rate is among the lowest in the industrialized world. A low savings rate not only adversely impacts a person's retirement, it does not create much capital available for savings and investment. Without this capital, our economy cannot expand at its optimal rate. It is my hope that this legislation, if enacted, would help correct this problem.

My legislation would do several things. First, it would increase the amount of money one may contribute to an Individual Retirement Account [IRA], from $2,000 to $4,500, and still receive full deductibility. This amount is also indexed to inflation to protect its value from that silent thief of inflation.

This would also remove a disincentive to establishing an IRA, that being the fear that the money will not be available without paying a substantial penalty when you need it. A person with an IRA would be able to make withdrawals, without penalty, for a first home purchase, education expenses, long-term care, financially devastating health care expenses, and during times of unemployment. Furthermore, no taxes would be paid on these withdrawals if they are repaid to the IRA within 5 years.

Current law offers no incentive for many people to establish IRA's. My bill would allow people who do not have access to a defined contribution plan—e.g., a 401(k) plan—to establish a tax-preferred IRA, regardless of their income. The legislation would also encourage the middle class to establish IRA's by raising the income phase-out levels from $25,000—$40,000 for joint filers—to $75,000—$120,000 for joint filers. This will provide not only incentives, but needed tax relief for the middle class. Again, these levels are indexed to inflation.

Turning to 401(k) reforms, currently folks are hit with tax liability when taking their 401(k) benefits as a lump sum when leaving a job even if it is rolled into an IRA. This is not fair. Therefore, under this proposal, people would not be exposed to tax liability if the lump sum distribution is rolled into an IRA within 60 days.

Just as contribution limits have been increased for IRA's in this legislation, they are increased for 401(k) plans as well. The tax-deductible contribution limits would be $20,000—in 1992 dollars—indexed to inflation.

This would also encourage more firms to establish defined contribution plans by injecting some common sense into the law. It would allow firms to meet antidiscrimination requirements as long as they provide equal treatment for all employees and ensure that employees are aware of the company's 401(k) plan. This is truly nondiscriminatory as everyone would be treated the same.

Finally, this proposal would correct some of the serious problems involved with IRA's and 401(k)'s when the beneficiary passes away. As someone who believes the estate tax is inherently unfair, indeed I advocate its abolishment, I feel that IRA and 401(k) assets should be excluded from gross estate calculations. This bill would do that. Furthermore, an IRA that is bequeathed to someone should be treated as the IRA of the person who inherited it. Current law forces the disbursement of the IRA when the deceased would have turned 70½ years old. This would change that pointless provision, allowing the inheritor to hold the money in savings until he or she turns 70½.

Similarly, anyone receiving 401(k) lump sum payments as a result of a death would not have the amount counted as gross income as long as it is rolled into an IRA. That amount would not be counted against the nondeductible IRA limit of $4,500.

Mr. Speaker, I am excited about this legislation. I expect to introduce this legislation again at the beginning of the next Congress and look forward to hearing debate on it. It is absolutely essential that we continue to encourage personal savings and this is certainly a step in the right direction.

PREVENTING GENETIC DISCRIMINATION IN HEALTH INSURANCE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. SLAUGHTER. Mr. Speaker, I rise today to announce the introduction of comprehensive legislation to prevent genetic discrimination in health insurance, an issue vital to the health of all Americans.

Scientists are making astounding advances almost daily in decoding the secrets of our genes, especially through the contributions of the Human Genome Project. Genes have already been identified for cystic fibrosis, prostate cancer, multiple sclerosis, Huntington's disease, and many other conditions. As chair of the Women's Health Task Force of the Congressional Caucus on Women's Issues, I closely followed reports last year that increased funding for breast cancer research had resulted in the discovery of the BRCA1 gene linked to breast cancer. This knowledge has tremendous potential for improving the ways we identify, treat, and hopefully cure disorders. At the same time, there is also the very real possibility that this information could be used to discriminate against individuals.

No American should have to worry that their genes—which they did not choose, and over which they have no control—will be used against them. My legislation would prohibit health insurers from using genetic information to deny, refuse to renew, cancel, or change the terms and conditions of coverage. It would prevent insurance companies from requesting or requiring genetic tests, and would require written informed consent before an insurer may disclose genetic information to a third party.

These protections are absolutely critical, because genetic discrimination is already occurring. Numerous individual cases have been reported in the press. In addition, polls and studies demonstrate clearly how much the American people fear genetic discrimination by health insurers. This anxiety is so strong that many people are foregoing genetic testing—even when they have a clear family history of genetic illness and a positive test could lead them to take advantage of effective preventive medicine.

This is a human tragedy Congress can and must prevent. In the 104th congress, I introduced similar legislation which garnered 76 cosponsors and was endorsed by a wide range of health and consumer groups, including: Alzheimer's Association, American Academy of Pediatrics, American Cancer Society, American Heart Association, American Medical Women's Association, American Nursing Association, American Public Health Association, Center for Patient Advocacy, Council for Responsible Genetics, Foundation on Economic Trends, and March of Dimes.

Leadership Conference of National Jewish Women's Organizations, which includes: American Jewish Congress, Amit Women, B'nai B'rith, Emunah Women of America, Hadassah, Jewish Labor Committee, Jewish War Veterans, Jewish Women International, Na'amat USA, National Council of Jewish Women, Inc., National Jewish Community Relations Advisory Council, Union of American Hebrew Congregations, Women's American ORT, United Synagogue of Conservative Judaism; and National Association of Black Women Attorneys, National Breast Cancer Coalition, National Osteoporosis Foundation, National Ovarian Cancer Coalition, National Women's Health Network, National Women's Law Center, Women's Bar Association, and Women's Legal Defense Fund.

I am hopeful that the 105th Congress will build upon the foundation established by the Kassebaum-Kennedy health reform bill. With this new legislation, it is my goal to ensure that no American woman will have to worry that if she takes a genetic test for the BRCA1 or BRCA2 breast cancer gene, she will lose her insurance coverage; or, that if she develops breast cancer, she will be denied coverage for treatment because her genetic predisposition will be considered a "pre-existing condition." Congress has the power to protect all Americans from genetic discrimination in health insurance. We should do so quickly and decisively by passing the Genetic Information Nondiscrimination in Health Insurance Act.

SALUTING DIXIE WILKS-OWENS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. MATSUI. Mr. Speaker, I rise today to salute Dixie Wilks-Owens, who is retiring from the California Employment Development Department after 27 years of dedicated service. Throughout her career, Mrs. Wilks-Owens has earned a reputation among her peers as an outstanding communicator and public servant genuinely enthusiastic about her job and the opportunities it provides to affect positive change.

Most recently, Mrs. Wilks-Owens served as chairperson of the 1996 Work Force Preparation Conference, a highly successful public forum on workforce preparation issues which was held in conjunction with the Federation of Conferences.

While at the office of work force policy, Mrs. Wilks-Owens was staff to the State job training coordinating councils' planning committee. She prepared agendas and policy issue papers, analyzed Federal and State legislation and made presentations to the SJTCC, task forces, and other committees on work force preparation issues.

Prior to this position, Mrs. Wilks-Owens was the manager and assistant deputy director of the EDD Marketing Services Office. In this role, she is noted for having developed the first biennial strategic marketing plan and for writing and producing the EDD employee handbook. In addition, she was an integral force in the planning, developing, and management of a full-functioning reemployment center for displaced legislative staffers left unemployed by Proposition 140. Additionally, she oversaw the planning and coordination of a broad retraining and reemployment program serving 5,000 former General Motors workers in Fremont, CA.

Mrs. Wilks-Owens also served as a Federal legislative specialist in the EDD legislative liaison office. There, she tracked and analyzed Federal legislation, spearheaded the successful 1989 job service campaign and made legislative presentations.

As an active member of the International Association of Personnel in Employment Security [IAPES], she has served as California Legislative chair, California vice president, California president, International Legislative chair and District XV representative and California Legislative chair.

In addition to her professional pursuits, Mrs. Wilks-Owens has demonstrated a unique commitment to her community and is noted as a tireless volunteer and master organizer.

Mr. Speaker, it is with great pleasure that I rise today to recognize Dixie Wilks-Owens for her outstanding commitment to her profession. I ask my colleagues to join me in wishing her continued success in all of her future endeavors.

JOB SKILLS DEVELOPMENT ACT OF 1997

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. KNOLLENBERG. Mr. Speaker, I rise today to introduce the Job Skill Development Act of 1997. This is a narrowly tailored bill which amends the Fair Labor Standards Act [FLSA] of 1938 to ease some of the restrictions on volunteering.

The FLSA requires covered employers to compensate individuals defined as an "employee" with minimum wage and overtime. While there are numerous exceptions for volunteers, these exceptions primarily focus on humanitarian and charitable activities. Unfortunately, individuals seeking to gain valuable work experience and exposure in a competitive profession are often prohibited from doing so because of restrictions on volunteering.

The FLSA revolves around a complex scheme of regulations and exceptions. When the Department of Labor and the Federal courts determine who is and is not exempt, they take into account the type of services provided by the individual, who benefits from the rendering of the services, and how long it takes to provide the services. Some of the most common exceptions are for trainees or student learners better known as interns. These exceptions were developed because of their educational benefit as well as the potential to learn valuable skills for future employment.

However, just as the FLSA protects some, it can be an obstacle for others. Capitol Hill provides an excellent example. Each year hundreds of college and high school students travel to Washington, DC, for interships. Many of these positions are unpaid or offer a stipend, well below the minimum wage and overtime requirements. These individuals gain a better understanding of the legislative process, develop office skills, and make contacts that are invaluable in securing employment. Meanwhile, the employer is able to evaluate the intern in a work environment. For both it is a win-win situation.

Two particular individuals on my staff volunteered in my office for several months before they were hired on as full-time paid employees. However, because these two staffers were recent college graduates and produced work that benefited my office, they would have been prohibited from volunteering their services if at the time I would have been forced to comply with the FLSA.

Though Congress has since passed the Congressional Accountability Act and now must adhere to the FLSA, the point is not moot. Congress and hundreds, if not thousands, of individuals over the years have benefited from such programs. In fact, many have become employed for the first time because of the opportunity and experience they gain through interning. I hope we could learn from these instances and not turn our backs on those who wish to gain valuable work experience.

Moreover, as we enter the 21st century and the global marketplace becomes even more competitive, we must strive to help those who wish to enter the work force. Programs like Careers and School to Work offer some the opportunity to gain the necessary skills to compete, but there is still room for improvement. Congress cannot standby and allow individuals to forego valuable training experience because we have failed to act.

The Job Skill Development Act will offer outstanding opportunities for future work forces. Its passage will help college graduates and individuals who have been out of the work force develop the professional skills and experience they need to become employed. It is a great job training program that does not cost the taxpayers a dime.

As I mentioned before, this legislation is narrowly tailored and while it eases the restrictions on volunteer activity, it does not jeopardize the important safeguards against employer coercion and worker displacement. Moreover, the intent is not to undermine any of the requirements of minimum wage and overtime, but focuses on providing individuals with the opportunity to gain the necessary skills to become gainfully employed.

Mr. Speaker, it is time to give future work forces the same opportunity Congress and many hill staffers have benefited from for many years. I look forward to working with my colleagues on passage of the Job Skill Development Act of 1997.

HOUSING LOAN GUARANTEE PROGRAM EXTENSION ACTS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. BEREUTER, Mr. Speaker, today this Member is introducing two bills designed to extend important alternatives to traditional Federal housing direct lending.

The first bill, the Rural Multifamily Rental Housing Loan Guarantee Extension Act of 1997, permanently authorizes the U.S. Department of Agriculture [USDA] administered section 538 program which, as the name implies, guarantees repayment of loans to build multifamily rental housing in rural communities. The section 538 program was patterned after the highly successful section 515 loan guarantee program, which is also administered by the USDA. While the section 538 program was only fully authorized in the last Congress through the Housing Opportunity Program Extension Act of 1996, it has already been well received in rural America and certainly merits permanent authorization in the 105th Congress.

The second bill this Member is introducing today permanently authorizes the section 184 loan guarantee program for Indian housing, which is administered by the U.S. Department of Housing and Urban Development [HUD]. This guarantee program, which I authored and was enacted into law in 1992, is designed to bridge the obstacles that have prevented private lenders from participating in housing finance on Indian trust land. Because of the unique trust status of these reservations, private lenders have been reluctant to make loans due to the fact that they have no legal recourse should the borrower default. Under the section 184 guarantee program, the Federal Government eliminates this obstacle by guaranteeing that the lender will be repaid should the borrower default. This program has already proven to be widely popular in Indian country and provides incentive for private lenders to participate in housing one of our Nation's most underserved populations.

Members should remember and be reassured by the fact that the disposition of loan guarantee programs provides oversight in that Congress must appropriate loan subsidies for all loans to be guaranteed under these programs. Thus, the end result of such a permanent authorization will be smoother operating programs without interruptions resulting from expired authorizations and congressional oversight maintained through the annual appropriations process.

Thank you Mr. Speaker. This Member invites his colleagues to join him as a cosponsor of both of these important housing measures.

INTRODUCTION OF THE OIL SPILL PREVENTION AND RESPONSE IMPROVEMENT ACT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. MENENDEZ. Mr. Speaker, on May 10, 1996, a tanker moored in Delaware Bay spilled 10,000 gallons of light grade crude oil. Strong winds pushed the slick toward the beaches of Cape May, NJ, posing a threat to wildlife and migrating waterfowl. The tanker had been anchored 17 miles off the Cape May shore in an area known as the Big Stone Anchorage. It was involved in a process known as lightering. A tanker lighters by pumping some of its cargo into a smaller barge. This is usually done because there is insufficient depth of water to allow the tanker to safely make passage to secure oil terminals. Transferring oil over open water between two or more vessels is a risky process which greatly increases the possibility of spills or more serious accidents.

While the Cape May incident was a relatively minor accident and the environmental impacts were quickly contained, I am greatly troubled about the prospect of an accident in the New York Harbor. Thirty billion gallons of oil of every type are shipped through the Port of New York and New Jersey each year. One billion gallons is lightered from deep water anchorages beyond the Verrazano Narrows. That is 100 times the amount of oil spilled by the *Exxon Valdez* off the Alaskan coast. These barges are often single hulled and sometimes have no crew or anchor. The situation in the New York Harbor is doubly dangerous because of an institutional failure to dredge. The lightering process is used to reduce the weight of oil tankers and thereby lessen draft to enable these great ships to negotiate the shoaled-in channels and berths of the upper bay and the connecting channels in the Kill Van Kull and Arthur Kill. It is only the exceptional skill and dedication of the pilots serving the Port of New York and New Jersey that have prevented a catastrophe, but there have been a number of near collisions.

To reduce this threat, I am introducing the Oil Spill Prevention and Response Improvement Act. This legislation requires the Coast Guard to develop requirements for lightering and towing operations. It provides incentives for converting to the use of double hull vessels. The bill will also reduce the economic hardship on the victims of oil spill, particularly in fishing communities. This bill is a good starting point at improving the Oil Pollution Act and improving the safety of barges that move a commodity that is essential for our economy safely and without harm to the environment.

IN HONOR OF HOWARD W. COLES

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. SLAUGHTER. Mr. Speaker, today I rise to pay special tribute to the life and legacy of Mr. Howard Wilson Coles, a pioneering African-American journalist, who for 62 years resided in New York's 28th Congressional District. Mr. Coles' life came to a peaceful end on December 10, 1996, at 93 years of age.

Upon completion of his formal education, Mr. Coles returned from New York City to Rochester, NY, in 1934 to become the founder and publisher of the Frederick Douglass Voice, known at this time as Rochester's only Negro newspaper. This newspaper, for 62 years, has been dedicated to showcasing the issues, challenges, and accomplishments of Rochester's African-American population.

Howard Wilson Coles shall long be remembered, not only for his journalistic talents, but also for his tireless efforts and extraordinary skills in the area of civil rights. He was as well, an author, broadcast journalist, and formerly served as president of Rochester's NAACP.

I take great pride in having known Mr. Coles, and in knowing his family; several of whom have followed in his giant footsteps as journalists. A true freedom fighter is now at rest. He will be sorely missed by his family, his numerous friends, and a community that he enhanced.

PAYING TRIBUTE TO THE AICHI KENJIN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to the Aichi Kenjin Kai, a social and cultural institution now celebrating its 100th anniversary in northern California.

The first large population of immigrants from Aichi-ken was established in the central valley during the late 1800's. By 1896, some 300 Aichi-kenjins had settled in the Sacramento region. For most of these immigrants, the standard of living was poor. Most of them carried their possessions in a suitcase. They made their living as seasonal workers, moving from place to place as jobs were offered.

At this time in history, there was no welfare plan offered either by the Federal or State governments to care for such individuals when they fell ill or died. As such, this community of immigrants determined that it was necessary to establish an organization which would care for their fellow countrymen should they fall ill and assist their families when they passed away.

In 1895, one of the first immigrants to northern California, Yoshio Yamada, recommended the establishment of the Aichi Club in Sacramento. He suggested collecting $50 to $60 from about 50 members who would then pay 15 cents in monthly dues. These fees were to be used to maintain a mutual aid fund, but was not accepted at the time.

Two years later, this community of immigrants agreed to form the Aichi Club and opened a temporary office in Sakuraya Ryokan. The club's mission was to maintain a high reputation, respect morality and promote friendship. In the years following, the members used the club to share their joys, sorrows, and hopes for a prosperous future in their new country.

Dues then were 15 cents per month and these fees enabled the club to assist fellow members who incurred expenses with medical care or funerals. The member accepting the assistance then paid the funds back to the club when they were able.

For many years, the club operated this way and grew to hold great significance in the Japanese-American community. The Aichi Kenjin Kai today is somewhat different. Today, with greater mobility and affluence, the Japanese-Americans have moved to all parts of the State, blending culturally with California's population. Additionally, the singular interests the early immigrants shared have given way to more diverse business and civic interests.

Other changes have reshaped the organization as well. Health insurance and "Americanized" funerals have impacted the need for the clubs' assistance in these areas. While the club still offers invaluable assistance with funeral plans and arrangements, its shift is toward a younger generation and its needs.

To attract younger generations, the Aichi Kenjin Kai has begun to host an annual Aichi golf tournament. Structured as a team grouping event, the tournament successfully promotes camaraderie within the membership and is a draw to the younger Japanese-Americans who will be relied upon to take the organization into the next century.

Mr. Speaker, it is with great pleasure that I rise today to recognize the many years of invaluable assistance this organization has provided to its membership. I ask my colleagues to join me in wishing many years of continued success to the Aichi Kenjin Kai.

INTRODUCTION OF THE AFRICAN ELEPHANT CONSERVATION REAUTHORIZATION ACT OF 1997: JANUARY 7, 1997

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce legislation today to extend the African Elephant Conservation Act of 1988, an historic conservation measure that continues to be successful in its ongoing efforts to save the flagship species of the African Continent.

By way of background, my colleagues may recall that by the late 1980's, the population of African elephants had declined by almost half. In 1979, the total elephant population in Africa was approximately 1.3 million animals. In 1987, fewer than 700,000 African elephants were alive.

While drought, disease, and human population growth contributed to this dramatic decline, the illegal killing or poaching of elephants for their ivory tusks was the single most important reason why thousands of these magnificent animals were slaughtered. During its peak, as much as 800 tons of ivory were exported from Africa each year, equivalent to the deaths of up to 80,000 elephants annually.

In response to this serious problem, Congress enacted the African Elephant Conservation Act—Public Law 100–478. A primary objective of this law was to assist impoverished

African nations in their efforts to stop poaching and to develop more effective elephant conservation programs. To accomplish that goal, the legislation created the African Elephant Conservation Fund.

Since its creation, Congress has appropriated over $6 million to fund some 48 conservation projects in 17 range States throughout Africa. In addition, over $7 million has been generated through private matching money to augment the Federal support made available through the grant program.

With these funds, resources have been allocated for conservation projects to purchase antipoaching equipment for wildlife rangers, create a comprehensive reference library on the African elephant, undertake elephant population census, develop and implement elephant conservation plans, and move elephants from drought regions in Zimbabwe. In fact, the Zimbabwe project was the first time in history that such a large number of elephants were successfully translocated to new habitats.

Without these conservation projects, I am convinced that the African elephant would have continued to decline and would have disappeared from much of its historic range. Instead, what has happened is that the population has stabilized and, in fact, is increasing in southern Africa, the international price of ivory remains depressed, and wildlife rangers are now much better equipped to stop unscrupulous individuals who are intent on illegally killing elephants.

The African Elephant Conservation Fund has provided desperately needed capital for projects in various African countries and a diverse group of internationally recognized conservation groups, including the African Safari Club of Washington, DC, the African Wildlife Foundation, Safari Club International, and the World Wildlife Fund, has participated in these efforts. In fact, the African Elephant Conservation Fund has been the only continuous source of new money for African elephant conservation efforts for the past 8 years.

In June of last year, the House Resources Subcommittee on Fisheries, Wildlife and Oceans conducted an oversight hearing on the effectiveness of the African Elephant Conservation Fund. At that time, a representative of the U.S. Fish and Wildlife Service testified that the Fund "provided a critical incentive for governments of the world, nongovernmental organizations, and the private sector to work together for a common conservation goal. This is not a hand out, but a helping hand."

While the African Elephant Conservation Fund has facilitated the development of a number of successful conservation projects, the battle to ensure the long-term survival of the African elephant has not yet been won. In fact, it is essential that this critical investment be continued in the future. Therefore, the fundamental purpose of my legislation is to extend the authority of the Secretary of the Interior to expend money from the African Elephant Conservation Fund beyond its statutory expiration date of September 30, 1998. I am proposing that the authorization of appropriations for the fund be extended until September 30, 2002.

With this extension, I am confident that additional worthwhile conservation projects will be funded and that the African elephant will survive in its natural habitat for many future generations.

I urge my colleagues to join with me in this effort by supporting the African Elephant Conservation Reauthorization Act of 1997.

SINGLE ASSET BANKRUPTCY REFORM ACT OF 1997

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. KNOLLENBERG. Mr. Speaker, I rise today to introduce a bill that addresses an injustice that exists within title 11 of the United States Code regarding single asset bankruptcies. This is the same language I introduced during the 104th Congress as H.R. 2815. My understanding is that the Judiciary Committee will include this measure in their technical corrections bill; however, I am introducing this bill as stand alone legislation to highlight the importance of this specific provision. I also understand that the Bankruptcy Commission has placed a particular focus on single asset bankruptcy and they recently held hearings in Washington, DC, to discuss this important issue.

The injustice within title 11 stems from an 11th hour decision made during the 103d Congress, which placed an arbitrary $4 million ceiling on the single asset provisions of the bankruptcy reform bill. The effect has been to render investors helpless in foreclosures on single assets valued over $4 million.

My bill will rectify this problem, by eliminating the $4 million ceiling, thereby allowing creditors to recover their losses. Under the current law, chapter 11 of the Bankruptcy Code becomes a legal shield for the debtor. Upon the investor's filing to foreclose, the debtor preemptively files for chapter 11 protection which postpones foreclosure indefinitely.

While in chapter 11, the debtor continues to collect the rents on the commercial asset. However, the commercial property typically is left to deteriorate and the property taxes go unpaid. When the investor finally recovers the property through the delayed foreclosure, they owe an enormous amount in back taxes, they receive a commercial property left in deterioration which has a lower rent value and resale value, and meanwhile, the rent for all the months or years they were trying to retain the property went to an uncollectible debtor.

My bill does not leave the debtor without protection. First, the investor brings a foreclosure against a debtor only as a last resort. This usually comes after all other efforts to reconcile delinquent mortgage payments have failed. Second, the debtor has up to 90 days to reorganize under chapter 11. It should be noted, however, that single asset reorganizations are typically a false hope since the owner of a single asset does not have other properties from which he can recapitalize his business.

Finally, Mr. Speaker, my bill helps all American families by making their investments more secure and more valuable. The hardworking American families who depend on their life insurance policies and who have paid for years into their pensions will save millions in reduced costs. My bill protects the little guy from being plagued with years of litigation while a few unscrupulous commercial property owners continue to collect the rent to line their own pockets.

MINING LAW OF 1872 REFORM

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RAHALL. Mr. Speaker, today, I am reintroducing legislation to reform the mining law of 1872. I am pleased to note that the distinguished gentleman from California, GEORGE MILLER, is joining me in introducing this measure.

Mr. Speaker, we are sponsoring this legislation with the full knowledge that it will probably not see the light of day in the Resources Committee as long as that committee is chaired by our dear friend and colleague, the honorable DON YOUNG of Alaska. Indeed, this bill is the very same which passed the House of Representatives by a three-to-one margin during the 103d Congress. Reintroduced into the 104th Congress, our colleague DON YOUNG put it under lock and key.

This begs the question: Why reintroduce the bill?

The answer lies in the fact that there remains within the broad membership of the House of Representatives enough votes to pass meaningful reform of the Mining Law of 1872. Last Congress, for example, we reimposed the moratorium on the issuance of mining claim patents by a vote of 271 to 153 during House consideration of the fiscal year 1996 Interior appropriation bill. In addition, the bill we are reintroducing today, which was designated H.R. 357 in the 104th Congress, attracted 92 bipartisan cosponsors during that period.

The issue of insuring a fair return to the public in exchange for the disposition of public resources, and the issue of properly managing our public domain lands, is neither Republican or Democrat. It is simply one that makes sense if we are to be good stewards of the public domain and meet our responsibilities to the American people. This means that the mining law of 1872 must be reformed.

I and other Members will continue to work toward that goal during the 105th Congress. If reform can be accomplished within the context of the bill I am introducing today, so much the better. If this bill's fate is to serve as a rally cry for reform, with substantive reform efforts moving forward independently, than that is satisfactory as well. In any event, the eyes of the Nation will continue to focus, to an even greater extent than ever before, on how this Congress addresses natural resource issues such as this one. Congress ignores these matters at its own peril.

Following is a brief explanation of the Mining Law of 1872 and how the legislation I am introducing proposes to reform it:

MINING LAW OF 1872 REFORM

The year was 1872. U.S. Grant resided in the White House. Union troops still occupied the South. The invention of the telephone and Custer's stand at the Little Bighorn were still four years away. And in 1872 Congress passed a law that allowed people to go onto public lands in the West, stake mining claims, and if any gold or silver were found, mine it for free.

In an effort to promote the settlement of the West, Congress said that these folks could also buy the land from the Federal government for $2.50 an acre.

That was 1872. This is 1977. Yet, today, the Mining Law of 1872 is still in force.

And, for the most part, it is not the lone prospector of old, pick in hand, accompanied by his trusty pack mule, who is staking those mining claims. It is large corporations, many of the foreign controlled, who are mining gold owned by the people of the United States for free, and snapping up valuable Federal land at fast food hamburger prices.

Remaining as the last vestige of frontier-era legislation, the Mining Law of 1872 played a role in the development of the West. But is also left a staggering legacy of poisoned streams, abandoned waste dumps and maimed landscapes.

Obviously, at the public's expense, the western mining interests have had a good thing going all of these years. But the question has to be asked: Is it right to continue to allow this speculation with Federal lands, not to require that the lands be reclaimed, and to permit the public's mineral wealth to be mined for free?

Today, anybody can still go onto Federal lands in States like Nevada and Montana and stake any number of mining claims, each averaging about 20 acres. In order to maintain the mining claim, until recently all that was required was that the claim holder spend $100 dollars per year to the benefit of the claim.

In the event hardrock minerals such as gold or silver are found on the claim, they are mined for free. There are no requirements that a production royalty be paid to the Federal government, or for that matter, a rental be paid for the use of the land.

It is estimated that $1.8 billion worth of hardrock minerals are annually mined from Federal lands in the western States. Yet, the Federal government does not collect one penny in royalty from any of this mineral production that is conducted on public lands owned by all Americans.

Under the Mining Law of 1872, claim holders can also choose to purchase the Federal land being claimed. They can do this by first showing that the lands have valuable minerals, and then by paying the Federal government a mere $2.50 or $5.00 an acre depending on the type of claim. This is called obtaining a mining claim patent. Perhaps a good feature in 1872, when the Nation was trying to settle the West. But today there is hardly a need to promote the additional settlement of LA, San Francisco or Denver. Note: The Interior Department is currently subject to a Congressionally imposed moratorium on the issuance of mining claim patents which must be renewed on an annual basis.

Moreover, once the mining claim is patented, nothing in this so-called mining law says that it has to be actually mined. The land is now in private ownership. People are free to build condos or ski-slopes on the land.

For example, not too long ago the Arizona Republic carried a story about a gentleman who paid the Federal government $155 for 61 acres worth of mining claims. Today, these mining claims are the site of a Hilton Hotel. This gentleman now estimates that his share of the resort is worth about $6 million.

Claim holders can also mine these Federal lands with minimal reclamation requirements. The only Federal requirement is that when operating on these lands they do not cause 'unnecessary or undue degradation.' What does this term mean? It means that they can do whatever they want as long as it's pretty much what all of the other miners are doing.

The issue of Mining Law reform does not deal with coal, or that matter, oil and gas. These energy minerals, if located on Federal lands, are leased by the government, and a royalty is charged. Further, Mining Law reform does not deal with private lands. The scope of the Mining Law of 1872 and legislation to reform it is limited to hardrock minerals such as gold, silver, lead and zinc on Federal lands in the Western States.

The Rahall bill to reform the Mining Law of 1872 would prohibit the continued giveaway of public lands. It would require that mining claims are diligently developed. It would require that a holding fee be paid for the use of the land, and that a royalty be paid on the production of valuable minerals extracted from these Federal lands. And, it would require industry to comply with some basic reclamation standards.

INTRODUCTION OF PROTECTION FROM SEXUAL PREDATORS ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. SLAUGHTER. Mr. Speaker, today I reintroduce the Protection from Sexual Predators Act. Like many of you, I am tired of picking up the morning paper and reading about the latest serial rapist to be caught, only to see printed a laundry list of his previous convictions for sexual assault. Our constituents deserve to be protected from the country's worst repeat sexual predators.

The Protection from Sexual Predators Act passed the House last year by a vote of 411 to 4, and allows Federal prosecution of rapes and serious sexual assaults committed by repeat offenders. The measure requires that repeat offenders convicted under this section be automatically sentenced to life in prison without parole. In other words, two strikes, and you're in—for life.

It's time we got tougher on the most violent, repeat sexual offenders. These habitual sex offenders are a different kind of criminal—their recidivism rates are incredibly high, and they are known to strike again and again. Often these serial criminals will venture from one State to another, and if they are caught, they seldom receive the harshest penalties under the current law.

When my bill is passed into law, violent sexual predators such as John Suggs of New York City will not be free to rape again, and the Supreme Court will not need to deliberate whether to release lifelong child molesters back into society as in the case *Kansas* v. *Kendricks*, currently pending before the Supreme Court. This measure will make our streets and neighborhoods safer, for children, the elderly, and the women of this country.

My bill will require courts to hand down tougher sentences, ridding our communities and neighborhoods of the most brutal offenders who prey upon the most vulnerable in our society.

HEARING CARE FOR FEDERAL EMPLOYEES ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GILMAN. Mr. Speaker, I rise today to introduce legislation which will cover audiology services for Federal employees.

This legislation requires Federal health benefit insurance carriers to guarantee direct access to, and reimbursement for, audiologist-provided hearing care services when hearing care is covered under a Federal health benefit plan.

As my colleagues may be aware, the Federal Government already allows direct access to services provided by optometrists, clinical psychologists, and nurse midwives, yet fails to allow direct access to services provided by audiologists in Federal health benefit plans covering hearing care services.

It is not my intention to expand the services which can be provided by audiologists, but instead to only allow audiologists to provide what they are already licensed to do under State laws—and no more.

Currently the consumers of audiology services are people with hearing loss and related conditions. In fact, there are an estimated 28 million people in the United States—about 1 in every 10—who are affected by hearing loss. This number is expected to increase to over 40 million people during the next 10 to 20 years, as our national population continues to age.

Moreover, it is worth noting that many private health insurers model their benefits packages after the Federal employee health benefit plan. Accordingly, this bill will also provide important indirect benefits to millions of Americans with hearing loss, who are not Federal employees.

I urge my colleagues to cosponsor the Hearing Care for Federal Employees Act and support freedom of choice to the patient while providing swift and timely access to hearing care.

ELIMINATE THE MARRIAGE PENALTY FOR THE EXCLUSION OF GAIN ON THE SALE OF A PRINCIPAL RESIDENCE BY AN INDIVIDUAL OVER 55

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, today I introduced legislation to correct an inequity in on our current tax system. Under current law, an individual over the age of 55 is allowed a one-time exclusion of capital gain on the sale of a principal residence. This one-time exclusion invokes a marriage penalty.

This legislation would eliminate the marriage penalty for the one-time exclusion of gain on the sale of a principal residence.

For example, two individuals over the age of 55 who decide to marry and sell their homes would only receive an exclusion for $125,000. Whereas, if they did not marry and sold their homes they each would be able to receive an exclusion for $125,000. This legislation addresses this problem. The legislation eliminates the marriage penalty by disregarding elections made before the date of marriage or elections made on homes sold after the date of marriage, but purchased before the marriage.

Fairness is an important element of tax policy. The current policy on the one-time exclusion assists individuals who are approaching retirement and it is a valuable exclusion. Our Tax Code should be fair and not discriminate against basic values such as marriage. The decision to marry should not be based on financial reasons.

I urge you to correct this inequity and support this legislation.

INTRODUCTION OF THE SIKES ACT IMPROVEMENT AMENDMENTS OF 1997: JANUARY 7, 1997

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce this legislation to reauthorize and improve the effectiveness of the act of September 15, 1960, commonly referred to as the Sikes Act.

Since coming to Congress in 1973, I have led the fight to enhance and conserve the vital fish and wildlife resources that exist on our military lands. The Department of Defense [DOD] manages nearly 25 million acres at approximately 900 military bases nationwide. These lands contain a wealth of plant and animal life, they provide vital habitat for thousands of migratory waterfowl and they are home for nearly 100 Federally listed species.

The Department does a superb job of training our young men and women for combat. Regrettably, they often fail to do even an adequate job of comprehensive natural resource management planning. At far too many installations, management plans have never been written, are outdated, or are largely ignored. Furthermore, when these plans do exist, all too often they are not coordinated or integrated with other military activities.

While this bill will make a number of improvements in the Sikes Act, it does not undermine in any way the fundamental training mission of a military base.

What the bill does is expand the scope of existing conservation plans to encompass all natural resource management activities, require management plans for all appropriate installations, mandate an annual report summarizing the status of these plans, require that trained personnel be available, and ensure that DOD shall manage each installation to provide for the conservation of fish and wildlife, and to allow the multipurpose uses of those resources. In addition, the bill extends the act's authorization for the next 3 years at half of its previous funding level.

Mr. Speaker, this is a noncontroversial bill. In fact, during the last Congress, it was thoroughly considered by both the House Resources and National Security Committees. It was approved by the House of Representatives unanimously by voice vote on July 11, 1995.

Regrettably, the other body took no action on this measure. While I am today introducing a bill that is identical to the one that was overwhelmingly adopted by the House, I am committed to reauthorizing this longstanding conservation measure. With that in mind, I intend to meet with representatives of the Departments of Defense and the Interior, the International Association of Fish and Wildlife Agencies, and members of the House National Security Committee. I am confident that together we can develop a strong and effective reauthorization bill.

Mr. Speaker, I want to thank the Chairman of the Subcommittee on Fisheries, Wildlife and Oceans, JIM SAXTON, for joining with me in this effort and I commend the Sikes Act Improvement Amendments of 1997 to the membership of the House of Representatives.

PUBLIC HOUSING TENANT INTEGRITY ACT OF 1977

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. KNOLLENBERG. Mr. Speaker, I rise today to introduce the Public Housing Tenant Integrity Act of 1997. This bill amends section 6103 of the Internal Revenue Code and section 904 of the Stewart B. McKinney Homeless Assistance Amendment Act to allow the Housing and Urban Development Administration [HUD] to fight fraud and abuse that has developed when public housing tenants fail to fully disclose or update their income.

As we move into the 21st century, budgetary constraints will continue to limit nondefense discretionary spending. Public housing is not immune from these constraints. Though Congress and HUD have taken steps to prepare housing for the future, there is still room for improvement. One area I believe we can make substantial inroads is to eliminate fraud and abuse. By aggressively attacking existing fraud and abuse, we can squeeze every dollar appropriated for public housing and direct it effectively to those most in need. We can also assure the American taxpayer that tenants pay their fair share.

As most of you know, when an individual applies for public housing, the key qualification is income. An applicant who meets the income requirement is required to pay rent equal to 30 percent of their income. The taxpayer subsidizes the rest. Unfortunately, housing agencies do not have independent sources to verify the applicant's wage and income data, even if the housing agency suspects the individual underreported income. Moreover, the system encourages residents to underreport their income when they apply for housing.

Despite the lack of a nationwide study, HUD has estimated the abuse at $300 million annually. Further, the General Accounting Office [GAO] issued a 1992 report that found unreported income abuse could be as high as 21 percent. Others have projected a reasonable estimate between 5 and 10 percent which is consistent with other Federal benefit programs. Whatever the number, fighting this abuse and stopping individuals who defraud the Federal Government is a commonsense goal.

Congress, HUD, and others have long recognized the need to address this particular problem and in 1988 Congress passed the Steward B. McKinney Homeless Assistance Amendments Act. The McKinney Act provided State agencies with the authority to disclose wage and unemployment data to HUD and housing authorities, but not to owners or managers. This program was somewhat successful, but it expired in October 1994.

Then in 1993, Congress passed the Omnibus Budget Reconciliation Act. It contained a provision which permits the Social Security Administration [SSA] and the Internal Revenue Service [IRS] to disclose earned and unearned income data to HUD. However, and this is very important, it did not provide for the redisclosure of income data to those local entities who directly service and oversee the tenants.

This particular program was first implemented in 1996 and matches information reported by the tenant with earned and unearned income reported to the SSA and IRS. If a discrepancy exists, HUD notifies the local housing authority that a particular tenant has underreported their income, but HUD is prohibited from disclosing how much the discrepancy is or where it exists. Thus, the local housing authority must launch their own investigation or have the tenant voluntarily disclose the information, despite the fact HUD has the information they need. HUD also informs the tenant, requesting he or she redisclose to the housing agencies their true income. Unfortunately, the individual must voluntarily do this and without giving local entities the information already complied the true effectiveness of this program will be diminished.

As you can see, steps have been taken to fight those who abuse the system, but the final step still remains. The Public Housing Tenant Integrity Act of 1997 builds on this foundation by making it possible for HUD to share the information it has to local housing agencies. Allowing local agencies to receive this information is a logical step, and it makes perfect sense. After all, local agencies are on the front line and work with public housing tenants every day.

One area of concern with computer matching is preventing the illegal disclosure of Federal tax data. However, safeguards currently exist between, and I believe we can develop further safeguards to protect the interests of all those involved including Congress and the IRS. Moreover, I believe Congress has an obligation to the taxpayer that public housing assistance is a benefit not a right.

Mr. Speaker, this legislation is designed to stop individuals who defraud the government of hundreds of millions of dollars annually. We have the technology to fight this fraud and abuse and passage of the Public Housing Tenant Integrity Act is needed to provide local housing authorities with the necessary tools to do just that. I look forward to working with my colleagues on both sides of the aisle to pass this commonsense legislation.

LEGISLATION TO ELIMINATE MISMANAGED HUD PROGRAM

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. BAKER. Mr. Speaker, recent allegations involving fraud in the Single Family Homes for Homeless Initiative and the mismanagement of the program by the Department of Housing and Urban Development [HUD] in New Orleans—in particular, the division of Community Planning and Development—have fueled concern over abuse of taxpayer assets.

After significant investigation, I introduced H.R. 4085 in the 104th Congress, a bill to eliminate the program. Two other Subcommittee Chairmen of the House Banking Committee—SPENCER BACHUS of the Subcommittee on General Oversight and RICK LAZIO of the Subcommittee on Housing and Community Opportunity—cosponsored the legislation with me. The bill effectively shuts the program down and returns the homes to taxpayers.

We introduce the same bill today to continue our efforts in the 105th Congress to overhaul the program for those most in need of housing and to eliminate fraud and mismanagement in the Federal Government.

Earlier this year, I contacted the Inspector General of HUD, an independent office designed to oversee the department, and requested a comprehensive investigation of Safety Net, Inc., and its participation in the homeless program. In addition, I requested a full investigation of the HUD Office in New Orleans, particularly Community Planning and Development.

The program is more accurately described as the Homes for Homeless Initiative of the Single-Family Property Disposition Program. Here is how the program works: If a person defaults on the mortgage payments of his/her home and the home has an insured mortgage by the Federal Housing Administration [FHA], then the Federal Government becomes the owner of the home. In other words, in case of default, HUD pays the mortgage to the bank, acquires the property, and is required to dispose of it.

For most of these acquired properties, HUD leases the properties to nonprofits to serve homeless persons. An acquired property is leased to a nonprofit for $1 a year for up to 5 years. The home is to be provided for those persons who are homeless. One major restriction is that the tenant must have an income that is 50 percent of the median income (in Baton Rouge $19,146 for a family of four).

The nonprofit can purchase the home at any time for 10 percent below the appraised fair market value, as established at the time the $1 lease is signed. It is possible to sell the home well below present market value 5 years after the initial appraisal. A nonprofit is restricted from reselling to anyone other than a low income homebuyer (defined at $31,450 for a family of four).

The Sunday Advocate alleges that Safety Net, Inc., violated many of the rules of the homeless disposition program. In addition, it may have broken some of the laws required to participate in the program. I have requested that the investigation answer these allegations.

It is also alleged that the HUD Office in New Orleans failed miserably to monitor the program and the participation by Safety Net, Inc., for 5 years. I have asked the Inspector General to investigate the HUD Office as well.

Moreover, the U.S. Attorney's Office in Baton Rouge has responded to the case by opening an investigation to determine whether a criminal prosecution is warranted. The U.S. Attorney's Office is working in concert with the Inspector General's Office.

As a senior member of the Subcommittee on Housing and Community Opportunity, I have long been an advocate of reform of the HUD acquired Single-Family Property Disposition Program. In 1992, I sponsored an amendment and passed into law a requirement that HUD must try first to sell the property in the private market to the highest bidder. I believe that our first priority is to recover as much taxpayer money for the acquired home. If we cannot sell the property to maximize taxpayer return, we should use our acquired properties in the most effective manner possible to house our most disadvantaged citizens without a home.

To continue rigorous oversight of this program, I requested that the Banking and Financial Services Committee conduct a hearing on this case and other abuses of this program to guarantee that we do not waste taxpayer monies and to insure we provide for our most needy citizens. Chairman BACHUS has travelled down to Baton Rouge and together, we conducted an oversight hearing in Louisiana on August 24.

I am committed to prosecuting fraud and reforming our Federal Government. Moreover, I believe we can provide a safe, decent home for our most underprivileged citizens while maintaining accountability for taxpayers.

GAS TAX RESTITUTION ACT OF 1996

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RAHALL. Mr. Speaker, today I along with Representative TOM PETRI are reintroducing legislation we sponsored during the last Congress to transfer to the highway trust fund revenues received from the 4.3 cents of the Federal motor fuel tax that is currently going to the general fund.

Many of us concerned with our surface transportation infrastructure were troubled when in 1993 this tax of 4.3 cents per gallon of motor fuel was imposed not for the purpose of bolstering receipts into the highway trust fund, but for the purposes of deficit reduction.

As we all know, the basic premise of the Federal motor fuel tax is that it is a user fee collected for the express purpose of making improvements to our road and highway infrastructure. It is one of the few taxes where Americans can see an immediate and direct result for having to pay it as they drive on the Nation's highways.

Last year we debated repealing the 4.3 cents-per-gallon tax. At the time, I offered an alternative. Restore it to the highway trust fund. Today, I do so again.

Few, if anyone in this body, can say that the areas they represent do not require road and highway improvements. The legislation I am introducing today will not only restore faith with the American people on the uses of the Federal motor fuel taxes, but will certainly assist in making needed surface transportation enhancements.

I would note that as introduced, this legislation would dedicate the entire 4.3 cents-per-gallon tax to the highway trust fund, and would not earmark any portion of this amount for mass transit, or for that matter, for any proposed new area of eligibility such as for Amtrak. This is not to say that I am necessarily opposed to the use of some portion of the 4.3 cents-per-gallon tax for these purposes and policy decisions of that nature can certainly be made during further consideration of this legislation.

IN HONOR OF TRIDENT PRECISION MANUFACTURING, INC.

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. SLAUGHTER. Mr. Speaker, I rise today to pay special tribute to a distinguished company located in New York's 28th Congressional District: Trident Precision Manufacturing Inc.

President Clinton and Commerce Secretary Mickey Kantor honored Trident on December 6, 1996, by awarding it the 1996 Malcolm Baldrige National Quality Award for Small Business. The Baldrige Award, which highlights customer satisfaction, workforce empowerment, and increased productivity, is given annually to companies that symbolize America's commitment to excellence. No company could be more deserving of this award than Trident Precision Manufacturing.

Trident manufactures precision sheet metal components, electro-mechanical assemblies, and custom products. It has grown from a 3 person operation at its founding in 1979 to an employer of 167 people at its facility in Webster, NY today.

Between 1991 and 1995, Trident's employees submitted more than 5,000 process-improvement recommendations—and Trident's management implemented 97 percent of those ideas. It is a testament to Trident's workers and management that over that 5-year period, Trident made significant gains in productivity, efficiency, customer satisfaction, sales, and profitability. Sales per employee jumped 29 percent, time spent on rework decreased nearly 90 percent, and customer complaints fell by 80 percent. Defect rates have fallen so consistently that Trident now offers a full guarantee against defects in its custom products.

In 1995, Trident's five major customers rated the quality of Trident's products at 99.8 percent or better. The company has never lost a customer to a competitor.

I am delighted that President Clinton and Commerce Secretary Kantor chose to recognize Trident for its strong record of quality and its excellent business performance. This award was a result of Trident's exceptional commitment, not only to the company's bottom line, but to its employees and customers. Trident's efforts to train and reward its workers are to be particularly commended. Since 1989, Trident has invested an average of 4.4 percent of its payroll on training and education. This is a remarkable investment for a small company, and two to three times above the average for all U.S. industry.

Trident represents the very best in American business: putting its customers first, trusting its employees, building quality into products and services, and being responsible corporate citizens. I am proud of Trident's success, its achievement, and of the contribution it makes to our community. Congratulations to everyone at Trident who shares in this honor.

INTRODUCTION OF THE NEW WILDLIFE REFUGE AUTHORIZATION ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I am today introducing the New Wildlife Refuge Reauthorization Act of 1997.

By way of background, our National Wildlife Refuge System is comprised of 91.7 million acres of Federal lands that provide essential habitat for hundreds of species and offer recreational opportunities for millions of Americans.

The first wildlife refuge at Pelican Island, FL, was created in 1903 when President Theodore Roosevelt signed an Executive order setting aside three acres of land as a preserve and breeding grounds for native birds. Today, the system has 511 refuges, which are located in all 50 States and 5 territories. These units range in size from the smallest of less than 1 acre at Mille Lacs National Wildlife Refuge in Minnesota, to the largest of 19.3 million acres in the Arctic National Wildlife Refuge in Alaska. In the last decade, more than 80 new refuges have been added to the system.

The vast majority of our Nation's 511 refuge units were created administratively. In fact, less than 70 refuges have been designated by Congress. The authorizing committees, therefore, have had little, if any, input in the establishment of the other 460 refuges, which include the 192,493-acre Great White Heron National Wildlife Refuge in Florida, the 254,400-acre Hawaiian Island National Wildlife Refuge, and the 572,000-acre Sheldon National Wildlife Refuge in Nevada. These Executive orders have set aside a huge amount of privately owned lands.

Under current law, funding for refuge acquisitions comes from two primary sources: No. 1, annual appropriations from the Land and Water Conservation Fund [LWCF], and No. 2, the Migratory Bird Conservation Fund, which is financed from the purchase of a yearly duck stamp and refuge entrance fees.

In the past, more than $1 billion in taxpayer money has been appropriated from the Land and Water Conservation Fund to acquire lands that become additions to existing units or entirely new wildlife refuges. This represents a substantial expenditure of money by the U.S. Fish and Wildlife Service [USFWS] without adequate input by Congress.

By contrast, the Migratory Bird Commission, whose membership includes four bipartisan Members of Congress, regularly meets to evaluate and decide how Migratory Bird Conservation Fund will be spent. Under normal conditions, a Governor of a State, after consulting with local citizens, will recommend that a new refuge be created or that additional land be added to the system. It is a process that has worked effectively for a number of years.

Regrettably, the checks and balances that exist on the uses of the Migratory Bird Conservation Fund simply do not exist in the allocation of money from the LWCF. Therefore, lacking such a review mechanism, we have a responsibility to carefully examine the recommendations of the USFWS and, if we so choose, to legislatively create any new wildlife refuge using LWCF money in the future. This is an essential change.

Under the terms of the New Wildlife Refuge Reauthorization Act, no funds could be expended from the Land and Water Conservation Fund to create a new refuge without prior congressional authorization. This bill does not affect any land additions to the existing 511 wildlife refuges or those created with money from the Migratory Bird Conservation Fund.

Mr. Speaker, Congress must have a more meaningful role in the acquisition of hundreds of acres of new Federal lands. We should authorize new wildlife refuges just as we authorize new flood control projects, highways, national parks, scenic rivers, and weapons systems. After all, we are talking about the expenditure of millions of taxpayers dollars. Furthermore, at a time when the U.S. Fish and Wildlife Service has a $440 million backlog of unfinished wildlife refuge maintenance projects, a comprehensive review of the service's priorities is appropriate.

I urge the adoption of the New Wildlife Refuge Authorization Act and want to thank our distinguished colleague from California, RICHARD POMBO, for his leadership in this important effort. By enacting this legislation, we will ensure that private property owners and their tax dollars are more adequately protected in the future.

SUPPORT THE POSTAL CORE BUSINESS ACT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to join my colleague from San Diego, Mr. HUNTER, in introducing the Postal Core Business Act of 1996. This legislation, which is similar to H.R. 3690 from the 104th Congress, will prevent the U.S. Postal Service [USPS] from unfairly competing with a small business industry, known as Commercial Mail Receiving Agencies [CMRA]. The livelihoods of those who own and operate small commercial packing stores throughout the country, like Mail Boxes Etc. and Postal Annex, are threatened.

More than 10,000 CMRA businesses may be forced to close their doors due to the USPS' tax-free expansion into services already provided by private packaging stores. These expanded services include wrapping, packaging, and shipping of items, and the USPS may expand beyond that. The USPS is opening stores throughout the country, many in locations very near private companies who already provide these services.

The fact is that the USPS is not a fair competitor with private enterprise. The USPS is not forced to charge State or local tax on retail items, it is insured by the Federal Government, and it often does not pay the same Federal, State, and local taxes that private companies must pay. These are only some of the advantages enjoyed by the USPS, creating a playing field tilted against private industry. Moreover, when a customer brings an item to be packaged by the USPS, the USPS requires that the customer send the package through U.S. mail. Commercial mail companies do not require this of their customers.

In addition, on December 16, 1996, the Postal Rate Commission [PRC] declared that the USPS' packaging service, Pack and Send, is subject to the PRC's ratemaking. In its decision, the PRC found that "the Pack & Send service is 'postal' in character, and that establishment of the service and recommendations concerning its fees are functions that the Postal Reorganization Act contemplates to be within the jurisdiction of the Postal Rate Commission." The USPS must now either discontinue the service or submit the service for a rate with the PRC.

Under our bill, the USPS will return to focusing on the core services that it was offering as of January 1, 1994. This is a reasonable approach to protecting jobs and satisfying American consumers seeking postal services. I encourage my colleagues to join me in cosponsoring Mr. HUNTER's legislation.

COMPREHENSIVE PREVENTIVE HEALTH AND PROMOTION ACT OF 1997

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GILMAN. Mr. Speaker, we are all aware of rising health care costs and reports of abuses by private health insurance companies. The United States spends far more per capita on health care than any other major nation; according to 1993 estimates, national health expenditures totaled $884 billion, or 13.4 percent of the gross domestic product [GDP]. Projections on health care expenditures indicate that consumer spending for health services will exceed 18 percent of GDP in the year 2000.

As health care costs continue to climb, insurance carriers have increasingly used experience ratings and underwriting practices to reduce their expenses. This has caused insurance companies to compete for business based on risk selection rather than on efficiency or service to the customer. Essentially, insurers find themselves competing for the healthiest, lowest-cost groups—a situation that leaves individuals, small businesses, families, and high-risk groups searching for affordable, accessible health insurance.

Making matters worse are reports which continue to surface describing practices by HMO's which restrict patients access to quality health care. Examples include health plan restrictions governing their relationships with providers, limiting consumer access, and failing to cover or offer adequate preventive health care.

Accordingly, I rise today to introduce legislation which will help produce a healthier Nation. This measure will cover individuals for periodic health exams, as well as counseling and immunizations.

The Comprehensive Preventive Health and Promotion Act of 1997 will direct the Secretary of Health and Human Services [HHS] to establish a schedule of preventive health care services and to provide for coverage of these services under private health insurance plans and health benefit programs of the Federal Government.

More specifically, the Secretary of HHS, in consultation with representatives of the major health care groups, will establish a schedule of recommended preventive health care services. The list of preventive services will follow the guidelines published in "The Guide to Clinical Preventive Services" and "The Year 2000 Health Objectives." The preventive services will cover periodic health exams, health screening, counseling, immunizations, and health promotion. These services will be specified for both males and females, and for specific age groups.

Additionally, HHS will publish and disseminate information on the benefits of practicing preventive health care, the importance of undergoing periodic health examinations, and the need to establish and maintain a family medical history for businesses, providers of health care services, and other appropriate groups and individuals.

Moreover, prevention and health promotion workshops will be established for corporations and businesses, as well as for the Federal Government. A wellness program will be established to make grants over a 5-year period to 300 eligible employers to establish and conduct on-site workshops on health care promotion for employees. The wellness workshops can include: counseling on nutrition and weight management, clinical sessions on avoiding back injury, programs on smoking cessation, and information on stress management.

Finally, my legislation directs HHS to set up a demonstration project which will go to 50 counties over a 5-year period to provide preventive health care services at health clinics. This program will cover preventive health care services for all children, adults under a certain income level. If above the determined income level, fees will be based on a sliding scale. Additionally, the project will entail both urban and rural areas in different regions of our Nation to educate the public on the benefits of practicing preventive health care, the need for periodic health exams, and the need for establishing a medical history, as well as providing services.

Mr. Speaker, we can all agree that our current health care system needs to be improved, and our Nation needs to become healthier. Experts have concluded that practicing preventive health care does work, and will produce a healthier Nation. Although there is a consensus on the benefits of practicing preventive health care, only approximately 20 percent of health insurance companies offer coverage for periodic health exams.

Accordingly, to all my colleagues who share my concern regarding the importance of producing a healthier Nation, I invite and urge you to cosponsor this measure, sending a clear message to our Nation's citizens that Congress is taking significant steps to improve our Nation's health care system.

REFORM OF THE FEDERAL BLACK LUNG PROGRAM

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RAHALL. Mr. Speaker, today, I am reintroducing legislation that I have sponsored for several Congresses now to form the Federal Black Lung Program.

This legislation reflects the frustration of thousands of miners and their families with the extremely adversarial nature of the current program as administered by the Labor Department.

As it now stands, disabled miniers who suffer from the crippling effects of black lung disease are faced with the Federal bureaucracy so totally lacking in compassion to their plight, that it appears intent upon harassing their efforts to obtain just compensation at every single step of the claim adjudication process.

In fact, today we are witnessing less than a 10-percent approval rate on claims for black lung benefits.

This figure does not attest to any reasonable and unbiased comportment of the facts.

Rather, it represents nothing less than a cruel hoax being perpetrated against hardworking citizens who have dedicated their lives to the energy security and economic well being of this Nation.

The original intent of Congress in enacting legislation to compensate victims of black lung disease was for this to be a fairly straightforward program. This intent has been defeated by years of administrative maneuverings aggravated by some extremely harmful judicial interpretations. Under this bill, we will return to a program that reflects the statutory commitment Congress, and indeed, the Nation, made to compensate these coal miners and their families.

Make no mistake about it. Victims of black lung disease are not people who are looking for a handout.

They are people who worked their lives in one of the most dangerous occupations in this country.

They are people who were promised compensation by their Government. And they are people who now see their Government break that promise.

It is time, indeed, long past the time that Congress move legislation on behalf of the thousands of miners, their widows, and families who are being victimized by this program, the very program that was intended to bring them relief.

In general, this measure contains the following proposals:

I. New Eligibility Standards: A miner would be presumed to be totally disabled by black lung if the miner presents a single piece of qualifying medical evidence such as a positive x ray, ventilatory or blood gas studies, or a medical opinion. The Secretary of Labor could rebut the presumption of eligibility only if he can show that the miner is doing coal mine work or could actually do coal mine work.

II. Application of New Eligibility Standards: The new standards would apply to all claims filed after enactment of the Black Lung Benefits Act of 1991. All pending claims, and claims denied prior to enactment of the Black Lung Benefits Act of 1991 would be reviewed under the new standards.

III. Elimination of Responsible Operators: All claims would be paid out of the coal industry financed Black Lung Disability Trust Fund. The purpose of this provision is to eliminate coal operators as defendants in black lung cases and the advantage they have over claimants by being able to afford to pay legal counsel.

IV. Widows/Dependents: A widow or dependent of a miner would be awarded benefits if the miner worked 25 years or more in the mines; the miner died in whole or in part from black lung; the miner was receiving black lung benefits when he died; or medical evidence offered by the miner before he died satisfies new eligibility standards. Widows who are receiving benefits and who remarry would not be disqualified from continuing to receive the benefits, and a widow would be entitled to receive benefits without regard to the length of time she was married to the miner.

V. Offsets: The practice of offsetting a miner's Social Security benefits by the amount of black lung benefits would be discontinued.

THE REINTRODUCTION OF THE FAIRNESS IN POLITICAL ADVERTISING ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. SLAUGHTER. Mr. Speaker, in this past election season, spending levels for Federal elections shattered all previous records, for an estimated total of $1.6 billion. Given the vast sums of money required to run for office, wealthy individuals have a significant advantage over ordinary citizen candidates. That is hardly representative government. The cost of running for political office in America has simply become too high, and I am determined that we find a better way.

On election night, I vowed to redouble my efforts to clean up our out-of-control campaign finance system. Today I am reintroducing the Fairness in Political Advertising Act, which would both reduce the cost of elections and level the playing field by requiring broadcast stations to make free political advertising time available to candidates, as a condition of those stations renewing their licenses. And because so many voters have expressed dismay over negative advertising, my bill would also require that the programming consist of unedited segments in which the candidate speaks directly into the camera. In this way, candidates would be directly accountable for any statements made.

My first responsibility in this Congress is to see that the people of New York's 28th Congressional District, as well as our Nation, experience fair and clean campaigns in the years to come. The Fairness in Political Advertising Act would go a long way toward reducing the influence of money on our elections. I urge Congress to enact it now.

A BEACON-OF-HOPE FOR ALL AMERICANS: LORRELLE HENRY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle of the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of nonelected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner-city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable services. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines ad BEACONS-OF-HOPE.

Lorrelle Henry is one of these BEACONS-OF-HOPE residing in the central Brooklyn community of New York City and New York State. Ms. Henry served as the director of libraries for the New York City school system until her retirement. She now serves as an adjunct professor at the Borough of Manhattan Community College.

Although retired from the school system, Ms. Henry continues to work as an advocate for children. Ms. Henry serves as president of the Central Brooklyn Martin Luther King Commission; vice president of the New York City Martin Luther King Commission; treasurer of the Brooklyn Women's Political Caucus; member of ALA Caldecott Committee, which selects outstanding children's books; member of the Coretta Scott King Award Jury, which selects outstanding children's books by black authors; member of the board of directors of the Great Day Chorale; member of the Lincoln Place Block Association; and member of the Award of the Americas Committee, which selects outstanding children's books portraying Latin American and Caribbean life. Moreover, she is a recipient of numerous awards including the School Library Service Award and the New York State Martin Luther King, Jr. President's Award.

Lorrelle Henry is the oldest of two children and grew up in Harlem during the exciting times of Langston Hughes, Adam Clayton Powell, and others. Lorrelle's parents always emphasized the necessity for donating time and energy to neighbors and community. In addition, her parents encouraged their children to be political activists.

Lorrelle Henry is a native New Yorker who attended the city's public schools. She later graduated from Brooklyn College and obtained a master's in library science from St. John's University.

Ms. Henry is the mother of three children, Michelle, Gairre, and Scott. And she is the proud grandmother of Kahlil, Shaniqua, Naren, and Jordan.

Lorrelle Henry is a BEACON-OF-HOPE for all of central Brooklyn and for all Americans.

COMPUTER MAINTENANCE COMPETITION ASSURANCE ACT OF 1997

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. KNOLLENBERG. Mr. Speaker, I rise today to introduce a bill to ensure that a computer owner may authorize the activation of their computer by a third party for the limited purpose of servicing computer hardware components. This is the same language that I worked with former Chairman Carlos Moorhead to include in H.R. 1861, section 7, "Limitations on Exclusive Rights; Computer Programs," during the 104th Congress. Under suspension of the rules, H.R. 1861 was passed by voice vote.

The specific problem is when a computer is activated, the software is copied into the Random Access Memory [RAM]. This copy is protected under section 117 of the Copyright Act, as interpreted by the Fourth and Ninth Circuits Court of Appeals. This technical correction is extremely important to Independent Service Organizations [ISO's] who, without this legislation, are prohibited from turning on a customer's computer. A wave of litigation has plagued the computer repair market. The detrimental effect is that ISO's are prevented from reading the diagnostics software and subsequently cannot service the computer's hardware. The financial reality is that the multibillion dollar nationwide ISO industry is at risk.

My bill provides language that authorizes third parties to make such a copy of the limited use of servicing computer hardware components. My bill does nothing to threaten the integrity of the Copyright Act and maintains all other protections under the act.

The intent of the Copyright Act is to protect and encourage a free marketplace of ideas. However, in this instance, it hurts the free market by preventing ISO's from servicing computers. Furthermore, it limits the consumer's choice of who can service their computer and how competitive a fee can be charged.

BANKRUPTCY LAW TECHNICAL CORRECTIONS ACT OF 1997

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONYERS. Mr. Speaker, today I am introducing the Bankruptcy Law Technical Corrections Act of 1997. This legislation provides a number of much-needed technical corrections and updates to our bankruptcy laws.

Many of the changes identified in the bill are designed to remedy drafting errors in the Bankruptcy Reform Act of 1994, while others relate to provisions in the Bankruptcy Code which pre-date the 1994 changes. The legislation is based in part on a series of changes brought to Congress' attention by the nonpartisan National Bankruptcy Conference last Congress, many of which were incorporated into S. 1559, the Bankruptcy Technical Corrections Act of 1996.

Among other things, the bill I am introducing today updates a number of definitions, clarifies that debtors' attorneys may be compensated out of the debtor's estate, clarifies the types of professional services which are eligible for administrative expense treatment, and provides that the 1994 amendments to section 525(c) apply only to bar discrimination concerning students loans and grants because of prior bankruptcies.

The bill also specifies that in 1994, when Congress overruled the *Deprizio* line of cases, we intended the new law to apply to transfers of liens in property. In addition, the bill modifies section 365 of the Bankruptcy Code to, among other things, make it clear that subsection (b)(2)(D), providing an exception to the obligations which must be cured in order for the trustee to assume a lease, covers penalty rates as well as penalty provisions, thereby overruling *In re Claremeont Acquisition Corp.*, 186 B.R. 977, 990 (C.D. Cal. 1995).

The bill also clarifies and updates a number of matters relating to trustees. Among other things, the legislation clarifies the procedure for electing private trustees in chapter 11 cases, specifies that trustees may operate in a full range of professional capacities and retain brokers who work under a range of compensation arrangements, and eliminates the outdated trustee residency requirement in chapter 7 cases.

Finally, the bill eliminates the construction of the Bankruptcy Code which prevented nonindividuals from bringing actions for violations of the automatic stay, and conforms the grace period for filing security interests under section 547 to 20 days—consistent with other provisions in the Bankruptcy Code.

With a record million plus bankruptcy filings in 1996, it is essential that we act to smooth the operation of our insolvency laws. These technical changes will benefit both debtors and creditors, and it's my hope that Congress can quickly take up and pass this bill during the 105th Congress.

IN HONOR OF MARTIN LUTHER KING, JR.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GILMAN. Mr. Speaker, later this month Americans will commemorate the birthday of an outstanding patriot and great moral leader, the late Rev. Dr. Martin King, Jr.

Rev. King is so vital in the memory of those of us who are old enough to remember him that it is hard to imagine that, had he not been so tragically murdered, he would be celebrating his 68th birthday this month. Dr. King was such a vibrant personality and so reflective of his times one can only wonder what his role would be today had he not been taken from us at such a young age.

Today, the entire Nation is in debate regarding Proposition 209 in California, with both sides claiming that theirs is the path to true racial justice. A popular current motion picture depicts the 30 year struggle to bring the assassin of Medgar Evers at long last to justice. Our talk shows and pundits have devoted a great deal of time debating the policy of the Oakland, CA, school system in treating ebonics as a separate language. Americans everywhere have been appalled throughout the past year regarding the burning by arsonists of predominantly Afro-American churches throughout the Nation but especially in the South. A few weeks ago, Dr. King's assassin lay near death in a Tennessee hospital, with people all around the world hoping that, on his deathbed, he would finally reveal the truth of that tragic day in 1968, and if he indeed acted alone.

One can only speculate on what Dr. King's comments would have been in these and other controversies.

We do know, however, that Dr. King would have reminded us in each and every one of these instances of the message he devoted his life to deliver, and which cost him his life. Rev. King's message was that "hate destroys the hater more than the hated."

We have a long way to go before prejudice and intolerance are eradicated. It behooves us all on the birthday of this great American, to recall his vital and timeless message.

Martin Luther King's birthday is an appropriate time for all Americans to remember that we must continue to move forward, until the day when all of us are afforded full opportunity, and that none of us have to be concerned that race, color, creed, or ethnic heritage are a hindrance to any individual, or to our nation as a whole.

Dr. King kept urging his fellow Americans to free themselves from the shackles of hatred. Let us resolve, in these last few years of the 20th century, to recommit ourselves to the goals with which Martin Luther King inspired us all over a quarter century ago.

A PROPOSAL TO BRING OUR SCHOOLS INTO THE 21st CENTURY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to discuss our education system and to propose legislation that I am developing to help accelerate our society's private investment in our young people.

The key to the continued success and survival of America and of individual Americans is the quality of our children's education. As we approach the 21st Century, our education system and our young people alike face tremendous challenges.

We agree that today's classrooms are supported by dedicated teachers, involved families, and bright young children. But many of our Nation's classrooms lack the important technological resources that they need to train both teachers and students in the ways of the future. Most jobs today, and a vast majority of jobs in the future, demand familiarity and skill with high technology. Technological literacy has long been a must for our scientists and engineers. But technological literacy is increasingly a prerequisite for factory production workers, law enforcement personnel, office staffs and thousands of other careers less frequently associated with technology and the present revolution in telecommunications.

How is our system of education meeting this tremendous change? Despite good intentions, it is not doing well enough. Less than one in eight of our classrooms has a phone jack. Fewer than 1 in 50 classrooms are connected to the Internet, one of the fastest-growing and most dynamic information tools of our time. Fortunately, Congress last year enacted comprehensive telecommunications reform legislation which will heavily discount the rates schools will pay for interactive connectivity.

But the challenge extends beyond needs for technological linkups and hardware. Too many of our teachers lack the hardware, software, or training to teach young people about technology, or to harness technological advancements to improve education as it has transformed commerce and communications.

Without early training in computer programming or digital technology, many of our future leaders will start off in life at a severe disadvantage.

Many private interests already make significant investments in education technology. In my San Diego County congressional district, major employers like Sony, Pacific Bell and Qualcomm invest significant time and resources into adopting local public schools. My annual High Tech Fair introduces thousands of high school students to our community's leading high-tech employers and the work they are doing for the future. An organization called the San Diego Science Alliance gathers together dozens of companies and university research organizations to expand student and teacher interest in technology, science, and research. The Detwiler Foundation, located in La Jolla, CA, has expanded nationally its innovative plan to accept donations of computers, refurbish them to the state-of-the-art, and install them in classrooms. And several major education software firms, including Jostens and the Lightspan Partnership, are working on bringing technology into classrooms from headquarters in San Diego County.

As a father, as a former teacher, coach and top gun instructor, and as the past chairman of the House Subcommittee on Early Childhood, Youth and Families, I am more convinced now than ever before that the need is so great that more must be done to bring the education of our young people into the 21st Century. Congress is now investing about $1 billion annually into education technology, but this is a drop in the bucket. Years of Government overspending, deficits and debt make a more massive direct Federal investment program unfeasible and unlikely. We should instead work to direct the innovation and energy of private enterprise to the education of our young people.

This is why I am developing legislation to expand tax incentives for American businesses to invest privately and directly in their local classrooms. Today, companies can deduct from taxable income the depreciated value of products which are donated to charitable tax-exempt organizations. Under my plan, companies such as telephone companies, computer networking firms, software companies, and perhaps even professionals in high-tech training would be offered an expanded tax incentive to donate equipment or services to local schools.

This type of tax incentive would expand private investment in the technological literacy of America's young people. It would accelerate the equipping of our young people for the high-tech environment that exists today, and tomorrow as well.

Such legislation raises important questions. Should the expanded tax credit be available for donations to private schools and homeschooling organizations, in addition to public schools? How can the credit be limited only to those donations that are part of a school's own education technology plan. It should not be an incentive for companies to dump obsolete equipment or software on schools that do not want it. What constitutes appropriate products and services that would be eligible for the expanded credit, and how should they be valued?

These issues should not stop us from taking action. The job of bringing the education of our children into the 21st Century is a tremendous task. But while the task is great, I remind my colleagues that the opportunity for this proposal to benefit our country and our children is greater still.

Mr. Speaker, as I continue to develop this important legislation, I encourage my colleagues to discuss this important matter with families, teachers, school staffs, employers and universities in their own congressional districts. Recommendations and suggestions are most welcome, and should be directed to my Washington office.

SMALL COMMUNITIES CDBG MULTIPURPOSE FACILITIES ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RICHARDSON. Mr. Speaker, today I am pleased to introduce legislation that will enable small towns across our Nation to fully benefit from the community development block grant program available through the Department of Housing and Urban Development.

My bill would amend the community development block grant regulations to allow municipal employees in towns of 5,000 or less population to use not more than 25 percent of the square footage in facilities purchased, constructed or renovated with CDBG funds.

I am introducing this legislation after learning of a problem in the Village of Grady, a small community in eastern New Mexico. Strapped for adequate office space, municipal employees sought and received what they thought was appropriate Government approval to move into a small space in a facility built with CDBG funds. But lo and behold, once the move took place, a further examination of Government regulations revealed that the village is prohibited by law from occupying any space in a building built with CDBG funds. The financially strapped village is now stuck with a $13,500 expense to remain in the building.

A small town has a severely limited tax base. It cannot afford to construct separate buildings for every essential service offered its residents. It cannot afford to purchase duplicate office equipment and supplies nor to pay insurance, utilities, and maintenance expenses on several buildings.

Citizens who are hired for municipal jobs in small communities, such as clerks, policemen, firemen, and emergency medical service employees, must often share job responsibilities. Not only is it not economically feasible, but it is very difficult for these employees to work form separate buildings in terms of job communication and coordination.

Small towns must provide vital services to their residents. To do so efficiently, municipal employees must be able to conduct business in decent, affordable, and convenient facilities. We must give our small communities special consideration and enable them to make the best use of limited funding resources. A multipurpose use of facilities purchased, built or renovated with community development block grants is the only answer.

IN HONOR OF THE FAIRPORT FIRE DEPARTMENT MARCHING BAND

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. SLAUGHTER. Mr. Speaker, I rise to pay tribute to the Fairport Fire Department Marching Band, which celebrated its 25th anniversary on January 4, 1997.

Over the past 25 years, this group of talented musicians has spread its reputation across New York State. The band regularly participates in the St. Patrick's Day Parade in Syracuse, NY, and the "Christmas In July" Parade in Clayton, NY. It has received numerous prizes and honors, including winning the State championship 5 of the past 7 years. The band also has had the honor of displaying its musical talent to Vice President AL GORE.

In addition to parading and competing, the players perform numerous concerts throughout the Rochester area. The Rochester community benefits immeasurably from the contributions of this dedicated and talented group of people.

I extend my congratulations to them as they celebrate 25 years of making music.

BEACON-OF-HOPE FOR ALL AMERICANS: EVY PAPILLON

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of nonelected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner-city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as BEACONS-OF-HOPE.

Evy Papillon is one of these BEACONS-OF-HOPE residing in the Central Brooklyn community of New York City and New York State. Throughout the years, Evy Papillon has worked diligently in positions that she found to be beneficial to the community. She is directly responsible for community enhancement efforts that impact the social-human services and health care. Every Saturday, Ms. Papillon devotes her time toward feeding the homeless at her own expense. A member of Foyer Chretien since 1993, she assists Haitians and Haitian-Americans with problems regarding illiteracy and financial challenges. She also helps individuals obtain visas, gain residency, and encourages them to fulfill civic responsibilities.

Recognizing the importance of early detection of breast cancer, Evy Papillon brought the annual Community Health Fair to her church, St. Catherine's of Genoa in Brooklyn. Her socially conscious political work has brought her talents to a number of important organizations. She is one of the founding members of two organizations: Caribbean Women's Health Association and Community Action Project [CAP]. Ms. Papillon's community focus continues in her work with the Community Affairs Department of the New York City Police 67th Precinct. She is also an enthusiastic member of 100 Women for Major Owens; second vice president of the Martin Luther King Commission; member and past membership chair of the Brooklyn Women's Political Caucus, and a liaison for the Democratic Party for Haitian-American Democrats in Brooklyn.

Among the many awards and commendations received by Evy Papillon are: Kingsboro Psychiatric Center Family Care Program Award; New York City State Employees Federated Appeal Recognition Award; Director's Award, Kingsboro Psychiatric Center; and the Central Brooklyn Martin Luther King Commission Award.

Evy Papillon emigrated to the United States from Jeremie, Haiti in 1959. She is a graduate of St. Joseph's College LaChine at the University of Montreal where she received a bachelor of arts degree in nursing and attended St. Joseph's College in New York where she received a bachelor of arts in 1983, and a master of arts in 1986 in health administration.

Evy Papillon is a BEACONS-OF-HOPE for Central Brooklyn and for all Americans.

COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RICHARDSON. Mr. Speaker, today, I am pleased to be introducing legislation to help lead the battle to end fetal alcohol syndrome. The Comprehensive Fetal Alcohol Syndrome Prevention Act will establish a well-coordinated prevention program to help end one of the most devastating conditions afflicting our Nation's children today.

Fetal alcohol syndrome is a frustrating problem in our society today. It is completely preventable. Very simple. No alcohol. No birth defects. It sounds like it would be easy to eliminate this problem but it's not.

Fetal alcohol syndrome remains one of the top three causes of birth defects in this Nation and the leading known cause of mental retardation. In my home State of New Mexico, some parts of the State have rates of fetal alcohol syndrome from two to five times higher than the national average.

The bill being introduced in the House today is an important step in the right direction toward eliminating this problem. This legislation will help create comprehensive public education, prevention, and research programs within the Department of Health and Human Services. The bill will give us a coordinated system to begin to really reduce the incidence of this very costly birth defect.

The bottom line is that we must get Federal funds to the areas that count: to schools, to community health centers, and to clinics. In those places, the funds can be used to spread the word about the dangers of consuming alcohol during pregnancy.

It's obvious that we have not yet found an effective way to prevent women from consuming alcohol during pregnancy. In fact, recent studies have shown that the number of those born with fetal alcohol syndrome is actually on the rise. We have been given a challenge to our Nation's public health and we have so far failed to meet it.

As we begin to earnestly debate how to reform our health care system, it only makes sense that we work to eliminate health care problems in our country that can be completely prevented.

We must face these challenges and meet them head on. Eliminating these completely preventable problems will not only go a long ways toward improving our health care system, but also the lives of our people.

MACBRIDE PRINCIPLES BILL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GILMAN. Mr. Speaker, today I rise to introduce the Federal MacBride Principles bill. I am pleased once again to be joined by my distinguished colleague and Ad Hoc Committee for Irish Affairs co-chair, Mr. MANTON of New York, as an original cosponsor of this important bipartisan antidiscrimination measure dealing with employment practices in Northern Ireland.

Fair employment for Catholics in Northern Ireland is an issue that has for many years concerned me, as well as millions of Irish here in America, and all around the globe.

I was very pleased in the 104th Congress to not only hold congressional hearings on this subject matter, but to also lead the effort for the first ever congressional passage of the MacBride Fair Employment Principles as part of our United States taxpayer contribution to the International Fund for Ireland [IFI].

This bill, which we introduce today, incorporates all of the minor changes we made in the MacBride Principles, i.e., principles of economic justice as defined and passed by the last Congress as part of the U.S. contribution to the IFI in the foreign aid bill I referenced earlier. The MacBride Principles have not been changed in any substantive way.

We must treat equally those who would receive any United States foreign assistance, the very same as we do United States employers doing business in Northern Ireland. The changes made in the Federal MacBride bill I am introducing today governing these United States employers doing business there, will also serve to make our approach to both recipients of foreign aid and United States employers doing business in Northern Ireland, totally consistent, and identical, as well.

Our bill would prohibit all United States companies in Northern Ireland from exporting their products back to the United States, unless they are in compliance with these simply straightforward MacBride Principles intended to deal with, and help promote economic justice in the north of Ireland. These principles serve as a set of guidelines for fair employment by establishing a code of corporate conduct, which explicitly does not require quotas, or any form of reverse discrimination.

The MacBride Principles campaign has been the most effective and meaningful effort by Irish America, and their many allies around the world, against the systemic and longstanding anti-Catholic discrimination in employment practices in Northern Ireland. I have been pleased to work with the Irish National Caucus, and AOH, and other outstanding Irish-American groups, and the American labor movement, in this very important cause.

The MacBride effort has played a vital role in keeping the issue of anti-Catholic discrimination in Northern Ireland visible and in the public eye, including as part of any United States foreign assistance to Northern Ireland. The initial campaign was instrumental in bringing about the British Government's Fair Employment Act of 1989.

Much more still needs to be done to address a serious and continuing problem in Northern Ireland, where Catholics are still twice as likely to be unemployed as that of their Protestant counterparts. This is unfair and must change if lasting peace and justice are ever to take hold in Northern Ireland.

The bill we are introducing today will help bring about much needed additional change, at least as to employment practices of the many United States firms doing business in the north of Ireland today.

The MacBride Principles have the support of many in the Irish Government, the European Parliament, and both major political parties here in the United States we are also pleased to see this same support for MacBride included for the first time ever in both major political party platforms this past presidential election year here in the United States.

Mr. Clinton as a candidate pledged during the 1992 Presidential campaign that he would support the MacBride Principles. However, during the 104th Congress he forgot that pledge while his administration fought from the outset my efforts at inclusion of the MacBride Principles are part of the U.S. contribution to the IFI in the foreign aid bill.

The President says he continues to support the MacBride Principles. These principles have been passed into law in 16 States, including our own State of New York. Many American cities and towns have also passed laws or resolutions on the principles. Indeed, the U.S. Congress allowed the principles to become law for the District of Columbia on March 16, 1993; and we passed them last year as part of the foreign aid authorization bill, but regret some we were not able to overcome the President's veto of this bill, and make them law.

The President after his veto of the foreign aid bill during the 104th Congress, ordered his U.S. Agency for International Development Administrator Brian Atwood, and our U.S. observer to the IFI to work to ensure that the IFI complied as least as to the U.S. contribution, with our provisions included as part of the foreign aid bill (H.R. 1561). His move represented some progress, but we must do more, and codify these principles into law. We would welcome the President's support for these efforts.

We must be all we can to help address and bring focus to bear on the twin problems of unemployment and discrimination, especially in the Catholic community in Northern Ireland. The U.S. can help play an important role in the chances for lasting peace and justice in Northern Ireland by working to ensure that Northern Ireland had shared economic development and provides for economic justice among both traditions.

Only then can peace and justice take firm and lasting hold in Northern Ireland. The Macbride Principles provide a vital tool to help ensure that the United States neither accepts nor in any way helps maintain the totally unacceptable status quo of twice the level of Catholic unemployment as that of the other tradition which still exists in Northern Ireland today.

Accordingly, I urge all my colleagues concerned about lasting peace and justice in Northern Ireland to support this bill we are introducing today.

INTRODUCTION OF INDEPENDENT COUNSEL LAW REFORM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONYERS. Mr. Speaker, today I am introducing a new bill that will amend the independent counsel law to reform many of the current law's clear blemishes.

Although this bill is not intended to embarrass or target the Whitewater independent counsel Ken Starr, the need for serious revisions to the independent counsel law has become clear to me after observing the abuses taking place in the Whitewater case. Whatever your view of Whitewater, you may be surprised to learn that the investigation of Whitewater has already cost more money and involved more FBI agents than the investigation of the World Trade Center bombing.

No matter how serious you think Whitewater may be, there is absolutely no comparison between a land deal that occurred over 17 years ago and a terrorist conspiracy to blow up a major American landmark and office building, killing many people, injuring scores of others, reeking havoc and mayhem on the entire city of New York, and causing millions of dollars in damages.

The office of the independent counsel has run amok. It is time that we stopped allowing independent counsels to run off on their own with no accountability to run up bills running into the millions of dollars with little to no benefit for the American people.

The prosecution of Whitewater has also brought up many ethical matters—beginning with the initial appointment process. My bill will require all ex parte communications relating to the appointment of an independent counsel by the judges who appoint the counsel to be memorialized.

The appointment of Ken Star has also flagged several other ethical issues that should be considered before the appointment of any future counsels.

Are lawyers who have previously represented people with interests adverse to the target of the investigation truly able to be independent? Ken Starr represented Paula Jones, the woman who is suing the President for sexual harassment, and the Bradley Foundation, a conservative organization known for its vitriolic coverage of Whitewater. Such prior representation raises, to my mind, at the very least, the appearance of a conflict.

In addition, while pursuing the Whitewater matter, Judge Starr has remained affiliated with the law firm of Kirkland & Ellis where he pulls down over a million dollars a year. Do we want an independent counsel who will investigate the matter and do his or her job as quickly as possible without distractions or do we want someone who fits the investigation in around other commitments so as not to diminish his high salary?

Mr. Starr's continued affiliation with his firm raises other troubling ethical questions—should an independent counsel be in the position of questioning individuals who are in turn questioning his own law firm about their prior activities—in this case the Resolution Trust Corporation?

It seems to me that the special court should at least consider such conflicts when appointing an independent counsel and my bill will require the court to consider such issues.

As important as these ethical questions are, an even greater problem is that these questions distract us from the main issue—the Whitewater investigation itself. In recent months you have not been able to read a single article about Whitewater before bumping into a discussion of Ken Starr's ethical jungle. Because the office of the independent counsel is so important and so high profile, those appointed to the position should not have even the appearance of conflicts.

My bill would require a court appointing an independent counsel to look at the potential counsel's past and present conflicts and to consider whether the counsel should work on the investigation full time.

I also want to note my grave disappointment over the politicization of efforts to revise the independent counsel law.

Last February, the Crime Subcommittee held a hearing on this matter and there appeared to be widespread bipartisan agreement that the statute is in need of revisions.

I hope that Chairman HYDE will consider this bill, and in the spirit of bipartisanship that was exhibited during the independent counsel hearing, schedule a markup as quickly as possible.

CONYERS' INDEPENDENT COUNSEL LAW—SECTION BY SECTION

SECTION 1. SHORT TITLE.

The title of the bill is the "Independent Counsel Accountability and Reform Act of 1997."

SEC. 2. EXTENSION.

This section reauthorizes the Independent Counsel Act.

SEC. 3. APPOINTMENT AUTHORITY.

This section requires at least one member of the division of the court appointing an independent counsel to have been named to the Federal bench by a President of a different political party than the other two members of the court.

This section gives the District Court for the District of Columbia jurisdiction over the special division.

This section provides that the members of the special division shall be bound by the Judicial Code of Conduct. It authorizes the judges appointing an independent counsel to seek comments about potential nominees, but requires them to memorialize, not the substance, but the fact of those communications.

This section requires the special division to consider whether: (1) a potential independent counsel has any conflicts of interest; (2) will devote him or her self to the investigation full time; and (3) the potential counsel has prosecutorial experience.

SEC. 4. BASIS FOR PRELIMINARY INVESTIGATION.

This section requires the Attorney General to conduct a preliminary investigation whenever she has received specific information from a credible source that an individual subject to the Independent Counsel Law has committed any federal felony or any federal misdemeanor for which there is an established pattern of prosecution.

SEC. 5. SUBPOENA POWER.

This section gives the Attorney General the power to issue subpoenas duces tecum when conducting a preliminary investigation.

SEC. 6. LEVEL OF EVIDENCE.

This section allows the Attorney General to determine that there is no basis for an investigation to continue if, by a preponderance of the evidence, she determines that the subject of the investigation lacked the requisite state of mind.

SEC. 7. PROSECUTORIAL JURISDICTION OF INDEPENDENT COUNSEL.

This section limits the scope of the independent counsel's investigation to those matters for which the Attorney General has requested the appointment of the counsel and matters directly related to such criminal violations, including perjury, obstruction of justice, destruction of the evidence, and intimidation of witnesses.

SEC. 8. CONSULTATION WITH THE DEPARTMENT OF JUSTICE.

This section allows an independent counsel to consult with the Department of Justice regarding the policies and practices of the Department if such consultation would not compromise the counsel's independence.

SEC. 9. AUTHORITIES AND DUTIES OF INDEPENDENT COUNSEL.

This section requires the independent counsel to comply with the Department of Justice's policies for handling the release of information relating to criminal proceedings.

This section requires the independent counsel to petition the court, after 2 years, for funding to continue the investigation. This section also requires the periodic reports filed by the independent counsel to include information justifying the office's expenditures.

SEC. 10. REMOVAL, TERMINATION AND PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.

This section adds the subject of the investigation to the list of those who can seek the termination of the independent counsel on the ground that the investigation has been completed or that it would be appropriate for the Department of Justice to complete the investigation or conduct any prosecution.

This section requires the independent counsel to petition the court for reappointment every 2 years and allows the court to appoint a new counsel if the court finds that appointed counsel is no longer the appropriate person to carry out the investigation.

SEC. 11. JOB PROTECTIONS FOR INDIVIDUALS UNDER INVESTIGATION.

This section protects individuals whose positions are not excepted from the competitive service on the basis of confidential, policy-determining, policymaking, or policy advocating character from being terminated for the sole reason that the person is the subject of an independent counsel investigation.

PROTECT CALIFORNIA'S COASTLINE WITH A MORATORIUM ON OIL AND GAS DEVELOPMENT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce legislation to extend the moratorium on oil and gas development in the Outer Continental Shelf [OCS] off the coast of California. This legislation is similar to H.R. 219 from the 104th Congress.

Californians strongly favor continuing this moratorium. The State of California has enacted a permanent ban on all new offshore oil development in State coastal waters. In addition, California Gov. Pete Wilson and State and local community leaders up and down California's coast have endorsed the continuation of this moratorium.

I believe that the environmental sensitivities along the entire California coastline make the region an inappropriate place to drill for oil using current technology. A 1989 National Academy of Sciences [NAS] study confirmed that new exploration and drilling on existing leases and on undeveloped leases in the same area would be detrimental to the environment. Cultivation of oil and gas off the coast of California could have a negative impact on California's $27 billion-a-year tourism and fishing industries.

This legislation focuses on the entire State of California, and would prohibit the sale of new offshore leases in the southern California, central California, and northern California planning areas through the year 2007. New exploration and drilling on existing active leases and on undeveloped leases in the same areas would be prohibited until the environmental concerns raised by the 1989 National Academy of Sciences study are addressed, resolved, and approved by an independent peer review. This measure ensures that there will be no drilling or exploration along the California coast unless the most knowledgeable scientists inform us that it is absolutely safe to do so.

I am proud to be working to protect the beaches, tourism, and the will of the people of California. I ask my colleagues to join me in cosponsoring this legislation.

A BEACON-OF-HOPE FOR ALL AMERICANS: EDENA C. GILL

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right of life, liberty and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of non-elected leaders throughout our nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as BEACONS-OF-HOPE.

Edena C. Gill is one of these BEACONS-OF-HOPE residing in the central Brooklyn community of New York City and New York State. During the 1960's, Ms. Gill became involved in the Civil Rights Movement and was motivated by such mentors as Jitu Weusi, Al Vann and many others who were involved in the Ocean Hill-Brownsville fight. She even worked with assemblyman Roger Green on his first campaign.

Currently, she is a member-at-large of the Thrugood Marshall Democratic Club; recording secretary for the Central Brooklyn Martin Luther King Commission; member of the 100 Women for Major R. Owens; and member of the First Baptist Church of Crown Heights. Among her other affiliations, Ms. Gill is involved with the National Association of Business and Professional Women's Club, Inc. where she serves as President. Elena Gill also became active with the Lefferts Avenue Mothers, an offshoot of the Lefferts Avenue Block Association. She joined the Melvin Walker Democratic Club which later became part of the Partners for Progress Democratic Club.

Married and a mother of two, sons Kyle and Gary, Edena Gill has distinguished her life as one of dedication to community, God and to family.

Edena Gill is a BEACONS-OF-HOPE for Central Brooklyn and for all Americans.

INTRODUCING NURSE PRACTITIONERS MEDICAID REIMBURSEMENT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RICHARDSON. Mr. Speaker, I am proud to introduce legislation to provide Medicaid coverage for all certified nurse practitioners and clinical nurse specialists for services they are legally authorized to perform.

Nurse practitioners provide vital primary care services to the underserved populations in our country. It is time we take full advantage of the quality, cost-effective primary care provided by nurse practitioners.

The legislation I am introducing would enable all nurse practitioners, regardless of specialty, to provide care to Medicaid recipients. Currently, patients are able to access the care of certain nurse practitioners such as family and pediatric nurse practitioners, but others such as adult and women's health nurse practitioners are not accessible.

Over 400 studies have confirmed that the health care provided by nurse practitioners in a variety of urban and rural primary care settings is of the highest quality. Nurse practitioners are particularly capable to provide health care to the indigent. Their educational programs emphasize the provision of care to patients who have limited financial resources. In a national survey conducted by the American Academy of Nurse Practitioners, over 60 percent of the patients seen by these providers had family incomes of less than $16,000 per year. Nurse practitioners rate as high in financial efficiency as they do in consumer satisfaction. Their ability to focus on preventative and curative medical services contribute to the quality as well as the cost-effectiveness of the care they provide.

It is well known that a majority of our underserved populations are located in rural and inner city settings across the Nation. While nurse practitioners are willing and able to provide services in these settings, not all nurse practitioners are currently being reimbursed by Medicaid for their services in these areas.

Nurse practitioners can play a central role in achieving our national goal of providing quality, cost-efficient health care for all citizens. I am hopeful this legislation will help to eliminate disparities in access to care for rural and inner city Medicaid populations by providing direct reimbursement to nurse practitioners and clinical nurse specialists who have proven their ability to deliver quality care in a cost effective manner.

DEFEND THE RIGHT TO LIFE

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. EMERSON. Mr. Speaker, I rise today to introduce a constitutional amendment for the protection of the right to life. Tragically, this most basic of human rights has been disregarded, set aside, abused, spurned, and sometimes altogether forgotten. Even more tragically, the U.S. Government has been a willing partner in this affair, and the sad consequence is the sacrifice of something far more important than just principle.

One of the things that sets America apart from the rest of the world is the fact that in this country, everyone is equal before the law. Regardless of race, religion, or background, each person has fundamental rights that are guaranteed by the law. However, we too often overlook the rights of perhaps the most vulnerable among us—the unborn. When abortion is legal and available on demand, then where are the rights of the unborn? When abortion is sanctioned and sometimes paid for by the Government, then how do we measure the degree to which life has been cheapened? When an innocent life is taken before its time, then how can one say that this is justice in America?

My amendment would establish beyond a doubt the fundamental right to life. Congress has an obligation to do what it has failed to do for so long, fully protect the unborn. I urge this body to move forward with this legislation to put an end to a most terrible injustice.

INTRODUCING THE SECOND NATIONAL BLUE RIBBON COMMISSION TO ELIMINATE WASTE IN GOVERNMENT—A NEW GRACE COMMISSION

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce legislation to create the Second National Blue Ribbon Commission to Eliminate Waste in Government Act. This legislation is similar to H.R. 217 from the 104th Congress. Building upon the example set by the Grace Commission in 1982–84, my legislation creates an independent private sector commission to help Congress eliminate Government waste.

The Grace Commission, officially established as the President's Private Sector on Cost Control in the Federal Government, marshaled the considerable private sector resources of more than 2,000 business professionals at no cost to the taxpayers. After 2 years of investigating the Federal Government for more cost-effective ways of doing the Nation's business, the Grace Commission delivered its final report to President Reagan in 1984. This effort yielded more than 2,000 commonsense, cost-cutting recommendations, two-thirds of which have become law and saved taxpayers nearly $450 billion. In addition, this commission helped establish the private, nonpartisan organization known as Citizens Against Government Waste.

Building upon that example, my legislation establishes a commission to take several additional steps toward curbing waste in Government. First, the commission would survey the private sector for management and cost control methods to be used in the Federal Government. Second, the panel would conduct indepth reviews of executive branch operations. Third, the panel would review and reevaluate past reports by agencies such as the Congressional Budget Office and the General Accounting Office.

This 12-member commission would be appointed by the President and the bipartisan leadership of Congress, with no more than six members of the same political party. After the thorough review, the commission would report its findings and recommendations to Congress. The commission's finding would serve as a basis for Congress to reduce waste and streamline Government operations.

I hope that all my colleagues will join me to promote greater fiscal responsibility and more effective Government by cosponsoring this legislation.

WILLIAM DAVIDSON'S GIFT TO CREATE THE FIRST SCHOOL FOR MANAGEMENT OF TECHNOLOGY IN ISRAEL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in commending Mr. William Davidson, president and CEO of Guardian Industries Corp., and managing partner of the National Basketball Association's Detroit Pistons Basketball Club. Bill Davidson has made a remarkable gift of $30 million to establish a world-class business school at the Technion-Israel Institute of Technology in Haifa. Mr. Davidson's great vision and philanthropy will ensure that Israel will continue to develop and expand its highly advanced technology-based industries. Furthermore, the international business community will gain an unparalleled resource in the study of management of technology.

The Technion, founded in 1924, is Israel's leading science and technology university. With this gift, the Technion will establish a premier business school with the unique combination of a Masters of Business Administration program, advanced technological educations, and international management strategy.

Bill Davidson firmly believes that education is the best tool for promoting economic growth. To that end, he has focused enormous philanthropic efforts over the years. In 1992, he gave $30 million to the University of Michigan at Ann Arbor to create an institute to assist nations around the world in making successful transitions to market economies. In 1994, a gift of $15 million was made to establish a graduate school of Jewish education at the Jewish Theological Seminary of America in New York City.

This latest gift to the Technion demonstrates Mr. Davidson's conviction that technology-based industries represent a tremendous opportunity for Israel to expand its economy, attract foreign capital, and, in turn, enhance its long-term economic security. The new Davidson school will allow the Technion to leverage its vast technological capabilities through targeted management education and research and thereby make a critical contribution in Israel's quest for economic independence.

Mr. Speaker, I invite my colleagues to join me in paying tribute to Bill Davidson's generosity and vision in creating a remarkable new business school at one of the world's great scientific institutions. This gift will enrich the lives of countless people in Israel and around the world.

INTRODUCING THE INDIAN CHILD ADOPTION ASSISTANCE AND FOSTER CARE ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RICHARDSON. Mr. Speaker, today I am introducing legislation that will allow Native American tribes to better serve children who are in foster care or in need of adoption assistance.

My bill will reimburse tribes under the title IV–E Foster Care and Adoption Assistance Program for children placed by tribal courts. Currently, only States qualify for the Federal funds for adoption assistance and foster care. This means if a native American child is placed with a family by a tribal court, that family receives no additional financial support. If that same child was adopted or placed in foster care by a State court, that family would be provided with extra resources to care for that child.

Last year, the Congress was wise to pass bipartisan welfare reform legislation which preserved the entitlement status of the adoption assistance and foster care programs. These programs reflect our Nation's commitment to taking care of some of the most financially and emotionally needy children in our country. It is a tragedy that any child would be left out of our country's support system.

I hope that you will join me in working to pass this bill in the 105th Congress and provide equal and deserved financial assistance to thousands of Indian children.

A BALANCED FEDERAL BUDGET

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. EMERSON. Mr. Speaker, I rise this afternoon to fulfill the pledge I made to the citizens of southern Missouri to introduce and work tirelessly to pass an amendment to the Constitution of the United States that requires a balanced Federal budget. Over the course of the past several decades, fiscal irresponsibility has produced a Federal debt that is fast approaching $5 trillion. That's trillion, with a "t," Mr. Speaker. A debt of $5 trillion is a mind-boggling figure, but it can be placed in a much clearer perspective. A child born today immediately inherits nearly $20,000 of debt, owed directly to Uncle Sam. The same is true for every American. The era of continuing annual budget deficits must end, and it is clear that the only way to restore conservative fiscal values to the Nation's budget is to pass the balanced budget amendment to the Constitution.

The stakes in this debate could not be more important. The fiscal future of the United States hinges on the ability of Congress and the President to make the difficult choices required to balance the Federal budget. It's more than debating trillion dollar figures. It's about making our economy stronger and providing every working American family with a better chance to make ends meet. A balanced budget will strengthen every sector of our economy with lower interest rates that will help families stretch each paycheck further. Home mortgages, automobiles, and a better education will become more affordable to every working family, making the American Dream closer to reality for all.

Mr. Speaker, I am committed to working with my colleagues in the new Congress to see that the balanced budget constitutional amendment is passed and sent to the States for ratification. A constitutional amendment is certainly no substitute for direct action on the part of the Congress. However, we have seen time and time again instances where those who object to conservative fiscal responsibility find convenient excuses to deny the American people a balanced budget. An unbreakable enforcement mechanism is clearly needed to ensure that those who would continue to spend our children's future further into debt are not able to do so.

I also want to make plain that the Social Security trust fund has no place in this debate. The independent trust fund is a sacred trust between generations and must never be used to balance the budget or hide the true size of the deficit.

Commonsense conservatives in Congress and the American people are committed to balancing the budget. I look forward to working throughout this session with all of my colleagues and the White House to pass the balanced budget constitutional amendment on a bipartisan basis. The obligations we owe to hard working American families, their children, and our Nation's future generations deserve nothing less than decisive action to preserve our future by balancing the budget. A constitutional amendment will ensure this outcome.

FAIR CLEAN AIR COMPLIANCE DOWNWIND FROM POLLUTERS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce legislation that requires the Environmental Protection Agency to consider the downwind transportation of air pollution when determining a region's air quality compliance. This legislation is similar to H.R. 1582, which I introduced in the 104th Congress with the support of the county of San Diego.

In 1990, Congress amended the Clean Air Act to base the smog control requirements for each area on the severity of the area's pollution problem as indicated by the nonattainment area classification. The EPA has established five such classifications: marginal, moderate, serious, severe, or extreme. Under current law nonattainment status is determined without addressing air pollution transported from upwind areas.

Due to pollution blown downwind from the Los Angeles basin, San Diego was initially given a nonattainment classification of severe. San Diego was later reclassified to serious because the ozone design value, 0.185 parts per million, was at the lowest limit of severe. Had the design value been outside that narrow window, San Diego would have been forced to carry out excessively stringent and costly control programs to combat air pollution created and transported from elsewhere.

This situation affects many other communities, too. I encourage all of my colleagues to join me by cosponsoring this legislation.

INTRODUCTION OF LEGISLATION TO PROVIDE A TAX DEDUCTION FOR EMPLOYER-PROVIDED EDUCATION

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, today, Mr. LEVIN introduced legislation which makes permanent the tax deduction for employer-provided education. I am an original cosponsor of this legislation which would include graduate education. The Small Business Job Protection Act extended this deduction from December 31, 1994 until January 1, 1997. The provision only included graduate education until December 31, 1995.

The Democrats of the Ways and Means Committee worked to have graduate education included until January 1, 1997. Unfortunately, our efforts fell short. The legislation introduced is extremely important as it would make this deduction permanent and include graduate education.

We should do all that is possible to make education more affordable. Our economy is becoming more global and we need skilled workers in order to compete. Our job growth is occurring in fields which require high skilled workers. We need to provide employees and employers incentives to further their education.

Recently, the General Accounting Office released a report on this provision. This report backs up my belief that this provision of the Tax Code is used in all fields of business. Large and small businesses take advantage of this provision.

As a former professor, I have taught many students who have benefited from this provision. I urge my colleagues to cosponsor this legislation. Hopefully, we can make this valuable deduction permanent. This is the type of legislation we should all be able to support.

IN HONOR OF ROBINSON SECONDARY SCHOOL'S DECA CHAPTER AND THEIR EFFORTS TO PROMOTE ORGAN AND TISSUE DONATION AMONG YOUTHS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to pay tribute to the work and dedication of the members of the Distributive Education Clubs of America [DECA] Chapter at Robinson Secondary School in Fairfax, VA. Along with the Washington Regional Transplant Consortium and the Coalition on Organ and Tissue Donation, the Robinson DECA Chapter has launched an educational campaign aimed at each high school across the Nation in an effort to promote organ and tissue donation among young people.

Promoting their national theme "Youth United, For A Second Chance At Life," the Robinson DECA Chapter was one of three groups organizing a rally of nearly 300 high school students, Members and Congress including myself and Senator BYRON DORGAN, organ and tissue recipients, and donor family members for an organ and tissue donation rally at the U.S. Capitol last month. The turnout and mood of the crowd was inspiring, and their presence represented the first giant step towards creating awareness among America's youth about the importance of becoming organ and tissue donors.

Currently, they are nearly 50,000 people on a national register awaiting organ and tissue transplants. Unfortunately, not every person in need of an organ or tissue is able to receive what they must have to survive; one American dies every three hours because of a shortage of donor organs. More than 50 people can be helped by a single donor but each year, 12,000 to 15,000 people die who are medically suitable to be organ and tissue donors. For these crucial reasons, we must focus our local and national efforts on educating young people and their families about the serious need to decide now—rather than wait until it is too late—on whether or not they will commit to becoming an organ and tissue donor. While there are many private sector organizations which promote public awareness of the need for organ donation, I am truly proud of the students of Robinson's DECA Chapter and their unprecedented effort to ignite the compassion and understanding of their peers.

Mr. Speaker, I know my colleagues will join me in applauding the members of Robsinson's DECA Chapter for their enthusiasm and diligent work in helping each other understand the necessity of deciding to become an organ donor and for aiding their fellow Americans who desperately need all of us to become organ and tissue donors.

THE POSTAL PRIVACY ACT OF 1997

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONDIT. Mr. Speaker, I have today introduced the Postal Privacy Act of 1997. This legislation is intended to protect the privacy of each U.S. resident who files a change of address notice with the U.S. Postal Service. The bill is identical to a bill that I introduced in the 104th Congress.

Few people are aware that when they tell the Postal Service about an address change, the Postal Service makes the information public through a program called National Change of Address [NCOA]. NCOA has about two dozen licensees—including many large direct mail companies—who receive all new addresses and sell address correction services to mailers. If you give your new address to the Postal Service, it will be distributed to thousands of mailers. People always ask "How did they get my new address?" The answer may be that it came from the Postal Service. People who want their mail forwarded—and who doesn't—have no choice. File a change of address notice and your name and new address will be sold.

NCOA is a reasonable program because it saves the Postal Service and the mailing community money by making everyone more efficient. There are consumer benefits as well. I support NCOA, but it needs one small change. Individuals who file a change of address notice should be given a choice. They should have the option of having their mail forwarded without having their name and address sold to the world of direct mail advertisers and others who traffic in personal information. This is what the Postal Privacy Act will do. It will give people a choice. It will not end the NCOA program.

Who might be concerned about keeping a new address private? Anyone who has fled an abusive spouse does not want the Postal Service giving out a new address. An individual who files a change of address notice on behalf of a deceased relative will not want the new address sold. Imagine sorting through the affairs of a deceased family member only to receive a mound of unwanted mail offering new products and services to that family member from marketers who assume that the person has moved to a new home. Jurors in highly visible trials, public figures, and others may have a special need for privacy as might elderly people who may be more vulnerable to unwanted solicitations.

The bottom line is that everyone should have a choice about how his or her name and address is made available to others. You don't have to have a justification. It should be your decision. The Postal Service should not make this decision for you.

A few years ago, the Postal Service announced that it would provide some protection to individuals who have court orders protecting them against spousal abuse. This was a small step in the right direction, but it was not enough. Only those who have gone to the trouble and expense of obtaining a court order receive protection. Everyone should be entitled to the same option, but without the need for a court order. The Postal Service has demonstrated that it is possible to provide protection to people selectively. I want to extend the option to everyone.

There is nothing new about giving consumers a choice. The Direct Marketing Association, a trade association for the direct marketing industry, has been a strong supporter of opt-out procedures which give individuals a choice about what type of mail they receive. The association supports its own mail preference service that offers consumers an option. There is no reason why the Postal Service cannot do the same thing.

The Postal Privacy Act of 1997 is based on work done by the Government Operations Committee. Those who seek more information about NCOA should read Give Consumers A Choice: Privacy Implications of U.S. Postal Service National Change of Address Program (House Report 102–1067).

There have been several interesting developments since that 1992 congressional report. In 1996, the General Accounting Office investigated the NCOA program and found that oversight of NCOA licensees by the Postal Service was inadequate to prevent, detect, and correct potential breaches of licensing agreements. The report was prepared at my request, and it showed that the Postal Service's NCOA protections were poorly administered. GAO found weaknesses in the seeding program, in the audit of NCOA licensees, and in the review of licensee advertising. GAO also found that the use by licensees of NCOA data for the purpose of creating a new movers list violates the Privacy Act of 1974. This adds to findings in the Government Operations Committee report that the NCOA program is operating in violation of several laws. The GAO report is titled "U.S. Postal Service: Improved Oversight Needed to Protect Privacy of Address Changes" (GAO/GGD–96–119) (August 1996).

Another new development recently came to light courtesy of the Internet. An organization called Private Citizen recently suggested in an Internet privacy discussion group that there is already a way to stop the Postal Service from selling a new address. The change of address form allows consumers to indicate if a new address is permanent or temporary. If you check the permanent box, your first class mail is forwarded for a year and your new address is sold through the NCOA program. If you check the temporary box and indicate that the move is for 364 days, you will receive the same mail forwarding service, but the Postal Service does not sell addresses when a move is temporary. I verified with the Postal Service that this is correct.

There is even a bonus of sorts for those who check the temporary box. The Postal Service will not honor mailer ancillary service endorsements requesting a new address through an address correction requested endorsement. This is another way that the Postal Service releases new addresses of its customers to anyone who asks. Those who check the temporary box can evade this form of disclosure as well.

The Postal Service's treatment of the addresses of temporary movers suggests two interesting consequences. First, the existing system demonstrates that the Postal Service already can distinguish between addresses that are to be sold and those that are not to be sold. Arguments that giving consumers a choice will be difficult or expensive are false. At worst, complying with my bill will only require a change in the form and minor adjustments to notices and procedures.

Second, consumers who want a choice about the disclosure of their new address can obtain it today. They can keep the Postal Service from releasing their new addresses. My bill will make sure that everyone has that choice. We should not restrict this option to those few who learn of this sneaky method of forcing the Postal Service to do the right thing. Let's tell everyone about this option.

A "SUNSET ACT"

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce the Sunset Act. This legislation, which is similar to H.R. 216 from the 104th Congress, would require Congress to reauthorize Federal programs every 5 years. Programs that are not reauthorized or extended by Congress would be terminated.

Too many Federal programs are automatically reauthorized, often years after they are no longer needed. This legislation will require any new Federal program to terminate no later than 5 years after its date of enactment, unless reauthorized by Congress. Entitlement programs will be exempted from this legislation.

By requiring Congress to reevaluate and reauthorize Federal programs every 5 years, we ensure greater accountability in the programs we create and help curb Government waste. I invite my colleagues to join me in cosponsoring this legislation.

THE HEALTH INSURANCE FAIRNESS ACT

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. EMERSON. Mr. Speaker, today I proudly introduce legislation of the utmost importance to millions of American small businesses and the self-employed. The Health Insurance Fairness Act will once and for all provide small business owners and the self-employed with the same health insurance tax benefits enjoyed by larger corporations—the ability to deduct 100 percent of their health insurance premium costs.

Making health care costs fully deductible is not an arcane Tax Code issue known only to accountants and IRS auditors. This is an issue that touched the lives of millions of Americans who own or work at a small business. It is especially important to rural areas, like my district in southern Missouri, where small businesses and self-employed individuals, especially farmers and ranchers, form the backbone of the regional economy. However, they have too long been denied access to affordable health insurance for their families, children, and employees because the Tax Code makes it too expensive to purchase. The Health Insurance Fairness Act I am introducing today will help make health insurance more affordable to the self-employed, small business operators, their employees, and equally important, their families.

The previous Congress took an important first step, Mr. Speaker, by enacting legislation to ultimately increase the insurance premium deductibility to 80 percent by the year 2006. Regrettably, this increase is phased-in too slowly, and will hamper the important work we must do to make health care less expensive and easier to get for all Americans—not through Government-run health care, but through private market incentives.

The Health Insurance Fairness Act will increase the premium deductibility rate to 100 percent in the first taxable year after enactment. Millions of self-employed, small business operators, workers and their families will be able to immediately enjoy the security afforded by a health insurance policy. It represents the type of results-oriented legislation the American public has asked this Congress to produce, and I ask my colleagues to support this important measure.

A BEACON-OF-HOPE FOR ALL AMERICANS: DR. JAMES MALONE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of nonelected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as Beacons-of-Hope.

Dr. James A. Malone is one of these Beacons-of-Hope residing in the central Brooklyn community of New York City and New York State. Dr. James Malone currently serves as a professor of counseling and director of the Academy for Intergenerational Education at John Jay College. He taught 2 years in the Newark, NJ public schools before moving to John Jay College where he held the following positions: SEEK director, dean of students and vice president of administrative services.

Throughout the years, Dr. Malone has worked diligently in top positions that uplifted his community. His past civic offices include the president of the board of Weeksville and member of the District School Board #17 and Community Board #9. Dr. Malone is a member and trustee of the Church of the Evangel. In 1971, Dr. Malone developed the city sponsored Hawthorne Corners Day Care Center where he served as the first board president. Dr. Malone also helped to develop the Rutland Road Block Association and was elected the second president. He headed a research effort, "They're All My Kids," which reaffirmed the necessity of commitment to our children, our schools, and our community.

Dr. Malone received a bachelor of science degree from the University of Akron; master of science in social work from Rutgers University; and a doctorate of philosophy in higher education from Union Graduate in Cincinnati, OH.

James Malone is a Beacon-of-Hope for central Brooklyn and all Americans.

INTRODUCTION OF THE DEVIL'S SLIDE TUNNEL ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. LANTOS. Mr. Speaker, as we in the West cope with another series of devastating winter storms and floods, residents along the San Mateo County coast are relieved to find that a section of Highway 1, known locally as Devil's Slide, which lies precariously on a sea cliff high above the roaring surf of the Pacific Ocean, is still intact. Devil's Slide is a breathtaking, and all too often lifetaking section of California's scenic coastal highway which has slowly been sinking into the Pacific Ocean as it is battered by waves 600 feet below. Winter storms in previous years have closed Highway 1 at Devil's Slide for up to 6 months, leaving residents and businesses dangerously isolated. This area is 12 miles south of San Francisco in my congressional district.

Perennial closures of Devil's Slide have had a devastating effect on our coastal community. Residents have endured unbearable commutes, access to emergency medical care and other services have been threatened, businesses have lost thousands of customers, and some businesses have failed. For residents and businesses along the San Mateo County coast, it is absolutely essential to have Highway 1 open around Devil's Slide.

Mr. Speaker, 12 years ago, in 1984, Congress closely studied the closure of this vital transportation link and lifeline. After heavy winter rains washed out the road, leaving a 250-foot-long crevice in the road which made the road impassible for 4 months. Then Chairman Glenn Anderson of the Surface Transportation Subcommittee held a series of field hearings in Half Moon Bay and Pacifica, CA, and committee members carefully surveyed the unstable roadway which was sliding 3 inches a day into the sea. Committee members viewed 8-foot-deep cracks and fissures in the roadbed and determined that this vital transportation link was eligible for emergency Federal funds. At my request, the Congress provided funding for the permanent repair of Highway 1 at Devil's Slide.

The California Department of Transportation [CALTRANS] made temporary repairs to the roadway and proposed building a controversial 4.5 mile long bypass around Devil's Slide. Some residents opposed the bypass on environmental and antidevelopment grounds and blocked bypass construction in Federal court for over 10 years. A false sense of security brought on by 10 years of drough ended in January 1995, when heavy rains again closed Devil's Slide for 6 months. For the second time in 12 years this vital transportation link was severed, again disrupting the lives and livelihoods of tens of thousands of residents and businesses.

Mr. Speaker, after decades of debate and lawsuits, the voters of San Mateo County have put an end to the battle with CALTRANS over how to resolve the problem of Devil's Slide. Voters decided overwhelmingly in favor of a local referendum to approve a mile-long tunnel at Devil's Slide instead of a bypass which would involve extensive cutting and filling of Montara Mountain. The referendum amends the local coastal plan, substituting a tunnel as the preferred permanent repair alternative for Highway 1 at Devil's Slide, and prohibits any other alternative unless approved by the voters. Following the release of a Federal Highway Administration sponsored study which found that the tunnel is environmentally feasible and its costs would not differ significantly from the costs of a bypass, CALTRANS reversed it opposition to a tunnel at Devil's Slide.

Mr. Speaker, today I am introducing important legislation to ensure that funds already appropriated and obligated for Devil's Slide will remain available to CALTRANS to build the tunnel at Devil's Slide. This legislation, entitled the "Devil's Slide Tunnel Act," will provide greater flexibility to State transportation officials to use Federal funds already appropriated by Congress to fix this vital transportation link. Joining me as cosponsors of this legislation are bipartisan members of the bay area congressional delegation whose constituents are most affected by the Devil's Slide highway problem—my colleagues, TOM CAMPBELL, of San Jose, ANNA ESHOO of Atherton, and NANCY PELOSI of San Francisco.

Mr. Speaker, if local and State agencies and the citizens of a region determine that a better transportation alternative exists than the alternative for which funds have been obligated, then the Federal Government should grant greater funding flexibility, as long as all other Federal laws are compiled with. It is important that we not permit these funds to lapse. The rebuilding of a severely damaged highway in its existing location may no longer be feasible, and in such cases funds already available to a community should continue to be available.

History tell us that Devil's Slide will wash out again—it is only a matter of time. It is my hope that swift enactment of this legislation will ensure a permanent solution to the residents of the Coastside. I urge my colleagues to support the "Devil's Slide Tunnel Act."

STATEMENT OF THOMAS M. DAVIS IN HONOR OF MR. EVANS RICHARDSON, III

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to express my deep appreciation for the invaluable service Mr. Evans Richardson III has provided to me and the constituents of the 11th District of Virginia over the past 11 months. An executive manager with McDonnell Douglas in St. Louis, MO, Evans brought a unique and thoughtful perspective to my office in working on legislative and constituent matters as a 1996 Brookings Congressional Fellow. Almost immediately after he joined my personal staff, he took on a great deal of responsibility, focusing on several key issues such as transportation, environment, affirmative action, and banking. Evans performed his duties with admirable dedication and enthusiasm.

Evans lives in St. Louis, MO, with his wife, Betty and their son Evans IV. He is a graduate of Washington University, and has worked for McDonnell Douglas for 12 years.

Taking an active role in one's community is a responsibility we all share, but which few of us fulfill. Evans actively works for the betterment of his community by serving on the board of directors of several community organizations, including the St. Charles Chamber of Commerce, Herbert Hoover Boys and Girls Club, and the Marygrove Catholic Home for Children.

It has been an honor and a privilege to have Evans Richardson on my staff. I have not only looked to him for legislative counsel, but I trust him as a valued confidante. His candid advice and opinion is always appreciated. I know that my staff and I will dearly miss him. Mr. Speaker, I know my colleagues will join me in thanking Evans for his service to the 104th Congress and wish him continued success in his future endeavors.

FAIR HEALTH INFORMATION PRACTICES ACT OF 1997

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONDIT. Mr. Speaker, I have today introduced the Fair Health Information Practices Act of 1997. The purpose of this bill is to establish a uniform Federal code of fair information practices for individually identifiable health information that originates or is used in the health treatment and payment process.

This is the third time that I have introduced a health privacy bill, and I hope that the third time is the charm. In the 103d Congress, I introduced H.R. 4077. The bill was the subject of several days of hearings in 1994. In August 1994, the bill was reported by the Committee on Government Operations and became the confidentiality part of the overall health care reform effort. While my bill died along with the rest of health care reform, it was one of the only noncontroversial parts of health reform. In the 104th Congress, I introduced H.R. 435, a bill that was identical to the version reported by the Committee on Government Operations in 1994. A lengthy explanation of the bill can be found in the Government Operations Committee report, House Report 103–601 part V. That report remains highly relevant to this year's bill as well.

During the last 2 years, most of the action on health privacy took place on the Senate side. The leading Senate bill was S. 1360 which was introduced by Senator BENNETT. His bill and mine have many similarities in language and structure, but there are also numerous smaller but significant differences. In addition, my bill covers several aspects of health privacy that were not included in Senator BENNETT'S original bill. I am aware that several interim drafts were developed by Senator BENNETT during the course of the Congress, and these drafts narrowed some of the differences between our two bills. I look forward to the new version of the Senate bill. My bill is largely similar to H.R. 435, but I have made several changes based on new ideas and developments that emerged in the last 2 years. The substantive changes in this year's proposal are:

(1) References to health information service organizations have been dropped. This was a place holder for other institutions that were being developed in the context of broad health care reform. The references are no longer meaningful.

(2) The section on "Accounting for Disclosures" has been retitled as "Disclosure History." Nothing substantive was changed, but the new language is more descriptive.

(3) In section 1.01, I added language to the patient access section making it clear that copies of records have to be provided to the patient in any form or format requested by the patient if the record is readily reproducible by the trustee in that form or format. The language was inspired in part by the recently passed Electronic Freedom of Information Amendments. The purpose is to make sure that a patient can have a record in a format that will be meaningful to the patient or useful to other health care providers.

(4) Also in section 1.01, the exception to patient access for mental health treatment notes has been eliminated. The policy of the bill is that a patient should have broad access to his or her health record. Exceptions are provided only when there is a direct conflict with another interest or when access is meaningless or pointless. The only substantive exception had been for mental health treatment notes. Given the broad sweep of the access provision, I am not sure that this exception can be justified any more. I left it out this year so that the advocates of the exception would have to come forward to argue for its inclusion and make their case on the public record.

(5) New language in section 301(d) creates an Office of Information Privacy in the Department of Health and Human Services. The head of the office is the Privacy Advisor to the Department. This is not really a new office. The Department recently established a private Advocate. The purpose of the new legislative language is to define the health privacy functions of this office with more precision and permanence.

(6) Section 304 of the bill deals with preemption of State laws. This is a difficult subject that clearly need more work and thought. I added one new idea this year. New language provides that the States may impose additional requirements on its own agencies with respect to the use or disclosure of protected health information. The idea is a simple one. If a State wants to impose more stringent restrictions on the ability of State police, State fraud investigators, or other State offices to use or disclose protected health information, it may do so.

In this instance, higher standards will not interfere with access to or use of information by other authorized users or by the Federal Government. The goal is to allow States to set as high a floor as they choose with respect to their own activities. This will not undermine the uniformity principle otherwise reflected in the bill, and it will not affect the drive for administrative simplification or uniform technical standards. Only State agencies will be affected by my new language. I thought that this idea was worth including so that it would attract comment. The language itself may need further tweaking.

The need for uniform Federal health confidentiality legislation is clear. In a report titled "Protecting Privacy in Computerized Medical Information," the Office of Technology Assessment found that the present system of protecting health care information is based on a patchwork quilt of laws. State laws vary significantly in scope and Federal laws are applicable only to limited kinds of information or to information maintained only by the Federal Government. Overall, OTA found that the present legal scheme does not provide consistent, comprehensive protection for privacy in health care information, whether that information exists in a paper or computerized environment. A similar finding was made by the Institute of Medicine in a report titled "Health Data in the Information Age."

A public opinion poll sponsored by Equifax and conducted by Louis Harris and Associates documents the importance of privacy to the American public. Eighty-five percent agree that protecting the confidentiality of people's medical records is absolutely essential or very important in national health care reform. The poll shows that most Americans believe protecting confidentiality is a higher priority than providing health insurance to those who do not have it today, reducing paperwork burdens, or providing better data for research. The poll also showed that 96 percent of the public agrees that it is important for an individual to have the right to obtain a copy of their own medical record.

Health information is a key asset in the health care delivery and payment system. Identifiable health information is heavily used in research and cost containment, and this usage will only grow over time. The Health Insurance Portability and Accountability Act of 1996 passed in the last Congress recognized that confidentiality legislation was essential to the fair management of health information. The law established a 3-year timetable for congressional action on confidentiality. That clock is ticking already, and we don't have much time to waste.

By establishing fair information practices in statute, the long-term costs of implementation will be reduced, and necessary protections will be uniform. This will assure patients and health professionals that fair treatment of health information is a fundamental element of the health care system. Uniform privacy rules will also assist in restraining costs by supporting increased automation, simplifying the use of electronic data interchange, and facilitating the portability of health coverage.

Today, few professionals and fewer patients know the rules that govern the use and disclosure of medical information. In a society where patients, providers, and records routinely cross State borders, it is rarely worth anyone's time to attempt to learn the rules of any one jurisdiction, let alone several jurisdictions. One goal of my bill is to change the culture of health records so that everyone will be able to understand the rights and responsibilities of all participants. Common rules and a common language will facilitate broader understanding and better protection. Physicians will be able to learn the rules once with the confidence that the same rules will apply wherever they practice. Patients will learn that they have the same rights in every State and in every doctor's office.

There are two basic concepts that are essential to an understanding of the bill. First, identifiable health information that is created or used during the health care treatment or payment process becomes protected health information, or individually identifiable patient information relating to the provision of health care or payment for health care. This new terminology emphasizes the sensitivity of the information and connotes an obligation to safeguard the data. Protected health information generally remains subject to statutory restriction no matter how it is used or disclosed.

The second basic concept is that of a health information trustee. Anyone who obtains access to protected health information under the bill's procedures becomes a health information trustee. Trustees have different sets of responsibilities and authorities depending on their functions. The authorities and responsibilities have been carefully defined to balance legitimate societal needs for data against each patient's right to privacy and the need for confidentiality in the health treatment process. Of course, every health information trustee has an obligation to maintain adequate security for protected health information.

The term trustee was selected in order to underscore that those in possession of identifiable health information have obligations that go beyond their own needs and interests. A physician who possesses information about a patient does not own that information. It is more accurate to say that both the record subject and the record keeper have rights and responsibilities with respect to the information. My legislation defines those rights and responsibilities. The concept of ownership of personal information maintained by third-party record keepers is not particularly useful in today's complex world.

A key element of this system is the specification of the rights of patients. Each patient will have a bundle of rights with respect to protected health care information about himself or herself that is maintained by a health information trustee. A patient will have the right to seek correction of information that is not timely, accurate, relevant, or complete. A patient will also have the right to expect that every trustee will use and maintain information in accordance with the rules in the Act. A patient will have a right to receive a notice of information practices. The bill establishes standards and procedures to make these rights meaningful and effective.

I want to emphasize that I have not proposed a pie-in-the-sky privacy code. This is a realistic bill for the real world. I have borrowed ideas from others concerned about health records, including the American Health Information Management Association, the Workgroup for Electronic Data Interchange, and the National Conference of Commissioners on Uniform State Laws. Assistance provided by the American Health Information Management Association [AHIMA] was especially helpful in the development of this legislation several years ago. AHIMA remains a valuable source of knowledge on health records policies and an ardent supporter of Federal health privacy legislation.

I believe that we do not have the luxury of elevating each patient's privacy interest above every other societal interest. Such a result would be impractical, unrealistic, and expensive. The right answer is to strike an appropriate balance that protects each patient's interests while permitting essential uses of data under controlled conditions. This should be happening today, but record keepers do not know their responsibilities, patients rights are not always clearly defined, and there are large gaps in legal protections for health information.

My bill recognizes necessary patterns of usage and combines it with comprehensive protections for patients. There will be no loopholes in protection for information originating in the health treatment or payment process. As the data moves to other parts of the health care system and beyond, it will remain subject to the Fair Health Information Practices Act of 1997. This may be the single most important feature of the bill.

The legislation includes several remedies that will help to enforce the new standards. For those who willfully ignore the rules, there are strong criminal penalties. For patients whose rights have been ignored or violated by others, there are civil remedies. There will also be administrative sanctions and arbitration to provide alternative, less expensive, and more accessible remedies.

The Fair Health Information Practices Act of 1997 offers a complete and comprehensive plan for the protection of the interests of patients and the needs of the health care system in the complex modern world of health care. More work still needs to be done, and I am committed to working with every group and institution that will be affected by the new health information rules. I remain open to new ideas that will improve the bill.

In closing, I want to acknowledge the limits of legislation. We must recognize and accept the reality that health information is not completely confidential. It would be wonderful if we could restore the old notion that what you tell your doctor in confidence remains absolutely secret. In today's complex health care environment, characterized by third party payers, medical specialization, high-cost care, and increasing computerization, this is simply not possible. My legislation does not and cannot promise absolute privacy. What it does not offer is a code of fair information practices for health information.

The promise of that code to professionals and patients alike is that identifiable health information will be fairly treated according to a clear set of rules that protect the confidentiality interests of each patient to the greatest extent possible. While we may not realistically be able to offer any more than this, we surely can do no less for the American public.

THE COMMUNITY PROTECTION ACT OF 1997

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, Americans want us to work together to sensibly combat crime. Putting more, better-equipped and fully trained cops on the beat can be a strong part of any anticrime effort. It is for that very reason that today I am introducing the Community Protection Act of 1997.

The bill will allow qualified, properly trained active and retired law enforcement officers to carry concealed handguns. Too often State laws prevent highly qualified officers from assisting in crime prevention and protecting themselves while not on duty. For example, a man who has spent his life fighting crime is often barred from helping a colleague in distress because he cannot use his service revolver—a handgun that he is required to train with on a regular basis. That same officer, active or retired, isn't allowed to defend himself from the criminals that he put in jail.

My bill seeks to change that by empowering qualified law enforcement officers to be equipped to handle any situation that may arise, wherever they are.

The community protection initiative covers only active duty and retired law enforcement personnel who meet the following criteria:

First, employed by a public agency—security guards are not covered.

Second, authorized by that agency to carry a firearm in the course of duty—all beneficiaries will have received firearms training and appropriate screening.

Third, not subject to any disciplinary action.

Retired police officers must meet all of these criteria and have retired in good standing.

In the tradition of less government, this bill offers protection to police officers and to all of our communities without creating new programs or bureaucracies, and without spending more taxpayer dollars.

Because this is a sensible, nonpartisan bill, it gained tremendous support in the 104th Congress. By the close of legislative business, the Community Protection Act was cosponsored by more than 130 Members of the House from both parties and from all regions of the country. It also gained the interest of the Crime Subcommittee, which held a hearing on the bill in July 1996.

I am proud to once again introduce this important piece of legislation and look forward to working with my colleagues to pass it as soon as possible.

THE NOTCH BABY ACT OF 1997

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. EMERSON. Mr. Speaker, today I am introducing long-overdue legislation to correct an injustice done to well over 6 million senior citizens by the Social Security Amendments of 1977. My legislation, the Notch Baby Act of 1997, will adopt a transitional computation method to assure that America's "Notch Babies" born between 1917 and 1921 receive equitable Social Security benefits.

Contrary to what many think, Mr. Speaker, the Social Security Notch is a simple problem that is greatly in need of an obvious solution. Seniors born in the 5-year period after 1916 have seen lower average Social Security benefit payments than those born shortly before or after. This disparity is directly attributable to the revised benefit calculation formula that resulted from the Social Security Amendments of 1977. The facts are clear and Congress must take action to correct this unintended error.

In December 1994, the Commission on the Social Security Notch issued its final report and recommendation to Congress. The commission cited an example of two workers who retired at the same age with the same average career earnings. One of these workers was born on December 31, 1916. The other was born 48 hours later, on January 2, 1917. If both retired in 1982 at age 65, the worker born in 1917 would receive $110 less in monthly Social Security benefits. And yet the Commission on the Social Security Notch concluded that "benefits paid to those in the 'Notch' years are equitable, and no remedial legislation is in order." Mr. Speaker, I beg to differ. One-hundred and ten dollars per month represents a lot of money to any family, but even more so to the millions of retirees who live on a limited, fixed monthly income.

The time for Congress to take action to correct the "Notch" injustice is long overdue. I urge all of my colleagues to review the Notch Baby Act of 1997 and cosponsor this important piece of legislation.

A BEACON-OF-HOPE FOR ALL AMERICANS: DR. RUBIE M. MALONE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of non-elected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as Beacons-of-Hope.

Currently, the dean, director and chairperson of the SEEK program at CUNY's John Jay College of Criminal Justice, Dr. Rubie Malone has tirelessly dedicated her life to making our society better. She is directly responsible for community enhancement efforts that impact education, social/human services, and health care.

Dr. Malone's civic contributions began at an early age when she began working with high school seniors at Bethany Baptist Church. After transferring to the Church of the Evangel United Church of Christ, she continued working with youth and adult groups. In the Brooklyn Alumnae Chapter of Delta Sigma Theta Sorority, Inc., she has served as president and second vice-president and coordinator of committees and projects including School America, voter registration, health fairs, book and college fairs, teen lift, social action and political awareness, and oratorical contests. She is a member of the Brooklyn Chapter of Links, Inc., where she serves as parliamentarian and is involved in various community projects. Dr. Malone is also a former president of Jack and Jill of America.

Dr. Rubie Malone, who is the eldest of twelve children, received a bachelor of science in mathematics from Clark College; a master's degree from CUNY's Hunter College; and a doctorate of philosophy in social services from Columbia University.

Rubie Malone is a Beacon-of-Hope for central Brooklyn and for all Americans.

HOUSE SHOULD ELECT INTERIM SPEAKER

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. ABERCROMBIE. Mr. Speaker, article I, section 2 of the Constitution requires the House of Representatives to choose a Speaker. It is customary at the commencement of every Congress for members of each party to vote for the candidate decided upon by his or her caucus. Because governance of the House conforms to the democratic principles which undergird our Republic, there is no doubt that the votes of the majority will determine who shall be our Speaker.

Today, however, we are choosing a presiding officer in unprecedented circumstances. Never before has there been an election for Speaker in which one of the candidates stands formally accused by the Committee on Standards of Official Conduct of violating the rules of the House. It is not my intention today to argue the merits of the charges against the gentleman from Georgia or what if any sanctions should be imposed. I focus instead on the implications of the committee's statement of alleged violation for today's election for Speaker, for the Speakership as an institution, for the House of Representatives, and for our Nation itself.

The facts are these: The Committee on Standards of Official Conduct alleges that the gentleman from Georgia violated the rules of the House. As of this date the committee has not completed its consideration of the case, and no resolution has been achieved. When resolution does occur, it may very well involve sanctions which make the gentleman from Georgia ineligible to hold the post of Speaker.

Removal of a Speaker under those conditions would be debilitating for the House and the Nation. It would cause chaos within the House and further undermine public confidence in democratic institutions. Even if resolution of the case against the gentleman from Georgia does not result in his ineligibility for the Speakership, his election as Speaker at this time would be inadvisable for two reasons: No. 1, the time, attention, and energy he must devote to his case will diminish the personal resources available for the discharge of his duties as Speaker of the House; and No. 2, the shadow of doubt and suspicion cast by the proceedings against him will undoubtedly fall on every action of the House and bring into question the integrity of this institution.

I believe, therefore, that until the case against the gentleman from Georgia is resolved, the House should choose an interim Speaker. I reiterate my acknowledgement that the majority has the right to determine who that individual shall be. However, in order to ensure that the business of the House is conducted in an undistracted manner, free of doubts about the integrity of the institution and its governance, that person should be someone not involved in the ethical issues in which the gentleman from Georgia finds himself enmeshed.

AGRICULTURAL WATER CONSERVATION ACT

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONDIT. Mr. Speaker, I rise today to introduce the Agricultural Water Conservation Act.

Over the past few years I have read countless articles on the need to conserve water and the role Federal Government has with this mission. While discussing water conservation methods with farmers in my district, I found cost was their overriding concern. The outlays required to implement water conservation systems—that is, drip irrigation, sprinkler systems, ditch lining—are a tremendous burden on the agriculture industry. While I firmly believe most agriculture interest are genuinely concerned about conserving water, cost has crippled the ability to implement conservation methods on farms.

For example, in the San Joaquin Valley, CA, a study was done by the San Joaquin Drainage Program. This report indicates a cost ranging from $21.06 per acre for surface irrigation to $131.40 per acre for linear irrigation. Drip irrigation was measured at a cost of $272.07 per acre. As you can see, with cost ranging from 623 to 1,294 percent above the least-cost approach method of surface irrigation, there are limited incentives at this time for farmers to switch toward better water maintenance practices.

The Agricultural Water Conservation Act is not a mandate for expensive water conservation systems, it is a tool and an option for farmers. Specifically, it will allow farmers to receive up to a 30 percent tax credit for the cost of developing and implementing water conservation plans on their farm land with a cap of $500 per acre. The tax credit could be used primarily for the cost of materials and equipment. This legislation would not require them to change their irrigation practices. However, it would allow those farmers who want to move towards a more conservation approach of irrigation but can not afford to do it during these tough economic times.

This measure is not the end-all solution. This is just the beginning toward the demand for not only in California, but over the United States, to conserve water. I believe farmers will contribute to solving water supply problems when given the opportunity, as they already have through conservation transfers and crop changes. I also believe providing for the long-term water supply needs of environmental, urban, and agricultural users is a critical part of the solution.

The Agricultural Water Conservation Act will provide another vehicle for farmers to contribute to the solution and offer a modest credit to share the cost with the true beneficiaries—the public.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Water Conservation Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Federal Government has an historic commitment to assisting areas of the Nation in need of developing adequate water supplies,

(2) water is becoming increasingly scarce and expensive in many parts of the United States, which is compounded when multiple years of drought occur,

(3) in most areas of the United States, farms are overwhelmingly the largest water consumers, and

(4) it is in the national interest for farmers to implement water conservation measures which address water conservation needs and for the Federal Government to promote such conservation measures.

SEC. 3. CREDIT FOR PURCHASE AND INSTALLATION OF AGRICULTURAL WATER CONSERVATION SYSTEMS.

"(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. PURCHASE AND INSTALLATION OF AGRICULTURAL WATER CONSERVATION SYSTEMS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the water conservation system expenses paid or incurred by the taxpayer during such year.

"(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) with respect to any water conservation system shall not exceed the product of $500 and the number of acres served by such system.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any taxpayer if—

"(A) at least 50 percent of such taxpayer's gross income is normally derived from a trade or business referred to in paragraph (3)(C), and

"(B) such taxpayer complies with all Federal, State, and local water rights and environmental laws.

"(2) WATER CONSERVATION SYSTEM EXPENSES.—

"(A) IN GENERAL.—The term 'water conservation system expenses' means expenses for the purchase and installation of a water conservation system but only if—

"(i) the land served by the water is entirely in an area which has been identified, in the taxable year or in any of the 3 preceding taxable years, as an area of—

"(I) extreme drought severity on the Palmer Drought Severity Index published by the National Oceanic and Atmospheric Administration, or

"(II) water shortage (due to increasing demands, limited supplies, or limited storage) by the Natural Resources Conservation Service of the Department of Agriculture or the

Bureau of Reclamation of the Department of the Interior,

"(ii) the taxpayer has in effect a water conservation plan which has been reviewed and approved by such Service and Bureau,

"(iii) such expenses are consistent with such plan, and

"(iv) there is an irrigation water savings of at least 5 percent which is attributable to such system.

For purposes of clause (iv), water savings shall be determined and verified under regulations prescribed jointly by such Service and Bureau.

"(B) WATER CONSERVATION SYSTEM.—The term 'water conservation system' means materials or equipment which are primarily designed to substantially conserve irrigation water used or to be used on farm land.

"(C) FARM LAND.—The term 'farm land' means land used in a trade or business by the taxpayer or a tenant of the taxpayer for—

"(i) the production of crops, fruits, or other agricultural products,

"(ii) the raising, harvesting, or growing of trees, or

"(iii) the sustenance of livestock.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection 9a) for any taxable year shall not exceed the excess (if any) of—

".(A) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

"(B) the tentative minimum tax for the taxable year.

"(2) CARRYFORWARD OF UNUSED CREDIT.—If the amount of the credit allowable under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for the taxable year, the excess shall be carried to the succeeding taxable year and added to the amount allowable as a credit under subsection (a) for such succeeding taxable year.

"(d) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter with respect to any expense which is taken into account in determining the credit under this section, and any increase in the basis of any property which would (but for this subsection) result from such expense shall be reduced by the amount of credit allowed under this section for such expense."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 of such Code is amended by striking "and" at the end of the paragraph (25), by striking the period at the end of paragraph (26) and inserting " and", and by adding at the end the following new paragraph:

"(27) to the extent provided in section 30B(d), in the case of amounts with respect to which a credit has been allowed under section 30B."

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 30B. Purchase and installation of agricultural water conservation systems."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

TRIBUTE TO RICHARD FLORES TAITANO

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. UNDERWOOD. Mr. Speaker, last Saturday evening on Guam, my island lost one of its most outstanding public servants, Richard Flores Taitano. His passing is an enormous loss for Guam as well as for me and my family. He was Uncle Richard to us and those in his extended family, but he was—Senator Taitano, the quintessential public servant—to the rest of the island. Generous to a fault, ethical in all of his dealings, intelligent as well as intellectual, he embodied the best which Guam has ever produced.

Richard Taitano achieved much in his 75 years of life. He was the first and only native of the territories to ever serve as director of the Office of Territories in the Department of Interior. He served as deputy high commissioner of the Trust Territory of the Pacific Islands at a critical time of transition for the Trust Territory. As significant as this service was during the Kennedy and Johnson administrations, this is not the service for which he is remembered on Guam.

Instead, it is his service at home for his people on Guam. As a young director of finance in the post-Organic Act Guam, he became the first Chamorro to become responsible for monitoring the finances of the new civilian Government of Guam. He did so with intelligence and a high standard of ethics which he expected of himself as well as others. He served four terms in the Guam Legislature from 1972 to 1980. During these terms, he applied the same high standards in overseeing the spending plans of government agencies without regard to friendships, political alliances, or family connections. As a young educator, I had the opportunity to testify in front of him on political status issues. I was afforded no special treatment and, in fact, given some difficult questions to respond to.

For most political leaders on Guam, he was a great Democrat partisan. He served as State chairman of the Democratic Party of Guam from 1967 to 1969. He was the architect of a political machine that was built on hard work, collaboration, boundless energy, unmatched intellect, and powerful grassroots. He was a role model for two generations of politicians and politician wannabees who saw in him the embodiment of the drive for political mastery and the desire to be of public service.

For all in Guam's governmental matrix, he was the best that the island has ever had in devotion to duty combined with the highest of ethical standards. Whether it was his service as a land surveyor, as director of the Department of Finance, as the legislative overseer of the Government's finances, he was Guam's model for ethical public service. There was never any "deal" to be made when it involved the public's money. He made the sun shine in on his public service and he shined that same light on every agency head that came before him. He didn't just talk sunshine politics, he lived it and he did so in a way no other Guam public servant has ever matched, before and especially since. He is the role model for those who aspire to ethical public service.

For those of us who were related to him and who grew up in his shadow, he touched us in ways which he himself probably never understood. He was diminutive in size, came from a Baptist family in a very Catholic island and was reared in unprivileged circumstance. He demonstrated to us that stature was measured from the neck up. He showed that a keen intellect and hard work could always overcome advantage. He understood religion to be a personal force and not a public display. During his service as Guam Senator, the Legislative Building and Catholic Cathedral were across the street from each other. I remember well all the times he refused to cross the street to go to the Cathedral for an Inaugural mass for the Guam Legislature prior to the swearing in of the new legislature.

If Richard Taitano were your uncle, he would be the biggest giant in your extended family. If you wanted a lesson in hard work, he provided the role model. If you needed a lesson in service to family and parents and siblings and nephews and nieces, he was the lesson. If you wanted to know almost anything about anything whether it was agriculture or religion or Guam or ethics or the Federal Government, you could always ask him. And if you needed a lesson in humility, he would teach you one through the application of his wry humor.

Like others in the Taitano family, the Kueto clan, he had the sharp tongue to match the sharp mind. He came from a large family whose reputation for hard work and sharp minds is well-known. He applied this to becoming one of the first young Chamorros to become educated in the immediate post-World War II period. Attending to his parents and siblings during the Japanese Occupation of Guam, he came out of the war a very mature and experienced person. He went to Berea College in Kentucky and the Wharton School of Economics in Pennsylvania. He came back to Guam educated and ready to apply his knowledge and understanding of his people to government service, both on Guam and in the Federal sector.

As he had been taught by his parents, he knew that his education and his intelligence required a high level of responsibility from him. He knew that being gifted was just that—a gift. He didn't earn being smart or talented or hardworking. These were the result of his parentage, his heritage, and his place in the world as God intended for him. Personal arrogance was not part of his demeanor, but he certainly enjoyed using his wits to confront arrogance wherever and whenever he saw it.

Uncle Richard was my personal lesson in how to use your wits and how to use hard work to great advantage in life. But that is not the end of the lesson. You see the world is full of witty people, even those who work hard at being witty and those who take full advantage of it. The difference for those who become truly great is that only a handful, only a select few, use those talents in the service of people.

He saw that people needed help and that it was his responsibility to help them, not by bending the rules, but by changing the rules. He was that there was much which was unfair and he challenged the unfairness not by hitting below the belt, but by exposing unfairness whenever he saw it. He saw that there was injustice in government, but he confronted the purveyors of injustice. He didn't pander to the victims of injustice, he went at those who routinely practiced injustice. He was outspoken, but even his silence could convey a powerful message, as when he quietly walked out of the first Guam Commission on Self-Determination when Chamorro self-determination was not going to be the first item on the agenda. He never went back.

He didn't come to this role easily. In carrying out his duties as a Federal official, he engaged in activities which he didn't particularly relish. He appeared in front of the United Nations to defend U.S. policies and was sometimes a caustic critic of local governmental actions. But in his service as Guam Senator, we bore witness to the wisdom which that experience gave him. He could speak with authority not only about local aspirations, but about Federal intent. Although illness eventually pulled him from the mainstream, political novices and experienced elected officials continued to seek his counsel and advice.

Leadership through personal example is a trite phrase, but an appropriate one when speaking about Richard Flores Taitano. Guam will miss him. His legacy is one that should inspire future generations. As may be appropriate and as he desired, he will probably not get the public honor that he so richly merits. He requested that no "state funeral" be held for him because he didn't want people standing up to tell "lies" about him.

But I know that it really doesn't matter. He was always in it to do the right thing and never for the glory. May that spirit touch us today, elected leaders and government officials. He really was the lamp at the door to a fair and just government on Guam.

The island's heartfelt condolences go out to his widow, Magdalena Santos Taitano, his children Taling, Richard, John, and Carmen and nine grandchildren. His family was a source of strength for him during his extended illness. He also leaves behind brothers and sisters Esther Taitano Underwood, Frank Flores Taitano, Jose Flores Taitano, Henry Flores Taitano, Candelaria Taitano Rios and William Flores Taitano.

Si Yu'os ma'ase' nu todu i che'cho'-mu para i minaolek i taotao-mu yan i tano'-mu.

CASA MALPAIS NATIONAL HISTORIC LANDMARK

HON. J.D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. HAYWORTH. Mr. Speaker, today I am reintroducing legislation which would authorize the Secretary of the Interior to provide assistance to the Casa Malpais National Historic Landmark in Springerville, AZ. The Casa Malpais National Historic Landmark is a 14.5 acre archeological site located near the towns of Springerville and Eager in northeastern Arizona. The site was occupied around A.D. 1250 by one of the largest and most sophisticated Mogollon communities in the United States.

Casa Malpais is an extraordinarily rich archeological site. Stairways, a Great Kiva complex, a fortification wall, a prehistoric trail, catacombs, sacred chambers, and rock panels are just some of the features of this large masonry pueblo. Due to its size, condition, and complexity, the site offers an unparalleled opportunity to study ancient society in the Southwest and, as such, is of national significance.

My legislation would establish the Casa Malpais National Historic Landmark as an affiliated unit of the National Park Service. Affiliated status would authorize the resources and protection necessary to preserve this treasure. As a member of the family of affiliated national landmarks, the public would also have greater exposure to the Casa Malpais site.

The communities in the area support this legislation. Local officials have taken steps to ensure that all research and development of the site is conducted in consultation with local native American tribes.

I ask my colleagues to support this measure. It will enhance the landmark's attributes for the enjoyment and education of local communities, the State of Arizona and the Nation. By supporting this legislation, we can help open this unique window of history through which we can study and learn about our rich heritage.

FRIENDSHIP IS ESSENTIAL TO THE SOUL

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. PAYNE. Mr. Speaker, November 17, 1996 marked the 85th anniversary of the founding of the Omega Psi Phi Fraternity. The fraternity was founded by three undergraduate students and their faculty advisor at Howard University. These gentlemen—Edgar Amos Love, Oscar James Cooper, Frank Coleman, and Dr. Ernest Everett Just—began an organization that would play a major role in the cultural, social, and civic lives of communities of color.

The Omega Psi Phi Fraternity is one of eight members of the National Pan-Hellenic Council. The fraternity's motto is "Friendship Is Essential To The Soul" and its cardinal principles are manhood, scholarship, perseverance and uplift. The first chapter, the Alpha Chapter, was organized by 14 charter members on December 15, 1911. Today, Omega Psi Phi is composed of 11 districts and has more than 500 active chapters around the world.

The Upsilon Phi Chapter represents the greater Newark, New Jersey area. It was founded on October 27, 1927 to promote the fraternity's cardinal principles in the community. The 63-member organization has continued the tradition of providing service and support to our community and its people.

The brothers of the Omega Psi Phi Fraternity were very active in America's struggle for social change. Thousands of Omega men from every part of the country were involved in the fight to eliminate racial discrimination. The Omegas financially supported other organizations, including the NAACP and Urban League, that were fighting on the same battle field for social justice.

It is said to forget one's history is to be doomed to repeat one's mistakes. In 1921 at its Nashville Grand Conclave, the Omegas adopted Carter G. Woodson's concept of a National Achievement Week to promote the study of Negro life and history. Today, Mr. Woodson's concept is observed in the month of February as Black History Month. The Achievement Week is still observed during the month of November where tribute is paid to members of the community who have served it in an exemplary manner.

On November 9, 1996, the Upsilon Phi Chapter held its 1996 Achievement Week Awards Breakfast on the campus of the New Jersey Institute of Technology in Newark, New Jersey. The event was a gathering of family, friends, brothers and associates who came together to recognize and thank those who have made a difference. Student Awards were presented to Willie D. Graves and Michael Brown, students of Orange High School and St. Benedict's Prep School, respectively; Irving A. Childress received the Community Service Award; the Citizen of the Year Award went to Milton L. Harrison; the Superior Service Award was accepted by Brother James G. Hunter; the Basileus Award was presented to Brother Felix H. Bryant, Jr. and Brother William H.L. Oliver became Omega Man of the Year.

In their acceptance speeches each gentleman thanked his family for the role each has played in his life. The words role model kept coming up. Felix Bryant thanked his mother who received an Achievement Award in 1995; presenter Louis Childress thanked his awardee brother, Irving, who although younger had been a role model for him; William Oliver recognized his two daughters, Shelly and Krystal and his granddaughter, Kourtney. The theme of being of service to one's community also took a prominent place in everyone's remarks.

Mr. Speaker, I was honored to be the recipient of the 1994 Citizen of the Year Award from the Upsilon Phi Chapter of the Omega Psi Phi Fraternity. It was very gratifying to be recognized for my work by a group of distinguished professional gentlemen who in their own rights make differences in the lives of many people every day. Greatness, commitment and service have permeated the legacy of the Omegas through the memberships of many famous African-American men including marine biologist Ernest E. Just who was recognized recently with the issuance of a commemorative U.S. postal stamp, discoverer of plasma Charles Drew, poet Langston Hughes, developer and initiator of the current Black History Month Carter G. Woodson, attorney and former head of the National Urban League Vernon Jordan, astronaut Ronald McNair, America's first African-American Governor L. Douglas Wilder, and author of "Lift Every Voice and Sing" James Weldon Johnson. This list of luminaries would not be complete if it did not include two gentlemen who were instrumental in establishing a sound and functional foundation for the fraternity. They are H. Carl Moultrie who served as the fraternity's first national executive secretary (executive director) and Walter H. Mazyck who was the fraternity's preserver of records (historian).

Mr. Speaker, I would like to take this opportunity to enter into the annals of U.S. history, the names of the members of the Upsilon Phi Chapter; hereby thanking them for being such good role models and supporters of our community. The 1996 membership roster includes Lee A. Bernard, Jr., Basileus; William H.L. Oliver, 1st Vice Basileus; Patrick D. Todd, 2nd Vice Basileus; Ronald D. Coleman, Keeper of Records and Seal; Felix H. Bryant, Jr., Keeper of Finance; Derrick Hurt, Keeper of Peace; Rev. John G. Ragin, Chaplain; and members Dwayne R. Adams, Donald D. Baker, James R. Barker, Jr., Stephen Barnes, Richard A. Bartell, Jr., James E. Bennett, Victor Cahoon, Louis Childress, Jr., Steve Cooper, Michael A. Davidson, Adrian C. Desroe, Edward Von Dray-Smith, Daniel Eatman, Leon Ewing, Jeffrey C. Gaines, Alfred C. Gaymon, Tyrone Garrett, Hugh M. Grant, Richard Greene, Bruce D. Harman, Keith Harvest, Pearly H. Hayes, Thomas V. Henderson, Bruce A. Hinton, James G. Hunter, George W. James, IV, James Sharpe, Michael W. Johnson, Kenneth J. Jones, Ronald M. Jordan, Jr., Calvin R. Ledford, Jr., Melvin D. Lewis, Jr., Gilbert D. Lucas, Samuel M. Manigault, Samuel T. McGhee, Maxie A. McRimmon, Clifford J. Minor, Ronald J. Morse, Jr., Roy Oller, Sedgewick Parker, Alfred Parchment, S. George Reed, Autrey Reynolds, Arthur J. Smith, III, Zinnerford Smith, Rhudell A. Snelling, Jessie L. Stubbs, Jr., Kenneth Terrell, Lloyd Terrell, Antionne Thompson, Charles W. Watts, H. Benjamin Williams, Robert Wilson, Jr., James C. Wilkerson, Rashad Wilkerson, and Ennis D. Winston.

Mr. Speaker, I am sure my colleagues will want to join me as I offer congratulations to the award recipients and extend best wishes for a prosperous, healthy and happy 1997 to the members of Omega Psi Phi Fraternity, particularly the membership of the Upsilon Phi Chapter of Newark, New Jersey.

INTRODUCTION OF THE TRUTH IN BUDGETING ACT

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. SHUSTER. Mr. Speaker, I rise today to introduce, along with the ranking member of the Transportation and Infrastructure Committee, Representative OBERSTAR, the Truth in Budgeting Act, which takes off-budget four user-financed, deficit proof transportation trust funds.

In the 104th Congress, the House, on April 17, 1996, voted by nearly a two to one margin (284–143) in favor of the same bill that we are introducing today. The support for that legislation was overwhelmingly bipartisan.

The reason for this support is simple. The issue before the House was not a budget question but rather a matter of honesty with the taxpayer. Members concluded that they no longer wanted to continue the charade of collecting dedicated gas, airline, waterway, and harbor taxes and using the funds—not to fund infrastructure improvements—but rather to mask the size of the general fund deficit.

The Truth in Budgeting Act is very simple. It removes four trust funds (Highway, Aviation, Inland Waterways, and Harbor Maintenance) from the Congressional Budget. The trust funds still remain subject to all current authorizing and appropriations controls. Indeed, the legislation includes provisions guaranteeing that the funds can never deficit spend.

All spending from these trust funds would still require authorization and appropriate spending controls could still be set by the Appropriations Committee. Further, spending from the funds are still subject to line item veto and would be included in calculations under balanced budget constitutional amendments.

America's infrastructure needs are staggering. For highways, we should be spending $60 billion per year but are only spending $30 billion. Similar levels of neglect exist in our bridge and transit programs. Our air traffic control system is still literally running on vacuum tubes.

There are numerous costs to this under investing: increased commuting times and delay, additional cost from wear and tear, decreased industrial productivity and international competitiveness, and increased transportation costs for businesses.

Perhaps the greatest cost is in diminished safety. Fatal accidents on four-lane divided highways may be one half that of two-lane roads. Improvements from the National Highway System (NHS) may save 1,400 to 3,600 lives yearly as well as savings in human suffering and economic loss. Aviation safety is the top priority of the air traffic control system.

When these trust funds were established, the American taxpayer consented to paying dedicated excise taxes (for example, the gas tax and the airline ticket tax). In return, the Federal Government promised to spend these use-related taxes for infrastructure improvements. To signify the fiduciary responsibility the Federal Government was undertaking, trust funds were established to keep track of receipts and spending. The government further promised that any unspent balances would be invested in the safest security possible—U.S. Government securities.

The current existence of over $30 billion in cash balances in these funds makes a mockery of these promises. For years, we have attempted to appropriately spend the funds in these trust funds, yet the balances continue to rise. This bill is the best available means to the real goal of insuring that these dedicated funds are spent for their intended purposes.

Support for the Truth in Budgeting bill is entirely consistent with support for a balanced budget or a constitutional amendment to balance the budget. According to CBO, the Truth in Budgeting Act does not, by itself, spend any additional funds. We have always been committed to working out reasonable spending levels to draw down the balances while continuing on track to reach a balanced budget. Indeed, due to their self-financing nature, these trust funds are model programs for how to balance the budget.

In addition, due to the unique nature of these four transportation trust funds, there will not be a stampede of other trust funds deserving of the same off-budget treatment. Unlike other trust funds, these four funds are totally user financed, deficit proof, not entitlements, and annually controlled.

There is a strong argument that releasing these funds for infrastructure improvements will actually make it easier to balance the budget. A recent study funded by the Department of Transportation found that since the 1950's, industry realized production cost saving of 24 cents for each dollar of investment in highways. In other words, a dollar of highway investment paid for itself within 4 years.

A $1 billion expenditure on highways supports 56,600 full time jobs: 42,100 of these jobs are in highway construction and supply industries and an additional 14,500 jobs are in other industries throughout the economy.

A well-managed program of infrastructure investment improves the Nation's productivity and economy, making it easier to balance the budget.

A wide cross-section of business, labor, and government organizations recognizes these facts and supports the Truth in Budgeting Act. In all, 94 organizations are part of a Truth in Budgeting Coalition working to pass this legislation.

Support for the Truth in Budgeting Act is a win-win situation. Taking the transportation trust funds off-budget restores faith with the American taxpayer over the promises made when these taxes were enacted. Spending from the trust funds is still completely subject to congressional control, is consistent with a balanced budget, and can help the economy, making it easier to reach a balance.

COMMON LANGUAGE, COMMON SENSE: THE BILL EMERSON ENGLISH LANGUAGE EMPOWERMENT ACT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, today I introduce legislation making English the official language of the U.S. Government. Similar legislation in the 104th Congress (H.R. 123) drew 197 bipartisan House cosponsors, and won a bipartisan 259–169 House vote on August 1, 1996.

The Bill Emerson English Language Empowerment Act represents a common-sense, common language policy. The legislation:

Names English as the official language of the Government of the United States;

Recognizes our historical linguistic and cultural diversity, while finding that English represents a common bond of Americans, and is the language of opportunity in the United States;

Requires the U.S. Government to conduct its official business in English, and to conduct naturalization ceremonies in English;

Entitles every person in the U.S. to receive official communications in English;

Includes commonsense exceptions to the policy, such as for international relations, national security, teaching of languages, preservations of Native Alaskan or Native American languages, and for any use of English in a nonofficial or private capacity;

Is supported by 86 percent of all Americans, 81 percent of immigrants (Luntz, 1996), and a broad range of mainstream citizen organizations, such as U.S. English, the Veterans of Foreign Wars, the American Legion and others.

The only substantial difference between this bill and the H.R. 123 adopted by the House in 1996 is that the House-passed bill incorporated a repeal of the Federal bilingual ballot mandate, H.R. 351, and this bill does not. I continue to support repeal of the Federal bilingual ballot mandate. This arrangement helps simplify the bill's referral to only one House committee.

Our late colleague, Representative Bill Emerson worked for many years to make English the official language of the U.S. Government. Through his goodwill, we had an historic and successful first-ever House vote on the issue in the 104th Congress. His widow and successor, Representative JoAnn Emerson is the first cosponsor of this legislation in the 105th Congress.

I invite Members to cosponsor the Bill Emerson English Language Empowerment Act in the 105th Congress, so we may enact this positive and constructive legislation.

VOLUNTARY SCHOOL PRAYER

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. EMERSON. Mr. Speaker, I rise today to introduce a constitutional amendment to ensure that students can choose to pray in school. Regrettably, the notion of the separation of church and state has been widely misrepresented in recent years, and the Government has strayed far from the vision of America as established by the Founding Fathers.

Our Founding Fathers had the foresight and wisdom to understand that a Government cannot secure the freedom of religion if at the same time it favors one religion over another through official actions. Their philosophy was one of evenhanded treatment of the different faiths practiced in America, a philosophy that was at the very core of what their new Nation was to be about. Somehow, this philosophy is often interpreted today to mean that religion has no place at all in public life, no matter what its form. President Reagan summarized the situation well when he remarked, "The First Amendment of the Constitution was not written to protect the people of the country from religious values; it was written to protect religious values from government tyranny." And this is what voluntary school prayer is about, making sure that prayer, regardless of its denomination, is protected.

There can be little doubt that no student should be forced to pray in a certain fashion or be forced to pray at all. At the same time, a student should not be prohibited from praying, just because he-she is attending a public school. This straightforward principle is lost on the liberal courts and high-minded bureaucrats who have systematically eroded the right to voluntary school prayer, and it is now necessary to correct the situation through a constitutional amendment. I urge my colleagues to support my amendment and make a strong statement in support of the freedom of religion.

A BEACON-OF-HOPE FOR ALL AMERICANS: KENNETH TAYLOR

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of nonelected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner-city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as Beacons-of-Hope.

Kenneth Taylor is one of these Beacons-of-Hope residing in the central Brooklyn community of New York City and New York State. In 1982, Mr. Taylor offered his services as a volunteer in the office of Congressman MAJOR OWENS and later rose to the position of deputy district director. During the course of his tenure there, he assisted thousands of constituents with various problems. He became an expert at resolving immigration problems and was recognized throughout the city. After nearly 13 years with Congressman OWENS, Mr. Taylor retired; however he remains active in his community.

Kenneth Taylor also devotes much of his time to music. He serves as an organist, composer, and arranger for his church in Brooklyn. Moreover, he is vice president of the 100 Men for Major Owens; member of District 65; and member of Sigma Alpha Delta.

Shortly after his arrival from his native country of Cuba, Kenneth Taylor enlisted in the United States Army and was stationed in France and Germany. At the end of his enlistment, he received an honorable discharge. He, thereafter, attended Bernard Baruch College where he graduated with a bachelor of arts in management. He also received a certificate in paralegal studies from Long Island University and completed an internship with the corporate counsel of the city of New York.

Kenneth Taylor is a Beacon-of-Hope for central Brooklyn and for all Americans.

SALUTE TO JAMES JOHN LENIHAN

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. LOFGREN. Mr. Speaker. In an era when hard work and dedication to the public good sometimes seem outdated, we need to be reminded what personal character and long-term commitment mean. It is the men and woman who work hard, raise children and contribute to the quality of their neighbor's lives who are the true heroes of American life.

Jim Lenihan is such a person. Jim graduated from the University of San Francisco, married his wife, Nancy, and began a long and successful career in the insurance business which lasted forty years. During this time, Jim and Nancy raised their five children, while Jim found time to engage in a host of civic activities in Mountain View and Santa Clara County. A dedicated family man who also worked hard to give back to his community, Jim is much loved in Mountain View. In 1960, Jim began his other career in the water resources field by being elected Board Director of the Santa Clara Valley Water Conservation District, the predecessor to today's Santa Clara Valley Water District in San Jose, CA.

Jim has served for 36 years on the Santa Clara Valley Water District Board as a guiding force for thoughtful water resources management. During his tenure, Jim had a leading role in the critical decisions facing the District in the development of a reliable water supply for the County. Specifically, Jim was involved in the development of the San Felipe Water Importation System, the Guadalupe River Flood Control Project, the State Water Project and a host of state and federal water policy issues. His early involvement and effective leadership to secure local, state and federal finding in support of the State Water Project and the federal Central Valley Project has helped make Santa Clara County and the State of California leaders in the stewardship of our water resources. One of Jim's key successes and one which our County long profit from was Jim's hands-on involvement and support for the approval and construction of the San Felipe Division of the Central Valley Project. This project, for the first time, brought federal water into our County. His leadership was critical at a time when many did not think it was possible to overcome all the hurdles involved in bringing Federal water to our area. But Jim did.

Throughout his career, the governors of California have sought out Jim's counsel and leadership naming him to numerous boards and task forces on California's more difficult water issues ranging from Auburn Dam to the transfer of the Central Valley Project to the state. Jim also served for ten critical years as a governor's appointee to the California Water Commission. This assignment brought him to Washington to make California's case for increased funding for our water initiatives. Many stories are told of Jim's tenacious, but thoughtful support for California's projects among the appropriations committee staff and federal agencies—and what a difference he made.

I was privileged to see Jim in action last spring as he led a San Jose contingent to Washington to make the case for key funding levels for the Guadalupe River Project. His sincere feeling for the protection of his constituents, coupled with his knowledge of the appropriations process and his Irish wit and good humor made for a winning combination. This enabled the County's federal representatives to secure federal funding in difficult financial times. Jim's been working his magic for our County now for 36 years—we cannot afford for him to retire.

But retire he will in late January 1997 to Watsonville, CA, with Nancy where he will enjoy his five children and plan for the next phase of his tremendous career. We know Jim will stay involved in California water issues and as the County's elder statesman on water policy, we look forward to calling on him for his wisdom and insight in the years ahead.

And so Mr. Speaker, I would like to extend my fellow Californians' utmost gratitude to Mr. Jim Lenihan for a job well-done earning him a list of sterling achievements rarely matched among our state's leaders in water policy development.

A TRIBUTE TO THE RAIDERS OF MOWEAQUA, IL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. POSHARD. Mr. Speaker, I want to honor a group of dedicated high school athletes that I am proud to say are from my district. The Central A&M Raiders football team recently won Second Place in the Illinois Class 2A State Football Championship and finished their season with a record of 12 wins and 2 losses.

The consolidated school districts of Assumption and Moweaqua have produced a football dynasty in central Illinois. This season the Central A&M Raiders made their third appearance in the Illinois State High School Football Championship Game and this is also the third time that the Raiders have brought home the second place trophy. Unfortunately for the Raiders, the third time was not the charm for the State championship. However, I believe that there are no losers in a State championship game, because both of the teams playing are winners already.

Having the opportunity to play in a State championship game in any sport is a great accomplishment that cannot be attained without hard work. I commend the Raiders students, coaches, and fans for their hard work and dedication to the sport of football as well as the loyalty that they have shown for their school.

For the record, I would like to list the names of the players, coaches, managers, cheerleaders, and pom-pom squad members involved in the success of the 1996 Central A&M Raiders Football Team. First, the players: Jim Dial, Ryan Dorsey, Craig Fathauer, Ross Forlines, Joe Gould, Matt Hite, Jim Hunt, Travis Kerby, Drew Moore, Aaron Potsick, Tim Prosser, Trent Rodman, Wes Shanks, Wes Temples, Jeremy Buckles, Jason Churchill, Virgil Coffman, Bob Hogan, B.J. Jordan, Perry Jordan, Mike McLain, Jeremy Medler, Brad Reatherford, Jon Simmons, Richard Stuart, Darin Wall, Derek Wall, Tim Webster, Jeff Carter, Brent Damery, Graham Danyus, Justin Dirks, Jacob Elder, Adam Germscheid, Ross Minott, Josh Monson, Nathan Morrison, Chris Stringer, Andy Tibbs, and Brandon McVey. Coaching the Raiders were Mark Ramsey, Gerald Temples, Brett Hefner, Doug Morrell, Brad Kerby, Mike Lees, and Jerit Medler. Team managers were John Allison and Jesse Adrian, The cheerleaders included Amanda Bilyeu, Bidget Bilyeu, Amber Blades, Jody Burckhartt, Michelle Matlock, Courtney Nicol, Jennifer Ramsey, Abbey Seifert, Amy Seifert, Jenny Vincent, Brianne Wempen, and Hilary Wooters. Members of the pom-pom squad are Brooke Boitz, Kelly Clutter, Amanda Dorsey, Amanda Flemming, Jennifer Ludlum, Neely Sloan, Ronda Sloan, and Tiffany Wilson.

On behalf of the 19th District of Illinois, I extend my congratulations to the Central A&M Raiders on another successful season. As the words to your fans' favorite cheer says, "We are proud of you."

PROTECT VOTING RIGHTS FOR THE HOMELESS; THE VOTING RIGHTS OF HOMELESS CITIZENS ACT OF 1997

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. LEWIS of Georgia. Mr. Speaker, as the 105th Congress convenes today, I am pleased to reintroduce the Voting Rights of Homeless Citizens Act of 1997. The purpose of this legislation is to enable the homeless, who are citizens of this country, to vote. The bill would remove the legal and administrative barriers that inhibit them from exercising this right. No one should be excluded from registering to vote simply because they do not have a home. But in many States, the homeless are left out and left behind. That is not right. It is not fair. It is not the way of this country.

During this century, we have removed major obstacles that prevented many of our citizens from voting. Not too long ago, people had to pay a poll tax or own property to vote. Women and minorities were prohibited from casting the ballot.

Before the Civil Rights Movement, there were areas in the South where 50 to 80 percent of the population was black. Yet, there was not a single registered black voter. In 1964, three young men in rural Mississippi gave their lives while working to register people to vote. Many people shedded blood and some even died to secure voting rights protection for all Americans.

Mr. Speaker, over 30 years ago, President Lyndon Johnson proposed that we "eliminate every remaining obstacle to the right and opportunity to vote." Eight months later, the Voting Rights Act of 1965 was signed into law, making it possible for millions of Americans to enter the political process. The time is long overdue to ensure that every American has the opportunity to exercise this fundamental right.

Our Nation has made progress. The 19th amendment finally gave women the right to vote. The motor voter law made voter registration more accessible to working people. Yet, despite tremendous progress, we still have work to do. I have dedicated my life to ensuring that every American is treated equally and that everyone has the right to register and vote. I ask my colleagues to join me in opening the political process to every American—even those without a home. I urge my colleagues to join me by cosponsoring and supporting passage of the Voting Rights of Homeless Citizens Act of 1997.

HONORING GARRISON KEILLOR

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. EHLERS. Mr. Speaker, It is with great pleasure that I take this time today to recognize America's most gifted, thoughtful, and talented entertainer, writer, and storyteller, Garrison Keillor. I recently had the opportunity to welcome Garrison to the Great Lakes State for a wonderful Christmas performance at the University of Michigan.

Born in the eastern Minnesota town of Anoka in 1942, Garrison Keillor has been providing radio listeners with a serious, yet humorous, view of everyday life through his descriptive and creative stories since his undergraduate days at the University of Minnesota. After graduating Garrison went to work for The New Yorker, where he exhibited his writing skills and explored new interests. However, it wasn't until 1974 that Mr. Keillor began a new radio program that has become a weekly tradition for his almost 2 million listeners worldwide.

"Prairie Home Companion," Garrison's variety show creation in 1974, has been a family favorite in my home for over 20 years. Heard on close to 350 public radio stations across the country, with listenership growing, PHC has created a welcome and enjoyable atmosphere reminiscent of radio of years past by providing unique entertainment and strong mental images that only radio can present. Mr. Keillor exhibits a superb knack for story spinning that is refreshing, and a nice change of pace from the pressures we all face in our everyday lives. Because I grew up in the small town of Edgertown, MN, I cherish the moments I am able to enjoy listening to Garrison's radio imagery and reliving some of the joys of my midwestern youth.

Mr. Keillor's work is not limited to his superb activities over radio airwaves. Readers of The New York Times and The Atlantic are enriched and entertained by the thoughts of Garrison through his contributed articles. He is also the author of numerous books: "We are Still Married," "Happy to be Here," "Lake Wobegon Days," "WLT," "Leaving Home," "The Book to Guys" and the children's book "Cat, You Better Come Home," He has also broken box-office records in performances with orchestras across the country and overseas.

While his work is obviously appreciated by his fans, as evidenced by his loyal listenership, there is also a mutual respect and admiration from his peers. During the first 13 years of PHC, Garrison received the prestigious George Peabody and Edward R. Murrow Awards, along with a medal from the American Academy of Arts and Letters for his work. He has also received two ACE Awards, a Peabody, and a Grammy, along with several Grammy nominations. The Museum of Broadcast Communications has also paid tribute by inducting him into their Radio Hall of Fame.

I especially appreciate Mr. Keillor's discussions of everyday religious activities of Americans. Although this subject is considered taboo by most media performers, Garrison treats religious beliefs as a normal part of human activity, which it truly is for most people. He discusses it intelligently, thoughtfully, and respectfully, but does so with his superb sense of humor. He points out the foibles of human behavior vis a vis people's religious beliefs, yet does so in a way that humorously causes us to reflect on our faith and actions and how they relate to the greater meaning of life.

Mr. Speaker, I ask my colleagues to join me in thanking Garrison Keillor for his gifted contributions to our society. His dedication, talent, and writing are a true delight for those who have had the opportunity to enjoy his work.

HOUSING AND ILLEGAL ALIENS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GALLEGLY. Mr. Speaker, today I am introducing legislation which is designed to correct a drafting error which appeared in Public Law 104–208 and which pertains to the ability of ineligible aliens to receive Federal housing assistance.

Amendments made to section 214 of the Housing Act, as incorporated into the Immigration Reform bill adopted last year, were designed to make it more difficult for illegal aliens to receive housing assistance. The fact is, illegals are currently receiving housing assistance and every day newly arrived illegal aliens are applying for assistance. HUD, in the past has been very inconsistent in enforcing the laws designed to prevent this funding from going to ineligible families.

Unfortunately, in attempting to correct the obvious flaws in the law, we made a drafting mistake and now HUD is threatening to make the proverbial mountain out of the mole hill.

In considering the potential problems large public housing authorities may encounter as they try to implement mandatory verification of citizenship or immigration status of all applicants for housing assistance, the Senate tried to provide an opt-out provision which would allow HA's to grant housing assistance before all verification was completed if the verification process was taking too long or if the waiting period began to result in an unusual amount of vacant units. While House Members were at first reluctant to put this opt-out into statutory language, it was included in the final version of the bill signed into law.

Unfortunately, HUD has now interpreted the opt-out language to mean that HA's could opt-out of the entire section 214. In other words, If HUD's view prevailed, HA's could legally give housing assistance to illegal aliens without any questions being asked. Needless to say, I totally disagree with the interpretation the Department has rendered on the issue. How HUD's lawyers could come to the conclusion that while adopting legislative changes to section 214, which were intended to make it more difficult for illegal aliens who have been determined by the HA's to be ineligible for new or continued assistance, the Congress would then intend to allow the HA's to turn around and not enforce section 214, is beyond me.

For the record, and as the principal author of the section 214 changes, I will again, state that under no circumstance did the Congress intend any interpretation of the legislation which gives any HA the option of following the law as written in section 214.

It is clear to me, as it was to all of the Members involved, that the author of the opt out only intended to allow HA's with high turnover to be able to place families in housing without having to wait for a verification from the INS. Again, it is inconceivable to me how HUD could say that our intent was to allow HA's to completely ignore a law we were trying to tighten.

The effect of HUD's conclusions would suggest that HUD is now telling the HA's that if they do not want to enforce section 214 they do not have to. This means that HUD is telling the HA's that they may now elect to grant housing assistance to illegal aliens or continue to provide assistance to illegals even after they had been determined to be ineligible. I do not believe this is the official position of the Department.

My legislation is intended to clear up any doubt among HUD or the housing authorities.

APPRECIATION TO THE PEOPLE OF MASSACHUSETTS 3D DISTRICT

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McGOVERN. Mr. Speaker, today I took my oath of office to represent faithfully the people of the 3d district of Massachusetts. As I stood on the floor of the House with my 6-year-old niece, Courtney, I remembered the faces of all the families—the men, women and children—with whom I'd met throughout the 3d district during this past year. The pledge I took today is to work in support of their dreams and aspirations, not only for today, but for the lives of their children and grandchildren.

To be elected to the House of Representatives is to take on a sacred trust. I feel privileged and deeply appreciative to the people of the 3d Congressional District. And on this day, I honor you and your faith in America and our joint future.

RURAL HOUSING LOAN SERVICING PRIVATIZATION ACT

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONDIT. Mr. Speaker, I rise today to introduce the Rural Housing Loan Servicing Privatization Act.

Since 1988 the Congress has mandated that the Farmers Home Administration [FmHA], now the Rural Development Administration [RDA] establish an escrow accounting system for the section 502 single-family housing program. It is now 1997 and little progress has been made towards this goal. Since 1990, FmHA has been studying the benefits and advantages of centralizing and contracting out the section 502 program.

A review of efforts to improve the delivery of the section 502 single family-housing program shows that the program is troubled by mismanagement, an unwieldy structure and inferior technology. by FmHA's own admission, it costs $20 million per year to maintain a system that inadequately monitors the program. Because this system cannot be redesigned to maintain a mortgage escrowing program, the agency must pay an additional $20 million per year to voucher property taxes for borrowers. This practice is detrimental to both the borrower and the lender.

In September of 1992, studies by the FmHA and GAO concluded that estimated operating savings could be around $106 million by making these reforms. Unfortunately, trivial action has been taken towards this end at a time when the Congress and the Federal Government are working towards reorganizing and streamlining Government.

The Rural Housing Loan Servicing Privatization Act, will move this process along. This legislation would require the Secretary of Agriculture to implement centralized servicing in the section 502 housing program by entering into contracts with entities "qualified and experience conducting loan servicing."

One important aspect that this bill provides is competition between Federal Government and private entities for borrowers. Allowing private companies to compete for the borrowers currently serviced at the local level would fundamentally change the way the RDA does business. It could also mean reaping the benefits of the competitive marketplace, greater efficiency, increase focus on customer needs, and improving morale.

Given the budget and fiscal restraints facing Congress, I believe now is the time for us to work towards the goal of Rural Housing Loan Servicing Privatization Act. By doing this we would lower delinquency rates, reduce loan losses, have escrow account ability, and lower operating costs.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Housing Loan Servicing Privatization Act".

SEC. 2. REQUIREMENT TO TRANSFER SERVICING OF SECTION 502 LOANS.

Section 502 of the Housing Act of 1949 (42 U.S.C. 1473) is amended by adding at the end the following new subsection:

"(i) TRANSFER OF LOAN SERVICING.—The Secretary shall enter into contracts under section 510(k) providing for the servicing of all loans made by the Secretary under this section, to the extent entities qualified and experienced in conducting loan servicing for residential mortgage loans are available and agree to enter into such contracts.".

SEC. 3. ADMINISTRATIVE PROVISIONS.

Section 510 of the Housing Act of 1949 (42 U.S.C. 1480) is amended—

(1) in subsection (j) by striking "and" at the end;

(2) by redesignating subsection (k) as subsection (l); and

(3) by inserting after subsection (j) the following new subsection:

"(k) enter into contracts (having such provisions as the Secretary considers appropriate) with entities qualified and experienced in conducting loan servicing for residential mortgage loans to conduct the servicing for loans made by the Secretary under this title, which shall provide for such entities to receive scheduled periodic payments from borrowers pursuant to the terms of loans, including amounts for any escrow accounts, and making payments of principal and interest and such other payments with respect to the amounts received from borrowers as may be required pursuant to the terms of loans and may provide for such entities to retain a fee for servicing from loan payment amounts received; and".

A BEACON-OF-HOPE FOR ALL AMERICANS: ANNIE NICHOLSON

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of non-elected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as Beacons-of-Hope.

Annie Nicholson is one of these Beacons-of-Hope residing in the central Brooklyn community of New York City and New York State. Since 1982, Annie has served as case worker for Congressman MAJOR OWENS. She has gained critically needed emergency services for people in need, and she has recovered thousands of dollars in entitlement funds for citizens who have been unjustly treated by government agencies. Few people know their way through the social service bureaucracy as well as Annie Nicholson.

Ms. Nicholson is a rare combination of case worker and community activist. She is a member of the board of directors of the Paul J. Cooper Human Services Center; a member of the board of the Atlantic Avenue TAP Center; and a member of 100 Women for Major Owens.

Annie Nicholson is a native of Gulfport, MI where she graduated from the 33d Avenue High School. She later attended Kingsboro Community College and received training for manpower and career development counseling; welfare advocacy; and legal service advocacy. Annie is also the proud mother of two sons—Jerry and Rodney Nicholson.

Annie Nicholson is a Beacon-of-Hope for central Brooklyn and for all Americans.

IN MEMORY OF REVEREND SUMPTER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. MILLER of California. Mr. Speaker, this past Saturday I had the chance to join many in my community to both mourn the death and celebrate the life of Rev. Percel Napoleon Sumpter, pastor of Solomon Temple Missionary Baptist Church. For more than 30 years Reverend Sumpter has been a leader in our community. He worked tirelessly to promote a better understanding between various factions of our community, getting the police to understand our youth and helping young people work with the police, trying to provide job opportunities for those on public assistance, and seeking better housing for the elderly and low income. Our community owes a great deal to Reverend Sumpter.

Like the hundreds of people who attended his homegoing celebration on Saturday, I will miss Reverend Sumpter and all of his wisdom and counsel.

Our entire community conveys to the Sumpter family our deepest sympathy.

I am enclosing below an obituary of Reverend Sumpter that may inspire many of us as we seek to help our own communities.

OBITUARY

"The Spirit of the Lord is upon me, because he hath anointed me to preach the gospel to the poor; he hath sent me to heal the broken hearted, to preach deliverance to the captives, and recovering of sight to the blind, to set at liberty them that are bruised, to preach the acceptable year of the Lord." Luke 4:18–19

The Reverend Dr. Percel Napoleon Sumpter was born in Columbia City, Florida, on December 22, 1925, to his proud parents, the late Mr. Lewis and Mrs. Eva Sumpter. Dr. Sumpter was one of seven children.

He was preceded in death by one brother, Reverend Lazarus Sumpter; two sisters, Mittiean Latson and Rosa Fashaw.

Dr. Sumpter was reared in a Christian home and taught Christian principles by his parents. He confessed Christ and was baptized at an early age and united with Bethel Baptist Church in Fort Pierce, Florida. Reverend C. Byrd was his pastor.

He received his education in the public schools in Columbia City, Florida, and received his Masters Degree in Manual Carpentry from Lincoln Park Academy of Columbia City, Florida.

He was always interested in gospel music. As he grew older, he was inspired by God and his interest grew stronger. At the age of eighteen, he was blessed to organize and sing with the Truetone Gospel Singers and the Golden Bell Jubilee Singers of Fort Pierce, Florida. He became a professional singer and was blessed and privileged to tour through most Southern, Midwestern and Western States, singing in concert with renowned recording artists. He was noted as the star leader of the singing group. He and his singing group was blessed and honored to sing for branches of the United States Armed Services.

In 1954 he changed his place of residence from Florida to Vallejo, California. He united with the St. John Baptist Church of Vallejo, California, and joined the choir, known as the Voices of St. John.

On April 9, 1964, he confessed his calling to the ministry under the leadership of Dr. Calvin Miller. He was licensed May 14, 1964, and ordained September 12, 1965, by Dr. Calvin Miller. He served as the assistant pastor of Good Samaritan Baptist Church of Vallejo, California, where Dr. Calvin Miller was pastor. Dr. Sumpter retained his membership at Good Samaritan Baptist Church, where Reverend M.D. Slade is pastor at this time.

Dr. Sumpter continued his education at Solano College for three semesters. He received an honorary Doctorate of Achievement Degree from the United Theological Seminary of Monroe, Louisiana, by Dr. S. Henry White, Registrar. He attended the Progressive Baptist Seminary in Vallejo, California. He also attended the National Congress, U.S.A., Inc. and taught classes on "Jesus and His Teaching in Light of the New Testament".

In February, 1967, Solomon Temple was in need of a pastor; one that would spiritually motivate the congregation. The Church prayerfully searched for that special God-sent man. Several ministers were given appointments to speak to the membership. Dr. Sumpter was included.

Dr. Sumpter delivered to the Church a message from God. He closed his message with a song: "It's Another Day's Journey, and I'm Glad About It".

On February 26, 1967, Dr. Sumpter was installed as the pastor of Solomon Temple Missionary Baptist Church by Reverend J.L. Johnson, pastor of Elizabeth Baptist Church, Richmond, California.

Under the dynamic Christian leadership of Dr. Sumpter, many stimulating auxiliaries and classes have been organized for the purpose of nurturing Christian growth.

He was employed by the Hoffman Company in Concord, California, as a master carpenter for twenty-five years until retiring in 1984.

Dr. Sumpter shared liberally his time, his God-given talents and his strong Christian influence and material possessions so that each of us may know through his visual example how to become true Stewards of Christ.

He was currently serving as an Instructor for the St. Vincent de Paul Employee Training Program.

November 24, 1996, Dr. Sumpter preached his last sermon at Solomon Temple Missionary Baptist Church from scriptures: Psalms 72:16 and Psalms 73:1–2. The subject: "Christ, Our Sufficiency".

On December 27, 1996, Dr. Sumpter answered the welcome voice of his Savior, and was translated into the presence of Jesus. He leaves to cherish his memory; his loving and devoted wife of forty-two years, Mrs. Arimentha Sumpter, Vallejo, California.

Four daughters: Margaret Cooley, Vallejo, California; Joyce Balkum Sumpter, Rochester, New York; Sonja Reese, Fort Meyers, Florida; and Sadie Shivers, Dale City, Virginia.

Three sons: Terry Sumpter, Vallejo, California; Aaron Sumpter, Petersburg, Virginia; and Calvin Smith, Fort Pierce, Florida.

Godson: Victor A. Jones, San Diego, California.

One sister: Anna Wilson, Lake City, Florida.

Two brothers: Reverend Nathaniel Sumpter, Quincy, Florida and Aaron Sumpter, Lake City, Florida.

Fifteen grandsons, a special grandson, Paul Cooley, Sr., Vallejo, California, nine granddaughters, eleven great-grandchildren, a special great grandson, Paul Cooley, Jr., Vallejo, California; a host of other relatives, Solomon Temple Church family and many, many friends.

SERVANT OF GOD, WELL DONE!

Thy glorious warfare's past;
The battle's fought, the race is won,
And thou art crowned at last.

Dr. Sumpter's affiliations, recognition awards, certificates and community services are many and are not listed by request of the family.

TRIBUTE TO THOMAS P. CAMPBELL, JR.—FATHER, GRANDFATHER, SCHOLAR

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. KING. Mr. Speaker, I rise today, the historic opening session of the 105th Congress, to pay tribute to Prof. Thomas P. Campbell, Jr., of Waban, MA, an outstanding American and friend of my office who passed away in November after a long illness.

Professor Campbell's life was marked by his extraordinary devotion to his family, his faith, his community, his profession, and his country. He led a life of involvement and accomplishment and was truly the embodiment of the American Dream.

My thoughts and prayers are with Professor Campbell's family. On behalf of every Member of this House, I want to extend good wishes to his wife Anne, sons Tom, Ned, and Jim, daughter Molly, his daughters-in-law and, of course, his four grandchildren. Like Professor Campbell, they demonstrated great courage and dignity during many difficult times in recent months.

Mr. Speaker, at this time, as part of my tribute to Thomas P. Campbell, Jr., I want to offer into the CONGRESSIONAL RECORD an article from the November 13, 1996 edition of the Boston Globe that discusses his many achievements and his lasting legacy.

[From the Boston Globe, Nov. 13, 1996]

THOMAS CAMPBELL JR., PROFESSOR OF LAW AT NORTHEASTERN; AT 58

Thomas P. Campbell Jr., a Northeastern University law professor renowned for his legal scholarship and compassion for students, died of cancer Monday at his home in Newton. He was 58.

Mr. Campbell was a professor at Northeastern since 1970. He was honored by the university with a distinguished teaching award in 1994, and was repeatedly chosen by graduation classes to address them at commencement.

"Tom Campbell will be remembered as the pillar of teaching excellence at this law school," Northeastern Law School Dean David Hall said yesterday. He taught property law in a way that students learned what they were supposed to learn."

Born in Manhattan and raised in White Plains, N.Y., Mr. Campbell attended Brown University and the University of Virginia Law School. He practiced on Wall Street and served as assistant general counsel of the Melville Shoe Corporation prior to his academic career.

Former students yesterday recalled Mr. Campbell's gift for breathing life into arcane and technical legal issues. Behind a stern and stoic visage, they said, lay an elegant sense of humor and infectious love for the law.

"Virtually everyone who ever took a class from him became an admirer," said Suffolk District Attorney Ralph C. Martin 2d, who first encountered Mr. Campbell as a first-year law student. "He had a facility with the law and a way of presenting the law that demystified it. He was just a prince of a guy."

His property law course, one of the traditional first-year requirements, helped introduce generations of Northeastern students to the rigors of law school.

"He was an absolutely brilliant professor," said former dean Dan Givelber. "Students uniformly adored his teaching. He will be remembered as a beacon of sanity in a confusing first year of law school."

Mr. Campbell also played an instrumental role in the affairs of the law school outside of the classroom. He set up the first co-op program there in 1970, and spent a year as acting dean in 1992.

He also enjoyed a lifelong involvement with the Boy Scouts of America, receiving the Silver Antelope Award, the highest regional award in scouting.

Colleagues say they saw a new and profound side of Mr. Campbell in recent years as he struggled with illness. He insisted on maintaining his normal course load and drove himself to maintain his lofty standards of scholarship.

"He taught us much more than law," said Northwestern associate dean Diane Tsoulas, another former student. "The phrase I think of for him is 'lion-hearted.' He was incredibly courageous in the face of illness and taught us a great deal about courage and dignity."

Mr. Campbell leaves his wife of 36 years, Anne (Shanklin); three sons, Thomas P. 3d of Roslindale, Edward S. of London and James D. of Old Town, Maine; a daughter, Margaret A. Campbell of Jamaica Plain; two sisters, C. Gale Brannan of Sussex, England, and Anne C. Lyman of Pund Ridge, N.Y.; and four grandchildren.

A funeral Mass will be said at St. John the Evangelist Church in Wellesley Hills tomorrow at 10 a.m. Burial will be in Newton Cemetery.

MEDICARE DIABETES EDUCATION AND SUPPLIES AMENDMENTS OF 1997

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. FURSE. Mr. Speaker, I rise with my friend Mr. NETHERCUTT of Washington to introduce bipartisan legislation to improve Medicare coverage of outpatient self-management training and blood testing strips. By helping improve Medicare coverage for Americans with diabetes, we can save untold human suffering and millions of health care dollars.

This legislation is identical to two bills we coauthored in the 104th Congress, H.R. 1073 and H.R. 1074, which were cosponsored by 250 Members of the House. Unfortunately, neither bill was passed before Congress adjourned for the year. Today, we are introducing this landmark diabetes legislation with over 65 original cosponsors and the support of virtually every major diabetes organization in America. In fact, statements of support from seven diabetes organizations will follow this statement. It was the efforts of these organizations which helped build the broad, grassroots support for H.R. 1073 and H.R. 1074 to 250 Members—a clear, bipartisan majority of the House.

Mr. Speaker, my colleagues, we can no longer wait to enact this important legislation. We must pass this bill as soon as possible to help improve the quality of life for the 16 million Americans who have diabetes. I was proud when, last July, every major diabetes organization in the United States came together in Washington for the Diabetes Call to Action! and stood on the steps of the Capitol imploring Congress to pass this legislation.

Another reason for passing this bill as soon as possible is that it saves money. The latest scoring by the Congressional Budget Office demonstrates that this bill will actually save $223 million over 6 years. Improving coverage of outpatient self-management training and blood-testing strips will help reduce costly hospitalizations and complications that result from diabetes. In fact, one statistic last year cited that Congress will lose $500,000 every day it waits to enact this bill.

For families that live with diabetes, the time for waiting is past; the time for enacting this law is now. My beautiful daughter, Amanda has diabetes. My colleague from Washington, Mr. NETHERCUTT, has a daughter with diabetes. We know first hand about this deadly disease and what it means to live with diabetes. I know that if we can help people with diabetes better manage their disease, we will save untold human suffering and the precious health care dollars that are used to treat it.

I ask all my colleagues to cosponsor this bill and urge leadership on both sides of the aisle to agree to schedule this bill for swift action on the House floor.

INTRODUCTION OF THE HOMEOWNERS RELIEF ACT OF 1997

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. KELLY. Mr. Speaker, because the American people are looking to us for tax relief, I rise on the first day of the 105th Congress to reintroduce the Homeowners Relief Act of 1997. This initiative, which provides homeowners with relief from capital gains taxation when they sell their home, is identical to legislation that I introduced during their 104th Congress.

This legislation recognizes that a person's home is something more than a simple investment; it's a fundamental part of the American dream, and our Tax Code should reflect this fact. An investment in a home is an investment in your community and in your future. Indeed, for many Americans, the equity built up after many years in a home represents a significant part of their retirement nest egg.

Owning a new home is the dream of young couples starting a new life together, of newly arrived immigrants eager to realize the American dream, and of all people working to build a better life for themselves and their children.

Homeownership is special, Mr. Speaker, and it should occupy a special place in the realm of public policy. The Homeowners Relief Act does just that—any gains from the sale of a principle residence would be exempt from capital gains taxation. Specifically, the bill excludes from taxation the gains from the sale of a principle residence if, during the 7-year period prior to the sale of the residence, the property was owned by the taxpayer and used as the taxpayer's principle residence for 5 or more years.

Current law provides some relief for homeowners, but it doesn't go far enough. Taxpayers may roll the gains from the sale of a home into a new home of equal or greater value, and older Americans can claim a onetime $125,000 exclusion when they sell their principle residence. These exemptions shield some homeowners from capital gains liability, but certain circumstances force many to shoulder a significant capital gains tax bite when they sell their home. Increased home values put many taxpayers, particularly older Americans looking to retire, in the difficult situation of having to pay substantial capital gains taxes. In addition, at a time when corporate downsizing is all too common, often the most substantial asset held by laid-off workers is their home.

The problem is that current law may lock individuals into homes that they might wish to sell. Those individuals who can afford to purchase a more expensive home can postpone capital gains liability, while those who need to move to more modest accommodations, because their economic circumstances warrant doing so, must pay a tax.

Mr. Speaker, by passing this legislation, Congress will give homeowners needed relief from this inequity, and will put recognition in the Tax Code of the special status of the home. I urge my colleagues to join me in supporting the Homeowners Relief Act of 1997.

THE INTRODUCTION OF THE POSTAL REFORM ACT OF 1997

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McHUGH. Mr. Speaker, today I am reintroducing legislation to reform the U.S. Postal Service. The Postal Reform Act of 1997 is substantially identical to H.R. 3717 which I introduced in the 104th Congress and continues to represent the first comprehensive reform effort involving the U.S. Postal Service since its formation in 1970.

When I introduced this measure in the previous Congress, I intended to make clear that this legislation represented the first step in a lengthy legislative process aimed at ensuring the future existence and financial viability of the United States Postal Service. The legislation was the subject of four extensive hearings during the 104th Congress and I plan to continue the hearing process into this new year. This legislation, as introduced, is substantially identical to the former H.R. 3717 as considered during the previous Congress. Any differences between this measure and its predecessor reflect the legislative reform enacted into law at the close of last year's legislative session. I again emphasize that the reintroduction of this measure represents my commitment to facilitating the reform process with all areas of the legislation subject to review. Consequently, I encourage those with interests in the legislation to continue to engage the Subcommittee in a constructive manner as the legislative process continues.

During the 104th Congress the Subcommittee on the Postal Service, which I chair, conducted indepth and lengthy hearings on the U.S. Postal Service and the issue of postal reform. During the oversight phase of our hearings we heard from more than 60 witnesses representing all facets of the postal community. Further, I had the opportunity to meet with a variety of individual postal customers, postal employees, and business leaders regarding these matters. I attempted to listen and absorb the comments and interests put forth on and off the record during those meetings and address them with the introduction of H.R. 3717 on June 25, 1996.

Continuing with the Subcommittee's desire to receive the full range of public comments we held four hearings last year specifically on H.R. 3717 and the issue of postal reform. Witnesses at these sessions ran the gamut from the Postmaster General; Chairman of the Postal Rate Commission; representatives of the direct mail and newspaper industries; private sector business partners; employee unions and associations, and for the first time, the Chief Executive Officers of the two largest private sector competitors of the USPS, Federal Express, and United Parcel Service.

One thing became clear as we conducted our oversight functions and met with interested parties: that 26 years after the establishment of the United States Postal Service, postal customers across the spectrum want to maintain a viable universal mail delivery system. To achieve this goal, Congress must revisit the legislative infrastructure of the Postal Service to assist it in meeting the changing market conditions and advances in communications technology.

Maintenance of a universal postal system must be the cornerstone of any postal reform measure. I strongly believe universal service at reasonable rates remains the primary mission of the U.S. Postal Service. However, shifting mail volumes and stagnant postal revenue growth require Congress to reexamine the statutory structure under which our current postal system now operates if we are to maintain this important public service mission.

During the conduct of our oversight hearings, the Subcommittee heard many witnesses describe means of communications that were not imaginable in 1970. At that time, who could have foreseen the explosion of personal computers, the Internet and facsimile machines in our everyday lives? There has been a steady erosion of what used to be personal correspondence, protected by the postal monopoly, moving through the U.S. Mail that now moves electronically or via carriage by a number of private urgent mail carriers.

According to Reports of the General Accounting Office, the U.S. Postal Service controlled virtually all of the Express Mail market in the early 1970's; by 1995 its share had dropped to approximately 13 percent. Similarly, the Postal Service is moving considerably fewer parcels today than 25 years ago. In 1971 the Postal Service handled 536 million parcel pieces and enjoyed a 65 percent share of the ground surface delivery market. Compare this to 1990 when the Postal Service parcel volume had dropped to 122 million pieces with a resulting market share of about 6 percent.

Even the Postal Service's "bread and butter" mail, first-class financial transactions and personal correspondence mail, is beginning to show the effect of electronic alternatives. Financial institutions are promoting computer software to consumers as a method of conducting their billpaying and general banking, while Internet service providers and online subscription services are offering consumers the ability to send electronic messages to anyone around the world or just around the corner. Similarly, many of us have become accustomed to the immediacy of the facsimile machine. These new communication technologies all carry correspondence that formerly flowed through the Postal Service. These former sources of revenues supported a postal infrastructure dedicated to the mission of universal service.

This shift in postal revenues will have a negative long-term effect on the financial well being of the Postal Service. Should the Service continue to labor under the parameters established by the 1970 Act, its inability to compete, develop new products and respond to changing market conditions jeopardizes its future ability to provide universal service to the diverse geographic areas of our Nation. We must make adjustments to the Postal Reorganization Act of 1970 which will allow the Postal Service more flexibility in those areas in which it faces competition while assuring all postal customers of a continued universal mail service with the protection of reasonable rates that can be easily calculated and predicted. My legislation attempts to meet this goal by replacing the zero-sum game that has driven postal ratemaking for the last 25 years with a system that reflects today's changing communication markets.

Mr. Speaker, I propose to allow the U.S. Postal Service the opportunity to make a profit and remove the break-even financial mandate of existing law that promotes the wide, yearly, swings of postal profit and deficit and weeks of negotiations on arcane economic assumptions for ratemaking purposes.

I propose to divide the product offerings of the Postal Service into two primary categories. The first, the "non-competitive mail" category, represents all single piece letters, cards and parcels as well as those classes of users without significant alternatives. The class will utilize a postage rate "cap" process by which the associated customers can easily determine postal rates. The second category will be the "competitive mail" category and will include those mail classes, products and services the Postal Service provides through the competitive marketplace. Within the category the Postal Service may set its rates according to market forces subject to an annual audit provided to the Postal Rate Commission to assure that rates are reflective of costs while providing a contribution to the overhead of the U.S. Postal Service. In addition, it would allow the Postal Service freedom to experiment with new offerings for a period of three years before requiring the Postal Rate Commission to permanently place it in either the competitive or non-competitive mail categories.

This legislation grants significant freedom and flexibility to the Postal Service. Consequently, other changes are needed to reflect this status. I propose to attempt to level the playing field by changing the relationship between the U.S. Postal Service and the U.S. Treasury. Several postal competitors view financial access to the Treasury as an unfair advantage of the Postal Service, while the Postal Service views it as a restriction on its financial flexibility. Similarly, I propose to apply the anti-trust laws of our nation to the Postal Service products offered in either the competitive mail or the experimental market test categories. I am also proposing that the Postal Service conduct a demonstration project that will provide us with the data needed to determine the continued necessity of providing the Postal Service with sole access to individual private mailboxes.

Mr. Speaker, last Congress when I introduced my bill I included a provision intended to settle once and for all the nagging problem of an agency's chief law enforcement officer and member of postal management serving as its Inspector General by establishing an independent Inspector General for the Postal Service. A provision of Public Law 104–208, adopted in the closing days of the 104th Congress, addressed that issue by mandating the establishment of an independent office of the Inspector General. The Subcommittee is monitoring the progress of this office and has high expectations for this new Inspector General.

Also, the bill directs stringent reporting requirements to the Congress and to the U.S. Postal Rate Commission by providing the Commission with the ability to issue subpoenas, manage proprietary documentation and procure necessary information. This legislation places significant responsibilities on the Commission and, reflective of that, directs that the Commission will have for the first time its own Inspector General.

My proposal, Mr. Speaker, also increases the penalties for repeated mailings of unsolicited sexually oriented advertising as well as the mailing of hazardous materials and controlled substances. It protects workers on the job by making it a felony to stalk, assault or rob a postal employee. Just this past month we saw a letter carrier killed while on duty in our nation's capital and we cannot allow those that would harm or rob postal carriers to go without significant punishment. My proposal addresses this serious situation by increasing the penalties for such acts of violence.

I stress that significant areas of current law remain intact. This legislation does not affect the existing collective-bargaining process. However, the Subcommittee recognizes that serious problems exist between postal management and labor. To address this dire situation, I propose to form a Presidentially appointed Commission made up of non-postal union and corporate representatives as well as those well known in the field of labor-management relations. The Commission would be charged with addressing these issues in detail and provide guidance to the Congress and the Postal Service on any needed changes.

Mr. Speaker, this bill is, indeed, far-reaching in its scope. Some have said there is no consensus for reform while others have requested reform, due to the fact that the USPS has had two years of financial success and high delivery satisfaction numbers. My response is that this is precisely the time to consider this issue.

Reforms of this scope and magnitude are best enacted outside an atmosphere of crisis. Our failure to consider these reforms in a timely manner will leave the Postal Service ill-equipped to operate in a 21st Century environment. Without such action, Congress and the Postal Service will ultimately face conditions where thoughtful reforms and a deliberative process will be unachievable.

Mr. Speaker, my bill offers the Postal Service, its customers and employees—and the American people—the opportunity to equip one of our Nation's most valued institutions with the requisite tools to remain a viable and fiscally sound entity well into the next century.

INTRODUCTION OF THE WORKING FAMILIES FLEXIBILITY ACT

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. BALLENGER. Mr. Speaker, I am joined today by many of my colleagues in the introduction of the Working Families Flexibility Act which would allow private sector employers to provide their employees with the choice of taking time-and-a-half compensatory time as payment for overtime in lieu of cash wages. This legislation is family friendly and answers the call of many workers for increased flexibility and choices in the workplace.

The Fair Labor Standards Act, which governs wages and hours of work, was written nearly 60 years ago for a predominantly male work force and a workplace primarily comprised of manufacturing firms. Yet, the demographics today are dramatically different. Sixty percent of women are employed outside of the home and two-earner families have become increasingly common.

The Fair Labor Standards Act, however, fails to recognize these changes and, as such, restricts the ability of employers to meet the needs of their work force. Many employees are finding it increasingly difficult to find enough time for important family obligations or outside interests, making receiving compensatory time instead of cash overtime an attractive option. Seventy-five percent of respondents in a national public opinion survey favored giving employees the option of receiving time off instead of cash wages for overtime hours worked.

Many employers who want to be family friendly find that flexible scheduling can be extremely difficult for employees who are paid by the hour and covered by the overtime provisions in the law. Suppose an employee has a terminally ill parent who lives several States away. Days off with pay can become precious for that employee when a 2-day weekend does not provide enough time to travel and spend time with that parent. When that employee works a few hours of overtime each week, he or she may prefer to be paid with time off rather than with cash wages. If the individual is employed in the public sector, then he or she would have the choice of receiving paid time off in lieu of cash wages for overtime hours worked. However, under current Federal law, if the individual is employed in the private sector then he or she cannot choose paid time off, even if that form of compensation is preferred.

The Working Families Flexibility Act would allow employers to make compensatory time available as an option for employees. Employees would have the choice, through an agreement with the employer, to take overtime pay in the form of paid time off. As with overtime pay, the compensatory time would accrue at a rate of time-and-a-half.

Opponents of the Working Families Flexibility Act have raised concerns about employees being coerced by employers into choosing compensatory time over cash wages. Thus, the legislation includes numerous protections to ensure that employees cannot be pressured into one choice or the other.

Employees could accrue up to 240 hours of compensatory time within a 12-month period. The legislation would require the employer to annually cash-out any unused, compensatory time accrued by the employee.

Employees could choose when to take accrued compensatory time, so long as its use does not unduly disrupt the operations of the business (the same standard used in the public sector and under the Family and Medical Leave Act.) Employers would be prohibited from requiring employees to take accrued time solely at the convenience of the employer.

At any time, an employee could withdraw from a compensatory time agreement with their employer or request a cash-out of any or all accrued, unused compensatory time. The employer would have 30 days in which to comply with the request. The legislation would also require an employer to provide the employee with at least 30 days notice prior to cashing out any accrued time in excess of 80 hours or prior to discontinuing a policy of offering compensatory time.

This legislation does not eliminate or change the traditional 40-hour work week. It simply provides employees with another option in the workplace—time off instead of overtime pay. This concept may be revolutionary to some, but to America's workers, who are increasingly frustrated about coping with the demands of work and family responsibilities, it is a long overdue change.

I urge my colleagues to respond to the needs of America's workers by supporting the Working Families Flexibility Act.

KEEP THE NAME AS DEVILS TOWER

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. CUBIN. Mr. Speaker, today I am introducing legislation to ensure that the name of Devils Tower National Monument remain unchanged. I introduced this bill during the 104th Congress and since that time I have received numerous positive comments and support from constituents from around the Devils Tower area. In fact, my office has received a petition with an estimated 2,000 names from not only those in and around the monument but from all over the country of those concerned with changing the name of this beloved landmark.

For more than 100 years the name "Devils Tower" has applied to the geologic formation in my State and has since appeared as such on maps in Wyoming and nationwide. The name was given to the monument by a scientific team, directed by Gen. George Custer and escorted by Col. Richard Dodge in 1875, and is universally recognized as an important landmark that distinguishes the northeastern part of Wyoming. The monument has brought a vital tourist industry to that portion of the State due to its unique character and structure.

According to a July 17, 1996, release by the U.S. Board on Geographic Names, the National Park Service has advised the board that several native American groups do intend to submit a proposal, if one has not already been submitted, to change the name of the monument. On September 4–6, 1996, the superintendent of Devils Tower, Deborah Liggett, gave a presentation at the Western States Geographic Names Conference in Salt Lake City, UT, giving the native American perspective.

During a July 1, 1996, meeting with Ms. Liggett she gave me her assurance that she had no intention of proposing a name change for the monument, and made it clear to me that no one else was in the process of initiating a name change. The legislation that I am introducing today on behalf of the State of Wyoming will ensure that the name of the geological formation, historically known as Devils Tower, remain unchanged.

It is my belief and the belief of hundreds of people from around the region that a name change will only bring economic hardship to the tourist industry in the area. I cannot and will not stand idly by and allow that to happen. I commend this bill to my colleagues and urge them to join me in cosponsoring it.

A BEACON-OF-HOPE FOR ALL AMERICANS: ASQUITH REID

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of non-elected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as Beacons-of-Hope.

Asquith Reid is one of these Beacons-of-Hope residing in the central Brooklyn community of New York City and New York State. While Asquith Reid has served as an electrical engineer employed with the telephone industry, most of his time is spent as a political engineer. He has guided campaigns for district 18 school board candidates; for Assemblyman Nick Perry; Councilwoman Una Clark; and Congressman MAJOR R. OWENS.

Mr. Reid's most recent victory was the triumphant election of John Sampson for New York State Senator. Undoubtedly, Mr. Reid's political engineering has yet to reach its peak.

Throughout the years, Asquith Reid has worked diligently in top positions to the benefit of his community. He currently serves as chairman of the New Era Democratic Club; vice chair of District 17 Neighborhood Advisory Board; board member for the Husain Institute of Technology; and president of the Donna Reid Memorial Education Fund.

Mr. Reid was born in Hanover, Jamaica. He graduated from Kingston Technical High School and served in the U.S. Air Force from 1963 to 1967. He later graduated from Kingston Technical College with a degree in electrical engineering. Asquith and his wife, Dean, are the proud parents of two children, Michelle and Sharon.

Asquith Reid is a Beacon-of-Hope for central Brooklyn and for all Americans.

INTRODUCTION OF THE BREAST CANCER PATIENT PROTECTION ACT OF 1997

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. DELAURO. Mr. Speaker, I rise today to introduce the bipartisan Breast Cancer Patient Protection Act of 1997. I want to thank my colleagues Representatives DINGELL, ROUKEMA, ACKERMAN, THOMAS, BARRETT, BENTSEN, CORRINE BROWN, SHERROD BROWN, CLAYTON, CLEMENT, CONYERS, DEFAZIO, ESHOO, EVANS, FALEOMAVAEGA, FARR, FOGLIETTA, JON FOX, FRANK, FROST, GEJDENSON, GONZALEZ, GORDON, GREEN, HINCHEY, PATRICK KENNEDY, KENNELLY, KILDEE, LAFALCE, LOWEY, MCDERMOTT, CAROLYN MALONEY, CARRIE MEEK, PATSY MINK, JAMES MORAN, MORELLA, MURTHA, NADLER, NORTON, OBERSTAR, OLVER, OWENS, PALLONE, PAYNE, PELOSI, QUINN, RAHALL, RIVERS, SANDERS, SLAUGHTER, TOWNS, and VELAZQUEZ for joining me as original cosponsors.

As an active participant in the fight for health care reform, I continue to believe that we must reform the health care system to provide quality care for all Americans. Particularly important is ensuring that women receive equitable treatment in our nation's health care system.

This year, approximately 184,300 grandmothers, mothers, and daughters will be diagnosed with invasive breast cancer. Another 44,300 women will die from this disease. With one in every eight women developing breast cancer, virtually every family in America is vulnerable to this disease. That's why today I am filing a bill that sets a minimum length hospital stay for patients undergoing breast cancer treatment. This bill would require a minimum hospital stay of 48 hours for mastectomies and 24 hours for lymph node removals.

Standard surgical treatment for breast cancer includes mastectomy, lymph node dissection, and lumpectomy. Over the least ten years, the length of hospitalization for patients undergoing mastectomies has dwindled significantly from 4–6 to 2–3 days. In the past, patients undergoing lymph node dissections generally were hospitalized for 2–3 days. Hospitalization is essential for pain control and for the management of fluid drainage from the operative site. The less tangible, but still important benefit of hospitalization is to provide a supportive surrounding for the patient to address the psychological and emotional reactions to having breast cancer, such as depression, anxiety, and hostility.

Now, under incessant pressure from managed care organizations to reduce costs, surgeons have had to perform lymph node dissections and even mastectomies as outpatient surgery. Some health maintenance organizations [HMO's] send their patients home a few hours after their surgery groggy from anesthesia, in pain, and with drainage tubes still in place. Others even deny women hospitalizations on the day of their lymph node dissection or mastectomy, making the surgeon choose between giving the patient the individual care she needs or being penalized by the HMO for not following its guidelines. Doctors, concerned for their patients' well-being, even find themselves locked in battle with HMO's. One doctor in my district had to spend over 7 hours—not in surgery treating women for breast cancer—but rather making phone calls pleading with HMO staff members to get a mastectomy patient admitted to the hospital for 24 hours.

The guidelines that many managed care companies are using today are written by a single actuarial consulting firm. And, while a few physicians are employed by this company, none are actively performing breast cancer surgery. These guidelines are designed to fit the ideal breast cancer surgery patient that is placed in the most optimal situation. However, both the American College of Surgeons and the American Medical Association believe that most patients can not satisfy these guidelines and will require a longer length of stay. Today, HMO's base their coverage on the recommendations of health care actuaries, not on those of surgeons who care for patients day in and day out. And the guidelines they use to do it are based on the bottom line, not on medically established standards of care.

That is simply unacceptable. Accepted practice has shown that victims of breast cancer need to remain in the hospital at least 48 hours after a mastectomy and 24 hours after a lymph node dissection. This legislation would ensure that women with breast cancer receive the medical attention they need and deserve. My bill ensures that health plans which provide medical and surgical benefits for the treatment of breast cancer provide a minimum length of hospital stay of 48 hours for patients undergoing mastectomies and 24 hours for those undergoing lymph node removals. Under this bill, physicians and patients, not insurance companies, can determine if a shorter period of hospital stay is appropriate.

Beginning on the first day of the 105th Congress, with this bipartisan bill, we can ensure that women with breast cancer receive the best treatment and coverage available. And, we can ensure that crucial health care decisions are left in the hands of doctors, and not accountants.

This legislation enjoys strong support from the National Breast Cancer Coalition, the National Association of Breast Care Organizations, the Y-Me National Breast Cancer Organization, the Families USA Foundation, the Women's Legal Defense Fund, and the American Society of Plastic and Reconstructive Surgeons, as well as from women across the country from Wisconsin to California to New Hampshire. I strongly urge all of my colleagues to endorse this widely-supported bipartisan effort to help ensure that American women who have breast cancer receive the comprehensive and equitable health care coverage they deserve.

PROTECT OUR FLAG

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. EMERSON. Mr. Speaker, I rise today to introduce a constitutional amendment for the protection of our Nation's flag. The flag is a revered symbol of America's great tradition of liberty and democratic government, and it ought to be protected from acts of desecration that diminish us all.

As you know, there have been several attempts to outlaw by statute the desecration of the flag. Both Congress and State legislatures have passed such measures in recent years, only to be overruled later by decisions of the Supreme Court. It is clear that nothing short of an amendment to the Constitution will ensure that Old Glory has the complete and unqualified protection of the law.

The most common objection to this kind of amendment is that it unduly infringes on the freedom of speech. However, this objection disregards the fact that our freedoms are not practiced beyond the bounds of common sense and reason. As is often the case, there are reasonable exceptions to the freedom of speech, such as libel, obscenity, trademarks, and the like. Desecration of the flag is this kind of act, something that goes well beyond the legitimate exercising of a right. It is a wholly disgraceful and unacceptable form of behavior, an affront to the proud heritage and tradition of America.

Make no mistake, this constitutional amendment should be at the very top of the agenda of this Congress. We owe it to every citizen of this country, and particularly to those brave men and women who have stood in harm's way so that the flag and what it stands for might endure. I urge this body to take a strong stand for what is right and ensure the protection of our flag.

INTRODUCTION OF CLEAN SWEEP ACT OF 1997

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GOODLING. Mr. Speaker, today I am introducing the "Clean Sweep Act of 1997" which is intended to bring fiscal sanity back to our nation's campaign financing system. In 1994, congressional candidates spent close to $725 million to be elected to the U.S. Congress. This is nearly $610 million more than candidates spent in 1976 and 60 percent more than the 1990 congressional election. Corporation and union Political Action Committee (PAC) contributions made up 27 percent of this total in 1994.

While the final tally for campaign spending in the most recent election cycle is not yet known, Common Cause, a campaign finance reform advocacy group, has estimated that the cost of the 1996 presidential and congressional elections may reach nearly $2 billion. PAC contributions from corporations have been estimated at over $150 million, while union PACs have been reported between $150 to $500 million. We cannot allow special interest to buy influence in Congress.

Mr. Speaker, the "Clean Sweep Act" requires that at least half of a candidate's contributors come from within the district; prohibits the acceptance of Political Action Committee (PAC) money; limits a candidate's personal contributions to his or her own campaign to $50,000 per election cycle; prohibits the use of soft money; provides free broadcasting for candidates who comply with a voluntary spending limit of $600,000; assesses monetary penalties for candidates who exceed spending limits; prohibits all individual foreign contributions; prohibits cash contributions in federal elections; prohibits unsolicited franking within 90 days of a primary or general election; and requires Congress to evaluate the effects of campaign finance reform within 3 months of the first full election cycle after enactment of this bill.

The greatest deliberating body in the world belongs to the American people, not corporate or union bosses in Washington, D.C. It is our civic duty as elected officials, who are responsible to the American people, to send a clear message to special interest groups that we will not be bought. We must restore integrity and honesty to a system that has contributed to increased cynicism of government and historic low voter turnout.

Mr. Speaker, I am proud to stand before you today to say that in my 22 years of service in the United States House of Representatives, I have not taken a single penny of PAC money. The people of the 19th District of Pennsylvania have awarded me the opportunity to represent them for over two decades because I put their interests ahead of special interest. My standing here today is proof that big money is not a prerequisite to holding a seat in Congress.

Mr. Speaker, reform of our campaign finance system is sorely needed. I urge my colleagues to cosponsor this legislation which will reduce the cost of campaign financing and restore faith in the federal election process.

STATEMENT OF CONGRESSMAN CHARLES B. RANGEL, RONALD BROWN BUILDING, DESIGNATION BILL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RANGEL. Mr. Speaker, I am pleased to introduce legislation designating the Federal building located at 290 Broadway in New York, NY, as the Ronald H. Brown Federal Building.

Ronald H. Brown, the first African-American Secretary of Commerce, was an extraordinary statesman whose force, competence and sheer commitment forged new ground for U.S. commerce. The ultimate sacrifice of his life in exceptional service to his country is further testimony to his leadership and passion for economic development and opportunity at home and abroad.

Ronald H. Brown loved this country and represented the best that America has to offer. he was a compassionate advocate for civil rights; a bridge builder mending the divisions of race, religion and cultures; a mentor developing young talent and extending the ladder of opportunity to a new generation of leaders; and, indeed an extraordinary public servant and leader.

His life was one marked by an outstanding record of accomplishment and service to America. He served as Army Captain; Vice President of the National Urban League; Chief Counsel to the Senate Judiciary Committee; a distinguished attorney; Chairman of the Democratic National Committee; a trusted advisor to the President of the United States; a husband; a father; and, a friend.

The designation of this building, home to Federal agencies and site of the recently discovered African-American slave burial ground, would honor Ron Brown's service and memory. This designation would serve as an inspiration and reminder to all Americans of Ron Brown's contributions and the noble cause for which he sacrificed his life.

INTRODUCTION OF THE TAX EXEMPTION ACCOUNTABILITY ACT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. MENENDEZ. Mr. Speaker, today, I am introducing the Tax Exemption Accountability Act to stop self-dealing by the managers of tax exempt organizations and put teeth into the requirement that they file accurate annual returns with the IRS and make them available to the public. It creates a national clearinghouse offering copies of returns for a reasonable fee. The bill also caps the compensation of officers and directors at the level of U.S. cabinet members. Churches would continue to be exempt from filing IRS returns and from caps on pastors' salaries and hospitals could still pay high-cost professionals.

Given the current events, we need greater accountability by tax exempt organizations because they control substantial public wealth and offer temptation that some have been unable to resist manipulating. The share of national revenues going to tax exempts has nearly doubled in the past 15 years, growing to 8 percent per year in constant dollars. The IRS reports that revenues of tax exempts rose from 5.9 percent to 10.4 percent of the U.S. gross domestic product from 1975 to 1990. Those revenues totaled $578 billion in 1990. This contrasts with taxable revenues from service industries which had receipts of $1,174 billion. Tax exempts equal more than half of the revenue of all service sector industries and pay no tax. Clearly the opportunity for abuse is enormous.

The American people are the most generous people in the world. My bill will ensure that this generosity is not abused and profitable business activity is not diverting taxable revenue through manipulating charitable exemptions.

220TH ANNIVERSARY OF THE FOUNDING OF THE U.S. CAVALRY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. KENNELLY. Mr. Speaker, I rise to recognize the 220th anniversary of the U.S. Cavalry, celebrated last December.

On December 16, 1776, in the town of Wethersfield, CT, Revolutionary troops were organized as the 1st Cavalry Regiment in the Continental Army under orders of the First Continental Congress. Today, the town of Wethersfield, located in the First Congressional District, is proud to be honored as the birthplace of the U.S. Cavalry.

Recognized by the U.S. Army's Center of Military History, Sheldon's Horse, 2d Continental Light Dragoons, were organized in Wethersfield. This was the first dragoon regiment to be organized directly into the Continental Army. Training grounds for this regiment were erected by a Wethersfield resident, Capt. Benjamin Tallmadge. This regiment made several key contributions in the Revolutionary War effort by participating in combat in northern New Jersey and at the defense of Philadelphia.

The U.S. Cavalry that had its origins in Wethersfield continued to serve our Nation long after the war ended, fighting epic battles at Brandy Station during the Civil War and the Punity Expedition before World War I.

The founding of the U.S. Cavalry is just one example of the important role that the town of Wethersfield has played in securing and preserving America's independence. From the historic Webb House, where Gen. George Washington met with Comte de Rochambeau to discuss strategies for the Battle of Yorktown, to the modern development of the Silas Deane Highway, the quaintness of Wethersfield is intermingled with the heroic greatness represented by the U.S. Cavalry.

The U.S. Cavalry, historically headquartered in Fort Riley, KS, will be forever linked with Wethersfield and the First Congressional District. I applaud the efforts of the friends and residents of the town of Wethersfield who have brought this significant part of American history the recognition it greatly deserves.

INTRODUCTION OF CAPITAL GAINS TAX PROPOSAL

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, today I am introducing legislation, the Middle Class Income Tax Relief Act of 1997, which provides a capital gains tax cut for working class Americans. This legislation provides a lifetime capital gains bank of $200,000. Any taxpayer throughout the person's lifetime would have a capital gains bank of $200,000. Under this legislation, a taxpayer could exclude up to 50 percent of the gain on the sale of a capital asset, up to the limit in the maximum tax rate of 19.8 percent.

The benefit of lifetime capital gains tax bank would phase out as a taxpayer's income increases above $200,000. Under this legislation individuals who sold stocks saved for retirement or a second home, or elderly individuals, who have a large gain in the sale of their principal residence, would benefit. The proposal includes a 3-year holding period for the capital asset. Short-term stock speculators would not be able to qualify for the benefit.

In addition, the bill allows taxpayers to index the cost of real estate for inflation. An inflation-induced gain is not a capital gain and should not be subject to tax.

Lately, there has been much said about the necessity and benefits of a capital gain tax cut. A capital gains tax cut is a valid measure, but a capital gains tax needs to be economically feasible and to benefit the middle-class. A capital gains tax cut needs to be responsible. I believe the Middle Income Tax Relief Act of 1997 provides an appropriate capital gains tax cut.

Mr. Speaker, I insert a summary for the RECORD.

SUMMARY OF MIDDLE INCOME TAX RELIEF ACT OF 1997

Individuals would have a lifetime capital gains "bank."

Bank limit would be $200,000 per person.

All individuals would be entitled to the $200,000 bank: for example each spouse of a married couple would have a separate limit.

Any individual who sold a qualified asset could exclude up to 50 percent of the gain on the sale, up to the $200,000 limit.

Qualified assets would include all capital assets under the present law, except collectibles.

Under the bill, the maximum tax rate on capital gains income would be 19.8 percent (i.e. ½ of the maximum 39.6 percent rate).

The full benefit would not be available in any year that a taxpayer had adjusted gross income in excess of $200,000.

In the case of a sale or exchange of real property, taxpayers would be able to index their basis in the asset to the rate of inflation. Thus, no tax on inflation-induced gains.

Example: taxpayer buys a house for $100,000 and sells it 9 years later for $200,000. Inflation was 5 percent per year over the 9-year period. Basis for measuring gain is $145,000 so gain is $55,000.

A three year holding period would apply so that the deduction would not be available to any taxpayer who held the asset for less than 3 years.

CONGRATULATIONS TO MR. ALEJANDRO AQUIRRE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I want to extend my congratulations to Mr. Alejandro Aguirre, deputy editor and publisher of Diario Las Americas, on his being named as chairman of the Metro-Dade Cultural Affairs Council.

In this position he will have the opportunity to expand support for this entire range of south Florida's cultural life. As in so many communities, the council faces the task of providing first rate art and entertainment at prices that allow the broadest rage of the community to share in the experience.

In his new role, Mr. Aguirre will have the opportunity to inject into the arts community the same energy and enthusiasm he has brought to Diarro Las Americas and his other civic involvements. Those other involvements range from the Red Cross and Florida International University to defense of press freedoms as a leader in the Inter American Press Association which represents 1,400 newspapers throughout this hemisphere.

It is difficult to overstate the importance of art and culture to the enjoyment of life. As Cuban poet and patriot, Jose Marti, said, "beauty is a natural right * * * where it appears, light, strength and happiness arise." We are all too aware of the problems that mark urban life. But one of the joys of an area like south Florida is the broad and diverse cultural life that it can support.

Again, congratulations to Mr. Alejandro Aguirre on his new responsibilities and best wishes for a successful and satisfying tenure.

INTRODUCTION OF THE FOREST FOUNDATION CONSERVATION ACT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. BAKER. Mr. Speaker, today, I have introduced the Forest Foundation Conservation Act.

The Forest Foundation Conservation Act will amend the National Forest Foundation Act to extend and increase the matching funds authorized for the National Forest Foundation and to permit the National Forest Foundation to license the use of trademarks, tradenames, and other such devices to identify that a person is an official sponsor or supporter of the U.S. Forest Service or the National Forest System.

Our Nation has been blessed with a national treasure—America's national forest lands. A growing population, increasing demands on forests and related resources, and more competition for uses and benefits are placing great stress on our forest lands and the U.S. Forest Service.

Now, more than ever, America's forest lands and the individuals who work so diligently to manage these forest lands need support from people who care. The National Forest Foundation, a citizen-directed, nonprofit organization, was created to coordinate the needed support. The Forest Foundation Conservation Act will allow the National Forest Foundation to develop innovative public-private partnerships so that America's pristine forest land and its resources will be conserved for future generations.

I believe that it is the responsibility of each citizen to help conserve our Nation's resources and provide organizations like the National Forest Foundation with the resources it needs to help maintain America's forest lands for generations to come. I hope that my colleagues will join me in supporting this legislation which will help us improve the quality and infrastructure of our National Forests.

TRIBUTE TO NEW YORK SPEAKER SHELDON SILVER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. MALONEY of New York. Mr. Speaker, today the 105th Congress begins. While there is much talk swirling in the Capitol Hill air about the Speaker, I want to rise and pay tribute to my Speaker, New York Speaker Sheldon Silver.

On Sunday, January 5, 1997, Speaker Silver received a well-deserved award at the silver anniversary of one of New York City's outstanding community groups, the United Jewish Council of the east side. I am proud to represent the diverse and vibrant neighborhood of the lower east side, and prouder still of the magnificent contributions made to the community by the UJC. The UJC currently administers a variety of social services to over 16,000 residents. From senior centers, to housing, to nutrition programs, to immigrant assistance, the UJC's contributions to the quality of life in our city are without limit.

Mr. Speaker, space prohibits me from congratulating the entire leadership of the UJC, but I want to commend Rabbi Yitzchok Singer, Heshy Jacob, David Weinberger, Joel Kaplan, and Judy and Willie Rapfogel for all that they have done for this special neighborhood.

The lower east side simply would not be the same without Sheldon Silver. Born, raised, and educated in the neighborhood, Shelly graduated from Yeshiva University and Brooklyn Law School. In 1976, Shelly began his stellar career in public service when he was elected to the assembly. After serving in the prestigious leadership posts of chairman of the election law and then the ways and means committees, Shelly ascended to the Speakership in 1994, where he now sits as the most influential Democrat in the State of New York.

Sheldon Silver's tenure as Speaker has been marked by extraordinary success. He has made his mark on criminal justice, welfare, and education issues, and has remained a powerful and articulate advocate for New York's working and middle class families.

It has been an extraordinary honor for me to serve side by side with Speaker Silver, representing the lower east side community. Shelly is a man of principle and honor. His ethical and moral world view is shaped by his deep religious convictions, but he is also a friend to New Yorkers of every race, religion, and ethnic background. If I could borrow one word from Shelly's own Yiddish vocabulary, I would have to summarize his many attributes by calling him a "mensch."

Mr. Speaker, as Congress beings a new session, I ask all of my colleagues to join me in paying tribute to one of our Nation's outstanding public officials, my Speaker, the Honorable Sheldon Silver.

CAMPAIGN AND LOBBYING REFORMS IN FIRST 100 DAYS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Ms. KAPTUR. Mr. Speaker, we must dedicate our efforts within the first 100 days of the 105th Congress to passing comprehensive campaign finance and foreign lobbying reform legislation.

The events of the last election, with the worsening situation of foreign influence and the continuing flood of campaign contributions and expenditures, compel us to act. Now is the time.

Just as in past Congresses, I am once again introducing legislation calling for a constitutional amendment authorizing Congress and the States to set reasonable expenditure limits for elections to Federal and State office. It is simply wrong to equate campaign money with free speech. The only way to limit the exorbitant levels of money being spent on campaigns is through a constitutional amendment.

In addition, I'm proposing once again legislation to stop foreign contributions and influence, as was witnessed in the closing weeks of the elections. My bill creates a clearinghouse of political activities information within the F.E.C.

Finally, we must end the revolving door between Government service and lobbying for foreign interests. My "Foreign Agents Compulsory Ethics in Trade Act" measure will impose a lifetime ban on high-level Government officials from representing, aiding or advising foreign governments and foreign political parties. The act also imposes a 5-year prohibition on representing, aiding or advising foreign interests—including commercial interests—before the Government of the United States.

Mr. Speaker, we should make it our goal to adopt these reforms within the first 100 days of the 105th Congress.

THE MANAGED CARE CONSUMER PROTECTION ACT OF 1997

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. STARK. Mr. Speaker, along with Mr. John Lewis, Mr. Gejdenson, Mr. Serrano, Mr. Sanders, and Mr. Filner, I am pleased to introduce "The Managed Care Consumer Protection Act of 1997," a bill that will provide critically needed consumer protections to millions of Americans in managed care health plans.

Health care consumers who entrust their lives to managed care plans have consistently found that many plans are more interested in profits than in providing appropriate care. In the process of containing costs patients are often harmed. My constituent mail has been full of horror stories explaining the abuses that occur at the hands of HMOs and other forms of managed care.

For example, David Ching of Fremont, California had a positive experience in a Kaiser

Permanente plan and then joined an employer sponsored HMO expecting similar service. He soon learned that some plans would rather let patients die than authorize appropriate treatment. His wife developed colon cancer, but went undiagnosed for 3 months after the first symptoms. Her physician refused to make the appropriate specialist referral because of financial incentives and could not discuss proper treatment because of the health plan's policy. Mrs. Ching is now dead.

In a similar case, Jennifer Pruitt of Oakland wrote to me about her father who also had cancer. He went to his gatekeeper primary care physician numerous times with pain in his jaw. The doctor, who later admitted that she had never treated a cancer patient, refused to refer Mr. Pruitt to a specialist. Eventually, after months of pain, a dentist sent Mr. Pruitt to a specialist outside of the HMO network. The cancer was finally diagnosed, but it had spread too rapidly during the months that the health plan delayed. Mr. Pruitt died from a cancer that is very treatable if detected early.

These tragedies and others like them might have been avoided if the patients had known about the financial incentives not to treat, or if the physicians had not been gagged from discussing treatment options, or if there had been legislation forcing health plans to provide timely grievance procedures and timely access to care. It's too late for these victims, but it is not too late to provide these protections for the millions of people in managed care today.

Consumer protections in managed care must be developed. Such unfavorable outcomes are not isolated events. They are widespread enough for industry studies to have noted a trend. Empirical evidence shows that restrictive practices pose special risks for people with chronic illnesses and poor health, and that primary care physicians in HMOs are less likely to diagnose or treat patients with depressive disorders appropriately. Another study concluded that the successes of prepaid care in relatively healthy populations are unlikely to be replicated among sicker patients. All this evidence indicates that managed care is not doing its job as well as it should. Those who are ill and most need health care are not getting it.

A few years ago, Congress recognized a crisis in the health care industry. Expenditures were soaring and overutilization was the rule. At that time, I chose to address this problem with laws that prohibited physicians from making unnecessary referrals to health organizations or services that they owned.

Others responded by pushing Americans into new managed care plans that switched the financial incentives from a system that overserves to a system that underserves. They got what they asked for. The current system rewards the most irresponsible plans with huge profits, outrageous executive salaries, and a license to escape accountability. Unfortunately, patients are dying unnecessarily in the wake of this health care delivery revolution. It must stop.

Several states have already addressed the managed care crisis. In 1996, more than 1,000 pieces of managed care legislation flooded state legislatures. As a result, HMO regulations were passed in 33 states addressing issues like coverage of emergency services, utilization review, post-delivery care and information disclosure. Unfortunately, many states did not pass these needed safeguards resulting in a piecemeal web of protections that lacks continuity. The states have spoken; now it's time for federal legislation to finish the job and provide consumer protections to all Americans in managed care.

The bill I offer today is a revision of earlier bills, H.R. 1707 and H.R. 4220, the Medicare Consumer Protection Act of 1995 and 1996 respectively. This legislation includes a comprehensive set of protections that will force managed care plans to be accountable to all of their patients and to provide the standard of care they deserve.

This legislation includes measures to protect patients from the abuses of managed care on several fronts.

My bill will put an end to pre-authorization of emergency medical care. Patients will not be denied coverage for care provided in emergency rooms. Current denials create obstacles for HMO patients and leave them with thousands of dollars in medical bills. According to HCFA, 40% of claim disputes between Medicare beneficiaries and participating Medicare HMOs involve emergency services. This bill establishes the prudent layperson definition of an emergency, so a reasonable layperson can anticipate claims that would be covered versus those that would be denied. It also prohibits plans from denying coverage for 911 emergencies.

My bill includes provisions which will bring utilization review back to its intended function, ensuring that patients receive all medically necessary and appropriate care without overusing services. Utilization review boards will be standardized through accreditation by the Secretary of Health and Human Services. These review programs must update policies to ensure consistency and compliance with medical standards and treatment protocols.

This legislation also establishes, for the first time, an "Office of Medicare Advocacy" whose sole function is to act on behalf of Medicare beneficiaries. The bill establishes a "1–800" number to facilitate better communication between the Health Care Financing Administration and the beneficiary. The office would develop a number of outreach programs to help inform Medicare beneficiaries concerning the Medicare program. Additionally, the office would have the authority to hear appeals in cases of an emergency or a life threatening event.

Recent testimony by the "Physician Payment Review Commission (PPRC)" emphasized the need for increased information and appeals processes. Describing a recent survey of Medicare beneficiaries done by PPRC, the testimony reported:

> A significant percentage of these (Medicare) enrollees who sought additional information about their plan had problems getting their questions answered. Also, a third of enrollees said they did not know they had the right to appeal a plan's decision not to provide or pay for a service. Our study suggests that plans may need to take additional steps to inform consumers in these areas.

The Office of Medicare Advocacy will do much to better inform Medicare beneficiaries, to advise beneficiaries of their rights and to facilitate comparative information concerning Medicare Managed Care plans.

In the United States Congress, we have the ability to put an end to abuse in managed care and guarantee that Americans who choose managed care get the care for which they pay. We also have a responsibility to ensure that Americans are protected from companies who place more emphasis on their own financial interests than on patients' needs. It is irresponsible to do anything less.

Following is a summary of the consumer protections provided for in this bill.

"MANAGED CARE CONSUMER PROTECTION ACT OF 1997"

SUMMARY

I. MANAGED CARE ENROLLEE PROTECTIONS—APPLIES TO MEDICARE MANAGED CARE AS WELL AS PRIVATE PLANS

A. Utilization Review

1. Any utilization review program that attempts to regulate coverage or payment for services must first be accredited by the Secretary of Health and Human Services or an independent, non-profit accreditation entity;

2. Plans would be required to provide enrollees and physicians with a written description of utilization review policies, clinical review criteria, and the process used to review medical services under the program;

3. Organizations must periodically review utilization review policies to guarantee consistency and compliance with current medical standards and protocols;

4. Individuals performing utilization review could not receive financial compensation based upon the number of certification denials made;

5. Negative determinations about the medical necessity or appropriateness of services or the site of services would be required to be made by clinically-qualified personnel of the same branch of medicine or specialty as the recommending physician;

B. Assurance of Access

1. Plans must have a sufficient number, distribution and variety of qualified health care providers to ensure that all enrollees may receive all covered services, including specialty services, on a timely basis (including rural areas);

2. Patients with chronic health conditions must be provided with a continuity of care and access to appropriate specialists;

3. Plans would be prohibited from requiring enrollees to obtain a physician referral for obstetric and gynecological services.

4. Plans would demonstrate that enrollees with chronic diseases or who otherwise require specialized services would have access to designated Centers of Excellence;

C. Access to Emergency Care Services

1. Plans would be required to cover emergency services provided by designated trauma centers;

2. Plans could not require pre-authorization for emergency medical care;

3. A definition of emergency medical condition based upon a prudent layperson definition would be established to protect enrollees from retrospective denials of legitimate claims for payment for out-of-plan services;

4. Plans could not deny any claim for an enrollee using the "911" system to summon emergency care.

D. Due Process Protections for Providers

1. Descriptive information regarding the plan standards for contracting with participating providers would be required to be disclosed;

2. Notification to a participating provider of a decision to terminate or not to renew a

contract would be required to include reasons for termination or non-renewal. Such notification would be required not later than 45 days before the decision would take effect, unless the failure to terminate the contract would adversely affect the health or safety of a patient;

3. Plans would have to provide a mechanism for appeals of termination or non-renewal decisions.

E. Grievance procedures and deadlines for responding to requests for coverage of services.

1. Plans would have to establish written procedures for responding to complaints and grievances in a timely manner;

2. Patients will have a right to a review by a grievance panel and a second review by an independent panel in cases where the plan decision negatively impacts their health services;

3. Plans must have expedited processes for review in emergency cases.

F. Non-discrimination and service area requirements

1. In general, the service area of a plan serving an urban area would be an entire Metropolitan Statistical Area (MSA). This requirement could be waived only if the plan's proposed service area boundaries do not result in favorable risk selection.

2. The Secretary could require some plans to contract with Federally-qualified health centers (FQHCs), rural health clinics, migrant health centers, or other essential community providers located in the service area if the Secretary determined that such contracts are needed in order to provide reasonable access to enrollees throughout the service area.

3. Plans could not discriminate in any activity (including enrollment) against an individual on the basis of race, national origin, gender, language, socioeconomic status, age, disability, health status, or anticipated need for health services.

G. Disclosure of plan information

1. Plans would provide to both prospective and current enrollees information concerning; Credentials of health service providers; Coverage provisions and benefits including premiums, deductibles, and copayments; Loss ratios explaining the percentage of premiums spent on health services; Prior authorization requirements and other service review procedures; Covered individual satisfaction statistics; Advance directives and organ donation information; Descriptions of financial arrangements and contractual provisions with hospitals, utilization review organizations, physicians, or any other health care service providers; Quality indicators including immunization rates and health outcomes statistics adjusted for case mix; An explanation of the appeals process; Salaries and other compensation of key executives in the organization; Physician ownership and investment structure of the plan; A description of lawsuits filed against the organization; Plans must provide each enrollee annually with a disclosure statement regarding whether the plan restricts the plans malpractice liability in relation to liability of physicians operating under the plan.

2. Information would be disclosed in a standardized format specified by the Secretary so that enrollees could compare the attributes of all plans within a coverage area.

H. Protection of physician-patient communications

1. Plans could not use any contractual agreements, written statements, or oral communication to prohibit, restrict or interfere with any medical communication between physicians, patients, plans or state or federal authorities.

I. Patient access to clinical studies

1. Plans may not deny or limit coverage of services furnished to an enrollee because the enrollee is participating in an approved clinical study if the services would otherwise have been covered outside of the study.

J. Minimum Childbirth benefits

1. Insurers or plans that cover childbirth benefits must provide for a minimum inpatient stay of 48 hours following vaginal delivery and 96 hours following a cesarean section.

2. The mother and child could be discharged earlier than the proposed limits if the attending provider, in consultation with the mother, orders the discharge and arrangements are made for follow-up post delivery care.

II. AMENDMENTS TO THE MEDICARE PROGRAM, MEDICARE SELECT AND MEDICARE SUPPLEMENTAL INSURANCE REGULATIONS

A. Orientation and Medical Profile Requirements

1. When a Medicare beneficiary enrolls in a Medicare HMO, the HMO must provide an orientation to their managed care system before Medicare payment to the HMO may begin;

2. Medicare HMOs must perform an introductory medical profile as defined by the Secretary on every new enrollee before payment to the HMO may begin.

B. Requirements for Medicare Supplemental policies (MediGap)

1. All MediGap policies would be required to be community rated;

2. MediGap plans would be required to participate in coordinated open enrollment;

3. The loss ratio requirement for all plans would be increased to 85 percent.

C. Standards for Medicare Select policies

1. Secretary would establish standards for Medicare Select in regulations. To the extent practical, the standards would be the same as the standards developed by the NAIC for Medicare Select Plans. Any additional standards would be developed in consultation with the NAIC.

2. Medicare Select Plans would generally be required to meet the same requirements in effect for Medicare risk contractors under section 1876. Community Rating, Prior approval of marketing materials, Intermediate sanctions and civil money penalties.

3. If the Secretary has determined that a State has an effective program to enforce the standards for Medicare Select plans established by the Secretary, the State would certify Medicare Select plans.

4. Fee-for-service Medicare Select plans would offer either the MediGap "E" plan with payment for extra billing added or the MediGap "J" plan.

5. If an HMO or competitive medical plan (CMP) as defined under section 1876 offers Medicare Select, then the benefits would be required to be offered under the same rules as set forth in the MediGap provisions above.

D. Arrangements with out-of-area dialysis services.

E. Coordinated open enrollment

1. The Secretary would conduct an annual open enrollment period during which Medicare beneficiaries could enroll in any MediGap plan, Medicare Select, or an HMO contracting with Medicare. Each plan would be required to participate.

F. Comparative Information

1. The Secretary must provide on an annual basis for publication and use on the internet information in comparative form and standard format describing the policies offered, benefits and costs, disenrollment and complaint rates, and summaries of the results of site monitoring visits.

G. Office of Medicare Advocacy

1. Establishes Office of Medicare Advocacy within the Health Care Financing Administration. The purpose of the office is to act on behalf of Medicare recipients, especially to address complaints and concerns. A toll free telephone number would be established to facilitate communication. Additional outreach programs such as town meetings would be developed and an internet site would be established for posting information.

2. The office would have authority to provide for an expedited review and resolution of complaints under emergency circumstances as described in the bill.

H. Exclusion from Medicare and Medicaid Program

1. If plan submits information relating to the quality of services provided that is material and false, the Secretary shall exclude the plan from continuing to qualify for Medicare and Medicaid payments.

III. AMENDMENTS TO THE MEDICAID PROGRAM

A. Orientation and Immunization Requirements

1. When a Medicaid beneficiary enrolls in a Medicaid HMO, the HMO must provide an orientation to their managed care system before Medicaid payment to the HMO may begin;

2. Medicaid HMOs must perform an introductory medical profile as defined by the Secretary on every new enrollee before payment to the HMO may begin.

3. When children under the age of 18 are enrolled in a Medicaid HMO, the immunization status of the child must be determined and the proper immunization schedule begun before payment to the HMO is made.

A BEACON-OF-HOPE FOR ALL AMERICANS: CHRISTINE McFADDEN

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7 , 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of non-elected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary citizens. Especially in our inner city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as Beacons-of-Hope.

Christine McFadden is one of these Beacons-of-Hope residing in the central Brooklyn community of New York City and New York State. Ms. McFadden currently serves as the program director for Renaissance Development Corporation, a nonprofit social service agency whose focus is to help enhance the quality of life in the Brownsville community by providing a variety of services for the young and elderly.

In addition to her work, Ms. McFadden's church is very special to her. She has often stated that her church allows her to serve God and mankind. As a member of the Macedonia Church, Christine McFadden has served on the board of trustees; mother's board; missionary board; senior choir; and is currently secretary of the building fund.

Ms. McFadden's deep love and affection are evident in her tireless contributions to the Girl Scouts of America. This year will mark her 39th year as a scout leader. Additionally, Ms. McFadden currently serves as the correspondence secretary for the Brownsville Tenant Council and is a member of the advisory board for Bay Center. She has also served on the auxiliary police; block watchers for the 73d precinct; and tenant patrol. In recognition of her commitment, Christine McFadden is also the recipient of numerous community and church awards and citations.

Christine McFadden was born in Fuquay Springs, NC and at the age of 14 moved to Brooklyn, NY where she completed her education. After marrying James McFadden, they moved to the Brownsville housing complex where they raised two daughters.

Christine McFadden is a Beacon-of-Hope for central Brooklyn and for all Americans.

COMMUNITY AND GREEN SPACE CONSERVATION

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is no secret that some of the Nation's most scenic open spaces are disappearing at a time when many cities—large and small—are decaying. This phenomenon is commonly referred to as sprawl. The causes are many: the development of the Interstate Highway System, relatively inexpensive commuting expenses, and tax incentives for home ownership have made it easier for people to live further from the cities in which they work. In more recent years, jobs have followed families to the suburbs, and breakthroughs in telecommunication have spawned telecommuting, eliminating proximity to the office as a factor for many people in deciding where to work or live. Obviously, public safety, the quality of schools, and the financial health of the Nation's cities figure prominently in decisions to move businesses and families to the suburbs.

The situation in my hometown of New Britain, CT, illustrates another facet of the dilemma faced by aging, industrial cities and towns, especially in the Northeast and Midwest. A huge, old factory near the center of town sat unused for years, as fears over asbestos and groundwater pollution blocked rehabilitation and re-use of the building and adjacent property.

Only recently, thanks to a cooperative effort that includes Federal, State, and local resources, is the old Fafnir site finally being reclaimed. A powerful incentive for manufacturers and retailers to flee the city is being addressed and the promise of new, centrally located job growth is once again on the horizon.

In a broader sense, it is tragic that many cities are suffering at a time when the countryside is disappearing. The American Farmland Trust estimates that the United States converts to other uses 2 million acres of farmland annually, much of it on the edge of urban America. The USDA natural resources inventory found that developed land increased by 14 million acres between 1982 and 1992.

Many provisions of tax law have come into play as well. Last summer, the Ways and Means Subcommittee on Oversight held a hearing on the impact of tax law on land use decisions. We learned that it is sometimes more difficult to recover many of the costs of development in urban areas. We also learned that estate taxes can have a tremendous impact on land use decisions. According to one of our witnesses, the Piedmont Environmental Council, farmland that sold for $500 an acre in the 1960's is selling for $10,000 to $15,000 an acre today. The tax costs of passing along such expensive acreage to the next generation, coupled with the pressure for development in many areas, is a major reason for the disappearance of open spaces. We learned more about proposals to build on or expand current empowerment zones and enterprise communities.

In recent Congresses, several of our colleagues introduced important legislation addressing these issues. The gentleman from Florida [Mr. SHAW] and the gentleman from New York [Mr. RANGEL] introduced a bill providing for more realistic cost recovery for improvements to commercial buildings. The gentleman from Florida and my colleague from Connecticut [Mrs. KENNELLY] introduced a bill to provide a tax credit for qualified rehabilitation expenditures of historic properties used as owner-occupied homes. Our colleague from Missouri [Mr. TALENT] and our colleague from Oklahoma [Mr. WATTS] introduced the American Community Renewal Act, which would create 100 "renewal communities" and provide a number of incentives for conducting business within the communities.

Our colleague from New York [Mr. HOUGHTON] introduced the American Farm Protection Act, to exempt from estate taxes the value of certain land subject to a qualified easement. The legislation targets the benefit to land adjacent to metropolitan areas and national parks where development pressure and land values tend to be greatest. Our former colleague from New Jersey [Mr. ZIMMER] introduced two bills related to conservation easements. One would permit an executor to donate land or a conservation easement to a government agency and credit the value of the donation against estate taxes owed. Under current law, donations must be provided for before the owner's death. Mr. ZIMMER's other bill would change the way that the gain on bargain sales of land or conservation easements is calculated for tax purposes.

We should all be grateful for the many hours of hard work our colleagues have devoted to these initiatives. With so many factors contributing to urban decay and sprawl, there is not single solution. Certainly, I would not suggest that all of the challenges facing our Nation's communities can be addressed by tax policy. But there are several provisions of tax policy that are important. That is why several of our colleagues have come up with some important ideas. I believe several others merit consideration as well. Early this session, I intend to introduce a series of measures to address some of the factors that contribute to sprawl.

First, I intend to re-introduce a bill I offered in the last Congress, related to the costs of cleaning up contaminated land and buildings in urban areas so that they can be put to productive use. The rules surrounding the tax treatment of environmental remediation expenses are so convoluted and confusing that it is no wonder that a number of businesses decide to sidestep them altogether and invest in previously undeveloped land and newer buildings outside of environmentally distressed urban areas.

Repairs to business property can be deducted currently as a business expense, but capital expenditures that add to the value of property have to be capitalized. This means that some environmental remediation costs are treated as a business expense, but others are treated as capital expenditures, depending on the facts and circumstances of each case.

The administration in its brownfields initiative has proposed to allow an immediate deduction for cleaning up certain hazardous substances in high-poverty areas, existing EPA brownfields pilot areas, and Federal empowerment zones and enterprise communities. This is commendable, as far as it goes, but there is a disturbing trend in urban policy to pick and choose among cities. If expensing environmental remediation costs is good tax policy and good urban policy, and I believe that it is, then it should apply in all communities. My bill would apply this policy to all property wherever located, and would expand the list of hazardous substances to include potentially hazardous materials such as asbestos, lead paint, petroleum products, and radon. This would remove a disincentive in current law to reinvestment in our cities and buildings.

Another proposal would address the blight of the many boarded up buildings. Of course, many of these buildings should be rehabilitated. But many buildings that have no economic viability are still standing because the current tax rules provide a disincentive to tearing them down.

Before 1978, costs and other losses incurred in connection with the demolition of buildings generally could be claimed as a current deduction unless the building and the property on which it was located were purchased with an intent to demolish the building. In that case, costs and other losses associated with demolition were added to the basis of the land.

To create a disincentive to demolishing historic structures, the 1978 tax bill required that costs incurred in connection with the demolition of historic structures would have to be added to the basis of the land.

Under the Deficit Reduction Act of 1984, the special rule for the treatment of costs associated with demolishing historic structures became the general rule. There was concern that the old rule may have operated as an undue incentive for the demolition of existing structures. But the new rule is a disincentive for tearing down buildings with unrecovered basis. Many boarded up buildings are still standing because the owners are still depreciating them.

My proposal would restore the old rule for nonhistoric buildings.

While many people prefer the amenities offered by living in our Nation's cities, many new jobs are being created outside urban areas. As the cities are losing their manufacturing industries, 95 percent of the growth in office jobs occurs in low density suburbs. These office jobs accounted for 15 million of the 18 million new jobs in the 1980's. Mass transit is important if people in the cities are to reach the new jobs in the suburbs.

Under current law, some employer-provided transportation assistance can be excluded from income. The value of transportation in a commuter highway vehicle or a transit pass that may be excluded from income was $65 per month in tax year 1996. On the other hand, up to $170 per month in qualified parking can be excluded from income. I am proposing to establish parity by raising the cap for transportation in a commuter highway vehicle or a transit pass to the same level as that for qualified parking.

Another proposal I introduced in the last Congress addresses a provision in current tax law that limits the deduction for a gift of appreciated property to 30 percent of adjusted gross income. Under current law, the limit for gifts of cash is 50 percent of adjusted gross income. This provision would raise the cap for qualified gifts of conservation land and easements from 30 percent to 50 percent. Under the bill, any amount that cannot be deducted in the year in which the gift is made can be carried over to subsequent tax years until the deduction has been exhausted. Current law gives the donor 5 years in which to use up the deduction.

Conservation easements are a partial interest in property transferred to an appropriate nonprofit or governmental entity. These easements restrict the development, management, or use of the land in order to keep the land in a natural state or to protect historic or scenic values. Easements are widely used by land trusts, conservation groups, and developers to protect valuable land.

The 30-percent limit in current law actually works to the disadvantage of taxpayers who may be land rich but cash poor.

Our former colleague from New Jersey [Mr. ZIMMER] introduced two proposals in the last Congress related to the donation of land or easements. One would encourage heirs to donate undeveloped land to the Federal Government. If the inherited land is desired by a Federal agency for conservation, the heirs would be allowed to transfer the land to the Government and take a credit for the fair market value. The other would provide for more equitable taxation of the gains from selling land or an easement at below market value to a government entity or a nonprofit organization. I intend to introduce these measures, with a few modifications, in the new Congress.

Mr. Speaker, to save our Nation's green spaces, we must save our cities as well. There is no single, simple solution, but we here in Congress must do what we can to help our communities. I am looking forward to working with my colleagues to address these challenges in the coming weeks and months.

THE MEDICAL EDUCATION TRUST FUND ACT OF 1997, THE HONORABLE KENNETH E. BENTSEN, JR. OF TEXAS, BEFORE THE U.S. HOUSE OF REPRESENTATIVES, TUESDAY, JANUARY 7, 1997

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. BENTSEN. Mr. Speaker, I rise to introduce legislation, the Medical Education Trust Fund Act of 1997, to ensure that our nation continues to invest in medical research through the training of medical professionals in a time of declining federal expenditures and as our health care system makes its transition to the increased use of managed care.

This legislation establishes a new Trust Fund for medical education that would be financed primarily by Medicare including managed care plans. This trust fund would provide a guaranteed source of funding for graduate medical education at our nation's teaching hospitals and help ensure that we continue to train a sufficient number of physicians and other health care providers particularly in the advent of managed care. Without such a guarantee, I am deeply concerned that the availability and quality of medical care in our country could be at risk.

Teaching hospitals have a different mission and caseload than other medical institutions. These hospitals are teaching centers where reimbursements for treating patients must pay for the cost not only of patient care, but also for medical education including research. In the past, teaching hospitals were able to subsidize the cost of medical education through higher reimbursements from private and public health insurance programs. With the introduction of managed care, these subsidies are being reduced and eliminated.

As the representative for the Texas Medical Center, home of two medical schools, Baylor College of Medicine and University of Texas Health Science Center at Houston, I have seen firsthand the invaluable role of medical education in our health care system and the stresses being placed on it today. Baylor College of Medicine offers medical training in 21 medical specialities and currently teaches 668 medical students, 341 graduate students, and 1325 residents. Baylor College of Medicine also employs 1,470 full-time faculty and 3,007 full-time staff. The University of Texas Medical School at Houston has 833 medical students, 799 accredited residents and fellows, and 1,532 faculty.

Under current law, the Medicare program provides payments to teaching hospitals for medical education. These reimbursements are paid through the Direct Medical Education (DME) and Indirect Medical Education (IME) programs. DME and IME payments are based upon a formula set by Congress.

Last year, the Republican budget resolution adopted by the House proposed cutting DME and IME payments by $8.6 billion over 7 years. I strongly opposed these efforts and will continue to fight any cuts of this magnitude to these payments. Such cuts would be detrimental enough in a stable health care market. But they are especially harmful given the impact of our changing health care market on medical education.

As more Medicare beneficiaries enroll in managed care plans, payments for medical education are reduced in two ways. First, many managed care patients no longer seek services from teaching hospitals because their plans do not allow it. Second, direct DME and IME payments are cut because the formula for these payments is based on the number of traditional, fee-for-service Medicare patients served at these hospitals. Managed care does not pay for medical education.

My legislation would provide new funding for graduate medical education by recapturing a portion of the Adjusted Average Per Capita Cost (AAPCC) payment given to Medicare managed care plans. The AAPCC is the Medicare reimbursement paid to insurance companies to provide health coverage for Medicare beneficiaries under a managed care model. These recaptured funds would be deposited into a Trust Fund. I believe managed care plans should contribute toward the cost of medical education and my legislation would ensure this. This is a matter of fairness. All health care consumers, including those in managed care, benefit from this training and should contribute equally towards this goal.

These funds would be deposited into a trust fund at the U.S. Department of the Treasury. All funds would be eligible to earn interest and grow. The Secretary of Health and Human Services would be authorized to transfer funds from the trust fund to teaching hospitals throughout the nation. The formula for distribution of funds would be determined by a new National Advisory Council on Post-Graduate Medical Education that would be established by this legislation. This legislation would also allow Congress to supplement the Trust Fund with appropriated funds which the Secretary of Health and Human Services (HHS) would distribute. All of this funding would be in addition to the current federal programs of direct and indirect medical education. This supplemental funding is necessary to enable medical schools to maintain sufficient enrollment and keep tuition payments reasonable for students.

My legislation would also take an additional portion of the AAPCC payment given to managed care plans and return it to the Secretary of Health and Human Services to spend on the disproportionate share program. Disproportionate share payments are given to those hospitals which serve a large number of uncompensated or charity care patients. Many of our nation's teaching hospitals are also disproportionate share hospitals. Thus, my legislation would create two new and necessary funding sources for teaching hospitals.

This legislation would also create a National Advisory Council on Post-Graduate Medical Education. This Advisory Council would advise Congress and the Secretary of Health and Human Service about the future of post-graduate medical education. The Council would consist of a variety of health care professionals, including consumer health groups, physicians working at medical schools, and representatives from other advanced medical education programs. The Council would also advise Congress on how to allocate these new dedicated funds for medical education. This Council will provide Congress with needed information about the current state of medical education and any changes which should be made to improve our medical education system.

Our nation's medical education program are the best in the world. Maintaining this excellence requires continued investment by the federal government. Our teaching hospitals need and deserve the resources to meet the challenge of our aging population and our changing health care marketplace. This legislation would ensure that our nation continues to have the health care professionals we need to provide quality health care services to them in the future.

I urge my colleagues to support this effort to provide guaranteed funding for medical education.

THE HOMELESS HOUSING PROGRAMS CONSOLIDATION AND FLEXIBILITY ACT OF 1997

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. LAZIO of New York. Mr. Speaker, today I am introducing the Homeless Housing Programs Consolidation and Flexibity Act of 1997, a bill designed to help one of this Nation's most vulnerable populations, the homeless.

Homelessness is one of the Nation's most pressing social dilemmas. As much as half of the adult homeless population has a current or past substance abuse problem, and up to one-third has severe mental illness.

The Federal Government's most potent tool for responding to homelessness has been the 1987 McKinney Act with emergency food and shelter programs. This reflected the belief that homelessness was temporary in nature. When homelessness continued to intensify, more programs were created and Federal policy became muted through a multitude of Federal programs, creating the current collage of programs so in need of consolidation.

The General Accounting Office reports that the application and recordkeeping requirements of the various McKinney programs are overly burdensome and sometimes conflicting or duplicative; this places a great strain on nonprofits.

When provided with stable, permanent housing and flexible support services, formerly homeless persons with severe mental illness are able to greatly decrease their use of costly acute psychiatric hospital care and emergency room treatment. In Boston, a study of homeless people with severe mental illness showed that after a year and a half, 78 percent remained in housing, and only 11 percent returned to streets or shelters.

When provided with permanent supportive housing, graduates of chemical dependency treatment programs are able to greatly increase their rates of sobriety. A study by Eden programs, a Minneapolis social service provider, tracked 201 graduates of a chemical dependency treatment program—90 percent who had supportive living a year later remained sober.

Despite a significant proportion of homeless individuals suffering from mental or physical disabilities, we must also recognize a portion of the homeless community, particularly families, that because of economic tragedies, are without permanent homes. It is this population that we too must concentrate our efforts to ensure that they don't evolve into mental or physical disabilities.

Mr. Speaker, as with the other bills I am introducing today, I intend to work in a bipartisan manner with my colleagues to make sure that low-income families and American taxpayers get the relief they deserve as quickly as possible.

HOMELESS HOUSING PROGRAMS CONSOLIDATION AND FLEXIBILITY ACT

SECTION-BY-SECTION ANALYSIS

Section 1: Title cited as the "Homeless Housing Programs Consolidation and Flexibility Act."

Section 2: Findings and Purpose conclude that a consolidation of the 7 existing McKinney Homeless Housing programs would provide flexibility and allow states, localities, and non-profits the ability to provide housing to homeless individuals with coordination of needed supportive services through other agencies.

Section 3: General Provisions provide technical changes to the McKinney Act.

Section 4: Permanent Housing Development and Flexible Block Grant Homeless Assistance Program is created and replaces existing Title IV of the Stewart B. McKinney Homeless Act as follows:

Subtitle A—General Provisions

Sec. 401: Purpose is established to provide assistance for permanent housing development and flexible homeless housing assistance.

Sec. 402: Grant Authority allows the HUD Secretary to provide grants to states, metropolitan cities, urban counties, and insular areas under subtitles B (Permanent Housing Development) and C (Flexible Block Grant Homeless Assistance).

Sec. 403: Eligible Grantees are insular areas (or designees) and recipients (state, metropolitan city or urban county) of Permanent Housing Development and the Flexible Homeless Block Grant Assistance Programs.

Sec. 404: Use of Project Sponsors provides criteria from which the eligible grantee may select entities to carry out its eligible activities.

Sec. 405: Comprehensive Housing Affordability Strategy Compliance requires each jurisdiction (eligible grantee) to submit and comply with the requirements of the comprehensive housing affordability strategy under Sec. 105 of the Cranston-Gonzalez National Affordable Housing Act.

Sec. 406: Allocation and Availability of Amounts requires, at enactment, 20% of total funds made for the Permanent Housing Development Grants, with a transitional sliding scale upward to 30% in the fourth year of the bill; the Flexible Block Grant Homeless Assistance, at enactment, receives 80% of total funds with a transitional sliding scale down to 70% in the fourth year and a sliding scale cap on the amounts used for supportive services from 30%, at enactment, to 15% in the fourth year. The permanent housing development grants are totally competitive at the national level; the Flexible Block Grant is allocated with 70% for metropolitan cities and urban counties and 30% for states, based on a formula in the Housing and Community Development Act of 1974 (or the Emergency Shelter Grant formula). A minimum appropriated threshold amount of $750 million is required for block grant and permanent development housing. Otherwise, all the homeless funds are nationally competitive.

Sec. 407: Matching Funds Requirements provide for each eligible grantee to match at least 50% of the federal funds received, unless the grant is less than $100,000. The eligible grantee is restricted from transferring matching requirements to a project sponsor or other non-profit carrying out the jurisdiction's homeless activities to no more than a 25% match of federal funds. Matches include (i) value of donated material, (ii) value of building lease, (iii) proceeds from bond financing with limitations, (iv) amount of salary paid to staff, and (v) the cost or value of donated goods, without including the value of any time or services contributed by volunteers.

Sec. 408: Program Requirements provide the Secretary with the authority to establish the application, form and procedure for acquiring homeless grants. Under the Permanent Housing Development Grants or Flexible Block Grant Homeless Assistance, eligible grantees must provide detailed descriptions of the activities planned. The eligible grantee or project sponsor is authorized to charge an occupancy charge from assisted individuals, capped at a maximum 30% of income. Eligible grantees and project sponsors are required to have at least one homeless individual as a member of the board of directors unless the Secretary provides a waiver. Administrative expenses are capped at 5% of federal funds received or 7.5% in cases where the recipient utilizes a standardized homeless database management system to record and assess the use of housing, services and homeless individual. Housing Quality Standards are keyed to local housing standards; and in the absence of local codes, a federal housing quality standard is enforced.

This section requires coordination and consultation between HUD and other federal agencies who have grant programs where eligible activities include homeless assistance, e.g. HHS, Labor, Education, VA, and Agriculture. Such coordination would provide for other agency funding for companion services to HUD housing grants. In the event of failure to coordinate or provide sufficient services, HUD and the Interagency Council on the Homeless would create a companion service block grant, capped at the authorized amounts for Title IV McKinney Appropriations, which this bill authorizes at $1 billion.

Use restrictions are applicable to permanent and supportive service housing, requiring at least a 20 year use with requirements for repayment or conversion monitored by the Secretary.

Local advisory boards are required to assist and provide professional and community assistance in creating, monitoring and evaluating local homeless initiatives using federal funds.

Sec. 409: Supportive Services are required for each homeless housing facility to meet specifically the needs of the residents, and include activities such as child care, employment assistance, outpatient health services, housing location, security arrangements, and case-management coordination of benefits.

Subtitle B—Permanent Housing Development Activities

Sec. 411: Use of Amounts and General Requirements provide authority to states, metropolitan cities and urban counties to implement permanent housing development for homeless individuals through construction, substantial rehabilitation, or acquisition. Substantial reliance on non-profit organizations is required, with a minimum amount of 50% of funds required to pass-through to such organizations. Special populations, to the maximum extent possible, are provided permanent housing opportunities.

Sec. 412: Permanent Housing Development consists of long-term housing, single room occupancy housing (with or without kitchen or bathroom facilities for each unit) rental, cooperative, shared-living arrangements, single family housing or other housing arrangements.

Subtitle C—Flexible Block Grant Homeless Assistance

Sec. 421: Eligible Activities provide authority to the eligible grantee to use funds for acquisition and rehabilitation of supportive housing; new construction of supportive housing, leasing of supportive housing, operating costs for supportive housing with limits, homelessness prevention, permanent housing development under subtitle B, emergency shelter, supportive services with caps, and technical assistance. Matching amounts only require an amount equal to the federal funds to be used for housing; therefore, grantees are much more flexible in providing different sources of funds. Federal funds are capped for emergency shelters at 10% of the recipients' McKinney housing funds.

Sec. 422: Use of Amounts Through Private Non-Profit Providers requires a pass-through of no less than 50% of funds.

Sec. 423: Supportive Housing is defined as housing providing supportive services that is either transition or permanent supportive housing.

Sec. 424: Emergency Shelter is defined as housing for overnight sleeping accommodations. Grants for emergency shelter are restricted for emergency needs and, in the case of rehabilitation and conversion, a 10 year use requirement for emergency or other homeless housing.

Subtitle D—Reporting, Definitions, and Funding

Sec. 431: Performance Reports by Grantees requires the eligible grantee to review and report on the progress of the homeless activities under the grants from Title IV as well as meeting the needs of the comprehensive housing affordability strategy.

Sec. 432: Annual Report by Secretary requires a summary of activities, conclusions and recommendations.

Sec. 433: Definitions.

Sec. 434: Regulations are required within 30 days of enactment for interim rules and final rules to follow, within 90 days of enactment.

Sec. 435: Authorization of Appropriations is $1 billion for FY98 through FY02.

Section 5: Interagency Council on the Homeless statutory language is amended to provide authority to coordinate under Title IV with HUD and other agencies and provide an independent determination on companion supportive service funding. Authorization of appropriations is for such sums as may be necessary in FY98 through FY02.

Section 6: Repeals and Conforming Amendments provide for the termination of (i) Innovative Homeless Initiative Demonstration; (ii) FHA Single Family Property Disposition for Homeless Use; (iii) Housing for Rural Homeless and Migrant Farmworkers; and, (iv) Termination of SRO Assistance Program.

Section 7: Savings Provision provides a guarantee of federal funds obligated for homeless activities prior to enactment under earlier laws.

Section 8: Treatment of Previously Obligated Amounts are guaranteed under the applicable provisions of law prior to enactment.

INTRODUCTION OF TARGETED TAX CUT BILLS

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. POMEROY. Mr. Speaker, today I introduce a trio of targeted tax cut bills designed to help working families meet their most pressing financial challenges. The centerpiece of an agenda to advance the economic security of North Dakota's middle and working income families, these measures will make it easier for workers to afford health care and education and to set money aside for retirement.

The first measure I introduce today, The Self-Employed Health Affordability Act of 1997, continues my long dedication to providing full deductibility of health insurance costs for self-employed individuals. On the first day of the last Congress, I introduced a bill to give the self-employed a full 100 percent deduction for these costs. Eighty-two of my House colleagues became co-sponsors of my bill, and this bipartisan coalition fought successfully to include an increased self-employed deduction as part of the health insurance legislation passed by Congress last summer. Under this so-called Kennedy-Kassebaum law, the self-employed deduction will slowly increase to 80 percent by the year 2006. While this was progress, it does not bring sufficient relief to the hard-working farm and small business families which must pay their own health insurance premiums. The bill I introduced today will immediately increase the self-employed deduction to a full 100 percent, making the increasing cost of health insurance more affordable and keeping these families healthy.

Mr. Speaker, the second of the targeted tax cut bills I introduce today is The Education and Training Affordability Act of 1997. This legislation will allow a tax deduction of up to $5,000 a year for higher education and job training expenses for middle-income families. The deduction will be fully available to individuals earning less than $60,000 and households earning less than $80,000, and will phase out for individuals at $75,000 and for households at $95,000.

Unfortunately, college costs are moving beyond middle-class reach. Many families are forced to incur greater and greater debt to finance their children's higher education and some must forego higher education altogether. The Education and Training Affordability Act will help combat these trends, providing a needed tax savings and helping parents afford the cost of a college education for their children. Under this bill, a family of five earning $60,000 with three children in North Dakota's state universities will save $1,400 per year.

The Education and Training Affordability Act will also make job training more affordable. It's clear that the best-paying jobs will increasingly go to those workers with advanced training beyond high school. Employees willing to continually update their skills are the ones who will be able to take full advantage of the opportunities in today's rapidly changing economy. The Education and Training Affordability Act will help workers seize these new opportunities by making vocational, technical and other job training programs more affordable. For example, a worker earning $28,000 and enrolled full-time at Interstate Business College in Fargo would save $1,400 on his or her tax bill.

Mr. Speaker, the final bill in my trio of targeted tax cuts is the IRA Savings Opportunity Act of 1997. This legislation will help working families overcome what can be the extreme difficulty of setting aside money for retirement given all the other expenses families face. In doing so, it will help us take a step forward in meeting our emerging retirement savings crisis. As a nation, we are simply not saving enough to ensure a financially secure retirement. The personal savings rate has fallen from a level of more than 7 percent during much of this century to barely more than 3 percent today. Indeed, only one in three babyboomers is saving enough to guarantee an adequate income in retirement.

The IRA Savings Opportunity Act gives working families expanded new opportunities to start and contribute to an individual retirement account (IRA). THe bill has three provisions, each designed to expand savings opportunities in a different way. First, for those at modest income levels who often find it most difficult to save, the bill provides a tax credit equal to 20 percent of the amount contributed to an IRA. This credit will reduce tax liability for individuals earning less than $35,000 and households earning less than $50,000 while providing a meaningful incentive to save for retirement.

Second, the IRA Savings Opportunity Act will allow those without access to a workplace retirement plan to contribute additional dollars to their IRA. Retirement security in our economy is premised on a three-legged stool of (1) employer pension, (2) Social Security, and (3) personal savings. Yet many workers—farmers, those who work for small businesses—do not have access to a retirement plan in the workplace. And many large employers are discontinuing their pension plans, leaving workers without a retirement vehicle at their place at work. These employees thus lack the important employer pension leg of the retirement security stool. THe IRA Savings Opportunity Act addresses this problem by strengthening the personal savings leg. The bill will allow middle-income workers without workplace plans to contribute an additional $2,000 to their IRA, bringing the total annual amount that can be contributed to $4,000. While the additional $2,000 contribution is not tax deductible, these funds will accumulate tax-free, providing a significant advantage over other savings vehicles such as mutual funds.

Finally, the IRA Savings Opportunity Act will help to strengthen the personal savings leg of the stool for those who are fortunate enough to have access to a retirement plan at the workplace. By doubling the income ceilings below which workers can deduct their IRA contributions, the IRA Savings Opportunity Act once again makes the tax advantages of IRAs available to all middle-class Americans. Remedying the vast reduction in IRA participation caused by the 1986 tax reform law, the IRA Savings Opportunity Act will allow individuals earning up to $70,000 and households earning up to $100,000 to deduct their IRA contributions from their taxes, up to a maximum of $2,000. This restored deduction will provide meaningful tax relief for middle-income families, and will encourage the personal savings which must be a critical part of everyone's retirement savings strategy.

Mr. Speaker, one strength of the tax relief measures I introduce today is that they target the relief at families' most pressing economic challenges—the high cost of health care and education and the difficulty of saving for retirement. They also target the tax relief at middle and working income families in order to limit the cost and not require unsustainable cuts in programs on which our seniors, children and working families rely. This doubly targeted approach means that the revenue loss to the federal treasury from my proposals is modest, on the order of $40–50 billion. As with the proposals others will make for tax relief, my targeted tax cuts can only be enacted as part of a budget agreement that includes the necessary spending cuts to reach balance by 2002. From my position on the Budget Committee, I will be working to ensure that targeted tax relief in the context of a balanced budget is accomplished.

Mr. Speaker, I look forward to working hard in the coming weeks and months to advance these three targeted tax cut bills. With passage of these measures, Congress can provide needed tax relief to middle and working income families and can help them secure the foundations of economic security—health care, education and training, and a secure retirement.

THE INTRODUCTION OF THE NATIONAL RIGHT TO WORK ACT OF 1997

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GOODLATTE. Mr. Speaker, I am pleased to introduce on this first day of the 105th Congress the National Right to Work Act of 1997.

This act will reduce Federal power over the American workplace by removing those provisions of Federal law authorizing the collection of forced-union dues as a part of a collective bargaining contract.

Since the Wagner Act of 1935 made forced-union dues a keystone of Federal labor law, millions of American workers have been forced to pay for union representation that they neither choose nor desire.

The primary beneficiaries of Right to Work are America's workers—even those who voluntarily choose to pay union dues, because when union officials are deprived of the forced-dues power granted them under current Federal law they'll be more responsive to the workers' needs and concerns.

Mr. Speaker, this act is pro-worker, pro-economic growth, and pro-freedom.

The 21 States with Right to Work laws, including my own State of Virginia, have a nearly three-to-one advantage over non-right to work States in terms of job creation.

And, according to U.S. News and World Report, 7 of the strongest 10 State economies in the nation have Right to Work laws.

Workers who have the freedom to choose whether or not to join a union have a higher standard of living than their counterparts in non-Right to Work States. According to Dr. James Bennett, an economist with the highly-respected economics department at George Mason University, on average, urban families in Right to Work States have approximately $2,852 more annual purchasing power than urban families in non-Right to Work States when the lower taxes, housing and food costs of Right to Work States are taken into consideration.

The National Right to Work Act would make the economic benefits of voluntary unionism a reality for all Americans.

But this bill is about more than economics, it's about freedom.

Compelling a man or woman to pay fees to a union in order to work violates the very principle of individual liberty upon which this Nation was founded.

Oftentimes forced dues are used to support causes the worker does not wish to support with his or her hard-earned wages.

Thomas Jefferson said it best, "* * * to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical."

By passing the National Right to Work Act, this Congress will take a major step towards restoring the freedom of America's workers to choose the form of workplace representation that best suits their needs.

In a free society, the decision of whether or not to join or support a union should be made by a worker, not a union official, not an employer, and certainly not the U.S. Congress.

The National Right to Work Act reduces Federal power over America's labor markets, promotes economic growth and a higher standard of living, and enhances freedom.

No wonder, according to a poll by the respected Marketing Research Institute, 77 percent of Americans support Right to Work, and over 50 percent of union households believe workers should have the right to choose whether or not to join or pay dues to a labor union.

No other piece of legislation before this Congress will benefit this Nation as much as the National Right to Work Act.

I urge my colleagues to quickly pass the National Right to Work Act and free millions of Americans from forced-dues tyranny.

THE BREAST CANCER PATIENT PROTECTION ACT OF 1997

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. DINGELL. Mr. Speaker, I am pleased today to join my colleagues Representatives DELAURO and ROUKEMA of New Jersey, in introducing the Breast Cancer Patient Protection Act of 1997. This legislation seeks to ensure that women and doctors—not insurance company bureaucrats—will decide how long a woman who has a mastectomy should remain in the hospital.

For any woman, learning that she has breast cancer is one of her most frightening experiences. Learning that she must have a mastectomy, a surgical procedure that will change her body and her life, can be devastating.

To have an insurance company dare to say to this woman, who is facing one of life's great crises, that she must leave the hospital whether she is healed or not, is the ultimate insult. It is something that we should not tolerate, and that we must not allow.

Every medical specialty organization in this country challenges the right of insurance companies to interfere in the decision of what treatment is medically necessary or appropriate for a patient. Whether that patient is a young woman giving birth to a baby, or a woman having surgery to treat breast cancer, the insurer has no right to be in the middle, between the patient and the doctor.

Representative DELAURO and I, along with many other Members, placed this issue on the table at the end of last session because we wanted every Member of this body to think about this matter before the convening of this new Congress. We have spent the past several months researching the best, most effective way to accomplish the goals we laid out last year. We believe this legislation does that. We have made sure that we do not preempt responsible State legislation and we have defined health plans to be consistent with the Kassebaum-Kennedy health insurance reform bill and with the MOMS bill I introduced last session, which provides for 48-hour maternity stays.

This legislation goes where many angels have feared to tread, into the hallowed halls of well-heeled industry that is trying to make cost, rather than care, the driving principle of our health care system. This legislation just says "no." It says to anyone who is not the patient or the patient's doctor: "No, you may not dictate when a patient must leave the hospital."

The devastation of breast cancer is too great. The difficulties, both physical and psychological, associated with mastectomy are too complex. This legislation seeks to ensure that insurance snafus and mindless refusals do not make these already difficult situations impossible.

TRIBUTE TO BOB JOHNSTON

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. MORAN of Virginia. Mr. Speaker, I rise today to pay tribute to one of my constituents, CWO2 Robert G. Johnston, USA (Retired) who retired from The Retired Officers Association last November. In connection with his retirement, I had occasion to reexamine Bob's biography. I never realized it before but, in one way or another, Bob has spent his entire adult life in or working for the military and its people.

Born and raised in Atlanta, GA. Bob entered the Army as a draftee in January 1953 and rose through the ranks to the grade of chief warrant officer. His enlisted service included tours with the Leadership Committee of the Infantry School at Fort Benning, GA, the First Infantry Division at Fort Riley, KS, the Third Infantry at Fort Meyer, VA, and two tours with the U.S. Army Special Security Group in the Pentagon. He served overseas with the U.S. Embassy in London and the Military Assistance Command in Vietnam.

Upon appointment to warrant officer in the intelligence field in 1972, he received training in counterintelligence at the Intelligence School, Fort Huachuca, AZ. His subsequent service as a warrant officer included tours with the Pentagon Counterintelligence Force, as executive officer of the 902d Military Intelligence Group and personnel officer of the U.S. Army Special Security Group.

After retiring from the Army in November 1975, Bob joined the Retired Officers Association's Placement Service [TOPS] as a placement specialist. He assumed the position as Deputy Director in 1978 and became Director of TOPS in 1994. Bob's military awards include the Bronze Star. Meritorious Service Medal with Oak Leaf Cluster, and Army Commendation Medal with Oak leaf Cluster.

The officer placement service or TOPS as it is called is a unique enterprise and it requires a unique individual to run it. In essence, it is a job placement service for military officers from all of the seven uniformed services who are either retiring or being forced out as a result of the current force drawdown. The very heart of this operation is Bob Johnston in his 18 years of service as Deputy Director and then Director of TOPS, he has worked directly with active duty and retired officers and with civilian employers, plus executive search firms in assisting officers to find civilian positions for a second career. His reputation in this area is legend. In some significant way Bob assisted more than 200,000 officers in making a successful transition from the service to civilian employment; personally critiqued over 14,000 resumes; counseled over 10,000 officers; and rewrote the acclaimed "Marketing Yourself for a Second Career" publication which is distributed to over 50,000 service members annually. As the Director of TOPS for the last 2 years, his major achievements include the creation of a TOPS Job Bulletin that could be accessed from the Internet and thus, has TOPS poised to meet the technological challenges of the 21st century; and a significant increase in the number of employers and executive recruiters who come to TROA looking for TROA members to hire to more than 2,000 firms worldwide.

Mr. Speaker, as a final thought, the word leadership is often applied to those who do not deserve it. In Bob Johnston's case, just the opposite is true. He was a leader on active duty and in retirement continued to be a leader to his fellow officers, showing them how to cope with the challenges of a changing world. Bob has been a credit to his country, the Retired Officers Association and to the entire retired community.

Bob resides in Springfield, VA, with his wife Elsie. The couple has two grown daughters.

INTRODUCTION OF THE HIGHER EDUCATION AMENDMENTS OF 1998

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GOODLING. Mr. Speaker, today Mr. McKEON, Mr. CLAY, Mr. KILDEE and I have introduced a bill to extend the Higher Education Act of 1995. The Higher Education Act is one of the most important pieces of legislation we will be reviewing this Congress. The law enacted by this Congress which provides for the continuation of the Higher Education Act will establish Federal student aid policy for students and families through the year 2004. Our guiding principles will be: making college more affordable; simplifying the student aid system; and improving academic quality for students.

I am a firm believer that a postsecondary education is one of the keys to family security in this country. As parents, we all work hard in the hope that our children will have a better life and more opportunities than the prior generation. Unfortunately, it has become increasingly difficult for families to fulfill this dream.

Students and their families are worrying more and more about how they are going to pay for a postsecondary education. A recent General Accounting Office report notes that public 4-year colleges raised tuition 256 percent between 1980 and 1995, far outstripping the consumer price index and the rise in a typical family's income. Yet, college is no longer a luxury. Over the last decade, the earnings gap between youth with a postsecondary education and those without has continued to widen. New and advanced technology is dominating our economy and driving down the value of lowerskilled jobs. At a time when a college education is no longer a luxury, families are finding themselves unable to save or borrow enough money to pay the bill.

As we begin our intensive review of the Higher Education Act and Federal student aid policy, we will be looking for ways to assist all Americans in their pursuit of an affordable, high-quality postsecondary education. Achieving this goal is critical to the survival and growth of this country.

INTRODUCTION OF THE HIGHER EDUCATION AMENDMENTS OF 1998

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McKEON. Mr. Speaker, today Mr. GOODLING, Mr. CLAY, Mr. KILDEE and I have introduced a bill to extend the Higher Education Act of 1965. As we are just beginning the review process, the bill we are introducing today does not establish new policy or direction for Federal student aid. The final bill we plan on completing this year will focus on three main principles: making college affordable; simplifying the student aid system; and improving academic quality for students. The Higher Education Act is a complex piece of legislation. Our proposals for changing Federal student aid policy will be formulated only after open and bipartisan discussions with the Administration, the higher education community, students, parents and our colleagues in the 105th Congress.

In today's information based economy, the importance of obtaining a quality postsecondary education is at an all-time high. Parents across the country have recognized the importance of sending their children to college and they strive to ensure that their children will enjoy a better life.

It is in this area of higher education that the Federal Government can have a very significant impact. The fact is that the combination of Federal grant and loan aid for fiscal year 1997 is expected to exceed $37 billion dollars. This is good news for higher education in this country. Unfortunately, the cost of a college education has increased at about twice the rate of inflation since the early 1980's, making a college education one of the most costly investments facing American families today.

That is why our review of the Higher Education Act and Federal student aid policy will focus on strengthening opportunities for students to obtain an affordable, high quality postsecondary education. The law enacted by this Congress which establishes new and continues old Federal student aid policies will take us through the year 2004. It will significantly impact the lives of millions of students and their families, as well as the future of this country. I look forward to working with all my colleagues as we undertake this review.

TRIBUTE TO SUPERVISOR DERAN KOLIGIAN

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RADANOVICH Mr. Speaker, I rise today to pay tribute to Supervisor Deran Koligian. Mr. Koligian is a man of soil and a man of service to all of Fresno County. He truly exemplifies what it means to be a family farmer.

As noted in a recent article in the Armenian General Benevolent Union (UGBU) magazine, Supervisor Koligian, who is serving his fourth term on the Fresno County Board of Supervisors, is a native of Fresno. His parents left their native home land during the dark days of the Armenian genocide and relocated in Fresno. Koligian faced hard times like many other Armenians who were often the subject of discrimination and ridicule. As a result, life was not always easy for the Armenian families who lived on "the other side" of the railroad tracks.

Koligian's father and the rest of the family did not surrender to the pressure of being newcomers to the United States. Instead, the elders of the community instilled in the first generation of U.S.-born Armenians a message to concentrate on their education, work hard, and set goals. The words were taken to heart by Koligian. After graduating from Central High School, Koligian went onto Fresno State College and completed a degree in accounting and business administration. At the conclusion of his formal education, he entered into combat as an infantryman in the U.S. Army during World War II.

Upon returning to Fresno after World War II, Koligian began a career in farming and became involved in serving the community. Koligian served on the Fresno County School Board Association, the Fresno County Equal Opportunity Commission, and the Fresno Planning Commission. He also served 12 years as a member of the Board of Trustees of the Madison Elementary School, and 12 years on the board of Central High School before his election to the Fresno County Board of Supervisors.

Koligian oversees services in Fresno County such as public libraries, public schools, the sheriff's department, medical services, and the planning commission. Additionally, he also works with the probation department, courts, housing and tax collection agencies within the county.

Mr. Speaker, through the years, Deran Koligian has epitomized the hard work and integrity that our forefathers believed would make the United States a great and prosperous nation. The end result is a man who has served his community with professionalism an a no-nonsense attitude. I ask my colleagues to join me and pay tribute to a man who in the midst of so much else today, serves the public with as much substance as the soil of the Fresno land that he farms.

INTRODUCTION OF LEGISLATION TO ASSIST CONNECTICUT POLICE AND FIREFIGHTERS

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise today to introduce legislation on the single most important tax issue to roughly 1100 families in Connecticut.

This legislation would simply clear up a situation where erroneous state law has caused benefits that were intended to be treated as workmen's compensation to be brought into income on audit. In several states, including Connecticut, the state law providing these benefits for police and fire fighters included an irrebuttable presumption that heart and hypertension conditions were the result of hazardous work conditions.

In Connecticut, at least, the state law has been corrected so that while there is a presumption that such conditions are the result of hazardous work, the state or municipality involved could require medical proof. This change satisfies the IRS definition of workmen's compensation. Therefore, all this legislation would do is exempt from income those payments received by these individuals as a result of faulty state law but only for the three years—1989, 1990 and 1991. From January 1, 1992 forward those already receiving these benefits would have to meet the standard IRS test.

The importance of this legislation is that these individuals believed that they followed state law. The cities and towns involved believed that they followed state law and therefore all parties involved believed that these benefits were not subject to tax. However, the IRS currently has an audit project ongoing in CT and has deemed these benefits taxable. All this legislation says is that all parties involved made a good faith effort to comply with what they thought the law was. The state was in error. That error has been rectified but those individuals on disability should not be required to pay 3 years back taxes plus interest and penalties. Yet the interest and penalties on this tax continue to increase each day and are quite beyond the means of most of these families where the primary breadwinner is disabled.

This provision was reported by the Ways and Means Committee in 1992, passed the House on the suspension calendar, included in H.R. 11 and vetoed by then President Bush. This provision enjoys the bipartisan support of the entire Connecticut Congressional delegation. I hope that the House will see fit to provide these Connecticut families with the tax relief they need most.

STOP ILLEGAL IMMIGRATION AND PROTECT UNITED STATES JOBS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, today I am proud to introduce legislation which would improve the quality of the Social Security card and make it a crime to counterfeit work authorization documents. This is absolutely critical to our fight against illegal immigration. Several of my colleagues, including Mr. SCHUMER, Mr. STENHOLM, and Mr. HORN, join me in this effort.

Illegal immigrants come to the United States for one overwhelming reason: jobs. In response to this obvious magnet for illegal immigration, the 1986 immigration bill created employer sanctions, making the it illegal to knowingly hire an illegal alien. That law requires everyone seeking employment in the United States to produce evidence of eligibility to work. One of the documents that may be produced together with a driver's license to prove this eligibility is the Social Security card. The primary reason employer sanctions are not working today is the rampant fraud in the documents to prove eligibility to work, specifically the Social Security card. H.R. 2202 would reduce the number of documents that may be produced from 29 to 6. This helps, but one of the six is still the Social Security card. As long as it can be easily counterfeited, employer sanctions will not work.

Why is it so important to make employer sanctions work? There are 4 million illegal aliens in the United States today. This number increases by 300,000 to 500,000 annually. Most illegals are non-English speaking, poorly educated, and lacking in marketable skills. Their numbers are so large in the communities and States where they are settling that they cannot be properly assimilated, and they are having a very negative social, cultural, and economic impact.

Even if the southwest border were sealed—which it can't be—it would not solve the illegal immigration problem. Nearly 50 percent of illegals are here because they entered on legal temporary visas and did not leave. The only way to stop illegals from coming, through the border or otherwise, is to eliminate the magnet of jobs. The only way to do that is to make employer sanctions work.

Mr. Speaker, the bill I am introducing today will make major strides in our efforts to make employer sanctions work. Until sanctions work, our fight against illegal immigration will be in vain.

A BEACON-OF-HOPE FOR ALL AMERICANS: RANDALL BLOOMFIELD

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this Nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right to life, liberty, and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of nonelected leaders throughout our Nation. The fabric of our society is generally enhanced and enriched by the hard work done year after year by ordinary volunteer citizens. Especially in our inner city communities which suffer from long public policy neglect, local grassroots leaders provide invaluable service. These are men and women who engage in activities which generate hope. I salute all such heroes and heroines as Beacons-of-Hope.

Randall Bloomfield is one of these Beacons-of-Hope residing in the central Brooklyn community of New York City and New York State. Few doctors in central Brooklyn can match the impeccable record of achievement of Dr. Bloomfield.

Dr. Bloomfield is directly responsible for many community empowerment efforts. His vision, sincerity, and competence have resulted in the writing of proposals and the presentation of various studies that have educated the community. Over the years, he has made dozens of scholarly presentations on subjects such as "Current Approaches to Gynecological Chemotherapy." In addition, he is coauthor of a proposal which gained funding for the Provident Neighborhood Health Center and has written numerous articles including one on Legislator-Physician relationships.

Throughout the years, Dr. Bloomfield has worked diligently in several positions that he found to be beneficial to his community. He currently serves as the chairman of the Moya Medical Scholarship Fund and is the co-chair of the Medgar Evers Medical Program.

Born in New York City, Dr. Bloomfield has served 2 years in the Army. He is a graduate of City College of New York and Downstate Medical Center. He is married to Edris L. Adams and the father of Diane Elizabeth and Robert Randall.

Randall Bloomfield is a Beacon-of-Hope for central Brooklyn and for all Americans.

INEQUITY IN THE TAX CODE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CRANE. Mr. Speaker, today I am introducing legislation designed to end an inequity that currently exists in our Tax Code. The Federal Unemployment Tax Act [FUTA] exempts certain churches and religious organizations operated by churches from having to pay State unemployment taxes. This exemption extends to schools directly operated by churches. Although church-operated schools are exempt, there is one class of religious schools which is presently not exempt—schools which, in equity and fairness, and for constitutional reasons, deserve this exemption.

The schools in this nonexempt class are religious schools which are not operated by churches, but are instead operated by lay boards of believers. Such schools are as pervasively religious as the church-operated schools. Indeed, nonchurch religious schools would not exist except for their religious mission and are, in every way except church affiliation, religiously indistinguishable from exempt schools. It is my understanding that these schools constitute about 20 percent of the membership of the Protestant evangelical schools in the country, and that, in addition, Catholic, Jewish, and other Protestant schools fall into this category.

Quite simply, these schools should not have to bear the burden of the FUTA tax. The intent and purpose of these schools are the same as those operated by churches. Not exempting such schools raises serious constitutional questions with respect to the free exercise and establishments clauses of the first amendment as well as the equal protection clause of the 14th amendment. Although an effort was made to bring this issue before the Supreme Court, the Court did not reach the merits and dismissed the case on other grounds. Recognizing the constitutional issues involved, the U.S. Department of Labor deferred the initiation of conformity proceedings for roughly 2 years against States which exempt these schools from State unemployment tax "until the constitutional issue is definitively resolved." The constitutional issue has yet to be resolved and the Department of Labor has since started enforcing its interpretation of the law.

My legislation will clarify this issue once and for all by simply amending the Internal Revenue Code to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax. Many Members of Congress will find religious schools in their district that fall into this nonexempt category, and, moreover, will find that these schools merit equitable and constitutional treatment. I would ask my colleagues to join me in an effort to bring equity to this section of the Tax Code.

THE CARE ACT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. KLECZKA. Mr. Speaker, in a cruel display of corporate greed, the Pabst Brewing Company last year announced its intention to renege on its promise to provide health and death benefits to its retirees. Following a court battle, Pabst appears to have succeeded: retirees and their families have lost benefits that were promised them in exchange for many years of loyal service to the company.

This outrage demonstrates a lack of corporate responsibility to dedicated former employees. This is not an isolated incident, but part of a disturbing nationwide trend. Over the past several years, thousands of workers and retirees across this country have faced similar cancellations and reductions of their health coverage. John Morel, Hormel, and General Motors are just a few of the corporations who have tried to leave their former workers stranded without health care—health care they were promised, and health care their long years of service earned. From meatpackers to clerical staff, this is a threat to the retirement security of all American workers.

We must act now. Last Congress, I introduced a bill which I am reintroducing today, the Health Care Assurance for Retired Employees Act—or the CARE Act—which would protect retiree health benefits and help retirees to obtain health insurance if their coverage is canceled.

The CARE Act would require employers to give 6 months notice to retirees and require the Labor Department to certify that the changes meet the requirements of the collective bargaining agreement.

It would also expand retirees' access to health care under COBRA for those aged 55 to 65 until they are eligible for Medicare.

Lastly, it would allow retirees who did not sign up for Medicare or Medigap to apply for the programs without late-enrollment penalties.

This type of atrocity must not be tolerated. We must ensure retiree security and prevent loyal former workers from being left out in the cold. Mr. Speaker, I ask my colleagues to show their support for retired workers and their families by cosponsoring this bill.

BALANCED BUDGET REQUIREMENT ACT OF 1997

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CONDIT. Mr. Speaker, today, along with our colleague Representative KAY GRANGER of Texas, I have introduced the Balanced Budget Requirement Act, legislation to require the President to submit to the Congress each year a balanced Federal budget and to forbid the consideration in the Congress of any budget resolution that does not provide for a balanced budget. These changes would take effect immediately, and are essential in implementing any Constitutional amendment to balance the Federal budget.

Specifically, the legislation provides that:

Beginning in fiscal year 1998, the President is required to submit a plan for achieving a balanced budget by 2002. Thereafter, the President must submit budgets to maintain a balanced budget for the current fiscal year and the 4 fiscal years following, unless there is a declared war or national security or economic emergency.

Upon submission of the President's budget, the Director of the Congressional Budget Office (CBO) determines whether the plan achieves a balanced budget and certifies to the Chairman of the House and Senate Committees on the Budget such. If the budget is certified as not being in balance, the Chairmen of the Budget Committees notify the President in writing within 7 calendar days. Within 15 days, the President may submit a revised plan to achieve a balanced budget.

It is not in order in the House or Senate to consider any concurrent resolution on the budget that does not achieve a balanced budget by fiscal year 2002. In 2002 and thereafter, it is not in order to consider any budget resolution that does not maintain a balanced budget. This section cannot be waived unless a joint resolution is enacted that declares war, a national security or national economic emergency.

Finally, the bill makes in order in both the House and Senate the consideration of the President's budget or revision as a substantive amendment to the budget resolution, without substantive amendment.

While essential, enactment of a balanced budget in the Congress and ratification of a balanced budget constitutional amendment is only the beginning, not the end. The Balanced Budget Requirement Act, together with diligence on our part, will keep the Federal budget balanced.

MARKING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE FAITH COMMUNITY CHRISTIAN REFORMED CHURCH

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. ROUKEMA. Mr. Speaker, in the days immediately following the adjournment of the

104th Congress, the members of the Faith Community Christian Church of Wyckoff, NJ celebrated the One-Hundredth Anniversary of the founding of their church. I ask my Colleagues to join me in extending their heartfelt congratulations and best wishes.

Formally established on October 1, 1896 in the Riverside neighborhood of Paterson, the congregation was originally known as the Fourth Christian Reformed Church. For nearly eight decades, the church members worshipped in Paterson. On April 5, 1975, the church structure was destroyed by a fire that claimed the life of a Paterson firefighter.

Clearly, a church such as this does not survive on structure alone. The community relocated to its current site in Wyckoff and assumed the name Faith Community Christian Reformed Church in September 1978.

Mr. Speaker, this church has remained steadfast to its Christian mission throughout its distinguished history. Perseverance and courage have been the watchwords of the congregation since its founding, but especially in the trying days following the 1975 tragedy.

Faith Community Christian Reformed Church has been a pillar of the northwest Bergen County community and is widely respected. The ministry that the church provides to the community is clear evidence of the "faith of our fathers living still." Indeed, the church is following the traditions of the Christian faith of the founding fathers of this Nation.

Mr. Speaker, throughout this nation's history, faithful communities such as this church have formed the backbone of our society. At a time when many Americans are deeply concerned about the cultural and moral erosion of civil society, this church provides a center of worship and a solid foundation of faith for our families, our children and our communities. Just as this nation is a better place because of these churches, the dedicated service of the Faith Community Christian Reformed Church has enriched quality of life in Bergen and Passaic counties. Its contributions are adding to the rich tapestry of American life in northern New Jersey every day and deserve to be recognized as a part of the permanent historical record of our Nation through the CONGRESSIONAL RECORD.

My Colleagues, I invite you to join me in honoring the members of the Faith Community Christian Reformed Church on one hundred years of faithful service and extending best wishes for another century of service.

MEDICARE DIABETES EDUCATION AND SUPPLIES AMENDMENTS OF 1997

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. DINGELL. Mr. Speaker, I am pleased to add my name as an original cosponsor of the Medicare Diabetes Education and Supplies Amendments of 1997, introduced today by my colleague from Oregon, Representative FURSE. This long-overdue legislation will assist millions of diabetics, by ensuring that the relatively small costs of diabetes self-management training and glucose test strips will be covered by Medicare. The cost-effectiveness of managing diabetes has been well documented. Management significantly reduces and delays the onset of disabling or fatal consequences of this disease. Thus, the small investment Medicare makes "up front" pays off several times in savings over the long term. But most importantly, these simple, cost-effective techniques notably improve the quality of life for people with diabetes.

Many of my colleagues will recall Representative FURSE's valiant attempts to enact this legislation in the 104th Congress. Throughout that Congress, in the context of Medicare legislation and budget reconciliation, even to the last night of the second session, she worked to achieve that goal. I was glad to work with her in that effort. However, despite tremendous support from people with diabetes and their families, Members of Congress on both sides of the aisle, and the White House, the elusive prize was not to be won in that most rancorous of seasons. I hope that as we begin this quest again, we can place health policy ahead of partisan wrangling, and people with diabetes ahead of politics. Let us enact this fine legislation as one of the first examples that we can and will work together to serve the American people. Let us take as our example the outstanding commitment of Representative FURSE to accomplish this objective not for personal or political gain, but because it is the right thing to do.

I am happy to be part of this effort, and look forward to speedy enactment of this important legislation.

INTRODUCTION OF LEGISLATION TO EXPAND THE PROTECTIONS OF THE FAMILY AND MEDICAL LEAVE ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CLAY. Mr. Speaker, today I am introducing legislation to expand the protections afforded by the Family and Medical Leave Act of 1993 (FMLA). The legislation I am introducing is substantially similar to legislation introduced in the last Congress by our distinguished former colleague, Patricia Schroeder.

The FMLA grants employees the right to unpaid leave in the event of a family or medical emergency without jeopardizing their jobs. As former chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor, I was privileged to work closely with pat Schroeder, the Hon. MARGE ROUKEMA, Senator CHRIS DODD, our former colleague the Hon. William D. Ford, and others to bring about the enactment of this important law. Necessarily, many compromises were made to bring about this precedent setting legislation.

Among the most important of those compromises was one that limited the applicability of the law to employers of 50 or more employees. My original intention had been to extend the law to employers of 25 or more employees. However, because of uncertainty regarding the impact of the law on employers and in order to increase support for the legislation, I agreed to accept the 50 employee threshold.

The effect of this compromise was to leave approximately 15 million employees outside of the protections afforded by the FMLA. The fact that an employee may work for an employer of 40 rather than 50 people does not immunize that employee from the vicissitudes of life, nor diminish that employee's need for the protections afforded by the FMLA.

The FMLA was signed into law on February 5, 1993. Experience has shown that the law does not unduly disrupt employer operations. Not only are the costs to employers of complying with the law negligible, but in many instances the FMLA has led to improvements in employer operations by improving employee morale and productivity, and by reducing employee turnover. Experiences has also shown that the protections afforded by the law are not only beneficial, but are essential in enabling workers to balance the demands of work and home when faced with a family or medical emergency. in short, we have now had sufficient experience under the law to justify extending the law to employers of 25 or more employees.

Beyond expanding the number of workplaces that are protected by the FMLA, the bill I am introducing also allows workers to take up to 24 hours of FMLA leave for the purpose of participating in school activities, to accompany children to routine dental or medical appointments, or to accompany an elderly relative to routine medical appointments or other professional services. The 24-hour provision was also originally a part of Mrs. Schroeder's legislation. However, I have modified those provisions to reflect a similar proposal that has been put forward by President Clinton. I urge my colleagues to support this legislation.

INTRODUCTION OF FIRE LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. KENNELLY. Mr. Speaker, I rise today to introduce legislation that would create three additional enterprise zones targeted toward the financial institution, banking, and real estate or FIRE industries. I have consistently supported enterprise zones and think the intense competition for both the zone and community designation provides ample evidence of the broad support for these efforts.

My city of Hartford, CT applied for designation as an enterprise community but was denied. But when I started looking at the details, it was clear to me that while empowerment zones/enterprise communities are excellent economic development tools, they just don't quite fit all areas.

The tax incentives in empowerment zones include a wage credit, expensing of up to $75,000 and a loosening of restrictions on tax-exempt bonds—all incentives seemingly geared to manufacturing. Hartford and a number of other cities around the Nation, however, are different—our base is services and we would frankly benefit from a different mixture of tax incentives.

Let me talk about Hartford for a moment. Hartford has long been known as the insurance capital of the world. We have also traditionally been a center for financial services. However, any reader of the Wall Street Journal knows of the consolidation in the banking industry and that real estate in many parts of New England is still in a severe slump. On top of this, we are in the midst of unprecedented change in the insurance industry. In the past 3 years every major insurer in Hartford has either been a merger participant and/or acquired or jettisoned a major line of business.

But because this proposal isn't just about Hartford. In the past decade, we have seen unprecedented change in our financial services industries. We have had banking and S&L problems, face increasing competition in the global marketplace, and again this year will debate allowing banking, and other service industries including securities and insurance to affiliate. In addition, we have seen Bermuda attract over $4 billion in insurance capital in the past few years. It is certainly a beautiful place, but most important, it's also a tax haven.

And while change can be good, it does create a tremendous amount of uncertainty. With each and every merger or spinoff, every mayor and every city council, not to mention the thousands of affected employees who ask the same two questions: What does this mean for jobs; and what impact does this have on the property tax base and real estate values?

This legislation would create three additional zones with tax incentives targeted to services. Specifically, these FIRE zones would be patterned after existing enterprise zones, but could encompass an entire city or municipality, and more important, could include central business districts. Eligibility would be the same as for existing enterprise zones, with an additional requirement that an eligible city would have to have experienced the loss of at least 12 percent of FIRE industry employment, or alternatively, 5,000 jobs.

In lieu of traditional enterprise zone tax incentives, new or existing businesses in FIRE zones would receive a range of tax incentives.

First, to deal with jobs, there would be a wage credit for the creation of new jobs within the zone. This would encourage businesses to hire displaced and underemployed insurance, real estate, and banking workers as well as to create entry level jobs for clerks and janitors.

Second, to deal with the high commercial vacancy rate problem that plagues many cities, there would be unlimited expensing on FIRE buildouts and computer equipment. The proposal would also remove the passive loss restrictions on historic rehabilitation.

Next, to provide an incentive for investors, the proposal would provide for a reduction in the individual capital gains rate for zone property held for 5 years to 10 percent. In addition, capital gains on zone property would not be considered a preference item for individual alternative minimum tax purposes. The corporate capital gains tax rate would also be reduced, to 17 percent.

Finally, many big cities aren't always as safe as we would like. Therefore, the proposal would provide for a double deduction for security expense within the zone. This should give employers an added stake in the safety of our cities.

I would urge my colleagues to support this legislation.

NORTH MIAMI POLICE DEPARTMENT OFFICER OF THE YEAR, KEVIN KENNISON

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mrs. MEEK of Florida. Mr. Speaker, I rise today to recognize the North Miami Police Department's 1996 Officer of the Year, Officer Kevin Kennison. Chosen from a committee of his peers, his outstanding record in law enforcement makes him a fitting choice.

Officer Kennison joined the North Miami police force in June 1992. Quickly, he earned the respect of his peers and superiors through tenacity and dedication. In July 1993, he shared with several other officers the honor of Officer of the Month. Continuing his fine work, he again earned that title in August 1994 and October 1996.

Because of his unbridled enthusiasm, Officer Kennison was among the first chosen to participate in North Miami's Crime Suppression Unit, a specialized group of officers selected to target problem areas.

During 1996, Officer Kennison made in excess of 115 arrests, truly an astonishing number. Putting his life on the line in many instances, he has demonstrated great bravery. As his family and coworkers gather to recognize him for this achievement, I want to wish him continued success. Officer Kevin Kennison is truly an asset to our community, and we all congratulate him on a job well done.

ADVERSE EFFECTS OF INCREASING MEDICARE COST-SHARING ON THE POOR

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. STARK. Mr. Speaker, I thank the Members for this opportunity to address the House on the important issue of Medicare. In our attempt to cut Federal spending, we must consider the implications of those policy decisions on our Nation's most vulnerable citizens. Much has been said of the economical benefits of raising Medicare copayments and deductibles, but not enough has been said of the detrimental effects those cuts will have on Medicare beneficiaries with low incomes.

Many of my conclusions on the negative effects of higher cost-sharing on the poor are taken from the RAND health insurance experiment. The RAND experiment studied the rate of use of health services by assigning people to different levels of cost-sharing insurance programs. The results of that experiment should encourage us to take a good look at the effect our decisions will have on the health of the people we represent.

Mr. Chairman, the RAND experiment clearly showed that with increased out-of-pocket costs to the beneficiary; physician visits, hospital admissions, prescriptions, dental and vision visits, and mental health services use fell. While adverse health effects on the average person were shown to be minimal, statistics on the poor were rather disturbing. The study found that those with lower income levels suffered adverse health effects in many categories under the cost-sharing plan. The poor will forgo necessary medical attention as out-of-pocket costs of those services rise. This is a fact that undermines the original intent of this program.

Health areas most affected by a higher rate of cost sharing for the poor are hypertension, rate of mortality, dental and vision care. As an example of these findings, those with lower incomes who entered the experiment with high blood pressure benefited more under the free program than under the cost-sharing plan. Low-income groups have 46 percent more dental visits on the lower cost-sharing plan than on the higher. The higher income groups use dental services 26 percent more under the lower cost plan. Near and far vision statistics also improved in the lower cost plan and predicted mortality rates fell approximately 10 percent among the poor. In fact, Mr. Chairman, overall serious symptoms among the poor declined when the costs of care went down.

The determination made by this study and others is that those with higher needs and lower incomes are not more likely to spend money on necessary medical services. Higher cost-sharing in the attempt to reduce necessary treatment will also cause a reduction in the use of highly effective care. Furthermore, the experiment found significant decreases in highly effective care seeking poor beneficiaries.

Mr. Chairman, raising the cost of Medicare will raise even higher the rate of emergency room visits by the poor. Already, those in the lower third of the income distribution have emergency department expenses 66 percent higher than those of persons in the upper third of the income distribution. Raising Medicare costs will only make it more difficult for those with lower incomes to see a primary care, office-based physician and force those patients to seek attention in our country's overcrowded emergency rooms.

All of these facts lead us to the conclusion that if we raise the beneficiaries' obligation in the cost of Medicare, those with lower income levels will be unable to afford and will not seek out needed health services. We have an obligation to fiscally get these entitlement programs under control without putting the Nation's most needy in harms way. I urge all of my colleagues to consider these findings as we work to improve Medicare.

THE HOUSING OPPORTUNITY AND RESPONSIBILITY ACT OF 1997

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. LAZIO of New York. Mr. Speaker, I come to the floor of the House today to introduce the Housing Opportunity and Responsibility Act of 1997, a bill to bring hope and opportunity to millions of Americans now living in public housing across the country.

It is fitting that I do this today, the first day of the 105th Congress, because the first day of a new Congress is about new beginnings. This legislation is about new ideas and new models, new opportunities for families and neighborhoods that for too long have fallen victim to the old way of doing business.

For 60 years, we have asked local communities to live under one law for public housing, the 1937 Housing Act. Cities and neighborhoods, struggling with the challenge of providing affordable housing for families and individuals, have had to rely on a Depression-era law to provide that housing. A single, top-down, cookie-cutter model for housing designed to shelter urban factory workers and create jobs for out-of-work craftsmen in the 1930's is not the best way to do business today.

We ask a lot of local communities when it comes to building and supporting affordable housing. It's time we gave them the tools they need to get the job done right, so that families get the housing they need in communities that promote opportunity.

By providing that opportunity and demanding responsibility—at all levels, from recipients of assistance to those providing housing services—we take those first few steps toward creating the kind of communities we can all take pride in. Many of my colleagues have complained that the problem is not the programs, but simply how much money the Federal Government spends. I disagree. While having sufficient funding is something I have fought for, especially for our most vulnerable communities, it's wrong for us in Congress to ask the American taxpayers to pay for programs that aren't working. We Americans are a generous people, we always have been. We understand that not everyone has the same opportunities that some of our neighbors have been given and we are willing to spend tax dollars to help lower-income families get their feet under them and get on their way. But we are not so generous if we think our money is being wasted.

In too many cities, public housing has become the kind of waste that taxpayers don't want to put their money into.

We can do better than this. In some communities, housing for low-income housing is what we've asked it to be—a way to a better life, rather than a way of life. We can learn from those success stories, we can take the knowledge we have gained and make a better framework for change.

One of the worst examples has been the way residents in public housing are discouraged from working, discouraged from getting a better job or working overtime. The reason for this perversity? A well-intentioned but ill-advised policy known as the Brooke amendment, which requires tenants in public housing pay exactly 30 percent of their income for rent—no more, no less—no matter what income they make. Get a better job, your rent goes up. Work overtime to try to build a little savings, to move your family out of public housing, your rent goes up.

When we tried to restructure the intent of the Brooke amendment last year, some of my colleagues protested, saying that our only goal was to raise rents for low-income families. Nothing could be further from the truth. Nevertheless, this bill I am introducing today has a new way to eliminate the work-punishing provisions of existing law by simply giving tenants a choice. Each year, the housing authority will select a rent for each unit. The tenant then can choose whether to pay that rent or 30 percent of their income, obviously choosing whichever is less expensive. That way, no one is asked to pay more than 30 percent of their income for rent, but we don't force them to keep paying higher and higher rents based on misguided Federal policies.

This Work Incentive Rent Reform is one example of the kind of compromise we can create that protects families, but still provides the type of opportunity we need to instill in Federal programs.

Last May, members from both sides of the aisle voted for a very similar bill, the Housing Act of 1996. The House showed overwhelming support for reform by voting 315 to 107 in favor of that bill. As we go forward with this similar, but improved bill, I hope that Members on both side of the aisle, Republicans and Democrats, will feel free to engage in constructive debate, to work with us to make these needed changes.

Sixty years is a long time to wait for reform. We shouldn't ask low-income families to wait another year.

TITLE BY TITLE SUMMARY OF THE HOUSING OPPORTUNITY AND RESPONSIBILITY ACT OF 1997

The short title of the bill is the Housing Opportunity and Responsibility Act of 1997. The bill repeals the United States Housing Act of 1937 (the "1937 Act"), removes disincentives for residents to work and become self-sufficient, provides rental protections for low-income residents, deregulates the operation of public housing authorities, and gives more power and flexibility to local governments and communities to operate housing programs.

The Housing Opportunity and Responsibility Act declares that it is the policy of the federal government to, among other things, promote the general welfare of the nation by helping families who seek affordable homes that are safe, clean, and healthy, and in particular, assisting responsible citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control. These goals are to be achieved by developing effective partnerships among the federal government, state and local governments, and private entities, which would allow government to accept responsibility for fostering the development of a healthy marketplace, and allow families to prosper and thrive by removing disincentives to work and barriers to self sufficiency. It states that the federal government cannot through its direct action or involvement provide for the housing of every American citizen, but should promote and protect the independent actions of private citizens to develop housing and strengthen their own neighborhoods.

TITLE I—GENERAL PROVISIONS

Purpose. States that the purpose of the bill is to provide affordable housing opportunities to low income families by (1) deregulating and decontrolling public housing agencies; (2) providing for more flexible use of Federal assistance to housing authorities, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources; (3) facilitating mixed income communities (4) increasing accountability and rewarding effective management of public housing authorities; (5) creating incentives for residents of dwelling units assisted by public housing authorities to work; and (6)— recreating the existing rental assistance voucher program so that the use of vouchers and relationships between landlords and tenants under the program operate in a manner that more closely resembles the private housing market.

Income Definitions. Defines "adjusted income" for purposes of this Act to mean the difference between the income of the members of the family residing in a dwelling unit or the person on a lease and the amount of any income exclusions—some of which are mandatory—for the family as determined by HUD. Mandatory exclusions are for: (1) elderly and disabled families; (2) reasonable medical expenses; (3) child care expenses; (4) minors residing in the household; and (5) certain child support payments. Discretionary exclusions include, but are not limited to dependents, travel expenses; and earned income.

Drug/Substance Abuse. Permits a local housing and management authority to prohibit certain individuals with a history of drug or alcohol abuse from admission to units where admission may interfere with the peaceful enjoyment of the premises by other residents.

Community Work and Family Self-sufficiency Requirement. Requires adult residents of public housing or residents receiving assistance under Title III to enter into an agreement which provides that the resident contribute no less than 8 hours of work per month within the community in which the adult resides or participate on an ongoing basis in a program designed to promote economic self-sufficiency, and which sets a target date for when the family intends to graduate out of public or assisted housing. Exceptions include working families, senior citizens, disabled families, persons attending school or vocational training, or physically impaired persons.

Local Plans and Review. Requires each local housing and management authority to submit to a local elected official or officials that appoint the authority and then to the Secretary an annual Local Housing Management Plan that describes the mission, goals, objectives, and policies of the authority with respect to meeting the housing needs of low-income families. Discusses the standards by which the Secretary may review Local Housing Management Plans, notice of approval or disapproval, treatment of existing plans, and authority of a public housing authority to amend plans.

TITLE II—PUBLIC HOUSING

Block Grant Contracts. Provides general parameters for block grant contracts (capital and operating funds) to be entered into between the Secretary of Housing and Urban

Development (the "Secretary") and public housing authorities. An authority must agree to provide safe, clean, and healthy housing that is affordable in return for assistance. Requires the Secretary to make a block grant to a local housing and management authority provided, in part, that the authority has submitted a community improvement plan, the plan has been reviewed and complies with the necessary requirements, and the authority is exempt from local taxes or receives a contribution in lieu thereof.

Uses. Authorizes grant uses for production, operation, modernization, resident programs, homeownership activities, resident management activities, demolition and disposition activities, payments in lieu of taxes, emergency corrections, preparation of Local Housing Management Plans, liability insurance, and payment of obligations issued under the 1937 Act.

Voluntary Voucher Conversion. Permits public housing authorities, in accordance with the Local Housing Management Plans, to move toward a voucher program for certain buildings after a cost-benefit analysis of maintaining and modernizing the building as well as an evaluation of the available affordable housing.

Formula Determination. Provides for development of a formula, through negotiated rulemaking, for distribution of block grant amounts to public housing authorities. Provides for interim allocations to public housing authorities pending the development of a formula Prescribes that chronically vacant units are ineligible to receive subsidy except to the extent of paying utilities.

Family Income Eligibility. Limits occupancy of public housing to families who, at the time of the initial occupancy, qualify as low-income. Public housing authorities may create a selection criteria for incoming residents that are aimed at creating an income mix that reflects the eligible population of that jurisdiction provided at least 35 percent of the units are occupied by families whose income does not exceed 30 percent of area median income. Certain income and eligibility restrictions may be waived by an authority that provides units to police officers, law enforcement and security personnel.

Family Choice of Rental Payment. Families residing in public housing will have a choice as to whether they would rather pay a flat rent for a unit, to be established by the public housing authority for each unit in its inventory, or to pay no more than 30% of the family's adjusted income as rent. The purpose is to allow public housing authorities to create rental structures that would reflect the asset value of the unit, similar to the private rental market and which would remove disincentives to families obtaining employment and achieving self-sufficiency, while maintaining income protections for the residents.

Minimum Rent. Provides that a public housing authority may establish minimum rental contributions between $25 and $50, provided certain hardship exemptions are established.

Designated housing for elderly and disabled families. Permits local housing and management authority to designate all or part of a development as only elderly, only disabled, or only elderly and disabled as long as the designation is part of the Local Housing Management Plan. The authority must establish that the designation is necessary to meet certain goals and needs and include information the supportive services and other assets that will be provided to serve the residents.

Resident Management Initiatives. Allows residents or non-profit resident management corporations to assume the responsibility of managing or purchasing a development. The corporation must be organized under state law, has as its sole voting members the residents of the development, and have the support of its resident council (if one exists), or alternatively, a majority of the households of the development. Allows a public housing authority to contract with a resident management corporations to manage one or more developments.

Authorization of Appropriations. Authorizes $2.5 billion as the appropriation level for each fiscal year through 2002 for the capital fund, and $2.9 billion through fiscal year 2002 for the operating fund.

TITLE III—CHOICE-BASED RENTAL HOUSING

Grants. Authorizes the Secretary to make grants to public housing authorities and authorizes contracts for one fiscal year.

Formula Allocation. Requires the Secretary to determine a formula for allocating assistance based, in part, on census data, various needs of communities, and the comprehensive housing affordability strategy of a community, pursuant to a negotiated rulemaking process. Up to 50 percent of the funds that are unobligated by a local housing and management authority for a period of 8 months may be recaptured by the Secretary.

Administrative Fees. Sets administrative fees for public housing authorities at 7.65 percent of grant amount for the first 600 units at fair market rent for a two bedroom and 7.0 percent of the grant amount for all units in excess of 600. The Secretary may increase this fee in certain circumstances.

Authorizations. Authorizes $1,861,668,000 under this title as the appropriation level for each fiscal year through 2002.

Income Targeting. Not less than 40% of the families assisted with choice-based assistance must be families with incomes at or below 30% of the area median income.

Portability. Establishes national portability for recipients of choice-based assistance.

Resident Contribution and Rental Incidators. The resident contribution shall not exceed 30% of the monthly adjusted income of the family. Requires the Secretary to establish and to publish annually rental indicators for a market area that may vary depending on the size and type of the dwelling unit. The rental indicators shall be adjusted annually based on the most recent available data.

Homeownership Option. Allows public housing authorities to use funds under this title to assist low-income families toward homeownership. Eligible families must have an income from employment or sources other than public assistance, and must meet initial and continuing requirements established by the authority.

Housing Assistance Payments Contracts. Allows public housing authorities to enter into contracts with owners by which owners screen residents, provide units for eligible families, and authorities make payments directly to owners on behalf of the eligible families. The authority may enter into a contract with itself for units it manages or owns.

Amount of Monthly Assistance Payment, Shopping Incentive and Escrow. States that the monthly payment for assistance under this title is in the case of a unit with gross rent that exceeds the payment standard for the locality, the amount by which the payment standard exceeds the amount of the resident's contribution and, in the case of a unit with gross rent that is less than the payment standard, the amount by which the gross rent exceeds the resident's contribution. Half of any savings under (b) are escrowed into a fund on behalf of the tenant, the remainder to be returned to the federal treasury.

TITLE IV—HOME RULE FLEXIBLE GRANT OPTION

Allows local governments and jurisdictions to create and propose alternative programs for better delivery of housing services using funds that otherwise would have been provided to these localities through the federal programs. Localities would be able to consolidate public housing and choice-based rental assistance funds. The local plan would have to meet certain federal requirements, and would be subject to approval by the Secretary. HUD would enter into "performance agreements" with the jurisdictions setting forth specific performance goals.

TITLE V—ACCOUNTABILITY AND OVERSIGHT PROCEDURES

Study of Various Performance Evaluation Systems, Establishment of Accreditation Board. Requires that a study be conducted of alternative methods to evaluate the performance of public housing agencies, the results of which shall be reported to Congress by the Secretary within six months of the date of enactment of this legislation. Six months after completion of the study and receipt by Congress, a twelve-member Housing Foundation and Accreditation Board (the "Board") is established with the purpose of developing an alternative evaluation and accreditation system for public housing authorities.

Annual financial and performance audits. Requires each public housing authority to conduct an annual financial and performance audit. Procedures for the selection of an auditor, access to all relevant records, design of audit are described. The Secretary may withhold the amount of the cost of an audit from an authority that does not comply with this section.

Classification by performance category. Provides for four classifications for housing authorities, including troubled housing authorities. Requires an authority classified as troubled to enter into an agreement with the Secretary that provides a framework for improving the authority's management.

Removal of Ineffective PHA's. Authorizes the Secretary to (a) solicit proposals from other entities to manage all or part of the authority's assets, (b) take possession of all or part of the authority's assets, (c) require the authority to make other arrangements to manage its assets, or (d) petition for the appointment of a receiver for the authority, upon a substantial default by a housing authority of certain obligations. The Secretary may provide emergency assistance to a successor entity of an authority. Allows an appointed receiver to abrogate contracts that impede correction of the default or improvement of the authorities classification, demolish and dispose of assets in accordance with this title, create new public housing authorities in consultation with the Secretary.

Mandatory takeover of chronically troubled PHA's. Requires the Secretary to takeover each chronically troubled public housing agency not later than 180 days after the date of the enactment. The Secretary may either solicit proposals and take the necessary actions to replace management of the agency or take possession of the agency.

TITLE VI—REPEALS AND CONFORMING AMENDMENTS

Provides for repeal of the United States Housing Act of 1937. However, the effective date of this act is delayed for six-months after date of enactment to allow HUD time to identify any technical corrections that would be required resulting from such repeal. In addition, the Secretary may delay implementation (until no later than October 1, 1998) of any section in order to avoid undue hardship or if necessary for program administration, provided the Secretary notify Congress.

TITLE VII—AFFORDABLE HOUSING AND MISCELLANEOUS PROVISIONS

Include various miscellaneous provisions, including a prohibition against HUD establishing a national occupancy standards, technical corrections to legislation governing the use of assisted housing by aliens, amendments to HOME and CDBG income eligibility to promote homeownership, and provisions governing the use of surplus government property by homeless providers and selfdhelp housing programs.

IDEA IMPROVEMENT ACT OF 1997

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. RIGGS. Mr. Speaker, I am pleased to join Chairman GOODLING, and others, in the introduction of the IDEA Improvement Act of 1997. I will serve as the chairman of the Subcommittee on Early Childhood, Youth and Families during the 105th Congress. I care deeply about ensuring that all children receive a quality education. There is nothing more important to the future of our country than providing the opportunity for a high quality education for all Americans. I believe that this can be achieved by working together to build on what works: basic academics, parental involvement, and dollars to the classroom, not bureaucracy.

We must ensure that children with disabilities are not denied the opportunity for a high quality education. The IDEA Improvement Act of 1997 will help children with disabilities by focusing on their education instead of process and bureaucracy, by increasing parents' participation, and by giving teachers the tools they need to teach all children.

The bill I have cosponsored is nearly identical to the bipartisan IDEA Improvement Act of 1996. That bill, which passed the House in June 1996 without a single dissenting vote, made numerous changes to current law. The 1997 bill changes the focus of the Act to education, not process and bureaucracy. It ensures evaluations for special education so that schools will consider whether other needs are the primary cause of a child's learning problems. These could include inability to speak English, or lack of previous instruction in reading and math.

Another change focusing on education is in the area of due process. The IDEA Improvement Act will shift the focus of dispute resolution from litigation to mediation—focusing on the real needs of the child. Similarly, prior to the commencement of any litigation and unlike current law, parents and schools will be required to disclose their concerns about the child's education to the other party. I believe this will lead to conflict resolution and education for the child, instead of more litigation and attorney's fees.

Parental involvement is an important hallmark of this bill. Under the bill, parents will be given the right to access all of their child's records and participate in any decisions on the placement of their child. Parents will be able to receive regular, meaningful updates about the progress their child is making, in another marked change from current law. This will further ensure that a child with a disability receives a quality education, not simply passes through an educational process.

Finally, the bill will ensure that teachers have the tools they need to teach all children. The bill will shift decisions on the expenditure of Federal training funds from the Federal Government to States and localities. That change will mean more general and special education teachers receiving the in-service training they need, instead of the pre-service training for special educators that the universities desire. The bill will eliminate the incidental benefit rule, which prevents schools from allowing even an incidental benefit from IDEA funds from deriving to other students, even if doing so would result in substantial aggregate cost savings, which can be used to educate all children.

I would like to briefly comment on the process that has led to this bill's introduction. During the past 2 months, I met with a number of members of the disability and education communities to learn their views on last year's bill and the need for reforming IDEA in general. During my discussions with the disability community, they expressed their appreciation for our initial intention to introduce a bill that is silent on the issue of whether schools may expel students with disabilities without education services in cases where such expulsion is permitted by local law and where the child's actions are unrelated to their disability.

I had taken that action as a sign of good faith that the topic of student discipline would be discussed in a fair and open manner by the committee. Our hope was that all groups would agree to such a free, democratic process.

Following my conversation with representatives of the disability community, I was both surprised and saddened to receive a letter from the co-chairs of the Consortium for Citizens with Disabilities asking Chairman GOODLING and me not to introduce a bill at this time. They indicated that there was insufficient time in this new Congress for my Democrat counterparts to consider a new bill. They were also concerned that the bill would be represented as having their support because it is based on last year's bill, the contents of which drew heavily from the disability and education group consensus process that occurred in the spring of last year.

I do not believe our introduction of the IDEA Improvement Act of 1997, which has only technical changes from the bill that passed the House unanimously last year, will result in any undue difficulty for our committee's Democrats. Being based on last year's bill, the 1997 bill draws from the four hearings and six drafts that preceded the House's later bipartisan passage of that bill.

I certainly do not expect that this legislation will be greeted by immediate, unconditional support from all parties. I do, however, expect that interested parties will use this new bill as the basis of discussion in the coming months.

Because the disability community has apparently decided against supporting such a process of open discussion, the cosponsors of this bill and I have chosen to introduce a bill which includes all provisions of the bill which has received bipartisan support in the House of Representatives. That bill included provisions on cessation of education services.

Reauthorization of the Individuals with Disabilities Education Act will be the first priority of my subcommittee in the 105th Congress. Chairman GOODLING and I will once again attempt to reach a consensus with all of the groups affected by our legislation.

IDEA IMPROVEMENT ACT OF 1997

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. GOODLING. Mr. Speaker, today over one dozen of my colleagues and I have introduced the IDEA Improvement Act of 1997, amending the Individuals with Disabilities Education Act [IDEA]. I have long been concerned about ensuring that all children receive a high quality education. There is nothing more important to the future of our country than providing the opportunity for a high quality education for all Americans. My colleagues and I believe this can be achieved by working together to build on what works: that means improving basic academics, increasing parental involvement, and moving dollars to the classroom.

In my view, this bill represents a significant step toward local schools delivering a high quality education to all children with disabilities. I have long supported improving the quality of education for children with disabilities. Last year, I worked hard for the passage of the IDEA Improvement Act of 1996, H.R. 3268. That bill passed the House in the 104th Congress by a unanimous vote. I have also long pushed the Appropriations Committee for increased funding for the Part B Program. Last year, my efforts were rewarded with over $700 million in new funding being appropriated to IDEA.

Like H.R. 3268, the IDEA Improvement Act of 1997 focuses the act on children's education instead of process and bureaucracy, gives parents greater input in determining the best education for their child, and gives teachers the tools they need to teach all children well. These are the changes that are necessary to provide a high quality education for all children with disabilities.

The changes in the IDEA Improvement Act will have a real and positive impact on the lives of millions of students with disabilities. When enacted, the bill will help children with disabilities learn more and learn better, which should be the ultimate test of any education law. Students with disabilities will now be expected, to the maximum extent possible, to meet the same high educational expectations that have been set for all students by States and local schools. There will be an emphasis on what works instead of filling out paperwork. No longer will teachers be forced to complete massive piles of unnecessary, federally required forms and data collection sheets.

These changes will mean more time for teachers to dedicate to their students, and fewer resources wasted on process for its own sake.

The IDEA Improvement Act will help cut costly referrals to special education by emphasizing basic academics in the general education classroom. In the 1994–95 school year, 2.5 million of our Nation's 4.9 million special education children were there because they have learning disabilities. Many of these problems could be addressed with better academics in the early grades.

The IDEA Improvement Act has addressed this issue in several ways. First, following every evaluation of a child for special education services, school personnel will need to consider whether the child's problems are the result of lack of previous instruction. Too often, children whose primary problems result from a lack of reading skills enter special education because their problem was not properly addressed with basic academics. This change will result in fewer children being improperly identified as disabled because of their actual need, lack of skills, will be noted and addressed in a general education setting.

Second, the bill's discretionary training program will provide necessary training for general education teachers that is not being provided today. Current Federal training grant programs ultimately focus on their resources on pre-service training for special education teachers, because universities that receive the grants decide what the priorities for training are. While such training is important, where local teachers and schools are given the opportunity to decide what priorities are most important, they consistently cite in-service training, particularly for general education teachers, and pre-service training for early-grade general education and reading teachers. This bill will refocus Federal efforts by putting the decision making power with States and local schools, who are in a better position to recognize and serve their local needs. This will mean teachers will be better trained to teach children in the critical early grades, which will lead to better taught children and ultimately, fewer special education referrals.

Third, the IDEA Improvement Act will eliminate many of the financial incentives for overidentifying children as disabled. The change in the Federal formula, which I will talk about shortly, will reduce the Federal bonus for identifying additional children as disabled. Hopefully, States will follow suit, moving toward similar formulas. The legislation will also ensure that States do not use placement-driven funding formulas that tie funds to the physical location of the child. Such incentives encourage children to be placed in more restrictive settings, from which they are less likely to ever leave. They also encourage placement in special education in the first place, particularly children with mild disabilities that might best be served in general education classrooms with more assistance, instead of separate classrooms.

The legislation will also help ensure that assignment to special education is not permanent. Children are often referred to special education in early grades and then never leave. Part of the problem lies with the child not keeping pace with their peers. Special education plans often have no link to the general curriculum. Therefore, children remain in special education because they lose contact with what other children their age are learning and can no longer keep up. This legislation will ensure that the general curriculum is part of every child's Individualized Education Program [IEP] or justifies why it is not.

The bill will assure parents' ability to participate in key decisionmaking meetings about their children's education and they will have better access to school records. They will also be updated no less regularly than the parents of nondisabled students through parent-teacher conferences and report cards. Parents will be in a better position to know about their child's education, and will be able to ensure that their views are part of the IEP team's decisionmaking process.

The bill ensures that States will offer mediation services to resolve disputes. Mediation has proved successful in the nearly three-quarters of the States that have adopted it. This change will encourage parents and schools to work out differences in a less adversarial manner. The bill will also eliminate attorney's fees for participating in IEP meetings, unless they have been ordered by a court. The purpose of this change is to return IEP meetings to their original purpose, discussing the child's needs.

Our legislation will reduce litigation under IDEA by ensuring that schools have proper notice of a parent's concerns prior to a due process action commencing. In cases where parents and schools disagree with the child's IEP, the school will have real notice of the parent's concerns prior to due process. We hope that this will lead to earlier resolution of such disputes without actual due process or litigation.

Local principals and school administrators will be given more flexibility. There will be simplified accounting and flexibility in local planning. No longer will accounting rules prevent even incidental benefits to other, nondisabled children for fear of lost Federal funding.

The bill will make schools safer for all students, disabled and nondisabled, and for their teachers. Expanding upon current procedures for students with firearms, we will enable schools to quickly remove violent students and those who bring weapons or drugs to school, regardless of their disability status. The bill will ensure that such children can quickly be moved to alternative placements for 45 days, during which time the child's teachers, principal, and parents can decide what changes, if any, should be made to the child's IEP and placement.

The legislation will also ensure that disability status will not affect the school's general disciplinary procedures where appropriate. In discipline cases, the child's Individualized Education Program team will determine whether the child's actions were a manifestation of his or her disability. If they were not, schools will need to take the same action with disabled children as they would with any other child. This would include expulsion in weapons and drug cases where that is permitted by local or State law.

Finally, I would like to talk about the funding which will determine how much of the Federal appropriation each State will receive. Let me say first of all—no State will lose funds through the first 5 years of the transition to the new formula. This bill moves from allocating funds to the States based on a "child count" of children with disabilities to a population-based formula with a factor for poverty. The new formula is based 85 percent on the number of children in the State and 15 percent on State poverty statistics. This is a major step in the move to reduce the overidentification of children as disabled, particularly African-American males who have been pushed into the special education system in disproportionate numbers.

In addition no State should ever receive less than it received in fiscal year 1996. Because of the substantial increase in IDEA Part B funding appropriated by the Congress for fiscal year 1997, 49 States will never receive less than they received last year. And that final State will never be affected if there are modest increases in IDEA funding between now and fiscal year 2007, and if not, only then in 2007.

The Clinton administration recognized the problem with the current system when it presented its proposal to the 104th Congress, suggesting a population-based formula with future funding. Many of my Democratic colleagues also recognized the importance of this change when they introduced that bill last year as H.R. 1986. In 1994, the Department of Education's Inspector General recommended changing the formula exactly as we have changed it in this bill. They called the current formula a "bounty system" that encourages putting children in special education when they should not be.

The IDEA Improvement Act of 1997 reflects an 18 month process of bipartisan efforts to improve upon IDEA. Because of the bipartisan passage of last year's bill, the bill we introduce today contains only a few technical changes from last year's bill. These changes include moving forward by 1 year various implementation dates within the bill and the inclusion of private school and charter school representatives on State advisory boards. The latter change was inadvertently left out of the bill as it passed the House in June 1996. In all other ways, the IDEA Improvement Act of 1997 is identical to last year's bill.

Ensuring a quality education for students with disabilities through the IDEA Improvement Act of 1997 is my committee's No. 1 educational legislative priority. As such, Subcommittee Chairman FRANK RIGGS will hold a pair of hearings in February with full committee consideration coming soon thereafter. It is our intention to have the IDEA Improvement Act of 1997 passed by the House prior to the end of this spring.

Before closing, I would also like to comment on the developments of the last 8 weeks that led to this bill's introduction. In November, Subcommittee Chairman FRANK RIGGS had a number of conversations with interested individuals and groups about IDEA and our committee's plans for introducing a new IDEA Improvement Act. At that time, Representative RIGGS stated our committee's intention to leave certain provisions out of the 1997 bill that were included in the 1996 bill. These provisions related to the ability of States and localities to discipline all students, including students with disabilities whose actions are unrelated to their disability, in accordance with local policy. This would include expulsion without educational services where that practice is permitted by local law for students with weapons or illegal drugs.

At that time, we had decided to leave those 1996 bill provisions out of the 1997 bill, essentially making the bill silent on the issue of ceasing education services to children with disabilities who have been expelled because of their conduct. We intended to do so as a sign of good faith to the disability community, who had indicated their discomfort with those provisions—a sign that we intended to have a full public debate on this issue. I expected that this gesture would be taken as a welcome sign by these groups. My expectation was that they would respond by indicating their willingness to participate in a vigorous public debate about this and other important issues surrounding the education of children with disabilities. I was greatly disappointed to learn that this was not the reaction of the disability community.

On December 20, 1996, the cochairs of the Consortium for Citizens with Disabilities sent a letter to me and Representative RIGGS asking that we postpone introduction of IDEA reform legislation. They said that while they applauded our earlier decision to introduce legislation that was silent on the issue of cessation, they had other concerns about other issues addressed in the 1996 bill. More pointedly, the letter remarked that "no disability organization supported [the 1996] legislation."

The cochairs wrote briefly about the consensus process that led to the final form of the 1996 bill, and thus, the IDEA Improvement Act of 1997. The consensus process occurred last year when disability and education groups asked me if the bill's markup could be postponed so that these groups could make consensus recommendations. About 85 percent of the "consensus group" recommendations were incorporated into the 1996 legislation. The cochairs' letter said that the disability community's purposes in supporting the consensus document was "to keep the legislative process moving" and that they "have never supported, and will never support, the consensus document as an acceptable final set of recommendations that should be enacted into law without further revision."

I was saddened to receive this letter. I simply find it hard to believe that it would be inappropriate to introduce legislation to reform a law when very similar legislation has been actively debated during the previous 18 months; has seen six distinct incarnations circulated or introduced; has seen four hearings held during the 104th Congress; and has seen passage of that legislation by the House of Representatives without a single dissenting vote less than 7 months before.

I was troubled as well by the group's position on the consensus recommendations and their incorporation into our 1996 bill. Neither I, nor any of our committee's members, believed that the consensus recommendations would be enacted into law without change. We understood that further debate and a conference with the Senate would be necessary before the law would be enacted.

Given this letter, I must believe that certain segments of the disability community are not interested in debating these important issues. They are not interested in releasing a working legislative document to the public at large for the consideration of all interested parties. That position is absolutely contrary to mine. As chairman, I am interested in an open discussion of reform options in a public hearing where everyone can comment on a range of proposals. The IDEA Improvement Act serves that purpose well, and I am proud to be its sponsor.

While I had previously stated that I intended to introduce a bill that included a sign of good faith for the disability community, I must take the cochairs' letter as a rejection of that sign. For that reason, I have chosen not to introduce such a bill. Instead, I have introduced a bill that saw unanimous passage just 7 months ago in the House.

The IDEA Improvement Act is the most important change to America's special education system since the passage of Public Law 94–142 in 1975. Overall, America's special education system as currently structured has not accomplished what is necessary to educate all children with disabilities. There is broad agreement on the need to change. Results are important. Accountability is important. I believe this bill will help give America's children with disabilities what they were promised 21 years ago: the real opportunity to receive a high quality education. I urge my colleagues to join us in this effort.

IN SUPPORT OF REP. BOB DORNAN'S REQUEST FOR A FORMAL INVESTIGATION BY THE HOUSE OVERSIGHT COMMITTEE

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. STEARNS. Mr. Speaker, today I was officially sworn in as a member of the 105th Congress as were my 434 colleagues.

I was heartened to learn that although Ms. LORETTA SANCHEZ was sworn in to represent the 46th district of California, this would in no way prejudice Congress' consideration of the request made by former Representative Bob Dornan that Congress initiate a formal investigation into certain voter irregularities, which have occurred in the election in District 46, California on November 5, 1996.

I would caution my colleagues that this is not some bogus demand being made as a vendetta, nor is it groundless and without merit. There are proven cases of voter fraud in this election, which have already been acknowledged and verified. My major concern is that we must not allow our election process to become a sham merely because it is perceived to be politically correct. As a result of an initial investigation into this matter, an arm of the office of the Immigration and Naturalization Service [INS] has already been ordered by INS to shut down its citizenship testing program as of January 6, 1997.

Have we forgotten the struggles of minority citizens and women and their efforts to attain the right to vote?

Mr. Speaker, this request is not without precedent, I call to your attention McCloskey and MCINTYRE in the 99th Congress, 1st session or Roush versus Chambers 87th Congress, 1st session. These two cases involved dispositions to the House concerning Federal elections.

This country prides itself the fact that we are a democracy and abide by the axiom of "One man; one vote." However, I would like to quote a well known playwright who wrote: "It's not the voting that's democracy; it's the counting."

[From the Washington Post, January 4, 1997]

INS HALTS INTERVIEWS AT CALIFORNIA ORGANIZATION

(By William Branigin)

With allegations of vote fraud continuing in one of the most hotly contested congressional elections, the Immigration and Naturalization Service is distancing itself from an organization that reportedly registered immigrants to vote before they became citizens.

The INS this week suspended citizenship interviews at three Los Angeles area offices of Hermandad Mexicana Nacional, a Hispanic and immigrant rights group, pending the outcome of voting probe. To streamline the naturalization process, the INS had been conducting final citizenship interviews at the group's offices with applicants who had passed English and civics tests administered by Hermandad.

According to published reports, dozens of Hermandad clients illegally registered to vote after passing the tests and the INS interviews, but before they being sworn in as citizens. Some said they had registered to vote at Hermandad offices while INS officers were present.

Of more than 1,300 people registered by Hermandad last year, nearly 800 reportedly cast ballots Nov. 5. At least some of them voted in the California district in which Rep. Robert K. Dornan, 63, a Republican, lost by 979 votes to Democrat Loretta Sanchez, 36.

Dornan blamed his defeat on alleged irregularities, including voting by noncitizens and felons. He filed a complaint with the House seeking to overturn the election result. Sanchez, a member of the district's growing Hispanic population, said a recount had confirmed her victory. She is scheduled to be sworn in when Congress convenes Tuesday.

"I don't want to be the first person in history, man or woman, House or Senate, to be voted out of office by felons, by people voting who are not U.S. citizens, who are felons or children or people not allowed to vote," Dornan said in a television interview last month. He charged that up to 1,000 noncitizens and felons had cast ballots.

Republican members of a House subcommittee have accused the INS of improperly naturalizing criminals in a rush to produce new pro-Democratic voters in time for the Nov. 5 elections.

The Los Angeles Times reported last week that 19 noncitizens acknowledged voting in the Dornan-Sanchez race before completing the naturalization process. All said they had registered to vote at Hermandad, 18 of them after taking citizenship classes there and passing a test and INS interview, the paper reported. They did not say whom they voted for.

The Orange County Register reported that 30 Hermandad clients had registered to vote weeks before they were sworn in, although all but four became citizens before the election. It is nevertheless a felony under state law to register to vote before becoming a citizen. Under a new federal immigration law, noncitizens who vote are ineligible for naturalization and can be deported.

The Orange County District Attorney's Office began investigating "possible registration and voting" by ineligible persons, but has not collected enough evidence to prosecute anyone, Assistant District Attorney Wallace Wade said.

Richard Rogers, INS district director in Los Angeles, said that pending the investigation, the INS would no longer interview citizenship applicants at three Hermandad testing sites, requiring applicants to come to an INS office. He said INS officers would routinely ask applicants if they had voted.

A spokesman for Hermandad, Jay Lindsey, said the group takes the allegations "very seriously" and is conducting a review to determine if any regulations were violated. He denied that the group knowingly committed voter fraud and said "we do not engage in politics."

Some Hermandad sites are affiliates of Naturalization Assistance Services, Inc., one of five companies designated by INS to conduct citizenship classes and testing. The firm ran into trouble last year after evidence of fraud was found at some of its sites. Last week, the INS ordered it to shut down its citizenship testing program on Jan. 6.

Hermandad also has sites affiliated with another company, which will continue to administer citizenship tests and prepare applicants for INS interviews.

IN SUPPORT OF THE MEDICARE DIABETES, EDUCATION AND SUPPLIES ADMENDMENTS

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. NETHERCUTT. Mr. Speaker, as Co-Chair of the Congressional Diabetes Caucus, it is with pleasure that I support the Medicare Diabetes Education and Supplies Amendments of 1997, introduced today by Representative ELIZABETH FURSE. Representative FURSE and I formed the Congressional Diabetes Caucus to promote awareness of diabetes and its consequences within Congress. This bill is an important step toward providing diabetics with the tools they need to control the negative repercussions and cost of diabetes.

When my daughter, Meredith, was diagnosed with the disease in 1987, I became actively involved with learning more about the disease, its causes, complications and the cost to American society. Before entering Congress, I also served as president of the Spokane chapter of the Juvenile Diabetes Foundation.

Over 16 million Americans suffer from diabetes. The resulting financial cost to society is staggering. An estimated $138 billion or 14 percent of U.S. health care dollars, is spent on diabetes. The last several years have been encouraging for those working to find better treatments and a cure. Last year, doctors successfully transplanted insulin-producing cells into patients with type I diabetes. Researchers have also located genetic markers for diabetes, which should make it possible to identify patients at high risk. Additionally, the vaccine BCG has induced long-term remission of diabetes if given during the earliest stage of the disease.

I am confident that a cure for diabetes is within our reach. In the meantime, however, the Federal government must avail itself of advances in treatment knowledge. In the private sector, we have seen that comprehensive diabetes education reduces both diabetes specific complications and overall health care costs. For example, Merck-Medco Managed Care, Inc. has realized a total per diabetic patient health care cost reduction of $441 since beginning an innovative diabetes education program.

The Medicare Diabetes Education and Supplies Amendments of 1997 will employ some of the knowledge learned in the private sector by providing diabetes self-management training under Medicare. The bill will also expand coverage of blood testing strips to include all people with type II diabetes. Self-management training and access to blood testing strips are crucial to controlling the high health care costs associated with this disease. It is known that when diabetics keep their blood glucose level as close to normal as possible, the risk of complications can be reduced by as much as 65 percent.

I encourage my colleagues to support this legislation.

I am including for the RECORD the following statements from organizations in support of this legislation: The American Diabetes Association, the Juvenile Diabetes Foundation, the American Association of Diabetes Educators, the American Dietetic Association, the Endocrine Society, Eli Lilly and Co., and the Community Retail Pharmacy Coalition.

STATEMENT BY THE AMERICAN DIABETES ASSOCIATION IN SUPPORT OF LEGISLATION TO IMPROVE MEDICARE COVERAGE FOR PEOPLE WITH DIABETES

There are few, if any, issues facing the nation that have stronger bipartisan support than the diabetes Medicare reform legislation being introduced today by Representatives Elizabeth Furse and George Nethercutt. There are none, in our opinion, for which there is a greater need.

Diabetes is a prevalent, serious and costly disease and is increasing at a shocking rate. Since the '60s the number of cases has tripled to 16 million. Since 1992, the direct costs of caring for people with diabetes have doubled to its current sum of $91.1 billion a year. This figure does not begin to account for the staggering losses in productivity for our economy and well-being to Americans. When indirect costs are included, diabetes costs our economy nearly $138 billion a year, more than any other single disease.

Medicare alone spends one-quarter of its budget, nearly $27 billion a year, treating people with diabetes. Approximately half of all diabetes cases occur in people older than 55 years of age. However, the complications and hospitalizations associated with the disease (blindness, amputation, kidney failure, heart disease and stroke) can be delayed or avoided altogether with proper care. Our nation is only now coming to this realization.

The improvement in diabetes care embodied in this legislation represents the only preventive care measure ever scored (analyzed for its economic implications) by the Congressional Budget Office (CBO) to save money. According to the CBO analysis, each day Congress waits to enact these Medicare reforms costs taxpayers an additional $500,000.

This legislation, which incorporates two bills introduced in the 104th Congress, H.R. 1073 and H.R. 1074, has widespread support on both sides of the aisle. H.R. 1073 had 250 cosponsors in the last Congress. Of the more than 4,000 bills introduced in the 104th Congress, only 12 had more cosponsors.

During the fall election campaign, 180 members of the incoming 105th Congress demonstrated support for improving diabetes coverage by completing the American Diabetes Association's Diabetes '96 Candidate Survey. Two hundred and eighty-nine (289) Members of the 105th Congress either cosponsored legislation or signed the Candidate survey. Of the 289 supporters, 116 (40.1%) are Republicans and 173 (59.9%) are Democrats.

Leaders of both political parties have stated their strong support for this legislation. This legislation was included in President Clinton's FY '97 budget proposal and according to the White House, will be included in FY '98. Minority Leader Gephardt has noted that the provisions of the bill, if enacted, "would help every individual and family coping with diabetes and save billions of dollars in future Medicare spending."

Speaker Gingrich cosponsored identical legislation (H.R. 4264) in the 104th Congress and has said that addressing diabetes is one of his top four legislative priorities. During the fall election campaign, Presidential candidate Robert Dole noted that "improved Medicare and private insurance coverage of necessary diabetes supplies and education would save lives and reduce the cost of diabetes-related illnesses to both the taxpayer and the private sector."

The growing awareness of the seriousness of diabetes, along with the strong support of President Clinton, Speaker Gingrich and Congress, is crystal-clear mandate for immediate action to improve Medicare coverage for diabetes. There is no reason to wait. Any delay necessarily risks the health of the 3 million seniors diagnosed with diabetes and will waste millions of taxpayers dollars.

JDF SUPPORTS LEGISLATION TO EXPAND MEDICARE COVERAGE FOR DIABETES-RELATED SERVICES

The Juvenile Diabetes Foundation International (JDF), which gives more money directly to diabetes research than any other non-profit health agency in the world, strongly supports expedited passage of legislation which would make available to millions of older Americans the diabetes self-management training and critical testing equipment needed to attain better control of blood glucose levels, thereby helping to delay debilitating and life-threatening complications. It is imperative that, while we pursue the longer-term objective of a cure for diabetes through research, all people battling this insidious and devastating disease have access to the most advanced, proven diabetes management regimens and technologies available. This additional Medicare coverage makes tremendous economic sense for the country as well, given the fact that treatment for diabetes-related complications accounts for more than 27 percent of the total Medicare budget.

Despite medical and technological advances, people with diabetes continue to die and suffer life-threatening complications as a result of the disease. JDF believes that ultimately, through research advances, a cure for diabetes and its devastating complications will be found, resulting in millions of lives and billions of dollars saved. The public and private sector support for diabetes research has led to substantial progress. The Congress' steadfast support for medical research funding through the National Institutes of Health has not only brought us closer to a cure for diabetes, it has also produced new and better management techniques which would have been unimaginable only two decades ago. Recent studies show that U.S. health expenditures for people with diabetes exceed $130 billion per year, or one out of every seven health care dollars. Clearly, increased public and private support for medical research is critical to controlling health care costs.

The Juvenile Diabetes Foundation International (JDF) is dedicated to supporting research to find a cure for diabetes and its complications, and to improving the lives of people with diabetes through research progress. JDF is a not-for-profit, voluntary health agency with over 100 chapters in the U.S. alone.

Statement by the American Association of Diabetes Educators in Support of Legislation To Improve Medicare Coverage for People With Diabetes and To Support Diabetes Self-management Training

The American Association of Diabetes Educators, which has more than 10,000 health care professionals who teach people with diabetes how to manage their disease, supports the diabetes reform legislation being introduced today by representatives Elizabeth Furse and George Nethercutt.

This legislation, which incorporates two bills introduced in the 104th Congress, H.R. 1073 and H.R. 1074, would provide diabetes outpatient self-management training services under Part B of the Medicare program and uniform coverage of blood-testing strips for individuals with diabetes.

We know the critical role diabetes education plays in the treatment of this disease. Each day we help people with diabetes lead healthy, productive lives. Each day we help to prove that diabetes education saves lives and potentially billions in Medicare expenditures each and every year.

While difficult for some, these modifications can dramatically reduce some of the more serious and expensive complications which result from untreated diabetes.

There are many case studies that prove the importance of diabetes education and self-management. Take for instance the case of Mr. H.L.

H.L. is a 72-year old Medicare subscriber who has had insulin-treated diabetes for the past 17 years. Six years ago, H.L. averaged two hospital admissions per year for uncontrolled diabetes. He was at high risk for cardiovascular disease because of cholesterol levels 1½ times normal. And, tragically, his right leg was amputated below the knee.

You see, H.L. had walked for a day in wet shoes. Because he had a lack of feeling in his feet, he didn't realize an ulcer had developed on his foot until it was many days later—much too late for treatment.

H.L. had never been taught to monitor his blood glucose levels and he hadn't been told that he needed to regularly examine his feet and legs for any abnormalities.

Now, six years later, H.L. tests his own blood glucose levels each day. His cholesterol levels are within the normal range. And, despite having an increased risk of another amputation, H.L. has his left leg and has not been admitted to the hospital for uncontrolled diabetes since he began self-management training.

We cannot win the fight against diabetes without empowering individuals with the skills to manage this disease. Because no cure is currently available for diabetes, diabetes education is one of our only and most potent weapons.

Armed with this weapon, H.L. has prevented the amputation of his left leg—as well as the frequent and costly hospitalizations when this disease became uncontrollable.

Now is the time to make a dramatic impact on the Medicare system—and more imporantly—on the lives of people with diabetes. Now is the time to recognize that diabetes education pays for itself over a relatively short period of time—and will save billions in Medicare expenditures each year.

How is this possible? Consider that for an average $50 visit to a diabetes educator, people like H.L. can learn how to eliminate $1,000 per day hospital stays.

For an average $50 visit to a diabetes educator, people can save the hundreds of thousands of dollars spent each year treating cardiovascular disease and kidney disease associated with diabetes.

For an average $50 visit to a diabetes educator, $30,000 amputations, like H.L.'s, can be prevented not only saving the money spent on the procedure, but the costs of further treatment and rehabilitation.

Today, on behalf of the 10,000 diabetes educators from around the country, the American Association of Diabetes Educators strongly supports congressional action on this important diabetes legislation to benefit the more than 16 million Americans afflicted with this disease.

Statement of the American Dietetic Association in Support of Diabetes Self-Management Training

The American Dietetic Association, the world's largest organization of nutrition professionals, strongly supports legislation which would provide coverage of diabetes outpatient self-management training services under Part B of the Medicare program. Dietitians recognize that self-management training—which includes medical nutrition therapy—is essential if individuals with diabetes are to successfully manage their disease.

Numerous studies, such as the Diabetes Control and Complications Trial, have shown that control of blood sugar levels can help patients prevent or delay diabetes-related complications. A study conducted in 1994 by the International Diabetes Center in Minneapolis, MN, for The American Dietetic Association showed that persons with non-insulin dependent diabetes mellitus—also known as type II diabetes—can better control their blood sugar levels, weight and cholesterol with medical nutrition therapy. Medical nutrition therapy is the use of specific nutrition services to treat a chronic condition, illness or injury. At all phases of the six-month study, medical nutrition therapy provided by a registered dietitian resulted in improvements in patients' fasting plasma glucose (FBG) and glycated hemoglobin levels (HBA1c) compared to levels at the onset of the study.

Medical nutrition therapy is a cornerstone of self-management training and has been proven to significantly save health care costs by reducing the incidence of complications—including lower extremity amputations, kidney failure, blindness, heart attacks and frequent hospitalization. An internal analysis of nearly 2,400 case studies submitted by American Dietetic Association members show that on average more than $9000 per case can be saved in type I diabetes (insulin-dependent) cases with the intervention of medical nutrition therapy. Intervention in type II diabetes cases showed a savings of nearly $2000 per case.

Enactment of legislation providing coverage for diabetes self-management training will correct a monumental oversight in Medicare coverage by providing the essential training and nutrition services that have been recognized as critical to the treatment of diabetes. The nearly 70,000 members of The American Dietetic Association strongly support action by the congressional leadership to enact this important legislation immediately.

Statement of P. Michael Conn, Ph.D., President, the Endocrine Society, on Bill for Diabetes Management Programs

"The Endocrine Society applauds the efforts of Reps. Elizabeth Furse and George Nethercutt, whose goal is to improve the quality of life for patients with diabetes. And as a constituent of the Congresswoman from Oregon, I extend special recognition to her for her bill.

"The state of diabetes care in the U.S. calls for the kind of reform proposed in this legislation. In too many instances, people with diabetes do not have access to the management programs and equipment necessary to properly care for their illness. Without these management tools, diabetic patients face higher risks of the long-term complications that rob them of their sight and mobility.

"Diabetes is a chronic illness, but one that can be controlled—even reversed—when patients have access to and follow appropriate management programs under the care of an endocrinologist. Medical science has shown that complications of diabetes do not have to happen. Costs associated with chronic illnesses have been identified as a significant health care crisis that we will face in the future, according to a study released in November 1996 by the Robert Wood Johnson Foundation. An earlier taxpayer-funded study has already proven that management programs reduce complications from diabetes.

"Fewer complications means a greater quality of life for the 16 million Americans with diabetes and a lower health care bill for all Americans. Our Medicare program needs the common-sense, cost-saving reform proposed in this bill. As soon as it is passed, we will begin to invest in economical diabetes prevention programs that improve patients' lives and save the country's health care dollars."

Lilly Supports Medicare Coverage Improvement for Diabetes Patients

Representatives Elizabeth Furse (D-1st-OR) and George Nethercutt (R-5th-WA) will introduce a bill requiring Medicare coverage of self-management training services and blood testing strips, important preventive measures for people with diabetes who want to stay healthy and avoid complications. Eli Lilly and Company vigorously supports the Furse-Nethercutt diabetes bill.

More than 16 million Americans have diabetes, a serious disease that affects the body's ability to produce or respond properly to insulin, a hormone that allows blood sugar to enter the cells of the body and be used for energy. Approximately half of all diabetes cases occur in people older than 55.

Studies show that providing coverage for diabetes supplies, and self-management training directly helps people with diabetes avoid devastating and costly complications like kidney failure, heart attack, stroke, blindness and amputations.

According to the American Diabetes Association, diabetes costs the U.S. $138 billion a year in health costs. About one-fourth of the Medicare budget (nearly $30 billion a year) is devoted to treating diabetes and its complications. People on Medicare are one-and-a-half times more likely to have diabetes and its complications than other persons. Yet Medicare does not cover the tools to properly manage their disease.

Two-thirds of diabetes expenditures are related to the complications of the disease. The American Diabetes Association estimates that up to 85 percent of the complications associated with diabetes can be prevented. Yet today, only 30 percent of all patients receive any type of diabetes self-management training.

Lilly is a leader in diabetes care, celebrating 75 years of lifesaving Lilly insulin in 1996. In addition to providing disease treatments, Lilly specializes in diabetes education, teaching patients about the roles of diet, exercise, medication and monitoring their blood glucose levels to best manage their disease. Through our PCS subsidiary's Information Warehouse of 1.2 billion pharmacy records, Lilly helps physicians and health care providers identify particularly vulnerable points in the progression of diabetes.

Lilly believes the Furse-Nethercutt bill will prove to be extremely valuable as a prevention measure for people with diabetes, while helping reduce future Medicare costs.

COMMUNITY RETAIL
PHARMACY COALITION,
Alexandria, VA, January 7, 1997.

Hon. ELIZABETH FURSE,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE FURSE: The Community Retail Pharmacy Coalition is writing to indicate its support for your bill to improve Medicare coverage of outpatient self management training and blood testing strips for diabetics. The Coalition consists of the National Community Pharmacists Association (NCPA), representing independent retail pharmacy, and the National Association of Chain Drug Stores (NACDS). Collectively, the 60,000 retail pharmacies represented by the Coalition provide 90 percent of the 2.3 billion outpatient prescriptions dispensed annually in the United States.

This program will help reduce the relatively high percentage of Medicare expenditures which result from caring for Medicare's significant diabetic population. We understand that this program will save Medicare $1.6 billion over the next six years. Allowing Medicare beneficiaries to use their local retail pharmacy provider to obtain this education and training makes sense. The nation's community retail pharmacies already provide a convenient location for Medicare beneficiaries to obtain the supplies that they need to help manage their diabetes, such as insulin and test strips.

The Coalition supports this bill, but asks that you assure that pharmacists meeting the educational requirements to participate in the program are, in fact, eligible for payment for these services under Medicare. The bill defines a "provider" as an individual or entity that provides other items or services to Medicare beneficiaries for which payment may be made. Pharmacies already provide such items and would appear to qualify as a "provider" under this bill. However, pharmacies are not currently classified as "suppliers" under the Medicare program, and we urge that your bill do so to assure that pharmacies qualify under this important program.

We believe that similar programs to increase quality and reduce costs could be developed for other disease states that are common in the Medicare population, such as asthma and high blood pressure. We would be very willing to work with you on developing such programs. We acknowledge and applaud your leadership in increasing the quality of care for diabetics who are covered by Medicare.

Sincerely,

RONALD L. ZIEGLER,
President and Chief Executive Officer, NACDS.
CALVIN N. ANTHONY,
Executive Vice President, NCPA.

INTRODUCING THE HEALTH CARE COMMITMENT ACT

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. MORAN of Virginia. Mr. Speaker, today, I rise to the "Health Care Commitment Act." This legislation allows Medicare eligible military retirees and their dependents to voluntarily participate in the Federal Employee Health Benefits Program.

We recruit young men and women to serve in our nation's military with a promise that the government will provide them health care for life. While this is not a contract, many men and women enlist with the good faith belief that we will provide their medical needs for when they retire. After these men and women have served their country and turned 65, the Department of Defense reneges on its promises, turns them away from its insurance programs and effectively denies them access to its medical treatment facilities.

The Department of Defense is the only large employer in this nation that kicks its retirees out of its health insurance programs. But it does not need to be. Civilian employees in the same Department of Defense, and throughout the government, are given the opportunity to participate in one of the finest health insurance programs in the country. The Federal Employees Health Program is an established health insurance program that enables employees to choose from a range of health insurance packages. Federal retirees, unlike their counterparts who served in the military, are not dropped from their insurance plans when they turn 65 and are not placed at the bottom or priority lists. Instead they are treated with the respect and dignity that they deserve.

My legislation ensures that all federal retirees, whether they served their nation as a member of the armed forces or as a civilian employee, are treated with the same dignity and have an equal opportunity to participate in the Federal Employees Health Benefits Program.

THE ENTERPRISE RESOURCE BANK ACT OF 1996

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. BAKER. Mr. Speaker, today I am introducing legislation, with my distinguished colleague, the Minority Leader of the Capital Markets Subcommittee, Rep. PAUL KANJORSKI (D-PA), to reform the Federal Home Loan Bank System (FHLB). Throughout the 104th Congress, Mr. KANJORSKI and I have worked diligently to craft a bi-partisan reform bill. This legislation reflects the product of our subcommittee from April of last year.

While this bill reflects general consensus among members of the subcommittee, we are committed to working with other members of the full committee as well as the Administration to craft a bill that reflects most concerns. Greater attention will be given to the regulation and governance of the Bank System, the proper capital structure, the membership profile, and the mission of the system.

The Federal Home Loan Bank System was established in 1932 primarily to provide a source of intermediate- and long-term credit for savings institutions to finance long-term residential mortgages and to provide a source for liquidity loans for such institutions, neither of which was readily available for savings institutions at that time the Federal Home Loan Bank system was created.

In recent years, the System's membership has expanded to include other depository institutions that are significant housing lenders.

The segment of savings institutions and other depository institutions that are specialized mortgage lenders has decreased in size and market share and may continue to decrease. The establishment of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Government National Mortgage Association (Ginnie Mae) and the subsequent development of an extensive private secondary market for residential mortgages has challenged the Federal Home Loan Bank System as a source of intermediate- and long-term credit to support primary residential mortgages lenders.

For most depository institutions, residential mortgage lending has been incorporated into the product mix of community banking that typically provides a range of mortgage, consumer, and commercial loans in their communities.

Community banks, particularly those in rural markets, have a difficult time funding their intermediate- and long-term assets held in portfolio and accessing capital markets. For example, rural nonfarm businesses tend to rely heavily on community banks as their primary lender. Like the savings associations in the 1930's, these rural community banks draw most of their funds from local deposits. Longer-term credit for many borrowers in rural areas may therefore be difficult to obtain. In short, the economy of rural America may benefit from increased competition if rural community banks are provided enhanced access to capital markets.

Access to liquidity through the FHLB System benefits well-managed, adequately-capitalized community banks. For these banks, term advances reduce interest rate risk. In addition, the ability of a community bank to obtain advances to offset deposit decreases or to temporarily fund portfolios during an increase in loan demand reduces the bank's overall cost of operation and allows the institution to better serve their market and community.

Used prudently, the FHLB System is an integral tool to assist properly regulated, well-capitalized community banks, particularly those who lend in rural areas and underserved neighborhoods, a more stable funding resource for intermediate- and long-term assets.

With that in mind, I have introduced this legislation today to enhance the utility of the Federal Home Loan Bank System. I want the mission of the system to remain strong in the ability to help Americans realize the dream of home ownership, but equally as important: I want the System to enrich the communities in which Americans build their dreams.

America is the world capital of free enterprise. Free enterprise is the foundation on which the "American Dream" is built, and it is the engine by which "American ingenuity" is driven. My legislation will help nurture American free enterprise. That is why I call this bill the "Enterprise Resource Bank Act."

The Enterprise Resource Bank Act will strengthen the System's mission to promote residential mortgage lending (including mortgages on housing for low- and moderate-income families. Enterprise Resource Banks will facilitate community and economic development lending, including rural economic development lending. And Enterprise Resource Banks will facilitate this lending safely and soundly, through a program of collateralized advances and other financial services that provide long-term funding, liquidity, and interest-rate risk management to its stockholders and certain non-member mortgages.

Since 1932, the Bank System has served as a link between the capital markets and local housing lenders, quietly making more money available for housing loans at better rates for Americans. Today the Federal Home Loan Banks' 5,700 member financial institutions provide for one out of every four mortgage loans outstanding in this country, including many loans that would not qualify for funding under secondary market criteria. The Bank System accomplishes this without a penny of taxpayer money through an exemplary partnership between private capital and public purpose.

More than 3,500 of the Bank System's current members are commercial banks, credit unions and insurance companies that became eligible for Bank membership in 1989. They demonstrate the market's value of the Bank System by investing in the capital stock of the regional home loan banks. These institutions have recognized the advantages of access to the Bank System's credit programs and have responded to their local communities' needs for mortgage lending. As the financial marketplace grows larger and more complex, I envision the Bank System as a necessary vehicle for serving community lending needs especially in rural and inner-city credit areas.

The Federal Home Loan Bank System serves an active and successful role in financing community lending and affordable housing through the Affordable Housing Program (AHP) and the Community Investment Program (CIP). The AHP program provides low-cost funds for member institutions to finance affordable housing, and the CIP program supports loans made by members to community-based organizations involved in commercial and economic development activities to benefit low-income areas.

The Federal Home Loan Banks' loans (advances) to their members have increased steadily since 1992 to the current level of more than $122 billion. Since 1990, the Banks have made $7.1 billion in targeted Community Investment Program advances to finance housing units for low- and moderate-income families and economic development projects. In addition, the Banks have contributed more than $350 million through their Affordable Housing Programs to projects that facilitate housing for low- and moderate-income families.

While these figures are impressive, the Federal Home Loan Bank System needs some fine tuning to enable it to continue to meet the needs of all its members in a rapidly changing financial marketplace. The Enterprise Resource Bank Act of 1996 recognizes the changes that have occurred in home lending markets in recent years, which is reflected in the present composition of the Bank System's membership. Enacting this legislation will enhance the attractiveness of the Banks as a source of funds for housing and related community development lending, and will encourage the Banks to maintain their well-recognized financial strength. Specifically, my legislation: targets the Bank System's mission in statute to emphasize the System's important role of supporting our nation's housing finance system and its potential role of supporting economic development by providing long term credit and liquidity to housing lenders; establishes voluntary membership and equal terms of access to the System for all institutions eligible to become Bank System members, and eliminates artificial restrictions on the Banks' lending to member institutions based on their Qualified Thrift Lender status; equalizes and rationalizes Bank members' capital stock purchase requirements, preserving the cooperative structure that has served the System well since its creation in 1932; separates regulation and corporate governance of the Banks that reflect their low level of risk ensuring the Banks can meet their obligations; and modifies the methodology for allocating the Bank System's annual $300 million REFCORP obligation so that the individual Banks, economic incentives are consistent with their statutory mission to support primary lenders in their communities.

Taken together, these interrelated provisions address the major issues identified in a recent series of studies of the Bank System that Congress required from the Federal Housing Finance Board (FHFB), the Congressional Budget Office (CBO), the General Accounting Office (GAO), the Department of Housing and Urban Development (HUD) and a Stockholder Study Committee comprised of 24 representatives of Federal Home Loan Bank shareholder institutions from across the country.

The Enterprise Resource Banks Act will make the Banks more profitable by enabling them to serve a larger universe of depository institution lenders more efficiently, and it will return control of the Banks to their regional boards of director who are in the best position to determine the needs of their local markets. At the same time, it will provide for the safety and soundness oversight necessary to ensure that this large, sophisticated financial enterprise maintains its financial integrity and continues to meet its obligations.

I first offered comprehensive legislation to modernize the Bank System in 1992. The legislation is the culmination of efforts over the last three years to address in a balanced way the concerns of the Banks' member institutions, community and housing groups, and various government agencies. Together with my respected colleague, Rep. PAUL KANJORSKI, I look forward to passage of this important legislation to modernize an institution that works to improve the availability of housing finance and the opportunity of credit for all Americans, particularly those who are underserved.

HOMEOWNERS' INSURANCE AVAILABILITY ACT OF 1997

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. LAZIO of New York. Mr. Speaker, today I introduce the Homeowners' Insurance Availability Act of 1997 as a first step toward addressing the exploding costs of Federal natural disaster assistance. Between 1988 and 1994, the Federal Government spent more than $45 billion in disaster assistance, of which approximately half was for residential losses. Like coastal areas in many parts of the country, the shoreline homeowners in my Long Island district have been particularly hard hit by recent winter storms and nor'easters. The force of such natural disasters have left Long Island's south shore coastline, and other coastal areas throughout our Nation, in a delicate state. In this environment, States have begun to experience declining homeowners insurance availability in disaster-prone areas. This bipartisan legislation provides a Federal backstop for state-operated insurance programs, and complements existing insurance industry efforts without encroaching upon the private sector. The bill allows State officials and local industry leaders to create the most appropriate solutions to State and local needs.

The Homeowners' Insurance Availability Act of 1997 authorizes the Secretary of the Treasury to offer annual Federal reinsurance contracts to eligible State insurance programs Covered losses include residential property losses resulting from earthquakes and hurricanes, as well as other losses determined appropriate by the Secretary. The bill requires neither States nor individuals to participate in the program, and envisions an entirely self-sustaining insurance fund with no direct taxpayer liability. Total Federal coverage is capped at $25 billion, and is phased in over a period of 4 years.

In introducing this bill, we pay tribute to the late Congressman BILL EMERSON and his efforts to provide protection for American families from the devastation of natural disasters. Over the last several years, Congressman EMERSON attempted to comprehensively address the multitude of issues surrounding natural disaster assistance. Although this bill will be devoted solely to providing State-run insurance programs with Federal reinsurance, I look forward to other free-standing legislation that addresses the variety of relevant issues.

Improving homeowners insurance availability in disaster-prone areas will be one of my highest priorities during the 105th Congress. The Homeowners' Insurance Availability Act of 1997 continues the working partnership between the Federal Government and States and provides improved safeguards that many homeowners in disaster-prone areas desperately need. The consequences of insurance illiquidity, in the form of lower property values and fewer home resales, must be addressed. I look forward to hearings across the country in our most vulnerable areas, listening to industry experts, State officials and families affected by catastrophe, as we perfect this legislation that is long overdue.

The following are a section-by-section analysis and background summary of the legislation to be included in the RECORD.

HOMEOWNERS' INSURANCE AVAILABILITY ACT OF 1997

BACKGROUND

The rising toll from natural disasters has placed a severe strain on homeowners' insurance markets in many parts of the country in recent years. Events such as Hurricane Andrew and the Northridge Earthquake have demonstrated that insurers face the risk of insolvency if they are overly concentrated in areas prone to large earthquakes or hurricanes. As a result, many insurers have withdrawn from these markets or stopped underwriting new business, thereby making homeowners' insurance difficult to obtain.

State insurance commissioners and state legislatures have created programs to prevent or forestall an insurance availability crisis in several instances. These efforts include the Florida Catastrophe Reinsurance Fund, a state-mandated, privately funded pool providing a backstop to residential insurers after a major hurricane; the California Earthquake Authority, a state-run, privately funded entity offering earthquake insurance coverage to homeowners throughout the state, and the Hawaii Hurricane Relief Fund, the sole source of residential hurricane insurance coverage throughout the islands.

Besides the programs mentioned above, proposals are under varying degrees of consideration in Texas, Louisiana, New York, North Carolina and Virginia. In New York, more than 62,000 homes and businesses in inter-city and coastal communities currently are covered by the New York Property Insurance Underwriting Authority, a state-sanctioned insurer of last resort. Other proposals, including one similar to the Florida Catastrophe Reinsurance Fund, are likely to be proposed in Albany in coming months.

It is appropriate that solutions to address insurance availability originate at the state level. The magnitude of risk, as well as the size and nature of the local insurance market, differs from one jurisdiction to the next. What works in one locale may not be viable in another. State insurance commissioners and state legislatures are in the best position to determine the proper design for any program to address local needs.

However, there are certain limitations to what a state can do. A state program will likely have sufficient capacity to cover the vast majority of possible catastrophes. However, some events are so large as to drain even the most carefully constructed state program. Even though the chances of such an event are low, the very possibility of one has a chilling effect on the creation of state programs as well as the recovery of the private insurance market.

The Florida Catastrophe Reinsurance Fund, the California Earthquake Authority and the Hawaii Hurricane Relief Fund all share the problem of being unable to cover losses from the worst-case disasters. For example., both the Florida fund and the California authority would be insolvent after disasters causing more than $10 billion in insured residential losses. While that level of loss is higher than that experienced to date, including the Northridge Earthquake and Hurricane Andrew, the possibility of events in the $10 billion plus range are certainly possible. Similarly, the Hawaii fund also has a limit well below the theoretical exposure in the state. The fund's maximum capacity is $1.5 billion, which is roughly the loss from Hurricane Iniki.

In the aftermath of a large disaster that exceeds a state program's capacity, it is likely that many homeowners insured by these programs will not be immediately or fully compensated for their losses. In fact, the California and Hawaii programs must, by law, prorate claims if funds are inadequate to cover all losses. Because there are no precedents, one can only speculate what the consequences of these funding shortfalls might be. However, an increase in mortgage defaults and a drop in real estate values are likely.

Lacking some additional backstop, state residential insurance programs are destined to fail at precisely the moment they are most needed. That is why a complimentary program at the federal level is so critical. Such a program will improve the effectiveness of state initiatives and help ensure that claims after a major catastrophe will be paid in full. In addition, maintaining the integrity of state programs even after large losses will help stabilize private insurance markets and encourage new protection of homeowners' investments.

Creating a federal insurance backstop to state homeowners' insurance availability programs has several advantages over other proposals that have been considered.

Unlike plans directly involving the federal government in the business of providing homeowners insurance to consumers or reinsurance coverage to individual insurance companies, this legislation limits federal involvement to a direct relationship with the states.

The federal program is completely voluntary. It does not compel any state to participate. In fact, the sale of federal insurance can only occur once a state has gone to the trouble and assumed the risk inherent in creating a homeowner's insurance availability program. If the private market is functioning adequately, or if local availability problems can be addressed without the need of a larger solution, then the federal program is a non-issue.

HOMEOWNERS' INSURANCE AVAILABILITY ACT OF 1997—SECTION-BY-SECTION ANALYSIS

Section 1: Title cited as "Homeowners' Insurance Availability Act of 1997"

Section 2: Congressional Findings that homeowners' insurance is becoming increasingly difficult to purchase, due to increased natural disasters and that there is a federal role in providing a reinsurance program for states that meet those needs beyond the capacity of the state's claims paying capacity.

Section 3: Program Authority to the Secretary of Treasury to provide a federal reinsurance program through reinsurance contracts through a Disaster Reinsurance Fund (Fund) in Sec. 9.

Section 4: Eligible Purchasers are state insurance programs and state reinsurance programs.

Section 5: Qualified Lines of Coverage provide specifically for residential property and other losses as determined appropriate by the Treasury Secretary.

Section 6: Covered Perils include (i) earthquakes, (ii) perils ensuing from earthquakes (fire and tsunami) and, (iii) hurricanes.

Section 7: Terms of Reinsurance Contracts are no more than 1 year, with claim payments only to state insurance or reinsurance programs and a payout at the occurrence and level where disasters costs exceed the state's claim paying capacity. Qualified losses include only property covered under the contract that are paid within a 3 year period from the natural disaster event. Pricing is established by the Secretary, in consultation with the Independent Commission on Catastrophe Risks and Insurance Loss Costs and based on actuarial analysis, a risk load not less than 2 times the risk-based price and administrative costs. Finally, in cases where Treasury borrowing occurs, contract purchasers and recipients of aid from proceeds of borrowed funds are required to continue purchasing contracts until borrowed funds are repaid.

Section 8: Level of Retained Losses and Maximum Federal Liability is limited to contracts at $2 or $10 billion or any other amount determined by the Secretary with the limitation that contracts are greater than the current claims-paying capacity of the state operated plan with a maximum yearly liability of $25 billion. The Secretary is authorized to phase-in maximum yearly liability during the initial 4 years of the program. Annual adjustments are authorized.

Section 9: Disaster Reinsurance Fund is established within the Treasury Department to accept proceeds from the sale of contracts, borrowed funds, investments or other amounts. Borrowed funds are limited to an amount not to exceed the Fund's capacity to repay within 20 years, with appropriate interest. Except for borrowed funds or start-up costs in Section 10(g), no federal funds are authorized or appropriated for the Fund.

Section 10: National Commission of Catastrophe Risks and Insurance Loss Costs is established with an appropriation of $1 million for initial start-up costs.

Section 11: Report on Secondary Market Mechanism For Reinsurance Contracts requires the Treasury Secretary to create a mechanism to sell excess-loss contracts (at least 20 percent of the total written dollar value) in the capitol markets and report back to Congress, within 18 months, with recommendations for statutory change.

Section 11: Definitions.

AGRICULTURE ADVISORY BOARD

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. COSTELLO. Mr. Speaker, I rise today in recognition of a group of individuals who have been of great service to me during the past 2 years. This group is the Agriculture Advisory Board for the 12th Congressional District of Illinois. The 13 members of the Ag Advisory Board members represent each of the nine counties in the district. The group met several times throughout the 104th Congress.

This last Congress will be memorable one for the agricultural community. The recently implemented Farm Bill of 1996 has changed the way producers receive payments from the Federal Government. These payments, set at specified decreasing amounts each year for the next seven years, replaces the former system of deficiency payments, which payed farmers based on market conditions. The legislation also recognizes the need for greater exports of our American-grown commodities. Illinois is a leader in the production of corn, wheat and soybeans. The opportunities for greater exporting will improve the economy in each member's town and throughout the state.

I commented each member for giving of his time and insights to help make well-informed decisions. The members of my Agriculture Advisory Committee during the 104th Congress were Mike Campbell of Edwardsville, John Deterding of Modoc, Lawrence Dietz of DeSoto, Edwin Edleman of Anna, Greg Guenther of Belleville, Craig Keller of Collinsville, Marion Kennell of Thompsonville, Vernon Mayer of Culter, Dave Mueller of East Alton, Larry Reinneck of Freeburg, Bill Schulte of Trenton, Jim Taflinger of Cache, and Lyle Wessel of Columbia.

I am pleased that these gentlemen will be staying on the Ag Advisory Board during the 105th Congress. The Farm Bill has brought about spending cuts in many farm programs, and each board member's input will be critical to me as I review the various Federal programs in an oversight and appropriations capacity. I look forward to working with each member on agricultural matters during the 105th Congress. I ask my colleagues to join me in recognizing these individuals.

LENDING ENHANCEMENT THROUGH NECESSARY DUE PROCESS ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, I rise today to reintroduce the Lending Enhancement Through Necessary Due Process Act.

In the aftermath of the Savings and Loan [S&L] crisis, Congress empowered the Federal Deposit Insurance Corporation [FDIC], the Resolution Trust Corporation [RTC], and other agencies to prosecute the S&L crooks and pursue other wrongdoers through civil suits to collect damage awards to lessen the taxpayer costs of the thrift debacle.

Although the government's efforts have been successful in carrying out Congress' mandate, government agencies have launched a zealous civil litigation campaign against anyone even remotely connected to a failed bank or thrift. Litigation against marginal defendants and the use of highly-paid outside counsel have aggravated the credit crunch in the early 1990's. Directors and officers in financial institutions are reluctant to make character loans or business loans with any element of risk for fear that they could be accused of negligence by the regulators if the loan ever failed. Currently, banks and thrifts have found it difficult to attract qualified bank directors and officers because of the campaign of fear brought on by the regulators.

Taxpayer funds have been wasted and the lives and reputations of countless individuals are being ruined. In their fervor to squeeze every last dollar out of S&L and bank professionals, the RTC and the FDIC are spending an inordinate amount of time and money pursuing marginal cases in which the culpability of the defendants is highly questionable. Faced with an enormous pool of potential individuals to sue, the FDIC and the RTC have employed over 2400 law firms, paying them more than $504 million in 1992 alone. These law firms had little incentive to reduce taxpayer costs and every incentive to bill thousands of hours in the pursuit of former directors and officers, regardless of their culpability. Meanwhile, defending these suits is a costly, demeaning, and time consuming enterprise. Many defendants have agreed to costly settlements, regardless of guilt, in order to avoid bankruptcy.

The Lending Enhancement Through Necessary Due Process Act will remedy these types of abuses and still allow the regulators to pursue culpable individuals. First, accused directors and officers will be allowed to assert defenses to overreaching accusations. One example is the business judgment defense. The courts in all of the States recognize the business judgement rule either by case law or by statute. This bill will establish defenses for business judgement, regulatory actions and unforseen economic consequences.

Second, this legislation would require that regulators have good cause to obtain the personal financial records of potential defendants. The current practice is to ask for the financial records of all parties and then sue the richest, regardless of culpability. This bill requires that the regulators demonstrate a violation of the law and the likelihood that the individual will dissipate assets.

Third, this act will give defendants additional protection to prevent the freezing of their assets without good cause. Finally, the standard for director and officer liability will be clarified by stating that the standard is gross negligence rather than simple negligence. I understand the Supreme Court has seen it necessary to take a closer look at the standard of negligence as it applies to these cases.

Mr. Speaker, although most of these cases have been brought to their final disposition, I strongly believe that changes need to be made so the abuses I described do not continue during the resolution of future failures. While I understand, but do not necessarily agree with, the need to use excessive force to resolve the S&L debacle, the time has come for the pendulum to swing back to the center. This bill will accomplish this.

COMMENTS UPON INTRODUCTION OF THE RATEPAYER PROTECTION ACT

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. STEARNS. Mr. Speaker, I rise today to introduce legislation that will not only save American consumers billions of dollars, but also reduce Federal regulation and promote competition in the electric power industry.

My bill will prospectively repeal section 210 of the Public Utility Regulatory Policies Act of 1978—PURPA. Section 210 mandates utilities to buy power from a certain privileged class of generators of electricity at prices set not by the free market but by the government. In fact, the independent Utility Data Institute estimates that consumers pay as much as $8 billion a year more for their electric energy as a consequence of this anti-competitive mandate.

Simply put, PURPA is a Federal barrier to a more efficient, cost-effective, and competitive electricity industry. Each day we wait to deal with PURPA is another day that this mandate distorts electric markets and creates liabilities that will become stranded investments. Already, PURPA is estimated to have burdened the market with over $38 billion in stranded costs.

As I said upon introduction of virtually identical legislation during the 104th Congress, my only interest in introducing this bill lies in achieving the most efficient and most cost-effective means of electric generation for America's consumers. I am prepared to move forward with this bill as introduced, or as a part of a much broader legislative effort. Indeed, I am anxious to work with Chairman SCHAEFER, Chairman BLILEY, the House Committee on Commerce, and all other interested parties as Congress moves forward with its comprehensive examination of the industry. But it must be noted that we can take an important step toward the laudable end with the timely and sagacious elimination of PURPA's unnecessary and costly Federal mandate.

Everyone will agree that we must begin to explore a move toward an electricity industry that is based on competition, market force, and lower prices for ratepayers. This is certainly my objective as I introduce this imperative aspect of electricity reform legislation.

INTRODUCTION OF THE MEDICARE PREVENTIVE BENEFIT EXPANSION ACT OF 1997

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. THOMAS. Mr. Speaker, today I join with Mr. BILIRAKIS and Mr. CARDIN in introducing a bill which will strengthen Medicare's coverage of certain preventive health care. This is a step in the right direction for our seniors—and for the Medicare Program. Preventive health care can translate into improved health and a better quality of life—and at the same time, reduce long-term health expenses. The private sector has for many years offered preventive benefits in insurance programs for working Americans. Medicare can do the same for senior citizens.

In past years, we examined Medicare's coverage policy for the possibility of expanding it to include certain preventive care. But each time, the Congressional Budget Office concluded that this would significantly increase Medicare costs. Last year, for the first time, CBO agreed that certain preventive health benefits could actually save Medicare money. Using this new level of understanding, we decide to include these savings and develop a responsible preventive health care program for our elderly. More important than the dollars we will save over the long term, this legislation assembles preventive methods that will save lives and enhance the quality of life for individuals suffering from certain medical conditions. In addition, these measures will empower seniors to have more control over their health through early detection of diseases, thereby increasing treatment options in many cases, and by educating patients on how to successfully manage their conditions.

The American Cancer Society estimates that one million people will be diagnosed with cancer this year, and there are more than 10 million people alive today with a history of cancer. Those who fight cancer, as either a patient or as a caregiver, know the tremendous burden such a battle brings. There is great financial cost for individuals, families, and society as a whole; the National Cancer Institute estimates national costs for cancer to be more than $100 billion each year. By providing Medicare beneficiaries with the access to expanded prevention procedures through coverage of mammographies, pap smears, pelvic exams, and colorectal and prostate screenings, this legislation seeks to reduce suffering and save lives by detecting cancer at an earlier, more treatable stage.

We also address a disease affecting more than 15 million Americans—diabetes. Without detection or proper treatment, diabetes can lead to kidney failure, amputation, nerve damage, blindness, extended hospitalizations, heart disease, and strokes. Medical care for diabetic patients costs more than $100 billion per year—accounting for 15 percent of all health care costs in the United States and a quarter of all Medicare costs. These medical complications and resulting costs are often avoidable through patient education on proper nutrition, exercise, blood sugar monitoring, activity and medication so that patients can take charge of their wellness. We not only empower people to take back control of their health care through patient self-management training, but we ease the financial burden by including blood-testing strips as durable medical equipment for the purposes of Medicare coverage. We also recognize the necessity of improving diabetes treatment and have added provisions requiring the Secretary of Health and Human Services to establish outcome measures to be reported to the Congress so we can change and adapt our coverage policies to reflect the medical needs of patients and not the arbitrary determinations of a Washington bureaucracy.

This legislation should make significant strides in improving the health care system for Medicare beneficiaries diagnosed with breast, cervical, colorectal, prostate cancer, and diabetes. We will do more, since new technology will enable early detection of other diseases. This bill will make a difference in millions of lives and for thousands of families, and I am proud to introduce this bill today, at the beginning of the new 105th Congress.

TRUE ELECTORAL REFORM: TERM LIMITS WITH 3 4-YEAR TERMS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, today I am introducing a proposed amendment to the Constitution that will not only limit the number of terms a Member of Congress may serve. This proposal would extend the length of a single term in the House from 2 to 4 years. Senators would remain in 6-year terms.

The arguments for term limits are well-known. The Founding Fathers could not have envisioned today's government, with year-round sessions and careers in Congress. Term limits would eliminate the careerism that permeates this institution, enticing Members to work toward extending their careers—a goal sometimes at odds with the common good. There are simply too many competing interest groups.

However, my proposal takes the essence of term limits, to limit the influence of careerism and the incessant campaigning it requires, by increasing the length of a term in the House of Representatives. Currently, each Member of the House serves 2-year terms. That means that after each election, a House incumbent must begin campaigning again almost immediately. This dangerous cycle almost never stops. A 4-year term would mitigate this to a certain degree. Looking at it another way, a person would have to run only three times to serve the maximum number of years. That is certainly an improvement, especially when tied to term limits.

Mr. Speaker, it is important to note that a 4-year term will not eliminate the House of Representatives' function as the people's House. Today's technology almost instantly allows people in Washington, DC to know how the people they represent in their district feel about issues of the day. No longer must Representatives periodically make the trek home to put themselves back in touch with the local wants and needs. Now we fly home on weekends, read our local papers in DC, receive countless polls and tune in to the news.

In the end, Mr. Speaker, there will be no loss of service by lengthening the term of office while limiting them. Indeed, it will improve as more attention is paid to legislating instead of campaigning. This is a complete reform package deserving of our attention.

VEHICLE FORFEITURE FOR REPEAT DRUNK DRIVERS

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. BLUMENAUER. Mr. Speaker, as sure as we are standing here tragedy will strike again on America's roadways. Within the next few week there will be another national example where repeat drunk drivers lay carnage on our streets.

Sadly, this is an all too frequent occurrence in our county. Over 17,000 people a year are killed because of drunk driving and hundreds of thousands are injured.

I have a long standing commitment to doing everything possible to stop people from getting behind the wheel after drinking too much. As a member of the Portland City Council, I introduced the first ordinance in the country to take away the cars of repeat drunk drivers. This law has had a dramatic effect.

In Portland we have confiscated almost a thousand cars and forfeited almost a third of those. Most importantly it has made a difference in terms of repeat drunk driving.

From 1994 to 1995, drunk driving deaths increased nationally. During that same time period, we saw a 42-percent decrease in these fatalities in Portland. Empirical studies show when you take away the car of the repeat drunk drivers it does get their attention, and the recidivism rate has dropped. This is a program that works.

Today I am reintroducing what was my first piece of legislation as a Member of the U.S. Congress. Currently States must meet five of seven eligibility criteria to receive a share of the $25 million in Federal drunk driving counter measure grants. My proposal will add another criteria to choose from, a program to confiscate the cars of repeat drunk drivers, like we've done in Portland.

I'm convinced that this simple step is going to move dramatically and spread the forfeiture concept around the country. Already, over 60 cities and counties have requested information on our program.

When so many issues pit one group against another, it is encouraging that taking away the cars of repeat drunk drivers has had such a broad coalition behind it. Law enforcement agencies, advocates like the Mothers Against Drunk Driving, beer and wine distributors, and others have all lent their support for Portland's program. I have begun to reach out to national coalitions and will continue to work with them on perfecting this bill.

NATURAL DISASTER PROTECTION AND INSURANCE ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, today I rise to introduce the Natural Disaster Protection and Insurance Act. As many of my colleagues know, I have taken a great interest in past efforts to reduce the impact of catastrophic disasters.

We know that areas most likely to experience natural disasters, like my State of Florida, are currently experiencing population growth. As the population grows, demand for insurance grows while property values increase. Unless affordable insurance is available to these property owners, the Federal Government will continue to face open-ended liability. According to a policy paper prepared by the Clinton administration, private insurance plays a critical role in providing financial protection to living in disaster-prone areas by assisting in rebuilding, providing emergency living expenses, and reducing income losses.

In fact, since 1989, private insurance companies have paid claims amounting to more than $30 billion.

Furthermore, a document issued by the Senate Bipartisan Task Force on Funding Disaster Relief in 1994 concluded that, between fiscal year 1977 and 1993, the Federal Government spent approximately $120 billion on natural disasters.

Mr. Speaker, the problem at hand is that the demand for insurance in disaster-prone areas is increasing while the supply of private insurance has not kept pace. Many large insurance companies which would ordinarily be competing for this premium income in disaster-prone areas have stopped writing new policies, while many other small- and medium-size companies have been reluctant to fill in the resulting gaps due to their fear of a truly catastrophic event.

Prior to the large number of disasters that began in the late 1980's, actuarial techniques used by insurance companies were inadequately reserving for disasters. For example, losses were estimated on a 30-year cycle. From late 1950 until the late 1980's few disasters occurred. As a result, prices for catastrophic insurance were low compared to the actual risk carried by U.S. insurers.

Due to the lack of insurance coverage available, my home State of Florida has embarked on the only path available after the devastation of Hurricane Andrew. It has set up the Florida Catastrophe Fund and enhanced the Joint Underwriting Association and Windstorm Association, both of which are to be the insurers of last resort for those who are unable to find insurance. However, no one should be forced to seek coverage from a more-expensive, less-responsive Government program, so it is incumbent on us as policymakers to find the proper incentives for the private sector to write more coverage. Otherwise, I can only believe this is a manmade disaster waiting to happen.

Our experience with State insurance pools demonstrate that States cannot go it alone when they are ravaged by destructive occurrences. Therefore, I believe action at the Federal level is needed to encourage private insurance companies, including smaller and medium-size companies, to continue insuring individual homeowners and businesses in areas prone by natural disasters. Additionally, action at the Federal level can be instrumental in encouraging high-risk areas to better prepare for such events.

Fortunately, a lot of exciting and innovative thought is taking place in the insurance industry. For example, many insurance companies are teaming up with investment banks to bring capital to their markets by securitizing risk and thereby increasing the amount of exposure they can carry. This innovative development will help alleviate the shortage of insurance for those in disaster-prone areas.

We, in Congress, should not do anything that stifles this creative spirit within the industry. However, we should use the Federal Government as a tool to complement the efforts being made by the private sector to deal with natural disasters.

I have introduced a bill that contains three main parts to address the issues created by natural disasters. First, this bill provides immediate relief in the form of reinsurance for primary insurers through a fiscally responsible prefunded bond approach. Currently, there is a shortage of mega-catastrophe reinsurance available for primary insurance companies and this bill will bring much-needed capital to those high excess layers of risk. Second, this bill calls for a study regarding the viability of changing the Tax Code to encourage insurance companies to reserve for catastrophic events. Third, this bill has a mitigation component designed to keep damage caused by natural disasters to a minimum when they inevitably strike.

This bill follows the important bipartisan work on this issue by Senator STEVENS, Senator DAN INOUYE, and former Congressmen BILL EMERSON and NORM MINETA. I believe this bill creates a framework that contains the essential elements to begin the dialog on this important issue facing this Nation. Congress needs to take a leadership role in bringing together all those involved in natural disaster planning in order to reach a resolution to this issue. I plan on working with my colleagues, the administration, State, and local governments, and with industry to find the right solution for the American people. It is my hope that we can hold hearings on this subject soon.

INTERNATIONAL CUSTOMS DAY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CRANE. Mr. Speaker, January 26 has been designated by the World Customs Organization [WCO] as International Customs Day, a time to give recognition to customs services around the world for the role they play in generating revenue and protecting national borders from unauthorized imports.

The U.S. Customs Service represents the United States in the World Customs Organization which, since 1953, has grown into a 142-member international organization. The WCO's purpose is to facilitate international trade, promote cooperation between governments on customs matters, and standardize and simplify customs procedures internationally. It also offers technical assistance in the areas of customs valuation, nomenclature, and law enforcement. The organization's objective is to obtain the highest possible level of uniformity among the customs systems of its member countries. The involvement of the U.S. Customs Service in the WCO reflects the recognition that our country and its trading partners benefit when international trade is facilitated by simple, unambiguous customs operations around the world.

I take this opportunity to offer my congratulations to the World Customs Organization on its past accomplishments and wish it well in its ambitious efforts to further harmonize and simplify customs regulations. I also congratulate the U.S. Customs Service for its many years of fine work both domestically and internationally.

IT IS TIME FOR TERM LIMITS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, I am pleased to introduce a proposed amendment to the Constitution limiting the terms of Members of the House to 12 years of service and Senators to 12 years of service. This is a proposal I have enthusiastically pushed for over the years and one I continue to support.

Many may remember the term limits bill the House considered in March 1995 as part of the Contract with America. This is the exact same bill. I was excited when the first ever vote in the House produced 227 ayes. While this is a majority, it was not the two-thirds majority needed to pass a proposed constitutional amendment. I look forward to addressing this issue again in the 105th Congress.

The arguments for term limits are numerous and persuasive. Volumes could be written on the issue, but I would like to stress one point. Term limits are not simply to create turnover for the sake of turnover. Sure, it is important to get fresh blood in Congress, but it is more important to change the institution as a whole in a manner that only term limits can achieve. Term limits would end the pervasive careerism in Congress.

Mr. Speaker, the status quo in Congress encourages longevity in service. One's impact in Congress is almost always directly related to the length of time the Member has served. This is due to the fact that the House and Senate are directed primarily by the elected leadership and the full and subcommittee chairmen. Few rise to these levels without significant time served.

Therefore, many Members will do their best to stay in Congress as long as possible, making it a career. It is my firm belief that human nature dictates that most Members of Congress, whether Republican or Democrat, are going to worry more about getting reelected than anything else in the career oriented environment of the present system. Consequently the tendency of most will be to try to please every interest group in order to get reelected. While term limits would not completely end this attitude, it would mitigate it considerably because term limits would mean that when somebody is elected to Congress they would know that they were only coming here to serve a short period of time, not to make a career out of it. I am firmly convinced that this is the single biggest obstacle to getting a balanced budget and making some of the tough decisions that have to be made as we move into the 21st century.

Finally, Mr. Speaker, term limits is supported by over 70 percent of Americans. This is not a partisan issue. It is a sound proposal with popular support. Isn't it time that Congress passed this critical reform?

INTRODUCTION OF THE STOP SWEATSHOPS ACT OF 1997

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CLAY. Mr. Speaker, last year, I joined with Senator KENNEDY and more than 50 other Members of Congress to introduce legislation to curb the reemergence of sweatshops in the domestic garment industry. Today, I am introducing that legislation once again.

Sweatshops have returned to the apparel industry in the United States in numbers and forms reminiscent of the turn of the century. Sweatshop employers exploit those who work for them, sometimes subjecting workers to slave-like conditions. By exploding workers, sweatshop employers derive an unfair and unlawful competitive advantage that harms law abiding employers, as well as workers and their families.

The Stop Sweatshops Act of 1997 strengthens the ability of the Department of Labor to enforce the Fair Labor Standards Act [FLSA] and improves the ability of workers in the garment industry to obtain redress for violations of the act. As importantly, at a time when the Congress is reducing funds available for enforcement of the labor laws, the bill encourages manufacturers in the garment industry to deal with reputable contractors and acts to balance market pressures that have encouraged the reemergence of sweatshops.

The reemergence of sweatshops represents a problem that cannot be allowed to continue to grow. As we approach the 21st century, we have an obligation to eliminate this vestige of the 19th century. I urge my colleagues to support this humane legislation.

THE FLORIDA WETLANDS MITIGATION BANKING STUDY ACT OF 1997

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation to authorize a study on a topic of growing environmental importance, mitigation banking. Specifically, this bill authorizes the Army Corps of Engineers to conduct a 2-year study in Florida on the process of authorizing mitigation banking and its effectiveness.

In an effort to minimize impacts to wetlands, mitigation banks have been created. In the past, developers who adversely impacted a wetland area were required to either restore an existing wetland or create a new one. The restoration was usually performed on the impact site and often resulted in small, scattered wetlands which were not effective in maintaining or restoring the overall health of the watershed.

A mitigation bank typically consists of a large parcel of land on which an entity voluntarily restores, enhances, creates, or preserves wetlands and uplands. These entities may be a developer or group of developers, a public agency, or a private firm that has rights to land for the creation of a mitigation bank. A bank is formed through an agreement between regulatory agencies and the bank sponsor. The entity establishing the mitigation bank is then given mitigation credits for work on the wetlands. Credits are assigned by State and Federal regulators, including local water management districts and the Army Corps of Engineers. These credits can be used as a "debit" at another site to offset unavoidable damage to wetlands.

Mr. Speaker, this process is becoming more and more widespread. Because of the potential impact mitigation banking has for the nation, it is important to examine it further to better identify both the advantages and disadvantages of the process. My bill allows the Corps to conduct a study which analyzes the establishment and use of mitigation banks under current federal guidelines and Florida law to determine if any further federal action is needed. Florida was chosen as a study state because it has some of the most advanced statutes and regulations on mitigation banks, and a large number of mitigation banks have already been established and used.

As this realively new procedure begins to spread, I believe that it is important that all aspects and potential effects are examined. My bill will provide a study that I hope will clarify the future federal role. I encourage your support for this bill and look forward to working with many of my colleagues on its passage.

REPRESENTATIVE PELOSI HONORED FOR HUMAN RIGHTS WORK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. STARK. Mr. Speaker, Representative NANCY PELOSI was cited in a recent New York Times article for her work as a tireless advocate on behalf of human rights in China. She has been the persistent voice reminding this Congress and the administration that we cannot ignore the atrocities in China. They are too awful, too numerous for us not to recognize.

A large market like China can be seductive for those who see commercial gain to be made. They do not want to see the pain wrought by the Chinese Government operating in its normal course whether it be false imprisonment, loss of freedom of religion, speech and association, proliferation of nuclear weapons or even the illegal shipping and sale of AK–47s to our own streets.

Representative PELOSI is the voice that reminds us that there is no such thing as business as usual with China. She is to be commended for her tireless efforts. I commend to you the enclosed article by A.M. Rosenthal:

CLINTON'S CHINA WRIGGLE

(By A.M. Rosenthal)

President Clinton, his supporting cast of bureaucrats and even most of his political opponents are so twisting the essence of the visit to the White House of Communist China's top weapons dealer that the deeply important meaning is wrung right out of it. And that is no accident.

Mr. Clinton is doing what comes naturally at times of political embarrassment, the old Washington dance. Wriggle, two, three, four, wriggle, two three, glide, everybody sing out together: "Doin' the White House wriggle!"

"It was inappropriate," the President says with a fine show of chin. Screening must be tightened!

Republicans and Democrats un-in-love with Mr. Clinton say no, the problem is political money.

Wang Jun, the Chinese Army's chief arms broker, missile salesman and weapons smuggler, was brought to a White House reception by an Arkansas businessman who became a hotshot Democratic fund-raiser.

Taking some of the stink out of fund-raising would be real nice. But it won't get at the why and how come of Mr. Wang, whose job is to make money and build power for the Chinese armed forces by peddling weapons worldwide, and whose name is known to every China expert, spook and high military officer in the world, getting to a White House do with the President.

Nor will it deal with the hypocrisy of the Administration now clucking about this fellow's visit in February when the man he reports to was the official guest of the United States Government just a couple of weeks ago. This one got to the White House not for a handshake but for a real sit-down meeting with none other than the old screening-tightener-upper, Mr. Clinton himself. He is Gen. Chi Haotian, who gave the order to kill dissidents in and around Tiananmen Square in 1989 and was promoted to Defense Minister by a grateful Politburo.

No, the answer to how these characters got to the White House is not political money or screening. It is Mr. Clinton's decision to base America's policy about Communist China on trade.

For Beijing, the principal purpose of trade is to build up its police and military power. The biggest owner of Chinese industry and commerce is the military establishment. It uses the profit to build more weapons to sell, particularly missiles amusingly forbidden under U.S. regulation, and to modernize its armies, including the police army operating the Chinese gulag.

There is no hiding place, not for Mr. Clinton, not for America's allies, not for American C.E.O.'s, not for the American consumer or stockholder: doing business with China means providing money for the Chinese armed forces. So let's not get all wriggly when China's killers and arms-selling chiefs show up at our parties.

Most of Mr. Clinton's political opponents are trapped by and with him. They went along with him in sacrificing democracy and American security to the Trade Gods. So, like him, they have to do something when a killer-salesman comes to Washington. Watch them dance.

How did a nice young fellow from Arkansas, who preached human rights when he ran for President the first time, sell them out a year later? Why did that nice Assistant Secretary of State for China affairs go along, after attacking the early Bush clone of the Clinton policy?

Why did Bob Dole, and his party, wipe out any difference of principle between them and Mr. Clinton on providing China with the huge trade profits to build its military power? Oh, who cares why; they did.

Well, it is holiday time. Here's a fine present: three names among those Washingtonians who fight for Chinese human rights and American democratic honor. In government, Nancy Pelosi, San Francisco's Representative, and in this cause truly all America's. Among the experts: William C. Triplett

2d, former chief Republican counsel to the Senate Foreign Relations Committee; indispensable to the struggle. In journalism, the conservative Washington journal The Weekly Standard—may its editorials against the sellout of China reach the conservative movement and awaken the liberal.

And to all readers who have written that they will not support the suppression of Chinese freedom by purchasing China-made goods, this column goes with respect and thanks. These people, they just do not know how to wriggle.

CREDIT OPPORTUNITY AMENDMENTS ACT OF 1997

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. McCOLLUM. Mr. Speaker, today I rise to reintroduce the Credit Opportunity Amendments Act which will fundamentally reform the Community Reinvestment Act [CRA] of 1977, and clarify the enforcement of our fair lending laws.

The original purpose of CRA was to encourage banks to loan into the communities in which they maintained deposit taking facilities.

In addition, the Members of the 95th Congress were concerned about redlining, the practice of denying loans in certain neighborhoods based on racial or ethnic characteristics. The enforcement mechanism chosen was to have CRA performance taken into account when regulators were deciding on applications by the banks.

When CRA passed in 1977, the Senate report stated that no new paperwork would be required under the new law. It was believed that examiners had all the information they needed on hand from call reports and their examination reports to enforce CRA. This is not the case. Instead of relying on existing information, regulators have created expansive new reporting requirements resulting in mounds of additional paperwork and many wasted hours that could have been used to serve the community.

CRA's enforcement mechanism has gone completely haywire. It has become what many refer to as regulatory extortion. By holding up applications on the basis of CRA protests, some community groups hope to get sizable grants or other contracts from banks. This happens all too often.

Recently, the Clinton administration has linked the enforcement of CRA with other fair lending statutes. This has placed the Justice Department in the position of being an additional bank regulator. This new bank regulator caught the lending industry off guard by using the disparate impact test for proving discrimination. Disparate impact is a controversial theory for proving discrimination in employment law purely using statistical data. Under this scenario, a lender can be found to have discriminated without some element of intent or without proving that any harm resulted from a lending practice.

This legislation remedies these problems while ensuring that lenders reinvest in the communities in which they serve. First, it replaces the current system of enforcement and graded written evaluations with a public disclosure requirement. This will dramatically reduce unnecessary paperwork and end the extortion-like nature of the current enforcement mechanism.

This approach allows bank customers to decide whether the bank is doing an adequate job in meeting its community obligations; not bureaucrats in Washington or organized community groups. If not, consumers can take their business elsewhere.

This will not end the congressional requirement that banks invest in their community. Nor will it stop organized groups from being involved. They will have the enforcement from the public disclosure on the bank's intentions and performance. They can raise any concerns with the bank or the regulators at any time. Consumers and the groups representing their interests can make their concerns known without having the extraordinary authority to hold up mergers and other obligations.

The second change in this bill makes the practice of redlining a violation of the Equal Credit Opportunity Act and the Fair Housing Act. Redlining will be defined as failing to make a loan based on the characteristics of the neighborhood where the house or business is located. Currently no prohibition against redlining in fair housing or fair lending exists, however, courts have interpreted these statutes to prohibit redlining. By placing a prohibition on redlining in statute, we will be sending a clear message that we are opposed to discrimination in lending in all forms, whether based on an individual's race, gender, age, sex, or makeup of the neighborhood where the individual lives or works.

This will also clarify that the method chosen to enforce our antidiscrimination laws is clear and resides in the fair housing and lending laws. No longer will regulators be forced to confront laws to attempt to address problems that the laws are inadequate for the purpose.

Third, the Credit Opportunity Amendment Act adds two criteria to the current use of the disparate impact theory. First, it requires regulators show actual proof that the lender discriminated and that the discrimination caused harm to the victim. Second, this legislation requires the party bringing suit to prove the lender intended to discriminate when making its lending criteria.

Finally, by designating a lead regulator to enforce our fair lending and community reinvestment statutes, we will have more even-handed enforcement of these laws. In turn, banks will be in a better position to know how to comply with them. Currently, confusion is the most prevailing reaction to the enforcement of CRA over the last 15 years and fair lending more recently.

The current bill makes substantial reforms to CRA which I strongly support. By enacting this legislation, we make a bold step to eliminate credit allocations in the guise of CRA and rationalize our regulation of the banking industry. At the same time, we make it absolutely clear that redlining is unacceptable and is against the law. Therefore, Mr. Speaker, I urge my colleagues to support my legislation in the 105th Congress.

SENATE—*Thursday, January 9, 1997*

(Legislative day of Tuesday, January 7, 1997)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, we thank You that we have the privilege of living in this land of freedom where we the people have the power to elect the President and Vice President of our Nation. This afternoon as we go to meet in the Chamber of the House of Representatives to count the electoral college votes, give us a renewed sense of patriotism for our Nation and the Constitution. We ask Your blessing of wisdom and strength on President Clinton and Vice President GORE as they are confirmed in this historic meeting according to the 12th amendment. God, continue to bless America. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. BURNS. Mr. President, until the leader takes the floor of the U.S. Senate, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. LOTT. Mr. President, for the information of my colleagues, in just a few minutes the Democratic leader and I will be sending to the desk resolutions which make majority and minority party committee seat assignments for the 105th Congress. I want to again thank publicly, for the cooperation that we have received on this matter, both my colleagues within the conference and also Senator DASCHLE and his colleagues. I think it is not the usual situation that we can file these committee assignments this early in the session. I think it is going to help us facilitate our work early.

Following the adoption of these resolutions, the Senate will be proceeding to the House of Representatives in order to attend a joint session of Congress for the counting of the electoral college votes.

Immediately following the conclusion of that joint session, the Senate will adjourn over until Tuesday, January 21. On January 21, the Senate will stand in recess between the hours of 12:30 and 2:15 in order to allow for the weekly party conferences to meet. At 2:15, Tuesday, January 21, Senators may begin to introduce legislation for the 105th Congress. However, no votes are expected to occur during the session of the Senate on Tuesday, January 21, 1997.

Mr. President, did the Democratic leader have a comment he wanted to make at this point on the committee assignments, or should we proceed with the resolutions?

Mr. DASCHLE addressed the Chair.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. I thank the Chair.

Mr. President, let me also thank all of our colleagues. I want to thank our colleagues for their cooperation and the great participation we have had in getting us to this point as quickly as we have. I thank, as well, the majority leader for his cooperation on the work we have been able to achieve in getting to this point. I think these committees represent a very fair and accurate presentation of ratios as it relates to the membership of the Senate, and I am very pleased with the way our negotiations turned out.

Mr. LOTT. I thank the Senator from South Dakota.

AMENDING PARAGRAPHS 2 AND 3 OF RULE XXV

Mr. LOTT. Mr. President, I send a resolution to the desk relating to changes in certain committee ratios for the 105th Congress, and I ask unanimous consent that the resolution be reported by number, the resolution be adopted, and the motion to reconsider be laid on the table.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 9) amending paragraphs 2 and 3 of Rule XXV.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 9) was agreed to as follows:

S. RES. 9

Resolved, That paragraphs 2 and 3 of Rule XXV of the Standing Rules of the Senate is amended for the 105th Congress as follows:

Strike "21" after "Armed Services" and insert in lieu thereof "18".

Strike "16" after "Banking, Housing and Urban Affairs" and insert in lieu thereof "18".

Strike "19" after "Commerce, Science, and Transportation" and insert in lieu thereof "20".

Strike "16" after "Environment and Public Works" and insert in lieu thereof "18".

Strike "19" after "Finance" and insert in lieu thereof "20".

Strike "15" after "Governmental Affairs" in insert in lieu thereof "16".

Strike "16" after "Labor and Human Resources" and insert in lieu thereof "18".

Strike "19" after "Small Business" and insert in lieu thereof "18".

Strike "19" after "Aging" and insert in lieu thereof "18".

Strike "17" after "Intelligence" and insert in lieu thereof "19".

Strike "16" after "Indian Affairs" and insert in lieu thereof "14".

SENATE RESOLUTION 10—TO MAKE MAJORITY PARTY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 105TH CONGRESS

Mr. LOTT. Mr. President, I send a resolution to the desk making majority party committee assignments for the 105th Congress and ask that the resolution be reported by number, the resolution be adopted, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 10) making majority party appointments to certain Senate committees for the 105th Congress.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 10) was agreed to, as follows:

S. RES. 10

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority party's membership on the following standing committees for the 105th Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar (Chair), Mr. Helms, Mr. Cochran, Mr. McConnell, Mr. Coverdell, Mr. Santorum, Mr. Roberts, Mr. Grassley, Mr. Gramm of Texas, and Mr. Craig.

Committee on Appropriations: Mr. Stevens (Chair), Mr. Cochran, Mr. Specter, Mr. Domenici, Mr. Bond, Mr. Gorton, Mr. McConnell, Mr. Burns, Mr. Shelby, Mr. Gregg, Mr. Bennett, Mr. Campbell, Mr. Craig, Mr. Faircloth, and Mrs. Hutchison of Texas.

Committee on Armed Services: Mr. Thurmond (Chair), Mr. Warner, Mr. McCain, Mr. Coats, Mr. Smith of New Hampshire, Mr. Kempthorne, Mr. Inhofe, Mr. Santorum, Ms. Snowe, and Mr. Roberts.

Committee on Banking, Housing, and Urban Affairs: Mr. D'Amato (Chair), Mr. Gramm of Texas, Mr. Shelby, Mr. Mack, Mr. Faircloth, Mr. Bennett, Mr. Grams, Mr. Allard, Mr. Enzi, and Mr. Hagel.

Committee on Commerce, Science, and Transportation: Mr. McCain (Chair), Mr. Stevens, Mr. Burns, Mr. Gorton, Mr. Lott, Mrs. Hutchison of Texas, Ms. Snowe, Mr. Ashcroft, Mr. Frist, Mr. Abraham, and Mr. Brownback.

Committee on Energy and Natural Resources: Mr. Murkowski (Chair), Mr. Domenici, Mr. Nickles, Mr. Craig, Mr. Campbell, Mr. Thomas, Mr. Kyl, Mr. Grams, Mr. Smith of Oregon, Mr. Gorton, and Mr. Burns.

Committee on Environment and Public Works: Mr. Chafee (Chair), Mr. Warner, Mr. Smith of New Hampshire, Mr. Kempthorne, Mr. Inhofe, Mr. Thomas, Mr. Bond, Mr. Hutchinson of Arkansas, Mr. Allard, and Mr. Sessions.

Committee on Finance: Mr. Roth (Chair), Mr. Chafee, Mr. Grassley, Mr. Hatch, Mr. D'Amato, Mr. Murkowski, Mr. Nickles, Mr. Gramm of Texas, Mr. Lott, Mr. Jeffords, and Mr. Mack.

Committee on Foreign Relations: Mr. Helms (Chair), Mr. Lugar, Mr. Coverdell, Mr. Hagel, Mr. Smith of Oregon, Mr. Thomas, Mr. Ashcroft, Mr. Grams, Mr. Frist, and Mr. Brownback.

Committee on Governmental Affairs: Mr. Thompson (Chair), Mr. Roth, Mr. Stevens, Ms. Collins, Mr. Brownback, Mr. Domenici, Mr. Cochran, Mr. Nickles, and Mr. Specter.

Committee on the Judiciary: Mr. Hatch (Chair), Mr. Thurmond, Mr. Grassley, Mr. Specter, Mr. Thompson, Mr. Kyl, Mr. DeWine, and Mr. Ashcroft.

Committee on Labor and Human Resources: Mr. Jeffords (Chair), Mr. Coats, Mr. Gregg, Mr. Frist, Mr. DeWine, Mr. Enzi, Mr. Hutchinson of Arkansas, Ms. Collins, Mr. Warner, and Mr. McConnell.

UNANIMOUS-CONSENT AGREEMENT

Mr. DASCHLE. Mr. President, I send two resolutions to the desk and ask unanimous consent that they be considered en bloc, agreed to en bloc, the motions to reconsider be laid upon the table, and their adoption appear separately in the RECORD.

SENATE RESOLUTION 11—TO MAKE MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE 105TH CONGRESS

The PRESIDENT pro tempore. The clerk will state the first resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 11) making minority party appointments to Senate committees for the 105th Congress.

The resolution (S. Res. 11) was considered and agreed to as follows:

S. RES. 11

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the minority party's membership on the standing committees for the 105th Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Harkin, Mr. Leahy, Mr. Conrad, Mr. Daschle, Mr. Baucus, Mr. Kerrey of Nebraska, Ms. Landrieu, and Mr. Johnson.

Committee on Appropriations: Mr. Byrd, Mr. Inouye, Mr. Hollings, Mr. Leahy, Mr. Bumpers, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid of Nevada, Mr. Kohl, Mrs. Murray, Mr. Dorgan, and Mrs. Boxer.

Committee on Armed Services: Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Glenn, Mr. Byrd, Mr. Robb, Mr. Lieberman, and Mr. Cleland.

Committee on Banking, Housing, and Urban Affairs: Mr. Sarbanes, Mr. Dodd, Mr. Kerry of Massachusetts, Mr. Bryan, Mrs. Boxer, Ms. Moseley-Braun, Mr. Johnson, and Mr. Reed of Rhode Island.

Committee on Commerce, Science, and Transportation: Mr. Hollings, Mr. Inouye, Mr. Ford, Mr. Rockefeller, Mr. Kerry of Massachusetts, Mr. Breaux, Mr. Bryan, Mr. Dorgan, and Mr. Wyden.

Committee on Energy and Natural Resources: Mr. Bumpers, Mr. Ford, Bingaman, Mr. Akaka, Mr. Dorgan, Mr. Graham of Florida, Mr. Wyden, Mr. Johnson, and Ms. Landrieu.

Committee on Environment and Public Works: Mr. Baucus, Mr. Moynihan, Mr. Lautenberg, Mr. Reid of Nevada, Mr. Graham of Florida, Mr. Lieberman, Mrs. Boxer, and Mr. Wyden.

Committee on Finance: Mr. Moynihan, Mr. Baucus, Mr. Rockefeller, Mr. Breaux, Mr. Conrad, Mr. Graham of Florida, Ms. Moseley-Braun, Mr. Bryan, and Mr. Kerrey of Nebraska.

Committee on Foreign Relations: Mr. Biden, Mr. Sarbanes, Mr. Dodd, Mr. Kerry of Massachusetts, Mr. Robb, Mr. Feingold, Mrs. Feinstein and Mr. Wellstone.

Committee on Governmental Affairs: Mr. Glenn, Mr. Levin, Mr. Lieberman, Mr. Akaka, Mr. Durbin, Mr. Torricelli, and Mr. Cleland.

Committee on the Judiciary: Mr. Leahy, Mr. Kennedy, Mr. Biden, Mr. Kohl, Mrs. Feinstein, Mr. Feingold, Mr. Durbin, and Mr. Torricelli.

Committee on Labor and Human Resources: Mr. Kennedy, Mr. Dodd, Mr. Harkin, Ms. Mikulski, Mr. Bingaman, Mr. Wellstone, Mrs. Murray, and Mr. Reed of Rhode Island.

SENATE RESOLUTION 12—TO MAKE MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE 105TH CONGRESS

The PRESIDENT pro tempore. The clerk will state the second resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 12) making minority party appointments to Senate committees in paragraph 3(a), (b), and (c) of rule XXV.

The resolution (S. Res. 12) was considered and agreed to as follows:

S. RES. 12

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the minority party's membership on the committees named in paragraph 3(a), (b), and (c) of Rule XXV for the 105th Congress, or until their successors are appointed:

Committee on the Budget: Mr. Lautenberg, Mr. Hollings, Mr. Conrad, Mr. Sarbanes, Mrs. Boxer, Mrs. Murray, Mr. Wyden, Mr. Feingold, Mr. Johnson, and Mr. Durbin.

Committee on Rules and Administration: Mr. Ford, Mr. Byrd, Mr. Inouye, Mr. Moynihan, Mr. Dodd, Mrs. Feinstein, and Mr. Torricelli.

Committee on Small Business: Mr. Kerry of Massachusetts, Mr. Bumpers, Mr. Levin, Mr. Harkin, Mr. Lieberman, Mr. Wellstone, Mr. Cleland, and Ms. Landrieu.

Committee on Veterans' Affairs: Mr. Rockefeller, Mr. Graham of Florida, Mr. Akaka, Mr. Wellstone, and Mrs. Murray.

Select Committee on Indian Affairs: Mr. Inouye, Mr. Conrad, Mr. Reid of Nevada, Mr. Akaka, Mr. Wellstone, and Mr. Dorgan.

Special Committee on Aging: Mr. Breaux, Mr. Glenn, Mr. Reid of Nevada, Mr. Kohl, Mr. Feingold, Ms. Moseley-Braun, Mr. Wyden, and Mr. Reed of Rhode Island.

Committee on Intelligence: Mr. Kerrey of Nebraska, Mr. Glenn, Mr. Bryan, Mr. Graham of Florida, Mr. Kerry of Massachusetts, Mr. Baucus, Mr. Robb, Mr. Lautenberg, and Mr. Levin.

Joint Economic Committee: Mr. Bingaman, Mr. Sarbanes, Mr. Kennedy, and Mr. Robb.

Select Committee on Ethics: Mr. Reid of Nevada, Mrs. Murray, and Mr. Conrad.

SENATE RESOLUTION 13—TO MAKE MAJORITY PARTY APPOINTMENTS TO THE SENATE COMMITTEE ON THE JUDICIARY FOR THE 105TH CONGRESS

Mr. LOTT. Mr. President, I now send a second resolution to the desk that would make additional majority party committee assignments for the 105th Congress, and I ask that the resolution be reported by number, the resolution be adopted, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 13) making majority party appointments to the Senate Committee on the Judiciary for the 105th Congress.

The PRESIDENT PRO TEMPORE. Without objection, it is so ordered.

The resolution (S. Res. 13) was agreed to, as follows:

S. RES. 13

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority party's membership on the Senate Committee on the Judiciary for the 105th Congress, or until their successors are chosen:

Judiciary: Mr. Hatch (Chair), Mr. Thurmond, Mr. Grassley, Mr. Specter, Mr. Thompson, Mr. Kyl, Mr. DeWine, Mr. Ashcroft, Mr. Abraham, and Mr. Sessions.

SENATE RESOLUTION 14—TO MAKE MAJORITY PARTY ASSIGNMENTS TO SENATE COMMITTEES FOR THE 105TH CONGRESS

Mr. LOTT. Mr. President, I send a resolution to the desk making majority party assignments for the 105th Congress. I ask that the resolution be reported by number, the resolution be adopted, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 14) making majority party appointments to Senate committees for the 105th Congress.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 14) was agreed to, as follows:

S. RES. 14

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the majority party's membership on those Senate committees listed below for the 105th Congress, or until their successors are appointed:

Budget: Mr. Domenici (Chair), Mr. Grassley, Mr. Nickles, Mr. Gramm of Texas, Mr. Bond, Mr. Gorton, Mr. Gregg, Ms. Snowe, Mr. Abraham, Mr. Frist, Mr. Grams, Mr. Smith of Oregon.

Rules and Administration: Mr. Warner (Chair), Mr. Helms, Mr. Stevens, Mr. McConnell, Mr. Cochran, Mr. Santorum, Mr. Nickles, Mr. Lott, and Mrs. Hutchison of Texas.

Small Business: Mr. Bond (Chair), Mr. Burns, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett, Mr. Warner, Mr. Frist, Ms. Snowe, Mr. Faircloth, and Mr. Enzi.

Veterans' Affairs: Mr. Specter (Chair), Mr. Murkowski, Mr. Thurmond, Mr. Jeffords, Mr. Campbell, Mr. Craig, and Mr. Hutchinson of Arkansas.

Select Committee on Ethics: Mr. Smith of New Hampshire (Chair), Mr. Roberts, and Mr. Sessions.

Special Committee on Aging: Mr. Grassley (Chair), Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, Mr. Warner, Mr. Hagel, Ms. Collins, and Mr. Enzi.

Select Committee on Indian Affairs: Mr. Campbell (Chair), Mr. Murkowski, Mr. McCain, Mr. Gorton, Mr. Domenici, Mr. Thomas, Mr. Hatch, and Mr. Inhofe.

Intelligence: Mr. Shelby (Chair), Mr. Chafee, Mr. Lugar, Mr. DeWine, Mr. Kyl, Mr. Inhofe, Mr. Hatch, Mr. Roberts, Mr. Allard, and Mr. Coats.

Joint Economic: Mr. Mack (Vice Chair), Mr. Roth, Mr. Bennett, Mr. Grams, Mr. Brownback, and Mr. Sessions.

INTELLIGENCE COMMITTEE RATIO CHANGE

Mr. LOTT. Mr. President, I announce to my colleagues that one of the resolutions just adopted relates to necessary committee ratio changes for the 105th Congress. I note this allows for an increase of one seat on the Intelligence Committee from both sides of the aisle. The Democratic leader and I are allowing for this increase in the size of the Intelligence Committee for this Congress only due to the great interest in serving on this important committee from Members on both sides of the aisle and also because of the seriousness of some of the matters they will be considering and wanting to make sure that we are complying with the statute.

One of the things we have been trying to do as we started this year is to take a look at what the rules are and what the statutes require and try to comply with that. The statute is clear about wanting to have at least two from the Armed Services Committee, two from the Judiciary Committee, and two from Foreign Relations. I think it is particularly important that we have Members from the Armed Services Committee on Intelligence because so much of what they do has an Armed Services Committee relationship. In fact, the hearings on the funding for that committee, I believe, always have to report to the Armed Services Committee.

This change in the numbers will be only for this Congress, and then we will work in the next Congress back toward the statutory number of 8–7. We may want to come down maybe two steps, 9–8, but we should try to be in compliance with the statutes on the numbers as well as the committee jurisdiction and representation on that committee.

Again, I state that following this Congress it would be our intention to reduce the size, but we will do that only in working with the Democratic leader. This is the only committee, also, that only has a one-seat difference, and the statute requires that. All the others have two.

I wonder if the Democratic leader would like to comment on that?

Mr. DASCHLE. Mr. President, the majority leader and I have had a number of conversations about this particular issue, and I have discussed the matter in great detail with the ranking member of the Intelligence Committee. He shares the view, given the agenda and given the legal need to ensure the representation as is required by law, that only on a one-time interim basis an additional Armed Services Committee member needs to be placed on the committee.

As the majority leader has indicated, this is one time and one time only. This is an interim assignment. We intend to work with him to bring the committee size down to its legal, permanent size in the ensuing Congresses. So I urge people to recognize the intention here, and that is to accommodate the chair and the ranking member of the Intelligence Committee and to accommodate their agenda.

I am certainly in agreement with this approach and appreciate the opportunity to work through this particular matter as we have.

Mr. LOTT. Mr. President, I want to thank the Democratic leader for the attention he has joined me in giving to the Intelligence Committee. It is a very important committee, and I am not sure we have always given it the consideration that it should have, but we have done it this time. I am very pleased with what the result has been.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on January 8, 1997, during the recess of the Senate, received a message from the House of Representatives announcing that pursuant to the provisions of Senate Concurrent Resolution 2, 105th Congress, the Speaker reappoints as members of the Joint Committee to make the necessary arrangements for the inauguration of the President-elect and the Vice President-elect of the United States on the 20th day of January 1997, the following Members of the House: Mr. GEPHARDT of Missouri, Mr. GINGRICH of Georgia, and Mr. ARMEY of Texas.

The message also announced that the House has agreed to the following concurrent resolutions, each without amendment:

S. Con. Res. 1. Concurrent resolution to provide for the counting on January 9, 1997, of the electoral votes for President and Vice President of the United States.

S. Con. Res. 2. Concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of Senate Concurrent Resolution 48.

S. Con. Res. 3. Concurrent resolution providing for a recess or adjournment of the Senate from January 9, 1997 to January 21, 1997, and an adjournment of the House from January 9, 1997 to January 20, 1997, from January 20, 1997 to January 21, 1997, and from January 21, 1997 to February 4, 1997.

The message also announced that the House has agreed to the resolution (H. Res. 2) stating that the Senate be informed that a quorum of the House of Representatives has assembled; that NEWT GINGRICH, a Representative from the State of Georgia, has been elected Speaker; and Robin H. Carle, a citizen of the Commonwealth of Virginia, has been elected Clerk of the House of Representatives of the 105th Congress.

The message further announced that the House has agreed to the resolution (H. Res. 3) stating that a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

MESSAGES FROM THE HOUSE

At 12:32 p.m., a message from the House of Representatives, delivered by

Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 25. Making technical corrections to the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208), and for other purposes.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 9. A resolution amending paragraph 2 and 3 of Rule XXV; considered and agreed to.

S. Res. 10. A resolution making majority party appointments to certain Senate committees for the 105th Congress; considered and agreed to.

By Mr. DASCHLE:

S. Res. 11. A resolution making minority party appointments to Senate committees for the 105th Congress; considered and agreed to.

S. Res. 12. A resolution making minority party appointments to Senate committees in paragraph 3 (a), (b), and (c) of Rule XXV; considered and agreed to.

By Mr. LOTT:

S. Res. 13. A resolution making majority party appointments to the Senate Committee on the Judiciary for the 105th Congress; considered and agreed to.

S. Res. 14. A resolution making majority party appointments to Senate committees for the 105th Congress; considered and agreed to.

SENATE RESOLUTION 9—AMENDING PARAGRAPHS 2 AND 3 OF RULE XXV

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 9

Resolved, That paragraphs 2 and 3 of Rule XXV of the Standing Rules of the Senate is amended for the 105th Congress as follows:

Strike "21" after "Armed Services" and insert in lieu thereof "18".

Strike "16" after "Banking, Housing and Urban Affairs" and insert in lieu thereof "18".

Strike "19" after "Commerce, Science, and Transportation" and insert in lieu thereof "20".

Strike "16" after "Environment and Public Works" and insert in lieu thereof "18".

Strike "19" after "Finance" and insert in lieu thereof "20".

Strike "15" after "Governmental Affairs" and insert in lieu thereof "16".

Strike "16" after "Labor and Human Resources" and insert in lieu thereof "18".

Strike "19" after "Small Business" and insert in lieu thereof "18".

Strike "19" after "Aging" and insert in lieu thereof "18".

Strike "17" after "Intelligence" and insert in lieu thereof "19".

Strike "16" after "Indian Affairs" and insert in lieu thereof "14".

SENATE RESOLUTION 10—MAKING MAJORITY PARTY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 105TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 10

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority party's membership on the following standing committees for the 105th Congress, or until their successors are chosen:

Committee on Agriculture: Mr. Lugar (Chair), Mr. Helms, Mr. Cochran, Mr. McConnell, Mr. Coverdell, Mr. Santorum, Mr. Roberts, Mr. Grassley, Mr. Gramm of Texas, and Mr. Craig.

Appropriations: Mr. Stevens (Chair), Mr. Cochran, Mr. Specter, Mr. Domenici, Mr. Bond, Mr. Gorton, Mr. McConnell, Mr. Burns, Mr. Shelby, Mr. Gregg, Mr. Bennett, Mr. Campbell, Mr. Craig, Mr. Faircloth, and Mrs. Hutchison of Texas.

Committee on Armed Services: Mr. Thurmond (Chair), Mr. Warner, Mr. McCain, Mr. Coats, Mr. Smith of New Hampshire, Mr. Kempthorne, Mr. Inhofe, Mr. Santorum, Ms. Snowe, and Mr. Roberts.

Committee on Banking, Housing, and Urban Affairs: Mr. D'Amato (Chair), Mr. Gramm of Texas, Mr. Shelby, Mr. Mack, Mr. Faircloth, Mr. Bennett, Mr. Grams, Mr. Allard, Mr. Enzi, and Mr. Hagel.

Committee on Commerce, Science, and Transportation: Mr. McCain (Chair), Mr. Stevens, Mr. Burns, Mr. Gorton, Mr. Lott, Mrs. Hutchison of Texas, Ms. Snowe, Mr. Ashcroft, Mr. Frist, Mr. Abraham, and Mr. Brownback.

Committee on Energy and Natural Resources: Mr. Murkowski (Chair), Mr. Domenici, Mr. Nickles, Mr. Craig, Mr. Campbell, Mr. Thomas, Mr. Kyl, Mr. Grams, Mr. Smith of Oregon, Mr. Gorton, and Mr. Burns.

Committee on Environment and Public Works: Mr. Chafee (Chair), Mr. Warner, Mr. Smith of New Hampshire, Mr. Kempthorne, Mr. Inhofe, Mr. Thomas, Mr. Bond, Mr. Hutchinson of Arkansas, Mr. Allard, and Mr. Sessions.

Committee on Finance: Mr. Roth (Chair), Mr. Chafee, Mr. Grassley, Mr. Hatch, Mr. D'Amato, Mr. Murkowski, Mr. Nickles, Mr. Gramm of Texas, Mr. Lott, Mr. Jeffords, and Mr. Mack.

Committee on Foreign Relations: Mr. Helms (Chair), Mr. Lugar, Mr. Coverdell, Mr. Hagel, Mr. Smith of Oregon, Mr. Thomas, Mr. Ashcroft, Mr. Grams, Mr. Frist, and Mr. Brownback.

Committee on Governmental Affairs: Mr. Thompson (Chair), Mr. Roth, Mr. Stevens, Ms. Collins, Mr. Brownback, Mr. Domenici, Mr. Cochran, Mr. Nickles, and Mr. Specter.

Committee on the Judiciary: Mr. Hatch (Chair), Mr. Thurmond, Mr. Grassley, Mr. Specter, Mr. Thompson, Mr. Kyl, Mr. DeWine, and Mr. Ashcroft.

Committee on Labor and Human Resources: Mr. Jeffords (Chair), Mr. Coats, Mr. Gregg, Mr. Frist, Mr. DeWine, Mr. Enzi, Mr. Hutchinson of Arkansas, Ms. Collins, Mr. Warner, and Mr. McConnell.

SENATE RESOLUTION 11—MAKING MINORITY PARTY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 105TH CONGRESS

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 11

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the minority party's membership on the standing committees for the 105th Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Harkin, Mr. Leahy, Mr. Conrad, Mr. Daschle, Mr. Baucus, Mr. Kerrey of Nebraska, Ms. Landrieu, and Mr. Johnson.

Committee on Appropriations: Mr. Byrd, Mr. Inouye, Mr. Hollings, Mr. Leahy, Mr. Bumpers, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid of Nevada, Mr. Kohl, Mrs. Murray, Mr. Dorgan, and Mrs. Boxer.

Committee on Armed Services: Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Glenn, Mr. Byrd, Mr. Robb, Mr. Lieberman, and Mr. Cleland.

Committee on Banking, Housing, and Urban Affairs: Mr. Sarbanes, Mr. Dodd, Mr. Kerry of Massachusetts, Mr. Bryan, Mrs. Boxer, Ms. Moseley-Braun, Mr. Johnson, and Mr. Reed of Rhode Island.

Committee on Commerce, Science, and Transportation: Mr. Hollings, Mr. Inouye, Mr. Ford, Mr. Rockefeller, Mr. Kerry of Massachusetts, Mr. Breaux, Mr. Bryan, Mr. Dorgan, and Mr. Wyden.

Committee on Energy and Natural Resources: Mr. Bumpers, Mr. Ford, Mr. Bingaman, Mr. Akaka, Mr. Dorgan, Mr. Graham of Florida, Mr. Wyden, Mr. Johnson, and Ms. Landrieu.

Committee on Environment and Public Works: Mr. Baucus, Mr. Moynihan, Mr. Lautenberg, Mr. Reid of Nevada, Mr. Graham of Florida, Mr. Lieberman, Mrs. Boxer, and Mr. Wyden.

Committee on Finance: Mr. Moynihan, Mr. Baucus, Mr. Rockefeller, Mr. Breaux, Mr. Conrad, Mr. Graham of Florida, Ms. Moseley-Braun, Mr. Bryan, and Mr. Kerrey of Nebraska.

Committee on Foreign Relations: Mr. Biden, Mr. Sarbanes, Mr. Dodd, Mr. Kerry of Massachusetts, Mr. Robb, Mr. Feingold, Mrs. Feinstein, and Mr. Wellstone.

Committee on Governmental Affairs: Mr. Glenn, Mr. Levin, Mr. Lieberman, Mr. Akaka, Mr. Durbin, Mr. Torricelli, and Mr. Cleland.

Committee on the Judiciary: Mr. Leahy, Mr. Kennedy, Mr. Biden, Mr. Kohl, Mrs. Feinstein, Mr. Feingold, Mr. Durbin, and Mr. Torricelli.

Committee on Labor and Human Resources: Mr. Kennedy, Mr. Dodd, Mr. Harkin, Ms. Mikulski, Mr. Bingaman, Mr. Wellstone, Mrs. Murray, and Mr. Reed of Rhode Island.

SENATE RESOLUTION 12—MAKING MINORITY PARTY APPOINTMENTS TO CERTAIN SENATE COMMITTEES IN PARAGRAPH 3(a), (b) AND (c) OF RULE XXV

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 12

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the minority party's membership on the committees named in paragraph 3 (a), (b), and (c) of Rule XXV for the 105th Congress, or until their successors are appointed:

Committee on the Budget: Mr. Lautenberg, Mr. Hollings, Mr. Conrad, Mr. Sarbanes, Mrs. Boxer, Mrs. Murray, Mr. Wyden, Mr. Feingold, Mr. Johnson, and Mr. Durbin.

Committee on Rules and Administration: Mr. Ford, Mr. Byrd, Mr. Inouye, Mr. Moynihan, Mr. Dodd, Mrs. Feinstein, and Mr. Torricelli.

Committee on Small Business: Mr. Kerry of Massachusetts, Mr. Bumpers, Mr. Levin, Mr. Harkin, Mr. Lieberman, Mr. Wellstone, Mr. Cleland, and Ms. Landrieu.

Committee on Veterans' Affairs: Mr. Rockefeller, Mr. Graham of Florida, Mr. Akaka, Mr. Wellstone, and Mrs. Murray.

Select Committee on Indian Affairs: Mr. Inouye, Mr. Conrad, Mr. Reid of Nevada, Mr. Akaka, Mr. Wellstone, and Mr. Dorgan.

Special Committee on Aging: Mr. Breaux, Mr. Glenn, Mr. Reid of Nevada, Mr. Kohl, Mr. Feingold, Ms. Moseley-Braun, Mr. Wyden, and Mr. Reed of Rhode Island.

Committee on Intelligence: Mr. Kerrey of Nebraska, Mr. Glenn, Mr. Bryan, Mr. Graham of Florida, Mr. Kerry of Massachusetts, Mr. Baucus, Mr. Robb, Mr. Lautenberg, and Mr. Levin.

Joint Economic Committee: Mr. Bingaman, Mr. Sarbanes, Mr. Kennedy, and Mr. Robb.

Select Committee on Ethics: Mr. Reid of Nevada, Mrs. Murray, and Mr. Conrad.

SENATE RESOLUTION 13—MAKING MAJORITY PARTY APPOINTMENTS TO THE SENATE COMMITTEE ON THE JUDICIARY FOR THE 105TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 13

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority party's membership on the Senate Committee on the Judiciary for the 105th Congress, or until their successors are chosen:

Judiciary: Mr. Hatch (Chair), Mr. Thurmond, Mr. Grassley, Mr. Specter, Mr. Thompson, Mr. Kyl, Mr. DeWine, Mr. Ashcroft, Mr. Abraham, and Mr. Sessions.

SENATE RESOLUTION 14—MAKING MAJORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE 105TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 14

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the majority party's membership on those Senate committees listed below for the 105th Congress, or until their successors are appointed:

Budget: Mr. Domenici (Chair), Mr. Grassley, Mr. Nickles, Mr. Gramm of Texas, Mr. Bond, Mr. Gorton, Mr. Gregg, Ms. Snowe, Mr. Abraham, Mr. Frist, Mr. Grams, and Mr. Smith of Oregon.

Rules and Administration: Mr. Warner (Chair), Mr. Helms, Mr. Stevens, Mr. McConnell, Mr. Cochran, Mr. Santorum, Mr. Nickles, Mr. Lott, and Mrs. Hutchison of Texas.

Small Business: Mr. Bond (Chair), Mr. Burns, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett, Mr. Warner, Mr. Frist, Ms. Snowe, Mr. Faircloth, and Mr. Enzi.

Veterans' Affairs: Mr. Specter (Chair), Mr. Murkowski, Mr. Thurmond, Mr. Jeffords, Mr. Campbell, Mr. Craig, and Mr. Hutchinson of Arkansas.

Select Committee on Ethics: Mr. Smith of New Hampshire (Chair), Mr. Roberts, and Mr. Sessions.

Special Committee on Aging: Mr. Grassley (Chair), Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, Mr. Warner, Mr. Hagel, Ms. Collins, and Mr. Enzi.

Select Committee on Indian Affairs: Mr. Campbell (Chair), Mr. Murkowski, Mr. McCain, Mr. Gorton, Mr. Domenici, Mr. Thomas, Mr. Hatch, and Mr. Inhofe.

Intelligence: Mr. Shelby, (Chair), Mr. Chafee, Mr. Lugar, Mr. DeWine, Mr. Kyl, Mr. Inhofe, Mr. Hatch, Mr. Roberts, Mr. Allard, and Mr. Coats.

Joint Economic: Mr. Mack (Vice Chair), Mr. Roth, Mr. Bennett, Mr. Grams, Mr. Brownback, and Mr. Sessions.

PRESENTING THE ELECTORAL VOTE OF THE OFFICES OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

The undersigned, John W. Warner and Wendell H. Ford, tellers on the part of the Senate, William M. Thomas and Sam Gejdenson, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice President of the United States for the term beginning on the twentieth day of January, nineteen hundred and ninety-seven.

(1)	States	For President		For Vice President	
		Bill Clinton	Bob Dole	Al Gore	Jack Kemp
9	Alabama		9		9
3	Alaska		3		3
8	Arizona	8		8	
6	Arkansas	6		6	
54	California	54		54	
8	Colorado		8		8
8	Connecticut	8		8	
3	Delaware	3		3	
3	District of Columbia	3		3	
25	Florida	25		25	
13	Georgia		13		13
4	Hawaii	4		4	
4	Idaho		4		4
22	Illinois	22		22	
12	Indiana		12		12
7	Iowa	7		7	
6	Kansas		6		6
8	Kentucky	8		8	
9	Louisiana	9		9	
4	Maine	4		4	
10	Maryland	10		10	
12	Massachusetts	12		12	
18	Michigan	18		18	
10	Minnesota	10		10	
7	Mississippi		7		7
11	Missouri	11		11	
3	Montana		3		3
5	Nebraska		5		5
4	Nevada	4		4	
4	New Hampshire	4		4	
15	New Jersey	15		15	
5	New Mexico	5		5	
33	New York	33		33	
14	North Carolina		14		14
3	North Dakota		3		3
21	Ohio	21		21	
8	Oklahoma		8		8
7	Oregon	7		7	
23	Pennsylvania	23		23	
4	Rhode Island	4		4	
8	South Carolina		8		8
3	South Dakota		3		3
11	Tennessee	11		11	
32	Texas		32		32
5	Utah		5		5
3	Vermont	3		3	
13	Virginia		13		13
11	Washington	11		11	
5	West Virginia	5		5	
11	Wisconsin	11		11	
3	Wyoming		3		3
538		379	159	379	159

[1] Electoral Votes of each State.

JOHN W. WARNER,
WENDELL H. FORD,
Tellers on the part of the Senate.
WILLIAM M. THOMAS,
SAM GEJDENSON,
Tellers on the part of the House of Representatives.

The state of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for President of the United States is 538, of which a majority is 270.

Bill Clinton, of the State of Arkansas, has received for President of the United States 379 votes;

Bob Dole, of the State of Kansas, has received 159 votes;

The state of the vote for Vice President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice President of the United States is 538, of which a majority is 270.

Al Gore, of the State of Tennessee, has received for Vice President of the United States 379 votes;

Jack Kemp, of the State of Maryland, has received 159 votes;

This announcement of the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning on the twentieth day of January, nineteen hundred and ninety-seven and shall be entered, together with the list of the votes, on the Journals of the Senate and House of Representatives.

ADDITIONAL STATEMENTS

TRIBUTE TO CHESTER HERWITZ

• Mr. KERRY. Mr. President, I want to call the attention of my colleagues to Chester Herwitz, a resident of Worcester, MA, who on January 11 will be the sole American to receive the Indo-American Society Annual Award. The prominence of the two other recipients—Mother Teresa and Dr. Manmohan Singh, the former Finance Minister of India—attests to the prestige of this award.

Born in Swampscott, MA, Chester moved west within my State, eventually settling in Worcester. I have known Chester Herwitz for almost 30 years. He brings enormous passion, intelligence, energy, and integrity to his chosen field, contemporary Indian art. For more than 20 years, he has lent works from his collection to dozens of museums in England, France, and the United States, including two in Massachusetts, the Worcester Art Museum and the Peabody Essex Museum in Salem.

I also applaud the good works of Chester and his wife Davida. In 1994, they established the Chester and Davida Herwitz Charitable Trust to support contemporary Indian art. In addition, Chester has served on the board of several charitable and social-service organizations in Massachusetts.

I am particularly proud that a great nation like India will recognize Chester's work. I trust that Chester will continue to enrich the cultures of both India and the United States.•

AM 1450 WMIQ

• Mr. LEVIN. Mr. President, I rise today to honor AM 1450, Iron Mountain and Kingsford, Michigan's Information Station. On January 25, 1996, the station will celebrate 50 years of continuous broadcasting and community service.

On April 4, 1946, the first organizational meeting of the Iron Mountain Kingsford Broadcasting Co. was held to license a new radio station for the area. William and Frank Russell, along with the Delta Broadcasting Co. and the Lake Superior Broadcasting Co., were the driving force behind this organizing group. The new radio station was to be a news station operated by the Iron Mountain News, the area's daily newspaper.

Construction on the broadcast facility began on November 14, 1946 and on November 21, the new station was officially named WMIQ, with William Goodrich serving as its first general manager. On Saturday, January 25, 1947, WMIQ began broadcasting at 8:00 a.m. Governors Sigler of Michigan and Goodland of Wisconsin both wired the station to offer words of congratulation.

During the past 50 years, programming has included national and local news coverage, the "Scandinavian Cheer Hour" broadcast from the Bethel Mission Covenant Church in Swedish, live musical performances, the WMIQ Playhouse and Sunday morning services from First Lutheran Church. WMIQ also has a long history of national and local sports coverage.

WMIQ ownership changed hands in 1968 when Jim Klungness and Charles Henry purchased the radio station. WMIQ currently has sister stations WIMK–FM in Iron Mountain and WUPK–FM in Marquette. WMIQ has been very active in the community over the years by supporting the Caring House for domestic violence victims, the Can-A-Thon food drive, the March of Dimes and Easter Seals.

WMIQ has been an integral part of the Iron Mountain and Kingsford communities for the past fifty years. Its great work keeping the public apprised of current events has earned WMIQ the title of Michigan's "Information Station." I know my Senate colleagues join me in congratulating WMIQ for a half century of service to its broadcasting audience.•

HONORING THE ACHIEVEMENTS OF THE UNIVERSITY OF WISCONSIN-OSHKOSH

• Mr. KOHL. Mr. President, I rise today to pay tribute to the University of Wisconsin-Oshkosh. UW-Oshkosh is celebrating its service to the State of Wisconsin as an institute of higher learning for 125 consecutive years and will be concluding its celebration with a large community event on February 8, 1997.

The University of Wisconsin-Oshkosh has a rich tradition of serving the families of our State through dedication and devotion to the principles of higher education. UW-Oshkosh was founded in 1871 with an entering class of 43 students. During that time the university was mainly a teacher-training institution, producing thousands of teachers who contributed immensely to Wisconsin's leadership in education.

Today, as part of the distinguished University of Wisconsin System, UW-Oshkosh enrolls more than 10,000 students on its campus in Fox River, WI. The university's four colleges and graduate school offer a range of programs in education and human services, letters and science, business administration, and nursing. With a tradition of strong programs in the arts and sciences and in professional career fields, the university has created an environment that promotes excellence and values diversity. In the past several years faculty and students have created a blueprint for the university's future, including a vision statement and 11 goals. Mr. President, the blueprint has been working because for the third consecutive year UW-Oshkosh ranks in the first tier of Midwestern colleges and universities by U.S. News and World Report.

I hope that all of you will join me in congratulating the faculty, students, employees, and graduates of the University of Wisconsin-Oshkosh for all of their accomplishments during their 125 years of existence, and I know you will join me in wishing them well during the next 125 years.•

CALIFORNIA ASSEMBLY SPEAKER CRUZ BUSTAMANTE

• Mrs. BOXER. Mr. President, it is with great pleasure that I rise today to pay tribute to Cruz Bustamante, the newly elected speaker of the California Assembly.

Speaker Bustamante is a native Californian, born in Dinuba and raised in the great Central Valley, where he still lives and represents the 31st District. He graduated from Tranquility High School and attended Fresno City College and California State University at Fresno. He has had a career marked by community service, having worked in various employment and training programs.

He understands his community well, having served on numerous boards and commissions including the Fresno United Way Allocation Committee, Burroughs Elementary School Site Committee, City of Fresno Citizens Advisory Committee and the Roosevelt Plan Implementation Committee.

In addition to his extensive experience in state and local government and organizations, he also has a firm understanding of the workings of Congress and the Federal Government. Early in his career, he served as a summer intern in former Congressman B. F. Sisk's office. He later worked as district representative for former Congressman Richard Lehman.

Cruz Bustamante is California's first Assembly Speaker of Latino heritage. He is a modern day pioneer. California is home to millions of Latinos and others of various ethnic backgrounds. Mr. Bustamante's speakership heralds new horizons for every Californian concerned with the future of our ever changing State.

So today, I ask my colleagues in the United States Senate to join me and Speaker Bustamante's wife Arcelia, their daughters and grandchildren, his colleagues, constituents and numerous other supporters in wishing him every success as he meets this challenge.

Cruz Bustamante has been described by Republicans and Democrats alike as an intelligent and able leader. He has said that his tenure as Speaker will focus on the needs of the people of California. I look forward to working with him on behalf of all Californians, and I look forward to a continuing story of success for California's new Assembly Speaker, Cruz Bustamante.•

ORDERS FOR TUESDAY, JANUARY 21, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment, under the provisions of Senate Concurrent Resolution 3, until the hour of 12 noon on Tuesday, January 21; further, immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time following convening and 12:30 be equally divided between the two leaders or their designees.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. I ask unanimous consent that the Senate stand in recess on Tuesday, January 21, from the hours of 12:30 to 2:15 p.m. for the weekly party conferences to meet.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. I further ask that at 2:15 p.m. on Tuesday, January 21, there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. As a reminder to all Senators, immediately following the joint session today, the Senate will adjourn over until Tuesday, January 21, under a previous agreement. Senators will be allowed to introduce legislation on the 21st, beginning at 2:15 p.m. Therefore, I expect many Members will be prepared to submit legislation and make statements during the morning business period on that Tuesday.

I wish everyone a restful upcoming week and look forward to the 21st when we will begin the work of the 105th Congress. We will look forward to hearing the President's State of the Union Address and receiving his budget submission, I believe, on February 6. In the meantime, we will be having hearings on nominations and are hopeful we can have a couple of confirmation votes in the first week we are in session beginning the 21st.

I yield the floor.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDENT pro tempore. The Chair, on behalf of the Vice President, appoints the Senator from Virginia [Mr. WARNER], and the Senator from Kentucky [Mr. FORD], as tellers on the part of the Senate to count the electoral votes.

JOINT SESSION OF THE TWO HOUSES—COUNTING OF ELECTORAL BALLOTS

Thereupon, at 12:47 p.m., the Senate, preceded by the Secretary of the Senate, Gary L. Sisco, and the Sergeant at Arms, Gregory S. Casey, proceeded to the Hall of the House of Representatives for the purpose of counting electoral ballots.

ADJOURNMENT UNTIL TUESDAY, JANUARY 21, 1997

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 1:24 p.m., the Senate adjourned until Tuesday, January 21, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 9, 1997:

CENTRAL INTELLIGENCE

ANTHONY LAKE, OF MASSACHUSETTS, TO BE DIRECTOR OF CENTRAL INTELLIGENCE, VICE JOHN M. DEUTCH, RESIGNED.

DEPARTMENT OF STATE

GENTA HAWKINS HOLMES, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA.

ANNE W. PATTERSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

ARMA JANE KARAER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO PAPUA NEW GUINEA, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SOLOMON ISLANDS, AND AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VANUATU.

DENNIS K. HAYS, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

JOHN FRANCIS MAISTO, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VENEZUELA.

PETE PETERSON, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

JOHN STERN WOLF, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. COORDINATOR FOR ASIA PACIFIC ECONOMIC COOPERATION (APEC).

RICHARD W. BOGOSIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL COORDINATOR FOR RWANDA/BURUNDI.

MADELEINE KORBEL ALBRIGHT, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 51ST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

EDWARD WILLIAM GNEHM, JR., OF GEORGIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 51ST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

KARL FREDERICK INDERFURTH, OF NORTH CAROLINA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 51ST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

VICTOR MARRERO, OF NEW YORK, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 51ST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

FARM CREDIT ADMINISTRATION

LOWELL LEE JUNKINS, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE EDWARD CHARLES WILLIAMSON.

DEPARTMENT OF DEFENSE

KEITH R. HALL, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE JEFFREY K. HARRIS, RESIGNED.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

SUSAN R. BARON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1997 (REAPPOINTMENT)

NATIONAL INSTITUTE OF BUILDING SCIENCES

CHARLES A. GUELI, OF MARYLAND TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1999, VICE WALTER SCOTT BLACKBURN, TERM EXPIRED.

NIRANJAN S. SHAH, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1998, VICE JOHN H. MILLER, TERM EXPIRED.

NATIONAL CREDIT UNION ADMINISTRATION

YOLANDA TOWNSEND WHEAT, OF MISSOURI, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING AUGUST 2, 2001, VICE ROBERT H. SWAN, TERM EXPIRED.

FEDERAL TRADE COMMISSION

SHEILA FOSTER ANTHONY, OF ARKANSAS, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1995, VICE JANET DEMPSEY STEIGER, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

TRIRUVARUR R. LAKSHMANAN, OF NEW HAMPSHIRE, TO BE DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS, DEPARTMENT OF TRANSPORTATION, FOR THE TERM OF 4 YEARS. (REAPPOINTMENT)

EXECUTIVE OFFICE OF THE PRESIDENT

JERRY M. MELILLO, OF MASSACHUSETTS, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE ROBERT T. WATSON, RESIGNED.

KERRI-ANN JONES, OF MARYLAND, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE ROBERT T. WATSON, RESIGNED.

CORPORATION FOR PUBLIC BROADCASTING

HEIDI H. SCHULMAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2002, VICE MARTHA BUCHANAN, RESIGNED.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

RONALD KENT BURTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2002. (REAPPOINTMENT)

D. MICHAEL RAPPOPORT, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2002. (REAPPOINTMENT)

JUDITH M. ESPINOSA, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 4 YEARS. (NEW POSITION)

TENESSEE VALLEY AUTHORITY

JOHNNY H. HAYES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2005. (REAPPOINTMENT)

MISSISSIPPI RIVER COMMISSION

BRIGADIER GENERAL ROBERT BERNARD FLOWERS, UNITED STATES ARMY, TO BE A MEMBER AND PRESIDENT OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 2 OF AN ACT OF CONGRESS, APPROVED JUNE 1879 (21 STAT. 37) (33 USC 642).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

KEVIN L. THURM, OF NEW YORK, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES, VICE WALTER D. BROADNAX, RESIGNED.

GENERAL SERVICES ADMINISTRATION

DAVID J. BARRAM, OF CALIFORNIA, TO BE ADMINISTRATOR OF GENERAL SERVICES, VICE ROGER W. JOHNSON, RESIGNED.

SPECIAL PANEL ON APPEALS

DENIS J. HAUPTLY, OF MINNESOTA, TO BE CHAIRMAN OF THE SPECIAL PANEL ON APPEALS FOR A TERM OF 6 YEARS, VICE BARBARA JEAN MAHONE, TERM EXPIRED.

CIVIL LIBERTIES PUBLIC EDUCATION FUND

LEO K. GOTO, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 2 YEARS. (NEW POSITION)

DON T. NAKANISHI, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 2 YEARS. (NEW POSITION)

PEGGY A. NAGAE, OF OREGON, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 3 YEARS. (NEW POSITION)

DALE MINAMI, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 3 YEARS. (NEW POSITION)

YEIICHI KUWAYAMA, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 3 YEARS. (NEW POSITION)

ELSA H. KUDO, OF HAWAII, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 2 YEARS. (NEW POSITION)

ROBERT F. DRINAN, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 3 YEARS. (NEW POSITION)

SUSAN HAYASE, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 3 YEARS. (NEW POSITION)

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

MICHAEL A. NARANJO, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2002, VICE BEATRICE RIVAS SANCHEZ, TERM EXPIRED.

JEANNE GIVENS, OF IDAHO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 2002, VICE PIESTEWA ROBERT HAROLD AMES, TERM EXPIRING.

BARBARA BLUM, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2002. (REAPPOINTMENT)

LETITIA CHAMBERS, OF OKLAHOMA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2000, VICE ROY M. HUHNDORF, RESIGNED.

STATE JUSTICE INSTITUTE

SOPHIA H. HALL, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1997, VICE JOHN F. DAFFRON, JR., TERM EXPIRED.

SOPHIA H. HALL, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2002. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

ROSE OCHI, OF CALIFORNIA, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF 4 YEARS, VICE GRACE FLORES-HUGHES, TERM EXPIRED.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

DANIEL GUTTMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2001, VICE EDWIN G. FOULKE, JR., TERM EXPIRED.

DEPARTMENT OF EDUCATION

GERALD N. TIROZZI, OF CONNECTICUT, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE THOMAS W. PAYZANT, RESIGNED.

LEGAL SERVICES CORPORATION

HULETT HALL ASKEW, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1998. (REAPPOINTMENT)

ERNESTINE P. WATLINGTON, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1999. (REAPPOINTMENT)

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 2002. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATHAN LEVENTHAL, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2002, VICE WILLIAM BAILEY, TERM EXPIRED.

UNITED STATES INSTITUTE OF PEACE

JOSEPH LANE KIRKLAND, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2001 (REAPPOINTMENT).

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

A.E. DICK HOWARD, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF 6 YEARS, VICE LANCE BANNING.

NATIONAL INSTITUTE FOR LITERACY

JON DEVEAUX, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING OCTOBER 12, 1998 (REAPPOINTMENT).

NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD

ANTHONY R. SARMIENTO, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 22, 1998, VICE BENITA C. SOMERFIELD, TERM EXPIRED.

NATIONAL LABOR RELATIONS BOARD

SARAH MCCRACKEN FOX, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF 5 YEARS EXPIRING AUGUST 27, 2000, VICE JAMES M. STEPHENS, TERM EXPIRED.

NATIONAL MEDIATION BOARD

MAGDALENA G. JACOBSEN, OF OREGON, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 1999 (REAPPOINTMENT).

EXECUTIVE OFFICE OF THE PRESIDENT

PATRICIA M. MCMAHON, OF NEW HAMPSHIRE, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE FRED W. GARCIA.

NATIONAL SCIENCE FOUNDATION

M.R.C. GREENWOOD, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002, VICE PERRY L. ADKISSON, TERM EXPIRED.

JOHN A. ARMSTRONG, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002, VICE THOMAS B. DAY, TERM EXPIRED.

STANLEY VINCENT JASKOLSKI, OF OHIO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002, VICE JAMES JOHNSON DUDERSTADT, TERM EXPIRED.

JANE LUBCHENCO, OF OREGON, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000, VICE W. GLENN CAMPBELL, TERM EXPIRED.

RICHARD A. TAPIA, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002, VICE PHILLIP A. GRIFFITHS, TERM EXPIRED.

MARY K. GAILLARD, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002, VICE MARYE A. FOX, TERM EXPIRED.

BOB H. SUZUKI, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002, VICE JAIME OAXACA, TERM EXPIRED.

EAMON M. KELLY, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002, VICE HOWARD E. SIMMONS, TERM EXPIRED.

VERA C. RUBIN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002, VICE BERNARD F. BURKE, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be colonel

JOHN A. ADAMS, 7837
AVERY V. ALLISON, 1632
WILLIAM H. ANDERSEN, 4058
CLINTON T. ANDERSON, 6270
EDWIN W. ANDERSON, 5572
ANDREW A. ANGELACCI, 1382
BERTRAM ARMSTRONG, [illegible]
JAMES E. ARMSTRONG, 8305
WILLIAM R. AULTMAN, 4993
CHRISTOPHER BAGGOTT, 8642
JOHN E. BAGGOTT, 8638
HAROLD L. BAKKEN, 7868
JOHN M. BEDNAREK, 5704
VANGEORGE BELANGER, 5678
AUSTIN D. BELL, 2477
ROBERT T. BELTON, 9983
DAVID A. BENTLEY, 9846
GARY W. BERRY, 1842
REGINALD R. BERRY, 6852
LOUIS R. BEST, 2335
JEFFREY C. BISCHOFF, 6219
NOLEN V. BIVENS, 6799
WILLIAM BLANKMEYER, 1213
MICHAEL A. BLATTI, 3423
IVAN G. BOLDEN, 5080
VINCENT E. BOLES, 8885
DANIEL P. BOLGER, 5269
JOSEPH A. BOLICK, 6395
STEPHEN J. BOND, 6869
JAMES J. BONDI, 3604
DANIEL J. BOURGOINE, 4883
GEORGE E. BOWERS, 8991
RICHARD B. BOWMAN, 3483
DONALD R. BOYD, 9293
HERCHELL A. BOYD, 0508
ARTHUR BREITHAUPT, 8898
HOWARD B. BROMBERG, 2959
JAMES L. BROOKE, 1520
DAVID P. BROSTROM, 7864
DONALD W. BROWNE, 4721
DAVID J. BUCKLEY, 2248
DANIEL L. BURGHART, 1132
ALFRED E. BURKHARD, 1059
DANIEL J. BURROWS, 5200
RALPH E. BUSH, 8425
MICHAEL P. CALDWELL, 2550
CARL J. CARRANO, 6273
WALTON C. CARROLL, 3062
ROBERT D. CARTER, 5905
CHARLES CARTWRIGHT, 2898
CARL E. CASE, 4840
JOHN S. CHAPPELL, 8024
THOMAS L. CHARLSON, 8871
JONATHAN P. CHASE, 5475
ANDREW T. CHMAR, 5545
BEN F. CLAWSON, 6309
ALLEN E. CLEGHORN, 3659
MICHAEL R. CLEMENTS, 9383
JAMES T. CLIFFORN, 3167
ROBERT A. CLINE,, 0492
DAVID M. COLE, 1051
KENNETH S. COLLIER, 3350
DARIO A. COMPAIN, 8259
BURCE W. CONDREY, 8151
THOMAS P. CONNORS, 4216
MICHAEL L. CONRAD, 2716
VIRGIL W. COOK, 4004
OTIS E. COOKSEY, 0262
WILLIAM F. CRAIN, 7923
ROBERT CREAR, 4798
THOMAS R. CSRNKO, 1332
DAVID C. CUTLER, 4843
PETER G. DAUSEN, 4319
RONALD H. DAVIDSON, 6627
CHARLES E. DAVIS, 0969
EDWIN F. DAVIS, 4029
JOHN DEFREITAS, 7924
JAMES W. DELONY, 3177
RALPH F. DELOSUA, 1624
THOMAS A. DEMPSEY, 6235
DEBRA L. DEVILLE, 4480
CORTEZ K. DIAL, 1874
JACK C. DIBRELL, 9242
MICHELLE L. DICK, 3969
CLIFFORD M. DICKMAN, 6571
JOHN T. DILLARD, 0922
RICHARD B. DRIVER, 9721
WILLIAM L. DRIVER, 5152
MARCUS G. DUDLEY, 6950
PATRICK C. DUNKLE, 5656
BERNARD J. DUNN, 0773
HENRY A. DURAN, 0029
ROBERT E. DURBIN, 9354
JAMES C. DWYER, 2900
JEFFREY R. EARLEY, 1643
DANIEL R. EDGERTON, 7557
BERNARD E. ELLIS, 5165
PETER T. FARRELL, 1813
GINA S. FARRISEE, 7084
WILLIAM R. FAST, 2737
DENNIS O. FAVER, 4497
THOMAS W. FEICK, 7149
WILLIAM G. FILLMAN, 6594
LEONARD M. FINLEY, 1622
RONALD C. FLOM, 8504
RICHARD J. FLOOD, 7249
LEONARDO V. FLOR, 3103
PATRICK J. FLYNN, 2272
WILLIAM M. FORD, 8480
RICHARD P. FORMICA, 7015
RUSSELL S. FORSHAG, 9337
CHARLES J. FOWLER, 0973
DANIEL H. FRENCH, 8436
JAN R. FRYE, 8560
MICHEAL W. FULLER, 4796
MICHAEL J. GAFFNEY, 4491
KATHLEEN M. GAINEY, 4227
RANDY L. GARNER, 3928
W.C. GARRISON, 5979
RALPH D. GHENT, 5187
LARRY L. GHORMLEY, 2220
RICHARD C. GONDER, 2261
MICHAEL J. GOUGH, 8205
GEORGE K. GRAMER, 6373
KENNETH GRAY, 3368
JON D. GREER, 8702
JEFFREY L. GROH, 6179
THOMAS M. GROSS, 2661
STEVEN G. GUTHRIE, 0899
MICHAEL K. HAINLINE, 1326
MICHAEL E. HAITH, 2931
MONIQUE M. HALE, 4903
DEWAYNE P. HALL, 8112
LARRY P. HALL, 6695
CARTER F. HAM, 0921
WILTON L. HAM, JR., 2903
MICHAEL N. HAMPSON, 3510
CRAIG B. HANFORD, 1369
RALPH M. HARRIS, 0436
WILLIAM H. HARRIS, 5685
JERRY D. HATLEY, 5263
MARK W. HAYS, 2603
STEPHEN P. HAYWARD, 3091
GEORGE H. HAZEL, 9298
FRANK G. HELMICK, 8189
RHETT A. HERNANDEZ, 7009
STEPHEN A. HICKS, 1852
MICHAEL A. HIEMSTRA, 2974
JAMES C. HIETT, 7668
JERRY C. HILL, 3154
WALLACE B. HOBSON, 7363
AMBROSE R. HOCK, 2079
LEE J. HOCKMAN, 6849
ROBERT I. HOIDAHL, 0189
THOMAS A. HOLDEN, 8026
JOSEPH HOLLENBECK, 1987
BRUCE A. HOOVER, 7079
DOUGLAS L. HORN, 6769
JOHN M. HOUSE, 5531
SAMUEL J. HUBBARD, 4039
ROBERT HUDDLESTON, 0190
IRA H. HUDSON, 2365
PAUL D. HUGHES, 8810
WILLIAM D. IVEY, 2381

LEONARD A. IZZO, 6542
PAUL S. IZZO, 1942
WILLIAM M. JACOBS, 6398
CHARLES H. JACOBY, 3627
THEODORE J. JANOSKO, 9734
NICHOLAS R. JOHNSEN, 4279
LARRY R. JOHNSTON, 0200
GARY M. JONES, 0483
MICHAEL D. JONES, 8227
FRANK R. JORDAN, 0148
DANIEL R. JUDY, 6997
GEORGE J. KAIGH, 2412
DAVID P. KAPINOS, 4727
KENNETH KASPRISIN, 1483
JOSEPH G. KAUFMANN, 4580
WILLIAM J. KAY, II, 3490
MICHAEL KAZMIERSKI, 7038
KEVIN J. KEADY, 6206
FRANCIS H. KEARNEY, 9443
PURL K. KEEN, 3412
LARRY M. KEETON, 3087
MARK A. KELLY, 2463
CARRIE W. KENDRICK, 3658
JAMES L. KENNON, 4010
MICHAEL R. KERSHNER, 5916
HUGO KEYNER, 1989
GENE E. KING, 2413
ROBERT A. KIRSCH, 3093
ROBERT S. KIRSCH, 3289
JOHN S. KLEGKA, 6336
WILLIAM S. KNOEBEL, 9739
REED C. KOWALCZYK, 2701
CARL J. KREISEL, 0518
DANIEL W. KRUEGER, 5891
BRUCE K. LADEIRA, 8793
WILLIAM M. LANDRUM, 2572
RICHARD LANGHORST, 7839
MICHAEL A. LANSING, 2016
PETR F. LARSON, 1617
ROBERT P. LENNOX, 8104
ROBERT M. LEON, 5059
MILTON K. LEWIS, 8977
THOMAS LITTLEFIELD, 8641
GREGORY J. LYNCH, 4089
TIMOTHY D. LYNCH, 8679
CLARK LYNN III, 5434
RICHARD F. MACHAMER, 3847
CRAIG K. MADDEN, 8925
BRITTAIN P. MALLOW, 7504
JOSEPH P. MANNING, 2442
WILLIAM R. MANSELL, 3103
DELMAR C. MAUDLIN, 4412
RICHARD L. MCCABE, 6950
JACOB M. MCFERREN, 3468
ALEX B. MCKINDRA, 8333
JOHN P. MCMULLEN, 5465
ROBERT J. MCNEIL, 6703
JOHN B. MESSAMORE, 6348
FRANK W. MILLER, 1652
RICHARD W. MILLS, 9267
JAMES R. MORAN, 2618
JOHN W. MORGAN, 7279
WILLIAM M. MORGAN, 2794
DAVID K. MORROW, 2159
GREGG R. MORTENSEN, 7087
ANITA L. MOYER, 2132
LEOCADIO MUNIZ, 9440
DENNIS M. MURPHY, 4560
ROGER F. MURTIE, 6481
GRAVES T. MYERS, 0980
NILGUN O. NESBETT, 8156
JOSEPH G. NESBITT, 3093
CLARENCE C. NEWBY, 0622
THOMAS R. NORREN, 1596
KENNETH OBERMEYER, 1939
HOWARD A. OLSEN, 8554
AUSTIN R. OMILE, 5536
MARK E. ONEILL, 4225
JOHN R. OSWEILER, 3269
CLYDE A. PAGE, 5698
MICHAEL L. PARKER, 6610
WAYLAND E. PARKER, 0039
WILLIAM PARTRIDGE, 7885
DAN B. PATTERSON, 8728
ERVIN PEARSON, 3468
MICHAEL R. PELKEY, 1138
RICHARD R. PEREZ, 8289
MICHAEL T. PERRIN, 4060
KEVIN C. PETERSON, 1030
KENNETH A. PIERSON, 4598
DANIEL W. PIKE, 1800
CARROLL F. POLLETT, 9096
WALTER W. POLLEY, 1209
MITCHEL T. POODRY, 0035
WADE O. POPOVICH, 1584
MICHAEL W. PRATT, 2653
JERRY V. PROCTOR, 4580
WILLIAM R. PUTTMANN, 0231
MICHAEL R. RAMPY, 2581
GUY E. RAYMOND, 7838
MARK J. REDLINGER, 5734
DAVID J. REHBEIN, 7558
JOHN J. REIDT, 6995
KEVIN P. REYNOLDS, 7128
DAVID R. RIDENOUR, 2229
SIDNEY E. RILEY, 7285
TOMAS R. RILEY, 6217
JOSE D. RIOJAS, 9387
RONNIE R. ROBERTS, 5569
THOMAS E. ROBERTS, 0999
MITCHELL S. ROSS, 9663
FLORIAN ROTHBRUST, 8681
L.C. RUSH JR., 9000
CALVIN L. RUSSELL, 4394
JACK W. RUSSELL, 6443
OLIN E. SAUNDERS, 0564
MARK E. SCHEID, 7591
JEFFREY SCHOLESSER, 3460
JOSEPH K. SCHMITT, 7964
PAUL W. SELF, 4939
ROBIN B. SELLERS, 3542
THOMAS M. SHEA, 4493
CLAUDE W. SHIPLEY, 3515
MICHAEL R. SIMONE, 4923
EDWARD J. SINCLAIR, 9044
DAVID L. SLOTWINSKI, 8294
WILLIAM D. STALEY, 8322
ANDREW J. STANLEY, 4102
RANDELL STANSFIELD, 2258
JIMMY D. STEPHENS, 8230
MICHAEL J. STEWART, 5482
CHRISTOPHER STJOHN, 0573
SAMUEL K. STOUFFER, 4640
HENRY W. SUCHTING, 0389
BRUCE A. SYDNOR, 2672
NICHOLAS J. SZASZ, 6919
RANDAL G. TART, 1457
JAMES R. TAYLOR, 9190
MERDITH W. TEMPLE, 2899
JAMES L. TERRY, 6451
HARRY G. THIGPEN, 4485
JAMES H. THOMAS, 9456
LAURENCE E. THOMAS, 6564
LEWIS H. THOMPSON, 9271
ROBERT L. THOMSON, 4644
JAMES R. TIREY, 9351
DAVID E. TITUS, 0882
MARY L. TORGERSEN, 1527
BARRY N. TOTTEN, 6259
LOUIS A. TRAVERZO, 5831
ROBERT W. TROST, 6053
WILLIAM J. TROY, 4572
LARRY L. TURGEON, 2138
FRANK D. TURNER, 8961
THOMAS G. TURNING, 6850
LEE A. VAN ARSDALE, 5542
EDWIN F. VEIGA, 1405
JAMES L. VELKY, 3095
SEAN M. WACHUTKA, 2402
GREGORY D. WALKER, 0027
ROSE A. WALKER, 1496
GERARD M. WALSH, 5971
TIMOTHY G. WANSBURY, 8320
BARRY M. WARD, 5906
JAMES E. WARD, 3121
DAVID W. WASHECHEK, 9857
JOSEPH E. WASIAK, 5366
RICHARD WATERHOUSE, 5174
JAMES S. WELLER, 0408
BILLY E. WELLS, 1775
LARRY R. WEST, 2783
RICHARD D. WEST, 7624
SCOTT G. WEST, 5375
JOHN S. WESTWOOD, 4005
KENNETH C. WHITE, 4067
MOSES J. WHITEHURST, 8798
WANDA E. WILSON, 9448
NAPOLEON WRIGHT, 5267
RANDY C. WRIGHT, 7746
ANDREW E. WYNARSKY, 4479
KENNETH M. YOUNGER, 1200

HOUSE OF REPRESENTATIVES—*Thursday, January 9, 1997*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let our prayers of thanksgiving, O God, rise as incense to the heavens as we express our gratitude for all Your wondrous blessings. May Your good words of peace, of reconciliation, of faithfulness echo in our hearts and in our lives.

On this day we remember those men and women who have dedicated themselves to public service, who use their abilities as leaders in doing the works of righteousness and justice for all people. We pray, almighty God, that You would bless their efforts as they seek to demonstrate anew the strength that comes when people join in a vision that unites each person for the common good.

May Your peace, O God, that You freely give to us in the depths of our hearts, be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. KILDEE] come forward and lead the House in the Pledge of Allegiance.

Mr. KILDEE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM HON. JIM BUNNING, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable JIM BUNNING, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 8, 1997.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to notify you that I consider my service as a member of the Ethics Committee complete.

Best personal regards,

JIM BUNNING,
Member of Congress.

APPOINTMENT OF MEMBER TO SELECT COMMITTEE ON ETHICS

Mr. ARMEY. Mr. Speaker, pursuant to clause 4(e)(3) of rule X, I hereby appoint the Honorable LAMAR SMITH of Texas to fill a vacancy on the Select Committee on Ethics.

MAKING TECHNICAL CORRECTIONS TO OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

Mr. LIVINGSTON. Mr. Speaker, I offer a joint resolution (H.J. Res. 25) making technical corrections to the Omnibus Consolidated Appropriations Act of 1997 (Public Law 104–208), and for other purposes, and I ask unanimous consent that the House immediately consider and pass the joint resolution.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Reserving the right to object, Mr. Speaker, I do not intend to object, but I simply do so to enable the gentleman from Louisiana to explain his request.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I will be happy to explain the changes to the fiscal year 1997 Omnibus Consolidated Appropriations Act proposed in the joint resolution that is the object of my unanimous-consent request.

As the gentleman will recall, one of the last actions of the 104th Congress was to pass this Omnibus Consolidated Appropriations Act. Back in late September, even though we were intensely negotiating for several consecutive days almost around the clock, we were running out of time before the new fiscal year began. We were rushing to complete our work. In this rush, several errors and omissions were made during the bill preparation so that what was signed into law did not reflect the actual agreement on this bill in a few instances.

The bill was hand enrolled and was over 8 inches thick, plus another 4 inches for the Statement of Managers. During the preparation and reproduction of the bill, one page was omitted in the copy that became law. This bill had 1,929 pages, and the Statement of Managers had nearly 1,000 pages. While it is unfortunate that this type of error occurred, considering the sheer volume of the bill and the time we had to put it together, I think we did a pretty good job. Section 1 of this joint resolution inserts the matter that was inadvertently dropped.

Sections 2 and 3 deal with correcting text that did not reflect agreement on the bill. These drafting errors resulted from failing to change all portions of preliminary text to reflect the intent of the final agreement.

The corrections proposed by this joint resolution reflect only the original agreement on this Omnibus Appropriations Act, not any changes to that agreement. They are necessary to fully carry out the original agreement.

I thank the gentleman for yielding to me, and I urge the adoption of this joint resolution.

Mr. OBEY. Mr. Speaker, I support the gentleman's motion, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 25

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Title III of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997 (as contained in DIVISION A, TITLE I—OMNIBUS APPROPRIATIONS, section 101(a) of the Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208) is amended under the heading "COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES—DEFENDER SERVICES" by striking "attorneys ap-" at the end and inserting the following: "attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); $308,000,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).". The foregoing amendment shall be considered for all purposes to have taken effect on the date of enactment of Public Law 104–208, and any actions taken prior to the date of enactment of this section on the basis that Public Law 104–208 should be interpreted as if it included the amendment made by this section, if otherwise valid, are ratified and approved by Congress.

SEC. 2. Title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (as contained in DIVISION A, TITLE I—OMNIBUS APPROPRIATIONS, section 101(e) of the Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208) is amended under the heading "EMPLOYMENT AND TRAINING ADMINISTRATION—STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS" by striking "$23,452,000" and inserting "$173,452,000".

SEC. 3. Funds available for title IV–A–1 of the Elementary and Secondary Education

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

act in title III of the Departments of Labor, Health and Human Services, and Education, and Related Agencies, Appopriations Act, 1997 (as contained in DIVISION A, TITLE I—OMNIBUS APPROPRIATIONS, section 101(e) of the Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208) under the heading "SCHOOL IMPROVEMENT PROGRAMS" shall also be available for title IV–A–2 of the Elementary and Secondary Education Act: *Provided*, That, of the funds under these headings in that Act available July 1, 1997, through September 30, 1998, $25,000,000 shall instead be available October 1, 1996, through September 30, 1997.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution just passed, and that I may include tabular and extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. LIVINGSTON. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 25) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 25

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees:

Committee on Science: Mr. Sensenbrenner, Chairman.

Committee on Small Business: Mr. Talent, Chairman.

Committee on Veterans' Affairs: Mr. Stump, Chairman.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF TEMPORARY CHIEF ADMINISTRATIVE OFFICER OF HOUSE OF REPRESENTATIVES

The SPEAKER. Pursuant to the provisions of section 208(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 75a–1(a)), the Chair appoints Jeff Trandahl of Virginia to act as and to exercise temporarily the duties of Chief Administrative Officer of the House of Representatives.

Mr. Trandahl appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, January 7, 1997.

Hon. Newt Gingrich,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Under Clause 4 of Rule III of the Rules of the U.S. House of Representatives, I herewith designate Ms. Linda Nave, Deputy Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which she would be authorized to do by virtue of this designation, except such as are provided by statute, in case of my temporary absence or disability.

This designation shall remain in effect for the 105th Congress or until modified by me.

Sincerely yours,
ROBIN H. CARLE,
Clerk.

APPOINTMENT AS TELLERS ON THE PART OF THE HOUSE TO COUNT ELECTORAL VOTES

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 1, 105th Congress, the Chair appoints as tellers on the part of the House to count the electoral votes the gentleman from California [Mr. THOMAS] and the gentleman from Connecticut [Mr. GEJDENSON].

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make a statement.

The Chair desires to defer unanimous-consent requests and 1-minute speeches until after the formal ceremony of the day, which is the counting of electoral votes for President and Vice President.

RECESS

The SPEAKER. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 12:55.

Accordingly (at 12 o'clock and 9 minutes p.m.) the House stood in recess until approximately 12:55 p.m.

☐ 1259

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 59 minutes p.m.

COUNTING ELECTORAL VOTES—JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF SENATE CONCURRENT RESOLUTION 1

At 1 p.m., the Assistant Sergeant at Arms, George Awkward, announced the Vice President and the Senate of the United States.

The Senate entered the Hall of the House of Representatives, headed by the Vice President and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The Vice President took his seat as the Presiding Officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left.

The joint session was called to order by the Vice President.

The VICE PRESIDENT. Mr. Speaker and Members of Congress, the Senate and the House of Representatives, pursuant to the requirements of the Constitution and the laws of the United States, are meeting in joint session for the purpose of opening the certificates and ascertaining and counting the votes of the electors of the several States for President and Vice President.

Under well-established precedents, unless a motion shall be made in any case, the reading of the formal portions of the certificates will be dispensed with. After ascertainment has been had that the certificates are authentic and correct in form, the tellers will count and make a list of the votes cast by the electors of the several States.

The tellers on the part of the two Houses will take their places at the Clerk's desk.

The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Alabama, and they will count and make a list of the votes cast by that State.

The tellers, Mr. WARNER and Mr. FORD on the part of the Senate, and Mr. THOMAS and Mr. GEJDENSON on the part of the House, took their places at the desk.

Senator WARNER (one of the tellers). Mr. President, the certificate of the electoral vote of the State of Alabama seems to be regular in form and authentic, and it appears therefrom that Bob Dole of the State of Kansas received 9 votes for President, and Jack Kemp of the State of Maryland received 9 votes for Vice President.

The VICE PRESIDENT. If there is no objection, the Chair will omit in the further procedure the formal statement just made, and we will open the certificates in alphabetical order and pass to the tellers the certificates showing the votes of the electors in each State; and the tellers will then read, count and announce the result in each State as was done with respect to the State of Alabama.

Is there objection?

The Chair hears no objection.

There was no objection.

The tellers then proceeded to read, count, and announce, as was done in the case of the State of Alabama, the electoral votes of the several States in alphabetical order.

□ 1315

The VICE PRESIDENT. Gentlemen and gentlewomen of the Congress, the certificates of all the States have now been opened and read, and the tellers will make final ascertainment of the result and deliver the same to the President of the Senate.

The tellers delivered to the President of the Senate the following statement of the results:

The undersigned, John W. Warner and Wendell H. Ford, tellers on the part of the Senate, William M. Thomas and Sam Gejdenson, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice President of the United States for the term beginning on the twentieth day of January, nineteen hundred and ninety-seven.

Electoral votes of each State	States	For President		For Vice President	
		Bill Clinton	Bob Dole	Al Gore	Jack Kemp
9	Alabama		9		9
3	Alaska		3		3
8	Arizona	8		8	
6	Arkansas	6		6	
54	California	54		54	
8	Colorado		8		8
8	Connecticut	8		8	
3	Delaware	3		3	
3	District of Columbia	3		3	
25	Florida	25		25	
13	Georgia		13		13
4	Hawaii	4		4	
4	Idaho		4		4
22	Illinois	22		22	
12	Indiana		12		12
7	Iowa	7		7	
6	Kansas		6		6
8	Kentucky	8		8	
9	Louisiana	9		9	
4	Maine	4		4	
10	Maryland	10		10	
12	Massachusetts	12		12	
18	Michigan	18		18	
10	Minnesota	10		10	
7	Mississippi		7		7
11	Missouri	11		11	
3	Montana		3		3
5	Nebraska		5		5
4	Nevada	4		4	
4	New Hampshire	4		4	
15	New Jersey	15		15	
5	New Mexico	5		5	
33	New York	33		33	
14	North Carolina		14		14
3	North Dakota		3		3
21	Ohio	21		21	
8	Oklahoma		8		8
7	Oregon	7		7	
23	Pennsylvania	23		23	
4	Rhode Island	4		4	
8	South Carolina		8		8
3	South Dakota		3		3
11	Tennessee	11		11	
32	Texas		32		32
5	Utah		5		5
3	Vermont	3		3	
13	Virginia		13		13
11	Washington	11		11	
5	West Virginia	5		5	
11	Wisconsin	11		11	
3	Wyoming		3		3
538	Totals	379	159	379	159

The VICE PRESIDENT. The state of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of electors appointed to vote for President of the United States is 538, of which a majority is 270.

Bill Clinton, of the State of Arkansas, has received for President of the United States 379 votes.

Bob Dole, of the State of Kansas, has received 159 votes.

The state of the vote for Vice President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of electors appointed to vote for Vice President of the United States is 538, of which a majority is 270.

AL GORE, of the State of Tennessee, has received for Vice President of the United States 379 votes.

Jack Kemp, of the State of Maryland, has received 159 votes.

This announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning on the 20th day of January 1997, and shall be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives.

Members of the Congress, the purpose for which the joint session of the two Houses of Congress has been called having been accomplished, pursuant to Senate Concurrent Resolution 1, 105th Congress, the Chair declares the joint session dissolved.

(Thereupon, at 1 o'clock and 24 minutes p.m., the joint session of the two Houses of Congress was dissolved.)

□ 1328

The House was called to order by the Speaker.

The SPEAKER. Pursuant to Senate Concurrent Resolution 1, 105th Congress, the Chair directs that the electoral vote will be spread at large upon the Journal.

RECESS

The SPEAKER. Pursuant to clause 12 of rule I, the House will stand in recess until 1:45 p.m.

Accordingly (at 1 o'clock and 28 minutes p.m.) the House stood in recess until 1:45 p.m.

□ 1345

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore. [Mr. LIVINGSTON]) at 1 o'clock and 45 minutes p.m.

ANNOUNCEMENT OF INTENTION TO OFFER A RESOLUTION RAISING A QUESTION OF PRIVILEGES OF THE HOUSE

Mr. MILLER of California. Pursuant to clause 2 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of privileges of the House. The form of the resolution is as follows:

> Be it resolved that the Select Committee on Ethics should complete its final report concerning Representative NEWT GINGRICH, and release that report to the public, before the House of Representatives considers a disciplinary resolution concerning the matter.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days its being properly noticed. That designation will be announced at a later time. In the meantime, the form of the resolution noticed by the gentleman from California [Mr. MILLER] will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at the time designated for the consideration of the resolution.

ANNOUNCEMENT OF INTENTION TO OFFER A RESOLUTION RAISING A QUESTION OF PRIVILEGES OF THE HOUSE

Mr. MILLER of California. Mr. Speaker, pursuant to clause 2 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House. The form of the resolution is as follows:

> Be it resolved that the Select Committee on Ethics should, when it releases its final report concerning Representative NEWT GINGRICH, disclose to the public all documents concerning the matter, including but not limited to the work of the special counsel.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days its being properly noticed. That designation will be announced at a later time. In the meantime, the form of the resolution noticed by the gentleman from California will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether or not the resolution constitutes a question of privilege. That determination will be made at the time designated for the consideration of the resolution.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

BIPARTISAN SUPPORT ESSENTIAL FOR COMPREHENSIVE EDUCATION REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee is recognized for 5 minutes.

Mr. FORD. Mr. Speaker, today, January 9, is a monumental day for postsecondary education. Just a few hours ago President Clinton announced that the college loan default rate has fallen to a 7-year low which translates into lower interest rates and more loans for young people. From a high of 22.4 percent in 1990 the default rate has dropped to approximately 10½ percent, and I applaud the Clinton administration for its efforts to improve the collection of defaulted loans and to prevent loans from falling into default status.

The Department of Education has done a sensational job in counseling students about their loan responsibilities and helping to create more flexible payment options for young people. A spokesman for the American Council on Education, an association representing colleges and universities, stated, "This administration has tightened up on weaknesses in the system, and defaults are down."

I agree, Mr. Speaker, with my colleagues who suggest we need to reform our educational system. However, I disagree with those who call for the abolition of the Department of Education. To the contrary, we need to expand the role of the Federal Government with respect to education and educational funding.

Recently, the Department of Education released Pursuing Excellence: A Study of Eighth Grade Mathematics and Science Teaching, Learning, Curriculum and Achievement in International Context. The results were not surprising. Although the United States is making progress compared to our major economic and political allies, Mr. Speaker, we must do much more. We must and can do so much for our children.

Instead of focusing entirely on punishing and sentencing young people, we should be searching for ways to challenge and propel people into the 21st century equipped with the tools to keep America competitive and make these young people viable holders of jobs in the marketplace.

As a new Member of Congress I intend to reach out to all of my colleagues on both sides of the aisle, particularly those in my own class. I was heartened yesterday, Mr. Speaker, by an encounter that I had with my new friend, the gentlewoman from Texas [Ms. GRANGER]. Strong bipartisan support is essential for any dynamic and comprehensive educational reform package to gain the support of the American people.

The investment in America that will generate the largest yield is an investment in America's potential. That is the education of our youth. As I stated earlier, this investment effort must be driven by bipartisanship and common sense rather than partisan ideology which lacks both a vision and a mandate.

I was pleased to see the Speaker both contrite and repentant in his view of the work facing the 105th Congress. The circumstances surrounding his election and the will of the American people necessitate our building together for the best interests, working together for the best interests of the future of America.

TAKING AIM AT OUR NATION'S PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

Mr. RIGGS. Mr. Speaker, I just want to take this opportunity to rise and follow up on our wonderful celebration on Tuesday of this week when the new Congress, the 105th Congress in our country's history, was sworn in and to remind my colleagues that amidst our welcome celebration it is good to harken back to the words of Winston Churchill, who said in 1942, "The problems of victory are more agreeable than those of defeat, but they are no less difficult."

With that in mind, I am anxious to work with my like minded colleagues on both sides of the political aisle to serve our constituents, who elected us to solve the many problems facing our country today, and make no doubt about it, those problems are real and they are severe.

Bill Bennett, a man that I very much respect, former Education Secretary and Drug Czar, was quoted the other day as saying the following: "America is the most powerful, affluent and envied nation in the world, but America also leads the industrialized world in rates of murder, violent crime, juvenile crime, imprisonment, abortion, divorce and single-parent families, the production and consumption of pornography, the production and consumption of drugs, and that is just a partial list."

So, Mr. Speaker, I would submit that the lasting lesson of this election, the lasting lesson of politics in America has little to do with the big winners and losers on election day. The real moral of the story, the real moral of this election is simply this. Our faith in our politics cannot be separated as we look at the issues and as we address the problems facing the American people. Whether it be crime in the streets, skyrocketing teen drug use, problems in education, a tax system that bankrupts the family, the crisis of illegitimacy and so forth, an individual's position on these topics is greatly influenced by one's moral and religious perspective.

In fact, as the Speaker suggested in his remarks to the Congress 2 days ago, religion is the single most important factor in determining how we vote. It is more influential than gender, race, or income. Still there are some who want to take morality and religion out of politics altogether. They want our leaders to conduct their business while keeping religious and moral convictions outside of the political debate. After all they would argue you cannot legislate morality.

In truth, however, the only thing that can be legislated is morality, for every legislative act is a moral judgment. Abraham Lincoln understood this clearly when in 1860 our country faced a similar cultural crisis. His opponents and even some of his political advisers told him then not to bring morality into politics or politics into religion, but he saw through their empty arguments and recognized slavery for what it was, a moral crisis that demanded a political response. Lincoln was a true statesman. He understood the moral of the story.

So, Mr. Speaker, I believe that we can work together to make government more efficient, more accountable and less intrusive, that working together we can make the problems of victory our greatest opportunity.

□ 1347

MILITARY WIDOWS MISLED AND MISTREATED

The SPEAKER pro tempore (Mr. LIVINGSTON). Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, the widows of our Nation's veterans are being misled and mistreated, misled and mistreated by our own Government.

Although I introduced legislation 2 years ago to terminate the confusing system that discriminates against surviving military spouses when they reach the age of 62, no action was taken on the bill, and the problem continues. I know you find it hard to believe, Mr. Speaker, that our Government condones a system that penalizes aging widows. I know I was shocked when the situation was first described to me.

Let me share with the Members a sad story that is typical of the thousands of these cases. When a resident of my congressional district retired after many years of honorable military service, he elected to have a portion of his monthly retirement pay set aside under the military survivors benefits plan, so-called SBP, so that when he died his wife would have an income she could count on. He knew the enormous sacrifices she had made in order to maintain a home for their family during his military career, often in parts of the world not nearly as lovely as my town of San Diego. He understood and appreciated that his wife had served their country as surely as he had.

He did not, however, understand that following his too early untimely death, the SBP would provide his wife with the financial cushion she needed, but only until her 62d birthday. On the day she became 62 her SBP benefit, which had been 55 percent of her husband's retired pay, was automatically, automatically reduced to 35 percent of the retirement income. She received no warning that her check would be slashed on her 62d birthday. She received no explanation.

When she was finally able to locate someone who could tell her why she was facing this crisis, she was given the following explanation: Your survivor benefits have been reduced because when you became 62, you also became eligible to receive Social Security. Puzzled, she pointed out that her Social Security payment, such as it was, was based on her own work. It had nothing to do with the survivor benefit plan her husband had paid into. Too bad, she was told. That is the law.

Well, we have to change the law. The SBP plan is very complicated. The benefit for one group of survivors is reduced by the amount of the military retiree's Social Security when the widow reaches age 62, regardless of when she actually begins to draw Social Security benefits. Under the newer SBP plan which covers the widow in my congressional district, the benefit is automatically reduced at age 62 from 55 percent to 35 percent of the military retiree's retired pay. Even people with substantial incomes would have a tough time with a reduction of more than one-third of their retirement benefit.

Mr. Speaker, it is time to change this misleading and unfair law. Too often it causes enormous financial hardship for the affected survivors. We Americans do not treat our aging citizens, some of the most vulnerable members of our American family, with such disdain.

Two days ago, on the first day of the 105th Congress, I introduced H.R. 165, the Military Survivors Equity Act of 1997. This bill would fix the problem by simply eliminating the callous and absurd reduction in benefits that now burdens our military widows. Instead, they would get what they and their deceased spouses thought they would get: 55 percent of the military retiree pay. To put it simply, no offset; a simple solution to a difficult problem, an equitable solution to a mean-spirited practice.

I hope I do not have to raise this issue with my colleagues a year from now, and say again that our Government is still misleading and mistreating military survivors. Let us correct this disgraceful situation and enact H.R. 165 in 1997.

MEMBERS OF CONGRESS PUT IN THE POSITION OF ALICE IN WONDERLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, earlier this week this Congress and the Nation watched as the Republican leadership and the Speaker of this House bargained with, negotiated with, and twisted the arms of the members of the Republican caucus to support the Speaker to be reelected as Speaker of this House for the 105th Congress. That was done because the effort was made to be sure that we would vote on the Speaker of the House of Representatives before the Ethics Committee had completed its work.

That was unconscionable, Mr. Speaker, that we would in fact do that. But now this morning we learn that the Ethics Committee is continuing in that path, because we see now that the schedule of the Ethics Committee that has been set forth by the chairperson of that committee requires that the House will vote on whatever recommended punishment the committee will make to the House, that the House will vote on that prior to the issuance of the final report of the Ethics Committee.

What does this mean? It means that both the Members of the House of Representatives and our constituents will be denied the access to the information necessary on which to make an informed judgment, very similar to the situation that those who supported the candidacy of Speaker GINGRICH earlier this week were put in, in having to vote for him for Speaker before they knew whether or not he was ethically fit to be the Speaker of the House of Representatives.

What is becoming very clear is that the continued orchestration of the Ethics Committee by the Republican leadership to try and dampen the flow of information to the Members of Congress and to the members of the public continues. This committee should be allowed to function independently, and this committee should be allowed to function without a debt to the leadership of this House.

We have hired a special counsel to seek that independence. That special counsel should be allowed to do his work. That special counsel should be allowed to present the evidence, and that special counsel should be allowed to write the final report of this committee prior to the Congress voting, voting on any recommended punishment brought forth by the committee.

But it is also very clear that it is now the intent, it is now the intent of the Ethics Committee to keep that from happening. So once again, we are put in the position of Alice in Wonderland, where once again we will render a verdict first and later we will look at the facts and we will look at the evidence.

I think it is very, very improper that the Members of the House of Representatives be put in this position by the Ethics Committee. I believe, as the House turned down the bipartisan recommendation of the ethics investigative subcommittee and of the special counsel in not allowing them additional time to prepare their work product, it was for the first time, I believe, in the history of the Congress where we turned down a recommendation of a special counsel, a person that is supposed to bring independence to this, on their recommendation that they needed additional time to complete their work product in a proper fashion for a presentation to the committee and to the Congress.

So we now see a series of votes being forced upon the House of Representatives, the sole purpose of which is to deny access to information by the very people that will have to vote on the recommendations of the Ethics Committee. The Members of the House, on a bipartisan basis, should reject that notion. We should not go forward with a vote prior to the issuance of the final report of the special counsel.

Then the Members can go home and say to their constituents, however they decided to vote, that they in fact had a full opportunity to examine the entire record and to take counsel with themselves and their sense of propriety about the actions and the ethics of the Speaker of the House of Representatives, and then they cast their vote, rather than to be able to say to their constituents, well, I voted, and then I was able to read the report.

There is nobody in America that believes that that is the way that we should conduct the public's business. The public's business should be conducted openly and it should be conducted in a forthright fashion. What we are witnessing over the past several days is an effort to shut down both the ability of the press, the ability of the public, and the ability of the Members of Congress to have access to that information to make an informed judgment on behalf of the Congress and on behalf of our constituents.

THE ETHICS CASE PENDING AGAINST SPEAKER GINGRICH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BOEHNER] is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, the gentleman from California just finished talking about the ethics case that is currently pending against the Speaker of the House.

Over a week ago, in a bipartisan fashion, the members of the Ethics Committee, five Democrats and five Republicans, came to an agreement that this case would be completed on or before January 21 of this year and that the case would be brought to the floor of the House before then. That was an agreement made by the 10 members of the Ethics Committee. I think what happened earlier this week when the House reorganized itself is that we confirmed that agreement.

Subsequent to then, members of half of the committee, the Democrat side, have decided that they need more time. We believe that that agreement should in fact be kept. Further, the committee agreed yesterday that for the first time in the history of the Congress, that there would be an open hearing on an ethics case, primarily because the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH], agreed to do that. So next week there will be up to 5 days of open hearings for the American people to watch on C–SPAN, other media outlets, to see the facts.

The Ethics Committee here in the Congress, in the process that they follow, is really bifurcated. Over the last 6 months there has been a subcommittee of the Ethics Committee look at the Gingrich case, two Democrats and two Republicans. The Speaker has voluntarily turned over 50,000 pages of information to the committee. This subcommittee has done its work in a bipartisan fashion. It is the subcommittee that is going to now report to the full committee its findings. They have issued a preliminary report outlining their findings to the Members and to the full Ethics Committee. So next week there will be ample opportunity for all of the Members and the American people to understand the facts about the case if they need to know any more than what they have already heard.

I think that by January 21 the House will be in a position to make a decision on how to proceed from there.

PUBLICATION OF THE RULES OF THE COMMITTEE ON RULES 105TH CONGRESS

The SPEAKER pro tempore (Mr. LIVINGSTON). Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, pursuant to clause 2(a)(3) of rule XI of the rules of the House, and rule 1(d) of the rules of the Committee on Rules, the following are the rules of the Committee on Rules for the 105th Congress, adopted at its organizational meeting on January 8, 1997:

RULES OF THE COMMITTEE ON RULES, U.S. HOUSE OF REPRESENTATIVES, 105TH CONGRESS

RULE 1.—GENERAL PROVISIONS

(a) The rules of the House are the rules of the Committee and its subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are non-debatable motions of high privilege in the Committee. A proposed investigative or oversight report shall be considered as read if it has been available to the members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such day).

(b) Each subcommittee is a part of the Committee, and is subject to the authority and direction of the Committee and to its rules so far as applicable.

(c) The provisions of clause 2 of rule XI of the rules of the House are incorporated by reference as the rules of the Committee to the extent applicable.

(d) The Committee's rules shall be published in the Congressional Record not later than 30 days after the Committee is elected in each odd-numbered year.

RULE 2.—REGULAR, ADDITIONAL, AND SPECIAL MEETINGS

Regular meetings

(a)(1) The Committee shall regularly meet at 10:30 a.m. on Tuesday of each week when the House is in session.

(2) A regular meeting of the Committee may be dispensed with if, in the judgment of the Chairman of the Committee (hereinafter in these rules referred to as the "Chair"), there is no need for the meeting.

(3) Additional regular meetings and hearings of the Committee may be called by the Chair.

Notice for regular meetings

(b) The Chair shall notify each member of the Committee of the agenda of each regular meeting of the Committee at least 48 hours before the time of the meeting and shall provide to each member of the Committee, at least 24 hours before the time of each regular meeting.

(1) for each bill or resolution scheduled on the agenda for consideration of a rule, a copy of

(A) the bill or resolution,

(B) any committee reports thereon, and

(C) any letter requesting a rule of the bill or resolution; and

(2) for each other bill, resolution, report, or other matter on the agenda a copy of—

(A) the bill, resolution, report, or materials relating to the other matter in question;

and

(B) any report on the bill, resolution, report, or any other matter made by any subcommittee of the Committee.

Emergency meeting

(c)(1) The Chair may call an emergency meeting of the Committee at any time on any measure or matter which the Chair determines to be of an emergency nature; provided, however, that the Chair has made an effort to consult the ranking minority member, or, in such member's absence, the next ranking minority party members of the Committee.

(2) As soon as possible after calling an emergency meeting of the Committee, the Chair shall notify each member of the Committee of the time and location of the meeting.

(3) To the extent feasible, the notice provided under paragraph (2) shall include the agenda for the emergency meeting and copies of available materials which would otherwise have been provided under subsection (b) if the emergency meeting was a regular meeting.

Special meetings

(d) Special meetings shall be called and convened as provided in clause 2(c)(2) of rule XI of the Rules of the House.

RULE 3.—MEETING AND HEARING PROCEDURES

In general

(a)(1) Meetings and hearings of the Committee shall be called to order and presided over by the Chair or, in the Chair's absence, by the member designated by the Chair as the Vice Chair of the Committee, or by the ranking majority member of the Committee present as Acting Chair.

(2) Meetings and hearings of the committee shall be open to the public unless closed in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives.

(3) Any meeting or hearing of the Committee that is open to the public shall be open to coverage by television, radio, and still photography in accordance with the provisions of clause 3 of the House rule XI (which are incorporated by reference as part of these rules).

(4) When a recommendation is made as to the kind of rule which should be granted for consideration of a bill or resolution, a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the Committee meeting at which the rule is to be considered or as soon thereafter as the proposed language becomes available.

Quorum

(b)(1) For the purpose of hearing testimony on requests for rules, five members of the Committee shall constitute a quorum.

(2) For the purpose of taking testimony and receiving evidence on measures or matters of original jurisdiction before the Committee, three members of the Committee shall constitute a quorum.

(3) A majority of the members of the Committee shall constitute a quorum for the purposes of reporting any measure or matter, of authorizing a subpoena, of closing a meeting or hearing pursuant to clause 2(g) of rule XI of the Rules of the House (except as provided in clause 2(g)(2)(A) and (B)), or of taking any other action.

Voting

(c)(1) No vote may be conducted on any measure or motion pending before the Committee unless a majority of the members of the Committee is actually present for such purpose.

(2) A rollcall vote of the Committee shall be provided on any question before the Committee upon the request of any member.

(3) No vote by any member of the Committee on any measure or matter may be cast by proxy.

(4) A record of the vote of each Member of the Committee on each rollcall vote on any matter before the Committee shall be available for public inspection at the offices of the Committee, and, with respect to any rollcall vote on any motion to amend or report, shall be included in the report of the Committee showing the total number of votes cast for and against and the names of those members voting for and against.

Hearing procedures

(d)(1) With regard to hearings on matters of original jurisdiction, to the greatest extent practicable: (A) each witness who is to appear before the Committee shall file with the Committee at least 24 hours in advance of the appearance a statement of proposed testimony in written and electronic form and shall limit the oral presentation to the Committee to a brief summary thereof; and (B) each witness appearing in a non-governmental capacity shall include with the statement of proposed testimony provided in written and electronic form a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

(2) The five-minute rule shall be observed in the interrogation of each witness before the Committee until each member of the Committee has had an opportunity to question the witness.

(3) The provisions of clause 2(k) of rule XI of the rules of the House shall apply to any investigative hearing conducted by the Committee.

Subpoenas and oaths

(e)(1) Pursuant to clause 2(m) of rule XI of the Rules of the House of Representatives, a subpoena may be authorized and issued by the Committee or a subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present.

(2) The Chair may authorize and issue subpoenas under such clause during any period in which the House has adjourned for a period of longer than three days.

(3) Authorized subpoenas shall be signed by the Chair or by any member designated by the Committee, and may be served by any person designated by the Chair or such member.

(4) The Chair, or any member of the Committee designated by the Chair, may administer oaths to witnesses before the Committee.

RULE 4.—GENERAL OVERSIGHT AND INVESTIGATIVE RESPONSIBILITIES

(a) The Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its jurisdiction.

(b) Not later than February 15 of the first session of Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of House rule X.

RULE 5.—SUBCOMMITTEES

Establishment and responsibilities of subcommittees

(a)(1) There shall be two subcommittees of the Committee as follows:

(A) Subcommittee on Legislative and Budget Process, which shall have general responsibility for measures or matters related to relations between the Congress and the Executive Branch.

(B) Subcommittee on Rules and Organization of the House, which shall have general responsibility for measures or matters related to relations between the two Houses of Congress, relations between the Congress and the Judiciary, and internal operations of the House.

(2) In addition, each subcommittee shall have specific responsibility for such other measures or matters as the Chair refers to it.

(3) Each subcommittee of the Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its general responsibility.

Referral of measures and matters to subcommittees

(b)(1) In view of the unique procedural responsibilities of the Committee, no special order providing for the consideration of any bill or resolution shall be referred to a subcommittee of the Committee.

(2) The Chair shall refer to a subcommittee such measures or matters of original jurisdiction as the Chair deems appropriate given its jurisdiction and responsibilities.

(3) All other measures or matters of original jurisdiction shall be subject to consideration by the full Committee.

(4) In referring any measure or matter of original jurisdiction to a subcommittee, the Chair may specify a date by which the subcommittee shall report thereon to the Committee.

(5) The Committee by motion may discharge a subcommittee from consideration of any measure or matter referred to a subcommittee of the Committee.

Composition of subcommittees

(c) The size and ratio of each subcommittee shall be determined by the Committee and members shall be elected to each subcommittee, and to the positions of chairman and ranking minority member thereof, in accordance with the rules of the respective party caucuses. The Chair of the full Committee shall designate a member of the majority party on each subcommittee as its vice chairman.

Subcommittee meetings and hearings

(d)(1) Each subcommittee of the Committee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on any measure or matter referred to it.

(2) No subcommittee of the Committee may meet or hold a hearing at the same time as a meeting or hearing of the full Committee is being held.

(3) The chairman of each subcommittee shall schedule meetings and hearings of the subcommittee only after consultation with the Chair.

Quorum

(e)(1) For the purpose of taking testimony, two members of the subcommittee shall constitute a quorum.

(2) For all other purposes, a quorum shall consist of a majority of the members of a subcommittee.

Effect of a vacancy

(f) Any vacancy in the membership of a subcommittee shall not affect the power of the remaining members to execute the functions of the subcommittee.

Records

(g) Each subcommittee of the Committee shall provide the full Committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee necessary for the Committee to comply with all rules and regulations of the House.

RULE 6.—STAFF

In general

(a)(1) Except as provided in paragraphs (2) and (3), the professional and other staff of the Committee shall be appointed, by the Chair, and shall work under the general supervision and direction of the Chair.

(2) All professional, and other staff provided to the minority party members of the Committee shall be appointed, by the ranking minority member of the Committee, and shall work under the general supervision and direction of such member.

(3) The appointment of all professional staff shall be subject to the approval of the Committee as provided by, and subject to the provisions of, clause 6 of rule XI of the Rules of the House.

Associate staff

(b) Associate staff for members of the Committee may be appointed only at the discretion of the Chair (in consultation with the ranking minority member regarding any minority party associate staff), after taking into account any staff ceilings and budgetary constraints in effect at the time, and any terms, limits, or conditions established by the Committee on House Oversight under clause 6 of House rule XI.

Subcommittee staff

(c) From funds made available for the appointment of staff, the Chair of the Committee shall, pursuant to clause 5(d) of House rule XI, ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee, and, after consultation with the ranking minority member of the Committee, that the minority party of the Committee is treated fairly in the appointment of such staff.

Compensation of staff

(d) The Chair shall fix the compensation of all professional and other staff of the Committee, after consultation with the ranking minority member regarding any minority party staff.

Certification of staff

(e)(1) To the extent any staff member of the Committee or any of its subcommittees does not work under the direct supervision and direction of the Chair, the Member of the Committee who supervises and directs the staff member's work shall file with the Chief of Staff of the Committee (not later than the tenth day of each month) a certification regarding the staff member's work for that member for the preceding calendar month.

(2) The certification required by paragraph (1) shall be in such form as the Chair may prescribe, shall identify each staff member by name, and shall state that the work engaged in by the staff member and the duties assigned to the staff member for the member of the Committee with respect to the month in question met the requirements of clause 6 of rule XI of the Rules of the House of Representatives.

(3) Any certification of staff of the Committee, or any of its subcommittees, made by the Chair in compliance with any provision of law or regulation shall be made (A) on the basis of the certifications filed under paragraph (1) to the extent the staff is not under the Chair's supervision and direction, and (B) on his own responsibility to the extent the staff is under the Chair's direct supervision and direction.

RULE 7.—BUDGET, TRAVEL, PAY OF WITNESSES

Budget

(a) The Chair, in consultation with other members of the Committee, shall prepare for each Congress a budget providing amounts for staff, necessary travel, investigation, and other expenses of the Committee and its subcommittees.

Travel

(b)(1) The Chair may authorize travel for any member and any staff member of the Committee in connection with activities or subject matters under the general jurisdiction of the Committee. Before such authorization is granted, there shall be submitted to the Chair in writing the following:

(A) The purpose of the travel.

(B) The dates during which the travel is to occur.

(C) The names of the States or countries to be visited and the length of time to be spent in each.

(D) The names of members and staff of the Committee for whom the authorization is sought.

(2) Members and staff of the Committee shall make a written report to the Chair on any travel they have conducted under this subsection, including a description of their itinerary, expenses, and activities, and of pertinent information gained as a result of such travel.

(3) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, and regulations of the House and of the Committee on House Oversight.

Pay of witnesses

(c) Witnesses may be paid from funds made available to the Committee in its expense resolution subject to the provisions of rule XXXV of the rules of the House.

RULE 8.—COMMITTEE ADMINISTRATION

Reporting

(a) Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee—

(1) the Chair or acting Chair shall report it to the House or designate a member of the Committee to do so, and

(2) in the case of a bill or resolution in which the Committee has original jurisdiction, the Chair shall allow, to the extent that the anticipated floor schedule permits, any member of the Committee a reasonable amount of time to submit views for inclusion in the Committee report on the bill or resolution.

Any such report shall contain all matters required by the rules of the House of Representatives (or by any provision of law enacted as an exercise of the rulemaking power of the House) and such other information as the Chair deems appropriate.

Records

(b)(1) There shall be a transcript made of each regular meeting and hearing of the Committee, and the transcript may be printed if the Chair decides it is appropriate or if a majority of the Members of the Committee requests such printing. Any such transcripts shall be a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks. Nothing in this paragraph shall be construed to require that all such transcripts be subject to correction and publication.

(2) The Committee shall keep a record of all actions of the Committee and of its subcommittees. The record shall contain all information required by clause 2(e)(1) of rule XI of the rules of the House of Representatives and shall be available for public inspection at reasonable times in the offices of the Committee.

(3) All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Chair, shall be the property of the House, and all Members of the House shall have access thereto as provided in clause 2(e)(2) of rule XI of the Rules of the House.

(4) The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the rules of the House of Representatives. The Chair shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on written request of any member of the Committee.

Committee publications on the internet

(c) To the maximum extent feasible, the Committee shall make its publications available in electronic form.

Calendars

(d)(1) The Committee shall maintain a Committee Calendar, which shall include all bills, resolutions, and other matters referred to or reported by the Committee and all bills, resolutions, and other matters reported by any other committee on which a rule has been granted or formally requested, and such other matters as the Chair shall direct. The Calendar shall be published periodically, but in no case less often than once in each session of Congress.

(2) The staff of the Committee shall furnish each member of the Committee with a list of all bills or resolutions (A) reported from the Committee but not yet considered by the House, and (B) on which a rule has been formally requested but not yet granted. The list shall be updated each week when the House is in session.

(3) For purposes of paragraphs (1) and (2), a rule is considered as formally requested when the Chairman of a committee which has reported a bill or resolution (or a member of such committee authorized to act on the Chairman's behalf) (A) has requested, in writing to the Chair, that a hearing be scheduled on a rule for the consideration of the bill or resolution, and (B) has supplied the Committee with an adequate number of copies of the bill or resolution, as reported, together with the final printed committee report thereon.

Other procedures

(e) The Chair may establish such other Committee procedures and take such actions as may be necessary to carry out these rules or to facilitate the effective operation of the Committee and its subcommittees in a manner consistent with these rules.

RULE 9.—AMENDMENTS TO COMMITTEE RULES

The rules of the Committee may be modified, amended or repealed, in the same manner and method as prescribed for the adoption of committee rules in clause 2 of rule XI of the Rules of the House, but only if written notice of the proposed change has been provided to each such Member at least 48 hours before the time of the meeting at which the vote on the change occurs. Any such change in the rules of the Committee shall be published in the Congressional Record within 30 calendar days after their approval.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mrs. THURMAN, for 5 minutes, today.

Mr. FORD, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BOEHNER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OBEY, and to include therein extraneous material, notwithstanding the fact that it exceeds 2 pages of the RECORD and is estimated by the Public Printer to cost $1,013.40.

(The following Members (at the request of Mr. FILNER) and to include extraneous material:)

Mr. NEAL of Massachusetts.
Mr. RAHALL.
Mr. OBEY.
Mr. BALDACCI.
Mr. RICHARDSON.
Mr. TRAFICANT.
Mr. STARK.
Mr. VENTO.
Mr. BENTSEN.
Mr. OWENS.
Mr. COYNE.
Mr. FILNER.
Ms. HARMAN.
Mr. KLINK.
Mr. MATSUI.
Mr. BARCIA.
Mrs. MALONEY.

(The following Members (at the request of Mr. SOLOMON) and to include extraneous material:)

Ms. ROS-LEHTINEN.
Mr. BARTON of Texas.
Mr. YOUNG of Alaska.
Mr. GILMAN in four instances.
Mr. FORBES.
Mr. SAXTON in two instances.
Mr. PETRI.
Mr. HYDE.
Mr. GILLMOR.
Mrs. MORELLA.
Mr. THOMAS.
Mr. DAVIS of Virginia.
Mr. COBLE.
Mr. GRAHAM.
Mr. LAHOOD.
Mr. LEWIS of California in two instances.
Mr. SOLOMON.
Mrs. ROUKEMA.
Mr. CALVERT.
Mr. BONO.
Mr. SPENCE.

ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 3 of the 105th Congress, the House stands adjourned until 10 a.m., Monday, January 20, 1997.

Thereupon (at 2 o'clock and 11 minutes p.m.), pursuant to Senate Concurrent Resolution 3, the House adjourned until Monday, January 20, 1997, at 10 a.m.

NOTICE OF PROPOSED AMENDMENTS TO PROCEDURAL RULES

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, December 20, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. §1383), I am transmitting the enclosed notice of proposed rulemaking (proposed amendments to the Procedural Rules of the Office of Compliance) for publication in the Congressional Record.

The Congressional Accountability Act specifies that the enclosed amendments be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

RICKY SILBERMAN,
Executive Director.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: PROPOSED AMENDMENTS TO PROCEDURAL RULES

NOTICE OF PROPOSED RULEMAKING

Summary: The Executive Director of the Office of Compliance is publishing proposed amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act (P.L. 104-1, 109 Stat. 3). The proposed amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this Notice in the Congressional Record.

Addresses: Submit written comments (an original and ten copies) to the Executive Director, Office of Compliance, Room LA200, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipts of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 426-1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724-9250. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224-2705.

SUPPLEMENTARY INFORMATION

I. Background

The Congressional Accountability Act of 1995 ("CAA" or "Act") was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 303 of the CAA directs that the Executive Director of the Office of Compliance ("Office") shall, subject to the approval of the Board of Directors ("Board") of the Office, adopt rules governing the procedures for the Office, and may amend those rules in the same manner. The procedural rules currently in effect, approved by the Board and adopted by the Executive Director, were published December 22, 1995 in the Congressional Record (141 Cong. R. S19239 (daily ed., Dec. 22, 1995)). Amendments to these rules, approved by the Board and adopted by the Executive Director, were published September 19, 1996 in the Congressional Record (142 Cong. R. H10672 and S10980 (daily ed., Sept. 19, 1996)). The proposed revisions and additions that follow establish procedures for consideration of matters arising under Parts B and C of title II of the CAA, which are generally effective January 1, 1997.

A summary of the proposed amendments is set forth below in Section II; the text of the provisions that are proposed to be added or revised is found in Section III. The Executive Director invites comment from interested persons on the content of these proposed amendments to the procedural rules.

II. Summary of Proposed Amendments to the Procedural Rules

(A) Several revisions are proposed to provide for consideration of matters arising under sections 210 and 215 (Parts B and C of title II) of the CAA. For example, technical changes in the procedural rules will be necessary in order to provide for the exercise of various rights and responsibilities under sections 210 and 215 of the Act by the General Counsel, charging individuals and entities responsible for correcting violations. These proposed revisions are as follows:

Section 1.01 is proposed to be amended by inserting references to Parts B and C of title II of the CAA in order to clarify that the procedural rules now govern procedures under those Parts of the Act.

Section 1.02(i) is proposed to be amended to redefine the term "party" to include, as appropriate, a charging individual or an entity alleged to be responsible for correcting a violation.

Section 1.03(a)(3) is to be revised to provide for, as appropriate, the filing of documents with the General Counsel.

Section 1.04(d) is proposed to be amended to provide for appropriate disclosure to the public of decisions under section 210 of the CAA and to provide, in accordance with section 416(f) of the CAA, that the Board may, at its discretion, make public decisions which are not otherwise required to be made public.

Section 1.05(a) is to be revised to allow for a charging individual or party or an entity alleged to be responsible for correcting a violation to designate a representative.

Sections 1.07(a), 5.04 and 7.12 are to be revised to make clear that Section 416(c), relating to confidentiality requirements, does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing officers and the Board under section 215.

Section 5.01(a)(2), (b)(2), (c)(2) and (d) is proposed to be amended to allow for the filing of complaints alleging violation of sections 210 and 215 of the CAA.

Section 7.07(f), relating to conduct of hearings, is to be revised to provide that, if the representative of a charging party of an entity alleged to be responsible for correcting a violation has conflict of interest, that representative may be disqualified.

Section 8.03(a) relating to compliance with final decisions is to be revised to implement sections 210 and 215 of the CAA.

Section 8.04 "Judicial Review" is proposed to be revised to state that the United States Court of Appeals for the Federal Circuit shall have jurisdiction, as appropriate, over petitions under sections 210(d)(4) and 215(c)(5) of the Act.

(B) Proposed Subpart D of these regulations implements the provisions of section 215(c) of the CAA, which sets forth the procedures for inspections, citations, notices, and notifications, hearings, and review, variance procedures, and compliance regarding enforcement of rights and protections of the Occupational Safety and Health Act, as applied by the CAA. Under section 215(c), any employing office or covered employee may request the General Counsel to inspect and investigate places of employment under the jurisdiction of employing offices. A citation or notice may be issued by the General Counsel to any employing office that is responsible for correcting a violation of section 215, or that has failed to correct a violation within the period permitted for correction. A notification may be issued to any employing office that has failed to correct a violation within the permitted time. If a violation remains uncorrected, the General Counsel may file a complaint against the employing office with the Office, which is submitted to a hearing officer for decision, with subsequent review by the Board. Under section 215(c)(4), an employing office may apply to the Board for a variance from an applicable health and safety standard. In considering such application, the Board shall exercise the authority of the Secretary of Labor under sections 6(b) and 6(d) of the Occupational Safety and Health Act of 1970 ("OSHAct") to issue either a temporary or permanent variance, if specified conditions are met.

The Executive Director has modeled these proposed rules under section 215(c), to the greatest extent practicable, on the enforcement procedures set forth in the regulations of the Secretary of Labor to implement comparable provisions of the OSHAct (29 C.F.R., parts 1903 and 1905). The proposed rules do not follow provisions of the Secretary's regulations that are inapplicable, incompatible with the structure of the Office of Compliance, and/or inconsistent with the express statutory procedures of section 215(c) of the CAA. In addition, the Secretary has identified some provisions of Part 1903 as "general enforcement policies rather than substantive or procedural rules, [and thus] such policies may be modified in specific circumstances where the Secretary or his designee determines that an alternative course of action would better serve the objectives of the Act." 29 CFR §1903.1 These enforcement policies (such as the Secretary's policy regarding employee rescue activities, 29 C.F.R. §1903.14(f) are not included in these rules. Enforcement policies, if any, should be issued by the General Counsel, to whom investigatory and enforcement authorities are assigned under section 215.

The Board finds that the proposed rules govern "procedures of the Office." Thus, they may appropriately be issued under section 303 of the CAA.

III. Text of proposed amendments to procedural rules

§1.01 Scope and Policy

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Parts A, B, C, and D of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for variances and compliance, investigation and enforcement under Part C of title II and procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedities the resolution of disputes.

§1.02(i)

(i) *Party*. The term "party" means: (1) an employee or employing office in a proceeding under Part A of title II of the Act; (2) a charging individual, an entity alleged to be responsible for correcting a violation, or the General Counsel in a proceeding under Part B of title II of the Act; (3) an employee, employing office, or as appropriate, the General Counsel in a proceeding under Part C of title II of the Act; or (4) a labor organization, individual employing office or employing activity, or, as appropriate, the General Counsel in a proceeding under Part D of title II of the Act.

§1.03(a)(3)

(3) *Faxing documents*. Documents transmitted by FAX machine will be deemed filed on the date received at the Office at 202–426–1913, or, in the case of any document to be filed or submitted to the General Counsel, on the date received at the Office of the General Counsel at 202–426–1663. A FAX filing will be timely only if the document is *received* no later than 5:00 PM Eastern Time on the last day of the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner, provided that the status report indicates the date of the FAX, the receiver's FAX number, the number of pages included in the FAX, and that transmission was completed.

§1.04(d)

(d) *Final decisions*. Pursuant to section 416(f) of the Act, a final decision entered by a Hearing Officer or by the Board under section 405(g) or 406(e) of the Act, which is in favor of the complaining covered employee, or in favor of the charging party under section 210 of the Act, or reverses a Hearing Officer's decision in favor of a complaining covered employee or charging party, shall be made public, except as otherwise ordered by the Board. The Board may make public any other decision at its discretion.

§1.05(a)

(a) An employee, other charging individual or party, a witness, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

§1.07(a)

(a) *In General*. Section 416(a) of the CAA provides that counseling under section 402 shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations. Section 416(b) provides that all mediation shall be strictly confidential. Section 416(c) provides that all proceedings and deliberations of hearing officers and the Board, including any related records shall be confidential, except for release of records necessary for judicial actions, access by certain committees of Congress, and publication of certain final decisions. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing officers and the Board under section 215. *See also* sections 1.06, 5.04 and 7.12 of these rules.

Subpart D—Compliance, Investigation, Enforcement and Variance Procedures Under Section 215 of the CAA (Occupational Safety and Health Act of 1970)

Inspections, Citations, and Complaints

Sec.
4.01 Purpose and scope
4.02 Authority for inspection
4.03 Request for inspections by employees and employing offices
4.04 Objection to inspection
4.05 Entry not a waiver
4.06 Advance of notice of inspection
4.07 Conduct of inspections
4.08 Representatives of employing offices and employees
4.09 Consultation with employees
4.10 Inspection not warranted; informal review
4.11 Imminent danger
4.12 Citations
4.13 Posting of citations
4.14 Failure to correct a violation for which a citation has been issued; notice of failure to correct violation; complaint
4.15 Informal conferences

Rules of Practice for Variances, Limitations, Variations, Tolerances, and Exemptions

4.20 Purpose and scope
4.21 Definitions
4.22 Effect of variances
4.23 Public notice of a granted variance, limitation, variation, tolerance, or exemption
4.24 Form of documents
4.25 Applications for temporary variances and other relief
4.26 Applications for permanent variances and other relief
4.27 Modification or revocation of orders
4.28 Action on applications
4.29 Consolidation of proceedings
4.30 Consent findings and rules or orders

Rules of Practice for Variances, Limitations, Variations, Tolerances, and Exemptions—Continued

4.31 Order of proceedings and burden of proof

INSPECTIONS, CITATIONS AND COMPLAINTS

§4.01 Purpose and scope.

The purpose of sections 4.01 through 4.15 of this subpart is to prescribe rules and procedures for enforcement of the inspection and citation provisions of section 215(c)(1) through (3) of the CAA. For the purpose of sections 4.01 through 4.15, references to the "General Counsel" include any designee of the General Counsel.

§4.02 Authority for inspection.

Under section 215(c)(1) of the CAA, upon written request of any employing office or covered employee, the General Counsel is authorized to enter without delay and at reasonable times any place of employment under the jurisdiction of an employing office; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employing office, operator, agent or employee; and to review records required by the CAA and regulations promulgated thereunder, and other records which are directly related to the purpose of the inspection.

§4.03 Requests for inspections by employees and covered employing offices.

(a) *By covered employees and representatives.* (1) Any covered employee or representative of covered employees who believes that a violation of section 215 of the CAA exists in any place of employment under the jurisdiction of employing offices may request an inspection of such place of employment by giving notice of the alleged violation to the General Counsel. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or the representative of the employees. A copy shall be provided to the employing office or its agent by the General Counsel or the General Counsel's designee no later than at the time of inspection, except that, upon the written request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the General Counsel.

(2) If upon receipt of such notification the General Counsel's designee determines that the notice meets the requirements set forth in subparagraph (1) of this section, and that there are reasonable grounds to believe that the alleged violation exists, he or she shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists. Inspections under this section shall not be limited to matters referred to in the notice.

(3) Prior to or during any inspection of a place of employment, any covered employee or representative of employees may notify the General Counsel's designee, in writing, of any violation of section 215 of the CAA which he or she has reason to believe exists in such place of employment. Any such notice shall comply with the requirements of subparagraph (1) of this section.

(b) *By employing offices.* Upon written request of any employing office, the General Counsel or the General Counsel's designee shall inspect and investigate places of employment under the jurisdiction of employing offices under section 215(c)(1) of the CAA. Any such requests shall be reduced to writing on a form available from the Office.

§4.04 Objection to inspection.

Upon a refusal to permit the General Counsel's designee, in exercise of his or her official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employing office, operator, agent, or employee, in accordance with section 4.02 or to permit a representative of employees to accompany the General Counsel's designee during the physical inspection of any workplace in accordance with section 4.07, the General Counsel's designee shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The General Counsel's designee shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the General Counsel, who shall take appropriate action.

§4.05 Entry not a waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action or citation under the CAA.

§4.06 Advance notice of inspections.

Advance notice of inspections may be given under circumstances determined appropriate by the General Counsel.

§4.07 Conduct of inspections.

(a) Subject to the provisions of section 4.02, inspections shall take place at such times and in such places of employment as the General Counsel may direct. At the beginning of an inspection, the General Counsel's designee shall represent his or her credentials to the operator of the facility or the management employee in charge at the place of employment to be inspected; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records specified in section 4.02 which he or she wishes to review. However, such designation of records shall not preclude access to additional records specified in section 4.02.

(b) The General Counsel's designee shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately, any employing officer, operator, agent or employee of a covered facility. As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited, the use of devices to measure employee exposure and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposure.

(c) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employing office.

(d) At the conclusion of an inspection, the General Counsel's designee shall confer with the employing office or its representative and informally advise it of any apparent safety or health violations disclosed by the inspection. During such conference, the employing office shall be afforded an opportunity to bring to the attention of the General Counsel's designee any pertinent information regarding conditions in the workplace.

(e) Inspections shall be conducted in accordance with the requirements of this subpart.

§4.08 Representatives of employing offices and employees.

(a) The General Counsel's designee shall be in charge of inspections and questioning of persons. A representative of the employing office and a representative authorized by its employees shall be given an opportunity to accompany the General Counsel's designee during the physical inspection of any workplace for the purpose of aiding such inspection. The General Counsel's designee may permit additional employing office representatives and additional representatives authorized by employees to accompany the designee where he or she determines that such additional representatives will further aid the inspection. A different employing office and employee representative may accompany the General Counsel's designee during each different phase of an inspection if this will not interfere with the conduct of the inspection.

(b) The General Counsel's designee shall have sole authority to resolve all disputes as to who is the representative authorized by the employing office and employees for the purpose of this section. If there is no authorized representative of employees, or if the General Counsel's designee is unable to determine with reasonable certainty who is such representative, he or she shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

(c) The representative(s) authorized by employees shall be an employee(s) of the employing office. However, if the judgment of the General Counsel's designee, good cause has been shown why accompaniment by a third party who is not an employee of the employing office (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the General Counsel's designee during the inspection.

(d) The General Counsel's designee may deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection. With regard to information classified by an agency of the U.S. Government in the interest of national security, only persons authorized to have access to such information may accompany the General Counsel's designee in areas containing such information.

§4.09 Consultation with employees.

The General Counsel's designee may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of section 215 of the CAA which he or she has reason to believe exists in the workplace to the attention of the General Counsel's designee.

§4.10 Inspection not warranted; informal review.

(a) If the General Counsel's designee determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a notice of violation under section 4.03(a), he or she shall notify the party giving the notice in writing of such determination. Upon the request of the complaining party or the employing office, the General Counsel, at his or her discretion, may hold an informal conference in which the complaining party and the employing office may present their views orally and in writing. After considering all written and oral views presented, the General Counsel may affirm, modify, or reverse the designee's determination and furnish the complaining party and the employing office with written notification of this decision and the reasons therefor. The decision of the General Counsel shall be final and not reviewable.

(b) If the General Counsel's designee determines that an inspection is not warranted because the requirements of section 4.03(a)(1) have not been met, he or she shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of section 4.03(a)(1).

§4.11 Citations.

(a) If, on the basis of the inspection, the General Counsel believes that a violation of any requirement of section 215 of the CAA, or of any standard, rule or order promulgated pursuant to section 215 of the CAA, has occurred, he or she shall issue a citation to the employing office responsible for correction of the violation, as determined under section 1.106 of the Board's regulations implementing section 215 of the CAA. A citation may be issued even though after being informed of an alleged violation by the General Counsel, the employing office immediately abates, or initiates steps to abate, such alleged violation. Any citation shall be issued with reasonable promptness after termination of the inspection.

(b) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the CAA, standard, rule, regulation, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.

(c) If a citation is issued for a violation alleged in a request for inspection under section 4.03(a)(1), or a notification of violation under section 4.03(a)(3), a copy of the citation shall also be sent to the employee or representative of employee who made such request of notification.

(d) After an inspection, if the General Counsel determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under section 4.03(a)(1) or a notification of violation under section 4.03(a)(3), the informal review procedures prescribed in 4.15 shall be applicable. After considering all views presented, the General Counsel shall affirm the previous determination, order a reinspection, or issue a citation if he or she believes that the inspection disclosed a violation. The General Counsel shall furnish the party that submitted the notice and the employing office with written notification of the determination and the reasons therefore. The determination of the General Counsel shall be final and not reviewable.

(e) Every citation shall state that the issuance of a citation does not constitute a finding that a violation of section 215 has occurred.

§4.12 Imminent danger.

(a) Whenever and as soon as a designee of the General Counsel concludes on the basis of an inspection that conditions or practices exist in any place or employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided for by section 215(c), he or she shall inform the affected employees and employing offices of the danger and that he or she is recommending the filing of a petition to restrain such conditions or practices and for other appropriate relief in accordance with section 13(a) of the OSHAct, as applied by section 215(b) of the CAA. Appropriate citations may be issued with respect to an imminent danger even though, after being informed of such danger by the General Counsel's designee, the employing office immediately eliminates the imminence of the danger and initiates steps to abate such danger.

§4.13 Posting of citations.

(a) Upon receipt of any citation under section 215 of the CAA, the employing office shall immediately post such citation, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employing office's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employing offices are engaged in activities which are physically dispersed, the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employing office shall take steps to ensure that the citation is not altered, defaced, or covered by other material.

(b) Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The tendency of any proceedings regarding the citation shall not affect its posting responsibility under this section unless and until the Board issues a final order vacating the citation.

(c) An employing office to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the Board, and such notice may explain the reasons for such contest. The employing office may also indicate that specified steps have been taken to abate the violation.

§4.14 Failure to correct a violation for which a citation has been issued; notice of failure to correct violation; complaint.

(a) If the General Counsel determines that an employing office has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, he or she may issue a notification to the employing office of such failure prior to filing a compliant against the employing office under section 215(c)(3) of the CAA. Such notification shall fix a reasonable time or times for abatement of the alleged violation for which the citation was issued and shall be posted in accordance with section 4.13 of these rules. Nothing in these rules shall require the General Counsel to issue such a notification as a prerequisite to filing a complaint under section 215(c)(3) of the CAA.

(b) If after issuing a citation or notification, the General Counsel believes that a violation has not been corrected, the General Counsel may file a compliant with the Office against the employing office named in the citation or notification pursuant to section 215(c)(3) of the CAA. The complaint shall be submitted to a Hearing Officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The procedures of sections 7.01 through 7.16 of these rules govern compliant proceedings under this section.

§4.15 Informal conferences.

At the request of an affected employing office, employee, or representative of employees, the General Counsel may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, or notice issued by the General Counsel. The settlement of any citation or notice at such conference shall be subject to the approval of the Executive Director under section 414 of the CAA and section 9.05 of these rules. If the conference is requested by the employing office, an affected employee or the employee's representative shall be afforded an opportunity to participate, at the discretion of the General Counsel. If the conference is requested by an employee or representative of employees, the employing office shall be afforded an opportunity to participate, at the discretion of the General Counsel. Any party may be represented by counsel at such conference.

RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS

§4.20 Purpose and scope.

Sections 4.20 through 4.31 contain rules of practice for administrative proceedings to grant variances and other relief under sections 6(b)(6)(A) and 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, as applied by section 215(c)(4) of the CAA.

§4.21 Definitions.

As used in sections 4.20 through 4.31, unless the context clearly requires otherwise—

(a) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970, as applied to covered employees and employing offices under section 215 of the CAA.

(b) *Party* means a person admitted to participate in a hearing conducted in accordance with this subpart. An applicant for relief and any affected employee shall be entitled to be named parties. The General Counsel shall be deemed a party without the necessity of being named.

(c) *Affected employee* means an employee who would be affected by the grant or denial of a variance, limitation, variation, tolerance, or exemption, or any one of the employee's authorized representatives, such as the employee's collective bargaining agent.

§4.22 Effect of variances.

All variances granted pursuant to this part shall have only future effect. In its discretion, the Board may decline to entertain an application for a variance on a subject or issue concerning which a citation has been issued to the employing office involved and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending before the General Counsel, a hearing officer, or the Board until the completion of such proceeding.

§4.23 Public notice of a granted variance, limitation, variation, tolerance, or exemption.

Every final action granting a variance, limitation, variation, tolerance, or exemption under this part shall be made public. Every such final action shall specify the alternative to the standard involved which the particular variance permits.

§4.24 Form of documents.

(a) Any applications for variances and other papers that are filed in proceedings under sections 4.20 through 4.31 of these rules shall be written or typed. All applications for variances and other papers filed in variance proceedings shall be signed by the applying employing office, or its representative, and shall contain the information required by sections 4.25 or 4.26 of these rules, as applicable.

§4.25 Applications for temporary variances and other relief.

(a) *Application for variance.* Any employing office, or class of employing offices, desiring a variance from a standard, or portion thereof, authorized by section 6(b)(6)(A) of the OSHAct, as applied by section 215 of the CAA, may file a written application containing the information specified in paragraph (b) of this section with the Board. Pursuant to section 215(c)(4) of the CAA, the Board may refer any matter appropriate for hearing to a hearing officer under subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The procedures set forth at sections 7.01 through 7.16 of these rules shall govern hearings under this subpart.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A specification of the standard or portion thereof from which the applicant seeks a variance;

(4) A representation by the applicant, supported by representations from qualified persons having first-hand knowledge of the facts represented, that the applicant is unable to comply with the standard or portion thereof by its effective date and a detailed statement of the reasons therefor,

(5) A statement of the steps the applicant has taken and will take, with specific dates where appropriate, to protect employees against the hazard covered by the standard;

(6) A statement of when the applicant expects to be able to comply with the standard and of what steps the applicant has taken and will take, with specific dates where appropriate, to come into compliance with the standard;

(7) A statement of the facts the applicant would show to establish that (i) the applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date; (ii) the applicant is taking all available steps to safeguard its employees against the hazards covered by the standard; and (iii) the applicant has an effective program for coming into compliance with the standard as quickly as practicable;

(8) Any request for a hearing, as provided in this part;

(9) A statement that the applicant has informed its affected employees of the application by giving a copy thereof to their authorized representative, posting a statement, giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means; and

(10) A description of how affected employees have been informed of the application and of their right to petition the Board for a hearing.

(c) *Interim order—*(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The hearing officer to whom the Board has referred the application may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application file pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties and the terms of the order shall be made public. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.26 Applications for permanent variances and other relief.

(a) *Applications for variance.* Any employing office, or class of employing offices, desiring a variance authorized by section 6(d) of the OSHAct, as applied by section 215 of the CAA, may file a written application containing the information specified in paragraph (b) of this section, with the Board. Pursuant to section 215(c)(4) of the CAA, the Board may refer any matter appropriate for hearing to a Hearing Officer under subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;

(4) A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment to employees which are as safe and healthful as those required by the standard from which a variance is sought;

(5) A certification that the applicant has informed its employees of the application by (i) giving a copy thereof to their authorized representative; (ii) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (iii) by other appropriate means;

(6) Any request for a hearing, as provided in this part; and

(7) A description of how employees have been informed of the application and of their right to petition the Board for a hearing.

(c) *Interim order—*(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The Hearing Officer to whom the Board has referred the application may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties, and the terms of the order shall be made public. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.27 Modification or revocation of orders.

(a) *Modification or revocation.* An affected employing office or an affected employee may apply in writing to the Board for a modification or revocation of an order issued under section 6(b)(6)(A), or 6(d) of the OSHAct, as applied by section 215 of the CAA. The application shall contain:

(i) The name and address of the applicant;

(ii) A description of the relief which is sought;

(iii) A statement setting forth with particularity the grounds for relief;

(iv) If the applicant is an employing office, a certification that the applicant has informed its affected employees of the application by:

(A) Giving a copy thereof to their authorized representative;

(B) Posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and

(C) Other appropriate means.

(v) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employing office; and

(vi) Any request for a hearing, as provided in this part.

(b) *Renewal.* Any final order issued under section 6(b)(6)(A) of the OSHAct, as applied by section 215 of the CAA, may be renewed or extended as permitted by the applicable section and in the manner prescribed for its issuance.

§4.28 Action on applications.

(a) *Defective applications.* (1) If an application filed pursuant to sections 4.25(a), 4.26(a), or 4.27 does not conform to the applicable section, the Hearing Officer or the Board, as applicable, may deny the application.

(2) Prompt notice of the denial of an application shall be given to the applicant.

(3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.

(4) A denial of an application pursuant to this paragraph shall be without prejudice to the filing of another application.

(b) *Adequate applications.* (1) If an application has not been denied pursuant to paragraph (a) of this section, the Office shall cause to be published a notice of the filing of the application.

(2) A notice of the filing of an application shall include:

(i) The terms, or an accurate summary, of the application;

(ii) A reference to the section of the OSHAct applied by section 215 of the CAA under which the application has been filed;

(iii) An invitation to interested persons to submit within a stated period of time written data, views, or arguments regarding the application; and

(iv) Information to affected employing offices, employees, and appropriate authority having jurisdiction over employment or places of employment covered in the application of any right to request a hearing on the application.

§ 4.29 Consolidation of proceedings.

On the motion of the Hearing Officer or the Board or that of any party, the Hearing Officer or the Board may consolidate or contemporaneously consider two or more proceedings which involve the same or closely related issues.

§ 4.30 Consent findings and rules or orders.

(a) *General.* At any time before the receipt of evidence in any hearing, or during any hearing a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the Hearing Officer, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.

(b) *Contents.* Any agreement containing consent findings and rule or order disposing of a proceeding shall also provide:

(1) That the rule or order shall have the same force and effect as if made after a full hearing;

(2) That the entire record on which any rule or order may be based shall consist solely of the application and the agreement;

(3) A waiver of any further procedural steps before the Hearing Officer and the Board; and

(4) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Hearing Officer for his or her consideration; or

(2) Inform the Hearing Officer that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefor, the Hearing Officer may accept such agreement by issuing his or her decision based upon the agreed findings.

§ 4.31 Order of Proceedings and Burden of Proof

(a) *Order of proceeding.* Except as may be ordered otherwise by the Hearing Officer, the party applicant for relief shall proceed first at a hearing.

(b) *Burden of proof.* The party applicant shall have the burden of proof.

§ 5.01(a)(2)

(a)(2) The General Counsel may file a complaint alleging a violation of section 210, 215 or 220 of the Act.

§ 5.01(b)(2)

(b)(2) A complaint may be filed by the General Counsel

(i) After the investigation of a charge filed under section 210 or 220 of the Act, or

(ii) after the issuance of a citation or notification under section 215 of the Act.

§ 5.01(c)(2)

(c)(2) Complaints filed by the General Counsel. A complaint filed by the General Counsel shall be in writing, signed by the General Counsel or his designee and shall contain the following information:

(i) the name, address and telephone number of, as applicable, (A) each entity responsible for correction of an alleged violation of section 210(b), (B) each employing office alleged to have violated section 215, or (C) each employing office and/or labor organization alleged to have violated section 220, against which complaint is brought;

(ii) notice of the charge filed alleging a violation of section 210 or 220 and/or issuance of a citation or notification under section 215;

(iii) a description of the acts and conduct that are alleged to be violations of the Act, including all relevant dates and places and the names and titles of the responsible individuals; and

(iv) a statement of the relief or remedy sought.

§ 5.01(d)

(d) Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions; that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments, as appropriate, relate to the violations for which the employee has completed counseling and mediation, or relate to the charge(s) investigated and/or the citation or notification issued by the General Counsel; and that permitting such amendments will not unduly prejudice the rights of the employing office, the labor organization, or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

§ 5.04 Confidentiality

Pursuant to section 416(c) of the Act, all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing Officers and the Board under section 215. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a matter.

§ 7.07(f)

(f) If the Hearing Officer concludes that a representative of an employee, a witness, a charging party, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits for hearing and decision established by the Act, the affected party shall be afforded reasonable time to retain other representation.

§ 7.12

Pursuant to section 416 of the Act, all proceedings and deliberation of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in section 416 (d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it. This provision shall not apply to proceedings under section 215 of the Act, but shall apply to the deliberations of Hearing Officers and the Board under that section.

§ 8.03(a)

(a) Unless the Board has, in its discretion, stayed the final decision of the Office during the pendency of an appeal pursuant to section 407 of the Act, and except as provided in sections 210(d)(5) and 215(c)(6), a party required to take action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all other parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved.

§ 8.04 Judicial Review

Pursuant to section 407 of the Act,

(a) the United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of:

(1) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II;

(2) a charging individual or respondent before the Board who files a petition under section 210(d)(4);

(3) the General Counsel or a respondent before the Board who files a petition under section 215(c)(5); or

(4) the General Counsel or a respondent before the Board who files a petition under section 215(c)(3) of the Act.

(b) The U.S. Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II of the Act.

(c) The party filing for review shall serve a copy on the opposing party or parties or their representative(s).

Signed at Washington, D.C. on this 20th day of December 1996.

RICKY SILBERMAN,
Executive Director,
Office of Compliance.

NOTICE OF ADOPTION OF REGULATIONS

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, December 20, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am transmitting on behalf of the Board of Directors the enclosed notice of adoption of regulations, together with a copy of the regulations for publication in the Congressional Record. The adopted regulations are being issued pursuant to 215(d).

The Congressional Accountability Act specifies that the enclosed notice be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

GLEN D. NAGER,
Chair of the Board.

Enclosure.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Occupational Safety and Health Act of 1970.

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published September 19, 1996, in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing section 215 of the Congressional Accountability Act of 1995 ("CAA").

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Telephone: (202) 724–9250. TDD: (202) 426–1912.

Supplementary Information:

Background and Summary

The Congressional Accountability Act of 1995 ("CAA"), P.L. 104–1, was enacted into law on January 23, 1995. 2 U.S.C. §§1301 *et seq.* In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and employing offices within the legislative branch. Section 215(a) provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970, 29 U.S.C. §654 ("OSHAct"). 2 U.S.C. §1341(a).

Section 215(d) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1341(d). Section 215(d) further states that such regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.* Section 215(d) further provides that the regulations "shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation." *Id.*

On September 19, 1996, the Board published in the Congressional Record a Notice of Proposed Rulemaking ("NPR") (142 Cong. Rec. S11019 (daily ed., Sept. 19, 1996)). In response to the NPR, the Board received four written comments, two of which were from offices within the Legislative Branch and two of which were from labor organizations. After full consideration of the comments received in response to the proposed regulations, the Board has adopted and is submitting these regulations for approval by the Congress pursuant to section 304(c) of the CAA.

I. Summary of Comments and Board's Final Rules

A. Request for Additional Rulemaking Proceedings

One commenter requested that the Board withdraw its proposed regulations and engage in what it terms "investigative rulemaking," a process that apparently is to include discussions with involved parties regarding the nature and scope of the regulations. This commenter expressed the concern that affected parties had not been sufficiently involved in the rulemaking process and have been discouraged from providing meaningful comments. Specifically, the commenter objected to the following actions of the Board: (1) providing a comment period of no more than 30 days; (2) issuing a notice of proposed rulemaking without first issuing an advance notice of proposed rulemaking; (3) issuing proposed regulations under section 215 concurrently with proposed regulations under section 210 and shortly before the Congress had adjourned *sine die*; (4) stating in the NPR that nomenclature and other technical changes were made to the adopted regulations, but not specifically cataloguing each of those changes in the summary of the proposed rules; and (5) not providing a record of consultations between the Office and representatives of the Department of Labor in the NPR.

The Board has considered each of the above concerns and, after careful evaluation of them, has determined that further rulemaking proceedings, with their concomitant costs and delays, are not warranted in this context.

1. The request for an extended comment period and for "investigatory" rulemaking. The rulemaking procedure employed by the Board in this context is substantially similar to that employed by the Board with respect to every other regulation promulgated thus far under the CAA; and it complies with the required procedures under section 304 of the CAA. Specifically, section 304(b) generally requires the Board to issue a notice of proposed rulemaking and to provide a comment period of at least 30 days. The Board has done so. Nor is there any reason to believe that a significant extension of the comment period beyond 30 days or a resort to alternative forms of rulemaking would result in a different rulemaking comment record, either qualitatively or quantitatively: The Board's rulemaking record includes an extensive report from its General Counsel—a report which itself was prepared on the basis of an extensive investigation by the General Counsel and with the invited participation of all employing offices. In addition, the General Counsel met with representatives of a number of employing offices prior to the inspections, including the Architect of the Capitol, concerning the appropriate standards to be applied to Legislative Branch facilities. Moreover, no commenter claimed an inability in this rulemaking proceeding to adequately present its views through written submissions. Indeed, the only specific request for an extension of the comment period came from this particular commenter, who requested an extension of only one day, which was granted. No request for further time was sought by the commenter or by any other person or organization. Finally, a review of the comments received tends to reinforce the Board's view that an extended comment period, hearings, and/or other additional forms of rulemaking proceedings would only result in the addition to the record of information which would at most duplicate or corroborate the written comments without providing further insight into or elucidation of the issues involved.

2. Failure to issue an Advance Notice of Proposed Rulemaking. Although not expressly provided for in the Administrative Procedure Act ("APA"), an advance notice of proposed rulemaking ("ANPR") is sometimes used by administrative agencies to seek information from the public to assist in framing a notice of proposed rulemaking and to narrow the issues during the public comment period on the proposed rules ultimately developed. *See, e.g.*, 52 Fed. Reg. 38,794 (1987) (preliminary notice for Medicare anti-kickback regulations). Thus, in prior rulemakings, the Board has sometimes used ANPRs to obtain views regarding interpretation of statutory provisions in the CAA that had not previously been interpreted by the Board and to obtain general information regarding conditions within the Legislative Branch that may bear on rulemaking questions. *See e.g.*, 141 Cong. Rec. S14542 (daily ed. Sept. 28, 1995) (ANPR seeking information regarding, *inter alia*, the standard for determining whether and to what extent regulations under the CAA should be modified for "good cause," whether regulations imposing notice posting and recordkeeping requirements are included within the CAA; whether certain regulations constituted "substantive regulations;" and whether the concept of "joint employer status" is applicable under the CAA). From these prior rulemaking proceedings, the Board has developed a body of interpretations of the CAA upon which it has drawn in developing the proposed rules in this rulemaking.

In contrast to those earlier rulemaking proceedings, here no ANPR was necessary or appropriate. Both the Board and its statutory appointees have now had over a year's experience in addressing regulatory issues governing the Legislative Branch and have collected a body of institutional knowledge and experience that makes the open-ended information gathering techniques such as an ANPR less needed. Indeed, the rulemaking experience under the CAA over the last year has shown that ANPRs have become less useful over time. For example, although the Board received twelve separate responses to the first ANPR that it issued in September of 1995, the most recent ANPR issued by the Board, regarding rulemaking under section 220(e), elicited only 2 comments directed to section 220(e), neither of which addressed the precise questions posed by the Board in that ANPR. *See* 142 Cong. Rec. S5552 (daily ed. May 23, 1996) (NPR regarding section 220(e)). And, in this context, there is no reason to believe that further comments beyond those received in response to the NPR would have been received had an ANPR been issued.

More to the point, there is no reason to believe that procedures other than the traditional notice-and-comment procedures outlined in section 304 of the CAA would develop any further useful information in the context of rulemaking under section 215—especially given the information already gathered by the Office regarding these issues. Among other things, the General Counsel has conducted an inspection of all facilities within the Legislative Branch for compliance with health and safety standards under sections 215 and disability access standards under section 210, utilizing as guidelines standards that were in a form virtually identical to the regulations which the Board has proposed. The General Counsel also sent detailed inspection questionnaires to each Member of the House of Representatives and to each Member of the Senate regarding compliance with health and safety and disability access standards in District and Home State offices. The General Counsel's reports regarding compliance issues under sections 210 and 215 of the CAA were submitted June 28, 1996 and detailed the application of safety and health and disability regulations to conditions within the legislative branch. Copies of those reports were delivered in July 1996 to each Senator and Representative, to each committee of Congress, and to representatives of every other employing office in the Legislative Branch, including the commenter. No comments were received from anyone concerning the appropriateness of applying any such regulations to Legislative Branch offices, and the commenter has not provided any here.

Where, as here, an ANPR would not likely result in receipt of additional useful information to develop a proposed rule, there is also the concern that its use might be viewed as evidence of procrastination in the face of an obligation to proceed quickly with important rulemaking activity. *Cf. United Steelworkers of America* v. *Pendergrass*, 819 F.2d 1263, 1268 (3d Cir. 1987) (challenge to OSHA's failure to issue revised rule on hazard communication in response to court remand; court was extremely critical of OSHA having published an ANPR to supplement original record); Administrative Conference of the United States Recommendation No. 87–10, "Regulation by the Occupational Safety and Health Administration," *published at* 1 C.F.R. §305.87–10, ¶3(e) (1989) (recommending that agency should not routinely use ANPR's as an information-gathering technique and that they should be used only when information not otherwise available to the agency "is likely to be forthcoming" in response to the ANPR). This is particularly true where, as here, the Office of Compliance, through the General Counsel, has already gathered a considerable body of experience and information regarding the conditions of operations and facilities within the Legislative Branch and how the regulations proposed by the Board would likely affect those operations and facilities. Nothing has been offered by any commenter to suggest a new area of inquiry or information which was not considered by the Board in the NPR that might affect the Board's decision regarding any of the regulatory matters contained in the NPR. In the absence of any such showing, additional rulemaking proceedings are neither required nor desirable.

3. The timing of the notice of proposed rulemaking. The commenter's argument regarding the timing of the issuance of the regulations also does not require additional rulemaking proceedings.

Despite the commenter's suggestion to the contrary, there is nothing unusual or unprecedented about the Board issuing simultaneously two notices of proposed rulemaking implementing two separate sections of the CAA. For example, on November 28, 1995, the Board issued concurrent notices of proposed rulemaking to implement the rights and protections of *five* major sections of the CAA: sections 202 (Family and Medical Leave Act), 203 (Fair Labor Standards Act), 204 (Employee Polygraph Protection Act), and 205 (Worker Adjustment Retraining and Notification Act). *See, e.g.*, 141 Cong. Rec. S17627–S17652, S17603–27, S17656–64, S17652–56 (daily ed., Nov. 28, 1995). The volume of regulations covered by those five notices (and the collective complexity and diversity of the legal and interpretative rulemaking issues involved in promulgating those five sets of proposed regulations) was significantly greater than the proposed regulations at issue here and those proposed under section 210. The commenter has not shown that there is anything about the nature and extent of the regulations in the current rulemaking proceedings that has impeded the ability of any commenter to provide useful and comprehensive comments.

Similarly, the timing of the issuance of proposed regulations here was not only appropriate, but it also was necessary. Sections 210 and 215 of the CAA become effective on January 1, 1997, a date which was set by the CAA, not by the Board. The proposed regulations were developed and issued as soon as practicable given, *inter alia*, the need of the Board and all interested persons to first have the benefit of the General Counsel's investigation and reports and the need to first complete rulemaking on sections of the CAA that contained earlier effective dates, such as sections 203–207 (effective January 23, 1996), and section 220 (effective October 1, 1996). The proposed regulations were issued when they were in order to afford commenters the earliest practical opportunity to comment on the proposed regulations so that final regulations could be adopted by the Board before the effective date of section 215 of the CAA.

The schedule of Congress cannot be a determinative factor for the Board in deciding when to issue proposed regulations. The CAA applies whether the Congress is in session or not; and the CAA imposes deadlines that must be met whether the Congress is in session or not. The session of Congress is relevant to the date of publication of regulations, which is why the Board submitted the NPR to the Congress prior to adjournment *sine die*, so that the NPR could be published (in accordance with section 304(1) of the CAA) for comment prior to January, 1997. The rights and protections of the CAA continue while Congress is in recess, and the CAA requires that employing offices and Members meet their obligations whether Congress is in session or not.

4. Technical and nomenclature changes. As with prior rulemakings, the Board has proposed to make technical and nomenclature changes to make the language of the adopted regulations fit more naturally to situations arising within the Legislative Branch. *See, e.g.*, 142 Cong. Rec. at S225 (daily ed. Jan. 22, 1996) (final regulations regarding section 203 of the CAA). However, the Board has made clear that such changes are not intended to affect a substantive change in the regulations. *Id.* Examples of such changes include the following substitutions: "employing office" for "employer," "covered employee" for "employee," definitions of "employing office" (including the list of offices set forth in the CAA) for the definition of "employer," and deleting provisions regarding interstate commerce as a basis for jurisdiction (which is not a requirement of the CAA).

The Board disagrees with the commenter's argument that failing to catalogue each of these changes in the preamble somehow hinders commenters' ability to provide effective comments regarding the proposed regulations. Where significant changes in the substance of the regulations have been proposed, such changes have been summarized and discussed in the preamble to the proposed regulations. However, as in past notices of proposed rulemaking, the Board has generally described the nature of proposed technical and nomenclature changes and has made clear that such changes are not intended to effect a significant or substantive change in the nature of the regulations adopted. Moreover, the complete text of the proposed regulations, including technical and nomenclature changes, has been made available for review as part of the NPR. It is the responsibility of commenters to review and comment on these matters, while the Board desires reasonably to assist this process, it cannot do the commenters' work, and there is absolutely no reason to delay rulemaking on this basis.

5. Record of comments and public meetings. Finally, the Board rejects the suggestion that it publish a summary of the discussions that have occurred between the Office and representatives of the Secretary of Labor and other agencies. Those discussions have not been with members of the Board; and the public record is solely for matters presented to the Board by outside persons. General discussions with outside persons by staff of the Office of Compliance are not properly part of that record, nor are discussions between staff and the Board properly part of that record. There is no legal basis or precedent for making such discussions part of the record; and to do so would improperly chill inter-agency and intra-agency deliberations and communications.

B. Regulations that the Board Proposed to Adopt

1. *Substantive health and safety standards at Parts 1910 and 1926, 29 CFR.*—In the NPR, the Board proposed that otherwise applicable health and safety standards of the Secretary's regulations published at Parts 1910 and 1926 of Title 29 of the Code of Federal Regulations ("29 CFR") be adopted with only limited modifications. All commenters agreed in general with the Board's proposal.

2. *Recordkeeping requirements contained in substantive health and safety standards of Parts 1910 and 1926.*—The Board further proposed to include within its regulations recordkeeping requirements contained in the substantive health and safety standards of Parts 1910 and 1926, 29 CFR. One commenter took issue with this decision, arguing that adoption of such requirements is contrary to the intent of the CAA. The Board disagrees.

Section 215(d)(2) provides that the Board regulations shall be "the same as" the regulations of the Secretary implementing the health and safety standards of section 5 of the OSHact. Where, as here, a recordkeeping or posting requirements is expressly contained in and inextricably interwined with a substantive health and safety standard, the Board is required to adopt the standard as written under section 215(d)(2), unless there is good cause to believe that not including the recordkeeping or posting requirement would be "more effective for the implementation of the rights and protections" under section 215. In contrast to the general recordkeeping regulations that implement section 8(c) of the OSHAct (discussed at section I.C.2., *infra*), adoption of the health and safety standards, including those specific recordkeeping requirements that are part and parcel of such standards, is authorized (if not compelled) by section 215(d)(2).

The commenter does not offer any basis for concluding that excluding such recordkeeping or posting requirements would be "more effective" for implementing the rights and protections of the health and safety standard at issue. On the contrary, there is every reason to believe that the substantive health and safety protections contained in subpart Z of Part 1910, such as the rules relating to employee exposure, would be less effective without a requirement that employing offices document such exposure.

C. Regulations that the Board Proposes Not to Adopt

1. Rules of procedure for variances, procedure regarding inspections, citations, and notices.—The Board proposed not to adopt as regulations under section 215(d) provisions of the Secretary's regulations that did not constitute health and safety standards and/or

were not promulgated to implement that provisions of section 5 of the OSHAct. 142 Cong. Rec. at S11020. In doing so, the Board noted that, with respect to those regulations that dealt with procedures of the Office, the Executive Director might, where appropriate, decide to propose comparable provisions pursuant to a rulemaking undertaken in accordance with section 303 of the CAA.

All four commenters took issue with the Board's decision. Two commenters argued that, because sections 8, 9 and 10 of the OSHact (which include provisions governing variances and the procedure for inspections, citations, and penalties) are referenced in section 215(c) of the CAA, the Secretary's regulations implementing those sections (Parts 1903 and 1905, 29 CFR) are within the Board's mandatory rulemaking authority under section 215(d)(2). These commenters characterized the Board's decision as a refusal to adopt the variance, citations, and inspections regulations because they are "procedural" as opposed to "substantive" regulations, which the commenters believe is inconsistent with the Board's resolution of a similar issue in the context of the Board's section 220 regulations. *See* 142 Cong. Rec. at S5072 (daily ed. May 15, 1996) (NPR regarding section 220) (procedural rules "can in fact be substantive regulations" and the fact that the "regulations may arguably be procedural in content is, in the Board's view, not a legally sufficient reason for not viewing them as 'substantive' regulations."). Two other commenters argued that regulations covering the subject of variances, citiations, and similar other matters cannot be issued as rules governing the procedures of the Office under section 303 of the CAA, because to do so would improperly circumvent Congress' ability to review and pass on substantive regulations prior to their implementation (since section 303 regulations require no congressional approval). A third commenter argued that rules regarding variances, inspections, and citations should be issued by the Board as substantive regulations, rather than by the Executive Director under section 303 of the CAA; however, this commander did not offer a legal basis for this argument. Finally, a fourth commenter argued that the Part 1903 regulations should be issued as part of the current rulemaking, regardless whether they are issued as substantive regulations under section 215(d)(2) of the CAA or as procedures of the Office under section 303 of the CAA.

After carefully considering these various comments, the Board has again determined that it would not be legally appropriate to adopt the Secretary's regulations at Parts 1903 and 1905, 29 CFR, as regulations under section 215(d)(2). Contrary to the commenters' characterization, the Board excluded Part 1903 and 1905 from the proposed regulations, not because they were "procedural" as opposed to "substantive," but because they were not within the scope of the Board's rulemaking authority under section 215(d)(2) of the CAA. Section 215(d)(2) provides that the regulations issued by the Board to implement section 215 "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement *the statutory provisions referred to in subsection (a)* [of section 215]," except for modification of those regulations for "good cause." The only "statutory provision[] referred to in subsection (a)" of section 215 is section 5 of the OSHAct, which sets forth the substantive health and safety standards applicable to employers. Thus, only the regulations of the Secretary that implement the substantive health and safety standards of section 5 of the OSHAct are within the scope of the Board's rulemaking authority under section 215(d)(2). Because the Secretary's health and safety standards contained in Parts 1910 and 1926 implement section 5 of the OSHAct, such regulations may be included within the proposed regulations; but the Secretary's regarding variance procedures, inspections, citations and notices, set forth at Parts 1903 and 1904, were promulgated to implement sections 8, 9, and 10 of the OSHAct, statutory provisions which are not "referred to in subsection (a)" of section 215. Thus, the plain language of section 215(d)(2) excludes such regulations from the scope of the Board's rulemaking mandate under section 215(d)(2).

The commenters apparently read section 215(d)(2)'s requirement that the Board's regulations be "the same as substantive regulations promulgated by the Secretary of Labor" as including *any* regulation promulgated by the Secretary to implement *any* provision of the OSHAct referred to in *any* subsection of section 215, including subsection (c). But the Board may not properly ignore the requirement of section 215(d)(2) that the regulations be promulgated "to implement the statutory provisions referred to in subsection (a)." To do so would violate the cardinal rule of statutory construction that a statute should not be read as rendering any word or phrase therein mere surplusage. *See Babbitt* v. *Sweet Home Ch. of Commun, for Greater Or.*, 115 S. Ct. 2407, 2413 (1995).

The only way in which regulations implementing provisions of the OSHAct referred to in subsection (c) could be considered within the scope of regulation under section 215(d)(2) would be by speculating that Congress' specific reference to subsection (a) was inadvertent. However, such "[s]peculation loses, for the more natural reading of the statute's text, which would give effect to all of its provisions, always prevails over a mere suggestion to disregard or ignore duly created law as legislative oversight." *United Food and Commercial Workers* v. *Brown Group, Inc.*, 116 S. Ct. 1529, 1533 (1996).

Furthermore, because section 215(c) sets forth a detailed enforcement procedure which is significantly different from the procedures of the OSHAct, it is doubtful that the drafters intended to include regulations implementing OSHAct enforcement procedures as part of the Board's rulemaking under section 215(c)(2). Instead, given the significant differences between the two statutory enforcement provisions, it is reasonable to conclude that Congress did not intend the Board to presume that the regulations regarding such procedures should be "the same" as the Secretary's procedures, as they generally must be if they fell within the Board's substantive rulemaking authority under section 215(d)(2). Thus, the commenters' interpretation is not supported by either the text or the legislative history of section 215.[1]

For this reason, the Board must also reject the commenter's suggestion that it "modify" the proposed regulations to include the Secretary's Part 1903 and 1904 regulations. The Board cannot adopt as a "modification" regulations that are not within the scope of section 215(d)(2). *See* 141 Cong. Rec. S17603, 17604 (daily ed. Nov. 28, 1995) ("Because the Board's authority to modify the Secretary's regulations for 'good cause' does not authorize it to adopt regulatory requirements that are the equivalent of statutory requirements that Congress has omitted from the CAA. . .); *see also MCI Telecommunications* v. *American Tel. & Tel.*, 114 S. Ct. 2223, 2230 (1994) (FCC's statutory authority to "modify any requirement" under section of tariff statute did not authorize FCC to make basic and fundamental changes in regulatory scheme; term "modify" connotes moderate or incremental change in existing requirements).

2. *General recordkeeping requirements.*—In the NPR, the Board proposed not to adopt regulations implementing the general recordkeeping requirements of section 8(c) of the OSHAct. The Board determined that section 8(c) of the OSHAct is neither a part of the rights and protections of section 5 of the OSHAct nor a substantive health and safety standard referred to therein. Thus, regulations promulgated by the Secretary to implement the recordkeeping requirements are not within the scope of the Board's rulemaking under section 215(d)(2).

Two commenters asked the Board to reconsider this decision and to issue regulations implementing section 8(c) of the OSHAct. The Board has considered these comments and finds no new arguments or statutory evidence therein to support a change in the Board's original conclusion. The arguments offered by the commenters were substantially the same as those that were considered and rejected by the Board in an earlier rulemaking on an essentially identical issue. *See* 141 Cong. Rec. S17603, 17604 (daily ed. Nov. 28, 1995) (resolving identical issue in the context of rulemaking under section 203 of the CAA).

D. Method for Identifying Responsible Employing Office

In section 1.106 of the proposed regulations, the Board set forth a method for identifying the employing office responsible for correction of a particular violation. Under proposed section 1.106, correction of a violation of section 215(a) "is the responsibility of any employing office that is a creating employing office, a controlling employing office, and/or a correcting employing office, as defined by this section, to the extent that the employing office is in a position to correct or abate the hazard or to ensure its correction or abatement."

1. *General comments regarding section 1.106.*—One commenter argued that section 1.106 should be significantly revised or a different method developed by the Board because: (1) the definitions of "creating," "exposing," "controlling," and "correcting" employer are allegedly vague and confusing and give insufficient guidance to employing offices regarding their responsibilities; and (2) section 1.106 contemplates the possibility that more than one employing office may be held responsible for correcting a violation, which is said to be contrary to section 215 (which the commenter argues prohibits the imposition of joint responsibility) and, assuming that more than one employing office may properly be held responsible under section 1.106, the Board should provide a mechanism for allocating joint responsibility among multiple offices. The Board has considered each of these arguments and, as explained below, finds no reason to depart substantially from the proposed regulations as issued.

a. Definition of "creating," "exposing," "controlling," and "correcting" employing office. The commenter argued that the definitions of "creating," "exposing," "controlling," and "correcting" employing office are vague and confusing because allegedly "they do little more than imply that an employing office can be responsible in almost all situations" and allegedly do not give any more guidance on this issue than before the proposed regulations were submitted. However, the commenter has not explained how the provisions of proposed section 1.106 can fairly be seen as vague or confusing. To be sure, proposed section 1.106 states general principles that will need to be applied in the context of actual factual situations by the General Counsel and, ultimately, by the Board. But this is the case with almost every rule of law, whether stated in a statute, a regulation, or a judicial decision. The fact that the text of a regulation on its face does not purport to provide a clear answer to every hypothetical question that may be posed by a party is not a reason to deem a regulation to be unclear. In the course of individual cases before the General Counsel and ultimately the Board, application of these rules will be made to specific situations. Without further elaboration by the commenter as to the nature of the purported ambiguity, there is no reason to believe that further clarification or elaboration in section 1.106 is needed.

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[1] Even under the commenters' narrow reading of section 215(d)(2), Part 1905 (rules of practice and procedure relating to variances) is not a "substantive regulation." Part 1905 was issued by the Secretary as a "rule of agency procedures and practice" and thus was not promulgated after notice and comment. *See* 36 Fed. Reg. 12,290 (June 30, 1971) ("The rules of practice [Part 1905] shall be effective upon publication in the Federal Register (6-30-71).").

b. Joint responsibility. The commenter argued that section 1.106 authorizes assigning correction responsibility to more than one employing office, which it said to be is contrary to the CAA. In support of its argument, the commenter seized upon the provisions of section 215(d)(3), which direct the Board to develop a method for identifying "the employing office, not employing offic*es*," and section 415, which states that funds to correct violations may be paid only from funds appropriated "to the employing offic*e* or entity responsible for correcting such violations." (emphasis in original of comment). According to the commenter, these provisions establish a statutory prohibition on the imposition of "joint" responsibility for section 215 violations. Again, the Board disagrees.

First, it is an elementary rule of statutory construction that reference to persons or parties in statutory language stated in the singular is presumed to include the plural. *See, e.g.*, 1 U.S.C. §1 ("In determining the meaning of any Act of Congress, unless the context indicates otherwise—words importing the singular include and apply to several persons, parties, or things").

Second, nothing in the language of section 215 suggests that the General Counsel and the Board must determine *the* (e.g., "sole") employing office responsible for correction. On the contrary, the language of section 215, including other subsections not cited by the commenter, suggests that more than one office may have responsibilities for the safety and health of a covered employee. For example, by applying section 5 of the OSHAct, section 215(a) of the CAA imposes a duty on each employing office to provide to its employees employment and a place of employment free of recognized hazards. Section 215(a) makes clear that other entities (in addition to the employing office) may also have a duty to those employees regarding such hazards "irrespective of whether the entity has an employment relationship" with that employee. Section 215(a)(2)(C). *See also* subsection (c)(2)(A) and (B) (authorizing the General Counsel to issue a citation or notice to "*any* employing office responsible for correcting a violation") (emphasis added).

Third, adoption of a rule that requires the General Counsel in an investigatory proceeding or the hearing officer and/or the Board in an adjudicatory proceeding to determine a single employing office responsible for correction of a violation would be unworkable (and in some cases impossible to apply) and would be inconsistent with similar principles applied under the OSHAct. In the private sector, where a single employer controls the working conditions and working environment of the employees, that employer is solely accountable under the OSHAct for providing safe working conditions for its employees. Similarly, in situations under section 215 of the CAA where the alleged violation involves a one-employing office workplace that is under the sole authority and jurisdiction of that office, section 1.106 would not be needed to resolve the issue of responsibility for correction. However, as the Board noted in NPR, the vast majority of workplaces in the Legislative Branch are not conventional, one-employing office workplaces. Instead, there are a number of employing offices and entities (including, but not limited to, the Architect of the Capitol, the Sergeants-At-Arms, the Chief Administrative Officer of the House, Senate and House committees, and individual Members) that have varying degrees of actual or apparent jurisdiction, authority, and responsibility for the physical location in which the violation occurred and, therefore, for correction of violations. Section 1.106 is needed to address such situations; and it can workably do so only by imposing responsibility on several covered entities.

In private sector worksites where the working environment is controlled by more than one employer, such as in construction or other activities involving subcontractors, OSHA's longstanding policy has been to hold multiple employers responsible for the correction of workplace hazards in appropriate cases. Thus, when safety or health hazards occur on multi-employer worksites in the private sector, OSHA will issue citations not only to the employer whose employees were exposed to the violation, but also to other employers, such as general contractors or host employers, who can reasonably be expected to have identified or corrected the hazard by virtue of their supervisory role over the worksite. *See* OSHA Field Inspection Reference manual ("FIRM"), OSHA Instruction CPL 2.103 at III-28,29 (1994). This multi-employer policy does not confer special burdens on these superintending employers, but merely recognizes that employers with overall administrative responsibility for an ongoing project or worksite are responsible under the OSHAct for taking reasonable steps to correct the violation, or to require correction of hazards to the extent of their authority and/or responsibility. There is no legal basis for excusing employing offices under the CAA from similar responsibilities.

As noted in the NPR, the employing office's responsibility for correction is only to the extent that it is "in a position to correct or abate the hazard or to ensure its correction or abatement." In addition, the duties of the employing office under section 1.106 are no more than to exercise the power or authority that it may possess, singularly or together with other employing offices, to ensure the correction of the hazard. The Board finds no compelling reason to reconsider this rule.

The Board also declines the commenter's suggestion that it adopt rules allocating responsibility in what it characterizes as "joint" liability situations. Contrary to the commenter's assumption, the responsibility under section 1.106 is not "joint" but "several." That is, the employing office is only responsible to the extent that it is a "creating," "exposing," "controlling," and/or "correcting" employing office and to the extent that it is "in a position to correct or abate the hazard or to ensure its correction or abatement." Thus, if the facts establish that a particular employing office only "exposed" its employees to a hazard (but did not create the hazard or have control over the workspace involved), that employing office discharges its responsibility (and abates its "share" of a citation) by ceasing the activity that exposes its employees to the hazard (by not sending its employees to the area, providing personal protective equipment, etc.). Even though the "exposing" employing office has discharged its responsibility (and is, therefore, no longer a "responsible employing office" with respect to that violation), the "violation" at that worksite is not abated until the condition creating the hazard is eliminated. In most cases, that responsibility will be assigned to the "correcting" employing office. However, in some cases, the "controlling" employing office (the one with legal authority to control the area) may be a different office than the "correcting" employing office and, therefore, may need to be a party to any proceeding so that complete relief can be granted by the hearing officer to ensure correction of the violation.

For all of the above reasons, the Board will adopt section 1.106, as modified below, as part of its final regulations.

2. *Recommended modifications to section 1.106(c).*—One commenter took issue with the following portion of section 1.106(c):

"In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitute a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, the employing office is in violation if, and only if, it permits its employees to utilize such equipment or facilities."

According to the commenter, this statement fails to recognize the affirmative defense to a violation in situations involving multi-employer worksites where the cited employer does not have the ability to recognize or abate the offending condition or has taken reasonable alternative measures to protect its employees from the hazard. *See Anning Johnson Co.* v. *OSHRC*, 516 F.2d 1081 (7th Cir. 1975). The Board agrees with the commenter that employing offices should have the benefit of this affirmative defense in such a situation. Accordingly, the Board will incorporate the commenter's suggested language (which has been modified to conform to the elements of the multi-employer affirmative defense). As amended, the passage in section 1.106(c) will be revised to read as follows:

"In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitute a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, an employing office that did not create or control a violation may avoid liability if, and only if, it proves either that it took reasonable alternative measures to protect its employees against the hazard or that it lacked sufficient expertise to recognize that the equipment or facilities did not meet applicable health and safety standards or otherwise constituted a violation of section 215(a)."

E. Future Changes in Text of Health and Safety Standards

The commenters generally agreed with the Board's proposed approach regarding changes in the substantive health and safety standards. However, two commenters suggested that the Board expressly state the manner and frequency with and by which it plans to submit changes in substantive rules, and the manner and frequency with and by which the Office will advise employees and employing offices of changes to external documents.

As stated in the NPR, the Board will make any changes in the substantive health and safety standards under the rulemaking procedures of section 304 of the CAA. Those changes will be made as frequently as needed. It is impossible for the Board to establish a pre-set schedule under which as yet unanticipated and unknown changes will be made. Similarly, the frequency by which the Office may issue information to employing offices and employing officers regarding the requirements of the CAA will be based on the appropriate professional judgment of the Office and its statutory appointees in the particular circumstances that issues arise; it cannot be specified in advance.

F. Comments on Specific Provisions

1. *Specific standards of Part 1910 incorporated by reference.*—One commenter recommended that the Board not adopt the following provisions that were included within the proposed regulations, which the commenter contended are inapplicable to operations of the Legislative Branch: 1910.104 (relating to installation of bulk oxygen systems), 1910.216 (relating to mills and calenders in the rubber and plastics industries), and 1910.266 (relating to jogging operations). Upon further consideration, the Board will delete these provisions from its final regulations, as recommended by the commenter.

This commenter also recommended that the Board exclude from the final regulations sections 1910.263 (safety and health standards relating "to the design, installation, operation and maintenance of machinery and equipment used in a bakery"), and section 1910.264 (standards relating to "laundry machinery and operations"). Because the terms "bakery" and "laundry" are not defined in the regulations, it is not clear that these sections are inapplicable to conditions or facilities within the Legislative Branch. Accordingly, out of an abundance of caution, the Board will retain sections 1910.263 and 1910.264 in the final regulations.

Finally, for the reasons set forth in section I.B.2, *supra*, the Board declines the commenter's suggestion that sections 1910.1020 (access to employee exposure and medical records) and 1910.1200 (hazard communication) not be included within the Board's final regulations because they may require employing offices to make or maintain records to meet these substantive health and safety standards.

2. *Section 1.104 (Notice of protection).*—Two commenters argued that proposed section 1.104 should be deleted since they fear that the section may be interpreted as a notice posting or recordkeeping "requirement." On the contrary, section 1.104 merely provides that, consistent with section 301(h) of the CAA, the Office will make information regarding the CAA available to employing offices in a manner suitable for posting. This identical provision has been included in prior regulations promulgated by the Board and approved by Congress. *See e.g.*, Final Rules Under Section 204 of the CAA, section 1.6, 141 Cong. Rec. at S265 (daily ed. Jan. 22, 1996).

3. *Sections 1.102 (Definition of "covered employee") and 1.105 (Authority of the Board).*—Two commenters took issue with the Board's inclusion of proposed sections 1.102 (defining "covered employee") and 1.105 (stating the Board's authority to promulgate regulations under the CAA) because they contend that such provisions are inconsistent with the CAA and/or not needed. The Board is satisfied that these sections are consistent with the CAA and will be retained. As with proposed section 1.104, proposed sections 1.102 and 1.105 have been included in several prior regulations promulgated by the Board and approved by Congress. *See, e.g.*, Final Rules regarding section 203 of the CAA, sections 501.102, 501.104, 141 Cong. Rec. at S226; Final Rules regarding section 204 of the CAA, sections 1.2 and 1.7, 141 Cong. Rec. at S264–65.

4. *Section 1900.1 (Purpose and Scope).*—Proposed section 1900.1 sets forth the purpose and scope of the Board's adoption of the occupational safety and health standards of Parts 1910 and 1926, 29 CFR. Subsection (b) makes clear that only the substantive health and safety standards of Parts 1910 and 1926 are adopted by reference and that other materials not relating to health and safety standards are not adopted. One commenter requested further clarification because, in the commenter's view, "there is no indication of what is 'excluded'" by the reference. On the contrary, section 1900.1(b) gives an illustration of the types of material not adopted by reference: rules that relate to laws such as the Construction Safety Act, but have no relation to the OSHAct; and statements or references to the duties and/or authorities of the Assistant Secretary of Labor (since such authorities are assigned by the CAA to the General Counsel). In the Board's view, section 1900.1 adequately describes the scope of its incorporation of standards under Parts 1910 and 1926.

G. Technical and nomenclature changes

Two commenters have requested that the Board list the technical and nomenclature changes that it has made to the adopted regulations. Since the Board does not intend by the changes to effect a substantive change in the meaning of the adopted regulations, it is unclear what purpose, if any, would be served by such a list. The regulations adequately set forth the extent of such technical and nomenclature changes. Proposed section 1900.2 states that, except where inconsistent with the definitions, provisions regarding scope, application and coverage, and exemptions provided in the CAA or other sections of these regulations, the definitions, provisions regarding scope, application and coverage, and exemptions provided in Parts 1910 and 1926, 29 CFR, as incorporated into these regulations, shall apply under these regulations. For example, any reference to "employer" in Parts 1910 and 1926 shall be deemed to refer to "employing office." The commenter identified a number of other miscellaneous statements in the NPR and the proposed rules therein that it contends are vague and ambiguous or misleading, and/or inconsistent with its reading of the CAA, for which the commenter suggests technical corrections and clarifications. The Board has considered all of these suggestions and, as appropriate, has adopted them.

II. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

Signed at Washington, D.C. on this 20th day of December, 1996.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress the following regulations:

Adopted Regulations

APPLICATION OF RIGHTS AND PROTECTIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (SECTION 215 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 215 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Coverage
1.104 Notice of protection
1.105 Authority of the Board
1.106 Method for identifying the entity responsible for correction of violations of section 215

§1.101 Purpose and scope.

(a) *Section 215 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the Legislative Branch. Section 215(a) of the CAA provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 ("OSHAct"), 29 U.S.C. §654. Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees, and a specific duty to comply with occupational safety and health standards promulgated under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders which are applicable to their actions and conduct. Set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA.

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1 and 1900) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 215, including the method of identifying entities responsible for correcting a violation of section 215. Part 1900 contains the substantive safety and health standards which the Board has adopted as substantive regulations under section 215(e).

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act or CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. §§651, *et seq.*), as applied to covered employees and employing offices by Section 215 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by an entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) The term *employing office* includes any of the following entities that is responsible for correction of a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such violation occurs: (1) each office of the Senate, including each office of a Senator and each Committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(k) *Board* means the Board of Directors of the Office of Compliance.

(l) *Office* means the Office of Compliance.

(m) *General Counsel* means the General Counsel of the Office of Compliance.

§1.103 Coverage.

The coverage of Section 215 of the CAA extends to any "covered employee." It also extends to any "covered employing office," which includes any of the following entities that is responsible for correcting a violation of section 215 (as determined under section 1.106), irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

§1.104 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 215 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§1.105 Authority of the Board.

Pursuant to section 215 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of section 215(a). Section 215(d) of the CAA directs the Board to promulgate regulations implementing section 215 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1341(d). The regulations issued by the Board herein are on all matters for which section 215 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 215 of the CAA]" that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§1.106 Method for identifying the entity responsible for correction of violations of section 215.

(a) *Purpose and scope.* Section 215(d)(3) of the CAA provides that regulations under section 215(d) include a method of identifying, for purposes of this section and for categories of violations of section 215(a), the employing office responsible for correcting a particular violation. This section sets forth the method of identifying responsible employing offices for the purpose of allocating responsibility for correcting violations of section 215(a) of the CAA. These rules apply to the General Counsel in the exercise of his authority to issue citations or notices to employing offices under sections 215(c)(2) (A) and (B), and to the Office and the Board in the adjudication of complaints under section 215(c)(3).

(b) *Employing Office(s) Responsible for Correcting a Violation of Section 215(a) of the CAA.* With respect to the safety and health standards and other obligations imposed upon employing offices under section 215(a) of the CAA, correction of a violation of section 215(a) is the responsibility of any employing office that is an exposing employing office, a creating employing office, a controlling employing office, and/or a correcting employing office, as defined in this subsection, to the extent that the employing office is in a position to correct or abate the hazard or to ensure its correction or abatement.

(i) *Creating employing office* means the employing office that actually created the hazard forming the basis of the violation or violations of section 215(a).

(ii) *Exposing employing office* means the employing office whose employee are exposed to the hazard forming the basis of the violation or violations of section 215(a).

(iii) *Controlling employing office* means the employing office that is responsible, by agreement or legal authority or through actual practice, for safety and health conditions in the location where the hazard forming the basis for the violation or violations of section 215(a) occurred.

(iv) *Correcting employing office* measn the employing office that has the responsibility for actually performing (or the authority or power to order or arrange for) the work necessary to correct or abate the hazard forming the basis of the violation or violations of section 215(a).

(c) *Exposing Employing Office Duties.* Employing offices have direct responsibility for the safety and health of their own employees and are required to instruct them about the hazards that might be encountered, including what protective measures to use. An employing office may not contract away these legal duties to its employees or its ultimate responsibilities under section 215(a) of the CAA by requiring another party or entity to perform them. In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitutes a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, an employing office that did not create or control a violation may avoid liability if, and only if, it proves either that it took reasonable alternative measures to protect its employees against the hazard or that it lacked sufficient expertise to recognize that the equipment or facilities did not meet applicable health and safety standards or otherwise constituted a violation of section 215(a). It is not the responsibility of an employing office to effect the correction of any such deficiencies itself, but this does not relieve it of its duty to use only equipment or facilities that meet the requirements of section 215(a).

PART 1900—ADOPTION OF OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Sec.
1900.1 Purpose and scope
1900.2 Definitions; provisions regarding scope, applicability, and coverage; and exemptions
1900.3 Adoption of occupational safety and health standards

§1900.1 Purpose and scope.

(a) The provisions of this subpart B adopt and extend the applicability of occupational safety and health standards established and promulgated by the Occupational Safety and Health Administration ("OSHA") and set forth at Parts 1910 and 1926 of title 29 of the Code of Federal Regulations, with respect to every employing office, employee, and employment covered by section 215 of the Congressional Accountability Act.

(b) It bears emphasis that only standards (i.e., substantive rules) relating to safety or health are adopted by any incorporations by reference of standards prescribed in this Part. Other materials contained in the referenced parts are not adopted. Illustrations of the types of materials which are not adopted are these. The incorporation by reference of part 1926, 29 CFR, is not intended to include references to interpretative rules having relevance to the application of the Construction Safety Act, but having no relevance to the Occupational Safety and Health Act. Similarly, the incorporation by reference of part 1910, 29 CFR, is not intended to include any reference to the Assistant Secretary of Labor and the authorities of the Assistant Secretary. The authority to adopt, promulgate, and amend or revoke standards applicable to covered employment under the CAA rests with the Board of Directors of the Office of Compliance pursuant to sections 215(d) and 304 of the CAA. Notwithstanding anything to the contrary contained in the incorporated standards, the exclusive means for enforcement of these standards with respect to covered employment are the procedures and remedies provided for in section 215 of the CAA.

(c) This part incorporates the referenced safety and health standards in effect as of the effective date of these regulations.

§1900.2 Definitions, provisions regarding scope, applicability and coverage, and exemptions.

(a) Except where inconsistent with the definitions, provisions regarding scope, application and coverage, and exemptions provided in the CAA or other sections of these regulations, the definitions, provisions regarding scope, application and coverage, and exemptions provided in Parts 1910 and 1926, 29 CFR, as incorporated into these regulations, shall apply under these regulations. For example, any reference to "employer" in Parts 1910 and 1926 shall be deemed to refer to "employing office." Similarly, any limitation on coverage in Parts 1910 and 1926 to employers engaged "in a business that affects commerce" shall not apply in these regulations.

(b) The provision of section 1910.6, 29 CFR, regarding the force and effect of standards of agencies of the U.S. Government and organizations that are not agencies of the U.S. Government, which are incorporated by reference in Part 1910, shall apply to the standards incorporated into these regulations.

(c) It is the Board's intent that the standards adopted in these regulations shall have the same force and effect as applied to covered employing offices and employees under section 215 of the CAA as those standards have when applied by OSHA to employers, employees, and places of employment under the jurisdiction of OSHA and the OSHAct.

§1900.3 Adoption of occupational safety and health standards.

(a) *Part 1910 Standards.* The standards prescribed in 29 CFR part 1910, Subparts B through S, and Subpart Z, as specifically referenced and set forth herein at Appendix A, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(b) *Part 1926 Standards.* The standards prescribed in 29 CFR part 1926, Subparts C through X and Subpart Z, as specifically referenced and forth herein at Appendix B, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(c) *Standards not adopted.* This section adopts as occupational safety and health standards under section 215(d) of the CAA the standards which are prescribed in Parts 1910 and 1926 of 29 CFR. Thus, the standards (substantive rules) published in subparts B through S and Z of part 1910 and subparts C through X and Z of part 1926 are applied. As set forth in Appendix A and Appendix B to this Part, this section does not incorporate all sections contained in these subparts. For example, this section does not incorporate sections 1910.15, 1910.16, and 1910.142, relating to shipyard employment, longshoring and marine terminals, and temporary labor camps, because such provisions have no application to employment within entities covered by the CAA.

(d) Copies of the standards which are incorporated by reference may be examined at the Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999. The OSHA standards may also be found at 29 CFR Parts 1910 and 1926. Copies of the standards may also be examined at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, and their regional offices. Copies of private standards may be obtained from the issuing organizations. Their names and addresses are listed in the pertinent subparts of Parts 1910 and 1926, 29 CFR.

(e) Any changes in the standards incorporated by reference in the portions of Parts 1910 and 1926, 29 CFR, adopted herein and an official historic file of such changes are available for inspection at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

APPENDIX A TO PART 1900—REFERENCES TO SECTIONS OF PART 1910, 29 CFR, ADOPTED AS OCCUPATIONAL SAFETY AND HEALTH STANDARDS UNDER SECTION 215(D) OF THE CAA

The following is a reference listing of the sections and subparts of Part 1910, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes any appendices to that section.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart B—Adoption and Extension of Established Federal Standards

Sec.
1910.12 Construction work.
1910.18 Changes in established Federal standards.
1910.19 Special provisions for air contaminants.

Subpart C—General Safety and Health Provisions [Reserved]

Subpart D—Walking—Working Surfaces

1910.21 Definitions.
1910.22 General requirements.
1910.23 Guarding floor and wall openings and holes.
1910.24 Fixed industrial stairs.
1910.25 Portable wood ladders.
1910.26 Portable metal ladders.
1910.27 Fixed ladders.
1910.28 Safety requirements for scaffolding.
1910.29 Manually propelled mobile ladder stands and scaffolds (towers).
1910.30 Other working surfaces.

Subpart E—Means of Egress

1910.35 Definitions.
1910.36 General requirements.
1910.37 Means of egress, general.
1910.38 Employee emergency plans and fire prevention plans.
Appendix to Subpart E—Means of Egress

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

1910.66 Powered platforms for building maintenance.
1910.67 Vehicle-mounted elevating and rotating work platforms.
1910.68 Manlifts.

Subpart G—Occupational Health and Environmental Control

1910.94 Ventilation.
1910.95 Occupational noise exposure.
1910.96 [Reserved]
1910.97 Nonionizing radiation.

Subpart H—Hazardous Materials

1910.101 Compressed gases (general requirements).
1910.102 Acetylene.
1910.103 Hydrogen.
1910.104 [Reserved]
1910.105 Nitrous oxide.
1910.106 Flammable and combustible liquids.
1910.107 Spray finishing using flammable and combustible materials.
1910.108 Dip tanks containing flammable or combustible liquids.
1910.109 Explosives and blasting agents.
1910.110 Storage and handling of liquefied petroleum gases.
1910.111 Storage and handling of anhydrous ammonia.
1910.112 [Reserved]
1910.113 [Reserved]
1910.119 Process safety management of highly hazardous chemicals.
1910.120 Hazardous waste operations and emergency response.

Subpart I—Personal Protective Equipment

1910.132 General requirements.
1910.133 Eye and face protection.
1910.134 Respiratory protection.
1910.135 Head protection.
1910.136 Foot protection.
1910.137 Electrical protective devices.
1910.138 Hand Protection.

Subpart J—General Environmental Controls

1910.141 Sanitation.
1910.143 Nonwater carriage disposal systems. [Reserved]
1910.144 Safety color code for marking physical hazards.
1910.145 Specifications for accident prevention signs and tags.
1910.146 Permit-required confined spaces.
1910.147 The control of hazardous energy (lockout/tagout).

Subpart K—Medical and First Aid

1910.151 Medical services and first aid.
1910.152 [Reserved]

Subpart L—Fire Protection

1910.155 Scope, application and definitions applicable to this subpart.
1910.156 Fire brigades.
Portable Fire Suppression Equipment
1910.157 Portable fire extinguishers.
1910.158 Standpipe and hose systems.
Fixed Fire Suppression Equipment
1910.159 Automatic sprinkler systems.
1910.160 Fixed extinguishing systems, general.
1910.161 Fixed extinguishing systems, dry chemical.
1910.162 Fixed extinguishing systems, gaseous agent.
1910.163 Fixed extinguishing systems, water spray and foam.
Other Fire Protective Systems.
1910.164 Fire detection systems.
1910.165 Employee alarm systems.
Appendices to Subpart L
Appendix A to Subpart L—Fire Protection
Appendix B to Subpart L—National Consensus Standards
Appendix C to Subpart L—Fire Protection References for Further Information
Appendix D to Subpart L—Availability of Publications Incorporated by Reference
In Section 1910.156 Fire Brigades
Appendix E to Subpart L—Test Methods for Protective Clothing

Subpart M—Compressed Gas and Compressed Air Equipment

1910.166 [Reserved]
1910.167 [Reserved]
1910.168 [Reserved]
1910.169 Air receivers.

Subpart N—Materials Handling and Storage

1910.176 Handling material—general.
1910.177 Servicing multi-piece and single piece rim wheels.
1910.178 Powered industrial trucks.
1910.179 Overhead and gantry cranes.
1910.180 Crawler locomotive and truck cranes.
1910.181 Derricks.
1910.183 Helicopters.
1910.184 Slings.

Subpart O—Machinery and Machine Guarding

1910.211 Definitions.
1910.212 General requirements for all machines.
1910.213 Woodworking machinery requirements.
1910.215 Abrasive wheel machinery.
1910.216 [Reserved].
1910.217 Mechanical power presses.
1910.218 Forging machines.
1910.219 Mechanical power-transmission apparatus.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

1910.241 Definitions.
1910.242 Hand and portable powered tools and equipment, general.
1910.243 Guarding of portable powered tools.
1910.244 Other portable tools and equipment.

Subpart Q—Welding, Cutting, and Brazing

1910.251 Definitions.
1910.252 General requirements.
1910.253 Oxygen-fuel gas welding and cutting.
1910.254 Arc welding and cutting.
1910.255 Resistance welding.

Subpart R—Special Industries

1910.263 Bakery equipment.
1910.264 Laundry machinery and operations.
1910.265–1910.267 [Reserved].
1910.268 Telecommunications.
1910.269 Electric power generation, transmission, and distribution.

Subpart S—Electrical

General
1910.301 Introduction.
Design Safety Standards for Electrical Systems
1910.302 Electric utilization systems.
1910.303 General requirements.
1910.304 Wiring design and protection.
1910.305 Wiring methods, components, and equipment for general use.
1910.306 Specific purpose equipment and installations.
1910.307 Hazardous (classified) locations.
1910.308 Special systems.
1910.309–1910.330 [Reserved]
Safety-Related Work Practices
1910.331 Scope.
1910.332 Training.
1910.3333 Selection and use of work practices.
1910.334 Use of equipment.
1910.335 Safeguards for personnel protection.
1910.336–1910.360 [Reserved]

Safety-Related Maintenance Requirements

1910.361–1910.380 [Reserved]

Safety Requirements for Special Equipment

1910.381–1910.398 [Reserved]

Definitions

1910.399 Definitions applicable to this subpart.

Appendix A to Subpart S—Reference Documents

Appendix B to Subpart S—Explanatory Data [Reserved]

Appendix C to Subpart S—Tables, Notes, and Charts [Reserved]

Subparts U–Y [Reserved]

1910.442–1910.999 [Reserved]

Subpart Z—Toxic and Hazardous Substances

1910.1000 Air contaminants.
1910.1001 Asbestos.
1910.1002 Coal tar pitch volatiles; interpretation of term.
1910.1003 Carcinogens (4-Nitrobiphenyl, etc.)
1910.1004 alpha-Naphthylamine.
1910.1005 [Reserved]
1910.1006 Methyl chloromethyl ether.
1910.1007 3,3'-Dichlorobenzidine (and its salts).
1910.1008 bis-Chloromethly ether.
1910.1009 beta-Naphthylamine.
1910.1010 Benzidine.
1910.1011 4-Aminodiphenyl.
1910.1012 Ethyleneimine.
1910.1013 beta-Propiolactone.
1910.1014 2-Acetylaminofluorne.
1910.1015 4-Dimethylaminoazobenzene.
1910.1016 N-Nitrosodimethylamine.
1910.1017 Vinyl chloride.
1910.1018 Inorganic arsenic.
1910.1020 Access to employee exposure and medical records.
1910.1025 Lead.
1910.1027 Cadmium.
1910.1028 Benzine.
1910.1029 Coke oven emissions.
1910.1030 Bloodborne pathogens.
1910.1043 Cotton dust.
1910.1044 1,2-dibromo-3-chloropropane.
1910.1045 Acrylonitrile.
1910.1047 Ethylene oxide.
1910.1048 Formaldehyde.
1910.1050 Methylenedianiline.
1910.1096 Ionizing radiation.
1910.1200 Hazard communication.
1910.1201 Retention of DOT markings, placards and labels.
1910.1450 Occupational exposure to hazardous chemicals in laboratories.

APPENDIX B TO PART 1900—REFERENCES TO SECTIONS OF PART 1926, 29 CFR, ADOPTED AS OCCUPATIONAL SAFETY AND HEALTH STANDARDS UNDER SECTION 215(D) OF THE CAA

The following is a reference listing of the sections and subparts of Part 1926, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes the appendices to that section.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Subpart C—General Safety and Health Provisions

Sec.
1910.20 General safety and health provisions.
1910.21 Safety training and education.
1910.22 Recording and reporting of injuries. [Reserved]
1910.23 First aid and medical attention.
1910.24 Fire protection and prevention.
1910.25 Housekeeping.
1910.26 Illumination.
1910.27 Sanitation.
1910.28 Personal protective equipment.
1910.29 Acceptable certifications.
1910.31 Incorporation by reference.
1910.32 Definitions.
1926.33 Access to employee exposure and medical records.
1926.34 Means of egress.
1926.35 Employee emergency action plans.

Subpart D—Occupational Health and Environmental Controls

1926.50 Medical services and first aid.
1926.51 Sanitation.
1926.52 Occupational noise exposure.
1926.53 Ionizing radiation.
1926.54 Nonionizing radiation.
1926.55 Gases, vapors, fumes, dusts, and mists.
1926.56 Illumination.
1926.57 Ventilation.
1926.58 [Reserved].
1926.59 Hazard communication.
1926.60 Methylenedianiline.
1926.61 Retention of DOT markings, placards and labels.
1926.62 Lead.
1926.63 Cadmium (This standard has been redesignated as 1926.1127).
1926.64 Process safety management of highly hazardous chemicals.
1926.65 Hazardous waste operations and emergency response.
1926.66 Criteria for design and construction for spray booths.

Subpart E—Personal Protective and Life Saving Equipment

1926.95 Criteria for personal protective equipment.
1926.96 Occupational foot protection.
1926.97 [Reserved].

1926.98 [Reserved].
1926.99 [Reserved].
1926.100 Head protection.
1926.101 Hearing protection.
1926.102 Eye and face protection.
1926.103 Respiratory protection.
1926.104 Safety belts, lifelines, and lanyards.
1926.105 Safety nets.
1926.106 Working over or near water.
1926.107 Definitions applicable to this subpart.

Subpart F—Fire Protection and Prevention

1926.150 Fire protection.
1926.151 Fire prevention.
1926.152 Flammable and combustible liquids.
1926.153 Liquefied petroleum gas (LP-Gas).
1926.154 Temporary heating devices.
1926.155 Definitions applicable to this subpart.

Subpart G—Signs, Signals, and Barricades

1926.200 Accident prevention signs and tags.
1926.201 Signaling.
1926.202 Barricades.
1926.203 Definitions applicable to this subpart.

Subpart H—Materials Handling, Storage, Use, and Disposal

1926.250 General requirements for storage.
1926.251 Rigging equipment for material handling.
1926.252 Disposal of waste materials.

Subpart I—Tools—Hand and Power

1926.300 General requirements.
1926.301 Hand tools.
1926.302 Power operated hand tools.
1926.303 Abrasive wheels and tools.
1926.304 Woodworking tools.
1926.305 Jacks—lever and ratchet, screw and hydraulic.
1926.306 Air Receivers.
1926.307 Mechanical power-transmission apparatus.

Subpart J—Welding and Cutting

1926.350 Gas welding and cutting.
1926.351 Arc welding and cutting.
1926.352 Fire prevention.
1926.353 Ventilation and protection in welding, cutting, and heating.
1926.354 Welding, cutting and heating in way of preservative coatings.

Subpart K—Electrical

1926.401 Introduction.
1926.401 [Reserved].

Installation Safety Requirements

1926.402 Applicability.
1926.403 General requirements.
1926.404 Wiring design and protection.
1926.405 Wiring methods, components, and equipment for general use.
1926.406 Specific purpose equipment and installations.
1926.407 Hazardous (classified) locations.
1926.408 Special systems.
1926.409–1926.415 [Reserved].

Safety-Related Work Practices

1926.416 General requirements.
1926.417 Lockout and tagging of circuits.
1926.418–1926.430 [Reserved].

Safety-Related Maintenance and Environmental Considerations

1926.431 Maintenance of equipment.
1926.432 Environmental deterioration of equipment.
1926.433–1926.440 [Reserved]

Safety Requirements For Special Equipment

1926.441 Battery locations and battery charging.
1926.442–1926.448 [Reserved]

Definitions

1926.449 Definitions applicable to this subpart.

Subpart L—Scaffolding

1926.450 [Reserved]
1926.451 Scaffolding.
1926.452 Guardrails, handrails, and covers.
1926.453 Manually propelled mobile ladder stands and scaffolds (towers).

Subpart M—Fall Protection

1926.500 Scope, application, and definitions applicable to this subpart.
1926.501 Duty to have fall protection.
1926.502 Fall protection systems criteria and practices.
1926.503 Training requirements.

Appendix A to Subpart M—Determining Roof Widths

Appendix B to Subpart M—Guardrail Systems

Appendix C to Subpart M—Personal Fall Arrest Systems

Appendix D to Subpart M—Positioning Device Systems

Appendix E to Subpart M—Sample Fall Protection Plans

Subpart N—Cranes, Derricks, Hoists, Elevators, and Conveyors

1926.550 Cranes and derricks.
1926.551 Helicopters.
1926.552 Material hoists, personnel hoists and elevators.
1926.553 Base-mounted drum hoists.
1926.554 Overhead hoists.
1926.555 Conveyors.
1926.556 Aerial lifts.

Subpart O—Motor Vehicles and Mechanized Equipment

1926.600 Equipment.
1926.601 Motor vehicles.
1926.602 Material handling equipment.
1926.603 Pile driving equipment.
1926.604 Site clearing.

Subpart P—Excavations

1926.650 Scope, application, and definitions applicable to this subpart.
1926.651 Specific excavation requirements.
1926.652 Requirements for protective systems.

Appendix A to Subpart P—Soil Classification

Appendix B to Subpart P—Sloping and Benching

Appendix C to Subpart P—Timber Shoring for Trenches

Appendix D to Subpart P—Aluminum Hydraulic Shoring for Trenches

Appendix E to Subpart P—Alternatives to Timber Shoring

Appendix F to Subpart P—SELECTION OF PROTECTIVE SYSTEMS

Subpart Q—Concrete and Masonry Construction

1926.700 Scope, application, and definitions, applicable to this subpart.
1926.701 General requirements.
1926.702 Requirements for equipment and tools.
1926.703 Requirements for cast-in-place concrete.
1926.704 Requirements for precast concrete.
1926.705 Requirements for lift-slab construction operations.
1926.706 Requirements of masonry construction.

Appendix to Subpart Q—REFERENCES TO SUBPART Q OF PART 1926

Subpart R—Steel Erection

1926.750 Flooring requirements.
1926.751 Structural steel assembly.
1926.752 Bolting, riveting, fitting-up, and plumbing-up.
1926.753 Safety Nets.

Subpart S—Tunnels and Shafts, Caissons, Cofferdams, and Compressed Air

1926.800 Underground construction.
1926.801 Caissons.
1926.802 Cofferdams.
1926.803 Compressed air.
1926.804 Definitions applicable to this subpart.

Appendix A to Subpart S—DECOMPRESSION TABLES

Subpart T—Demolition

1926.850 Preparatory operations.
1926.851 Stairs, passageways, and ladders.
1926.852 Chutes.
1926.853 Removal of materials through floor openings.
1926.854 Removal of walls, masonry sections, and chimneys.
1926.855 Manual removal of floors.
1926.856 Removal of walls, floors, and material with equipment.
1926.857 Storage.
1926.858 Removal of steel construction.
1926.859 Mechanical demolition.
1926.860 Selective demolition by explosives.

Subpart U—Blasting and use of Explosives

1926.900 General provisions.
1926.901 Blaster qualifications.
1926.902 Surface transportation of explosives.
1926.903 Underground transportation of explosives.
1926.904 Storage of explosives and blasting agents.
1926.905 Loading of explosives or blasting agents.
1926.906 Initiation of explosive charges—electric blasting.
1926.907 Use of safety fuse.
1926.908 Use of detonating cord.
1926.909 Firing the blast.
1926.910 Inspection after blasting.
1926.911 Misfires.
1926.212 Underwater blasting.
1926.913 Blasting in excavation work under compressed air.
1926.914 Definitions applicable to this subpart.

Subpart V—Power Transmission and Distribution

1926.950 General requirements.
1926.941 Tools and protective equipment.
1926.952 Mechanical equipment.
1926.953 Material handling.
1926.954 Grounding for protection of employees.
1926.955 Overhead lines.
1926.956 Underground lines.
1926.957 construction in energized substations.
1926.958 External load helicopters.
1926.959 Lineman's body belts, safety straps, and lanyards.
1926.960 Definitions applicable to this subpart.

Subpart W—Rollover Protective Structures; Overhead Protection

1926.1000 Rollover protective structures (ROPS) for material handling equipment.
1926.1001 Minimum performance criteria for rollover protective structures for designated scrapers, loaders, dozers, graders, and crawler tractors.
1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction.
1926.1003 Overhead protection for operators of agricultural and industrial tractors.

Subpart X—Stairways and Ladders

1926.1050 Scope, application, and defintions applicable to this subpart.
1926.1051 General Requirements.
1926.1052 Stairways.

1926.1053	Ladders.
1926.1054–1926.1059	[Reserved]
1926.1060	Training Requirements.

Appendix A to Subpart X—Ladders

Subpart Z—Toxic and Hazardous Substances

1926.1100	[Reserved]
1926.1101	Asbestos.
1926.1102	Coal tar pitch volatiles; interpretation of term.
1926.1103	44-Nitrobiphenyl.
1926.1104	alpha-Naphthylamine.
1926.1105	[Reserved]
1926.1106	Methyl chloromethyl ether.
1926.1107	3.3'-Dichlorobenzidine (and its salts).
1926.1108	bis-Chloromethyl ether.
1926.1109	beta-Naphthylamine.
1926.1110	Benzidine.
1926.1111	4-Aminodiphenyl.
1926.1112	Ethyleneimine.
1926.1113	beta-Propiolactone.
1926.1114	2-Acetylaminofluorence.
1926.1115	4-Dimethylaminoazobenzene.
1926.1116	N-Nitrosodimethylamine.
1926.1117	Vinyl chloride.
1926.1118	Inorganic arsenic.
1926.1127	Cadmium.
1926.1128	Benzene.
1926.1129	Coke oven emissions.
1926.1144	1,2-dibromo-3-chloropropane.
1926.1145	Acrylonitrile.
1926.1147	Ethylene oxide.
1926.1148	Formaldehyde.

Appendix A to Part 1926—Designations for General Industry Standards

NOTICE OF ADOPTION OF REGULATIONS

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, December 20, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am transmitting on behalf of the Board of Directors the enclosed notice of adoption of regulations, together with a copy of the regulations for publication in the Congressional Record. The adopted regulations are being issued pursuant to Section 210(e).

The Congressional Accountability Act specifies that the enclosed notice be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

GLEN D. NAGER,
Chair of the Board.

Enclosure

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published September 19, 1996, in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing section 210 of the Congressional Accountability Act of 1995 ("CAA").

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SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 ("CAA"), P.L. 104–1, was enacted into law on January 23, 1995. 2 U.S.C. §§1301 *et seq.* In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and entities within the legislative branch. Section 210(b) provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Titles II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131–12150, 12182, 12183, and 12189 ("ADA") shall apply to specified Legislative Branch entities. 2 U.S.C. §1331(b). Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of services, programs, or activities by any "public entity." Section 210(b)(2) of the CAA defines the term "public entity" for Title II purposes as any entity listed above that provides public services, programs, or activities. 2 U.S.C. §1331(b)(2). Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards.

Section 210(e) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1331(e). Section 210(e) further states that such regulations "shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.* Section 210(e) further provides that the regulations shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (b), the entity responsible for correction of a particular violation, 2 U.S.C. §1331(e).

On September 19, 1996, the Board published in the Congressional Record a Notice of Proposed Rulemaking ("NPR") (142 Cong. Rec. S11019 (daily ed., Sept. 19, 1996)). In response to the NPR, the Board received three written comments.[1] After full consideration of the comments received in response to the proposed regulations, the Board has adopted and is submitting these regulations for approval by the Congress.

I. Summary of Comments and Board's Final Rules

A. Request for Additional Rulemaking Proceedings

One commenter requested that the Board withdraw its proposed regulations and engage in what it termed "investigative rulemaking," which apparently is to include discussions with involved parties regarding the nature and scope of the regulations. This request was also made by the commenter regarding the proposed rules under section 215, which the Board has discussed in the preamble to the final rules submitted concurrently with these rules. The Board determines that further rulemaking proceedings are not required for the reasons set forth in the preamble to the final rules under section 215.

B. Specific Issues Regarding Adoption of the Attorney General's Title II Regulations

1. *Self-evaluation, notice, and designation of responsible employee and adoption of grievance provisions (sections 35.105, 35.106, and 35.107).*

The Board proposed adoption of the Attorney General's regulations at sections 35.106 through 35.107, which require covered entities to conduct a self-evaluation of their facilities for compliance with disability access requirements and to provide notice to individuals informing them of their rights and protections under the ADA and, for entities that employ 50 or more employees, to maintain the self-evaluation on file and available for inspection for three years, designate a responsible employee, and adopt a grievance procedure.

One commenter argued that, although these sections are within the scope of regulations to be adopted under section 210(e), there is "good cause" not to adopt the self-evaluation requirements of section 35.105. In the commenter's view, the General Counsel's inspections under section 210(f) of the CAA serve the same purpose as the self-evaluation under section 35.105 of the Attorney General's regulations. The Board does not agree.

In order to modify an adopted regulation, the Board must have good cause to believe that the modification would be "more effective" for the implementation of the rights and responsibilities under section 210. 2 U.S.C. §1331. That a regulatory requirement may arguably serve the same purpose as other statutory requirements of the CAA does not establish that its elimination would result in a "more effective" implementation of section 210 rights and protections.

On the contrary, requiring entities to conduct a self-evaluation after January 1, 1997 (the effective date of section 210), and requiring larger entities to retain a record of that self-evaluation, would likely assist the General Counsel in conducting the section 210(f) inspections for the 105th Congress in an expeditious manner. Moreover, it is conceivable that a self-evaluation might reveal information or raise accessibility issues that may not arise from the General Counsel's inspections. Thus, in the Board's view, requiring entities to proactively investigate their facilities and activities for compliance, rather than placing sole reliance on the General Counsel's inspections, would enhance overall compliance with section 210. Because there is no "good cause" to modify section 35.105, the Board adopts it, as proposed in the NPR.

2. *Employment discrimination provisions (section 35.140).*

The Board proposed adoption of the employment discrimination provisions of section 35.140 as part of its regulations under section 210(e) of the CAA. But the Board also proposed to add a statement that, pursuant to section 210(c) of the CAA, section 201 provided the exclusive remedy for any such act of employment discrimination.

Two commenters recommended that the Board not adopt section 35.140. One commenter argued that section 35.140 implements title I of the ADA (which is not incorporated into section 210 of the CAA). The two commenters also argued that the Board's adoption of section 35.140 might be misinterpreted as an adoption of the ADA regulations of the Equal Employment Opportunity Commission ("EEOC") and, therefore, constitute improper executive branch enforcement of the CAA.

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[1] One of these commenters made no comments regarding any specific portion of the proposed rules, except to encourage the Board to ensure that the anti-retaliation provisions of section 207 of the CAA are applied to the statutory and regulatory proceedings under section 210. As the Board noted in the NPR, although section 207 provides a comprehensive retaliation protection for employees (including applicants and former employees who may invoke their rights under section 210), section 207 does not apply to nonemployees who may enjoy rights and protections against discrimination under section 210.

The Board has carefully considered these comments and, after doing so, has determined that adoption of section 35.140, as proposed, is appropriate. Contrary to the commenter's statement, section 35.140 was promulgated by the Attorney General to implement title II of the ADA, which the Attorney General has interpreted to apply to all activities of a public entity, including employment. *See* 56 Fed. Reg. at 35707 (preamble to final rule regarding part 35). Accordingly, since section 35.140 implements a provision of title II of the ADA that is made applicable to covered entities under section 210(b) of the CAA, it is within the scope of Board rulemaking authority and mandate under section 210(e) of the CAA.

The EEOC's ADA regulations referenced in section 35.140 are effective only insofar as such regulations are relevant to a covered employee's claim under title II of the ADA, as applied by section 210. By adopting section 35.140, the Board does not intend to establish rights or provide substantive legal rules applicable to any claim under title I of the ADA, as applied by section 201 of the ADA; however, the Board recognizes that this distinction between titles I and II of the ADA may, as a practical matter, be blurred since both types of claims might conceivably be brought in a single employment discrimination case under section 201 of the CAA. Moreover, adoption of section 35.106 would not constitute executive branch enforcement since any claim (and the resulting interpretation of the law thereof) would be in a proceeding under section 201 of the CAA before the hearing officer of the Office and/or before the Board.

Accordingly, section 35.106 will be included within the Board's final regulations.

3. *Substitution of the terms "disability" for handicaps" and "TTY's" for "TDD's" (sections 35.150, and sections 35.104 and 35.161).*

The Board will substitute the term "disability" for "handicap" in section 35.150(b)(2)(ii) of the regulations, as recommended by a commenter.

In sections 35.104 and 35.161 and elsewhere in the proposed regulations, the Board substituted the term "text telephones" ("TTY's") for "telecommunication devices for the deaf" ("TDD's"), which was used in the text of the regulations. The Board will use the terms used by the Attorney General in the regulations, as recommended by one commenter.

4. *Subpart F (Compliance Procedures).*

In the NPR, the Board determined that Subpart F, which sets forth administrative enforcement procedures under title II of the ADA, implements provisions of the ADA which are applied by section 210(b) of the CAA and, therefore, is within the Board's rulemaking authority under section 210(e)(2). The Board expressed its intention to adopt Subpart F as regulations under section 210(e), but also to incorporate those provisions into the Office's procedural rules, with appropriate modification to conform to section 210 and preexisting provisions of the Office's procedural rules.

Two commenters have requested that the provisions of Subpart F, with the Board's intended modifications to conform to the statute, be included within the Board's regulations herein so that the text of these regulations may be considered and approved by the Congress. As the Board determined in the NPR, Subpart F is within the scope of rulemaking under section 210(e). Moreover, the provisions of Subpart F apply only to claims under section 210 of the CAA and are in no way duplicative of other procedures already adopted under section 303 of the CAA. Accordingly, the final regulations include Subpart F, with appropriate modification to conform to the statutory procedures of section 210(e). The Board will renumber Subpart F as new Part 2 of the final regulations to make clear that such procedures govern proceedings under section 210, including those brought under title II or title III. There is "good cause" to have one set of procedures governing claims under section 210.

C. Specific Issues Regarding the Attorney General's Title III Regulations

1. *Section 36.104 (Defintions).*

One commenter recommended that the definition of "place of public accommodation" in proposed section 36.104, which lists the kinds of facilities or activities that may meet the definition, delete references to terms such as "inn," "hotel," "motel," "motion picture house," etc., since such facilities do not exist within the Legislative Branch. But the definition of "place of public accommodation" contained in section 36.104 tracks the statutory language of section 301(7) of the ADA. The terms used in section 36.104 are merely representative examples of the types of facilities that fall within the 12 categories of "places of public accommodation" in the statute. *See* 56 Fed. Reg. at 7458 (preamble to Attorney General's title III regulations). The Board finds no basis for concluding that deletion of these references would be "more effective" for the implementation of title II to cover entities. Accordingly, the Board will not alter this definition.

2. *Section 36.207 (Places of public accommodation in private residences).*

The Board proposed adoption of section 36.207 of the Attorney General's title III regulations, which deal with the situation where all or part of a residence may be used as a place of public accommodation. One commenter requested that the Board exempt House Members' residences from this regulation because, in the commenter's view, it would be unnecessary and burdensome for a Member, potentially in office for only two years, to be required to incur large financial expenses in making modifications to his/her home to comply with section 210.

The commenter's concern is apparently based on the erroneous assumption that compliance with section 210 would, in all cases, require a Member using his/her residence as a District Office to make expensive and extensive physical alterations in the residence to meet the law's requirements. On the contrary, as the General Counsel made clear in his Report to the Congress on compliance with section 210, "[a]lthough it is sometimes the case that accessibility requires barrier removal as the only effective option, most covered entities can meet ADA requirements by modifying the way their programs are operated to ensure that individuals with disabilities may have access to them." General Counsel's Report at p. 5. Moreover, to the Board's knowledge, no Member is required to use his/her residence as a location for the Member's public activity. Thus, one option for that Member would be to locate his/her public activity (the District Office, constituent meetings, public gatherings, etc.) in a separate office or other appropriate facility. Still other compliance options in this context (including technical assistance to meet accessibility standards) may be acceptable to the General Counsel, who has enforcement authority regarding compliance under section 210.

In any event, the Board may not entertain a request to exempt any entity by regulation from the coverage of the CAA, in whole or in part, without statutory authorization. Nothing in section 210, the provisions of the ADA applied thereunder, or the Attorney General's regulations adopted by the Board, authorizes the Board to provide regulatory exemptions from the public accommodations accessibility requirements. *See White v. INS*, 75 F.3d 213, 215 (5th Cir. 1996) (agency cannot promulgate even substantive rules that are contrary to statute).

The Board also declines the commenter's suggestion that the Board modify section 35.207 to impose section 210 requirements only if the Member uses the home as a public accommodation "regularly or on a day-to-day basis." If an entity's facility or activity constitutes a "place of public accommodations" under the provisions of title III of the ADA, as applied by section 210 of the CAA, the duty to meet accessibility requirements applies, regardless of whether the operator of the public accommodation maintains the accommodation on a permanent, temporary, seasonal, or intermittent basis. Under the statute, once the conditions of coverage are met, the obligation to ensure accessibility attaches so long as the portion of the facility at issue continues to constitute a "place of public accommodation." This statutory requirement cannot be altered by the Board.

3. *Section 36.305(c) (Access to Multiplex Cinemas).*

The Board will delete proposed section 36.305(c) (relating to accessibility standards for multiplex cinemas) from its final regulations, as recommended by two commenters, because it does not appear to have any conceivable applicability to facilities in the Legislative Branch.

4. *Capitol buildings and grounds as historical properties.*

One commenter has requested that the Board issue regulations declaring the Capitol Buildings and grounds as historical properties for section 210 purposes, based on statutes the commenter contends establish the recognition of the historic nature of such properties by Congress. *See, e.g.*, 40 U.S.C. §§71a, 162–63. However, neither section 210 of the CAA, the provisions of the ADA applied thereunder, nor the Attorney General's regulations adopted by the Board authorizes the Board to declare in its regulations any particular properties as historic. The historic nature of such properties, if relevant in a proceeding under section 210, may be raised and established by the appropriate responding entity before the General Counsel in an investigatory proceeding and/or before the hearing officer or the Board in an appropriate adjudicatory proceeding.

D. Future Changes in Text of Disability Access Standards

The commenters generally agreed with the Board's proposed approach regarding future changes in the regulations of the Attorney General and/or the Secretary of Transportation. However, one commenter suggested that the Board expressly state the manner and frequency by which it and the Office plan to inform covered entities and employees of such changes in such rules and materials. As stated in the NPR, the Board will make any changes in the regulations under the procedures of section 304 of the CAA. Those changes will be made as frequently as needed and it is impossible in the abstract for the Board to establish a pre-set schedule under which as yet unanticipated and unknown changes to regulations will be made.

One commenter expressed concern that the Board not make changes to any external documents or standards without following the rulemaking procedures of section 304 of the CAA. The Board agrees that any changes to the regulations themselves should be subject to ordinary rulemaking procedures under section 304. However, adoption of changes to the text of external documents, such as the ADA Accessibility Guidelines for Buildings and Facilities included as an appendix to the Attorney General's part 36 regulations, should not be subject to notice and comment under section 304 unless the Attorney General makes changes to such external documents pursuant to a notice and comment procedures of the APA. Where changes in those standards are adopted by the Attorney General without notice and comment under the Administrative Procedure Act, such changes are not within the Board's definition of "substantive regulations to implement" the ADA and thus the notice and comment procedures would not be required to make such changes under the CAA. *See* 142 Cong. Rec. at S11020. Of course, if changes in the appendices and other external documents are made by the Attorney General pursuant to the notice and comment procedures of the APA, the Board would likewise be required to follow the procedures of section 304 of the CAA to adopt those changes.

E. Technical and nomenclature changes

One commenter has suggested a number of technical and nomenclature changes to the text of the proposed regulations. The Board has considered each of the suggested changes and, where appropriate, incorporated them into the final regulations. However, unless otherwise expressly stated, by making such changes, the Board does not intend a substantive change in the meaning of the regulations.[2]

II. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and entities should be approved by the Congress by concurrent resolution.

Signed at Washington, D.C. on this 20th day of December, 1996.

Glen D. Nager,
Chair of the Board,
Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress the following regulations:

Adopted Regulations

Application of Rights and Protections of the Americans With Disabilities Act of 1990 Relating to Public Services and Accommodations (Section 210 of the Congressional Accountability Act of 1995)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 210 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Notice of protection
1.104 Authority of the Board
1.105 Method for identifying the entity responsible for correction of violations of section 210

§1.101 Purpose and scope.

(a) *Section 210 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the legislative branch. Section 210(b) of the CAA provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Title II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131–12150, 12182,, 12183, and 12189 ("ADA") shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician and

(9) the Office of Compliance.

2 U.S.C. §1331(b). Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of public services, programs, activities by any "public entity." Section 210(b)(2) of the CAA provides that for the purpose of applying Title II of the ADA the term "public entity" means any entity listed above that provides public services, programs, or activities. Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act." 2 U.S.C. §1361(f)(1).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and to report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1, 35, 36, 37, and 38) are the substantive regulations that the Board of directors of the Office of Compliance has promulgated pursuant to section 210(e) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 210, including the method of identifying entities responsible for correcting a violation of section 210. Part 35 contains the provisions regarding nondiscrimination on the basis of disability in the provision of public services, programs, or activities of covered entities. Part 36 contains the provisions regarding nondiscrimination on the basis of disability by public accommodations. Part 37 contains the provisions regarding transportation services for individuals with disabilities. Part 38 contains the provisions regarding accessibility specifications for transportation vehicles.

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *ADA* means the provisions of the Americans With Disabilities Act of 1990 (42 U.S.C. §§12131–12150, 12182, 12183, and 12189) applied to covered entities by Section 210 of the CAA.

(c) The term *covered entity* includes any of the following entities that either provides public services, programs, or activities, and/or that operates a place of public accommodation within the meaning of section 210 of the CAA: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(d) *Board* means the Board of Directors of the Office of Compliance.

(e) *Office* means the Office of Compliance.

(f) *General Counsel* means the General Counsel of the Office of Compliance.

§1.103 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 210 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§1.104 Authority of the Board.

Pursuant to sections 210 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections against discrimination on the basis of disability in the provision of public services and accommodations under the incorporated provisions of the ADA. Section 210(e) of the CAA directs the Board to promulgate regulations implementing section 210 that are "the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C.

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[2] An example of one technical or nomenclature change that the Board does not adopt is the suggestion that the term "public" be deleted from proposed section 35.102(a) (modifying "services, programs, or activities"), since it does not appear in the text of the Attorney General's regulations. However, in contrast to title II of the ADA, which applies to *all* activities of a covered public entity (whether public or nonpublic), section 210(b)(2) makes clear that a legislative Branch entity is a defined covered entity if it "provides public services, programs, or activities." Thus, the addition of the term "public" in proposed section 35.102(a) is a "technical" change in the Attorney General's regulations required by the language of section 210(b) of the CAA.

§1331(e). The regulations issued by the Board herein are on all matters for which section 210 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) [of section 210 of the CAA]" that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Attorney General and the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Attorney General and/or the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulations or of the statutory provisions of the CAA upon which they are based.

§1.105 Method for identifying the entity responsible for correction of violations of section 210.

(a) *Purpose and Scope.* Section 210(e)(3) of the CAA provides that regulations under section 210(e) include a method of identifying, for purpose of this section and for categories of violations of section 210(b), the entity responsible for correcting a particular violation. This section 1.105 sets forth the method for identifying responsible entities for the purpose of allocating responsibility for correcting violations of section 210(b).

(b) *Categories of violations.* Violations of the rights and protections established in section 210(b) of the CAA that may form the basis for a charge filed with the General Counsel under section 210(d)(1) of the CAA or for a complaint filed by the General Counsel under section 210(d)(3) of the CAA fall into one (or both) of two categories:

(i) *Title II violations.* A covered entity may violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of those provisions of Title II of the ADA (sections 210 through 230), applied to Legislative Branch entities under section 210(b) of the CAA.

(ii) *Title III violations.* A covered entity may also violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of those provisions of Title III of the ADA (sections 302, 303, and 309) applied to Legislative Branch entities under section 210(b) of the CAA.

(c) *Entity Responsible for Correcting a Violation of Title II Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title II of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that is a "public entity," as defined by section 210(b)(2) of the CAA, and that provides the specific public service, program, or activity that forms the basis for the particular violation of title II rights and protections set forth in the charge of discrimination filed with the General Counsel under section 210(d)(1) of the CAA or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA. As used in this section, an entity provides a public service, program, or activity if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(d) *Entity Responsible for Correction of Title III Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title III of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that "operates a place of public accommodation" (as defined in this section) that forms the basis, in whole or in part, for the particular violation of Title III rights and protections set forth in the charge filed with the General Counsel under section 210(d)(1) of the CAA and/or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA.

(i) Definitions.

As used in this section:

Public accommodation has the meaning set forth in Part 36 of these regulations.

Operates, with respect to the operations of a place of public accommodation, includes the superintendence, control, management, or direction of the function of the aspects of the public accommodation that constitute an architectural barrier or communication barrier that is structural in nature, or that otherwise forms the basis for a violation of the rights and protections of Title III of the ADA as applied under section 210(b) of the CAA.

(ii) As used in this section, an entity operates a place of public accommodation if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(e) *Allocation of Responsibility for Correction of Title II and/or Title III Violations.* Where more than one entity is deemed an entity responsible for correction of a violation of Title II and/or Title III rights and protections under the method set forth in this section, as between those parties, allocation of responsibility for complying with the obligations of Title II and/or Title III of the ADA as applied by section 210(b), and for correction of violations thereunder, may be determined by contract or other enforceable arrangement or relationship.

PART 2—INVESTIGATION AND ENFORCEMENT PROCEDURES

Sec.

2.101 Charge filed with the General Counsel
2.102 Service of charge or notice of charge
2.103 Investigations by the General Counsel
2.104 Mediation
2.105 Dismissal of charge
2.106 Complaint by the General Counsel
2.107 Settlement of complaints
2.108 Compliance date

§2.101 Charge filed with the General Counsel.

(a) *Who may file.*

(1) Any qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), as applied by section 210 of the CAA and section 35.104 of the Board's regulations thereunder, who believes that he or she has been subjected to discrimination on the basis of a disability in violation of section 210 of the CAA by a covered entity, may file a charge against any entity responsible for correcting the violation with the General Counsel. A charge may not be filed under section 210 of the CAA by a covered employee alleging employment discrimination on the basis of disability; the exclusive remedy for such discrimination are the procedures under section 201 of the CAA and subpart B of the Office's procedural rules.

(b) *When to file.* A charge under this section must be filed with the General Counsel not later than 180 days from the date of the alleged discrimination.

(c) *Form and Contents.* A charge shall be written or typed on a charge form available from the Office. All charges shall be signed and verified by the qualified individual with a disability (hereinafter referred to as the "charging party"), or his or her representative, and shall contain the following information:

(i) the full name, mailing address, and telephone number(s) of the charging party;

(ii) the name, address, and telephone number of the covered entit(ies) against which the charge is brought, if known (hereinafter referred to as the "respondent");

(iii) the name(s) and title(s) of the individual(s), if known, involved in the conduct that the charging party claims is a violation of section 210 and/or the location and description of the places or conditions within covered facilities that the charging party claims is a violation of section 210;

(iv) a description of the conduct, locations, or conditions that form the basis of the charge, and a brief description of why the charging party believes the conduct, locations, or conditions is a violation of section 210; and

(v) the name, address, and telephone number of the representative, if any, who will act on behalf of the charging party.

§2.102 Service of charge or notice of charge

Within ten (10) days after the filing of a charge with the General Counsel's Office (excluding weekends or holidays), the General Counsel shall serve the respondent with a copy of the charge, by certified mail, return receipt requested, or in person, except when it is determined that providing a copy of the charge would impede the law enforcement functions of the General Counsel. Where a copy of the charge is not provided, the respondent will be served with a notice of the charge within ten (10) days after the filing of the charge. The notice shall include the date, place and circumstances of the alleged violation of section 210. Where appropriate, the notice may include the identify of the person filing the charge.

§2.103 Investigations by the General Counsel

The General Counsel or the General Counsel's designated representative shall promptly investigate each complaint alleging violations of section 210 of the CAA. As part of the investigation, the General Counsel will accept any statement of position or evidence with respect to the charge which the charging party or the respondent wishes to submit. The General Counsel will use other methods to investigate the charge, as appropriate.

§2.104 Mediation

If, upon investigation, the General Counsel believes that a violation of section 210 may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 403 of the CAA and the Office's procedural rules thereunder, between the charging party and any entity responsible for correcting the alleged violation.

§2.105 Dismissal of charge

Where the General Counsel determines that a complaint will not be filed, the General Counsel shall dismiss the charge.

§2.106 Complaint by the General Counsel

(a) After completing the investigation, and where mediation under section 2.104, if any, has not succeeded in resolving the dispute, and where the General Counsel has not settled or dismissed the charge, and if the General Counsel believes that a violation of section 210 may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation.

(b) The complaint filed by the General Counsel under subsection (a) shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405 of the CAA. Any person who has filed a charge under section 2.101 of these rules may intervene as of right with the full rights of a party. The procedures of sections 405 through 407 of the CAA and the Office's procedural rules thereunder shall apply to hearings and related proceedings under this subpart.

§2.107 Settlement of Complaints

Any settlement entered into by the parties to any process described in this subpart shall be in writing and not become effective unless it is approved by the Executive Director under section 414 of the CAA and the Office's procedural rules thereunder.

§2.108 Compliance Date

In any proceedings under this section, if it is demonstrated by the entity responsible for correcting the violation of a violation of section 210, compliance shall take place as soon as possible, but not later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

PART 35—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC SERVICES, PROGRAMS, OR ACTIVITIES

Subpart A—General

Sec.
35.101 Purpose.
35.102 Application.
35.103 Relationship to other laws.
35.104 Definitions.
35.105 Self-evaluation.
35.106 Notice.
35.107 Designation of responsible employee and adoption of grievance procedures.
35.108–35.129 [Reserved]

Subpart B—General Requirements

35.130 General prohibitions against discrimination.
35.131 Illegal use of drugs.
35.132 Smoking.
35.133 Maintenance of accessible features.
35.134 [Reserved]
35.135 Personal devices and services
35.136–35.139 [Reserved]

Subpart C—Employment

35.140 Employment discrimination prohibited.
35.141–35.148 [Reserved]

Subpart D—Program Accessibility

35.149 Discrimination prohibited.
35.150 Existing facilities.
35.151 New construction and alterations.
35.152–35.159 [Reserved]

Subpart E—Communications

35.160 General.
35.161 Telecommunication devices for the deaf (TDD's).
35.162 Telephone emergency services.
35.163 Information and signage.
35.164 Duties.
35.165–35.169 [Reserved]
35.170–35.189 [Reserved]
35.190–35.999 [Reserved]

Subpart A—General

§35.101 Purpose.

The purpose of this part is to effectuate section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.) which, inter alia*, applies the rights and protections of subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150), which prohibits discrimination on the basis of disability by public entities.

§35.102 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all public services, programs, and activities provided or made available by public entities as defined by section 210 of the Congressional Accountability Act of 1995.

(b) To the extent that public transportation services, programs, and activities of public entities are covered by subtitle B of title II of the ADA, as applied by section 210 of the Congressional Accountability Act, they are not subject to the requirements of this part.

§35.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§35.104 Definitions.

For purposes of this part, the term—

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

ADA means the Americans with Disabilities Act (42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Auxiliary aids and services includes—

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

Board means the Board of Directors of the Office of Compliance.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1)(i) The phrase *physical or mental impairment* means—

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The phrase *pysical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

(iii) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

General Counsel means the General Counsel of the Office of Compliance.

Historic preservation programs means programs conducted by a public entity that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under State or local law.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term *illegal use of drugs* does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term *individual with a disability* does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended.

§35.105 Self-evaluation.

(a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

(b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

(c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§35.106 Notice.

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the public services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the CAA and this part.

§35.107 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

(b) *Complaint procedure.* A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.

§35.108–35.129 [Reserved]

Subpart B—General Requirements

§35.130 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

(b)(1) A public entity, in providing any public aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in, or benefit from, the public aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the public aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with a public aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate public aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others, unless such action is necessary to provide qualified individuals with disabilities with public aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any public aid, benefit, or service to beneficiaries of the public entity's program;

(vi) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;

(vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the public aid, benefit, or service.

(2) A public entity may not deny a qualified individual with a disability the opportunity to participate in public services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's public program with respect to individuals with disabilities; or

(iii) That perpetuate the discrimination of another public entity if both public entity are subject to common administrative control.

(4) A public entity may not, in determining the site or location of a facility, make selections—

(i) That have the effect of excluding individuals with disabilities from, denying them the public benefits of, or otherwise subjecting them to discrimination; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the public service, program, or activity with respect to individuals with disabilities.

(5) A public entity, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the public programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The public programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.

(7) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the public service, program, or activity.

(8) A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any public service, program, or activity, unless such criteria can be shown to be necessary for the provision of the public service, program, or activity being offered.

(c) Nothing in this part prohibits a public entity from providing public benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities beyond those required by this part.

(d) A public entity shall administer public services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(e)(1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit provided under the CAA or this part which such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

(f) A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

(g) A public entity shall not exclude or otherwise deny equal public services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§35.131 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public entity shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully,

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public entity shall not deny public health services, or public services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public entity from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in paragraph (c) of this section shall be construed to encourage, prohibit, restrict, or authorize the conduct of testing for the illegal use of drugs.

§35.132 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in transportation covered by this part.

§35.133 Maintenance of accessible features.

(a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§35.134 [Reserved]

§35.135 Personal devices and services.

This part does not require a public entity to provide to individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

§§35.136–35.139 [Reserved]

Subpart C—Employment

§35.140 Employment discrimination prohibited.

(a) No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity.

(b)(1) For purposes of this part, the requirements of title I of the Americans With Disabilities Act ("ADA"), as established by the regulations of the Equal Employment Opportunity Commission in 29 CFR part 1630, apply to employment in any service, program, or activity conducted by a public entity if that public entity is also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(2) For the purposes of this part, the requirements of section 504 of the Rehabilitation Act of 1973, as established by the regulations of the Department of Justice in 28 CFR part 41, as those requirements pertain to employment, apply to employment in any service, program, or activity conducted by a public entity if that public entity is not also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(c) Notwithstanding anything contained in this subpart, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of the CAA.

§§35.141–35.148 [Reserved]

Subpart D—Program Accessibility

§35.149 Discrimination prohibited.

Except as otherwise provided in §35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

§35.150 Existing facilities.

(a) *General.* A public entity shall operate each public service, program, or activity so that the public service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or

(3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with §35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the public benefits or services provided by the public entity.

(b) *Methods*—(1) *General.* A public entity may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its public services, programs, or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of §35.151. In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer public services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of §35.150(a) in historic preservation programs, a public entity shall give priority to methods that provide physical access to individuals with disabilities. In cases where a physical alteration to an historic property is not required because of paragraph (a)(2) or (a)(3) of this section, alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with disabilities into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made by within three years of January 1, 1997, but in any event as expeditiously as possible.

(d) *Transition plan.* (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop, within six months of January 1, 1997, a transition plan setting forth the steps necessary to complete such changes. A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

(2) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the CAA, including covered offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

(3) The plan shall, at a minimum—

(i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its public programs or activities to individuals with disabilities;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

§ 35.151 New construction and alterations.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 1, 1997.

(b) *Alteration.* Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 1, 1997.

(c) *Accessibility standards.* Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) (Appendix B to Part 36 of these regulations) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to Part 36 of these regulations) shall be deemed to comply with the requirements of this section with respect to those facilities, except that the elevator exemption contained at 4.1.3(5) and 4.1.6(1(j) of ADAAG shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Alterations: Historic properties.* (1) Alterations to historic properties shall comply, to the maximum extent feasible, with section 4.1.7 of UFAS or section 4.1.7 of ADAAG.

(2) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of § 35.150.

(e) *Curb ramps.* (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

(2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.

§§ 35.152–35.159 [Reserved]

Subpart E—Communications

§ 35.160 General.

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a public service, program, or activity conducted by a public entity.

(2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

§ 35.161 Telecommunications devices for the deaf (TDD's).

Where a public entity communicates by telephone with applicants and beneficiaries, TDD's or equally effective telecommunication systems shall be used to communicate with individuals with impaired hearing or speech.

§ 36.162 Telephone emergency services.

Telephone emergency services, including 911 services, shall provide direct access to individuals who use TDD's and computer modems.

§ 35.163 Information and signage.

(a) A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible public services, activities, and facilities.

(b) A public entity shall provide signage at all inaccessible entrances to each of its public facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible public facilities. The international symbol for accessibility shall be used at each accessible entrance of a public facility.

§ 35.164 Duties.

This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the public service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the public benefits or services provided by the public entity.

§§ 35.165–35.169 [Reserved]

§§ 35.170–35.999 [Reserved]

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS

Subpart A—General

Sec.
36.101 Purpose.
36.102 Application.
36.103 Relationship to other laws.
36.104 Definitions.
36.105–36.199 [Reserved]

Subpart B—General Requirements

36.201 General.
36.202 Activities.
36.203 Integrated settings.
36.204 Administrative methods.
36.205 Association.
36.206 [Reserved]
36.207 Places of public accommodations located in private residences.
36.208 Direct threat.
36.209 Illegal use of drugs.
36.210 Smoking
36.211 Maintenance of accessible features.
36.212 Insurance.
36.213 Relationship of subpart B to subparts C and D of this part.
36.214–36.299 [Reserved]

Subpart C—Specific Requirements

36.301 Eligibility criteria.
36.302 Modifications in policies, practices, or procedures.
36.303 Auxiliary aids and services.
36.304 Removal of barriers.
36.305 Alternatives to barrier removal.
36.306 Personal devices and services.
36.307 Accessible or special goods.
36.308 Seating in assembly areas.
36.309 Examinations and courses.
36.310 Transportation provided by public accommodations.
36.311–36.399 [Reserved]

Subpart D—New Construction and Alterations

36.401 New construction.
36.402 Alterations.
36.403 Alterations: Path of travel.
36.404 Alterations: Elevator exemption.
36.405 Alterations: Historic preservation.
36.406 Standards for new construction and alterations.
36.407 Temporary suspension of certain detectable warning requirements.
36.408–36.499 [Reserved]
36.501–36.608 [Reserved]
Appendix A to Part 36—Standards for Accessible Design
Appendix B to Part 36—Uniform Federal Accessibility Standards

Subpart A—General

§ 36.101 Purpose.

The purpose of this part is to implement section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*) which, *inter alia*, applies the rights and protections of sections of title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

§ 36.102 Application.

(a) *General.* This part applies to any—

(1) Public accommodation; or

(2) covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes.

(b) *Public accommodations.* (1) The requirements of this part applicable to public accommodations are set forth in subparts B, C, and D of this part.

(2) The requirements of subparts B and C of this part obligate a public accommodation only with respect to the operations of a place of public accommodation.

(3) The requirements of subpart D of this part obligate a public accommodation only with respect to a facility used as, or designed or constructed for use as, a place of public accommodation.

(c) *Examinations and courses.* The requirements of this part applicable to covered entities that offer examinations or courses as specified in paragraph (a) of this section are set forth in §36.309.

§36.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§36.104 Definitions.

For purposes of this part, the term—

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

ADA means the Americans with Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, 42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Covered entity means any entity listed in section 210(a) of the CAA insofar as it operates a place of public accommodation.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a covered entity as having such an impairment.

(5) The term *disability* does not include—

(i) Tranvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drugs means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term "illegal use of drugs" does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

Place of public accommodation means a facility, operated by a covered entity, whose operations fall within at least one of the following categories—

(1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;

(2) A restaurant, bar, or other establishment serving food or drink;

(3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(4) An auditorium, convention center, lecture hall, or other place of public gathering;

(5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) A terminal, depot, or other station used for specified public transportation;

(8) A museum, library, gallery, or other place of public display or collection;

(9) A park, zoo, amusement park, or other place of recreation;

(10) A nursery, elementary, secondary, undergraduate, or postgraduate covered school, or other place of education;

(11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

Public accommodation means a covered entity that operates a place of public accommodation.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and (2) each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Specified public transportation means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate

safety requirements that are necessary for safe operations, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative of fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

Subpart B—General Requirements

§ 36.201 General.

No individual shall be discriminated against on the basis of disability in the full and equal employment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any covered entity who operates a place of public accommodation.

§ 36.202 Activities.

(a) *Denial of participation.* A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(b) *Participation in unequal benefit.* A public accommodation shall not afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(c) *Separate benefit.* A public accommodation shall not provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(d) *Individual or class of individuals.* For purposes of paragraphs (a) through (c) of this section, the term "individual or class of individuals" refers to the clients or customers of the public accommodation that enter into the contractual, licensing, or other arrangement.

§ 36.203 Integrated settings.

(a) *General.* A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(b) *Opportunity to participate.* Notwithstanding the existence of separate or different programs or activities provided in accordance with this subpart, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different.

(c) *Accommodations and services.* (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit available under this part that such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

§36.204 Administrative methods.

A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.

§ 36.205 Association.

A public accommodation shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§ 36.206 [Reserved]

§ 36.207 Places of public accommodation located in private residences.

(a) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this part, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by this part.

(b) The portion of the residence covered under paragraph (a) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by customers or clients, including restrooms.

§ 36.208 Direct threat.

(a) This part does not require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that public accommodation when that individual poses a direct threat to the health or safety of others.

(b) *Direct threat* means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

(c) In determining whether an individual poses a direct threat to the health or safety of others, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk.

§ 36.209 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public accommodation shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public accommodation shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public accommodation from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in this paragraph (c) shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

§ 36.210 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in places of public accommodation.

§ 36.211 Maintenance of accessible features.

(a) A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 36.212 Insurance.

(a) This part shall not be construed to prohibit or restrict—

(1) A covered entity that administers benefit plans from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(2) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(3) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to applicable laws that regulate insurance.

(b) Paragraphs (a)(1), (2), and (3) of this section shall not be used as a subterfuge to evade the purposes of the CAA or this part.

(c) A public accommodation shall not refuse to serve an individual with a disability because its insurance company conditions coverage or rates on the absence of individuals with disabilities.

§ 36.213 Relationship of subpart B to subparts C and D of this part.

Subpart B of this part sets forth the general principles of nondiscrimination applicable to all entities subject to this part. Subparts C and D of this part provide guidance on the application of the statute to specific situations. The specific provisions, including the limitations on those provisions, control over the general provisions in circumstances where both specific and general provisions apply.

§36.214–36.299 [Reserved]

Subpart C—Specific Requirements

§36.301 Eligibility criteria.

(a) *General.* A public accommodation shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

(b) *Safety.* A public accommodation may impose legitimate safety requirements that are necessary for safe operation. Safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

(c) *Charges.* A public accommodation may not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids, barrier removal, alternatives to barrier removal, and reasonable modifications in policies, practices, or procedures, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

§36.302 Modifications in policies, practices, or procedures.

(a) *General.* A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(b) *Specialties*—(1) *General.* A public accommodation may refer an individual with a disability to another public accommodation, if that individual is seeking, or requires, treatment or services outside of the referring public accommodation's area of specialization, and if, in the normal course of its operations, the referring public accommodation would make a similar referral for an individual without a disability who seeks or requires the same treatment or services.

(2) *Illustration—medical specialties.* A health care provider may refer an individual with a disability to another provider, if that individual is seeking, or requires, treatment or services outside of the referring provider's area of specialization, and if the referring provider would make a similar referral for an individual without a disability who seeks or requires the same treatment or services. A physician who specializes in treating only a particular condition cannot refuse to treat an individual with a disability for that condition, but is not required to treat the individual for a different condition.

(c) *Service animals*—(1) *General.* Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(2) *Care or supervision of service animals.* Nothing in this part requires a public accommodation to supervise or care for a service animal.

(d) *Check-out aisles.* A store with check-out aisles shall ensure that an adequate number of accessible check-out aisles is kept open during store hours, or shall otherwise modify its policies and practices, in order to ensure that an equivalent level of convenient service is provided to individuals with disabilities as is provided to others. If only one check-out aisle is accessible, and it is generally used for express service, one way of providing equivalent service is to allow persons with mobility impairments to make all their purchases at that aisle.

§36.303 Auxiliary aids and services.

(a) *General.* A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

(b) *Examples.* The term "auxiliary aids and service" includes—

(1) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments.

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(c) *Effective communication.* A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

(d) Telecommunication devices for the deaf (TDD's). (1) A public accommodation that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls on more than an incidental convenience basis shall make available, upon request, a TDD for the use of an individual who has impaired hearing or a communication disorder.

(2) This part does not require a public accommodation to use a TDD for receiving or making telephone calls incident to its operations.

(f) *Alternatives.* If provision of a particular auxiliary aid or service by a public accommodation would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or in an undue burden, i.e., significant difficulty or expense, the public accommodation shall provide an alternative auxiliary aid or service, if one exists, that would not result in such an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations offered by the public accommodation.

§36.304 Removal of barriers.

(a) *General.* A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

(b) *Examples.* Examples of steps to remove barriers include, but are not limited to, the following actions—

(1) Installing ramps;

(2) Making curb cuts in sidewalks and entrances;

(3) Repositioning shelves;

(4) Rearranging tables, chairs, vending machines, display racks, and other furniture;

(5) Repositioning telephones;

(6) Adding raised markings on elevator control buttons;

(7) Installing flashing alarm lights;

(8) Widening doors;

(9) Installing offset hinges to widen doorways;

(10) Eliminating a turnstile or providing an alternative accessible path;

(11) Installing accessible door hardware;

(12) Installing grab bars in toilet stalls;

(13) Rearranging toilet partitions to increase maneuvering space;

(14) Insulating lavatory pipes under sinks to prevent burns;

(15) Installing a raised toilet seat;

(16) Installing a full-length bathroom mirror;

(17) Repositioning the paper towel dispenser in a bathroom;

(18) Creating designated accessible parking spaces;

(19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain;

(20) Removing high pile, low density carpeting; or

(21) Installing vehicle hand controls.

(c) *Priorities.* A public accommodation is urged to take measures to comply with the barrier removal requirements of this section in accordance with the following order of priorities.

(1) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

(2) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.

(3) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

(4) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(d) *Relationship to alterations requirements of subpart D of this part.* (1) Except as provided in paragraph (d)(2) of this section, measures taken to comply with the barrier removal requirements of this section shall comply with the applicable requirements for alterations in §36.402 and §§36.404–36.406 of this part for the element being altered. The path of travel requirements of §36.403 shall not apply to measures taken solely to comply with the barrier removal requirements of this section.

(2) If, as a result of compliance with the alterations requirements specified in paragraph (d)(1) of this section, the measures required to remove a barrier would not be readily achievable, a public accommodation may take other readily achievable measures to remove the barrier that do not fully comply with the specified requirements. Such measures include, for example, providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by the alterations requirements. No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.

(e) *Portable ramps.* Portable ramps should be used to comply with this section only when installation of a permanent ramp is not readily achievable. In order to avoid any significant risk to the health or safety of individuals with disabilities or others in using portable ramps, due consideration shall be given to safety features such as nonslip surfaces, railing, anchoring, and strength of materials.

(f) *Selling or serving space.* The rearrangement of temporary or movable structures, such as furniture, equipment, and display racks is not readily achievable to the extent that it results in a significant loss of selling or serving space.

(g) *Limitation on barrier removal obligations.* (1) The requirements for barrier removal under §36.304 shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(2) To the extent that relevant standards for alterations are not provided in subpart D of this part, then the requirements of §36.304 shall not be interpreted to exceed the standards for new construction in subpart D of this part.

(3) This section does not apply to rolling stock and other conveyances to the extent that 36.310 applies to rolling stock and other conveyances.

§36.305 Alternatives to barrier removal.

(a) *General.* Where a public accommodation can demonstrate that barrier removal is not readily achievable, the public accommodation shall not fail to make its goods, services, facilities, privileges, advantages, or accommodations available through alternative methods, if those methods are readily achievable.

(b) *Examples.* Examples of alternatives to barrier removal include, but are not limited to, the following actions—

(1) Providing curb service or home delivery.

(2) Retrieving merchandise from inaccessible shelves or racks;

(3) Relocating activities to accessible locations.

§36.306 Personal devices and services.

This part does not require a public accommodation to provide its customers, clients, or participants with personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; or services of a personal nature including assistance in eating, toileting, or dressing.

§36.307 Accessible or special goods.

(a) This part does not require a public accommodation to alter its inventory to include accessible or special goods that are designed for, or facilitate use by, individuals with disabilities.

(b) A public accommodation shall order accessible or special goods at the request of an individual with disabilities, if, in the normal course of its operation, it makes special orders on request for unstocked good, and if the accessible or special goods can be obtained from a supplier with whom the public accommodation customarily does business.

(c) Examples of accessible or special goods include items such as Brailled versions of books, books on audio cassettes, closed-captioned video tapes, special sizes or lines of clothing, and special foods to meet particular dietary needs.

§36.308 Seating in assembly areas.

(a) *Existing facilities.* (1) To the extent that is readily achievable, a public accommodation in assembly areas shall—

(i) Provide a reasonable number of wheelchair seating spaces and seats with removable aisle-side arm rests; and

(ii) Locate the wheelchair seating spaces so that they—

(A) Are dispersed throughout the seating area;

(B) Provide lines of sight and choice of admission prices comparable to those for members of the general public;

(C) Adjoin an accessible route that also serves as a means of egress in case of emergency; and

(D) Permit individuals who use wheelchairs to sit with family members or other companions.

(2) If removal of seats is not readily achievable, a public accommodation shall provide, to the extent that it is readily achievable to do so, a portable chair or other means to permit a family member or other companion to sit with an individual who uses a wheelchair.

(3) The requirements of paragraph (a) of this section shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(b) *New construction and alterations.* The provision and location of wheelchair seating spaces in newly constructed or altered assembly areas shall be governed by the standards for new construction and alterations in subpart D of this part.

§36.309 Examinations and courses.

(a) *General.* Any covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

(b) *Examinations.* (1) Any covered entity offering an examination covered by this section must assure that—

(i) The examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills (except where those skills are the factors that the examination purports to measure);

(ii) An examination that is designed for individuals with impaired sensory, manual, or speaking skills is offered at equally convenient locations, as often, and in as timely a manner as are other examinations; and

(iii) The examination is administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements are made.

(2) Required modifications to an examination may include changes in the length of time permitted for completion of the examination and adaptation of the manner in which the examination is given.

(3) A covered entity offering an examination covered by this section shall provide appropriate auxiliary aids for persons with impaired sensory, manual, or speaking skills, unless that covered entity can demonstrate that offering a particular auxiliary aid would fundamentally alter the measurement of the skills or knowledge the examination is intended to test or would result in an undue burden. Auxiliary aids and services required by this section may include taped examinations, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print examinations and answer sheets or qualified readers for individuals with visual impairments or learning disabilities, transcribers for individuals with manual impairments, and other similar services and actions.

(4) Alternative accessible arrangements may include, for example, provision of an examination at an individual's home with a proctor if accessible facilities or equipment are unavailable. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

(c) *Courses.* (1) Any covered entity that offers a course covered by this section must make such modifications to that course as are necessary to ensure that the place and manner in which the course is given are accessible to individuals with disabilities.

(2) Required modifications may include changes in the length of time permitted for the completion of the course, substitution of specific requirements, or adaptation of the manner in which the course is conducted is conducted or course materials are distributed.

(3) A covered entity that offers a course covered by this section shall provide appropriate auxiliary aids and services for persons with impaired sensory, manual, or speaking skills, unless that covered entity can demonstrate that offering a particular auxiliary aid or service would fundamentally alter the course or would result in an undue burden. Auxiliary aids and services required by this section may include taped texts, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print texts or qualified readers for individuals with visual impairments and learning disabilities, classroom equipment adapted for use by individuals with manual impairments, and other similar services and actions.

(4) Courses must be administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements must be made.

(5) Alternative accessible arrangements may include, for example, provision of the course through videotape, cassettes, or prepared notes. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

§36.310 Transportation provided by public accommodations.

(a) *General.* (1) A public accommodation that provides transportation services, but that is not primarily engaged in the business of transporting people, is subject to the general and specific provisions in subparts B, C, and D of this part for its transportation operations, except as provided in this section.

(2) *Examples.* Transportation services subject to this section include, but are not limited to, shuttle services operated between

transportation terminals and places of public accommodation and customer shuttle bus services operated by covered entities

(b) *Barrier removal.* A public accommodation subject to this section shall remove transportation barriers in existing vehicles and rail passenger cars used for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift) where such removal is readily achievable.

(c) *Requirements for vehicles and systems.* A public accommodation subject to this section shall comply with the requirements pertaining to vehicles and transportation systems in the regulations issued by the Board of Directors of the Office of Compliance.

§§ 36.311–36.400 [Reserved]

Subpart D—New Construction and Alterations

§ 36.401 New construction.

(a) *General.* (1) Except as provided in paragraphs (b) and (c) of this section, discrimination for purposes of this part includes a failure to design and construct facilities for first occupancy after July 23, 1997, that are readily accessible to and usable by individuals with disabilities.

(2) For purposes of this section, a facility is designed and constructed for first occupancy after July 23, 1997, only—

(i) If the last application for a building permit or permit extension for the facility is certified to be complete, by an appropriate governmental authority after January 1, 1997 (or, in those jurisdictions where the government does not certify completion of applications, if the last application for a building permit or permit extension for the facility is received by the appropriate governmental authority after January 1, 1997); and

(ii) If the first certificate of occupancy for the facility is issued after July 23, 1997.

(b) *Place of public accommodation located in private residences.*

(1) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subpart, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by the new construction and alterations requirements of this subpart.

(2) The portion of the residence covered under paragraph (b)(1) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by employees or visitors of the place of public accommodation, including restrooms.

(c) *Exception for structural impracticability.* (1) Full compliance with the requirements of this section is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(2) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.

(3) If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.

(d) *Elevator exemption.* (1) For purposes of this paragraph (d)—

Professional office of a health care provider means a location where a person or entity regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility housing the "professional office of a health care provider" only includes floor levels housing at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(2) This section does not require the installation of an elevator in a facility that is less than three stories or has less than 3000 square feet per story, except with respect to any facility that houses one or more of the following:

(i) A professional office of a health care provider.

(ii) A terminal, depot, or other station used for specified public transportation. In such a facility, any area housing passenger services, including boarding and debarking, loading and unloading, baggage claim, dining facilities, and other common areas open to the public, must be on an accessible route from an accessible entrance.

(3) The elevator exemption set forth in this paragraph (d) does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in paragraph (a) of this section. For example, in a facility that houses a professional office of a health care provider, the floors that are above or below an accessible ground floor and that do not house a professional office of a health care provider, must meet the requirements of this section but for the elevator.

§ 36.402 Alterations.

(a) *General.* (1) Any alteration to a place of public accommodation, after January 1, 1997, shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) An alteration is deemed to be undertaken after January 1, 1997, if the physical alteration of the property begins after that date.

(b) *Alteration.* For the purposes of this part, an alteration is a change to a place of public accommodation that affects or could affect the usability of the building or facility or any part thereof.

(1) Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

(2) If existing elements, spaces, or common areas are altered, then each such altered element, space, or area shall comply with the applicable provisions of appendix A to this part.

(c) *To the maximum extent feasible.* The phrase "to the maximum extent feasible," as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

§ 36.403 Alterations: Path of travel.

(a) *General.* An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

(b) *Primary function.* A "primary function" is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer services lobby of a bank, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public accommodation or other covered entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, and restrooms are not areas containing a primary function.

(c) *Alterations to an area containing a primary function.* (1) Alterations that affect the usability of or access to an area containing a primary function include, but are not limited to—

(i) Remodeling merchandise display areas or employee work areas in a department store;

(ii) Replacing an inaccessible floor surface in the customer service or employee work areas of a bank;

(iii) Redesigning the assembly line area of a factory; or

(iv) Installing a computer center in an accounting firm.

(2) For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

(d) *Path of travel.* (1) A "path of travel" includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.

(2) An accessible path of travel may consist of walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

(3) For the purposes of this part, the term "path of travel" also includes the restrooms,

telephones, and drinking fountains serving the altered area.

(e) *Disproportionality*. (1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

(2) Costs that may be counted as expenditures required to provide an accessible path of travel may include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

(ii) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

(iii) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a telecommunications device for deaf persons (TDD);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f) *Duty to provide accessible features in the event of disproportionality*. (1) When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

(2) In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom;

(iv) Accessible telephones;

(v) Accessible drinking fountains; and

(vi) When possible, additional accessible elements such as parking, storage, and alarms.

(g) *Series of smaller alterations*. (1) The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(2)(i) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alterations to the primary function area on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate.

(ii) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alterations.

§ 36.404 Alterations: Elevator exemption.

(a) This section does not require the installation of an elevator in an altered facility that is less than three stories or has less than 3,000 square feet per story, except with respect to any facility that houses the professional office of a health care provider, a terminal, depot, or other station used for specified public transportation.

For the purposes of this section, "professional office of a health care provider" means a location where a person or entity employed by a covered entity and/or regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility that houses a "professional office of a health care provider" only includes floor levels housing by at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(b) The exemption provided in paragraph (a) of this section does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in this subpart. For example, alterations to floors above or below the accessible ground floor must be accessible regardless of whether the altered facility has an elevator.

§ 36.405 Alterations: Historic preservation.

(a) Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), or are designated as historic under State or local law, shall comply to the maximum extent feasible with section 4.1.7 of appendix A to this part.

(b) If it is determined under the procedures set out in section 4.1.7 of appendix A that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of subpart C of this part.

§ 36.406 Standards for new construction and alterations.

(a) New construction and alterations subject to this part shall comply with the standards for accessible design published as appendix A to this part (ADAAG).

(b) The chart in the appendix to this section provides guidance to the user in reading appendix A to this part (ADAAG) together with subparts A through D of this part, when determining requirements for a particular facility.

Appendix to § 36.406

This chart has no effect for purposes of compliance or enforcement. It does not necessarily provide complete or mandatory information.

	Subparts A–D	ADAAG
Application, General.	36.102(b)(3): public accommodations. 36.102(c): commercial facilities. 36.102(e): public entities. 36.103 (other laws) 36.401 ("for first occupancy"). 36.402(a)(alterations).	1,2,3,4.1.1.
Definitions	36.104: facility, place of public accommodation, public accommodation, public entity.	3.5 Definitions, including: addition, alteration, building, element, facility, space, story.
	36.401(d)(1)(i), 36.404(a)(1): professional office of a health care provider. 36.402: alteration; usability. 36.402(c): to the maximum extent feasible.	4.1.6(i), technical infeasibility.
	36.401(a) General	4.1.2.
New Construction: General.	36.207 Places of public accommodation in private residences.	4.1.3.
Work Areas		4.1.1(3).
Structural Impracticability..	36.401(c)	4.1.1(5)(a).
Elevator Exemption.	36.401(d)	4.1.3.(5).
	36.404	
Other Exceptions.		4.1.1(5), 4.1.3(5) and throughout.
Alterations: General.	36.402	4.1.6(1).
Alterations Affecting an Area Containing A Primary Function; Path of Travel; Disproportion--ality..	36.403	4.1.6(2).
Alterations: Special Technical Provisions..		4.1.6(3).
Additions	36.401–36.405	4.1.5.
Historic Preservation.	36.405	4.1.7.
Technical Provisions.		4.2 through 4.35.
Facilities		6.
Business and Mercantile.		7.
Libraries		8.
Transient Lodging (Hotels, Homeless Shelters, Etc.).		9.
Transportation Facilities.		10.

§ 36.407. Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 4.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§ 36.408–36.499 [Reserved]

§§ 36.501–36.608 [Reserved]

APPENDIX A TO PART 36—STANDARDS FOR ACCESSIBLE DESIGN

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

APPENDIX B TO PART 36—UNIFORM FEDERAL ACCESSIBILITY STANDARDS

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (CAA)

Subpart A—General

Sec.
37.1 Purpose.
37.3 Definitions.
37.5 Nondiscrimination.
37.7 Standards for accessible vehicles.
37.9 Standards for accessible transportation facilities.
37.11 [Reserved]
37.13 Effective date for certain vehicle lift specifications.
37.15–37.19 [Reserved]

Subpart B—Applicability

37.21 Applicability: General.
37.23 Service under contract.
37.25 [Reserved]
37.27 Transportation for elementary and secondary education systems.
37.29 [Reserved]
37.31 Vanpools.
37.33–37.35 [Reserved]
37.37 Other applications.
37.39 [Reserved]

Subpart C—Transportation Facilities

37.41 Construction of transportation facilities by public entities.
37.43 Alteration of transportation facilities by public entities.
37.45 Construction and alteration of transportation facilities by covered entities.
37.47 Key stations in light and rapid rail systems.
37.49–37.59 [Reserved]
37.61 Public transportation programs and activities in existing facilities.

37.63–3769 [Reserved]

Subpart D—Acquisition of Accessible Vehicles by Public Entities

37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.
37.73 Purchase or lease of used non-rail vehicles by public entities operating fixed route systems.
37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.
37.77 Purchase or lease of new non-rail vehicles by public entities operating demand responsive systems for the general public.
37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.
37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.
37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.
37.85–37.91 [Reserved]
37.93 One car per train rule.
37.95 [Reserved]
37.97–37.99 [Reserved]

Subpart E—Acquisition of Accessible Vehicles by Covered Entities

37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.
37.103 [Reserved]
37.105 Equivalent service standard.
37.107–37.109 [Reserved]
37.111–37.119 [Reserved]

Subpart F—Paratransit as a complement to fixed route service

37.121 Requirement for comparable complementary paratransit service.
37.123 ADA paratransit eligibility: Standards.
37.125 ADA paratransit eligibility: Process.
37.127 Complementary paratransit for visitors.
37.129 Types of service.
37.131 Service criteria for complementary paratransit.
37.133 Subscription service.
37.135 Submission of paratransit plan.
37.137 Paratransit plan development.
37.139 Plan contents.
37.141 Requirements for a joint paratransit plan.
37.143 Paratransit plan implementation.
37.145 [Reserved]
37.147 Considerations during General Counsel review.
37.149 Disapproved plans.
37.151 Waiver for undue financial burden.
37.153 General Counsel waiver determination.
37.155 Factors in decision to grant undue financial burden waiver.
37.157–37.159 [Reserved]

Subpart G—Provision of Service

37.161 Maintenance of accessible features: General.
37.163 Keeping vehicle lifts in operative condition—public entities.
37.165 Lift and securement use.
37.167 Other service requirements.
37.169 Interim requirements for over-the-road bus service operated by covered entities.
37.171 Equivalency requirement for demand responsive service by covered entities not primarily engaged in the business of transporting people.
37.173 Training requirements.
Appendix A to Part 37—Standards for Accessible Transportation Facilities ....
Appendix B to Part 37—Certifications

Subpart A—General

§ 37.1 Purpose.

The purpose of this part is to implement the transportation and related provisions of titles II and III of the Americans with Disabilities Act of 1990, as applied by section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*).

§ 37.3 Definitions.

As used in this part:

Accessible means, with respect to vehicles and facilities, complying with the accessibility requirements of parts 37 and 38 of these regulations.

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–4238).

ADA means the Americans with Disabilities Act of 1990 (42 U.S.C. §§12131–12150, 12182, 12183, and 12189) as applied to covered entities by section 210 of the CAA.

Alteration means a change to an existing facility, including, but not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical or electrical systems are not alterations unless they affect the usability of the building or facility.

Automated guideway transit system or *AGT* means a fixed-guideway transit system which operates with automated (driverless) individual vehicles or multi-car trains. Service may be on a fixed schedule or in response to a passenger-activated call button.

Auxiliary aids and services includes:

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone headset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, closed and open captioning, text telephones (also known as TTYs), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials avaiable to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; or

(4) Other similar services or actions.

Board means the Board of Directors of the Office of Compliance.

Bus means any of several types of self-propelled vehicles, generally rubber-tired, intended for use on city streets, highways, and busways, including but not limited to minibuses, forty- and thirty-foot buses, articulated buses, double-deck buses, and electrically powered trolley buses, used by public entities to provide designated public transportation service and by covered entities to provide transportation service including, but not limited to, specified public transportation services. Self-propelled, rubber-tired vehicles designed to look like antique or vintage trolleys are considered buses.

Commuter bus service means fixed route bus service, characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation.

Covered entity means any entity listed in section 210(a) of the CAA that operates a place of public accommodation within the meaning of section 210 of the CAA.

Demand responsive system means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including but not limited to specified public transportation service, which is not a fixed route system.

Designated public transportation means transportation provided by a public entity (other than public school transportation) by bus, rail, or other conveyance (other than transportation by aircraft or intercity or commuter rail transportation) that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The term *physical or mental impairment* includes, but is not limited to, such contagious or noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life* activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; or

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities; or

(4) The phrase *is regarded as having such an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or covered entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvertism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania;

(iii) Psychoactive substance abuse disorders resulting from the current illegal use of drugs.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Fixed route system means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including, but not limited to, specific public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

General Counsel means the General Counsel of the Office of Compliance.

Individual with a disability means a person who has a disability, but does not include an individual who is currently engaging in the illegal use of drugs, when a public or covered entity acts on the basis of such use.

Light rail means a streetcar-type vehicle operated on city streets, semi-exclusive rights of way, or exclusive rights of way. Service may be provided by step-entry vehicles or by level boarding.

New vehicle means a vehicle which is offered for sale or lease after manufacture without any prior use.

Office means the Office of Compliance.

Operates includes, with respect to a fixed route or demand responsive system, the provision of transportation service by a public or covered entity itself or by a person under a contractual or other arrangement or relationship with the entity.

Over-the-road bus means a bus characterized by an elevated passenger deck located over a baggage compartment.

Paratransit means comparable transportation service required by the CAA for individuals with disabilities who are unable to use fixed route transportation systems.

Private entity means any entity other than a public or covered entity.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Purchase or lease, with respect to vehicles, means the time at which a public or covered entity is legally obligated to obtain the vehicles, such as the time of contract execution.

Public school transportation means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

Rapid rail means a subway-type transit vehicle railway operated on exclusive private rights of way with high level platform stations. Rapid rail also may operate on elevated or at grade level track separated from other traffic.

Remanufactured vehicle means a vehicle which has been structurally restored and has had new or rebuilt major components installed to extend its service life.

Service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Solicitation means the closing date for the submission of bids or offers in a procurement.

Station means where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but this term does not include flag stops (i.e., stations which are not regularly scheduled stops but at which trains will stop board or detrain passengers only on signal or advance notice).

Transit facility means, for purposes of determining the number of text telephones needed consistent with §10.3.1(12) of Appendix A to this part, a physical structure the primary function of which is to facilitate access to and from a transportation system which has scheduled stops at the structure. The term does not include an open structure or a physical structure the primary purpose of which is other than providing transportation services.

Used vehicle means a vehicle with prior use.

Vanpool means a voluntary commuter ridesharing arrangement, using vans with a seating capacity greater than 7 persons (including the driver) or buses, which provides transportation to a group of individuals traveling directly from their homes to their regular places of work within the same geographical area, and in which the commuter/driver does not receive compensation beyond reimbursement for his or her costs of providing the service.

Vehicle, as the term is applied to covered entities, does not include a rail passenger car, railroad locomotive, railroad freight car, or railroad caboose, or other rail rolling stock described in section 242 or title III of the Americans With Disabilities Act, which is not applied to covered entities by section 210 of the CAA.

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "*common wheelchair*" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

§37.5 Nondiscrimination.

(a) No covered entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

(b) Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

(c) An entity shall not require an individual with a disability to use designated priority seats, if the individual does not choose to use these seats.

(d) An entity shall not impose special charges, not authorized by this part, on individuals with disabilities, including individuals who use wheelchairs, for providing services required by this part or otherwise necessary to accommodate them.

(e) An entity shall not require that an individual with disabilities be accompanied by an attendant.

(f) An entity shall not refuse to serve an individual with a disability or require anything contrary to this part because its insurance company conditions coverage or rates on the absence of individuals with disabilities or requirements contrary to this part.

(g) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

§37.7 Standards for accessible vehicles.

(a) For purposes of this part, a vehicle shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in part 38 of these regulations.

(b)(1) For purposes of implementing the equivalent facilitation provision in §38.2 of these regulations, the following parties may submit to the General Counsel of the applicable operating administration a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services and is subject to the provisions of subpart D or subpart E of this part; or

(ii) The manufacturer of a vehicle or a vehicle component or subsystem to be used by such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of part 38 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved];

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in part 38; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation services subject to the provisions of subpart D of this part, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request, to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity that provides transportation services subject to the provisions of subpart E of this part, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel of the concerned operating administration on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitation in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office.

(c) Over-the-road buses acquired by public entities (or by a contractor to a public entity as provided in §37.23 of this part) shall comply with §38.23 and subpart G of part 38 of these regulations.

§37.9 Standards for accessible transportation facilities.

(a) For purposes of this part, a transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in Appendix A to this part.

(b) Facility alterations begun before January 1, 1997, in a good faith effort to make a facility accessible to individuals with disabilities may be used to meet the key station requirements set forth in §37.47 of this part, even if these alterations are not consistent with the standards set forth in Appendix A to this part, if the modifications complied with the Uniform Federal Accessibility Standard (UFAS) or ANSI A117.1(1980) (American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped). This paragraph applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are contained in UFAS or ANSI A117.1, as applicable.

(c) Public entities shall ensure the construction of new bus stop pads are in compliance with section 10.2.1(I) of appendix A to this part, to the extent construction specifications are within their control.

(d)(1) For purposes of implementing the equivalent facilitation provision in section 2.2 of appendix A to this part, the following parties may submit to the General Counsel a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services subject to the provisions of subpart C of this part, or any other appropriate party with the concurrence of the General Counsel.

(ii) The manufacturer of a product or accessibility feature to be used in the facility of such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of appendix A to part 37 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved];

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in appendix A to this part; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation facilities, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitations. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel on a case-by-case basis.

(6) Determination of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitations in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office.

§37.11 [Reserved]

§37.13 Effective date for certain vehicle lift specifications.

The vehicle lift specifications identified in §§38.23(b)(6) and 38.83(b)(6) apply to solicitations for vehicles under this part after December 31, 1996.

§37.15 Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 3.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§37.17–37.19 [Reserved]

Subpart B—Applicability

§37.21 Applicability: General.

(a) This part applies to the following entities:

(1) Any public entity that provides designated public transportation; and

(2) Any covered entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system.

(b) Entities to which this part applies also may be subject to CAA regulations of the Office of Compliance (parts 35 to 36, as applicable). the provisions of this part shall be interpreted in a manner that will make them consistent with applicable Office of Compliance regulations. In any case of apparent inconsistency, the provisions of this part shall prevail.

§37.23 Service under contract.

(a) When a public enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

(b) A public entity which enters into a contractual or other arrangement or relationship with a private entity to provide fixed route service shall ensure that the percentage of accessible vehicles operated by the public entity in its overall fixed route or demand responsive fleet is not diminished as a result.

§37.25 [Reserved]

§37.27 Transportation for elementary and secondary education systems.

(a) The requirements of this part do not apply to public school transportation.

(b) The requirements of this part do not apply to the transportation of school children to and from a covered elementary or secondary school, and its school-related activities, if the school is providing transportation service to students with disabilities equivalent to that provided to students without disabilities. The test of equivalence is the same as that provided in §37.105. If the school does not meet the criteria of this paragraph for exemption from the requirements of this part, it is subject to the requirements of this part for covered entities not primarily engaged in transporting people.

§37.29 [Reserved]

§37.31 Vanpools.

Vanpool systems which are operated by public entities, or in which public entities own or purchase or lease the vehicles, are subject to the requirements of this part for demand responsive service for the general public operated by public entities. A vanpool system in this category is deemed to be providing equivalent service to individuals with disabilities if a vehicle that an individual with disabilities can use is made available to and used by a vanpool in which such an individual chooses to participate.

§37.35 [Reserved]

§37.37 Other applications.

(a) Shuttle systems and other transportation services operated by public accommodations are subject to the requirements of this part for covered entities not primarily engaged in the business of transporting people. Either the requirements for demand responsive or fixed route service may apply, depending upon the characteristics of each individual system of transportation.

(b) Conveyances used by members of the public primarily for recreational purposes rather than for transportation (e.g., amusement park rides, ski lifts, or historic rail cars or trolleys operated in museum settings) are not subject to the requirements of this part. Such conveyances are subject to the Board's regulations implementing the non-transportation provisions of title II or title III of the ADA, as applied by section 210 of the CAA, as applicable.

(c) Transportation services provided by an employer solely for its own employees are not subject to the requirements of this part. Such services are subject to the requirements of section 201 of the CAA.

§37.39 [Reserved]

Subpart C—Transportation Facilities

§37.41 Construction of transportation facilities by public entities.

A public entity shall construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. For purposes of this section, a facility or station is "new" if its construction begins (i.e., issuance of notice to proceed) after December 31, 1996.

§37.43 Alteration of transportation facilities by public entity.

(a)(1) When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations.

(2) When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a primary function, the entity shall make the alteration in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs upon completion of the alterations. *Provided*, that alterations to the path of travel, drinking fountains, telephone and bathrooms are not required to be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if the cost and scope of doing so would disproportionate.

(3) The requirements of this paragraph also apply to the alteration of existing intercity or commuter rail stations by the responsible person for, owner of, or person in control of the station.

(4) The requirements of this section apply to any alteration which begins (i.e., issuance of notice to proceed or work order, as applicable) after December 31, 1996.

(b) As used in this section, the phrase *to the maximum extent feasible* applies to the occasional case where the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the entity shall provide the maximum physical accessibility feasible. Any altered features of the facility or portion of the facility that can be made accessible shall be made accessible. If providing accessibility to certain individuals with disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to individuals with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

(c) As used in this section, a *primary function* is a major activity for which the facility is intended. Areas of transportation facilities that involve primary functions include, but are not necessarily limited to, ticket purchase and collection areas, passenger waiting areas, train or bus platforms, baggage checking and return areas and employment areas (except those involving non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, vary narrow passageways, or freight [non-passenger] elevators which are frequented only by repair personnel).

(d) As used in this section, a *path of travel* includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, parking areas, and streets), an entrance to the facility, and other parts of the facility The term also includes the restrooms, telephones, and drinking fountains serving the altered area. An accessible path of travel may include walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps, clear floor paths through corridors, waiting areas, concourses, and other improved areas, parking access aisles, elevators and lifts, bridges, tunnels, or other passageways between platforms, or a combination of these and other elements.

(e)(1) Alterations made to provide an accessible path to travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 percent of the cost of the alteration to the primary function area (without regard to the costs of accessibility modifications).

(2) Costs that may be counted as expenditures required to provide an accessible path of travel include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area (e.g., widening doorways and installing ramps);

(ii) Costs associated with making restrooms accessible (e.g., grab bars, enlarged toilet stalls, accessible faucet controls);

(iii) Costs associated with providing accessible telephones (e.g., relocation of phones to an accessible height, installation of amplification devices or TTYs);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f)(1) When the cost of alterations necessary to make a path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, then such areas shall be made accessible to the maximum extent without resulting in disproportionate costs;

(2) In this situation, the public entity should give priority to accessible elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom (where there are one or more restrooms);

(iv) Accessible telephones;

(v) Accessible drinking fountains;

(vi) When possible, other accessible elements (e.g., parking, storage, alarms).

(g) If a public entity performs a series of small alterations to the areas served by a single path of travel rather than making the alterations as part of a single undertaking, it shall nonetheless be responsible for providing an accessible path of travel.

(h)(1) If an area containing a primary function has been altered without providing an accessible path of travel to the area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alteration to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel is disproportionate;

(2) For the first three years after January 1, 1997, only alterations undertaken between that date and the date of the alteration at issue shall be considered in determining if the cost of providing accessible features is disproportionate to the overall cost of the alteration.

(3) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alteration.

§37.45 Construction and alteration of transportation facilities by covered entities.

In constructing and altering transit facilities, covered entities shall comply with the regulations of the Board implementing title III of the ADA, as applied by section 210 of the CAA (part 36).

§37.47 Key stations in light and rapid rail systems.

(a) Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in §37.43 of this part.

(b) Each public entity shall determine which stations on its system are key stations. The entity shall identify key stations, using the planning and public participation process set forth in paragraph (d) of this section, and taking into consideration the following criteria:

(1) Stations where passenger boardings exceed average station passenger boardings on the rail system by at least fifteen percent, unless such a station is close to another accessible station;

(2) Transfer stations on a rail line or between rail lines;

(3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports;

(4) End stations, unless an end station is close to another accessible station; and

(5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

(c)(1) Unless an entity receives an extension under paragraph (c)(2) of this section, the public entity shall achieve accessibility of key stations as soon as practicable, but in no case later than January 1, 2000, except that an entity is not required to complete installation of detectable warnings required by section 10.3.2(2) of appendix A to this part until January 1, 2001.

(2) The General Counsel may grant an extension of this completion date for key station accessibility for a period up to January 1, 2025, provided that two-thirds of key stations are made accessible by January 1, 2015. Extensions may be granted as provided in paragraph (e) of this section.

(d) The public entity shall develop a plan for compliance for this section. The plan shall be submitted to the General Counsel's office by July 1, 1997.

(1) The public entity shall consult with individuals with disabilities affected by the plan. The public entity also shall hold at least one public hearing on the plan and solicit comments on it. The plan submitted to General Counsel shall document this public participation, including summaries of the consultation with individuals with disabilities and the comments received at the hearing and during the comment period. The plan also shall summarize the public entity's responses to the comments and consultation.

(2) The plan shall establish milestones for the achievement of required accessibility of key stations, consistent with the requirements of this section.

(e) A public entity wishing to apply for an extension of the January 1, 2000, deadline for key station accessibility shall include a request for an extension with its plan submitted to the General Counsel under paragraph (d) of this section. Extensions may be granted only with respect to key stations which need extraordinarily expensive structural changes to, or replacement of, existing facilities (e.g., installations of elevators, raising the entire passenger platform, or alternations of similar magnitude and cost). Requests for extensions shall provide for completion of key station accessibility within the time limits set forth in paragraph (c) of this section. The General Counsel may approve, approve with conditions, modify, or disapprove any request for an extension.

§§ 37.49–37.59 [Reserved]

§ 37.61 Public transportation programs and activities in existing facilities.

(a) A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(b) This section does not require a public entity to make structural changes to existing facilities in order to make the facilities accessible by individuals who use wheelchairs, unless and to the extent required by § 37.43 (with respect to alterations) or § 37.47 of this part (with respect to key stations). Entities shall comply with other applicable accessibility requirements for such facilities.

(c) Public entities, with respect to facilities that, as provided in paragraph (b) of this section, are not required to be made accessible to individuals who use wheelchairs, are not required to provide to such individuals services made available to the general public at such facilities when the individuals could not utilize or benefit from the services.

§§ 37.63–37.69 [Reserved]

Subpart D—Acquisition of Accessible Vehicles by Public Entities

§ 37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a new bus that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if it applies for, and the General Counsel grants, a waiver as provided for in this section.

(c) Before submitting a request for such a waiver, the public entity shall hold at least one public hearing concerning the proposed request.

(d) The General Counsel may grant a request for such a waiver if the public entity demonstrates to the General Counsel's satisfaction that—

(1) The initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) Hydraulic, electromechanical, or other lifts for such new buses could not be provided by any qualified lift manufacturer to the manufacturer of such new buses in sufficient time to comply with the solicitation; and

(3) Any further delay in purchasing new buses equipped with such necessary lifts would significantly impair transportation services in the community served by the public entity.

(e) The public entity shall include with its waiver request a copy of the initial solicitation and written documentation from the bus manufacturer of its good faith efforts to obtain lifts in time to comply with the solicitation, and a full justification for the assertion that the delay in bus procurement needed to obtain a lift-equipped bus would significantly impair transportation services in the community. This documentation shall include a specific date at which the lifts could be supplied, copies of advertisements in trade publications and inquiries to trade associations seeking lifts, and documentation of the public hearing.

(f) Any waiver granted by the General Counsel under this section shall be subject to the following conditions:

(1) The waiver shall apply only to the particular bus delivery to which the waiver request pertains;

(2) The waiver shall include a termination date, which will be based on information concerning when lifts will become available for installation on the new buses the public entity is purchasing. Buses delivered after this date, even though procured under a solicitation to which a waiver applied, shall be equipped with lifts;

(3) Any bus obtained subject to the waiver shall be capable of accepting a lift, and the public entity shall install a lift as soon as one becomes available;

(4) Such other terms and conditions as the General Counsel may impose.

(g)(1) When the General Counsel grants a waiver under this section, he/she shall promptly notify any appropriate committees of Congress.

(2) If the General Counsel has reasonable cause to believe that a public entity fraudulently applied for a waiver under this section, the General Counsel shall:

(i) Cancel the waiver if it is still in effect; and

(ii) Take other appropriate action.

§ 37.73 Purchase or lease of used non-rail vehicles by public entities operating a fixed route system.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after January 31, 1997, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used vehicle for use on its fixed route system that is not readily accessible to and usable by individuals with disabilities if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) An initial solicitation for used vehicles specifying that all used vehicles are to be life-equipped and otherwise accessible to and usable by individuals with disabilities, or, if an initial solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to used vehicle dealers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§ 37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.

(a) This section applies to any public entity operating a fixed route system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a bus or other vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing; or

(2) Purchases or leases a bus or other vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a bus or other motor vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that including accessibility features required by this part would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a fixed route system, any segment of which is included on the National Register of Historic Places, and if making a vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity has only to make (or purchase or lease a remanufactured vehicle with) those modifications to make the vehicle accessible which do not alter the historic character of such vehicle, in consultation with the National Register of Historic Places.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places, and shall rely on its advice in making determinations of the historic character of the vehicle.

§37.77 Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.

(a) Except as provided in this section, a public entity operating a demand responsive system for the general public making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) If the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities, it may purchase new vehicles that are not readily accessible to and usable by individuals with disabilities.

(c) For purposes of this section, a demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(1) Response time;

(2) Fares;

(3) Geographic area of service;

(4) Hours and days of service;

(5) Restrictions or priorities based on trip purpose;

(6) Availability of information and reservations capability; and

(7) Any constraints on capacity or service availability.

(d) A public entity, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, make a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. A public entity shall make such a certificate and retain it in its files, subject to inspection on request of the General Counsel. All certificates under this paragraph may be made in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year.

(e) The waiver mechanism set forth in §37.71(b)–(g) (unavailability of lifts) of this subpart shall also be available to public entities operating a demand responsive system for the general public.

§37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.

Each public entity operating a rapid or light rail system making a solicitation after January 31, 1997, to purchase or lease a new rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

§37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.

(a) Except as provided elsewhere in this section, each public entity operating a rapid or light rail system which, after January 31, 1997, purchases or leases a used rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used rapid or light rail vehicle for use on its rapid or light rail system that is not readily accessible to and usable by individuals if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) The initial solicitation for used vehicles made by the public entity specifying that all used vehicles were to be accessible to and usable by individuals with disabilities, or, if a solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to manufacturers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used rapid or light rail vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.

(a) This section applies to any public entity operating a rapid or light rail system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a light or rapid rail vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing;

(2) Purchases or leases a light or rapid rail vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a rapid or light rail vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that doing so would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a rapid or light rail system any segment of which is included on the National Register of Historic Places and if making a rapid or light rail vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity need only make (or purchase or lease a remanufactured vehicle with) those modifications that do not alter the historic character of such vehicle.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places and shall rely on its advice in making a determination of the historic character of the vehicle.

§§37.85–37.91 [Reserved]

§37.93 One car per train rule.

(a) The definition of accessible for purposes of meeting the one car per train rule is spelled out in the applicable subpart for each transportation system type in part 38 of these regulations.

(b) Each public entity providing light or rapid rail service shall ensure that each train, consisting of two or more vehicles, includes at least one car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no case later than December 31, 2001.

§37.95 [Reserved]

§§37.97–37.99 [Reserved]

Subpart E—Acquisition of Accessible Vehicles by Covered Entities

§37.10 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.

(a) *Application.* This section applies to all purchases or leases of vehicles by covered entities which are not primarily engaged in the business of transporting people, in which a solicitation for the vehicle is made after January 31, 1997.

(b) *Fixed Route System, Vehicle Capacity Over 16.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) *Fixed Route System, Vehicle Capacity of 16 or Fewer.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of 16 or fewer passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of §37.105 of this part.

(d) *Demand Responsive System, Vehicle Capacity Over 16.* If the entity operates a demand responsive system, and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of §37.105 of this part.

(e) *Demand Responsive System, Vehicle Capacity of 16 or Fewer.* Entities providing demand responsive transportation covered under this section are not specifically required to ensure that new vehicles with seating capacity of 16 or fewer are accessible to individuals with wheelchairs. These entities are required to ensure that their systems, when viewed in their entirety, meet the equivalent service requirements of §§37.171 and 37.105, regardless of whether or not the entities purchase a new vehicle.

§37.103 [Reserved]

§37.105 Equivalent service standard.

For purposes of §37.101 of this part, a fixed route system or demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(a)(1) Schedules/headways (if the system is fixed route);

(2) Response time (if the system is demand responsive);

(b) Fares;

(c) Geographic area of service;

(d) Hours and days of service;

(e) Availability of information;

(f) Reservations capability (if the system is demand responsive);

(g) Any constraints on capacity or service availability;

(h) Restrictions priorities based on trip purpose (if the system is demand responsive).

§§37.107–37.109 [Reserved]

§§37.111–37.119 [Reserved]

Subpart F—Paratransit as a Complement to Fixed Route Service

§37.121 Requirement for comparable complementary paratransit service.

(a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

(b) To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of §§37.123–37.133 of this subpart. The requirement to comply with §37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden.

(c) Requirements for complementary paratransit do not apply to commuter bus systems.

§37.123 CAA paratransit eligibility—standards.

(a) Public entities required by §37.121 of this subpart to provide complementary paratransit service shall provide the service to the CAA paratransit eligible individuals described in paragraph (e) of this section.

(b) If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be CAA paratransit eligible only for those trips for which he or she meets the criteria.

(c) Individuals may be CAA paratransit eligible on the basis of a permanent or temporary disability.

(d) Public entities may provide complementary paratransit service to persons other than CAA paratransit eligible individuals. However, only the cost of service to CAA paratransit eligible individuals may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

(e) The following individuals are CAA paratransit eligible:

(1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

(i) An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in §37.167(g) of this part.

(ii) An individual using a common wheelchair is eligible under this paragraph if the individual's wheelchair cannot be accommodated on an existing vehicle (e.g., because the vehicle's lift does not meet the standards of part 38 of these regulations), even if that vehicle is accessible to other individuals with disabilities and their mobility wheelchairs.

(iii) With respect to rail systems, an individual is eligible under this paragraph if the individual could use an accessible rail system, but

(A) there is not yet one accessible car per train on the system; or

(B) key stations have not yet been made accessible.

(3) Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

(i) Only a specific impairment-related condition which prevents the individual from traveling to a boarding location or from a disembarking location is a basis for eligibility under this paragraph. A condition which makes traveling to boarding location or from a disembarking location more difficult for a person with a specific impairment-related condition than for an individual who does not have the condition, but does not prevent the travel, is not a basis for eligibility under this paragraph.

(ii) Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph. The interaction of such barriers with an individual's specific impairment-related condition may form a basis for eligibility under this paragraph, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location.

(f) Individuals accompanying a CAA paratransit eligible individual shall be provided service as follows:

(1) One other individual accompanying the CAA paratransit eligible individual shall be provided service.

(i) If the CAA paratransit eligible individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible individual.

(ii) A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant;

(2) Additional individuals accompanying the CAA paratransit eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the CAA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to CAA paratransit eligible individuals.

(3) In order to be considered as "accompanying" the eligible individual for purposes of this paragraph, the other individual(s) shall have the same origin and destination as the eligible individual.

§37.125 CAA paratransit eligibility: process.

Each public entity required to provide complementary paratransit service by §37.121 of this part shall establish a process for determining CAA paratransit eligibility.

(a) The process shall strictly limit CAA paratransit eligibility to individuals specified in §37.123 of this part.

(b) All information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility shall be made available in accessible formats, upon request.

(c) If, by a date 21 days following the submission of a complete application, the entity has not made a determination of eligibility, the applicant shall be treated as eligible and provided service until and unless the entity denies the application.

(d) The entity's determination concerning eligibility shall be in writing. If the determination is that the individual is ineligible, the determination shall state the reasons for the finding.

(e) The public entity shall provide documentation to each eligible individual stating that he or she is "CAA Paratransit Eligible." The documentation shall include the name of the eligible individual, the name of the transit provider, the telephone number of the entity's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant.

(f) The entity may require recertification of the eligibility of CAA paratransit eligible individuals at reasonable intervals.

(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

(1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application.

(2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

(3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

(h) The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to CAA eligible individuals who establish a pattern of practice of missing scheduled trips.

(1) Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips which are missed due to operator error) shall not be a basis for determining that such a pattern or practice exists.

(2) Before suspending service, the entity shall take the following steps:

(i) Notify the individual in writing that the entity proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction;

(ii) Provide the individual an opportunity to be heard and to present information and arguments;

(iii) Provide the individual with written notification of the decision and the reasons for it.

(3) The appeals process of paragraph (g) of this section is available to an individual on whom sanctions have been imposed under this paragraph. The sanction is stayed pending the outcome of the appeal.

(i) In applications for CAA paratransit eligibility, the entity may require the applicant to indicate whether or not he or she travels with a personal care attendant.

§37.127 Complementary paratransit service for visitors.

(a) Each public entity required to provide complementary paratransit service under §37.121 of this part shall make the service available to visitors as provided in this section.

(b) For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region.

(c) Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are CAA paratransit eligible, under the criteria of §37.125 of this part, in the jurisdiction in which they reside.

(d) With respect to visitors with disabilities who do not present such documentation, the public entity may require the documentation of the individual's place of residence and, if the individual's disability is not apparent, of his or her disability. The entity shall provide paratransit service to individuals with disabilities who qualify as visitors under paragraph (b) of this section. The entity shall accept a certification by such individuals that they are unable to use fixed route transit.

(e) A public entity shall make the service to a visitor required by this section available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service by this section.

§37.129 Types of service.

(a) Except as provided in this section, complementary paratransit service for CAA paratransit eligible persons shall be origin-to-destination service.

(b) Complementary paratransit service for CAA paratransit eligible persons described in §37.123(e)(2) of this part may also be provided by on-call bus service or paratransit feeder service to an accessible fixed route, where such service enables the individual to use the fixed route bus system for his or her trip.

(c) Complementary paratransit service for CAA eligible persons described in §37.123(e)(3) of this part also may be provided by paratransit feeder service to and/or from an accessible fixed route.

§37.131 Service criteria for complementary paratransit.

The following service criteria apply to complementary paratransit required by §37.121 of this part.

(a) *Service Area*—(1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

(ii) Within the core service area, the entity also shall provide service to small areas not inside any of the corridors but which are surrounded by corridors.

(iii) Outside the core service area, the entity may designate corridors with widths from three fourths of a mile up to one and one half miles on each side of a fixed route, based on local circumstances.

(iv) For purposes of this paragraph, the core service area is that area in which corridors with a width of three-fourths of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served.

(2) *Rail.* (i) For rail systems, the service area shall consist of a circle with a radius of ¾ of a mile around each station.

(ii) At end stations and other stations in outlying areas, the entity may designate circles with radii of up to 1½ miles as part of its service area, based on local circumstances.

(3) *Jurisdictional Boundaries.* Notwithstanding any other provision of this paragraph, an entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area.

(b) *Response Time.* The entity shall schedule and provide paratransit service to any CAA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means.

(1) The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times, comparable to normal business hours, on a day when the entity's offices are not open before a service day.

(2) The entity may negotiate pickup times with the individual, but the entity shall not require a CAA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

(3) The entity may use real-time scheduling in providing complementary paratransit service.

(4) The entity may permit advance reservations to be made up to 14 days in advance of a CAA paratransit eligible individual's desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of §37.131(b) and (c).

(c) *Fares.* The fare for a trip charged to a CAA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

(1) In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.

(2) The fares for individuals accompanying CAA paratransit eligible individuals, who are provided service under §37.123(f) of this part, shall be the same as for the CAA paratransit eligible individuals they are accompanying.

(3) A personal care attendant shall not be charged for complementary paratransit service.

(4) The entity may charge a fare higher than otherwise permitted by this paragraph to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization).

(d) *Trip Purpose Restrictions.* The entity shall not impose restrictions or priorities based on trip purpose.

(e) *Hours and Days of Service.* The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

(f) *Capacity Constraints.* The entity shall not limit the availability of complementary paratransit service to CAA paratransit eligible individuals by any of the following:

(1) Restrictions on the number of trips an individual will be provided;

(2) Waiting lists for access to the service; or

(3) Any operational pattern or practice that significantly limits the availability of service to CAA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A) Substantial numbers of significantly untimely pickups for initial or return trips;

(B) Substantial numbers of trip denials or missed trips;

(C) Substantial numbers of trips with excessive trip lengths.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

(g) *Additional Service.* Public entities may provide complementary paratransit service to CAA paratransit eligible individuals exceeding that provided for in this section. However, only the cost of service provided for in this section may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

§37.133 Subscription Service.

(a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.

(b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is excess non-subscription capacity.

(c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

§37.135 Submission of paratransit plan.

(a) *General.* Each public entity operating fixed route transportation service, which is required by §37.121 to provide complementary paratransit service, shall develop a paratransit plan.

(b) *Initial Submission*. Except as provided in §37.141 of this part, each entity shall submit its initial plan for compliance with the complementary paratransit service provision by June 1, 1998, to the appropriate location identified in paragraph (f) of this section.

(c) *Annual Updates*. Except as provided in this paragraph, each entity shall submit its annual update to the plan on June 1 of each succeeding year.

(1) If an entity has met and is continuing to meet all requirements for complementary paratransit in §§37.121–37.133 of this part, the entity may submit to the General Counsel an annual certification of continued compliance in lieu of a plan update. Entities that have submitted a joint plan under §37.141 may submit a joint certification under this paragraph. The requirements of §§37.137 (a) and (b), 37.138 and 37.139 do not apply when a certification is submitted under this paragraph.

(2) In the event of any change in circumstances that results in an entity which has submitted a certification of continued compliance falling short of compliance with §§37.121–37.133, the entity shall immediately notify the General Counsel in writing of the problem. In this case, the entity shall also file a plan update meeting the requirements of §§37.137–37.139 of this part on the next following June 1 and in each succeeding year until the entity returns to full compliance.

(3) An entity that has demonstrated undue financial burden to the General Counsel shall file a plan update meeting the requirements of §§37.137–37.139 of this part on each June 1 until full compliance with §§37.121–37.133 is attained.

(4) If the General Counsel reasonably believes that an entity may not be fully complying with all service criteria, the General Counsel may require the entity to provide an annual update to its plan.

(d) *Phase-in of Implementation*. Each plan shall provide for full compliance by no later than June 1, 2003, unless the entity has received a waiver based on undue financial burden. If the date for full compliance specified in the plan is after June 1, 1999, the plan shall include milestones, providing for measured, proportional progress toward full compliance.

(e) *Plan Implementation*. Each entity shall begin implementation of its plan on June 1, 1998.

(f) *Submission Locations*. An entity shall submit its plan to the General Counsel's office.

§37.137 Paratransit plan development.

(a) *Survey of existing services*. Each submitting entity shall survey the area to be covered by the plan to identify any person or entity (public or covered) which provides a paratransit or other special transportation service for CAA paratransit eligible individuals in the service area to which the plan applies.

(b) *Public participation*.

Each submitting entity shall ensure public participation in the development of its paratransit plan, including at least the following:

(1) *Outreach*. Each submitting entity shall solicit participation in the development of its plan by the widest range of persons anticipated to use its paratransit service. Each entity shall develop contacts, mailing lists and other appropriate means for notification of opportunities to participate in the development of the paratransit plan.

(2) *Consultation with individuals with disabilities*. Each entity shall contact individuals with disabilities and groups representing them in the community. Consultation shall begin at an early stage in the plan development and should involve persons with disabilities in all phases of plan development. All documents and other information concerning the planning procedure and the provision of service shall be available, upon request, to members of the public, except where disclosure would be an unwarranted invasion of personal privacy.

(3) *Opportunity for public comment*. The submitting entity shall make its plan available for review before the plan is finalized. In making the plan available for public review, the entity shall ensure that the plan is available upon request in accessible formats.

(4) *Public hearing*. The entity shall sponsor at a minimum one public hearing and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements; and

(5) *Special requirements*. If the entity intends to phase-in its paratransit service over a multi-year period, or request a waiver based on undue financial burden, the public hearing shall afford the opportunity for interested citizens to express their views concerning the phase-in, the request, and which service criteria may be delayed in implementation.

(c) *Ongoing requirement*. The entity shall create an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. This includes, but is not limited to, the development of the initial plan, any request for an undue financial burden waiver, and each annual submission.

§37.139 Plan contents.

Each plan shall contain the following information:

(a) Identification of the entity or entities submitting the plan, specifying for each—

(1) Name and address; and

(2) Contact person for the plan, with telephone number and facsimile telephone number (FAX), if applicable.

(b) A description of the fixed route system as of January 1, 1997 (or subsequent year for annual updates), including—

(1) A description of the service area, route structure, days and hours of service, fare structure, and population served. This includes maps and tables, if appropriate;

(2) The total number of vehicles (bus, van, or rail) operated in fixed route service (including contracted service), and percentage of accessible vehicles and percentage of routes accessible to and usable by persons with disabilities, including persons who use wheelchairs;

(3) Any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service.

(c) A description of existing paratransit services, including:

(1) An inventory of service provided by the public entity submitting the plan;

(2) An inventory of service provided by other agencies or organizations, which may in whole or in part be used to meet the requirement for complementary paratransit service; and

(3) A description of the available paratransit services in paragraphs (c)(2) and (c)(3) of this section as they relate to the service criteria described in §37.131 of this part of service area, response time, fares, restrictions on trip purpose, hours and days of service, and capacity constraints; and to the requirements of CAA paratransit eligibility.

(d) A description of the plan to provide comparable paratransit, including:

(1) An estimate of demand for comparable paratransit service by CAA eligible individuals and a brief description of the demand estimation methodology used;

(2) An analysis of differences between the paratransit service currently provided and what is required under this part by the entity(ies) submitting the plan and other entities, as described in paragraph (c) of this section;

(3) A brief description of planned modifications to existing paratransit and fixed route service and the new paratransit service planned to comply with the CAA paratransit service criteria;

(4) A description of the planned comparable paratransit service as it relates to each of the service criteria described in §37.131 of this part—service area, absence of restrictions or priorities based on trip purpose, response time, fares, hours and days of service, and lack of capacity constraints. If the paratransit plan is to be phased in, this paragraph shall be coordinated with the information being provided in paragraphs (d)(5) and (d)(6) of this paragraph:

(5) A timetable for implementing comparable paratransit service, with a specific date indicating when the planned service will be completely operational. In no case may full implementation be completed later than June 1, 2003. The plan shall include milestones for implementing phases of the plan, with progress that can be objectively measured yearly;

(6) A budget for comparable paratransit service, including capital and operating expenditures over five years.

(e) A description of the process used to certify individuals with disabilities as CAA paratransit eligible. At a minimum, this must include—

(1) A description of the application and certification process, including—

(i) The availability of information about the process and application materials in accessible formats;

(ii) The process for determining eligibility according to the provisions of §§37.123–37.125 of this part and notifying individuals of the determination made;

(iii) The entity's system and timetable for processing applications and allowing presumptive eligibility; and

(iv) The documentation given to eligible individuals.

(2) A description of the administrative appeals process for individuals denied eligibility.

(3) A policy for visitors, consistent with §37.127 of this part.

(f) Description of the public participation process including—

(1) Notice given of opportunity for public comment, the date(s) of completed public hearing(s), availability of the plan in accessible formats, outreach efforts, and consultation with persons with disabilities.

(2) A summary of significant issues raised during the public comment period, along with a response to significant comments and discussion of how the issues were resolved.

(g) Efforts to coordinate service with other entities subject to the complementary paratransit requirements of this part which have overlapping or contiguous service areas or jurisdictions.

(h) The following endorsements or certifications:

(1) a resolution adopted by the entity authorizing the plan, as submitted. If more

than one entity is submitting the plan there must be an authorizing resolution from each board. If the entity does not function with a board, a statement shall be submitted by the entity's chief executive;

(2) a certification that the survey of existing paratransit service was conducted as required in §37.137(a) of this part;

(3) To the extent service provided by other entities is included in the entity's plan for comparable paratransit service, the entity must certify that:

(i) CAA paratransit eligible individuals have access to the service;

(ii) The service is provided in the manner represented; and

(iii) Efforts will be made to coordinate the provision of paratransit service by other providers.

(i) a request for a waiver based on undue financial burden, if applicable. The waiver request should include information sufficient for the General Counsel to consider the factors in §37.155 of this part. If a request for an undue financial burden waiver is made, the plan must include a description of additional paratransit services that would be provided to achieve full compliance with the requirement for comparable paratransit in the event the waiver is not granted, and the timetable for the implementation of these additional services.

(j) *Annual plan updates.* (1) The annual plan updates submitted June 1, 1999, and annually thereafter, shall include information necessary to update the information requirements of this section. Information submitted annually must include all significant changes and revisions to the timetable for implementation;

(2) If the paratransit service is being phased in over more than one year, the entity must demonstrate that the milestones identified in the current paratransit plans have been achieved. If the milestones have not been achieved, the plan must explain any slippage and what actions are being taken to compensate for the slippage.

(3) The annual plan must describe specifically the means used to comply with the public participation requirements, as described in §37.137 of this part.

§37.141 *Requirements for a joint paratransit plan.*

(a) Two or more public entities with overlapping or contiguous service areas or jurisdictions may develop and submit a joint plan providing for coordinated paratransit service. Joint plans shall identify the participating entities and indicate their commitment to participate in the plan.

(b) To the maximum extent feasible, all elements of the coordinated plan shall be submitted on June 1, 1998. If a coordinated plan is not completed by June 1, 1998, those entities intending to coordinate paratransit service must submit a general statement declaring their intention to provide coordinated service and each element of the plan specified in §37.139 to the extent practicable. In addition, the plan must include the following certifications from each entity involved in the coordination effort;

(1) a certification that the entity is committed to providing CAA paratransit service as part of a coordinate plan.

(2) a certification from each public entity participating in the plan that it will maintain current levels of paratransit service until the coordinated plan goes into effect.

(c) Entities submitting the above certifications and plan elements in lieu of a completed plan on June 1, 1998, must submit a complete plan by December 1, 1998.

(d) Filing of an individual plan does not preclude an entity from cooperating with other entities in the development or implementation of a joint plan. An entity wishing to join with other entities after its initial submission may do so by meeting the filing requirements of this section.

§37.143 *Paratransit plan implementation.*

(a) Each entity shall begin implementation of its complementary paratransit plan, pending notice for the General Counsel. The implementation of the plan shall be consistent with the terms of the plan, including any specified phase-in period.

(b) If the plan contains a request for a waiver based on undue financial burden, the entity shall begin implementation of its plan, pending a determination on its waiver request.

§37.145 *[Reserved]*

§37.147 *Considerations during General Counsel review.*

In reviewing each plan, at a minimum the General Counsel will consider the following:

(a) Whether the plan was filed on time;

(b) Comments submitted by the state, if applicable;

(c) Whether the plan contains responsive elements for each component required under §37.139 of this part;

(d) Whether the plan, when viewed in its entirety, provides for paratransit service comparable to the entity's fixed route service;

(e) Whether the entity complied with the public participation efforts required by this part; and

(f) The extent to which efforts were made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions.

§37.149 *Disapproved plans.*

(a) If a plan is disapproved in whole or in part, the General Counsel will specify which provisions are disapproved. Each entity shall amend its plan consistent with this information and resubmit the plan to the General Counsel's office within 90 days of receipt of the disapproval letter.

(b) Each entity revising its plan shall continue to comply with the public participation requirements applicable to the initial development of the plan (set out in §37.137 of this part).

§37.151 *Waiver for undue financial burden.*

If compliance with the service criteria of §37.131 of this part creates an undue financial burden, an entity may request a waiver from all or some of the provisions if the entity has complied with the public participation requirements in §37.137 of this part and if the following conditions apply;

(a) At the time of submission of the initial plan on June 1, 1998—

(1) The entity determines that it cannot make measured progress toward compliance in any year before full compliance is required. For purposes of this part, measured progress means implementing milestones as scheduled, such as incorporating an additional paratransit service criterion or improving an aspect of a specific service criterion.

(b) At the time of its annual plan update submission, if the entity believes that circumstances have changed since its last submission, and it is no longer able to comply by June 1, 2003, or make measured progress in any year before 2003, as described in paragraph (a)(2) of this section.

§37.153 *General Counsel waiver determination.*

(a) The General Counsel will determine whether to grant a waiver for undue financial burden on a case-by-case basis, after considering the factors identified in §37.155 of this part and the information accompanying the request. If necessary, the General Counsel will return the application with a request for additional information.

(b) Any waiver granted will be for a limited and specified period of time.

(c) If the General Counsel grants the applicant a waiver, the General Counsel will do one of the following:

(1) Require the public entity to provide complementary paratransit to the extent it can do so without incurring an undue financial burden. The entity shall make changes in its plan that the General Counsel determines are appropriate to maximize the complementary paratransit service that is provided to CAA paratansit eligible individuals. When making changes to its plan, the entity shall use the public participation process specified for plan development and shall consider first a reduction in number of trips provided to each CAA paratransit eligible person per month, while attempting to meet all other service criteria.

(2) Require the public entity to provide basic complementary paratransit services to all CAA paratransit eligible individuals, even if doing so would cause the public entity to incur an undue financial burden. Basic complementary paratransit service shall include at least complementary paratransit service in corridors defined as provided in §37.131(a) along the public entity's key routes during core service hours.

(i) For purposes of this section, key routes are defined as routes along which there is service at least hourly throughout the day.

(ii) For purposes of this section, core service hours encompass at least peak periods, as these periods are defined locally for fixed route service, consistent with industry practice.

(3) If the General Counsel determines that the public entity will incur an undue financial burden as the result of providing basic complementary paratransit service, such that it is infeasible for the entity to provide basic complementary paratransit service, the Administrator shall require the public entity to coordinate with other available providers of demand responsive service in the area served by the public entity to maximize the service to CAA paratransit eligible individuals to the maximum extent feasible.

§37.155 *Factors in decision to grant an undue financial burden waiver.*

(a) In making an undue financial burden determination, the General Counsel will consider the following factors:

(1) Effects on current fixed route service, including reallocation of accessible fixed route vehicles and potential reduction in service, measured by service miles;

(2) Average number of trips made by the entity's general population, on a per capita basis, compared with the average number of trips to be made by registered CAA paratransit eligible persons, on a per capita basis;

(3) Reductions in other services, including other special services;

(4) Increases in fares;

(5) Resources available to implement complementary paratransit service over the period covered by the plan;

(6) Percentage of budget needed to implement the plan, both as a percentage of operating budget and a percentage of entire budget;

(7) The current level of accessible service, both fixed route and paratransit;

(8) Cooperation/coordination among area transportation providers;

(9) Evidence of increased efficiencies, that have been or could be effectuated, that would benefit the level and quality of available resources for complementary paratransit service; and

(10) Unique circumstances in the submitting entity's area that affect the ability of the entity to provide paratransit, that militate against the need to provide paratransit, or in some other respect create a circumstance considered exceptional by the submitting entity.

(b)(1) Costs attributable to complementary paratransit shall be limited to costs of providing service specifically required by this part to CAA paratransit eligible individuals, by entities responsible under this part for providing such service.

(2) If the entity determines that it is impracticable to distinguish between trips mandated by the CAA and other trips on a trip-by-trip basis, the entity shall attribute to CAA complementary paratransit requirements a percentage of its overall paratransit costs. This percentage shall be determined by a statistically valid methodology that determines the percentage of trips that are required by this part. The entity shall submit information concerning its methodology and the data on which its percentage is based with its request for a waiver. Only costs attributable to CAA-mandated trips may be considered with respect to a request for an undue financial burden waiver.

(3) Funds to which the entity would be legally entitled, but which, as a matter of state or local funding arrangements, are provided to another entity and used by that entity to provide paratransit service which is part of a coordinated system of paratransit meeting the requirements of this part, may be counted in determining the burden associated with the waiver request.

Subpart G—Provision of Service

§37.161 Maintenance of accessible features: general.

(a) Public and covered entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§37.163 Keeping vehicle lifts in operative condition: public entities.

(a) This section applies only to public entities with respect to lifts in non-rail vehicles.

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

(f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

§37.165 Lift and securement use.

(a) This section applies to public and covered entities.

(b) All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances. The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

(c)(1) For vehicles complying with part 38 of these regulations, the entity shall use the securement system to secure wheelchairs as provided in that part.

(2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

(3) The entity may require that an individual permit his or her wheelchair to be secured.

(d) The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

(3) The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

(f) Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

(g) The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle. Provided that an entity is not required to permit such individuals to use a lift Model 141 manufactured by EEC, Inc. If the entity chooses not to allow such individuals to use such a lift, it shall clearly notify consumers of this fact by signage on the exterior of the vehicle (adjacent to and of equivalent size with the accessibility symbol).

§37.167 Other service requirements.

(a) This section applies to public and covered entities.

(b) On fixed route systems, the entity shall announce stops as follows:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2) The entity shall announce any stop on request of an individual with a disability.

(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

(d) The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

(e) The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of these regulations.

(f) The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

(g) The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the entity, preclude the safe use of the stop by all passengers.

(h) The entity shall not prohibit an individual with a disability from traveling with a respirator or portable oxygen supply, consistent with applicable Department of Transportation rules on the transportation of hazardous materials.

(i) The entity shall ensure that adequate time is provided to allow individuals with disabilities to complete boarding or disembarking from the vehicle.

(j)(1) When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following person to move in order to allow the individual with a disability to occupy the seat or securement location:

(i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary);

(ii) Individuals sitting in a fold-down or other movable seat in a wheelchair securement location.

(2) This requirement applies to light rail and rapid rail systems only to the extent practicable.

(3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

(4) In all signage designating priority seating areas for elderly persons or persons with disabilities, or designating wheelchair securement areas, the entity shall include language informing persons siting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability. This requirement applies to all fixed route vehicles when they are acquired by the entity or to new or replacement signage in the entity's existing fixed route vehicles.

§37.169 Interim requirements for over-the-road bus service operated by covered entities.

(a) Covered entities operating over-the-road buses, in addition to compliance with other applicable provisions of this part, shall provide accessible service as provided in this section.

(b) The covered entity shall provide assistance, as needed, to individuals with disabilities in boarding and disembarking, including moving to and from the bus seat for the purpose of boarding and disembarking. The covered entity shall ensure that personnel are trained to provide this assistance safely and appropriately.

(c) To the extent that they can be accommodated in the areas of the passenger compartment provided for passengers' personal effects, wheelchairs or other mobility aids and assistive devices used by individuals with disabilities, or components of such devices, shall be permitted in the passenger compartment. When the bus is at rest at a stop, the driver or other personnel shall assist individuals with disabilities with the stowage and retrieval of mobility aids, assistive devices, or other items that can be accommodated in the passenger compartment of the bus.

(d) Wheelchairs and other mobility aids or assistive devices that cannot be accommodated in the passenger compartment (including electric wheelchairs) shall be accommodated in the baggage compartment of the bus, unless the size of the baggage compartment prevents such accommodation.

At any given stop, individuals with disabilities shall have the opportunity to have their wheelchairs or other mobility aids or assistive devices stowed in the baggage compartment before other baggage or cargo is loaded, but baggage or cargo already on the bus does not have to be off-loaded in order to make room for such devices.

(f) The entity may require up to 48 hours' advance notice only for providing boarding assistance. If the individual does not provide such notice, the entity shall nonetheless provide the service if it can do so by making a reasonable effort, without delaying the bus service.

§37.171 Equivalency requirement for demand responsive service operated by covered entities not primarily engaged in the business of transporting people.

A covered entity not primarily engaged in the business of transporting people which operates a demand responsive system shall ensure that its system, when viewed in its entirety, provides equivalent service to individuals with disabilities, including individuals who use wheelchairs, as it does to individuals without disabilities. The standards of §37.105 shall be sued to determine if the entity is providing equivalent service.

§37.173 Training

Each public or covered entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among individuals with disabilities.

APPENDIX A TO PART 37—STANDARDS FOR ACCESSIBLE TRANSPORTATION FACILITIES

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

APPENDIX B TO PART 37—CERTIFICATIONS

Certification of Equivalent Service

The (name of agency) certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

(1) Response time;
(2) Fares;
(3) Geographic service area;
(4) Hours and days of service;
(5) Restrictions on trip purpose;
(6) Availability of information and reservation capability; and
(7) Constraints on capacity or service availability.

This certification is valid for no longer than one year from its date of filing.

signature

name of authorized official

title

date

Existing Paratransit Service Survey

This is to certify that (name of public entity(ies)) has conducted a survey of existing paratransit services as required by section 37.137(a) of the CAA regulations.

signature

name of authorized official

title

date

Included Service Certification

This is to certify that service provided by other entities but included in the CAA paratransit plan submitted by (name of submitting entity(ies)) meets the requirements of part 37, subpart F of the CAA regulations providing that CAA eligible individuals have access to the service; the service is provided in the manner represented; and, that efforts will be made to coordinate the provision of paratransit service offered by other providers.

signature

name of authorized official

title

date

Joint Plan Certification I

This is to certify that (name of entity covered by joint plan) is committed to providing CAA paratransit service as part of this coordinated plan and in conformance with the requirements of part 37 subpart F of the CAA regulations.

signature

name of authorized official

title

date

Joint Plan Certification II

This is to certify that (name of entity covered by joint plan) will, in accordance with section 37.141 of the CAA regulations, maintain current levels of paratransit service until the coordinated plan goes into effect.

signature

name of authorized official

title

date

PART 38—CONGRESSIONAL ACCOUNTABILITY ACT (CAA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES

Subpart A—General

Sec.
38.1 Purpose.
38.2 Equivalent facilitation.
38.3 Definitions.
38.4 Miscellaneous instructions.

Subpart B—Buses, Vans and Systems

38.21 General.
38.23 Mobility aid accessibility.
38.25 Doors, steps and thresholds.
38.27 Priority seating signs.
38.29 Interior circulation, handrails and stanchions.
38.31 Lighting.
38.33 Fare box.
38.35 Public information system.
38.37 Stop request.
38.39 Destination and route signs.

Subpart C—Rapid Rail Vehicles and Systems

38.51 General.
38.53 Doorways.
38.55 Prority seating signs.
38.57 Interior circulation, handrails and stanchions.
38.59 Floor surfaces.
38.61 Public information system.
38.63 Between-car barriers.

Subpart D—Light Rail Vehicles and Systems

38.71 General.
38.73 Doorways.
38.75 Priority seating signs.
38.77 Interior circulation, handrails and stanchions.
38.79 Floors, steps and thresholds.
38.81 Lighting.
38.83 Mobility aid accessibility.
38.85 Between-car barriers.
38.87 Public information system.
38.91—38.127 [Reserved]

Subpart F—Over-the-Road Buses and Systems

38.151 General.
38.153 Doors, steps and thresholds.
38.155 Interior circulation, handrails and stanchions.
38.157 Lighting.
38.159 Mobility aid accessibility. [Reserved]

Subpart G—Other Vehicles and Systems

38.171 General.
38.173 Automated guideway transit vehicles and systems.
38.175 [Reserved]
38.177 [Reserved]
38.179 Trams, similar vehicles, and systems.
Figures in Part 38
Appendix to Part 38—Guidance Material

Subpart A—General

§38.1 Purpose.

This part provides minimum guidelines and requirements for accessibility standards in part 37 of these regulations for transportation vehicles required to be accessible to section 210 of the Congressional Accountability Act (2 U.S.C. 1331, *et seq.*) which, *inter alia*, applies the rights and protections of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 *et seq.*) to covered entities within the Legislative Branch.

§38.2 Equivalent facilitation.

Departures from particular technical and scoping requirements of these guidelines by use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the vehicle. Departures are to be considered on a case-by-case basis by the Office of Compliance under the procedures set forth in §37.7 of these regulations.

§38.3 Definitions.

See §37.3 of these regulations.

§38.4 Miscellaneous instructions.

(a) *Dimensional conventions.* Dimensions that are not noted as minimum or maximum are absolute.

(b) *Dimensional tolerances.* All dimensions are subject to conventional engineering tolerances for material properties and field conditions, including normal anticipated wear not exceeding accepted industry-wide standards and practices.

(c) *Notes.* The text of these guidelines does not contain notes or footnotes. Additional information, explanation, and advisory materials are located in the Appendix.

(d) *General terminology.* (1) *Comply with* means meet one or more specification of these guidelines.

(2) If, or if * * * *then* denotes a specification that applies only when the conditions described are present.

(3) *May* denotes as option or alternative.

(4) *Shall* denotes a mandatory specification or requirement.

(5) *Should* denotes an advisory specification or recommendation and is used only in the appendix to this part.

Subpart B—Buses, Vans and Systems

§38.21 General.

(a) New, used or remanufactured buses and vans (except over-the-road buses covered by subpart G of this part), to be considered accessible by regulations issued by the Board of Directors of the Office of Compliance in part 37 of these regulations, shall comply with the applicable provisions of this subpart.

(b) If portions of the vehicle are modified in a way that affects or should affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible buses be retrofitted with lifts, ramps or other boarding devices.

§38.23 Mobility aid accessibility.

(a) *General.* All vehicles covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift or ramp) complying with paragraph (b) or (c) of this section and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location. At least two securement locations and devices, complying with paragraph (d) of this section, shall be provided on vehicles in excess of 22 feet in length; at least one securement location and device, complying with paragraph (d) of this section, shall be provided on vehicles 22 feet in length or less.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes, transmission, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception.* Where the lift is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"), the requirements of this paragraph prohibiting the lift from being stowed while occupied shall not apply if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(3) *Emergency operation.* The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift and is intended to be stowed while occupied.

(4) *Power or equipment failure.* Platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers.* The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the platform during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the platform is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically raise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the platform is more than 3 inches above the roadway or sidewalk and the platform is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged, or disengaged by the lift operator, provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface.* The platform surface shall be free of any protrusions over ¼ inch high and shall be slip resistant. The platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the platform surface to 30 inches above the platform, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface of the platform. (See Fig.1)

(7) *Platform gaps.* Any openings between the platform surface and the raised barriers shall not exceed ⅝ inch in width. When the platform is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and the vehicle floor shall not exceed ½ inch horizontally and ⅝ inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp.* The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8, measured on level ground, for a maximum rise of 3 inches, and the transition from roadway or sidewalk to ramp may be vertical without edge treatment up to ¼ inch. Thresholds between ¼ inch and ½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection.* The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll or pitch) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the platform.

(10) *Platform movement.* No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction.* The lift shall permit both inboard and outboard facing of wheelchair and mobility aid users.

(12) *Use by standees.* Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The platform may be marked to indicate a preferred standing position.

(13) *Handrails.* Platforms on lifts shall be equipped with handrails on two sides, which move in tandem with the lift, and which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp*—(1) *Design load.* Ramps 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface.* The ramp surface shall be continuous and slip resistant; shall not have protrusions from the surface greater than ¼ inch high; shall have a clear width of 30 inches; and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold.* The transition from roadway or sidewalk and the transition from vehicle floor to the ramp may be vertical without edge treatment up to ¼ inch. Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers.* Each side of the ramp shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope.* Ramps shall have the least slope practicable and shall not exceed 1:4 when deployed to ground level. If the height of the vehicle floor from which the ramp is deployed is 3 inches or less above a 6-inch curb, a maximum slope of 1:4 is permitted; if the height of the vehicle floor from which the ramp is deployed is 6 inches or less, but greater than 3 inches, above a 6-inch curb, a maximum slope of 1:6 is permitted; if the height of the vehicle floor from which the ramp is deployed is 9 inches or less, but greater than 6 inches, above a 6-inch curb, a maximum slope of 1:8 is permitted; if the height of the vehicle floor from which the ramp is deployed is greater than 9 inches above a 6-inch curb, a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment.* When in use for boarding or alighting, the ramp shall be firmly attached to the vehicle so that it is not subject to displacement when loading or unloading a heavy power mobility aid and that no gap between vehicle and ramp exceeds ⅝ inch.

(7) *Stowage.* A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps, including portable ramps stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop or maneuver.

(8) *Handrails.* If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(d) *Securement devices*—(1) *Design load.* Securement systems on vehicles with GVWRs of 30,000 pounds or above, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,000 pounds per securement leg or clamping mechanism and a minimum of 4,000 pounds for each mobility aid. Securement systems on vehicles with GVWRs of up to 30,000 pounds, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,500 pounds per securement leg or clamping mechanism and a minimum of 5,000 pounds for each mobility aid.

(2) *Location and size.* The securement system shall be placed as near to the accessible entrance as practicable and shall have a clear floor area of 30 inches by 48 inches. Such space shall adjoin, and may overlap, an access path. Not more than 6 inches of the required clear floor space may be accommodated for footrests under another seat provided there is a minimum of 9 inches from the floor to the lowest part of the seat overhanging the space. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area, provided the seats, when folded up, do not obstruct the clear floor space required. (See Fig. 2)

(3) *Mobility aids accommodated.* The securement system shall secure common wheelchairs and mobility aids and shall either be automatic or easily attached by a person familiar with the system and mobility aid and having average dexterity.

(4) *Orientation.* In vehicles in excess of 22 feet in length, at least one securement device or system required by paragraph (a) of this section shall secure the wheelchair or mobility aid facing toward the front of the vehicle. In vehicles 22 feet in length or less, the required securement device may secure the wheelchair or mobility aid either facing toward the front of the vehicle or rearward. Additional securement devices or systems shall secure the wheelchair or mobility aid facing forward or rearward. Where the wheelchair or mobility aid is secured facing the rear of the vehicle, a padded barrier shall be provided. The padded barrier shall extend from a height of 38 inches from the vehicle floor to a height of 56 inches from the vehicle floor with a width of 18 inches, laterally centered immediately in back of the seated individual. Such barriers need not be solid provided equivalent protection is afforded.

(b) *Movement.* When the wheelchair or mobility aid is secured in accordance with manufacturer's instructions, the securement system shall limit the movement of an occupied wheelchair or mobility aid to no more than 2 inches in any direction under normal vehicle operating conditions.

(6) *Stowage.* When not being used for securement, or when the securement area can be used by standees, the securement system shall not interfere with passenger movement, shall not present any hazardous condition, shall be reasonably protected from vandalism, and shall be readily accessed when needed for use.

(7) *Seat belt and shoulder harness.* For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with all applicable provisions of part 571 of title 49 CFR, shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

§ 38.25 Doors, steps and thresholds.

(a) *Slip resistance.* All aisles, floor areas where people walk and floors in securement locations shall have slip-resistant surfaces.

(b) *Contrast.* All step edges, thresholds, and the boarding edge of ramps or lift platforms shall have a band of color(s) running the full width of the step or edge which contrasts from the step tread and riser, or lift or ramp surface, either light-on-dark or dark-on-light.

(c) *Door height.* For vehicles in excess of 22 feet in length, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 68 inches. For vehicles of 22 feet in length or less, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 56 inches.

§ 38.27 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that seats in the front of the vehicle are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them. At least one set of forward-facing seats shall be so designated.

(b) Each securement location shall have a sign designating it as such.

(c) Characters on signs required by paragraphs (a) and (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background either light-on-dark or dark-on-light.

§ 38.29 Interior circulation, handrails and stanchions.

(a) Interior handrails and stanchions shall permit sufficient turning and maneuvering space for wheelchairs and other mobility aids to reach a securement location from the lift or ramp.

(b) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows persons with disabilities to grasp such assists from outside the vehicle while starting to board, and to continue using such assists throughout the boarding and fare collection process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used on vehicles in excess of 22 feet in length, a horizontal passenger assist shall be located across the front of the vehicle and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the front door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) For vehicles in excess of 22 feet in length, overhead handrail(s) shall be provided which shall be continuous except for a gap at the rear doorway.

(d) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(e) For vehicles in excess of 22 feet in length with front-door lifts or ramps, vertical stanchions immediately behind the driver shall either terminate at the lower edge of the aisle-facing seats, if applicable, or be "dog-legged" so that the floor attachment does not impede or interfere with wheelchair footrests. If the driver seat platform must be passed by a wheelchair or mobility aid user entering the vehicle, the platform, to the maximum extent practicable, shall not extend into the aisle or vestibule beyond the wheel housing.

(f) For vehicles in excess of 22 feet in length, the minimum interior height along the path from the lift to the securement location shall be 68 inches. For vehicles of 22 feet in length or less, the minimum interior height from lift to securement location shall be 56 inches.

§38.31 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread or lift platform.

(b) Other stepwells and doorways, including doorways in which lifts or ramps are installed, shall have, at all times, at least 2 foot-candles of illumination measured on the step tread, or lift or ramp, when deployed at the vehicle floor level.

(c) The vehicle doorways, including doorways in which lifts or ramps are installed, shall have outside lights(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§38.33 Fare box.

Where provided, the farebox shall be located as far forward as practicable and shall not obstruct traffic in the vestibule, especially wheelchairs or mobility aids.

§38.35 Public information system.

(a) Vehicles in excess of 22 feet in length, used in multiple-stop, fixed-route service, shall be equipped with a public address system permitting the driver, or recorded or digitized human speech messages, to announce stops and provide other passenger information within the vehicle.

(b) [Reserved]

§38.37 Stop request.

(a) Where passengers may board or alight at multiple stops at their option, vehicles in excess of 22 feet in length shall provide controls adjacent to the securement location for requesting stops and which alerts the driver that a mobility aid user wishes to disembark. Such a system shall provide auditory and visual indications that the request has been made.

(b) Controls required by paragraph (a) of this section shall be mounted no higher than 48 inches and no lower than 15 inches above the floor, shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

§38.39 Destination and route signs.

(a) Where destination or route information is displayed on the exterior of a vehicle, each vehicle shall have illuminated signs on the front and boarding side of the vehicle.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front "headsigns", with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either dark-on-light or light-on-dark.

Subpart C—Rapid Rail Vehicles and Systems

§38.51 General.

(a) New, used and remanufactured rapid rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(c) Existing vehicles which are retrofitted to comply with the "one-car-per-train rule" of §37.93 of these regulations shall comply with §§38.55, 38.57(b), 38.59 of this part and shall have, in new and key stations, at least one door complying with §§38.53(a)(1), (b) and (d) of this part. Removal of seats is not required. Vehicles previously designed and manufactured in accordance with the accessibility requirements of part 609 of title 49 CFR or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of §37.93 of these regulations.

§38.53 Doorways.

(a) *Clear width.* (1) Passenger doorways on vehicle sides shall have clear openings at least 32 inches wide when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of accessible vehicles operating on an accessible rapid rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* Where new vehicles will operate in new stations, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between each vehicle door at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

§38.55 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§38.57 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided to assist safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) Handrails, stanchions, and seats shall allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid user circulation and shall be kept to a minimum in the vicinity of doors.

(c) The diameter or width of the gripping surface of handrails and stanchions shall be 1¼ inches to 1½ inches or provide an equivalent gripping surface and shall provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface.

§38.59 Floor surfaces.

Floor surfaces on aisles, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

§38.61 Public information system.

(a)(1) *Requirements.* Each vehicle shall be equipped with a public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted. Each vehicle operating in stations having more than one line or route shall have an external public address system to permit transportation system personnel, or recorded or digitized human speech messages, to announce train, route, or line identification information.

(2) *Exception.* Where station announcement systems provide information on arriving trains, an external train speaker is not required.

(b) [Reserved]

§38.63 Between-car barriers.

(a) *Requirement.* Suitable devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Acceptable solutions include, but are not limited to, pantograph gates, chains, motion detectors or similar devices.

(b) *Exception.* Between-car barriers are not required where platform screens are provided which close off the platform edge and open only when trains are correctly aligned with the doors.

Subpart D—Light Rail Vehicles and Systems

§38.71 General.

(a) New, used and remanufactured light rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b)(1) Vehicles intended to be operated solely in light rail systems confined entirely to a dedicated right-of-way, and for which all stations or stops are designed and constructed for revenue service after the effective date of standards for design and constructions §37.21 and §37.23 of these regulations, shall provide level boarding and shall comply with §38.73(d)(1) and §38.85 of this part.

(2) Vehicles designed for, and operated on, pedestrian malls, city streets, or other areas where level boarding is not practicable shall provide wayside or car-borne lifts, mini-high platforms, or other means of access in compliance with §38.83 (b) or (c) of this part.

(c) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(d) Existing vehicles retrofitted to comply with the "one-car-per-train rule" at §37.93 of these regulations shall comply with §38.75, §38.77(c), §38.79(a) and §38.83(a) of this part and shall have, in new and key stations, at least one door which complies with §§38.73(a)(1), (b) and (d). Vehicles previously designed and manufactured in accordance with the accessibility requirements of 49 CFR part 609 or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of §37.93 of these regulations.

§38.73 Doorways.

(a) *Clear width.* (1) All passenger doorways on vehicle sides shall have minimum clear openings of 32 inches when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of each vehicle operating on an accessible light rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* The design of level-entry vehicles shall be coordinated with the boarding platform or mini-high platform design so that the horizontal gap between a vehicle at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height. Vertical alignment may be accomplished by vehicle air suspension, automatic ramps or lifts, or any combination.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

(4) *Exception.* Where it is not operationally or structurally practicable to meet the horizontal or vertical requirements of paragraphs (d) (1), (2) or (3) of this section, platform or vehicle devices complying with §38.83(b) or platform or vehicle mounted ramps or bridge plates complying with §38.83(c) shall be provided.

§38.75 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Where designated wheelchair or mobility aid seating locations are provided, signs shall indicate the location and advise other passengers of the need to permit wheelchair and mobility aid users to occupy them.

(c) Characters on signs required by paragraphs (a) or (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§38.77 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) At entrances equipped with steps, handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) At all doors on level-entry vehicles, and at each entrance accessible by lift, ramp, bridge plate or other suitable means, handrails, stanchions, passenger seats, vehicle driver seat platforms, and fare boxes, if applicable, shall be located so as to allow a route at least 32 inches wide so that at least two wheelchairs or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid circulation and shall be kept to a minimum in the vicinity of accessible doors.

§38.79 Floors, steps and thresholds.

(a) Floor surfaces on aisles, step treads, places for standees, and areas wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All thresholds and step edges shall have a band of color(s) running the full width of the step or threshold which contrasts from the step tread and riser or adjacent floor, either light-on-dark or dark-on-light.

§38.81 Lighting.

(a) Any stepwell or doorway with a lift, ramp or bridge plate immediately adjacent to the driver shall have, when the door is open, at least 2 footcandles of illumination measured on the step tread or lift platform.

(b) Other stepwells, and doorways with lifts, ramps or bridge plates, shall have, at all times, at least 2 footcandles of illumination measured on the step tread or lift or ramp, when deployed at the vehicle floor level.

(c) The doorways of vehicles not operating at lighted station platforms shall have outside lights which provide at least 1 foot candle of illumination on the station platform or street surface for a distance of 3 feet perpendicular to all points on the bottom step tread. Such lights shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§38.83 Mobility aid accessibility.

(a)(1) *General.* All new light rail vehicles, other than level entry vehicles, covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift ramp or bridge plate) complying with either paragraph (b) or (c) of this section and sufficient clearances to permit at least two wheelchair or mobility aid users to reach areas, each with a minimum clear floor space of 48 inches by 30 inches, which do not unduly restrict passenger flow. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required.

(2) *Exception.* If lifts, ramps or bridge plates meeting the requirements of this section are provided on station platforms or other stops required to be accessible, or mini-high platforms complying with §38.73(d) of this part are provided, the vehicle is not required to be equipped with a car-borne device. Where each new vehicle is compatible with a single platform-mounted access system or device, additional systems or devices are not required for each vehicle provided that the single device could be used to provide access to each new vehicle if passengers using wheelchairs or mobility aids could not be accommodated on a single vehicle.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements*. The controls shall be interlocked with the vehicle brakes, propulsion system, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception*. Where physical or safety constraints prevent the deployment at some stops of a lift having its long dimension perpendicular to the vehicle axis, the transportation entity may specify a lift which is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"). The requirements of paragraph (b)(2)(i) of this section prohibiting the lift from being stowed while occupied shall not apply to a lift design of this type if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(iii) *Exception*. The brake or propulsion system interlocks requirement does not apply to a station platform mounted lift provided that a mechanical, electrical or other system operates to ensure that vehicles do not move when the lift is in use.

(3) *Emergency operation*. The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift intended to be stowed while occupied.

(4) *Power or equipment failure*. Lift platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers*. The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the lift during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the lift is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically rise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the lift is more than 3 inches above the station platform or roadway and the lift is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged or disengaged by the lift operator provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface*. The lift platform surface shall be free of any protrusions over ¼ inch high and shall be slip resistant. The lift platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the lift platform surface to 30 inches above the surface, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface. (See Fig. 1)

(7) *Platform gaps*. Any openings between the lift platform surface and the raised barriers shall not exceed ⅝ inch wide. When the lift is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and vehicle floor shall not exceed ½ inch horizontally and ⅝ inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp*. The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8 measured on level ground, for a maximum rise of 3 inches, and the transition from the station platform or roadway to ramp may be vertical without edge treatment up to ¼ inch. Thresholds between ¼ inch and ½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection*. The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the lift platform.

(10) *Platform movement*. No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction*. The lift shall permit both inboard and outboard facing of wheelchairs and mobility aids.

(12) *Use of standees*. Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The lift may be marked to indicate a preferred standing position.

(13) *Handrails*. Platforms on lifts shall be equipped with handrails, on two sides, which move in tandem with the lift which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp or bridge plate*—(1) *Design load*. Ramps or bridge plates 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp or bridge plate distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps or bridge plates shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface*. The ramp or bridge plate surface shall be continuous and slip resistant, shall not have protrusions from the surface greater than ¼ inch, shall have a clear width of 30 inches, and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold*. The transition from roadway or station platform and the transition from vehicle floor to the ramp or bridge plate may be vertical without edge treatment up to ¼ inch. Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers*. Each side of the ramp or bridge plate shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope*. Ramps or bridge plates shall have the least slope practicable. If the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 3 inches or less above the station platform a maximum slope of 1:4 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 6 inches or less, but more than 3 inches, above the station platform a maximum slope of 1:6 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 9 inches or less, but more than 6 inches, above the station platform a maximum slope of 1:8 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is greater than 9 inches above the station platform a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment*.—(i) *Requirement*. When in use for boarding or alighting, the ramp or bridge plate shall be attached to the vehicle, or otherwise prevented from moving such that it is not subject to displacement when loading or unloading a heavy power mobility aid and that any gaps between vehicle and ramp or bridge plate, and station platform and ramp or bridge plate, shall not exceed ⅝ inch.

(ii) *Exception*. Ramps or bridge plates which are attached to, and deployed from, station platforms are permitted in lieu of vehicle devices provided they meet the displacement requirements of paragraph (c)(6)(i) of this section.

(7) *Stowage*. A compartment, securement system, or other appropriate method shall be

provided to ensure that stowed ramps or bridge plates, including portable ramps or bridge plates stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop.

(8) *Handrails*. If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

§38.85 Between-car barriers.

Where vehicles operate in a high-platform, level-boarding mode, devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Appropriate devices include, but are not limited to, pantograph gates, chains, motion detectors or other suitable devices.

§38.87 Public information system.

(a) Each vehicle shall be equipped with an interior public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted.

(b) [Reserved].

38.91–38.127 [Reserved]

Subpart F—Over-the-Road Buses and Systems

§38.151 General.

(a) New, used and remanufactured over-the-road buses, to be considered accessible by regulations, in part 37 of these regulations shall comply with this subpart.

(b) Over-the-road buses covered by §37.7(c) of these regulations shall comply with §38.23 and this subpart.

§38.153 Doors, steps and thresholds.

(a) Floor surfaces on aisles, step treads and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All step edges shall have a band of color(s) running the full width of the step which contrasts from the step tread and riser, either dark-on-light or light-on-dark.

(c) To the maximum extent practicable, doors shall have a minimum clear width when open of 30 inches, but in no case less than 27 inches.

§38.155 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(b) Where provided within passenger compartment, handrails or stanchions shall be sufficient to permit safe on-board circulation, seating and standing assistance, and alighting by person with disabilities.

§38.157 Lighting.

(a) Any stepwell or doorway immediately adjacent to the drive shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread.

(b) The vehicle doorway shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and existing passengers.

§38.159 Mobility aid accessibility. [Reserved]

Subpart G—Other Vehicles and Systems

§38.171 General.

(a) New, used and remanufactured vehicles and conveyances for systems not covered by other subparts of this part, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle or conveyance are modified in a way that affects or could affect accessibility, each such portions shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

§38.173 Automated guideway transit vehicles and systems.

(a) Automated Guideway Transit (AGT) vehicles and systems, sometimes called "People movers," operated in airports and other areas where AGT vehicles travel at slow speed (i.e., at a speed of no more than 20 miles per hour at any location on their route during normal operation), shall comply with the provisions of §38.53(a) through (c), and §§38.55 through 38.61 of this part for rapid rail vehicles and systems.

(b) Where the vehicle covered by paragraph (a) of this section will operate in an accessible station, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between a vehicle door at rest and the platform shall be no greater than 1 inch and the height of the vehicle floor shall be within plus or minus ½ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(c) In stations where open platform are not protected by platform screens, a suitable devices or system shall be provided to prevent, deter or warn individuals from stepping off the platform between cars. Acceptable devices include, but are not limited to, pantograph gates, chains, motion detectors or other appropriate devices.

(d) Light rail and rapid rail AGT vehicles and systems shall comply with subpart D and C of this part, respectively. AGT systems whose vehicles travel at a speed of more than 20 miles per hour at any location on their route during normal operation are covered under this paragraph rather than under paragraph (a) of this subsection.

§38.175 [Reserved]

§38.177 [Reserved]

§38.179 Trams, similar vehicles and systems.

(a) New and used trams consisting of a tractor unit, with or without passenger accommodations, and one or more passenger trailer units, including but not limited to vehicles providing shuttle service to remote parking areas, between hotels and other public accommodations, and between and within amusement parks and other recreation areas, shall comply with this section. For purposes of determining applicability of §§37.101 or 37.105 of these regulations, the capacity of such a vehicle or "train" shall consist of the total combined seating capacity of all units, plus the driver, prior to any modification for accessibility.

(b) Each tractor unit which accommodates passengers and each trailer unit shall comply with §38.25 and §38.29 of this part. In addition each unit shall comply with §§38.23(b) or (c) and shall provide at least one space for wheelchair of mobility aid users complying with §38.23(d) of this part unless the complete operating unit consisting of tractor and one or more trailers can already accommodate at least two wheelchair or mobility aid users.

Figures in Part 38—[Copies of these figures may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, DC 20540–1999.]

APPENDIX TO PART 38—GUIDANCE MATERIAL

This appendix contains materials of an advisory nature and provides additional information that should help the reader to understand the minimum requirements of the guidelines or to design vehicles for greater accessibility. Each entry is applicable to all subparts of this part except where noted. Nothing in this appendix shall in any way obviate any obligation to comply with the requirements of the guidelines themselves.

I. Slip Resistant Surfaces— Aisles, Steps, Floor Area where People Walk, Floor Areas in Securement Locations, Lift Platforms, Ramps

Slip resistance is based on the frictional force necessary to keep a shoe heel or crutch tip from slipping on a walking surface under conditions likely to be found on the surface. While the dynamic coefficient of friction during walking varies in a complex and nonuniform way, the static coefficient of friction, which can be measured in several ways, provides a close approximation of the slip resistance of a surface, Contrary to popular belief, some slippage is necessary to walking, especially for persons with restricted gaits; a truly "non-slip" surface could not be negotiated.

The Occupational Safety and Health Administration recommends that walking surfaces have a static coefficient of friction of 0.5. A research project sponsored by the Architectural and Transportation Barriers Compliance Board (Access Board) conducted tests with persons with disabilities and concluded that a higher coefficient of friction was needed by such persons. A static coefficient of friction of 0.6 is recommended for steps, floors, and lift platforms and 0.8 for ramps.

The coefficient of friction varies considerably due to the presence of contaminants, water, floor finishes, and other factors not under the control of transit providers and may be difficult to measure. Nevertheless, many common materials suitable for flooring are now labeled with information on the static coefficient of friction. While it may not be possible to compare one product directly with another, or to guarantee a constant measure, transit operators or vehicle designers and manufacturers are encouraged to specify materials with appropriate values. As more products include information on slip resistance, improved uniformity in measurement and specification is likely. The Access Board's advisory guidelines on Slip Resistant Surfaces provides additional information on this subject.

II. color contrast—Step Edges. Lift Platform Edges

The material used to provide contrast should contrast by at least 70% Contrast in percent is determined by:

$\text{Contrast}=[(B_1-B_2)/B_1]100$

Where B_1=light reflectance value (LRV) of the lighter area and B_2=light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

III. Handrails and Stanchions

In addition to the requirements for handrails and stanchions for rapid, light, and commuter rail vehicles, consideration should be given to the proximity of handrails or stanchions to the area in which wheelchair or mobility aid users may position themselves. When identifying the clear floor space where a wheelchair or mobility aid user can be accommodated, it is suggested that at least one such area be adjacent or in close proximity to a handrail or stanchion. Of course, such a handrail or stanchion cannot encroach upon the required 32 inch width required for the doorway or the route leading to the clear floor space which must be at least 30 by 48 inches in size.

IV. Priority Seating Signs and Other Signage

A. *Finish and Contrast*. The characters and background of signs should be eggshell, matte, or other non-glare finish. An eggshell finish (11 to 19 degree gloss on 60 degree glossimeter) is recommended. Characters and symbols should contrast with their background—either light characters on a dark background or dark characters on a light background. Research indicates that signs are more legible for persons with low vision when characters contrast with their background by at least 70 percent. Contrast in percent is determined by:

$\text{Contrast}=[B_1-B_2)/B_1]100$

Where B_1=light reflectance value (LRV) of the lighter area and B_2=light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

The greatest readability is usually achieved through the use of light-colored characters or symbols on a dark background.

B. *Destination and Route Signs*. The following specifications, which are required for buses (§38.39), are recommended for other types of vehicles, particularly light rail vehicles, where appropriate.

1. Where destination or route information is displayed on the exterior of a vehicle, each vehicle should have illuminated signs on the front and boarding side of the vehicle.

2. Characters on signs covered by paragraph IV.B.1 of this appendix should have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front "headsigns," with "wide" spacing (generally, the space between letters shall be $\frac{1}{16}$ the height of upper case letters), and should contrast with the background, either dark-on-light or light-on-dark, or as recommended above.

C. *Designation of Accessible Vehicles*. The International Symbol of Accessibility should be displayed as shown in Figure 6.

V. Public Information Systems

There is currently no requirement that vehicles be equipped with an information system which is capable of providing the same or equivalent information to persons with hearing loss. While the Department of Transportation assesses available and soon-to-be available technology during a study conducted during Fiscal Year 1992, entities are encouraged to employ whatever services, signage or alternative systems or devices that provide equivalent access and are available. Two possible types of devices are visual display systems and listening systems. However, it should be noted that while visual display systems accommodate persons who are deaf or are hearing impaired, assistive listening systems aid only those with a partial loss of hearing.

A. *Visual Display System*. Announcements may be provided in a visual format by the use of electronic message boards or video monitors.

Electronic message boards using a light emitting diode (LED) or "flip-dot" display are currently provided in some transit stations and terminals and may be usable in vehicles. These devices may be used to provide real time or pre-programmed messages; however, real time message displays require the availability of an employee for keyboard entry of the information to be announced.

Video monitor systems, such as visual paging systems provided in some airports (e.g., Baltimore-Washington International Airport), are another alternative. The Architectural and Transportation Barriers Compliance Board (Access Board) can provide technical assistance and information on these systems ("Airport TDD Access: Two Case Studies," (1990)).

B. *Assistive Listening Systems*. Assistive listening systems (ALS) are intended to augment standard public address and audio systems by providing signals which can be received directly by persons with special receivers or their own hearing aids and which eliminate or filter background noise. Magnetic induction loops, infra-red and radio frequency systems are types of listening systems which are appropriate for various applications.

An assistive listening system appropriate for transit vehicles, where a group of persons or where the specific individuals are not known in advance, may be different from the system appropriate for a particular individual provided as an auxiliary aid or as part of a reasonable accommodation. The appropriate device for an individual is the type that individual can use, whereas the appropriate system for a station or vehicle will necessarily be geared toward the "average" or aggregate needs of various individuals. Earphone jacks with variable volume controls can benefit only people who have slight hearing loss and do not help people who use hearing aids. At the present time, magnetic induction loops are the most feasible type of listening system for people who use hearing aids equipped with "T-coils", but people without hearing aids or those with hearing aids not equipped with inductive pick-ups cannot use them without special receivers. Radio frequency systems can be extremely effective and inexpensive. People without hearing aids can use them, but people with hearing aids need a special receiver to use them as they are presently designed. If hearing aids had a jack to allow a by-pass of microphones, then radio frequency systems would be suitable for people with and without hearing aids. Some listening systems may be subject to interference from other equipment and feedback from hearing aids of people who are using the systems. Such interference can be controlled by careful engineering design that anticipates feedback sources in the surrounding area.

The Architectural and Transportation Barriers Compliance Board (Access Board) has published a pamphlet on Assistive Listening Systems which lists demonstration centers across the country where technical assistance can be obtained in selecting and installing appropriate systems. The state of New York has also adopted a detailed technical specification which may be useful.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

823. A communication from the President of the United States, transmitting his request to make available appropriations totaling $75,000,000 to the Department of Justice, $10,525,000 to the Department of State, $3,171,000 to the Judiciary, and $112,900,000 to the special forfeiture fund within funds appropriated to the President—received in the U.S. House of Representatives November 12, 1996, pursuant to 31 U.S.C. 1107 (H. Doc. No. 105–19; to the Committee on Appropriations and ordered to be printed.

824. A letter from the Under Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act—Navy violation, case No. 94–09, which totaled $691,686, occurred in the fiscal year 1989, fiscal year 1990, fiscal year 1991, and fiscal year 1992 other procurement, Navy appropriations, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

825. A letter from the Secretary of Defense, transmitting the 1995–96 joint military net assessment, pursuant to 10 U.S.C. 113(j)(1); to the Committee on National Security.

826. A letter from the Under Secretary of Defense, transmitting the Secretary's selected acquisition reports [SAR's] for the quarter ending December 31, 1995, pursuant to 10 U.S.C. 2432; to the Committee on National Security.

827. A letter from the Secretary of Defense, transmitting the Secretary's selected acquisition reports [SAR's] for the quarter ending June 30, 1996, pursuant to 10 U.S.C. 2432; to the Committee on National Security.

828. A letter from the Under Secretary of Defense, transmitting the final report on the United States-China Joint Defense Conversion Commission [JDCC] for the period February 10, 1996 through July 19, 1996 when the Commission was terminated, pursuant to Public Law 104–106, section 1343(a) (110 Stat. 487); to the Committee on National Security.

829. A letter from the Chairman, Joint Chiefs of Staff, transmitting the 1996 force readiness assessment, March 1996, pursuant to section 376 of the Defense Authorization Act of fiscal year 1994; to the Committee on National Security.

830. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting the Department's fourth semiannual report to Congress, as required by section 403 of the Mexican Debt Disclosure Act of 1995, and the December monthly report to Congress, as required by section 404 of the same act pursuant to Public Law 104–6, section 403(a) (109 Stat. 89); to the Committee on Banking and Financial Services.

831. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Lithuania, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

832. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the People's Republic of China, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

833. A letter from the Chief Executive Officer, Corporation for National Service, transmitting the Corporation's fiscal year 1994 annual report; to the Committee on Education and the Workforce.

834. A letter from the Administrator, Energy Information Administration, transmitting a copy of the Energy Information Administration's report entitled "Annual Energy Outlook 1997," pursuant to 15 U.S.C. 790f(a)(1); to the Committee on Commerce.

835. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Occupant Crash Protection (National Highway Traffic Safety Administration) [Docket No. 74–14; Notice 109] (RIN: 2127–AG60) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

836. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Adverse Side Effects of Air Bags; Correcting Amendment (Federal Aviation Administration) [Docket No. 74–14; Notice 106] (RIN: 2127–AG14) received December 9, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

837. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Correction of Classification; Approval of the Maintenance Plan; Redesignation of Pointe Coupee Parish to Attainment for Ozone [LA-34-1-7300; FRL–5670–4] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

838. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan; Michigan [MI48–02–7254; FRL–5662–5] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

839. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources [FRL–5667–8] (RIN: 2060–AD06) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

840. A letter from the Acting Secretary, Federal Trade Commission, transmitting the Commission's report on smokeless tobacco sales and advertising expenditures data for 1994 and 1995, and updates the 1995 annual report transmitted to Congress, pursuant to 15 U.S.C. 1337(b); to the Committee on Commerce.

841. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Venezuela (Transmittal No. 05–97) received January 5, 1997, pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

842. A letter from the Director, Defense Security Assistance Agency, transmitting notification of a cooperative project concerning the joint strike fighter [JSF] requirements validation [RV] memorandum of agreement [MOA] (Transmittal No. 20–96) received December 20, 1996, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

843. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

844. A letter from the Director, Arms Control and Disarmament Agency, transmitting the Agency's annual report entitled "Report to Congress on Arms Control, Nonproliferation and Disarmament Studies Completed in 1995," pursuant to Public Law 100–213, section 4 (101 Stat. 1445); to the Committee on International Relations.

845. A letter from the Director, Arms Control and Disarmament Agency, transmitting the Agency's classified summary report and compliance annexes to the U.S. Arms Control and Disarmament Agency's [ACDA] 1995 annual report (U), pursuant to 22 U.S.C. 2590; to the Committee on International Relations.

846. A letter from the Inspector General, Department of Commerce, transmitting the Department's report entitled "Annual Reports on Improving Export Control Mechanisms and on Military Assistance"; to the Committee on International Relations.

847. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

848. A letter from the Deputy Secretary of Defense, transmitting the Cooperative Threat Reduction [CTR] Program plan for fiscal years 1997–2001, pursuant to section 1205 of the National Defense Authorization Act for fiscal year 1995; to the Committee on International Relations.

849. A communication from the President of the United States, transmitting the 1995 annual report of the U.S. Arms Control and Disarmament Agency [ACDA], pursuant to 22 U.S.C. 2590; to the Committee on International Relations.

850. A letter from the Secretary of Defense, transmitting the Department's report entitled "Report on Accounting for United States Assistance Under the Cooperative Threat Reduction Program Calendar Year 1995," pursuant to section 1206 of the National Defense Authorization Act for fiscal year 1996; to the Committee on International Relations.

851. A communication from the President of the United States, transmitting his follow-up report on the deployment of combat-equipped United States Armed Forces to Bosnia and other states in the region in order to participate in and support the North Atlantic Treaty Organization-led Implementation Force [IFOR]—received in the United States House of Representatives December 20, 1996 (H. Doc. No. 105–21); to the Committee on International Relations and ordered to be printed.

852. A letter from the General Counsel, United States Arms Control and Disarmament Agency, transmitting copies of the English and Russian texts of the agreement and four joint statements negotiated by the Joint Compliance Inspection Commission [JCIC] and concluded during JCIC–XII, pursuant to Executive Order No. 12958, section 1.5(b); to the Committee on International Relations.

853. A communication from the PRESIDENT OF THE UNITED STATES, transmitting his report on the implementation of locality-based comparability payments for General Schedule employees for calendar year 1997—Received in the U.S. House of Representatives November 22, 1996, pursuant to 5 U.S.C. 5305(a)(3) (H. Doc. No. 105–20); to the Committee on Government Reform and Oversight and ordered to be printed.

854. A letter from the Acting Comptroller General of the United States, transmitting a list of all reports issued or released in November 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

855. A letter from the Secretary, American Battle Monuments Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

856. A letter from the Federal Co-Chairman, Appalachian Regional Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

857. A letter from the Inspector General, Corporation for National Service, transmitting the Corporation's report on the follow-up study to the auditability survey; to the Committee on Government Reform and Oversight.

858. A letter from the Administrator, Environmental Protection Agency, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

859. A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report of the Office of Inspector General covering the period April 1, 1996, through September 30, 1996, and the semiannual management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 59(b); to the Committee on Government Reform and Oversight.

860. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

861. A letter from the Chairman, Federal Communications Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

862. A letter from the Chairman, Federal Trade Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

863. A letter from the Inspector General, General Services Administration, transmitting the Office's Audit Report Register, including all financial recommendations, for the period ending September 30, 1996, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

864. A letter from the Acting Administrator, General Services Administration, transmitting the semiannual report on activities of the Inspector General for the period April 1, 1996, through September 30, 1996, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

865. A letter from the National Endowment for the Arts, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

866. A letter from the Railroad Retirement Board, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

867. A letter from the Chairman, Railroad Retirement Board, transmitting the semiannual report on activities of the Office of Inspector General for the period April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

868. A letter from the Secretary of the Treasury, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

869. A letter from the Secretary of Defense, transmitting the classified annex to the semiannual report on activities of the inspector general for the period October 1, 1995, through March 31, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

870. A letter from the Secretary of Defense, transmitting the semiannual report on activities of the inspector general, and classified annex for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

871. A letter from the Secretary of Education, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

872. A letter from the Chairman, Securities and Exchange Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

873. A letter from the Chairperson, U.S. Commodity Futures Trading Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

874. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

875. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

876. A letter from the Staff Director, United States Commission on Civil Rights, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

877. A letter from the Director, U.S. Information Agency, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

878. A letter from the Secretary of the Treasury, transmitting the Department's "Audit Plan of the Secretary of the Treasury on the Uses and Counterfeiting of U.S. Currency in Foreign Countries," pursuant to section 807 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132); to the Committee on the Judiciary.

879. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety/Security Zone Regulation; Charleston Harbor and Cooper River, SC (U.S. Coast Guard) [COTP Charleston 96–034] (RIN: 2115–AA97) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

880. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Offshore Supply Vessels; Alternate Tonnage (U.S. Coast Guard) [CGD 96–058] (RIN: 2115–AF35) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

881. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Rail Fixed Guideway Systems; State Safety Oversight (Federal Transmit Administration) [49 CFR Part 659] (RIN: 2132–AA57) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

882. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Alternate Compliance via Recognized Classification Society and U.S. Supplement to Rules (U.S. Coast Guard) [CGD 95–010] (RIN: 2115–AF11) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

883. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Back River and Foster Creek, Charleston, SC (U.S. Coast Guard) [COTP Charleston 96–072] (RIN: 2115–AA97) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

884. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Roadway Worker Protection (Federal Railroad Administration) [FRA Docket No. RSOR 13, Notice No. 9] (RIN: 2130–AA86) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

885. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Railroad Accident Reporting (Response to Remaining Issues in Petitions for Reconsideration) (Federal Railroad Administration) [FRA Docket No. RAR–4, Notice No. 16] (RIN: 2130–AB13) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

886. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Emergency Relief Program (Federal Highway Administration) [FHWA Docket No. 95–25] (RIN: 2125–AD60) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

887. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Reporting of Drug and Alcohol Testing Results (Research and Special Programs Administration) [Docket No. PS–152; Amdt. 199–14] (RIN: 2137–AC95) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

888. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions (Research and Special Programs Administration) [Docket No. HM–215B; Amdt. No. 171–149] (RIN: 2137–AC82) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

889. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Commercial Fishing Industry Vessel Regulations (U.S. Coast Guard) [CGD 96–046] (RIN: 2115–AF35) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

890. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida (U.S. Coast Guard) [CGD07–96–0641] (RIN: 2115–AE47) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

891. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Savannah, GA (U.S. Coast Guard) [COTP Savannah 96–073] (RIN: 2115–AA97) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

892. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Management

and Monitoring Systems (Federal Highway Administration) [FHWA/FTA Docket No. 92–14] (RIN: 2125–AC97) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

893. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Power Brake Regulation: Two-way End-of-Train Telemetry Devices (Federal Railroad Administration) [FRA Docket No. PB–9, Notice No. 6] (RIN: 2130–AA73) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

894. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–280–AD; Amdt. 39–9868; AD 96–26–52] (RIN: 2120–AA64) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

895. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Mode 767 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–244–AD; Amdt. 39–9861; AD 96–25–18] (RIN: 2120–AA64) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

896. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; FLS Aerospace (Lovaux) Ltd. OA7 Optica Series 300 Airplanes (Federal Aviation Administration) [Docket No. 96–CE–12–AD; Amdt. 39–9865; AD 96–26–02] (RIN: 2120–AA64) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

897. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Mode 747 Series Airplanes [Docket No. 96–NM–279–Ad; Amdt. 39–9867; AD 96–26–04] (RIN: 2120–AA64) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

898. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Sundstrand T–62T–40C Series Auxiliary Power Units (Federal Aviation Administration) [Docket No. 96–ANE–27; Amdt. 39–9855; AD 96–25–12] (RIN: 2120–AA64) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

899. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model 4101 Airplanes (Federal Aviation Administration) [Docket No. 95–NM–271–AD; Amdt. 39–9856; AD 96–25–13] (RIN: 2120–AA64) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

900. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–10–10, –30, and –40 Series Airplanes, and KC–10 (Military) Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–135–AD; Amdt. 39–9857; AD 96–25–14] (RIN: 2120–AA64) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

901. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–58–AD; Amdt. 39–9852; AD 96–25–09] (RIN: 2120–AA64) received January 2, 1997, pursuant to 5 U.S.C 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

902. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–164–AD; Amdt. 39–9849; AD 96–25–07] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

903. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320–111, –211, –212, and –231 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–47–AD; Amdt. 39–9847; AD–96–25–05] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Transportation and Infrastructure.

904. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–176–AD; Amdt. 39–9846; AD 96–25–04] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

905. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (Military) Airplanes (Federal Aviation Administration) [Docket No. 95–NM–199–AD; Amdt. 39–9839; AD 96–24–15] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Transportation and Infrastructure.

906. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines (Federal Aviation Administration) [Docket No. 95–ANE–57; Amdt. 39–9853; AD 96–25–10] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Transportation and Infrastructure.

907. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727–200 Series Airplanes; McDonnell Douglas MD–11 Airplanes; and British Aerospace Avro Model 146–RJ Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–121–AD; Amdt. 39–9858; AD 96–25–15] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Transportation and Infrastructure.

908. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The Don Luscombe Aviation History Foundation Models 8, 8A, 8B, 8C, 8D, 8E, 8F, T–8F Airplanes (Federal Aviation Administration) [Docket No. 95–CE–99–AD; Amdt. 39–9841; AD 96–24–17] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

909. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model BAe 125–800A, Model Hawker 800, and Model Hawker 800XP Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–136–AD; Amdt. 39–9840; AD 96–24–16] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

910. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–201–AD; Amdt. 39–9848; AD 96–25–06] (RIN: 2120–AA64) received December 19, 1994, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

911. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model 382 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–248–AD; Amdt. 39–9838; AD 96–24–14] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

912. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0070 and 0100 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–268–AD; Amdt. 39–9850; AD 96–24–10] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

913. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–160–AD; Amdt. 39–9862; AD 96–25–19] (RIN: 2120–AA64) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

914. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of the Los Angeles Class B Airspace Area; CA (Federal Aviation Administration) [Airspace Docket No. 93–AWA–13] (RIN: 2120–AA66) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

915. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Stage 2 Airplane Operations [Docket No. 28213; Amdt. No. 91–252] (RIN: 2120–AE83) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

916. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Removal of Class E2 Airspace; Winston-Salem, NC (Federal Aviation Administration) [Airspace Docket No. 96–ASO–37] (RIN: 2120–AA66) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

917. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Allowable Carbon Dioxide Concentration in Transport Category Airplane Cabins (Federal Aviation Administration) [Docket No. 27704, Amdt. No.

25–89] (RIN: 2120–AD47) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

918. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Grass Valley, CA (Federal Aviation Administration) [Airspace Docket No. 96–AWP–25] (RIN: 2120–AA66) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

919. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Casa Grande, AZ (Federal Aviation Administration) [Airspace Docket No. 96–AWP–22] (RIN: 2120–AA66) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

920. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Gettysburg, SD; Gettysburg Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96–AGL–12] (RIN: 2120–AA66) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

921. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Prohibition of Oxygen Generators as Cargo in Passenger-Aircraft (Research and Special Programs Administration) [Docket No. HM–224; Amdt. Nos. 171–146; and 173–254] (RIN: 2137–AC89) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

922. A letter from the Chairman, Arctic Research Commission, transmitting the Commission's annual reports for fiscal years 1994 and 1995, pursuant to 15 U.S.C. 4103(b); to the Committee on Science.

923. A letter from the Secretary of Energy, transmitting the Department's report on the continued production of the naval petroleum reserves beyond April 5, 1997; jointly to the Committees on National Security and Commerce.

924. A letter from the Under Secretary of Defense, transmitting notification of the Department's intent to transfer funds authorized by sections 8006, 9006, 8006, 8005, and 8005 of the Department of Defense appropriations acts for fiscal year 1992, fiscal year 1993, fiscal year 1994, fiscal year 1995, and fiscal year 1996, respectively, and sections 1001, 1001, 1101, 1001, and 1001 of the Department of Defense authorization acts for those same years; jointly, to the Committees on National Security and Appropriations.

925. A letter from the Chairman, Federal Communications Commission, transmitting the 81st annual report of the Federal Trade Commission, pursuant to 47 U.S.C. 154(k); jointly, Committees on Commerce and the Judiciary.

926. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the Department's intent to obligate funds for assistance to Eastern Europe and the Baltic States, pursuant to 22 U.S.C. 2394–1(a); jointly, to the Committees on International Relations and Appropriations.

927. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report of the Dole Amendment restrictions on assistance to Haiti; jointly to the Committees on International Relations and Appropriations.

928. A letter from the Executive Director, Office of Compliance, transmitting notice of proposed rulemaking for publication in the CONGRESSIONAL RECORD, pursuant to Public Law 104–1, section 303(b) (109 Stat. 28); jointly, to the Committees on House Oversight and Education and the Workforce.

929. A letter from the Chair of the Board, Office of Compliance, transmitting notice of adoption of regulations for publication in the CONGRESSIONAL RECORD, pursuant to Public Law 104–1, section 304(b)(1) (109 Stat. 29); jointly, to the Committees on House Oversight and Education and the Workforce.

930. A letter from the Chair of the Board, Office of Compliance, transmitting notice of adoption of regulations for publication in the CONGRESSIONAL RECORD, pursuant to Public Law 104–1, section 304(b)(1) (109 Stat. 29); jointly, to the Committees on House Oversight and Education and the Workforce.

931. A communication from the President of the United States, transmitting notification to the Congress that the United States has the capability to prevent the illegal importation of nuclear, biological, and chemical weapons into the United States and its possessions, pursuant to section 229 of the National Defense Authorization Act for fiscal year 1997; jointly, to the Committees on National Security, International Relations, and Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

The following is a complete listing of all bills and resolutions introduced on January 7 and 9, 1997.

Under clause 5 of Rule X and clause 4 of Rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BALLENGER (for himself, Mr. GOODLING, Mrs. MYRICK, Ms. DUNN of Washington, Ms. MOLINARI, Mr. GREENWOOD, Mr. SHAYS, Mr. STENHOLM, Ms. PRYCE of Ohio, Mr. DOOLEY of California, Mr. UPTON, Mrs. FOWLER, Mr. FOX of Pennsylvania, Ms. GRANGER, Mr. CAMPBELL, Mr. PETRI, Mr. FAWELL, Mr. RIGGS, Mr. KNOLLENBERG, Mr. NORWOOD, Mr. BURR of North Carolina, Mr. HERGER, Mr. BARRETT of Nebraska, Mr. MCKEON, Mr. CUNNINGHAM, Mr. GRAHAM, Mr. INGLIS of South Carolina, Mr. HAYWORTH, Mr. MILLER of Florida, Mr. COBURN, Mr. MCCOLLUM, Mr. EHLERS, Mr. BARTLETT of Maryland, Mr. GOSS, Mr. GOODLATTE, Mr. MCINTOSH, Mr. LATOURETTE, Mr. NEY, Mr. BUNNING of Kentucky, Mr. BOEHNER, and Mr. SMITH of Texas):

H.R. 1. A bill to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector; to the Committee on Education and the Workforce.

By Mr. LAZIO of New York:

H.R. 2. A bill to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MCCOLLUM (for himself, Mr. COBLE, Mr. BARR of Georgia, Mr. BRYANT, and Mr. CANADY of Florida):

H.R. 3. A bill to combat violent youth crime and increase accountability for juvenile criminal offenses; to the Committee on the Judiciary.

By Mr. SHUSTER (for himself and Mr. OBERSTAR):

H.R. 4. A bill to provide off-budget treatment for the highway trust fund, the airport and airway trust fund, the inland waterways trust fund, and the harbor maintenance trust fund; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLING (for himself, Mr. RIGGS, Mr. CASTLE, Mr. PETRI, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. MCKEON, Mr. TALENT, Mr. GREENWOOD, Mr. KNOLLENBERG, Mr. GRAHAM, Mr. SOUDER, Mr. MCINTOSH, Mr. NORWOOD, and Mr. CUNNINGHAM):

H.R. 5. A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes; to the Committee on Education and the Workforce.

By Mr. MCKEON (for himself, Mr. GOODLING, Mr. CLAY, and Mr. KILDEE):

H.R. 6. A bill to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BILBRAY (for himself, Mr. ARCHER, Mr. BALLENGER, Mr. BEREUTER, Mr. BRYANT, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. GOODLATTE, Mr. HERGER, Mr. HORN, Mr. HUNTER, Mr. INGLIS of South Carolina, Mr. JONES, Mr. MCCOLLUM, Mr. MCINTOSH, Mr. MCKEON, Mr. PACKARD, Mr. RADANOVICH, Mr. RIGGS, Mr. ROHRABACHER, Mr. ROYCE, Mr. SKEEN, Mr. TRAFICANT, Mr. WAMP, Mr. WELDON of Florida, and Mr. WELLER):

H.R. 7. A bill to amend the Immigration and Nationality Act to deny citizenship at birth to children born in the United States of parents who are not citizens or permanent resident aliens; to the Committee on the Judiciary.

By Mr. BILBRAY (for himself, Mr. BARTON of Texas, Mr. FILNER, Mr. HUNTER, Mr. CUNNINGHAM, Mr. CALVERT, Mr. BONO, and Mr. CONDIT):

H.R. 8. A bill to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicles emissions, and for other purposes; to the Committee on Commerce.

By Mr. SERRANO:

H.R. 9. A bill to waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball; referred to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEACH (for himself, Mrs. ROUKEMA, Mr. CASTLE, and Mr. LAZIO of New York):

H.R. 10. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes; referred to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H.R. 11. A bill to amend the Federal Election Campaign Act of 1971 to prohibit political action committees from making contributions or expenditures for the purpose of influencing elections for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. SCHUMER (for himself and Mr. NADLER):

H.R. 12. A bill to prevent handgun violence and illegal commerce in handguns; to the Committee on the Judiciary.

By Mr. BASS:

H.R. 13. A bill to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that act only by donation or exchange, or otherwise with the consent of owner of the lands; to the Committee on Resources.

By Mr. DREIER (for himself, Ms. MCCARTHY of Missouri, Mr. ENGLISH of Pennsylvania, Mr. MORAN of Virginia, and Mr. HALL of Texas.

H.R. 14. A bill to amend the Internal Revenue Code of 1986 to provide maximum rates of tax on capital gains of 14 percent for individuals and 28 percent for corporations and to index the basis of assets of individuals for purposes of determining gains and losses; to the Committee on Ways and Means.

By Mr. THOMAS (for himself, Mr. BILIRAKIS, and Mr. CARDIN):

H.R. 15. A bill to amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DINGELL:

H.R. 16. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY:

H.R. 17. A bill to amend the Internal Revenue Code of 1986 to encourage retirement savings by allowing more individuals to make contributions to individual retirement plans, and for other purposes; to the Committee on Ways and Means.

H.R. 18. A bill to amend the Internal Revenue Code of 1986 to increase to 100 percent the amount of the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

H.R. 19. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for higher education expenses; to the Committee on Ways and Means.

By Mr. MICA:

H.R. 20. A bill to authorize the Architect of the Capitol to establish a Capitol Visitor Center under the East Plaza of the U.S. Capitol, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CONYERS:

H.R. 21. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes; to the Committee on the Judiciary.

By Mr. MCHUGH:

H.R. 22. A bill to reform the postal laws of the United States; to the Committee on Government Reform and Oversight.

By Mr. CLAY:

H.R. 23. A bill to amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BARR of Georgia:

H.R. 24. A bill to provide for State credit union representation on the National Credit Union Administration Board, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. EHLERS:

H.R. 25. A bill to amend the Internal Revenue Code of 1986 to provide that the percentage of completion method of accounting shall not be required to be used with respect to contracts for the manufacture of property if no payments are required to be made before the completion of the manufacture of such property; to the Committee on Ways and Means.

By Mr. BARR of Georgia (for himself and Mr. STUMP):

H.R. 26. A bill to amend title 18, United States Code, to provide that the firearms prohibitions applicable by reason of a domestic violence misdemeanor conviction do not apply if the conviction occurred before the prohibitions became law; to the Committee on the Judiciary.

By Mr. BARTLETT of Maryland (for himself, Mr. BARTON of Texas, Mr. SOLOMON, Mr. COBLE, Mr. CALLAHAN, Mr. CUNNINGHAM, Mr. CALVERT, Mr. BARCIA of Michigan, Mr. YOUNG of Alaska, Mr. DOOLITTLE, Mr. STUMP, Mr. COLLINS, Mrs. CHENOWETH, Mr. COBURN, Mr. CONDIT, Mr. BURTON of Indiana, and Mr. HOLDEN):

H.R. 27. A bill to protect the right to obtain firearms for security, and to use firearms in defense of self, family, or home, and to provide for the enforcement of such right; to the Committee on the Judiciary.

By Mr. BEREUTER:

H.R. 28. A bill to amend the Housing Act of 1949 to extend the loan guarantee program for multifamily rental housing in rural areas; to the Committee on Banking and Financial Services.

By Mr. RANGEL (for himself, Mr. GEPHARDT, Mrs. MALONEY of New York, Mr. CUMMINGS, Mr. NEAL of Massachusetts, Mr. KENNEDY of Massachusetts, Ms. JACKSON-LEE, Mr. PORTMAN, Mr. SERRANO, Mr. CONYERS, Mr. SABO, Mr. UNDERWOOD, Mrs. MEEK of Florida, Mr. PAYNE, Mr. PALLONE, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Ms. WATERS, Mr. JEFFERSON, Ms. NORTON, Mr. NADLER, Mr. JACKSON, Mr. HASTINGS of Florida, Ms. DELAURO, Mr. MATSUI, and Mr. BARRETT of Wisconsin):

H.R. 29. A bill to designate the Federal building located at 290 Broadway in New York, NY, as the "Ronald H. Brown Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. EHLERS:

H.R. 30. A bill to amend title 11 of the United States Code to make nondischargeable a debt for death or injury caused by the debtor's operation of watercraft or aircraft while intoxicated; to the Committee on the Judiciary.

By Mr. BAKER (for himself and Mr. KANJORSKI):

H.R. 31. A bill to reform the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. BAKER (for himself, Mr. BACHUS, and Mr. LAZIO of New York):

H.R. 32. A bill to terminate the property disposition program of the Department of Housing and Urban Development providing single family properties for use for the homeless; to the Committee on Banking and Financial Services.

By Mr. BEREUTER:

H.R. 33. A bill to amend the Housing and Community Development Act of 1992 to extend the loan guarantee program for Indian housing; to the Committee on Banking and Financial Services.

H.R. 34. A bill to amend the Federal Election Campaign Act of 1971 to prohibit individuals who are not citizens of the United States from making contributions or expenditures in connection with an election for Federal office; to the Committee on House Oversight.

H.R. 35. A bill to provide a more effective remedy for inadequate trade benefits extended to the United States by other countries and for restrictions on free emigration imposed by other countries; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself, Mr. BERMAN, Mr. GILMAN, Mr. CRANE, and Mr. MATSUI):

H.R. 36. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia; to the Committee on Ways and Means.

By Mr. BILIRAKIS:

H.R. 37. A bill to amend title 39, United States Code, to exempt veterans' organizations from regulations prohibiting the solicitation of contributions on postal property; to the Committee on Government Reform and Oversight.

By Mr. BILIRAKIS (for himself and Mr. NORWOOD):

H.R. 38. A bill to provide a minimum survivor annuity for the unremarried surviving spouses of retired members of the Armed Forces who died before having an opportunity to participate in the survivor benefit plan; to the Committee on National Security.

By Mr. YOUNG of Alaska (for himself and Mr. CUNNINGHAM):

H.R. 39. A bill to reauthorize the African Elephant Conservation Act; to the Committee on Resources.

By Mr. CONYERS (for himself, Mr. FATTAH, Mr. FOGLIETTA, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MEEK of Florida, Mr. OWENS, Mr. RUSH, and Mr. TOWNS):

H.R. 40. A bill to acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to examine the institution of slavery, subsequent de jure and de facto racial and economic discrimination against African-Americans, and the impact of these forces on living African-Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes; to the Committee on the Judiciary.

By Mr. GINGRICH:

H.R. 41. A bill to provide a sentence of death for certain importations of significant quantities of controlled substances; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 42. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to any employer who employs a member of the Ready Reserve or of the National Guard for a portion of the value of the service not performed for the employer while the employee is performing service as such a member; to the Committee on Ways and Means.

H.R. 43. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to any employer who employs a member of the Ready Reserve or of the National Guard for a portion of the compensation paid by the employer while the employee is performing service as such a member; to the Committee on Ways and Means.

H.R. 44. A bill to amend title 10, United States Code, to provide limited authority for concurrent payment of retired pay and veterans' disability compensation for certain disabled veterans; to the Committee on National Security, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLEMENT:

H.R. 45. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 15-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 46. A bill to repeal the provision of law under which pay for Members of Congress is automatically adjusted; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 47. A bill to make Members of Congress ineligible to participate in the Federal Employees' Retirement System; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 48. A bill to limit the duration of certain benefits afforded to former Presidents, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT:

H.R. 49. A bill to amend title 39, United States Code, to prevent the U.S. Postal Service from disclosing the names or addresses of any postal patrons or other persons, except under certain conditions; to the Committee on Government Reform and Oversight.

H.R. 50. A bill to provide for the operation of a combined post exchange and commissary store at Castle Air Force Base, CA, a military installation selected for closure under the base closure laws, in order to ensure that adequate services remain available to the numerous members of the Armed Forces, retired members, and their dependents who reside in the vicinity of the installation; to the Committee on National Security.

H.R. 51. A bill to amend title 10, United States Code, to provide that persons retiring from the Armed Forces shall be entitled to all benefits which were promised them when they entered the Armed Forces; to the Committee on National Security.

H.R. 52. A bill to establish a code of air information practices for health information, to amend section 552a of title 5, United States Code, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Government Reform and Oversight, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ESHOO (for herself, Mr. Rothman, Mr. Farr of California, Mr. Underwood, Mr. Hastings of Florida, Mr. Kennedy of Rhode Island, Mr. Frost, Ms. Norton, Mr. Menendez, Ms. Jackson-Lee, and Mr. Green):

H.R. 53. A bill to amend the Internal Revenue Code of 1986 to establish a Higher Education Accumulation Program [HEAP] under which individuals are allowed a deduction for contributions to HEAP accounts; to the Committee on Ways and Means.

By Mr. FARR of California (for himself, Mr. Campbell, Ms. Eshoo, Mr. Riggs, Mr. Fazio of California, Mr. Cunningham, Mr. Lantos, and Ms. Lofgren):

H.R. 54. A bill to amend the Andean Trade Preference Act to prohibit the provision of duty-free treatment under that act for live plants and fresh cut flowers described in chapter 6 of the Harmonized Tariff Schedule of the United States; to the Committee on Ways and Means.

By Mr. FORBES:

H.R. 55. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 relating to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 56. A bill to authorize establishment of a Department of Veterans Affairs ambulatory care facility in Brookhaven, NY; to the Committee on Veterans' Affairs.

By Mr. FROST:

H.R. 57. A bill to amend the Federal Credit Union Act to clarify that residents of certain neighborhoods which are underserved by depository institutions may become members of any Federal credit union which establishes a branch in such neighborhood; to the Committee on Banking and Financial Services.

By Ms. FURSE (for herself, Mr. Nethercutt, Mr. Dingell, Mr. Bereuter, Mr. Boucher, Mr. Davis of Virginia, Mr. Deal of Georgia, Mr. Waxman, Mr. Wynn, Mr. Skeen, Mr. Sawyer, Mr. Rush, Ms. Eshoo, Mr. Ney, Mr. Ramstad, Mrs. Kennelly of Connecticut, Mr. Green, Mr. Brown of Ohio, Mr. Pallone, Ms. Pryce of Ohio, Mr. Pomeroy, Mr. Serrano, Mr. Engel, Mr. Markey, Mr. Manton, Mr. Watts of Oklahoma, Mr. Stupak, Mr. Stark, Mr. Towns, Mr. Gordon, Mrs. Morella, Mr. Klink, Mr. Condit, Mr. Deutsch, Mrs. Myrick, Ms. Slaughter, Mr. McKeon, Mr. Hall of Ohio, Mr. Hamilton, Ms. Eddie Bernice Johnson of Texas, Mr. Barrett of Wisconsin, Mr. Kildee, Mr. Ackerman, Mr. Yates, Mr. Wolf, Mr. Andrews, Mr. Baldacci, Mr. Petri, Mr. Blumenauer, Mr. Bonior, Ms. Pelosi, Mr. Schiff, Mr. Watt of North Carolina, Mr. Underwood, Mr. Cardin, Mr. Clay, Ms. DeLauro, Mr. Fazio of California, Mr. LaFalce, Mrs. Maloney of New York, Mrs. Mink of Hawaii, Mr. Rahall, Mr. Sabo, Mr. Martinez, Mr. Mascara, Mr. Gephardt, Mr. Gejdenson, Mr. Wamp, Mr. DeFazio, and Ms. Hooley of Oregon):

H.R. 58. A bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLATTE (for himself, Mr. Dickey, Mr. Hayworth, Mr. Largent, Mr. Davis of Virginia, Mr. Stump, Mr. Miller of Florida, Mr. Taylor of North Carolina, Mr. Barrett of Nebraska, Mr. Linder, Mr. Cunningham, Mr. Burr of North Carolina, Mr. Bliley, Mr. Barton of Texas, Mr. Scarborough, Mr. Hansen, Mr. Calvert, Mrs. Myrick, Mr. Bonilla, Mr. McKeon, Mr. Ballenger, Mr. Istook, and Mr. Graham):

H.R. 59. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Education and the Workforce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYWORTH:

H.R. 60. A bill to authorize the Secretary of the Interior to provide assistance to the Casa Malpais National Historic Landmark in Springerville, AZ; to the Committee on Resources.

By Mr. HERGER:

H.R. 61. A bill to direct the Secretary of Agriculture to assure that the operations of the Forest Service are free of racial, sexual, and ethnic discrimination; to the Committee on Agriculture.

H.R. 62. A bill to provide relief to State and local governments from Federal regulation; to the Committee on Government Reform and Oversight.

H.R. 63. A bill to designate the reservoir created by Trinity Dam in the Central Valley project, CA, as "Trinity Lake"; to the Committee on Resources.

By Mr. HERGER (for himself and Ms. Dunn of Washington):

H.R. 64. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment for the amount of the maximum benefit under the special estate tax valuation rules for certain farm, and so forth, real property; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself and Mr. Norwood):

H.R. 65. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation; to the Committee on National Security.

By Mr. COBURN (for himself and Mr. BROWN of Ohio):

H.R. 66. A bill to amend title XVIII of the Social Security Act to provide protections for Medicare beneficiaries who enroll in Medicare managed care plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER:

H.R. 67. A bill to amend the Internal Revenue Code of 1986 to allow a credit or refund of motor fuel excise taxes on fuel used by the motor of a highway vehicle to operate certain power takeoff equipment on such vehicle; to the Committee on Ways and Means.

By Mr. HOLDEN (for himself, Mr. BEREUTER, Mr. BORSKI, Mr. BOUCHER, Ms. BROWN of Florida, Mr. CONDIT, Mr. DEFAZIO, Mr. DELLUMS, Mr. EVANS, Mr. FROST, Mr. GREEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Ms. MCKINNEY, Mr. STUPAK, Mr. OWENS, and Mr. SMITH of New Jersey):

H.R. 68. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 69. A bill to amend the Internal Revenue Code of 1986 to increase to 100 percent the amount of the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. INGLIS of South Carolina (for himself and Mr. SANFORD):

H.R. 70. A bill to amend the Federal Election Campaign Act of 1971 to prohibit multicandidate political committee contributions and expenditures in elections for Federal office; to the Committee on House Oversight.

By Mr. KNOLLENBERG:

H.R. 71. A bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage and overtime requirements individuals who volunteer their time in order to enhance their occupational opportunities; to the Committee on Education and the Workforce.

H.R. 72. A bill to amend title 17, United States Code, to allow the making of a copy of a computer program in connection with the maintenance or repair of a computer; to the Committee on the Judiciary.

H.R. 73. A bill to amend section 101 of title 11 of the United States Code to modify the definition of single asset real estate and to make technical corrections; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia (for himself, Mr. MORAN of Virginia, Ms. NORTON, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. CONYERS, Mr. TOWNS, Ms. PELOSI, Mr. FLAKE, Mr. HALL of Ohio, Mr. OBERSTAR, Mr. FAZIO of California, Mr. KENNEDY of Massachusetts, Mr. GONZALEZ, and Mr. SHAYS):

H.R. 74. A bill to protect the voting rights of homeless citizens; to the Committee on the Judiciary.

By Ms. MCCARTHY of Missouri (for herself, Mr. FAZIO of California, Mr. FROST, Mr. LUTHER, Ms. LOFGREN, Mr. MASCARA, Ms. RIVERS, Ms. KAPTUR, Mr. PALLONE, Mr. CUMMINGS, Mr. DOYLE, Mrs. KENNELLY of Connecticut, Mr. BLUMENAUER, Mr. KENNEDY of Rhode Island, Mr. DOOLEY of California, Mr. FATTAH, Mr. JACKSON, Ms. MILLENDER-MCDONALD, Mr. BOSWELL, and Ms. JACKSON-LEE):

H.R. 75. A bill to establish the National Commission on the Long-term Solvency of the Medicare Program; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORGAN of Virginia (for himself, Mr. WATTS of Oklahoma, Mr. HEFNER, and Mr. DEAL of Georgia):

H.R. 76. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY:

H.R. 77. A bill to amend the Federal Election Campaign Act of 1971 to limit expenditures in House of Representatives elections; to the Committee on House Oversight.

By Mr. REGULA:

H.R. 78. A bill to assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RIGGS:

H.R. 79. A bill to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe; to the Committee on Resources.

By Mr. ROEMER:

H.R. 80. A bill to require the return of excess amounts from the representational allowances of Members of the House of Representatives to the Treasury for deficit reduction; to the Committee on House Oversight.

H.R. 81. A bill to designate the U.S. courthouse located at 401 South Michigan Street in South Bend, IN, as the "Robert K. Rodibaugh United States Bankruptcy Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. SCHUMER (for himself and Ms. SLAUGHTER):

H.R. 82. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable by providing tax benefits to individuals who save for, or pay for, higher education; to the Committee on Ways and Means.

By Mr. SCHUMER:

H.R. 83. A bill to enhance and protect retirement savings; referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SLAUGHTER:

H.R. 84. A bill to amend the Communications Act of 1934 to require radio and television broadcasters to provide free broadcasting time for political advertising; to the Committee on Commerce.

H.R. 85. A bill to improve the regulation of explosives and explosive materials, and to prevent the use of explosives against persons and the unlawful use of explosives against property; to the Committee on the Judiciary.

By Mr. SMITH of Michigan (for himself, Mr. SMITH of Oregon, Mr. STENHOLM, Mr. SKEEN, Mr. BARCIA of Michigan, Mr. BARRETT of Wisconsin, Mr. BOEHNER, Mr. EVANS, Mr. HOSTETTLER, Mr. NORWOOD, Mr. POMEROY, Ms. STABENOW, Mr. COMBEST, Mr. MCHUGH, Mr. WELLER, Mr. SOLOMON, Mr. POMBO, Mr. BOSWELL, Mr. CHAMBLISS, Mr. LATHAM, Mr. BLUNT, Mr. PETERSON of Minnesota, Mr. HILL, Mr. EWING, Mr. HASTERT, Mr. KINGSTON, Mr. HERGER, Mr. THUNE, Mr. FROST, Mr. MCINNIS, Mr. PARKER, Mr. NETHERCUTT, Mr. SENSENBRENNER, and Mr. CRAPO):

H.R. 86. A bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 87. A bill to oppose the provision of assistance to the People's Republic of China by any international financial institution; to the Committee on Banking and Financial Services.

H.R. 88. A bill to suspend Federal education benefits to individuals convicted of drug offenses; to the Committee on Education and the Workforce.

H.R. 89. A bill to require pre-employment drug testing with respect to applicants for Federal employment; to the Committee on Government Reform and Oversight.

H.R. 90. A bill to require random drug testing within the executive branch of the Government; to the Committee on Government Reform and Oversight.

H.R. 91. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reduce funding if States do not enact legislation that requires the death penalty in certain cases; to the Committee on the Judiciary.

H.R. 92. A bill to require random drug testing of Federal judicial branch officers and employees; to the Committee on the Judiciary.

H.R. 93. A bill to prohibit the importation of foreign-made flags of the United States of America; to the Committee on Ways and Means.

By Mr. BATEMAN:

H.R. 94. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from overtime compensation for firefighters and rescue squad members who volunteer their services; to the Committee on Education and the Workforce.

By Mr. SOLOMON:

H.R. 95. A bill to ensure that Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the

Department of Agriculture; to the Committee on the Judiciary, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 96. A bill to provide regulatory assistance for small business concerns, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UPTON:

H.R. 97. A bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress after leaving office from representing foreign governments before the U.S. Government; to the Committee on the Judiciary.

By Mr. VENTO:

H.R. 98. A bill to regulate the use by interactive computer services of personally identifiable information provided by subscribers to such services; to the Committee on Commerce.

By Mr. WHITE (for himself and Mr. HORN):

H.R. 99. A bill to establish a temporary commission to recommend reforms in the laws relating to elections for Federal office; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UNDERWOOD (for himself, Mr. ABERCROMBIE, Mr. BONIOR, Mr. CLAY, Mr. DELLUMS, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Ms. CHRISTIAN-GREEN, Mr. HINCHEY, Mr. HOLDEN, Mr. LAFALCE, Mr. LEWIS of Georgia, Mr. MARTINEZ, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. NADLER, Ms. NORTON, Mr. PASTOR, Mr. ROMERO-BARCELO, Mr. TORRES, Mr. TOWNS, and Mr. YATES):

H.R. 100. A bill to establish the Commonwealth of Guam, and for other purposes; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER:

H.R. 101. A bill to amend the National Forest Foundation Act to extend and increase the matching funds authorization for the foundation, to provide additional administrative support to the foundation, to authorize the use of investment income, and to permit the foundation to license the use of trademarks, tradenames, and other such devices to advertise that a person is an official sponsor or supporter of the Forest Service or the National Forest System; to the Committee on Agriculture.

By Mr. BARR of Georgia:

H.R. 102. A bill to require the national instant criminal background check system to be established and used in connection with firearms transfers by November 28, 1997; to the Committee on the Judiciary.

By Mr. BARR of Georgia (for himself and Mr. MARTINEZ):

H.R. 103. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTLETT of Maryland:

H.R. 104. A bill to authorize the private ownership and use of National Park System lands; to the Committee on Resources.

By Mr. BASS:

H.R. 105. A bill to establish a locally oriented commission to assist the city of Berlin, NH, in identifying and studying its region's historical and cultural assets, and for other purposes; to the Committee on Resources.

By Mr. BENTSEN:

H.R. 106. A bill to amend the Social Security Act to establish the teaching hospital and graduate medical education trust fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 107. A bill to amend title 5, United States Code, to provide that the Civil Service Retirement and Disability Fund be excluded from the budget of the United States Government; to the Committee on the Budget, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUMENAUER:

H.R. 108. A bill to amend title 23, United States Code, concerning eligibility for grants to implement alcohol-impaired driving countermeasures; to the Committee on Transportation and Infrastructure.

By Mr. CLAY:

H.R. 109. A bill to amend the Family and Medical Leave Act of 1993, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform and Oversight, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLEMENT:

H.R. 110. A bill to amend the Federal Election Campaign Act of 1971 to ban soft money in elections for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. CONDIT:

H.R. 111. A bill to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, CA, to the Dos Palos Ag Boosters for use as a farm school; to the Committee on Agriculture.

H.R. 112. A bill to provide for the conveyance of certain property from the United States to Stanislaus County, CA; to the Committee on Science.

By Mr. CONDIT (for himself and Ms. GRANGER):

H.R. 113. A bill to amend chapter 11 of title 31, United States Code, to require that each President's budget submission to Congress include a detailed plan to achieve a balanced Federal budget, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT:

H.R. 114. A bill to require the President to submit to the Congress each year an integrated justification for U.S. foreign assistance programs, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Agriculture, Banking and Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS:

H.R. 115. A bill to prohibit the transfer of a firearm to, and the possession of a firearm by, a person who is intoxicated; to the Committee on the Judiciary.

H.R. 116. A bill to apply equal standards to certain foreign made and domestically produced handguns; to the Committee on the Judiciary.

H.R. 117. A bill to reauthorize the independent counsel statute, and for other purposes; to the Committee on the Judiciary.

H.R. 118. A bill to provide for the collection of data on traffic stops; to the Committee on the Judiciary.

H.R. 119. A bill to amend the Immigration and Nationality Act to impose additional conditions on employers of H–1B nonimmigrants; to the Committee on the Judiciary.

H.R. 120. A bill to make technical corrections to title 11, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. CRANE (for himself and Mr. NORWOOD):

H.R. 121. A bill to repeal the statutory authority for the Corporation for Public Broadcasting; to the Committee on Commerce.

By Mr. CRANE (for himself, Mr. SAM JOHNSON, and Mr. NORWOOD):

H.R. 122. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to abolish the National Endowment for the Arts and the National Council on the Arts; to the Committee on Education and the Workforce.

By Mr. CUNNINGHAM (for himself, Mrs. EMERSON, Mr. ARMEY, Mr. DELAY, Mr. LINDER, Mr. GOODLING, Mr. RIGGS, Mrs. ROUKEMA, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. MCKEON, Mr. SAM JOHNSON, Mr. TALENT, Mr. KNOLLENBERG, Mr. SOUDER, Mr. NORWOOD, Mr. PETERSON of Pennsylvania, Mr. ARCHER, Mr. YOUNG of Alaska, Mr. STUMP, Mr. BEREUTER, Mr. SOLOMON, Mr. THOMAS, Mr. PORTER, Mr. BLILEY, Mr. HUNTER, Mr. MCCOLLUM, Mr. WOLF, Mr. BURTON of Indiana, Mr. GEKAS, Mr. KASICH, Mr. SISISKY, Mr. SAXTON, Mr. BARTON of Texas, Mr. BUNNING of Kentucky, Mr. GALLEGLY, Mr. HASTERT, Mr. HERGER, Mr. PICKETT, Mr. SHAYS, Mr. CLEMENT, Mr. DUNCAN, Mr. ROHRABACHER, Mr. TANNER, Mr. DOOLITTLE, Mr. RAMSTAD, Mr. CRAMER, Mr. EWING, Mr. BACHUS, Mr. CALVERT, Mr. COLLINS, Mr. DEAL of Georgia, Ms. DUNN of Washington, Mr. GOODLATTE, Mr. HORN, Mr. KING of New York, Mr. MILLER of Florida, Mr. ROYCE, Mr. LEWIS of Kentucky, Mr. BARR of Georgia, Mr. BILBRAY, Mr. BRYANT, Mr. BURR of North Carolina, Mr. CHAMBLISS, Mr. CHRISTENSEN, Mr. COBURN, Mr.

GANSKE, Mr. HAYWORTH, Mr. NETHERCUTT, Mr. NEY, Mr. SALMON, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, and Mr. HULSHOF):

H.R. 123. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Education and the Workforce.

By Mr. CRANE:

H.R. 124. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Ways and Means.

H.R. 125. A bill to make clear that the definition of a base period, under the unemployment compensation law of a State, is not an administrative provision subject to section 303(a)(1) of the Social Security Act; to the Committee on Ways and Means.

By Mr. CRAPO (for himself, Ms. HARMAN, Mr. WATTS of Oklahoma, Mr. SCHUMER, Mr. ROYCE, Mr. GOSS, Mr. SOLOMON, Mr. NORWOOD, Mr. HAYWORTH, Mr. COBURN, Mrs. MORELLA, Mr. TALENT, Mr. BEREUTER, Mr. BURTON of Indiana, Mr. CANADY of Florida, Mr. FROST, Mr. INGLIS of South Carolina, Ms. MOLINARI, Ms. DUNN of Washington, Mr. GREENWOOD, Mr. BURR of North Carolina, Mr. BLUNT, Mr. MCKEON, Mr. SHAYS, Mrs. MYRICK, Mr. ENSIGN, Mr. FOLEY, Mr. GOODLATTE, Mr. DEAL of Georgia, Mr. PAPPAS, Mr. POSHARD, Mr. KLUG, Mr. BARRETT of Wisconsin, Mr. STENHOLM, Mr. WHITE, and Mr. FOX of Pennsylvania):

H.R. 126. a bill to establish procedures to provide for a deficit reduction lock-box and related downward adjustment of discretionary spending limits; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEVIN (for himself, Mr. SHAW, Mr. RANGEL, Mr. ENGLISH of Pennsylvania, Mr. MATSUI, Mr. CRANE, Mr. COYNE, Mr. HOUGHTON, Mrs. KENNELLY of Connecticut, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. PETRI, Mr. OBERSTAR, Mr. KNOLLENBERG, Mr. WAXMAN, Mr. HOLDEN, Mr. MCHALE, Mr. POMEROY, Ms. NORTON, and Mr. JACKSON):

H.R. 127. A bill to amend the Internal Revenue Code of 1986 to permanently extend the exclusion for employer-provided educational assistance and to restore the exclusion for graduate level educational assistance; to the Committee on Ways and Means.

By Mr. CRAPO (for himself, Mr. HANSEN, Mr. SMITH of Oregon, Mrs. CHENOWETH, and Mr. SKEEN):

H.R. 128. A bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regulate water, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CUBIN:

H.R. 129. A bill to provide for the retention of the name of the geologic formation known as Devils Tower at the Devils Tower National Monument in the State of Wyoming; to the Committee on Resources.

By Mr. CUNNINGHAM (for himself, Mr. HUNTER, and Mr. BILBRAY):

H.R. 130. A bill to amend the Clean Air Act to provide for the reclassification of downwind nonattainment areas, and for other purposes; to the Committee on Commerce.

By Mr. CUNNINGHAM (for himself, Mr. ROYCE, Ms. PRYCE of Ohio, Mr. MCKEON, Mr. RIGGS, and Mr. ENGLISH of Pennsylvania):

H.R. 131. A bill to provide that a new Federal program shall terminate not later than 5 years after the date of the enactment of the law that authorizes the program; to the Committee on Government Reform and Oversight.

By Mr. CUNNINGHAM (for himself, and Mr. BARTLETT of Maryland):

H.R. 132. A bill to establish a second National Blue Ribbon Commission to Eliminate Waste in Government; to the Committee on Government Reform and Oversight.

By Mr. CUNNINGHAM (for himself, Mr. GALLEGLY, Mr. RIGGS, Mr. MCKEON, Mr. BONO, Mr. BILBRAY, and Ms. HARMAN):

H.R. 133. A bill to require a temporary moratorium on leasing, exploration, and development on lands of the Outer Continental Shelf off the State of California, and for other purposes; to the Committee on Resources.

By Mr. CUNNINGHAM:

H.R. 134. A bill to authorize the Secretary of the Interior to provide a loan guarantee to the Olivenhain water storage project, and for other purposes; to the Committee on Resources.

By Ms. DELAURO (for herself, Mr. DINGELL, Mrs. ROUKEMA, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BENTSEN, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mrs. CLAYTON, Mr. CLEMENT, Mr. CONYERS, Mr. DEFAZIO, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FOGLIETTA, Mr. FOX of Pennsylvania, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GORDON, Mr. GREEN, Mr. HINCHEY, Mr. KENNEDY of Rhode Island, Mrs. KENNELLY of Connecticut, Mr. KILDEE, Mr. LAFALCE, Mrs. LOWEY, Mr. MCDERMOTT, Mrs. MALONEY of New York, Mrs. MEEK of Florida, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. MURTHA, Mr. NADLER, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PAYNE, Ms. PELOSI, Mr. QUINN, Mr. RAHALL, Ms. RIVERS, Mr. SANDERS, Ms. SLAUGHTER, Mr. TOWNS, Ms. VELAZQUEZ, Mr. ROMERO-BARCELO, Mr. KENNEDY of Massachusetts, and Mr. MATSUI):

H.R. 135. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEUTSCH (for himself and Mr. GOSS):

H.R. 136. A bill to amend the National Parks and Recreation Act of 1978 to designate the Marjory Stoneman Douglas Wilderness and to amend the Everglades National park protection and Expansion Act of 1989 to designate the Ernest F. Coe Visitor Center; to the Committee on Resources.

By Mr. DICKEY:

H.R. 137. A bill to prohibit the Secretary of Health and Human Services from finding that a State Medicaid plan is not in compliance with title XIX of the Social Security Act solely on the grounds that the plan does not cover abortions for pregnancies resulting from an act of rape or incest if coverage for such abortions is inconsistent with State law; to the Committee on Commerce.

H.R. 138. A bill to amend the Federal Election Campaign Act of 1971 to prohibit contributions by nonparty multicandidate political committees; to the Committee on House Oversight.

By Mr. DICKEY (for himself, Mr. DUNCAN, Mr. HEFLEY, Mr. ENGLISH of Pennsylvania, Mr. KING, Mr. NORWOOD, Mr. SHAYS, and Mr. TAYLOR of North Carolina):

H.R. 139. A bill to reform the independent counsel statute, and for other purposes; to the Committee on the Judiciary.

By Mr. DINGELL:

H.R. 140. A bill to amend the Federal Election Campaign Act of 1971 to promote the disclosure of contributions and expenditures made with respect to campaigns for election for Federal office, to ban the use of soft money with respect to such campaigns, and for other purposes; to the Committee on House Oversight.

H.R. 141. A bill to establish the Select Commission to Advise on Reforming Elections to issue recommendations for the reform of laws governing the financing of campaigns for election for Federal office, to establish expedited procedures for the consideration of legislation implementing the recommendations, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DUNN of Washington:

H.R. 142. A bill to require the President to submit a separately identified appropriation request to provide priority funding for the national parks of the United States, and for other purposes; to the Committee on the Budget.

By Ms. DUNN of Washington (for herself, Mr. MATSUI, Mr. HERGER, Mr. JEFFERSON, Mr. CRANE, Mr. NEAL of Massachusetts, Mr. MCCRERY, Mr. MCDERMOTT, Mr. ENGLISH of Pennsylvania, and Mr. WELLER):

H.R. 143. A bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software; to the Committee on Ways and Means.

By Mrs. EMERSON:

H.R. 144. A bill to amend the Internal Revenue Code of 1986 to make health insurance costs fully deductible for the self-employed; to the Committee on Ways and Means.

By Mr. BORSKI (for himself, Mr. SHAYS, Mr. ENGLISH of Pennsylvania, Ms. BROWN of Florida, Mr. EVANS, Mr. TRAFICANT, Mr. QUINN, Mr. CLEMENT, Mr. DIAZ-BALART, Mr. MASCARA, Mr. COSTELLO, Mr. HALL of Ohio, Mr. HOLDEN, Mr. FROST, Mr. LANTOS, Mr.

COYNE, Mr. JACKSON, Mr. DEFAZIO, Mr. SPRATT, Mr. NEY, MS. KAPTUR, and Mr. NADLER):

H.R. 145. A bill to terminate the effectiveness of certain amendments to the foreign repair station rules of the Federal Aviation Administration, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. EMERSON (for herself and Mr. GOSS):

H.R. 146. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 5-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and related beneficiaries, and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mr. ENGEL:

H.R. 147. A bill to amend the Communications Act of 1934 to direct the Federal Communications Commission to establish an ethnic and minority affairs section; to the Committee on Commerce.

H.R. 148. A bill to amend title XIX of the Social Security Act to assure that Medicaid disproportionate share hospital payments go directly to Medicaid disproportionate share hospitals; to the Committee on Commerce.

By Mr. ENGEL (for himself, Mr. ACKERMAN, Mr. MANTON, Mr. SERRANO, Mrs. LOWEY, Mr. RANGEL, and Mr. FLAKE):

H.R. 149. A bill to amend the Elementary and Secondary Education Act of 1965 to allow certain counties flexibility in spending funds; to the Committee on Education and the Workforce.

By Mr. ENGEL (for himself, Mr. KING of New York, Mr. MANTON, Mr. WALSH, Mr. NEAL of Massachusetts, Mr. SHAYS, Mrs. LOWEY, Mr. MENENDEZ, Mr. LAZIO of New York, Mr. DOYLE, Mr. ACKERMAN, Mr. OLVER, Mrs. KELLY, and Mr. NADLER):

H.R. 150. A bill to amend the Anglo-Irish Agreement Support Act of 1986 to require that disbursements from the International Fund for Ireland are distributed in accordance with the MacBride principles of economic justice, and for other purposes; to the Committee on International Relations.

By Mr. ENGEL:

H.R. 151. A bill concerning paramilitary groups and British security forces in Northern Ireland; to the Committee on International Relations.

By Mr. ENGEL (for himself and Mr. GILMAN):

H.R. 152. A bill to designate the U.S. courthouse under construction in White Plains, NY, as the "Thurgood Marshall United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. ENGEL:

H.R. 153. A bill to amend title 49, United States Code, to exempt noise and access restrictions on aircraft operations to and from metropolitan airports from certain Federal review and approval requirements, and for other purposes, to the Committee on Transportation and Infrastructure.

H.R. 154. A bill to amend the Internal Revenue Code of 1986 to require governmental deferred compensation plans to maintain set asides for the exclusive benefits of participants; to the Committee on Ways and Means.

H.R. 155. A bill to amend the Internal Revenue Code of 1986 to provide for designation of overpayments and contributions to the U.S. textbook and technology trust fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. English of Pennsylvania:

H.R. 156. A bill to amend title 31, United States Code, to provide that recently enacted provisions requiring payment of Federal benefits in the form of electronic funds transfers do not apply with respect to benefits payable under the old-age, survivors, and disability insurance program under title II of the Social Security Act; to the Committee on Government Reform and Oversight.

H.R. 157. A bill to authorize and request the President to award the Congressional Medal of Honor posthumously to Brevet Brig. Gen. Strong Vincent for his actions in the defense of Little Round Top at the Battle of Gettysburg, July 2, 1863; to the Committee on National Security.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. COX of California, Mr. MCCOLLUM, Mr. BARTLETT of Maryland, Mr. KING of New York, Mr. MCINTOSH, and Mr. KNOLLENBERG):

H.R. 158. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. NEAL of Massachusetts, and Mr. MCHUGH):

H.R. 159. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of draft cider; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 160. A bill to amend the Internal Revenue Code of 1986 to clarify the application of the retail tax on heavy trucks and trailers; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. FRANK of Massachusetts, and Mr. MCDERMOTT):

H.R. 161. A bill to amend the Internal Revenue Code of 1986 to terminate the tax subsidies for large producers of ethanol used as a fuel; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 162. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax; to the Committee on Ways and Means.

H.R. 163. A bill to amend the Internal Revenue Code of 1986 to place the burden of proof on the Secretary to prove that the cash method of accounting does not clearly reflect income; to the Committee on Ways and Means.

By Ms. ESHOO (for herself, Ms. DELAURO,: Mr. MCGOVERN, Mr. TOWNS, Mrs. MINK of Hawaii, Ms. SLAUGHTER, and Mr. FROST):

H.R. 164. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 165. A bill to amend title 10, United States Code, to repeal the two-tier annuity computation system applicable to annuities for surviving spouses under the survivor benefit plan for retired members of the Armed Forces so that there is no reduction in such an annuity when the beneficiary becomes 62 years of age; to the Committee on National Security.

H.R. 166. A bill to amend title 38, United States Code, to clarify the conditions under which an action may be brought against a State to enforce veterans' reemployment rights, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 167. A bill to amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, to strengthen preference for veterans in hiring, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 168. A bill to amend the Small Business Act to establish programs and undertake efforts to assist and promote the creation, development, and growth of small business concerns owned and controlled by veterans of service in the Armed Forces, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of New Jersey (for himself, Mr. CAMPBELL, Mrs. EMERSON, Mr. LOBIONDO, Mr. MCHALE, Mr. NORWOOD, Mr. GRAHAM, and Mr. ROYCE):

H.R. 169. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to prevent luxurious conditions in prisons; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey:

H.R. 170. A bill to establish a temporary commission to recommend reforms in the laws relating to elections for Federal office; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY:

H.R. 171. A bill to amend section 214 of the Housing and Community Development Act of 1980 to make technical corrections; to the Committee on Banking and Financial Services.

H.R. 172. A bill to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers; to the Committee on Government Reform and Oversight.

By Mr. GALLEGLY (for himself and Mr. SHAYS):

H.R. 173. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of surplus Federal law enforcement canines to their handlers; to the Committee on Government Reform and Oversight.

By Mr. GALLEGLY:

H.R. 174. A bill to require the relocation of a National Weather Service radar tower which is on Sulphur Mountain near Ojai, CA; to the Committee on Science.

H.R. 175. A bill to prohibit Federal funding for earthquake-related repairs or restoration of Bottle Village in Simi Valley, CA; to the Committee on Transportation and Infrastructure.

By Mr. GILMAN:

H.R. 176. A bill to provide for hearing care services by audiologists to Federal civilian employees; to the Committee on Government Reform and Oversight.

H.R. 177. A bill to direct the Secretary of Health and Human Services to establish a schedule of preventive health care services and to provide for coverage of such services in accordance with such schedule under private health insurance plans and health benefit programs of the Federal Government, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, Government Reform and Oversight, Veterans' Affairs, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILMAN (for himself and Mr. MANTON):

H.R. 178. A bill to provide for adherence with the MacBride principles of economic justice by United States persons doing business in Northern Ireland, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLING:

H.R. 179. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election to Federal office, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Commerce, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOSS:

H.R. 180. A bill imposing certain restrictions and requirements on the leasing under the Outer Continental Shelf Lands Act of lands offshore Florida, and for other purposes; to the Committee on Resources.

By Mr. GOSS:

H.R. 181. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of elections for members of the House of Representatives, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTIERREZ:

H.R. 182. A bill to provide for a livable wage for employees under Federal contracts and subcontracts; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Florida:

H.R. 183. A bill to direct the Secretary of Health and Human Services to prepare and publish annually a consumer guide to prescription drug prices; to the Committee on Commerce.

H.R. 184. A bill to amend title XIX of the Social Security Act to require State Medicaid Programs to provide coverage of screening mammography and screening pap smears; to the Committee on Commerce.

H.R. 185. A bill to establish a commission to study employment and economic insecurity in the workforce in the United States; to the Committee on Education and the Workforce.

H.R. 186. A bill to provide for the mandatory registration of handguns; to the Committee on the Judiciary.

H.R. 187. A bill to establish a commission to make recommendations on the appropriate size of membership of the House of Representatives and the method by which Representatives are elected; to the Committee on the Judiciary.

H.R. 188. A bill to establish Federal, State, and local programs for the investigation, reporting, and prevention of bias crimes; to the Committee on the Judiciary.

H.R. 189. A bill to establish a commission to investigate exposure to chemical and biological warfare agents as a result of the Persian Gulf conflict; to the Committee on National Security.

By Mr. HASTINGS of Florida (for himself and Mrs. MEEK of Florida):

H.R. 190. A bill to amend the Act entitled "An Act to provide for the establishment of the Everglades National Park in the State of Florida and for other purposes," approved May 30, 1934, to clarify certain rights of the Miccosukee Tribe of Indians of Florida; to the Committee on Resources.

By Mr. HASTINGS of Florida:

H.R. 191. A bill to amend the Family and Medical Leave Act of 1993 to apply the act to a greater percentage of the U.S. work force and to allow employees to take parental involvement leave to participate in or attend their children's educational and extracurricular activities, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform and Oversight, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY (for himself, Mr. WATTS of Oklahoma, Mr. NORWOOD, Mr. TAYLOR of Mississippi, Mr. FILNER, Mr. ENSIGN, Mr. BONILLA, Mr. BARTLETT of Maryland, Mr. ABERCROMBIE, Mr. GONZALEZ, Mr. RAMSTAD, Mr. CONDIT, Mr. GOODLATTE, Mr. LEWIS of Kentucky, Mr. BALLENGER, Mr. BEREUTER, Mr. CUNNINGHAM, Mr. CLEMENT, and Mr. HERGER):

H.R. 192. A bill to establish a demonstration project to evaluate the cost effectiveness of using the Medicare trust funds to reimburse the Department of Defense for certain health care services provided to Medicare-eligible covered military beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER:

H.R. 193. A bill to amend the National Historic Preservation Act to prohibit the inclusion of certain sites on the National Register of Historic Places and to prohibit the designation of the Mt. Shasta area in the State of California as a historic district, historic sites, or national monument under the National Historic Preservation Act or the Antiquities Act; to the Committee on Resources.

By Mr. HOUGHTON (for himself and Mrs. KENNELLY of Connecticut):

H.R. 194. A bill to enhance the financial security of children by providing for contributions by the Federal Government to child retirement accounts; to the Committee on Ways and Means.

By Mr. HOUGHTON (for himself and Mr. CARDIN):

H.R. 195. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Ways and Means.

By Mr. HOUGHTON (for himself and Mr. MATSUI):

H.R. 196. A bill to amend the Internal Revenue Code of 1986 to limit the applicability of the generation-skipping transfer tax; to the Committee on Ways and Means.

H.R. 197. A bill to amend the Internal Revenue Code of 1986 to provide for 501(c)(3) bonds a tax treatment similar to governmental bonds, and for other purposes; to the Committee on Ways and Means.

By Mr. HUNTER (for himself, Mr. CUNNINGHAM, Mr. PACKARD, Mr. COX of California, Mr. RIGGS, Mr. BARTLETT of Maryland, Mr. YOUNG of Alaska, Mr. MCCRERY, Mr. ROHRABACHER, Mr. MCKEON, Mr. CALVERT, Mr. LIVINGSTON, Mr. COBLE, and Mr. COMBEST):

H.R. 198. A bill to limit the types of commercial nonpostal services which may be offered by the U.S. Postal Service; to the Committee on Government Reform and Oversight.

By Mr. JONES:

H.R. 199. A bill to provide for greater accountability for Presidential appointees; to the Committee on Government Reform and Oversight.

By Mrs. KELLY:

H.R. 200. A bill to amend the Internal Revenue Code of 1986 to provide that gain on the sale of a principal residence shall be excluded from gross income without regard to the age of the taxpayer or the amount of the gain; to the Committee on Ways and Means.

By Mrs. KENNELLY of Connecticut:

H.R. 201. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the economic recovery of areas affected by the loss of employment in the financial institution and real estate sectors; to the Committee on Ways and Means.

H.R. 202. A bill to clarify the tax treatment of certain disability benefits received by former police officers or firefighters; to the Committee on Ways and Means.

By Mr. KIM (for himself, Mr. ABERCROMBIE, and Mr. UNDERWOOD):

H.R. 203. A bill to designate the Republic of Korea as a visa waiver pilot program country for 1 year under the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. KIM (for himself and Mr. BILBRAY):

H.R. 204. A bill to provide financial assistance to Mexican border States for transportation projects that are necessary to accommodate increased traffic resulting from the implementation of the North American Free-Trade Agreement; to the Committee on Transportation and Infrastructure.

By Mr. KIM:

H.R. 205. A bill to provide that receipts and disbursements of the highway trust fund, the airport and airways trust fund, the inland waterways trust fund, and the harbor maintenance trust fund shall not be included in the totals of the budget of the U.S. Government as submitted by the President or the congressional budget; to the Committee on the Budget, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York:

H.R. 206. A bill to award a congressional gold medal to the late James Cagney; to the Committee on Banking and Financial Services.

H.R. 207. A bill to authorize the Secretary of Housing and Urban Development to make organizations controlled by individuals who promote prejudice or bias based on race, religion, or ethnicity ineligible for assistance under programs administered by the Secretary, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 208. A bill to amend title 18, United States Code to protect the sanctity of religious communications; to the Committee on the Judiciary.

H.R. 209. A bill to amend the Internal Revenue Code of 1986 to establish and provide a checkoff for a breast and prostate cancer research fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLECZKA (for himself and Mr. Sensenbrenner):

H.R. 210. A bill to amend the Internal Revenue Code of 1986 to provide that the furnishing of recreational fitness services by tax-exempt hospitals shall be treated as an unrelated trade or business and that tax-exempt bonds may not be used to provide facilities for such services; to the Committee on Ways and Means.

By Mr. KLECZKA (for himself, Mr. Stark, Mr. Barrett of Wisconsin, Ms. McKinney, Mr. Waxman, Mr. Hilliard, Mr. Kildee, Mr. Sanders, Mr. Martinez, Mr. Evans, Mr. Manton, Mr. LaFalce, Mr. Pallone, Ms. Norton, Ms. Slaughter, Mrs. Clayton, Mr. Lewis of Georgia, Mr. Coyne, Mr. Clay, Ms. DeLauro, and Mr. Rangel):

H.R. 211. A bill to amend the Internal Revenue Code of 1986 to assure continued health insurance coverage of retired workers; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLINK (for himself and Mr. Doyle):

H.R. 212. A bill to amend the Department of Housing and Urban Development Act to provide for the Secretary of Housing and Urban Development to notify and consult with the unit of general local government within which an assisted multifamily housing project is to be located before providing any low-income housing assistance for the project; to the Committee on Banking and Financial Services.

By Mr. KLINK (for himself, Mr. Filner, Mr. Faleomavaega, Mr. Underwood, Mr. Watt of North Carolina, Mr. Ackerman, Mr. Engel, Mr. Frost, and Mr. Stupak):

H.R. 213. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to an individual training account; to the Committee on Ways and Means.

By Mr. KNOLLENBERG:

H.R. 214. A bill to amend the Social Security Act to reinstate requirements regarding Department of Housing and Urban Development access to certain information of State agencies, and to amend the Internal Revenue Code of 1986 to allow the Secretary of Housing and Urban Development to reveal certain income tax return information to public housing agencies, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned..

By Mr. LANTOS (for himself, Mr. Campbell, Ms. Eshoo, and Ms. Pelosi):

H.R. 215. A bill relating to the period of availability of certain emergency relief funds allocated under section 125 of title 23, United States Code, for carrying out a project to repair or reconstruct a portion of a Federal-aid primary route in San Mateo, CA; to the Committee on Transportation and Infrastructure.

By Mr. LaTOURETTE (for himself, Mr. Green, and Mr. LoBiondo):

H.R. 216. A bill to amend section 1128B of the Social Security Act to repeal the criminal penalty for fraudulent disposition of assets in order to obtain Medicaid benefits added by section 217 of the Health Insurance Portability and Accountability Act of 1996; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO of New York:

H.R. 217. A bill to amend title IV of the Stewart B. McKinney Homeless Assistance Act to consolidate the Federal programs for housing assistance for the homeless into a block grant program that ensures that States and communities are provided sufficient flexibility to use assistance amounts effectively; to the committee on Banking and Financial Services.

By Mr. CUNNINGHAM (for himself, Ms. Molinari, Mr. Packard, Mr. Hunter, Mr. Bilbray, Mrs. Myrick, Mr. Coble, Mr. Frost, Mr. Coburn, Mr. Bryant, Mr. Collins, and Mr. Hall of Texas):

H.R. 218. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns; to the Committee on the Judiciary.

By Mr. LAZIO of New York (for himself, Mr. Fazio of California, and Mr. McCollum):

H.R. 219. A bill to establish a Federal program to provide reinsurance for State disaster insurance programs; to the Committee on Banking and Financial Services.

By Mr. McCOLLUM:

H.R. 220. A bill to amend the Federal Deposit Insurance Act to clarify the due process protections applicable to directors and officers of insured depository institutions and other institution-affiliated parties, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 221. A bill to amend the Community Reinvestment Act of 1977 to reduce onerous recordkeeping and reporting requirements for regulated financial institutions, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 222. A bill to amend the Uniform Time Act of 1966 to provide that daylight savings time begins on the first Sunday in March; to the Committee on Commerce.

H.R. 223. A bill to amend the Federal Election Campaign Act of 1971 to establish the Presidential Debate Commission on an ongoing basis and to amend the Internal Revenue Code of 1986 to reduce the amount of funds provided under such act for party nominating conventions for any party whose nominee for President or Vice President does not participate in any debate scheduled by the Commission, and for other purposes; to the Committee on House Oversight.

H.R. 224. A bill to amend the National Voter Registration Act of 1993 to require each individual registering to vote in elections for Federal office to provide the individual's Social Security number and to permit a State to remove a registrant who fails to vote in two consecutive general elections for Federal office from the official list of eligible voters in election for Federal office on the ground that the registrant has changed residence, if the registrant fails to respond to written notices requesting confirmation of the registrant's residence; to the Committee on House Oversight.

H.R. 225. A bill to amend the Immigration and Nationality Act to permit certain aliens who are at least 55 years old of age to obtain a 4-year nonimmigrant visitor's visa; to the Committee on the Judiciary.

H.R. 226. A bill to deem the Florida Panther to be an endangered species under the Endangered Species Act of 1973; to the Committee on Resources.

By Mr. McCOLLUM (for himself and Mr. Mica):

H.R. 227. A bill to direct the Secretary of the Army to conduct a study of mitigation banks, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. McCOLLUM:

H.R. 228. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from IRA's for certain purposes, to increase the amount of tax deductible IRA contributions, and for other purposes; to the Committee on Ways and Means.

H.R. 229. A bill to amend the Community Reinvestment Act of 1977, the Equal Credit Opportunity Act, and the Fair Housing Act to improve the administration of such acts, to prohibit redlining in connection with the provision of credit, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McCOLLUM (for himself, Mr. Shaw, Mr. Lazio of New York, Mrs. Emerson, Mr. Bilirakis, Mr. Canady of Florida, Mr. Diaz-Balart, Mr. Deutsch, Mrs. Fowler, Mr. Hastings of Florida, Mrs. Meek of Florida, Mr. Mica, Ms. Ros-Lehtinen, Mr. Scarborough, and Mr. Stearns):

H.R. 230. A bill to ensure that insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, is available and affordable, and to provide for expanded hazard mitigation and relief, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCOLLUM (for himself, Mr. SCHUMER, Mr. STENHOLM, Mr. HORN, Mr. GALLEGLY, Mr. CANADY of Florida, Mr. HUNTER, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. BEREUTER, Mr. BILBRAY, Mr. BRYANT, Mr. CAMPBELL, Mr. CUNNINGHAM, Mr. DEFAZIO, Ms. JACKSON-LEE, Mr. KIM, Mr. LAFALCE, Mr. LATOURETTE, Mr. PACKARD, Mr. ROHRABACHER, Mr. SHAYS, Mr. STARK, Mr. TRAFICANT, and Mr. WAXMAN):

H.R. 231. A bill to improve the integrity of the Social Security card and to provide for criminal penalties for fraud and related activity involving work authorization documents for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCDADE:

H.R. 232. A bill to amend title 28, United States Code, to require prosecutors in the Department of Justice to be ethical; to the Committee on the Judiciary.

By Mr. MCINTOSH:

H.R. 233. A bill to amend the Lobbying Disclosure Act of 1995; to the Committee on the Judiciary.

By Mrs. MALONEY of New York (for herself, Ms. NORTON, Mrs. LOWEY, Mr. RUSH, Ms. MILLENDER-MCDONALD, Ms. BROWN of Florida, Ms. LOFGREN, Ms. PELOSI, and Mr. ACKERMAN):

H.R. 234. A bill to amend the Family and Medical Leave Act of 1993 to allow employees to take, as additional leave, parental involvement leave to participate in or attend their children's educational and extracurricular activities and to clarify that leave may be taken for routine medical needs and to assist elderly relatives, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform and Oversight, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York (for herself and Mr. HORN):

H.R. 235. A bill to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain individuals; to the Committee on Government Reform and Oversight, and in addition to the Committees on Intelligence (Permanent Select), and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York:

H.R. 236. A bill to prohibit Government contractors from being reimbursed by the Federal Government for certain environmental response costs; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN:

H.R. 237. A bill to amend title II of the Social Security Act to provide that an individual who has been denied benefits by reason of confinement to a public institution by reason of conviction for a sex offense shall continue to be denied benefits, upon completion of such confinement, while continuing to be confined thereafter by court order in a public institution; to the Committee on Ways and Means.

By Mr. MENENDEZ:

H.R. 238. A bill to amend the Oil Pollution Act of 1990 to make the act more effective in preventing oil pollution in the Nation's waters through enhanced prevention of, and improved response to, oil spills, and to ensure that citizens and communities injured by oil spills are promptly and fully compensated, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 239. A bill to amend the Internal Revenue Code of 1986 to impose penalties on self-dealing between certain tax-exempt organizations and disqualified persons, and for other purposes; to the Committee on Ways and Means.

By Mr. MICA (for himself, Mr. SOLOMON, Mr. STUMP, and Mr. EVERETT):

H.R. 240. A bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on House Oversight, the Judiciary, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEAL of Massachusetts:

H.R. 241. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for capital gains for middle-income taxpayers; to the Committee on Ways and Means.

H.R. 242. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty under the one-time exclusion of gain on the sale of a principal residence by an individual who has attained age 55; to the Committee on Ways and Means.

By Mr. OBEY:

H.R. 243. A bill to amend the Federal Election Campaign Act of 1971 to provide for expenditure limitations and public financing for House of Representatives general elections, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H.R. 244. A bill to terminate ocean dumping at the Mud Dump Site and other sites within the New York Bight Apex off the coast of New Jersey; to the Committee on Transportation and Infrastructure.

By Mr. PAPPAS:

H.R. 245. A bill to amend the Internal Revenue Code of 1986 to phase out the tax of capital gains, to increase the unified credit under the estate and gift taxes, and to increase the maximum benefit under section 2032A to $1 million; to the Committee on Ways and Means.

By Mr. PETERSON of Minnesota:

H.R. 246. A bill to restore the authority of the Secretary of Agriculture to extend existing and expiring contracts under the Conservation Reserve Program; to the Committee on Agriculture.

H.R. 247. A bill to allow for a 1-year extension on Conservation Reserve Program contracts expiring in 1997; to the Committee on Agriculture.

By Mr. PITTS:

H.R. 248. A bill to amend the Federal Election Campaign Act of 1971 to require the disclosure of certain information by persons conducting polls by telephone during campaigns for election for Federal office; to the Committee on House Oversight.

H.R. 249. A bill to repeal the Federal estate and gift taxes; to the Committee on Ways and Means.

By Mr. QUINN (for himself, Mr. RAMSTAD, Mr. DAVIS of Virginia, Mr. DOYLE, Mr. FILNER, Mr. WATTS of Oklahoma, Mr. CONYERS, Mr. DEAL of Georgia, and Mr. KENNEDY of Massachusetts):

H.R. 250. A bill to amend title 38, United States Code, to provide authority for the Secretary of Veterans Affairs to extend priority health care to veterans who served during the Persian Gulf war in Israel or Turkey; to the Committee on Veterans' Affairs.

By Mr. QUINN (for himself, Mr. MCHUGH, Mr. KING of New York, Mr. DEAL of Georgia, Mr. HOLDEN, Mr. FOX of Pennsylvania, and Mr. GOSS):

H.R. 251. A bill to establish an Office of Inspector General for the Medicare and Medicaid Programs; to the Committee on Government Reform and Oversight, and in addition to the Committees on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAHALL:

H.R. 252. A bill to amend the Black Lung Benefits Act to provide for more just procedures for certain claims due to pneumoconiosis; to the Committee on Education and the Workforce.

By Mr. RAHALL (for himself and Mr. MILLER of California):

H.R. 253. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Resources.

By Mr. RAHALL:

H.R. 254. A bill to further enhance flood control efforts along the Greenbrier River Basin in the State of West Virginia; to the Committee on Transportation and Infrastructure.

By Mr. RAHALL (for himself and Mr. PETRI):

H.R. 255. A bill to amend the Internal Revenue Code of 1986 to provide for the deposit of the general revenue portion of highway motor fuel excise tax revenues into the highway trust fund; to the Committee on Ways and Means.

By Mr. REGULA:

H.R. 256. A bill to provide for the retention of the name of Mount McKinley; to the Committee on Resources.

By Mr. RICHARDSON:

H.R. 257. A bill to amend the Housing and Community Development Act of 1974 to allow small communities to use limited space in public facilities acquired, constructed, or rehabilitated using community development block grant funds for local government offices; to the Committee on Banking and Financial Services.

H.R. 258. A bill to amend title XIX of the Social Security Act to provide for mandatory coverage of services furnished by nurse practitioners and clinical nurse specialists under State Medicaid plans; to the Committee on Commerce.

H.R. 259. A bill to amend the Public Health Service Act to provide for the prevention of fetal alcohol syndrome, and for other purposes; to the Committee on Commerce.

H.R. 260. A bill to establish a Presidential commission to determine the validity of certain land claims arising out of the Treaty of Guadalupe-Hidalgo of 1848 involving the descendants of persons who were Mexican citizens at the time of the Treaty; to the Committee on Resources.

H.R. 261. A bill to amend part E of title IV of the Social Security Act to provide for Federal funding of foster care and adoption assistance programs of Indian tribes; to the Committee on Ways and Means.

By Mr. RIGGS:

H.R. 262. A bill to amend the act to establish a Redwood National Park in the State of California, to increase efficiency and cost savings in the management of Redwood National Park by authorizing the Secretary of the Interior to enter into agreements with the State of California to acquire from and provide to the State goods and services to be used by the National Park Service and the State of California in the cooperative management of lands in Redwood National Park and lands in Del Norte Coast Redwoods State Park, Jebediah Smith Redwoods State Park, and Prairie Creek Redwoods State Park, and for other purposes; to the Committee on Resources.

By Mrs. ROUKEMA:

H.R. 263. A bill to provide for the disposition of unoccupied and substandard multifamily housing projects owned by the Secretary of Housing and Urban Development; to the Committee on Banking and Financial Services.

By Mrs. ROUKEMA (for herself and Mr. Schumer):

H.R. 264. A bill to amend the Electronic Fund Transfer Act to require notice of certain fees imposed by the operator of an automated teller machine in connection with an electronic fund transfer initiated by a consumer at the machine, and for other purposes; to the Committee on Banking and Financial Services.

By Mrs. ROUKEMA:

H.R. 265. A bill to amend the United States Housing Act of 1937 to increase public housing opportunities for intact families; to the Committee on Banking and Financial Services.

By Mrs. ROUKEMA:

H.R. 266. A bill to evaluate the effectiveness of certain community efforts in coordination with local police departments in preventing and removing violent crime and drug trafficking from the community, in increasing economic development in the community, and in preventing or ending retaliation by perpetrators of crime against community residents, and for other purposes; to the Committee on the Judiciary.

H.R. 267. A bill to require States to impose criminal penalties on persons who willfully fail to pay child support, as a condition of Federal funding of State child support enforcement programs; to the Committee on Ways and Means.

By Mrs. ROUKEMA (for herself and Mr. Vento):

H.R. 268. A bill to enhance competition in the financial services sector and merge the commercial bank and savings association charters; to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. ROUKEMA:

H.R. 269. A bill to provide for a role models academy demonstration program; to the Committee on Education and the Workforce.

H.R. 270. A bill to amend part B of title IV of the Social Security Act to provide for a set-aside of funds for States that have acted certain divorce laws, to amend the Legal Services Corporation Act to prohibit the use of funds made available under the act to provide legal assistance in certain proceedings relating to divorces and legal separations, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE:

H.R. 271. A bill to establish a second National Blue Ribbon Commission to Eliminate Waste in Government; to the Committee on Government Reform and Oversight.

H.R. 272. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to prohibit the consideration of retroactive tax increases; to the Committee on Rules.

By Mr. SCHUMER:

H.R. 273. A bill to amend the Food Stamp Act of 1977 to require States to use electronic benefit transfer systems, and for other purposes; to the Committee on Agriculture.

H.R. 274. A bill to amend the Truth in Lending Act to require a credit card issuer to disclose, in any preapproved application, solicitation, or offer to open a credit card account under an open end consumer credit plan, each rate of interest that will actually apply to any credit extended under such plan, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. SCHUMER (for himself and Mr. Conyers):

H.R. 275. A bill to combat domestic terrorism; to the Committee on the Judiciary.

By Mr. SCHUMER:

H.R. 276. A bill to amend the Internal Revenue Code of 1986 to allow a $100,000 lifetime deduction for net capital gain; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself, Mr. Pallone, and Mr. Miller of California):

H.R. 277. A bill to increase penalties and strengthen enforcement of environmental crimes, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Commerce, Agriculture, Transportation and Infrastructure, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHUMER:

H.R. 278. A bill to make changes in Federal juvenile justice proceedings, and to foster youth development and prevent juvenile crime and delinquency; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO (for himself, Mr. Bono, Mr. Clay, Ms. DeLauro, Mr. Dellums, Mr. Ensign, Mr. Frost, Mr. Green, Mr. Hastings of Florida, Mr. Hinchey, Mr. Jackson, Mr. Lewis of California, Mr. McGovern, Mr. Miller of California, and Mr. Pastor):

H.R. 279. A bill to award a congressional gold medal to Francis Albert Sinatra; to the Committee on Banking and Financial Services.

By Mr. SERRANO:

H.R. 280. A bill to require the Federal Communications Commission to implement the recommendations of the joint board concerning universal service support for schools and libraries; to the Committee on Commerce.

H.R. 281. A bill to amend the Higher Education Act of 1965 to apply to Hispanic-serving institutions of higher education the same student loan default rate limitations applicable to historically black colleges and universities; to the Committee on Education and the Workforce.

By Mr. SERRANO (for himself and Mr. Rangel):

H.R. 282. A bill to designate the U.S. Post Office building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. SERRANO:

H.R. 283. A bill to permit members of the House of Representatives to donate used computer equipment to public elementary and secondary schools designated by the members; to the Committee on House Oversight.

H.R. 284. A bill to repeal the Cuban Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996; to the Committee on International Relations.

H.R. 285. A bill to reinstate the authorization of cash remittances to family members in Cuba under the Cuban assets control regulations; to the Committee on International Relations.

H.R. 286. A bill to protect the constitutional right to travel to foreign countries; to the Committee on International Relations.

H.R. 287. A bill to allow for news bureau exchanges between the United States and Cuba; to the Committee on International Relations.

H.R. 288. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of medical nutrition therapy services of registered dietitians and nutrition professionals; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 289. A bill to amend the Food, Drug, and Cosmetic Act and the egg, meat, and poultry inspection laws to ensure that consumers receive notification regarding food products produced from crops, livestock, or poultry raised on land on which sewage sludge was applied; to the Committee on Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 290. A bill to provide demonstration grants to establish clearing houses for the distribution to community-based organizations of information on prevention of youth violence and crime; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 291. A bill to amend the Internal Revenue Code of 1986 to provide for designation of overpayments and contributions to the United States Library Trust Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG (for himself, Mrs. CHENOWETH, Mr. WHITE, Mr. NORWOOD, and Mr. GRAHAM):

H.R. 292. A bill to require Congress to specify the source of authority under the U.S. Constitution for the enactment of laws, and for other purposes; to the Committee on the Judiciary.

By Mr. SHADEGG:

H.R. 293. A bill to amend the Internal Revenue Code of 1986 to provide tax credits for Indian investment and employment, and for other purposes; to the Committee on Ways and Means.

H.R. 294. A bill to amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations; to the Committee on Ways and Means.

H.R. 295. A bill to amend the Internal Revenue Code of 1986 to provide for the issuance of tax-exempt bonds by Indian tribal governments, and for other purposes; to the Committee on Ways and Means.

H.R. 296. A bill to privatize the Federal Power Marketing Administrations, and for other purposes; to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mr. LIPINSKI, and Mr. GEJDENSON):

H.R. 297. A bill to amend the Public Health Service Act to provide for programs of research on prostate cancer; to the Committee on Commerce.

By Mr. SHAYS (for himself, Mr. MARTINEZ, and Mr. LIPINSKI):

H.R. 298. A bill to require recreational camps to report information concerning deaths and certain injuries and illnesses to the Secretary of Health and Human Services, to direct the Secretary to collect the information in a central data system, to establish a President's Advisory Council on Recreational Camps, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SHAYS (for himself, Mr. DELLUMS, Mr. FARR of California, Mr. HOUGHTON, Mrs. LOWEY, Ms. MCKINNEY, Mrs. MORELLA, Mr. OLVER, and Mr. RANGEL):

H.R. 299. A bill to authorize appropriations for the payment of U.S. arrearages in assessed contributions to the United Nations for prior years and to authorize appropriations for the payment of assessed contributions of the United States for U.N. peacekeeping operations; to the Committee on International Relations.

By Mr. SHAYS:

H.R. 300. A bill to amend title 49, United States Code, to permit a State located within 5 miles of an airport in another State to participate in the process for approval of airport development projects at the airport; to the Committee on Transportation and Infrastructure.

By Mr. SHAYS (for himself and Mr. GEJDENSON):

H.R. 301. A bill to amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the Medicare Program and to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS (for himself and Ms. DEGETTE):

H.R. 302. A bill entitled "Rocky Mountain National Park Wilderness Act of 1997"; to the Committee on Resources.

By Mr. BILIRAKIS (for himself and Mr. NORWOOD):

H.R. 303. A bill to amend title 38, United States Code, to permit retired members of the Armed Forces who have service-connected disabilities to receive compensation from the Department of Veterans Affairs concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

By Ms. SLAUGHTER:

H.R. 304. A bill to amend the Public Health Service Act with respect to employment opportunities in the Department of Health and Human Services for women who are scientists, and for other purposes; to the Committee on Commerce.

By Ms. SLAUGHTER (for herself, Mr. ACKERMAN, Mr. FAZIO of California, Mr. FROST, Mr. GREEN, Mr. HINCHEY, Mr. HOLDEN, Ms. NORTON, Ms. JACKSON-LEE, Mrs. LOWEY, Mr. MCINTYRE, Ms. MCKINNEY, Mr. MALONEY of Connecticut, Mr. MANTON, Mrs. MEEK of Florida, Mr. MENENDEZ, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mrs. MYRICK, Mr. OWENS, Ms. PELOSI, Mr. PORTER, and Mr. SCHUMER):

H.R. 305. A bill to provide protection from sexual predators; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Ms. BROWN of Florida, Mr. BROWN of California, Mrs. CLAYTON, Ms. DANNER, Mr. DEFAZIO, Mr. DELLUMS, Ms. ESHOO, Mr. EVANS, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GREEN, Mr. HILLIARD, Mr. HINCHEY, Ms. JACKSON-LEE, Mr. KENNEDY of Massachusetts, Mr. KILDEE, Mr. LAFALCE, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MCDERMOTT, Mrs. MEEK of Florida, Mrs. MORELLA, Mr. NADLER, Mr. PAYNE, Ms. PELOSI, Ms. RIVERS, Mr. SANDERS, Mr. SERRANO, Mr. SMITH of New Jersey, Mr. STARK, Mrs. THURMAN, Mr. TOWNS, Ms. WATERS, Mr. WAXMAN, Ms. DELAURO, Mr. MATSUI, Mr. WATT of North Carolina, and Ms. ROYBAL-ALLARD):

H.R. 306. A bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H.R. 307. A bill to amend the vaccine injury compensation portion of the Public Health Service Act to permit a petition for compensation to be submitted within 48 months of the first symptoms of injury; to the Committee on Commerce.

H.R. 308. A bill to amend chapter 15 of title 5, United States Code, to eliminate the provision prohibiting certain State and local employees from seeking elective office; to the Committee on Government Reform and Oversight.

H.R. 309. A bill to prohibit federally sponsored research pertaining to the legalization of drugs; to the Committee on Government Reform and Oversight.

H.R. 310. A bill to require random drug testing of Federal legislative branch Members, officers, and employees; to the Committee on House Oversight.

H.R. 311. A bill to amend the Taiwan Relations Act; to the Committee on International Relations.

By Mr. SOLOMON (for himself and Mr. SAM JOHNSON of Texas):

H.R. 312. A bill to prohibit United States voluntary and assessed contributions to the United Nations if the United Nations imposes any tax or fee on U.S. persons or continues to develop or promote proposals for such taxes or fees; to the Committee on International Relations.

H.R. 313. A bill to amend the Anti-Drug Abuse Act of 1988 to eliminate the discretion of the court in connection with the denial of certain Federal benefits upon conviction of certain drug offenses; to the Committee on the Judiciary.

H.R. 314. A bill to amend title 18, United States Code, to modify the death penalty for drug kingpins; to the Committee on the Judiciary.

H.R. 315. A bill to amend the Internal Revenue Code of 1986 to increase the child care credit for lower-income working parents, and for other purposes; to the Committee on Ways and Means.

H.R. 316. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for the recycling of hazardous wastes; to the Committee on Ways and Means.

H.R. 317. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Ways and Means.

H.R. 318. A bill to amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for tuition; to the Committee on Ways and Means.

H.R. 319. A bill to amend the Internal Revenue Code of 1986 to restore the prior law exclusion for scholarships and fellowships and to restore the deduction for interest on educational loans; to the Committee on Ways and Means.

H.R. 320. A bill to prohibit the entry into the United States of items produced, grown, or manufactured in the People's Republic of China with the use of forced labor; to the Committee on Ways and Means.

H.R. 321. A bill to amend the Internal Revenue Code of 1986 to allow health insurance premiums to be fully deductible to the extent not in excess of $3,000; to the Committee on Ways and Means.

H.R. 322. A bill to amend title II of the Social Security Act to provide that an individual's entitlement to any benefit thereunder shall continue through the month of his or her death (without affecting any other person's entitlement to benefits for that month) and that such individual's benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of such individual's death; to the Committee on Ways and Means.

H.R. 323. A bill to amend the Internal Revenue Code of 1986 to provide that tax-exempt interest shall not be taken into account in determining the amount of Social Security benefits included in gross income; to the Committee on Ways and Means.

H.R. 324. A bill to amend the Internal Revenue Code of 1986 to increase the unified estate and gift tax credit to an exemption equivalent of $1,200,000, and to provide a cost-of-living adjustment for such amount; to the Committee on Ways and Means.

H.R. 325. A bill to amend the Internal Revenue Code of 1986 to provide that the unrelated business income tax shall apply to the gaming activities of Indian tribes; to the Committee on Ways and Means.

H.R. 326. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 327. A bill to prohibit retroactive Federal income tax rate increases; to the Committee on Ways and Means.

H.R. 328. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to prohibit health issuers and group health plans from discriminating against individuals on the basis of genetic information; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 329. A bill to require States that receive funds under the Elementary and Secondary Education Act of 1965 to enact a law that requires the expulsion of students who are convicted of a crime of violence; to the Committee on Education and the Workforce.

H.R. 330. A bill to repeal the provision of law under which pay for Members of Congress is automatically adjusted; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 331. A bill to prohibit foreign assistance to Russia unless certain requirements relating to Russian intelligence activities, relations between Russia and certain countries, Russian arms control policy, and the reform of the Russian economy are met; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 332. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to penalties for powder cocaine and crack cocaine offenses; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 333. A bill to amend the Controlled Substances Act to require that courts, upon the criminal conviction under that act, notify the employer of the convicted person; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON (for himself, Mr. ROEMER, Mr. BARR of Georgia, Mrs. CHENOWETH, Mr. GOODLATTE, and Mr. HERGER):

H.R. 334. A bill to amend the Indian Gaming Regulatory Act to bring more balance into the negotiation of tribal-State compacts, to require an individual participating in class II or class III Indian gaming to be physically present at the authorized gaming activity, and for other purposes; to the Committee on Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON (for himself and Mr. WATTS of Oklahoma):

H.R. 335. A bill to establish the Commission on the Future for America's Veterans; to the Committee on Rules, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON (for himself, Mr. COBURN, Mr. FORBES, Mr. GOSS, Mr. MCINNIS, Mr. METCALF, Mr. NEY, Mr. NORWOOD, Ms. PRYCE of Ohio, Mr. ROYCE, Mr. SCHIFF, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, and Mr. SMITH of New Jersey):

H.R. 336. A bill to amend titles II and XVIII of the Social Security Act to ensure the integrity of the Social Security trust funds by reconstituting the boards of trustees of such trust funds and the managing trustee of such trust funds to increase their independence, by providing for annual investment plans to guide investment of amounts in such trust funds, and by removing unnecessary restrictions on investment and disinvestment of amounts in such trust funds; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself, Mr. LEWIS of Georgia, Mr. GEJDENSON, Mr. SERRANO, Mr. SANDERS, and Mr. FILNER):

H.R. 337. A bill to amend the Internal Revenue Code of 1986 and titles XVIII and XIX of the Social Security Act to ensure access to services and prevent fraud and abuse for enrollees of managed care plans, to amend standards for Medicare supplemental polices, to modify the Medicare select program, and to provide other protections for beneficiaries of health plans generally, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself, Mr. TOWNS, Mr. SOLOMON, Mr. MCHALE, Mr. MANTON, Mr. MURTHA, Mr. HOUGHTON, and Mr. BOEHLERT):

H.R. 338. A bill to prospectively repeal section 210 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Commerce.

By Mr. STEARNS (for himself, Mr. BARTLETT of Maryland, Mr. HOSTETTLER, and Mr. BARR of Georgia):

H.R. 339. A bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry certain concealed firearms in the State, and to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns; to the Committee on the Judiciary.

By Mr. STEARNS:

H.R. 340. A bill to amend the Internal Revenue Code of 1986 to repeal the withholding of income taxes and to require individuals to pay estimated taxes on a monthly basis; to the Committee on Ways and Means.

By Mr. STEARNS (for himself, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. CALVERT, Mr. FALEOMAVAEGA, Mr. OBERSTAR, Ms. LOFGREN, Mr. MINGE, Mr. WATT of North Carolina, and Mr. OXLEY):

H.R. 341. A bill to establish limitations with respect to the disclosure and use of genetic information, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Government Reform and Oversight, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H.R. 342. A bill to provide for the comparable treatment of Federal employees and Members of Congress and the President during a period in which there is a Federal Government shutdown; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself, Mr. ROHRABACHER, Mr. COBURN, Mr. HAMILTON, and Ms. DANNER):

H.R. 343. A bill to provide that pay for Members of Congress may not be increased by any adjustment scheduled to take effect in a year immediately following a fiscal year in which a deficit in the budget of the U.S. Government exists; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself, Mr. MCHUGH, Mr. ROHRABACHER, and Mr. WOLF):

H.R. 344. A bill to establish the bipartisan Commission on the future of Medicare to make findings and issue recommendations on the future of the Medicare program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP (for himself and Mr. GOSS):

H.R. 345. A bill to repeal the National Voter Registration Act of 1993; to the Committee on House Oversight.

By Mr. STUMP:

H.R. 346. A bill to clarify the effect on the citizenship of an individual of the individual's birth in the United States; to the Committee on the Judiciary.

By Mr. STUMP (for himself and Mr. CALLAHAN):

H.R. 347. A bill to effect a moratorium on immigration by aliens other than refugees, priority workers, and the spouses and children of U.S. citizens; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 348. A bill to amend the Internal Revenue Code of 1986 to increase the unified credit against estate and gift taxes to an amount equivalent to a $1,000,000 exclusion; to the Committee on Ways and Means.

H.R. 349. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. STUPAK:

H.R. 350. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1986 to encourage States to enact a law enforcement officer's bill of rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

By Mr. STUPAK (for himself and Mr. EHLERS):

H.R. 351. A bill to authorize the Secretary of the Interior to make appropriate improvements to a county road located in the Pictured Rocks National Lakeshore, and to prohibit construction of a scenic shoreline drive in that national lakeshore; to the Committee on Resources.

By Mr. STUPAK:

H.R. 352. A bill to provide for return of excess amounts from official allowances of Members of the House of Representatives to the Treasury for deficit reduction; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANNER (for himself and Mr. CLEMENT):

H.R. 353. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of educational grants by private foundations, and for other purposes; to the Committee on Ways and Means.

By Mr. THOMAS:

H.R. 354. A bill to amend the Federal Election Campaign Act of 1971 to prohibit individuals who are not citizens of the United States from making contributions in connection with an election for Federal office; to the Committee on House Oversight.

H.R. 355. A bill to amend the Federal Election Campaign Act of 1971 to require the national committees of political parties to file pre-general election reports with the Federal Election Commission without regard to whether or not the parties have made contributions or expenditures under such act during the periods covered by such reports; to the Committee on House Oversight.

By Mr. TOWNS:

H.R. 356. A bill to improve health status in medically disadvantaged communities through comprehensive community-based managed care programs; to the Committee on Commerce.

H.R. 357. A bill to authorize the Secretary of Health and Human Services to fund adolescent health demonstration projects; to the Committee on Commerce.

H.R. 358. A bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program; to the Committee on Commerce.

H.R. 359. A bill to amend title XIX of the Social Security Act to require State Medicaid programs to provide coverage of screening mammography and screening pap smears; to the Committee on Commerce.

H.R. 360. A bill to amend the Solid Waste Disposal Act to prohibit the international export and import of certain solid waste; to the Committee on Commerce.

H.R. 361. A bill to require the Consumer product Safety Commission to ban toys which in size, shape, or overall appearance resemble real handguns; to the Committee on Commerce.

H.R. 362. A bill to improve Federal enforcement against health care fraud and abuse; to the Committee on Government Reform and Oversight.

H.R. 363. A bill to amend section 2118 of the Energy Policy Act of 1992 to extend the Electric and Magnetic Fields Research and Public Information Dissemination Program; to the Committee on Commerce, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 364. A bill to amend title XVIII of the Social Security Act to provide for Medicare contracting reforms, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 365. A bill to amend the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT (for himself, Mr. HASTINGS of Florida, Mr. THOMPSON, Mr. RANGEL, Mr. MENENDEZ, Ms. JACKSON-LEE, Ms. MOLINARI, Mr. HINCHEY, Mr. LIPINSKI, Mr. HYDE, Ms. NORTON, Mr. DELLUMS, and Ms. DELAURO):

H.R. 366. A bill to require the surgical removal of silicone gel and saline filled breast implants, to provide for research on silicone and other chemicals used in the manufacture of breast implants, and for other purposes; to the Committee on Commerce.

By Mr. TRAFICANT (for himself, Mr. NORWOOD, Mr. HEFLEY, Mr. HAYWORTH, and Mr. DUNCAN):

H.R. 367. A bill to amend the Internal Revenue Code of 1986 to place the burden of proof on the Secretary of the Treasury in civil cases and on the taxpayer in administrative proceedings, to require 15 days notice and judicial consent before seizure, to exclude civil damages for unauthorized collection actions from income, and for other purposes; to the Committee on Ways and Means.

By Mr. UNDERWOOD:

H.R. 368. A bill to amend the Organic Act of Guam to provide the government of Guam with a right-of-first refusal regarding excess Federal real property located in Guam; to the Committee on Resources, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VENTO:

H.R. 369. A bill to require the Federal Communications Commission to prescribe rules to protect public safety by preventing broadcasts that create hazards for motorists; to the Committee on Commerce.

H.R. 370. A bill to require that wages paid under a Federal contract are greater than the local poverty line, and for other purposes; to the Committee on Government Reform and Oversight.

H.R. 371. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

H.R. 372. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year; to the Committee on Ways and Means.

By Mr. WYNN:

H.R. 373. A bill to amend the Small Business Act to strengthen existing protections for small business participation in Federal contracting opportunities, to provide for assessments of the impacts on small businesses of the steadily increasing use of contract bundling by the procurement activities of the various Federal agencies, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself and Mr. SAXTON):

H.R. 374. A bill to amend the act popularly known as the Sikes Act to enhance fish and wildlife conservation and natural resources management programs; to the Committee on Resources, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

[Submitted January 9, 1997]

By Mr. ACKERMAN:

H.R. 382. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the payment of postsecondary education expenses; to the Committee on Ways and Means.

By Mr. ACKERMAN (for himself, Mr. BORSKI, Mr. BOUCHER, Mr. CUNNINGHAM, Ms. DELAURO, Mr. FILNER, Mr. FRANKS of New Jersey, Mr. HILLIARD, Mr. HINCHEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KILDEE, Mr. KING of New York, Mr. LAFALCE, Mr. MCHALE, Mr. MANTON, Mr. MILLER of California, Mrs. MINK of Hawaii, Ms. MOLINARI, Ms. NORTON, Mr. OBERSTAR, Mr. PASTOR, Mr. PAYNE, Mr. SAXTON, Mr. SCHUMER, Mr. SERRANO, Mr. TRAFICANT, and Mr. WOLF):

H.R. 383. A bill to amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the Medicare Program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 384. A bill to exclude certain veterans' compensation and pension amounts from consideration as adjusted income for purposes of determining the amount of rent paid by a family for a dwelling unit assisted under the United States Housing Act of 1937; to the Committee on Banking and Financial Services.

H.R. 385. A bill to amend the Public Health Service Act with respect to the participation of the public in governmental decisions regarding the location of group homes established pursuant to the program of block grants for the prevention and treatment of substance abuse; to the Committee on Commerce.

By Mr. ANDREWS (for himself, Mr. Holden, Mr. Traficant, Mr. Martinez, and Mr. Serrano):

H.R. 386. A bill to substitute evaluations of educational quality for cohort default rates in eligibility determinations for proprietary institutions of higher education under the Federal student assistance programs; to the Committee on Education and the Workforce.

By Mr. ANDREWS (for himself, Mr. Kasich, Mr. Sanders, Mr. Royce, Mr. Condit, Mr. DeFazio, Mr. Klug, Mr. Peterson of Minnesota, Mr. Shadegg, Mr. Jackson, Mr. Pascrell, and Mr. Dickey):

H.R. 387. A bill to terminate the authorities of the Overseas Private Investment Corporation; to the Committee on International Relations.

By Mr. ANDREWS:

H.R. 388. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem and complies with its obligations under international law; to the Committee on International Relations.

H.R. 389. A bill concerning denial of passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support; to the Committee on International Relations.

H.R. 390. A bill to amend section 207 of title 18, United States Code, to increase to 5 years the period during which former Members of Congress may not engage in certain lobbying activities; to the Committee on the Judiciary.

H.R. 391. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in tax enterprise zone businesses and domestic businesses; to the Committee on Ways and Means.

H.R. 392. A bill to provide for economic growth by reducing income taxes for most Americans, by encouraging the purchase of American-made products, and by extending transportation-related spending, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Transportation and Infrastructure, Government Reform and Oversight, Banking and Financial Services, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself Mr. Andrews, Mrs. Kennelly of Connecticut, Mr. Shays, and Mr. Markey):

H.R. 393. A bill to prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone; to the Committee on Resources.

By Mr. BARCIA of Michigan:

H.R. 394. A bill to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, MI; to the Committee on Agriculture.

By Mr. BARCIA of Michigan (for himself and Mr. Camp):

H.R. 395. A bill to amend the Internal Revenue Code of 1986 to simplify the assessment and collection of the excise tax arrows; to the Committee on Ways and Means.

By Mr. BARRETT of Nebraska:

H.R. 396. A bill to amend the Internal Revenue Code of 1986 to provide that the alternative minimum tax shall not apply to installment sales of farm property; to the Committee on Ways and Means.

By Mr. BENTSEN:

H.R. 397. A bill to require that the President transmit to Congress, that the congressional Budget Committees report, and that the Congress consider a balanced budget for each fiscal year; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 398. A bill to amend the Solid Waste Disposal Act to exempt pesticide rinse water degradation systems from subtitle C permit requirements; to the Committee on Commerce.

By Mr. BILIRAKIS (for himself, Mr. Canady of Florida, Mr. Rohrabacher, Mr. McHugh, Mr. King of New York, and Mr. Gilmor):

H.R. 399. A bill to prohibit the provision of financial assistance by the Federal Government to any person who is more than 60 days delinquent in the payment of any child support obligation; to the Committee on Government Reform and Oversight.

By Mr. COBLE (for himself, Mr. Conyers, Mr. Goodlatte, and Ms. Lofgren):

H.R. 400. A bill to amend title 35, United States Code, with respect to patents, and for other purposes; to the Committee on the Judiciary.

By Mr. Hyde (for himself, Mr. Sensenbrenner, Mr. Gekas, Mr. Coble, Mr. Smith of Texas, Mr. Gallegly, Mr. Canady of Florida, Mr. Bono, and Mr. Frank of Massachusetts):

H.R. 401. A bill to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.R. 402. A bill to amend the Internal Revenue Code of 1986 to allow employers a tax credit for hiring displaced homemakers; to the Committee on Ways and Means.

H.R. 403. A bill to modify the provision of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes; to the Committee on Rules, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CALVERT (for himself, Mr. Brown of California, Mr. Lewis of California, Mr. Horn, Mr. Riggs, Mr. Fazio of California, Ms. Rivers, and Mr. Boucher):

H.R. 404. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to State and local governments of certain surplus property for use for law enforcement or public safety purposes; to the Committee on Government Reform and Oversight.

By Mr. ENGEL:

H.R. 405. A bill to amend title XVIII of the Social Security Act to provide for coverage of expanded nursing facility and in-home services for dependent individuals under the Medicare Program, to provide for coverage of outpatient prescription drugs under part B of such program, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. McHale, Mr. Saxton, Mr. Canady of Florida, Mr. Graham, Mr. Ehlers, and Mr. LoBiondo):

H.R. 406. A bill to establish the Independent Commission on Medicare to make recommendations on how to best match the structure of the Medicare Program with the funding made available for the program by Congress, to provide for expedited consideration in Congress of the Commission's recommendations, and to establish a default process for meeting congressional spending targets for the Medicare Program if Congress rejects the Commission's recommendations; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FAZIO of California (for himself, Mr. Hall of Ohio, Mr. Norwood, and Ms. Woolsey):

H.R. 407. A bill to allow postal patrons to contribute to funding for breast-cancer research through the voluntary purchase of certain specially issued U.S. postage stamps; to the Committee on Government Reform and Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILCHREST (for himself, Mr. Cunningham, Mr. Cardin, Mr. Young of Alaska, Mr. Ortiz, Mr. Bilbray, and Mr. Kolbe):

H.R. 408. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Resources.

By Mr. GILMAN (for himself, Mr. Hamilton, Mr. Solomon, Mr. McHale, Mr. Talent, and Mr. Sam Johnson):

H.R. 409. A bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for fiscal year 1997; to the Committee on National Security.

By Mr. GORDON (for himself, Mrs. Clayton, Mr. Stump, Mr. Baesler, Mr. Jones, Mr. McIntosh, Mr. Norwood, Mr. Taylor of North Carolina, Mr. Lewis of Kentucky, Mr. DeLay, Mr. Barr of Georgia, Mrs. Myrick, Mr. Burr of North Carolina, Mr. Chambliss, Mr. Spratt, Mr. Coble, Mr. Hefner, Mr. Collins, Mr. Clement, Mr. Tanner, Mr. Callahan, Mr. Graham, Mr. Ballenger, Mr. Clyburn, Mr. Mica, Mr. Sisisky, and Mr. Hostettler):

H.R. 410. A bill to prohibit the regulation of the use of any tobacco or tobacco product as a sponsor of an event of the National Association of Stock Car Automobile Racing, its agents or affiliates, or any other professional motor sports association by the Secretary of Health and Human Services or any other instrumentality of the Federal Government; to the Committee on Commerce.

By Ms. HARMAN (for herself, Mrs. Morella, Ms. DeLauro, Mrs. Kelly, Mr. Dellums, Mr. Baldacci, Mrs. Clayton, Mr. Conyers, Mr. Farr of California, Mr. Frank of Massachusetts, Mr. Frost, Ms. Rivers, Ms. Roybal-Allard, and Ms. Slaughter):

H.R. 411. A bill to restore freedom of choice to women in the uniformed services serving outside the United States; to the Committee on National Security.

By Mr. HASTINGS of Washington:

H.R. 412. A bill to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District, to the Committee on Resources.

H.R. 413. A bill to prohibit further extension or establishment of any national monument in Washington State without full public participation and an express Act of Congress, and for other purposes; to the Committee on Resources.

By Mr. HEFLEY (for himself, Mr. Watts of Oklahoma, Mr. Norwood, Mr. Taylor of Mississippi, Mr. Filner, Mr. Ensign, Mr. Bonilla, Mr. Bartlett of Maryland, Mr. Abercrombie, Mr. Gonzalez, Mr. Ramstad, Mr. Condit, Mr. Goodlatte, Mr. Lewis of Kentucky, Mr. Ballenger, Mr. Bereuter, Mr. Cunningham, Mr. Clement, Mr. Herger, Mr. Stearns, Mr. Dan Schaefer of Colorado, and Mr. Hoyer):

H.R. 414. A bill to authorize the use of the Medicare trust funds to reimburse the Department of Defense for certain health care services provided to Medicare-eligible covered military beneficiaries; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself, Mr. Archer, Mr. Thomas, Mr. Coble, Mr. Inglis of South Carolina, Mr. McCollum, Mr. Goodlatte, Mr. Canady of Florida, Mr. Bono, Mr. Campbell, Mr. Shaw, Mr. McCrery, Mr. Crane, Mr. Deal of Georgia, and Mr. Linder):

H.R. 415. A bill to modify the application of the antitrust laws to health care provider networks that provide health care services, and for other purposes; to the Committee on the Judiciary.

By Ms. KAPTUR:

H.R. 416. A bill to amend section 207 of title 18, United States Code, to further restrict Federal officers and employees from representing or advising foreign entities after leaving Government service; to the Committee on the Judiciary.

By Mrs. KENNELLY of Connecticut (for herself and Mrs. Morella):

H.R. 417. A bill to amend title XVIII of the Social Security Act to provide annual screening mammography and waive deductibles and coinsurance for screening mammography under the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York (for herself and Mr. Ensign):

H.R. 418. A bill to amend title XVIII of the Social Security Act to provide for coverage of an annual screening mammography under part B of the Medicare Program for women age 65 or older; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York (for herself, Mr. Horn, Mr. Minge, and Mr. Serrano):

H.R. 419. A bill to establish a temporary commission to recommend reforms in the laws relating to elections for Federal office; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MATSUI (for himself, Mr. English of Pennsylvania, and Mr. McCrery):

H.R. 420. A bill to amend the Internal Revenue Code of 1986 to modify the exclusion of gain on certain small business stock and to allow nonrecognition on gain from the sale of such stock if other small business stock is purchased; to the Committee on Ways and Means.

By Mrs. MORELLA (for herself and Mrs. Kennelly of Connecticut):

H.R. 421. A bill to amend title XIX of the Social Security Act to require State Medicaid plans to provide coverage of screening mammography; to the Committee on Commerce.

By Mrs. MORELLA:

H.R. 422. A bill to require the Commissioner of the Bureau of Labor Statistics to conduct time use surveys of unremunerated work performed in the United States and to calculate the monetary value of such work; to the Committee on Education and the Workforce.

By Mrs. MYRICK (for herself, Mr. Lipinski, Mr. English of Pennsylvania, Mr. Gilman, Mr. Graham, Mr. Poshard, and Mr. Klink):

H.R. 423. A bill to direct the Federal Trade Commission to impose civil monetary penalties against persons disseminating false political advertisements; to the Committee on Commerce.

By Mrs. MYRICK (for herself, Mr. Gilman, Mr. Graham, Mr. Solomon, and Mr. Sensenbrenner):

H.R. 424. A bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes; to the Committee on the Judiciary.

By Mrs. MYRICK:

H.R. 425. A bill to amend title 18, United States Code, to punish false statements during debate on the floor of either House of Congress; to the Committee on the Judiciary, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Mr. Smith of Oregon, Ms. Dunn of Washington, Mr. Pomeroy, Mr. Matsui, Mr. Dooley of California, Mr. McCrery, Mr. Herger, Mr. Nussle, Mr. Stenholm, Mr. Weller, Mr. Hastings of Washington, Mr. English of Pennsylvania, Mr. Combest, Mr. Boehner, Mrs. Emerson, Mr. Lewis of Kentucky, Mr. Radanovich, Mr. Crapo, Mr. LaHood, Mr. McHugh, Mr. Smith of Michigan, Mr. Pombo, Mrs. Chenoweth, Mr. Baldacci, Mr. Minge, Mr. Chambliss, Mr. Holden, Mr. McIntosh, Mr. Whitfield, Mr. Watts of Oklahoma, Mr. Evans, Mr. Hastert, Mr. Solomon, Mr. Ganske, Mr. Ewing, Mr. Frost, Mr. Bryant, Mr. Leach, Mr. Latham, Mr. Hall of Texas, Mr. Gutknecht, Mr. Barrett of Nebraska, Mr. Fazio of California, Mr. Parker, Mr. Tanner, Ms. Danner, Mr. Costello, Mr. Traficant, Mr. Norwood, Mr. Hostettler, Mr. Cox of California, Mr. Moran of Kansas, Mr. Lucas of Oklahoma, Mr. Hill, Mrs. Clayton, Mr. Cooksey, Mr. Bereuter, Mr. Metcalf, Mr. Cramer, Mr. Hobson, Mr. McIntyre, Mr. Thornberry, Mr. Deal of Georgia, Mr. Dickey, Mr. Poshard, Mr. Baker, Mr. Hulshof, Mr. Buyer, Mr. Bono, Mr. Berry, Mr. Goodlatte, Mr. Kolbe, Mr. Oxley, Mr. Callahan, Mr. Sessions, Mr. Thune, Mrs. Mink of Hawaii, Mr. Stump, Mr. Aderholt, Mr. Gillmor, Mr. Cook, and Mr. Hutchinson):

H.R. 426. A bill to amend the Internal Revenue Code of 1986 to provide that the alternative minimum tax shall not apply to installment sales of farm property; to the Committee on Ways and Means.

By Mr. PETERSON of Minnesota:

H.R. 427. A bill to allow for a 1-year extension on Conservation Reserve Program contracts expiring in 1997; to the Committee on Agriculture.

By Mr. PICKETT:

H.R. 428. A bill to provide that the property of innocent owners is not subject to forfeiture under the laws of the United States; to the Committee on the Judiciary.

H.R. 429. A bill to amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations; to the Committee on the Judiciary.

H.R. 430. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance; to the Committee on Ways and Means.

By Mr. RADANOVICH:

H.R. 431. A bill to amend the Fair Labor Standards Act of 1938 to allow employees in classified positions in community colleges to serve in certified or other academic capacities; to the Committee on Education and the Workforce.

By Mr. RICHARDSON:

H.R. 432. A bill to amend title 10, United States code, to provide for the issuance of a nuclear radiation medal to persons who while members of the Armed Forces participated in an activity resulting in risk of exposure to nuclear radiation; to the Committee on National Security.

H.R. 433. A bill to enhance the National Park System, and for other purposes; to the Committee on Resources.

H.R. 434. A bill to provide for the conveyance of small parcels of land in the Carson National Forest and the Santa Fe National Forest, NM, to the village of El Rito and the town of Jemez Springs, NM; to the Committee on Resources.

By Mr. SANFORD:

H.R. 435. A bill to provide for the establishment of uniform accounting systems, accounting standards, and accounting reporting systems in the Federal Government, and for other purposes; to the Committee on Government Reform and Oversight.

H.R. 436. A bill to eliminate certain benefits for Members of Congress; to the Committee on House Oversight, and in addition to the Committees on Government Reform and Oversight, Rules, Transportation and Infrastructure, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself, Mr. YOUNG of Alaska, Mr. ABERCROMBIE, and Mr. FARR of California):

H.R. 437. A bill to reauthorize the National Sea Grant College Program Act, and for other purposes; to the Committee on Resources.

By Mr. SENSENBRENNER (for himself, Mr. OBEY, Mr. NEUMANN, Mr. PETRI, Mr. KLUG, Mr. BARRETT of Wisconsin, Mr. JOHNSON of Wisconsin, Mr. KIND of Wisconsin, Mr. STUPAK, Mr. NADLER, Mr. RAMSTAD, Mr. OBERSTAR, Mr. PETERSON of Minnesota, Mr. SABO, Mr. MINGE, Ms. RIVERS, Mr. POMEROY, Mr. GUTKNECHT, Mr. VENTO, and Mr. EVANS):

H.R. 438. A bill to rescind the consent of Congress to the Northeast Interstate Dairy Compact; to the Committee on the Judiciary.

By Mr. SENSENBRENNER:

H.R. 439. A bill to prohibit acquisitions of land or waters for the National Wildlife Refuge System if wildlife refuge revenue sharing payments have not been made for the preceding fiscal year; to the Committee on Resources.

H.R. 440. A bill to amend the Internal Revenue Code of 1986 to allow certain corporations and certain trusts to be shareholders of subchapter S corporations; to the Committee on Ways and Means.

H.R. 441. A bill to repeal the Impoundment Control Act of 1974; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Michigan (for himself and Mrs. CHENOWETH):

H.R. 442. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income up to $500,000 of gain on the sale of a principal residence and up to $500,000 of gain on the sale of farmland; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. FILNER, Mr. KENNEDY of Rhode Island, Mr. BROWN of Ohio, Mr. WAXMAN, Mr. MCDERMOTT, and Mr. LEWIS of Georgia):

H.R. 443. A bill to amend part A of title XVIII of the Social Security Act to deny Medicare payment with respect to nonprofit hospitals that transfer assets or control to for-profit entities without approval; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. LEWIS of Georgia, Mr. BARRETT of Wisconsin, Mr. DEFAZIO, Mr. DELLUMS, Mr. GONZALEZ, Mr. GREEN, Mr. MARTINEZ, Mr. OBERSTAR, Ms. RIVERS, and Mr. TOWNS):

H.R. 444. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to assist in assuring health coverage for workers over 55 who leave employment; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 445. A bill to provide that the firearms prohibitions applicable by reason of a domestic violence misdemeanor conviction do not apply to government entities; to the Committee on the Judiciary.

By Mr. THOMAS (for himself, Mr. NEAL of Massachusetts, Mr. ENSIGN, Mr. BEREUTER, Mr. ENGLISH of Pennsylvania, Mr. GEJDENSON, Mr. MCINTOSH, Mr. LIVINGSTON, Mr. EHRLICH, Mr. HERGER, Mr. MCGOVERN, Mr. FROST, Mr. COOK, Mrs. EMERSON, Ms. DUNN of Washington, Mr. CRANE, Mr. GRAHAM, Mr. GREEN, Mr. MCCRERY, Mr. SAXTON, Mr. BARRETT of Nebraska, and Mr. BARTLETT of Maryland):

H.R. 446. A bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. CUNNINGHAM, Mr. ROHRABACHER, Mr. HAYWORTH, Mr. SHAYS, and Mr. POSHARD):

H.R. 447. A bill to amend title 39, United States Code, to require the U.S. Postal Service to accept a change-of-address order from a commercial mail receiving agency and to forward mail to the new address; to the Committee on Government Reform and Oversight.

By Mr. BACHUS:

H.R. 448. A bill to amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the Medicare Program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The following is a complete listing of all bills and resolutions introduced on January 7 and 9, 1997.

By Mr. DAN SCHAEFER of Colorado (for himself, Mr. STENHOLM, Mr. SMITH of Oregon, Mr. ROEMER, Mr. CASTLE, Mr. KENNEDY of Massachusetts, Mr. BACHUS, Mr. TANNER, Mr. BAKER, Mr. MINGE, Mr. BALLENGER, Mr. SPRATT, Mr. BARTLETT of Maryland, Mr. POSHARD, Mr. BASS, Mr. VISCLOSKY, Mr. BATEMAN, Mr. HOYER, Mr. ANDREWS, Mr. BAESLER, Mr. BARCIA of Michigan, Mr. BEREUTER, Mr. BERRY, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BISHOP, Mr. BLILEY, Mr. BLUNT, Mr. BONILLA, Mr. BOYD, Mr. BROWN of Ohio, Mr. BUNNING of Kentucky, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMPBELL, Mr. CANNON, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. CLEMENT, Mr. CLYBURN, Mr. COBLE, Mr. COBURN, Mr. CONDIT, Mr. COOK, Mr. COSTELLO, Mr. CRAMER, Mr. CRANE, Mr. CRAPO, Mr. CUNNINGHAM, Ms. DANNER, Mr. DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DEFAZIO, Mr. DEUTSCH, Mr. DICKEY, Mr. DOOLEY of California, Mr. DOYLE, Mr. DUNCAN, Mr. EDWARDS, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EWING, Mr. FOLEY, Mr. FORBES, Mr. FRELINGHUYSEN, Mr. FROST, Mr. GALLEGLY, Mr. GANSKE, Mr. GILLMOR, Mr. GOODE, Mr. GOODLATTE, Mr. GRAHAM, Mr. GREENWOOD, Mr. HALL of Texas, Mr. HANSEN, Ms. HARMAN, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HEFLEY, Mr. HEFNER, Mr. HERGER, Mr. HILL, Mr. HILLEARY, Mr. HINOJOSA, Mr. HORN, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mr. JONES, Mr. KIM, Mr. KLUG, Mr. KNOLLENBERG, Mr. KOLBE, Mr. LAHOOD, Mr. LARGENT, Mr. LAZIO of New York, Mr. LEACH, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIPINSKI, Mr. LOBIONDO, Mr. LUTHER, Ms. MCCARTHY of Missouri, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCHALE, Mr. MCHUGH, Mr. MCINNIS, Mr. MCINTYRE, Mr. MEEHAN, Mr. MILLER of Florida, Mr. MORAN of Kansas, Mr. MORAN of Virginia, Mr. NORWOOD, Mr. ORTIZ, Mr. PACKARD, Mr. PALLONE, Mr. PAPPAS, Mr. PETERSON of Minnesota, Mr. PORTMAN, Mr. QUINN, Mr. RAMSTAD, Mr. RICHARDSON, Mr. RIGGS, Mrs. ROUKEMA, Mr. ROYCE, Mr. SALMON, Mr. SANDLIN, Mr. SANFORD, Mr. SCARBOROUGH, Mr. BOB SCHAFFER, Mr. SHAW, Mr. SHAYS, Mr. SISISKY, Mr. SKELTON, Mr. SNOWBARGER, Mr. SOLOMON, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. TALENT, Mrs. TAUSCHER, Mr. TAYLOR of Mississippi, Mr. THOMAS, Mr. THORNBERRY, Mr. TURNER, Mr. UPTON, Mr. WALSH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELDON of Pennsylvania, Mr. WHITE, Mr. WHITFIELD, Mr. WOLF, Mrs. CUBIN, Mr. OXLEY, and Mr. BOSWELL):

H.J. Res. 1. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. MCCOLLUM (for himself, Mrs. FOWLER, Mr. INGLIS of South Carolina, Mr. HILLEARY, Mr. GINGRICH, Mr. ARMEY, Ms. DUNN of Washington, Mr. COX of California, Mr. LINDER, Mr. HANSEN, Mr. GILLMOR, Mr. BACHUS, Mr. BALLENGER, Mr. BARCIA of Michigan, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BASS, Mr. BEREUTER, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BONILLA, Mr. BRYANT, Mr. BUNNING of Kentucky, Mr. BURR of North Carolina, Mr. BUYER, Mr. CALVERT, Mr.

Camp, Mr. Chambliss, Mr. Coble, Mr. Coburn, Mr. Collins, Mr. Cook, Mr. Crane, Mr. Cunningham, Mr. Deal of Georgia, Mr. Deutsch, Mr. Diaz-Balart, Mr. Dickey, Mr. Doolittle, Mr. Ehlers, Mrs. Emerson, Mr. English of Pennsylvania, Mr. Ensign, Mr. Everett, Mr. Ewing, Mr. Foley, Mr. Forbes, Mr. Fox of Pennsylvania, Mr. Gallegly, Mr. Ganske, Mr. Gekas, Mr. Goodlatte, Mr. Goodling, Mr. Goss, Mr. Graham, Mr. Greenwood, Mr. Gutknecht, Ms. Harman, Mr. Hastings of Washington, Mr. Hayworth, Mr. Hobson, Mr. Hoekstra, Mr. Horn, Mr. Houghton, Mr. Hulshof, Mr. Istook, Mr. Sam Johnson, Mr. Kingston, Mr. Klug, Mr. Knollenberg, Mr. LaHood, Mr. Largent, Mr. Latham, Mr. LaTourette, Mr. Lazio of New York, Mr. Leach, Mr. Lewis of Kentucky, Mr. LoBiondo, Mr. Lucas of Oklahoma, Mr. McInnis, Mr. McIntosh, Mr. McKeon, Mr. Meehan, Mr. Metcalf, Mr. Mica, Mr. Miller of Florida, Mr. Nethercutt, Mr. Neumann, Mr. Ney, Mr. Norwood, Mr. Packard, Mr. Paxon, Mr. Pease, Mr. Pitts, Mr. Pombo, Ms. Pryce of Ohio, Mr. Quinn, Mr. Radanovich, Mr. Ramstad, Mr. Riggs, Mr. Rohrabacher, Mr. Saxton, Mr. Dan Schaefer of Colorado, Mr. Sessions, Mr. Shadegg, Mr. Shaw, Mr. Shimkus, Mr. Smith of Michigan, Mr. Smith of Oregon, Mr. Smith of Texas, Mr. Snowbarger, Mr. Solomon, Mr. Souder, Mr. Stearns, Mr. Stump, Mr. Sununu, Mr. Talent, Mr. Tauzin, Mr. Thornberry, Mr. Thune, Mr. Tiahrt, Mr. Upton, Mr. Wamp, Mr. Watkins, Mr. Weller, Mr. White, Mr. Whitfield, and Mr. Minge):

H.J. Res. 2. Joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office of Members of the Senate and the House of Representatives; to the Committee on the Judiciary.

By Mr. INGLIS of South Carolina (for himself, Mr. Sanford, Mr. Dickey, Mr. Riggs, and Mr. Chabot):

H.J. Res. 3. Joint resolution proposing an amendment to the Constitution of the United States limiting the period of time U.S. Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. BARR of Georgia:

H.J. Res. 4. Joint resolution proposing an amendment to the Constitution of the United States to provide that no person born in the United States will be a U.S. citizen on account of birth in the United States unless both parents are either U.S. citizens or aliens lawfully admitted for permanent residence at the time of the birth; to the Committee on the Judiciary.

By Mr. McCOLLUM (for himself, Mr. Bilbray, Mr. Talent, and Mr. Graham):

H.J. Res. 5. Joint resolution proposing an amendment to the Constitution of the United States with respect to the terms of Senators and Representatives; to the Committee on the Judiciary.

By Mr. COBLE:

H.J. Res. 6. Joint resolution proposing an amendment to the Constitution of the United States limiting the terms of offices of Members of Congress and increasing the term of Representatives to 4 years; to the Committee on the Judiciary.

By Mr. ARCHER (for himself, Mr. Bunning of Kentucky, Mr. Hastert, Mr. Collins, Mr. Knollenberg, Mr. Crapo, Mr. Christensen, Mr. Blunt, Mr. Smith of New Jersey, Mr. Camp, and Mr. Graham):

H.J. Res. 7. Joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. DINGELL (for himself and Mr. Barton of Texas):

H.J. Res. 8. Joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office of Members of the Senate and the House of Representatives; to the Committee on the Judiciary.

By Mr. DINGELL:

H.J. Res. 9. Joint resolution proposing an amendment to the Constitution of the United States to permit the Congress to limit expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mrs. EMERSON:

H.J. Res. 10. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

H.J. Res. 11. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

H.J. Res. 12. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

H.J. Res. 13. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. ENGEL:

H.J. Res. 14. Joint resolution proposing an amendment to the Constitution of the United Stats to permit the Congress to limit contributions and expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey:

H.J. Res. 15. Joint resolution proposing an amendment to the Constitution of the United States barring Federal unfunded mandates to the States; to the Committee on the Judiciary.

By Mr. GOSS:

H.J. Res. 16. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives and to limit the number of consecutive terms Senators and Representatives may serve; to the Committee on the Judiciary.

By Ms. KAPTUR (for herself, Mr. Moran of Virginia, Mr. Minge, Mr. English of Pennsylvania, Mr. Barrett of Wisconsin, Mr. Stupak, Mr. Poshard, Mr. Markey, and Mr. Pomeroy):

H.J. Res. 17. Joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect elections for Federal and State office; to the Committee on the Judiciary.

By Mr. ROYCE:

H.J. Res. 18. Joint resolution entitled the "Citizen's Tax Protection Amendment", proposing an amendment to the Constitution of the United States to prohibit retroactive taxation; to the Committee on the Judiciary.

By Mr. SERRANO:

H.J. Res. 19. Joint resolution proposing an amendment to the Constitution of the United States to repeal the 22d article of amendment, thereby removing the limitation on the number of terms an individual may serve as President; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.J. Res. 20. Joint resolution proposing an amendment to the Constitution of the United States regarding school prayer; to the Committee on the Judiciary.

H.J. Res. 21. Joint resolution proposing an amendment to the Constitution of the United States with respect to the proposal and the enactment of laws by popular vote of the people of the United States; to the Committee on the Judiciary.

H.J. Res. 22. Joint resolution proposing an amendment to the Constitution of the United States limiting the number of consecutive terms for Members of the House of Representatives and the Senate; to the Committee on the Judiciary.

By Mr. STUMP:

H.J. Res. 23. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives and to provide that no person may serve as a Representative for more than 12 years; to the Committee on the Judiciary.

H.J. Res. 24. Joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

[Submitted January 9, 1997]

By Mr. LIVINGSTON:

H.J. Res. 25. Joint resolution making technical corrections to the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208), and for other purposes; considered and agreed to.

By Mr. FOLEY (for himself, Mr. Rohrabacher, Mr. Royce, Mr. Doolittle, Mr. Young of Alaska, Mrs. Chenoweth, Mr. McKeon, Mr. Calvert, Mr. Klug, Mr. Baker, and Mr. Metcalf):

H.J. Res. 26. Joint resolution proposing an amendment to the Constitution of the United States to provide that no person born in the United States will be a U.S. citizen unless a parent is a U.S. citizen, is lawfully in the United States, or has a lawful immigration status at the time of the birth; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mrs. Fowler, and Mr. McCollum):

H.J. Res. 27. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives, to provide that Representatives shall be elected in the same year as the President, and to limit the number of terms Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. LaHOOD (for himself and Mr. Wise):

H.J. Res. 28. Joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mrs. MYRICK:

H.J. Res. 29. Joint resolution proposing an amendment to the Constitution of the United States regarding the liability of Members of Congress for false statements made in carrying out their official duties; to the Committee on the Judiciary.

By Mr. PICKETT:

H.J. Res. 30. Joint resolution proposing an amendment to the Constitution of the

United States to restrict annual deficits by limiting the public debt of the United States and requiring a favorable vote of the people on any law to exceed such limits; to the Committee on the Judiciary.

By Mr. SANFORD:

H.J. Res. 31. Joint resolution proposing an amendment to the Constitution of the United States to allow the States to limit the period of time U.S. Senators and Representatives may serve; to the Committee on the Judiciary.

The following is a complete listing of all bills and resolutions introduced on January 7 and 9, 1997.

By Mr. COBLE:

H. Con. Res. 1. Concurrent resolution expressing the sense of the Congress that retirement benefits for Members of Congress should not be subject to cost-of-living adjustments; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE (for herself, Mr. WYNN, Mrs. MEEK of Florida, Mr. SCHUMER, Mr. CLAY, Mr. ENGEL, Mr. ACKERMAN, Mr. UNDERWOOD, Mr. CONYERS, Ms. DELAURO, Mr. LEWIS of Georgia, Mrs. LOWEY, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. OWENS):

H. Con. Res. 2. Concurrent resolution expressing the sense of the Congress with respect to the threat to the security of American citizens and the United States Government posed by armed militia and other paramilitary groups and organizations; to the Committee on the Judiciary.

By Mrs. ROUKEMA:

H. Con. Res. 3. Concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted; to the Committee on Ways and Means.

By Mr. SERRANO:

H. Con. Res. 4. Concurrent resolution entitled "English Plus Resolution"; to the Committee on Education and the Workforce.

By Mr. SHAYS (for himself and Mr. MCHALE):

H. Con. Res. 5. Concurrent resolution for the approval of regulations of the Office of Compliance under the Congressional Accountability Act of 1995 relating to the application of chapter 71 of title 5, United States Code; to the Committee on House Oversight, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

[Submitted January 9, 1997]

By Mr. BILIRAKIS (for himself, Mr. PORTER, Mrs. MALONEY of New York, Mr. PAPPAS, Mr. KLINK, Mr. GEKAS, and Mr. ENGEL):

H. Con. Res. 6. Concurrent resolution concerning the protection and continued livelihood of Eastern Orthodox Ecumenical Patriarchate; to the Committee on International Relations.

By Mr. PICKETT:

H. Con. Res. 7. Concurrent resolution expressing the sense of the Congress that the President should seek to negotiate a new base rights agreement with the Government of Panama to permit the United States Armed Forces to remain in Panama beyond December 31, 1999, and to permit the United States to act independently to continue to protect the Panama Canal; to the Committee on International Relations.

By Mr. SAXTON (for himself and Mr. ABERCROMBIE):

H. Con. Res. 8. Concurrent resolution expressing the sense of Congress with respect to the significance of maintaining the health and stability of coral reef ecosystems; to the Committee on Resources.

The following is a complete listing of all bills and resolutions introduced on January 7 and 9, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BOEHNER:

H. Res. 1. Resolution electing officers of the House of Representatives; considered and agreed to.

By Mr. ARMEY:

H. Res. 2. Resolution electing officers of the House of Representatives; considered and agreed to.

H. Res. 3. Resolution authorizing the Speaker to appoint a committee to notify the President of the assembly of the Congress; considered and agreed to.

H. Res. 4. Resolution authorizing the Clerk to inform the President of the election of the Speaker and the Clerk; considered and agreed to.

H. Res. 5. Resolution adopting the Rules of the House for the 105th Congress; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 6. Resolution providing for the designation of certain minority employees; considered and agreed to.

By Mr. BOEHNER:

H. Res. 7. Resolution establishing the Corrections Day Calendar Office; considered and agreed to.

By Mr. SOLOMON:

H. Res. 8. Resolution providing for the attendance of the House at the inaugural ceremonies of the President and Vice President of the United States; considered and agreed to.

H. Res. 9. Resolution fixing the daily hour of meeting for the 105th Congress; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 10. Resolution authorizing the Speaker's designee to administer the oath of office to Representative-Elect FRANK TEJEDA; considered and agreed to.

H. Res. 11. Resolution authorizing the Speaker's designee to administer the oath of office to Representative-Elect JULIA CARSON; considered and agreed to.

By Mr. BOEHNER:

H. Res. 12. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. FAZIO of California:

H. Res. 13. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

H. Res. 14. Resolution electing Representatives Sanders of Vermont to the Committees on Banking and Financial Services and Government Reform and Oversight; considered and agreed to.

By Mr. HOYER (for himself, Mr. CARDIN, Mr. MASCARA, Mr. CUMMINGS, Mr. MORAN of Virginia, and Mr. MARKEY):

H. Res. 15. Resolution concerning the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina, urging continued and increased support for the efforts of the International Criminal Tribunal for the former Yugoslavia to bring to justice the perpetrators of gross violations of international law in the former Yugoslavia, and urging support for democratic forces in all of the countries emerging from the former Yugoslavia; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York:

H. Res. 16. Resolution to establish a Select Committee on POW and MIA Affairs; to the Committee on Rules.

By Mr. KLINK (for himself, Mr. BILIRAKIS, and Mr. COYNE):

H. Res. 17. Resolution calling upon, and requesting that the President call upon, all Americans to recognize and appreciate the historical significance and the heroic human endeavor and sacrifice of the people of Crete during World War II, and commending the PanCretan Association of America; to the Committee on International Relations.

By Mr. ROYCE:

H. Res. 18. Resolution amending the Rules of the House of Representatives to require the reduction of section 602(b)(1) suballocations to reflect floor amendments to general appropriation bills, and for other purposes; to the Committee on Rules.

By Mr. SHAYS (for himself and Mr. MCHALE):

H. Res. 19. Resolution for the approval of regulations of the Office of Compliance under the Congressional Accountability Act of 1995 relating to the application of chapter 71 of title 5, United States Code; to the Committee on House Oversight, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H. Res. 20. Resolution to authorize and direct the Committee on Appropriations to create a new Subcommittee on Veterans' Affairs; to the Committee on Rules.

By Mr. STEARNS:

H. Res. 21. Resolution expressing the sense of the House of Representatives with respect to withholding U.S. financial support from the United Nations unless that organization adopts certain reforms; to the Committee on International Relations.

By Mr. STEARNS (for himself and Mr. PALLONE):

H. Res. 22. Resolution congratulating the people of India on the occasion of the 50th anniversary of their nation's independence; to the Committee on International Relations.

By Mr. STEARNS (for himself and Mr. SMITH of Michigan):

H. Res. 23. Resolution repealing rule XLIX of the Rules of the House of Representatives relating to the statutory limit on the public debt; to the Committee on Rules.

By Mr. STUPAK:

H. Res. 24. Resolution amending the Rules of the House of Representatives to reduce the number of programs covered by each regular appropriation bill; to the Committee on Rules.

[Submitted January 9, 1997]

By Mr. ARMEY:

H. Res. 25. Resolution designating membership on certain standing committees of the House; considered and agreed to.

By Mr. ANDREWS:

H. Res. 26. Resolution requiring the House of Representatives to take any legislative action necessary to verify the ratification of the equal rights amendment as a part of the Constitution, when the legislatures of an additional three States ratify the equal rights amendment; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. UNDERWOOD, Mr. FILNER, and Ms. LOFGREN):

H. Res. 27. Resolution amending the Rules of the House of Representatives to allow each Member to designate one bill introduced by such Member to be the subject of a committee vote; to the Committee on Rules.

By Mr. KING of New York:

H. Res. 28. Resolution expressing the sense of the House of Representatives that programs based upon the premise that "Ebonics" is a legitimate language should not receive Federal funds; to the Committee on Education and the Workforce.

By Mr. RICHARDSON (for himself and Mr. MILLER of California):

H. Res. 29. Resolution expressing the intentions of the House of Representatives concerning the universal service provisions of the Telecommunications Act of 1996 as they relate to telecommunications services to native Americans, including Alaskan Natives; to the Committee on Commerce.

By Mr. SMITH of Michigan (for himself, Mr. HOEKSTRA, Mr. SHAYS, Mr. HERGER, Mr. BARTLETT of Maryland, Mr. HAYWORTH, Mr. SAXTON, Mr. STEARNS, and Mr. METCALF):

H. Res. 30. Resolution repealing rule XLIX of the Rules of the House of Representatives relating to the statutory limit on the public debt; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

The following is a complete listing of all bills and resolutions introduced on January 7 and 9, 1997.

By Mr. BILIRAKIS:

H.R. 375. A bill for the relief of Margarito Domantay; to the Committee on the Judiciary.

By Mr. DICKEY:

H.R. 376. A bill to require approval of an application for compensation for the death of Wallace B. Sawyer, Jr.; to the Committee on the Judiciary.

By Mr. ENGEL:

H.R. 377. A bill for the relief of Inna Hecker Grade; to the Committee on the Judiciary.

By Mr. HUNTER:

H.R. 378. A bill for the relief of Heraclio Tolley; to the Committee on the Judiciary.

By Mr. LINDER:

H.R. 379. A bill for the relief of Larry Errol Pieterse; to the Committee on the Judiciary.

By Mr. STUPAK:

H.R. 380. A bill for the relief of Robert and Verda Shatusky; to the Committee on the Judiciary.

By Mr. TOWNS:

H.R. 381. A bill to renew patent numbered 3,387,268, relating to a quotation monitoring unit, for a period of 10 years; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4:

Mr. YOUNG of Alaska, Mr. RAHALL, Mr. PETRI, Mr. BORSKI, Mr. BOEHLERT, Mr. LIPINSKI, Mr. BATEMAN, Mr. WISE, Mr. COBLE, Mr. TRAFICANT, Mr. DUNCAN, Mr. DEFAZIO, Ms. MOLINARI, Mr. CLEMENT, Mr. EWING, Mr. COSTELLO, Mr. GILCHREST, Mr. POSHARD, Mr. KIM, Mr. CRAMER, Mr. HORN, Ms. NORTON, Mr. FRANKS of New Jersey, Mr. NADLER, Mr. MICA, Ms. DANNER, Mr. QUINN, Mr. MENENDEZ, Mrs. FOWLER, Mr. CLYBURN, Mr. EHLERS, Ms. BROWN of Florida, Mr. BACHUS, Mr. BARCIA of Michigan, Mr. LATOURETTE, Mr. FILNER, Mrs. KELLY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LAHOOD, Mr. MASCARA, Mr. BAKER, Mr. TAYLOR of Mississippi, Mr. RIGGS, Ms. MILLENDER-MCDONALD, Mr. BASS, Mr. CUMMINGS, Mr. NEY, Mr. SANDLIN, Mr. METCALF, Mrs. TAUSCHER, Mrs. EMERSON, Mr. PASCRELL, Mr. PEASE, Mr. JOHNSON of Wisconsin, Mr. BLUNT, Mr. BOSWELL, Mr. PITTS, Mr. MCGOVERN, Mr. HUTCHINSON, Mr. COOKSEY, Mr. THUNE, Mr. PICKERING, Ms. GRANGER, Mr. MCHUGH, Mr. WELLER, Mr. EVANS, Mr. NORWOOD, Mr. GILMAN, Mr. BARTLETT of Maryland, Mr. BONO, Mr. CALVERT, Mr. SCHIFF, Mr. HASTERT, Mr. MCKEON, Mr. KILDEE, Mr. LEWIS of Kentucky, Mr. WATTS of Oklahoma, Mr. BEREUTER, Mr. ENSIGN, Mr. GRAHAM, Mr. DIAZ-BALART, Mr. GEKAS, Mr. CONYERS, Mr. UPTON, Mr. DOYLE, Mr. KLINK, Mr. FROST, Mr. JACKSON, Mr. HOLDEN, Mr. GORDON, Mr. CHAMBLISS, Mr. LOBIONDO, Mr. HEFLEY, Mr. FOX of Pennsylvania, Mr. STUPAK, Mr. GEJDENSON, Ms. WOOLSEY, Mr. TALENT, Mr. WHITFIELD, Mr. LATHAM, Mr. DEAL of Georgia, Ms. DUNN of Washington, Mr. BALLENGER, Mr. ENGLISH of Pennsylvania, Mr. GOODLING, Mr. GREENWOOD, Mr. DAN SCHAEFER of Colorado, Mr. TAUZIN, Mr. DICKEY, Mr. WELDON of Pennsylvania, Mr. PETERSON of Pennsylvania, Mr. BUYER, Mr. BRYANT, Mr. COYNE, Mr. PETERSON of Minnesota, Mr. HAMILTON, Mr. HOSTETTLER, Mr. KLECZKA, Mr. GILLMOR, Mr. PAYNE, and Mr. PICKETT.

H.R. 7: Mr. BONO, Mr. SAM JOHNSON, Mr. DAN SCHAEFER of Colorado, and Mr. HASTINGS of Washington.

H.R. 14:

Mr. KASICH, Mr. TAUZIN, Mr. CHAMBLISS, Mr. RADANOVICH, Mr. EHLERS, Mr. SALMON, Mr. BILBRAY, Mr. UPTON, Mr. FRANKS of New Jersey, Mr. LOBIONDO, Mr. KOLBE, Mr. KNOLLENBERG, Mr. BONILLA, Mr. CALLAHAN, Mr. FORBES, Mr. GILCHREST, Mr. SMITH of Oregon, Mr. SMITH of Texas, Mr. HORN, Mr. KIM, and Mr. SOLOMON.

H.R. 41:

Mr. DEAL of Georgia, Mr. HAYWORTH, Mr. HILLEARY, Ms. MOLINARI, Mr. ENGLISH of Pennsylvania, Mr. WATTS of Oklahoma, Mr. PORTMAN, Mr. PARKER, Mr. NETHERCUTT, Mr. SOLOMON, Mrs. CHENOWETH, Mr. NEY, Mr. SAXTON, Mr. STUMP, Mr. BARTLETT of Maryland, and Mr. BARR of Georgia.

H.R. 54: Mr. GALLEGLY and Mr. BONO.

H.R. 86:

Mr. CONDIT, Mr. MINGE, Mr. CANADY of Florida, Mr. EVERETT, Mr. GOODLATTE, Mr. PICKERING, Mr. COOKSEY, Mrs. EMERSON, Mr. JENKINS, Mrs. CHENOWETH, Mr. METCALF, Mr. COBURN, and Mr. BEREUTER.

H.R. 127:

Mr. GREENWOOD, Mr. SCHIFF, Mr. GRAHAM, Mr. SAWYER, Mr. FROST, Mr. RAHALL, Mr. BALDACCI, Mr. KENNEDY of Rhode Island, Ms. ROYBAL-ALLARD, Mr. HEFNER, Ms. RIVERS, Mr. VENTO, Mr. MEEHAN, and Ms. HARMAN.

H.R. 135: Mr. BOUCHER, Mr. DELLUMS, Mr. GUTIERREZ, Mr. LEWIS of Georgia, Ms. ROYBAL-ALLARD, Mr. SERRANO, Mr. MCHUGH, and Mr. SCOTT.

H.R. 198: Mr. BONO and Mr. NETHERCUTT.

H.R. 213: Mr. MARTINEZ and Mr. GRAHAM.

H.R. 248: Mr. GRAHAM and Mr. ENGLISH of Pennsylvania.

H.R. 249: Mr. KNOLLENBERG and Mr. GRAHAM.

H.R. 250: Mr. STEARNS.

H.R. 259: Mr. MILLER of California.

H.R. 305: Ms. LOFGREN, Mr. LUTHER, Mr. SENSENBRENNER, Mr. SAXTON, and Mr. KLUG.

H.R. 306: Mr. FROST, Mrs. MINK of Hawaii, and Mr. FALEOMAVAEGA.

H.R. 337: Mr. MCDERMOTT, Mr. KENNEDY of Rhode Island, Mr. FROST, Mr. GONZALEZ, Mr. GREEN, and Mr. RANGEL.

H.R. 366: Ms. ROYBAL-ALLARD.

H.J. Res. 1: Ms. KAPTUR, Mr. GORDON, Mr. SCHIFF, Mr. BRYANT, Mr. FAWELL, Mr. JOHN, Mr. SENSENBRENNER, Mr. LATHAM, and Mr. MCINTOSH.

H. Con. Res. 4:

Mr. MCHALE, Mr. GONZALEZ, Mr. UNDERWOOD, Mr. OWENS, Mr. FROST, Mr. FALEOMAVAEGA, Mrs. MINK of Hawaii, Mr. LAFALCE, Ms. SLAUGHTER, Mr. STARK, Mr. LEWIS of Georgia, Mr. BECERRA, Mr. TORRES, Mrs. MEEK of Florida, Mr. GUTIERREZ, Ms. JACKSON-LEE, Ms. PELOSI, Mr. DELLUMS, Mr. MENENDEZ, Mr. GREEN, Mr. MARTINEZ, Mr. FARR of California, and Mr. ENGEL.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3. By the SPEAKER: Petition of the city council of the city of Carson, CA, relative to urging the U.S. Attorney General to immediately conduct a thorough and independent investigation into allegations connecting the Central Intelligence Agency with covert illegal drug sales in the African-American community; to the Committee on the Judiciary.

4. Also, petition of the Derry City Council, Northern Ireland, relative to the deportation of Mr. Matt Morrison from the United States; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

INTRODUCTION OF LEGISLATION

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GRAHAM. Mr. Speaker, as the 105th Congress addresses the issue of financing campaigns, I believe we must first change the nature of our election cycle and limit the number of terms a Member can serve. The recent elections demonstrate that action on both campaign finance reform and term limits is needed and desired by the American people. Today, I am introducing legislation that combines a solution for achieving term limits and easing campaign finance burdens. This amendment would limit Members of the House to three 4-year terms and limit Senators to two 6-year terms. This is a lifetime ban. It would take effect only on terms of office beginning after the ratification of the amendment. By extending the terms of Representatives from 2 to 4 years, we can better limit the influence of politics and elections in the House and focus on better policies and laws for our country. Additionally, Members of the House would not be burdened by increasingly expensive elections every 2 years because the terms would be increased to 4.

Fundamental institutional change is needed in order to improve the American people's confidence in Congress and to return to the Founding Fathers' ideal of a citizen legislature. We should abide by the will of the people and end career politics as we know it. While term limits will not solve all our country's problems, or the need to overhaul our campaign finance system, it is a large step in the right direction. It continues the process of reform and strengthens the integrity of Congress. Let us succeed where we failed last Congress and pass term limits.

IN MEMORY OF HUBERT A. ANDERSON—CIVIL RIGHTS AND WORLD PEACE ADVOCATE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, today I wish to pay tribute to an educator, activist, and my longtime personal friend, Hubert A. Anderson, who passed away recently in Hopkins, MN, at the age of 68.

I was privileged to know Hubert Anderson at a special time in our lives and in our Nation's history. As a grass roots activist, Mr. Anderson took special interest in civil rights issues and the anti-Vietnam war movement. In 1970, a group of 31 Americans, including Hubert Anderson and myself, traveled to Paris with the People's Commission of Inquiry to discuss solutions to the war. Anderson, along with our group, participated in a week of talks in France with North Vietnamese and South Vietnamese delegations and the American ambassador. During our stay he encouraged an open discussion in which he questioned, challenged and explored solutions to this problem of international scope.

Hubert Anderson was born and raised in Dwight, ND. He attended high school in Wahpeton, ND, and in Minneapolis, dropping out during his senior year to join the Navy. He was stationed in Bermuda for part of his tour and was chosen to run the admiral's launch that took President Truman deep sea fishing. An avid sportsman, he played offense and defense and was captain of the Navy football team. He contracted rheumatic fever during his service and suffered from its effects for the rest of his life.

Hubert finished his high school equivalency degree in the military. He went on to the University of Minnesota, the Wahpeton State School of Science, and graduated magna cum laude from Moorhead State University. He later earned a master's degree and completed doctoral work at the University of Minnesota. During his early college career, he played AAA baseball with the Minot, ND, Mallards and pitched against such notables as Satchel Paige and Roger Maris.

As an English, drama and debate teacher at Hopkins High School for 30 years, Hubert Anderson was a mentor to students in and out of the classroom. He led several debate teams to State championships, served on the faculty senate, and supported the American Field Service Program.

Hubert Anderson will be remembered as an avid reader, a lover of language, and a remarkable individual whose ideas reached far and wide. His genuine enthusiasm for American politics prompted people of all ages to become interested in government and civil service. Because I experienced Hubert Anderson's vitality and wisdom firsthand, I've no doubt that this tireless role model made Hopkins, MN, a richer place to live.

As friends and family reflect on his lifetime of achievement and scholarship, it is only fitting that we also pay tribute to this great man and good friend.

THURGOOD MARSHALL COURTHOUSE BILL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILMAN. Mr. Speaker, I rise today in strong support of the Thurgood Marshall Courthouse bill.

I do not believe that I am exaggerating when I state that history will regard Justice Marshall as one of the most influential individuals in the fields of constitutional and civil rights law in the 20th century.

Justice Marshall had a long and distinguished career as an assistant and later chief counsel for the NAACP. As the lead attorney in Brown v. Board of Education, Marshall was instrumental in convincing the Supreme Court to overturn the 1898 separate but equal ruling of Plessy v. Ferguson, and begin the process of ending discrimination in public education.

As a justice of the U.S. Court of Appeals in the Second Circuit, Marshall wrote over 150 decisions which included support for immigrant rights, limiting government intrusion in illegal search and seizure, double jeopardy and right to privacy cases. As U.S. Solicitor General, Marshall won 14 of the 19 cases he presented before the Supreme Court.

In 1967, Thurgood Marshall became the first African-American appointed to the U.S. Supreme Court. He served as an Associate Justice on the Court for 24 years, retiring in 1991. He left a strong legacy of commitment to the weak and poor in America's justice system.

Accordingly, I strongly urge my colleagues to join me in supporting this important legislation, which will honor the memory of Justice Marshall and help preserve his legacy, by designating the U.S. courthouse under construction in White Plains, NY, as the Thurgood Marshall U.S. Courthouse.

TODD LANE ELEMENTARY'S GIFT TO THE BEAVER COUNTY TIMES GIVE-A-CHRISTMAS CAMPAIGN

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. KLINK. Mr. Speaker, I rise today in order to recognize the students and faculty of Todd Lane Elementary School in Center Township, Pennsylvania.

For the past quarter century, the Beaver County Times, in conjunction with the Salvation Army holds a donation drive known as the Give-A-Christmas Campaign. Its goal is to provide food and other necessities during the holiday season to those who are less fortunate. This year, like the past 20 years, the students and faculty of Todd Lane Elementary have participated in the Give-A-Christmas Campaign. In an unprecedented showing of support Todd Lane was able to raise over $10,650 in less than 1 month.

Through various donations as well as a highly successful candy sale, the students and faculty were able to give their largest donation ever to the Salvation Army. In the words of Principal John Zigerelli, "This year's record-breaking total collection is a testimony to that accomplishment." Furthermore, the effort put forth by Todd Lane shows a true commitment

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to their community, the 4th Congressional District, and our Nation.

With the help of the students and faculty of Todd Lane Elementary this year's goal of $67,500 was met and exceeded by thousands. Since the advent of the Give-A-Christmas Campaign, more than $1 million has been contributed. Todd Lane Elementary has contributed over $115,000 or 11 percent of that generous amount.

I would like to take this opportunity to applaud the students and faculty of Todd Lane Elementary as well the residents of Center Township who have donated year after year. Without you, Give-A-Christmas would not be possible. Your contributions have not gone unnoticed. Also a special thanks to Todd Lane's program coordinators: Larry Deep, Paul DeFilippi, Peggy Coladonato, Cindy Halsac, Kathy Fouse, and Principal Zigerelli. They should all be commended for their outstanding efforts.

On behalf of the thousands of families who have been fed, clothed, and provided with Christmas gifts, I stand before my fellow Members of Congress and thank you for a job well done. You have demonstrated the true meaning of the holiday season.

COLLEGE OF SAN MATEO'S 75TH ANNIVERSARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LANTOS. Mr. Speaker, I would like to bring attention to the outstanding achievements of the College of San Mateo and congratulate the institution on its 75th anniversary. As one of the leading community colleges in California, I have the pleasure of having this college in my district.

Founded in 1922 as the first community college on the Bay Area Peninsula, the College of San Mateo rose to meet the needs of the community. As the cost of universities rose, educators in San Mateo saw the need to provide education for those who could not afford 4-year universities. The College of San Mateo acted as a bridge to the University of California and Stanford when higher education became increasingly more important. Here, students could save money and still receive a high quality education.

The College of San Mateo never stopped serving the community. When World War II struck, the college became the top support center in northern California. As Dean Moris stated:

> If the need was to have remedial courses, then there would be remedial courses. If a trade school was needed, then trade school classes would be provided. If the community requested adult education, then an adult school would be formed.

The college became an invaluable asset to the community and a most valuable tool for the economic future of the region.

Hundreds of thousands of students have been educated by the College of San Mateo since its founding 75 years ago. The college has helped start two other community colleges in the county and has been the only community college in northern California to sustain both a television and radio station.

As the College of San Mateo approaches the 21st century, the outlook of the community is very bright. For those student that are unable to attend 4 year institutions, this college is an equal alternative. I am proud to acknowledge the outstanding job the College of San Mateo has done educating our community for the past 75 years and will continue into the next century.

INTRODUCING THE ATOMIC VETERANS MEDAL ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. RICHARDSON. Mr. Speaker, today I am introducing legislation that will award a medal for the service of America's atomic veterans.

My bill will recognize the sacrifice that these long forgotten veterans gave to their country. These soldiers were placed in harm's way by their country, and in many cases they were unaware of the dangers they faced. Many of these veterans have suffered severe health problems due to the radiation exposure they suffered during their service. Recognizing these veterans with a medal that signifies their extraordinary contribution to our national defense is the right thing for America to do.

I hope that you will join me in working to pass this bill in the 105th Congress and give long overdue recognition to these brave Americans.

TRIBUTE TO JOHN E. KOBARA

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of John E. Kobara, the departing associate vice chancellor of university relations at UCLA. For the last 20 years, John has been leading and managing diverse, complex, and innovative organizations with close ties to the higher education community.

John is a graduate of UCLA where he received his BA in political science and sociology before going on to earn an MA in urban studies at Occidental College, and an MBA in marketing and finance at the University of Southern California. As an undergraduate he served on the Undergraduate Student Association, the student body of UCLA, demonstrating an early thirst for involvement in the affairs of the campus and an abiding concern for its welfare. These traits, coupled with his love of UCLA, would become landmarks of his professional career with the university. John is deeply committed to the realm of education and to addressing the issues of diversity and multiculturalism in education and in society at large.

As associate vice chancellor for university relations at UCLA, John has served as the chief external relations officer for the institution, overseeing the public relations, alumni relations, campus-wide marketing, government affairs and special events, and protocol offices. Bringing tremendous vision to this role, he has been instrumental in UCLA's embrace of advanced information technology in its external affairs programs, and in guiding the university onto its present course as a leader on the information superhighway. Prior to serving in this role, John served as executive director of the UCLA Alumni Association. His multifaceted career has also included positions as vice president and general manager of a cable television station, president of a theater, and president of a trade association.

John is a masterful communicator, highly regarded for his ability to further mutually respected relationships between and among communities. Committed to empowering others to recognize and actualize their full potential, John delivers dozens of presentations each year on career change, technology, networking, personal growth and empowerment. A Coro alumnus with an extensive record of community involvement, he serves on boards of the Coro Foundation, the East West Players, the Rose Bowl Operating Co., the Asian Pacific Women's Center, and the Council for Advancement and Support of Education.

Mr. Speaker, I ask that you join me, our colleagues, John's wife, Sarah, and his three children, in recognizing the many important contributions of this remarkable man. For his many year of dedicated service, it is only appropriate that the House recognize John Kobara today.

HEALTH INSURANCE ASSISTANCE FOR THOSE 55 AND OLDER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, in the 104th Congress, I introduced legislation to provide assistance in obtaining health insurance to those 55 and older. Today, I rise again to introduce the same legislation to make the COBRA health continuation program available to anyone between age 55 and the time they become eligible for Medicare.

The 1990's have confronted us with many difficult issues, both foreign and domestic. One issue in particular impacts an everincreasing segment of our population. According to statistics from the Department of Labor, in 1988, there were 13.1 million private sector retirees and 4.9 million had health insurance coverage. In 1994, the number of private sector retirees had risen to 17.4 million but the number of individuals covered by health insurance had declined to 4.7 million. In other words, the proportion of private sector retirees covered by health insurance from a former employer dropped from 37 percent in 1988 to 27 percent in 1994.

As the level of employer-provided insurance declines and as hundreds of thousands of older workers face early retirement because of corporate down-fixing, layoffs, and restructuring, the problem of health insurance for those not-yet-eligible for Medicare is becoming more and more serious.

As Corporate America continues to focus on profit levels, often at the expense of providing health insurance benefits to workers, these individuals face an uncertain and frightening future in the health care arena. The steady decline in coverage among active workers translates into lower likelihold of retiree health benefits being available.

The frightening reality of this situation will only get worse. In 1994, almost 24 percent of retirees—4.1 million, were between the ages of 55 and 64. The pressure on retiree health plans will only increase as the number of persons over the age of 55 nearly doubles—from 55 million today to nearly 100 million—by the year 2020.

There exist numerous examples that help demonstrate the significance of the situation to the older workers.

In October 1996, Philips Consumer Electronic Co. gave about 2,000 employees layoff warning notices. Union leaders involved contend that companies make these moves in part to get rid of older workers who cost more in wages and pension and health benefits and replace them with lower-wage, younger workers.

In October 1996, the Massachusetts State Department of Employment and Training confirmed that 36.1 percent of people claiming unemployment checks in August of the same year were 45 or older—usually considered the most productive, reliable group of workers.

In November 1995, Sunbeam Corp. announced that nearly 6,300 employees, half of its total work force would be let go.

At AT&T, 34,000 jobs had to be cut. Workers were to receive a lump-sum payment based on years of service, up to 1 year of paid health benefits and cash to cover tuition costs or to start a new business—but what happens to health coverage after 1 year?

Two giant New York City banks, Chase Manhattan and Chemical recently combined and 12,000 jobs from the combined banks were subsequently cut.

Since 1990, United Technologies has cut 33,000 jobs.

In 1994, Scott Paper cut 11,000 jobs or 35 percent of their work force.

A 1994 Nationwide study of 2,395 employers by A. Foster Higgins & Co., a New York-based benefits consulting firm, showed that among large companies—those with 500 or more employees—46 percent provide some form of coverage for early retirees, while only 39 percent provide insurance for Medicare-eligible retirees. Fewer than one in five large employers are willing to pay the entire cost of health care for their retirees, while 40 percent of the companies that do offer some form of health care coverage require the retiree to pay all of the costs. Those companies that do provide health care coverage for their retirees are increasingly requiring them to pay a share of the cost, especially for dependents.

Group health insurance is, of course, much less expensive than individual policy insurance, and that is why the COBRA benefit is so vital and useful. The difference in cost for obtaining group versus individual health insurance can easily be several thousand dollars.

Receiving help with the cost of this insurance is particularly important for those in their 50's and 60's because most insurance premiums rise sharply with age. For example, in the Los Angeles market, Blue Cross of California offers a basic, barebones in-hospital $2,000 deductible plan. This plan is a PPO which restricts options for hospital usage. For a couple under age 29, the cost is $64 a month. For a couple between age 60 and 64, the cost soars to $229 a month.

In order to ensure that the cost of COBRA continuation is not an excessive burden to business, my bill calls for age-55+enrollees to pay 110 percent of the group rate policy—compared to 102 percent for most current COBRA eligible individuals and 150 percent for disabled COBRA enrollees.

I realize that the cost of paying one's share of a group insurance policy will still be too much of a burden for many Americans. Many of them will be forced into the uncertain mercies of State Medicaid policies. But for many others, this bill will provide an important bridge to age 65 when they will be eligible for Medicare. I wish we could do more, but in the current climate, this bill is our best hope. We cannot allow the everincreasing ranks of early retirees to be without options in addressing necessary health insurance needs.

The following November 3, 1996 Washington Post article provides further data on why we need to pass this bill.

RETIRING? DON'T ASSUME HEALTH BENEFITS ARE FOREVER

(By Albert B. Crenshaw)

For 14 years, James Murdock worked as a brewing supervisor at Pabst Brewing Co., putting in long hours at the big Milwaukee-based beer producer. But two years ago, when his wife developed multiple sclerosis, he decided to take early retirement to be with her.

He checked the company's employee manual, which he said "guaranteed" health care coverage until age 65, including early retirees and their dependents.

But after giving Pabst notice and even selling his home, Murdock got a computer printout describing his benefits. "Near the bottom was a sentence that said in essence that they had the right to modify, rescind, cancel and so on" his and his wife's health insurance, he recalled last week.

"It was the first I knew about it. By then it was too late" to halt his retirement. "My replacement was there and trained," he said.

Company officials were reassuring. "They said they never canceled anybody's benefits before," Murdock said.

But this time they did.

Less than two years after his retirement, Murdock is working part-time as a clerk in a hardware store to pay the premiums on a policy for himself. His wife, Carol, is uninsurable and has no coverage. The couple is praying her health holds up until next May, when she becomes eligible for Medicare because of her disability.

"That's going to be our oasis in the desert. I just hope we can get there before there's any major problems," he said.

Murdock's is not an isolated case. Rising medical costs and pressure for profits are driving more and more large employers to end or sharply curtail health care coverage for retirees. Others are boosting the share of the costs retirees are expected to pick up.

As recently as 1988, about 37 percent of retirees were covered by health insurance from a former employer; by 1994 that share had dropped to 27 percent. And those who still have coverage are paying more: In the same 1988–94 period, the proportion of retirees with coverage whose entire premium was paid by the companies declined to 42 percent from 50 percent.

In thousands of cases, workers and retirees are being caught by surprise, either because they assumed that the benefits always would be there, or because materials given to them by employers indicated that they would, but didn't really promise.

The courts are full of cases that turn on the question of what was a binding promise and what was not. The Labor Department is involved in lawsuits on behalf of about 87,000 retirees—including 800 from Pabst—whose benefits have been eliminated or reduced.

"Employees very often are premising their entire financial planning for retirement on the basis of the promises that are made to them by their employers," Labor Secretary Robert B. Reich said last week.

"Promises are made or assumed to be made and employees rely on them and then suddenly discover that they are not there. Retirees can be left holding the bag, can be in severe difficulty," he said.

Retirees aged 65 and older can fall back on the federal Medicare program, but in most cases that covers only the individual. Retirees with younger spouses or children will have to find other coverage for them.

Reich said the problem is growing as the number of retirees rises. He said the department is considering seeking legislation next year, assuming President Clinton is reelected, that would at a minimum require "clearer disclosure so that workers know exactly what they are being promised."

At the other end of the option range, Reich said, might be legislation that would ensure that these promises "are treated like any other contracts.... If you have a reliance interest then they are enforceable."

He said the 1974 Employee Retirement Income Security Act sweeps these issues into the federal courts as pension issues rather than contract disputes that would be handled under state contract law. The federal courts have been "all over the place" on the issue, he said, making it very difficult for workers and retirees to determine whether their benefits are guaranteed.

In a number of cases, the company has seemed to guarantee the benefits in one place in their benefit plan documents, but has backed away from it somewhere else. In a case involving former salaried workers at General Motors Corp. whose benefits were cut, a federal appellate court has allowed legal claims to proceed. At Pabst, though, a federal district court ruled against retirees who lost coverage. Both cases are still in litigation.

Reich acknowledged that employers are not required to provide health insurance for workers or retirees, and any regulatory or legislative changes must strike a balance—protecting workers without discouraging companies from offering the benefits in the first place.

The Labor Department's Pension and Welfare Benefits Administration has issued a brief advisory bulletin that outlines steps you can take to assess your situation and to try to protect yourself.

The key step is to review your company's plan documents, which describe the benefits offered, spell out eligibility and give other details.

First, look at your Summary Plan Description. This gives the major features of the plan. It can be changed from year to year or contract to contract, so make sure you get a current one. The one in effect on the date you retire is the controlling document—get a copy and keep it.

There may be other documents as well, such as a collective bargaining agreement or an insurance contract. Look at them as well.

In the documents, look for language that looks like a clear promise to continue benefits or provide them for a certain period. But also look for language reserving the right to change or eliminate them.

This "reservation clause" typically will say something like: "The company reserves the right to modify, revoke, suspend, terminate or change the program, in whole or in part, at any time."

It's likely to be there. Companies want to avoid open-ended promises to workers and retirees.

When both a promise and a reservation are there, it's not clear what your rights will be. Some courts have refused to enforce what seemed to be a clear promise if there was a reservation clause; others have enforced a promise contained in the summary even though there was a reservation clause elsewhere in the plan documents.

Hang on to any other communications your company or supervisors give you. Courts sometimes take into account informal communications in deciding rights.

If you are taking early retirement, check out the documents concerning its terms. Special promises made in such deals can override other plan documents.

And don't be shy about protecting yourself. If you can negotiate a personal promise of health insurance for yourself and/or dependents in retirement, do it. If your company is anxious to see you go, it may well agree.

Talk to experts as well. If you're in a union, officials there can be helpful. Or you may want to run the material by a labor lawyer. There's a lot of money at stake.

Free copies of the Labor Department bulletin are available from the Pension and Welfare Benefits Administration's publication hotline at 202-219-9247. It's also on the World Wide Web, at http://www.dol.gov/dol/pwba/.

POW/MIA RESTORATION ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILMAN. Mr. Speaker, I rise today to introduce the POW/MIA Restoration Act. Last year, this body secured a victory for U.S. service personnel, their families, and the families of POW/MIA's by winning the passage of H.R. 945, the Missing Service Personnel Act.

H.R. 945 received unanimous support in the House as part of the Department of Defense Authorization Act of 1996.

Unable to prevent the passage of H.R. 945, the opponents of the legislation waited until last summer to attach a Senate amendment to the 1997 Defense Authorization Conference Report. That amendment essentially tore the heart out of the Missing Service Personnel Act.

In response, along with other supporters of our Nation's POW/MIA's, I introduced H.R. 4000, which would have restored the provisions which were stripped out by the Senate amendment. Unfortunately, while H.R. 4000 was passed unanimously by the House, it fell victim to the procedural rules of the Senate which were skillfully used by the bill's opponents to ensure that it was not taken up for consideration before Congress adjourned.

The POW/MIA Restoration Act would restore the provisions stricken from the Missing Service Personnel Act by the Senate amendment.

The first provision to be restored requires that military commanders report and initiate a search for any missing service personnel within 48 hours, rather than 10 days as proposed by the Senate amendment. While current regulations require local commanders to report any individual missing for more than 24 hours, such missing often fall through the cracks, especially during military operations.

The second provision covers missing civilian employees of the Defense Department. These civilians are in the field under orders to assist our military, and deserve the same protections afforded our men and women in uniform.

The third provision to be restored states that if a body were recovered and could not be identified by visual means, that a certification by a credible forensic authority must be made. There have been too many recent cases where misidentification of remains has caused undue trauma for families.

Finally, H.R. 4000 would restore the provision which would require criminal penalties for any Government official who knowingly and willfully withholds information related to the disappearance, whereabouts, and status of a missing person.

Prompt and proper notification of any new information is essential to the successful investigation of each POW/MIA case. This cannot be achieved if individual bureaucrats deliberately seek to derail the process.

The opponents of the Missing Service Personnel Act have to this day never offered any credible reasons for their opposition to the legislation. Rather than create more redtape I believe these provisions will help streamline the bureaucracy and improve the investigation process.

Moreover the Missing Service Personnel Act has not been public law long enough to be adequately evaluated. To repeal provisions of a law after 5 months does not make sense, especially when that law has not yet had a chance to be tested.

Accordingly, I urge my colleagues today to join me in supporting the POW/MIA Restoration Act.

MILTON BERGERON, A MAN OF HEART AND SOIL

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to Milton Bergeron, who successfully combined teaching and conservation practices, his two passions, to make an important impact on the conservation efforts in Arenac County.

Milton is retiring from the Arenac Soil Conservation District Board after serving for 13 terms or 39 years. Elected to the Arenac Soil Conservation District Board in 1958, Milton has held the position of chairman, vice chair, secretary, and treasurer. While serving on the board, he taught and shared his knowledge of conservation with farmers, students, and teachers.

Born in Sterling, MI, Milton began his career in Holly, MI. He moved to Clintonville where he taught at School House Lake before becoming the principal of Waterford. He enjoyed teaching and working with young people, but his real love was farming. He bought his first 40 acre parcel and never stopped teaching, by sharing with other farmers conservation practices, he utilized in his own farming operation.

He founded an education program for the Arenac Conservation Board to help young people understand the importance of preserving high quality water and soil. Meeting with several teachers in the area, they started programs such as the annual poster contest now in its 30th year, the annual Arbor Day celebrations and taking fifth graders on an annual tour since the early 1970's.

Milton's dual passion for education and conservation fueled him to work with local teachers and the Department of Agriculture to sponsor a soil judging contest for high school students. Also wanting to recognize the teachers who were promoting conservation efforts in their classrooms, Milton presented a teacher of the year award at the district's annual meeting. Although Milton will continue to farm part time and participate in 4–H, church and community service.

Milton could not have been such an integral part of educating and promoting conservation efforts without the support of his wife, Lela, who he married in 1940 and his son and daughter-in-law, Ron and Mary Bergeron and his daughter and son-in-law, Ronella and Ron Berlinski.

Mr. Speaker, as you can see, Milton is a leader in his field—educating people of all ages on the importance of conservation efforts. His generous contributions over the years should be applauded and I commend Milton Bergeron for his many accomplishments.

THE TWENTY-FIRST CENTURY PATENT SYSTEM IMPROVEMENT ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. COBLE. Mr. Speaker, today I am pleased to introduce an updated version of legislation originally drafted in the last Congress by two former members of the Judiciary Committee who have since retired, Carlos Moorhead and Pat Schroeder. Many of us were cosponsors in the 104th Congress, including our distinguished chairman, Mr. HYDE, and ranking member, Mr. CONYERS. Original cosponsors of this bill include Mr. GOODLATTE, a senior member of the Subcommittee on Courts and Intellectual Property, Mr. CONYERS, and Ms. LOFGREN, also a member of the subcommittee.

This legislation is necessary to allow American businesses to compete effectively in markets today and into the 21st century. The United States is by far the world's largest producer of intellectual property. This success is of course due to the great creativity of our citizens, but this success is also the direct result of a rational and sound policy of protecting intellectual property—a system that encourages the development of new inventions and processes. However, America does not have a monopoly on creativity. Many other nations have learned from our success—America no longer stands alone in its commitment to a strong system of patent protection for its inventors, small businesses and industries. Consequently, it is more important now than ever that we adopt certain reforms that will ensure that America maintains its position as the world leader in the production of intellectual property.

Under current law, foreign companies enjoy certain benefits in America that American companies do not enjoy in their countries, like the advantages of publication and prior user rights; the changes proposed today are especially useful for small businesses—many of which simply will not survive if foreign competitors continue to operate on a tilted playing field in America.

This legislation will benefit American inventors and innovators and society at large. First, by providing more efficient and effective operation of the Patent and Trademark Office; second, by furthering the constitutional incentive to disseminate information regarding new technologies more rapidly; third, by guaranteeing that patent applicants will not lose patent term due to delays that are not their fault; fourth, by improving the procedures for reviewing the work product of patent examiners; fifth, by protecting earlier domestic commercial users of patented technologies; and sixth, by deterring invention promoters from defrauding unsuspecting inventors.

As I mentioned, this legislation is the successor to a bill developed by the Judiciary Subcommittee on Courts and Intellectual Property in the last Congress and reported by unanimous vote by the Judiciary Committee late in the second session. The version of the bill that I am introducing today is nearly identical to last year's bill, and includes the contents of a manager's amendment that was developed with the Senate, the administration and the House Government Reform and Oversight Committee and which would have been offered if the bill had been scheduled for a vote in the House. This legislation was the subject of several days of hearings in the last Congress.

I would like to place in the RECORD a letter written by the Secretary of Commerce on September 12, 1996, that expressed the strong support of the Clinton administration for last year's bill, including the proposed manager's amendment.

THE SECRETARY OF COMMERCE,
Washington, DC, September 12, 1996.

HON. CARLOS J. MOORHEAD,
Chairman, Subcommittee on Courts and Intelligence Property, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding Title I of H.R. 3460. The Department of Commerce is pleased that we have been able to work together in a truly bipartisan effort to "reinvent" the Patent and Trademark Office. We appreciate your staff's and Ranking Member Schroeder's staff's work to address the Administration's concerns with Title I. The Administration believes that the changes that we have crafted together in the en banc floor manager's amendment will create an organization consistent with the essential principles of the Vice President's vision for a Performance Based Organization, to further our mutual goal of creating a more efficient and effective patent and trademark office. In light of these changes, the Administration strongly supports House passage of H.R. 3460 with the en banc manager's amendment.

It is our joint vision to have a more business-like patent and trademark organization that can better serve the public and the innovators whose ideas are the engine of growth for our economy. By granting the new organization operational flexibility in exchange for greater accountability for achieving measurable goals, delineated in an annual performance agreement between the Secretary of Commerce and the Commissioner, the bill makes that vision a reality.

It is also our joint view that the Executive Branch must, as you put it, "be able to establish an integrated policy on commercial and technology issues." By making clear that the bill does not alter the Secretary of Commerce's statutory responsibility for directing patent and trademark policy with respect to the duties of the Patent and Trademark Office, we have ensured the continuity of appropriate policy direction and oversight.

We also believe that other changes you have added to address Administration concerns, such as ensuring that there is independent Inspector General oversight and adequate personnel safeguards, will strengthen accountability mechanisms that we all endorse. The Administration is also pleased that the en banc manager's amendment addresses the central Constitutional and policy concerns of the Department of Justice with Title I.

We are committed to continuing to work together this year and in the future to perfect this bipartisan effort to invent anew the Patent and Trademark Office so that it will remain one of the Nation's most important resources for protecting and encouraging the preeminence of American innovation. We believe, for example, that there is still further work that we must do to address our concerns in the area of procurement, where we believe that the exemptions are broader than necessary to provide the flexibilities required.

H.R. 3460 contains five other titles that we believe will substantially improve the level of patent protection provided in the United States. These patent reforms are supported by the Administration and are of great importance to the Nation's economic competitiveness. We hope that they can be enacted in legislation this session.

Title II provides for the publication of patent applications eighteen months after the date on which they are filed or from the date on which the earliest referenced application was filed. This publication will help prevent economic disruption by those who now delay the grant of patents to extend their period of protection unfairly. It will also promote patent law harmonization that in the longer term will make it easier and cheaper for our small businesses and individual inventors to obtain protection abroad, as well as discouraging duplicative research. As a safeguard for those whose applications are published, it establishes a provisional patent right that allows a patent owner to obtain a reasonable royalty if, between the date of publication and the date of grant, another party infringes an invention substantially identically claimed in the published application and the patent. Also, it makes some administrative delays a basis for extension of the patent term, to ensure that diligent applicants are fully protected.

Title III creates a defense to an infringement action for parties that can establish prior use in commerce, including use in the design, testing, or production in the United States of a product or service before the date a patent application was filed in the United States or before the priority filing date. This ensures that inventors, who do not seek patent protection, will not be precluded unfairly from practicing their invention by other inventors who later obtain patent protection for the same invention.

Title IV is aimed at ensuring that inventors are fully informed prior to entering into a contract for invention development services. It also provides a cause of action if the service provider makes fraudulent claims or neglects to disclose material information to the inventor.

Title V amends the patent reexamination procedure to allow greater participation of their parties who request reexamination and expands the grounds for examination. Enhanced reexamination procedures will provide a less expensive and more timely alternative to costly patent litigation.

Lastly, Title VI contains several miscellaneous or "housekeeping" amendments, including one to ensure that our law provides priority consistent with our obligations to WTO countries and one to authorize submission of patent applications through electronic media. However, the Department of Justice opposes section 604 and the Administration urges that this provision be deleted. The recovery of attorneys' fees by individuals and small businesses from the Government in cases brought pursuant to 28 U.S.C. §1498(a) is already provided in the Equal Access to Justice Act (EAJA), 28 U.S.C. §2412(d). By contrast to EAJA, section 604 would provide for attorneys' fees even where the position taken by the Government is substantially justified by the law. This provision would, in fact, place the Government in a worse position than a private defendant in a patent infringement suit, against whom attorney fees can be awarded in "exceptional" cases. The provisions would discourage appropriate settlements and engender unnecessary litigation, by allowing private litigants to reject reasonable settlement offers safe in the knowledge that the Government will pay their attorneys' fees even if they are awarded damages less than the settlement offer. For these reasons, the Administration will continue to seek deletion of Section 604 before final Congressional action on this legislation.

Once again, we thank you for your commitment to working together in the spirit of bipartisan cooperation to craft legislation that provides for important patent reforms to help to ensure our nation's continued economic growth. The Administration strongly supports House passage of H.R. 3460 with the en banc manager's amendment.

Sincerely,

Michael KANTOR.

My bill is supported by an exceptionally large and diverse coalition of small and large companies, independent inventors and associations representing every type of U.S. industry and inventor that utilizes the patent system. The coalition includes companies that are responsible for large numbers of high wage manufacturing jobs in America, such as Microsoft Corp., Digital Equipment Corp., IBM Corp., Intel Corp., Caterpillar, Inc., Ford Motor Co., General Electric Co., Illinois Tool Works, and Procter & Gamble Co. The Biotechnology Industry Organization with over 560 members, has expressed its full support for this legislation. The White House Conference on Small Business supports this legislation. Independent inventors such as the inventor of the quartz technology used in watches support this legislation. I can proudly say that after many hearings and negotiating sessions, it now has the full and unqualified support of an overwhelming number of American industries that utilize our patent system.

Title I modernizes the U.S. Patent and Trademark Office by establishing it as a wholly owned government corporation—a government agency with operating and financial flexibility that will enable it to improve the services it offers to the public. The Office will remain under the policy direction of the Secretary of Commerce, but will not be subject to micromanagement by Commerce Department bureaucrats.

Because the Patent and Trademark Office is funded completely by user fees, and not by tax dollars, it is one of the few government entities recommended by the National Academy for Public Administration to operate under structure and oversight commanded in the Government Corporation Act, rather than the structure followed by taxpayer-funded agencies. The bill has a variety of provisions in title I that will free the Patent and Trademark Office from the bureaucratic redtape that impedes the Office's efforts to modernize and streamline its operations. For example, the bill provides that the Office shall not be subject to any administratively or statutorily imposed limitation on the number of positions or employees. This will exempt the Office from ceilings on the number of full-time equivalent employees, giving the Office flexibility to hire the number of employees it needs, based on its income from applications, to process the applications filed by and fully paid for by the users. The bill gives the Office greater flexibility with respect to management of its office space, procurement, and other matters. The users of the Patent and Trademark Office will be represented on a management advisory board that will advise the Director of the Patent and Trademark Office on the efficiency and effectiveness of the Office's operations. Making the Office accountable to its users through consultations with them is a significant step in improving its operations.

Title II improves the procedures for examining patent applications. It provides for the publication of most U.S.-origin applications 18 months after the date of application filing, unless a patent already has been granted by that time. It also requires publication of foreign-origin applications in the English language generally within 6 months after they are filed in the United States—a full 12 months earlier than under current law. Unlike the situation today, the owner of the patent application will have a provisional right to a royalty from other parties who use the invention after publication and before patent grant. Publication of new technologies eliminates duplication of effort and accelerates technology licensing. Early publication is accompanied by a guarantee that U.S. inventors, especially independent inventors and small businesses, can receive an indication of their likelihood of obtaining a patent before their application is published. They will then be able to make an informed decision regarding whether they should withdraw the application before publication. Title II also makes some other improvements including the rules for extending the term of a patent when delays occur that are not the fault of the applicant.

Title III creates a defense against infringement charges for parties who have independently developed and used technology in the United States before a patent application was filed on that technology by another party. This will protect the investments of innovative American manufacturers who have built plants using technology later patented by their foreign competitors.

Title IV protects inventors from the fraudulent practices of invention development firms by requiring disclosure of a firm's track record and allowing the inventor to withdraw from a contract with a developer within a reasonable time.

Title V makes improvements in the procedures for reexamining a patent in the Patent and Trademark Office after it has been granted by the Office. The refined reexamination procedures in the bill will give the public a fairer opportunity than is presently allowed to have the Office consider information missed by the examiner. The revised procedures will better balance the interests of the patentee and the public and offer an effective alternative to expensive litigation in court.

Title VI provides a number of other improvements in our patent laws. It ensures that U.S. law provides priority consistent with our obligations to WTO countries and authorizes submission of patent applications through electronic media.

I look forward to working with all interested parties as we prepare to move this important and necessary patent legislation through this Congress. The reforms contained in this bill are needed to make the patent system best serve the country now and into the next century.

INDIAN REGIME MUST FREE AMERICAN CITIZEN DHILLON

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. SOLOMON. Mr. Speaker, I rise today to ask when the Government of India will finally get around to letting American citizen Balbir Singh Dhillon come home to his family. He has been held since May on trumped-up charges.

Mr. Dhillon, a 43-year-old businessman and an American citizen, was arrested in May on charges that he was carrying RDX explosives with the intention of assassinating leaders of the Akali Dal, the Sikh, political party. The Human Rights Wing issued a report which proves these charges false. Yet the Indian regime continues to hold Mr. Dhillon anyway. On September 26, a bipartisan group of 36 Members of Congress also wrote to President Clinton urging his personal intervention to bring Mr. Dhillon back to the United States. The President wrote us back to assure us that Ambassador Frank Wisner has taken up his case with the regime. I am pleased that the administration is working on the case, but so far they have not gotten through to the Indian regime. Mr. Dhillon remains in the clutches of this brutal tyranny. While he is free on bail, he is not free to leave India.

Could the fact that Mr. Dhillon is a Sikh, a Khalistani American, be a factor in this case? The Indian regime has apparently decided to target Sikhs living outside of India or Khalistan. Dr. Gurmit Singh Aulakh, who is the president of the Council of Khalistan, was informed by the FBI that there is an assassination threat against him. His organization is leading the Sikh Nation's peaceful, democratic, nonviolent struggle to free Khalistan, the Sikh homeland. Khalistan declared its independence on October 7, 1987. Dr. Aulakh was also informed in a telephone call from Germany, where he will be visiting soon, that there is an assassination threat against him there also. Dr. Aulakh has been a valuable source of information for many of us in Congress. The civilized world will not accept this kind of outrageous effort to intimidate an articulate spokesman for his people's freedom.

In July, about 20 Indian Government agents severely beat Dr. Jagjit Singh Chohan, the leading Khalistani activist in Britain, when he requested emergency medical treatment for an acute heart condition. Dr. Chohan is a 68-year-old man whose right hand was amputated years ago. Clearly, the beating of Dr. Chohan and the continuing detention of Balbir Singh Dhillon are designed to send a message to any Sikhs who are thinking of getting involved in the struggle for freedom.

It is an outrage that this is allowed to happen to anyone, let alone an American citizen. It is time to take strong measures against the brutal, corrupt regime that is holding Mr. Dhillon. I would like to know why the American taxpayers are paying their hard-earned dollars to support a regime that can treat American citizens this way. What has happened to Mr. Dhillon and his family is a terrible thing. The fact that we are sending money to the regime that is responsible for it just makes it worse.

The time has come to take action. We should stop sending United States aid to India. India is a country which votes against us at the United Nations more often than all but a couple of countries. It was a close ally of the Soviet Union. It is leading the nuclear arms race in South Asia. Khalistan, on the other hand, has promised to sign a 100-year treaty of friendship with the United States. There is an old saying in politics: Join the side you're on. It is time for America to join the side we are on by taking these strong measures to secure freedom, dignity, and prosperity for all the peoples of South Asia.

THE 50TH ANNIVERSARY OF VETERANS OF FOREIGN WARS POST 8805

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. KLINK. Mr. Speaker, I rise today in order to commemorate the 50th anniversary of Veterans of Foreign Wars Post 8805 in Hopewell Township.

Named after Robert W. Young, the first Hopewell resident killed in duty during World War II. Young was killed when his ship, the USS Sims, was sunk by Japanese airplanes in the Battle of the Coral Sea on May 7, 1942.

VFW Post 8805 is currently home to over 600 veteran members and 280 ladies' auxiliary members. Many of these people are charter members of Post 8805. The first members were those returning from Europe and the Pacific and every other theater of World War II. From the beginning, VFW Post 8805 has been made up of citizen heroes, who left their homes and loved ones to undergo incredible hardships and sacrifices in defense of our freedoms. Fortunately, these people returned home to become some of the most outstanding members of the community. Contributing in peace as they had contributed in war.

A special salute to Ernest Parisi and Richard Paxton, two of the founding members of VFW Post 8805. Without their perseverance, the dream of Post 8805 would not have become a reality. They and all the members are a fine representation of the Fourth Congressional District.

Mr. Speaker, let us never forget the honor, courage, and valor displayed by all the members of the VFW. They have done a great service to our country. I ask you and all members to join me in a special salute to VFW Post 8805.

A TRIBUTE TO ALBERT TEGLIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LANTOS. Mr. Speaker, today I rise to recognize the outstanding achievements of Albert Teglia, a man who has dedicated his life not only to public office, but to public service. His dedication and devotion to duty has helped countless numbers of San Francisco Bay area residents with problems ranging from fixing the burdensome Tax Code to fixing a burnt-out street light. For the past 20 years, Al Teglia's humor, compassion, and dedication to duty has been a source of inspiration to all of us who serve the public.

Al Teglia served five terms in the Daly City Council and four terms as mayor. He has served on numerous boards and commissions including the Airport Land Use Committee, California School Board Association, League of California Cities, the Peninsula Joint Powers Board, and many others. He was instrumental in negotiating the BART [Bay Area Rapid Transit] Colma extension and spearheaded the Orthodontia Program for San Mateo County. His outstanding achievements have been recognized by awards from the San Mateo Hispanic Council, the Italian American Federation, San Mateo Easter Seals, and Daly City Jaycee to name just a few.

The son of Genoese immigrants, Al Teglia has lived on the San Mateo Peninsula all his life. He and his wife of 43 years, Verna, share a love and joy for the bay area community. Too often these days people complain about this problem or that situation without ever lifting a finger to try and help solve it. People like Al Teglia remind us that a community is only as strong as the people in it. Al has given back so much to the community which raised him, we should all look to him as an example. People can actually point to Al Teglia and say, "He helped make my life better." This is the penultimate compliment for a public servant.

I hold Al Teglia in the highest regard. There is no task too daunting and no issue too small. With an uncompromising dedication to duty and service, he has touched many lives in the San Francisco Bay area. His presence on the Daly City Council will be sorely missed, but I am pleased he will remain active in the community. His undying devotion and dogmatic determination to serve his community should serve as inspiration to all who aspire to public service.

TRIBUTE TO STAFF SERGEANT LEWIS F.M. SCOTT

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. SPENCE. Mr. Speaker, it is a pleasure for me to pay tribute today to a truly exceptional Marine, Staff Sergeant Lewis F.M. Scott, who will soon complete his assignment as the Marine Corps' congressional liaison staff noncommissioned officer. For the past 3½ years, Staff Sergeant Scott has provided a tremendous service to the Members of Congress and to all of our constituents. His dedication and professionalism, coupled with his warm personality, have endeared him to many of us on Capitol Hill, and we will miss him very much.

A native of Felton, DE, Lewis Scott enlisted in the Marine Corps on January 28, 1983, and attended recruit training in Parris Island, SC. After boot camp and specialty training in administration, he was assigned to the Marine Corps Air Ground Combat Center at 29 Palms, CA, as a clerk for the 3d Assault Amphibian Battalion. In April of 1985, he received orders to the 3d Reconnaissance Battalion in Okinawa, Japan where he served with distinction until his transfer to the Logistics Base in Barstow, CA 1 year later. From July 1988 until June 1991, he served with the 12th Marine Corps District Headquarters in San Francisco before being reassigned to Headquarters, Marine Corps here in Washington where he served for 2 years.

On May 30, 1996, Staff Sergeant Scott reported for duty with the Marine Corps' House Liaison Office and immediately assumed responsibilities for coordinating, executing and supervising numerous tasks normally assigned to commissioned officers. He often served as a spokesperson on Marine Corps issues and rapidly established a reputation for exactness, professionalism, and integrity among Members of Congress, congressional staff members, and his peers in the Liaison Office.

During his career on Capitol Hill, Staff Sergeant Scott responded to over 4,000 telephonic inquiries from over 900 Congressional offices throughout the country and ensured that our constituents received timely and complete answers. He was instrumental in planning, coordinating and escorting Members and congressional staff on fact finding trips. In short, Staff Sergeant Scott's performance is consistent with the quality performance we have come to expect from our U.S. Marines.

During Staff Sergeant Scott's 14-year career, he and his family made many sacrifies for this Nation. I would like to thank them all—Lewis, his lovely wife, Angelia, and their three children, Christopher, Lewis, and Shannon for their contributions to the Marine Corps.

Mr. Speaker, Staff Sergeant Scott is a great attribute to the U.S. Marine Corps and to the country he so faithfully serves. As he prepares to depart for new challenges on an unaccompanied tour in Okinawa, Japan, I know that my colleagues on both sides of the aisle will join me in wishing him every success, as well as fair winds and following seas.

AMERICA'S VETERANS HAVE EARNED EMPLOYMENT, TRAINING AND SMALL BUSINESS OPPORTUNITIES

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. FILNER. Mr. Speaker, it has been my privilege to serve on the House Committee on Veterans' Affairs since I was first elected to Congress 4 years ago, and I look forward to continuing that service in the 105th Congress. I asked to serve on the Veterans' Affairs Committee because I believe that the men and women who serve in our Nation's Armed Forces are special members of our American family. Because of their service, the rest of us are able to fully enjoy the freedoms on which our country was founded. We have a unique debt to our veterans, and, as a member of the Veteran's Committee, I have worked to ensure that that debt is repaid.

On January 7, 1997, the first day of the 105th Congress, I introduced three bills of particular importance to veterans and members of the Reserves and National Guard. We have a longstanding national commitment to provide special assistance for veterans who want employment and training assistance, and these bills will help us fulfill that commitment.

Last year, a Supreme Court ruling mistakenly eliminated a portion of the job protection we have provided for 50 years for people who serve in the Reserves and National Guard. Because of this ruling, citizen soldiers who are also employees of a State government are at risk of not being restored to their civilian jobs following their military service. H.R. 166, the Veterans' Job Protection Act, would restore reemployment protection for these individuals by making it clear that States must obey the law and reestablish these men and women in their State jobs when they return from their military duties.

The Veterans' Training and Employment Bill of Rights Act of 1997, H.R. 167, would provide that service-disabled veterans and veterans who serve in combat areas would be "first in line" for federally funded training-related services and programs. Under current law, veterans are often underserved by national programs such as the Job Training Partnership Act [JTPA]. Veterans' service organizations have told us, for example, that program managers sometimes turn veterans away from JTPA dislocated worker programs because they mistakenly assume that veterans receive the same services from the Department of Veterans Affairs. My bill would reinforce our commitment to provide special training assistance for veterans and make it clear that eligible veterans have earned a place at the front of the line.

Additionally, H.R. 167 would update the Federal Contractor Job Listing Program. Under current law, Federal contractors with contracts of $10,000 or more must make special efforts to employ certain qualified disabled veterans and veterans of the Vietnam era. These contractors are also required to file annual reports with the Department of Labor [DOL] regarding the number of veterans they have hired. H.R. 167 would increase the contract level to $100,000. This level would reduce the number of reports filed and enable DOL to more carefully review and evaluate the contractor information.

This bill would also establish the first effective appeals process for veterans who believe their rights have been violated under certain veterans' employment-related programs. My bill would require the Secretary of Labor to assist veterans who think Federal contractors have not met their obligation to hire veterans. The Secretary would also be required to help veterans who believe they were not given preference for enrollment in Federal training programs. A veteran could also file a complaint directly with a district court. H.R. 167 would provide the "teeth" that have been missing from some veterans' training programs and would go a long way toward ensuring that veterans' rights are respected.

Many veterans have told me they would like to own a small business, and our national economy would certainly be strengthened if more veterans were able to establish their own companies. Because of this, I introduced H.R. 168, the Veterans' Entrepreneurship Promotion Act of 1997. This bill is designed to assist the development of small businesses owned by disabled and other eligible veterans. Under this measure, a program would be established to help eligible veteran-owned small businesses compete for Federal Government contracts. Additionally, because adequate capital is absolutely necessary for business startup and expansion, H.R. 168 would establish a guaranteed loan program in the Small Business Administration for veteran-owned businesses. Also included in my bill is a provision to establish a program of training, counseling, and management assistance for veterans interested in establishing a small business. Veterans are smart, disciplined, and hard workers—the kind of people we need to strengthen and expand our economy—and those who want to pursue self-employment should be supported and encouraged.

These bills would significantly increase training and employment opportunities for those unique members of our American family—our Nation's veterans. These special men and women have more than earned the assistance that would be provided by these measures.

I want to take this opportunity to thank the representatives of the major veterans' service organizations whose assistance in the development of these bills was invaluable. I also want to say that, as the ranking Democratic member of the Subcommittee on Benefits, I look forward to working closely with the chairman of the subcommittee and the chairman of the full Veterans' Affairs Committee on these and other issues of importance to America's veterans.

UNIVERSAL TELECOMMUNICATIONS SERVICES MUST MEET THE NEEDS OF NATIVE AMERICANS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. RICHARDSON. Mr. Speaker, today, I introduced a House Resolution expressing the sense of the House of Representatives that universal telecommunications service can only be met if the needs of Native Americans are addressed and policies are implemented with the cooperation of tribal governments. It is important that we keep pressure on decision makers within the Federal Communications Commission [FCC] to address the needs of Native Americans.

As the FCC prepares to adopt a policy on universal service, the implementation process of the Telecommunications Act reaches a critical stage. I believe it is important to make it perfectly clear that the intent of Congress can only be fulfilled if the universal service policies or procedures established to implement the Act address the telecommunications needs of low-income Native Americans, including Alaskan Natives.

While I concur with many of the universal service recommendations made by the Joint Federal-State Board, there are many questions left unanswered.

A genuine universal service policy will only take hold if it can be implemented at reasonable costs. These cost-effective solutions are best developed with the cooperation of tribal governments.

When congress enacted the Telecommunications Act in February, great emphasis was placed on ensuring the delivery of telecommunications services, including advanced telecommunications and information services, to all regions of the Nation. This principle of universal service is designed to address the exceptional needs of rural, insular, and high-cost areas and make sure those services are available at reasonable and affordable rates.

This policy was established in the belief that telecommunications services have become essential to, education, public health, and public safety of all people within the United States.

Indian and Alaskan Native people live in some of the most geographically remote areas of the country, with 50 percent of Indian and Alaskan Native people living in Oklahoma, California, South Dakota, Arizona, New Mexico, Alaska, and Washington.

Indian poverty in reservation areas in 3.9 times the national average rate. The average phone penetration rates for rural Native Americans is only 50 percent. The actual penetration rates are often much lower than 50 percent—for example, the Navajo Nation estimates that 65 percent of its citizens do not have telephones. What phone service there is in Indian country is often sub-standard and prohibitively expensive.

There is a continuing need for universal service in Indian country and for tribal governments to be directly involved in providing these services.

Among the recommendations in the 1995 Office of Technology Assessment Report, "Telecommunications Technology and Native Americans" is a strengthened Federal/tribal government partnership in the telecommunications field to provide better services to persons in Indian country and to enable tribes to be direct providers of telecommunications services.

Now is the time to recognize the critical role that tribal governments can and must play in the implementation of universal service objectives.

The FCC has 4 months to implement the recommendations made by the Joint Federal-State Board. With the input of tribal leaders, I intend to introduce legislation that will codify the positive recommendations of the Board. This will encourage the FCC to implement a strategy of universal service that truly addresses the needs of tribes.

CAVEAT EMPTOR: LAW AGAINST SALE OF DUPLICATE INSURANCE POLICIES TO SENIORS WEAKENED

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, just a word of warning to seniors: The law protecting against the sale of worthless, duplicative insurance policies which do not pay out benefits was weakened last year in the Kassebaum-Kennedy bill.

The following memo from the Institute on Law and Rights of Older Adults makes the deception clear. Congress legislated that 2 + 2 = 3 in saying that policies which "coordinate" with Medicare and don't have to pay out benefits are not "duplicate" policies.

PROTECTIONS AGAINST SALE OF DUPLICATE POLICIES WEAKENED

The Health Insurance Portability and Accountability Act of 1996 contains a provision that further weakens protections against selling health insurance policies to Medicare beneficiaries which provide benefits that duplicate their existing coverage. The new law changes the disclosure statement given to Medicare beneficiaries which was developed to warn them against purchasing a health insurance policy that duplicates Medicare coverage. The current statement: "Important Notice to Persons on Medicare—This Insurance Duplicates Some Medicare Benefits," has been changed to: "Some health care services paid for by Medicare may also trigger the payment of benefits under this policy."

This change, along with Federal legislation passed in 1994 which allows insurance companies to offer policies containing benefits which duplicate private health benefits held by a Medicare beneficiary as long as the policy pays without regard to the other health benefits, may result in beneficiaries' being sold policies that duplicate Medicare and their private coverage and thus are of little value. Note that selling a new Medigap policy to someone who already has a Medigap policy is still against the law unless the person plans to drop the previously held Medigap policy. While the practice of insurance companies' selling policies (other than Medigap) to Medicare beneficiaries which pay benefits without regard to their other health coverage is allowed, the policies must include the following, "This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance."

The new law clarifies that a policy providing long-term care benefits (defined as nursing home and non-institutional coverage, nursing home only or home care only) which coordinates benefits with Medicare or other private health insurance policies (coordinates means that the long-term care policy pays secondary benefits or does not pay benefits for services covered under Medicare or other health insurance coverage) is not considered duplicate coverage. Additionally, long-term care policies must now include the statement, "Federal law requires us to inform you that in certain situations this insurance may pay for some benefits also covered by Medicare."

MANDATORY MINIMUM SENTENCES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILMAN. Mr. Speaker, I rise today in strong support of this legislation which imposes tougher mandatory minimum sentences for those individuals who possess firearms while committing a violent or drug-related crime.

Under current law, an individual who uses or carries a firearm while committing a violent or drug-related crime automatically receives a mandatory 5-year sentence in addition to the sentence for the crime in question. However, a recent Supreme Court decision stated that the criminal must actively employ the weapon in order to trigger the mandatory sentence. This decision has hampered an effective tool for law enforcement.

This legislation will allow Federal prosecutors to apply the mandatory sentence even if the criminal does not fire or brandish the weapon. In addition, the mandatory sentence is now increased from 5 to 10 years. If the gun is fired, the sentence is 20 years, and the death penalty will apply if someone is killed. These mandatory sentences are imposed in addition to any for the actual crime.

Mr. Speaker, I believe this bill will serve to help our law enforcement agencies, and I strongly urge my colleagues to join me in supporting this legislation.

A TRIBUTE TO DEPUTY JAMES W. LEHMAN, JR. AND DEPUTY MICHAEL P. HAUGEN

HON. JERRY LEWIS

OF CALIFORNIA

HON. SONNY BONO

OF CALIFORNIA

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LEWIS of California. Mr. Speaker, we would like to bring to your attention the memory of two Riverside County sheriff's deputies who became victims of a senseless and tragic act of violence on January 5, 1997. Early Sunday morning, Deputy James W. Lehmann, Jr. and Deputy Michael P. Haugen, two of our finest law enforcement officials, gave their lives in the line of duty.

The deputies, these husbands, these fathers went out everyday to make a difference and they did—some days in small ways, some days in big ways, and, on this date, at the cost of their lives. One cannot ask more of peace officers. Deputies Lehmann and Haugen deserve our deepest respect and gratitude.

Mr. Speaker, I ask that you and our colleagues join us today in remembering these fine men. Our prayers and most heartfelt sympathy are extended to their families and loved ones. To Deputy Lehmann's wife, Valerie, son, Christopher and daughter, Ashley; and Deputy Haugen's wife, Elizabeth, son, Stephen, and daughter, Catherine—we honor the memory of your loved ones and wish them God's peace.

INTRODUCTION OF THE DEPOSITORY INSTITUTION AFFILIATION AND THRIFT CHARTER CONVERSION ACT (H.R. 268)

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. VENTO. Mr. Speaker, I am pleased to join Chairwoman ROUKEMA in sponsoring the reintroduction of the Depository Institution Affiliation and Thrift Charter Conversion Act. This bill is a marker of our intent to move forward this year in a bipartisan manner on legislation that we are hopeful will translate into meaningful financial services modernization. It is a product of compromise between the most significant groups in the financial services industry who refer to themselves as the "Alliance".

Many members of the Banking Committee and other committees in the House have labored the past Congress to advance the cause of modernization. It has been a difficult road and efforts in the last Congress did not resolve the issue.

Our current U.S. financial laws and policy are lagging actual marketplace conditions, a circumstance that has been apparent for at least the past 6 years. The U.S. mixed economy can best be served by a modernized legal framework, serving the dynamic U.S. financial system shaped by the marketplace and facilitated by congressional debate and law, rather than by incremental uncertain regulatory change. We advance this proposed measure as a continuation of, and building upon successful efforts to modernize that began with the passage of interstate banking in 1994.

While each provision of this bill may not be supported by every organization of the Alliance, nor members within the organizations, this comprehensive effort certainly demonstrates that groups can come to the table and work constructively together for modernization. I'm hopeful that we can build upon this strong base a still broader coalition and act to modernize our laws in this complex financial marketplace.

In the last Congress, Chairman ROUKEMA and I worked together on charter conversion as part of the BIF–SAIF bill (H.R. 2363) that finally evolved into the House position last year and became the basis for provisions enacted into law. Importantly, the comprehensive Depository Institution Affiliation and Thrift Charter Conversion Act we now introduce includes thrift charter conversion and the many attendant issues of thrift conversion. This bill is a comprehensive approach that establishes a policy of functional regulation involving all the regulators, Glass Steagall reform, and the affiliations issues. I am confident we will continue to work together to make improvements in the legislation so that it will not only modernize financial systems, but will also protect the safety and soundness of the deposit insurance funds and better serve and preserve our economic role in the world.

Changes have been made to the bill since it was introduced last fall. Several amendments were suggested by the American Council of Life Insurance. Others were incorporated at the suggestion of the thrift industry which continues to prefer an even broader approach to affiliations. As we move forward with the necessary subcommittee hearings and proceed to a markup, we will continue to modify the legislation. Even as we have introduced this legislation this week, I have reservations about several aspects of the bill including the regulatory framework for financial services holding companies. This more SEC-like structure will certainly require further scrutiny as we evaluate its appropriateness and its fit with the structure of insured depository institutions.

As this broad legislation moves forward, I am able to envision a number of improvements as questions are resolved. We will be looking to ensure that any measure we bring to the full House will provide assurance that tough firewalls are intact and that the measure will not expose the taxpayers to new costs from activities with more risk potential. Congress must also ensure that a proper focus is kept clear for service and responsibilities to local communities and consumers. As the U.S. strives to be more competitive internationally, financial institutions must remain active and viable in our localities even as the law provides and prepares U.S. financial institutions for competition in the global marketplace.

This bill's overall approach reflects a compromise between a substantial portion of the players active in providing financial services—key banking, thrift, and securities participants with input from some in the insurance industry. This bill represents positions that they, too, have tried to bring into harmony for the purpose of shaping a policy for the future. It is a sound framework, a base, not necessarily the final product or policy. By placing this bill on the agenda, it is my hope to advance this debate and dynamic to a successful change in policy in the near future which will serve American enterprises and consumers in our mixed economy today and tomorrow.

TRIBUTE TO THE GREENPOINT GAZETTE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mrs. MALONEY of New York. Mr. Speaker, today I rise in tribute to the Greenpoint Gazette, a local newspaper which celebrates its 25th anniversary on Saturday, January 11, 1997. This newspaper has made a major contribution to the Williamsburg-Greenpoint community of Brooklyn, NY, and deserves honor for its many years of dedicated service.

The Greenpoint Gazette started publication in 1971. At that time, local residents had experienced frustration with the existing newspaper for its uneven reporting on local candidates. A few of these residents, Ralph Carrano and Adelle Haines, among them, launched the Greenpoint Gazette. It began out of Adelle Haines' house. Revenue for the paper came from advertisements, paid notices, and the newsstand price of 10 cents a copy.

The Greenpoint Gazette has always been responsive to and involved in the community it serves. Residents of Greenpoint use the paper to celebrate birthdays, births, and anniversaries; to announce weddings, engagements, graduations, job promotions, and deaths; and to voice opinions about issues of the day. Each year, the Gazette sponsors the Miss Polonia event, a beauty contest to select the young woman who will be chosen to represent the community in Manhattan's Pulaski Day Parade. The Gazette regularly publishes press releases submitted by elected officials to keep voters informed of Federal, State, and local issues. Finally, in keeping with its 25-year tradition as the voice of all of Greenpoint, the paper welcomes submissions with opinions that differ from those of the editors.

Mr. Speaker, I am proud to pay tribute to the Greenpoint Gazette, a paper which takes pride in its service to the Williamsburg-Greenpoint community. I ask that my colleagues join with me in honoring the Gazette for 25 years of dedicated and reliable service.

INTRODUCTION OF A CONSTITUTIONAL AMENDMENT TO ABOLISH THE ELECTORAL COLLEGE

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LAHOOD. Mr. Speaker, Today, I am proud to introduce, along with Congressman WISE from West Virginia, a constitutional amendment that seeks to end the arcane and obsolete institution known as the electoral college.

It is no accident that this bill is being introduced today, the day that the electoral ballots are opened and counted in the presence of the House and Senate. I hope that the timing of this bill's introduction will only underscore the fact that the time has come to put an end to this archaic practice that we must endure every 4 years.

Only the President and the Vice President of the United States are currently elected indirectly by the electoral college—and not by the voting citizens of this country. All other elected officials, from the local officeholder up to U.S. Senator, are elected directly by the people.

Our bill will replace the complicated electoral college system with the simple method of using the popular vote to decide the winner of a Presidential election. By switching to a direct voting system, we can avoid the result of electing a President who failed to win the popular vote. This outcome has, in fact, occurred three times in our history and resulted in the elections of John Quincy Adams, 1824, Rutherford B. Hayes, 1876, and Benjamin Harrison, 1888.

In addition to the problem of electing a President who failed to receive the popular vote, the electoral college system also allows for the peculiar possibility of having Congress decide the outcome should a Presidential ticket fail to receive a majority of the electoral college votes. Should this happen, the 12th amendment requires the House of Representatives to elect a President and the Senate to elect a Vice President. Such an occurrence would clearly not be in the best interest of the people, for they would be denied the ability to directly elect those who serve in our highest offices.

This bill will put to rest the electoral college and its potential for creating contrary and singular election results. And, it is introduced not without historical precedent. In 1969, the House of Representatives overwhelmingly passed a bill calling for the abolition of the electoral college and putting a system of direct election in its place. Despite passing the House by a vote of 338 to 70, the bill got bogged down in the Senate where a filibuster blocked its progress.

So, it is in the spirit of this previous action that we introduce legislation to end the electoral college. I am hopeful that our fellow members on both sides of the aisle will stand with us by cosponsoring this important piece of legislation.

THE FREEDOM OF CHOICE FOR WOMEN IN THE UNIFORMED SERVICES ACT

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Ms. HARMAN. Mr. Speaker, among the more extreme laws put in place by the last Congress is the policy banning privately funded abortions performed at overseas military hospitals. This policy means that women serving overseas in our Nation's Armed Forces cannot exercise the same constitutional rights afforded women living in the continental United States. These servicewomen and their dependents could be forced to seek illegal and unsafe procedures or could be forced to delay the procedure until they can return to the United States.

This is an issue of fundamental fairness. Servicewomen and military dependents stationed abroad do not expect special treatment, only the right to receive the same constitutionally protected medical services that women in the United States receive.

That's why today, as the senior Democratic woman on the House National Security Committee, I am introducing the "Freedom of Choice for Women in the Uniformed Services Act." This bill simply repeals the statutory prohibition on abortions in overseas military hospitals and restores the law to what it was during most of the Reagan administration. If enacted, women would be permitted to use their own funds to obtain abortion services. No Federal funds would be used and health care professionals who are opposed to performing abortions as a matter of conscience or moral principle would not be required to do so.

I would like to thank my colleagues CONNIE MORELLA, ROSA DELAURO, SUE KELLY, RON DELLUMS, JOHN BALDACCI, EVA CLAYTON, JOHN CONYERS, SAM FARR, BARNEY FRANK, MARTIN FROST, LYNN RIVERS, LUCILLE ROYBAL-ALLARD, and LOUISE SLAUGHTER for joining me as original cosponsors.

I urge the House to take up and pass this important legislation restoring the right of freedom of choice to women serving overseas in our Nation's Armed Forces.

THE PURSUIT OF PROFIT: NONPROFIT HOSPITALS BECOME THE BIG PUBLIC GIVEAWAY OF THE NINETIES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, today along with Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. WAXMAN, Mr. FILNER, Mr. KENNEDY of Rhode Island, and Mr. BROWN of Ohio, I am pleased to introduce the Medicare Non-profit Hospital Protection Act of 1997 in response to the fast-growing number of hospital conversions. Conversion refers to the process by which a nonprofit entity opts to change its nonprofit status and forgo its tax exemption. In a conversion, investor-owned, for-profit companies buy community, nonprofit hospitals in deals that usually are secret, with costs and details not disclosed. Proceeds of the sales are suppose to establish charitable foundations.

HEALTH CARE IS A SERVICE, IT IS NOT A COMMODITY TO BE BOUGHT AND SOLD

Some how we've reached the point where our society thinks of the medical system not in terms of keeping patients well or helping them get better but instead as a fiercely competitive business in which survivors concentrate on making tremendous amounts of money.

The late Cardinal Bernadin, Archbishop of Chicago, had it right in his speech to The Harvard Business School Club of Chicago, He said:

> Health care . . . is special. It is fundamentally different from most other goods because it is essential to human dignity and the character of our communities. It is . . . one of those goods which by their nature are not and cannot be mere commodities. Given this special status, the primary end or essential purpose of medical care delivery should be a cured patient, a comforted patient, and a healthier community, not to earn a profit or a return on capital for shareholders.

The goal isn't health care anymore—the goal has become the care of the stockholder interest.

THE PROBLEM

Historically, the nonprofit hospital has, in general, assured that necessary services are available, that all populations are cared for, and that there is always a place to go for care. The goal of a for-profit hospital is just that—profit. The for-profits allegiance is to their shareholder, not the community—and certainly not the uninsured or poor. The for-profit hospital chains have the minds of piranha fish and the hearts of Doberman pinschers.

Whereas for-profit hospitals are accountable to their shareholders, nonprofit hospitals have another kind of accountability—to patients, to providers of care, to payers and to the communities in which they operate. Instead of producing a return on investments to shareholders, nonprofit hospitals have the inherent motivation and deep obligation to produce a different kind of return—that of quality care to their patients and overall good for the community.

The need to show a profit focuses the for-profit hospital on cost structure rather than on the structure of care. Their decisionmaking cannot help but he skewed toward shareholders rather than patients. Whereas nonprofit hospitals manage care because doing so improves health outcomes, for-profit hospitals manage the cost of care because it is the cheapest, most profitable thing to do. Their primary legal and fiduciary duty—to return a profit to the shareholders—puts patients and public welfare in second place.

In 1993, there were 18 conversions of nonprofit hospitals and health care plans. In 1995, there were 347. In the past 18 months, for example, Columbia HCA, the largest of the for-profit hospital chains, has completed, has pending, or is in the process of negotiating more that 100 acquisitions or joint ventures with nonprofit hospitals.

I have many concerns about the sale of nonprofit hospitals to for-profit corporations: too often the terms of the sale are secret; there are often conflicts of interest among the parties; the mission of the nonprofit foundation that results from the conversion may not be consistent with the original mission of the hospital—the funds in the resulting foundation are sometimes used for things like sports training facilities, flying lessons, or foreign language programs in schools; and the valuation price is often much less than it should be. Perhaps most important, quality and access to health care in the community is often significantly diminished.

COLUMBIA HCA—THE PAC-MAN OF THE INDUSTRY

Columbia HCA, the largest of the for-profit hospital chains, is characterized as the PAC-MAN of the industry—gobbling up nonprofit hospitals as it expands its market share in communities across the United States. Nationwide, Columbia HCA is riding high from dozens of acquisitions of hospitals that have made it not only the biggest—with 355 hospitals—but also one of the wealthiest for-profit chains with $18 billion in annual revenue.

The political muscle of Columbia is legendary. When it enters a community in pursuit of an acquisition, Columbia lines up blue-chip legal talent, identifies allies among local civic, political, and medical leaders, and spreads around lots of money. In 1995, for example, Columbia had 33 lobbyists in Tallahassee, FL. It also leads the list of corporate campaign contributors in Florida.

The questionable practices of Columbia HCA are numerous, but one issue is particularly important. In Florida, health care officials cited the possibility that Columbia hospitals engage in cream-skimming. They allege that doctors, who own stakes in Columbia facilities, send the most profitable patients there—and steer less-profitable patients to the public and charity hospitals. The practice of physician self-referral in many instances is illegal, and I have asked the Health Care Financing Administration to investigate Columbia's investment structure and referral patterns.

Columbia HCA and its doctor affiliates are in the business of building medical trusts and destroying public and nonprofit hospitals who take the tougher, less profitable cases. Columbia and similar for-profit entities are not in the business of health care. They're in the business of mergers and acquisitions. It wouldn't matter if their product was can openers or chairs. They run the business like a Walmart is run—I firmly believe that hospitals shouldn't be run that way.

LEGISLATION

For the past three Congresses, I have worked on legislation to ensure that the advantages of tax exempt status ultimately benefit the community and not private individuals. My bills have imposed excise taxes—based on the foundation rules—as intermediate sanctions on 501(c)(3) and 501(c)(4) organizations engaging in transactions with insiders resulting in private inurement. Bills have also made private inurement a statutory prohibition for 501(c)(4) organizations, the social welfare organizations which include many health nonprofits.

The bill I am introducing today protects the public interest in conversions and is modeled after Nebraska and California laws. It makes sure that conversions are carried out in the sunshine of public information and debate and that the conversion price is fair, without sweetheart deals or private party gain. The legislation would deny Medicare payment to any hospital that did not demonstrate the fairness of the conversion process to the Secretary of Health and Human Services.

LORING JOB CORPS CENTER OPENS ITS DOORS

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. BALDACCI. Mr. Speaker, on January 2, State of Maine Governor Angus King proclaimed the week of January 5, 1997, as "Job Corps Week" in recognition of the outstanding education and training opportunities provided by the Penobscot Job Corps Center in Bangor, ME, and in anticipation of the opening of the Loring Job Corps Center of Innovation in Limestone, ME. The State of Maine has had a very positive experience with the Job Corps Program, and I am very proud of the fine work this program does with at-risk students from my State and throughout New England.

I am pleased to announce that the first group of students to utilize the new Loring Job Corps Center will be arriving this week. Some of these students have been waiting since July to begin their work at this new facility, which has been designated by the Department of Labor as a "center of innovation." This is significant, in that it will offer students from disadvantaged backgrounds advanced programs that have not been available through the traditional Job Corps Program.

The Loring Center will provide vocational training a grade above that which is normally provided. It will also have the benefit of being able to work in conjunction with its sister facility, the Penobscot Job Corps Center. Both the Penobscot and Loring Job Corps Centers, designated as alternative schools, are part of the State of Maine's School to Work transition plan.

As a tool for economic development, the Loring Center will provide a highly skilled workforce for Maine and New England. It will also play a crucial role in the area's educational and economic development strategies in conjunction with the University of Maine at Presque Isle, the Northern Maine Development Corporation, the Northern Maine Technical College, the Maine School for Science and Mathematics, the Aroostook County Action Program and the Caribou Adult Education Program. Working together, these entities will position the region as a center for educational innovation and excellence.

I'm pleased that students will now have the opportunity to get the technologically relevant skills they will need to move forward in today's job market. I am also proud to have the Loring Center as a pilot for new educational concepts and technologies that may later be used in Job Corps facilities throughout the country. Congratulations to Don Ettinger, the Loring Center's director, his staff, and TDC for their fine work with the students.

TRIBUTE TO THE SUFFOLK ALLIANCE OF SPORTSMEN INC. AND ITS FOUNDER, WILLIAM W. SHABER

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to the Suffolk Alliance of Sportsmen, Inc. [SASI] and its founder William W. Shaber. Thanks, in large part, to Mr. Shaber's leadership, SASI has emerged as the leading voice among sportsmen in Suffolk County. Mr. Shaber's vision of achieving a balance between game life and sportsmen has made him a pioneer in his field.

SASI was founded in 1978 on 7 basic principles: (1) to preserve and improve the rights of hunters, sport-shooters, salt and fresh water fishermen, and trappers; (2) to promote and encourage laws for the protection of fish, game life and forests in the State of New York; (3) to encourage and promote the propagation of fish and game in Suffolk County and elsewhere; (4) to encourage the passing of legislation to protect sportsmen and game life; (5) to promote and encourage better understanding among the members and general public as to the proper use of hunting and fishing equipment and the proper use of boats and other related equipment as well as proper use of our natural resources and good conservation practices; (6) to promote, encourage and educate its members and the general public in the principles of safety in the use of arms; and (7) to promote, encourage and provide social and friendly intercourse among its members.

From 1978 to 1993, Mr. Shaber served as President of SASI for all but 2 years. In addition to serving as president, Mr. Shaber was a prominent writer of sportsmen interests. He was a correspondent for the New York Sportsman magazine, a long-time member of the Rod and Gun Editors Association of Metropolitan New York, and a past president of the Outdoor Writers Association. I commend SASI and Mr. Shaber on taking the lead in promoting sportsmen interests while also preserving fragile wildlife.

LEGISLATION AMENDING POSTAL SERVICE POLICY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. YOUNG of Alaska. Mr. Speaker, today I rise to introduce legislation that will ameliorate problems stemming from the U.S. Postal Service policy that prohibits the users of commercial mail receiving agents [CMRA's] from submitting a standard change of address form to expedite routine mail delivery service.

In nearly all cases when an individual changes residency, the U.S. Postal Service facilitates prompt and accurate mail delivery by encouraging the postal customer to file a mail forwarding change of address form. Atypically, when a CMRA customer relocates, that individual is responsible for informing all potential mailers of any change of address. This policy creates delays and may exacerbate mail fraud as testimony has shown that the first line of defense against fraud is accurate information regarding postal addresses.

Current policy is contradictory to the Postal Service's charge to ensure prompt, accurate mail delivery service. This important legislation will benefit all parties in this particular mail delivery chain: the U.S. Postal Service, the CMRA's, and most important, the postal customer.

THE NEED FOR FDA MODERNIZATION

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. BARTON of Texas. Mr. Speaker, in this last election cycle, many of us campaigned on the need for the Federal Government to use a common sense approach in dealing with private industry. The regulatory yoke placed upon the medical device industry in the United States by the Food and Drug Administration is a prime example of how a bureaucratic agency can destroy small business, as well as the entrepreneurial spirit.

My goal, which I believe is shared with many of my colleagues on both sides of the aisle, is to modernize the Food and Drug Administration. This is to be distinguished from terminating or eliminating the FDA, which I have also been accused of, and I want to make it clear that I believe there is a legitimate need for the FDA. However, it is imperative that this Congress lead the charge to bring the FDA into the 21st century. The current FDA approval process is slow and unpredictable, while at the same time costing the United States jobs, technology, and most importantly—lives.

We held numerous hearings in the 104th Congress in my subcommittee and others detailing the need to change the manner in which our domestic device industry is regulated. In the 104th Congress I introduced H.R. 3201 to reform the medical device industry. With the help of many of my Democrat colleagues, especially BILL RICHARDSON and ANNA ESHOO, we were able to get 162 cosponsors on H.R. 3201, both Republican and Democrat. This strongly indicates that there is support for FDA reform. I intend to continue refining H.R. 3201 in hopes of obtaining more support. Under the leadership of JIM GREENWOOD, and with the great deal of help from RICHARD BURR and SCOTT KLUG, our FDA reform team was able to make amazing strides and I fully intend to maintain this momentum.

I will be introducing the Medical Device Modernization Act of 1997 shortly, which will insure the safety and effectiveness of medical devices, assure a predictable approval process for our companies and insure that U.S. patients are receiving the best available medical technology in the world. I will be asking for your cosponsorship and support of this bill.

Again it is imperative that we pass reform for the medical device industry. Small business is the nerve center of this county's current economic growth. Sixty-five percent of the companies in the medical device industry have less than 20 employees and 98 percent of medical device firms have less than 500 employees. These are the companies involved in high technology which is fueling economic expansion, these are the companies hiring your constituents, these are the companies doing the research and development that can lead to saving your constituent's lives. These small companies have been more vocal on FDA modernization in the last 2 years and I applaud them in their efforts.

We spent a great deal of time laying the groundwork for reform in the 104th Congress for FDA reform by educating Members, conducting oversight hearings, and working with various segments of the industry. It is now time for the 105th Congress to implement the solution. I look forward to working with House Commerce Committee Chairman BLILEY, subcommittee Chairman BILIRAKIS, Congressman DINGELL, and Senate Majority Leader LOTT in arriving at an acceptable solution to all.

THE ENTERPRISE CAPITAL FORMATION ACT OF 1997

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. MATSUI. Mr. Speaker, I am pleased to join my House colleagues and fellow members of the Ways and Means Committee, Congressman PHIL ENGLISH, and Congressman JIM MCCRERY in a bipartisan effort to promote economic growth and job creation through targeted capital gains incentives. This legislation is designed to be complimentary to a broad-based capital gains proposal similar to that passed by the House in the 104th Congress.

I have worked for many years to enact legislation which provides critical incentives for high-risk, high-growth firms. In 1993, I was able to work with Senator BUMPERS to enact the Enterprise Capital Formation Act of 1993. This new, bipartisan proposal is built upon that 1993 legislation and will greatly improve its effectiveness by:

Shortening the holding period for qualified stock from 5 years to 3 years.

Increasing the size of companies whose stock is eligible for the exclusion from $50 million to $100 million.

Revising certain limitations to make the provision more attractive to investors.

Biotech and high-technology companies are particularly dependent upon direct equity investments to fund research and to grow. A targeted capital gains incentive is crucial for encouraging investors, including venture capital investors, to purchase the stock of these companies, thus putting their capital at risk with a long-term speculative investment. These small venture-backed companies provide high-skilled jobs, grow very quickly to create more jobs and are aggressive exporters. Venture capital-backed firms have a much higher rate of growth than Fortune 500 firms. From 1990 to 1994, venture firms grew at an annual rate of 20 percent while Fortune 500 firms are powerful engines for job creation. In their first year, these firms typically have 18 employees, by their sixth year they have over 200. Finally, these firms perform 2 times the amount of research and development compared to nonventure-backed firms.

Now more than ever, small companies need better access to investment capital in order to grow into productive enterprises. The risks associated with small firms has often been too great for venture capitalist. By giving a capital gains cut for investment in small, startup firms, the higher risks are offset by additional financial benefit to the investor.

A POINT OF LIGHT FOR ALL AMERICANS: THE BROOKLYN CHINESE-AMERICAN ASSOCIATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. OWENS. Mr. Speaker, I rise to honor the Brooklyn Chinese-American Association [BCA] during their Ninth Anniversary Celebration. The members of this organization have tirelessly dedicated themselves to addressing the growing needs of the Asian immigrant population in Brooklyn and to providing residents of this community accessible bilingual and multicultural services. BCA is a great Point-of-Light whose contributions to the community must not go unappreciated or unnoticed.

On January 19, 1988, BCA was formally established in response to the expanding Asian-American community in the Sunset Park, Borough Park, Bay Ridge, Bensonhurst, and Sheepshead Bay neighborhoods in Brooklyn. At its inception, the association received no funding and nearly single-handedly, Mr. Paul P. Mak, the president and CEO of BCA, worked on a voluntary basis to initiate and provide a bilingual social service program for the Asian immigrant community.

With 9 years of hard work, intense exploration and struggle, BCA has grown from a one-person service project to the borough's most comprehensive bilingual, multi-human service and community development organization. Currently, BCA delivers services at various centers in Brooklyn such as the Main Community Services Center; Senior, Youth and Cultural Center; Employment Training Center; Day Care Center; Avenue U District Community and Senior Center; and at numerous school sites. In the past few years, because of the lack of Government funding and personnel, BCA has undergone several crises and struggles to keep the organization afloat. It is the dedication, enthusiasm and painstaking efforts of BCA's staff, its board members and the community that have sustained BCA and enabled it to develop rapidly.

Today, BCA serves over 500 clients a day. BCA's many human services and programs include social services; senior services; day care and youth services; adult education programs; adult and senior employment programs; services for the mentally retarded and developmentally disabled [MR/DD]; and community economic development programs.

The past year has marked another turning point in BCA's expansion. BCA's work force has remained the same but the association has expanded, reaching a much wider community than ever before. In May 1996, BCA opened a new District Community and Senior Center delivering bilingual multi-human services to the increasing Asian immigrant population in the Sheepshead Bay neighborhood, an area that is becoming the second largest Asian community of Brooklyn. BCA has also been actively involved in registering voters and in educating the community on voting policies and procedures.

1996 is also the year in which BCA initiated the Community Revitalization Project that serves as a master development scheme for the community. This summer, 10 traffic lights were installed as a result of BCA's constant lobbying efforts. In addition, BCA is working with the New York City Police Department to prepare and distribute educational materials on crime prevention, the CAT Auto Program and business residential security surveys. These are major steps toward making a better and much safer community in which to live.

One of BCA's accomplishments this year is the educational Neighborhood Clean-Up Project. More than 150 youth participated in cleaning up the 8th Avenue neighborhood and providing informative materials to community residents and merchants. Recently, BCA also assisted in upgrading a garment factory in the neighborhood and has long supported promoting the economic progress and stability of the garment industry in Brooklyn. Moreover, a Tree Planting project was implemented to further beautify Brooklyn. Two hundred trees are scheduled to be planted along 8th Avenue in the spring of 1997. In a further attempt to improve the living environment, a Graffiti Removal Campaign will also be initiated in the spring 1997 with the community Boy Scouts. Two town hall meetings were sponsored in November, one at Sunset Park, Borough Park, and the Bay Ridge Chinatown area and the other at the Sheepshead Bay and Bensonhurst neighborhood, to provide an opportunity for the communities to voice their concerns.

In recognition of its many contributions to the Brooklyn community, the Brooklyn Chinese-American Association received the 1996 Welcome Back to Brooklyn Award for Outstanding Civic Leadership and Economic Development in Brooklyn. This honor was presented to both BCA and the 1996 Nobel Prize winning scientist. In the past, this age old annual award has always been presented to distinguished individuals and celebrities; however this is the first time in history that an Asian organization received the prestigious honor. Furthermore, the Brooklyn Historical Society also honored BCA this year with the Brooklyn History Maker Award.

As we approach the 21st century, this Nation is becoming more ethnically and racially diverse. Any endeavor that maximizes the participation of immigrants into society is worthy of commendation. The Brooklyn Chinese-American Association's efforts to address the needs of the Asian population of Brooklyn deem it a great Point-of-Light not only for the people of Brooklyn, NY, but for all of America.

TRIBUTE TO THE CORAL GABLES SENIOR HIGH SCHOOL RUEDA KIDS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to express my congratulations to the Coral Gables Senior High School Rueda Kids for their fantastic dancing abilities and their desire to keep our Hispanic heritage alive through their performances in Cuban salsa music—Rueda Casino. Their exceptional talent and dedication to this art has brought much happiness to all those who have been privileged enough to witness their dances.

The Gables Rueda Kids started only last year as an informal group and has since then received two awards from the U.S. Postal Service and won first prize and a special award at the Dade County Youth Fair in March. Among the group's future plan is to compete in a State competition to be held next spring and the member's participation in the Calle Ocho festival held yearly in Miami honoring their Cuban heritage.

The dancers are 13 students, 10 of whom were born in Cuba, 2 of Cuban parents and 1 that is originally from Honduras. Michael Alonso, Kathleen Andino, Yurlaimes Caballero, Anyer Cruz, Niviys Diaz, David Espinosa, Yulaidy Lopez, Eddy Gamayo, Evelyn Gonzalez, David Hernandez, Jesus Moreno, Carlos Osle and Alicia Reyes-Quesada, who is also their teacher, compose the group. All 13 demonstrate their love for salsa music through their dances and prove that America's teenagers are aware of their cultural background and display it with pride.

I commend them not only on their desire to keep their Hispanic heritage alive, but also in their spirit and commitment to share it with everyone else.

KIDS, POVERTY, AND THE NEED FOR HEALTH INSURANCE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, this Congress must stop the rise in poverty among the Nation's children and—a related issue—stop the rise in the number of children who are uninsured.

Two reports in December point to the magnitude of the problem—and to some of the solutions.

On December 11, the Center on Budget and Policy Priorities reported that nearly 2.7 million low-income children were eligible for Medicaid, but went without health insurance for all of 1994. In addition, 2.1 million children who qualified for Medicaid, but were not enrolled, had some form of private insurance at some point in the year, but either were uninsured for part of the year or had inadequate private coverage that could have been supplemented by Medicaid.

Mr. Speaker, surely this Congress can find ways to make the Medicaid program more usable and more automatic for the families of needy children. If Medicaid eligible children could be brought into the program, the rolls of the Nation's 10 million uninsured children could be easily and quickly reduced by 27 percent.

In a second report, Columbia University's National Center for Children in Poverty found that nearly half—45 percent—of young children—those under 6—were in poverty or near poverty. Poverty among children = bad health and a lifetime of social and personal problems. As the report said: "Young children in poverty are more likely to: be born at a low birthweight; be hospitalized during childhood; die in infancy or early childhood; receive lower quality medical care;" along with numerous other problems. The list of problems facing our Nation's children of poverty could be addressed in some part if their parents had decent health insurance and could at least ensure that their children were not disadvantaged for life by an unhealthy start.

We need health insurance for kids, so that their parents can ensure a better life for them—and for our Nation's future citizens.

TRUTH IN BUDGETING ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILMAN. Mr. Speaker, I rise in strong support of the Truth in Budgeting Act and commend its sponsor, the gentleman from Pennsylvania [Mr. SHUSTER] for bringing this important measure to the floor.

This legislation transfers the Highway, Aviation, Inland Waterways and Harbor Maintenance Trust Funds off budget and provides that trust fund balances will not be used in calculations by the Congressional Budget Office regarding the Federal budget.

This bill guarantees that transportation taxes such as the taxes that our constituents pay when they fill up their gas tank or when they buy an airline ticket are used for their stated purpose, to improve and reinforce our country's transportation infrastructure.

Currently cash balances in the transportation trust fund total $30 billion. It is wrong that this funding is being used to mask portions of our Nation's budget deficit as opposed to upgrading our country's transportation infrastructure. This bill is a positive step forward ensuring that our highways and airports get the help they need and according to the Congressional Budget Office is an action that is budget neutral.

Accordingly, Mr. Speaker, I urge our colleagues to support this worthy legislation.

THE MEDICARE MAMMOGRAPHY ENHANCEMENT ACT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mrs. KENNELLY of Connecticut. Mr. Speaker, the facts on breast cancer are well known: 44,000 women die from the disease every year in this Nation. The tragedy of this loss is escalated by the fact that some and perhaps even many of these deaths are preventable.

In short, mammography can and does save lives. As any doctor will tell you, the earlier you find breast cancer, the less likely it is to be fatal. A mammogram can find 85 to 90 percent of breast cancer tumors in women as much as 2 years before they can be detected by self-examination. Routine screening for breast cancer is therefore vitally important, especially for older women. Both the American Cancer Society and the National Cancer Institute recommend annual mammograms for women over 50 years of age.

Unfortunately, Medicare only covers mammograms every other year. Furthermore, the 20 percent copayment for the service and the annual Medicare deductible deter many women from getting the screening. The Medicare Mammography Enhancement Act would eliminate these barriers to women receiving life-saving mammograms. The legislation would require Medicare to cover annual mammograms and would waive the 20-percent copayment and any deductible costs for the screening.

Mr. Speaker, a few years ago many of us in Congress fought to make sure Medicare included coverage for at least biannual mammograms. We argued that it made good sense for Medicare to cover a test that could save so many lives at such little expense. The same can be said of this legislation. I urge all of my colleagues to support this effort to save lives.

INTRODUCING A CONCURRENT RESOLUTION ON THE SIGNIFICANCE OF CORAL REEF ECOSYSTEMS

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. SAXTON. Mr. Speaker, I—along with my colleague from Hawaii, Mr. ABERCROMBIE—am pleased to introduce a concurrent resolution declaring the significance of maintaining the health and stability of coral reef ecosystems.

Coral reefs have been called the tropical rainforests of the oceans, and rightfully so—they are among the world's most biologically diverse and productive marine habitats. They are also vitally important to coastal economies, providing as the basis for subsistence and commercial fishing as well as coastal and marine tourism. Finally, reefs serve as natural protection to the coastlines of several U.S. States and territories, such as Florida, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa.

For these reasons, and in honor of the fact that 1997 has been declared the "International Year of the Reef," I urge swift and favorable consideration of this resolution.

LEGISLATION TO REQUIRE CONSIDERATION OF A BALANCED BUDGET

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. BENTSEN. Mr. Speaker, the first priority of the 105th Congress is to finish the job of restoring fiscal responsibility and balancing the Federal budget.

We must balance the budget fairly and responsibly by the year 2002, protecting vital investments such as Medicare, Medicaid, education, and environmental protection.

Balancing the budget by the year 2002 is not enough. We must enact into law an enforcement mechanism that requires the President and the Congress to work toward a balanced budget every year, while providing necessary fiscal flexibility in times of emergency such as military conflict and recession.

To achieve these goals, today I am reintroducing legislation that I filed in the last Congress to require the President to submit and the Congress to vote on a balanced budget every year.

I believe my proposal is a better enforcement mechanism than an amendment to the Constitution requiring a balanced budget because it provides both for fiscal responsibility and necessary flexibility in times of emergencies; it involves the American people by fully disclosing the options for and consequences of balancing the budget; and it does not entangle the judicial branch in our Nation's fiscal policies, with the potential for endless litigation.

My bill takes a commonsense approach that does not tamper with the Constitution. It requires the President to submit a balanced budget each year, beginning in fiscal year 1999. However, if in any fiscal year the President determines that a balanced budget is not in the Nation's best interests, he is allowed to submit two budgets, one balanced and one with a deficit, with written justification for his determination. The bill also requires the Congress to vote on a balanced budget each year, with the same flexibility given to the President to protect the Nation's security and fiscal health.

Most importantly, my bill would bring the American people into the debate on balancing the budget. A balanced budget amendment would tell us only to balance the budget—and includes huge loopholes to avoid it—it does not tell us what an actual balanced budget would look like. My bill would present to the American people the actual numbers—what programs would be cut, by how much, and what it would mean for our families, our businesses, and our Nation. We cannot succeed in balancing the budget without such full disclosure and thorough, honest debate.

In summary, my bill simply states that the President should submit a balanced budget, the American people should review it, and the Congress should debate and vote on it—not just talk about it. I urge my colleagues to join me in cosponsoring this legislation.

A TRIBUTE TO DR. GEORGE D. HARRIS

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. COYNE. Mr. Speaker, I rise today with sadness to note the death of one of my constituents, Dr. George D. Harris. Dr. Harris died recently at the age of 51. His early death is a great loss for our community.

Dr. Harris, a resident of the Point Breeze neighborhood in Pittsburgh, was the kind of individual upon whom every community depends. He spend his entire professional career helping at-risk young people meet the challenges encountered in adolescence and young adulthood. He believed passionately in the importance of getting a good education, and he dedicated his life to inculcating his faith in education in the young people of Pittsburgh and Allegheny County.

At the time of his death, Dr. Harris was the manager of the Bethesda Center, where he worked to promote independence, family stability, and child welfare through motivation and education. Prior to that, he was executive director of Pittsburgh New Futures, where he worked to reduce dropout rates and teen pregnancy rates, and where he worked to help young people find jobs. From 1969 until 1988, when he left to join Pittsburgh New Futures, he developed and oversaw a program at Duquesne University that successfully reduced the dropout rate for Duquesne's African-American students. He was also a cofounder of Bell-Harr Associates, an educational consulting firm. He earned his doctorate in education from the University of Pittsburgh.

Individuals like George Harris—people who make helping others their life's work—are all too rare. Dr. Harris' personal warmth, energy, and enthusiasm—as well as his effectiveness—made him rarer still. Countless people understood and appreciated his special gifts, and that knowledge makes his loss all the more deeply felt.

Dr. Harris is survived by his wife, Judith Harris, his son, Ebon Lee, and his sister, Sheila Ways. I want to express my condolences to them on their unexpected loss.

IRS BURDEN OF PROOF BILL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. TRAFICANT. Mr. Speaker, yesterday I introduced legislation to change the burden of proof in a civil tax case. This bill is similar to legislation I have introduced in past Congresses to right a serious injustice against taxpayers: In civil tax court, taxpayers are considered guilty until proven innocent. That's un-American and flat out wrong.

Last year, Congress finally passed, and President Clinton signed into law, the Taxpayer Bill of Rights II. That was an important step toward protecting American taxpayers against Internal Revenue Service abuses. However, it didn't go far enough. Far too many Americans still fear the IRS—and with good reason.

The IRS is the only agency of the Federal Government that affects every American. We all hear complaints from constituents about overregulation by OSHA, the EPA, or the Department of Justice. These regulations affect only small businessmen or manufacturers or farmers. However, the IRS hits each and everyone of us. Anyone who's received a notice in the mail from the IRS knows how it can cause the blood pressure to rise.

Americans should not fear their Government. Sadly, too many Americans don't trust the IRS. This has clouded their view of the entire Government. Congress could go a long way toward reinstating the American people's faith in the Federal Government by reigning in powers of the IRS. Mending this broken relationship should be Congress' No. 1 priority. Shifting the burden of proof will do that.

My bill specifies that in the administrative process leading up to a court case, the burden of proof is on the taxpayer, but once the case goes to tax court, the burden of proof is squarely on the IRS.

During the administrative process or any audit, the burden of proof should be on the IRS. The taxpayer should provide all pertinent data to support their claims and deductions including receipts, W–2 forms, and letters. Should the taxpayer and the IRS not come to an agreement, the process moves to the tax court. There the burden of proof should be on the IRS. A taxpayer should be innocent until proven guilty in tax court, not the other way around.

Mr. Speaker, my bill has three more sections to protect Americans from IRS abuses. First, a section requiring judicial consent and a 15-day notice before the IRS can seize property. It also includes a provision to call for an independent report detailing ways to offset potential revenue losses from a shift of the burden of proof. Finally, damages awarded by a judge for an unauthorized collection by the IRS are excluded from gross income.

Mr. Speaker, an accused mass murderer has more rights than a taxpayer fingered by the IRS. Jeffrey Dahmer and the "Son of Sam" were considered innocent until they were proven guilty. Regular taxpaying Americans, however, are not afforded this protection.

Mr. Speaker, during the last Congress, I highlighted the need for this legislation on the House floor by reading letters and cases I have received from people around the country. You may remember the case of David and Millie Evans from Longmont, CO. The IRS refused to accept their canceled check as evidence of payment even though the check bore the IRS stamp of endorsement. Or how about Alex Council, who took his own life so his wife could collect his life insurance to pay off their IRS bill? Months later, a judge found him innocent of any wrongdoing. I have heard hundreds of stories of IRS abuses like these on radio and television talk shows. Thousands of Americans have written to me personally with their horror stories.

Opponents argue that my bill will weaken IRS's ability to prosecute legitimate tax cheats. This bill will not affect IRS's ability to enforce tax law, it only forces them to prove allegations of fraud. My bill will ensure that IRS agents act in accordance with the Standards of Conduct required of all Department of Treasury employees. Most importantly, it will force the IRS to act in accordance with the Constitution of the United States of America where all citizens are considered innocent until proven guilty.

Mr. Speaker, I am hopeful that this is the year that Congress passes this bill. It is an important piece of legislation.

HONORING ROSANNE FISHER ON THE OCCASION OF HER RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding citizen of Ohio. Williams County Commissioner Rosanne H. Fisher is retiring after years of service to the people of Ohio.

I have had the privilege of representing Williams County in the U.S. House of Representatives through much of the time Rosanne has served as commissioner. It has been a privilege working with her to help Northwest Ohio. I can tell you Rosanne has been a strong advocate and outstanding friend of our area. Rosanne's aggressive leadership was crucial in securing funding for the Hillside Assisted Living Complex, establishment of Solid Waste District and Recycling, implementation of 911 system, remodeling the senior center and the establishment of a records center.

She is member of the Ohio County Commissioner Association Board of Trustees, State OCCA Legislative Board, and the State of Ohio Board of Adult Detention. A graduate of Libby High School and the University of Toledo, Rosanne was first elected Commissioner in 1989. Throughout her distinguished tenure with the County Commissioners, Rosanne has demonstrated her deep faith in, and dedication to, upholding the principles of American democracy.

Mr. Speaker, we have often heard that America works because of the unselfish contributions of her citizens. I know that Ohio is a much better place to live because of the dedication and countless hours of effort given by Commissioner Rosanne Fisher. While Rosanne may be leaving her official capacity in Williams County, I know she will continue to be actively involved in those causes dear to her.

I ask my colleagues to join me in paying special tribute to Rosanne H. Fisher's record of personal accomplishments and wishing her and her family all the best in the years ahead.

THE UNREMUNERATED WORK ACT OF 1997 INTRODUCED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mrs. MORELLA. Mr. Speaker, today, I am introducing the Unremunerated Work Act, which would direct the Commissioner of the Bureau of Labor Statistics to conduct time-use surveys to measure the unwaged work women and men do inside and outside of the home. Household, agricultural, volunteer, and child care duties are considered unremunerated work, the value of which would be included in the gross national product [GNP] under this act.

Unpaid work in the home is the full-time, lifelong occupation for many Americans, mostly women. For both men and women who work for pay in the marketplace, household work absorbs many hours per week. Yet, little is known about the value of household work.

The only national survey that measures the value of household work for the adult population was conducted in the 1970's by the University of Michigan. Government statistics have overlooked the amount of time spent on housework, child care, agricultural work, food production, volunteer work, and unpaid work in family businesses. This visible work is often a full-time job for many men and women, and is also done by men and women who hold paid jobs in the marketplace.

Women continue to enter the work force in record numbers. They also continue to serve in many unpaid roles, from hours caring for their children, running their households, and volunteering their time to charitable organizations. None of this "unpaid" work is counted when Government gathers statistics on the productivity of Americans. The collection of data about unpaid work would more accurately reflect the total work that Americans contribute to society, and would give greater value to the roles played by both women and men as volunteers, household engineers, and caregivers.

INTRODUCTION OF THE DEPOSITORY INSTITUTIONS AND THRIFT CHARTER CONVERSION ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mrs. ROUKEMA. Mr. Speaker, I am reintroducing The Depository Institution Affiliation and Thrift Charter Conversion Act, legislation that represents a significant step toward crafting meaningful financial reform legislation that will take us into the 21st Century and put us on sound footing to compete in the global marketplace.

As I have said in the past, it is the responsibility of Congress after due diligence to make the important policy decisions giving statutory authority for the structure of financial institutions. It is not in the best interest of the system to continue to let the financial regulators make these decisions in a piecemeal, and arbitrary fashion. For Congress to not act would be a serious abdication of our responsibility.

In anticipation of resuming my role as Chairwoman of the Financial Institutions and Consumer Credit Subcommittee, financial modernization will be on the top of my agenda. With that in mind, I am planning early and comprehensive hearings to commence as soon as the committee completes its organization process.

For those of us that serve on the Banking Committee, we are painfully aware of how controversial the issues surrounding the financial services industry can be. To say the least, various sectors of the financial services industry have had different and often conflicting views on how best to go about modernization. The legislation we are reintroducing today represents the work of a coalition of 10 industry organizations representing a broad cross-section of the financial services industry. Participants in the Alliance group include: American Bankers Association; ABA Securities Association; American Financial Services Association; America's Community Bankers; Consumers Banker Association; Financial Services Council; Investment Company Institute; Securities Industry Association; and The Bankers Roundtable.

I am pleased to see the American Council of Life Insurance [ACLI] has also begun participating in these discussion. In fact, several of the new provisions included in this package were at the ACLI's suggestion.

This legislation represents a concrete effort to break the current logjam that has blocked financial services reform legislation in the past. The bill incorporated many significant compromises between those competing interests. For this reason, I believe it represents an important starting point for us to begin the debate on financial modernization.

This legislation is a comprehensive approach that addresses affiliation issues, Glass-Steagall reform, functional regulation, insurance issues and thrift charter conversion by melding together key elements of the major reform bills introduced previously in Congress.

While this latest "Alliance" bill is the product of a great deal of good faith negotiation and compromise by the major trade groups, it is nonetheless a work in progress that will require more discussion and development. While each member of the Alliance for Financial Modernization has participated in redrafting the legislation I am introducing today, they do not necessarily endorse all the provisions in the current product. In addition, there are several key elements missing from this bill.

For example, a clear definition of what is meant by the terms "banking", "securities", and "insurance" as well as a fair means to resolve any disputes that may arise between regulators over the proper characterization of novel or hybrid products is an area of great sensitivity for all financial service providers—and one that still lacks a consensus among the industries. For this reason, this bill does not include such a provision.

In addition, America's Community Bankers would like to see a much broader approach, and have urged that permissible holding company affiliations be expended from financial activities to all businesses. This would extend the unitary thrift holding company authority to all holding companies—a view that is supported by the securities and insurance companies and other diversified financial companies as well. However, this bill does not address the so-called "chartering up" approach which would allow thrifts and commercial banks to engage in insurance and real estate activities. Currently, commercial banks are now prohibited in most cases from fully engaging in these activities; and thrift institutions, under this Alliance proposal, would be forced to divest of these activities and to nates the thrift charter and requires thrifts to convert to banks.

I, too, have serious reservations regarding many of the provisions included in this bill. The least of which is the holding company regulation structure and the regulatory oversight authority.

Last year's Alliance bill included a new regulation and oversight of holding companies based on similar requirements to the structure currently applied to Unitary Holding Companies. With the introduction of this legislation today, I have, at the Alliance's request, included a different regulatory structure which mirrors the current Securities industry risk assessment model.

Let me be clear that I have reservations about both the previous model in last year's Alliance bill and the one included in the bill I am introducing today. A fundamental question of financial reform is to determine the most appropriate means of regulating the system to preserve the safety and soundness of the financial services industry and the taxpayers dollars. As I begin hearings on this bill, this will be a major focus. While I agree that the current holding company structure needs reform, I am not convinced that the model included in this bill is the most appropriate and efficient means.

The key elements of the bill include:

Financial Services Holding Company [FSHC]: creation of a new, optional structure allowing financial companies to affiliate with banks similar to the D'Amato-Baker approach. A company could choose to own a bank through a new "financial services holding company" that would not be subjected to the Bank Holding Company Act, but subject to a new regulatory structure.

Permissible Affiliations: FSHCs could own or affiliate with companies engaged in a much broader range of activities than is permitted for bank holding companies under current law. The bill would not, however, eliminate all current restrictions on affiliations between banks and commercial firms. A financial services holding company would have to maintain at least 75 percent of its business in financial activities or financial services institutions, which would include such institutions as banks, insurance companies, securities broker dealers, and wholesale financial institution.

FSHCs are restricted from entering the insurance agency business through a new affiliate unless it bought an insurance agency that had been in business for at least 2 years.

This bill includes lists of activities that are deemed to be "financial" and entities that are deemed to be "financial services institutions." A new National Financial Services Committee, chaired by the Treasury Department and including the bank regulators, the SEC, and a representative state insurance commissioner would be created.

Holding Company Oversight: The regulation and oversight of the new Financial Services Holding Companies would be based on the holding company risk assessment model that currently is applied to the Securities Industry. This represents a change from the original Alliance bill that I introduced last year. As we consider provisions that address the regulation of various institutions, I will be taking special care to assure that all institutions are regulated in such a way as to preserve the safety and soundness and the integrity of the insurance funds.

Securities Activities: Provisions for certain securities activities such as asset-backed securities and municipal revenue bonds could be offered in a new, separate securities affiliate. These provisions are similar to provisions included in the Leach bill and agreed to by the Commerce Committee.

Elimination of the Thrift Charter: With the new financial services holding company structure in place, the thrift charter would be eliminated; thrifts would generally be converted to banks, with grandfathering-transition provisions; and unitary thrift holding companies would be required to convert to either bank holding companies or financial services holding companies, also with grandfather-transaction provisions. The statutory language for the charter conversion is similar to the language included in the last version of my Thrift Charter Conversion bill, H.R. 2363.

I want to again reiterate that I do have serious concerns with several of the provisions included in this bill. However, I believe this draft proposal is an important document because it includes many compromises between the various financial services industry. Clearly, there are issues associated with this legislation that are yet to be discussed. However, with the introduction of this legislation we are advancing the debate on financial services modernization, and setting the stage for action in the 105th Congress that will take this industry into the 21st Century and beyond.

There is no doubt that Congress has always had at its disposal the tools to modernize our Depression-era banking codes. What it has lacked is the will. The pressures of competing interests have made this task all but impossible and resulted in gridlock. This bill is a significant first step toward breaking that logjam. It includes major areas of compromise between the various competing industries. Again, I am planning for early and comprehensive hearings in my subcommittee on the issues of financial modernization.

Again, let me stress that I will proceed with great care. My primary goal will be to preserve the safety and soundness of our financial system while protecting the American taxpayer and the business and consumers that rely on their services.

SUMMARY SECTION BY SECTION

The Draft bill is an effort to break the current logjam that is blocking financial services reform legislation. It is a comprehensive approach that addresses affiliation issues, Glass-Steagall reform, functional regulation, insurance issues, and thrift charter conversion. It does this by melding together key elements of the major reform bills that were considered by the last Congress. The purposes of this approach are to (1) build on the constructive efforts of Chairmen D'Amato and Leach and Representatives McCollum, Baker, and Roukema, among others, during the past two years; (2) provide a comprehensive framework for addressing the major concerns of the broadest possible range of industry participants; and (3) address legitimate concerns of the regulators that were reflected in both legislative and regulatory proposals that emerged during the last several years.

1. FINANCIAL SERVICES HOLDING COMPANIES

Using modified language from the D'Amato-Baker bills, the draft bill creates a new and entirely optional structure for financial companies to affiliate with banks. A company could choose to own a bank through a new "financial services holding company" that would not be subject to the Bank Holding Company Act. Instead, the financial services holding company would be subject to a new regulatory structure established by a newly-created section of financial services law called the "Financial Services Holding Company Act." Any company that owns a bank but chooses not to form a financial services holding company would remain subject to the Bank Holding Company Act to the same extent and in the same manner as it is under existing law. However, an affiliate of a bank that is not part of a financial services holding company generally could not engage in securities activities to a greater extent than has been permitted under existing law.

Permissible Affiliations.—A financial services holding company could own or affiliate with companies engaged in a much broader range of activities than is permitted for bank holding companies under current law (with contrary state law preempted). The bill would not, however, eliminate all current restrictions on affiliations between banks and commercial firms. A financial services holding company would have to maintain at least 75 percent of its business in financial activities or financial services institutions, which would include such institutions as banks, insurance companies, securities broker dealers, and wholesale financial institutions. In addition, a bank holding company that became a financial services holding company could not enter the insurance agency business through a new affiliate unless it bought an insurance agency that had been in business for at least two years. Finally, foreign banks could also choose to become financial services holding companies.

The bill includes lists of activities that are deemed to be "financial" and entities that are deemed to be "financial services institutions." A new National Financial Services Committee, which would be chaired by the Treasury Department and include the bank regulators, the SEC, and a representative state insurance commissioner, would (1) determine whether additional activities should be deemed to be "financial" or additional types of companies should be deemed to be "financial services institutions"; and (2) issue regulations describing the methods for calculating compliance with the 75 percent test. Other than these limited circumstances, a financial services holding company would not be subject to the cumbersome application and prior approval process that currently applies to bank holding companies.

Holding Company Oversight.—Because it would own a bank, a financial services holding company would be subject to certain supervisory requirements, but only to the extent necessary to protect the safety and soundness of the bank. These supervisory requirements are virtually identical to those that currently apply to companies that own regulated securities broker dealers, and companies that own regulated futures commission merchants—the so-called "holding company risk assessment provisions." In the past six years, Congress has twice embraced this model for gathering information on potential risk to regulated entities by affiliated companies, once in the Market Reform Act of 1990 (securities firms), and once in the Futures Trading Practices Act of 1992 (futures traders). While the National Financial Services Committee would establish uniform standards for these requirements as they apply to depository institutions, the appropriate Federal banking agency that regulate the lead depository institution of the financial services holding company would implement and enforce them.

Apart from these general requirements, financial services holding companies would not be subject to the bank-like regulation that currently applies to the capital and activities of bank holding companies. However, as in the D'Amato-Baker bills, financial services holding companies would be subject to the following additional safety and soundness requirements:

Affiliate transaction restrictions, including but not limited to the requirements of Sections 23A and 23B of the Federal Reserve Act.

Prohibition on credit extensions to nonfinancial affiliates.

Change in Control Act restrictions.

Insider lending restrictions.

A "well-capitalized" requirement for subsidiary banks.

Civil money penalties, cease-and-desist authority, and similar banking law enforcement provisions applicable to violation of the new statute.

New criminal law penalty provisions for knowing violations of the new statute.

Divesture requirement applicable to banks within any financial services holding company that fails to satisfy certain safety and soundness standards.

Cross-Marketing Provisions.—As with the D'Amato-Baker bills, the bill would preempt cross-marketing restrictions imposed on financial services holding companies by state law or any other federal law.

Securities Activities.—The draft bill includes principal elements of the last-introduced version of the Leach bill in the previous Congress, H.R. 2520, as it related to Glass-Steagall issues. These include statutory firewall, "push-out," and "functional regulation" provisions, with some modifications. These new restrictions would apply only to financial services holding companies; they would not apply to the securities or investment company activities of banks that remained part of bank holding companies.

Wholesale Financial Institutions.—Financial services holding companies (but not bank holding companies) could also form uninsured bank subsidiaries called wholesale financial institutions or "WFIs." Such WFIs could be either state or nationally chartered, and there would be no restrictions on the ability of a WFI to affiliate with an insured bank. A WFI would not be subject to the statutory securities firewalls applicable to insured banks and their securities affiliates, but the WFI could not be used to evade such statutory firewalls.

2. ELIMINATION OF THRIFT CHARTER

With the new financial services holding company structure in place, the thrift charter would be eliminated; thrifts would generally be required to convert to banks, with grandfathering/transition provisions; and unitary thrift holding companies would be required to convert to either bank holding companies or financial services holding companies, also with grandfathering/transition provisions. The statutory language for the charter conversion is similar to the language included in the last version of the Roukema bill, which is the one that was used in the House's offer in the Budget Reconciliation conference in late 1995.

3. NATIONAL MARKET FUNDED LENDING INSTITUTIONS

Unlike the D'Amato-Baker bills, the draft bill generally precludes a commercial firm from owning an insured depository institution. However, the bill recognizes the important role that nonfinancial companies play in other aspects of the financial services industry by allowing such companies to own "national market funded lending institutions." This new kind of OCC-regulated institution would have national bank lending powers, but would have no access to the federal safety net: it could not take deposits or receive federal deposit insurance, and it would have no bank-like access to the payments system or the Federal Reserve's discount window. In addition, the institution could not use the term "bank" in its name. By owning a national market funded lending institution, a nonfinancial company could provide all types of credit throughout the country using uniform lending rates and terms.

SPECIAL TRIBUTE TO U.S. SENATOR ROBERT C. BYRD OF WEST VIRGINIA ON A HALF-CENTURY OF SERVICE TO THE NATION AND TO HIS STATE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. RAHALL. Mr. Speaker, 50 years ago yesterday, January 8, 1997, the senior Senator from West Virginia, ROBERT C. BYRD, began his service in the U.S. House of Representatives where he served for 11 years, moving to the Senate in 1958 where he has served for the past 39 years.

As we all know, Senator BYRD celebrated having cast his 14,000th vote in the U.S. Senate last year, at which time he had a 98.7 percent voting average.

Senator ROBERT C. BYRD is the nationally recognized historian in residence in the Senate—the uncontested expert on the Senate as an institution, and the leading, nationally recognized expert on parliamentary procedures.

West Virginia's citizens recognize Senator BYRD and applaud his achievements as a researcher, lecturer, writer, and parliamentary magician. That is all well and good, they say. It makes them very proud.

But what makes Senator BYRD's people in West Virginia most proud is that he is also one of them—that he is someone they can go to, take their troubles, trials and tribulations to, and know that he will hear them and he will intervene on their behalf at every opportunity to make things better. West Virginians know that Senator BYRD's every waking moment of service in the U.S. Senate is in their service—their best interests, their well being—and they know this without one single iota of doubt.

Residents of West Virginia can name with pride the many accomplishments of Senator BYRD—those noted above first of all. But, in addition, West Virginians can tell you that during his Senate tenure he has served as secretary of the Senate Democratic Conference, Senate majority whip, Senate majority leader, Senate minority leader, and President pro tempore.

Further, Senator BYRD has served his State and his country throughout an integral part of the high drama and history of the second half of the 20th century—including the cold war, Vietnam, Watergate, Iran-Contra, the collapse of the Soviet Union, and the gulf war. He has served under nine Presidents, one of whom was assassinated, the other forced to resign the highest office in the land.

Senator BYRD is widely recognized for having achieved many milestones during his career, among them being only one of three U.S. Senators in history to have been elected to seven 6-year terms; being the first sitting Member of either House of Congress to begin and complete the study of law and obtain a law degree while serving in the Congress; being the first person in the history of West Virginia ever to serve in both chambers of his State Legislature and both Houses of the U.S. Congress; obtaining the greatest number, the greatest percentage, and the greatest margin of votes cast in statewide, contested elections in his State; being the first U.S. Senator in West Virginia to win a Senate seat without opposition in a general election; and having served longer in the U.S. Senate than anyone else in West Virginia history.

Mr. Speaker, these are remarkable achievements for one man, and we honor Senator BYRD for them.

His greatest feat, in my estimation, is that he has brought dignity and civility to the U.S. Senate every day of his life, throughout his tenure there.

Senator ROBERT C. BYRD is a gentle but firm leader, who has the ability to share, in his writing and vocally, his deep and abiding reverence for the Senate as an institution. He constantly lectures, through his weekly history lessons, on the importance of knowing and observing, and above all else, respecting, the traditions of the Senate, its rules of engagement and the parliamentary procedures that govern it as an institution.

And so it is with great personal honor that I rise on the occasion of his 50th anniversary year of U.S. Senate service, to pay tribute to the well cherished and beloved senior Senator from West Virginia ROBERT C. BYRD, and to wish God's blessings upon himself personally, and upon the important work he will do in the coming years on behalf of his institution, his countrymen nationwide, and his especial work on behalf of his fellow West Virginians.

SUPPORT FOR H.M.O. PATIENT REFORM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, on Tuesday, January 7, I introduced legislation to provide a comprehensive set of consumer protections for people in managed care plans.

One of my proposals is that Medicare and Medicaid should not start monthly payments—which can amount to somewhere between $300 and $700 a month—for a new HMO enrollee until that HMO actually meets with the enrollee, shows them how to use the system, and establishes a basic health profile on the individual. Today, an HMO can receive thousands of dollars in payments before it ever sees a patient or tries to maintain their health.

How can an HMO truly be a health maintenance organization, if it doesn't know what the health of the person is, whether the person is overweight, smokes, needs innoculations, has high blood pressure or diabetes, et cetera, et cetera?

Last August, the Public Policy Institute, part of the Division of Legislation and Public Policy of the American Association of Retired Persons, issued an excellent paper entitled, "Managed Care and Medicare." The paper—which does not necessarily represent formal policies of the association—recommended:

> Health plans should be required to conduct a comprehensive health assessment of new patients upon enrollment, followed by specific provisions for improved access to primary and specialty care on a routine basis.

This is precisely the idea in my legislation, and I hope other senior and patient advocacy groups will consider this proposal and how it would help eliminate many of the abuses in the current enrollment of Medicare and Medicaid beneficiaries.

TRANSPORTATION COMMITTEE PROCEDURES FOR ISTEA REAUTHORIZATION

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. PETRI. Mr. Speaker, on behalf of NICK RAHALL, the ranking democratic member of the Subcommittee on Surface Transportation, BUD SHUSTER, the chairman of the Transportation and Infrastructure Committee, and JAMES OBERSTAR, the committee's ranking democratic member, I would like to outline the subcommittee's procedure for identifying items of concern to members as it takes up the reauthorization of the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA]. This legislation authorizes over $150 billion for our nation's highway, transit, motor carrier, safety, and research programs for 6 years and is due to expire on September 30, 1997.

The importance of the surface transportation system cannot be overstated. There is ample evidence documenting the link between careful infrastructure investment and increases in this nation's productivity and economic prosperity. For instance, between 1980 and 1989, highway capital investments contributed almost 8 percent of annual productivity growth. A recent study demonstrated that the costs of highway investments are recouped through production cost savings to the economy after only 4 years. Another study concluded that transit saves at least $15 billion per year in congestion costs.

Despite the critical importance of our transportation systems to our Nation's economic health, investment has fallen short of what is needed. The Department of Transportation estimates that simply maintaining the current conditions on our highway, bridge, and transit systems will require investment of $57 billion per year from Federal, State, and local governments, an increase of 41 percent over current levels. To improve conditions to optimal levels would require doubling our current investment to $80 billion per year. Meeting these needs will require a variety of strategies, including better use of existing systems, application of advanced technology, innovative financing, and public-private partnerships. It is our goal to develop a bill that will meet these needs and maintain this world class system.

Reauthorization is the top priority of the Subcommittee on Surface Transportation. In the second session of the 104th Congress, the subcommittee held a series of 12 ISTEA oversight hearings and received testimony from 174 witnesses. The hearings gave many interested Members, the administration and affected groups the opportunity to testify and present their views. There was strong interest in these hearings and they covered the programs which need to be reauthorized in this coming bill. We would be happy to make copies of these hearing transcripts available to any interested Members.

We anticipate that the bipartisan legislation we develop this year will be based largely on the information obtained at last year's extensive programmatic hearings. As we begin this process, we would like to offer Members the opportunity to inform the subcommittee about any policy initiatives or issues that Members want the subcommittee to consider including or addressing in the reauthorization of ISTEA. Members having such specific policy requests should inform the subcommittee in writing no later than February 25, 1997.

Many Members have already contacted the subcommittee to inquire about, or to request, specific funding for critical transportation needs in their districts. With the convening of the new Congress, we anticipate that these requests will continue. Therefore, if you are intending to request funding for these projects, we will require that the request include the information set forth below. Although the subcommittee has not yet decided how such requests will be handled, the information provided will allow the subcommittee to thoroughly evaluate each request as we determine the appropriate action to take in this regard. Any requests should be submitted no later than February 25, 1997. Such submissions should be in writing and must include responses to each of the 14 evaluation criteria listed at the end of this statement.

We will also be holding a series of subcommittee hearings in late February and early March at which time Members and local officials will have an opportunity to testify on behalf of those requests. While these hearings are intended to give Members an opportunity to present information about specific project needs, it is not necessary for Members to testify.

We look forward to working with all Members of the House as we prepare this important legislation which will set the course for our Nation's surface transportation programs.

TRANSPORTATION PROJECT EVALUATION CRITERIA, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON SURFACE TRANSPORTATION

1. Name and Congressional District of the primary Member of Congress sponsoring the project, as well as any other Members supporting the project (each project must have a single primary sponsoring Member).

2. Identify the State or other qualified recipient responsible for carrying out the project.

3. Is the project eligible for the use of Federal-aid funds (if a road or bridge project, please note whether it is on the National Highway System)?

4. Describe the design, scope and objectives of the project and whether it is part of a larger system of projects. In doing so, identify the specific segment for which project funding is being sought including terminus points.

5. What is the total project cost and proposed source of funds (please identify the federal, state or local shares and the extent, if any, of private sector financing or the use of innovative financing) and of this amount, how much is being requested for the specific project segment described in item #4?

6. Of the amount requested, how much is expected to be obligated over each of the next 5 years?

7. What is the proposed schedule and status of work on the project?

8. Is the project included in the metropolitan and/or State transportation improvement plan(s), or the State long-range plan, and if so, is it scheduled for funding?

9. Is the project considered by State and/or regional transportation officials as critical to their needs? Please provide a letter of support from these officials, and if you cannot, explain why not.

10. Does the project have national or regional significance?

11. Has the proposed project encountered, or is it likely to encounter, any significant opposition or other obstacles based on environmental or other types of concerns?

12. Describe the economic, energy efficiency, environmental, congestion mitigation and safety benefits associated with completion of the project.

13. Has the project received funding through the State's federal aid highway apportionment, or in the case of a transit project, through Federal Transit Administration funding? If not, why not?

14. Is the authorization requested for the project an increase to an amount previously authorized or appropriated for it in federal statute (if so, please identify the statute, the amount provided, and the amount obligated to date), or would this be the first authorization for the project in federal statute? If the authorization requested is for a transit project, has it previously received appropriations and/or received a Letter of Intent or has FTA entered into a Full Funding Grant Agreement for the project?

INTRODUCTION OF THE INTELLECTUAL PROPERTY ANTITRUST PROTECTION ACT OF 1997

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. HYDE. Mr. Speaker, today I am introducing the Intellectual Property Antitrust Protection Act of 1997. I am pleased to be joined by my colleagues on the Judiciary Committee, Mr. SENSENBRENNER, Mr. GEKAS, Mr. SMITH, Mr. GALLEGLY, Mr. CANADY, Mr. BONO, and Mr. FRANK who are original cosponsors of this legislation.

Because of increasing competition and a burgeoning trade deficit, our policies and laws must enhance the position of American businesses in the global marketplace. This concern should be a top priority for this Congress. A logical place to start is to change rules that discourage the use and dissemination of existing technology and prevent the pursuit of promising avenues of research and development. Some of these rules arise from judicial decisions that erroneously create a tension between the antitrust laws and the intellectual property laws.

Our bill would eliminate a court-created presumption that market power is always present in a technical antitrust sense when a product protected by an intellectual property right is sold, licensed, or otherwise transferred. The market power presumption is wrong because it is based on false assumptions. Because there are often substitutes for products covered by intellectual property rights or there is no demand for the protected product, an intellectual property right does not automatically confer the power to determine the overall market price of a product or the power to exclude competitors from the marketplace.

On May 14, 1996, the Judiciary Committee held a thorough hearing on H.R. 2674, an identical bill that was introduced in the last Congress. At the hearing, the bill received support from the Intellectual Property Owners, the American Bar Association, and the Licensing Executives' Society. The administration agreed that the bill reflected the proper antitrust policy, but hesitated to endorse a legislative remedy.

Despite the administration's reluctance to endorse the bill fully in last year's hearing, the recent antitrust guidelines on the licensing of intellectual property—issued jointly by the antitrust enforcement agencies, the Department of Justice and the Federal Trade Commission—acknowledge that the court-created presumption is wrong. The guidelines state that the enforcement agencies "will not presume that a patent, copyright, or trade secret necessarily confers market power upon its owner. Although the intellectual property right confers the power to exclude with respect to the specific product, process, or work in question, there will often be sufficient actual or potential close substitutes for such product, process, or work to prevent the exercise of market power." Antitrust guidelines for the Licensing of Intellectual Property, April 6, 1995, p. 4 (emphasis in original).

For too long, Mr. Speaker, court decisions have applied the erroneous presumption of market power thereby creating an unintended conflict between the antitrust laws and the intellectual property laws. Economists and legal scholars have criticized these decisions, and more importantly, these decisions have discouraged innovation to the detriment of the American economy.

The basic problem stems from a lower Federal court decision that construed patents and copyrights as automatically giving the intellectual property owner market power. *Digidyne Corp.* v. *Data General Corp.*, 734 F.2d 1336, 1341–42 (9th Cir. 1984), *cert. denied*, 473 U.S. 908 (1984). The sheer size of the Ninth Circuit and its location make this holding a serious problem, even though some other courts have not applied the presumption. *Abbott Laboratories* v. *Brennan*, 952 F.2d 1346, 1354–55 (Fed. Cir. 1991), *cert. denied*, 505 U.S. 1205 (1992); *A.I. Root Co.* v. *Computer/Dynamics, Inc.*, 806 F.2d 673, 676 (6th Cir. 1986). The Ninth Circuit covers nine States and two territories, and it has a population of more than 45 million people. In addition, it contains a significant portion of the computer industry, including Silicon Valley in California and Microsoft in Washington.

So, in this very important area, the law says one thing in the Ninth Circuit, a different thing in other circuits, and in still other circuits, the courts have not spoken. See Antitrust Guidelines for the Licensing of Intellectual Property, p. 4 n. 10. This lack of clarity causes uncertainty about the law which, in turn, stifles innovation and discourages the dissemination of technology.

For example, under Supreme Court precedent, tying is subject to per se treatment under the antitrust laws only if the defendant has market power in the tying product. However, the presumption automatically confers market power on any patented or copyrighted product. Thus, when a patented or copyrighted product is sold with any other product, it is automatically reviewed under a harsh per se standard even though the patented or copyrighted product may not have any market power. As a result, innovative computer manufacturers may be unwilling to sell copyrighted software with unprotected hardware—a package that many consumers desire—because of the fear that this bundling will be judged as a per se violation of the prohibition against tying. The disagreement among the courts only heightens the problem for corporate counsel advising their clients as to how to proceed. Moreover, it encourages forum shopping as competitors seek a court that will apply the presumption. Clearly, intellectual property owners need a uniform national rule enacted by Congress.

Very similar legislation passed the Senate during past Congresses with broad, bipartisan support. S. 438 passed the Senate once as separate legislation and twice as an amendment to House-passed legislation during the 100th Congress. S. 270, a similar bill, passed the Senate again during the 101st Congress.

During the debate over that legislation, opponents of this procompetitive measure made various erroneous claims about this legislation—let me dispel these false notions at the outset. First, this bill does not create an antitrust exemption. To the contrary, it eliminates an antitrust plaintiff's ability to rely on a demonstrably false presumption without providing proof of market power. Second, this bill does not in any way affect the remedies, including treble damages, that are available to an antitrust plaintiff when it does prove its case. Third, this bill does not change the law that tying arrangements are deemed to be per se illegal when the defendant has market power in the tying product. Rather, it simply requires the plaintiff to prove that the claimed market power does, in fact, exist before subjecting the defendant to the per se standard. Fourth, this bill does not legalize any conduct that is currently illegal.

Instead, this bill ensures that intellectual property owners are treated the same as all other companies under the antitrust laws, including those relating to tying violations. The bill does not give them any special treatment, but restores to them the same treatment that all others receive.

In short, the time has come to reverse the misdirected judicial presumption. We must remove the threat of unwarranted liability from those who seek to market new technologies more efficiently. The intellectual property and antitrust laws should be structured so as to be complementary, not conflicting. This legislation will encourage the creation, development, and commercial application of new products and processes. It can mean technological advances which create new industries, increase productivity, and improve America's ability to compete in foreign markets.

I urge my colleagues in the House to join us in cosponsoring this important legislation. If you would like to join as a cosponsor, please call Joseph Gibson of the Judiciary Committee staff at extension 5–3951.

INTRODUCTION OF THE MARINE RESOURCES REVITALIZATION ACT OF 1997

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. SAXTON. Mr. Speaker, today I am pleased to introduce the Marine Resources Revitalization Act of 1997, a bill to reauthorize the National Sea Grant College Program.

By way of background, the National Sea Grant College Program was established by Congress in 1966 in an effort to improve our Nation's marine resource conservation efforts, to better manage those resources, and to enhance their proper utilization. Housed within the National Oceanic and Atmospheric Administration, Sea Grant is modeled after the highly successful Land Grant College Program created in 1862.

Over the past 30 years, Sea Grant has dramatically defined our capabilities to make decisions about marine, coastal, and Great Lakes resources—vast, publicly owned resources which are of vital economic, social, and cultural importance to our rapidly growing coastal populations. In doing so, Sea Grant promotes high quality, peer-reviewed scientific research. Furthermore, Sea Grant distributes scientific results regionally and locally through educational and advisory programs at over 300 universities and affiliated institutions nationwide. Twenty-nine of these are specifically designated as Sea Grant colleges or institutional programs, and they serve to coordinate Sea Grant activities on a State-by-State basis.

The Marine Resources Revitalization Act of 1997 authorizes funding for Sea Grant through fiscal year 2000; simplifies the definition of issues under Sea Grant's authority; clarifies the responsibilities of State and national programs; consolidates and clarifies the requirements for the designation of Sea Grant colleges and regional consortia; repeals the postdoctoral fellowship and international programs, both of which have never been funded; and makes several minor clerical or conforming amendments.

I would like to acknowledge three of my distinguished colleagues—DON YOUNG of Alaska, NEIL ABERCROMBIE of Hawaii, and SAM FARR of California—for their leadership in this reauthorization effort. We firmly believe that this legislation represents a realistic approach to reauthorizing the Sea Grant Program—the bill is inherently noncontroversial and has been fully endorsed by the administration. By enacting this legislation, we send a clear message supporting the protection and wise use of our marine and coastal resources.

INTRODUCTION OF INDIVIDUAL RETIREMENT ACCOUNT (IRA) LEGISLATION

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, today Mr. Thomas and I are introducing the Super IRA bill. This bill is comprehensive individual retirement account [IRA] legislation. The main purpose of this legislation is to make it easier for individuals to save for retirement.

Saving for retirement is an issue which we must address. The Super IRA legislation will help with retirement and we can do this in a bipartisan manner. The phase "economic security" has become part of our vocabulary. During this session of Congress, we should do as much as possible to make individuals more secure in their retirement.

Statistics about retirement and our savings are not promising. Chairman Alan Greenspan of the Federal Reserve once stated that our low national savings rate is our No. 1 economic problem. Our national savings rate is only 1 percent of GDP.

We are beginning to face what has been commonly referred to as the "graying of America." Within 30 years 1 out of every 5 Americans will be over 65. In 15 years, the baby boomers will begin turning 65. The baby boomers generation consists of 76 million people and this will result in Social Security beneficiaries doubling by the year 2040. Less than half of American workers are covered by private sector pensions.

The Super IRA legislation provides incentives for individuals to save for their own retirement. This legislation makes it easier for individuals to become personally responsible for their retirement. It will make all Americans eligible for fully deductible IRA's by the year

2001. Current law only allows those taxpayers who are not covered by any other pension arrangement and whose income does not exceed $40,000 to be eligible for a fully deductible IRA.

The 10-percent penalty on early withdrawals would be waived if the funds are used to buy a first home, to pay educational expenses, or to cover any expense during periods of unemployment. These are necessary legitimate purposes. Otherwise these savings should just be used for retirement.

The legislation creates a new type of IRA called the IRA plus Account. Contributions would not be tax deductible, but earnings can be withdrawn tax-free if the account is open for at least 5 years and the IRA holder is at least age 59½. These accounts provide another savings vehicle for individuals.

Super IRA legislation is not a panacea for the social insecurity that we will inevitably face, but is a reasonable, concrete solution to make retirement savings easier. I urge you to become a cosponsor of this legislation. I look forward to working on the passage of the Super IRA legislation during this session of Congress.

INTRODUCTION OF INDIVIDUAL RETIREMENT ACCOUNT [IRA] LEGISLATION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. THOMAS. Mr. Speaker, today I am introducing the 105th Congress version of the Super IRA legislation we expect to restore real savings incentives to the Internal Revenue Code. This year's bill, the Savings and Investment Incentive Act of 1997, represents the best selection of options for restoring and improving the Individual Retirement Accounts that have been so popular with taxpayers. All taxpayers will ultimately be able to choose between having an Individual Retirement Account that allows them to deduct contributions for their retirement savings and an IRA Plus account allowing them to earn tax-free income.

An outline of the bill follows. In addition, I want to note that Senate Finance Chairman ROTH and Senator BREAUX, with whom I have worked closely in developing the bill, will be introducing the Savings and Investment Incentive Act later this month. All of us agree that taxpayers need and deserve the savings incentives this bill provides.

It is obvious that the American taxpayer needs and wants the savings incentives this bill will provide. Studies indicate that today's "baby boomer" workers are only saving 36 percent of the funds they will need to maintain their standards of living after retirement. In fact, people aged 60 to 64, those closest to retirement, only have about $1,700 in financial assets in the form of savings, checking, and similar kinds of accounts. We need to give taxpayers control of their funds so they can better prepare for the future.

The Super IRA bill makes critical changes in the law so taxpayers will have plenty of options to choose from in saving for their future. The income caps that prevent many people from making deductible contributions to IRA's are eliminated over a 5-year period. A new kind of account called an IRA Plus account would be offered so taxpayers could earn tax-free income. The bill makes all IRA's easier for taxpayers to use because it eliminates the need to coordinate contributions with other kinds of retirement arrangements. This bill gives taxpayers the liquidity they want. Funds could be withdrawn from either type of IRA to fund family needs such as education, the purchase of a first home, or family support during periods of long-term unemployment.

IRA's enjoy a good deal of popularity among taxpayers. A number of surveys show just how popular they are. One poll found 74 percent of the respondents would increase their savings if they had tax incentives to do so, precisely what the Super IRA bill provides. Another survey conducted in 1995 found that 77 percent of those contacted supported letting everyone have deductible IRA's while 69 percent like the idea of penalty-free withdrawals for purchasing a first home, to provide education, or meet family needs during extended unemployment.

IRA's are a savings incentive that everyone can support. Republicans and Democrats can support this bill and I hope my House colleagues will join me in seeking to have the Savings and Investment Incentive Act enacted this year.

SUPER INDIVIDUAL RETIREMENT ACCOUNT LEGISLATION

DESCRIPTION OF PROVISIONS

Makes tax deductible IRAs available to all Americans

Under the legislation, all Americans would be eligible for fully deductible IRAs by the year 2001. Current law only allows those taxpayers who are not covered by any other pension arrangement and whose income does not exceed $40,000 ($25,000 for singles) to be eligible for a fully deductible IRA. These income limits would be gradually eliminated over a four year period beginning 1997.

The $2,000 contribution limit would be indexed for inflation in $500 increments.

Homemakers and other workers without employer pensions would be permitted to make up to a $2,000 tax deductible IRA contribution regardless of whether their spouses have an employer pension. This provision builds on the homemaker IRA provisions in the "Small Business Job Protection Act of 1996" signed into law in 1996.

New kind of IRA—"IRA Plus Account"

Taxpayers will be offered a new IRA choice called the "IRA Plus Account." Under the IRA Plus Account, contributions would not be tax deductible. However, earnings on IRA Plus Account assets can be withdrawn tax-free if the account is open for at least 5 years and the IRA holder is at least age 59½. A 10% penalty would apply to early withdrawals unless they meet one of three special purpose distributions described below.

Taxpayers can contribute up to $2,000 to either a tax deductible IRA or a non-tax deductible IRA Plus Account. They can also allocate any portion of the $2,000 limit between these two IRA accounts, (e.g., $1,000 to a tax deductible IRA and $1,000 to the IRA Plus Account).

Penalty-free IRA withdrawals for special purposes

The 10% penalty on early withdrawals would be waived if the funds are used to buy a first home, to pay educational expenses or to cover any expense during periods of unemployment (after collecting unemployment compensation for at least 12 weeks). Participants in 401(k) plans and 403(b) annuities could also receive penalty-free withdrawals for these purposes under the legislation. Taxpayers will still be liable for the income tax due on the withdrawal, but no penalty tax would apply. Note: penalty-free withdrawals from IRAs for medical expenses were provided under the "Health Insurance Portability and Accountability Act of 1996" signed into law in 1996.

Conversion of IRAs into IRA Plus Accounts

Taxpayers will be allowed to "convert" their old IRA savings into IRA Plus Accounts without incurring an early withdrawal penalty or an excess distribution penalty. However, individuals must pay income tax on previously deducted contributions and corresponding earnings. If the conversion is made before January 1, 1999, the taxpayer can spread the tax payments over a four-year period.

Other features of the Thomas/Neal legislation

IRA and 401(k) contributions would not have to be coordinated.

IRA funds could be invested in certain coins and bullion.

TRIBUTE TO JOHN DUFFEY, AN AMERICAN MUSICAL PIONEER

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. OBEY. Mr. Speaker, it is a tradition of the House to take note of milestones and passages in our Nation. Mid-last year the world of music lost Bill Monroe, who was widely regarded as the founder of bluegrass. I take this occasion to call attention to the fact that sadly on December 10 we lost another giant in that musical tradition with the passing of John Duffey.

He was a remarkable singer of bluegrass, possessed of a powerful vocal instrument, one that could soar to impossibly high notes or become the soul of harmony and touch the heart. He was a good performer with mandolin and guitar, and he was the prince of wit and laughter.

He was a founding member of two bands that influenced string band musicians and singers across the Nation and around the world—the Country Gentlemen and the Seldom Scene. For more than 20 years, John Duffey and the Seldom Scene could be heard Thursday nights at the Birchmere in Alexandria. I had the pleasure of hearing them perform there often. When my constituents would come to town and asked me if there was something different they could see, I would always tell them if they wanted to see the people's music at its finest they should head down to the Birchmere and see John Duffey and his friends perform.

John Duffey did not like being boss and he liked being bossed even less, so these bands were composed of partners. A John Duffey comment about band structure can be applied to other aspects of life. He said, "Democracy doesn't work all that well, but it keeps a group happy longer than any other way of doing business." He knew that from spending almost 40 years in just two bands.

A flamboyant performer famed for spoofs of whatever needed spoofing and a general irreverence on stage, John was modest, genial, and almost shy off stage.

Like all great artists, John Duffey was aware of the beauty around him. He grew up in a family with a father who was a professional singer, performing at one point for the Metropolitan Opera. John seems to have never rejected any music that was in tune, and he had a good ear.

He heard and was attracted to the music of Appalachian migrants to the Washington area from the upland South. Music is judged as often for its social connection as its sound, and this music had no status. But Duffey was not concerned about such things and he gave this music a new milieu. Here was a tall man with a crew cut and rapier wit performing brilliant bluegrass and able to put any heckler in North America in his seat.

Duffey loved the Appalachian sound, but he was not from the area and did not care to pretend that he was. So he helped enlarge the reach of the music. He chose songs from modern and ancient sources; he worked on vocal harmonies new to the genre. Thousands of younger players were impressed.

In an interview on Washington's great WAMU radio station, host Jerry Gray recently asked Duffey how he wished to be remembered. The answer was Duffeyesque: "Well, I hope no one will think I was a klutz."

When the passage of time allows a broader perspective, I believe John Duffey will be considered one of the most important creators of this music. Through his wit, laughter, extraordinary musical gifts and passionate performance, he said, "this is a great American working class music."

I extend condolences to his family, his fellow members of the Seldom Scene, and the thousands who will miss him as I will.

Mr. Speaker, I am inserting in the RECORD at this point four articles. The first, the obituary for John Duffey, written by Bart Barnes, which appeared in the Washington Post. Second, the accompanying newspaper article, written by Richard Harrington, which appeared in the Post that same day. Third, an article written for Bluegrass Unlimited by Dick Spottswood. And fourth, a tribute to John Duffey written by Dudley Connell for Sing Out! magazine. Mr. Connell is lead singer in The Seldom Scene, which was cofounded by Mr. Duffey.

[From the Washington Post, Dec. 11, 1996]

MUSICIAN JOHN DUFFEY DIES; LED THE GROUP SELDOM SCENE

(By Bart Barnes)

John Duffey, 62, a singer and mandolin player who founded and led the Seldom Scene bluegrass group for 25 years, died Nov. 10 at Arlington Hospital after a heart attack.

Mr. Duffey, who was known to music lovers for a high, lonesome and lusty tenor voice that was once described as "one in a million," had been a fixture in Washington's musical community since the 1950s. The Seldom Scene was probably the premier bluegrass band in the Washington area, according to Pete Kuykendall, the publisher of Bluegrass Unlimited magazine and a former bandmate of Mr. Duffey's.

For 22 years, the Seldom Scene has played regularly at the Birchmere in Alexandria. The group also has toured oveseas, played in most of the 50 states and produced dozens of recordings, tapes and compact discs.

The group's most recent album is "Dream Scene," released this fall. The Seldom Scene played with other bluegrass bands on the Grammy Award-winning "Bluegrass: The World's Greatest Show." Over the last quarter-century, the group has played for the likes of President Jimmy Carter and Vice President Gore, as well as for members of Congress.

The group was formed in 1971 by Mr. Duffey and four others: Tom Gray, who worked for National Geographic; Ben Eldridge, a mathematician and computer expert; Mike Auldridge, a graphic artist with the Washington Star; and John Starling, a physician and ear, nose and throat specialist.

The five men initially intended to sing and play together only occasionally, hence the name, Seldom Scene. "They started as a fun thing, like a Thursday night poker game or a bowling night," Kuykendall said.

But the group soon progressed from occasional basement gettogethers to regular Thursday night appearances at the Red Fox Inn in Bethesda, where they played to standing-room-only crowds, and, from there, to the Birchmere, where they became a weekly fixture.

The Seldom Scene's 15th-anniversary concert was held at the Kennedy Center, and it included a presidential citation from Ronald Reagan, whose press secretary, James Brady, was a regular at the Birchmere. It featured guest appearances by the likes of Linda Ronstadt and Emmylou Harris.

Mr. Duffey, a resident of Arlington, was born in Washington and graduated from Bethesda-Chevy Chase High School. His father had been a singer with the Metropolitan Opera, and the son inherited an exceptional singing voice with a range said to be three of four octaves.

As a high school student, the young Mr. Duffey developed a love for the bluegrass music he heard on the radio. His father taught him the voice and breathing techniques of a classical opera singer, despite what was said to have been the elder Duffey's lack of enthusiasm for "hillbilly music."

As a young man, Mr. Duffey worked at a variety of jobs, including that of printer and repairer of stringed instruments. But his avocation was music, and it soon became his vocation as well.

In 1957, with Bill Emerson and Charlie Waller, Mr. Duffey founded the Country Gentlemen, a bluegrass and folk music group that for about 10 years rode the wave of folk music enthusiasm that surged through the 1960s. The group disbanded in the late 1960s, and Mr. Duffey went to work as an instrument repairman at a music store in the Cherrydale section of Arlington, which was how he was making a living when the Seldom Scene was formed.

"When we started the Seldom Scene, we all had jobs and we didn't care if anybody liked what we did or not," Auldridge told The Washington Post's Richard Harrington last year. "We just said, 'We're going to do some bluegrass because we love it, and some James Taylor or Grateful Dead, and if people buy it, great. If they don't, what do we care?' "

Mr. Duffey was a large and imposing man with a precise and soulfully expressive voice, and his singing was invariably moving. But he also had an engaging, irrepressible and sometimes off-the-wall style of stage chatter and a superb sense of timing that could break up an audience with a one-liner.

"What people love about him is that you know he's one of these guys stuck in the '50s, but he's so happy with himself, so confident, and he's also nuts," Aulridge said in 1989.

In the quarter-century since its formation, the Seldom Scene built its reputation on flawless harmony, instrumental virtuosity and a repertoire that included traditional bluegrass and modern popular music, rock tunes, swing and country, gospel and jazz.

Over the years, there would be changes in the group's composition, but until last year, the instrumental core remained the same: Mr. Duffey on mandolin, Eldridge on banjo and Auldridge on dobro. But Auldridge left the group in December, leaving only two original members.

In September, Mr. Duffey was inducted along with the original Country Gentlemen into the International Bluegrass Music Association's Hall of Fame.

Survivors include his wife, Nancy L. Duffey of Arlington.

[From the Washington Post, Dec. 11, 1996]

JOHN DUFFEY: A MANDOLIN FOR ALL SEASONS

(By Richard Harrington)

The National Observer once dubbed John Duffey "the father of modern bluegrass," a paternity that suited the muscled, buzz-cut mandolinist and high tenor who was cofounder of both the Country Gentlemen in 1957 and the Seldom Scene in 1972. Those two seminal acts not only helped popularize bluegrass worldwide but made Washington the bluegrass capital of the nation in the '60s and '70s.

Already reeling from the recent death of bluegrass patriarch Bill Monroe, the music and its fans may be excused for feeling orphaned right now. Duffey who died yesterday at the age of 62 after suffering a heart attack at his home in Arlington, was, like Monroe, a towering figure, physically and historically.

Duffey was also one of the most riveting and riotous personas in bluegrass, as famous for his (generally politically incorrect) jokes and onstage shenanigans as for ripping off fiery mandolin solos and then flinging his instrument behind his back when he was done—because, well, he was done.

"John was one of the half-dozen most important players ever in this industry," fellow musician Dudley Connell said yesterday. "He helped redefine how people looked at bluegrass, made it acceptable to the urban masses by his choice of material and style of performance."

Connell, founder of the critically acclaimed Johnson Mountain Boys, joined the Seldom Scene just a year ago when several of that band's longtime members left to devote themselves to a band called Chesapeake. That changeover represented a third act for John Duffey, the Washington-born son of an opera singer whose forceful and unusually expressive voice was once described—quite accurately— as "the loudest tenor in bluegrass."

"John Duffey had such a presence onstage you just had to watch him," noted bluegrass and country music radio personality Katie Daley. "It wasn't just that high tenor, either. He had such flair that he made the music a joy to watch . . . at a time when so many bluegrass groups would just stand straight-faced at the mike."

In terms of stubbornness and steel will, Duffey was not unlike Bill Monroe, but where Monroe was a tireless proselytizer for bluegrass, Duffey chose a different course that left him far less famous.

"He was proud but didn't want to pay any of the prices—interviews, travel, rehearsing, recording," says Gary Oelze, owner of the Birchmere, the Virginia club put on the world entertainment map by virtue of the Seldom Scene's 20-year residency there on Thursday nights.

"He hated to rehearse, and would only pull out his mandolin when it was time to play," Oelze recalled yesterday. "And he hated the studio, where his theory was, 'If I can't do it right in one take, then I can't do it right at all.' He's like Monroe in that both were set in their own ways. John was a big dominating character and cantankerous old fart. It's hard to imagine the big guy gone."

John Starling, a Virginia surgeon who was for many years the Seldom Scene's lead singer, concedes that Duffey was "sometimes difficult to deal with from a professional standpoint, but he was also true to himself and he never changed. John was one of a kind."

Starling first encountered Duffey while in medical school at the University of Virginia in the mid-'60s; at the time, Duffey was with the Country Gentlemen and Starling would venture to Georgetown to catch them at the Shamrock on M Street. "I never dreamed one day I'd play in the same band," Starling says, adding that "everything I know about the music business—especially to stay as far away from it as possible—I learned from John.

"Left to our own devices, the Seldom Scene would have cleared a room in 10 minutes without John," Starling says with a chuckle. "He was the entertainer, the rest of us were players and singers. He did it all."

Duffey's career began with a care wreck in 1957 that injured a mandolin player, Buzz Busby, who fronted a bluegrass group. Busby's banjo player, Bill Emerson, quickly sought substitutes so the band could fulfill a major club date.

Emerson found a young guitar player named Charlie Waller and a young mandolin player named John Duffey. And so on July 4 1957, what would soon be the Country Gentlemen played their first date, at the Admiral Grill in Bailey's Crossroads. They liked their sound, and decided to strike out on their own. It was Duffey who came up with the name, noting that a lot of bluegrass bands at the time were calling themselves the so-and-so Mountain Boys. "We're not mountain boys," he said. "We're gentlemen."

And scholars. At least Duffey was, spending hours at the Library of Congress's vast Archive of Folk Song, looking for unmined musical treasures. Duffey was a product of the first American folk revival, which had introduced urbanites to rural culture. And he in turn passed it on. "John was one of those people who brought rural music to the city," says Joe Wilson, head of the National Council for the Traditional Arts. "He was concerned with authenticity even though he didn't share the [rural] background."

What came to be known as the "classic" Country Gentlemen lineup was settled in 1959 with the addition of guitarist-singer Eddie Adcock. Duffey (high tenor), Waller (low tenor) and Adcock (baritone) created one of the finest vocal trios in bluegrass history. The band's repertoire deftly melded bluegrass, fold and country tunes in a way that was both tradition-oriented and forward-looking. And they began adapting popular songs in the bluegrass style.

Duffey "gave bluegrass accessibility to lawyers and accountants and people who worked on Capitol Hill," says Wilson. "He was an interpreter in the finest sense of the word, bringing grass-roots culture to an elite."

Along with Flatt and Scruggs—a duo introduced to mass television audiences by the "Beverly Hillbillies" theme song—the Country Gentlemen probably made more bluegrass converts in the '60s than Bill Monroe himself. They were criticized in traditional bluegrass circles for being too "progressive"—for playing what was dismissively dubbed "newgrass." But on the emerging bluegrass festival circuit and in venues as un-Shamrock-like as Carnegie Hall, their approach made them the music's most successful ambassadors.

By 1969, however, John Duffey was frustrated with traveling, terrified of flying, and generally down on the music business. He retired to an instrument-building and repair business in Arlington. In weekly gatherings at Bethesda's tiny Red Fox Inn, he played with other gifted musicians who didn't want to give up their day jobs. These sessions blossomed, in 1972, into a band with a modest name: the Seldom Scene.

The Country Gentlemen survived Duffey's departure, enduring 40 years around Waller, its lone survivor. Perhaps the Seldom Scene will go on, too. But John Duffey was so much the focus, the showman, the entertainer—that huge man with his fingers flying over his tiny mandolin—that it's hard to imagine the band, or bluegrass, without him.

[From Bluegrass Unlimited, Dec. 10, 1996]

JOHN H. DUFFEY

March 4, 1934—December 10, 1996

John Humbird Duffey died today. He was 62.

I had to write that down and stare at it for a few seconds to clear my mind and force myself to acknowledge that unthinkable and, for now, unacceptable fact of life. His death came from a massive heart attack at 10:20 a.m. at Arlington Hospital, after being taken in early this morning following some breathing problems. Though he had a history of minor heart problems, his health had otherwise been good—good enough for a successful Seldom Scene performance in the New York City area this past weekend.

Those are the simple, immediate facts, the ones we enumerate when grief makes it difficult to think beyond them. John was a commanding presence in the Washington, D.C. area, where he was born, raised and hardly ever left. His sheer size and bulk would have made him stand out in any crowd. On stage, when he went to work on that comparatively tiny mandolin, it never looked like a fair match, especially since John always made music look so deceptively easy.

John also played resonator guitar on a number of early Starday singles, including his notable "Traveling Dobro Blues." He was good at it too, but one can manage just so much, and John abandoned the instrument early. Not so his finger-style guitar, which has replaced or supplemented the mandolin in John's arrangements many times over the years.

John Duffey's voice was his other superb instrument. His father had been a professional singer, serving for a time in the Metropolitan Opera chorus. John learned a few vocal secrets from him, especially the arts of breathing and singing from the diaphragm. They served John well. His vocal agility, remarkable range, distinctive vocal harmonies, and lovely intonation remained with him right up to the end, and his voice was as instantly recognizable as any on the planet.

Many will remember John's incredible gift for comedy, which grew out of the bad boy persona he cultivated on stage. He was a child of the suburbs and his wit was hip and urbane rather than country. John's irreverence never served to diminish his music, but he could and did ad-lib as skillfully as a professional comic. It was an attitude which had been foreign to bluegrass. Before the Country Gentlemen appeared in 1957, hillbilly comedy had been the provenance of bass-players who specialized in rube routines, blackened teeth, and ill-fitting costumes. Their comedy at its best was crude and wonderful but it was no match for John Duffey, whose unrepentantly loud, tasteless clothes and flat-top haircut made him look like a comic relic in the '90s, much as Cousin Mort, Chick Stripling and Kentucky Slim appeared to be rural leftovers in the '50s.

The Country Gentlemen formed as a result of a 1957 auto accident involving the band of another bluegrass veteran, singer/mandolinist Buzz Busby. Buzz's band had contracted a July 4th engagement; to fill it, banjo player Bill Emerson engaged Charlie Waller, John Duffey and a temporary bass player. The result pleased everyone so much that they gave themselves a new name and kept right on working, even after Bill bequeathed the banjo chair to Pete Kuykendall, who subsequently turned it over to Eddie Adcock in 1959. Pete and John became fast friends, and Pete continued to work behind the scenes for the Gentlemen, composing new songs for them, introducing them to old ones, and producing their records for several years. Bass player Tom Gray joined the group later creating the Classic Country Gentlemen.

This unique combination of skills transformed the band virtually overnight. Charlie Waller had always been at home with mainstream country music as well as bluegrass. John and Bill Emerson's knowledge extended to country, pop, jazz, blues and classical music. The Country Gentlemen's first Starday release in 1958 clearly showed the way: "It's The Blues," neither blues nor bluegrass, was an experimental song which would have then seemed challenging even to Nashville professionals. Its reverse, "Backwoods Blues," was a jazzy reprise of the 1920s pop standard "Bye Bye Blues" (which wasn't blues either).

Marshall McLuhan once defined art as "anything you can get away with," which precisely matched John Duffey's attitude towards bluegrass. John's respect for the classic Monroe model was exceeded by no one's but the Monroe musical constraints which defined classic bluegrass were only one option for him. The Country Gentlemen's eclectic LP collections proceeded to span the gap from ancient hymns and tragic songs to Ian and Sylvia, Tom Rush, Lefty Frizzel, and Bob Dylan pieces, woven into a broad and usually seamless fabric by a versatile and inspired group of musicians.

It turned out to be a perfect formula for those times. Mike Seeger pitched the Gents to Moe Asch, whose Folkways label published four LPs by them. Those recordings quickly wound up in the hands of urban folk music buffs, becoming bluegrass primers for many in northern cities and on college campuses. This new audience in turn was receptive to John's adventurous music, and it helped pave the way for the Gentlemen's growing international following in the 1960s.

As their career heated up, John grew tired of the necessary travel and retired from music in 1969. But the hiatus proved brief; in 1971 he joined Tom Gray, Mike Auldridge, and Ben Eldridge to form the Seldom Scene, whose name indicated that it was a group whose ambitions were limited. But lightning struck again. With John Starling, a singer whose abilities matched John's, the group quickly achieved the status and respect previously accorded the Country Gentlemen.

By then, the Duffey approach had been labeled "progressive bluegrass," a label which encouraged others to follow John's example and even exceed it, with pop tunes and rock arrangements which often became tangential to the classic models. John's selections and arrangements sought to take alien material and bring it towards bluegrass rather than force bluegrass to conform to other popular musics. It was the right approach; the "newgrass" bands have come and gone while the Seldom Scene has prospered and endured.

John Duffey wasn't a sentimental person, and he'd probably be embarrassed by an outpouring of emotion. But it's hard to envision bluegrass without him, hard for those of us of his generation and beyond not to remember many evenings at the Crossroads, the Shamrock, the Cellar Door, the Red Fox and the Birchmere, local joints which may not have been up to the standard of the downtown cocktail lounges, but where John, the Gents and the Scene enjoyed extended engagements over the past 40 years. That's not to say that John wasn't influential beyond his home environs. He traveled when he had to, to many parts of the globe, sharing the stage with everyone from Linda Ronstadt to Bill Monroe—who uncharacteristically, rarely failed to crack a smile in John's presence. John Duffey offstage was a modest and unassuming person, who nevertheless was a loyal friend to many, professionals and fans alike. Even those of us who weren't close to him can attest to the way his art touched our lives and made them better. His death will be hard for the many music professionals whom he inspired, informed and befriended. There hasn't been much that's taken place in bluegrass since the 1950s that he hasn't influenced one way or another.

Survivors include John's wife Nancy who, among other things, has been a loyal, appreciative spouse, a daughter, Ginger Allred and three stepchildren: Donald Mitchell, Richard Mitchell and Darci Holt.

Goodbye, John, and thank you from the bottom of our hearts. Like the ads say, your gifts will keep on giving.

[From Sing Out!]

The following tribute to John Duffey written by Dudley Connell for Sing Out! magazine. Mr. Connell is lead singer in the Seldom Scene, co-founded by Mr. Duffey.

When John Duffey died on December 10, 1996, he left an imposing and very important forty year musical legacy.

John was a big guy with commanding stage presence. With his 1950s style flattop hair cut, multicolored body builder paints and unmatching bowling shirt, he left an indelible impression. When he arrived at the stage with his trademark mandolin and home made cup holder, complete with a special clip ready to attach to an unattended microphone stand, you knew John was ready to go to work.

His huge hands flew expertly across the neck of his tiny mandolin at a speed that seemed impossible. He made it look so easy. John would occasionally invite other players in the audience to sit and play his mandolin. They invariably found its high and tight action intimidating. Akira Otsuka, a long time Washington area player and John Duffey disciple, once looked at me after attempting a break on John's mandolin and asked, "How does he play this thing?"

John's most remarkable instrument, however, was his powerhouse tenor voice. There has never been any voice in bluegrass more unmistakable or capable of such range as that of John Duffey's. It seemed to ignore human bounds. His voice could range from the soft and delicate, "Walk Through This World With Me", to the aggressive and powerful, "Little Georgia Rose". Even at age 62, his voice was both challenging and inspiring to accompany.

John Duffey was as well known for his entertaining stage swagger as for his incomparable musical abilities. He was like a loose cannon on stage. Unlike many performers who have been entertaining for a long period of time, John did not work from scripted stage patter. Anything and anybody was fair game. There were many times John would hook onto a unsuspecting heckler in the audience and send the rest of the band members scurrying for cover. But with that unpredictable tension came a certain excitement and unpredictability that was fuel for the fire of all Seldom Scene stage shows.

In his forty years in the bluegrass music, John was unique and fortunate to have been the catalyst in forming two landmark bands. The first came by accident, literally.

On July 4th, 1957, Buzz Busby, a legendary Washington area mandolin player and tenor singer, was contracted to play a gig at a local night spot. When he was involved in an automobile accident and was unable to make the show, the group's banjo player, Bill Emerson, started making phone calls and arranged for Charlie Waller and John to fill in. The resulting sound was pleasing to everyone that they decided to give themselves a new name and continue playing together.

Never one to follow trends, John felt that a band from Washington DC should choose a name that reflected its own heritage and not use a "So and So and the Mountain Boys" or some other name that suggested they were from somewhere they were not. The name John chose was The Country Gentlemen, then a very urbane name for a bluegrass band. His former colleague in that group, Charlie Waller, continues to tour and perform with that band.

Due to the interest of Bill Emerson and John, tunes that were country, pop, blues, jazz, and classical became fair game for the Country Gentlemen who became noted for pushing the envelope of the existing bluegrass repertoire. John said, "There were enough versions of 'Blue Ridge Cabin Home' and 'Cabin in Caroline' to go around." He was looking for something different. Hence the Country Gentlemen's song bag included John's jazzy mandolin interpretation of "Sunrise", Bob Dylan's "Its All Over Now Baby Blue", and a mandolin version of the theme from the movie "Exodus".

John also recognized the importance of the Folk Revival in the early 1960s and spent a considerable amount of time at the Library of Congress, researching material and achieving considerable success in composed melodies for old poems he found during his research. Songs entering the Country Gentlemen's repertoire in this manner include the classic, "Bringing Mary Home" and "A Letter to Tom". In addition to collecting and arranging old songs and poems, John composed and dedicated to his wife Nancy, "The Traveler", and the haunting "Victim to the Tomb", along with many others.

But by the late 1960s John had tired of all the traveling necessary to sustain a bluegrass band. "I just got tired of saving up to go on tour," he said. In 1969 Duffey left the Country Gentlemen with no intentions of performing again. During the 1969 to 1971, John operated a musical instrument repair shop.

But in 1971 John again found himself involved with music business, and again, by accident. He was joined in a informal group by former Country Gentlemen bassist Tom Gray, and by Ben Eldridge, Mike Aldridge and John Starling. This band would go on to be known as the Seldom Scene.

As the name implies, this group of musicians did not form with the intention of touring and playing music for a living. All the members had day jobs and simply wanted an outlet for their music. John said it was, "Sort of a boy's night out, like a weekly card game." The group started out in a member's basement, playing for fun, and then moved to the small Red Fox Inn outside Washington, DC. The group would later move across the Potomac River to a weekly Thursday night time slot at the Birchmere, in Northern Virginia.

Not being driven by the financial contraints to adhere to any of the rules normally associated with a professional touring group, the Seldom Scene did the music they wanted to do the way they wanted to do it. John's feeling was that "If people enjoy what we do, fine. If they don't, that's okay, too." With this freewheeling attitude, the group continued to stretch their musical reach by recording tunes from the Eric Clapton catalog, "Lay Down Sally" and "After Midnight", to long improvisational numbers with extended jams like "Rider".

This continuing tendancy to incorporate influences from outside of the traditional sources made it easier for the urban audiences around Washington to identify with bluegrass. It also expanded the group's popularity to far beyond the doors of the local DC club scene. And the experimentation continued. In the weeks before his death, the current band was in rehearsals for their next recording project and were working on an arrangement to the Muddy Waters classic, "Rollin' and Tumblin". John Duffey and the Seldom Scene continued to be active up to the end, playing in Englewood, New Jersey, just days before John's death.

John Duffey's influence on generations of musicians cannot be overstated. Noted music historian, Dick Spottswood, said, "There hasn't been much that's taken place in bluegrass since the 1950s that he hasn't influenced one way or another."

John Duffey is survivied by his wife Nancy and daughter, Ginger Allred. He also has three stepchildren; Donald Mitchell, Richard Mitchell, and Darci Holt.

HOUSE OF REPRESENTATIVES—*Monday, January 20, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. DREIER].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 20, 1997.

I hereby designate the Honorable DAVID DREIER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford. D.D., offered the following prayer:

On this Inaugural Day, when the Nation affirms its traditions and welcomes the responsibilities of the years ahead, we ask Your blessing, O God, and pray for the gifts of faith and hope and love.

As we seek to renew our strength, we pray for faith; when we strive to walk the way of justice, we pray for hope; as we earnestly desire to be the people You would have us be, may we express the gift of love, even as we know Your love to us.

May Your special blessing this day be with our President and Vice President, with our Speaker and the people of this assembly, that in all things we will do justice, love mercy, and ever walk humbly with You. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Indiana [Mr. HOSTETTLER] come forward and lead the House in the Pledge of Allegiance.

Mr. HOSTETTLER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT AS MEMBER OF JOINT ECONOMIC COMMITTEE

The SPEAKER pro tempore. Pursuant to the provisions of 15 U.S.C. 1024(a) and the order of House of Tuesday, January 7, 1997, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker, on Thursday, January 9, 1997, appointed to the Joint Economic Committee the following Member of the House: Mr. SAXTON, New Jersey.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until 10:15 a.m.

Accordingly (at 10 o'clock and 5 minutes a.m.), the House stood in recess until 10:15 a.m.

□ 1017

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. DREIER] at 10 o'clock and 17 minutes a.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that sitting Members have been delivered their official tickets and will be seated on the platform. There are no extra seats available, so former Members cannot join the procession. The same holds true for children. They can neither go with the procession nor be seated on the platform.

The area where Members of the House are to be seated is not covered. Members should keep this fact in mind in deciding whether to wear overcoats and hats.

The procession will be headed by the Sergeant at Arms bearing the mace. The Clerk will escort the Members to the west front of the Capitol. The procession will be led by the dean of the House, followed by the House leadership, committee chairmen, ranking minority Members, and other Members in order of seniority.

The Chair would encourage Members, as they gather in order of seniority, to congregate by classes in the well.

Pursuant to House Resolution 8, the Members of the House will now proceed to the west front to attend the inaugural ceremonies for the President and Vice President of the United States.

Upon completion of the ceremony, and pursuant to the provisions of House Resolution 8, the House will stand adjourned until noon tomorrow.

Thereupon, at 10 o'clock and 19 minutes a.m., the Members of the House, preceded by the Sergeant at Arms and the Speaker pro tempore, proceeded to the west front of the Capitol.

ADJOURNMENT

At the conclusion of the inaugural ceremonies (at 12 o'clock and 48 minutes p.m.), the House, without returning to its Chamber, pursuant to House Resolution 8, stood in adjournment until Tuesday, January 21, 1997, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

932. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Vidalia Onions Grown in Georgia; Assessment Rate [Docket No. FV96-955-1 FIR] received December 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

933. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products: Revision of User Fees [DA-96-10] (RIN: 0581-AB43) received January 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

934. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Middle Atlantic and Certain Other Milk Orders; Termination of Certain Provisions of the Order [DA-96-15] received January 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

935. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Procedures to Limit the Volume of Small Florida Red Seedless Grapefruit [Docket No. FV96-905-2FR] received January 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

936. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Milk in the Black Hills, South Dakota Marketing Area; Termination of the Order [DA-96-12] received January 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

937. A letter from the Administrator, Agricultural Marketing Service, transmitting

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Service's final rule—Milk in the Pacific Northwest Marketing Area; Order Amending the Order [Docket No. AO–368–A25; DA–95–01] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

938. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Importation of Fruits and Vegetables [Docket No. 95–098–3] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

939. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Tuberculosis in Cattle and Bison; State Designation [Docket No. 96–092–1] received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

940. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—The Importation of Ratites and Hatching Eggs of Ratites [Docket No. 95–044–2] received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

941. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Viruses, Toxins, and Analogous Products; Encephalomyelitis Vaccine, Eastern, Western, and Venezuelan, Killed Virus [Docket No. 93–128–2] received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

942. A letter from the Assistant Secretary for Marketing and Regulatory Programs, Department of Agriculture, transmitting the Department's final rule—Fees for Commodity Inspection (Grain Inspection, Packers, and Stockyards Administration) (RIN: 0580–AA48) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

943. A letter from the Under Secretary for Rural Development, Department of Agriculture, transmitting the Department's "Major" final rule—Rural Business Loan Program Streamlining (Rural Business-Cooperative Service) [Workplan 94–009) (RIN: 0570–AA09) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

944. A letter from the Administrator, Rural Utilities Service, transmitting the Service's final rule—RUS Policies on Mergers and Consolidations of Electric Borrowers (RIN: 0572–AB24) received December 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

945. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a correction of an error that was inadvertently contained in explanatory material that the administration forwarded to Congress on September 12, 1996, in connection with the proposed fiscal year 1996 supplemental appropriations and fiscal year 1997 budget amendments for programs to strengthen antiterrorism, counterterrorism, and security efforts in this country and abroad (see page 54 of House Document 104–264; to the Committee on Appropriations.

946. A letter from the Chief, Programs and Legislative Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the commander of Air Education and Training Command is initiating a multilocation cost comparison at Keesler Air Force Base [AFB], MS, and Lackland AFB, TX, of electronic principles training, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

947. A letter from the Chief, Programs and Legislative Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the commander of Air Force Materiel Command is initiating a cost comparison at the Air Force Development Test Center, Elgin Air Force Base, FL, that includes the following functions: waste water treatment, military family housing, military family housing maintenance, zone maintenance, range road support, and civil engineering supply, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

948. A letter from the Chief, Programs and Legislative Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the commander of Bolling Air Force Base [AFB], Washington, DC, has conducted a cost comparison to reduce the cost of operating military family housing maintenance, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

949. A letter from the Secretary of Defense, transmitting the Department's report on payment of restructuring costs under defense contracts, pursuant to 10 U.S.C. 2324 note; to the Committee on National Security.

950. A letter from the Director of Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Downsizing Notice [DFARS Case 96–D321] received December 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

951. A letter from the Director of Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; MILCON-Environmental Restoration [DFARS Case 96–D327] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

952. A letter from the Director of Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement, Information Technology Management Reform Act (ITMRA) [DFARS Case 96–D017] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

953. A letter from the Director of Washington Headquarters Services, Department of Defense, transmitting the Department's final rule—Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Clarification of the CHAMPUS Exclusion of Unproven Drugs, Devices, and Medical Treatments and Procedures [DOD 6010.8–R] (RIN: 0720–AA29) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

954. A letter from the Board of Directors, Panama Canal Commission, transmitting the Commission's report regarding the costs associated with the dissolution of the Commission, including the cost of the office to be established to close out its affairs, pursuant to 22 U.S.. 3601; to the Committee on National Security.

955. A letter from the Secretary, Panama Canal Commission, transmitting the Commission's final rule—Tolls for Use of Canal; Rules for Measurements of Vessels (RIN: 3207–AA38) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

956. A letter from the Attorney-Advisor, Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule—Payment to Financial Institutions for Credit to Accounts of Employees and Beneficiaries (RIN: 1510–AA30) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

957. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Russia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

958. A letter from the Director of the Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Suspension and Exclusion of Contractors and Termination of Contracts (RIN: 3064–AB76) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

959. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Procedure for Consideration of Regulatory Waivers (12 CFR Part 902) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

960. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Selection and Compensation of Federal Home Loan Bank Employees (12 CFR Part 932) received January 7, 1997, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Banking and Financial Services.

961. A letter from the Assistant to the Board, Federal Reserve System, transmitting the Reserve's final rule—Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities (Docket No. R–0841) received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

962. A letter from the Assistant to the Board, Federal Reserve System, transmitting the Reserve's final rule—Relations With Dealers in Securities Under Section 32, Banking Act of 1933; Miscellaneous Interpretations (Docket No. R–0931) received November 14, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

963. A letter from the Assistant to the Board, Federal Reserve System, transmitting the Reserve's final rule—Regulation D, Reserve Requirements of Depository Institutions (Docket No. R–0929) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

964. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Organization and Operations of Federal Credit Unions; Truth in Savings [12 CFR Parts 701 and 707] received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

965. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Investment Securities [Docket No. 96–26] (RIN: 1557–AB37) received December 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

966. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Fiduciary Activities of National Banks; Rules of Practice and Procedure [Docket No. 96–30] (RIN: 1557–

AB12) received December 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

967. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting the Office's final rule—Subsidiaries and Equity Investments [No. 96–119] (RIN: 1550–AA88) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

968. A letter from the Secretary of the Treasury, transmitting the annual report on the financial position and results of the operations of the Student Loan Marketing Association [Sallie Mae] for the year ended December 31, 1995, pursuant to 20 U.S.C. 1701 et seq.; to the Committee on Education and the Workforce.

969. A letter from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's "Major" final rule—Child and Adult Care Food Program: Improved Targeting of Day Care Home Reimbursements (Food and Consumer Service) [Workplan Number 96–022] (RIN: 0584–AC42) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

970. A letter from the Assistant Secretary for Employment Standards, Department of Labor, transmitting the Department's final rule—Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (20 CFR Part 5) (Employment Standards Administration) (RIN: 1215–AA94) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

971. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Assessment of Penalties for Failure to Provide Premium-related Information—received December 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

972. A letter from the Secretary of Health and Human Services, transmitting the fifth triennial report on drug abuse and drug research on the health consequences and extent of drug abuse, including recent findings on the health effects of marijuana, cocaine, and the addictive properties of tobacco, pursuant to 42 U.S.C. 290aa–4(b); to the Committee on Commerce.

973. A letter from the Secretary of the Commission, Consumer Product Safety Commission, transmitting the Commission's final rule—Fireworks Devices (Except Firecrackers); Fuse Burn Time [16 CFR Part 1507] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

974. A letter from the General Counsel, Department of Energy, transmitting the Department's final rule—DOE O 200.1, Information Management Program—received October 28, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

975. A letter from the General Counsel, Department of Energy, transmitting the Department's final rule—Work for Others (Non-Department of Energy Funded Work) received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

976. A letter from the General Counsel, Department of Energy, transmitting the Department's final rule—Personnel Security Activities— received November 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

977. A letter from the General Counsel, Department of Energy, transmitting the Department's final rule—Contractor Human Resource Management Programs—received October 28, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

978. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Interim Approval of Operating Permits Program, State of Idaho; Clean Air Act Proposed Delegation of National Emission Standards for Hazardous Air Pollutants as They Apply to Title V Sources and Approval of Streamlined Mechanism for Future Delegations, State of Idaho [AD–FRL–5657–5] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

979. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation for South Coast Air Quality Management District [CA 181–0024a; FRL 5649–8] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

980. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan; Michigan [MI40–02–7255; FRL–5662–8] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

981. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania, Approval of Lead Implementation Plan for an Area in Northeast Philadelphia, Pennsylvania [PA047–4034; FRL–5654–7] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

982. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Promulgation of Reclassification of PM–10 Nonattainment Areas in Idaho [ID5–2–7075a; FRL–5665–1] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

983. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations, and 1990 Baseyear Emissions for One Source [PA 083–4036a, PA 083–4037a, PA 069–4035a; FRL–5659–7] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

984. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Colorado; 1990 Base Year Carbon Monoxide Emission Inventories for Colorado [CO24–1–5701a, CO25–1–5700a, CO26–1–5702a; FRL–5664–3] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

985. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks; Rule Clarifications [AD–FRL–5672–5] (RIN: 2060–AC19) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

986. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—New Mexico: Final Authorization of State Hazardous Waste Management Program Revisions [FRL–5666–8] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

987. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Protection of Stratospheric Ozone: Extension of The Existing Reclamation Requirements [FRL–5670–2] (RIN: 2060–AF36) received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

988. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emissions Standards for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not Covered by Subpart H [FRL–5670–5] (RIN: 2060–AE39) received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

989. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California—Ozone [CA114–0023; FRL–5665–8] received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

990. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California—Ozone [CA114–0025; FRL–5665–9] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

991. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Priorities List for Uncontrolled Hazardous Waste Sites [FRL–5668–3] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

992. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Interim Approval of the Operating Permits Program; Michigan [MI001; FRL–5674–1] received January 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

993. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting [AD–FRL–5664–6] (RIN: 2060–AE04) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

994. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—In the Matter of Revision of ARMIS Quarterly Report (FCC Report 43–01), ARMIS USOA Report (FCC Report 43–02), ARMIS Joint Cost

Report (FCC Report 43-03), ARMIS Access Report (FCC Report 43-04), ARMIS Quarterly Service Quality Report (FCC Report 43-05), ARMIS Semi-Annual Service Quality Report (FCC Report 43-06), ARMIS Infrastructure Report (FCC Report 43-07), and ARMIS Operating Data Report (FCC Report 43-08) for Certain Class A and Tier 1 Telephone Companies [CC Docket No. 96-193] received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

995. A letter from the Chair, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement; Order No. 592 [Docket No. RM96-6-000) received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

996. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rules and Regulations Under The Fur Products Labeling Act (16 CFR Part 301) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

997. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Trade Regulation Rule Concerning Games of Chance in the Food Retailing and Gasoline Industries (16 CFR Part 419) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

998. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's report entitled "Federal Trade Commission Report to Congress Pursuant to the Comprehensive Smokeless Tobacco Health Education Act of 1986," pursuant to 15 U.S.C. 4401; to the Committee on Commerce.

999. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Anticaries Drug Products for Over-the-Counter Human Use; Partial Stay of Final Rule; Enforcement Policy [Docket No. 80N-0042] (RIN: 0910-AA01) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1000. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Current Good Manufacturing Practices for Blood and Blood Components: Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HIV Infection; Correction of Effective Date [Docket No. 91N-0152] (RIN: 0910-AA05) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1001. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Sodium Labeling for Over-the-Counter Drugs; Final Rule [Docket No. 90N-0309] (RIN: 0910-AA63) received January 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1002. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Revocation of Certain Regulations; Biological Products; Final Rule [Docket No. 95N-310B] received January 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1003. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Reclassification and Exemption From Premarket Notification for Certain Classified Devices [Docket No. 95N-0139] received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1004. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Specific Requirements on Content and Format of Labeling for Human Prescription Drugs; Revision of "Pediatric Use" Subsection in the Labeling; Extension of Compliance Date [Docket No. 92N-0165] received January 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1005. A letter from the Director, National Institutes of Health, transmitting the Institutes', final rule—National Institutes of Health Center Grants (RIN: 0905-AE00) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1006. A letter from the Director, National Institutes of Health, transmitting the Institutes' final rule—National Institutes of Health Training Grants (RIN: 0905-AD56) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1007. A letter from the Director, National Institutes of Health, transmitting the Institutes' final rule—Grants for Research Projects (RIN: 0905-AC02) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1008. A letter from the Director, National Institutes of Health, transmitting the Institutes' final rule—National Institute of Environmental Health Sciences Hazardous Substances Basic Research and Training Grants (RIN: 0925-AA03) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1009. A letter from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Patent and Trademark Office, transmitting the Office's final rule—Establishment of Recordal Fees Associated with the Fastener Quality Act [Docket No. 960828232-6294-02] (RIN: 0651-AA90) received October 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1010. A letter from the Secretary of Energy, transmitting the Department's report entitled "Report on Voluntary Commitments for the Replacement Fuel Supply and Demand Program," pursuant to section 505 of the Energy Policy Act of 1992; to the Committee on Commerce.

1011. A letter from the Secretary of Health and Human Services, transmitting the Department's report entitled "Performance Improvement 1996: Evaluation Activities of the U.S. Department of Health and Human Services," pursuant to section 241(b) of the Public Health Service [PHS] Act; to the Committee on Commerce.

1012. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Odd-lot Tender Offers by Issuers [Release Nos. 33-7376; 34-38068; IC-22413; File No. S7-12-96] (RIN: 3235-AG78) received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1013. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's "Major" final rule—Regulation M (Anti-Manipulation Rules Concerning Securities Offerings) [Release No. 33-7375] (RIN: 3235-AF54) received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1014. A letter from the Director, Defense Security Assistance Agency, transmitting a report of enhancement or upgrade of sensitivity of technology or capability for Malaysia (Transmittal No. A-97) received December 16, 1996, pursuant to 22 U.S.C. 2776(b)(5)(A); to the Committee on International Relations.

1015. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97-13, and the statement of justification authorizing the furnishing of assistance from the emergency refugee and migration assistance fund to meet the urgent needs of refugees, victims of conflict, and other persons at risk in the Great Lakes region of Africa, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on International Relations.

1016. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97-11: determination and certification for fiscal year 1997 concerning Argentina's and Brazil's ineligibility under section 102(a)(2) of the Arms Export Control Act, pursuant to 22 U.S.C. 2799aa-2; to the Committee on International Relations.

1017. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1018. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Iraqi Sanctions Regulations; Licensing of Performance on Certain Contracts with the Government of Iraq [31 CFR Part 575] received December 10, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1019. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Revisions to the Export Administration Regulations: Computer Revisions (Bureau of Export Administration) [Docket No. 961216357-6357-01] (RIN: 0694-AB54) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1020. A letter from the Under Secretary for Export Administration, Department of Commerce, transmitting the Department's report entitled "Imposition of Foreign Policy Export Controls on Commercial Encryption Items, Including Products with Key Recovery Features," pursuant to section 6 of the Export Administration Act of 1979, as amended; to the Committee on International Relations.

1021. A letter from the Executive Director, Japan-United States Friendship Commission, transmitting the Commission's annual report for fiscal year 1996, pursuant to 22 U.S.C. 2904(b); to the Committee on International Relations.

1022. A letter from the President's pay agent, transmitting a report justifying the reasons for the extension of locality-based comparability payments to categories of positions that are in more than one executive agency, pursuant to 5 U.S.C. 5304(h)(2)(C); to the Committee on Government Reform and Oversight.

1023. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Office of the Inspector General and the Secretary's semiannual report on final action taken on inspector general audits for the period from April 1, 1996 through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1024. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–334, "Comprehensive Merit Personnel Act Health and Life Insurance Clarification Amendment Temporary Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1025. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–333, "District of Columbia Income and Franchise Tax Act of 1947 Conformity Amendment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1026. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–332, "Nonprofit Corporation Two-Year Report Amendment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1027. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–331, "Establishment of the John A. Wilson Building Foundation Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1028. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–329, "Juvenile Detention Speedy Trial Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1029. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–328, "Bicyclist Responsibility Regulation Amendment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1030. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–327, "Vending Site Lottery Assignment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1031. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–326, "Abatement of Controlled Dangerous Substances Nuisance Amendment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1032. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–325, "Free Clinic Assistance Program Extension Amendment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1033. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–323, "Expulsion of Students Who Bring Weapons Into Public Schools Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1034. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–322, "Expulsion of Students Who Bring Weapons Into Public Schools Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1035. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–321, "Anti-Loitering/Drug Free Zone Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1036. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–320, "Early Intervention Services Sliding Fee Scale Establishment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1037. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–318, "Community Development Corporations Money Lender License Tax Exemption Amendment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1038. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–317, "Child Support Enforcement Amendment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1039. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–316, "Commission on Mental Health Services Psychologists Protection Amendment Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1040. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–315, "Upper Room Baptist Church Equitable Real Property Tax Relief Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1041. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–312, "Holy Comforter Episcopal Church, Saint Andrews Parish Equitable Real Property Tax Relief Act of 1996" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1042. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–314, "St. Matthew's Evangelical Lutheran Church Equitable Real Property Tax Relief Act of 1966" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1043. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–311, "Simpson-Hamline United Methodist Church Property Tax Relief Act of 1966" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1044. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–310, "Rhema Christian Center Property Tax Relief Act of 1966" received January 9, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1045. A letter from the Attorney General of the United States, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1046. A letter from the Chairman, Board of Contract Appeals, transmitting the Board's final rule—Rules of Procedure for Travel and Relocation Expenses Cases [48 CFR Part 6104] (RIN: 3090–AG29) received December 18, 1966, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1047. A letter from the Executive Director, Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List [ID# 97–004] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1048. A letter from the Executive Director, Corporation for National Service, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 1996, through September 30, 1996; and the semiannual management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1049. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a copy of the Authority's resolution and order adopted December 27, 1996; to the Committee on Government Reform and Oversight.

1050. A letter from the Chairman, Farm Credit System Insurance Corporation, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1051. A letter from the Chairman, Federal Housing Finance Board, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1052. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Description of Organization and Functions (12 CFR Part 900) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1053. A letter from the Chair, Federal Labor Relations Authority, transmitting the 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1054. A letter from the Chairman, Federal Maritime Commission, transmitting the 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1055. A letter from the Assistant to the Board, Federal Reserve System, transmitting the Reserve's final rule—Rules Regarding Availability of Information (Docket No. R–0946) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1056. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Circular 90-44; Introduction (DOD, GSA, NASA) [48 CFR Chapter 1] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1057. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Automatic Data Processing Equipment Leasing Costs [FAC 90-44; FAR Case 96-010; Item I] (RIN: 9000-AH41) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1058. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Major System Definition (DOD, GSA, NASA) [FAC 90-44; FAR Case 96-322; Item II] (RIN: 9000-AH42) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1059. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Preaward Debriefings (DOD, GSA, NASA) [FAC 90-44; FAR Case 96-304; Item III] (RIN: 9000-AH13) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1060. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Certification Requirements—Drug-Free Workplace (DOD, GSA, NASA) [FAC 90-44; FAR Case 96-311; Item IV] (RIN: 9000-AH06) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1061. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Consideration of Late Offers (DOD, GSA, NASA) [FAC 90-44, FAR Case 95-019; Item V] (RIN: 9000-AG890 received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1062. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Foreign Differential Pay (DOD, GSA, NASA) [FAC 90-44; FAR Case 96-012; Item VI] (RIN: 9000-AH43) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1063. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Final Indirect Cost Rates (DOD, GSA, NASA) [FAC 90-44; FAR Case 95-018; Item VII] (RIN: 9000-AG88) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1064. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Modification of Existing Contracts (DOD, GSA, NASA) [FAC 90-44; FAR Case 96-606; Item VIII] (RIN: 9000-AH44) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1065. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Small Entity Compliance Guide [48 CFR Chapter 1] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1066. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Introduction of Miscellaneous Amendments (DOD, GSA, NASA) [Federal Acquisition Circular 90-45] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1067. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Procurement Integrity (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-314; Item I] (RIN: 9000-AH19) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1068. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Certification Requirements (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-312; Item II] (RIN: 9000-AH23) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1069. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Humanitarian Operations (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-323; Item III] (RIN: 9000-AH45) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1070. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Freedom of Information Act (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-326; Item IV] (RIN: 9000-AH46) received January 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1071. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Exceptions to Requirements for Certified Cost or Pricing Data (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-306; Item V] (RIN: 9000-AH16) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1072. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Implementation of the North American Free Trade Agreement Implementation Act (DOD, GSA, NASA) [FAC 90-45; FAR Case 93-310; Item VI] (RIN: 9000-AF60) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1073. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Application of Special Simplified Procedures to Certain Commercial Items (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-307; Item VII] (RIN: 9000-AH20) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1074. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Compliance with Immigration and Nationality Act Provisions (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-320; Item VIII] (RIN 9000-AH47) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1075. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Caribbean Basin and Designated Countries (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-017; Item IX] (RIN 9000-AH48) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1076. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Caribbean Basin Country End Products—Renewal of Treatment as Eligible (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-020; Item X] (RIN: 9000-AH49) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1077. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Compensation of Certain Contractor Personnel (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-325; Item XI] (RIN: 9000-AH50) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1078. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Agency Procurement Protests (DOD, GSA, NASA) [FAC 90-45; FAR Case 95-309; Item XII] (RIN: 9000-AH10) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1079. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Two-Phase Design Build Selection Procedures (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-305; Item XIII] (RIN: 9000-AH17) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1080. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Year 2000 Compliance (DOD, GSA, NASA) [FAC 90-45; FAR Case 96-

607; Item XIV] (RIN: 9000–AH51) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1081. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Limitation on Indirect Cost Audits (DOD, GSA, NASA) [FAC 90–45; FAR Case 96–324; Item XV] (RIN: 9000–AH52) received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1082. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Motor Vehicles [FPMR Amendment G–111] (RIN: 3090–AG26) received December 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1083. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Criteria for Reporting Excess Personal Property [FPMR Temp. Reg. H–29] (RIN: 3090–AF95) received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Government Reform and Oversight.

1084. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Small Purchase Authority [FPMR Amendment D–95] (RIN: 3090–AG00) received January 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1085. A letter from the Chairman, International Trade Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1086. A letter from the General Counsel and Corporate Secretary, Legal Services Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1087. A letter from the Archivist of the United States, National Archives, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1088. A letter from the Chairman, National Credit Union Administration, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1089. A letter from the President, National Endowment for Democracy, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1090. A letter from the Director, Office of Personnel Management, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1091. A letter from the Director, Office of Personnel Management, transmitting the Office's report entitled "Health Promotion and Disease Prevention Activities"; to the Committee on Government Reform and Oversight.

1092. A letter from the Deputy Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems; Redefinition of Oneida, NY, Nonappropriated Fund Wage Areaa (RIN: 3206–AH41) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1093. A letter from the Deputy Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate System; Redefinition of Anchorage, AK, Nonappropriated Fund Wage Area (RIN: 3206–AH54) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1094. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Training (RIN: 3206–AF99) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1095. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Processing Garnishment Orders for Child Support and/or Alimony (RIN: 3206–AH55) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1096. A letter from the Secretary, Postal Rate Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1097. A letter from the Chief Administrative Officer, Postal Rate Commission, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

1098. A letter from the Secretary of Labor, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1099. A letter from the Secretary of Transportation, transmitting the Secretary's management report for the period ending March 31, 1996, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform and Oversight.

1100. A letter from the Acting Chairman, Thrift Depositor Protection Oversight Board, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1101. A letter from the Administrator, U.S. Agency for International Development, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1102. A letter from the Clerk, U.S. House of Representatives, transmitting list of reports pursuant to clause 2, rule III of the Rules of the House of Representatives (H. Doc. No. 105–23); to the Committee on House Oversight and ordered to be printed.

1103. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1104. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1105. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1106. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting the Department's final rule—The American Indian Trust Fund Management Reform Act of 1994 (Office of the Special Trustee for American Indians) (RIN: 1035–AA00) received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1107. A letter from the General Counsel, Department of Energy, transmitting the Department's final rule—National Environmental Policy Act Implementing Procedures (10 CFR Part 1021) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1108. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Flight Rules in the Vicinity of Grand Canyon National Park (Federal Aviation Administration) [Docket No. 28537; Amdt. Nos. 91–253, 93–73, 121–262, 135–66] (RIN: 2120–AF93) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1109. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Three Wetland Species Found in Southern Arizona and Northern Sonora, Mexico (RIN: 1018–AD11) received January 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1110. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants: Determination of Endangered Status for the Plant "Cordia bellonis" (RIN: 1018–AD48) received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1111. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Services final rule—Endangered and Threatened Wildlife and Plants: Determination of Endangered Status for the Cumberland Elktoe, Oyster Mussel, Cumberlandian Combshell, Purple Bean, and Rough Rabbitsfoot (RIN: 1018–AC64) received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1112. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for "Juglans jamaicensis" (RIN: 1018–AD47) received January 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1113. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for "Lesquerella perforata" (Spring Creek Bladderpod) (RIN: 1018–AC42) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1114. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure [Docket No. 940553–4223; I.D. 010697B] (50 CFR Part 622) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1115. Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction [Docket No. 950725189–6245; I.D. 123096B] (50 CFR Part 622) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1116. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Pacific Cod for Processing by the Inshore Component in the Western and Central Regulatory Areas [Docket No. 960129018–6018–01; I.D. 122396A] (50 CFR Part 679) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1117. A letter from the Acting Assistant Administrator, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands; Red Hind Spawning Aggregations [Docket No. 961008282–6332–02; I.D. 092796A] (RIN: 0648–AI97) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1118. A letter from the Acting Assistant Administrator, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Small Mesh Area 2 [Docket No. 960216032–6352–08; I.D. 112196D] (RIN: 0648–AH70) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1119. A letter from the Acting Assistant Administrator, National Marine Fisheries Service, transmitting the Service's final rule—Sea Turtle Conservation; Revisions to Sea Turtle Conservation Requirements; Restrictions to Shrimp Trawling Activities [Docket No. 950830222–6274–03; I.D. 011696D] (RIN: 0648–AH89) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1120. A letter from the Acting Assistant Administrator, National Marine Fisheries Service, transmitting the Service's final rule—Final List of Fisheries for 1997 [Docket No. 950605147–6368–05; I.D. 040996D] (RIN: 0648–AH33) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1121. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Ohio Regulatory Program [OH–204; Amendment Number 54] received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1122. A letter from the President, Legal Services Corporation, transmitting a copy of the Corporation's 1995 annual report, pursuant to 42 U.S.C. 2996g(c); to the Committee on the Judiciary.

1123. A letter from the Director of the Office of Administration and Management, Department of Defense, transmitting the Department's final rule—Inflation Adjustment of Civil Monetary Penalties [32 CFR Part 269] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1124. A letter from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting the Department's final rule—Executive Office for Immigration Review; Board of Immigration Appeals; Board Members [EOIR No. 116F; AG Order No. 2062–96] (RIN: 1125–AA17) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1125. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Inflation Adjustment of Civil Monetary Penalties (Federal Aviation Administration) [Docket No. 28762; Amdt. No. 13–28] (RIN: 2105–AC63) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1126. A letter from the Deputy Assistant Administrator of the Office of Diversion Control, Drug Enforcement Administration, transmitting the Administration's final rule—Distribution of Chemical Import/Export Declaration [DEA Number 110F] (RIN: 1117–AA21) received November 5, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1127. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Civil Monetary Penalty Inflation Adjustment Rule [FRL–5671–1] received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1128. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Program Fraud Civil Remedies Act of 1986; Civil Monetary Penalties Inflation Adjustment (RIN: 3090–AG18) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1129. A letter from the Deputy General Counsel, Office of Government Ethics, transmitting the Office's final rule—Interpretation, Exemptions and Waiver Guidance Concerning 18 U.S.C. 208 (Acts Affecting a Personal Financial Interest) (RIN: 3209–AA09) received December 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1130. A letter from the Clerk, U.S. Court of Federal Claims, transmitting the court's report for the year ended September 30, 1996, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

1131. A letter from the Acting Administrator, Federal Aviation Administration, transmitting the Administration's 1995 annual report to Congress on Civil Aviation Security, pursuant to 49 U.S.C. app. 1356(a); to the Committee on Transportation and Infrastructure.

1132. A letter from the Secretary of Transportation, transmitting the 14th annual report of accomplishment under the Airport Improvement Program for the fiscal year 1995, pursuant to 49 U.S.C. app. 2203(b)(2); to the Committee on Transportation and Infrastructure.

1133. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting the Department's final rule—Cooper River and Tributaries, South Carolina, Danger Zones and Restricted Areas (Army Corps of Engineers) [33 CFR Part 334] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1134. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revisions to Minimum Enroute IFR Altitudes and Changeover Points; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28764; Amdt. No. 400] received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1135. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon (Beech) Model 400A, 400T (Military T–1A), and 400T (Military TX) Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–158–AD; Amdt. 39–9845, AD 96–25–03] (RIN: 2120–AA64) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1136. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–265–AD; Amdt. 39–9851; AD 96–25–08] (RIN: 2120–AA64) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1137. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CFM International Model CFM56–3C–1 and CFM56–3B–2 Turbofan Engines (Federal Aviation Administration) [Docket No. 95–ANE–47; Amdt. 39–9854; AD 96–25–11] (RIN: 2120–AA64) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1138. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–257–AD; Amdt. 39–9859; AD 96–25–16] (RIN: 2120–AA64) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1139. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–23–AD; Amdt. 39–9860; AD 96–25–17] (RIN: 2120–AA64) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1140. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28757; Amdt. No. 1771] (RIN: 2120–AA65) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1141. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28758; Amdt. No. 1772] (RIN: 2120–AA65) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1142. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28756; Amdt. No. 1770] (RIN: 2120–AA65) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1143. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D Airspace; St. Petersburg Albert-Whited Airport, FL (Federal Aviation Administration) [Airspace Docket No. 96–ASO–22] (RIN: 2120–AA66) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1144. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace, Pullman, Washington (Federal Aviation Administration) [Airspace Docket No. 96–ANM–25] received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1145. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace, Forsyth, Montana (Federal Aviation Administration) [Airspace Docket No. 96–ANM–026] received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1146. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Grand Canyon-Valle Airport, AZ (Federal Aviation Administration) [Airspace Docket No. 95–AWP–3] (RIN: 2120–AA66) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1147. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Airspace; Alameda, CA (Federal Aviation Administration) [Airspace Docket No. 96–AWP–29] (RIN: 2120–AA66) received December 30, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1148. A letter from the Director of Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Effluent Limitations Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Point Source Category; Correction [FRL–5673–8] (RIN: 2040–AB72) received January 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1149. A letter from the Administrator, Environmental Protection Agency, transmitting the second report on environmental estuarine monitoring of organotin concentrations, pursuant to 33 U.S.C. 2406; to the Committee on Transportation and Infrastructure.

1150. A letter from the Administrator, Federal Aviation Administrator, transmitting the Administration's list of the foreign aviation authorities to which the Administrator provided services in the preceding fiscal year, pursuant to Public Law 103–305, section 202 (108 Stat. 1582); to the Committee on Transportation and Infrastructure.

1151. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule—Regulations Governing Fees for Service Performed in Connection with Licensing and Related Services—1996 UPDATE [STB Ex Parte No. 542] received January 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1152. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule—Rate Guidelines—Non-Coal Proceedings [Ex Parte No. 347 (Sub-No. 2)] received January 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1153. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule—Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903 (49 CFR Parts 1105 and 1152) [Ex Parte No. 537] received January 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1154. A letter from the Director, National Science Foundation, transmitting a report entitled "Women, Minorities, and Persons with Disabilities in Science and Engineering" for 1996, pursuant to 42 U.S.C. 1185d; to the Committee on Science.

1155. A letter from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Miscellaneous Regulations (RIN: 2900–AI39) received December 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1156. A letter from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Appeals Regulations: Notice of Board of Veterans' Appeals (RIN: 2900–AI59) received December 27, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1157. A letter from the Director, Office of Personnel Management, transmitting OPM's fiscal year 1995 annual report on veterans' employment in the Federal Government, pursuant to 38 U.S.C. 4214(e)(1); to the Committee on Veterans' Affairs.

1158. A letter from the Secretary of the Treasury, transmitting the U.S. Government annual report for the fiscal year ended September 30, 1996, pursuant to 31 U.S.C. 331(c); to the Committee on Ways and Means.

1159. A letter from the Chief Counsel, Department of the Treasury, transmitting the Department's final rule—Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (Bureau of the Public Debt) [Department of the Treasury Circular, Public Debt Series No. 1–93] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1160. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters [Rev. Proc. 97–3] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1161. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 96–66] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1162. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Forms and Instructions [Rev. Proc. 96–57] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1163. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Tax Credit [Rev. Rul. 97–4] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1164. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Offers in Compromise [Rev. Proc. 96–38] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1165. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Distribution of Marketable Securities by a Partnership [TD 8707] (RIN: 1545–AT19) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1166. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Automatic Extension of Time for Filing Individual Income Tax Returns; Automatic Extension of Time to File Partnership Return of Income, Trust Income Tax Return, and the U.S. Real Estate Mortgage Investment Conduit Income Tax Return [TD 8703] (RIN: 1545–AS04, 1545–AU47) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1167. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Environmental Cleanup Costs; Private Letter Rulings [Notice 97–7] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1168. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Gross Income [Rev. Rul. 97–3] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1169. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Inflation—Indexed Debt Instruments [TD 8709] (RIN: 1545–AU44) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1170. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Inadvertent Invalid S Elections and Late S Elections [Announcement 97–4] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1171. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Electing Small Business Trusts [Notice 97–12] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1172. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Requirement of Return and Time for Filing [TD 8705] (RIN: 1545–AU65) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1173. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Sample Language for a Spouse's Waiver to a QJSA or a QPSA [Notice 97–10] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1174. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in Accounting Periods and in Methods of Accounting [Rev. Proc. 97–8] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1175. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Forms and Instructions [Rev. Proc. 96–60] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1176. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Adoption Assistance [Notice 97–9] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1177. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Electronic Filing of Form W–4 [TD 8706] (RIN: 1545–AR67) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1178. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations [TD 8702] (RIN: 1545–AT42) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1179. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Sample Language for a Qualified Domestic Relations Order [Notice 97–111] received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1180. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Definition of Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation [TD 8704] (RIN: 1545–AR31) received January 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1181. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability [Rev. Proc. 97–2] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1182. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters [Rev. Proc. 97–7] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1183. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters [Rev. Proc. 97–12] received January 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1184. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Business Expenses [Rev. Rul. 96–62] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1185. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Tax Forms and Instructions [Rev. Proc. 96–62] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1186. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Tax Forms and Instructions [Rev. Proc. 96–61] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1187. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Special Rules for Certain Transactions Where Stated Principal Amount Does Not Exceed $2,800,000 [Rev. Rul. 96–63] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1188. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment of Loans with Below-Market Interest Rates [Rev. Rul. 96–64] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1189. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Damages Received on Account of Personal Injuries or Sickness [Rev. Rul. 96–65] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1190. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Simplification of Entity Classification Rules [TD 8697] (RIN: 1545–AT91) received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1191. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Obsoletion of Revenue Rulings and Revenue Procedures Under TD 8697, Simplification of Entity Classification Regulations [Notice 97–1] received December 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1192. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Definitions Under Subchapter S of the Internal Revenue Code [TD 8696] (RIN: 1545–AE94) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1193. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Credit for Employer Social Security Taxes Paid on Employee Tips [TD 8699] (RIN: 1545–AS19) received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A), to the Committee on Ways and Means.

1194. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 97–1] received December 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1195. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Subchapter S Corporation Subsidiaries [Notice 97–4] received December 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1196. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Subchapter S Banks—Sections 1362 and 265 [Notice 97–5] received December 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1197. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Model Amendment that May Be Used to Assist Employers in Adopting a Plan that Contains 401(k) SIMPLE Provisions [Rev. Proc. 97–9] received December 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1198. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Notice of Intent to Waive Certain Limitations on Obtaining Expeditious Consent to Change an Accounting Period and Elect to be an S Corporation Effective January 1, 1997 [Notice 97–3] received December 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1199. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Cash or Deferred Arrangements; Nondiscrimination [Notice 97–2] received December 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1200. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Mark to Market for Dealers in Securities [TD 8700] (RIN: 1545–AS30) received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1201. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Selection of Tax Matters Partner for Limited Liability Companies [TD 8698] (RIN: 1545–AS09) received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1202. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—SIMPLE IRA's; Questions and Answers [Notice 97–6] received December 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1203. A letter from the Chairman, International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the U.S. Internal Trade Commission for fiscal year 1998, pursuant to 31 U.S.C. 1110; to the Committee on Ways and Means.

1204. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Supplemental Security Income for the Aged, Blind, and Disabled; Dedicated Accounts and Installment Payments for Certain Past-Due SSI Benefits [Regulations No. 16] (RIN: 0960–AE59) received December 26, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1205. A letter from the Under Secretary for Rural Development, Department of Agriculture, transmitting the Department's final rule—Planning and Performing Construction and Other Development (Rural Development/Rural Housing Service) [Workplan No. 93–010] (RIN: 0575–AB59) received December 6, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); jointly, to the Committees on Banking and Financial Services and Agriculture.

1206. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination 97–11A: Certification that Withholding From International Financial Institutions and Other International Organizations and Program Funds Appropriated is Contrary to the National Interest, pursuant to section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; jointly, to the Committees on International Relations and Appropriations.

1207. A letter from the Chief Justice, Supreme Court of the United States, transmitting the Court's report entitled "Study of Judicial Branch Coverage Pursuant to the Congressional Accountability Act of 1995," pursuant to section 505 of Public Law 104–1; jointly, to the Committees on the Judiciary and Education and the Workforce.

1208. A letter from the Assistant Secretary of Defense for Health Affairs, Department of Defense, transmitting the Department's report entitled "Possible Financial Relief From Medicare Part B Late Enrollment Surcharges for Medicare-Eligible Military Retirees Who Have Been Adversely Affected by a BRAC," pursuant to section 737 of Public Law 103-337; jointly, to the Committees on National Security, Ways and Means, and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to House Resolution 5 the following report was filed on January 17, 1997]

Mrs. JOHNSON of Connecticut: Select Committee on Ethics. In the Matter of Representative Newt Gingrich (Rept. 105-1). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ENSIGN:

H.R. 449. A bill to provide for the orderly disposal of certain Federal lands in Clark County, NV, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada; to the Committee on Resources.

By Mr. ENSIGN (for himself, Mr. MATSUI, Mr. CRANE, Mr. RIGGS, Mr. NORWOOD, Mr. PICKETT, Mrs. MEEK of Florida, Ms. WOOLSEY, Ms. DELAURO, and Mr. DEAL of Georgia):

H.R. 450. A bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits; to the Committee on Ways and Means.

By Mr. ENSIGN (for himself and Mr. SCARBOROUGH):

H.R. 451. A bill to provide for a special Medicare part B enrollment period and a special medigap open enrollment period for certain military retirees and dependents; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Ms. PRYCE of Ohio, Mr. CUNNINGHAM, Mr. GOSS, Mr. BACHUS, Mr. BARTLETT of Maryland, Mr. SCARBOROUGH, and Mr. WATTS of Oklahoma.

H.R. 68: Mr. ACKERMAN, Mr. GEJDENSON, Mr. GRAHAM, Mr. HINOJOSA, Ms. NORTON, Ms. JACKSON-LEE, Mr. MARTINEZ, Ms. RIVERS, and Mr. WALSH.

H.R. 69: Mr. DELLUMS, Mr. FOX of Pennsylvania, Mr. FROST, Mr. POSHARD, Mrs. TAUSCHER, and Mr. TRAFICANT.

H.R. 113: Mr. HALL of Texas, Mr. MINGE, Mr. BARCIA of Michigan, and Ms. FURSE.

H.R. 123: Mr. SENSENBRENNER, Mr. KLUG, Mr. KIM, Mr. GRAHAM, Mr. HOSTETTLER, and Mr. PORTMAN.

H.R. 130: Mr. PACKARD.

H.R. 131: Mr. PACKARD, Mr. GOSS, and Mr. HOSTETTLER.

H.R. 218: Mr. BARTLETT of Maryland, Mr. PORTMAN, Mr. SAXTON, Mr. MCKEON, Mr. GILLMOR, and Mr. STUMP.

H.R. 367: Mr. SAXTON and Mr. ENGLISH of Pennsylvania.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 21, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 22

9:30 a.m.
Labor and Human Resources
To hold an organizational meeting.
SD–430

10:00 a.m.
Armed Services
To hold hearings on the nomination of William S. Cohen, of Maine, to be Secretary of Defense.
SH–216

Budget
To hold hearings on long-term budget projections and prospects for long-term growth.
SD–608

Judiciary
To hold hearings on proposed legislation to balance the budget.
SD–226

2:00 p.m.
Commerce, Science, and Transportation
To hold an organizational meeting.
SR–253

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of William M. Daley, of Illinois, to be Secretary of Commerce.
SR–253

JANUARY 23

10:00 a.m.
Budget
To hold hearings on medicare reform proposals.
SD–608

Judiciary
Business meeting, to consider pending committee business.
SD–226

JANUARY 28

10:00 a.m.
Budget
To hold hearings on the Congressional Budget Office economic and budget outlook.
SD–608

JANUARY 29

9:30 a.m.
Small Business
To hold an organizational meeting.
SR–428A

JANUARY 30

10:00 a.m.
Budget
To hold hearings on the consumer price index.
SD–608

Judiciary
Business meeting, to consider pending committee business.
SD–226

HOUSE OF REPRESENTATIVES—*Tuesday, January 21, 1997*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. BEREUTER].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

January 21, 1997.

I hereby designate the Honorable DOUG BEREUTER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We join in the words of the Psalmist who wrote: "Behold how good and pleasant it is when God's people dwell in unity. It is like the precious oil upon the head, running down upon the beard, upon the beard of Aaron, running down on the collar of his robes. It is like the dew of Hermon, which falls on the mountains of Zion. For there the Lord has commanded the blessing, life forevermore."

Among all Your bountiful favors to us, O gracious God, is the knowledge that You have created every person in Your image and You have blessed every person with those gifts that make us truly human: the gifts of justice and mercy, the gifts of peace and good will, the gifts of unity and common purpose. May all Your blessings, O God, that flow from the early morn to the last light, be with each of us and remain with us all our days.

In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH

Mrs. JOHNSON of Connecticut. Mr. Speaker, pursuant to rule IX and by direction of the Select Committee on Ethics, I send to the desk a privileged resolution (H. Res. 31) in the matter of Representative NEWT GINGRICH, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 31

IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH

Resolved, That the House adopt the report of the Select Committee on Ethics dated January 17, 1997, In the Matter of Representative Newt Gingrich.

The SPEAKER pro tempore. The resolution constitutes a question of privilege and may be called up at any time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Before we proceed, the Chair will have a statement about the decorum expected of the Members.

The Chair has often reiterated that Members should refrain from references in debate to the conduct of other Members where such conduct is not the question actually pending before the House, either by way of a report from the Committee on Standards of Official Conduct or by way of another question of the privileges of the House.

This principle is documented on pages 168 and 526 of the House Rules and Manual and reflects the consistent rulings of the Chair in this and in prior Congresses. It derives its force primarily from clause 1 of rule XIV which broadly prohibits engaging in personality in debate. It has been part of the rules of the House since 1789.

On the other hand, the calling up of a resolution reported by the Committee on Standards of Official Conduct, or the offering of a resolution as a similar question of the privileges of the House, embarks the House on consideration of a proposition that admits references in debate to a Member's conduct. Disciplinary matters by their very nature involve personalities.

Still, this exception to the general rule against engaging in personality—admitting references to a Member's conduct when that conduct is the very question under consideration by the House—is closely limited. This point was well stated on July 31, 1979, as follows: While a wide range of discussion is permitted during debate on a disciplinary resolution, clause 1 of rule XIV still prohibits the use of language which is personally abusive. This is recorded in the Deschler-Brown Procedure in the House of Representatives in chapter 12, at section 2.11.

On the question now pending before the House, the resolution offered by the gentlewoman from Connecticut, Members should confine their remarks in debate to the merits of that precise question. Members should refrain from remarks that constitute personalities with respect to members of the Committee on Standards of Official Conduct or the Select Committee on Ethics or with respect to other sitting Members whose conduct is not the subject of the pending report. Finally, Members should exercise care to maintain an atmosphere of mutual respect.

On January 27, 1909, the House adopted a report that stated the following: It is the duty of the House to require its Members in speech or debate to preserve that proper restraint which will permit the House to conduct its business in an orderly manner and without unnecessarily and unduly exciting animosity among its Members.

This is recorded in Cannon's Precedents in volume 8 at section 2497.

The report adopted on that occasion responded to improper references in debate to the President, but it articulated a principle that occupants of the Chair over many Congresses have held equally applicable to Members' remarks toward each other.

The Chair asks and expects the cooperation of all Members in maintaining a level of decorum that properly dignifies the proceedings of the House.

The gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 1 hour.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that debate on the resolution be extended for a half an hour.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 90 minutes.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mrs. JOHNSON of Connecticut. Mr. Speaker, for purposes of debate only, I yield 45 minutes to the gentleman from Maryland [Mr. CARDIN], pending which I yield myself such time as I may consume.

Mr. Speaker, I rise as chairman of the Select Committee on Ethics to lay before you the committee's bipartisan recommendation for final action on the matter of Representative NEWT GINGRICH. The committee recommends that Representative GINGRICH be reprimanded and reimburse the House $300,000. The penalty is tough and unprecedented. It is also appropriate. No one is above the rules of the House of Representatives.

This matter centered on two key questions: whether the Speaker violated Federal tax law and whether he intentionally filed incorrect information with the Ethics Committee. While the committee investigated these questions extensively, its findings were inconclusive. Rather, the committee found that Representative GINGRICH brought discredit to the House by failing to get appropriate legal advice to ensure that his actions would be in compliance with tax law and to oversee the development of his letters to the committee to ensure they were accurate in every respect.

Each Member of Congress, especially those in positions of leadership, shoulders the responsibility of avoiding even the appearance of impropriety. Representative GINGRICH failed to exercise the discipline and caution of his office and so is subject to penalty today.

As I have said, the penalty recommended by the committee is tough and unprecedented. In past cases of this nature, the House has reprimanded a Member only where the Member was found to have intentionally made false statements to the Ethics Committee. In this case, the committee recommended a reprimand of Representative GINGRICH even though the statement of alleged violations did not assert that he intentionally misled the committee. Likewise in past cases where the committee imposed monetary sanctions on a Member, the committee found that the Member had been personally enriched by the misconduct. The committee made no such finding against Representative GINGRICH, yet recommends that a cost reimbursement of $300,000 be paid to the House by him.

The report before us contains several hundred pages of exhibits and a detailed analysis of the subcommittee's findings. The allegations and the key facts supporting them were laid out by the special counsel during a public hearing on January 17. The committee's recommendations before you today end 2 long years of work.

Throughout this process we never lost sight of our key goals: full and complete disclosure of the facts and a bipartisan recommendation. We accomplished both. Even though it would have been easy for Republicans or Democrats to walk away from the process at many stages, we did not, because we believed in this institution and in the ethics process.

The investigative subcommittee was ably chaired by Representative PORTER GOSS. Representatives BEN CARDIN, STEVE SCHIFF, and NANCY PELOSI, along with Mr. GOSS deserve the gratitude of this House for the extraordinary workload they shouldered and for their dedication to pursuing each issue until they reached consensus. Together with Mr. James Cole, the special counsel, they laid the groundwork for the bipartisan conclusion of this matter. I want to thank Mr. CARDIN, the current ranking member, as well, for working with me through difficult times to enable the bipartisan Ethics Committee process to succeed.

In the last 2 years the committee was forced to conduct its work against the backdrop of harsh political warfare. It is the first time ever that members of the Ethics Committee have been the target of coordinated partisan assaults in their districts. Coordinated political pressure on members of the Ethics Committee by other Members is not only destructive of the ethics oversight process but is beneath the dignity of this great institution and those who serve here.

☐ 1215

Despite the pressures, we bring you today a bipartisan recommendation resolving the most complex charge against Representative NEWT GINGRICH. I ask for both my colleagues' rejection of the partisanship and animosity that has so deeply permeated the work of the House and for their support of the committee's resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

The Chair notes a disturbance in the visitors' gallery in contravention of the laws and the rules of the House. The Doorkeepers and police, the Chair believes, have already acted, but shall act to remove from the gallery those persons participating in a disturbance.

If there is an outburst from the visitors' gallery, the Chair will make this statement but will insist on order.

The Chair recognizes the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, as I have said, this is a sad moment for the House of Representatives. One of our Members has admitted to a serious violation of the House rules. This process and this admission affects not only that Member but each Member who serves in this body. While I believe that is true of any ethics proceeding, it is particularly true and particularly troublesome in this case because the offending Member is the Speaker of the House, the third ranking official in our Government.

We have received the report and recommendation from the special counsel. Mr. GINGRICH has agreed with the judgment of the special counsel. In addition to the report, the recommendation of sanctions represents the bipartisan work produced by our investigative subcommittee. The report in the recommendation of sanctions has been overwhelmingly approved by the full Committee on Standards of Official Conduct and deserves the support of this House.

Let me begin by saying how proud I am of the work of the investigative subcommittee. In my judgment, all four members of the subcommittee maintained their commitment to a process that was fair to the respondent as well as the House and its rules. I want to commend and compliment the work of our chairman, the gentleman from Florida [Mr. GOSS], for the extraordinary work that he did as well as the work of the gentleman from New Mexico [Mr. SCHIFF] and the gentlewoman from California [Ms. PELOSI] and the work of the subcommittee. I also want to recognize the extraordinary service performed by Jim Cole, our special counsel; Kevin Wolf, his assistant; and Virginia Johnson from the Committee on Standards of Official Conduct.

Before commenting on the substance of the resolution before us, I feel obligated to point out the severe problems that have plagued the process. The 1-year delay in 1995 in enlisting the services of the special counsel was wrong. We have some evidence that this delay may have been part of the strategy by allies of Mr. GINGRICH. In sharp contrast to the good faith, bipartisan cooperation which governed the subcommittee's work, the orderly process collapsed on December 21, 1996, after the matter was forwarded to the full committee. Ignoring the advice of special counsel and the subcommittee, the Republican leadership in the House imposed an unrealistic deadline for the completion of our work to coincide with the Presidential inauguration. The schedule agreed upon by the full Committee on Standards of Official Conduct for full public hearings on the subcommittee findings was unilaterally and improperly canceled. These partisan actions were aimed at shielding Mr. GINGRICH from a full airing of the charges to which he has admitted guilt.

During the past 5 days the gentlewoman from Connecticut [Mrs. JOHNSON] and I have worked closely together to use these days as effectively as possible to achieve two objectives: First, in the face of an unrealistic time limit, to get the broadest possible public release of the information contained in the subcommittee's report; and second, to arrive at a fair, bipartisan recommendation on sanctions. We have achieved both objectives, and for that I would like to express my appreciation to the chairwoman. The report details the reason why the committee has found that Mr. GINGRICH has committed a serious violation of the House ethics rules. I urge each of my colleagues to read the report and the accompanying exhibits.

I will now briefly review the findings of the special counsel's report. First, we must disregard the notion that this case involves a college professor engaged in a normal academic classroom activity. The respondent in this case is not Professor GINGRICH, but Representative GINGRICH, a Member of the House, minority whip and then Speaker of the House, who had a vision to launch a political movement to change the country, in his words, from a welfare state to an opportunity society.

Second, over a 5-year period Mr. GINGRICH improperly commingled political activities with tax exempt organizations. When GOPAC ran short of funds, Mr. GINGRICH sought contributions from several tax exempt entities in order to continue his partisan political crusade.

Third, there is ample evidence that he did so in violation of tax laws. Celia Roady, the tax expert retained by the committee, has concluded that the tax laws were violated, and it is not even a close call. Our special counsel agrees with that judgment. In all, almost $1.5 million was spent by these tax exempt organizations, costing the U.S. Treasury hundreds of thousands of dollars in lost tax revenues that should have been paid.

Fourth, one need not reach a conclusion on the tax issues to find that Mr. GINGRICH has violated our ethical standards. From his involvement in the American Campaign Academy case, Mr. GINGRICH knew that pursuing these activities posed a risk of potential tax law violations. The ACA case established limits on political activities of tax exempt organizations.

It is important to understand that this case involved similar facts and some of the same parties as the matter investigated by the subcommittee. In fact, in response to a question from the special counsel, Mr. GINGRICH stated, and I quote: "I lived through that case. I mean I was very well aware of what the ACA case did and what the ruling was." All experts agreed that he should have sought tax advice before using tax exempt organizations to pursue his political agenda.

In the words of our special counsel Mr. GINGRICH's actions suggest that "either Mr. GINGRICH did not seek legal advice because he is aware that it would not have permitted him to use a 501(c)(3) organization for his projects," or he was "reckless in an area that was fraught with legal peril."

Finally, the House must make a judgment on the question of whether Mr. GINGRICH deliberately misled the committee. Mr. GINGRICH submitted two letters to the committee that he now admits contained information about GOPAC that was inaccurate. The facts surrounding these inaccuracies were well known to Mr. GINGRICH. Mr. GINGRICH had read the letters before submitting them to the committee. When the investigative subcommittee specifically called the contradiction in the letters to Mr. GINGRICH's attention, he once again defended them as accurate even though they were clearly wrong. The misleading letters were sent with the express intent of persuading the Committee on Standards of Official Conduct to dismiss the pending charges. They had the effect of misleading the committee. It stretches credibility to conclude that the repeated misstatements were innocent mistakes.

The linchpin of these findings is stated clearly in the report of special counsel: "Of all the people involved in drafting, reviewing, or submitting the letters, the only person who had first-hand knowledge of the facts contained within them with respect to the Renewing American Civilization course was Mr. GINGRICH."

The special counsel concludes: "Either Mr. GINGRICH intentionally made misrepresentations to the committee or he was again reckless in the way he provided information to the committee concerning a very important matter."

Mr. GINGRICH's defense is that he has always been very sensitive to ethics issues and he was embarrassed by the obvious inaccurate letters. He said he never intended to mislead the committee. But Mr. GINGRICH's actions with respect to the understanding reached with the Committee on Standards of Official Conduct belies his statement.

Mr. GINGRICH, through his attorneys, had entered into an agreement with the committee. That agreement provided "Mr. GINGRICH agree that no public comment should be made about this matter while it is still pending. This includes having surrogates sent out to comment on the matter and attempt to mischaracterize it."

I am sure that Members of this House are well aware of public comment since the release of our findings on December 21. As the special counsel States, "In the opinion of the subcommittee Members and the special counsel, a number of press accounts indicated that Mr. GINGRICH had violated that agreement," the finding of the bipartisan committee and our special counsel. Mr. GINGRICH's violation of the no comment agreement raises serious questions about the extent to which he has deliberately sought to mislead the committee in other instances.

Beyond the events of December 21, 1996, Republican operatives close to Mr. GINGRICH conducted an ongoing campaign to disrupt the committee's work. It is relevant for this House to consider these circumstances in determining the degree of Mr. GINGRICH's culpability in providing the Committee on Standards of Official Conduct information that was not accurate, reliable, and complete. It is up to the Members of this House to determine the appropriate sanction for the violations committed by Mr. GINGRICH. This is not a vote on whether Mr. GINGRICH should remain Speaker of the House. Members need time to become familiar with the factual record presented in the special counsel's report and to consider the seriousness of these violations that have just come to light during the past 4 days.

In the days and weeks to come Mr. GINGRICH and each Member of this House should consider how these charges bear on the question of the speakership. The resolution before us, the House, today is a sanction for Representative GINGRICH for the ethics violations that he has committed. According to the House rules a reprimand is appropriate for serious violations of ethical standards. Sadly, Mr. GINGRICH's conduct requires us to confirm that this case involves infractions of at least that level of seriousness. He has provided inaccurate and misleading information to the Committee on Standards of Official Conduct and there is significant evidence that he intended to do so.

The recent history of congressional ethics sanctions indicate the House has imposed the sanction of reprimand when a Member has been found knowingly to have given false statements. But the earlier cases did not involve giving false statements to the Committee on Standards of Official Conduct itself in response to an inquiry from the Committee on Standards of Official Conduct, and Mr. GINGRICH's case involves more than just giving false information to the committee. Mr. GINGRICH has also admitted to directing a political empire that made extensive use of tax exempt entities for political fundraising purposes. As a result of all these actions, the reputation of the House of Representatives has been damaged and tax dollars have been lost.

But there is still more. This is not the first time Mr. GINGRICH has had ethical problems that drew critical action by the Committee on Standards of Official Conduct. On other occasions he has been sighted by this committee for violating House rules. The American public has not forgotten the lucrative book advance contract that the incoming Speaker of the House was forced to renounce under public pressure. Our committee concluded in regards to that book deal: "At a minimum this creates the impression of exploiting one's office for personal gain. Such perception is especially troubling when it pertains to the Office of the Speaker of the House, a constitutional office requiring the highest standards of ethical behavior."

Because of all those factors, these violations require a penalty more serious than a reprimand. Considering all these matters, I urge this House to adopt the resolution before us. The resolution incorporates the recommendation of the special counsel, the investigative subcommittee, the full Committee on Standards of Official Conduct, and Mr. GINGRICH. The sanction we recommend is somewhere between a reprimand and a censure. It provides a reprimand plus a required $300,000 contribution by Mr. GINGRICH to the cost of these proceedings. In my view this payment should come from his personal resources because it is a personal responsibility.

Mr. Speaker, with today's vote I will have completed my service on the Committee on Standards of Official Conduct. Over the past 6 years and 1 month I have participated in many ethics matters. Among the issues that we had before the committee during my tenure has been not only this matter but the House bank and post office matters, both of which exposed many Members of this House, including its leadership, to embarrassment either for misdeeds or for mismanagement. I must say, however, that the matter before us today has brought a threat to the Committee on Standards of Official Conduct that far exceeded anything I have seen. The committee was subject to repeated attempts to obstruct its work and improperly interfere with its investigation. As I leave the Committee on Standards of Official Conduct, I hope that the incoming Members will find the process has survived and will continue to serve this House and the people of our Nation.

Mr. Speaker, I reserve the balance of my time.

□ 1230

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SCHIFF], a distinguished member of the subcommittee.

Mr. SCHIFF. Mr. Speaker, I first want to join in the compliments to the other committee members and to our staffs and special counsel because, even though we had many disagreements along the way, and obviously still have some disagreements, I think we made the best possible effort to get us here today.

I agree with the gentleman from Maryland [Mr. CARDIN] this is a sad day. It is a sad day when any Member is here because of a recommendation of the Committee on Standards of Official Conduct. Last time I was here it was because a Democratic colleague was here on our recommendations. I was not happier then because it was a Democrat and not a Republican then. I think it is a sad day when it is a Member of the House.

Nevertheless, I think the House can be proud of the fact there is accountability for its Members. I wish such accountability could be found from every area of our government.

Second, I am sorry that in the rendition of facts I just heard, there were certain partisan conclusions that eliminated other conclusions which I guess could be stated from the other side. For example, it was said that there was an attempt made by our chairwoman, the gentlewoman from Connecticut [Mrs. JOHNSON] who got us here, when many people expected along the way we could never get here; but through her leadership we are here today.

There was the accusation that our chairwoman deliberately tried to scuttle the information getting to the Members in order to mitigate any effect on Congressman GINGRICH. Quite the contrary. Our chairwoman and the rest of us had an agreed to up to 5 days of public hearings. Those were changed only when our Democratic colleagues on the Committee on Standards of Official Conduct held a press conference in which they said the most important product we could produce would be a written report that Members could consider before they vote.

That left our Chair, in my judgment, no alternative but to change directions and to postpone the public hearing, which we ultimately did have anyway, in favor of trying to produce the written report by this date which we have now accomplished.

There has been no mention of the fact that Members on the Republican side particularly were subject to enormous political attack in their districts. If I were still a district attorney, a career I had before I got to Congress, I would have certain leaders arrested for attempted jury tampering, because I think that is what they were doing. They were trying to use political pressure to get a result in what is essentially a judicial type of deliberative body. That was their intent.

That was one of the most unethical things I have seen since becoming a member of the Committee on Standards of Official Conduct.

What I want to emphasize now is why we are here today. I want to point out that the statement made, that there have been many new facts revealed in the last several days, in my judgment is not correct. We are here because of a statement of alleged violation found by the ethics subcommittee and released publicly on December 21, 1996, to which the Speaker acknowledged. And those violations have not changed.

What has changed is the reporting of those violations in the news media over the last several days. What I have seen in the news media in various forms is some significant misstatements of what the violations are. But I have to add that I do not believe that that was in this case the fault of the news media. It is their job to be critical of us, and it is our responsibility to respond if we think it is appropriate.

But I want to make it very clear what I think happened was an unfortunate matter of timing, that on Friday of last week, our hearing did not begin and our written report was not available until 3 o'clock on Friday afternoon. Some reporters have told me there were not enough copies to go around. So they are trying to form deadlines for their programs or for their newspapers with a report that is over 200 pages long. I think it is entirely understandable that some errors were made at first.

Nevertheless, I think some errors were made. They were made because Mr. Cole's report attempted to be a soup-to-nuts, beginning to end explanation of what we did in the ethics subcommittee to get to where we are today. In going through step by step, he quite properly, in my judgment, said we had this choice to make and we had this fact and we handled it as follows, and so forth. But what I have seen as reported as a final conclusion, certain excerpts from that report were intermediary at best.

The final conclusion of the subcommittee did not change. That final conclusion is, first, that Mr. GINGRICH should have sought competent legal, professional tax advice before he began his procedures that involved the use of a tax-exempt foundation, which under the law is called a 501(c)(3) organization.

Second, that materials were sent to the Committee on Standards of Official Conduct in response to questions from the Committee on Standards of Official Conduct that the Speaker should have known were inaccurate. That is the final finding, if you will, of the subcommittee.

The report goes through all of the events, and I heard the gentleman from Maryland [Mr. CARDIN] make reference to a number of the events. But the findings did not change. All of the events would include things like we on the subcommittee interviewed everybody we could find who had anything to do with the preparation of those two letters that were inaccurate.

What we found, in my judgment, if it were not so serious, and I recognize how serious it is, it would really be called a comedy of errors.

What happened was the letters were prepared in Mr. GINGRICH's law firm that sent the letters first to a staff member in Mr. GINGRICH's office. The law firm thought that the staff member would correct any factual misstatements. The staff member thought the law firm had already checked out the facts. So nobody checked out the facts to see if they were accurate. But the most important thing is that Mr. GINGRICH was never involved in the preparation of those letters at any point until the very end where he acknowledges he signed them, he should have read more carefully, and he is responsible for that before this House of Representatives.

I would point out that in a letter of October 1996 that he prepared himself with his staff, he gave us entirely accurate information about the matters that are under consideration here. I think it is pretty obvious you do not give accurate information in October and then you can deliberately prepare information the following September and March that nobody would know the difference of.

Based upon the allegation, the violations we found, the Committee on Standards of Official Conduct on a 7-to-1 vote, full committee now, entire committee, recommended the following penalty: It recommended a reprimand and a cost assessment of $300,000. In some meetings earlier with members, I have heard some members say that that is unique and they are concerned about that penalty being unique because, although we have imposed cost assessments before, we have never done so in the past for the cost of the investigation.

That is basically what we did. We set $300,000 as the estimated cost of that portion of the investigation that dealt with clearing up the misstatements that we received, which may have begun to be prepared in Mr. GINGRICH's law firm, but for which he is responsible as a Member of the House.

I want to tell all Members that they do not need, in my judgment, to be concerned about the precedent value, because I believe everyone concerned understood that this is a unique penalty because the Speaker of the House is a unique official in our institution. In fact, that is the reason we decided to, on the subcommittee's part, propose a unique penalty, and we got word, I have to say "got word," because we never met with the Speaker to discuss the penalty. All of the negotiations were by our special counsel on our behalf and the Speaker's attorney, Mr. Evans, on his behalf. So we got reports on it. But the report we got back was that Speaker NEWT GINGRICH agrees that because he holds a unique position in the House he should receive a unique penalty, so there is no doubt even the Speaker of the House is not above the rules.

I would hastily add, however, two things, and conclude with this. The first is that I think there is room for this to be made a standing procedure in certain cases. For example, I saw what in my judgment were a number of frivolous complaints filed with the Committee on Standards of Official Conduct which had no other purpose than to be leaked to the press and create bad publicity for whomever was the target of those complaints. It seems to me that the precedent we have established here should apply to those who are found by the committee to have filed frivolous complaints.

Finally, on how the funds should be paid if the House adopts the recommended penalty, we were deliberately silent on that. My colleague, the gentleman from Maryland [Mr. CARDIN], is most certainly entitled to his opinion, but the subcommittee and the committee made no determination.

Insofar as I have studied the precedents on financial remuneration to the Government, we have never established as a matter of law how these funds can be paid.

Mr. GINGRICH, if he does get this as a final penalty, understands all the ramifications, I am certain he does not need me to explain them to him or, for that matter, any of my colleagues on the other side. But the fact is the committee was silent deliberately on how any such funds should be paid. It is my understanding there are at least some precedents for campaign funds, for example, being used to reimburse the Government, and certainly we all know that the Chief Executive of the United States has a legal defense fund in which he raises money. So I am just saying that whatever the options are to NEWT GINGRICH as a Member of the House, they have not been precluded legally by the committee, and in my judgment they should not be.

With that, Mr. Speaker, I just want to again commend our chairwoman, the gentlewoman from Connecticut [Mrs. JOHNSON], my fellow members of the committee, and say I believe we have come up with an appropriate penalty, which some think is too harsh, some think is too lenient. That tells me we are about where we ought to be. I hope the House will adopt it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEREUTER). The Chair will request that visitors in the gallery, in coming and going, refrain from any audible disruption of the proceedings.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume briefly to comment on some of the points raised by the gentleman from New Mexico [Mr. SCHIFF].

Mr. Speaker, the gentleman from New Mexico [Mr. SCHIFF] is correct, we are in agreement on the recommendation. We put different emphasis on some of the facts. Mr. GINGRICH clearly, in my view, had ample opportunity to know about the statements in his letters. He did indicate he hired an attorney in order to draft the two letters. Let me just read, if I might, from the transcripts as to the exchange between Mr. Cole and Mr. Baran, Mr. Baran being Mr. GINGRICH's attorney.

Mr. Cole: "Would you have made sure that he had read it and approved it, or just the fact he read it is all you would have been interested in," referring to Mr. GINGRICH?

Mr. Baran said, "No, I would have wanted him to be comfortable with this on many levels."

Mr. Cole: "Were you satisfied he was comfortable with it prior to filing it with the committee?"

Mr. Baran: "Yes."

Let me also point out that after this, after we pointed out to Mr. GINGRICH the inconsistency in the letters, Mr. GINGRICH wrote another letter back to the committee. Clearly he had time to review the inconsistencies by that time. The October 31, 1996, letter, in that letter he still maintains his innocence on inconsistencies in the letter, even though the letters were clearly inaccurate, he knew they were inaccurate, and he had a chance to reread the letters and correct the record.

Mr. Speaker, I yield 11½ minutes to the gentlewoman from California [Ms. PELOSI], my colleague on the Committee on Standards of Official Conduct, who was on the investigative subcommittee and who has made a great contribution to this process and has been an extraordinary member of our Committee on Standards of Official Conduct.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership and guidance throughout this process. Clearly without his involvement, we would not be here today with a bipartisan recommendation for a sanction for the Speaker of the House.

Mr. Speaker, as a member of the investigative subcommittee, I would like to take this opportunity to publicly thank the gentleman from Florida, PORTER GOSS, our Chair of the investigative subcommittee, again acknowledge the gentleman from Maryland, Mr. CARDIN, as ranking member for his service there, as well as to say how much I learned from the gentleman from new Mexico, Mr. SCHIFF, in the course of our service there.

Clearly, from the debate so far, you can see that we had many unresolved difficult issues to deal with, and under the leadership of the gentleman from Florida [Mr. GOSS], we went through that.

I want to also commend our special counsel, James Cole, for making us stick to the facts, the law, and the ethics rules as those elements that were the only matters relevant to our decisions, and many thanks to Kevin Wolf and Virginia Johnson for their assistance and professionalism.

I heard my colleague, the gentleman from New Mexico [Mr. SCHIFF], say in his earlier days as a prosecutor he might entertain thoughts of bringing jury tampering charges. If he decides to do that, I hope that the gentleman will include in his package the dirty tricks memo that is now in the public record that is a written document about attempts to undermine the ethics process directly by the Republican House leadership.

Let me say though we did produce a bipartisan product. I hope our work will serve as a foundation for a bipartisan solution to be agreed to today.

Today, others have said it, is a sad day. I think it is a tragic day. Here in the House of Representatives we will sanction a sitting Speaker for the first time. It is an unwelcome task to pass judgment on any of our colleagues, but we have a responsibility to uphold ethical standards called for in the rules and expected by the American people.

I associate myself with the gentleman from Maryland, Mr. CARDIN's, remarks about the process. We should not have to choose to make the American people aware of either the hearing, a full hearing, or the report. But since we have a report, I urge everyone to read it. I think it is very instructive and gives lie to many of the mischaracterizations that have been made about the violations that the committee charged Mr. GINGRICH with and those which he admitted to.

□ 1245

The last few weeks have been dreadful. But we have an opportunity to say today to the American people that when we come to Washington, we do not check our integrity at the beltway, and that power is not a license to ignore ethical standards. We also have an opportunity to tell the American people that sanity can reign in the Congress by demonstrating our ability to agree and disagree in a respectful way. The American people gave us the privilege to serve; they expect us not only to make the laws and to obey the laws, but also to live up to a high ethical standard.

So today we are here to address the failure of Speaker GINGRICH with regard to the laws governing charitable contributions and GOPAC, and his failure to respond accurately and reliably to the Committee on Standards of Official Conduct.

I would like to just take a moment to refer to the book, because as I asked people to read it, I want to point out the statement of alleged violations which was originally set forth by the special counsel. This is on page 155.

Based on the information described above, the special counsel proposed a statement of alleged violations to the subcommittee on December 12. The statement of alleged violations contained 3 counts: Mr. GINGRICH's activities on behalf of ALOF in regard to AOW and ACTV, and the activities of others in that regard with his knowledge and approval, constituted a violation of ALOF's status under section 501(c)(3).

Second, Mr. GINGRICH's activities on behalf of Kennesaw State College Foundation, the Progress and Freedom Foundation, and Reinhardt College in regard to the Renewing American Civilization course, and other activities in that regard, with his knowledge and approval, constituted a violation of those organizations' status under 501(c)(3).

And, third, Mr. GINGRICH had provided information to the committee, directly or through counsel, that was material to matters under consideration by the committee, which Mr. GINGRICH knew or should have known was inaccurate, incomplete, and unreliable.

These were not the alleged violations that were passed out at the committee because we did not come to agreement on them, but they are the original allegations by the special counsel. I think everyone is well aware that we have charged the Speaker in our statement of alleged violations that he did not ensure that the law was complied to in his activities, and that he gave information to the committee that was not accurate.

Think how much easier it would be if we could all use the 501(c)(3), not consult a lawyer, and build our political agenda around tax deductible considerations. The American people in their generosity give the opportunity to charitable institutions to do charitable work. That does not include subsidizing our political activity. At the grassroots level we have always had to comply with the law in relationship to political activity and 501(c)(3). If we have to do it at the grassroots level, so should the Speaker of the House.

As the counsel mentions in his statement, some members of the committee and the special counsel were in favor, as I mentioned before, of the original proposal. After much deliberation, all four of us could agree on a statement of alleged violations that despite, in quotes, "Despite significant and substantial warnings, Mr. GINGRICH did not seek the legal advice to ensure that his conduct conformed with the provisions of 501(c)(3)," with the law.

Why did he not? Why did he not? Either because Speaker GINGRICH knew what the answer would be no, from an attorney, "No, you cannot do this," or he was reckless in conforming with the law. The committee decided that regardless of the resolution of the 501(c)(3) tax question, Speaker GINGRICH's conduct was improper, did not reflect credibly on the House, and was deserving of sanction, serious sanction, and Speaker GINGRICH agreed.

The next issue in my view is the most serious, that of not dealing honestly with the Committee on Standards of Official Conduct. It is interesting to me that Speaker GINGRICH has repeatedly stated that ethics are important to him. Why, then, did he say that he was too busy to respond to the committee accurately? Again, either he was trying to get complaints dismissed and an accurate answer would not achieve that end, or that ethics were not important enough for him to take the necessary time.

As our colleague, Mr. CARDIN, has pointed out, Mr. GINGRICH gave one answer in the earlier letter in order to respond to a complaint regarding use of official resources for his course, so he said GOPAC did it. Then when we asked the question if GOPAC and 501(c)(3) cannot be that cozy, then he said GOPAC did not do it; and then in the third communication to the committee, he stood by his previous letters.

The gentleman from New Mexico [Mr. SCHIFF] prefers to call it a comedy of errors. I think it is violating our trust that we have among Members. Every day that we speak to each other in this House, we refer to each other as the gentleman from Georgia, the gentlewoman from Connecticut, the gentleman from Maryland. We trust each other that we will deal truthfully with each other.

Unfortunately, in terms of Speaker GINGRICH's dealings with the committee on a number of occasions, and in his violation of the agreement under which we would go forward in bringing this issue to a conclusion, Mr. GINGRICH's statements lead me to one conclusion: that Mr. GINGRICH, in his dealings with the committee, is not to be believed. I conclude also that Mr. GINGRICH gave these different answers not because it was a comedy of errors, but because he thought he would get away with it.

I was particularly concerned about the "too busy" defense. We cannot say that ethics is important to us and then say we are too busy to answer the central question asked by the Committee on Standards of Official Conduct. Maintaining a high ethical standard is a decision, and it requires making it a priority. It is not just something we do when we are not too busy.

We expect the Speaker of the House to be busy. We also expect the Speaker of the House to be ethical. Speaker GINGRICH himself has stated that the Speaker must be held to a higher standard. I do not put any additional burden on the Speaker. I think all Members of Congress should be held to a higher ethical standard.

When new Members arrive in Congress, one of the first documents they receive is the House Ethics Manual. And one of the first responsibilities impressed upon all of us is to uphold a high ethical standard. Clearly, Speaker GINGRICH did not live up to his own professed ethical standards of the House, and, indeed, to the ethical standards in this book.

I urge my colleagues to read this report. I think when you do, you will see that it gives lie to the mischaracterizations of our Republican colleagues that the violations were nothing, or that they were like trespassing or double parking. Either our colleagues were ill-informed, and that is what I choose to believe, or they have a cavalier regard for the tragedy of the Speaker admitting bringing discredit to the House of Representatives which he wants to lead.

Now we come to the penalty. As you know, we have a financial penalty because we believe that the inaccurate statements that the Speaker said to us prolonged the process. There are other reasons why there is a financial penalty, but that was one of them. And the subcommittee concluded, and I quote, "that because these inaccurate statements were provided to the committee, this matter was not resolved as expeditiously as it could have been. This caused a controversy over the matter to arise and last for a substantial period of time, it disrupted the operations of the House, and it cost the House a substantial amount of money in order to determine the facts."

So I urge our colleagues, in light of all of that, to support the bipartisan recommendation of the committee. The $300,000 penalty I believe speaks eloquently to the American people, who may not know the weight of one of our sanctions or another, but they understand $300,000. And I hope that this money will not come from the Speaker's political campaign funds, because I think that will increase the cynicism of the American people about what goes on here in Washington.

Whether the Speaker remains Speaker is up to the Republicans. He is technically eligible. I hope you will make a judgment as to whether he is ethically fit.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], the chairman of the subcommittee, and I want to recognize the outstanding job that he did chairing that subcommittee, as I recognize the remarkable service of the members of that subcommittee.

Mr. GOSS. Mr. Speaker, I thank the gentlewoman from Connecticut, the distinguished chair of our committee, for yielding me this time. She deserves our sincere gratitude for all she has endured, for her persistence, for her determination to bring this to a successful conclusion, and here we are today. It was certainly an unenviable and, I know, thankless task.

Today we have a conclusion. Today the House takes the final step in what has been a most difficult process, I think we all would agree. It is not just for those intimately involved in the day-to-day twists and turns in this tortuous case, but also for the entire House.

On Friday the full Committee on Standards of Official Conduct approved a recommendation which is today before this House, for an official reprimand and a $300,000 cost assessment to Mr. GINGRICH as sanction for his violation of House rules and as partial reimbursement for the costs of the inquiry that ensued. This is unquestionably a serious sanction, but one that is also fair and appropriate, in my view, as evidenced by the fact that indeed Mr. GINGRICH himself has agreed to it.

The Committee on Standards of Official Conduct, functioning independently of leadership on both sides of the aisle, is supposed to find the truth through an investigative process. It is not designed to protect errant Members, nor is it designed to permit partisan zealots to destroy Members or to score political points.

In this case, the committee's members were subject to frequent unfair and inaccurate partisan political attack. That is a matter of fact. Outsiders attempted to influence our activities, our deliberations, our schedule and our conclusions. That is truly a shame. It has caused harm, not just to the Members involved, but it has also brought discredit to this institution, in my view.

Friday, I urged the leadership on both sides of the aisle to tone down the rhetoric, cut the nonsense, and get back to work in repairing the damage that has come to this House. I repeat that exhortation today.

With regard to the matter at hand, I am very satisfied with the work done by our investigative subcommittee, whose recommendation was adopted by the full committee and is the recommendation all Members will consider today.

The four of us, working with the extraordinarily talented special counsel, Jim Cole, functioned in a spirit of bipartisan cooperation that did actually grow as we went along in the case. I say we started with different perspectives, but we started with open minds, and I am grateful for the very fine service, the unbelievable commitment of time of the members, their cooperation. I take my hat off to the gentleman from Maryland [Mr. CARDIN], the gentleman from New Mexico [Mr. SCHIFF], and the gentlewoman from California [Ms. PELOSI], all of whom in my view bring great credit to this institution.

Contrary to what has been reported, the statement of alleged violations that our subcommittee developed and passed and which forms the basis for the sanctioned recommendation did not, I repeat not, find that Mr. GINGRICH violated or did not violate tax law in his relationship with 501(c)(3) tax exempt organizations. And contrary to media reports, that statement of alleged violation of December 21st also did not charge Mr. GINGRICH with intentionally deceiving our committee with his correspondence in this case.

Nonetheless, I found it extraordinarily imprudent of Mr. GINGRICH not to seek and follow a less aggressive course of action in tax areas he knew to be sensitive and controversial. And even more troubling, I found the fact that the committee was given inaccurate, unreliable, and incomplete information to be a very serious failure on his part.

□ 1300

Now, it is certainly true that we had more than enough facts and extenuating circumstances to consider. We all know a Member of Congress wears many hats, for our official lives, our campaign lives, our private lives, our business lives or whatever, and knowledge of how careful we must be in wearing those hats is fundamental to our job. We all have an extra obligation to be sure our activities are appropriate, no matter which hat we are wearing. That is an obligation that each of us signs up for when we run to serve in this institution.

That is why the serious sanction we recommend is appropriate, in my view. The gentleman from Georgia [Mr. GINGRICH] has recognized his lapses and the problems they have caused for this House. He has apologized, forthrightly and sincerely. He has also accepted the unique sanction we proposed, one that includes a clear signal to all Members about the importance of providing accurate and grounded information to the Select Committee on Ethics, whether in response to a complaint or in filing a complaint.

I must point out to Members that our mission in the preliminary investigation was to find and examine the dark clouds. That is what investigations do. Mr. Cole is very good at that. He is a brilliant prosecutor. In his report he presented well those dark clouds. He did not, however, present all of the other clouds we looked at that turned out to be not quite so dark. So I found that his report would be well supplemented by reading the report of the Speaker's attorneys for balance, as well. I refer colleagues and interested parties to both reports to get the full picture.

In the end, I agreed with my subcommittee colleagues that Mr. GINGRICH's absence of diligence subjects him legitimately to charges of conduct reckless enough to constitute a violation of House rules. I sincerely hope with today's voting we can put this matter to rest.

I urge this House to adopt the recommendation of the Select Committee on Ethics and remember, the penalty is aimed at findings in response to the specific work of our subcommittee, no matter what feelings any particular Member may personally have about Mr. GINGRICH.

Some have said this is a sad day. Indeed it is, whenever we have this type of a situation. I will also say it is a day of victory. We have proved to the American people that no matter how rough the process is, we can police ourselves. We do know right from wrong in this institution. We can take the necessary steps.

Mr. CARDIN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. BORSKI], a very valuable member of the Select Committee on Ethics, who has done yeoman's service for the House and for the Congress on that committee.

Mr. BORSKI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to start by commending the members of the investigative subcommittee, the gentleman from Maryland, Mr. BEN CARDIN, the gentlewoman from California, Ms. NANCY PELOSI, the chairman, the gentleman from Florida, Mr. PORTER GOSS, and, of course, the gentleman from New Mexico, Mr. SCHIFF, for the extraordinary job they have performed for this institution. They are all people of enormously high integrity, and they have done this committee and this House very proud.

I also want to commend the special counsel, Mr. Cole, who under the most difficult and trying of circumstances came through with a report that, again, I would urge all Members of the House to read; but again, under the most difficult and trying of circumstances, he performed an heroic deed for this House.

Mr. Speaker, let me state the obvious. No Member seeks or enjoys a position on the Ethics Committee, but the proper functioning of that committee is essential to the integrity of the House. It is a matter of personal and institutional honor that each of us has agreed to serve.

I remember distinctly when I received the phone call that any one of us never wants to get; a leader of my party, Speaker Tom Foley, asked me to serve on the Ethics Committee. I remember distinctly saying to Mr. Foley that I was reminded of the fellow who was tarred and feathered, put on a rail and run out of town, whose retort was that if it weren't for the honor, he would rather walk. I am on this committee, but it is as a reluctant member. On more than one occasion I have offered to step down when the removal of a member was necessary to maintain the political balance of the committee. But Mr. Speaker, I feel very strongly that it is our constitutional duty, and it was mine, to respond positively to Tom Foley's request. It was, again, certainly not a position that I wanted.

I hope to concentrate my efforts and energies on the work of the Committee on Transportation and Infrastructure, probably the most bipartisan committee in this House of Representatives, and where that bipartisan atmosphere has enabled us to turn out very important pieces of legislation.

It is always a grueling and distasteful task to investigate a fellow Member—all the more so in the case of the Speaker. Some have suggested that partisan attempts were made to derail the special counsel's efforts and render him less effective. I might say that I agree. The subcommittee released its statement of alleged violation on the Saturday before Christmas. The counsel's report was released on Friday afternoon, before inaugural weekend, with the vote firmly scheduled for this afternoon. Despite a prior agreement which allowed for a full week of public hearings, we were left with only a single afternoon's session. Mr. Cole, along with members of the full committee and subcommittee were troubled by the time line insisted upon by Republican leadership. The special counsel insisted with consistency that he would be hard pressed to complete a report detailing the 2-year investigation before February 4. Yet, Mr. Cole was denied the time he deemed necessary.

Despite these obstacles, however, the special counsel did release a report on Friday afternoon which included the subcommittee's recommended sanction of a reprimand and fine. In this report, Mr. Cole, along with Ms. Roady, the subcommittee's tax expert, and two members of the committee conclude that Mr. GINGRICH has violated the tax code in conjunction with 501(c)(3). However, the Committee agreed that the focus of the investigation should be on the conduct of the Member rather than the resolution of issues of tax law which would best be left to the IRS. What the report does say about the 501(c)(3), is the following:

“* * * the subcommittee was faced with a disturbing choice. Either Mr. GINGRICH did not seek legal advice because he was aware that it would not have permitted him to use a 501(c)(3) organization for his projects, or he was reckless in not taking care that, as a Member of Congress, he made sure that his conduct conformed with the law in an area where he had ample warning that his intended course was fraught with legal peril. The subcommittee decided that regardless of the resolution of the 501(c)(3) tax question, Mr. GINGRICH's conduct in this regard was improper, did not reflect creditably on the House and was deserving of sanction.”

With respect to the letters containing inaccurate information that Mr. GINGRICH provided to the committee, the report goes on to say:

“The special counsel suggested that a good argument could be made, based on the record, that Mr. GINGRICH did act intentionally, however it would be difficult to establish that with a high degree of certainty * * * In determining what the appropriate sanction should be in this matter, the subcommittee and the special counsel considered the seriousness of the conduct, the level of care exercised by Mr. GINGRICH, the disruption caused to the House by the conduct, the cost to the House in having to pay for an extensive investigation, and the repetitive nature of the conduct.”

“The subcommittee was faced with troubling choices in each of the areas covered by the statement of alleged violation. Either Mr. GINGRICH's conduct in regard to the 501(c)(3) organizations and the letters he submitted to the committee was intentional or it was reckless. Neither choice reflects creditably on the House. * * *”

Under the rules of the committee, a reprimand is the appropriate sanction for a serious violation of House Rules and a censure is appropriate for a more serious violation of House rules. This is the extent to which guidelines are in place for Members to make a determination of sanction. According to the special counsel, it was the opinion of the Ethics Subcommittee, after two years of investigation and inquiry, that this matter fell somewhere in between. As such, both the subcommittee and the special counsel recommended that the appropriate sanction should be a reprimand and a payment reimbursing the House for some of the costs of the investigation in the amount of $300,000. Mr. GINGRICH has agreed that this is the appropriate sanction, as has the full Ethics Committee.

Mr. Speaker, I say to my colleagues, particularly my colleagues on the Democratic side of the aisle, this is not about who should be the Speaker of the House. Democrats have no say in who should be the Speaker of the House. That is up to the majority party.

This is not about process. There were parts of this process that I find extremely disturbing, and parts that I think need to be dealt with further at an appropriate time. This is not that time.

This is not about whether the existing tax code in question is arcane. I asked the special counsel, Mr. Cole, at our Friday afternoon public hearing whether the law was in fact arcane, and Mr. Cole responded in the strongest possible language that the law was not arcane. In fact, it is a headline issue that politics and tax-exempt organizations should not mix. Even Mr. GINGRICH's tax attorney agreed with that statement.

I also asked the special counsel to respond to the spin that we are all familiar with, and it goes like this: “I saw the course, I watched the tape. There is nothing political about them.” Mr. Cole's response was that the issue in question was not so much the content of the course, but, rather, the intent and the way in which it was distributed.

The report states, “Mr. GINGRICH applied the ideas of the course to partisan political purposes.” Mr. Speaker, this is not about determining the innocence or the guilt of Mr. GINGRICH. He has already admitted that guilt, that he has brought discredit to this House. This is about the ability of the House of Representatives, under the most trying of circumstances, to judge one of its own Members, an extremely controversial Member, one who has led his party to the majority. It is our duty to determine the appropriate sanction to that Member.

The subcommittee, aided by the special counsel, has conducted an investigation and made its recommendation to the full committee, which in turn has made that recommendation to the full House.

Those are the processes we have adopted and those are the processes we have followed. We are giving every Member, independently, the opportunity to put aside partisan politics and follow the recommendation offered by the special counsel, the subcommittee, and the full committee upon completion of a 2-year inquiry. It is right and it is just. We were asked as Members of Congress to put aside our partisan beliefs and serve on this committee out of a sense of duty and honor. Now, we are asking you to honor our recommendations with dignity.

I ask my colleagues to honor the work of the Ethics Committee and to vote yes for this very strict sanction.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I thank the chair of the Ethics Committee for yielding time to me.

Let me say at the outset that you can clearly disagree and have great respect for your colleagues on the Ethics Committee, as I do, and still reach different conclusions, as I do.

My conclusion is that the penalty that has been assessed by the Ethics Committee is way too severe when you look at the actual findings of the committee and when you look at the precedent that has been established by this House.

Let us look at the actual findings. There have been two here. The first finding is that the Speaker should have consulted an attorney about tax laws. The second is that he submitted two inaccurate letters to the Ethics Committee. These are real mistakes, but they should not be hanging offenses, especially when we consider that there was no finding of any law that was broken, there was no finding of any intent to mislead the Ethics Committee, and there was no finding that the Speaker received any personal financial gain.

The special counsel to the Ethics Committee once described it this way. He said that the Speaker had "run some very yellow lights." But you do not get ticketed, or you should not, for running a very yellow light, no matter how close it is to becoming a red one.

If we look at the precedents that have been established here as well, we see that there is no justification for this severe a penalty. The Ethics Committee staff has researched this issue, and there is simply not a single case where there has not been a finding of an intent to mislead the committee that has resulted in a penalty of reprimand, not a single case.

In fact, all of the precedents are to the contrary. Wherever there has not been a finding of intent to mislead the committee, the penalty has always been either a Letter of Reproval, or the case has been dismissed against the individual involved.

I might say here, we all know that the Speaker has agreed to the penalties, but that does not mean that the agreement is a fair one. It does not mean that that is a penalty that we have to support.

Remember the speech by Teddy Roosevelt called the man in the arena speech. He said that we can either grapple in the political arena, or we can be one of those "timid souls who know neither victory nor defeat."

How much better it would be for us today to have the victory of conscience, and vote against a penalty that we know is too severe.

The report of counsel and article follow:

IN THE MATTER OF SPEAKER NEWT GINGRICH

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: REPORT OF COUNSEL FOR THE RESPONDENT

This is the Report of Counsel for the Respondent Speaker Newt Gingrich. This Report is being submitted in connection with the Sanction Hearing specified in Rule 20 of the Rules of the Committee on Standards of Official Conduct ("Rules") regarding written submissions by counsel.[1] The Report is subject to two limitations. First, the Report has been prepared without the access to all of the information collected by the Investigative Subcommittee. Respondent was limited to certain exhibits made available by the Committee; selected transcripts made available by the Committee; and public documents. Second, Respondent has not been afforded the opportunity to conduct discovery or otherwise develop information relating to the matter before the Committee.

OVERVIEW

On December 21, 1996, the Investigative Subcommittee issued a Statement of Alleged Violation. The Statement was the product of an investigation by the Investigative Subcommittee and Special Counsel. It is important to note that the process was one-sided: Witnesses were not subject to cross-examination; documents were not subject to pertinency or admissibility standards; and traditional rules establishing standards for admissibility, pertinency and reliability of evidence were not applied. Respondent was not permitted to participate in the examination of witnesses or documents.

Also on December 21, 1996, Respondent submitted an Answer admitting the alleged violation. Pursuant to Rule 19(c) of the Rules, Respondent's admission relieved the Committee of determining through an adjudicatory subcommittee at a Disciplinary Hearing whether the single count in the Statement of Alleged Violation was proven by clear and convincing evidence. At such a Disciplinary Hearing, Respondent would have been afforded the opportunity to cross-examine witnesses, challenge documents and obtain discovery.

With the Statement of Alleged Violation and the Answer, the next process contemplated by the Rules is a Sanction Hearing pursuant to Rule 20. This process does not entail a trial on the merits of the alleged violation. Instead, the process is limited to determining the appropriate sanction, if any, for the violation.

This Report is submitted for that purpose. This is not a report in response to the Special Counsel's Report. It does not contain a fact by fact, argument by argument response to the Special Counsel's Report. Respondent does not accept as true the asserted factual statements and characterizations thereof beyond the facts contained in the Statement of Alleged Violation admitted by Respondent's Answer. It is relatively easy for an attorney, such as the Special Counsel, to piece together testimony and documents, free from the tests of cross-examination, hearsay limits and other evidentiary standards to assure accuracy, and free from the boundaries of reality, to reach virtually any conclusion through clinical forensic reconstruction. The Report is designed to put the facts before the Committee in the context of the real world so that the Committee can determine the appropriate sanction, if any, for the violation, in the absence of an adversary process.

Let there be no mistake, Respondent has accepted the Investigative Subcommittee's Statement of Alleged Violation. In doing so, Respondent has accepted the facts contained therein. This does not mean, however, that Respondent accepts as true those asserted facts not contained in the Statement of Alleged Violation. To assist the Committee in its decision-making process, attached hereto as Appendix A is a timeline of the events relating to the Renewing American Civilization course. This Report is submitted to place the general body of facts in the context of reality as opposed to a version of the facts viewed with hindsight that could only exist in a laboratory free from the dynamics of the real world. For assistance in placing the facts in context, please see Appendix B.

SCOPE OF HEARING

There have been a myriad of charges and allegations made against Respondent. With the exception of the single violation contained in the Statement of Alleged Violation, those charges and allegations are untrue and groundless. The only violation before this Committee for purposes of determining the appropriate sanction, if any, is the violation contained in the Statement of Alleged Violation. The Statement of Alleged Violation describes conduct which violates Rule 43(1) of the Rules of the Committee on Standards of Official Conduct. Rule 43(1) provides as follows: "A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives." Rules of the Committee on Standards of Official Conduct, Rule 43, clause 1.

Paragraph 52 of the Statement of Alleged Violation contains the only violation found, and states that:

"[R]egardless of the resolution of whether the activities described in paragraphs 2 through 41 constitute a violation of section 501(c)(3) of the Internal Revenue Code, *by failing to seek and follow legal advice* described in paragraphs 15 and 40, *Mr. Gingrich failed to take appropriate steps to ensure that the activities* described in paragraphs 2 through 41 *were in accordance with section 501(c)(3)* of the Internal Revenue Code; and on or about March 27, 1995, and on or about December 8, 1994, *information was transmitted to the Committee by and on behalf of Mr. Gingrich that was material to matters under consideration by the Committee, which information, as Mr. Gingrich should have known, was inaccurate, incomplete, and unreliable.*" Statement of Alleged Violation, ¶52, p. 22 (emphasis added).

The standard relating to the adoption of a Statement is contained in Rule 17(d) of the Rules of the Committee on Standards of Official Conduct and provides:

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[1] Footnotes at end of document.

"Upon completion to the Preliminary Inquiry, an investigative subcommittee, by majority vote of its members, may adopt a Statement of Alleged Violation if it determines that there is *reason to believe* that a violation has occurred." (emphasis added). Rules of the Committee on Standards of Official Conduct, Rule 17(d).

Given the false information which has been disseminated regarding the violation, it is important to note that the Investigative Subcommittee:

did not charge Respondent with any violation of U.S. tax law;

did not charge Respondent with intending to deceive the Committee;

did not charge Respondent with illegal activities or criminal tax violations; and

did not charge Respondent with money laundering.

Indeed, based on the standard applied by the Investigative Subcommittee, there is no reason to believe that any such allegations are true. All statements to the contrary are not only false, but maliciously false, as established by the language of the Statement of Alleged Violation.

THE REAL WORLD

In the real world, Members of Congress necessarily confront many issues incidental to their multiple responsibilities. Chapter 9 of the House Ethics Manual itself addresses "Involvement With Official and Unofficial Organizations." On page 307, the House Ethics Manual state: "Members and employees of the House need to distinguish carefully between official and unofficial activities when they interact with private organizations."

Also in the real world, Members interact with a variety of organizations. Some are political action committees; some are charitable organizations (Section 501(c)(3) entities); and others are lobbying organizations (Section 501(c)(4) entities.[2] It is neither illegal nor inappropriate for Members to participate as directors, officers or trustees of these political action committees, charitable organizations and lobbying organizations. According to The Exempt Organization Tax Review, "a review of Members' 1988 financial disclosure forms . . . showed that 51 Senators and 146 House Members were founders, officers or directors of tax-exempt organizations." See, Exhibit A: The Exempt Organization Tax Review, Dec.–Jan. 1990, p. 680. Indeed, "five candidates in the 1988 presidential contest had tax-exempt groups ostensibly doing research and educational activities in the months preceding their campaigns." Id.

The Internal Revenue Service specifically contemplated such structures. As described by the IRS:

"A number of IRC 501(c)(3) organizations have related IRC 501(c)(4) organizations that conduct political campaign activities, usually through a PAC (an IRC 527(f) separate segregated fund). So long as the organizations are kept separate (with appropriate record keeping and fair market reimbursement for facilities and services), the activities of the IRC 501(c)(4) organizations or of the PAC will not jeopardize the IRC 501(c)(3) organization's exempt status. 1992 IRS CPE, at 439."

In addition, it is not unusual that the political action committees, charitable organizations and lobbying organizations share the same address and operate out of the same offices. For example, the National Organization of Women (a section 501(c)(4)), National Organization of Women Foundation Inc. (a section 501(c)(3)), and the National Organization of Women Political Action Committee (a political action committee) all list as their address 1000 16th St. NW 700, Washington, D.C. For a further listing of multiple, affiliated Political Action Committees/Section 501(c)(3) entities/Section 501(c)(4) entities sharing the same address, *see* Exhibit B and Appendix D.

Finally, it is common for these multiple-entity organizations to engage simultaneously in activities that have political implications. For example, the Sierra Club operates a section 501(c)(3) entity designated as Sierra Club Fund; a section 501(c)(4) entity designated as Sierra Club; a political action committee designated as Sierra Club Committee on Political Education; and a section 501(c)(3) entity designated as Sierra Club Legal Defense Fund. All of the entities list as their address 730 Polk Street, San Francisco, CA. The internet home page of Sierra Club reflects its broad-ranging purposes, including those which are political. The home page states as follows:

"The Sierra Club has played an increasingly active role in elections in recent years. Candidates who can be counted on to preserve the environment can count on our support—in the form of endorsements, contributions, publicity, and volunteer support. Candidates who try to deceive the public by supporting efforts to eliminate or weaken our basic environment safeguards will be called to account for their actions. In 1996, concerned citizens have the opportunity to reverse the tide of the last election. We have no choice, as the 21st century nears, but to send to Washington elected officials who have a genuine commitment to preserving and protecting the Earth. With your help, the 1996 elections can set a new course for our nation." See Exhibit C for other similar home pages involving multiple entity organizations with tax exempt affiliates.

RENEWING AMERICAN CIVILIZATION MOVEMENT

The movement to renew American civilization had its genesis in Respondent's belief that American civilization is decaying and must be renewed. Respondent believes that the act of renewing American civilization involves far more than politics, politicians and votes. It involves what is being taught in local schools and colleges, what is heard on radio and television and what happens in local clubs and organizations, in addition to what government and politicians are doing. Respondent believes that the renewal must be cultural, societal, educational, economic, governmental and political. More importantly, to achieve the degree of change necessary to renew American civilization, there would have to be a movement that transcends any single vehicle of change.

Looking toward the 21st Century, Respondent developed an approach which he referred to as the "five pillars" of renewing American civilization: (1) quality; (2) technological advancement; (3) entrepreneurial free enterprise; (4) principles of American civilization; and (5) psychological strength. Based on these principles, Respondent sought to initiate a movement to replace the welfare state and renew American civilization to occur at every level of American society. Renewal would require the accomplishment of various goals including the education of the general population and creation of a majority of citizens committed to reform, thereby spawning activism; education of business leaders; and education of the media as to the ideals and concepts of renewal. In effect, Respondent sought to create a national dialogue for reform and a methodology by which citizen activists could accomplish the stated goals of the movement.

Respondent envisioned many methods to initiate the movement through simultaneous efforts utilizing Respondent's various public roles. First, as a Member of Congress and a member of the Republican leadership, Respondent envisioned utilizing the legislative process through speeches, such as special orders presented to the House, votes and legislation. Second, as an educator, Respondent envisioned refinement of his message and delivering it to foster healthy debate on the issues of reform. Third, as Chairman of GOPAC, Respondent envisioned recruiting and training Republican candidates. Respondent believes that every citizen, regardless of partisan affiliation, should participate in the renewal, and that, through education in the principles of civilization, debate will ensue and every citizen can become a pro-civilization activist to ensure that American civilization can be renewed.

During a December, 1992 meeting with GOPAC contributor Owen Roberts, Respondent described the movement as "articulat[ing] the vision of civilizing humanity and recivilizing all Americans." GDC 11363. He sought to: "[d]efine, plan and begin to organize the movement for civilization and the effort to transform the welfare state into an opportunity society to help people achieve productivity, responsibility and safety so they can achieve prosperity and freedom so they can pursue happiness." GDC 11363; HAN 2123.

Respondent further described the movement as follows: "The challenge is not Republican or Democrat, liberal or conservative. The challenge is to our civilization's survival." GDC 1066; see also, GDC 10729.

Jeffrey Eisenach, Project Director for the Renewing American Civilization course, described the movement as follows: "The potential movement to renew American civilization and replace the welfare state is bigger than and in some ways different from the Republican Party." Eisenach 2767.

When questioned by Special Counsel, Respondent states as follows:

Q: "Is that [the movement] to be conducted in a political framework?

A: "There is a political framework within the movement. The movement itself is cultural, not political.

Q: "Is the movement intended to be Republican identified?

A: "No." Gingrich July 17, 1996 Tr., p. 28.

When Respondent was asked by Special Counsel whether the goal of the movement was to recruit a Republican majority, he answered as follows:

A: "No. Just the reverse. That is the movement is large. You might or might not have a Republican majority within this movement. If the movement succeeded without a Republican majority, that would still be a success. We thought, the times we talked this out, the Republican majority was the most logical step in this country——

Q: "I understand that it may not result, but was it a goal?

A: "It was a not a goal of this movement. It was a goal of my activities." Gingrich July 17, 1996 tr., pp. 49–50.

It is against that backdrop that Respondent and his advisors conceived of the Renewing American Civilization course, one of several tools to be utilized in initiating this movement. See Exhibit D: chart illustrating, in part, the dynamics of initiating the movement.

THE RENEWING AMERICAN CIVILIZATION COURSE

The Renewing American Civilization course was offered for academic credit at over 20 colleges and universities across the

United States, including the University at Berkeley, Vanderbilt University, Clemson University, Emory University, the University of Mississippi, Kansas State University, Colgate University, Auburn University, the University of South Carolina and Penn State University. FIC 00108; FIC 00148–49.

The basic format of the Renewing American Civilization course consisted of ten lecture topics, discussing various aspects of renewing American civilization. Some key elements of those ten lectures can be summarized as follows:

1. "Understanding American Civilization"—America is the only country in a position to lead the world into a new age, and must strive to replace its welfare state with an opportunity society, based on the five principles of American civilization: personal strength, entrepreneurial free enterprise, the spirit of invention and discovery, quality and the lessons of American history.

2. "Personal Strength"—Personal strength is a basic principal of American civilization vital to establishing safety, family, work, health and learning. Existing frameworks weaken personal strength by discouraging work, undermining family and integrity and discouraging self-reliance.

3. "Entrepreneurial Free Enterprise"—The role of the entrepreneur is vital to American civilization. Bureaucratic credentialism stifles entrepreneurial free enterprise, and government regulation distorts the market's ability to reinforce success.

4. "Spirit of Invention and Discovery"—The welfare state cripples progress through bureaucracy, litigation and taxation. A pro-spirit of invention and discovery America will create a better future through better ideas.

5. "Quality and Deming's Profound Knowledge"—With a culture of quality, Americans can compete against anyone in the world. Consumers define value. To improve results, you must improve the process that generates them. People want to do a good job. Every person is part of a larger system. Continual learning is the basis for continual improvement.

6. "Lessons of American History"—History is a collective memory and a resource to be learned from and used. America is exceptional and its history teaches us how exceptional. The religious and social tenets of puritanism are diffused throughout American values today.

7. "Economic Growth & Job Creation"—The welfare state's despised low-paying job is the entrepreneur's opportunity. It is not who you are today, it is who you want to be tomorrow that counts in America. A successful America will have the highest value added jobs with the greatest productivity leading to the greatest take home pay and the greatest job security.

8. "Health and Wellness"—Our challenge is to create a vision of a healthy American focusing on lower costs, higher quality, more choices and greater access. The five principles of American civilization should help us brainstorm a better way of life.

9. "Saving the Inner City"—American reform movements have emerged quickly and have had powerful impacts. Saving the inner city can be accomplished through individual, decentralized efforts. The vicious circle of the welfare state should be replaced with the virtuous circle of American civilization to help people create new hope and new opportunities.

10. "Citizenship for the 21st Century"—Citizenship may be defined as the duties and obligations, rights and responsibilities necessary to maintain community. The genius of America lies in liberating each citizen to seek community and define citizenship in the broadest possible way.

These lectures would also include a list of suggested readings to allow for a more complete explanation of the issues covered. These readings included works written by Democrats such as Al Gore and Max Cleland, as well as works by Alvin Toffler, a Futurist. During each class section, Respondent would lecture for his two-hour period and the faculty representative or site representative would then make a presentation involving group discussion which Respondent did not control.

Respondent himself was, prior to election to Congress in 1978, a professor of history who served on the faculty of West Georgia College for eight years. He was awarded a B.A. from Emory University in 1965 and a Ph.D. in European History from Tulane University in 1971.

The course itself was taught at Kennesaw State College, a senior college within the University System of Georgia, and, later, at Reinhardt College, a private, accredited college located in Waleska, Georgia.

Periodically during course lectures, Respondent made references to individuals, entities and companies which in their own way exemplified his notion of American exceptionalism. A total of 46 videotape inserts—typically three to four minutes in length—were used in the course to illustrate various points. GDC 2619. The inserts from the "Personal Strength" lesson are typical of these: Former Georgia Secretary of State and now U.S. Senator Max Cleland on overcoming his injuries in Vietnam; Congressman John Lewis about the role of personal strength in the civil rights movement; Nationally-recognized teacher Marva Collins on teaching personal strength; Supreme Court Justice Clarence Thomas' journey from Pinpoint, Georgia to the Supreme Court; and A story about the Paralympics. GDC 2619.

During the course, Respondent also prominently featured Franklin D. Roosevelt, John F. Kennedy, Rev. Martin Luther King, Jr. and Jimmy Carter in his discussions and videotape presentations. Respondent discussed both Democrats and Republicans favorably.

In developing the Renewing American Civilization course, Respondent invited Members of Congress from both parties to contribute ideas to the course. WGC 07084. Prior to the time Respondent taught the course, he described his course development to the Committee as follows:

"I expect that we will invite many people to comment on the content of the course, at every stage of the four-year process. Commentators will include people involved in state and local government, including Congressional staff (my own and others). These commentators will also include members of both major political parties. (For example, I have recently talked with both Pat Moynihan and John Lewis, who have agreed to serve in this capacity.)" Gingrich July 21, 1993 letter to Rep. McDermott.

Respondent later described his course development as follows:

"I have invited many people in many backgrounds to submit material for consideration and to assist in reviewing the course. These include President Clinton and Secretary of Labor Robert Reich." Gingrich September 7, 1993 letter to Barry Phillips, Chairman of the Georgia Board of Regents, GDC 2607.

Several prominent scholars reviewed the content of the Renewing American Civilization course. David King, an assistant professor of public policy at Harvard University's John F. Kennedy School of Government, concluded that the course is "not partisan. . . . It touts conservative ideas, but those ideas are never explicitly linked to the Republican Party." Peter Applebome, "Educators Divided on Course by Gingrich," New York Times, Feb. 20, 1995 at A12. Professor King also concluded it is impossible to teach a political science or history course "without someone interpreting what you say in partisan terms." Kathy Alexander, "Gingrich's Notorious Course at End: For Now Students Praise Teachings and Teacher as he Takes Two-Year Break," Atlanta Journal-Constitution, Mar. 11, 1995, at C1.

The vast majority of those persons who attended the course, or were otherwise associated with the course, found it to be academic and non-partisan. For instance, Dr. Tim Mescon, dean of the business school at Kennesaw State College where the course was first taught, characterized the philosophical approach of the Renewing American Civilization course as follows:

"This course . . . is by no means constructed as a political platform or forum for unidimensional ideologies. . . . Today, citizens of the United States are immersed in conversations pertaining to reform. . . . Regardless of political philosophies, this country is engaged in lively debate over the need to reform and the methodology required to implement change. This course has been designed by contributors from various political platforms, socioeconomic backgrounds, and academic and professional institutions. The intention is to incubate dialogue, discourse and discussion all focused on renewing American civilization. . . . Kennesaw State students should be encouraged to participate in pensive discussions on such timely issues, and it is my intention that this course create a dynamic forum for these interchanges." July 28, 1993 Memo from Mescon to Faculty Colleagues, FIC 00185.

Many of the students who took the Renewing American Civilization course for academic credit at Reinhardt College, one of the host sites, were highly enthusiastic about the course and regarded it as one of the most challenging classes of their college careers. See Reinhardt College Student Evaluation Forms, GDC 12454–12546. Some students viewed Renewing American Civilization as an excellent course for people with a "true interest in history," while other students saw it as "really a business course." Id. at 12472. Another student commented, "I really was ready to argue political points, but I'm glad that [Respondent] stayed away from those." Id. One student was "disappointed" because he or she did not "learn more about politics." Id. at 12499. Another student wrote, "this has not been political grandstanding." Id. at 12517. One student wrote, "it had no politics whatsoever." Id. at 12487.

Although the Renewing American Civilization course was promoted among a wide array of Republican organizations, non-partisan or Democratic-oriented organizations were also solicited, including the American Political Science Association. Of the 36 contributors to the course, only 14 were associated with GOPAC or its efforts. GDC 2621. Respondent only mentioned four of the 36 contributors in the course lectures.

One course memorandum reflected Respondent's firm desire to maintain the course as a non-partisan, apolitical endeavor, stating as follows:

"Obviously, we also need to design a process which is legally appropriate and as immune as possible from criticism from those who oppose what we are doing. In particular, we need to ensure that Kennesaw State College and Kennesaw State College Foundation resources are not used to help partisan organizations (e.g., GOPAC) or political candidates (e.g., Newt)." Aug. 25, 1993 Eisenach Memorandum, WGC 07080.

Much has been written regarding GOPAC's involvement in the Renewing American Civilization course. The critical inquiry in this regard is whether the Respondent took steps to maintain the division of capacities between his capacities as a Member, a teacher in a section 501(c)(3) setting and a partisan politician in connection with a political action committee. Whether those efforts were completely successful necessarily depended on others. The Respondent's activities, however, reflect that he attempted repeatedly to ensure that his partisan and non-partisan activities were properly segregated.

For example, as reflected in the February 15, 1993 Agenda to a GOPAC planning session, Respondent viewed the Renewing American Civilization course as separate and apart from GOPAC. On the agenda, item I. is "General Planning/Renewing American Civilization" and item II. is "Political/GOPAC Issues." JR 645.

Finally, Nancy Desmond, the Renewing American Civilization Course Coordinator, stated Respondent's position succinctly when she wrote to Barry Hutchison of Friends of Newt Gingrich ("FONG") on July 11, 1993:

"In a recent conversation with Newt, he expressed the concern that my involvement in both the Congressional Club and the Renewing American Civilization course at Kennesaw might suggest to some that there is a possible connection between the course and the campaign. As you know, Newt is adamant about keeping the two separate and wants it to be clear to everyone that the course is, in no way, connected to his political campaign. The firmness of this resolve on his part and the absolute commitment to maintaining a clear and unequivocal separation between the course and his campaign leave me no alternative but to withdraw from my volunteer post with the Club." PFF 38289.

Two tax-exempt organizations, Kennesaw State College Foundation ("KSCF") and Progress & Freedom Foundation ("PFF"), collected the funding for the Renewing American Civilization course at Kennesaw State College and Reinhardt College, respectively. Regarding KSCF, Respondent taught the course at Kennesaw. The KSCF was the funding repository for activities at the Kennesaw campus, and it existed before Respondent had any relationship to the college.

In relation to PFF, Jeffrey Eisenach described Respondent's lack of involvement with PFF as follows in his Attachment to his 1995 Statement:

"[Respondent] is not and has never been a board member, officer or employee of the foundation. He was not aware of plans to create the foundation until after they were well advanced; did not participate in key planning meeting leading to its creation; has never served in any official capacity with the Foundation; did not review or participate in the development of its application to the IRS for tax exempt status or other key founding documents; did not participate in the selection of or make recommendations for membership on its founding board of directors; was not consulted on the naming of new board members; has not, with the exception of his Renewing American Civilization project, participated in fundraising activities; and, he has always understood the Foundation to be an independent entity, created for the non-partisan research and educational purposes stated in its application for tax exempt status and subsequent IRS filings." GDC 12176.

"FAILING TO SEEK AND FOLLOW LEGAL ADVICE"

The Statement of Alleged Violation alleges that, "by failing to seek and follow the legal advice" or tax counsel to ensure that the activities described in the Statement of Alleged Violation "were in accordance with section 501(c)(3) of the Internal Revenue Code", Respondent's conduct constituted a violation of Rule 43(1) of the Rules of the United States House of Representatives. (S.A.V., ¶52–53). It is important to note that, contrary to the statements of some, the Investigative Subcommittee did not find that Respondent's activities violated federal tax law or caused the tax-exempt organizations to violate their tax exempt status. The fact is that a violation of law may not, in and of itself, be a violation of the Code of Official Conduct. As noted on page 12 of the Ethics Manual, "[d]uring the floor debate preceding the adoption of the Code, Representative Price of Illinois, Chairman of the Select Committee on Standards of Official Conduct, rejected the notion that violations of the law are simultaneous violations of the Code . . ."

Certainly, a knowing violation of law could constitute conduct that did not reflect creditably on the House of Representatives in violation of Rule 43(1). Here, there has been no finding of a knowing violation of law.[3] In fact, such a finding would be directly contradicted by the findings in the Statement of Alleged Violation itself.

The Statement of Alleged Violation notes that tax counsel retained by the Investigative Subcommittee and tax counsel retained by Respondent disagree regarding whether the activities at issue constitute a violation of the tax-exempt organizations' section 501(c)(3) status. The only clear conclusion from the findings and the testimony before the Investigative Subcommittee is that there is no clear answer. In the absence of a clear answer, there could be no knowing violation of law.

Although there appears to be no precedent for it,[4] the issue then becomes whether there is a violation when a Member is actually aware that the law is unsettled, but nonetheless proceeds with the activity with knowledge that a public controversy may ensue, resulting in discredit to the House of Representatives. In this case, the hindsight conclusions of the tax counsel who appeared before the Investigative Subcommittee are that any counsel presented with the facts alleged in the Statement of Alleged Violation "would have advised that it not be conducted under the auspices of an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code." (S.A.V., ¶15,40). After two years of public controversy driven largely by interests totally unrelated to the tax-exempt status of the organizations, the tax attorney's position is a relatively obvious conclusion for attorneys operating with the benefit of hindsight. Respondent's conduct must, however, be evaluated in the real world, real time context of what was the generally accepted practice in 1993 when the course was established.

THE USE OF CHARITABLE FUNDS IN SUPPORT OF NONPARTISAN POLITICAL EDUCATION WAS AN ACCEPTED PRACTICE IN 1992 AND 1993

First, the Respondent's activities were not inconsistent with clear federal tax law in the opinion of all tax practitioners at the relevant time. The practice in the real world at the time was that the conduct engaged in by Respondent was in accord with the conduct of many well-advised contemporary charitable educational entities, the comment of legal scholars, and the practice of other Members of Congress.

Nonprofit organizations, to qualify for tax exempt status, must satisfy the basic criteria established by section 501(c)(3) of the Internal Revenue Code ("IRC" or "the Code"), regulations promulgated thereunder, judicial interpretation of the law and its regulations, Internal Revenue Service ("IRS") Revenue Rulings, IRS Letter Rulings, tax notices, and the various other means such as IRS press releases and announcements by which citizens can attempt to anticipate IRS interpretation of their conduct under the law.

SECTION 501(C)(3) AND THE REGULATIONS PROMULGATED THEREUNDER

In essence, section 501(c)(3) of the Internal Revenue Code provides that entities must satisfy several basic criteria to qualify for exempt status. First, the entity must be "organized and operated exclusively for" one or more of several enumerated charitable, religious or educational purposes,[5] second, "no part" of the net earnings of the entity may inure to the benefit of any private shareholder or individual; third, "no substantial part of the activities" of that entity may be "carrying on propaganda, or otherwise attempting to influence legislation"; and fourth, the entity must not "participate in, or intervene in . . ., any political campaign on behalf of (or in opposition to) any candidate for public office." IRC §501(c)(3).

The legislative history of the campaign intervention rule reflects the difficulties practitioners have encountered in applying these provisions. This provision of the Code was added to the federal tax law when then-Senator Lyndon B. Johnson offered the provision by way of a floor amendment to the Revenue Act of 1954 without congressional hearings out of concern that funds provided by a charitable foundation had been used to finance the campaign of a primary opponent. B. Hopkins, The Law of Tax-Exempt Organizations, p. 327 (6th ed. 1992); Lobbying and Political Activities of Tax-Exempt Organizations: Hearings before the Subcommittee on Oversight of the House Committee on Ways and Means, 100th Cong., 1st Sess. 19–20, 423 (1987) (Statements of Bruce Hopkins, Baker & Hostetler and the United States Catholic Conference). In offering the amendment, Senator Johnson stated that the purpose of the amendment was to "den[y] tax exempt status to not only those people who influence legislation but also to those who intervene in any public campaign on behalf of any candidate for any public office." 100 Cong. Rec. 9604 (1954).

Section 1.501(c)(3)–1 of the Income Tax Regulations ("the Regulations") marked a retreat from the "exclusively for" language of section 501(c)(3) by providing that "[a]n organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose." 26 C.F.R. 1.501(c)(3)–1(c)(1). Thus, contrary to the language of section 501(c)(3), the IRS has indicated that conduct not consistent with articulated exempt purposes will not jeopardize exempt status as long as such conduct constitutes only an "insubstantial part" of its overall activities. Id.

The Regulations further provide that an entity will not be regarded as being operated exclusively for exempt purposes if it satisfies the IRS' definition of an "action" organization. 26 C.F.R. 1.501(c)(3)–1(c)(3). An "action" organization is defined as one that devotes "a substantial part of its activities [to] attempting to influence legislation by propaganda or otherwise." 26 C.F.R. 1.501(c)(3)–1(c)(3)(ii). Likewise, "[a]n organization is an 'action' organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office." 26 C.F.R. 1.501(c)(3)–1(c)(3)(iii).

APPLICATION OF REVENUE RULINGS APPLYING 501(C)(3) AND ITS REGULATIONS

In 1978, the IRS issued a Revenue Ruling revoking a prior such ruling to hold that "[c]ertain 'voter education' activities conducted in a nonpartisan manner by an organization recognized as exempt under section 501(c)(3) of the Code will not constitute prohibited political activity disqualifying the organization from exemption." Rev. Rul. 78–248, 1978–1 C.B. 154. According to the IRS ruling, the determination of whether an organization is participating or intervening in a political campaign as proscribed by regulation 1.501(c)(3)–1(c)(3)(iii) "depends upon all of the facts and circumstances of each case." Id. Revenue Ruling 78–248 then sets forth four hypothetical "situations" describing activities which the IRS deemed to be either permitted or prohibited under 501(c)(3). Ultimately, the factual analysis provided by the IRS with respect to each situation was whether, under the specific facts of the hypothetical, the activities "evidenced a bias or preference" with respect to the views of the entity towards issues, a candidate or a group of candidates. Id.

Two years later, the IRS applied Revenue Ruling 78–248 to conclude that an entity's publication of a newsletter reporting Congressional voting records did not violate the entity's tax exempt status. Rev. Rul. 80–282, 1980–2 C.B. 178. The IRS so held, notwithstanding its conclusion, that "the format and content of the publication are not neutral, since the organization reports each incumbent's votes and its own views on selected legislative issues and indicates whether the incumbent supported or opposed the organization's view." Id. The IRS based its ruling on a factual conclusion that "the organization will not widely distribute its compilation of incumbents' voting records . . . [and that n]o attempt will be made to target the publication toward particular areas in which elections are occurring nor to time the date of publication to coincide with an election campaign." Id. Accordingly, the IRS opined, the issues presented in Revenue ruling 80–282 presented sufficient factual distinctions from the hypothetical prohibited situations set forth in Revenue Ruling 78–248 to permit the IRS to conclude that this entity's proposed activities, "in the manner described above, will not constitute participation or intervention in any political campaign within the meaning of section 501(c)(3)." Id.

EFFECT OF THE IRS' FACT-BASED ANALYSIS ON PUBLIC BEHAVIOR

As a consequence of the IRS' indications that it would apply fluid, fact-specific analysis to charitable efforts to educate the public on political matters, the late 80's and early 90's marked a period of wide-ranging opinion among tax practitioners as to the extent that political education by charitable entities would be permitted by the IRS. Specifically, this period marked an era when tax exempt entities were being called upon by sophisticated practitioners to educate and motivate the public on an ever-widening range of issues. As would be expected, the legal literature of this period reflects the lack of guidance provided by the IRS with respect to political education by tax exempt entities. See e.g., Lobbying and Political Activities of Tax-Exempt Organizations: Hearings before the Subcommittee on Oversight of the House Committee of Ways and Means, 100th Cong., 1st Sess. 6 (Opening remarks of Chairman Pickle) ("I am concerned that the public sees and hears a steady stream of media reports about abuses in this area, and the IRS seems to be taking little or no action. The public gets the impression that the Internal Revenue Service is just looking the other way."); Maxwell Glen, "Battle Looming over Partisan Activities of Tax-Exempt Nonprofit Organizations," The National Journal, p. 2294 (Dec. 1, 1994) ("In fact, since the early 1970s, when it was accused of harassing Nixon Administration opponents, the IRS has seldom policed the nonprofit sphere for political partisanship, tax specialists say. 'What you see now is a testing,' and Washington lawyer Thomas A. Asher, 'because the IRS has been remarkably reticent on the subject of the line between charity and the partisan activity of charitable organizations."); Frances R. Hill, "Newt Gingrich and Oliver Twist: Charitable Contributions and Campaign Finance," Tax Notes, p. 237, 238 (Jan. 9, 1995) ("While [the prohibition against participation in political campaigns] is absolute, it is far from clear what activity it prohibits short of direct endorsement of a particular candidate by an official speaking on behalf of the organization. In all other cases, the law offers little guidance and perhaps even less restraint.").

Apparently, this concern among leading tax practitioners regarding the lack of guidance provided by the IRS with respect to political education by tax exempt entities was shared by Celia Roady,[6] the tax expert retained by the Special Counsel to testify in favor of sanctioning Respondent. On September 28, 1994, the Exempt Organizations Committee of the American Bar Association's Section on Taxation presented a memorandum to Mr. Leslie B. Samuels, Assistant Secretary for Tax Policy at the Department of the Treasury, suggesting clarification of numerous issues facing tax practitioners under section 501(c)(3) for which the Exempt Organizations Committee believed there "currently is no authority, or there is unclear precedential authority." "ABA Tax Section Members Suggest Exempt Organization Areas in Need of Precedential Guidance," 94 Tax Notes Today, 207–14 (Oct. 21, 1994). Celia Roady is presented first on the list of those upon whom principal authority for the preparation of the memorandum rested and she is listed as the Committee's "Contact Person" on the memorandum. Id. In that memorandum to the Department of the Treasury, Ms. Roady observed:

"During the past two decades, there has been significant growth in our country's tax-exempt sector and a corresponding proliferation in the number of new legal issues confronting tax-exempt organizations. Signifying this development, the number of tax-exempt organizations included in the Cumulative List has increased from approximately 806,000 in 1974 to approximately 1,083,000 in 1994. Many of these organizations * * * have adopted evermore complex corporate structures, and many have become involved in new investment activities made possible by the evolution of financial markets. As tax-exempt organizations have grown in number and ventured into new areas, their activities have raised numerous federal tax law questions that are not adequately addressed by existing precedential authorities. Answering these questions has proved very difficult because at the same time as this expansion of organizations and issues has been taking place, the amount of precedential guidance issued by the Internal Revenue IRS has decreased dramatically.

* * * * *

". . . Issuing precedential authority on the items described below that have already been the subject of non-precedential IRS guidance would greatly assist tax-exempt organizations in complying with the law.

"PUBLIC CHARITY ISSUE—POLITICAL ACTIVITIES

"One of the most important areas in which additional precedential guidance is needed is clarification of the prohibition on political activities by section 501(c)(3) organizations. . . . Illustrative of the political activities issue in the first category is the question of when will the acts and statements of the religious organization's minister be treated as the acts and statements of the religious organization for purposes of determining whether the organization has violated the prohibition against political campaign activities contained in section 501(c)(3). The statement issued by Jimmy Swaggart Ministries and endorsed by the Service when Ministries entered into a closing agreement with the Service articulated a clear and reasonable position on this issue. It would be helpful to know as well whether that position would apply for purposes of section 4955. As noted, the Subcommittee report also addresses a number of other "Category One" issues on which precedential guidance would be quite helpful." Id.

In a subsequent document submitted by Ms. Roady's A.B.A. Committee on Exempt Organizations (for which Ms. Roady was again designated as the "Contact Person") to the Commissioner of the IRS on February 21, 1995, Ms. Roady and the American Bar Association Section on Taxation observed:

"Our most serious concern is that the IRS is facing a crisis of credibility with respect to the Section 501(c)(3) political prohibition. Despite some publicized enforcement actions, such as the Jimmy Swaggart Ministries settlement, there is still widespread confusion as to what constitutes 'participation' or 'invervention' in a political campaign. As a consequence, compliance within the charitable sector is highly uneven. Some organizations openly flout the rule; others are reluctant to engage in legitimate educational activities during an election period.

* * * * *

"Up to now, it appears that the IRS has been using a 'smell' test to determine whether prohibited political activities have occurred. This has created a string of precedents applying the general rule to particular fact patterns, without any unifying principle being stated. We believe that it will be significantly simpler for practitioners to advise clients about, and for organizations to comply with, the statutory rule if the IRS develops a concrete, unifying definition for political intervention, just as it has done for direct and grass roots lobbying activities." ABA Committee on Exempt Organizations Recommends "Reasonable Person" Standard for Determining Whether a Charity Participates in Political Activities, 95 Tax Notes Today 53–11, Mar. 17, 1995.

Not surprisingly, therefore, in light of this recognized lack of guidance from the IRS, the public record is replete with examples, in the time period leading up to the organization of the renewing American civilization course of charitable entities—entities that are well represented and advised as to the current state of the law—participating in the political arena unmolested by the IRS. For example, in 1986 and 1987, the IRS conducted a ten-month review of a tax exempt educational entity known as "Project Vote," a national voter registration campaign that enrolled more than 500,000 potential voters. Critics of Project Vote's activities alleged that the entity's true objective was to accomplish the partisan objective of increasing the Democratic vote. After reviewing Project Vote's activities, however, the IRS concluded that the organization complied with the nonpartisan requirements of its tax-exempt status. "Raising Money to Register More Voters," The Exempt Organization Tax Review, p. 679 (Dec.–Jan. 1990);[7] see also, "Old Softie: Alan Cranston's Soft Money Machine; Campaign Fund Ethics," The New Republic, p. 17 (Dec. 11, 1989) ("Though Project Vote mixed contributions from labor, corporations, foundations, and individuals, some of which may have been motivated by partisan goals, the IRS found its voter registration activities to be perfectly legal."). Thus, it is not surprising that, as early as 1984, charitable institutions which consulted with tax counsel abandoned 501(c)(4) affiliates (which are expressly permitted by the Code to adopt partisan political positions) by merging those affiliates' activities into 501(c)(3) entities as a means of reducing 501(c)(4) record keeping requirements. See e.g., Glen, at p. 2294 (Dec. 1, 1994) ("'I've had more than one client get rid of its C-4 [affiliate] by merging it into [the client's] C-3,' said Gail Harmon, an attorney who represents about 30 nonprofit organizations, including NARAL. 'The fact of having to keep separate records does discourage' having both.").

Historically, the IRS' reticence to conclude that political activity does not violate the political intervention doctrine is not limited to political education activities. See, e.g., Wimmer, "Curtailing the Political Influence of Section 501(c)(3) Tax Exempt Machines," 11 Va. Tax Rev. 605, 606 (1992) ("Many of the groups that successfully opposed [Judge Robert] Bork's nomination to the high court were section 501(c)(3) tax-exempt organizations, entities prohibited from intervening in any political campaign and prohibited from carrying on substantial activities designed to influence legislation. These organizations took full advantage of the 'particularly murky' rules governing how tax-exempt organizations could influence the Senate's confirmation of judicial nominations.").

As a consequence of the IRS' lack of guidance in this arena, participation in charitable education activities by Members of Congress was commonplace in the time leading up to the organization and formation of the renewing American civilization course. For example, a National Journal review of Members' 1988 financial disclosure form revealed that 51 Senators and 146 House Members were founders, officers or directors of tax-exempt organizations. The Exempt Organization Tax Review, p. 680, Dec.–Jan. 1990; see also "Members of Congress Insist Foundations Aid Causes, Not Politics," Washington Post, February 22, 1990, at A21 (identifying tax exempt groups associated with Members of Congress). In 1993 Financial Disclosure Forms, at least 93 Members of Congress were founders, directors, officers or trustees of at least 210 tax-exempt organizations, including at least 109 section 501(c)(3) entities. See, Financial Disclosure Reports of Members of the United States House of Representatives of the 105th Congress. Likewise, five candidates in the 1988 Presidential election contest employed tax-exempt groups to perform research and educational activities in the months preceding their campaigns. The Exempt Organization Tax Review, p. 680 (Dec.–Jan. 1990).

The prevailing attitude among tax specialists in the early 90's is encapsulated in the comments of Washington fund-raiser Jan Scott Brown as reported in the National Journal: "Every nonprofit puts a Congressman on their committee. That's the first thing I think of with a nonprofit client—how can I work in some political angle? That's the name of the game in town." Maxwell Glen, "Battle Looming over Partisan Activities of Tax-Exempt Nonprofit Organizations," The National Journal, p. 2294 (Dec. 1, 1994)

Indeed, the criticism of the Special Counsel's tax expert, Ms. Roady, of Respondent's activities on this issue appears disingenuous at best. In February of 1995, the Exempt Organizations Committee of the American Bar Association—for which Ms. Roady was identified as the Committee's "Contact Person"—requested that the Internal Revenue Service formally approve of activity under existing precedent virtually identical to Respondent's Renewing American Civilization course; the only difference being that Ms. Roady's expressed preference would be that it be only "politically disadvantaged groups," rather than the American citizenry as a whole, that is encouraged to participate more actively in the grass-roots political process:

"One could argue that the general rule we propose appears to be overbroad, since it states that a 501(c)(3) organization cannot intentionally help ANY group of people to seek public office. What if the group is an indefinite class of persons that has been systematically under-represented in elective office, such as African-Americans or people with disabilities? Why couldn't a charity operate a campaign training school to assist, for instance, Spanish-speaking people to become effective campaign operatives or even candidates themselves?

"It is clear that the IRS has been willing to permit VOTER-ORIENTED activities such as registration drives, get-out-the-vote, and voter education, where a certain group of voters is encouraged to participate more actively in the political life of the country. For instance, the IRS concluded in PLR 9223050 that voter registration of homeless people, coupled with education about the electoral process, was a valid, nonpartisan, charitable activity that did not violate Section 501(c)(3). This is consistent with the position generally taken by the IRS that charities may engage in activities to increase the levels of voter participation among minorities, low-income people, or other politically disadvantaged groups.

"However, those rulings do not appear to contemplate activities benefiting an under-represented group of POTENTIAL CANDIDATES. As a consequence, it is not clear whether a charity which runs an educational program to train individuals in political campaign skills must offer it to the general public, rather than to any limited group. Our impression is that such a program must be conducted in a thoroughly nonpartisan manner with respect to recruitment of instructors and students, curriculum, placement of graduates, and all other aspects of operation. Existing precedents, such as the American Campaign Academy decision, speak more to what is prohibited than to what is permitted, and thus offer little helpful guidance on this score.

"We urge the IRS to state explicitly that charitable organizations are permitted to organize and operate certain types of campaign schools that serve indeterminate groups of persons who have been under-represented in the political life of our society. This would be consistent with the current IRS position on nonpartisan, voter-oriented educational activities.

"We think that IRS approval of candidate campaign schools benefiting politically disadvantaged groups, like its long-standing approval of voter participation activities directed at a variety of charitable and other diverse groups, would be consistent with the general definition we propose. In essence, the IRS has embraced voter registration and similar activities as a valuable public service, recognizing that low voter participation rates seriously undermine the functioning of our democracy. Therefore, a charity should be able to develop a voter education program directed at under-represented sectors of our society without violating the political prohibition, so long as it makes no suggestion to anyone on how to vote or what office to seek. In other words, voter participation programs (and, we believe, disadvantaged-candidate education programs) have an inherent educational value ("some other reasonable explanation") that outweighs any implication that they were undertaken for a prohibited political purpose ("to improve or diminish" someone's chances of getting elected). So long as the program is not a disguised effort to promote a candidate, party, or other private interest (as in the American Campaign Academy case), simply providing people with the tools to participate in the political process should not violate the Section 501(c)(3) prohibition." ABA Committee on Exempt Organizations Recommends "Reasonable Person" Standard for Determining Whether a Charity Participates in Political Activities, 95 Tax Notes Today 53-11, Mar. 17, 1995.

ABRAHAM LINCOLN OPPORTUNITY FOUNDATION ("ALOF")

In 1984, Colorado Republican Party Chairman Howard "Bo" Callaway received tax-exempt status from the IRS for ALOF, an entity organized to conduct oratory contests throughout Colorado secondary schools, lend care and assistance to the needy "and to provide educational services to the public." ALOF's officers consisted of Howard "Bo" Callaway, who was the Chairman of GOPAC, and Kay Riddle, Executive Director of GOPAC. Upon Mr. Callaway's resignation from the Colorado Republican Party, ALOF entered a period of dormancy in June of 1988. As described in a January 2, 1997 letter from Mr. Callaway to the Honorable Christopher Shays and distributed by Mr. Shays to other Members of Congress (attached hereto as Exhibit F and referred to as "Callaway Letter"), in the Spring of 1990, Mr. Callaway revived ALOF as a means of sponsoring the American Citizens' Television ("ACTV") program. At the time, there was only $486.08 in the ALOF bank account. Recognizing that ACTV's goal of increasing community involvement and citizen understanding of government and democracy presented a logical extension of ALOF's original educational mandate to motivate people and get them involved in their community. Mr. Callaway offered ALOF as ACTV's sponsor. Callaway Letter, p. 1–2.

ACTV, like a project previously run by GOPAC known as "American Opportunities Workshop" ("AOW"), was a self-described non-partisan project "based on the three tenants [sic] of Basic American Values, Entrepreneurial Free Enterprise, and Technological Progress and involved the recruiting of activists to set up local workshops around the broadcast to recruit people to the citizens' movement." (S.A.V., ¶9). Respondent participated in two ACTV broadcasts produced by ALOF; aired on July 21, 1990 and September 29, 1990. Id., ¶10.

Mr. Callaway has several times expressly stated that "Dan Swillenger [sic], our attorney, approved ACT as an appropriate activity for a 501(c)(3) foundation and in accord with the ALOF charter. I gave explicit instructions that there be no politics involved in the ACT programs and to the best of my knowledge there was none." Callaway Letter, p. 2–3.

The statements made in the Callaway Letter were repeated in an interview that Mr. Callaway gave to the Boston Globe. According to that article,

"Callaway stressed that he and Gingrich had been told by a lawyer that it was legal because the shows were "educational," not political.

* * * * *

"According to Callaway, Gingrich and his associates looked to a nonprofit corporation that could accept tax-deductible donations. In contrast, contributions to political action committees are not deductible.

"Callaway thought it would take too long to get IRS approval to set up a new nonprofit corporation to fund Gingrich's television shows, so he revived the Lincoln Foundation, which had been dormant for years.

"Callaway said Daniel Swillinger, a GOPAC lawyer, told them the foundation's charter allowed it to pay for Gingrich's television show." Ex-foundation Director Says Gingrich OK'd Use of Funds, The Boston Globe, Nov. 22, 1996, at A1.

Of the two tax experts to appear for the purposes of Preliminary Inquiry before the Subcommittee, one opined that the described activity would not violate ALOF's status under section 501(c)(3). The expert, retained by the Special Counsel, opined to the contrary. That same expert, Celia Roady, is the same attorney who prepared a memorandum[8] to the Department of the Treasury bemoaning the IRS's lack of guidance available to practitioners called upon to provide counsel to non-lawyers, such as Respondent, who desire to use tax exempt charities for the purpose of providing political education to the public.

There are several important facts which should be noted regarding ALOF. First, Respondent was not at any time a member of the Board of Directors or an officer of ALOF. Second, contributors to ALOF always knew the purpose of their donations. ALOF began to pay for the ACTV programs in June of 1990. On May 30, 1990, there was only $486.08 in the ALOF bank account. With the exception of this small sum, which was used just to keep the bank account open, all of the money used to produce ACTV was raised specifically for ACTV with money contributed from people who knew what their money was going to be used for and who fully supported the ACTV programs. Third, the Articles of Incorporation of ALOF, submitted to the IRS when ALOF applied for tax exemption stated in part that the purposes of ALOF were:" ". . . to provide educational services to the public. . . ." The Bylaws passed pursuant to the Articles of Incorporation stated that the purposes of ALOF, in part are to: ". . . provide education services to the public, and to engage in any and all lawful activities incidental to the forgoing purposes. . . ." The Bylaws further stated that "The purposes of the Corporation are promoted and developed through public discussion groups, panels, lectures, conferences, projects, publications and program. . . ." Fourth, money given to ALOF was kept separate from and not commingled with GOPAC funds. Consistent with IRS rules and common practice, ALOF's expenses were separately allocated and paid. Anyone who worked on both projects had salary allocated based on the time spent on each.

Within this context, Respondent has admitted the violation contained in the Statement of Alleged Violation. Notwithstanding the common practice at the time, it was incumbent on the Respondent to engage qualified tax attorneys to assure that his activities in the furtherance of a movement would not jeopardize the tax-exempt status of the organizations involved and would not unnecessarily engender public controversy that would bring discredit on the House. This is true as to both the Renewing American Civilization course and the Abraham Lincoln Opportunity Foundation.

THE ABSENCE OF PRECEDENT MITIGATES IN FAVOR OF RESPONDENT

The Committee is urged to consider, as a mitigating circumstance, the unprecedented nature of the charge relating to the creation of a "public controversy." No Member of Congress could reasonably have known that such a standard might be imposed. As early as November 15, 1994, Representative Bob Michel wrote a letter to Representatives McDermott and Grandy indicating his strong belief that the information requested by the Committee on October 31, 1994 regarding tax-exempt entities was beyond the Committee's jurisdiction to sanction. Specifically, Representative Michel commented: ". . . [T]he information you request goes to the legal status of a 501(c)(3) entity, an entity that I believe is outside of the jurisdiction of the Committee on Standards. To my knowledge, there is no precedent for such an inquiry. The Committee has never launched a formal or informal investigation of such an entity. The Internal Revenue Service might be interested in the tax status of this particular group but it appears outside of your jurisdiction." (Letter of Rep. Bob Michel to Reps. Jim McDermott and Fred Grandy, November 15, 1994 at 1).

Indeed, this view was echoed by a Member of the Committee's own legal counsel's office, David McCarthy, when Respondent and his staff first consulted with McCarthy in June of 1993 regarding the Renewing American Civilization course. (See Letter of David J. McCarthy to Rep. David Hobson, December 1, 1994). The sound policy reasons for placing such matters outside the Committee's jurisdiction have been borne out by the present proceeding which has been costly not only in financial terms, but also in terms of the integrity of the House ethics process.

The power of both Houses of Congress to discipline their Members for "disorderly Behavior" is recognized by the Constitution itself.[9] House precedent recognizes the power of this body to discipline its Members for "conduct unworthy of a representative of the people"[10] or other conduct which creates an appearance of impropriety. Such a standard is currently embodied in House Rule 43(1), which provides: "A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives." However, the application of this standard is limited, or should be, to those cases where the conduct is wrong in and of itself or where a violation of the law has already been found by a proper adjudicatory body.[11] The House Ethics Manual observes that "[a] review of these cases indicates that the Committee has historically viewed clause 1 as encompassing violations of law and abuses of official position." House Ethics Manual at 14 (footnote omitted). In such cases, Members are well-placed to pass on the conduct of their colleagues, as, indeed, is any citizen, as such conduct so clearly transgresses the acceptable bounds placed on individuals in our society.

By contrast, the basis for the investigation in the present proceeding relates to a complex and difficult question of tax law relating to the permissible activities of tax-exempt entities. Such questions should not form the basis for a finding that a Member has violated the Code of Official Conduct unless a properly constituted administrative or judicial authority has previously found that the Member has in fact committed acts prohibited by the tax code. To punish a Member for creating a public controversy involving the legality of a Member's involvement with organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code without any violation of the law having been found by the Internal Revenue Service or this Committee is not only unprecedented, but unwise.

In establishing a bright-line rule to distinguish between those matters properly governed by the standard set forth in House Rule 43(1), it is helpful to refer to the long-recognized distinction between and mala in se (literally, "wrongs in themselves") and mala prohibita ("prohibited wrongs"). See, *Morisette* v. *United States*, 342 U.S. 246 (1952); *United States* v. *Park*, 421 U.S. 658 (1975). Mala in se are aggravated wrongs and injuries in derogation of public morals and decency. Examples include killing and stealing. While such offenses may or may not violate a specific law, we all know that such acts are inherently wrong and we punish those who commit such offenses. The Committee on Standards of Official Conduct can, and should, recommend appropriate punishment for the commission of mala in se even if the Committee finds that there has been no violation of the law.

Mala prohibita, on the other hand, are acts that are wrong only in the sense that they are specifically prohibited by the state. In many instances, determining whether a malum prohibitum has been committed requires the application of specialized expertise as to the state's technical prohibition. If it is found, by a properly constituted administrative or judicial tribunal with the expertise to comprehend and adjudicate the alleged violation, that a Member has violated such a law then sanctioning the Member pursuant to Rule 43(1) is perfectly appropriate as such conduct does not reflect creditably on the House. In the absence of such a finding, however, the Committee should abstain from becoming involved in investigating and attempting to resolve such questions.

The Committee's investigation of Respondent in the present case has attempted to apply Rule 43(1), in an unprecedented manner. The conduct being investigated in this proceeding—using charitable funds for educational or allegedly partisan political activities—is not a wrong in and of itself. It is only wrong if the conduct in question violates the technical parameters set out by the Internal Revenue Code. Furthermore, this is not even a case in which it is alleged that a Member violated the law; but rather it is one step further removed. This is a case in which a Member is alleged to have failed to appreciate fully his need for technical guidance so as to avoid the controversy generated by the divergence of expert opinion with respect to his conduct.

The dangers of such a precedent lie in the fact that: "appearance" standards are so vague as to have little content, thus providing scant guidance to members and their staffs in shaping their conduct and, at the same time, exposing them to the possibility of manipulable complaints and prosecution. In the words of the ABA Committee on Government Standards, "beyond [an] initial role in rule formation, 'appearance of impropriety' is too vague and contestable a concept to function effectively as an independent benchmark in a system of ethics regulations."[12]

Such a precedent would undoubtedly have a chilling effect on Member participation in charitable or educational organizations now expressly permitted by the Committee.[13]

The subcommittee has created a new wrong not heretofore known to law: conduct which creates a "public controversy." Let us be clear that this new hybrid is substantially different from sanctioning a member for the commission of a malum in se involving infamy for clearly immoral or unjust conduct. Furthermore, the subcommittee seeks to punish Respondent for failing to engage counsel to avoid such controversy. Yet the practical implications of this newly-created offense make it difficult to understand how engagement of counsel would serve as a defense as the subcommittee's Statement of Alleged Violation suggests. Is it a "public controversy" if experts disagree and there is little or no media attention, or is it only a "public controversy" if experts disagree and there is substantial media attention? Is it a perfect defense to have consulted counsel? What if counsel is diligent but mistaken? What if counsel renders incorrect advice? Does the Member have to seek Board certified counsel? These and a panoply of other practical problems present themselves if a sanction is predicated upon this as yet untrodden minefield.

The policy reasons for declining to create such a precedent are numerous. First, allowing the mere allegation of violations of the law to become a basis for ethics charges will encourage political opponents to use the law and the ethics process as tools of political strategy. The controversy surrounding the Federal Election Commission's complaint against GOPAC filed in the Federal District Court for the District of Columbia provides a case in point. See, *Federal Election Comm'n* v. *GOPAC, Inc.*, 917 F.Supp. 851 (D.D.C. 1996). In April, 1994, the FEC filed a civil action against GOPAC alleging that, in 1989 and 1990, GOPAC had failed to register as a "political committee" as required by the Federal Election Campaign Act, 2 U.S.C. §§433(a) and 434(a). One of the primary contentions made by the FEC was that GOPAC funds to support Respondent as chairman of GOPAC were utilized by Respondent's election campaign. The filing of the case prompted great speculation among the press and generated headlines such as "Another Ethical Problem for Newt,"[14] "FEC Says GOPAC Aided Gingrich Race Despite Law; Group Barred From Federal Campaigns in 1990"[15] and "GOPAC secretly aided Gingrich in 1990, election officials charge."[16] However, the FEC's complaint was disposed of by the district court on summary judgment. The parallels to the present case are apparent. Despite the vast number of allegations regarding Respondent's violations of federal election laws in the press, when a "controversial" claim was exposed to rigorous examination in proper a judicial forum the claim was found insufficient to survive a motion for summary judgment. Yet if allegations alone that "controversy" had been generated provided a sufficient basis for an investigation and discipline under Rule 43(1), Respondent might have been once again forced to expend great amounts of effort and money in defense and the Committee might have been forced to consume a great deal of its time in investigating claims that proved to be baseless when subjected to judicial scrutiny. For this reason, cases involving mala prohibita such as violations of federal elections law or the tax code ought to be left to regulators and the courts who are ultimately better equipped to address technical aspects of the law.

Not only is this Committee ill-equipped to address allegations that such laws have been violated, but to do so ultimately undermines the administrative enforcement process of many of these laws that Congress itself created and creates, in effect, a highly politicized system parallel to the enforcement mechanisms of the FEC and IRS that is applicable only to Members of the House. Under such a system, Members may be investigated for alleged violations of highly technical laws and forced to endure great time and expense only to reach a conclusion that the Committee simply is not qualified to resolve such questions.

In discussing the merits and benefits of a disclosure-based ethics system for Members of Congress, one commentator highlighted the unique concerns presented by claims that a Member has violated a highly technical prohibition and the need for particularized expertise to make such a determination. Specifically, "disclosure is not the most effective tool to employ against conduct that violates highly technical regulations or is itself composed of a complex or highly nuanced series of events. In such circumstances, it seems that the risk of manipulation and/or voter misunderstanding would be high; accordingly, entrusting an entity such as the Federal Election Commission with the responsibility to police such areas as technical campaign regulations might be preferable. In this regard, it is important to recognize that the question of whether a violation has occurred can be separated from the question of whether a sanction should be imposed.[17]

From a policy standpoint, it would be far preferable for the Committee to take action with respect to allegations of this nature only after it has been found that a Member has violated the law by an administrative agency or court subject to judicial review. Indeed, this Committee has on several occasions deferred action pursuant to a request from the Department of Justice.[18] Such an approach in no way diminishes the authority of this Committee to regulate the conduct of Members on behalf of the House as once a violation has been found by a competent tribunal as House precedent clearly establishes that the Committee may investigate or sanction the Member for conduct which does not reflect creditably on the House.[19]

Yet to expand dramatically this Committee's jurisdiction to consider technical violations of statutes not governing mala in se is to open a Pandora's box which it may be impossible to close again. If this path is taken, this Committee will become a special tribunal which tries to hear and decide, without right of appeal, every conceivable allegation that might be levied against a Member regardless of whether it is malum prohibitum or malum in se. Such an action is neither an efficient nor a wise use of the resources of this great body. While the Committee should not engage in deciding whether Members have committed mala prohibita, it should continue its traditional and proper role of disciplining Members for committing mala in se. For such offenses the House is, and should be, the court of last resort.

These arguments are not a challenge to this Committee's jurisdiction for that time has passed. Rather, the Committee should carefully consider the lack of guidance available to Members, including Respondent, during the period in question as a mitigating factor in considering its recommendation to the Full House. In addition, the Committee should carefully consider the troubling concerns raised by this application of Rule 43(1) as other members attempt to conform their conduct to the Code of Official Conduct.

DECEMBER 8, 1994 AND MARCH 27, 1995 LETTERS

As background, it is important to note that the Respondent has been proactive, as opposed to reactive, with the Committee in connection with the Renewing American Civilization course and any potential ethics issues which it might present. Respondent has waived attorney-client privileges, produced thousands of documents and met with the Investigative Subcommittee at its convenience. The proactive involvement began with his letter dated May 12, 1993 in which he specifically inquired if "the committee [had] any concerns about this project." Then, in June of 1993, Respondent, Jeffrey Eisenach, Annette Meeks and Linda Nave met with then Committee counsel David J. McCarthy. (See Letter of Speaker Gingrich to Reps. Goss and Cardin, October 31, 1996 with attachments (including Letter of David J. McCarthy to Rep. Hobson, December 1, 1994)). During the course of that meeting, Mr. McCarthy recalls that:

"The discussion eventually turned to fundraising for the course. Jeff Eisenach began to volunteer details of how he contemplated fundraising, and I interrupted his explanation with a question, "are you on the House payroll?" When he answered that he was not, never had been, and did not ever expect to be I shifted the focus of the discussion by explaining that I was not interested in what Eisenach was planning to do, I was only interested in what Mr. Gingrich and any House employees were going to do * * *.

* * * * *

"Then Mr. Gingrich again brought up Eisenach and asked whether he should not get the Committee's written advice that Eisenach would be permitted to engage in the fundraising. His concern seemed to be that Eisenach's identity with GOPAC, along with his fundraising for the course through the college foundation, could open him to criticism that the motivation for the course was political. I replied that, in my judgment, Mr. Gingrich should not ask the Committee to pass on the activity of Eisenach.

"First, I explained that because Eisenach was not a Member, officer or employee of the House his activity was really outside of the Committee's jurisdiction. Secondly, I told him that, to my knowledge of tax law, the issue of whether the contributions in support of the course would keep their tax-deductible status would turn not on who did the fundraising but on how the funds were spent, and that the educational nature of the course spoke for itself. I told him that I was aware of no law or IRS regulation that would prevent Eisenach from raising charitable contributions, even at the same time that he was raising political contributions. In any event, I advised him, I expected the Committee to stick by its advisory opinion in the Ethics Manual and not get into second-guessing the IRS on its determination of tax-exempt status.

"I also felt that because the Committee's written answer might decline to offer advice on Eisenach's fundraising activity—it being outside the Committee's purview—he might be just as well off not to raise the question in his letter. My experience was that Members found it annoying when the Committee in a written advisory opinion would explicitly decline to answer a question. I believe that there was some brief discussion about Eisenach leaving GOPAC, in any event, to focus on the course fundraising." (Letter of David J. McCarthy to Rep. David Hobson, December 1, 1994 at 1–2).

The significance of these passages from McCarthy's letter is twofold. First, they demonstrate that Respondent expressly referenced GOPAC and the involvement of Eisenach in course fundraising in his consultations with Committee counsel.[20] Secondly, these passages explain that Respondent did not make reference to GOPAC involvement in the course in his letter of July 21, 1993 providing additional information to Representative McDermott as Committee Chairman on the express advice of Committee counsel. (See Letter to Rep. Jim McDermott, July 21, 1993; see also, Letter from Committee to Speaker Gingrich, October 31, 1994 at 2).

Then, on September 7, 1994, Ben Jones, Respondent's electoral opponent, filed his first ethics complaint against Respondent. Respondent's initial responsive submission to the Committee dated October 4, 1994, prepared by a member of Respondent's staff, expressly refers to GOPAC's involvement in the course. In particular, the letter states:

"I would like to make it *abundantly clear* that those who were paid for course preparation were paid by either the Kennesaw State Foundation [sic], the Progress and Freedom Foundation or GOPAC . . . Those persons paid by one of the aforementioned groups include: Dr. Jeffrey Eisenach, Mike DuGally, Jana Rogers, Patty Stechschultez [sic], Pamla Prochnow, Dr. Steve Hanser, Joe Gaylord and Nancy Desmond." (Letter to Rep. Jim McDermott, October 4, 1994 at 2). (emphasis added.)

As the above-quoted passage indicates, Respondent expressly referred in correspondence with the Committee to the involvement of GOPAC in the course and the use of GOPAC funds to pay individuals for course preparation. Indeed, there is no question that the Committee was aware of involvement by GOPAC. This knowledge was confirmed in the Committee's letter dated October 31, 1994 to Respondent. Significantly, the Committee's letter notes that Respondent's October 4, 1994 letter "sufficiently answer[ed] most of the allegations raised in Mr. Jones' complaint."

Eliminating any issue regarding the Committee's awareness of GOPAC' involvement, however, the Committee's October 31, 1994 letter went on to state: "A number of documents reflect the involvement of GOPAC and GOPAC employees in developing and raising funds for the course." The letter continues: "In addition to the above, various other documents related to the course were sent out on GOPAC letterhead, were sent from GOPAC's fax machine, used GOPAC's address as a place to mail materials related to the course, and referred to registration materials being included in GOPAC Farmteam mailings." In all, the Committee's October 31, 1994 letter makes reference to GOPAC no less than 46 times and cites extensive documentation referring to GOPAC. (See, Letter from Committee to Speaker Gingrich, October 31, 1994). Interestingly, from the original complaint to the October 31, 1994 Committee correspondence, GOPAC is mentioned by name 92 times in correspondence to and from the Committee.

DECEMBER 8, 1994 LETTER

As reflected above, the Committee's request for information was dated October 31, 1994. On November 8, 1994, election day, Republicans captured a majority of seats in the U.S. House of Representatives. The process of transition began immediately. In the context of these events Respondent retained counsel on November 15, 1994 to represent him in connection with the ethics investigation.

Counsel began preparation of the response. An associate was assigned to prepare an initial draft of the response. The attorneys coordinated their efforts with a member of Respondent's staff. Subsequently, the December 8, 1994 letter was presented to Respondent for review and signature. It does not appear that there was any communication between the attorneys and the Respondent until after December 8, 1994.

Regarding the response, Respondent testified that he would have turned and said "I want this done. . . ." (Gingrich Tr., 11/13/96, at p. 28) Respondent testified that, in November, "we, in effect, had decided to go from [the staff member] being in charge to [the staff member] coordinating with the law firm and the law firm being in charge." Respondent testified that it was his understanding that the law firm was primarily responsible for drafting the December 8th letter. (Gingrich Tr. 11/13/96, at 28).

The firm partner recalls that his role and that of his firm in the preparation of the December 8, 1994 letter was to prepare a response working with the staff member. (Baran Tr. at 6–7). The partner assigned responsibility for preparing an initial draft to an associate at the firm. (Baran Tr. at 9–10; Mehlman Tr. at 15). The associate testified that in preparing the draft response to the October 31, 1994 letter, he relied upon "various correspondence" between Respondent and the Committee including the October 4, 1994 letter, the course book, a pamphlet on the course, and the Jones' complaint with exhibits and the videotapes of the course. (Mehlman Tr. at 15–16). The associate further testified that it was his understanding that he did not need to go beyond these materials in drafting the response. (Mehlman Tr. at 19). The associate testified that, in preparing the draft, he never contacted anyone at GOPAC (Mehlman Tr. at 18, 28), nor did he contact Dr. Eisenach (Mehlman Tr. at 28) or Respondent (Mehlman Tr. at 27) to confirm any of the information contained in the December 8, 1994 letter. The associate then met with the partner to review the draft and some editorial changes were made. (Mehlman Tr. at 18).

The partner testified that his review was limited to the October 31, 1994 letter from the Committee, the Jones complaint with exhibits and telephone conversations, and that otherwise "[he] didn't have any other independent factual gathering." (Baran Tr. at 13). The partner further indicated that he had no contact with the Kennesaw State College Foundation (KSCF), Kennesaw State College or Reinhardt College in preparing the December 8th letter. (Baran Tr. at 18). The partner further testified that his first contact with Respondent during this time period was on December 9, 1994, and that he had no recollection of having discussed the letter at all and that he had no contact with Respondent concerning the matter prior to that time. (Baran Tr. at 18, 33).

Turning then to the involvement of Respondent and his staff in the December 8, 1994 letter, the partner indicated that the letter "eventually went from our office to [the staff member.]." (Baran Tr. at 14). Respondent's testimony confirms that it was his understanding that the law firm would be responsible for preparing the response in coordination with his staff member. (Gingrich Tr., 11/13/96, at 28). Respondent indicated that, in assigning this task, "[the staff member] would have been acting with my authority to conduct what we thought at the time was a thorough investigation." (Gingrich Tr., 11/13/96, at 15–16). However, the testimony makes apparent that the staff member believed that the partner attorney was checking the factual basis of the statements for accuracy while the partner attorney was under the misimpression that the staff member was doing so.[21] This miscommunication extended not only to the research into the factual basis for the statements but to the communication of these findings to Respondent. As noted above, the partner attorney testified that he did not discuss the contents of the letter with Respondent prior to submission. (Baran Tr. at 18, 33) nor does Respondent recall such a meeting. (Gingrich Tr., 11/13/96, at 30). Nor apparently did anyone on Respondent's staff confirm the facts contained in the letter with Respondent prior to its submission in any systematic fashion. The staff member's recollection is that she did not even see Respondent during the signing process, but forwarded the letter to Respondent for signature through the executive assistant. (Meeks Tr. 15 76–77).

MARCH 27, 1995, LETTER

Turning then to the letter to the Committee of March 27, 1995, similar miscues appear to have resulted in inaccuracies in statements made to the Committee. Again the attorneys had responsibility for the preparation of the submission on Respondent's behalf, and on this occasion, the responsibility for the initial drafting fell to the associate as well as to a more senior associate. The senior associate testified that, in drafting the facts section of the March 27 response, he relied upon the October 4 letter, the attachments to the amended complaint, the original Jones complaint and its exhibits, the December 8 letter, all of the exhibits included with the March 27 submission and conversations with the Respondent's staff member. (Toner Tr. at 19, 29–30, 34). The senior associate further indicated that he made no contact with anyone at GOPAC, the Progress & Freedom Foundation, Reinhardt College, Kennesaw State College or the Kennesaw State College Foundation in preparing the March 27, 1995, letter. (Toner Tr. at 19–20; 26–27; see also, Baran Tr. at 27 (no contact with GOPAC)). The junior associate similarly testified that he had relied upon the correspondence and materials he had from the December 8 submission as well as having reviewed other responses by the senior associate and the partner. (Mehlman Tr. 15 38).

Both associates indicated that they were not personally aware of efforts to check the factual accuracy of the March 27, 1995, submission. (Toner Tr. at 38–39; Mehlman Tr. at 53). The senior associate testified that he was similarly unaware of any contacts with people outside the firm, other than Respondent's staff member, to confirm the factual basis for statements contained in the submission (Toner Tr. at 56), and that he was not aware of any changes made to the document based on comments from anyone associated with the Respondent. (Toner Tr. at 60–61). The junior associate indicated that he did not recall contacting any outside persons to confirm such facts. (Mehlman Tr. at 38). The partner additionally confirmed that, while he reviewed the drafts and edits with the associate, he did not recall making any outside inquiries of anyone regarding the Renewing American Civilization course with one possible exception. (Baran Tr. at 28).

Asked if he was aware of any additional factual inquiry done in preparation for the March 27, 1995, submission in addition to that previously done for the December 8, 1994, submission, the partner replied: "Factual inquiry—none that I recall—no." (Baran Tr. at 30–31). The partner's testimony was that after drafting and editing the March 27, 1995, document "at some point we would have sent a draft that we felt comfortable with over to the Speaker's office." (Baran Tr. at 28). The partner testified that he did not recall any discussions with the Respondent prior to the submission of the March 27, 1995 letter over the partner's signature. (Baran Tr. at 32). The firm's billing records reflect that the submission was filed on March 27, 1995 at 6:05 and delivered to Tony Blankley of Respondent's staff at 6:35 that same evening. (WFP 00224).

The purpose of this extended review of the testimony offered in this proceeding regarding the process of preparing these submissions to the Committee is not an attempt to shift the ultimate responsibility for submitting these statements from Respondent to others, but only to demonstrate that the testimony of record in this matter clearly supports the conclusion that any inaccuracies contained in these submissions were the result of regrettable errors rather than of any intent to mislead this Committee. In their testimony before this Committee, the staff members as well as the attorneys repeatedly testified that they were never told, directly or indirectly, by Respondent, or anyone on his behalf, to provide anything other than accurate information to the Committee.

"Mr. GOSS. For the record, you may want to respond to this. I will try and make it as clearly as I can. Do you have any personal knowledge of whether the Speaker either directly or through his attorney Mr. Baran deliberately provided anything other than accurate, reliable or complete information to this committee regarding his response related to the complaints with regard to the letters that we have talked about today?

"The WITNESS. Do I have any knowledge that any of the information was false? Is that the question?

"Mr. GOSS. Was deliberately provided, that was other than accurate, reliable or complete.

"The WITNESS. No.

"Mr. GOSS. Do you know if Mr. Gingrich at any time tried to forward or intended to forward to us incomplete, inaccurate or unreliable information?

"The WITNESS. If I may editorialize on my answer for a second, we really—in the two replies that I was involved in, we really, in our estimation, tried to comply as fully, completely, honestly, straightforward, and promptly as we were able.

"Mr. SCHIFF. The question is did Mr. Gingrich ever suggest to you in any way, shape, or form, that you do other than that?

"The WITNESS. Oh, goodness, no." (Meeks Tr. at 85–86).

"Mr. GOSS. Do you have any knowledge that Mr. Gingrich was aware that any of the information contained in the letters that we have talked about at the time that those letters were submitted were incomplete, misleading, or inaccurate?

"The WITNESS. No." (Baran Tr. at 60).

"Mr. SCHIFF. Could I ask you two questions on that; actually, I may be leaping ahead, but a general question? Was there anything told to you that you heard either directly or indirectly, that indicated that it was the purpose of either the speaker or of Mr. Baran or of anyone else connected with this case, to deceive this committee and to provide anything but accurate information?

"The WITNESS. No.

"Mr. SCHIFF. Your assumption, then, is you are supposed to put together a correct statement of the facts and submit it to us?

"The WITNESS. Absolutely." (Toner Tr. at 28).

Representative Goss summarized the testimony on this point most succinctly observing:

"Mr. GOSS. Okay. I have only one little thought. We seem to have gotten into a situation where we know we have some information that is not everything we desired it to be, and we are trying to track down why and how we got into that position. It seems that Mr. Gingrich was relying on you [Baran] and some other people to do the December 8th letter, or his December 8th letter was given to somebody else and they were supplemented by your firm, and your firm in turn, by your testimony, you were relying pretty much on what that individual, who would be Ms. Meeks, was doing and you were just checking for legalities rather than substance, would be sort of the way I read your testimony, and therefore the problem started on December 8th was further compounded on March 27th on that letter because you used some of the material from the December 8th letter. Is that correct?

"The WITNESS [the partner attorney]: Yes. I would agree with that characterization." (Baran Tr. at 59).

Respondent's own testimony before this Committee similarly endorses this version of events:

". . . After reviewing my testimony, my counsel's testimony, and the testimony of his two associates, the ball appears to have been dropped between my staff and my counsel regarding the investigation and verification of the responses submitted to the committee.

"As I testified, I erroneously, it turns out, relied on others to verify the accuracy of the statements and responses. This did not happen. As my counsel's testimony indicates, there was no detailed discussion with me regarding the submissions before they were sent to the committee. Nonetheless, I bear responsibility for them, and I again apologize to the committee for what was an inadvertent and embarrassing breakdown." (Gingrich Tr., 12/10/96, at 5–6).

Upon realizing that errors were made, Speaker Gingrich has openly and publicly accepted responsibility for these errors and has offered his sincere apologies to this Committee and the House.

Notwithstanding these circumstances, the bottom line is that inaccurate, incomplete and unreliable information was submitted to the Committee. There are no circumstances which can justify the submission of inaccurate, incomplete or unreliable information to the Committee. The information submitted was submitted on Respondent's behalf. Respondent has accepted full responsibility.

Respectfully submitted, this 16th day of January, 1997.

J. RANDOLPH EVANS,
Counsel for Respondent.
ED BETHUNE,
Co-Counsel for Respondent.

FOOTNOTES

[1] Contributing to the preparation of this report were Anthony W. Morris, Esq. and Stefan C. Passantino, Esq. of Arnall, Golden & Gregory, L.L.P. and Shannon H. Ratliff, Esq. of Bracewell & Patterson, L.L.P.

[2] Charitable, religious and educational entities organized under section 501(c)(3) and lobbying entities organized under section 501(c)(4) are exempt from taxation under the tax code. IRC §501(a).

[3] In fact, qualified tax experts in the field have concluded that there has been no violation of federal tax law. Highly regarded 501(c)(3) expert William J. Lehrfeld concluded there is no violation of federal tax laws. *See*, Exhibit E. James P. Holden of the law firm of Steptoe & Johnson reached the same conclusion. *See*, Appendix C.

[4] *See, infra* p. 35–43.

[5] IRC section 501(c)(3) identifies these qualifying entities as: "[c]orporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, . . ." IRC §501(c)(3).

[6] FEC records reflect that Ms. Roady, a registered Democrat, has made political contributions totaling $1,550 to Emily's List, The Rangel for Congress Committee, and the Democratic National Committee.

[7] The IRS has similarly refused to revoke the tax exempt status of a voter registration organization promoted by then-Senator Alan Cranston and run by his son, Kim Cranston. "Old Softie: Alan Cranston's Soft Money Machine; Campaign Fund Ethics," The New Republic, p. 17 (Dec. 11, 1989); "Raising Money to Register More Voters," The Exempt Organization Tax Review, p. 697 (Dec.–Jan. 1990). Indeed, "[i]n 1984, . . ., several foundations attempted to use their tax-free assets to increase turnout by targeted groups and thus increase the Democratic vote in the presidential election, according to election experts." "Raising Money to Register More Voters", p. 679.

[8] *See, supra*, p. 30.

[9] Art. I, §5, cl. 2 provides: "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member."

[10] See, In re Rep. Edward D. Holbrook (ID), II Hinds §1305 (1869); In re Rep. John T. Deweese (NC), II Hinds §1239 (1870).

[11] See, House Ethics Manual, 102nd Cong., 2nd Sess., April 1992 at 13–14 (collecting cases in which Rule 43(1) has been invoked in investigating or disciplining Members).

[12] Theresa A. Gabaldon, "The Self-Regulation of Congressional Ethics: Substance and Structure," 48 Admin. L. Rev. 39, 54–55 (1996) (quoting ABA Committee on Government Standards (Cynthia Farina Reporter), "Keeping Faith: Government Ethics and Government Ethics Regulation," 45 Admin. L. Rev. 287, 297 (1993)).

[13] The House Ethics Manual relied upon for guidance by Members provides: "The Committee has granted a blanket exception to [5 U.S.C.] section 7353 to allow Members and employees of the House to solicit funds on behalf of charitable organizations, provided that no official resources are used, no official endorsements is implied, and no direct personal benefit results. "House Ethics Manual at 319 (footnote omitted).

[14] "Another Ethical Problem for Newt, The News Tribune, December 2, 1995, at A9.

[15] "FEC Says GOPAC Aided Gingrich Race Despite Law; Group Barred From Federal Campaigns in 1990," Washington Post, November 30, 1995, at A1.

[16] "GOPAC secretly aided Gingrich in 1990, election officials charge," The Commercial Appeal (Memphis), November 30, 1995, at 1A.

[17] Gabaldon, supra, at 57.

[18] See, In re Del. Fofo I.F. Sunia (Am. Sam.) and aide Matthew K. Iuli, See, Summary of Activities of 100th Cong., H. Rep. No. 100–1125, at 15–16 (1989); In re Rep. Frederick W. Richmond (NY), See, Summary of Activities, 97th Cong., H. Rep. No. 97–1004 (1982).

[19] See, e.g., In re Del. Fofo I.F. Sunia (Am. Sam.) and aide Matthew K. Iuli, See Summary of Activities, 100th Cong., H. Rep. No. 100–1125, at 15–16 (1989) (disciplinary hearing scheduled after Member and aide pleaded guilty to conspiracy to defraud government, although both resigned before hearings held); In re Rep. Mario Biaggi (NY), H. Rep. No. 100–506, 100th Cong., 2d Sess. (disciplinary hearing held after conviction for accepting illegal gratuities).

[20] "I would also ask the committee to place this error in the context of our proactive effort in 1993 to seek the committee's advice and approval and the letter from the former committee counsel, Dave McCarthy, confirming that I had aggressively sought to explore any complications that would involve GOPAC. At no time did I intend to deceive the committee or in any way be less than forthright." (Gingrich Tr. at 6–7).

[21] The staff member's repeated testimony in this regard was as follows:

Q. Did you look over the document to check it for accuracy?

A. Yes.

Q. Factual accuracy?

A. Primarily I would have been looking at this document for typographical errors, misspelled words.

Q. Did you have any knowledge of the facts that are contained in this document, the December 8, 1994, letter?

A. This was prepared by our counsel. I trust that he had——

Q. My question is, very specifically, did you have any knowledge of the facts, personal knowledge of the facts, that are contained in the letter?

A. I would have, yes. I would have looked to Dave McCarthy, which characterized a conversation that Linda Nave and I had with Mr. McCarthy, to verify Jan's characterization of that conversion.

I verified Clerk's report which I had provided a copy of and the termination papers that I had provided and also the Dave McCarthy conversation about GOPAC staff simultaneously working for the course and for GOPAC.

Q. Anything else?

A. No. (Meeks Tr. at 45).

Q. No, I am now asking the letter itself, did you ever indicate to Mr. Baran that you had provided the December 8th letter prior to its going to the committee to anyone for the purpose of checking its accuracy?

A. No, that would not have been—no. (Meeks Tr. 87).

Mr. GOSS. So your answer, as of the December 8 letter, would be that all of the information that came from outside came from Mr. Baran?

The WITNESS. Yes, sir. (Meeks Tr. at 67).

However, the partner testified as follows:

Q. And again, I'm trying to understand exactly the level of factual inquiry that was made aside from the materials that were submitted with the complaint, some of which were also submitted with the October 31st letter. Aside from that and Mr. Eisenach talking to you, perhaps Mr. Gaylord, and looking at the tapes, was there any factual inquiry that you know of done by you or anyone at your office to prepare the portions of the letters concerning the course?

A. Well, whatever review occurred subsequently by others.

Q. But you don't know what that was?

A. That is correct. I cannot confirm that today. (Baran Tr. at 48).

[From the Washington Post, Jan. 18, 1997—Federal News Service]

THE GINGRICH ETHICS CASE: EXCERPTS FROM THE COUNSEL FOR THE HOUSE SPEAKER

Following are excerpts from the statement to the House ethics committee of J. Randolph Evans, counsel for House Speaker Newt Gingrich (R. Ga).

Let me begin by saying that we recognize and the speaker recognizes the serious nature of the charges that are contained in the Statement of Alleged Violation, and recognizes the seriousness of his admission to the violation contained in the Statement of Alleged Violation. Any charge against a member of Congress is a serious matter. Any charge involving the speaker of the Congress is indeed a serious matter, especially when it is leveled against a member who has so consistently over the years proactively involved himself in the issue of ethics, including pursuing sanctions against members of his own party where he deemed appropriate.

Nonetheless, we do recognize and the speaker recognizes how serious this issue is. In fact, in connection with this process, the speaker has cooperated fully and completely with the investigative subcommittee in all phases, including waiving privileges with his counsel, producing thousands of documents, attending meetings with the subcommittee at the subcommittee's convenience, and directing his staff and counsel to cooperate with the subcommittee at every phase.

Indeed, the speaker himself has apologized to the subcommittee, to the House, and to the American people for the public controversy that has ensued from the activities that are described in the Statement of Alleged Violation. . . .

In addition, the speaker has agreed to the recommended level of sanction which Mr. Cole has described. In connection with that, [co-counsel] Ed Bethune and I . . . have spent a great deal of time reviewing the various information that has been made available to us. . . . And our recommendation is the same recommendation as the recommendation of the special counsel.

I should note that our recommendation is premised in part on the significant and important message that it sends in two respects: First, the submission of inaccurate, incomplete and unreliable information in the course of any ethics investigation, regardless of the circumstances surrounding the submission, is serious and should be addressed in a serious way. Second, the speaker feels strongly that when information, which is inaccurate, incomplete or unreliable, causes the committee to expend resources, then the party submitting the information should bear some responsibility for reimbursing the committee for some of the cost in addressing that information. . . .

We recommended the sanction be reprimand, a sanction which is relegated to serious violations.

Speaker Gingrich has voluntarily agreed that the committee will be reimbursed $300,000 for costs incurred in connection with the investigation of the inaccurate, incomplete and unreliable information submitted to the committee. We have recommended that this reimbursement be included in any sanction that is recommended by the committee to the full House. . . .

NOT A REHASHING

I should note that I agree with [Rep. Benjamin L.] Cardin [D–Md.] that the purpose of this hearing is not a rehashing of all the facts that are contained in the special counsel's report. . . . [However] I disagree with some of the conclusions and analysis that are contained from those facts. . . .

[W]hile certainly the facts are carefully stated in the special counsel's report, I think that they are often stated in a way which ignores the realities and the context in which the events that are being described was occurring. . . .

[The] Statement of Alleged Violation essentially consists of two parts. The first part consists of an alleged violation that the speaker failed to seek and follow the legal advice that is described within the Statement of Alleged Violation. Second, the Statement of Alleged Violation refers to information that was transmitted to the committee on the speaker's behalf on two separate occasions.

I would like to emphasize . . . the speaker was not charged with violation of U.S. tax laws. The speaker was not charged with intending to deceive the committee. The speaker was not charged with illegal activities or criminal tax violations. The speaker was not charged with money laundering. . . . We can only conclude that not only did the Statement of Alleged Violation not charge any of those items, but there was no reason to believe that illegal or criminal or other such activities occurred.

Second, I think it is important to place this in the context of what was happening in 1991 and 1992 and 1993. . . . [T]he House Ethics Manual specifically contemplates multiple capacities involving . . . members of Congress. It specifically talks about the difference between office accounts, official and unofficial organizations and similar distinctions involving multiple capacities. . . .

I would note that the Internal Revenue Service itself has recognized on repeated occasions that a number of 501(c)(3) organizations have related 501(c)(4) organizations that can [conduct] political campaign activities, usually through a [political action committee]. . . .

I would even note for the committee that in the continuing-education handbook that is provided to IRS field agents, they specifically acknowledge that two organizations, such as a 501(c)(3) and a 501(c)(4), can include two organizations that share the same staff, the same facilities and other expenses. They can conduct joint activities as long as there is an allocation of the income and expenses. This is not a new concept that has just simply arose in connection with this particular case. . . .

The idea that somehow what was occurring in 1992 and 1993 by the speaker in connection with multiple entities was unusual or extraordinary or subject to serious question by the Internal Revenue Service, all of those which do not relate to the facts that the committee has found but relate to the environment and the context of what was occurring in the United States in 1992 and 1993, would reflect that those were consistent with what at least 51 senators and 146 other House members were doing at the same time in connection with multiple entities.

The speaker developed a movement. I think in that regard it is important to note at the outset . . ., if you notice on Slide 32, that he made it clear that the challenge involved was not Republican or Democrat, liberal or conservative; the challenge was to civilization's survival. . . . What happened in 1992 and 1993 and relating back as early as 1990, is Speaker Gingrich developed ideas on what he saw as necessary to renew American civilization. It extended well beyond the concept—extended well beyond the concept of any partisan political gain, but instead . . . extends to a fundamental concern about whether American civilization indeed is in decay and decline. . . .

CHANGING CULTURAL DECLINE

[T]o change cultural decline, there had to be a cultural, economic, political, governmental movement that transcended any government, any business, any educational institutions, specifically including the Congress. . . . As part of the government, he was convinced that it required . . . that there be a majority committed to reform. . . . In connection with that there were three things that occurred. There was the whip's office; and his congressional office; there was the 501 (c)(3) organizations; and then there was

GOPAC. . . . All three served distinct purposes.

The purpose of the whip's office was through votes and legislation, to cause the movement to occur. Through the 501 (c)(3), there was the focus to educate and reform ideas necessary for a movement to occur. And through GOPAC was to recruit and train Republican candidates. All of these then were to cause a movement to occur. . . .

It is not without question that both achieved Renewing American Civilization, but it is not inconsistent that they would have the same goal, the only difference being that while the movement itself would presuppose a majority considered—committed—to reform, that GOPAC would want that majority to be Republican.

Those are not inconsistent, and I'd think even Mr. Cole would concede . . . that it is not inappropriate . . . for a political action committee to in fact use and disseminate information that has been developed by a 501(c)(3). . . . It is important that that context of that movement be put in the perspective of the same thing that occurs on a daily basis involving any number of 501(c)(3)'s, 501(c)(4)'s and PACs in Washington, D.C., or across America. . . .

[O]ne issue that appears to be in significant dispute is the issue of whether the goal of what all was occurring in 1991, 1992, and 1993 was a Republican majority, of which the movement was a part, or was the goal the movement, of which a Republican majority was a part. . . .

I would ask that in that context, that you would specifically take a look . . . at the materials relating to the vision, and I would ask that you would specifically take a look at the degree to which the movement always operated as an overall umbrella under which the other activities always fit. I do not believe that there is any document that reflects a Republican majority as the overall umbrella of the goal in which then, on the flip side, the movement was a part leading to the majority. . . .

As far as his violation of the tax law goes, there are two possibilities that largely exist. One . . . is that there was a violation of the law, which the committee specifically did not find, and that indeed the speaker, at the time that he engaged in this conduct, knew that it was a violation of law and thus acted improperly. That is an impossible conclusion under this record. At best, the area of the law is unsettled. The committee's own tax counsel, in her reports to the [American Bar Association], indicates that it is unsettled and that the IRS precedent provides little guidance.

But more importantly, if you assume for a moment that the tax-law issue was clear to the subcommittee's tax counsel, it is equally clear that the speaker's tax counsel reached the opposite conclusion. The best that you can say is, from all of the writing in the articles that existed at the time, is that the law was unclear. And if the law was unclear, there is no way in which the speaker could have understood what the law was and intended to violate it.

The other possibility is that the speaker was put on notice that there was a serious potential problem, and nonetheless, chose to ignore it. . . . In addition to 51 senators and 146 congressmen engaging in this kind of multiple-capacity structures, that the legal writings at the time seemed to suggest that the course, specifically Gingrich's course, fit within acceptable parameters at the time. . . .

[Y]ou will see . . . citations that equally make it clear that the writings at the time, the legal periodicals at the time, reflected the multiple-structure process.

I would also note to consider in connection with deciding the appropriate level of sanction, that the speaker specifically addressed the issue of GOPAC involvement and fundraising in a meeting with David McCarthy who was committee counsel to the ethics committee. You will note that . . . Mr. McCarthy . . . pretty much articulated standards that . . . the tax-deductible status would turn not . . . on who did the fund-raising, but on how the funds were stacked, and that the educational nature of the course spoke for itself. . . .

It is in that context that I ask you to place the activities surrounding Renewing American Civilization and the American Opportunities Workshop.

ISSUE OF THE LETTERS

If I could now turn my attention to the issue of the letters that were submitted to the committee. . . .

In May 1993, the speaker delivered to the committee a letter regarding participation in the formulation of the course. He attached his January 25, 1993, special order, in which he outlined his vision for Renewing American Civilization. Any suggestion that the committee at the time was not aware of the vision of Renewing American Civilization as it extended, is simply incorrect, given that the one hour special order speech was specifically attached to the letter.

In the spring of 1993, the speaker's staff met with David McCarthy, counsel for the committee, in which there are references to [executive director Jeffrey] Eisenach's identity with GOPAC, and . . . the 501(c)(3) issues.

It is important to note that in the connection with that letter, that Mr. McCarthy made it very clear . . . that the issue of GOPAC's involvement and the issue of the tax-deductible status was not something within the committee's jurisdiction and . . . of which the committee would not be particularly interested; that he said that he thought the committee would stick by its position and not get involved in second-guessing the IRS on its tax determinations of tax-exempt status.

I think it's important to note that in fact he discouraged . . . involvement of the ethics committee in connection with the relationship of GOPAC and 501(c)(3) status so that the focus of the committee counsel's interest was on the distinction between office accounts and unofficial activities. So it's against that backdrop that we then measure the responses that were being submitted later.

On July 21, there was a letter to the committee that noted the involvement of the 501(c)(3). I would again commend to you to read specifically the letter that references the Kennesaw State Foundation and the fact that it was a 501(c)(3) entity.

On August 3, the committee issued its letter noting its position in granting approval to the course as outlined in the correspondence that had been submitted by the speaker and the information that had been submitted.

On September 7, 1994, the complaint was filed by Speaker Gingrich's opponent [Ben Jones] in the general election. It references at length GOPAC and its involvement and its relationship to 501(c)(3).

On October 4, Speaker Gingrich sent a letter to the committee addressing the complaint. . . . [I]t says, "I would like to make it abundantly clear that those who were paid for the course preparation were paid by either the Kennesaw State Foundation, the Progress and Freedom Foundation, or GOPAC. . . ."

[T]here was no concealment that GOPAC was participating in connection with the preparation of the course and funding for the course. [T]hen there's the October 31, 1994, letter from the committee, which indicates that the October 4th letter sufficiently answered most of allegations raised in Mr. Jones's complaint but then went on to note that there were a number of documents that reflect the involvement of GOPAC and GOPAC employees in developing and raising the funds for the course. . . . [T]his is a shift that occurs if you read the letters in succession. Prior to this point, the focus of the committee has squarely been on official and unofficial activities by a member of Congress. At this point, the issue then becomes raised relating to other issues. And if you put it in that context, you can see how the letters fit together. I will note that that letter specifically referenced the involvement of GOPAC personnel, GOPAC fax machine, letterhead, addresses and other materials. . . . Any suggestion that there was an effort to conceal, or that the committee was unaware and the speaker was trying to take advantage of that ignorance of GOPAC's involvement, is simply directly refuted and belied by the correspondence that exists in connection with this matter. GOPAC's involvement was clearly unequivocally known throughout the process, being referenced by name some 92 times.

If you then look at the time-line, you will see that then followed Election Day, which was November 8, 1994, at which the Republicans captured a majority of the seats in the Congress. The following day, the speaker began the process of transition, a hectic time. On November 15, 1994, he retained attorneys to begin the process of assuming responsibility for the preparation of the responses to the committee's inquiry of October 31, 1994. He began the process of a series of nonstop meetings—steering committee meetings and other meetings—to begin the transition process that followed the November election.

In this regard, I find the conclusions of the special counsel's reports, the characterizations to be somewhat in error. . . .

THE BALL GOT DROPPED

[I]t is simply an example of a situation where, as the speaker put it, the ball got dropped between the staff and between the attorneys, about verifying the accuracy of information. This is especially true given that the information that is inaccurate relates to information which was already in the committee's possession and which had already been referred to some 92 times.

That brings us to the March 27 letter, which was a letter that was signed by counsel, and for which there is no real indication of involvement by the speaker himself in connection with it. . . . I would note to you that if I take the testimony at face value, and that is that there were these erroneous statements in the document, it should be put in some context. This was a 52-page letter.

It had 31 exhibits. It had 235 pages. It was prepared by an attorney after 140 hours. It consisted of 1,131 lines, of which 18 are at issue. It was submitted to the speaker during the last week of the . . . [first] 100 days [of the new Republican-majority Congress]. The suggestion being that the speaker should have caught the . . . errors made by attorneys retained by him after 140 hours of a 52-page letter with 31 exhibits. Context is important in understanding the nature of the allegations that have been made. . . . [T]he speaker himself was not involved, and in fact no effort was made to investigate the statements by the attorneys at the time the letter was prepared.

I would note that I think there is a very good summary by [subcommittee Chairman Porter J.] Goss [R-Fla.]: "Okay, I have only one little thought. We seem to have gotten in a situation where we know we have some information that is not everything we desired it to be, and we are trying to track down why and how we got to that position. It seems that Mr. Gingrich was relying on you and some other people to do the December 8 letter, or his December 8 letter was given to somebody else and they were to be supplemented by your firm. And your firm in turn, by your testimony, you were relying pretty much on what that individual...was doing, and you were just checking it for legalities rather than substance, would be sort of the way I read your testimony; and that, therefore, the problem started on December 8 was further compounded on December 27 in that letter because you used some of the material from the December 8 letter. Is that correct?"

"Yes, I agree with that characterization, which is, simply stated, is that the attorneys became involved, they limited it to the universe of the information that they reviewed; the December 8 letter was prepared; it was erroneous; and then the problem was exacerbated when the March 27 letter was submitted, since no further investigation was done regarding it."

I think [Rep. Steven] Schiff's [R-N.M.] questions relating to this issue are particularly important given...the innuendos that...there was something further at issue here in terms of an intent or scheme or plan to deceive.

Mr. Schiff asked this question: "Was there anything told to you that you heard directly or indirectly, that indicated that it was the purpose of either the speaker or [Gingrich counsel Jan] Baran or anyone else connected with this case to deceive the committee or to provide anything but accurate information?"

Answer by the associate: "No."

"Your assumption, then, is that you were supposed to put together a correct statement of the facts and submit it to us?"

Answer: "Absolutely...."

Question: "Well, did Mr. Gingrich ever ask you to provide us any information that was less than complete or that was misleading?"

Answer: "Absolutely not, although I have to hesitate to use the word 'absolutely.'"

Mr. GOSS: "Do you have any knowledge that Mr. Gingrich was aware that any of the information...that we have talked about, at the time those letters were submitted, were incomplete, misleading or inaccurate?"

Answer: "No."

The testimony is consistent on this point. There is no evidence from any testimony from any witness who in any way touched any of the letters that there was any intent or attempt to submit inaccurate information....

I noted in reading the report, the conclusions of the report, that there are words which are . . . cleverly juxtaposed against each other to lead to a conclusion which is somewhat different than what the testimony itself is.

I do not dispute the facts surrounding the letters. I don't dispute the testimony that surrounds the letters. Most importantly, the speaker does not attempt in any way to offer excuses relating to the letters, and it has been his consistent position, as opposed to that of mine of being the attorney here, to put things in context for you, that the letters were his responsibility. They were submitted on his behalf. They are inaccurate. That is wrong.

It is wrong to submit inaccurate information to the committee. He has accepted the complete responsibility for that and has agreed to a serious sanction, that being of a reprimand with a reimbursement of $300,000.

The only thing I point out to you is from my perspective as the counsel that has reviewed this, is that notwithstanding his position, it is important to put that into context of what was actually transpiring at the time those letters were prepared. . . .

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, there has been a lot of heated rhetoric and partisanship in this case, as it has progressed. I think it is important that we step back and focus on the case, examine the specific charges contained in the statement of alleged violations.

The first charge is that the Speaker should have sought legal advice in his dealings with 501(c)3 organizations. The second is that he gave inaccurate information to the Select Committee on Ethics. Those are the charges; no more, no less.

I turn to the Speaker's response to these charges. He accepted the subcommittee's findings. He acknowledged that he should have consulted a lawyer, and that some of the information he gave was incorrect. Since the Speaker has accepted the alleged violations, it was the job of the full committee to determine an appropriate sanction.

While the committee attempted to work through this process there was all kinds of rhetoric flying, from all sides, of those not involved in the process. Some called for the expulsion of the Speaker, and may still do that, while others called for a letter of reproval or even less. That may happen also.

In the end, the special counsel submitted his report to the full committee, and the committee supported and voted out an unprecedented sanction, since there is no evidence that the Speaker engaged in misconduct that resulted in personal financial gain to him.

I would like to take a few moments to discuss the counsel's report. Mr. Cole was hired by the Select Committee on Ethics as an investigator to lay out the facts of the Speaker's case. As a member of the Select Committee on Ethics, I understood that Mr. Cole was not hired to be a judge, nor a 501(c)3 tax expert. In either case, it was my understanding he had no prior experience. Rather, the resolution of preliminary inquiry authorizing Mr. Cole's employment specified that he was appointed to assist the subcommittee.

I am submitting for the RECORD the biography of B. John Williams, who served as a judge on the U.S. Tax Court, and currently is in the Washington law firm of Morgan, Lewis, and Bockius, the very same law firm as Mr. Cole's hired tax expert.

I am also submitting for the RECORD a statement written by Mr. Williams concerning the potential significance of the American Campaign Academy case, which he provided when he was interviewed by the committee for the position of special counsel.

I am going to read just a little bit from that, but I have submitted the entire statement as I have it for the RECORD.

Mr. Williams' quote:

> * * * there is an adage taught in the first year of law school that "hard cases make bad law." American Campaign Academy seems to be a good example of that adage. While the case reached the right result because of the integral closeness of the Academy and the Republican Party sponsorship and direction, the reasoning of the case reaches the result by focusing heavily on a vague term that the Court called "secondary benefit." The "secondary benefit" of the Academy's program was the benefit to employers—Republican candidates—of the training period acquired by academy graduates.
>
> The court found the secondary benefit disproportionately benefited Republicans as they were the only ones hiring the graduates. The court's reasoning really plows uncharted waters and leaves only ill-defined notions of how to access whether recipients of the secondary benefits serve the organization's exempt educational purposes.

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My purpose for submitting Mr. Williams' statement is not to point out who is right or who is wrong but, rather, to point out that knowledgeable people on tax issues can and will have different interpretations about the law in this area, even two tax experts from the same law firm. These different interpretations may give some justification for Mr. GINGRICH's actions, although I still believe and I believe now that he should have consulted a tax lawyer.

After reviewing the Speaker's case and examining House precedents on sanctions, I believe the sanction was more harsh than the charges in the case warrant. For the RECORD, I am submitting a memo which outlines the rules and precedents on disciplinary sanctions. I believe a careful reading of this memo supports my conclusion.

But the Speaker accepted the charges and the sanction against him. I believe that it demonstrates to all of us and to the American public that he truly regretted his actions and sends a message that the Speaker's conduct should be held to a particularly high standard, as should every other Member's.

But there is another message in this for all of us as Members. The reimbursement of $300,000 sets a new standard for the ethics process. Some may disagree with that. It says that those who create additional and unnecessary work for the committee are going to pay a price. This should also alert those Members who trump up charge after charge and file frivolous complaints with the Select Committee on Ethics that they may be held to a similar monetary standard.

There have been numerous allegations and charges filed against Mr. GINGRICH over the past few years, and they have been investigated by the Select Committee on Ethics and at an enormous cost to the taxpayers. All of these cases have either been deemed minor or dismissed except for the current issue.

This leads me to believe that there is an orchestrated effort by certain opposition forces, some even involving tax exempt organizations to attack the Speaker. And the attacks did not stop with the Speaker. For the first time in my career on the committee, there has been a relentless attack on members who serve on the Select Committee on Ethics, including myself. I have served on the Select Committee on Ethics for 6 long years. It was not until we handled the Speaker's case that I experienced and saw the attacks on members of the Select Committee on Ethics from other Members and outside groups which, I might my add, by the way also included certain tax exempt groups.

Intense political pressure was brought to bear on the members purely for the reason that they served on the Select Committee on Ethics. These and other distractions were detrimental to the entire process. Had these actions and certain other committee problems not occurred, this case could have been resolved much earlier and been far less disruptive to the House and the American people. Fortunately that is all behind us and we are here today.

This has been a long and difficult case and would have been completed much earlier had it not been for these disruptions. But fortunately, due to the leadership of the Chair of the Select Committee on Ethics and the work of the subcommittee, we are here. For the past 2 years, NANCY JOHNSON forced the committee to do its job. Rather than referring the tough issues to others to decide, she kept the committee on track and kept the pressure on the commit to resolve cases. NANCY JOHNSON, more than any other Member, has paid a heavy political price for her determined service to the Select Committee on Ethics. This, in my opinion, is absolutely totally unfair and her constituents should understand the extent of the partisan political forces working against her.

Despite the enormous pressures brought to bear against the Chair, the Chair endured and pressed on to resolve this most difficult and contentious case.

After 6 years, I am today leaving the Select Committee on Ethics with mixed emotions, as Mr. CARDIN also said. I think most of us getting off agree. It troubles me that this case brought out the worst partisan rancor and resulted in inappropriate actions of certain Members, but at the same time I am pleased that this case has been resolved in a bipartisan manner and we can move forward in the House and do the work that the people sent us here to do.

In closing, as I stated earlier, I believe the committee sanction was more harsh than the charges warranted but I will vote for the resolution because it was the bipartisan decision reached by the committee and agreed to by Mr. GINGRICH.

The material referred to follows:

B. JOHN WILLIAMS, JR.

B. John Williams, Jr. is a partner in the Tax Section resident in the Washington, D.C., office. His practice focuses on federal tax controversies and litigation before the U.S. Tax Court, U.S. Court of Federal Claims, U.S. District Court, and the U.S. Circuit Courts of Appeal. He also represents clients before the Internal Revenue Service and the Treasury Department on rulings and regulations.

Mr. Williams, who is vice-chairman of the Tax Section, represented and continues to represent clients in a variety of fields, including the oil, coal, newspaper, consumer products and construction industries.

From 1981 through 1984, Mr. Williams served as Special Assistant to the Chief Counsel of the Internal Revenue Service, and as Deputy Assistant Attorney General, Tax Division, in the Department of Justice (supervising five civil trial sections, the Office of Legislation and Policy, and the Review Section).

In 1985, Mr. Williams, then a partner at Morgan Lewis was appointed by President Ronald Reagan to the U.S. Tax Court. He served with distinction on the bench where he wrote many important opinions and tried several highly complex factual cases involving hundreds of millions of dollars in dispute and where he served on the Court's Rules Committee. In March, 1990, he resigned from the Tax Court and re-entered the practice of law as a partner with Morgan Lewis.

Mr. Williams speaks regularly before business and bar groups on litigating large tax cases. He has served as a panel member of the ALI-ABA Course of Study, "How to Handle a Tax Controversy at the IRS and in Court;" the Georgetown CLE program, "The Perfect Trial of a Tax Court Case;" and the Tax Executives Institute's seminar on "Strategies for Success: How to Handle an IRS Audit."

Mr. Williams is a member of the District of Columbia and Pennsylvania bars, the American Law Institute and the American Bar Association. He served as a member of the Advisory Committee to the U.S. Court of Appeals for the Federal Circuit (1992-96). Mr. Williams is noted in *Who's Who in America, Who's Who in American Law* and *Best Lawyers in America.* He is a Fellow of the American College of Tax Counsel.

He received his undergraduate degree from George Washington University with distinction and university honors and with departmental honors in history; he is a member of Phi Beta Kappa and Omicron Delta Kappa.

Mr. Williams received his law degree with distinction from George Washington University where he was a member of the law review. He served for two years as a law clerk for the late Judge Bruce M. Forrester of the U.S. Tax Court.

In examining the relationship between GOPAC funding and the course taught by Mr. Gingrich at tax exempt colleges, and taped for later broadcast distribution, the Committee has asked about the potential significance of American Campaign Academy, 92 T.C. 1053 (1989). In my view this case offers uncertain guidance to the Committee at best.

First, the task before the Committee is to judge the propriety of Mr. Gingrich's behavior, whereas the case has direct application only to an issue about the exempt status of the colleges at which he taught his course. The case simply does not articulate any principle that would condemn or exonerate the presentation of Mr. Gingrich's course content. Further, the case does not provide any standard for determining the propriety of Mr. Gingrich's teaching a course, even if partisan in content, at a tax exempt institution of higher learning. Finally, the case does not provide standards for condemning or exonerating the funding of the course by GOPAC. Assuming Mr. Gingrich's course was partisan, and designed to be so, and further assuming that GOPAC provided funds for the course, American Campaign Academy would apply, if at all, only to determining whether "no more than an insubstantial part" of the colleges' activities furthered a "nonexempt purpose." In this exercise, which seems inappropriate for the Committee, the issue would require an examination of the colleges' educational operations and a determination that any private benefits conferred were more than an incidental part of the colleges' activities and purposes.

Second, there is an adage taught in the first year of law school that "hard cases make bad law." American Campaign Academy seems to be a good example of that adage. While the case reached the right result because of the integral closeness of the Academy and Republican Party sponsorship and direction, the reasoning of the case reaches the result by focussing heavily on a vague term that the Court called "secondary benefit". The "secondary benefit" of the Academy's program was the benefit to employers (Republican candidates) of the training acquired by Academy graduates. The Court found the "secondary benefit" disproportionately benefited Republicans (they were the only ones hiring the graduates). The Court's reasoning really plows uncharted waters, and it leaves only ill-defined notions of how to assess the whether recipients of the "secondary benefits" serve the organization's exempt educational purposes.

If this Committee were to investigate whether the colleges' exempt purposes were served, delicate issues arise which the Committee will most likely not be in a position to assess, e.g., whether "conservative" or "liberal" viewpoints can be equated with partisan positions, whether the self-selection of an audience can constitute a cognizable group that can be said to receive a private benefit (or whether the possibility that some in the audidence will be motivated to join conservative or liberal causes entails a private benefit to a political party), or whether a tax exempt institution of higher learning with an established educational program loses its exempt status by presenting a political figure who offers definite views and is funded by designated contributions. These issues were not the subject of American Campaign Academy and to apply that case as if it were applicable precedent will not, in my view, answer the questions before the Committee or serve its best interests.

[Memorandum]

To: Members of the House of Representatives.
From: David L. Hobson, Member of Congress.
Date: January 21, 1997.
Subject: Rules and Precedents Regarding Disciplinary Sanctions.

I. LEGAL AUTHORITY TO IMPOSE DISCIPLINARY SANCTIONS

The U.S. Constitution expressly authorizes the House to discipline its Members. Section 5, Clause 2 of Article I states that each House "may punish its Members for disorderly Behavior, and, with the concurrence of two thirds, expel a Member." House Rule X, Clause 4(e), authorizes the Committee on Standards of Official Conduct to investigate any alleged violation by a Member of "the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member. . . ." House Rule X, Clause 4(e) also authorizes the Committee "to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members. . . ."

Committee Rule 20(e) states:

With respect to any proved counts against a Member of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Expulsion from the House of Representatives.

(2) Censure.

(3) Reprimand.

(4) Fine.

(5) Denial or limitation of any right, power, privilege, or immunity of the Member if under the Constitution the House of Representatives may impose such denial or limitation.

(6) Any other sanction determined by the Committee to be appropriate.

Alternatively, the Committee may issue a Letter of Reproval without obtaining the approval of the House if, pursuant to Committee Rule 20(d), it determines that such a letter "constitutes sufficient action. . . ."

Committee Rule 20(g) provides the following guidance regarding the appropriateness of the different types of sanctions:

A reprimand is appropriate for "serious violations."

Censure is appropriate for "more serious violations."

Expulsion is appropriate for "the most serious violations."

A monetary fine is "appropriate in a case in which it is likely that the violation was committed to secure a personal financial benefit."

A denial or limitation of a right, power, privilege, or immunity is appropriate "when the violation bears upon the exercise or holding of such right, power, privilege, or immunity."

Rule 20(g) also states that the above standards comprise only "general guidelines" and do "not limit the authority of the Committee to recommend other sanctions."

II. PRECEDENT REGARDING SANCTIONS

Outlined below, in escalating categories of severity, are precedents regarding sanctions recommendations by the Committee since 1967, when the Committee on Standards of Official Conduct was established as a standing committee of the House. Pursuant to House Rules, the memorandum omits mention of any case concerning a current House member.

A. Letter of reproval

1. In re Rep. Jim Bates, H. Rep. No. 101–293, 101st Cong., 1st Sess. (1989).

In connection with allegations that Member sexually harassed female staff in violation of House Rule XLIII, Clause 9, Committee issued public letter of reproval directing Member to apologize to former staff. (The House took no action.)

2. In re Rep. Charlie G. Rose, III, H. Rep. No. 101–526, 100th Cong., 2d Sess. (1988).

In connection with allegations that Member borrowed campaign funds for personal use in violation of House Rule XLIII, Clause 6, and filed an inadequate Financial Disclosure Statement in violation of House Rule XLIV, the Committee adopted a Statement of Alleged Violation and issued a public letter of reproval. (The Member subsequently repaid the funds and amended his Financial Disclosure Statement.)

3. In re Rep. Richard H. Stallings, H. Rep. No. 100–382, 100th Cong., 1st Sess. (1987).

In connection with allegations that Member borrowed from his campaign fund for himself and a member of his staff, the Committee investigated and issued a public letter of reproval.

B. Reprimand

1. In re Rep. Austin J. Murphy, H. Rep. No. 100–485, 100th Cong., 1st Sess. (1987).

Following an investigation and disciplinary hearing, Committee recommended reprimand regarding allegations that Member: allowed another person to cast his House vote in violation of House Rule VIII, Clause 1; permitted his former law firm access to official resources in violation of 31 U.S.C. §1301(a), and Paragraph 5 of the Code of Ethics for Government Service; and maintained an employee on a committee payroll who was not performing duties commensurate with the employer's pay, in violation of House Rule XLIII, Clause 8. The House reprimanded the Member.

2. In re Rep. George Hansen, H. Rep. No. 98–891, 98th Cong., 2d Sess. (1984).

Following a criminal conviction for making false statements on Financial Disclosure Statement in violation of 18 U.S.C. §1001, Committee held inquiry and disciplinary proceeding regarding violation of House Rule XLIV. Committee recommended reprimand, and the House concurred.

4. In re Rep. Daniel B. Crane, H. Rep. No. 98–296, 98th Cong., 1st Sess. (1983).

In connection with allegations that Member had an improper sexual relationship with a House page in violation of House Rule XLIII, Clause 1, the Committee conducted an investigation and recommended a reprimand. The House voted to censure the Member.

5. In re Rep. Gerry E. Studds, H. Rep. No. 98–295, 98th Cong., 1st Sess. (1983).

Committee recommended reprimand following investigation of allegations that Member had an improper sexual relationship with a House page in violation of House Rule XLIII, Clause 1. The House voted to censure the Member.

6. In re Rep. John J. McFall, H. Rep. No. 95–1742, 95th Cong., 2d Sess. (1978).

Committee adopted Statement of Alleged Violation, held a public investigative hearing, and recommended reprimand concerning allegations that Member failed to report campaign contribution by Tongsun Park in violation of House Rule XLIII, Clause 1. The House reprimanded the Member.

7. In re Rep. Charles H. Wilson, H. Rep. No. 95–1741, 95th Cong., 2d Sess. (1978).

In connection with allegation that Member made a false statement to the Committee concerning the receipt of funds from Tongsun Park, the Committee filed a Statement of Alleged Violation, held a hearing, and recommended a reprimand. The House voted to reprimand the Member. (See discussion below.)

8. In re Rep. Robert L. F. Sikes, H. Rep. No. 94–1364, 94th Cong., 2d Sess. (1976).

Committee recommended reprimand concerning allegations that Member used his office to further his personal financial interests in violation of Paragraph 5 of the Code of Ethics for Government Service and failed to disclose stock holdings in violation of House Rule XVIV. The House voted to reprimand the Member.

C. Censure

As indicated above, the House voted for censure in two 1983 cases (concerning Representatives Crane and Studds) in which the Committee recommended a reprimand. Other cases resulting in censure are outlined below.

1. In re Rep. Charles H. Wilson, H. Rep. No. 96–930, 96th Cong., 2d Sess. (1980).

Committee adopted Statement of Alleged Violation and recommended censure in connection with allegations that Member: accepted gifts from a person with a direct interest in legislation, in violation of House Rule XLIII, Clauses 1 and 4; and made personal use of campaign funds, in violation of House Rule XLIII, Clause 6. The Member was censured by the House.

2. In re Rep. Charles Diggs, H. Rep. No. 96–351, 96th Cong., 1st Sess. (1979).

Following criminal convictions for mail fraud (18 U.S.C. §1341) and making false statements (18 U.S.C. §1001), the Committee adopted Statement of Alleged Violation and recommended censure concerning allegations that Member inflated staff salaries to enable him to pay his personal and congressional expenses. (Member apologized and agreed to make restitution.) The House unanimously voted to censure the Member.

3. In re Rep. Edward J. Roybal, H. Rep. No. 95–1743, 95th Cong., 2d Sess. (1978).

Committee adopted Statement of Alleged Violation, held public investigative hearing, and recommended censure in connection with allegations that Member: failed to report campaign contributions in violation of House Rule XVIII, Clause 1; converted campaign funds to personal use in violation of House Rule XVIII, Clause 6; and made a false statement to the Committee in violation of House Rule XVIII, Clause 1. The House subsequently voted to reprimand the Member. (See discussion below.)

4. In re Rep. Adam Clayton Powell, H. Rep. No. 27, 90th Cong., 1st Sess. (1967).

Special Select Committee considered allegations that Member used committee travel funds for personal travel, improperly authorized clerk hire payments to his wife, and committed contempt of court by failing to comply with New York state court orders.

Special Select Committee recommended that Member be seated but deprived of his seniority, that he pay restitution for improperly authorizing the expenditure of official funds, and that he be censured by the House.

House voted to exclude Member, imposed a fine, and denied him seniority. U.S. Supreme Court subsequently found that Member's expulsion was unconstitutional.

D. Expulsion

1. In re Rep. Mario Biaggi, H. Rep. No. 100–506, 100th Cong., 2d Sess. (1988).

Following a criminal conviction, the Committee unanimously recommended expulsion in connection with charges that the Member: accepted illegal gratuities in violation of 18 U.S.C. §201(g), House Rule XLIII, Clauses 1, 2, and 4, and Paragraph 5 of the Code of Ethics for Government Service; and failed to report gifts on Financial Disclosure Statements in violation of House Rule XLIV.

House deferred action on expulsion resolution while Member defended against second prosecution. The Member resigned from the House.

2. In re Rep. Raymond F. Lederer, H. Rep. No. 97–110, 97th Cong., 1st Sess. (1981).

Following a criminal conviction for bribery arising out of the "ABSCAM" case, the Committee held an inquiry and disciplinary hearing, and subsequently recommended expulsion, concerning allegations that the Member accepted money in return for promising to use official influence, in violation of House Rule XLIII, Clauses 1 through 3. The Member resigned, and the House took no action.

3. In re Rep. Michael J. Myers, H. Rep. No. 96–1387, 96th Cong., 2d Sess. (1980).

Following a criminal conviction for bribery arising out of the "ABSCAM" case, the Committee held an inquiry and disciplinary hearing, and subsequently recommended expulsion, concerning allegations that the Member accepted money in return for promising to use official influence. The House expelled the Member.

III. CASES CONCERNING FALSE STATEMENTS TO THE COMMITTEE

In light of Speaker Gingrich's admission to the charges in the Statement of Alleged Violation, the two 1978 cases concerning Representatives Wilson and Roybal may be of particular interest to Members of the House.

In the Roybal case, the Committee considered allegations that Representative Roybal received $1,000.00 in cash from Tungsun Park. The Committee found by "clear and convincing evidence" that Representative Roybal knowingly gave false testimony when he denied under oath that he received a gift or campaign contribution from Mr. Park, and concluded that Representative Roybal's false testimony constituted a violation of House Rule 43, Clause 1. In re Rep. Edward J. Roybal, H. Rep. No. 95–1743, 95th Cong., 2d Sess. 1, 3–4 (1978). The Committee recommended that the House censure Representative Roybal, but the House voted to reprimand him instead.

In the Wilson case, the Committee found that Representative Wilson knowingly made a false statement to the Committee in writing when, in a response to a Committee questionnaire sent to each Member of the House, Representative Wilson denied receiving anything of value greater than $100.00 from Tongsun Park. In re Rep. Charles H. Wilson, H. Rep. No. 95–1741, 95th Cong., 2d Sess. 1–3 (1978). After a hearing, the Committee adopted a Statement of Alleged Violation in which it found, by clear and convincing evidence, that Representative Wilson had violated House Rule 43, Clause 1. *Id.* at 4–5. The Committee recommended to the House that Representative Wilson be reprimanded, and the House adopted that recommendation.

Mr. CARDIN. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, very quickly I want to make two points.

Our colleagues have talked about this not being about financial gain to the Speaker. Indeed that was not our charge to the committee to find that, and we did indeed not find it. But this was about power, so when we talk about high ethical standard, it is not just about money; it is about what Members will do for power.

The second point is, the gentleman from Texas [Mr. SMITH] and the gentleman from Ohio [Mr. HOBSON] alluded to other penalties for other violations of House rules. Those cases were brought to conclusion. Mr. GINGRICH admitted to these charges, thereby freezing the record. We could possibly prove intent if we had the full process gone through. So I want to make that distinction.

Mr. CARDIN. Mr. Speaker, I yield 7 minutes to the gentleman from Ohio [Mr. SAWYER], a very distinguished member of the Select Committee on Ethics, who has contributed greatly not only to this particular matter, to many matters before the Select Committee on Ethics.

Mr. SAWYER. Mr. Speaker, I thank my colleague from Maryland for his leadership in this matter and join in my colleagues in recognizing the work of the subcommittee and the staff of the subcommittee in this difficult matter.

Earlier this year, a lifelong friend of mine was thrilled that his daughter on graduating law school was selected to speak on behalf of her classmates in terms of the kinds of things that they had learned in the course of their time together. She chose as her theme the nature of testimony.

Now, that is something that is certainly familiar to law students and lawyers. It is certainly familiar to all of us who deal day in and day out with testimony. But she was talking about testimony of another kind. Her theme was centered on the idea that the lives we lead, the sum of our actions is testimony to the values that we hold. That it is testimony to the very definition of who we are as individual actors in our public and private lives and in our corporate life here together as an institution.

It is just such a matter that brings us here today to judge that kind of testimony, a year's work, 150,000 pages of documents and testimony, that are themselves testimony to the work of the committee, to consider the seriousness of the conduct that was before us, the absence of care that was exercised in that conduct, the disruption that has been caused to this institution, and the cost in both monetary and ethical terms and the repetitive nature of the conduct that we speak of today.

The subcommittee concluded that there were significant and substantial warning signals to Mr. GINGRICH that he should have had prior to embarking on that activity. The subcommittee and the full committee and we today were faced with a disturbing choice. That choice was that either Mr. GINGRICH did not seek appropriate advice in the action that he took or that he was reckless in not taking care that as a Member of Congress he made sure that his action conformed with the law that he faced. We face another disturbing choice, that Mr. GINGRICH either intentionally misrepresented the truth or, again, that he was reckless in his disregard for the nature of truth.

This is at the heart of the charges that are before us. This is a serious offense. It is a serious sanction. But I hasten to add that it does not raise the hurdle that is before us. Twenty years ago in the consideration of the Korean Influence Investigation, the ethics committee produced a manual of offenses and procedures and concluded that, even where serious criminal sanctions are imposed, the law does not insist on proof of actual knowledge.

The courts have often held that proof that the accused acted in reckless disregard of the facts or deliberately closed his eyes to avoid obtaining knowledge may suffice to support a conviction if the circumstances should have alerted a responsible Member concerned about both the letter and spirit of the law to hesitate to inquire before acting, the failure of a Member to learn the truth should not be an excuse, and then goes on to discuss that that failure to adhere to this higher standard is an appropriate basis for imposing the most severe sanctions available to this House.

As we consider all of this, I hope that we recognize that, although we have heard often that this is a sad day, I want to add to that, as the gentleman from Florida [Mr. GOSS] suggested, that this can be a sound day if we can draw lessons from this case, not just Representative GINGRICH but all of us can draw lessons that ethical behavior, as Ms. PELOSI suggested, is not something that we do when we are too busy. It represents the way we live our lives together, that ethics is not a matter of cutting corners or pressing for an unfair advantage or that seeks to blur the truth or that seeks to find an entrepreneurial expression in the way we conduct our business here but, rather, ethical behavior may be even more important to us all when the lines are blurred than when they are clear.

This is not a matter of personal gain to the Speaker. It is a matter of ethical loss to us all if we do not recognize the importance of what is before us here today. We are all diminished by a violation of ethical standards, and we are all elevated by their careful and caring observation.

In that sense, in conclusion, Mr. Speaker, this can be a unique day. It will be in one sense the worst thing that we have ever done to a Speaker of the House of Representatives. But it can also be one of the very best things that ever happened in his life and in fact in all of our lives if he and we take the lessons of this day to heart, recognize them as personal obligations for us all, to act on them in our lives, to have the decency to face up to the personal responsibility and to let all of our lives, not just the Speaker from this point forward become testimony to the high standards we set for ourselves in the public arena.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1¾ minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentlewoman for yielding me the time.

I would like to embark on a slightly different dimension here, and I would hope that all the Members would listen as to my observation of the Speaker, what has NEWT GINGRICH done in my mind over the years, especially the last 2 years as Speaker of the House of Representatives. The Speaker has created a situation on the House floor where each Member of Congress can become a responsible advocate for his or her position.

My first 4 years here, I saw money and seniority as the influencing factor in developing legislation. The Speaker, in my observation, changed that. Those with credibility have information, and those with information generated as a result of that information influence. That is how a democracy is supposed to work. Those with the information have the influence, the course, the direction of the legislation.

As a result of that, the sophistication of the debate in my judgment has risen very, very high, a more open and honest exchange of ideas, not pummeled by political punishment by seniority or power; but an exchange of ideas is what democracy is all about.

The debate has often been clearly misunderstood as partisan politics or gridlock. This is democracy. It is difficult. That exchange of ideas does not take place in North Korea, Cuba, Iraq, or someplace else. NEWT GINGRICH has not aspired to power in this House or this country like many others in this place have done, buttressed by arrogance, dogma, and ignorance. In my judgment, in my observation, NEWT GINGRICH has sought to reveal his vision for America. This is what democracy is about.

Mrs. JOHNSON of Connecticut. Mr. Speaker, might I inquire as to the time remaining on both sides?

The SPEAKER pro tempore (Mr. BEREUTER). The gentlewoman from Connecticut [Mrs. JOHNSON] has 9¾ minutes remaining, and the gentleman from Maryland [Mr. CARDIN] has 8 minutes remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I thank the Chair again for yielding me the time.

There has been much discussion this afternoon about the tax issues in this case. There has been an assertion made that the Speaker supposedly intended to violate tax laws or that he was reckless in his activities. I want to address that head on.

□ 1330

I spoke yesterday with the chairman of the American Bar Association tax committee. He is the successor to the individual who served as the tax consultant to the Ethics Committee. He told me about a recent meeting that had been held by this tax committee, which was attended by 75 to 80 attorneys. And this meeting occurred on January the 10th of this year. He said there was much discussion about the facts of the case that are before us today, but he said, "there was no conclusion."

In fact, he said, "in regard to the discussion of the facts, it was not conclusive." There were many different conclusions. He himself went on to say that it was, "a stretch to conclude that the Speaker was guilty of violating any tax laws."

My point here is that the tax laws are so unclear that, in regard to what the Speaker was allegedly doing, how in the world could anyone have intended to violate such laws or been reckless in regard to such laws.

Last, I want to say that in the conclusion of the report of the special counsel, several explanations are mentioned to justify the severity of the penalty that is being discussed today. One of those explanations given for justification is that "Politics and tax deductible contributions are an explosive mix." Well, of course, there is nothing new about that.

Another explanation is that the Speaker had taken an aggressive approach to the tax laws. Well, since when have Members been penalized for taking an aggressive approach to anything?

And last, it is said that Mr. GINGRICH's own tax lawyer would have advised him not to use a tax exempt organization. But lawyers are risk-averse. They are paid to be cautious. They are worried about malpractice suits. If they think there is 1 chance out of 100 that their client might get in trouble, they are going to recommend against that supposed action.

The point here is that, just because the Speaker did not consult an attorney, is that reckless? Is that reason enough to give him the severe penalty of a reprimand?

And, furthermore, let me end on a question that I would pose to other Members of the House, and that is, Do we want to be judged by the same standards that we are judging the Speaker by today?

Mr. CARDIN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [MR. RANGEL].

Mr. RANGEL. Mr. Speaker, I gather that most of the Members, Democrat and Republican, are very anxious to put the heat and passion of our partisanship behind us and to get on and legislate as the American people would want us to do. God knows I have contributed my share toward that heat and passion, and make no apologies for my partisanship. But we cannot have it both ways. We cannot say that he pled guilty but he did not do anything.

For those people who want to pursue outside issues, I beg them not to think about doing it. If we want to investigate who was coercing members of the committee, then maybe we will investigate who asked them how they were going to vote on the question of the Speaker.

Who is talking about taxes? The Select Committee on Ethics had no right to go into tax issues. That is for the Internal Revenue Service; that is for the Federal Bureau of Investigation, and they have the responsibility to do that.

The Speaker is intelligent. He is an intellectual. He read the charges. He said he brought discredit upon this House. For God's sake, let us get on with it.

Mr. CARDIN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I salute the Republicans for their loyalty to their Speaker and their unity. The facts are clear, Democrats: 7 years ago the Democrats abandoned Jim Wright; today the Republicans rescue NEWT GINGRICH. I commend them.

Let me say this. The bottom line, folks, is this is not Rotary; this is politics. If Democrats are going to win back the majority, I think we should not only do that but maybe expend a little bit of time on creating jobs in the country. It might serve a better purpose.

I want to close today by commending all of the leaders and all of the members of the committee. They are to be commended. I will support their decision. But let me say this: I hope that today's events serve to bring some form of historical fairness and perspective to our fine former Democrat Speaker, Jim Wright.

Mrs. JOHNSON of Connecticut. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. BEREUTER). The gentlewoman from Connecticut [Mrs. JOHNSON] has 7 minutes remaining, and the gentleman from Maryland [Mr. CARDIN] has 6 minutes remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 4½ minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the chairman for giving me this time.

Last week, Mr. Speaker, I was prepared to vote for a reprimand, but then I found out that it is more than a reprimand; it is now a reimbursement plus a reprimand. And I cannot take what I was going to take, a political decision, when I feel strongly, feel very strongly, that it is not right.

Now, I have the greatest respect for the chairwoman of the Committee on Standards of Official Conduct, NANCY JOHNSON, and I appreciate all the hard work that the committee has put into this recommendation. But I must agree with my colleague from Texas, Mr. SMITH, the only member of the committee who voted against that recommendation. I believe that this punishment is too harsh given the history of the ethics process and the precedence of earlier punishments.

Such a punishment is not only unprecedented and can be levied on every one of us, it is unwarranted. I will not vote to reprimand NEWT GINGRICH for transgressions that in the past have only warranted either warnings or letters of reproval from the Committee on Standards of Official Conduct.

Now, I understand the Speaker's noble motivation in working out a settlement in this case, and I understand why and how the committee came to this end and the Speaker came to this end; but we have to put it in perspective. The gentleman from Missouri, the minority leader, Mr. GEPHARDT, received a letter from the Committee on Standards of Official Conduct for giving false information to the committee not intentionally. The chairman of the DCCC received a letter from this Committee on Standards of Official Conduct because he did not intentionally use a Federal employee for campaign purposes.

Those are letters of reproval, and I submit that both of those actions are worse than what NEWT GINGRICH has owned up to.

Now, for what kind of violations has this House put reprimands on Members? Hiring the wrong lawyer? Submitting or being sloppy about submissions to the committee? No. Reprimands have been used for things such as using political influence to fix parking tickets for personal friends; reprimands or recommendations of reprimand by the committee for improper sexual relationships with pages; reprimand for intentionally lying to the committee.

This committee has not found this Speaker has intentionally lied or intentionally misled the committee.

This is, I say to the gentlewoman from California, Mr. Speaker, this is about power. This is about some on this side have lost power and they are trying to regain it by abusing the ethics process and this institution. That is what this is all about.

So, I do not agree that the Speaker should be held to a higher standard. All of us, all of us, every Member, should be held to the highest of standards. This Speaker and any other Member should not be held to a double standard. This is a double standard that we are imposing on this Speaker.

In fact, we know it because this Speaker has been prodded and probed from every direction. Since 1989 he has had over 500 ethics charges brought against him. In the last 2 years he has had 74 ethics charges brought against him. You know what? Nothing has been brought to this floor to bring a sanction against anything that he has been charged with.

What he is being charged with today is during the process he happened to screw up. That is what is going on here. I just find that really sad that we have abused the process like this.

This Speaker has had every detail of his life examined under a microscope, and that microscope has exposed some flaws, some sloppiness, some things that should have been done better; but it has not exposed corruption or lawlessness or personal profit. And that is what reprimands and censures are all about. The highest possible standard does not mean an impossible standard that no American could reach.

Let us stop using the ethics process for political vendettas. Let us not create precedence that will only serve to undermine the service of this country. Let us stop this madness. Let us stop the cannibalism.

Let us not fall victim to unrealistic expectations that do not forgive the common flaws of normal Americans.

With all due respect to the great work of the Ethics Committee, I cannot vote to reprimand the Speaker of the House for the stated transgressions.

Mr. CARDIN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I agree with the chairwoman of our committee. These are very tough penalties, and the violation of the rules justify these tough sanctions.

The sanctions are being recommended not because Mr. GINGRICH is the Speaker of the House. They are being recommended because Mr. GINGRICH is a Member of this House. These sanctions would be appropriate for any Member of this House who committed the violations that have now been established by the Committee on Standards of Official Conduct and have now been admitted to by Mr. GINGRICH.

Mr. GINGRICH made a decision that any Member has the right to make. He has admitted to the charges. He has done that in order to avoid the necessity of a trial. That is his decision, and one which I think we all must respect, but the underlying facts as to why this sanction is so severe, I think, will become obvious to any one of us if we will read the report of the special counsel which now has been approved not only by the bipartisan investigative committee but by the full Committee on Standards of Official Conduct.

It points to the fact that this was not a college course. It was a course conceived within a political movement. Read pages 38 and 39. It was conceived in a political movement. It was conceived as the only way, according to Mr. GINGRICH, to get the message out, to get the political message out.

I appreciate the comments of my colleague from Maryland, Mr. GILCHREST, but we do not use tax exempt organizations to get a political message out. I appreciate the comments of the gentleman from Texas, Mr. SMITH, about the meeting of tax lawyers. In all due respect, this report was just released 4 days ago. The facts and circumstances are just now known to the American people. The political motivation and the action on that political motivation is now just known by the American people.

Mr. GINGRICH commingled tax exempt organizations with his political agenda. He did it because he could not raise enough money in the political PAC's. That is part of our record. This was a new way to raise money, a new avenue in which he could promise his contributors a tax exemption to boot. That is wrong. He did it because he needed the money in order to get his political message out. And that is wrong.

There is ample evidence here that tax laws were violated, and it is not a close case, but we do not need to reach that conclusion. As the special counsel's report concludes, this is a bipartisan conclusion, Mr. GINGRICH should have sought tax advice. The reason he did not seek that tax advice was either that he knew it would be wrong and he did not want to get that advice or he was reckless in his conduct.

Make no mistake about this. This is reckless conduct, at least reckless conduct, over a long period of time dating back 5 years, involving four tax exempt organizations costing taxpayers hundreds of thousands of dollars of legitimate tax needs.

But there is more to this case than just the tax issues. We have letters that misled the Committee on Standards of Official Conduct. As the special counsel has pointed out, there is ample evidence, there is significant evidence here that he intentionally did this. No, we do not reach that conclusion. The record was frozen by his admission. But we do reach the conclusion that this was either intentional conduct to mislead this House and the ethics process or it was reckless conduct.

Now, that is more than innocent mistakes. We have reached conclusions that these are not just innocent mistakes. Mr. GINGRICH's explanation that he is sensitive to the ethics process, he was embarrassed, and he came forward as soon as he knew they were in error, just does not wash with the record that has been presented to you today. There is more to it than that, and the special counsel's record reflects that, and we need to take cognizance of that.

So we have a series of conduct that was either reckless or intentional and it cost this House and our reputation dearly. That is why the sanction is before us.

□ 1345

Not because he is Speaker of the House but because a Member of the House has brought disgrace to this Chamber.

I am proud of the fact that we have a bipartisan recommendation here today. That is very important. The process has worked. Democrats and Republicans have come together and have performed one of their most important constitutional responsibilities, to judge the conduct of our own Members, and we have done that, and we have reached an agreement, and the agreement is right, and Mr. GINGRICH has agreed on that assessment. Now it is time for us to do right as a full House. It is time for us to support the recommendations of the Ethics Committee to send a very clear message that every Member of this House must adhere to the highest standards when it comes to their personal conduct that can bring discredit to this House and to their conduct with the Ethics Committee and the information that they make available to our committee.

I urge my colleagues to support this recommendation. Let us approve it overwhelmingly and then, yes, let us get on with the business of this House, Democrats and Republicans working together to do the people's business.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I have to say that I do not think it is an accurate portrayal of the matters that bring us to the House floor today and that are about to bring us to a vote to selectively choose facts in a long investigative process. I cannot say that anything the gentleman from Maryland [Mr. CARDIN] just rendered was inaccurate if taken by itself. But these things are not taken by themselves. Also in the special counsel's report is the quotation of another tax expert who said he did not think that there was a violation of 501(c)3 laws in any way. There was no abuse of the tax laws. It was his opinion that as long as the content of the Speaker's course as a college course was pure of political involvement, then anyone could use it anyway they wanted to, and not even the worst critic of the Speaker we heard from challenged the fact that the course itself contained no partisan directives to the class, that it was a legitimate college course.

I urge the Members to adopt the recommendation of the committee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in strong support of the Ethics Committee report. It is a serious and appropriate sanction. I urge that it have the same bipartisan support on the vote of this House.

Mr. Speaker, I support the report of the Committee on Standards of Official Conduct, the Ethics Committee, and urge its adoption recognizing that it will close a sad chapter in the history of this House. This is a serious and an appropriate sanction, as stated by Representative PORTER GOSS, the chairman of the Investigative Subcommittee. However, left unstated in this report and unresolved by the committee is the means by which the fine or cost assessment, that is, the reimbursement of $300,000 should be paid.

The reprimand for Congressman GINGRICH and the $300,000 cost assessment represent a serious penalty and one in which I concur. However, while this resolution leaves repayment to the Speaker's discretion, I personally believe, and would advise, that payment be made from the Speaker's personal funds and not from any political action committee or other campaign account.

I would advise the Speaker that payment of this cost assessment from his personal funds would at least begin to rehabilitate this House and the ethics process to which we are all accountable.

This vote today is conclusion of a sad chapter in the ethical history of the U.S. House. With this vote, we should move beyond partisanship and attend with seriousness of purpose and probity to the people's business in the highest tradition of American democracy.

This is now our ethical challenge—a challenge upon which the public will ultimately judge us.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, today we take final action on the Gingrich case. I believe passage of the tough, unprecedented penalty package is appropriate and I also believe it can be one important step toward restoring pride and confidence in the people's House of the U.S. Congress. But as important as this vote is today, no single vote can renew public confidence in this institution. Rather, each Member of this House must take personal responsibility to restore civility and mutual respect to our deliberations. The American people are bone tired of partisanship. They want us to work together, and I believe most Members of this House are yearning to return to the deliberative process that alone produces good public policy. We were elected Republicans and Democrats but the core of democracy is building bipartisan consensus by maturing the best ideas from both parties into responsible, effective solutions. Today we conclude this case by imposing a heavy penalty on the leader of this House. It is a tough penalty, unprecedented and appropriate. But if our action fails today to chasten this body and bring a halt to the crippling partisanship and animosity that has surrounded us, then we will have lost an opportunity to grow and learn from this solemn occasion, and that would be a tragedy.

I ask for your support of the bipartisan recommendation of the Ethics Committee.

Mr. CARDIN. Mr. Speaker, I ask unanimous consent that the report of the Select Committee on Ethics be made a part of the RECORD.

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The report is as follows:

IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH

I. INTRODUCTION

A. Procedural Background

On September 7, 1994, a complaint was filed with the Committee on Standards of Official Conduct ("Committee") against Representative Newt Gingrich by Ben Jones, Mr. Gingrich's opponent in his 1994 campaign for reelection. The complaint centered on a course taught by Mr. Gingrich called "Renewing American Civilization." Among other things, the complaint alleged that Mr. Gingrich had used his congressional staff to work on the course in violation of House Rules. The complaint also alleged that Mr. Gingrich had created a college course under the sponsorship of 501(c)(3) organizations in order "to meet certain political, not educational, objectives" and, therefore, caused a violation of section 501(c)(3) of the Internal Revenue Code to occur. In partial support of the allegation that the course was a partisan, political project, the complaint alleged that the course was under the control of GOPAC, a political action committee of which Mr. Gingrich was the General Chairman.

Mr. Gingrich responded to this complaint in letters dated October 4, 1994, and December 8, 1994, but the matter was not resolved before the end of the 103rd Congress. On January 26, 1995, Representative David Bonior filed an amended version of the complaint originally filed by Mr. Jones. It restated the allegations concerning the misuse of tax-exempt organizations and contained additional allegations. Mr. Gingrich responded to that complaint in a letter from his counsel dated March 27, 1995.

On December 6, 1995, the Committee voted to initiate a Preliminary Inquiry into the allegations concerning the misuse of tax-exempt organizations. The Committee appointed an Investigative Subcommittee ("Subcommittee") and instructed it to: determine if there is reason to believe that Representative Gingrich's activities in relation to the college course "Renewing American Civilization" were in violation of section 501(c)(3) or whether any foundation qualified under section 501(c)(3), with respect to the course, violated its status with the knowledge and approval of Representative Gingrich * * *.

The Committee also resolved to appoint a Special Counsel to assist in the Preliminary Inquiry. On December 22, 1995, the Committee appointed James M. Cole, a partner in the law firm of Bryan Cave LLP, as the Special Counsel. Mr. Cole's contract was signed January 3, 1996, and he began his work.

On September 26, 1996, the Subcommittee announced that, in light of certain facts discovered during the Preliminary Inquiry, the investigation was being expanded to include the following additional areas:

(1) Whether Representative Gingrich provided accurate, reliable, and complete information concerning the course entitled "Renewing American Civilization," GOPAC's relationship to the course entitled "Renewing American Civilization," or the Progress and Freedom Foundation in the course of communicating with the Committee, directly or through counsel (House Rule 43, Cl. 1);

(2) Whether Representative Gingrich's relationship with the Progress and Freedom Foundation, including but not limited to his involvement with the course entitled "Renewing American Civilization," violated the foundation's status under 501(c)(3) of the Internal Revenue Code and related regulations (House Rule 43, Cl. 1);

(3) Whether Representative Gingrich's use of the personnel and facilities of the Progress and Freedom Foundation constituted a use of unofficial resources for official purposes (House Rule 45); and

(4) Whether Representative Gingrich's activities on behalf of the Abraham Lincoln Opportunity Foundation violated its status under 501(c)(3) of the Internal Revenue Code and related regulations or whether the Abraham Lincoln Opportunity Foundation violated its status with the knowledge and approval of Representative Gingrich (House Rule 43, Cl. 1).

As discussed below, the Subcommittee issued a Statement of Alleged Violation with respect to the initial allegation pertaining to Renewing American Civilization and also with respect to items 1 and 4 above. The Subcommittee did not find any violations of House Rules in regard to the issues set forth in items 2 and 3 above. The Subcommittee, however, decided to recommend that the full Committee make available to the IRS documents produced during the Preliminary Inquiry for use in its ongoing inquiries of 501(c)(3) organizations. In regard to item 3 above, the Subcommittee decided to issue some advice to Members concerning the proper use of outside consultants for official purposes.

On January 7, 1997, the House conveyed the matter of Representative Newt Gingrich to the Select Committee on Ethics by its adoption of clause 4(e)(3) of rule X, as contained in House Resolution 5.

On January 17, 1997, the Select Committee on Ethics held a sanction hearing in the matter pursuant to committee rule 20. Following the sanction hearing, the Select Committee ordered a report to the House, by a roll call vote of 7–1, recommending that Representative Gingrich be reprimanded and ordered to reimburse the House for some of the costs of the investigation in the amount of $300,000. The following Members voted aye: Mrs. Johnson of Connecticut, Mr. Goss, Mr. Schiff, Mr. Cardin, Ms. Pelosi, Mr. Borski, and Mr. Sawyer. The following Member voted no: Mr. Smith of Texas.

The adoption of this report by the House shall constitute such a reprimand and order of reimbursement. Accordingly, the Select Committee recommends that the House adopt a resolution in the following form.

HOUSE RESOLUTION —

Resolved, That the House adopt the report of the Select Committee on Ethics dated January 17, 1997, In the Matter of Representative Newt Gingrich.

Statement Pursuant to Clause 2(l)(3)(A) of Rule XI

No oversight findings are considered pertinent.

B. Investigative Process

The investigation of this matter began on January 3, 1996, and lasted through December 12, 1996. In the course of the investigation, approximately 90 subpoenas or requests for documents were issued, approximately 150,000 pages of documents were reviewed, and approximately 70 people were interviewed. Most of the interviews were conducted by Mr. Cole outside the presence of the Subcommittee. A court reporter transcribed the interviews and the transcripts were made available to the Members of the Subcommittee. Some of the interviews were conducted before the Members of the Subcommittee primarily to explore the issue of whether Mr. Gingrich had provided the Committee, directly or through counsel, inaccurate, unreliable, or incomplete information.

During the Preliminary Inquiry, Mr. Cole interviewed Mr. Gingrich twice and Mr. Gingrich appeared before the Subcommittee twice. Several draft discussion documents, with notebooks of exhibits, were prepared for the Subcommittee in order to brief the Members on the findings and status of the Preliminary Inquiry. After receiving the discussion documents, the Subcommittee met to discuss the legal and factual questions at issue.

In most investigations, people who were involved in the events under investigation are interviewed and asked to describe the events. This practice has some risk with respect to the reliability of the evidence gathered because, for example, memories fade and can change when a matter becomes controversial and subject to an investigation. One advantage the Subcommittee had in this investigation was the availability of a vast body of documentation from multiple sources that had been created contemporaneously with the events under investigation. A number of documents central to the analysis of the matter, in fact, had been written by Mr. Gingrich. Thus, the documents provided a unique, contemporaneous view of people's purposes, motivations, and intentions with respect to the facts at issue. This Report relies heavily, but not exclusively, on an analysis of those documents to describe the acts, as well as Mr. Gingrich's purpose, motivations, and intentions.

As the Report proceeds through the facts, there is discussion of conservative and Republican political philosophy. The Committee and the Special Counsel, however, do not take any positions with respect to the validity of this or any other political philosophy, nor do they take any positions with respect to the desirability of the dissemination of this or any other political philosophy. Mr. Gingrich's political philosophy and its dissemination is discussed only insofar as it is necessary to examine the issues in this matter.

C. Summary of the Subcommittee's Factual Findings

The Subcommittee found that in regard to two projects, Mr. Gingrich engaged in activity involving 501(c)(3) organizations that was substantially motivated by partisan, political goals. The Subcommittee also found that Mr. Gingrich provided the Committee with material information about one of those projects that was inaccurate, incomplete, and unreliable.

1. AOW/ACTV

The first project was a television program called the American Opportunities Workshop ("AOW"). It took place in May 1990. The idea for this project came from Mr. Gingrich and he was principally responsible for developing its message. AOW involved broadcasting a television program on the subject of various governmental issues. Mr. Gingrich hoped that this program would help create a "citizens' movement." Workshops were set up throughout the country where people could gather to watch the program and be recruited for the citizens' movement. While the program was educational, the citizens' movement was also considered a tool to recruit non-voters and people who were apolitical to the Republican Party. The program was deliberately free of any references to Republicans or partisan politics because Mr. Gingrich believed such references would dissuade the target audience of non-voters from becoming involved.

AOW started out as a project of GOPAC, a political action committee dedicated to, among other things, achieving Republican control of the United States House of Representatives. Its methods for accomplishing this goal included the development and articulation of a political message and the dissemination of that message as widely as possible. One such avenue of dissemination was AOW. The program, however, consumed a substantial portion of GOPAC's revenues. Because of the expense, Mr. Gingrich and others at GOPAC decided to transfer the project to a 501(c)(3) organization in order to attract tax-deductible funding. The 501(c)(3) organization chosen was the Abraham Lincoln Opportunity Foundation ("ALOF"). ALOF was dormant at the time and was revived to sponsor AOW's successor, American Citizens' Television ("ACTV"). ALOF operated out of GOPAC's offices. Virtually all its officers and employers were simultaneously GOPAC officers or employees. ACTV had the same educational aspects and partisan, political goals as AOW. The principal difference between the two was that ACTV used approximately $260,000 in tax-deductible contributions to fund its operations. ACTV broadcast three television programs in 1990 and then ceased operations. The last program was funded by a 501(c)(4) organization because the show's content was deemed to be too political for a 501(c)(3) organization.

2. RENEWING AMERICAN CIVILIZATION

The second project utilizing 501(c)(3) organizations involved a college course taught by Mr. Gingrich called Renewing American Civilization. Mr. Gingrich developed the course as a subset to and tool of a larger political and cultural movement also called Renewing American Civilization. The goal of this movement, as stated by Mr. Gingrich, was the replacement of the "welfare state" with an "opportunity society." A primary means of achieving this goal was the development of the movement's message and the dissemination of that message as widely as possible. Mr. Gingrich intended that a "Republican majority" would be the heart of the movement and that the movement would "professionalize" House Republicans. A method for achieving these goals was to use the movement's message to "attract voters, resources, and candidates." According to Mr. Gingrich, the course was, among other things, a primary and essential means to develop and disseminate the message of the movement.

The core message of the movement and the course was that the welfare state had failed, that it could not be repaired but had to be replaced, and that it had to be replaced with an opportunity society based on what Mr. Gingrich called the "Five Pillars of American Civilization." These were: (1) personal strength; (2) entrepreneurial free enterprise; (3) the spirit of invention; (4) quality as defined by Edwards Deming; and (5) the lessons of American history. The message also concentrated on three substantive areas. These were: (1) jobs and economic growth; (2) health; and (3) saving the inner city.

This message was also Mr. Gingrich's main campaign theme in 1993 and 1994 and Mr. Gingrich sought to have Republican candidates adopt the Renewing American Civilization message in their campaigns. In the context of political campaigns, Mr. Gingrich used the term "welfare state" as a negative label for Democrats and the term "opportunity society" as a positive label for Republicans.

As General Chairman of GOPAC, Mr. Gingrich decided that GOPAC would use Renewing American Civilization as its political message and theme during 1993–1994. GOPAC, however, was having financial difficulties and could not afford to disseminate its political messages as it had in past years. GOPAC had a number of roles in regard to the course. For example, GOPAC personnel helped develop, manage, promote, and raise funds for the course. GOPAC Charter Members helped develop the idea to teach the course as a means for communicating GOPAC's message. GOPAC Charter Members at Charter Meetings helped develop the content of the course. GOPAC was "better off" as a result of the nationwide dissemination of the Renewing American Civilization message via the course in that the message GOPAC had adopted and determined to be the one that would help it achieve its goals was broadcast widely and at no cost to GOPAC.

The course was taught at Kennesaw State College ("KSC") in 1993 and at Reinhardt College in 1994 and 1995. Each course consisted of ten lectures and each lecture consisted of approximately four hours of classroom instruction, for a total of forty hours. Mr. Gingrich taught twenty hours of each course and his co-teacher, or occasionally a guest lecturer, taught twenty hours. Students from each of the colleges as well as people who were not students attended the lectures. Mr. Gingrich's 20-hour portion of the course was taped and distributed to remote sites, referred to as "site hosts," via satellite, videotape and cable television. As with AOW/ACTV, Renewing American Civilization involved setting up workshops around the country where people could gather to watch the course. While the course was educational, Mr. Gingrich intended that the workshops would be, among other things, a recruiting tool for GOPAC and the Republican Party.

The major costs for the Renewing American Civilization course were for dissemination of the lectures. This expense was primarily paid for by tax-deductible contributions made to the 501(c)(3) organizations that sponsored the course. Over the three years the course was broadcast, approximately $1.2 million was spent on the project. The Kennesaw State College Foundation ("KSCF") sponsored the course the first year. All funds raised were turned over to KSCF and dedicated exclusively for the use of the Renewing American Civilization course.[1] KSCF did not, however, manage the course and its role was limited to depositing donations into its bank account and paying bills from that account that were presented to it by the Dean of the KSC Business School. KSCF contracted with the Washington Policy Group, Inc. ("WPG") to manage and raise funds for the course's development, production and distribution. Jeffrey Eisenach, GOPAC's Executive Director from June 1991 to June 1993 was the president and sole owner of WPG. WPG and Mr. Eisenach played similar roles with respect to AOW/ACTV.

When the contract between WPG and KSCF ended in the fall of 1993, the Progress and Freedom Foundation ("PFF") assumed the role WPG had with the course at the same rate of compensation. Mr. Eisenach was PFF's founder and president. Shortly after PFF took over the management of the course, the Georgia Board of Regents passed a resolution prohibiting any elected official from teaching at a Georgia state educational institution. This was the culmination of a controversy that had arisen around the course at KSC. A group of KSC faculty had objected to the course being taught on the campus because of a belief that it was an effort to use the college to disseminate a political message. Because of the Board of Regent's decision and the controversy, it was decided that the course would be moved to a private college.

The course was moved to Reinhardt for the 1994 and 1995 sessions. While there, PFF assumed full responsibility for the course. PFF no longer received payments to run the course but, instead, took in all contributions to the course and paid all the bills, including paying Reinhardt for the use of the college's video production facilities. All funds for the course were raised by and expended by PFF under its tax-exempt status.

3. FAILURE TO SEEK LEGAL ADVICE

Under the Internal Revenue Code, a 501(c)(3) organization must be operated exclusively for exempt purposes. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Conferring a benefit on private interests is a non-exempt purpose. Under the Internal Revenue Code, a 501(c)(3) organization is also prohibited from intervening in a political campaign or providing any support to a political action committee. These prohibitions reflect congressional concerns that taxpayer funds not be used to subsidize political activity.

During the Preliminary Inquiry, the Subcommittee consulted with an expert in the law of tax-exempt organizations and read materials on the subject. Mr. Gingrich's activities on behalf of AOW/ACTV and Renewing American Civilization, as well as the activities of others on behalf of those projects done with Mr. Gingrich's knowledge and approval, were reviewed by the expert. The expert concluded that those activities violated the status of the organizations under section 501(c)(3) in that, among other things, those activities were intended to confer more than insubstantial benefits on GOPAC, Mr. Gingrich, and Republican entities and candidates, and provided support to GOPAC.

At Mr. Gingrich's request, the Subcommittee also heard from tax counsel retained by Mr. Gingrich for the purposes of the Preliminary Inquiry. While that counsel is an experienced tax attorney with a sterling reputation, he has less experience in dealing with tax-exempt organizations law than does the expert retained by the Subcommittee. According to Mr. Gingrich's tax counsel, the type of activity involved in the AOW/ACTV and Renewing American Civilization projects would not violate the status of the relevant organizations under section 501(c)(3). He opined that once it was determined that an activity was "educational," as defined by the IRS, and did not have the effect of benefiting a private interest, it did not violate the private benefit prohibition. In the view of Mr. Gingrich's tax counsel, motivation on the part of an organization's principals and agents is irrelevant. Further, he opined that a 501(c)(3) organization does not violate the private benefit prohibition or political campaign prohibition through close association with or support of a political action committee unless it specifically calls for the election or defeat of an identifiable political candidate.

Both the Subcommittee's tax expert and Mr. Gingrich's tax counsel, however, agreed that had Mr. Gingrich sought their advice before embarking on activities of the type involved in AOW/ACTV and the Renewing American Civilization course, each of them would have advised Mr. Gingrich not to use a 501(c)(3) organization as he had in regard to those activities. The Subcommittee's tax expert said that doing so would violate 501(c)(3). During his appearance before the Subcommittee, Mr. Gingrich's tax counsel said that he would not have recommended the use of 501(c)(3) organizations to sponsor the course because the combination of politics and 501(c)(3) organizations is an "explosive mix" almost certain to draw the attention of the IRS.

Based on the evidence, it was clear that Mr. Gingrich intended that the AOW/ACTV and Renewing American Civilization projects have substantial partisan, political purposes. In addition, he was aware that political activities in the context of 501(c)(3) organizations were problematic. Prior to embarking on these projects, Mr. Gingrich had been involved with another organization that had direct experience with the private benefit prohibition in a political context, the American Campaign Academy. In a 1989 Tax Court opinion issued less than a year before Mr. Gingrich set the AOW/ACTV project into motion, the Academy was denied its exemption under 501(c)(3) because, although educational, it conferred an impermissible private benefit on Republican candidates and entities. Close associates of Mr. Gingrich were principals in the American Campaign Academy, Mr. Gingrich taught at the Academy, and Mr. Gingrich had been briefed at the time on the tax controversy surrounding the Academy. In addition, Mr. Gingrich stated publicly that he was taking a very aggressive approach to the use of 501(c)(3) organizations in regard to, at least, the Renewing American Civilization course.

Taking into account Mr. Gingrich's background, experience, and sophistication with respect to tax-exempt organizations, and his status as a Member of Congress obligated to maintain high ethical standards, the Subcommittee concluded that Mr. Gingrich should have known to seek appropriate legal advice to ensure that his conduct in regard to the AOW/ACTV and Renewing American Civilization projects was in compliance with 501(c)(3). Had he sought and followed such advice—after having set out all the relevant facts, circumstances, plans, and goals described above—501(c)(3) organizations would not have been used to sponsor Mr. Gingrich's ACTV and Renewing American Civilization projects.

4. MR. GINGRICH'S STATEMENTS TO THE COMMITTEE

In responding to the complaints filed against him concerning the Renewing American Civilization course, Mr. Gingrich submitted several letters to the Committee. His first letter, dated October 4, 1994, did not address the tax issues raised in Mr. Jones' complaint, but rather responded to the part of the complaint concerning unofficial use of official resources. In it Mr. Gingrich stated that GOPAC, among other organizations, paid people to work on the course. After this response, the Committee wrote Mr. Gingrich and asked him specifically to address issues related to whether the course had a partisan, political aspect to it and, if so, whether it was appropriate for a 501(c)(3) organization to be used to sponsor the course. The Committee also specifically asked whether GOPAC had any relationship to the course. Mr. Gingrich's letter in response, dated December 8, 1994, was prepared by his attorney, but it was read, approved, and signed by Mr. Gingrich. It stated that the course had no partisan, political aspects to it, that his motivation for teaching the course was not political, and that GOPAC neither was involved in nor received any benefit from any aspect of the course. In his testimony before the Subcommittee, Mr. Gingrich admitted that these statements were not true.

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[1] As general management and support fees, KSCF kept 2.5% of any money raised and KSC's Business School kept 7.5% of any money raised.

When the amended complaint was filed with the Committee in January 1995, Mr. Gingrich's attorney responded to the complaint on behalf of Mr. Gingrich in a letter dated March 27, 1995. His attorney addressed all the issues in the amended complaint, including the issues related to the Renewing American Civilization course. The letter was signed by Mr. Gingrich's attorney, but Mr. Gingrich reviewed and approved it prior to its being delivered to the Committee. In an interview with Mr. Cole, Mr. Gingrich stated that if he had seen anything inaccurate in the letter he would have instructed his attorney to correct it. Similar to the December 8, 1994 letter, the March 27, 1995 letter stated that the course had no partisan, political aspects to it, that Mr. Gingrich's motivation for teaching the course was not political, and that GOPAC had no involvement in nor received any benefit from any aspect of the course. In his testimony before the Subcommittee Mr. Gingrich admitted that these statements were not true.

The goal of the letters was to have the complaints dismissed. Of the people involved in drafting or editing the letters, or reviewing them for accuracy, only Mr. Gingrich had personal knowledge of the facts contained in the letters regarding the course. The facts in the letters that were inaccurate, incomplete, and unreliable were material to the Committee's determination on how to proceed with the tax questions contained in the complaints.

D. Statement of Alleged Violation

On December 21, 1996, the Subcommittee issued a Statement of Alleged Violation stating that Mr. Gingrich had engaged in conduct that did not reflect creditably on the House of Representatives in that by failing to seek and follow legal advice, Mr. Gingrich failed to take appropriate steps to ensure that activities with respect to the AOW/ACTV project and the Renewing American Civilization project were in accordance with section 501(c)(3); and that on or about December 8, 1994, and on or about March 27, 1995, information was transmitted to the Committee by and on behalf of Mr. Gingrich that was material to matters under consideration by the Committee, which information, as Mr. Gingrich should have known, was inaccurate, incomplete, and unreliable.

On December 21, 1996, Mr. Gingrich filed an answer with the Subcommittee admitting to this violation of House Rules.

The following is a summary of the findings of the Preliminary Inquiry relevant to the facts as set forth in the Statement of Alleged Violation.

II. SUMMARY OF FACTS PERTAINING TO AMERICAN CITIZENS TELEVISION

A. GOPAC

GOPAC was a political action committee organized under Section 527 of the Internal Revenue Code. As such, contributions to GOPAC were not tax-deductible.[2] GOPAC's goal was to attract people to the Republican party, develop a "farm team" of Republican state and local public officials who might one day run for Congress and, ultimately, create a Republican majority in the United States House of Representatives. (12/7/96 Callaway Tr. 9; 7/12/96 Eisenach Tr. 21; 7/17/96 Gingrich Tr. 17–20).[3] GOPAC did not undertake any projects that were not directed toward achieving that goal. (7/18/96 Gingrich Tr. 362; 12/7/96 Callaway Tr. 33).

GOPAC's mission was defined as follows:

> GOPAC's mission for the 1990's is to create and disseminate the doctrine which defines a caring, humanitarian reform Republican Party in such a way as to elect candidates, capture the United States House of Representatives and become a governing majority at every level of Government.

(Ex. 1, GOPAC3 137). This aspect of GOPAC's activities was further explained in a draft document from November 1989:

> As important as the creation of new doctrine is its *dissemination*. During the 1980s GOPAC and Newt Gingrich have led the way in applying new technology, from C–SPAN to video tapes, to disseminate information to Republican candidates and political activists.
>
> * * * * *
>
> But the Mission Statement demands that we do much more. To create the level of change needed to become a majority, the new Republican doctrine must be communicated to a broader audience, with greater frequency, in a more usable form. GOPAC needs a bigger "microphone." (emphasis in the original).

(Ex. 2, 283). GOPAC continued to support this approach to achieving its goals in subsequent years. For example, as stated in its Report to Shareholders dated April 26, 1993:

> While both "message" and "mechanism" are important, GOPAC's comparative advantage lies in developing new ideas—i.e. in the "message" part of the equation. GOPAC will thus continue to focus its efforts on developing and communicating our values in a way voters can understand and support.

(Ex. 3, Eisenach 2539).

From approximately 1986 through 1995, Mr. Gingrich served as the General Chairman of GOPAC. (7/17/96 Gingrich Tr. 15). In this role he came up with the ideas GOPAC used for its political messages and themes, as well as its vision, strategy, and direction. -(7/17/96 Gingrich Tr. 20; 7/15/96 Gaylord Tr. 21–22; 6/26/96 Hanser Tr. 81; 7/12/96 Eisenach Tr. 22–23; 7/3/96 Rogers Tr. 54–56; 6/27/96- Nelson Tr. 22–23; 12/7/96 Callaway Tr. 6, 9).

B. American Opportunities Workshop/American Citizens Television

1. BACKGROUND

In early 1990, GOPAC embarked on a project to produce a television program called the American Opportunities Workshop ("AOW"). The idea for this project came from Mr. Gingrich and he was very involved in developing the message it used. (12/7/96 Callaway Tr. 11, 12, 14; 7/12/96 Eisenach Tr. 16; 12/5/96 Eisenach Tr. 10; 12/9/96 Riddle Tr. 14; 12/9/96 Gingrich Tr. 12).[4] AOW was broadcast on May 19, 1990, on the Family Channel and was hosted by Mr. Gingrich. (Ex. 4, GOPAC3 181).

One of the purposes of the program was to build a citizens' movement that would communicate the principles of Entrepreneurial Free Enterprise, Basic American Values, and Technological Progress. (Ex. 5, FAM 0011; 12/7/96 Callaway Tr. 14). These principles were called the "Triangle of American Success." (Ex. 4, GOPAC3 181). AOW consisted of workshops set up throughout the country where activists could gather to watch the broadcast and, in the words of those responsible for AOW, help build a citizens' movement and increase citizen involvement. (12/7/96 Callaway Tr. 14, 15; 12/9/96 Riddle Tr. 12, 13). Approximately 600 workshop cites were established where approximately 20,000 people watched the program. (Ex. 6, Eisenach 0359). The target group for the program was nonvoters. (Ex. 7, WGC2–01025).

As stated by GOPAC's then-Executive Director, Kay Riddle, the purpose of creating the citizens' movement and attempting to increase citizen involvement was to get people to solve their own community problems and not look to the federal government for help. (12/9/96 Riddle Tr. 13). Ms. Riddle went on to say, "Another product of that would be, of course, if we got people interested * * *, we hoped and believed that eventually they would vote Republican." (12/9/96 Riddle Tr. 13). "[W]e [at GOPAC] truly believed that the more we could involve people and educate people, the more likely we were to have people vote Republican." (12/9/96 Riddle Tr. 14–15). Similarly, Mr. Callaway characterized the message of AOW as follows:

> But I think, fundamentally * * * it was a message that Republican principles are sound principles, that everything does not need to be done by government, that you can do better by trusting individuals to act for themselves than you can by having government tell individuals what they must do, that a smaller government is frequently better than a larger government, that it is better to reduce taxes than raise taxes. I think it is Republican kinds of issues.

(12/7/96 Callaway Tr. 12–13).

Producing AOW was very expensive. (12/7/96 Callaway Tr. 16; 6/14/96 Callaway Tr. 21–22). It cost over $500,000 and consumed approximately 62% of GOPAC's budget for the first half of 1990. (Ex. 8, 1273). It was envisioned that the project would continue beyond May 19, 1990 (12/5/96 Eisenach Tr. 46; Ex. 4, GOPAC3 181) and prior to its airing, Mr. Gingrich, Mr. Callaway and others decided to have the project's follow-on activities transferred to a 501(c)(3) organization. (Ex. 9, Eisenach 3909; 12/5/96 Eisenach Tr. 49; 12/7/96 Callaway Tr. 80). The organization chosen was the Abraham Lincoln Opportunity Foundation ("ALOF"). The project was transferred to ALOF so that it could be funded with tax-deductible money. (12/9/96 Riddle Tr. 19).

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[2] See September 6, 1996 letter from the tax counsel Mr. Gingrich hired during the Preliminary Inquiry, James Holden, at page 41: "Contributions made to organizations described in section 501(c)(3) qualify generally as charitable deductions under section 170(c)(2). In contrast, contributions made to section 501(c)(4) and section 527 organizations do not qualify as charitable deductions. For this reason, exempt organizations that are described in section 501(c)(3) enjoy the substantial advantage of being able to attract donations that are deductible on the tax returns of contributors."

[3] Citations containing a "Tr." indicate the page of the transcript from a witness's interview. The date of the interview is also provided in the citation.

[4] The Committee's Special Counsel, James Cole, interviewed Mr. Gingrich on July 17, 1996; July 18, 1996; and December 9, 1996. Mr. Gingrich appeared before the Investigative Subcommittee to give testimony on November 13, 1996, and December 10, 1996.

ALOF was established in 1984 in Colorado by Mr. Callaway to fund programs for inner city youth. (6/14/96 Callaway Tr. 26). It had been inactive for some time prior to 1990 and was revived for the purpose of taking over the successor activities of AOW. (12/7/96 Callaway Tr. 84). Under ALOF the project became know as American Citizens' Television ("ACTV"). Mr. Callaway was the President of ALOF and Kay Riddle was the Secretary. Mr. Callaway was also GOPAC's Chairman and Ms. Riddle was also GOPAC's Executive Director. ALOF hired some GOPAC employees on a full-time basis, used other GOPAC employees and consultants on a part-time basis, and used GOPAC offices and facilities. (12/7/96 Callaway Tr. 7, 11, 13, 14, 73–75).

ACTV was designed to continue AOW's work of building a citizens' movement based on the "Triangle of American Success" and had the same goals as AOW. (Ex. 5, FAM 0011; 12/7/96 Callaway Tr. 14; 12/9/96 Riddle Tr. 16; 12/9/96 Gingrich Tr. 8). In order to ensure a smooth transition, materials concerning ACTV were given to all AOW participants on May 19, 1990. (Ex. 6, Eisenach 0361).

ACTV produced three television programs in 1990—one on July 21 which discussed the use of local access cable television for activist movements; one on September 29 which discussed educational choice;[5] and one on October 27 which was about Taxpayers' Action Day. The last program was primarily the responsibility of the Council for Citizens Against Government Waste ("CCAGW"), a 501(c)(4) organization. This was due to the fact that the content of the program was deemed to be inappropriate for ALOF to sponsor as a 501(c)(3) organization. (Ex. 10, FAM 0024). While CCAGW paid for all of the out-of-pocket expenses (e.g., production expense and broadcast time), ALOF still provided support through its staff. (Ex. 11, Eisenach 4254; 12/5/96 Eisenach Tr. 5, 67). Each program was broadcast on the Family Channel.

In setting up ACTV it was understood that Mr. Gingrich would maintain his involvement and control over the programs. (Ex. 12, WGC2–01337). While some say that he was not very involved when it became ACTV, (e.g., 12/7/96 Callaway Tr. 14), there is evidence that his involvement continued. Mr. Gingrich hosted the first ACTV program. Mr. Gingrich also introduced and closed the second program in September. The host was Pete DuPont, but Mr. Gingrich was featured for a significant portion of the program. While the last program in October was paid for primarily by CCAGW, Mr. Gingrich approved its use on ACTV. (Ex. 11, Eisenach 4254).

Both AOW and ACTV were described to the public as non-partisan. (Ex. 6, Eisenach 0361). Much of the documentation that was either internal to GOPAC or sent to its supporters, however, indicates a partisan, political purpose. While GOPAC, as a political action committee, could freely engage in partisan, political activity, ALOF, as a 501(c)(3) organization could not. Because ACTV was described as a continuation of the activities of AOW (12/7/96 Callaway Tr. 13–15; 12/5/96 Eisenach Tr. 8; Ex. 5, FAM 0011), documents were reviewed during the Preliminary Inquiry relating to both projects to determine what the goals were for the two projects.

GOPAC contracted with an organization called the Washington Policy Group ("WPG") to manage AOW. (7/12/96 Eisenach Tr. 298). Jeffrey Eisenach was president and sole owner of WPG and the project coordinator for AOW. (7/12/96 Eisenach Tr. 298). Mr. Eisenach was also responsible for managing ALOF's ACTV programs. (12/7/96 Callaway Tr. 16). WPG was essentially Mr. Eisenach's "personal consulting firm" and usually had two or three employees. (7/12/96 Eisenach Tr. 9). WPG used GOPAC office space and equipment as part of its compensation. (11/14/96 Eisenach Tr. 60). In addition to its work on AOW and ACTV, WPG had a consulting contract with GOPAC from January 1989 through September 1993. (7/12/96 Eisenach Tr. 9, 10, 298). Through WPG's contract with GOPAC, Mr. Eisenach "provided research assistance and advice to Mr. Gingrich, strategic advice to GOPAC and worked on some specific projects, focus groups and so forth, for GOPAC." (7/12/96 Eisenach Tr. 9). Mr. Eisenach was also the Executive Director of GOPAC from June 1991 to June 1993. (7/12/96 Eisenach Tr. 8).

2. PLANNING AND PURPOSE FOR AOW/ACTV

A document entitled "Key Factors in a House GOP Majority" appears to be one of the earliest documents pertaining to the purpose of AOW and ACTV. A typed version and a handwritten version of the document were produced during the Preliminary Inquiry. The handwritten version is in Mr. Gingrich's handwriting. In it he wrote:

> 1. The fact that 50% of all potential voters are currently outside politics (non-voters) creates the possibility that a new appeal might alter the current balance of political power by bringing in a vast number of new voters.
>
> * * * * *
>
> 3. It is possible to articulate a vision of "an America that can be" which is appealing to most Americans, reflects the broad values of a governing conservatism (basic American values, entrepreneurial Free Enterprise and Technological progress), and is very difficult for the Democrats to co-opt because of their ideology and their interest groups.
>
> 4. It is more powerful and more effective to develop a reform movement parallel to the official Republican Party because:
>
> * * * * *
>
> b. the non-voters who are non-political or anti-political will accept a movement more rapidly than they will accept an established party;
>
> * * * * *
>
> 5. As much as possible, the House Republican Party, the Bush Administration, Senate Republicans, incumbent Republicans across the country, the NRCC, RNC, SRCC and the conservative movement should be briefed on movement developments; conflict within this broad group should be minimized and coordination maximized.
>
> 6. The objective measurable goal is the maximum growth of news coverage of our vision and ideas, the maximum recruitment of new candidates, voters and resources, and the maximum electoral success in winning seats from the most local office to the White House and then using those victories to implement the values of a governing conservatism and to create the best America that can be.

(Ex. 13, Eisenach 4838–4839 (typed version) and Eisenach 4832–4834 (handwritten version)).

When asked about AOW and ACTV, Mr. Gingrich said he had very little recollection of the projects. He said he was distracted by other events at the time such as his re-election efforts, legislative issues, and becoming Republican Whip. (12/9/96 Gingrich Tr. 19, 39, 43). He said he had no recollection of the "Key Factors in a House GOP Majority" document, did not know if it related to AOW or ACTV, and did not know the purpose for which it was written. (12/9/96 Gingrich Tr. 31). An analysis of other documents, however, shows its relationship to the AOW/ACTV projects. Mr. Callaway said in his interview that the goals set forth in the "Key Factors in a House GOP Majority" document were the same as those for AOW and ACTV. (12/7/96 Callaway Tr. 37–38).

As stated above, AOW was targeted to non-voters. (Ex. 7, WGC2–01025). The "Key Factors in a House GOP Majority" document notes that non-voters are the ones to appeal to in order to change the balance of power. AOW/ACTV based the citizens' movement on the "Triangle of American Success" which was made up of basic American values, entrepreneurial free enterprise, and technological progress. (Ex. 5, FAM 0011; 12/7/96 Callaway Tr. 14). The "Key Factors in a House GOP Majority" document indicates that it will use those same three principles to appeal to non-voters. AOW/ACTV was focused on building a non-partisan citizens' movement. (Ex. 6, Eisenach 0358–0359; Ex. 5, FAM 0011). In the "Key Factors in a House GOP Majority" document, Mr. Gingrich states that "[i]t is more powerful and more effective to develop a reform movement parallel to the official Republican Party because . . . the non-voters who are non-political or anti-political will accept a movement more rapidly than they will accept an established party." (Ex. 13, Eisenach 4838 and Eisenach 4832).

In a congressional briefing Mr. Gingrich gave concerning AOW on March 30, 1990, he described AOW/ACTV as follows:

> It is our goal to define our position as a caring humanitarian reform party applying the triangle of American success and applying common sense focused on success and opportunities to explain in general terms for the whole fall campaign, and again some Democrats will pick up the language and this is open to everybody, this is a free country, we think on balance it is vastly more advantageous to us than it is to the left since they are the party of big city machines, they are the party of the unions, they're much more tied to the bureaucratic welfare state.

(Ex. 15, WGC2 06081, pp. 17–18). The "Key Factors in a House GOP Majority" document notes that the message of the citizens' movement is designed not to be useful for Democrats because it will be "very difficult for [them] to co-opt [the ideas] because of their ideology and their interest groups." (Ex. 13, Eisenach 4838 and 4832–4833).

At the congressional briefing, Mr. Gingrich spoke of a focus group that was commissioned to assist in the AOW/ACTV effort. He described it as "the largest focus group project ever undertaken by the Republican Party." (Ex. 14, WGC2 06081, p. 8). He said it concentrated on non-voters under 40 years of age (Ex. 14, WGC2 06081, p. 8) and tested negative language like "the bureaucratic welfare state" and positive language like the "Triangle of American Success," "Entrepreneurial Free Enterprise," "Technological Progress and Innovation," and "Basic American Values." (Ex. 14, WGC2 06081, pp. 10–11).

Near the end of the briefing Mr. Gingrich explained the reasons for having the program labeled as non-partisan:

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[5] A 1989 draft GOPAC document indicates that one of GOPAC's projects designed to "create and disseminate the new Republican doctrine for the 1990's" would be the Education Choice Coalition. (Ex. 2, 284).

> Lastly I was going to make the point one of the reasons we are reaching out and we really urge people to be nonpartisan and be wide open. But we have two reasons. First, there are a lot of former Democrats. Andy Ireland, Ronald Reagan, Phil Gramm, Jean Kirkpatrick, Connie Mack, you go down the list, a surprising list of people who looked at both sides and decided we were right. That we were more open, we were moving in the right direction.
>
> But second, most young people under 40 are not politicized. The minute you politicize this and you make it narrow and you make it partisan—you lose them.

(Ex. 14, WGC2 06081, pp. 23–24).

The focus group Mr. Gingrich referred to was commissioned by GOPAC in early 1990. It was performed by Market Strategies, Inc. The July 10, 1990 report on the results of the focus group described the project as follows:

> This research project is part of an overall effort to build a new governing majority in the United States formed around conservative principles. Historically, building a new majority has involved three essential tasks: activating a group of non-participating citizens to support an existing party (or form a new party), constructing a theory or explanation of what is right and wrong in society with which the non-participating citizens agree, and developing the right language (political rhetoric) to communicate that theory to the non-participating citizens. This project is the first of several research projects to be sponsored by GOPAC to help achieve these three tasks in this decade.

(Ex. 15, MSI 0030). The report then describes the specific language it tested as follows:

> The theory's explanation of what is wrong in society was put in terms of "the bureaucratic welfare state" and the "values of the left." The theory's explanation of what is good in society was put in terms of "technological progress," "entrepreneurial free enterprise," and "basic American values" which were summarized as "the Triangle of American Success."

(Ex. 15, MSI 0030).

In describing the target group for building the new governing majority, the report states:

> The potential for a new governing majority exists because of the large and growing numbers of non-participating citizens in our political system.

* * * * *

> Consequently, a major premise for the research project is that younger citizens are the right target group for a new majority strategy and that a political theory and language needs to be effective with them if it is to be effective at all. Supporting this premise is an additional opportunity (to their not voting now) about younger voters—they are already predisposed to vote Republican.

(Ex. 15, MSI 0031–0032).

3. LETTERS DESCRIBING PARTISAN, POLITICAL NATURE OF AOW/ACTV

A number of GOPAC letters also indicate the purpose behind AOW/ACTV. Some are signed, some are not, but the ones that are not signed were apparently in GOPAC's files for some years, indicating that they were probably sent out. For example, in a signed letter dated February 21, 1990, to members of GOPAC's Executive Finance Committee, Mr. Callaway wrote that:

> The next two years are absolutely critical to all that we hope to accomplish. Our May 19 project [AOW] will go a long way toward helping Republicans set an agenda and persuading Americans to realign with us.

(Ex. 16, GOPAC3 484). A copy of this letter was sent to Mr. Gingrich. Written across the top of his copy, in his handwriting, is "Newt 2/20/90." (Ex. 16, WGC2–03992). According to Mr. Gingrich this probably meant he had seen the letter (12/9/96 Gingrich Tr. 36–37); however, he did not recall the content of this letter during an interview with Mr. Cole. (12/9/96 Gingrich Tr. 35).

An unsigned letter, apparently prepared for Mr. Callaway's signature,[6] dated March 7, 1990, states:

> Our May 19th American Opportunities Workshop is the single most exciting project I've ever undertaken. I consider this program critical to our efforts to become a Republican majority.

* * * * *

> In order to encourage Americans to vote—and vote Republican—so that we may enact our policies of opportunity, we must reach them with our vision of hope.
>
> It is time for our message and program, now proven among those in the trenches, to be shared with the Americans who are not motivated by our current government to go to the polls or get involved.

* * * * *

> The American Opportunities Workshop is GOPAC's answer to teaching and empowering the American people. We hope that the citizen movement launched by this project will be the key to a future of Republican governance.

(Ex. 17, 425–426). A March 16, 1990 GOPAC letter over Mr. Gingrich's name discusses the purpose behind AOW.

> Through the use of satellite hook-ups, not only can we reach new groups of voters not traditionally associated with our Party, but we'll be able to give them our message straight, without it being filtered and misinterpreted by liberal elements in the media.

* * * * *

> Because I believe it has such great potential for helping President Bush, our candidates and our Party, I told Bo to move ahead with planning the workshop.

* * * * *

> I truly believe that our Party and our President stand on the verge of a tremendous success this year, and that this workshop can be a great election year boost to us.

(Ex. 18, 2782–2783). Mr. Gingrich did not recall this document. When asked whether AOW was intended to be an election year boost, he said that it may have been, but he also thought it was idea oriented. (12/9/96 Gingrich Tr. 39–40).

In an unsigned letter addressed to Mr. Thorton Stearns, apparently written for Mr. Callaway's signature,[7] the AOW project and its purpose were described as follows:

> With more than 600 workshop sites across the country, 30,000 participants, and extensive media coverage, AOW was a significant success on its own terms. However, the real reason GOPAC took on AOW was to explore an innovative new mechanism for creating and motivating the new Republican majority of the 1990s.

(Ex. 19, GOPAC3 467). In a letter over Mr. Gingrich's name dated June 21, 1990, AOW and ACTV are explicitly tied together in an effort to achieve the same goal of building the Republican Party and trying to have an impact on political campaigns. The letter states:

> These are exciting times at GOPAC and we have been quite busy lately. I am excited about [the] progress of the "American Citizens' Television" project, which will carry the torch of citizen activism begun by our American Opportunities Workshop on May 19th. We mobilized thousands of people across the nation at the grass roots level who as a result of AOW, are now dedicated GOPAC activists. We are making great strides in continuing to recruit activists all across America to become involved with the Republican party. Our efforts are literally snowballing into the activist movement we need to win in '92.

(Ex. 20, GOPAC3 224). Mr. Gingrich said that the signature on the letter was not his. (12/9/96 Gingrich Tr. 40). Mr. Gingrich said that the above statement did not reflect the purpose of AOW or ACTV. (12/9/96 Gingrich Tr. 41).

Finally, an August 27, 1990 memorandum from Mr. Callaway to Mr. Gingrich and Jim Tilton[8] gives insight to the goals of the AOW/ACTV projects. (Ex. 21, Eisenach 3950–3959). The memorandum discusses a meeting the three men had five days earlier. Based on the memorandum, the main topic focused on how GOPAC should proceed in the future. The problems addressed in the meeting concerned the fact that AOW/ACTV had diverted too much money and attention from traditional GOPAC efforts. This caused erosion in support from GOPAC members. The three men decided to try one more ACTV program on September 29, 1990. If additional funding was not available beyond that point, the project would not be continued. They decided that it needed to be "a very strong program that is controversial enough to stir up our Charter members and other constituents." (Ex. 21, Eisenach 3951). The show that was chosen was on educational choice, which was a specific GOPAC project.

The memorandum recounted that Mr. Gingrich had reviewed all the options set forth and concluded the following:

> Newt then stated firmly that he feels we need to go back to basics for now through 1992. That the only special projects for 1992 should be 1992 election oriented projects. Newt has now concluded that you can't really affect 1992 elections indirectly—we must do it directly through political programs.

(Ex. 21, Eisenach 3950).[9] Mr. Callaway said that this paragraph could have been referring to ACTV, but he did not have a clear recollection. (12/5/96 Callaway Tr. 62).

4. AOW/ACTV IN MR. GINGRICH'S CONGRESSIONAL DISTRICT

While AOW/ACTV was supposed to be nonpartisan, two memoranda indicate that there was some effort to ensure that workshops were set up in Mr. Gingrich's congressional district. In a memorandum to Mr. Callaway, dated February 8, 1990, Mr. Eisenach wrote:

> An area for immediate attention is "targets of opportunity"—e.g. Georgia's 6th District, Colorado, and the D.C. area. We need to identify resources to ensure that we maximize our returns in these three areas, and other specific target areas we might add later. In particular, we need to put very high on our agenda the task of identifying a 6th District Coordinator.

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[6] According to Mr. Callaway this letter may have been sent out, but he did not have a specific recollection of it. (12/7/96 Callaway Tr. 49).

[7] According to Mr. Callaway this letter may have been sent out, but he again did not have a specific recollection of it. (12/7/96 Callaway Tr. 58).

[8] Jim Tilton was an unpaid senior advisor to GOPAC. He was an attorney and a close friend of Mr. Gingrich. (12/10/96 Gingrich Tr. 10, 11, 56, 57).

[9] A GOPAC statement of "Revenue and Expenses" attached to this memorandum shows a single line item for "AOW/ACTV." (Ex. 21, Eisenach 3957).

(Ex. 22, Eisenach 3811). Similarly, in a March 30, 1990 memorandum from Mr. Gingrich to Joe Gaylord and Mary Brown, the following is written:

> The GOPAC print-out shows only one very tentative (Clay Davis) site in my district. Time is getting short for finding sites and GOPAC needs to have the hosts identified as soon as possible to get materials to them to make the workshops a success.
>
> Please make this a high priority.

(Ex. 23, GOPAC3 460). Mr. Gingrich did not recall this memorandum and said that there was an effort to target the 6th District—his congressional district—"only in the sense that we hosted [AOW] from there." (12/9/96 Gingrich Tr. 19).

5. GOPAC'S CONNECTION TO ALOF AND ACTV

As has been previously discussed, ACTV was a continuation of AOW and ALOF used GOPAC's offices and facilities. In his interview, Mr. Callaway stated a number of times that GOPAC was separate from ALOF. (12/7/96 Callaway Tr. 64, 65–66, 68–69, 73). A number of documents, however, from 1990 indicate that ALOF and ACTV had significant connections to GOPAC.

In a June 26, 1990 memorandum to Mr. Callaway, Mr. Eisenach recounts a discussion the two men had that morning with Mr. Gingrich. During that discussion, Mr. Gingrich gave them a handout that "identified three GOPAC/ALOF zones: 1. Local Elections, 2. Planning/R&D, 3. Movement." (Ex. 24, Eisenach 4039). The memorandum goes on to discuss how GOPAC and ALOF will relate to each other.

During the Preliminary Inquiry GOPAC produced copies of its "Confidential Masterfile Reports" that were used to keep track of contributors. Under the section entitled "Giving History" the 1990 reports list two entities: GOPAC and ALOF. (Ex. 25, GOPAC3 0510). Attached to these reports are copies of correspondence from both GOPAC and ALOF to contributors. (Ex. 25, GOPAC3 0511–0515).

An August 13, 1990 memorandum from Mr. Callaway to Mr. Gingrich lists the three broad things GOPAC does. The third one listed is "Projects such as ACTV, AOW and focus groups." (Ex. 26, Eisenach 4251).[10]

GOPAC's Report to Charter Members dated November 11, 1990, includes a section on Community Activism. (Ex. 4, GOPAC3 180–188). In that section it discusses AOW and ACTV. While it states that ACTV is "legally no longer a GOPAC project," it goes on to discuss ACTV in terms which indicate that it continued to be treated as a GOPAC project. For example it states that "Our mission is to establish ACTV as a new, interactive information network." (Ex. 4, GOPAC3 181). The Charter Member Report is worded in a manner that indicates ACTV was considered a GOPAC project. For example, it uses phrases like "Our goal" with ACTV, "Our next ACTV program," and "Our program was hosted by * * *." (Ex. 4, GOPAC3 181–182). At the end of the report under the heading "Getting Out the Message," there is a chart showing the AOW and ACTV programs. It then lists how many workshops were set up for each program and what the estimated attendance was for these workshops. (Ex. 4, GOPAC3 183).

6. GOPAC FUNDING OF ALOF AND ACTV[11]

When ALOF began to operate in June 1990 it had less than $500 in its bank account. (Ex. 27, CNB 006). It obtained a loan for $25,000 from the Central Bank of Denver in late June and received some direct contributions. These came from a foundation associated with Mr. Callaway, the Family Channel, and at least one other GOPAC supporter. (Ex. 28, ALOF 0050). In addition, GOPAC loaned ALOF $45,000 in 1990, and $29,500 in early 1991 to pay for production expenses. The total of loans from GOPAC to ALOF was $74,500. (Ex. 35, ALOF 0030).

ALOF's last program was broadcast in October 1990. In 1991 and 1992 it did not engage in any activities. In 1991, Citizens Against Government Waste contributed $37,000 to ALOF and Mr. Callaway's foundation contributed $10,000. (Ex. 28, ALOF 0090). The total, $47,000, was given to GOPAC to be applied to the debt. (Ex. 37, CNB 0426, CNB 0428, CNB 0430, CNB 0432). After the $47,000 payment, ALOF owed GOPAC $27,500. (Ex. 28, ALOF 0064).[12]

In late 1991 and 1992, ALOF received contributions from a number of GOPAC supporters totalling $80,000. (Ex. 28, ALOF 0078). $70,000 of that amount was given to GOPAC. GOPAC's then-Executive Director, Mr. Eisenach, was involved in soliciting a number of these donations.

On February 27, 1992, Mr. Eisenach wrote to R. Randolph Richardson to ask him to become a Charter Member of GOPAC. In order to be a Charter Member, a person must contribute at least $10,000. In the letter Mr. Eisenach states:

> With respect to foundation funds, it is of course not appropriate for GOPAC to accept 501(c)(3) money. However, Bo Callaway does have a foundation, the Abraham Lincoln Opportunity Foundation (ALOF), which owes GOPAC a substantial sum of money. You might consider a contribution to ALOF, which would enable it to pay down its GOPAC debt, and thus be of enormous help in our efforts to change the Congress in 1992.

(Ex. 29, Eisenach 4652). Mr. Richardson's foundation, the Grace Jones Richardson Trust, wrote a $25,000 check to ALOF on April 14, 1992, and ALOF wrote a $25,000 check to GOPAC on April 23, 1992. (Ex. 38, CNB 0449, CNB 0445).

On March 16, 1992, Mr. Eisenach wrote a memorandum to June Weiss, GOPAC's Finance Director, concerning Mr. Callaway's Charter Member dues. The memorandum states:

> Bo has offered us a choice of (1) $10,000 from him or (2) $20,000 from ALOF. I indicated to him on the phone today I would tend to go for $20,000 over $10,000—in part, frankly, because I think we ought to go ahead and get the ALOF loan repaid and be done with it, as opposed to having it hanging around for another year.

(Ex. 30, Eisenach 3725). On March 23, 1992, Mr. Callaway's foundation donated $20,000 to ALOF. (Ex. 39, CNB 0443). On the same day, ALOF wrote a check to GOPAC for $20,000. (Ex. 39, CNB 0447). A letter was sent to Mr. Callaway on ALOF stationery thanking him for the contribution. It was signed by numerous members of GOPAC's staff. (Ex. 31, GOPAC2 0012).

Two other GOPAC Charter Members made contributions to ALOF which were immediately turned over to GOPAC. (Ex. 40, CNB 0217, CNB 0439, CNB 0441, CNB 0459). Handwritten notes relating to one of them indicates that a tax-deductible option for his contribution to GOPAC was discussed before the contribution to ALOF was made. (Ex. 32, GOPAC2 2424–2426).

As of 1993 ALOF had relocated its offices to Colorado. Its Colorado accountant was preparing the tax return for 1992 and saw the payments to GOPAC. In November she wrote to Kay Riddle, ALOF's Secretary, and asked for invoices from GOPAC to ALOF to support these payments. (Ex. 33, Newbill 0119). In December, Ms. Riddle wrote to GOPAC's accountant asking for those invoices. (Ex. 34, ALOF 0028). Several days later the accountant provided Ms. Riddle with a summary memorandum and a number of invoices. (Ex. 35, ALOF 0029–0030, ALOF 0027–0028, GOPAC3 0811). Some were undated. Some were dated in 1991. All concerned activities which were stated to have taken place in 1990 and there is no evidence that the invoices were written contemporaneously with the events for which they billed.[13]

The invoices, along with the previously mentioned loans, totaled $160,537.70. This consisted of rent ($12,718.08), postage and office supplies ($8,455.08), services of staff and consultants ($64,864.54), and the loans ($74,500).[14] (Ex. 35, ALOF 0029, ALOF 0027, ALOF 0026, GOPAC3 0811). The time for the staff was apportioned to reflect the percentage of their work spent on ALOF business. Some of the consultants listed, however, did not keep any records reflecting the percentage of time they spent on specific projects and did not recall doing any work for ALOF. (12/2/96 Hanser Tr. 25; 12/5/96 Mahe Tr. 31). Records of one consultant did record the time he spent on ALOF business, but it was substantially less than the time listed in the invoice. (Ex. 35, ALOF 0029; Ex. 36, WGC2–01378–01379, Eisenach 4276–4277, Eisenach 4302–4303). According to Ms. Riddle, she did not attempt to apportion time based on the actual hours spent by these people on ALOF business. Instead, she said she determined the percentages before any of the people had done any work based on her best guess of the time they would spend. (12/9/96 Riddle Tr. 69–70).

Of the total amount listed on the invoices of $160,537.70, ALOF paid GOPAC $117,000 between 1991 and 1992. (Ex. 35, ALOF 0029). This left a balance of $43,537.70, which, according to ALOF's 1993 tax return, was forgiven by GOPAC. (Ex. 28, ALOF 0089).[15]

According to Kathleen Taylor, a current employee of the Speaker's Office and the former Political Services Director for GOPAC, the lessons learned from AOW and ACTV were used for the Renewing American Civilization course discussed below. (6/28/96 Taylor Tr. 45). Those lessons were “[h]ow to get workshops sites, how to disseminate information, [and] mass-marketing the ideas.” (6/28/96 Taylor Tr. 45). In the same vein, a letter from Mr. Eisenach to Mr. Mescon containing the terms and conditions under which WPG would manage the Renewing American Civilization course states:

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[10] According to Mr. Callaway, the listing of ACTV was a "bad choice of words." (12/7/96 Callaway Tr. 70).

[11] There is no evidence that Mr. Gingrich had any significant involvement with this level of the financial aspects of the operations of ALOF. However, because these facts form part of the basis for a recommendation by the Subcommittee that the relevant materials gathered during the preliminary inquiry be made available to the Internal Revenue Service, the matter is set forth in some detail.

[12] The original debt from GOPAC listed on ALOF's tax returns was for $45,247. This is not supported by the checks from GOPAC to ALOF which only reflect $45,000. This additional $247 continued to be listed for the remaining years and was reflected in the ultimate forgiveness of a portion of this debt in 1993. It is not clear what the $247 represents.

[13] Because of her assertion of a Constitutional privilege, the Subcommittee was unable to interview the accountant for GOPAC and ALOF.

[14] In the tax return for ALOF for 1990, Part VII asks, among other things, whether ALOF had any transactions with a political action committee involving loans, shared facilities, equipment, or paid employees. Even though GOPAC was a political action committee the return answers "no" to all those questions. (Ex. 28, ALOF 0056). The accountant for ALOF, who was also the accountant for GOPAC, said that she had answered those questions in the negative based on her belief that these questions specifically excluded any transactions with political action committees. (10/31/96 Gilbert Tr. 18-20). She did not discuss this reading of the tax return with anyone at ALOF, but she did fill the form out in this way and they signed it without any questions. (10/31/96 Gilbert Tr. 21). This same error occurred in the tax return for 1991. (Ex. 28, ALOF 0069).

[15] The amount listed on the Return was $43,785. As referred to earlier, it is unclear what the $247 difference represents.

> Among our most significant project management undertakings was the 1990 “American Opportunities Workshop” and its successor, American Citizens' Television. Both of these projects bear significant similarities to the project you have asked us to get involved with, “Renewing American Civilization.” Thus, we enter this undertaking with both enthusiasm and a full understanding of the enormity and complexity of the undertaking.

(Ex. 41, Mescon 0651).

III. Summary of Facts Pertaining to “Renewing American Civilization”

A. Genesis of the Renewing American Civilization Movement and Course

In his interview with the Special Counsel, Mr. Gingrich said the idea for the course was first developed while he was meeting with Owen Roberts, a GOPAC Charter Member and advisor, for two days in December 1992. (7/17/96 Gingrich Tr. 11–12, 23–24; -7/15/96 Gaylord Tr. 23–24; Ex. 42, GOPAC2 2492). Mr. Gingrich wrote out notes at this meeting and they were distributed to some of his advisors. (Ex. 42, HAN 02103–02125; 6/26/96 Hanser Tr. 28; 7/15/96 Gaylord Tr. 24–25; 7/12/96 Eisenach Tr. 108–109).[16] A review of those notes indicates that the topic of discussion at this meeting centered mostly on a political movement. The notes contain limited references to a course and those are in the context of a means to communicate the message of the movement.

The movement was to develop a message and then disseminate and teach that message. (Ex. 42, HAN 02109). One of the important aspects of the movement was the creation of “disseminating groups and [a] system of communication and education.” (Ex. 42, HAN 02109). It also sought to “professionalize” the House Republicans by using the “message to attract voters, resources and candidates” and develop a “mechanism for winning seats.” (Ex. 42, HAN 02110). The ultimate goal of the movement was to replace the welfare state with an opportunity society, and all efforts had to be exclusively directed to that goal. (Ex. 42, HAN 02119). Ultimately, it was envisioned that “a Republican majority [would be] the heart of the American Movement * * *”. (Ex. 42, HAN 02117).[17] Mr. Gingrich's role in this movement was to be the “advocate of civilization,” the “definer of civilization,” the “teacher of the rules of civilization,” the “arouser of those who form civilization,” the “organizer of the pro-civilization activists,” and the “leader (possibly) of the civilizing forces.” (Ex. 42, HAN 02104). In doing this, he intended to “retain a primary focus on elected political power as the central arena and fulcrum by which a free people debate their future and govern themselves.” (Ex. 42, HAN 02104). The support systems for this movement included GOPAC, some Republican international organizations, and possibly a foundation. (Ex. 42, HAN 02121). There was substantial discussion of how to disseminate the message of the movement. (Ex. 42, HAN 02109, 02110, 02111). Some of the methods discussed for this dissemination included, “Possibly a series of courses with audio and videotape follow ons”/“Possibly a text-book (plus audio, video, computer) series”/“Campus (intellectual) appearances on ‘the histories’ Gingrich the Historian applying the lessons of history to public life.” (Ex. 2, HAN 02118). One of the tasks listed for 1993 is “Design vision and its communication and communicate it with modification after feedback.” (Ex. 2, HAN 02120). According to Mr. Gingrich, the course was to be a subset of the movement and was to be a primary and essential means for developing and disseminating the message of the movement. (7/17/96 Gingrich Tr. 42, 58; 11/13/96 Gingrich Tr. 126–127).

Another description of the Renewing American Civilization movement is found in notes of a speech Mr. Gingrich gave on January 23, 1993, to the National Review Institute. (Ex. 44, PFF 14473–14477, PFF 38279–38288).[18] In those notes, Mr. Gingrich wrote that “our generation's rendezvous with history is to launch a movement to renew American civilization.” (Ex. 44, PFF 14474). He noted that a majority of Americans favor renewing American civilization and that “[w]e are ready to launch a 21st century conservatism that will renew American civilization, transform America from a welfare state into an opportunity society and create a conservative governing majority.” (Ex. 44, PFF 14475). Mr. Gingrich then goes on to describe the five pillars of American civilization and the three areas where the movement needs to offer solutions.[19] He then wrote that if they develop solutions for those three areas they “will decisively trump the left. At that point either Clinton will adopt our solutions or the country will fire the president who subsidizes decay and blocks progress.” (Ex. 44, PFF 14476). The notes end with the following:

> We must renew American civilization by studying these principles, networking success stories, applying these success stories to develop programs that will lead to dramatic progress, and then communicating these principles and these opportunities so the American people have a clear choice between progress, renewal, prosperity, safety and freedom within America [sic] civilization versus decay, decline, economic weakness, violent crime and bureaucratic dominance led by a multicultural elite.
>
> Given that choice, our movement for renewing American civilization will not just win the White House in 1996, we will elect people at all levels dedicated to constructive proposals.

(Ex. 44, PFF 14477). (Emphasis in the original).[20]

In a draft document entitled “Renewing American Civilization Vision Statement,” written by Mr. Gingrich and dated March 19, 1993, he again described the movement in partisan terms and emphasized that it needed to communicate the vision of renewing American civilization on very large scale. (Ex. 46, WGC 00163–00171, WGC 00172–00191). He wrote that renewing American civilization will require “a new party system so we can defeat the Democratic machine and transform American society into a more productive, responsible, safe country by replacing the welfare state with an opportunity society.” (Ex. 46, WGC 00163).

B. Role of the Course in the Movement

Mr. Gingrich was asked about the role of the course in the movement. He said that the course was “the only way actually to develop and send * * * out” the message of the movement. (7/17/96 Gingrich Tr. 42). In a later interview, he modified this statement to say that the course was “clearly the primary and dominant method; it was not the only way one could have done it. But I think it was essential to do it, to have the course.” (11/13/96 Gingrich Tr. 126–127).

The earliest known documentary reference to the course in the context of the movement is in an agenda for a meeting held on February 15, 1993, at GOPAC's offices. The meeting had two agenda items: “I. General Planning/Renewing American Civilization” and “II. Political/GOPAC Issues.” (Ex. 47, JR–0000645–0000647). Under the first category, one topic listed is “American Civilization Class/Uplink.” (Ex. 47, JR–0000645). Under the second category two of the items listed are “GOPAC Political Plan & Schedule” and “Charter Meeting Agenda.” (Ex. 47, JR–0000645).[21] Attached to the agenda for this meeting is a “Mission Statement” written by Mr. Gingrich which applied to the overall Renewing American Civilization movement, including the course. (7/12/96 Eisenach Tr. 248–249; 7/17/96 Gingrich Tr. 145–146). It states:

> We will develop a movement to renew American civilization using the 5 pillars of 21st Century Freedom so people understand freedom and progress is possible and their practical, daily lives can be far better.* As people become convinced American civilization must and can be renewed and the 5 pillars will improve their lives we will encourage them and help them to network together and independently, autonomously initiate improvements wherever they want. However, we will focus on economic growth, health,

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[16] Among the people who received copies of the notes were Mr. Hanser, Mr. Gaylord and Mr. Eisenach. In a subsequent memorandum to Gay Gaines and Lisa Nelson, as Ms. Gaines and Ms. Nelson were about to take over the management of GOPAC in October 1993, Mr. Gingrich described the roles each of the three men played in his life as follows:

> 1. Joe Gaylord is empowered to supervise my activities, set my schedule, advise me on all aspects of my life and career. He is my chief counselor and one of my closest friends. * * *
>
> 2. Steven Hanser is my chief ideas adviser, close personal friend of twenty years, and chief language thinker. * * *
>
> 3. Jeff Eisenach is our senior intellectual leader and an entrepreneur with great talent and determination. * * *

Ex. 43, GDC 11551, 11553).

[17] Mr. Gingrich said that he intended the movement to be international in scope. Until some point in 1995, however, its scope was only national. (7/17/96 Gingrich Tr. 33).

[18] This appears to be the earliest example of Mr. Gingrich speaking about the Renewing American Civilization movement. A draft of this document in Mr. Gingrich's handwriting is attached to the typed version of the notes.

[19] Although not mentioned in this speech, those five pillars and three areas are each separate lectures in what became the course.

[20] Two days later Mr. Gingrich delivered a Special Order on the House floor concerning Renewing American Civilization. In this speech he described a movement to renew American civilization, but did not mention the course. He did discuss the five pillars of American civilization and the three areas where solutions needed to be developed. (Ex. 45, LIP 00036–00045).

[21] It is not clear whether the meeting was exclusively a GOPAC meeting, but at least part of the agenda explicitly concerned GOPAC projects. As will be discussed later, GOPAC's political plan for 1993 centered on Renewing American Civilization. As also discussed below, GOPAC's April 1993 Charter Meeting was called “Renewing American Civilization” and employed breakout sessions for Charter Members to critique and improve individual components of the course on Renewing American Civilization. (7/17/96 Gingrich Tr. 69–70; 7/12/96 Eisenach Tr. 144–146; 7/15/96 Gaylord Tr. 46).

> and saving the inner city as the first three key areas to improve. Our emphasis will be on reshaping law and government to facilitate improvement in all of [A]merican society. We will emphasize elections, candidates and politics as vehicles for change and the news media as a primary vehicle for communications. To the degree Democrats agree with our goals we will work with them but our emphasis is on the Republican Party as the primary vehicle for renewing American civilization.
>
> *Renewing American Civilization must be communicated as an intellectual-cultural message with governmental-political consequences. (footnote in original)

(Ex. 47, JR–0000646).

In February 1993, Mr. Gingrich first approached Mr. Mescon about teaching the course at KSC. (Ex. 48, Mescon 0278; 6/13/96 Mescon Tr. 26–27). Mr. Gingrich had talked to Dr. Mescon in October or November 1992 about the general subject of teaching, but there was no mention of the Renewing American Civilization course at that time. (6/13/96 Mescon Tr. 12–14). The early discussions with Mr. Mescon included the fact that Mr. Gingrich intended to have the Renewing American Civilization course disseminated through a satellite uplink system. (Ex. 49, Mescon 0664; 6/13/96 Mescon Tr. 29–30).

Shortly before this discussion with Mr. Mescon, in late January 1993, Mr. Gingrich met with a group of GOPAC Charter Members. In a letter written some months later to GOPAC Charter Members, Mr. Gingrich described the meeting as follows:

> During our meeting in January, a number of Charter Members were kind enough to take part in a planning session on "Renewing American Civilization." That session not only affected the substance of what the message was to be, but also how best the new message of positive solutions could be disseminated to this nation's decision makers—elected officials, civic and business leaders, the media and individual voters. In addition to my present avenues of communication I decided to add an avenue close to my heart, that being teaching. I have agreed with Kennesaw State College, * * * to teach "Renewing American Civilization" as a for-credit class four times during the next four years.
>
> Importantly, we made the decision to have the class available as a "teleseminar" to students all across the country, reaching college campuses, businesses, civic organizations, and individuals through a live "uplink," video tapes and audio tapes. Our hope is to have at least 50,000 individuals taking the class this fall and to have trained 200,000 knowledgeable citizen activists by 1996 who will support the principles and goals we have set.

(Ex. 50, Kohler 137–138).[22] During an interview with the Special Counsel, Mr. Gingrich said he doubted that he had written this letter and said that the remark in the letter that the Charter Members' comments played a large role in developing the course "exaggerates the role of GOPAC." The letter was written to "flatter" the Charter Members. (11/13/96 Gingrich Tr. 129–130).

In a March 29, 1993 memorandum, Mr. Gingrich specifically connects the course with the political goals of the movement. The memorandum is entitled "Renewing American Civilization as a defining concept" and is directed to "Various Gingrich Staffs."[23] The original draft of the memorandum is in Mr. Gingrich's handwriting. (Ex. 51, GDC 08891–08892, GDC 10236–10238). In the memorandum, Mr. Gingrich wrote:

> I believe the vision of renewing American civilization will allow us to orient and focus our activities for a long time to come.
>
> At every level from the national focus of the Whip office to the 6th district of Georgia focus of the Congressional office to the national political education efforts of GOPAC and the re-election efforts of FONG[24] we should be able to use the ideas, language and concepts of renewing American civilization.

(Ex. 51, GDC 08891).

In the memorandum, he describes a process for the dissemination of the message of Renewing American Civilization to virtually every person he talks to. This dissemination includes a copy of the Special Order speech and a one-page outline of the course. He then goes on to describe the role of the course in this process:

> The course is only one in a series of strategies designed to implement a strategy of renewing American civilization.

(Ex. 51, GDC 08891). Another strategy involving the course is:

> Getting Republican activists committed to renewing American civilization, to setting up workshops built around the course, and to opening the party up to every citizen who wants to renew American civilization.

(Ex. 51, GDC 08892).[25] Jana Rogers, the Site Host Coordinator for the course in 1993, was shown a copy of this memorandum and said she had seen it in the course of her work at GOPAC. (7/3/96 Rogers Tr. 64). She said that this represented what she was doing in her job with the course. (7/3/96 Rogers Tr. 67–69). Steve Hanser, a paid GOPAC consultant and someone who worked on the course, also said that the contents of the memorandum were consistent with the strategy related to the movement. (6/28/96 Hanser Tr. 42–45).

The most direct description of the role of the course in relation to the movement to renew American civilization is set out in a document which Mr. Gingrich indicates he wrote. (7/17/96 Gingrich Tr. 162–163). The document has a fax stamp date of May 13, 1993 and indicates it is from the Republican Whip's Office. (Ex. 52, GDC 10639–10649). The document has three parts to it. The first is entitled "Renewing America Vision" (Ex. 52, GDC 10639–10643); the second is entitled "Renewing America Strategies" (Ex. 52, GDC 10644–10646); and the third is entitled "Renewing American Civilization Our Goal." (Ex. 52, GDC 10647–10649). Mr. Gingrich said that the third part was actually a separate document. (7/17/96 Gingrich Tr. 162–164). While all three parts are labeled "draft," the document was distributed to a number of Mr. Gingrich's staff members and associates, including Mr. Hanser, Ms. Prochnow, Ms. Rogers, Mr. Gaylord, Mr. Eisenach, and Allan Lipsett (a press secretary). Each of the recipients of the document have described it as an accurate description of the Renewing American Civilization movement. (6/28/96 Hanser Tr. 48, 53; 7/10/96 Prochnow Tr. 70–71; 7/3/96 Rogers Tr. 71–75; 7/15/96 Gaylord Tr. 66–67; 7/12/96 Eisenach Tr. 148–149, 272–275; Lipsett Tr. 30–31).[26] In the first section, Mr. Gingrich wrote:

> The challenge to us is to be positive, to be specific, to be intellectually serious, and to be able to communicate in clear language a clear vision of the American people and why it is possible to create that America in our generation.
>
> Once the American people understand what they can have they will insist that their politicians abolish the welfare state which is crippling them, their children, and their country and that they replace it with an opportunity society based on historically proven principles that we see working all around us.

(Ex. 52, GDC 10643).

In the second portion of the document, Mr. Gingrich describes how the vision of renewing America will be accomplished. He lists thirteen separate efforts that fall into categories of communication of the ideas in clear language, educating people in the principles of replacing the welfare state with an opportunity society, and recruiting public officials and activists to implement the doctrines of renewing American civilization. (Ex. 52, GDC 10644–10646).

In the third section, Mr. Gingrich explicitly connects the course to the movement. First he starts out with three propositions that form the core of the course: (1) a refrain he refers to as the "four can'ts;"[27] (2) the welfare state has failed; and (3) the welfare state must be replaced because it cannot be repaired. (Ex. 52, GDC 10647; *see also* Ex. 54, PFF 18361, 18365–18367). He then described the goal of the movement:

> Our overall goal is to develop a blueprint for renewing America by replacing the welfare state, recruit, discover, arouse and network together 200,000 activists including candidates for elected office at all levels, and arouse enough volunteers and contributors to win a sweeping victory in 1996 and then actually implement our victory in the first three months of 1997.
>
> Our specific goals are to:
>
> 1. By April 1996 have a thorough, practical blueprint for replacing the welfare state that can be understood and supported by voters and activists.
>
> We will teach a course on Renewing American civilization on ten Saturday mornings this fall and make it available by satellite, by audio and video tape and by computer to interested activists across the country. A month will then be spent redesigning the course based on feedback and better ideas. Then the course will be retaught in Winter Quarter 1994. It will then be rethought and redesigned for nine months of critical reevaluation based on active working groups actually applying ideas across the country the course will be taught for one final time in Winter Quarter 1996.
>
> 2. Have created a movement and momentum which require the national press corps

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[22] The letter goes on to state that: [L]et me emphasize very strongly that the "Renewing American Civilization" project is *not* being carried out under the auspices of GOPAC, but rather by Kennesaw State College and the Kennesaw State College Foundation. We will not be relying on GOPAC staff to support the class, and I am not asking you for financial support.

(Ex. 50, Kohler 138) (emphasis in the original).

[23] At the top of this memorandum is a handwritten notation (not Mr. Gingrich's) stating: "Tuesday 4 p.m. GOPAC Mtg." (Ex. 51, GDC 08891).

[24] "FONG" stands for Mr. Gingrich's campaign organization, "Friends of Newt Gingrich."

[25] The "party" referred to in the quote is the Republican Party. (11/13/96 Gingrich Tr. 80).

[26] Mr. Eisenach apparently sent a copy of this to a GOPAC supporter in preparation for a meeting in May of 1993. (7/12/96 Eisenach Tr. 146–149). In the accompanying letter, Mr. Eisenach said: "The enclosed materials provide some background for our discussions, which I expect will begin with a review of the Vision, Strategies and Goals of our efforts to Renew American Civilization. The class Newt is teaching at Kennesaw State College this Fall is central to that effort, and GOPAC and the newly created Progress & Freedom Foundation both play important roles as well. (Ex. 13, GOPAC2 2337)."

[27] This refrain goes as follows: "You cannot maintain a civilization with twelve-year-olds having babies, fifteen-year-olds shooting each other, seventeen-year-olds dying of AIDS, and eighteen-year-olds getting diplomas they can't read."

> to actually study the material in order to report the phenomenon thus infecting them with new ideas, new language and new perspectives.
>
> 3. Have a cadre of at least 200,000 people committed to the general ideas so they are creating an echo effect on talk radio and in letters to the editor and most of our candidates and campaigns reflect the concepts of renewing America.
>
> Replacing the welfare state will require about 200,000 activists (willing to learn now [sic] to replace the welfare state, to run for office and to actually replace the welfare state once in office) and about six million supporters (willing to write checks, put up yard signs, or do a half day's volunteer work).

(Ex. 52, GDC 10647–10649). The "sweeping victory" referred to above is by Republicans. (11/13/96 Gingrich Tr. 86). The reference to "our candidates" above is to Republican candidates. (11/13/96 Gingrich Tr. 90). According to Mr. Gingrich, Mr. Gaylord, and Mr. Eisenach, the three goals set forth above were to be accomplished by the course. (7/17/96 Gingrich Tr. 174–179; 7/15/96 Gaylord Tr. 66–67; 7/12/96 Eisenach Tr. 225; Ex. 55, GOPAC2 2419; Ex. 56, GOPAC2 2172–2173; Ex. 57, Mescon 0626).

In various descriptions of the course, Mr. Gingrich stated that his intention was to teach it over a four-year period. After each teaching of the course he intended to have it reviewed and improved. The ultimate goal was to have a final product developed by April of 1996. (7/17/96 Gingrich Tr. 109; Ex. 56, GOPAC2 2170). An explanation of this goal is found in a three-page document, in Mr. Gingrich's handwriting, entitled "End State April 1996." (Ex. 58, PFF 20107–20109). Mr. Gingrich said he wrote this document early in the process of developing the movement and described it as a statement of where he hoped to be by April 1996 in regard to the movement and the course. (7/17/96 Gingrich Tr. 108–115). On the first page he wrote that the 200,000 plus activists will have a common language and general vision of renewing America, and a commitment to replacing the welfare state. In addition, "[v]irtually all Republican incumbents and candidates [will] have the common language and goals." (Ex. 58, PFF 20107). On the second page he wrote that the "Republican platform will clearly be shaped by the vision, language, goals and analysis of renewing America." (Ex. 58, PFF 20108). In addition, virtually all Republican Presidential candidates will broadly agree on that vision, language, goals and analysis. (Ex. 58, PFF 20108). The Clinton administration and the Democratic Party will be measured by the vision, principles and goals of renewing America and there will be virtual agreement that the welfare state has failed. (Ex. 58, PFF 20108). On the last page Mr. Gingrich wrote a timeline for the course running from September of 1993 through March of 1996. At the point on the timeline where November 1994 appears, he wrote the word "Election." (Ex. 58, PFF 20109). When Mr. Hanser was asked about this document he said that the vision, language, and concepts of the Renewing American Civilization movement discussed in the document were being developed in the course. (6/28/96 Hanser Tr. 53). He went on to say that "End State" was "an application of those ideas to a specific political end, which is one of the purposes, remember, for the course." (6/28/96 Hanser Tr. 54). There was an appreciation that this would be primarily a Republican endeavor. (6/28/96 Hanser Tr. 30).

C. GOPAC and Renewing American Civilization

As discussed above, GOPAC was a political action committee dedicated to, among other things, achieving Republican control of the United States House of Representatives. (11/13/96 Gingrich Tr. 169; 7/3/96 Rogers Tr. 38–40). One of the methods it used was the creation of a political message and the dissemination of that message. (7/12/96 Eisenach Tr. 18–19; 6/28/96 Hanser Tr. 13–14; 7/3/96 Rogers Tr. 36). The tool principally used by GOPAC to disseminate its message was audiotapes and videotapes. These were sent to Republican activists, elected officials, potential candidates, and the public. The ultimate purpose of this effort was to help Republicans win elections. (6/27/96 Nelson Tr. 21–22; 7/15/96 Gaylord Tr. 37, 39; 7/3/96 Rogers Tr. 35–36).

1. GOPAC'S ADOPTION OF THE RENEWING AMERICAN CIVILIZATION THEME

At least as of late January 1993, Mr. Gingrich and Mr. Eisenach had decided that GOPAC's political message for 1993 and 1994 would be "Renewing American Civilization."[28] (Ex. 59, PFF 37584–37590; 11/13/96 Gingrich Tr. 157; 7/17/96 Gingrich Tr. 61–62, 74; 7/15/96 Gaylord Tr. 35–36, 42–43; 7/3/96 Rogers Tr. 35, 54–56; 6/28/96 Taylor Tr. 26; 6/27/96 Nelson Tr. 34, 46). As described in a February 1993 memorandum over Mr. Gingrich's name to GOPAC Charter Members:

> GOPAC's core mission—to provide the ideas and the message for Republicans to win at the grass roots—is now more important than ever, and we have important plans for 1993 and for the 1993–1994 cycle. The final enclosure is a memorandum from Jeff Eisenach outlining our 1993 program which I encourage you to review carefully and, again, let me know what you think.

(Ex. 60, PFF 37569). The attached memorandum, dated February 1, 1993, is from Mr. Eisenach to Mr. Gingrich and references their recent discussions concerning GOPAC's political program for 1993. (Ex. 59, PFF 37584–37590). It then lists five different programs. The fourth one states:

> (4) *Message Development/"Renewing American Civilization"—focus group project designed to test and improve the "Renewing American Civilization" message in preparation for its use in 1993 legislative campaigns and 1994 Congressional races.*

(Ex. 59, PFF 37584) (emphasis in original). Of the other four programs listed, three relate directly to the use of the Renewing American Civilization message. The fourth—the "'Tory (Franchise) Model' R & D"—was not done. (7/12/96 Eisenach Tr. 188). This same political program was also listed in two separate GOPAC documents dated April 26, 1993. One is entitled "1993 GOPAC POLITICAL PROGRAM" (Ex. 61, PP001187–00193) and the other is the "GOPAC Report to Shareholders." (Ex. 62, Eisenach 2536–2545). The first page of the Report to Shareholders states:

> The challenge facing Republicans, however, is an awesome one: We must build a governing majority, founded on basic principles, that is prepared to do what we failed to do during the last 12 years: Replace the Welfare State with an Opportunity Society and demonstrate that our ideas are the key to progress, freedom and the Renewal of American Civilization.

(Ex. 62, Eisenach 2536).

In describing the political programs, these documents provide status reports that indicate that the Renewing American Civilization message is at the center of each project. Under "Off-Year State Legislative Races (New Jersey, Virginia)" the project is described as "Newt speaking at and teaching training seminar for candidates at [a June 5, 1993] Virginia Republican Convention." (Ex. 61, PP001187; Ex. 62, Eisenach 2540).[29] As discussed below, that speech and training session centered on the Renewing American Civilization message. Under "Ongoing Political Activities" the first aspect of the project is described as sending tapes and establishing a training module on Renewing American Civilization and health care. (Ex. 61, PP001187; Ex. 62, Eisenach 2540). Under "Curriculum Update and Expansion" the project is described as the production of new training tapes based on Mr. Gingrich's session at the Virginia Republican Convention. (Ex. 61, PP01189; Ex. 62, Eisenach 2541).[30]

2. GOPAC'S INABILITY TO FUND ITS POLITICAL PROJECTS IN 1992 AND 1993

At the end of 1992, GOPAC was at least $250,000 short of its target income (Ex. 65, PFF 38054) and financial problems lasted throughout 1993. (7/15/96 Gaylord Tr. 71–72). Because of these financial shortfalls, GOPAC had to curtail its political projects, particularly the tape program described above. (Ex. 65, PFF 38054–38060; Ex. 66, WGC 07428; 7/15/96 Gaylord Tr. 71–72, 76). For example, according to Mr. Gaylord, GOPAC usually sent out eight tapes a year; however, in 1993, it only sent out two. (7/15/96 Gaylord Tr. 76). One of these was the "Renewing American Civilization" tape made from Mr. Gingrich's June 1993 training session at the Virginia Republican Convention (Ex. 63, JG 000001693). Accompanying the mailing of this tape was a letter from Joe Gaylord in his role as Chairman of GOPAC. That letter states:

> Ideas matter, and replacing the welfare state with an Opportunity society is so important that Newt is developing a college course that he'll be teaching this fall on this subject, Renewing American Civilization.
>
> I wanted you to hear his initial thoughts because it seems to me that we can't answer the question "What does the Republican Party stand for?" without considering the issues Newt has raised in this speech.

(Ex. 67, WGC 06215). In light of GOPAC's poor financial condition, the dissemination of the Renewing American Civilization message through the course was beneficial to its political projects. In this regard, the following exchange occurred with Mr. Gingrich:

> Mr. Cole: [I]s one of the things GOPAC wanted to have done during 1993 and 1994 was the dissemination of its message; is that correct?
>
> Mr. Gingrich: Yes.
>
> Mr. Cole: GOPAC also did not have much money in those years; is that correct?
>
> Mr. Gingrich: That is correct. Particularly—it gets better in '94, but '93 was very tight.
>
> Mr. Cole: That curtailed how much it could spend on disseminating its message?

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[28] As mentioned above, the earliest mention of the Renewing American Civilization course was in February 1993. (Ex. 47, JR–0000646).

[29] It is not clear whether any work was done in New Jersey because that state had a Republican legislature and did not need GOPAC's help. (7/15/96 Gaylord Tr. 42).

[30] GOPAC later produced two tapes from the session. One was called "Renewing American Civilization" and was mailed to 8,742 people. (Ex. 63, JG 000001693). The other was called "Leading the Majority" and became a major training tool for GOPAC, used at least into 1996. (6/27/96 Nelson Tr. 18). Both are based on the Renewing American Civilization message and contain the core elements of the course. The "Renewing American Civilization" tape contains more of the RAC philosophy than the "Leading the Majority" tape, however, both contain the basics of the course that Mr. Gingrich describes as the "central proposition" or "heart of the course." (Ex. 56, GOPAC2 2146–2209; Ex. 64, PP000330–000337; Ex. 54, PFF 18361, 18365–18367).

Mr. Gingrich: Right.

Mr. Cole: The message that it was trying to disseminate was the Renewing American Civilization message; is that right?

Mr. Gingrich: Was the theme, yes.

(11/13/96 Gingrich Tr. 157–158). With respect to whether the dissemination of the course benefited GOPAC, the following exchange occurred:

Mr. Cole: Was GOPAC better off in a situation where the message that it had chosen as its political message for those years was being disseminated by the course? Was it better off?

Mr. Gingrich: The answer is yes.

(11/13/96 Gingrich Tr. 167).

3. GOPAC'S INVOLVEMENT IN THE DEVELOPMENT, FUNDING, AND MANAGEMENT OF THE RENEWING AMERICAN CIVILIZATION COURSE

a. GOPAC personnel

Starting at least as early as February 1993, Mr. Eisenach, then GOPAC's Executive Director, was involved in developing the Renewing American Civilization course. Although Mr. Eisenach has stated that Mr. Gaylord was responsible for the development of the course until mid-May 1993 (7/12/96 Eisenach Tr. 71–75; Ex. 68, Eisenach Testimony Before House Ethics Committee at Tr. 142; Ex. 69, PFF 1167), Mr. Gaylord stated that he never had such a responsibility. (7/15/96 Gaylord Tr. 15–18). Additionally, Mr. Gingrich and others involved in the development of the course identified Mr. Eisenach as the person primarily responsible for the development of the course from early on. (7/17/96 Gingrich Tr. 117, 121; 6/13/96 Mescon Tr. 30–31; 6/28/96 Hanser Tr. 74–75; 7/3/96 Rogers Tr. 17–18, 22).[31] Several documents also establish Mr. Eisenach's role in the development of the course starting at an early stage. One document written by Mr. Eisenach is dated February 25, 1993, and shows him, as well as others, tasked with course development and marketing. (Ex. 70, PFF 16628). A memorandum from Mr. Gingrich to Mr. Mescon, dated March 1, 1993, describes how Mr. Eisenach is involved in contacting a number of institutions in regard to funding for the course. (Ex. 71, KSC 3491).

Aside from Mr. Eisenach, other people affiliated with GOPAC were involved in the development of the course. Mr. Gingrich was General Chairman of GOPAC and had a substantial role in the course. Jana Rogers served as Mr. Eisenach's executive assistant at GOPAC during the early part of 1993 and in that role worked on the development of the course. (7/3/96 Rogers Tr. 16–17). In June 1993, she temporarily left GOPAC at Mr. Eisenach's request to become the course's Site Host Coordinator. As a condition of her becoming the site host coordinator, she received assurances from both Mr. Eisenach and Mr. Gaylord that she could return to GOPAC when she had finished her assignment with the course. (7/3/96 Rogers Tr. 12–16). After approximately five months as the course's Site Host Coordinator, she returned to GOPAC for a brief time. (7/3/96 Rogers 24–25). Steve Hanser, a member of the GOPAC Board and a paid GOPAC consultant, helped develop the course. (6/28/96 Hanser Tr. 10, 19–21). Mr. Gaylord was a paid consultant for GOPAC and had a role in developing the course. (7/15/96 Gaylord Tr. 15).

Pamla Prochnow was hired as the Finance Director for GOPAC in April 1993.[32] Ms. Prochnow spent a portion of her early time at GOPAC raising funds for the course. (7/10/96 Prochnow Tr. 14–16; 6/13/96 Mescon Tr. 63–67, 82; Ex. 74, Documents produced by Prochnow).[33] A number of the people and entities she contacted were GOPAC supporters. In fact, according to Mr. Eisenach, approximately half of the first year's funding for the course came from GOPAC supporters. (Ex. 69, PFF 1168–1169). Some of those people also helped fund the course in 1994. (*See* attachments to Ex. 69, PFF 1252–1277) (the documents contain Mr. Eisenach's marks of "G" next to the people, companies, and foundations that were donors or related to donors to GOPAC.))

When Mr. Eisenach resigned from GOPAC and assumed the title of the course's project director, two GOPAC employees joined him in his efforts. Kelly Goodsell had been Mr. Eisenach's Administrative Assistant at GOPAC since March of 1993 (7/9/96 Goodsell Tr. 8, 11), and Michael DuGally had been an employee at GOPAC since January 1992. (7/19/96 DuGally Tr. 9–10). Both went to work on the course as employees of Mr. Eisenach's Washington Policy Group ("WPG").[34] In the contract between WPG and KSCF, it was understood that WPG would devote one-half of the time of its employees to working on the course. WPG had only one other client at this time—GOPAC. In its contract with GOPAC, WPG was to receive the same monthly fee as was being paid by KSCF in return for one-half of the time of WPG's employees. (Ex. 76, PFF 37450–37451). The contract also stated that to the extent that WPG did not devote full time to KSCF and GOPAC projects, an adjustment in the fee paid to WPG would be made. (Ex. 76, PFF 37450). Neither Ms. Goodsell nor Mr. DuGally worked on any GOPAC project after they started working on the course in June of 1993. (7/9/96 Goodsell Tr. 8, 10–11; 7/19/96 DuGally Tr. 14). Mr. Eisenach said that he spent at the most one-third of his time during this period on GOPAC projects. (7/12/96 Eisenach Tr. 36–37). No adjustment to WPG's fee was made by GOPAC. (7/12/96 Eisenach Tr. 44).[35]

The February 15, 1993, agenda discussed above also gives some indication of GOPAC's role in the development of the Renewing American Civilization course. (Ex. 47, JR–0000645–0000647). Of the eight attendees at that meeting, five worked for or were closely associated with GOPAC (Mr. DuGally, Mr. Eisenach and Ms. Rogers were employees, Mr. Hanser was a member of the Board and a paid GOPAC consultant, and Mr. Gingrich was the General Chairman). Furthermore, the agenda for that meeting indicates that GOPAC political issues were to be discussed as well as course planning issues. Two of the GOPAC political issues apparently related to: (1) the political program described in the February 1, 1993, memorandum which lists four of GOPAC's five political projects as relating to Renewing American Civilization (Ex. 60, PFF 37569–37576), and (2) GOPAC's Charter Meeting agenda entitled "Renewing American Civilization." As discussed below, this Charter Meeting included breakout sessions to help develop a number of the lectures for the course, as well as GOPAC's message for the 1993–1994 election cycle. (Ex. 78, PP00448–PP000452). As Mr. Gingrich stated in his interview, his intention was to have GOPAC use Renewing American Civilization as its message during this time frame. (7/17/96 Gingrich Tr. 74; 7/3/96 Rogers Tr. 54–56).

In 1993 Mr. Eisenach periodically produced a list of GOPAC projects. The list is entitled "Major Projects Underway" and was used for staff meetings. (7/12/96 Eisenach Tr. 213; 7/15/96 Gaylord Tr. 79–80; 6/28/96 Taylor Tr. 43–44). Items related to the Renewing American Civilization course were listed in several places on GOPAC's project sheets. For example, from April 1993 through at least June 1993, "Renewing American Civilization Support" is listed under the "Planning/Other" section of GOPAC's projects sheets. (Ex. 79, JG 000001139, JG 000001152, JG 000001173, JG 000001270). Another entry which appears a number of times under "Planning/Other" is "RAC Pert Chart, etc." (Ex. 79, JG 000001152, JG 000001173, JG 000001270). It refers to a time-line Mr. Eisenach wrote while he was the Executive Director of GOPAC relating to the development of the various components of the course, including marketing and site coordination, funding, readings, and the course textbook. (Ex. 80, PFF 7529–7533; 7/12/96 Eisenach Tr. 212–213). Finally, under the heading "Political" on the May 7, 1993, project sheet, is listed the phrase "CR/RAC Letter." (Ex. 79, JG 000001152). This refers to a mailing about the course sent over Mr. Gingrich's name by GOPAC to approximately 1,000 College Republicans. (Ex. 81, Mescon 0918, 0915, 0914 and Meeks 0038–0040; 7/15/96 Gaylord Tr. 81–82).

b. Involvement of GOPAC charter members in course design

As discussed earlier, Mr. Gingrich had a meeting with GOPAC Charter Members in January 1993 to discuss the ideas of Renewing American Civilization. (11/13/96 Gingrich Tr. 132). According to a letter written about that meeting, the idea to teach arose from that meeting. In April 1993, GOPAC held its semi-annual Charter Meeting. Its theme was "Renewing American Civilization." (Ex. 78, PP000448–PP000452). Mr. Gingrich gave the keynote address, entitled "Renewing American Civilization," and there were five breakout sessions entitled "Advancing the Five Pillars of Twenty-first Century Democracy." (Ex. 78, PP000449). Each of the breakout sessions was named for a lecture in the course, and these sessions were used to help develop the content of the course (11/13/96 Gingrich Tr. 164–165; 7/17/96 Gingrich Tr. 69–70; 7/12/96 Eisenach Tr. 144–146; 7/15/96 Gaylord Tr. 46) as well as GOPAC's political message for the 1993 legislative campaigns and the 1994 congressional races. (11/13/96 Gingrich Tr. 164–165; Ex. 62, Eisenach 2540). As stated in a memorandum from Mr. Eisenach to GOPAC Charter Members, these breakout sessions were intended to "dramatically improve both our understanding of the subject and our ability to communicate it." (Ex. 82, Roberts 0045–0048).

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[31] The February 15, 1993, agenda for the meeting where the RAC course and other GOPAC issues were discussed, lists Mr. Eisenach as an attendee, but does not list Mr. Gaylord as being present. (Ex. 47, JR–0000645).

[32] During her interviewing process, Ms. Prochnow was provided with materials to help her understand the goals of GOPAC. (Ex. 72, GOPAC2 0529). Although she has no specific recollection as to what these materials were, she believes they were materials related to the Renewing American Civilization movement. (7/10/96 Prochnow Tr. 18–19; Ex. 73, PP000459–000463; PP00778).

[33] Mr. Eisenach has stated that he did not ask Ms. Prochnow to do this fundraising work, but rather Mr. Gaylord did. (7/12/96 Eisenach Tr. 71, 75; Ex. 65, PFF 1168). However, both Mr. Gaylord and Ms. Prochnow clearly state that it was Mr. Eisenach, not Mr. Gaylord, who directed Ms. Prochnow to perform the fundraising work. (7/15/96 Gaylord Tr. 16, 17; 7/10/96 Prochnow Tr. 14, 73–74; Ex. 71, Letter dated July 25, 1996, from Prochnow's attorney).

[34] As discussed earlier, WPG was a corporation formed by Mr. Eisenach which had a contract with KSCF to run all aspects of the course.

[35] The only other person who was involved in the early development of the course was Nancy Desmond. She did not work for GOPAC, but had been a volunteer at Mr. Gingrich's campaign office for approximately a year before starting to work on the course. (6/13/96 Desmond Tr. 15–16). She continued to work as a volunteer for Mr. Gingrich's campaign until July of 1993, when she was told to resign from the campaign because of the perceived negative image her two roles would project. (6/13/96 Desmond Tr. 37–38; Ex. 77, PFF 38289).

c. Letters sent by GOPAC

In June of 1993, GOPAC sent a letter over Mr. Gingrich's signature stating that "it is vital for Republicans to now DEVELOP and put forward OUR agenda for America." (Ex. 83, PP000534) (emphasis in original). In discussing an enclosed survey the letter states:

> It is the opening step in what I want to be an unprecedented mobilization effort for Republicans to begin the process of replacing America's failed welfare state.
>
> And the key political component of that effort will be an all-out drive to end the Democrat's 40 year control of the U.S. House or Representatives in 1994!

(Ex. 83, PP000535).[36] The letter then states that it is important to develop the themes and ideas that will be needed to accomplish the victory in 1994. (Ex. 83, PP000536). In language that is very similar to the core of the course, but with an overtly partisan aspect added to it, the letter states:

> Personally, I believe we can and should turn the 1994 midterm elections into not just a referendum on President Clinton, but on whether we maintain or replace the welfare state and the Democratic Party which supports it.
>
> I believe the welfare state which the Democrats have created has failed.
>
> In fact, I challenge anyone to say that it has succeeded, when today in America twelve year olds are having children, fifteen year olds are killing each other, seventeen year olds are dying of AIDS and eighteen year olds are being given high school diplomas they cannot even read.
>
> * * * * *
>
> And what I want to see our Party work to replace it with is a plan to renew America based on what I call "pillars" of freedom and progress:
>
> (1) Personal strength;
>
> (2) A commitment to quality in the workplace;
>
> (3) Spirit of American Inventiveness;
>
> (4) Entrepreneurial free enterprise applied to both the private and public sectors;
>
> (5) Applying the lessons of American history as to what works for Americans to proposed government solutions to our problems.
>
> After being active in politics for thirty years, and being in Congress for fourteen of them, I firmly believe these five principles can develop a revolutionary change in government. Properly applied, they can dramatically improve safety, health, education, job creation, the environment, the family and our national defense.

(Ex. 83, PP000536). In other letters sent out by GOPAC, the role of the Renewing American Civilization course in relation to the Republican political goals of GOPAC were described in explicit terms. A letter to Neil Gagnon, dated May 5, 1993, over Mr. Gingrich's name, states:

> As we discussed, it is time to lay down a blue print—which is why in part I am teaching the course on Renewing American Civilization. Hopefully, it will provide the structure to build an offense so that Republicans can break through dramatically in 1996. We have a good chance to make significant gains in 1994, but only if we can reach the point where we are united behind a positive message, as well as a critique of the Clinton program.[37]

(Ex. 84, GOPAC2 0003). In a letter dated June 21, 1993, that Pamla Prochnow, GOPAC's new finance director, sent to Charter Members as a follow-up to an earlier letter from Mr. Gingrich, she states:

> As the new finance director, I want to introduce myself and to assure you of my commitment and enthusiasm to the recruitment and training of grassroots Republican candidates. In addition, with the course Newt will be teaching in the fall—Renewing American Civilization—I see a very real opportunity to educate the American voting population to Republican ideals, increasing our opportunity to win local, state and Congressional seats.[38]

(Ex. 85, PP000194). On January 3, 1994, Ms. Prochnow sent another letter to the Charter Members. It states:

> As we begin the new year, we know our goals and have in place the winning strategies. The primary mission is to elect Republicans at the local, state and congressional level. There, also, is the strong emphasis on broadcasting the message of renewing American civilization to achieve peace and prosperity in this country.

(Ex. 86, PP000866). In another letter sent over Mr. Gingrich's name, the course is again discussed. The letter, dated May 12, 1994, is addressed to Marc Bergschneider and states:

> I am encouraged by your understanding that the welfare state cannot merely be repaired, but must be replaced and have made a goal of activating at least 200,000 citizen activists nationwide through my course, Renewing American Civilization. We hope to educate people with the fact that we are entering the information society. In order to make sense of this society, we must rebuild an opportunistic country. In essence, if we can reach Americans through my course, independent expenditures, GOPAC and other strategies, we just might unseat the Democratic majority in the House in 1994 and make government accountable again.

(Ex. 87, GDC 01137). Current and former GOPAC employees said that before a letter would go out over Mr. Gingrich's signature, it would be approved by him. (7/3/96 Rogers Tr. 88; 6/27/96 Nelson Tr. 56–60). According to Mr. Eisenach, Mr. Gingrich "typically" reviewed letters that went out over his signature, but did not sign all letters that were part of a mass mailing. (7/12/96 Eisenach Tr. 35). With respect to letters sent to individuals over Mr. Gingrich's name, Mr. Eisenach said the following:

> Mr. Eisenach: [Mr. Gingrich] would either review those personally or be generally aware of the content. In other words, on rare, if any, occasions, did I or anybody else invent the idea of sending a letter to somebody, write the letter, send it under Newt's signature and never check with him to see whether he wanted the letter to go.
>
> There were occasions—now, sometimes that would be—Newt and I would discuss the generic need for a letter. I would write the letter and send it and fax a copy to him and make sure he knew that it had been sent.
>
> Mr. Cole: Would you generally review the contents of the letter with him prior to it going out?
>
> Mr. Eisenach: Not necessarily word for word. It would depend. But as a general matter, yes.

(7/12/96 Eisenach Tr. 36). Mr. Gingrich's Administrative Assistant, Rachel Robinson, stated that in 1993 and 1994 whenever she received a letter or other document for Mr. Gingrich that was to be filed, she would sign Mr. Gingrich's name on the document and place her initials on it. This "usually" meant that Mr. Gingrich had seen the letter. (9/6/96 Robinson Tr. 4). The letter sent to Mr. Bergschneider on May 12, 1994, was produced from the files of Mr. Gingrich's Washington, D.C. office and has Ms. Robinson's initials on it. (9/6/96 Robinson Tr. 4).

The letters sent out over Mr. Gingrich's signature were shown to Mr. Gingrich during an interview. He said that none of them contained his signature, he did not recall seeing them prior to the interview, and said he would not have written them in the language used. (7/17/96 Gingrich Tr. 77–78, 140–141). Mr. Gaylord said that "it seemed to [him] there was a whole series of kind of usual correspondence that was done by the staff" that Mr. Gingrich would not see. (7/15/96 Gaylord Tr. 77). The content of the letters listed above, however, are quite similar to statements made directly by Mr. Gingrich about the movement and the role of the course in the movement. (See, e.g., Ex. 47, JR–0000646 ("emphasis is on the Republican Party as the primary vehicle for renewing American civilization"); Ex. 52 GDC 10639–10649 ("sweeping victory" will be accomplished through the course); Ex. 88, GDC 10729–10733 ("Democrats are the party of the welfare state." "Only by voting Republican can the welfare state be replaced and an opportunity society be created."))

D. "Replacing the Welfare State With an Opportunity Society" as a Political Tool

According to Mr. Gingrich, the main theme of both the Renewing American Civilization movement and the course was the replacement of the welfare state with an opportunity society. (7/17/96 Gingrich Tr. 52, 61, 170; 11/13/96 Gingrich Tr. 85). Mr. Gingrich also said, "I believe that to replace the welfare state you almost certainly had to have a [R]epublican majority." (7/17/96 Gingrich Tr. 51). "I think it's hard to replace the welfare state with the [D]emocrats in charge." (7/17/96 Gingrich Tr. 62). The course was designed to communicate the vision and language of the Renewing American Civilization movement and "was seen as a tool that could be used to replace the welfare state." (7/17/96 Gingrich Tr. 159–160; see also 11/13/96 Gingrich Tr. 47, 76).[39]

In addition to being the title of a movement, the course, and GOPAC's political message for 1993 and 1994, "Renewing American Civilization" was also the main message of virtually every political and campaign speech made by Mr. Gingrich in 1993 and 1994. (7/17/96 Gingrich Tr. 69).[40] According to Mr.

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[36] The copy of the letter produced is a draft. While Mr. Gingrich was not able to specifically identify the letter, he did state that the letter fit the message and represented the major theme of GOPAC at that time. (7/17/96 Gingrich Tr. 60–61).

[37] Jana Rogers had not seen this letter before her interview, but after reading it she said that through her work on the course, she believed the contents of the letter set out one of the goals of the Renewing American Civilization course. (7/3/96 Rogers Tr. 75–76).

[38] Both Dr. Mescon and Dr. Siegel of KSC were shown some of these letters. They both said that had they known of this intention in regard to the course, they would not have viewed it as an appropriate project for KSC. (6/13/96 Mescon Tr. 84–87; 6/13/96 Siegel Tr. 60–62).

[39] During his interview, the following exchange occurred regarding the movement:

Mr. Cole: Yet there was an emphasis in the movement on the Republican Party?

Mr. Gingrich: There certainly was on my part, yes.

Mr. Cole: You were at the head of the movement, were you not?

Mr. Gingrich: Well, I was the guy trying to create it.

Mr. Cole: The course was used as the tool to communicate the message of the movement, was it not?

Mr. Gingrich: Yes, it was a tool, yes.

(11/13/96 Gingrich Tr. 76).

[40] According to Ms. Rogers, the course's Site Host Coordinator, there was coordination between the

Gingrich, there was an effort in 1994 to use the "welfare state" label as a campaign tool against the Democrats and to use the "opportunity society" label as an identification for the Republicans. (7/17/96 Gingrich Tr. 113). Mr. Gingrich made similar comments in a subsequent interview:

Mr. Cole: During [1993–1994] was there an effort to connect the Democrats with the welfare state?

Mr. Gingrich: Absolutely; routinely and repetitively.

Mr. Cole: And a campaign use of that?

Mr. Gingrich: Absolutely.

Mr. Cole: A partisan use, if you will?

Mr. Gingrich: Absolutely.

Mr. Cole: And was there an effort to connect the Republicans with the opportunity society?

Mr. Gingrich: Absolutely.

Mr. Cole: A partisan use?

Mr. Gingrich: Yes, sir.

Mr. Cole: And that was the main theme of the course, was it not, replacement of the welfare state with the opportunity society?

Mr. Gingrich: No. The main theme of the course is renewing American civilization and the main subset is that you have—that you have to replace the welfare state with an opportunity society for that to happen.

(11/13/96 Gingrich Tr. 79–80). As referred to above, Mr. Gingrich held a training seminar for candidates on behalf of GOPAC at the Virginia Republican Convention in June 1993. (7/15/96 Gaylord Tr. 29–30). He gave a speech entitled "Renewing American Civilization" which described the nature of the movement and the course. (Ex. 56, GOPAC2 2146–2209). Near the beginning of his speech, Mr. Gingrich said:

What I first want to suggest to you [is] my personal belief that we are engaged in a great moral and practical effort, that we are committed to renewing American civilization, and I believe that's our battle cry. That we want to be the party and the movement that renews American civilization and that renewing American civilization is both an idealistic cause and a practical cause at the same time.

(Ex. 56, GOPAC2 2146). He then told the audience that he has four propositions with which 80% to 95% of Americans will agree. These are: (1) there is an American civilization; (2) the four can'ts; (3) the welfare state has failed; and (4) to renew American civilization it is necessary to replace the welfare state. (Ex. 56, GOPAC2 2149–2153).[41] Mr. Gingrich then went on to relate the principles of renewing American civilization to the Republican party:

We can't do much about the Democrats. They went too far to the left. They are still too far to the left. That's their problem. But we have a huge burden of responsibility to change our behavior so that every one who wants to replace the welfare state and every one who wants to renew American civilization has a home, and it's called being Republican. We have to really learn how to bring them all in.

And I think the first step of all that is to insist that at the core of identification the only division that matters is that question. You want to replace the welfare state and renew American civilization. The answer is just fine, come and join us. And not allow the news media, not allow the Democrats, not allow interest groups to force us into fights below that level in terms of defining who we are. That in any general election or any effort to govern that we are every one who is willing to try to replace the welfare state, and we are every one who is willing to renew American civilization.

Now, that means there is a lot of ground in there to argue about details. Exactly how do you replace the welfare state. Exactly which idea is the best idea. But if we accept every one coming in, we strongly change the dynamics of exactly how this country is governed and we begin to create a majority Republican party that will frankly just inexorably crow[d] out the Democrats and turn them into minority status.

(Ex. 56, GOPAC2 2155–2156). Mr. Gingrich told the audience that he would discuss three areas in his remarks: (1) the principles of renewing American civilization; (2) the principles and skills necessary to be a "renewing candidate" and then ultimately a "renewing incumbent;" and (3) the concept and principles for creating a community among those who are committed to replacing the welfare state and renewing American civilization. (Ex. 56, GOPAC2 2168). In speaking of the first area, Mr. Gingrich said that it is a very complicated subject. Because of this he was only going to give a "smattering" of an outline at the training seminar. (Ex. 56, GOPAC2 2170). He said, however, that in the fall he planned to teach a twenty-hour course on the subject, and then refine it and teach it again over a four-year period. (Ex. 56, GOPAC2 2170). He then described the three goals he had for the course:

First, we want to have by April of '96 a genuine intellectual blueprint to replace the welfare state that you could look at as a citizen and say, yeah, that has a pretty good chance of working. That's dramatically better than what we've been doing.

Second, we want to find 200,000 activist citizens, and I hope all of you will be part of this, committed at every level of American life to replacing the welfare state. Because America is a huge decentralized country. You've got to have school boards, city councils, hospital boards, state legislatures, county commissioners, mayors, and you've got to have congressmen and senators and the President and governors, who literally [sic] you take all the elected posts in America and then you take all the people necessary to run for those posts and to help the campaigns, etc., I think it takes around 200,000 team players to truly change America.

(Ex. 56, GOPAC2 2170–2171).

Third, we create a process—and this is something you can all help with in your own districts—we create a process interesting enough that the national news media has to actually look at the material in order to cover the course.[42]

(Ex. 56, GOPAC2 2173). The transcript of his speech goes on for the next 30 pages to describe the five pillars of American civilization that form the basis of the course, and how to use them to get supporters for the candidates' campaigns. In discussing this Mr. Gingrich said:

Now, let me start just as [a] quick overview. First, as I said earlier, American civilization is a civilization. Very important. It is impossible for anyone on the left to debate you on that topic.

* * * * *

But the reason I say that is if you go out and you campaign on behalf of American civilization and you want to renew American civilization, it is linguistically impossible to oppose you. And how is your opponent going to get up and say I'm against American civilization?

(Ex. 56, GOPAC2 2175–2176). Near the end of the speech he said:

I believe, if you take the five pillars I've described, if you find the three areas that will really fit you, and are really in a position to help you, that you are then going to have a language to explain renewing American civilization, a language to explain how to replace the welfare state, and three topics that are going to arouse volunteers and arouse contributions and help people say, Yes, I want this done.

(Ex. 56, GOPAC2 2207).[43]

In a document that Mr. Gingrich apparently wrote during this time (Ex. 89, Eisenach 2868–2869), the course is related to the Renewing American Civilization movement in terms of winning a Republican majority. The "House Republican Focus for 1994" is directed at having Republicans communicate a positive message so that a majority of Americans will conclude that their only hope for real change is to vote Republican. In describing that message, the document states:

The Republican party can offer a better life for virtually every one if it applies the principles of American civilization to create a more flexible, decentralized market oriented system that uses the Third Wave of change and accepts the disciplines of the world market.

These ideas are outlined in a 20 hour intellectual framework "Renewing American Civilization" available on National Empowerment Television every Wednesday from 1 pm to 3 pm and available on audio tape and video tape from 1–800–TO–RENEW.

(Ex. 89, Eisenach 2869). In a document dated March 21, 1994, and entitled "RENEWING AMERICA: The Challenge for Our Generation,"[44] Mr. Gingrich described a relationship between the course and the movement. (Ex. 90, GDC 00132–00152). Near the beginning of the document, one of the "key propositions" listed is that the welfare state has failed and must be replaced with an opportunity society. (Ex. 90, GDC 00136). The opportunity society must be based on, among other things, the principles of American civilization. (Ex. 90, GDC 00136). The document states that the key ingredient for success is a movement to renew American civilization by replacing the welfare state with an opportunity society. (Ex. 90, GDC 00137). That movement will require at least 200,000 "partners for progress" committed to the goal of replacing the welfare state with an opportunity society and willing to study the principles of American civilization, work on campaigns, run for office, and engage in

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message, the movement, and activists. "They were extensions of Newt and each had to make—each group had to make sure—what I mean specifically is GOPAC and the class had to make sure that they were using the same message that Newt was trying to disseminate, that it was identical.

(7/3/96 Rogers Tr. 54).

[41] These four propositions were used as the "central propositions" or "heart" of the course to introduce each session in 1993 and 1994. (Ex. 54, PFF 18361, 18365–18367).

[42] These are the same three specific goals that were listed in the document entitled "Renewing American Civilization Our Goal" that referred to achieving a "sweeping victory in 1996" as the overall goal. (Ex. 52, GDC 10647–10648).

[43] As discussed above, this speech was used by GOPAC to produce two training tapes. One was called "Renewing American Civilization" and the other was called "Leading the Majority." (7/15/96 Gaylord Tr. 31).

[44] Mr. Gingrich at least wrote the first draft of this document and stated that it was compatible with what he was doing at that time. It was probably a briefing paper for the House Republican members. (Ex. 90, GDC 00132–00152; 7/17/96 Gingrich Tr. 203–204).

other activities to further the movement. (Ex. 90, GDC 00138).[45] Under the heading "Learning the Principles of American Civilization" the document states, "The course, 'Renewing American Civilization', is designed as a 20 hour introduction to the principles necessary to replace the welfare state with an opportunity society." (Ex. 90, GDC 00139). It then lists the titles of each class and the book of readings associated with the course. The next section is titled "Connecting the 'Partners' to the 'Principles'." (Ex. 90, GDC 00140). It describes where the course is being taught, including that it is being offered five times during 1994 on National Empowerment Television, and states that, "Our goal is to get every potential partner for progress to take the course and study the principles." (Ex. 90, GDC 00140).[46] The document then lists a number of areas where Republicans can commit themselves to "real change," including the Contract with America and a concerted effort to end the Democratic majority in the House. (Ex. 90, GDC 00144–00150).

A May 10, 1994 document which Mr. Gingrich drafted (7/18/96 Gingrich Tr. 234–235; 7/15/96 Gaylord Tr. 70) entitled "The 14 Steps[:] Renewing American Civilization by replacing the welfare state with an opportunity society," he notes the relationship between the course and the partisan aspects of the movement. (Ex. 88, GDC 10729–10733). After stating that the welfare state has failed and needs to be replaced (Ex. 88, GDC 10729), the document states that, "Replacing the welfare state will require a disciplined approach to both public policy and politics." (Ex. 88, GDC 10730). "We must methodically focus on communicating and implementing our vision of replacing the welfare state." (Ex. 88, GDC 10730). In describing the replacement that will be needed, Mr. Gingrich says that it:

> must be an opportunity society based on the principles of American civilization * * *.
>
> These principles each receive two hours of introduction in 'Renewing American Civilization', a course taught at Reinhardt College. The course is available on National Empowerment Television from 1–3 P.M. every Wednesday and by videotape or audiotape by calling 1–800–TO–RENEW.

(Ex. 88, GDC 10730). This document goes on to describe the 200,000 "partners for progress" as being necessary for the replacement of the welfare state and how the Contract with America will be a first step toward replacing the welfare state with an opportunity society. (Ex. 88, GDC 10731). The document then states:

> The Democrats are the party of the welfare state. Too many years in office have led to arrogance of power and to continuing violations of the basic values of self-government.
>
> Only by voting Republican can the welfare state be replaced and an opportunity society be created.

(Ex. 88, GDC 10731). On November 1, 1994, Mr. Gingrich attended a meeting with Ms. Minnix, his co-teacher at Reinhardt, to discuss the teaching of the course in 1995. (Ex. 92, Reinhardt 0063–0065). Also at that meeting were Mr. Hanser, Ms. Desmond, Mr. Eisenach, and John McDowell. One of the topics discussed at the meeting was Mr. Gingrich's desire to teach the course on a second day in Washington, D.C. According to notes of the meeting prepared by Ms. Minnix, Mr. Gingrich wanted to teach the course in D.C. in an effort:

> To attract freshman congresspeople, the press—who will be trying to figure out the Republican agenda—and congressional staff looking for the basis of Republican doctrine. 'Take the course' will be suggested to those who wonder what a Republican government is going to stand for.

(Ex. 92, Reinhardt 0064).[47] Later in the meeting Mr. Gingrich said that his chances of becoming Speaker were greater than 50 percent and he was making plans for a transition from Democratic to Republican rule. Ms. Minnix wrote that Mr. Gingrich "sees the course as vital to this—so vital that no one could convince him to teach it only one time per week and conserve his energy." (Ex. 92, Reinhardt 0065).[48]

A number of other documents reflect a similar partisan, political use of the message and theme of Renewing American Civilization. (Ex. 93, LIP 00602–00610, ("Renewing American Civilization: Our Duty in 1994," a speech given to the Republican National Committee January 21, 1994 Winter Breakfast); Ex. 94, GDC 11010–11012, ("Whip Office Plan for 1994" with the "vision" of "Renew American civilization by replacing the welfare state which requires the election of a Republican majority and passage of our agenda"); Ex. 95, GDC 10667–10670, ("Planning Assumptions for 1994"); Ex. 96, Eisenach 2758–2777, (untitled); Ex. 97, PFF 2479–2489, (seminar on Renewing American Civilization given to the American Legislative Exchange Council); Ex. 98, PFF 37179–37188, ("House GOP Freshman Orientation: Leadership for America's 21st Century."))

E. Renewing American Civilization House Working Group

As stated in Mr. Gingrich's easel notes from December 1992, one goal of the Renewing American Civilization movement was to "professionalize" the House Republicans. (Ex. 42, HAN 02110). His intention was to use the message of Renewing American Civilization to "attract voters, resources and candidates" and to develop a "mechanism for winning seats." (Ex. 42, HAN 02110). In this vein, a group of Republican House Members and others formed a working group to promote the message of Renewing American Civilization. Starting in approximately June 1993, Mr. Gingrich sponsored Representative Pete Hoekstra as the leader of this group and worked with him. (7/18/96 Gingrich Tr. 279).[49] According to a number of documents associated with this group, a goal was to use the theme of renewing American civilization to elect a Republican majority in the House. (Ex. 99, Hoekstra 0259; Ex. 101, Hoekstra 0264; Ex. 102, Gregorsky 0025). According to notes from a July 23, 1993 meeting, Mr. Gingrich addressed the group and made several points:

> 1. Renewing American Civilization (RAC) is the basic theme;
> 2. RAC begins with replacing the welfare state, not improving it;
> 3. RAC will occur by promoting the use of the five pillars of American civilization;
> 4. Use of the three key policy areas of saving the inner city, health, and economic growth and jobs.

(Ex. 101, Hoekstra 0264). The meeting then turned to a discussion of possible ways to improve these points. (Ex. 101, Hoekstra 0264).

On July 30, 1993, another meeting of this group was held. According to notes of that meeting, the group restated its objectives as follows:

> a. restate our objective: Renewing American Civilization by replacing the paternalistic welfare state
>
> —GOP majority in the House ASAP
> —nationwide GOP majority ASAP
>
> * * * * *
>
> —objective: create "echo chamber" for RAC
>
> * * * * *
>
> i. develop RAC with an eye toward marketability
>
> * * * * *
>
> ii. promote message so that this defines many 1994 electoral contests at the congressional level and below, and defines the 1996 national election.

(Ex. 102, Gregorsky 0025).[50]

The goal of the group was further defined in a memorandum written by one of Mr. Hoekstra's staffers in September of 1993. (Ex. 103, Hoekstra 0266–0267). In that memorandum, the staff member said the group's goal had changed "from one of promoting the Renewing American Civilization course to one of proposing a 'political platform' around which House Republican incumbents and candidates can rally." (Ex. 103, Hoekstra 0266). The group's "underlying perspective" was described as follows:

> To expand our party, it is important that Republicans develop, agree on and learn to explain a positive philosophy of government.
>
> At the core of that philosophy is the observation that the paternalistic welfare state has failed, and must be replaced by alternative mechanisms within and outside of government if social objectives are to be achieved.
>
> Fundamental to developing a new philosophy is the idea that traditions in American civilization have proven themselves to be powerful mechanisms for organizing human behavior. There are working principles in the lessons of American history that can be observed, and should be preserved and strengthened.
>
> These working principles distinguish the Republican party and its beliefs from the Democratic party, which remains committed to the welfare state even though these policies are essentially alien to the American experience.

(Ex. 103, Hoekstra 0266–0267). This group began to develop a program to incorporate

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[45] In this section he defines the "partners for progress" as "citizens activists."

[46] The course was broadcast twice each week on National Empowerment Television. In light of it being a ten-week course, and being offered five times during 1994 on NET, it ran for 50 weeks during this election year. In addition to being on NET, it was also on a local cable channel in Mr. Gingrich's district in Georgia. (Ex. 91, DES 01048; 7/18/96 Gingrich Tr. 257–259).

[47] Ms. Minnix stated that the word "Republican" may not have been specifically used by Mr. Gingrich, but that it was the context of his remark. (6/12/96 Minnix Tr. 54–56).

[48] The other participants at this meeting were asked about this conversation. To the extent they recalled the discussion, they confirmed that it was as related in Ms. Minnix's memorandum. No one had a recollection that was contrary to Ms. Minnix's memorandum. (6/12/96 Minnix Tr. 54–56; 6/28/96 Hanser Tr. 71–72; 6/13/96 Desmond Tr. 76–78; 7/12/96 Eisenach Tr. 270–271; 7/17/96 Gingrich Tr. 211–215).

[49] Mr. Gingrich provided Mr. Hoekstra with some materials to explain the movement. (See Ex. 99, Hoekstra 0259). Apparently, this material included the May 13, 1993, three part document entitled "Renewing America Vision," "Renewing America Strategies," and "Renewing American Civilization Our Goal." (Ex. 52, GDC 10639–10649). In a memorandum from one of Mr. Hoekstra's staffers analyzing the material, he lists the thirteen items that were to be done to further the movement. (Ex. 100, Hoekstra 0140b). They are the same thirteen items that are listed in the "Renewing America Strategies" portion of the May 13, 1993 document.

[50] Mr. Gingrich reviewed notes similar to these and though he did not specifically recall them, he said they were compatible with the activities of that time. (7/18/96 Gingrich Tr. 283–284).

Renewing American Civilization into the House Republican party. The program's goals included a House Republican majority, Mr. Gingrich as Speaker, and Republican Committee Chairs. (Ex. 104, Hoekstra 0147-0151). To accomplish this goal, there were efforts to have candidates, staffers and members use Renewing American Civilization as their theme. (Ex. 104, Hoekstra 0148). One proposal in this area was a training program for staffers in the principles of Renewing American Civilization for use in their work in the House. (Ex. 104, Hoekstra 0148). A memorandum from Mr. Gingrich to various members of his staffs[51] asked them to review a plan for this training program and give him their comments. (Ex. 105, WGC 03732-03745).

During his interview, Mr. Hoekstra stated that Renewing American Civilization and the concept of replacing the welfare state was intended as a means of defining who Republicans were; however, the group never finalized this as a project. (7/29/96 Hoekstra Tr. 47-48). In talking about this group, Mr. Gingrich said that he wanted the Republican party to move toward Renewing American Civilization as a theme and that he would have asked the group to study the course, understand the ideas, and use those ideas in their work. (7/18/96 Gingrich Tr. 284-286). It is not known what became of this group. Mr. Hoekstra said that the project ended without any closure, but he does not recall how that happened. (7/29/96 Hoekstra Tr. 46).

F. Marketing of the Course

As discussed above, Mr. Gingrich wrote in his March 29, 1993 memorandum that he wanted "Republican activists committed * * * to setting up workshops built around the course, and to opening the party up to every citizen who wants to renew American civilization." (Ex. 51, GDC 08892). There is evidence of efforts being made to recruit Republican and conservative organizations into becoming sponsors for the course. These sponsors were known as "site hosts." One of the responsibilities of a site host was to recruit participants. (Ex. 106, PFF 8033). Jana Rogers was the Site Host Coordinator for the course when it was at Kennesaw State College. She stated that part of her work in regard to the course involved getting Republican activists to set up workshops around the course to bring people into the Republican party. (7/3/96 Rogers Tr. 67-68). She said there was an emphasis on getting Republicans to be site hosts. (7/3/96 Rogers Tr. 69).

In an undated document entitled "VISION: To Obtain Site Hosts for Winter 1994 Quarter," three "projects" are listed: (1) "To obtain site hosts from conservative organizations;" (2) "To secure site hosts from companies;" (3) "To get cable companies to broadcast course." (Ex. 107, PFF 7526). The "strategies" listed to accomplish the "project" of obtaining site hosts from conservative organizations are listed as:

> Mailing to State and local leaders through lists from National Republican Committee, Christian Coalition, American Association of Christian Schools, U.S. Chamber of Commerce, National Right to Life, Heritage Foundation, Empower America, National Empowerment Television, Free Congress, etc.

(Ex. 107, PFF 7526). One of the tactics listed to accomplish the goal of obtaining more site hosts is to:

> Contact National College Republican office to obtain names and addresses of all presidents country-wide. Develop letter to ask college republicans to try to obtain the class for credit on their campus or to become a site host with a sponsor group. Also, ask them to contact RAC office for a site host guide and additional information.

(Ex. 107, PFF 7527). In a memorandum written by Nancy Desmond concerning the course, among the areas where she suggested site host recruiting should be directed were to "NAS members,"[52] "schools recognized as conservative" and "national headquarters of conservative groups." (Ex. 108, PFF 37328-37330). In a number of the project reports written by employees of the course in 1993, there are notations about contacts with various Republicans in an effort to have them host a site for the course. There are no similar notations of efforts to contact Democrats. (Ex. 109, Multiple Documents).[53]

In several instances mailings were made to Republican or conservative activists or organizations in an effort to recruit them as site hosts. In May of 1993 a letter was sent over Mr. Gingrich's signature to approximately 1,000 College Republicans regarding the course.[54] That letter states that:

> [C]onservatives today face a challenge larger than stopping President Clinton. We must ask ourselves what the future would be like if we were allowed to define it, and learn to explain that future to the American people in a way that captures first their imagination and then their votes.
>
> In that context, I am going to devote much of the next four years, starting this Fall, to teaching a course entitled "Renewing American Civilization." I am writing to you today to ask you to enroll for the class, and to organize a seminar so that your friends can enroll as well.
>
> * * * * *
>
> Let me be clear: This is not about politics as such. But I believe the ground we will cover is essential for anyone who hopes to be involved in politics over the next several decades to understand. American civilization is, after all, the cultural glue that holds us all together. Unless we can understand it, renew it and extend it into the next century, we will never succeed in replacing the Welfare State with an Opportunity Society.
>
> * * * * *

(Ex. 81, Mescon 0915; Meeks 0039). The letter ends by stating:

> I have devoted my life to teaching and acting out a set of values and principles. As a fellow Republican, I know you share those values. This class will help us all remember what we're about and why it is so essential that we prevail. Please join me this Fall for "Renewing American Civilization."

(Ex. 81, Mescon 0914; Meeks 0040). GOPAC paid for this mailing (7/12/96 Eisenach Tr. 200; 7/15/96 Gaylord Tr. 82) and it was listed as a "political" project on GOPAC's description of its "Major Projects Underway" for May 7, 1993. (Ex. 79, JG 000001152). At the top of a copy of the letter to the College Republicans is a handwritten notation to Mr. Gingrich from Mr. Eisenach: "Newt, Drops to 1000+ C.R. Chapters on Wednesday. JE cc: Tim Mescon." (Ex. 81, Mescon 0915, Meeks 0039).

During an interview with Mr. Cole, Mr. Eisenach was asked about this letter.

> Mr. Eisenach: Use of the course by political institutions in a political context was something that occurred and was part of Newt's intent and was part of the intent of other partisan organizations, but the intent of the course and, most importantly, the operation of the course and its use of tax-exempt funds was always and explicitly done in a nonpartisan way.
>
> Political organizations—in this case, GOPAC—found it to their advantage to utilize the course for a political purpose, and they did so.
>
> Mr. Cole: Were you involved in GOPAC?
>
> Mr. Eisenach: At this time I was involved in GOPAC, yes.
>
> Mr. Cole: And in making the decision that GOPAC would utilize the course?
>
> Mr. Eisenach: Yes.

(7/12/96 Eisenach Tr. 203). Mr. DuGally worked with Economics America, Inc. to have them send a letter to the members of the groups listed in *The Right Guide* as part of an effort to recruit them as site hosts. The first paragraph of the letter states:

> Newt Gingrich asked that I tell the organizations listed in The Right Guide about his new nationally broadcast college course, "Renewing American Civilization." It promises to be an important event for all conservatives, as well as many young people who are not yet conservatives. You and your organization can be part of this project.

(Ex. 110, PFF 19821). The letter goes on to say, "And remember, since you are a team teacher you can use the course to explain and discuss your views." (Ex. 110, PFF 19821).

In the fall of 1993, Mr. DuGally arranged for a letter to be sent by Lamar Alexander on behalf of the Republican Satellite Exchange Network promoting the course and asking its members to serve as site hosts. (Ex. 111, PFF 19795-19798). In addition, a letter was prepared for mailing to all chairmen of the Christian Coalition asking them to serve as site hosts. (Ex. 112, PFF 19815). In June of 1993, Mr. DuGally worked with the Republican National Committee to have a letter sent by Chairman Haley Barbour to RNC Members informing them of the course. (Ex. 113, RNC 0094). This letter did not solicit people to be site hosts.

Jana Rogers, the Site Host Coordinator for the course, attended the College Republican National Convention. Her weekly report on the subject said the following:

> The response to Renewing American Civilization at the College Republican National Convention was overwelming [sic]. In addition to recruiting 22 sites and possibly another 30+ during follow-up, I was interviewed by MTV about the class and learned more about RESN [Republican Exchange Satellite Network] from Stephanie Fitzgerald who does their site coordination. I also handed out 400 Site Host Guides to College Republicans and about 600 registration flyers. NCRNC says it will work aggressively with their state chairmen to help us set up sites know [sic] that the convention is over.

(Ex. 114, PFF 7613). She made no effort to contact any Democratic groups. (7/3/96 Rogers Tr. 78).

In notes provided by Mr. Mescon from a meeting he attended on the course, he lists a number of groups that would be targeted for mailings on the course. They include mostly elected or party officials and the notation ends with the words "25,000/total Republican mailing." (Ex. 115, Mescon 0263). According to Mr. Mescon, the course was being marketed to Republicans as a target audience and he knew of no comparable mailing to Democrats. (6/13/96 Mescon Tr. 112–113).[55]

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[51] This included his congressional office, his WHIP office, RAC, and GOPAC.

[52] According to Mr. Gingrich, the NAS (National Association of Scholars) is a conservative organization. (7/18/96 Gingrich Tr. 345-346).

[53] Mr. DuGally said that he made an effort to contact the Young Democrats, but they did not show any interest. (7/19/96 DuGally Tr. 31-32).

[54] Mr. Gingrich was shown this letter and he said that while he was not familiar with it, nothing in it was particularly new. (7/17/96 Gingrich Tr. 87). Jeff Eisenach, GOPAC's Executive Director and then the coordinator of the course, either wrote the letter or edited it from a draft written by another GOPAC employee. (7/12/96 Eisenach Tr. 200-201).

In an August 11, 1993, memorandum from Mr. DuGally, a WPG employee who worked on the course, he lists the entities where mailings for the course had been sent or were intended to be sent up to that point. They are as follows:

1. GOPAC farm team—9,000
2. Cong/FONG/Whip offices—4,000
3. Sent to site hosts—5,500
4. College Republicans—2,000
5. American Pol Sci Assoc.—11,000
6. Christian Coalition leadership—3,000
7. *The Right Guide* list—3,000

(Ex. 116, PFF 19794). In June of 1994, John McDowell wrote to Jeff Eisenach with his suggestions about where to market the course during that summer. The groups he listed were the Eagle Forum Collegians; the National Review Institute's Conservative Summit; Accuracy in Academia; Young Republicans Leadership Conference (Mr. McDowell was on their Executive Board); Young America's Foundation, National Conservative Student Conference; College Republican National Conference; the American Political Science Association Annual Meeting;[56] and the Christian Coalition, Road to Victory. (Ex. 117, PFF 3486–3489). At a number of these meetings, Mr. Gingrich was scheduled to be a speaker. (Ex. 117, PFF 3486–3489).

A site host listing dated August 18, 1994, identifies the approximately 100 site hosts as of that date. (Ex. 118, PFF 7493–7496). These include businesses, community groups, cable stations, and others. In addition, some colleges offered the course either for credit, partial credit or no credit. (Ex. 119, Reinhardt 0160–0164). Based on their names, it was not possible to determine whether all of the site hosts fell within the goals set forth in the above-described documents. Some of them, however, were identifiable. For example, of the 28 "community groups" listed on the August 18, 1994 "Site Host Listing," 11 are organizations whose names indicate they are Republican or conservative organizations—Arizona Republican Party; Athens Christian Coalition; Conservative PAC; Henry County Republicans; Houston Young Republicans; Huron County Republican Party; Las Rancheras Republican Women; Louisiana Republican Legislative Delegation; Northern Illinois Conservative Council; Republican Party Headquarters (in Frankfort Kentucky); Suffolk Republican Party. The list does not indicate whether the remaining groups—e.g., the Alabama Family Alliance; the Family Foundation (Kentucky); Leadership North Fulton (Georgia); the North Georgia Forum; Northeast Georgia Forum; the River of Life Family Church (Georgia)—are nonpartisan, Democratic, Republican, liberal or conservative. The list does not contain any organizations explicitly denominated as Democratic organizations. Similarly, it is not clear whether there was a particular political or ideological predominance in the businesses, cable stations and individuals listed.[57]

Mr. Gingrich said that the efforts to recruit colleges to hold the course had been "very broad." "I talked, for example, with the dean of the government school at Harvard. Berkley [sic] actually was offering the course." (7/18/96 Gingrich Tr. 346). The course at Berkeley, however, did not go through the regular faculty review process for new courses, because it was initiated by a student. (7/12/96 Eisenach Tr. 316–317). Such courses were not conducted by a professor, but could be offered on campus for credit if a faculty member sponsored the course and the Dean approved it. The student site host coordinator at Berkeley was named Greg Sikorski. (Ex. 121, JR–0000117). In the June 20, 1994 memorandum from John McDowell to Mr. Eisenach, the following is written under the heading "College Republican National Conference:" "RAC Atlanta representative to attend and staff a vendor booth. These 1,000 college students represent a good source of future 'Greg Sikorskis' * * * in the sense that they can promote RAC on their campus!" (Ex. 117, PFF 3488). The faculty sponsor for the student-initiated Renewing American Civilization course was William Muir, a former speechwriter for George Bush. (Ex. 121, JR–0000117). Aside from Mr. Sikorski and Mr. Muir, Mr. Eisenach did not know if the RAC course at Berkeley had any additional university review. (7/12/96 Eisenach Tr. 319).

The site host for the Renewing American Civilization course at Harvard was Marty Connors. (Ex. 122, LIP 00232). According to Mr. Gingrich, Marty Connors is a conservative activist. (7/18/96 Gingrich Tr. 266). In a memorandum dated October 13, 1993, from Marty Connors to Lamar Alexander, Newt Gingrich, Ed Rogers, Jeff Eisenach, Paul Weyrich, Mike Baroody, and Bill Harris, he wrote about a "series of ideas (that included the Renewing American Civilization course) that could have significant consequences in building a new 'Interactive' communication system and message for the Republican Party and the conservative movement." (Ex. 123, WGC 06781). He goes on to write that he was working on a project to take the concept of the Republican Exchange Satellite Television, National Empowerment Television and "Newt Gingrich's 'Renewing American Civilization' lectures and make them "more interactive and user friendly." (Ex. 123, WGC 06781). The purpose for this is to have a "far greater ability for 'participatory' party building in the immediate future." (Ex. 123, WGC 06781–06782). He goes on to write, "Friends, I truly believe the next major political advantage will go to the group that figures out how to use 'interactive' communications in building a new Republican coalition." (Ex. 123, WGC 06782).[58]

G. Kennesaw State College's Role in the Course

Renewing American Civilization was taught at Kennesaw State College ("KSC") in 1993. The sponsoring organization for the course was the Kennesaw State College Foundation ("KSCF"), a 501(c)(3) organization dedicated to promoting projects at KSC. The approximate expenditures for the course at KSC was $300,000. This represented 29–33% of KSCF's program expenditures for 1993. The funds raised for the course and donated to KSCF were tax-deductible.

KSCF had no role in raising funds for the course. (6/13/96 Fleming Tr. 33–36). Mr. Mescon, the course's co-teacher and Dean of KSC's Business School, wrote some letters with the help of Ms. Prochnow, GOPAC's Finance Director (6/13/96 Mescon Tr. 65–68, 71–74; 7/10/96 Prochnow Tr. 58–62, 66; 7/12/96 Eisenach Tr. 69), but most of the fundraising was coordinated by Mr. Eisenach, Ms. Prochnow, and Mr. Gingrich. (7/12/96 Eisenach Tr. 68–71, 84, 97, 99; 7/17/96 Gingrich Tr. 123, 136, 137).

The course as offered at KSC was a forty-hour classroom lecture. Twenty hours were taught by Mr. Gingrich and twenty hours were taught by Mr. Mescon. While officials of KSC and KSCF considered the course to include the full forty hours of lecture (6/13/96 Mescon Tr. 38; 6/13/96 Fleming Tr. 23), only the twenty hours taught by Mr. Gingrich were taped and disseminated. (6/13/96 Siegel Tr. 25–26; 6/13/96 Mescon Tr. 35; 6/13/96 Fleming Tr. 23). The funds raised for the course were primarily used for the dissemination of Mr. Gingrich's portion of the course to the various site host locations. (6/13/96 Fleming Tr. 22, 24; 6/13/96 Mescon Tr. 55–56). No one at KSC or KSCF had any role in deciding which portions of the course would be taped and disseminated or even knew the reasons for doing it. (6/13/96 Mescon Tr. 36, 44–45, 58–59; 6/13/96 Fleming Tr. 23; 6/13/96 Siegel Tr. 78–79).

KSCF did not manage the course. It contracted with Mr. Eisenach's Washington Policy Group, Inc. ("WPG") to manage and raise funds for the course's development, production and distribution. In return, WPG was paid $8,750 per month.

The contract between WPG and KSCF ran from June 1, 1993, through September 30, 1993.[59] All funds raised were turned over to KSCF and dedicated exclusively for the use of the Renewing American Civilization course. KSCF's only role was to act as the banker for the funds for the course and disburse them upon a request from Mr. Mescon. (6/13/96 Fleming Tr. 24–25; 6/13/96 Mescon Tr. 103; Ex. 124, KSF 001269, Mescon 0454, KSF 003804, PFF 16934, KSF 001246). Mr. Mescon did not engage in a detailed review of the bills. He merely reviewed the bills that were provided by Mr. Eisenach or his staff and determined whether the general nature of the bills fell within the parameters of the project of dissemination of the course. (6/13/96 Mescon Tr. 61–63).

When the contract between WPG and KSCF ended, the Progress and Freedom Foundation ("PFF") assumed the role WPG had with the course at the same rate of compensation.[60] PFF was also a 501(c)(3) tax exempt organization, but its status as such was not used while the course was at KSC. Mr. Eisenach was the founder and president of PFF.

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[55] Others who worked on the course also said it was marketed to Republican and conservative groups. (7/3/96 Rogers Tr. 62–63; 6/13/96 Stechschulte Tr. 21–22, 57–58; 6/13/96 Desmond Tr. 66).

[56] This is the only meeting where there is not a suggestion to have a Renewing American Civilization or PFF employee attend personally. Instead, Mr. McDowell apparently only intended to find an attendee who would be willing to pass out Renewing American Civilization materials.

[57] Patti Hallstrom, an activist in the Arizona Republican Party, was instrumental in recruiting host sites in Arizona, such as the Arizona Republican Party and various cable television stations. (Ex. 120, PFF 7362). She prepared part of a training manual on how to recruit cable companies as host sites. (Ex. 120, DES 00999–01007). She also provided the Renewing American Civilization project with information about which radio and talk shows in Arizona were the most conservative as possible shows where Mr. Gingrich could appear. She said the more conservative shows would allow for a "more amenable discussion." (Ex. 120, DES 00262–00264; 6/20/96 Hallstrom Tr. 41–43).

[58] This memorandum was faxed to Mr. Gingrich. The fax cover sheet has Mr. Gingrich's name and the date "10/15/93" on it in his handwriting. As Mr. Gingrich has said, this probably indicates that he had seen this memorandum. (12/98/96 Gingrich Tr. 36–37).

[59] The contract between WPG and KSCF was never signed by KSCF. It was directed to Dr. Mescon, but he was not an authorized agent of KSCF. According to Jeffery Eisenach, President of WPG, even though the contract was not signed, it memorialized the terms of the relationship between WPG and KSCF. (Ex. 41, Mescon 0651–0652; 7/12/96 Eisenach Tr. 42; 11/14/96 Eisenach Tr. 11).

[60] Prior to assuming control of the course PFF was tasked with putting together the book of readings

KSCF and KSC had little or no role in supervising the course or its dissemination. Since the course was a "Special Topics" course, it did not need to go through formal approval by a curriculum committee at KSC—it only required Mr. Mescon's approval. (6/13/96 Siegel Tr. 15–16, 30, 32, 76–77). While Mr. Mescon was given advance copies of Mr. Gingrich's lectures, he had little input into their content. (6/28/96 Hanser Tr. 22; 6/13/96 Desmond Tr. 63). Mr. Mescon described his role more in terms of having his own 20 hours to put forth any counterpoint or objection to any of the material in Mr. Gingrich's lectures. (6/13/96 Mescon Tr. 40–41).[61]

Shortly after PFF took over the management of the course, the Georgia Board of Regents passed a resolution prohibiting any elected official from teaching at a Georgia state educational institution. This was the culmination of a controversy that had arisen around the course at KSC. The controversy pertained to objections voiced by KSC faculty to the course on the grounds that it was essentially political. (Ex. 127, KSC 3550–3551, 3541, 3460, 3462). Because of the Board of Regent's decision and the controversy, it was decided that the course would be moved to a private college. (7/12/96 Eisenach Tr. 47–50).[62]

H. Reinhardt College's Role in the Course

Reinhardt College was chosen as the new host for the course in part because of its television production facilities. (6/12/96 Falany Tr. 14). The 1994 and 1995 courses took place at Reinhardt. While there, PFF assumed full responsibility for the course. It no longer received payments to run the course. Rather, it paid Reinhardt to use the college's video production facilities. All funds for the course were raised by and expended by PFF under its tax-exempt status. The approximate expenditures for the course were $450,000 in 1994 and in $450,000 in 1995. At PFF this represented 63% of its program expenditures for its first fiscal year (which ended March 31, 1994) and 35% of its program expenditures for its second fiscal year (which ended March 31, 1995).[63]

Reinhardt had a curriculum committee review the content of the course before deciding to have it presented on its campus. (6/12/96 Falany Tr. 15–16). The controversy over the course at KSC, however, affected the level of involvement Reinhardt was willing to assume in regard to the course. (6/12/96 Falany Tr. 44–48, 51–53, 59–66; 6/12/96 Minnix Tr. 26–27). In this regard, Reinhardt's administration saw a distinction between the "course" and a broader political "project." As stated in a memorandum from Mr. Falany, Reinhardt's President, to Mr. Eisenach dated November 11, 1993:

> First, there seems to be a "project", which is Renewing American Civilization, of which the "course" is a part. This distinction is blurred at times in the Project Overview. When you refer to the "project" it seems to imply a broader political objective (a non-welfare state). This is not to say that this political objective should be perceived as being negative, but it should, in fact, be seen as broader than and distinct from the simpler objective of the "course."

(Ex. 128, Reinhardt 0225).[64] Because of this concern, Reinhardt administrators agreed to be involved only in the actual teaching of the course on its campus and would not participate in any other aspects of the project. (6/12/96 Falany Tr. 51–53, 59–66; 6/12/96 Minnix Tr. 26–27).[65] In this regard, Mr. Falany made it clear to the faculty and staff at the college that:

> It is important to understand that, for the Winter Quarter 1994, the College will offer the course and teach it—that is the extent of our commitment. At the present time, the Progress and Freedom Foundation will handle all of the fund raising associated with the course; the distribution of tapes, text and materials; the broadcasting; and the handling of all information including the coordination of off-campus sites.

(Ex. 129, Reinhardt 0265).[66]

As was the case at KSC, Reinhardt administrators considered the course to be the forty hours of lecture by both Mr. Gingrich and Ms. Minnix. (6/12/96 Falany Tr. 74–76). Again, only Mr. Gingrich's portion of the course was disseminated outside of Reinhardt. (6/12/96 Falany Tr. 53–54; 6/12/96 Minnix Tr. 48–49). Ms. Minnix had little contact with Mr. Gingrich, and no input into the content of the course in 1994. In 1995 she had only limited input into the content of the course. (6/12/96 Minnix Tr. 20–22). Similarly, Mr. Gingrich and his associates provided no input as to Ms. Minnix's portion of the course. (6/12/96 Minnix Tr. 31–32).

While Mr. Falany did not know the purpose for disseminating the course, and made no inquiries in that regard (6/12/96 Falany Tr. 48–50; 54–66; 84–85), Ms. Minnix did have some knowledge in this area. Based on her contacts with the people associated with the course, she believed Mr. Gingrich had a global vision of getting American civilization back "on track" and that he wanted to shape the public perception through the course. (6/12/96 Minnix Tr. 59–60). She felt there was an "evangelical side" to the course, which she described as an effort to have people get involved in politics, run for office, and try to influence legislation. (6/12/96 Minnix Tr. 70–71). Ms. Minnix felt uncomfortable with this "evangelical side." (6/12/96 Minnix Tr. 70). Furthermore, as reflected in her memorandum of the November 1, 1994 meeting with Mr. Gingrich and others, she was aware that the course was to be used to let people know what Mr. Gingrich's political agenda would be as Speaker. (6/12/96 Minnix Tr. 53–59; Ex. 92, Reinhardt 0064). As with KSC, one of the reasons Reinhardt administrators wanted to have the course taught on its campus was to raise profile of the school. (6/12/96 Falany Tr. 112–113).

I. End of Renewing American Civilization Course

Although Mr. Gingrich had intended to teach the course for four years, through the 1996 Winter quarter, he stopped teaching it after the 1995 Winter quarter. According to most of the witnesses interviewed on this subject, the reason for this was that he had run out of time in light of the fact that he had become Speaker. (7/12/96 Eisenach Tr. 280; 6/28/96 Hanser Tr. 52–53). On the other hand, Mr. Gingrich says that he had learned all he could from teaching the course and had nothing new to say on the topics. (7/18/96 Gingrich Tr. 364). Mr. Gingrich refused to support the efforts of PFF in regard to the course at that point, largely because he was disappointed with Mr. Eisenach's financial management of the course. (7/18/96 Gingrich Tr. 365–366). Mr. Eisenach had indicated to Mr. Gingrich that the course was $250,000 in debt and that PFF had used its own resources to cover this shortfall. (Ex. 130, GDC 11325). Mr. Gingrich was skeptical of this claim, offered to have the records reviewed, and stated that he would help raise any amount that the review disclosed was needed. According to Mr. Gingrich, this offer was not pursued by Mr. Eisenach. (7/18/96 Gingrich Tr. 367–368).

IV. ETHICS COMMITTEE APPROVAL OF COURSE

On May 12, 1993, Mr. Gingrich wrote the Committee asking for "guidance on the development of an intellectual approach to new legislation that will be different from our normal activities." (Ex. 131, p. 1). He said that he wanted "to make sure that [his] activities remain within a framework that meets the legitimate ethics concerns of the House." (Ex. 131, p. 1). He went on to describe a course he was planning to teach in the fall of 1993 at Kennesaw State College.

The course would be based on his January 25, 1993 Special Order entitled "Renewing American Civilization." (Ex. 131, p. 2). It would be "completely non-partisan" and, he

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that were to be used for the course. This entailed Mr. Eisenach and Mr. Hanser editing the writings of others. Mr. Hanser was paid $5,000 or $10,000 for this work, but Mr. Eisenach was not separately compensated for his role in this. (7/12/96 Eisenach Tr. 68). Mr. Eisenach was president of PFF, WPG, former Executive Director of GOPAC, and advisor to Mr. Gingrich. Mr. Hanser was a close friend, confidant, and at times a congressional employee of Mr. Gingrich. He was also a board member and consultant to GOPAC and a board member and consultant to the Progress and Freedom Foundation. (6/28/96 Hanser Tr. 6–10, 14). He had a substantial role in developing the course. (6/28/96 Hanser Tr. 19–20).

[61] The December 8, 1994 letter from Mr. Gingrich to the Committee states that, "Respected scholars such as James Q. Wilson, Everett Carl Ladd, and Larry Sabato continue to contribute to and review course content." (Ex. 138, p. 3). The same reference to Mr. Wilson's and Mr. Sabato's review of the course is contained in a September 3, 1993 memorandum sent out over Jana Rogers' name to site hosts. (Ex. 125, PFF 22963). However, in a letter from James Q. Wilson to Mr. Eisenach dated September 28, 1993, Mr. Wilson wrote:

> Perhaps I don't understand the purpose of the course, but if it is to be a course rather [than] a series of sermons, this chapter won't do. It is bland, vague, hortatory, and lacking in substance. (emphasis in original)
>
> * * *
>
> I could go on, but I dare not for fear I have misunderstood what this enterprise is all about. I am a professor, and so I bring the perspectives (and limitations) of a professor to bear on this matter. If this is not to be a course but instead a sermon, then you should get a preacher to comment on it.

(Ex. 126, PFF 5994–5995). Also, in a book co-written by Larry Sabato, the following statements are made:

> In late 1992 and early 1993, Gingrich began conceiving a new way to advance those political goals—a nationally broadcast college course, ambitiously titled "Renewing American Civilization," in which he would inculcate students with his Republican values. (p. 94).
>
> * * *
>
> Nominally an educational enterprise, internal course planning documents revealed the true nature of the course as a partisan organizing tool. (p. 95).

Sabato, L. and Simpson, G., "Dirty Little Secrets: The Persistence of Corruption in American Politics," Times Books (1996).

[62] Near the end of his interview, Mr. Mescon expressed embarrassment in regard to his participation in the course. He became involved in the course in order to raise the profile of the school, but now believes that his efforts have had severe repercussions. (6/13/96 Mescon Tr. 136–137).

[63] As of November 1996, PFF's tax return (Form 990) for its third fiscal year (which ended March 31, 1996) had not been filed.

[64] Reinhardt saw the "project" as essentially dealing with the dissemination of the course outside of Reinhardt's campus. (6/12/96 Falany Tr. 48–50, 54–66, 84–85).

[65] All of the funds for the course while at Reinhardt were raised by PFF under its tax exempt status.

[66] Reinhardt College did rent its television production facilities to PFF for its use in the dissemination in the course, and was paid separately for this in the amount of $40,000. All production beyond that was handled by PFF. (6/12/96 Falany Tr. 27–28).

hoped, would include ideas from many people, including politicians from both parties and academics. (Ex. 131, p. 2). He stated that he believed the development of ideas in the course was a "crucial part" of his job as a legislator. (Ex. 131, p. 3). He ended his letter with a request to the Committee to meet to discuss the project if the Committee had any concerns. (Ex. 131, p. 3).

In June 1993, counsel for the Committee, David McCarthy, met with Mr. Gingrich, two people from his staff (Annette Thompson Meeks and Linda Nave) and Mr. Eisenach to discuss the course. (7/18/96 McCarthy Tr. 7; 7/10/96 Meeks Tr. 13). Mr. McCarthy's initial concern was whether Mr. Gingrich could qualify for a teaching waiver under the House ethics rules. (7/18/96 McCarthy Tr. 16). When he learned Mr. Gingrich was teaching without compensation, the issue of a teaching waiver became, in his opinion, irrelevant. (7/18/96 McCarthy Tr. 16). Mr. McCarthy then asked questions regarding whether any official resources would be used to support the course and whether Mr. Gingrich planned to use any unofficial resources to subsidize his official business. Mr. McCarthy did not see any problems pertaining to these issues. Mr. Gingrich indicated that he might repeat the lectures from the course as Special Orders on the floor of the House. Mr. McCarthy suggested that Mr. Gingrich consult with the House Parliamentarian on that subject. (Ex. 132, p. 1).

One issue raised with Mr. McCarthy was whether the House Ethics Rules permitted Mr. Gingrich to raise funds for a tax-exempt organization. Mr. McCarthy's conclusion was that since KSCF was a qualified tax-exempt organization, Mr. Gingrich could raise funds for KSCF as long as he complied with the relevant House rules on the subject. (7/18/96 McCarthy Tr. 17). Mr. Eisenach raised the issue concerning the propriety of his being involved in fundraising for the course in light of the fact that he also worked for GOPAC. According to Mr. McCarthy, his response to the issue was as follows:

> [T]o my knowledge of tax law, the issue of whether the contributions in support of the course would keep their tax-deductible status would turn not on who did the fundraising but on how the funds were spent, and that the educational nature of the course spoke for itself. I told him that I was aware of no law or IRS regulation that would prevent Eisenach from raising charitable contributions, even at the same time that he was raising political contributions. In any event, I advised him, I expected the Committee to stick by its advisory opinion in the Ethics Manual and not get into second-guessing the IRS on its determinations of tax-exempt status.

(Ex. 132, p. 2). Mr. McCarthy said in an interview that his statement regarding the Committee's "stick[ing]" by its advisory opinion pertained only to whether Mr. Gingrich could raise funds for the course. (7/18/96 McCarthy Tr. 19). The discussion did not relate to any other 501(c)(3) issues. (7/18/96 McCarthy Tr. 19). While Mr. McCarthy was aware that the course lectures would be taped and broadcast (7/18/96 McCarthy Tr. 16), neither Mr. Gingrich nor his staff asked for Mr. McCarthy's advice regarding what activities in that regard were permissible under 501(c)(3) and Mr. McCarthy did not discuss such issues. (7/18/96 McCarthy Tr. 19; 7/18/96 Gingrich Tr. 375–376; 7/10/96 Meeks Tr. 15). Mr. McCarthy did not recall any discussion regarding a Renewing American Civilization movement. (7/18/96 McCarthy Tr. 16). Mr. McCarthy did not recall any discussion of GOPAC's use of the Renewing American Civilization message. (7/18/96 McCarthy Tr. 12–13). The discussion pertaining to Mr. Eisenach and GOPAC was brief. (Ex. 132, p. 2).

During the meeting with Mr. McCarthy, there were no questions posed about 501(c)(3) or what could be done in regard to the course, aside from the fund-raising issue under 501(c)(3). (7/18/96 Gingrich Tr. 375–376). Mr. Gingrich did not believe that it was necessary to explain to Mr. McCarthy his intended use for the course.

> Mr. Cole: We are focusing, however, on your intended use of the course. And your intended use of the course here was in a partisan political fashion; is that correct?
>
> Mr. Gingrich: My intended use was, but I am not sure I had any obligation to explain that to the [C]ommittee. As long as the course itself was nonpartisan and the course itself was legal and the course itself met both accreditation and tax status, I don't believe I had an obligation to tell the Ethics Committee what my political strategies were. I think that's a retrospective comment. And maybe I am wrong.
>
> I don't think—the questions were: Was it legal? Did I use official funds? Had we gotten approval? Was GOPAC's involvement legitimate and legal? Was it an accredited course? Was I getting paid for it?
>
> I mean, none of those questions require that I explain a grand strategy, which would have seemed crazy in '94. If I had wandered around and said to people, hi, we are going to win control, reshape things, end the welfare entitlement, form a grand alliance with Bill Clinton, who is also going to join us in renewing America, how would I have written that?

(11/13/96 Gingrich Tr. 89–90). On July 21, 1993, Mr. Gingrich wrote the Committee to provide additional information about the course he planned to teach at KSC. The letter did not discuss how the course was to be funded or that there was a plan to distribute the course nationally via satellite, videotape, audiotape and cable, or that GOPAC's main theme was to be "Renewing American Civilization." The letter also did not discuss GOPAC's role in the course. (Ex. 133).[67]

On August 3, 1993, the Committee, in a letter signed by Mr. McDermott and Mr. Grandy, responded to Mr. Gingrich's letters of May 12, 1993 and July 21, 1993, regarding his request to the teach the course and his request to present the course materials in Special Orders. (Ex. 134, p. 1). The Committee's letter also notes that Mr. Gingrich had asked if he could help KSC raise funds for the course. The Committee's guidance was as follows:

> 1. Since Mr. Gingrich was teaching the course without compensation, he did not need the Committee's approval to do so;
>
> 2. It was within Mr. Gingrich's "official prerogative" to present the course materials in Special Orders;
>
> 3. Mr. Gingrich was permitted to raise funds for the course on behalf of charitable organizations, "provided that no official resources are used, no official endorsement is implied, and no direct personal benefit results."

(Ex. 134, p. 1). The Committee, however, advised Mr. Gingrich to consult with the FEC regarding whether election laws and regulations might pertain to his fundraising efforts. The Committee's letter to Mr. Gingrich did not discuss any matters relating to the implications of 501(c)(3) on the teaching or dissemination of the course or GOPAC's relationship to the course. (Ex. 134, p. 1).

V. LEGAL ADVICE SOUGHT AND RECEIVED

As described in greater detail in the Appendix, section 501(c)(3) requires, among other things, that an organization be organized and operated exclusively for one or more exempt purposes. Treas. Reg. 1.501(c)(3)–1(d)(1)(ii) provides that an organization does not meet this requirement: Unless it serves a public rather than a private purpose. It is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, or persons controlled, directly or indirectly, by such private interests.

The purpose of the "private benefit" prohibition is to ensure that the public subsidies flowing from section 501(c)(3) status, including income tax exemption and the ability to receive tax-deductible charitable contributions, are reserved for organizations that are formed to serve public, not private interests. Treas. Reg. 1.501(c)(3)–1(c)(1) defines the application of the private benefit prohibition in the context of the operational test: An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Although cases on the private benefit doctrine date back to 1945,[68] a more recent, significant case on the subject is the 1989 Tax Court opinion in *American Campaign Academy* v. *Commissioner*, 92 T.C. 1053 (1989). That case discusses the doctrine in terms of conferring an impermissible private benefit on Republican candidates and entities.

Prior to his involvement in both AOW/ACTV and the Renewing American Civilization course, Mr. Gingrich was aware of the tax controversy pertaining to the American Campaign Academy ("ACA" or "Academy"). In his interview with Mr. Cole he said, "I was aware of [ACA] because * * * the staff director of the [ACA] had been totally involved. I was aware of his briefings and what was involved. * * * I was aware of them at the time and I was aware of them during the court case." (7/18/96 Gingrich Tr. 375–376). "I lived through that case. I mean, I was very well aware of what the [American Campaign Academy] did and what the ruling was." (11/13/96 Gingrich Tr. 61).[69]

Responding to the question of whether he had any involvement with the Academy, Mr. Gingrich said: "I think I actually taught that [sic], but that's the only direct involvement I had." (12/9/96 Gingrich Tr. 58). In an undated document on GOPAC stationery entitled "Offices of Congressman Newt Gingrich," three offices are listed: GOPAC, FONG, and the American Campaign Academy. (Ex. 143, Kohler 285). Mr. Gingrich did not believe that he had an office at the Academy, but thought it possible that his press secretary, Rich Galen, had an office there. (12/9/96 Gingrich Tr. 58–59).

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[67] The information Mr. Gingrich provided to the Committee was that the Kennesaw State College Foundation, a 501(c)(3) organization affiliated with Kennesaw State College, was providing him with a "Content Coordinator to coordinate the videotape inserts and other materials that will be used in the presentations." (Ex. 133, pp. 1–2). He also wrote that none of his staff would perform tasks associated with the course and that the course material would not be based on previous work of his staff. (Ex. 133, p. 1). Finally, he wrote that much of the material from the course would be presented in Special Orders, although the presentations would have some differences. (Ex. 133, p. 2).

[68] *Better Business Bureau of Washington, D.C.* v. *United States*, 326 U.S. 279 (1945).

[69] His adviser, Mr. Gaylord, was a director of the Academy. (12/9/96 Gingrich Tr. 57; *American Campaign Academy* v. *Commissioner*, 92 T.C. 1053, 1056 (1989)). As referred to above, Mr. Gaylord was one of the "five key people" Mr. Gingrich relied on most. (Ex. 3, GDC 11551, GDC 11553).

In speaking about the Renewing American Civilization course, Mr. Gingrich told the *New York Times* that he acted very aggressively in regard to 501(c)(3) law:

> "Whoa," [Mr. Gingrich] said, when asked after class one recent Saturday if the course nears the edge of what the law allows. "Goes right up to the edge. What's the beef? Doesn't go over the edge, doesn't break any law, isn't wrong. It's aggressive, it's entrepreneurial, it's risk taking."

New York Times, section A, page 12, column 1 (Feb. 20, 1995). (Ex. 144). In addition, Mr. Gingrich has had involvement with a number of tax-exempt organizations. As Mr. Gingrich's tax lawyer stated, politics and 501(c)(3) organizations are an "explosive mix." (12/12/96 Holden Tr. 132–134, 146).

Despite all of this, he did not seek specific legal advice concerning the application of section 501(c)(3) with respect to AOW/ACTV or the Renewing American Civilization course. Furthermore, he did not know if any one did so on his behalf. With respect to the course, the following exchange occurred:

> Mr. Cole: Were you involved in seeking any legal advice concerning the operation of the course under 501(c)(3)?
>
> Mr. Gingrich: No. We sought legal advice about ethics.
>
> Mr. Cole: Did you seek any legal advice concerning the 501(c)(3) issues involving the course?
>
> Mr. Gingrich: No. I did not.
>
> Mr. Cole: Do you know if anybody did on your behalf?
>
> Mr. Gingrich: No.

(7/17/96 Gingrich Tr. 140). With respect to AOW/ACTV, Mr. Gingrich said that he did not get any legal advice regarding the projects. (12/9/96 Gingrich Tr. 54). He said that he assumed Mr. Callaway sought such legal advice. (12/9/96 Gingrich Tr. 54).

Mr. Gingrich said two attorneys involved with GOPAC at the time, Jim Tilton and Dan Swillinger, monitored all GOPAC activities and would have told him if the projects violated the law. (12/9/96 Gingrich Tr. 54–56). Mr. Callaway said neither Mr. Swillinger nor Mr. Tilton was ever told that one of the purposes of ACTV was to recruit people to the Republican party. (12/7/96 Callaway Tr. 41, 47).[70]

Mr. Gingrich explained to the Subcommittee in November 1996 that, in his opinion, there were no "parallels" between the American Campaign Academy and the Renewing American Civilization course. (11/13/96 Gingrich Tr. 61). After this explanation, Mr. Schiff and Mr. Gingrich had the following exchange:

> Mr. Schiff: Did you go to a tax expert and say, here is what I have in mind; do you agree that there are no parallels and that there's no problem with the American Campaign Academy case in terms of what I am doing here? I am just asking if you did that?
>
> Mr. Gingrich: The answer is, no. I just want to assert the reason I wouldn't have done it is as a college teacher who had taught on a college campus I didn't think the two cases—I also didn't ask them if it related to spouse abuse. I mean, I didn't think the two cases had any relationship.

(11/13/96 Gingrich Tr. 61–62). During his testimony before the Subcommittee in December, Mr. Schiff raised similar questions with Mr. Gingrich.

> Mr. Schiff: What strikes me is without trying to resolve that at this minute, the possibility is out there, the possibility that a violation of 501(c)(3) is very much in evidence to me. And it seems to me that is true all the way along. You did have the American Campaign Academy case of 1989, which you have indicated you were aware of. It's true the facts were different, but nevertheless something sprung up that told somebody there was a 501(c)(3) problem here if you get too close to political entities.
>
> What I am getting at is this, and again to answer any way you wish, wasn't it, if not intentional, wasn't it reckless to proceed with your involvement as a Member of the House of Representatives into at least a couple of—involvements with the 501(c)(3) organizations, whether it was Progress & Freedom or Kennesaw State or Abraham Lincoln Opportunity Foundation, without getting advice from a tax attorney to whom you told everything? You said, this is the whole plan, this is the whole movement of Renewing American Civilization. * * *
>
> Shouldn't that have been presented to somebody who is a tax attorney, and said, now, am I going to have any problems here? Is this okay under the 501(c)(3) laws?

(12/10/96 Gingrich Tr. 32–33). In response to Mr. Schiff's question, Mr. Gingrich explained why he thought there was no need to seek legal advice because the facts of *American Campaign Academy* and Renewing American Civilization were inapposite. (12/10/96 Gingrich Tr. 34–36).

> Mr. Gingrich: The facts are the key. I was teaching at an accredited university; [ACA] was an institution being set up as basically a politically training center. My course was open to everybody; [ACA] was a Republican course. My course says nothing about campaigns; [ACA] was a course specifically about campaigns.
>
> There are four standards * * * none of which apply to Renewing American Civilization. * * * Just at an objective level you are going to put these [ACA and RAC] up on a board and say that is not a relevant question.

(12/10/96 Gingrich Tr. 35). After Mr. Gingrich's explanation, Mr. Schiff said the following:

> Mr. Schiff: I understand how you distinguish the facts between the American Campaign Academy case and your course. There are those that would argue that the legal holding applies equally to both. In other words, that which brings you to the legal conclusion of not complying with the 501(c)(3) laws, for various reasons that I'd rather not get into now—discuss with Mr. Holden, perhaps—that those are in common even if certain peripheral facts are different.
>
> What I'm getting at is, excuse me for using your own words, but you're not a lawyer. Knowing that there was an attempt to set up a 501(c)(3) training and education academy which floundered in the courts because of something, wouldn't that motivate particularly a Member of the House to want to say, before you start into another one, maybe I ought to sit down with somebody who is a tax expert and tell them the whole plan here, not just course content, but where the course fits into all the strategies here and say, now, do you think I've got a problem? And I don't think you did that. If you did, tell me you did. * * *

(12/10/96 Gingrich Tr. 36–37). Mr. Gingrich's response was three-fold:

> Mr. Gingrich: [First,] [i]f you read the speech I gave in January of 1993, which was the core document from which everything else comes, I talk very specifically about a movement in the speech. I talk very simply about 2 million, not 200,000, volunteers, citizen activists, in the speech. I describe it as a cultural movement that has a political component in the speech.
>
> That's the core document I gave to everyone when I would say, here's what I want to try to teach about. Here is what I want to try to do. That document clearly says there is a movement, and this course is designed to outline the principles from which the movement comes. And so, if everybody who was engaged in looking at the course, whether it was Kennesaw Foundation's lawyers or it was Progress & Freedom's lawyers or it was Reinhardt's lawyers, and the president of the college in both cases, everybody had a chance to read the core document which has movement very specifically in it.
>
> Second, the reason I didn't seek unique legal counsel is as a Ph.D. teaching in a State college in an accredited setting, it never occurred—I mean, if I had thought—this is another proof of my ignorance or proof of my innocence, I'll let you decide—it never occurred to me that this is an issue.
>
> * * *
>
> [Third,] I think everybody who has actually seen my course will tell you * * * I was very careful. Ironically, Max Cleland, who won the Senate seat, is the only current politician used in the course other than John Lewis.
>
> And so the course was clearly not Republican. It was clearly not designed to send a partisan message. No one I know of who has actually seen the course thinks that it was a partisan vehicle. It has no relationship to the American Campaign Academy.

(12/10/96 Gingrich Tr. 37–39). Officials at KSC and Reinhardt did not seek legal advice pertaining to the application of 501(c)(3) to the course. The only such advice ever sought was by KSCF in connection with the agreement to transfer the course to PFF in November 1993 and in asking its outside lawyers to render a legal opinion concerning the course in 1995. Citing the attorney/client privilege,

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[70] A document dated November 13, 1990, entitled *Campaign For A Successful America*, was reviewed by the Subcommittee. (Ex. 145, Eisenach 3086–3142). In a section drafted by Gordon Strauss, an attorney in Ohio, for a consulting group called the Eddie Mahe Company, the following is written:

> .[S]ome educational organizations, tax exempt under Section 501(c)(3) of the Internal Revenue Code, have engaged in activities which affect the outcome of elections, though that is theoretically not supposed to occur.

(Ex. 145, Eisenach 3132). The document also contains the following:

> A very controversial program is being undertaken by a (c)(3), indicating that it may have involvement in the electorial process, notwithstanding the express prohibition on it. At this time, a (c)(3) is not recommended because it would have to be truly independent of the (c)(4) and its PAC.

(Ex. 145, Eisenach 3134).

There was substantial inquiry about this document during the Preliminary Inquiry. No evidence was uncovered to indicate that Mr. Gingrich had any exposure to this document. (12/5/96 Mahe Tr. 34–35; 12/9/96 Gingrich Tr. 52–54; 12/5/96 Eisenach Tr. 59–61). Mr. Strauss was interviewed and stated that the document had nothing to do with AOW/ACTV, the 501(c)(3) organization referred to in the document was merely one he had heard of in an IRS Revenue Ruling, and that he never gave Mr. Gingrich any advice on the law pertaining section 501(c)(3) in regard to AOW/ACTV, the Renewing American Civilization course, or any other projects. The only legal advice he gave Mr. Gingrich pertained to need for care in the use of official resources for travel expenses.

KSCF officials have refused to disclose to the Subcommittee the advice KSCF received in both instances. (6/13/96 Mescon Tr. 60; 6/13/96 Siegel Tr. 36–37; 6/12/96 Falany Tr. 50–51; 6/13/96 Fleming Tr. 46–48).

In his July 1996 interview, Mr. Eisenach said that he did not seek legal advice pertaining to the application of 501(c)(3) to the course. (7/12/96 Eisenach Tr. 236). In his November 1996 interview, Mr. Eisenach said that he had worked with many attorneys who had experience in 501(c)(3) law. (11/14/96 Eisenach Tr. 84–88). But he was not able to point to any specific consultation with a tax attorney where the entire relationship between the course, the movement, and political goals were fully set forth and found to be within the bounds of 501(c)(3). (11/14/96 Eisenach Tr. 88–91).

VI. Summary of the Report of the Subcommittee's Expert

A. Introduction

Because of differences of opinion among the Members of the Subcommittee regarding the tax issues raised in the Preliminary Inquiry, the Subcommittee determined that it would be helpful to obtain the views of a recognized expert in tax-exempt organizations law, particularly with respect to the "private benefit" prohibition. The expert, Celia Roady, reviewed Mr. Gingrich's activities on behalf of ALOF and the activities of others on behalf of ALOF with Mr. Gingrich's knowledge and approval. She also reviewed Mr. Gingrich's activities on behalf of KSCF, PFF, and Reinhardt College in regard to the Renewing American Civilization course and the activities of others on behalf of those organizations with Mr. Gingrich's knowledge and approval. The purpose of this review was to determine whether those activities violated the status of any of these organizations under section 501(c)(3) of the Internal Revenue Code.

B. Qualifications of the Subcommittee's Expert

Ms. Roady is a partner in the Washington, D.C. office of the law firm Morgan, Lewis & Bockius LLP where she specializes full-time in the representation of tax-exempt organizations. Her practice involves the provision of advice on all aspects of section 501(c)(3). Ms. Roady has written many articles on tax-exempt organization issues for publication in legal periodicals such as the "Journal of Taxation of Exempt Organizations" and the "Exempt Organization Tax Review." She is a frequent speaker on exempt organizations topics, regularly lecturing at national tax conferences such as the ALI/ABA conference on charitable organizations and the Georgetown University Law Center conference on tax-exempt organizations, as well as at local tax conferences and seminars on tax-exempt organization issues. In 1996, she was named the Program Chair of the Georgetown University Law Center's annual conference on tax-exempt organizations. (11/15/96 Roady Tr. 2–7).

Ms. Roady is the immediate past Chair of the Exempt Organizations Committee of the Section of Taxation of the American Bar Association, having served as Chair from 1993 to 1995. She is currently serving a three-year term as a member of the Council of the ABA Section of Taxation, and is the Council Director for the Section's Exempt Organizations Committee. She also serves on the Legal Section Council of the American Society of Association Executives, and is a Fellow of the American College of Tax Counsel. (11/15/96 Roady Tr. 2–7).

Ms. Roady served a three-year term as the Co-Chair of the Exempt Organizations Committee of the District of Columbia Bar's Tax Section from 1989 to 1991. She also served on the Steering Committee of the D.C. Bar's Tax Section from 1989 to 1995, and as Co-Chair of the Steering Committee from 1991 to 1993. (11/15/96 Roady Tr. 2–7).

Each of the attorneys interviewed for the position of expert for the Subcommittee highly recommended Ms. Roady. She was described as being impartial and one of the leading people in the field of exempt organizations law. (11/15/96 Roady Tr. 2).[71]

Ms. Roady is a 1973 magna cum laude graduate of Duke University. She received her law degree from Duke Law School, with distinction, in 1976. She received a masters degree in taxation from the Georgetown University Law Center in 1979.

C. Summary of the Expert's Conclusions

Ms. Roady considered the following issues in her review:

1. whether the content of the television programs broadcast by ALOF or the Renewing American Civilization course were "educational" within the meaning of section 501(c)(3);
2. whether one of the purposes of the activities with respect to the television programs or the course was to provide more than an incidental benefit to GOPAC, Mr. Gingrich, or other Republican entities and candidates in violation of the private benefit prohibition in section 501(c)(3);
3. whether the activities with respect to the television programs or the course provided support to GOPAC or a candidate for public office in violation of the campaign intervention prohibition in section 501(c)(3);
4. whether the activities with respect to the television programs or the course violated the private inurement prohibition in section 501(c)(3); and
5. whether the activities with respect to the television programs or the course violated the lobbying limitations applicable to section 501(c)(3) organizations.

(11/15/96 Roady Tr. 7).[72]

With respect to the last two issues, Ms. Roady did not conclude that the activities with respect to the television programs or the course resulted in impermissible private inurement or violated the lobbying limitations applicable to section 501(c)(3) organizations. Similarly, with respect to the first issue, Ms. Roady concluded that the television programs and the course met the requirements of the methodology test described in Rev. Proc. 86–43 and were "educational" within the meaning of section 501(c)(3) even though they advocated particular viewpoints and positions. Accordingly, Ms. Roady concluded that the activities with respect to the television programs and the course served an educational purpose and would be appropriate activities for section 501(c)(3) organizations, as long as there was no violation of the private benefit prohibition or the campaign intervention prohibition. She found substantial evidence, however, of violations of both such prohibitions and therefore concluded that Mr. Gingrich's activities on behalf of the organizations and the activities of others on behalf of the organizations with Mr. Gingrich's knowledge and approval violated the organizations' status under section 501(c)(3). (11/15/96 Roady Tr. 7). The basis for her conclusions may be summarized briefly as follows:

1. THE AMERICAN CITIZENS TELEVISION PROGRAM OF ALOF[73]

a. Private benefit prohibition

Under section 501(c)(3) and the other legal authorities discussed above, the analysis of whether there is a violation of the private benefit prohibition does not depend on whether the activities at issue—the television programs—served an exempt purpose. Even though the television programs met the definition of "educational," there is a violation of section 501(c)(3) if another purpose of the activities was to provide more than an insubstantial or incidental benefit to GOPAC or any other private party. As the Supreme Court stated in *Better Business Bureau* v. *United States*, 326 U.S. 276, 283 (1945), "the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes." In making such a determination, the Tax Court has held that the proper focus is "the purpose towards which an organization's activities are directed and not the nature of the activities themselves." American Campaign Academy, 92 T.C. at 1078–79. The determination as to whether there is a violation of the private benefit prohibition cannot, therefore, be made solely by reference to the content of the television programs or whether the activities in relation to the programs served an educational purpose. Rather, the determination requires a factual analysis to determine whether the organization's activities also had another, nonexempt purpose to provide more than an incidental benefit to a private party such as GOPAC or Republican entities and candidates. In this case, there is substantial evidence that these parties were intended to and did receive more than an incidental benefit from the activities conducted by ALOF.

In summary, according to Ms. Roady, the evidence shows that the ACTV project was a continuation of GOPAC's AOW project, and had the same partisan, political goals as AOW. These goals included, among other things, reaching "new groups of voters not traditionally associated with [the Republican] party;" "mobiliz[ing] thousands of people across the nation at the grass roots level [to become] dedicated GOPAC activists;" and "making great strides in continuing to recruit activists all across America to become involved with the Republican party." The persons who conducted the ACTV project on behalf of ALOF were GOPAC officers, employees, or consultants. In essence, the transfer of the AOW project from GOPAC to ALOF was more in name than substance, since the same activities were conducted by the same persons in the same manner with the same goals. Through the use of ALOF, however, these persons were able to raise tax-deductible charitable contributions to support the ACTV project, funding that would not have been available to GOPAC on a tax-deductible basis.

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[71] The one known public comment on the matter by Ms. Roady is found in the following paragraph from a New York Times article: "Clearly, it's an aggressive position," said Celia Roady, a Washington lawyer and chairwoman of the American Bar Association's committee on tax-exempt organizations, who stressed that she was not talking for the association. "Whether it's too aggressive and crosses the line, I don't know. Clearly, it's more aggressive than many exempt organizations would go forward with."

New York Times, section A, page 12 (Feb. 20, 1995). (Ex. 144). In the same article, Mr. Gingrich is quoted as saying that he acted aggressively in regard to 501(c)(3) law: "Whoa," [Mr. Gingrich] said, when asked after class one recent Saturday if the course nears the edge of what the law allows. "Goes right up to the edge. What's the beef? Doesn't go over the edge, doesn't break any law, isn't wrong. It's aggressive, it's entrepreneurial, it's risk taking."

New York Times, section A, page 12, column 1 (Feb. 20, 1995).

[72] A detailed discussion of the law pertaining to organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code is attached as an Appendix to this Report.

[73] After Ms. Roady met with the Subcommittee to discuss the tax-exempt organizations law and her conclusions regarding Renewing American Civilization, she met with the Special Counsel to discuss the ACTV project. Although she did not formally present her conclusions to the Subcommittee, the legal principles she explained during her meetings with the Subcommittee with respect to Renewing American Civilization were equally applicable to the facts surrounding the ACTV project and support her conclusions set forth in this section of the Report.

Taken together, according to Ms. Roady, the facts as described above show that in addition to its educational purpose, another purpose of the ACTV project was to benefit GOPAC and, through it, Republican entities and candidates, by continuing to conduct the AOW project under a new name and through a section 501(c)(3) organization that could raise funding for the project through tax-deductible charitable contributions. This benefit was not merely incidental. To the contrary, the evidence supports a finding that one of the main purposes for transferring the project to ALOF was to make possible the continuation of activities that substantially benefited GOPAC and Republican entities and candidates.

For these reasons, Ms. Roady concluded that one of the purposes of Mr. Gingrich's activities on behalf of ALOF and the activities of others on behalf of ALOF with Mr. Gingrich's knowledge and approval was to provide more than an incidental benefit to GOPAC and Republican entities and candidates in violation of the private benefit prohibition.

b. Campaign intervention prohibition

As with respect to the private benefit prohibition, the legal authorities discussed above make it clear, according to Ms. Roady, that the analysis of whether there is a violation of the campaign intervention prohibition does not turn on whether the television programs had a legitimate educational purpose. In the IRS CPE Manual, the IRS explained that "activities that meet the [educational] methodology test * * * may nevertheless constitute participation or intervention in a political campaign." IRS CPE Manual at 415. See also New York Bar, 858 F.2d 876 (2d Cir. 1988); Rev. Proc. 86-43. Nor does the analysis turn on the fact that the television programs did not expressly urge viewers to "support GOPAC," "vote Republican," or "vote for Mr. Gingrich." The IRS does not follow the express advocacy standard applied by the FEC, and it is not necessary to advocate the election or defeat of a clearly identified candidate to violate the campaign intervention prohibition. IRS CPE Manual at 413. The determination as to whether there is a violation of the campaign intervention prohibition requires an overall "facts and circumstances" analysis that cannot be made solely by reference to the content of the television programs.

The central issue is whether the television programs provided support to GOPAC. When Congress enacted section 527 in 1974, the legislative history explained that the provision was not intended to affect the prohibition against electioneering activity contained in section 501(c)(3). The IRS regulations under section 527 provide that section 501(c)(3) organizations are not permitted to establish or support a PAC. Treas. Reg. § 1.527-6(g). Under the applicable legal standards, there is a violation of the campaign intervention prohibition with respect to ALOF if the evidence shows that the ACTV project provided support to GOPAC, even though the television programs were educational and were not used as a means to expressly advocate the election or defeat of a particular candidate.

According to Ms. Roady, there is substantial evidence of such support in this case. As discussed above, the evidence shows that the ACTV project conducted by ALOF was a continuation of AOW, a partisan, political project undertaken by GOPAC. Mr. Gingrich himself described ACTV as a continuation of the AOW project. The activities conducted by ALOF with respect to the ACTV project were the same as the activities that had been conducted by GOPAC with respect to the AOW project. The persons who conducted the ACTV project on behalf of ALOF were GOPAC officers, employees, or consultants. Shifting the project to ALOF allowed the parties to raise some tax-deductible charitable contributions to conduct what amounted to the continuation of a GOPAC project for partisan, political purposes. For these reasons, Ms. Roady concluded that Mr. Gingrich's activities on behalf of ALOF and the activities of others on behalf of ALOF with Mr. Gingrich's knowledge and approval provided support to GOPAC in violation of the campaign intervention prohibition.

2. THE RENEWING AMERICAN CIVILIZATION COURSE

a. Private benefit prohibition

The determination of whether there is a violation of the private benefit prohibition does not depend on whether the teaching and dissemination of the course served an educational purpose, and cannot be made simply by analyzing the content of Mr. Gingrich's lectures. The course met the definition of "educational" under section 501(c)(3) and served an educational purpose. (11/15/96 Roady Tr. 7). Nevertheless, there is a violation of section 501(c)(3) if another purpose of the course was to provide more than an incidental private benefit. (11/15/96 Roady Tr. 17). Making this determination requires an analysis of the facts to find out whether Mr. Gingrich's activities on behalf of KSCF, PFF, and Reinhardt and the activities of others with his knowledge and approval had another nonexempt purpose to provide more than an incidental benefit to private parties such as Mr. Gingrich, GOPAC, and other Republican entities and candidates. In this case, there is substantial evidence that these parties were intended to and did receive more than an incidental benefit from the activities conducted with respect to the course. (11/15/96 Roady Tr. 78, 123, 124, 130, 131, 142–145, 173, 195).

In summary, according to Ms. Roady, the evidence shows that the course was developed by Mr. Gingrich in the context of a broader movement. (11/15/96 Roady Tr. 127–130, 134–135, 196). This movement was intended to have political consequences that would benefit Mr. Gingrich in his re-election efforts, GOPAC in its national political efforts, and Republican party entities and candidates in seeking to attain a Republican majority. The goals of the movement were expressed in various ways, and included arousing 200,000 activists interested in renewing American civilization by replacing the welfare state with an opportunity society and having the Republican party adopt the message of Renewing American Civilization so as to attract those activists to the party. It was intended that a Republican majority would be part of the movement, and that the Republican party would be identified with the "opportunity society" and the Democratic party with the "welfare state." (11/15/96 Roady Tr. 128, 130, 142, 145–148, 217–218; 11/19/96 Roady Tr. 35, 41).

The movement, the message of the movement, and the course were all called "Renewing American Civilization." Mr. Gingrich's lectures in the course were based on the same principles as the message of the movement, and the course was an important vehicle for disseminating the message of the movement. Mr. Gingrich stated that the course was "clearly the primary and dominant method [of disseminating the message of the movement.]" Mr. Gingrich used the Renewing American Civilization message in almost every political and campaign speech he made in 1993 and 1994. He was instrumental in determining that virtually the entire political program for GOPAC for 1993 and 1994 would be centered on developing, disseminating, and using the message of Renewing American Civilization. (11/15/96 Roady Tr. 125–127, 144–145, 148–149, 153, 177, 218).

Although GOPAC's financial resources were not sufficient to enable it to carry out all of the political programs at its usual level during this period, it had many roles in regard to the course. These roles included development of the course content which was coordinated in advance with GOPAC charter members, fundraising for the course on behalf of the section 501(c)(3) organizations, and promotion of the course. GOPAC envisioned a partisan, political role for the course. (11/15/96 Roady Tr. 197–202, 208–209).

From 1993 to 1995, KSCF and PFF spent most of the money they had raised for the course on the dissemination of the 20 hours taught by Mr. Gingrich. These funds were raised primarily through tax-deductible charitable contributions to KSCF and to PFF,[74] funding that would not have been available had the project been conducted by GOPAC or another political or noncharitable organization.

According to Ms. Roady, the facts as set forth above show that, although the Renewing American Civilization course served an educational purpose, it had another purpose as well. (11/19/96 Roady Tr. 37, 40). The other purpose was to provide a means for developing and disseminating the message of Renewing American Civilization by replacing the welfare state with an opportunity society. That was the main message of GOPAC and the main message of virtually every political and campaign speech made by Mr. Gingrich in 1993 and 1994. Through the efforts of Mr. Gingrich and others acting with his knowledge and approval, tax-deductible charitable contributions were raised to support the dissemination of a course in furtherance of Mr. Gingrich's political strategies. (11/19/96 Roady Tr. 37, 38). Mr. Gingrich encouraged GOPAC, House Republicans and other Republican entities and candidates to use the course in their political strategies as well. (11/15/96 Roady Tr. 145, 152, 173).

The partisan, political benefit to these parties was intended from the outset, and this benefit cannot be considered merely incidental. To the contrary, the evidence supports a finding that one of Mr. Gingrich's main purposes for teaching the course was to develop and disseminate the ideas, language, and concepts of Renewing American Civilization as an integral part of a broad movement intended to have political consequences that would benefit him in his re-election efforts, GOPAC in its political efforts, and other Republican entities and candidates in seeking to attain a Republican majority. For these reasons, Ms. Roady concluded that one of the purposes of Mr. Gingrich's activities on behalf of KSCF, PFF and Reinhardt in regard to the course entitled "Renewing American Civilization" and the activities of others on behalf of those organizations with Mr. Gingrich's knowledge and approval was to provide more than an incidental benefit to Mr. Gingrich, GOPAC, and other Republican entities and candidates in violation of the private benefit prohibition. (11/15/96 Roady Tr. 122, 125, 127, 143–145, 148, 152, 153, 187–189, 213–217).

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[74] Some funding came from the sale of videotapes and audiotapes of the course. (7/12/96 Eisenach Tr. 283).

b. Campaign intervention prohibition

As discussed above, neither the fact that the content of the Renewing American Civilization course is educational within the meaning of section 501(c)(3) nor the fact that the course lectures do not contain expressions of support or opposition for a particular candidate precludes a finding that there is a violation of the campaign intervention prohibition. Section 501(c)(3) organizations are prohibited from establishing or supporting PACs, and from providing support to candidates in their campaign activities. The relevant issue is whether the course provided support to GOPAC or to Mr. Gingrich in his capacity as a candidate.

According to Ms. Roady, there is substantial evidence of such support in this case. As discussed above, the evidence shows that the course was developed by Mr. Gingrich as a part of a broader political movement to renew American civilization by replacing the welfare state with an opportunity society. The course was an important vehicle for disseminating the message of that movement. The message of replacing the welfare state with the opportunity society was also used in a partisan, political fashion. The "welfare state" was associated with Democrats and the "opportunity society" was associated with Republicans. The message of the course was also the main message of GOPAC during 1993 and 1994 and the main message of virtually every political and campaign speech made by Mr. Gingrich in 1993 and 1994. Through the use of section 501(c)(3) organizations, Mr. Gingrich and others acting with his knowledge and approval raised tax-deductible charitable contributions which were used to support a course designed, developed and disseminated in a manner that provided support to GOPAC in its political programs and to Mr. Gingrich in his re-election campaign. For these reasons, Ms. Roady concluded that Mr. Gingrich's activities on behalf of KSCF, PFF and Reinhardt and the activities of others on behalf of those organizations with Mr. Gingrich's knowledge and approval provided support to GOPAC and to Mr. Gingrich in violation of the campaign intervention prohibition. (11/15/96 Roady Tr. 171–175, 194).

D. Advice Ms. Roady Would Have Given

Had Mr. Gingrich or others associated with ACTV or Renewing American Civilization consulted with Ms. Roady prior to conducting these activities under the sponsorship of 501(c)(3) organizations, she would have advised that they not do so for the reasons set forth above. During her testimony before the Subcommittee, she was asked what her advice would have been to Mr. Gingrich and others associated with ACTV and Renewing American Civilization. She said that she would have recommended the use of a 501(c)(4) organization to pay for the dissemination of the course, as long as the dissemination was not the primary activity of the 501(c)(4) organization. If this had been done, contributions for ACTV and the course would not have been tax-deductible. (11/15/96 Roady Tr. 207–208).

VII. Summary of Conclusions of Mr. Gingrich's Tax Counsel

A. Introduction

During the Preliminary Inquiry, Mr. Gingrich's lawyer forwarded to the Subcommittee a legal opinion letter and follow-on letter regarding the tax questions at issue. The letters were prepared by attorney James P. Holden. At Mr. Gingrich's request, Mr. Holden and his partner who helped him prepare the letters, Susan Serling, met with the Subcommittee on December 12, 1996, to discuss his conclusions. The purpose of the letters was to express Mr. Holden's conclusions regarding whether any violation of section 501(c)(3) occurred with respect to the Renewing American Civilization course.

His understanding of the facts of the matter was based on a review of the course book prepared for the course, videotapes of the course, documents produced by KSC pursuant the Georgia Opens Records Act, PFF's application to the IRS for exemption, newspaper articles, discussions with Mr. Baran, Mr. Eisenach, and counsel to PFF and KSCF.[75]

B. Qualifications of Mr. Gingrich's Tax Counsel

Mr. Holden is a partner at the Washington, D.C. law firm of Steptoe and Johnson. He was an adjunct professor at Georgetown University Law Center from 1970 to 1983. He is co-author of "Ethical Problems in Federal Tax Practice" and "Standards of Tax Practice." He is the author of numerous tax publications and a speaker at numerous tax institutes. He was chair of the American Bar Association Section of Taxation from 1989 to 1990; chair of the Advisory Group to the Commissioner of Internal Revenue from 1992 to 1993; and chair of the IRS Commissioner's Review Panel on Integrity Controls from 1989 to 1990. He was a trustee and president of the American Tax Policy Institute from 1993 to 1995 and a regent of the American College of Tax Counsel. He is or was a member of the following organizations: American Law Institute (consultant, Federal Income Tax Project); Advisory Group to Senate Finance Committee Staff regarding Subchapter C revisions (1984–1985); Board of Advisors, New York University/Internal Revenue Service Continuing Professional Education Program (1987–1990); and BNA Tax Management Advisory Board. He received a J.D. degree from Georgetown University Law Center in 1960 and a B.S. degree from the University of Colorado in 1953.

His experience in 501(c)(3) law stems principally from one client and one case that has been before the IRS for the past six years. (12/12/96 Holden Tr. 21).[76] He said during his testimony, "I don't pretend today to be a specialist in exempt organizations. * * * I pretend to be an expert in the political aspects of such organizations." (12/12/96 Holden Tr. 21). The one case Mr. Holden worked on has not been resolved and he has spent, on average, about 30 percent of his time for the last six years on this case. (12/12/96 Holden Tr. 24). He has never been a member of any organization or committee concerned principally with tax-exempt organizations law. (12/12/96 Holden Tr. 25). He does not have any publications in the exempt organizations field. (12/12/96 Holden Tr. 25). He has never given any speeches on exempt organizations law nor has he been an expert witness with respect to exempt organizations law. (12/12/96 Holden Tr. 26).

When Mr. Baran asked Mr. Holden to prepare his opinion letter, Mr. Baran did not ask what qualifications Mr. Holden had in the exempt organizations area. (12/12/96 Holden Tr. 32). Mr. Holden did not give Mr. Baran any information regarding his background in exempt organizations law other than the names of two references. (12/12/96 Holden Tr. 33).

Mr. Holden's partner who helped prepared the opinion, Susan Serling, does not have experience in the exempt organizations field other than with respect to the one case referred to above that is still before the IRS. (12/12/96 Holden Tr. 27). She is not a member of the ABA Exempt Organizations Committee and does not have any publications in the exempt organizations field. She has never given any speeches pertaining to exempt organizations law and has never testified as an expert witness with respect to exempt organizations law. (12/12/96 Holden Tr. 27).

C. Summary of Conclusions of Mr. Gingrich's Tax Counsel

As set forth in Mr. Holden's opinion letter, his follow-on letter, and in his testimony, it was Mr. Holden's opinion, based on his review of the facts available to him, that "there would be no violation of section 501(c)(3) if an organization described in that section were to conduct 'Renewing American Civilization' as its primary activity." (9/6/96 Holden Ltr. 4). In arriving at this opinion, Mr. Holden evaluated the facts in light of the requirements:

1. that a section 501(c)(3) organization be operated exclusively for an exempt purpose;
2. that the organization serve a public rather than a private interest;
3. that the earnings of an organization not inure to the benefit of any person;
4. that no substantial part of the activities of the organization consist of attempting to influence legislation; and
5. that the organization not participate or intervene in any political campaign in support of or in opposition to any candidate for public office.

(9/6/96 Holden Ltr. 4). A discussion of Mr. Holden's views on the two principal tax questions at issue before the Subcommittee—the private benefit prohibition and campaign intervention prohibition—is set forth below.

1. PRIVATE BENEFIT PROHIBITION

With respect to whether Renewing American Civilization violated the private benefit prohibition described above, Mr. Holden's opinion and follow-on letter focused exclusively on the *American Campaign Academy case*. His letters did not refer to other precedent or IRS statements pertaining to the private benefit prohibition. In evaluating whether Renewing American Civilization created any discernible secondary benefit, in the terms used by the Court in *American Campaign Academy*, Mr. Holden considered whether the course provided an "identifiable benefit" to GOPAC or the Republican party. He concluded that it did not.

Following our review of the course materials, the course syllabi, and video tapes of

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[75] Mr. Holden and his partner conferred with Mr. Eisenach for about three hours. (12/12/96 Holden Tr. 38). The conversation with KSCF counsel, via telephone, lasted about 30 minutes. (12/12/96 Holden Tr. 39). The conversation with PFF's counsel lasted about two hours. (12/12/96 Holden Tr. 38–39). Mr. Holden did not talk to Mr. Gingrich prior to writing the opinion. (12/12/96 Holden Tr. 43). He also did not talk to anyone else involved in the course, such as Mr. Hanser, Ms. Rogers, Ms. Nelson, Mr. Mescon, or Ms. Minnix. (12/12/96 Holden Tr. 43–44).

[76] Although Mr. Holden declined to identify the client in this case, he said that the case "is perhaps the largest case the Internal Revenue Service has before it on this whole issue." (12/12/96 Holden Tr. 20–21).

> the course lectures, we have not been able to identify any situation in which students of the course were advised to vote Republican, join the Republican party, join GOPAC, or support Republicans in general. Rather, the course explored broad aspects of American civilization through Mr. Gingrich's admittedly partisan viewpoint.

(9/17/96 Holden Ltr. 5). Mr. Holden also wrote:

> From our review of the course materials * * * and their presentation, it appears to us that the educational message was not narrowly targeted to benefit particular organizations or persons beyond the students themselves.

(9/6/96 Holden Ltr. 58). During his testimony before the Subcommittee, Mr. Holden said that because the course was educational within the meaning of the "methodology test" referred to above, he could not "conceive" of how the broad dissemination of its message could violate 501(c)(3). (12/12/96 Holden Tr. 71).

> Now, when we get into the course—and I am saying I am going to look at the activities, and if I have a clean educational message, then my organization is entitled to disseminate that message as broadly as we have the resources to do [for any purpose as long as it is] serving the public with that in the sense that this message has utility to the public.

(12/12/96 Holden Tr. 113–114). In coming to his conclusion that the course did not violate the private benefit prohibition, Mr. Holden made several findings of fact and several assumptions. For example, he wrote that he considered the facts that established a close connection between individuals who were active in GOPAC and the development and promotion of the course. As he characterized it, GOPAC's former Executive Director and GOPAC employees became employees or contractors to the organizations that conducted the course. Individuals, foundations, and corporations that provided financial support for the course were also contributors to GOPAC or Mr. Gingrich's political campaigns. GOPAC employees solicited contributions for the course. (9/6/96 Holden Ltr. 4). Furthermore, documents he reviewed:

> provide[d] evidence that the course was developed in a political atmosphere and as part of a larger political strategy. The documents indicate that Mr. Gingrich and GOPAC evolved a political theme that they denominated "Renewing American Civilization" and that, in their political campaign capacities, they intended to press this theme to the advantage of Republican candidates.

(9/17/96 Holden Ltr. 2). Mr. Holden assumed a political motivation behind the development of the course. As described in his opinion letter:

> [T]he individuals who controlled GOPAC and who participated in promoting the course viewed the course as desirable in a political context, and many of their expressions and comments evidence a political motive and interest. * * * Mr. Gingrich is a skilled politician whose ideology finds expression in a political message, and he is interested in maximum exposure of that message and in generating interest in those who might be expected to become advocates of the message. In sum, we have not assumed that the development and promotion of the course were free from political motivation.

(9/6/96 Holden Ltr. 4–5). Furthermore, Mr. Holden said that when preparing his opinion, he made the "critical assumption that the interests of the political persona surrounding GOPAC were advanced by creating this course." (12/12/96 Holden Tr. 72). In this regard, Mr. Holden also said during his testimony:

> We have taken as an assumption that the intent [of the course] was to benefit the political message. If someone told me that teaching the course actually resulted in the benefit, I guess I wouldn't be surprised because that was our understanding of the objective. * * * I accept[ed] for purposes of our opinion that there was an intent to advance the political message by utilizing a (c)(3).

(12/12/96 Holden Tr. 83). In Mr. Holden's opinion, however, the political motivation or strategy behind the creation of the course is irrelevant when determining whether a violation of the private benefit prohibition occurred.

> It is not the presence of politicians or political ideas that controls. The pertinent law does not turn on the political affiliations or political motivations of the principal participants.

(9/6/96 Holden Ltr. 6). According to Mr. Holden, the issue of whether a violation of 501(c)(3) occurred "may not be resolved by a determination that the individuals who designed and promoted the course acted with political motivation." (9/17/96 Holden Ltr. 4). In his opinion, when determining whether an organization violated the private benefit prohibition, it is necessary to determine whether an organization's activities in fact served a private interest. (12/12/96 Holden Tr. 80). What motivates the activities is irrelevant.

> I'm saying it's irrelevant to look to what caused an individual or group of individuals to form a (c)(3) or to utilize a 501(c)(3) organization. The question instead is on the activities—the focus instead is on the activities of the organization and whether they violated the operational test. I think that's a critical distinction.

(12/12/96 Holden Tr. 61). He said that he was "aware of no authority that would hold that because one is motivated to establish a 501(c)(3) organization by business, political, or other motivation, that means that the organization cannot operate in a manner that satisfies 501(c)(3), because we are talking about an operational test." (12/12/96 Holden Tr. 17–18). Mr. Holden cited *American Campaign Academy* as an authority for his conclusion that an organization's activity must itself benefit a targeted group and that motivation of an organization's agents in conducting that activity is irrelevant. Mr. Holden said:

> [In American Campaign Academy] [t]he focus was, instead, on the operational test and whether the activities of the organization evidenced a purpose to serve a private interest. But you have to find that in the activities of the organization and not in some general notion of motivation or background purpose.

(12/12/96 Holden Tr. 61). In light of these and similar comments made by Mr. Holden, the Special Counsel asked Mr. Holden to comment on statements found in the *American Campaign Academy* case at page 1064. The statements are in a section of the case under the heading "Operational Test" and are as follows:

> The operational test examines the *actual purpose* for the organization's activities and *not* the nature of the activities or the organization's statement of purpose. (citations omitted). (emphasis supplied).
>
> In testing compliance with the operational test, we look beyond the four corners of the organization's charter to discover "the actual objects *motivating* the organization and the subsequent conduct of the organization." (citations omitted). (emphasis supplied).
>
> What an organization's purposes are and what purposes its activities support are questions of fact. (citations omitted).

(12/12/96 Holden Tr. 75–76). After the Special Counsel brought these sections of the case to Mr. Holden's attention, the following exchange occurred:

> Mr. Holden: May I refer you to the last sentence before the next heading, "Operating Primarily for Exempt Purposes." The last sentence before that says: "The sole issue for declaration [sic] is whether respondent properly determined that petitioner failed to satisfy the first condition of the operational test by not primarily engaging in activities, which is not for exempt purposes."
>
> It's an activities test. And this is where the courts say this is the sole issue. The stuff before, they're just kind of reciting the law. When he gets to this, he said this is what we have to determine.
>
> Mr. Cole: But in reciting the law, don't they say, in testing compliance with the operational test, we look beyond the four corners of the organization's charter to discover the actual objects motivating the organization? Prior to that, they say the operational test examines the actual purpose for the organization's activities, not the nature of the activities or the organization's statement of purpose.
>
> I grant you that is the statement of the law, but you are saying that has no significance?
>
> Mr. Holden: That's not the case Judge Nims decided. * * *

(12/12/96 Holden Tr. 77).

2. CAMPAIGN INTERVENTION PROHIBITION

In his opinion letter, Mr. Holden wrote that it was "important to note that section 501(c)(3) does not, as is often suggested, bar 'political activity' [by 501(c)(3) organization]." (9/6/96 Holden Ltr. 68). The prohibition is more limited and prohibits an organization from participating in or intervening in any political campaign on behalf of or in opposition to any candidate for public office. In order for an organization to violate this prohibition, there must exist a campaign, a candidate, a candidate seeking public office, and an organization that participates or intervenes on behalf of or in opposition to that candidate. (9/6/96 Holden Ltr. 68–69). Mr. Holden concluded that the course did not violate this prohibition.

> The [course] materials contain no endorsement of or opposition to the candidacy of any person, whether expressed by name or through the use of a label that might be taken as a stand-in for a candidate. While the materials are critical of what is referred to as the "welfare state" and laudatory of what is described as an "opportunity society," none of this is properly characterized as personalized to candidates, directly or indirectly.

(9/6/96 Holden Ltr. 72). During his testimony before the Subcommittee, Mr. Holden said that the course contained issue advocacy in the sense that it called for the replacement of the welfare state with the opportunity society. (12/12/96 Holden Tr. 103–104). He also said that this issue—the replacement of the welfare state with an opportunity society—was closely identified with Mr. Gingrich and his political campaigns. (12/12/96 Holden Tr. 104). He, however, did not see this as a basis for concluding that the course violated the prohibition on intervention in a political campaign because "Mr. Gingrich [had not] captured [this issue] to the point where it is not a legitimate public interest issue for discussion in a purely educational setting, even where he is the instructor." (12/12/96 Holden Tr. 104).[77]

D. Advice Mr. Holden Would Have Given

During his appearance before the Subcommittee, Mr. Holden was asked about what type of organization he would have advised Mr. Gingrich and others to use in order to conduct and disseminate Renewing American Civilization had he been asked in advance. He said that he would not have advised the use of a 501(c)(3) organization because the mix of politics and tax-deductible funds is too "explosive."

I would have advised them not to do the activity through a (c)(3). I have already expressed that view to the Speaker. He didn't consult me in advance, but I said, if I had been advising you in advance. He said, why not. I said, because the intersection of political activity and 501(c)(3) is such an explosive mix in terms of the IRS view of things that I would not advise you to move that close to the issue. You should find a way of financing the course that doesn't involve the use of 501(c)(3) funds. That would have been my advice to him.

I said, that doesn't mean I conclude that what you did is a violation. In fact, I think we are kind of fairly far out beyond the frontiers of what has been decided in the past in this area. We are looking at the kind of case that I do not think has ever been presented. I do not see how anyone can conclude that this is an open and shut case. It just is not of that character.

(12/12/96 Holden Tr. 132–134). Mr. Holden said that an appropriate vehicle for the course might have been a 501(c)(4) organization because such an organization can engage in some political activity and the activity would not have used tax-deductible funds.

(12/12/96 Holden Tr. 132–134). Later, Mr. Holden reiterated that he would have not recommended that Renewing American Civilization be sponsored and funded by a 501(c)(3) organization and pointed out such activities are highly likely to attract the attention of the IRS.

[T]hose funds are deductible and the conjunction of politics and a (c)(3) organization is so explosive as a mix that it is bound to attract the attention of the Internal Revenue Service. I wouldn't have been thinking about this committee. I would have been thinking about whether the Internal Revenue Service would have been likely to challenge.

(12/12/96 Holden Tr. 146). After Mr. Holden made this comment, the following exchange occurred:

Ms. Pelosi: So it would have raised questions[?]

Mr. Holden: Yes.

Mr. Goss: Isn't that a little bit akin to having a yacht and an airplane on your tax return for business purposes[?]

Mr. Holden: It is one of those things that stands out.

(12/12/96 Holden Tr. 146–147).

VIII. Summary of Facts Pertaining to Statements Made to the Committee

A. Background

On or about September 7, 1994, Ben Jones, Mr. Gingrich's Democratic opponent in 1994, filed with the Committee a complaint against Mr. Gingrich. The complaint centered on the course. Among other things, it alleged that Mr. Gingrich had used his congressional staff to work on the course and that he had misused organizations that were exempt from taxation under section 501(c)(3) of the Internal Revenue Code because the course was a partisan, political project, with significant involvement by GOPAC, and was not a permissible activity for a section 501(c)(3) organization. (Ex. 135).

On or about October 4, 1994, Mr. Gingrich wrote the Committee in response to the complaint and primarily addressed the issues concerning the use of congressional staff for the course. In doing so he stated:

I would like to make it abundantly clear that those who were paid for course preparation were paid by either the Kennesaw State Foundation, [sic] the Progress and Freedom Foundation or GOPAC. * * * Those persons paid by one of the aforementioned groups include: Dr. Jeffrey Eisenach, Mike DuGally, Jana Rogers, Patty Stechschultez [sic], Pamela Prochnow, Dr. Steve Hanser, Joe Gaylord and Nancy Desmond.

(Ex. 136, p. 2). After the Committee received and reviewed Mr. Gingrich's October 4, 1994 letter, it sent him a letter dated October 31, 1994, asking for additional information concerning the allegations of misuse of tax-exempt organizations in regard to the course. The Committee also asked for information relating to the involvement of GOPAC in various aspects of the course. As set forth in the letter, the Committee wrote:

There is, however, an allegation which requires explanation before the Committee can finalize its evaluation of the complaint. This is the allegation that, in seeking and obtaining funding for your course on Renewing American Civilization, you improperly used tax-exempt foundations to obtain taxpayer subsidization of political activity.

* * * * *

Your answers to [questions set forth in the letter] would be helpful to the Committee in deciding what formal action to take with respect to the complaint.

* * * * *

A number of documents submitted by Ben Jones, however, raise questions as to whether the course was in fact exclusively educational in nature, or instead constituted partisan political activity intended to benefit Republican candidates.

(Ex. 137, pp. 1–2).

B. Statements Made by Mr. Gingrich to the Committee, Directly or Through Counsel

1. MR. GINGRICH'S DECEMBER 8, 1994 LETTER TO THE COMMITTEE

In a letter dated December 8, 1994, Mr. Gingrich responded to the Committee's October 31, 1994 letter. (Ex. 138). In that letter, Mr. Gingrich made the following statements, which he has admitted were inaccurate, incomplete, and unreliable.

1. [The course] was, by design and application, completely non-partisan. It was and remains about ideas, not politics. (Ex. 138, p. 2).

2. The idea to teach "Renewing American Civilization" arose wholly independent of GOPAC, because the course, unlike the committee, is non-partisan and apolitical. My motivation for teaching these ideas arose not as a politician, but rather as a former educator and concerned American citizen * * *. (Ex. 138, p. 4).

3. The fact is, "Renewing American Civilization" and GOPAC have never had any official relationship. (Ex. 138, p. 4).

4. GOPAC * * * is a political organization whose interests are not directly advanced by this non-partisan educational endeavor. (Ex. 138, p. 5).

5. As a political action committee, GOPAC never participated in the administration of "Renewing American Civilization." (Ex. 138, p. 4).

6. Where employees of GOPAC simultaneously assisted the project, they did so as private, civic-minded individuals contributing time and effort to a 501(c)(3) organization. (Ex. 138, p. 4).

7. Anticipating media or political attempts to link the Course to [GOPAC], "Renewing American Civilization" organizers went out of their way to avoid even the appearances of improper association with GOPAC. Before we had raised the first dollar or sent out the first brochure, Course Project Director Jeff Eisenach resigned his position at GOPAC. (Ex. 138, p. 4).

The goal of the letter was to have the complaint dismissed. (11/13/96 Gingrich Tr. 36).

2. MARCH 27, 1995 LETTER OF MR. GINGRICH'S ATTORNEY TO THE COMMITTEE

On January 26, 1995, Representative Bonior filed with the Committee an amended version of the Ben Jones complaint against Mr. Gingrich. (Ex. 139). Among other things, the complaint re-alleged that the Renewing American Civilization course had partisan, political purposes and was in violation of section 501(c)(3). The complaint also alleged substantial involvement of GOPAC in the course. (Ex. 139, pp. 1–7). In a letter dated March 27, 1995, Mr. Baran, Mr. Gingrich's attorney and a partner at the law firm of Wiley, Rein and Fielding, filed a response on behalf of Mr. Gingrich to the amended complaint. (Ex. 140, PFF 4347). Prior to the letter being delivered, Mr. Gingrich reviewed it and approved its submission to the Committee. (7/18/96 Gingrich Tr. 274–275).

Mr. Cole: If there was anything inaccurate in the letter, would you have told Mr. Baran to change it?

Mr. Gingrich: Absolutely.

(7/18/96 Gingrich Tr. 275).

The letter contains the following statements, which Mr. Gingrich has admitted were inaccurate, incomplete, and unreliable.

1. As Ex. 13 demonstrates, the course solicitation * * * materials are completely non-partisan. (Ex. 140, p. 19, fn. 7).

2. GOPAC did not become involved in the Speaker's academic affairs because it is a political organization whose interests are not advanced by this non-partisan educational endeavor. (Ex. 140, p. 35).

3. The Renewing American Civilization course and GOPAC have never had any relationship, official or otherwise. (Ex. 140, p. 35).

4. As noted previously, GOPAC has had absolutely no role in funding, promoting, or administering Renewing American Civilization. (Ex. 140, pp. 34–35).

5. GOPAC has not been involved in course fundraising and has never contributed any

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[77] See also 12/12/96 Holden Tr. 103:

Mr. Schiff: But if you are providing 501(c)(3) raised money to pay for that candidate to give the same message, which is his political message, I think, for all substantial purposes, aren't you then, in effect, intervening or even endorsing the candidate by using that type of money to allow him to get his message further than it would get in the absence of that money?

Mr. Holden: I go back to the fact that we have a clean curriculum that we were talking about in a hypothetical and in the judgment that we reached about this case, and I don't believe that merely because a political figure takes a particular set of values and articulates them as a political theme, that that so captures that set of values that a 501(c)(3) organization cannot legitimately educate people about that same set of values.

Mr. Schiff: With the same messenger?

Mr. Holden: It doesn't seem to me that that compels a conclusion that there's a violation of 501(c)(3).

money or services to the course. (Ex. 140, p. 28).

6. Anticipating media or political attempts to link the course to GOPAC, course organizers went out of their way to avoid even the appearance of associating with GOPAC. Prior to becoming Course Project Director, Jeffrey Eisenach resigned his position at GOPAC and has not returned. (Ex. 140, p. 36). The purpose of Mr. Baran's letter was to have the Committee dismiss the complaints against Mr. Gingrich. (11/13/96 Gingrich Tr. 35–36).

C. Subcommittee's Inquiry Into Statements Made to the Committee

On September 26, 1996, the Subcommittee expanded the scope of the Preliminary Inquiry to determine:

> [w]hether Representative Gingrich provided accurate, reliable, and complete information concerning the course entitled "Renewing American Civilization," GOPAC's relationship to the course entitled "Renewing American Civilization," or the Progress and Freedom Foundation in the course of communicating with the Committee, directly or through counsel * * *.

On October 1, 1996, the Subcommittee requested that Mr. Gingrich produce to the Subcommittee all documents that were used or relied upon to prepare the letters at issue—the letters dated October 4, 1994, December 8, 1994 and March 27, 1995. Mr. Gingrich responded to the Committee's request on October 31, 1996. (Ex. 141). In his response, Mr. Gingrich described how extremely busy he was at the time the October 4, 1994, and December 8, 1994 letters were prepared. He said, the October 4, 1994 letter was written "in [the] context of exhaustion and focused effort" on finishing a congressional session, traveling to over a hundred congressional districts, tending to his duties as Whip, and running for re-election in his district. (Ex. 141, p. 1). At the time of the December 8, 1994 letter, he said that he and his staff were "making literally hundreds of decisions" as part of the transition in the House from Democratic to Republican Control. (Ex. 141, p. 2; 11/13/96 Gingrich Tr. 6, 10, 26). With respect to his level of activity at the time the March 27, 1995 letter was created Mr. Gingrich said the following:

> [W]e were going through passing the Contract with America in a record 100 days in what many people believe was a forced march. I was, in parallel, beginning to lay out the base for the balanced budget by 2002, and I was, frankly, being too noisy publicly and damaging myself in the process.
>
> I had three projects—four; I was writing a book. So those four projects were ongoing as I was going home to report to my district, and we were being battered as part of this continuum by Bonior and others, and we wanted it handled in a professional, calm manner. We wanted to honor the Ethics process.

(11/13/96 Gingrich Tr. 33–34).

Mr. Gingrich wrote in his October 31, 1996 response to the Subcommittee that "although [he] did not prepare any of the letters in question, in each case [he] reviewed the documents for accuracy." (Ex. 141, p. 3). Specifically, with respect to the October 4, 1994 letter, his assistant, Annette Thompson Meeks, showed him the draft she had created and he "read it, found it accurate to the best of [his] knowledge, and signed it." (Ex. 141, p. 2). With respect to the December 8, 1994 letter, he wrote, "Again I would have read the letter carefully and concluded that it was accurate to the best of my knowledge and then signed it." (Ex. 141, p. 2). With respect to the March 27, 1995 letter, he wrote that he "read [it] to ensure that it was consistent with [his] recollection of events at that time." (Ex. 141, p. 3).

D. Creation of the December 8, 1994 and March 27, 1995 Letters

Mr. Gingrich appeared before the Subcommittee on November 13, 1996 to testify about these letters.[78] He began his testimony by stating that the "ethics process is very important." (11/13/96 Gingrich Tr. 4). He then went on to state:

> On Monday I reviewed the 380-page [July 1996] interview with Mr. Cole, and I just want to begin by saying to the [C]ommittee that I am very embarrassed to report that I have concluded that reasonable people could conclude, looking at all the data, that the letters are not fully responsive, and, in fact, I think do fail to meet the standard of accurate, reliable and complete.

(11/13/96 Gingrich Tr. 5). Mr. Gingrich said several times that it was only on the Monday before his testimony—the day when he reviewed the transcript of his July interview with Mr. Cole—that he realized the letters were inaccurate, incomplete, and unreliable. (11/13/96 Gingrich Tr. 5, 8, 10, 149, 150, 195; 12/10/96 Gingrich Tr. 75). In his testimony before the Subcommittee the next month, Mr. Gingrich "apologized for what was clearly a failure to communicate accurately and completely with this [C]ommittee." (12/10/96 Gingrich Tr. 5). Mr. Gingrich said the errors were a result of "a failure to communicate involving my legal counsel, my staff and me."

(12/10/96 Gingrich Tr. 5). Mr. Gingrich went on to say:

> After reviewing my testimony, my counsel's testimony, and the testimony of two of his associates, the ball appears to have been dropped between my staff and my counsel regarding the investigation and verification of the responses submitted to the [C]ommittee.
>
> As I testified, I erroneously, it turns out, relied on others to verify the accuracy of the statements and responses. This did not happen. As my counsel's testimony indicates, there was no detailed discussion with me regarding the submissions before they were sent to the [C]ommittee. Nonetheless, I bear responsibility for them, and I again apologize to the [C]ommittee for what was an inadvertent and embarrassing breakdown.
>
> * * * * *
>
> At no time did I intend to mislead the [C]ommittee or in any way be less than forthright.

(12/10/96 Gingrich Tr. 5–7). Of all the people involved in drafting, reviewing, or submitting the letters, the only person who had first-hand knowledge of the facts contained within them with respect to the Renewing American Civilization course was Mr. Gingrich.

1. CREATION OF THE DECEMBER 8, 1994 LETTER

According to Mr. Gingrich, after he received the Committee's October 31, 1994 letter, he decided that the issues in the letter were too complex to be handled by his office and he sought the assistance of an attorney. (11/13/96 Gingrich Tr. 11). Mr. Gaylord, on behalf of Mr. Gingrich, contacted Jan Baran and the Mr. Baran's firm began representing Mr. Gingrich on November 15, 1994. (11/14/96 Gaylord Tr. 16;[79] 11/13/96 Baran Tr. 4;[80] 12/10/96 Gingrich Tr. 5). The response prepared by Mr. Baran's firm became the letter from Mr. Gingrich to the Committee dated December 8, 1994.

According to Mr. Baran, he did not receive any indication from Mr. Gaylord or Mr. Gingrich that Mr. Baran was to do any kind of factual review in order to prepare the response. (11/13/96 Baran Tr. 47–48).[81] Mr. Baran and his staff did not seek or review documents other than those attached to the complaint of Mr. Jones and the Committee's October 31, 1994 letter to Mr. Gingrich[82] and did not contact GOPAC, Kennesaw State College, or Reinhardt College. (11/13/96 Baran Tr. 13, 15, 18). Mr. Baran did not recall speaking to Mr. Gingrich about the letter other than possibly over dinner on December 9, 1994—one day after the letter was signed by Mr. Gingrich. (11/13/96 Baran Tr. 18, 33). Mr. Baran did contact Mr. Eisenach, but did not recall the "nature of the contact." (11/13/96 Baran Tr. 16). Mr. Eisenach said he had no record of ever having spoken to Mr. Baran about the letter and does not believe that he did so. (11/14/96 Eisenach Tr. 18–19, 22). The conversation he had with Mr. Baran concerned matters unrelated to the letter. -(11/14/96 Eisenach Tr. 17–18). Mr. Eisenach also said that no one has ever given him a copy of the December 8, 1994 letter and asked him to verify its contents. (11/14/96 Eisenach Tr. 22).

The other attorney at Wiley, Rein and Fielding involved in preparing the response was Bruce Mehlman. (11/13/96 Baran Tr. 19; 11/19/96 Mehlman Tr. 17). He was a first-year associate who had been at Wiley, Rein and Fielding since September 1994. (11/19/96 Mehlman Tr. 5).[83] Mr. Mehlman's role was to create the first draft. (11/19/96 Mehlman Tr. 15). The materials Mr. Mehlman had available to him to prepare the draft were:

1. correspondence between Mr. Gingrich and the Committee, including the October 4, 1994 letter;
2. course videotapes;
3. the book used in the course called "Renewing American Civilization";
4. a course brochure;
5. the complaint filed by Ben Jones against Mr. Gingrich; and
6. documents produced pursuant to a Georgia Open Records Act request.

(11/19/96 Mehlman Tr. 15–16, 20). Mr. Mehlman said that he did not attempt to gather any other documents because he did not see a need to go beyond these materials in order to prepare a response. (11/19/96 Mehlman Tr. 19–20). With the exception of contacting his brother, who had taken the course,[84] Mr. Mehlman did not make any inquiries of people regarding the facts of the matter. (11/19/96 Mehlman Tr. 18). He did not, for example, contact GOPAC or Mr. Eisenach. (11/19/96 Mehlman Tr. 28). After he completed his first draft, he gave it to Mr. Baran. (11/19/96 Mehlman Tr. 22). He assumed that Mr. Baran would make sure that any factual questions would have been answered to his satisfaction before the letter went out. (11/19/96 Mehlman Tr. 51). However, Mr. Mehlman did not know what, if anything, Mr. Baran did with the draft after he gave it to him. (11/19/96 Mehlman Tr. 22).

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[78] Mr. Gingrich appeared twice before the Subcommittee to discuss these letters. The first time was on November 13, 1996, in response to a request from the Subcommittee that he appear and testify about the matter under oath. The second time was on December 10, 1996, as part of his opportunity to address the Subcommittee pursuant to Rule 17(a)(3) of the Committee's Rules. Pursuant to Committee Rules, that appearance was also under oath.

[79] Mr. Gaylord was the one to contact the firm because his position was "advisor to Congressman Gingrich" and he coordinated "all of the activities that were outside the official purview of [Mr. Gingrich's] congressional responsibilities." (11/14/96 Gaylord Tr. 19; 11/13/96 Baran Tr. 7).

[80] Mr. Gingrich waived his attorney/client privilege and asked Mr. Baran to testify before the Committee. (11/13/96 Gingrich Tr. 5).

[81] Mr. Gaylord said that he did not give any instructions to Mr. Baran about how the response should be prepared. (11/14/96 Gaylord Tr. 16–17). Mr. Baran, however, recalled that Mr. Gaylord said that the response should be completed quickly "because there was hope that the Ethics Committee would meet before the end of the year to consider this matter" and that it should not be too expensive. (11/13/96 Baran Tr. 7, 46–48).

[82] The attachments to the October 31, 1994 letter were selected from materials that were part of the complaint filed by Mr. Jones.

[83] Mr. Mehlman left Wiley, Rein & Fielding in February 1996 and is now an attorney with the National Republican Congressional Committee. (11/19/96 Mehlman Tr. 5).

When Mr. Gaylord asked Mr. Baran to prepare the letter, it was Mr. Baran's understanding that Annette Thompson Meeks, an Administrative Assistant for Mr. Gingrich's office, would help. (11/13/96 Baran Tr. 5, 7). According to Mr. Baran, Ms. Meeks' role was:

> basically to take a draft product from us and review it for accuracy [from] her personal knowledge and basically make sure that it was acceptable. And in that regard, I believed that she may have spoken with other people to confirm that, but you will be talking to her, and you will have to confirm it with her. I tried to not talk to her about that.

(11/13/96 Baran Tr. 10). Mr. Baran described the process for reviewing the letter as follows:

> Well, you know, as a counsel who was retained relatively late in that process at that time and as someone who had no firsthand knowledge about any of the underlying activities and with a marching order of trying to prepare a draft that was usable by the staff, we were pretty much focused on getting something together and over to Annette Meeks so that it could be used. Verification was something that would have been available through those who had firsthand knowledge about these facts, who had reviewed the draft.

(11/13/96 Baran Tr. 15). Mr. Baran did not, however, know whether the letter was reviewed by others to determine its accuracy. (11/13/96 Baran Tr. 48).

Ms. Meeks said that at the time the letter was being prepared, she had no knowledge of whether:

1. the course was a political or partisan activity by design or application;
2. GOPAC was involved in the course;
3. GOPAC was benefited by the course;
4. GOPAC created, funded, or administered the course;
5. the idea to teach the course arose wholly independent of GOPAC;
6. Mr. Gingrich's motivation for teaching the course arose not as a politician but rather as a historian;
7. Mr. Eisenach resigned his position at GOPAC.

(11/14/96 Meeks Tr. 45–47). Ms. Meeks also said she was unaware that GOPAC's theme was Renewing American Civilization. (11/14/96 Meeks Tr. 88).

Ms. Meeks said she had no role in drafting the letter, did not talk to anyone to verify that the facts in the letter were accurate, and had no knowledge of how the facts in the letter were checked for accuracy. (11/14/96 Meeks Tr. 39, 48, 51). She did not indicate to Mr. Baran that she had given the letter to anyone for the purpose of checking its accuracy. (11/14/96 Meeks Tr. 87). In this regard, Ms. Meeks said:

> I will be very frank and tell you I don't know how [Mr. Baran] composed this information as far as who he spoke with. I was not privy to any of that. The only thing I could add to my answer is that once counsel is retained, we were kind of out of the picture as far as the process, other than typing and transmitting.

(11/14/96 Meeks Tr. 92). She said her role was to provide Mr. Baran with: background information about Mr. McCarthy (the Committee's counsel who had conferred with Mr. Gingrich about the course in 1993); a copy of the October 4, 1994 letter from Mr. Gingrich to the Committee; copies of papers relating to Mr. Hanser's employment with Mr. Gingrich's congressional office; and copies of the course videotapes. (11/14/96 Meeks Tr. 36–37).

Mr. Gaylord had a similar expectation in that, by retaining Wiley, Rein and Fielding, the firm was:

> both protecting us and had done the proper and correct investigation in the preparation of the letters and that they, in fact, did their job because that's what they were paid to do. And I presumed that they had extracted the information from Dr. Eisenach and others who were involved specifically in the course.

(11/14/96 Gaylord Tr. 62). Mr. Gaylord, however, did not know what inquiry Mr. Baran made in order to prepare the letter. (11/14/96 Gaylord Tr. 17).

After Mr. Baran sent Ms. Meeks a draft of the letter, Ms. Meeks re-typed the letter and sent the new version to Mr. Baran to verify that it was identical to what he had sent her. She then recalled faxing a copy to Mr. Gaylord and to Mr. Gingrich's executive assistant "to get Newt to take a look at it." (11/14/96 Meeks Tr. 43–44). Mr. Gingrich said about his review of the letter:

> And I think in my head, I was presented a document—I am not trying to blame anybody, or I am not trying to avoid this, I am trying to explain how it happened. I was presented a document and told, this is what we have collectively decided is an accurate statement of fact. I read the document, and it did not at any point leap out to me and say, boy, you had better modify paragraph 3, or that this phrase is too strong and too definitive. I think I read it one time, so that seems right to me, and I signed it.

(11/13/96 Gingrich Tr. 11). See also 11/13/96 Gingrich Tr. 10 (at the time he read the letter, "nothing leaped out at [him] and said, 'this is wrong' ") and 11/13/96 Gingrich Tr. 16 (the letter "seemed accurate" to him).[85]

Mr. Gaylord did not recall whether he reviewed the letter prior to its being sent to the Committee. (11/14/96 Gaylord Tr. 18). Mr. Gaylord said that the statement that GOPAC had no role in the administration of the course was incorrect. (11/14/96 Gaylord Tr. 30–31). Mr. Gaylord said that the statement that GOPAC employees contributed time as private, civic-minded people was incorrect. (11/14/96 Gaylord Tr. 31). Mr. Gaylord was not asked to verify the facts in the letters. (11/14/96 Gaylord Tr. 20, 33).

2. BASES FOR STATEMENTS IN THE DECEMBER 8, 1994 LETTER

During their testimony, those involved in the creation of the letter were unable to explain the bases for many of the statements in the letter. Explanations were, however, given for the bases of some of the statements. A summary of those bases is set forth below.

1. [The course] was, by design and application, completely non-partisan. It was and remains about ideas, not politics. (Ex. 138, p. 2).

Mr. Baran said that the basis for this statement was his review of the course tapes and course materials. (11/13/96 Baran Tr. 19). Mr. Mehlman said the following about his understanding of the basis of this statement:

> Well, I don't specifically recall. If I had to assume, it would be some of the [Georgia Open Records Act] documents or some of the course materials that purport to be nonpartisan, or to have created a course that was nonpartisan, that certainly would explain design.
>
> As far as in application, probably the reference made by my brother who had seen the course, who had participated in it, I suppose, and my general basic review of the initial writings about the course and viewing the first videotape of the course, suggested that the course was nonpartisan.

(11/19/96 Mehlman Tr. 24–25).

According to Mr. Baran, the letter to the College Republicans—which was one of the attachments to the September 7, 1994 Jones complaint (Ex. 81)—did not raise a question in his mind that the course was partisan or about politics. (11/13/96 Baran Tr. 23).

2. "The idea to teach 'Renewing American Civilization' arose wholly independent of GOPAC, because the course, unlike the committee, is non-partisan and apolitical. My motivation for teaching these ideas arose not as a politician, but rather as a former educator and concerned American citizen * * *." (Ex. 138, p. 4).

Mr. Baran said that the basis of this statement was a review of the course tapes and the belief that the course had originated from a January 25, 1993 speech Mr. Gingrich had given on the House floor. (11/13/96 Baran Tr. 24–25). At the time the letter was drafted, Mr. Baran was unaware of Mr. Gingrich's December 1992 meeting with Owen Roberts where Mr. Gingrich first laid out his ideas for the Renewing American Civilization movement and course. (11/13/96 Baran Tr. 25). Mr. Mehlman did not speak with Mr. Gingrich about his motivations for the course and did not know if Mr. Baran had spoken with Mr. Gingrich about his motivations for teaching the course. (11/19/96 Mehlman Tr. 27).

3. "The fact is, 'Renewing American Civilization' and GOPAC have never had any official relationship." (Ex. 38, p. 4).

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[84] The information obtained from his brother used as the basis of the statement in Mr. Gingrich's response that the course contained "as many references to Franklin Roosevelt, Jimmy Carter, and Martin Luther King, Jr. as there are to Ronald Reagan or Margaret Thatcher." (11/19/96 Mehlman Tr. 20). Mr. Mehlman, however, personally reviewed only one course videotape. (11/19/96 Mehlman Tr. 21).

[85] In early July 1993, Mr. Gingrich was interviewed about the course by a student reporter with the KSC newspaper. In that interview the following exchange took place:

> Interviewer: And how is GOPAC involved in this?
>
> Mr. Gingrich: It's not involved in this at all.
>
> Interviewer: Are you going to bring a lot of your ideas to GOPAC though?
>
> Mr. Gingrich: Absolutely. Every single one of them.
>
> (Ex. 142, p. 10).

In other interviews over the past few years, Mr. Gingrich has made other statements about GOPAC's involvement in the course. They have included, for example, the following:

1."GOPAC had the most incidental involvement at the very beginning of the process." (Atlanta Constitution, section A, page 1 (Sept. 19, 1993)).

2."GOPAC provided some initial ideas on who might be interested in financing the course; that's all they did." (Associated Press, AM cycle, (Sept. 2, 1993)).

3."The initial work was done before we talked with Kennesaw State College at GOPAC in organizing our thoughts." (The Hotline, American Political Network, Inc. (Sept. 7, 1993)).

Mr. Baran said about this statement:

> Well, I think the basis of [this] statement[] [was] essentially the characterizations that had been placed on the relationship between the course and GOPAC by people like Jeff Eisenach[86] at that time, and it was consistent with my limited knowledge of GOPAC's association with the course at that time. . . .
>
> You know, the various materials, some of which we went through this morning, were items that came to my attention in the course of the document production, which commenced, I think, around April of this year and took quite a bit of time, or that came up in the course of your interviews with Mr. Gingrich.
>
> * * * * *
>
> Well, I think the basis is that these statements were being reviewed by people who would presumably be in a position to correct me if there [sic] was wrong.
>
> (11/13/96 Baran Tr. 36–37).

When asked about the appearance of GOPAC fax cover sheets on documents pertaining to the course, Mr. Baran said that such faxes raised questions in his mind but that he "had an understanding at that time that those questions were addressed by an explanation that there were either incidental or inadvertent uses of GOPAC resources or there were uses of GOPAC resources that were accounted for by Mr. Eisenach." (11/13/96 Baran Tr. 21). Mr. Baran could not recall how he came to this understanding. (11/13/96 Baran Tr. 21–22).

With respect to whether Mr. Baran knew that GOPAC was involved in raising funds for the course, Mr. Baran said:

> At that time my recollection of quote, GOPAC being involved in fund-raising [unquote] was focused on Ms. Prochnow, the finance director who I don't know and have never met, but whose role was characterized, I believe, by Jeff Eisenach to me at some point, as having helped raise a couple of contributions, I think, Cracker Barrel was one of them, that is a name that sticks in my mind. But it was characterized as being sort of ancillary and just really not material.
>
> (11/13/96 Baran Tr. 41).

3. CREATION OF THE MARCH 27, 1995 LETTER

In addition to the associate, Mr. Mehlman, who had worked with Mr. Baran in drafting Mr. Gingrich's December 8, 1994 letter to the Committee, another associate, Michael Toner, helped Mr. Baran draft what became the March 27, 1995 letter.[87] (11/19/96 Toner Tr. 10–11). As with the December 8, 1994 letter, Mr. Baran did not receive any indication from Mr. Gaylord or Mr. Gingrich that Mr. Baran was to do any kind of factual review in order to prepare the March 27, 1995 letter. (11/13/96 Baran Tr. 48). Mr. Baran did not recall contacting anyone outside the law firm for facts relevant to the preparation of the letter with respect to the course. He said that "the facts about the course, frankly, didn't seem to have changed any from the December period to the March period. And our focus seemed to be elsewhere." (11/13/96 Baran Tr. 28). Both Mr. Mehlman and Mr. Toner said that they did not contact anyone with knowledge of the facts at issue in order to prepare the letter. (11/19/96 Toner Tr. 21–22, 38; 11/19/96 Mehlman Tr. 38).

Ms. Meeks said that she had no role in the preparation of the letter. (11/14/96 Meeks Tr. 50). She saw it for the first time one day prior to her testimony before the Subcommittee in November 1996. (11/14/96 Meeks Tr. 50). Mr. Eisenach said that he did not have any role in the preparation of the letter nor was he asked to review it prior to its submission to the Committee. (11/14/96 Eisenach Tr. 24–25). Mr. Gaylord said that he had no role in the preparation of the letter and did not provide any information that is in the letter. (11/14/96 Gaylord Tr. 20). He also said that he did not discuss the letter with Mr. Gingrich or Mr. Baran at the time of its preparation. (11/14/96 Gaylord Tr. 21). Mr. Gaylord said that he did not know where Baran obtained the facts for the letter. He "presumed" that Mr. Baran and his associates had gathered the facts. (11/14/96 Gaylord Tr. 21–22).

Mr. Baran said that his role in creating the letter was to meet with Mr. Mehlman and Mr. Toner, review the status of their research and drafting and review their drafts. (11/13/96 Baran Tr. 28). Mr. Mehlman and Mr. Toner divided responsibility for drafting portions of the letter. (11/19/96 Toner Tr. 12–14; 11/19/96 Mehlman Tr. 36, 37, 40). Mr. Baran also made edits to the letter. (11/19/96 Mehlman Tr. 40). During his interview, Mr. Toner stressed that there were many edits to the letter by Mr. Baran, Mr. Mehlman, and himself and he could, therefore, not explain who had drafted particular sentences in the letter. (*see*, *e.g*, 11/19/96 Toner Tr. 34).

After the letter was drafted, Mr. Baran said that Mr. Baran and his associates then "would have sent a draft that they felt comfortable with over to the Speaker's office." (11/13/96 Baran Tr. 28). Mr. Baran, Mr. Toner, and Mr. Mehlman each said during their testimony that they assumed that Mr. Gingrich or someone in his office reviewed the letter for accuracy before it was submitted to the Committee. (11/19/96 Toner Tr. 16, 40, 44; 11/13/96 Baran Tr. 32–33, 37–38; Mehlman Tr. 41). They, however, did not know whether Mr. Gingrich or anyone in his office with knowledge of the facts at issue ever actually reviewed the letter prior to its submission to the Committee. (11/19/96 Toner Tr. 17, 40, 44; 11/13/96 Baran Tr. 37–38; Mehlman Tr. 41).

With respect to Mr. Baran's understanding of whether Mr. Gingrich reviewed the letter, the following exchange occurred:

> Mr. Cole: Did you have any discussions with Mr. Gingrich concerning this letter prior to it going to the committee?
>
> Mr. Baran: I don't recall any. I just wanted to make sure that he did review it before it was submitted.
>
> Mr. Cole: How did you determine that he had reviewed it?
>
> Mr. Baran: I don't recall today, but I would not file anything until I had been assured by somebody that he had read it.
>
> Mr. Cole: Would that assurance also have involved him reading it and not objecting to any of the facts that are asserted in the letter?
>
> Mr. Baran: I don't know what his review process was regarding this letter.
>
> * * * * *
>
> Mr. Cole: If he just read it, you may still be awaiting comments from him. Would you have made sure that he had read it and approved it, or just the fact that he read it is all you would have been interested in, trying to make sure that we don't blur that distinction?
>
> Mr. Baran: No, I would have wanted him to be comfortable with this on many levels.
>
> Mr. Cole: And were you satisfied that he was comfortable with it prior to filing it with the committee?
>
> Mr. Baran: Yes.
>
> Mr. Cole: Do you know how you were satisfied?
>
> Mr. Baran: I can't recall the basis upon which that happened.
>
> (11/13/96 Baran Tr. 32–33).

4. BASES FOR STATEMENTS IN THE MARCH 27, 1995 LETTER

With respect to the bases for the statements in the letter in general, Mr. Baran said that it was largely based on the December 8, 1994 letter and any information he and his associates relied on to prepare it. (11/13/96 Baran Tr. 37–38).

IX. Analysis and Conclusion

A. Tax Issues

In reviewing the evidence concerning both the AOW/ACTV project and the Renewing American Civilization project, certain patterns became apparent. In both instances, GOPAC had initiated the use of the messages as part of its political program to build a Republican majority in Congress. In both instances there was an effort to have the material appear to be non-partisan on its face, yet serve as a partisan, political message for the purpose of building the Republican Party.

Under the "methodology test" set out by the Internal Revenue Service, both projects qualified as educational. However, they both had substantial partisan, political aspects. Both were initiated as political projects and both were motivated, at least in part, by political goals.

The other striking similarity is that, in both situations, GOPAC was in need of a new source of funding for the projects and turned to a 501(c)(3) organization for that purpose. Once the projects had been established at the 501(c)(3) organizations, however, the same people continued to manage it as had done so at GOPAC, the same message was used as when it was at GOPAC, and the dissemination of the message was directed toward the same goal as when the project was at GOPAC—building the Republican Party. The only significant difference was that the activity was funded by a 501(c)(3) organization.

This was not a situation where one entity develops a message through a course or a television program for purely educational purposes and then an entirely separate entity independently decides to adopt that message for partisan, political purposes. Rather, this was a coordinated effort to have the 501(c)(3) organization help in achieving a partisan, political goal. In both instances the idea to develop the message and disseminate it for partisan, political use came first. The use of the 501(c)(3) came second as a source of funding.

This factual analysis was accepted by all Members of the Subcommittee and the Special Counsel. However, there was a difference of opinion as to the result under 501(c)(3) when applying the law to these facts. Ms. Roady, the Subcommittee's tax expert, was of the opinion that the facts presented a clear violation of 501(c)(3) because the evidence showed that the activities were intended to benefit Mr. Gingrich, GOPAC, and other Republican candidates and entities. Mr. Holden, Mr. Gingrich's tax attorney, disagreed. He found that the course was nonpartisan in its content, and even though he assumed that the motivation for disseminating it involved partisan, political goals, he did not find a sufficiently narrow targeting of the dissemination to conclude that it was a private benefit to anyone.

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[86] Earlier in his testimony and as described above, Mr. Baran said that he had contacted Mr. Eisenach at the time the letter was being prepared, but did not recall the "nature of the contact." (11/13/96 Baran Tr. 16). As also discussed above, Mr. Eisenach recalled having a discussion with Mr. Baran at the time the letter was being prepared, but about topics unrelated to the letter. (11/14/96 Eisenach Tr. 17–18).

[87] Mr. Toner has been an associate attorney with Wiley, Rein and Fielding since September 1992, except for a period during which we he worked with the Dole/Kemp campaign. (11/19/96 Toner Tr. 6).

Some Members of the Subcommittee and the Special Counsel agreed with Ms. Roady and concluded that there was a clear violation of 501(c)(3) with respect to AOW/ACTV and Renewing American Civilization. Other Members of the Subcommittee were troubled by reaching this conclusion and believed that the facts of this case presented a unique situation that had not previously been addressed by the legal authorities. As such, they did not feel comfortable supplanting the functions of the Internal Revenue Service or the Tax Court in rendering a ruling on what they believed to be an unsettled area of the law.

B. Statements Made to the Committee

The letters Mr. Gingrich submitted to the Committee concerning the Renewing American Civilization complaint were very troubling to the Subcommittee. They contained definitive statements about facts that went to the heart of the issues placed before the Committee. In the case of the December 8, 1994 letter, it was in response to a direct request from the Committee for specific information relating to the partisan, political nature of the course and GOPAC's involvement in it.

Both letters were efforts by Mr. Gingrich to have the Committee dismiss the complaints without further inquiry. In such situations, the Committee does and should place great reliance on the statements of Members.

The letters were prepared by Mr. Gingrich's lawyers. After the Subcommittee deposed the lawyers, the reasons for the statements being in the letters was not made any clearer. The lawyers did not conduct any independent factual research. Looking at the information the lawyers used to write the letters, the Subcommittee was unable to find any factual basis for the inaccurate statements contained therein. A number of exhibits attached to the complaint were fax transmittal sheets from GOPAC. While this did not on its face establish anything more than GOPAC's fax machine having been used for the project, it certainly should have put the attorneys on notice that there was some relationship between the course and GOPAC that should have been examined before saying that GOPAC had absolutely no involvement in the course.

The lawyers said they relied on Mr. Gingrich and his staff to ensure that the letters were accurate; however, none of Mr. Gingrich's staff had sufficient knowledge to be able to verify the accuracy of the facts. While Mr. Gaylord and Mr. Eisenach did have sufficient knowledge to verify many of the facts, they were not asked to do so. The only person who reviewed the letters for accuracy, with sufficient knowledge to verify those facts, was Mr. Gingrich.

The Subcommittee considered the relevance of the reference to GOPAC in Mr. Gingrich's first letter to the Committee dated October 4, 1994. In that letter he stated that GOPAC was one of the entities that paid people to work on the course. Some Members of the Subcommittee believed that this was evidence of lack of intent to deceive the Committee on Mr. Gingrich's part because if he had planned to hide GOPAC's involvement, he would not have made such an inconsistent statement in the subsequent letters. Other Members of the Subcommittee and the Special Counsel appreciated this point, but believed the first letter was of little value. The statement in that letter was only directed to establishing that Mr. Gingrich had not used congressional resources in developing the course. The first letter made no attempt to address the tax issues, even though it was a prominent feature of the complaint. When the Committee specifically focused Mr. Gingrich's attention on that issue and questions concerning GOPAC's involvement in the course, his response was not accurate.

During his testimony before the Subcommittee, Mr. Gingrich stated that he did not intend to mislead the Committee and apologized for his conduct. This statement was a relevant consideration for some Members of the Subcommittee, but not for others.

The Subcommittee concluded that because these inaccurate statements were provided to the Committee, this matter was not resolved as expeditiously as it could have been. This caused a controversy over the matter to arise and last for a substantial period of time, it disrupted the operations of the House, and it cost the House a substantial amount of money in order to determine the facts.

C. Statement of Alleged Violation

Based on the information described above, the Special Counsel proposed a Statement of Alleged Violations ("SAV") to the Subcommittee on December 12, 1996. The SAV contained three counts: (1) Mr. Gingrich's activities on behalf of ALOF in regard to AOW/ACTV, and the activities of others in that regard with his knowledge and approval, constituted a violation of ALOF's status under section 501(c)(3); (2) Mr. Gingrich's activities on behalf of Kennesaw State College Foundation, the Progress and Freedom Foundation, and Reinhardt College in regard to the Renewing American Civilization course, and the activities of others in that regard with his knowledge and approval, constituted a violation of those organizations' status under section 501(c)(3); and (3) Mr. Gingrich had provided information to the Committee, directly or through counsel, that was material to matters under consideration by the Committee, which Mr. Gingrich knew or should have known was inaccurate, incomplete, and unreliable.

1. DELIBERATIONS ON THE TAX COUNTS

There was a difference of opinion regarding whether to issue the SAV as drafted on the tax counts. Concern was expressed about deciding this tax issue in the context of an ethics proceeding. This led the discussion to the question of the appropriate focus for the Subcommittee. A consensus began to build around the view that the proper focus was on the conduct of the Member, rather than a resolution of issues of tax law. From the beginning of the Preliminary Inquiry, there was a desire on the part of each of the Members to find a way to reach a unanimous conclusion in this matter. The Members felt it was important to confirm the bipartisan nature of the ethics process.

The discussion turned to what steps Mr. Gingrich had taken in regard to these two projects to ensure they were done in accord with the provisions of 501(c)(3). In particular, the Subcommittee was concerned with the fact that: (1) Mr. Gingrich had been "very well aware" of the *American Campaign Academy* case prior to embarking on these projects; (2) he had been involved with 501(c)(3) organizations to a sufficient degree to know that politics and tax-deductible contributions are, as his tax counsel said, an "explosive mix;" (3) he was clearly involved in a project that had significant partisan, political goals, and he had taken an aggressive approach to the tax laws in regard to both AOW/ACTV; and (4) Renewing American Civilization projects. Even Mr. Gingrich's own tax lawyer told the Subcommittee that if Mr. Gingrich had come to him before embarking on these projects, he would have advised him to not use a 501(c)(3) organization for the dissemination of AOW/ACTV or Renewing American Civilization. Had Mr. Gingrich sought and followed this advice, he would not have used the 501(c)(3) organizations, would not have had his projects subsidized by taxpayer funds, and would not have created this controversy that has caused significant disruption to the House. The Subcommittee concluded that there were significant and substantial warning signals to Mr. Gingrich that he should have heeded prior to embarking on these projects. Despite these warnings, Mr. Gingrich did not seek any legal advice to ensure his conduct conformed with the provisions of 501(c)(3).

In looking at this conduct in light of all the facts and circumstances, the Subcommittee was faced with a disturbing choice. Either Mr. Gingrich did not seek legal advice because he was aware that it would not have permitted him to use a 501(c)(3) organization for his projects, or he was reckless in not taking care that, as a Member of Congress, he made sure that his conduct conformed with the law in an area where he had ample warning that his intended course of action was fraught with legal peril. The Subcommittee decided that regardless of the resolution of the 501(c)(3) tax question, Mr. Gingrich's conduct in this regard was improper, did not reflect creditably on the House, and was deserving of sanction.

2. DELIBERATIONS CONCERNING THE LETTERS

The Subcommittee's deliberation concerning the letters provided to the Committee centered on the question of whether Mr. Gingrich intentionally submitted inaccurate information. There was a belief that the record developed before the Subcommittee was not conclusive on this point. The Special Counsel suggested that a good argument could be made, based on the record, that Mr. Gingrich did act intentionally, however it would be difficult to establish that with a high degree of certainty.

The culmination of the evidence on this topic again left the Subcommittee with a disturbing choice. Either Mr. Gingrich intentionally made misrepresentations to the Committee, or he was again reckless in the way he provided information to the Committee concerning a very important matter.

The standard applicable to the Subcommittee's deliberations was whether there is reason to believe that Mr. Gingrich had acted as charged in this count of the SAV. All felt that this standard had been met in regard to the allegation that Mr. Gingrich "knew" that the information he provided to the Committee was inaccurate. However, there was considerable discussion to the effect that if Mr. Gingrich wanted to admit to submitting information to the Committee that he "should have known" was inaccurate, the Subcommittee would consider deleting the allegation that he knew the information was inaccurate. The Members were of the opinion that if there were to be a final adjudication of the matter, taking into account the higher standard of proof that is involved at that level, "should have known" was an appropriate framing of the charge in light of all the facts and circumstances.

3. DISCUSSIONS WITH MR. GINGRICH'S COUNSEL AND RECOMMENDED SANCTION

On December 13, 1996, the Subcommittee issued an SAV charging Mr. Gingrich with three counts of violations of House Rules. Two counts concerned the failure to seek legal advice in regard to the 501(c)(3) projects, and one count concerned providing the Committee with information which he knew or should have known was inaccurate.

At the time the Subcommittee voted this SAV, the Members discussed the matter among themselves and reached a consensus that it would be in the best interests of the House for the matter to be resolved without going through a disciplinary hearing. It was estimated that such a hearing could take up to three months to complete and would not begin for several months. Because of this, it was anticipated that the House would have to deal with this matter for another six months. Even though the Subcommittee Members felt that it would be advantageous to the House to avoid a disciplinary hearing, they all were committed to the proposition that any resolution of the matter had to reflect adequately the seriousness of the offenses. To this end, the Subcommittee Members discussed and agreed upon a recommended sanction that was fair in light of the conduct reflected in this matter, but explicitly recognized that the full Committee would make the ultimate decision as to the recommendation to the full House as to the appropriate sanction. In determining what the appropriate sanction should be in this matter, the Subcommittee and Special Counsel considered the seriousness of the conduct, the level of care exercised by Mr. Gingrich, the disruption caused to the House by the conduct, the cost to the House in having to pay for an extensive investigation, and the repetitive nature of the conduct.

As is noted above, the Subcommittee was faced with troubling choices in each of the areas covered by the Statement of Alleged Violation. Either Mr. Gingrich's conduct in regard to the 501(c)(3) organizations and the letters he submitted to the Committee was intentional or it was reckless. Neither choice reflects creditably on the House. While the Subcommittee was not able to reach a comfortable conclusion on these issues, the fact that the choice was presented is a factor in determining the appropriate sanction. In addition, the violation does not represent only a single instance of reckless conduct. Rather, over a number of years and in a number of situations, Mr. Gingrich showed a disregard and lack of respect for the standards of conduct that applied to his activities.

Under the Rules of the Committee, a reprimand is the appropriate sanction for a serious violation of House Rules and a censure is appropriate for a more serious violation of House Rules. Rule 20(g), Rules of the Committee on Standards of Official Conduct. It was the opinion of the Subcommittee that this matter fell somewhere in between. Accordingly, the Subcommittee and the Special Counsel recommend that the appropriate sanction should be a reprimand and a payment reimbursing the House for some of the costs of the investigation in the amount of $300,000. Mr. Gingrich has agreed that this is the appropriate sanction in this matter.

Beginning on December 15, 1996, Mr. Gingrich's counsel and the Special Counsel began discussions directed toward resolving the matter without a disciplinary hearing. The discussions lasted through December 20, 1996. At that time an understanding was reached by both Mr. Gingrich and the Subcommittee concerning this matter. That understanding was put on the record on December 21, 1996 by Mr. Cole follows:

Mr. Cole: The subcommittee has had an opportunity to review the facts in this case, and has had extensive discussion about the appropriate resolution of this matter.

Mr. Cardin: If I might just add here to your next understanding, the Members of the subcommittee, prior to the adoption of the Statement of Alleged Violation, were concerned that the nonpartisan deliberations of the subcommittee continue beyond the findings of the subcommittee. Considering the record of the full Ethics Committee in the 104th Congress and the partisan environment in the full House, the Members of the subcommittee felt that it was important to exercise bipartisan leadership beyond the workings of the subcommittee. * * *

Mr. Cole: It was the opinion of the Members of the subcommittee and the Special Counsel, that based on the facts of this case as they are currently known, the appropriate sanction for the conduct described in the original Statement of Alleged Violations is a reprimand and the payment of $300,000 toward the cost of the preliminary inquiry.

In light of this opinion, the subcommittee Members and the Special Counsel intend to recommend to the full committee that this be the sanction recommended by the full committee to the House. The Members also intend to support this as the sanction in the committee and on the Floor of the House.

However, if new facts are developed or brought to the attention of the Members of the subcommittee, they are free to change their opinions.

The Subcommittee, through its counsel, has communicated this to Mr. Gingrich, through his counsel. Mr. Gingrich has agreed that if the subcommittee will amend the Statement of Alleged Violations to be one count, instead of three counts, however, still including all of the conduct described in the original Statement of Alleged Violations, and will allow the addition of some language which reflects aspects of the record in this matter concerning the involvement of Mr. Gingrich's counsel in the preparation of the letters described in the original Count 3 of the Statement of Alleged Violations,[88] he will admit to the entire Statement of Alleged Violation and agree to the view of the subcommittee Members and the Special Counsel as to the appropriate sanction.

In light of Mr. Gingrich's admission to the Statement of Alleged Violation, the subcommittee is of the view that the rules of the committee will not require that an adjudicatory hearing take place; however, a sanction hearing will need to be held under the rules.

The subcommittee and Mr. Gingrich desire to have the sanction hearing concluded as expeditiously as possible, but it is understood that this will not take place at the expense of orderly procedure and a full and fair opportunity for the full committee to be informed of any information necessary for each Member of the full committee to be able to make a decision at the sanction hearing.

After the subcommittee has voted a new Statement of Alleged Violation, Mr. Gingrich will file his answer admitting to it. The subcommittee will seek the permission of the full committee to release the Statement of Alleged Violation, Mr. Gingrich's answer, and a brief press release which has been approved by Mr. Gingrich's counsel. At the same time, Mr. Gingrich will release a brief press release that has been approved by the subcommittee's Special Counsel.

Both the subcommittee and Mr. Gingrich agree that no public comment should be made about this matter while it is still pending. This includes having surrogates sent out to comment on the matter and attempt to mischaracterize it.

Accordingly, beyond the press statements described above, neither Mr. Gingrich nor any Member of the subcommittee may make any further public comment. Mr. Gingrich understands that if he violates this provision, the subcommittee will have the option of reinstating the original Statement of Alleged Violations and allowing Mr. Gingrich an opportunity to withdraw his answer.

And I should note that it is the intention of the subcommittee that "public comments" refers to press statements; that, obviously, we are free and Mr. Gingrich is free to have private conversations with Members of Congress about these matters.[89]

After the Subcommittee voted to issue the substitute SAV, the Special Counsel called Mr. Gingrich's counsel and read to him what was put on the record concerning this matter. Mr. Gingrich's counsel then delivered to the Subcommittee Mr. Gingrich's answer admitting to the Statement of Alleged Violation.

D. Post-December 21, 1996 Activity

Following the release of this Statement of Alleged Violation, numerous press accounts appeared concerning this matter. In the opinion of the Subcommittee Members and the Special Counsel, a number of the press accounts indicated that Mr. Gingrich had violated the agreement concerning statements about the matter. Mr. Gingrich's counsel was notified of the Subcommittee's concerns and the Subcommittee met to consider what action to take in light of this apparent violation. The Subcommittee determined that it would not nullify the agreement. While there was serious concern about whether Mr. Gingrich had complied with the agreement, the Subcommittee was of the opinion that the best interests of the House still lay in resolving the matter without a disciplinary hearing and with the recommended sanction that its Members had previously determined was appropriate. However, Mr. Gingrich's counsel was informed that the Subcommittee believed a violation of the agreement had occurred and retained the right to withdraw from the agreement with appropriate notice to Mr. Gingrich. To date no such notice has been given.

X. SUMMARY OF FACTS PERTAINING TO USE OF UNOFFICIAL RESOURCES

The Subcommittee investigated allegations that Mr. Gingrich had improperly utilized the services of Jane Fortson, an employee of the Progress in Freedom Foundation ("PFF"), in violation of House Rule 45, which prohibits the use of unofficial resources for official purposes.

Ms. Fortson was an investment banker and chair of the Atlanta Housing Project who had experience in urban and housing issues. In January 1995 she moved to Washington, D.C., from Atlanta to work on urban and housing issues as a part-time PFF Senior Fellow and subsequently became a full-time PFF Senior Fellow in April, 1995.

The Subcommittee determined that Mr. Gingrich sought Ms. Fortson's advice on urban and housing issues on an ongoing and meaningful basis. During an interview with Mr. Cole, Mr. Gingrich stated that although he believed he lacked the authority to give Ms. Fortson assignments, he often requested her assistance in connection with urban issues in general and issues pertaining to the District of Columbia in particular. The investigation further revealed that Ms. Fortson appeared to have had unusual access to Mr. Gingrich's official schedule and may have occasionally influenced his official staff in establishing his official schedule.

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[88] These changes included the removal of the word "knew" from the original Count 3, making the charge read that Mr. Gingrich "should have known" the information was inaccurate.

[89] It was also agreed that in the private conversations Mr. Gingrich was not to disclose the terms of the agreement with the Subcommittee.

In her capacity as an unofficial policy advisor to Mr. Gingrich, Ms. Fortson provided ongoing advice to Mr. Gingrich and members of Mr. Gingrich's staff to assist Mr. Gingrich in conducting official duties related to urban issues. Ms. Fortson frequently attended meetings with respect to the D.C. Task Force during which she met with Members of Congress, officials of the District of Columbia, and members of their staffs. Although Mr. Gingrich and principal members of his staff advised the Subcommittee that they perceived Ms. Fortson's assistance as limited to providing information on an informal basis, the Subcommittee discovered other occurrences which suggested that Mr. Gingrich and members of his staff specifically solicited Ms. Fortson's views and assistance with respect to official matters.

The Subcommittee acknowledges that Members may properly solicit information from outside individuals and organizations, including nonprofit and for-profit organizations. Regardless of whether auxiliary services are accepted from a nonprofit or for-profit organization, Members must exercise caution to limit the use of outside resources to ensure that the duties of official staff are not improperly supplanted or supplemented. The Subcommittee notes that although Mr. Gingrich received two letters of reproval from the Committee on Standards regarding the use of outside resources, Ms. Fortson's activities ceased prior to the date the Committee issued those letters to Mr. Gingrich. While the Subcommittee did not find that Ms. Fortson's individual activities violated House Rules, the Subcommittee determined that the regular, routine, and ongoing assistance she provided Mr. Gingrich and his staff over a ten-month period could create the appearance of improper commingling of unofficial and official resources. The Subcommittee determined, however, that these activities did not warrant inclusion as a Count in the Statement of Alleged Violation.

XI. AVAILABILITY OF DOCUMENTS TO INTERNAL REVENUE SERVICE

In light of the possibility that documents which were produced to the Subcommittee during the Preliminary Inquiry might be useful to the IRS as part of its reported ongoing investigations of various 501(c)(3) organizations, the Subcommittee decided to recommend that the full Committee make available to the IRS all relevant documents produced during the Preliminary Inquiry. It is the Committee's recommendation that the House Committee on Standards of Official Conduct in the 105th Congress establish a liaison with the IRS to fulfill its recommendation and that this liaison be established in consultation with Mr. Cole.

APPENDIX

SUMMARY OF LAW PERTAINING TO ORGANIZATIONS EXEMPT FROM FEDERAL INCOME TAX UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE

A. Introduction

Section 501(a) of the Internal Revenue Code generally exempts from federal income taxation numerous types of organizations. Among these are section 501(c)(3) organizations which include corporations: Organized and operated exclusively for religious, charitable, scientific * * * or educational purposes * * * no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, * * * and which does not participate in, or intervene in * * * any political campaign on behalf of (or in opposition to) any candidate for public office.

I.R.C. §501(c)(3). Organizations described in section 501(c)(3) are generally referred to as "charitable" organizations and contributions to such organizations are generally deductible to the donors. I.R.C. §170(a)(1), (c)(2).

B. The Organizational Test and the Operational Test

The requirement that a 501(c)(3) organization be "organized and operated exclusively" for an exempt purpose has given rise to an "organizational test" and an "operational test." Failure to meet either test will prevent an organization from qualifying for exemption under section 501(c)(3). Treas. Reg. §1.501(c)(3)–1(a); *Levy Family Tribe Foundation* v. *Commissioner*, 69 T.C. 615, 618 (1978).

1. ORGANIZATIONAL TEST

To satisfy the organizational test, an organization must meet three sets of requirements. First, its articles of organization must: (a) limit its purposes to one or more exempt purposes, and (b) not expressly permit substantial activities that do not further those exempt purposes. Treas. Reg. §1.501(c)(3)–1(b)(1). Second, the articles must not permit: (a) devoting more than an insubstantial part of its activities to lobbying, (b) any participation or intervention in the campaign of a candidate for public office, and (c) objectives and activities that would characterize it as an "action" organization. Treas. Reg. §1.501(c)(3)–1(b)(3). Third, the organization's assets must be dedicated to exempt purposes. Treas. Reg. §1.501(c)(3)–1(b)(4). The IRS determines compliance with the organizational test solely by reference to an organization's articles of organization.

2. OPERATIONAL TEST

To satisfy the operational test, an organization must be operated "exclusively" for an exempt purpose. Though "exclusively" in this context does not mean "solely," the presence of a substantial nonexempt purpose will cause an organization to fail the operational test. Treas. Reg. §1.501(c)(3)–1(c)(1); *The Nationalist Movement* v. *Commissioner*, 102 T.C. 558, 576 (1994). The presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. *Better Business Bureau of Washington, D.C.* v. *United States*, 326 U.S. 276, 283 (1945); *Manning Association* v. *Commissioner*, 93 T.C. 596, 611 (1989).

To meet the operational test under section 501(c)(3) organization, the organization must satisfy the following requirements:[90]

1. The organization must be operated for an exempt purpose, and must serve a public benefit, not a private benefit. Treas. Reg. §1.501(c)(3)–1(d)(1)(ii).

2. It must not be an "action" organization. Treas. Reg. §1.501(c)(3)–1(c)(3). An organization is an "action" organization if:

a. it participates or intervenes in any political campaign (Treas. Reg. §1.501(c)(3)–1(c)(3)(iii));

b. a substantial part of its activities consists of attempting to influence legislation (Treas. Reg. §1.501(c)(3)–1(c)(3)(ii)); or

c. its primary objective may be attained: only by legislation or defeat of proposed legislation, and it advocates the attainment of such primary objective (Treas. Reg. §1.501(c)(3)–1(c)(3)(iv)).

3. Its net earnings must not inure to the benefit of any person in a position to influence the organization's activities. Treas. Reg. §1.501(c)(3)–1(c)(2).

"[F]ailure to satisfy any of the [above] requirements is fatal to [an organization's] qualification under section 501(c)(3)." *American Campaign Academy* v. *Commissioner*, 92 T.C. 1053, 1062 (1989).

The application of these requirements, moreover, is a factual exercise. *Id.* at 1064; *Christian Manner International* v. *Commissioner*, 71 T.C. 661, 668 (1979). Thus, in testing compliance with the operational test, courts look "beyond the four corners of the organization's charter to discover 'the actual objects motivating the organization and the subsequent conduct of the organization.'" *American Campaign Academy*, 92 T.C. at 1064 (citing *Taxation with Representation* v. *United States*, 585 F.2d 1219, 1222 (4th Cir. 1978)); *see also Sound Health Association* v. *Commissioner*, 71 T.C. 158, 184 (1978) ("It is the purpose toward which an organization's activities are directed that is ultimately dispositive of the organization's right to be classified as a section 501(c)(3) organization.")

"What an organization's purposes are and what purposes its activities support are questions of fact." *American Campaign Academy*, 92 T.C. at 1064 (citing *Christian Manner International* v. *Commissioner*, 71 T.C. 661, 668 (1979)). Courts may "draw factual inferences" from the record when determining whether organizations meet the requirements of the tax-exempt organization laws and regulations. *Id.* (citing *National Association of American Churches* v. *Commissioner*, 82 T.C. 18, 20 (1984)).

a. "Educational" Organizations May Qualify for Exemption Under Section 501(c)(3)

As discussed above, an organization may qualify for exemption under section 501(c)(3) if it is "educational."[91] The Regulations define the term "educational" as relating to:

> (a) [t]he instruction or training of the individual for the purpose of improving or developing his capabilities; or
>
> (b) [t]he instruction of the public on subjects useful to the individual and beneficial to the community.

Treas. Reg. §1.501(c)(3)–1(d)(3)(i). The Regulations continue:

> An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

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[90] 501(c)(3) organizations must also: (a) not be operated primarily to conduct an unrelated trade or business (Treas. Reg. §1.501(c)(3)–1(e)(1)), and (b) not violate "public policy." *See Bob Jones University* v. *United States*, 461 U.S. 574 (1983) (educational organization's tax-exempt status denied because of its racially discriminatory policies).

[91] An organization may also qualify for section 501(c)(3) exemption if it is organized and operated for, *e.g.*, "religious," "charitable," or "scientific" purposes. The other methods by which an organization can qualify for exemption are not discussed in this summary.

Id. Guidance on the phrase "advocates a particular position or viewpoint" can be found in the preceding section in the Regulations pertaining to the definition of "charitable."

> The fact that an organization, in carrying out its primary purpose, advocates social or civil changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying under section 501(c)(3) so long as it is not an "action" organization.* * *

Treas. Reg. §1.501(c)(3)–1(d)(2).

In applying the Regulations under section 501(c)(3) pertaining to educational organizations, the IRS has stated that its goal is to eliminate or minimize the potential for any public official to impose his or her preconceptions or beliefs in determining whether the particular viewpoint or position is educational. Rev. Proc. 86–43, 1986–2 C.B. 729. IRS policy is to "maintain a position of disinterested neutrality with respect to the beliefs advocated by an organization." *Id.* The focus of the Regulations pertaining to educational organizations and of the IRS's application of these Regulations "is not upon the viewpoint or position, but instead upon the method used by the organization to communicate its viewpoint or positions to others." *Id.*

Two court decisions considered challenges to the constitutionality of the definition of "educational," in the Regulations cited above. One decision held that the definition was unconstitutionally vague. *Big Mama Rag, Inc.* v. *United States*, 631 F.2d 1030 (D.C. Cir. 1980). In *National Alliance* v. *United States*, 710 F.2d 868 (D.C. Dir. 1983), the court upheld the IRS's position that the organization in question was not educational. Without ruling on the constitutionality of the "methodology test" used by the IRS in that case to determine whether the organization was educational, the court found that the application of that test reduced the vagueness found in *Big Mama Rag*. The IRS later published the methodology test in Rev. Proc. 86–43 in order to clarify its position on how to determine whether an organization is educational when it advocates particular viewpoints or positions. As set forth in the Revenue Procedure:

> The presence of any of the following factors in the presentations made by an organization is indicative that the method used by the organization to advocate its viewpoints or positions is not educational.
>
> (a) The presentation of viewpoints or positions unsupported by facts is a significant portion of the organization's communications.
>
> (b) The facts that purport to support the viewpoints or positions are distorted.
>
> (c) The organization's presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations.
>
> (d) The approach used in the organization's presentations is not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter.

According to Rev. Proc. 86–43, the IRS uses the methodology test in all situations where the educational purpose of an organization that advocates a viewpoint or position is in question. However, "[e]ven if the advocacy undertaken by an organization is determined to be educational under [the methodology test], the organization must still meet all other requirements for exemption under section 501(c)(3) * * *" Rev. Proc. 86–43. That is, organizations deemed to be "educational" must also abide by the section 501(c)(3) prohibitions on: (a) private benefit, (b) participating or intervening in a political campaign, (c) engaging in more than insubstantial lobbying activities, and (d) private inurement.

b. *To Satisfy the Operational Test, an Organization Must Not Violate the "Private Benefit" Prohibition*

Section 501(c)(3) requires, inter alia, that an organization be organized and operated exclusively for one or more exempt purposes. Treas. Reg. 1.501(c)(3)–1(d)(1)(ii) provides that an organization does not meet this requirement:

> unless it serves a public rather than a private purpose. Thus, * * * it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

The "private benefit" prohibition serves to ensure that the public subsidies flowing from section 501(c)(3) status, including income tax exemption and the ability to receive tax-deductible charitable contributions, are reserved for organizations that are formed to serve public and not private interests. Treas. Reg. 1.501(c)(3)–1(c)(1) defines the application of the private benefit prohibition in the context of the operational test:

> An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

The Regulations and cases applying them make it clear that the private benefit test focuses on the purpose or purposes served by an organization's activities, and not on the nature of the activities themselves. See, e.g., *B.S.W. Group, Inc.* v. *Commissioner*, 70 T.C. 352 (1978). Where an organization's activities serve more than one purpose, each purpose must be separately examined to determine whether it is private in nature and, if so, whether it is more than insubstantial. *Christian Manner International* v. *Commissioner*, 71 T.C. 661 (1979).

The leading case on the application of the private benefit prohibition in the context of an organization whose activities served both exempt and nonexempt purposes is *Better Business Bureau* v. *United States*, 326 U.S. 279 (1945). Better Business Bureau was a nonprofit organization formed to educate the public about fraudulent business practices, to elevate business standards, and to educate consumers to be intelligent buyers. The Court did not question the exempt purpose of these activities. The Court found, however, that the organization was "animated" by the purpose of promoting a profitable business community, and that such business purpose was both nonexempt and more than insubstantial. The Court denied exemption, stating (in language that is cited in virtually all later private benefit cases), that:

> [I]n order to fall within the claimed exemption, an organization must be devoted to educational purposes exclusively. This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.

Id. at 283.

Many of the cases interpreting the private benefit prohibition involve private benefits that are provided in a commercial context—as in the *Better Business Bureau* case. Impermissible private benefit, however, need not be financial in nature. *Callaway Family Association* v. *Commissioner*, 71 T.C. 340 (1978), involved a family association formed as a nonprofit corporation to study immigration to and migration within the United States by focusing on its own family history and genealogy. The organization's activities included researching the genealogy of Callaway family members in order to publish a family history. The organization argued that its purposes were educational and intended to benefit the general public, asserting that its use of a research methodology focusing on one family's development was a way of educating the public about the country's history.

In *Callaway*, the court noted (and the IRS conceded) that the organization's activities served an educational purpose. The issue was not whether the organization had any exempt purposes, but whether it also engaged in activities that furthered a nonexempt purpose more than insubstantially. Agreeing with the IRS that "petitioner aimed its organizational drive at Callaway family members, and appealed to them on the basis of their private interests," the court concluded that the organization "engages in nonexempt activities serving a private interest, and these activities are not insubstantial." *Id.* at 343–44. Accordingly, the court held that the organization did not qualify for exemption under section 501(c)(3).

Kentucky Bar Foundation v. *Commissioner*, 78 T.C. 921 (1982), is one of the relatively few cases in which a court found private benefit to be insubstantial and therefore not to preclude exemption under section 501(c)(3). The Kentucky Bar Foundation was formed to conduct a variety of activities recognized by the IRS to serve exclusively educational purposes, including a continuing legal education program and the operation of a public law library. The IRS, however, asserted that the Foundation's operation of statewide lawyer referral service also served private purposes. Through the referral service, a person seeking a lawyer was referred to an attorney selected on a rotating basis within a convenient geographic area. The fee for an initial half-hour consultation was $10; any charge for further consultation or work had to be agreed upon by the attorney and the client. The court found that the purposes of the referral service were to assist the general public in locating an attorney to provide a consultation for a reasonable fee, to encourage lawyers to recognize the obligation to provide legal services to the general public, and to acquaint people in need of legal services with the value of consultation with a lawyer to identify and solve legal problems.

The IRS asserted that a purpose of the referral service was to benefit lawyers, particularly to help young law school graduates establish a practice, and that this was a substantial nonexempt purpose. Based on a careful examination of the facts, however, the court found that:

> [t]he referral service is open to all responsible attorneys, and there is no evidence a selected group of attorneys are the primary beneficiaries of the service. The referral service is intended to benefit the public and not to serve as a source of referrals. We find any nonexempt purpose served by the referral service and any occasional economic benefit flowing to individual attorneys through a referral incidental to the broad charitable purpose served.

Id. at 926.

Reiterating the proposition that "the proper focus is the purpose or purposes toward which the activities are directed," the court found that the purpose of the legal referral service was to benefit the public, that any private benefit was broadly distributed, not conferred on any select group of attorneys and incidental to the public purpose, and that the organization qualified for exemption under section 501(c)(3). *Id.* at 923, 925–26 (citing *B.S.W. Group* v. *Commissioner*, 70 T.C. 352, 356–57 (1978)).

As the cases described above show, the determination as to whether private benefit is incidental (and therefore permissible) or more than incidental (and therefore prohibited) is inherently factual, and each case must be decided on its own facts and circumstances. See also *Manning Association* v. *Commissioner*, 93 T.C. 596 (1989). The IRS has issued several published and private rulings and general counsel memoranda[92] that further explain the private benefit prohibition. For example, in Rev. Rul. 70–186, 1970–1 C.B. 128, an organization was formed to preserve a lake as a public recreational facility and to improve the lake water's condition. Although the organization's activities benefited the public at large, there were necessarily significant benefits to the individuals who owned lake-front property. The IRS, however, determined that the private benefit to the lake-front property owners was incidental because:

> [t]he benefits to be derived from the organization's activities flow principally to the general public through the maintenance and improvement of public recreational facilities. Any private benefits derived by the lakefront property owners do not lessen the public benefits flowing from the organization's operations. In fact, it would be impossible for the organization to accomplish its purposes without providing benefits to the lakefront property owners.

Id.

In Rev. Rul. 75–196, 1975–1 C.B. 155, the IRS ruled that a 501(c)(3) organization operating a law library whose rules essentially limited access and use to local bar association members conferred only incidental benefits to the bar association members. The library's availability only to a designated class of persons was not a bar to recognition of exemption because:

> [w]hat is of importance is that the class benefited be broad enough to warrant a conclusion that the educational facility or activity is serving a broad public interest rather than a private interest, and is therefore exclusively educational in nature.

Id. The library was available to a significant number of people, and the restrictions on the library's use were due to the limited size of its facilities. Although attorneys who used the library might derive personal benefit in their practice, the IRS ruled that this benefit was incidental to the library's exempt purpose and a "logical by-product of an educational process."

Id.

Two other revenue rulings with similar fact patterns are also helpful in understanding the application of the "incidental benefits" concept. In one ruling, the IRS ruled that an organization that limited membership to the residents of one city block did not qualify as a 501(c)(3) organization because the organization's members benefited directly, thus not incidentally, from the organization's activities. Rev. Rul. 75–286, 1975–2 C.B. 210. In another, the IRS ruled that an organization dedicated to beautification of an entire city qualified as a 501(c)(3) organization because benefits flowed to the city's entire population and were not targeted to the organization's members. Rev. Rul. 68–14, 1968–1 C. B. 243. The benefits to the organization's members of living in a cleaner city were considered incidental.

The IRS issued a recent warning about the importance of the private benefit prohibition in Rev. Proc. 96–32, 1996–20 I.R.B. 14, a Revenue Procedure issued for the purpose of establishing standards as to whether organizations that own and operate low income housing (an activity conducted by both nonprofit and for-profit organizations) may qualify for exemption under section 501(c)(3). After reviewing the substantive criteria that must be present to establish that the organization is formed for a charitable purpose, the IRS added a final caution:

> If an organization furthers a charitable purpose such as relieving the poor and distressed, it nevertheless may fail to qualify for exemption because private interests of individuals with a financial stake in the project are furthered. For example, the role of a private developer or management company in the organization's activities must be carefully scrutinized to ensure the absence of inurement or impermissible private benefit resulting from real property sales, development fees, or management contracts.

Id.

One of the most detailed explanations of the private benefit prohibition is contained in G.C.M. 39862 (Nov. 22, 1991), involving the permissibility of a hospital's transaction with physicians. In the G.C.M., the IRS explained the prohibition as follows:

> Any private benefit arising from a particular activity must be "incidental" in both a qualitative and quantitative sense to the overall public benefit achieved by the activity if the organization is to remain exempt. To be qualitatively incidental, a private benefit must occur as a necessary concomitant of the activity that benefits the public at large; in other words, the benefit to the public cannot be achieved without necessarily benefiting private individuals. Such benefits might also be characterized as indirect or unintentional. To be quantitatively incidental, a benefit must be insubstantial when viewed in relation to the public benefit conferred by the activity.

Id.

The IRS also explained that the insubstantiality of the private benefit is measured only in relationship to activity in which the private benefit is present, and not in relation to the organization's overall activities:

> It bears emphasis that, even though exemption of the entire organization may be at stake, the private benefit conferred by an activity or arrangement is balanced only against the public benefit conferred by that activity or arrangement, not the overall good accomplished by the organization.

Id.

In G.C.M. 39862, the IRS balanced the private benefits to the physicians from the transaction at issue with the public purposes served by that particular activity—and not the public purposes served by the hospital as a whole. Finding the private purposes from the activity at issue to be more than incidental in relation to the public purposes, the IRS determined that the hospital had jeopardized its exemption under section 501(c)(3).

Although most of the cases and IRS rulings (both public and private) follow the general analysis described above in determining whether or not private benefit is insubstantial, a fairly recent Tax Court case, *American Campaign Academy* v. *Commissioner*, 92 T.C. 1053 (1989) adopts a slightly different approach. In that case, the primary activity of American Campaign Academy ("ACA" or "the Academy") was the operation of a school to train people to work in political campaigns. The IRS denied ACA's application for exemption under section 501(c)(3), and ACA appealed the denial to the Tax Court. The Tax Court upheld the IRS's denial of ACA's application for exemption because ACA's activities conferred an impermissible private benefit on Republican candidates and entities.

The school operated by ACA was an "outgrowth" of programs the National Republican Congressional Committee ("NRCC") once sponsored to train candidates and to train campaign professionals for Republican campaigns. The Academy program, however, differed from its NRCC predecessor in that it limited its students to "campaign professionals." *Id.* at 1056. Without discussion, the IRS stated that the Academy did not train candidates, participate in any political campaign or attempt to influence legislation. *Id.* at 1056–57. The Academy did not use training materials developed by the NRCC, generally did not use NRCC faculty, and developed its own courses. *Id.* at 1057. Students were not explicitly required to be affiliated with any particular party, nor were they required to take positions with partisan organizations upon graduation. *Id.* at 1058.

The Academy had a number of direct and indirect connections to Republican organizations. The NRCC contributed furniture and computer hardware to the Academy. *Id.* at 1056. One of the Academy's three directors, Joseph Gaylord, was the Executive Director of the NRCC; another director, John McDonald, was a member of the Republican National Committee. *Id.* Jan Baran, General Counsel of the NRCC at the time of the Academy's application to IRS, incorporated the Academy. *Id.* at 1070. The National Republican Congressional Trust funded the Academy. *Id.* The Academy curriculum included studies of the "Growth of NRCC, etc." and "Why are people Republicans," but did not contain comparable studies pertaining to the Democratic or other political parties. *Id.* at 1070–71. People on the admissions panel were affiliated with the Republican Party. *Id.* at 1071. Furthermore, while the applicants were not required to declare a party affiliation on their application, the political references students were required to submit "often permit[ted] the admission panel to deduce the applicant's political affiliation." *Id.* Finally, the Court found that all but one of the Academy graduates who could be identified as later serving in political positions ended up serving Republican candidates or Republican organizations. *Id.* at 1060, 1071, 1072.

In light of these facts, the Tax Court upheld the IRS's denial of the Academy's application for exemption under section 501(c)(3) because the Academy "conducted its educational activities with the partisan objective of benefiting Republican candidates and entities." *Id.* at 1070. Any one of the facts listed in the previous paragraph did not alone support the IRS's finding or the court's holding that the Academy was organized for a non-exempt purpose. The IRS did not argue, and the court did not hold, for example, that individuals who are all members of the same political party are prohibited from operating a 501(c)(3) organization, or that an organization may not receive an exemption under section 501(c)(3) if a partisan organization funds it. Rather, the Tax Court focused on the purpose behind ACA's activities. In determining this, it drew "factual inferences" from the record to discern that purpose. Those inferences led to the court's conclusion that the Academy "targeted Republican entities and candidates to receive the secondary benefit through employing its alumni * * *." *Id.* at 1075.

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[92] Private letter rulings and general counsel memoranda are made available to the public under section 6110 of the Code. These documents are based on the facts of particular cases, and may not be relied on as precedent. However, they provide useful insights as to how the IRS interprets and applies the law in particular factual situations.

The Tax Court's analysis distinguished between "primary" private benefit and "secondary" private benefit, and made clear that the latter can be a bar to section 501(c)(3) qualification. In this case, the students received the primary private benefit of the Academy, and this benefit was permissible and consistent with the Academy's educational purposes. The students' ultimate employers, Republican candidates and entities, received the secondary benefits of the Academy. "[W]here the training of individuals is focused on furthering a particular targeted private interest [e.g., Republican candidates and entities], the conferred secondary benefit ceases to be incidental to the providing organization's exempt purposes." *Id.* at 1074.

For the Academy to have prevailed, according to the Tax Court, it needed to demonstrate: (1) that the candidates and entities who received the benefit of trained campaigned workers possessed the characteristics of a "charitable class,"[93] and (2) that it did not distribute benefits among that class in a select manner. *Id.* at 1076. The Academy argued that Republican candidates and entities were "charitable" because the Republican party consists of millions of people with "like 'political sympathies'" and their activities benefited the community at large. *Id.* The Court ruled, however, that size alone does not transform a benefited class into a charitable class and that ACA had failed to demonstrate that political entities and candidates possessed the characteristics of a charitable class. *Id.* At 1077. Moreover, the Tax Court held that even if political candidates and entities could be found to constitute a "charitable class," ACA's benefits were distributed in a select manner to Republican candidates and entities. *Id.*

Finally, the Academy argued that although it hoped that alumni would work in Republican organizations or for Republican candidates, it had no control over whether they would do so. Absent an ability to control the students' employment, the Academy argued, it lacked the ability to confer secondary benefits to Republican candidates and entities. *Id.* at 1078. The Court found that there was no authority for the proposition that the organization must be able to control non-incidental benefits. Furthermore, the Court reiterated that the record supported the IRS's determination that the Academy was formed "with a substantial purpose to train campaign professionals for service in Republican entities and campaigns, an activity previously conducted by NRCC." *Id.* According to the Court, accepting the Academy's argument regarding its inability to control non-incidental benefits would "cloud the focus of the operational test, which probes to ascertain the purpose towards which an organization's activities are directed and not the nature of the activities themselves." *Id.* at 1078–79 (citing *B.S.W. Group* v. *Commissioner*, 70 T.C. 352, 356–57 (1978)). The Court noted that had the record demonstrated that "the Academy's activities were nonpartisan in nature and that its graduates were not intended to primarily benefit Republicans," the Court would have found for the Academy. *Id.* at 1079.

The *American Campaign Academy* case follows existing precedent. In reaching its decision, the court relies on *Better Business Bureau* and *Kentucky Bar Foundation*, among other cases, for the legal standards governing the private benefit prohibition. The court recognizes that the ACA's activities were intended to serve multiple purposes, including the education of students (the permissible primary benefit) and the provision of trained campaign professionals for candidates and entities (the secondary benefit). Finding the secondary benefit to be targeted to a select group—Republican candidates and entities—the court concludes that such benefit is more than incidental and therefore precludes exemption under section 501(c)(3).

c. To Satisfy The Operational Test, An Organization Must Not Be An "Action" Organization

An organization is not operated exclusively for one or more exempt purposes if it is an "action" organization. Treas. Reg. §1.501(c)(3)–1(c)(3). Such an organization cannot qualify for exemption under section 501(c)(3). Treas. Reg. §1.501(c)(3)–1(c)(3)(v). An organization is an action organization if:

> (i) It "participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office;"
>
> (ii) a "substantial part" of its activities consists of "attempting to influence legislation by propaganda, or otherwise;" or
>
> (iii) its primary objective may be attained "only by legislation or a defeat of proposed legislation," and "it advocates, or campaigns for, the attainment" of such primary objective.

Treas. Reg. §1.501(c)(3)–1(c)(3).

(i) If an Organization Participates in a Political Campaign, It is an Action Organization Not Entitled to Exemption Under Section 501(c)(3)

Section 501(c)(3) provides that an organization is not entitled to exemption if it "participate[s] in, or intervene[s] in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office." The reason for this prohibition is clear. Contributions to section 501(c)(3) organizations are deductible for federal income tax purposes, but contributions to candidates and political action committees ("PACs") are not. The use of section 501(c)(3) organizations to support or oppose candidates or PACs would circumvent federal tax law by enabling candidates or PACs to attract tax-deductible contributions to finance their election activities. As the U.S. Court of Appeals for the Tenth Circuit explained, "[t]he limitations in Section 501(c)(3) stem from the congressional policy that the United States Treasury should be neutral in political affairs and that substantial activities directed to attempts to * * * affect a political campaign should not be subsidized." *Christian Echoes National Ministry, Inc.* v. *United States*, 470 F.2d 849, 854 (1972), *cert. denied*, 419 U.S. 1107 (1975) (emphasis in original).

The prohibition on political campaign intervention was added to the Internal Revenue Code as a floor amendment to the 1954 Revenue Act offered by Senator Lyndon Johnson, who believed that a section 501(c)(3) organization was being used to help finance the campaign of an opponent. In introducing the amendment, Senator Johnson said that it was to "deny[] tax-exempt status to not only those people who influence legislation but also to those who intervene in any political campaign on behalf of any candidate for any public office." 100 Cong. Rec. 9604 (1954) (discussed in Bruce R. Hopkins, "The Law of Tax-Exempt Organizations," 327 (6th ed. 1992)). No congressional hearing was held on the subject and the conference report did not contain any analysis of the provision. Judith E. Kindell and John F. Reilly, "Election Year Issues," 1993 Exempt Organizations Continuing Professional Education Technical Instruction Program 400, 401 (hereinafter "IRS CPE Manual").[94]

Although the prohibition on political campaign intervention was not formally added to section 501(c)(3) until 1954, the concept that charities should not participate in political campaigns was not new. As the Second Circuit noted, "[t]his provision merely expressly stated what had always been understood to be the law. Political campaigns did not fit within any of the specified purposes listed in [Section 501(c)(3)]." *The Association of the Bar of the City of New York* v. *Commissioner*, 858 F.2d 876, 879 (2d Cir. 1988) (hereinafter "*New York Bar*") (quoting 9 Mertens, Law of Federal Income Taxation §34.05 at 22 (1983)).[95] Furthermore, congressional concerns that the government not subsidize political activity have existed since at least the time when Judge Learned Hand wrote "[p]olitical agitation * * * however innocent the aim * * * must be conducted without public subvention * * *." *Slee* v. *Commissioner*, 42 F.2d 184, 185 (2d Cir. 1930), quoted in *New York Bar*, 858 F.2d at 879.

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[93] This part of the Tax Court's analysis in *American Campaign Academy* has been criticized by a few commentators, who have disagreed with the court's application of the "charitable class" doctrine in the context of an educational organization. See, e.g., Bruce R. Hopkins, Republican Campaign School Held Not Tax Exempt, The Nonprofit Counsel, July 1989, at 3; Laura B. Chisolm, Politics and Charity: A Proposal for Peaceful Coexistence, 58 Geo. Wash. L. Rev. 308, 344 n.159 (1990).

Typically an educational organization is expected to serve a broad class representative of the public interest, but not a "charitable class" per se. The court's consideration of the question as to whether political candidates and entities could constitute a charitable class might be misplaced, but is not critical to its holding. As the court notes, "even were we to find political entities and candidates to generally comprise a charitable class, petitioner would bear the burden of proving that its activities benefited the members of the class in a nonselect manner." The court's finding that such benefits were conferred in a select manner—to Republican candidates and entities—was the basis for its holding that the organization served private purposes more than incidentally and, therefore, failed to qualify for exemption under section 501(c)(3).

[94] The 1993 Exempt Organizations Continuing Professional Education (CPE) Technical Instruction Program text was prepared by the IRS Exempt Organizations Division for internal training purposes.

[95] Indeed, under the common law of charitable trusts—the genesis of modern day section 501(c)(3)—it was recognized that "a trust to promote the success of a particular political party is not charitable," for the reason that "there is no social interest in the underwriting of one or another of the political parties." Restatement (Second) of Trusts §374 (1959). The continued importance of the common law doctrine of "charitability" to the standards for exemption under section 501(c)(3) is reflected in the Supreme Court decision in *Bob Jones University* v. *United States*, 461 U.S. 574 (1983), in which the Supreme Court denied exemption to a private university that practiced racial discrimination, on the ground that racial discrimination was contrary to public policy and therefore inconsistent with the common law standards for charitability.

In 1987, Congress amended section 501(c)(3) to clarify that the prohibition on political campaign activity applied to activities in opposition to, as well as on behalf of, any candidate for public office. Omnibus Budget Reconciliation Act, Pub. L. No. 100–203, §10711, 101 Stat. 1330, 1330–464 (1987). The House Report accompanying the bill stated that "[t]he prohibition on political campaign activities * * * reflect[s] congressional policies that the U.S. Treasury should be neutral in political affairs * * *." H.R. Rep. No. 100–391, at 1625 (1987); see also S. Rep. No. 91–552, at 46–49 (Tax Reform Act of 1969) (interpreting section 501(c)(3) to mean that "no degree of support for an individual's candidacy for public office is permitted").

The scope of the prohibition on political campaign intervention has been the subject of much discussion. While certain acts are clearly proscribed, others may be permissible or prohibited, depending on the purpose and effect of the activity. The regulations interpreting the prohibition add little to the statutory definition:

> Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

Treas. Reg. §1.501(c)(3)–1(c)(3)(iii). Under this provision, a section 501(c)(3) organization is prohibited from making a written or oral endorsement of a candidate and from distributing partisan campaign literature. IRS CPE Manual at 410. Following the enactment of section 527 of the Code in 1974 (governing the federal tax treatment of PACs), the prohibition also prevents section 501(c)(3) organizations from establishing or supporting a PAC. IRS CPE Manual at 437. (The application of the prohibition in this context is discussed further below.)

It is clear, however, that section 501(c)(3) organizations also may violate the prohibition by engaging in activity that falls short of a direct endorsement, and even may—on its face—appear neutral, if the purpose or effect of the activity is to support or oppose a candidate. The IRS CPE Manual describes a variety of situations in which section 501(c)(3) organizations may violate the prohibition without engaging in a direct candidate endorsement, including inviting a particular candidate to make an appearance at an organization event, holding candidate forums or distributing voter guides which evidence a bias for or against a candidate, and similar activities that may support or oppose a particular candidate. IRS CPE Manual at 419–424, 430–432. In a recent election year news release, the IRS reminded 501(c)(3) organizations of the breadth of the prohibition, stating not only that they cannot endorse candidates or distribute statements in support of or opposition to candidates, but also that they cannot "become involved in any other activities that may be beneficial or detrimental to any candidate." IRS News Release IR–96–23 (Apr. 24, 1996).

While it is easy for the IRS to determine whether the prohibition on political campaign intervention has been violated when a section 501(c)(3) organization endorses a candidate or distributes partisan campaign literature, it is more difficult to determine whether there is a violation if the activity at issue is not blatant or serves a nonpolitical purpose as well. The IRS relies on a "facts and circumstances" test in analyzing ambiguous behavior to determine whether there has been a violation. According to the IRS:

> [i]n situations where there is no explicit endorsement or partisan activity, there is no bright-line test for determining if the IRC 501(c)(3) organization participated or intervened in a political campaign. Instead, all the facts and circumstances must be considered.

IRS CPE Manual at 410.

Despite the lack of bright-line standards concerning all aspects of the prohibition, there is a substantial body of authority concerning what section 501(c)(3) organizations can and cannot do, and many section 501(c)(3) organizations have little difficulty applying existing precedents to develop internal guidelines for what activities are permissible and prohibited. For example, the Office of General Counsel of the United States Catholic Conference issued guidelines on political activities to Catholic organizations on February 14, 1996, in anticipation of the 1996 election season.[96] The guidelines outline the parameters of permissible activity, including unbiased voter education, nonpartisan get-out-the-vote drives, and nonpartisan public forums. They also describe what activity is prohibited, including the endorsement of candidates, the distribution of campaign literature in support or opposition to candidates, and the provision of financial and in-kind support to candidates or PACs. With respect to the latter, the guidelines state flatly that:

> [A] Catholic organization may not provide financial support to any candidate, PAC, or political party. Likewise, it may not provide or solicit in-kind support, such as free or selective use of volunteers, paid staff, facilities, equipment, mailing lists, etc.

"Political Activity Guidelines for Catholic Organizations" (United States Catholic Conference, Office of the General Counsel, Washington, D.C.), Feb. 14, 1996, reprinted in Paul Streckfus' EO Tax Journal, November 1996 at 35, 42.

The generally accepted aspects of the campaign intervention prohibition, as well as some areas of uncertainty, are discussed below.

(a) The Prohibition Is "Absolute"

The prohibition on political campaign intervention or participation is "absolute." IRS CPE Manual at 416. Unlike the prohibition on lobbying, there is no requirement that political campaign participation or intervention be substantial. *New York Bar*, 858 F.2d at 881. It is, therefore, irrelevant that the majority, or even all but a small portion, of an organization's activities would, by themselves, support exemption under section 501(c)(3). *United States* v. *Dykema*, 666 F.2d 1096, 1101 (7th Cir. 1981); see also G.C.M. 39694 (Jan. 22, 1988) ("An organization described in section 501(c)(3) is precluded from engaging in any political campaign activities") and P.L.R. 9609007 (Dec. 6, 1995). ("For purposes of section 501(c)(3), intervention in a political campaign may be subtle or blatant. It may seem to be justified by the press of events. It may even be inadvertent. The law prohibits all forms of participation or intervention in 'any' political campaign.")[97]

Although the prohibition on political campaign intervention under section 501(c)(3) is absolute, Congress recognized that the sanction of loss of tax exemption could, in some cases, be disproportionate to the violation. In 1987, Congress added section 4955 to the Code, which imposes excise tax penalties on section 501(c)(3) organizations that make "political expenditures" in violation of the prohibition, as well as organization managers who knowingly approve such expenditures. The legislative history provides that the enactment of section 4955 was not intended to modify the absolute prohibition of section 501(c)(3), but to provide an alternative remedy that could be used by the IRS in cases where the penalty of revocation seems disproportionate to the violation:

> i.e., where the expenditure was unintentional and involved only a small amount and where the organization subsequently has adopted procedures to assure that similar expenditures would not be made in the future.

H.R. Rep. No. 100–391, at 1623–24 (1987).

The legislative history also provides that the excise tax may be imposed in cases involving significant, uncorrected violations of the prohibition, where revocation alone may be ineffective because the organization has ceased operations after diverting its assets to an improper purpose. In these cases, the excise tax penalty on organization managers may be the only effective way to penalize the violation. *Id.* at 1624–25.

The IRS has shown an inclination to impose the excise tax under section 4955 in lieu of revocation of exemption in cases where the violation appears to be minor in relation to the organization's other exempt purpose activities.[98] For example, P.L.R. 9609007 (Dec.

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[96] Some churches assert that they have a First Amendment right to participate in political campaign activities where doing so furthers their religious beliefs. However, courts have ruled that tax exemption is a privilege and not a right, and that section 501(c)(3) does not prohibit churches from participating in political campaigns but merely provides that they will not be entitled to tax exemption if they do so. See, e.g., *Christian Echoes National Ministry, Inc.* v. *United States*, 470 F.2d 849 (10th Cir. 1972).

[97] See also G.C.M. 38137 (Oct. 22, 1979): [T]he prohibition on political activity makes no reference to the intent of the organization. An organization can violate the proscription even if it acts for reasons other than intervening in a political campaign. For example, an organization that hires a political candidate to do commercials for its charity drive and runs the commercials frequently during the political campaign may have no interest in supporting the candidate's campaign. Nevertheless, its action would constitute, at least, indirect intervention or support of the political campaign.

However, the same G.C.M. goes on to say:

> We do not mean to imply that every activity that has an effect on a political campaign is prohibited political activity. We recognize that organizations may inadvertently support political candidates. In these instances the organizations have not "intervened" or "participated" in political campaigns. A hospital that provides emergency health care for a candidate acts on behalf of the candidate during the election, but only inadvertently supports his campaign.

[98] Prior to the enactment of section 4955 in 1987, the IRS was reluctant to impose revocation in cases where the violation was not blatant and the organization had a record of otherwise charitable activities. For example, P.L.R. 8936002 (May 24, 1989) involved a section 501(c)(3) organization that engaged in voter education and issue advocacy relating to the 1984 Presidential election. Describing the case as "a very close call," the IRS "reluctantly" concluded that the organization's voter education activities did not constitute prohibited political campaign intervention, despite the use of "code words" that could be viewed as evidencing support for a particular candidate.

The IRS appeared unwilling to seek revocation with respect to the organization, probably because of its history of legitimate educational activities. Had section 4955 been in effect when the activity took place, the IRS would have had another enforcement alternative: it could have imposed excise tax

6, 1995) involved a section 501(c)(3) organization that sent out a fundraising letter linking the organization to issues raised in the particular campaigns. The IRS concluded that the letters evidenced a bias for one candidate over the other. The organization sought to defend itself by saying only a few of the letters were sent to the states whose elections were mentioned in the letters. The IRS rejected this defense, stating that:

> [I]t is common knowledge that in recent times the primary source of a candidate's support in such elections is often derived from out-of-state sources. Although a particular reader may not have been eligible to actually vote for the described candidate, he or she could have been charged by [the organization], in our view, to participate in the candidate's campaign through direct monetary or in-kind support, volunteerism, molding of public opinion, or the like.

Id. The IRS found that the organization violated the political campaign intervention prohibition and imposed an excise tax on the organization under section 4955; it did not, however, propose revocation of the organization's exemption under section 501(c)(3).

(b) Section 501(c)(3) Organizations May Not Establish or Support a PAC

Although organizations exempt from tax under some categories of section 501(c) are permitted to establish or support PACs,[99] those exempt under section 501(c)(3) are not. When section 527 (governing the tax treatment of PACs) was added to the Code in 1974, the legislative history provided that "this provision is not intended to affect in any way the prohibition against certain exempt organizations (*e.g.*, sec. 501(c)(3)) engaging in 'electioneering' * * *" S. Rep. No. 93–1357 (1974), *reprinted* in 1975–1 C.B. 517, 534. The regulations under section 527 reflect this congressional intent:

> Section 527(f) and this section do not sanction the intervention in any political campaign by an organization described in section 501(c) if such activity is inconsistent with its exempt status under section 501(c). For example, an organization described in section 501(c)(3) is precluded from engaging in any political campaign activities. The fact that section 527 imposes a tax on the exempt function income (as defined in section 1.527–2(c)) expenditures of section 501(c) organizations and permits such organizations to establish separate segregated funds to engage in campaign activities does not sanction the participation in these activities by section 501(c)(3) organizations.

Treas. Reg. § 1.527–6(g).

Since the enactment of section 527 in 1974, it has been clear that a section 501(c)(3) organization will violate the prohibition on political campaign intervention by providing financial or nonfinancial support for a PAC. IRS CPE Manual at 438–40. While the use of a section 501(c)(3)'s facilities, personnel, or other financial resources for the benefit of a PAC is impermissible, the prohibition does not stop there. In its CPE Manual, the IRS also noted that "[a]n IRC 501(c)(3) organization's resources include intangible assets, such as its goodwill, that may not be used to support the political campaign activities of another organization." *Id.* at 440. Some leading practitioners have interpreted this provision to prohibit a charity from allowing its name to be used by a PAC, even if the charity provides no financial support or assistance; by allowing a PAC to use its name, the charity implies to its employees and to the public that it endorses the activity of the PAC. *See* Gregory L. Colvin *et al.*, *Commentary on Internal Revenue Service 1993 Exempt Organizations Continuing Professional Education Technical Instruction Program Article on "Election Year Issues,"* 11 Exempt Org. Tax Rev. 854, 871 (1995) [hereinafter "EO Comments"].

(c) "Express Advocacy" is Not Required, and Issue Advocacy is Prohibited if Used to Convey Support for or Opposition to a Candidate

An organization does not need to violate the "express advocacy" standard applied under federal election law for it to violate the political campaign prohibition of section 501(c)(3).[100] T.A.M. 8936002 (May 24, 1989). That is, it is not necessary to advocate the election or defeat of a clearly identified candidate to violate the prohibition. IRS CPE Manual at 412–13.

Moreover, an organization may violate the prohibition even if it does not identify a candidate by name. The IRS has stated that "issue advocacy" may serve as "the opportunity to intervene in a political campaign in a rather surreptitious manner" if a label or other coded language is used as a substitute for a reference to identifiable candidates. *Id.* at 411.

> The concern is that an IRC 501(c)(3) organization may support or oppose a particular candidate in a political campaign without specifically naming the candidate by using code words to substitute for the candidate's name in its messages, such as "conservative," "liberal," "pro-life," "pro-choice," "anti-choice," "Republican," "Democrat," etc., coupled with a discussion of the candidacy or the election. When this occurs, it is quite evident what is happening—an intervention is taking place.

Id. 411–412. Furthermore:

> [a] finding of political campaign intervention from the use of coded words is consistent with the concept of "candidate"—the words are not tantamount to advocating support for or opposition to an entire political party, such as "Republican," or a vague and unidentifiably large group of candidates, such as "conservative" because the sender of the message does not intend the recipient to interpret them that way. Code words, in this context, are used with the intent of conjuring favorable or unfavorable images—they have pejorative or commendatory connotations.

Id. at 412 n. 6.

(d) Educational Activities May Constitute Participation or Intervention

As discussed above, the IRS considers activities that satisfy the "methodology test" to be "educational." Just as educational activities may result in impermissible private benefit, however, so too may they violate the prohibition on political campaign intervention. The IRS takes the position that "[a]ctivities that meet the methodology test * * * may nevertheless constitute participation or intervention in a political campaign." IRS CPE Manual at 415.

New York Bar, 858 F.2d 876 (2d Cir. 1988), referred to above, is the leading case on point. In that case, a bar association published ratings of judicial candidates. The ratings were distributed to bar members and law libraries. The Association also issued press releases regarding its ratings, but did not conduct publicity campaigns to announce its ratings. *Id.* at 877. The Second Circuit held that although the Association's publications were educational, the distribution of the publications constituted prohibited campaign intervention. By disseminating the educational publications with the hope that they would "'ensure' that candidates whom [the Association] consider[ed] to be 'legally and professionally unqualified'" would not be elected, the court held that the Association "indirectly" participated in a political campaign on behalf of or in opposition to a candidate for public office. *Id.* at 881.

An implication of the holding in *New York Bar* is that one must consider not only whether the activity itself, *e.g.*, publishing educational materials such as candidate ratings, violates the political campaign prohibition, but also whether the intended consequences of the activity violates the prohibition.[101] The need to consider the consequences of an otherwise educational activity is clear from a review of several IRS rulings finding that an organization violated the prohibition by disseminating material that was deemed educational, but nonetheless affected voter preferences in violation of the prohibition.

For example, in Rev. Rul. 67–71, 1967–1 C.B. 125, the IRS ruled that a 501(c)(3) organization created to improve the public educational system by engaging in campaigns on behalf of candidates for school board was not exempt. Every four years, when the school board was to be elected, the organization considered the qualification of the candidates and selected those it thought most qualified. The organization then "engage[d] in a campaign on their behalf by publicly announcing its slate of candidates and by publishing and distributing a complete biography of each." *Id.* Although the selection process "may have been completely objective and unbiased and was intended primarily to educate and inform the public about the candidates," the IRS nonetheless

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penalties on the organization's expenditures for the activities it found so troublesome.

[99] For example, section 501(c)(4) and (6) organizations are permitted to establish and/or support PACs. If these exempt organizations provide support for PACs, they are subject to tax, under section 527, on the lesser of their net investment income or their "exempt function" income.

[100] The FEC's "express advocacy" standard came into being because the Supreme Court held a provision of the Federal Elections Campaign act relating to contributions "to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate." *See* IRS CPE Manual at 412 (quoting *Buckley* v. *Valeo*, 424 U.S. 1, 77 (1976)). Examples of "express advocacy" include "vote for," "elect," and "Smith for Congress" or "vote against," "defeat," and "reject." *Id.* at 413 (referring to 11 C.F.R. § 109.1(b)(2)).

[101] *See also* T.A.M. 9635003 (Apr. 19, 1996). T.A.M. 9635003 involved a section 501(c)(3) organization that conducted "citizens' juries," a form of voter education in which a cross-section of citizens are selected to determine which issues are most relevant in the context of a particular campaign, to hear presentations by candidates on those issues, and to rate the candidates' positions on the issues. The section 501(c)(3) organization disseminated the citizen jury's report, including the candidate ratings. In its dissemination, the organization made it clear that it did not support or oppose any candidate, and that the views expressed were those of the citizen jurors and not the organization. The IRS found that the dissemination of the report constituted impermissible participation in a political campaign, and that all expenditures in connection with the conduct of the citizens' jury—and not just the expenditures of the dissemination—constituted "political expenditures" under section 4955: This culmination shows that all the activity of the organization leading up to the final report is intimately connected with and a part of the process to put on the [citizens' jury], and thus publication of the final report makes the entire process with respect to the [citizens' jury] a proscribed political activity.

ruled it to be intervention or participation in a political campaign. *Id.*

In Rev. Rul. 76–456, 1976–2 C.B. 151, the IRS ruled that an organization formed for the purpose of elevating the morals and ethics of political campaigning was nevertheless intervening in a political campaign when it solicited candidates to sign a code of fair campaign practices and released the names of those candidates who signed and those candidates who refused to sign. The IRS stated that this was done to educate citizens about the election process and so that they could "participate more effectively in their selection of government officials." *Id.* at 152. Nonetheless, such activity, although educational, "may result * * * in influencing voter opinion" and thus constituted a prohibited participation or intervention in a political campaign. *Id.*

(e) Nonpartisan Activities May Constitute Prohibited Political Campaign Participation

The IRS takes the position that the nonpartisan motivation for an organization's activities is "irrelevant when determining whether the political campaign prohibition" has been violated. IRS CPE Manual at 415. As support for this position, the IRS cites Rev. Rul. 76–456 and *New York Bar*, both of which are discussed above. In those cases, the court or the IRS found that the activities in question were nonpartisan, but nevertheless held that they constituted participation in a political campaign. As noted by the IRS in its CPE Manual, the court in *New York Bar* "made the rather wry observation [that] [a] candidate who receives a 'not qualified' rating will derive little comfort from the fact that the rating may have been made in a nonpartisan manner." IRS CPE Manual at 416. Similarly, in G.C.M. 35902 (July 15, 1974), the IRS stated:

> The provision in the Code prohibiting participation or intervention in "any political campaign" might conceivably be interpreted to refer only to participation or intervention with a partisan motive; but the provision does not say this. It seems more reasonable to construe it as referring to any statements made in direct relation to a political campaign which affect voter acceptance or rejection of a candidate * * *

(f) The IRS Has Found Violations of the Prohibition on Political Campaign Participation When an Activity Could Affect or Was Intended to Affect Voters' Preferences

As discussed above, the courts and the IRS have found prohibited political campaign intervention when the activity in question, although educational, affected or could reasonably be expected to affect voter preferences, even where the organization's motives in undertaking the activity were nonpartisan. G.C.M. 35902 is to similar effect. In that case, the IRS held that a public broadcasting station's nonpartisan educational motivation was irrelevant in determining whether its provision of free air time to candidates for elective office was permissible under section 501(c)(3). The IRS found that the station's procedures for providing air time, including an equal time doctrine for all candidates and an on-air disclaimer of support for any particular candidate, were sufficient to ensure that the activity would not constitute an impermissible political campaign intervention. The fact that the station's motivation was to educate the public and not to influence an election, however, was deemed to be irrelevant.

The cases and rulings cited above make it clear that simply having an educational or nonpartisan motive for engaging in prohibited political activity is not a defense to a finding of violation. The relevance and irrelevance of motive is sometimes misstated, however. While the absence of an improper political motivation is irrelevant, evidence showing the existence of a political motivation is relevant and one of the facts and circumstances that the IRS will consider in determining whether there is a violation. Indeed, the IRS has found the existence of evidence showing an intent to participate in a political campaign to be sufficient to support a finding of violation, despite the lack of evidence that the activity achieved the intended results.

For example, in G.C.M. 39811 (Feb. 9, 1990), a religious organization encouraged its members to seek election to positions as precinct committee-persons in the Republican or Democratic Party structures. Although none of the organization's members actually ran for such positions, the IRS found that urging its members to become involved in the local party organizations was part of the organization's larger plans to "someday control the political parties."

> The first step in the Foundation's long-term strategy was to encourage members to be elected as precinct committeemen. These individuals could then exert influence within the party apparatus, beginning with the county central committee. Precinct committeemen could sway the precinct caucuses, a step in the selection of delegates to the party's presidential nominating convention. * * * Intervention at this early stage in the elective process in order to influence political parties to nominate such candidates is, we believe, sufficient to constitute intervention in a political campaign.

Id. The IRS went on to say:

> In its discussion of the Tax Court opinion [in *New York Bar*], the [Second Circuit] observed that the ratings of candidates were "published with the hope that they will have an impact on the voter." The effort, and not the effect, constituted intervention in a political campaign. Therefore, whether anyone heeded the call to run for precinct committee, whether that individual was elected, and if so, what he or she subsequently did are all immaterial.

Id.

In G.C.M. 39811, the IRS did not contend that the organization's urging of members to run for office alone constituted the violation. Rather, the organization's "long-term strategy" of seeking to influence the political parties' nomination of candidates by having its members elected to office, and its urging of members to run for office so as to carry out that strategy, were sufficient to support a finding of impermissible campaign participation, despite the fact that the effort was not successful.

Other cases and rulings have also looked to an organization's intent as an important element of a finding of prohibited participation or intervention. In 1972, a court held that an organization violated the participation or intervention prohibition when it "used its publications and broadcasts to attack candidates and incumbents who were considered too liberal." *Christian Echoes National Ministry, Inc.* v. *United States*, 470 F.2d 849, 856 (10th Cir. 1972). The court did not discuss whether the activities actually influenced voters or were reasonably likely to do so. Rather, it concluded that the organization's "attempts to elect or defeat certain political leaders reflected [the organization's] objective to change the composition of the federal government." *Id.*

The IRS also found an organization's intent relevant in P.L.R. 9117001 (Sept. 5, 1990). As described in that ruling, an organization mailed out material indicating that it was intending to help educate conservatives on the importance of voting in the 1984 general election. According to facts stated in the ruling letter, the material contained language "intended" to induce conservative voters to vote for President Reagan, even though his name was not included in the materials. The IRS thus concluded that "the material was targeted to influence a segment of voters to vote for President Reagan." *Id.*

Based on the above, the IRS position is that an organization can violate the political campaign prohibition by either: (a) conducting activities that could have the effect of influencing voter acceptance or rejection of a candidate or group of candidates (the "effect" standard), or (b) engaging in activities that are intended to influence voter acceptance or rejection of a candidate or group of candidates, whether they do so or not (the "effort" standard). Most of the uncertainty over the scope of the prohibition on political campaign intervention relates to the "effect" standard—the possibility that an organization may, without intending to do so, engage in an activity that could have the effect of influencing voter acceptance of a candidate and, as a result, place its tax exemption in jeopardy and/or risk incurring excise tax penalties under section 4955. The legislative history of section 4955 makes it clear that an inadvertent action may indeed violate section 501(c)(3), and suggests that the IRS may appropriately apply the excise tax penalty rather than revocation as a sanction in such situations. Nevertheless, some practitioners have expressed the view that, in interpreting whether ambiguous behavior is violative of the campaign intervention prohibition, primary reliance should be placed on whether there was a political purpose to the behavior at issue. *See* EO Comments at 856–57. In other words, "to violate the 501(c)(3) prohibition, the organization's actions have to include an intentional 'tilt' for or against one or more people running for public office." *Id.* at 857. In this regard, it was noted that:

> In most cases, the presence of a political purpose will be clear from the charity's paper trail, because organizational activities in the political arena are usually accompanied by assertive behavior, much internal discussion, and explicit written communications. * * *

Id.

To date, the IRS has shown no intention to abandon its position that an organization may violate the prohibition against political campaign intervention based on the unintended or inadvertent effect of its actions, as well as by an engaging in activities with "an intentional tilt" in favor of a candidate or in support of a PAC. Indeed, its recent election year warning to section 501(c)(3) organizations not to "become involved in any other activities that may be beneficial or detrimental to any candidate" (discussed above) evidences an apparent intention to adhere to a broad interpretation of the prohibition. **IRS News Release IR–96–23** (Apr. 24, 1996).

(ii) If a Substantial Part of an Organization's Activities is Attempting to Influence Legislation, or its Primary Goal can only be Accomplished through Legislation, it is an "Action" Organization

Section 501(c)(3) provides that an organization cannot be tax-exempt if a "substantial part" of its activities is "carrying on propaganda, or otherwise attempting, to influence legislation." Although there is virtually no legislative history on the prohibition, courts have declared that the limitations in section 501(c)(3) "stem from the policy that the United States Treasury should be neutral in political affairs and that substantial activities directed to attempts to influence legislation should not be subsidized." *Haswell* v. *United States*, 500 F.2d 1133, 1140 (Ct. Cl. 1974), *cert. denied*, 419 U.S. 1107 (1975). (The court also noted that "[t]ax exemptions are matters of legislative grace and taxpayers have the burden of establishing their entitlement to exemptions." *Id.*)

The Regulations provide that an organization is an "action" organization if "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise." Treas. Reg. §1.501(c)(3)–1(c)(3)(ii). The Regulations also provide that an organization is an "action" organization if it has the following two characteristics:

(a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objective) may be attained only by legislation or a defeat of proposed legislation; and

(b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public.

Treas. Reg. §1.501(c)(3)–1(c)(3)(iv).

To determine whether a substantial part of an organization's activities is attempting to influence legislation, two alternative tests exist. Each test contains its own definition of "legislation" and what constitutes an attempt to influence legislation. The two tests also contain different ways of determining substantiality. One test is referred to as the "substantial-part test." The other test, referred to as the "expenditure test,"[102] was added to tax law in 1976 at sections 501(h) and 4911 as a result of uncertainty over the meaning of the word "substantial."

The "expenditure test" sets forth specific, dollar levels of permissible lobbying expenditures. Section 501(h) did not amend section 501(c)(3), but rather provided charitable organizations an alternative to the vague "substantial-part" limitations of section 501(c)(3). A charitable organization may elect the "expenditure test" as a substitute for the substantial-part test. A public charity that does not elect the expenditure test remains subject to the substantial part test. Treas. Reg. §1.501(h)–1(a)(4). Joint Committee in its General Explanation of the Tax Reform Act of 1976, 1976–3 C.B. (Vol. 2) 419.

The substantial-part test is applied without regard to the provisions of section 501(h). The law, regulations and rulings regarding the expenditure test may not be used to interpret the law, regulations and rulings of the substantial-part test. Section 501(h)(7) ("nothing [in section 501(h)] shall be construed to affect the interpretation of the phrase 'no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,' under [section 501(c)(3)]").

Determining whether an organization violated the lobbying limitation requires an understanding of what constitutes: i. "legislation;" ii. an attempt to "influence" legislation; and iii. a "substantial" part of an organization's activities. It is also necessary to understand the circumstances under which an organization's "objectives can be achieved only through the passage of legislation."

(a) Definition of "Legislation"

The Regulations define "legislation" to include "action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure." Treas. Reg. §501(c)(3)–1(c)(3)(ii). "Action by the Congress" includes the "introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items." G.C.M. 39694 (Jan. 22, 1988). This definition does not include Executive Branch actions, or actions of independent agencies. P.L.R. 6205116290A (May 11, 1962). Requesting executive bodies to support or oppose legislation, however, is prohibited. The IRS does not recognize a distinction between "good" legislation and "bad" legislation. For example, in Rev. Rul. 67–293, 1967–2 C.B. 185, the IRS ruled that an organization substantially engaged in promoting legislation to protect animals was not exempt even though the legislation would have benefited the community.

(b) Definition of "attempting to influence legislation"

Under the Regulations, an organization will be regarded as "attempting to influence legislation" if it:

(a) contacts members of a legislative body for the purpose of proposing, supporting, or opposing legislation (Treas. Reg. §1.501(c)(3)–1(c)(3)(ii)(a)) (referred to as "direct lobbying");

(b) urges the public to contact members of a legislative body for the purpose of proposing, supporting, or opposing legislation (*id.*) (referred to as "grassroots lobbying"); or

(c) advocates the adoption or rejection of legislation (Treas. Reg. §1.501(c)(3)–1(c)(3)(ii)(b)).

Section 4945(e) of the Internal Revenue Code provides additional guidance regarding the meaning of "attempting to influence legislation."[103] According to that provision, a taxable expenditure includes any amount paid or incurred for:

(a) any attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof, and

(b) any attempt to influence legislation through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation (except technical advice or assistance provided to a government body or to a committee or other subdivision thereof in response to a written request by such body or subdivision . * * *) other than through making available the results of nonpartisan analysis, study, or research.

Treas. Reg. §53.4945–2(d)(4), which is applicable to non-electing public charities,[104] discusses "nonpartisan analysis, study, or research" as follows:

Examinations and discussions of broad social, economic, and similar problems are [not lobbying communications] even if the problems are of the type with which government would be expected to deal ultimately * * * For example, [an organization may discuss] problems such as environmental pollution or population growth that are being considered by Congress and various State legislatures, but only where the discussions are not directly addressed to specific legislation being considered, and only where the discussions do not directly encourage recipients of the communication to contact a legislator, an employee of a legislative body, or a government official or employee who may participate in the formulation of legislation.[105]

Even if specific legislation is not mentioned, however, an indirect campaign to "mold public opinion" may violate the legislative lobbying prohibition. In *Christian Echoes National Ministry, Inc.* v. *United States*, 470 F.2d 849 (10th Cir. 1972), the organization in question produced religious radio and television broadcasts, distributed publications, and engaged "in evangelistic campaigns and meetings for the promotion of the social and spiritual welfare of the community, state and nation." *Id.* at 852. The court found the publications attempted to influence legislation "by appeals to the public to react to certain issues." *Id.* at 855.[106]

Under the expenditure test, "grassroots lobbying" is "any attempt to influence legislation through an attempt to affect the opinions of the general public or any segment thereof." Treas. Reg. §56.4911–2(b)(2)(i). Such a communication will be considered grassroots lobbying if it: (a) refers to specific legislation, (b) reflects a view on such legislation, (c) [e]ncourages the recipient to take action with respect to such legislation.

Treas Reg. §56.4911–2(b)(2)(ii).[107]

(c) Definition of "Substantial"

A bright-line test for determining when a "substantial" part of an organization's activities are devoted to influencing legislation does not exist. Neither the regulations nor case law provide useful guidance as to whether the determination must be based on activity or expenditures or both. In *Seasongood* v. *Commissioner*, 227 F.2d 907 (6th Cir. 1955), the court held that attempts to influence legislation that constituted less than five percent of total activities were not substantial. The percentage test of *Seasongood* was, however, explicitly rejected in *Christian Echoes National Ministry, Inc.*

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[102] As stated in the legislative history with respect to I.R.C. §501(h): "The language of the lobbying provision was first enacted in 1934. Since that time neither Treasury regulations nor court decisions gave enough detailed meaning to the statutory language to permit most charitable organizations to know approximately where the limits were between what was permitted by the statute and what was forbidden by it. This vagueness was, in large part, a function of the uncertainty in the meaning of the terms 'substantial part' and 'activities'. * * * Many believed that the standards as to the permissible level of activities under prior law was too vague and thereby tended to encourage subjective and selective enforcement."

[103] I.R.C. §§4945(d) and (e) contain definitions of "attempting to influence legislation" with respect to taxable expenditures by private foundations, not public charities. However, "[a]ctivities which constitute an attempt to influence legislation under Code §4945 * * * also constitute an attempt to influence legislation under Code §501(c)(3)." G.C.M. 36127 (Jan. 2, 1975). Congress viewed section 4945(e) as a clarification of the phrase "attempting to influence legislation" in tax-exempt law generally, not just with respect to private foundations. *Id.*

[104] See G.C.M. 36127 (Jan. 2, 1975) and *Haswell* v. *United States*, 500 F.2d 1133 (Ct. Cl. 1974).

[105] See also G.C.M. 36127 (Jan. 2, 1975).

[106] For example, the publications urged its readers to: "write their Congressmen in order to influence the political decisions in Washington;" "work in politics at the precinct level;" "maintain the McCarran-Walter Immigration law;" "reduce the federal payroll by discharging needless jobholders, stop waste of public funds and balance the budget;" "stop federal aid to education, socialized medicine and public housing;" "abolish the federal income tax;" and "withdraw from the United Nations." *Christian Echoes National Ministry*, 470 F.2d at 855. In light of these facts, the court upheld the IRS position that the organization failed to qualify as a 501(c)(3) organization.

[107] The IRS has also concluded that an organization formed to "facilitate" the inauguration of a state's governor-elect and the "orderly transition of power from one political party to another by legislative and personnel studies" violated the prohibition on attempting to influence legislation. G.C.M. 35473 (Sept. 10, 1973). The IRS "saw no logical way to avoid concluding that [the organization's] active advocacy of a proposed legislative program requires it to be [classified as an action organization. * * *]" *See also* Rev. Rul. 74–117, 1974–1 C.B. 128.

> The political [i.e. legislative] activities of an organization must be balanced in the context of the objects and circumstances of the organization to determine whether a substantial part of its activities was to influence legislation. (citations omitted.) A percentage test to determine whether the activities were substantial obscures the complexity of balancing the organization's activities in relation to its objects and circumstances.

Id. at 855. Yet in *Haswell* v. *United States*, 500 F.2d 1133, 1145 (Ct. Cl. 1974), the court determined that while a percentage test is not the only measure of substantiality, it was a strong indication that the organization's purposes were no longer consistent with charity. In that case, the court concluded that approximately 20 percent of the organization's total expenditures were attributable to attempts to influence legislation, and they were found to be substantial. *Id.* at 1146.

The IRS has characterized the ambiguity over the meaning of "substantial" as a "problem [that] does not lend itself to ready numerical boundaries." G.C.M. 36148 (January 28, 1975). In attempting to give some guidance on the subject, however, the IRS said:

> [t]he percentage of the budget dedicated to a given activity is only one type of evidence of substantiality. Others are the amount of volunteer time devoted to the activity, the amount of publicity the organization assigns to the activity, and the continuous or intermittent nature of the organization's attention to it.

(d) Circumstances under which an organization's "objectives can be achieved only through the passage of legislation"

The Regulations require that when determining whether an organization's objectives can be achieved only through the passage of legislation that "all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered." Treas. Reg. §1.501(c)(3)-1(c)(3)(iv). There is little additional IRS or court guidance on the subject. In one of the few comments on this section of the Regulations, the IRS said in G.C.M. 33617 (Sep. 12, 1967) that an organization that was "an active advocate of a political doctrine" was an action organization because its objectives could only be attained by legislation. In its publications, the organization stated that its objectives included:

> the mobilization of public opinion; resisting every attempt by law or the administration of law which widens the breach in the wall of [redacted by IRS] working for repeal of any existing state law which sanctions the granting of public aid to [redacted by IRS]; and uniting all 'patriotic' citizens in a concerted effort to prevent the passage of any federal law [redacted by IRS]. * * *"

By advocating its position to others, thereby attempting to secure general acceptance of its beliefs; by engaging in general legislative activities to implement its views; by urging the enactment or defeat of proposed legislation which was inimical to its principles: the organization ceased to function exclusively in the educator's role of informant in that its advocacy was not merely to increase the knowledge of the organization's audience, but was to secure acceptance of, and action on, the organization's views concerning legislative proposals, thereby encroaching upon the proscribed legislative area.

In Rev. Rul. 62-71, 1962-1 C.B. 85, an organization was formed "for the purpose of supporting an educational program for the stimulation of interest in the study of the science of economics or political economy, particularly with reference to a specified doctrine or theory." It conducted research, made surveys on economic conditions available, moderated discussion groups and published books and pamphlets. The research activities were principally concerned with determining the effect various real estate taxation methods would have on land values with reference to the "single tax theory of taxation." "It [was] the announced policy of the organization to promote its philosophy by educational methods as well as by the encouragement of political action." *Id.* The tax theory advocated in the publications, although educational within the meaning of section 501(c)(3), could be put into effect only by legislative action. Without further elaboration of the facts involved or how the theory could only be put into effect through legislative action, the IRS ruled the organization was an action organization, and thus not operated exclusively for an exempt purpose.

In G.C.M. 37247 (Sept. 8, 1977), the IRS discussed whether an organization whose guiding doctrine was to propagate a "nontheistic, ethical doctrine" of volunteerism could be considered a 501(c)(3) organization. The "ultimate goal" of the guiding doctrine was "freedom from governmental and societal control." According to the IRS:

> [t]his objective can obviously only be attained legally through legislation, including constitutional amendments, or illegally through revolution. If [the organization] should advocate illegal activities, then it is not charitable; if it advocates legal attainment of its doctrine's goal through legislation, then it is an action organization.

The IRS did not conclude that organization was an action organization, only that there was such a possibility and further investigation was warranted. Research has not uncovered further information about this case.

d. To Satisfy the Operational Test, an Organization Must Not Violate the "Private Inurement" Prohibition

To qualify for tax-exempt status, section 501(c)(3) provides that an organization must be organized and operated so that "no part of [its] net earnings * * * inures to the benefit of any private shareholder or individual." The Regulations add little clarification to this provision other than saying that "[a]n organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals." Treas. Reg. §1.501(c)(3)-1(c)(2).

Although the private benefit and private inurement prohibitions share common and often overlapping elements, the two are distinct requirements which must be independently satisfied. *American Campaign Academy*, 92 T.C. at 1068. The private inurement prohibition may be "subsumed" within the private benefit analysis, but the reverse is not true. "[W]hen the Court concludes that no prohibited inurement of earnings exists, it cannot stop there but must inquire further and determine whether a prohibited private benefit is conferred." *Id.* at 1069. It should be noted that the private inurement prohibition pertains to net earnings of an organization, while the private benefit prohibition can apply to benefits other than those that have monetary value. Furthermore, unlike with the private benefit prohibition, the prohibition on private inurement is absolute. "There is no de minimis exception to the inurement prohibition." G.C.M. 39862 (Nov. 22, 1991).

The IRS has described "private shareholders or individuals" as "persons who, because of their particular relationship with an organization, have an opportunity to control or influence its activities." *Id.* "[I]t is generally accepted that persons other than employees or directors may be in a position to exercise the control over an organization to make that person an insider for inurement purposes." Hill, F. and Kirschten, B., *Federal and State Taxation of Exempt Organizations* 2-85 (1994). "The inurement prohibition serves to prevent anyone in a position to do so from siphoning off any of a charity's income or assets for personal use." G.C.M. 39862 (Nov. 22, 1991). Furthermore, the IRS has stated that:

> [I]nurement is likely to arise where the financial benefit represents a transfer of the organization's financial resources to an individual solely by virtue of the individual's relationship with the organization, and without regard to accomplishing exempt purposes.

G.C.M. 38459 (July 31, 1980). *Also* IRS Exempt Organizations Handbook (IRM 7751) §381.1(4) ("The prohibition of inurement in its simplest terms, means that a private shareholder or individual cannot pocket the organization's funds except as reasonable payment for goods or services"); and Hopkins, *supra*, at 267 (Proscribed private inurement "involves a transaction or series of transactions, such as unreasonable compensation, unreasonable rental charges, unreasonable borrowing arrangements, or deferred or retained interests in the organization's assets").

Mr. TAYLOR of Mississippi. Mr. Speaker, today I rise to discuss the ethics charges facing NEWT GINGRICH, Speaker of the House of Representatives.

The House Ethics Committee voted 7–1 to reprimand and assess a penalty of $300,000 for Speaker GINGRICH.

In recommending a sanction and a $300,000 fine, the committee stated on page 94 of its report the following: "* * * the violation does not represent only a single instance of reckless conduct. Rather, over a number of years and in a number of situations, Mr. GINGRICH showed a disregard and lack of respect for the standards of conduct that applied to his activities."

Based on this, I find it inconceivable that the Ethics Committee would recommend a resolution to this body which would not specifically prohibit the Speaker from paying his fine from campaign funds. Mr. GINGRICH's campaign organization can raise these funds in a matter of minutes. During the Speaker's most recent general election campaign, he spent $5.4 million to defeat his challenger. At the end of November, Federal Election Commission reports indicate that he has over $1 million remaining in his campaign fund.

The Speaker used funds from tax-exempt organizations to promote his political agenda. If a Member violates the rules of the House, the Member, not their campaign, should be held responsible for whatever fine is levied.

Mr. Speaker, I therefore voted against approving the resolution recommended by the committee.

Mr. CANADY of Florida. Mr. Speaker, today I cast my vote in support of the recommendation of the Committee on Standards of Official Conduct that Mr. GINGRICH be reprimanded and subjected to a $300,000 cost assessment. I do so after reviewing the report of the committee and the report of counsel for Mr. GINGRICH.

In making a judgment regarding this matter, I have been guided by the dual goals of maintaining the integrity of the House, and ensuring that Mr. GINGRICH be treated fairly. I have attempted to base my decision on this matter on all the relevant facts. In my view, the committee was well justified in concluding that Mr. GINGRICH engaged in conduct which did not reflect creditably on the House.

The most serious finding against Mr. GINGRICH involves the submission of inaccurate information to the committee. The circumstances surrounding the submission of incorrect statements indicates that Mr. GINGRICH was woefully remiss in meeting his obligation as a respondent in the ethics process. Although the committee did not conclude that Mr. GINGRICH intentionally misled the committee, it is clear that at the least Mr. GINGRICH was reckless in responding to a series of inquiries from the committee.

The sequence of events is particularly disturbing because after the initial submission of inaccurate information in December 1994, Mr. GINGRICH had multiple opportunities to correct the misstatements but failed to do so until his November 13, 1996, appearance before the investigative subcommittee. Most distressing is the fact that when the scope of the investigation was expanded on September 26, 1996, to include the issue of whether Mr. GINGRICH provided accurate, reliable, and complete information to the committee, Mr. GINGRICH failed to make an immediate diligent effort to determine if he had in fact submitted incorrect information to the committee, and to correct any errors that may have been made.

Indeed, in response to the investigative subcommittee's letter of October 1, 1996, requesting that Mr. GINGRICH produce all documents relied on to prepare the letters previously submitted to the committee, Mr. GINGRICH wrote to the subcommittee stating how busy he was at the time the various letters were submitted, but also affirming that he had reviewed the submissions to verify their accuracy. Mr. GINGRICH's failure to set the record straight at this point was under the most charitable view grossly reckless.

The committee was also justified in concluding that Mr. GINGRICH erred in failing to consult a tax attorney regarding certain of his activities involving organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code. Although legal experts may disagree about the propriety of Mr. GINGRICH's conduct, Mr. GINGRICH's own expert witness acknowledged that the combination of politics and 501(c)(3) organizations is an "explosive mix," and stated that he would have advised Mr. GINGRICH not to use 501(c)(3) entities for the purposes for which he used them. There was more than an adequate basis for the committee to conclude that "there were significant and substantial warning signals to Mr. GINGRICH that he should have heeded prior to embarking on "the projects involving tax-exempt entities. In 1995 Mr. GINGRICH himself told the New York Times that his activity involving section 501(c)(3) entities "[g]oes right up to the edge. * * * [I]t's risk taking." Such comments betray a disturbing lack of concern by Mr. GINGRICH about the prospect that his conduct might bring discredit on the House.

In light of all these circumstances, I believe that the penalty recommended by the committee represents the minimum appropriate sanction. Even if he did not intend to mislead the committee or abuse the tax laws, Mr. GINGRICH's conduct was culpable because it was reckless. Such conduct undermines public confidence in the integrity of our system of Government. It is conduct that cannot be excused. The reprimand combined with the stiff cost assessment sends a strong signal that the House will deal firmly with such transgressions of the rules of the House.

Mr. BLUMENAUER. Mr. Speaker, for me, the Gingrich episode represents much of what is wrong about the American political system today. It is unfortunately a failing which occurs on many levels.

At its core is the behavior of the man twice removed from the Presidency. It is very difficult for anyone who has read the Cole report to reach any conclusion other than that Mr. GINGRICH consistently did not tell the truth, in a desperate attempt to avoid responsibility for the misuse of taxpayer funds for partisan gain.

In turn, Mr. GINGRICH's transgressions engendered a series of behaviors from people in both parties and in the press that play to their worst instincts, and that undermine the confidence people have in their Government.

Last but not least, the blame resides as well with the House ethics process, a process so open to perversion that it raises questions about its ability to protect individual rights. It has unfortunately become so susceptible to manipulation that the House leadership and committee chair can, and has, unilaterally distorted its most sensitive proceedings, denying the House and the American public the time to reflect.

Over the weekend, I read the Cole report. I come away from it believing that Mr. GINGRICH knew exactly what he was doing, based on his intimate familiarity with the 1989 case involving the American Campaign Academy. In that case, the IRS and a tax court found that the academy, which was run by Mr. GINGRICH's closest personal advisor and which was represented by Mr. GINGRICH's lawyer, was ineligible for tax-exempt status because it served private, rather than public interests.

But Mr. GINGRICH was not deterred by the lessons of the American Campaign Academy ruling. Far from it. Instead, over a million dollars was diverted knowingly and improperly from charities for political purposes in violation of the law and of House ethical rules. As revealed with great clarity by Mr. Cole, Mr. GINGRICH engaged in a deliberate strategy to use money contributed for charitable purposes to fund his own partisan agenda.

And it is impossible to read the Cole report without also understanding Mr. GINGRICH's use of the enhanced power and prestige of the Speakership for personal enrichment. The evidence goes far beyond the salary and perquisites of the Speakership. A telling example is Mr. GINGRICH's acceptance of a $4.3 million book advance, which flowed directly from his new position and the materials from what we now know was a taxpayer sponsored college course. Although Mr. GINGRICH was eventually forced to give up the advance, he has collected royalties far in excess of any money involved in the case of former Speaker Jim Wright.

Ultimately, this episode is about the failure to be honest. Nothing speaks more eloquently to that point than Mr. GINGRICH's final and belated admission, not to guilt, but only to being naive. Everyone who reads the Cole report, and, I submit, anyone who carefully observes Mr. GINGRICH's personal behavior during these last few days, knows how hollow this rings. Mr. GINGRICH is not naive. He has devoted a quarter of a century in pursuit of political power for himself and his party. It has been at times brilliant, calculating, and shrewd. But it has never been naive. Mr. GINGRICH pushed the envelop, and got caught.

Mr. PACKARD. Mr. Speaker, honesty, fairness, and dealing justly with others has been an overriding principle of my entire life. The Speaker admitted he made mistakes. I believe this body should admonish the Speaker's actions. However, the Ethics Committee's recommendations go much too far. The penalty far exceeds the infraction.

First and foremost, the Ethics Committee serves to ensure fairness. With that in mind, the Committee must level equitable sanctions. This recommendation fails to do so.

In the past, the Committee chose to dispense with similar matters with a letter against the offender. For violations, which I consider morally and ethically far worse, Members were given little more than a perfunctory slap on the hand.

I consider this action against the Speaker excessive and unwarranted. For that reason, I intend to vote against the Ethics Committee's recommendation. A letter of reproval should be sufficient as it was for the Minority Leader, RICHARD GEPHARDT; Minority Whip, DAVID BONIOR and for violations far more serious than the Speaker's.

Mr. CONYERS. Mr. Speaker, this is a sad day for the House of Representatives and for the American people. For the first time in history, our body will be voting to punish the Speaker of the House. How we as a body act to punish Mr. GINGRICH will send a message to the American public. It will say whether we are able to monitor our own institution; it will say whether we prefer party loyalty to truth and integrity; it will say whether Mr. GINGRICH is the Member best suited to represent our institution.

The punishment contained in House Resolution 31 is inadequate. The punishment neither reflects the seriousness of the misdeeds admitted to by Mr. GINGRICH nor Mr. GINGRICH's history of abuse of the rules of the House.

Make no mistake about the gravity of the charges against GINGRICH. Certain Members of the majority have attempted to portray Mr. GINGRICH's misleading statements as oversight, and they have attempted to portray the tax law he violated as arcane. Do not let these statements mislead the entire body.

Speaker GINGRICH has admitted to all of the violations alleged by the subcommittee. He acknowledged that "in my name and over my signature, inaccurate, incomplete, and unreliable statements were given to the committee" and that "he brought down on the people's House a controversy which could weaken the faith people have in their Government." The special prosecutor has make it clear that he believes that Mr. GINGRICH intentionally misled the ethics counsel. The special prosecutor and the ethics committee also made it clear that Mr. GINGRICH violated the agreement that forbid him to conduct a media strategy to minimize, or spin, the findings of the Ethics Committee. And after review of the committee's report, it seems very likely that Mr. GINGRICH has violated tax law. And GINGRICH did not violate arcane tax law, but rather the very basic premise that you cannot use tax-exempt funds for political purposes. He used tax-exempt funds to help build a political machine.

And it is clear that this is not the end of Mr. GINGRICH's ethical and legal troubles. The committee will make available to the IRS all relevant documents produced during the subcommittee's inquiry and establish a liaison with the IRS. The Department of Justice may further investigate the actions of Mr. GINGRICH. We have no idea what these, or other investigations, find. But, it does not matter. Because what we already know is enough for us to say, enough is enough, let us show the American public that will have the strength and integrity to punish our Members. And a slap on the wrist of Mr. GINGRICH that allows him to retain the Speaker's gavel, does not show our strength or integrity.

Further, this is not the first time that Mr. GINGRICH has been found to have violated House rules. The Speaker has already been cited six times for his disregard of the House rules. It has become very clear that Mr. GINGRICH has shown a willful disregard for our rules. In fact, Mr. James Cole has found that "over a number of years and in a number of situations * * * Mr. GINGRICH showed a disregard and lack of respect for the standards of conduct that applied to his activities."

This willful "disregard and lack of respect for the standards of conduct" make it clear that the punishment of reprimand does not reflect the seriousness of Mr. GINGRICH'S multiple offenses. Comparable offenses historically have met with more severe punishment. In 1979, the House voted to censure a representative for diverting staff salaries for personal use and in 1980, the House censured another representative of financial misconduct. Mr. GINGRICH diverted tax exempt funds for political purposes and then attempted over several years to cover his tracks by misleading the committee. Certainly, these actions are deserving of at least a censure.

Unfortunately Mr. Speaker, Mr. GINGRICH's actions have weakened the American public's faith in their Government. I find it unconscionable that my colleagues in the majority, after hearing Mr. GINGRICH's admission, would vote to reinstate him as Speaker of the House. Are they saying that Mr. GINGRICH is the best person among their ranks to lead their party and to lead the House of Representatives? Mr. GINGRICH himself has said that Ethics Committee investigations of a Speaker must "meet a higher standard of public accountability" than those involving other Members of the House. By voting for this resolution, will we really be meeting that higher standard?

I urge my colleagues on the other side of the aisle to reconsider keeping Mr. GINGRICH as Speaker. Although the majority's rules may allow him to remain Speaker, the ethical lapses of Mr. GINGRICH demand that he step aside. As the January 21, 1997, Atlanta Journal-Constitution has stated, "Mr. GINGRICH will dishonor the House every time he picks up the Speaker's gavel." The New York Times also urges Mr. GINGRICH to step aside: "That finding [of James Cole], and the considerable evidence that backs it up, make it clear that Mr. GINGRICH has no business serving as Speaker. His ego got him into this mess, and that same ego is now driving him to compound the damage." As William Carlos Williams noted, "Leadership passes into empire; empire begets insolence; insolence brings ruin." It is time for the majority to do the right thing.

Mr. STOKES. Mr. Speaker, I am reminded today of what occurred in the House of Representatives a few years ago when I chaired the Ethics Committee. We had undertaken an extensive investigation, led by Joseph Califano, a noted Washington lawyer whom I had hired as special counsel. Mr. Califano's position to our committee was the same as the position of Mr. James M. Cole, special counsel to this committee. This particular investigation surrounded allegations of sex and drugs involvement between Members of Congress and House pages.

At the end of our investigation, the Ethics Committee brought charges against two Members of the House. These charges resulted in findings that these two Members had been involved in sex with House pages. Our recommendation to the House in both cases was a reprimand for both Members. As chairman of the Ethics Committee, I presented the committee's case on the floor of the House. Following my presentation, the leadership on both sides of the aisle joined together on a resolution to raise the recommendation of reprimand to a greater penalty, that of censure. The vote was taken and both Members were censured. That occurred, of course, in a Congress where the leadership on neither side was involved in breaking the rules of the House.

Today, we are faced with the leader of the House who not only has broken the rules of the House, but has been described by Mr. James M. Cole, special counsel, as being involved in conduct where the violation did not represent only a single instance of reckless conduct, but rather over a number of years and in a number of situations, Mr. Cole states emphatically that the Speaker, Mr. GINGRICH, showed a disregard and lack of respect for the standard of conduct that applied to his activities.

Moreover, the committee found that Speaker GINGRICH has admitted that he submitted information to the committee which was inaccurate, incomplete, and unreliable. In recommending a reprimand, Special Counsel Cole stated that the Ethics Committee, in recommending a reprimand, recognized that this matter fell somewhere in between a reprimand and censure. It would seem to me that this is an important fact, that the subcommittee which investigated this case did not feel comfortable with a finding of reprimand.

Additionally, this investigation undertaken by the House has now been referred to the Internal Revenue Service for further investigation relative to Tax Code violations. And last, the imposition of a $300,000 fine, unprecedented in the history of the institution, should convince every Member that this is not an offense which is made into a simple reprimand by levying such a harsh fine. Rather, the fine is indicative that this matter is more severe than a reprimand and should be taken up to censure.

A censure would then solve the problem of removing a Speaker who lacks the decency to remove himself from office. The total lack of respect he shows for the House and thereby the American people warrants this House to reject the committee's recommendation and impose a sanction of censure.

The imposition of a mere reprimand today will leave a stigma over this Speaker that will haunt every Member of the House for the rest of this Congress.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CARDIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 395, noes 28, answered "present" 5, not voting 6, as follows:

[Roll No. 8]

AYES—395

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons

Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Richardson
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOES—28

Barr
Bartlett
Barton
Burton
Buyer
Callahan
Coburn
DeLay
Doolittle
Herger
Hilliard
Hunter
Johnson, Sam
King (NY)
Lewis (CA)
Livingston
McKeon
Mica
Myrick
Packard
Sessions
Smith (TX)
Solomon
Stump
Taylor (MS)
Taylor (NC)
Wicker
Young (AK)

ANSWERED "PRESENT"—5

Abercrombie
Conyers
Hastings (FL)
McDermott
Waters

NOT VOTING—6

Carson
Granger
Kolbe
Tauzin
Tejeda
Watts (OK)

☐ 1407

Mr. RAMSTAD changed his vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TAUZIN. Mr. Speaker, I was unavoidably detained for the last vote. If I were here, I would have voted "yes."

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, on rollcall No. 8, I was unavoidably detained with a constituent. Had I been present, I would have voted "yes."

GENERAL LEAVE

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just adopted.

The SPEAKER pro tempore Mr. LAHOOD. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Veterans' Affairs:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 21, 1997.

Re request to take leave from Veterans Committee.

Hon. NEWT GINGRICH,
The Capitol,
Washington, DC.

DEAR NEWT: In light of my new assignment to the House Committee on Government Reform and Oversight, I hereby request that I be granted a leave of absence from my assigned slot on the Committee on Veterans' Affairs.

Thank you for your consideration.

With warmest regards, I am.

Very truly yours,

BOB BARR.
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MAJORITY MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. BOEHNER. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 32) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 32

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees:

Committee on Banking: Mr. La Tourette to rank following Mr. Sessions.

Committee on Education and the Workforce: Mr. Paul; Mr. Bob Schaffer of Colorado; Mr. Peterson of Pennsylvania; Mr. Upton; Mr. Deal of Georgia; Mr. Hilleary; and Mr. Scarborough; all to rank in the named order following Mr. Norwood of Georgia.

Committee on Government Reform and Oversight: Mr. Barr of Georgia to rank following Mr. Snowbarger.

Committee on International Relations: Mr. Brady to rank following Mr. Moran of Kansas.

Committee on Resources: Mr. Crapo to rank following Mr. Gibbons.

Committee on Science: Mr. Boehlert; Mr. Fawell; Mrs. Morella; Mr. Weldon of Pennsylvania; Mr. Rohrabacher; Mr. Schiff; Mr. Barton of Texas; Mr. Calvert; Mr. Bartlett of Maryland; Mr. Ehlers; Mr. Weldon of Florida; Mr. Salmon; Mr. Davis; Mr. Gutknecht; Mr. Foley; Mr. Ewing; Mr. Pickering; Mr. Cannon; Mr. Brady; and Mr. Cook.

Committee on Small Business: Mr. Combest; Mr. Hefley; Mr. Manzullo; Mr. Bartlett of Maryland; Mrs. Smith of Washington; Mr. LoBiondo; Mrs. Kelly; Mr. Jones; Mr. Souder; Mr. Chabot; Mr. Ryun; Mr. Snowbarger; Mr. Pappas; Mr. English; Mr. McIntosh; and Mrs. Emerson.

Committee on Veterans' Affairs: Mr. Smith of New Jersey; Mr. Bilirakis; Mr. Spence; Mr. Everett; Mr. Buyer; Mr. Quinn; Mr. Bachus; Mr. Stearns; Mr. Dan Schaefer of Colorado; Mr. Moran of Kansas; Mr. Cooksey; Mr. Hutchinson; Mr. Hunter; Mr. Hayworth; and Mrs. Chenoweth.

Mr. BOEHNER (during the reading). Mr. Speaker, I ask unanimous consent that the privileged resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MINORITY MEMBER TO COMMITTEE ON COMMERCE

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 33) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 33

Resolved, That the following named Member, be elected to the Committee on Commerce, be designated to rank on that committee as follows:

Tom Sawyer of Ohio, to rank directly below Eliot Engel of New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING FOR MORNING HOUR DEBATE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that on Mondays and Tuesdays of each week through the second session of the 105th Congress, the House shall convene 90 minutes earlier than the time otherwise established by order of the House solely for the purpose of conducting morning hour debate and that the time for such debate shall be limited to 30 minutes allocated to each party; except that on Tuesdays of each week after the first Tuesday in May of a session the House shall convene for morning hour debate 1 hour earlier than the time otherwise established by order of the House, that the time for such debate shall be limited to 25 minutes allocated to each party, and that in no event shall morning hour debate continue beyond 10 minutes before the hour appointed for the resumption of the House session; and that all morning hour debate shall be conducted under the following conditions:

First, the prayer by the Chaplain, the approval of the Journal, and the Pledge of Allegiance to the flag shall be postponed until resumption of the House session following morning hour debate; second, initial and subsequent recognition for debate shall alternate between parties; third, recognition shall be conferred by the Speaker only pursuant to lists submitted by the majority leader or the minority leader; fourth, no Member may address the House for more than 5 minutes except for the majority leader, the minority leader, or the minority whip; and, fifth, pursuant to clause 12 of rule I the Speaker shall declare a recess following morning hour debate until the hour appointed for the resumption of the House session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

☐ 1415

JOINT SESSION OF CONGRESS—STATE OF THE UNION ADDRESS

Mr. BOEHNER. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 9) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. CON. RES. 9

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, February 4, 1997, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO MIDDLE EAST VIOLENCE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–28)

The SPEAKER pro tempore laid before the House a message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication, stating that the emergency declared with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process, is to continue in effect beyond January 23, 1997. The first notice continuing this emergency was published in the Federal Register last year on January 22, 1996.

The crisis with respect to the grave acts of violence committed by foreign terrorists that threaten to disrupt the Middle East peace process that led to the declaration of a national emergency, on January 23, 1995, has not been resolved. Terrorist groups continue to engage in activities with the purpose or effect of threatening the Middle East peace process, and which are hostile to U.S. interests in the region. Such actions threaten vital interests of the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to deny any financial support from the United States for foreign terrorists that threaten to disrupt the Middle East peace process.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 21, 1997.*

REPORT OF FEDERAL AGENCIES REGARDING WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–)

The SPEAKER pro tempore laid before the House a message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on National Security and ordered to be printed.

To the Congress of the United States:

As required by section 1416 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), I transmit herewith a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction (WMD) within the United States.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 21, 1997.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES REFLECTING ACTION COMPLETED AS OF OCTOBER 4, 1996, FOR FISCAL YEARS 1997–2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

This report is to be used in applying the fiscal year 1997 budget resolution (H. Con. Res. 178), for legislation having spending or revenue effects in fiscal years 1997 through 2001.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, January 20, 1997.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of October 4, 1996.

The first table in the report compares the current level of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 178, the concurrent resolution on the budget for fiscal year 1997. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1997 because appropriations for those years have not yet been considered.

The second table compares the current levels of total budget authority, outlays, and new entitlement authority of each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 178 for fiscal year 1997 and for fiscal years 1997 through 2001. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 1997 with the revised "section 602(b)" sub-allocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, because the point of order under that section also applies to measures that would breach the applicable section 602(b) sub-allocation. The revised section 602(b) sub-allocations were filed by the Appropriations Committee on September 27, 1996.

Sincerely,

JOHN R. KASICH,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1997 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 178

[Reflecting action completed as of October 4, 1996]

[On-budget amounts, in millions of dollars]

	Fiscal year 1997	Fiscal year 1997–2001
Appropriate Level (as set by H. Con. Res. 178):		
Budget authority	1,314,785	6,956,507
Outlays	1,311,171	6,898,627
Revenues	1,083,728	5,913,303
Current Level:		
Budget authority	1,331,836	(1)
Outlays	1,323,900	(1)
Revenues	1,101,533	5,973,242
Current Level over(+)/under(−) Appropriate Level:		
Budget authority	17,051	(1)
Outlays	12,729	(1)
Revenues	17,805	59,939

[1] Not applicable because annual appropriations Acts for Fiscal Years 1997 through 2001 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

FY 1997 budget authority exceeds the appropriate level set by H. Con. Res. 178. Enactment of measures providing any new budget authority for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

OUTLAYS

FY 1997 outlays exceed the appropriate level set by H. Con. Res. 178. Enactment of measures providing any new outlays for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

REVENUES

Enactment of any measure that would result in any revenue loss in excess of $17,805,000,000 for FY 1997 (if not already included in the current level estimate) or in excess of $59,939,000,000 for FY 1997 through 2001 (if not already included in the current level) would increase the amount by which revenues are less than the recommended levels of revenue set by H. Con. Res. 178.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a) REFLECTING ACTION COMPLETED AS OF NOVEMBER 15, 1996

[Fiscal years, in millions of dollars]

	1997			1997–2001		
	BA	Outlays	NEA	BA	Outlays	NEA
House Committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,996
Current level	5	5	5	55	55	55
Difference	5	5	5	55	55	−4,941
National Security:						
Allocation	−1,579	−1,579	0	−664	−664	0
Current level	−102	−102	−21	−289	−289	−34
Difference	1,477	1,477	−21	375	375	−34
Banking, Finance and Urban Affairs:						
Allocation	−128	−3,700	0	−711	−4,004	0
Current level	0	−6	0	0	0	0
Difference	128	3,694	0	711	4,004	0
Economic and Educational Opportunities:						
Allocation	−912	−800	−152	−3,465	−3,153	7,669
Current level	1,967	1,635	1,816	11,135	10,296	8,852
Difference	2,879	2,435	1,968	14,600	13,449	1,183
Commerce:						
Allocation	0	0	370	−14,540	−14,540	−41,710
Current level	3	3	492	242	195	1,430
Difference	3	3	122	14,782	14,735	43,140
International Relations:						
Allocation	0	0	0	0	0	0
Current level	−1	−1	0	−1	−1	0
Difference	−1	−1	0	−1	−1	0
Government Reform and Oversight:						
Allocation	−1,078	−1,078	−289	−4,605	−4,605	−1,668
Current level	0	0	0	0	0	0
Difference	1,078	1,078	289	4,605	4,605	1,668
House Oversight:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Resources:						
Allocation	−91	−90	−12	−1,401	−1,460	−59
Current level	−19	−20	0	−144	−167	0
Difference	72	70	12	1,257	1,293	59
Judiciary:						
Allocation	0	0	0	−357	−357	0
Current level	3	3	0	45	45	0
Difference	3	3	0	402	402	0
Transportation and Infrastructure:						
Allocation	2,280	0	0	125,989	521	2
Current level	2,345	65	12	4,748	121	56
Difference	65	65	12	−121,241	−400	54
Science:						
Allocation	0	0	0	−13	−13	0
Current level	0	0	0	0	0	0
Difference	0	0	0	13	13	0
Small Business:						
Allocation	0	0	0	0	0	0

Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	−90	−90	224	−919	−919	3,475
Current level	0	0	3	0	0	−52
Difference	90	90	−221	919	919	−3,527
Ways and Means:						
Allocation	−8,973	−9,132	−2,057	−134,211	−134,618	−10,743
Current level	8,338	8,302	−2,840	73,457	73,476	−38,717
Difference	17,311	17,434	−783	207,668	208,094	−27,974
Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	2	2	0
Difference	0	0	0	2	2	0
Total authorized:						
Allocation	−10,571	−16,469	−1,916	−34,897	−163,812	−38,038
Current level	12,539	9,884	−533	89,250	83,733	−28,410
Difference	23,110	26,353	1,383	124,147	247,545	9,628

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1997—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (September 27, 1996)				Current level reflecting action completed as of October 4, 1996				Defense			
	General purpose		Violent crime		General purpose		Violent crime		General purpose		Violent crime	
	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O
Agriculture, Rural Development	12,960	13,380	0	0	13,009	13,373	0	0	49	−7	0	0
Commerce, Justice, State	24,493	24,939	4,525	2,951	24,838	25,065	4,526	2,954	345	126	1	3
Defense	245,065	243,372	0	0	243,851	242,875	0	0	−1,214	−497	0	0
District of Columbia	719	719	0	0	719	719	0	0	0	0	0	0
Energy & Water Development	19,421	19,652	0	0	19,973	19,923	0	0	552	271	0	0
Foreign Operations	11,950	13,311	0	0	12,267	13,310	0	0	317	−1	0	0
Interior	12,118	12,920	0	0	12,503	13,178	0	0	385	258	0	0
Labor, HHS & Education	65,775	69,842	61	38	71,026	71,517	61	39	5,251	1,675	0	1
Legislative Branch	2,180	2,148	0	0	2,170	2,132	0	0	−10	−16	0	0
Military Construction	9,983	10,360	0	0	9,982	10,344	0	0	−1	−16	0	0
Transportation	12,190	35,453	0	0	12,080	35,482	0	0	−110	29	0	0
Treasury-Postal Service	11,016	10,971	97	84	11,620	11,292	97	83	604	321	0	−1
VA–HUD-Independent Agencies	64,354	78,803	0	0	64,522	79,196	0	0	168	393	0	0
Reserve/Offsets	618	69	0	0	−2,750	−5,850	0	0	−3,368	−5,919	0	0
Grand total	492,842	535,939	4,683	3,073	495,810	532,556	4,684	3,076	2,968	−3,383	1	3

Note.—Amounts in Current Level column for Reserve/Offsets are for Spectrum sales and BIF/SAIF. Those items are credited to the Appropriations Committee for FY 1997 only.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 9, 1997.

Hon. JOHN KASICH,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1997. These estimates are compared to the appropriate levels for those items contained in the 1977 Concurrent Resolution on the Budget (H. Con. Res. 178) and are current through January 8, 1997. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 178)	Current level +/− resolution
Budget Authority	1,331,836	1,314,785	+17,051
Outlays	1,323,900	1,311,171	+12,729
Revenues:			
1997	1,101,533	1,083,728	+17,805

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 178)	Current level +/− resolution
1997–2001	5,973,242	5,913,303	+59,939

This is my first report for the first session of the 105th Congress.

Sincerely,

JUNE E. O'NEILL,
Director.

PARLIAMENTARIAN STATUS REPORT—105TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS OCTOBER 4, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
PREVIOUSLY ENACTED			
Revenues			1,100,355
Permanents and other spending legislation	843,140	804,154	
Appropriation legislation		238,523	
Offsetting receipts	−199,772	−199,772	
Total previously enacted	643,368	842,905	1,100,355
ENACTED IN 104TH CONGRESS, 2D SESSION			
Appropriation Bills:			
Agriculture (P.L. 104–180)	52,345	44,922	
District of Columbia (P.L. 104–194)	719	719	
Energy and Water Development (P.L. 104–206)	19,973	13,090	
Legislative Branch (P.L. 104–197)	2,166	1,917	
Military Construction (P.L. 104–196)	9,982	3,140	
Transportation (P.L. 104–205)	12,599	12,270	
Veterans, HUD, Independent Agencies (P.L. 104–204)	84,303	49,666	
Omnibus Consolidated Appropriations Act (P.L. 104–208)[1]	499,841	352,017	
Authorization Bills:			
Taxpayer Bill of Rights 2 (P.L. 104–168)			−15
Federal Oil & Gas Royalty Simplification & Fairness Act, 1996 (P.L. 104–185)	−2	−2	
Small Business Job Protection Act of 1996 (P.L. 104–188)	−76	−76	550
Authorize Voluntary Separation Incentives at the A.I.D. (P.L. 104–190)	−1	−1	
Health Insurance Portability & Accountability Act of 1996 (P.L. 104–191)	305	315	590
Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104–193)	10,080	9,702	60
National Defense Authorization Act (P.L. 104–201)	−102	−102	
Railroad Unemployment Insurance Amendments Act of 1996 (P.L. 104–251)	12	12	
Federal Aviation Administration Authorization Act of 1996 (P.L. 104–264)	2,330	50	
Central Utah Project Completion Act (P.L. 104–296)	−72	−72	
Technical Corrections and Amendments to Trade Laws (P.L. 104–295)	1	1	−8
Sustainable Fisheries Act (P.L. 104–297)		−1	1

PARLIAMENTARIAN STATUS REPORT—105TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS OCTOBER 4, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Navajo-Hopi Land Dispute Settlement Act of 1996 (P.L. 104–301)	48	48	
Accountable Pipeline Safety & Partnership Act of 1996 (P.L. 104–304)	3	3	
Fairness in Compensating Owners of Patents Used by the U.S. (P.L. 104–308)	3	3	
Emergency Drought Relief Act of 1996 (P.L. 104–318)	7	7	
Coast Guard Authorization Act of 1995 (P.L. 104–324)	3	3	
United States Commemorative Coin Act of 1996 (P.L. 104–329)		−6	
Total enacted this session	694,467	487,625	1,178
APPROPRIATED ENTITLEMENT AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−5,999	−6,630	
Total Current Level	1,331,836	1,323,900	1,101,533
Total Budget Resolution	1,314,785	1,311,171	1,083,728
Amount remaining:			
Under Budget Resolution			
Over Budget Resolution	17,051	12,729	17,805
ADDENDUM			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	1,550	1,205	
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	364	323	
Total emergencies	1,914	1,528	
Total current level including emergencies	1,333,750	1,325,428	1,101,533

[1] This act includes 1997 funding for six appropriation bills (Commerce/Justice, Defense, Foreign Operations, Interior, Labor/HHS/Education, and Treasury) and additional appropriations for hurricane and flood recovery, firefighting and antiterrorism. There are also several provisions that affect the following direct spending programs: FCC auction receipts, Bank Insurance Funds, the Food Stamp program, and the Small Business Administration loan program account.

TRIBUTE TO THE HONORABLE BURTON BARR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, I rise this afternoon to honor the memory of one from my home State who qualifies as a legislative legend. His name was Burton Barr, and for more than 20 years he served with distinction in the Arizona House of Representatives.

Indeed, Mr. Speaker, as we embark in this 105th Congress to do the people's business, we are confronted by a curious paradox. It is one that surrounds every legislative body, and it principally centers on this challenge: How do we, in the spirit of bipartisanship, at the same time recognize legitimate differences of opinion and work for the common good?

Mr. Speaker, I submit that for a sterling example of how to move forward in a bipartisan way, we need look only so far as to the legislative career of the late Burton Barr.

Burton Barr in his role as Speaker of the Arizona statehouse worked effectively with members of that body from all different walks of life and from both major political parties. Indeed, Mr. Speaker, no less a person than the current Secretary of the Interior and former Arizona Governor Bruce Babbitt attests to the legislative ability of Burton Barr.

There were those who were cynics and critics who referred to Mr. Barr as the great salesman, but he was more than that. For in recognizing legitimate differences, and yet trying to achieve a consensus, Burton Barr went about the people's business. He was a public servant in the truest sense of the word.

To his family and to the people of Arizona, this House should offer our condolences and sympathy. And, again, for a sterling example, we should turn to this legislative leader who showed by example that the people's business can be done, that we can work together constructively, at times championing our differences, at times legitimately discussing those challenges at hand.

Burton Barr was more than simply a legislative leader. He was a husband and devoted father, and he was a hero of World War II. He earned two Silver Stars for gallantry. But for the people of Arizona, his star in the firmament will be his dedication to the people of the Grand Canyon State and his record of accomplishment in leading a legislative body to success in a bipartisan manner.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CARSON (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. MENENDEZ, for 5 minutes, today.

(The following Members (at the request of Mr. HULSHOF) to revise and extend their remarks and include extraneous material:)

Mr. KASICH, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, today.

Mr. HAYWORTH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous material:)

Mr. CARDIN.
Mr. COSTELLO.
Mr. CAPPS.
Mr. SERRANO.
Mr. VISCLOSKY.
Mrs. MEEK of Florida.
Mr. BENTSEN.
Mr. BERMAN.
Mr. KLECZKA.
Mr. MARTINEZ.
Mr. WAXMAN.

(The following Members (at the request of Mr. HULSHOF) and to include extraneous material:)

Mr. YOUNG of Florida.
Mr. GALLEGLY.
Ms. ROS-LEHTINEN in two instances.
Mr. KING.
Mr. BASS.
Mr. SOLOMON in three instances.
Mr. EHRLICH.
Mr. HASTERT.
Mr. CAMP.
Mr. SAXTON.
Mr. RADANOVICH.
Mr. BILIRAKIS.
Mr. SMITH of Michigan.
Mr. PACKARD.
Mr. CUNNINGHAM.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 3, 105th Congress, the House stands adjourned until 12:30 p.m. on Tuesday, February 4, 1997, for morning hour debate.

Thereupon (at 2 o'clock and 24 minutes p.m.), pursuant to Senate Concurrent Resolution 3, the House adjourned until Tuesday, February 4, 1997, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1209. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Regulations Issued Under the Export Apple and Pear Act; Relaxation of Grade Requirements for Apples and Pears Shipped to Pacific Ports of Russia [Docket No. FV96–33–1FIR] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1210. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1996–97 Marketing Year [Docket No. FV96–982–2IFR] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1211. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Onions Grown in South Texas; Assessment Rate [Docket No. FV96–959–1IFR] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1212. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Change in Reporting Requirements [Docket No. FV96–929–2FR] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1213. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Milk in the Iowa Marketing Area; Temporary Revision of Pool Supply Plant Shipping Percentage [DA–96–16] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1214. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Olives Grown in California and Imported Olives; Establishment of Minimum Quality Requirements for California and Imported Olives, and Revision of Outgoing Inspection Requirements and Procedures for California Olives [Docket No. FV96–932–2FR] received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1215. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1996–97 Marketing Year [Docket No. FV96–985–3FR] received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1216. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Peanuts Marketed in the United States; Changes in Handling and Disposition Requirements [Docket Nos. FV96–997–1FR; FV96–998–4FR; FV96–999–3FR] received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1217. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Cotton Research and Promotion Program: Determination of Sign-up Eligibility, and Procedure for the Conduct of a Sign-up Period for Determination of Whether to Conduct a Referendum Regarding the 1990 Amendments to the Cotton Research and Promotion Act [CN–96–008] received January 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1218. A communication from the President of the United States transmitting his request to make available appropriations totaling $5 million in budget authority for the Department of Health and Human Services' Low Income Home Energy Assistance Program, and designate the amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 105–26); to the Committee on Appropriations and ordered to be printed.

1219. A letter from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report on a violation of the Anti-Deficiency Act—Army violation, case number 97–02, which totaled $27,122, occurred in the fiscal year 1995 operation and maintenance, Army [O&M, A] appropriation at the Yakima Training Center, Yakima, WA, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1220. A letter from the Chair, Defense Environmental Response Task Force, transmitting the report on the actions of the Defense Environmental Response Task Force for fiscal year 1996, pursuant to Public Law 101–510, section 2923(c)(1) (104 Stat. 1821); to the Committee on National Security.

1221. A letter from the Assistant Secretary (Installations and Environment), Department of the Navy, transmitting notification of the Department's decision to study certain functions performed by military and civilian personnel in the Department of the Navy [DON] for possible performance by private contractors, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

1222. A letter from the Secretary of Defense, transmitting notification that the Secretary has approved the retirement of Adm. William J. Flanagan, Jr., U.S. Navy, and certification that Admiral Flanagan has served satisfactorily on active duty in his current grade; to the Committee on National Security.

1223. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Czech Republic, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1224. A letter from the Assistant Secretary of Labor for OSHA, Occupational Safety and Health Administration, transmitting the Administration's "Major" final rule—Occupational Exposure to Methylene Chloride (RIN: 1218–AA98) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1225. A letter from the Secretary of Energy, transmitting a copy of the annual report on the Coke Oven Emission Control Program for fiscal year 1995, pursuant to Public Law 101–549, section 301 (104 Stat. 2559); to the Committee on Commerce.

1226. A letter from the Chief Financial Officer, National Aeronautics and Space Administration, transmitting the Administration's 1996 annual report to Congress on the Federal Facilities Compliance Act mixed waste activities, pursuant to 42 U.S.C. 6965; to the Committee on Commerce.

1227. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report on nuclear nonproliferation in South Asia for the period April 1, 1996, through September 30, 1996, pursuant to 22 U.S.C. 237; to the Committee on International Relations.

1228. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–14: Drawdown from DOD Articles and Services for Assistance for Victims of Conflict and Other Persons at Risk from Northern Iraq, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on International Relations.

1229. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–12: Drawdown of Commodities and Services from the Inventory and Resources of the Department of Defense to Support a Peace Monitoring Force in Northern Iraq, pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1230. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–9: Drawdown of Articles, Services, and Military Education and Training from DOD to Provide Anti-Narcotics Assistance to Mexico, pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1231. A communication from the President of the United States, transmitting a report on developments since his last report on July 22, 1996, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986, pursuant to 50 U.S.C. 1703(c). (H. Doc. No. 105–25); to the Committee on International Relations and ordered to be printed.

1232. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective December 23, 1996, the danger pay rate for Peru was designated at the 15 percent level, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

1233. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective December 26, 1996, the danger pay rate for Chechnya was designated at the 20 percent level, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

1234. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective December 26, 1996, the danger pay rate for the Central African Republic was designated at the 20 percent level, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

1235. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–337, "Highway Trust Fund Establishment Act and the Water and Sewer Authority Amendment Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1236. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–338, "Business Corporation Two-Year Report Amendment Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1237. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–339, "Fire Code Amendment Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1238. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–342, "International Registration Plan Agreement Temporary Amendment Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1239. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–347, "Health Services Planning Program Re-establishment Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233 (c)(1); to the Committee on Government Reform and Oversight.

1240. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–349, "Oak Hill Youth Center Educational Contracting Temporary Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1241. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–358, "Extension of the Moratorium on Retail Service Station Conversions and the Gas Station Advisory Board Amendment Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1242. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–354, "Board of Real Property Assessments and Appeals Membership Qualification Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1243. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–355, "Holy Comforter-Saint Cyprian Roman Catholic Church Equitable Real Property Tax Relief Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1244. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–359, "Housing Finance Agency Loan Forgiveness Amendment Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1245. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–360, "Fiscal Year 1997 Budget Support Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1246. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–363, "Modification Reduction-in-Force Temporary Amendment Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1247. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–361, "Adjustment Process for Nonviolent Juvenile Offenders and Parent Participation in Court-Ordered Proceedings Act of 1996" received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1248. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–415, "Real Property Tax Rates for Tax year 1997 Temporary Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1249. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–413, "Oyster Elementary School Modernization and Development Project Temporary Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1250. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–434, "District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Temporary Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1251. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–433, "BNA Washington Inc., Real Property Tax Deferral Temporary Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1252. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–432, "New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1253. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–431, "Zero Tolerance for Guns Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1254. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–392, "Reorganization Plan No. 5 for the Department of Human Services and Department of Corrections Temporary Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1255. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–391, "Drug Paraphernalia Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1256. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–389, "Health and Hospitals Public Benefit Corporation Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1257. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–387, "Closing of a Public Alley in Square 375, S.O. 95-54, Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1258. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–386, "Cable Television Franchise Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1259. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–364, "Boating While Intoxicated Temporary Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1260. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–370, "Closing of Public Alleys and Abandonment and Establishment of Easements in Square 878, S.O. 95–38, Act of 1996" received January 16, 1997, pursuant to D.C. Code, section- 1-233(c)(1); to the Committee on Government Reform and Oversight.

1261. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–384, "Preservation of Residential Neighborhoods Against Nuisances Temporary Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1262. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–380, "Real Property Tax Reassessment Temporary Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1263. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–378, "Paternity Acknowledgment and Gas Station Advisory Board Re-establishment Temporary Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1264. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–374, "Public Assistance Fair Hearing Procedures Temporary Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1265. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–372, "Testing of District Government Drivers of Commercial Motor Vehicles for Alcohol and Controlled Substances Temporary Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1266. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–371, "Lottery Games Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1267. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–367, "Medicare Supplement Insurance Minimum Standards Amendment Act of 1996" received

January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1268. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–343, "Council Contract Approval Modification Temporary Amendment Act of 1995 Temporary Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1269. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–341, "District of Columbia Employee Viatical Settlement Temporary Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1270. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–340, "Alcoholic Beverage Underage Penalties Amendment Act of 1996" received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1271. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting the Council of the District of Columbia's statement on District of Columbia Financial Responsibility and Management Assistance Authority "Resolution, Recommendations and Order Concerning the Lottery Board," dated September 21, 1996, received December 20, 1996, pursuant to section 207(b) of Public Law 104–8; to the Committee on Government Reform and Oversight.

1272. A letter from the Chairman and CEO, Farm Credit Administration, transmitting the annual report of the Farm Credit Administration for calendar year 1996, pursuant to 12 U.S.C. 2252(a)(3); to the Committee on Government Reform and Oversight.

1273. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report for fiscal year 1995 listing the number of appeals submitted, the number processed to completion, and the number not completed by the originally announced date, pursuant to 5 U.S.C. 7701(i)(2); to the Committee on Government Reform and Oversight.

1274. A letter from the Chairman, National Mediation Board, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1275. A letter from the Independent Counsel, Office of Independent Counsel, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1276. A letter from the Director, Office of Personnel Management, transmitting the agency's annual report on drug and alcohol abuse prevention, treatment, and rehabilitation programs and services for Federal civilian employees covering fiscal year 1995, pursuant to 5 U.S.C. 7363; to the Committee on Government Reform and Oversight.

1277. A letter from the Secretary of the Treasury, transmitting the semiannual report on activities of the inspector general for the period April 1, 1996, through September 30, 1996, and the Secretary's semiannual report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1278. A letter from the Secretary of Commerce, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1279. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1280. A letter from the Chairman of the Board of Governors, U.S. Postal Service, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1281. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing electronic filing of reports by political committees, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

1282. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting notification that due to the discontinued funding for the emergency striped bass research study, the annual report on that study will no longer be transmitted to Congress, pursuant to 16 U.S.C. 757g(b); to the Committee on Resources.

1283. A letter from the Secretary of Commerce, transmitting the Secretary's certification that Italy has terminated large-scale driftnet fishing by its nationals and vessels, pursuant to Public Law 100–220, section 4004(b) (101 Stat. 1478); to the Committee on Resources.

1284. A letter from the Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a report on an increase in the projected cost for the safety of dams modifications at Bumping Lake Dam, Yakima project, Washington, pursuant to 43 U.S.C. 509; to the Committee on Resources.

1285. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Visitor Service Authorizations on Alaska National Wildlife Refuges (RIN: 1018–AC02) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1286. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Laguna Mountain Skipper and Quino Checkerspot Butterfly (RIN: 1018–AC84) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1287. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the Judicial Conference of the United States biennial report to the Congress on the continuing need for all authorized bankruptcy judgeships, pursuant to 28 U.S.C. 152(b)(2); to the Committee on the Judiciary.

1288. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft of proposed legislation to provide for the conversion of existing temporary U.S. district judgeships to permanent status, and for other purposes; to the Committee on the Judiciary.

1289. A letter from the Acting Administrator, Federal Aviation Administration, transmitting a report on the aircraft cabin air quality research program, pursuant to Public Law 103–305, section 304(e)(2) (108 Stat. 1592); to the Committee on Transportation and Infrastructure.

1290. A letter from the Director, National Legislative Commission, the American Legion, transmitting the proceedings of the 78th National Convention of the American Legion, held in Salt Lake City, UT on September 3, 4, and 5, 1996, as well as a report on the organization's activities from the year preceding the convention, pursuant to 36 U.S.C. 49 (H. Doc. No. 105–27); to the Committee on Veterans' Affairs and ordered to be printed.

1291. A communication from the President of the United States, transmitting an updated report concerning the emigration laws and policies of Mongolia, pursuant to 19 U.S.C. 2432(b) (H. Doc. No. 105–24); to the Committee on Ways and Means and ordered to be printed.

1292. A letter from the Secretary of Defense, transmitting the Advisory Committee on Judicial Review of Military Administrative Personnel Actions findings and recommendations, pursuant to section 551 of the National Defense Authorization Act for fiscal year 1996; jointly, to the Committees on National Security and the Judiciary.

1293. A letter from the Secretary of Health and Human Services, transmitting notification that the Department of Health and Human Services is allotting emergency funds made available under section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 to North Dakota and South Dakota and the tribes located in those States, pursuant to 42 U.S.C. 8623(g); jointly, to the Committees on Commerce and Education and the Workforce.

1294. A letter from the Secretary of Transportation, transmitting notification of the actions the Secretary has taken regarding security measures at Eldorado International Airport, Bogota, Colombia, pursuant to 49 U.S.C. 44907(d)(3); jointly, to the Committees on International Relations and Transportation and Infrastructure.

1295. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's certification to the Congress regarding the incidental capture of Sea Turtles in commercial shrimping operations (China), pursuant to Public Law 101–162, section 609(b)(2) (103 Stat. 1038); jointly, to the Committees on Resources and Appropriations.

1296. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's request for supplemental funding for fiscal year 1997, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Transportation and Infrastructure and Appropriations.

1297. A letter from the Secretaries of Veterans Affairs and Defense, transmitting a report on the implementation of the health resources sharing portion of the Department of Veterans Affairs and Department of Defense Health Resources Sharing and Emergency Operations Act for fiscal year 1996, pursuant to 38 U.S.C. 8111(f); jointly, to the Committees on Veterans' Affairs and National Security.

1298. A letter from the Assistant Attorney General of the United States, transmitting a draft of proposed legislation entitled "Environmental Crimes and Enforcement Act of 1997"; jointly, to the Committees on the Judiciary, Agriculture, Commerce, Resources, and Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII public bills and resolutions were introduced and severally referred as follows:

By Mr. TORRES (for himself and Mr. PASTOR):

H.R. 452. A bill to amend the Indian Gaming Regulatory Act to provide adequate and certain remedies for sovereign tribal governments, and for other purposes; to the Committee on Resources, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACKERMAN (for himself, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. DELLUMS, Mr. FARR of California, Mr. FRANKS of New Jersey, Mr. KLECZKA, Mr. LANTOS, Mr. MORAN of Virginia, Ms. NORTON, Mr. OWENS, Mr. SCHUMER, Mr. SHAYS, and Mr. WAXMAN):

H.R. 453. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory cattle, sheep, swine, horses, mules, or goats, and for other purposes; to the Committee on Agriculture.

By Mr. ACKERMAN:

H.R. 454. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes against elderly and child victims; to the Committee on the Judiciary.

By Mr. ACKERMAN (for himself, Mr. FORBES, Mr. KING, Mr. LAZIO of New York, Mr. MANTON, Mrs. MCCARTHY of New York, Mr. SCHUMER, Mr. SHAYS, Mr. TOWNS, and Ms. NORTON):

H.R. 455. A bill to authorize the Administrator of the Environmental Protection Agency to make grants to the States of New York and Connecticut for the purpose of demonstrating methods of improving water quality in Long Island Sound; to the Committee on Transportation and Infrastructure.

By Mr. ACKERMAN (for himself, Mr. DELLUMS, Mr. EVANS, and Ms. NORTON):

H.R. 456. A bill to amend chapter 211 of title 49, United States Code, with respect to hours of service of railroad employees, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CASTLE:

H.R. 457. A bill to amend the Congressional Budget Act of 1974 to provide for budgeting for emergencies through the establishment of a budget reserve account, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLEMENT:

H.R. 458. A bill to amend the Federal Election Campaign Act of 1971 to ban soft money in elections for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. COBURN (for himself, Mr. CANADY of Florida, Mr. CARDIN, Mr. DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DEFAZIO, Mr. EHLERS, Mr. FOLEY, Mr. HOSTETTLER, Mr. LARGENT, Mr. LEWIS of Georgia, Mr. LOBIONDO, Mrs. LOWEY, Mr. MCHUGH, Mr. NORWOOD, Mr. PALLONE, Ms. PELOSI, Mr. REGULA, Mr. SANDERS, Mr. STARK, Mr. STUMP, and Mr. WELDON of Florida):

H.R. 459. A bill to amend title XVIII of the Social Security Act to require health maintenance organizations participating in the Medicare Program to assure access to out-of-network services to Medicare beneficiaries enrolled with such organizations; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT:

H.R. 460. A bill to amend the Housing Act of 1949 to provide for private servicing of rural housing loans made under section 502 of such act; to the Committee on Banking and Financial Services.

H.R. 461. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase and installation of agricultural water conservation systems; to the Committee on Ways and Means.

By Mr. COSTELLO:

H.R. 462. A bill to amend the Federal Election Campaign Act of 1971 to control House of Representatives campaign spending, and for other purposes; to the Committee on House Oversight.

By Ms. DELAURO:

H.R. 463. A bill to prohibit, in connection with the termination of Army activities at the Stratford Army Engine Plant, Stratford, CT, the expenditure of Federal funds to cover the costs of relocating a Government contractor currently located at that installation; to the Committee on National Security.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. UPTON, Mr. HORN, and Mr. LAZIO of New York):

H.R. 464. A bill to amend title II of the Social Security Act to establish, for purposes of disability determinations under such title, a uniform minimum level of earnings, for demonstrating ability to engage in substantial gainful activity, at the level currently applicable solely to blind individuals; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. SAXTON, Mr. RAHALL, Mr. GRAHAM, Mr. FROST, Mr. SERRANO, Mr. HINOJOSA, and Ms. WOOLSEY):

H.R. 465. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. EVANS (for himself, Ms. BROWN of Florida, Mr. DEFAZIO, Mrs. MEEK of Florida, Mr. HOLDEN, Mr. GUTIERREZ, Mr. DELLUMS, Mr. MCDERMOTT, Mr. FILNER, Mr. UNDERWOOD, Mr. MARTINEZ, Mr. TALENT, Mr. FROST, Mr. FALEOMAVAEGA, Mr. BARCIA, and Mr. BRYANT):

H.R. 466. A bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf war in order for those disabilities to be compensable by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. EWING:

H.R. 467. A bill to amend the Commodity Exchange Act to provide a conditional exemption for certain transactions involving professional markets, to clarify the effect of the designation of a board of trade as a contract market, to simplify the process for implementing contract market rules, to regulate audit trail requirements, to establish cost-benefits analysis requirements, to combat fraud in transactions in or involving foreign currency, and for other purposes; to the Committee on Agriculture.

By Mr. FILNER:

H.R. 468. A bill to amend section 8 of the United States Housing Act of 1937 to provide for rental assistance payments to assist certain owners of manufactured homes who rent the lots on which their homes are located; to the Committee on Banking and Financial Services.

H.R. 469. A bill to amend the Veterans' Benefits Improvement Act of 1996 to eliminate the requirements that members of the Commission on Servicemembers and Veterans Transition Assistance be allocated to separate programs; to the Committee on Veterans' Affairs.

H.R. 470. A bill to curtail illegal immigration through increased enforcement of the employer sanctions provisions in the Immigration and Nationality Act and related laws; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY:

H.R. 471. A bill to amend the Immigration and Nationality Act to not count work experience as an unauthorized alien for purposes of admission as an employment-based immigrant or an H-1B nonimmigrant; to the Committee on the Judiciary.

By Mr. GILCHREST:

H.R. 472. A bill to amend the Federal Election Campaign Act of 1971 to prohibit nonparty multicandidate political committee contributions in elections for Federal office; to the Committee on House Oversight.

H.R. 473. A bill to amend the Federal Election Campaign Act of 1971 to prohibit nonparty multicandidate political committee contributions in elections for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. GOODLATTE (for himself, Mr. MCCOLLUM, Mr. BARTLETT of Maryland, Mr. SAXTON, Mr. WELDON of Pennsylvania, Mr. CANADY of Florida, Mr. SMITH of Texas, Mr. COBLE, Mr. SCHIFF, Mr. BOUCHER, Mrs. CUBIN, Mr. COMBEST, Mr. GEKAS, Mr. BURR of North Carolina, Mr. EHLERS, Mr. SMITH of Oregon, Mr. CALVERT, Mr. MCKEON, Mr. WICKER, Mr. BARR of Georgia, Mr. JONES, Mr. MCHUGH, Mr. FOX of Pennsylvania, Mr. WELLER, Mr. BONO, Mr. DAVIS of Virginia, Mrs. MORELLA, Mr. GALLEGLY, Mr. CHABOT, Mr. MCINTOSH, Mr. PAXON, Mr. WAMP, Mr. LINDER, Mr. QUINN, Mr. RIGGS, Mr. STEARNS, and Mr. BUYER):

H.R. 474. A bill to improve the criminal law relating to fraud against consumers; to the Committee on the Judiciary.

By Mr. GREENWOOD (for himself and Mr. STENHOLM):

H.R. 475. A bill to amend title XVIII of the Social Security Act to provide for offering the option of Medicare coverage through qualified provider-sponsored organizations [PSO's], and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTIERREZ (for himself, Mr. Berman, Mr. McDermott, Mr. Filner, Mr. Wynn, Mr. Miller of California, Mr. Stark, Mr. Sabo, Mr. Nadler, Mr. Yates, Ms. Woolsey, Mr. Flake, Mr. Abercrombie, Mr. Dellums, Ms. McKinney, Mr. Serrano, Ms. Norton, Ms. Pelosi, and Mr. Engel):

H.R. 476. A bill to prohibit the possession or transfer of nonsporting handguns; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 477. A bill to amend titles 23 and 49, United States Code, relating to metropolitan planning; to the Committee on Transportation and Infrastructure.

By Mr. HERGER (for himself and Mr. Pombo):

H.R. 478. A bill to amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to comply with that act in building, operating, maintaining, or repairing flood control projects, facilities, or structures; to the Committee on Resources.

By Mr. HERGER:

H.R. 479. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of funeral trusts; to the Committee on Ways and Means.

H.R. 480. A bill to amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 481. A bill to provide for the establishment of a professional trade service corps, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO of New York:

H.R. 482. A bill to amend the Public Health Service Act to provide a one-stop information service for individuals with serious life-threatening diseases; to the Committee on Commerce.

By Mr. LEACH:

H.R. 483. A bill to authorize appropriations for the payment of U.S. arrearages to the United Nations; to the Committee on International Relations.

By Mrs. MYRICK (for herself and Mr. Porter):

H.R. 484. A bill to amend the Fair Labor Standards Act of 1938 to permit State and local government workers to perform volunteer services for their employer or community organization or purpose without requiring the employer to pay them compensation; to the Committee on Education and the Workforce.

By Mr. RICHARDSON:

H.R. 485. A bill to appropriate funds for the purpose of implementing the compromise between the Forest Service and timber contractors operating in the Vallecitos sustained-yield unit, New Mexico, in order to preserve large diameter old growth pine trees located in the unit; to the Committee on Appropriations.

H.R. 486. A bill to amend the Communications Act of 1934 to promote greater telecommunications and information services to Native Americans, and for other purposes; to the Committee on Commerce.

H.R. 487. A bill to amend the Public Health Service Act with respect to the health of individuals who are members of minority groups, and for other purposes; to the Committee on Commerce.

H.R. 488. A bill to authorize the Secretary of the Interior to enter into an agreement with the Arch Hurley Conservancy District in New Mexico, authorizing the district to prepay any amounts outstanding under water reclamation repayment contracts; to the Committee on Resources.

H.R. 489. A bill to amend the Land and Water Conservation Fund Act of 1965 as regards the National Park Service, and for other purposes; to the Committee on Resources.

By Mr. ROMERO-BARCELÓ:

H.R. 490. A bill to relieve the Puerto Rico Housing Bank and Finance Agency and its assignees of liability for certain loans subject to the Truth-in-Lending Act; to the Committee on Banking and Financial Services.

By Mr. SAXTON (for himself and Mr. Quinn):

H.R. 491. A bill to prohibit the Department of State from imposing a charge or fee for providing passport information to the general public; to the Committee on International Relations.

By Mr. SCHUMER (for himself, Mr. Stark, Mrs. Lowey, and Mr. Brown of California):

H.R. 492. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

By Mr. SHAYS (for himself, Mr. Meehan, Mrs. Roukema, Mr. Barrett of Wisconsin, Mrs. Linda Smith of Washington, Mr. Kind, and Mr. Duncan):

H.R. 493. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of Federal elections, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Commerce and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS:

H.R. 494. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of crops destroyed by casualty; to the Committee on Ways and Means.

H.R. 495. A bill to amend the Internal Revenue Code of 1986 to double the maximum benefit under the special estate tax valuation rules for certain farm, and so forth, real property; to the Committee on Ways and Means.

By Ms. WOOLSEY (for herself and Ms. Pryce of Ohio):

H.R. 496. A bill to amend title 5, United States Code, to include medical foods as a specific item for which coverage may be provided under the Federal Employees Health Benefits Program; to the Committee on Government Reform and Oversight.

By Mr. ABERCROMBIE (for himself and Mr. Faleomavaega):

H.J. Res. 32. Joint resolution to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Resources.

By Mrs. FOWLER:

H.J. Res. 33. Joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Representatives and Senators in Congress; to the Committee on the Judiciary.

By Ms. FURSE:

H.J. Res. 34. Joint resolution proposing an amendment to the Constitution of the United States to limit terms of Representatives and Senators; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.J. Res. 35. Joint resolution proposing an amendment to the Constitution to require that congressional resolutions setting forth levels of total budget outlays and Federal revenues must be agreed to by two-thirds vote of both Houses of the Congress if the level of outlays exceeds the level of revenues; to the Committee on the Judiciary.

By Mr. BOEHNER:

H. Con. Res. 9. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union; considered and agreed to.

By Mr. SOLOMON:

H. Con. Res. 10. Concurrent resolution recommending the integration of Estonia, Latvia, and Lithuania into the North Atlantic Treaty Organization; to the Committee on International Relations.

By Mr. YATES:

H. Con. Res. 11. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust; to the Committee on House Oversight.

By Mrs. JOHNSON of Connecticut:

H. Res. 31. Resolution in the matter of Representative Newt Gingrich; considered and agreed to.

By Mr. BOEHNER:

H. Res. 32. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. FAZIO of California:

H. Res. 33. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Ms. WATERS:

H. Res. 34. Resolution to establish a select committee to investigate CIA involvement in crack cocaine sales to fund Contras; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

10. By the SPEAKER: Memorial of the Senate of the State of Michigan, relative to Senate Concurrent Resolution No. 284: To memorialize the Congress of the United States to investigate the financial plight of the self-employed Reservists who were activated for missions such as Operation Desert Storm and Operation Joint Endeavor and to pass legislation to provide relief; to the Committee on Banking and Financial Services.

11. Also, memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 126: Calling on the President and the Congress of the United States to undertake all appropriate actions to encourage the Swiss Government to take certain actions concerning unclaimed bank accounts of Holocaust victims; to the Committee on International Relations.

12. Also, memorial of the Senate of the State of Michigan, relative to Senate Concurrent Resolution No. 278: To memorialize the Congress of the United States to pass and submit to the States for ratification an amendment to the Constitution of the United States to protect taxpayer rights from judicial taxation by prohibiting courts from ordering any State or political subdivision to levy or increase any tax and to urge other States to direct a similar memorial to Congress; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. SAM JOHNSON.

H.R. 26: Mr. TRAFICANT and Mr. SCHIFF.

H.R. 27: Mr. CRAPO, Mr. STEARNS, Mr. DAN SCHAEFER of Colorado, Mr. NORWOOD, Mr. NEY, Mr. WELDON of Florida, and Mrs. MYRICK.

H.R. 41: Mr. SENSENBRENNER, Mrs. KELLY, Mr. CHRISTENSEN, Mr. HERGER, Mr. HORN, Mr. HYDE, Mr. BLILEY, and Mr. HILL.

H.R. 58: Mr. BILIRAKIS, Mr. MCDERMOTT, Mr. GONZALEZ, Mr. FRELINGHUYSEN, Mr. MENENDEZ, Ms. NORTON, Mr. KENNEDY of Massachusetts, Mr. LAZIO of New York, Mr. HASTINGS of Florida, Mr. QUINN, Mr. EHRLICH, Mr. FOLEY, Mr. MCCOLLUM, Ms. WOOLSEY, Mr. SKAGGS, and Mr. FATTAH.

H.R. 59: Mr. MCCRERY, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. COBLE, Mr. HILLEARY, Mr. STEARNS, Mr. NORWOOD, Mr. FOLEY, Mr. MCCOLLUM, and Mr. JONES.

H.R. 66: Mr. DICKEY, Mr. FOLEY, Mr. COOKSEY, Mr. KILDEE, Ms. FURSE, Mr. WELDON of Florida, Mr. STARK, Mr. FROST, and Mr. RAHALL.

H.R. 75: Mr. DELLUMS, Ms. BROWN of Florida, and Ms. NORTON.

H.R. 78: Mr. WAMP and Mr. WALSH.

H.R. 80: Mr. MCHUGH, Mr. CONDIT, Mr. CAMP, Mr. DOYLE, Mr. COBLE, Mr. KNOLLENBERG, Mr. FRANK of Massachusetts, Mr. GOODE, Mr. BACHUS, Mr. HYDE, Mr. MEEHAN, Mr. MINGE, Mr. SHAYS, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. LEVIN, Mr. PORTMAN, Mr. NORWOOD, Mrs. CARSON, Mr. GREENWOOD, Mr. SENSENBRENNER, Mr. KLINK, and Mr. GOSS.

H.R. 81: Mr. HAMILTON.

H.R. 86: Ms. RIVERS, Mr. HASTINGS of Washington, Mr. BOB SCHAFFER, Mr. LEWIS of Kentucky, Mr. LUCAS of Oklahoma, and Mr. BACHUS.

H.R. 87: Mr. HASTINGS of Washington.

H.R. 100: Mr. FROST, Mr. HASTINGS of Florida, Mr. JEFFERSON, Mr. RAHALL, Mr. RANGEL, and Mr. TEJEDA.

H.R. 103: Mr. CANADY of Florida.

H.R. 123: Mr. PETRI, Mrs. CUBIN, Mr. OXLEY, Mr. UPTON, Mr. KOLBE, Mr. HILLEARY, Mr. NUSSLE, Mr. BARTLETT of Maryland, and Mr. CALLAHAN.

H.R. 127: Mrs. MEEK of Florida, Mr. CAMP, Mr. FILNER, Mr. MOAKLEY, Mr. MCDERMOTT, Mr. BEREUTER, Mr. MCGOVERN, Mr. BURR of North Carolina, Mr. OXLEY, Mr. CAMPBELL, Mr. UPTON, Mr. BILBRAY, Mr. DINGELL, Mr. FALEOMAVAEGA, Mr. WELDON of Florida, Mr. SENSENBRENNER, Mr. NORWOOD, Mr. DELLUMS, Mr. WATTS of Oklahoma, Mr. BROWN of California, Mr. BALLENGER, Mr. HYDE, Mr. CONDIT, Ms. WOOLSEY, Mrs. LOWEY, Mr. GEJDENSON, Mr. SHAYS, Mr. NADLER, Mr. WALSH, Ms. FURSE, Ms. BROWN of Florida, Mr. BACHUS, Mrs. MALONEY of New York, Ms. ESHOO, Mr. EVANS, and Mr. SOLOMON.

H.R. 131: Mr. PAPPAS, Mr. FOLEY, Mr. SENSENBRENNER, and Mrs. MYRICK.

H.R. 132: Mrs. MYRICK and Mr. HASTERT.

H.R. 135: Mr. ALLEN, Mrs. CARSON, Mr. DELAHUNT, Mr. FAZIO of California, Mr. FILNER, Ms. FURSE, Mr. HINOJOSA, Ms. JACKSON-LEE, Ms. KAPTUR, Ms. LOFGREN, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MCNULTY, Mr. MALONEY of Connecticut, Mr. MANTON, Mr. MARKEY, Mr. MEEHAN, Ms. MILLENDER-MCDONALD, Mr. MILLER of California, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. PASCRELL, Mr. PICKETT, Mr. RANGEL, Mr. STOKES, Mrs. TAUSCHER, Mrs. THURMAN, Ms. WOOLSEY, and Mr. YATES.

H.R. 156: Mr. SOLOMON.

H.R. 157: Mr. MCDADE.

H.R. 158: Mr. SMITH of New Jersey, Mr. CHRISTENSEN, Mr. KOLBE, Mr. SAXTON, Mr. HOLDEN, Mr. SENSENBRENNER, Mr. TEJEDA, Mr. ROHRABACHER, and Mr. MCINNIS.

H.R. 159: Mr. WALSH.

H.R. 161: Mr. SMITH of New Jersey, Mr. MCCRERY, Mr. MEEHAN, Mr. MILLER of Florida, Mr. HORN, Mr. LIVINGSTON, and Ms. MOLINARI.

H.R. 162: Mr. KNOLLENBERG and Mr. GRAHAM.

H.R. 163: Mr. BARCIA of Michigan and Mr. WATTS of Oklahoma.

H.R. 180: Mr. CANADY of Florida, Mr. DEUTSCH, Mr. FOLEY, Mrs. FOWLER, Mr. HASTINGS of Florida, Mr. MCCOLLUM, Mrs. MEEK of Florida, Mr. MILLER of Florida, Ms. ROS-LEHTINEN, Mr. SCARBOROUGH, Mr. SHAW, Mr. STEARNS, and Mr. WELDON of Florida.

H.R. 182: Mr. TORRES, Mr. BROWN of California, Mr. DELLUMS, Mr. NADLER, Mr. FRANK of Massachusetts, Ms. NORTON, Mr. SANDERS, Mr. JACKSON, Mr. MCDERMOTT, Mr. FATTAH, Mr. OWENS, Mr. RUSH, and Ms. VELÁZQUEZ.

H.R. 207: Mr. SHAYS.

H.R. 211: Mr. OBEY and Mr. BONIOR.

H.R. 216: Mr. ACKERMAN, Mr. WALSH, Mr. FRANK of Massachusetts, Mr. ENGLISH of Pennsylvania, Mr. BROWN of Ohio, Ms. PRYCE of Ohio, Mr. CONDIT, and Ms. JACKSON-LEE.

H.R. 218: Mr. BLILEY.

H.R. 231: Mr. MCGOVERN.

H.R. 290: Mr. FROST, Mr. STARK, and Ms. NORTON.

H.R. 291: Mr. UNDERWOOD, Mrs. CLAYTON, and Ms. NORTON.

H.R. 292: Mr. HAYWORTH, Mr. BOB SCHAFFER, Mr. SKEEN, Mr. BARTLETT of Maryland, Mr. CAMPBELL, Mr. HOSTETTLER, Mr. BUNNING of Kentucky, Mr. HERGER, Mr. ROYCE, Mr. DOOLITTLE, Mr. RADANOVICH, Mr. CHABOT, Mr. RIGGS, Mr. FOLEY, Mr. NEY, Mr. MCINNIS, Mr. ENSIGN, Mr. METCALF, Mr. BACHUS, Mr. JONES, Mr. ENGLISH of Pennsylvania, Mr. BLILEY, Mr. STUMP, Mr. SESSIONS, Mrs. EMERSON, Mr. EHRLICH, Mr. WELDON of Florida, and Mrs. CUBIN.

H.R. 298: Mr. PARKER.

H.R. 305: Mr. MCGOVERN, Mr. BALDACCI, Mrs. CLAYTON, Mr. ROMERO-BARCELO, Mr. TALENT, and Ms. WOOLSEY.

H.R. 306: Ms. NORTON, Mr. MCGOVERN, Mr. MARKEY, Mr. OBERSTAR, Mrs. TAUSCHER, Mr. YATES, Ms. MCKINNEY, Mr. COYNE, and Mr. MORAN of Virginia.

H.R. 312: Mr. HASTINGS of Washington, Mr. HALL of Texas, Mr. STUMP, and Mr. WELDON of Florida.

H.R. 328: Mr. SMITH of New Jersey, Mr. ENGLISH of Pennsylvania, and Mrs. KELLY.

H.R. 331: Mr. HASTINGS of Washington.

H.R. 334: Mr. BACHUS.

H.R. 335: Mr. RAMSTAD.

H.R. 336: Mr. GALLEGLY, Mr. YOUNG of Alaska, Mr. STEARNS, Mr. BARTLETT of Maryland, Mr. ANDREWS, Mr. BILBRAY, Mr. WELDON of Pennsylvania, Mr. ENGLISH of Pennsylvania, and Mr. BACHUS.

H.R. 345: Mr. NORWOOD, Mr. CALVERT, Mr. SOLOMON, Mr. ROYCE, Mr. HAYWORTH, Mr. CALLAHAN, Mr. DOOLITTLE, Mr. CHRISTENSEN, Mr. CAMPBELL, Mr. BARTLETT of Maryland, Mr. SKEEN, Mr. LAHOOD, Mr. SCARBOROUGH, Mr. KIM, Mr. ROHRABACHER, Mr. PACKARD, Mr. HYDE, Mr. CRANE, Mr. BACHUS, Mr. BLILEY, Mr. SENSENBRENNER, and Mr. WELDON of Florida.

H.R. 346: Mr. NORWOOD.

H.R. 347: Mr. NORWOOD, Mr. BUNNING of Kentucky, Mr. DEAL of Georgia, Mr. BACHUS, and Mr. YOUNG of Alaska.

H.R. 366: Mr. ENGLISH of Pennsylvania.

H.R. 382: Mr. TRAFICANT, Mr. MARTINEZ, Mr. UNDERWOOD, Ms. CHRISTIAN-GREEN, Ms. BROWN of Florida, Mr. FROST, and Ms. NORTON.

H.R. 383: Mr. SOLOMON, Mr. GUTIERREZ, Mr. MCGOVERN, Mr. TOWNS, Mr. MCNULTY, Mrs. TAUSCHER, Mrs. KELLY, Mrs. LOWEY, Mr. FROST, Mr. GEJDENSON, AND MR. SANDERS.

H.R. 399: Mr. GREENWOOD, Mr. BOEHLERT, Ms. MOLINARI, Mr. SHAYS, Mr. QUINN, Mr. FATTAH, Mr. MORAN of Virginia, Mr. ENGLISH of Pennsylvania, Mr. SOLOMON, Mrs. KELLY, Mr. SENSENBRENNER, Mr. GOODLATTE, and Mr. SMITH of Michigan.

H.R. 406: Mr. QUINN and Mr. ANDREWS.

H.R. 408: Mr. BOEHLERT, Mr. SKAGGS, Mr. RIGGS, and Mr. ENGLISH of Pennsylvania.

H.R. 411: Mr. SHAYS, Mrs. LOWEY, Mr. CARDIN, Mr. KENNEDY of Rhode Island, Ms. NORTON, Mr. MCGOVERN, Mrs. TAUSCHER, Ms. MCKINNEY, Mr. TORRES, Mr. MEEHAN, Mr. MARTINEZ, Ms. ESHOO, and Mr. STARK.

H.R. 416: Mr. TRAFICANT and Mr. FRANK of Massachusetts.

H.R. 417: Mr. MATSUI, Mr. PAYNE, Mrs. MEEK of Florida, Mr. NEAL of Massachusetts, Mr. ROMERO-BARCELÕ, Mr. FORD, Mr. DELLUMS, Mrs. CARSON, Mr. FATTAH, Mr. WALSH, Mr. UNDERWOOD, Mr. FROST, Mr. KILDEE, Ms. CHRISTIAN-GREEN, Ms. BROWN of Florida, Mr. WOLF, Mr. LAFALCE, Mr. MILLER of California, Ms. NORTON, and Mr. MCHUGH.

H.R. 424: Mr. TALENT and Mr. FOLEY.

H.R. 446: Mr. UNDERWOOD, Mr. ROYCE, Mr. HASTERT, Mr. BARCIA of Michigan, Mr. JONES, Mr. ROGAN, Mr. WELDON of Florida, Mr. SMITH of Michigan, and Mr. HYDE.

H.J. Res. 2: Mr. MCCRERY, Mr. FRANKS of New Jersey, Mr. CAMPBELL, Mr. KIM, Mr. NUSSLE, and Mr. JONES.

H. Con. Res. 4: Mr. ROMERO-BARCELÕ, Mr. FATTAH, Mr. SCOTT, Mrs. CLAYTON, and Mr. KENNEDY of Rhode Island.

H. Con. Res. 6: Mr. DOYLE, Mr. ACKERMAN, Mr. HALL of Ohio, Ms. HARMAN, Mr. CUNNINGHAM, Mr. PALLONE, Mr. COYNE, Mr. DELLUMS, Mr. LOBIONDO, Mr. DAVIS of Virginia, Mr. MCNULTY, and Mr. MATSUI.

H. Res. 28: Mr. NORWOOD and Mr. GANSKE.

H. Res. 30: Mr. CHABOT, Mr. SHADEGG, and Mr. LARGENT.

PETITIONS, ETC.

Under clause 1 of rule XXII,

5. The SPEAKER presented a petition of the House of Representatives of the Republic of Cyprus, relative to the continuing plight of the few hundred Greek Cypriots still remaining in the area of Cyprus occupied by Turkish troops since 1974; which was referred to the Committee on International Relations.

SENATE—*Tuesday, January 21, 1997*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God of new beginnings, who makes all things new, give us a viable hope and vibrant expectancy as we begin the work of the 105th Congress. On this day following the inauguration of President Clinton and Vice President GORE, as fellow Americans and patriots we ask for Your blessing on them. In the same breath, we renew our commitment to work together with them as we seek Your will for what is best for our Nation.

Endow our own Senate leaders, TRENT LOTT, TOM DASCHLE, DON NICKLES, and WENDELL FORD with a special measure of wisdom as they work cooperatively together to foster a spirit of oneness in the Senate. Help the Senators to delight in the diversity that sheds varied shades of light on the truth and debate that exposes maximum solutions. May this Senate be distinguished for its civility, creativity, and courage. Your spirit flourishes where men and women pray for each other, speak truth as they see it without rancor, and listen attentively to one another. When we all seek You and Your guidance, we find each other. The bond of our mutual love for You and for America will sustain us in the rough and tumble of political process. God, bless America and begin here in this Senate, through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. LOTT. Under the order today, the time between now and 12:30 will be equally divided between myself and the Democratic leader. At 12:30 today, following our remarks, the Senate will recess until 2:15 for the weekly policy conferences to meet. When the Senate reconvenes at 2:15, there will be a period of morning business to enable all Senators to make statements and introduce legislation.

I anticipate that many of our colleagues will be making statements during the morning business period. Therefore, there will be no rollcall votes during today's session. It is my hope that during tomorrow's session the Senate will be able to consider the Executive nomination of Madeleine Albright to be the Secretary of State, and I anticipate a rollcall vote on Wednesday on the confirmation of that nomination.

I also announce to my colleagues that all Members will be notified as soon as the schedule is finalized with regard to a memorial service on Thursday in Lowell, MA, for our former colleague, Senator Paul Tsongas.

Again, I note as we come out of our policy luncheons, Senator DASCHLE and I will be introducing bills. I will introduce the first 10 bills on behalf of the Senate Republican majority, and Senator DASCHLE will introduce the next 10 bills. We will be hearing during the remainder of the day from the leading sponsors of those bills and others who will be introducing bills and want to make statements. We will go, I am sure, a while into the afternoon. It is hoped we will not begin this session by going late into the night on a Tuesday. We would like to quit at a reasonable hour, for all concerned.

INAUGURATION CEREMONIES

Mr. LOTT. I ask unanimous consent that yesterday's proceedings of the inauguration of the President be printed in today's CONGRESSIONAL RECORD.

There being no objection, the proceedings were ordered to be printed in the RECORD, as follows:

INAUGURATION OF THE PRESIDENT OF THE UNITED STATES AND THE VICE PRESIDENT, January 20, 1997

Members of the House of Representatives, Members of the Senate, Justices of the Supreme Court, members of the Cabinet, members of the diplomatic corps, the Governors of the States, and the Mayor of the District of Columbia, the Joint Chiefs of Staff, and other distinguished guests assembled on the west front.

MRS. GORE

Mr. Martin Paone, Senate Secretary for the Minority, escorted Mrs. Gore, accompanied by Mrs. Lott and Mrs. Gephardt, to the President's platform.

MRS. CLINTON

Ms. Elizabeth B. Greene, Senate Secretary for the Majority, and Ms. Amelia Fields, Joint Congressional Committee on Inaugural Ceremonies, escorted Mrs. Clinton, accompanied by Mrs. Ford and Mrs. Gingrich, to the President's platform.

THE VICE PRESIDENT

Mr. John Chambers, Joint Congressional Committee on Inaugural Ceremonies Deputy Director, Ms. Loretta Symms, Senate Deputy Sergeant at Arms, and Mr. Jim Varey, House Deputy Sergeant at Arms, escorted the Vice President, accompanied by Senator Lott, Representative Gephardt and Representative Armey, to the President's platform.

THE PRESIDENT

Ms. Susan Magill, JCCIC Executive Director, Mr. Greg Casey, Senate Sergeant at Arms, and Mr. Wilson Livingood, House Sergeant at Arms, escorted the President, accompanied by Senator Warner, Senator Ford, Representative Gingrich, Senator Lott, Representative Gephardt and Representative Armey, to the President's platform.

THE INAUGURAL CEREMONY

Mr. WARNER. Mr. President, Mr. Vice President, Mr. Speaker, Mr. Majority Leader, Mr. Chief Justice, Members of the U.S. Congress, their families and guests—all one-quarter million who have joined here today on the grounds of their Capitol.

[Applause.]

Welcome to the 53rd Inauguration of the President and the Vice President of the United States of America.

[Applause.]

Across our Nation, and around the world, Americans join William Jefferson Clinton as he reconfirms the oath of office as the 42nd President of the United States, and Albert Gore, Jr., as he reconfirms the oath of office as the 45th Vice President of the United States.

Our first President, George Washington, was inaugurated in 1789.

Thereafter, every 4 years, our citizens have witnessed this transition of authority as required by the Constitution of the United States.

It is the conferring of this trust and authority—which has occurred without any interruption for 208 years—that is the cornerstone of our representative democracy.

It is a tribute to the providential vision of our Founding Fathers.

It is a tribute to the strength of character of the American people and the endurance of their institutions.

It is a tribute to successive generations of Americans who have guarded our most valuable heritage—our freedom.

And, Mr. President, may I say, on behalf of the millions and millions of Americans, we express to you our gratitude for this past week, having invited to the White House a true man who fought for freedom, and you presented him with the Presidential Medal of Freedom, Senator Dole. Thank you, Mr. President.

[Applause.]

For two centuries, the American Presidential Inauguration ceremony has represented both national renewal and continuity of leadership.

So it is altogether fitting that as the world's oldest continuous constitutional democratic republic, we gather today to honor this historical triumph, and to recommit ourselves to keep our Nation strong for future generations.

Mr. President, prayer has been an essential part of all inaugural ceremonies.

As I was privileged to drive up with you from the White House, you held the Bible and read the passage that you will read today.

Therefore, we are honored today to have the Reverend Billy Graham to lead our Nation in prayer, as he has at seven previous inaugurals.

Please stand for the invocation and remain standing for the Pledge of Allegiance. Reverend Graham.

INVOCATION

Reverend GRAHAM. President Clinton, Mrs. Clinton, Vice President Gore, Mrs. Gore, I am going to ask that we all bow our heads in prayer.

Our Father and our God, we thank You today for the privilege of coming into Your presence on this historic and solemn occasion.

We thank You for Your gracious hand which has preserved us as a Nation. We praise You for the peaceful continuity of Government that this inauguration represents.

We recall that the Bible says, "Except the Lord build a house, they labor in vain that build it." You also said that to whom much has been given, much will be required.

We look gratefully to the past, and thank You that from the very foundations of America You granted our forefathers courage and wisdom, as they trusted in You. So we ask today that You would inspire us by their example. Where there has been failure, forgive us; where there has been progress, confirm; where there has been success, give us humility, and teach us to follow Your instructions more closely as we enter the next century.

Give to all those to whom You have entrusted leadership today a desire to seek Your will and to do it.

So today, we ask Your blessing on President Clinton and his wife, Hillary, and their daughter, Chelsea, and upon Vice President Gore and his wife, Tipper, and their children.

Give to all our leaders the vision of what You desire America to become and the wisdom to accomplish it and the strength to cross the bridges into the 21st century.

We pray also for the Members of the House and the Senate, for the Supreme Court, and for all who bear responsibility of leadership in this Nation which is blessed with such ethnic diversity.

We have not solved all the social problems of our times, such as drugs and racism. Technology and social engineering have not solved the basic problems of human greed, pride, intolerance, and selfishness. We need your insight, we need your compassion, we need your strength. As both President Clinton and Senator Dole urged us in the recent Presidential campaign, may this be a time of coming together to help us deal with the problems we face.

O Lord, help us to be reconciled first to You and secondly to each other. May Dr. Martin Luther King's dream finally come true for all of us. Help us to learn true courtesy to our fellow countrymen that comes from the One who taught us that "whatever you want me to do to you, do also to them."

Remind us today that You have shown us what is good and what You require of us—to do justly, to love mercy, and to walk humbly with our God.

We ask that as a people we may humble ourselves before You and seek Your will for our lives and for this great Nation. Help us in our Nation to work as never before to strengthen our families and to give our children hope and a moral foundation for the future.

So may our desire be to serve You and, in so doing, serve one another.

This we pray in the name of the Father, the Son, and the Holy Spirit. Amen.

Mr. WARNER. Thank you, Reverend Graham.

THE PLEDGE OF ALLEGIANCE

Mr. WARNER. The Pledge of Allegiance will be led by Eagle Scout David Morales, Boy Scout Troop 152, Vienna, VA.

(The Pledge of Allegiance was led by Eagle Scout David Morales.)

Mr. WARNER. Ladies and gentlemen, it is now my privilege to present the Children of the Gospel Mass Choir, under the auspices of the Washington Performing Arts Society.

More than 100 voices from the Washington metropolitan area make up this unique choir.

Accompanied by the United States Marine Band, the choir will perform an original composition by its director, Mr. Rickey Payton, entitled, "Let's Build a Bridge Across America."

(The Children of the Gospel Mass Choir sang "Let's Build a Bridge Across America.")

Mr. WARNER. Ladies and gentlemen, it is now my distinct privilege and honor to present the Associate Justice of the Supreme Court of the United States, the Honorable Ruth Bader Ginsburg, who will administer the oath of office to the Vice President of the United States, Albert Gore, Jr.

ADMINISTRATION OF OATH OF OFFICE TO THE VICE PRESIDENT

Associate Justice GINSBURG. If you are ready to take the oath, Mr. Vice President, please repeat after me.

Associate Justice of the United States Ruth Bader Ginsburg administered to the Vice President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

"I, Albert Gore, Jr., do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of which I am about to enter. So help me God."

Associate Justice GINSBURG. Every good wish, Mr. Vice President.

Vice President GORE. Thank you.

[Applause.]

Mr. WARNER. Ladies and gentlemen, participating in today's program is a person with talent described by music critics as a catalog of all that is virtuous in singing.

Accompanied by the U.S. Army Chorus and Chorale, please welcome the world renowned Jessye Norman, who will perform a medley of American music entitled "O Freedom."

Miss Norman.

[Applause.]

(Jessye Norman sang a medley of American music entitled "O Freedom.")

Mr. WARNER. Thank you very much. Ladies and gentlemen, as chairman of the Joint Inaugural Committee, it is now my privilege to introduce my cochairman, Senator Wendell Ford of Kentucky, who will introduce the Chief Justice of the United States.

Senator Ford.

Mr. FORD. Thank you, my friend, John Warner. President Clinton, Mrs. Clinton, Vice President Gore, Mrs. Gore, my fellow Americans, and my colleagues.

Hillary Rodham Clinton, wife of the President-elect, will hold the Clinton family Bible. They are joined by their daughter Chelsea.

It is now my great privilege and high honor to present the Chief Justice of the United States Supreme Court, the Honorable William Hobbs Rehnquist, who will administer the oath of office to the President and President-elect of the United States, William Jefferson Clinton.

[Applause.]

ADMINISTRATION OF OATH OF OFFICE TO THE PRESIDENT

Mr. Chief Justice REHNQUIST. Are you ready to take the oath, Mr. President?

President CLINTON. Yes, I am.

Mr. Chief Justice REHNQUIST. Please raise your right hand and repeat after me.

The Chief Justice of the United States, William Hobbs Rehnquist, administered to the President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

"I, William Jefferson Clinton, do solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States. So help me God."

[Applause.]

(Herald Trumpets play "Ruffles and Flourishes" and "Hail to the Chief", and 21-gun salute.)

Mr. FORD. Ladies and gentlemen, the President of the United States of America, William Jefferson Clinton.

INAUGURAL ADDRESS

President CLINTON. My fellow citizens:

At this last Presidential inauguration of the 20th century, let us lift our eyes toward the challenges that await us in the next century. It is our great good fortune that time and chance have put us not only at the edge of a new century in a new millennium, but on the edge of a bright new prospect in human affairs. A moment that will define our course and our character for decades to come. We must keep our old democracy forever young. Guided by the ancient vision of a promised land, let us set our sights upon a land of new promise.

The promise of America was born in the 18th century out of the bold conviction that we are all created equal. It was extended and preserved in the 19th century, when our Nation spread across the continent, saved the Union, and abolished the awful scourge of slavery.

Then, in turmoil and triumph, that promise exploded onto the world stage to make this the American century.

And what a century it has been. America became the world's mightiest industrial power, saved the world from tyranny in two world wars and a long cold war, and time and again reached out across the globe to millions who, like us, longed for the blessings of liberty.

Along the way, Americans produced the great middle class and security in old age; built unrivaled centers of learning and opened public schools to all; split the atom and explored the heavens; invented the computer and the microchip; and deepened the wellspring of justice by making a revolution in civil rights for African Americans and all minorities, and extending the circle of citizenship, opportunity, and dignity to women.

Now, for the third time, a new century is upon us, and another time to choose. We began the 19th century with a choice to spread our Nation from coast to coast. We began the 20th century, with a choice to harness the Industrial Revolution to our values of free enterprise, conservation, and human decency. Those choices made all the difference. At the dawn of the 21st century, a free people must now choose to shape the forces of the Information Age and the global society, to unleash the limitless potential of all our people, and, yes, to form a more perfect union.

When last we gathered, our march to this new future seemed less certain than it does today. We vowed then to set a clear course, to renew our Nation.

In these 4 years, we have been touched by tragedy, exhilarated by challenge, strengthened by achievement. America stands alone as the world's indispensable nation. Once again, our economy is the strongest on Earth. Once again, we are building stronger families, thriving communities, better educational opportunities, a cleaner environment. Problems that once seemed destined to deepen, now bend to our efforts: our streets are safer and record numbers or our fellow citizens have moved from welfare to work.

And once again, we have resolved for our time a great debate over the role of Government. Today we can declare: Government is not the problem; and Government is not the solution. We, the American people, we are the solution.

[Applause.]

Our Founders understood that well, and gave us a democracy strong enough to endure for centuries, flexible enough to face our common challenges and advance our common dreams in each new day.

As times change, so Government must change. We need a new Government for a new century, a government humble enough not to try to solve all our problems for us, but strong enough to give us the tools to solve our problems for ourselves. A Government that is smaller, lives within its means, and does more with less. Yet where it can stand up for our values and interests around the world, and where it can give Americans the power to make a real difference in their everyday lives, Government should do more, not less. The preeminent mission of our new Government is to give all Americans an opportunity—not a guarantee—but a real opportunity to build better lives.

[Applause.]

Beyond that, my fellow citizens, the future is up to us. Our Founders taught us that the preservation of our liberty and our Union depends upon responsible citizenship.

And we need a new sense of responsibility for a new century. There is work to do, work that Government alone cannot do. Teaching children to read. Hiring people off welfare rolls. Coming out from behind locked doors and shuttered windows to help reclaim our streets from drugs and gangs and crime. Taking time out of our own lives to serve others.

Each and every one of us, in our own way, must assume personal responsibility—not only for ourselves and our families, but for our neighbors and our Nation.

[Applause.]

Our greatest responsibility is to embrace a new spirit of community for a new century. For any one of us to succeed, we must succeed as one America.

The challenge of our past remains the challenge of our future: Will we be one nation, one people, with one common destiny—or not? Will we all come together, or come apart?

The divide of race has been America's constant curse. And each new wave of immigrants gives new targets to old prejudices. Prejudice and contempt, cloaked in the pretense of religious or political convictions, are no different.

[Applause.]

These forces have nearly destroyed our Nation in the past. They plague us still. They fuel the fanaticism of terror, and they torment the lives of millions in fractured nations all around the world.

These obsessions cripple both those who hate and, of course, those who are hated, robbing both of what they might become. We cannot—we will not—succumb to the dark impulses that lurk in the far regions of the soul, everywhere. We shall overcome them.

[Applause.]

We shall replace them with the generous spirit of a people who feel at home with one another.

Our rich texture of racial, religious and political diversity will be a godsend in the 21st century. Great rewards will come to those who can live together, learn together, work together, forge new ties that bind together.

As this new era approaches, we can already see its broad outlines. Ten years ago, the Internet was the mystical province of physicists; today, it is a commonplace encyclopedia for millions of schoolchildren. Scientists now are decoding the blueprint of human life. Cures for our most feared illnesses seem close at hand.

The world is no longer divided into two hostile camps; instead, now we are building bonds with nations that once were our adversaries. Growing connections of commerce and culture give us a chance to lift the fortunes and spirits of people the world over. And for the very first time in all of history, more people on this planet live under democracy than dictatorship.

[Applause.]

My fellow Americans, as we look back at this remarkable century, we may ask, can we hope not just to follow, but even to surpass the achievements of the 20th century in America, and to avoid the awful bloodshed that stained its legacy? To that question, every American here and every American in our land today must answer a resounding "Yes."

[Applause.]

This is the heart of our task: With a new vision of Government, a new sense of responsibility, a new spirit of community, we will sustain America's journey. The promise we sought in a new land, we will find again in a land of new promise.

[Applause.]

In this new land, education will be every citizen's most prized possession. Our schools will have the highest standards in the world, igniting the spark of possibility in the eyes of every girl and every boy, and the doors of higher education will be open to all. The knowledge and power of the information age will be within reach, not just of the few but of every classroom, every library, every child. Parents and children will have time not only to work, but to read and to play together, and the plans they make at their kitchen table will be those of a better home, a better job, a certain chance to go to college.

Our streets will echo again with the laughter of our children, because no one will try to shoot them or sell them drugs anymore. Everyone who can work will work, with today's permanent underclass part of tomorrow's growing middle class. New miracles of medicine at last will reach not only those who can claim care now, but the children and hard-working families too long denied.

We will stand mighty for peace and for freedom and maintain a strong defense against terror and destruction. Our children will sleep free from the threat of nuclear, chemical, or biological weapons. Ports and airports, farms and factories will thrive with trade and innovation and ideas. And the world's greatest democracy will lead a whole world of democracies.

Our land of new promise will be a Nation that meets its obligations: A Nation that balances its budget, but never loses the balance of its values.

[Applause.]

A nation where our grandparents have secure retirement and health care, and their grandchildren know we have made the reforms necessary to sustain those benefits for their time.

[Applause.]

A Nation that fortifies the world's most productive economy, even as it protects the great natural bounty of our water, air, and majestic land.

And in this land of new promise, we will have reformed our politics so that the voice of the people will always speak louder than the din of narrow interests, regaining the participation and deserving the trust of all Americans.

[Applause.]

Fellow citizens, let us build that America, a nation ever moving forward toward realizing the full potential of all its citizens. Prosperity and power, yes, they are important, and we must maintain them, but let us never forget: The greatest progress we have made, and the greatest progress we have yet to make, is in the human heart. In the end, all the world's wealth and a thousand armies are no match for the strength and decency of the human spirit.

[Applause.]

Thirty-four years ago, the man whose life we celebrate today spoke to us down there, at the other end of this Mall, in words that moved the conscience of a Nation. Like a prophet of old, he told of his dream that one day America would rise up and treat all its citizens as equals before the law and in the heart. Martin Luther King's dream was the American dream. His quest is our quest: the ceaseless striving to live out our true creed. Our history has been built on such dreams and labors, and by our dreams and labors, we will redeem the promise of America in the 21st century.

To that effort, I pledge all my strength and every power of my office. I ask the Members of Congress here to join in that pledge. The American people returned to office a President of one party and a Congress of another. Surely, they did not do this to advance the politics of petty bickering and extreme partisanship they plainly deplore.

[Applause.]

No, they call on us all instead to be repairers of the breach and to move on with America's mission.

America demands and deserves big things from us—and nothing big ever came from being small.

[Applause.]

Let us remember the timeless wisdom of Cardinal Bernardin when facing the end of his own life. He said, "It is wrong to waste the precious gift of time . . . on acrimony and division."

Fellow citizens, we must not waste the precious gift of this time, for all of us are on that same journey of our lives, and our journey, too, will come to an end. But the journey of our America must go on.

And so, my fellow Americans, we must be strong, for there is much to dare. The demands of our time are great, and they are different. Let us meet them with faith and courage, with patience and a grateful, happy heart. Let us shape the hope of this day into the noblest chapter in our history. Yes, let us build our bridge—

[Applause.]

a bridge wide enough and strong enough for every American to cross over to a blessed land of new promise. May those generations whose faces we cannot yet see, whose names we may never know, say of us here that we led our beloved land into a new century with the American dream alive for all her children, with the American promise of a more perfect Union a reality for all her people, with America's bright flame of freedom spreading throughout all the world.

From the height of this place and the summit of this century, let us go forth. May God "strengthen our hands for the good work ahead"—and always, always bless our America.

[Applause.]

Mr. WARNER. Mr. President, we thank you for that strong and inspiring message at this very important time in our history.

Now, ladies and gentlemen, it is my pleasure to introduce the Immanuel Baptist Church Sanctuary Choir and Orchestra of Little Rock.

The choir and orchestra, under the direction of Reverend Lynn Madden, will present "The Battle Hymn of the Republic."

(The Immanuel Baptist Church Sanctuary Choir and Orchestra sing "The Battle Hymn of the Republic.")

Mr. WARNER. Thank you for the singing of that most inspiring of American music.

As he did for his first inauguration in 1993, President Clinton has asked a distinguished American scholar to compose a poem for this historic day.

Please welcome writer, editor, poet, Mr. Miller Williams.

[Applause.]

OF HISTORY AND HOPE

We have memorized America,
how it was born and who we have been and where.
In ceremonies and silence we say the words,
telling the stories, singing the old songs.
We like the places they take us. Mostly we do.
The great and all the anonymous dead are there.
We know the sound of all the sounds we brought.
The rich taste of it is on our tongues.
But where are we going to be, and why, and who?
The disenfranchised dead want to know.
We mean to be the people we meant to be,
to keep on going where we meant to go.
But how do we fashion the future? Who can say how
except in the minds of those who will call it Now?
The children. The children. And how does our garden grow?
With waving hands—oh, rarely in a row—
and flowering faces. And brambles, that we can no longer allow.
Who were many people coming together.
cannot become one people falling apart.
Who dreamed for every child an even chance.
cannot let luck alone turn doorknobs or not.
Whose law was never so much of the hand as the head
cannot let chaos make its way to the heart.
Who have seen learning struggle from teacher to child
cannot let ignorance spread itself like rot.
We know what we have done and what we have said,
and how we have grown, degree by slow degree,
believing ourselves toward all we have tried to become—
just and compassionate, equal, able, and free.
All this in the hands of children, eyes already set.
on a land we never can visit—it isn't there yet—
but looking through their eyes, we can see.
what our long gift to them may come to be.
If we can truly remember, they will not forget.

[Applause.]

Mr. WARNER. Santita Jackson will lead the singing of our National Anthem. She will be accompanied by the Resurrection Choir, a group composed of singers from the choirs of American churches tragically destroyed by fire in recent months.

This choir's performance is a befitting commemoration of this day on which we honor also Rev. Martin Luther King, Jr.

Before we sing our National Anthem, the Reverend Gardner C. Taylor will deliver the benediction.

Ladies and gentlemen, please stand for the benediction and remain standing to sing our National Anthem.

Reverend Taylor.

BENEDICTION

Reverend TAYLOR. Let us lift up our spirits before our Creator, eternal God, brooding over the days of our years. In sovereign judgment, and yet with tender mercy, now close to the end of this solemn but joyous occasion, we lift our hearts and our hopes before Thee.

We pray for our President, William Jefferson Clinton, that Thou will give to him ever increasing vision and vigor and voice, that he might speak tellingly to the American promise in history.

We pray for the gracious and gallant lady at his side, Hillary Rodham Clinton, and for their daughter.

We ask Thy blessings upon the Vice President of the United States and upon his wife, Mrs. Tipper Gore. Grant, we pray, that he may ever be more a partisan of what is best in our American tradition.

And now, our God, we hold before Thee this Nation so richly endowed, so grandly blessed, and yet imperiled, apparently often, by the very richness of its diversity. Deliver us from pettiness of heart, from harshness of speech and from violence of action. Make us worthy of our history, of patriots' sacrifices and martyrs' blood, in the vanguard of which stand Lincoln and King, Thy servants Abraham and Martin. Give us ever a greater dedication and commitment to the grand defining words of our democracy—liberty, justice, equality, opportunity.

And now let the words of our mouths, all of our mouths, in the meditations of our hearts, all of our hearts, be acceptable in Thy sight, O Lord, our Strength and our Redeemer, and now unto the old, wise God, our Deliverer, be glory and majesty, dominion and power both now and evermore. Amen.

Mr. WARNER. Now, Miss Santita Jackson.

(The National Anthem was sung by Santita Jackson and the Resurrection Choir, audience standing.)

[Applause.]

The inaugural ceremonies were concluded at 12:48 p.m.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. LOTT. Mr. President, I know of no Senator having indicated that he or she desires to make a statement at this time. No request being given to the Cloakroom, I ask unanimous consent that the Senate now stand in recess under the previous order until 2:15.

There being no objection, the Senate, at 12:20 p.m. recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

The PRESIDING OFFICER (Mr. COATS). The majority leader is recognized.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the period for morning business be divided as follows: The first 30 minutes under the control of the majority leader, the second 30 minutes under the control of the Democratic leader, with the next hour under the control of the majority leader or his designee, to be followed by 1 hour under control of the Democratic leader or his nominee.

I do not believe there is a problem with this. We have cleared it with the other side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE REPUBLICAN AGENDA

Mr. LOTT. Mr. President, I think we have the opportunity here today to get off to a good start, a fast start. It is one about which we have communicated with our colleagues on the other side of the aisle. We have increased the number of bills that we officially introduce at the start of the session from what has in the past been only 5 to 10, and therefore the Republicans will today introduce our first numbered 10 bills as well as Senate Joint Resolution 1, which will be the constitutional amendment for a balanced budget. And then the Democratic leader, on behalf of the Democrats, will introduce their first 10 bills, and then others can come in and offer bills as they see fit. The principal sponsors will come to the floor this afternoon in the hour we have designated to offer the bills and to make comments. Frankly, I see some overlap between our list of 10 bills and the Democrats' list of 10 bills. I think that is positive.

So we want to go ahead and get started with this. We are going to move forward aggressively wherever we can to handle the President's nominations to his Cabinet. We hope to confirm within the next 2 days his first two nominees, to be Secretary of State and Secretary of Defense. We hope in the 2 weeks after that to move right along with other nominees. So we are trying hard to work with the administration and set up an atmosphere that will allow us this year to pass some good legislation for the best interests of the American people, but the President, we think, deserves his Cabinet in place so that he can have people there to work with us.

One of the glories of the Senate is that it runs as much by tradition and custom as it does by written rules, and so one of those customs we are carrying out today is introducing these first few bills that will lay out our agenda for the rest of the year.

So it is my honor to present to the Senate and to the Nation 11 major pieces of legislation, 10 bills and 1 resolution, that we will offer today. Each of them can stand on its own as an important initiative dealing with matters that touch the lives of most Americans. Together, however, they form a blueprint for the visionary changes our country needs. I might even call them the user's manual for a better, safer and more prosperous America. These bills represent the consensus of the 55 Republican Members of the Senate.

We did have a unique opportunity to sit together for 12 hours the week before last to talk through what we want to do in this session of Congress and what specific bills we wanted to take up. It does not mean that every Republican Senator subscribes to every part of this package. To the contrary, it is likely that every Republican Senator, this one included, will disagree with some provision or another in one bill or another. But as befits the party of the open door, we have had quite a lot of give-and-take in putting this package together, and, as always, our individual Members make their own decisions about what they will endorse. But each of these bills commands overwhelming support on the Republican side of the aisle, and I want to commend not just the lead sponsors of these bills but all the Senators and staff who worked together over the past few weeks to reach the agreement and get these bills actually drafted and ready for presentation. I am going to leave it to the primary sponsors and others who have worked on the various pieces of legislation to give the details. So I am going to summarize in this time that I have today what is in this platform.

Pride of place goes to Senate Joint Resolution 1, as I already pointed out, a balanced budget amendment to the Constitution which will be introduced today by Senator HATCH, chairman of the Senate Judiciary Committee, and by Senator CRAIG of Idaho.

This one, obviously, needs no explaining. There may be still, somewhere in the hinterlands of America, a citizen who does not understand why a balanced budget amendment is desperately needed, but I doubt it. The American people keenly realize the problems caused by excessive Federal spending, and everywhere I have gone, every poll that I have seen indicates the American people support this initiative overwhelmingly.

I have tried to understand the arguments against a constitutional amendment for a balanced budget, but to no avail, quite frankly. We have not had a balanced budget in the Federal Government in 28 years, and it will probably be at least 4 more years before we get one, if then. I have watched good men and women, including Presidents, make commitments and actually have plans to get to a balanced budget, but it has not worked.

This year, I think we have an opportunity to work with the President to come to a balanced budget agreement. We will see his budget plan February 6. I hope he will show leadership and courage and will address some of the issues that need to be addressed that, frankly, he was not willing to deal with last year. But it was an election year, and, hopefully, he will approach it differently this time.

But even if we come together on a plan to get a balanced budget by 2002, I still have my doubts about whether it will actually happen if we do not have the leverage guarantee of a constitutional amendment. Remember, when we pass this constitutional amendment, it then does not go to the President for his signature, it goes to the State legislatures, to the people for their ratification.

Recent new accounts seem to indicate the administration will fight this amendment and will do it aggressively. I understand they may have some questions or objections. I expect them to make those, and we will listen to them. But this fight is not about politics, it is about the future of our children and grandchildren. It is about the burden of debt we are leaving them with, which is a cruel legacy. It is about right and wrong, and this time around, I am betting that right is going to prevail.

Because of the importance we attach to education, one of the first bills we will introduce today will deal with this area. Just like the constitutional amendment for a balanced budget is important to us because of what we think it means to our children's future in holding down inflation and holding down interest rates and stopping the continuous increase in the interest we pay on the national debt that will lead to making it more difficult for our children and grandchildren to have home mortgages and student loans and car loans, we think that education, also, is a very high priority and also an investment in the future of our country.

If we have a strong educational system, if we deal with the illiteracy problems, if we deal with the needs of children with special needs, it will contribute to a better America, better educated children, will lead to more production, better jobs, more jobs, more trade, more development in technology.

So Republicans are placing a high priority this year on education with S. 1. The first numbered bill will be the Safe and Affordable Schools Act. It will be introduced by Senator PAUL COVERDELL of Georgia, and it is a comprehensive agenda for dramatic change. It will help not only parents—and that is where it begins, in the home with the parents—but also the States and the local communities to give their children a better education.

It focuses, especially, on children attending unsafe schools, to give their families consumer rights and choice in education. In this regard, it builds on the good work that was done in the 104th Congress by the distinguished Senator from Indiana, Senator COATS, who is now presiding in the Chamber. He has done a lot of great work in behalf of youngsters, and that work is confirmed in this piece of legislation.

In higher education, S. 1 establishes what we call the Bob Dole Investment Accounts to help parents set aside the resources on their own needed for their children's tuition.

Toward the same goal, it makes the interest on student loans tax deductible, and it gives favorable tax treatment to State prepaid tuition plans, to education aid provided by an employer to encourage more employers to provide that assistance to their workers which would benefit their children, and to student work-study awards.

S. 1 will fully fund the Individuals with Disabilities Act, IDEA, as it is quite often referred to, by authorizing an additional $10 billion over the next 7 years. This is not something easily done, but it is something we promised children with these special needs and we promised the States we would do, and we have not done it.

In this legislation, we are making that commitment to fulfill that obligation. That will come as good news not only to the families with special-needs children, it will also mean a lot to the Governors and State legislatures which have been shouldering this Federal mandate without the funds to back it up.

I want to mention especially the good work that has been done by Senator GREGG of New Hampshire and Senator FRIST of Tennessee on this difficult but very important matter.

Finally, S. 1 sets up a block grant for States to promote adult education and combat illiteracy. This has been long a priority with Senator JEFFORDS, our chairman of the Labor and Human Resources Committee, and I am especially pleased it will be included in this package.

As I said earlier today at a press conference, we have been talking about trying to deal with adult education and illiteracy problems for 10 years, but we have done very little about it. This is the place where the Federal Government can be helpful in helping to fill a void that maybe the States cannot do on their own.

The next bill we will introduce today is S. 2, which will be introduced by Senator ROTH. It is the Family Tax Relief Act. It contains key provisions from the tax relief legislation of the last Congress that was vetoed by President Clinton. Senator ROTH has long worked in this area. He is the chairman of the Finance Committee. He knows his subject backward and forward, and he knows we need a fairer Tax Code. He also knows we need to give some incentives for growth in the economy, to create more jobs, to have a stronger economy.

I still maintain that when the economy is only growing at 2 percent or 2.3 percent, that is a very weak growth, and we should have it more in the range of 3 to 3.5. We think this bill will help do that.

It will offset the President's 1993 tax increases by reducing taxes over the next 5 years. Most of it will go to working families, and those are the ones to whom we think the help really should go, and most of it will go to middle-income people.

In keeping with our Republican commitment to strengthen families, the bill does create a $500-per-child tax credit for children under the age of 18. The President would like to lower that age, I understand, maybe even to 13, but if you are really trying to help families with children where they have the greatest needs, I really think it is in that bracket—14, 15. So that is how we would start it off. It would apply to some 44 million youngsters.

The bill would expand IRA's by allowing a homemaker to contribute to an IRA regardless of a spouse's participation in a pension plan and regardless of income phaseouts, and it would allow for tax and penalty-free withdrawal from an IRA for the cost of higher education, for small business startups and for long-term unemployment.

What better way to encourage people to look after themselves and address the needs of education and startups of businesses and unemployment than to encourage them to have an IRA with the tax benefits that go with it?

S. 2 would also lower the antifamily inheritance tax—I call it the death tax—which is now at confiscatory levels. When you have an estate tax that is 44 percent, or even as high as 55 percent, obviously, that is unfair.

Once again, it is hurting small businesses and farmers, as well as individuals, who work all their lives to build up a little nest egg for their children, and now many of them are selling those businesses, because they know if they don't, when they do pass on, they will have over half of what they worked for all their lives taken from their children.

Finally, this bill aims to boost savings, investments and job creation by allowing a 50-percent deduction for capital gains on assets held more than 3 years and would let people who sell their homes at a loss deduct that as a capital loss.

The next bill is S. 3, the Omnibus Crime Control Act, again being introduced by Senator HATCH. He has done work on this for a long time, including this last year. It is a comprehensive package of tough-minded steps to fight illegal drugs, terrorism and child pornography.

It continues the Republican effort to reform our prison system, to end abuses therein, both by felons and by Federal judges. In so many instances now, felons in prisons are tying up the courts with petty, very trivial allegations that take up time and cost a lot of money. We want to try to reform that area and to save some of that lost time and effort.

We aim to restore public confidence in our courts by a series of reforms that will, at last, tilt the scales of justice in favor of innocent victims of crime. This bill reauthorizes major components of the Violence Against Women Act.

The next bill is S. 4, the Family Friendly Workplace Act, to be introduced by Senator ASHCROFT would extend to all workers the same options for flextime and comp time that employees of the Federal Government have enjoyed for decades. These opportunities would be 100 percent voluntary and a matter of choice for the men and women of today's work force.

Most of those workers have to juggle the demands of their jobs and the pressures of family life. Virtually all of them, especially those with small children, want more time with their families. S. 4 will help them arrange it while keeping a full paycheck.

A landmark of bipartisanship in the last Congress was built to reform the Nation's antiquated laws concerning liability. Unfortunately, despite the best efforts of Senator GORTON and Senator ROCKEFELLER and others in forging a compromise, that product liability reform legislation again fell victim to the President's veto pen.

We owe it to the American people to try again. We need legal reform. The American people want it. They expect it. They want broad legal reform. But at a very minimum, we should do it in this product liability area where so much good work has already been done.

This bill, S. 5, will also be introduced by Senator ASHCROFT, who is now chairman of the subcommittee with jurisdiction. It gives us another chance to overhaul an unfair and inefficient liability system for the benefit of American consumers and workers.

We will, in the bill S. 6, again reintroduce the Partial-Birth Abortion Ban Act. This, too, was vetoed by President Clinton last year. But the times have changed, and as the old song says, "If times are changing, then maybe the results can be different." After the election of 1996, the Senate has changed, too.

We are hopeful this time around we will do away with this practice that I think has shamed the conscience of the Nation. I commend Senator SANTORUM, the bill's lead sponsor, and Senator SMITH for their dedication to this cause.

We will schedule this bill on the floor of the Senate for an early vote. I am sure the House will follow suit. We will send it again to the President. Hopefully, this time he will sign it.

S. 7 is the National Missile Defense Act. I am pleased to be introducing this legislation. Building on the work that has been done by Senator Dole, Senator KYL, Senator THURMOND, and others in the last Congress, it represents our commitment to the American people to secure for them, for their homes, their neighborhoods and, in fact, the country, the maximum possible protection against missile attack.

In the aftermath of the high-tech gulf war of 1990, many, perhaps most, Americans think that the Nation is already sheltered by sophisticated weapons systems like the one that protected Israel against the Iraqi scud missiles.

Don't we wish. But sadly, and potentially tragically, the truth is that in an era of international terrorism, the United States remains vulnerable to missile blackmail. So S. 7 will put our Nation back on the path toward security and toward lasting peace through unquestioned strength.

We have concerns about the environment. One of the bills that we will bring up again this year that we worked on—and we got it through the Senate after a filibuster, but it wound up getting 63 votes—was a bill that would bring to a conclusion the decision about where to have a nuclear waste site in America. We will move on that quickly.

But S. 8 is the Superfund Cleanup Acceleration Act. It offers a more efficient, commonsense approach to solving some of the Nation's worst environmental problems involving toxic waste. We have sites all over the country, hundreds of them. And yet almost—well, I will not say almost none, but very few have actually been cleaned up, I think maybe as few as 37. Yet, we have spent millions, probably a billion or more dollars. We are not getting our money's worth. This legislation is directed at doing that.

Senator SMITH and Senator CHAFEE will introduce this legislation. It would end the costly litigation that has paralyzed the cleanup effort. That is what has happened. There has been nothing but a lot of litigation and no real cleaning up where we needed it. And that has diverted basically all the resources of the program.

S. 8 returns to the original vision of the Superfund program—the protection of human health and the environment through realistic cleanup standards; economic redevelopment of affected sites; and fair treatment of individuals, small business and municipalities.

S. 9 is the Paycheck Protection Act, introduced by the assistant majority leader, Senator NICKLES, who is here. He will introduce this legislation later on. It forbids corporations and labor unions to take money from their stockholders and employees or members for political purposes without that person's expressed consent. You will note it is applicable to the corporations, to management and to the workers, so that there is protection against this type of intimidation and, in fact, the practice of taking money from dues-paying members and using it for purely political purposes.

I think it is a matter of simple justice. No one should be compelled by any organization to pay for someone else's campaigning or lobbying. Right here this is where true campaign reform starts.

Finally, S. 10, the Violent Juvenile Offenders Act is a companion bill to Senator HATCH's S. 3 and is the result of not only his efforts but those of Senator DOMENICI, Senator ASHCROFT, and Senator THOMPSON. It rests on the principle that violent juveniles must be held personally accountable for their actions.

There has been a rising increase in juvenile crime in America. We all know the stories of very young people with automatic weapons going down the street, shooting innocent people sitting on their porches. We know that many of them wind up not being tried as criminals because of their age. It is a delicate balance. But we cannot ignore the problem, and we must be, I think, stronger in how we deal with these juvenile offenders.

This bill would assure that violence and repeat juvenile offenders are treated as adults. It targets violent youth gangs, toughens penalties for violent and drug crimes, and fosters the kind of crime prevention and juvenile rehabilitation that have proven records of success.

I heard on the radio this very morning, when I was getting ready to come to the Senate, that local officials of the District of Columbia are calling out for help in dealing with gangs in this city, because just last week a young man, young boy, on his way home from school, maybe 16 years old, was accosted by a couple gang members. They wound up dragging him into the woods where they shot him, killed him. He was not involved in the dispute, but he wound up losing his life. This person on the radio was saying, do whatever is necessary. Bring in the National Guard if you have to, but we have to break up these gangs in our Nation's Capital.

Mr. President, these 10 bills, along with the balanced budget constitutional amendment, form a very ambitious agenda. It will take time to accomplish. I do not think we should put a time limit on them and say we must do them by the end of February or the end of March in each instance. We should do them as soon as we can, but we should make sure everybody has a chance to review them, make their case for or against them. Let us have full debate, but let us get it done and let us do it right. There will be adjustments and accommodations along the way, but we are trying to get started in a very positive way and offer bills we think are important for the quality of life and the future of our country.

The goal of the Senate Republicans is very clear, I think, and unchanging in this effort. It is to free the energy and genius of the American people so that they can achieve a better quality of life. The legislation we are introducing today we believe will allow them to do that—for themselves, their families and their communities—in a society that will be more secure, more prosperous and more caring.

Mr. President, I yield the floor to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time remains of the majority leader's time?

The PRESIDING OFFICER. Seven minutes 35 seconds is remaining under the majority leader's time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I would be glad to yield the remainder of that time to Senator NICKLES if he would like to go ahead and begin his comments.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to congratulate and compliment the majority leader of the Senate for his statement today, but also for his work with all of the 55 Republican Senators to put together this list.

This is a list which we have spent some time on. When I say "we," I am talking about all 55 Republican Senators, who had some input on this list. That is a little unusual. We have not done that before. We came up with 10 bills. In the past, our tradition has been to introduce five. We came up with 10.

I might mention later today, or in the next few days or weeks, we had several other bills people wanted to have in this list. But this list represents a consensus of an overwhelming number of Republicans, that these are positive things we can do, should do, and that we should pass this year.

Mr. President, let me just comment and take a second to compliment President Clinton on his inaugural address yesterday. President Clinton made two or three comments that I would like to refer to.

He said Government is not the problem, it is not the solution; the American people are the solution. I think you will find that we Republicans really do believe the American people are the solution. We have a lot of ideas for saving Medicare, saving Social Security, a lot of different things where we really want to involve the American people. I compliment the President on that. He said that Government should live within its means.

The first item that Majority Leader LOTT mentioned was a constitutional amendment to balance the budget. We have overwhelming support among our colleagues for passage of a constitutional amendment to balance the budget. We are equally serious about passing legislation to implement a balanced budget. We want that to happen. Unfortunately, President Clinton vetoed that in the last Congress. We want to work with the President. He said in the inaugural address that we should live within our means. We are going to try and make that happen. We look forward to working with this administration to make that happen.

The President also said we should put petty politics and extreme partisanship aside. He is right. This Congress, this political year, maybe in the last year or two, has become too partisan and maybe too extreme in working with the administration. It has been too partisan. It has been too extreme. We need to put that aside.

So I welcome the President's comments. I look forward to working with President Clinton in this administration to implement many of the things he talked about. A lot of things we have in this agenda are targeted toward doing exactly that.

The constitutional amendment to balance the budget has overwhelming support among the membership, and rightfully so. We should live within our means. Almost all the States have provisions in their constitution saying they will not spend more than they take in. We should follow that guidance.

President Clinton, during the campaign, said he was in favor of tax relief. S. 2, the second bill we have in our list, does provide for family tax relief. Even during the campaign, President Clinton talked of a $500-per-child tax credit. That is the foundation of our tax bill. Senator LOTT mentioned 80 percent of the tax bill we have introduced as the leadership package. We passed that last year, but again President Clinton vetoed it. He said in the campaign that he was in favor of it. We want to pass it this year and we want it to become law. We are not interested in passing legislation for legislation's sake or for political points' sake. President Clinton is not running again. We want these bills to become law because they will have a positive, real impact on American lives.

We define the child tax credit as children up to age 18. President Clinton's proposal limited it to kids under 12. We think it should include at least kids up to 18. I told some people that my kids range up to age 26. We might have an amendment to make it age 26. The bill we introduced takes it to age 18.

We provide estate tax relief. There is a small business advisory council that advises the President and those of us in Congress and they always have an estate tax relief on their list. Why? Because if you have a taxable estate right now above $600,000, Uncle Sam starts taking big bites. If your estate goes up to a million above that, Uncle Sam wants 35 percent of it. If you have an estate of 3 million, say your business is as a farmer or a rancher or a businessman, if it is 3 million above the $600,000 deduction, Uncle Sam says, "We want 55 percent of anything above that amount." Instead of protecting property, it is confiscating property. We want to reduce that, especially for small business and especially for family-owned operations. That is in our package, as well.

We have capital gains relief because we think we tax transactions too much. We actually tax transactions more than almost any of our other industrial competitors. We need to reduce the taxes on transactions. If we do so, we will have more transactions and the Government will make more money, not less money. That is in our package. We can do better with the economy.

I think we put together a good package, one that is family friendly. We have a provision that Senator LOTT alluded to called the Family Friendly Workplace Act—Senator ASHCROFT has worked hard on it—giving families the option that if they work a few extra hours one week, we think they can take off for their kids the next week. Why have good Government come in saying, "We mandate you have time off for PTA." Why not let the families and employees make that decision? So we do that. We provide much greater flexibility for families, employers and employees in this bill. It is all on a voluntary basis, where they can work a few more hours one week and take time off for whatever they desire the following week. You do not need Government's blessing to do it. They allow for compensatory time. Instead of taking time-and-a-half if they have to work an hour or two above 40 hours, if they want they can bank some time and take time-and-a-half off. If they worked 44 hours, under present law they would be entitled to 6 hours of overtime pay. If they want to keep it that way, they have the right to do so. If they would like to have 6 hours off and maybe have a day off or maybe work some other kind of combination or schedule that meets their family's needs and desires, maybe for a vacation day, maybe for more time off, maybe for time to visit their kids' athletic events, they have the right to do so without having the Federal Government enumerate that this is what you have to offer by law, and not be paid for that time. We give them, through flextime and through the comp time, the ability to have the flexibility in their schedules to meet their family's needs, all of which are different. All of our families are different. All of our families have more time demands that are at variance. This gives them that flexibility, and probably would be the most family friendly thing we can do.

We provide for a balanced budget package which will say the Government will live within its means. We are not going to spend more than we take in. Interest rates will come down. Homes will be more affordable. When we talk of family tax credits, if you have three kids under the age of 18, that is $1,500 more you get to spend as you desire. Maybe it is for education, maybe it is for food on the table, maybe it is for a home. You make that decision, because we decided it is your money, not Government's money.

Then the flextime proposal, where we are basically saying that families can make the decisions. You have the flexibility in your schedules to work out what is mutually beneficial with you and your employer.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. I see the minority leader is not here, and I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. We also have an additional provision called the Paycheck Protection Act. It is fundamentally prodemocracy. It says no person should be compelled to contribute to a political organization without their consent. That person may be a stockholder. No one should be compelled, as a condition of employment, to contribute to a political group or organization, whether that be a PAC, whether it be a union organization or what. No one should be compelled. That is what this bill says. No one will be compelled to contribute to a political organization or entity or candidate against their will. They would have to sign a written authorization form before they would have contributions taken out.

Mr. President, I compliment Senator LOTT and all my colleagues for their work in putting this list together. I look forward to working with the minority leader and others on the other side of the aisle. I know they have their agenda list. I look forward to hearing what that is, and I look forward to working with them to see if we can have several items beneficial not for Congress but for the American people.

The PRESIDING OFFICER. Under the previous order, the time is reserved for the minority leader for up to 30 minutes.

Mr. DASCHLE. Let me begin by thanking the Senator from Oklahoma for the tone of his comments. I did not have the opportunity to hear them all, but in keeping with the expressions of the majority leader and others who have indicated a desire to find ways with which to create greater harmony and greater opportunity for the country through increased bipartisanship, I appreciate very much his comments today.

PRESIDENT CLINTON'S INAUGURATION

Mr. DASCHLE. Mr. President, before I begin talking about the bills, let me make an initial comment about yesterday. We all witnessed a stirring ceremony as President Clinton and Vice President GORE were sworn in to a second term in office. President Clinton is the first Democratic President to earn a second term since Franklin Roosevelt. This is truly a historic event.

Anyone who witnessed the inaugural ceremony knows that, despite the cold weather, this quadrennial rite of American democracy was warmed by great pageantry, bipartisan good will, and a strong sense of national purpose and unity.

Yesterday's inaugural ceremony lasted a few minutes, but many weeks of hard work preceded the event. Everything from construction of the inaugural platform to ticket dispersal, security, and the traditional lunch in Statuary Hall, plus thousands of other tasks, required a great deal of preparation and attention to detail.

On behalf of Senate Democrats, I join with Senator LOTT and express my gratitude to the Joint Congressional Committee on Inaugural Ceremonies; in particular, the distinguished Senator from Virginia, Mr. WARNER, and the distinguished Senator from Kentucky, Mr. FORD, for all of their efforts toward making this such a successful inaugural event. Senators FORD and WARNER and the other members of the committee put in long hours under very tight deadlines. Time that they might have preferred to spend with family or in their home States attending to constituent matters was sacrificed for the benefit of all Americans who enjoyed this inauguration.

Senator WARNER was chairman of the Joint Inaugural Committee this year. He brought to this duty the same diligence, resolve, and reverence for the congressional rules and traditions that he brings to his job as chairman of the Senate Rules Committee. This was his first inaugural ceremony as chairman, and he should be commended for a job well done.

This is the fifth time Senator FORD has served as chairman or vice chairman of the Inaugural Committee. Like everything he does as Senate Democratic whip, ranking member of the

Rules Committee, and senior Senator from Kentucky, Senator FORD once again approached the responsibility with great humor and tenacity and a deep respect for our best American tradition. Senator FORD is as dependable and dedicated a public servant as anyone who has ever served in this great institution, and all Americans owe a debt of gratitude to the citizens of Kentucky, who have asked him to serve in the U.S. Senate.

I also express my thanks to the other members of the committee for their hard work. A special thanks goes to the leader, as well as to others in the House who made this whole event the success that it was yesterday. Many officers and employees of the House and Senate, along with representatives from the executive branch, assisted these congressional leaders in this enormous but ultimately successful task.

All who contributed to this historic event should be proud of their efforts and know that their country on this day after the inaugural is very grateful.

SENATE DEMOCRATS' AGENDA

Mr. DASCHLE. Mr. President, as we begin the first session of the 105th Congress, American families are asking some difficult questions, most of which seek answers affecting their lives directly. How am I going to put my kids through college? How do we pay the doctor bills if the kids get sick? Will I have enough money when I choose to retire?

Our challenges this year ought to be to provide the answers to those questions. As we do, we all recognize the limits of Government, and we should all recognize the unlimited potential of achievement through bipartisanship. Everything important which we accomplished in the last Congress—health care reform, the minimum wage increase, mental health equity—was accomplished only when we realized that only by reaching across the aisle in an effective way, passing legislation with overwhelming bipartisan support, could we ultimately send the right message to the American people—that we hear them and we want to respond to the problems affecting their daily lives. If we remember that lesson and pick up in this Congress where we left off in the last one, then we can make this not only a productive Congress, but a historic one.

We can, in this Congress, pass a budget for the remainder of this century, a plan that eliminates the deficit and invests in our people and their potential, so that the 21st century will be another American century. If we work together, we can answer those questions that worry Americans most, but we must find a way to do what the President said yesterday and what I heard the leader talk about just now—work together.

Cooperation is in the best interest of the American people, and, frankly, it is in our own self-interest. Good Government is still good politics. Since the election, there has been a good deal of rhetoric from both sides of the aisle, from both Houses of Congress, from the White House, expressing an interest in dealing with the 105th Congress in ways that are dissimilar to those dealt with in the 104th. We have heard the rhetoric. Now we have to demonstrate with our deeds whether or not that rhetoric will be true, whether or not the sincerity of our rhetoric will actually match the sincerity of our work.

We can use the issues that we will lay out and describe today as wedge issues, issues that divide us; or we can use those same issues as issues that unite us. That will be our choice. Again, today, there will be rhetoric. Again, today, we will hear from both sides about the importance of trying to find common ground. The question is, will we find it? And if we do, how will we?

Today, I offer the Senate Democrats' priority legislation for the 105th Congress. This is our agenda. The Families First agenda is neither radical nor revolutionary. Instead, it is moderate. In our view, it is achievable. Our agenda starts with the fundamental premise that our political system can't work if people believe the system is rigged against them. Yet, more and more Americans believe that. More and more Americans have chosen not to go to the polls. At the very time we need more involvement, their response to what they see is to stay away—and not without reason. So we are proposing as our first bill comprehensive campaign finance reform.

The problem with the current system isn't limited to soft money or hard money, corporate money or PAC money, your money or my money; the problem is that there is too much money, period. And it is getting worse with every election. The truth is, there are no limits anymore, given the Supreme Court decisions.

I have enormous respect for Senators FEINGOLD and McCAIN. There is much in their proposal that I admire and I think we should adopt. In my opinion, their bill should provide a way with which we come together to find common ground. But it does not go as far as I would like it to. We need to limit spending, special interest influence, and level the playing field for all candidates.

S. 11 establishes voluntary spending limits, and it gives candidates incentives to live within those limits. It reduces television and postal rates. It also restrains soft money and PAC contributions. It toughens restrictions on foreign contributions and extends election laws to cover so-called independent expenditures.

I know that any talk of spending limits raises constitutional questions. So, in addition, Senator HOLLINGS and I will offer a constitutional amendment that will allow Congress to set reasonable limits on how much people can give and spend in Federal elections. I hope, Mr. President, that we will even consider proposing the issue to the Supreme Court again.

There was an article recently in the op-ed pages of the Washington Post, stating that a case could be made that what we need to do is revisit this in this Supreme Court, to test the constitutional limits they have proposed in Buckley versus Valeo. Whether we accept the decisions made in Buckley versus Valeo, and other subsequent decisions, however we decide to do this, the question is this: Can we get campaign spending under control? I believe the answer is yes. I believe we must do that in this, the 105th Congress.

In the last 10 years of debate on campaign finance reform, Congress has produced 6,742 pages of hearings; 3,361 floor speeches, not including this one; 2,748 pages of CRS reports; 1,063 pages of committee reports; 113 Senate votes dealing with campaign finance reform, and 1 bipartisan Federal commission. We have had 522 witnesses; 49 days of testimony; 29 sets of hearings by 8 different congressional committees; 17 filibusters; 8 cloture votes on 1 bill; 1 Senator carried to the floor by the Sergeant at Arms and forced to vote on campaign finance reform, and 15 reports by 6 different congressional committees. That is just in the last decade.

There is only one thing left to do: Enact campaign finance reform now. Now. We should do it in the first 100 days of this Congress so that the new rules are in place by the next election.

Mr. President, that is S. 11, our very first bill, and it is first because I speak with virtual unanimity within our caucus about the need to address this issue. I know there are concerns expressed and felt deeply by Members of the other side. This ought not be the wedge issue I described a moment ago. This ought to be a bridge issue.

Let us build that bridge to allow us success in dealing with it soon.

Our second bill is aimed at increasing the income of American families and the competitiveness of American business by investing in education. According to the Bureau of Labor Statistics, 60 percent of all jobs created between now and the year 2005 will require education beyond high school. Yet, every year fewer families can afford the tuition. In the last 10 years, the cost of public college education has increased 23 percent. It is even worse in private colleges: 36 percent.

For the average family, the cost of sending one child to college is now 14 percent of total family income. The average debt load for a South Dakota college student is up by one-third just since 1991. Eighty-five percent of South Dakota's college students today are on financial aid. That is right; 85 percent rely on college aid in order to go to school in my home State of South Dakota.

Our bill, the Education for the 21st Century Act, includes the President's proposal to create a $1,500 Hope scholarship for the first 2 years of college. The Hope scholarship is a refundable tax credit. It will pay for more than the full college cost of tuition at most community colleges, or it can be used as a substantial downpayment at a more expensive 4-year school.

Our bill also includes the President's proposed $10,000 per year higher education tax deduction for families with incomes up to $100,000. In addition, we propose a new partnership to help communities repair and replace schools that are overcrowded, obsolete, and even dangerous. According to the General Accounting Office, one-third of all schools today in this country need extensive repair or replacement. Over 30 percent of the schools in this country are unsafe today for children to inhabit and obtain the education they deserve. Sixty percent of schools have at least one major problem, like a leaky roof or crumbling walls.

Schools have always been and should remain a local and State responsibility—and I emphasize that. But the enormity of the problem, an estimated $112 billion nationwide, demands a partnership that includes a role by the people of the United States at the Federal level. Our bill reduces the interest rates for new school construction and repair by up to 50 percent. The interest rate reduction is equal to subsidizing $1 out of every $4 in construction and renovation spending.

We support the President's proposal to make sure that every child can read—and read well—once those schools are built and repaired, by the time he or she finishes third grade. One of the best predictors of whether a child will eventually graduate from high school is whether he or she can read by the end of the third grade. Yet 40 percent of fourth graders—40 percent—fail to attain even the basic level of reading on the National Assessment of Educational Progress test. Isn't that amazing? Four out of every 10 children today when they reach fourth grade cannot read at the level that will largely determine their ability to learn for the rest of the years they are in elementary school.

Let us resolve in this Congress to increase those numbers dramatically. Let us accept the President's America Reads challenge. Let us also make sure that our young people master the new literacy by connecting every school in America to the information superhighway by the year 2002.

This is our education bill. We applaud our Republican colleagues for joining us in the last weeks of the last Congress to support education, and we look forward to working with them to pass these proposals as well.

Our third bill builds on an important, bipartisan victory from the last Congress, the Kennedy-Kassebaum health bill. Kennedy-Kassebaum was a huge step in the right direction. Yet, a record number of Americans, over 40 million, are still without health insurance, and that includes 10 million American children. In my State of South Dakota alone, more than 17,000 children have no public or private health insurance. In fact, children are one of the fastest growing groups of uninsured. Each year more and more children lose private health coverage. And this trend is almost certain to continue as employers continue to reduce their health insurance costs by dropping dependent coverage for their workers.

These are not children of America's poorest families. Fortunately, they have Medicaid. A majority of uninsured children are from two-parent families where one or both parents work full time. It is unconscionable that a parent could work 40 hours a week 52 weeks a year and still not be able to buy basic health coverage for his or her children.

So today we are introducing a bill to make private coverage for children available to working families. The Children's Health Coverage Act of 1997 will provide tax credits to help working families purchase private coverage for their uninsured children. Our bill includes coverage for pregnant women because we know that the quality of prenatal care can have lifelong effects. The tax credit would cover most of a private health insurance premium for the lowest-income families and decrease on a sliding scale for families with higher incomes.

To stimulate competition for children's health insurance, we require that insurance companies that do business with the Federal Government—through Medicare or Medicaid or the Federal Employees Health Benefits Plan—to develop children's-only policies. We seek to build upon, not replace, the current employer-based health insurance system. Our bill, therefore, includes provisions to deter employers from dropping coverage for children of workers who qualify for this new credit.

Insuring children is good social policy, but it is also good economic policy. It costs about $20 for a doctor's visit to treat a child with strep throat but thousands of dollars to hospitalize a child whose untreated strep throat eventually develops into rheumatic fever. Studies show that having a regular source of care cuts child health care costs significantly. So the modest cost of this program will pay for itself many times over and reduce health care costs down the line.

Some of my colleagues favor a slightly different approach. Senators KENNEDY and KERRY favor providing families with vouchers rather than tax credits to pay for their children's health care. These are differences in strategy only, Mr. President. I could support that approach, as I could the approach I just described. Democrats are united in their determination to take this next modest step in health care reform.

The United States is the only major industrialized country in the world that does not guarantee health coverage for children. Let us work together in this Congress to erase that ignoble distinction.

Our fourth bill seeks to increase Americans' retirement security. More than 51 million Americans today—half the private work force—do not have a pension. Only one-fifth of South Dakota's small business employees currently have pension plans. Last year, in the bill that contained the minimum wage increase, we passed laws that help expand pension coverage to an additional 10 million workers.

But so much more remains to be done. Because of a loophole, more than 32,000 large pension plans covering 23 million Americans—and containing more than $1 trillion in assets—are still not effectively audited. The Retirement Security Act we are introducing today strengthens the accounting requirements for those funds.

Our bill also requires employers to diversify the savings of employee investments in 401(k) plans just as they must for more traditional kinds of plans so the bankruptcy of one company cannot devastate a pension plan. For multiemployer plans, which typically cover union members, our bill increases the Federal guarantee available should a plan become insolvent. The benefit level has remained flat since the creation of the program in 1980. Five million workers with pensions change jobs every year. Our bill provides those workers with new protections so they don't lose the money they have invested in a pension when they change jobs or leave behind an investment whose value will erode over time. It will do that by reducing by 2 years the time it takes for a worker to become vested.

In addition, we will build on some of the pension reforms we passed last year. Last year, by eliminating a lot of the red tape, we made it easier for small businesses to offer pension plans. This year, let's make it easier still by providing them with start-up costs.

Last year, Congress removed the restriction that kept spouses who don't work outside the home from taking full advantage of IRA savings opportunities if the other spouse was covered by an employer's pension plan. This year, we want to remove that restriction for spouses who do work outside the home.

Last year, we made it easier for women to collect pension benefits they are legally owed through a spouse or former spouse. Yet, 60 percent of women working in the private sector still lack pension plans. And, women's pensions benefits, on average, are only about half of men's benefits. Let's get rid of those inequities.

We are committed to keeping Social Security and Medicare solvent—and we will. But Social Security and Medicare were never intended to serve as retirement plans, only supplements to such plans. Let's agree in this Congress to give Americans the tools they need to retire with dignity. We can do it, if we work together.

Our fifth bill is aimed at two of the deadliest epidemics affecting young people. Those are the twin epidemics of drug abuse and violence.

Crime and drug use among adults are down. But juvenile crime and drug abuse is accelerating. Over the last decade, drug-related juvenile crime in this country more than doubled. And youth violence—particularly homicide committed with guns—skyrocketed.

We must reverse these deadly trends. Income security and retirement security don't really matter if we don't have personal security—if we're constantly afraid for ourselves and our families.

Our Youth Violence, Crime and Drug Abuse Prevention bill includes three main parts. First, we will build on the successes of the 1994 Crime Act by continuing the COPS program for two additional years and putting 25,000 more cops on the beat.

Second, our bill invests in crime and drug abuse prevention. It extends the Safe and Drug Free Schools Program. It expands existing drug courts, and creates new juvenile drug courts for first-time, non-violent drug offenders. Anyone convicted in drug court has a choice: mandatory treatment, or mandatory jail.

Our bill also offers incentives for private industry to invest in research and development in medicines to treat heroin and cocaine addiction. And, it reauthorizes the Office of National Drug Control Policy; if we're going to fight a war, we need a "war room."

Prevention and treatment are essential. But for youthful offenders who are repeat, hardened criminals—for those who commit the most heinous acts—it's time to make the punishment fit the crime. That's the third part of our bill.

Our bill changes federal law so that violent juvenile offenders no longer are automatically released when they turn 21.

We require all juvenile offenders to pay restitution to the victims of their crimes, and ensure victims' rights to speak at sentencing.

We give States the resources to hire more prosecutors for juvenile courts. And create special juvenile gun courts where juvenile gun offenders can be tried and sentenced on an expedited basis.

Our bill toughens penalties for possession of a firearm in connection with a violent or drug-trafficking crime. It extends to 10 years the statute of limitations for all crimes of violence and drug trafficking. And it eliminates the statute of limitations for all murders.

Finally, we propose tougher penalties for gang-related crimes.

The sixth bill we are introducing today is the Cattle Industry Improvement Act.

Cattle prices are lower than they've been in years. If prices don't rebound in the immediate future, farm foreclosures, job layoffs by agriculture-related businesses and bank failures could occur across rural America.

A special committee appointed last year by the Department of Agriculture to look into the causes of the low cattle prices confirmed what many ranchers had long suspected: Low cattle prices appear to be tied in some cases to unfair competition posed by the largest beef processors.

Our bill enables USDA to make changes in the cattle market to give all producers—large and small—a chance to make an honest living and compete fairly in the marketplace.

It requires the Secretary to define and prohibit noncompetitive practices. It mandates price reporting for all sales transactions to ensure a fair and honest price discovery system.

Our bill also calls for a review of Federal lending practices to determine if the Government is contributing to meatpacker concentration.

In addition, it directs the President and the Secretaries of Agriculture and Health and Human Services to formulate a plan for consolidating and streamlining the entire food inspection system.

And it requires the USDA to develop a system for labeling United States meat and meat products. Companies will be encouraged to voluntarily label their products as originating from United States livestock producers.

The ultimate result of stifled competition in any market is always higher prices for consumers. Let's act together to make sure competition in the cattle industry remains fair and open.

These are the top six priorities for Senate Democrats as we begin this new session of Congress: Campaign finance reform, education, children's health care, pension security, juvenile crime and drug abuse, and a strong rural America. We are also introducing a number of other bills today.

Our Working Americans Opportunity Act streamlines and improves Federal worker training programs to keep pace with our changing economy. We consolidate more than 150 Federal job training programs over 14 agencies. And we put training dollars directly into workers' hands through a voucher system to give people more choices, and more control over their own futures.

We're also proposing a Targeted Investment Incentive and Economic Growth Act. This country does not need and cannot afford another across-the-board tax cut that provides a windfall for the wealthy. Instead, we propose targeted tax changes to both raise the rate of economic growth and spread its benefits to increasing numbers of Americans.

We will encourage investment in small businesses and innovation by allowing gains on the sale of small business stock to be deferred if they are fully reinvested in other qualifying small business equities. And by expanding the 50 percent exclusion on gains from the sale of small business stock held for at least five years that we enacted in 1993.

In addition, our bill will stimulate investment in other activities that propel job creation and family incomes, such as worker training by companies, employee ownership, and infrastructure. It will also free up capital for investment and promote retirement security by giving people more flexibility in the way they manage the gains on their homes and family farms and businesses.

Our Brownfields and Environmental Clean-Up Act will help clean up and develop thousands of abandoned and contaminated industrial sites, or "brownfields," across America.

Our bill helps States and communities evaluate these sites. It limits potential liability for buyers who buy these brownfields in good faith, so they don't end up paying for someone else's mistakes. And it provides grants to State and local governments to create low-interest loans for current owners and prospective developers. It is not a substitute for Superfund reform, but a companion to it.

There are an estimated 100,000 brownfields in the U.S. Most already have well-developed infrastructure of utilities and transportation. By restoring these lands, we can conserve precious farmland and open space, and create new jobs and opportunities where they're needed most.

Our Working Families Child Care Act increases the availability of good, affordable child care. For too many families today, child care is simply not available in their community. Or, the child care that is available is not what they need—be that infant care or before and after school care. For other families, child care may be available but completely unaffordable. The cost of child care is often the most expensive—or second most expensive—monthly bill a family incurs, following rent or mortgage payments. And for those families who are lucky enough to find affordable child care, the type of care that is available may be of extremely poor quality.

I hope we can work together in a bipartisan manner to address the child care needs of today's working families.

Also in our package is a bill to make America's agricultural safety net whole again by correcting some of the problems with the Farm Act we passed last year. Our bill expands crop revenue insurance. It removes caps on commodity marketing loans, and establishes loan rates as a percentage of the average market price. And it encourages farmer-owned, value-added processing facilities.

Finally, we are offering the Paycheck Fairness Act to address the continuing wage disparities between men and women. With more and more families relying partly or entirely on women's earnings, America simply can no longer afford this often glaring inequity.

If there was a mandate in the last elections, it was a mandate for bipartisan cooperation. The American people want us to work together, as we did in the closing days of the last Congress, to find answers to their questions.

We can break the grip of special-interest money on the political process.

Family incomes have been stagnant too long. We can get them moving in the right direction again.

We make 2 years of college the new standard for education in this country.

We can guarantee that every child in America is able to see a doctor—and save on health care costs in the long run.

We can significantly increase the number of Americans who are able to retire with dignity and security.

We can make our communities safer and preserve rural America. We can help small businesses to create the jobs of the 21st century and help workers acquire the skills that will be demanded by those jobs.

We can do all of this, and more, if we work together. Democrats are ready to start today. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Under the previous order, the next 60 minutes will be under the control of the majority leader or his designee.

Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UNANIMOUS-CONSENT AGREEMENT—BILLS PLACED ON CALENDAR PURSUANT TO RULE XIV

Mr. HELMS. Mr. President, pursuant to rule XIV, I shall shortly send to the desk eight bills to be considered en bloc and considered to have been read for the first time and be objected to following their second reading en bloc. I ask unanimous consent that be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, I send the bills to the desk. I ask unanimous consent that the statements with each be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, today I will introduce a series of eight bills to: First, restore the right of our children to pray; second, restore the rights of the unborn; third, strengthen the penalties for drug dealers and violent acts of crime; fourth, restore the supremacy of the individual over Government-imposed quotas; and fifth, protect the constitutional right to hold and express moral beliefs.

Mr. President, our traditions, our children, and our institutions which made this country great, are all under assault. They are not threatened in the military sense—instead they are threatened by moral decay. This Nation simply must regain its moral footing.

We are less than 4 years away from a new century full of promise for this great country. New technologies abound and unprecedented discoveries in medicine are within our grasp. Yet, if America is to continue to prosper in the next century, Americans must retain the values and traditions established by our Founding Fathers.

Since the beginning, America has been protected by the moral foundations on which she was established. Values like personal responsibility, liberty, respect for human life, and an abiding faith.

These values have made America a shinning beacon on a hill and the envy of the world.

Sadly though, we have seen a steady erosion of these values and beliefs. This raises a significant question: Where are we headed? Quo vadis America?

Mr. President, I believe we are in a battle—in the sense that we are engaged in a struggle for the soul of America. The moral decay has also chewed away at the institution of the family and led to soaring rates of illegitimacy and drug abuse.

The liberal establishment has turned a blind eye to what has been going on in America. Their supporters from the Hollywood crowd to Planned Parenthood set forth an agenda that eroded the values of this country.

We live in an era when it is fashionable to pretend that our Founding Fathers did not build this country upon biblical principles.

Mr. President, on September 7, 1864, Abraham Lincoln thanked a group of citizens for a Bible he was given saying, "In regard to this Great Book, I have but to say, it is the best gift God has given to man. All the good the Savior gave to this world was communicated through this book. But for it we could not know right from wrong."

It is imperative, that as we look to the next century, we not forget what brought us to this point in history—the faith and ideals of our forefathers. Alexis de Tocqueville, after traveling throughout this country, found the source of America's strength. He stated that America's greatness lies in its churches and synagogues.

Mr. President, the legislation that I will introduce today will go a long way to ensuring that America's foundations remain secure.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Under the previous order, the bills will now be placed on the calendar pursuant to rule XIV.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE and Mr. SMITH pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

(The remarks of Mr. COVERDELL pertaining to the introduction of S. 1 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Utah is recognized.

(The remarks of Mr. HATCH and Mr. CRAIG pertaining to the introduction of Senate Joint Resolution 1 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. HATCH pertaining to the introduction of S. 3 are located in today's RECORD under "Statements and Introduced Bills and Joint Resolutions.")

(The remarks of Mr. HATCH pertaining to the introduction of S. 10 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATCH. Mr. President, I also want to note that I have filed three other bills today; in particular, the Curt Flood Act of 1997, which is the baseball antitrust bill that I believe now is coming to fruition, which is something that we have tried to do for a long time. We have named it after Curt Flood, who died a day or so ago, and who really deserves the recognition because of the fights that he led on this act in organized baseball. That is S. 53.

We have also filed S. 54, which is the Federal Gang Violence Act of 1997, a bill by Senator FEINSTEIN and myself. She has worked very hard with me and others on the Judiciary Committee, and we certainly want to mention her sterling work on that bill.

Finally, the Civil Justice Fairness Act of 1997, which is already introduced.

(The remarks of Mr. HATCH pertaining to the introduction of S. 53 and S. 54 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATCH. I thank the Chair. I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

(The remarks of Mr. ASHCROFT pertaining to the introduction of S. 4 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. ASHCROFT pertaining to the introduction of S. 5 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

(The remarks of Mr. MACK pertaining to the submission of Senate Resolution 15 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. Under the previous order, the minority has 1 hour under their control. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Chair.

COMMITMENT TO YOUNG PEOPLE

Mr. KENNEDY. Mr. President, first of all, I rise to express appreciation to our leader, Senator DASCHLE, who has over the period of these recent weeks and months been working with many in our caucus and I know will be working closely, as well, with those on the other side of the aisle who are really interested in this Nation's commitment to the young people of this country in the field of education.

I think all of us who have had the opportunity to travel through the country, certainly in my travels around Massachusetts over this last year—no matter where we traveled—heard the concerns that parents had about access and availability in areas of education as one of the paramount issues.

The President has addressed those concerns by recommending a tax credit, also a $1,500 tax deduction, and some $10,000 that will be helpful to working families. Also included in the Daschle proposal are recommendations that we consider the interest on the debt for education in the same way that we would consider interest on the debt for machinery or the manufacturing industry assets, in being able to provide some deduction for those expenses as well.

That effectively, Mr. President, is to respond to the President's commitment to the American people to make the next two grades beyond the 12th grade—13th and 14th, the first 2 years of college—accessible and available to the young people in this country, so that future generations will be able to say that we, as a nation, during this Congress, have committed this Nation to the next two grades in the area of education.

I think this is a bold commitment. I think it is a dramatic enterprise. I think it will take the best judgment of all of us to achieve and accomplish this. But, nonetheless, as we understand it, the President's budget that will be submitted in the next 2-week period will demonstrate the funds that will be necessary to achieve it, and we will be able to say, in effect, when we actually legislate these proposals, that they are effectively paid and paid in full. That will be very, very important and a significant commitment to the young people of this country.

Included in the education proposal, Mr. President, are a number of other items which I think all of us should be able to embrace and endorse, and these have been outlined by Senator DASCHLE, I have been informed, earlier during the course of the day.

There will be commitments in terms of additional new technologies for our young people in schools across this country, to make sure they are going to be able to take advantage of the latest in technology and also resources to make sure we are going to be able to train teachers so that they will be able to be well-trained and able to impart to the younger people of this country the skills that young people will need to be able to use these technologies.

It will be a modest program, but an important program, that follows the leadership of CAROL MOSELEY-BRAUN, to try and give focus and attention to many of the schools in local communities across the country that are in very dilapidated conditions. That is true for most of the older cities of this country. It is true in my own city of Boston. It is true in many of the older communities of my State—Lowell, Lawrence, New Bedford, Fall River, Springfield, Worcester, and many others. It is equally true in many of the large urban areas.

This is a very modest program, but a very innovative and creative program about leveraging limited financial resources to address those particular needs in a modest way. Hopefully, we will be able to bring additional support for continuation of that program into the future.

A very important continuing commitment to literacy and expanding the opportunity for children to read in our society so that we can achieve the goal that children who have reached the third grade will be able to read in a rather creative way is using the funding that will be allocated in the various competitive grants in ways that the young people of this country are going to be able to read and to really challenge the young people in our Nation, many who are going to schools and colleges, to help and assist with that undertaking, and to challenge American people, in general, to help and assist young children in this country.

These are some of the elements of it. There are a number of others which are important, but I have summarized it, Mr. President. I hope that we will be able to move ahead in the area of education. It is extremely important.

At the end of the last session, we did move forward in terms of funding various programs. We are going to have to find the funding for these programs and also for the increased number of children who will be going to high school. We are seeing an increase in total student enrollment, and we want to make sure that their particular needs are going to be attended to, as well. I think that is very important. That is something I know Senator DASCHLE has addressed, and I know that the President's program will address it.

Hopefully, we will have broad, broad bipartisan support. For so many years in this body, the support for education was broad-based and bipartisan. It is bipartisan and broad-based in the country, and we should try and find ways to maintain that in the Congress and Senate.

Second, Mr. President, is an area that I consider of enormous importance and that is to address the needs of 10½ million children who are uninsured today. Ten and a half million will be uninsured over the course of a particular year. The leader has outlined approaches to addressing this issue.

There is a rather dramatic definition of who those children are, Mr. President. Children are the fastest growing segment of the uninsured population. It is a rather dramatic phenomenon. They are the ones who are being dropped from coverage in the current insurance system. Nine out of ten of the 10.5 million children who are uninsured have parents who are working.

We have the Medicaid Program which addresses the poorest children in this country. I welcome the fact that the administration is going to try and be more creative and imaginative in terms of reaching many of those children who are eligible for Medicaid. These children are desperately in need of a healthy start and are not receiving it today. But we are talking about the next level; that is, the sons and daughters of working families. These are men and women who go to work every day, they play by the rules, 40 hours a week, 52 weeks of the year making America work. They are the backbone of so much of what is right in our society, but their children are being left out and being left behind.

The figures and statistics are a fierce indictment of what is happening in our society. As one of the major industrial nations in the world, we still have one of the highest infant mortality rates. We are 17th among the industrial nations of the world.

More than half of all uninsured children with asthma never see a doctor, with all the implications that has, in terms of a child's future development and growth. As the father of a son who now happens to be a Congressman who had chronic asthma when he was a child, it is unbelievable to me the difficulties that he had in terms of coping with the problems of asthma. I do not know how he would have coped unless he had been able to get important medical attention.

We know one out of three uninsured children who have recurring ear infections never see a doctor. There are significant increases in the number of ear infections and the number of children who are going deaf in our society from preventable diseases. And the list goes on.

The final point that I want to make in this area, Mr. President, is that expanding coverage for children is wise economic policy.

We are always going to have to come back to justify this from economic means. We all know for every dollar that is invested in immunization, the savings are $5 to $6. That is true in terms of the investment in children's health. It is true certainly in terms of providing the kind of prenatal care that would be included in this program for expectant mothers. That is an exceedingly wise investment.

There are different ways of funding this proposal, Mr. President. My principal interest and I believe all of ours is to get the job done. I will introduce legislation that will ensure that all working families can afford to purchase private health insurance for their children. I support an increase in the tobacco tax to cover this cost because of the relationship between tobacco and children's health. A number of our States are moving forward in terms of addressing the issues of children's smoking and all of the implications that has as a gateway drug. The States know that curbing smoking among young people is a sound and wise way to proceed.

But there are alternative ways to fund this program. I have every intention of working with our leader and those on the other side of the aisle to try and find alternatives.

Our principal interest is getting the coverage for these children. If we achieve very little else in this Congress we should cover our children. We should move in those areas, and also move in the areas of coverage of pensions for working families. We need to make steps in the area of pensions when we realize that close to 60 percent of all working families do not have any pensions at all and that there is an increasing number of working families that do not have pensions.

We are all thankful about Social Security. We know we have challenges that have to be addressed in the areas of ensuring its financial integrity over the period of the years but that is basically a program to prevent people from living in dire poverty. What we are talking about are those working families that have a standard of living who have been participants in our society, in so many instances served in the Armed Forces, want to be part of a pension system, and are not part of it because of various complications that have existed out there. We ought to make it easier for them to participate, encouraging employers as well as employees.

I would say in this area, Mr. President, no one has a greater interest in this area of pension coverage than women in our society. They are the ones that often are the part-time workers. They enter and leave the work force to meet various family needs and family requirements. And they are the ones, if you identify any group, are the ones that are left out and left behind in terms of a national pension system.

We have to be more responsive to their particular needs. And I commend the work that has been done on this by Senator BOXER and CAROL MOSELEY-BRAUN and DIANNE FEINSTEIN, PATTY MURRAY, BARBARA MIKULSKI, and many in our caucus that have provided important leadership in this very important area.

Finally, Mr. President, I want to mention one area that working families are very much concerned about. These themes are all related to security for working families. What is more important for working families than they are going to be able to make sure that their children are going to get covered? What is more important for working families than making sure that their children are going to be able to continue in the areas of education? What is more important for working families than if they are going to be able to look to the future with some degree of hope and opportunities and some degree of security with the pension reforms?

I just mention, finally, unfinished business as part of our immigration law last year. We are working to ensure protection for American workers, for American jobs that are being replaced by foreign workers who are displacing those American workers, not being paid the adequate kind of salary, given the decency in terms of benefits. They are replacing an American worker in the first place and then because they are doing that at much less of a wage, much less benefits, being able to be competitive to the disadvantage of other Americans with whom they might be competing in producing widgets, for example, and therefore seeing other Americans that are going to lose their jobs.

There are two basic and fundamental concepts that underlie our basic problems with the issues of immigration—one is addressing the needs at the border in terms of halting illegal immigrants that are coming here and, second, addressing the magnet of jobs—the magnet of jobs.

If you look at the Jordan study, if you look at the Hesburgh study on what is the key issue in terms of attracting immigrants, illegal immigrants, immigrants that are going to abuse the immigration system, you will find out it is jobs. Unless we are going to make sure that Americans are not going to have important jobs, and we are talking about hundreds of thousands of jobs a year in many instances—we have really failed on the other extremely important effort in terms of immigration reform. We had important provisions in the immigration bill last year that Senator SIMPSON supported, many of us supported. Those were dropped in the conference. We will come back to that particular issue in this year.

HEALTH CARE IN THE 105TH CONGRESS

Mr. KENNEDY. Mr. President, if we act on health care in a spirit of bipartisanship this year and build on the accomplishments of last year, the new Congress can be the Health Care Congress.

There are several significant health care goals that this Congress can and should accomplish:

We should expand health insurance coverage for children and the unemployed.

We should deal with the serious problem of abuses by HMO's by adopting needed patient protections and standards for care.

We should put Medicare on a sound fiscal footing for the next decade, without dismantling the program or adding to the already high health care costs that burden senior citizens.

We should protect Medicaid, as we did last year, against any attempts to undermine protections for children, senior citizens, and the disabled.

The final months of the last Congress were a period of considerable accomplishment. We finally broke the long stalemate over health care reform. We passed a health insurance reform act. We made a start toward long-overdue parity for mental health coverage. We put an end to the insidious practice of drive-through deliveries, by guaranteeing newborn infants and their mothers a 48-hour stay in the hospital if they need it.

The Health Insurance Portability and Accountability Act of 1996 ends some of the worst abuses in the current insurance system. It guarantees that, as long as you faithfully pay your premiums, your insurance cannot be taken away—even if you become seriously ill, or change your job, or lose your job. In addition, insurance companies can no longer impose new exclusions for pre-existing conditions, as long as you do not let your insurance lapse.

The legislation on mental health parity was a first step toward the day when those who suffer from mental illness will receive the care they need and deserve. The ban on drive-through deliveries is a wake-up call to unscrupulous health plans that exalt profits over patients' needs.

Now, we have a new Congress and a new opportunity to build on these achievements. The crisis that put health care on the front-burner of public policy has not gone away. In fact, it has become worse. Between 1990 and 1994, the number of uninsured Americans rose from 34 to 40 million, and it continues to climb.

A quarter of the uninsured—over 10 million—are children. One in every seven children in America today have no health insurance. Almost all of these children have parents who work. Cutbacks in employer coverage are worsening this problem, as more and more employers decide to cut costs.

Many firms are shifting from full-time to part-time employees. Others are contracting out work to firms that typically don't provide benefits. Large employers with generous benefits are reducing the number of employees eligible for the benefits. Other employers are dropping coverage for early retirees, or even all retirees. Cost-sharing is going up, and coverage of spouses and children is going down. Every 35 seconds another child loses private insurance. Parents should not have to live in fear that their employer's failure to provide coverage will deny their children good health care.

Every Member of Congress knows that those who are uninsured or underinsured can see the savings of a lifetime swept away by a single serious illness. Every Member of Congress knows that those who are uninsured are vulnerable to financial catastrophe, and are too often denied the timely, quality care they need to avoid disability or death. Children in particular often suffer premature death or a lifetime of unnecessary suffering because they lack the access to quality care that insurance provides.

All children deserve the health care they need for a healthy start in life. Every family deserves the security of knowing their children will get the health care they need. Unfortunately, too many American children lack that care, and too many families lack that security.

Uninsured children are less likely to see a doctor regularly. As they grow, they tend to receive little or no treatment, even when they need it for injury or illness. If the case is serious enough, they go to the hospital. The only family doctor they know is the hospital emergency room.

More than half of uninsured children with asthma never see a doctor. A third of uninsured children with recurring ear infections never see a doctor, and many suffer permanent hearing loss.

Providing health care for children is sound public policy and also sound economics. It's an investment in the future. Dollars spent immunizing a child or providing prenatal care can save hundreds or even thousands of dollars in future medical costs.

At the end of the last Congress, Senator JOHN KERRY and I introduced a program to make private health insurance coverage accessible and affordable for all children through age 18. Working families will have the financial assistance they need to purchase such coverage, including care for pregnant women, so that every baby has a healthy start in life. We intend to reintroduce this legislation with other Members of the Senate early this year. A similar plan is being introduced today by Senator DASCHLE, and I am hopeful action in this area will be high on the agenda of both parties.

The legislation that Senator KERRY and I intend to offer will make Federal assistance available to the States on a sliding scale to help families purchase health insurance for their children at group rates, if they do not already have coverage under an employment-based plan or an existing public program. The covered benefits will include in-patient, out-patient, and preventive care—all comparable to the coverage available under good group health plans.

The plan does not guarantee that every child will have insurance coverage. But it will give every family the opportunity to cover their children at a cost the family can afford.

I hope this program will receive broad bipartisan support. The Health Insurance Reform Act passed by the last Congress was based on the common elements of proposals that had previously been introduced by Republicans and Democrats alike. Our current plan for coverage of children also meets that test. Every Republican proposal and every Democratic proposal introduced in the first 2 years of the Clinton administration expanded coverage by providing financial assistance to low and moderate income families to purchase private insurance. Almost all of these proposals included extra assistance to purchase children's coverage. Members of Congress on both sides of the aisle recognize the importance and priority of covering children.

Our legislation establishes no Government mandates. It relies on the private sector to provide insurance and deliver care. It imposes no price controls. It builds on the efforts of 14 States that already have similar programs in place.

Our plan will be financed by an increase in the tobacco tax, because that tax is an especially appropriate means of funding children's health coverage. Society pays dearly for the health costs of smoking. We know that the tobacco industry is targeting children. If children start smoking, the industry will live. If children stop smoking, the industry will ultimately die. It's as simple as that.

According to the Centers for Disease Control and Prevention, if nothing more is done, 5 million of today's children will die prematurely as the result of smoking. An increase in the tobacco tax is the most important single step we can take to reduce childhood smoking, save lives, and lower the health costs of smoking over the long run.

In addition, we must do more to provide health care for the unemployed. For too many workers between jobs, coverage is difficult or impossible to afford. Too often, they are forced to let their insurance lapse in order to meet other needs. Modest financial assistance can make all the difference in making coverage available and affordable. Massachusetts has already shown that such coverage can be provided at reasonable cost.

Another key area to address is managed care. In many ways, its current growth is a positive development. Managed care offers the opportunity to extend the best medical practice to all medical practice. Good managed care plans provide more coordinated care and more cost-effective care for people with multiple medical needs.

It compares favorably with fee-for-service medicine in a variety of ways, especially preventive care and early diagnosis of illness. But the same financial incentives that make HMO's and other managed care organizations so cost-effective can also lead to undertreatment or excessive restrictions. Some managed care plans put their bottom line ahead of their patients' well-being—and pressure physicians in their networks to do the same.

Some of the worst abuses include failure to inform patients of treatment options; excessive barriers against referrals to specialists; irresponsible attempts to slash hospital care; unwillingness to order appropriate diagnostic tests; inadequate support for clinical trials and academic health centers; refusal to pay for potentially lifesaving treatment; and lack of fair ways to resolve disputes or redress grievances. Some of these problems affect conventional insurance as well. In many cases, these failures have tragic consequences.

The ban adopted in the last Congress on drive through deliveries was a first step in dealing with these problems. We also attempted to deal with another flagrant HMO abuse—the so-called gag rules that prohibit doctors from mentioning certain treatment options with patients. Time ran out before we could complete action, but the issue is high on our agenda for 1997. Managed care plans themselves have recently taken a strong position against this abuse. But there continues to be strong bipartisan support for additional steps to guarantee consumer protections and adequate care—and this Congress should be the Congress that enacts needed legislation in this area.

As we try to pass measures to improve the health of the American people, we must not undermine effective programs already in place. In the last Congress, a destructive proposal to slash Medicaid and convert it to block grants to the States threatened to strip children and parents, senior citizens, and disabled of needed coverage. Senior citizens in nursing homes could have lost their protection of quality of care, and their families would have been increasingly burdened by the high cost of long term care. Fortunately, that assault on Medicaid failed. In this new Congress, I hope that a bipartisan approach will keep such extreme measures from serious consideration.

Finally, we need to act responsibly on Medicare. President Clinton has proposed responsible steps to protect patients while extending the life of the trust fund for a decade. Senior citizens deserve fair action by this Congress on Medicare. But we should continue to reject proposals to slash Medicare to pay for tax cuts for the wealthy, or to force senior citizens to give up their own doctor and join private insurance plans under the guise of expanding patient choice, or to pile additional out-of-pocket costs on hard-pressed senior citizens.

This Congress can be the Congress that puts Medicare and Medicaid on a stable basis for the next decade. This can be the Congress that guarantees quality and consumer protection in managed care. This can be the Congress that gives every family health security for their children and every child the opportunity for a healthy start in life. This can be the Congress that grants the unemployed needed protection for health insurance. If we work hard together, this Congress can achieve these goals, and both Republicans and Democrats will deserve a real vote of thanks from the American people.

SENATE DEMOCRATS' LEADERSHIP BILLS

Mr. KERRY. Mr. President, I want to commend the Democratic leader for the package of initiatives he has developed on behalf of Senate Democrats. Most of these proposals came out of the 1996 Families First agenda. I was proud to be involved in that attempt to meet the real needs of everyday Americans and I am proud to be a cosponsor of these bills today.

The Education for the 21st Century Act, S. 12, continues Democrats' historic commitment to education. Federal support for education is one of the best investments our Nation can make to ensure a prosperous future. The bill would provide tuition assistance, restore the student loan interest deduction, subsidize State and local bond issues used to finance school construction and repair, fund the Parents as Teachers Program to assist parents who want to help their children become successful readers, and create a technology literacy challenge fund to catalyze and leverage State, local, and private efforts to increase technology literacy among our Nation's schoolchildren.

The Children's Health Coverage Act, S. 13, would help working families purchase private health insurance for their children. Although Senator KENNEDY and I have a bill which uses a subsidy approach rather than a tax credit approach, our bills are fundamentally similar. Both would provide assistance to children 18 and under and pregnant women to purchase private health insurance, both would provide a comprehensive benefits package, and both would provide assistance on a sliding scale to the working parents of uninsured children. I look forward to working with Senator DASCHLE, my fellow Democrats, and my Republican colleagues to pass a bill this year to provide children the health insurance they need and working parents the peace of mind they deserve.

The Retirement Security Act, S. 14, includes a wide range of proposals designed to help Americans prepare for a secure retirement. These would address the fact that too many Americans lack pension coverage by covering more workers under existing plans, creating new retirement savings options for millions of Americans, and encouraging more businesses to establish plans and more employees to participate in them. The bill would improve pension access and coverage, strengthen pension security, promote pension portability, and increase equity for women.

The Youth Violence, Crime and Drug Abuse Control Act, S. 15, would build on the success of the 1994 Crime Act and other crime fighting initiatives enacted during President Clinton's first term. I am proud to have been a leader in securing funding in the 1994 Crime Act for placing 100,000 new cops on the streets of America's communities. Thanks to the presence of the newly funded police officers, a fully funded Violence Against Women Act, and the Brady law—which has prevented more than 60,000 felons, fugitives, and stalkers from purchasing handguns, violent crime is lower than at any time since 1990. This bill balances the need to target and punish violent, young criminals with proven drug prevention programs. We would put 25,000 more police officers on the streets by extending the COPS Program for 2 years, and we would extend the Violence Against Women Act to provide shelter for 400,000 more battered women and their children, increase Federal penalties for juveniles by raising the mandatory release age from 21 to 26, increase penalties for gang violence, and reauthorize the Safe and Drug Free Schools Program.

Senator DASCHLE deserves our thanks for his leadership in spotlighting these issues of education, children's health care, retirement security, and youth violence that are so critical to the future of our Nation and to the well-being of the American people. He and his staff are to be commended for drafting these bills to address the issues. I look forward to working with Senator DASCHLE and other Senators on both sides of the aisle to pass legislation to meet these compelling needs.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I thank the Chair.

(The remarks of Mr. DORGAN pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SERIES OF INITIATIVES

Mr. DORGAN. Mr. President, I intend to discuss at a later time a series of initiatives that Senator DASCHLE discussed in brief form dealing with health care, education, pensions, and a number of other issues, including discussing another issue that is important to me, a piece of legislation that Senator DASCHLE and I and others are introducing dealing with some changes with respect to agricultural programs and family farmers in our country.

I see others are seeking the floor. I yield the floor at this time.

I would like to reserve the remainder of the Democratic time today.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. DOMENICI. Madam President, what is the parliamentary situation?

The PRESIDING OFFICER. The minority has reserved its time. The Senator from new Mexico may seek time.

Mr. DOMENICI. I ask that I be permitted to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE REPUBLICAN LEGISLATIVE AGENDA

Mr. DOMENICI. Madam President, fellow Senators, I rise to compliment the Republican leader on the announcement today of the first Republican legislative agenda for the 105th Congress. I believe that most Americans would support the principles and the ideas contained in these 10 pieces of legislation. I also believe that within the Senate itself there is a compelling majority that will support these 10 proposals. From my standpoint, I support them all, but I do reserve the right in two or three instances to change some of the things that are in the bills. But in no way does it minimize my admiration of and respect for the leadership for putting these bills forth, and the Republican conference and the hard work they put into coming up with these ideas and these basic premises.

I would like to just run through each one quickly with a few thoughts of my own, and then yield the floor to my friend, the new Senator from Wyoming.

The balanced budget constitutional amendment: I do not think there is any question that that piece of legislation speaks to the wishes of a huge percentage of Americans. I would not be surprised if as many as 70 percent or 75 percent of Americans believe that we ought to build into our institutions a mandate—unless we have a war where we cannot abide by a balanced budget —that we ought to produce a balanced budget every year.

Frankly, I have been working on budgets long enough to on the one hand be pulled by those who say, "Why don't we do it ourselves? Why do we need the force in effect of a constitutional amendment?" I guess the fact that we have all been working on it so long and can't get it done—and that when we look across the industrial nations, all we find is that with the passage of time instead of spending less, all governments spend more; instead of getting their deficits and debts under control there is growing concern, even in Europe, among most of our industrial friends there, that such things as pension plans and deferred obligations are going to bankrupt their countries. We are doing fairly well. But I do not think anybody ought to misconstrue the trend lines in terms of our current deficits to think that it is going to be easy to keep the deficit under control. In the next couple of weeks the Budget Committee will have a series of hearings to show what the next century is going to look like and what the major problems are, as the President speaks of a "bridge," what we ought to be carrying across that bridge so we don't have bigger problems rather than a better life in the next century.

The balanced budget amendment's time has come. There are some who will say, "What happens when you need to spend more money and there is not enough room in this budget," such as unemployment compensation during a recession. Let me say that this amendment is very, very simple in that respect. If that is a serious problem, as serious as some would say, then all you need to do is get 60 votes. You don't have to pass any resolutions declaring emergencies. You just need 60 votes instead of 51 to let those expenditures take place. I believe that is good enough. I think history will reveal that we have had caps that are similar to this, to this constitutional amendment, on parts of our budget and that when we have been confronted by the need to increase something like unemployment compensation there has been far more than 60 votes to go ahead and break the caps because there is somewhat of a countercyclical economic necessity that is forthcoming.

So, from this Senator's standpoint, I hope that the early count of Senators who back home during the campaign said they were for a constitutional amendment, plus those who voted heretofore, continues to add up—and that the number clearly when you do that is there are plenty of votes to pass it—that they will not change their minds based upon Washington, DC talk—because most heard from their people, and I hope that we will all live up to that and get this job done.

Safe and affordable schools is our second one. All I can say about that is I am not sure that any of us know the extent to which we ought to be for change in our education system. But I can tell you one anomaly that is rather frightening. All you have to do is go home and talk to people in the business sector that want to employ people from your State of Maine, or my State of New Mexico, and who continue to tell us, "Well, the people we need don't have the skills required. They don't have the right training." I guess in the broadest sense they are saying they are not educated for the workplace.

Frankly, I hope that we could sooner rather than later go beyond these few principles in this bill and come up with some concepts that would push our current institutions that educate our young people—and even our adults—to force them to be more responsive to the needs of our people who are looking for jobs.

I ask for another 5 minutes.

The PRESIDING OFFICER. The Senator still has 4 minutes remaining.

Mr. DOMENICI. I thought you were reporting that I didn't have any time left. Excuse me. I still ask for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, let me suggest that while the United States for college, community colleges, public education, and kindergarten through 12 continues to spend more and more, everywhere we look there are huge numbers of Americans who are not well enough educated for the jobs of today. Frankly, we continue to pour money into vocational institutions and vocational education; we put the strings on that so we can put money into our public education, albeit very small amounts. But somehow or another it seems that the time has come to ask the institutions which we currently spend our money on to see if they can't change their way of doing business a little bit so they may be more the engine of training and skills improvement rather than us having to fund new institutions and new ways of doing them.

Family tax relief: This Senator's only comment is that every single item in there are very exciting items. And they are all probably good for either American families, or the American economy, or are motivated by fairness. In that context, I support them. In the context of how much we will be able to afford, I reserve the right to decide. We may not be able to afford all the enumerated items in the bill. But obviously, we will have to look at that, and I want to make that comment in the RECORD.

The workplace act I think is an exciting piece of legislation. I support it. I hope we can get the message out as to what is in the bill and what is not, for some who are already talking about what they believe the bill does, but they are really talking about things that are not part of this legislation.

Product liability reform has come under some great leadership in the Senate. We have already done a lot of work on that bill, but we cannot get it passed through for the President's signature. I hope we get there.

For the partial-birth abortion ban, I believe there is a compelling majority of support for the bill. The question is whether we have enough to override a Presidential veto. I have heard words from the White House, but more importantly from Senators like Senator DASCHLE saying maybe we ought to work something out here, which leads me to believe that there are even more Senators who deplore the partial-birth abortion technique than those who voted for it. I, too, hope we can get something done there.

Let me just quickly go through the Missile Defense Act. Obviously, there are some who would not put this in the top 10, but there are many who are concerned enough about it, and I support it wholeheartedly, in an effort to solve the problems that are stated by that legislation.

The Superfund cleanup is long overdue. It is now good to know that Senator CHAFEE and Senator SMITH of New Hampshire support a measure that will reform Superfund. And reform means that we will put more of the billions that will be spent during the next 10 years into actual cleanup instead of into court cases and litigation. I think that is the motivation and that is what we are trying to do. I think that is very positive.

The Paycheck Protection Act speaks for itself. And then I will go to the last one, the Violent Juvenile Offenders Act. I am very pleased that many of the provisions of the legislation I introduced last year, after numerous hearings in New Mexico and a great deal of input from our judges and from probation officials, are in this bill. I think it is obvious that if any part of our criminal justice system has fallen apart, it is the juvenile justice system. For the most part, in most of our States, the juvenile justice system has not kept up with the times. It does not meet today's challenges, and I believe we are going to sensitize our States to this by offering to give them more financial support if they will modernize their systems. I believe this bill will lead them to hold more teenagers accountable for their actions and make more public the activities of the courts, rather than to hide their activities. They also should make juveniles more accountable, even for smaller offenses, so they do not wait until they have committed the equivalent of 10 or 15 felonies before something is done to try to help the teenager.

Many of these things are encapsulated in the bill. There are some things that I am not sure ultimately, after detailed hearings, are going to be as good as they sound. We are trying to reform the existing law. The existing law is rigid and in many cases harms juvenile justice at home in our States.

I am not sure that people are aware of it, but we have mandates in the Federal juvenile justice law, and one of them is called sight and sound separation. It has gotten way out of hand. I am not sure we should do away with the mandates entirely, but we have had a situation in New Mexico where because one correctional facility would have had the same kitchen for both adults and teenagers, the State was told that it could not house teenagers there. I guess they expanded the mandate to sight, sound, and smell, or maybe the flavor that will come from using the same kitchen. But I do not know how that had much to do with whether you ought to keep the teenagers in that facility.

Perhaps we are underfunding the OJJP provisions, we are cutting those a little bit, and we ought to look at that. There are a couple of other things we ought to include, but for the most part we are moving in the right direction, and I am very pleased to be a cosponsor and essentially had a lot to do with what we put in that bill.

I believe I am close to the time the Senate has granted me to speak, and I thank the Senate for the time and yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Madam President, just so our new colleague from Wyoming understands, this was the order that was agreed to under unanimous consent, and therefore, since he is waiting, I want to explain that this was not just being discourteous; it had been set that way. The junior Senator from Wyoming will get used to some of those things off in the corner. He may not like it, but it works out.

(The remarks of Mr. LAUTENBERG pertaining to the introduction of S. 18 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DISAPPOINTMENT WITH INTRODUCTION OF SUPERFUND BILL

Mr. LAUTENBERG. Madam President, while I am on the floor, I want to express some disappointment at the introduction today by my friend and colleague, Senator CHAFEE, of a comprehensive bill amending our Federal hazardous waste cleanup law, better known as Superfund.

This bill was introduced without consultation with any of the Democrats or with the administration. My staff, and those of the ranking member on the Environment and Public Works Committee, did not see a copy of this bill until late this morning. If we are to make reforms to Superfund this year—and it was hoped we would do it last year and the year before—it is critical that we work together in a bipartisan manner.

Today's bill introduction is not a positive first step toward that bipartisanship. Enacting any Superfund legislation this year is going to require Members of both parties in the House of Representatives and in the Senate to work together. It will also require all of us to work with the President and EPA Administrator Carol Browner.

In addition, Madam President, it would require us to appreciate that times have changed since the debate over Superfund reauthorization began in the late 1980's. The administration has made wide-ranging administrative proposals that have made a real difference, and this is not the same Superfund program of years past.

We have learned a lot. We have improved its processing. We have reduced the possibility of heavy litigation costs. I want to be clear, I support changes to Superfund that would speed cleanups, reduce litigation, increase equity, save money, and protect the health and environment of those who live near Superfund sites. But, Madam President, it is important to do this right. We should not be shifting costs from polluters to taxpayers, and the President has made it very clear that he will not abide by that either.

So, Madam President, I hope that the Senate Environment and Public Works Committee will closely examine the administrative reforms already undertaken before moving forward on changes to the Superfund program. I hold this up as an example of what is in here, introduced this morning without consultation. This is not a way to get ourselves a bipartisan kickoff to this very important reauthorization program.

I look forward, as I have for many years, to working with our distinguished colleague, Senator CHAFEE, and Senator BOB SMITH from New Hampshire and others, to find common ground. I want to reauthorize Superfund, but I would like to do it in a way that is fair to taxpayers and in a way that is going to work.

I yield back the time on the Democrats' side reserved. How much time is left?

The PRESIDING OFFICER. Time is controlled by the minority. There is 5 minutes remaining.

Mr. LAUTENBERG. I yield back the time at this point that I have not used and reserve for our side the remaining minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Madam President, the distinguished Senator from Wyoming wishes to speak, and I don't want to get in his way, but I will need more than 5 minutes, so I will wait until others are through so I can get my time on the floor in addition to the 5 minutes. So I alert the Chair to that. Thank you.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in support of Senate Joint Resolution 1, the balanced budget amendment. I specifically chose the balanced budget bmendment as the focus of my first statement in this hallowed Chamber. I chose it because the need for a balanced budget is the most important issue facing all of America today. Without a balanced budget, our children will be saddled with a mountain of debt. Our children and grandchildren will be left with no hope of fulfilling their dreams and aspirations. Our Nation will be weakened and vulnerable.

I know how to balance a budget. I'm an accountant. I have balanced budgets as a family man, a shoe store owner, a mayor, and a legislator. You and I know how easy it is to spend money. We know it's easier to say "yes" to programs than "no." There is a constituency for every single program. But I have had to say "no." We have a duty and a responsibility to our communities, our families and our children to live within our means. Right now we are spending more money than we are taking in. Overspending is a prescription for disaster. Almost any school child understands that if you spend more than your take in—you go broke.

Because of the Federal Government's ability to print money, we can easily feel there are no spending limits. How can we pay the bills of a nation when we reach the point where interest payments on our debt exceed all the revenue? That scenario is possible. We are now on that course. Without restraint, that could happen even at an impossible 100 percent tax rate on the citizens of this great Nation. Governments go broke when they cannot afford the interest.

The Federal Government must learn to live within its means. If we were not saddled with such enormous debt, we would have additional revenues to invest in the people and we could reduce the tax burden for every working man and woman in this country. Many States have a constitutional provision to balance the budget. Those States balance their budgets. It is time for us to require ourselves to balance the budget just as they now require the States to do.

History shows we cannot balance the budget with willpower alone. It is time to look at the hard, cold facts. We now have a $5.2 trillion dollar Federal debt. The deficit looms so large. Many Americans voted for candidates based on their stand on this single issue. A balanced budget amendment was the key to voter confidence. Failure to support this issue will diminish that confidence and could lead to the defeat of other candidates in 2 years.

The balance budget amendment would help end the frustrating impasse between Congress and the President by requiring that we agree on a budget that is balanced. A constitutional requirement will remove from debate the variable of how long it will take to balance the budget. The argument about whether we should balance it at all will be removed from the discussion. All Americans know that we have to work within the parameters of fiscal sanity. The balanced budget amendment will focus our effort and our attention.

We have not had a balanced Federal budget since 1969. This fact alone illustrates the difficulty of balancing a budget without an amendment. By failing to balance the budget, we are giving in to the whims of the moment. Without a balanced budget we abandon the ideals of self-control, discipline, and hard work. When we do not balance a budget, we lead by the example of selfishness, recklessness and folly. We condone living beyond our means.

Those opposed to a balanced budget amendment fear it would result in drastic cuts to programs they deem necessary. That is a very shortsighted view of the world. Only by balancing the Federal budget, however, can we guarantee long-term security to any Federal program, including Social Security. By balancing the budget, we do a great service for all Americans. We especially serve those living on fixed income retirement programs. When we pass and the States ratify this amendment, everyone will benefit. Interest rates will decrease. Inflation will be held in check. Business will have true growth. Jobs will increase.

We need to pass this amendment with no gimmickry, no smoke and no mirrors. Any proposal to exempt Social Security would rule out the possibility of a true balanced budget. Any exemption of Social Security plays games with the future. We need to deal with the facts. Making Social Security exempt from this process would simply allow unlimited spending. An exemption would give the false pretense that we have a balanced budget.

Getting our entitlement programs in good working order is essential. Finger pointing about who wants to cut entitlements are simply diversions. Sleights of hand over who wants to save entitlement programs are all political ploys. Don't let politics confuse the issue and stall the passage of this amendment.

The economic future of America's families depends on what we do now. My family is very important to me. I know your families are important to you as well. Every day that passes without a balanced budget hurts. The responsibility of the debt falls on the shoulders of our children and our grandchildren. Will we leave them a legacy of colossal debt totaling more than $5.2 trillion? That incredible debt will burden generations to come. Our kids and grandkids will have an enormous tax burden. They will inherit an economy so weak and a debt so large there will be no hope of them ever paying it off.

When I was going to grade school, we spent a lot of time on the enormousness of a million dollars. I've always been fascinated with Carl Sagan's emphasis of the difference between a million and a billion. Now we roll a trillion off our tongues with great ease; $5.2 trillion. This is the cruelest of all legacies.

That debt we are incurring for our kids amounts to taxation without representation. We mounted a revolution over that before. Our Founding Fathers would be embarrassed. We should imitate our forefathers in fulfilling our duty to our children and to our children's children. We must save them from the bondage of insurmountable taxes. If the balanced budget amendment fails, we lose. Future generations lose as well.

It is time to heed the words of Thomas Jefferson, "I place economy among the first and important virtues, and public debt as the greatest of dangers to be feared." President Jefferson knew the economic and moral importance of not owing anything to anyone. He also knew that a large public debt could make the United States a slave to other countries and foreign interests.

Defeat is the real national danger on our horizon. The national security of the United States is threatened by the immense debt. We, as a nation, will be unable to protect ourselves against our enemies, foreign and domestic. And, we will be unable to protect Americans—their jobs and their families. We cannot leave ourselves exposed to economic collapse. A world relies on us to get our economic house in order. If we—you and I—continue the practice of overspending, history will harshly judge us.

We will say, "We have met the enemy—and it is us." America has the best form of government on Earth. Now it requires responsibility from its leaders and citizens. The time for leadership is now. The time for the balanced budget amendment is now.

The American people demand an end to runaway spending. We need to show the American people that we are responsible. This bill will prove restraint by constitutionally limiting the ability to spend taxpayer dollars. Let us not fail them or ourselves.

We have the longest continuous government on the face of the Earth. This bill is a critical link to the future. We must preserve and protect our Nation and do it for our children and our grandchildren. This is the turning point. What will history say about each of us?

I urge my colleagues to support the balanced budget amendment.

CONGRATULATING SENATOR ENZI

Mr. NICKLES. Madam President, I must rise to congratulate our colleague, the new Senator from Wyoming, Senator ENZI, for his statement. I think it is an outstanding statement—his first speech, as I understand it, on the floor on our first legislative day. I just wish to compliment him. I hope every American could hear that speech, a very well-thought-out speech on the necessity and importance of a balanced budget amendment.

I think Senator ENZI's credentials are certainly meritorious of that statement, the fact he is an accountant by trade, a businessman, former State legislator as well as mayor. I compliment him and thank him for his well-thought-out speech. I hope everyone will pay attention to it and follow his advice and pass this amendment.

I thank him again for his speech.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent to proceed as in morning business for a period of 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING SENATOR ENZI

Mr. GREGG. I wish to thank the Senator from Kentucky for allowing me to proceed even though he had prior permission.

I also want to congratulate the Senator from Wyoming on his superb discussion of the balanced budget amendment. It was thoughtful, to the point, focused, and really highlighted the importance of that amendment, which happens to be the first item on the agenda for the Republican majority in the Senate. Of the 10 items listed by the majority leader today as being the priority items which the Senate shall pursue under the Republican agenda, No. 1 was the balanced budget amendment.

The Senator from Wyoming has done a superb job of pointing out why it is absolutely essential that we pass that amendment.

EDUCATION IN AMERICA

Mr. GREGG. Madam President, I want to speak briefly here to the second item on the agenda, which is education. Obviously, we all recognize the significance and importance of education. We also recognize, those of us who have been involved in the issue for a while, that the issue of education is, for the most part, settled at the local school level, at the local community level, especially as it involves elementary and secondary education, and that the Federal role is narrow and one which is focused on specific areas. It is not the Federal Government's obligation nor is it appropriate that the Federal Government step into the designing or the curriculum or the choosing of the proper activities for school systems.

Rather, it is the Federal Government's role to pick areas where it can assist the local school districts and can assist parents in helping their children to get a better education. The proposal that has been put forward by the Republican Senate today, Republican Members of the Senate, as the second item on our list of 10, is a very strong proposal on behalf of the parents of America and the students of America.

It is an effort to identify a number of areas where we think the Federal Government can assist parents in helping their children get a better education. We all recognize that education is the core activity that we must undertake if we are to have a competitive society.

We especially recognize this in New England where we depend so much on brainpower because we have no great natural resources. Our natural resource is the intelligence of our citizenry, which is extraordinarily high and depends on a strong education system.

In this area I want to highlight two activities that have been pointed to by our proposal. The first is that we understand that there is this huge baby-boom generation—of which Bill Clinton happens to be the most visible individual—which happens to also have children. And all those children of that baby-boom generation, people like Chelsea, people like my own children, are moving into the college-age years.

There are a lot of parents who are very concerned about how they are going to pay for the high cost of higher education. This proposal gives parents an option. It gives them an opportunity, sets up the Bob Dole grants, which are the specific vehicle that allows parents to invest for their children's education, to save for their children's education, and be able to plan ahead so that they can use the vehicle of, basically, a designated savings account which will receive significant tax benefits to assist them in getting ready for their children's college education.

In addition, it supports prepaid tuition plans that many of our States are now pursuing, where parents can actually choose a college or group of colleges within a State and pay the tuition early and thus avoid the cost of inflation and put themselves in a position where they can better afford the cost of education as their children get older and the costs go up.

In addition, it expands the deduction for student loan interest, a very important element in having the ability to go to college or go to graduate school and to be able to get a loan and still be able to pay it back. This expansion of the deduction will have a positive impact in that area.

It expands study awards and assists employers who are assisting their employees in higher education. It is a very significant effort to make higher education more affordable for the families of America.

In addition, the bill has another major element which is absolutely critical, especially in New Hampshire. That is, it says that the Federal Government is financially going to step up to its obligation to special ed children. A long time ago we passed something called 94142, which was an excellent bill, the purpose of which was to make special education more readily available to children who needed it.

The concept was that the Federal Government would pay 40 percent of the cost and the States would pay 60 percent of the costs. Today, unfortunately, the Federal Government is only paying about 6 percent of the costs that are borne in order to care for a child who has special requirements in education.

As a result, this has put a huge burden on the local communities and the local school systems. States like New Hampshire, which rely heavily on real estate taxes to support their schools, or even States that rely on State government income taxes or sales taxes, find that a large percentage of the tax dollars they are raising for education are going to support what should have been the Federal obligation to help out with the special education child.

As we all know, the special education child can, in instances, cost $100,000 or more as compared with a child going through the system in an average school system which may cost $4,000. So it can skew dramatically the ability to apply resources to benefit other children in the system because of the fact that the Federal Government has shirked its obligation to come forward with its 40 percent, as it said it would when it initially passed this bill a long time ago.

So what we have proposed as Republicans is that the Federal Government will finally step forward and fund special education at near the 40-percent level. We are talking about a $10 billion increase in funding for special education, which increase will be met by ramping up, over a series of years, 7 years, and thus allowing the States and the communities to free up those education dollars which they are now using in order to support the Federal obligation to care for the special ed child, to educate the special ed child, to free up those dollars to use them to expand education activity for other children in the school system.

If you want to look at it in its cleanest sense, it is actually going to be the largest block grants to local education the Federal Government has ever pursued. It should have occurred earlier, but it is going to occur now as a result of the commitment that has been made by the Republican majority here in the Senate.

The sign that it is going to occur is the fact that we already made the downpayment. In the last session—and this did not get much attention unfortunately; it should have gotten a lot more attention; I do not know why it did not get a lot more attention; maybe it was because of a national election and people wanted jinglese on their positions— but in the last budget process last September we, as Republican Members of the Senate, put $730 million more into special education than the present funding was. We increased it by that amount of money.

It was a downpayment on this effort to try to fully fund the 40 percent that the Federal Government originally said it was going to fund. As a result, a State like New Hampshire will receive an increase of approximately $3 million. That is a lot of money to help out with the special education issues.

So we are not talking in rosy scenarios here. We are not using words. We are not trying to create perceptions. We are talking in terms of deeds. We have already made the downpayment on this effort to expand our commitment to special education. And now with the putting forward of the Republican list of initiatives for this Congress, we are making it very clear that we are going to follow through on that commitment.

This will be positive for the children across this country and for the educational systems across this country. I think Republicans can take great pride that we at least have been willing to step up to this very critical issue of first educating our children in college and relieving the pressure on parents who are trying to send their children to college; and, second, helping out with the special ed needs which the States have for so long borne but which the Federal Government has for so long said it would bear.

Madam President, I yield back my time.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, I want to use the 5 minutes that has been assigned to the minority, and I ask unanimous consent I have such time as I need beyond that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the Chair very much.

CAMPAIGN FINANCE REFORM IN THE 105TH CONGRESS

Mr. FORD. Madam President, as we begin a new Congress, we begin with the hope that the bipartisanship that existed at the end of the 104th Congress will carry through the 105th Congress.

Together, Democrats and Republicans were able to put aside partisan differences and pass meaningful and important legislation, from raising the minimum wage to the Kennedy-Kassebaum health care bill, to the reauthorization of the Federal Aviation Administration and the airport improvement program, and adding additional funds to education.

Madam President, I think in not only the minds of some in this body but the general public, one glaring example where we fail to come together is campaign finance reform. While the American people saw that we can work together to pass legislative solutions to everyday problems, the American people also saw our failure to restore integrity to our political system with the passage of campaign finance reform.

Unfortunately, this last election cycle once again demonstrates that we need fundamental campaign finance reform. This last election cycle demonstrated that the money chase continues. Only this time, the pace was more intense.

Preliminary figures from the Federal Election Commission for the 1996 cycle are astounding. Fundraising by the Republican and Democrat Parties—"parties" I underscore—in the period from January 1, 1995, through November 25, 1996, totaled $882 million. That represents a 73-percent increase over the same period for the 1992 Presidential election cycle.

The largest increase in funding and spending by the parties was soft money. The Republican National Committee raised $141.2 million, a 183-percent increase over 1992's $49.8 million. Republicans spent $149.6 million compared to their spending in the 1992 election cycle, an increase of 224 percent. Democrats raised $122 million, a 237-percent increase over 1992's $36.5 million, and spent $117.3 million, a 250-percent increase over 1992 when Democrats spent $32.9 million.

Madam President, the money chase does not stop there. Based on reports by the Federal Election Commission, congressional candidates—that includes the House and the Senate—spending may be at an all-time high. Totals for both the House and the Senate general election candidates show they raised $659.6 million, an 8-percent increase over 1994. That is in addition to the other money that I am talking about. So we are nearing the $2 billion figure as it relates to spending in campaign finance in campaigning.

One thing we will become in the House and the Senate will be bit players in the political aspects of this country—bit players because money will put us on television and money will do the work for us. So the big player will become the consultant, will become television, become advertising, and so we will become bit players in this stage called the American political system.

An average winning Senate candidate in all 34 races this past election spent $4.4 million. Compared to 1994, this represents, by the way, an 8-percent decrease. However, the States in which Senate races were held in 1996 included most of the smaller and less populated States. Nevertheless, when you break down the $4.4 million per race, that means the average a candidate would have to raise is approximately $13,969 each week for 6 years. Someone dismissed that figure by saying that most candidates raise approximately 80 percent of their funds in the 2 years prior to the election. If you accept that statistic, then the amount you have to raise each week occurring in that 2-year period is almost $34,000. With those statistics, one would be hard pressed to argue that there is no money chase.

Some have suggested that we simply do not spend enough in our elections. They have even been so bold as to suggest that we should spend more. They say we spend more on bubble gum than we spend on elections. Well, this is not about bubble gum. This is about running this great country of ours and keeping it on the right track and a leader of the world.

How much more can we spend, Madam President, when you have to raise $13,000 a week for every week of your Senate term? How can we say that we are truly doing the people's business? The more time that we have to devote to raising money, the less time we have to commit to our constituents. That is certainly the perception of the average citizen. I argue that this is one area where the perception is the reality.

Furthermore, Madam President, I suggest that the more money raised and spent in our elections does not necessarily mean that we have better campaigns. Al Hunt recently wrote in the Wall Street Journal that there is enough anecdotal evidence to suggest that the more candidates spend, the more negative the campaign. No, Madam President, I do not believe the answer is more money in our election. Rather, I believe, that the solution for real and effective campaign finance reform must include spending limits. The terms of those limits should be open to negotiation and discussion. In the end, there cannot be any real and meaningful reform without spending limits.

Changing the current system is difficult. You can understand why someone opposes changing the status quo because it is a system that got them in office, and by and large keeps them in office. I recognize that spending limits pose constitutional difficulties. I believe that we can craft a system of voluntary spending limits that will sustain constitutional scrutiny by the Supreme Court. I also believe that in order to restore the integrity of our political system, imposing spending limits is the right course of action. If we must—and I underscore if we must—then it might be worth the task to amend the Constitution.

The fact is, Madam President, when it comes to putting an overall cap on candidate spending, the Congress is way behind the curve. Just this past November, I believe the voters in the great State of Maine passed a ballot initiative that would impose spending limits on their State races.

I direct the attention of my colleagues to my own home State of Kentucky. In 1995, we had our first gubernatorial election with spending limits, $1.8 million. The previous election was $12 million. Overall, these reforms in my State worked well for the candidates and for the voters. The Kentucky system has a general election spending cap of $1.8 million. Everyone agrees the Kentucky system still has some problems and some loopholes that need to be addressed. But on the whole, I think the candidates and the electorate approved of the spending limit plan. In fact, spending limits in the Kentucky race changed the overall course of the election. With a limit on the amount they could spend, both the Republican and the Democrat candidates had to revise the campaign play book.

Spending limits put a premium on debates. A premium on debates—think about that. You try not to debate your opponent in this day and age, you try to stay away from him because he is unknown, the people are not knowledgeable. So you do not want to give him any publicity, so you do not want to have debates, maybe one or two on educational television that maybe nobody would watch while there is a basketball game, football game, or baseball game going on at that time. I have seen it. I played that game. I am no spring chicken at this game. I am still spry, but no spring chicken.

In fact, the spending limits put a premium on debates and joint appearances across our Commonwealth. The candidates didn't fly; they drove because it saved money. They were looking for every Rotary Club, Lion's Club, every J.C. Club, whatever groups were together. They were wanting to express their desires and hopes for the future of our great State. Overall, I think most Kentuckians were pleased with the results, because the candidates came and talked about issues rather than being on television. The net result was a better informed electorate and therefore a better campaign.

So, Madam President, I believe that the terms of spending limits should be open to negotiation. All items should be on the table for discussion. But I believe that we simply cannot have effective and meaningful reform without the restriction of limits that one might spend in a campaign.

In addition to spending limits for congressional campaigns, meaningful reform also requires us to close the soft money loophole. As I mentioned earlier, we saw a dramatic increase by the national parties in the raising and spending of soft money.

We also need to address issues like independent expenditures and issue advocacy. Recent decisions by the Supreme Court require the Congress, I think, to reexamine the current law. We cannot prevent an individual or group of individuals from engaging in political activity independent of a candidate or political party. But we can make sure that such activities are truly independent and that those expenditures are adequately and fully disclosed to the Federal Election Commission. We will hear a little more about the hand-off funding as we proceed into the debate on campaign finance reform. If you don't understand hand-off funding, see me or listen to one of my speeches. I will try to tell you what that is.

Finally, Madam President, I believe that we need to examine the structure and authority of the Federal Election Commission. If we are going to have an agency charged with a mission to enforce our campaign finance laws, then I believe it is incumbent upon us to make sure that the FEC has the authority and the means by which to execute that authority.

As the former chairman of the Rules Committee and now ranking member, I have sat through countless hearings on the issue of campaign finance reform. I can go back to the archives of the Rules Committee and produce volumes and volumes and volumes of testimony and printed records of hearings where the committee received testimony from Members, from professors, from campaign consultants, and all the election experts you could ever think up. We can easily identify the problems. The question is, Are we ready to try to work on solutions? The problems are there and we understand them, but are we ready to work on solutions?

Madam President, with all due respect, we do not need more hearings on these issues. We know all too well what the problems are. We need to sit down together—and I underscore together—to craft the solutions. In the past, campaign finance reform has been an issue that has received too much lip service. We can no longer afford to let the opportunity to enact meaningful reform pass us by. The time to act is now. I hope that we can move forward and make campaign finance reform one of the first and lasting accomplishments of the 105th Congress. I know that many of my colleagues share a similar commitment to reforming our campaign finance laws. I look forward to working with my colleagues. Hopefully, through this campaign finance reform, we can restore trust and we can restore integrity to our electoral system by enacting meaningful campaign finance reform legislation.

I thank the Chair and yield the floor.

Mr. NICKLES. Madam President, I know my colleagues have been waiting patiently. Would they mind if I went ahead for a few minutes?

Mr. GRAMS. That is fine.

(The remarks of Mr. Nickles pertaining to the introduction of S. 9 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. Nickles, Mr. Grams, and Mr. Hutchinson pertaining to the introduction of S. 9 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

1996 YEAR END REPORT

The mailing and filing date of the 1996 Year End Report required by the Federal Election Campaign Act, as amended, is Friday, January 31, 1997. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 7 p.m. on the filing date to accept these filings. In general, reports will be available the day after receipt. For further information, please contact the Public Records office on (202) 224–0322.

REGISTRATION OF MASS MAILINGS

The filing date for 1996 fourth quarter mass mailings is January 27, 1997. If a Senator's office did no mass mailings during this period, a form should be submitted that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office on (202) 224–0322.

TRIBUTE TO FORMER SENATOR PAUL TSONGAS

Mr. KENNEDY. Mr. President, it is with great sadness that we learned last weekend of the death of our former colleague from Massachusetts, Paul Tsongas. Paul served in the House of Representatives for 4 years, from 1975 to 1979, and in the Senate for 6 years, from 1979 to 1985. All of us who knew him respected him and admired him.

Paul was a great friend, a great Congressman for the people of Lowell, a great Senator for the State of Massachusetts. He had a special dedication to public service that began as a Peace Corps volunteer in Ethiopia in the 1960's and endured throughout his brilliant career, including his 1992 Presidential campaign.

As a Lowell city councilor, a county commissioner, Congressman, Senator, and Presidential candidate he had a special vision of America as it ought to be. Above all, he had an extraordinary personal and political courage. It was a courage demonstrated during his long illness and in all aspects of his years in public service. He often took stands that were unpopular. He had strongly held beliefs and he fought hard for them regardless of the passing political cause. He cared more for the truth than public opinion. And the people of Massachusetts loved him all the more because of it.

President Kennedy would have called him a "profile in courage."

One of his enduring legacies is the Lowell National Historic Park, which symbolized a great deal about his commitment to Lowell and to that entire region of our State. He had the vision to conceive the park and the skill to achieve it. In a larger sense, it also typified his unique ability to find new ways to see old problems. Where others saw a fading mill town, Paul saw the opportunity for rebirth, growth, and a thriving new economy.

He applied that same dedication to new ways of thinking in everything he did in our State, our country, and our common planet, yet he had both a realistic and idealistic vision of a better future and a powerful commitment to reach it so no one would be left out or left behind.

He reminded me of Robert Kennedy. As my brother often said, "Some people see things as they are and say, why. I dream things that never were and say, why not?" That was true of Paul Tsongas as well. We will miss him very much. Our hearts go out to his wife Niki, his sisters, Thaleia and Vicki, all the members of his wonderful family, his three daughters, Ashley, Katina, and Molly.

Mr. President, I ask unanimous consent that editorials from the Lowell Sun and the Boston Globe be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Lowell Sun, January 20, 1997]

COMING HOME

When he stood in the raindrops at Boarding House Park, Paul Tsongas spoke of embarking upon his "journey of purpose" to become the President of the United States.

We in Lowell knew better.

We in Lowell knew Paul Tsongas' purposeful journey began long before he tossed his hat into the presidential ring, and endured long after his candidacy came to an end.

For Citizen Paul Tsongas, his journey to make his city and his world a better place began as soon as he was old enough to make a difference, and continued—with as much passion and purpose as ever—until it ended all too soon Saturday night.

Let others talk about Sen. Tsongas' extraordinary contributions to the national landscape—as they should and will.

Let us in Lowell talk about contributions far more significant and enduring.

Let us talk about a man who brought a remarkable wife to Lowell, and a father who raised three wonderful children in the city of his birth.

Because before all else—before all the politics and the presidential campaigns—Paul Tsongas devoted his life to his beloved and cherished wife and daughters. And even if his journey consisted "only" of Nicola, Katina, Ashley and Molly, he would have succeeded—grandly—in making this city and this world a better place in which to live.

If a man's legacy is first and foremost his family, Paul Tsongas' journey has left us all with a living legacy to cherish and honor as we do his own life.

For years, we in Lowell have needed Paul Tsongas. Now it is time for all of us to begin to repay our debt to him by reaching out to Nicola, Katina, Ashley and Molly with our arms, our hearts and our prayers.

They surely don't need us to tell them, but we should let them know just how proud we are of her husband and their father, and how much we, too, will miss him.

For those who knew Paul Tsongas—and so many in this city were privileged by his friendship—we knew him first as a husband and a father. In these parts, he was not Sen. Tsongas. He was "just" Paul Tsongas, a guy who clearly was happiest not on the firing lines of City Hall or Capitol Hill, but rather in his back yard on Mansur Street.

'Our' Paul Tsongas was not a politician or a presidential candidate. He was something much more special than that.

He was Tsongy—our neighbor and our friend. A guy who may have been better at driving his kids to school than he was at driving legislation through the U.S. Senate. A hard-working environmentalist whose most beloved contribution to the greening of America was surely cleaning up and landscaping Kittredge Park, on his hands and knees, as content as a man could be.

Let others applaud and exalt the contributions Rep. and Sen. Tsongas made to the Commonwealth of Massachusetts—as they should and will. Let the national pundits and politicians ponder what contributions a President Tsongas would have made to the country—as surely he would have.

We in Lowell need only walk through our city to celebrate—every day—what Paul Tsongas did for his hometown.

A national park here, a Boarding House Park there. The Wang Towers over there, and an arena going up just over here. And here's one of our new middle schools, not too far from our downtown hotel. And just over there, where the river bends, we're going to have a brand new ball park for Lowell's own minor league ball club. You know, the Spinners, the team Paul Tsongas brought to town.

Let those on the national stage talk about the bumpy, bizarre and truly incredible road which Paul Tsongas nearly traveled to the White House.

Here, in Lowell, we'll walk and talk about the most important roads in Paul Tsongas' life—Highland Street, where he lived as a child. Gorham Street, where young Paul toiled in his father's dry cleaning store. And Mansur Street, where Paul Tsongas of Lowell lived and raised his family.

Let other congressmen and senators and presidents talk about the unique contribution Paul Tsongas made to deficit reduction and our grandkids at the Concord Coalition.

Here, in Lowell, we'll reminisce about the first and most important budget Paul Tsongas ever balanced in his life—the one in that dry cleaning shop on Gorham.

We knew The Road from Here would always lead back to Lowell.

And even though his journey of purpose often took Paul Tsongas to bigger cities and faraway lands, we all knew that his journey began here, drew its strength from here, and will end, too soon, when he is buried here.

Paul Tsongas' journey of purpose may have been all to brief, but like a meteor blazing across the civic skyline he so loved, it was brilliant, intense and unforgettable.

"Lowell is my home. It is where I drew my first breath. It is where I will always derive a sense of place and a sense of belonging.

"It is what I am."

Amen.

Think of Paul Tsongas whenever you take your kids to a Spinners game. We think he'd like that.

[From the Boston Globe Jan. 19, 1997]

PAUL TSONGAS OF LOWELL

Paul Tsongas, 55, relished the uphill fight but was unable to beat back his most formidable opponent and succumbed last night to complications from the lymphoma that dogged him since 1988.

His seemingly inexhaustible ability to rally from a battery of grueling medical procedures, including two bone marrow transplants, was testimony to his grit and a spur to anyone tempted to complain about life's lesser challenges.

Tsongas was a tough taskmaster in his political life too, always willing to challenge conventional wisdom and unafraid to give people bad news if he felt it would fix an ailing system. In 1980 he faced a hall full of doctrinaire liberals at a convention of the Americans for Democratic Action and told them it was time to "escape the '60's time capsule."

Probusiness, open-minded about nuclear power, a relentless deficit hawk but at the same time unstinting in his support of civil rights, gay and women's issues and the environment, Tsongas was a "New Democrat" long before it became trendy.

Since voting for the controversial Lowell connector highway as a city councilor in his hometown in 1972, Tsongas built a reputation on following his political conscience despite the odds.

He was a long shot in his successful 1978 U.S. Senate race against Ed Brooke and was the first Democrat to challenge President George Bush. Asked about the near-empty Democratic field for the 1992 presidential race, he replied: "Its a medical problem: gonads, not lymph nodes."

Independent, thoughtful, passionate, he was as devoted to his family as he was to fighting the good fight. He quit the Senate in 1984 so he could spend time with his wife Niki and three daughters. "They're going to lay me in the ground someday," Tsongas said in a 1992 interview with the Globe. "I want to do the things I would have wanted to have done when that happens so my grandchildren will feel good about me."

Paul Tsongas has left all of us much to feel good about even as we mourn his passing.

OECD SHIPBUILDING AGREEMENT

Mr. LOTT. The 104th Congress was unable to reach a consensus on legislation to implement an OECD Shipbuilding Agreement. Opponents of the agreement, as negotiated, insisted that the amendments passed by the House of Representatives be incorporated into any implementing legislation. Supporters of the agreement found these amendments unacceptable. As a result, no legislation was passed to put the OECD Shipbuilding Agreement into effect.

If the outcome is to be any different in the 105th Congress, I would urge the Administration and the Office of the U.S. Trade Representative to fully consider the amendments to H.R. 2754 passed by the House last year. Those amendments, which were sponsored by the House National Security Committee, were in response to major concerns regarding this agreement's damaging impact on our national security interests, and on the Navy's core shipbuilding industrial base. While preserving the underlying intent of the OECD agreement, the amendments adopted by the House provide some modest safeguards with respect to these national security concerns.

Ms. SNOWE. Those amendments were approved by an overwhelming majority in the House who felt that, without the changes, the OECD Agreement failed to provide an effective mechanism for disciplining foreign shipbuilding subsidy practices. I should add that a number of Members in this body who have examined the agreement also share this view. The base agreement, coupled with the many loopholes and special concessions granted to foreign governments, would continue to place U.S. shipbuilders at a tremendous competitive disadvantage. For this reason, the largest U.S. shipbuilders, representing over 90 percent of all workers in the Nation's major shipbuilding base, opposed implementation of the agreement even though they were the primary advocates of an effective discipline on foreign government subsidy and dumping practices in the first place.

Mr. LOTT. In order to put into perspective the concerns of the U.S. shipbuilding industry, it may be helpful to review some of the background leading up to this agreement. In 1981, the U.S. Government terminated its subsidy program to the U.S. shipbuilding industry. Thus, in 1989, the United States went to the negotiating table as the only nonsubsidizing shipbuilding country. The U.S. shipbuilding industry had already lost all of its commercial shipbuilding market share and was bracing itself for a dramatic decrease in Navy shipbuilding orders.

Ms. SNOWE. In 1993, 4 years after international negotiations had failed to produce an agreement to end foreign subsidies, Congress and President Clinton revived and amended a modest ship loan guarantee program called Title XI. The purpose of this program was to help U.S. shipbuilders recapture commercial market share in the face of dramatic cuts in the Navy's shipbuilding plan and continued foreign government subsidies in the commercial market.

Mr. LOTT. This modest loan guarantee program has begun the revival of commercial shipbuilding in the United States. For the first time in almost 40 years, our major U.S. shipbuilders are building commercial ships for export. Environmentally safe oceangoing double-hulled oil tankers are being constructed for our domestic trades. Over a 2-year period, $1.7 billion in commercial shipbuilding orders has been generated in the United States. These commercial orders are helping to sustain our major builders of Navy ships.

Ms. SNOWE. In 1996, when the administration sought congressional approval of the OECD Shipbuilding Agreement, the Department of Defense submitted a Navy shipbuilding budget request for the fewest numbers of ships in more than 60 years. While the Navy's Fiscal Year 1997 Future Years Defense Plan called for an average of only 5 ships per year, the Navy anticipates that it will need to procure 10 to 12 ships per year beginning in the year 2002, if it is to maintain a 346-ship fleet. The challenge for our Nation and the Navy is to sustain the critical core shipbuilding industrial base during this alltime low in Navy shipbuilding and still have the capability to meet future Navy building needs.

Facing these circumstances, in 1989 the U.S. shipbuilding industry sought an international agreement to end foreign government shipbuilding subsidies. The industry believed then, as it does now, that it was essential to end foreign government participation in the commercial shipbuilding market if it was to have a fighting chance to make the transition to building both commercial and Navy ships, and thus survive this historic low in Navy shipbuilding.

Mr. LOTT. As negotiations dragged on for over 5 years, the marketplace was changing dramatically and rapidly, while the objective of the negotiators seemed to remain static. There was a failure on the part of our negotiators to recognize these changes and the activities of the various participating parties during the negotiations.

China, which had no commercial shipbuilding market in 1990, began to target shipbuilding to industrialize its economy. China now ranks third in the world for commercial shipbuilding, and it is not a signatory to this agreement. Other countries, such as the Ukraine and Poland, are also not covered by this agreement and have displayed a renewed interest in their shipbuilding sectors.

Ms. SNOWE. During the negotiations, Germany granted $4 billion in shipyard modernization subsidies to the former East German shipyards. South Korea approved close to a $1 billion bailout of its largest shipbuilder Daewoo. Other European countries continued to grant billions in subsidies to their shipbuilding industries to fill their order books.

Mr. LOTT. When an agreement was finally reached in 1994, major U.S. shipbuilders expressed their objections with the terms of the OECD Shipbuilding Agreement before it was signed by the U.S. and other parties. These builders articulated to the Administration their concerns with the very generous transition concessions granted to the foreign signatories, the changing market conditions with the growing prominence of China, and the ineffective "injurious pricing" or antidumping provision—especially in light of South Korea's massive expansion of its shipbuilding capacity throughout the negotiations.

Ms. SNOWE. These concerns and the agreement's negative implications for the U.S. Navy shipbuilding industrial base were ignored by the negotiators of this agreement. U.S. shipbuilders were also dismayed that they were granted no transition period in contrast to what was granted to the foreign governments. The successful, but modest, Title XI loan guarantee program would be rendered ineffective immediately upon the agreement's entry into force and the domestic trade of the United States, as governed by the Jones Act, was placed in severe jeopardy by our negotiators. In an effort to correct these weaknesses and flaws, the House of Representatives amended the implementing legislation (H.R. 2754) to address the major national security concerns of the agreement.

Mr. LOTT. The Office of the U.S. Trade Representative has maintained throughout the debate on this agreement that the Jones Act, which requires ships transporting cargo between two U.S. ports to be U.S.-built, -owned, and -operated, is exempt from the agreement. This is only partially true. Although the agreement does not repeal the law, it establishes a framework and procedure for foreign governments to take retaliatory actions against U.S. shipbuilders and U.S. exporters for ships constructed for the domestic trades of the United States. These countermeasures include bid restrictions and bid tariffs against U.S. builders seeking international orders if they also benefit from Jones Act orders. The agreement also provides that GATT-related tariff concessions may be withdrawn against other U.S. products to offset the benefit of Jones Act ship construction contracts to U.S. builders. Moreover, the agreement states that the Jones Act is a derogation of the agreement—and I quote—"could undermine the balance of rights and obligations of the Parties under the Agreement and is unacceptable to the other Parties."

Ms. SNOWE. U.S. ownership, manning, and construction of vessels serving the Jones Act trade has provided the Department of Defense with a pool of trained mariners, vessels, and the industrial capability to respond in time to national defense emergencies. For example, the very shipyards that build and repair Jones Act vessels were called upon to activate military reserve ships during Operation Desert Storm/Desert Shield, and it was the trained mariners who operate Jones Act vessels in peacetime who were called upon to crew these military ships once activated. The Jones Act contributes to the maintenance of this skilled work force and defense industrial capability.

Because of the importance of the Jones Act to our national security, the House adopted an amendment specifically prohibiting the imposition of trade countermeasures against U.S. shipbuilders and other exporters for Jones Act ship construction. This amendment is essential to our Nation's defense readiness.

Mr. LOTT. The House also adopted an amendment defining and exempting "military reserve vessels" from coverage under the agreement. This provision is essential to ensure that military ships—such as Army, Navy, and Marine Corps surge and prepositioned sealift ships—cannot be deemed commercial ships under the agreement because of their dual-use characteristics and capability. Without this exemption, DOD may be precluded from procuring military reserve and auxiliary ships with defense features from U.S. shipbuilders without the threat of retaliatory trade countermeasures.

Ms. SNOWE. Many of DOD's reserve and auxiliary ships are commercially built, owned, and operated, and they are chartered to DOD under long-term lease agreements. The U.S. Navy intends to continue this approach to acquiring these needed assets in the future. Furthermore, it is extremely difficult, if not impossible, to completely separate a ship's defense features from its commercial features. Therefore, the implementing legislation needs to contain the definition and exemption for these types of ships or the United States will be subjected to an international trade panel's interpretation of what is, or is not, a military vessel or a defense feature.

Mr. LOTT. As I mentioned earlier, the only government support program for U.S. shipbuilders is the Title XI Ship Loan Guarantee Program. The program was revived and amended in FY 1994 as part of the National Shipbuilding Initiative contained in the National Defense Authorization Act. The purpose of the program was to help U.S. shipbuilders attract commercial shipbuilding orders in the face of a dramatic turndown in Navy orders and foreign government commercial shipbuilding subsidies.

Ms. SNOWE. Title XI provides for a government guarantee of commercial loans for the construction of ships in the United States for U.S. and export customers. Up to 87.5 percent of the 25-year loan is guaranteed under the program. Upon entry into force of the OECD Shipbuilding Agreement, however, the terms of title XI would be immediately changed to guarantee only up to 80 percent of a commercial loan over a 12-year period. According to U.S. shipbuilders, the current orders for construction of large oceangoing commercial ships would not have been consummated under these terms and conditions.

Mr. LOTT. Almost every signatory to this agreement—except the United States—was granted special transition subsidy authority for a period of 3 years. Many members of the House of Representatives and Senate do not understand why the title XI program should not continue under its current terms and conditions for a 3-year period given the agreements's special deals, exemptions, and transition programs in the billions of dollars for Belgium, Portugal, Spain, Germany, France and South Korea. This inequity in the transition rules is extremely detrimental to U.S. builders were disadvantaged for 15 years while they received no government subsidies in the face of billions by foreign governments. Moreover, without a 3-year continuance of title XI, U.S. shipbuilders would be three years further behind their foreign competition. This is unacceptable to the majority in Congress.

Ms. SNOWE. The House bill would place the U.S. on an equal par with foreign signatories time-wise. It would allow title XI to continue at its present terms and conditions during the 3-year transition period in which foreign signatories were granted very generous subsidy concessions. Furthermore, major U.S. shipbuilders desperately need this extension to the program if they are to complete their transition back to building commercial ships. If this transition is unsuccessful, the Navy's core shipbuilding base will not be sustained to meet its future requirements.

Mr. LOTT. In closing, it is incumbent upon each Congress to ensure that our international trade agreements are in our best national interest. Rubber stamping every international agreement, regardless of its content or impact, is not in anyone's best interest. I understand that the office of the U.S. Trade Representative has invested years of hard work in reaching the OECD Agreement. Unfortunately, it falls abysmally short of the objectives established by the very industry which sought an international agreement. After all, who better understands the shipbuilding industry than the shipbuilding industry itself? And for that matter, who in Congress better understand our national security interests than the committees with jurisdiction over national security policy?

There are major disagreements in Congress on whether this agreement is good or bad for this country. Indications from the Office of the USTR are that it is unwilling to reopen the negotiations to achieve an agreement that addresses the concerns of the majority in Congress of both political parties. If this is the position of the U.S. Trade Representative, then I can only say that pursuing implementing legislation in the 105th Congress will result in the same outcome as that of the 104th Congress. I would hope that the USTR would have learned something from last year's experience and not waste its time or our with a repeat performance.

IN MEMORY OF PAUL E. TSONGAS

Mr. LEVIN. Mr. President, I was saddened Saturday to learn of the loss of one of the great men that I have had the honor of serving with in the U.S. Senate, Paul E. Tsongas of Massachusetts.

Paul Tsongas and I arrived in this body at the same time almost exactly 18 years ago in 1979. By that time Paul had already distinguished himself in 4 years of service in the House of Representatives, including legislation creating the first urban national historical park in his beloved hometown of Lowell. This became the catalyst for a remarkable renaissance in that historical New England mill town.

He arrived as the first Peace Corps veteran ever elected to the Senate. He valued highly his opportunity to serve in Ethiopia and spoke frequently of those 2 years as the formative years of his desire for public service. As a member of the Senate Foreign Relations Committee he was a voice for human rights around the world, but particularly on the African continent. In his 1981 book, "The Road From Here," Paul wrote, "[Human rights] are rooted in our culture and history, and we should champion them. Third World people need to have us honor this principle because if we don't, no one effectively will. And ultimately it is the moral and economic strength of America that will count, not just our military might."

Paul accomplished a great deal in a short time in the Senate, including the passage of the Alaska Lands Act of 1980 which more than doubled the size of the National Park System and which President Carter called the most important conservation legislation of the century.

However, he will be remembered best for his years after the Senate. He retired from the Senate in 1984 after learning that he had cancer, pledging to devote more time to his family. In the book, "Heading Home", about his decision to leave the Senate, he wrote: "On their deathbed, no one ever said, 'I wish I had spent more time with my business.'."

He overcame cancer undergoing a then-experimental medical procedure, and went on to become a Presidential candidate in 1992, and a founder of the Concord Coalition, a bipartisan organization which has become a credible and widely respected grassroots voice for fiscal responsibility in government.

As the family and friends of Paul Tsongas mourn his death and celebrate his life, Barbara and I will have Niki and Paul's three daughters Ashley, Katina, and Molly in our thoughts and prayers.

Mr. President, a member of my staff, Rich Arenberg, who served Paul Tsongas for more than 10 years as a staff member and friend wrote a few personal words which are most apt:

> Paul Tsongas was an uncommon man. He honored America with the purity of his honesty and candor. There was no private Paul

Tsongas, no public Paul Tsongas. He gave totally and completely of himself. He said exactly what he believed. In an age of partisan vitriol, he spoke softly and without animus. Although his voice was cool, his beliefs were passionately and tenaciously held. He believed that rational people of good will could solve any problem, bridge any difference, and lead by the force of reason. Paul Tsongas loved his family more than anything on earth and he loved his country deeply. He saw little distinction between the two because he believed the greatest gift we can give to our children is a strong future for America.

THE INAUGURATION OF PRESIDENT CLINTON

Mr. NICKLES. Mr. President, yesterday, in a moving ceremony, we witnessed the swearing in of President Bill Clinton and Vice President AL GORE for their second term. The inaugural ceremony is significant not only to the history of our Nation, but for the message it sends to the rest of the world about our democracy.

The ceremony required a tremendous amount of planning by many, many people. The extensive preparations included construction of the platform, ticket distribution, coordination of security measures, organization of the ceremony, planning the luncheon in Statuary Hall and countless other tasks.

Leading this team of dedicated people was the distinguished Senator from Virginia, Senator JOHN WARNER. As chairman of the Joint Congressional Committee on Inaugural Ceremonies, he had the monumental task of making the arrangements for this historic occasion. He performed his responsibilities with great efficiency and with outstanding attention to every detail. As master of ceremonies, he skillfully orchestrated the entire program. I, along with my colleagues, would like to thank Senator WARNER and congratulate him on a job well done.

In addition, I would like to applaud the distinguished Senator from Kentucky, Senator WENDELL FORD. His contribution of hard work and past experience as chairman of the committee was evident in the success of this endeavor. I wish to express my gratitude to Senator FORD for his hard work.

I would also like to thank and congratulate the other members of the Joint Inaugural Committee for such a successful ceremony. Those members were Majority Leader LOTT, Speaker GINGRICH, Representative ARMEY, and Minority Leader GEPHARDT. In addition, the members of the committee were ably assisted by the officers and employees of the Senate and House of Representatives, as well as by personnel from the executive branch. The success of the ceremony demonstrated tremendous cooperation between both parties, as well as both Houses of Congress and the executive branch.

I offer my appreciation to everyone who contributed countless hours to the 1997 inauguration ceremony, particularly to the chairman, Senator WARNER, and the ranking member, Senator FORD. Thanks to the efforts of all involved, the ceremony will be a memorable event for our Nation.

KENTUCKY DOMINICAN SISTERS 175TH ANNIVERSARY

Mr. FORD. Mr. President, I am proud to stand before you and my colleagues today to recognize the 175th anniversary of the founding of the Kentucky Dominican Sisters. They are the oldest group of Dominican Sisters in the United States and I am pleased they chose to put down roots in Kentucky.

It was a time in our Commonwealth's history when the rural communities were sometimes forgotten. But nine pioneers took it upon themselves to help meet the needs of those in rural Kentucky. They made a commitment to the community to serve through service, prayer, and study—a commitment which has lasted 175 years. It was this group of women who laid the foundation for the Kentucky Dominican Sisters of today.

The Sisters responded to the needs of their time. They nursed soldiers in Kentucky during the Civil War and established hospitals for residents who previously traveled miles for emergency care. As the times have changed so have the needs of citizens of Kentucky. But the Sisters are still answering those in distress. My regret today is that I can only highlight some of their recent work including working with persons living with AIDS, assisting refugees to resettle and advocating for food, shelters and health care for not only the people of Kentucky, but for those throughout our great United States.

On April 4, 1997, Sisters from around the United States will gather at their Motherhouse in Springfield, KY, for a weekend of celebration. Mr. President, I ask you and my distinguished colleagues to join me in honoring the Kentucky Dominican Sisters for 175 years of service.

HONORING BILL WEBER, ST. CHARLES CHAMBER OF COMMERCE 1996 CITIZEN OF THE YEAR

Mr. ASHCROFT. Mr. President, I rise today to honor the St. Charles Chamber of Commerce 1996 Citizen of the Year, William H. Weber. On January 24, 1996, Bill Weber will gather with friends, family, and colleagues to celebrate his distinguished contributions to his community.

Bill is a lifelong resident of Missouri and St. Charles. His volunteer career has touched innumerable oragnizations with his leadership, commitment, and unselfish hard work. Bill has been the driving force behind such significant projects as fund raising to build both the St. Peters Rec-Plex and the YMCA of St. Charles County. After a volcano destroyed the city of Armero, Colombia, South America, he worked tirelessly to build a YMCA facility to provide basic needs and housing for the children of that disaster.

Closer to home, he has served on the boards of directors for Boys and Girls Town of Missouri, the Regional Commerce and Growth Association, St. Louis Sports Commission, St. Charles Public Schools, St. Charles Police and Fire Board, Crimestoppers, Mid America Theater, St. Charles County Horse Racing Commission, Daniel Boone District Chairman, Boy Scouts of America and the Eagle Board of Review, YMCA and United Services Blue Ribbon Committee.

He received the Boy Scouts' highest honor, the Silver Beaver Award in 1989, Channel 5's [KSDK] Volunteer Board of Governors Jefferson Award in 1993, the YMCA's highest leadership award and Youth in Need honored him as its first recipient of their Youth Leadership Award. For this lifetime of service, I rise today to recognize and salute William H. Weber, St. Charles Chamber of Commerce 1996 Citizen of the Year. His volunteer work has been a shining example to me as well as all Missourians.

HONORING THE POTTERS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Donna and Ralph Potter of Kansas City, MO, who on Sunday, January 5, 1997, celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Donna and Ralph's commitment to the principles and values of their marriage deserves to be saluted and recognized.

LOUIS J. AMABILI

Mr. ROTH. Mr. President, today I would like to say something about a hero. The distinguished historian Stephen E. Ambrose says that we need to teach our children about heroes. It is by understanding the contributions of great men and women that our youth set standards of achievement for themselves. Common heroes provide a sense of unity and inspire us to aim a little higher than we did the day before.

This week in Delaware, an outstanding man is being recognized for his more than 50 years of service to community, State, and Nation. His name is Louis J. Amabili. He's a loving husband, a devoted father, an attentive grandfather, and fearless firefighter. He's a man who, for half a century, has risked his life to protect the lives and property of others.

Louis is my friend, and I am honored to count him among my friends. He is a member of the Hockessin Fire Company and the founding Director of the Delaware State Fire School. For 32 years, he served as director of that school, leading it to its current preeminent position as one of the leading fire training facilities in the United States.

During his tenure, the Delaware State Fire School not only built its facility in Dover, but established training centers in Sussex and New Castle Counties, providing fire training centers within 30 minutes of every fire company in Delaware.

In additions to these many successes, Louis Amabili also served as president of the New Castle Volunteers Firemen's Association, the Delaware Volunteer Firemen's Association, and the International Association of Fire Service Instructors. Richard Nixon appointed him to the Fire Prevention and Control Commission, and Delaware Governor Pete DuPont recognized him with the "Order of the First State."

Mr. President, Louis Amabili is one of the most well-recognized fire service leaders in America. He served on the Board of Directors of the National Fire Protection Association, and chaired the Fire Officers Professional Qualifications Standards Committee for more than a decade.

Louis was a member of the International Fire Service Training Association and received their highest honor for his role in fire service training. He chaired the Joint Council of National Fire Service Organizations and helped establish the National Fire Service Professional Qualifications System.

He serves as a member of the board of directors of the Congressional Fire Services Institute—which I have the honor of co-chairing—and he has received that institute's highest honor, the CFSI Fire Service Person of the Year Award.

On this occasion, as Louis Amabili retires from a distinguished career, it is my privilege to recognize his years of selfless service, the lives he has touched, the lives he has taught, and the lives he has saved. I want to express my gratitude to his wonderful wife, Carmen, to his son Louis Jr., and to his daughter, Janice, and I want the record to show without question that we do, indeed, still live in a time of heroes. Quite often these valiant men and women live right next door.

CHILDREN'S HEALTH CARE

Mr. WELLSTONE. Mr. President, children's health care coverage needs to be a priority in this Congress. We need to be committed to providing access to affordable coverage and care to all working families in America. We also need to provide coverage for uninsured pregnant women, in order to ensure that children get a healthy start in life. All children should have access to services that provide for their basic health care needs such as immunization, preventive services, acute care, and dental care services, regardless of whether they live in rural or urban areas.

Employers are rapidly cutting health care coverage for children of their employees. When a family earning $16,000 each year is required to pay over 10 percent and sometimes as much as one-third of their income to purchase health insurance for their children, they are forced to make very difficult choices. They must choose between providing their children with basic needs such as food and shelter, and paying for health insurance.

Health care coverage for children is an investment in the future. Children with undiagnosed or untreated health problems may have difficulty learning in school. A child with poor vision that has not been diagnosed or treated may be unable to see the blackboard. A child who is in pain from preventable tooth decay may not be able to eat an adequate diet, and the pain may make it difficult for the child to concentrate. A child with asthma who has poor access to care may spend many hours in an emergency department and many days in the hospital for treatment of problems that could have been prevented. This occurs at a significant cost not only in terms of dollars, but also in terms of lost opportunities to attend school, and loss of work time and income for the child's parents. These situations can be prevented with adequate health care coverage and access for children.

Children in rural areas are especially vulnerable, as there are fewer services available in these areas, and some needed services are located at significant distances from their homes. In addition, these children often live in homes where their parents work for small employers, who are unable to offer dependent coverage at a low cost.

Several States have demonstrated the cost savings available by providing assistance to working families. My home State, Minnesota, operates its own program that helps families buy private health insurance. Ninety-thousand people are covered, including 50,000 children. Over the years, more than 41,000 families have used MinnesotaCare to leave or stay off welfare, saving the taxpayers $26 million per year.

It is essential that we address this issue and provide low- and middle-income families with the option to purchase affordable private insurance coverage for their children. These families must be provided with the means to purchase this coverage in a timely manner, so that they do not have to delay the purchase of coverage for their children.

We need to build on successful private, State, and Federal efforts to help working families afford to provide health coverage for their children. Providing coverage for children through age 18 and pregnant women is the next logical step in incremental health care reform. It is sound policy and makes economic sense. It will ensure that all children in America have a healthy start in life.

S. 10, THE VIOLENT AND REPEAT OFFENDER ACT OF 1997

Mr. ASHCROFT. Mr. President, earlier today Senator HATCH introduced S. 10, the Violent and Repeat Offender Act of 1997. Senators LOTT, DOMENICI, SESSIONS, and I worked with him in developing the bill. While not perfect, the bill does take the initial steps in dealing with the epidemic of violent juvenile crime sweeping the Nation.

Mr. President, the face of crime in America is indeed changing. Throughout our history, one thing has been clear: government's first responsibility is to keep the citizenry safe. John Jay wrote in The Federalist, No. 3, "Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be first."

The murderers, robbers, rapists, and drug dealers of yesteryear were typically adults. Now they are typically juveniles. As the age of these criminal predators becomes younger and younger with each passing year, so does the age of their victims.

Last Wednesday afternoon, 12-year-old Darryl Dayan Hall was abducted at gunpoint from the Southeast Washington area by three teenagers of a gang known as the Simple City Crew. This is the same gang that opened gunfire at a crowded community swimming pool in June 1993, wounding six children. This past Saturday, police found Darryl's frozen body. He had been shot once in the back of the head and at least once in the body.

The three teenagers who are now charged with Darryl's murder have had numerous prior brushes with the law. One of Darryl's assailants was charged as a juvenile with possession of PCP in 1995 and then was released—as is too often the case—promising not to run afoul of the law again. Another of Darryl's assailants was, and is, on probation following his juvenile conviction last spring for possession of PCP with intent to distribute. Darryl's third assailant was charged as a juvenile just last month with carrying a deadly weapon.

Mr. President, from 1984 to 1994, the number of juveniles murdered in this country increased 82 percent. In 1994, one of every five juveniles murdered was killed by another juvenile. The rate at which juveniles 14 to 17 years old were arrested for murder grew by 22 percent from 1990 to 1994 and the problem is going to get worse, much worse.

Congress over the last three decades has established 131 separate Federal programs—administered by 16 different departments and agencies—to serve delinquent and at-risk youth, according to a report issued by GAO last March. Conservative estimates of Federal appropriations used for these at-risk and delinquent youth programs was more than $4 billion in fiscal year 1995.

Despite this ongoing massive expenditure, the Federal Government has failed to meet its responsibility of providing public safety in this arena because it has not focused on holding juveniles accountable for their violent crimes. We now have a new category of offenders that requires a different, tougher approach. In short, we have criminals in our midst—young criminals—not juvenile pranksters and truants.

The juvenile offenders of today will become the career criminals of tomorrow, if government continues to fail to recognize that America has an acute social illness that cannot be cured solely with money spent on social programs. This legislation introduced today takes a common sense approach in dealing with the current epidemic of juvenile violence. It would help States make urban, suburban, and rural communities safe once again.

The bill would provide $2.5 billion over 5 years in new incentive grants for States to enact accountability-based reforms in their juvenile justice systems. This legislation would authorize funding for various programs, including efforts aimed at trying our most violent juveniles as adults; establishing the ability of States to collect juvenile criminal records, fingerprints, and photographs, and to share such criminal histories and information within a State, with other States, and with the Federal Government; and establishing Serious Habitual Offender Comprehensive Action Program [SHOCAP]. Religious organizations would also be permitted to participate in the rehabilitative programs included in the bill.

Mr. President, serious, violent, and repeat juvenile offenders must be held responsible for their crimes. Today we are living with a juvenile justice system that was created around the time of the silent film. We are living with a juvenile justice system that reprimands the crime victim for being at the wrong place at the wrong time, and then turns around and hugs the juvenile terrorist, whispering ever so softly into his ear, "Don't worry, the State will cure you."

The juvenile justice system's primary goal today is to treat and rehabilitate the juvenile offender. Such a system can handle runaways, truants, and other status offenders; but it is ill-equipped to deal with those who commit serious and violent juvenile crimes repeatedly.

The criminal justice system can emphasize to adult criminals that acts have real consequences. The purpose of the criminal justice system is to punish, that is, to hold defendants accountable.

This legislation would provide financial assistance to States to help them reform their juvenile justice system to get the message to juveniles that their acts have real consequences to them as well. States will be eligible to receive Federal funds to help provide for the adult prosecution—as a matter of law or prosecutorial discretion—of juveniles 14 or older who commit violent crimes such as murder, forcible rape, armed robbery, and assault with a deadly weapon or offenses involving controlled substances or involving the possession of a firearm or a destructive device.

Mr. President, punishing dangerous juveniles as adults is an effective tool in fighting violent juvenile crime. For example, in Jacksonville, FL, State Attorney Harry Shorstein instituted a program to prosecute and incarcerate such offenders in 1992. Two years later, the number of juveniles arrested in the city dropped from 7,184 to 5,475. While juvenile arrests increased for most of the Nation, Jacksonville's arrest rate actually decreased by 30 percent.

Mr. President, States also need to create and maintain juvenile criminal records. Typically, State statutes seal juvenile criminal records and expunge those records when the juvenile reaches age 18. The time has come to discard the anachronistic idea that crimes committed by juveniles, no matter how heinous, must be kept confidential from the rest of society.

Our laws continue to view juveniles through the benevolent prism of basically good kids gone astray. The law should really view the juvenile predators of today as the criminals that they are. These young criminals know that they can commit crime after crime because their juvenile records are kept hidden under a "veil of secrecy." They also know that when they reach their 18th birthday, they can begin a second career as adult criminals as if they had never committed a crime in their young lives. The argument is that we are protecting juveniles from the stigma of a record, but in reality we are coddling hardened criminals. We must separate rhetoric from reality by lifting the "veil of secrecy."

The law enforcement community needs to know if an individual has a prior juvenile criminal record in order to conduct criminal investigations and apprehend those responsible for crimes in their towns, cities, and counties.

According to Police Chief David G. Walchak, who is also president of the International Association of Chiefs of Police, law enforcement is in desperate need of access to juvenile criminal records. The police chief says, "Current juvenile records (both arrest and adjudication) are inconsistent across the States, and are usually unavailable to the various programs' staff who work with youthful offenders." Chief Walchak also notes that "there are only 26 States that even allow law enforcement access to juvenile records * * * if we [law enforcement] don't know who the youthful offenders are, we can't appropriately intervene."

Mr. President, it is that simple. As juvenile gangs spread from urban to suburban to rural areas, as they travel from State to State, the "veil of secrecy" draped over their criminal histories and records undermines the ability of law enforcement to protect the rest of society.

In order to empower local law enforcement, the proposed bill would provide money to States to create and maintain juvenile criminal records, and to share those records with other Federal, State, and local law enforcement agencies.

Mr. President, school officials also need access to juvenile criminal records to assist them in protecting the best interests and safety of all students. The decline in school safety across the country can be attributed to a significant degree to laws that put the protection of dangerous students ahead of protecting innocent, law-abiding students. While visiting with school officials in Sikeston, MO, a teacher told me how one of her students came to school wearing an electronic monitoring ankle bracelet. The student told the teacher, "You don't know if I'm a murderer or a rapist and I ain't gonna tell you." That student was not only brutally honest, he was right. No one had any knowledge of what crime he had committed and, more importantly, they had no way of finding out.

If schools knew the histories of violent juveniles, they could respond to any misbehavior by imposing stricter sanctions, assigning particular teachers, or having the student's locker near a teacher's doorway entrance so that the teacher can monitor his conduct during the changing of class periods. In short, this bill would allow school officials to take measures that could prevent violence against other children at school.

Mr. President, for purposes of adult sentencing, adult courts need to know that convicted felons have a history of criminal behavior. According to the 1991 Survey of Inmates in State Correctional Facilities, nearly 40 percent of prison inmates also had prior criminal records as juveniles. That is approximately 4 in 10 prison inmates. The proposed legislation would allow adult courts to have access to juvenile records so that criminals could no longer masquerade as neophytes before the adult criminal justice system.

The bill also allows State and local governments to use Federal funds to implement the Serious Habitual Offenders Comprehensive Action Program [SHOCAP].

SHOCAP is a multi-agency crime analysis and case management process for identifying and prosecuting violent and hard-core juvenile offenders in a community. SHOCAP targets such serious habitual offenders for intensive social supervisory interventions, intensive accountability in school attendance and discipline, and strenuous investigation and prosecution when they commit a new crime.

The Office of Juvenile Justice and Delinquency Prevention [OJJDP] conducted five test pilots of SHOCAP. Oxnard, CA, was one of the sites selected. When SHOCAP was implemented in Oxnard in 1983, officials found that less than 2 percent of all juveniles arrested in that community were responsible for over 35 percent of the felonies committed by juveniles. Four years later, Oxnard's juvenile violent crime dropped 38 percent. Illinois and Florida have also recently established statewide SHOCAP programs in an effort to reduce their juvenile crime rates. S. 10 would allow all jurisdictions to use Federal funds to help implement SHOCAP.

Mr. President, reforms are also necessary at the Federal level as well. S. 10 would make it easier for Federal prosecutors to try juveniles as adults. Under the bill, U.S. attorneys would have discretion to decide whether to try as adults juveniles 14 years or older without having to go through the Attorney General's office in Washington.

Federal juvenile court proceedings would be opened to the general public. When imposing a sentence, the district court would also be allowed to consider a juvenile's entire criminal record under the bill. In any case in which a juvenile is tried as an adult, access to the record of that offense would be made available to law enforcement authorities and others in the same manner that adult criminal records are publicly available.

Mr. President, the Government should also be able to mount a counter-attack on gang violence. This legislation targets violent youth gangs, like the notorious Simple City Crew in the District. There would be new Federal penalties for offenses committed by criminal street gangs. Gangs are no longer concentrated in the big cities, they are now in rural towns. The bill would also provide $100 million to hire assistant U.S. attorneys to prosecute juvenile criminal street gangs.

We as a nation and a government must challenge this culture of violence and restore the culture of personal responsibility and accountability. It is high time to consider hard-headed and sensible juvenile justice policies. Where possible we must give second chances. Where necessary we must punish severely. This is a first step to restore justice to a nation that has grown weary of injustice.

In sum, this legislation would send a clear, cogent, and convincing message to violent juveniles: "Serious acts have serious consequences."

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, it was not quite 12 months ago—on Friday, February 23, 1996—that the Federal debt broke the $5 trillion sound barrier for the first time in history. The records show that on that day, at the close of business, the debt stood at $5,017,056,630,040.53.

Just 20 years earlier, in 1976, the Federal debt stood at $629 billion—and that was after the first 200 years of America's history had elapsed, including two world wars. Then the big spenders really went to work and the interest on the Federal debt really began to take off—and, presto, during the past two decades the Federal debt has soared into the stratosphere, increasing by more than $4 trillion in two decades from 1976 to 1996.

So, Mr. President, as of the close of business Friday, January 17, 1997, the Federal debt stood—down-to-the-penny—at $5,309,774,506,681.99. On a per capita basis, every man, woman, and child in America owes $19,917.66 as his or her share of that debt.

This enormous debt is a festering, escalating burden on all citizens and especially it is jeopardizing the liberty of our children and grandchildren. As Jefferson once warned, "to preserve [our] independence, we must not let our leaders load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude."

Was Mr. Jefferson right, or what?

WINTER IN NORTH DAKOTA

Mr. DORGAN. Mr. President, I rise to introduce a piece of legislation and also to discuss an issue that is very important to residents of my home State of North Dakota and residents of a good many States, particularly in the northern Great Plains. Let me begin by talking about some of the hardships and some of the challenges faced by Dakotans and by others in our part of the country as a result of an extraordinarily severe winter.

North Dakota has had six blizzards, which others might already know about, having heard the reports of these blizzards on television, news reports, and elsewhere, six blizzards from November 17 to January 15. The blizzards have been about as tough as any I have seen in North Dakota in my years in that wonderful State. It has been a tough, hard winter—lots of snow, lots of wind, conditions that are dangerous to people and to livestock.

I want to talk just a little about the challenges that these winters blizzards portray for our citizens and what the response has been. I want to tell you first about a young boy named Wyett Magike who lived about 20 miles from the nearest medical center near Mandan, ND, or Bismarck, ND. Steve Conmy, who is the coordinator of emergency services for Morton County, during the middle of a blizzard about a week and a half ago told me about some of his plow and truck operators and what they were facing. I went out in a big plow with Mr. Conmy and we drove on the north edge of Mandan, ND, where snow covered the trailer houses altogether. In other words, the snow was to the roof of a trailer house so you could not see the trailer house. Getting there, you could not see anything in front of you because it was almost total white-out conditions—high wind, snow, a lot of snow pack, with blowing snow. Those are the kind of conditions that road crews all across North Dakota have faced for some long while.

November 17, a very large blizzard and storm in North Dakota in the northeastern part of the State; December 16, 17, and 18, a winter blizzard through most all of North Dakota; December 20, 21, and 22, again, a big winter blizzard in the northeastern part of the State; January 4 and 5, a very severe winter blizzard throughout the State; January 15, another severe winter blizzard throughout the State. That is what our citizens have faced.

Now Wyett Magike was 2 years old, and on a recent morning, at 10 o'clock in the morning a call was received by the Morton County emergency management group regarding a medical emergency down near Flasher, ND. This young child was very, very ill and he needed to be transported to the Bismarck hospital immediately. He was dehydrated, severely vomiting blood. Everyone was very concerned about him and knew that he had to get medical attention immediately or he might die. Due to the road conditions and the weather reports, travel was impossible. The roads were completely blocked and the conditions were near white-out conditions. For people who do not know because they are not from our part of the country, a white out is when snow and blowing snow make it impossible to see anything in front of you. All the roads, including the main highways, were blocked with snowdrifts and there was zero visibility that morning.

What the emergency group did was coordinate two snowplows dispatched from Flasher, ND, to escort an ambulance crew from Flasher, ND. And then two snowplows were dispatched from Mandan, ND, also with an ambulance. They met at a major snow block on the highway east of Flasher, ND, and it took 45 minutes just for all that equipment to punch a hole through the snow that was blocking that road. This journey took some 6 hours by these road crews, again at zero visibility, with snowblock virtually everywhere.

James Gerhardt and Gerald Friesy ran the plow and the truck from Flasher; Leland Gross and Robert Jochinm ran the snowplow and the truck from Mandan. And Steve Conmy said when he asked the folks to go out and do this, they did not wring their hands and say. "Gee, there is a risk out here." They said, "What equipment shall we take." They hit the road, and 6 hours later the young boy was in the hospital at Bismarck. The doctor said he would have died except for the heroic efforts by these folks.

Now, James, Gerald, Leland, and Robert are not well known by their deeds. They are just a road crew. When I say "just a road crew," they are heroes. There are road crews all over North Dakota working 8-hour after 8-hour shifts and risking their lives doing things that save other people's lives.

I mentioned this story only because a lot people do not understand the severity of the winter storms we have had. Lives have been lost in the Dakotas. We are now doing an assessment to find out how much livestock has been lost. Undoubtedly, a substantial amount of livestock loss has occurred. People have not been able to get through roads to feed the livestock. If they did, feed was not available. The result has been a very, very serious problem for people and for livestock in our State.

In the November 16 and 17 storm, we had 13 inches of snow fall in North Dakota; November 20, 6 inches; the 16th, 8 inches; December 20, 8 inches; 10 inches; 7 inches; on it goes. In each case, we had winds of 30, 40 and 50 miles an hour. In December and January there have been 10 days where the wind chill has been recorded at or below 50 below zero—10 days at or below 50 below zero. The other evening the wind chill was 80 below zero.

I am not trying to diminish our tourism efforts in North Dakota, although I expect there was precious little tourism in early January with forecasts of blizzards in our State, but it has been a very difficult circumstance. January 9, 83 below zero wind chill in Minot, ND. For 11 days in November to January it did not get above zero.

What to make of all of this and the challenge that it poses for North Dakotans. Clearly, North Dakotans who were isolated and stuck out in the country with roads impassable, often in need of medical help or in need of food or in need of feeding the cattle who also were at risk, needed some assistance.

I mentioned the emergency crews that were available, and all over the State in unknown ways by unknown people, they have committed heroic acts. But North Dakotans needed more help than that. They needed low-income energy assistance, especially for some areas on Indian reservations and elsewhere. They needed emergency feed assistance. Cities and counties and townships and others who have not been able to clear the roads, have not had enough equipment, needed assistance.

I am pleased to say that the Federal Emergency Management Agency and others are now in North Dakota at the President's direction. The State of North Dakota, the counties, the townships and the Federal Government are working together to respond to an extraordinarily difficult circumstance. We are not nearly through this. Winter is only about a third over. We do not know what the next couple of months will be for our State. But we know that North Dakotans have endured a very difficult winter so far. We hope for better conditions. Whatever happens, North Dakota will be prepared to deal with it and respond to it.

I do want the President to know and my colleagues to know that just as when a tornado comes along and wreaks havoc in an area, or where a raging flood gathers homes and runs the homes down a river, just as those emergencies such as an earthquake, for example, that causes chaos, just as they need to be responded to and always are responded to by the Federal Government, so, too, must this snow emergency and the storms and the deadly blizzards that have crossed our States in the northern Great Plains in recent weeks, so, too, must they be responded to in an appropriate way.

We are continuing to work on snow clearing, on low-income energy assistance issues, on feed assistance for livestock, and on many other approaches to try to help people and respond to the needs that exist as a result of this very severe winter.

Today, I wanted to at least tell my colleagues of the circumstances that we face and thank the President, thank the administration and others who have joined to help. I also wanted to describe the people who assisted the 2-year-old boy. That has gone on across our State every day and in every way. To those who work in public service, those who man those graders and trucks and keep the roads open, punch through snowdrifts with zero visibility to protect life in North Dakota, I say: You are the real heroes, and North Dakotans and all of America owe you a debt of gratitude.

Mr. GRASSLEY. Mr. President, today is the first day in which the Senate will entertain legislation for the 105th Congress. I rise today to compliment various tax bills introduced by my colleagues for myself. Some of this legislation is in the leadership package. Other legislation has been introduced separately by other Senators. All of this legislation will reduce taxes on Americans trying to live the American Dream. I applaud these efforts. In fact, I have had a hand in writing or cosponsoring much of it in the 104th Congress. With this new Congress, we must break down the barriers that stand in the way of the next generation's shot at the American Dream. Our future depends on it.

The initiatives I support include, reinstating the income tax deduction for interest on student loans, reducing the capital gains tax, expanding individual retirement accounts, extending the employer provided education assistance programs, and finally, reducing the estate taxes. Collectively, these tax bills will provide necessary relief for all taxpayers. Hard working families and individuals deserve nothing less from their Federal Government.

STUDENT LOAN INTEREST DEDUCTION

The leadership package includes legislation that includes my provisions from the 104th Congress to reinstate the tax deduction for interest on student loans. It would allow an "above the line" deduction for up to $2,500 in qualified interest. This means that students or their families will not have to itemize their income tax deductions to benefit from the deduction.

In 1986, the income tax deduction for interest on student loans was repealed. I believed then, as I believe now, that the repeal was a major mistake. Education is an investment both for students and the Nation. In exchange for hard work the student gets a tax deduction to make education affordable. In exchange for the student's commitment, the Nation gets a new taxpayer and sometimes a better citizen.

I commend the leader for selecting this initiative, and I welcome the opportunity to work with him to expand it.

CAPITAL GAINS TAX REDUCTION

Senator HATCH introduced legislation to reduce the income tax on capital gains. It is substantially similar to legislation passed by the last Congress but vetoed by the President. Since the President has since committed himself to capital gains relief, I am encouraged about the prospects for enactment of our provision authored by Senator HATCH. The President has suggested much more narrow relief targeted at residential real estate. However, our broad-based cut is better for the small businesses, family farms, and individual taxpayers.

This morning, in testimony to the Senate Budget Committee, Federal Reserve Board Chairman Alan Greenspan said that the ideal capital gains tax rate is zero percent. Our bill would cut it in half. The President must consider our provision. Reducing the capital gains tax rate by 50 percent for taxpayers across the board, is essential to help grow the economy.

SUPER IRA'S

Senate Finance Committee Chairman ROTH, has, once again introduced his legislation to expand the number of people who can invest in individual retirement accounts. This legislation is vital given the dismal rate of savings by Americans. Americans want to save money. The problem is that our current system of taxes does not allow it. The Super IRA provision will give taxpayers a better vehicle to save more for retirement. Since the miracle of compound interest means that saving sooner saves more, we must take up this bill as soon as possible.

EMPLOYER PROVIDED EDUCATION ASSISTANCE

Finance Chairman ROTH was joined by Finance Ranking Minority Member MOYNIHAN in legislation to make permanent the income tax exclusion for employer provided education assistance. I am a proud cosponsor of this bill. This provision is set to expire. Congress must step up to the plate and, finally, permanently extend it. Last time, over my objections, we failed to extend the provision for graduate assistance. All students must be eligible for this assistance program.

ESTATE TAX REDUCTION

The leadership package includes legislation to reduce the estate tax burden of all Americans. It is included as part of S. 2. Reducing, the estate tax is something that we almost accomplished in the last Congress. We need to take it up right away in this Congress. Historically, the estate tax was initiated as a temporary tax on the super wealthy during times of war. Later, it became a permanent part of the tax system, but still applied only to the rich. Over time, the effects of inflation have taken their toll. Now, we have middle income taxpayers hit with an estate tax burden intended for the wealthy. In my State of Iowa, we have a problem unique to us and other farm States. Some taxpayers have a double tax identity. They are cash poor because they have just enough cash-flow off of the farm to make ends meet. However, they are land rich because their family farm has appreciated during the period that they were family farmers. The estate tax ignores the fact that the farm is as much their family home as it is a business. The estate tax also ignores that they are middle income people at best, and were not intended to even pay the estate tax when it first came into being.

The leadership package is a good start. It cuts the estate tax for all taxpayers, including small businesses and farmers. Congress must find a way to improve the estate tax crisis in my State of Iowa, and other States. I look forward to continuing my work with the leader to accomplish an estate tax reduction.

ALTERATIVE MINIMUM TAX ON FARMER DEFERRED CONTRACTS

Finally, I want to make quick reference to tax repeal legislation that will be introducing tomorrow for myself and over 50 other original sponsors. Senators DORGAN, GORTON, BAUCUS, and I have campaigned to eliminate an IRS imposed tax on farmers and ranchers who sell crops or livestock on deferred contracts. Congress did not intend this tax. Only the IRS intends this tax. The broad bipartisan support that we have gathered tells me that Congress is going to repeal it. We will have more on this initiative tomorrow.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING BIOLOGICAL AND CHEMICAL WEAPONS—MESSAGE FROM THE PRESIDENT—PM 5

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Armed Services.

To the Congress of the United States:

As required by section 1416 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201), I transmit herewith a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use of potential use of biological and chemical weapons of mass destruction (WMD) within the United States.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 21, 1997.*

REPORT ON THE CONTINUATION OF THE EMERGENCY REGARDING TERRORISTS—MESSAGE FROM THE PRESIDENT—PM 6

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process, is to continue in effect beyond January 23, 1997. The first notice continuing this emergency was published in the *Federal Register* last year on January 22, 1996.

The crisis with respect to the grave acts of violence committed by foreign terrorists that threaten to disrupt the Middle East peace process that led to the declaration of a national emergency, on January 23, 1995, has not been resolved. Terrorist groups continue to engage in activities with the purpose or effect of threatening the Middle East peace process, and which are hostile to U.S. interests in the region. Such actions threaten vital interests of the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to deny any financial support from the United States for foreign terrorists that threaten to disrupt the Middle East peace process.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 21, 1997.*

MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker appoints the following Member to the Joint Economic Committee: Mr. SAXTON of New Jersey.

At 3:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 9. Concurrent resolution providing for a joint session of Congress to received a message from the President on the State of the Union.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–578. A communication from the Acting Director, Office of Substainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone Off Alaska, received on January 8, 1997; to the Committee on Commerce, Science, and Transportation.

EC–579. A communication from the Acting Director, Office of Substainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone Off Florida, received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC–580. A communication from the Acting Director, Office of Substainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone Off Florida, received on January 6, 1997; to the Committee on Commerce, Science, and Transportation.

EC–581. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to the Fishery Management Plan, (RIN0648–AI97) received on January 8, 1997; to the Committee on Commerce, Science, and Transportation.

EC–582. A communication from the Secretary of Commerce, transmitting, pursuant to law, a letter of certification relative to the Driftnet Act; to the Committee on Commerce, Science, and Transportation.

EC–583. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule relative to Puerto Rican shrub, (RIN1018–AD48) received on January 7, 1997; to the Committee on Environment and Public Works.

EC–584. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a certification relative to commercial shrimping operations; to the Committee on Commerce, Science, and Transportation.

EC–585. A communication from the Secretary of the Consumer Product Safety Commission, transmitting, pursuant to law, the report of rule relative to fireworks, received January 2, 1997; to the Committee on Commerce, Science, and Transportation.

EC–586. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of rule relative to Class A and Tier 1 Telephone Companies, received on January 7, 1997; to the Committee on Commerce, Science, and Transportation.

EC–587. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the Airport Improvement Program for fiscal year 1995; to the Committee on Commerce, Science, and Transportation.

EC–588. A communication from the Secretary of Transportation, transmitting, pursuant to law, the biennial report on the effectiveness of occupant protection systems and their use; to the Committee on Commerce, Science, and Transportation.

EC–589. A communication from the Acting Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report on the Aircraft Cabin Air Quality Research Program; to the Committee on Commerce, Science, and Transportation.

EC–590. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to tank vessels, (RIN2115–AF27) received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC–591. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to management and monitoring systems, (RIN2125–AC97) received on December 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–592. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to Class E Airspace, (RIN2120–AA66) received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC–593. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to the Air Carrier Access Act, (RIN2105–AB62) received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC–594. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule relative to the Fur Products Labeling Act, received on December 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–595. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule relative to the Food Retailing and Gasoline Industries, received on December 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–596. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report under the Comprehensive Smokeless Tobacco Health Act; to the Committee on Commerce, Science, and Transportation.

EC–597. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report under the Comprehensive Smokeless Tobacco Health Act; to the Committee on Commerce, Science, and Transportation.

EC–598. A communication from the Chairman of the National Safety Board, transmitting, pursuant to law, the request for supplemental funding for fiscal year 1997; to the Committee on Commerce, Science, and Transportation.

EC–599. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 542, received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC–600. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 537, received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC–601. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 347, received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC–602. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on Voluntary Commitments for the Replacement Fuel Supply and Demand Program; to the Committee on Energy and Natural Resources.

EC–603. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the report of a rule relative to the National Environmental Policy Act, (RIN1901–AA67) received on January 9, 1997; to the Committee on Energy and Natural Resources.

EC–604. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Annual Energy Outlook 1997; to the Committee on Energy and Natural Resources.

EC–605. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Alaska National Wildlife Refuges, (RIN1018–AC02) received on January 9, 1997; to the Energy and Natural Resources.

EC–606. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Ohio Regulatory Program, received on January 8, 1997; to the Committee on Energy and Natural Resources.

EC–607. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–608. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–609. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–610. A communication from the Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Native American Graves Protection and Reparation Act, (RIN1024–AC48) received on January 9, 1997; to the Committee on Environment and Public Works.

EC–611. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to endangered and threatened wildlife and plants, (RIN1018–AC64) received on January

7, 1997; to the Committee on Environment and Public Works.

EC–612. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to endangered and threatened wildlife and plants, (RIN1018–AC84) received on January 13, 1997; to the Committee on Environment and Public Works.

EC–613. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to endangered and threatened wildlife and plants, (RIN1018–AD47) received on January 8, 1997; to the Committee on Environment and Public Works.

EC–614. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to endangered and threatened wildlife and plants, (RIN1018–Ad11) received on January 3, 1997; to the Committee on Environment and Public Works.

EC–615. A communication from the Director of the State and Site Identification Center, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to uncontrolled hazardous waste sites, received on January 10, 1997; to the Committee on Environment and Public Works.

EC–616. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of five rules including one rule relative to approval and promulgation of plans, (FRL5676–4, 5662–7, 5664–9, 5663–1, 5662–1) received on January 9, 1997; to the Committee on Environment and Public Works.

EC–617. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of five rules including one rule relative to approval and promulgation of plans, (FRL5669–1, 5673–6, 5662–3, 5669–5, 5660–9) received on January 10, 1997; to the Committee on Environment and Public Works.

EC–618. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules including one rule relative to the Clean Air Act, (FRL5674–1, 5673–8) received on January 3, 1997; to the Committee on Environment and Public Works.

EC–619. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of four rules including one rule relative to approval and promulgation of plans, (FRL5646–2, 5661–6, 5579–7, 5581–9) received on January 9, 1997; to the Committee on Environment and Public Works.

EC–620. A communication from the Chief Financial Officer, National Aeronautics and Space Administration, transmitting, pursuant to law, the report on Federal Facilities Compliance Act Mixed Waste Activities for 1996; to the Committee on Environment and Public Works.

EC–621. A communication from the Dean and the Director of the Center for Nations in Transition, Hubert H. Humphrey Institute of Public Affairs, University of Minnesota, transmitting jointly, pursuant to law, the annual report on the Environmental Training Project (ETP); to the Committee on Environment and Public Works.

EC–622. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–6, received on January 7, 1997; to the Committee on Finance.

EC–623. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–5, received on January 7, 1997; to the Committee on Finance.

EC–624. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–4, received on January 7, 1997; to the Committee on Finance.

EC–625. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–8, received on January 7, 1997; to the Committee on Finance.

EC–626. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to foreign taxes, received on January 7, 1997; to the Committee on Finance.

EC–627. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–1, received on January 7, 1997; to the Committee on Finance.

EC–628. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–2, received on January 7, 1997; to the Committee on Finance.

EC–629. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–7, received on January 7, 1997; to the Committee on Finance.

EC–630. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to temporary regulations, received on January 7, 1997; to the Committee on Finance.

EC–631. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–14, received on January 10, 1997; to the Committee on Finance.

EC–632. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to private activity bonds, (RIN1545–AU62) received on January 7, 1997; to the Committee on Finance.

EC–633. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–13, received on January 10, 1997; to the Committee on Finance.

EC–634. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–5, received on January 10, 1997; to the Committee on Finance.

EC–635. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–12, received on January 9, 1997; to the Committee on Finance.

EC–636. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–12, received on January 10, 1997; to the Committee on Finance.

EC–637. A communication from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of rule relative to marketable book-entry treasury bills, received on January 8, 1997; to the Committee on Finance.

EC–638. A communication from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of rule relative to book-entry security, received on January 7, 1997; to the Committee on Finance.

EC–639. A communication from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of rule relative to Redwood Valley, (RIN1512–AA07) received on January 7, 1997; to the Committee on Finance.

EC–640. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the Russian Federation; to the Committee on Finance.

EC–641. A communication from the President of the United States, transmitting, pursuant to law, the report relative to Mongolia; to the Committee on Finance.

EC–642. A communication from the Acting Assistant Secretary for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to child support regulations, (RIN0970–AB57) received on December 24, 1997; to the Committee on Finance.

EC–643. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to managed care plans, (RIN0938–AF74) received on January 8, 1997; to the Committee on Finance.

EC–644. A communication from the Secretary of Health and Human Services and the Commissioner of Social Security Administration, transmitting jointly, pursuant to law, the report of the 1994–1996 Advisory Council on Social Security; to the Committee on Finance.

EC–645. A communication from the Chief of Staff, Office of the Commissioner, Social Security Administration, transmitting, pursuant to law, the report of a rule relative to dedicated accounts and installment payments, (RIN0960–AE59) received on January 8, 1997; to the Committee on Finance.

EC–646. A communication from the Chairman of the International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for fiscal year 1998; to the Committee on Finance.

EC–647. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the 1996 annual report; to the Committee on Finance.

EC–648. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–316 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–649. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–317 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–650. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–318 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–651. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–320 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–652. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–321 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–653. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–322 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–654. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–323 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–655. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–325 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–656. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–326 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–657. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–327 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–658. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–328 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–659. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–329 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–660. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–331 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–661. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–332 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–662. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–333 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–663. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–334 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–664. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–337 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–665. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–338 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–666. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–339 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–667. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–340 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–668. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–341 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–669. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–342 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–670. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–343 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–671. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–347 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–672. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–349 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–673. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–354 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–674. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–355 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–675. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–358 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–676. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–359 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–677. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–360 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–678. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–361 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–679. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–363 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–680. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–364 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–681. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–367 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–682. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–370 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–683. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–371 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–684. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–372 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–685. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–374 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–686. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–378 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–687. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–380 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–688. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–384 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–689. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–386 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–690. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–387 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–691. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–389 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC-692. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-391 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC-693. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-392 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC-694. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-413 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-695. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-415 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-696. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-431 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-697. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-432 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-698. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-433 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-699. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-434 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-700. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-458 adopted by the Council; to the Committee on Governmental Affairs.

EC-701. A communication from the Secretary of Energy, transmitting pursuant to law, the report on Nuclear Reactor Safety in Ukraine and Russia; to the Committee on Foreign Relations.

EC-702. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting pursuant to law, the 1996 annual report; to the Committee on Foreign Relations.

EC-703. A communication from the Assistant Secretary of State (for Legislative Affairs), transmitting pursuant to law, Presidential Determination 97-13; to the Committee on Foreign Relations.

EC-704. A communication from the Assistant Secretary of State (for Legislative Affairs), transmitting pursuant to law, Presidential Determination 97-11A; to the Committee on Foreign Relations.

EC-705. A communication from the Assistant Secretary of State (for Legislative Affairs), transmitting pursuant to law, notice of two determinations relative to Haiti and Pakistan; to the Committee on Foreign Relations.

EC-706. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-707. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-708. A communication from the Secretary of Transportation, transmitting, a notice relative to effective security measures; to the Committee on Commerce, Science, and Transportation.

EC-709. A communication from the Secretary of Transportation and the Secretary of Commerce, transmitting jointly, pursuant to law, the report on Regulating Vessel Traffic in the Monterey Bay National Marine Sanctuary; to the Committee on Commerce, Science, and Transportation.

EC-710. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of twelve rules including one rule relative to Airworthiness Directives, (RIN2120-A64) received on January 13, 1997; to the Committee on Commerce, Science, and Transportation.

EC-711. A communication from the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to motor vehicle theft, (RIN2127-AG34) received on January 14, 1997; to the Committee on Commerce, Science, and Transportation.

EC-712. A communication from the Acting Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report on Civil Aviation Security for 1995; to the Committee on Commerce, Science, and Transportation.

EC-713. A communication from the Director of the Bureau of Economic Analysis, Economics and Statistics Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to international services surveys, (RIN0691-AA27) received on January 15, 1997; to the Committee on Commerce, Science, and Transportation.

EC-714. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to non-accounting safeguards; to the Committee on Commerce, Science, and Transportation.

EC-715. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to advanced television systems, received on January 14, 1997; to the Committee on Commerce, Science, and Transportation.

EC-716. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to accounting safeguards, received on January 14, 1997; to the Committee on Commerce, Science, and Transportation.

EC-717. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to access charge reform, received on January 15, 1997; to the Committee on Commerce, Science, and Transportation.

EC-718. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-310 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-719. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-311 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-720. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-312 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-721. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-314 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-722. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-315 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-723. A communication from the Executive Director of the Japan-United States Friendship Commission, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Foreign Relations.

EC-724. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 97-02; to the Committee on Appropriations.

EC-725. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-726. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-727. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-728. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-729. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-730. A communication from the Archivist of the United States, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-731. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-732. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-733. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-734. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-735. A communication from the Chairperson of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-736. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-737. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-738. A communication from the Chair of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-739. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-740. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-741. A communication from the Chairman of the National Endowment For the Arts, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-742. A communication from the Office of the Special Counsel, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-743. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-744. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-745. A communication from the Chairman of the National Mediation Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-746. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-747. A communication from the Administrator of the U.S. Agency For International Development, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-748. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-749. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-750. A communication from the Attorney General, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-751. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-752. A communication from the Acting Chairman of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-753. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-754. A communication from the President of the Barry M. Goldwater Scholarship and Excellence In Education Foundation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-755. A communication from the Executive Vice President of the U.S. Institute of Peace, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-756. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-757. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-758. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-759. A communication from the Inspector General of the U.S. General Services Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-760. A communication from the Chairman of the National Endowment For the Humanities, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-761. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-762. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-763. A communication from the Chief Executive Office of the Corporation For National Service, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-764. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-765. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-766. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-767. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-768. A communication from the Acting Executive Director of the Advisory Council On Historic Preservation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-769. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-770. A communication from the Secretary of the American Battle Monuments Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-771. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-772. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report relative to appeals; to the Committee on Governmental Affairs.

EC-773. A communication from the Office of Personnel Management, President's Pay Agent, transmitting, pursuant to law, a report relative to locality-based comparability payments; to the Committee on Governmental Affairs.

EC-774. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on reinvention activities to the Committee on Governmental Affairs.

EC-775. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report on drug and alcohol abuse prevention, treatment and rehabilitation programs and services for Federal civilian employees for fiscal year 1995; to the Committee on Governmental Affairs.

EC-776. A communication from the Secretary of Education, transmitting, pursuant to law, a report concerning surplus Federal real property; to the Committee on Governmental Affairs.

EC-777. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report on health promotion and disease prevention activities for Federal civilian employees; to the Committee on Governmental Affairs.

EC-778. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report entitled "Federal Sector Report on EEO Complaints and Appeals" for fiscal year 1995; to the Committee on Governmental Affairs.

EC-779. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report on a resolution and order adopted on December 27, 1996; to the Committee on Governmental Affairs.

EC-780. A communication from the Assistant Secretary of Labor for Employment Standards, transmitting, pursuant to law, a rule entitled "Labor Standards for Federal Service Contracts" (RIN1225-AA78) received on January 8, 1997; to the Committee on Governmental Affairs.

EC-781. A communication from the Assistant Secretary of the Interior for Policy, Management, and Budget, transmitting, pursuant to law, a rule entitled "Administrative and Audit Requirements and Cost Principles for Assistance Programs" (RIN1090-AA59) received on December 24, 1996; to the Committee on Governmental Affairs.

EC-782. A communication from the Office of the Assistant Secretary of Health and Human Services, Administration For Children and Families, transmitting, pursuant to law, a rule on the Head Start Fellows Program (RIN0970-AB56) received on January 14, 1997; to the Committee on Finance.

EC-783. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report on a rule relative to electronic cost reporting, (RIN0938-AH12) received on January 13, 1997; to the Committee on Finance.

EC-784. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Announcement 97-4, received on January 2, 1997; to the Committee on Finance.

EC-785. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Notice 96-9, received on January 2, 1997; to the Committee on Finance.

EC-786. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Notice 97-12, received on January 2, 1997; to the Committee on Finance.

EC-787. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Revenue Procedure 97-15, received on January 16, 1997; to the Committee on Finance.

EC-788. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Revenue Ruling 97-6, received on January 13, 1997; to the Committee on Finance.

EC-789. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Revenue Ruling 97-2, received on January 13, 1997; to the Committee on Finance.

EC-790. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to income of a controlled foreign corporation, (RIN1545-AR31) received on January 2, 1997; to the Committee on Finance.

EC-791. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to electronic filing of form W-4, (RIN1545-AR67), received on January 2, 1997; to the Committee on Finance.

EC-792. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule relative to single-employer plans, received on January 13, 1997; to the Committee on Finance.

EC-793. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for 1996; to the Committee on the Judiciary.

EC-794. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of rule relative to formula grants, (RIN1121-AA43) received on January 9, 1997; to the Committee on the Judiciary.

EC-795. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of rule relative to grants, (RIN1121-AA35) received on January 9, 1997; to the Committee on the Judiciary.

EC-796. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of rule relative to motor vehicle theft prevention, (RIN1121-AA38) received on January 9, 1997; to the Committee on the Judiciary.

EC-797. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation entitled "Environmental Crimes and Enforcement Act of 1997"; to the Committee on the Judiciary.

EC-798. A communication from the Secretary of the Judicial Conference of the United States, transmitting, a draft of proposed legislation to convert five judgeships to permanent positions; to the Committee on the Judiciary.

EC-799. A communication from the Chief Administrative Office of the Postal Rate Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for 1996; to the Committee on the Judiciary.

EC-800. A communication from the Clerk of the United States Court of Federal Claims, transmitting, pursuant to law, the court's report for fiscal year 1997; to the Committee on the Judiciary.

EC-801. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of the rule relative to electronic filing reports of political committee, received on January 9, 1997; to the Committee on Rules and Administration.

EC-802. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of the rule relative to electronic filing reports of political committee, received on January 9, 1997; to the Committee on Rules and Administration.

EC-803. A communication from the Director of the Office of Regulations Management, Office of General Counsel, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule relative to appeals regulations, (RIN2900-AI59) received on January 8, 1997; to the Committee on Veterans' Affairs.

EC-804. A communication from the Director of the Office of Regulations Management, Office of General Counsel, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule relative to miscellaneous regulations, (RIN2900-AI39) received on January 9, 1997; to the Committee on Veterans' Affairs.

EC-805. A communication from the Director of the Office of Regulations Management, Office of General Counsel, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule relative to subpoena authority, (RIN2900-AH00) received on January 9, 1997; to the Committee on Veterans' Affairs.

EC-806. A communication from the Director of the Office of Regulations Management, Office of General Counsel, Department of

Veterans' Affairs, transmitting, pursuant to law, the report of a rule relative to adjudication regulations, (RIN2900–AI43) received on January 9, 1997; to the Committee on Veterans' Affairs.

EC–807. A communication from the Secretary of Veterans Affairs and the Secretary of Defense, transmitting jointly, pursuant to law, the report on implementation of the health resources sharing for fiscal year 1996; to the Committee on Veterans' Affairs.

EC–808. A communication from the President of the United States, transmitting, pursuant to law, the report on implementation of the Loan Guarantees to Israel Program for 1996; to the Committee on Foreign Relations.

EC–809. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of revisions to the Federal Acquisition Regulation received on January 3, 1997; to the Committee on Governmental Affairs.

EC–810. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Governmentwide Policy, General Services Administration, transmitting, pursuant to law, three rules including a rule entitled "Small Purchase Authority" (RIN 3090–AG00, 3090–AF95, 9000–AH31); to the Committee on Governmental Affairs.

EC–811. A communication from the President Pro Tempore of the U.S. Senate, transmitting, pursuant to law, the report of the Board of Directors of the Office of Compliance; referred jointly, pursuant to 2 U.S.C. sec. 1302(b), to the Committee on Rules and Administration and to the Committee on Governmental Affairs.

EC–812. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–813. A communication from the Administration of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Cotton Research and Promotion Program" received on January 13, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–814. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, two rules including a rule entitled "Hazardous Materials Regulations" (RIN2137–AC96, AB97) received on January 16, 1997; to the Committee on Commerce, Science, and Transportation.

EC–815. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report relative to the Bumping Lake Dam, Yakima Project, Washington; to the Committee on Energy and Natural Resources.

EC–816. A communication from the Assistant Secretary of the Interior for Land Minerals Management, transmitting, pursuant to law, a rule entitled "Hydrogen Sulfide Requirements for Operations on the Outer Continental Shelf' (RIN1010–AB50) received on January 16, 1997; to the Committee on Energy and Natural Resources.

EC–817. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice relative to emergency funds concerning the Low-Income Home Energy Assistance Act; to the Committee on Appropriations.

EC–818. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report entitled "Unauthorized Appropriations and Expiring Authorizations"; to the Committee on Appropriations.

EC–819. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule entitled "Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State" (RIN3150-AF49) received on January 15, 1997; to the Committee on Environment and Public Works.

EC–820. A communication from the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, six rules including a rule entitled "National Emission Standards for Hazardous Air Pollutants Emissions" (FRL5570-1, 5657-6, 5653-9, 5675-2, 5570-2, 5675-1); to the Committee on Environment and Public Works.

EC–821. A communication from the Secretary of the Board of the National Credit Union Administration, transmitting, pursuant to law, a rule entitled "Loans to Officials and Truth in Savings" received on January 13, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–822. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Blocked Persons, Specially Designated Nationals" received on January 15, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–823. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, a rule entitled "Rules of Practice and Procedure" (RIN1557-AB57) received on January 16, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–824. A communication from the Secretary of Housing and Urban Development, transmitting, the customer satisfaction report; to the Committee on Banking, Housing, and Urban Affairs.

EC–825. A communication from the Secretary of Defense, transmitting, notice of three retirements; to the Committee on Armed Services.

EC–826. A communication from the Assistant Secretary of the Navy (Installations and Environment), transmitting, pursuant to law, a notice relative to private contractors; to the Committee on Armed Services.

EC–827. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the payment of restructuring costs under defense contracts; to the Committee on Armed Services.

EC–828. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to administrative military personnel actions; to the Committee on Armed Services.

EC–829. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative the Cooperative Threat Reduction Program; to the Committee on Armed Services.

EC–830. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a rule entitled "Courts of Criminal Appeals Rules of Practice and Procedure" received on January 15, 1997; to the Committee on Armed Services.

EC–831. A communication from the Director of Defense Procurement, Acquisition and Technology, Office of the Under Secretary of Defense, transmitting, pursuant to law, reports on six rules amending the Defense Federal Acquistion Supplement (96-D321, 96-D017, 96-D306, 96-D310, 96-D328, 96-D021); to the Committee on Armed Services.

EC–832. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, a rule received on January 16, 1997; to the Committee on Labor and Human Resources.

EC–833. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Drug Abuse and Drug Abuse Research"; to the Committee on Labor and Human Resources.

EC–834. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled "Notification Procedures for States" (RIN0938) received on January 15, 1997; to the Committee on Labor and Human Resources.

EC–835. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "A National Strategy to Prevent Teen Pregnancy"; to the Committee on Labor and Human Resources.

EC–836. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Performance Improvement 1996: Evaluation Activities"; to the Committee on Labor and Human Resources.

EC–837. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, five rules including a rule entitled "Drug Labeling" (RIN0910-AA63, AA05); to the Committee on Labor and Human Resources.

EC–838. A communication from the Assistant Secretary of Labor for Employment Standards, transmitting, pursuant to law, two rules including a rule entitled "Labor Standards for Federal Service Contracts" (RIN1225-AA78, 1215-AA94); to the Committee on Labor and Human Resources.

EC–839. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, transmitting, pursuant to law, a rule entitled "Occupational Exposure to Methylene Chloride" (RIN1218-AA98) received on January 9, 1997; to the Committee on Labor and Human Resources.

EC–840. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations: Madeleine Korbel Albright, of the District of Columbia, to be Secretary of State, vice Warren Christopher.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COVERDELL (for himself, Mr. Coats, Mr. Gregg, Mr. Lott, Mr. Bond, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Craig, Mr. DeWine, Mr. Domenici, Mr. Faircloth, Mr. Gorton, Mr. Grams, Mr. Hagel, Mr. Hatch, Mrs. Hutchison, Mr. Hutchinson, Mr. Kyl, Mr. McCain, Mr. McConnell, Mr. Murkowski, Mr. Nickles, Mr. Smith of New Hampshire, Mr. Thurmond, and Mr. Warner):

S. 1. A bill to provide for safe and affordable schools; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. Lott, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Brownback, Mr. Craig, Mr. D'Amato, Mr. DeWine, Mr. Domenici, Mr. Enzi, Mr. Faircloth, Mr. Gorton, Mr. Grams, Mr. Hagel, Mr. Hatch, Mr. Helms, Mrs. Hutchison, Mr. Kyl, Mr. Murkowski, Mr. Nickles, Mr. Roberts, Mr. Santorum, Mr. Sessions, Mr. Smith of New Hampshire, Mr. Smith of Oregon, Mr. Thomas, Mr. Thurmond, Mr. Warner, Mr. Coverdell, Mr. Coats, and Mr. Kempthorne):

S. 2. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for American families, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. Lott, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Craig, Mr. D'Amato, Mr. DeWine, Mr. Domenici, Mr. Enzi, Mr. Faircloth, Mr. Gorton, Mr. Grams, Mr. Grassley, Mr. Hagel, Mr. Helms, Mr. Hutchinson, Mr. Kyl, Mr. Murkowski, Mr. Nickles, Mr. Roberts, Mr. Smith of New Hampshire, Mr. Thomas, Mr. Thurmond, Mr. Warner, and Mr. Coverdell):

S. 3. A bill to provide for fair and accurate criminal trials, reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, reduce the fiscal burden imposed by criminal alien prisoners, promote safe citizen self-defense, combat the importation, production, sale, and use of illegal drugs, and for other purposes; to the Committee on the Judiciary.

By Mr. ASHCROFT (for himself, Mrs. Hutchison, Mr. Lott, Mr. Nickles, Mr. Craig, Ms. Collins, Mr. DeWine, Mr. Allard, Mr. Brownback, Mr. Chafee, Mr. Coats, Mr. Domenici, Mr. Enzi, Mr. Faircloth, Mr. Gramm, Mr. Grams, Mr. Grassley, Mr. Hagel, Mr. Hatch, Mr. Helms, Mr. Hutchinson, Mr. Kyl, Mr. Murkowski, Mr. Roberts, Mr. Sessions, Mr. Thurmond, Mr. Warner, Mr. Coverdell, and Mr. Jeffords):

S. 4. A bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ASHCROFT (for himself, Mr. McCain, Mr. Lott, Mr. Abraham, Mr. Allard, Mr. Brownback, Mr. Chafee, Mr. Coverdell, Mr. Craig, Mr. DeWine, Mr. Domenici, Mr. Enzi, Mr. Faircloth, Mr. Grams, Mr. Hagel, Mr. Hatch, Mr. Helms, Mr. Hutchinson, Mr. Kyl, Mr. Murkowski, Mr. Nickles, Mr. Roberts, Mr. Santorum, Mr. Sessions, Mr. Smith of New Hampshire, Mr. Thomas, Mr. Thurmond, Mr. Warner, Mr. Coats, Mr. Lugar, Mr. Gramm, Mr. Kempthorne, and Mrs. Hutchison):

S. 5. A bill to establish legal standards and procedures for product liability litigation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANTORUM (for himself, Mr. Smith of New Hampshire, Mr. Lott, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Bond, Mr. Brownback, Mr. Coats, Mr. Coverdell, Mr. Craig, Mr. DeWine, Mr. Domenici, Mr. Enzi, Mr. Faircloth, Mr. Gorton, Mr. Gramm, Mr. Grams, Mr. Hagel, Mr. Hatch, Mr. Helms, Mr. Hutchinson, Mr. Kyl, Mr. Lugar, Mr. McConnell, Mr. Murkowski, Mr. Nickles, Mr. Roberts, Mr. Sessions, Mr. Smith of Oregon, Mr. Thomas, Mr. Thurmond, Mr. Warner, and Mr. Kempthorne):

S. 6. A bill to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

By Mr. LOTT (for himself, Mr. Thurmond, Mr. Smith of New Hampshire, Mr. Warner, Mr. Kyl, Mr. Cochran, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Coverdell, Mr. Craig, Mr. DeWine, Mr. Domenici, Mr. Enzi, Mr. Faircloth, Mr. Grams, Mr. Hagel, Mr. Hatch, Mr. Helms, Mrs. Hutchison, Mr. Hutchinson, Mr. Inhofe, Mr. Murkowski, Mr. Nickles, Mr. Sessions, and Mr. Kempthorne):

S. 7. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

By Mr. SMITH of New Hampshire, (for himself, Mr. Chafee, Mr. Lott, Mr. Abraham, Mr. Allard, Mr. Coverdell, Mr. Craig, Mr. DeWine, Mr. Domenici, Mr. Gorton, Mr. Grams, Mr. Hagel, Mr. Hatch, Mr. Helms, Mr. Hutchinson, Mr. Kyl, Mr. Lugar, Mr. Murkowski, Mr. Roberts, Mr. Sessions, Mr. Thurmond, and Mr. Warner):

S. 8. A bill to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NICKLES (for himself, Mr. Gregg, Mr. Warner, Mr. Lott, Mr. Allard, Mr. Ashcroft, Mr. Coverdell, Mr. Craig, Mr. Domenici, Mr. Enzi, Mr. Faircloth, Mr. Gorton, Mr. Grams, Mr. Hagel, Mr. Hatch, Mr. Helms, Mrs. Hutchison, Mr. Hutchinson, Mr. Kyl, Mr. Murkowski, Mr. Roberts, Mr. Sessions, Mr. Smith of New Hampshire, Mr. Thomas, Mr. Thurmond, Mr. Coats, and Mr. Kempthorne):

S. 9. A bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization; to the Committee on Rules and Administration.

By Mr. HATCH (for himself, Mr. Sessions, Mr. Ashcroft, Mr. Domenici, Mr. Lott, Mr. Abraham, Mr. Allard, Mr. Bond, Mr. Coverdell, Mr. Craig, Mr. D'Amato, Mr. Enzi, Mr. Faircloth, Mr. Gorton, Mr. Grams, Mr. Grassley, Mr. Hagel, Mr. Helms, Mr. Hutchinson, Mr. Kyl, Mr. Murkowski, Mr. Roberts, Mr. Smith of New Hampshire, Mr. Thomas, Mr. Thurmond, and Mr. Warner):

S. 10. A bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. Ford, Mr. Glenn, Mr. Levin, Ms. Mikulski, Mr. Reid, Ms. Moseley-Braun, Mr. Durbin, Mr. Wellstone, Mr. Kerry, and Mr. Lautenberg):

S. 11. A bill to reform the Federal election campaign laws applicable to Congress; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. Kennedy, Ms. Moseley-Braun, Ms. Mikulski, Mr. Dodd, Mr. Reid, Mr. Dorgan, Mrs. Murray, Mr. Ford, Mr. Rockefeller, Mr. Inouye, Mr. Kerry, Mr. Levin, Mr. Cleland, Mr. Johnson, Mr. Breaux, Mr. Torricelli, Mr. Durbin, Mr. Glenn, Mrs. Boxer, Mr. Wellstone, Mr. Bryan, and Mr. Lautenberg):

S. 12. A bill to improve education for the 21st Century; to the Committee on Finance.

By Mr. DASCHLE (for himself, Ms. Mikulski, Mr. Kennedy, Mr. Breaux, Mr. Dodd, Mrs. Murray, Mr. Inouye, Mr. Johnson, Ms. Moseley-Braun, Mr. Rockefeller, Mr. Durbin, Mr. Kerry, Mr. Glenn, and Mr. Lautenberg):

S. 13. A bill to provide access to health insurance coverage for uninsured children and pregnant women; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mrs. Boxer, Mr. Kennedy, Mr. Bingaman, Ms. Moseley-Braun, Mr. Rockefeller, Mr. Graham, Ms. Mikulski, Mr. Kerry, Mr. Reid, Mr. Durbin, Mr. Inouye, Mr. Torricelli, and Mr. Breaux):

S. 14. A bill to provide for retirement savings and security, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. Biden, Mr. Leahy, Mr. Kohl, Mr. Breaux, Mr. Ford, Ms. Mikulski, Mr. Dodd, Mr. Durbin, Mr. Kerry, Mr. Levin, Ms. Landrieu, Mr. Torricelli, Ms. Moseley-Braun, Mr. Glenn, and Mr. Rockefeller):

S. 15. A bill to control youth violence, crime, and drug abuse, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. Harkin, Mr. Johnson, Mr. Dorgan, Mr. Conrad, Mr. Kerrey, Mr. Baucus, Mr. Bingaman, Mr. Kohl, Mr. Feingold, Mr. Leahy, and Mr. Wellstone):

S. 16. A bill to ensure the continued viability of livestock producers and the livestock industry in the United States, to assure foreign countries do not deny market access to United States meat and meat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself, Mr. BREAUX, Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. DORGAN, Mr. JOHNSON, Mr. ROCKEFELLER, Mr. KERRY, Ms. MOSELEY-BRAUN, Mr. REID, and Mr. LAUTENBERG):

S. 17. A bill to consolidate certain Federal job training programs by developing a system of vouchers to provide to dislocated workers and economically disadvantaged adults the opportunity to choose the type of job training that most closely meets the needs of such workers and adults, by establishing a one-stop career center system to provide high quality job training and employment-related services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LAUTENBERG (for himself, Mr. BAUCUS, Mr. REID, Mr. MOYNIHAN, Mr. GRAHAM, Mrs. BOXER, Mr. WYDEN, Mr. LEVIN, Mr. TORRICELLI, Mr. BREAUX, and Mr. KENNEDY):

S. 18. A bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mrs. MURRAY, Mr. TORRICELLI, and Mrs. BOXER):

S. 19. A bill to provide funds for child care for low-income working families, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. REID, Mr. LIEBERMAN, Mr. DORGAN, Mr. BREAUX, Mr. KOHL, Mr. WYDEN, and Mr. BINGAMAN):

S. 20. A bill to amend the Internal Revenue Code of 1986 to increase the rate and spread the benefits of economic growth, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 21. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

S. 22. A bill to establish a bipartisan national commission to address the year 2000 computer problem; to the Committee on Governmental Affairs.

By Mr. SPECTER (for himself and Ms. MOSELEY-BRAUN):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. THOMPSON, Mr. WELLSTONE, Mr. GRAHAM, Mr. KERREY, Mr. DODD, Mr. KERRY, Mr. BINGAMAN, Mr. GLENN, Mrs. MURRAY, Mr. KOHL, Mr. WYDEN, Ms. MOSELEY-BRAUN, Mr. REID, Mr. FORD, Mr. LEAHY, Mr. CLELAND, Mr. JOHNSON, and Mr. DURBIN):

S. 25. A bill to reform the financing of Federal elections; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. DORGAN, Mr. CONRAD, Mr. KERREY, and Mr. BINGAMAN):

S. 26. A bill to provide a safety net for farmers and consumers and to promote the development of farmer-owned value added processing facilities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND:

S. 27. A bill to amend title 1 of the United States Code to clarify the effect and application of legislation; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HELMS):

S. 28. A bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes; to the Committee on the Judiciary.

By Mr. LUGAR:

S. 29. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

S. 30. A bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes; to the Committee on Finance.

S. 31. A bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. THURMOND:

S. 32. A bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

S. 33. A bill to provide that a Federal justice or judge convicted of a felony shall be suspended from office without pay, to amend the retirement age and service requirements for Federal justices and judges convicted of a felony, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 34. A bill to phase out Federal funding of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

S. 35. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 36. A bill for the relief of Ibrahim Al-Assaad; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 37. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 38. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. THURMOND, and Mr. MURKOWSKI):

S. 39. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FAIRCLOTH (for himself, Mr. INHOFE, and Mr. HELMS):

S. 40. A bill to provide Federal sanctions for practitioners who administer, dispense, or recommend the use of marijuana, and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

S. 41. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read twice and placed on the calendar.

S. 42. A bill to protect the lives of unborn human beings; read twice and placed on the calendar.

By Mr. HELMS (for himself, Mr. DEWINE, Mr. HATCH, Mr. NICKLES, Mr. ABRAHAM, and Mr. FAIRCLOTH):

S. 43. A bill to throttle criminal use of guns; read twice and placed on the calendar.

By Mr. HELMS:

S. 44. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read twice and placed on the calendar.

S. 45. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services; read twice and placed on the calendar.

S. 46. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read twice and placed on the calendar.

S. 47. A bill to prohibit the executive branch of the Federal Government from establishing an additional class of individuals that is protected against discrimination in Federal employment, and for other purposes; read twice and placed on the calendar.

S. 48. A bill to abolish the National Endowment for the Arts and the National Council on the Arts; read twice and placed on the calendar.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

By Mr. FAIRCLOTH (for himself and Mr. CRAIG):

S. 50. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable tax credit for the expenses of an education at a 2-year college; to the Committee on Finance.

By Mr. FEINGOLD:

S. 51. A bill to amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for certain minerals; to the Committee on Finance.

S. 52. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. THURMOND, and Mr. MOYNIHAN):

S. 53. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. D'AMATO, Mr. HARKIN, and Mr. REID):

S. 54. A bill to reduce interstate street gang and organized crime activity, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 55. A bill to amend the Dairy Production Stabilization Act of 1983 to prohibit bloc voting by cooperative associations of milk producers in connection with the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 56. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. REID):

S. 57. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, to limit soft money of political party committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. FEINGOLD:

S. 58. A bill to modify the estate recovery provisions of the medicaid program to give States the option to recover the costs of home and community-based services for individuals over age 55; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 59. A bill to terminate the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. CRAIG:

S. 60. A bill for the relief of Benjamin M. Banfro; to the Committee on the Judiciary.

By Mr. LOTT:

S. 61. A bill to amend title 46, United States Code, to extend eligibility for vertans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II; to the Committee on Veterans Affairs.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 62. A bill to prohibit further extension or establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S. 63. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LUGAR:

S. 64. A bill to state the national missile defense policy of the United States; to the Committee on Armed Services.

By Mr. HATCH:

S. 65. A bill to amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. LIEBERMAN, Mr. GRASSLEY, and Mr. BREAUX):

S. 66. A bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 67. A bill to amend the Public Health Service Act to extend the program of research on breast cancer; to the Committee on Labor and Human Resources.

By Mr. KYL:

S. 68. A bill to establish a commission to study the impact on voter turnout of making the deadline for filing federal income tax returns conform to the date of federal elections; to the Committee on Rules and Administration.

S. 69. A bill to amend the Internal Revenue Code of 1986 to allow a one-time election of the interest rate to be used to determine present value for purposes of pension cash-out restrictions, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself, Mr. CHAFEE, Mr. REED, and Mr. DURBIN):

S. 70. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. LAUTENBERG):

S. 71. A bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KYL:

S. 72. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers, and for other purposes; to the Committee on Finance.

S. 73. A bill to amend the Internal Revenue Code of 1986 to repeal the corporate alternative minimum tax; to the Committee on Finance.

S. 74. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. COATS, Mr. FAIRCLOTH, Mr. GRAMM, Mr. GRAMS, Mr. HELMS, Mr. HAGEL, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. SHELBY, Mr. SMITH of New Hampshire, and Mr. THURMOND):

S. 75. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. KYL:

S. 76. A bill to amend the Internal Revenue Code of 1986 to increase the expensing limitation to $250,000; to the Committee on Finance.

By Mr. BREAUX:

S. 77. A bill to provide for one additional Federal judge for the middle district of Louisiana by transferring one Federal judge from the eastern district of Louisiana; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. THOMAS):

S. 78. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. KYL, and Mr. THOMAS):

S. 79. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for the reform of the civil justice system; to the Committee on the Judiciary.

By Mr. KOHL:

S. 80. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 81. A bill to amend the Dairy Production Stabilization Act of 1983 to require that members of the National Dairy Promotion and Research Board be elected by milk producers and to prohibit bloc voting by cooperative associations of milk producers in the election of the producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL:

S. 82. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers to who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

By Mr. AKAKA:

S. 83. A bill to consolidate and revise the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMM:

S. 84. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

S. 85. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. LEAHY):

S. 86. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decisionmaking at the National Cancer Institute; to the Committee on Labor and Human Resources.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 87. A bill to amend the Public Health Service Act to provide a one-stop shopping information service for individuals with serious or life-threatening diseases; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 88. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Labor and Human Resources.

S. 89. A bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services; to the Committee on Labor and Human Resources.

S. 90. A bill to require studies and guidelines for breast cancer screening for women ages 40-49, and for other purposes; to the Committee on Labor and Human Resources.

S. 91. A bill to establish an Office on Women's Health within the Department of Health and Human Services; to the Committee on Labor and Human Resources.

By Mr. KERRY:

S. 92. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on Labor and Human Resources.

S. 93. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

By Mr. BRYAN (for himself and Mr. Reid):

S. 94. A bill to provide for the orderly disposal of Federal lands in Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN:

S. 95. A bill to provide for the Federal campaign finance reform, and for other purposes; to the Committee on Rules and Administration.

By Mr. INOUYE:

S. 96. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

By Mr. KERRY:

S. 97. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to require the Internal Revenue Service to collect child support through wage withholding and to eliminate State enforcement of child support obligations other than medical support obligations; to the Committee on Finance.

By Mr. GRAMS (for himself, Mr. Hutchinson, Mr. Nickles, Mr. Kyl, and Mr. Coats):

S. 98. A bill to amend the Internal Revenue Code of 1986 to provide a family tax credit; to the Committee on Finance.

By Mrs. BOXER:

S. 99. A bill to amend the Internal Revenue Code of 1986 to allow companies to donate scientific equipment to elementary and secondary schools for use in their educational programs, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 100. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. BOXER:

S. 101. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself, Mr. Akaka, Mr. Bingaman, Mr. Chafee, Mr. Cochran, Mr. Craig, Mr. Glenn, Mr. Jeffords, Mr. Leahy, Mr. Inouye, Ms. Mikulski, and Mr. Reid):

S. 102. A bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes; to the Committee on Finance.

By Mr. KENNEDY:

S. 103. A bill to amend the Immigration and Nationality Act to provide additional measures for the control of illegal immigration; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. Craig, Mr. Grams, Mr. Kempthorne, Mr. Abraham, Mr. Helms, Mr. Thurmond, Mr. Kyl, Mr. Hollings, Mr. Mack, Mr. Faircloth, Mr. Hatch, Mr. Warner, Mr. Bond, Mr. Smith of New Hampshire, Mr. Roberts, Mr. Santorum, Mr. Lott, and Mr. Jeffords):

S. 104. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 105. A bill to repeal the habeas corpus requirement that a Federal court defer to State court judgments and uphold a conviction regardless of whether the Federal court believes that the State court erroneously interpreted Constitutional law, except in cases where the Federal court believes the State court acted in an unreasonable manner; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 106. A bill to require that employees who participate in cash or deferred arrangements are free to determine whether to be invested in employer real property and employer securities, and if not, to protect such employees by applying the same prohibited transaction rules that apply to traditional defined benefit pension plans, and for other purposes; to the Committee on Finance.

S. 107. A bill to require the offer in every defined benefit plan of a joint and 2/3 survivor annuity option and to require comparative disclosure of all benefit options to both spouses; to the Committee on Finance.

S. 108. A bill to require annual, detailed investment reports by plans with qualified cash or deferred arrangements, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. Akaka):

S. 109. A bill to provide Federal housing assistance to Native Hawaiians; to the Committee on Indian Affairs.

S. 110. A bill to amend the Native American Graves Protection and Repatriation Act to provide for improved notification and consent, and for other purposes; to the Committee on Indian Affairs.

By Mr. INOUYE:

S. 111. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 112. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 113. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself, Mr. Thomas, Mr. Cochran, and Mr. Stevens):

S. 114. A bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment; to the Committee on Finance.

By Mr. INOUYE:

S. 115. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 116. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

S. 117. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of residential ground rents, and for other purposes; to the Committee on Finance.

S. 118. A bill to provide for the completion of the naturalization process for certain nationals of the Philippines; to the Committee on the Judiciary.

S. 119. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the Health Careers Opportunity Program, the Minority Centers of Excellence Program, and programs of grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Labor and Human Resources.

S. 120. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in clinical psychology eligible to participate in various health professions loan programs; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. Chafee, Mr. Kennedy, and Ms. Moseley-Braun):

S. 121. A bill to amend the Internal Revenue Code of 1986 to provide for 501(c)(3) bonds a tax treatment similar to governmental bonds, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 122. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities; to the Committee on Finance.

By Mr. INOUYE:

S. 123. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Armed Services.

By Mr. GRAMM (for himself, Mr. Mack, and Mrs. Hutchison):

S. 124. A bill to invest in the future of the United States by doubling the amount authorized for basic science and medical research; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. D'Amato):

S. 125. A bill to provide that the Federal medical assistance percentage for any State or territory shall not be less than 60 percent; to the Committee on Finance.

By Mr. INOUYE:

S. 126. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. Roth, Mr. Chafee, Mr. Baucus, Mr. Bingaman, Mrs. Boxer, Mr. Bryan, Mr. Craig, Mr. D'Amato, Mr. Ford, Mr. Glenn, Mr. Grassley, Mr. Hatch, Mr. Kennedy, Mr. Kerry, Mr. Kyl, Mr. Leahy, Mr. Lieberman, Mr. McConnell, Ms. Moseley-Braun, Mrs. Murray, Mr. Robb, Mr. Rockefeller, Mr. Shelby, Mr. Torricelli, and Mr. Wyden):

S. 127. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 128. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Labor and Human Resources.

S. 129. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

S. 130. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 131. A bill to amend chapter 5 of title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 132. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

S. 133. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handgun ammunition, to impose the special occupational tax and registration requirements on importers and manufacturers of handgun ammunition, and for other purposes; to the Committee on Finance.

S. 134. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

S. 135. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to increase taxes on certain bullets; to the Committee on Finance.

S. 136. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

S. 137. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 138. A bill to eliminate certain benefits for Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FAIRCLOTH (for himself, Mr. LOTT, Mr. HELMS, Mr. BENNETT, Mr. KYL, Mr. SMITH of New Hampshire, Mr. THURMOND, Mr. BOND, and Mr. SHELBY):

S. 139. A bill to amend titles II and XVIII of the Social Security Act to prohibit the use of Social Security and Medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 140. A bill to improve the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; to the Committee on Finance.

S. 141. A bill to reorder United States budget priorities with respect to United States assistance to foreign countries and international organizations; to the Committee on Foreign Relations.

S. 142. A bill to amend the Fair Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE (for himself, Mr. HOLLINGS, Mr. KENNEDY, Ms. MIKULSKI, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. INOUYE, Mrs. MURRAY, Mr. JOHNSON, Mr. BRYAN, Mr. SARBANES, Mr. FORD, and Mr. LAUTENBERG):

S. 143. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node disssections performed for the treatment of breast cancer; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. KERREY):

S. 144. A bill to establish the Commission to Study the Federal Statistical System, and for other purposes; to the Committee on Governmental Affairs.

S. 145. A bill to repeal the prohibition against government restrictions on communications between government agencies and the INS; to the Committee on the Judiciary.

By Mr. FRIST (for Mr. ROCKEFELLER (for himself and Mr. FRIST)):

S. 146. A bill to permit Medicare beneficiaries to enroll with qualified provider-sponsored organizations under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. CHAFEE, Mr. KENNEDY, Mr. JOHNSON, and Mr. REID):

S. 147. A bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid program, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. CHAFEE, Mr. BINGAMAN, Mr. INOUYE, Mrs. MURRAY, Mr. JOHNSON, Mr. CAMPBELL, and Mr. REID):

S. 148. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. GRASSLEY):

S. 149. A bill to amend the National Narcotics Leadership Act of 1988 to establish qualification standards for individuals nominated to be the Deputy Director of Demand Reduction in the Office of National Drug Control Policy; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. DODD):

S. 150. A bill to amend section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), to provide for disclosure of information relating to individuals who committed Nazi war crimes, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 151. A bill for the relief of Dr. Yuri F. Orlov of Ithaca, New York; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 152. A bill to provide for the relief and payment of an equitable claim to the estate of Dr. Beatrice Braude of New York, New York; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mr. ASHCROFT):

S. 153. A bill to amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under an arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 154. A bill to improve Orchard Beach, New York; to the Committee on Environment and Public Works.

S. 155. A bill to redesignate General Grant National Memorial as Grant's Tomb National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 156. A bill to provide certain benefits of the Pick-Sloan Missouri River Basin program for the Lower Brule Sioux Tribe, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 157. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs; to the Committee on Finance.

S. 158. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the Medicare program, and for other purposes; to the Committee on Finance.

S. 159. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician, and for other purposes; to the Committee on Finance.

S. 160. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

S. 161. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

S. 162. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

S. 163. A bill to recognize the organization known as the National Academies of Practices; to the Committee on the Judiciary.

S. 164. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

S. 165. A bill for the relief of Donald C. Pence; to the Committee on the Judiciary.

S. 166. A bill to amend section 1086 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under medicare, and for other purposes; to the Committee on Armed Services.

S. 167. A bill for the relief of Alfredo Tolentino of Honolulu, Hawaii; to the Committee on Government Affairs.

By Mr. DEWINE:

S. 168. A bill to reform criminal procedure, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 169. A bill to amend the Immigration and Nationality Act with respect to the admission of temporary H–2A workers; to the Committee on the Judiciary.

By Mr. DEWINE:

S. 170. A bill to provide for a process to authorize the use of clone pagers, and for other purposes; to the Committee on the Judiciary.

S. 171. A bill to amend title 18, United States Code, to insert a general provision for criminal attempt; to the Committee on the Judiciary.

S. 172. A bill to amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes; to the Committee on the Judiciary.

S. 173. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on the Judiciary.

S. 174. A bill to establish the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 175. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

S. 176. A bill for the relief of Susan Rebola Cardenas; to the Committee on the Judiciary.

S. 177. A bill to provide for a special application of section 1034 of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. DEWINE:

S. 178. A bill to amend the Social Security Act to clarify that the reasonable efforts requirement includes consideration of the health and safety of the child; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. LOTT, Mr. THURMOND, Mr. CRAIG, Mr. NICKLES, Mr. DOMENICI, Mr. STEVENS, Mr. ROTH, Mr. BRYAN, Mr. KOHL, Mr. GRASSLEY, Mr. GRAHAM, Mr. SPECTER, Mr. BAUCUS, Mr. THOMPSON, Mr. BREAUX, Mr. KYL, Ms. MOSELEY-BRAUN, Mr. DEWINE, Mr. ROBB, Mr. ABRAHAM, Mr. ASHCROFT, Mr. SESSIONS, Mr. D'AMATO, Mr. HELMS, Mr. LUGAR, Mr. CHAFEE, Mr. MCCAIN, Mr. JEFFORDS, Mr. WARNER, Mr. COVERDELL, Mr. COCHRAN, Mrs. HUTCHISON, Mr. MACK, Mr. GRAMM, Ms. SNOWE, Mr. ALLARD, Mr. BROWNBACK, Ms. COLLINS, Mr. ENZI, Mr. HAGEL, Mr. HUTCHINSON, Mr. ROBERTS, Mr. SMITH of Oregon, Mr. BENNETT, Mr. BOND, Mr. BURNS, Mr. CAMPBELL, Mr. COATS, Mr. FAIRCLOTH, Mr. FRIST, Mr. GORTON, Mr. GRAMS, Mr. GREGG, Mr. INHOFE, Mr. KEMPTHORNE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH of New Hampshire, and Mr. THOMAS):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. DORGAN, Mr. SHELBY, Mr. REID, Mr. FORD, and Mr. REED):

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S.J. Res. 5. A joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative; to the Committee on Finance.

By Mr. KYL (for himself and Mrs. FEINSTEIN):

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

By Mr. GRAMM:

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

By Mr. KYL:

S.J. Res. 8. A joint resolution proposing an amendment to the Constitution of the United States to provide that expenditures for a fiscal year shall exceed neither revenues for such fiscal year nor 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. BROWNBACK, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INHOFE, Mr. MCCAIN, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire and Mr. THOMPSON):

S.J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MACK (for himself, Mr. GRAMM, Mr. FRIST, Mr. D'AMATO, and Mr. SPECTER):

S. Res. 15. A resolution expressing the sense of the Senate that the Federal commitment to biomedical research should be increased substantially over the next 5 years; to the Committee on Appropriations.

By Mr. LUGAR:

S. Res. 16. A resolution expressing the sense of the Senate that the income tax should be eliminated and replaced with a national sales tax; to the Committee on Finance.

S. Res. 17. A resolution on the ratification of the Chemical Weapons Convention; to the Committee on Foreign Relations.

By Mr. FAIRCLOTH:

S. Res. 18. A resolution to express the sense of the Senate regarding reduction of the national debt; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. LEAHY, Mr. JEFFORDS, Mr. DODD, Mr. FEINGOLD, and Mr. WELLSTONE):

S. Res. 19. A resolution expressing the sense of the Senate regarding United States opposition to the prison sentence of Tibetan ethnomusicologist Ngawang Choephel by the Government of the People's Republic of China; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COVERDELL (for himself, Mr. COATS, Mr. GREGG, Mr. LOTT, Mr. BOND, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. KYL, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. SMITH of New Hampshire, Mr. THURMOND, and Mr. WARNER):

S. 1. A bill to provide for safe and affordable schools; to the Committee on Finance.

THE SAFE AND AFFORDABLE SCHOOLS ACT OF 1997

Mr. COVERDELL. Mr. President, for people to remain free, they must be educated. It is at the foundation of our liberty. This bill that has just been referred owes a great debt to Senator COATS of Indiana, Senator GREGG of New Hampshire, Senator ROTH of Delaware, Senator JEFFORDS of Vermont, Senator BOND of Missouri, Senator SHELBY of Alabama, and Senator GRASSLEY of Iowa.

Mr. President, there is a grave condition in our elementary and high schools across the land. Forty-six percent of our students have made at least one change in daily routine because of concerns about personal safety. Twenty-nine percent said it was easy to get illegal drugs. Seventy-nine percent have friends who are regular drinkers. Sixty-eight percent can buy marijuana within a day. Sixty-two percent have friends who use marijuana.

During the last 15 years, Mr. President, tuition at 4-year public colleges and universities rose 234 percent. In contrast, median household income rose only 82 percent, putting an ever tighter squeeze on those families that choose to and desire to send their children to college.

Since 1990, American college students have borrowed over $100 billion, and borrowing among students and families to seek their higher education has skyrocketed.

Mr. President, since 1965, the United States has spent half a trillion dollars—$500 billion—on Federal education programs, yet 66 percent of 17-year-olds do not read at a proficient level, and reading scores have been declining for three decades. Moreover, 75 percent of fourth graders nationally scored below the proficient level of reading.

Mr. President, the Safe and Affordable Schools Act believes that no family—no family—in America should be forced to send their student to an unsafe, violent, and drug-infested school. I repeat, no family should be forced—forced—to put their child in a school that is certifiably unsafe, certifiably drug ridden.

This act will provide choice for children attending unsafe schools and provide an escape route from those kinds of schools. This act will ensure safe and drug-free schools and offers a grant program to those schools who are building better safety in the school place.

It is hard to believe, Mr. President, that 40 percent of our students today do not feel safe in school. One in five are taking a weapon to school. There are 2,000 acts of violence every hour in American classrooms.

Every student who chooses to go to college ought to have an affordable plan to do it. At the center point of this legislation is the Bob Dole Educational Investment Account. This will allow a family to put $1,000 a year, after tax, into an investment account of their choice, and when they are ready to send their child to school, the funds withdrawn from that account will occur with no tax liability. In other words, a plan setting forth, under the name of our former colleague, an opportunity for families to plan for their child's future education.

It will provide for the deduction of student loan interest. It will protect State prepaid tuition plans. It will provide and extend employer-provided educational assistance, and it will make nontaxable work-study awards, all geared toward making it possible for that family, that student, to provide for their higher education.

The Presiding Officer is very familiar with the Federal Government's propensity to force unfunded mandates on State and local governments. Such is the case with the individuals in the Disabilities Education Act, which was mandated by the Federal Government but never really paid for by the Federal Government. We are only making about a 7 percent to 8 percent contribution.

This act will authorize spending up to $10 billion over the next 7 years so that the Federal Government will be a true partner in that mandate and fund upwards to 40 percent of this act that was imposed on State government, freeing those State governments of funds thatthey can use to better improve their educational system.

Mr. President, when students arrive at college they ought to be proficient in the basic skills. I just cited figures that said they are not. This act will promote adult education and family literacy. The legislation provides $400 million in the form of block grants to States to establish programs to combat illiteracy. The bill creates a separate $100 million fund to provide incentive grants to encourage local innovation in addressing the problem of illiteracy.

Mr. President, I began my remarks by saying that one of the fundamental extensions of freedom is education. This has always been the case in America. We have come to a time when the schoolroom is not safe. Therefore, the education that must emanate there is severely impaired. This education is a function of the States. The Federal Government has a role in leadership and innovation and assistance. That is at the core of this legislation we are offering today.

Mr. President, I appreciate the opportunity to describe the act today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe and Affordable Schools Act of 1997".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in too many of our Nation's elementary and secondary schools the test confronting our Nation's children is survival, not learning;

(2) our Nation's schools will not be restored to excellence unless parents, States, and local communities take the lead; and

(3) the Federal Government's role in education is quite properly to encourage, not to mandate.

(b) PURPOSE.—The purpose of this Act is—

(1) to ensure that parents, local communities and States have the primary role in educating our Nation's children;

(2) to restore excellence to our Nation's schools;

(3) to give local communities and States maximum flexibility in administering Federal education programs;

(4) to allow education reforms to be tailored to the unique needs of local communities and States;

(5) to place the highest priority on providing our Nation's students with safe, drug-free learning environments;

(6) to ensure that the choice of whether to attend college is to the greatest extent possible the result of individual student desire and initiative, not the result of economic circumstances that leave young parents wondering how they can best provide such an education in the face of staggering college tuition costs;

(7) to focus resources on adult education, realizing that education often is a lifelong process; and

(8) to promote literacy by attacking our Nation's unacceptably high level of illiteracy.

TITLE I—SAFE AND DRUG-FREE SCHOOLS INITIATIVE

Subtitle A—Student Opportunity and Safety

SEC. 111. SHORT TITLE.

This subtitle may be cited as the "Student Opportunity and Safety Act".

SEC. 112. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) Violence, crime, and illegal drug activity have increased significantly in our Nation's public schools.

(2) It is estimated that 3,000,000 violent acts or thefts occur in or near schools, and that one in five public high school students carries a weapon.

(3) The incidence of violence, and criminal and illegal drug activity within public elementary and secondary schools threatens the school environment and interferes with the learning process.

(4) 2,000,000 more children are using drugs in 1997 than were doing so in 1993. For the first time in the 1990s, over half of our Nation's graduating high school seniors have experimented with drugs and approximately 1 out of every 4 of the students have used drugs in the past month.

(5) After 11 years of declining marijuana use among children aged 12 to 17, such use doubled between 1992 and 1995. The number of 8th graders who have used marijuana in the past month has more than tripled since 1991.

(6) More of our Nation's school children are becoming involved with hard core drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991.

(7) Students have a right to be safe and secure in their persons while attending school.

(8) Low-income families whose children attend high poverty public schools generally lack the financial ability to enroll their children in private schools or the opportunity to choose to enroll their children in public schools less impacted by poverty, illegal drugs, or violence, while such alternatives are typically available to more affluent families.

(9) Numerous research studies, including the 1993 National Assessment of the Chapter 1 Program, have concluded that students attending high poverty public schools have much lower levels of academic achievement than other students, regardless of the income level of the family of such students.

(10) Federally supported efforts to meet the educational needs of disadvantaged children attending high poverty schools have had little, if any, success in improving student achievement, especially in the highest poverty schools and school districts.

(11) Evidence obtained from systematic evaluations of school choice demonstration projects that involve public and private, including sectarian, schools will make an important contribution toward resolving debates over the most effective means of improving the academic achievement of disadvantaged children.

(12) It is increasingly important that children from families of all income levels meet high standards of academic achievement, in order to exercise the responsibilities of citizenship and to compete in globally competitive markets.

(b) PURPOSE.—It is the purpose of this subtitle—

(1) to provide children from low-income families who attend unsafe schools with the option of attending safer schools;

(2) to improve schools and academic programs by providing certain low-income parents with increased consumer power and dollars to choose safer and drug-free schools and programs that such parents determine best fit the needs of their children;

(3) to engage more fully certain low-income parents in their children's schooling;

(4) through families, to provide at the school site new dollars that teachers and principals may use to help certain children achieve high educational standards; and

(5) to demonstrate, through a discretionary demonstration grant program, the effects of projects that provide certain low-income families with more of the same choices regarding all schools, including public, private, or sectarian schools, that wealthier families have.

SEC. 113. DEFINITIONS.

As used in this subtitle—

(1) the term "choice school" means any public or private school, including a private sectarian school or a public charter school, that—

(A) is involved in a demonstration project assisted under this subtitle; and

(B) is not an unsafe school;

(2) the term "eligible child" means a child in any of the grades 1 through 12—

(A) whose family income does not exceed 185 percent of the poverty line; and

(B) who would normally be assigned to attend an unsafe school in the absence of—

(i) a demonstration project under this subtitle; or

(ii) participation, prior to the date of enactment of this Act, in a school choice program;

(3) the term "eligible entity" means a public agency, institution, or organization, such as a State, a State or local educational agency, a consortium of public agencies, or a consortium of public and private nonprofit organizations, that can demonstrate, to the satisfaction of the Secretary, its ability to—

(A) receive, disburse, and account for Federal funds; and

(B) carry out the activities described in its application under this subtitle;

(4) the term "evaluating agency" means any academic institution, consortium of professionals, or private or nonprofit organization, with demonstrated experience in conducting evaluations, that is not an agency or instrumentality of the Federal Government;

(5) the term "local educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

(6) the term "parent" includes a legal guardian or other individual acting in loco parentis;

(7) the term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved;

(8) the term "school" means a school that provides elementary education or secondary education (through grade 12), as determined under State law;

(9) the term "Secretary" means the Secretary of Education;

(10) the term "State" means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(11) the term "unsafe school" means a school that has serious crime, violence, illegal drug, and discipline problems, as indicated by conditions that may include high rates of—

(A) expulsions and suspensions of students from school;

(B) referrals of students to alternative schools for disciplinary reasons, to special programs or schools for delinquent youth, or to juvenile court;

(C) victimization of students or teachers by criminal acts, including robbery, assault and homicide;

(D) enrolled students who are under court supervision for past criminal behavior;

(E) possession, use, sale or distribution of illegal drugs;

(F) enrolled students who are attending school while under the influence of illegal drugs;

(G) possession or use of guns or other weapons;

(H) participation in youth gangs; or

(I) crimes against property, such as theft or vandalism.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $50,000,000 for the fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002, to carry out this subtitle.

SEC. 115. PROGRAM AUTHORIZED.

(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 114 in any fiscal year, the Secretary shall reserve and make available to the Comptroller General of the United States 2 percent for evaluation of programs assisted under this subtitle in accordance with section 121.

(b) GRANTS.—

(1) IN GENERAL.—From the amount appropriated pursuant to the authority of section 114 and not reserved under subsection (a) for any fiscal year, the Secretary shall award grants to eligible entities to enable such entities to carry out at least 20, but not more than 30, demonstration projects under which low-income parents receive education certificates for the costs of enrolling their eligible children in a choice school.

(2) AMOUNT.—The Secretary shall award grants under paragraph (1) for fiscal year 1998 so that—

(A) not more than 2 grants are awarded in amounts of $5,000,000 or less; and

(B) grants not described in subparagraph (A) are awarded in amounts of $3,000,000 or less.

(3) CONTINUING ELIGIBILITY.—The Secretary shall continue a demonstration project under this subtitle by awarding a grant under paragraph (1) to an eligible entity that received such a grant for a fiscal year preceding the fiscal year for which the determination is made, if the Secretary determines that such eligible entity was in compliance with this subtitle for such preceding fiscal year.

(4) PRIORITY.—The Secretary shall give priority to awarding a grant under paragraph (1) to an eligible entity that—

(A) is conducting a school choice program, involving public or private schools, on the date of enactment of this Act; and

(B) operates a school choice program, involving public and private schools, that is authorized by Federal law.

(c) USE OF GRANTS.—Grants awarded under subsection (b) shall be used to pay the costs of—

(1) providing education certificates to low-income parents to enable such parents to pay the tuition, the fees, the allowable costs of transportation, if any, and the costs of complying with section 119(a)(1), if any, for their eligible children to attend a choice school; and

(2) administration of the demonstration project, which shall not exceed 15 percent of the amount received in the first fiscal year for which the eligible entity provides education certificates under this subtitle or 10 percent in any subsequent year, including—

(A) seeking the involvement of choice schools in the demonstration project;

(B) providing information about the demonstration project, and the schools involved in the demonstration project, to parents of eligible children;

(C) making determinations of eligibility for participation in the demonstration project for eligible children;

(D) selecting students to participate in the demonstration project;

(E) determining the amount of, and issuing, education certificates;

(F) compiling and maintaining such financial and programmatic records as the Secretary may prescribe; and

(G) collecting such information about the effects of the demonstration project as the evaluating agency may need to conduct the evaluation described in section 121.

(d) SPECIAL RULE.—Any school participating in the demonstration program under this subtitle shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

(e) SUPPLEMENT NOT SUPPLANT.—Each eligible entity receiving funds under this subtitle shall use such funds to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be made available from other sources to carry out the activities assisted under this subtitle.

(f) SUPPLEMENTATION OF FUNDING.—Each eligible entity receiving funds under this section is encouraged to supplement the funding received under this subtitle with funding received from State, local, or private sources.

(g) EDUCATION CERTIFICATES.—

(1) ASSISTANCE TO FAMILIES, NOT CHOICE SCHOOLS.—Education certificates provided under this subtitle shall be considered to be aid to families, not choice schools. A parent's use of an education certificate at a choice school under this subtitle shall not be construed to be Federal financial aid or assistance to that choice school.

(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Education certificates provided under this subtitle shall not be considered as income to an eligible child or the parent of such eligible child for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.

SEC. 116. AUTHORIZED PROJECTS; PRIORITY.

(a) AUTHORIZED PROJECTS.—The Secretary may award a grant under this subtitle only for a demonstration project that—

(1) involves at least one local educational agency that—

(A) receives funds under section 1124A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334); and

(B) is among the 20 percent of local educational agencies receiving funds under section 1124A of such Act (20 U.S.C. 6334) in the

State and having the highest number or greatest percentage of children described in section 1124(c) of such Act (20 U.S.C. 6333(c)); and

(2) includes the involvement of a sufficient number of public and private choice schools, including sectarian schools, to allow for a valid demonstration project.

(b) Priority.—In awarding grants under this subtitle, the Secretary shall give priority to demonstration projects—

(1) in which choice schools offer an enrollment opportunity to the broadest range of eligible children;

(2) that involve diverse types of choice schools; and

(3) that will contribute to the geographic diversity of demonstration projects assisted under this subtitle, including awarding grants for demonstration projects in States that are primarily rural and awarding grants for demonstration projects in States that are primarily urban.

SEC. 117. APPLICATIONS.

(a) In General.—Any eligible entity that wishes to receive a grant under this subtitle shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) Contents.—Each application described in subsection (a) shall contain—

(1) information demonstrating the eligibility for participation in the demonstration program of the eligible entity;

(2) a description of how the eligible entity will determine a school to be a unsafe school in accordance with section 113(11);

(3) with respect to choice schools—

(A) a description of the types of potential choice schools that will be involved in the demonstration project;

(B)(i) a description of the procedures used to encourage public and private schools to be involved in the demonstration project; and

(ii) a description of how the eligible entity will annually determine the number of spaces available for eligible children in each choice school;

(C) an assurance that each choice school will not impose higher standards for admission or participation in its programs and activities for eligible children provided education certificates under this subtitle than the choice school does for other children;

(D) an assurance that the eligible entity will terminate the involvement of any choice school that fails to comply with the conditions of its involvement in the demonstration project; and

(E) a description of the extent to which choice schools will accept education certificates under this subtitle as full or partial payment for tuition and fees;

(4) with respect to the participation in the demonstration project of eligible children—

(A) a description of the procedures to be used to make a determination of eligibility for participation in the demonstration project for an eligible child;

(B) a description of the procedures to be used to ensure that, in selecting eligible children to participate in the demonstration project, the eligible entity will—

(i) apply the same criteria to both public and private school eligible children; and

(ii) give priority to eligible children from the lowest income families;

(C) a description of the procedures to be used to ensure maximum choice of schools for participating eligible children; and

(D) a description of the procedures to be used to ensure compliance with section 119(a)(1), which may include—

(i) the direct provision of services by a local educational agency; and

(ii) arrangements made by a local educational agency with other service providers;

(5) with respect to the operation of the demonstration project—

(A) a description of the procedures to be used for the issuance and redemption of education certificates under this subtitle;

(B) a description of the procedures by which a choice school will make a pro rata refund of the education certificate under this subtitle for any participating eligible child who withdraws from the school for any reason, before completing 75 percent of the school attendance period for which the education certificate was issued;

(C) a description of the procedures to be used to provide the parental notification described in section 120;

(D) an assurance that the eligible entity will place all funds received under this subtitle into a separate account, and that no other funds will be placed in such account;

(E) an assurance that the eligible entity will cooperate with the Comptroller General of the United States and the evaluating agency in carrying out the evaluations described in section 121; and

(F) an assurance that the eligible entity will—

(i) maintain such records as the Secretary may require; and

(ii) comply with reasonable requests from the Secretary for information; and

(6) such other assurances and information as the Secretary may require.

SEC. 118. EDUCATION CERTIFICATES.

(a) Education Certificates.—

(1) Amount.—The amount of an eligible child's education certificate under this subtitle shall be determined by the eligible entity, but shall be an amount that provides to the recipient of the education certificate the maximum degree of choice in selecting the choice school the eligible child will attend.

(2) Considerations.—

(A) In general.—Subject to such regulations as the Secretary shall prescribe, in determining the amount of an education certificate under this subtitle an eligible entity shall consider—

(i) the additional reasonable costs of transportation directly attributable to the eligible child's participation in the demonstration project; and

(ii) the cost of complying with section 119(a)(1).

(B) Schools charging tuition.—If an eligible child participating in a demonstration project under this subtitle was attending a public or private school that charged tuition for the year preceding the first year of such participation, then in determining the amount of an education certificate for such eligible child under this subtitle the eligible entity shall consider—

(i) the tuition charged by such school for such eligible child in such preceding year; and

(ii) the amount of the education certificates under this subtitle that are provided to other eligible children.

(3) Special rule.—An eligible entity may provide an education certificate under this subtitle to the parent of an eligible child who chooses to attend a school that does not charge tuition or fees, to pay the additional reasonable costs of transportation directly attributable to the eligible child's participation in the demonstration project or the cost of complying with section 119(a)(1).

(b) Adjustment.—The amount of the education certificate for a fiscal year may be adjusted in the second and third years of an eligible child's participation in a demonstration project under this subtitle to reflect any increase or decrease in the tuition, fees, or transportation costs directly attributable to that eligible child's continued attendance at a choice school, but shall not be increased for this purpose by more than 10 percent of the amount of the education certificate for the fiscal year preceding the fiscal year for which the determination is made. The amount of the education certificate may also be adjusted in any fiscal year to comply with section 119(a)(1).

(c) Maximum Amount.—Notwithstanding any other provision of this section, the amount of an eligible child's education certificate shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency in which the public school to which the eligible child would normally be assigned is located for the fiscal year preceding the fiscal year for which the determination is made.

SEC. 119. EFFECT ON OTHER PROGRAMS.

(a) Effect on Other Programs.—

(1) In general.—An eligible child participating in a demonstration project under this subtitle, who, in the absence of such a demonstration project, would have received services under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) shall be provided such services.

(2) Part B of the Individuals with Disabilities Education Act.—Nothing in this subtitle shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(b) Counting of Eligible Children.—Notwithstanding any other provision of law, any local educational agency participating in a demonstration project under this subtitle may count eligible children who, in the absence of such a demonstration project, would attend the schools of such agency, for purposes of receiving funds under any program administered by the Secretary.

(c) Sectarian Institutions.—Nothing in this subtitle shall be construed to supersede or modify any provision of a State constitution that prohibits the expenditure of public funds in or by sectarian institutions.

SEC. 120. PARENTAL NOTIFICATION.

Each eligible entity receiving a grant under this subtitle shall provide timely notice of the demonstration project to parents of eligible children residing in the area to be served by the demonstration project. At a minimum, such notice shall—

(1) describe the demonstration project;

(2) describe the eligibility requirements for participation in the demonstration project;

(3) describe the information needed to make a determination of eligibility for participation in the demonstration project for an eligible child;

(4) describe the selection procedures to be used if the number of eligible children seeking to participate in the demonstration project exceeds the number that can be accommodated in the demonstration project;

(5) provide information about each choice school, including information about any admission requirements or criteria for each choice school participating in the demonstration project; and

(6) include the schedule for parents to apply for their eligible children to participate in the demonstration project.

SEC. 121. EVALUATION.

(a) Annual Evaluation.—

(1) Contract.—The Comptroller General of the United States shall enter into a contract, with an evaluating agency that has

demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the demonstration program under this subtitle.

(2) ANNUAL EVALUATION REQUIREMENT.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to annually evaluate each demonstration project under this subtitle in accordance with the evaluation criteria described in subsection (b).

(3) Transmission.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to transmit to the Comptroller General of the United States—

(A) the findings of each annual evaluation under paragraph (1); and

(B) a copy of each report received pursuant to section 122(a) for the applicable year.

(b) Evaluation Criteria.—The Comptroller General of the United States, in consultation with the Secretary, shall establish minimum criteria for evaluating the demonstration program under this subtitle. Such criteria shall provide for—

(1) a description of the implementation of each demonstration project under this subtitle and the demonstration project's effects on all participants, schools, and communities in the demonstration project area, with particular attention given to the effect of parent participation in the life of the school and the level of parental satisfaction with the demonstration program; and

(2) a comparison of the educational achievement of, and the incidences of violence and drug activity related to, all students in the demonstration project area, including a comparison of similar—

(A) students receiving education certificates under this subtitle; and

(B) students not receiving education certificates under this subtitle.

SEC. 122. REPORTS.

(a) Report by Grant Recipient.—Each eligible entity receiving a grant under this subtitle shall submit to the evaluating agency entering into the contract under section 121(a)(1) an annual report regarding the demonstration project under this subtitle. Each such report shall be submitted at such time, in such manner, and accompanied by such information, as such evaluating agency may require.

(b) Reports by Comptroller General.—

(1) ANNUAL REPORTS.—The Comptroller General of the United States shall report annually to the Congress on the findings of the annual evaluation under section 121(a)(2) of each demonstration project under this subtitle. Each such report shall contain a copy of—

(A) the annual evaluation under section 121(a)(2) of each demonstration project under this subtitle; and

(B) each report received under subsection (a) for the applicable year.

(2) Final report.—The Comptroller General shall submit a final report to the Congress within 6 months after the conclusion of the demonstration program under this subtitle that summarizes the findings of the annual evaluations conducted pursuant to section 121(a)(2).

Subtitle B—Common Sense School Safety

SEC. 141. SHORT TITLE.

This subtitle may be cited as the "Common Sense School Safety Act".

CHAPTER I—PUPIL SAFETY AND FAMILY CHOICE

SEC. 151. PUPIL SAFETY AND FAMILY SCHOOL CHOICE.

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1115A of such Act (20 U.S.C. 6316) the following:

"SEC. 1115B. PUPIL SAFETY AND FAMILY SCHOOL CHOICE.

"(a) In General.—If a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and becomes a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency may use funds provided under this part to pay the supplementary costs for such student to attend another school. The agency may use the funds to pay for the supplementary costs of such student to attend any other public or private elementary school or secondary school, including a sectarian school, in the same State as the school where the criminal offense occurred, that is selected by the student's parent. The State educational agency shall determine what actions constitute a violent criminal offense for purposes of this section.

"(b) Supplementary Costs.—The supplementary costs referred to in subsection (a) shall not exceed—

"(1) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that also serves the school where the violent criminal offense occurred, the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student;

"(2) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that does not serve the school where the violent criminal offense occurred but is located in the same State—

"(A) the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student; and

"(B) the reasonable costs of transportation for the student to attend the school selected by the student's parent; and

"(3) in the case of a student for whom funds under this section are used to enable the student to attend a private elementary school or secondary school, including a sectarian school, the costs of tuition, required fees, and the reasonable costs of such transportation.

"(c) Construction.—Nothing in this Act or any other Federal law shall be construed to prevent a parent assisted under this section from selecting the public or private elementary school or secondary school that a child of the parent will attend within the State.

"(d) Consideration of Assistance.—Assistance used under this section to pay the costs for a student to attend a private school shall not be considered to be Federal aid to the school, and the Federal Government shall have no authority to influence or regulate the operations of a private school as a result of assistance received under this section.

"(e) Continuing Eligibility.—A student assisted under this section shall remain eligible to continue receiving assistance under this section for at least 3 academic years without regard to whether the student is eligible for assistance under section 1114 or 1115(b).

"(f) State Law.—All actions undertaken under this section shall be undertaken in accordance with State law and may be undertaken only to the extent such actions are permitted under State law.

"(g) Tuition Charges.—Assistance under this section may not be used to pay tuition or required fees at a private elementary school or secondary school in an amount that is greater than the tuition and required fees paid by students not assisted under this section at such school.

"(h) Special Rule.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

"(i) Assistance; Taxes and Other Federal Programs.—

"(1) ASSISTANCE TO FAMILIES, NOT SCHOOLS.—Assistance provided under this section shall be considered to be aid to families, not schools. Use of such assistance at a school shall not be construed to be Federal financial aid or assistance to that school.

"(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Assistance provided under this section to a student shall not be considered to be income of the student or the parent of such student for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.

"(j) Part B of the Individuals With Disabilities Education Act.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(k) Sectarian Institutions.—Nothing in this section shall be construed to supersede or modify any provision of a State constitution that prohibits the expenditure of public funds in or by sectarian institutions.

"(l) Maximum Amount.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency that serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.".

SEC. 152. TRANSFER OF REVENUES.

(a) In General.—Notwithstanding any other provision of Federal law, a State, a State educational agency, or a local educational agency may transfer any non-Federal public funds associated with the education of a student who is a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school served by a local educational agency to another local educational agency or to a private elementary school or secondary school, including a sectarian school.

(b) Definitions.—For the purpose of subsection (a), the terms "elementary school", "secondary school", "local educational agency", and "State educational agency" have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

CHAPTER II—VICTIM ASSISTANCE PROGRAMS

SEC. 161. AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) Victim Compensation.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C.

10602) is amended by adding at the end the following:

"(f) Victims of School Violence.—Notwithstanding any other provision of law, an eligible crime victim compensation program may expend funds granted under this section to offer compensation to elementary and secondary school students who are victims of elementary and secondary school violence (as school violence is defined under applicable State law).".

(b) Victim and Witness Assistance.—Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)) is amended by adding at the end the following:

"(4) Assistance for victims of and witnesses to school violence.—Notwithstanding any other provision of law, the Director may make a grant under this section for a demonstration project or for training and technical assistance services to a program that assists local educational agencies (as local educational agency is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in developing, establishing, and operating programs that are designed to protect victims of and witnesses to incidents of elementary and secondary school violence (as school violence is defined under applicable State law), including programs designed to protect witnesses testifying in school disciplinary proceedings.".

CHAPTER III—INNOVATIVE PROGRAMS TO IMPROVE UNSAFE SCHOOLS

SEC. 171. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) the continued presence in schools of violent students who are a thereat to both teachers and other students is incompatible with a safe learning environment;

(2) unsafe school environments place students who are already at risk of school failure for other reasons in further jeopardy;

(3) recently, over one-forth of high school students surveyed reported being threatened at school;

(4) 2,000,000 more children are using drugs in 1997 than were doing so a few short years prior to 1997;

(5) nearly 1 out of every 20 students in 6th through 12th grade uses drugs on school grounds;

(6) more of our children are becoming involved with hard drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991; and

(7) greater cooperation between schools, parents, law enforcement, the courts, and the community is essential to making our schools safe from drugs and violence.

SEC. 172. PURPOSE.

It is the purpose of this chapter—

(1) to urge States, State educational agencies, and local educational agencies to provide comprehensive services to victims and witnesses of school violence;

(2) to urge States, State educational agencies, and local educational agencies to remove violent and drug selling student offenders from school premises;

(3) to urge States, State educational agencies, and local educational agencies to report violent crimes and drug dealing on school grounds to appropriate law enforcement authorities;

(4) to provide incentive grants for States, State educational agencies, and local educational agencies to involve parents, former armed forces personnel, and community volunteers in efforts to improve school safety; and

(5) to provide incentive grants to States, State educational agencies, and local educational agencies to develop innovative programs to improve the safety of our Nation's schools and to better serve at-risk students.

SEC. 173. DEFINITIONS.

In this chapter:

(1) Elementary school, local educational agency, secondary school, and State educational agency.—The terms "elementary school", "local educational agency", "secondary school", and State educational agency" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) Secretary.—The term "Secretary" means the Secretary of Education.

SEC. 174. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

SEC. 175. PROGRAM AUTHORIZED.

(a) In General.—The Secretary is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct innovative programs to improve unsafe elementary schools or secondary schools.

(b) Priority.—The Secretary shall give priority to awarding grants under subsection (a) to programs that—

(1) provide parent and teacher notification of crimes or drug activity occurring at school;

(2) provide for the suspension, delay, or restriction of driving privileges of persons under the age of 18 who have a conviction, an adjudication in a juvenile proceeding, or a finding in a school disciplinary proceeding, involving illegal drugs;

(3) programs that link local educational agencies with community-based mentoring programs in order to link individual at-risk youth with responsible, individual adults who serve as mentors for the purpose of—

(A) discouraging at-risk youth from—

(i) using illegal drugs;

(ii) violence;

(iii) using dangerous weapons;

(iv) criminal activity; and

(v) involvement in gangs;

(B) increasing youth participation in, and enhancing the ability of such youth to benefit from, elementary and secondary education;

(C) promoting personal and social responsibility;

(D) encouraging at-risk youth participation in community service and community activities; and

(E) providing general guidance to at-risk youth;

(4) programs that include cooperative efforts between the Secretary and the Secretary of Defense to share the training and salary costs of former members of the Armed Forces who are hired as teachers and assigned to teach in public elementary schools and secondary schools, especially those programs located in communities that are adversely affected by the recent closing or substantial downsizing of a military base or facility; and

(5) programs to enhance school security measures that may include—

(A) equipping schools with metal detectors, fences, closed circuit cameras, and other physical security measures;

(B) providing increased police patrols in and around elementary schools and secondary schools, including canine patrols;

(C) mailings to parents at the beginning of the school year stating that the possession of a gun or other weapon, or the sale of drugs in school, will not be tolerated by school authorities; and

(D) gun hotlines.

SEC. 176. APPLICATION.

(a) In General.—Each State, State educational agency, or local educational agency desiring a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) Contents.—Each application submitted under subsection (a) shall contain an assurance that the State or agency has implemented or will implement policies that—

(1) provide protections for victims and witnesses to school crime, including protections for attendance at school disciplinary proceedings;

(2) expel students who, on school grounds, sell drugs, or who commit a violent offense that causes serious bodily injury of another student or teacher; and

(3) require referral to law enforcement authorities or juvenile authorities of any student who on school grounds—

(A) commits a violent offense resulting in serious bodily injury; or

(B) sells drugs.

(c) Special Rule.—For purposes of paragraphs (2) and (3) of subsection (b), State law shall determine what constitutes a violent offense or serious bodily injury.

CHAPTER IV—NOTIFICATION FOR JUVENILE JUSTICE AND LAW ENFORCEMENT PURPOSES

SEC. 181. NOTIFICATION FOR JUVENILE JUSTICE AND LAW ENFORCEMENT PURPOSES.

The Secretary of Education, not later than 90 days after the date of enactment of this Act, shall prepare and distribute to State educational agencies and local educational agencies a notice regarding the extent of permissible disclosure of educational records under subparagraphs (E) and (J) of section 444(b) of the General Education Provisions Act (20 U.S.C. 1232g), including under the regulations issued pursuant to such subparagraphs.

TITLE II—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 201. SHORT TITLE.

This title may be cited as the "State Education Flexibility Act".

SEC. 202. AMENDMENTS TO ESEA.

Subsection (b) of section 6301 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7351) is amended—

(1) in paragraph (7), by striking "and" after the semicolon;

(2) in paragraph (8), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(9) programs using scholarships or vouchers provided to a parent by a local educational agency that permit the parent to select the public or private, including sectarian, school that the parent's child will attend, which programs may be similar to the program assisted under title I of the Safe and Affordable Schools Act of 1997, except that the provisions of sections 6402 and 14507, and any generally applicable provision relating to a prohibition against the use of Federal funds for religious worship or instruction, shall not apply to any program operated pursuant to this paragraph;

"(10) education reform projects that provide same gender schools, as long as comparable educational opportunities are offered for students of both sexes; and

"(11) education reform projects that reward teachers, administrators, and schools with cash bonuses and other incentives for significantly improving the academic performance of their students.".

TITLE III—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 300. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Affordable College Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 301. BOB DOLE EDUCATION INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 (relating to qualified State tuition programs) is amended by adding at the end the following new section:

"SEC. 530. BOB DOLE EDUCATION INVESTMENT ACCOUNTS.

"(a) GENERAL RULE.—A Bob Dole education investment account (hereafter in this section referred to as an 'education investment account') shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the education investment account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(b) LIMITATIONS ON ACCOUNTS.—

"(1) ACCOUNT MAY NOT BE ESTABLISHED FOR BENEFIT OF MORE THAN 1 INDIVIDUAL.—An education investment account may not be established for the benefit of more than 1 individual.

"(2) SPECIAL RULE WHERE MORE THAN 1 ACCOUNT.—If, at any time during a calendar year, 2 or more education investment accounts are maintained for the benefit of an individual, only the account first established shall be treated as a Bob Dole education investment account for purposes of this section. This paragraph shall not apply to the extent more than 1 account exists solely by reason of a rollover contribution.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOB DOLE EDUCATION INVESTMENT ACCOUNT.—The term 'Bob Dole education investment account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted—

"(i) unless it is in cash,

"(ii) except in the case of rollover contributions from another education investment account, in excess of $1,000 for any calendar year, and

"(iii) after the date on which the account holder attains age 18.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the education investment account exceeds the sum of the amounts contributed to the account for all taxable years).

"(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(E) Any balance in the education investment account on the day after the date on which the individual for whose benefit the trust is established attains age 30 (or, if earlier, the date on which such individual dies) shall be distributed within 30 days of such date to the account holder (or in the case of death, the beneficiary).

"(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' has the same meaning given such term by section 529(e)(3), except that such expenses shall be reduced by any amount described in section 135(d)(1) (relating to certain scholarships and veterans benefits).

"(B) STATE TUITION PLANS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)).

"(4) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 135(c)(3).

"(5) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education investment account is established.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an education investment account shall be included in gross income of the payee or distributee for the taxable year in the manner prescribed by section 72. For purposes of the preceding sentence, rules similar to the rules of section 408(d)(2) shall apply.

"(2) DISTRIBUTION USED TO PAY EDUCATIONAL EXPENSES.—Paragraph (1) shall not apply to any payment or distribution out of an education investment account to the extent such payment or distribution is used exclusively to pay the qualified higher education expenses of the account holder.

"(3) SPECIAL RULE FOR APPLYING SECTION 2503.—If any payment or distribution from an education investment account is used exclusively for the payment to an eligible educational institution of the qualified higher education expenses of the account holder, such payment shall be treated as a qualified transfer for purposes of section 2503(e).

"(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from an education investment account which is includible in gross income under paragraph (1) shall be increased by 10 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY, DEATH, OR SCHOLARSHIP.—Subparagraph (A) shall not apply if the payment or distribution is—

"(i) made on account of the death or disability of the account holder, or

"(ii) made on account of a scholarship (or allowance or payment described in section 135(d)(1) (B) or (C)) received by the account holder to the extent the amount of the payment or distribution does exceed the amount of the scholarship, allowance, or payment.

"(C) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to an education investment account to the extent that such contribution, when added to previous contributions to the account during the taxable year, exceeds $1,000 if—

"(i) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and

"(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made.

"(5) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed from an education investment account to the extent that the amount received is paid into another education investment account for the benefit of the account holder not later than the 60th day after the day on which the holder receives the payment or distribution. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

"(6) SPECIAL RULES FOR DEATH AND DIVORCE.—Rules similar to the rules of section 220(f) (7) and (8) shall apply.

"(e) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any education investment account, and any amount treated as distributed under such rules shall be treated as not used to pay qualified higher education expenses.

"(f) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(g) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(h) REPORTS.—The trustee of an education investment account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(5) SPECIAL RULE FOR EDUCATION INVESTMENT ACCOUNTS.—An individual for whose benefit an education investment account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an education investment account by reason of the application of section 530 to such account.”; and

(2) in subsection (e)(1), by striking “or” at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

“(E) a education investment account described in section 530, or”.

(c) FAILURE TO PROVIDE REPORTS ON EDUCATION INVESTMENT ACCOUNTS.—Section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by inserting “**OR ON EDUCATION INVESTMENT ACCOUNTS**” after “**ANNUITIES**” in the heading of such section, and

(2) in subsection (a)(2), by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) section 530(h) (relating to education investment accounts).”

(d) COORDINATION WITH SAVINGS BOND EXCLUSION.—Section 135(d)(1) is amended by striking “or” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, or”, and by inserting at the end the following new subparagraph:

“(E) a payment or distribution from an education investment account (as defined in section 530).”

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part VIII of subchapter F of chapter 1 is amended by adding at the end the following new item:

“Sec. 530. Bob Dole education investment accounts.”

(2)(A) The heading for part VIII of subchapter F of chapter 1 is amended to read as follows:

“PART VIII—HIGHER EDUCATION SAVINGS ENTITIES”.

(B) The table of parts for subchapter F of chapter 1 is amended by striking the item relating to part VIII and inserting:

“Part VIII. Higher education savings entities.”

(3) The table of sections for subchapter B of chapter 68 is amended by striking the item relating to section 6693 and inserting the following new item:

“Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education investment accounts.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 302. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) PERMANENT EXTENSION.—Section 127 of the Internal Revenue Code of 1986 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) of such Code is amended by striking “, and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree”.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

SEC. 303. MODIFICATIONS OF TAX TREATMENT OF QUALIFIED STATE TUITION PROGRAMS.

(a) EXCLUSION OF DISTRIBUTIONS USED FOR EDUCATIONAL PURPOSES.—Subparagraph (B) of section 529(c)(3) is amended to read as follows:

“(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—Subparagraph (A) shall not apply to any distribution to the extent—

“(i) the distribution is used exclusively to pay qualified higher education expenses of the distributee, or

“(ii) the distribution consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense.”

(b) QUALIFIED HIGHER EDUCATION EXPENSES TO INCLUDE ROOM AND BOARD.—Section 529(e)(3) is amended to read as follows:

“(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term ‘qualified higher education expenses’ means the cost of attendance (within the meaning of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll), as in effect on the date of the enactment of the Affordable College Act) of a designated beneficiary at an eligible educational institution (as defined in section 135(c)(3)).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 304. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

“SEC. 221. INTEREST ON EDUCATION LOANS.

“(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

“(b) MAXIMUM DEDUCTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.

“(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

“(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $45,000 ($65,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000.

“(B) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ means adjusted gross income determined—

“(i) without regard to this section and sections 135, 911, 931, and 933, and

“(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

“(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1997, the $45,000 and $65,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting ‘1996’ for ‘1992’.

“(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

“(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual’s taxable year begins.

“(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

“(e) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED EDUCATION LOAN.—The term ‘qualified education loan’ means any indebtedness incurred to pay qualified higher education expenses—

“(A) which are incurred on behalf of the taxpayer, the taxpayer’s spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

“(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

“(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term ‘qualified education loan’ shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

“(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term ‘qualified higher education expenses’ means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer or the taxpayer’s spouse at an eligible educational institution, reduced by the sum of—

“(A) the amount excluded from gross income under section 135 by reason of such expenses, and

“(B) the amount of the reduction described in section 135(d)(1).

For purposes of the preceding sentence, the term ‘eligible educational institution’ has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers post-graduate training.

"(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 221."

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) EDUCATION LOAN INTEREST OF $600 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans, shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 221(e)(1).

"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).".

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) in paragraph (1)(B), by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"(x) section 6050S (relating to returns relating to education loan interest received in trade or business from individuals),", and

(B) in paragraph (2), by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050S(d) (relating to returns relating to education loan interest received in trade or business from individuals)."

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 221. Interest on education loans.

"Sec. 222. Cross reference.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 221(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1996.

SEC. 305. EXCLUSION OF FEDERAL WORK STUDY PAYMENTS.

(a) IN GENERAL.—Section 117 (relating to exclusion of qualified scholarships) is amended by adding at the end the following new subsection:

"(e) EXCLUSION FOR WORK STUDY PAYMENTS.—Notwithstanding any other provision of this section, gross income does not include any amount received for services performed under a Federal work study program operated under section 441 of the Higher Education Act of 1965 (42 U.S.C. 2751), as in effect on the date of the enactment of this subsection."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE IV—FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 401. FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 611(h) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(h)) is amended by striking "such sums as may be necessary" and inserting "not less than $4,107,522 for fiscal year 1998, not less than $5,607,522 for fiscal year 1999, not less than $7,107,522 for fiscal year 2000, not less than $8,607,522 for fiscal year 2001, not less than $10,107,522 for fiscal year 2002, not less than $11,607,522 for fiscal year 2003, not less than $13,107,522 for fiscal year 2004, and such sums as may be necessary for each succeeding fiscal year.".

TITLE V—ADULT EDUCATION AND FAMILY LITERACY

Subtitle A—Adult Education Act

SEC. 511. AUTHORIZATION OF ADULT EDUCATION ACT.

The Adult Education Act (20 U.S.C. 1201 et seq.) is amended to read as follows:

"TITLE III—ADULT EDUCATION PROGRAMS

"SEC. 301. SHORT TITLE.

"This title may be cited as the "Adult Education Act".

"SEC. 302. STATEMENT OF PURPOSE.

"It is the purpose of this title to assist the States and the outlying areas to provide—

"(1) to adults, the basic educational skills necessary for employment and self-sufficiency; and

"(2) to adults who are parents, the educational skills necessary to be full partners in the educational development of their children.

"SEC. 303. DEFINITIONS.

"As used in this title:

"(1) ADULT EDUCATION.—The term 'adult education' means services or instruction below the postsecondary level for individuals—

"(A) who have attained 16 years of age;

"(B) who are not enrolled or required to be enrolled in secondary school;

"(C)(i) who lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society; or

"(ii) who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education; and

"(D) who lack a mastery of basic skills and are therefore unable to speak, read, or write the English language.

"(2) ADULT EDUCATION AND LITERACY ACTIVITIES.—The term 'adult education and literacy activities' means the activities authorized in section 315.

"(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness that is representative of a community or a significant segment of a community.

"(4) ELIGIBLE AGENCY.—The term 'eligible agency' means—

"(A) the individual, entity, or agency in a State or an outlying area responsible for administering or setting policies for adult education and literacy services in such State or outlying area pursuant to the law of the State or outlying area; or

"(B) if no individual, entity, or agency is responsible for administering or setting such policies pursuant to the law of the State or outlying area, the individual, entity, or agency in a State or outlying area responsible for administering or setting policies for adult education and literacy services in such State or outlying area on the date of enactment of this Act.

"(5) ELIGIBLE PROVIDER.—The term 'eligible provider', used with respect to adult education and literacy activities described in section 315(b), means a provider determined to be eligible for assistance in accordance with section 314.

"(6) ENGLISH LITERACY PROGRAM.—The term 'English literacy program' means a program of instruction designed to help individuals of limited English proficiency achieve full competence in the English language.

"(7) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Training for parents on how to be the primary teacher for their children and full partners in the education of their children.

"(C) Parent literacy training.

"(D) An age-appropriate education program for children.

"(8) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term 'individual of limited English proficiency' means an individual—

"(A) who has limited ability in speaking, reading, or writing the English language; and

"(B)(i) whose native language is a language other than English; or

"(ii) who lives in a family or community environment where a language other than English is the dominant language.

"(9) INDIVIDUAL WITH A DISABILITY.—

"(A) IN GENERAL.—The term 'individual with a disability' means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

"(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

"(10) LITERACY.—The term 'literacy', used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

"(A) to function on the job, in the family of the individual, and in society;

"(B) to achieve the goals of the individual; and

"(C) to develop the knowledge potential of the individual.

"(11) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(12) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(13) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term 'postsecondary educational institution' means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) that continues to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq.).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(15) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title (except section 321) $400,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2003.

"(b) RESERVATION OF FUNDS FOR NATIONAL LEADERSHIP ACTIVITIES.—For any fiscal year, the Secretary may reserve not more than $4,500,000 of the amount appropriated under subsection (a) to establish and carry out the program of national leadership and evaluation activities described in section 322.

"(c) PROGRAM YEAR.—Appropriations for any fiscal year for programs and activities carried out under part A shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

"PART A—GRANTS TO ELIGIBLE AGENCIES

"SEC. 311. AUTHORITY TO MAKE GRANTS.

"(a) IN GENERAL.—In the case of each eligible agency that in accordance with section 313 submits to the Secretary a plan for a fiscal year, the Secretary shall make a grant for the year to the eligible agency for the purpose specified in subsection (b). The grant shall consist of the initial and additional allotments determined for the eligible agency under section 312.

"(b) PURPOSE OF GRANTS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees to expend the grant for adult education and literacy activities in accordance with the provisions of this part.

"SEC. 312. ALLOTMENTS.

"(a) INITIAL ALLOTMENTS.—From the sums available for the purpose of making grants under this part for any fiscal year, the Secretary shall allot to each eligible agency that in accordance with section 313 submits to the Secretary a plan for the year an initial amount as follows:

"(1) $100,000, in the case of an eligible agency of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(2) $250,000, in the case of any other eligible agency.

"(b) ADDITIONAL ALLOTMENTS.—

"(1) IN GENERAL.—From the remainder available for the purpose of making grants under this part for any fiscal year after the application of subsection (a), the Secretary shall allot to each eligible agency that receives an initial allotment under such subsection an additional amount that bears the same relationship to such remainder as the number of qualifying adults in the State or outlying area of the agency bears to the number of such adults in all States and outlying areas.

"(2) QUALIFYING ADULT.—For purposes of this subsection, the term 'qualifying adult' means an adult who—

"(A) is at least 16 years of age, but less than 61 years of age;

"(B) is beyond the age of compulsory school attendance under the law of the State or outlying area;

"(C) does not have a certificate of graduation from a school providing secondary education and has not achieved an equivalent level of education; and

"(D) is not currently enrolled in secondary school.

"(c) SPECIAL RULE.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this section, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this part in accordance with the provisions of this part that the Secretary determines are not inconsistent with this subsection.

"(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this part for any fiscal year that begins after September 30, 2001.

"(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

"SEC. 313. AGENCY PLAN.

"For an eligible agency to be eligible to receive a grant under this part for any fiscal year, the agency shall submit to the Secretary a plan for the year that includes the following:

"(1) A description of the adult education and literacy activities that will be carried out with funds received under the grant.

"(2) A description of how such activities will be integrated with other adult education and career development activities in the State or outlying area of the agency.

"(3) A description of how the eligible agency annually will evaluate the effectiveness of the adult education and literacy activities that are carried out with funds received under the grant.

"(4) A description of the benchmarks required under section 317 and how such benchmarks will ensure continuous improvement of adult education and literacy services in the State or outlying area of the agency.

"(5) An assurance that the funds received under the grant will not be expended for any purpose other than the activities described in sections 314 and 315.

"(6) An assurance that the eligible agency will expend the funds received under the grant only in a manner consistent with the fiscal requirements in section 316.

"SEC. 314. USE OF FUNDS.

"(a) IN GENERAL.—Of the sum that is made available under this part to an eligible agency for any program year—

"(1) not less than 85 percent shall be made available to award grants in accordance with this section to carry out adult education and literacy activities;

"(2) not more than 10 percent shall be made available to carry out activities described in section 315(a); and

"(3) subject to paragraph (1), not more than 5 percent, or $50,000, whichever is greater, shall be made available for administrative expenses at the State level (or the level of the outlying area).

"(b) GRANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), from the amount made available to an eligible agency for adult education and literacy under subsection (a)(1) for a program year, such agency shall award grants, on a competitive basis, to local educational agencies, correctional education agencies, community-based organizations of demonstrated effectiveness, volunteer literacy organizations, libraries, public or private nonprofit agencies, postsecondary educational institutions, public housing authorities, and other nonprofit institutions, that have the ability to provide literacy services to adults and families, or consortia of agencies, organizations, or institutions described in this subsection, to enable such agencies, organizations, institutions, and consortia to carry out adult education and literacy activities.

"(2) CONSORTIA.—An eligible agency may award a grant under this section to a consortium that includes a provider described in paragraph (1) and a for-profit agency, organization, or institution, if such agency, organization, or institution—

"(A) can make a significant contribution to carrying out the objectives of this title; and

"(B) enters into a contract with such provider to carry out adult education and literacy activities.

"(c) GRANT REQUIREMENTS.—

"(1) REQUIRED LOCAL ACTIVITIES.—An eligible agency shall require that each provider receiving a grant under this section use the grant in accordance with section 315(b).

"(2) EQUITABLE ACCESS.—Each eligible agency awarding a grant under this section for adult education and literacy activities shall ensure that the providers described in subsection (b) will be provided direct and equitable access to all Federal funds provided under this section.

"(3) SPECIAL RULE.—Each eligible agency awarding a grant under this section shall not use any funds made available under this title for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section 303(1), except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy services.

"(4) CONSIDERATIONS.—In awarding grants under this section, the eligible agency shall consider—

"(A) the past effectiveness of a provider described in subsection (b) in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by such adults);

"(B) the degree to which the provider will coordinate services with other literacy and social services available in the community; and

"(C) the commitment of the provider to serve individuals in the community who are most in need of literacy services.

"(d) LOCAL ADMINISTRATIVE COST LIMITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), of the funds provided under this section by an eligible agency to a provider described in subsection (b), not less than 95 percent shall be expended for provision of adult education and literacy activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

"(2) SPECIAL RULE.—In cases where the cost limits described in paragraph (1) will be too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination supported under this section, the eligible agency shall negotiate with the provider described in subsection (b) in order to determine an adequate level of funds to be used for noninstructional purposes.

"SEC. 315. ADULT EDUCATION AND LITERACY ACTIVITIES.

"(a) PERMISSIBLE AGENCY ACTIVITIES.—An eligible agency may use not more than 10 percent of the funds made available to the eligible agency under this part for activities that may include—

"(1) the establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under subsection (b), including instruction provided by volunteers or by personnel of a State or outlying area;

"(2) the provision of technical assistance to eligible providers of activities authorized in this section;

"(3) the provision of technology assistance to eligible providers of activities authorized in this section to enable the providers to improve the quality of such activities;

"(4) the support of State or regional networks of literacy resource centers; and

"(5) the monitoring and evaluation of the quality of and the improvement in activities authorized in this section.

"(b) REQUIRED LOCAL ACTIVITIES.—The eligible agency shall require that each eligible provider receiving a grant under section 314 use the grant to establish or operate 1 or more programs that provide instruction or services in 1 or more of the following categories:

"(1) Adult education and literacy services.

"(2) Family literacy services.

"(3) English literacy programs.

"SEC. 316. FISCAL REQUIREMENTS AND RESTRICTIONS RELATED TO USE OF FUNDS.

"(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this part for adult education and literacy activities shall supplement, and may not supplant, other public funds expended to carry out activities described in section 315.

"(b) MAINTENANCE OF EFFORT.—

"(1) DETERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), and paragraph (2), no payments shall be made under this part for any program year to an eligible agency for adult education and literacy activities unless the Secretary of Education determines that the fiscal effort per student or the aggregate expenditures of such eligible agency for activities described in section 315 for the program year preceding the program year for which the determination is made, equaled or exceeded such effort or expenditures for activities described in such section for the second program year preceding the fiscal year for which the determination is made.

"(B) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary of Education shall exclude capital expenditures, special one-time project costs, and similar windfalls.

"(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for adult education and literacy activities under this part for a fiscal year is less than the amount made available for adult education and literacy activities under this part for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of an eligible agency required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

"(2) WAIVER.—The Secretary of Education may waive the requirements of paragraph (1) (with respect to not more than 5 percent of expenditures required for the preceding fiscal year by any eligible agency) for 1 program year only, after making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this subsection for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

"(c) EXPENDITURES OF NON-FEDERAL FUNDS FOR ADULT EDUCATION AND LITERACY ACTIVITIES.—For any program year for which a grant is made to an eligible agency under this part, the eligible agency shall expend, on programs and activities relating to adult education and literacy activities, an amount, derived from sources other than the Federal Government, equal to 25 percent of the amount made available to the eligible agency under this part for adult education and literacy activities.

"SEC. 317. ACCOUNTABILITY AND CONTINUOUS IMPROVEMENT.

"(a) GOAL.—Each eligible agency that receives a grant under this part shall use such grant to meet the goal of enhancing and developing more fully the literacy skills of the adult population in the State or outlying area of the agency.

"(b) BENCHMARKS.—To be eligible to receive a grant under this part, an eligible agency shall develop and identify in the agency plan, submitted under section 313, proposed quantifiable benchmarks to measure the progress of the eligible agency toward meeting the goal described in subsection (a) throughout the State or outlying area of the agency, which shall include, at a minimum, measures for participants of—

"(1) demonstrated improvements in literacy skill levels;

"(2) attainment of secondary school diplomas or general equivalency diplomas;

"(3) placement in, retention in, or completion of, postsecondary education, training, or employment; and

"(4) attainment of the literacy skills and knowledge individuals need to be productive and responsible citizens and to become more actively involved in the education of their children.

"(c) POPULATIONS.—

"(1) PERFORMANCE MEASURES.—In developing and identifying measures of progress of the eligible agency toward meeting the goal described in subsection (a), an eligible agency shall develop and identify in the agency plan, in addition to the benchmarks described in subsection (b), proposed quantifiable benchmarks for populations that include, at a minimum—

"(A) low-income individuals;

"(B) at-risk youth and young adults;

"(C) individuals with disabilities; and

"(D) individuals of limited literacy, as determined by the eligible agency.

"(2) ADDITIONAL MEASURES.—In addition to the benchmarks described in paragraph (1), an eligible agency may develop and identify in the agency plan proposed quantifiable benchmarks to measure the progress of the eligible agency toward meeting the goal described in subsection (a) for populations with multiple barriers to educational enhancement.

"PART B—NATIONAL PROGRAMS

"SEC. 321. NATIONAL INSTITUTE FOR LITERACY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established the National Institute for Literacy (in this section referred to as the "Institute"). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the "Interagency Group"). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services whose purpose is determined by the Interagency Group to be related to the purpose of the Institute.

"(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

"(3) BOARD RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the "Board") established under subsection (d) in planning the goals of the Institute and in the implementation of any programs to achieve such goals.

"(4) DAILY OPERATIONS.—The daily operations of the Institute shall be carried out by the Director of the Institute appointed under subsection (g).

"(b) DUTIES.—

"(1) IN GENERAL.—The Institute shall improve the quality and accountability of the adult basic skills and literacy delivery system by—

"(A) providing national leadership for the improvement and expansion of the system for delivery of literacy services;

"(B) coordinating the delivery of such services across Federal agencies;

"(C) identifying effective models of basic skills and literacy education for adults and families that are essential to success in job training, work, the family, and the community;

"(D) supporting the creation of new methods of offering improved literacy services;

"(E) funding a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

"(i) encouraging the coordination of literacy services;

"(ii) carrying out evaluations of the effectiveness of adult education and literacy activities;

"(iii) enhancing the capacity of State and local organizations to provide literacy services; and

"(iv) serving as a reciprocal link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

"(F) supporting the development of models at the State and local level of accountability systems that consist of goals, performance measures, benchmarks, and assessments that can be used to improve the quality of adult education and literacy activities;

"(G) providing technical assistance, information, and other program improvement activities to national, State, and local organizations, such as—

"(i) improving the capacity of national, State, and local public and private organizations that provide literacy and basic skills services, professional development, and technical assistance, such as the State or regional adult literacy resource centers referred to in subparagraph (E); and

"(ii) establishing a national literacy electronic database and communications network;

"(H) working with the Interagency Group, Federal agencies, and the Congress to ensure that such Group, agencies, and the Congress have the best information available on literacy and basic skills programs in formulating Federal policy with respect to the issues of literacy, basic skills, and workforce and career development; and

"(I) assisting with the development of policy with respect to literacy and basic skills.

"(2) GRANTS, CONTRACTS, AND AGREEMENTS.—The Institute may make grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

"(c) LITERACY LEADERSHIP.—

"(1) FELLOWSHIPS.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances as the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

"(2) USE OF FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

"(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

"(d) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is established a National Institute for Literacy Advisory Board. The Board shall consist of 10 individuals appointed by the President, with the advice and consent of the Senate, from individuals who—

"(i) are not otherwise officers or employees of the Federal Government; and

"(ii) are representative of entities or groups described in subparagraph (B).

"(B) ENTITIES OR GROUPS DESCRIBED.—The entities or groups referred to in subparagraph (A) are—

"(i) literacy organizations and providers of literacy services, including—

"(I) nonprofit providers of literacy services;

"(II) providers of programs and services involving English language instruction; and

"(III) providers of services receiving assistance under this title;

"(ii) businesses that have demonstrated interest in literacy programs;

"(iii) literacy students;

"(iv) experts in the area of literacy research;

"(v) State and local governments; and

"(vi) representatives of employees.

"(2) DUTIES.—The Board—

"(A) shall make recommendations concerning the appointment of the Director and staff of the Institute;

"(B) shall provide independent advice on the operation of the Institute; and

"(C) shall receive reports from the Interagency Group and the Director.

"(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(4) TERMS.—

"(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which⅓ of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

"(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

"(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

"(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

"(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

"(e) GIFTS, BEQUESTS, AND DEVISES.—The Institute may accept, administer, and use gifts or donations of services, money, or property, both real and personal.

"(f) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(g) DIRECTOR.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

"(h) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum rate payable under section 5376 of title 5, United States Code.

"(i) EXPERTS AND CONSULTANTS.—The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(j) REPORT.—The Institute shall submit a report biennially to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

"(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

"(2) a description of how plans for the operation of the Institute for the succeeding two fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

"(3) any additional minority, or dissenting views submitted by members of the Board.

"(k) FUNDING.—Any amounts appropriated to the Secretary of Education, the Secretary of Labor, or the Secretary of Health and Human Services for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2003 to carry out this section.

"SEC. 322. NATIONAL LEADERSHIP ACTIVITIES.

"The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and family literacy programs nationwide. Such activities shall include the following:

"(1) Providing technical assistance to recipients of assistance under part A in developing and using benchmarks and performance measures for improvement of adult education and literacy activities, including family literacy services.

"(2) Awarding grants, on a competitive basis, to an institution of higher education, a public or private organization or agency, or a consortium of such institutions, organizations, or agencies to carry out research and technical assistance—

"(A) for the purpose of developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults; and

"(B) to increase the effectiveness of, and improve the quality of, adult education and literacy activities, including family literacy services.

"(3) Providing for the conduct of an independent evaluation and assessment of adult education and literacy activities, through studies and analyses conducted independently through grants and contracts awarded on a competitive basis. Such evaluation and assessment shall include descriptions of—

"(A) the effect of benchmarks, performance measures, and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

"(B) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy services; and

"(C) the extent to which eligible agencies have distributed funds part A to meet the needs of adults through community-based organizations.

"(4) Carrying out demonstration programs, replicating model programs, disseminating best practices information, and providing technical assistance, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing the activities assisted under part A.".

SEC. 512. EXTENSION OF FUNCTIONAL LITERACY AND LIFE SKILLS PROGRAM FOR STATE AND LOCAL PRISONERS.

Paragraph (3) of section 601(i) of the National Literacy Act of 1991 (20 U.S.C. 1211–2(i)) is amended—

(1) by striking "1994, and" and inserting "1994,"; and

(2) by inserting ", and such sums as may be necessary for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003" before the period.

SEC. 513. CONFORMING ADULT EDUCATION ACT AMENDMENTS.

(a) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6366(a)(1)(A)) is amended by striking "an adult basic education program" and inserting "adult education and literacy activities".

(2) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking "section 312" and inserting "section 303".

(3) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking "section 312(2)" and inserting "section 303".

Subtitle B—Demonstration Programs and Projects To Promote Literacy

SEC. 521. SHORT TITLE.

Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

"PART N—DEMONSTRATION PROGRAMS AND PROJECTS TO PROMOTE LITERACY

"SEC. 10996. DEMONSTRATION PARTNERSHIPS TO PROMOTE LITERACY.

"(a) TRAINING DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, State educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions to—

"(1) provide in-service training for teachers, and, where appropriate, other staff such as teacher's aides, in language acquisition skills and systematic phonics;

"(2) provide pre-service training for teachers, and, where appropriate, other staff, in language acquisition skills and systematic phonics; and

"(3) provide training opportunities for parents, community volunteers, and other persons interested in obtaining language acquisition and systematic phonics skills for the purpose of improving their literacy or the literacy skills of children or other adults.

"(b) OTHER DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies, local educational agencies, and private nonprofit agencies or organizations that use practices determined by replicated experimental research to be effective in preventing and responding to illiteracy in children and adults. Such grants shall be awarded for time-limited, demonstration programs and projects as follows:

"(1) FAMILY LITERACY PROGRAMS.—The Secretary shall award grants for programs that encourage parental involvement with their children in family literacy services (as defined in section 303 of the Adult Education Act). Such programs may combine literacy activities with parent training, in order to emphasize the parent's role as their child's primary teacher.

"(2) SCHOOL AND COMMUNITY PARTNERSHIPS.—The Secretary shall award grants to local educational agencies and private nonprofit organizations for the development of partnerships among schools, parents, private, nonprofit community volunteer organizations, and other community associations. Such partnerships shall demonstrate in the application submitted under subsection (c) the partnership's commitment to, and participation in, programs involving voluntary tutoring sessions for—

"(A) children in kindergarten through 4th grade; and

"(B) the parents of such children, where requested by the parent.

"(c) APPLICATION.—Each entity desiring assistance under this section shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may require.

"(d) ANNUAL EVALUATION.—

"(1) IN GENERAL.—In making grants and entering into contracts and cooperative agreements for demonstration programs and projects under this section, the Secretary, in cooperation with the Comptroller General, shall require all such programs and projects to be evaluated for their effectiveness using nationally recognized standardized assessments which measure reading achievement.

"(2) FUNDING.—The Secretary may provide funding for the evaluations described in paragraph (1) through—

"(A) a stated percentage of funds awarded under a grant or contracted under this subsection; or

"(B) a separate grant made by the Secretary for evaluating an individual demonstration program or project, or group of demonstration programs or projects.

"(3) RESERVATION.—The Secretary is authorized to reserve not more than 2 percent of the amount appropriated under subsection (e) for each fiscal year to fund the evaluations under this subsection.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for fiscal year 1998 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

Subtitle C—National Commission on Literacy

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "National Commission on Literacy".

SEC. 532. FINDINGS.

Congress finds as follows:

(1) Since 1965, the United States has spent over $500,000,000,000 on Federal education programs, yet 66 percent of 17-year olds do

not read at a proficient level and reading scores have been declining for 3 decades. More over 75 percent of 4th graders, nationally, scored below the proficient level of reading.

(2) 85 percent of juvenile delinquents cannot read.

(3) American businesses are spending more than $30,000,000,000 in retraining employees, primarily because the employees cannot read at an adult level.

(4) In most junior colleges, at least one-third of the students must take remedial English because the students are not able to read at college level.

SEC. 533. NATIONAL COMMISSION ON LITERACY.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Commission on Literacy" (in this subtitle referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall consist of—

(A) 5 members to be appointed by the President of the United States;

(B) 5 members to be appointed by the Speaker of the House of Representatives; and

(C) 5 members to be appointed by the Majority Leader of the Senate.

(2) APPOINTMENTS.—

(A) IN GENERAL.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall each appoint as members of the Commission any United States citizen, including educators and other professionals involved in the research, study, and analysis of illiteracy.

(B) PROHIBITION.—An individual with a direct financial interest in the outcome of the Commission shall not be appointed to the Commission.

(3) CONSULTATION.—The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairpersons of the Committee on Education and the Workplace of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) conduct a comprehensive review of the social and economic impact of illiteracy in the United States and any correlation between such impact and welfare costs, juvenile delinquency, special education, adult literacy programs, drug addiction, and underemployment;

(B) examine matters including—

(i) a review of—

(I) requirements set for prospective reading teachers studying at colleges of education; and

(II) whether such requirements include obtaining knowledge about direct, intensive, and systematic phonics with decodable text as an important step in reading instruction;

(ii) a review of the available testing instruments that determine whether, and to what extent, children can decode the English language;

(iii) an assessment of the extent to which the use of experimentally unverified methods and teaching materials contributes to illiteracy;

(iv) a review of medical and neurological evidence regarding how individuals acquire the skill of reading;

(v) a review of the cost of illiteracy to business and industry;

(vi) an assessment of the negative impact of illiteracy on the economy in general, and in particular the impact of illiteracy on economically depressed areas; and

(vii) other issues that a majority of the members of the Commission deem appropriate to investigate in accordance with this subtitle.

(2) PUBLIC HEARINGS.—The Commission (and any committees the Commission may form) shall conduct public hearings in different geographic areas of the United States, both urban and rural, in order to receive the views of a broad spectrum of the public on the issue of literacy and on ways to enhance the reading proficiency of children, adults, and families in the United States.

(3) TESTIMONY.—The Commission is authorized to receive testimony from individuals, including—

(A) representatives of public and private organizations and institutions with an interest in the literacy of children, adults, and families in the United States;

(B) educators;

(C) religious leaders;

(D) providers of social services;

(E) representatives of organizations with children as members;

(F) elected and appointed public officials; and

(G) other individuals speaking on their own behalf.

(d) INTERIM AND FINAL REPORTS TO PRESIDENT AND CONGRESS; RECOMMENDATIONS.—

(1) INTERIM REPORTS.—The Commission may submit to the President, the Committee on Labor and Human Resources of the Senate, the Committee on Education and the Workplace of the House of Representatives, and to the public, interim reports regarding the duties of the Commission undertaken pursuant to subsection (c).

(2) FINAL REPORT.—The Commission shall submit to the President, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workplace of the House of Representatives a final report no later than September 30, 2000. The final report shall set forth recommendations regarding the findings of the Commission.

(3) AVAILABILITY.—Copies of interim reports and the final report of the Commission shall be made available in sufficient quantity for public review.

(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; SELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

(1) IN GENERAL.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall make their respective appointments to the Commission not later than 60 days after the date of enactment of this Act, for terms ending 60 days after the Commission issues its final report.

(2) VACANCY.—Any vacancy that occurs during the life of the Commission shall not affect the powers of the Commission, and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

(3) CHAIRMAN.—The Majority Leader of the Senate, in consultation with the Speaker of the House of Representatives and with the President shall designate one member of the Commission as Chairman of the Commission no later than 60 days after the establishment of the Commission.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.

(5) MEETINGS.—The Commission shall meet at the call of the Chairman of the Commission, or at the call of a majority of the members of the Commission. The initial meeting of the Commission shall be conducted no later than 30 days after the appointment of the last member of the Commission, or no later than 30 days after the date on which funds are made available for the Commission.

(6) VOTING.—Decisions of the Commission shall be according to the vote of a simple majority of the members of the Commission present and voting at a properly called meeting.

(7) RULES.—The Commission may establish by majority vote any other rules for the conduct of the Commission's business, if such rules are not inconsistent with this subtitle or other applicable law.

(8) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation as a member of the Commission is not precluded by a Federal, State, or local law, shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to the compensation received for their services as officers or employees of the United States.

(9) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

(1) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL.—The Commission may appoint an Executive Director of the Commission, and the Commission may appoint and fix the compensation of such personnel as the Commission deems advisable. The Executive Director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. Compensation of other personnel may be set without regard to the provisions of such title 5 that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title 5 that relate to classifications and the General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for Level V of the Executive Schedule under section 5316 of such title.

(2) DETAILEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privilege.

(3) TEMPORARY OR INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for Level V of the Executive Schedule under section 5316 of such title.

(4) CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of the

Commission to enter into contracts with public or private organizations, for research necessary to carry out the Commission's duties under subsection (c).

(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, and receive such evidence as the Commission considers advisable.

(2) WITNESSES.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(3) SUBPOENAS.—If a person fails to supply information requested by the Commission, the Commission may by majority vote require by subpoena the production of any written or recorded information, document, report, answer, record, account, paper, computer file, or other data or documentary evidence necessary to carry out its duties under subsection (c).

(4) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under subsection (c). Upon the request of the Commission, the head of such department or agency may furnish such information to the Commission.

(5) DISCLOSURE OF CONFIDENTIAL INFORMATION.—The Commission shall be considered an agency of the Federal Government for purposes of section 1905 of title 18, United States Code, and any individual employed by an entity or organization under contract to the Commission shall be subject to such section. Information obtained by the Commission, other than information available to the public, shall not be disclosed to any person in any manner, except—

(A) to Commission employees or employees of any individual, entity, or organization under contract to the Commission under subsection (f) for the purpose of receiving, reviewing, or processing such information;

(B) upon court order; or

(C) when publicly released by the Commission in an aggregate or summary form that does not directly or indirectly disclose—

(i) the identity of any person or business entity; or

(ii) any information which could not be released under section 1905 of title 18, United States Code.

(h) SUPPORT SERVICES.—The Comptroller General shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(i) DEFINITIONS.—In this subtitle:

(1) ILLITERACY.—The term "illiteracy" means the lack of ability to read and write competently.

(2) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(3) SYSTEMATIC PHONICS.—The term "systematic phonics" means the direct teaching of a pre-planned sequence of relationships between speech sounds and all their letter equivalents.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1998, 1999, and 2000, such sums as may be necessary to carry out this section.

By Mr. ROTH (for himself and Mr. LOTT):

S. 2. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for American families, and for other purposes; to the Committee on Finance.

THE AMERICAN FAMILY TAX RELIEF ACT

Mr. ROTH. Mr. President, the comedian Henny Youngman told a joke that highlights America's family friendly tax system.

"The people who make our taxes are very nice," he said. "They're letting me keep my mother."

Certainly, our tax laws were never quite this bad, but the humor hinted at the fact that the laws were not altogether family friendly. The family, in fact, has taken it right in the pocketbook. More and more, we are hearing that oft-quoted fact that today the average American family spends more on taxes than it spends on food, clothing and shelter combined. Today, many families need a second earner to make ends meet, because too much of their income is taken by Government.

At the end of World War II, the median income for a family of four was $3,468. At the time, the first $2,667 of income for such families were tax exempt, meaning that three-quarters of median family income was exempt from taxation.

Over the years, inflation ate away at the value of the standard deduction and personal exemptions. The result was that average families paid more and more of their income in taxes.

In 1983, the median family income for a family of four was $29,184, but only the first $8,783 of income was exempt from tax—less than one-third. As my good friend and distinguished colleague, DANIEL PATRICK MOYNIHAN, has pointed out with these statistics, Government tax policies have adversely affected family life.

In 1948, a family of four at the median income level paid 2 percent—2 percent—of its income in Federal taxes. Today, a family of four pays 24 percent.

The time has come to address this disturbing trend. Our tax policies must be changed in light of current realities and critical needs. The American family has been shackled with the excess burden of taxes, I believe, in part because family was such a constant and stable foundation for our society, an enduring unit that could be depended on to carry the burden. But the consequences of that burden and other economic and social factors have succeeded in ravaging the family. Indeed, in society today, the family is under assault, and too many of the policies that are coming out of Washington are increasing the problem rather than providing the solution.

As chairman of the Senate Finance Committee, I intend to work with my colleagues to address these policies and trends, and I laud the spirit of the tax bill introduced today and believe that we can build bipartisan support to advance its overall objectives. The American Family Tax Relief Act is a strong first step towards restoring a sense of economic equilibrium to our families and offers a $500-per-child tax credit, a capital gains tax cut, estate and gift tax relief, and expanded individual retirement accounts.

At one time or another, each of these proposals has found bipartisan support, and I believe Senators on both sides of the aisle will see this bill as a strong first step toward achieving a mutually shared objective. This legislation sets the spirit for debate. It has the welfare and future of the family at heart.

As introduced, this bill calls for a permanent $500-per-child tax credit for children under 18 years of age. The capital gains tax cut allows individuals to deduct 50 percent of their capital gains and allows families that sell their homes at a loss to treat it as a capital loss for purposes of a tax deduction. This bill allows an individual to pass up to $1 million tax free as a gift during life or at the time of death. It excludes from estate taxes the first $1.5 million in value of certain qualified family-owned businesses or farm interests and 50 percent of the value in excess of $1.5 million.

The American Family Tax Relief Act expands the power and availability of IRAs by permitting homemakers to have IRAs, regardless of their spouse's participation in a pension program, and by raising income limits to include more families. It also creates a backloaded IRA that permits after-tax contribution and tax-free withdrawals ofearnings after the taxpayer reaches age 59½. This is a provision I have sought for some time, along with allowing for penalty-free withdrawal for education expenses, which is also included in the package.

Again, Mr. President, this is a strong place to start. I appreciate the leadership—particularly our majority leader TRENT LOTT—for working with us to establish this foundation. Now we must go about the legislative process, building the consensus we need to see it implemented and achieving the real tax relief American families not only desire but need.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Family Tax Relief Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—CHILD TAX CREDIT

Sec. 101. Child tax credit.

TITLE II—CAPITAL GAINS REFORM

Subtitle A—Taxpayers Other Than Corporations

Sec. 201. Capital gains deduction.
Sec. 202. Indexing of certain assets acquired after December 31, 1996, for purposes of determining gain.
Sec. 203. Modifications to exclusion of gain on certain small business stock.

Subtitle B—Corporate Capital Gains

Sec. 211. Reduction of alternative capital gain tax for corporations.

Subtitle C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

Sec. 221. Capital loss deduction allowed with respect to sale or exchange of principal residence.

TITLE III—ESTATE AND GIFT PROVISIONS

Sec. 301. Increase in unified estate and gift tax credit.
Sec. 302. Family-owned business exclusion.
Sec. 303. 20-year installment payment where estate consists largely of interest in closely held business.
Sec. 304. No interest on certain portion of estate tax extended under 6166.

TITLE IV—SAVINGS INCENTIVES

Sec. 401. Restoration of IRA deduction.
Sec. 402. IRA allowed for spouses who are not active plan participants.
Sec. 403. Establishment of nondeductible tax-free individual retirement accounts.
Sec. 404. Tax-free withdrawals from individual retirement plans for business startups.
Sec. 405. Tax-free withdrawals from individual retirement plans for long-term unemployed.
Sec. 406. Distributions from certain plans may be used without penalty to pay higher education expenses.

TITLE I—CHILD TAX CREDIT

SEC. 101. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

“SEC. 24. CHILD TAX CREDIT.

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

“(b) LIMITATION.—

“(1) IN GENERAL.—The amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds the threshold amount.

“(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term ‘threshold amount’ means—

“(A) $110,000 in the case of a joint return,

“(B) $75,000 in the case of an individual who is not married, and

“(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

“(c) QUALIFYING CHILD.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying child’ means any individual if—

“(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

“(B) such individual has not attained the age of 18 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

“(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

“(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term ‘qualifying child’ shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows ‘resident of the United States’.

“(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.”

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

“Sec. 24. Child tax credit.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE II—CAPITAL GAINS REFORM

Subtitle A—Taxpayers Other Than Corporations

SEC. 201. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

“SEC. 1202. CAPITAL GAINS DEDUCTION.

“(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

“(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

“(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

“(d) ADJUSTMENTS TO NET CAPITAL GAIN.—For purposes of subsection (a)—

“(1) COLLECTIBLES.—

“(A) IN GENERAL.—Net capital gain shall be computed without regard to collectibles gain.

“(B) COLLECTIBLES GAIN.—

“(i) IN GENERAL.—The term ‘collectibles gain’ means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

“(ii) COORDINATION WITH SECTION 1022.—Gain from the disposition of a collectible which is an indexed asset to which section 1022(a) applies shall be disregarded for purposes of this section. A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election (and specification) once made, shall be irrevocable.

“(iii) PARTNERSHIPS, ETC.—For purposes of clause (i), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

“(2) GAIN FROM SMALL BUSINESS STOCK.—Net capital gain shall be computed without regard to any gain from the sale or exchange of any qualified small business stock (within the meaning of section 1203(b)) held more than 5 years which is taken into account in computing gross income.

“(3) PRE-1997 GAIN.—

“(A) IN GENERAL.—In the case of a taxable year which includes January 1, 1997, net capital gain shall be computed without regard to pre-1997 gain.

“(B) PRE-1997 GAIN.—The term ‘pre-1997 gain’ means the amount which would be net capital gain under subsection (a) for a taxable year if such net capital gain were determined by taking into account only gain or loss properly taken into account for the portion of the taxable year before January 1, 1997.

“(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—

“(i) IN GENERAL.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

“(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term ‘pass-thru entity’ means—

“(I) a regulated investment company,

“(II) a real estate investment trust,

“(III) an S corporation,

“(IV) a partnership,

“(V) an estate or trust, and

“(VI) a common trust fund.

“(e) MAXIMUM RATE ON NONDEDUCTIBLE CAPITAL GAIN.—

“(1) IN GENERAL.—If a taxpayer other than a corporation has a nondeductible net capital gain for any taxable year, then the tax imposed by section 1 for the taxable year shall not exceed the sum of—

“(A) a tax computed on the taxable income reduced by the amount of the nondeductible net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

“(B) a tax of 28 percent of the nondeductible net capital gain.

“(2) NONDEDUCTIBLE NET CAPITAL GAIN.—For purposes of paragraph (1), the term ‘nondeductible net capital gain’ means an amount equal to the amount of the reduction in net capital gain under subsection (a) by reason of subsection (d).”

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) Long-term capital gains.—The deduction allowed by section 1202."

(c) Technical and Conforming Changes.—

(1)(A) Section 1 is amended by striking subsection (h).

(B)(i) Section 641(d)(2)(A) is amended by striking "Except as provided in section 1(h), the" and inserting "The".

(ii) Section 641(d)(2)(C) is amended by inserting after clause (iii) the following new clause:

"(iv) The deduction under section 1202."

(2) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent (80 percent in the case of a corporation) of the amount of gain".

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 shall not be allowed."

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account."

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to capital gains deduction) shall not be taken into account."

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".

(8)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) Other taxpayers.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) Corporations.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) Rate differential portion.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)."

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(9) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1201(b) or 1203".

(10)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain."

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) Special rules.—

"(A) Adjustments.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year."

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) Transitional rule.—

"(A) In general.—The amount determined under subclause (II) of paragraph (2)(A)(ii) for any taxable year shall be reduced (but not below zero) by the excess of—

"(i) the amount of the unused pre-1998 long-term capital loss for such year, over

"(ii) the sum of the long-term capital gain and the net short-term capital gain for such taxable year.

Section 1211(b)(2)(B) shall be applied without regard to 'one-half of' with respect to such excess for such taxable year.

"(B) Unused pre-1998 long-term capital loss.—For purposes of this paragraph, the term 'unused pre-1998 long-term capital loss' means, with respect to a taxable year, the excess of—

"(i) the amount which under paragraph (1)(B) (as in effect for taxable years beginning before January 1, 1998) is treated as a long-term capital loss for the taxpayer's first taxable year beginning after December 31, 1997, over

"(ii) the sum of—

"(I) the aggregate amount determined under subparagraph (A)(ii) for all prior taxable years beginning after December 31, 1997, and

"(II) the aggregate reductions under subparagraph (A) for all such prior taxable years."

(11) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(12) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".

(13)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".

(d) Clerical Amendment.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.
"Sec. 1203. 50-percent exclusion for gain from certain small business stock."

(e) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1996.

(2) Contributions.—The amendment made by subsection (c)(2) shall apply to contributions after December 31, 1996.

(3) Use of long-term losses.—The amendments made by subsection (c)(10) shall apply to taxable years beginning after December 31, 1997.

(4) Withholding.—The amendments made by subsection (c)(12) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 202. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 1996, FOR PURPOSES OF DETERMINING GAIN.

(a) In General.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 1996, FOR PURPOSES OF DETERMINING GAIN.

"(a) General Rule.—

"(1) Indexed basis substituted for adjusted basis.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) Exception for depreciation, etc.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) Indexed Asset.—

"(1) In general.—For purposes of this section, the term 'indexed asset' means—

"(A) common stock in a C corporation (other than a foreign corporation), and

"(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

"(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) stock of a foreign investment company (within the meaning of section 1246(b)),

"(ii) stock in a passive foreign investment company (as defined in section 1296),

"(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

"(iv) stock in a foreign personal holding company (as defined in section 552).

"(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) GENERAL RULE.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, increased by

"(B) the applicable inflation adjustment.

"(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

"(A) the adjusted basis of the asset, multiplied by

"(B) the percentage (if any) by which—

"(i) the gross domestic product deflator for the last calendar quarter ending before the asset is disposed of, exceeds

"(ii) the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest $1/10$ of 1 percentage point.

"(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

"(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

"(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

"(2) SHORT SALES.—

"(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

"(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

"(ii) the average of the fair market values of all assets held by such company at the close of each such month.

"(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

"(ii) the fair market value of all assets held by such trust at the close of such quarter.

"(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

"(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

"(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

"(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

"(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

"(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

"(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

"(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired after December 31, 1996, for purposes of determining gain."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after December 31, 1996.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 1996, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(d) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON JANUARY 1, 1997.—For purposes of the Internal Revenue Code of 1986—

(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on January 1, 1997, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day (and as having been reacquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on January 1, 1997, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term "readily tradable stock" means any stock which, as of January 1, 1997, is readily tradable on an established securities market or otherwise.

(e) TREATMENT OF PRINCIPAL RESIDENCES.—Property held and used by the taxpayer on January 1, 1997, as his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) shall be treated—

(1) for purposes of subsection (c)(1) of this section and section 1022 of such Code, as having a holding period which begins on January 1, 1997, and

(2) for purposes of section 1022(c)(2)(B)(ii) of such Code, as having been acquired on January 1, 1997.

Subsection (d) shall not apply to property to which this subsection applies.

SEC. 203. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) Subsection (a) of section 57 is amended by striking paragraph (7).

(2) Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (7)" and inserting "and (5)".

(b) STOCK OF LARGER BUSINESSES ELIGIBLE FOR REDUCED RATES.—Paragraph (1) of section 1203(d), as redesignated by section 201, is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(c) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as so redesignated, is amended by striking subsection (b).

(d) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as so redesignated, is amended—

(A) by striking "2 years" in subparagraph (B) and inserting "5 years", and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section."

(e) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1203, as so redesignated, is amended by striking "subsections (f) and (h)" and inserting "subsections (e) and (g)".

(2) Paragraph (2) of section 1203(c), as so redesignated, is amended—

(A) by striking "subsection (e)" each place it appears and inserting "subsection (d)", and

(B) by striking "subsection (e)(4) in subparagraph (B)(ii) and inserting "subsection (d)(4)".

(3) Paragraph (1) of section 1203(e), as so redesignated, is amended by striking "subsection (c)(2)" and inserting "subsection (b)(2)".

(4) Paragraph (1) of section 1203(g), as so redesignated, is amended to read as follows:

"(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2), such amount shall be treated as gain from the sale or exchange of any qualified small business stock held for more than 5 years."

(5) Section 1203, as so redesignated, as amended by the preceding provisions of this section, is amended by redesignating subsections (c) through (k) as subsections (b) through (j), respectively.

(f) CLERICAL AMENDMENT.—Section 1203, as so redesignated, is amended by adding at the end the following new subsection:

"(k) CROSS REFERENCE.—

"For reduced rates on gain of qualified small business stock held more than 5 years, see sections 1201(b) and 1202(e)."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after August 10, 1993.

(2) INCREASE IN SIZE.—The amendment made by subsection (b) shall apply to stock issued after the date of the enactment of this Act.

Subtitle B—Corporate Capital Gains

SEC. 211. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 28 percent of the net capital gain.

"(b) Special Rules for Qualified Small Business Gain.—

"(1) In general.—If for any taxable year a corporation has gain from the sale or exchange of any qualified small business stock held for more than 5 years, the amount determined under subsection (a)(2) for such taxable year shall be equal to the sum of—

"(A) 21 percent of the lesser of such gain or the corporation's net capital gain, plus

"(B) 28 percent of the net capital gain reduced by the gain taken into account under subparagraph (A).

"(2) Qualified small business stock.—For purposes of paragraph (1), the term 'qualified small business stock' has the meaning given such term by section 1203(b), except that stock shall not be treated as qualified small business stock if such stock was at any time held by a member of the parent-subsidiary controlled group (as defined in section 1203(c)(3)) which includes the qualified small business.

"(c) Transitional Rule.—

"(1) In general.—In applying this section, net capital gain for any taxable year shall not exceed the net capital gain determined by taking into account only gains and losses properly taken into account for the portion of the taxable year after December 31, 1996.

"(2) Special rule for pass-thru entities.—Section 1202(d)(3)(C) shall apply for purposes of paragraph (1).

"(d) Cross References.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3) (A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) Technical Amendment.—Clause (iii) of section 852(b)(3)(D) is amended by striking "65 percent" and inserting "72 percent".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

(2) Qualified small business stock.—Section 1201(b) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to gain from qualified small business stock acquired on or after the date of the enactment of this Act.

Subtitle C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

SEC. 221. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) In General.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer."

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1996, in taxable years ending after such date.

TITLE III—ESTATE AND GIFT PROVISIONS

SEC. 301. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) Estate Tax Credit.—

(1) In general.—Section 2010(a) (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(2) Applicable Credit Amount.— Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Applicable Credit Amount.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	**The applicable exclusion amount is:**
1997	$650,000
1998	$700,000
1999	$750,000
2000	$800,000
2001	$850,000
2002	$900,000
2003	$950,000
2004 or thereafter	$1,000,000."

(3) Conforming amendments.—

(A) Section 6018(a)(1) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death".

(B) Section 2001(c)(2) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".

(C) Section 2102(c)(3)(A) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(b) Unified Gift Tax Credit.—Section 2505(a)(1) (relating to unified credit against gift tax) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(c) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1996.

SEC. 302. FAMILY-OWNED BUSINESS EXCLUSION.

(a) In General.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) In General.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $1,500,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,500,000.

"(b) Estates to Which Section Applies.—

"(1) In general.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) Includible qualified family-owned business interests.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) Includible gifts of interests.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) Adjusted Gross Estate.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) Adjusted Value of the Qualified Family-Owned Business Interests.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax).

"(4) COORDINATION WITH OTHER ESTATE TAX BENEFITS.—If there is a reduction in the value of the gross estate under this section—

"(A) the dollar limitation applicable under section 2032A(a)(2), and

"(B) the $1,000,000 amount under section 6601(j)(3) (as adjusted),

shall each be reduced (but not below zero) by the amount of such reduction."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 303. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) In General.—Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking "10" in paragraph (1) and the heading thereof and inserting "20".

(b) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 304. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER 6166.

(a) In General.—Section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166) is amended—

(1) by striking the first sentence of paragraph (1) and inserting the following new sentence: "If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, no interest on the no-interest portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid.",

(2) by striking "4-percent" each place it appears in paragraphs (2) and (3) and inserting "no-interest",

(3) by striking "4-percent" in the heading of paragraph (2) and inserting "No interest", and

(4) by striking "4-Percent Rate" in the heading thereof and inserting "No Interest".

(b) Conforming Amendments.—

(1) Section 6166(b)(7)(A)(iii) is amended by striking "4-percent rate of interest" and inserting "no-interest portion".

(2) Section 6166(b)(8)(A)(iii) is amended to read as follows:

"(iii) No-interest portion not to apply.—Section 6601(j) (relating to no-interest portion) shall not apply."

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

SEC. 401. RESTORATION OF IRA DEDUCTION.

(a) Modifications of Restrictions on Active Participants.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

"(B) Applicable dollar amount.—The term 'applicable dollar amount' means the following:

"(i) In the case of a taxpayer filing a joint return:

"For taxable years beginning in:	The applicable dollar amount is:
1997	$65,000
1998	$90,000
1999	$115,000
2000	$140,000

"(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

"For taxable years beginning in:	The applicable dollar amount is:
1997	$50,000
1998	$75,000
1999	$100,000
2000	$125,000

"(iii) In the case of a married individual filing a separate return, zero.".

(b) Repeal of Restrictions on Active Participants.—

(1) In general.—Section 219 (relating to deduction for retirement savings), as amended by section 402, is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(2) Technical and conforming amendments.—

(A) Subsection (f) of section 219 is amended by striking paragraph (7).

(B) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(C) Section 408(o) is amended by adding at the end the following new paragraph:

"(5) Termination.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 2000.".

(D) Sections 408A(c)(2)(A) and 4973(b)(2)(B)(ii), as added by section 403, are each amended by striking "(computed without regard to subsection (g) of such section)".

(c) Coordination of IRA Deduction Limit with Elective Deferral Limit.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(5) Coordination with elective deferral limit.—The amount determined under paragraph (1) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the limitation applicable for the taxable year under section 402(g)(1), over

"(B) the elective deferrals (as defined in section 402(g)(3)) of such individual for such taxable year."

(d) Effective Dates.—

(1) In general.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1996.

(2) Termination.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2000.

SEC. 402. IRA ALLOWED FOR SPOUSES WHO ARE NOT ACTIVE PLAN PARTICIPANTS.

(a) In General.—Section 219(g)(1) of the Internal Revenue Code of 1986 is amended by striking "or the individual's spouse".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 403. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. IRA PLUS ACCOUNTS.

"(a) General Rule.—Except as provided in this section, an IRA Plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) IRA Plus Account.—For purposes of this title, the term 'IRA Plus account' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as an IRA Plus account.

"(c) Treatment of Contributions.—

"(1) No deduction allowed.—No deduction shall be allowed under section 219 for a contribution to an IRA Plus account.

"(2) Contribution limit.—The aggregate amount of contributions for any taxable year to all IRA Plus accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over

"(B) the amount so allowed.

"(3) Contributions permitted after age 70½.—Contributions to an IRA Plus account may be made even after the individual for whom the account is maintained has attained age 70½.

"(4) Mandatory distribution rules not to apply, etc.—

"(A) In general.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any IRA Plus account.

"(B) Post-death distributions.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

"(5) Rollover contributions.—

"(A) In general.—No rollover contribution may be made to an IRA Plus account unless it is a qualified rollover contribution.

"(B) Coordination with limit.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

"(6) Time when contributions made.—For purposes of this section, the rule of section 219(f)(3) shall apply.

"(d) Distribution Rules.—For purposes of this title—

"(1) General rules.—

"(A) Exclusions from gross income.—Any qualified distribution from an IRA Plus account shall not be includible in gross income.

"(B) Nonqualified distributions.—In applying section 72 to any distribution from an IRA Plus account which is not a qualified distribution, such distribution shall be treated as made from contributions to the IRA Plus account to the extent that such distribution, when added to all previous distributions from the IRA Plus account, does not exceed the aggregate amount of contributions to the IRA Plus account. For purposes of the preceding sentence, all IRA Plus accounts maintained for the benefit of an individual shall be treated as 1 account.

"(C) Exception from penalty tax.—Section 72(t) shall not apply to any qualified distribution from an IRA Plus account.

"(2) Qualified distribution.—For purposes of this subsection—

"(A) In general.—The term 'qualified distribution' means any payment or distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified special purpose distribution.

"(B) Certain distributions within 5 years.—A payment or distribution shall not be treated as a qualified distribution under clause (i) of subparagraph (A) if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an IRA Plus account (or such individual's spouse made a contribution to an IRA Plus account) established for such individual, or

"(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

Clause (ii) shall not apply to a qualified rollover contribution from an IRA plus account.

"(3) ROLLOVERS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any distribution which is transferred in a qualified rollover contribution to an IRA Plus account.

"(B) INCOME INCLUSION FOR ROLLOVERS FROM NON-PLUS IRAS.—In the case of any qualified rollover contribution from an individual retirement plan (other than an IRA Plus account) to an IRA Plus account established for the benefit of the payee or distributee, as the case may be—

"(i) sections 72(t) and 408(d)(3) shall not apply, and

"(ii) in any case where such contribution is made before January 1, 1999, any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

"(C) ADDITIONAL REPORTING REQUIREMENTS.—The Secretary shall require that trustees of IRA Plus accounts, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

"(4) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term 'qualified special purpose distribution' means any distribution to which subparagraph (B), (D), (E), or (F) of section 72(t)(2) applies.

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution to an IRA Plus account from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an IRA Plus account.

"(2) CONVERSIONS.—The conversion of an individual retirement plan to an IRA Plus account shall be treated as if it were a qualified rollover contribution."

(b) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—

(1) Subparagraph (A) of section 4980A(d)(3) is amended by inserting "(other than IRA Plus accounts described in section 408A(b))" after "retirement plans".

(2) Section 4980A(e)(1) is amended by adding at the end the following flush sentence: "Such term shall not include any amount distributed from an IRA Plus account or any qualified rollover contribution (as defined in section 408A(e)) from an individual retirement plan to an IRA Plus account."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended to read as follows:

"(b) EXCESS CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—In the case of individual retirement accounts or individual retirement annuities, the term 'excess contributions' means the sum of—

"(A) the amount determined under paragraph (2) for the taxable year, plus

"(B) the carryover amount determined under paragraph (3) for the taxable year.

"(2) CURRENT YEAR.—The amount determined under this paragraph for any taxable year is an amount equal to the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year to the accounts or for the annuities or bonds (other than IRA Plus accounts), over

"(ii) the amount allowable as a deduction under section 219 for the taxable year, plus

"(B) the excess (if any) of—

"(i) the amount described in clause (i) (taking into account contributions to IRA Plus accounts) contributed for the taxable year, over

"(ii) the amount allowable as a deduction under section 219 for the taxable year (computed without regard to subsection (g) of such section).

"(3) CARRYOVER AMOUNT.—The carryover amount determined under this paragraph for any taxable year is the amount determined under paragraph (2) for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

"(C) the excess (if any) of the amount determined under paragraph (2)(B)(ii) over the amount determined under paragraph (2)(B)(i).

"(4) SPECIAL RULES.—For purposes of this subsection—

"(A) ROLLOVER CONTRIBUTIONS.—Rollover distributions described in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 408A(e) shall not be taken into account.

"(B) CONTRIBUTIONS RETURNED BEFORE DUE DATE.—Any contribution which is distributed from an individual retirement plan in a distribution to which section 408(d)(4) applies shall not be taken into account.

"(C) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTIONS.—In applying paragraph (3)(C), the determination as to amounts contributed for a taxable year shall be made without regard to section 219(f)(6)."

(d) SPOUSAL IRA.—Clause (ii) of section 219(c)(1)(B) is amended to read as follows:

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

"(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year, and

"(II) the amount of any contribution on behalf of such spouse to an IRA Plus account under section 408A for such taxable year."

(e) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. IRA Plus accounts."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 404. TAX-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT PLANS FOR BUSINESS STARTUPS.

(a) EXCLUSION.—Section 408(d) is amended by adding at the end the following new paragraph:

"(8) DISTRIBUTIONS USED FOR BUSINESS START-UP EXPENSES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any payments or distributions from an individual retirement plan during any taxable year to the extent the aggregate amount of such payments and distributions does not exceed the business start-up costs of the taxpayer for the taxable year.

"(B) BUSINESS START-UP COSTS.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'business start-up costs' means any amount which is paid or incurred—

"(I) in connection with a trade or business with respect to which the taxpayer is a 50-percent owner, and

"(II) on or before the date which is one year after the date on which the active conduct of such trade or business began (as determined under section 195(c)).

"(ii) CERTAIN COSTS INCLUDED.—The term 'business start-up costs' shall include—

"(I) any start-up expenditures (as defined in section 195(c)), and

"(II) any organizational expenses (as defined in section 709(b)).

"(C) DENIAL OF DOUBLE BENEFIT.—

"(i) DEDUCTIONS.—No deduction otherwise allowable under this chapter with respect to any business start-up costs taken into account under subparagraph (A) shall be allowed to the extent of the amount which would have been includible in gross income but for the application of this paragraph.

"(ii) BASIS REDUCTIONS.—If any portion of the business start-up costs taken into account under subparagraph (A) are properly chargeable to capital account, the basis of the property to which such costs are chargeable shall be reduced by the amount which would have been includible in gross income but for the application of this paragraph.

"(iii) ALLOCATION.—The Secretary shall provide rules for the allocation of amounts excluded from gross income by reason of this paragraph to business start-up costs for purposes for applying this subparagraph.

"(D) 50-PERCENT OWNER.—For purposes of clause (i), the term '50-percent owner' means any individual if the individual—

"(i) in the case of a corporation, own more than 50 percent of the value of the outstanding stock of the corporation or stock possessing more than 50 percent of the total combined voting power of all stock of the corporation, or

"(ii) in the case of a trade or business other than a corporation, own more than 50 percent of the capital or profits interest in the trade or business.

For purposes of this subparagraph, an individual shall be treated as owning stock and capital or profits interests owned by the individual's spouse."

(b) EXEMPTION FROM ADDITIONAL TAX.—

(1) IN GENERAL.—Section 72(t)(2) is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS USED FOR BUSINESS START-UP EXPENSES.—Distributions from an individual retirement plan to the extent such distributions do not exceed the business start-up costs (as defined in section 408(d)(8)) of the taxpayer for the taxable year."

(2) CONFORMING AMENDMENT.—Section 72(t)(2)(B) is amended by striking "(C) or (D)" and inserting "(C), (D), or (E)".

(c) EXEMPTION FROM PROHIBITED TRANSACTION.—Section 4975(d) is amended by striking "or" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; or", and by adding after paragraph (15) the following new paragraph:

"(16) any distribution from an individual retirement plan which is used for the payment of any business start-up costs (as defined in section 408(d)(8)) of the distributee."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1996.

SEC. 405. TAX-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT PLANS FOR LONG-TERM UNEMPLOYED.

(a) Exclusion.—Section 408(d), as amended by section 404, is amended by adding at the end the following new paragraph:

"(9) Distributions to long-term unemployed.—

"(A) In general.—Paragraph (1) shall not apply to any payments or distributions from an individual retirement plan during any taxable year to an individual if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such payments and distributions are made during the taxable year in which such unemployment compensation was paid or the succeeding taxable year.

"(B) Distributions after reemployment.—Subparagraph (A) shall not apply to any distribution or payment made after the individual has been employed for at least 60 days after the separation from employment to which subparagraph (A) applies.

"(C) Self-employed individuals.—To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of subparagraph (A)(i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed."

(b) Exemption From Additional Tax.—Section 72(t)(2)(D) is amended to read as follows:

"(D) Distributions to unemployed individuals.—Distributions from an individual retirement plan which are described in section 408(d)(9)."

(c) Effective Date.—The amendments made by this section shall apply to distributions after December 31, 1996.

SEC. 406. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY HIGHER EDUCATION EXPENSES.

(a) Exclusion.—Section 408(d), as amended by sections 404 and 405, is amended by adding at the end the following new paragraph:

"(10) Distributions used for qualified higher education expenses.—

"(A) In general.—Paragraph (1) shall not apply to any payments or distributions from an individual retirement plan during any taxable year to the extent the aggregate amount of such payments and distributions does not exceed the qualified higher education expenses of the taxpayer for the taxable year.

"(B) Qualified higher education expenses.—For purposes of subparagraph (A)—

"(i) In general.—The term 'qualified higher education expenses' means the cost of attendance (within the meaning of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) of—

"(I) the taxpayer,

"(II) the taxpayer's spouse, or

"(III) any child (as defined in section 151(c)(3)), grandchild, or ancestor of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 135(c)(3)).

"(ii) Coordination with other provisions.—The amount of qualified higher education expenses for any taxable year shall be reduced by—

"(I) any amount excludable from gross income under section 135, and

"(II) any amount described in section 135(d)(1) (relating to certain scholarships and veterans benefits)."

(b) Exemption From Additional Tax.—

(1) In general.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 402, is amended by adding at the end the following new subparagraph:

"(F) Distributions from individual retirement plans for educational expenses.—Distributions to an individual from an individual retirement plan to the extent such distributions do not exceed the qualified higher education expenses (as defined in section 408(d)(10)(B)) of the taxpayer for the taxable year."

(2) Conforming amendment.—Section 72(t)(2)(B), as amended by section 402, is amended by striking "or (E)" and inserting ", (E), or (F)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Description of S. 2—American Family Tax Relief Act

INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of S. 2 ("American Family Tax Relief Act"). S. 2 was introduced on January 21, 1997, by Senators Roth and Lott.

Part I of the document is a summary of the bill. Part II is a description of the provisions of the bill: Title I of the bill provides a child tax credit for children under age 18; Title II relates to capital gains and loss provisions; Title III relates to estate and gift tax provisions; and Title IV relates to individual retirement account ("IRA") provisions.

The document (Part III) also provides estimated revenue effects of the bill for fiscal years 1997–2007.

I. SUMMARY OF S. 2 "AMERICAN FAMILY TAX RELIEF ACT"

Child tax credit (title I)

The bill would allow taxpayers a nonrefundable tax credit of $500 for each qualifying child under the age of 18. The credit amount would not be indexed for inflation. For taxpayers with AGI in excess of certain thresholds, the allowable child credit would be reduced by $25 for each $1,000 of AGI (or fraction thereof) in excess of the threshold. For married taxpayers filing joint returns, the threshold would be $110,000. For taxpayers filing single or head of household returns, the threshold would be $75,000. For married taxpayers filing separate returns, the threshold would be $55,000. These thresholds are not indexed for inflation. The provision would be effective for taxable years beginning after December 31, 1996.

Capital gains provisions (title II)

This bill would allow individuals a deduction equal to 50 percent of net capital gain for the taxable year. The bill repeals the present-law maximum 28-percent rate. Thus, the effective rate under the regular tax on the net capital gain of an individual in the highest (i.e., 39.6 percent) marginal rate bracket would be 19.8 percent. In addition, the bill would provide an alternative tax of 28 percent on the net capital gain of a corporation if that rate is less than the corporation's regular tax rate.

The bill generally would provide for an inflation adjustment to (i.e., indexing of) the adjusted basis of certain assets for purposes of determining gain (but not loss) upon a sale or other disposition of such assets by a taxpayer other than a C corporation. To be eligible for indexing, an asset must be held by the taxpayer for more than three years.

In addition, the bill would make certain modifications related to the present-law exclusion for gain from certain small business stock. The bill would repeal the minimum tax preference applicable to such gain, increase the size of an eligible corporation from gross assets of $50 million to gross assets of $100 million, repeal the limitation on the amount of gain an individual can exclude with respect to the stock of any corporation, modify the working capital requirements, and provide corporate taxpayers an alternative rate of 21 percent on the gain from the sale or exchange of qualified small business stock (other than stock of a subsidiary corporation).

The bill would provide that losses recognized by a taxpayer on the sale of his or her personal residence may be deducted as capital losses rather than be treated as nondeductible personal losses.

The changes generally would be effective for dispositions occurring after December 31, 1996. In the case of the indexing of the basis of assets, the bill would be effective for dispositions occurring after December 31, 1996, with respect to assets the holding period of which begins after December 31, 1996.

Estate and gift tax provisions (title III)

Increases in Estate and Gift Tax Unified Credit

The bill would increase ratably the present-law unified estate and gift tax credit over an 8-year period beginning in 1997, from an effective exemption of $600,000 to an effective exemption of $1,000,000. The full $1,000,000 effective exemption would be available for decedents dying, and gifts made, after December 31, 2003.

Estate Tax Exclusion for Qualified Family-Owned Businesses

The bill would provide special estate tax treatment for qualified "family-owned business interests" if such interests comprise more than 50 percent of a decedent's estate. Subject to certain requirements, the bill would exclude the first $1,500,000 in value of qualified family-owned business interests from the decedent's estate and would also exclude 50 percent of the remaining value of qualified family-owned business interests. In general, a qualified family-owned business interest would be any nonpublicly-traded interest in a trade or business (regardless of the form in which it is held) with a principal place of business in the United States if ownership of the trade or business is held at least 50 percent by one family, 70 percent by two families, or 90 percent by three families, as long as the decedent's family owns at least 30 percent of the trade or business. To qualify for the beneficial treatment, the decedent (or a member of the decedent's family) must have owned and materially participated in the trade or business for at least five of the eight years preceding the decedent's death, and each qualified heir (or a member of the qualified heir's family) would be required to materially participate in the trade or business for at least five years of each eight-year period ending within ten years after the decedent's death.

The provision would be effective for decedents dying after December 31, 1996.

Installment Payments of Estate Tax Attributable to Closely Held Business

The bill would extend the period for which Federal estate tax installments could be made under section 6166 to a maximum period of 24 years. If the election were made, the estate would pay only interest for the first four years, followed by up to 20 annual installments of principal and interest. Under the bill, there would be no interest imposed on the amount of deferred estate tax attributable to the first $1,000,000 in value of the closely held business. The interest rate imposed on the amount of deferred estate tax attributable to the value of the closely held business in excess of $1,000,000 would remain as under present law (i.e., the rate applicable to underpayments of tax under section 6621, which is the Federal short-term rate plus 3 percentage points). The provision would be effective for decedents dying after December 31, 1996.

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[1] This document may be cited as follows: Joint Committee on Taxation, *Description of S. 2 ("American Family Tax Relief Act")* (JCX-2-97), January 21, 1997.

IRA provisions (title IV)

Restoration of IRA Deduction for All Taxpayers

The bill would increase the AGI limits applicable to deductible IRA contributions for active participants in 1997, 1998, 1999, and 2000. Thereafter, the bill would repeal the limits on IRA deductions for active participants in employer-sponsored retirement plans. Thus, under the bill, after 2000, an individual would be entitled to make a $2,000 deductible IRA contribution without regard to whether the individual was an active participant in an employer-sponsored retirement plan. The bill would be effective for taxable years beginning after December 31, 1996.

Allow Full Spousal IRA Deduction for Nonworking Spouses

The bill would permit nonworking spouses to make a full deductible IRA contribution, effective for taxable years beginning after December 31, 1996.

Nondeductible Contributions to Tax-Free IRA Plus Accounts

The bill would permit taxpayers to make nondeductible contributions to new IRA Plus accounts. Generally, IRA Plus accounts would be treated in the same manner as and be subject to the same rules applicable to deductible IRAs.

Under the bill, any qualified distribution from an IRA Plus account would not be included in gross income and would not be subject to the 10-percent additional income tax on early withdrawals. A qualified distribution from an IRA Plus account would include any payment or distribution (1) made on or after the date the IRA Plus owner attains age 59½, (2) made to a beneficiary of the IRA Plus owner after death, (3) on account of disability of the IRA Plus owner, or (4) which is a qualified special purpose distribution (i.e., a distribution for medical expenses, the costs of starting a business of the IRA Plus owner or the owner's spouse, long-term unemployment, and higher education expenses).

The bill would permit amounts withdrawn from IRAs to be transferred into an IRA Plus. The amount transferred would be includible in gross income in the year the withdrawal was made, except that amounts transferred to an IRA Plus before January 1, 1999, would be includible in income rapidly over a 4-year period. The 10-percent early withdrawal tax would not apply to amounts transferred from an IRA to an IRA Plus acount.

The provisions of the bill relating to IRA Plus accounts would be effective for taxable years beginning after December 31, 1996.

Penalty-Free IRA Withdrawals for Starting a Business, Long-Term Unemployment, and Post Secondary Education Expenses

The bill would permit penalty-free and tax-free withdrawals from an individual retirement arrangement (IRA) for starting a business of the IRA owner, starting a business of the spouse of the IRA owner, in the case of long-term unemployment of the IRA owner, for any reason, and for the post-secondary education expenses of the IRA owner, the spouse of the IRA owner, or a dependent child of the IRA owner or spouse. The provision would be effective for distributions after December 31, 1996.

A. Child tax credit for children under age 18 (title I)

Present Law

Present law does not provide tax credits based solely on the taxpayer's number of dependent children. Taxpayers with dependent children, however, generally are able to claim a personal exemption for each of these dependents. The total amount of personal exemptions is subtracted (along with certain other items) from adjusted gross income (AGI) in arriving at taxable income. The amount of each personal exemption is $2,650 for 1997, and is adjusted annually for inflation. In 1997, the amount of the personal exemption is phased out for taxpayers with AGI in excess of $121,200 for single taxpayers, $151,500 for heads of household, and $181,800 for married couples filing joint returns. These phaseout thresholds are adjusted annually for inflation.

Description of the Bill

The bill would allow taxpayers a nonrefundable tax credit of $500 for each qualifying child under the age of 18. The credit amount would not be indexed for inflation.

For taxpayers with AGI in excess of certain thresholds, the allowable child credit would be reduced by $25 for each $1,000 of AGI (or fraction thereof) in excess of the threshold. For married taxpayers filing joint returns, the threshold would be $110,000. For taxpayers filing single or head of household returns, the threshold would be $75,000. For married taxpayers filing separate returns, the threshold would be $55,000. These thresholds would not be indexed for inflation.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1996.

B. Capital gains provisions (title II)

1. 50-Percent Capital Gains Deduction for Individuals (Sec. 201 of the Bill)

Present Law

In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset. On the sale or exchange of capital assets, the net capital gain is taxed at the same rate as ordinary income, except that individuals are subject to a maximum marginal rate of 28 percent of the net capital gain. Net capital gain is the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the year. Gain or loss is treated as long-term if the asset is held for more than one year.

A capital asset generally means any property except (1) inventory, stock in trade, or property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business, (2) depreciable or real property used in the taxpayer's trade or business, (3) specified literary or artistic property, (4) business accounts or notes receivable, or (5) certain U.S. publications. In addition, the net gain from the disposition of certain property used in the taxpayer's trade or business is treated as long-term capital gain. However, gain is not treated as capital gain to the extent of previous depreciation allowances (in the case of real property, generally one to the extent in excess of the allowances that would have been available under the straight-line method).

Prior to the enactment of the Tax Reform Act of 1986, individuals were allowed a deduction equal to 60 percent of net capital gain. The deduction resulted in a maximum effective tax rate of 20 percent on such gains.

Capital losses are generally deductible in full against capital gains. In addition, individuals may deduct capital losses against up to $3,000 of ordinary income in each year. Capital losses in excess of the amount deductible are carried forward indefinitely. Prior to the Tax Reform Act of 1986, individuals were required to use two dollars of long-term capital loss to offset each dollar of ordinary income.

Description of the Bill

The bill would allow individuals a deduction equal to 50 percent of net capital gain for the taxable year. The bill would repeal the present-law maximum 28-percent rate. Thus, under the bill, the effective rate under the regular tax on the net capital gain of an individual in the highest (i.e., 39.6 percent) marginal rate bracket would be 19.8 percent.

Collectibles would not be allowed the capital gains deduction; instead a maximum rate of 28 percent would apply to the gain of an individual from the sale or exchange of collectibles held for more than one year.

The bill would reinstate the rule in effect prior to the 1986 Tax Reform Act that required two dollars of the long-term capital loss of an individual to offset one dollar of ordinary income. The $3,000 limitation on the deduction of capital losses against ordinary income would continue to apply.

Effective Date

The provision would generally apply to taxable years ending after December 31, 1996.

For a taxpayer's taxable year that includes January 1, 1997, the 50-percent capital gains deduction would not apply to any amount properly taken into account before January 1, 1997. In the case of gain taken into account by a pass-through entity (i.e., a RIC, a REIT, a partnership, an estate or trust, or a common trust fund), the date taken into account by the entity would be the appropriate date for applying this rule.

The capital loss rule would apply to taxable years beginning after December 31, 1997, but would not apply to the carryover of capital losses sustained in taxable years beginning before January 1, 1998.

The bill would not affect the capital gains treatment of lump sum distributions grandfathered by the Tax Reform Act of 1986.

2. Indexing of Basis of Certain Assets for Purposes of Determining Gain (Sec. 202 of the Bill)

Present Law

Under present law, gain or loss from the disposition of any asset generally is the sales price of the asset reduced by the taxpayer's adjusted basis in that asset. The taxpayer's adjusted basis generally is the taxpayer's cost in the asset adjusted for depreciation, depletion, and certain other amounts. No adjustment is allowed for inflation.

Description of the Bill

In general

The bill generally would provide for an inflation adjustment to (i.e., indexing of) the adjusted basis of certain assets (called "indexed assets") for purposes of determining gain (but not loss) upon a sale or other disposition of such assets by a taxpayer other than a C corporation. Assets held by trusts, estates, S corporations, regulated investment companies ("RICs"), real estate investment trusts ("REITs"), and partnerships are eligible for indexing, to the extent gain on such assets is taken into account by taxpayers other than C corporations.

Indexed assets

Assets eligible for the inflation adjustment generally would include common (but not preferred) stock of C corporations and tangible property that are capital assets or property used in a trade or business. To be eligible for indexing, an asset must be held by the taxpayer for more than three years.

Computation of inflation adjustment

The inflation adjustment under the provision would be computed by multiplying the taxpayer's adjusted basis in the indexed asset by an inflation adjustment percentage. The inflation adjustment percentage would be the percentage by which the gross domestic product deflator for the last calendar quarter ending before the disposition exceeds the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer. The inflation adjustment percentage would be rounded to the nearest one-tenth of a percent. No adjustment would be made if the inflation adjustment is one or less.

Special entities

RICs and REITs

In the case of a RIC or a REIT, the indexing adjustments generally would apply in computing the taxable income and the earnings and profits of the RIC or REIT. The indexing adjustments, however, would not be applicable in determining whether a corporation qualifies as a RIC or REIT.

In the case of shares held in a RIC or REIT, partial indexing generally would be provided by the provision based on the ratio of the value of indexed assets held by the entity to the value of all its assets. The ratio of indexed assets to total assets would be determined quarterly (for RICs, the quarterly ratio would be based on a three-month average). If the ratio of indexed assets to total assets exceeds 80 percent in any quarter, full indexing of the shares would be allowed for that quarter. If less than 20 percent of the assets are indexed assets in any quarter, no indexing would be allowed for that quarter for the shares. Partnership interests held by a RIC or REIT would be subject to a look-through test for purposes of determining whether, and to what degree, the shares in the RIC or REIT are indexed.

A return of capital distribution by a RIC or REIT generally would be treated by a shareholder as allocable to stock acquired by the shareholder in the order in which the stock was acquired.

Partnership and S corporations, etc.

Under the bill, stock in an S corporation or an interest in a partnership or common trust fund would not be an indexed asset. Under the provision, the individual owner would receive the benefit of the indexing adjustment when the S corporation, partnership, or common trust fund disposes of indexed assets. Under the provision, any inflation adjustments at the entity level would flow through to the holders and result in a corresponding increase in the basis of the holder's interest in the entity. Where a partnership has a section 754 election in effect, a partner transferring his interest in the partnership would be entitled to any indexing adjustment that has accrued at the partnership level with respect to the partner and the transferee partner is entitled to the benefits of indexing for inflation occurring after the transfer.

The indexing adjustment would be disregarded in determining any loss on the sale of an interest in a partnership, S corporation or common trust fund.

Foreign corporations

Common stock of a foreign corporation generally would be an indexed asset if the stock is regularly traded on an established securities market. Indexed assets, however, would not include stock in a foreign investment company, a passive foreign investment company (including a qualified electing fund), a foreign personal holding company, or, in the hands of a shareholder who meets the requirements of section 1248(a)(2) (generally pertaining to 10-percent shareholders of controlled foreign corporations), any other foreign corporation. An American Depository Receipt (ADR) for common stock in a foreign corporation would be treated as common stock in the foreign corporation and, therefore, the basis in an ADR for common stock generally would be indexed.

Other rules

Improvements and contributions to capital

No indexing would be provided for improvements or contributions to capital if the aggregate amount of the improvements or contributions to capital during the taxable year with respect to the property or stock is less than $1,000. If the aggregate amount of such improvements or contributions to capital is $1,000 or more, each addition would be treated as a separate asset acquired at the close of the taxable year.

Suspension of holding period

No indexing adjustment would be allowed during any period during which there is a substantial diminution of the taxpayer's risk of loss from holding the indexed asset by reason of any transaction entered into by that taxpayer, or a related party.

Short sales

In the case of a short sale of an indexed asset with a short sale period in excess of three years, the bill would require that the amount realized be indexed for inflation for the short sale period.

Related parties

The bill would not index the basis of property for sales or dispositions between related persons, except to the extent the adjusted basis of property in the hands of the transferee is a substituted basis (e.g. gifts).

Collapsible corporations

Under the bill, indexing would not reduce the amount of ordinary gain that would be recognized in cases where a corporation is treated as a collapsible corporation (under Code sec. 341) with respect to a distribution or sale of stock.

Effective Date

The provision would apply to dispositions of property the holding period of which begins after December 31, 1996. The provision also would apply to a principal residence held by the taxpayer on January 1, 1997 (as if the holding period began on that date). An individual holding any indexed asset (other than a personal residence) on January 1, 1997, may elect to treat the indexed asset as having been sold and reacquired for its fair market value.

3. Small Business Stock (Sec. 203 of the Bill)

Present Law

The Revenue Reconciliation Act of 1993 provided individuals a 50-percent exclusion for the sale of certain small business stock acquired at original issue and held for at least five years. One-half of the excluded gain is a minimum tax preference.

The amount of gain eligible for the 50-percent exclusion by an individual with respect to any corporation is the greater of (1) ten times the taxpayer's basis in the stock or (2) $10 million.

In order to qualify as a small business, when the stock is issued, the gross assets of the corporation may not exceed $50 million. The corporation also must meet an active trade or business requirement.

Description of the Bill

Under the bill, the maximum rate of regular tax on the qualifying gain from the sale of small business stock by a taxpayer other than a corporation would remain at 14 percent. The minimum tax preference would be repealed.

The bill would increase the size of an eligible corporation from gross assets of $50 million to gross assets of $100 million. The bill would also repeal the limitation on the amount of gain an individual can exclude with respect to the stock of any corporation.

The bill would provide that certain working capital must be expended within 5 years (rather than two years) in order to be treated as used in the active conduct of a trade or business. No limit on the percent of the corporation's assets that are working capital would be imposed.

The bill would provide that if the corporation establishes a business purpose for a redemption of its stock, the redemption is disregarded in determining whether other newly issued stock could qualify as eligible stock.

Effective Date

The increase in the size of corporations whose stock is eligible for the exclusion would apply to stock issued after the date of the enactment of the bill. The remaining provisions would apply to stock issued after August 10, 1993 (the original effective date of the small business stock provision).

4. 28-Percent Corporate Alternative Tax for Capital Gains (Sec. 204 of the Bill)

Present Law

Under present law, the net capital gain of a corporation is taxed at the same rate as ordinary income, and subject to tax at graduated rates up to 35 percent. Prior to the Tax Reform Act of 1986, the net capital gain of a corporation was subject to a maximum effective tax rate of 28 percent.

Description of the Bill

The bill would provide an alternative tax of 28 percent on the net capital gain of a corporation if that rate is less than the corporation's regular tax rate.

The bill would also provide an alternative rate of 21 percent on the gain from the sale or exchange of qualified small business stock (other than stock of a subsidiary corporation) held more than 5 years.

Effective Date

The provision would generally apply to taxable years ending after December 31, 1996. For a taxable year which includes January 1, 1997, the 28-percent rate would apply to the lesser of (1) the net capital gain for the taxable year or (2) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1996.

The small business stock provision would apply to stock issued after the date of enactment.

5. Capital Loss Deduction on the Sale or Exchange of a Principal Residence (Sec. 205 of the Bill)

Present Law

Under present law, the sale or exchange of a principal residence is treated as a nondeductible personal loss.

Description of the Bill

The bill would provide that a loss from the sale or exchange of a principal residence would be treated as a deductible capital loss.

Effective Date

The provision would apply to sales and exchanges after December 31, 1996.

C. Estate and gift tax provisions (title III)

1. Increase Estate and Gift Tax Unified Credit (Sec. 301 of the Bill)

Present Law

A unified credit is available with respect to taxable transfers by gift and at death. Since 1987, the unified credit amount has been fixed at $192,800, which effectively exempts a total of $600,000 in cumulative taxable transfers from the estate and gift tax. The benefits of the unified credit (and the graduated estate and gift tax rates) are phased out by a 5-percent surtax imposed upon cumulative taxable transfers over $10 million and not exceeding $21,040,000.[2]

The unified credit was originally enacted in the Tax Reform Act of 1976. The unified credit has not been increased since 1987.

Description of the Bill

The bill would increase the present-law unified credit over an eight-year period beginning in 1997, from an effective exemption of $600,000 to an effective exemption of $1,000,000. The increase would be phased in as follows:

Decedents Dying and Gifts

Made in	*Effective exemption*
1997	$650,000
1998	700,000
1999	750,000
2000	800,000
2001	850,000
2002	900,000
2003	950,000
2004 and thereafter	1,000,000

Conforming amendments to reflect the increased unified credit are made (1) to the general filing requirements for an estate tax return under section 6018(a), and (2) to the amount of the unified credit allowed under section 2102(c)(3) with respect to nonresident aliens with U.S. situs property who are residents of certain treaty countries.

Effective Date

The provision would apply to the estates of decedents dying, and gifts made, after December 31, 1996.

2. Estate Tax Exclusion for Qualified Family-Owned Businesses (Sec. 302 of the Bill)

Present Law

There are no special estate tax rules for qualified family-owned businesses. All taxpayers are allowed a unified credit in computing the taxpayer's estate and gift tax, which effectively exempts a total of $600,000 in cumulative taxable transfers from the estate and gift tax (sec. 2010). An executor also may elect, under section 2032A, to value certain qualified real property used in farming or another qualifying closely-held trade or business at its current use value, rather than its highest and best use value (up to a maximum reduction of $750,000). In addition, an executor may elect to pay the Federal estate tax attributable to a qualified closely-held business in installments over, at most, a 14-year period (sec. 6166). The tax attributable to the first $1,000,000 in value of a closely-held business is eligible for a special 4-percent interest rate (sec. 6601(j)).

Description of the Bill

The bill would provide special estate tax treatment for qualified "family-owned business interests" if such interests comprise more than 50 percent of a decedent's estate. Subject to certain requirements, the bill would exclude the first $1.5 million of value in qualified family-owned business interests from a decedent's estate, and also would exclude 50 percent of the remaining value of qualified family-owned business interests. This new exclusion for qualified family-owned business interests would be provided in addition to the unified credit.

A qualified family-owned business interest would be defined as any interest in a trade or business (regardless of the form in which it is held) with a principal place of business in the United States if one family owns at least 50 percent of the trade or business, two families own 70 percent, or three families own 90 percent, as long as the decedent's family owns at least 30 percent of the trade or business. An interest in a trade or business would not qualify if any interest in the business (or a related entity) was publicly-traded at any time within three years of the decedent's death. An interest in a trade or business also would not qualify if more than 35 percent of the adjusted ordinary gross income of the business for the year of the decedent's death was personal holding company income (as defined in sec. 543). In the case of a trade or business that owns an interest in another trade or business (i.e., "tiered entities"), special look-through rules would apply. The value of a trade or business qualifying as a family-owned business interest would be reduced to the extent the business holds passive assets or excess cash or marketable securities.

To qualify for the beneficial treatment provided under the bill the decedent (or a member of the decedent's family) must have owned and materially participated in the trade or business for at least five of the eight years preceding the decedent's date of death. In addition, each qualified heir (or a member of the qualified heir's family) would be required to materially participate in the trade or business for at least five years of each eight-year period ending within ten years following the decedent's death.

The benefit of the exclusion for qualified family-owned business interests would be subject to recapture if, within 10 years of the decedent's death and before the qualified heir's death, one of the following "recapture events" occurs: (1) the qualified heir ceases to meet the material participation requirements; (2) the qualified heir disposes of any portion of his or her interest in the family-owned business, other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution; (3) the principal place of business of the trade or business ceases to be located in the United States; or (4) the qualified heir loses U.S. citizenship.

The portion of the reduction in estate taxes that is recaptured would depend upon the number of years that the qualified heir (or members of the qualified heir's family) materially participated in the trade or business between the date of the decedent's death and the date of the recapture event. If the qualified heir (or his or her family members) materially participated in the trade or business after the decedent's death for less than six years, 100 percent of the reduction in estate taxes attributable to that heir's interest would be recaptured; if the participation was for at least six years but less than seven years, 80 percent of the reduction in estate taxes would be recaptured; if the participation was for at least seven years but less than eight years, 60 percent would be recaptured; if the participation was for at least eight years but less than nine years, 40 percent would be recaptured; and if the participation was for at least nine years but less than ten years, 20 percent of the reduction in estate taxes would be recaptured. In general, there would be no requirement that the qualified heir (or members of his or her family) continue to hold or participate in the trade or business more than 10 years after the decedent's death. As under present-law section 2032A, however, the 10-year recapture period could be extended for a period of up to two years if the qualified heir did not begin to use the property for a period of up to two years after the decedent's death.

In addition, the bill would coordinate the benefit for qualified family-owned business interests with the present-law benefits relating to special-use valuation (sec. 2032A) and the special 4-percent interest rate available for closely-held businesses (sec. 6601(j)). The bill would provide that any amount excluded from a decedent's estate under the qualified family-owned business provision would reduce the ceilings with respect to both section 2032A and section 6601(j). Thus, for example, if a decedent had $100,000 of qualified family-owned business interests, the entire value of his qualified family-owned business property would be excluded from the estate; if the decedent's estate also qualified for treatment under 2032A or 6601(j), the executor could take a maximum reduction under section 2032A of $650,000 (i.e., $750,000 less $100,000), and/or could use the special 4-percent rate provided in section 6601(j) with respect to the Federal estate tax liability attributable to the first $900,000 in value of a qualifying business (i.e., $1,000,000 less $100,000).

Effective Date

The provision would be effective with respect to the estates of decedents dying after December 31, 1996.

3. Installment Payments of Estate Tax Attributable to Closely Held Businesses (Secs. 303–304 of the Bill)

Present Law

In general, the Federal estate tax is due within nine months of a decedent's death. Under Code section 6166, an executor generally may elect to pay the estate tax attributable to an interest in a closely held business in installments over, at most, a 14-year period. If the election is made, the estate may pay only interest for the first four years, followed by up to 10 annual installments of principal and interest. Interest generally is imposed at the rate applicable to underpayments of tax under section 6621 (i.e., the Federal short-term rate plus 3 percentage points). Under section 6601(j), however, a special 4-percent interest rate applies to the amount of deferred estate tax attributable to the first $1,000,000 in value of the closely-held business.

To qualify for the installment payment election, the business must be an active trade or business and the value of the decedent's interest in the closely held business must exceed 35 percent of the decedent's adjusted gross estate. An interest in a closely held business includes: (1) any interest as a proprietor in a business carried on as a proprietorship; (2) any interest in a partnership carrying on a trade or business if the partnership has 15 or fewer partners, or if at least 20 percent of the partnership's assets are included in determining the decedent's gross estate; or (3) stock in a corporation if the corporation has 15 or fewer shareholders, of if at least 20 percent of the value of the voting stock is included in determining the decedent's gross estate.

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[2] Thus, if a taxpayer has made cumulative taxable transfers exceeding $21,040,000, his or her effective transfer tax rate is 55 percent under present law.

Description of the Bill

The bill would extend the period for which Federal estate tax installments could be made under section 6166 to a maximum period of 24 years. If the election were made, the estate could pay only interest for the first four years, followed by up to 20 annual installments of principal and interest. Under the bill, there would be no interest imposed on the amount of deferred estate tax attributable to the first $1,000,000 in value of the closely held business. The interest rate imposed on the amount of deferred estate tax attributable to the value of the closely held business in excess of $1,000,000 would remain as under present law (i.e., the Federal short-term rate plus 3 percentage points).

Effective Date

The provision would be effective for decedents dying after December 31, 1996.

D. IRA provisions (title IV)

1. Restoration of IRA Deduction for All Taxpayers (Sec. 401 of the Bill)

Present Law

Under present law, under certain circumstances, an individual is allowed to deduct contributions up to the lesser of $2,000 or 100 percent of the individual's compensation (or earned income) to an individual retirement arrangement (IRA). The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

The $2,000 deduction limit is phased out over certain adjusted gross income (AGI) levels if the individual or the individual's spouse is an active participant in an employer-sponsored retirement plan. The phaseout is between $25,000 and $35,000 of AGI for single taxpayers and between $40,000 and $50,000 of AGI for married taxpayers. There is no phaseout of the deduction limit if the individual and the individual's spouse are not active participants in an employer-sponsored retirement plan.

Description of the Bill

The bill would increase the AGI limits applicable to deductible IRA contributions for active participants in 1997, 1998, 1999, and 2000. Thereafter, the bill would repeal the limits on IRA deductions for active participants in employer-sponsored retirement plans. Thus, under the bill, after 2000, an individual would be entitled to make a $2,000 deductible IRA contribution without regard to whether the individual was an active participant in an employer-sponsored retirement plan.

In the case of married taxpayers filing a joint return, for years before 2001, the IRA deduction for active participants would be phased out between the following AGI amounts: for 1997, $65,000 and $75,000; for 1998, $90,000 and $100,000; for 1999, $115,000 and $125,000; and for 2000, $140,000 and $150,000.

In the case of single taxpayers, for years before 2001, the IRA deduction for active participants would be phased out between the following AGI amounts: for 1997, $50,000 and $60,000; for 1998, $75,000 and $85,000; for 1999, $100,000 and $110,000; and for 2000, $125,000 and $135,000.

The bill would provide that the IRA deduction limit for any individual is coordinated with the limit on elective deferrals. Thus, an individual's deductible contributions to an IRA and elective deferrals could not exceed the annual limit on elective deferrals.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1996.

2. Deductible IRAs for Nonworking Spouses (Sec. 402 of the Bill)

Present Law

Within limits, an individual is allowed a deduction for contributions to an individual retirement arrangement ("IRA"). An individual generally is not subject to income tax on amounts held in an IRA, including earnings on contributions, until the amounts are withdrawn from the IRA.

The maximum deductible contribution that can be made to an IRA generally is the lesser of $2,000 or 100 percent of an individual's compensation (earned income in the case of a self-employed individual). In the case of a married individual, a deductible contribution of up to $2,000 may be made for each spouse (including, for example, a homemaker who does not work outside the home) if the combined compensation of both spouses is at least equal to the contributed amount.

The maximum permitted IRA deduction is phased out if the individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan. The phase-out range is from $25,000 to $35,000 of adjusted gross income for single taxpayers and from $40,000 to $50,000 for married taxpayers filing a joint return.

Description of the Bill

Under the bill, an individual would not be considered an active participant in an employer-sponsored retirement plan merely because the individual's spouse is such an active participant. Thus, the bill would permit a nonworking spouse to make a deductible IRA contribution of up to $2,000 without regard to the present-law income phaseouts.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1996.

3. Nondeductible Contributions to Tax-Free IRA Plus Accounts (Sec. 403 of the Bill)

Present Law

Under present law, under certain circumstances, an individual is allowed to deduct contributions up to the lesser of $2,000 or 100 percent of the individual's compensation (or earned income) to an individual retirement arrangement (IRA). The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

An individual may make nondeductible contributions (up to the $2,000 or 100 percent of compensation limit) to an IRA to the extent the individual is not permitted to make deductible IRA contributions. Nondeductible contributions provide the same tax benefits as deferred annuities, that is, earnings are not includible in income until withdrawn. However, deferred annuities are not subject to contribution limits.

Distributions from IRAs are generally includible in income when withdrawn. Distributions prior to death, disability, or attainment of age 59½ are subject to an additional 10-percent tax. The 10-percent tax does not apply to distributions made in the form of an annuity.

Description of the Bill

The bill would permit taxpayers to make nondeductible contributions to new IRA Plus accounts. Generally, IRA Plus accounts would be treated in the same manner as and be subject to the same rules applicable to deductible IRAs. However, a number of special rules would apply.

Contributions to an IRA Plus would be nondeductible. The amount of nondeductible contributions to an IRA Plus that could be made for any taxable year would be tied to the limits for deductible IRAs, so that the aggregate amount of contributions to an IRA Plus could not exceed the excess of (1) the IRA deduction limit for the year (determined without regard to the rule coordinating the IRA deduction limit with the elective deferral limit) over (2) the amount of IRA contributions actually deducted for the year.

Under the bill, any qualified distribution from an IRA Plus account would not be included in gross income and would not be subject to the 10-percent additional income tax on early withdrawals. A qualified distribution from an IRA Plus would include any payment or distribution (1) made on or after the date the IRA Plus owner attains age 59½, (2) made to a beneficiary of the IRA Plus owner after death, (3) on account of disability of the IRA Plus owner, or (4) which is a qualified special purpose distribution (i.e., a distribution for medical expenses; the costs of starting a business of the IRA Plus owner or the owner's spouse, long-term unemployment, and higher education expenses)

The bill provides that a distribution would not be treated as a qualified distribution if it is made within the 5-taxable year period beginning with the first taxable year for which the individual made a contribution to an IRA Plus account (or such individual's spouse made a contribution to an IRA Plus account). In addition, the bill provides that a distribution would not be treated as a qualified distribution if, in the case of a distribution attributable to a qualified rollover contribution, the distribution is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

In the case of a distribution from an IRA Plus account that is not a qualified distribution, in applying the rules of section 72, the distribution would be treated as made from contributions to the IRA Plus account to the extent that such distribution, when added to all previous distributions from the IRA Plus account, does not exceed the aggregate amount of contributions to the IRA Plus account. Thus, nonqualified distributions from an IRA Plus account would not be included in income (and subject to the additional 10-percent tax on early withdrawals) until the IRA owner had withdrawn amounts in excess of all contributions to the IRA Plus account.

Rollover contributions would be permitted to an IRA Plus only to the extent such contributions consist of a payment or distribution from another IRA Plus or from an individual retirement plan. Such rollover contributions would not be taken into account in determining the contribution limit for a taxable year. The normal IRA rollover rules would otherwise govern the eligibility of withdrawals from IRA Plus accounts to be rolled over.

The bill would permit amounts withdrawn from IRAs to be transferred into an IRA Plus. The amount transferred would be includible in gross income in the year the withdrawal was made, except that amounts transferred to an IRA Plus before January 1, 1999, would be includible in income ratably over a 4-year period. The 10-percent early withdrawal tax would not apply to amounts transferred from an IRA to an IRA Plus account.

Under the bill, the excise tax on excess distributions from qualified retirement plans (sec. 4980A) would not apply to distributions from the IRA Plus account or to any qualified rollover contribution from an individual retirement plan to an IRA Plus account.

Effective Date

The provisions of the bill relating to IRA Plus accounts would be effective for taxable years beginning after December 31, 1996.

4. IRA Withdrawals for Business Startup, Long-Term Unemployment, and Post-Secondary Education Expenses (Secs. 404–406 of the Bill)

Present Law

Amounts withdrawn from an individual retirement arrangement ("IRA") are includible in income (except to the extent of any nondeductible contributions). In addition, a 10-percent additional tax applies to withdrawals from IRAs made before age 59½, unless the withdrawal is made on account of death or disability or is made in the form of annuity payments or is made for medical expenses that exceed 7.5 percent of adjusted gross income ("AGI") or is made for medical insurance (without regard to the 7.5 percent of AGI floor) if the individual has received unemployment compensation for at least 12 weeks, and the withdrawal is made in the year such unemployment compensation is received or the following year. If a self-employed individual is not eligible for unemployment compensation under applicable law, then, to the extent provided in regulations, a self-employed individual is treated as having received unemployment compensation for at least 12 weeks if the individual would have received unemployment compensation but for the fact that the individual was self-employed. The exception to the additional tax ceases to apply if the individual has been reemployed for at least 60 days.

Description of the Bill

The bill would permit withdrawals to be made income tax free and exempt from the 10-percent additional tax if made (1) for the business start-up expenses of the individual or the spouse of the individual; (2) in the event of long-term unemployment, for any reason; or (3) for the post-secondary education expenses of the individual, the spouse of the individual, or a dependent child of the individual or the individual's spouse.

For purposes of this provision, business start-up expenses include expenses associated with the establishment of the business that are incurred on or before the business start date and on or before the date which is one year after the business start date, such as start-up expenditures within the meaning of section 195(c), organizational expenses within the meaning of sections 248(b) and 709(b) and other expenses related to starting a business (e.g., purchasing a computer, software, inventory, etc.). No deduction otherwise allowable with respect to any business start-up expense will be allowed to the extent this provision applies to such expense. In addition, to the extent this provision applies to any portion of business start-up expenses which are properly chargeable to capital account, the basis of the property to which such expenses are chargeable will be reduced by the amount taken into account under this provision.

For purposes of this provision, long-term unemployment has the same meaning as under present law (i.e., the individual has received unemployment compensation for at least 12 weeks).

For purposes of this provision, post-secondary education expenses would be defined as the student's cost of attendance as defined in section 472 of the Higher Education Act of 1965 (generally, tuition, fees, room and board, and related expenses).

Effective Date

The provision would be effective for distributions after December 31, 1996.

By Mr. HATCH (for himself, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SMITH of New Hampshire Mr. THOMAS, Mr. THURMOND, Mr. WARNER, and Mr. COVERDELL):

S. 3. A bill to provide for fair and accurate criminal trials, reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, reduce the fiscal burden imposed by criminal alien prisoners, promote safe citizen self-defense, combat the importation, production, sale, and use of illegal drugs, and for other purposes; to the Committee on the Judiciary.

THE OMNIBUS CRIME CONTROL ACT OF 1997

Mr. HATCH. Mr. President, this is a very important bill. We know juvenile crime is on the increase. Gang violence is on the increase. This bill would take care of both of those problems, and it does it in an intelligent, official, and decent way. I hope that our colleagues on the other side will look at it carefully. We will certainly work with them and with Senator BIDEN and others on the Judiciary Committee to try and make sure that we do the best we can.

This is an excellent bill. It would make immediate inroads into the problems of juvenile violence and crime and gang violence. I hope all of our colleagues will get behind this and support it.

Mr. President, this is a very important omnibus crime bill if we want to do something about crime in this society. In addition to what we have done in the past, this is an excellent Republican alternative to the violent crime that we have in the streets, the drugs permeating our society, and, of course, the many other difficulties that are literally making our society a less wonderful society to live in.

Mr. President, I ask unanimous consent that the remainder of my remarks be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. President, I rise today along with the distinguished Majority Leader and other Republicans to introduce S. 3, the Hatch-Lott Omnibus Crime Control Act of 1997 and S. 10, the Hatch-Sessions Violent and Repeat Juvenile Offender Act of 1997. Together, these two bills build on the successful Republican 104th Congress, in which we passed habeas corpus reform, truth-in-sentencing reform, prison litigation reform, federal mandatory victim restitution, and the toughest antiterrorism law in our nation's history. These initiatives continue the Republican commitment to enacting the kind of serious laws that the American people want, that the American people need, and that the American people deserve to continue the fight against crime, and in particular, crime committed by violent youths.

Each year, our nation's violent crime problem tops the list of concerns for the American people, and their concerns are valid. According to the Uniform Crime Reports, recently published by the FBI, there was virtually no change in violent crime between 1994 and 1995. In fact, on average, one violent crime is committed every 18 seconds in this country.

This crisis is not limited to our major cities. In my home state of Utah, the number of violent crimes per 100,000 persons increased by eight percent in 1995, while the rate decreased by 12.8 percent in New York City that same year. In Utah, reported violent crimes increased by more than 10 percent, from 5,810 in 1994, to 6,415 in 1995. Property crimes in Utah increased by 17.9 percent, and murder by a depressing 35.7 percent during the same time period. Mr. President, we need to do something to curb this wave of violent crime affecting my State of Utah and every other State and community across America. The bill we introduce today will help law enforcement stem this tide of crime.

This legislation attacks the nations crime problem on many fronts including: Initiatives to revive the faltering war on drugs; stepping up the fight on terrorism; strengthening juvenile justice reform; increasing personal security; encouraging sensible prison reform; continuing the fight against child pornography; improving criminal justice reform; and continuing support for the successful Violence Against Women Act.

This bill takes several steps toward reviving the war on drugs. First, it enhances drug penalties for drug traffickers. Republicans want to ensure that large-scale drug traffickers face punishment that is commensurate with the harm they inflict on society. Second, the bill addresses the increasing menace of street level drug traffickers. This bill lowers the quantity of cocaine in powder form that triggers the mandatory minimums under title 21. It also creates mandatory minimum penalties for methamphetamine traffickers and dealers.

S. 3 also makes a strong statement about the nation's new problem with drug legalization. California and Arizona recently passed initiatives legalizing marijuana for medicinal purposes. But there is no legitimate medicinal use for marijuana, and the use of marijuana and other Schedule I drugs still violates federal law. In order to discourage the medical community from violating federal drug laws, S. 3 requires that HMO's and other recipients of federal Medicare and Medicaid funds certify that none of their participating physicians prescribed marijuana or other Schedule I controlled substances for medical purposes. This bill also combats recent lax attitudes toward drug use by education. This bill requires that the FCC encourage public service programs to emphasize the importance of anti-drug abuse announcements and attack the pro-legalization movement. This bill will also reauthorize the Drug Czar with an emphasis on enforcement, prevention, interdiction and effective treatment for juveniles who use drugs.

FIGHTING TERRORISM

This legislation toughens the anti-terrorism initiatives that the Republican 104th Congress enacted. It demands bombing laws to ensure that all uses of a bomb to commit murder can be punished capitally. This bill also establishes a National Commission on

Terrorism to examine a long-term strategy against terrorism. This legislation also makes it a federal offense to stockpile chemical weapons, and it tightens restrictions on human pathogens. This bill also makes it a federal offense to murder, or attempt to murder, athletes, guests, and spectators at Olympic games, and centralizes in the Attorney General federal authority for their security.

JUVENILE JUSTICE REFORM

The youth violence bill will ensure that violent and repeat juvenile offenders are treated as adults by authorizing US Attorneys to prosecute 14-year-olds for any federal felony that is a crime of violence or a serious drug trafficking offense. This legislation also confines juveniles prosecuted in the federal system for the length of their sentence. New federal penalties for offenses committed by criminal street gangs will create a sustained effort to target violent youth gang activity. Federal prosecutors will be able to charge gang leaders or members under this bill if they engage in two or more criminal gang offenses. It will also be a crime to recruit someone into a gang, or solicit their participation in a gang crime.

This legislation also will reform federal aid to State youth crime programs by eliminating needless federal mandates on state criminal justice systems that have stifled innovative state efforts to address violent youth crime. This bill also requires that states not exclude religious organizations from participating in juvenile rehabilitative programs. In an effort to encourage the states to undertake progressive responses to violent youth crime, this bill authorizes funding for a variety of programs, such as fingerprinting, DNA testing, and improved record keeping practices for juvenile offenders. The Juvenile Justice bill also fosters youth crime prevention that works by ensuring that there are 2,000 Boys & Girls Clubs by the year 2000, and by permitting some federal grant funds to be used to establish a role model speakers program.

PERSONAL SECURITY

Recent studies show that the adoption by more than 30 states of laws allowing citizens to carry firearms has had, and will have, a material and positive effect in preventing violent crime. S. 3 will empower current and retired law enforcement officers to carry firearms in other states, and will authorize states to enter into interstate compacts recognizing each other's citizen carry laws. It will also create an exception to federal firearm purchase waiting periods for persons protected under a protective order. Thus, for instance, no longer will a threatened and abused woman be forced to wait in fear for the right to protect herself.

SENSIBLE PRISON REFORM

American taxpayers should not be saddled with the burden of paying for the cost of incarcerating aliens convicted of crimes in this country. In an effort to lessen this burden, this legislation requires the Department of State to negotiate treaties with all foreign governments that receive U.S. aid. Under these treaties, receipt of American aid will be contingent upon foreign governments receiving and incarcerating their citizens and nationals who are convicted of crimes in the United States for a majority of their sentences.

This legislation also continues the authorization for the pilot project on privatization of federal prisons. It will also build on the Prison Litigation Reform Act enacted last Congress by amending and clarifying features of the PLRA. Provisions of this bill will also make it more difficult for prisoners to pursue their criminal careers while in prison by making it more difficult to conduct criminal activity by phone.

Importantly, this bill also eliminates inappropriate and counter-productive "incentives" of early release for federal inmates to get drug treatment. Further, our bill will require all federal prisoners to work, and impose no-frills prisons in the federal system.

CHILD PORNOGRAPHY

This legislation also builds on the advances made in the 104th Congress by requiring the Secretary of State to renegotiate extradition treaties with foreign governments to ensure that child pornography offenses under federal law are extraditable offenses. It also modifies current federal law so that the statute of limitations is tolled when the federal child pornography laws are violated, in whole or in part, by persons beyond the jurisdiction of the United States.

CRIMINAL JUSTICE REFORM

S. 3 will improve public confidence in the criminal justice system by enhancing the accuracy of the trial process. The current exclusionary rule often unjustifiably bars use of probative evidence at trial. This law will amend the exclusionary rule to allow evidence to be admitted if law enforcement officers had an objectively reasonable belief that their conduct was lawful. Further, 18 U.S.C. §3501 provides that judges must admit a confession as long as it is voluntary. This bill will direct the Justice Department to ensure this provision is enforced. This bill also proposes various reforms to ensure fairness for both the defendant and the victim in criminal trials. These reforms to the criminal justice process that are critical if we are to prevent our cherished liberties from further devolving into merely a cynical shield for the guilty to avoid just punishment.

Mr. President, these bills alone will not solve our crime problem. That must be done community by community. Crime cannot thrive in a society that will not tolerate it. But by enacting these common sense reforms, we can signal our determination to build such a society. I urge my colleagues to support these bills.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Crime Control Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—TRANSFER OF ALIEN PRISONERS

Sec. 101. Short title.
Sec. 102. Transfers of alien prisoners.
Sec. 103. Consent unnecessary.
Sec. 104. Certification transfer requirement.
Sec. 105. International prisoner transfer report.
Sec. 106. Annual reports on foreign assistance.
Sec. 107. Annual certification procedures.
Sec. 108. Prisoner transfers treaties.
Sec. 109. Judgments unaffected.
Sec. 110. Definition.
Sec. 111. Repeals.

TITLE II—EXCLUSIONARY RULE REFORM

Subtitle A—Exclusionary Rule Reform

Sec. 201. Short title.
Sec. 202. Admissibility of certain evidence.

Subtitle B—Confession Reform

Sec. 211. Enforcement of confession reform statute.

TITLE III—VIOLENT CRIME, DRUGS, AND TERRORISM

Sec. 301. Short title.

Subtitle A—Criminal Penalties and Procedures

Sec. 311. Protection of the Olympics.
Sec. 312. Federal responsibility for security at international athletic competitions.
Sec. 313. Technical revision to penalties for crimes committed by explosives.
Sec. 314. Chemical weapons restrictions.

Subtitle B—International Terrorism

Sec. 321. Multilateral sanctions.
Sec. 322. Information on cooperation with United States antiterrorism efforts in annual country reports on terrorism.
Sec. 323. Report on international terrorism.
Sec. 324. Revision of Department of State rewards program.

Subtitle C—Commissions and Studies

Sec. 331. National commission on terrorism.

TITLE IV—COMMUNITY PROTECTION

Sec. 401. Short title.

Subtitle A—Law Enforcement Assistance

Sec. 411. Exemption of qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms.

Subtitle B—Citizens' Assistance

Sec. 421. Short title.
Sec. 422. Authorization to enter into interstate compacts.
Sec. 423. Authorized uses of Federal grant funds.
Sec. 424. Self defense for victims of abuse.

TITLE V—CRIMINAL PROCEDURE IMPROVEMENTS

Subtitle A—Equal Protection for Victims

Sec. 501. The right of the victim to an impartial jury.
Sec. 502. Jury trial improvements.
Sec. 503. Rebuttal of attacks on the character of the victim.
Sec. 504. Use of notice concerning release of offender.
Sec. 505. Balance in the composition of rules committees.

Subtitle B—Firearms

Sec. 521. Mandatory minimum sentences for criminals possessing firearms.
Sec. 522. Firearms possession by violent felons and serious drug offenders.
Sec. 523. Use of firearms in connection with counterfeiting or forgery.
Sec. 524. Possession of an explosive during the commission of a felony.
Sec. 525. Second offense of using an explosive to commit a felony.
Sec. 526. Increased penalties for international drug trafficking.

Subtitle C—Federal Death Penalty

Sec. 541. Strengthening of Federal death penalty standards and procedures.
Sec. 542. Murder of witness as aggravating factor.

Sec. 543. Death penalty for murders committed in the District of Columbia.

TITLE VI—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 601. Trafficking in methamphetamine penalty increases.
Sec. 602. Reduction of sentence for providing useful investigative information.
Sec. 603. Implementation of a sentence of death.
Sec. 604. Limitation on drug enforcement administrator tenure.
Sec. 605. Serious juvenile drug offenses as armed career criminal act predicates.
Sec. 606. Mandatory minimum prison sentences for persons who use minors in drug trafficking activities or sell drugs to minors.
Sec. 607. Penalty increases for trafficking in listed chemicals.

TITLE VII—COMBATING VIOLENCE AGAINST WOMEN AND CHILDREN

Subtitle A—General Reforms

Sec. 701. Participation of religious organizations in violence against women act programs.
Sec. 702. Domestic violence arrest grants.
Sec. 703. Rural domestic violence and child abuse enforcement assistance.
Sec. 704. Runaway, homeless, and street youth assistance grants.

Subtitle B—Domestic Violence

Sec. 711. Death penalty for fatal interstate domestic violence offenses.
Sec. 712. Death penalty for fatal interstate violations of protective orders.
Sec. 713. Evidence of disposition of defendant toward victim in domestic violence cases and other cases.
Sec. 714. HIV testing of defendants in sexual assault cases.

TITLE VIII—VIOLENT CRIME AND TERRORISM

Subtitle A—Violent Crime and Terrorism

Sec. 801. Amendments to anti-terrorism statutes.
Sec. 802. Kidnapping; death of victim before crossing State line as not defeating prosecution, and other changes.
Sec. 803. Expansion of section 1959 of title 18 to cover commission of all violent crimes in aid of racketeering activity and increased penalties.
Sec. 804. Conforming amendment to conspiracy penalty.
Sec. 805. Inclusion of certain additional serious drug offenses as armed career criminal act predicates.
Sec. 806. Increased penalties for violence in the course of riot offenses.
Sec. 807. Elimination of unjustified scienter element for carjacking.
Sec. 808. Criminal offenses committed outside the United States by persons accompanying the armed forces.
Sec. 809. Assaults or other crimes of violence for hire.
Sec. 810. Penalty enhancement for certain offenses resulting in death.
Sec. 811. Violence directed at dwellings in indian country.

Subtitle B—Courts and Sentencing

Sec. 821. Allowing a reduction of sentence for providing useful investigative information although not regarding a particular individual.
Sec. 822. Appeals from certain dismissals.
Sec. 823. Elimination of outmoded certification requirement.
Sec. 824. Improvement of hate crimes sentencing procedure.
Sec. 825. Clarification of length of supervised release terms in controlled substance cases.
Sec. 826. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases.
Sec. 827. Technical correction to assure compliance of sentencing guidelines with provisions of all Federal statutes.

Subtitle C—White Collar Crime

Sec. 841. Clarification of scienter requirement for receiving property stolen from an indian tribal organization.
Sec. 842. Larceny involving post office boxes and postal stamp vending machines.
Sec. 843. Theft of vessels.
Sec. 844. Conforming amendment to law punishing obstruction of justice by notification of existence of a subpoena for records in certain types of investigations.
Sec. 845. Injunctions against counterfeiting and forgery.

Subtitle D—Miscellaneous Provisions

Sec. 861. Increased maximum penalty for certain rico violations.
Sec. 862. Clarification of inapplicability to certain disclosures.
Sec. 863. Conforming amendments relating to supervised release.
Sec. 864. Addition of certain offenses as money laundering predicates.
Sec. 865. Clarification of jurisdictional base involving the mail.
Sec. 866. Coverage of foreign bank branches in the territories.
Sec. 867. Conforming statute of limitations amendment for certain bank fraud offenses.
Sec. 868. Clarifying amendment to section 704.

TITLE IX—PRISON REFORM

Subtitle A—Prison Litigation Reform

Sec. 901. Amendment to the prison litigation reform act.
Sec. 902. Appropriate remedies for prison conditions.
Sec. 903. Civil rights of institutionalized persons.
Sec. 904. Proceedings in forma pauperis.
Sec. 905. Notice to State authorities of malicious filing by prisoner.
Sec. 906. Payment of damage award in satisfaction of pending restitution awards.
Sec. 907. Earned release credit or good time credit revocation.
Sec. 908. Release of prisoner.
Sec. 909. Effective date.

Subtitle B—Federal Prisons

Sec. 911. Prison communications.
Sec. 912. Prison amenities and prisoner work requirement.
Sec. 913. Elimination of sentencing inequities and aftercare for Federal inmates.

TITLE X—MISCELLANEOUS PROVISIONS

Sec. 1001. Sense of the Senate regarding ondcp.
Sec. 1002. Restrictions on doctors prescribing schedule i substances..
Sec. 1003. Anti-drug use public service requirement.
Sec. 1004. Child pornography.
Sec. 1005. 2,000 boys & girls clubs before 2000.
Sec. 1006. Cellular telephone interceptions.

TITLE XI—VIOLENT AND REPEAT JUVENILE OFFENDERS

Sec. 1101. Short title.
Sec. 1102. Findings and purposes.
Sec. 1103. Severability.

Subtitle A—Juvenile Justice Reform

Sec. 1111. Repeal of general provision.
Sec. 1112. Treatment of Federal juvenile offenders.
Sec. 1113. Capital cases.
Sec. 1114. Definitions.
Sec. 1115. Notification after arrest.
Sec. 1116. Detention prior to disposition.
Sec. 1117. Speedy trial.
Sec. 1118. Dispositional hearings.
Sec. 1119. Use of juvenile records.
Sec. 1120. Incarceration of violent offenders.
Sec. 1121. Federal sentencing guidelines.

Subtitle B—Juvenile Gangs

Sec. 1141. Short title.
Sec. 1142. Increase in offense level for participation in crime as a gang member.
Sec. 1143. Amendment of title 18 with respect to criminal street gangs.
Sec. 1144. Interstate and foreign travel or transportation in aid of criminal street gangs.
Sec. 1145. Solicitation or recruitment of persons in criminal gang activity.
Sec. 1146. Crimes involving the recruitment of persons to participate in criminal street gangs and firearms offenses as rico predicates.
Sec. 1147. Prohibitions relating to firearms.
Sec. 1148. Amendment of sentencing guidelines with respect to body armor.
Sec. 1149. Additional prosecutors.

Subtitle C—Juvenile Crime Control and Accountability

Sec. 1161. Findings; declaration of purpose; definitions.
Sec. 1162. Youth crime control and accountability block grants.
Sec. 1163. Runaway and homeless youth.
Sec. 1164. Authorization of appropriations.
Sec. 1165. Repeal.
Sec. 1166. Transfer of functions and savings provisions.
Sec. 1167. Repeal of unnecessary and duplicative programs.
Sec. 1168. Housing juvenile offenders.
Sec. 1169. Civil monetary penalty surcharge.

SEC. 2. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—TRANSFER OF ALIEN PRISONERS

SEC. 101. SHORT TITLE.

This title may be cited as the "Transfer of Alien Prisoners Act of 1997".

SEC. 102. TRANSFERS OF ALIEN PRISONERS.

(a) IN GENERAL.—Not later than December 31, 1998, the Attorney General shall begin transferring undocumented aliens who are in the United States, incarcerated in a Federal, State, or local prison, whose convictions have become final, to the custody of the government of the alien's country of nationality for service of the duration of the alien's sentence in the alien's country.

(b) INAPPLICABILITY TO CERTAIN ALIENS.—This section does not apply to aliens who are nationals of a foreign country that the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 has repeatedly provided support for acts of international terrorism.

SEC. 103. CONSENT UNNECESSARY.

(a) TREATY RENEGOTIATION.—The Secretary of State shall renegotiate all treaties requiring the consent of an alien who is in the United States, whether present lawfully or unlawfully, who is, or who is about to be, incarcerated in a Federal, State, or local prison or jail before such person may be transferred to the country of nationality of that person to ensure that no such consent is required in any case under any treaty. If the Secretary of State is unable to negotiate with a foreign nation a new treaty that would go into effect by December 31, 1998, that does not require such consent, the Secretary shall withdraw the United States as a party to any existing treaty requiring such consent.

(b) GENERAL REPEAL.—Notwithstanding any other provision of law, the consent of an alien covered by this title shall not be required before such alien may be designated for transfer or before such alien may be transferred to the country of nationality of that alien.

SEC. 104. CERTIFICATION TRANSFER REQUIREMENT.

Not later than March 1 of each year, the President shall submit to Congress a certification as to whether each foreign country has accepted, and has confined for the duration of their sentences, the persons described in section 403(a).

SEC. 105. INTERNATIONAL PRISONER TRANSFER REPORT.

(a) IN GENERAL.—Not later than March 1 of each year, the President shall transmit to the Majority Leader of the Senate, the Speaker of the House of Representatives, the chairmen and ranking members of the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on International Relations of the House of Representatives a report that—

(1) describes the operation of the provisions of this title; and

(2) highlights the effectiveness of those provisions with regard to the 10 countries having the greatest number of their nationals incarcerated in the United States, both in transferring such persons from the United States to their country of nationality and in confining such persons for the duration of their sentences.

(b) CONTENTS OF REPORT.—The report prepared under subsection (a) shall set forth—

(1) the number of aliens convicted of a Federal, State, or local criminal offense in the United States, and the types of offenses involved, during the preceding calendar year;

(2) the number of aliens described in paragraph (1) who were sentenced to terms of incarceration;

(3) the number of aliens described in paragraph (1) who were eligible for transfer pursuant to those provisions;

(4) the number of aliens described in paragraph (2) who were transferred pursuant to the provisions of this title;

(5) the number, location, length of their period of incarceration in the United States, and present status of aliens described in paragraph (2) who have not yet been transferred to the country of nationality;

(6) the extent to which each foreign country whose nationals have been convicted of a Federal, State, or local criminal offense in the United States has accepted the transfer of such persons, including the percentage of such persons accepted by each foreign country;

(7) the extent to which each foreign country described in paragraph (6) has confined such persons for 85 percent of the duration of their sentences, including the percentage of such persons confined by each foreign country;

(8) the extent to which each foreign country described in paragraph (5) has accomplished (or has failed to accomplish) the goals described in any applicable bilateral or multilateral agreement to which the United States is a party that deals with the subject of the transfer of alien prisoners;

(9) for each foreign country described in paragraph (6)—

(A) a description of the plans, programs, and timetables adopted by such country to accept its own nationals for crimes committed in the United States;

(B) a description of the plans, programs, and timetables adopted by such country for the continued incarceration of its own nationals for crimes committed in the United States;

(C) a list of those countries that are negotiating in good faith with the United States to establish a mechanism for the transfer, receipt, and continued incarceration of such country's nationals;

(D) a list of those countries that have adopted laws or regulations that ensure the transfer, receipt, and incarceration of its nationals in accordance with the provisions of this title; and

(E) a list of those countries that have adopted laws or regulations that ensure the availability to appropriate United States Government personnel of adequate records in connection with the transfer, receipt, and continued incarceration of prisoners pursuant to this title;

(10) a description of the policies adopted, agreements concluded, and plans and programs implemented or proposed by the Federal Government in pursuit of its responsibilities for the prompt transfer of aliens described in subsection (b)(1), as well as for identifying and preventing the re-entry of such persons after their transfer from the United States; and

(11) a description of instances of refusals to cooperate with the United States Government regarding the transfer of aliens described in subsection (b)(1).

SEC. 106. ANNUAL REPORTS ON FOREIGN ASSISTANCE.

At the time that the report required by section 634 of the Foreign Assistance Act of 1961 is submitted each year, the Secretary of State shall submit a copy of such report to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate, the Chairman and Ranking Member of the Committee on Foreign Relations of the Senate, and the Chairman and Ranking Member of the Committee on International Relations of the House of Representatives.

SEC. 107. ANNUAL CERTIFICATION PROCEDURES.

(a) WITHHOLDING OF BILATERAL ASSISTANCE, OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE, AND WITHHOLDING OF VISAS.—

(1) BILATERAL ASSISTANCE.—

(A) IN GENERAL.—Fifty percent of the United States assistance allocated each fiscal year for each foreign country shall be withheld from obligation and expenditure to any such country if that country has refused to accept not less than 75 percent of nationals covered by this title and designated for transfer by the Attorney General within either of the 2 immediately preceding fiscal years or to confine such transferred persons for not less than 85 percent of their sentence, except as provided in subsection (b).

(B) INAPPLICABILITY TO CERTAIN COUNTRIES.—This paragraph does not apply with respect to a country if the President determines in accordance with subsection (b) that its application to that country would be contrary to the vital national interests of the United States, except that any such determination shall not take effect until not less than 30 days after the President submits written notification of that determination to the congressional committees listed in section 306 in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(C) BILATERAL ASSISTANCE EXEMPTION.—In this subsection, the term "bilateral assistance" does not include—

(i) narcotics-related assistance under the Foreign Assistance Act of 1961;

(ii) disaster relief assistance;

(iii) assistance that involves the provision of food (including monetization of food) or medicine; or

(iv) assistance for refugees.

(2) MULTILATERAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary of the Treasury may instruct the United States Executive Directors of each multilateral development bank to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country if that country has refused to accept not less than 75 percent of its nationals covered by this title and designated for transfer by the Attorney General or to confine such transferred persons for not less than 85 percent of their sentences within either of the 2 immediately preceding fiscal years, except as provided in subsection (b).

(B) DEFINITION OF "MULTILATERAL DEVELOPMENT BANK".—In this paragraph, the term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

(3) VISAS.—All visas shall be denied to nationals employed by the government of any foreign country if that country has refused to accept not fewer than 75 percent of its nationals covered by this title and designated for transfer by the Attorney General within either of the 2 immediately preceding fiscal years or to confine such transferred persons for not less than 85 percent of their sentences, except as provided in subsection (b), except that the President or the Secretary of State nonetheless may grant visas to heads of state, certified diplomats, or members of a foreign country's mission to the United Nations.

(b) CERTIFICATION PROCEDURES.—

(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, the requirement

of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, and the withholding of visas from nationals of a country of subsection (a)(3) shall not apply, if the President determines and certifies to Congress, at the time of the submission of the report required by section 305, that—

(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by this title, except that the President may make such a finding only once during any 5-year period;

(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided, that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2), and that visas not be withheld pursuant to subsection (a)(3); or

(C) only in the case of multilateral development bank assistance, such assistance is directed specifically to programs that provide, or support a foreign country's ability itself to provide, food, water, clothing, shelter, and medical care of that country.

(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determinations described in subsection (b)(1), the President shall consider the extent to which the country has—

(A) met the goals and objectives of this title;

(B) accomplished the goals described in an applicable bilateral agreement with the United States or a multilateral agreement to implement the provisions and purposes of this title; and

(C) taken domestic legal and law enforcement measures to implement the provisions and purposes of this title;

(3) CASE-BY-CASE WAIVER AUTHORITY.—

(A) AUTHORITY.—The President or the Secretary of State may, on a case-by-case basis, allow an alien subject to transfer under section 402 to remain in the custody of the Attorney General if the President or Secretary of State determines that doing so is necessary to serve the vital interests of the United States or to protect the life or health of the citizen or national. It is the sense of Congress that such case-by-case determinations rarely should be made.

(B) NONDELEGATION OF AUTHORITY.—The authority to make a determination under subparagraph (A) may not be delegated.

(4) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to subsection (b)(1), the President shall include in such certification—

(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section, multilateral development bank assistance is not provided to such country, and visas are not issued to the nationals of such country; and

(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in implementing the provisions and purposes of this title.

(c) CONGRESSIONAL REVIEW.—Subsection (d) shall apply if, not later than 30 calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by this title, Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(d) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (e) are satisfied—

(1) funds may not be obligated for United States assistance for that government, and funds previously appropriated, but unobligated, for United States assistance for that government may not be expended for the purpose of providing assistance for that government;

(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection; and

(3) no visas may be issued to nationals of that country, and no visas already issued shall be held valid by the Department of State, the Immigration and Naturalization Service, or any other department or agency of the Federal Government.

(e) RECERTIFICATION.—Subsection (d) shall apply to a country described in that subsection until—

(1) the President, at the time of submission of the report required by this title, makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and Congress does not enact a joint resolution under subsection (c) disapproving the determination of the President contained in that certification; or

(2) the President, at any other time, makes the certification described in subsection (b)(1)(A) or subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

(A) the President also certifies that—

(i) that country has undergone a fundamental change in government, or

(ii) there has been a fundamental change in the conditions that were the reasons—

(I) why the President had not made a certification with respect to that country under subsections (b)(1) (A) or (B); or

(II) if the defendant had made such a certification and Congress enacted a joint resolution disapproving the determination contained in the certification, why Congress enacted that joint resolution; or

(B) Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1) (A) or (B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

(f) SENATE PROCEDURES.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

SEC. 108. PRISONER TRANSFERS TREATIES.

(a) NEGOTIATION.—The Secretary of State shall begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations should be—

(1) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons;

(2) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts; and

(3) to allow the Federal Government or the States to maintain their original prison sentences in effect so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prison sentences.

(b) CERTIFICATION.—The President shall submit to Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 109. JUDGMENTS UNAFFECTED.

Nothing in this title shall in any way be construed to nullify or reduce the effect of a judgment of conviction and sentence entered by a Federal, State, or local court in the United States.

SEC. 110. DEFINITION.

In this title, the term "United States assistance" means any assistance under the Foreign Assistance Act of 1961.

SEC. 111. REPEALS.

The following provisions of law are repealed:

(1) The first sentence in section 4100(a) of title 18, United States Code, is repealed.

(2) The first, third, fourth, fifth, and sixth sentences in section 4100(b) of title 18, United States Code, are repealed.

(3) Subsection (c) of section 4100 of title 18, United States Code is repealed.

(4) Subsection (d) of section 4100(a) of title 18, United States Code, is redesignated as subsection (c).

(5) Subsection (a)(2) of section 330 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by inserting "during fiscal years 1997 and 1998," after "compensation,".

(6) Section 330(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by striking ", except as required by treaty,".

(7) Section 332 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is repealed.

TITLE II—EXCLUSIONARY RULE REFORM

Subtitle A—Exclusionary Rule Reform

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Exclusionary Rule Reform Act of 1997".

SEC. 202. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3510. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—

"(1) IN GENERAL.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the fourth amendment.

"(2) PRIMA FACIE EVIDENCE.—The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—

"(1) IN GENERAL.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless the exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(2) SPECIAL RULE RELATING TO OBJECTIVELY REASONABLE SEARCHES AN SEIZURES.—Evidence that is otherwise excludable under paragraph (1) shall not be excluded if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the statute, administrative rule or regulation, or rule of procedure, the violation of which occasioned its being excludable.".

(b) RULES OF CONSTRUCTION.—This section and the amendments made by this section shall not be construed to require or authorize the exclusion of evidence in any proceeding. Nothing in this section or the amendments made by this section shall be construed so as to violate the fourth amendment to the Constitution of the United States.

(c) CLERICAL AMENDMENT.—The chapter analysis for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3510. Admissibility of evidence obtained by search or seizure.".

Subtitle B—Confession Reform

SEC. 211. ENFORCEMENT OF CONFESSION REFORM STATUTE.

(a) IN GENERAL.—Section 3501 of title 18, United States Code, is amended by adding at the end the following:

"(f) ENFORCEMENT OF CONFESSION REFORM.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Omnibus Crime Control Act of 1997, the Attorney General shall promulgate guidelines that require the Department of Justice to enforce, and defend nationally, the legality of this section. Specifically, the Department shall pursue the admission into evidence of confessions that are voluntarily given.

"(2) VOLUNTARINESS.—In determining the issue of voluntariness for purposes of this subsection—

"(A) the Department shall take into consideration all the circumstances surrounding the giving of the confession, including—

"(i) the time elapsing between arrest and arraignment of the defendant making the confession, if the confession was made after arrest and before arraignment;

"(ii) whether the defendant knew the nature of the offense with which he was charged or of which he was suspected at the time of making the confession;

"(iii) whether the defendant was advised or knew that he was not required to make any statement and that any such statement could be used against him; and

"(iv) whether the defendant was without the assistance of counsel when he was questioned and when he made a confession;

"(B) the presence or absence of any of the factors described in paragraph (1) shall not be conclusive in the Department's determination of whether a confession was voluntary; and

"(C) the fact that the defendant had not been advised prior to questioning of his or her right to silence and to the assistance of counsel shall not be dispositive.

"(g) DEFINITION OF ANY CRIMINAL PROSECUTION BY THE UNITED STATES.—In this section—

"(1) the term 'any criminal prosecution by the United States' includes any prosecution by the United States under the Uniform Code of Military Justice; and

"(2) the term 'offenses against the laws of the United States' includes offense defined by the Uniform Code of Military Justice.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to any criminal prosecution brought by or under the authority of the United States, including a military prosecution or a prosecution brought by the District of Columbia, regardless of whether that prosecution has begun or has concluded and has yet to become final.

TITLE III—VIOLENT CRIME, DRUGS, AND TERRORISM

SEC. 301. SHORT TITLE.

This title may be cited as the "Drug Investigation Support and Antiterrorism Act of 1997".

Subtitle A—Criminal Penalties and Procedures

SEC. 311. PROTECTION OF THE OLYMPICS.

(a) IN GENERAL.—Section 1111 of title 18, United States Code, is amended by adding at the end the following:

"(c) OLYMPIC GAMES.—

"(1) IN GENERAL.—Whoever kills a person during and in relation to any international Olympic Games that are held within any State shall be punished in accordance with subsection (b) and section 1112.

"(2) AMENDMENT.—Whoever attempts to violate this subsection shall be punished in accordance with section 1113.

"(3) STATE DEFINED.—In this subsection, the term 'State' means each of the several States, the District of Columbia, and any territory or possession of the United States.".

(b) INTERNATIONALLY PROTECTED PERSONS.—Section 1116 (b)(4) of title 18, United States Code, is amended—

(1) by striking "or at the end of subparagraph (A)";

(2) by striking the period at the end of subparagraph (B), and inserting "; or"; and

(3) by adding at the end the following:

"(C) any participant or guest attending any international sporting event sponsored or sanctioned by the International Olympic Committee or the United States Olympic Committee incorporated under the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 371 et seq.).".

SEC. 312. FEDERAL RESPONSIBILITY FOR SECURITY AT INTERNATIONAL ATHLETIC COMPETITIONS.

(a) IN GENERAL.—

(1) DUTY OF ATTORNEY GENERAL.—The Attorney General, in consultation with the Secretary of State and the Secretary of the Treasury, shall supervise other Federal authorities and personnel in the provision of security services (including conducting a comprehensive review of plans for the housing of athletes and other eligible guests) by establishing a task force to be known as the "Olympic Security Task Force" (referred to in this subsection as the "task force").

(2) DUTIES OF TASK FORCE.—The task force shall assist the Attorney General in overseeing security for any international Olympic Games held in any State.

(3) STATE DEFINED.—In this section, the term "State" means each of the several States, the District of Columbia, and any territory or possession of the United States.

(b) TASK FORCE COMPOSITION.—

(1) IN GENERAL.—The Attorney General shall determine the number of members and composition of the task force in accordance with this section. The Attorney General shall appoint representatives from State and local law enforcement to serve as members of the task force.

(2) REPRESENTATIVES.—In addition to the members referred to in paragraph (1), the Attorney General may appoint as members representatives of—

(A) the Federal Bureau of Investigation;

(B) the Department of Defense;

(C) the Secret Service;

(D) the United States Marshals Service;

(E) the United States Attorney with jurisdiction over a venue for Olympic Games (referred to in this section as an "Olympic venue");

(F) the Bureau of Alcohol, Tobacco, and Firearms;

(G) the Central Intelligence Agency; and

(H) any other appropriate agency of the Federal Government, as the Attorney General determines to be appropriate.

(c) DISBANDING OF TASK FORCE.—The President may disband the task force and relieve the Attorney General of responsibility for supervising security at international Olympic Games, if the President finds that appropriate State or local law enforcement officials refused, or otherwise failed adequately to participate in, the planning, preparation, or execution of a plan providing for security under this section.

(d) ASSISTANCE.—

(1) IN GENERAL.—In carrying out this section, the Attorney General may request assistance from—

(A) the head of any department or agency of the United States; and

(B) the appropriate officials of any appropriate department or agency of the State in which an Olympic venue is located (referred to in this section as the "host State"), or any political subdivision of such State, including State and local law enforcement officials in the host State to ensure the effective implementation of security under this subsection.

(2) UNITED STATES OLYMPIC ORGANIZING COMMITTEE.—The Attorney General may request the United States Olympic Committee (incorporated under the Act entitled "An Act to incorporate the United States Olympic Association", approved September 21, 1950 (36 U.S.C. 371 et seq.)) and the Olympic organizing committee of the city in which an Olympic venue is located (referred to in this section as a "host city") to provide all reasonable cooperation and assistance required to carry out this subsection. Upon receipt of such a request, the United States Olympic Committee and organizing committees shall endeavor to provide that assistance.

(e) AGREEMENTS AND REGULATIONS.—To carry out this section, the Attorney General may enter into interagency or intergovernmental agreements and promulgate regulations.

(f) EXPEDITED REVIEW.—In the case of Olympic Games that occur after the date of enactment of this Act in the United States with respect to which the Olympic venue is selected before the date of enactment of this section, the review of housing required by paragraph (1) shall be conducted not later than 120 days after such date of enactment. The review shall consider the suitability of the proposed Olympic Village site, building options, and any other issue the Attorney

General considers appropriate to ensure maximum security for the Olympic Village, its residents, and its environs.

(g) Construction.—Nothing in this section shall be construed to create a cause of action against the United States or any officer or employee of the United States in favor of any person who is not otherwise authorized.

SEC. 313. TECHNICAL REVISION TO PENALTIES FOR CRIMES COMMITTED BY EXPLOSIVES.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)(1), by inserting "or any institution or organization receiving Federal financial assistance," after "or agency thereof,"; and

(2) by striking subsection (i) and inserting the following:

"(i) Malicious Destruction by Fire or Explosives.—

"(1) In general.—Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, public place, or other personal or real property used in interstate or foreign commerce or used in any activity affecting interstate or foreign commerce, shall be imprisoned for a period of not less than 5 years and not more than 20 years, fined under this title, or both.

"(2) Personal injury.—Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for a period of not less than 7 years and not more than 40 years, fined under this title, or both.

"(3) Death.—Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.".

SEC. 314. CHEMICAL WEAPONS RESTRICTIONS.

(a) In General.—Section 2332c of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (2) the following:

"(3) Restrictions.—

"(A) In general.—Whoever without lawful authority knowingly develops, produces, acquires, stockpiles, retains, transfers, owns, or possesses any chemical weapon, or knowingly assists, encourages or induces any person to do so, or attempts or conspires to do so, shall be punished under paragraph (2).

"(B) Jurisdiction.—The United States has jurisdiction over an offense under this paragraph if—

"(i) the prohibited activity takes place in the United States; or

"(ii) the prohibited activity takes place outside the United States and is committed by a national of the United States.

"(C) Additional penalty.—The court shall order any person convicted of an offense under this paragraph to pay to the United States any expenses incurred incident to the seizure, storage, handling, transportation, and destruction or other disposition of property seized for violation of this section.";

(2) by adding at the end the following:

"(c) Criminal Forfeiture.—

"(1) Property subject to criminal forfeiture.—A person who is convicted of an offense under this section shall forfeit to the United States the interest of that person in—

"(A) any chemical weapon, including any component thereof;

"(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

"(2) Third party transfers.—

"(A) In general.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section.

"(B) Forfeiture.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States.

"(C) Exception.—The property referred to in subparagraph (B) shall not be ordered forfeited if the transferee establishes in a hearing conducted pursuant to subsection (l) that the party is a bona fide purchaser for value of such property who, at the time of purchase, was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(3) Protective orders.—

"(A) In general.—Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

"(i) upon the filing of an indictment or information—

"(I) charging a violation of this chapter for which criminal forfeiture may be ordered under this section; and

"(II) alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(ii) prior to the filing of an indictment or information referred to in clause (i), if, after providing notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(I) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(II) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered pursuant to subparagraph (B) shall be effective for a period not to exceed 90 days, unless extended by the court for good cause shown or unless an indictment or information described in this subparagraph has been filed.

"(B) Temporary restraining orders.—

"(i) In general.—A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that—

"(I) the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; and

"(II)(aa) exigent circumstances exist that place the life or health of any person in danger; or

"(bb) that provision of notice will jeopardize the availability of the property for forfeiture.

"(ii) Expiration.—A temporary restraining order described in clause (i) shall expire not later than 10 days after the date on which the order is entered, unless—

"(I) the order is extended for good cause shown; or

"(II) the party against whom it is entered consents to an extension for a longer period.

"(iii) Hearing.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(C) Inapplicability of federal rules of evidence.—The court may receive and consider, at a hearing held pursuant to this paragraph, evidence and information that would otherwise be inadmissible under the Federal Rules of Evidence.

"(d) Warrant of Seizure.—

"(1) In general.—The Government of the United States may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant.

"(2) Determinations by court.—The court shall issue a warrant authorizing the seizure of the property referred to in paragraph (1) if the court determines that there is probable cause to believe that—

"(A) the property to be seized would, in the event of conviction, be subject to forfeiture; and

"(B) an order under subsection (c) may not be sufficient to ensure the availability of the property for forfeiture.

"(e) Order of Forfeiture.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, by a preponderance of the evidence, that the property is subject to forfeiture.

"(f) Execution.—

"(1) In general.—Upon entry of an order of forfeiture or temporary restraining order under this section, the court shall authorize the Attorney General to seize all property ordered forfeited or restrained on such terms and conditions as the court determines to be appropriate.

"(2) Actions by court.—Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited.

"(3) Offset.—Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property that—

"(A) are required by law; or

"(B) are necessary to protect the interests of the United States or third parties.

"(g) Disposition of Property.—

"(1) In general.—Following the seizure of property ordered forfeited under this section, the Attorney General shall, making due provision for the rights of any innocent persons—

"(A) destroy or retain for official use any article described in paragraph (1) of subsection (a); and

"(B) retain for official use or direct the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other commercially feasible means.

"(2) REVERSION PROHIBITED.—With respect to the forfeiture, any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with the defendant or on behalf of the defendant be eligible to purchase forfeited property at any sale held by the United States.

"(3) RESTRAINT OF SALE OR DISPOSITION.—Upon application of a person, other than the defendant or person acting in concert with the defendant or on behalf of the defendant, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to the applicant.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General may—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this section, or take any other action to protect the rights of innocent persons that—

"(A) is in the interest of justice; and

"(B) is not inconsistent with this section;

"(2) compromise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a), of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take such appropriate measures as are necessary to safeguard and maintain property ordered forfeited under this section pending the disposition of that property.

"(i) BAR ON INTERVENTION.—Except as provided in subsection (l), no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of that property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of the alleged interest of that party in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(j) JURISDICTION TO ENTER ORDERS.—Each district court of the United States shall have jurisdiction to enter an order of forfeiture under this section without regard to the location of any property that—

"(1) may be subject to forfeiture under this section; or

"(2) has been ordered forfeited under this section.

"(k) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited under this section and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States under this section, the court may, upon application of the United States, order that—

"(1) the testimony of any witness relating to the property forfeited be taken by deposition; and

"(2) any designated book, paper, document, record, recording, or other material that is not privileged be produced at the same time and place, and in the same manner, as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.

"(l) THIRD PARTY INTERESTS.—

"(1) IN GENERAL.—

"(A) NOTICE.—Following the entry of an order of forfeiture under this section, the United States Government shall publish notice of the order and of the intent of the Government to dispose of the property in such manner as the Attorney General may direct.

"(B) DIRECT WRITTEN NOTICE.—In addition to providing the notice described in subparagraph (A), the Government may, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

"(2) PETITION BY PERSON OTHER THAN DEFENDANT.—

"(A) IN GENERAL.—Any person, other than the defendant, who asserts a legal interest in property that has been ordered forfeited to the United States pursuant to this section may petition the court for a hearing to adjudicate the validity of his alleged interest in the property not later than the earlier of—

"(i) the date that is 30 days after the final publication of notice; or

"(ii) the date that is 30 days after the receipt of notice by the person under paragraph (1).

"(B) REQUIREMENTS FOR HEARING.—A hearing described in subparagraph (A) shall be held before the court without a jury.

"(3) REQUIREMENTS FOR PETITION.—A petition referred to in paragraph (2) shall—

"(A) be signed by the petitioner under penalty of perjury; and

"(B) set forth—

"(i) the nature and extent of the petitioner's right, title, or interest in the property;

"(ii) the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property;

"(iii) the relief sought; and

"(iv) any additional facts supporting the petitioner's claim.

"(4) DATE; CONSOLIDATION.—

"(A) DATE OF HEARING.—The hearing on a petition referred to in paragraph (2) shall, to the extent practicable and consistent with the interests of justice, be held not later than 30 days after the filing of the petition.

"(B) CONSOLIDATION.—The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

"(5) ACTIONS AT HEARINGS.—

"(A) IN GENERAL.—At a hearing referred to in paragraph (4)—

"(i) the petitioner may testify and present evidence and witnesses on his or her own behalf, and cross-examine witnesses who appear at the hearing; and

"(ii) the Government may present evidence and witnesses in rebuttal and in defense of its claim to the property that is the subject and cross-examine witnesses who appear at the hearing.

"(B) CONSIDERATION BY COURT.—In addition to considering testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case that resulted in the order of forfeiture.

"(6) AMENDMENT OF ORDER OF FORFEITURE.—If, after holding a hearing under this subsection, the court determines that a petitioner has established by a preponderance of the evidence that—

"(A)(i) the petitioner has a legal right, title, or interest in the property that is the subject of the hearing; and

"(ii) that right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest—

"(I) was vested in the petitioner rather than the defendant; or

"(II) was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

"(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

"(7) ACTIONS OF COURT AFTER DISPOSITION OF PETITION.—After the disposition of the court of all petitions filed under this subsection, or if no such petitions are filed after the expiration of the period specified in paragraph (2), the United States—

"(A) shall have clear title to property that is the subject of the order of forfeiture; and

"(B) may warrant good title to any subsequent purchaser or transferee.

"(m) CONSTRUCTION.—This section shall be liberally construed in such manner as to effectuate the remedial purposes of this section.

"(n) SUBSTITUTE ASSETS.—

"(1) IN GENERAL.—In accordance with paragraph (2), the court shall order the forfeiture of property of a defendant other than property described in subsection (a) if, as a result of an act or omission of the defendant, any of the property of the defendant that is described in subsection (a)—

"(A) cannot be located upon the exercise of due diligence;

"(B) has been transferred or sold to, or deposited with, a third party;

"(C) has been placed beyond the jurisdiction of the court;

"(D) has been substantially diminished in value; or

"(E) has been commingled with other property which cannot be divided without difficulty.

"(2) VALUE OF PROPERTY.—The value of any property subject to forfeiture under paragraph (1) shall not exceed the value of property of the defendant with respect to which subparagraph (A), (B), (C), (D), or (E) of paragraph (1) applies."; and

(3) by amending the section heading to read as follows:

"SEC. 2332c. USE AND STOCKPILING OF CHEMICAL WEAPONS.".

(b) CONFORMING AMENDMENT TO FEDERAL RULES OF EVIDENCE.—Section 1101(d)(3) of the Federal Rules of Evidence is amended by striking "; and proceedings with respect to release on bail or otherwise" and inserting ", proceedings with respect to release on bail or otherwise; and proceedings under section 2232c(c)(3) of title 18, United States Code (except that the rules with respect to privilege under subsection (c) of this section also shall apply).".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by striking the item relating to section 2332b and inserting the following:

"2332c. Use and stockpiling of chemical weapons.".

Subtitle B—International Terrorism

SEC. 321. MULTILATERAL SANCTIONS.

(a) Policy on Establishment of Sanctions Regimes.—

(1) Policy.—Congress urges the President to commence immediately after the date of enactment of this Act diplomatic efforts, in appropriate international fora (including the United Nations) and bilaterally, with allies of the United States, to establish, as appropriate, a multilateral sanctions regime against each country that the Secretary of State determines under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly provided support for acts of international terrorism.

(2) Report.—The President shall include in the annual report on patterns of global terrorism prepared under section 143 a description of the extent to which the diplomatic efforts referred to in paragraph (1) have been carried out and the degree of success of those efforts.

(b) Action Plans for Designated Terrorist Nations.—The President shall provide to Congress as a part of each report on patterns of global terrorism prepared under section 143 a plan of action (to be known as an "action plan") for inducing each country referred to in paragraph (1) to cease the support of that country for acts of international terrorism.

SEC. 322. INFORMATION ON COOPERATION WITH UNITED STATES ANTITERRORISM EFFORTS IN ANNUAL COUNTRY REPORTS ON TERRORISM.

Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following:

"(3) with respect to each foreign country from which the United States Government has sought cooperation during the preceding 5-year period in the investigation or prosecution of an act of international terrorism against United States citizens or interests, information on—

"(A) the extent to which the government of the foreign country is cooperating with the United States Government in apprehending, convicting, and punishing each individual responsible for the act; and

"(B) the extent to which the government of the foreign country is cooperating in preventing further acts of terrorism against United States citizens in the foreign country; and

"(4) with respect to each foreign country from which the United States Government has sought cooperation during the preceding 5-year period in the prevention of an act of international terrorism against such citizens or interests, the information described in paragraph (3)(B)."; and

(2) in subsection (c)—

(A) by striking "The report" and inserting the following:

"(1) In general.—Except as provided in paragraph (2), the report";

(B) by adding at the end the following:

"(2) Classified form.—If the Secretary of State determines that the transmittal of the information under paragraph (3) or (4) of subsection (a) in classified form with respect to a foreign country would increase the likelihood of cooperation of the government of the foreign country (as specified in that paragraph), the Secretary may transmit the information under that paragraph in classified form.".

SEC. 323. REPORT ON INTERNATIONAL TERRORISM.

(a) Annual Report.—Not later than 60 days after the date of enactment of this Act, and annually thereafter, at the same time as the Secretary of State submits the report required by section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), the Secretary of State, in consultation with the Director of Central Intelligence, shall submit, in classified and unclassified versions, to the Speaker and the Minority Leader of the House of Representatives, the Majority Leader and the Minority Leader of the Senate, the chairman and the ranking minority member of the Committee on International Relations of the House of Representatives, and the chairman and the ranking minority member of the Committee on Foreign Relations of the Senate a report that includes—

(1) an assessment of—

(A) the magnitude of the anticipated threat from international terrorism to United States interests, persons, and property in the United States and abroad, including the names and background of major terrorist groups and the leadership of those groups;

(B) the sources of financial and logistical support of the groups;

(C) the nature and scope of the human and technical infrastructure;

(D) the goals, doctrine, and strategies of the groups;

(E) the quality and type of education and training of the groups;

(F) the level of advancement of the groups;

(G) the bases of operation and training of the groups;

(H) the operational capabilities of the groups;

(I) the bases of recruitment of the groups;

(J) the linkages with governmental and nongovernmental actors (such as ethnic groups, religious communities, or criminal organizations) of the groups; and

(K) the intent and capability of each of the groups to access and use weapons of mass destruction;

(2) a detailed assessment of any country that provided support of any type for international terrorism, terrorist groups, or individual terrorists, including any country with respect to which the government of that country knowingly allowed terrorist groups or individuals to transit or reside in the territory of that country, without regard to whether terrorist acts were committed by the terrorist groups or individuals in that territory;

(3) a detailed assessment of efforts of individual countries to take effective action against countries that the Secretary of State determines under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly supported acts of international terrorism, including the status of—

(A) compliance with international sanctions; and

(B) bilateral economic relations; and

(4)(A) a detailed assessment of efforts of the United States Government to carry out this section; and

(B) an identification of any failure or insufficient action on the part of the Government to carry out this section.

(b) Content of Assessments.—An assessment under subsection (a)(1) shall—

(1) characterize the quality of the information that supports the assessment and identify areas that require enhanced information; and

(2) identify and analyze potential vulnerabilities of terrorist groups that could serve to guide the development of governmental policy.

(c) Submission to the Commission on Terrorism.—During the period that the National Commission on Terrorism established under section 341 is operating, the President shall submit a property of each report prepared under subsection (a).

SEC. 324. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.

(a) In General.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows:

"SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM.

"(a) Establishment.—

"(1) In general.—The Secretary of State shall establish a program for the payment of rewards by the Secretary in accordance with this section.

"(2) Consultation.—The rewards program established under paragraph (1) shall be administered by the Secretary of State, in consultation (as appropriate), with the Attorney General.

"(b) Rewards Program.—

"(1) The rewards program established under subsection (a)(1) shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, and other related criminal acts.

"(2) At the sole discretion of the Secretary of State and in consultation, as appropriate, with the Attorney General, the Secretary of State may pay a reward to any individual who furnishes information leading to—

"(A) the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a person or property;

"(B) the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

"(C) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

"(i) a violation of United States narcotics laws which is such that the individual would be a major violator of such laws;

"(ii) the killing or kidnapping of—

"(I) any officer, employee, or contract employee of the United States Government while that individual is engaged in official duties, or on account of the performance of official duties of that individual, in connection with—

"(aa) the enforcement of United States narcotics laws; or

"(bb) the implementation of United States narcotics control objectives; or

"(II) a member of the immediate family of any individual described in subclause (I) on account of the official duties of that individual in connection with—

"(aa) the enforcement of United States narcotics laws; or

"(bb) the implementation of United States narcotics control objectives; or

"(iii) an attempt or conspiracy to commit any act described in clause (i) or (ii);

"(D) the arrest or conviction in any country of any individual who aids or abets in the commission of an act described in subparagraph (A), (B), or (C); or

"(E) the prevention, frustration, or favorable resolution of an act described in subparagraph (A), (B), or (C).

"(c) COORDINATION.—

"(1) IN GENERAL.—To ensure that the payment of rewards under this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized for the Department of Justice, the offering, administration, and payment of rewards under this section shall be conducted in accordance with procedures that the Secretary of State, in consultation with the Attorney General, shall establish.

"(2) CONTENTS OF PROCEDURES.—The procedures referred to in paragraph (2) shall include procedures for—

"(A) identifying individuals, organizations, and offenses with respect to which rewards are to be offered;

"(B) the publication of rewards;

"(C) the offering of joint rewards with the governments of foreign countries;

"(D) the receipt and analysis of data; and

"(E) the payment and approval of payment.

"(3) CONSULTATION WITH ATTORNEY GENERAL.—Before making a reward under this section in a matter subject to Federal criminal jurisdiction, the Secretary of State shall advise and consult with the Attorney General.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 408), and subject to paragraph (2), there are authorized to be appropriated to the Department of State such sums as may be necessary to carry out this section.

"(2) LIMITATION.—No amount of funds may be appropriated to the Department of State for the purpose specified in paragraph (1) in excess of the difference between $15,000,000 and the amount of unobligated funds available for that purpose to the Secretary of State for the fiscal year involved.

"(3) DISTRIBUTION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section shall be distributed in equal amounts for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

"(4) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization under paragraph (1) are authorized to remain available until expended.

"(e) LIMITATION AND CERTIFICATION.—

"(1) LIMITATION.—A reward made under this section by the Secretary of State may not exceed $5,000,000.

"(2) APPROVAL OF PRESIDENT OR SECRETARY OF STATE.—A reward under this section in an amount greater than $100,000 may not be made under the program under this section without the approval of the President or the Secretary of State.

"(3) APPROVAL OF SECRETARY OF STATE.—Any reward granted under the program under this section shall be approved and certified for payment by the Secretary of State.

"(4) PROHIBITION.—Neither the President nor the Secretary of State may delegate the authority under paragraph (2) to any other officer or employee of the United States Government.

"(5) PROTECTION.—If the Secretary of State determines that it is necessary to protect the identity of the recipient of a reward or of the members of the recipient's immediate family, the Secretary may take such measures in connection with the payment of the reward as the Secretary considers necessary to effect that protection.

"(f) INELIGIBILITY.—An officer or employee of any governmental entity who, while in the performance of the official duties of that officer, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

"(g) REPORTS.—

"(1) IN GENERAL.—

"(A) POST-AWARD REPORT.—Not later than 30 days after the payment of any reward under this section, the Secretary of State shall submit a report to the appropriate congressional committees with respect to that reward.

"(B) CLASSIFIED FORM.—If necessary, a report under subparagraph (A) may be submitted in classified form.

"(C) CONTENT OF REPORT.—A report submitted under subparagraph (A) shall specify—

"(i) the amount of the reward paid;

"(ii) the recipient of the reward;

"(iii) the acts related to the information for which the reward was paid; and

"(iv) the significance of the information for which the reward was paid in dealing with the acts described under clause (iii).

"(2) ANNUAL REPORT.—

"(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the Secretary of State shall submit a report to the appropriate congressional committees concerning the operation of the rewards program under this section.

"(B) CONTENTS OF REPORTS.—Each report under subparagraph (A), shall provide information concerning—

"(i) the total amounts expended during the fiscal year that is the subject of the report to carry out this section, including amounts spent to publicize the availability of rewards; and

"(ii) all requests made for the payment of rewards under this section, including the reasons for the denial of any such request.

"(h) DEFINITIONS.—In this section:

"(1) ACT OF INTERNATIONAL TERRORISM.—The term 'act of international terrorism' includes—

"(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as that term is defined in section 830(8) of the Nuclear Proliferation Prevention Act of 1994 (108 Stat. 521)) or any nuclear explosive device (as that term is defined in section 830(4) of that Act (108 Stat. 521)) by an individual, group, or non-nuclear weapon state (as that term is defined in section 830(5) of that Act (108 Stat. 521));

"(B) any act, as determined by the Secretary of State, that materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined under section 6(j) of the Export Administration Act of 1979; and

"(C) any act that would be a violation of chapter 113B of title 18, United States Code, relating to terrorism.

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(3) MEMBER OF THE IMMEDIATE FAMILY.—The term 'member of the immediate family' includes—

"(A) a spouse, parent, brother, sister, or child of the individual;

"(B) a person to whom the individual stands in loco parentis; and

"(C) any other person living in the individual's household and related to the individual by blood or marriage.

"(4) UNITED STATES NARCOTICS LAWS.—The term 'United States narcotics laws' means the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))).

"(i) JUDICIAL REVIEW.—A determination made by the Secretary of State concerning whether to authorize a reward under this section, or the amount of a reward, shall not be subject to judicial review.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of State should pursue additional means of funding the program established by section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708), including the authority—

(1) to seize and dispose of assets used in the commission of any offense under sections 1028, 1541 through 1544, and 1546 of title 18, United States Code;

(2) to retain the proceeds derived from the disposition of the assets referred to in paragraph (1);

(3) to participate in asset-sharing programs conducted by the Department of Justice; and

(4) to retain earnings accruing on all assets of foreign countries blocked by the President pursuant to the International Emergency Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of section 36 of the State Department Basic Authorities Act of 1956.

Subtitle C—Commissions and Studies

SEC. 331. NATIONAL COMMISSION ON TERRORISM.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Terrorism" (in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 11 members, appointed from persons specially qualified by training and experience to perform the duties of the Commission, of whom—

(i) 3 shall be appointed by the Speaker of the House of Representatives, and 1 shall be appointed by the Minority Leader of the House of Representatives;

(ii) 3 shall be appointed by the Majority Leader of the Senate, and 1 shall be appointed by the Minority Leader of the Senate; and

(iii) 3 shall be appointed by the President.

(B) TIMING OF APPOINTMENTS.—The appointing authorities shall make their appointments to the Commission not later than 45 days after the date of enactment of this Act.

(2) DESIGNATION OF THE CHAIRPERSON AND VICE CHAIRPERSON.—The Majority Leader of the Senate, in consultation with Speaker of the House of Representatives, shall designate a chairperson from the members of the Commission (in this section referred to as the "Chairperson"). The Speaker of the House of Representatives and the Majority Leader of the Senate shall jointly designate a vice chairperson from the members of the Commission (in this section referred to as the "Vice Chairperson").

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in Commission membership shall not affect the exercise of the Commission's powers, and shall be filled in the same manner as the original appointment.

(c) MEETINGS.—

(1) IN GENERAL.—Not later than 60 days after the date on which all initial members of the Commission are appointed under subsection (b), the Commission shall hold its initial meeting. Each subsequent meeting of the Commission shall be held at the call of the Chairperson.

(2) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) SECURITY CLEARANCES.—Appropriate security clearances shall be required for each member of the Commission. Each such clearance shall—

(1) be processed and completed on an expedited basis by appropriate elements of the executive branch of the Federal Government; and

(2) to the extent practicable, be completed not later than 90 days after the date on which the member is appointed.

(e) APPLICATION OF CERTAIN PROVISIONS OF LAW.—

(1) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.), and the regulations issued pursuant to that Act, shall not apply to the Commission.

(2) FREEDOM OF INFORMATION ACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), shall not apply to the Commission.

(B) EXCEPTIONS.—Records of the Commission shall be subject to chapters 21 through 31 of title 44, United States Code. Any such record that is transferred to the National Archives and Records Agency shall not be exempt from section 552 of title 5, United States Code.

(f) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall—

(A) prepare and transmit the reports described in paragraph (2);

(B) examine the long-term strategy of the Federal Government in addressing the threat of international terrorism, including intelligence capabilities, international cooperation, military responses, and technological capabilities;

(C) examine the efficacy and appropriateness of efforts of the Federal Government to prevent, detect, investigate, and prosecute acts of terrorism, including—

(i) the coordination of counter terrorism efforts among Federal departments and agencies, and coordination by the Federal Government of law enforcement with State and local law enforcement entities in responding to terrorist threats and acts;

(ii) the ability and utilization of counterintelligence or counterterrorism efforts to infiltrate and disable or disrupt international terrorist organizations and the activities of those organizations;

(iii) the impact of Federal immigration laws and policies on acts of terrorism transcending national boundaries;

(iv) the effectiveness of regulations and practices in effect at the time of the examination relating to civil aviation safety and security to prevent acts of terrorism, including a study of—

(I) the desirability of assigning, on a permanent basis, personnel of the Federal Bureau of Investigation at high-risk airports; and

(II) the practicality and desirability of transferring authority for United States airport security to an entity other than the Federal Aviation Administration;

(v) the extent and effectiveness of present cooperative efforts with foreign nations to prevent, detect, investigate, and prosecute acts of terrorism; and

(vi)(I) the impact on counterterrorism efforts in use at the time of the examination attributable to the failure to expend and utilize resources made available, and authority delegated by law for the implementation of enhanced counter terrorism activities; and

(II) the reasons why the resources referred to in subclause (I) have not been expended in a timely manner; and

(D) examine all laws (including statutes and regulations) relating to—

(i) the collection and dissemination of personal information concerning individuals by law enforcement or other governmental entities; and

(ii) the necessity for additional protections to prevent and deter the inappropriate collection and dissemination of the information referred to in clause (i).

(2) REPORTS.—

(A) INITIAL REPORT.—Not later than 2 months after the date on which the initial meeting of the Commission is held, the Commission shall transmit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for the work of the Commission.

(B) INTERIM REPORTS.—Prior to the submission of the report under subparagraph (C), the Commission may issue such interim reports as the Commission determines to be necessary or appropriate.

(C) FINAL REPORT.—

(i) IN GENERAL.—

(I) SUBMISSION.—Not later than January 31, 1999, the Commission shall submit to the President and to the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives, a report that describes the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable.

(II) AVAILABILITY OF REPORT.—To the extent feasible, the final report shall be unclassified and made available to the public. The report shall be supplemented as necessary by a classified report or annex that shall be provided separately to the President and the committees of the Congress listed in subclause (I).

(ii) PROTECTION OF INDIVIDUALS.—Prior to the submission of a report under this paragraph—

(I) the Commission shall forward a draft of the report to the Director of Central Intelligence; and

(II) the Director of Central Intelligence shall—

(aa) review the report to ensure that disclosure of its contents will not endanger the life or safety of any person; and

(bb) upon completion of the review, promptly provide conclusions and recommendations to the Commission.

(g) POWERS.—

(1) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out the responsibilities of the Commission under this section. Upon request of the Chairperson, the head of any such department or agency expeditiously shall furnish such information to the Commission, unless the head of the department or agency determines that providing such information would threaten national security, the health or safety of any individual, or the integrity of an ongoing investigation or prosecution.

(3) POSTAL, PRINTING, AND BINDING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) SUBCOMMITTEES.—

(A) IN GENERAL.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the duties of the Commission.

(B) ACTIONS OF PANELS.—The actions of each such panel shall be subject to the review and control of the Commission.

(C) FINDINGS AND DETERMINATIONS OF PANEL.—Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(5) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this section.

(h) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not otherwise employed by the Federal Government shall be paid, if requested, at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. Each Federal officer or member of the Commission who is otherwise an officer or employee of the Federal Government (including any Member of Congress or member of the Federal Judiciary) shall serve without compensation in addition to that received for services as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—

(i) IN GENERAL.—The Chairperson may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties.

(ii) STAFF DIRECTOR.—The staff director of the Commission shall be a representative of the private sector. The appointment shall be subject to the approval of the Commission as a whole.

(B) COMPENSATION.—The Chairperson may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(i) the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title; and

(ii) the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Chairperson, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(i) PAYMENT OF COMMISSION EXPENSES.—The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid equally out of funds available to the Attorney General, the Secretary of Defense, and the Secretary of State for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Department of Justice, the Department of Defense, and the Department of State.

(j) TERMINATION OF THE COMMISSION.—The Commission shall terminate 1 month after the date on which the final report is submitted under subsection (f)(2)(C).

TITLE IV—COMMUNITY PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Community Protection Initiative of 1997".

Subtitle A—Law Enforcement Assistance

SEC. 411. EXEMPTION OF QUALIFIED CURRENT AND FORMER LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

"§ 926B. Carrying of concealed firearms by qualified current and former law enforcement officers

"(a) IN GENERAL.—Notwithstanding any provision of the law of any State or any political subdivision of a State, an individual may carry a concealed firearm if that individual is—

"(1) a qualified law enforcement officer or a qualified former law enforcement officer; and

"(2) carrying appropriate written identification.

"(b) EFFECT ON OTHER LAWS.—

"(1) COMMON CARRIERS.—Nothing in this section shall be construed to exempt from section 46505(B)(1) of title 49—

"(A) a qualified law enforcement officer who does not meet the requirements of section 46505(D) of title 49; or

"(B) a qualified former law enforcement officer.

"(2) FEDERAL LAWS.—Nothing in this section shall be construed to supersede or limit any Federal law or regulation prohibiting or restricting the possession of a firearm on any Federal property, installation, building, base, or park.

"(3) STATE LAWS.—Nothing in this section shall be construed to supersede or limit the laws of any State that—

"(A) grant rights to carry a concealed firearm that are broader than the rights granted under this section;

"(B) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(C) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(4) DEFINITIONS.—In this section:

"(A) APPROPRIATE WRITTEN IDENTIFICATION.—The term 'appropriate written identification' means, with respect to an individual, a document that—

"(i) was issued to the individual by the public agency with which the individual serves or served as a qualified law enforcement officer; and

"(ii) identifies the holder of the document as a current or former officer, agent, or employee of the agency.

"(B) QUALIFIED LAW ENFORCEMENT OFFICER.—The term 'qualified law enforcement officer' means an individual who—

"(i) is presently authorized by law to engage in or supervise the prevention, detection, or investigation of any violation of criminal law;

"(ii) is authorized by the agency to carry a firearm in the course of duty;

"(iii) meets any requirements established by the agency with respect to firearms; and

"(iv) is not the subject of a disciplinary action by the agency that prevents the carrying of a firearm.

"(C) QUALIFIED FORMER LAW ENFORCEMENT OFFICER.—The term 'qualified former law enforcement officer' means, an individual who is—

"(i) retired from service with a public agency, other than for reasons of mental disability;

"(ii) immediately before such retirement, was a qualified law enforcement officer with that public agency;

"(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

"(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

"(v) meets the requirements established by the State in which the individual resides with respect to—

"(I) training in the use of firearms; and

"(II) carrying a concealed weapon; and

"(vi) is not prohibited by Federal law from receiving a firearm.

"(D) FIREARM.—The term 'firearm' means, any firearm that has, or of which any component has, traveled in interstate or foreign commerce.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926A the following:

"926B. Carrying of concealed firearms by qualified current and former law enforcement officers.".

Subtitle B—Citizens' Assistance

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Citizens' Assistance Act of 1997".

SEC. 422. AUTHORIZATION TO ENTER INTO INTERSTATE COMPACTS.

(a) IN GENERAL.—The consent of Congress is hereby given to any 2 or more States—

(1) to enter into compacts or agreements for cooperative effort in enabling individuals to carry concealed weapons as dictated by laws of the State within which the owner of the weapon resides and is authorized to carry a concealed weapon; and

(2) to establish agencies or guidelines as they may determine to be appropriate for making effective such agreements and compacts.

(b) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal this section is hereby expressly reserved by Congress.

SEC. 423. AUTHORIZED USES OF FEDERAL GRANT FUNDS.

(a) IN GENERAL.—Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (25), by striking "and" at the end;

(2) in paragraph (26), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(27) at the discretion of State or local law enforcement authorities, to train members of the public in the safe possession, ownership, handling, carry, and use of firearms, including handguns.".

(b) EVALUATING DATA BAN.—Section 501(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(c)) is amended—

(1) by striking "Each" and inserting the following:

"(1) IN GENERAL.—Each";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) adding at the end the following:

"(2) COLLECTION AND USE OF DATA.—

"(A) IN GENERAL.—As a part of any evaluation required by paragraph (1) or otherwise, the Attorney General may not require the collection, and a grant recipient may not undertake any collection, of any data about any person who participates in any program funded under this section for the purpose of training members of the public in the safe possession, ownership, handling, carry, and use of firearms, including handguns, other than data necessary to determine whether such a member lawfully may possess a firearm.

"(B) DESTRUCTION OF DATA.—Any data described in subparagraph (A) shall be destroyed by any party in possession of that data not later than 7 days after the date on which it is collected or once a member of the public receives the training offered, whichever comes first.".

SEC. 424. SELF DEFENSE FOR VICTIMS OF ABUSE.

Section 922(s)(1)(B) of title 18, United States Code, is amended—

(1) by striking "the transferee has" and inserting "the transferee—

"(i) has"; and

(2) by adding at the end the following: "or

"(ii) is named as a person protected under a court order described in subsection (g)(8).".

TITLE V—CRIMINAL PROCEDURE IMPROVEMENTS

Subtitle A—Equal Protection for Victims

SEC. 501. THE RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 10 peremptory challenges".

SEC. 502. JURY TRIAL IMPROVEMENTS.

(a) JURIES OF 6.—

(1) IN GENERAL.—Rule 23(b) of the Federal Rules of Criminal Procedure is amended—

(A) by striking "JURY OF LESS THAN TWELVE. JURIES" and inserting the following:

"(b) NUMBER OF JURORS.—

"(1) IN GENERAL.—Except as provided in subsection (2), juries"; and

(B) by adding at the end the following:

"(2) JURIES OF 6.—Juries may be of 6 upon request in writing by the defendant with the approval of the court and the consent of the government.".

(2) ALTERNATE JURORS.—Rule 24(c) of the Federal Rules of Criminal Procedure is amended by inserting after the first sentence the following: "In the case of a jury of 6, the court shall direct that not more than 3 jurors in addition to the regular jury be called and impanelled to sit as alternate jurors.".

(b) CAPITAL CASES.—Section 3593(b) of title 18, United States Code, is amended by striking the last sentence and inserting the following: "A jury impanelled pursuant to paragraph (2) may be made of 6 upon request in writing by the defendant with the approval of the court and the consent of the government. Otherwise, such jury shall be made of 12, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.".

SEC. 503. REBUTTAL OF ATTACKS ON THE CHARACTER OF THE VICTIM.

Rule 404(a)(1) of the Federal Rules of Evidence is amended by inserting before the semicolon the following: ", or, if an accused offers evidence of a pertinent trait of character of the victim of the crime, evidence of a pertinent trait of character of the accused offered by the prosecution".

SEC. 504. USE OF NOTICE CONCERNING RELEASE OF OFFENDER.

Section 4042(b) of title 18, United States Code, is amended by striking paragraph (4).

SEC. 505. BALANCE IN THE COMPOSITION OF RULES COMMITTEES.

Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following: "On each such committee that makes recommendations concerning rules that affect criminal cases, including the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, the Rules Governing Section 2254 Cases, and the Rules Governing Section 2255 Cases, the number of members who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases."; and

(2) in subsection (b), by adding at the end the following: "The number of members of the standing committee who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases.".

Subtitle B—Firearms

SEC. 521. MANDATORY MINIMUM SENTENCES FOR CRIMINALS POSSESSING FIREARMS.

Section 924(c) of title 18, United States Code, is amended—

(1) by striking "(c)" and all that follows through "(2)" and inserting the following:

"(c) POSSESSION OF FIREARM DURING COMMISSION OF CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—

"(1) TERM OF IMPRISONMENT.—

"(A) IN GENERAL.—Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses, carries, or possesses a firearm shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(i) be sentenced to a term of imprisonment of not less than 5 years;

"(ii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years; and

"(iii) if the death of any person results, be sentenced to a term of imprisonment for life or sentenced to death.

"(B) EXCEPTION FOR CERTAIN OFFENSES.—If the firearm possessed by a person convicted of a violation of this subsection—

"(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be—

"(I) sentenced to a term of imprisonment of not less than 10 years; and

"(II) if the death of any person results, sentenced to a term of imprisonment for life or sentenced to death; and

"(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be—

"(I) sentenced to a term of imprisonment of not less than 30 years; and

"(II) if the death of any person results, sentenced to a term of imprisonment for life or sentenced to death.

"(C) EXCEPTION FOR CERTAIN OFFENDERS.—In the case of a second or subsequent conviction under this subsection, a person shall be sentenced to a term of imprisonment for life.

"(D) PROBATION AND CONCURRENT SENTENCES.—Notwithstanding any other provision of law—

"(i) a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection; and

"(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

"(2) DEFINITION OF 'DRUG TRAFFICKING CRIME'.—"; and

(2) in paragraph (3)—

(A) by striking "(3) For" and inserting the following:

"(3) DEFINITION OF 'CRIME OF VIOLENCE'.—For"; and

(B) by indenting each of subparagraphs (A) and (B) 2 ems to the right.

SEC. 522. FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the period the following: ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony (as defined in subsection (e)(2)(B)) or a serious drug offense (as defined in subsection (e)(2)(A)), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 10 years"; and

(2) by adding at the end the following:

"(o)(1) Notwithstanding paragraph (2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B)) or a serious drug offense (as defined in subsection (e)(2)(A)) committed on different occasions shall be fined as provided in this title, imprisoned not less than 20 years.

"(2) Notwithstanding any other law, the court shall not grant a probationary sentence to a person described in paragraph (1) with respect to the conviction under section 922(g).".

SEC. 523. USE OF FIREARMS IN CONNECTION WITH COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by inserting "or during and in relation to any felony punishable under chapter 25," after "United States,".

SEC. 524. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

Section 844(h) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) by striking "used or carried" and inserting "used, carried, or possessed".

SEC. 525. SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "10" and inserting "20".

SEC. 526. INCREASED PENALTIES FOR INTERNATIONAL DRUG TRAFFICKING.

(a) IN GENERAL.—Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by adding at the end the following:

"(e)(1) Notwithstanding any other provision of law, the court shall sentence a person convicted of a violation of subsection (a), consisting of bringing into the United States a mixture or substance—

"(A) which is described in subsection (b)(1); and

"(B) in an amount the Attorney General by rule has determined is equal to 100 usual dosage amounts of such mixture or substance;

to imprisonment for life without possibility of release. If the defendant has violated this subsection on more than one occasion and the requirements of chapter 228 of title 18, United States Code, are satisfied, the court shall sentence the defendant to death.

"(2) The maximum fine that otherwise may be imposed, but for this subsection, shall not be reduced by operation of this subsection."

(b) INCLUSION OF OFFENSE.—Section 3591(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the comma at the end of paragraph (2) and inserting "; or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following:

"(3) an offense described in section 1010(e)(1) of the Controlled Substances Import and Export Act;"

(c) ADDITIONAL AGGRAVATING FACTOR.—Section 3592(d) of title 18, United States Code, is amended by inserting after paragraph (8) the following:

"(9) SECOND IMPORTATION OFFENSE.—The offense consisted of a second or subsequent violation of section 1010(a) of the Controlled Substances Import and Export Act consisting of bringing a controlled substance into the United States.".

Subtitle C—Federal Death Penalty

SEC. 541. STRENGTHENING OF FEDERAL DEATH PENALTY STANDARDS AND PROCEDURES.

(a) AMENDMENTS TO CHAPTER 228.—Chapter 228 of title 18, United States Code, is amended—

(1) in section 3592(c), by striking paragraph (2) and inserting the following:

"(2) INVOLVEMENT OF A FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING A FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.";

(2) in section 3593—

(A) in subsection (a)—

(i) in the heading, by inserting "AND THE DEFENDANT" after "GOVERNMENT";

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(iii) by striking "If, in a case" and inserting the following:

"(1) IN GENERAL.—If, in a case";

(iv) by designating the matter immediately following subparagraph (B), as redesignated, as paragraph (3), and indenting appropriately;

(v) by inserting after paragraph (1) as redesignated, the following:

"(2) NOTICE OF ANY MITIGATING FACTORS.—The defendant shall, during a reasonable period of time before a hearing under subsection (b), sign and file with the court a notice setting forth the mitigating factor or factors, if any, upon which the defendant intends to present information at the hearing."; and

(vi) in paragraph (3), as redesignated—

(I) by inserting "by the attorney for the Government" after "this subsection";

(II) by striking ", and may include" and all that follows through "relevant information";

(III) by inserting "or the defendant" after "permit the attorney for the government"; and

(IV) by inserting "under this subsection" after "to amend the notice".

(B) in subsection (c)—

(i) in the fourth sentence, by inserting "for which notice has been provided under subsection (a)" after "The defendant may present any information relevant to a mitigating factor"; and

(ii) by inserting after the fifth sentence the following: "The information presented by the government in support of factors concerning the effect of the offense on the victim and the family of the victim may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the family of the victim, and any other relevant information."; and

(C) in subsection (e), by striking "shall consider" and all that follows through "lesser sentence." and inserting "shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds not less than 1 aggravating factor and no mitigating factor or if it finds one or more aggravating factors that outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and shall make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factor or factors, but that the final decision whether any evidence, in fact, is aggravating or mitigating and concerning the balance of aggravating and mitigating factors is a matter for the judgment of the jury."; and

(3) in section 3595(c)(2), by striking the last sentence.

(b) UNIFORMITY OF PROCEDURES.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by striking subsections (g) through (p), (q) (1) through (3), and (r); and

(2) in subsection (q) by—

(A) redesignating paragraphs (4) through (10) as paragraphs (1) through (7), respectively; and

(B) inserting "(g)" before "(1)" as redesignated.

(c) DEATH DURING COMMISSION OF ANOTHER CRIME.—Section 3592(c)(1) of title 18, United States Code, is amended by striking "of, or during the immediate flight from the commission of," and inserting "of a felony, or during the immediate flight from the commission of a felony, including".

(d) AGGRAVATING FACTORS.—Section 3592(c) of title 18, United States Code, is amended by inserting immediately after paragraph (15) the following:

"(16) OTHER CIRCUMSTANCES.—With regard to the capital offense—

"(A) the victim was a custodial parent or legal guardian of a child who was less than 18 years of age;

"(B) the offense was committed by a person imprisoned as a result of a felony conviction;

"(C) the offense was committed for the purpose of disrupting or hindering the lawful exercise of any government or political function;

"(D) the victim was found to have been murdered due to the association of the victim with a particular group, gang, organization, or other entity;

"(E) the offense was committed by a person lawfully or unlawfully at liberty after being sentenced to imprisonment as a result of a felony conviction;

"(F) the offense was committed by means of a destructive device, bomb, explosive, or similar device that the defendant planted, hid, or concealed in any place, area, dwelling, building, or structure, or mailed or delivered, or caused to be planted, hidden, concealed, mailed, or delivered, and the defendant knew that the actions of the defendant would create a great risk of death to human life;

"(G) the offense was committed for the purpose of avoiding or preventing an arrest or effecting an escape from custody;

"(H) the victim was a current or former judge or judicial officer of any civilian, military, or tribal court of record in the United States or the territories of the United States, a law enforcement officer or official, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the official duties of the victim;

"(I) the defendant has been convicted of more than one offense of murder in the first or second degree either in the proceeding at bar or as the result of any prior proceeding;

"(J) the victim was a witness or a relative of a witness—

"(i) to a crime who was intentionally killed for the purpose of preventing the testimony of any person in any judicial or administrative proceeding, and the killing was not committed during the commission or attempted commission of the crime to which the testimony would be relevant; or

"(ii) in a judicial or administrative proceeding and was intentionally killed in retaliation for the testimony of any person in such proceeding;

"(K) the victim was an elected or appointed official or former official of the Federal, State, local, or tribal government, or a relative of such an official, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the official duties of the victim;

"(L) the defendant intentionally killed the victim while lying in wait;

"(M) the victim was intentionally killed because of the race, color, gender, religion, nationality, or country of origin of the victim;

"(N) the victim was a juror in any court of record in the Federal, State, or local system in any State or judicial district, and the murder was intentionally carried out in retaliation for, or to prevent the performance of the official duties of the victim;

"(O) the murder was intentional and was perpetrated by means of discharging a firearm from a motor vehicle, whether or not the motor vehicle was moving, intentionally at another person or persons outside the vehicle;

"(P) the murder was committed against a person who was held or otherwise detained as a shield or hostage;

"(Q) the murder was committed against a person who was held or detained by the defendant for ransom or reward;

"(R) the defendant caused or directed another to commit murder or committed murder as an agent or employee of another person;

"(S) the victim was pregnant;

"(T) the victim was handicapped or severely disabled;

"(U) the victim was a child 16 years of age or younger;

"(V) at the time of the killing, the victim, or a relative of the victim, was or had been a nongovernmental informant or had otherwise provided any investigative, law enforcement, or police agency with information concerning criminal activity, and the killing was in retaliation for the activities of any person as a nongovernmental informant or in providing information concerning criminal activity to an investigative, law enforcement, or police agency;

"(W) the murder was committed for the purpose of interfering with the free exercise or enjoyment by the victim of any right, privilege, or immunity protected by the first amendment to the Constitution of the United States or because the victim exercised or enjoyed said right; and

"(X) the victim was employed in a jail, correctional facility, or halfway house, and was murdered while in the lawful performance of the duties of the victim or in retaliation for the lawful performance of the duties of the victim.".

SEC. 542. MURDER OF WITNESS AS AGGRAVATING FACTOR.

Section 3592(c)(1) of title 18, United States Code, is amended by inserting "section 1512 (witness tampering), section 1513 (retaliation against witness)," after "(hostage taking),".

SEC. 543. DEATH PENALTY FOR MURDERS COMMITTED IN THE DISTRICT OF COLUMBIA.

(a) In General.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1123. Capital punishment for murders in the District of Columbia

"(a) Offense.—It shall be unlawful to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) Federal Jurisdiction.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death or the death occurs in the District of Columbia.

"(c) Penalty.—An offense described in this section is a class A felony. A sentence of death may be imposed for an offense described in this section as provided in this section. Sections 3591 and 3592 of this title shall apply in relation to capital sentencing for an offense described in this section.

"(d) Definitions.—In this section—

"(1) the term 'State' has the meaning stated in section 513;

"(2) the term 'offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of a state or the United States.

"(e) Other Charges.—If an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) Technical Amendment.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1123. Capital punishment for murders in the District of Columbia.".

TITLE VI—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

SEC. 601. TRAFFICKING IN METHAMPHETAMINE PENALTY INCREASES.

(a) Controlled Substances Act.—

(1) Large amounts.—Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

(A) striking "100 grams or more of methamphetamine," and inserting "50 grams or more of methamphetamine,"; and

(B) striking "1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(2) Smaller amounts.—Section 401(b)(1)(B)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

(A) striking "10 grams or more of methamphetamine," and inserting "5 grams or more of methamphetamine,"; and

(B) striking "100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "50 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(b) Import and Export Act.—

(1) Large amounts.—Section 1010(b)(1)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(H)) is amended by—

(A) striking "100 grams or more of methamphetamine," and inserting "50 grams or more of methamphetamine,"; and

(B) striking "1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(2) Smaller amounts.—Section 1010(b)(2)(H) of the Controlled Substances Import and Export Act (21 U.S.C.960(b)(2)(H)) is amended by—

(A) striking "10 grams or more of methamphetamine," and inserting "5 grams or more of methamphetamine,"; and

(B) striking "100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "50 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 602. REDUCTION OF SENTENCE FOR PROVIDING USEFUL INVESTIGATIVE INFORMATION.

Section 3553(e) of title 18, United States Code, section 994(n) of title 28, United State Code, and Rule 35(b) of the Federal Rules of Criminal Procedure are each amended by striking "substantial assistance in the investigation or prosecution of another person who has committed an offense" and inserting "substantial assistance in an investigation of any offense or substantial assistance in an investigation or prosecution of another person who has committed an offense".

SEC. 603. IMPLEMENTATION OF A SENTENCE OF DEATH.

(a) In General.—Section 3596(a) of title 18, United States Code, is amended—

(1) by striking "pursuant to this chapter"; and

(2) in the second sentence, by striking "in the manner" and all that follows through the end of the subsection and inserting "pursuant to regulations promulgated by the Attorney General.".

(b) Regulations.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall promulgate regulations to provide for the implementation of a sentence of death under section 3596 of title 18, United State Code.

(c) In General.—Section 3597 of title 18, United States Code, is amended—

(1) by striking the section designation and the section heading and inserting the following:

"§ 3597. Use of facilities and employees";

(2) by striking subsection (a) and inserting the following:

"(a) In General.—A United States marshal charged with supervising the implementation of a sentence of death shall use appropriate Federal facilities for that purpose."; and

(3) in subsection (b), by striking "any State department of corrections,".

(d) Technical Amendment.—The chapter analysis for chapter 228 of title 18, United States Code, is amended by striking item relating to section 3597 and inserting the following:

"3597. Use of facilities and employees.".

SEC. 604. LIMITATION ON DRUG ENFORCEMENT ADMINISTRATOR TENURE.

(a) In General.—The term of office of the Administrator of the Drug Enforcement Agency (as established by section 5(a) of the Reorganization Plan No. 2 of 1973 (5 U.S.C. App.)) shall be for not more than a single 10-year period.

(b) Applicability.—This section does not apply to the individual who is serving as the Administrator of the Drug Enforcement Agency on the date of enactment of this Act, unless that individual is reappointed to the position on or after the date of enactment of this Act.

SEC. 605. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by adding "or" at the end; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency, under Federal or State law, that, if committed by an adult, would be an offense described in clause (i) or (ii).".

SEC. 606. MANDATORY MINIMUM PRISON SENTENCES FOR PERSONS WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES OR SELL DRUGS TO MINORS.

(a) Employment of Persons Under 18 Years of Age.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by striking the second sentence and inserting the following: "Except to the extent that a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be not less than 10 years, and a term of imprisonment of a person between the ages of 18 and 21 convicted under this subsection shall be not less than 3 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c)—

(A) by striking "one year" and inserting "6 years";

(B) by inserting after the second sentence the following: "Except to the extent that a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(C) in the third sentence, by striking "Penalties" and inserting: "Except to the extent that a greater minimum sentence is otherwise provided, penalties".

(b) Mandatory Minimum Prison Sentences for Persons Convicted of Distribution of Drugs to Minors.—

(1) In general.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(A) in subsection (a)

(i) by striking "at least eighteen" and inserting "not less than 21";

(ii) by striking "twenty-one" and inserting "18";

(iii) by striking "not less than one year" and inserting "not less than 10 years"; and

(iv) by striking the last sentence;

(B) in subsection (b)—

(i) by striking "at least eighteen" and inserting "not less than 21";

(ii) by striking "twenty-one" and inserting "18";

(iii) by striking "not less than one year" and inserting "a mandatory term of life imprisonment"; and

(iv) by striking the last sentence; and

(C) in the section heading, by striking "TWENTY-ONE" and inserting "18".

(2) TECHNICAL AMENDMENT.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in the item relating to section 418 by striking "TWENTY-ONE" and inserting "18".

(c) PENALTIES FOR DRUG OFFENSES IN DRUG-FREE ZONES.—

(1) INCREASED PENALTIES.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(A) in subsection (a)—

(i) by striking "not less than one year" and inserting "not less than 5 years"; and

(ii) by striking the last sentence;

(B) in subsection (b), by striking "not less than three years" and inserting "not less than 10 years"; and

(C) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively.

SEC. 607. PENALTY INCREASES FOR TRAFFICKING IN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by inserting before the period at the end the following: "or, with respect to a violation of paragraph (1) or (2) of this subsection involving a list I chemical, if the government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals possessed or distributed, the penalty corresponding to the quantity of controlled substance that could have been produced under subsection (b)".

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended by inserting before the period at the end the following: ", or, with respect to an importation violation of paragraph (1) or (3) of this subsection involving a list I chemical, if the government proves the quality of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals imported, the penalty corresponding to the quantity of controlled substance that could have been produced under title II".

(c) DETERMINATION OF QUANTITY.—

(1) IN GENERAL.—For the purpose of this section and the amendments made by this section, the quantity of controlled substance that could reasonably have been provided shall be determined by using a table of manufacturing conversion ratios for list I chemicals.

(2) TABLE.—The table described in paragraph (1) shall be—

(A) established by the United States Sentencing Commission based on scientific, law enforcement, and other data the Sentencing Commission determines to be appropriate; and

(B) dispositive of this issue.

TITLE VII—COMBATING VIOLENCE AGAINST WOMEN AND CHILDREN

Subtitle A—General Reforms

SEC. 701. PARTICIPATION OF RELIGIOUS ORGANIZATIONS IN VIOLENCE AGAINST WOMEN ACT PROGRAMS.

Notwithstanding any other provision of law, religious organizations shall be eligible to participate in any grant program authorized pursuant to the Violence Against Women Act of 1994 (Title IV of Public Law 103–322) which allow for the participation of nongovernmental entities, programs, or agencies, or any private organizations. No Federal or State governmental agency receiving funds under any such program shall discriminate against an organization on the basis that the organization has a religious character. Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

SEC. 702. DOMESTIC VIOLENCE ARREST GRANTS.

Paragraph (20) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "fiscal year 1998" and inserting "for each of the fiscal years 1998 and 1999."

SEC. 703. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

Section 13971(c) of title 42 United States Code is amended by striking "fiscal year 1998" and inserting "for each of the fiscal years, 1998 and 1999."

SEC. 704. RUNAWAY, HOMELESS, AND STREET YOUTH ASSISTANCE GRANTS.

Section 319(c)(3) of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by striking "fiscal year 1998" and inserting "for each of the fiscal years 1998 and 1999".

Subtitle B—Domestic Violence

SEC. 711. DEATH PENALTY FOR FATAL INTERSTATE DOMESTIC VIOLENCE OFFENSES.

Sections 2261(b)(1) and 2262(b)(1) of title 18, United States Code, are each amended by inserting "or may be sentenced to death," after "years,".

SEC. 712. DEATH PENALTY FOR FATAL INTERSTATE VIOLATIONS OF PROTECTIVE ORDERS.

Section 2262 of title 18, United States Code, is amended by inserting "or may be sentenced to death," after "years,".

SEC. 713. EVIDENCE OF DISPOSITION OF DEFENDANT TOWARD VICTIM IN DOMESTIC VIOLENCE CASES AND OTHER CASES.

Rule 404(b) of the Federal Rules of Evidence is amended by striking "or absence of mistake or accident" and inserting "absence of mistake or accident, or a disposition toward a particular individual,".

SEC. 714. HIV TESTING OF DEFENDANTS IN SEXUAL ASSAULT CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following:

"§ 2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRETRIAL RELEASE DETERMINATION.—

"(1) IN GENERAL.—In a case in which a person is charged with an offense under this chapter, upon request of the victim, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that followup tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order.

"(2) TIMING.—The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible.

"(3) NO RELEASE FROM CUSTODY.—Any person upon whom a test is performed under this section—

"(A) shall not be released from custody until the test is performed; and

"(B) unless indigent, shall be responsible for paying for the test at the time the test is performed.

"(b) TESTING AT LATER TIME.—

"(1) IN GENERAL.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that followup tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim.

"(2) TIMING.—A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the completion of service of the sentence by the person.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of followup testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—

"(1) IN GENERAL.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court.

"(2) DISCLOSURE TO VICTIM.—The judicial officer or court shall ensure that the results are disclosed to the victim (or to the parent or legal guardian of the victim, as appropriate), the attorney for the government, and the person tested.

"(3) APPLICABILITY OF OTHER LAW.—Test results disclosed pursuant to this subsection shall be subject to section 40503(b) (5) through (7) of the Violent Crime Control Act of 1994 (42 U.S.C. 14011(b)).

"(4) COUNSELING.—Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling, unless the recipient does not wish to receive such counseling.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend the Federal sentencing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except if the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following:

"2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

(c) AMENDMENTS TO TESTING PROVISIONS.—Section 40503(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14011(b)) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) TESTING OF DEFENDANTS.—";

(2) in paragraph (1)—

(A) by inserting ", or the Government in such a case," after "subsection (a)";

(B) by inserting "(or to the parent or legal guardian of the victim, as appropriate)" after "communicated to the victim"; and

(C) by inserting ", unless the recipient does not wish to receive such counseling" after "counseling"; and

(3) in paragraph (2)—

(A) by striking "to obtain an order under paragraph (1), the victim must demonstrate that" and inserting "the victim or the Government may obtain an order under paragraph (1) by showing that";

(B) in subparagraph (A)—

(i) by striking "the offense" and inserting "a sexual assault involving alleged conduct that poses a risk of transmission of the etiologic agent for acquired immune deficiency syndrome"; and

(ii) by inserting "and" after the semicolon;

(C) in subparagraph (B), by striking "after appropriate counseling; and" and inserting a period; and

(D) by striking subparagraph (C).

TITLE VIII—VIOLENT CRIME AND TERRORISM

Subtitle A—Violent Crime and Terrorism

SEC. 801. AMENDMENTS TO ANTI-TERRORISM STATUTES.

(a) EXPLOSIVE MATERIALS.—Section 844(f)(1) of title 18, United States Code, is amended by inserting "or any institution or organization receiving Federal financial assistance" after "or agency thereof,"; and

(b) BIOLOGICAL WEAPONS.—(1) Section 178 of title 18, United States Code, is amended by—

(A) in paragraph (1), striking "means any microorganism, virus, or infectious substance, or biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product" and inserting "means any microorganism (including bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance";

(B) in paragraph (2), striking "means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including" and inserting "means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes"; and

(C) in paragraph (4), striking "recombinant molecule, or biological product that may be engineered as a result of biotechnology" and inserting "recombinant or synthesized molecule".

(2) Section 2332a of title 18, United States Code, is amended by—

(A) in subsection (a), striking ", including any biological agent, toxin, or vector (as those terms are defined in section 178)"; and

(B) in subsection (b)(2)(C), striking "disease organism" and inserting "any biological agent, toxin, or vector (as those terms are defined in section 178 of this title)".

SEC. 802. KIDNAPPING; DEATH OF VICTIM BEFORE CROSSING STATE LINE AS NOT DEFEATING PROSECUTION, AND OTHER CHANGES.

Section 1201(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (4); and

(2) by adding the following new paragraphs:

"(6) an individual travels in interstate or foreign commerce in furtherance of the offense; or

"(7) the mail or a facility in interstate or foreign commerce is used in furtherance of the offense;".

SEC. 803. EXPANSION OF SECTION 1959 OF TITLE 18 TO COVER COMMISSION OF ALL VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY AND INCREASED PENALTIES.

Section 1959(a) of title 18, United States Code, is amended—

(1) by inserting "or commits any other crime of violence" before "or threatens to commit a crime of violence against";

(2) in paragraph (4), by inserting "committing any other crime of violence or for" before "threatening to commit a crime of violence", and by striking "five" and inserting "ten";

(3) in paragraph (5) by striking "ten" and inserting "twenty";

(4) in paragraph (6) by striking "or" before "assault resulting in serious bodily injury,", by inserting "or any other crime of violence" after those same words, and by striking "three" and inserting "ten"; and

(5) by inserting "(as defined in section 1365 of this title)" after "serious bodily injury" the first place it appears.

SEC. 804. CONFORMING AMENDMENT TO CONSPIRACY PENALTY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(o) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (including the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844(n) of title 18, United States Code, is amended by striking "other than" and inserting "including".

SEC. 805. INCLUSION OF CERTAIN ADDITIONAL SERIOUS DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A)(ii) of title 18, United States Code, is amended by inserting before the semicolon the following: "or which, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) at the time of the offense and because of the type and quantity of the controlled substance involved, would have been punishable by a maximum term of imprisonment of ten years or more".

SEC. 806. INCREASED PENALTIES FOR VIOLENCE IN THE COURSE OF RIOT OFFENSES.

Section 2101(a) of title 18, United States Code, is amended by striking "Shall be fined under this title, or imprisoned not more than five years, or both" and inserting "Shall be fined under this title or (i) if death results from such act, be imprisoned for any term of years or for life, or both, or may be sentenced to death; (ii) if serious bodily injury (as defined in section 1365 of this title) results from such act, be imprisoned for not more than twenty years, or both; or (iii) in any other case, be imprisoned for not more than five years, or both".

SEC. 807. ELIMINATION OF UNJUSTIFIED SCIENTER ELEMENT FOR CARJACKING.

Section 2119 of title 18, United States Code, is amended by striking ", with the intent to cause death or serious bodily harm".

SEC. 808. CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES BY PERSONS ACCOMPANYING THE ARMED FORCES.

Title 18, United States Code, is amended by adding after chapter 211 the following:

"§ 3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the armed forces outside the United States

"(a) Whoever, while serving with, employed by, or accompanying the armed forces outside the United States, engages in conduct which would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, shall be guilty of a like offense and subject to a like punishment.

"(b) Nothing contained in this chapter deprives courts-martial, military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect of offenders or offenses that by statute or by the law of war may be tried by courts-martial, military commissions, provost courts, or other military tribunals.

"(c) No prosecution may be commenced under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General of the United States or the Deputy Attorney General of the United States (or a person acting in either such capacity), which function of approval may not be delegated."

"(d)(1) The Secretary of Defense may designate and authorize any person serving in a law enforcement position in the Department of Defense to arrest outside the United States any person described in subsection (a) of this section who there is probable cause to believe engaged in conduct which constitutes a criminal offense under such section.

"(2) A person arrested under paragraph (1) of this section shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation to conduct referred to in such paragraph unless—

"(A) such person is delivered to authorities of a foreign country under section 3262 of this title; or

"(B) such person has had charges preferred against him under chapter 47 of title 10 for such conduct.

"§ 3262. Delivery to authorities of foreign countries

"(a) Any person designated and authorized under section 3261(d) of this title may deliver a person described in section 3261(a) of this title to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in such subsection (a) of this section if—

"(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

"(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

"(b) The Secretary of Defense shall determine what officials of a foreign country constitute appropriate authorities for the purpose of this section.

"§ 3263. Regulations

"The Secretary of Defense shall issue regulations governing the apprehension, detention, and removal of persons under this chapter. Such regulations shall be uniform throughout the Department of Defense.

"§ 3264. Definitions for chapter

As used in this chapter—

"(1) a person is "employed by the armed forces outside the United States"—

(i) if he or she is employed as a civilian employee of a military department or of the Department of Defense, as a Department of Defense contractor, or as an employee of a Department of Defense contractor;

(ii) is present or residing outside the United States in connection with such employment; and

(iii) is not a national of the host nation.

"(2) a person is "accompanying the armed forces outside the United States" if he or she—

(i) is a dependent of a member of the armed forces;

(ii) is a dependent of a civilian employee of a military department or of the Department of Defense;

(iii) is residing with the member or civilian employee outside the United States; and

(iv) is not a national of the host nation.".

SEC. 809. ASSAULTS OR OTHER CRIMES OF VIOLENCE FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or other felony crime of violence against the person" after "murder".

SEC. 810. PENALTY ENHANCEMENT FOR CERTAIN OFFENSES RESULTING IN DEATH.

(a) Mailmen.—Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding a new subsection (b) as follows:

"(b) Whoever, in committing an offense described in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, kills any person shall be punished by death or by imprisonment for life.";

(b) Controlled Substances.—Section 2118(c)(2) of title 18, United States Code, is amended by striking all after "kills any person" and inserting "shall be punished by death or by imprisonment for life.";

(c) Interstate Domestic Violence.—Sections 2261(b)(1) and 2262(b)(1) of title 18, United States Code, are each amended by inserting before the semicolon ", and may be sentenced to death";

(d) Animal Enterprise Terrorism.—Section 43(b)(2) of title 18, United States Code, is amended by inserting "or may be sentenced to death" after "imprisoned for life or for any term of years"; and

(e) Racketeering.—Section 1952(a)(3)(B) of title 18, United States Code, is amended by inserting "or may be sentenced to death" after "imprisoned for any term of years or for life".

SEC. 811. VIOLENCE DIRECTED AT DWELLINGS IN INDIAN COUNTRY.

Section 1153(a) of title 18, United States Code, is amended by inserting "or 1363" after "section 661".

Subtitle B—Courts and Sentencing

SEC. 821. ALLOWING A REDUCTION OF SENTENCE FOR PROVIDING USEFUL INVESTIGATIVE INFORMATION ALTHOUGH NOT REGARDING A PARTICULAR INDIVIDUAL.

Section 3553(e) of title 18, United States Code, section 994(n) of title 28, United States Code, and Rule 35(b) of the Federal Rules of Criminal Procedure are each amended by striking "substantial assistance in the investigation or prosecution of another person who has committed an offense" and inserting "substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense".

SEC. 822. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting "or any part thereof" after "as to any one or more counts".

SEC. 823. ELIMINATION OF OUTMODED CERTIFICATION REQUIREMENT.

Section 3731 of title 18, United States Code, is amended in the second paragraph by striking ", if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding".

SEC. 824. IMPROVEMENT OF HATE CRIMES SENTENCING PROCEDURE.

Section 280003(b) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note) is amended by striking "the finder of fact at trial" and inserting "the court at sentencing".

SEC. 825. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended in each of subparagraphs (A), (B), (C), and (D), by striking "Any sentence" and inserting "Notwithstanding section 3583 of title 18, United States Code, any sentence".

SEC. 826. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting "(and may impose a sentence of probation or supervised release with or without conditions)" after "may reduce the term of imprisonment".

SEC. 827. TECHNICAL CORRECTION TO ASSURE COMPLIANCE OF SENTENCING GUIDELINES WITH PROVISIONS OF ALL FEDERAL STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking "consistent with all pertinent provisions of this title and title 18, United States Code," and inserting "consistent with all pertinent provisions of any Federal statute".

Subtitle C—White Collar Crime

SEC. 841. CLARIFICATION OF SCIENTER REQUIREMENT FOR RECEIVING PROPERTY STOLEN FROM AN INDIAN TRIBAL ORGANIZATION.

Section 1163 of title 18, United States Code, is amended in the second paragraph by striking "so".

SEC. 842. LARCENY INVOLVING POST OFFICE BOXES AND POSTAL STAMP VENDING MACHINES.

Section 2115 of title 18, United States Code, is amended—

(1) by striking "or" before "any building";

(2) by inserting "or any post office box or postal stamp vending machine for the sale of stamps owned by the Postal Service," after "used in whole or in part as a post office,";

(3) by inserting "or in such box or machine," after "so used".

SEC. 843. THEFT OF VESSELS.

(a) Definitions.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

"'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.".

(b) Transportation, Sale, or Receipt of Stolen Vehicles.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft".

SEC. 844. CONFORMING AMENDMENT TO LAW PUNISHING OBSTRUCTION OF JUSTICE BY NOTIFICATION OF EXISTENCE OF A SUBPOENA FOR RECORDS IN CERTAIN TYPES OF INVESTIGATIONS.

Section 1510(b)(3)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(iii) the Controlled Substances Act, the Controlled Substances Import and Export Act, or section 6050I of the Internal Revenue Code of 1986.".

SEC. 845. INJUNCTIONS AGAINST COUNTERFEITING AND FORGERY.

(a) In General.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 514. Injunctions against counterfeiting and forgery

"(a)(1) If a person is violating or about to violate any provision of this chapter, the Attorney General may commence a civil action in any Federal court to enjoin such violation.

"(2) A permanent or temporary injunction or restraining order shall be granted without bond.

"(b) The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action as is warranted in its discretion. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

(b) Clerical Amendment.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding at the end:

"§ 514. Injunctions against counterfeiting and forgery.".

Subtitle D—Miscellaneous Provisions

SEC. 861. INCREASED MAXIMUM PENALTY FOR CERTAIN RICO VIOLATIONS.

Section 1963(a) of title 18, United States Code, is amended by striking "or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment)" and inserting "or imprisoned not more than the greater of 20 years or the statutory maximum term of imprisonment (including life) applicable to a racketeering activity on which the violation is based".

SEC. 862. CLARIFICATION OF INAPPLICABILITY TO CERTAIN DISCLOSURES.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: "This section shall not apply to the disclosure by the United States, a State, or political subdivision in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, the interception of which was in violation of section 2511(2)(d)(relating to certain interceptions not involving governmental misconduct).".

SEC. 863. CONFORMING AMENDMENTS RELATING TO SUPERVISED RELEASE.

(a) Sections 1512(a)(1)(C), 1512(b)(3), 1512(c)(2), 1513(a)(1)(B), and 1513(b)(2) are each amended by striking "violation of conditions of probation, parole or release pending judicial proceedings" and inserting "violation of conditions of probation, supervised release, parole, or release pending judicial proceedings".

(b) Section 3142 of title 18, United States Code, is amended—

(1) in subsection (d)(1), by inserting ", supervised release," "probation"; and

(2) in subsection (g)(3), by inserting "or supervised release" after "probation".

SEC. 864. ADDITION OF CERTAIN OFFENSES AS MONEY LAUNDERING PREDICATES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "or section 2339B (relating to providing material support to designated foreign terrorist organizations)" before "of this title".

SEC. 865. CLARIFICATION OF JURISDICTIONAL BASE INVOLVING THE MAIL.

Section 2422(b) of title 18, United States Code, is amended—

(1) by inserting "the mail" after "using"; and

(2) by striking "including the mail,".

SEC. 866. COVERAGE OF FOREIGN BANK BRANCHES IN THE TERRITORIES.

Section 20(9) of title 18, United States Code, is amended by inserting before the period the following: ", except that for purposes of this section the definition of the term 'State' in such Act shall be deemed to include a commonwealth, territory, or possession of the United States".

SEC. 867. CONFORMING STATUTE OF LIMITATIONS AMENDMENT FOR CERTAIN BANK FRAUD OFFENSES.

Section 3293 of title 18, United States Code, is amended—

(1) by inserting "225," after "215,"; and

(2) by inserting "1032," before "1033".

SEC. 868. CLARIFYING AMENDMENT TO SECTION 704.

Section 704(b)(2) of title 18, United States Code, is amended by striking "with respect to a Congressional Medal of Honor".

TITLE IX—PRISON REFORM

Subtitle A—Prison Litigation Reform

SEC. 901. AMENDMENT TO THE PRISON LITIGATION REFORM ACT.

Section 801 of the Prison Litigation Reform Act of 1995 is amended by striking "1995" and inserting "1996".

SEC. 902. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

Section 3626 of title 18, United States Code is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B)(i), by striking "permits" and inserting "requires"; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "no prisoner release order shall be entered unless—" and inserting "no court shall enter a prisoner release order unless—";

(ii) in subparagraph (B), by—

(I) striking "(B) In" and inserting "(B)(i) In"; and

(II) striking "title 28 if the requirements of subparagraph (E) have been met" and inserting "title 28";

(iii) by redesignating subparagraph (C) as clause (ii);

(iv) by redesignating subparagraph (D) as clause (iii);

(v) in subparagraph (E), by striking "The three-judge court shall enter a prisoner release order only if" and inserting "In any civil action with respect to prison conditions, no court shall enter a prisoner release order unless the requirements of subparagraph (A) have been met and";

(vi) by redesignating subparagraph (E) as subparagraph (B) and redesignating current subparagraph (B) as subparagraph (C) and current subparagraph (F) as subparagraph (D); and

(vii) in subparagraph (D), as redesignated, by striking "program" and inserting "prison";

(2) in subsection (b)—

(A) in paragraph (3), by striking "the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation" and inserting "the plaintiff establishes by a preponderance of the evidence and the court makes written findings based on the record that there is a current and ongoing violation of a Federal right, that prospective relief remains necessary to correct the current and ongoing violation of that Federal right, and that the relief extends no further than necessary to correct the current and ongoing violation of the Federal right, is narrowly drawn, and is the least intrusive means to correct the current and ongoing violation of the Federal right"; and

(B) by striking "or (2)" in paragraph 5, as redesignated;

(3) in subsection (e)—

(A) in paragraph (2), by striking "Any prospective relief subject to a pending motion shall be automatically stayed during the period—" and inserting "Any motion to modify or terminate prospective relief made under subsection (b) shall operate as a stay during the period—" ; and

(B) by adding the following:

"(3) ORDER REFUSING TO IMPOSE STAY.—Any order staying or suspending the operation of the automatic stay described in paragraph (2) shall be treated as an order refusing to dissolve or modify an injunction and shall be appealable pursuant to section 1292(a)(1) of title 28, United States Code, regardless of how the order is styled and whether it is termed a preliminary or a final ruling.

"(4) INTERVENTION.—The court shall rule within 30 days on any motion to intervene as of right under subsection (a)(3)(D). Mandamus shall lie to remedy any failure to act on such a motion. Any State or local official or unit of government seeking to intervene as of right pursuant to subsection (a)(3)(D) may simultaneously file a motion to modify or terminate a prisoner release order. If the motion to intervene has not been denied by the 30th day after the motion to modify or terminate has been filed, in the case of a motion made under paragraph (1) or (2), or by the 180th day after the motion to modify or terminate has been filed, in the case of a motion made pursuant to any other law, the motion to modify or terminate shall operate as a stay of the prospective relief pursuant to the provisions of paragraph (2) beginning on the 30th or 180th day, respectively, and ending either on the date the court enters a final order denying the motion to intervene, or, if the court grants the motion to intervene, on the date that the court enters a final order ruling on the motion to terminate or modify the relief.";

(6) in subsection (f)—

(A) after "Special Masters" by inserting "In any civil action in a federal court with respect to prison conditions";

(B) In paragraph (1)(A), by striking from "In any civil action" through "prison conditions, the" and inserting "The";

(C) in paragraphs (1)(B) and (3), by striking "under this subsection";

(D) in paragraph (4), by striking "under this section"; and

(E) in paragraph (6), by striking "appointed under this subsection";

(F) in paragraph (2)(A), by striking "institution"; and

(G) in paragraph (2), by adding at the end the following:

"(D) The requirements of this paragraph shall apply only to special masters appointed after the date of enactment of the Prison Litigation Reform Act of 1995.";

(H) in paragraph (4), by adding at the end the following: "In no event shall the court require the parties to pay the compensation, expenses or costs of the special master.";

(I) in paragraph (5), by striking from "In any civil action" through "subsection, the" and inserting "The"; and

(J) in paragraph (6)—

(i) in subparagraph (A), by striking "hearings" and inserting "hearings on the record"; and by striking "and prepare proposed findings of fact, which shall be made on the record" and inserting ", and shall make any findings based on the record as a whole";

(ii) in subparagraph (B), by adding "and" at the end;

(iii) by striking subparagraph (C); and

(iv) by redesignating subparagraph (D) as subparagraph (C); and

(7) in subsection (g)—

(A) in paragraph (1), by striking "settlements" and inserting "settlement agreements";

(B) in paragraph (3)—

(i) by inserting "Federal, State, local, or other" before "facility";

(ii) by striking "violations" and inserting "a violation";

(iii) by striking "terms and conditions" and inserting "terms or conditions"; and

(iv) by inserting "or other post-conviction conditional or supervised release," after "probation,";

(C) in paragraph (5), by striking "or local facility" and inserting "local, or other facility";

(D) in paragraph (8), by striking "inherent";

(E) in paragraph (9), by striking "agreements." and inserting "agreements;";

(F) by reversing the order of paragraphs (8) and (9);

(G) by inserting at the end of the subsection the following new paragraph:

"(10)(A) the term 'violation of a Federal right' means a violation of a Federal constitutional or Federal statutory right;

"(B) The term 'violation of a Federal right' does not include a violation of a court order that is not independently a violation of a Federal statutory or Federal constitutional right;

"(C) The term 'violation of a Federal right' shall not be interpreted to expand the authority of any individual or class to enforce the legal rights that individual or class may have pursuant to existing law with regard to institutionalized persons, or to expand the authority of the United States to enforce those rights on behalf of any individual or class."; and

(H) by renumbering the paragraphs.

SEC. 903. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS.

(a) IN GENERAL.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e), as amended by section 803(d) of the Prison Litigation Reform Act of 1995, is amended—

(1) by amending the title of the section to read "Civil Actions with Respect to Prison Conditions";

(2) in subsections (a),(c), and (d), by striking "by a prisoner confined in any jail, prison, or other correctional facility"

(3) in subsection (a), by striking "No action shall be brought with respect to prison conditions" and inserting "No civil action with respect to prison conditions shall be brought"; and by striking "until such administrative remedies as are available are exhausted." and inserting in its place "until the plaintiff has exhausted such administrative remedies as are available.";

(4) in subsection (c), by striking "any action brought with" and inserting "any civil action with";

(5) in subsection (d)

(A) in paragraph (1)

(i) by striking "any action brought by a prisoner who is" and inserting "any civil action with respect to prison conditions brought by a plaintiff who is or has been";

(ii) by amending subparagraph (A) to read as follows:

"(A) the fee was directly and reasonably incurred in—

"(i) proving an actual violation of the plaintiff's Federal rights;

"(ii) successfully obtaining contempt sanctions for a violation of previously ordered prospective relief that meets the standards set forth in section 3626 of title 18, United States Code, if the plaintiff made a good faith effort to resolve the matter without court action; or

"(iii) successfully obtaining court ordered enforcement of previously ordered prospective relief that meets the standards set forth in section 3626 of title 18, United States Code, if the enforcement order was necessary to prevent an imminent risk of serious bodily injury to the plaintiff and the plaintiff made a good faith attempt to resolve the matter without court action; and"; and

(iii) by amending subparagraph (B) to read as follows:

"(B) the amount of the fee is proportionately related to the court ordered relief for the violation.";

(B) in paragraph (2), by striking the last sentence and inserting "If a monetary judgment is the sole or principal relief awarded, the award of attorney's fees shall not exceed 100% of the judgment."; and

(C) in paragraph (3)—

(i) by striking "greater than 150 percent" and inserting "greater than the lesser of—

"(A) 150 percent"; and

(ii) by striking "counsel." and inserting "counsel; or

"(B) a rate of $100 per hour.";

(D) in paragraph (4), by striking "prisoner" and inserting "plaintiff";

(6) in subsection (e), by striking "Federal civil action" and inserting "civil action arising under federal law";

(7) in subsection (f), by striking "action brought with respect to prison conditions" and inserting "civil action with respect to prison conditions brought";

(8) in subsection (g)—

(i) by amending the heading to read as follows: "Waiver of Response";

(ii) by amending paragraph (1) to read as follows:

"(1) Any defendant may waive the right to respond to any complaint in any civil action arising under federal law brought by a prisoner. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint or waive any affirmative defense available to the defendant. No relief shall be granted to the plaintiff unless a response has been filed. The court may direct any defendant to file a response."; and

(iii) by striking paragraph (2); and

(9) by amending subsection (h) to read as follows:

"(h) As used in this section, the terms 'civil action with respect to prison conditions', 'prison', and 'prisoner' have the meanings given those terms in section 3626(g) of title 18, United States Code.".

SEC. 904. PROCEEDINGS IN FORMA PAUPERIS.

(a) IN GENERAL.—Section 1915(b)(1)(B) of title 28, United States Code is amended—

(1) by inserting after "average" the following: "of the highest";

(2) by inserting after "balance" the following: "recorded for";

(3) by striking "in"; and

(4) by striking "the 6-month period" and inserting "each of the 6 months".

(b) Section 1915(b)(2) of title 28, United States Code, is amended—

(1) by striking "forward" and inserting "deduct";

(2) by striking "to the clerk of the court"; and

(3) by adding at the end the following: "The agency having custody of the prisoner shall forward the deducted payments to clerk of the court either upon deduction or on a monthly basis accompanied by appropriate documentation.".

(c) Section 1915(f)(2)(A) of title 28, United States Code, is amended by inserting "provides for or" before "includes";

(d) Section 1915(f)(2)(B), of title 28, United States Code, is amended to add the following sentence at the end: "If the judgment for costs is held by the agency, or the employees of the agency, having custody of the prisoner, the agency may withdraw 20 percent of each deposit to the prisoner's account and apply that amount to payment of the judgment until the judgment is paid in full.";

(e) Section 1915(g) of title 28, United States Code, is amended—

(1) by striking "is frivolous" and inserting "was frivolous"; and

(2) by striking "fails" and inserting "failed".

(f) Section 1915(h) of title 28, United States Code, as added by section 804(e) of the Prison Litigation Reform Act of 1995, is amended—

(1) by inserting "Federal, State, local, or other" before "facility";

(2) by striking "violations" and inserting "a violation";

(3) by striking "terms and conditions" and inserting "terms or conditions"; and

(4) by inserting "or other post-conviction conditional or supervised release," after "probation,".

(g) Section 1915A of title 28, United States Code, is amended by striking ", before docketing, if feasible or, in any event,".

SEC. 905. NOTICE TO STATE AUTHORITIES OF MALICIOUS FILING BY PRISONER.

(a)AMENDMENT.—Chapter 123 of title 28, United States Code, is amended—

(1) by inserting after section 1915A the following new section:

"§ 1915B. Notice to state authorities of finding of malicious filing by a prisoner

"(1) Finding.—In any civil action brought in Federal court by a prisoner (other than a prisoner confined in a Federal correctional facility), the court may, on its own motion or the motion of any adverse party, make a finding whether—

"(A) the claim was filed for a malicious purpose;

"(B) the claim was filed to harass the party against which it was filed; or

"(C) the claimant testified falsely or otherwise knowingly presented false evidence or information to the court.

"(2) The court shall transmit to the State Department of Corrections or other appropriate authority any affirmative finding under paragraph (1). If the court makes such a finding, the Department of Corrections or other appropriate authority may, pursuant to State or local law—

(A) revoke such amount of good time credit or the institutional equivalent accrued to the prisoner as is deemed appropriate; or

(B) consider such finding in determining whether the prisoner should be released from prison under any other state or local program governing the release of prisoners, including parole, probation, other post-conviction or supervised release, or diversionary program.";

(2) by redesignating subsection 1915A(c) as section 1915C, and in that section, as redesignated—

(A) by striking "this section" and inserting "sections 1915A and 1915B";

(B) by inserting "Federal, State, local, or other" before "facility";

(C) by striking "violations" and inserting "a violation";

(D) by striking "terms and conditions" and inserting "terms or conditions"; and

(E) by inserting "or other post-conviction conditional or supervised release," after "probation,"; and

(3) by inserting in the analysis for chapter 123 of title 28, United States Code, and as further amended by this Act, after the item relating to section 1915A the following new items:

"1915B. Notice to State authorities of malicious filing by prisoner."; and

"1915C. Definition.".

SEC. 906. PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION AWARDS.

(a) Section 807 of the Prison Litigation Reform Act of 1995 is designated as section 1915D(a) of chapter 123 of title 28, United States Code.

(b) That section is amended by striking the word "compensatory" and the last sentence of that section.

(c) Section 808 of the Prison Litigation Reform Act of 1995 is designated as section 1915D(b) of chapter 123 of title 28, United States Code.

(d) The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to Section 1915C the following new item:

"§ 1915D. Payment of damage award in satisfaction of pending restitution order.".

SEC. 907. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) Section 1932 of title 28, United States Code, is redesignated as section 3624A of title 18, United States Code.

(b) Section 3624A of title 18, United States Code, as redesignated by subsection (a) of this section, is amended—

(1) by striking "In any" and inserting "(a) Finding—In any";

(2) by striking "an adult" and inserting "a person";

(3) by striking "order the revocation" and all that follows through "finds that—" and inserting ", on its own motion or the motion of any adverse party, make a finding whether—";

(4) in paragraph (2), by striking "solely";

(5) in paragraph (3)—

(A) by striking "testifies" and inserting "testified"; and

(B) by striking "presents" and inserting "presented"; and

(6) by adding at the end the following:

"(b) TRANSMISSION OF FINDING.—The court shall transmit to the Bureau of Prisons any affirmative finding under subsection (a). If the court makes such a finding, the Bureau of Prisons shall revoke an amount of unvested good time credit or the institutional equivalent accrued to the prisoner pursuant to section 3264 as is deemed appropriate by the Director of the Bureau of Prisons.''.

(c)(1) The analysis for chapter 123 of title 28, United States Code, is amended by striking the item relating to section 1932.

(2) The analysis for chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3624 the following:

"§3624A. Revocation of earned release credit.".

SEC. 908. RELEASE OF PRISONER.

Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by amending the fifth sentence to read as follows: "Credit that has not been earned may not later be granted, and credit that has been revoked pursuant to section 3624A may not later be reinstated."; and

(2) in paragraph (2), by inserting before the period at the end the following: ", and may be revoked by the Bureau of Prisons for noncompliance with institutional disciplinary regulations at any time before vesting".

SEC. 909. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act, and shall apply to all proceedings in all pending cases on the date of enactment of this Act.

Subtitle B—Federal Prisons

SEC. 911. PRISON COMMUNICATIONS.

Section 2522 of title 18, United States Code, is amended by adding at the end the following:

"(e) EXEMPTION.—

"(1) IN GENERAL.—This chapter and chapter 121 do not apply with respect to the interception by a law enforcement officer of any wire, oral, or electronic communication, or the use of a pen register, a trap and trace device, or a clone pager, if—

"(A) in the case of any wire, oral, or electronic communication, at least one of the parties to the communication is, an inmate or detainee in the custody of the Attorney General of the United States or is in the custody of a State or political subdivision thereof; or

"(B) in the case of a pen register, a trap and trace device, or a clone pager, the facility is regularly used by, an inmate or detainee in the custody of the Attorney General of the United States or is in the custody of a State or political subdivision thereof.

"(2) STATE DEFINED.—As used in this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, and the territories and possessions of the United States.

"(f) REGULATIONS.—The Attorney General shall promulgate regulations governing interceptions described in subsection (e) in order to protect communications protected by the attorney-client privilege and the right to counsel guaranteed by the sixth amendment to Constitution of the United States.".

SEC. 912. PRISON AMENITIES AND PRISONER WORK REQUIREMENT.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§4048. Certain amenities for prisoners prohibited

"(a) IN GENERAL.—Except as provided in subsection (b), the Bureau of Prisons shall ensure that no prisoner or detainee under its jurisdiction—

"(1) engages in any physical activity designed to increase or enhance the fighting ability of the prisoner or detainee;

"(2) engages in any physical activity designed to increase the physical strength of such prisoner or detainee; or

"(3) is permitted—

"(A) access to in-cell television viewing, except for prisoners segregated from the general prison population for their own safety;

"(B) access to the viewing of any movie or film, through whatever medium presented, that has been given a Motion Picture Association of America rating of NC–17, R, or X;

"(C) possession of any in-cell coffee pot, hot plate, or other heating element;

"(D) access to any pornographic or other sexually explicit printed material;

"(E) access to any bodybuilding or weightlifting equipment; or

"(F) use or possession of any electric or electronic musical equipment.

"(b) EXCEPTION FOR CERTAIN PRISONERS.—The Director of the Bureau of Prisons may grant an exception to paragraph (2) or (3)(E) of subsection (a) with respect to a prisoner or detainee, if a licensed medical doctor employed by the Bureau of Prisons certifies that such exception is medically necessary in order to enable the prisoner or detainee to pursue a program of physical therapy or rehabilitation.

"(c) EFFECT ON OTHER REGULATIONS.—Nothing in the section shall be construed to preempt or repeal any regulation or policy of the Bureau of Prisons that imposes greater restrictions on prisoners and detainees than those required by this section, or to prevent the adoption by the Bureau of Prisons of any restriction or policy that imposes greater restrictions on prisoners and detainees than those required by this section.

"(d) NO CAUSE OF ACTION.—Nothing in this section shall be construed to create a cause of action by or on behalf of any person against the United States or any officer, employee, or contractor thereof.

"§4049. Prisoner work requirement

"(a) IN GENERAL.—Subject to subsection (b), the Director of the Bureau of Prisons shall ensure that each convicted inmate in the custody of the Attorney General and confined in any Federal prison, correctional facility, jail, or other facility shall be engaged in work. The type of work that a particular inmate shall be engaged in shall be determined on the basis of appropriate security and disciplinary considerations and by the health of the inmate.

"(b) EXCUSE.—An inmate described in subsection (a) may be excused from the requirement of subsection (a) in whole or in part, only as necessitated by—

"(1) security considerations;

"(2) disciplinary action;

"(3) medical certification of disability, such as would make it impractical for prison officials to arrange useful work for the inmate to perform; or

"(4) a need for the inmate to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or other similar program in addition to performing work.

"(c) NO COMPENSATION.—Nothing in this section shall be construed to entitle any inmate to any wage, compensation, or benefit, or be construed to provide a cause of action by or on behalf of any person against the United States or any officer, employee, or contractor thereof.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4048. Certain prisoner amenities prohibited.
"4049. Prisoner work requirement.".

SEC. 913. ELIMINATION OF SENTENCING INEQUITIES AND AFTERCARE FOR FEDERAL INMATES.

Section 3621 of title 18, United States Code, is amended—

(1) in subsection (b), by striking the last sentence and inserting "The Bureau shall endeavor to make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable drug abuse problem, with a priority to be given to younger offenders and those who would benefit most from the treatment"; and

(2) in subsection (e), by striking paragraphs (1), (2), and (5), and redesignating paragraphs (3), (4), and (6), as paragraphs (1), (2), and (3), respectively.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. SENSE OF THE SENATE REGARDING ONDCP.

It is the sense of the Senate that—

(1) the Office of National Drug Control Policy should, in principal, be reauthorized for an additional 5 years; and

(2) prior to any such reauthorization, the Committee on the Judiciary of the Senate should conduct an extensive review of the National Drug Control Strategy for 1997 submitted by President Clinton.

SEC. 1002. RESTRICTIONS ON DOCTORS PRESCRIBING SCHEDULE I SUBSTANCES.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations that require any and all hospitals or health care service providers who receive Federal medicare or medicaid payments based upon appropriate compliance certification, as an additional certification requirement, to certify that no physician or other health care professional who has privileges with such hospital or health care service provider, or is otherwise employed by them, is currently, or will in the future, prescribe or otherwise recommend a schedule I substance to any person.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress the number and names of institutions refusing or otherwise failing to fulfill certification requirement of subsection (a).

(c) REVOCATION OF CERTIFICATION.—The Attorney General shall promulgate regulations to revoke the DEA registration of any physician or other health care provider who recommends or prescribes a schedule I controlled substance.

SEC. 1003. ANTI-DRUG USE PUBLIC SERVICE REQUIREMENT.

The Federal Communications Commission shall—

(1) coordinate with the President's Commission on Alcohol and Drug Abuse Prevention, to develop a comprehensive education and public service program targeting youth drug abuse pursuant to section 8003 of Public Law 99–570 (21 U.S.C. 1302);

(2) encourage the priority use of public service resources dedicated to promoting youth drug abuse prevention and education;

(3) contact and encourage the donation of greater public resources dedicated to youth drug abuse programs from—

(A) television, radio, movies, cable communications, and print media;

(B) the recording industry;

(C) the advertising industry;

(D) business; and

(E) professional sports; and

(4) encourage each of the organizations and industries referred to in paragraph (3) to assist the implementation of new programs and national strategies for dissemination of information intended to prevent youth drug abuse.

SEC. 1004. CHILD PORNOGRAPHY.

(a) IN GENERAL.—The Secretary of State is directed to review all extradition treaties in force, and, if necessary, to renegotiate all such treaties, in order to ensure that offenses involving the sexual exploitation and abuse of children under sections 2251 through 2258 of title 18, United States Code, are extraditable offenses.

(b) STATUTE OF LIMITATIONS.—In any case in which a defendant is charged with an offense under chapter 110 of title 18, United States Code, and is alleged to have committed an offense, in whole or in part, beyond the jurisdiction of the United States, the statute of limitations shall be tolled during any period in which the defendant is beyond the jurisdiction of the United States.

SEC. 1005. 2,000 BOYS & GIRLS CLUBS BEFORE 2000.

(a) IN GENERAL.—Section 401(a) of the Economic Espionage Act of 1996 (Public Law 104-294; 110 Stat. 3496) is amended by striking paragraph (2) and inserting the following:

"(2) PURPOSE.—The purpose of this section is to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local clubs where needed, with particular emphasis placed on establishing clubs in public housing projects and distressed areas, and to insure that there are a total of no less than 2000 Boys and Girls Club of America facilities in operation not later than December 31, 1999."

(b) ACCELERATED GRANTS.—Section 401 of the Economic Espionage Act of 1996 (Public Law 104-294; 110 Stat. 3496) is amended by striking subsection (c) and inserting the following:

"(c) ESTABLISHMENT.—

"(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall make a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs facilities where needed, with particular emphasis placed on establishing clubs in public housing projects and distressed areas.

"(2) CONTRACTING AUTHORITY.—To the extent that the Secretary of Housing and Urban Development determines to be appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

"(3) APPLICATIONS.—The Attorney General shall accept an application for a grant under this subsection if submitted by the Boys and Girls Clubs of America, and approve or deny the grant not later than 90 days after the date on which the application is submitted, if the application—

"(A) includes a long-term strategy to establish 1,000 additional Boys and Girls Clubs and detailed summary of those areas in which new facilities will be established during the next fiscal year;

"(B) includes a plan to insure that there are a total of not less than 2,000 Boys and Girls Clubs of America facilities in operation before January 1, 2000;

"(C) certifies that there will be appropriate coordination with those communities where clubs will be located; and

"(D) explains the manner in which new facilities will operate without additional, direct Federal financial assistance to the Boys and Girls Clubs once assistance under this subsection is discontinued.".

(c) ROLE MODEL GRANTS.—Section 401 of the Economic Espionage Act of 1996 (Public Law 104-294; 110 Stat. 3496) is amended by adding at the end the following:

"(f) ROLE MODEL GRANTS.—Of amounts made available under subsection (e) in any fiscal year—

"(1) not more than 5 percent may be used to provide a grant to the Boys and Girls Clubs of America for administrative, travel, and other costs associated with a national role-model speaking tour program; and

"(2) no amount may be used to compensate speakers other than to reimburse speakers for reasonable travel and accommodation costs associated with the program described in paragraph (1).".

SEC. 1006. CELLULAR TELEPHONE INTERCEPTIONS.

Subsection 2511 of title 18, United States Code, is amended by inserting ", imprisoned not more than 1 year, or both" after "under this title".

TITLE XI—VIOLENT AND REPEAT JUVENILE OFFENDERS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Violent and Repeat Juvenile Offender Act of 1997".

SEC. 1102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) at the outset of the twentieth century, the States adopted 2 separate juvenile justice systems for violent and nonviolent offenders;

(2) violent crimes committed by juveniles, such as homicide, rape, and robbery, were an unknown phenomenon at that time, but the rate at which juveniles commit such crimes has escalated astronomically since that time;

(3) in 1994—

(A) the number of persons arrested overall for murder in the United States decreased by 5.8 percent, but the number of persons who are less than 15 years of age arrested for murder increased by 4 percent; and

(B) the number of persons arrested for all violent crimes increased by 1.3 percent, but the number of persons who are less than 15 years of age arrested for violent crimes increased by 9.2 percent, and the number of persons less than 18 years of age arrested for such crimes increased by 6.5 percent;

(4) from 1985 to 1996, the number of persons arrested for all violent crimes increased by 52.3 percent, but the number of persons under age 18 arrested for violent crimes rose by 75 percent;

(5) the number of juvenile offenders is expected to undergo a massive increase during the first 2 decades of the twenty-first century, culminating in an unprecedented number of violent offenders who are less than 18 years of age;

(6) the rehabilitative model of sentencing for juveniles, which Congress rejected for adult offenders when Congress enacted the Sentencing Reform Act of 1984, is inadequate and inappropriate for dealing with violent and repeat juvenile offenders;

(7) the Federal Government should encourage the States to experiment with progressive solutions to the escalating problem of juveniles who commit violent crimes and who are repeat offenders, including prosecuting all such offenders as adults, but should not impose specific strategies or programs on the States;

(8) an effective strategy for reducing violent juvenile crime requires greater collection of investigative data and other information, such as fingerprints and DNA evidence, as well as greater sharing of such information among Federal, State, and local agencies, including the courts, in the law enforcement and educational systems;

(9) data regarding violent juvenile offenders must be made available to the adult criminal justice system if recidivism by criminals is to be addressed adequately;

(10) holding juvenile proceedings in secret denies victims of crime the opportunity to attend and be heard at such proceedings, helps juvenile offenders to avoid accountability for their actions, and shields juvenile proceedings from public scrutiny and accountability;

(11) the injuries and losses suffered by the victims of violent crime are no less painful or devastating because the offender is a juvenile; and

(12) the investigation, prosecution, adjudication, and punishment of criminal offenses committed by juveniles is, and should remain, primarily the responsibility of the States, to be carried out without interference from the Federal Government.

(b) PURPOSES.—The purposes of this title are—

(1) to reform juvenile law so that the paramount concerns of the juvenile justice system are providing for the safety of the public and holding juvenile wrongdoers accountable for their actions, while providing the wrongdoer a genuine opportunity for self reform;

(2) to revise the procedures in Federal court that are applicable to the prosecution of juvenile offenders;

(3) to address specifically the problem of violent crime and controlled substance offenses committed by youth gangs; and

(4) to encourage and promote, consistent with the ideals of federalism, adoption of policies by the States to ensure that the victims of crimes of violence committed by juveniles receive the same level of justice as do victims of violent crimes that are committed by adults.

SEC. 1103. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle A—Juvenile Justice Reform

SEC. 1111. REPEAL OF GENERAL PROVISION.

(a) IN GENERAL.—Chapter 401 of title 18, United States Code, is amended—

(1) by striking section 5001; and

(2) by redesignating section 5003 as section 5001.

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 401 of title 18, United States Code, is amended—

(1) by striking the item relating to section 5001; and

(2) by redesignating the item relating to section 5003 as 5001.

SEC. 1112. TREATMENT OF FEDERAL JUVENILE OFFENDERS.

(a) IN GENERAL.—Section 5032 of title 18, United States Code, is amended to read as follows:

“§ 5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution

“(a) In General.—A juvenile who is not less than 14 years of age and who is alleged to have committed an act that, if committed by an adult, would be a criminal offense, shall be tried in the appropriate district court of the United States—

“(1) as an adult at the discretion of the United States Attorney in the appropriate jurisdiction, upon a finding by that United States Attorney, which finding shall not be subject to review in or by any court, trial or appellate, that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction, if the juvenile is charged with a Federal offense that—

“(A) is a crime of violence (as that term is defined in section 16); or

“(B) involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is a term of imprisonment of not less than 5 years; and

“(2) in all other cases, as a juvenile.

“(b) Referral by United States Attorney.—

“(1) In general.—If the United States Attorney in the appropriate jurisdiction declines prosecution of a charged offense under subsection (a)(2), the United States Attorney may refer the matter to the appropriate legal authorities of the State or Indian tribe.

“(2) Definitions.—In this section—

“(A) the term ‘State’ includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

“(B) the term ‘Indian tribe’ has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act.

“(c) Applicable Procedures.—Any action prosecuted in a district court of the United States under this section—

“(1) shall proceed in the same manner as is required by this title and by the Federal Rules of Criminal Procedure in proceedings against an adult in the case of a juvenile who is being tried as an adult in accordance with subsection (a); and

“(2) in all other cases, shall proceed in accordance with this chapter, unless the juvenile has requested in writing, upon advice of counsel, to be proceeded against as an adult.

“(d) Capital Cases.—Subject to section 3591, if a juvenile is tried and sentenced as an adult, the juvenile shall be subject to being sentenced to death on the same terms and in accordance with the same procedures as an adult.

“(e) Application of Laws.—In any case in which a juvenile is prosecuted in a district court of the United States as an adult, the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years.

“(f) Open Proceedings.—

“(1) In general.—Any offense tried in a district court of the United States pursuant to this section shall be open to the general public, in accordance with rules 10, 26, 31(a), and 53 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court, for closure.

“(2) Status alone insufficient.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

“(g) Availability of Records.—

“(1) In general.—In making a determination concerning the prosecution of a juvenile in a district court of the United States under this section, subject to the requirements of section 5038, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile, and to the extent permitted by State law, the prior State juvenile records of the subject juvenile.

“(2) Consideration of entire record.—In any case in which a juvenile is found guilty in an action pursuant to this section, the district court responsible for imposing sentence shall have complete access to the prior juvenile records of the subject juvenile, and, to the extent permitted under State law, the prior State juvenile records of the subject juvenile. At sentencing, the district court shall consider the entire available prior juvenile record of the subject juvenile.

“(3) Release of records.—The United States Attorney may release such Federal records, and, to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or postsecondary school at which the individual who is the subject of the juvenile record is enrolled or seeks, intends, or is instructed to enroll, if such school officials are held liable to the same standards and penalties to which law enforcement and juvenile justice system employees are held liable under Federal and State law, for the handling and disclosure of such information.”.

(b) Technical Amendment.—The chapter analysis for chapter 403 of title 18, United States Code, is amended by striking the item relating to section 5032 and inserting the following:

“5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution.”.

SEC. 1113. CAPITAL CASES.

Section 3591 of title 18, United States Code, is amended by striking “18 years” each place that term appears and inserting “16 years”.

SEC. 1114. DEFINITIONS.

Section 5031 of title 18, United States Code, is amended to read as follows:

“§ 5031. Definitions

“In this chapter—

“(1) the term ‘juvenile’ means a person who is less than 18 years of age; and

“(2) the term ‘juvenile delinquency’ means the violation of a law of the United States committed by a juvenile that would be a crime if committed by an adult.”.

SEC. 1115. NOTIFICATION AFTER ARREST.

Section 5033 of title 18, United States Code, is amended in the first sentence by striking “Attorney General” and inserting “United States Attorney of the appropriate jurisdiction”.

SEC. 1116. DETENTION PRIOR TO DISPOSITION.

Section 5035 of title 18, United States Code, is amended—

(1) by striking “A juvenile” and inserting the following:

“(a) In General.—A juvenile”; and

(2) by adding at the end the following:

“(b) Detention of Certain Juveniles.—Notwithstanding subsection (a), a juvenile who is to be tried as an adult pursuant to section 5032 shall be subject to detention in accordance with chapter 203 in the same manner and to the same extent as an adult would be subject to that chapter.”.

SEC. 1117. SPEEDY TRIAL.

Section 5036 of title 18, United States Code, is amended—

(1) by striking “thirty” and inserting “70”; and

(2) by striking “the court,” and all that follows through the end of the section and inserting “the court. The periods of exclusion under section 3161(h) shall apply to this section.”.

SEC. 1118. DISPOSITIONAL HEARINGS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “(a)” and all that follows through “After the” and inserting the following:

“(a) In General.—

“(1) Dispositional hearing.—In any case in which a juvenile is found to be a juvenile delinquent in district court pursuant to section 5032, but is not tried as an adult under that section, not later than 20 days after the hearing in which a finding of juvenile delinquency is made, the court shall hold a disposition hearing concerning the appropriate disposition unless the court has ordered further study pursuant to subsection (d).

“(2) Actions of court after hearing.—After the”;

(2) in subsection (b), by striking “extend—” and all that follows through “The provisions” and inserting the following: “extend, in the case of a juvenile, beyond the maximum term that would be authorized by section 3561(b), if the juvenile had been tried and convicted as an adult. The provisions”;

(3) in subsection (c), by striking “extend—” and all that follows through “Section 3624” and inserting the following: “extend beyond the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Section 3624”;

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

“(d) Applicability of Restitution Provisions.—If a juvenile has been tried and convicted as an adult, or adjudicated delinquent for any offense in which the juvenile is otherwise tried pursuant to section 5032, the restitution provisions contained in this title (including sections 3663, 3663A, 2248, 2259, 2264, and 2327) and title 21 shall apply to that juvenile in the same manner and to the same extent as those provisions apply to adults.”.

SEC. 1119. USE OF JUVENILE RECORDS.

Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking “and” at the end;

(B) in paragraph (6), by striking the period at the end and inserting “; and”;

(C) by inserting after paragraph (6) the following:

“(7) inquiries from any school or other educational institution for the purpose of ensuring the public safety and security at such institution.”; and

(D) by striking “Unless” and inserting the following:

“(c) Prohibition on Release of Certain Information.—Unless”;

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting immediately after subsection (a) the following:

“(b) Access by United States Attorney.—Notwithstanding subsection (a), in determining the appropriate disposition of a juvenile matter under section 5032, the United States Attorney of the appropriate jurisdiction shall have complete access to the official records of the juvenile proceedings conducted under this title.'';

(4) by inserting after subsection (e), as redesignated, the following:

''(f) Records of Juveniles Tried as Adults.—In any case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants.'';

(5) by striking ''(d) Whenever'' and all that follows through ''adult defendants.'' and inserting the following:

''(g) Fingerprints and Photographs.—Fingerprints and photographs of a juvenile—

''(1) who is prosecuted as an adult, shall be made available in the same manner as is applicable to an adult defendant; and

''(2) who is not prosecuted as an adult, shall be made available only as provided in subsection (a).'';

(6) by striking ''(e) Unless,'' and inserting the following:

''(h) No Publication of Name or Picture.—Unless'';

(7) by striking ''(f) Whenever'' and inserting the following:

''(i) Information to Federal Bureau of Investigation.—Whenever''; and

(8) in subsection (i), as redesignated—

(A) by striking ''of committing an act'' and all that follows through ''5032 of this title'' and inserting ''by a district court of the United States pursuant to section 5032 of committing an act''; and

(B) by inserting ''involved a juvenile tried as an adult or'' before ''were juvenile adjudications''.

SEC. 1120. INCARCERATION OF VIOLENT OFFENDERS.

Section 5039 of title 18, United States Code, is amended—

(1) by designating the first 3 undesignated paragraphs as subsections (a) through (c), respectively; and

(2) by adding at the end the following:

''(d) Segregation of Juveniles Convicted of Violent Offenses.—

''(1) Definition.—In this subsection, the term 'crime of violence' has the same meaning as in section 16 of title 18, United States Code.

''(2) Segregation.—The Director of the Bureau of Prisons shall ensure that juveniles who are alleged to be or determined to be delinquent are not confined in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined.''.

SEC. 1121. FEDERAL SENTENCING GUIDELINES.

Section 994(h) of title 28, United States Code, is amended by inserting '', or in which the defendant is a juvenile who is tried as an adult,'' after ''old or older''.

Subtitle B—Juvenile Gangs

SEC. 1141. SHORT TITLE.

This subtitle may be cited as the ''Federal Gang Violence Act''.

SEC. 1142. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.

(a) Definition.—In this section, the term ''criminal street gang'' has the same meaning as in section 521(a) of title 18, United States Code, as amended by section 1243 of this subtitle.

(b) Amendment of Sentencing Guidelines.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels, for any offense, if the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang and the defendant was a member of the criminal street gang at the time of the offense.

(c) Construction With Other Guidelines.—The amendment made pursuant to subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal sentencing guidelines.

SEC. 1143. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

(a) In General.—Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''(a) Definitions.—'' and inserting the following:

''(a) Definitions.—In this section:'', and

(B) by striking '' 'conviction'' and all that follows through the end of the subsection and inserting the following:

''(1) Criminal street gang.—The term 'criminal street gang' means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

''(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

''(B) any members of which engage, or have engaged during the 5-year period preceding the date in question, in a pattern of criminal gang activity; and

''(C) the activities of which affect interstate or foreign commerce.

''(2) Pattern of criminal gang activity.—The term 'pattern of criminal gang activity' means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal street gang—

''(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

''(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

''(C) that were committed on separate occasions.

''(3) Predicate gang crime.—The term 'predicate gang crime' means an offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—

''(A) a Federal offense—

''(i) that is a crime of violence (as that term is defined in section 16) including carjacking, drive-by-shooting, shooting at an unoccupied dwelling or motor vehicle, assault with a deadly weapon, and homicide;

''(ii) that involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is imprisonment for not less than 5 years;

''(iii) that is a violation of section 844, section 875 or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 1955 (relating to gambling), chapter 44 (relating to firearms), or chapter 73 (relating to obstruction of justice);

''(iv) that is a violation of section 1956 (relating to money laundering), insofar as the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

''(v) that is a violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328) (relating to alien smuggling);

''(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

''(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

''(3) State.—The term 'State' includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory of possession of the United States.''; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

''(b) Criminal Penalties.—Any person who engages in a pattern of criminal gang activity—

''(1) shall be sentenced to—

''(A) a term of imprisonment of not less than 10 years and not more than life, fined in accordance with this title, or both; and

''(B) the forfeiture prescribed in section 413 of the Controlled Substances Act (21 U.S.C. 853); and

''(2) if any person engages in such activity after 1 or more prior convictions under this section have become final, shall be sentenced to—

''(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and

''(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853).''.

(b) Conforming Amendment.—Section 3663(c)(4) of title 18, United States Code, is amended by inserting before ''chapter 46'' the following: ''section 521 of this title,''.

SEC. 1144. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL STREET GANGS.

(a) Travel Act Amendments.—

(1) Prohibited conduct and penalties.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

''(a) Prohibited Conduct and Penalties.—

''(1) In general.—Any person who—

''(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

''(i) distribute the proceeds of any unlawful activity; or

''(ii) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

''(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(2) Crimes of violence.—Any person who—

''(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

''(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), commits, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity,

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.''.

(2) Definitions.—Section 1952(b) of title 18, United States Code, is amended to read as follows:

“(b) Definitions.—In this section:

“(1) Controlled substance.—The term ‘controlled substance’ has the same meaning as in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

“(2) State.—The term ‘State’ includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

“(3) Unlawful activity.—The term ‘unlawful activity’ means—

“(A) predicate gang crime (as that term is defined in section 521);

“(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances, or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

“(C) extortion, bribery, arson, robbery, burglary, assault with a deadly weapon, retaliation against or intimidation of witnesses, victims, jurors, or informants, assault resulting in bodily injury, possession of or trafficking in stolen property, illegally trafficking in firearms, kidnapping, alien smuggling, or shooting at an occupied dwelling or motor vehicle, in each case, in violation of the laws of the State in which the offense is committed or of the United States; or

“(D) any act that is indictable under section 1956 or 1957 of this title or under subchapter II of chapter 53 of title 31.”.

(b) Amendment of Sentencing Guidelines.—

(1) In general.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines so that—

(A) the base offense level for traveling in interstate or foreign commerce in aid of a criminal street gang or other unlawful activity is increased to 12; and

(B) the base offense level for the commission of a crime of violence in aid of a criminal street gang or other unlawful activity is increased to 24.

(2) Definitions.—In this subsection—

(A) the term “crime of violence” has the same meaning as in section 16 of title 18, United States Code;

(B) the term “criminal street gang” has the same meaning as in 521(a) of title 18, United States Code, as amended by section 1243 of this subtitle; and

(C) the term “unlawful activity” has the same meaning as in section 1952(b) of title 18, United States Code, as amended by this section.

SEC. 1145. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY.

(a) Prohibited Acts.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

“§ 522. Recruitment of persons to participate in criminal street gang activity

“(a) Prohibited Act.—It shall be unlawful for any person to—

“(1) use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, request, induce, counsel, command, or cause another person to be a member of a criminal street gang, or conspire to do so; or

“(2) recruit, solicit, request, induce, counsel, command, or cause another person to engage in a predicate gang crime for which such person may be prosecuted in a court of the United States, or conspire to do so.

“(b) Penalties.—A person who violates subsection (a) shall—

“(1) if the person recruited—

“(A) is a minor, be imprisoned for a term of not less than 4 years and not more than 10 years, fined in accordance with this title, or both; or

“(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

“(2) be liable for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18.

“(c) Definitions.—In this section—

“(1) the terms ‘criminal street gang’ and ‘predicate gang crime’ have the same meanings as in section 521; and

“(2) the term ‘minor’ means a person who is younger than 18 years of age.”.

(b) Sentencing Guidelines.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines to provide an appropriate enhancement for any offense involving the recruitment of a minor to participate in a gang activity.

(c) Technical Amendment.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

“522. Recruitment of persons to participate in criminal street gang activity.”.

SEC. 1146. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL STREET GANGS AND FIREARMS OFFENSES AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking “or” before “(F)”; and

(2) by inserting before the semicolon at the end the following: “, (G) an offense under section 522 of this title, or (H) an act or conspiracy to commit any violation of chapter 44 of this title (relating to firearms)”.

SEC. 1147. PROHIBITIONS RELATING TO FIREARMS.

(a) Penalties.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A);

(3) in subparagraph (A), as redesignated—

(A) by striking “(B) A person other than a juvenile who knowingly” and inserting “(A) A person who knowingly”;

(B) in clause (i), by striking “not more than 1 year” and inserting “not less than 1 year and not more than 5 years”; and

(C) in clause (ii), by inserting “not less than 1 year and” after “imprisoned”; and

(4) by adding at the end the following:

“(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 13 years of age.”.

(b) Serious Juvenile Drug Offenses as Armed Career Criminal Predicates.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking “or” at the end;

(2) in clause (ii), by adding “or” at the end; and

(3) by adding at the end the following:

“(iii) any act of juvenile delinquency that if committed by an adult would be an offense described in clause (i) or (ii);”.

(c) Transfer of Firearms to Minors for Use in Crime.—Section 924(h) of title 18, United States Code, is amended by striking “10 years, fined in accordance with this title, or both” and inserting “10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not less than 3 years, fined in accordance with this title, or both”.

SEC. 1148. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) Definitions.—In this section—

(1) the term “body armor” means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) the term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) Sentencing Enhancement.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any crime in which the defendant used body armor.

(c) Applicability.—No Federal sentencing guideline amendment made pursuant to this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 1149. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, and 2002 for the hiring of Assistant United States Attorneys and attorneys in the Criminal Division of the Department of Justice to prosecute juvenile criminal street gangs (as that term is defined in section 521(a) of title 18, United States Code, as amended by section 1243 of this subtitle).

Subtitle C—Juvenile Crime Control and Accountability

SEC. 1161. FINDINGS; DECLARATION OF PURPOSE; DEFINITIONS.

Title I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended to read as follows:

“TITLE I—FINDINGS AND DECLARATION OF PURPOSE

“SEC. 101. FINDINGS.

“Congress finds that—

“(1) during the past several years, the United States has experienced an alarming increase in arrests of adolescents for murder, assault, and weapons offenses;

“(2) in 1994, juveniles accounted for 1 in 5 arrests for violent crimes, including murder, robbery, aggravated assault, and rape, including 514 such arrests per 100,000 juveniles 10 through 17 years of age;

“(3) understaffed, overcrowded juvenile courts, prosecutorial and public defender offices, probation services, and correctional facilities no longer adequately address the changing nature of juvenile crime, protect the public, and correct youth offenders;

“(4) the juvenile justice system has proven inadequate to meet the needs of society, because insufficient sanctions are imposed on serious youth offenders and the needs of children, who may be at risk of becoming delinquents;

"(5) existing programs and policies have not adequately responded to the particular threat of drugs, alcohol abuse, violence, and gangs pose to the youth of the Nation;

"(6) demographic increases projected in the number of youth offenders require reexamination of the prosecution and incarceration policies for serious violent youth offenders;

"(7) State and local communities that experience directly the devastating failures of the juvenile justice system require assistance to deal comprehensively with the problems of juvenile delinquency;

"(8) existing Federal programs have not provided the States with necessary flexibility, and have not provided coordination, resources, and leadership required to meet the crisis of youth violence;

"(9) overlapping and uncoordinated Federal programs have created a multitude of Federal funding streams to State and local governments, that have become a barrier to effective program coordination, responsive public safety initiatives, and the provision of comprehensive services for children and youth;

"(10) violent crime by juveniles constitutes a growing threat to the national welfare that requires an immediate and comprehensive governmental response, combining flexibility and coordinated evaluation;

"(11) limited State and local resources are being wasted complying with the unnecessary Federal mandate that status offenders be desinstitutionalized. Some communities believe that curfews are appropriate for juveniles, and those communities should not be prohibited by the Federal Government from using confinement for status offenses as a means of dealing with delinquent behavior before it becomes criminal conduct;

"(12) limited State and local resources are being wasted complying with the unnecessary Federal mandate that no juvenile be detained or confined in any jail or lockup for adults, because it can be feasible to separate adults and juveniles in 1 facility. This mandate is particularly burdensome for rural communities;

"(13) the role of the Federal Government should be to encourage and empower communities to develop and implement policies to protect adequately the public from serious juvenile crime as well as comprehensive programs to reduce risk factors and prevent juvenile delinquency; and

"(14) a strong partnership among law enforcement, local government, juvenile and family courts, schools, businesses, philanthropic organizations, families, and the religious community, can create a community environment that supports the youth of the Nation in reaching their highest potential and reduces the destructive trend of juvenile crime.

"SEC. 102. PURPOSE AND STATEMENT OF POLICY.

"(a) IN GENERAL.—The purposes of this Act are—

"(1) to protect the public and to hold juveniles accountable for their acts;

"(2) to empower States and communities to develop and implement comprehensive programs that support families and reduce risk factors and prevent serious youth crime and juvenile delinquency;

"(3) to provide for the thorough and ongoing evaluation of all federally funded programs addressing juvenile crime and delinquency;

"(4) to provide technical assistance to public and private nonprofit entities that protect public safety, administer justice and corrections to delinquent youth, or provide services to youth at risk of delinquency, and their families;

"(5) to establish a centralized research effort on the problems of youth crime and juvenile delinquency, including the dissemination of the findings of such research and all related data;

"(6) to establish a Federal assistance program to deal with the problems of runaway and homeless youth;

"(7) to assist State and local governments in improving the administration of justice for juveniles;

"(8) to assist the State and local governments in reducing the level of youth violence;

"(9) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

"(10) to encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

"(11) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

"(12) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;

"(13) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

"(14) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

"(15) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

"(16) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

"(17) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.

"(b) STATEMENT OF POLICY.—It is the policy of Congress to provide resources, leadership, and coordination—

"(1) to combat youth violence and to prosecute and punish effectively violent juvenile offenders; and

"(2) to improve the quality of juvenile justice in the United States.

"SEC. 103. DEFINITIONS.

"In this Act:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.

"(2) CONSTRUCTION.—The term 'construction' means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings).

"(3) JUVENILE POPULATION.—The term 'juvenile population' means the population of a State under 18 years of age.

"(4) OFFICE.—The term 'Office' means the Office of Juvenile Crime Control and Accountability established under section 201.

"(5) OUTCOME OBJECTIVE.—The term 'outcome objective' means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, such as incidence of arrest, the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement of youth gangs, and teenage pregnancy, among youth in the community.

"(6) PROCESS OBJECTIVE.—The term 'process objective' means an objective that relates to the manner in which a program or initiative is carried out, including—

"(A) an objective relating to the degree to which the program or initiative is reaching the target population; and

"(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and incorporates activities that inhibit the behaviors and that build on protective factors for youth.

"(7) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(8) STATE OFFICE.—The term 'State office' means an office designated by the chief executive officer of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(9) TREATMENT.—The term 'treatment' includes medical and other rehabilitative services designed to protect the public, including any services designed to benefit addicts and other users by—

"(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or

"(B) controlling their dependence and susceptibility to addiction or use.

"(10) YOUTH.—The term 'youth' means an individual who is not less than 6 years of age and not more than 17 years of age.".

SEC. 1162. YOUTH CRIME CONTROL AND ACCOUNTABILITY BLOCK GRANTS.

(a) OFFICE OF JUVENILE CRIME CONTROL AND ACCOUNTABILITY.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

(1) in subsection (a), by striking "Office of Juvenile Justice and Delinquency Prevention" and inserting "Office of Juvenile Crime Control and Accountability"; and

(2) by adding at the end the following:

"(d) DELEGATION AND ASSIGNMENT.—

"(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may—

"(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of this Act, to such officers and employees of the Office as the Administrator may designate; and

"(B) authorize successive redelegations of such functions as may be necessary or appropriate.

"(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

"(e) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.".

(b) NATIONAL PROGRAM.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended to read as follows:

"SEC. 204. NATIONAL PROGRAM.

"(a) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY PLAN.—

"(1) IN GENERAL.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities relating to improving juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

"(2) CONTENTS OF PLANS.—

"(A) IN GENERAL.—Each plan described in paragraph (1) shall—

"(i) contain specific, measurable goals and criteria for reducing the incidence of crime and delinquency among juveniles, improving juvenile crime control, and ensuring accountability by offenders within the juvenile justice system in the United States, and shall include criteria for any discretionary grants and contracts, for conducting research, and for carrying out other activities under this title;

"(ii) provide for coordinating the administration of programs and activities under this title with the administration of all other Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator;

"(iii) provide a detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by such data.

"(iv) provide a description of the activities for which amounts are expended under this title;

"(v) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

"(vi) provide for the coordination of Federal, State, and local initiatives for the reduction of youth crime and ensuring accountability for juvenile offenders.

"(B) SUMMARY AND ANALYSIS.—Each summary and analysis under subparagraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

"(i) the types of offenses with which the juveniles are charged;

"(ii) the ages of the juveniles;

"(iii) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

"(iv) the number of juveniles who died while in custody and the circumstances under which each juvenile died.

"(3) ANNUAL REVIEW.—The Administrator shall annually—

"(A) review each plan submitted under this subsection;

"(B) revise the plans, as the Administrator considers appropriate; and

"(C) not later than March 1 of each year, present the plans to the Committees on the Judiciary of the Senate and the House of Representatives.

"(b) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall—

"(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control and juvenile offender accountability programs, and Federal policies regarding juvenile crime and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

"(2) implement and coordinate Federal juvenile crime control and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control and juvenile offender accountability effort;

"(3) provide for the auditing of grants provided pursuant to this title;

"(4) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less frequently than once each calendar year, a report on successful programs and juvenile crime reduction methods utilized by States, localities, and private entities;

"(5) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

"(A) be independent in nature, and shall employ rigorous and scientifically valid standards and methodologies; and

"(B) include measures of outcome and process objectives, such as reductions in juvenile crime, youth gang activity, youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

"(6) involve consultation with appropriate authorities in the States and with appropriate private entities in the development, review, and revision of the plans required by subsection (a) and in the development of policies relating to juveniles prosecuted or adjudicated in the Federal courts; and

"(7) provide technical assistance to the States, units of local government, and private entities in implementing programs funded by grants under this title.

"(c) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY BUDGET.—

"(1) IN GENERAL.—The Administrator shall—

"(A) develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities for any Federal juvenile crime control or juvenile offender accountability program, a consolidated National Juvenile Crime Control and Juvenile Offender Accountability Plan budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Plan; and

"(B) transmit such budget proposal to the President and to Congress.

"(2) SUBMISSION OF JUVENILE OFFENDER ACCOUNTABILITY BUDGET REQUEST.—

"(A) IN GENERAL.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountability program shall submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

"(B) TIMELY DEVELOPMENT AND SUBMISSION.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall ensure timely development and submission to the Administrator of juvenile crime control and juvenile offender accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget.

"(3) REVIEW AND CERTIFICATION.—The Administrator shall—

"(A) review each juvenile crime control and juvenile offender accountability budget request transmitted to the Administrator under paragraph (2);

"(B) certify in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

"(C) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

"(4) RECORDKEEPING REQUIREMENT.—The Administrator shall maintain records regarding certifications under paragraph (3)(B).

"(5) FUNDING REQUESTS.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

"(6) REPROGRAMMING AND TRANSFER REQUESTS.—

"(A) IN GENERAL.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated amounts greater than $5,000,000 that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request has been approved by the Administrator.

"(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program may appeal to the President any disapproval by the Administrator of a reprogramming or transfer request.

"(7) QUARTERLY REPORTS.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts for National Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

"(d) Information, Reports, Studies, and Surveys From Other Agencies.—The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile crime control and juvenile offender accountability program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator determines to be necessary to carry out the purposes of this title.

"(e) Utilization of Services and Facilities of Other Agencies; Reimbursement.—The Administrator may utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(f) Coordination of Functions of Administrator and Secretary of Health and Human Services.—All functions of the Administrator under title shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III.

"(g) Annual Juvenile Delinquency Development Statements.—

"(1) In general.—The Administrator shall require through appropriate authority each Federal agency that administers a Federal juvenile crime control and juvenile offender accountability program to submit annually to the Office a juvenile crime control and juvenile offender accountability development statement. Such statement shall be in addition to any information, report, study, or survey that the Administrator may require under subsection (d).

"(2) Contents.—Each development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability prevention and treatment goals and policies.

"(3) Review and comment.—

"(A) In general.—The Administrator shall review and comment upon each juvenile crime control and juvenile offender accountability development statement transmitted to the Administrator under paragraph (1).

"(B) Inclusion in other documentation.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation that significantly affects juvenile crime control and juvenile offender accountability.

"(h) Juvenile Crime Control and Juvenile Offender Accountability Incentive Block Grants.—

"(1) In general.—The Administrator shall make, subject to the availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of graduated sanctions) of crimes or acts of delinquency committed by juveniles, programs to improve the administration of justice for and ensure accountability by juvenile offenders, and programs to reduce the risk factors (such as truancy, drug or alcohol use, and gang involvement) associated with juvenile crime or delinquency.

"(2) Use of grants.—Grants under this title may be used—

"(A) for programs to enhance the identification, investigation, prosecution, and punishment of juvenile offenders, such as—

"(i) the utilization of graduated sanctions;

"(ii) the utilization of short-term confinement of juveniles who are charged with or who are convicted of—

"(I) a crime of violence (as that term is defined in section 16 of title 18, United States Code);

"(II) an offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(III) an offense involving possession of a firearm (as that term is defined in section 921(a) of title 18, United States Code); or

"(IV) an offense involving possession of a destructive device (as that term is defined in section 921(a) of title 18, United States Code);

"(iii) the hiring of prosecutors, judges, and probation officers to implement policies to control juvenile crime and ensure accountability of juvenile offenders; and

"(iv) the incarceration of violent juvenile offenders for extended periods of time (including up to the length of adult sentences);

"(B) for programs that provide restitution to the victims of crimes committed by juveniles;

"(C) for programs that require juvenile offenders to attend and successfully complete school or vocational training;

"(D) for programs that require juvenile offenders who are parents to demonstrate parental responsibility by working and paying child support;

"(E) for programs that seek to curb or punish truancy;

"(F) for programs designed to collect, record, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests;

"(G) for programs that provide that, whenever a juvenile who is not less than 14 years of age is adjudicated delinquent, as defined by Federal or State law in a juvenile delinquency proceeding for conduct that, if committed by an adult, would constitute a felony under Federal or State law, the State shall ensure that a record is kept relating to the adjudication that is—

"(i) equivalent to the record that would be kept of an adult conviction for such an offense;

"(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

"(iii) made available to law enforcement agencies of any jurisdiction; and

"(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, under Federal and State law, for handling and disclosing such information;

"(H) for juvenile crime control and prevention programs (such as curfews, youth organizations, antidrug programs, antigang programs, and after school activities) that include a rigorous, comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

"(I) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and treatment of the most serious juvenile offenses and offenders, sometimes known as a 'SHOCAP Program' (Serious Habitual Offenders Comprehensive Action Program); or

"(J) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and disruption of youth gangs.

"(3) Requirements.—To be eligible to receive a grant under this title, a State shall make reasonable efforts, as certified by the Governor, to ensure that, not later than July 1, 2000—

"(A) juveniles age 14 and older can be prosecuted under State law as adults, as a matter of law or prosecutorial discretion for a crime of violence (as that term is defined in section 16 of title 18, United States Code) such as murder or armed robbery, an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or the unlawful possession of a firearm (as that term is defined in section 921(a) of title 18, United States Code) or a destructive device (as that term is defined in section 921(a) of title 18, United States Code);

"(B) the State has in place a system of graduated sanctions for juvenile offenders;

"(C) the State has in place a juvenile court system that treats juvenile offenders uniformly throughout the State;

"(D) the State collects, records, and disseminates information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests (if taken), to other Federal, State, and local law enforcement agencies;

"(E) the State ensures that religious organizations can participate in rehabilitative programs designed to purposes authorized by this title; and

"(F) the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined.

"(j) Distribution by State Offices to Eligible Applicants.—

"(1) In general.—Of amounts made available to the State, not more than 20 percent shall be used for programs pursuant to paragraph (2)(ii).

"(2) Eligible applicants.—Entities eligible to receive amounts distributed by the State office under this title are—

"(A) a unit of local government;

"(B) local police or sheriff's departments;

"(C) State or local prosecutor's offices;

"(D) State or local courts responsible for the administration of justice in cases involving juvenile offenders;

"(E) schools;

"(F) nonprofit, educational, religious, or community groups active in crime prevention or drug use prevention and treatment; or

"(G) any combination of the entities described in subparagraphs (A) through (F).

"(k) Application to State Office.—

"(1) In general.—To be eligible to receive amounts from the State office, the applicant shall prepare and submit to the State office an application in written form that—

"(A) describes the types of activities and services for which the amount will be provided;

"(B) includes information indicating the extent to which the activities and services achieve the purposes of the title;

"(C) provide for the evaluation component required by subsection (b)(2), which evaluation shall be conducted by an independent entity; and

"(D) provides any other information that the State office may require.

"(2) PRIORITY.—In approving applications under this subsection, the State office should give priority to those applicants demonstrating coordination with, consolidation of, or expansion of existing State or local juvenile crime control and juvenile offender accountability programs.

"(l) FUNDING PERIOD.—The State office may award such a grant for a period of not more than 3 years.

"(m) RENEWAL OF GRANTS.—The State office may renew grants made under this title. After the initial grant period, in determining whether to renew a grant to an entity to carry out activities, the State office shall give substantial weight to the effectiveness of the activities in achieving reductions in crimes committed by juveniles and in improving the administration of justice to juvenile offenders.

"(n) SPECIAL GRANTS.—Of amounts made available under this title in any fiscal year, the Administrator may use—

"(1) not more than 7 percent for grants for research and evaluation;

"(2) not more than 3 percent for grants to Indian tribes for purposes authorized by this title; and

"(3) not more than 5 percent for salaries and expenses of the Office related to administering this title.".

(c) REPEALS; ADMINISTRATIVE PROVISIONS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking sections 206 and 207 and inserting the following:

"SEC. 206. ALLOCATION OF GRANTS AND AUTHORIZATION OF APPROPRIATIONS.—

"(a) ALLOCATION OF GRANT AMOUNTS.—

"(1) IN GENERAL.—Amounts made available under section 204(h) or part B shall be allocated to the States as follows:

"(A) 0.25 percent shall be allocated to each State; and

"(B) of the total amount remaining after the allocation under subparagraph (A), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the juvenile population of such State bears to the juvenile population of all the States.

"(2) EXCEPTIONS.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

"(3) REALLOCATION PROHIBITED.—Any amounts appropriated but not allocated due to the ineligibility or nonparticipation of any State shall not be reallocated, but shall revert to the Treasury at the end of the fiscal year for which they were appropriated.

"(4) RESTRICTIONS ON THE USE OF AMOUNTS.—

"(A) EXPERIMENTATION ON INDIVIDUALS.—

"(i) IN GENERAL.—No amounts made available to carry out this title may be used for any biomedical or behavior control experimentation on individuals or any research involving such experimentation.

"(ii) DEFINITION OF 'BEHAVIOR CONTROL'.—In this subparagraph, the term 'behavior control'—

"(I) means any experimentation or research employing methods that—

"(aa) involve a substantial risk of physical or psychological harm to the individual subject; and

"(bb) are intended to modify or alter criminal and other antisocial behavior, including aversive conditioning therapy, drug therapy, chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment; and

"(II) does not include a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

"(B) PROHIBITION AGAINST USE OF AMOUNTS IN CONSTRUCTION.—No amount made available to any public or private agency, or institution or to any individual under this title (either directly or through a State office) may be used for construction, except for minor renovations or additions to an existing structure.

"(C) JOB TRAINING.—No amount made available under this title may be used to carry out a youth employment program to provide subsidized employment opportunities, job training activities, or school-to-work activities for participants.

"(D) LOBBYING.—

"(i) IN GENERAL.—Except as provided in clause (ii), no amount made available under this title to any public or private agency, organization, or institution or to any individual shall be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or other legislation, or any referendum, initiative, constitutional amendment, or any other procedure of Congress, any State legislature, any local council, or any similar governing body.

"(ii) EXCEPTION.—This subparagraph does not preclude the use of amounts made available under this title in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(E) LEGAL ACTION.—No amounts made available under this title to any public or private agency, organization, institution, or to any individual, shall be used in any way directly or indirectly to file an action or otherwise take any legal action against any Federal, State, or local agency, institution, or employee.

"(F) RELIGIOUS ORGANIZATIONS.—

"(i) IN GENERAL.—The purpose of this subparagraph is to allow State and local governments to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

"(ii) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—If a State or local government exercises its authority under religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in this title, so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in clause (x), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

"(iii) RELIGIOUS CHARACTER AND FREEDOM.—

"(I) RELIGIOUS ORGANIZATIONS.—A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

"(II) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

"(aa) alter its form of internal governance; or

"(bb) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursements, funded under a program described in this title.

"(iv) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—If juvenile offender has an objection to the religious character of the organization or institution from which the juvenile offender receives, or would receive, assistance funded under any program described in this title, the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider.

"(v) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

"(vi) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this title on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

"(vii) FISCAL ACCOUNTABILITY.—

"(I) IN GENERAL.—Subject to subclause (II), any religious organization contracting to provide assistance funded under any program described in clause (i)(II) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

"(II) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

"(viii) COMPLIANCE.—Any party which seeks to enforce its rights under this subparagraph may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

"(ix) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to institutions or organizations to provide services and administer programs under this title shall be expended for sectarian worship, instruction, or proselytization.

"(x) PREEMPTION.—Nothing in this subparagraph shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

"(5) PENALTIES.—

"(A) IN GENERAL.—If any amounts are used for the purposes prohibited in either subparagraph (D) or (E) of paragraph (4)—

"(i) all funding for the agency, organization, institution, or individual at issue shall be immediately discontinued;

"(ii) the agency, organization, institution, or individual using amounts for the purpose prohibited in subparagraph (D) or (E) of paragraph (4) shall be liable for reimbursement of all amounts granted to the individual or entity for the fiscal year for which the amounts were granted.

"(B) LIABILITY FOR EXPENSES AND DAMAGES.—In relation to a violation of paragraph (4)(D), the individual filing the lawsuit or responsible for taking the legal action against the Federal, State, or local agency or institution, or individual working for the Government, shall be individually liable for all legal expenses and any other expenses of the government agency, institution, or individual working for the Government, including damages assessed by the jury against the Government agency, institution, or individual working for the government, and any punitive damages.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(A) $650,000,000 for fiscal year 1998;

"(B) $650,000,000 for fiscal year 1999;

"(C) $650,000,000 for fiscal year 2000;

"(D) $650,000,000 for fiscal year 2001; and

"(E) $650,000,000 for fiscal year 2002.

"(2) ALLOCATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated under paragraph (1) in each fiscal year—

"(A) $500,000,000 shall be for programs under section 204(h); and

"(B) $150,000,000 shall be for programs under part B.

"(3) AVAILABILITY OF FUNDS.—Amounts made available pursuant to this subsection, and allocated pursuant to paragraph (1) in any fiscal year shall remain available until expended.

"SEC. 207. ADMINISTRATIVE PROVISIONS.

"(a) AUTHORITY OF ADMINISTRATOR.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

"(b) APPLICABILITY OF CERTAIN CRIME CONTROL PROVISIONS.—Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), 3789g(d)) shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

"(1) any reference to the Office of Justice Programs in such sections shall be considered to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

"(2) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

"(c) APPLICABILITY OF CERTAIN OTHER CRIME CONTROL PROVISIONS.—Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3787) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

"(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator;

"(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

"(3) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

"(d) RULES, REGULATIONS, AND PROCEDURES.—The Administrator may, after appropriate consultation with representatives of States and units of local government, establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

"(e) WITHHOLDING.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title.";

(2) in part B—

(A) in section 221(b)—

(i) in paragraph (1)—

(I) by striking "section 223" and inserting "section 222"; and

(II) by striking "section 223(c)" and inserting "section 222(c)"; and

(ii) in paragraph (2), by striking "section 299(c)(1)" and inserting "section 222(a)(1)"; and

(B) by striking sections 222 and 223 and inserting the following:

"SEC. 222. STATE PLANS.

"(a) IN GENERAL.—In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

"(1) designate a State agency as the sole agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

"(3) provide for the active consultation with and participation of units of general local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies, including religious organizations;

"(4) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

"(5)(A) provide for—

"(i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction;

"(ii) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and

"(iii) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

"(B) contain—

"(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(C) contain—

"(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

"(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;

"(6) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, recreation, health, and welfare within the State;

"(7) provide for the development of an adequate research, training, and evaluation capacity within the State;

"(8) provide that not less than 75 percent of the funds made available to the State pursuant to grants under section 221, whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

"(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

"(i) for youth who can remain at home with assistance, home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(ii) for youth who need temporary placement, crisis intervention, shelter, and aftercare; and

"(iii) for youth who need residential placement, a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

"(B) community-based programs and services to work with—

"(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

"(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

"(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

"(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

"(E) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

"(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

"(I) education in settings that promote experiential, individualized learning and exploration of academic and career options;

"(II) assistance in making the transition to the world of work and self-sufficiency;

"(III) alternatives to suspension and expulsion; and

"(IV) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

"(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

"(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

"(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

"(i) a sense of safety and structure;

"(ii) a sense of belonging and membership;

"(iii) a sense of self-worth and social contribution;

"(iv) a sense of independence and control over one's life;

"(v) a sense of closeness in interpersonal relationships; and

"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

"(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

"(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

"(9) provide for the development of an adequate research, training, and evaluation capacity within the State;

"(10) provide that the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined;

"(11) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (10) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (10), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

"(12) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;

"(13) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

"(14) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

"(15) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

"(16) provide reasonable assurances that Federal funds made available under this part for any period shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and shall in no event replace such State, local, and other non-Federal funds; and

"(17) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary.

"(b) Approval by State Agency.—The State agency designated under subsection (a)(1) shall approve the State plan and any modification thereof prior to submission to the Administrator.

"(c) Approval by Administrator; Compliance With Statutory Requirements.—

"(1) In general.—The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(2) Reduced allocations.—If a State fails to comply with any requirement of subsection (a)(8) in any fiscal year beginning after January 1, 1998, the State shall be ineligible to receive any allocation under that section for such fiscal year unless—

"(A) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with subsection (a)(4)(C)) for that fiscal year only to achieve compliance with such paragraph; or

"(B) the Administrator determines, in the discretion of the Administrator, that the State—

"(i) has achieved substantial compliance with such paragraph; and

"(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and

(3) by striking parts C, D, E, F, G, and H, and each part designated as part I.

SEC. 1163. RUNAWAY AND HOMELESS YOUTH.

Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002"; and

(B) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002"; and

(3) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1998, 1999, 2000, 2001, and 2002".

SEC. 1164. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) in section 403, by striking paragraph (2) and inserting the following:

"(2) the term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.";

(2) by striking section 404; and

(3) in section 408, by striking "1993, 1994, 1995, and 1996" and inserting "1998, 1999, 2000, 2001, and 2002".

SEC. 1165. REPEAL.

Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is repealed.

SEC. 1166. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) Definitions.—In this section, unless otherwise provided or indicated by the context—

(1) the term "Administrator of the Office" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention;

(2) the term "Bureau of Justice Assistance" means the bureau established under section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968;

(3) the term "Administrator" means the Administrator of the Office of Juvenile Crime Control and Accountability established by operation of subsection (b);

(4) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code;

(5) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(6) the term "Office of Juvenile Crime Control and Accountability" means the office established by operation of subsection (b);

(7) the term "Office of Juvenile Justice and Delinquency Prevention" means the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, established by section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act; and

(8) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) Transfer of Functions.—There are transferred to the Office of Juvenile Crime Control and Accountability all functions that the Administrator of the Office exercised before the date of enactment of this Act (including all related functions of any officer or employee of the Office of Juvenile Justice and Delinquency Prevention), and authorized after the enactment of this Act, relating to carrying out the Juvenile Justice and Delinquency Prevention Act of 1974.

(c) Transfer and Allocations of Appropriations and Personnel.—

(1) In general.—Except as otherwise provided in this section and in section 101(a) (relating to Juvenile Justice Programs) of the Omnibus Consolidated Appropriations Act, 1997, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office of Juvenile Crime Control and Accountability.

(2) Unexpended amounts.—Any unexpended amounts transferred pursuant to this subsection shall be used only for the purposes for which the amounts were originally authorized and appropriated.

(d) Incidental Transfers.—

(1) In general.—The Director of the Office of Management and Budget, at such time or times as the Director of that Office shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section.

(2) Termination of affairs.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(e) Effect on Personnel.—

(1) In general.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) Executive schedule positions.—Except as otherwise provided in this section, any person who, on the day before the date of enactment of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office of Juvenile Crime Control and Accountability to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(3) Transition rule.—

(A) In general.—The incumbent Administrator of the Office as of the date immediately preceding the date of enactment of this Act shall continue to serve as Administrator after the enactment of this Act until such time as the incumbent resigns, is relieved of duty by the President, or an Administrator is appointed by the President, by and with the advice and consent of the Senate.

(B) Nominee.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Senate for consideration the name of the individual nominated to be appointed as the Administrator.

(f) Savings Provisions.—

(1) Continuing effect of legal documents.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that are in effect at the time this section takes effect, or were final before the date of enactment of this Act and are to become effective on or after the date of enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) Proceedings not affected.—

(A) In general.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Juvenile Justice and Delinquency Prevention on the date on which this section takes effect, with respect to functions transferred by this section but such proceedings and applications shall be continued.

(B) Orders; appeals; payments.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(C) Discontinuance or modification.—Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this paragraph had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the date of enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Office of Juvenile Justice and Delinquency Prevention, or by or against any individual in the official capacity of such individual as an officer of the Office of Juvenile Justice and Delinquency Prevention, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Office of Juvenile Justice and Delinquency Prevention relating to a function transferred under this section may be continued, to the extent authorized by this section, by the Office of Juvenile Crime Control and Accountability with the same effect as if this section had not been enacted.

(g) TRANSITION.—The Administrator may utilize—

(1) the services of such officers, employees, and other personnel of the Office of Juvenile Justice and Delinquency Prevention with respect to functions transferred to the Office of Juvenile Crime Control and Accountability by this section; and

(2) amounts appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(h) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Administrator of the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Administrator of the Office of Juvenile Crime Control and Accountability; and

(2) the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Office of Juvenile Crime Control and Accountability.

(i) TECHNICAL AND CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking "Administrator, Office of Juvenile Crime Control and Accountability".

SEC. 1167. REPEAL OF UNNECESSARY AND DUPLICATIVE PROGRAMS.

(a) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(1) TITLE III.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13741 et seq.) is amended by striking subtitles A through S, subtitle U, and subtitle X.

(2) TITLE V.—Title V of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3797 et seq.) is repealed.

(3) TITLE XXVII.—Title XXVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14191 et seq.) is repealed.

(b) ELEMENTARY AND SECONDARY EDUCATION ACT.—

(1) TITLE IV.—Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101) is repealed.

(2) TITLE V.—Part C of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is repealed.

(d) PUBLIC HEALTH SERVICE ACT.—Section 517 of the Public Health Service Act (42 U.S.C. 290bb-23) is repealed.

(e) HUMAN SERVICES REAUTHORIZATION ACT.—Section 408 of the Human Services Reauthorization Act is repealed.

(f) COMMUNITY SERVICES BLOCK GRANTS ACT.—Section 682 of the Community Services Block Grants Act (42 U.S.C. 9901) is repealed.

(g) ANTI-DRUG ABUSE ACT.—Subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801 et seq.) is amended by striking chapters 1 and 2.

SEC. 1168. HOUSING JUVENILE OFFENDERS.

Section 20105(a)(1) of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(a)(1)) is amended by striking "15" and inserting "30".

SEC. 1169. CIVIL MONETARY PENALTY SURCHARGE.

(a) IMPOSITION.—Subject to subsection (b) and notwithstanding any other provision of law, a surcharge of 40 percent of the principal amount of a civil monetary penalty shall be added to each civil monetary penalty assessed by the United States or any agency thereof at the time the penalty is assessed.

(b) LIMITATION.—This section does not apply to any monetary penalty assessed under the Internal Revenue Code of 1986.

(c) USE OF SURCHARGES.—Amounts collected from the surcharge imposed under this section shall be used for Federal programs to combat youth violence.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—A surcharge under subsection (b) shall be added to each civil monetary penalty assessed on or after the later of October 1, 1997 and the date of enactment of this Act.

(2) EXPIRATION OF AUTHORITY.—The authority to add a surcharge under this subsection shall terminate at the close of September 30, 2002.

By Mr. ASHCROFT (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. NICKLES, Mr. CRAIG, Ms. COLLINS, Mr. DEWINE, Mr. ALLARD, Mr. BROWNBACK, Mr. CHAFEE, Mr. COATS, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. THURMOND, Mr. WARNER, Mr. COVERDELL, and Mr. JEFFORDS):

S. 4. A bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; to the Committee on Labor and Human Resources.

THE FAMILY FRIENDLY WORKPLACE ACT

Mr. ASHCROFT. Mr. President, I am delighted to have the opportunity to file, in conjunction with Senators HUTCHISON, LOTT, NICKLES, CRAIG, COLLINS, ENZI, GRASSLEY, COATS, WARNER, HELMS, B. SMITH, and GRAMM, the Family Friendly Workplace Act. This is an important piece of legislation, which should free our families from inflexible work schedules in order to meet the competing demands of the workplace and their families.

This demand for our time, which stresses us and stretches us, has been recognized by people on both sides of the political aisle. As a matter of fact, the Clinton administration's Labor Department developed a report to the Nation and to the President called "Working Women Count." In order to do so, they surveyed hundreds of thousands of working women. And the conclusion of the report is as follows:

The number one issue women want to bring to the President's attention is the difficulty of balancing work and family obligations.

The Family Friendly Workplace Act is a way of helping people do just that—meet their responsibilities to their employers and meet their responsibilities to their families. Frankly, it is a way of doing it without taking a pay cut.

Now, some have suggested that the way to do this is to have a family leave policy that allows workers to simply take time off work without pay. Well, that really exacerbates some of the tension in most of our families, because we have financial tension as well as this social tension that stretches us between the workplace and the home place. And so, really, what we have in the Family Friendly Workplace Act is the ability to have flexible working schedules at the option of the employee and at the request of the employee, when the employer will agree, that allows a person, for instance, to take time off on Friday afternoon and to make it up on Monday.

Most Americans don't realize it, but it is against the law for an employer to agree with his employee that the employee can take time off on Friday afternoon to see his daughter get an award at the local high school and to make up that same time on Monday. The strict laws about hours and overtime make it difficult for that to happen, make it impossible, make it illegal.

Those laws were developed in the 1930's. They put a lot of stress on American families. In the 1930's, we didn't have so many working mothers. One out of every 6 mothers of school-aged children worked in the 1930's, and well over 70 percent of them work in the 1990's. As we move to the next century, it is time for us to revamp our approach and to welcome the next century by accommodating these competing demands.

Flexible work arrangements have been available to Federal Government workers since 1978—in the 1970's, 1980's, and 1990's, Government workers have had a special privilege. The Federal program has been so successful that the President of the United States, by Executive order in 1993 extended it to parts of the Federal Government that had not yet had the benefits of that program. It is high time that the workers in the private sector of this country enjoy the same benefits of agreeing with their employers on flexible working arrangements at the option of the worker, never to be imposed by the employer, which would allow the worker to accommodate the competing needs and demands of family and the workplace.

Allowing workplace flexibility is a tremendous step forward. It has been asked for by the women of America as reflected in the Clinton administration document. It has been written about, like this Time Magazine article featuring the difficulties of Lori Lucas, a single mother, working full-time in Shrewsbury, Missouri. The President of the United States has talked about flextime and the need to have it, and it is time for us to deliver it to the American people—albeit 15 or more years after we delivered it to the workers in the FederalGovernment.

I believe that working women know what they need. Working Women Magazine and Working Mother magazines have endorsed it, and is time to have those flexible working arrangements. Working Women Magazine said in its support of this legislation, that it is time for Congress to give women what they want, and not what you Congress thinks they need.

Similarly, when parents spend time at work, they can never replace that time with their families no matter how much overtime they may bring home. Sometimes people would like, instead of being paid time and a half for overtime, to take time and a half off sometime later in order to spend time with their families. That is another part of this bill—to allow people to take as compensation for overtime—compensatory time instead of money. While it would allow a worker to ask for the money, the worker would have a complete, unchallenged and unfettered right to be paid money for the overtime.

This bill is really designed to give workers choices and the opportunity to choose to be with their families instead of being forced to take their overtime in money. For some workers, there comes a point when no matter how much money they have, they simply want and need to be able to spend some time with their families.

I am delighted that I have been joined in this particular endeavor in developing this legislation by one of the individuals who is most careful regarding the rights, options and choices of individuals not only in the workplace but as American citizens. I would like to yield to the Senator from Texas, Senator HUTCHISON, who is the primary cosponsor of this legislation, the Family Friendly Workplace Act, and to call upon her for remarks.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the Senator from Missouri for providing leadership on this very important issue. He was out there fighting for this issue from the first day he came to the Senate, and he has certainly demonstrated his commitment to family flexibility throughout his Government career.

I am reminded of the speech that I heard my friend, Congresswoman SUSAN MOLINARI, give this summer. Congresswoman MOLINARI is a working mom. She says what we need most as working moms in this country is more hours in the day. Senator ASHCROFT and I would like to provide more hours in the day. That is not an option for us. But we are going to do something that we think will be second best to producing more hours in a day for a working mom or a working dad who wants to work or is forced to work to make ends meet, either way, but yet also wants more time with his or her children.

This bill will primarily benefit the hourly employees in our country. Because salaried employees are presently exempt from many federal wage and hour laws, this is not as much an issue for them. They and their employers are able to work out flexible work arrangements. But in the hourly category, employers and employees do not have that option. They are not able to do what anybody would think in this country is common sense; and that is sit down and say, "Could I work 2 extra hours on Friday in order to take off at 3 o'clock to go to the PTA meeting on Monday?" That is what Senator ASHCROFT and I would like to do with the Family Friendly Workplace Act that we have introduced today.

It is a fact that in two-thirds of the households in this country, both the mother and the father are working. In fact, 75 percent of the mothers of young children are now in the workplace. So we must address the ever-increasing demands on working moms and working dads—to allow them to have more time to do what they need to do to bring their families together and to keep them close-knit. This requires going to the PTA meetings, going to the afternoon basketball game, or to the soccer game, or whatever it is that will allow that family to bond together and maintain its strength, thereby strengthening our country. We all know that the family unit is the core strength of our nation, and if we allow that to deteriorate, then nothing else is going to matter. In the history of civilization, no country has ultimately survived where the family unit has deteriorated.

That is why we are looking for creative ways to help the working family—and in this case it is the hourly wage working families who are struggling the hardest to make ends meet—to be able to do what they need to do for their families while maintaining a good working relationship with their employers and preserving their family income.

The bill that Senator ASHCROFT and I are introducing today will relieve stress in the family by allowing the employer and the hourly employee to sit down and negotiate to, for example, take off two hours today and work an additional two hours the following week, or perhaps to work an extra hour every day and bank that time for use when a family need arises, or to work required overtime and have a choice about whether they take time-and-a-half compensation or time and a half hours because then they can bank that time and do even more with their families.

In fact, there was a poll conducted by Penn & Shoen and Associates that revealed that 75 percent of all employees would like to have the ability to choose between getting time-and-a-half in either wages or time. Fifty-seven percent would take time off instead of being paid, if the option were available.

So why not make these options available? The Family Friendly Workplace Act makes these options available, on a totally voluntary basis. There are strict requirements in this law that will keep employers from in any way requiring or coercing an employee to work and not take overtime pay. We wantto make sure that does not happen. That is why the law is written very carefully to make sure that it could not happen, and that it will only give employees and employers the ability to voluntarily sit down and do what they think make sense for their schedules and needs.

Let me also mention that where there are union agreements in effect, this law will not affect those agreements. This legislation does not encroach on the collective bargaining of unions in any way. Rather, it would apply to employees who are not in unions who now are restricted by a wage-and-hour law that says you cannot have the option of working a couple of hours on Friday in order to take off at 3 o'clock on Monday. That is exactly what Senator ASHCROFT and I seek to enact with this legislation.

I commend Senator ASHCROFT for his leadership in this area. We are going to work with our colleagues on both sides of the aisle and on both sides of the Rotunda to enact this very important legislation. We must grant hourly wage employees who have families in this country and the same options that people on salaries and, indeed, that federal employees already have.

Thank you, Mr. President. I yield back to the Senator from Missouri.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Texas for her sensitivity on this issue and for her commitment to it. I know she is dedicated to helping resolve this. There is simply no reason why the Government of the United States should put a barrier between the employers and employees of America who want to resolve stresses and strengths. We should have laws that allow people to reach these judgments about flexibly and allocating time, with adequate protection which are enforcement mechanisms through the Department of Labor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Friendly Workplace Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to assist working people in the United States;

(2) to balance the demands of workplaces with the needs of families;

(3) to provide such assistance and balance such demands by allowing employers to offer compensatory time off, which employees may voluntarily elect to receive, and to establish biweekly work programs and flexible credit hour programs, in which employees may voluntarily participate; and

(4) to give private sector employees the same benefits of compensatory time off, biweekly work schedules, and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

SEC. 3. WORKPLACE FLEXIBILITY OPTIONS.

(a) COMPENSATORY TIME OFF.—

(1) IN GENERAL.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

"(r) COMPENSATORY TIME OFF FOR PRIVATE EMPLOYEES.—

"(1) GENERAL RULE.—

"(A) COMPENSATORY TIME OFF.—An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which monetary overtime compensation is required by this section.

"(B) DEFINITION.—For purposes of this subsection, the term 'employee' does not include an employee of a public agency.

"(2) CONDITIONS.—An employer may provide compensatory time off to employees under paragraph (1)(A) only pursuant to the following:

"(A) Such time may be provided only in accordance with—

"(i) applicable provisions of a collective bargaining agreement between the employer and the representative of the employees recognized as provided in section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)); or

"(ii) in the case of employees who are not represented by a labor organization recognized as provided in section 9(a) of the National Labor Relations Act, an agreement or understanding arrived at between the employer and employee before the performance of the work involved if such agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

"(B) If such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to receive compensatory time off in lieu of monetary overtime compensation.

"(C) If the employee has not accrued compensatory time off in excess of the limit applicable to the employee prescribed by paragraph (3).

"(3) HOUR LIMIT.—

"(A) MAXIMUM HOURS.—An employee may accrue not more than 240 hours of compensatory time off.

"(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employee's employer shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (6). An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

"(C) EXCESS OF 80 HOURS.—The employer may provide monetary compensation for an employee's unused compensatory time off in excess of 80 hours at any time after giving the employee at least 30 days' notice. Such compensation shall be provided at the rate prescribed by paragraph (6).

"(D) POLICY.—An employer that has adopted a policy offering compensatory time off to employees may discontinue such policy upon giving employees 30 days' notice.

"(E) WRITTEN REQUEST.—An employee may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at any time. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time off accrued that has not yet been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (6).

"(4) PROHIBITION OF COERCION.—

"(A) IN GENERAL.—An employer that provides compensatory time off under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

"(i) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours; or

"(ii) requiring the employee to use such compensatory time off.

"(B) DEFINITION.—As used in subparagraph (A), the term 'intimidate, threaten, or coerce' has the meaning given the term in section 13A(d)(3)(B).".

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(A) in subsection (b), by striking "(b) Any employer" and inserting "(b) Except as provided in subsection (f), any employer"; and

(B) by adding at the end the following:

"(f)(1) An employer that violates section 7(r)(4) shall be liable to the employee affected in an amount equal to—

"(A) the product of—

"(i) the rate of compensation (determined in accordance with section 7(r)(6)(A)); and

"(ii)(I) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

"(II) the number of such hours used by the employee; and

"(B) as liquidated damages, the product of—

"(i) such rate of compensation; and

"(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee.

"(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).".

(3) CALCULATIONS AND SPECIAL RULES.—Section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by paragraph (1), is amended by adding at the end the following:

"(5) TERMINATION OF EMPLOYMENT.—An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time off in accordance with paragraph (6).

"(6) RATE OF COMPENSATION FOR COMPENSATORY TIME OFF.—

"(A) GENERAL RULE.—If compensation is to be paid to an employee for accrued compensatory time off, such compensation shall be paid at a rate of compensation not less than—

"(i) the regular rate received by such employee when the compensatory time off was earned; or

"(ii) the final regular rate received by such employee,

whichever is higher.

"(B) CONSIDERATION OF PAYMENT.—Any payment owed to an employee under this subsection for unused compensatory time off shall be considered unpaid monetary overtime compensation.

"(7) USE OF TIME.—An employee—

"(A) who has accrued compensatory time off authorized to be provided under paragraph (1); and

"(B) who has requested the use of such compensatory time off,

shall be permitted by the employer of the employee to use such time within a reasonable period after making the request if the use of the compensatory time off does not unduly disrupt the operations of the employer.

"(8) DEFINITIONS.—The terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7).".

(4) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations published at 29 C.F.R. 516.4, to

employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 to employees so that such notice reflects the amendments made to such Act by this subsection.

(b) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.—

(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following new section:

"SEC. 13A. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.

"(a) PURPOSES.—The purposes of this section are—

"(1) to assist working people in the United States;

"(2) to balance the demands of workplaces with the needs of families;

"(3) to provide such assistance and balance such demands by allowing employers to establish biweekly work programs and flexible credit hour programs, in which employees may voluntarily participate; and

"(4) to give private sector employees the same benefits of biweekly work schedules and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

"(b) BIWEEKLY WORK PROGRAMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

"(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

"(B) in which more than 40 hours of the work requirement may occur in a week of the period.

"(2) COMPUTATION OF OVERTIME.—In the case of an employee participating in such a biweekly work program, all hours worked in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by an employer, shall be overtime hours.

"(3) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

"(4) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7 or any other provision of law that relates to premium pay for overtime work, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

"(c) FLEXIBLE CREDIT HOUR PROGRAMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an employer may establish flexible credit hour programs, under which, at the election of an employee, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accumulate flexible credit hours to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

"(2) COMPUTATION OF OVERTIME.—In the case of an employee participating in such a flexible credit hour program, all hours worked in excess of 40 hours in a week that are requested in advance by an employer, other than flexible credit hours, shall be overtime hours.

"(3) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

"(4) COMPENSATION FOR FLEXIBLE CREDIT HOURS.—Notwithstanding section 7 or any other provision of law that relates to premium pay for overtime work, an employee shall be compensated for each flexible credit hour at a rate not less than the regular rate at which the employee is employed.

"(5) ACCUMULATION AND COMPENSATION.—

"(A) ACCUMULATION OF FLEXIBLE CREDIT HOURS.—An employee who is participating in such a flexible credit hour program can accumulate not more than 50 flexible credit hours.

"(B) COMPENSATION FOR FLEXIBLE CREDIT HOURS OF EMPLOYEES NO LONGER SUBJECT TO PROGRAM.—Any employee who was participating in such a flexible credit hour program and who is no longer subject to such a program shall be paid at a rate not less than the regular rate at which the employee is employed on the date the employee receives such payment, for not more than 50 flexible credit hours accumulated by such employee.

"(C) COMPENSATION FOR ANNUALLY ACCUMULATED FLEXIBLE CREDIT HOURS.—

"(i) IN GENERAL.—Not later than January 31 of each calendar year, the employer of an employee who is participating in such a flexible credit hour program shall provide monetary compensation for any flexible credit hours accumulated as described in subparagraph (A) during the preceding calendar year that were not used prior to December 31 of the preceding calendar year at a rate not less than the regular rate at which the employee is employed on the date the employee receives such payment.

"(ii) DIFFERENT 12-MONTH PERIOD.—An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

"(d) PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

"(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists, an employee may only be required to participate in such a program in accordance with the agreement.

"(3) PROHIBITION OF COERCION.—

"(A) IN GENERAL.—An employer may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of such employee under this section to elect or not to elect to work a biweekly work schedule, to elect or not to elect to participate in a flexible credit hour program, or to elect or not to elect to work flexible credit hours (including working flexible credit hours in lieu of overtime hours).

"(B) DEFINITION.—As used in subparagraph (A), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"(e) APPLICATION OF PROGRAMS IN THE CASE OF COLLECTIVE BARGAINING AGREEMENTS.—

"(1) APPLICABLE REQUIREMENTS.—In the case of employees in a unit represented by an exclusive representative, any biweekly work program or flexible credit hour program described in subsection (b) or (c), respectively, and the establishment and termination of any such program, shall be subject to the provisions of this section and the terms of a collective bargaining agreement between the employer and the exclusive representative.

"(2) INCLUSION OF EMPLOYEES.—Employees within a unit represented by an exclusive representative shall not be included within any program under this section except to the extent expressly provided under a collective bargaining agreement between the employer and the exclusive representative.

"(3) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefits program or plan that provides lesser or greater rights to employees than the benefits established under this section.

"(f) DEFINITIONS.—As used in this section:

"(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

"(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the exclusive representative of employees in an appropriate unit to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.

"(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

"(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

"(5) EMPLOYEE.—The term 'employee' means an employee, as defined in section 3, except that the term shall not include an employee, as defined in section 6121(2) of title 5, United States Code.

"(6) EMPLOYER.—The term 'employer' means an employer, as defined in section 3, except that the term shall not include any person acting in relation to an employee, as defined in section 6121(2) of title 5, United States Code.

"(7) EXCLUSIVE REPRESENTATIVE.—The term 'exclusive representative' means any labor organization that—

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to Federal law; or

"(B) was recognized by an employer immediately before the date of enactment of this section as the exclusive representative of employees in an appropriate unit—

"(i) on the basis of an election; or

"(ii) on any basis other than an election;

and continues to be so recognized.

"(8) FLEXIBLE CREDIT HOURS.—The term 'flexible credit hours' means any hours, within a flexible credit hour program established under subsection (c), that are in excess of the basic work requirement of an employee and that, at the election of the employee, the employer and the employee jointly designate for the employee to work so as to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

"(9) OVERTIME HOURS.—The term 'overtime hours'—

"(A) when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer.

"(B) when used with respect to flexible credit hour programs under subsection (c), means all hours worked in excess of 40 hours in a week that are requested in advance by an employer, but does not include flexible credit hours.

"(10) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).".

(2) PROHIBITIONS.—

(A) PURPOSES.—The purposes of this paragraph are to make violations of the biweekly work program and flexible credit hour program provisions by employers unlawful under the Fair Labor Standards Act of 1938, and to provide for appropriate remedies for such violations, including, as appropriate, fines, imprisonment, injunctive relief, and appropriate legal or equitable relief, including liquidated damages.

(B) REMEDIES AND SANCTIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended by inserting before the semicolon the following: ", or to violate any of the provisions of section 13A".

(c) LIMITATIONS ON SALARY PRACTICES RELATING TO EXEMPT EMPLOYEES.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

"(m)(1)(A) In the case of a determination of whether an employee is an exempt employee described in subsection (a)(1), the fact that the employee is subject to deductions in compensation for—

"(i) absences of the employee from employment of less than a full workday; or

"(ii) absences of the employee from employment of less than a full pay period,

shall not be considered in making such determination.

"(B) In the case of a determination described in subparagraph (A), an actual reduction in compensation of the employee may be considered in making the determination.

"(C) For the purposes of this paragraph, the term 'actual reduction in compensation' does not include any reduction in accrued paid leave, or any other practice, that does not reduce the amount of compensation an employee receives for a pay period.

"(2) The payment of overtime compensation or other additions to the compensation of an employee employed on a salary based on hours worked shall not be considered in determining if the employee is an exempt employee described in subsection (a)(1).".

Mr. JEFFORDS. Mr. President, I am pleased to rise in support of S. 4, the "Family Friendly Workplace Act of 1997." This legislation is designed to address the very pressing and legitimate needs of working families for more flexibility in their workplaces.

We all know how difficult it is for working parents to balance the demands of work and family responsibilities. There are soccer games, parent-teacher conferences, and doctor's appointments that demand a few hours of time during the workweek. Our workplace laws should allow workers the flexibility to work a few extra hours one week, in order to take time off later when they need to for family or personal reasons.

Ironically, current law inhibits more flexible schedules and compensation programs. While this may come as a surprise, it is really not all that hard to understand why. The world of the workplace has undergone a revolution in the last 60 years.

In the 1930's, as the Roosevelt administration and the Congress sought to establish minimum wage and overtime standards, the last thing on their minds was finding free time for workers. With as much as one-third of the work force unemployed, the problem was far too much free time, not too little. The purpose of premium pay for overtime work was not to enrich already-employed workers, but to spread work to the unemployed, in effect reducing free time.

The story of a woman from Poultney, Vermont, near my home town, brought this home to me. She was employed as a school teacher in the midst of the Depression, and had the further good fortune to fall in love and get married to a man who was also employed. Upon her marriage, she quickly resigned from her job. When asked why decades later, she explained it was simply understood that you would not have two full-time jobs in one family.

Such taboos today are little more than an interesting historical footnote. With the rise of single parent families and two-parent families in which both spouses work, it is incredibly difficult to balance the demands of work and family. That difficulty is increased by the Fair Labor Standards Act [FLSA] which was not designed with today's circumstances in mind. The law's minimum wage and overtime protections are just as important today as they were when enacted, but the law needs to be adjusted to the workplace of the 21st century.

For example, the FLSA bars private employers from offering employees the choice of receiving overtime in the form of compensatory time off instead of cash wages. While Federal and public sector workers have had this option since 1985, private sector workers do not. Many employees do not necessarily want money as much as time to address family needs. A recent public opinion poll conducted by Penn & Schoen Associates found that workers strongly favor more flexibility in their work schedules. Seventy-five percent of those surveyed said they would prefer the option to choose to be compensated for overtime with compensatory time off or cash overtime.

Now some of my colleagues may be familiar with what seems to be a contradictory poll conducted by Lake Research which found that nearly two-thirds of poll respondents opposed the policy we propose. Frankly, I would, too, if it was anything like what was described in the poll's question.

The Lake Research poll describes compensatory time off as the employer's decision. It is not. It describes biweekly scheduling as the employer's decision. It is not. Indeed, the poll's question concludes by saying: Employers could schedule you to work 60 hours one week and 20 hours the next, but you would not earn overtime pay. Do you support or oppose such a policy?

It comes as no surprise that most people would not support such a policy. As my colleagues know, you can structure a question on a poll to yield just about any result you want. This is a pretty good example of just that.

What is interesting to me is that even when faced with such a slanted presentation, one-third of the people either supported such a policy or were unsure. It stands toreason that when presented with the facts—that is, that each of these proposals is predicated on the employee's decision, not the employer's—three quarters of Americans support having the option of taking time off instead of cash.

This bill incorporates provisions which passed the House of Representatives last year that would allow the payment of overtime with compensatory time off at a rate of 1.5 hours for each hour worked over 40 in a workweek. Just like in the public sector, however, no employee could be forced to accept comp time off instead of being paid for overtime. A written agreement between the employer and the employee is required, and there are strong penalties against any employer who coerces, intimidates, or threatens workers into accepting such an agreement.

Not all employees want to work a traditional 8-hour day, 5 days a week, with no variation. Some employees would prefer to trade hours between weeks—e.g. work 45 hours one week, 35 hours the next and take every other Friday off—or shift to a schedule that compresses many hours at the front end of the week so that they can put together several days off later. However, companies would have to pay workers overtime for any hours over 40 in the first week, even if the employee would prefer to flex his or her schedule. Currently, only Federal workers can flex their schedules without their employer being subject to the overtime penalty.

S. 4 would remove this limitation and permit employers and employees to mutually agree on a flexible, biweekly schedule consisting of any combination of 80 hours over a 2-week period. As with the comp time provisions, nothing would be forced upon the employer or the employee. If they agreed on such schedules, the employee could trade hours over a 2-week period without violating the FLSA. Any hours in excess of 80 hours would still be paid at 1.5 times the employee's regular rate of pay. If it's good enough for Federal workers, it's good enough for all workers.

Finally, this bill corrects a flexibility problem for salaried workers in both the private and the public sectors. In many instances, salaried employees who want to take a few hours off for personal or family reasons must choose between two equally undesirable options: either to use a portion of their paid leave, that is, vacation or sick leave, or take a full day off without pay. If the employer grants an employee a few hours of unpaid leave—or merely has a policy which permits it—all the salaried employees may lose their exempt status under the FLSA.

Thus, a policy that allows for a partial day of unpaid leave can convert an exempt worker to a nonexempt one who is then owed overtime, even if the worker has a six-figure income and is employed at the highest levels of the company. Multiply this over an entire salaried work force, and the liability to public and private employers soars into the billions of dollars.

This bizarre situation does not apply, however, if an employee is taking leave pursuant to the Family and Medical Leave Act of 1993 [FMLA]. This bill would merely extend this practice to accommodate the desire of many salaried employees to take time off for reasons other than family and medical leave, or for employees who work for small companies. In order to provide maximum flexibility to all salaried workers who wish to take partial day leave under any circumstances, this bill would clarify that salaried workers do not lose their exempt status under the FLSA as long as there has not been an actual reduction in pay. In effect, this provision would encourage the very type of leave that President Clinton feels needs to be accommodated in our workplace laws.

Mr. President, the Senate Committee on Labor and Human Resources and its Subcommittee on Employment and Training, chaired by Senator DEWINE, will thoroughly and deliverately review and debate these proposals in the coming weeks. I am hopeful that we will reach agreement on the need to provide workers with more flexibility in their work arrangements, and will pass legislation that will achieve this goal.

By Mr. ASHCROFT (for himself, Mr. McCAIN, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BROWNBACK, Mr. CHAFEE, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. THOMAS, Mr. THURMOND, Mr. WARNER, Mr. COATS, Mr. LUGAR, Mr. GRAMM, Mr. KEMPTHORNE, and Mrs. HUTCHISON):

S. 5. A bill to establish legal standards and procedures for product liability litigation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE PRODUCT LIABILITY REFORM ACT OF 1997

Mr. ASHCROFT. Mr. President, let me quickly encapsulate this important piece of legislation for the American people.

Last year, in a bipartisan effort, we succeeded, and this year this bill is sponsored by a group of individuals including the chairman of the Commerce Committee, Senator McCAIN, Senator LOTT, Senator COVERDELL, Senator McCONNELL, Senator ABRAHAM, and Senator GRAMM, and I believe that we will again this year have a bipartisan approach. I have already spoken with a number of the people who were active in this measure—Senator GORTON, Senator ROCKEFELLER, Senator LIEBERMAN, and Senator DODD—about last year's approach. We again have introduced a similar bill. This is a step on the road of reforming the legal system to provide reason and rationality where the legal system, the tort system has been out of control.

Three years ago, for general aviation, the private airplane business, the small plane business, we passed a law which provided a framework of responsibility which put that part of the tort system back under control. People poohpoohed the idea. They said, "It won't help; it won't work to pass such a law." But we are now again building such airplanes in the United States. There are 9,000 new jobs in that industry alone because we made that decision, and the quality of the airplanes is better than it has ever been before. We have not deprived anyone of the capacity to receive compensatory damages as a result of inferior products or defects in products, and we want to extend the tort reform effort which began with general aviation a step further.

The second step we took last year, in 1996, when we enacted securities law tort reform. And that law went into effect this last year. So it is now time for us, having done the general aviation portion of legal reform and tort reform and having moved from that to the securities law, to move to manufacturing generally in the product liability area. It is not an attempt to curtail compensatory damages. People who are injured should be compensated for their injuries. But it is an attempt to bring sanity and reason to an out-of-control tort system which is hurting the quality of our products, stifling innovation and making it very difficult for some industries to survive here. I need not tell most folks that they have already made these kinds of adjustments in the European Economic Community and, of course, by our competition in the Pacific Rim.

This is another step forward in tort reform, and I commend those who have agreed to help us in this respect. I look forward to working with Senators on the other side of the aisle. The President of the United States has repeatedly reiterated his desire to sign a good bill in this respect and we will be fashioning a bill this year. The bill which we have signed is the conference report from last year's effort which passed both Houses of the Congress, and it will provide a place holder as we assemble good legislation this year which we can send to the President and urge him to sign.

Mr. President, I thank you for the opportunity to introduce these two measures, S. 4 and S. 5.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Product Liability Reform Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
Sec. 102. Applicability; preemption.
Sec. 103. Liability rules applicable to product sellers, renters, and lessors.
Sec. 104. Defense based on claimant's use of intoxicating alcohol or drugs.
Sec. 105. Misuse or alteration.
Sec. 106. Uniform time limitations on liability.
Sec. 107. Alternative dispute resolution procedures.
Sec. 108. Uniform standards for award of punitive damages.
Sec. 109. Liability for certain claims relating to death.
Sec. 110. Several liability for noneconomic loss.
Sec. 111. Workers' compensation subrogation.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. General requirements; applicability; preemption.
Sec. 205. Liability of biomaterials suppliers.
Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 301. Effect of court of appeals decisions.
Sec. 302. Federal cause of action precluded.
Sec. 303. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) our Nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy;

(2) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services;

(3) the rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the States, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce;

(4) as a result of excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability, consumers have been adversely affected through the withdrawal of products, producers, services, and service providers from the marketplace, and from excessive liability costs passed on to them through higher prices;

(5) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability jeopardize the financial wellbeing of many individuals as well as entire industries, particularly the Nation's small businesses and adversely affects government and taxpayers;

(6) the excessive costs of the civil justice system undermine the ability of American companies to compete internationally, and serve to decrease the number of jobs and the amount of productive capital in the national economy;

(7) the unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost;

(8) because of the national scope of the problems created by the defects in the civil justice system, it is not possible for the States to enact laws that fully and effectively respond to those problems;

(9) it is the constitutional role of the national government to remove barriers to interstate commerce and to protect due process rights; and

(10) there is a need to restore rationality, certainty, and fairness to the civil justice system in order to protect against excessive, arbitrary, and uncertain damage awards and to reduce the volume, costs, and delay of litigation.

(b) PURPOSES.—Based upon the powers contained in Article I, Section 8, Clause 3 and the Fourteenth Amendment of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce and to uphold constitutionally protected due process rights by—

(1) establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) placing reasonable limits on damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in civil actions;

(4) reducing the unacceptable costs and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; and

(5) establishing greater fairness, rationality, and predictability in the civil justice system.

TITLE I—PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) ACTUAL MALICE.—The term "actual malice" means specific intent to cause serious physical injury, illness, disease, death, or damage to property.

(2) CLAIMANT.—The term "claimant" means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage solely to a product itself, loss relating to a dispute over its value, or consequential economic loss, the recovery of which is governed by the Uniform Commercial Code or analogous State commercial or contract law.

(6) COMPENSATORY DAMAGES.—The term "compensatory damages" means damages awarded for economic and non-economic loss.

(7) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years, or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(8) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(9) HARM.—The term "harm" means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss.

(10) INSURER.—The term "insurer" means the employer of a claimant if the employer is self-insured or if the employer is not self-insured, the workers' compensation insurer of the employer.

(11) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who (i) designs or formulates the product (or component part of the product), or (ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes or constructs and designs, or formulates, or has engaged another person to design or formulate, an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(12) NONECONOMIC LOSS.—The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(13) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(14) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state which—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam except to the extent that electricity, water delivered by a utility, natural gas, or steam, is subject, under applicable State law, to a standard of liability other than negligence.

(15) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(16) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(17) Punitive damages.—The term "punitive damages" means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future.

(18) State.—The term "State" means any State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) Preemption.—

(1) In general.—This Act governs any product liability action brought in any State or Federal court on any theory for harm caused by a product.

(2) Actions excluded.—A civil action brought for commercial loss shall be governed only by applicable commercial or contract law.

(b) Relationship to State Law.—This title supersedes State law only to the extent that State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by otherwise applicable State or Federal law.

(c) Effect on Other Law.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) General Rule.—

(1) In general.—In any product liability action, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant;

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) Reasonable opportunity for inspection.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product—

(A) if the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) if the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the claimant's harm.

(b) Special Rule.—

(1) In general.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) Statute of limitations.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) Rented or Leased Products.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(16)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

(d) Actions for Negligent Entrustment.—A civil action for negligent entrustment shall not be subject to the provisions of this section, but shall be subject to any applicable State law.

SEC. 104. DEFENSE BASED ON CLAIMANT'S USE OF INTOXICATING ALCOHOL OR DRUGS.

(a) General Rule.—In any product liability action, it shall be a complete defense to such action if—

(1) the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug when the accident or other event which resulted in such claimant's harm occurred; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for such accident or other event.

(b) Construction.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term "drug" means any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

SEC. 105. MISUSE OR ALTERATION.

(a) General Rule.—

(1) In general.—In a product liability action, the damages for which a defendant is otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant's harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, a defendant's express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) Use intended by a manufacturer is not misuse or alteration.—For the purposes of this Act, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) Workplace Injury.—Notwithstanding subsection (a), and except as otherwise provided in section 111, the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer or any coemployee who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

SEC. 106. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Statute of Limitations.—

(1) In general.—Except as provided in paragraph (2) and subsection (b), a product liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(A) the harm that is the subject of the action; and

(B) the cause of the harm.

(2) Exception.—A person with a legal disability (as determined under applicable law) may file a product liability action not later than 2 years after the date on which the person ceases to have the legal disability.

(b) Statute of Repose.—

(1) In general.—Subject to paragraphs (2) and (3), no product liability action that is subject to this Act concerning a product, that is a durable good, alleged to have

caused harm (other than toxic harm) may be filed after the 15-year period beginning at the time of delivery of the product to the first purchaser or lessee.

(2) STATE LAW.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 15-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) EXCEPTIONS.—

(A) A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 15 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a product liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action not later than 1 year after the date of enactment of this Act.

SEC. 107. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action may, not later than 60 days after the service of—

(1) the initial complaint; or

(2) the applicable deadline for a responsive pleading;

whichever is later, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in subsection (c), not later than 10 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filling a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 108. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action.

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subsection (a) may not exceed the greater of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), in any action described in subsection (a) against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer that 25 full-time employees, the punitive damages shall not exceed the lesser of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or sister corporation.

(3) EXCEPTION FOR INSUFFICIENT AWARD IN CASES OF EGREGIOUS CONDUCT.—

(A) DETERMINATION BY COURT.—If the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages (referred to in this paragraph as the "additional amount") in excess of the amount determined in accordance with paragraph (1) to be awarded against the defendant in a separate proceeding in accordance with this paragraph.

(B) FACTORS FOR CONSIDERATION.—In any proceeding under paragraph (A), the court shall consider—

(i) the extent to which the defendant acted with actual malice;

(ii) the likelihood that serious harm would arise from the conduct of the defendant;

(iii) the degree of the awareness of the defendant of that likelihood;

(iv) the profitability of the misconduct to the defendant;

(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

(vii) the financial condition of the defendant; and

(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

(I) compensatory and punitive damage awards to similarly situated claimants;

(II) the adverse economic effect of stigma or loss of reputation;

(III) civil fines and criminal and administrative penalties; and

(IV) stop sale, cease and desist, and other remedial or enforcement orders.

(C) REQUIREMENTS FOR AWARDING ADDITIONAL AMOUNT.—If the court awards an additional amount pursuant to this subsection, the court shall state its reasons for setting the amount of the additional amount in findings of fact and conclusions of law.

(D) PREEMPTION.—This section does not create a cause of action for punitive damages and does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Nothing in this subsection shall modify or reduce the ability of courts to order remittiturs.

(4) APPLICATION BY COURT.—This subsection shall be applied by the court and application of this subsection shall not be disclosed to the jury. Nothing in this subsection shall authorize the court to enter an award of punitive damages in excess of the jury's initial award of punitive damages.

(c) BIFURCATION AT REQUEST OF ANY PARTY.—

(1) IN GENERAL.—At the request of any party the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 109. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 108, but only during such time as the State law so provides. This section shall cease to be effective September 1, 1997.

SEC. 110. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 111. WORKERS' COMPENSATION SUBROGATION.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this Act.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) Insurer not required to be a party.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) Settlements and other legal proceedings.—

(A) In general.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this Act, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) Written notification.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the insurer.

(C) Exemption.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) Harm resulting from action of employer or coemployee.—

(A) In general.—If, with respect to a product liability action that is subject to this Act, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the insurer.

(B) Rights of insurer.—

(i) In general.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an insurer shall, in the same manner as any party in the action (even if the insurer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) Last issue.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is submitted to the trier of fact.

(C) Reduction of damages.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) Certain rights of subrogation not affected.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) Attorney's Fees.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1997".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) Biomaterials supplier.—

(A) In general.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) Persons included.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) Claimant.—

(A) In general.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) Action brought on behalf of an estate.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) Action brought on behalf of a minor or incompetent.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) Exclusions.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to

dismiss in accordance with section 206(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 205(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 301. EFFECT OF COURT OF APPEALS DECISIONS.

A decision by a Federal circuit court of appeals interpreting a provision of this Act (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 302. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 303. EFFECTIVE DATE.

This Act shall apply with respect to any action commenced on or after the date of the enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

Mr. McCAIN. Mr. President, the Product Liability Reform Act of 1997 overhauls an unfair and inefficient product liability system for the benefit of American consumers and entrepreneurs. The text of this bill will be familiar to all Senators who are veterans of the 104th Congress: it is the conference report that Congress approved last year. Unfortunately, President Clinton vetoed that conference report, but I want to remind my colleagues that the President said in his veto statement "I support real common sense product liability reform." Well, Mr. President, we will soon again hold your words to task.

The introduction of this bill today, as one of the first 10 bills introduced in the Congress, is an indication of the importance of the legislation and the priority that we place on its consideration. The text of the Conference Report has been introduced because it is the last action Congress took on this matter.

Now members from both sides of the aisle will undertake bipartisan discussions and diverse viewpoints will be addressed. In the last Congress Senator GORTON and Senator ROCKEFELLER did an excellent job in developing a bipartisan consensus to pass this legislation. I appreciate their hard work and dedication. Their efforts will be called on again. Senator ASHCROFT has assumed the chairmanship of the subcommittee with jurisdiction over this bill and I know he will be a valuable asset as this legislation advances.

As we address this important legislation I look forward to working with the President as well. The President's veto statement outlined some of his concerns with the conference report. In my opinion, many of those concerns can be addressed easily and directly. Other issues, such as reform of punitive damages and joint and several liability, will require meaningful discussions.

I am nevertheless hopeful that those negotiations will succeed. I am encouraged that the President has strongly indicated his support for meaningful product liability reform. I recall that in the first Presidential debate with Senator Dole, in October 1996, the President said, when discussing product liability, "we're going to eliminate frivolous lawsuits, I'll sign the bill." In that debate, the President reminded the public that he has supported tort reform in the past. In 1994, the President signed the General Aviation Revitalization Act which, by instituting a statute of repose, truly revitalized a withering industry and in the process created hundreds of high quality jobs.

As this legislation moves forward, I remind my colleagues that we must not let the perfect be the enemy of the good. Much is at stake. Federal liability legislation is urgently needed. The present system in the United States for resolving product liability actions is costly, slow, inequitable and unpredictable. I find it shocking that the system's transaction costs exceed the compensation paid to individuals who have sustained injury. These transaction costs are inevitably passed on to consumers through higher product prices. The inefficiency and unpredictability of the product liability system has also stifled innovation, kept beneficial products off the market, and has handicapped American firms as they compete in a global market.

Consumers who are legitimately injured suffer most from this broken system. Many consumers who are injured by defective products and are in need of compensation are unable to recover damages or must wait years to recover them. They are thrown into a product liability litigation system where identical cases can produce shockingly different results. Sadly, severely injured victims tend to receive far less than their actual economic losses, while those with minor injuries often are dramatically overcompensated. This legislation will help fix this broken system. I feel it is important to emphasize that this legislation will greatly benefit consumers and it will not bar the door to the court house or limit the compensatory damages that an injuredplaintiff can receive.

The malfunctions of this system are particularly evident in the area of biomaterials where valuable life-saving products are kept from consumers. I was introduced to this issue when the Ransom family in Mesa, AZ wrote to me about their daughter's desperate need for a specialized brain shunt. They were concerned this life-saving device may not be available for their daughter because companies were no longer willing to supply the raw materials necessary due to the high risk of being unjustifiably sued.

In the last Congress, Senator LIEBERMAN and I introduced legislation to address this problem. That legislation, the Biomaterials Access Assurance Act, became part of the product liability bill and was included in the Conference Report of the bill. In the closing weeks of the last Congress, Senator LIEBERMAN and I proposed a version of our bill that excluded breast implant litigation from its coverage. I expect the legislation advanced in this Congress will also contain that exclusion for breast implant litigation. I look forward to working closely with Senator LIEBERMAN on this matter.

I hope that bipartisan negotiations begin in earnest on The Product Liability Reform Act. It is my desire to have this legislation be the first bill reported in this Congress by the Committee on Commerce, Science, and Transportation.

Mr. ABRAHAM. Mr. President, I rise today in support of S. 5, a bill to reform product liability law. This legislation will significantly curb the epidemic of frivolous lawsuits that are diverting our Nation's resources away from productive activity and into transaction costs.

Our current legal system, under which we spend $300 billion or 4½ percent of our gross domestic product each year, is not just broken, it is falling apart. This is a system in which plaintiffs receive less than half of every dollar spent on litigation-related costs. It is a system that forces necessary goods, such as pharmaceuticals that can treat a number of debilitating diseases and conditions, off the market in this country.

The bill I cosponsor today would do much to address these problems. It institutes caps on punitive damages, thereby limiting potential windfalls for plaintiffs without in any way interfering with their ability to obtain full recovery for their injuries. It provides product manufacturers with long-overdue relief from abusers of their products. And it protects these makers, and sellers, from being made to pay for all or most noneconomic damages when they are responsible for only a small percentage of them.

Last year, President Clinton chose to veto the bipartisan products liability bill that passed the Congress. For the sake of all Americans, I hope this year will be different.

Mr. ASHCROFT. Mr. President, today is an exciting day as I introduce, along with Senators McCAIN, COVERDELL, McCONNELL, and ABRAHAM, S. 5, the Product Liability Fairness Act of 1997.

Justice Holmes once wisely observed that a page of history is worth a volume of logic. With respect to the effort to enact product liability law, we have hundreds of pages of history and volumes of logic to support its enactment now.

The effort of the Federal Government to address product liability goes back almost two decades when President Ford established the Federal Inter-Agency Task Force on Product Liability. Although administration changed, President Carter did not abandon the effort, but enhanced it with resulting research that supports what we do today. President Carter chartered the drafting of the Model Uniform Product Liability Act, which tentatively was offered as a vehicle for state action.

Product liability legislation has been reported out of the Senate Commerce Committee seven times. Last Congress, legislation and a conference report containing many compromises and bipartisan agreements was voted upon favorably in each House. A bipartisan majority of the Senate approved the conference report on March 21, 1996.

The bill that we introduce today is that conference report. I appreciate that today's bill reflects a bill one that was vetoed by President Clinton. But, we are not here today to simply repeat history. We are here to make history and provide Americans with fair product liability legislation.

We are introducing the same bill as a "place marker" for discussions and a fair resolution of issues. The President's veto message suggested that he well may have been misinformed about the nature of the legislation passed by bipartisan majorities last year. Let us have discussions to clarify those matters so that the legislation is unequivocal in its meaning and purpose.

We are resolved to work with the White House to obtain the President's support. I take the President at his word when he said in the Presidential debate on October 6, 1996, "I signed a tort reform bill that dealt with civil aviation a couple of years ago. I proved that I will sign a reasonable tort reform."

It is interesting that the President referred to the General Aviation Revitalization Act of 1994, which he did sign on August 17, 1994. The aviation liability reform bill enacted a statute of repose for general aviation aircraft. In 1994, proponents of the bill said that it would produce jobs. It has. To date, over 9,000 new jobs, good jobs, have been created. Single engine aircraft are being manufactured in America again, and an endangered industry has been revitalized. President Clinton was right to support that bill.

What did opponents say in 1994 aviation bill? They said that no new jobs would be produced. And, they said that if planes were produced, they would be unsafe and, in hyperbole, suggested that they might be made of balsa wood. What actually happened? I already mentioned that 9,000 new jobs have been created. You should also know that the aircraft being made by American workers are the safest single engine aircraft produced in the history of this country.

Let us bring the results of the General Aviation Revitalization Act of 1994 to the broad segments of our country and industries.

We introduce this bill to stimulate job growth. We introduce this bill to remove the chilling effects that prevent the introduction of good and useful products. We introduce this bill to encourage new product development. On the other hand, it is our goal to assure that anyone that makes dangerous and defective products is appropriately sanctioned by our tort law.

From the perspective of many, this bill is a very modest one. From their perspective, there is a need to have liability reform in other crucial areas, such as: general punitive reform, medical liability reform, and volunteers' liability reform.

The principles contained in this bill are a good starting point to make the productliability laws in this nation fair for consumers who purchase defective products while placing the burden on those responsible for placing these products in the stream of commerce. It also ensures that those who misuse products, or use them while under the influence of drugs or alcohol, do not collect a windfall which becomes a burden for American consumers in the form of increased costs for products—useful products that are no longer available in the market, and the loss of jobs and greater opportunities.

This bill in no way limits compensatory damages. This bill would not affect the ability of plaintiffs to sue manufacturers or sellers of medical implants. It would, however, allow raw material suppliers to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterial supplier is not classified as either a manufacturer or seller of the implant.

Strong product liability reform is good for America. It ensures that consumers, injured by a product, will be fairly compensated. It will enhance American innovation, which is the best in the world, by treating responsible entrepreneurs fairly while treating the bad actors harshly and to the full extent of the law.

As chairman of the Consumer Affairs Subcommittee I am committed and look forward to working with this administration toward ending the 20-year study and painstaking endeavor to provide our Nation with sound and fair Federal product liability law. It took the European community about 6 years to accomplish this goal and create the European product liability directive. Japan enacted its first product liability reform law almost 2 years ago.

Our Nation, this Congress, and this administration should pull together and meet the challenge of our foreign competitors and enact fair and balanced product liability law. In that spirit and for that purpose, we introduce S. 5.

By Mr. SANTORUM (for himself and Mr. SMITH of New Hampshire):

S. 6. A bill to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

THE PARTIAL-BIRTH BAN ACT OF 1997

Mr. SANTORUM. Mr. President, the agenda for the 105th Congress reflects a continuance of the very significant debate that occurred in the 104th Congress on the issue of partial birth abortion.

Four months ago, we debated and considered a presidential veto override on a bill to ban the partial birth abortion procedure. On a final vote, we came very close to banning this very gruesome procedure, and the number of colleagues who supported the override set the stage for consideration again this year.

A wide spectrum of individuals have coalesced around the effort to ban partial birth abortions. These varied individuals and groups have raised their voices in support of a ban both because of the brutality of partial birth abortions and because they recognize that this debate is not about Roe vs. Wade, the 1973 Supreme Court decision legalizing abortion. It is not about when a fetus becomes a baby. And it is certainly not about women's health. It is about infanticide, it is about killing a child as he or she is being born, an issue that neither Roe vs. Wade nor the subsequent Doe vs. Bolton decision addressed.

During the Senate debate last year, various traditionally pro-choice legislators voted in support of legislation to ban this particular procedure. Among them was a colleague who stated on the floor of the Senate, "In my legal judgement, the issue is not over a woman's right to choose within the constitutional context of Roe versus Wade. * * * The line of the law is drawn, in my legal judgement, when the child is partially out of the womb of the mother. It is no longer abortion; it is infanticide." He was joined in these sentiments by other like minded Senators.

This perspective is significant in that it suggests the scope of the tragedy that this procedure represents. And for those who may still be unclear what a partial birth abortion procedure is, it is this: a fully formed baby—in most cases a viable fetus of 23–26 weeks—is pulled from its mother until all but the head is delivered. Then, scissors are plunged into the base of the skull, a tube is inserted and the child's brains are suctioned out so that the head of the now-dead infant collapses and is delivered.

Partial birth abortion is tragic for the infant who loses his or her life in this brutal procedure. It is also a personal tragedy for the families who choose the procedure, as it is for those who perform it—even if they aren't aware of it. But partial birth abortion is also a profound social tragedy. It rips through the moral cohesion of our public life. It cuts into our most deeply held beliefs about the importance of protecting and cherishing vulnerable human life. It fractures our sense that the laws of our country should reflect long-held, commonly accepted moral norms.

Yet this kind of tragedy—even as it calls forth and exposes our outrage—can be an unexpected catalyst for consensus, for new coalitions and configurations in our public life. The partial birth abortion debate moves us beyond the traditional lines of confrontation to hollow out a place in the public square where disparate individuals and groups can come together and draw a line that they know should not be crossed.

The stark tragedy of partial birth abortion can be the beginning of a significant public discussion where we define—or re-define—our first principles. Why is such a discussion important? Precisely because it throws into relief the fundamental truths around which a moral consensus is formed in this country. And, as John Courtney Murray reminds us in "We Hold These Truths, Catholic Reflections on the American Proposition", a public consensus which finds its expression in the law should be "an ensemble of substantive truths, a structure of basic knowledge, an order of elementary affirmations* * *".

If we do not have fundamental agreement about first principles, we simply cannot engage one another in civil debate. All we have is the confusion of different factions locked in their own moral universe. If we could agree publicly on just this one point—that partial birth abortion is not something our laws should sanction, and if we could then reveal the consensus—a consensus that I know exists—against killing an almost-born infant, we would have significantly advanced the discussion about what moral status and dignity we give to life in all its stages. Public agreement, codified by law, on this one prohibition gives us a common point of departure. It give us a common language even, because we agree, albeit in a narrow sense, on the meaning of fundamental terms such as life and death. And it is with this common point of departure and discourse—however narrow—that we gain a degree of coherence and unity in our public life and dialogue.

I truly believe that out of the horror and tragedy of partial birth abortions, we can find points of agreement across ideological, political and religious lines which enable us to work toward a life-sustaining culture. So, as hundreds of thousands of faithful and steadfast citizens come together to participate in this year's March for Life, let us remember that such a culture, the culture for which we hope and pray daily, might very well be achieved one argument at a time.

Mr. President, I am proud to have the opportunity to sponsor this legislation and to continue the very significant achievements of my colleague, Senator BOB SMITH. I look forward to continuing that effort in cooperation with Representative CHARLES CANADY, and I thank my colleagues for making this initiative a priority in our legislative agenda.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 6

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partial-Birth Abortion Ban Act of 1997".

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL BIRTH ABORTIONS

"Sec.
"1531. Partial-birth abortions prohibited.

"§ 1531. Partial-birth abortions prohibited

"(a) Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus or infant shall be fined under this title or imprisoned not more than two years, or both.

"(b) Subsection (a) does not apply to a partial-birth abortion that is necessary to save the life of a mother because her life is endangered by a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, if no other medical procedure would suffice for that purpose.

"(c) As used in this section—

"(1) the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the infant and completing the delivery; and

"(2) the terms 'fetus' and 'infant' are interchangeable.

"(d)(1) Unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion, the father, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus or infant, may in a civil action obtain appropriate relief.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion; even if the mother consented to the performance of an abortion.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for a conspiracy to violate this section, or an offense under section 2, 3, or 4 of this title based on a violation of this section.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"75. Partial-birth abortions .... 1531".

Mr. ABRAHAM. Mr. President, I rise today to cosponsor S. 6. In doing so I add my voice to the chorus calling for an end to partial birth abortion. The bill we are considering is designed to outlaw medical procedures "in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery." It is a narrowly drafted bill which specifically and effectively targets a rare but grisly and unnecessary practice.

I understand, Mr. President, that the American people are divided on many issues within the abortion debate. I am firmly pro-life. But in my view one need not resort to broad, ideological arguments in this case. Partial birth abortions occur only in the third trimester of pregnancy. They are never required to save the life, health, or child-bearing ability of the mother. They are unnecessary and regrettable.

We in this chamber failed to override the President's veto of this legislation during the last Congress. But I remain convinced that all of us can agree that this Nation can do without this particular, rare, and grisly procedure. I urge my colleagues to support this legislation.

By Mr. LOTT (for himself, Mr. THURMOND, Mr. SMITH of New Hampshire, Mr. WARNER, Mr. KYL, Mr. COCHRAN, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INHOFE, Mr. MURKOWSKI, Mr. NICKLES, Mr. SESSIONS, and Mr. KEMPTHORNE):

S. 7. A bill to establish a U.S. policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

THE NATIONAL MISSILE DEFENSE ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 7

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Missile Defense Act of 1997".

SEC. 2. NATIONAL MISSILE DEFENSE POLICY.

(a) NATIONAL MISSILE DEFENSE.—It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate); and

(2) could be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats if they emerge.

(b) COOPERATIVE TRANSITION.—It is the policy of the United States to seek a cooperative transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 3. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 3(a), the Secretary of Defense shall develop for deployment a National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by the end of 2003.

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include the following elements:

(1) INTERCEPTORS.—An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

(2) GROUND-BASED RADARS.—Fixed ground-based radars.

(3) SPACE-BASED SENSORS.—Space-based sensors, including the Space and Missile Tracking System.

(4) BM/C^3.—Battle management, command, control, and communications (BM/C^3).

SEC. 4. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 3(a);

(2) not later than the end of fiscal year 1999, conduct an integrated systems test which uses elements (including BM/C^3 elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 3(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 3(a); and

(4) develop a national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 3(a); and

(B) could augment that system, if necessary, to provide for a layered defense.

SEC. 5. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for development and deployment of a national missile defense system pursuant to this Act. The report shall include the following matters:

(1) The Secretary's plan for carrying out this Act, including—

(A) a detailed description of the system architecture selected for development under section 3(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1998 through 2003 in order to achieve the initial operational capability date specified in section 3(a).

(3) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 3(a).

SEC. 6. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 232 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 102–106; 110 Stat. 228, 10 U.S.C. 2431 note) and the policy established in section 2, Congress urges the President to pursue, if necessary, high-level discussions with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 3.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 7. DEFINITIONS.

In this Act:

(1) ABM TREATY.—The term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

(2) LIMITED BALLISTIC MISSILE ATTACK.—The term "limited ballistic missile attack" refers to a limited ballistic missile attack as that term is used in the National Ballistic Defense Capstone Requirements Document, dated August 24, 1996, that was issued by the United States Space Command and validated by the Joint Requirements Oversight Council of the Department of Defense.

Mr. HELMS. Mr. President, the Defend America Act of 1997 is a vital piece of legislation—one which provides a clear and concise blueprint for protecting the American people from the growing threat of attack from ballistic missiles carrying nuclear, chemical, or biological warheads.

It is critical that the United States begin immediately the 8-year task of building and deploying a national missile defense. I am grateful to the distinguished majority leader, Mr. LOTT, for introducing this bill and I am honored to join him as a cosponsor.

Just over a year ago the Clinton administration vetoed the 1996 Defense Authorization Act. In his veto message, the President explicitly objected to the missile defense provisions of the act. At that time, along with others, I found it beyond belief that the administration could arrive at the decision to block the deployment of a national missile defense. I remember wondering, given the fact that North Korea is known to be developing a missile capable of striking United States cities, how such a decision could be made.

The chairman of the National Intelligence Council, Richard Cooper, testified before the House National Security Committee on February 28, 1996, that ". . . North Korea is developing a missile, which we call the Taepo Dong 2, that could have a range sufficient to reach Alaska. The missile may also be capable of reaching some U.S. territories in the Pacific and the far western portion of the 2,000-km-long Hawaiian Island chain."

What Mr. Cooper did not add was the fact that nations can and have increased the ranges of their ballistic missiles by reducing payloads.

Mr. President, a September 29, 1995, article in the Washington Times reported that the Defense Intelligence Agency has estimated that the Taepo Dong 2 could, in fact, have a range of 4,650 miles and, with a smaller warhead, could reach 6,200 miles—approximately 10,000 km. Similarly, a September 11, 1995, article in a South Korean newspaper stated that Russia believes that once the Taepo Dong 2's inertial navigation system, warhead weight, and fuel injection devices are improved, the missile could reach over 9,600 kilometers. At those ranges, the Taepo Dong 2 could drop a nuclear or biological warhead on U.S. cities as far east as Denver or Minneapolis.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

Second, I cannot fathom why the Clinton administration objected to the deployment of a national missile defense in light of Red China's bellicose words and deeds. China fields of dozens of submarine-launched ballistic missiles, hundreds of warheads on heavy bombers, roughly 24 medium- and long-range ballistic missiles, and has several crash modernization initiatives in progress. Moreover, China intends to deploy, by the end of the century, four new types of ballistic missiles. Furthermore, the United States has very clear indications that Red China is at this moment pursuing MIRV-technology.

Mr. President, this is the same country, mind you, that flexed its military might by conducting live missile-firing exercises in the Strait of Taiwan in an obviously intentional effort to bully and cower a valued and longstanding ally of the United States. This is the same country that issued thinly-veiled threats this spring suggesting that nuclear weapons would be used against the United States if the United States intervened on behalf of Taiwan. Assistant Secretary of State Winston Lord acknowledged that Chinese officials had declared that the United States "wouldn't dare defend Taiwan because they—China—would rain nuclear bombs on Los Angeles."

Now, if this was not nuclear blackmail, it will do while the Clinton administration folds its hands until the first nuclear missile hits the West Coast of the United States. China's ability to hold the United States hostage to such threats is made possible by the fact that a band of latter-day Luddites here in Washington have consistently refused even to consider building the very strategic missile defenses necessary to protect the American people from such an attack.

Mr. President, it is time for the defenders of the ABM Treaty to give up their pious devotion to an antiquated arms control theology, and to come to grips with the realities of the post-cold-war world. Dr. Henry Kissinger—the architect of the ABM Treaty—put it best when he recently wrote: "The end of the cold war has made * * * a strategy [of mutually assured destruction (MAD)] largely irrelevant. Barely plausible when there was only one strategic opponent, the theory makes no sense in a multipolar world of proliferating nuclear powers."

Dr. Kissinger went on to note specifically that MAD would not work against blackmail with nuclear weapons. Yet that is exactly what we faced when China blatantly threatened Los Angeles.

The truth of the matter is that no amount of policy reformulation by the Clinton administration can change the fact that the United States is vulnerable to nuclear-tipped missiles fielded by China, or any one else. Rectifying this dangerous deficiency requires leadership and action. It is an all the more pressing issue because the current course charted by the administration fails to recognize the inherent danger in China's pursuit of an advanced nuclear arsenal.

Mr. President, any further delay in the development of the United States of a flexible, cost-effective national missile defense is unconscionable. I am honored to be a cospsonor of the Defend America Act and urge Senators to support this legislation to ensure that the American people are protected from attack by ballistic missiles.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 29, 1995]

NORTH KOREAN MISSILE COULD REACH UNITED STATES, INTELLIGENCE WARNS

(By Bill Gertz)

The Western United States could be within range of North Korea's longest-range missile armed with nuclear, chemical or biological warheads by the year 2000, according to U.S. and foreign intelligence assessments.

Sen. Jon Kyl, Arizona Republican, said new information indicates North Korea's Taepo Dong-2 missile, still under development, is an intercontinental ballistic missile (ICBM) capable of hitting U.S. cities and demonstrates the need for rapidly building a national missile defense.

A South Korean intelligence official, quoting a Russian assessment said the Taepo Dong-2 will be deployed by 2000 with a maximum range of 6,200 miles once warhead modifications and technical improvements are made, the newspaper Seoul Shinmun reported Sept. 11.

Mr. Kyl, a member of the Senate Intelligence Committee, said he investigated the report and found it "not inconsistent with some information that I have."

"The bottom line is that if the information is even close to the truth, it presents for the first time a very serious and relatively quick challenge to U.S. sovereignty," he said.

The Defense Intelligence Agency (DIA) estimates the Taepo Dong-2 will have a range of about 4,650 miles and confirmed that with a smaller warhead it could reach 6,200 miles, a Pentagon source said.

Information on the North Korean ICBM comes as a House and Senate conference committee is working on provisions of the fiscal 1996 defense authorization about whether the Pentagon should move ahead quickly with deployment of a national missile defense that could defend against such North Korean missiles.

"Given the time it takes to develop and deploy an effective national missile-defense system, overlayed on that intelligence information, it is clear we have to begin now if we are to avoid a 'missile-defense gap,'" Mr. Kyl said.

"In this case it would be real," he said, referring to the issue of the United States lagging behind the Soviet Union in strategic missiles. The missile-gap debate surfaced during the 1960 presidential election campaign and was later proved to have been unfounded.

Mr. Kyl said the intelligence report also counters claims by administration officials that national missile defenses are not needed because there is no immediate threat to the United States.

A DIA statement said the press information about the Taepo Dong–2 was "factual. . . . Clearly the successful deployment of these longer-range missiles would present a new dimension to the challenges to United States and regional interests."

One DIA computer simulation of the Taepo Dong-2 put the range of the missile at between 2,666 miles and 3,720 miles.

But according to South Korean intelligence, Russian missile experts believe the range of the Taepo Dong–2 could be extended to at least 6,000 miles after technical problems are solved, the Seoul newspaper reported.

The Russians told South Korea the greater range could be achieved if the guidance mechanism is improved, the warhead weight is decreased and fuel-injection technology is advanced.

The Pentagon's Ballistic Missile Defense Organization drew up charts showing the targets a long-range Taepo Dong–2 could hit. They include all major U.S. cities on the West Coast, in Arizona, Colorado, Kansas and just short of Chicago. It also could reach all the major European capitals.

A U.S. intelligence official said current North Korean missile technology is "Scud technology" with rudimentary guidance and control mechanisms.

"It will take a lot longer than the year 2000 to get to that point," he said of long-range missile capability. "Although there is no question they would like to achieve that."

But other intelligence officials said China is secretly helping the North Korean long-range missile project and a group of up to 200 North Korean missile engineers has undergone training in China.

As for the range of the Taepo Dong, the CIA report says only that its two versions will have ranges shorter and greater than 1,860 miles, respectively.

The accuracy of the missile is so poor that U.S. analysis see it as only useful for firing weapons of mass destruction—nuclear, chemical or biological warheads. The Pentagon says North Korea has covertly developed enough nuclear fuel for four or five nuclear devices. The CIA says it has aggressive chemical and biological warfare programs.

SOUTH KOREA

U.S. REPORTEDLY WITHIN NEW NORTH MISSILE RANGE

[Report by Pak Chae-pom]

[FBIS Translated Text] The new Taepodong missile No. 2 that North Korea is developing is believed to have a maximum range of 10,000 km—which means that the U.S. mainland would be within its range—and will be ready for actual deployment around 2000.

According to an ROK intelligence official on 10 September, the assessment is based on a Russian-source intelligence on North Korea's ground-to-ground missiles.

The data Russia handed over to the ROK reveal that North Korea is continuing the research and development of Taepodong No. 1 and No. 2 at a missile test site in Sanumtong and that it recently conducted a missile engine test.

A computer simulated test by the U.S. Defense Intelligence Agency estimated that the Taepodong No. 2 has a 4,300 to 6,000-km range, but the Russian authorities projected that when some technical problems are solved, the range could be expanded to over 9,600 km.

The Russian source analyzed that the safety of the inertial navigation system, adjustment of the warhead weight, and fuel injection device are the technologies North Korea needs to improve.

North Korea's Taepodong No. 2 is reportedly a two-stage missile with a 16-meter Taepodong No. 1 attached on a 16.2-meter thruster and a 1,000-kg warhead on the thruster.

An intelligence official said: "Irrespective of the recent economic setback, North Korea is speeding up the development of Taepodong No. 2 and other long-range weapons to block the support from the neighboring countries in case of an emergency on the Korean peninsula."

By Mr. SMITH of New Hampshire (for himself, Mr. CHAFEE, and Mr. LOTT):

S. 8. A bill to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation

Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

SUPERFUND CLEANUP ACCELERATION ACT OF 1997

Mr. CHAFEE. Mr. President, Senator SMITH from New Hampshire and I have been working on this not only this year, but in past years also. I think after 7 years, it is time to fix this program. Tens of billions of dollars have been spent with very modest results, as far as cleanups go. This bill, which Senator SMITH and I have submitted, addresses the so-called brownfields problem, for example.

What are brownfields? They are contaminated sites, usually within our cities, which can be cleaned up relatively quickly and inexpensively and can be returned to productive industrial commercial use, thereby generating jobs and revenue.

In this legislation, we deal with who will have to pay. Obviously, this is where the intense legal arguments have occurred, where you need to hire a hall because there are so many lawyers involved.

We eliminate the unfairness of joint and several liability at most sites, and we replace it with proportional allocations where each polluter pays its fair share.

We eliminate from liability anyone who legally sent waste to a municipal landfill.

We eliminate small businesses and persons whose share was less than 1 percent and persons who sent less than 200 pounds or 110 gallons.

In deciding how clean the cleanup ought to be, we take into consideration, what is the future use of the site going to be? Is it going to be for a children's playground, or is it going to be for a parking lot that is paved? Obviously, it makes a difference as to how clean the site should be cleaned up.

Mr. President, this bill is not written in concrete. Senator ABRAHAM, for example, is deeply concerned that we do not include here within our legislation tax incentives for brownfields cleanup in empowerment zones and in enterprise communities. Senator ABRAHAM, who is deeply concerned about our inner cities and the jobs that will flow from it if these sites within the inner cities are cleaned up, believes there should be some tax incentives provided. We have not done that because of a cost problem, but we have assured Senator ABRAHAM we will work with him to try to come up with the result that he seeks. I want to commend Senator ABRAHAM for the work that he has done on this and the intense concern he has shown throughout the process of formulating this legislation.

Mr. President, now I would like to turn it over to Senator SMITH who has labored so hard in this vineyard, not only this year but last year. I do not think anybody in this Senate knows more about this legislation or has worked harder on it than Senator SMITH from New Hampshire.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. Thank you, Mr. President. I thank my distinguished colleague and chairman of the Environment and Public Works Committee for his kind remarks. He, too, has been deeply involved in this issue. We have spent a lot of hours on this.

I am just very excited about the fact that this is in the top 10 legislative initiatives that the majority leader and the Republican Party have, and I welcome the opportunity to make a few remarks here.

It is a tribute to Senator LOTT and to Senator CHAFEE that they have made this a priority. It is the right thing to do, Mr. President, because I share with the American people the belief that our children ought to be able to drink clean water and breathe clean air and live in safe homes so they do not have to worry about environmental pollution, most specifically not having to live next to the stigma of a so-called Superfund site that never gets cleaned up.

We have some very good environmental laws on the books in this country—the Clean Air Act, the Safe Drinking Water Act, and others—but there are a few that do not fit that category, that have failed. Superfund is one of those laws. It is up to this committee and to the Senate, I think, to take the leadership here and to try to make those corrections.

To achieve meaningful reform—and I mean reform—we have to cut transaction costs. That is goal No. 1. The second goal is to reduce the time necessary to complete cleanup at these sites. The third goal is to inject some common sense into our cleanup program to reach sensible levels that protect our children and our environment.

The bill we introduce today will accomplish each and every one of those goals. It improves the serious problem of brownfields, which our colleague, Senator CHAFEE, has already mentioned. Senator ABRAHAM of Michigan is very much involved in this issue. We commend his leadership and look forward to working with him on the brownfields portion of this bill.

But we provide $60 million in new funding each year for States and localities for grants and loan programs to spur the cleanup and the redevelopment of these sites.

I welcome the initiative on the part of our colleagues on the other side of our aisle on brownfields. It enhances the role of States by allowing them to take responsibility for conducting Superfund cleanups and increases citizen participation. It reinjects common sense back into the cleanup process by taking the future use of the site into consideration when cleanup remedies are elected.

It promotes the use of innovative technology to ensure that the citizenry can have the benefit of the most up-to-date scientific approaches to cleanup and eliminates potential liability for tens of thousands of average citizens, small businesses, schools, churches, the Boy Scouts, Girl Scouts, and others who have been caught up in this Superfund liability net. It caps the liability of municipalities and other entities that owned or operated municipal sites and did so legally.

Finally, it reduces litigation by creating a fair-share allocation process at multiparty sites where the trust fund will pick up the cost of the defunct or insolvent parties in wastes that cannot be attributed to a viable party.

Thus, Mr. President, what this bill does, in a nutshell, is it stops paying lawyers and starts paying for cleanup. I think that is a tremendous improvement over current law. So the discussions over the past 2 years, which Senator CHAFEE has mentioned, which I have been involved in with the administration, Administrator Browner, and my colleagues on the other side of the aisle, have been productive. We have learned a lot. We are ready to roll up our sleeves again and get it done. We were very close to an agreement last time. We look forward to working with our colleagues and with the President of the United States to get it done in a bipartisan way.

As the chairman of the Senate Subcommittee on Superfund, Waste Control and Risk Assessment, I am here today, along with Senator CHAFEE, the chairman of the Environment Committee, to introduce some commonsense legislation to put the Superfund law back on track toward achieving its original goal of protecting our Nation's children from environmental pollutants in the quickest practical manner possible.

I would like to thank the Republican leader, Senator LOTT and all of the members of the Republican Conference who have cosponsored our legislation—the Superfund Cleanup Acceleration Act—for recognizing the importance of improving the Superfund program. By making this one of the top 10 Senate priorities for the 105th Congress, I believe we have demonstrated our strong commitment toward protecting our environment, improving environmental laws, and preserving the health of our Nation's children.

Before I describe our legislation, I would like to take a few minutes to talk about Superfund and how we find ourselves here today.

The history of Superfund is long and somewhat checkered. The program was created in 1980 to clean up abandoned hazardous wastesites, and at that time, it was anticipated that this program would clean up around 400 sites nationwide. Begun with the best of intentions, the program has not performed the way it should. So far Superfund has cost our Nation more than $40 billion yet, only 125 out of a total of around 1,300 sites have been removed from the Superfund list over the last 16 years. Superfund has become the classic example of a Federal program awash in redtape, litigation, and gold plated spending.

The problems in Superfund are many. First, the Superfund liability scheme allows the Environmental Protection Agency to hold any potentially responsible party liable for the entire cleanup cost at a site—irrespective of the type of contamination, when the material was disposed of, or whether the activity was legal. This is simply unfair and, not surprisingly, results in enormous litigation costs with 30 to 70 percent of every dollar spent on lawyers.

Because of the fear of Superfund liability, many of our Nation's inner cities contain abandoned or underutilized properties—dubbed brownfields—which lay fallow because private developers and municipalities don't want to be dragged into Superfund's litigation quagmire. In order to spur economic redevelopment, we must place a priority on fixing this problem.

Superfund sets out unrealistic cleanup goals which frequently ignore common sense in considering the future use of the site. All too often, sites that are destined to become industrial parks or parking lots are required to be cleaned to standards compatible with school playgrounds. We need to reinject common sense back into this program so that we protect real people from real risks, not hypothetical people from hypothetical risks. We must also recognize that the States, which are much better able to understand the concerns and needs of residents who live near these sites, should have the lead in determining how these sites are going to be cleaned up, and when.

Because I am also the chairman of the Armed Services Subcommittee on Strategic Forces, which funds the Department of Energy cleanup program, I am keenly aware that the real costs of Superfund are not limited solely to the private sector. Not only are there more than 155 Federal facilities on the Superfund list, but these sites represent the most complex and costly cleanup challenges in the program. The inability to create commonsense cleanup plans results in billions of dollars of additional liability to Federal agencies—costs that ultimately come from the taxes we all pay. In a period of budget deficits and declining resources, we need to do a better job of making cleanup decisions.

While Superfund was created with the hope of quickly dealing with the serious problem of toxic waste sites endangering our citizens, it is evident that Superfund has proceeded at a snail's pace and that most sites are still not cleaned up. I commend Carol Browner, the Administrator of the EPA, for recognizing this fact, and for instituting a series of administrative reforms in the last year—reforms that reflect changes that I, and other Republicans have advocated for many years.

Although I applaud the administration for making these changes, I believe it is too soon to declare victory in the effort to make Superfund work better. While improvements have been made in some areas, it is far too early to determine their true or lasting effect. I certainly do not agree with some in the Administration that feel that the administrative reforms have corrected all the problems of Superfund. The fact remains that even with the administrative reforms, too much money is spent on litigation, sites aren't being cleaned up fast enough, and children are being needlessly exposed to toxic contaminants.

Rather than reform Superfund on a piecemeal basis, as some may suggest, it is clear that comprehensive legislation is necessary to correct Superfund's deeper problems. The bill we have introduced will address those problems in a top-to-bottom fashion so that we can clean up all of these waste sites as quickly as possible.

To achieve meaningful Superfund reform, it is necessary to meet three goals. The first is to cut the transaction costs of the program. That means cutting out the lawyers and ensuring that every dollar meant for cleanup goes to cleanup. The second goal is to reduce the time necessary to complete cleanup at these sites. Currently, it takes more than 12 years to clean up a site. We can do better than that. The last goal is to inject common sense into our cleanup program to reach sensible levels that protect our children and protect the environment.

The bill we are introducing today will accomplish each of these goals.

Our legislation improves the serious problem of brownfields by providing $60 million in new funding each year to States and localities for grant and loan programs to spur the cleanup and redevelopment of these sites.

It enhances the roll of States by allowing them to take primary responsibility for conducting Superfund cleanups.

It increases citizen participation by setting up Citizen Response Organizations to improve coordination between citizens, government, and responsible parties.

It reinjects common sense back into the cleanup process by taking the future use of the site into consideration when cleanup remedies are selected.

It promotes the use of innovative technologies to insure that the citizenry can have the benefit of the most up-to-date scientific approaches to cleanup.

It eliminates potential liability from tens of thousands of average citizens, small businesses, schools, churches, and others who are currently caught in the Superfund liability net.

It caps the liability of municipalities and other entities that owned or operated municipal wastesites.

And finally, it reduces litigation by creating a fair-share allocation process at multiparty sites where the trust fund will pick up the cost of defunct or insolvent parties, or wastes that cannot be attributed to a viable party.

Among the significant issues we have focused on is the issue of brownfields. As many of my colleagues may know, there are a variety of bills that have been introduced by Senator ABRAHAM, Senator LIEBERMAN, Senator LAUTENBERG and others which attempt to take a crack at this issue.

Many of the brownfield bills that have been introduced rely on tax credits or tax deductions to promote the cleanup of these sites. While the issue of tax credits does not fall within the jurisdiction of the Environment Committee, as this bill progresses toward passage, it is my intention to work with my colleagues to find common ground and provide additional support for these areas.

Liability has always been one of the most contentious issues in the Superfund reform debate. My position has been clear from the beginning. I believe that retroactive liability is fundamentally unfair and if I had my way, I would repeal it. Some of my colleagues see things differently. It is important to understand that the bill we are introducing represents many hours of intense discussions and all the parties involved will recognize some of their positions. The bill does not go as far as I would like. Equally, it asks that the other side to take a step forward as well. We each must take this step to improve a system which is not helping our citizens the way it should.

Over the last 2 years, my staff and that of Senator CHAFEE have been engaged in bipartisian discussions with Democrats and the Clinton administration. These discussions were long and sometimes pointed, but the participants in these negotiations understood that the Superfund program has flaws which need to be corrected.

While there is general agreement that cleanups should occur faster, and that there are too many lawyers in the system, there are many ideas about how to correct these problems. The discussions over the past 2 years have been productive and on many issues we are close to agreement. We look forward to working with our colleagues and with the President to craft a bipartisan solution to the problems of Superfund.

The bill we introduce today incorporates many good ideas from our bipartisan negotiations. It represents a significant step away from where we started last Congress, and I believe it deserves, and will receive, bipartisan support.

Much has been said about the Republican and Democratic positions on the environment. I urge my colleagues to move beyond the rhetoric and the posturing of the last election and examine the real situation. The bill we are introducing today will speed cleanups, take lawyers out of the system, inject common sense back into the process, and protect children much faster from toxic exposure than under current law. This should not merely be a top-10 priority on the Republican agenda, but it should be a top ten item on our shared agenda. I urge all of my colleagues to join with us to reform this program this year.

I thank you, Mr. President. I thank my colleague.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to stress the comments that Senator SMITH made about a bipartisan approach.

As I mentioned before, this is legislation that we worked on. We believe it is very, very good legislation. We are not saying it is the end all and be all. Obviously, in our committee we will have hearings on it. All the members of the committee will have a chance to have their views expressed.

We look forward to contributions from the members of the Democratic Party who are part of our Environment Committee. It is our hope that when we come forward with a bill to present on this floor finally for consideration by the body, that it will come out unanimously from our committee, will have the support of the administration, and will fulfill the desires of all of us that this legislation become law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Superfund Cleanup Acceleration Act of 1997."

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BROWNFIELDS REVITALIZATION

Sec. 101. Brownfields.
Sec. 102. Assistance for qualifying State voluntary response programs.
Sec. 103. Enforcement in cases of a release subject to a State plan.
Sec. 104. Contiguous properties.
Sec. 105. Prospective purchasers and windfall liens.
Sec. 106. Safe harbor innocent landholders.

TITLE II—STATE ROLE

Sec. 201. Delegation to the States of authorities with respect to national priorities list facilities.

TITLE III—COMMUNITY PARTICIPATION

Sec. 301. Community response organizations; technical assistance grants; improvement of public participation in the superfund decisionmaking process.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

Sec. 401. Definitions.
Sec. 402. Selection and implementation of remedial actions.
Sec. 403. Remedy selection methodology.
Sec. 404. Remedy selection procedures.
Sec. 405. Completion of physical construction and delisting.
Sec. 406. Transition rules for facilities currently involved in remedy selection.
Sec. 407. National Priorities List.

TITLE V—LIABILITY

Sec. 501. Liability exceptions and limitations.
Sec. 502. Contribution from the Fund.
Sec. 503. Allocation of liability for certain facilities.
Sec. 504. Liability of response action contractors.
Sec. 505. Release of evidence.
Sec. 506. Contribution protection.
Sec. 507. Treatment of religious, charitable, scientific, and educational organizations as owners or operators.
Sec. 508. Common carriers.
Sec. 509. Limitation on liability of railroad owners.
Sec. 510. Liability of recyclers.

TITLE VI—FEDERAL FACILITIES

Sec. 601. Transfer of authorities.
Sec. 602. Limitation on criminal liability of Federal officers, employees, and agents.
Sec. 603. Innovative technologies for remedial action at Federal facilities.

TITLE VII—NATURAL RESOURCE DAMAGES

Sec. 701. Restoration of natural resources.
Sec. 702. Assessment of injury to and restoration of natural resources.
Sec. 703. Consistency between response actions and resource restoration standards.
Sec. 704. Contribution.

TITLE VIII—MISCELLANEOUS

Sec. 801. Result-oriented cleanups.
Sec. 802. National Priorities List.
Sec. 803. Obligations from the fund for response actions.

TITLE IX—FUNDING

Subtitle A—General Provisions

Sec. 901. Authorization of appropriations from the Fund.
Sec. 902. Orphan share funding.
Sec. 903. Department of Health and Human Services.
Sec. 904. Limitations on research, development, and demonstration programs.
Sec. 905. Authorization of appropriations from general revenues.
Sec. 906. Additional limitations.
Sec. 907. Reimbursement of potentially responsible parties.

TITLE I—BROWNFIELDS REVITALIZATION

SEC. 101. BROWNFIELDS.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"SEC. 127. BROWNFIELDS.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATIVE COST.—The term 'administrative cost' does not include the cost of—

"(A) investigation and identification of the extent of contamination;

"(B) design and performance of a response action; or

"(C) monitoring of natural resources.

"(2) BROWNFIELD FACILITY.—The term 'brownfield facility' means—

"(A) a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

"(B) does not include—

"(i) a facility that is the subject of a removal or planned removal under title I;

"(ii) a facility that is listed or has been proposed for listing on the National Priorities List or that has been delisted under section 134(d)(5);

"(iii) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time at which an application for a grant concerning the facility is submitted under this section;

"(iv) a land disposal unit with respect to which—

"(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

"(II) closure requirements have been specified in a closure plan or permit;

"(v) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

"(vi) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

"(vii) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a general purpose unit of local government;

"(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

"(C) a regional council or group of general purpose units of local government;

"(D) a redevelopment agency that is chartered or otherwise sanctioned by a State; and

"(E) an Indian tribe.

"(b) BROWNFIELD CHARACTERIZATION GRANT PROGRAM.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants for the site characterization and assessment of brownfield facilities.

"(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

"(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make grants out of the Fund to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities or to capitalize a revolving loan fund.

"(B) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(35)(B).

"(3) MAXIMUM GRANT AMOUNT.—A grant under subparagraph (A) shall not exceed, with respect to any individual brownfield facility covered by the grant, $100,000 for any fiscal year or $200,000 in total.

"(c) BROWNFIELD REMEDIATION GRANT PROGRAM.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants to be used for capitalization of revolving loan funds for response actions (excluding site characterization and assessment) at brownfield facilities.

"(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

"(A) IN GENERAL.—On approval of an application made by a State or an eligible entity, the Administrator may make grants out of the Fund to the State or eligible entity to capitalize a revolving loan fund to be used for response actions (excluding site characterization and assessment) at 1 or more brownfield facilities.

"(B) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(35)(B).

"(3) MAXIMUM GRANT AMOUNT.—A grant under subparagraph (A) shall not exceed, with respect to any individual brownfield facility covered by the grant, $150,000 for any fiscal year or $300,000 in total.

"(d) GENERAL PROVISIONS.—

"(1) SUNSET.—No amount shall be available from the Fund for purposes of this section after the fifth fiscal year after the date of enactment of this section.

"(2) PROHIBITION.—No part of a grant under this section may be used for payment of penalties, fines, or administrative costs.

"(3) AUDITS.—The Inspector General of the Environmental Protection Agency shall audit an appropriate number of grants made under subsections (b)(2) and (c)(2) to ensure that funds are used for the purposes described in this section.

"(4) AGREEMENTS.—Each grant made under this section shall be subject to an agreement that—

"(A) requires the eligible entity to comply with all applicable State laws (including regulations);

"(B) requires that the eligible entity shall use the grant exclusively for purposes specified in subsection (b)(2) or (c)(2);

"(C) in the case of an application by a State under subsection (c)(2), payment by the State of a matching share of at least 50 percent of the costs of the response action for which the grant is made, from other sources of State funding; and

"(D) contains such other terms and conditions as the Administrator determines to be necessary to carry out the purposes of this section.

"(5) LEVERAGING.—An eligible entity that receives a grant under paragraph (1) may use the funds for part of a project at a brownfield facility for which funding is received from other sources, but the grant shall be used only for the purposes described in subsection (b)(2) or (c)(2).

"(e) GRANT APPLICATIONS.—

"(1) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a grant under this section for 1 or more brownfield facilities.

"(2) APPLICATION REQUIREMENTS.—An application for a grant under this section shall include—

"(A) an identification of each brownfield facility for which the grant is sought and a description of the redevelopment plan for the area or areas in which the brownfield facilities are located, including a description of the nature and extent of any known or suspected environmental contamination within the area;

"(B) an analysis that demonstrates the potential of the grant to stimulate economic development on completion of the planned response action, including a projection of the number of jobs expected to be created at each facility after remediation and redevelopment and, to the extent feasible, a description of the type and skill level of the jobs and a projection of the increases in revenues accruing to Federal, State, and local governments from the jobs; and

"(C) information relevant to the ranking criteria stated in paragraph (4).

"(3) APPROVAL.—

"(A) INITIAL GRANT.—On or about March 30 and September 30 of the first fiscal year following the date of enactment of this section, the Administrator shall make grants under this section to eligible entities that submit applications before those dates that the Administrator determines have the highest rankings under ranking criteria established under paragraph (4).

"(B) SUBSEQUENT GRANTS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make grants under this section to eligible entities that submit applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

"(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications that includes the following criteria:

"(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

"(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

"(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

"(ii) The potential of a grant to create new or expand existing business and employment opportunities (particularly full-time employment opportunities) on completion of any necessary response action.

"(iii) The estimated additional tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

"(iv) The estimated extent to which a grant would facilitate the identification of or facilitate a reduction of health and environmental risks.

"(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

"(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

"(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.".

(b) FUNDING.—Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

"(q) BROWNFIELD CHARACTERIZATION GRANT PROGRAM.—For each of fiscal years 1998 through 2002, not more than $15,000,000 of the amounts available in the Fund may be used to carry out section 127(b).

"(r) BROWNFIELD REMEDIATION GRANT PROGRAM.—For each of fiscal years 1998 through 2002, not more than $25,000,000 of the amounts available in the Fund may be used to carry out section 127(c).".

SEC. 102. ASSISTANCE FOR QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

"(39) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—The term 'qualifying State voluntary response program' means a State program that includes the elements described in section 128(b).".

(b) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 101(a)) is amended by adding at the end the following:

"SEC. 128. QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

"(a) ASSISTANCE TO STATES.—The Administrator shall provide technical and other assistance to States to establish and expand qualifying State voluntary response programs that include the elements listed in subsection (b).

"(b) ELEMENTS.—The elements of a qualifying State voluntary response program are the following:

"(1) Opportunities for technical assistance for voluntary response actions.

"(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in appropriate circumstances, in selecting response actions.

"(3) Streamlined procedures to ensure expeditious voluntary response actions.

"(4) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

"(A) voluntary response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

"(B) if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

“(5) Mechanisms for approval of a voluntary response action plan.

“(6) A requirement for certification or similar documentation from the State to the person conducting the voluntary response action indicating that the response is complete.

“(c) COMPLIANCE WITH ACT.—A person that conducts a voluntary response action under this section at a facility that is listed or proposed for listing on the National Priorities List shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121(a).”.

(c) FUNDING.—Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) (as amended by section 101(b)) is amended by adding at the end the following:

“(s) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—For each of fiscal years 1998 through 2002, not more than $25,000,000 of the amounts available in the Fund may be used for assistance to States to establish and administer qualifying State voluntary response programs, during the first 5 full fiscal years following the date of enactment of this subparagraph, distributed among each of the States that notifies the Administrator of the State's intent to establish a qualifying State voluntary response program and each of the States with a qualifying State voluntary response program. For each fiscal year there shall be available to each eligible entity a grant in the amount of at least $250,000.”.

SEC. 103. ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO A STATE PLAN.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

“SEC. 129. ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO A STATE PLAN.

“(a) IN GENERAL.—In the case of a facility at which there is a release or threatened release of a hazardous substance subject to a State remedial action plan or with respect to which the State has provided certification or similar documentation that response action has been completed under a State remedial action plan, neither the President nor any other person may use any authority under this Act to take an administrative or judicial enforcement action or to bring a private civil action against any person regarding any matter that is within the scope of the plan.

“(b) RELEASES NOT SUBJECT TO STATE PLANS.—For any facility at which there is a release or threatened release of hazardous substances that is not subject to a State remedial action plan, the President shall provide notice to the State within 48 hours after issuing an order under section 106(a) addressing a release or threatened release. Such an order shall cease to have force or effect on the date that is 90 days after issuance unless the State concurs in the continuation of the order.

“(c) COST OR DAMAGE RECOVERY ACTIONS.—Subsection (a) does not apply to an action brought by a State or Indian tribe for the recovery of costs or damages under section 107.”.

SEC. 104. CONTIGUOUS PROPERTIES.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended by adding at the end the following:

“(o) CONTIGUOUS PROPERTIES.—

“(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under subsection (a) (1) or (2) solely by reason of the contamination if—

“(A) the person did not cause, contribute, or consent to the release or threatened release; and

“(B) the person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.

“(2) COOPERATION, ASSISTANCE, AND ACCESS.—Notwithstanding paragraph (1), a person described in paragraph (1) shall provide full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

“(3) ASSURANCES.—The Administrator may—

“(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

“(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).”.

(b) CONFORMING AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by striking “of this section” and inserting “and the exemptions and limitations stated in this section”.

SEC. 105. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 102(a)) is amended by adding at the end the following:

“(40) BONA FIDE PROSPECTIVE PURCHASER.—The term ‘bona fide prospective purchaser’ means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

“(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

“(B) INQUIRIES.—

“(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

“(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

“(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

“(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

“(D) CARE.—The person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

“(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

“(F) RELATIONSHIP.—The person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.”.

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 104) is amended by adding at the end the following:

“(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

“(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

“(2) LIEN.—If there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of section 101(20)(G)(iii) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

“(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

“(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

“(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

“(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

“(4) AMOUNT.—A lien under paragraph (2)—

“(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

“(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

“(C) shall be subject to the requirements of subsection (1)(3); and

"(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.".

SEC. 106. SAFE HARBOR INNOCENT LANDHOLDERS.

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

"(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

"(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that, at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

"(ii) STANDARDS AND PRACTICES.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

"(I) the American Society for Testing and Materials (ASTM) Standard E1527-94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

"(II) alternative standards and practices under clause (iii).

"(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

"(I) IN GENERAL.—The Administrator may by regulation issue alternative standards and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

"(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall consider including each of the following:

"(aa) The results of an inquiry by an environmental professional.

"(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

"(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

"(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

"(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

"(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

"(gg) Specialized knowledge or experience on the part of the defendant.

"(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

"(ii) Commonly known or reasonably ascertainable information about the property.

"(jj) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

"(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.".

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a) not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

TITLE II—STATE ROLE

SEC. 201. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 103) is amended by adding at the end the following:

"SEC. 130. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) COMPREHENSIVE DELEGATION STATE.—The term 'comprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform all of the categories of delegable authority.

"(2) DELEGABLE AUTHORITY.—The term 'delegable authority' means authority to perform (or ensure performance of) all of the authorities included in any 1 or more of the categories of authority:

"(A) CATEGORY A.—All authorities necessary to perform technical investigations, evaluations, and risk analyses, including—

"(i) a preliminary assessment or facility evaluation under section 104;

"(ii) facility characterization under section 104;

"(iii) a remedial investigation under section 104;

"(iv) a facility-specific risk evaluation under section 131;

"(v) enforcement authority related to the authorities described in clauses (i) through (iv); and

"(vi) any other authority identified by the Administrator under subsection (b).

"(B) CATEGORY B.—All authorities necessary to perform alternatives development and remedy selection, including—

"(i) a feasibility study under section 104; and

"(ii)(I) remedial action selection under section 121 (including issuance of a record of decision); or

"(II) remedial action planning under section 133(b)(5);

"(iii) enforcement authority related to the authorities described in clauses (i) and (ii); and

"(iv) any other authority identified by the Administrator under subsection (b).

"(C) CATEGORY C.—All authorities necessary to perform remedial design, including—

"(i) remedial design under section 121;

"(ii) enforcement authority related to the authority described in clause (i); and

"(iii) any other authority identified by the Administrator under subsection (b).

"(D) CATEGORY D.—All authorities necessary to perform remedial action and operation and maintenance, including—

"(i) a removal under section 104;

"(ii) a remedial action under section 104 or section 10 (a) or (b);

"(iii) operation and maintenance under section 104(c);

"(iv) enforcement authority related to the authorities described in clauses (i) through (iii); and

"(v) any other authority identified by the Administrator under subsection (b).

"(E) CATEGORY E.—All authorities necessary to perform information collection and allocation of liability, including—

"(i) information collection activity under section 104(e);

"(ii) allocation of liability under section 136;

"(iii) a search for potentially responsible parties under section 104 or 107;

"(iv) settlement under section 122;

"(v) enforcement authority related to the authorities described in clauses (i) through (iv); and

"(vi) any other authority identified by the Administrator under subsection (b).

"(3) DELEGATED STATE.—The term 'delegated State' means a State to which delegable authority has been delegated under subsection (c), except as may be provided in a delegation agreement in the case of a limited delegation of authority under subsection (c)(5).

"(4) DELEGATED AUTHORITY.—The term 'delegated authority' means a delegable authority that has been delegated to a delegated State under this section.

"(5) DELEGATED FACILITY.—The term 'delegated facility' means a non-federal listed facility with respect to which a delegable authority has been delegated to a State under this section.

"(6) ENFORCEMENT AUTHORITY.—The term "enforcement authority" means all authorities necessary to recover response costs, require potentially responsible parties to perform response actions, and otherwise compel implementation of a response action, including—

"(A) issuance of an order under section 106(a);

"(B) a response action cost recovery under section 107;

"(C) imposition of a civil penalty or award under section 109 (a)(1)(D) or (b)(4);

"(D) settlement under section 122; and

"(E) any other authority identified by the Administrator under subsection (b).

"(7) NONCOMPREHENSIVE DELEGATION STATE.—The term 'noncomprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

"(8) NONDELEGABLE AUTHORITY.—The term 'nondelegable authority' means authority to—

"(A) make grants to community response organizations under section 117; and

"(B) conduct research and development activities under any provision of this Act.

"(9) NON-FEDERAL LISTED FACILITY.—The term 'non-federal listed facility' means a facility that—

"(A) is not owned or operated by a department, agency, or instrumentality of the United States in any branch of the Government; and

"(B) is listed on the National Priorities List.

"(b) IDENTIFICATION OF DELEGABLE AUTHORITIES.—

"(1) IN GENERAL.—The President shall by regulation identify all of the authorities of the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

"(2) LIMITATION.—The Administrator shall not identify a nondelegable authority for inclusion in a delegation of any category of delegable authority.

"(c) DELEGATION OF AUTHORITY.—

"(1) IN GENERAL.—Pursuant to an approved State application, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to 1 or more non-Federal listed facilities in the State.

"(2) APPLICATION.—An application under paragraph (1) shall—

"(A) identify each non-Federal listed facility for which delegation is requested;

"(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

"(C) certify that the State, supported by such documentation as the State, in consultation with the Administrator, considers to be appropriate—

"(i) has statutory and regulatory authority (including appropriate enforcement authority) to perform the requested delegable authorities in a manner that is protective of human health and the environment;

"(ii) has resources in place to adequately administer and enforce the authorities;

"(iii) has procedures to ensure public notice and, as appropriate, opportunity for comment on remedial action plans, consistent with sections 117 and 133; and

"(iv) agrees to exercise its enforcement authorities to require that persons that are potentially liable under section 107(a), to the extent practicable, perform and pay for the response actions set forth in each category described in subsection (a)(2).

"(3) APPROVAL OF APPLICATION.—

"(A) IN GENERAL.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from a State that is not authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), unless the State agrees to a greater length of time for the Administrator to make a determination, the Administrator shall—

"(i) issue a notice of approval of the application (including approval or disapproval regarding any or all of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated); or

"(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization, or expertise to administer and enforce any of the requested delegable authority, issue a notice of disapproval, including an explanation of the basis for the determination.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of all or any portion of an application within the applicable time period under subparagraph (A), the application shall be deemed to have been granted.

"(C) RESUBMISSION OF APPLICATION.—

"(i) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(ii) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the applicable time period under subparagraph (A), the resubmitted application shall be deemed to have been granted.

"(D) NO ADDITIONAL TERMS OR CONDITIONS.—The Administrator shall not impose any term or condition on the approval of an application that meets the requirements stated in paragraph (2) (except that any technical deficiencies in the application be corrected).

"(E) JUDICIAL REVIEW.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

"(4) DELEGATION AGREEMENT.—On approval of a delegation of authority under this section, the Administrator and the delegated State shall enter into a delegation agreement that identifies each category of delegable authority that is delegated with respect to each delegated facility.

"(5) LIMITED DELEGATION.—

"(A) IN GENERAL.—In the case of a State that does not meet the requirements of paragraph (2)(C) the Administrator may delegate to the State limited authority to perform, ensure the performance of, or supervise or otherwise participate in the performance of 1 or more delegable authorities, as appropriate in view of the extent to which the State has the required legal authority, financial and personnel resources, organization, and expertise.

"(B) SPECIAL PROVISIONS.—In the case of a limited delegation of authority to a State under subparagraph (A), the Administrator shall specify the extent to which the State shall be considered to be a delegated State for the purposes of this Act.

"(d) PERFORMANCE OF DELEGATED AUTHORITIES.—

"(1) IN GENERAL.—A delegated State shall have sole authority (except as provided in paragraph (6)(B), subsection (e)(4), and subsection (g)) to perform a delegated authority with respect to a delegated facility.

"(2) AGREEMENTS FOR PERFORMANCE OF DELEGATED AUTHORITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a delegated State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegated State or States, or a combination of such subdivisions or interstate bodies, providing for the performance of any category of delegated authority with respect to a delegated facility in the State if the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.

"(B) NO AGREEMENT WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State shall not enter into an agreement under subparagraph (A) with a political subdivision or interstate body that is, or includes as a component an entity that is, a potentially responsible party with respect to a delegated facility covered by the agreement.

"(C) CONTINUING RESPONSIBILITY.—A delegated State that enters into an agreement under subparagraph (A)—

"(i) shall exercise supervision over and approve the activities of the parties to the agreement; and

"(ii) shall remain responsible for ensuring performance of the delegated authority.

"(3) COMPLIANCE WITH ACT.—

"(A) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act (including regulations and guidance issued by the Administrator) so as to perform each delegated authority with respect to a delegated facility in the same manner as would the Administrator with respect to a facility that is not a delegated facility.

"(B) COMPREHENSIVE DELEGATION STATES.—

"(i) IN GENERAL.—A comprehensive delegation State shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121.

"(ii) COSTLIER REMEDIAL ACTION.—

"(I) IN GENERAL.—A delegated State may select a remedial action for a delegated facility that has a greater response cost (including operation and maintenance costs) than the response cost for a remedial action that would be selected by the Administrator under section 121, if the State pays for the difference in cost.

"(II) NO COST RECOVERY.—If a delegated State selects a more costly remedial action under subclause (I), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

"(4) JUDICIAL REVIEW.—An order that is issued under section 106 by a delegated State with respect to a delegated facility shall be reviewable only in United States district court under section 113.

"(5) DELISTING OF NATIONAL PRIORITIES LIST FACILITIES.—

"(A) DELISTING.—After notice and an opportunity for public comment, a delegated State may remove from the National Priorities List all or part of a delegated facility—

"(i) if the State makes a finding that no further action is needed to be taken at the facility (or part of the facility) under any applicable law to protect human health and the environment consistent with section 121(a) (1) and (2);

"(ii) with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or if the cleanup will proceed at the facility under section 3004 (u) or (v) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u), (v)); or

"(iii) if the State is a comprehensive delegation State with respect to the facility.

"(B) EFFECT OF DELISTING.—A delisting under subparagraph (A) (ii) or (iii) shall not affect—

"(i) the authority or responsibility of the State to complete remedial action and operation and maintenance;

"(ii) the eligibility of the State for funding under this Act;

"(iii) notwithstanding the limitation on section 104(c)(1), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

"(iv) the enforceability of any consent order or decree relating to the facility.

"(C) NO RELISTING.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Administrator shall not relist on the National Priorities List a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A).

"(ii) CLEANUP NOT COMPLETED.—The Administrator may relist a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A) if cleanup is not completed in accordance with the enforceable agreement under subparagraph (A)(ii).

"(6) COST RECOVERY.—

"(A) RECOVERY BY A DELEGATED STATE.—Of the amount of any response costs recovered from a responsible party by a delegated State for a delegated facility under section 107—

"(i) 25 percent of the amount of any Federal response cost recovered with respect to a facility, plus an amount equal to the amount of response costs incurred by the State with respect to the facility, may be retained by the State; and

"(ii) the remainder shall be deposited in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

"(B) RECOVERY BY THE ADMINISTRATOR.—

"(i) IN GENERAL.—The Administrator may take action under section 107 to recover response costs from a responsible party for a delegated facility if—

"(I) the delegated State notifies the Administrator in writing that the delegated State does not intend to pursue action for recovery of response costs under section 107 against the responsible party; or

"(II) the delegated State fails to take action to recover response costs within a reasonable time in light of applicable statutes of limitation.

"(ii) NOTICE.—If the Administrator proposes to commence an action for recovery of response costs under section 107, the Administrator shall give the State written notice and allow the State at least 90 days after receipt of the notice to commence the action.

"(iii) NO FURTHER ACTION.—If the Administrator takes action against a potentially responsible party under section 107 relating to a release from a delegated facility, the delegated State may not take any other action for recovery of response costs relating to that release under this Act or any other Federal or State law.

"(e) FEDERAL RESPONSIBILITIES AND AUTHORITIES.—

"(1) REVIEW USE OF FUNDS.—

"(A) IN GENERAL.—The Administrator shall review the certification submitted by the Governor under subsection (f)(8) not later than 120 days after the date of its submission.

"(B) FINDING OF USE OF FUNDS INCONSISTENT WITH THIS ACT.—If the Administrator finds that funds were used in a manner that is inconsistent with this Act, the Administrator shall notify the Governor in writing not later than 120 days after receiving the Governor's certification.

"(C) EXPLANATION.—not later than 30 days after receiving a notice under subparagraph (B), the Governor shall—

"(i) explain why the Administrator's finding is in error; or

"(ii) explain to the Administrator's satisfaction how any misapplication or misuse of funds will be corrected.

"(D) FAILURE TO EXPLAIN.—If the Governor fails to make an explanation under subparagraph (C) to the Administrator's satisfaction, the Administrator may request reimbursement of such amount of funds as the Administrator finds was misapplied or misused.

"(E) REPAYMENT OF FUNDS.—If the Administrator fails to obtain reimbursement from the State within a reasonable period of time, the Administrator may, after 30 days' notice to the State, bring a civil action in United States district court to recover from the delegated State any funds that were advanced for a purpose or were used for a purpose or in a manner that is inconsistent with this Act.

"(2) WITHDRAWAL OF DELEGATION OF AUTHORITY.—

"(A) DELEGATED STATES.—If at any time the Administrator finds that contrary to a certification made under subsection (c)(2), a delegated State—

"(i) lacks the required financial and personnel resources, organization, or expertise to administer and enforce the requested delegated authorities;

"(ii) does nct have adequate legal authority to request and accept delegation; or

"(iii) is failing to materially carry out the State's delegated authorities,

the Administrator may withdraw a delegation of authority with respect to a delegated facility after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(B) STATES WITH LIMITED DELEGATIONS OF AUTHORITY.—If the Administrator finds that a State to which a limited delegation of authority was made under subsection (c)(5) has materially breached the delegation agreement, the Administrator may withdraw the delegation after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(C) NOTICE AND OPPORTUNITY TO CORRECT.—If the Administrator proposes to withdraw a delegation of authority for any or all delegated facilities, the Administrator shall give the State written notice and allow the State at least 90 days after the date of receipt of the notice to correct the deficiencies cited in the notice.

"(D) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (C), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

"(E) JUDICIAL REVIEW.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 113(b).

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator under this Act to—

"(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority; or

"(B) perform a delegable authority with respect to a facility that is not included among the authorities delegated to a State with respect to the facility.

"(4) RETAINED AUTHORITY.—

"(A) NOTICE.—Before performing an emergency removal action under section 104 at a delegated facility, the Administrator shall notify the delegated States of the Administrator's intention to perform the removal.

"(B) STATE ACTION.—If, after receiving a notice under subparagraph (A), the delegated State notifies the Administrator within 48 hours that the State intends to take action to perform an emergency removal at the delegated facility, the Administrator shall not perform the emergency removal action unless the Administrator determines that the delegated State has failed to act within a reasonable period of time to perform the emergency removal.

"(C) IMMEDIATE AND SIGNIFICANT DANGER.—If the Administrator finds that an emergency at a delegated facility poses an immediate and significant danger to human health or the environment, the Administrator shall not be required to provide notice under subparagraph (A).

"(5) PROHIBITED ACTIONS.—Except as provided in subsections (d)(6)(B), (e)(4), and (g) or except with the concurrence of the delegated State, the President, the Administrator, and the Attorney General shall not take any action under section 104, 106, 107, 109, 121, or 122 in performance of a delegable authority that has been delegated to a State with respect to a delegated facility.

"(f) FUNDING.—

"(1) IN GENERAL.—The Administrator shall provide grants to or enter into contracts or cooperative agreements with delegated States to carry out this section.

"(2) NO CLAIM AGAINST FUND.—Notwithstanding any other law, funds to be granted under this subsection shall not constitute a claim against the Fund or the United States.

"(3) INSUFFICIENT FUNDS AVAILABLE.—If funds are unavailable in any fiscal year to satisfy all commitments made under this section by the Administrator, the Administrator shall have sole authority and discretion to establish priorities and to delay payments until funds are available.

"(4) DETERMINATION OF COSTS ON A FACILITY-SPECIFIC BASIS.—The Administrator shall—

"(A) determine—

"(i) the delegable authorities the costs of performing which it is practicable to determine on a facility-specific basis; and

"(ii) the delegable authorities the costs of performing which it is not practicable to determine on a facility-specific basis; and

"(B) publish a list describing the delegable authorities in each category.

"(5) FACILITY-SPECIFIC GRANTS.—The costs described in paragraph (4)(A)(ii) shall be funded as such costs arise with respect to each delegated facility.

"(6) NONFACILITY-SPECIFIC GRANTS.—

"(A) IN GENERAL.—The costs described in paragraph (4)(A)(ii) shall be funded through nonfacility-specific grants under this paragraph.

"(B) FORMULA.—The Administrator shall establish a formula under which funds available for nonfacility-specific grants shall be allocated among the delegated States, taking into consideration—

"(i) the cost of administering the delegated authority;

"(ii) the number of sites for which the State has been delegated authority;

"(iii) the types of activities for which the State has been delegated authority;

"(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under section 130(d)(5);

"(v) the number of other high priority facilities within the State;

"(vi) the need for the development of the State program;

"(vii) the need for additional personnel;

"(viii) the amount of resources available through State programs for the cleanup of contaminated sites; and

"(ix) the benefit to human health and the environment of providing the funding.

"(7) Permitted use of grant funds.—A delegated State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any duty necessary to implement the authority delegated to the State under this section.

"(8) Cost share.—

"(A) Assurance.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will pay any amount required under section 104(c)(3).

"(B) Prohibited use of grant funds.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

"(9) Certification of use of funds.—

"(A) In general.—Not later than 1 year after the date on which a delegated State receives funds under this subsection, and annually thereafter, the Governor of the State shall submit to the Administrator—

"(i) a certification that the State has used the funds in accordance with the requirements of this Act and the National Contingency Plan; and

"(ii) information describing the manner in which the State used the funds.

"(B) Regulations.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a regulation describing with particularity the information that a State shall be required to provide under subparagraph (A)(ii).

"(g) Cooperative Agreements.—Nothing in this section shall affect the authority of the Administrator under section 104(d)(1) to enter into a cooperative agreement with a State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.".

(b) State Cost Share.—Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking "(c)(1) Unless" and inserting the following:

"(c) Miscellaneous Limitations and Requirements.—

"(1) Continuance of obligations from fund.—Unless";

(2) by striking "(2) The President" and inserting the following:

"(2) Consultation.—The President"; and

(3) by striking paragraph (3) and inserting the following:

"(3) State cost share.—

"(A) In general.—The Administrator shall not provide any remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State will pay, in cash or through in-kind contributions, a specified percentage of the costs of the remedial action and operation and maintenance costs.

"(B) Activities with respect to which state cost share is required.—No State cost share shall be required except for remedial actions under section 104.

"(C) Specified percentage.—

"(i) In general.—The specified percentage of costs that a State shall be required to share shall be the lower of 10 percent or the percentage determined under clause (ii).

"(ii) Maximum in accordance with law prior to 1996 amendments.—

"(I) On petition by a State, the Director of the Office of Management and Budget (referred to in this clause as the 'Director'), after providing public notice and opportunity for comment, shall establish a cost share percentage, which shall be uniform for all facilities in the State, at the percentage rate at which the total amount of anticipated payments by the State under the cost share for all facilities in the State for which a cost share is required most closely approximates the total amount of estimated cost share payments by the State for facilities that would have been required under cost share requirements that were applicable prior to the date of enactment of this subparagraph, adjusted to reflect the extent to which the State's ability to recover costs under this Act were reduced by reason of enactment of amendments to this Act by the Superfund Cleanup Acceleration Act of 1997.

"(II) The Director may adjust a State's cost share under this clause not more frequently than every 3 years.

"(D) Indian tribes.—In the case of remedial action to be taken on land or water held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe (if the land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph shall not apply.".

(c) Uses of Fund.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended by inserting after paragraph (6) the following:

"(7) Grants to delegated states.—Making a grant to a delegated State under section 130(f).".

(d) Relationship to Other Laws.—

(1) In general.—Section 114(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(b)) is amended by striking "removal" each place it appears and inserting "response".

(2) Conforming amendment.—Section 101(37)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(37)(B)) is amended by striking "section 114(c)" and inserting "section 114(b)".

TITLE III—COMMUNITY PARTICIPATION

SEC. 301. COMMUNITY RESPONSE ORGANIZATIONS; TECHNICAL ASSISTANCE GRANTS; IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.

(a) Amendment.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

"(e) Community Response Organizations.—

"(1) Establishment.—The Administrator shall create a community response organization for a facility that is listed or proposed for listing on the National Priorities List—

"(A) if the Administrator determines that a representative public forum will be helpful in promoting direct, regular, and meaningful consultation among persons interested in remedial action at the facility; or

"(B) at the request of—

"(i) 50 individuals residing in, or at least 20 percent of the population of, the area in which the facility is located;

"(ii) a representative group of the potentially responsible parties; or

"(iii) any local governmental entity with jurisdiction over the facility.

"(2) Responsibilities.—A community response organization shall—

"(A) solicit the views of the local community on various issues affecting the development and implementation of remedial actions at the facility;

"(B) serve as a conduit of information to and from the community to appropriate Federal, State, and local agencies and potentially responsible parties;

"(C) serve as a representative of the local community during the remedial action planning and implementation process; and

"(D) provide reasonable notice of and opportunities to participate in the meetings and other activities of the community response organization.

"(3) Access to documents.—The Administrator shall provide a community response organization access to documents in possession of the Federal Government regarding response actions at the facility that do not relate to liability and are not protected from disclosure as confidential business information.

"(4) Community response organization input.—

"(A) Consultation.—The Administrator (or if the remedial action plan is being prepared or implemented by a party other than the Administrator, the other party) shall—

"(i) consult with the community response organization in developing and implementing the remedial action plan; and

"(ii) keep the community response organization informed of progress in the development and implementation of the remedial action plan.

"(B) Timely submission of comments.—The community response organization shall provide its comments, information, and recommendations in a timely manner to the Administrator (and other party).

"(C) Consensus.—The community response organization shall attempt to achieve consensus among its members before providing comments and recommendations to the Administrator (and other party), but if consensus cannot be reached, the community response organization shall report or allow presentation of divergent views.

"(5) Technical assistance grants.—

"(A) Preferred recipient.—If a community response organization exists for a facility, the community response organization shall be the preferred recipient of a technical assistance grant under subsection (f).

"(B) Prior award.—If a technical assistance grant concerning a facility has been awarded prior to establishment of a community response organization—

"(i) the recipient of the grant shall coordinate its activities and share information and technical expertise with the community response organization; and

"(ii) 1 person representing the grant recipient shall serve on the community response organization.

"(6) Membership.—

"(A) Number.—The Administrator shall select not less than 15 nor more than 20 persons to serve on a community response organization.

"(B) Notice.—Before selecting members of the community response organization, the Administrator shall provide a notice of intent to establish a community response organization to persons who reside in the local community.

"(C) Represented groups.—The Administrator shall, to the extent practicable, appoint members to the community response organization from each of the following groups of persons:

"(i) Persons who reside or own residential property near the facility;

"(ii) Persons who, although they may not reside or own property near the facility, may be adversely affected by a release from the facility.

"(iii) Persons who are members of the local public health or medical community and are practicing in the community.

"(iv) Representatives of Indian tribes or Indian communities that reside or own property near the facility or that may be adversely affected by a release from the facility.

"(v) Local representatives of citizen, environmental, or public interest groups with members residing in the community.

"(vi) Representatives of local governments, such as city or county governments, or both, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility.

"(vii) Members of the local business community.

"(D) Proportion.—Local residents shall comprise not less than 60 percent of the membership of a community response organization.

"(E) Pay.—Members of a community response organization shall serve without pay.

"(7) Participation by government representatives.—Representatives of the Administrator, the Administrator of the Agency for Toxic Substances and Disease Registry, other Federal agencies, and the State, as appropriate, shall participate in community response organization meetings to provide information and technical expertise, but shall not be members of the community response organization.

"(8) Administrative support.—The Administrator, to the extent practicable, shall provide administrative services and meeting facilities for community response organizations.

"(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community response organization.

"(f) Technical Assistance Grants.—

"(1) Definitions.—In this subsection:

"(A) Affected citizen group.—The term 'affected citizen group' means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant at any facility on the State Registry or the National Priorities List.

"(B) Technical assistance grant.—The term 'technical assistance grant' means a grant made under paragraph (2).

"(2) Authority.—

"(A) In general.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

"(B) Availability of application process.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

"(3) Special rules.—

"(A) No matching contribution.—No matching contribution shall be required for a technical assistance grant.

"(B) Availability in advance.—The Administrator shall make all or a portion (but not less than $5,000 or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

"(4) Limit per facility.—

"(A) 1 grant per facility.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

"(B) Duration.—The Administrator shall set a limit by regulation on the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

"(5) Availability for facilities not yet listed.—Subject to paragraph (6), 1 or more technical assistance grants shall be made available to affected citizen groups in communities containing facilities on the State Registry as of the date on which the grant is awarded.

"(6) Funding limit.—

"(A) Percentage of total appropriations.—Not more than 2 percent of the funds made available to carry out this Act for a fiscal year may be used to make technical assistance grants.

"(B) Allocation between listed and unlisted facilities.—Not more than the portion of funds equal to⅛ of the total amount of funds used to make technical assistance grants for a fiscal year may be used for technical assistance grants with respect to facilities not listed on the National Priorities List.

"(7) Funding amount.—

"(A) In general.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed $50,000 for a single grant recipient.

"(B) Increase.—The Administrator may increase the amount of a technical assistance grant, or renew a previous technical assistance grant, up to a total grant amount not exceeding $100,000, to reflect the complexity of the response action, the nature and extent of contamination at the facility, the level of facility activity, projected total needs as requested by the grant recipient, the size and diversity of the affected population, and the ability of the grant recipient to identify and raise funds from other non-Federal sources.

"(8) Use of technical assistance grants.—

"(A) Permitted use.—A technical assistance grant may be used to obtain technical assistance in interpreting information with regard to—

"(i) the nature of the hazardous substances located at a facility;

"(ii) the work plan;

"(iii) the facility evaluation;

"(iv) a proposed remedial action plan, a remedial action plan, and a final remedial design for a facility;

"(v) response actions carried out at the facility; and

"(vi) operation and maintenance activities at the facility.

"(B) Prohibited use.—A technical assistance grant may not be used for the purpose of collecting field sampling data.

"(9) Grant guidelines.—

"(A) In general.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall develop and publish guidelines concerning the management of technical assistance grants by grant recipients.

"(B) Hiring of experts.—A recipient of a technical assistance grant that hires technical experts and other experts shall act in accordance with the guidelines under subparagraph (A).

"(g) Improvement of Public Participation in the Superfund Decisionmaking Process.—

"(1) In general.—

"(A) Meetings and notice.—In order to provide an opportunity for meaningful public participation in every significant phase of response activities under this Act, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of—

"(i) a facility evaluation, as appropriate;

"(ii) announcement of a proposed remedial action plan; and

"(iii) completion of a final remedial design.

"(B) Information.—A public meeting under subparagraph (A) shall be designed to obtain information from the community, and disseminate information to the community, with respect to a facility concerning the Administrator's facility activities and pending decisions.

"(2) Participants and subject.—The Administrator shall provide reasonable notice of an opportunity for public participation in meetings in which—

"(A) the participants include Federal officials (or State officials, if the State is conducting response actions under a delegated or authorized program or through facility referral) with authority to make significant decisions affecting a response action, and other persons (unless all of such other persons are coregulators that are not potentially responsible parties or are government contractors); and

"(B) the subject of the meeting involves discussions directly affecting—

"(i) a legally enforceable work plan document, or any significant amendment to the document, for a removal, facility evaluation, proposed remedial action plan, final remedial design, or remedial action for a facility on the National Priorities List; or

"(ii) the final record of information on which the Administrator will base a hazard ranking system score for a facility.

"(3) Limitation.—Nothing in this subsection shall be construed—

"(A) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that concerns only the potential liability or settlement of potential liability of any person, whether prior to or following the commencement of litigation or administrative enforcement action;

"(B) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that is attended only by representatives of the United States (or of a department, agency, or instrumentality of the United States) with attorneys representing the United States (or of a department, agency, or instrumentality of the United States); or

"(C) to waive, compromise, or affect any privilege that may be applicable to a communication related to an activity described in subparagraph (A) or (B).

"(4) Evaluation.—

"(A) In general.—To the extent practicable, before and during the facility evaluation, the Administrator shall solicit and evaluate concerns, interests, and information from the community.

"(B) Procedure.—An evaluation under subparagraph (A) shall include, as appropriate—

"(i) face-to-face community surveys to identify the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

"(ii) a public meeting;

"(iii) written responses to significant concerns; and

"(iv) other appropriate participatory activities.

"(5) Views and preferences.—

"(A) Solicitation.—During the facility evaluation, the Administrator (or other person performing the facility evaluation) shall solicit the views and preferences of the community on the remediation and disposition of hazardous substances or pollutants or contaminants at the facility.

"(B) Consideration.—The views and preferences of the community shall be described in the facility evaluation and considered in the screening of remedial alternatives for the facility.

"(6) Alternatives.—Members of the community may propose remedial action alternatives, and the Administrator shall consider such alternatives in the same manner as the Administrator considers alternatives proposed by potentially responsible parties.

"(7) Information.—

"(A) The community.—The Administrator, with all significant phases of the response action at the facility.

"(B) Technical staff.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff i

"(B) Technical staff.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff in a timely and effective manner.

"(C) Responses.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

"(8) Nonprivileged information.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request, subject to reasonable service charges as appropriate.

"(9) Presentation.—

"(A) Documents.—

"(i) In general.—The Administrator, in carrying out responsibilities under this Act, shall ensure that the presentation of information on risk is complete and informative.

"(ii) Risk.—To the extent feasible, documents prepared by the Administrator and made available to the public that purport to describe the degree of risk to human health shall be consistent with the risk communication principles outlined in section 131(c).

"(B) Comparisons.—The Administrator, in carrying out responsibilities under this Act, shall provide comparisons of the level of risk from hazardous substances found at the facility to comparable levels of risk from those hazardous substances ordinarily encountered by the general public through other sources of exposure.

"(10) Requirements.—

"(A) Lengthy removal actions.—Notwithstanding any other provision of this subsection, in the case of a removal action taken in accordance with section 104 that is expected to require more than 180 days to complete, and in any case in which implementation of a removal action is expected to obviate or that in fact obviates the need to conduct a long-term remedial action—

"(i) the Administrator shall, to the maximum extent practicable, allow for public participation consistent with paragraph (1); and

"(ii) the removal action shall achieve the goals of protecting human health and the environment in accordance with section 121(a)(1).

"(B) Other removal actions.—In the case of all other removal actions, the Administrator may provide the community with notice of the anticipated removal action and a public comment period, as appropriate.".

(b) Issuance of Guidelines.—The Administrator of the Environmental Protection Agency shall issue guidelines under section 117(e)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 90 days after the date of enactment of this Act.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

SEC. 401. DEFINITIONS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 105(a)) is amended by adding at the end the following:

"(41) Actual or planned or reasonably anticipated future use of the land and water resources.—The term 'actual or planned or reasonably anticipated future use of the land and water resources' means—

"(A) the actual use of the land, surface water, and ground water at a facility on the date of submittal of the proposed remedial action plan; and

"(B)(i) with respect to land—

"(I) the use of land that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initiation of the facility evaluation, by the local land use planning authority for a facility and the land immediately adjacent to the facility; and

"(II) any other reasonably anticipated use that the local land use authority, in consultation with the community response organization (if any), determines to have a substantial probability of occurring based on recent (as of the time of the determination) development patterns in the area in which the facility is located and on population projections for the area; and

"(ii) with respect to water resources, the future use of the surface water and ground water that is potentially affected by releases from a facility that is reasonably anticipated, by the governmental unit that regulates surface or ground water use or surface or ground water use planning in the vicinity of the facility, on the date of submission of the proposed remedial action plan.

"(42) Sustainability.—The term 'sustainability", for the purpose of section 121(a)(1)(B)(ii), means the ability of an ecosystem to continue to function within the normal range of its variability absent the effects of a release of a hazardous substance.".

SEC. 402. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

"SEC. 121. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

"(a) General Rules.—

"(1) Selection of cost-effective remedial action that protects human health and the environment.—

"(A) In general.—The Administrator shall select a cost-effective remedial action that achieves the goals of protecting human health and the environment as stated in subparagraph (B), and complies with other applicable Federal and State laws in accordance with subparagraph (C) on the basis of a facility-specific risk evaluation in accordance with section 131 and in accordance with the criteria stated in subparagraph (D) and the requirements of paragraph (2).

"(B) Goals of protecting human health and the environment.—

"(i) Protection of human health.—A remedial action shall be considered to protect human health if, considering the expected exposures associated with the actual or planned or reasonably anticipated future use of the land and water resources and on the basis of a facility-specific risk evaluation in accordance with section 131, the remedial action achieves a residual risk—

"(I) from exposure to nonthreshold carcinogenic hazardous substances, pollutants, or contaminants such that cumulative lifetime additional cancer from exposure to hazardous substances from releases at the facility range from 10^{-4} to 10^{-6} for the affected population; and

"(II) from exposure to threshold carcinogenic and noncarcinogenic hazardous substances, pollutants, or contaminants at the facility, that does not exceed a hazard index of 1.

"(ii) Protection of the environment.—A remedial action shall be considered to be protective of the environment if the remedial action—

"(I) protects ecosystems from significant threats to their sustainability arising from exposure to releases of hazardous substances at a site; and

"(II) does not cause a greater threat to the sustainability of ecosystems than a release of a hazardous substance.

"(iii) Protection of ground water.—A remedial action shall prevent or eliminate any actual human ingestion of drinking water containing any hazardous substance from the release at levels—

"(I) in excess of the maximum contaminant level established under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); or

"(II) if no such maximum contaminant level has been established for the hazardous substance, at levels that meet the goals for protection of human health under clause (i).

"(C) Compliance with federal and state laws.—

"(i) Substantive requirements.—

"(I) In general.—Subject to clause (iii) and subparagraphs (A) and (D) and paragraph (2), a remedial action shall—

"(aa) comply with the substantive requirements of all promulgated standards, requirements, criteria, and limitations under each Federal law and each State law relating to the environment or to the siting of facilities (including a State law that imposes a more stringent standard, requirement, criterion, or limitation than Federal law) that is applicable to the conduct or operation of the remedial action or to determination of the level of cleanup for remedial actions; and

"(bb) comply with or attain any other promulgated standard, requirement, criterion, or limitation under any State law relating to the environment or siting of facilities, as determined by the State, after the date of enactment of the Superfund Cleanup Acceleration Act of 1997, through a rulemaking procedure that includes public notice, comment, and written response comment, and opportunity for judicial review, but only if the State demonstrates that the standard, requirement, criterion, or limitation is of general applicability and is consistently applied to remedial actions under State law.

"(II) Identification of facilities.—Compliance with a State standard, requirement, criterion, or limitation described in subclause (I) shall be required at a facility only if the standard, requirement, criterion, or limitation has been identified by the State to the Administrator in a timely manner as being applicable to the facility.

"(III) Published lists.—Each State shall publish a comprehensive list of the standards, requirements, criteria, and limitations that the State may apply to remedial actions under this Act, and shall revise the list periodically, as requested by the Administrator.

"(IV) Contaminated media.—Compliance with this clause shall not be required with respect to return, replacement, or disposal of contaminated media or residuals of contaminated media into the same media in or very near then-existing areas of contamination onsite at a facility.

"(ii) Procedural requirements.—Procedural requirements of Federal and State standards, requirements, criteria, and limitations (including permitting requirements) shall not apply to response actions conducted onsite at a facility.

"(iii) Waiver provisions.—

"(I) Determination by the President.—The Administrator shall evaluate and determine if it is not appropriate for a remedial action to attain a Federal or State standard, requirement, criterion, or limitation as required by clause (i).

"(II) Selection of remedial action that does not comply.—The Administrator may select a remedial action at a facility that meets the requirements of subparagraph (B) but does not comply with or attain a Federal or State standard, requirement, criterion, or limitation described in clause (i) if the Administrator makes any of the following findings:

"(aa) Improper identification.—The standard, requirement, criterion, or limitation, which was improperly identified as an applicable requirement under clause (i)(I)(aa), fails to comply with the rulemaking requirements of clause (i)(I)(bb).

"(bb) Part of remedial action.—The selected remedial action is only part of a total remedial action that will comply with or attain the applicable requirements of clause (i) when the total remedial action is completed.

"(cc) Greater risk.—Compliance with or attainment of the standard, requirement, criterion, or limitation at the facility will result in greater risk to human health or the environment than alternative options.

"(dd) Technically impracticability.—Compliance with or attainment of the standard, requirement, criterion, or limitation is technically impracticable.

"(ee) Equivalent to standard of performance.—The selected remedial action will attain a standard of performance that is equivalent to that required under a standard, requirement, criterion, or limitation described in clause (i) through use of another approach.

"(ff) Inconsistent application.—With respect to a State standard, requirement, criterion, limitation, or level, the State has not consistently applied (or demonstrated the intention to apply consistently) the standard, requirement, criterion, or limitation or level in similar circumstances to other remedial actions in the State.

"(gg) Balance.—In the case of a remedial action to be undertaken under section 104 or 136 using amounts from the Fund, a selection of a remedial action that complies with or attains a standard, requirement, criterion, or limitation described in clause (i) will not provide a balance between the need for protection of public health and welfare and the environment at the facility, and the need to make amounts from the Fund available to respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats presented by the various facilities.

"(III) Publication.—The Administrator shall publish any findings made under subclause (II), including an explanation and appropriate documentation.

"(D) Remedy selection criteria.—In selecting a remedial action from among alternatives that achieve the goals stated in subparagraph (B) pursuant to a facility-specific risk evaluation in accordance with section 131, the Administrator shall balance the following factors, ensuring that no single factor predominates over the others:

"(i) The effectiveness of the remedy in protecting human health and the environment.

"(ii) The reliability of the remedial action in achieving the protectiveness standards over the long term.

"(iii) Any short-term risk to the affected community, those engaged in the remedial action effort, and to the environment posed by the implementation of the remedial action.

"(iv) The acceptability of the remedial action to the affected community.

"(v) The implementability and technical feasibility of the remedial action from an engineering perspective.

"(vi) The reasonableness of the cost.

"(2) Technical impracticability.—

"(A) Minimization of risk.—If the Administrator, after reviewing the remedy selection criteria stated in paragraph (1)(D), finds that achieving the goals stated in paragraph (1)(B) is technically impracticable, the Administrator shall evaluate remedial measures that mitigate the risks to human health and the environment and select a technically practicable remedial action that will most closely achieve the goals stated in paragraph (1) through cost-effective means.

"(B) Basis for finding.—A finding of technical impracticability may be made on the basis of a determination, supported by appropriate documentation, that, at the time at which the finding is made—

"(i) there is no known reliable means of achieving at a reasonable cost the goals stated in paragraph (1)(B); and

"(ii) it has not been shown that such a means is likely to be developed within a reasonable period of time.

"(3) Presumptive remedial actions.—A remedial action that implements a presumptive remedial action issued under section 132 shall be considered to achieve the goals stated in paragraph (1)(B) and balance adequately the factors stated in paragraph (1)(D).

"(4) Ground water.—

"(A) In general.—The Administrator or the preparer of the remedial action plan shall select a cost effective remedial action for ground water that achieves the goals of protecting human health and the environment as stated in paragraph (1)(B) and with the requirements of this paragraph, and complies with other applicable Federal and State laws in accordance with subparagraph (C) on the basis of a facility-specific risk evaluation in accordance with section 131 and in accordance with the criteria stated in subparagraph (D) and the requirements of paragraph (2). If appropriate, a remedial action for ground water shall be phased, allowing collection of sufficient data to evaluate the effect of any other remedial action taken at the site and to determine the appropriate scope of the remedial action.

"(B) Considerations for ground water remedial action.—A decision regarding a remedial action for ground water shall take into consideration—

"(i) the actual or planned or reasonably anticipated future use of ground water and the timing of that use; and

"(ii) any attenuation or biodegradation that would occur if no remedial action were taken.

"(C) Uncontaminated ground water.—A remedial action shall protect uncontaminated ground water that is suitable for use as drinking water by humans or livestock if the water is uncontaminated and suitable for such use at the time of submission of the proposed remedial action plan. A remedial action to protect uncontaminated ground water may utilize natural attenuation (which may include dilution or dispersion, but in conjunction with biodegradation or other levels of attenuation necessary to facilitate the remediation of contaminated ground water) so long as the remedial action does not interfere with the actual or planned or reasonably anticipated future use of the uncontaminated ground water.

"(D) Contaminated ground water.—

"(i) In general.—In the case of contaminated ground water for which the actual or planned or reasonably anticipated future use of the resource is as drinking water for humans or livestock, if the Administrator determines that restoration of some portion of the contaminated ground water to a condition suitable for the use is technically practicable, the Administrator shall seek to restore the ground water to a condition suitable for the use.

"(ii) Determination of restoration practicability.—In making a determination regarding the technical practicability of ground water restoration—

"(I) there shall be no presumption of the technical practicability; and

"(II) the determination of technical practicability shall, to the extent practicable, be made on the basis of projections, modeling, or other analysis on a site-specific basis without a requirement for the construction or installation and operation of a remedial action.

"(iii) Determination of need for and methods of restoration.—In making a determination and selecting a remedial action regarding restoration of contaminated ground water the Administrator shall take into account—

"(I) the ability to substantially accelerate the availability of ground water for use as drinking water beyond the rate achievable by natural attenuation; and

"(II) the nature and timing of the actual or planned or reasonably anticipated use of such ground water.

"(iv) Restoration technically impracticable.—

"(I) In general.—A remedial action for contaminated ground water having an actual or planned or reasonably anticipated future use as a drinking water source for humans or livestock for which attainment of the levels described in paragraph (1)(B)(iii) is technically impracticable shall be selected in accordance with paragraph (1)(D)(2).

"(II) NO INGESTION.—Selected remedies may rely on point-of-use treatment or other measures to ensure that there will be no ingestion of drinking water at levels exceeding the requirement of paragraph (1)(B)(iii) (I) or (II).

"(III) INCLUSION AS PART OF OPERATION AND MAINTENANCE.—The operation and maintenance of any treatment device installed at the point of use shall be included as part of the operation and maintenance of the remedy.

"(E) GROUND WATER NOT SUITABLE FOR USE AS DRINKING WATER.—Notwithstanding any other evaluation or determination of the potential suitability of ground water for drinking water use, ground water that is not suitable for use as drinking water by humans or livestock because of naturally occurring conditions, or is so contaminated by the effects of broad-scale human activity unrelated to a specific facility or release that restoration of drinking water quality is technically impracticable or is physically incapable of yielding a quantity of 150 gallons per day of water to a well or spring, shall be considered to be not suitable for use as drinking water.

"(F) OTHER GROUND WATER.—Remedial action for contaminated ground water (other than ground water having an actual or planned or reasonably anticipated future use as a drinking water source for humans or livestock) shall attain levels appropriate for the then-current or reasonably anticipated future use of the ground water, or levels appropriate considering the then-current use of any ground water or surface water to which the contaminated ground water discharges.

"(5) OTHER CONSIDERATIONS APPLICABLE TO REMEDIAL ACTIONS.—A remedial action that uses institutional and engineering controls shall be considered to be on an equal basis with all other remedial action alternatives.";

(2) by redesignating subsection (c) as subsection (b);

(3) by striking subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 403. REMEDY SELECTION METHODOLOGY.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 201(a)) is amended by adding at the end the following:

"SEC. 131. FACILITY-SPECIFIC RISK EVALUATIONS.

"(a) USES.—

"(1) IN GENERAL.—A facility-specific risk evaluation shall be used to—

"(A) identify the significant components of potential risk posed by a facility;

"(B) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

"(C) compare the relative protectiveness of alternative potential remedies proposed for a facility; and

"(D) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the actual or planned or reasonably anticipated future use of the land and water resources.

"(2) COMPLIANCE WITH PRINCIPLES.—A facility-specific risk evaluation shall comply with the principles stated in this section to ensure that—

"(A) actual or planned or reasonably anticipated future use of the land and water resources is given appropriate consideration; and

"(B) all of the components of the evaluation are, to the maximum extent practicable, scientifically objective and inclusive of all relevant data.

"(b) RISK EVALUATION PRINCIPLES.—A facility-specific risk evaluation shall—

"(1) be based on actual information or scientific estimates of exposure considering the actual or planned or reasonably anticipated future use of the land and water resources to the extent that substituting such estimates for those made using standard assumptions alters the basis for decisions to be made;

"(2) be comprised of components each of which is, to the maximum extent practicable, scientifically objective, and inclusive of all relevant data;

"(3) use chemical and facility-specific data and analysis (such as bioavailability, exposure, and fate and transport evaluations) in preference to default assumptions when—

"(A) such data and analysis are likely to vary by facility; and

"(B) facility-specific risks are to be communicated to the public or the use of such data and analysis alters the basis for decisions to be made; and

"(4) use a range and distribution of realistic and scientifically supportable assumptions when chemical and facility-specific data are not available, if the use of such assumptions would communicate more accurately the consequences of the various decision options.

"(c) RISK COMMUNICATION PRINCIPLES.—The document reporting the results of a facility-specific risk evaluation shall—

"(1) contain an explanation that clearly communicates the risks at the facility;

"(2) identify and explain all assumptions used in the evaluation, any alternative assumptions that, if made, could materially affect the outcome of the evaluation, the policy or value judgments used in choosing the assumptions, and whether empirical data conflict with or validate the assumptions;

"(3) present—

"(A) a range and distribution of exposure and risk estimates, including, if numerical estimates are provided, central estimates of exposure and risk using—

"(i) the most scientifically supportable assumptions or a weighted combination of multiple assumptions based on different scenarios; or

"(ii) any other methodology designed to characterize the most scientifically supportable estimate of risk given the information that is available at the time of the facility-specific risk evaluation; and

"(B) a statement of the nature and magnitude of the scientific and other uncertainties associated with those estimates;

"(4) state the size of the population potentially at risk from releases from the facility and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land and water resources; and

"(5) compare the risks from the facility to other risks commonly experienced by members of the local community in their daily lives and similar risks regulated by the Federal Government.

"(d) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that promotes a realistic characterization of risk that neither minimizes nor exaggerates the risks and potential risks posed by a facility or a proposed remedial action.

"SEC. 132. PRESUMPTIVE REMEDIAL ACTIONS.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation establishing presumptive remedial actions for commonly encountered types of facilities with reasonably well understood contamination problems and exposure potential.

"(b) PRACTICABILITY AND COST-EFFECTIVENESS.—Such presumptive remedies must have been demonstrated to be technically practicable and cost-effective methods of achieving the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(c) VARIATIONS.—The Administrator may issue various presumptive remedial actions based on various uses of land and water resources, various environmental media, and various types of hazardous substances, pollutants, or contaminants.

"(d) ENGINEERING CONTROLS.—Presumptive remedial actions are not limited to treatment remedies, but may be based on, or include, institutional and standard engineering controls.".

SEC. 404. REMEDY SELECTION PROCEDURES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 403) is amended by adding at the end the following:

"SEC. 133. REMEDIAL ACTION PLANNING AND IMPLEMENTATION.

"(a) IN GENERAL.—

"(1) BASIC RULES.—

"(A) PROCEDURES.—A remedial action with respect to a facility that is listed or proposed for listing on the National Priorities List shall be developed and selected in accordance with the procedures set forth in this section.

"(B) NO OTHER PROCEDURES OR REQUIREMENTS.—The procedures stated in this section are in lieu of any procedures or requirements under any other law to conduct remedial investigations, feasibility studies, record of decisions, remedial designs, or remedial actions.

"(C) LIMITED REVIEW.—In a case in which the potentially responsible parties prepare a remedial action plan, only the work plan, facility evaluation, proposed remedial action plan, and final remedial design shall be subject to review, comment, and approval by the Administrator.

"(D) DESIGNATION OF POTENTIALLY RESPONSIBLE PARTIES TO PREPARE WORK PLAN, FACILITY EVALUATION, PROPOSED REMEDIAL ACTION, AND REMEDIAL DESIGN AND TO IMPLEMENT THE REMEDIAL ACTION PLAN.—In the case of a facility for which the Administrator is not required to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan—

"(i) if a potentially responsible party or group of potentially responsible parties—

"(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

"(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator shall designate the potentially responsible party or group of potentially responsible parties to perform those functions; and

"(ii) if more than 1 potentially responsible party or group of potentially responsible parties—

"(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

"(II) demonstrates that the potentially responsible parties or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator, based on an assessment of the various parties' comparative financial resources, technical expertise, and histories of cooperation with respect to facilities that are listed on the National Priorities List, shall designate 1 potentially responsible party or group of potentially responsible parties to perform those functions.

"(E) Approval required at each step of procedure.—No action shall be taken with respect to a facility evaluation, proposed remedial action plan, remedial action plan, or remedial design, respectively, until a work plan, facility evaluation, proposed remedial action plan, and remedial action plan, respectively, have been approved by the Administrator.

"(F) National contingency plan.—The Administrator shall conform the National Contingency Plan regulations to reflect the procedures stated in this section.

"(2) Use of presumptive remedial actions.—

"(A) Proposal to use.—In a case in which a presumptive remedial action applies, the Administrator (if the Administrator is conducting the remedial action) or the preparer of the remedial action plan may, after conducting a facility evaluation, propose a presumptive remedial action for the facility, if the Administrator or preparer shows with appropriate documentation that the facility fits the generic classification for which a presumptive remedial action has been issued and performs an engineering evaluation to demonstrate that the presumptive remedial action can be applied at the facility.

"(B) Limitation.—The Administrator may not require a potentially responsible party to implement a presumptive remedial action.

"(b) Remedial Action Planning Process.—

"(1) In general.—The Administrator or a potentially responsible party shall prepare and implement a remedial action plan for a facility.

"(2) Contents.—A remedial action plan shall consist of—

"(A) the results of a facility evaluation, including any screening analysis performed at the facility;

"(B) a discussion of the potentially viable remedies that are considered to be reasonable under section 121(a), the respective capital costs, operation and maintenance costs, and estimated present worth costs of the remedies, and how the remedies balance the factors stated in section 121(a)(1)(D);

"(C) a description of the remedial action to be taken;

"(D) a description of the facility-specific risk-based evaluation under section 131 and a demonstration that the selected remedial action will satisfy sections 121(a) and 132; and

"(E) a realistic schedule for conducting the remedial action, taking into consideration facility-specific factors.

"(3) Work plan.—

"(A) In general.—Prior to preparation of a remedial action plan, the preparer shall develop a work plan, including a community information and participation plan, which generally describes how the remedial action plan will be developed.

"(B) Submission.—A work plan shall be submitted to the Administrator, the State, the community response organization, the local library, and any other public facility designated by the Administrator.

"(C) Publication.—The Administrator or other person that prepares a work plan shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the work plan is available for review at the local library and that comments concerning the work plan can be submitted to the preparer of the work plan, the Administrator, the State, or the local community response organization.

"(D) Forwarding of comments.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

"(E) Notice of disapproval.—If the Administrator does not approve a work plan, the Administrator shall—

"(i) identify to the preparer of the work plan, with specificity, any deficiencies in the submission; and

"(ii) require that the preparer submit a revised work plan within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(4) Facility evaluation.—

"(A) In general.—The Administrator (or the preparer of the facility evaluation) shall conduct a facility evaluation at each facility to characterize the risk posed by the facility by gathering enough information necessary to—

"(i) assess potential remedial alternatives, including ascertaining, to the degree appropriate, the volume and nature of the contaminants, their location, potential exposure pathways and receptors;

"(ii) discern the actual or planned or reasonably anticipated future use of the land and water resources; and

"(iii) screen out any uncontaminated areas, contaminants, and potential pathways from further consideration.

"(B) Submission.—A draft facility evaluation shall be submitted to the Administrator for approval.

"(C) Publication.—Not later than 30 days after submission, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the draft facility evaluation, the Administrator shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the draft facility evaluation is available for review and that comments concerning the evaluation can be submitted to the Administrator, the State, and the community response organization.

"(D) Availability of comments.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall make the comments available to the preparer of the facility evaluation.

"(E) Notice of approval.—If the Administrator approves a facility evaluation, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(F) Notice of disapproval.—If the Administrator does not approve a facility evaluation, the Administrator shall—

"(i) identify to the preparer of the facility evaluation, with specificity, any deficiencies in the submission; and

"(ii) require that the preparer submit a revised facility evaluation within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(5) Proposed remedial action plan.—

"(A) Submission.—In a case in which a potentially responsible party prepares a remedial action plan, the preparer shall submit the remedial action plan to the Administrator for approval and provide a copy to the local library.

"(B) Publication.—After receipt of the proposed remedial action plan, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the remedial action plan, the Administrator shall cause to be published in a newspaper of general circulation in the area where the facility is located and posted in other conspicuous places in the local community a notice announcing that the proposed remedial action plan is available for review at the local library and that comments concerning the remedial action plan can be submitted to the Administrator, the State, and the community response organization.

"(C) Availability of comments.—If comments are submitted to a State or the community response organization, the State or community response organization shall make the comments available to the preparer of the proposed remedial action plan.

"(D) Hearing.—The Administrator shall hold a public hearing at which the proposed remedial action plan shall be presented and public comment received.

"(E) Remedy review boards.—

"(i) Establishment.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish and appoint the members of 1 or more remedy review boards (referred to in this subparagraph as a "remedy review board"), each consisting of independent technical experts within Federal and State agencies with responsibility for remediating contaminated facilities.

"(ii) Submission of remedial action plans for review.—Subject to clause (iii), a proposed remedial action plan prepared by a potentially responsible party or the Administrator may be submitted to a remedy review board at the request of the person responsible for preparing or implementing the remedial action plan.

"(iii) No review.—The Administrator may preclude submission of a proposed remedial action plan to a remedy review board if the Administrator determines that review by a remedy review board would result in an unreasonably long delay that would threaten human health or the environment.

"(iv) Recommendations.—Not later than 180 days after receipt of a request for review (unless the Administrator, for good cause, grants additional time), a remedy review board shall provide recommendations to the Administrator regarding whether the proposed remedial action plan is—

"(I) consistent with the requirements and standards of section 121(a);

"(II) technically feasible or infeasible from an engineering perspective; and

"(III) reasonable or unreasonable in cost.

"(v) Review by the administrator.—

"(I) Consideration of comments.—In reviewing a proposed remedial action plan, a remedy review board shall consider any comments submitted under subparagraphs (B) and (D) and shall provide an opportunity for a meeting, if requested, with the person responsible for preparing or implementing the remedial action plan.

“(II) STANDARD OF REVIEW.—In determining whether to approve or disapprove a proposed remedial action plan, the Administrator shall give substantial weight to the recommendations of the remedy review board.

“(F) APPROVAL.—

“(i) IN GENERAL.—The Administrator shall approve a proposed remedial action plan if the plan—

“(I) contains the information described in section 131(b); and

“(II) satisfies section 121(a).

“(ii) DEFAULT.—If the Administrator fails to issue a notice of disapproval of a proposed remedial action plan in accordance with subparagraph (G) within 180 days after the proposed plan is submitted, the plan shall be considered to be approved and its implementation fully authorized.

“(G) NOTICE OF APPROVAL.—If the Administrator approves a proposed remedial action plan, the Administrator shall—

“(i) notify the community response organization; and

“(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

“(H) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

“(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

“(ii) request that the preparer submit a revised proposed remedial action plan within a reasonable time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

“(I) JUDICIAL REVIEW.—A recommendation under subparagraph (E)(iv) and the Administrator's review of such a recommendation shall be subject to the limitations on judicial review under section 113(h).

“(6) IMPLEMENTATION OF REMEDIAL ACTION PLAN.—A remedial action plan that has been approved or is considered to be approved under paragraph (5) shall be implemented in accordance with the schedule set forth in the remedial action plan.

“(7) REMEDIAL DESIGN.—

“(A) SUBMISSION.—A remedial design shall be submitted to the Administrator, or in a case in which the Administrator is preparing the remedial action plan, shall be completed by the Administrator.

“(B) PUBLICATION.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

“(i) notify the community response organization; and

“(ii) cause a notice of submission or completion of the remedial design to be published in a newspaper of general circulation and posted in conspicuous places in the area where the facility is located.

“(C) COMMENT.—The Administrator shall provide an opportunity to the public to submit written comments on the remedial design.

“(D) APPROVAL.—Not later than 90 days after the submission to the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall approve or disapprove the remedial design.

“(E) NOTICE OF APPROVAL.—If the Administrator approves a remedial design, the Administrator shall—

“(i) notify the community response organization; and

“(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

“(F) NOTICE OF DISAPPROVAL.—If the Administrator disapproves the remedial design, the Administrator shall—

“(i) identify with specificity any deficiencies in the submission; and

“(ii) allow the preparer submitting a remedial design a reasonable time (which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator) in which to submit a revised remedial design.

“(c) ENFORCEMENT OF REMEDIAL ACTION PLAN.—

“(1) NOTICE OF SIGNIFICANT DEVIATION.—If the Administrator determines that the implementation of the remedial action plan has deviated significantly from the plan, the Administrator shall provide the implementing party a notice that requires the implementing party, within a reasonable period of time specified by the Administrator, to—

“(A) comply with the terms of the remedial action plan; or

“(B) submit a notice for modifying the plan.

“(2) FAILURE TO COMPLY.—

“(A) CLASS ONE ADMINISTRATIVE PENALTY.—In issuing a notice under paragraph (1), the Administrator may impose a class one administrative penalty consistent with section 109(a).

“(B) ADDITIONAL ENFORCEMENT MEASURES.—If the implementing party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all additional appropriate enforcement measures pursuant to this Act.

“(d) MODIFICATIONS TO REMEDIAL ACTION.—

“(1) DEFINITION.—In this subsection, the term ‘major modification’ means a modification that—

“(A) fundamentally alters the interpretation of site conditions at the facility;

“(B) fundamentally alters the interpretation of sources of risk at the facility;

“(C) fundamentally alters the scope of protection to be achieved by the selected remedial action;

“(D) fundamentally alters the performance of the selected remedial action; or

“(E) delays the completion of the remedy by more than 180 days.

“(2) MAJOR MODIFICATIONS.—

“(A) IN GENERAL.—If the Administrator or other implementing party proposes a major modification to the plan, the Administrator or other implementing party shall demonstrate that—

“(i) the major modification constitutes the most cost-effective remedial alternative that is technologically feasible and is not unreasonably costly; and

“(ii) that the revised remedy will continue to satisfy section 121(a).

“(B) NOTICE AND COMMENT.—The Administrator shall provide the implementing party, the community response organization, and the local community notice of the proposed major modification and at least 30 days' opportunity to comment on any such proposed modification.

“(C) PROMPT ACTION.—At the end of the comment period, the Administrator shall promptly approve or disapprove the proposed modification and order implementation of the modification in accordance with any reasonable and relevant requirements that the Administrator may specify.

“(3) MINOR MODIFICATIONS.—Nothing in this section modifies the discretionary authority of the Administrator to make a minor modification of a record of decision or remedial action plan to conform to the best science and engineering, the requirements of this Act, or changing conditions at a facility.”.

SEC. 405. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 404) is amended by adding at the end the following:

“SEC. 134. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

“(a) IN GENERAL.—

“(1) PROPOSED NOTICE OF COMPLETION AND PROPOSED DELISTING.—Not later than 180 days after the completion by the Administrator of physical construction necessary to implement a response action at a facility, or not later than 180 days after receipt of a notice of such completion from the implementing party, the Administrator shall publish a notice of completion and proposed delisting of the facility from the National Priorities List in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

“(2) PHYSICAL CONSTRUCTION.—For the purposes of paragraph (1), physical construction necessary to implement a response action at a facility shall be considered to be complete when—

“(A) construction of all systems, structures, devices, and other components necessary to implement a response action for the entire facility has been completed in accordance with the remedial design plan; or

“(B) no construction, or no further construction, is expected to be undertaken.

“(3) COMMENTS.—The public shall be provided 30 days in which to submit comments on the notice of completion and proposed delisting.

“(4) FINAL NOTICE.—Not later than 60 days after the end of the comment period, the Administrator shall—

“(A) issue a final notice of completion and delisting or a notice of withdrawal of the proposed notice until the implementation of the remedial action is determined to be complete; and

“(B) publish the notice in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

“(5) FAILURE TO ACT.—If the Administrator fails to publish a notice of withdrawal within the 60-day period described in paragraph (4)—

“(A) the remedial action plan shall be deemed to have been completed; and

“(B) the facility shall be delisted by operation of law.

“(6) EFFECT OF DELISTING.—The delisting of a facility shall have no effect on—

“(A) liability allocation requirements or cost-recovery provisions otherwise provided in this Act;

“(B) any liability of a potentially responsible party or the obligation of any person to provide continued operation and maintenance;

“(C) the authority of the Administrator to make expenditures from the Fund relating to the facility; or

“(D) the enforceability of any consent order or decree relating to the facility.

“(7) FAILURE TO MAKE TIMELY DISAPPROVAL.—The issuance of a final notice of completion and delisting or of a notice of withdrawal within the time required by subsection (a)(3) constitutes a nondiscretionary duty within the meaning of section 310(a)(2).

"(b) Certification.—A final notice of completion and delisting shall include a certification by the Administrator that the facility has met all of the requirements of the remedial action plan (except requirements for continued operation and maintenance).

"(c) Future Use of a Facility.—

"(1) Facility available for unrestricted use.—If, after completion of physical construction, a facility is available for unrestricted use and there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable factual information about the facility, that the facility does not satisfy section 121(a).

"(2) Facility not available for any use.—If, after completion of physical construction, a facility is not available for any use or there are continued operation and maintenance requirements that preclude use of the facility, the Administrator shall—

"(A) review the status of the facility every 5 years; and

"(B) require additional remedial action at the facility if the Administrator determines, after notice and opportunity for hearing, that the facility does not satisfy section 121(a).

"(3) Facilities available for restricted use.—The Administrator may determine that a facility or portion of a facility is available for restricted use while a response action is under way or after physical construction has been completed. The Administrator shall make a determination that uncontaminated portions of the facility are available for unrestricted use when such use would not interfere with ongoing operations and maintenance activities or endanger human health or the environment.

"(d) Operation and Maintenance.—The need to perform continued operation and maintenance at a facility shall not delay delisting of the facility or issuance of the certification if performance of operation and maintenance is subject to a legally enforceable agreement, order, or decree.

"(e) Change of Use of Facility.—

"(1) Petition.—Any person may petition the Administrator to change the use of a facility described in subsection (c) (2) or (3) from that which was the basis of the remedial action plan.

"(2) Grant.—The Administrator may grant a petition under paragraph (1) if the petitioner agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to satisfy section 121(a), considering the different use of the facility.

"(3) Responsibility for risk.—When a petition has been granted under paragraph (2), the person requesting the change in use of the facility shall be responsible for all risk associated with altering the facility and all costs of implementing any necessary additional remedial actions.".

SEC. 406. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 405) is amended by adding at the end the following:

"SEC. 135. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

"(a) No Record of Decision.—

"(1) Option.—In the case of a facility or operable unit that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 133 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the requesting party notifies the Administrator and other potentially responsible parties of the election not later than 90 days after the date of enactment of this section.

"(2) Submission of facility evaluation.—In a case in which the potentially responsible parties have or the Administrator has made an election under subsection (a), the potentially responsible parties shall submit the proposed facility evaluation within 180 days after the date on which notice of the election is given.

"(b) Remedy Review Boards.—

"(1) Authority.—A remedy review board established under section 133(b)(5)(E) (referred to in this subsection as a 'remedy review board') shall have authority to consider a petition under paragraph (3) or (4) of this subsection.

"(2) General procedure.—

"(A) Completion of review.—The review of a petition submitted to a remedy review board under this subsection shall be completed not later than 180 days after the receipt of the petition unless the Administrator, for good cause, grants additional time.

"(B) Costs of review.—All reasonable costs incurred by a remedy review board, the Administrator, or a State in conducting a review or evaluating a petition for possible objection shall be borne by the petitioner.

"(C) Decisions.—At the completion of the 180-day review period, a remedy review board shall issue a written decision including responses to all comments submitted during the review process with regard to a petition.

"(D) Opportunity for comment and meetings.—In reviewing a petition under this subsection, a remedy review board shall provide an opportunity for all interested parties, including representatives of the State and local community in which the facility is located, to comment on the petition and, if requested, to meet with the remedy review board under this subsection.

"(E) Review by the administrator.—

"(i) In general.—The Administrator shall have final review of any decision of a remedy review board under this subsection.

"(ii) Standard of review.—In conducting a review of a decision of a remedy review board under this subsection, the Administrator shall accord substantial weight to the remedy review board's decision.

"(iii) Rejection of decision.—Any determination to reject a remedy review board's decision under this subsection must be approved by the Administrator or the Assistant Administrator for Solid Waste and Emergency Response.

"(F) Judicial review.—A decision of a remedy review board under subparagraph (C) and the Administrator's review of such a decision shall be subject to the limitations on judicial review under section 113(h).

"(G) Calculations of cost savings.—

"(i) In general.—A determination with respect to relative cost savings and whether construction has begun shall be based on operable units or distinct elements or phases of remediation and not on the entire record of decision.

"(ii) Items not to be considered.—In determining the amount of cost savings—

"(I) there shall not be taken into account any administrative, demobilization, remobilization, or additional investigation costs of the review or modification of the remedy associated with the alternative remedy; and

"(II) only the estimated cost savings of expenditures avoided by undertaking the alternative remedy shall be considered as cost savings.

"(3) Construction not begun.—

"(A) Petition.—In the case of a facility or operable unit with respect to which a record of decision has been signed but construction has not yet begun prior to the date of enactment of this section and which meet the criteria of subparagraph (B), the implementor of the record of decision may file a petition with a remedy review board not later than 90 days after the date of enactment of this section to determine whether an alternate remedy under section 133 should apply to the facility or operable unit.

"(B) Criteria for approval.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

"(i) the alternative remedial action proposed in the petition satisfies section 121(a);

"(ii)(I) in the case of a record of decision with an estimated implementation cost of between $5,000,000 and $10,000,000, the alternative remedial action achieves cost savings of at least 25 percent of the total costs of the record of decision; or

"(II) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of $2,500,000 or more;

"(iii) in the case of a record of decision involving ground water extraction and treatment remedies for substances other than dense, nonaqueous phase liquids, the alternative remedial action achieves cost savings of $2,000,000 or more; or

"(iv) in the case of a record of decision intended primarily for the remediation of dense, nonaqueous phase liquids, the alternative remedial action achieves cost savings of $1,000,000 or more.

"(C) Contents of petition.—For the purposes of facility-specific risk assessment under section 131, a petition described in subparagraph (A) shall rely on risk assessment data that were available prior to issuance of the record of decision but shall consider the actual or planned or reasonably anticipated future use of the land and water resources.

"(D) Incorrect data.—Notwithstanding subparagraph (B) and (C), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

"(4) Additional construction.—

"(A) Petition.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section and which meets the criteria of subparagraph (B), but for which additional construction or long-term operation and maintenance activities are anticipated, the implementor of the record of decision may file a petition with a remedy review board within 90 days after the date of enactment of this section to determine whether an alternative remedial action should apply to the facility or operable unit.

"(B) Criteria for approval.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

"(i) the alternative remedial action proposed in the petition satisfies section 121(a); and

"(ii)(I) in the case of a record of decision valued at a total cost between $5,000,000 and $10,000,000, the alternative remedial action achieves cost savings of at least 50 percent of the total costs of the record of decision;

"(II) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of $5,000,000 or more; or

"(III) in the case of a record of decision involving monitoring, operations, and maintenance obligations where construction is completed, the alternative remedial action achieves cost savings of $1,000,000 or more.

(C) INCORRECT DATA.—Notwithstanding subparagraph (B), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information, and the alternative remedial action achieves cost savings of at least $2,000,000.

"(D) MANDATORY REVIEW.—A remedy review board shall not be required to entertain more than 1 petition under subparagraph (B)(ii)(III) or (C) with respect to a remedial action plan.

"(5) DELAY.—In determining whether an alternative remedial action will substantially delay the implementation of a remedial action of a facility, no consideration shall be given to the time necessary to review a petition under paragraph (3) or (4) by a remedy review board or the Administrator.

"(6) OBJECTION BY THE GOVERNOR.——

"(A) NOTIFICATION.—Not later than 7 days after receipt of a petition under this subsection, a remedy review board shall notify the Governor of the State in which the facility is located and provide the Governor a copy of the petition.

"(B) OBJECTION.—The Governor may object to the petition or the modification of the remedy, if not later than 90 days after receiving a notification under subparagraph (A) the Governor demonstrates to the remedy review board that the selection of the proposed alternative remedy would cause an unreasonably long delay that would be likely to result in significant adverse human health impacts, environmental risks, disruption of planned future use, or economic hardship.

"(C) DENIAL.—On receipt of an objection and demonstration under subparagraph (C), the remedy review board shall—

"(i) deny the petition; or

"(ii) consider any other action that the Governor may recommend.

"(7) SAVINGS CLAUSE.—Notwithstanding any other provision of this subsection, in the case of a remedial action plan for which a final record of decision under section 121 has been published, if remedial action was not completed pursuant to the remedial action plan before the date of enactment of this section, the Administrator or a State exercising authority under section 130(d) may modify the remedial action plan in order to conform the plan to the requirements of this Act, as in effect on the date of enactment of this section.".

SEC. 407. NATIONAL PRIORITIES LIST.

(a) AMENDMENTS.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(1) in subsection (a)(8) by adding at the end the following:

"(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

"(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

"(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed."; and

(2) by adding at the end the following:

"(h) LISTING OF PARTICULAR PARCELS.—

"(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

"(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) shall be construed to limit the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.".

(b) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendments made by subsection (a) not later that 180 days of the date of enactment of this Act.

TITLE V—LIABILITY

SEC. 501. LIABILITY EXCEPTIONS AND LIMITATIONS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9601) (as amended by section 401) is amended by adding at the end of the following:

"(43) CODISPOSAL LANDFILLS.—The 'term codisposal landfill' means a landfill that—

"(A) was listed on the National Priorities List as of January 1, 1997;

"(B) received for disposal municipal solid waste or sewage sludge; and

"(C) may also have received, before the effective date of requirements under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), any hazardous waste, if a substantial portion of the total volume of waste disposed of at the landfill consisted of municipal solid waste or sewage sludge that was transported to the landfill from outside the facility.

"(44) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste'—

"(A) means waste material generated by—

"(i) a household (such as a single- or multifamily residence) or a public lodging (such as a hotel or motel); or

"(ii) a commercial, institutional, or industrial source, to the extent that—

"(I) the waste material is essentially the same as waste normally generated by a household or public lodging; or

"(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, regardless of when generated, would be conditionally exempt small quantity generator waste under the regulation issued under section 3001(d) of the Solid Waste Disposal Act (42 U.S.C. 6921(d)); and

"(B) includes food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste; but

"(C) does not include combustion ash generated by resource recovery facilities or municipal incinerators or waste from manufacturing or processing (including pollution control) operations that is not essentially the same as waste normally generated by a household or public lodging.

"(45) MUNICIPALITY.—The term 'municipality' means—

"(A) means a political subdivision of a State (including a city, county, village, town, township, borough, parish, school district, sanitation district, water district, or other public entity performing local governmental functions); and

"(B) includes a natural person acting in the capacity of an official, employee, or agent of any entity described in subparagraph (A) in the performance of a governmental function.

"(46) SEWAGE SLUDGE.—The term 'sewage sludge' means solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste water at or by publicly owned treatment works.".

(b) EXCEPTIONS AND LIMITATIONS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 306(b)) is amended by adding at the end the following:

"(q) LIABILITY EXEMPTION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person (other than the United States or a department, agency, or instrumentality of the United States) shall be liable to the United States or to any other person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List to the extent that—

"(1) the person is liable solely under subparagraph (C) or (D) of subsection (a)(1); and

"(2) the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment, involved only municipal solid waste or sewage sludge.

"(r) DE MINIMIS CONTRIBUTOR EXEMPTION.—

"(1) IN GENERAL.—In the case of a vessel or facility that is not owned by the United States and is listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any other person (including liability for contribution) for any response costs under this section incurred after the date of enactment of this subsection, if no activity specifically attributable to the person resulted in—

"(A) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility before January 1, 1997; or

"(B) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility before January 1, 1997, or such greater amount as the Administrator may determine by regulation.

"(2) Exception.—Paragraph (1) shall not apply in a case in which the Administrator determines that material described in paragraph (1)(A) or (B) has contributed or may contribute significantly to the amount of response costs at the facility.

"(s) Small Business Exemption.—No person (other than the United States or a department, agency, or instrumentality of the United States) shall be liable to the United States or to any person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List incurred after the date of enactment of this subsection if the person is a business that, during the taxable year preceding the date of transmittal of notification that the business is a potentially responsible party, had on average fewer than 30 employees or for that taxable year reported $3,000,000 or less in annual gross revenues.

"(t) Codisposal Landfill Exemption and Limitations.—

"(1) Exemption.—No person shall be liable to the United States or to any person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List incurred after the date of enactment of this subsection to the extent that—

"(A) the person is liable under subparagraph (C) or (D) of subsection (a)(1); and

"(B) the arrangement for disposal, treatment, or transport for disposal or treatment or the acceptance for disposal or treatment occurred with respect to a codisposal landfill.

"(2) Limitations.—

"(A) Definitions.—In this paragraph:

"(i) Large municipality.—The term 'large municipality' means a municipality with a population of 100,000 or more according to the 1990 census.

"(ii) Small municipality.—The term 'small municipality' means a municipality with a population of less than 100,000 according to the 1990 census.

"(B) Aggregate liability of small municipalities.—With respect to a codisposal landfill listed on the National Priorities List that is owned or operated only by small municipalities and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all small municipalities for response costs incurred on or after the date of enactment of this subsection shall be the lesser of—

"(i) 10 percent of the total amount of response costs at the facility; or

"(ii) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997);.

"(C) Aggregate liability of large municipalities.—With respect to a codisposal landfill listed on the National Priorities List that is owned or operated only by large municipalities and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all large municipalities for response costs incurred on or after the date of enactment of this subsection shall be the lesser of—

"(i) 20 percent of the proportion of the total amount of response costs at the facility; or

"(ii) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997).

"(D) Aggregate persons other than municipalities.—With respect to a codisposal landfill listed on the National Priorities List that is owned or operated in whole or in part by persons other than municipalities and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all persons other than municipalities shall be the lesser of—

"(i) 30 percent of the proportion of the total amount of response costs at the facility; or

"(ii) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997).

"(E) Aggregate Liability for Municipalities and Non-Municipalities.—With respect to a codisposal landfill listed on the National Priorities List that is owned and operated by a combination of small and large municipalities or persons other than municipalities and that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation)—

"(i) the allocator shall determine the proportion of the use of the landfill that was made by small and large municipalities and persons other than municipalities during the time the facility was in operation; and

"(ii) shall allocate among the parties an appropriate percentage of total liability not exceeding the aggregate liability percentages stated in (B)(ii), (C)(ii), (D)(ii), respectively.

"(F) Liability at subtitle D facilities.—With respect to a codisposal landfill listed on the National Priorities List that is owned and operated by a small municipality, large municipality, or person other than municipalities, or a combination of thereof, and that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of such municipalities and persons shall be no greater than the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility.

"(3) Applicability.—This subsection shall not apply to—

"(A) a person that acted in violation of subtitle C of the Solid Waste Disposal Act (42 U.S.C. Sec. 6921 et seq.);

"(B) a person that owned or operated a codisposal landfill in violation of the applicable requirements for municipal solid waste landfill units under subtitle D of the Solid Waste Disposal Act (42 U.S.C. Sec. 6941 et seq.) after October 9, 1991;

"(C) a facility that was not operated pursuant to and in substantial compliance with any other applicable permit, license, or other approval or authorization relating to municipal solid waste or sewage sludge disposal issued by an appropriate State, Indian tribe, or local government authority;

"(D) a person described in section 136(t); or

"(E) a person that impedes the performance of a response action.".

(c) Effective Date and Transition Rules.—The amendments made by this section—

(1) shall take effect with respect to an action under section 106, 107, or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607, and 9613) that becomes final on or after the date of enactment of this Act; but

(2) shall not apply to an action brought by any person under section 107 or 113 of that Act (42 U.S.C. 9607 and 9613) for costs or damages incurred by the person before the date of enactment of this Act.

SEC. 502. CONTRIBUTION FROM THE FUND.

Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9612) is amended by adding at the end the following:

"(g) Contribution From the Fund.—

"(1) Completion of obligations.—A person that is subject to an administrative order issued under section 106 or has entered into a settlement decree with the United States or a State as of the date of enactment of this subsection shall complete the person's obligations under the order or settlement decree.

"(2) Contribution.—A person described in paragraph (1) shall receive contribution from the Fund for any portion of the costs (excluding attorneys' fees) incurred for the performance of the response action after the date of enactment of this subsection if the person is not liable for such costs by reason of a liability exemption or limitation under this section.

"(3) Application for contribution.—

"(A) In general.—Contribution under this section shall be made upon receipt by the Administrator of an application requesting contribution.

"(B) Periodic applications.—Beginning with the 7th month after the date of enactment of this subsection, 1 application for each facility shall be submitted every 6 months for all persons with contribution rights (as determined under subparagraph (2)).

"(4) Regulations.—Contribution shall be made in accordance with such regulations as the Administrator shall issue within 180 days after the date of enactment of this section.

"(5) Documentation.—The regulations under paragraph (4) shall, at a minimum, require that an application for contribution contain such documentation of costs and expenditures as the Administrator considers necessary to ensure compliance with this subsection.

"(6) Expedition.—The Administrator shall develop and implement such procedures as may be necessary to provide contribution to such persons in an expeditious manner, but in no case shall a contribution be made later than 1 year after submission of an application under this subsection.

"(7) Consistency with national contingency plan.—No contribution shall be made under this subsection unless the Administrator determines that such costs are consistent with the National Contingency Plan.".

SEC. 503. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

“SEC. 136. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

“(a) DEFINITIONS.—In this section:

“(1) ALLOCATED SHARE.—The term ‘allocated share’ means the percentage of liability assigned to a potentially responsible party by the allocator in an allocation report under subsection (f)(4).

“(2) ALLOCATION PARTY.—The term ‘allocation party’—

“(A) means a party, named on a list of parties that will be subject to the allocation process under this section, issued by an allocator; and

“(B) with respect to a facility described in subparagraph (4)(C), includes only parties that are, by virtue of section 107(t)(3), not entitled to the exemption under section 107(t)(1) or the limitation under section 107(t)(2).

“(3) ALLOCATOR.—The term ‘allocator’ means an allocator retained to conduct an allocation for a facility.

“(4) MANDATORY ALLOCATION FACILITY.—The term ‘mandatory allocation facility’ means—

“(A) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section and at which there are 2 or more potentially responsive persons (including 1 or more persons that are qualified for an exemption under section 107 (q), (r), or (s)), if at least 1 potentially responsible person is viable and not entitled to an exemption under section 107 (q), (r), or (s);

“(B) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which 1 or more potentially responsible parties (other that a department, agency, or instrumentality of the United States) are liable or potentially liable if at least 1 potentially liable party is liable and not entitled to an exemption under section 107 (q), (r), or (s); and

“(C) a codisposal landfill listed on the National Priorities List with respect to which—

“(i) costs are incurred after the date of enactment of this section; and

(ii) by virtue of section 107(t)(3), 1 or more persons are not entitled to the exemption under section 107(t)(1) or the limitation under section 107(t)(2).

“(5) ORPHAN SHARE.—The term ‘orphan share’ means the total of the allocated shares determined by the allocator under subsection (h).

“(b) ALLOCATIONS OF LIABILITY.—

“(1) MANDATORY ALLOCATIONS.—For each mandatory allocation facility involving 2 or more potentially responsible parties (including 1 or more potentially responsible parties that are qualified for an exemption under section 107 (q), (r), or (s)), the Administrator shall conduct the allocation process under this section.

“(2) REQUESTED ALLOCATIONS.—For a facility (other than a mandatory allocation facility) involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section if the allocation is requested in writing by a potentially responsible party that has—

“(A) incurred response costs with respect to a response action; or

“(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

“(3) PERMISSIVE ALLOCATIONS.—For any facility (other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2)) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

“(4) ORPHAN SHARE.—An allocation performed at a vessel or facility identified under subsection (b) (2) or (3) shall not require payment of an orphan share under subsection (h) or contribution under subsection (p).

“(5) EXCLUDED FACILITIES.—

“(A) IN GENERAL.—A codisposal landfill listed on the Natural Priorities List at which costs are incurred after January 1, 1997, and at which all potentially responsible persons are entitled to the liability exemption under section 107(t)(1). This section does not apply to a response action at a mandatory allocation facility for which there was in effect as of the date of enactment of this section, a settlement, decree, or order that determines the liability and allocated shares of all potentially responsible parties with respect to the response action.

“(B) AVAILABILITY OF ORPHAN SHARE.—For any mandatory allocation facility that is otherwise excluded by subparagraph (A) and for which there was not in effect as of the date of enactment of this section a final judicial order that determined the liability of all parties to the action for response costs incurred after the date of enactment of this section, an allocation shall be conducted for the sole purpose of determining the availability of orphan share funding pursuant to subsection (h)(2) for any response costs incurred after the date of enactment of this section.

“(6) SCOPE OF ALLOCATIONS.—An allocation under this section shall apply to—

“(A) response costs incurred after the date of enactment of this section, with respect to a mandatory allocation facility described in subsection (a)(4) (A), (B), or (C); and

“(B) response costs incurred at a facility that is the subject of a requested or permissive allocation under subsection (b) (2) or (3).

“(8) OTHER MATTERS.—This section shall not limit or affect—

“(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that has been the subject of a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

“(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of the allocation process, subject to subsection (h)(3);

“(C) the validity, enforceability, finality, or merits of any judicial or administrative order, judgment, or decree, issued prior to the date of enactment of this section with respect to liability under this Act; or

“(D) the validity, enforceability, finality, or merits of any preexisting contract or agreement relating to any allocation of responsibility or any indemnity for, or sharing of, any response costs under this Act.

“(c) MORATORIUM ON LITIGATION AND ENFORCEMENT.—

“(1) IN GENERAL.—No person may assert a claim for recovery of a response cost or contribution toward a response cost (including a claim for insurance proceeds) under this Act or any other Federal or State law in connection with a response action—

“(A) for which an allocation is required to be performed under subsection (b)(1); or

“(B) for which the Administrator has initiated the allocation process under this section,

until the date that is 120 days after the date of issuance of a report by the allocator under subsection (f)(4) or, if a second or subsequent report is issued under subsection (m), the date of issuance of the second or subsequent report.

“(2) PENDING ACTIONS OR CLAIMS.—If a claim described in paragraph (1) is pending on the date of enactment of this section or on initiation of an allocation under this section, the portion of the claim pertaining to response costs that are the subject of the allocation shall be stayed until the date that is 120 days after the date of issuance of a report by the allocator under subsection (f)(4) or, if a second or subsequent report is issued under subsection (m), the date of issuance of the second or subsequent report, unless the court determines that a stay would result in manifest injustice.

“(3) TOLLING OF PERIOD OF LIMITATION.—

“(A) BEGINNING OF TOLLING.—Any applicable period of limitation with respect to a claim subject to paragraph (1) shall be tolled beginning on the earlier of—

“(i) the date of listing of the facility on the National Priorities List if the listing occurs after the date of enactment of this section; or

“(ii) the date of initiation of the allocation process under this section.

“(B) END OF TOLLING.—A period of limitation shall be tolled under subparagraph (A) until the date that is 180 days after the date of issuance of a report by the allocator under subsection (f)(4), or of a second or subsequent report under subsection (m).

“(4) RETAINED AUTHORITY.—Except as specifically provided in this section, this section does not affect the authority of the Administrator to—

“(A) exercise the powers conferred by section 103, 104, 105, 106, or 122;

“(B) commence an action against a party if there is a contemporaneous filing of a judicial consent decree resolving the liability of the party;

“(C) file a proof of claim or take other action in a proceeding under title 11, United States Code; or

“(D) require implementation of a response action at an allocation facility during the conduct of the allocation process.

“(d) ALLOCATION PROCESS.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Administrator shall establish by regulation a process for conduct of mandatory, requested, and permissive allocations.

“(2) REQUIREMENTS.—In developing the allocation process under paragraph (1), the Administrator shall—

“(A) ensure that parties that are eligible for an exemption from liability under section 107 (q), (r), (s), (t), (v), and (w)—

“(i) are identified by the Administrator (before selection of an allocator or by an allocator);

“(ii) at the earliest practicable opportunity, are notified of their status; and

“(iii) are provided with appropriate written assurances that they are not liable for response costs under this Act;

“(B) establish an expedited process for the selection, appointment, and retention by contract of a impartial allocator, acceptable to both potentially responsible parties and a representative of the Fund, to conduct the allocation process in a fair, efficient, and impartial manner;

“(C) permit any person to propose to name additional potentially responsible parties as allocation parties, the costs of any such nominated party's costs (including reasonable attorney's fees) to be borne by the party that proposes the addition of the party to the allocation process if the allocator determines that there is no adequate basis in law or fact to conclude that a party is liable based on the information presented by the nominating party or otherwise available to the allocator; and

"(D) require that the allocator adopt any settlement that allocates 100 percent of the recoverable costs of a response action at a facility to the signatories to the settlement, if the settlement contains a waiver of—

"(i) a right of recovery from any other party of any response cost that is the subject of the allocation; and

"(ii) a right to contribution under this Act, with respect to any response action that is within the scope of allocation process.

"(2) Time limit.—The Administrator shall initiate the allocation process for a facility not later than the earlier of—

"(A) the date of completion of the facility evaluation or remedial investigation for the facility; or

"(B) the date that is 60 days after the date of selection of a removal action.

"(3) No judicial review.—There shall be no judicial review of any action regarding selection of an allocator under the regulation issued under this subsection.

"(4) Recovery of contract costs.—The costs of the Administrator in retaining an allocator shall be considered to be a response cost for all purposes of this Act.

"(e) Federal, State, and Local Agencies.—

"(1) In general.—Other than as set forth in this Act, any Federal, State, or local governmental department, agency, or instrumentality that is named as a potentially responsible party or an allocation party shall be subject to, and be entitled to the benefits of, the allocation process and allocation determination under this section to the same extent as any other party.

"(2) Orphan share.—The Administrator or the Attorney General shall participate in the allocation proceeding as the representative of the Fund from which any orphan share shall be paid.

"(f) Allocation Authority.—

"(1) Information-gathering authorities.—

"(A) In general.—An allocator may request information from any person in order to assist in the efficient completion of the allocation process.

"(B) Requests.—Any person may request that an allocator request information under this paragraph.

"(C) Authority.—An allocator may exercise the information-gathering authority of the Administrator under section 104(e), including issuing an administrative subpoena to compel the production of a document or the appearance of a witness.

"(D) Disclosure.—Notwithstanding any other law, any information submitted to the allocator in response to a subpoena issued under subparagraph (C) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

"(E) Orders.—In a case of contumacy or failure of a person to obey a subpoena issued under subparagraph (C), an allocator may request the Attorney General to—

"(i) bring a civil action to enforce the subpoena; or

"(ii) if the person moves to quash the subpoena, to defend the motion.

"(F) Failure of attorney general to respond.—If the Attorney General fails to provide any response to the allocator within 30 days of a request for enforcement of a subpoena or information request, the allocator may retain counsel to commence a civil action to enforce the subpoena or information request.

"(2) Additional authority.—An allocator may—

"(A) schedule a meeting or hearing and require the attendance of allocation parties at the meeting or hearing;

"(B) sanction an allocation party for failing to cooperate with the orderly conduct of the allocation process;

"(C) require that allocation parties wishing to present similar legal or factual positions consolidate the presentation of the positions;

"(D) obtain or employ support services, including secretarial, clerical, computer support, legal, and investigative services; and

"(E) take any other action necessary to conduct a fair, efficient, and impartial allocation process.

"(3) Conduct of allocation process.—

"(A) In general.—The allocator shall conduct the allocation process and render a decision based solely on the provisions of this section, including the allocation factors described in subsection (g).

"(B) Opportunity to be heard.—Each allocation party shall be afforded an opportunity to be heard (orally or in writing, at the option of an allocation party) and an opportunity to comment on a draft allocation report.

"(C) Responses.—The allocator shall not be required to respond to comments.

"(D) Streamlining.—The allocator shall make every effort to streamline the allocation process and minimize the cost of conducting the allocation.

"(4) Allocation report.—The allocator shall provide a written allocation report to the Administrator and the allocation parties that specifies the allocation share of each allocation party and any orphan shares, as determined by the allocator.

"(g) Equitable Factors for Allocation.—The allocator shall prepare a nonbinding allocation of percentage shares of responsibility to each allocation party and to the orphan share, in accordance with this section and without regard to any theory of joint and several liability, based on—

"(1) the amount of hazardous substances contributed by each allocation party;

"(2) the degree of toxicity of hazardous substances contributed by each allocation party;

"(3) the mobility of hazardous substances contributed by each allocation party;

"(4) the degree of involvement of each allocation party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

"(5) the degree of care exercised by each allocation party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

"(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

"(7) such other equitable factors as the allocator determines are appropriate.

"(h) Orphan Shares.—

"(1) In general.—The allocator shall determine whether any percentage of responsibility for the response action shall be allocable to the orphan share.

"(2) Makeup of orphan share.—The orphan share shall consist of—

"(A) any share that the allocator determines is attributable to an allocation party that is insolvent or defunct and that is not affiliated with any financially viable allocation party;

"(B) the difference between the aggregate share that the allocator determines is attributable to a person and the aggregate share actually assumed by the person in a settlement with the United States otherwise if—

"(i) the person is eligible for an expedited settlement with the United States under section 122 based on limited ability to pay response costs;

"(ii) the liability of the person is eliminated, limited, or reduced by any provision of this Act; or

"(iii) the person settled with the United States before the completion of the allocation.; and

"(C) all response costs at a codisposal landfill listed on the National Priorities incurred after the date of enactment of this section attributable to any person or group of persons entitled to an exemption or limitation under section 107 (q), (r), (s), or (t).

"(4) Unattributable shares.—A share attributable to a hazardous substance that the allocator determines was disposed at the facility that cannot be attributed to any identifiable party shall be distributed among the allocation parties and the orphan share in accordance with the allocated share assigned to each.

"(i) Information Requests.—

"(1) Duty to answer.—Each person that receives an information request or subpoena from the allocator shall provide a full and timely response to the request.

"(2) Certification.—An answer to an information request by an allocator shall include a certification by a representative that meets the criteria established in section 270.11(a) of title 40, Code of Federal Regulations (or any successor regulation), that—

"(A) the answer is correct to the best of the representative's knowledge;

"(B) the answer is based on a diligent good faith search of records in the possession or control of the person to whom the request was directed;

"(C) the answer is based on a reasonable inquiry of the current (as of the date of the answer) officers, directors, employees, and agents of the person to whom the request was directed;

"(D) the answer accurately reflects information obtained in the course of conducting the search and the inquiry;

"(E) the person executing the certification understands that there is a duty to supplement any answer if, during the allocation process, any significant additional, new, or different information becomes known or available to the person; and

"(F) the person executing the certification understands that there are significant penalties for submitting false information, including the possibility of a fine or imprisonment for a knowing violation.

"(j) Penalties.—

"(1) Civil.—

"(A) In general.—A person that fails to submit a complete and timely answer to an information request, a request for the production of a document, or a summons from an allocator, submits a response that lacks the certification required under subsection (i)(2), or knowingly makes a false or misleading material statement or representation in any statement, submission, or testimony during the allocation process (including a statement or representation in connection with the nomination of another potentially responsible party) shall be subject to a civil penalty of not more than $10,000 per day of violation.

"(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(2) CRIMINAL.—A person that knowingly and willfully makes a false material statement or representation in the response to an information request or subpoena issued by the allocator under subsection (i) shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

"(k) DOCUMENT REPOSITORY; CONFIDENTIALITY.—

"(1) DOCUMENT REPOSITORY.—

"(A) IN GENERAL.—The allocator shall establish and maintain a document repository containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

"(B) AVAILABILITY.—Subject to paragraph (2), the documents and information in the document repository shall be available only to an allocation party for review and copying at the expense of the allocation party.

"(2) CONFIDENTIALITY.—

"(A) IN GENERAL.—Each document or material submitted to the allocator or placed in the document repository and the record of any information generated or obtained during the allocation process shall be confidential.

"(B) MAINTENANCE.—The allocator, each allocation party, the Administrator, and the Attorney General—

"(i) shall maintain the documents, materials, and records of any depositions or testimony adduced during the allocation as confidential; and

"(ii) shall not use any such document or material or the record in any other matter or proceeding or for any purpose other than the allocation process.

"(C) DISCLOSURE.—Notwithstanding any other law, the documents and materials and the record shall not be subject to disclosure to any person under section 552 of title 5, United States Code.

"(D) DISCOVERY AND ADMISSIBILITY.—

"(i) IN GENERAL.—Subject to clause (ii), the documents and materials and the record shall not be subject to discovery or admissible in any other Federal, State, or local judicial or administrative proceeding, except—

"(I) a new allocation under subsection (m) or (r) for the same response action; or

"(II) an initial allocation under this section for a different response action at the same facility.

"(ii) OTHERWISE DISCOVERABLE OR ADMISSIBLE.—

"(I) DOCUMENT OR MATERIAL.—If the original of any document or material submitted to the allocator or placed in the document repository was otherwise discoverable or admissible from a party, the original document, if subsequently sought from the party, shall remain discoverable or admissible.

"(II) FACTS.—If a fact generated or obtained during the allocation was otherwise discoverable or admissible from a witness, testimony concerning the fact, if subsequently sought from the witness, shall remain discoverable or admissible.

"(3) NO WAIVER OF PRIVILEGE.—The submission of testimony, a document, or information under the allocation process shall not constitute a waiver of any privilege applicable to the testimony, document, or information under any Federal or State law or rule of discovery or evidence.

"(4) PROCEDURE IF DISCLOSURE SOUGHT.—

"(A) NOTICE.—A person that receives a request for a statement, document, or material submitted for the record of an allocation proceeding, shall—

"(i) promptly notify the person that originally submitted the item or testified in the allocation proceeding; and

"(ii) provide the person that originally submitted the item or testified in the allocation proceeding an opportunity to assert and defend the confidentiality of the item or testimony.

"(B) RELEASE.—No person may release or provide a copy of a statement, document, or material submitted, or the record of an allocation proceeding, to any person not a party to the allocation except—

"(i) with the written consent of the person that originally submitted the item or testified in the allocation proceeding; or

"(ii) as may be required by court order.

"(5) CIVIL PENALTY.—

"(A) IN GENERAL.—A person that fails to maintain the confidentiality of any statement, document, or material or the record generated or obtained during an allocation proceeding, or that releases any information in violation of this section, shall be subject to a civil penalty of not more than $25,000 per violation.

"(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(C) DEFENSES.—In any administrative or judicial proceeding, it shall be a complete defense that any statement, document, or material or the record at issue under subparagraph (A)—

"(i) was in, or subsequently became part of, the public domain, and did not become part of the public domain as a result of a violation of this subsection by the person charged with the violation;

"(ii) was already known by lawful means to the person receiving the information in connection with the allocation process; or

"(iii) became known to the person receiving the information after disclosure in connection with the allocation process and did not become known as a result of any violation of this subsection by the person charged with the violation.

"(l) REJECTION OF ALLOCATION REPORT.—

"(1) REJECTION.—The Administrator and the Attorney General may jointly reject a report issued by an allocator only if the Administrator and the Attorney General jointly publish, not later than 180 days after the Administrator receives the report, a written determination that—

"(A) no rational interpretation of the facts before the allocator, in light of the factors required to be considered, would form a reasonable basis for the shares assigned to the parties; or

"(B) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

"(2) FINALITY.—A report issued by an allocator may not be rejected after the date that is 180 days after the date on which the United States accepts a settlement offer (excluding an expedited settlement under section 122) based on the allocation.

"(3) JUDICIAL REVIEW.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocation reports relating to the same response action are rejected, in which case any allocation party may obtain judicial review of the second rejection in a United States district court under subchapter II of chapter 5 of part I of title 5, United States Code.

"(4) DELEGATION.—The authority to make a determination under this subsection may not be delegated to any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.

"(m) SECOND AND SUBSEQUENT ALLOCATIONS.—

"(1) IN GENERAL.—If a report is rejected under subsection (l), the allocation parties shall select an allocator to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.

"(2) MORATORIUM AND TOLLING.—The moratorium and tolling provisions of subsection (c) shall be extended until the date that is 180 days after the date of the issuance of any second or subsequent allocation report under paragraph (1).

"(3) SAME ALLOCATOR.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine that an allocator whose previous report at the same facility has been rejected under subsection (l) is unqualified to serve.

"(n) SETTLEMENTS BASED ON ALLOCATIONS.—

"(1) DEFINITION.—In this subsection, the term 'all settlements' includes any orphan share allocated under subsection (h).

"(2) IN GENERAL.—Unless an allocation report is rejected under subsection (l), any allocation party at a mandatory allocation facility (including an allocation party whose allocated share is funded partially or fully by orphan share funding under subsection (h)) shall be entitled to resolve the liability of the party to the United States for response actions subject to allocation if, not later than 90 days after the date of issuance of a report by the allocator, the party—

"(A) offers to settle with the United States based on the allocated share specified by the allocator; and

"(B) agrees to the other terms and conditions stated in this subsection.

"(3) PROVISIONS OF SETTLEMENTS.—

"(A) IN GENERAL.—A settlement based on an allocation under this section—

"(i) may consist of a cash-out settlement or an agreement for the performance of a response action; and

"(ii) shall include—

"(I) a waiver of contribution rights against all persons that are potentially responsible parties for any response action addressed in the settlement;

"(II) a covenant not to sue that is consistent with section 122(f) and, except in the case of a cash-out settlement, provisions regarding performance or adequate assurance of performance of the response action;

"(III) a premium, calculated on a facility-specific basis and subject to the limitations on premiums stated in paragraph (5), that reflects the actual risk to the United States of not collecting unrecovered response costs for the response action, despite the diligent prosecution of litigation against any viable allocation party that has not resolved the liability of the party to the United States, except that no premium shall apply if all allocation parties participate in the settlement or if the settlement covers 100 percent of the response costs subject to the allocation;

"(IV) complete protection from all claims for contribution regarding the response action addressed in the settlement; and

"(V) provisions through which a settling party shall receive prompt contribution from the Fund under subsection (o) of any response costs incurred by the party for any response action that is the subject of the allocation in excess of the allocated share of the party, including the allocated portion of any orphan share.

"(B) RIGHT TO CONTRIBUTION.—A right to contribution under subparagraph (A)(ii)(V) shall not be contingent on recovery by the United States of any response costs from any person other than the settling party.

"(4) REPORT.—The Administrator shall report annually to Congress on the administration of the allocation process under this section, providing in the report—

"(A) information comparing allocation results with actual settlements at multiparty facilities;

"(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation;

"(C) a description of any impediments to achieving complete recovery; and

"(D) a complete accounting of the costs incurred in administering and participating in the allocation process.

"(5) PREMIUM.—In each settlement under this subsection, the premium authorized—

"(A) shall be determined on a case-by-case basis to reflect the actual litigation risk faced by the United States with respect to any response action addressed in the settlement; but

"(B) shall not exceed—

"(i) 5 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 80 percent and less than 100 percent of responsibility for the response action;

"(ii) 10 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 60 percent and not more than 80 percent of responsibility for the response action;

"(iii) 15 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 40 percent and not more than 60 percent of responsibility for the response action; or

"(iv) 20 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for 40 percent or less of responsibility for the response; and

"(C) shall be reduced proportionally by the percentage of the allocated share for that party paid through orphan funding under subsection (h).

"(o) FUNDING OF ORPHAN SHARES.—

"(1) CONTRIBUTION.—For each settlement agreement entered into under subsection (n), the Administrator shall promptly reimburse the allocation parties for any costs incurred that are attributable to the orphan share, as determined by the allocator.

"(2) ENTITLEMENT.—Paragraph (1) constitutes an entitlement to any allocation party eligible to receive a reimbursement.

"(3) AMOUNTS OWED.—

"(A) DELAY IF FUNDS ARE UNAVAILABLE.—If funds are unavailable in any fiscal year to reimburse all allocation parties pursuant to paragraph (1), the Administrator may delay payment until funds are available.

"(B) PRIORITY.—The priority for reimbursement shall be based on the length of time that has passed since the settlement between the United States and the allocation parties pursuant to subsection (n).

"(C) PAYMENT FROM FUNDS MADE AVAILABLE IN SUBSEQUENT FISCAL YEARS.—Any amount due and owing in excess of available appropriations in any fiscal year shall be paid from amounts made available in subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

"(4) DOCUMENTATION AND AUDITING.—The Administrator—

"(A) shall require that any claim for contribution be supported by documentation of actual costs incurred; and

"(B) may require an independent auditing of any claim for contribution.

"(p) POST-ALLOCATION CONTRIBUTION.—

"(1) IN GENERAL.—An allocation party (including a party that is subject to an order under section 106 or a settlement decree) that incurs costs after the date of enactment of this section for implementation of a response action that is the subject of an allocation under this section to an extent that exceeds the percentage share of the allocation party, as determined by the allocator, shall be entitled to prompt payment of contribution for the excess amount, including any orphan share, from the Fund, unless the allocation report is rejected under subsection (l).

"(2) NOT CONTINGENT.—The right to contribution under paragraph (1) shall not be contingent on recovery by the United States of a response cost from any other person.

"(3) TERMS AND CONDITIONS.—

"(A) RISK PREMIUM.—A contribution payment shall be reduced by the amount of the litigation risk premium under subsection (n)(5) that would apply to a settlement by the allocation party concerning the response action, based on the total allocated shares of the parties that have not reached a settlement with the United States.

"(B) TIMING.—

"(i) IN GENERAL.—A contribution payment shall be paid out during the course of the response action that was the subject of the allocation, using reasonable progress payments at significant milestones.

"(ii) CONSTRUCTION.—Contribution for the construction portion of the work shall be paid out not later than 120 days after the date of completion of the construction.

"(C) EQUITABLE OFFSET.—A contribution payment is subject to equitable offset or recoupment by the Administrator at any time if the allocation party fails to perform the work in a proper and timely manner.

"(D) INDEPENDENT AUDITING.—The Administrator may require independent auditing of any claim for contribution.

"(E) WAIVER.—An allocation party seeking contribution waives the right to seek recovery of response costs in connection with the response action, or contribution toward the response costs, from any other person.

"(F) BAR.—An administrative order shall be in lieu of any action by the United States or any other person against the allocation party for recovery of response costs in connection with the response action, or for contribution toward the costs of the response action.

"(q) POST-SETTLEMENT LITIGATION.—

"(1) IN GENERAL.—Subject to subsections (m) and (n), and on the expiration of the moratorium period under subsection (c)(4), the Administrator may commence an action under section 107 against an allocation party that has not resolved the liability of the party to the United States following allocation and may seek to recover response costs not recovered through settlements with other persons.

"(2) ORPHAN SHARE.—The recoverable costs shall include any orphan share determined under subsection (h), but shall not include any share allocated to a Federal, State, or local governmental agency, department, or instrumentality.

"(3) IMPLEADER.—A defendant in an action under paragraph (1) may implead an allocation party only if the allocation party did not resolve liability to the United States.

"(4) CERTIFICATION.—In commencing or maintaining an action under section 107 against an allocation party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to settle the matter based on the share that the allocation report assigned to the party.

"(5) RESPONSE COSTS.—

"(A) ALLOCATION PROCEDURE.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

"(B) FUNDING OF ORPHAN SHARES.—The cost attributable to funding an orphan share under this section—

"(i) shall be considered as a necessary cost of response cost; and

"(ii) shall be recoverable in accordance with section 107 only from an allocation party that does not reach a settlement and does not receive an administrative order under subsection (n) or (p).

"(r) NEW INFORMATION.—

"(1) IN GENERAL.—An allocation under this section shall be final, except that any settling party, including the United States, may seek a new allocation with respect to the response action that was the subject of the settlement by presenting the Administrator with clear and convincing evidence that—

"(A) the allocator did not have information concerning—

"(i) 35 percent or more of the materials containing hazardous substances at the facility; or

"(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility; and

"(B) the information was discovered subsequent to the issuance of the report by the allocator.

"(2) NEW ALLOCATION.—Any new allocation of responsibility—

"(A) shall proceed in accordance with this section;

"(B) shall be effective only after the date of the new allocation report; and

"(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

"(s) DISCRETION OF ALLOCATOR.—A contract by which the Administrator retain an allocator shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner, and the Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.

"(t) ILLEGAL ACTIVITIES.—Section 107 (o), (p), (q), (r), (s), (t), (u), (v), and (w) and section 112(g) shall not apply to any person whose liability for response costs under section 107(a)(1) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility.".

SEC. 504. LIABILITY OF RESPONSE ACTION CONTRACTORS.

(a) Liability of Contractors.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end the following:

"(H) Liability of contractors.—

"(i) In general.—The term 'owner or operator' does not include a response action contractor (as defined in section 119(e)).

"(ii) Liability limitations.—A person described in clause (i) shall not, in the absence of negligence by the person, be considered to—

"(I) cause or contribute to any release or threatened release of a hazardous substance, pollutant, or contaminant;

"(II) arrange for disposal or treatment of a hazardous substance, pollutant, or contaminant;

"(III) arrange with a transporter for transport or disposal or treatment of a hazardous substance, pollutant, or contaminant; or

"(IV) transport a hazardous substance, pollutant, or contaminant.

"(iii) Exception.—This subparagraph does not apply to a person potentially responsible under section 106 or 107 other than a person associated solely with the provision of a response action or a service or equipment ancillary to a response action.".

(b) National Uniform Negligence Standard.—Section 119(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(a)) is amended—

(1) in paragraph (1) by striking "title or under any other Federal law" and inserting "title or under any other Federal or State law"; and

(2) in paragraph (2)—

(A) by striking "(2) Negligence, etc.—Paragraph (1)" and inserting the following:

"(2) Negligence and intentional misconduct; application of state law.—

"(A) Negligence and intentional misconduct.—

"(i) In general.—Paragraph (1)"; and

(B) by adding at the end the following:

"(ii) Standard.—Conduct under clause (i) shall be evaluated based on the generally accepted standards and practices in effect at the time and place at which the conduct occurred.

"(iii) Plan.—An activity performed in accordance with a plan that was approved by the Administrator shall not be considered to constitute negligence under clause (i).

"(B) Application of state law.—Paragraph (1) shall not apply in determining the liability of a response action contractor under the law of a State if the State has adopted by statute a law determining the liability of a response action contractor.".

(c) Extension of Indemnification Authority.—Section 119(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(1)) is amended by adding at the end the following: "The agreement may apply to a claim for negligence arising under Federal or State law.".

(d) Indemnification Determinations.—Section 119(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)) is amended by striking paragraph (4) and inserting the following:

"(4) Decision to indemnify.—

"(A) In general.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

"(B) Standard.—The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, environment, and property) involved in a response action exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and reasonable terms (including consideration of premium, policy terms, and deductibles).

"(C) Diligent efforts.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(D) Continued diligent efforts.—An indemnification agreement shall require the response action contractor to continue, not more frequently than annually, to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(E) Limitations on indemnification.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.".

(e) Indemnification for Threatened Releases.—Section 119(c)(5)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(5)(A)) is amended by inserting "or threatened release" after "release" each place it appears.

(f) Extension of Coverage to All Response Actions.—Section 119(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(1)) is amended—

(1) in subparagraph (D) by striking "carrying out an agreement under section 106 or 122"; and

(2) in the matter following subparagraph (D)—

(A) by striking "any remedial action under this Act at a facility listed on the National Priorities List, or any removal under this Act," and inserting "any response action,"; and

(B) by inserting before the period at the end the following: "or to undertake appropriate action necessary to protect and restore any natural resource damaged by the release or threatened release".

(g) Definition of Response Action Contractor.—Section 119(e)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(2)(A)(i)) is amended by striking "and is carrying out such contract" and inserting "covered by this section and any person (including any subcontractor) hired by a response action contractor".

(h) Surety Bonds.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C) by striking ", and before January 1, 1996,"; and

(2) in subsection (g)(5) by striking ", or after December 31, 1995".

(i) National Uniform Statute of Repose.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended by adding at the end the following:

"(h) Limitation on Actions Against Response Action Contractors.—

"(1) In general.—No action may be brought as a result of the performance of services under a response contract against a response action contractor after the date that is 7 years after the date of completion of work at any facility under the contract to recover—

"(A) injury to property, real or personal;

"(B) personal injury or wrongful death;

"(C) other expenses or costs arising out of the performance of services under the contract; or

"(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraphs (A) through (C).

"(2) Exception.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes intentional misconduct.

"(3) Indemnification.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

"(i) State Standards of Repose.—Subsections (a)(1) and (h) shall not apply in determining the liability of a response action contractor if the State has enacted a statute of repose determining the liability of a response action contractor.".

SEC. 505. RELEASE OF EVIDENCE.

(a) Timely Access to Information Furnished Under Section 104(e).—Section 104(e)(7)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(e)(7)(A)) is amended by inserting after "shall be available to the public" the following: "not later than 14 days after the records, reports, or information is obtained".

(b) Requirement To Provide Potentially Responsible Parties Evidence of Liability.—

(1) Abatement actions.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by striking "(a) In addition" and inserting the following: "(a) Order.—"

"(1) In general.—In addition"; and

(B) by adding at the end the following:

"(2) Contents of order.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.".

(2) Settlements.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(e)(1)) is amended by inserting after subparagraph (C) the following:

"(D) For each potentially responsible party, the evidence that indicates that each element of liability contained in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.".

SEC. 506. CONTRIBUTION PROTECTION.

Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(2)) is amended in the first sentence by inserting "or cost recovery" after "contribution".

SEC. 507. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.

(a) Definition.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) (as amended by section 502(a)) is amended by adding at the end the following:

"(I) Religious, charitable, scientific, and educational organizations.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.".

(b) Limitation on Liability.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 501(b)) is amended by adding at the end the following:

"(u) Religious, Charitable, Scientific, and Educational Organizations.—

"(1) Limitation on liability.—Subject to paragraph (2), if an organization described in section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

"(2) Conditions.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

"(A) provide full cooperation, assistance, and vessel or facility access to persons authorized to conduct response actions at the vessel or facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the vessel or facility;

"(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

"(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

"(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

"(3) Limitation.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(I) that meets the conditions specified in paragraph (2).".

SEC. 508. COMMON CARRIERS.

Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking "a published tariff and acceptance" and inserting "a contract".

SEC. 509. LIMITATION ON LIABILITY OF RAILROAD OWNERS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 507(b)) is amended by adding at the end the following:

"(v) Limitation on Liability of Railroad Owners.—Notwithstanding subsection (a)(1), a person that does not impede the performance of a response action or natural resource restoration shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track, including a spur track over land subject to an easement, to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

"(1) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

"(2) the spur track is 10 miles long or less; and

"(3) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.".

SEC. 510. LIABILITY OF RECYCLERS.

(a) Definitions.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 501(a)) is amended by adding at the end the following:

"(47) Recyclable material.—The term 'recyclable material'—

"(A) means—

"(i) scrap glass, paper, plastic, rubber, or textile;

"(ii) scrap metal; and

"(iii) a spent battery; and

"(B) includes small amounts of any type of material that is incident to or adherent to material described in subparagraph (A) as a result of the normal and customary use of the material prior to the exhaustion of the useful life of the material.

"(48) Scrap metal.—The term 'scrap metal'—

"(A) means—

"(i) scrap metal (as that term is defined by the Administrator for purposes of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) in section 261.1(c)(6) of title 40, Code of Federal Regulations, or any successor regulation); and

"(ii) a metal byproduct (such as slag, skimming, or dross) that is not 1 of the primary products of, and is not solely or separately produced by, a production process; but

"(B) does not include—

"(i) any steel shipping container that—

"(I) has (or, when intact, had) a capacity of not less than 30 and not more than 3,000 liters; and

"(II) has any hazardous substance contained in or adherent to it (not including any small pieces of metal that may remain after a hazardous substance has been removed from the container or any alloy or other material that may be chemically or metallurgically bonded in the steel itself); or

"(ii) any material described in subparagraph (A) that the Administrator may by regulation exclude from the meaning of the term based on a finding that inclusion of the material within the meaning of the term would result in a threat to human health or the environment.".

(b) Liability of Recyclers.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 509) is amended by adding at the end the following:

"(w) Liability of Recyclers.—

"(1) Applicability of subsection.—Subject to paragraph (10), this subsection shall be applied to determine the liability of any person with respect to a transaction engaged in before, on, or after the date of enactment of this subsection.

"(2) Relief from liability.—Except as provided in paragraph (6), a person that arranges for the recycling of recyclable material shall not be liable under subsection (a)(1) (C) or (D).

"(3) Scrap glass, paper, plastic, rubber, or textile.—For the purposes of paragraph (2), a person shall be considered to arrange for the recycling of scrap glass, paper, plastic, rubber, or textile if the person sells or otherwise arranges for the recycling of the recyclable material in a transaction in which, at the time of the transaction—

"(A) the recyclable material meets a commercial specification;

"(B) a market exists for the recyclable material;

"(C) a substantial portion of the recyclable material is made available for use as a feedstock for the manufacture of a new saleable product; and

"(D)(i) the recyclable material is a replacement or substitute for a virgin raw material; or

"(ii) the product to be made from the recyclable material is a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

"(4) Scrap metal.—For the purposes of paragraph (2), a person shall be considered to arrange for the recycling of scrap metal if the person sells or otherwise arranges for the recycling of the scrap metal in a transaction in which, at the time of the transaction—

"(A) the conditions stated in subparagraphs (A) through (D) of paragraph (3) are met; and

"(B) in the case of a transaction that occurs after the effective date of a standard, established by the Administrator by regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), regarding the storage, transport, management, or other activity associated with the recycling of scrap metal, the person is in compliance with the standard.

"(5) Spent batteries.—

"(A) In general.—For the purposes of paragraph (1), a person shall be considered to arrange for the recycling of a spent lead-acid battery, nickel-cadmium battery, or other battery if the person sells or otherwise arranges for the recycling of the battery in a transaction in which, at the time of the transaction—

"(i) the conditions stated in subparagraphs (A) through (D) of paragraph (3) are met;

"(ii) the person does not reclaim the valuable components of the battery; and

"(iii) in the case of a transaction that occurs after the effective date of a standard, established by the Administrator by regulation under authority of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or the Mercury-Containing and Rechargeable Battery Management Act), regarding the storage, transport, management, or other activity associated with the recycling of batteries, the person is in compliance with the standard.

"(B) Tolling arrangements.—A person that, by contract, arranges for reclamation and smelting of a battery by a third party not a party to a transaction under subparagraph (A) and receives from the third party material reclaimed from the battery shall not, by reason of the receipt of the reclaimed material, be considered to reclaim the valuable components of the battery for purposes of subparagraph (A)(ii).

"(6) Grounds for establishing liability.—

"(A) In general.—A person that arranges for the recycling of recyclable material that would be liable under subsection (a)(1) (C) or

(D) but for paragraph (2) shall be liable notwithstanding that paragraph if—

“(i) the person has an objectively reasonable basis to believe at the time of the recycling transaction that—

“(I) the recyclable material will not be recycled;

“(II) the recyclable material will be burned as fuel, for energy recovery or incineration;

“(III) the consuming facility is not in compliance with a substantive provision (including a requirement to obtain a permit for handling, processing, reclamation, or other management activity associated with recyclable material) of any Federal, State, or local environmental law (including a regulation), or a compliance order or decree issued under such a law, applicable to the handling, processing, reclamation, or other management activity associated with the recyclable material; or

“(IV) a hazardous substance has been added to the recyclable material for purposes other than processing for recycling;

“(ii) the person fails to exercise reasonable care with respect to the management or handling of the recyclable material (for which purpose a failure to adhere to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances shall be considered to be a failure to exercise reasonable care); or

“(iii) any item of the recyclable material contains—

“(I) polychlorinated biphenyls at a concentration in excess of 50 parts per million (or any different concentration specified in any applicable standard that may be issued under other Federal law after the date of enactment of this subsection); or

“(II) in the case of a transaction involving scrap paper, any concentration of a hazardous substance that the Administrator determines by regulation, issued after the date of enactment of this subsection and before the date of the transaction, to be likely to cause significant risk to human health or the environment as a result of its inclusion in the paper recycling process.

“(B) OBJECTIVELY REASONABLE BASIS FOR BELIEF.—Whether a person has an objectively reasonable basis for belief described in subparagraph (A)(i) shall be determined using criteria that include—

“(i) the size of the person's business;

“(ii) customary industry practices (including practices designed to minimize, through source control, contamination of recyclable material by hazardous substances);

“(iii) the price paid or received in the recycling transaction; and

“(iv) the ability of the person to detect the nature of the consuming facility's operations concerning handling, processing, or reclamation of the recyclable material or other management activities associated with the recyclable material.

“(7) REGULATIONS.—The Administrator may issue a regulation that clarifies the meaning of any term used in this subsection or by any other means makes clear the application of this subsection to any person.

“(8) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—A person that, after the date of enactment of this subsection, commences a civil action in contribution against a person that is not liable by operation of this subsection shall be liable to that person for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees.

“(9) RELATIONSHIP TO LIABILITY UNDER OTHER LAWS.—Nothing in this subsection shall affect—

“(A) liability under any other Federal, State, or local law (including a regulation); or

“(B) the authority of the Administrator to issue regulations under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or any other law.

“(10) TRANSITION RULES.—

“(A) DECREE OR ORDER ENTERED PRIOR TO JANUARY 1, 1997.—This subsection shall not affect any judicial decree or order that was entered or any administrative order that became effective prior to January 1, 1997, unless, as of the date of enactment of this subsection, the judicial decree or order remained subject to appeal or the administrative order remained subject to judicial review.

“(B) DECREE OR ORDER ENTERED ON OR AFTER JANUARY 1, 1997.—Any consent decree with the United States, administrative order, or judgment in favor of the United States that was entered, or in the case of an administrative order, became effective, on or after January 1, 1997, and before the date of enactment of this subsection shall be reopened at the request of any party to the recycling transaction for a determination of the party's liability to the United States based on this subsection.

“(C) EFFECT ON NONRECYCLERS.—

“(i) COSTS BORNE BY THE UNITED STATES.—All costs attributable to a recycling transaction that, absent this subsection, would be borne by a person that is relieved of liability (in whole or in part) by this subsection shall be borne by the United States, to the extent that the person is relieved of liability.

“(ii) NO RECOVERY FROM THE UNITED STATES.—Notwithstanding clause (i), no person shall be entitled to recover any sums paid to the United States prior to the date of enactment of this subsection in satisfaction of any liability attributable to a recycling transaction.

“(D) CONTRIBUTION AMONG PARTIES TO RECYCLING TRANSACTIONS.—Notwithstanding the other provisions of this subsection, a person that is relieved of liability by this subsection, but incurred response costs for a response action taken prior to the date of enactment of this subsection, may bring a civil action for contribution for the costs against—

“(i) any person that is liable under section 107(a)(1) (A) or (B); or

“(ii) any person that, before the date of enactment of this subsection—

“(I) received and failed to comply with an administrative order issued under section 104 or 106; or

“(II) received and did not accept a written offer from the United States to enter into a consent decree or administrative order.”.

TITLE VI—FEDERAL FACILITIES

SEC. 601. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

“(g) TRANSFER OF AUTHORITIES.—

“(1) DEFINITIONS.—In this section:

“(A) INTERAGENCY AGREEMENT.—The term ‘interagency agreement’ means an interagency agreement under this section.

“(B) TRANSFER AGREEMENT.—The term ‘transfer agreement’ means a transfer agreement under paragraph (3).

“(C) TRANSFEREE STATE.—The term ‘transferee State’ means a State to which authorities have been transferred under a transfer agreement.

“(2) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under this Act at any facility located in the State that is—

“(A) owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government); and

“(B) listed on the National Priorities List.

“(3) TRANSFER OF AUTHORITIES.—

“(A) DETERMINATIONS.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in paragraph (2) if the Administrator determines that—

“(i) the State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise;

“(ii) the State has demonstrated experience in exercising similar authorities;

“(iii) the State has agreed to be bound by all Federal requirements and standards under section 133 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

“(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authorities.

“(B) CONTENTS OF TRANSFER AGREEMENT.—A transfer agreement—

“(i) shall incorporate the determinations of the Administrator under subparagraph (A); and

“(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action for the facility; and

“(iii) shall not impose on the transferee State any term or condition other than that the State meet the requirements of subparagraph (A).

“(4) EFFECT OF TRANSFER.—

“(A) STATE AUTHORITIES.—A transferee State—

“(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and

“(ii) shall have exclusive authority to exercise authorities that have been transferred.

“(B) EFFECT ON INTERAGENCY AGREEMENTS.—Nothing in this subsection shall require, authorize, or permit the modification or revision of an interagency agreement covering a facility with respect to which authorities have been transferred to a State under a transfer agreement (except for the substitution of the transferee State for the Administrator in the terms of the interagency agreement, including terms stating obligations intended to preserve the confidentiality of information) without the written consent of the Governor of the State and the head of the department, agency, or instrumentality.

"(5) Selected remedial action.—The remedial action selected for a facility under section 133 by a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—

"(A) any corrective action under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that was initiated prior to the date of enactment of this subsection; and

"(B) any remedial action in excess of remedial action under section 133 that the State selects in accordance with paragraph (10).

"(6) Deadline.—

"(A) In general.—The Administrator shall make a determination on an application by a State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

"(B) Failure to act.—If the Administrator does not issue a notice of approval or notice of disapproval of an application within the time period stated in subparagraph (A), the application shall be deemed to have been granted.

"(7) Resubmission of application.—

"(A) In general.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(B) Failure to act.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period stated in paragraph (6)(A), the resubmitted application shall be deemed to have been granted.

"(8) Judicial review.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

"(9) Withdrawal of authorities.—The Administrator may withdraw the authorities transferred under a transfer agreement in whole or in part if the Administrator determines that the State—

"(A) is exercising the authorities, in whole or in part, in a manner that is inconsistent with the requirements of this Act;

"(B) has violated the transfer agreement, in whole or in part; or

"(C) no longer meets one of the requirements of paragraph (3).

"(10) State cost responsibility.—The State may require a remedial action that exceeds the remedial action selection requirements of section 121 if the State pays the incremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 133.

"(11) Dispute resolution and enforcement.—

"(A) Dispute resolution.—

"(i) Facilities covered by both a transfer agreement and an interagency agreements.—In the case of a facility with respect to which there is both a transfer agreement and an interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in the dispute resolution process provided for in the interagency agreement, except that the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(ii) Facilities covered by a transfer agreement but not an interagency agreement.—In the case of a facility with respect to which there is a transfer agreement but no interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in dispute resolution as provided in paragraph (3)(B)(ii) under which the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(iii) Failure to resolve.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor in a dispute resolution process under clause (i) or (ii), the Governor of the State shall make the final determination regarding selection of a remedial action. To compel implementation of the State's selected remedy, the State must bring a civil action in United States district court.

"(B) Enforcement.—

"(i) Authority; jurisdiction.—An interagency agreement with respect to which there is a transfer agreement or an order issued by a transferee State shall be enforceable by a transferee State or by the Federal department, agency, or instrumentality that is a party to the interagency agreement only in the United States district court for the district in which the facility is located.

"(ii) Remedies.—The district court shall—

"(I) enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination that has become effective under the interagency agreement;

"(II) impose any appropriate civil penalty provided for any violation of an interagency agreement, not to exceed $25,000 per day;

"(III) compel implementation of the selected remedial action; and

"(IV) review a challenge by the Federal department, agency, or instrumentality to the remedial action selected by the State under this section, in accordance with section 113(j).

"(12) Community participation.—If, prior to the date of enactment of this section, a Federal department, agency, or instrumentality had established for a facility covered by a transfer agreement a facility-specific advisory board or other community-based advisory group (designated as a 'site-specific advisory board', a 'restoration advisory board', or otherwise), and the Administrator determines that the board or group is willing and able to perform the responsibilities of a community response organization under section 117(e)(2), the board or group—

"(A) shall be considered to be a community response organization for the purposes of section 117 (e) (2), (3), (4), and (9), and (g) and sections 131 and 133; but

"(B) shall not be required to comply with, and shall not be considered to be a community response organization for the purposes of, section 117 (e) (1), (5), (6), (7), or (8) or (f).".

SEC. 602. LIMITATION ON CRIMINAL LIABILITY OF FEDERAL OFFICERS, EMPLOYEES, AND AGENTS.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by adding at the end the following:

"(k) Criminal Liability.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States shall not be held criminally liable for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

"(1) the officer, employee, or agent has not fully performed any direct responsibility or delegated responsibility that the officer, employee, or agent had under Executive Order 12088 (42 U.S.C. 4321 note) or any other delegation of authority to ensure that a request for funds sufficient to take the response action was included in the President's budget request under section 1105 of title 31, United States Code, for that fiscal year; or

"(2) appropriated funds were available to pay for the response action.".

SEC. 603. INNOVATIVE TECHNOLOGIES FOR REMEDIAL ACTION AT FEDERAL FACILITIES.

(a) In General.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by adding at the end the following:

"(h) Federal Facilities.—

"(1) Designation.—The President may designate a facility that is owned or operated by any department, agency, or instrumentality of the United States, and that is listed or proposed for listing on the National Priorities List, to facilitate the research, development, and application of innovative technologies for remedial action at the facility.

"(2) Use of facilities.—

"(A) In general.—A facility designated under paragraph (1) shall be made available to Federal departments and agencies, State departments and agencies, and public and private instrumentalities, to carry out activities described in paragraph (1).

"(B) Coordination.—The Administrator—

"(i) shall coordinate the use of the facilities with the departments, agencies, and instrumentalities of the United States; and

"(ii) may approve or deny the use of a particular innovative technology for remedial action at any such facility.

"(3) Considerations.—

"(A) Evaluation of schedules and penalties.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated under paragraph (1), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 120.

"(B) Amendment of agreement or order.—If, after an evaluation under subparagraph (A), the Administrator determines that there is a need to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.".

(b) Report to Congress.—Section 311(e) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

(1) by striking "At the time" and inserting the following:

"(1) In general.—At the time"; and

(2) by adding at the end the following:

"(2) Additional information.—A report under paragraph (1) shall include information on the use of facilities described in subsection (h)(1) for the research, development, and application of innovative technologies for remedial activity, as authorized under subsection (h).".

TITLE VII—NATURAL RESOURCE DAMAGES

SEC. 701. RESTORATION OF NATURAL RESOURCES.

Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by inserting "NATURAL RESOURCE DAMAGES.—" after "(f)";

(2) by striking "(1) NATURAL RESOURCES LIABILITY.—In the case" and inserting the following:

"(1) LIABILITY.—

"(A) IN GENERAL.—In the case"; and

(3) in paragraph (1)(A), as designated by paragraph (2)—

(A) by inserting after the fourth sentence the following: "Sums recovered by an Indian tribe as trustee under this subsection shall be available for use only for restoration, replacement, or acquisition of the equivalent of such natural resources by the Indian tribe. A restoration, replacement, or acquisition conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically feasible from an engineering perspective at a reasonable cost and consistent with all known or anticipated response actions at or near the facility."; and

(B) by striking "The measure of damages in any action" and all that follows through the end of the paragraph and inserting the following:

"(B) LIMITATIONS ON LIABILITY.—

"(i) MEASURE OF DAMAGES.—The measure of damages in any action for damages for injury to, destruction of, or loss of natural resources shall be limited to—

"(I) the reasonable costs of restoration, replacement, or acquisition of the equivalent of natural resources that suffer injury, destruction, or loss caused by a release; and

"(II) the reasonable costs of assessing damages.

"(ii) NONUSE VALUES.—There shall be no recovery under this Act for any impairment of nonuse values.

"(iii) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for the costs of restoring an injury to or destruction or loss of a natural resource (including injury assessment costs) shall not be entitled to recovery under this Act or any other Federal or State law for the same injury to or destruction or loss of the natural resource.

"(iv) RESTRICTIONS ON RECOVERY.—

"(I) LIMITATION ON LOST USE DAMAGES.—There shall be no recovery from any person under this section for the costs of a loss of use of a natural resource for a natural resource injury, destruction, or loss that occurred before December 11, 1980.

"(II) RESTORATION, REPLACEMENT, OR ACQUISITION.—There shall be no recovery from any person under this section for the costs of restoration, replacement, or acquisition of the equivalent of a natural resource if the natural resource injury, destruction, or loss for which the restoration, replacement, or acquisition is sought and the release of the hazardous substance from which the injury resulted occurred wholly before December 11, 1980.".

SEC. 702. ASSESSMENT OF INJURY TO AND RESTORATION OF NATURAL RESOURCES.

(a) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

"(C) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENT.—

"(i) REGULATION.—A natural resource injury and restoration assessment conducted for the purposes of this Act made by a Federal, State, or tribal trustee shall be performed, to the extent practicable, in accordance with—

"(I) the regulation issued under section 301(c); and

"(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

"(ii) FACILITY-SPECIFIC CONDITIONS.—Injury assessment, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on facility-specific information.

"(iii) RECOVERABLE COSTS.—A trustee's claim for assessment costs—

"(I) may include only—

"(aa) costs that arise from work performed for the purpose of assessing injury to a natural resource to support a claim for restoration of the natural resource; and

"(bb) costs that arise from developing and evaluating a reasonable range of alternative restoration measures; but

"(II) may not include the costs of conducting any type of study relying on the use of contingent valuation methodology.

"(iv) PAYMENT PERIOD.—In a case in which injury to or destruction or loss of a natural resource was caused by a release that occurred over a period of years, payment of damages shall be permitted to be made over a period of years that is appropriate in view of the period of time over which the damages occurred, the amount of the damages, the financial ability of the responsible party to pay the damages, and the time period over which and the pace at which expenditures are expected to be made for restoration, replacement, and acquisition activities.

"(v) TRUSTEE RESTORATION PLANS.—

"(I) ADMINISTRATIVE RECORD.—Participating natural resource trustees may designate a lead administrative trustee or trustees. The lead administrative trustee may establish an administrative record on which the trustees will base the selection of a plan for restoration of a natural resource. The restoration plan shall include a determination of the nature and extent of the natural resource injury. The administrative record shall be made available to the public at or near the facility at which the release occurred.

"(II) PUBLIC PARTICIPATION.—The Administrator shall issue a regulation for the participation of interested persons, including potentially responsible parties, in the development of the administrative record on which the trustees will base selection of a restoration plan and on which judicial review of restoration plans will be based. The procedures for participation shall include, at a minimum, each of the requirements stated in section 113(k)(2)(B).".

(b) REGULATIONS.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651) is amended by striking subsection (c) and inserting the following:

"(c) REGULATIONS FOR INJURY AND RESTORATION ASSESSMENTS.—

"(1) IN GENERAL.—The President, acting through Federal officials designated by the National Contingency Plan under section 107(f)(2), shall issue a regulation for the assessment of injury to natural resources and the costs of restoration of natural resources (including the costs of assessment) for the purposes of this Act and for determination of the time periods in which payment of damages will be required.

"(2) CONTENTS.—The regulation under paragraph (1) shall—

"(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of natural resources;

"(B) identify the best available procedures to determine the reasonable costs of restoration and assessment;

"(C) take into consideration the ability of a natural resource to recover naturally and the availability of replacement or alternative resources;

"(D) provide for the designation of a single lead Federal decisionmaking trustee for each facility at which an injury to natural resources has occurred within 180 days after the date of first notice to the responsible parties that an assessment of injury and restoration alternatives will be made; and

"(E) set forth procedures under which—

"(i) all pending and potential trustees identify the injured natural resources within their respective trust responsibilities, and the authority under which such responsibilities are established, as soon as practicable after the date on which a release occurs;

"(ii) assessment of injury and restoration alternatives will be coordinated to the greatest extent practicable between the lead Federal decisionmaking trustee and any present or potential State or tribal trustees, as applicable; and

"(iii) time periods for payment of damages in accordance with section 107(f)(2)(C)(iv) shall be determined.

"(3) DEADLINE FOR ISSUANCE OF REGULATION; PERIODIC REVIEW.—The regulation under paragraph (1) shall be issued not later than 1 year after the date of enactment of the Superfund Cleanup Acceleration Act of 1997 and shall be reviewed and revised as appropriate every 5 years.".

SEC. 703. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESOURCE RESTORATION STANDARDS.

(a) RESTORATION STANDARDS AND ALTERNATIVES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended by adding at the end the following:

"(3) COMPATIBILITY WITH REMEDIAL ACTION.—Both response actions and restoration measures may be implemented at the same facility, or to address releases from the same facility. Such response actions and restoration measures shall not be inconsistent with one another and shall be implemented, to the extent practicable, in a coordinated and integrated manner.".

(b) CONSIDERATION OF NATURAL RESOURCES IN RESPONSE ACTIONS.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) (as amended by section 402(1)) is amended by adding at the end the following:

"(6) COORDINATION.—In evaluating and selecting remedial actions, the Administrator shall take into account the potential for injury to a natural resource resulting from such actions.".

SEC. 704. CONTRIBUTION.

Subparagraph (A) of section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the third sentence by inserting "and natural resource damages" after "costs".

TITLE VIII—MISCELLANEOUS

SEC. 801. RESULT-ORIENTED CLEANUPS.

(a) AMENDMENT.—Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by inserting after paragraph (10) the following:

"(11) procedures for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remedial actions, which procedures shall—

"(A) use a results-oriented approach to minimize the time required to conduct response measures and reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

"(B) require, at a minimum, expedited facility evaluations and risk assessments, timely negotiation of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;

"(C) be subject to the requirements of sections 117, 120, 121, and 133 in the same manner and to the same degree as those sections apply to response actions; and

"(D) be required to be used for each remedial action conducted under this Act unless the Administrator determines that their use would not be cost-effective or result in the selection of a response action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).".

(b) AMENDMENT OF NATIONAL HAZARDOUS SUBSTANCE RESPONSE PLAN.—Not later than 180 days after the date of enactment of this Act, the Administrator, after notice and opportunity for public comment, shall amend the National Hazardous Substance Response Plan under section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) to include the procedures required by the amendment made by subsection (a).

SEC. 802. NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) (as amended by section 407(a)(2)) is amended by adding at the end the following:

"(i) NATIONAL PRIORITIES LIST.—

"(1) LIMITATION.—

"(A) IN GENERAL.—After the date of the enactment of this subsection, the President may add vessels and facilities to the National Priorities List only in accordance with the following schedule:

"(i) Not more than 30 vessels and facilities in 1997.

"(ii) Not more than 25 vessels and facilities in 1998.

"(iii) Not more than 20 vessels and facilities in 1999.

"(iv) Not more than 15 vessels and facilities in 2000.

"(v) Not more than 10 vessels and facilities in any year after 2000.

"(B) RELISTING.—The relisting of a vessel or facility under section 130(d)(5)(C)(ii) shall not be considered to be an addition to the National Priorities List for purposes of this subsection.

"(2) PRIORITIZATION.—The Administrator shall prioritize the vessels and facilities added under paragraph (1) on a national basis in accordance with the threat to human health and the environment presented by each of the vessels and facilities, respectively.

"(3) STATE CONCURRENCE.—A vessel or facility may be added to the National Priorities List under paragraph (1) only with the concurrence of the Governor of the State in which the vessel or facility is located.".

SEC. 803. OBLIGATIONS FROM THE FUND FOR RESPONSE ACTIONS.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C) by striking "consistent with the remedial action to be taken" and inserting "not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility.";

(2) by striking "$2,000,000" and inserting "$4,000,000"; and

(3) by striking "12 months" and inserting "2 years".

TITLE IX—FUNDING

Subtitle A—General Provisions

SEC. 901. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking "not more than $8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994" and inserting "a total of $8,500,000,000 for fiscal years 1998, 1999, 2000, 2001, and 2002".

SEC. 902. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 301(c), is amended by inserting after paragraph (8) the following:

"(9) ORPHAN SHARE FUNDING.—Payment of orphan shares under section 136.".

SEC. 903. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

"(m) HEALTH AUTHORITIES.—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(4) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002. Funds appropriated under this subsection for a fiscal year, but not obligated by the end of the fiscal year, shall be returned to the Fund.".

SEC. 904. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

"(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(1) ALTERNATIVE OR INNOVATIVE TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(A) LIMITATION.—For each of fiscal years 1998, 1999, 2000, 2001, and 2002, not more than $30,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) other than basic research.

"(B) CONTINUING AVAILABILITY.—Such amounts shall remain available until expended.

"(2) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

"(A) LIMITATION.—From the amounts available in the Fund, not more than the following amounts may be used for the purposes of section 311(a):

"(i) For fiscal year 1998, $37,000,000.

"(ii) For fiscal year 1999, $39,000,000.

"(iii) For fiscal year 2000, $41,000,000.

"(iv) For each of fiscal years 2001 and 2002, $43,000,000.

"(B) FURTHER LIMITATION.—No more than 15 percent of such amounts shall be used for training under section 311(a) for any fiscal year.

"(3) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—For each of fiscal years 1998, 1999, 2000, 2001, and 2002, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d).".

SEC. 905. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund—

"(i) for fiscal year 1998, $250,000,000;

"(ii) for fiscal year 1999, $250,000,000;

"(iii) for fiscal year 2000, $250,000,000;

"(iv) for fiscal year 2001, $250,000,000; and

"(v) for fiscal year 2002, $250,000,000.

"(B) ADDITIONAL AMOUNTS.—There is authorized to be appropriated to the Hazardous Substance Superfund for each such fiscal year an amount, in addition to the amount authorized by subparagraph (A), equal to so much of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 as has not been appropriated before the beginning of the fiscal year.".

SEC. 906. ADDITIONAL LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) (as amended by section 102(c)) is amended by adding at the end the following:

"(t) COMMUNITY RESPONSE ORGANIZATION.—For the period commencing January 1, 1997, and ending September 30, 2002, not more than $15,000,000 of the amounts available in the Fund may be used to make grants under section 117(f) (relating to Community Response Organizations).

"(u) RECOVERIES.—Effective beginning January 1, 1997, any response cost recoveries collected by the United States under this Act shall be credited as offsetting collections to the Superfund appropriations account.".

SEC. 907. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) (as amended by section 902) is amended by inserting after paragraph (9) the following:

"(10) REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.—If—

"(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; and

"(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

"(i) are unallowable due to contractor fraud;

"(ii) are unallowable under the Federal Acquisition Regulation; or

"(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures,

a potentially responsible party may be reimbursed for those costs.".

Mr. ABRAHAM. Mr. President, I would like to join the others on the Senate floor here today to congratulate Senator CHAFEE and Senator SMITH of New Hampshire on the introduction of their Superfund reform legislation. As an original cosponsor of this legislation, I support their efforts to speed the cleanup of polluted sites across this country.

And while this legislation has provisions targeting those sites currently on the national priority list, I should point out it also has provisions to speed the remediation of less seriously contaminated sites—so-called brownfields.

I am someone who is deeply concerned about brownfields and the economic and environmental damage they impose on communities.

First, Senator CHAFEE, thank you very much for agreeing to speak with me on this very important issue. As the Senator knows, last year I introduced legislation along with Senator LIEBERMAN which would provide tax incentives for the remediation of brownfields. This legislation is very important to communities across the country, and I intend to reintroduce similar legislation this Congress. It is my understanding that the bill introduced today focuses, in part, on our brownfields problem.

Mr. CHAFEE. The Senator from Michigan is correct. The focus of the Environment and Public Works Committee will extend beyond the National Priorities List to include solutions to our national brownfields problem. And while my committee does not have jurisdiction over tax measures, I recognize the leadership exerted by Senator ABRAHAM to address the problem of brownfields and I hope to work with him on a variety of solutions to the environmental problems faced by this Nation's communities.

Mr. ABRAHAM. I thank the Senator and I yield the floor.

By Mr. NICKLES (for himself, Mr. GREGG, Mr. WARNER, Mr. LOTT, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. THOMAS, Mr. THURMOND, Mr. COATS, and Mr. KEMPTHORNE):

S. 9. A bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization; to the Committee on Rules and Administration.

THE PAYCHECK PROTECTION ACT

Mr. NICKLES. Madam President, this bill, the Paycheck Protection Act, sponsored by myself, Senators GREGG, LOTT, INHOFE, HUTCHISON from Texas, COCHRAN, ROBERTS, HAGEL, SMITH from New Hampshire, and KEMPTHORNE, deals with making sure that no one is compelled to contribute to political campaigns with which they disagree. Senator FORD made an eloquent speech on campaign finance reform. I don't disagree with everything he said. I just disagree with parts of it.

Campaign reform is an issue a lot of us are going to be dealing with this year. It is important, in my opinion, Madam President, that we encourage people to participate in campaigns. We want more people all across the country to participate in the electoral process. It is a sad day when only half of the people vote in a Presidential election. Madam President, it is very important that nobody be compelled to contribute to a campaign with which they disagree. You might think, well, wait a minute, how in the world in 1997, in this day and age, would anybody be compelled to contribute to a campaign with which they disagree? But it happens. Unfortunately, Madam President, every week millions of Americans are having money taken out of their paycheck to contribute to candidates that they may well disagree with, but they didn't have a voice, a choice, or an option.

Madam President, that is wrong. I will tell you that the origin of the bill we are introducing came from a town meeting that I had, where an individual—a union member—stood up in a town meeting and said, "I really resent the fact that my money is taken from me, without my vote, without my voice, without my option, and given to candidates and parties which I totally oppose." I said, "I agree with you. We will try to remedy that."

That should not happen in America. That is something that sounds like it might happen in some totalitarian state where moneys or assets are confiscated and some corrupt politician would use it against their will. It is happening today. Millions of Americans are finding part of their paychecks taken from them without their voice or choice and used for political purposes with which they disagree.

Madam President, this bill, the Paycheck Protection Act, which is sponsored by several of us, basically is very simple. It says that no individual, no employee working for a corporation, would be compelled to contribute to a political organization without their express consent. As a matter of fact, it says that no deduction from their wages would be used for political purposes unless they give prior written consent.

Consent is the big issue. If we are going to have campaign reform, I am going to tell my colleague, this is going to have to be part of the package.

This is America. No one should be compelled to contribute to political purposes for which they disagree. And that applies for an individual where maybe their company has a PAC (political action committee), and maybe the board of directors or the officers say, "We want everybody to contribute." They can say what they want, but they cannot compel. No one should be compelled to contribute to a political organization, a political action committee, or to a labor organization against their will for political purposes. It is that simple.

As Thomas Jefferson said, "To compel a man to furnish funds for the propagation of ideas he disbelieves or abhors . . . is sinful and tyrannical."

We're not talking about nickels and dimes here, but untold millions of dollars in partisan political campaigns and propaganda. Since such funds are not required to be disclosed, it is impossible to determine the exact amount of this spending. However, estimates of this under-the-radar spending is somewhere between $300 million and $1 billion for this most recent election.

The way it is now, an employee paying dues to a labor organization has no choice over whether or not that labor organization can collect the money for politics. The only choice these employees have in the matter is to ask for a refund of the portion dues which is to be used for politics. This refund process is so lengthy and burdensome that it is next to impossible for someone to get their money back. Furthermore, for an employee to exercise their right to a refund of such dues, they are required to give up their right to vote in the labor organization that they are still required to pay for representing them. This is taxation without representation.

The Supreme Court has consistently ruled that employees paying dues to a labor organization cannot be forced to also pay for the activities outside the core representational activities, such as costs associated with political activities. The Clinton administration, however, has kept employees in the dark regarding the minimal rights they do have. One of the first acts of this administration was to repeal the very regulations to carry out the Supreme Court's decision, which protected employees forced to pay for politics.

People are recognizing the wrong brought upon Americans who have been given no choice in supporting causes for which they oppose. Even the administration's own National Labor Relations Board [NLRB], which has strong labor organization sentiments, recently ruled dues-paying employees are in the least entitled to information setting forth the percentage of those dues not related to collective bargaining activities. While this is a step in the right direction, more needs to be done.

The Paycheck Protection Act protects employees from having their money involuntarily taken from them and used for politics. The act protects stockholders and employees of a corporation from having, as a condition of employment, dues, initiation fees, or other payments for politics taken from them without the separate, prior, written, voluntary authorization. Similarly, the act protects employees paying dues to a labor organization from having such dues, initiation fees, or other payments taken from them which are used for politics.

Mr. President, this act furthers the basic civil right spoken of by Thomas Jefferson. It does so by requiring that individuals not be compelled to fund or support activities outside the legitimate scope of the employer or labor organization. This bill pro-worker, prolabor organization, and most importantly, pro-American.

I look forward to a broad bipartisan support for this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 9

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paycheck Protection Act".

SEC. 2. WORKERS' POLITICAL RIGHTS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

"(2) an authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

"(3) for purposes of this subsection, the term "political activities" includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party."

By Mr. HATCH (for himself, Mr. SESSIONS, Mr. ASHCROFT, Mr. DOMENICI, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BOND, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SMITH of New Hampshire, Mr. THOMAS, Mr. THURMOND, and Mr. WARNER):

S. 10. A bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes; to the Committee on the Judiciary.

VIOLENT AND REPEAT JUVENILE OFFENDER ACT OF 1997

Mr. ASHCROFT. Mr. President, earlier today Senator HATCH introduced S. 10, the Violent and Repeat Offender Act of 1997. Senators LOTT, DOMENICI, SESSIONS, and I worked with him in developing the bill. While not perfect, the bill does take the initial steps in dealing with the epidemic of violent juvenile crime sweeping the Nation.

Mr. President, the face of crime in America is indeed changing. Throughout our history, one thing has been clear: Government's first responsibility is to keep the citizenry safe. John Jay wrote in The Federalist, No. 3 "Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be first."

The murderers, robbers, rapists, and drug dealers of yesteryear were typically adults. Now they are typically juveniles. As the age of these criminal predators becomes younger and younger with each passing year, so does the age of their victims.

Last Wednesday afternoon, 12-year-old Darryl Dayan Hall was abducted at gunpoint from the Southeast Washington area by three teenagers of a gang known as the Simple City Crew. This is the same gang that opened gunfire at a crowded community swimming pool in June 1993, wounding six children. This past Saturday, police found Darryl's frozen body. He had been shot once in the back of the head and at least once in the body.

The three teenagers who are now charged with Darryl's murder have had numerous prior brushes with the law. One of Darryl's assailants was charged as a juvenile with possession of PCP in 1995 and then was released—as is too often the case—promising not to run afoul of the law again. Another of Darryl's assailants was, and is, on probation following his juvenile conviction last spring for possession of PCP with intent to distribute. Darryl's third assailant was charged as a juvenile just last month with carrying a deadly weapon.

Mr. President, from 1984 to 1994, the number of juveniles murdered in this country increased 82 percent. In 1994, one of every five juveniles murdered were killed by another juvenile. The rate at which juveniles 14 to 17 years old were arrested for murder grew by 22 percent from 1990 to 1994 and the problem is going to get worse, much worse.

Congress, over the last three decades, has established 131 separate Federal programs—administered by 16 different departments and agencies—to serve delinquent and at-risk youth, according to a report issued by GAO last March. Conservative estimates of Federal appropriations used for these at-risk and delinquent youth programs was more than $4 billion in fiscal year 1995.

Despite this ongoing massive expenditure, the Federal Government has failed to meet its responsibility of providing public safety in this arena because it has not focused on holding juveniles accountable for their actions, it must focus on the problem of rising juvenile violence. We have a new category of offenders that deserve a new category of responses. We have criminals in our midst—young criminals.

The juvenile offenders of today will become the career offenders of tomorrow, if Government continues to fail to recognize that America has an acute social illness that cannot be cured with money spent solely on social programs. This legislation takes a commonsense approach in dealing with the epidemic of juvenile violence. It would help States restore safety in urban, suburban, and rural communities.

This legislation would provide $2.5 billion in new incentive grants for States to enact certain accountability-based reforms to their juvenile justice systems. This legislation would authorize funding for various programs, including trying violent juveniles as adults; establishing the ability of States to collect juvenile criminal records, fingerprints, and photographs, and to share that criminal history information within the State, with other States, and with the Federal Government; and establishing the Serious Habitual Offender Comprehensive Action Program [SHOCAP]. In addition, religious organizations would be permitted to participate in rehabilitative programs.

Serious, violent, and repeat juvenile offenders must be held responsible for their crimes. Today we are living with a juvenile justice system that was created around the time of the silent film. We are living with a juvenile justice system that reprimands the crime victim for being at the wrong place at the wrong time, and then turns around and hugs the juvenile terrorist, whispering ever so softly into his ear, "Don't worry, the State will cure you."

The juvenile justice system's primary goal is to treat and rehabilitate the juvenile offender. Such a system can handle runaways, truants, and other status offenders; but it is ill-equipped to deal with those who commit serious, violent, and repeat juvenile crime.

The criminal justice system, not the juvenile justice system, can emphasize that adult criminal acts have real consequences. The purpose of the criminal justice system is to punish, that is, to hold defendants accountable.

This legislation would provide financial assistance to States to help them reform their juvenile system. A State would be eligible to receive Federal funds if the State agrees to enact legislation that would provide for the adult prosecution—as a matter of law or prosecutorial discretion—of juveniles 14 or older who commit a violent crime, such as murder, forcible rape, armed robbery and assault with a deadly weapon; an offense involving a controlled substance; or an offense involving possession of a firearm or a destructive device.

Punishment of dangerous juvenile offenders as adults is an effective tool in fighting violent juvenile crime. For example, Jacksonville, FL State Attorney Harry Shorstein instituted a program to prosecute and incarcerate such offenders in 1992. Two years later, arrests for juveniles dropped from 7,184 to 5,475. While juvenile arrests increased for the Nation, Jacksonville's arrest rate decreased by 30 percent.

States need to create and maintain juvenile criminal records. Typically, State statutes seal juvenile criminal records and expunge these records when the juvenile reaches age 18. The time has come to discard anachronistic ideas that crimes, no matter how heinous, by juveniles must be kept confidential.

Our laws view juveniles through the benevolent prism of kids gone astray. It should view them as young criminals who know that they can commit crimes, repeatedly as juveniles because their juvenile records are kept hidden under the veil of secrecy. These young criminals know that when they reach their 18th birthday, they can begin their second career as adult criminals with an unblemished record. In rhetoric we are protecting juveniles from the stigma of a record but in reality we are coddling criminals. We must separate rhetoric from reality by lifting the veil of secrecy.

Law enforcement officers need to know the prior juvenile criminal records of individuals to assist them in criminal investigations and apprehension.

Law enforcement is in desperate need of access to juvenile criminal records, according to Police Chief David G. Walchak, who is also president of the International Association of Chiefs of Police. The police chief says, "Current juvenile records (both arrest and adjudication) are inconsistent across the states, and are usually unavailable to the various programs' staff who work with youthful offenders." The police chief further states that "There are only 26 states that even allow law enforcement access to juvenile records."

In the words of Chief Walchak, "If we [law enforcement] don't know who the youthful offenders are, we can't appropriately intervene." It is that simple. As juvenile gangs spread from urban to suburban to rural areas, as they travel from State to State, the veil of secrecy draped over their criminal history records undermines law enforcement efforts.

This legislation would also provide money to States to create, maintain, and share juvenile criminal records, and to share those records with other Federal, State, and local law enforcement agencies. Strengthening law enforcement should be a top priority.

School officials need access to juvenile criminal records to assist them in providing for the best interests of all students. Students are vulnerable in unsafe school environments. The decline in school safety can be attributed to laws that protect dangerous students rather than innocent students. While visiting with school officials in Sikeston, MO, a teacher told me that a student came to school wearing an electronic monitoring ankle bracelet. The student told the teacher, "You don't know if I'm a murderer or a rapist and I ain't gonna tell you." That student was brutally honest. No one had any knowledge of what he had done and, more important, no way of finding out.

If schools know the identity of a violent juvenile, they can respond to misbehavior by imposing stricter sanctions, assigning particular teachers, or having the student's locker near a teacher's doorway entrance so that the teacher can monitor his conduct during the changing of class periods. In short, this bill would allow school officials to take measures that could prevent violence at schools.

For purposes of adult sentencing, adult courts need to know if a convicted felon has a history of criminal behavior. According to the 1991 Survey of Inmates in State Correctional Facilities, nearly 40 percent of prison inmates had a prior record as a juvenile. That is approximately 4 in 10 prison inmates. This legislation will not enable criminals to masquerade as neophytes before the criminal justice system.

The bill allows State and local governments to use Federal funds to implement the Serious Habitual Offenders Comprehensive Action Program [SHOCAP].

SHOCAP is a multiagency crime analysis and case management process for identifying and targeting the violent and hardcore juvenile offenders in a community.

SHOCAP targets these serious habitual offenders for most intensive social supervisory interventions, the most intensive accountability in school attendance and discipline, and the most investigation and prosecution when they commit a crime.

The OJJDP conducted five test pilots of SHOCAP. Oxnard, CA was one of the selected sites. SHOCAP was implemented in 1983. Oxnard found that less than 2 percent of all juveniles arrested in that community were responsible for 35 percent of felonies by juveniles. Four years later, Oxnard's violent crime dropped 38 percent. Illinois and Florida both have recently established statewide SHOCAP's. This bill would allow all jurisdictions to use Federal funds to implement SHOCAP.

Reforms are necessary at the Federal level as well. This legislation would make it easier for Federal prosecutors to try juveniles as adults. Under the bill, U.S. attorneys would have discretion to decide whether to try as adults juveniles 14 years or older who are alleged to have committed an act which if committed by an adult would be a felony. This would eliminate juvenile transfer hearings that leave the transfer decision to juvenile court judges.

Federal juvenile court proceedings would be open to the general public. When imposing a sentence, the district court would be allowed to consider the juvenile's entire prior juvenile records. In any case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants. And in those cases in which the juvenile was adjudicated delinquent in Federal juvenile delinquency proceedings, the U.S. attorney would be allowed to release such records to law enforcement authorities of any jurisdiction and to school officials.

When the act committed by the juvenile is heinous, the punishment will be weighed accordingly. If tried and sentenced as an adult, the juvenile would be subject to the death penalty as an adult. In addition, the death penalty would be lowered from age 18 to 16.

The Government should mount a counterattack on gang violence. This legislation targets violent youth gangs, like the notorious Simple City Crew in the District. There would be new Federal penalties for offenses committed by criminal street gangs. Gangs are no longer concentrated in the big cities, they are now in rural towns. The bill would also provide $100 million to hire assistant U.S. attorneys to prosecute juvenile criminal street gangs.

We must challenge this culture of violence and restore the culture of personal responsibility. It is high time to consider hardheaded and sensible juvenile justice policies. Where possible we must give second chances. Where necessary we must punish severely. This is a first step to restore justice to a nation that has grown weary of injustice.

In sum, this legislation would send a clear, cogent, and convincing message: serious acts have serious consequences.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Violent and Repeat Juvenile Offender Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Severability.

TITLE I—JUVENILE JUSTICE REFORM

Sec. 101. Repeal of general provision.
Sec. 102. Treatment of Federal juvenile offenders.
Sec. 103. Capital cases.
Sec. 104. Definitions.
Sec. 105. Notification after arrest.
Sec. 106. Detention prior to disposition.
Sec. 107. Speedy trial.
Sec. 108. Dispositional hearings.
Sec. 109. Use of juvenile records.
Sec. 110. Incarceration of violent offenders.
Sec. 111. Federal sentencing guidelines.

TITLE II—JUVENILE GANGS

Sec. 201. Short title.
Sec. 202. Increase in offense level for participation in crime as a gang member.
Sec. 203. Amendment of title 18 with respect to criminal street gangs.
Sec. 204. Interstate and foreign travel or transportation in aid of criminal street gangs.
Sec. 205. Solicitation or recruitment of persons in criminal gang activity.
Sec. 206. Crimes involving the recruitment of persons to participate in criminal street gangs and firearms offenses as RICO predicates.
Sec. 207. Prohibitions relating to firearms.
Sec. 208. Amendment of sentencing guidelines with respect to body armor.
Sec. 209. Additional prosecutors.

TITLE III—JUVENILE CRIME CONTROL AND ACCOUNTABILITY

Sec. 301. Findings; declaration of purpose; definitions.
Sec. 302. Youth Crime Control and Accountability Block Grants.
Sec. 303. Runaway and homeless youth.
Sec. 304. Authorization of appropriations.
Sec. 305. Repeal.
Sec. 306. Transfer of functions and savings provisions.
Sec. 307. Repeal of unnecessary and duplicative programs.
Sec. 308. Housing juvenile offenders.
Sec. 309. Civil monetary penalty surcharge.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) at the outset of the twentieth century, the States adopted 2 separate juvenile justice systems for violent and nonviolent offenders;

(2) violent crimes committed by juveniles, such as homicide, rape, and robbery, were an unknown phenomenon at that time, but the rate at which juveniles commit such crimes has escalated astronomically since that time;

(3) in 1994—

(A) the number of persons arrested overall for murder in the United States decreased by 5.8 percent, but the number of persons who are less than 15 years of age arrested for murder increased by 4 percent; and

(B) the number of persons arrested for all violent crimes increased by 1.3 percent, but the number of persons who are less than 15 years of age arrested for violent crimes increased by 9.2 percent, and the number of persons less than 18 years of age arrested for such crimes increased by 6.5 percent;

(4) from 1985 to 1996, the number of persons arrested for all violent crimes increased by 52.3 percent, but the number of persons under age 18 arrested for violent crimes rose by 75 percent;

(5) the number of juvenile offenders is expected to undergo a massive increase during the first 2 decades of the twenty-first century, culminating in an unprecedented number of violent offenders who are less than 18 years of age;

(6) the rehabilitative model of sentencing for juveniles, which Congress rejected for adult offenders when Congress enacted the Sentencing Reform Act of 1984, is inadequate and inappropriate for dealing with violent and repeat juvenile offenders;

(7) the Federal Government should encourage the States to experiment with progressive solutions to the escalating problem of juveniles who commit violent crimes and who are repeat offenders, including prosecuting all such offenders as adults, but should not impose specific strategies or programs on the States;

(8) an effective strategy for reducing violent juvenile crime requires greater collection of investigative data and other information, such as fingerprints and DNA evidence, as well as greater sharing of such information among Federal, State, and local agencies, including the courts, in the law enforcement and educational systems;

(9) data regarding violent juvenile offenders must be made available to the adult criminal justice system if recidivism by criminals is to be addressed adequately;

(10) holding juvenile proceedings in secret denies victims of crime the opportunity to attend and be heard at such proceedings, helps juvenile offenders to avoid accountability for their actions, and shields juvenile proceedings from public scrutiny and accountability;

(11) the injuries and losses suffered by the victims of violent crime are no less painful or devastating because the offender is a juvenile; and

(12) the investigation, prosecution, adjudication, and punishment of criminal offenses committed by juveniles is, and should remain, primarily the responsibility of the States, to be carried out without interference from the Federal Government.

(b) PURPOSES.—The purposes of this Act are—

(1) to reform juvenile law so that the paramount concerns of the juvenile justice system are providing for the safety of the public and holding juvenile wrongdoers accountable for their actions, while providing the wrongdoer a genuine opportunity for self reform;

(2) to revise the procedures in Federal court that are applicable to the prosecution of juvenile offenders;

(3) to address specifically the problem of violent crime and controlled substance offenses committed by youth gangs; and

(4) to encourage and promote, consistent with the ideals of federalism, adoption of policies by the States to ensure that the victims of crimes of violence committed by juveniles receive the same level of justice as do victims of violent crimes that are committed by adults.

SEC. 3. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—JUVENILE JUSTICE REFORM

SEC. 101. REPEAL OF GENERAL PROVISION.

(a) IN GENERAL.—Chapter 401 of title 18, United States Code, is amended—

(1) by striking section 5001; and

(2) by redesignating section 5003 as section 5001.

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 401 of title 18, United States Code, is amended—

(1) by striking the item relating to section 5001; and

(2) by redesignating the item relating to section 5003 as 5001.

SEC. 102. TREATMENT OF FEDERAL JUVENILE OFFENDERS.

(a) IN GENERAL.—Section 5032 of title 18, United States Code, is amended to read as follows:

"§ 5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution

"(a) IN GENERAL.—A juvenile who is not less than 14 years of age and who is alleged to have committed an act that, if committed by an adult, would be a criminal offense, shall be tried in the appropriate district court of the United States—

"(1) as an adult at the discretion of the United States Attorney in the appropriate jurisdiction, upon a finding by that United States Attorney, which finding shall not be subject to review in or by any court, trial or appellate, that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction, if the juvenile is charged with a Federal offense that—

"(A) is a crime of violence (as that term is defined in section 16); or

"(B) involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is a term of imprisonment of not less than 5 years; and

"(2) in all other cases, as a juvenile.

"(b) REFERRAL BY UNITED STATES ATTORNEY.—

"(1) IN GENERAL.—If the United States Attorney in the appropriate jurisdiction declines prosecution of a charged offense under subsection (a)(2), the United States Attorney may refer the matter to the appropriate legal authorities of the State or Indian tribe.

"(2) DEFINITIONS.—In this section—

"(A) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(B) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-

Determination and Education Assistance Act.

"(c) Applicable Procedures.—Any action prosecuted in a district court of the United States under this section—

"(1) shall proceed in the same manner as is required by this title and by the Federal Rules of Criminal Procedure in proceedings against an adult in the case of a juvenile who is being tried as an adult in accordance with subsection (a); and

"(2) in all other cases, shall proceed in accordance with this chapter, unless the juvenile has requested in writing, upon advice of counsel, to be proceeded against as an adult.

"(d) Capital Cases.—Subject to section 3591, if a juvenile is tried and sentenced as an adult, the juvenile shall be subject to being sentenced to death on the same terms and in accordance with the same procedures as an adult.

"(e) Application of Laws.—In any case in which a juvenile is prosecuted in a district court of the United States as an adult, the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years.

"(f) Open Proceedings.—

"(1) In general.—Any offense tried in a district court of the United States pursuant to this section shall be open to the general public, in accordance with rules 10, 26, 31(a), and 53 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court, for closure.

"(2) Status alone insufficient.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

"(g) Availability of Records.—

"(1) In general.—In making a determination concerning the prosecution of a juvenile in a district court of the United States under this section, subject to the requirements of section 5038, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile, and to the extent permitted by State law, the prior State juvenile records of the subject juvenile.

"(2) Consideration of entire record.—In any case in which a juvenile is found guilty in an action pursuant to this section, the district court responsible for imposing sentence shall have complete access to the prior juvenile records of the subject juvenile, and, to the extent permitted under State law, the prior State juvenile records of the subject juvenile. At sentencing, the district court shall consider the entire available prior juvenile record of the subject juvenile.

"(3) Release of records.—The United States Attorney may release such Federal records, and, to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or postsecondary school at which the individual who is the subject of the juvenile record is enrolled or seeks, intends, or is instructed to enroll, if such school officials are held liable to the same standards and penalties to which law enforcement and juvenile justice system employees are held liable under Federal and State law, for the handling and disclosure of such information.".

(b) Technical Amendment.—The chapter analysis for chapter 403 of title 18, United States Code, is amended by striking the item relating to section 5032 and inserting the following:

"5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution.".

SEC. 103. CAPITAL CASES.

Section 3591 of title 18, United States Code, is amended by striking "18 years" each place that term appears and inserting "16 years".

SEC. 104. DEFINITIONS.

Section 5031 of title 18, United States Code, is amended to read as follows:

"§ 5031. Definitions

"In this chapter—

"(1) the term 'juvenile' means a person who is less than 18 years of age; and

"(2) the term 'juvenile delinquency' means the violation of a law of the United States committed by a juvenile that would be a crime if committed by an adult.".

SEC. 105. NOTIFICATION AFTER ARREST.

Section 5033 of title 18, United States Code, is amended in the first sentence by striking "Attorney General" and inserting "United States Attorney of the appropriate jurisdiction".

SEC. 106. DETENTION PRIOR TO DISPOSITION.

Section 5035 of title 18, United States Code, is amended—

(1) by striking "A juvenile" and inserting the following:

"(a) In General.—A juvenile"; and

(2) by adding at the end the following:

"(b) Detention of Certain Juveniles.—Notwithstanding subsection (a), a juvenile who is to be tried as an adult pursuant to section 5032 shall be subject to detention in accordance with chapter 203 in the same manner and to the same extent as an adult would be subject to that chapter.".

SEC. 107. SPEEDY TRIAL.

Section 5036 of title 18, United States Code, is amended—

(1) by striking "thirty" and inserting "70"; and

(2) by striking "the court," and all that follows through the end of the section and inserting "the court. The periods of exclusion under section 3161(h) shall apply to this section.".

SEC. 108. DISPOSITIONAL HEARINGS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "(a)" and all that follows through "After the" and inserting the following:

"(a) In General.—

"(1) Dispositional hearing.—In any case in which a juvenile is found to be a juvenile delinquent in district court pursuant to section 5032, but is not tried as an adult under that section, not later than 20 days after the hearing in which a finding of juvenile delinquency is made, the court shall hold a disposition hearing concerning the appropriate disposition unless the court has ordered further study pursuant to subsection (d).

"(2) Actions of court after hearing.—After the";

(2) in subsection (b), by striking "extend—" and all that follows through "The provisions" and inserting the following: "extend, in the case of a juvenile, beyond the maximum term that would be authorized by section 3561(b), if the juvenile had been tried and convicted as an adult. The provisions";

(3) in subsection (c), by striking "extend—" and all that follows through "Section 3624" and inserting the following: "extend beyond the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Section 3624";

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

"(d) Applicability of Restitution Provisions.—If a juvenile has been tried and convicted as an adult, or adjudicated delinquent for any offense in which the juvenile is otherwise tried pursuant to section 5032, the restitution provisions contained in this title (including sections 3663, 3663A, 2248, 2259, 2264, and 2327) and title 21 shall apply to that juvenile in the same manner and to the same extent as those provisions apply to adults.".

SEC. 109. USE OF JUVENILE RECORDS.

Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and";

(C) by inserting after paragraph (6) the following:

"(7) inquiries from any school or other educational institution for the purpose of ensuring the public safety and security at such institution."; and

(D) by striking "Unless" and inserting the following:

"(c) Prohibition on Release of Certain Information.—Unless";

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting immediately after subsection (a) the following:

"(b) Access by United States Attorney.—Notwithstanding subsection (a), in determining the appropriate disposition of a juvenile matter under section 5032, the United States Attorney of the appropriate jurisdiction shall have complete access to the official records of the juvenile proceedings conducted under this title.";

(4) by inserting after subsection (e), as redesignated, the following:

"(f) Records of Juveniles Tried as Adults.—In any case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants.";

(5) by striking "(d) Whenever" and all that follows through "adult defendants." and inserting the following:

"(g) Fingerprints and Photographs.—Fingerprints and photographs of a juvenile—

"(1) who is prosecuted as an adult, shall be made available in the same manner as is applicable to an adult defendant; and

"(2) who is not prosecuted as an adult, shall be made available only as provided in subsection (a).";

(6) by striking "(e) Unless," and inserting the following:

"(h) No Publication of Name or Picture.—Unless";

(7) by striking "(f) Whenever" and inserting the following:

"(i) Information to Federal Bureau of Investigation.—Whenever"; and

(8) in subsection (i), as redesignated—

(A) by striking "of committing an act" and all that follows through "5032 of this title" and inserting "by a district court of the United States pursuant to section 5032 of committing an act"; and

(B) by inserting "involved a juvenile tried as an adult or" before "were juvenile adjudications".

SEC. 110. INCARCERATION OF VIOLENT OFFENDERS.

Section 5039 of title 18, United States Code, is amended—

(1) by designating the first 3 undesignated paragraphs as subsections (a) through (c), respectively; and

(2) by adding at the end the following:

"(d) SEGREGATION OF JUVENILES CONVICTED OF VIOLENT OFFENSES.—

"(1) DEFINITION.—In this subsection, the term 'crime of violence' has the same meaning as in section 16 of title 18, United States Code.

"(2) SEGREGATION.—The Director of the Bureau of Prisons shall ensure that juveniles who are alleged to be or determined to be delinquent are not confined in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined.".

SEC. 111. FEDERAL SENTENCING GUIDELINES.

Section 994(h) of title 28, United States Code, is amended by inserting ", or in which the defendant is a juvenile who is tried as an adult," after "old or older".

TITLE II—JUVENILE GANGS

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Gang Violence Act".

SEC. 202. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.

(a) DEFINITION.—In this section, the term "criminal street gang" has the same meaning as in section 521(a) of title 18, United States Code, as amended by section 203 of this title.

(b) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels, for any offense, if the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang and the defendant was a member of the criminal street gang at the time of the offense.

(c) CONSTRUCTION WITH OTHER GUIDELINES.—The amendment made pursuant to subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal sentencing guidelines.

SEC. 203. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) DEFINITIONS.—" and inserting the following:

"(a) DEFINITIONS.—In this section:", and

(B) by striking "'conviction" and all that follows through the end of the subsection and inserting the following:

"(1) CRIMINAL STREET GANG.—The term 'criminal street gang' means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

"(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

"(B) any members of which engage, or have engaged during the 5-year period preceding the date in question, in a pattern of criminal gang activity; and

"(C) the activities of which affect interstate or foreign commerce.

"(2) PATTERN OF CRIMINAL GANG ACTIVITY.—The term 'pattern of criminal gang activity' means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal street gang—

"(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

"(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

"(C) that were committed on separate occasions.

"(3) PREDICATE GANG CRIME.—The term 'predicate gang crime' means an offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—

"(A) a Federal offense—

"(i) that is a crime of violence (as that term is defined in section 16) including carjacking, drive-by-shooting, shooting at an unoccupied dwelling or motor vehicle, assault with a deadly weapon, and homicide;

"(ii) that involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is imprisonment for not less than 5 years;

"(iii) that is a violation of section 844, section 875 or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 1955 (relating to gambling), chapter 44 (relating to firearms), or chapter 73 (relating to obstruction of justice);

"(iv) that is a violation of section 1956 (relating to money laundering), insofar as the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(v) that is a violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328) (relating to alien smuggling);

"(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

"(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

"(3) STATE.—The term 'State' includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory of possession of the United States."; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

"(b) CRIMINAL PENALTIES.—Any person who engages in a pattern of criminal gang activity—

"(1) shall be sentenced to—

"(A) a term of imprisonment of not less than 10 years and not more than life, fined in accordance with this title, or both; and

"(B) the forfeiture prescribed in section 413 of the Controlled Substances Act (21 U.S.C. 853); and

"(2) if any person engages in such activity after 1 or more prior convictions under this section have become final, shall be sentenced to—

"(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and

"(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853).".

(b) CONFORMING AMENDMENT.—Section 3663(c)(4) of title 18, United States Code, is amended by inserting before "chapter 46" the following: "section 521 of this title,".

SEC. 204. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL STREET GANGS.

(a) TRAVEL ACT AMENDMENTS.—

(1) PROHIBITED CONDUCT AND PENALTIES.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

"(a) PROHIBITED CONDUCT AND PENALTIES.—

"(1) IN GENERAL.—Any person who—

"(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

"(i) distribute the proceeds of any unlawful activity; or

"(ii) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

"(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A),

shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) CRIMES OF VIOLENCE.—Any person who—

"(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

"(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), commits, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity,

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.".

(2) DEFINITIONS.—Section 1952(b) of title 18, United States Code, is amended to read as follows:

"(b) DEFINITIONS.—In this section:

"(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the same meaning as in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(2) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(3) UNLAWFUL ACTIVITY.—The term 'unlawful activity' means—

"(A) predicate gang crime (as that term is defined in section 521);

"(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances, or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

"(C) extortion, bribery, arson, robbery, burglary, assault with a deadly weapon, retaliation against or intimidation of witnesses, victims, jurors, or informants, assault resulting in bodily injury, possession of or trafficking in stolen property, illegally trafficking in firearms, kidnapping, alien smuggling, or shooting at an occupied dwelling or motor vehicle, in each case, in violation of the laws of the State in which the offense is committed or of the United States; or

"(D) any act that is indictable under section 1956 or 1957 of this title or under subchapter II of chapter 53 of title 31.".

(b) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines so that—

(A) the base offense level for traveling in interstate or foreign commerce in aid of a criminal street gang or other unlawful activity is increased to 12; and

(B) the base offense level for the commission of a crime of violence in aid of a criminal street gang or other unlawful activity is increased to 24.

(2) DEFINITIONS.—In this subsection—

(A) the term "crime of violence" has the same meaning as in section 16 of title 18, United States Code;

(B) the term "criminal street gang" has the same meaning as in 521(a) of title 18, United States Code, as amended by section 203 of this title; and

(C) the term "unlawful activity" has the same meaning as in section 1952(b) of title 18, United States Code, as amended by this section.

SEC. 205. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY.

(a) PROHIBITED ACTS.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"§ 522. Recruitment of persons to participate in criminal street gang activity

"(a) PROHIBITED ACT.—It shall be unlawful for any person to—

"(1) use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, request, induce, counsel, command, or cause another person to be a member of a criminal street gang, or conspire to do so; or

"(2) recruit, solicit, request, induce, counsel, command, or cause another person to engage in a predicate gang crime for which such person may be prosecuted in a court of the United States, or conspire to do so.

"(b) PENALTIES.—A person who violates subsection (a) shall—

"(1) if the person recruited—

"(A) is a minor, be imprisoned for a term of not less than 4 years and not more than 10 years, fined in accordance with this title, or both; or

"(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

"(2) be liable for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18.

"(c) DEFINITIONS.—In this section—

"(1) the terms 'criminal street gang' and 'predicate gang crime' have the same meanings as in section 521; and

"(2) the term 'minor' means a person who is younger than 18 years of age.".

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines to provide an appropriate enhancement for any offense involving the recruitment of a minor to participate in a gang activity.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"522. Recruitment of persons to participate in criminal street gang activity.".

SEC. 206. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL STREET GANGS AND FIREARMS OFFENSES AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(F)"; and

(2) by inserting before the semicolon at the end the following: ", (G) an offense under section 522 of this title, or (H) an act or conspiracy to commit any violation of chapter 44 of this title (relating to firearms)".

SEC. 207. PROHIBITIONS RELATING TO FIREARMS.

(a) PENALTIES.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A);

(3) in subparagraph (A), as redesignated—

(A) by striking "(B) A person other than a juvenile who knowingly" and inserting "(A) A person who knowingly";

(B) in clause (i), by striking "not more than 1 year" and inserting "not less than 1 year and not more than 5 years"; and

(C) in clause (ii), by inserting "not less than 1 year and" after "imprisoned"; and

(4) by adding at the end the following:

"(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 13 years of age.".

(b) SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PREDICATES.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by adding "or" at the end; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be an offense described in clause (i) or (ii);".

(c) TRANSFER OF FIREARMS TO MINORS FOR USE IN CRIME.—Section 924(h) of title 18, United States Code, is amended by striking "10 years, fined in accordance with this title, or both" and inserting "10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not less than 3 years, fined in accordance with this title, or both".

SEC. 208. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) DEFINITIONS.—In this section—

(1) the term "body armor" means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) the term "law enforcement officer" means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) SENTENCING ENHANCEMENT.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any crime in which the defendant used body armor.

(c) APPLICABILITY.—No Federal sentencing guideline amendment made pursuant to this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 209. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, and 2002 for the hiring of Assistant United States Attorneys and attorneys in the Criminal Division of the Department of Justice to prosecute juvenile criminal street gangs (as that term is defined in section 521(a) of title 18, United States Code, as amended by section 203 of this title).

TITLE III—JUVENILE CRIME CONTROL AND ACCOUNTABILITY

SEC. 301. FINDINGS; DECLARATION OF PURPOSE; DEFINITIONS.

Title I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended to read as follows:

"TITLE I—FINDINGS AND DECLARATION OF PURPOSE

"SEC. 101. FINDINGS.

"Congress finds that—

"(1) during the past several years, the United States has experienced an alarming increase in arrests of adolescents for murder, assault, and weapons offenses;

"(2) in 1994, juveniles accounted for 1 in 5 arrests for violent crimes, including murder, robbery, aggravated assault, and rape, including 514 such arrests per 100,000 juveniles 10 through 17 years of age;

"(3) understaffed, overcrowded juvenile courts, prosecutorial and public defender offices, probation services, and correctional facilities no longer adequately address the changing nature of juvenile crime, protect the public, and correct youth offenders;

"(4) the juvenile justice system has proven inadequate to meet the needs of society, because insufficient sanctions are imposed on serious youth offenders and the needs of children, who may be at risk of becoming delinquents;

"(5) existing programs and policies have not adequately responded to the particular threat of drugs, alcohol abuse, violence, and gangs pose to the youth of the Nation;

"(6) demographic increases projected in the number of youth offenders require reexamination of the prosecution and incarceration policies for serious violent youth offenders;

"(7) State and local communities that experience directly the devastating failures of the juvenile justice system require assistance to deal comprehensively with the problems of juvenile delinquency;

"(8) Existing Federal programs have not provided the States with necessary flexibility, and have not provided coordination, resources, and leadership required to meet the crisis of youth violence.

"(9) Overlapping and uncoordinated Federal programs have created a multitude of Federal funding streams to State and local governments, that have become a barrier to effective program coordination, responsive public safety initiatives, and the provision of comprehensive services for children and youth.

"(10) Violent crime by juveniles constitutes a growing threat to the national welfare that requires an immediate and comprehensive governmental response, combining flexibility and coordinated evaluation.

"(11) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that status offenders be deinstitutionalized. Some communities believe that curfews are appropriate for juveniles, and those communities should not be prohibited by the Federal Government from using confinement for status offenses as a means of dealing with delinquent behavior before it becomes criminal conduct.

"(12) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that no juvenile be detained or confined in any jail or lockup for adults, because it can be feasible to separate adults and juveniles in 1 facility. This mandate is particularly burdensome for rural communities.

"(13) The role of the Federal Government should be to encourage and empower communities to develop and implement policies to protect adequately the public from serious juvenile crime as well as comprehensive programs to reduce risk factors and prevent juvenile delinquency.

"(14) A strong partnership among law enforcement, local government, juvenile and family courts, schools, businesses, philanthropic organizations, families, and the religious community, can create a community environment that supports the youth of the Nation in reaching their highest potential and reduces the destructive trend of juvenile crime.

"SEC. 102. PURPOSE AND STATEMENT OF POLICY.

"(a) In General.—The purposes of this Act are—

"(1) to protect the public and to hold juveniles accountable for their acts;

"(2) to empower States and communities to develop and implement comprehensive programs that support families and reduce risk factors and prevent serious youth crime and juvenile delinquency;

"(3) to provide for the thorough and ongoing evaluation of all federally funded programs addressing juvenile crime and delinquency;

"(4) to provide technical assistance to public and private nonprofit entities that protect public safety, administer justice and corrections to delinquent youth, or provide services to youth at risk of delinquency, and their families;

"(5) to establish a centralized research effort on the problems of youth crime and juvenile delinquency, including the dissemination of the findings of such research and all related data;

"(6) to establish a Federal assistance program to deal with the problems of runaway and homeless youth;

"(7) to assist State and local governments in improving the administration of justice for juveniles;

"(8) to assist the State and local governments in reducing the level of youth violence;

"(9) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

"(10) to encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

"(11) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

"(12) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;

"(13) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

"(14) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

"(15) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

"(16) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

"(17) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.

"(b) Statement of Policy.—It is the policy of Congress to provide resources, leadership, and coordination—

"(1) to combat youth violence and to prosecute and punish effectively violent juvenile offenders; and

"(2) to improve the quality of juvenile justice in the United States.

"SEC. 103. DEFINITIONS.

"In this Act:

"(1) Administrator.—The term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.

"(2) Construction.—The term 'construction' means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings).

"(3) Juvenile population.—The term 'juvenile population' means the population of a State under 18 years of age.

"(4) Office.—The term 'Office' means the Office of Juvenile Crime Control and Accountability established under section 201.

"(5) Outcome objective.—The term 'outcome objective' means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, such as incidence of arrest, the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement of youth gangs, and teenage pregnancy, among youth in the community.

"(6) Process objective.—The term 'process objective' means an objective that relates to the manner in which a program or initiative is carried out, including—

"(A) an objective relating to the degree to which the program or initiative is reaching the target population; and

"(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and incorporates activities that inhibit the behaviors and that build on protective factors for youth.

"(7) State.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(8) State office.—The term 'State office' means an office designated by the chief executive officer of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(9) Treatment.—The term 'treatment' includes medical and other rehabilitative services designed to protect the public, including any services designed to benefit addicts and other users by—

"(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or

"(B) controlling their dependence and susceptibility to addiction or use.

"(10) Youth.—The term 'youth' means an individual who is not less than 6 years of age and not more than 17 years of age.".

SEC. 302. YOUTH CRIME CONTROL AND ACCOUNTABILITY BLOCK GRANTS.

(a) Office of Juvenile Crime Control and Accountability.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

(1) in subsection (a), by striking "Office of Juvenile Justice and Delinquency Prevention" and inserting "Office of Juvenile Crime Control and Accountability"; and

(2) by adding at the end the following:

"(d) Delegation and Assignment.—

"(1) In general.—Except as otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may—

"(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of this Act, to such officers and employees of the Office as the Administrator may designate; and

"(B) authorize successive redelegations of such functions as may be necessary or appropriate.

"(2) Responsibility.—No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

"(e) Reorganization.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.".

(b) National Program.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended to read as follows:

"SEC. 204. NATIONAL PROGRAM.

"(a) National Juvenile Crime Control and Juvenile Offender Accountability Plan.—

"(1) In general.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities relating to improving juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

"(2) Contents of plans.—

"(A) In general.—Each plan described in paragraph (1) shall—

"(i) contain specific, measurable goals and criteria for reducing the incidence of crime and delinquency among juveniles, improving juvenile crime control, and ensuring accountability by offenders within the juvenile justice system in the United States, and shall include criteria for any discretionary grants and contracts, for conducting research, and for carrying out other activities under this title;

"(ii) provide for coordinating the administration of programs and activities under this title with the administration of all other Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator;

"(iii) provide a detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by such data.

"(iv) provide a description of the activities for which amounts are expended under this title;

"(v) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

"(vi) provide for the coordination of Federal, State, and local initiatives for the reduction of youth crime and ensuring accountability for juvenile offenders.

"(B) SUMMARY AND ANALYSIS.—Each summary and analysis under subparagraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

"(i) the types of offenses with which the juveniles are charged;

"(ii) the ages of the juveniles;

"(iii) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

"(iv) the number of juveniles who died while in custody and the circumstances under which each juvenile died.

"(3) ANNUAL REVIEW.—The Administrator shall annually—

"(A) review each plan submitted under this subsection;

"(B) revise the plans, as the Administrator considers appropriate; and

"(C) not later than March 1 of each year, present the plans to the Committees on the Judiciary of the Senate and the House of Representatives.

"(b) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall—

"(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control and juvenile offender accountability programs, and Federal policies regarding juvenile crime and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

"(2) implement and coordinate Federal juvenile crime control and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control and juvenile offender accountability effort;

"(3) provide for the auditing of grants provided pursuant to this title;

"(4) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less frequently than once each calendar year, a report on successful programs and juvenile crime reduction methods utilized by States, localities, and private entities;

"(5) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

"(A) be independent in nature, and shall employ rigorous and scientifically valid standards and methodologies; and

"(B) include measures of outcome and process objectives, such as reductions in juvenile crime, youth gang activity, youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

"(6) involve consultation with appropriate authorities in the States and with appropriate private entities in the development, review, and revision of the plans required by subsection (a) and in the development of policies relating to juveniles prosecuted or adjudicated in the Federal courts; and

"(7) provide technical assistance to the States, units of local government, and private entities in implementing programs funded by grants under this title.

"(c) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY BUDGET.—

"(1) IN GENERAL.—The Administrator shall—

"(A) develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities for any Federal juvenile crime control or juvenile offender accountability program, a consolidated National Juvenile Crime Control and Juvenile Offender Accountability Plan budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Plan; and

"(B) transmit such budget proposal to the President and to Congress.

"(2) SUBMISSION OF JUVENILE OFFENDER ACCOUNTABILITY BUDGET REQUEST.—

"(A) IN GENERAL.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountability program shall submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

"(B) TIMELY DEVELOPMENT AND SUBMISSION.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall ensure timely development and submission to the Administrator of juvenile crime control and juvenile offender accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget.

"(3) REVIEW AND CERTIFICATION.—The Administrator shall—

"(A) review each juvenile crime control and juvenile offender accountability budget request transmitted to the Administrator under paragraph (2);

"(B) certify in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

"(C) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

"(4) RECORDKEEPING REQUIREMENT.—The Administrator shall maintain records regarding certifications under paragraph (3)(B).

"(5) FUNDING REQUESTS.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

"(6) REPROGRAMMING AND TRANSFER REQUESTS.—

"(A) IN GENERAL.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated amounts greater than $5,000,000 that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request has been approved by the Administrator.

"(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program may appeal to the President any disapproval by the Administrator of a reprogramming or transfer request.

"(7) QUARTERLY REPORTS.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts for National Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

"(d) INFORMATION, REPORTS, STUDIES, AND SURVEYS FROM OTHER AGENCIES.—The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile crime control and juvenile offender accountability program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator determines to be necessary to carry out the purposes of this title.

"(e) UTILIZATION OF SERVICES AND FACILITIES OF OTHER AGENCIES; REIMBURSEMENT.—The Administrator may utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(f) COORDINATION OF FUNCTIONS OF ADMINISTRATOR AND SECRETARY OF HEALTH AND HUMAN SERVICES.—All functions of the Administrator under title shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III.

"(g) ANNUAL JUVENILE DELINQUENCY DEVELOPMENT STATEMENTS.—

"(1) IN GENERAL.—The Administrator shall require through appropriate authority each Federal agency that administers a Federal juvenile crime control and juvenile offender accountability program to submit annually to the Office a juvenile crime control and juvenile offender accountability development statement. Such statement shall be in addition to any information, report, study, or survey that the Administrator may require under subsection (d).

"(2) CONTENTS.—Each development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability prevention and treatment goals and policies.

"(3) REVIEW AND COMMENT.—

"(A) IN GENERAL.—The Administrator shall review and comment upon each juvenile crime control and juvenile offender accountability development statement transmitted to the Administrator under paragraph (1).

"(B) INCLUSION IN OTHER DOCUMENTATION.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation that significantly affects juvenile crime control and juvenile offender accountability.

"(h) JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY INCENTIVE BLOCK GRANTS.—

"(1) IN GENERAL.—The Administrator shall make, subject to the availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of graduated sanctions) of crimes or acts of delinquency committed by juveniles, programs to improve the administration of justice for and ensure accountability by juvenile offenders, and programs to reduce the risk factors (such as truancy, drug or alcohol use, and gang involvement) associated with juvenile crime or delinquency.

"(2) USE OF GRANTS.—Grants under this title may be used—

"(A) for programs to enhance the identification, investigation, prosecution, and punishment of juvenile offenders, such as—

"(i) the utilization of graduated sanctions;

"(ii) the utilization of short-term confinement of juveniles who are charged with or who are convicted of—

"(I) a crime of violence (as that term is defined in section 16 of title 18, United States Code);

"(II) an offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(III) an offense involving possession of a firearm (as that term is defined in section 921(a) of title 18, United States Code); or

"(IV) an offense involving possession of a destructive device (as that term is defined in section 921(a) of title 18, United States Code);

"(iii) the hiring of prosecutors, judges, and probation officers to implement policies to control juvenile crime and ensure accountability of juvenile offenders; and

"(iv) the incarceration of violent juvenile offenders for extended periods of time (including up to the length of adult sentences);

"(B) for programs that provide restitution to the victims of crimes committed by juveniles;

"(C) for programs that require juvenile offenders to attend and successfully complete school or vocational training;

"(D) for programs that require juvenile offenders who are parents to demonstrate parental responsibility by working and paying child support;

"(E) for programs that seek to curb or punish truancy;

"(F) for programs designed to collect, record, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests;

"(G) for programs that provide that, whenever a juvenile who is not less than 14 years of age is adjudicated delinquent, as defined by Federal or State law in a juvenile delinquency proceeding for conduct that, if committed by an adult, would constitute a felony under Federal or State law, the State shall ensure that a record is kept relating to the adjudication that is—

"(i) equivalent to the record that would be kept of an adult conviction for such an offense;

"(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

"(iii) made available to law enforcement agencies of any jurisdiction; and

"(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, under Federal and State law, for handling and disclosing such information;

"(H) for juvenile crime control and prevention programs (such as curfews, youth organizations, antidrug programs, antigang programs, and after school activities) that include a rigorous, comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

"(I) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and treatment of the most serious juvenile offenses and offenders, sometimes known as a 'SHOCAP Program' (Serious Habitual Offenders Comprehensive Action Program); or

"(J) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and disruption of youth gangs.

"(3) REQUIREMENTS.—To be eligible to receive a grant under this title, a State shall make reasonable efforts, as certified by the Governor, to ensure that, not later than July 1, 2000—

"(A) juveniles age 14 and older can be prosecuted under State law as adults, as a matter of law or prosecutorial discretion for a crime of violence (as that term is defined in section 16 of title 18, United States Code) such as murder or armed robbery, an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or the unlawful possession of a firearm (as that term is defined in section 921(a) of title 18, United States Code) or a destructive device (as that term is defined in section 921(a) of title 18, United States Code);

"(B) the State has in place a system of graduated sanctions for juvenile offenders;

"(C) the State has in place a juvenile court system that treats juvenile offenders uniformly throughout the State;

"(D) the State collects, records, and disseminates information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests (if taken), to other Federal, State, and local law enforcement agencies;

"(E) the State ensures that religious organizations can participate in rehabilitative programs designed to purposes authorized by this title; and

"(F) the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined.

"(j) DISTRIBUTION BY STATE OFFICES TO ELIGIBLE APPLICANTS.—

"(1) IN GENERAL.—Of amounts made available to the State, not more than 20 percent shall be used for programs pursuant to paragraph (2)(ii).

"(2) ELIGIBLE APPLICANTS.—Entities eligible to receive amounts distributed by the State office under this title are—

"(A) a unit of local government;

"(B) local police or sheriff's departments;

"(C) State or local prosecutor's offices;

"(D) State or local courts responsible for the administration of justice in cases involving juvenile offenders;

"(E) schools;

"(F) nonprofit, educational, religious, or community groups active in crime prevention or drug use prevention and treatment; or

"(G) any combination of the entities described in subparagraphs (A) through (F).

"(k) APPLICATION TO STATE OFFICE.—

"(1) IN GENERAL.—To be eligible to receive amounts from the State office, the applicant shall prepare and submit to the State office an application in written form that—

"(A) describes the types of activities and services for which the amount will be provided;

"(B) includes information indicating the extent to which the activities and services achieve the purposes of the title;

"(C) provide for the evaluation component required by subsection (b)(2), which evaluation shall be conducted by an independent entity; and

"(D) provides any other information that the State office may require.

"(2) PRIORITY.—In approving applications under this subsection, the State office should give priority to those applicants demonstrating coordination with, consolidation of, or expansion of existing State or local juvenile crime control and juvenile offender accountability programs.

"(l) FUNDING PERIOD.—The State office may award such a grant for a period of not more than 3 years.

"(m) RENEWAL OF GRANTS.—The State office may renew grants made under this title. After the initial grant period, in determining whether to renew a grant to an entity to carry out activities, the State office shall give substantial weight to the effectiveness of the activities in achieving reductions in crimes committed by juveniles and in improving the administration of justice to juvenile offenders.

"(n) SPECIAL GRANTS.—Of amounts made available under this title in any fiscal year, the Administrator may use—

"(1) not more than 7 percent for grants for research and evaluation;

"(2) not more than 3 percent for grants to Indian tribes for purposes authorized by this title; and

"(3) not more than 5 percent for salaries and expenses of the Office related to administering this title.".

(c) Repeals; Administrative Provisions.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking sections 206 and 207 and inserting the following:

"SEC. 206. ALLOCATION OF GRANTS AND AUTHORIZATION OF APPROPRIATIONS.—

"(a) Allocation of Grant Amounts.—

"(1) In general.—Amounts made available under section 204(h) or part B shall be allocated to the States as follows:

"(A) 0.25 percent shall be allocated to each State; and

"(B) of the total amount remaining after the allocation under subparagraph (A), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the juvenile population of such State bears to the juvenile population of all the States.

"(2) Exceptions.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

"(3) Reallocation prohibited.—Any amounts appropriated but not allocated due to the ineligibility or nonparticipation of any State shall not be reallocated, but shall revert to the Treasury at the end of the fiscal year for which they were appropriated.

"(4) Restrictions on the use of amounts.—

"(A) Experimentation on individuals.—

"(i) In general.—No amounts made available to carry out this title may be used for any biomedical or behavior control experimentation on individuals or any research involving such experimentation.

"(ii) Definition of 'behavior control'.—In this subparagraph, the term 'behavior control'—

"(I) means any experimentation or research employing methods that—

"(aa) involve a substantial risk of physical or psychological harm to the individual subject; and

"(bb) are intended to modify or alter criminal and other antisocial behavior, including aversive conditioning therapy, drug therapy, chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment; and

"(II) does not include a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

"(B) Prohibition against use of amounts in construction.—No amount made available to any public or private agency, or institution or to any individual under this title (either directly or through a State office) may be used for construction, except for minor renovations or additions to an existing structure.

"(C) Job training.—No amount made available under this title may be used to carry out a youth employment program to provide subsidized employment opportunities, job training activities, or school-to-work activities for participants.

"(D) Lobbying.—

"(i) In general.—Except as provided in clause (ii), no amount made available under this title to any public or private agency, organization, or institution or to any individual shall be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or other legislation, or any referendum, initiative, constitutional amendment, or any other procedure of Congress, any State legislature, any local council, or any similar governing body.

"(ii) Exception.—This subparagraph does not preclude the use of amounts made available under this title in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(E) Legal action.—No amounts made available under this title to any public or private agency, organization, institution, or to any individual, shall be used in any way directly or indirectly to file an action or otherwise take any legal action against any Federal, State, or local agency, institution, or employee.

"(F) Religious organizations.—

"(i) In general.—The purpose of this subparagraph is to allow State and local governments to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

"(ii) Nondiscrimination against religious organizations.—If a State or local government exercises its authority under religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in this title, so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in clause (x), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

"(iii) Religious character and freedom.—

"(I) Religious organizations.—A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

"(II) Additional safeguards.—Neither the Federal Government nor a State shall require a religious organization to—

"(aa) alter its form of internal governance; or

"(bb) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursements, funded under a program described in this title.

"(iv) Rights of beneficiaries of assistance.—If juvenile offender has an objection to the religious character of the organization or institution from which the juvenile offender receives, or would receive, assistance funded under any program described in this title, the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider.

"(v) Employment practices.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

"(vi) Nondiscrimination against beneficiaries.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this title on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

"(vii) Fiscal accountability.—

"(I) In general.—Subject to subclause (II), any religious organization contracting to provide assistance funded under any program described in clause (i)(II) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

"(II) Limited audit.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

"(viii) Compliance.—Any party which seeks to enforce its rights under this subparagraph may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

"(ix) Limitations on use of funds for certain purposes.—No funds provided directly to institutions or organizations to provide services and administer programs under this title shall be expended for sectarian worship, instruction, or proselytization.

"(x) Preemption.—Nothing in this subparagraph shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

"(5) Penalties.—

"(A) In general.—If any amounts are used for the purposes prohibited in either subparagraph (D) or (E) of paragraph (4)—

"(i) all funding for the agency, organization, institution, or individual at issue shall be immediately discontinued;

"(ii) the agency, organization, institution, or individual using amounts for the purpose prohibited in subparagraph (D) or (E) of paragraph (4) shall be liable for reimbursement of all amounts granted to the individual or entity for the fiscal year for which the amounts were granted.

"(B) Liability for expenses and damages.—In relation to a violation of paragraph (4)(D), the individual filing the lawsuit or responsible for taking the legal action against the Federal, State, or local agency or institution, or individual working for the Government, shall be individually liable for all legal expenses and any other expenses of the government agency, institution, or individual working for the Government, including damages assessed by the jury against the Government agency, institution, or individual working for the government, and any punitive damages.

"(b) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to carry out this title—

"(A) $650,000,000 for fiscal year 1998;

"(B) $650,000,000 for fiscal year 1999;

"(C) $650,000,000 for fiscal year 2000;

"(D) $650,000,000 for fiscal year 2001; and

"(E) $650,000,000 for fiscal year 2002.

"(2) Allocation of appropriations.—Of amounts authorized to be appropriated under paragraph (1) in each fiscal year—

"(A) $500,000,000 shall be for programs under section 204(h); and

"(B) $150,000,000 shall be for programs under part B.

"(3) Availability of funds.—Amounts made available pursuant to this subsection, and allocated pursuant to paragraph (1) in any fiscal year shall remain available until expended.

"SEC. 207. ADMINISTRATIVE PROVISIONS.

"(a) Authority of Administrator.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

"(b) Applicability of Certain Crime Control Provisions.—Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), 3789g(d)) shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

"(1) any reference to the Office of Justice Programs in such sections shall be considered to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

"(2) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

"(c) Applicability of Certain Other Crime Control Provisions.—Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3787) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

"(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator;

"(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

"(3) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

"(d) Rules, Regulations, and Procedures.—The Administrator may, after appropriate consultation with representatives of States and units of local government, establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

"(e) Withholding.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title.";

(2) in part B—

(A) in section 221(b)—

(i) in paragraph (1)—

(I) by striking "section 223" and inserting "section 222"; and

(II) by striking "section 223(c)" and inserting "section 222(c)"; and

(ii) in paragraph (2), by striking "section 299(c)(1)" and inserting "section 222(a)(1)"; and

(B) by striking sections 222 and 223 and inserting the following:

"SEC. 222. STATE PLANS.

"(a) In General.—In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

"(1) designate a State agency as the sole agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

"(3) provide for the active consultation with and participation of units of general local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies, including religious organizations;

"(4) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

"(5)(A) provide for—

"(i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction;

"(ii) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and

"(iii) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

"(B) contain—

"(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(C) contain—

"(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

"(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;

"(6) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, recreation, health, and welfare within the State;

"(7) provide for the development of an adequate research, training, and evaluation capacity within the State;

"(8) provide that not less than 75 percent of the funds made available to the State pursuant to grants under section 221, whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

"(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

"(i) for youth who can remain at home with assistance, home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(ii) for youth who need temporary placement, crisis intervention, shelter, and aftercare; and

"(iii) for youth who need residential placement, a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

"(B) community-based programs and services to work with—

"(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

"(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and "(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

"(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

"(E) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

"(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

"(I) education in settings that promote experiential, individualized learning and exploration of academic and career options;

"(II) assistance in making the transition to the world of work and self-sufficiency;

"(III) alternatives to suspension and expulsion; and

"(IV) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

"(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

"(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

"(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

"(i) a sense of safety and structure;

"(ii) a sense of belonging and membership;

"(iii) a sense of self-worth and social contribution;

"(iv) a sense of independence and control over one's life;

"(v) a sense of closeness in interpersonal relationships; and

"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

"(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

"(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

"(9) provide for the development of an adequate research, training, and evaluation capacity within the State;

"(10) provide that the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined;

"(11) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (10) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (10), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

"(12) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;

"(13) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

"(14) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

"(15) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

"(16) provide reasonable assurances that Federal funds made available under this part for any period shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and shall in no event replace such State, local, and other non-Federal funds; and

"(17) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary.

"(b) APPROVAL BY STATE AGENCY.—The State agency designated under subsection (a)(1) shall approve the State plan and any modification thereof prior to submission to the Administrator.

"(c) APPROVAL BY ADMINISTRATOR; COMPLIANCE WITH STATUTORY REQUIREMENTS.—

"(1) IN GENERAL.—The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(2) REDUCED ALLOCATIONS.—If a State fails to comply with any requirement of subsection (a)(8) in any fiscal year beginning after January 1, 1998, the State shall be ineligible to receive any allocation under that section for such fiscal year unless—

"(A) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with subsection (a)(4)(C)) for that fiscal year only to achieve compliance with such paragraph; or

"(B) the Administrator determines, in the discretion of the Administrator, that the State—

"(i) has achieved substantial compliance with such paragraph; and

"(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and

(3) by striking parts C, D, E, F, G, and H, and each part designated as part I.

SEC. 303. RUNAWAY AND HOMELESS YOUTH.

Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002"; and

(B) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002"; and

(3) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1998, 1999, 2000, 2001, and 2002".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) in section 403, by striking paragraph (2) and inserting the following:

"(2) the term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.";

(2) by striking section 404; and

(3) in section 408, by striking "1993, 1994, 1995, and 1996" and inserting "1998, 1999, 2000, 2001, and 2002".

SEC. 305. REPEAL.

Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is repealed.

SEC. 306. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) DEFINITIONS.—In this section, unless otherwise provided or indicated by the context—

(1) the term "Administrator of the Office" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention;

(2) the term "Bureau of Justice Assistance" means the bureau established under section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968;

(3) the term "Administrator" means the Administrator of the Office of Juvenile Crime Control and Accountability established by operation of subsection (b);

(4) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code;

(5) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(6) the term "Office of Juvenile Crime Control and Accountability" means the office established by operation of subsection (b);

(7) the term "Office of Juvenile Justice and Delinquency Prevention" means the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, established by section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act; and

(8) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Office of Juvenile Crime Control and Accountability all functions that the Administrator of the Office exercised before the date of enactment of this Act (including all related functions of any officer or employee of the Office of Juvenile Justice and Delinquency Prevention), and authorized after the enactment of this Act, relating to carrying out the Juvenile Justice and Delinquency Prevention Act of 1974.

(c) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided in this section and in section 101(a) (relating to Juvenile Justice Programs) of the Omnibus Consolidated Appropriations Act, 1997, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office of Juvenile Crime Control and Accountability.

(2) UNEXPENDED AMOUNTS.—Any unexpended amounts transferred pursuant to this subsection shall be used only for the purposes for which the amounts were originally authorized and appropriated.

(d) INCIDENTAL TRANSFERS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, at such time or times as the Director of that Office shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section.

(2) TERMINATION OF AFFAIRS.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(e) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day before the date of enactment of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office of Juvenile Crime Control and Accountability to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(3) TRANSITION RULE.—

(A) IN GENERAL.—The incumbent Administrator of the Office as of the date immediately preceding the date of enactment of this Act shall continue to serve as Administrator after the enactment of this Act until such time as the incumbent resigns, is relieved of duty by the President, or an Administrator is appointed by the President, by and with the advice and consent of the Senate.

(B) NOMINEE.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Senate for consideration the name of the individual nominated to be appointed as the Administrator.

(f) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that are in effect at the time this section takes effect, or were final before the date of enactment of this Act and are to become effective on or after the date of enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—

(A) IN GENERAL.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Juvenile Justice and Delinquency Prevention on the date on which this section takes effect, with respect to functions transferred by this section but such proceedings and applications shall be continued.

(B) ORDERS; APPEALS; PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(C) DISCONTINUANCE OR MODIFICATION.—Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this paragraph had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the date of enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Office of Juvenile Justice and Delinquency Prevention, or by or against any individual in the official capacity of such individual as an officer of the Office of Juvenile Justice and Delinquency Prevention, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Office of Juvenile Justice and Delinquency Prevention relating to a function transferred under this section may be continued, to the extent authorized by this section, by the Office of Juvenile Crime Control and Accountability with the same effect as if this section had not been enacted.

(g) TRANSITION.—The Administrator may utilize—

(1) the services of such officers, employees, and other personnel of the Office of Juvenile Justice and Delinquency Prevention with respect to functions transferred to the Office of Juvenile Crime Control and Accountability by this section; and

(2) amounts appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(h) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Administrator of the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Administrator of the Office of Juvenile Crime Control and Accountability; and

(2) the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Office of Juvenile Crime Control and Accountability.

(i) TECHNICAL AND CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking "Administrator, Office of Juvenile Crime Control and Accountability".

SEC. 307. REPEAL OF UNNECESSARY AND DUPLICATIVE PROGRAMS.

(a) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(1) TITLE III.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13741 et seq.) is amended by striking subtitles A through S, subtitle U, and subtitle X.

(2) TITLE V.—Title V of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3797 et seq.) is repealed.

(3) TITLE XXVII.—Title XXVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14191 et seq.) is repealed.

(b) ELEMENTARY AND SECONDARY EDUCATION ACT.—

(1) TITLE IV.—Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101) is repealed.

(2) TITLE V.—Part C of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is repealed.

(d) PUBLIC HEALTH SERVICE ACT.—Section 517 of the Public Health Service Act (42 U.S.C. 290bb–23) is repealed.

(e) HUMAN SERVICES REAUTHORIZATION ACT.—Section 408 of the Human Services Reauthorization Act is repealed.

(f) COMMUNITY SERVICES BLOCK GRANTS ACT.—Section 682 of the Community Services Block Grants Act (42 U.S.C. 9901) is repealed.

(g) ANTI-DRUG ABUSE ACT.—Subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801 et seq.) is amended by striking chapters 1 and 2.

SEC. 308. HOUSING JUVENILE OFFENDERS.

Section 20105(a)(1) of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(a)(1)) is amended by striking "15" and inserting "30".

SEC. 309. CIVIL MONETARY PENALTY SURCHARGE.

(a) IMPOSITION.—Subject to subsection (b) and notwithstanding any other provision of law, a surcharge of 40 percent of the principal amount of a civil monetary penalty shall be added to each civil monetary penalty assessed by the United States or any agency thereof at the time the penalty is assessed.

(b) LIMITATION.—This section does not apply to any monetary penalty assessed under the Internal Revenue Code of 1986.

(c) USE OF SURCHARGES.—Amounts collected from the surcharge imposed under this section shall be used for Federal programs to combat youth violence.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—A surcharge under subsection (b) shall be added to each civil monetary penalty assessed on or after the later of October 1, 1997 and the date of enactment of this Act.

(2) EXPIRATION OF AUTHORITY.—The authority to add a surcharge under this subsection shall terminate at the close of September 30, 2002.

By Mr. DASCHLE (for himself, Mr. FORD, Mr. GLENN, Mr. LEVIN, Ms. MIKULSKI, Mr. REID, Ms. MOSELEY-BRAUN, Mr. DURBIN, Mr. WELLSTONE, Mr. KERRY, and Mr. LAUTENBERG):

S. 11. A bill to reform the Federal election campaign laws applicable to Congress; to the Committee on Rules and Administration.

CONGRESSIONAL ELECTION CAMPAIGN SPENDING LIMIT AND REFORM ACT OF 1997

Mr. LEVIN. Mr. President, this Congress faces no more important task in these first few months than passing legislation to reform the campaign finance system. We just witnessed the most expensive campaign in the history of our country. According to the Washington Post, both major political party committees raised over $880 million in 1995 and 1996. That is estimated to be a 73 percent increase since the last Presidential election cycle.

The increase in "soft" money raised by the parties during that same period was threefold—a 300 percent increase in "soft" money raised by the parties. The Washington Post again estimates that "soft" money contributions for 1995 and 1996 for Democrats was about $122 million, "soft" money contributions for Republicans was about $141 million. For a system that was supposed to eliminate contributions from corporations and unions, we have seen corporations and unions contribute or spend millions of dollars to aid in the election or defeat of congressional and Presidential candidates.

For a system that was supposed to cap contributions from individuals at no more than $25,000 a year to national political parties and individual campaigns combined, we have seen hundreds of contributions from individuals to both parties that equal or exceed $100,000. For a system that was supposed to require that campaign advertisements be paid for with money subject to the contribution restrictions of our campaign finance laws, we have seen probably hundreds of commercials, many of which had a significant impact on the outcome of elections in which they were run, hundreds of commercials paid for with unregulated, unrestricted, undisclosed, so-called "soft" money.

For the vast majority of these ads, the public does not know the basic facts of who contributed to the payments for these ads or how much was spent to air them. For years, we have pretended that we actually have had somewhat meaningful restrictions on campaign contributions. But with this past election cycle, the facade has fallen and we are faced with the naked truth that this system is wide open.

That is why I am joining with Senator DASCHLE today in sponsoring his proposal for campaign finance reform which would eliminate or rein in many of the worst loopholes in the current system including the raising and spending of unregulated or "soft" money, independent expenditures by national parties, and campaign ads which masquerade as so-called issue ads.

Senator DASCHLE's bill is a comprehensive response to the problem and on balance it is an achievable and meaningful reform proposal. Senator DASCHLE has incorporated in his bill several provisions that I authored dealing with issue ads and independent expenditures by parties. The approach that my provision in this bill takes with respect to so-called issue ads is to redefine "express advocacy" to include any advertising broadcast on radio or television 90 days before a primary or general election which specifically mentions a candidate.

The Supreme Court has tried to draw a bright line in defining "express advocacy" by applying it only to those ads which include certain magic phrases like "Vote for Mrs. X" or "Defeat Mr. Y." Such a test though leaves out ads which target a specific candidate and do not use the magic words that deliver the same message—for example, an ad that says, "Write to candidate Z and let him know how you feel" about an issue, which the ad has just strongly advocated or attacked.

Now, my approach would treat any broadcast ad, any broadcast ad that appears within 90 days of an election in which a candidate is explicitly mentioned as "express advocacy" and payable therefore out of regulated funds. The approach which my provision takes with respect to independent expenditures by a party is to require a party to choose between making coordinated expenditures on behalf of a candidate or making independent expenditures. A party would not be allowed to have it both ways. And that is because it is impossible, practically speaking, for a national party to be truly independent from a candidate if it is also engaged in coordinated expenditures on that candidate's behalf. To argue otherwise defies common sense. It is one way or the other. If there is a coordinated campaign on the candidate's behalf, it is kind of hard to argue that that same national party can engage in coordinated expenditures relative to that campaign.

We should not delay the consideration of campaign finance reform legislation, but we can always find a reason not to do it. This year there is a new reason. I have heard the suggestion that we should put off consideration of campaign finance reform until the hearings before the Governmental Affairs Committee on campaign finance irregularities are finished, but the argument for delay has been used in one form or another for many, many Congresses and our job now is to show the American people that we can do it and we can do it now.

The typical sophisticated analysis of the likelihood of campaign finance reform is that any reform is virtually impossible. "It will not happen," you hear among those so-called well-informed folks. "The gap simply cannot be bridged," some people say.

We witnessed the end of the cold war 5 years ago. No one ever thought that was going to end. If we can achieve the end of the nuclear arms race, we surely can achieve the end of the money race in the American campaign system. I think most of us—and I, surely—want to be part of that effort. I want to do whatever it takes to facilitate action now. That is why I will be introducing in the next few days a more limited form of campaign finance reform to address certain limited, specific, but extensive abuses. Then, if we come to loggerheads over a comprehensive approach with more limited bills being offered as backups, there will be no excuse to not tackle at least some of the more pressing problems.

Let me take a minute, Mr. President, to show you how out of kilter this system has become. There's an article in today's Roll Call about the treatment of the Business Roundtable by the Republican Party. Now the Business Roundtable, which is an organization of the biggest and most influential corporations in America, doesn't need me or anybody else, probably, to stand up for it. I am sure it can handle itself quite adequately when it is picked on. But when you have the Republican Party calling in 24 CEO's of companies who are members of the Business Roundtable to begin the "process of behavior modification" according to the persons who spoke to Roll Call, you've got a serious problem.

According to Roll Call,

> Still angry that big business failed to adequately bankroll their campaigns and counter the AFL–CIO's onslaught of attack ads last fall, the Republicans want the BRT (Business Roundtable) to purge Democrats from its staff of nine directors.

"You have to fix the problem. You have to fix the Business Roundtable," one Republican source said, according to Roll Call, "explaining that the GOP leadership is urging the prestigious organization of corporate bigwigs to purge its staff."

The article goes on.

> The lawmakers are also urging the CEOs of some 200 corporations that comprise the BRT to dump their Democratic lobbyists, hire Republicans, and significantly increase the percentage of PAC contributions that go to GOP candidates.

Later on, the article says,

> If the Republicans can get the BRT to change its ways the payoff could be big. Just as Willie Sutton robbed banks because "that's where the money is," the GOP Congressional leaders realize that BRT members could handily boost Republican election efforts if the BRT would agree to fund issue-advocacy campaigns in future elections.

What a sad state of affairs, Mr. President. Congressional leaders, according to this article, are trying to pressure a private organization as to whom its members should employ to lobby their offices, the amount of support these corporations should give to their party activities and how they should spend their money to influence elections on issue ads. And it is all done with what seems to be a threat—a "do this or else" attitude.

The Wall Street Journal, reporting on this CEO meeting, suggests that the threat is more explicit than implied. The Wall Street Journal of January 9, 1997, reported:

> Companies that want to have it both ways, vows one top GOP strategist, no longer will be involved in Republican decision-making "or invited to our cocktail parties."

And this action is not because the Business Roundtable did not contribute to Republican candidates. No, according to the Wall Street Journal, the BRT gave twice as much to Republicans as they did to Democrats—$25 million to Republicans and only $11 million to Democrats. It is not enough that the BRT members already give to Republicans, they "should give a bigger percentage to the Republicans" than they are now giving, according to Haley Barbour, the Republican Party Chairman.

This is punishment, Mr. President, to be imposed on an organization by party and Congressional leaders. That is the message behind this action—no money, no access—and it looks awful. That is how far we have come in this scramble for campaign money, and that is why we have to make the effort now to get going on campaign finance reform.

Mr. President, I ask unanimous consent the two articles I referred to be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Congressional Election Campaign Spending Limit and Reform Act of 1997".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Ban on activities of political action committees in senate elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by candidates other than eligible senate candidates.
Sec. 105. Excess campaign funds of senate candidates.
Sec. 106. Contribution limit for eligible senate candidates.

Subtitle B—General Provisions

Sec. 111. Broadcast rates and preemption.
Sec. 112. Reporting requirements for certain independent expenditures.
Sec. 113. Campaign advertising amendments.
Sec. 114. Definitions.
Sec. 115. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Definition of independent expenditure.
Sec. 202. Independent versus coordinated expenditures by political party committees.
Sec. 203. Treatment of qualified nonprofit corporations.
Sec. 204. Equal broadcast time.

TITLE III—EXPENDITURES

Subtitle A—Personal Funds; Credit

Sec. 301. Contributions and loans from personal funds.
Sec. 302. Extensions of credit.

Subtitle B—Soft Money of Political Parties

Sec. 311. Preparation and distribution by volunteers of materials in connection with State and local political party voter registration and get-out-the-vote activities so as not to be considered a contribution or expenditure.
Sec. 312. Contributions to political party committees.
Sec. 313. Provisions relating to national, State, and local party committees.
Sec. 314. Restrictions on fundraising by candidates and officeholders.
Sec. 315. Reporting requirements.

Subtitle C—Soft Money of Persons Other Than Political Parties

Sec. 321. Soft money of persons other than political parties.

TITLE IV—CONTRIBUTIONS

Sec. 401. Prohibition of certain contributions by lobbyists.
Sec. 402. Contributions by dependents not of voting age.
Sec. 403. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 404. Contributions and expenditures using money secured by physical force or other intimidation.
Sec. 405. Prohibition of acceptance by a candidate of cash contributions from any one person aggregating more than $100.

TITLE V—AUTHORITIES AND DUTIES OF THE FEDERAL ELECTION COMMISSION

Sec. 501. Filing of reports using computers and facsimile machines.
Sec. 502. Increase in threshold for reporting requirements.
Sec. 503. Audits.
Sec. 504. Authority to seek injunction.
Sec. 505. Penalties.
Sec. 506. Independent litigating authority.
Sec. 507. Reference of suspected violation to the attorney general.
Sec. 508. Powers of the commission.

TITLE VI—MISCELLANEOUS

Sec. 601. Prohibition of leadership committees.
Sec. 602. Telephone voting by persons with disabilities.

Sec. 603. Certain tax-exempt organizations not subject to corporate limits.
Sec. 604. Aiding and abetting violations of the Federal election campaign act of 1971.
Sec. 605. Campaign advertising that refers to an opponent.
Sec. 606. Limit on congressional use of the franking privilege.
Sec. 607. Participation by foreign nationals in political activities.
Sec. 608. Certification of compliance with foreign contribution and solicitation limitations.

TITLE VII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 701. Effective date.
Sec. 702. Budget neutrality.
Sec. 703. Severability.
Sec. 704. Expedited review of constitutional issues.
Sec. 705. Regulations.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. DEFINITIONS.

"In this title:

"(1) ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate who is certified under section 505 as being eligible to receive benefits under this title.

"(2) EXCESS EXPENDITURE AMOUNT.—The term 'excess expenditure amount', with respect to an eligible Senate candidate, means the amount applicable to the eligible Senate candidate under section 504(b).

"(3) EXPENDITURE.—The term 'expenditure' has the meaning given in paragraph (9) of section 301, excluding subparagraph (B)(ii) of that paragraph.

"(4) GENERAL ELECTION EXPENDITURE LIMIT.—The term 'general election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(b).

"(5) PERSONAL FUNDS EXPENDITURE LIMIT.—The term 'personal funds expenditure limit' means the limit stated in section 503(a).

"(6) PRIMARY ELECTION EXPENDITURE LIMIT.—The term 'primary election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 502(d)(1)(A).

"(7) RUNOFF ELECTION EXPENDITURE LIMIT.—The term 'runoff election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 502(d)(1)(B).

"SEC. 502. ELIGIBLE SENATE CANDIDATES.

"(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

"(1) files a primary election eligibility declaration under subsection (b) and is in compliance with the representations made in the declaration;

"(2) files a general election eligibility certification and declaration under subsection (c) and is in compliance with the representations made in the certification and declaration; and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY ELECTION ELIGIBILITY DECLARATION.—

"(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will accept only an amount of contributions for the primary and runoff elections that does not exceed those limits;

"(B) the candidate and the candidate's authorized committees will meet the personal funds expenditure limit;

"(C) the candidate and the candidate's authorized committees will meet the general election expenditure limit; and

"(D) the candidate and the candidate's authorized committees will meet the closed captioning requirements of section 510.

"(2) DEADLINE FOR FILING DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION ELIGIBILITY CERTIFICATION AND DECLARATION.—

"(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate—

"(A) a certification, under penalty of perjury, that—

"(i) the candidate and the candidate's authorized committees—

"(I) met the primary and runoff election expenditure limits under subsection (d); and

"(II) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to the current election cycle from a preceding election cycle;

"(ii) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement; and

"(iii) at least 1 other candidate has qualified for the same general election ballot under the law of the candidate's State; and

"(B) a declaration that the candidate and the authorized committees of the candidate—

"(i) except as otherwise provided by this title, will not make expenditures that exceed the general election expenditure limit;

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election to the extent that the contribution would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit and the amounts described in subsections (c), (d), and (e) of section 503, reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii)(II);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

"(vi) will cooperate in the case of any audit and examination by the Commission under section 506 and will pay any amounts required to be paid under that section; and

"(vii) will meet the closed captioning requirements of section 510.

"(2) DEADLINE FOR FILING CERTIFICATION.—The certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date on which the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—

"(1) IN GENERAL.—The requirements of this subsection are met if—

"(A) the candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit; or

"(ii) $2,750,000; and

"(B) the candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit.

"(2) INDEXING.—The $2,750,000 amount under paragraph (1)(A)(ii) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 1996.

"(3) INCREASE.—The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, the candidate during the primary or runoff election period, whichever is applicable, that are required to be reported to the Secretary of the Senate or to the Commission with respect to that period under section 304.

"(4) EXCESS AMOUNT OF CONTRIBUTIONS.—

"(A) IN GENERAL.—If the contributions received by a candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either election—

"(i) the excess amount of contributions shall be treated as contributions for the general election; and

"(ii) expenditures for the general election may be made from the excess amount of contributions.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that treatment of excess contributions in accordance with subparagraph (A)—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate amount of contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit.

"(2) DEFINITIONS.—In this section and subsections (b) and (c) of section 504:

"(A) ALLOWABLE CONTRIBUTION.—The term 'allowable contribution' means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

"(B) APPLICABLE PERIOD.—The term 'applicable period' means—

"(i) the period beginning on January 1 of the calendar year preceding the calendar year of a general election and ending on—

"(I) the date on which the certification under subsection (c) is filed by the candidate; or

"(II) for purposes of subsections (b) and (c) of section 504, the date of the general election; or

"(ii) in the case of a special election for the office of United States Senator, the period beginning on the date on which the vacancy in the office occurs and ending on the date of the general election.

"SEC. 503. LIMIT ON EXPENDITURES.

"(a) PERSONAL FUNDS EXPENDITURE LIMIT.—

"(1) IN GENERAL.—The aggregate amount of expenditures that may be made during an election cycle by an eligible Senate candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

"(2) SOURCES.—A source is described in this paragraph if it is—

"(A) personal funds of the candidate or a member of the candidate's immediate family; or

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—

"(1) IN GENERAL.—Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $1,200,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) EXCEPTION.—In the case of an eligible Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '92 cents' for '30 cents' in subclause (I); and

"(B) '90 cents' for '25 cents' in subclause (II).

"(3) INDEXING.—The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for the calendar year under section 502(d)(2).

"(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—

"(1) IN GENERAL.—The general election expenditure limit, shall not apply to qualified legal or accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

"(2) REQUIREMENTS.—A legal and accounting compliance fund meets the requirements of this paragraph if—

"(A) the fund is established with respect to qualified legal or accounting expenditures incurred with respect to a particular election;

"(B) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(C) the aggregate amounts transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit for the election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(D) no funds received by the candidate under section 504(a)(3) are transferred to the fund.

"(3) DEFINITION OF QUALIFIED LEGAL OR ACCOUNTING EXPENDITURE.—For purposes of this subsection, the term 'qualified legal or accounting expenditure' means—

"(A) an expenditure for costs of legal or accounting services provided in connection with—

"(i) an administrative or court proceeding initiated under this Act for the election for which the legal and accounting fund was established; or

"(ii) the preparation of a document or report required by this Act or by the Commission;

"(B) an expenditure for legal or accounting service provided in connection with the election cycle for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle.

"(4) INCREASE.—

"(A) PETITION.—If, after a general election, primary election, or runoff election, a candidate determines that qualified legal or accounting expenditures will exceed the limit under paragraph (2)(C)(i), the candidate may petition the Commission for an increase in the limit by filing the petition with the Secretary of the Senate.

"(B) DETERMINATION.—The Commission shall authorize an increase in the limit under paragraph (2)(C)(i) in the amount (if any) by which the Commission determines the qualified legal or accounting expenditures exceed the limit.

"(C) JUDICIAL REVIEW.—A determination under subparagraph (B) shall be subject to judicial review under section 507.

"(D) CONTRIBUTIONS AND EXPENDITURES NOT COUNTED.—Except as provided in section 315, a contribution received or expenditure made under this paragraph shall not be counted against any contribution or expenditure limit applicable to the candidate under this title.

"(5) TREATMENT.—Funds in a legal and accounting compliance fund shall be treated for purposes of this Act as a separate segregated fund, except that any portion of the fund not used to pay qualified legal or accounting expenditures, and not transferred to a legal and accounting compliance fund for the election cycle for the next general election, shall be treated in the same manner as other campaign funds for purposes of section 313(b).

"(d) PAYMENT OF TAXES ON EARNINGS.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local income taxes on the earnings of a candidate's authorized committees.

"(e) CERTAIN EXPENSES.—In the case of an eligible Senate candidate who holds a Federal office, the limitation under subsection (b) shall not apply to ordinary and necessary expenses of travel of the candidate and the candidate's spouse and children between Washington, District of Columbia, and the candidate's State in connection with the candidate's activities as a holder of Federal office.

"SEC. 504. BENEFITS FOR ELIGIBLE SENATE CANDIDATES.

"(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934; and

"(2) payments in an amount equal to—

"(A) the excess expenditure amount determined under subsection (b); and

"(B) the independent expenditure amount determined under subsection (c).

"(b) EXCESS EXPENDITURE AMOUNT.—

"(1) DETERMINATION.—The excess expenditure amount is—

"(A) in the case of a major party candidate, an amount equal to the sum of—

"(i) if the opponent's excess is less than 33⅓ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; plus

"(ii) if the opponent's excess equals or exceeds 33⅓ percent but is less than 66⅔ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; plus

"(iii) if the opponent's excess equals or exceeds 66⅔ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; and

"(B) in the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the least of—

"(i) the amount of allowable contributions accepted by the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 502(e);

"(ii) 50 percent of the general election expenditure limit; or

"(iii) the opponent's excess.

"(2) DEFINITION OF OPPONENT'S EXCESS.—In this subsection, the term 'opponent's excess' means the amount by which an opponent of an eligible Senate candidate in the general election accepts contributions or makes (or obligates to make) expenditures for the election in excess of the general election expenditure limit.

"(c) INDEPENDENT EXPENDITURE AMOUNT.—The independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate that are required to be reported by the persons under section 304(d) with respect to the general election period and are certified by the Commission under section 304(d).

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—

"(1) RECIPIENTS OF EXCESS EXPENDITURE AMOUNT PAYMENTS AND INDEPENDENT EXPENDITURE AMOUNT PAYMENTS.—

"(A) IN GENERAL.—An eligible Senate candidate who receives payments under subsection (a)(2) may make expenditures from the payments for the general election without regard to the general election expenditure limit.

"(B) NONMAJOR PARTY CANDIDATES.—In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit shall be increased by the amount (if any) by which the opponent's excess expenditure amount exceeds the amount determined under subsection (b)(2)(B) with respect to the candidate.

"(2) ALL BENEFIT RECIPIENTS.—

"(A) IN GENERAL.—An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to the personal funds expenditure limit or general election expenditure limit if any 1 of the eligible Senate candidate's opponents who is not an eligible Senate candidate raises an amount of contributions or makes or becomes obligated to make an amount of expenditures for the general election that exceeds 200 percent of the general election expenditure limit.

"(B) LIMITATION.—The amount of the expenditures that may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit.

"(3) ACCEPTANCE OF CONTRIBUTION WITHOUT REGARD TO SECTION 502(c)(1)(D)(iii).—

"(A) A candidate who receives benefits under this section may accept a contribution for the general election without regard to section 502(c)(1)(D)(iii) if—

"(i) a major party candidate in the same general election is not an eligible Senate candidate; or

"(ii) any other candidate in the same general election who is not an eligible Senate candidate raises an amount of contributions or makes or becomes obligated to make an amount of expenditures for the general election that exceeds 75 percent of the general election expenditure limit applicable to such other candidate.

"(B) LIMITATION.—The amount of contributions that may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit.

"(e) USE OF PAYMENTS.—

"(1) PERMITTED USE.—Payments received by an eligible Senate candidate under subsection (a)(2) shall be used to make expenditures with respect to the general election period for the candidate.

"(2) PROHIBITED USE.—Payments received by an eligible Senate candidate under subsection (a)(2) shall not be used—

"(A) except as provided in paragraph (4), to make any payments, directly or indirectly, to the candidate or to any member of the immediate family of the candidate;

"(B) to make any expenditure other than an expenditure to further the general election of the candidate;

"(C) to make an expenditure the making of which constitutes a violation of any law of the United States or of the State in which the expenditure is made; or

"(D) subject to section 315(i), to repay any loan to any person except to the extent that proceeds of the loan were used to further the general election of the candidate.

"SEC. 505. CERTIFICATION BY THE COMMISSION.

"(a) CERTIFICATION OF STATUS AS ELIGIBLE SENATE CANDIDATE.—

"(1) IN GENERAL.—The Commission shall certify to any candidate meeting the requirements of section 502 that the candidate is an eligible Senate candidate entitled to benefits under this title.

"(2) REVOCATION.—The Commission shall revoke a certification under paragraph (1) if the Commission determines that a candidate fails to continue to meet the requirements of section 502.

"(b) CERTIFICATION OF ELIGIBILITY TO RECEIVE BENEFITS.—

"(1) IN GENERAL.—Not later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 504, the Commission shall issue a certification stating whether the candidate is eligible for payments under this title and the amount of such payments to which such candidate is entitled.

"(2) CONTENTS OF REQUEST.—A request under paragraph (1) shall—

"(A) contain such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) contain a verification signed by the candidate and the treasurer of the principal campaign committee of the candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(c) DETERMINATIONS BY THE COMMISSION.—All determinations made by the Commission under this title (including certifications under subsections (a) and (b)) shall be final and conclusive, except to the extent that a determination is subject to examination and audit by the Commission under section 506 and judicial review under section 507.

"SEC. 506. EXAMINATIONS AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) EXAMINATIONS AND AUDITS.—

"(1) AFTER A GENERAL ELECTION.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in 5 percent of the elections to the Senate in which there was an eligible Senate candidate on the ballot, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(2) AFTER A SPECIAL ELECTION.—After each special election in which an eligible Senate candidate was on the ballot, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(3) WITH REASON TO BELIEVE THERE MAY HAVE BEEN A VIOLATION.—The Commission may conduct an examination and audit of the campaign accounts of any eligible Senate candidate in a general election if the Commission determines that there exists reason to believe that the eligible Senate candidate failed to comply with this title.

"(b) EXCESS PAYMENT.—If the Commission determines any payment was made to an eligible Senate candidate under this title in excess of the aggregate amounts to which the eligible Senate candidate was entitled, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the excess.

"(c) REVOCATION OF STATUS.—If the Commission revokes the certification of an eligible Senate candidate as an eligible Senate candidate under section 505(a)(1), the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the payments received under this title.

"(d) MISUSE OF BENEFIT.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay the amount of that amount.

"(e) EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate who received benefits under this title made expenditures that in the aggregate exceed the primary election expenditure, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the amount of the excess expenditures.

"(f) CIVIL PENALTIES.—

"(1) MISUSE OF BENEFIT.—If the Commission determines that an eligible Senate candidate has committed a violation described in subsection (d), the Commission may assess a civil penalty against the eligible Senate candidate in an amount not greater than 200 percent of the amount of the benefit that was misused.

"(2) EXCESS EXPENDITURES.—

"(A) LOW AMOUNT OF EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by 2.5 percent or less the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to the amount of the excess expenditures.

"(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by more than 2.5 percent and less than 5 percent the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to 3 times the amount of the excess expenditures.

"(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by 5 percent or more the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to the amount of the excess expenditures an amount equal to the sum of—

"(i) 3 times the amount of the excess expenditures plus an additional amount determined by the Commission; plus

"(ii) if the Commission determines that the exceeding of the expenditure limit was willful, an amount equal to the amount of benefits that the eligible Senate candidate received under this title.

"(g) UNEXPENDED FUNDS.—

"(1) REPAYMENT.—Subject to paragraph (2), any amount received by an eligible Senate candidate under this title and not expended on or before the date of the general election shall be repaid not later than 30 days after the date of the general election.

"(2) RETENTION FOR PURPOSES OF LIQUIDATION OF OBLIGATIONS.—An eligible Senate candidate may retain for a period not exceeding 120 days after the date of a general election a reasonable portion of unexpended funds received under this title for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of the 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(h) PAYMENTS RETURNED TO SOURCE.—Any payment, repayment, or civil penalty under this section shall be paid to the entity that afforded benefits under this title to the eligible Senate candidate.

"(i) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of the election.

"SEC. 507. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission under this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in that court within 30 days after the date of the agency action.

"(b) APPLICATION OF TITLE 5, UNITED STATES CODE.—Chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission under this title.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given the term in section 551(13) of title 5, United States Code.

"SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission may appear in and defend against any action instituted under this section and under section 507 by attorneys employed in the office of the Commission or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to chapter 51 and subchapter III of chapter 53 of that title.

"(b) ACTIONS FOR RECOVERY OF AMOUNT OF BENEFITS.—The Commission, by attorneys and counsel described in subsection (a), may bring an action in United States district court to recover any amounts determined under this title to be payable to any entity that afforded a benefit to an eligible Senate candidate under this title.

"(c) ACTION FOR INJUNCTIVE RELIEF.—The Commission, by attorneys and counsel described in subsection (a), may petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission, on behalf of the United States, may appeal from, and may petition the Supreme Court for certiorari to review, any judgment or decree entered with respect to actions in which the Commission under this section.

"SEC. 509. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—

"(1) IN GENERAL.—As soon as practicable after each general election, the Commission shall submit a full report to the Senate setting forth—

"(A) the expenditures (shown in such detail as the Commission determines to be appropriate) made by each eligible Senate candidate and the authorized committees of the candidate;

"(B) the amounts certified by the Commission under section 505 as benefits available to each eligible Senate candidate; and

"(C) the amount of repayments, if any, required under section 506 and the reason why each repayment was required.

"(2) PRINTING.—Each report under paragraph (1) shall be printed as a Senate document.

"(b) REGULATIONS.—

"(1) IN GENERAL.—The Commission may issue such regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as the Commission considers necessary to carry out the functions and duties of the Commission under this title.

"(2) STATEMENT TO SENATE.—Not less than 30 days before issuing a regulation under paragraph (1), the Commission shall submit to the Senate a statement setting forth the proposed regulation and containing a detailed explanation and justification for the regulation.

"SEC. 510. CLOSED CAPTIONING IN TELEVISION BROADCASTS.

"Any television broadcast prepared or distributed by an eligible Senate candidate shall be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the broadcast to be broadcast by way of line 21 of the vertical blanking interval or by way of a comparable successor technology.

"SEC. 511. LIMITATIONS ON PAYMENTS.

"(a) PAYMENTS ON CERTIFICATION.—On receipt of a certification from the Commission under section 505, except as provided in subsection (b), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate.

"(b) INSUFFICIENT FUNDS.—

"(1) WITHHOLDING.—If, at the time of a certification by the Commission under section 505 for payment to an eligible Senate candidate, the Secretary determines that there are not, or may not be, sufficient funds to satisfy the full entitlement of all eligible Senate candidates, the Secretary shall withhold from the amount of the payment such amount as the Secretary determines to be necessary to ensure that each eligible Senate candidate will receive the same pro rata share of the candidate's full entitlement.

"(2) SUBSEQUENT PAYMENT.—Amounts withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient funds to pay all or a portion of the funds withheld from all eligible Senate candidates, but, if only a portion is to be paid, the portion shall be paid in such a manner that each eligible Senate candidate receives an equal pro rata share.

"(3) NOTIFICATION OF ESTIMATED WITHHOLDING.—

"(A) ADVANCE ESTIMATE OF AVAILABLE FUNDS AND PROJECTED COSTS.—Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of funds that will be available to make payments under this title in the general election year; and

"(ii) the costs of implementing this title in the general election year.

"(B) NOTIFICATION.—If the Secretary determines under subparagraph (A) that there will be insufficient funds for any calendar year, the Secretary shall notify by registered mail each candidate for the Senate on January 1 of that year (or, if later, the date on which an individual becomes such a candidate) of the amount that the Secretary estimates will be the pro rata withholding from each eligible Senate candidate's payments under this subsection.

"(C) INCREASE IN CONTRIBUTION LIMIT.—The amount of an eligible candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata withholding under subparagraph (B).

"(4) NOTIFICATION OF ACTUAL WITHHOLDING.—

"(A) IN GENERAL.—The Secretary shall notify the Commission and each eligible Senate candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection.

"(B) GREATER AMOUNT OF WITHHOLDING.—If the amount of a withholding exceeds the amount estimated under paragraph (3), an eligible Senate candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the excess.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1996.

(2) APPLICABILITY TO CONTRIBUTIONS AND EXPENDITURES.—For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1997, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after that date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1997, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1997, to pay for expenditures that were incurred (but unpaid) before that date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF TITLE.—If section 502, 503, or 504 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) or any part of those sections is held to be invalid, this Act and all amendments made by this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN SENATE ELECTIONS.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. BAN ON SENATE ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election, or nomination for election, to the office of United States Senator.

"(b) EXECUTIVE OFFICERS AND ADMINISTRATIVE EMPLOYEES.—In the case of an individual who is an executive officer or administrative employee of an employer—

"(1) the individual shall not make a contribution—

"(A) to any political committee established and maintained by any political party for use in an election, or nomination for election, to the office of United States Senator; or

"(B) to any candidate for nomination for election, or election, to the office of United States Senator or the candidate's authorized committees;

if the contribution is made at the direction of, or is otherwise controlled or influenced by, the employer; and

"(2) the individual shall not make any such contribution if the making of the contribution would cause the aggregate amount of contributions made by all executive officers and administrative employees of the employer in any calendar year to exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees.".

(b) CANDIDATE'S COMMITTEES.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

"(9) For the purposes of the limitations under paragraphs (1) and (2), any political committee that is established or financed or maintained or controlled by any candidate or Federal officeholder shall be considered to be an authorized committee of the candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee that is prohibited by paragraph (3) or (6) of section 302(e).".

(c) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), during any period beginning after the effective date in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect, the amendments made by subsections (a) and (b) shall not be in effect.

(d) RULE ENSURING PROHIBITION OF DIRECT CORPORATE AND LABOR ORGANIZATION SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(a)) is held to be invalid by reason of the amendments made by this section, the amendments made by subsections (a) and (b) shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization that is a bank, corporation, or other organization described in section 316(a) of that Act.

(e) RESTRICTIONS ON CONTRIBUTIONS TO POLITICAL COMMITTEES.—Paragraphs (1)(D) and (2)(D) of section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)), as redesignated by section 312, are amended by striking "$5,000" and inserting "$1,000".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1996.

(2) APPLICABILITY.—In applying the amendments made by this section, there shall not be taken into account—

(A) a contribution made or received before January 1, 1997; or

(B) a contribution made to, or received by, a candidate on or after January 1, 1997, to the extent that the aggregate amount of such contributions made to or received by the candidate is not greater than the excess (if any) of—

(i) the aggregate amount of such contributions made to or received by any opponent of the candidate before January 1, 1997; over

(ii) the aggregate amount of such contributions made to or received by the candidate before January 1, 1997.

SEC. 103. REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 304 the following:

"SEC. 304A. REPORTING REQUIREMENTS FOR SENATE CANDIDATES.

"(a) MEANINGS OF TERMS.—Any term used in this section that is used in title V shall have the same meaning as when used in title V.

"(b) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—

"(1) DECLARATION OF INTENT.—A candidate for the office of Senator who does not file a certification with the Secretary of the Senate under section 502(c) shall, at the time provided in section 501(c)(2), file with the Secretary of the Senate a declaration as to whether the candidate intends to make expenditures for the general election in excess of the general election expenditure limit.

"(2) REPORTS.—

"(A) INITIAL REPORT.—A candidate for the Senate who qualifies for the ballot for a general election—

"(i) who is not an eligible Senate candidate under section 502; and

"(ii) who receives contributions in an aggregate amount or makes or obligates to make expenditures in an aggregate amount for the general election that exceeds 75 percent of the general election expenditure limit;

shall file a report with the Secretary of the Senate within 2 business days after aggregate contributions have been received or aggregate expenditures have been made or obligated to be made in that amount (or, if later, within 2 business days after the date of qualification for the general election ballot), setting forth the candidate's aggregate amount of contributions received and aggregate amount of expenditures made or obligated to be made for the election as of the date of the report.

"(B) ADDITIONAL REPORTS.—After an initial report is filed under subparagraph (A), the candidate shall file additional reports (until the amount of such contributions or expenditures exceeds 200 percent of the general election expenditure limit) with the Secretary of the Senate within 2 business days after each time additional contributions are received, or expenditures are made or are obligated to be made, that in the aggregate exceed an amount equal to 10 percent of the general election expenditure limit and after the aggregate amount of contributions or expenditures exceeds 100, 133⅓, 166⅔, and 200 percent of the general election expenditure limit.

"(3) NOTIFICATION OF OTHER CANDIDATES.—The Commission—

"(A) shall, within 2 business days after receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate of the filing of the declaration or report; and

"(B) if an opposing candidate has received aggregate contributions, or made or obligated to make aggregate expenditures, in excess of the general election expenditure limit, shall certify, under subsection (e), the eligibility for payment of any amount to which an eligible Senate candidate in the general election is entitled under section 504(a).

"(4) ACTION BY THE COMMISSION ABSENT REPORT.—

"(A) IN GENERAL.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts that would require a report under paragraph (2).

"(B) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—The Commission shall—

"(i) within 2 business days after making a determination under subparagraph (A), notify each eligible Senate candidate in the general election of the making of the determination; and

"(ii) when the aggregate amount of contributions or expenditures exceeds the general election expenditure limit, certify under subsection (e) an eligible Senate candidate's eligibility for payment of any amount under section 504(a).

"(c) REPORTS ON PERSONAL FUNDS.—

"(1) FILING.—A candidate for the Senate who, during an election cycle, expends more than the personal funds expenditure limit during the election cycle shall file a report with the Secretary of the Senate within 2 business days after expenditures have been made or loans incurred in excess of the personal funds expenditure limit.

"(2) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—Within 2 business days after a report has been filed under paragraph (1), the Commission shall notify each eligible Senate candidate in the general election of the filing of the report.

"(3) ACTION BY THE COMMISSION ABSENT REPORT.—

"(A) IN GENERAL.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the Senate has made expenditures in excess of the amount under paragraph (1).

"(B) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—Within 2 business days after making a determination under subparagraph (A), the Commission shall notify each eligible Senate candidate in the general election of the making of the determination.

"(d) CANDIDATES FOR OTHER OFFICES.—

"(1) FILING.—Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for that office, held any other Federal, State, or local office or was a candidate for any such office; and

"(C) who expended any amount during the election cycle before becoming a candidate for the office of United States Senator that would have been treated as an expenditure if the individual had been such a candidate (including amounts for activities to promote the image or name recognition of the individual);

shall, within 7 days after becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election that has been held before the individual becomes a candidate for the office of United States Senator.

"(3) DETERMINATION.—The Commission shall, as soon as practicable, make a determination as to whether any amounts reported under paragraph (1) were made for purposes of influencing the election of the individual to the office of Senator.

"(4) CERTIFICATION.—The Commission shall certify to the individual and the individual's opponents the amounts the Commission determines to be described in paragraph (3), and such amounts shall be treated as expenditures for purposes of this Act.

"(e) BASIS OF CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with this Act or on the basis of the Commission's own investigation or determination.

"(f) SHORTER PERIODS FOR REPORTS AND NOTICES DURING ELECTION WEEK.—Any report, determination, or notice required by reason of an event occurring during the 7-day period ending on the date of the general election shall be made within 24 hours (rather than 2 business days) of the event.

"(g) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall—

"(1) transmit a copy of any report or filing received under this section or under title V as soon as possible (but not later than 4 working hours of the Commission) after receipt of the report or filing;

"(2) make the report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4); and

“(3) preserve the reports and filings in the same manner as the Commission under section 311(a)(5).”.

SEC. 104. DISCLOSURE BY CANDIDATES OTHER THAN ELIGIBLE SENATE CANDIDATES.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) (as amended by section 113) is amended by adding at the end the following:

“(e) Disclosure by Candidates Other Than Eligible Senate Candidates.—A broadcast, cablecast, or other communication that is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such a candidate, shall contain the following sentence: ‘This candidate has not agreed to voluntary campaign spending limits.’.”.

SEC. 105. EXCESS CAMPAIGN FUNDS OF SENATE CANDIDATES.

Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended—

(1) by inserting “(a) In General.—” before “Amounts” and adjusting the margin appropriately; and

(2) by adding at the end the following:

“(b) Disposition of Excess Campaign Funds.—

“(1) Except as provided in paragraph (2), and notwithstanding subsection (a), a candidate for the Senate who has amounts in excess of amounts necessary to defray expenditures for an election cycle, including any fines or penalties relating thereto, shall, not later than 1 year after the date of the general election for the election cycle—

“(A) expend the excess in the manner described in subsection (a); or

“(B) pay the excess to the general fund of the Treasury of the United States.

“(2) Applicability.—Paragraph (1) shall not apply to any amount—

“(A) that is transferred to a legal and accounting compliance fund under section 503(c); or

“(B) that is transferred for use in the next election cycle, to the extent that the amount transferred does not exceed 20 percent of the sum of the primary election expenditure limit under section 501(d)(1)(A) and the general election expenditure limit for the election cycle from which the amounts are transferred.”.

SEC. 106. CONTRIBUTION LIMIT FOR ELIGIBLE SENATE CANDIDATES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A), by inserting “except as provided in subparagraph (B),” before “to”;

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

“(B) to an eligible Senate candidate (as defined in section 501) and the authorized political committees of the candidate which, in the aggregate, exceed $2,000, if an opponent of the eligible Senate candidate fails to comply with the expenditure limits contained in this Act and has received contributions in excess of 10 percent of the general election limits contained in this Act or has expended personal funds in excess of 10 percent of the general election limits contained in this Act;”.

Subtitle B—General Provisions

SEC. 111. BROADCAST RATES AND PREEMPTION.

(a) Broadcast Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking “(b) The charges” and inserting the following:

“(b) Broadcast Media Rates.—

“(1) In general.—The charges”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(3) in paragraph (1)(A) (as redesignated by paragraph (2))—

(A) by striking “forty-five” and inserting “30”; and

(B) by striking “lowest unit charge of the station for the same class and amount of time for the same period” and inserting “lowest charge of the station for the same amount of time for the same period on the same date”; and

(4) by adding at the end the following:

“(2) Eligible senate candidates.—

“(A) In general.—In the case of an eligible Senate candidate (as described in section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the lowest charge described in paragraph (1)(A).

“(B) Applicability.—Subparagraph (A) shall not apply to broadcasts that are to be paid from amounts received under section 504(a)(2)(B) of the Federal Election Campaign Act of 1971.”.

(b) Preemption; Access.—Section 315 of the Communications Act of 1947 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

“(c) Preemption.—

“(1) In general.—Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b)(1).

“(2) Circumstances beyond control of licensee.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.”.

(c) Revocation of License for Failure To Permit Access.—Section 312(a)(7) of the Communications Act of 1947 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking “or repeated”;

(2) by inserting “or cable system” after “broadcasting station”; and

(3) by striking “his candidacy” and inserting “his or her candidacy, under the same terms, conditions, and business practices as apply to the broadcasting station's most favored advertiser”.

SEC. 112. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) In General.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 608) is amended by adding at the end the following:

“(e) Time for Reporting Certain Expenditures.—

“(1) Expenditures aggregating $1,000.—A person that makes independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

“(2) Expenditures aggregating $10,000.—

“(A) Initial report.—A person that makes independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before an election shall file a report describing the expenditures within 48 hours that amount of independent expenditures has been made.

“(B) Additional reports.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures aggregating an additional $10,000 are made with respect to the same election as that to which the initial report relates.

“(3) Place of filing; contents; transmittal.—

“(A) Place of filing; contents.—A report under this subsection—

“(i) shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the candidate's State; and

“(ii) shall contain the information required by subsection (b)(6)(B)(iii), including whether each independent expenditure was made in support of, or in opposition to, a candidate.

“(B) Transmittal.—

“(i) To the commission.—As soon as possible (but not later than 4 working hours of the Commission) after receipt of a report under this subsection, the Secretary of the Senate shall transmit the report to the Commission.

“(ii) To candidates.—Not later than 48 hours after receipt of a report under this subsection, the Commission shall transmit a copy of the report to each candidate seeking nomination for election to, or election to, the office in question.

“(4) Obligation to make expenditure.—For purposes of this subsection, an expenditure shall be treated as being made when it is made or obligated to be made.

“(5) Advance notice of intention to make independent expenditures.—

“(A) In general.—A person that intends to make independent expenditures totaling $5,000 or more during the 20 days before an election shall file a notice of that intention not later than the 20th day before the election.

“(B) Place of filing; contents; transmittal.—

“(i) Place of filing; contents.—A statement under subparagraph (A)—

“(I) shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the candidate's State; and

“(II) shall identify each candidate whom the expenditure will support or oppose.

“(ii) Transmittal.—

“(I) To the commission.—As soon as possible (but not later than 4 working hours of the Commission) after receipt of a notice of intention under this paragraph, the Commission shall transmit the notice to the Commission.

“(II) To candidates.—Not later than 48 hours after the receipt of a notice of intention under this paragraph, the Commission shall transmit a copy of the notice to each candidate identified in the notice.

“(6) Determinations by the commission.—

“(A) In general.—The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election that in the aggregate exceed the applicable amounts under paragraph (1) or (2).

“(B) Notification.—The Commission shall notify each candidate in the election of the making of the determination within 24 hours after making the determination.

"(7) CERTIFICATION OF ELIGIBILITY TO RECEIVE BENEFITS.—At the same time as a candidate is notified under paragraph (3), (5), or (6) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 504(a).

"(8) PUBLIC AVAILABILITY; PRESERVATION.—The Secretary of the Senate shall make any report or notice of intention received under this subsection available for public inspection and copying in the same manner as under section 311(a)(4), and shall preserve the reports and notices in the same manner as under section 311(a)(5).".

(b) CONFORMING AMENDMENT.—Section 304(c)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)(2)) is amended by striking the undesignated matter after subparagraph (C).

SEC. 113. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) by striking "Whenever" and inserting the following:

"(a) DISCLOSURE.—When a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or when";

(B) by striking "an expenditure" and inserting "a disbursement";

(C) by striking "direct"; and

(D) in paragraph (3), by inserting "and permanent street address" after "name";

(2) in subsection (b), by inserting "SAME CHARGE AS CHARGE FOR COMPARABLE USE.—" before "No"; and

(3) by adding at the end the following:

"(c) REQUIREMENTS FOR PRINTED COMMUNICATIONS.—A printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d) REQUIREMENTS FOR BROADCAST AND CABLECAST COMMUNICATIONS.—

"(1) PAID FOR OR AUTHORIZED BY THE CANDIDATE.—

"(A) IN GENERAL.—A broadcast or cablecast communication described in paragraph (1) or (2) of subsection (a) shall include, in addition to the requirements of those paragraphs, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(B) TELEVISED COMMUNICATIONS.—A broadcast or cablecast communication described in paragraph (1) that is broadcast or cablecast by means of television shall include, in addition to the audio statement under subparagraph (A), a written statement—

"(i) that states: 'I [name of candidate] am a candidate for [the office the candidate is seeking], and I have approved this message';

"(ii) that appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(iii) that is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(2) NOT PAID FOR OR AUTHORIZED BY THE CANDIDATE.—A broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the statement—

'_________________ is responsible for the content of this advertisement.';

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if the communication is broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 114. DEFINITIONS.

(a) IN GENERAL.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following:

"(19) The term 'general election'—

"(A) means an election that will directly result in the election of a person to a Federal office; and

"(B) includes a primary election that may result in the election of a person to a Federal office.

"(20) The term 'general election period' means, with respect to a candidate, the period beginning on the day after the date of the primary or runoff election for the specific office that the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of the general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(21) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(22) The term 'major party' has the meaning given the term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least 1 other candidate's qualifying for the ballot in the general election, the candidate shall be treated as a candidate of a major party for purposes of title V.

"(23) The term 'primary election' means an election that may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(24) The term 'primary election period' means, with respect to a candidate, the period beginning on the day following the date of the last election for the specific office that the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(25) The term 'runoff election' means an election held after a primary election that is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(26) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office that the candidate is seeking and ending on the date of the runoff election for that office.

"(27) The term 'voting age population' means the number of residents of a State who are 18 years of age or older, as certified under section 315(e).

"(28) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate is seeking and ending on the date of the next general election for that office or seat; and

"(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election.".

(b) IDENTIFICATION.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended by striking "mailing address" and inserting "permanent residence address".

SEC. 115. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

Section 3210(a)(6)(C) of title 39, United States Code, is amended—

(1) by striking "if the mass mailing is postmarked fewer than 60 days immediately before the date" and inserting "if the mass mailing is postmarked during the calendar year"; and

(2) by inserting "or reelection" before the period.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

"(A) IN GENERAL.—The term "independent expenditure" means an expenditure by a person other than a candidate or candidate's authorized committee—

"(i) that is made for a communication that contains express advocacy; and

"(ii) is made without the participation or cooperation of and without coordination with a candidate.

"(B) EXPRESS ADVOCACY.—The term 'express advocacy' means a communication advocating the election or defeat of a clearly identified candidate and includes any communication that—

"(i)(I) contains a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject';

"(II) recommends a position on an issue and clearly identifies 1 or more candidates as supporting or opposing that position; or

"(III) contains campaign slogans or individual words that in context can have no reasonable meaning other than to recommend the election or defeat of 1 or more clearly identified candidates;

"(ii) clearly identifies 1 or more candidates and is broadcast by a radio broadcast station or a television broadcast station (including a cable system) within 60 calendar days preceding the date of an election (or with respect to a candidate for the office of Vice President or President in a general election, within 90 calendar days preceding the date of the general election); or

"(iii) taken as a whole and with limited reference to external events, such as proximity to an election, expresses unmistakable support for or opposition to 1 or more clearly identified candidates.

"(C) WITHOUT THE PARTICIPATION OR COOPERATION OF AND WITHOUT COORDINATION WITH A CANDIDATE.—The term 'without the participation or cooperation of and without coordination with a candidate', with respect to an expenditure, means an expenditure that is made—

"(i) without any request or suggestion from or any involvement of a candidate or candidate's representative;

"(ii) without the involvement of any person who, during the election cycle in which the expenditure is made, has raised funds on behalf of the candidate, counseled or advised the candidate or the candidate's representative regarding the election (other than to provide legal and accounting services to ensure compliance with this Act), engaged in campaign-related research or polling analysis with respect to the election, or communicated with or received information from the candidate or the candidate's representative about the candidate's plans, resources, expenditures, or needs regarding the election; and

"(iii) without the involvement of any person who received compensation, during the election cycle in which the expenditure is made, from the candidate or candidate's representative and from the person making the independent expenditure.".

SEC. 202. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY POLITICAL PARTY COMMITTEES.

(a) DEFINITION OF COORDINATED EXPENDITURE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(19) COORDINATED EXPENDITURE.—The term 'coordinated expenditure' means an expenditure that is made by a person other than the candidate and that is not an independent expenditure.".

(b) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY POLITICAL PARTY COMMITTEES.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1) by striking "and (3)" and inserting ", (3) and (4)"; and

(2) by adding at the end the following:

"(4) PROHIBITION AGAINST MAKING BOTH COORDINATED EXPENDITURES AND INDEPENDENT EXPENDITURES.—

"(A) IN GENERAL.—A committee of a political party shall not make both a coordinated expenditure and an independent expenditure with respect to the same candidate during a single election cycle.

"(B) CERTIFICATION.—Before making a coordinated expenditure or an independent expenditure with respect to a candidate, a committee of a political party that is subject to this subsection shall file with the Commission a certification, signed by the treasurer, stating whether the committee will make coordinated expenditures or independent expenditures with respect to the candidate.

"(C) TRANSFERS.—A party committee that certifies under this paragraph that the committee will make coordinated expenditures with respect to a candidate shall not, in the same election cycle, make a transfer of funds to, or receive a transfer of funds from, any other party committee that has certified under this paragraph that it will make independent expenditures with respect to the candidate.".

SEC. 203. TREATMENT OF QUALIFIED NONPROFIT CORPORATIONS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

"(c) EXCEPTION FOR CERTAIN TAX-EXEMPT CORPORATIONS.—

"(1) IN GENERAL.—Notwithstanding the prohibitions of this section, a qualified nonprofit corporation may make an independent expenditure.

"(2) DEFINITION OF QUALIFIED NONPROFIT CORPORATION.—For purposes of this Act, the term 'qualified nonprofit corporation' means a corporation that meets the following requirements:

"(A) TAX-EXEMPT STATUS.—The corporation is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 and is described in section 501(c)(4) of the Code.

"(B) PURPOSES.—The corporation is organized exclusively to promote specific political ideas.

"(C) NO TRADE OR BUSINESS.—The corporation does not engage in any activity that constitutes a trade or business.

"(D) ESTABLISHMENT.—The corporation was not established by—

"(i) a corporation that is carrying on a trade or business;

"(ii) a labor organization; or

"(iii) a business league or other organization described in section 501(c)(6) of the Internal Revenue Code of 1986.

"(E) CONTRIBUTIONS.—The corporation does not accept, directly or indirectly, donations of anything of value from any corporation, labor organization or organization described in subparagraph (D)(iii), and does not serve, directly or indirectly, as a conduit for expenditures by such entities.

"(F) CLAIMS AND INCENTIVES.—The corporation—

"(i) has no shareholder or other person, other than an employee or creditor without an ownership interest, whose affiliation could allow a claim on the assets or earnings of such corporation; and

"(ii) offers no incentives or disincentives for persons to associate or not to associate with the corporation other than the positions of the corporation on political issues.

"(3) STATUS AS POLITICAL COMMITTEE.—If a qualified nonprofit corporation meets the qualifications of section 301(4), the corporation shall be treated as a political committee.

"(4) DISCLOSURE TO DONORS.—All solicitations of donations by the qualified nonprofit corporation shall inform potential donors that donations may be used by the corporation for political purposes, such as supporting or opposing candidates for public office.".

SEC. 204. EQUAL BROADCAST TIME.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by striking subsection (a) and inserting the following:

"(a) EQUAL OPPORTUNITY TO USE BROADCASTING STATION.—

"(1) IN GENERAL.—A licensee that permits any person who is a legally qualified candidate for public office to use a broadcasting station (other than any use required to be provided under paragraph (2)) shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2) INDEPENDENT EXPENDITURES.—

"(A) INFORMATION TO BE PROVIDED TO LICENSEE BY PERSON RESERVING BROADCAST TIME.—A person that reserves broadcast time the payment for which would constitute an independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and

"(iii) provide the licensee a copy of the statement described in section 304(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)).

"(B) RESPONSE BY LICENSEE.—A licensee that is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify the person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid using funds derived from a payment made under section 504(a)(2)(B) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).

"(3) NO CENSORSHIP.—A licensee shall have no power of censorship over the material broadcast under this section.

"(4) NO OBLIGATION.—Except as provided in paragraph (2), no obligation is imposed under this subsection on any licensee to allow the use of its station by any candidate.

"(5) CERTAIN APPEARANCES NOT CONSIDERED USE OF BROADCASTING STATION.—

"(A) IN GENERAL.—An appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto);

shall not be considered to be use of a broadcasting station within the meaning of this subsection.

"(B) NO RELIEF FROM OTHER OBLIGATIONS.—Nothing in subparagraph (A) relieves a licensee, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6) ENDORSEMENT OF CANDIDATE BY LICENSEE.—

"(A) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) TIME FOR RESPONSE.—

"(i) 72 HOURS OR MORE BEFORE ELECTION.—In the case of an editorial described in subparagraph (A) that is first broadcast 72 hours or more before the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial.

"(ii) LESS THAN 72 HOURS BEFORE ELECTION.—In the case of an editorial described in subparagraph (A) that is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response.".

TITLE III—EXPENDITURES

Subtitle A—Personal Funds; Credit

SEC. 301. CONTRIBUTIONS AND LOANS FROM PERSONAL FUNDS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

"(i) LIMITATIONS ON REPAYMENT OF LOANS AND RETURN OF CONTRIBUTIONS FROM PERSONAL FUNDS.—

"(1) REPAYMENT OF LOANS.—If a candidate or a member of the candidate's immediate family made a loan to the candidate or to the candidate's authorized committees during an election cycle, no contribution received after the date of the general election for the election cycle may be used to repay the loan.

"(2) RETURN OF CONTRIBUTIONS.—No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) (as amended by section 201(b)), is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting at the end the following:

"(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on a broadcasting station, in a newspaper or magazine, or by a mailing, or relating to other similar types of general public political advertising, if the extension of credit is—

"(I) in an amount greater than $1,000; and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which the goods or services are furnished or the date of a mailing.".

Subtitle B—Soft Money of Political Parties

SEC. 311. PREPARATION AND DISTRIBUTION BY VOLUNTEERS OF MATERIALS IN CONNECTION WITH STATE AND LOCAL POLITICAL PARTY VOTER REGISTRATION AND GET-OUT-THE-VOTE ACTIVITIES SO AS NOT TO BE CONSIDERED A CONTRIBUTION OR EXPENDITURE.

(a) CONTRIBUTION.—Section 301(8)(B)(xii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)(xii)) is amended—

(1) by striking "such committee" and inserting "the committee in connection with volunteer activities";

(2) by striking ": *Provided*, That" and inserting "if";

(3) by redesignating the items designated as items "(1)", "(2)", and "(3)", respectively, as subclauses (I), (II), and (III);

(4) by striking "and" at the end of subclause (II) (as redesignated);

(5) by inserting "and" at the end of subclause (III) (as redesignated); and

(6) by adding at the end the following:

"(IV) the activities are conducted solely by, and any materials are distributed solely by, volunteers;".

(b) EXPENDITURE.—Section 301(9)(B)(ix) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)(ix)) is amended—

(1) by striking "such committee" and inserting "the committee in connection with volunteer activities";

(2) by striking ": *Provided*, That" and inserting "if";

(3) by redesignating the items designated as items "(1)", "(2)", and "(3)", respectively, as subclauses (I), (II), and (III);

(4) by striking "and" at the end of subclause (II) (as redesignated);

(5) by inserting "and" at the end of subclause (III) (as redesignated); and

(6) by adding at the end the following:

"(IV) any materials in connection with the activities are prepared for distribution (and are distributed) solely by volunteers; and".

SEC. 312. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) (as amended by section 106) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following:

"(D) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $20,000; or

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $15,000; or

"(ii) to any other political committee established and maintained by a State committee of a political party that, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or".

(c) OVERALL LIMIT.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by striking paragraph (3) and inserting the following:

"(3) OVERALL LIMIT.—

"(A) ELECTION CYCLE.—No individual shall make contributions during any election cycle (as defined in section 301(28)(B)) that, in the aggregate, exceed $60,000.

"(B) CALENDAR YEAR.—

"(i) IN GENERAL.—No individual shall make contributions during any calendar year—

"(I) to all candidates and their authorized political committees that, in the aggregate, exceed $25,000; or

"(II) to all political committees established and maintained by State committees of a political party that, in the aggregate, exceed $20,000.

"(ii) NONELECTION YEAR.—For purposes of clause (i), a contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held.

(d) PRESIDENTIAL CANDIDATE COMMITTEE TRANSFERS.—

(1) AMENDMENT OF FECA.—Section 315(b)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(b)(1)) is amended by striking subparagraph (B) and inserting the following:

"(B) in the case of a campaign for election to that office, an amount equal to the sum of—

"(i) $20,000,000; plus

"(ii) the lesser of—

"(I) 2 cents multiplied by the voting age population of the United States (as certified under subsection (e); or

"(II) the amounts transferred by the candidate and the authorized committees of the candidate to the national committee of the candidate's political party for distribution to State Party Grassroots Funds.".

(2) AMENDMENT OF INTERNAL REVENUE CODE.—Subparagraph (A) of section 9002(11) of the Internal Revenue Code of 1986 (defining qualified campaign expense) is amended—

(A) by striking "or" at the end of clause (ii);

(B) by inserting "or" at the end of clause (iii); and

(C) by adding at the end the following:

"(iv) any transfers to the national committee of the candidate's political party for distribution to State Party Grassroots Funds (as defined in section 301(30) of the Federal Election Campaign Act of 1971) to the extent that such transfers do not exceed the amount determined under section 315(b)(1)(B)(ii) of that Act;".

SEC. 313. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 102(a)) is amended by adding at the end the following:

"SEC. 325. POLITICAL PARTY COMMITTEES.

"(a) LIMITATIONS ON NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party and the congressional campaign committees of a political party shall not solicit or accept any amount, or solicit or accept a transfer from another political committee, that is not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCLUSIONS.—Paragraph (1) shall not apply to any amount received—

"(A) that—

"(i) is to be transferred to a State committee of a political party and is used solely for an activity described in clause (xi), (xii), (xiii), (xiv), (xv), (xvi), or (xvii) of section 301(9)(B); or

"(ii) is described in section 301(8)(B)(viii); and

"(B) with respect to which a contributor has been notified that the amount will be used solely for the purposes described in subparagraph (A).

"(b) TRANSFERS TO TAX-EXEMPT ORGANIZATIONS.—A national committee or a State committee of a political party shall not transfer any funds to an organization that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 and is described in section 501(c)(3) of the Code.

"(c) ACTIVITIES SUBJECT TO THIS ACT.—

"(1) IN GENERAL.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to any of the following activities shall be treated as a contribution subject to the limitations, prohibitions, and reporting requirements of this Act:

"(A)(i) Any get-out-the-vote activity conducted during a calendar year in which an election for the office of President is held.

"(ii) Any other get-out-the-vote activity unless subsection (c)(2) applies to the activity.

"(B) Any generic campaign activity.

"(C) Any activity that identifies or promotes a Federal candidate, regardless of whether—

"(i) a State or local candidate is also identified or promoted; or

"(ii) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

"(D) Voter registration.

"(E) Development and maintenance of voter files during an even-numbered calendar year.

"(F) Any other activity that—

"(i) significantly affects a Federal election; or

"(ii) is not described in section 301(8)(B)(xvii).

"(2) FUNDRAISING COSTS.—Any amount spent to raise funds that are used, in whole or in part, in connection with an activity described in paragraph (1) shall be treated as an expenditure subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) GET-OUT-THE-VOTE ACTIVITIES BY STATE, DISTRICT, AND LOCAL COMMITTEES OF A POLITICAL PARTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any get-out-the-vote activity for a State or local candidate, or for a ballot measure, that is conducted by a State, district, or local committee of a political party (including any subordinate committee) shall be treated as an expenditure subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCLUSIONS.—Paragraph (1) shall not apply to any activity that the State committee of a political party certifies to the Commission is an activity that—

"(A) is conducted during a calendar year other than a calendar year in which an election for the office of President is held;

"(B) is exclusively on behalf of (and specifically identifies only) 1 or more State or local candidates or ballot measures; and

"(C) does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate (including any activity that is undertaken in coordination with, or on behalf of, a candidate for Federal office).

"(e) STATE PARTY GRASSROOTS FUNDS.—

"(1) IN GENERAL.—A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

"(A) a generic campaign activity;

"(B) the making of a payment described in clause (v), (x), or (xii) of paragraph (8)(B) or clause (iv), (viii), or (ix) of paragraph (9)(B) of section 301;

"(C) subject to the limitations of section 315(d), the making of a payment described in paragraph (8)(B)(xii) or (9)(B)(ix) of section 301 on behalf of a candidate other than a candidate for President or Vice President;

"(D) voter registration; and

"(E) development and maintenance of voter files during an even-numbered calendar year.

"(2) TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding section 315(a)(4) and except as provided in subparagraph (B), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee.

"(B) TRANSFER TO SEPARATE SEGREGATED FUND OF DISTRICT OR LOCAL COMMITTEE.—A transfer may be made from a State Party Grassroots Fund to a district or local committee of the same political party in the same State if the district or local committee—

"(i) has established a separate fund for the purposes described in paragraph (1); and

"(ii) uses the transferred funds solely for those purposes.

"(f) AMOUNTS RECEIVED BY STATE PARTY GRASSROOTS FUND FROM NON-FEDERAL CANDIDATE COMMITTEES.—

"(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a non-Federal candidate committee for expenditures described in subsection (b) that are for the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(f) if—

"(A) the amount is derived from funds that meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in paragraphs (1)(A) and (2)(A) of section 315(a); and

"(B) the non-Federal candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

"(ii) certifies that the requirements were met.

"(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act referred to in paragraph (1)(A)—

"(A) a non-Federal candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

"(B) the committee must be able to demonstrate that its cash on hand contains sufficient funds meeting those requirements as are necessary to cover the transferred funds.

"(3) REPORTING.—Notwithstanding paragraph (1), a State Party Grassroots Fund that receives a transfer described in paragraph (1) from a non-Federal candidate committee—

"(A) shall meet the reporting requirements of this Act; and

"(B) shall submit to the Commission all certifications received with respect to receipt of the transfer from the candidate committee.".

(b) DEFINITIONS.—

(1) CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(A) by striking "and" at the end of clause (xiii);

(B) by striking the period at the end of clause (xiv) and inserting a semicolon; and

(C) by adding at the end the following:

"(xv) any amount contributed to a candidate for other than Federal office;

"(xvi) any amount received or expended to pay the costs of a State or local political convention;

"(xvii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidates, and that are not activities described in section 325(c) (without regard to paragraph (6)(B)) or section 325(d)(1);

"(xviii) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) party elections or caucuses;

"(xix) any payment for research pertaining solely to State and local candidates and issues;

"(xx) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xxi) any payment for any other activity that is solely for the purpose of influencing, and that solely affects, an election for non-Federal office and that is not an activity described in section 325(c) (without regard to paragraph (6)(B)) or section 325(d)(1).".

(2) EXPENDITURE.—Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended—

(A) by striking "and" at the end of clause (ix);

(B) by striking the period at the end of clause (x) and inserting a semicolon; and

(C) by adding at the end the following:

"(xi) any amount contributed to a candidate for other than Federal office;

"(xii) any amount received or expended to pay the costs of a State or local political convention;

"(xiii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidates, and that are not activities described in section 325(c) (without regard to paragraph (6)(B)) or section 325(d)(1);

"(xiv) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xv) any payment for research pertaining solely to State and local candidates and issues;

"(xvi) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xvii) any payment for any other activity that is solely for the purpose of influencing, and that solely affects, an election for non-Federal office and that is not an activity described in section 325(c) (without regard to paragraph (6)(B)) or section 325(d)(1).".

(3) OTHER TERMS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by section 114(a)) is amended by adding at the end the following:

"(29) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means a campaign activity that promotes a political party rather than a particular candidate or non-Federal candidate.

"(30) STATE PARTY GRASSROOTS FUND.—The term 'State Party Grassroots Fund' means a separate fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 325(d).

"(31) NON-FEDERAL CANDIDATE.—The term 'non-Federal candidate' means a candidate for State or local office.

"(32) NON-FEDERAL CANDIDATE COMMITTEE.—For purposes of this subsection, the term 'non-Federal candidate committee' means a committee established, financed, maintained, or controlled by a non-Federal candidate.".

(c) LIMITATION APPLIED AT NATIONAL LEVEL.—Section 315(d)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)) is amended—

(1) by striking "(3) The national" and inserting the following:

"(3) CANDIDATES FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES.—

"(A) IN GENERAL.—The national";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and adjusting the margins as appropriate; and

(3) by adding at the end the following:

"(2) EXPENDITURES BY CONGRESSIONAL CAMPAIGN COMMITTEES.—Notwithstanding paragraph (1), a congressional campaign committee of a political party shall make the expenditures described in paragraph (1) that are authorized to be made by a national or State committee with respect to a candidate in any State unless the congressional campaign committee allocates all or a portion of the expenditures to either or both of those committees.".

(d) APPLICATION OF LIMITATIONS TO ENTIRE ELECTION CYCLE.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1) by striking "general"; and

(2) in the first sentence of paragraph (2) and in paragraph (3)—

(A) by striking "general"; and

(B) by striking "which" and inserting "that, during an election cycle,".

SEC. 314. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 301) is amended by adding at the end the following:

"(j) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—

"(1) IN GENERAL.—For purposes of this Act, a candidate, an individual holding Federal office, or any agent of the candidate or individual may not solicit funds to, or receive funds on behalf of, any person—

"(A) that are to be expended in connection with any election for Federal office unless the funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) that are to be expended in connection with any election for other than Federal office unless the funds are not in excess of amounts permitted with respect to Federal candidates and political committees under paragraphs (1) and (2) of subsection (a), and are not from sources prohibited by those paragraphs with respect to elections to Federal office.

"(2) LIMITATION ON SOLICITATIONS.—

"(A) IN GENERAL.—The aggregate amount that a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) APPLICABILITY.—A person is described in this subparagraph if the person is a candidate, an individual holding Federal office, an agent of such a candidate or individual, or a national, State, district, or local committee of a political party (including a subordinate committee) or an agent of such a committee.

"(3) APPEARANCE OR PARTICIPATION IN A FUNDRAISING EVENT.—The appearance or participation by a candidate or individual holding Federal office in a fundraising event conducted by a committee of a political party or a non-Federal candidate shall not be treated as a solicitation for purposes of paragraph (1) if the candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from the activity.

"(4) STATE LAW.—Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a non-Federal candidate if the activity is permitted under State law.

"(5) DEFINITION.—For purposes of this subsection, an individual shall be treated as holding Federal office if the individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by subsection (a)) is amended by adding at the end the following:

"(k) TAX-EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—If an individual is a candidate for, or holds, Federal office during any period, the individual shall not during that period solicit contributions to, or on behalf of, any organization that is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of the organization include voter registration or get-out-the-vote campaigns.

"(2) DEFINITION.—For purposes of this section, an individual shall be treated as holding Federal office if the individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

SEC. 315. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 112(a)) is amended by adding at the end the following:

"(f) POLITICAL COMMITTEES.—

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, a congressional campaign committee of a political party, and any subordinate committee of a national committee or congressional campaign committee of a political party, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 325 APPLIES.—A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements, including separate schedules for receipts and disbursements for a State Grassroots Fund.

"(3) TRANSFERS.—A political committee to which section 325 applies shall—

"(A) include in a report under paragraph (1) or (2) the amount of any transfer described in section 325(d)(2); and

"(B) itemize those amounts to the extent required by section 304(b)(3)(A).

"(4) OTHER POLITICAL COMMITTEES.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

"(5) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for the person in the same manner as under paragraphs (3)(A), (5), and (6) of subsection (b).

"(6) REPORTING PERIODS.—Reports required to be filed by this subsection shall be filed for the same time periods as reports are required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

"(C) REPORTING REQUIREMENT.—The exclusion provided in subparagraph (B)(viii) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.".

(c) REPORTS BY STATE COMMITTEES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434 (as amended by subsection (a)) is amended by adding at the end the following:

"(g) FILING OF STATE REPORTS.—In lieu of any report required to be filed under this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines that such a report contains substantially the same information as a report required under this Act.".

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by inserting "and" at the end of subparagraph (I); and

(C) by adding at the end the following:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year"; and

(B) by striking "such operating expenditure" and inserting "operating expense, and the election to which the operating expense relates".

Subtitle C—Soft Money of Persons Other Than Political Parties

SEC. 321. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 315(c)) is amended by adding at the end the following:

"(h) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

"(1) INITIAL STATEMENT.—A person to which section 325 does not apply that makes (or obligates to make) aggregate disbursements totaling in excess of $2,000 for activities described in section 325(c) shall file a statement with the Commission—

"(A) within 48 hours after the disbursements or obligations in excess of $2,000 are made; or

"(B) in the case of disbursements or obligations that are made within 14 days of an election, on or before the 14th day before the election.

"(2) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $2,000 are made by a person described in paragraph (1).

"(4) APPLICABILITY.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(5) CONTENTS.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe, including if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party.

"(6) PLACE OF FILING.—A statement under this section shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of State (or equivalent official) of the candidate's State. The Secretary of the Senate or Clerk of the House of Representatives shall, as soon as possible (but not later than 24 hours after receipt), transmit a copy of the statement to the Commission.

"(7) TRANSMITTAL.—Not later than 48 hours after receipt, the Commission shall transmit a statement filed under this subsection—

"(A) to the candidates or political parties involved in the election in question; or

"(B) if the disbursement is not in support of, or in opposition to, a candidate or political party, to the State committees of each political party in the State in question.

"(8) DETERMINATIONS BY THE COMMISSION.—The Commission may make its own determination that disbursements described in paragraph (1) have been made or are obligated to be made. The Commission shall notify the candidates or political parties described in paragraph (2) not later than 24 hours after its determination.".

TITLE IV—CONTRIBUTIONS

SEC. 401. PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 314(b)) is amended by adding at the end the following:

"(m) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—

"(1) IN GENERAL.—A lobbyist, or a political committee controlled by a lobbyist, shall not make a contribution to—

"(A) a Federal officeholder or candidate for Federal office if, during the preceding 12 months, the lobbyist has made a lobbying contact with the officeholder or candidate; or

"(B) any authorized committee of the President or Vice President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

"(2) CONTRIBUTIONS TO MEMBER OF CONGRESS OR CANDIDATE FOR CONGRESS.—A lobbyist who, or a lobbyist whose political committee, has made a contribution to a member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution, make a lobbying contact with the member or candidate who becomes a member of Congress or with a covered executive branch official.

"(3) DEFINITIONS.—In this subsection the terms 'covered executive branch official', 'lobbying contact', and 'lobbyist' have the meanings given those terms in section 3 of the Federal Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) except that—

"(A) the term 'lobbyist' includes a person required to register under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); and

"(B) for purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

"(i) the member of Congress;

"(ii) any person employed in the office of the member of Congress; or

"(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.".

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 401(a)) is amended by adding at the end the following:

"(n) DEPENDENTS NOT OF VOTING AGE.—

"(1) IN GENERAL.—For purposes of this section, any contribution by an individual who—

"(A) is a dependent of another individual; and

"(B) has not, as of the time of the making of the contribution, attained the legal age for voting in an election to Federal office in the State in which the individual resides;

shall be treated as having been made by the other individual.

"(2) ALLOCATION BETWEEN SPOUSES.—If an individual described in paragraph (1) is the dependent of another individual and the other individual's spouse, a contribution described in paragraph (1) shall be allocated among those individuals in a manner determined by the individuals.".

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) (as amended by section 102(b)) is amended by adding at the end the following:

"(10) AGGREGATION OF CONTRIBUTIONS FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES.—Notwithstanding paragraph (5)(B), a candidate may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such a committee), if the contribution, when added to the total of contributions previously accepted from all such committees of that political party, would cause the total amount of contributions to exceed a limitation on contributions to a candidate under this section.".

SEC. 404. CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by section 313) is amended by adding at the end the following:

"SEC. 326. USE OF PHYSICAL FORCE OR INTIMIDATION TO OBTAIN A CONTRIBUTION OR EXPENDITURE OR DETER THE FILING OF A COMPLAINT.

"It shall be unlawful for any person to—

"(1) cause another person to make a contribution or expenditure by using physical force, job discrimination, a financial reprisal, a threat of physical force, job discrimination, or financial reprisal, or taking or threatening to take other adverse action;

"(2) make a contribution or expenditure utilizing money or anything of value secured in the manner described in paragraph (1)."or

"(3) use physical force, job discrimination, or financial reprisal, a threat of physical force, job discrimination, or financial reprisal, or take or threaten to take other adverse action, against an employee, union member, or other person—

"(A) to deter or prevent any person from filing a complaint, providing testimony, or otherwise cooperating with enforcement efforts under this Act; or

"(B) to retaliate against any person who has filed a complaint, provided testimony, or otherwise cooperated with enforcement efforts under this Act.".

SEC. 405. PROHIBITION OF ACCEPTANCE BY A CANDIDATE OF CASH CONTRIBUTIONS FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441g) is amended by inserting ", and no candidate or authorized committee of a candidate shall accept from any 1 person," after "make".

TITLE V—AUTHORITIES AND DUTIES OF THE FEDERAL ELECTION COMMISSION

SEC. 501. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended by adding at the end the following:

"(6) FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.—

"(A) COMPUTERS.—The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may issue a regulation under a person required to file a designation, statement, or report under this Act—

"(i) are required to maintain and file the designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file the designation, statement, or report in that manner if not required to do so under a regulation under clause (i).

"(B) FACSIMILE MACHINES.—The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe a regulation that allows a person to file a designation, statement, or report required by this Act through the use of a facsimile machine.

"(C) Verification.—In a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying a designation, statement, or report. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(D) Compatibility of systems.—The Secretary of the Senate and the Clerk of the House of Representatives shall ensure that any computer or other system that the Secretary or the Clerk may develop and maintain to receive designations, statements, and reports in the forms required or permitted under this paragraph is compatible with any system that the Commission may develop and maintain.".

SEC. 502. INCREASE IN THRESHOLD FOR REPORTING REQUIREMENTS.

(a) Identification of Contributors.—Section 302(c)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(c)(3)) is amended by striking "$200" and inserting "$50".

(b) Identification of Disbursements.—Section 302(c)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(c)(5)) is amended by striking "$200" and inserting "$50".

SEC. 503. AUDITS.

(a) Random Audits.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by adding at the end the following:

"(2) Random audits.—Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under title VI or to an authorized committee of an eligible Senate candidate or an eligible House candidate subject to audit under section 522(a).".

(b) Extension of Period During Which Campaign Audits May Be Begun.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)), as redesignated by subsection (a), is amended by striking "6 months" and inserting "12 months".

SEC. 504. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found or in which the violation is occurring, has occurred, or is about to occur.";

(2) in paragraph (7), by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(3) in paragraph (11), by striking "(6)" and inserting "(6) or (13)".

SEC. 505. PENALTIES.

(a) Increased Penalties.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B) by striking "$5,000" and inserting "$10,000";

(2) in paragraph (5)(B) by striking "the greater of $10,000 or an amount equal to 200 percent" and inserting "the greater of $20,000 or 300 percent"; and

(3) in paragraph (6)(C) by striking "the greater of $10,000 or an amount equal to 200 percent" and inserting "the greater of $20,000 or 300 percent".

(b) Equitable Remedies.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period and inserting ", and, if authorized by the agreement, may include equitable remedies or penalties including disgorgement of funds to the United States Treasury, community service requirements, suspension or disbarment of treasurers, or public education requirements.".

(c) Automatic Penalty For Late Filing.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) Penalty for late filing.—

"(A) In general.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the staff director of the Commission for any failure to meet the time requirements for filing under section 304.

"(B) Required filing of late report.—The Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

"(C) Procedure for assessing penalties and filing deadlines.—Penalties and filing requirements imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5) or (12).

"(D) Appeals.—

"(i) In general.—A political committee shall have 30 days after the imposition of penalty or filing requirement under this paragraph to file an exception with the Commission.

"(ii) Commission determination.—Within 30 days after receiving the exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in the court by the political committee that is the subject of the agency action, if the petition is filed within 30 days of the Commission action for which review is sought.";

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: "In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph 6(A)."; and

(B) by inserting before the period in the last sentence "or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)"; and

(3) in paragraph (6)(A), by striking "paragraph (4)(A)" and inserting "paragraph (4)(A) or (13)".

SEC. 506. INDEPENDENT LITIGATING AUTHORITY.

(a) Litigating Authority.—Section 306(f) of Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by striking paragraph (4) and inserting the following:

"(4) Independent litigating authority.—

"(A) In general.—Notwithstanding paragraph (2) or any other provision of law, the Commission is authorized to appear on its own behalf in any action related to the exercise of its statutory duties or powers in any court as a party or amicus curiae, either—

"(i) by attorneys employed in the office of the Commission, or

"(ii) by counsel whom the Commission may appoint, on a temporary basis, as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, and whose compensation the Commission may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title.

"(B) Appeals.—The authority granted under subparagraph (A) includes the power of the Commission to appeal from, and petition the Supreme Court for certiorari to review, judgments, or decrees entered with respect to actions in which the Commission appears pursuant to the authority provided by this Act.".

(b) Power of Commission To Petition the Supreme Court.—Section 307(a)(6) of Federal Election Campaign Act of 1971 (2 U.S.C. 437d(a)(6)) is amended by striking "or appeal any civil action" and inserting ", appeal any civil action or petition the Supreme Court for certiorari to review judgments or decrees entered with respect to actions in which the Commission appears".

SEC. 507. REFERENCE OF SUSPECTED VIOLATION TO THE ATTORNEY GENERAL.

Section 309(a)(5) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by striking subparagraph (C) and inserting the following:

"(C) Referral to the Attorney General.—The Commission may at any time, by an affirmative vote of 4 of its members, refer a possible violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1986 to the Attorney General of the United States, without regard to any limitations set forth in this section.".

SEC. 508. POWERS OF THE COMMISSION.

(a) Initiation of Enforcement Proceeding.—Section 309(a)(2) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking "reason to believe that" and inserting "reason to investigate whether".

(b) Service of Process.—Section 306(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by inserting at the end the following:

"(5) Service of process.—In any matter under this Act or under chapter 95 or chapter 96 of the Internal Revenue Code of 1986, the Commission may at its discretion, without court order and with or without reimbursement, require the United States Marshal Service to serve process on behalf of the Commission, including serving a summons, subpoena, or complaint, upon any person.".

(c) Venue for Violations Adjudicated in Court.—Section 309(a)(6)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)(A)) is amended by striking "for the district in which the person against whom such action is brought is found, resides, or transacts business" and inserting "in which the defendant resides, transacts business, or is found or in which the violation occurred".

(d) FILING OF REPORTS WITH COMMISSION INSTEAD OF THE SECRETARY OF THE SENATE.—

(1) SECTION 302.—Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended—

(A) by striking "(g)(1)" and all that follows through "(3) All" and inserting "(g) FILING.—";

(B) by striking paragraph (4); and

(C) by striking ", except designations, statements, and reports filed in accordance with paragraph (1),".

(2) SECTION 304.—Section 304 of Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(A) in the first sentence of subsection (a)(6), by striking "the Secretary, or the Commission," and inserting "the Commission"; and

(B) in the third sentence of subsection (c)(2), by striking "the Secretary, or".

(3) SECTION 311.—Section 311(a)(4) of Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)(4)) is amended by striking "Secretary, or the".

(e) AUTHORIZATION TO ACCEPT GIFTS.—Section 306(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by adding at the end the following:

"(6) AUTHORIZATION TO ACCEPT GIFTS.—

"(A) IN GENERAL.—To carry out the purposes of this Act, the Commission may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, if the acceptance and use of the gifts, devises, or bequests does not create a conflict of interest.

"(B) DEPOSIT OF GIFTS.—Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Commission.

"(C) USE OF GIFTS.—Property accepted pursuant to this section, and the proceeds from the property, shall be used as closely as practicable in accordance with the terms of the gifts, devises, or bequests.".

TITLE VI—MISCELLANEOUS

SEC. 601. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) LIMITATIONS.—A political committee that supports or has supported more than 1 candidate shall not be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of the political party as the candidate's principal campaign committee if the national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."; and

(2) by adding at the end the following:

"(6) PROHIBITION OF LEADERSHIP COMMITTEES.—

"(A) IN GENERAL.—

"(i) PROHIBITION.—A candidate or an individual holding Federal office shall not establish, finance, maintain, or control any political committee or non-Federal political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3).

"(ii) CANDIDATE FOR MORE THAN 1 OFFICE.—A candidate for more than 1 Federal office may designate a separate principal campaign committee for the campaign for election to each Federal office.

"(iii) CANDIDATES FOR STATE OR LOCAL OFFICE.—This paragraph does not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to the State or local office.

"(B) TRANSITION.—

"(i) CONTINUATION FOR 12 MONTHS.—For a period of 12 months after the effective date of this paragraph, any political committee established before that date but that is prohibited under subparagraph (A) may continue to make contributions.

"(ii) DISBURSEMENT AT THE END OF 12 MONTHS.—At the end of the 12-month period, the political committee shall disburse all funds by 1 or more of the following means:

"(I) Making contributions to a person described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of the Code.

"(II) Making a contribution to the Treasury of the United States.

"(III) Contributing to the national, State, or local committee of a political party.

"(IV) Making a contribution of not to exceed $1,000 each to 1 or more candidates or non-Federal candidates.".

SEC. 602. TELEPHONE VOTING BY PERSONS WITH DISABILITIES.

(a) STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.—

(1) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) CONSULTATION.—The Federal Election Commission shall conduct the study described in paragraph (1) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(3) CRITERIA.—The system or systems developed pursuant to paragraph (1) shall—

(A) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(B) propose procedures to identify persons who are so disabled; and

(C) describe procedures and equipment that may be used to ensure that—

(i) only persons who are entitled to use the system are permitted to use it;

(ii) the votes of persons who use the system are recorded accurately and remain secret;

(iii) the system minimizes the possibility of vote fraud; and

(iv) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(4) REQUESTS FOR PROPOSALS.—In developing a system described in paragraph (1), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(5) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(6) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the effective date of this Act.

SEC. 603. CERTAIN TAX-EXEMPT ORGANIZATIONS NOT SUBJECT TO CORPORATE LIMITS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

"(c) PROHIBITIONS NOT TO APPLY TO INDEPENDENT EXPENDITURES OF CERTAIN TAX-EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—Nothing in this section shall preclude a qualified nonprofit corporation from making an independent expenditure.

"(2) DEFINITION OF QUALIFIED NONPROFIT CORPORATION.—In this subsection, the term 'qualified nonprofit corporation' means a corporation described in section 501(c)(4) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code and that meets the following requirements:

"(A) PURPOSE.—The only express purpose of the corporation is the promotion of political ideas.

"(B) NO TRADE OR BUSINESS.—The corporation cannot and does not engage in any activities that constitute a trade or business.

"(C) GROSS RECEIPTS.—The gross receipts of the corporation for the calendar year have not (and will not) exceed $100,000, and the net value of the total assets at any time during the calendar year do not exceed $250,000.

"(D) ESTABLISHMENT.—The corporation—

"(i) was not established by—

"(I) a person described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code;

"(II) a corporation engaged in carrying out a trade or business; or

"(III) a labor organization; and

"(ii) cannot and does not directly or indirectly accept donations of anything of value from any such person, corporation, or labor organization.

"(E) ASSETS AND EARNINGS.—The corporation—

"(i) has no shareholder or other person affiliated with it that could make a claim on its assets or earnings; and

"(ii) offers no incentives or disincentives for associating or not associating with it other than on the basis of its position on any political issue.

"(3) QUALIFIED NONPROFIT CORPORATION TREATED AS POLITICAL COMMITTEE.—If a major purpose of a qualified nonprofit corporation is the making of independent expenditures, and the requirements of section 301(4) are met with respect to the corporation, the corporation shall be treated as a political committee.

"(4) NOTICE REQUIREMENT.—All solicitations by a qualified nonprofit corporation shall include a notice informing contributors that donations may be used by the corporation to make independent expenditures.

"(5) REPORTS.—A qualified nonprofit corporation shall file reports as required by subsections (d) and (e) of section 304.

SEC. 604. AIDING AND ABETTING VIOLATIONS OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Title III of the Federal Election Campaign Act of 1971 (as amended by section 404) is amended by adding at the end the following:

"SEC. 327. AIDING AND ABETTING VIOLATIONS.

"With reference to any provision of this Act that places a requirement or prohibition on any person acting in a particular capacity, any person who knowingly aids or abets the person in that capacity in violating that provision may be proceeded against as a principal in the violation.".

SEC. 605. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 505) is amended by adding at the end the following:

"SEC. 328. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

"(a) CANDIDATES.—A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by not later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

"(b) PERSONS OTHER THAN CANDIDATES.—

"(1) IN GENERAL.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication described in paragraph (2) shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by not later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

"(2) ADVOCACY OR REFERENCE TO OPPONENT.—A communication is described in this paragraph if it is a communication to the general public that—

"(A) advocates the election of a particular candidate in an election; and

"(B) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any opponent in particular.".

SEC. 606. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) A Member of Congress may not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that seat or for election to any other Federal office.".

SEC. 607. PARTICIPATION BY FOREIGN NATIONALS IN POLITICAL ACTIVITIES.

(a) PROHIBITION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting "PARTICIPATION BY FOREIGN NATIONALS IN POLITICAL ACTIVITIES";

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITED CONTRIBUTIONS AND EXPENDITURES.—

"(1) It shall be unlawful for a foreign national directly or through any other person to make any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any contribution or expenditure, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

"(2) for any person to solicit, receive, or accept a contribution from a foreign national.";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following:

"(b) PROHIBITED ACTIVITIES.—It shall be unlawful for a foreign national or an individual lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20), to direct, dictate, control, or directly or indirectly participate in the decisionmaking process of any other person, (as defined in 301(11)), with regard to the person's Federal or non-Federal election-related activities, such as a decision concerning the making of a contribution or expenditure in connection with an election for any Federal office or a decision concerning the administration of a political committee.".

(b) AFFIRMATION OF ELIGIBILITY TO MAKE CONTRIBUTION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) (as amended by subsection (a)) is amended by adding at the end the following:

"(d) AFFIRMATION OF ELIGIBILITY TO MAKE CONTRIBUTION.—A candidate or authorized committee of a candidate shall not accept a contribution in excess of $500 unless the contribution is accompanied by a statement, signed by the person making the contribution, affirming that the person is not a person prohibited by this section from making the contribution.".

SEC. 608. CERTIFICATION OF COMPLIANCE WITH FOREIGN CONTRIBUTION AND SOLICITATION LIMITATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) CERTIFICATION OF COMPLIANCE WITH FOREIGN CONTRIBUTION AND SOLICITATION LIMITATIONS.—Each report required under this section shall include a certification under penalty of perjury that the political committee has not knowingly solicited or accepted contributions prohibited by section 319.".

TITLE VII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 701. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

SEC. 702. BUDGET NEUTRALITY.

(a) DELAYED EFFECTIVENESS.—This Act (other than this section) and the amendments made by this Act shall not be effective until the Director of the Office of Management and Budget certifies that the estimated costs under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) have been offset by the enactment of legislation effectuating this Act.

(b) FUNDING.—Legislation effectuating this Act shall not provide for general revenue increases, reduce expenditures for any existing Federal program, or increase the Federal budget deficit.

SEC. 703. SEVERABILITY.

Except as provided in section 101(c), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance is held invalid, the validity of any other provision of this Act, or the application of the provision to other persons and circumstances shall not be affected thereby.

SEC. 704. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if the Court has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 705. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal Jan. 9, 1997]

GOP TO REBUKE COMPANIES FOR BIPARTISAN DONATIONS

(By Helene Cooper)

WASHINGTON—Republican leaders are adopting a tough post-election strategy: "Don't get mad, get even." And the foe this time isn't the Democrats or organized labor.

It's Corporate America.

Annoyed that big business has been hedging its bets by giving lots of money to the Democrats as well as to the Republicans, the GOP says the Business Roundtable, a group of 200 chief executives from the nation's biggest companies, is about to receive an ultimatum: Stop donating so much to the Democrats and become more involved in partisan politics, or be denied access to Republicans in Congress.

GOP House leaders are expected to deliver the message tonight at a dinner meeting with some 20 chief executives of Business Roundtable companies. Scheduled to attend are Speaker Newt Gingrich, Majority Leader Dick Armey, Rep. Tom DeLay of Texas and Rep. John Boehner of Ohio, among others. Corporate bigwigs expected at the meeting include Don Fites, chief executive officer of Caterpillar Inc. who is chairman of the Business Roundtable, and John Snow, chief executive of CSX Corp.

Republican Party Chairman Haley Barbour, who is spearheading the drive, accuses the business group of "sitting on its hands" during the past election campaign; he calls America's big CEOs ineffectual in the battle against Democrats and organized labor. "If their view is going to be neutral when the left tries to undo their agenda," Mr. Barbour says in an interview, "they need to paint up a big billboard that says, 'We don't fight.' "

Companies that want to have it both ways, vows one top GOP strategist, no longer will be involved in Republican decision-making "or invited to our cocktail parties."

The GOP strategy is a high-risk one. While Business Roundtable companies gave more than $11.04 million to the Democrats during the 1996 election cycle, as of figures from

Dec. 2 they gave more than double that amount—$25.76 million—to Republicans, according to the Center for Responsive Politics, a Washington-based public-interest group that monitors campaign spending.

Republican leaders insist they aren't selling access. But their strategy comes at a time when the GOP is gearing up to investigate Democratic fund raising and has criticized the Clinton administration for cozying up to wealthy Asians and Asian-Americans who have donated heavily to the Democratic Party.

But Mr. Barbour isn't worried about alienating the GOP's longtime corporate backers. "The best way to be friends is to be upfront with them," he says. Roundtable companies, he adds, "should give a bigger percentage to the Republicans" than they now are giving.

Mr. Barbour has been sounding the anti-Business Roundtable drumbeat with increasing ferocity, calling the group inefficient and incompetent in numerous interviews. And Business Roundtable members say he has suddenly become unavailable when they call to talk about the problem.

"I've been unable to connect with Haley," Caterpillar's Mr. Fites said in a letter to Roundtable members two weeks ago. "When I do reach him, I want to explain" that the Business Roundtable, as a group, doesn't give money to political candidates, Mr. Fites said.

But Business Roundtable companies do, and therein lies the problem for Republicans, who have long thought of Corporate America as their own private money machine. Lately though, big companies have been hedging their bets more than before, and giving substantial money to the Democrats as well. With a Democratic administration, that is expected to continue.

Telecommunication giants AT&T Corp., MCI Communications Corp. and Sprint Corp., along with their political-action groups, for example, rewarded the Democrats in Congress and the Clinton administration for being sympathetic to their cause during the telecommunication-legislation fight. They spread out their huge contributions almost equally, giving $1.74 million to the Democrats and $1.98 million to Republicans. Eastman Kodak Co., which is counting on the Clinton administration to push its trade complaint against Fuji Photo film Co. of Japan, gave the Democrats $40,711 in the 1996 cycle, and $39,000 to the Republicans.

Adding to the GOP's corporate-money complaints was the huge, albeit losing, $35 million campaign by organized labor to elect a Democratic Congress. When GOP strategists tried to counter the attack, forming a group called the Coalition, the business-led group raised just $5 million. In addition, the Business Roundtable declined to join. "We do not solicit or spend money on behalf of candidates for political office," the group's spokeswoman, Johanna Schneider, said.

"We've got the labor unions giving 99% to Democrats, and then the Business Roundtable turns around and says they're neutral?" says one top GOP strategist. "If they're neutral, then they should pack up their belongings and move out of town. Washington is a partisan town."

Republicans say they are drawing up a list of corporations that will be warned to shape up or ship out of the GOP decisionmaking circle. Those in the GOP doghouse include Anheuser-Busch Cos., which isn't a member of the Business Roundtable, but which, along with its PAC, gave $442,057 to the Democrats while giving $395,700 to the Republicans; and UAL Corp.'s United Airlines, which, along with its PAC, gave $265,007 to Democrats and $148,145 to Republicans.

While clearly concerned, corporate CEOs are also annoyed. "Quite frankly, I'm puzzled by this entire situation," the Business Roundtable's Mr. Fites says in his letter to fellow top dogs. "It is counterproductive to the large number of mutual goals that the roundtable shares with the Republican congressional leadership. I'm also concerned that these unfounded attacks could drive a wedge between roundtable members and congressional Republicans that will not serve either side well."

* * * * *

[From Roll Call, Jan. 20, 1997]

GOP Pressures Business Group To Dump Their Dem Lobbyists

(By Amy Keller)

Republican leaders are calling it "behavior modification." One source described the plan as "shooting elephants."

Either way, the Congressional GOP is turning up the heat on one of its key allies: the Business Roundtable.

Still angry that big business failed to adequately bankroll their campaigns and counter the AFL–CIO's onslaught of attack ads last fall, the Republicans want the BRT to purge Democrats from its staff of nine directors.

"You have to fix the problem. You have to fix the Business Roundtable," one Republican source said, explaining that the GOP leadership is urging the prestigious organization of corporate bigwigs to purge its staff.

The lawmakers are also urging the CEOs of some 200 corporations that comprise the BRT to dump their Democratic lobbyists, hire Republicans, and significantly increase the percentage of PAC contributions that go to GOP candidates.

Outgoing Republican National Committee Chairman Haley Barbour has been scolding corporate America for weeks for "not [lifting] a finger in that battle" against labor and other liberal groups, and on Jan. 9, Republican lawmakers hosted a dinner meeting with two dozen BRT Members to begin the "process of behavior modification," sources told Roll Call.

The CEO summit was run by top GOP leaders, including Senate Majority Leader Trent Lott (Miss), Republic Conference Chairman John Boehner (Ohio), and others. The BRT selected 24 CEOs—"friends of the Republican side," like Caterpillar Inc. CEO Donald Fites and BRT chairman and Allied Signal Inc. CEO Lawrence Bossidy—to attend the closed-door meeting.

One top GOP leadership aid described the CEO summit as a "good conversation," and said both sides walked out "with a better understanding" and a "commitment" to work together.

But other Republican sources say the business group remains under intense scrutiny. One sore spot, sources said, is BRT president Sam Maury, whom Republicans are attacking as a Democratic operative.

As one senior GOP staffer put it: "We don't feel Sam Maury fits our definition of" someone who would "work well on the Republican team."

Maury is a lawyer and former US Steel executive who joined the BRT in 1982, becoming its number-two man the following year and moving up to executive director of the entire organization in 1993.

Maury did not return calls seeking comment, and a spokeswoman for the BRT also declined to comment on the matter.

But Maury's not the only one who should be sent packing, Republicans say.

It's the view of GOP House and Senate leaders that the CEOs of America's big companies have delegated too much decision-making authority to Washington operatives with Democratic loyalties. According to the GOP leadership, corporations that want to maintain their ties with GOP leaders, and be players in policy debates, need to hire Republican lobbyists. One aide said the leaders are encouraging businesses to call them if they need help in this move—and that they'll be happy to make hiring "suggestions."

It's their choice if they want to be part of our team," he added.

Other incidents have also soured the GOP's relationship with the BRT, Republicans say. For example, lawmakers are still sore over the way the BRT handled an ad campaign promoting the GOP budget in 1995.

The BRT's $10 million ad campaign, which funded the commercials on MTV and other networks to build public support for the budget reconciliation bill, was viewed by Republicans as "tepid" at best, and GOP sources said they have reason to believe that Maury was coordinating the campaign with the White House.

Johanna Schneider, spokeswoman for the BRT, defended her organization's reputation.

The BRT was founded in 1972 by CEOs who were "committed to improving public policy," and that's the role of the BRT, not funding campaigns, she told Roll Call.

The BRT "does not have a PAC," she said, and therefore does not contribute to campaigns. And, she said, individual companies that have PACs make those decisions on an individual basis.

"I think we've been successful in adding to the public dialogue," said Schneider. But Schneider insists that the BRT doesn't, and won't have anything to do with funding campaigns.

So why are they being targeted?

The behemoth corporations are, in some ways, easier to go after. As one GOP supporter pointed out: "It's much easier to go out and shoot elephants than to shoot ants."

If the Republicans can get the BRT to change its ways the payoff could be big. Just as Willie Sutton robbed banks because "that's where the money is," the GOP Congressional leaders realize that BRT members could handily boost Republican election efforts if the BRT would agree to fund issue-advocacy campaigns in future elections.

And while no one expects to see 100 percent, or even 90 percent, of corporate PAC money go exclusively to Republicans—60 or 70 percent would be nice, they say.

While some in the business community say they are angered by the GOP's tactics, others are downplaying the tongue-lashing.

Said one corporate source: "They wanted businesses to stop and review what they did in light of what labor did * * *. Just a reminder that things have changed. A reminder to take a look. . . take a good look at what you did. Look at it collectively, and look at what other people on the other side of the issues did."

Steve Stockmeyer, spokesman for the National Association of Business PAC, wasn't at the recent meeting of CEOs and Congressional leaders, but he told Roll Call that he has sympathies on both sides.

"The Republican leadership is wise to seek out allies and ask them to be more consistent allies," said Stockmeyer, though he did say that the GOP approach has been rather "hamhanded."

"Republicans haven't had 40 years to learn how to be subtle," Stockmeyer said. He also noted that it would be native for Republicans to expect the business community to consistently support Republicans, though he admitted businesses should do more.

"It will never be monolithic to the degree that labor was * * *. Business is too pragmatic," he observed.

As for the push to hire Republican lobbyists, Wright Andrews, the former president of the American League of Lobbyists, told Roll Call that he believes it is "wrong, wrong, wrong for either Democrats or Republicans to say, "We only want to work with our former staffers.'"

"It's not their job to decide," he said.

As Republicans strive to become a permanent majority on Capitol Hill, many say they expect an influx of GOP lobbyists to be a natural progression. They simply hope that the increased pressure will "speed up the process" of that turnover, one source said.

Still, another source with solid GOP connections expressed reservations about just how far Republican lawmakers can push their argument.

"You don't start a game of this nature if you don't have a game plan that takes you to the end of the game," he said, remarking that GOP leaders must remember that in the end, they need corporate America as much as it needs them.

Mr. LEVIN. Mr. President, I could not agree more with something Senator DASCHLE said earlier today, when he urged us to enact campaign finance reform within the first 100 days of this Congress. The public is looking at us with greater scrutiny in this area than they have ever looked before. We have been down this road before, and I have walked down this road with colleagues, often on a bipartisan basis.

The likelihood is we cannot get anything done in this area unless we act on a bipartisan basis. But act we must. That is what the public is telling us, and I believe the mood they are in will hold us accountable if we fail that charge.

I thank the Chair and yield the floor.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. DODD, Mr. REID, Mr. DORGAN, Mrs. MURRAY, Mr. FORD, Mr. ROCKEFELLER, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. CLELAND, Mr. JOHNSON, Mr. BREAUX, Mr. TORRICELLI, Mr. DURBIN, Mr. GLENN, Mrs. BOXER, Mr. WELLSTONE, and Mr. BRYAN):

S. 12. A bill to improve education for the 21st century; to the Committee on Finance.

EDUCATION FOR THE 21ST CENTURY ACT

Mr. KENNEDY. Mr. President, I give my strong support to the "Education for the 21st Century Act" introduced today by Senator DASCHLE on one of our principle democratic leadership initiatives.

Education must continue to be a top priority in this Congress. We need to do more to make college accessible and affordable for all students, to modernize school classrooms, to help communities build new school facilities and repair old ones, and to help all children learn to read so that they can read to learn.

It is not enough to maintain current spending levels for education. Modest increases are essential to meet rising enrollments and inflation.

Too often, college is priced out of reach for many families. From 1980 to 1990, the cost of college rose by 126 percent, while family income increased by only 73 percent. To meet that rising cost, students are going deeper and deeper into debt. In the 1990s, students have borrowed more in student loans than in the three preceding decades combined.

In 1996 alone, students borrowed $30 billion—a 65-percent increase since 1993. Since 1988, borrowing in the Federal student loan program has increased by more than 100 percent, while starting salaries for college graduates failed to increase at all. Eighty percent of young adults with student loans make under $20,000 in their first year of repayment, barely enough to support the average repayment.

Communities are struggling to repair decrepit facilities, let alone build modern classrooms. Fourteen million children in a third of the Nation's schools are learning in sub-standard classrooms. Half the schools have unsatisfactory conditions. Forty-six percent of schools report insufficient electrical wiring for computers and communications equipment. The repair bill alone is estimated at $112 billion.

And while all this is happening, enrollments are at an all-time high of 52 million students, and thus are continuing to rise.

Forty percent of all children are now reading below their basic grade level. Many parents do not read to their children and with their children, even though we know that when parent involvement is high, student reading scores are also high.

Technology is a powerful tool for improving schools and encouraging economic growth. Computers enable teachers to spend more time with students and teach more effective lessons. By the year 2000, 60 percent of all jobs in the Nation will require skills in computer and network use. According to a recent GAO study, one in every four schools does not have sufficient computers to meet its needs. Only 9 percent of classrooms are connected to the Internet.

Clearly, we are not prepared to meet the challenges of the next century. We have to do better, and the Education for the 21st Century Act will help us to meet the pressing needs of communities, schools, and families.

The Act includes four separate titles: The Higher Education Affordability Act, which includes President Clinton's $1,500 Hope Tuition Tax Credit, the $10,000 tuition tax deduction, and the restoration of the tax deduction for student loan interest; The Educational Facilities Improvement Act; The America Reads Challenge Act, which includes The Parents as First Teachers Act and The Challenging America's Young Readers Act; and The Investing in Technology in the Classroom Act.

The Hope Tax Credit will make at least 2 years of community college affordable for every student. The bill provides a $1,500 a year refundable tax credit for net tuition payments during the first 2 years of college after high school for full-time students. Part-time students may receive $750 per year. The tax benefit is phased out for single persons between $50,000 and $70,000 in adjusted gross income, and phased out for couples between $80,000 and $100,000. Only students who have a cumulative "B" average from high school, or its equivalent, qualify for the credit. Pell grants and the tax credit are additive, up to the value of the net tuition paid.

The $10,000 tax deduction will be available to all families with incomes below $100,000. The bill provides an above-the-line deduction of up to $10,000 per taxpayer per year for net tuition expenses. The deduction is available for all college and graduate schools, and the income limits are the same as those provided under the Hope Tax Credit.

The bill also restores the deduction for interest on student loans that was available before the Tax Reform Act of 1986. Unlike the previous deduction, this bill provides an above-the-line deduction. The income limits are the same as those provided under the Hope Tax Credit.

The Educational Facilities Improvement Act instructs the Federal Government to pay up to 50 percent of the interest costs on State and local bonds to finance school repair, renovation, modernization and construction. Twenty percent of the funds will go directly from the Secretary of Education to the 100 poorest school districts under a formula based on the number of poor children. The remainder of the funds will be awarded to States to provide assistance to State or local bond authorities.

The America Reads Challenge Act includes two components: The Parents as First Teachers Act and the Challenge America's Young Readers Act. The Parents as First Teachers Act—recognizing that parents are the best first teachers—will support national and regional parent networks that disseminate information on helping parents help their children to read. It will also fund programs to expand successful programs and activities that help parents increase the reading skills of their children.

The Challenging America's Young Readers Act will help State and local organizations help children learn to read by the third grade. Programs funded by this act will provide 30,000 reading specialists and volunteer coordinators to run tutoring assistance programs outside regular school hours to more than 3 million children.

My hope is that these proposals will receive the bipartisan support they deserve, so they can be in place for the beginning of the next academic year this fall. Improving education or opportunities for education is clearly one of our highest national priorities. Few things which this Congress does will matter more to the country's future. Investing in education is investing in a stronger America here at home and around the world, and I look forward to working with my colleagues on both sides of the aisle to enact these important measures.

Mr. BREAUX. Mr. President, I would like to make a few remarks about S. 12, the Education for the 21st Century Act, and our efforts to improve elementary and secondary educational opportunities for our Nation's children, as well as make higher education more accessible for adults.

Quality education is necessary not only for the future of our children and our families, but for the future of our Nation. A better educated workforce is essential to compete in the global economy and to maintain a strong democracy. Every Member of this body knows that a high school diploma is worth far less in today's marketplace than a generation ago. According to the U.S. Bureau of Labor Statistics, 60 percent of all jobs created between 1992 and 2005 will require education beyond high school. Modern society has little room for those who cannot read, write, and compute effectively; solve problems; and continually learn new technologies and skills.

The Education for the 21st Century Act includes a number of important initiatives that, if enacted, will make educational opportunities more accessible for Americans: The HOPE Scholarship, the tax deduction for higher education expenses, the student loan interest deduction, and the technology literacy and America Reads initiatives. Another area of concern that S. 12 addresses is the declining physical condition of our Nation's schools.

According to a June 1996 report by the U.S. General Accounting Office, nationwide, about a third of public elementary and secondary schools have at least one building needing extensive repair, and about 60 percent need extensive repair, overhaul, or replacement of at least one major building feature. Nationwide, about 58 percent of schools have at least one unsatisfactory environmental condition (i.e., lighting, heating, ventilation, indoor air quality, acoustics for noise control, and physical security). Nationwide, 21 percent of schools need to spend over the national average ($1.7 million) to bring their facilities into "good condition."

Although a national problem, it is mirrored in every State. In my own State of Louisiana, about 38 percent of public elementary and secondary schools have at least one building needing extensive repair. Fifty-six percent of Louisiana schools have at least one unsatisfactory environmental condition. Twenty-three percent of Louisiana schools need to spend over the national average to bring their facilities into "good condition." Sixty-five percent of Louisiana schools lack telephone lines for computer modems.

It is important that we help schools, libraries, and local governments bring advanced telecommunications to millions who otherwise cannot participate in the new information age. Computer services like the Internet give young people in the most poor and remote communities access to the same information available in the best libraries and institutions in the country and the world. Unfortunately, many States and local governments have had to cut back on investment in education because of budget problems and limits on debt capacity.

Some have argued that the proper role of Government is to try to solve everyone's problems from cradle to grave—to create programs to protect citizens from everything, even themselves, because, as they say, "Government knows best." Others argue that Government has no role at all in helping people, other than getting out of the way and offer only a survival of the fittest solution. My colleagues let me suggest that the better role for Government to play is one that equips the American people with the means to solve their own problems.

Some want to abandon the public schools, not make them better—as if removing the most motivated students and parents will somehow increase the drive to improve schools for everyone else. Others say education reform is a question of more resources and better management. Still others say an education system for the 21st century should be defined by its results and schools exist only if they attract students and satisfy parents; they serve everyone; and they operate on the premise that all students can succeed.

Whatever your point of view, the task of making education work falls to all of us. If we have learned anything over the past decades, it is there is no quick fix. This proposal will not transform our schools overnight. However, over time, it will be a meaningful step toward improving the lives and futures of families in Louisiana and throughout this Nation. I believe we should explore, and I am exploring, other ideas and options to help State and local governments address their infrastructure needs.

Mr. President, I hope my colleagues will favorably consider this legislation. As we move through the 105th Congress and consider all of the various proposals to produce a balanced federal budget, we must be mindful that our intent is to provide, not deny, American families the means and the opportunity to take part in our global economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 12

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education for the 21st Century Act".

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Quality public education is necessary not only for the future of our children and our families, but for the future of America. A better educated citizenry and workforce are essential to compete in the global economy and to maintain a strong democracy.

(2) The investment America makes today in the education of its people will determine the future of the Nation. In order to promote growth and prosperity in our economy, and ensure individual opportunity, America must maintain education as a national priority.

(3) Strong leadership in education is needed more than ever. Schools are facing the challenge of educating more highly skilled workers to meet the demands of a modern economy. The Bureau of Labor Statistics estimates that 60 percent of all jobs created between 1992 and 2005 will require more than a high school education.

(4) Mounting evidence suggests that far more rigorous levels of academic achievement will be required to equip American students for the 21st century workplace. Employers will demand increasingly sophisticated levels of literacy, communication, mathematical, and technological skills. Sixty percent of all jobs will require computer skills.

(5) Literacy is a crucial element of academic success. However, in 1994, 40 percent of 4th grade students failed to attain the basic level of reading on the National Assessment of Educational Progress. Seventy percent did not attain the proficient level. Students who are not reading at grade-level are very unlikely to graduate from high school. One-on-one tutoring is a key component of bringing students up to reading grade-level.

(6) Students are learning in decrepit school buildings. According to 2 recent Government Accounting Office reports, 14,000,000 children in a third of the Nation's schools are learning in substandard classrooms. Half of the schools have at least 1 unsatisfactory environmental condition, such as poor air quality.

(7) College costs are rising. College tuition has risen in private colleges and universities and in State institutions as State appropriations have eroded. From 1985 to 1994, the average cost of attending college rose by 30 percent after adjusting for inflation. During the same period, the median income increased by only 1 percent.

(8) Meeting the challenge of the next century will require the involvement of all Americans, including public officials, educators, parents, business and community leaders, and students. Encouraging active

participation by all segments of communities is essential for the success of students in the 21st century.

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 101. REFUNDABLE CREDIT FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of qualified higher education expenses paid by the taxpayer during such taxable year.

"(b) CREDIT LIMITED TO $1,500 PER ACADEMIC YEAR.—

"(1) IN GENERAL.—The amount allowed as a credit under subsection (a) for any taxable year with respect to an eligible student shall not exceed the sum of the credit amounts for qualified academic periods beginning during such taxable year or the 1st 3 months of the next taxable year. A qualified academic period may not be taken into account under the preceding sentence more than once.

"(2) CREDIT ALLOWED ONLY FOR FIRST 2 ACADEMIC YEARS OF POST-SECONDARY EDUCATION.—For purposes of paragraph (1), the term 'qualified academic period' means, with respect to any student, any academic period for which such student is an eligible student if such period, when added to prior periods that such student was an eligible student, does not exceed 2 full-time academic years (or the equivalent thereof).

"(3) CREDIT AMOUNT.—For purposes of paragraph (1), except as otherwise provided in regulations prescribed by the Secretary, the credit amount for any academic period is the amount equal to—

"(A) $1,500, divided by

"(B) the number of such academic periods during the academic year.

In the case of an eligible student who is not a full-time student for an academic period, the credit amount for such period shall be½ the amount determined under the preceding sentence.

"(4) INFLATION ADJUSTMENT OF CREDIT LIMITATION FOR ACADEMIC YEAR.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $1,500 amount in paragraph (3)(A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $50,000 ($80,000 in the case of a joint return), bears to

"(B) $20,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year—

"(A) determined without regard to section 221, and

"(B) increased by any amount excluded from gross income under section 911, 931, or 933.

"(4) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in paragraph (2), section 221(b)(2)(B)(i)(II), and section 222(b)(2)(A)(ii) shall each be increased by an amount equal to—

"(i) such dollar amounts, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(d) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

as an eligible student at an institution of higher education.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the student's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

"(D) ELIGIBLE STUDENT.—

"(i) IN GENERAL.—The term 'eligible student' means, with respect to any academic period, a student who—

"(I) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(II) is carrying at least½ the normal full-time work load for the course of study the student is pursuing, as reasonably determined by the institution of higher education.

"(ii) GRADE-POINT REQUIREMENT.—A student shall not be treated as an eligible student if the student did not have a grade-point average of at least 2.75 on a 4-point scale (or met a substantially similar measure of achievement) for the students' high school education (or equivalent).

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in programs under title IV of such Act.

"(3) FULL-TIME STUDENT.—The term 'full-time student' means any student who is carrying at least the normal full-time work load for the course of study the student is pursuing, as reasonably determined by the institution of higher education.

"(e) SPECIAL RULES.—

"(1) DENIAL OF CREDIT IF STUDENT CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

"(2) NO DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if any such expense for the enrollment or attendance of such student for such period is allowed as a deduction to the taxpayer under any other provision of this chapter.

"(B) DEPENDENTS.—No credit shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(3) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to an eligible student other than the taxpayer unless the taxpayer includes the name and taxpayer identification number of such eligible student on the return of tax for the taxable year.

"(4) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of—

"(A) the amounts received with respect to such individual which are allocable to such period as—

"(i) a qualified scholarship which under section 117 is not includable in gross income,

"(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

"(iii) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States, and

"(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

"(5) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(6) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(7) REGULATIONS.—The Secretary may, in consultation with the Secretary of Education, prescribe such regulations as may be necessary or appropriate to carry out this section, including—

"(A) regulations requiring recordkeeping and information reporting by the taxpayer and any other person the Secretary determines appropriate, and

"(B) regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit."

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting a comma, and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 35(e)(3) or under section 220(d)(3)(B) (relating to higher education tuition and fees) to be included on a return."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code".

(2) The table of sections for subpart C of part IV of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 35. Higher education tuition and fees.
"Sec. 36. Overpayments of tax."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) PERIODS BEFORE 1998 TAKEN INTO ACCOUNT.—For purposes of applying section 35(b)(2)(A) of the Internal Revenue Code of 1986 (as added by this section), periods before January 1, 1998, that the student was an eligible student shall be taken into account.

SEC. 102. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.— Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

"(B) PHASE-IN.—In the case of taxable years beginning in 1998 or 1999, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000'.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) (after application of paragraph (1)) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the deduction (determined without regard to this paragraph) as—

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $50,000 ($80,000 in the case of a joint return), bears to

"(ii) $20,000.

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (B), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(i) without regard to this section and sections 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 137, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(D) CROSS REFERENCE.—

"For inflation adjustment of $50,000 and $80,000 amounts, see section 35(c)(4).

"(c) DEFINITIONS.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), terms used in this section which are also used in section 35 have the respective meanings given such terms in section 35.

"(2) DEDUCTION AVAILABLE FOR EDUCATION TO ACQUIRE OR IMPROVE JOB SKILLS.—For purposes of applying this section, the requirement of section 35(d)(1)(D)(ii) shall be treated as met if the student is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

"(d) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) for qualified higher education expenses with respect to which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expenses under such other provision.

"(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for any taxable year only to the extent the qualified higher education expenses are in connection with enrollment at an institution of higher education during the taxable year.

"(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the 1st 3 months of the next taxable year.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the following rules of section 35(e) shall apply for purposes of this section:

"(A) Paragraph (2)(B) (relating to denial of double benefit for dependents).

"(B) Paragraph (3) (relating to identification requirement).

"(C) Paragraph (4) (relating to adjustment for certain scholarships).

"(D) Paragraph (5) (relating to no benefit for married individuals filing separate returns).

"(E) Paragraph (6) (relating to nonresident aliens).

"(4) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of such Code is amended by inserting after paragraph (16) the following new paragraph:

"(17) HIGHER EDUCATION TUITION AND FEES.—The deduction allowed by section 221."

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 221 and inserting:

"Sec. 221. Higher education tuition and fees.
"Sec. 222. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 103. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals), as amended by section 102, is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the deduction (determined without regard to this subsection) as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $50,000 ($80,000 in the case of a joint return), bears to

"(B) $20,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of paragraph (2), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of sections 86, 135, 219, 221, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(4) CROSS REFERENCE.—

"For inflation adjustment of $50,000 and $80,000 amounts, see section 35(c)(4).

"(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer or the taxpayer's spouse,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) Qualified higher education expenses.—The term 'qualified higher education expenses' has the meaning given such term by section 35(d) (without regard to paragraph (1)(D)(ii)), reduced by the sum of—

"(A) the amount excluded from gross income under section 135 by reason of such expenses, and

"(B) the amount of the reduction described in section 135(d)(1).

For purposes of applying section 35(d) under the preceding sentence, the term 'eligible educational institution' shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) Half-time student.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) Dependent.—The term 'dependent' has the meaning given such term by section 152.

"(e) Special Rules.—

"(1) Denial of double benefit.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) Married couples must file joint return.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) Marital status.—Marital status shall be determined in accordance with section 7703."

(b) Deduction Allowed Whether or Not Taxpayer Itemizes Other Deductions.—Subsection (a) of section 62 of such Code, as amended by section 102, is amended by inserting after paragraph (17) the following new paragraph:

"(18) Interest on education loans.—The deduction allowed by section 222."

(c) Reporting Requirement.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) Education Loan Interest of $600 or More.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans, shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) Application to Governmental Units.—For purposes of subsection (a)—

"(1) Treated as persons.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) Special rules.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) Qualified Education Loan Defined.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 222(d)(1).

"(f) Returns Which Would Be Required To Be Made by 2 or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a)."

(2) Assessable penalties.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

"(x) section 6050S (relating to returns relating to education loan interest received in trade or business from individuals),", and

(B) by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050R (relating to returns relating to education loan interest received in trade or business from individuals)."

(d) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 222. Interest on education loans.
"Sec. 223. Cross reference."

(e) Effective Date.—The amendments made by this section shall apply to any qualified education loan (as defined in section 222(d)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1997.

TITLE II—EDUCATIONAL FACILITIES IMPROVEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Educational Facilities Improvement Act".

SEC. 202. PROVISION OF ASSISTANCE FOR CONSTRUCTION AND RENOVATION OF EDUCATIONAL FACILITIES.

Title XII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8501 et seq.) is amended—

(1) by repealing sections 12002 and 12003;

(2) by redesignating sections 12001 and 12004 through 12013, as sections 12101 and 12102 through 12111, respectively;

(3) by inserting after the title heading the following:

"SEC. 12001. FINDINGS.

"The Congress finds the following:

"(1) The General Accounting Office performed a comprehensive survey of the Nation's public elementary and secondary school facilities, and found severe levels of disrepair in all areas of the United States.

"(2) The General Accounting Office concluded more than 14,000,000 children attend schools in need of extensive repair or replacement. Seven million children attend schools with life safety code violations. Twelve million children attend schools with leaky roofs.

"(3) The General Accounting Office found the problem of crumbling schools transcends demographic and geographic boundaries. At 38 percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools, at least 1 building is in need of extensive repair or should be completely replaced.

"(4) The condition of school facilities has a direct affect on the safety of students and teachers, and on the ability of students to learn.

"(5) Academic research has proven a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers found students assigned to schools in poor condition can be expected to fall 10.9 percentage points below those in buildings in excellent condition. Similar studies have demonstrated up to a 20 percent improvement in test scores when students were moved from a poor facility to a new facility.

"(6) The General Accounting Office found most schools are not prepared to incorporate modern technology into the classroom. Forty-six percent of schools lack adequate electrical wiring to support the full-scale use of technology. More than a third of schools lack the requisite electrical power. Fifty-six percent of schools have insufficient phone lines for modems.

"(7) The Department of Education reported that elementary and secondary school enrollment, already at a record high level, will continue to grow during the period between 1996 and 2000, and that in order to accommodate this growth, the United States will need to build an additional 6,000 schools over this time period.

"(8) The General Accounting Office found it will cost $112,000,000,000 just to bring schools up to good, overall condition, not including the cost of modernizing schools so the schools can utilize 21st century technology, nor including the cost of expansion to meet record enrollment levels.

“(9) State and local financing mechanisms have proven inadequate to meet the challenges facing today's aging school facilities. Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

“(10) The Federal Government can support elementary and secondary school facilities, and can leverage additional funds for the improvement of elementary and secondary school facilities.

“SEC. 12002. PURPOSE.

“The purpose of this title is to help State and local authorities improve the quality of education at their public schools through the provision of Federal funds to enable the State and local authorities to meet the cost associated with the improvement of school facilities within their jurisdictions.

“PART A—GENERAL INFRASTRUCTURE IMPROVEMENT GRANT PROGRAM”;

and

(4) by adding at the end the following:

“PART B—CONSTRUCTION AND RENOVATION BOND SUBSIDY PROGRAM

“SEC. 12201. DEFINITIONS.

“As used in this part:

“(1) Educational facility.—The term educational facility” has the meaning given the term ‘school’ in section 12110.

“(2) Local area.—The term ‘local area’ means the geographic area served by a local educational agency.

“(3) Local bond authority.—The term ‘local bond authority’ means—

“(A) a local educational agency with authority to issue a bond for construction or renovation of educational facilities in a local area; and

“(B) a political subdivision of a State with authority to issue such a bond for an area including a local area.

“(4) Poverty line.—The term ‘poverty line’ means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))) applicable to a family of the size involved.

“(5) State.—The term ‘State’ means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

“SEC. 12202. AUTHORIZATION OF PROGRAM.

“(a) Program Authority.—Of the amount appropriated under section 12210 for a fiscal year and not reserved under subsection (b), the Secretary shall use—

“(1) 20 percent of such amount to award grants to local bond authorities for not more than 125 eligible local areas as provided for under section 12203; and

“(2) 80 percent of such amount to award grants to States as provided for under section 12204.

“(b) Special Rule.—The Secretary may reserve—

“(1) not more than 1 percent of the amount appropriated under section 12210 to provide assistance to Indian schools in accordance with the purpose of this title;

“(2) not more than 0.5 percent of the amount appropriated under section 12210 to provide assistance to Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau to carry out the purpose of this title; and

“(3) not more than 0.1 percent of the amount appropriated under section 12210 to carry out section 12209.

“SEC. 12203. DIRECT GRANTS TO LOCAL BOND AUTHORITIES.

“(a) In General.—The Secretary shall award a grant under section 12202(a)(1) to eligible local bond authorities to provide assistance for construction or renovation of educational facilities in a local area.

“(b) Use of Funds.—The local bond authority shall use amounts received through a grant made under section 12202(a)(1) to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

“(c) Eligibility and Determination.—

“(1) Eligibility.—To be eligible to receive a grant under section 12202(a)(1) for a local area, a local bond authority shall demonstrate the capacity to issue a bond for an area that includes 1 of the 125 local areas for which the Secretary has made a determination under paragraph (2).

“(2) Determination.—

“(A) Mandatory.—The Secretary shall make a determination of the 100 local areas that have the highest numbers of children who are—

“(i) aged 5 to 17, inclusive; and

“(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

“(B) Discretionary.—The Secretary may make a determination of 25 local areas, for which the Secretary has not made a determination under subparagraph (A), that have extraordinary needs for construction or renovation of educational facilities that the local bond authority serving the local area is unable to meet.

“(d) Application.—To be eligible to receive a grant under section 12202(a)(1), a local bond authority shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

“(1) an assurance that the application was developed in consultation with parents and classroom teachers;

“(2) information sufficient to enable the Secretary to make a determination under subsection (c)(2) with respect to such local authority;

“(3) a description of the architectural, civil, structural, mechanical, or electrical construction or renovation to be supported with the assistance provided under this part;

“(4) a cost estimate of the proposed construction or renovation;

“(5) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which assistance is requested under this part;

“(6) a description of how activities supported with funds provided under this part will promote energy conservation; and

“(7) such other information and assurances as the Secretary may require.

“(e) Award of Grants.—

“(1) In general.—In awarding grants under section 12202(a)(1), the Secretary shall give preference to a local bond authority based on—

“(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks a grant (as appropriate) meets the criteria described in section 12103(a);

“(B) the extent to which the educational facility is overcrowded; and

“(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

“(2) Amount of assistance.—

“(A) In general.—In determining the amount of assistance for which local bond authorities are eligible under section 12202(a)(1), the Secretary shall—

“(i) give preference to a local bond authority based on the criteria specified in paragraph (1); and

“(ii) consider—

“(I) the amount of the cost estimate contained in the application of the local bond authority under subsection (d)(4);

“(II) the relative size of the local area several by the local bond authority; and

“(III) any other factors determined to be appropriate by the Secretary.

“(B) Maximum amount of assistance.—A local bond authority shall be eligible for assistance under section 12202(a)(1) in an amount that does not exceed the appropriate percentage under section 12204(f)(3) of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area involved.

“SEC. 12204. GRANTS TO STATES.

“(a) In General.—The Secretary shall award a grant under section 12202(a)(2) to each eligible State to provide assistance to the State, or local bond authorities in the State, for construction and renovation of educational facilities in local areas.

“(b) Use of Funds.—The State shall use amounts received through a grant made under section 12202(a)(2)—

“(1) to pay a portion of the interest costs applicable to any State bond issued to finance an activity described in section 12205 with respect to the local areas; or

“(2) to provide assistance to local bond authorities in the State to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local areas.

“(c) Amount of Grant to State.—

“(1) In general.—From the amount available for grants under section 12202(a)(2), the Secretary shall award a grant to each eligible State that is equal to the total of—

“(A) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under part A of title I for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such part for such year; and

“(B) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year.

“(2) Eligible local educational agencies.—For the purpose of paragraph (1) the term ‘eligible local educational agency’ means a local educational agency that does not serve a local area for which an eligible local bond authority received a grant under section 12203

“(d) State Applications Required.—To be eligible to receive a grant under section 12202(a)(2), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall contain—

"(1) a description of the process the State will use to determine which local bond authorities will receive assistance under subsection (b)(2).

"(2) an assurance that grant funds under this section will be used to increase the amount of school construction or renovation in the State for a fiscal year compared to such amount in the State for the preceding fiscal years.

"(e) ADMINISTERING AGENCY.—

"(1) IN GENERAL.—The State agency with authority to issue bonds for the construction or renovation of educational facilities, or with the authority to otherwise finance such construction or renovation, shall administer the amount received through the grant.

"(2) SPECIAL RULE.—If no agency described in paragraph (1) exits, or if there is more than one such agency, then the chief executive officer of the State and the chief State school officer shall designate a State entity or individual to administer the amounts received through the grant.

"(f) ASSISTANCE TO LOCAL BOND AUTHORITIES.—

"(1) IN GENERAL.—To be eligible to receive assistance from a State under this section, a local bond authority shall prepare and submit to the State agency designated under subsection (e) an application at such time, in such manner, and containing such information as the State agency may require, including the information described in section 12203(d).

"(2) CRITERIA.—In awarding grants under this section, the State agency shall give preference to a local bond authority based on—

"(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks the grant (as appropriate) meets the criteria described in section 12103(a);

"(B) the extent to which the educational facility is overcrowded; and

"(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

"(3) AMOUNT OF ASSISTANCE.—A local bond authority seeking assistance for a local area served by a local educational agency described in—

"(A) clause (i)(I) or clause (ii)(I) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 10 percent;

"(B) clause (i)(II) or clause (ii)(II) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 20 percent;

"(C) clause (i)(III) or clause (ii)(III) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 30 percent;

"(D) clause (i)(IV) or clause (ii)(IV) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 40 percent; and

"(E) clause (i)(V) or clause (ii)(V) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 50 percent;

of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

"(g) ASSISTANCE TO STATE.—

"(1) IN GENERAL.—If a State issues a bond to finance an activity described in section 12205 with respect to local areas, the State shall be eligible for assistance in an amount that does not exceed the percentage calculated under the formula described in paragraph (2) of the interest costs applicable to the State bond with respect to the local areas.

"(2) FORMULA.—The Secretary shall develop a formula for determining the percentage referred to in paragraph (1). The formula shall specify that the percentage shall consist of a weighted average of the percentages referred to in subparagraphs (A) through (E) of subsection (f)(3) for the local areas involved.

"SEC. 12205. AUTHORIZED ACTIVITIES.

"An activity described in this section is a project of significant size and scope that consists of—

"(1) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or light equipment;

"(2) an activity to increase physical safety at the educational facility involved;

"(3) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

"(4) an activity to improve the energy efficiency of the educational facility involved;

"(5) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

"(6) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

"(7) the construction of new schools to meet the needs imposed by enrollment growth; and

"(8) any other activity the Secretary determines achieves the purpose of this title.

"SEC. 12206. STATE GRANT WAIVERS.

"(a) WAIVER FOR STATE ISSUANCE OF BOND.—

"(1) IN GENERAL.—A State that issues a bond described in section 12204(b)(1) with respect to a local area may request that the Secretary waive the limits described in section 12204(f)(3) for the local area, in calculating the amount of assistance the State may receive under section 12204(g). The State may request the waiver only if no local entity is able, for one of the reasons described in subparagraphs (A) through (F) of paragraph (2), to issue bonds on behalf of the local area. Under such a waiver, the Secretary may permit the State to use amounts received through a grant made under section 12202(a)(2) to pay for not more than 80 percent of the interest costs applicable to the State bond with respect to the local area.

"(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that—

"(A) the local bond authority serving the local area has reached a limit on its borrowing authority as a result of a debt ceiling or property tax cap;

"(B) the local area has a high percentage of low-income residents, or an unusually high property tax rate;

"(C) the demographic composition of the local area will not support additional school spending;

"(D) the local bond authority has a history of failed attempts to pass bond referenda;

"(E) the local area contains a significant percentage of Federally-owned land that is not subject to local taxation; or

"(F) for another reason, no local entity is able to issue bonds on behalf of the local area.

"(b) WAIVER FOR OTHER FINANCING SOURCES.—

"(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a local bond authority to permit the State to provide assistance to the local bond authority to finance construction or renovation by means other than through the issuance of bonds.

"(2) USE OF FUNDS.—A State that receives a waiver granted under this subsection may provide assistance to a local bond authority in accordance with the criteria described in section 12204(f)(2) to enable the local bond authority to repay the costs incurred by the local bond authority in financing an activity described in section 12205. The local bond authority shall be eligible to receive the amount of such assistance that the Secretary estimates the local bond authority would be eligible to receive under section 12204(f)(3) if the construction or renovation were financed through the issuance of a bond.

"(3) MATCHING REQUIREMENT.—The State shall make available to the local bond authority (directly or through donations from public or private entities) non-Federal contributions in an amount equal to not less than $1 for every $1 of Federal funds provided to the local bond authority through the grant.

"(c) WAIVER FOR OTHER USES.—

"(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a State to permit the State to carry out activities that achieve the purpose of this title.

"(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that the use of assistance provided under the waiver—

"(A) will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation; and

"(B) will be used to fund activities that are effective in carrying out the activities described in section 12205, such as—

"(i) the capitalization of a revolving loan fund for such construction or renovation;

"(ii) the use of funds for reinsurance or guarantees with respect to the financing of such construction or renovation;

"(iii) the creation of a mechanism to leverage private sector resources for such construction or renovation;

"(iv) the capitalization of authorities similar to State Infrastructure Banks to leverage additional funds for such construction or renovation; or

"(v) any other activity the Secretary determines achieves the purpose of this title.

"(d) LOCAL BOND AUTHORITY WAIVER.—

"(1) IN GENERAL.—A local bond authority may request the Secretary waive the use requirements of section 12203(b) for a local head authority to permit the authority to finance construction or renovation of educational facilities by means other than through use of bonds.

"(2) DEMONSTRATION.—To be eligible to receive a waiver under this subsection, a local bond authority shall demonstrate that the amounts made available through a grant under the waiver will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation.

"(e) Request for Waiver.—A State or local bond authority that desires a waiver under this section shall submit a waiver request to the Secretary that—

"(1) identifies the type of waiver requested;

"(2) with respect to a waiver described in subsections (a), (c), or (d), makes the demonstration described in subsections (a)(2), (c)(2), or (d)(2), respectively;

"(3) describes the manner in which the waiver will further the purpose of this title; and

"(4) describes the use of assistance provided under such waiver.

"(f) Action by Secretary.—The Secretary shall make a determination with respect to a request submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

"(g) General Requirements.—

"(1) States.—In the case of a waiver request submitted by a State under this section, the State shall—

"(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

"(B) submit the comments to the Secretary; and

"(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

"(2) Local bond authorities.—In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

"(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

"(B) submit the comments to the Secretary; and

"(C) provide notice and information to the public regarding the waiver request in the manner that the applying local bond authority customarily provides similar notices and information to the public.

"SEC. 12207. GENERAL PROVISIONS.

"(a) Failure to Issue Bonds.—

"(1) States.—If a State that receives assistance under this part fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12204, during the first fiscal year following the date of repayment.

"(2) Local bond authorities and local areas.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

"(A) in the case of assistance received under section 12202(a)(1), shall be repaid to the Secretary and made available as provided for under section 12203; and

"(B) in the case of assistance received under section 12202(a)(2), shall be repaid to the State and made available as provided for under section 12204.

"(b) Liability of the Federal Government.—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed if the local educational agency defaults.

"SEC. 12208. FAIR WAGES.

"The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part using assistance provided under this part.

"SEC. 12209. REPORT.

"From amounts reserved under section 12202(b)(3) for each fiscal year the Secretary shall—

"(1) collect such data as the Secretary determines necessary at the school, local, and State levels;

"(2) conduct studies and evaluations, including national studies and evaluations, in order to—

"(A) monitor the progress of activities supported with funds provided under this part; and

"(B) evaluate the state of United States educational facilities; and

"(3) report to the appropriate committees of Congress regarding the findings of the studies and evaluations described in paragraph (2).

"SEC. 12210. FUNDING.

"(a) In General.—There are appropriated $5,000,000,000 for fiscal year 1998 to carry out this part.

"(b) Entitlement.—Subject to subsection (a), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

"(c) Availability.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.".

SEC. 203. FUNDING.

Section 12111 of the Educated Infrastructure Act of 1994 (as redesignated by section 202(2)) (20 U.S.C. 8513) is amended to read as follows:

"SEC. 12111. FUNDING.

"(a) Authorization.—There are authorized to be appropriated to carry out this part $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) Appropriation.—There are appropriated to carry out this part $150,000,000 for each of the fiscal years 1998 through 2002.

"(c) Entitlement.—Subject to subsection (b), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.".

SEC. 204. CONFORMING AMENDMENTS.

(a) Cross References.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202(3)) is amended—

(1) in section 12102(a) (as redesignated by section 202(2))—

(A) in paragraph (1)—

(i) by striking "12013" and inserting "12111";

(ii) by striking "12005" and inserting "12103"; and

(iii) by striking "12007" and inserting "12105"; and

(B) in paragraph (2), by striking "12013" and inserting "12111"; and

(2) in section 12110(3)(C) (as redesignated by section 202(2)), by striking "12006" and inserting "12104".

(b) Conforming Amendments.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202(3)) (20 U.S.C. 8501 et seq.) is further amended—

(1) in section 12101 (as redesignated by section 202(2)), by striking "This title" and inserting "This part"; and

(2) in sections 12102(a)(2), 12102(b)(1), 12103(a), 12103(b), 12103(b)(2), 12103(c), 12103(d), 12104(a), 12104(b)(2), 12104(b)(3), 12104(b)(4), 12104(b)(6), 12104(b)(7), 12105(a), 12105(b), 12106(a), 12106(b), 12106(c), 12106(c)(1), 12106(c)(7), 12106(e), 12107, 12108(a)(1), 12108(a)(2), 12108(b)(1), 12108(b)(2), 12108(b)(3), 12108(b)(4), 12109(2)(A), and 12110 (as redesignated by section 202(2)), by striking "this title" each place it appears and inserting "this part".

TITLE III—AMERICA READS CHALLENGE

SEC. 301. FINDINGS.

Congress finds as follows:

(1) With the proper support and teaching, all children can learn to read at grade-level by the end of the 3d grade.

(2) Students who are not reading at grade-level are very unlikely to graduate from high school.

(3) Reading is a fundamental skill for learning, but in 1994, 40 percent of 4th grade students failed to attain the basic level of reading on the National Assessment of Education Progress. Seventy percent of 4th graders did not attain the proficient level of reading.

(4) Parents are the best first teachers. Parents can help to increase their children's reading levels, for example, by reading with their child 30 minutes a day. Evidence shows that greater parental support of children's literacy success makes a significant difference.

(5) One-on-one tutoring is a key component of bringing students up to reading at grade-level.

(6) Pre-school preparation and family involvement is widely recognized to improve student performance. Preparing children to learn, both through parent involvement and through pre-school preparation, plays a crucial role in preventing students from falling behind.

Subtitle A—Parents As First Teachers Challenge Grants

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "Parents as First Teachers Challenge Grant Act of 1997".

SEC. 312. FINDING AND PURPOSE.

(a) Finding.—Congress finds that parents are the best first teachers.

(b) Purpose.—The purpose of this subtitle is to support effective, proven efforts that provide assistance to parents who want to help their children become successful readers by the end of the 3d grade.

SEC. 313. DEFINITIONS.

In this subtitle:

(1) Eligible child.—The term "eligible child" means an individual eligible to attend preschool, kindergarten, or 1st, 2d, or 3d grade.

(2) Secretary.—The term "Secretary" means the Secretary of Education.

SEC. 314. GRANTS AUTHORIZED.

(a) Grants for National or Regional Networks.—The Secretary is authorized to award at least 2 grants to public or private agencies or institutions to enable the agencies or institutions to support national or regional networks that share information on helping eligible children read.

(b) Grants for Successful Programs or Activities.—The Secretary is authorized to award at least 2 grants to State or local government agencies, nonprofit community groups or organizations, or consortia thereof, to enable such agencies, groups, organizations, or consortia to expand or replicate successful programs or activities that helps a parent—

(1) be a good teacher to the parent's eligible child; and

(2) assist the parent's eligible child in attaining reading skills while assisting the eligible child to learn to read.

SEC. 315. RECIPIENT CRITERIA.

(a) Grants for National or Regional Networks.—In order to receive a grant under section 312(a), a public or private agency or institution shall have a proven record of working with parents of eligible children.

(b) Grants for Successful Programs or Activities.—In order to receive a grant under section 314(b), an agency, group, organization, or consortium shall have a proven record of working with parents to improve their eligible children's reading.

SEC. 316. APPLICATIONS.

(a) In General.—Each entity desiring a grant under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) Applications for Grants for National or Regional Networks.—Each application submitted under subsection (a) for a grant under section 314(a) shall—

(1) demonstrate the likelihood that the proposed program or activity will have a substantial regional or national impact;

(2) demonstrate the cost-effectiveness of the proposed program or activity; and

(3) describe how the proposed program or activity will be coordinated with private sector programs and activities, and State and local programs and activities that provide support for parents of eligible children.

(c) Applications for Grants for Successful Programs or Activities.—Each application submitted under subsection (a) for a grant under section ___04(b) shall—

(1) describe a program or activity that is capable of successful expansion or replication;

(2) contain evidence of community support for the proposed program or activity from the private sector, a school, and another entity;

(3) contain information demonstrating the cost-effectiveness of the proposed program or activity; and

(4) provide an assurance that the applicant will coordinate the proposed program or activity with State and local programs and activities that provide support for parents of eligible children.

SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

(a) Appropriations.—There are appropriated to carry out this subtitle $45,000,000 for fiscal year 1998, $50,000,000 for fiscal year 1999, $60,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, and $75,000,000 for fiscal year 2002.

(b) Entitlement.—Subject to subsection (a), each entity receiving a grant under this title for a fiscal year shall be entitled to payments for such year under the grant.

Subtitle B—Challenging America's Young Readers

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Challenging America's Young Readers Act of 1997".

SEC. 322. PURPOSE.

The purpose of this subtitle is to raise reading levels by providing tutoring assistance outside regular school hours to children eligible to attend preschool, kindergarten, or 1st, 2d, or 3d grade.

SEC. 323. DEFINITIONS.

In this subtitle:

(1) Administrators.—The term "Administrators" means the Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service acting pursuant to the agreement entered into under section 324(c).

(2) Eligible child.—The term "eligible child" means an individual eligible to attend preschool, kindergarten, or 1st, 2d, or 3d grade.

(3) State.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) State educational agency.—The term "State educational agency" has the meaning given the term by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 324. PROGRAM AUTHORIZED.

(a) Allotment and Reservations.—

(1) Allotment.—From the sum made available under section 330(b) and not reserved under paragraph (5) for a fiscal year, the Administrators shall make an allotment to each State educational agency for the fiscal year in an amount that bears the same relation to the sum as the amount such State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year bears to the amount all States received under such part for the previous fiscal year.

(2) Reservations.—

(A) In general.—From the sum made available under section 330(b) for a fiscal year, the Administrators—

(i) shall reserve 10 percent of such sum to carry out local reading programs under section 326;

(ii) shall reserve not more than 1.5 percent of such sum to carry out national leadership and evaluation activities under section 327;

(iii) shall reserve the percentage described in subparagraph (B) of such sum to make a payment to the Secretary of the Interior to enable the Secretary of the Interior to carry out the purpose of this subtitle for Indian children; and

(iv) shall reserve 0.25 percent of such sum to make payments to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau on the basis of their respective need for assistance according to such criteria as the Secretary determines will best carry out the purpose of this subtitle.

(B) Percentage.—The percentage referred to in subparagraph (A)(iii) for a fiscal year is the percentage of funds reserved under section 1121(a)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331(a)(2)) for the Secretary of the Interior for such previous year.

(b) Grants.—

(1) In general.—Each State educational agency receiving an allotment under subsection (a)(1) shall use such allotment to award grants, on a competitive basis, to organizations in the State to enable the organizations—

(A) to employ reading specialists to supervise tutoring programs that teach eligible children to read;

(B) to recruit and train tutors for tutoring programs that teach eligible children to read; and

(C) to carry out tutoring programs that teach eligible children to read.

(2) Special rule.—Each tutoring program assisted through a grant awarded under paragraph (1) shall be conducted before or after regular school hours, or during the weekend or the summer.

(c) Community and National Service Funds.—The Administrators shall use amounts reserved under section 330(a) for a fiscal year to carry out the activities described in subparagraphs (A) through (C) of subsection (b)(1) during the periods described in subsection (b)(2) in accordance with the National and Community Service Act of 1990 (42 U.S.C. 12501).

(d) Joint Administration.—

(1) In general.—The Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service shall administer this subtitle jointly pursuant to an agreement between the Secretary and the Chief Executive Officer.

(2) Agreement.—The agreement described in paragraph (1) shall establish the responsibilities of the Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service for administering this subtitle. Such agreement shall—

(A) not require more than one application from any one State educational agency or local applicant;

(B) encourage, but not require, the use of volunteers assisted through funding made available under section 330(a) to serve as volunteer recruiters and coordinators; and

(C) include only one application review process.

SEC. 325. APPLICATIONS.

(a) State.—Each State educational agency desiring an allotment under this subtitle shall submit an application to the Administrators at such time, in such manner, and containing such information as the Administrators may require. Each such application shall—

(1) describe how the State educational agency will award grants under this subtitle; and

(2) describe how the State educational agency will encourage use of activities assisted under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(b) Local.—Each organization desiring a grant under section 324(b) shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require. Each such application shall—

(1) describe how the proposed program or activity will be linked with the curriculum of the appropriate local educational agency, school, or classroom, and other reading enhancement activities of the school and the eligible children;

(2) contain a description of how the applicant will use the grant funds to provide assistance to economically disadvantaged communities, and schools, in which eligible children have the greatest need for reading assistance;

(3) contain an assurance that the proposed program or activity will focus on providing individualized tutoring in reading that involves trained and supervised volunteers who have been approved by the applicant; and

(4) describe the strategies that will be undertaken through the program or activity to ensure that eligible children will make progress in reading;

(5) describe how the applicant will evaluate the program or activity, including measuring progress toward improving the reading performance of eligible children, and improve the program or activity if eligible children do not make progress in improving reading performance; and

(6) demonstrate how the program or activity—

(A) will be coordinated with activities of local school personnel, and activities assisted under the Head Start Act (42 U.S.C. 9831 et seq.), Even Start, other provisions of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), particularly with respect to referral of eligible children; and

(B) will be developed and carried out with strong parent, community, and private sector involvement.

SEC. 326. LOCAL READING PROGRAMS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From amounts reserved under section 324(a)(2)(A)(i) for a fiscal year, the Administrators shall award grants to local entities for the planning, implementation, or expansion of local reading programs that serve economically disadvantaged communities.

(2) SPECIAL RULE.—In awarding grants under paragraph (1) for a fiscal year, the Administrators shall ensure that at least 1 such grant is awarded to serve an urban economically disadvantaged community and at least 1 such grant is awarded to serve a rural economically disadvantaged community.

(b) APPLICATION.—Each local entity desiring a grant under subsection (a) shall submit an application to the Administrators at such time, in such manner, and accompanied by such information as the Administrators may require. Each such application shall include the information and assurances described in section 325(b) with respect to such local entity.

SEC. 327. NATIONAL LEADERSHIP AND EVALUATION.

(a) NATIONAL LEADERSHIP.—From a portion of amounts reserved under section 324(a)(2)(A)(ii) for a fiscal year, the Administrators may carry out national leadership activities, including dissemination of information on effective practices, providing technical assistance materials, and other activities, to increase the performance of eligible children in the States.

(b) EVALUATION.—

(1) IN GENERAL.—From a portion of the amounts reserved under section 324(a)(2)(A)(ii) for a fiscal year, the Administrators, through a grant, contract, or cooperative agreement, shall evaluate, and submit reports to Congress regarding, the effectiveness of programs and activities assisted under this subtitle.

(2) REPORT DATES.—The reports described in paragraph (1) shall be submitted to Congress on September 1, 2000, and every 2 years thereafter.

SEC. 328. ADJUSTMENT OR TERMINATION OF FUNDING.

Notwithstanding any other provision of this subtitle, the Administrators may decrease or terminate any funding provided under this subtitle if the Administrators determine that a recipient of such funding does not—

(1) improve reading performance with respect to eligible children; or

(2) implement the recipient's strategies to improve reading performance with respect to eligible children.

SEC. 329. NONDUPLICATION AND NONDISPLACEMENT.

(a) NONDUPLICATION.—Assistance provided under this subtitle shall be used only for a program or activity that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program or activity.

(b) NONDISPLACEMENT.—An employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program or activity receiving assistance under this subtitle.

SEC. 330. FUNDING.

(a) RESERVATION.—From amounts made available to carry out the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) for each of the fiscal years 1998 through 2002, the Chief Executive Officer of the Corporation for National and Community Service shall make available $200,000,000 to carry out this subtitle.

(b) APPROPRIATION.—There are appropriated to the Secretary of Education to carry out this subtitle $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, $300,000,000 for fiscal year 2000, $350,000,000 for fiscal year 2001, and $350,000,000 for fiscal year 2002.

(c) ENTITLEMENT.—Subject to subsections (a) and (b), each entity receiving an allotment, awarded a grant, or entering into a contract or cooperative agreement, under this subtitle for a fiscal year shall be entitled to payments for such year under the allotment, grant, contract, or cooperative agreement.

TITLE IV—INVESTING IN TECHNOLOGY FOR THE CLASSROOMS

Subtitle A—Sense of the Senate

SEC. 401. FINDINGS.

Congress finds as follows:

(1) Technology in the schools is a central component of preparing students for the 21st century.

(2) Equipping schools with technology is no longer a luxury. It is a necessity. By the year 2000, 60 percent of all jobs in the Nation will require skills in computer and network use.

(3) Technology in the classroom improves students' mastery of basic skills, test scores, writing, and engagement in school. With these gains come decreases in dropout rates and decreases in attendance and discipline problems.

(4) Not enough students have access to computers, distance learning, and telecommunications technologies. A 1995 Government Accounting Report report estimates that 10,000,000 students, and 1 school in every 4 schools, do not have sufficient computers to meet their needs.

(5) Of the 5,800,000 computers in United States schools, many are older models that do not have the power to perform advanced functions such as those involving video and the Internet.

(6) Only 9 percent of all instructional rooms including classrooms, laboratories, and library media, have connections to the Internet.

(7) The Federal Government began a new commitment to funding education technology by investing an additional $200,000,000 in subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6841 et seq.) in fiscal year 1997. Although such investment is an important investment, it is not sufficient to meet the technology needs of schools and school children in the 21st century.

SEC. 402. SENSE OF THE SENATE.

It is the Sense of the Senate that it is in the Nation's best interest for the Federal Government to invest at least $1,800,000,000 in additional funding for education technology programs between fiscal years 1998 and 2002.

Subtitle B—Educational Technology Clearinghouses

SEC. 421. PURPOSE.

It is the purpose of this subtitle to authorize a program to support regional educational technology clearinghouses that facilitate the donation of surplus equipment and technology to schools and libraries from Federal or State governmental agencies, businesses, and other private entities.

SEC. 422. AUTHORITY.

(a) IN GENERAL.—The Secretary of Education shall make grants to or enter into contracts with regional public or private nonprofit entities for the purpose of supporting a system of regional educational technology clearinghouses. In awarding the grants or contracts, the Secretary shall ensure that each geographic region of the United States is served by such an entity.

(b) DURATION.—The Secretary shall award grants and contracts under this subtitle for a period of 5 years.

SEC. 423. REQUIREMENTS.

Each entity receiving a grant or contract under this subtitle shall—

(1) in cooperation with State educational agencies and local educational agencies, develop a regional program to support a clearinghouse that facilitates the transfer of surplus equipment and technology to schools and libraries from Federal or State governmental agencies, businesses, and other private entities;

(2) disseminate information to State educational agencies and local educational agencies about the availability and procurement of the equipment and technology through the clearinghouse;

(3) disseminate information to the public about activities assisted under this subtitle, including information about the donations being accepted by the clearinghouse;

(4) have in place a process for ensuring that surplus equipment and technology is distributed in a fair and equitable manner, with school districts with the greatest need for such equipment and technology receiving priority for donations under this subtitle;

(5) provide technical assistance to a school or library to ensure that the equipment and technology being donated is consistent with the short- and long-term educational technology plans of the school or library, respectively;

(6) use funds under this subtitle to upgrade equipment or technology only if the entity determines such upgrading meets the short- and long-term educational plan of the school or library receiving the equipment or technology; and

(7) ensure that the transfer of equipment and technology does not violate copyright, patent, or trademark laws.

SEC. 424. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $5,000,000 for fiscal year 1998 and such sums as may be necessary for each of the 4 succeeding fiscal years.

By Mr. DASCHLE (for himself, Ms. MIKULSKI, Mr. KENNEDY, Mr. BREAUX, Mr. DODD, Mrs. MURRAY, Mr. INOUYE, Mr. JOHNSON, Ms. MOSELEY-BRAUN, Mr.

ROCKEFELLER, Mr. DURBIN, Mr. KERRY, and Mr. GLENN):

S. 13. A bill to provide access to health insurance coverage for uninsured children and pregnant women; to the Committee on Finance.

CHILDREN'S HEALTH COVERAGE ACT OF 1997

Mr. BREAUX. Mr. President, I rise today in support of the Children's Health Coverage Act of 1997, a bill designed to expand health insurance for an estimated 10 million American children who have no health insurance. Last year, when Congress passed the Kassebaum/Kennedy bill, it took a big step toward increasing the availability of private health insurance coverage for certain children. While the Kassebaum/Kennedy legislation will increase access to the health insurance market for many people, there are still too many low-income working families in this country who are unable to afford coverage even though it may be more readily available to them.

According to a 1994 GAO report, 14.2 percent of all children are uninsured, the highest rate in any industrialized country. In Louisiana alone there are 254,952 children without health insurance. Nine out of ten of these children live in families with working parents. These parents go to work every day to earn a living and provide for their families. Some might say that providing for one's family should include health insurance but when you've got food to buy and rent to pay, health insurance to many parents is an unaffordable luxury. Perhaps even more troubling is that the number of uninsured children is expected to grow as employers continue to cut back on dependant coverage, leaving many working parents unable to afford insurance for their families. While Medicaid has picked up some of these children and will continue to do so, these expansions won't be enough to completely offset the loss in private coverage in this country.

Mr. President, an important lesson we have learned in recent years is that big government mandates won't work. But I believe expanding coverage of children is a necessary next step to follow up on the significant progress we made last year. We should build on the momentum from Kassebaum/Kennedy bill to help low-income working families buy health insurance they need for their children. Basic primary and preventive care services that insurance provides are critical to a child's healthy development, and like all kinds of preventive care, it's cheaper than treating a child once he or she gets sick. As we all know, uninsured children are more likely to get care in an emergency room at later stages in their illness and are more likely to require an expensive hospital stay.

This bill is a market-based plan that will provide tax credits to help working families buy the health insurance they need. Our goal is to stimulate a competitive market for children's health plans which are relatively inexpensive but have a big economic payoff. I am hopeful that Democrats and Republicans will be able to work together on this issue because it's in everyone's interest that our Nation's children have the health care and health insurance they need since they are the future of this country. For the future of a healthy America, we need healthy kids now.

Ms. MIKULSKI. Mr. President, I am honored to join the Senate Minority Leader in cosponsoring the Children's Health Coverage Act of 1997. This bill will help uninsured working families purchase health insurance for their children and will build on the success of last year's Kassebaum-Kennedy health care reform legislation. It makes the health of all America's children a national priority. It takes the Democratic health care agenda one more step.

Our country has failed to meet the health care needs of America's children. The United States has the highest rate of uninsured children of any industrialized country. In my home State of Maryland, nearly 1 in 5 children is uninsured. That's almost 200,000 kids in Maryland alone. This is a disgrace for a country as bountiful as ours is. We say children are our priority. We need to put in the lawbooks the values we hold in our hearts. That makes good policy and good sense.

These are the children of working families. Their parents may both be working 40-hour a week jobs. Jobs that put them over the poverty level but offer no benefits. This problem is pervasive. Nine out of ten children without insurance live in families with working parents. Two thirds of uninsured children live in families with incomes above the poverty line. The problem cuts across class and race.

As I travel through my own State, working parents tell me how they worry about their children not having health insurance. They are afraid that they won't be able to take them to the doctor when they get really sick. With this bill, American parents won't have to fear for their children. This legislation meets the peace of mind test.

I want to make sure children's health care needs are met comprehensively and equitably. This bill stands up and challenges what is wrong with our health care system. It affirms our need to develop human capital as well as economic capital. It's about getting our priorities straight and putting families first. I salute the Minority Leader for moving this important issue forward.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to offer my support as an original cosponsor of the Children's Health Coverage Act of 1997—S. 13. Vice President Hubert Humphrey may have summed it up best when he concluded that "the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped."

Well, Mr. President, the Children's Health Coverage Act is our test for the 105th Congress and how this Congress will respond to the need to care for our children, who are in the dawn of their life; 10.5 million children have no health insurance coverage. The GAO conclusion that children without insurance are less likely to grow up to be healthy, and productive adults may be the most telling fact. If we know the effect being uninsured has on our children's ability to contribute to society, how can we not respond?

The ultimate guarantee of our children's health would be to make comprehensive health insurance coverage more readily available either through a private or public source. In the interim however, the Children's Health Coverage Act will make a number of important steps to improve the health of our children. First, enhancing health coverage for pregnant women will make our children healthy on the front-end through enhanced prenatal care. In 1993, almost 200,000 children were born to women who received either no prenatal care or prenatal care after the first trimester of their pregnancy. Good prenatal care can reduce rates of low-weight births and infant mortality, thus preventing avoidable disabilities.

Next, the Children's Health Coverage Act will not erode existing health coverage for children. Children are losing private health insurance coverage faster than any other group. In many cases, Medicaid has been the safety-net preventing children from becoming uninsured. S. 13 will stimulate the market for private children's health coverage and deter employers from dropping their contributions toward the coverage of their employees.

Finally, the Children's Health Coverage Act makes the next logical step from the improvements made in the Kennedy-Kassebaum health care bill, by tackling the issue of insurance affordability. The right to buy insurance that you cannot afford really is not access at all. Millions of Americans were given more flexibility by making insurance more portable and ending "job lock." However, if the ability to pay your premiums severely restricts the options, have we truly ended "job lock."

Mr. President, caring for our children is critical to the success and the survival of this Nation. However, we must not be content with only meeting the physiological needs of our children. We must also adopt a holistic approach to meeting the needs of our children. A significant number of our children have special health care needs. There are also many children who have special educational, financial, and social needs.

During the "Stand for Children" rally in June of last year, five core principles were espoused that are essential to safeguarding our children. These principles are to give our children a head start, a fair start, a safe start, a moral start, and a healthy start. These are fundamental principles that should govern our nation's agenda towards children. The Children's Health Coverage Act is a very good step toward ensuring a healthy start for our children. I hope that my colleagues can join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 13

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Children's Health Coverage Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—HEALTH INSURANCE COVERAGE FOR ELIGIBLE CHILDREN

Sec. 101. Establishment of program to provide eligible children with access to health insurance coverage.
Sec. 102. Procedure for obtaining coverage under certified health plans.
Sec. 103. Subsidy adjustment.
Sec. 104. Limitation on preexisting condition exclusion period and -prohibition on discrimination.
Sec. 105. Maintenance of effort.
Sec. 106. Oversight by Secretary.
Sec. 107. Rules of construction.

TITLE II—HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN

Sec. 201. Expanding health insurance coverage for pregnant women.
Sec. 202. Grants for innovative outreach.

TITLE III—CHILDREN'S HEALTH COVERAGE SUBSIDY CREDITS

Sec. 301. Health coverage provided to premium subsidy eligible children through a tax credit for insurers.
Sec. 302. Health coverage provided to premium subsidy eligible children through a refundable income tax credit.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CERTIFIED HEALTH PLAN.—The term "certified health plan" means a health plan that—

(A) is not an employer sponsored health plan;

(B) provides family coverage or child only coverage options; and

(C) is certified by a State under section 101(b)(1).

(2) ELIGIBLE CHILD.—The term "eligible child" means an individual who has not attained the age of 19.

(3) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974).

(4) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" means—

(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(6) PREMIUM SUBSIDY ELIGIBLE CHILD.—The term "premium subsidy eligible child" means any individual who—

(A) is an eligible child who was born after December 31, 1984;

(B) is a citizen or qualified alien (as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b));

(C) has a family income determined under section 102(b) which does not exceed 300 percent of the poverty line or has a family income within the limits described in section 103(b)(2);

(D) is not eligible for assistance under a program under title XIX of the Social Security Act or, except as provided in section 102(e), under a similar State program providing health insurance or other health care coverage; and

(E)(i) except as provided in section 101(e) or clause (ii), has not been covered, during the 12-month period ending on the date on which the individual applies for subsidy-eligible health coverage under this title, under a health plan offered by a health insurance issuer (unless such plan was funded under title IX of the Social Security Act (42 U.S.C. 1101 et seq.)) and—

(I) such individual does not have access to employer sponsored health coverage; or

(II) the employer of the individual or family involved offers employer sponsored health coverage and the employer contribution for such 12-month period does not exceed—

(aa) in the case of an individual (or family) described in section 103(a)(2)(A), 80 percent or more of the costs of enrollment in the plan; or

(bb) in the case of an individual (or family) described in section 103(a)(2)(B), 50 percent or more of the costs of enrollment in the plan; or

(ii) is, as of the date of enactment of this Act, covered under a health plan that is not a group health plan (as defined in section 2791 of the Public Health Service Act), and the family of such individual is not eligible to claim a deduction under section 162(l) of the Internal Revenue Code of 1986.

(7) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(8) SUBSIDY ELIGIBLE HEALTH COVERAGE.—The term "subsidy eligible health coverage" means health insurance coverage under—

(A) a certified health plan; or

(B) an employer sponsored health plan providing family coverage or child-only coverage options;

for which a subsidy is available under this title.

TITLE I—HEALTH INSURANCE COVERAGE FOR ELIGIBLE CHILDREN

SEC. 101. ESTABLISHMENT OF PROGRAM TO PROVIDE ELIGIBLE CHILDREN WITH ACCESS TO HEALTH INSURANCE COVERAGE.

(a) ESTABLISHMENT.—The Secretary shall establish a program under which a premium subsidy eligible child, and the family of such child, may receive a subsidy to be used to pay a portion of the premium associated with the enrollment of the child for subsidy eligible health coverage under a certified health plan or employer sponsored health plan.

(b) STATE RESPONSIBILITIES.—Under the program established under subsection (a)—

(1) the insurance commissioner of a State may certify a health plan if the commissioner determines that—

(A) the health plan—

(i) provides family or child-only coverage;

(ii) meets general coverage guidelines that are established by the Secretary and designed to ensure that the plan provides comprehensive coverage, including preventive, basic, and catastrophic benefits that meet the health care needs of children (either as part of a family plan or a child-only plan);

(B) the average premium for the enrollment of a child under such plan is reasonable when taking into consideration the demographic and health status related factors of the population for which the plan will be marketed;

(C) each premium subsidy eligible child that is enrolled under the plan will be assessed the same premium;

(D) the plan provides for guaranteed issue with respect to premium subsidy eligible children;

(E) complies with the provisions of section 104 regarding preexisting condition exclusions;

(F) the health insurance issuer involved is participating in any applicable reinsurance program that has been established by the State to defray the costs of unevenly distributed risk among issuers; and

(G) the plan meets any other criteria established by the State;

(2) the insurance commissioner of the State shall provide information on the availability of certified health plans and the availability of subsidies in accordance with this title;

(3) the appropriate State entity (as determined by the Chief Executive Officer of the State) shall conduct income verification and reconciliation activities with respect to eligible children and families desiring to participate in the program in the State and issue certificates in accordance with section 102;

(4) the appropriate State entity (as determined under paragraph (4)) shall be responsible for the collection of premiums from premium subsidy eligible children and the forwarding of such premiums to the appropriate certified health plans;

(5) the State (through its own authority or acting in conjunction with the Secretary under subsection (f)(3)) shall ensure that each eligible child in the State has a reasonable choice of health insurance issuers that

offer child-only coverage consistent with the standards developed by the Secretary under this title;

(6) the State will establish any other requirements and procedures necessary to carry out this title within the State; and

(7) the State shall comply with any other requirements established by the Secretary.

(c) Participation of Issuers.—

(1) In general.—Any health plan may submit an application with the appropriate State insurance commissioner for certification under this section and such plan shall be certified if it meets the requirements of subsection (b)(1). Employer-sponsored health plans shall not be required to be certified under this title.

(2) Requirement for federal contractors.—

(A) In general.—Each health insurance issuer that provides health coverage under contract with any Federal program and that offers 1 or more health plans that provide family coverage options shall submit an application, with the appropriate State insurance commissioner, for the certification of 1 or more health plans that provide the children's only coverage described in subsection (b)(1)(A). Such an issuer shall apply for the certification of at least 1 health plan that provides child-only coverage, and may apply for the certification of 1 or more health plans that provide family coverage if such plans provides coverage for children as described in subsection (b)(1)(A).

(B) Penalty.—A health insurance issuer shall be ineligible to provide benefits under a Federal contract described in subparagraph (A) if—

(i) the issuer fails, in good faith, to submit an application as required under subparagraph (A);

(ii) the State insurance commissioner fails to certify a health plan of the issuer as meeting the requirements of this title; or

(iii) the issuer fails to make any modifications to the application or to a health plan as requested by the State insurance commissioner for the certification of a health plan.

(C) Participation in individual market.—Notwithstanding subparagraph (A), a health insurance issuer described in such subparagraph shall not be required to offer coverage in the individual market (as defined in section 2791(e)(1)) unless the issuer is otherwise participating in such market. Such an issuer shall be required to offer coverage to eligible children under this title through the participation of the issuer in all group purchasing arrangements operating in the area served by the issuer, except that with respect to employer-sponsored health plans, the obligation of an issuer to offer child-only coverage shall be limited to employers to which such issuers are otherwise offering coverage.

(3) Expedited procedures.—The State insurance commissioner of a State shall establish expedited procedures for the certification of health plans that have been offered in the insurance market in the State during the 1-year period preceding the date on which a certification is sought.

(4) Offering of coverage.—A health insurance issuer shall offer certified health plans to each eligible child residing in the area served by the issuer regardless of the family income of such child. Coverage provided under such plans may vary in accordance with this Act depending on whether the enrollee is an eligible child or a premium subsidy eligible child. Such coverage may be offered through insurance agents or brokers.

(d) Average Coverage Amount.—

(1) Determination.—The Secretary, in consultation with State insurance commissioners and other experts in the field of health insurance, shall determine the average coverage amount with respect to certified health plans. The amount shall be based on the average costs of comprehensive health insurance coverage for children as determined using data derived from existing State initiatives that have been established to provide health care coverage for uninsured children and data on the average market rates for health plans offering coverage reasonably similar to that of the coverage offered under certified health plans.

(2) Adjustments.—The Secretary shall annually adjust the average coverage amount determined under paragraph (1) to ensure that such amount accurately reflects the reasonable costs associated with the purchase of coverage under a certified health plan and regional variations in health care costs.

(3) Application of amount to child portion of plan.—In establishing and applying the average coverage amount under paragraph (1), the Secretary shall ensure that the amount relates solely to the comprehensive coverage applicable to the premium subsidy eligible child. If coverage of a premium subsidy eligible child is under a certified family plan, the average coverage amount shall relate solely to that portion of the plan that provides the coverage for the eligible child.

(e) Waiver of Previous Coverage Limitation.—

(1) Establishment of process.—The Secretary shall establish a process to waive the limitation described in section 2(6)(D) with respect to an individual if the Secretary determines that the individual was covered under a health plan during the period referred to in such section as a dependent of another individual and that the coverage was terminated involuntarily or the loss of coverage results from a change in employment.

(2) Limitation.—The process established under paragraph (1) shall not permit a waiver with respect to previous coverage that was terminated by an employer (or with respect to which the contribution of the employer toward such coverage was reduced) unless the Secretary determines that such coverage was terminated because the employer ceased its operations or because of other circumstances clearly unrelated to the availability of subsidies under this title.

(f) Provision of Technical Assistance by Secretary.—

(1) Alternative procedures.—The Secretary, at the request of and in conjunction with the insurance commissioner of a State, shall assist the State in establishing alternative rate review and approval procedures that apply to the health plans seeking certification under this section. Any procedures established under this paragraph shall be consistent with the goals and requirements of this title.

(2) Strategies to improve insurance market.—

(A) In general.—The Secretary, at the request of and in conjunction with a State, shall develop and pursue strategies to encourage competition, prevent fraudulent practices, ensure the adequacy of rates to prevent access barriers, and achieve goals consistent with this title with respect to the health insurance market in the State. Such strategies may include the establishment of commercial insurance pooling arrangements that may be used by small businesses and integrated with other purchasing pools, the implementation of competitive bidding mechanisms, and the coordination of insurance delivery systems with delivery systems under title XIX of the Social Security Act.

(B) Termination.—The Secretary may require that a State terminate or revise a strategy implemented by the State under paragraph (1) if the Secretary determines that the strategy conflicts with a provision of this title.

(3) Choice of issuers.—The Secretary, at the request of and in conjunction with a State, shall assist the State in identifying and implementing strategies to ensure that choice is provided to eligible children in accordance with subsection (b)(5). Such strategies may include the strategies described in paragraph (2)(A).

(g) Procedures to Identify Those Eligible for Medicaid.—In carrying out the program under this title, the Secretary shall establish procedures to identify premium subsidy eligible children whose enrollment in a certified health plan is subsidized under this title and who subsequently become eligible for assistance under a State plan under title XIX of the Social Security Act as a result of disability, the amount of health care costs, or similar factors. Such procedures, while ensuring the continuity and coordination of care, shall ensure that assistance under such title XIX is the primary payer for children eligible for such assistance.

SEC. 102. PROCEDURE FOR OBTAINING COVERAGE UNDER CERTIFIED HEALTH PLANS.

(a) Application.—

(1) In general.—To be eligible to receive a subsidy for the purchase of coverage under a certified health plan under this title, a family on behalf of a premium subsidy eligible child shall submit to the State entity designated under section 101(b)(4) an application that shall contain such income and employment information as the State determines necessary to make a determination with respect to the eligibility of such applicant for a subsidy under this title.

(2) Time for filing.—A family on behalf of a premium subsidy eligible child may file an application for a subsidy under this title at any time in accordance with this subsection.

(3) Use of simple form.—For purposes of this subsection, the State entity shall use an application that shall be as simple in form as possible and understandable to the average individual. The application may require attachment of such documentation as deemed necessary by the State in order to ensure eligibility for a subsidy.

(4) Availability of forms.—The State entity shall make an application form available through health care providers and participating issuers, public assistance offices, public libraries, and at other locations (including post offices) accessible to a broad cross-section of families.

(b) Issuance of Certificate.—

(1) In general.—

(A) Notification of applicant.—If the State entity described in subsection (a) determines that an applicant is eligible for a subsidy under this title, the entity shall notify the applicant of such eligibility and request that the applicant designate a certified health plan that the applicant desires to enroll in.

(B) Notification of plan.—Upon a designation under subparagraph (A), the entity shall forward a certificate of eligibility on behalf of the applicant to the designated plan. Such certificate shall contain identifying information concerning the applicant and the eligible child involved and the amount of the subsidy for which the applicant is eligible.

(2) Determination by state.—As elected by a family at the time of the submission of

an application under subsection (a), the State entity shall make a determination concerning family income either—

(A) by multiplying by a factor of 4 the income of the family for the 3-month period immediately preceding the month in which the application is made, or

(B) based upon estimated income for the entire year in which the application is submitted.

(3) Term.—A certificate under paragraph (1) shall remain in effect for the 6-month period beginning on the date of the issuance of the certificate. To continue to be eligible for a subsidy, a family must apply to renew the certificate at the end of each 6-month period.

(c) Enrollment.—Upon receipt of a certificate of eligibility under subsection (b), a certified health plan shall ensure that the eligible child involved is appropriately enrolled and that a copy of the enrollment and coverage materials are provided to the enrollee. With respect to the certified health plan involved, the plan shall use the certificate in accordance with section 103 to compute the amount of the premiums that are owed by the family involved.

(d) Payment of Premiums.—

(1) In general.—Upon receipt of the appropriate enrollment materials from a certified health plan under subsection (c), a premium subsidy eligible child, the family income of which does not exceed the limit described in section 103(a)(2)(B)(i), shall be responsible for remitting to the State entity described in subsection (a) the amount of the subsidy adjusted premium owed under such plan.

(2) Subsidy adjusted premium.—As used in paragraph (1), the term "subsidy adjusted premium" means the total amount of the premium assessed for the coverage of a premium subsidy eligible child under a certified health plan less the amount of the subsidy adjustment for which the child is eligible under section 103.

(3) Payment of issuer.—A State shall, under section 101(b)(4), establish procedures for the collection of premiums under this subsection and the payment of such premiums to the appropriate certified health plans.

(e) Coverage under Certain State Programs.—

(1) Coordination of programs.—The Secretary, in conjunction with States, shall provide for the coordination of the program established under this title with State programs that provide health insurance or other health care coverage for children. Such coordination may include the use of subsidies made available under this title to obtain coverage that supplements any partial coverage provided through such a State program or other coordinated arrangement.

(2) Eligibility.—With respect to an eligible child who is participating in a State program described in paragraph (1), a State may, notwithstanding section 2(6)(D), determine that such child is a premium subsidy eligible child.

(3) Adjustment of average coverage amount.—The Secretary shall adjust the average coverage amount under section 101(d) with respect to an eligible child who is determined to be a premium subsidy eligible child under paragraph (2) to reflect the cost of enrolling the child in any plan providing supplemental coverage as described in paragraph (1).

SEC. 103. SUBSIDY ADJUSTMENT.

(a) Premium Subsidy Eligible Children.—

(1) Eligibility.—An eligible child who has been determined by a State entity under section 102(b) to be a premium subsidy eligible child shall be eligible for a premium subsidy adjustment in the amount determined under paragraph (2) to be applied by the certified plan involved when computing the amount of the premium owed by such child.

(2) Amount.—

(A) Full subsidy.—

(i) In general.—With respect to a family, the family income of which does not exceed 200 percent of the poverty line for a family of the size involved, the amount of a premium subsidy adjustment specified in this paragraph for a premium subsidy eligible child shall, subject to clause (ii), be equal to 90 percent of the annual premium for the child for such year for coverage of the child under a certified health plan.

(ii) Limitation.—The amount of a subsidy adjustment for which a premium subsidy eligible child is eligible under clause (i) may not exceed the average coverage amount for the child as determined under section 101(d) with respect to the region in which the plan is offered.

(B) Graduated subsidy.—

(i) In general.—With respect to a family, the family income of which exceeds 200, but does not exceed 300, percent of the poverty line for a family of the size involved, the amount of a premium subsidy adjustment specified in this paragraph for a premium subsidy eligible child shall be determined by substituting "the applicable percentage" for "90 percent" in subparagraph (A).

(ii) Applicable percentage.—For purposes of clause (i), the term "applicable percentage" shall be determined using the following table:

"If the family income:	The applicable percentage shall be:
Exceeds 200, but does not exceed 225, percent of poverty	80
Exceeds 225, but does not exceed 250, percent of poverty	60
Exceeds 250, but does not exceed 275, percent of poverty	40
Exceeds 275, but does not exceed 300, percent of poverty	20
Exceeds 300 percent of poverty (subject to subsection (b)(2))	10

(b) Other Eligible Children.—

(1) In general.—A premium subsidy eligible child who is determined by the State to be a child described in paragraph (2), shall be eligible for a premium subsidy adjustment in the amount determined under paragraph (3) to be obtained through a refundable tax credit determined under section 34A of the Internal Revenue Code of 1986.

(2) Income limitation.—A premium subsidy eligible child described in this paragraph is a premium subsidy eligible child the family income of which exceeds 300 percent of the poverty line for a family of the size involved, but the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of which is less than $75,000.

(3) Amount.—

(A) In general.—A premium subsidy eligible child described in paragraph (2) shall be eligible for a premium subsidy adjustment which shall, subject to subparagraph (B), be equal to 10 percent of the annual premium for the child for such year for coverage of the child under a certified health plan.

(B) Limitation.—The amount of a subsidy adjustment for which a premium subsidy eligible child is eligible under subparagraph (A) may not exceed the average coverage amount for the child as determined under section 101(d) with respect to the region in which the plan is offered.

(4) Purchase of coverage by those not eligible for subsidy.—An eligible child who is not a premium subsidy eligible child and who enrolls in a certified health plan shall be responsible for the payment of the entire premium amount for coverage under the plan. Such certified plan shall comply with the applicable State insurance requirements and if such requirements permit, may elect not to comply with the provisions of subparagraphs (D) (relating to guaranteed issue) and (E) (relating to preexisting condition exclusion) of section 101(b)(1).

(c) Determinations of Income.—For purposes of this section and section 102(b):

(1) In general.—The term "income" means adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

(A) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code; and

(B) increased by—

(i) the amount of interest received or accrued which is exempt from tax, plus

(ii) the amount of social security benefits (described in section 86(d) of such Code) which is not includible in gross income under section 86 of such Code.

(2) Family income.—The term "family income" means, with respect to a family, the sum of the income for all members of the family, not including the income of a dependent child with respect to which no return is required under the Internal Revenue Code of 1986.

(d) Prohibition on Remitting Funds.—A health insurance issuer may not in any manner remit any portion of the premium that a family is responsible for under this title.

SEC. 104. LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD AND -PROHIBITION ON DISCRIMINATION.

(a) Preexisting Conditions.—

(1) In general.—No preexisting condition exclusion shall be imposed by a certified health plan or an employer-sponsored health plan, with respect to the enrollment and coverage of any premium subsidy eligible child.

(2) Definition.—As used in this subsection, the term "preexisting condition exclusion" shall have the meaning given such term by section 2701(b)(1) of the Public Health Service Act (as added by section 102 of the Health Insurance Portability and Accountability Act of 1996).

(b) Prohibition of Discrimination on Basis of Health Status.—

(1) In eligibility to enroll.—

(A) In general.—Subject to subparagraph (B), a health insurance issuer may not establish rules for eligibility (including continued eligibility) of any premium subsidy eligible child to enroll in a certified health plan or employer-sponsored health plan based on any of the following factors in relation to the premium subsidy eligible child:

(i) Health status.

(ii) Medical condition (including both physical and mental illnesses).

(iii) Claims experience.

(iv) Receipt of health care.

(v) Medical history.

(vi) Genetic information.

(vii) Evidence of insurability (including conditions arising out of acts of domestic violence).

(viii) Disability.

(B) No application to benefits or exclusions.—Subparagraph (A) shall not be construed—

(i) to require a certified health plan or employer-sponsored health plan to provide particular benefits other than those provided under the terms of the coverage, or

(ii) to prevent such plan from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated children enrolled in the plan.

(2) In premium contributions.—

(A) In general.—With respect to a certified health plan or employer-sponsored health plan, a health insurance issuer may not require that any premium subsidy eligible child (as a condition of enrollment or continued enrollment under the certified or employer-sponsored health plan involved) to pay a premium or contribution that is greater than such premium or contribution for a similarly situated child enrolled in the plan on the basis of any factor described in paragraph (1)(A) in relation to the child.

(B) Construction.—Nothing in subparagraph (A) shall be construed—

(i) to restrict the amount that an employer may be charged for coverage under a plan; or

(ii) to prevent a health insurance issuer from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(c) Employer May Not Discriminate Against Individuals Eligible for a Subsidy.—

(1) General rule.—An employer that elects to make employer contributions on behalf of an individual who is an employee of such employer, or who is a dependent of such employee, for health insurance coverage of the type described in section 101(b)(1)(A) shall not condition, or vary such contributions with respect to any such individual by reason of such individual's or dependent's status as an child eligible for a premium subsidy under this title.

(2) Elimination of contributions.—An employer shall not be treated as failing to meet the requirements of paragraph (1) if the employer ceases to make employer contributions for health insurance coverage for all its employees.

SEC. 105. MAINTENANCE OF EFFORT.

A State may not modify the eligibility requirements for children under the State program under title XIX of the Social Security Act, as in effect on July 1, 1996, in any manner that would have the effect of reducing the eligibility of children for coverage under such program.

SEC. 106. OVERSIGHT BY SECRETARY.

In the case of a determination by the Secretary that a State has failed to carry out or substantially enforce a provision (or provisions) of this title, the Secretary shall carry out or enforce such provision (or provisions) with respect to the coverage of eligible children in such State.

SEC. 107. RULES OF CONSTRUCTION.

Nothing in this title shall be construed—

(1) as establishing premiums for health plans or otherwise limiting the competitive health insurance market within a State;

(2) as limiting the ability of a State to establish health insurance purchasing pools, initiate a competitive bidding process with respect to certified health plans, or pursue other innovative strategies aimed at maximizing the potential of market forces to achieve quality and cost effectiveness; or

(3) as superseding any provision of State law which—

(A) provides for the application of criteria, in addition to those described in section 101(b)(1), for the certification of health plans so long as such criteria do not directly conflict with the goals of the criteria described in such section; or

(B) establishes, implements, or continues in effect any standard or requirement relating solely to health insurance issuers in connection with certified health plans or the coverage of eligible children, except to the extent that such standard or requirement prevents the application of a requirement of this title.

SEC. 108. MISCELLANEOUS PROVISIONS.

(a) Transition Rule.—With respect to the 12-month period described in section 2(6)(E), such period shall be reduced as follows:

(1) For premium subsidy eligible children desiring to enroll in a certified plan during the first full month after the date on which this Act becomes effective, the period shall be 6 months.

(2) For premium subsidy eligible children desiring to enroll in a certified plan during the second full month after the date on which this Act becomes effective, the period shall be 7 months.

(3) For premium subsidy eligible children desiring to enroll in a certified plan during the third full month after the date on which this Act becomes effective, the period shall be 8 months.

(4) For premium subsidy eligible children desiring to enroll in a certified plan during the fourth full month after the date on which this Act becomes effective, the period shall be 9 months.

(5) For premium subsidy eligible children desiring to enroll in a certified plan during the fifth full month after the day on which this Act becomes effective, the period shall be 10 months.

(6) For premium subsidy eligible children desiring to enroll in a certified plan during the sixth full month after the day on which this Act becomes effective, the period shall be 11 months.

TITLE II—HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN

SEC. 201. EXPANDING HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN.

(a) Establishment of Grant Program.—The Secretary shall establish a program to provide grants to States to enable such States to assist pregnant women in obtaining appropriate prenatal, perinatal and postnatal care.

(b) Application.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) Amount of Grant.—

(1) In general.—From the amount available for grants under subsection (e) for a fiscal year, the Secretary shall award a grant to each State in an amount that is equal to an amount which bears the same relationship to such amount as the pregnancy coverage amount of the State as determined under paragraph (2) bears to the pregnancy coverage amount for all States.

(2) Pregnancy coverage amount.—For purposes of paragraph (1), the pregnancy coverage amount of a State shall be equal to—

(A) the number of estimated uninsured pregnant women in the State the family income of which does not exceed 300 percent of the poverty line for a family of the size involved; and

(B) the average per capita cost of providing pregnancy benefits to such women.

(3) Guidelines.—The Secretary, in consultation with the National Association of Insurance Commissioners and the American Academy of Actuaries, shall establish guidelines for the determination of the amounts described in subparagraphs (A) and (B) of paragraph (2).

(d) Use of Amounts.—A State shall use amounts received under a grant provided under this section to assist pregnant women in obtaining appropriate prenatal, perinatal and postnatal care as approved by the Secretary.

(e) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 202. GRANTS FOR INNOVATIVE OUTREACH.

(a) Establishment of Grant Program.—The Secretary shall establish a program to provide categorical grants to States to assist children and pregnant women in obtaining health care services and coverage for which they are eligible.

(b) Application.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) Amount of Grant.—The Secretary shall determine the amount of a grant provided under this section.

(d) Use of Amounts.—A State shall use amounts received under a grant provided under this section to carry out innovative outreach activities to promote the timely enrollment of pregnant women and children in health plans or other programs that provide prenatal care and other pregnancy-related services or comprehensive care for children.

(e) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE III—CHILDREN'S HEALTH COVERAGE SUBSIDY CREDITS

SEC. 301. HEALTH COVERAGE PROVIDED TO PREMIUM SUBSIDY ELIGIBLE CHILDREN THROUGH A TAX CREDIT FOR INSURERS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following:

"SEC. 30B. CHILDREN'S HEALTH COVERAGE SUBSIDY CREDIT FOR INSURERS.

"(a) Determination of Amount.—There shall be allowed as a credit against the applicable tax for the taxable year an amount equal to the eligible premium subsidies provided by a health insurance issuer for coverage under 1 or more certified health plans during the taxable year under the Children's Health Coverage Act.

"(b) Applicable Tax.—For purposes of this section, the term 'applicable tax' means the excess (if any) of—

"(1) the sum of—

"(A) the tax imposed under this chapter (other than the taxes imposed under the provisions described in subparagraphs (C) through (O) of section 26(b)(1)), plus

"(B) the tax imposed under chapter 21, over

"(2) the credits allowable under subparts B and D of this part.

"(c) Eligible Premium Subsidies.—The term "eligible premium subsidies' means premium subsidies for premium subsidy eligible children (as defined in section 2(6) of the Children's Health Coverage Act.

"(d) Other Definitions.—For purposes of this section, the terms 'health insurance issuer' and 'certified health plan' have the meaning given those terms by section 2 of the Children's Health Coverage Act.".

(b) TRANSFER TO TRUST FUNDS.—The Secretary of the Treasury shall transfer from the general fund to the Old-Age, Survivors, and Disability Insurance Trust Fund and to the Hospital Insurance Trust Fund amounts equivalent to the amount of the reduction in taxes imposed by section 3111 of the Internal Revenue Code of 1986 by reason of the credit determined under section 30B (relating to the children's health coverage subsidy credit for insurers). Any such transfer shall be made at the same time the reduced taxes would have been deposited in either such Trust Fund.

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 30B. Children's health coverage subsidy credit for insurers.".

(e) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

SEC. 302. HEALTH COVERAGE PROVIDED TO PREMIUM SUBSIDY ELIGIBLE CHILDREN THROUGH A REFUNDABLE INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following:

"SEC. 34A. CHILDREN'S HEALTH COVERAGE.

"(a) ALLOWANCE OF CREDIT.—In the case of a premium subsidy eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the premium subsidy determined under section 103(b)(3) of the Children's Health Coverage Act for such individual for the taxable year.

"(b) PREMIUM SUBSIDY ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'premium subsidy eligible individual' means, with respect to any period, an individual who has as a dependent for the taxable year 1 or more premium subsidy eligible children described in section 103(b)(2) of the Children's Health Coverage Act.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) COORDINATION WITH DEDUCTIONS FOR HEALTH INSURANCE EXPENSES.—

(1) SELF-EMPLOYED INDIVIDUALS.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by adding after paragraph (5) the following:

"(6) COORDINATION WITH CHILDREN'S HEALTH COVERAGE CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 34A.".

(2) MEDICAL, DENTAL, ETC., EXPENSES.—Section 213(e) of such Code (relating to exclusion of amounts allowed for care of certain dependents) is amended by inserting "or section 34A" after "section 21".

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following:

"Sec. 34A. Children's health coverage.".

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

By Mr. DASCHLE (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. BINGAMAN, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. GRAHAM, Ms. MIKULSKI, Mr. KERRY, Mr. REID, Mr. DURBIN, Mr. INOUYE, Mr. TORRICELLI, and Mr. BREAUX):

S. 14. A bill to provide for retirement savings and security, and for other purposes; to the Committee on Finance.

RETIREMENT SECURITY ACT OF 1997

Mr. KENNEDY. Mr. President, today I join with the distinguished Minority Leader, Senator DASCHLE, in co-sponsoring legislation important for the future of working families in this country. One of this Congress's highest priorities should be pension reform.

The Treasury now spends $66 billion a year in tax subsidies to encourage pension coverage, but working families are not getting full value for this money. 56 percent of the workforce is not currently covered by any private pension plan. The situation is worse for employees of small businesses. Eighty-five percent of those employed by firms with fewer than 25 workers have no pension coverage. For low-wage workers, the situation is worst of all. More than 26 million employees—80 percent—who earn under $15,000 a year are not covered by a pension plan. Forty-one million employees who earn less than $30,000 a year do not participate in a retirement plan—60 percent.

Women make up an excessive portion of the working population that is not covered by a pension plan. Employees covered by union agreements are nearly twice as likely to have a pension, but women are half as likely to hold these jobs. More than eight million women who work for small firms have no access to pension coverage.

Low-wage women are especially hard-hit. Sixty percent of those earning under $15,000 a year are women. Nearly sixteen million women who earn less than $15,000 a year are not participating in a pension plan—80 percent. Twenty-three million women earning less than $30,000 a year don't participate in a retirement plan—nearly 60 percent.

Women are more than twice as likely as men to hold part-time jobs, with no pension coverage. Women make up more than half the workforce in industries with the lowest rates of pension coverage—such as the service and retail industries. In those industries with higher rates of access to pensions—mining, durable manufacturing, and communications—women make up just one-fourth of the workforce.

We must change these figures. I am proud to join in sponsoring the Retirement Security Act that Senator DASCHLE is introducing today to deal with these serious problems.

This bill will make real progress in expanding access to pensions for all working families. It will facilitate retirement savings by millions of Americans, by enabling workers to ask their employers to set aside savings from paychecks and deposit the savings directly into retirement accounts. This "pension checkoff" is a simple, practical step to make the private pension system more accessible to all workers.

The bill will also provide tax incentives for low-wage employees to set aside money for retirement. Families on the lower rungs of the economic ladder deserve a secure income when they retire. This bill will reform the tax laws to make them more beneficial to low-income workers. No one who works for a living should have to retire in poverty.

The bill advances other important goals as well. It strengthens the security of the pension system, so that the benefits families rely on will be there when they retire. It will stop employers from forcing employees to invest their retirement contributions in the employer's stock, against the workers' wishes. It will provide closer monitoring of pension plan terminations, to prevent companies from raiding employee pensions.

The bill also promotes pension portability. The checkoff system will allow employees to continue saving for retirement even if they change jobs or leave the labor market for a time. Wherever they go, they can take their pension plan with them. In addition, the bill makes it easier for employees to roll over their retirement accounts to a new employer's plan.

The bill will remove the most significant obstacles to pension coverage for women. It builds on the efforts of Senator MOSELEY-BRAUN and Senator BOXER in the last Congress to improve pension benefits for surviving spouses. It will also enable spouses to contribute to IRAs. The pension checkoff system will benefit millions of working women whose employers do not provide pension plans.

I commend Senator DASCHLE for the leadership he has shown in introducing this important bill. At a time when Social Security is facing tremendous budget pressure, it is essential that the private pension system be accessible and affordable to every working family. I look forward to working with colleagues on both sides of the aisle to pass this necessary legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 14

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Security Act of 1997".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—PENSION ACCESS AND COVERAGE

Sec. 100. Amendment of 1986 Code.

Subtitle A—Improved Access to Individual Retirement Savings

CHAPTER 1—CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS THROUGH PAYROLL DEDUCTIONS

Sec. 101. Definitions.
Sec. 102. Establishment of payroll deduction and investment system.
Sec. 103. Contributions to individual retirement plans.
Sec. 104. Investment options.
Sec. 105. Accounting and information.
Sec. 106. Administrative costs.
Sec. 107. Fiduciary responsibilities; liability and penalties; bonding; investigative authority.
Sec. 108. Selection of contractor.

CHAPTER 2—NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 111. Nonrefundable tax credit for contributions to individual retirement plans.

CHAPTER 3—EXPANDED INDIVIDUAL RETIREMENT ACCOUNTS TO INCREASE COVERAGE AND PORTABILITY

SUBCHAPTER A—IRA DEDUCTION

Sec. 121. Increase in income limitations.
Sec. 122. Inflation adjustment for deductible amount and income limitations.

SUBCHAPTER B—DISTRIBUTIONS AND INVESTMENTS

Sec. 131. Distributions from IRAs may be used without additional tax to purchase first homes, to pay higher education, or to pay financially devastating medical expenses.
Sec. 132. Contributions must be held at least 5 years in certain cases.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

Sec. 141. Periodic pension benefits statements.

Subtitle B—Improved Fairness in Retirement Plan Benefits

Sec. 151. Amendments to simple retirement accounts.
Sec. 152. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
Sec. 153. Definition of highly compensated employees.

Subtitle C—Improving Retirement Plan Coverage

Sec. 161. Credit for pension plan start-up costs of small employers.
Sec. 162. Treatment of multiemployer plans under section 415.
Sec. 163. Exemption of mirror plans from section 457 limits.
Sec. 164. Special rules for self-employed individuals.
Sec. 165. Immediate participation in the thrift savings plan for Federal employees.
Sec. 166. Modification of 10 percent tax for nondeductible contributions.

Subtitle D—Simplifying Plan Requirements

Sec. 171. Full funding limitation for multiemployer plans.
Sec. 172. Elimination of partial termination rules for multiemployer plans.
Sec. 173. Modifications to nondiscrimination and minimum participation rules with respect to governmental plans.
Sec. 174. Elimination of requirement for plan descriptions and the filing requirement for summary plan descriptions and descriptions of material modifications to a plan; technical corrections.
Sec. 175. New technologies in retirement plans.

TITLE II—SECURITY

Sec. 200. Amendment of ERISA.

Subtitle A—General Provisions

Sec. 201. Section 401(k) investment protection.
Sec. 202. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
Sec. 203. Study on investments in collectibles.
Sec. 204. Qualified employer plans prohibited from making loans through credit cards and other intermediaries.
Sec. 205. Multiemployer plan benefits guaranteed.
Sec. 206. Prohibited transactions.
Sec. 207. Substantial owner benefits.
Sec. 208. Reversion report.
Sec. 209. Development of additional remedies.

Subtitle B—ERISA Enforcement

Sec. 211. Repeal of limited scope audit.
Sec. 212. Additional requirements for qualified public accountants.
Sec. 213. Clarification of fiduciary penalties.
Sec. 214. Conforming amendments relating to ERISA enforcement.

TITLE III—PORTABILITY

Sec. 301. Faster vesting of employer matching contributions.
Sec. 302. Rationalize the restrictions on distributions from 401(k) plans.
Sec. 303. Treatment of transfers between defined contribution plans.
Sec. 304. Missing participants.

TITLE IV—TOWARD EQUITY FOR WOMEN

Sec. 401. Individual's participation in plan not treated as participation by spouse.
Sec. 402. Modifications of joint and survivor annuity requirements.
Sec. 403. Division of pension benefits upon divorce.
Sec. 404. Deferred annuities for surviving spouses of Federal employees.
Sec. 405. Payment of lump-sum credit for former spouses of Federal employees.
Sec. 406. Women's pension toll-free phone number.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

Sec. 501. Date for adoption of plan amendments.

TITLE I—PENSION ACCESS AND COVERAGE

SEC. 100. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Improved Access to Individual Retirement Savings

CHAPTER 1—CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS THROUGH PAYROLL DEDUCTIONS

SEC. 101. DEFINITIONS.

For purposes of this chapter:

(1) CONTRACTOR.—The term "contractor" means the private entity awarded a contract by the Secretary of Labor under section 108.

(2) CONTRIBUTION CERTIFICATE.—The term "contribution certificate" means a certificate submitted by an eligible employee to the employee's employer and the contractor which—

(A) identifies the employee by name, address, and social security number,

(B) includes a certification by the employee that the employee is an eligible employee, and

(C) identifies the amount of the contribution to an individual retirement plan the employee wishes to make for the taxable year through a payroll deduction, not to exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 to an individual retirement plan for such year.

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means, with respect to any taxable year, an employee whose employer does not sponsor a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986.

(B) EMPLOYEE.—The term "employee" does not include an employee as defined in section 401(c)(1) of such Code.

(3) INDIVIDUAL RETIREMENT PLANS.—

(A) IN GENERAL.—The term "individual retirement plan" has the meaning given the term by section 7701(a)(37) of the Internal Revenue Code of 1986).

(B) APPLICATION OF RULES.—Rules applicable to an individual retirement plan under the Internal Revenue Code of 1986 are applicable to an individual retirement plan referred to in this chapter.

SEC. 102. ESTABLISHMENT OF PAYROLL DEDUCTION AND INVESTMENT SYSTEM.

The contractor shall establish a system under which—

(1) eligible employees, through employer payroll deductions, may make contributions to individual retirement plans, and

(2) amounts in the individual retirement plans are invested as provided in section 104.

SEC. 103. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—The system established under section 102 shall provide that contributions made to an individual retirement plan for any taxable year are—

(1) contributions under an employer payroll deduction system, and

(2) additional contributions which, when added to contributions under paragraph (1), do not exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(b) EMPLOYER PAYROLL DEDUCTION SYSTEMS.—

(1) IN GENERAL.—The system established under section 102 shall provide to the maximum extent feasible that contributions under employer payroll deduction systems are made in such a manner as provides all employers with a simple, cost-effective way of making such contributions.

(2) SIMPLIFIED EMPLOYEE ENROLLMENT AND PARTICIPATION.—

(A) ESTABLISHMENT.—An eligible employee may establish and maintain an individual retirement plan simply by—

(i) completing a contribution certificate, and

(ii) submitting such certificate to the eligible employee's employer and the contractor in the manner provided under paragraph (3).

(B) EASE OF ADMINISTRATION.—An eligible employee establishing and maintaining an individual retirement plan under subparagraph (A) may change the amount of an employer payroll deduction, request employer payroll deductions by new employers to an existing plan, and make changes in elections made under section 104(d) in the same manner as under subparagraph (A).

(C) SIMPLIFIED FORMS.—

(i) CONTRIBUTION CERTIFICATE.—The contractor shall develop a contribution certificate for purposes of subparagraph (A)—

(I) which is written in a clear and easily understandable manner, and

(II) the completion of which by an eligible employee will constitute the establishment of an individual retirement plan and the request for employer payroll deductions.

(ii) OTHER FORMS.—The contractor shall develop such model forms for purposes of subparagraph (B) as are necessary to enable the contractor and an employer to easily administer an individual retirement plan on behalf of an eligible employee.

(iii) AVAILABILITY.—The contractor shall make available to all eligible employees and employers the forms developed under this subparagraph, and shall include with such forms easy to understand explanatory materials.

(3) USE OF CERTIFICATE.—Each employer upon receipt of a contribution certificate from an eligible employee shall deduct the appropriate contribution as determined by such certificate from the employee's wages in equal amounts during the remaining payroll periods for the taxable year and shall remit such amounts to the contractor for investment in the employee's individual retirement plan.

(4) FAILURE TO REMIT PAYROLL DEDUCTIONS.—For purposes of the Internal Revenue Code of 1986, any amount which an employer fails to remit to the contractor on behalf of an eligible employee pursuant to a contribution certificate of such employee shall not be allowed as a deduction to the employer under such Code.

SEC. 104. INVESTMENT OPTIONS.

(a) IN GENERAL.—The contractor shall, pursuant to the system established under section 102, enter into arrangements, on a competitive basis, with qualified professional asset managers to provide individuals with the opportunity to invest sums in an individual retirement plan in each of the funds described in subsection (b).

(b) TYPE OF FUNDS.—The funds described in the subsection are the following:

(1) A government securities investment fund.

(2) A fixed income investment fund.

(3) A common stock index investment fund.

(c) ASSET MANAGERS.—

(1) IN GENERAL.—The contractor may select more than 1 qualified professional asset manager for each type of fund described in subsection (b).

(2) ASSET ALLOCATION.—The contractor may place limits on the amount which may be allocated by the contractor to any qualified professional asset manager to the extent the contractor determines necessary to prevent undue impact on any financial market or undue risk to participants.

(3) DEFINITION.—For purposes of this section, the term "qualified professional asset manager" has the meaning given the term by section 8438(a)(7) of title 5, United States Code.

(d) PARTICIPANT ELECTIONS.—

(1) IN GENERAL.—The system established under section 102 shall provide that an individual on whose behalf an individual retirement plan is established may—

(A) elect the investment funds into which contributions to the plan are to be invested, and

(B) elect to transfer contributions (and earnings) from one fund to another.

(2) METHOD.—Any election shall be made in the manner provided by the system, except that the contractor shall seek to ensure elections may be made in a simple, timely manner.

(3) LIMITATION.—Any election under this subsection shall be subject to the asset allocation limitation under subsection (c)(2).

(e) INVESTMENT POLICIES.—The system established under section 102 shall provide that any investment policies adopted by the contractor shall provide for—

(1) prudent investments suitable for accumulating funds for payment of retirement income, and

(2) low administrative costs.

SEC. 105. ACCOUNTING AND INFORMATION.

(a) ESTABLISHMENT OF PLANS.—

(1) IN GENERAL.—The system established under section 102 shall provide for the establishment and maintenance of an individual retirement plan for each individual—

(A) for whom contributions are made to the contractor under an employer payroll deduction system pursuant to a contribution certificate, and

(B) who makes any additional contributions allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(2) ALLOCATIONS AND REDUCTIONS TO PLAN.—Such system shall provide for—

(A) the allocation to each plan of an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in such plan, and

(B) a reduction in each such plan for the plan's appropriate share of the administrative expenses to be paid out.

(3) EXAMINATION OF PLANS.—

(A) IN GENERAL.—The contractor shall annually engage, on behalf of all individuals for whom an individual retirement plan is maintained, an independent qualified public accountant (within the meaning of section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)) who shall conduct an examination of all plans and other books and records maintained in the administration of this chapter as the accountant considers necessary to make the determination under subparagraph (B). The examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the plans, books, and records as the public accountant considers necessary.

(B) DETERMINATION OF COMPLIANCE.—The public accountant conducting an examination under subparagraph (A) shall determine whether the plans, books, and records referred to in such subparagraph have been maintained in conformity with generally accepted accounting principles. The public accountant shall transmit to the contractor and the Secretary of Labor a report on such examination and determination.

(C) RELIANCE.—In making a determination under subparagraph (B), a public accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary if the public accountant states a reliance in the report to the contractor.

(b) ADDITIONAL INFORMATION.—

(1) IN GENERAL.—The system established under section 102 shall provide for the furnishing of information to employees and employers of the opportunity of establishing individual retirement plans and of transferring amounts to such plans.

(2) PLAN PARTICIPANTS.—

(A) IN GENERAL.—Such system shall provide that each individual for whom an individual retirement plan is maintained shall be periodically furnished with—

(i) a statement relating to the individual's plan, and

(ii) a summary description of the investment options under the plan and a history of the investment performance of such options during the 5-year period preceding the evaluation.

(B) PLAN VALUATION.—Such system shall also provide that each individual for whom an individual retirement plan is established shall be entitled, upon request, to a periodic valuation of amounts in each fund described in section 104(b) in order to enable the individual to make an election to transfer such amounts between funds.

(3) INVESTMENT INFORMATION.—The contractor shall also make available to employees information on how to make informed investment decisions and how to achieve retirement objectives.

(4) INFORMATION NOT INVESTMENT ADVICE.—Information provided under this subsection shall not be treated as investment advice for purposes of any Federal or State law.

SEC. 106. ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Except as provided from amounts described in section 108(c), any expense incurred by the contractor in carrying out its functions under this chapter shall be paid first from the earnings of the funds in individual retirement plans and then from balances in such plans.

(b) ALLOCATION.—Expenses under subsection (a) shall be allocated to each individual retirement plan in the manner provided under section 105.

SEC. 107. FIDUCIARY RESPONSIBILITIES; LIABILITY AND PENALTIES; BONDING; INVESTIGATIVE AUTHORITY.

Except as modified by the Secretary of Labor in regulations to correspond to the structure and responsibilities of the contractor, the provisions of sections 8477, 8478, 8478a, and 8479(a) of title 5, United States Code, shall apply to the contractor in the same manner as such provisions apply to the Thrift Savings Fund.

SEC. 108. SELECTION OF CONTRACTOR.

(a) SELECTION.—

(1) IN GENERAL.—The Secretary of Labor shall contract out, on a competitive basis, the duties under this chapter to a private entity.

(2) MEASUREMENT OF CONTRACT PERFORMANCE.—No contract shall be entered into with any entity under paragraph (1) unless the Secretary of Labor finds that such entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent. The Secretary of Labor shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this chapter (including standards and criteria for the termination of such contract), and opportunity shall be provided for public comment prior to implementation.

(b) TREATMENT AS TRUSTEE.—For purposes of the Internal Revenue Code of 1986 the contractor shall be treated in the same manner as a trustee described in section 408(a)(2) of such Code.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the Secretary of Labor to design and award the contract described in subsection (a)(1) and for the contractor to begin operations under this chapter.

(d) EFFECTIVE DATE OF SYSTEM.—The system established under section 102 shall take effect on the first day of the sixth month following the month in which the contract under subsection (a) is awarded.

CHAPTER 2—NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 111. NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. RETIREMENT SAVINGS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter so much of the qualified retirement contributions of the taxpayer for the taxable year as does not exceed the applicable amount of the adjusted gross income of the taxpayer for such year.

"(b) APPLICABLE AMOUNT.—For purposes of subsection (a), the applicable amount is determined in accordance with the following table:

"If adjusted gross income is:	The applicable amount is:
Not over $15,000	$450.
Over $15,000 but not over $20,000.	$400.
Over $20,000 but not over $25,000.	$350.
Over $25,000 but not over $30,000.	$300.
Over $30,000	$0.

"(c) SECTION NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—This section shall not apply with respect to—

"(1) an employer contribution to a simplified employee pension, and

"(2) any amount contributed to a simple retirement account established under section 408(p).

"(d) OTHER LIMITATIONS AND RESTRICTIONS.—

"(1) BENEFICIARY MUST BE UNDER AGE 70½.—No credit shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

"(2) RECONTRIBUTED AMOUNTS.—No credit shall be allowed under this section with respect to a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

"(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no credit shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(4) DENIAL OF CREDIT FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No credit shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).

"(5) NO DOUBLE BENEFIT.—No credit shall be allowed under this section for any taxable year with respect to the amount of any qualified retirement contribution for the benefit of an individual if such individual takes a deduction with respect to such amount under section 219 for such taxable year.

"(e) QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section, the term 'qualified retirement contribution' means—

"(1) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

"(2) any amount contributed on behalf of any individual to a plan described in section 501(a)(18).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' has the meaning given in section 219(f)(1).

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(4) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.

"(5) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employer (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a credit for such payment is allowable under this section to the employee.

"(g) CROSS REFERENCE.—

"For failure to provide required reports, see section 6652(g).".

(b) CONFORMING AMENDMENTS.—

(1) Section 86(f) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) section 25A(f)(1) (defining compensation),".

(2) Clause (i) of section 501(c)(18)(D) is amended by inserting "which may be taken into account in computing the credit allowable under section 25A or" before "with respect".

(3) Section 6047(c) is amended by inserting "section 25A or" before "section 219".

(4) Section 6652(g) is amended—

(A) by inserting "section 25A(f)(4) or" before "section 219(f)(4)", and

(B) by inserting "CREDITABLE" before "DEDUCTIBLE" in the heading thereof.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Retirement savings.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

CHAPTER 3—EXPANDED INDIVIDUAL RETIREMENT ACCOUNTS TO INCREASE COVERAGE AND PORTABILITY

Subchapter A—IRA Deduction

SEC. 121. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (defining applicable dollar amount) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$80,000 ($70,000 in the case of taxable years beginning in 1997, 1998, or 1999)", and

(2) by striking "$25,000" in clause (ii) and inserting "$50,000 ($45,000 in the case of taxable years beginning in 1997, 1998, or 1999)".

(b) PHASEOUT OF LIMITATIONS.—Clause (ii) of section 219(g)(2)(A) (relating to amount of reduction) is amended by striking "$10,000" and inserting "an amount equal to 10 times the dollar amount applicable for the taxable year under subsection (b)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 122. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT AND INCOME LIMITATIONS.

(a) IN GENERAL.—Section 219 (relating to retirement savings) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) DEDUCTIBLE AMOUNTS.—In the case of any taxable year beginning in a calendar year after 1997, the $2,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) APPLICABLE DOLLAR AMOUNT.—In the case of any taxable year beginning in a calendar year after 2000, the applicable dollar amounts under subsection (g)(3)(B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(3) ROUNDING RULES.—

"(A) DEDUCTION AMOUNTS.—If any amount after adjustment under paragraph (1) is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500.

"(B) APPLICABLE DOLLAR AMOUNTS.—If any amount after adjustment under paragraph (2) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.".

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subchapter B—Distributions and Investments

SEC. 131. DISTRIBUTIONS FROM IRAS MAY BE USED WITHOUT ADDITIONAL TAX TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION, OR TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) In General.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(E) Distributions from certain plans for first home purchases or educational expenses.—Distributions to an individual from an individual retirement plan—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (7)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year.".

(b) Financially Devastating Medical Expenses.—

(1) Certain lineal descendants and ancestors treated as dependents.—Subparagraph (B) of section 72(t)(2) (relating to subsection not to apply to certain distributions) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) in the case of an individual retirement plan, by treating such employee's dependents as including all children, grandchildren, and ancestors of the employee or such employee's spouse.".

(2) Conforming amendment.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (D)" and inserting ", (D), or (E)".

(c) Definitions.—Section 72(t) is amended by adding at the end the following new paragraphs:

"(7) Qualified first-time homebuyer distributions.—For purposes of paragraph (2)(E)(i)—

"(A) In general.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child (as defined in section 151(c)(3)), or grandchild of such individual.

"(B) Qualified acquisition costs.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) First-time homebuyer; other definitions.—For purposes of this paragraph—

"(i) First-time homebuyer.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section. An individual who loses an ownership interest in a principal residence incident to a divorce or legal separation is deemed for purposes of this subparagraph to have had no ownership interest in such principal residence within the period referred to in subclause (II).

"(ii) Principal residence.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) Date of acquisition.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) Special rule where delay in acquisition.—Any portion of any distribution from any individual retirement plan which fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such portion, and

"(ii) such portion shall not be taken into account in determining whether section 408(d)(3)(B) applies to any other amount.

"(8) Qualified higher education expenses.—For purposes of paragraph (2)(E)(ii)—

"(A) In general.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse,

"(iii) a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

"(iv) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

as an eligible student at an institution of higher education.

"(B) Exceptions.—The term 'qualified higher education expenses' does not include—

"(i) expenses with respect to any course or other education involving sports, games, or hobbies, unless such expenses—

"(I) are part of a degree program, or

"(II) are deductible under this chapter without regard to this section; or

"(ii) any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

"(C) Coordination with savings bond provisions.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

"(D) Eligible student.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

"(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(ii)(I) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education, or

"(II) is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

"(E) Institution of higher education.—The term 'institution of higher education' means an institution which—

"(i) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(ii) is eligible to participate in programs under title IV of such Act.".

(d) Effective Date.—The amendments made by this section shall apply to payments and distributions after December 31, 1996.

SEC. 132. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) In General.—Section 72(t), as amended by section 131(c), is amended by adding at the end the following new paragraph:

"(9) Certain contributions must be held 5 years.—

"(A) In general.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) Ordering rule.—For purposes of this paragraph—

"(i) First-in, first-out rule.—Distributions shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) Allocation of earnings.—Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(iii) Aggregations of contributions.—Except as provided by the Secretary, for purposes of this subparagraph—

"(I) all contributions made during the same taxable year may be treated as 1 contribution, and

"(II) all contributions made before the first day of the 5-year period ending on the day before any distribution may be treated as 1 contribution.

"(C) Special rule for rollovers.—

"(i) Pension plans.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c), 403(a)(4), or 403(b)(8) applied.

"(ii) Contribution period.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.".

(b) Effective Date.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1996.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

SEC. 141. PERIODIC PENSION BENEFITS STATEMENTS.

(a) In General.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking "shall furnish to any plan participant or beneficiary who so requests in writing," and inserting "shall furnish at least once every 3 years, in the case of a defined benefit plan, and annually, in the case of a defined contribution plan, to each plan participant, and shall furnish to any plan participant or beneficiary who so requests,".

(b) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended to read as follows:

"(d) Each administrator of a plan to which more than 1 unaffiliated employer is required to contribute shall furnish to any plan participant or beneficiary who so requests in writing, a statement described in subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the earlier of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025), or

(2) December 31, 1997.

Subtitle B—Improved Fairness in Retirement Plan Benefits

SEC. 151. AMENDMENTS TO SIMPLE RETIREMENT ACCOUNTS.

(a) MINIMUM CONTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Paragraph (2) of section 408(p) (defining qualified salary reduction arrangement) is amended—

(A) by striking clauses (iii) and (iv) of subparagraph (A) and inserting the following new clauses:

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to—

"(I) so much of the amount the employee elects under clause (i)(I) as does not exceed 3 percent of compensation for the year, and

"(II) a uniform percentage (which is at least 50 percent but not more than 100 percent) of the amount the employee elects under clause (i)(I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

"(iv) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year, and

"(v) no contributions may be made other than contributions described in clause (i), (iii), or (iv).", and

(B) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) CONTRIBUTION RULES.—

"(i) EMPLOYER MAY ELECT 3-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of clauses (iii) and (iv) of subparagraph (A) for any year if, in lieu of the contributions described in such clauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this clause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

"(ii) DISCRETIONARY CONTRIBUTIONS.—A plan shall not be treated as failing to meet the requirements of subparagraph (A)(v) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions under subparagraph (A)(iv) or clause (i) of this subparagraph in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear a uniform relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee.

"(iii) COMPENSATION LIMITATION.—The compensation taken into account under this paragraph for any year shall not exceed the limitation in effect for such year under section 401(a)(17).".

(2) MATCHING CONTRIBUTIONS.—Subparagraph (B) of section 401(k)(11) (relating to adoption of simple plan to meet nondiscrimination tests) is amended—

(A) by striking subclauses (II) and (III) of clause (i) and inserting the following new subclauses:

"(II) the employer is required to make a matching contribution to the trust for any year in an amount equal to—

"(aa) so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

"(bb) a uniform percentage (which is at least 50 percent but not more than 100 percent) of the amount the employee elects under subclause (I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

"(III) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year, and

"(IV) no other contributions may be made other than contributions described in subclause (I), (II), or (III).", and

(B) by striking clause (ii) and inserting the following new clause:

"(ii) CONTRIBUTION RULES.—

"(I) EMPLOYER MAY ELECT 3-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of subclauses (II) and (III) of clause (i) for any year if, in lieu of the contributions described in such subclauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subclause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

"(II) DISCRETIONARY CONTRIBUTIONS.—A plan shall not be treated as failing to meet the requirements of clause (i)(IV) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions under clause (i)(III) or subclause (I) of this clause in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear a uniform relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee.".

(b) FIDUCIARY DUTIES.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended—

(1) by striking "(1)" after "(c)" in subsection (c),

(2) by striking paragraph (2) in subsection (c), and

(3) by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d)(1) In the case of a simple retirement account which meets the requirements of section 408(p) of the Internal Revenue Code of 1986, no plan sponsor who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from—

"(A) the designation of the trustee or issuer of such account, or

"(B) the manner in which the assets in the account are invested,

after the earliest of the dates described in paragraph (2).

"(2) The dates described in this paragraph are as follows:

"(A) The date on which an affirmative election with respect to the initial investment of any contribution is made by the individual for whose benefit the account is maintained.

"(B) The date on which there is a rollover of the assets of the account to any other simple retirement account or individual retirement plan.

"(C) The date which is 1 year after the account is established.

"(3) This subsection shall not apply to the plan sponsor of a simple retirement account unless the plan participants are notified in writing (either separately or as part of the notice under section 408(*l*)(2)(C)) that such contributions may be transferred without cost or penalty to another individual account or annuity.".

(c) OPTION TO SUSPEND CONTRIBUTIONS.—Section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following new paragraph:

"(8) SUSPENSION OF PLAN.—Except as provided by the Secretary, a plan shall not be treated as failing to meet the requirements of this subsection if, under the plan, the employer may suspend all elective, matching, and nonelective contributions under the plan after notifying employees eligible to participate in the arrangement of such suspension in writing at least 30 days in advance. Such suspension shall apply to contributions with respect to compensation earned after the effective date of the suspension. Only 1 suspension under this paragraph may take effect during any year.".

(d) CONFORMING AMENDMENTS.—Section 408(p)(2)(C), as so added, is amended—

(1) by striking clause (ii),

(2) by striking "DEFINITIONS" in the heading and inserting "ELIGIBLE EMPLOYER",

(3) by striking "(i) ELIGIBLE EMPLOYER.—", and

(4) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) DELAYED EFFECTIVE DATE FOR PLANS ESTABLISHED IN 1997.—In the case of plans established in 1997 under section 408(p) of the Internal Revenue Code of 1986, as in effect on January 1, 1997, the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 152. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Subparagraph (B) of section 401(k)(12) (relating to alternative methods of meeting nondiscrimination requirements) is amended to read as follows:

"(B) NONELECTIVE AND MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) NONELECTIVE CONTRIBUTIONS.—The requirements of this clause are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 1 percent of the employee's compensation.

"(iii) MATCHING CONTRIBUTIONS.—The requirements of this clause are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(iv) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of clause (iii) are not met if, under the arrangement, the rate of matching contribution with respect to any rate of elective contribution of a highly compensated employee is greater than that with respect to an employee who is not a highly compensated employee. For purposes of this clause, to the extent provided in regulations, the last sentences of paragraph (3)(A) and subsection (m)(2)(B) shall not apply.

"(v) ALTERNATIVE PLAN DESIGNS.—If the rate of matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (iii), an arrangement shall not be treated as failing to meet the requirements of clause (iii) if—

"(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contribution increase, and

"(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (iii).".

(b) CONTRIBUTIONS PART OF QUALIFIED CASH OR DEFERRED ARRANGEMENT.—Subparagraph (E)(ii) of section 401(k)(12), as so added, is amended to read as follows:

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, an arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), and determining whether contributions provided under a plan satisfy subsection (a)(4) on the basis of equivalent benefits, employer contributions under subparagraph (B) or (C) shall not be taken into account.".

(c) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m)(11) (relating to alternative method of satisfying tests) is amended—

(1) by striking "subparagraph (B)" in subparagraph (A)(iii) and inserting "subparagraphs (B) and (C)",

(2) by adding at the end of subparagraph (B) the following new flush sentence:

"To the extent provided in regulations, the last sentences of paragraph (2)(B) and subsection (k)(3)(A) shall not apply for purposes of clause (iii).", and

(3) by adding at the end the following new subparagraph:

"(C) TEST MUST BE MET SEPARATELY.—If this paragraph applies to any matching contributions, such contributions shall not be taken into account in determining whether employee contributions satisfy the requirements of this subsection.".

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—Subparagraph (E) of section 401(k)(3) is amended to read as follows:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) the actual deferral percentage of nonhighly compensated employees determined for such first plan year in the case of—

"(I) an employer who elects to have this clause apply, or

"(II) except to the extent provided by the Secretary, a successor plan.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1433 of the Small Business Job Protection Act of 1996.

SEC. 153. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Subparagraph (B) of section 414(q)(1) (defining highly compensated employee) is amended to read as follows:

"(B) for the preceding year had compensation from the employer in excess of $80,000.".

(b) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (3), (5), and (7) and by redesignating paragraphs (4), (6), and (8) as paragraphs (3) through (5), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(4)" and inserting "section 414(q)(3)".

(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(5)" and inserting "section 414(r)(9)".

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of paragraph (2)(A), the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.".

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(5)" and inserting "paragraph (9)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1431 of the Small Business Job Protection Act of 1996.

Subtitle C—Improving Retirement Plan Coverage

SEC. 161. CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS.

(a) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the small employer pension plan start-up cost credit.".

(b) SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38—

"(1) IN GENERAL.—The small employer pension plan start-up cost credit for any taxable year is an amount equal to the qualified start-up costs of an eligible employer in establishing a qualified pension plan or qualified employer payroll deduction system.

"(2) AGGREGATE LIMITATION.—The amount of the credit under paragraph (1) for any taxable year shall not exceed $500, reduced by the aggregate amount determined under this section for all preceding taxable years of the taxpayer.

"(b) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means an employer which—

"(1) had an average daily number of employees during the preceding taxable year not in excess of 50, and

"(2) did not make any contributions on behalf of any employee to a qualified pension plan during the 2 taxable years immediately preceding the taxable year.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which—

"(A) are paid or incurred in connection with the establishment of a qualified pension plan or a qualified employer payroll deduction system, and

"(B) are of a nonrecurring nature.

"(2) QUALIFIED PENSION PLAN.—The term 'qualified pension plan' means—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) a simplified employee pension (as defined in section 408(k)), or

"(C) a simple retirement account (as defined in section 408(p)).

"(3) QUALIFIED EMPLOYER PAYROLL DEDUCTION SYSTEM.—The term 'qualified employer payroll deduction system' means a system described in section 103 of the Retirement Security Act of 1997.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (n) or (o) of section 414 shall be treated as one person.

"(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan start-up cost credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Small employer pension plan start-up cost credit.".

(d) Effective Date.—The amendments made by this section shall apply to costs incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 162. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) Compensation Limit.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

"(11) Special limitation rule for governmental and multiemployer plans.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.".

(b) Treatment of Certain Excess Benefit Plans.—

(1) Application of section 457.—Paragraph (14) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(14) Treatment of excess benefit arrangements.—

"(A) In general.—Subsections (b)(2) and (c)(1) shall not apply to any excess benefit arrangement and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.

"(B) Excess benefit arrangement defined.—For purposes of this section, the term 'excess benefit arrangement' means a plan which is maintained by an eligible employer solely for purposes of providing benefits for certain employees in excess of the limits on contributions and benefits imposed by section 415. Such term includes a qualified governmental excess benefit arrangement (as defined in section 415(m)(3)).".

(2) Conforming amendment.—Subparagraph (E) of section 457(f)(2) (relating to tax treatment of participants where plan or arrangement of employer is not eligible) is amended to read as follows:

"(E) an excess benefit arrangement (as defined in subsection (e)(14)(B)).".

(c) Exemption for Survivor and Disability Benefits.—Subparagraph (I) of section 415(b)(2) (relating to limitation for defined benefit plans) is amended—

(1) by inserting "or a multiemployer plan (as defined in section 414(f))" after "section 414(d))" in clause (i),

(2) by inserting "or multiemployer plan" after "governmental plan" in clause (ii), and

(3) by inserting "AND MULTIEMPLOYER" after "GOVERNMENTAL" in the heading.

(d) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 1444 of the Small Business Job Protection Act of 1996.

SEC. 163. EXEMPTION OF MIRROR PLANS FROM SECTION 457 LIMITS.

(a) In General.—Subsection (e) of section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations), as amended by section 162(b)(1), is amended by adding at the end the following new paragraph:

"(15) Exemption for mirror plans.—

"(A) In general.—Amounts of compensation deferred under a mirror plan shall not be taken into account in applying this section to amounts of compensation deferred under any other deferred compensation plan.

"(B) Mirror plan.—The term 'mirror plan' means a plan, program, or arrangement maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by section 401(a)(17) or section 415, or both.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 164. SPECIAL RULES FOR SELF-EMPLOYED INDIVIDUALS.

(a) Contributions by Self-Employed Individuals Treated as Matching Contributions.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(v) Contributions by Self-Employed Individuals Treated as Matching Contributions.—For purposes of this title, matching contributions (as defined in section 401(m)(4)(A)) made on behalf of a self-employed individual shall not be treated as elective deferrals (within the meaning of section 402(g)(3)) or as made pursuant to an election by the self-employed individual.".

(b) Effective Date.—The amendment made by this section shall apply to years beginning after December 31, 1996.

SEC. 165. IMMEDIATE PARTICIPATION IN THE THRIFT SAVINGS PLAN FOR FEDERAL EMPLOYEES.

(a) Elimination of Certain Waiting Periods for Purposes of Employee Contributions.—Paragraph (4) of section 8432(b) of title 5, United States Code, is amended to read as follows:

"(4) The Executive Director shall prescribe such regulations as may be necessary to carry out the following:

"(A) Notwithstanding subparagraph (A) of paragraph (2), an employee or Member described in such subparagraph shall be afforded a reasonable opportunity to first make an election under this subsection beginning on the date of commencing service or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

"(B) An employee or Member described in subparagraph (B) of paragraph (2) shall be afforded a reasonable opportunity to first make an election under this subsection (based on the appointment or election described in such subparagraph) beginning on the date of commencing service pursuant to such appointment or election or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

"(C) Notwithstanding the preceding provisions of this paragraph, contributions under paragraphs (1) and (2) of subsection (c) shall not be payable with respect to any pay period before the earliest pay period for which such contributions would otherwise be allowable under this subsection if this paragraph had not been enacted.

"(D) Sections 8351(a)(2), 8440a(a)(2), 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be applied in a manner consistent with the purposes of subparagraphs (A) and (B), to the extent those subparagraphs can be applied with respect thereto.

"(E) Nothing in this paragraph shall affect paragraph (3).".

(b) Technical and Conforming Amendments.—

(1) Section 8432(a) of title 5, United States Code, is amended—

(A) in the first sentence by striking "(b)(1)" and inserting "(b)"; and

(B) by amending the second sentence to read as follows: "Contributions under this subsection pursuant to such an election shall, with respect to each pay period for which such election remains in effect, be made in accordance with a program of regular contributions provided in regulations prescribed by the Executive Director.".

(2) Section 8432(b)(1)(B) of such title is amended by inserting "(or any election allowable by virtue of paragraph (4))" after "subparagraph (A)".

(3) Section 8432(b)(3) of such title is amended by striking "Notwithstanding paragraph (2)(A), an" and inserting "An".

(4) Section 8432(i)(1)(B)(ii) of such title is amended by striking "either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or".

(5) Section 8439(a)(1) of such title is amended by inserting "who makes contributions or" after "for each individual" and by striking "section 8432(c)(1)" and inserting "section 8432".

(6) Section 8439(c)(2) of such title is amended by adding at the end the following: "Nothing in this paragraph shall be considered to limit the dissemination of information only to the times required under the preceding sentence.".

(7) Sections 8440a(a)(2) and 8440d(a)(2) of such title are amended by striking all after "subject to" and inserting "subject to this chapter.".

(c) Effective Date.—This section shall take effect 6 months after the date of the enactment of this Act or such earlier date as the Executive Director may by regulation prescribe.

SEC. 166. MODIFICATION OF 10 PERCENT TAX FOR NONDEDUCTIBLE CONTRIBUTIONS.

(a) In General.—Subparagraph (B) of section 4972(c)(6) (relating to exceptions) is amended to read as follows:

"(B) contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7), in an amount not in excess of the greater of—

"(i) the amount of contributions not in excess of 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans, or

"(ii) the amount of contributions described in section 401(m)(4)(A) or 402(g)(3)(A).".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle D—Simplifying Plan Requirements

SEC. 171. FULL FUNDING LIMITATION FOR MULTIEMPLOYER PLANS.

(a) Amendments to Code.—

(1) Full-funding limitation.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(A) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(B) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(2) Valuation.—Section 412(c)(9) (relating to annual valuation) is amended—

(A) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(B) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(b) Amendments to ERISA.—

(1) FULL-FUNDING LIMITATION.—Section 302(c)(7)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is amended—

(A) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(B) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(2) VALUATION.—Section 302(c)(9) of such Act (29 U.S.C. 1082(c)(9)) is amended—

(A) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(B) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 172. ELIMINATION OF PARTIAL TERMINATION RULES FOR MULTIEMPLOYER PLANS.

(a) PARTIAL TERMINATION RULES FOR MULTIEMPLOYER PLANS.—Section 411(d)(3) (relating to termination or partial termination; discontinuance of contributions) is amended by adding at the end the following new sentence: "This paragraph shall not apply in the case of a partial termination of a multiemployer plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partial terminations beginning after December 31, 1996.

SEC. 173. MODIFICATIONS TO NONDISCRIMINATION AND MINIMUM PARTICIPATION RULES WITH RESPECT TO GOVERNMENTAL PLANS.

(a) GENERAL NONDISCRIMINATION AND PARTICIPATION RULES.—

(1) NONDISCRIMINATION REQUIREMENTS.—Paragraph (5) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following new subparagraph:

"(F) GOVERNMENTAL PLANS.—Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).".

(2) ADDITIONAL PARTICIPATION REQUIREMENTS.—Subparagraph (H) of section 401(a)(26) is amended to read as follows:

"(H) EXCEPTION FOR GOVERNMENTAL PLANS.—This paragraph shall not apply to a governmental plan (within the meaning of section 414(d)).".

(3) MINIMUM PARTICIPATION STANDARDS.—Paragraph (2) of section 410(c) is amended to read as follows:

"(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 401(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall only apply if such plan meets the requirements of section 401(a)(3) (as in effect on September 1, 1974).".

(b) PARTICIPATION STANDARDS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E)(i) The requirements of subparagraph (A)(i) and (C) shall not apply to a governmental plan (within the meaning of section 414(d)).

"(ii) The requirements of subsection (m)(2) (without regard to subsection (a)(4)) shall apply to any matching contribution of a governmental plan (as so defined).".

(c) NONDISCRIMINATION RULES FOR SECTION 403(b) PLANS.—Paragraph (12) of section 403(b) is amended by adding at the end the following new subparagraph:

"(C) GOVERNMENTAL PLANS.—For purposes of paragraph (1)(D), the requirements of subparagraph (A)(i) shall not apply to a governmental plan (within the meaning of section 414(d)).".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of sections 401(a)(3), 401(a)(4), 401(a)(26), 401(k), 401(m), 403 (b)(1)(D) and (b)(12), and 410 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 174. ELIMINATION OF REQUIREMENT FOR PLAN DESCRIPTIONS AND THE FILING REQUIREMENT FOR SUMMARY PLAN DESCRIPTIONS AND DESCRIPTIONS OF MATERIAL MODIFICATIONS TO A PLAN; TECHNICAL CORRECTIONS.

(a) FILING REQUIREMENTS.—Section 101(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(b)) is amended by striking paragraphs (1), (2), and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(b) PLAN DESCRIPTION.—

(1) IN GENERAL.—Section 102(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(a)) is amended—

(A) by striking paragraph (2), and

(B) by striking "(a)(1)" and inserting "(a)".

(2) CONFORMING AMENDMENTS.—

(A) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended by striking "The plan description and summary plan description shall contain" and inserting "The summary plan description shall contain".

(B) The heading for section 102 of such Act is amended by striking "PLAN DESCRIPTION AND".

(c) FURNISHING OF REPORTS.—

(1) IN GENERAL.—Section 104(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(a)(1)) is amended to read as follows:

"SEC. 104. (a)(1) The administrator of any employee benefit plan subject to this part shall file with the Secretary the annual report for a plan year within 210 days after the close of such year (or within such time as may be required by regulations promulgated by the Secretary in order to reduce duplicative filing). The Secretary shall make copies of such annual reports available for inspection in the public document room of the Department of Labor.".

(2) SECRETARY MAY REQUEST DOCUMENTS.—

(A) IN GENERAL.—Section 104(a) of such Act (29 U.S.C. 1024(a)) is amended by adding at the end the following new paragraph:

"(6) The administrator of any employee benefit plan subject to this part shall furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to, the latest summary plan description (including any summaries of plan changes not contained in the summary plan description), and the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated.".

(B) PENALTY.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) If, within 30 days of a request by the Secretary to a plan administrator for documents under section 104(a)(6), the plan administrator fails to furnish the material requested to the Secretary, the Secretary may assess a civil penalty against the plan administrator of up to $100 a day from the date of such failure (but in no event in excess of $1,000 per request). No penalty shall be imposed under this paragraph for any failure resulting from matters reasonably beyond the control of the plan administrator.".

(d) CONFORMING AMENDMENTS.—

(1) Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended by striking "section 102(a)(1)" each place it appears and inserting "section 102(a)".

(2) Section 104(b)(2) of such Act (29 U.S.C. 1024(b)(2)) is amended by striking "the plan description and" and inserting "the latest updated summary plan description and".

(3) Section 104(b)(4) of such Act (29 U.S.C. 1024(b)(4)) is amended by striking "plan description".

(4) Section 106(a) of such Act (29 U.S.C. 1026(a)) is amended by striking "descriptions,".

(5) Section 107 of such Act (29 U.S.C. 1027) is amended by striking "description or".

(6) Paragraph (2)(B) of section 108 of such Act (29 U.S.C. 1028) is amended to read as follows: "(B) after publishing or filing the annual reports,".

(7) Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking "or (5)" and inserting "(5), or (6)".

(e) TECHNICAL CORRECTION.—Section 1144(c) of the Social Security Act (42 U.S.C. 1320b–14(c)) is amended by redesignating paragraph (9) as paragraph (8).

SEC. 175. NEW TECHNOLOGIES IN RETIREMENT PLANS.

The Secretary of the Treasury and the Secretary of Labor shall expand their efforts to examine existing guidance regarding notice, recordkeeping, and operational requirements for retirement plans, in order to permit the use of new technologies by plan sponsors and administrators in ways which maintain the protection of the rights of participants and beneficiaries.

TITLE II—SECURITY

SEC. 200. AMENDMENT OF ERISA.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Employee Retirement Income Security Act of 1974.

Subtitle A—General Provisions

SEC. 201. SECTION 401(k) INVESTMENT PROTECTION.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 407(d) (29 U.S.C. 1107(d)) is amended by adding at the end the following new subparagraph:

"(D) The term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings thereon), if such elective deferrals (or earnings thereon) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant (or the participant's beneficiary) on whose behalf such elective deferrals are made to the plan. For the purposes of subsection (a), such portion shall be treated as a separate plan. This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.".

(b) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Transition rule for plans holding excess securities or property.—

(A) In general.—In the case of a plan which on the date of the enactment of this Act, has holdings of employer securities and employer real property (as defined in section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) in excess of the amount specified in such section 407, the amendment made by this section applies to any acquisition of such securities and property on or after such date, but does not apply to the specific holdings which constitute such excess during the period of such excess.

(B) Special rule for certain acquisitions.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property entered into and in effect on the date of the enactment of this Act, shall be treated as acquired immediately before such date.

SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVESTMENT REPORTS APPLIED TO CERTAIN 401(k) PLANS.

(a) In General.—Section 104(b)(3) (29 U.S.C. 1024(b)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) If a plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2) of the Internal Revenue Code of 1986) and is maintained by an employer with less than 100 participants, the administrators shall furnish to each participant and to each beneficiary receiving benefits under the plan an annual investment report detailing such information as the Secretary by regulation shall require.

"(ii) Clause (i) shall not apply with respect to any participant described in section 404(c).".

(b) Regulations.—

(1) In general.—The Secretary of Labor, in prescribing regulations required under section 104(b)(3)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)), as added by subsection (a), shall consider including in the information required in an annual investment report the following:

(A) Total plan assets and liabilities as of the beginning and ending of the plan year.

(B) Plan income and expenses and contributions made and benefits paid for the plan year.

(C) Any transaction between the plan and the employer, any fiduciary, or any 10-percent owner during the plan year, including the acquisition of any employer security or employer real property.

(D) Any noncash contributions made to or purchases of nonpublicly traded securities made by the plan during the plan year without an appraisal by an independent third party.

In determining the types of information to be included in the annual investment report presented to participants and beneficiaries, the Secretary of Labor shall take into account the purposes of the diversification protection provided to such participants and beneficiaries by section 407(d)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)(D)), as added by section 201(a).

(2) Electronic transfer.—The Secretary of Labor in prescribing such regulations shall also make provision for the electronic transfer of the required annual investment report by a plan administrator to plan participants and beneficiaries.

(c) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 203. STUDY ON INVESTMENTS IN COLLECTIBLES.

(a) Study.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall study the extent to which pension plans invest in collectibles and whether such investments present a risk to the pension security of the participants and beneficiaries of such plans.

(b) Report.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Labor shall submit a report to the Congress containing the findings of the study described in subsection (a) and any recommendations for legislative action.

SEC. 204. QUALIFIED EMPLOYER PLANS PROHIBITED FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) In General.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(35) Prohibition of loans through credit cards and other intermediaries.—A trust shall not constitute a qualified trust under this section if the plan makes any loan to any beneficiary under the plan through the use of any credit card or any other intermediary.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 205. MULTIEMPLOYER PLAN BENEFITS GUARANTEED.

(a) In General.—Section 4022A(c) (29 U.S.C. 1322a(c)) is amended—

(1) by striking "$5" each place it appears in paragraph (1) and inserting "$11",

(2) by striking "$15" in paragraph (1) and inserting "$33", and

(3) by striking paragraphs (2), (5), and (6) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) Effective Date.—The amendments made by this section shall apply to any multiemployer plan that has not received financial assistance (within the meaning of section 4261 of the Employee Retirement Income Security Act of 1974) within the 1-year period ending on the date of the enactment of this Act.

SEC. 206. PROHIBITED TRANSACTIONS.

(a) In General.—Section 502(i) (29 U.S.C. 1132(i)) is amended by striking "5 percent" and inserting "10 percent".

(b) Effective Date.—The amendments made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 207. SUBSTANTIAL OWNER BENEFITS.

(a) Modification of Phase-in of Guarantee.—Subparagraphs (B) and (C) of section 4022(b)(5) (29 U.S.C. 1322(b)(5)) are amended to read as follows:

"(B) For purposes of this title, the term 'majority owner' has the same meaning as substantial owner under subparagraph (A), except that subparagraph (A) shall be applied by substituting '50 percent or more' for 'more than 10 percent' each place it appears.

"(C) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall not exceed the product of—

"(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 30, and

"(ii) the amount of the majority owner's monthly benefits guaranteed under subsection (a) (as limited by paragraph (3) of this subsection).".

(b) Modification of Allocation of Assets.—

(1) Section 4044(a)(4)(B) (29 U.S.C. 1344(a)(4)(B)) is amended by striking "section 4022(b)(5)" and inserting "section 4022(b)(5)(C)".

(2) Section 4044(b) (29 U.S.C. 1344(b)) is amended—

(A) by striking "(5)" in paragraph (2) and inserting "(4), (5),", and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to subparagraph (B). If assets allocated to subparagraph (B) are insufficient to satisfy in full the benefits in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.".

(c) Effective Date.—The amendments made by this section shall apply to plan terminations—

(1) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) on or after the date of the enactment of this Act, or

(2) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation on or after such date.

SEC. 208. REVERSION REPORT.

(a) In General.—Section 4008 (29 U.S.C. 1308) is amended by adding at the end the following new subsection:

"(b) Reversion Report.—As soon as practicable after the close of each fiscal year, the Secretary of Labor (acting in the Secretary's capacity as chairman of the corporation's board) shall transmit to the President and the Congress a report providing information on plans from which residual assets were distributed to employers pursuant to section 4044(d).".

(b) Conforming Amendment.—Section 4008 (29 U.S.C. 1308) is amended by striking "Sec. 4008." and inserting "Sec. 4008. (a) Annual Report.—".

(c) Effective Date.—The amendments made by this section shall apply to fiscal years beginning after September 30, 1996.

SEC. 209. DEVELOPMENT OF ADDITIONAL REMEDIES.

(a) Findings.—The Congress finds that—

(1) the provisions of this Act, like many of those proposed by the President and recently signed into law, are designed to expand retirement savings;

(2) this goal can be achieved in part by simplifying the pension system and reducing administrative costs of maintaining pension plans for all employers;

(3) such simplification can benefit not only the implementation and ongoing administration of pension plans but also the correction of problems that arise in the operation of such plans;

(4) the Secretary of the Treasury has commendably already acted to develop programs intended to facilitate such corrections; and

(5) efficient correction serves participants and beneficiaries not only by fulfilling the law's requirements regarding pension plans but also by directing funds into plans rather than toward correction efforts and by encouraging employers to continue to sponsor support for such plans.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of the Treasury should—

(1) review existing correction mechanisms to determine whether modifications might facilitate additional utilization by sponsors, improve voluntary compliance, and hasten the correction of pension plans,

(2) consider whether additional means of addressing nonegregious violations should be explored,

(3) make whatever legislative recommendations, if any, appear necessary to fulfill these goals, and

(4) remain cognizant that the Congress, as well as the Secretary, considers the continuing security of retirement savings for workers, retirees, and beneficiaries of fundamental importance.

Subtitle B—ERISA Enforcement

SEC. 211. REPEAL OF LIMITED SCOPE AUDIT.

(a) IN GENERAL.—Section 103(a)(3)(C) (29 U.S.C. 1023(a)(3)(C)) is amended by adding at the end the following:

"(ii) If an accountant is offering an opinion under this section in the case of an employee pension benefit plan, the accountant shall, to the extent consistent with generally accepted auditing standards, rely on the work of any independent public accountant of any bank or similar institution or insurance carrier that holds assets or processes transactions of the employee pension benefit plan provided that such bank, institution, or insurance carrier is regulated, supervised, and subject to periodic examination by a State or Federal agency.".

(b) CONFORMING AMENDMENTS.—

(1) Section 103(a)(3)(A) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by striking "subparagraph (C)" and inserting "subparagraph (C)(i)".

(2) Section 103(a)(3)(C) of such Act (29 U.S.C. 1023(a)(3)(C)) is amended by striking "(C) The" and inserting "(C)(i) In the case of an employee benefit plan other than an employee pension benefit plan, the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to opinions required under section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 for plan years beginning on or after January 1 of the calendar year following the date of the enactment of this Act.

SEC. 212. ADDITIONAL REQUIREMENTS FOR QUALIFIED PUBLIC ACCOUNTANTS.

(a) IN GENERAL.—Section 103(a)(3)(D) (29 U.S.C. 1023(a)(3)(D)) is amended—

(1) by inserting "(i)" after "(D)";

(2) by inserting ", with respect to any engagement of an accountant under subparagraph (A)" after "means";

(3) by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively;

(4) by striking the period at the end of subclause (III) (as so redesignated) and inserting a comma;

(5) by adding after subclause (III) (as so redesignated), and flush with clause (i), the following:

"but only if such person meets the requirements of clauses (ii) and (iii) with respect to such engagement."; and

(6) by adding at the end the following new clauses:

"(ii) A person meets the requirements of this clause with respect to an engagement of such person as an accountant under subparagraph (A) if such person—

"(I) has in operation an appropriate internal quality control system;

"(II) has undergone a qualified external quality control review of the person's accounting and auditing practices, including such practices relevant to employee benefit plans (if any), during the 3-year period immediately preceding such engagement; and

"(III) has completed, within the 2-year period immediately preceding such engagement, at least 80 hours of continuing education or training which contributes to the accountant's professional proficiency and which meets such requirements as may be prescribed by the Secretary in regulations.

The Secretary shall issue the regulations under subclause (III) not later than December 31, 1998.

"(iii) A person meets the requirements of this clause with respect to an engagement of such person as an accountant under subparagraph (A) if such person meets such additional requirements and qualifications of regulations which the Secretary deems necessary to ensure the quality of plan audits.

"(iv) For purposes of clause (ii)(II), an external quality control review shall be treated as qualified with respect to a person referred to in clause (ii) if—

"(I) such review is performed in accordance with the requirements of external quality control review programs of recognized auditing standard-setting bodies, as determined in regulations of the Secretary, and

"(II) in the case of any such person who has, during the peer review period, conducted one or more previous audits of employee benefit plans, such review includes the review of an appropriate number (determined as provided in such regulations, but in no case less than one) of plan audits in relation to the scale of such person's auditing practice.

The Secretary shall issue the regulations under subclause (I) not later than December 31, 1998.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to plan years beginning on or after the date which is 3 years after the date of the enactment of this Act.

(2) RESTRICTIONS ON CONDUCTING EXAMINATIONS.—Clause (iii) of section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)(6)) shall take effect on the date of the enactment of this Act.

SEC. 213. CLARIFICATION OF FIDUCIARY PENALTIES.

(a) MODIFICATION OF PROHIBITION OF ASSIGNMENT OR ALIENATION.—

(1) IN GENERAL.—Section 206(d) (29 U.S.C. 1056(d)) is amended by adding at the end the following new paragraphs:

"(4) Paragraph (1) shall not apply to any offset of a participant's accrued benefit in an employee pension benefit plan against an amount that the participant is ordered or required to pay to the plan if—

"(A) the order or requirement to pay arises—

"(i) under a judgment of conviction for a crime involving such plan,

"(ii) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of this subtitle, or

"(iii) pursuant to a settlement agreement between the Secretary and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of this subtitle by a fiduciary or any other person,

"(B) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

"(C) if the participant has a spouse at the time at which the offset is to be made—

"(i) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

"(ii) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of this title, or

"(iii) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 205(a)(1) and under a qualified preretirement survivor annuity provided pursuant to section 205(a)(2), determined in accordance with paragraph (5).

"(5)(A) The value of the survivor annuity described in paragraph (4)(C)(iii) shall be determined as if—

"(i) the participant terminated employment on the date of the offset,

"(ii) there was no offset,

"(iii) the plan permitted retirement only on or after normal retirement age,

"(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

"(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

"(B) For purposes of this paragraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after the date of the enactment of this Act.

(b) CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITY.—

(1) IMPOSITION AND AMOUNT OF PENALTY MADE DISCRETIONARY.—Section 502(l)(1) (29 U.S.C. 1132(l)(1)) is amended—

(A) by striking "shall" and inserting "may", and

(B) by striking "equal to" and inserting "not greater than".

(2) APPLICABLE RECOVERY AMOUNT.—Section 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1), the term 'applicable recovery amount' means any amount which is recovered from (or on behalf of) any fiduciary or other person with respect to a breach or violation described in paragraph (1) on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under subsection (a)(2) or (a)(5). The Secretary may, in the Secretary's sole discretion, extend the 30-day period described in the preceding sentence.".

(3) OTHER RULES.—Section 502(*l*) (29 U.S.C. 1132(*l*)) is amended by adding at the end the following new paragraphs:

"(5) A person shall be jointly and severally liable for the penalty described in paragraph (1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

"(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation and applicable recovery amount.".

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to any breach of fiduciary responsibility or other violation of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of the enactment of this Act.

(B) TRANSITION RULE.—In applying the amendment made by paragraph (2) (relating to applicable recovery amount), a breach or other violation occurring before the date of the enactment of this Act which continues after the 180th day after such date (and which may have been discontinued at any time during its existence) shall be treated as having occurred after such date of enactment.

SEC. 214. CONFORMING AMENDMENTS RELATING TO ERISA ENFORCEMENT.

(a) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Section 401(a)(13)of the Internal Revenue Code of 1986 (relating to assignment and alienation) is amended by adding at the end the following new subparagraphs:

"(C) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Subparagraph (A) shall not apply to any offset of a participant's accrued benefit in a plan against an amount that the participant is ordered or required to pay to the plan if—

"(i) the order or requirement to pay arises—

"(I) under a judgment of conviction for a crime involving such plan,

"(II) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or

"(III) pursuant to a settlement agreement between the Secretary of Labor and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of such Act,

"(ii) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

"(iii) if the participant has a spouse at the time at which the offset is to be made—

"(I) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

"(II) such spouse is ordered or required to pay in such judgment, order, decree, or settlement an amount to the plan in connection with a violation of part 4 of this title, or

"(III) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to paragraph (11)(A)(i) and under a qualified preretirement survivor annuity provided pursuant to paragraph (11)(A)(ii), determined in accordance with subparagraph (D).

"(D) DETERMINATION OF VALUE OF SURVIVOR ANNUITY IN CONNECTION WITH OFFSET.—The value of the survivor annuity described in subparagraph (C)(iii)(III) shall be determined as if—

"(i) the participant terminated employment on the date of the offset,

"(ii) there was no offset,

"(iii) the plan permitted retirement only on or after normal retirement age,

"(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

"(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

For purposes of this subparagraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.

"(E) WAIVER OF CERTAIN DISTRIBUTION REQUIREMENTS.—With respect to the requirements of subsections (a) and (k) of section 401, section 403(b), and section 409(d), a plan shall not be treated as failing to meet such requirements solely by reason of an offset under subparagraph (C).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after the date of the enactment of this Act.

TITLE III—PORTABILITY

SEC. 301. FASTER VESTING OF EMPLOYER MATCHING CONTRIBUTIONS.

(a) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by striking "or (B)" and inserting "(B), and, if applicable, (C)",

(2) by striking "3", "4", "5", "6", and "7" in the table in subparagraph (B) and inserting "1", "2", "3", "4", and "5", respectively, and

(3) by adding at the end the following new subparagraph:

"(C) 401(k) PLANS.—A plan satisfies the requirements of this subparagraph if—

"(i) the plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) of the Internal Revenue Code of 1986, and

"(ii) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer matching contributions (as defined in section 401(m)(4)(A) of such Code).

For purposes of this subparagraph, matching contributions shall be taken into account regardless of whether the matching contributions are made to the same plan as the contributions made under section 401(k) of such Code, and matching contributions to any plan shall be taken into account if such matching contributions are made with respect to after-tax employee contributions includible in gross income and if the employer's limit on matching contributions with respect to such includible employee contributions is coordinated with the employer's limit on matching contributions with respect to contributions under such section.".

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to employer contributions) is amended—

(1) by striking "or (B)" and inserting "(B), and, if applicable, (C)",

(2) by striking "3", "4", "5", "6", and "7" in the table in subparagraph (B) and inserting "1", "2", "3", "4", and "5", respectively,

(3) by striking "3 TO 7" and inserting "1 TO 5", and

(4) by adding at the end the following new subparagraph:

"(C) 401(k) PLANS.—A plan satisfies the requirements of this subparagraph if—

"(i) the plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)), and

"(ii) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer matching contributions (as defined in section 401(m)(4)(A)).

For purposes of this subparagraph, matching contributions shall be taken into account regardless of whether the matching contributions are made to the same plan as the contributions made under section 401(k), and matching contributions to any plan shall be taken into account if such matching contributions are made with respect to after-tax employee contributions and if the employer's limit on matching contributions with respect to such after-tax employee contributions is coordinated with the employer's limit on matching contributions with respect to contributions under such section.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 1997.

(2) APPLICATION TO CURRENT EMPLOYEES.—The amendments made by this section shall not apply to any employee who does not have at least 1 hour of service in any plan year beginning after December 31, 1997.

(3) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to employees covered by any such agreement in plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 1998, or

(B) January 1, 2002.

SEC. 302. RATIONALIZE THE RESTRICTIONS ON DISTRIBUTIONS FROM 401(k) PLANS.

(a) In General.—Section 401(k)(2)(B)(i)(I) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking "separation from service" and inserting "severance from employment".

(b) Business Sale Requirements Deleted.—

(1) In general.—Section 401(k)(2)(B)(i)(II) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking "an event" and inserting "a plan termination".

(2) Conforming amendments.—Section 401(k)(10) of such Code is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) In general.—A plan termination is described in this paragraph if the termination of the plan is without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).",

(B) by striking subparagraph (C), and

(C) by striking "or disposition of assets or subsidiary" in the heading.

(c) Effective Date.—The amendments made by this section shall apply to distributions after December 31, 1997.

SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED CONTRIBUTION PLANS.

(a) In General.—Section 411(d)(6) of the Internal Revenue Code of 1986 (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new subparagraph:

"(D) Plan transfers.—A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this paragraph merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

"(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i),

"(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)2), and

"(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution.".

(b) Conforming Amendment.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

"(4) A defined contribution plan (in this paragraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this paragraph referred to as the 'transferor plan') to the extent that—

"(A) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(B) the terms of both the transferor plan and the transferee plan authorize the transfer described in subparagraph (A),

"(C) the transfer described in subparagraph (A) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(D) the election described in subparagraph (C) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(E) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 205, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 205(c)2), and

"(F) the transferee plan allows the participant or beneficiary described in subparagraph (C) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution.".

(b) Effective Date.—The amendments made by this section shall apply to transfers after December 31, 1997.

SEC. 304. MISSING PARTICIPANTS.

(a) In General.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) Multiemployer Plans.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) Plans Not Otherwise Subject to Title.—

"(1) Transfer to corporation.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) Information to the corporation.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) Payment by the corporation.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) Plans described.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

"(5) Certain provisions not to apply.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).".

(b) Conforming Amendments.—

(1) Section 206(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(f)) is amended—

(A) by striking "title IV" and inserting "section 4050", and

(B) by striking "the plan shall provide that".

(2) Section 401(a)(34) (relating to benefits of missing participants on plan termination) is amended by striking "title IV" and inserting "section 4050".

(c) Effective Date.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

TITLE IV—TOWARD EQUITY FOR WOMEN

SEC. 401. INDIVIDUAL'S PARTICIPATION IN PLAN NOT TREATED AS PARTICIPATION BY SPOUSE.

(a) In General.—Paragraph (1) of section 219(g) of the Internal Revenue Code of 1986 (relating to limitation on deduction for active participants in certain pension plans) is amended by striking "or the individual's spouse".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 402. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS.

(a) Amendments to ERISA.—

(1) Amount of annuity.—

(A) In general.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(a)) is amended by inserting "or, at the election of the participant, shall be provided in the form of a qualified joint and⅔ survivor annuity" after "survivor annuity,".

(B) Definition.—Subsection (d) of section 205 of such Act (29 U.S.C. 1055) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by inserting "(1)" after "(d)", and

(iii) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term "qualified joint and⅔ survivor annuity" means an annuity—

"(A) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

"(B) which is the actuarial equivalent of a single annuity for the life of the participant, and

"(C) which, for all other purposes of this Act, is treated as a qualified joint and survivor annuity.".

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 205(c)(3)(A) of such Act (29 U.S.C. 1055(c)(3)(A)) is amended to read as follows:

"(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and⅔ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,".

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Clause (i) of section 401(a)(11)(A) of the Internal Revenue Code of 1986 (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is amended by inserting "or, at the election of the participant, shall be provided in the form of a qualified joint and⅔ survivor annuity" after "survivor annuity,".

(B) DEFINITION.—Section 417 of such Code (relating to definitions and special rules for purposes of minimum survivor annuity requirements) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEFINITION OF QUALIFIED JOINT AND ⅔ SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term "qualified joint and⅔ survivor annuity" means an annuity—

"(1) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

"(2) which is the actuarial equivalent of a single annuity for the life of the participant, and

"(3) which, for all other purposes of this title, is treated as a qualified joint and survivor annuity.".

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 417(a)(3)(A) of such Code (relating to explanation of joint and survivor annuity) is amended to read as follows:

"(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and⅔ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 403. DIVISION OF PENSION BENEFITS UPON DIVORCE.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Subsection (p)(1) of section 414 of the Internal Revenue Code of 1986 is amended by adding the following new subparagraph:

"(C) DEEMED DOMESTIC RELATIONS ORDER UPON DIVORCE.—

"(i) IN GENERAL.—A divorce decree issued with respect to the participant and the former spouse pursuant to a State domestic relations law (including an annulment or other order of marital dissolution) shall, upon delivery to a plan along with the information required by paragraph (2)(A), be deemed by the plan to be a domestic relations order that specifies that 50 percent of the marital share of the participant's accrued benefit is to be provided to such former spouse, unless the divorce decree states that pension benefits were considered by the parties and no division is intended.

"(ii) MARITAL SHARE.—The marital share shall be the accrued benefit of the participant under the plan as of the date of the divorce (to the extent such accrued benefit is vested at the date of the divorce or any later date) multiplied by a fraction, the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

"(iii) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies paragraphs (2) through (4) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules—

"(I) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment,

"(II) may allow the former spouse to be paid out immediately,

"(III) shall permit the former spouse to be paid not later than the earliest retirement age under the plan,

"(IV) may require the submitter of the divorce decree to present a marriage certificate or other evidence of the marriage date to assist in benefit calculations,

"(V) may require that a divorce decree be presented on the date which is not later than 2 years after the date of the issuance of the decree, and

"(VI) may conform to the rules applicable to qualified domestic relations orders regarding form or type of benefit.

"(iv) APPLICATION.—This subparagraph shall not apply to the extent that a qualified domestic relations order issued in connection with such divorce provides otherwise.".

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subsection (d)(2)(B) of section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding the following new subclause (iii):

"(iii) DEEMED DOMESTIC RELATIONS ORDER UPON DIVORCE.—

"(I) IN GENERAL.—A divorce decree issued with respect to the participant and the former spouse pursuant to a State domestic relations law (including an annulment or other order of marital dissolution) shall, upon delivery to a plan along with the information required by subparagraph (C)(i), be deemed by the plan to be a domestic relations order that specifies that 50 percent of the marital share of the participant's accrued benefit is to be provided to such former spouse.

"(II) MARITAL SHARE.—The marital share shall be the accrued benefit of the participant under the plan as of the date of the divorce (to the extent such accrued benefit is vested at the date of the divorce or any later date) multiplied by a fraction, the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

"(III) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies subparagraphs (C) through (E) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules (aa) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment, (bb) may allow the former spouse to be paid out immediately, and (cc) shall permit the spouse to be paid not later than the earliest retirement age under the plan.

"(IV) APPLICATION.—This subclause shall not apply to the extent that a qualified domestic relations order issued in connection with such divorce provides otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for divorce decrees issued after December 31, 1999.

SEC. 404. DEFERRED ANNUITIES FOR SURVIVING SPOUSES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Section 8341 of title 5, United States Code, is amended—

(1) in subsection (h)(1), by striking "section 8338(b) of this title" and inserting "section 8338(b), and a former spouse of a deceased former employee who separated from the service with title to a deferred annuity under section 8338 (if they were married to one another prior to the date of separation),"; and

(2) by adding at the end the following:

"(j)(1) If a former employee dies after having separated from the service with title to a deferred annuity under section 8338 but before having established a valid claim for annuity, and is survived by a spouse to whom married on the date of separation, the surviving spouse may elect to receive—

"(A) an annuity, commencing on what would have been the former employee's 62d birthday, equal to 55 percent of the former employee's deferred annuity;

"(B) an annuity, commencing on the day after the date of death of the former employee, such that, to the extent practicable, the present value of the future payments of the annuity would be actuarially equivalent to the present value of the future payments under subparagraph (A) as of the day after the former employee's death; or

"(C) the lump-sum credit, if the surviving spouse is the individual who would be entitled to the lump-sum credit and if such surviving spouse files application therefor.

"(2) An annuity under this subsection and the right thereto terminate on the last day of the month before the surviving spouse remarries before becoming 55 years of age, or dies.".

(b) CORRESPONDING AMENDMENT FOR FERS.—Section 8445(a) of title 5, United States Code, is amended—

(1) by striking "(or of a former employee or" and inserting "(or of a former"; and

(2) by striking "annuity)" and inserting "annuity, or of a former employee who dies after having separated from the service with title to a deferred annuity under section 8413 but before having established a valid claim

for annuity (if such former spouse was married to such former employee prior to the date of separation))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to surviving spouses and former spouses (whose marriage, in the case of the amendments made by subsection (a), terminated after May 6, 1985) of former employees who die after the date of the enactment of this Act.

SEC. 405. PAYMENT OF LUMP-SUM CREDIT FOR FORMER SPOUSES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 8342(c), by striking "Lump-sum" and inserting "Except as provided in section 8345(j), lump-sum";

(2) in section 8345(j)—

(A) in paragraph (1), by inserting after "that individual" the following: ", or be made under section 8342(d) through (f) to an individual entitled under section 8342(c),"; and

(B) by adding at the end the following:

"(4) Any payment under this subsection to a person bars recovery by any other person.";

(3) in section 8424(d), by striking "Lump-sum" and inserting "Except as provided in section 8467(a), lump-sum"; and

(4) in section 8467—

(A) in subsection (a), by inserting after "that individual" the following: ", or be made under section 8424(e) through (g) to an individual entitled under section 8424(d),"; and

(B) by adding at the end the following:

"(d) Any payment under this section to a person bars recovery by any other person.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any death occurring after the 90th day after the date of the enactment of this Act.

SEC. 406. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.

(a) IN GENERAL.—The Secretary of Labor shall contract with an independent organization to create a women's pension toll-free telephone number and contact to serve as—

(1) a resource for women on pension questions and issues;

(2) a source for referrals to appropriate agencies; and

(3) a source for printed information.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

SEC. 501. DATE FOR ADOPTION OF PLAN AMENDMENTS.

(a) IN GENERAL.—Except as otherwise provided in this Act, if any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the last day of the first plan year beginning on or after January 1, 1998, if—

(1) during the period after such amendment takes effect and before the last day of such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

(b) GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subsection (a) shall be applied by substituting for "January 1, 1998" the later of—

(1) January 1, 1999, or

(2) the date which is 90 days after the opening of the first legislative session beginning after January 1, 1999, of the governing body with authority to amend the plan, but only if such governing body does not meet continuously.

(c) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—Nothwithstanding any other provision of this Act, in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, any amendment made by this Act which requires an amendment to such plan shall not be required to be made before the last day of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1998, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1999.

By Mr. DASCHLE (for himself, Mr. BIDEN, Mr. LEAHY, Mr. KOHL, Mr. BREAUX, Mr. FORD, Ms. MIKULSKI, Mr. DODD, Mr. DURBIN, Mr. KERRY, Mr. LEVIN, Ms. LANDRIEU, Mr. TORRICELLI, Ms. MOSELEY-BRAUN, Mr. GLENN, and Mr. ROCKEFELLER):

S. 15. A bill to control youth violence, crime, and drug abuse, and for other purposes; to the Committee on the Judiciary.

THE YOUTH VIOLENCE, CRIME AND DRUG ABUSE CONTROL ACT OF 1997

Mr. BIDEN. Mr. President, today I rise to introduce—along with Senator DASCHLE, Senator LEAHY, and many other Senators—legislation which will be a key cornerstone of the Senate Democrats anti-crime, anti-drug focus for the new Congress.

Our thrust is clear and straight-forward:

We must continue the successes of the 1994 Biden crime law.

And, at the same time, we must take up the new challenge of confronting crime and drug abuse among our youth with a commonsense strategy balancing tough sanctions, certain punishment and protecting literally millions of kids from the criminals and drug pushers who can target any kid from any family whose parents are at work when the school day ends.

We must continue the success of the 1994 crime law.

While I give the credit first and foremost to the police officers on our Nation's streets, the verdict from the FBI's national crime statistics is that since the 1994 crime law, violent crime is down and down significantly:

1996 is projected to have the lowest murder toll since 1988—and a murder rate that is lowest since 1971;

1996 is projected to have the lowest violent crime total since 1990; and

the murder rate for wives, ex-wives and girlfriends at the hands of their "intimates" fell to an 18-year low in 1994—and is lower still in 1995.

This is a record of success which should convince the Senate to extend the 1994 crime law.

Adding 25,000 more police by extending the 100,000 cops program for two more years.

Extending the Violence Against Women Act funding to shelter 400,000 more battered women and their children and continuing to help States arrest and prosecute batterers. Providing an additional $5 billion to build up to 80,000 more prison cells for violent criminals—we also propose to give States greater flexibility with these dollars to speed the prosecution of violent criminals and increase the use of drug testing. Provide $1 billion to extend such proven law enforcement programs as the Byrne anti-drug grants to State and local law enforcement. And, extend the crime law trust fund to fund all these initiatives from the cost-savings from downsizing the Federal Government—without increasing the Federal budget deficit.

The bottom line—this bill calls on the full Senate to continue the successes of the 1994 Biden crime law.

But, this legislation does not stop there. In the face of rising teen drug abuse and rising youth violence—despite some recent hopeful news—we must undertake a comprehensive effort to target these problems. This legislation offers just such a comprehensive effort:

First, we propose to reform the juvenile justice system to crack down on violent youth by:

Making some key changes to Federal law that respond to legitimate concerns which create the pressure to take the unwise step of prosecuting kids in our overburdened adult courts. Specifically, providing greater access to juveniles records and raising the mandatory release age for juveniles from 21 to 26—so juveniles will face up to 11 years in prison even if they are prosecuted as juveniles.

Providing $1 billion to help States build prisons for violent juveniles as well as additional prosecutors and other improvements to State juvenile justice systems (including certain, graduated punishment for first-time and minor juvenile offenders).

Creating special juvenile "gun" courts where juvenile gun offenders are tried and sentenced on an expedited basis.

These are essential to controlling juvenile crime because, as every mother knows, immediate and certain punishment is the key to disciplining kids.

Second, we must target one of the primary sources of youth violence—street gangs.

We propose aggressive steps to:

Target gang paraphernalia by boosting the penalties for criminals who arm themselves with bullet-proof body armor and deadly accurate laser-sighting devices. And, as Senator LEAHY has identified, we must make some commonsense reforms to speed law enforcement access to the numeric pagers so often used by youth gang criminals.

Create a new crime of interstate franchise spread of street gangs—a step which better targets Federal law enforcement resources than simply federalizing ever more State crimes and encroaching upon the State's traditional handling of juvenile crime.

Cracking down on street gangs also means that we should increase the penalties for witness intimidation, a favored tactic of criminal street gangs. This is a proposal outlined by the President just this weekend.

Third, we must redouble our efforts to treat and prevent youth drug abuse.

For the past several months, you have heard me modify one of the key arguments of the President's 1992 campaign by stating—"it's drugs, stupid, it's drugs."

This statement is—unfortunately—necessary in the face of rising drug abuse among our children. While drug abuse among adults is holding steady, all the surveys tell us that more and more children are falling prey to drugs.

We propose a multi-prong response, because drugs need to be fought not only in our communities, but also in our scientific laboratories where important breakthroughs are being made into medicines to treat drug addiction—we propose additional funding for the Federal Medications Development Program and to provide incentives to the private sector to develop new medicines to treat heroin and cocaine addiction.

We must also expand drug courts to cover 50,000 children—a vast improvement on the no drug testing, no treatment, and no threat of punishment system which typifies too many juvenile courts today.

As I proposed last year, we must tighten controls on the club drug—ketamine—that is popular with too many children today.

Funding drug treatment for 600,000 drug-addicted children is also key—particularly as our Nation stands on the edge of a baby-boomerang wave that will mean more teenagers—and more teen addicts.

Reauthorizing the drug director's office as well as the Safe & Drug-Free Schools Program which is the core of Federal drug prevention efforts are two other necessary steps.

In addition, and in response to the recent passage of so-called medical marijuana initiatives, we seek a measure which should be supported even by their proponents—a simple study to determine if drug abuse among children rises in these two States.

Fourth, we call for a renewed effort to prevent youth violence.

No where has the crime policy debate been subject to more distortions and misunderstandings than on a goal all of us should share—let's prevent kids from getting involved in crime, violence and drugs in the first place.

To get past all the misunderstanding, we propose to call upon the prestigious, non-partisan National Academy of Sciences to answer the questions—can we prevent youth crime? And, if so, how do we do so in the most efficient way possible?

Let me repeat a challenge I offered last week—I will live by the results of this study, if those who oppose prevention efforts will as well. If the national academy says we can't figure out this task, so be it, I will not seek appropriations for any funds we authorize through this legislation. But, if the national academy of sciences says that we can, I challenge all to support full funding for these crime prevention efforts.

But, in the meantime, it seems to me that we do know at least one thing about preventing youth crime and drug abuse—my mom summarized what we know in the simple phrase used by mothers everywhere: "Idle hands are the devil's workshop."

This refers to the commonsense notion that if we can just get kids off the streets and into supervised programs during the after school hours when kids are likely to be the victims of gangs and criminals or the customers of drug pushers—if we can just do that simply thing, with boys and girls clubs or many other proven efforts, we can make important in-roads against drug abuse and crime among children.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 15

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Youth Violence, Crime, and Drug Abuse Control Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—CRIME CONTROL

Subtitle A—More Police Officers on the Beat

Sec. 101. More police officers on the beat.
Sec. 102. Grants for equipment, technology, and support systems.
Sec. 103. National community police telecommunications.
Sec. 104. Technical amendment.

Subtitle B—Violent Offender Incarceration and Truth-in-Sentencing Grants

Sec. 121. Formula allocations.
Sec. 122. Extension of violent offender incarceration and truth-in-sentencing grants.

Subtitle C—Domestic Violence

Sec. 131. Extension of Violence Against Women Act.
Sec. 132. Rural domestic violence and child abuse enforcement assistance.

Subtitle D—Assistance to Local Law Enforcement

Sec. 141. Extension of law enforcement family support funding.
Sec. 142. Extension of rural drug enforcement and training funding.
Sec. 143. Extension of DNA identification grants funding.
Sec. 144. Extension of Byrne grant funding.
Sec. 145. Extension of technical automation grant funding.
Sec. 146. Extension of grants for State court prosecutors.

TITLE II—YOUTH VIOLENCE CONTROL

Subtitle A—Federal Juvenile Prosecutions

Sec. 201. Increased detention, mandatory restitution, and additional sentencing options for youth offenders.
Sec. 202. Access to records.
Sec. 203. Reinstituting dismissed cases.

Subtitle B—Assistance to States for Prosecuting and Punishing Youth Offenders

Sec. 214. Juvenile and violent offender incarceration grants.
Sec. 215. Certain punishment and graduated sanctions for youth offenders.

Subtitle C—Juvenile Gun Courts

Sec. 221. Definitions.
Sec. 222. Grant program.
Sec. 223. Applications.
Sec. 224. Grant awards.
Sec. 225. Use of grant amounts.
Sec. 226. Grant limitations.
Sec. 227. Federal share.
Sec. 228. Report and evaluation.
Sec. 229. Authorization of appropriations.

Subtitle D—Gang Violence Reduction

PART 1—ENHANCED PENALTIES FOR GANG-RELATED ACTIVITIES

Sec. 241. Gang franchising.
Sec. 242. Gang franchising as RICO predicate.
Sec. 243. Increase in offense level for participation in crime as gang member.
Sec. 244. Increasing the penalty for using physical force to tamper with witnesses, victims, or informants.
Sec. 245. Possession of firearms in relation to counts of violence or drug trafficking crimes.
Sec. 246. Increased penalty for transferring a firearm to a minor for use in a crime.
Sec. 247. Elimination of statute of limitations for murder.
Sec. 248. Extension of statute of limitations for violent and drug trafficking crimes.

PART 2—GANG PARAPHERNALIA

Sec. 251. Enhancing law enforcement access to clone numeric pagers.
Sec. 252. Prohibitions relating to body armor.
Sec. 253. Prohibitions relating to laser sighting devices.

Subtitle E—Rights of Victims in State Juvenile Courts

Sec. 261. State guidelines.

TITLE III—PREVENTION AND TREATMENT OF YOUTH DRUG ABUSE AND ADDICTION

Subtitle A—Protecting Youth From Dangerous Drugs

Sec. 301. Rescheduling of "club" drugs.

Subtitle B—Development of Medicines for the Treatment of Drug Addiction
PART 1—PHARMACOTHERAPY RESEARCH
Sec. 321. Reauthorization for medication development program.
PART 2—PATENT PROTECTIONS FOR PHARMACOTHERAPIES
Sec. 331. Recommendation for investigation of drugs.
Sec. 332. Designation of drugs.
Sec. 333. Protection for drugs.
Sec. 334. Open protocols for investigations of drugs.
PART 3—ENCOURAGING PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPIES
Sec. 341. Development, manufacture, and procurement of drugs for the treatment of addiction to illegal drugs.
Subtitle C—Prevention and Treatment Programs
PART 1—COMPREHENSIVE DRUG EDUCATION
Sec. 351. Extension of safe and drug-free schools and communities program.
PART 2—DRUG COURTS
Sec. 361. Reauthorization of drug courts program.
Sec. 362. Juvenile drug courts.
PART 3—DRUG TREATMENT
Sec. 371. Drug treatment for juveniles.
Subtitle D—National Drug Control Policy
Sec. 381. Reauthorization of Office of National Drug Control Policy.
Sec. 382. Study on effects of California and Arizona drug initiatives.
Subtitle E—Penalty Enhancements
Sec. 391. Increased penalties for using Federal property to grow or manufacture controlled substances.
Sec. 392. Technical correction to ensure compliance of Federal sentencing guidelines with Federal law.
TITLE IV—PROTECTING YOUTH FROM VIOLENT CRIME
Subtitle A—Grants for Youth Organizations
Sec. 401. Grant program.
Sec. 402. Grants to national organizations.
Sec. 403. Grants to States.
Sec. 404. Allocation; grant limitation.
Sec. 405. Report and evaluation.
Sec. 406. Authorization of appropriations.
Subtitle B—"Say No to Drugs" Community Centers Act of 1997
Sec. 421. Short title; definitions.
Sec. 422. Grant requirements.
Sec. 423. Authorization of appropriations.
Subtitle C—Missing Children
Sec. 431. Amendments to the Missing Children's Assistance Act.
TITLE V—IMPROVING YOUTH CRIME AND DRUG PREVENTION
Subtitle A—Comprehensive Study of Federal Prevention Efforts
Sec. 501. Study by national academy of science.
Subtitle B—Evaluation Mandate for Authorized Programs
Sec. 522. Evaluation of crime prevention programs.
Sec. 523. Evaluation and research criteria.
Sec. 524. Compliance with evaluation mandate.
Sec. 525. Reservation of amounts for evaluation and research.
Subtitle C—Elimination of Ineffective Programs
Sec. 531. Sense of Senate regarding funding for programs determined to be ineffective.
TITLE VI—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND
Sec. 601. Extension of violent crime reduction trust fund.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term "Attorney General" means the Attorney General of the United States;

(2) the term "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) the term "juvenile" has the meaning given that term under applicable State law;

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

(5) the term "unit of local government" means any city, county, township, borough, parish, or other entity exercising governmental power under State law;

(6) the term "Violent Crime Reduction Trust Fund" means the fund established under title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.); and

(7) the term "youth" means a person who is not younger than 5 and not older than 18 years of age.

TITLE I—CRIME CONTROL

Subtitle A—More Police Officers on the Beat

SEC. 101. MORE POLICE OFFICERS ON THE BEAT.

Section 1001(a)(11)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)(A)) is amended—

(1) in clause (v), by striking "and" at the end;

(2) in clause (vi), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(vii) $1,240,000,000 for fiscal year 2001; and

"(viii) $1,240,000,000 for fiscal year 2002.".

SEC. 102. GRANTS FOR EQUIPMENT, TECHNOLOGY, AND SUPPORT SYSTEMS.

Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows:

"(A) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.".

SEC. 103. NATIONAL COMMUNITY POLICE TELECOMMUNICATIONS.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended by adding at the end the following:

"SEC. 1710. NATIONAL POLICE TELECOMMUNICATIONS.

"(a) FINDINGS.—Congress finds that—

"(1) police departments and sheriffs confirm that the 911 system is overloaded and that a large percentage of those calls are nonemergency calls;

"(2) many communities have seen increases in their 911 call volumes of between 40 percent and 50 percent annually;

"(3) police officers are forced to spend too much time responding to nonemergency situations, which eliminates time for proactive community policing; and

"(4) efforts to limit the use of 911 by using general telephone numbers and educating the public to reference a general number in the telephone book have been ineffective.

"(b) PURPOSE.—The purposes of this section are—

"(1) to encourage the Federal Communications Commission to reserve the 311 nonemergency number on a national basis for use by public safety agencies in responding to nonemergency police telephone calls; and

"(2) to establish a Federal assistance program to assist States and localities in establishing 311 nonemergency systems and to educate citizens in the use of 911 and 311.

"(c) AUTHORITY TO MAKE 311 NONEMERGENCY GRANTS.—The Attorney General, acting through the Director of the Office of Community Oriented Policing Services, may make grants to States, units of local governments, Indian tribal governments, other public and private entities, and multijurisdictional or regional consortia, to encourage the use of and to implement 311 nonemergency telecommunication systems for public safety.

"(d) GENERAL REGULATORY AUTHORITY.—The Attorney General may promulgate regulations and guidelines to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund to carry out this section—

"(1) such sums as may be necessary for each of the fiscal years 1998 through 2000; and

"(2) $10,000,000 in each of the fiscal years 2001 and 2002.".

SEC. 104. TECHNICAL AMENDMENT.

Section 1001(a)(11)(B) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by striking "150,000" each place it appears and inserting "100,000".

Subtitle B—Violent Offender Incarceration and Truth-in-Sentencing Grants

SEC. 121. FORMULA ALLOCATIONS.

Section 20106 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706) is amended—

(1) in subsection (a)(1), by striking subparagraph (B) and inserting the following:

"(B) FORMULA ALLOCATION.—The amount remaining after application of subparagraph (A) shall be allocated as follows:

"(i) 0.75 percent shall be allocated to each State that meets the requirements of section 20103(b), except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, if eligible under section 20103(b), shall each be allocated 0.05 percent.

"(ii) The amount remaining after application of clause (i) shall be allocated to each State that meets the requirements of section 20103(b), in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made."; and

(2) by striking subsection (b) and inserting the following:

"(b) ALLOCATION OF TRUTH-IN-SENTENCING GRANTS UNDER SECTION 20104.—The amounts available for grants under section 20104 shall be allocated as follows:

"(1) FORMULA ALLOCATION.—0.75 percent shall be allocated to each State that meets the requirements of section 20104, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, if eligible under section 20104, shall each be allocated 0.05 percent.

"(2) ADDITIONAL ALLOCATION.—The amount remaining after application of paragraph (1) shall be allocated to each State that meets the requirements of section 20104, in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.".

SEC. 122. EXTENSION OF VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS.

(a) VIOLENT OFFENDER INCARCERATION GRANTS.—Section 20108(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13708(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(F) $2,750,000,000 for fiscal year 2001; and

"(G) $2,750,000,000 for fiscal year 2002."; and

(2) in paragraph (2)(A), by striking "fiscal year," and all that follows before the period and inserting the following: "fiscal year distribute 45 percent for incarceration grants under section 20103, 45 percent for incentive grants under section 20104, and 10 percent for violent juvenile offender incarceration grants under section 214 of the Youth Violence, Crime, and Drug Abuse Control Act of 1997.".

(b) TRUTH IN SENTENCING GRANTS.—Section 20102(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13702(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) for hiring professional staff to supervise violent offenders following release from custody and officers of the court to speed the prosecution of violent offenders.".

Subtitle C—Domestic Violence

SEC. 131. EXTENSION OF VIOLENCE AGAINST WOMEN ACT.

(a) GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.—Section 1001(a)(18) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(18)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by inserting "and" at the end; and

(3) by adding at the end the following:

"(G) $174,000,000 for fiscal year 2001; and

"(H) $174,000,000 for fiscal year 2002.".

(b) EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.—

(1) IN GENERAL.—Section 40151 of Public Law 103–322 (108 Stat. 1920) is amended by striking "Health and Human Services" and inserting "Health Service".

(2) AMENDMENT.—Section 1910A(c) of the Public Health Service Act is amended—

(A) in paragraph (4), by striking "and" at the end; and

(B) by adding at the end the following:

"(6) $45,000,000 for fiscal year 2001; and

"(7) $45,000,000 for fiscal year 2002.".

(c) GRANT FOR NATIONAL DOMESTIC VIOLENCE HOTLINE.—Section 316(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10401) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by adding "and" at the end; and

(3) by adding at the end the following:

"(G) $500,000 for fiscal year 2001; and

"(H) $500,000 for fiscal year 2002.".

(d) GRANTS FOR BATTERED WOMEN'S SHELTERS.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by adding "and" at the end; and

(3) by adding at the end the following:

"(6) $72,500,000 for fiscal year 2001; and

"(7) $72,500,000 for fiscal year 2002.".

(e) VICTIMS OF CHILD ABUSE PROGRAMS.—Section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by adding "and" at the end; and

(3) by adding at the end the following:

"(6) $10,000,000 for fiscal year 2001; and

"(7) $10,000,000 for fiscal year 2002.".

SEC. 132. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

Section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(b)) is amended by striking "through fiscal year 1997" and inserting "or a State that has a population density of more than 60 percent (as defined by the Bureau of the Census of the Department of Commerce)".

Subtitle D—Assistance to Local Law Enforcement

SEC. 141. EXTENSION OF LAW ENFORCEMENT FAMILY SUPPORT FUNDING.

Section 1001(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(21)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(2) in subparagraph (D), as redesignated, by striking "and" at the end;

(3) in subparagraph (E), as redesignated, by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(F) $7,500,000 for fiscal year 2001; and

"(G) $7,500,000 for fiscal year 2002.".

SEC. 142. EXTENSION OF RURAL DRUG ENFORCEMENT AND TRAINING FUNDING.

(a) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(9)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(F) $66,000,000 for fiscal year 2001; and

"(G) $66,000,000 for fiscal year 2002.".

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 18103(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14082(b)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) $1,000,000 for fiscal year 2001; and

"(7) $1,000,000 for fiscal year 2002.".

SEC. 143. EXTENSION OF DNA IDENTIFICATION GRANTS FUNDING.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating paragraphs (16) through (22) as paragraphs (12) through (17), respectively; and

(2) in paragraph (17), as redesignated—

(A) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(B) in subparagraph (D), as redesignated, by striking "and" at the end;

(C) in subparagraph (E), as redesignated, by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(F) $17,500,000 for fiscal year 2001; and

"(G) $17,500,000 for fiscal year 2002.".

SEC. 144. EXTENSION OF BYRNE GRANT FUNDING.

Section 210101 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2061) is amended—

(1) by striking "through 2000" and inserting "through 2002";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(7) $200,000,000 for fiscal year 2001; and

"(8) $200,000,000 for fiscal year 2002.".

SEC. 145. EXTENSION OF TECHNICAL AUTOMATION GRANT FUNDING.

Section 210501(c) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14151(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(F) for fiscal year 2001, $24,000,000; and

"(G) for fiscal year 2002, $24,000,000;"; and

(2) in paragraph (2)—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(F) for fiscal year 2001, $6,000,000; and

"(G) for fiscal year 2002, $6,000,000; and".

SEC. 146. EXTENSION OF GRANTS FOR STATE COURT PROSECUTORS.

Section 21602 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14161) is amended—

(1) in subsection (a)—

(A) by striking "other criminal justice participants" and inserting "other criminal justice participants, in both the adult and juvenile systems,";

(B) by striking "this Act" and all that follows before the period at the end of the section and inserting "this Act, the Youth Violence, Crime, and Drug Abuse Control Act of 1997, and amendments thereto";

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following:

"(d) Not less than 20 percent of the total amount appropriated to carry out this subtitle in each of the fiscal years 2001 and 2002 shall be made available for providing increased resources to State juvenile courts systems, juvenile prosecutors, juvenile public defenders, and other juvenile court system participants.";

(4) in subsection (e)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the comma at the end and inserting a semicolon; and

(C) by inserting immediately after paragraph (5) the following:

"(6) $250,000,000 for fiscal year 2001; and

"(7) $250,000,000 for fiscal year 2002.".

TITLE II—YOUTH VIOLENCE CONTROL

Subtitle A—Federal Juvenile Prosecutions

SEC. 201. INCREASED DETENTION, MANDATORY RESTITUTION, AND ADDITIONAL SENTENCING OPTIONS FOR YOUTH OFFENDERS.

Section 5037 of title 18, United States Code, is amended to read as follows:

"§ 5037. Dispositional hearing

"(a) IN GENERAL.—

"(1) HEARING.—In a proceeding under section 5032(a), if the court finds a juvenile to be a juvenile delinquent, the court shall hold a hearing concerning the appropriate disposition of the juvenile not later than 20 court days after the finding of juvenile delinquency unless the court has ordered further study pursuant to subsection (e).

"(2) REPORT.—A predisposition report shall be prepared by the probation officer who shall promptly provide a copy to the juvenile, the attorney for the juvenile, and the attorney for the government.

"(3) VICTIM IMPACT INFORMATION.—Victim impact information shall be included in the report, and victims, or in appropriate cases their official representatives, shall be provided the opportunity to make a statement to the court in person or present any information in relation to the disposition.

"(4) ORDER OF RESTITUTION.—After the dispositional hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 994, of title 28, the court shall enter an order of restitution pursuant to section 3556, and may suspend the findings of juvenile delinquency, place the juvenile on probation, commit the juvenile to official detention (including the possibility of a term of supervised release), and impose any fine that would be authorized if the juvenile had been tried and convicted as an adult.

"(5) RELEASE OR DETENTION.—With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.

"(b) TERM OF PROBATION.—The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult. Sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

"(c) TERM OF OFFICIAL DETENTION.—

"(1) MAXIMUM TERM.—The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond the lesser of—

"(A) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult;

"(B) 10 years; or

"(C) the date on which the juvenile achieves the age of 26.

"(2) APPLICABILITY OF OTHER PROVISIONS.—Section 3624 shall apply to an order placing a juvenile in detention.

"(d) TERM OF SUPERVISED RELEASE.—The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond 5 years. Subsections (c) through (i) of section 3583 shall apply to an order placing a juvenile on supervised release.

"(e) CUSTODY OF ATTORNEY GENERAL.—

"(1) IN GENERAL.—If the court desires more detailed information concerning a juvenile alleged to have committed an act of juvenile delinquency or a juvenile adjudicated delinquent, it may commit the juvenile, after notice and hearing at which the juvenile is represented by an attorney, to the custody of the Attorney General for observation and study by an appropriate agency or entity.

"(2) OUTPATIENT BASIS.—Any observation and study pursuant to a commission under paragraph (1) shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information, except that in the case of an alleged juvenile delinquent, inpatient study may be ordered with the consent of the juvenile and the attorney for the juvenile.

"(3) CONTENTS OF STUDY.—The agency or entity conducting an observation or study under this subsection shall make a complete study of the alleged or adjudicated delinquent to ascertain the personal traits, capabilities, background, any prior delinquency or criminal experience, any mental or physical defect, and any other relevant factors pertaining to the juvenile.

"(4) SUBMISSION OF RESULTS.—The Attorney General shall submit to the court and the attorneys for the juvenile and the government the results of the study not later than 30 days after the commitment of the juvenile, unless the court grants additional time.

"(5) EXCLUSION OF TIME.—Any time spent in custody under this subsection shall be excluded for purposes of section 5036.

"(f) CONVICTION AS ADULT.—With respect to any juvenile prosecuted and convicted as an adult under section 5032(c), the court may, pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28, determine to treat the conviction as an adjudication of delinquency and impose any disposition authorized under this section. The United States Sentencing Commission shall promulgate such guidelines as soon as practicable and not later than 1 year after the date of enactment of this Act.".

SEC. 202. ACCESS TO RECORDS.

Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the language preceding the colon and inserting the following:

"Throughout and upon completion of the juvenile delinquency proceeding, the court records of the original proceeding shall be safeguarded from disclosure to unauthorized persons. The records shall be released to the extent necessary to meet the following circumstances"; and

(B) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) inquiries from any victim of such juvenile delinquency, or in appropriate cases with the attorney for the victim, or, if the victim is deceased, from the immediate family of such victim in order to apprise such person of the status or disposition of the proceeding;";

(2) by striking subsections (d) and (f) and redesignating subsection (e) as subsection (d); and

(3) by adding at the end the following:

"(e) RECORDS AND INFORMATION.—If a juvenile has been adjudicated delinquent for an act that, if committed by an adult, would be a felony or for a violation of section 922(x)—

"(1) the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation;

"(2) the court shall transmit to the Federal Bureau of Investigation the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication; and

"(3) access to the fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, shall be restricted as prescribed by subsection (a).".

SEC. 203. REINSTITUTING DISMISSED CASES.

Section 5036 of title 18, United States Code, is amended by striking the last sentence and inserting the following: "In determining whether an information should be dismissed with or without prejudice, the court shall consider the seriousness of the offense, the facts and circumstances of the case that led to the dismissal, and the impact of a reprosecution on the administration of justice.".

Subtitle B—Assistance to States for Prosecuting and Punishing Youth Offenders

SEC. 214. JUVENILE AND VIOLENT OFFENDER INCARCERATION GRANTS.

(a) GRANTS FOR VIOLENT AND CHRONIC JUVENILE FACILITIES.—

(1) DEFINITIONS.—In this subsection—

(A) the term "colocated facility" means the location of adult and juvenile facilities on the same property consistent with regulations issued by the Attorney General to ensure that adults and juveniles are substantially segregated;

(B) the term "substantially segregated" means—

(i) complete sight and sound separation in residential confinement;

(ii) use of shared direct care and management staff, properly trained and certified by the State to interact with juvenile offenders, if the staff does not interact with adult and juvenile offenders during the same shift; and

(iii) incidental contact during transportation to court proceedings and other activities in accordance with regulations issued by the Attorney General to ensure reasonable efforts are made to segregate adults and juveniles;

(C) the term "violent juvenile offender" means a person under the age of majority pursuant to State law that has been adjudicated delinquent or convicted in adult court of a violent felony as defined in section 924(e)(2)(B) of title 18, United States Code; and

(D) the term "qualifying State" means a State that has submitted, or a State in which an eligible unit of local government has submitted, a grant application that meets the requirements of paragraphs (3) and (5).

(2) AUTHORITY.—

(A) IN GENERAL.—The Attorney General may make grants in accordance with this subsection to States, units of local government, or any combination thereof, to assist them in planning, establishing, and operating secure facilities, staff-secure facilities, detention centers, and other correctional programs for violent juvenile offenders.

(B) USE OF AMOUNTS.—Grants under this subsection may be used—

(i) for colocated facilities for adult prisoners and violent juvenile offenders; and

(ii) only for the construction or operation of facilities in which violent juvenile offenders are substantially segregated from nonviolent juvenile offenders.

(3) APPLICATIONS.—

(A) IN GENERAL.—The chief executive officer of a State or unit of local government that seeks to receive a grant under this subsection shall submit to the Attorney General an application, in such form and in such manner as the Attorney General may prescribe.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall provide written assurances that each facility or program funded with a grant under this subsection—

(i) will provide appropriate educational and vocational training, a program of substance abuse testing, and substance abuse treatment for appropriate juvenile offenders; and

(ii) will afford juvenile offenders intensive post-release supervision and services.

(4) MINIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each qualifying State, together with units of local government within the State, shall be allocated for each fiscal year not less than 1.0 percent of the total amount made available in each fiscal year for grants under this subsection.

(B) EXCEPTION.—The United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.2 percent of the total amount made available in each fiscal year for grants under this subsection.

(5) PERFORMANCE EVALUATION.—

(A) EVALUATION COMPONENTS.—

(i) IN GENERAL.—Each facility or program funded under this subsection shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(ii) OUTCOME MEASURES.—The evaluations required by this subsection shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism, and other outcome measures.

(B) PERIODIC REVIEW AND REPORTS.—

(i) REVIEW.—The Attorney General shall review the performance of each grant recipient under this subsection.

(ii) REPORTS.—The Attorney General may require a grant recipient to submit to the Office of Justice Programs, Corrections Programs Office the results of the evaluations required under subparagraph (A) and such other data and information as are reasonably necessary to carry out the responsibilities of the Attorney General under this subsection.

(6) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General shall provide technical assistance and training to grant recipients under this subsection to achieve the purposes of this subsection.

(b) JUVENILE FACILITIES ON TRIBAL LANDS.—

(1) RESERVATION OF FUNDS.—Of amounts made available to carry out section 214 of this Act under section 20108(a)(2)(A) of the Violent Crime Control and Law Enforcement Act of 1994, the Attorney General shall reserve, to carry out this subsection, 0.75 percent for each of the fiscal years 1998 through 2002.

(2) GRANTS TO INDIAN TRIBES.—Of amounts reserved under paragraph (1), the Attorney General may make grants to Indian tribes or to regional groups of Indian tribes for the purpose of constructing secure facilities, staff-secure facilities, detention centers, and other correctional programs for incarceration of juvenile offenders subject to tribal jurisdiction.

(3) APPLICATIONS.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(4) REGIONAL GROUPS.—Individual Indian tribes from a geographic region may apply for grants under paragraph (2) jointly for the purpose of building regional facilities.

(c) REPORT ON ACCOUNTABILITY AND PERFORMANCE MEASURES IN JUVENILE CORRECTIONS PROGRAMS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall, after consultation with the National Institute of Justice and other appropriate governmental and nongovernmental organizations, submit to Congress a report regarding the possible use of performance-based criteria in evaluating and improving the effectiveness of juvenile corrections facilities and programs.

(2) CONTENTS.—The report required under this subsection shall include an analysis of—

(A) the range of performance-based measures that might be utilized as evaluation criteria, including measures of recidivism among juveniles who have been incarcerated in facilities or have participated in correctional programs;

(B) the feasibility of linking Federal juvenile corrections funding to the satisfaction of performance-based criteria by grantees (including the use of a Federal matching mechanism under which the share of Federal funding would vary in relation to the performance of a program or facility);

(C) whether, and to what extent, the data necessary for the Attorney General to utilize performance-based criteria in the Attorney General's administration of juvenile corrections programs are collected and reported nationally; and

(D) the estimated cost and feasibility of establishing minimal, uniform data collection and reporting standards nationwide that would allow for the use of performance-based criteria in evaluating juvenile corrections programs and facilities and administering Federal juvenile corrections funds.

SEC. 215. CERTAIN PUNISHMENT AND GRADUATED SANCTIONS FOR YOUTH OFFENDERS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) youth violence constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent youth violence;

(B) the behavior of youth who become violent offenders often follow a progression, beginning with aggressive behavior in school, truancy, and vandalism, leading to property crimes and then serious violent offenses;

(C) the juvenile justice systems in most States are ill-equipped to provide meaningful sanctions to minor, nonviolent offenders because most of their resources are dedicated to dealing with more serious offenders;

(D) in most States, some youth commit multiple, nonviolent offenses without facing any significant criminal sanction;

(E) the failure to provide meaningful criminal sanctions for first time, nonviolent offenders sends the false message to youth that they can engage in antisocial behavior without suffering any negative consequences and that society is unwilling or unable to restrain that behavior;

(F) studies demonstrate that interventions during the early stages of a criminal career can halt the progression to more serious, violent behavior; and

(G) juvenile courts need access to a range of sentencing options so that at least some level of sanction is imposed on all youth offenders, including status offenders, and the severity of the sanctions increase along with the seriousness of the offense.

(2) PURPOSES.—The purposes of this section are to provide assistance to State and local juvenile courts to expand the range of sentencing options for first time, nonviolent offenders and to provide a selection of graduated sanctions for more serious offenses.

(b) DEFINITIONS.—In this section—

(1) the term "first time offender" means a juvenile against whom formal charges have not previously been filed in any Federal or State judicial proceeding;

(2) the term "nonviolent offender" means a juvenile who is charged with an offense that does not involve the use of force against the person of another; and

(3) the term "status offender" means a juvenile who is charged with an offense that would not be criminal if committed by an adult (other than an offense that constitutes a violation of a valid court order or a violation of section 922(x) of title 18, United States Code (or similar State law)).

(c) GRANT AUTHORIZATION.—

(1) IN GENERAL.—The Attorney General may make grants in accordance with this section to States, State courts, local courts, units of local government, and Indian tribes, for the purposes of—

(A) providing juvenile courts with a range of sentencing options such that first time juvenile offenders, including status offenders such as truants, vandals, and juveniles in violation of State or local curfew laws, face at least some level of punishment as a result of their initial contact with the juvenile justice system; and

(B) increasing the sentencing options available to juvenile court judges so that juvenile offenders receive increasingly severe sanctions—

(i) as the seriousness of their unlawful conduct increases; and

(ii) for each additional offense.

(c) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief executive of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this section;

(B) a description of the communities to be served by the grant, including the extent of youth crime and violence in those communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection;

(D) a comprehensive plan described in paragraph (3) (in this section referred to as the "comprehensive plan"); and

(E) any additional information in such form and containing such information as the Attorney General may reasonably require.

(3) IMPLEMENTATION PLAN.—For purposes of paragraph (2), a comprehensive plan shall include—

(A) an action plan outlining the manner in which the applicant will achieve the purposes described in subsection (c)(1);

(B) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in subparagraph (A);

(C) an estimate of the costs of full implementation of the plan; and

(D) a plan for evaluating the impact of the grant on the jurisdiction's juvenile justice system.

(e) GRANT AWARDS.—

(1) CONSIDERATIONS.—In awarding grants under this section, the Attorney General shall consider—

(A) the ability of the applicant to provide the stated services;

(B) the level of youth crime, violence, and drug use in the community; and

(C) to the extent practicable, achievement of an equitable geographic distribution of the grant awards.

(2) ALLOCATIONS.—

(A) IN GENERAL.—The Attorney General shall allot not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to applicants in each State from which applicants have applied for grants under this section.

(B) INDIAN TRIBES.—The Attorney General shall allocate not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to Indian tribes.

(f) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Each grant made under this section shall be used to establish programs that—

(A) expand the number of judges, prosecutors, and public defenders for the purpose of imposing sanctions on first time juvenile offenders and status offenders;

(B) provide expanded sentencing options, such as restitution, community service, drug testing and treatment, mandatory job training, curfews, house arrest, mandatory work projects, and boot camps, for status offenders and nonviolent offenders;

(C) increase staffing for probation officers to supervise status offenders and nonviolent offenders to ensure that sanctions are enforced;

(D) provide aftercare and supervision for status and nonviolent offenders, such as drug education and drug treatment, vocational training, job placement, and family counseling;

(E) encourage private sector employees to provide training and work opportunities for status offenders and nonviolent offenders; and

(F) provide services and interventions for status and nonviolent offenders designed, in tandem with criminal sanctions, to reduce the likelihood of further criminal behavior.

(2) PROHIBITION ON USE OF AMOUNTS.—

(A) DEFINITIONS.—In this paragraph—

(i) the term "alien" has the same meaning as in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); and

(ii) the terms "secure detention facility" and "secure correctional facility" have the same meanings as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603).

(B) PROHIBITION.—No amounts made available under this subtitle may be used for any program that permits the placement of status offenders, alien juveniles in custody, or nonoffender juveniles (such as dependent or neglected children) in secure detention facilities or secure correctional facilities.

(g) GRANT LIMITATIONS.—Not more than 3 percent of the amounts made available to the Attorney General or a grant recipient under this section may be used for administrative purposes.

(h) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Federal share of a grant made under this subtitle may not exceed 90 percent of the total estimated costs of the program described in the comprehensive plan submitted under subsection (d)(3) for the fiscal year for which the program receives assistance under this section.

(2) WAIVER.—The Attorney General may waive, in whole or in part, the requirements of paragraph (1).

(3) IN-KIND CONTRIBUTIONS.—For purposes of paragraph (1), in-kind contributions may constitute any portion of the non-Federal share of a grant under this section.

(i) REPORT AND EVALUATION.—

(1) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 1998, and October 1 of each year thereafter, each grant recipient under this section shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(2) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 1999, and March 1 of each year thereafter, the Attorney General shall submit to the Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this section, and an evaluation of programs established by grant recipients under this section.

(3) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this section, the Attorney General shall consider—

(A) a comparison between the number of first time offenders who received a sanction for criminal behavior in the jurisdiction of the grant recipient before and after initiation of the program;

(B) changes in the recidivism rate for first time offenders in the jurisdiction of the grant recipient;

(C) a comparison of the recidivism rates and the seriousness of future offenses of first time offenders in the jurisdiction of the grant recipient that receive a sanction and those who do not;

(D) changes in truancy rates of the public schools in the jurisdiction of the grant recipient; and

(E) changes in the arrest rates for vandalism and other property crimes in the jurisdiction of the grant recipient.

(4) DOCUMENTS AND INFORMATION.—Each grant recipient under this section shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of the fiscal years 1998 and 1999; and

(2) $175,000,000 for each of the fiscal years 2000 and 2001.

Subtitle C—Juvenile Gun Courts

SEC. 221. DEFINITIONS.

In this subtitle—

(1) the term "firearm" has the same meaning as in section 921 of title 18, United States Code;

(2) the term "firearm offender" means any individual charged with an offense involving the illegal possession, use, transfer, or threatened use of a firearm; and

(3) the term "local court" means any section or division of a State or municipal juvenile court system; and

(4) the term "juvenile gun court" means a specialized division within a State or local juvenile court system, or a specialized docket within a State or local court that considers exclusively cases involving juvenile firearm offenders.

SEC. 222. GRANT PROGRAM.

The Attorney General may provide grants in accordance with this subtitle to States, State courts, local courts, units of local government, and Indian tribes for court-based juvenile justice programs that target juvenile firearm offenders through the establishment of juvenile gun courts.

SEC. 223. APPLICATIONS.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this subtitle, the chief executive of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each application submitted in accordance with subsection (a) shall include—

(1) a request for a grant to be used for the purposes described in this subtitle;

(2) a description of the communities to be served by the grant, including the extent of juvenile crime, juvenile violence, and juvenile firearm use and possession in such communities;

(3) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection;

(4) a comprehensive plan described in subsection (c) (hereafter in this subtitle referred to as the "comprehensive plan"); and

(5) any additional information in such form and containing such information as the Attorney General may reasonably require.

(c) COMPREHENSIVE PLAN.—For purposes of subsection (b), a comprehensive plan is described in this subsection if it includes—

(1) a description of the juvenile crime and violence problems in the jurisdiction of the applicant, including gang crime and juvenile firearm use and possession;

(2) an action plan outlining the manner in which the applicant would use the grant amounts in accordance with this subtitle;

(3) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in paragraph (2); and

(4) a description of the plan of the applicant for evaluating the performance of the juvenile gun court.

SEC. 224. GRANT AWARDS.

(a) CONSIDERATIONS.—In awarding grants under this subtitle, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the level of juvenile crime, violence, and drug use in the community; and

(3) to the extent practicable, achievement of an equitable geographic distribution of the grant awards.

(b) DIVERSITY.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this subtitle to applicants in each State from which applicants have applied for grants under this subtitle.

(c) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

SEC. 225. USE OF GRANT AMOUNTS.

Each grant made under this subtitle shall be used—

(1) to establish juvenile gun courts for adjudication of juvenile firearm offenders;

(2) to grant prosecutorial discretion to try, in a gun court, cases involving the illegal possession, use, transfer, or threatened use of a firearm by a juvenile;

(3) to require prosecutors to transfer such cases to the gun court calendar not later than 30 days after arraignment;

(4) to require that gun court trials commence not later than 60 days after transfer to the gun court;

(5) to facilitate innovative and individualized sentencing (such as incarceration, house arrest, victim impact classes, electronic monitoring, restitution, and gang prevention programs);

(6) to provide services in furtherance of paragraph (5);

(7) to limit grounds for continuances and grant continuances only for the shortest practicable time;

(8) to ensure that any term of probation or supervised release imposed on a firearm offender in a juvenile gun court, in addition to, or in lieu of, a term of incarceration, shall include a prohibition on firearm possession during such probation or supervised release and that violation of that prohibition shall result in, to the maximum extent permitted under State law, a term of incarceration; and

(9) to allow transfer of a case or an offender out of the gun court by agreement of the parties, subject to court approval.

SEC. 226. GRANT LIMITATIONS.

Not more than 5 percent of the amounts made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 227. FEDERAL SHARE.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Federal share of a grant made under this subtitle may not exceed 90 percent of the total cost of the program or programs of the grant recipient that are funded by that grant for the fiscal year for which the program receives assistance under this subtitle.

(b) WAIVER.—The Attorney General may waive, in whole or in part, the requirements of subsection (a).

(c) IN-KIND CONTRIBUTIONS.—For purposes of subsection (a), in-kind contributions may constitute any portion of the non-Federal share of a grant under this subtitle.

(d) CONTINUED AVAILABILITY OF GRANT AMOUNTS.—Any amount provided to a grant recipient under this subtitle shall remain available until expended.

SEC. 228. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than March 1, 1998, and March 1 of each year thereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than October 1, 1998, and October 1 of each year thereafter, the Attorney General shall submit to the Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this subtitle, and an evaluation of programs established by grant recipients under this subtitle.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this subtitle, the Attorney General shall consider—

(1) the number of juveniles tried in gun court sessions in the jurisdiction of the grant recipient;

(2) a comparison of the amount of time between the filing of charges and ultimate disposition in gun court and nongun court cases;

(3) the recidivism rates of juvenile offenders tried in gun court sessions in the jurisdiction of the grant recipient in comparison to those tried outside of drug courts;

(4) changes in the amount of gun-related and gang-related crime in the jurisdiction of the grant recipient; and

(5) the quantity of firearms and ammunition recovered in gun court cases in the jurisdiction of the grant recipient.

(d) DOCUMENTS AND INFORMATION.—Each grant recipient under this subtitle shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this subtitle.

SEC. 229. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of the fiscal years 1998, 1999, and 2000;

(2) $50,000,000 for fiscal year 2001; and

(3) $50,000,000 for fiscal year 2002.

Subtitle D—Gang Violence Reduction

PART 1—ENHANCED PENALTIES FOR GANG-RELATED ACTIVITIES

SEC. 241. GANG FRANCHISING.

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"SEC. 522. INTERSTATE FRANCHISING OF CRIMINAL STREET GANGS.

"(a) PROHIBITED ACT.—Whoever travels in interstate or foreign commerce, or causes another to do so, to recruit, solicit, induce, command, or cause to create, or attempt to create a franchise of a criminal street gang shall be punished in accordance with subsection (c).

"(b) DEFINITIONS.—

"(1) CRIMINAL STREET GANG.—The term 'criminal street gang' has the meaning given that term in section 521 of title 18, United States Code.

"(2) FRANCHISE.—The term 'franchise' means an organized group of individuals related by name, moniker, or other identifier, that engages in coordinated violent crime or drug trafficking activities in interstate or foreign commerce with a criminal street gang in another State.

"(c) PENALTIES.—A person who violates subsection (a) shall be imprisoned for not more than 10 years, fined under this title, or both.

"(d) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement for the recruitment of minors in furtherance of the creation of a criminal street gang franchise.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"522. Interstate franchising of criminal street gangs.".

SEC. 242. GANG FRANCHISING AS A RICO PREDICATE.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(F)"; and

(2) by inserting ", or (G) an offense under section 522 of this title" before the semicolon at the end.

SEC. 243. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

(a) DEFINITION OF CRIMINAL STREET GANG.—In this section, the term "criminal street gang" has the same meaning as in section 521(a) of title 18, United States Code.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement with respect to any offense committed in connection with, or in furtherance of, the activities of a criminal street gang if the defendant is a member of the criminal street gang at the time of the offense.

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 244. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "as provided in paragraph (2)" and inserting "as provided in paragraph (3)";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) Whoever uses physical force or the threat of physical force, or attempts to do so, with intent to—

"(A) influence, delay, or prevent the testimony of any person in an official proceeding;

"(B) cause or induce any person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; and

"(iv) be absent from an official proceeding to which such person has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).''; and

(D) in paragraph (3)(B), as redesignated, by striking ''in the case of'' and all that follows before the period and inserting ''an attempt to murder, the use of physical force, the threat of physical force, or an attempt to do so, imprisonment for not more than 20 years''; and

(2) in subsection (b), by striking ''or physical force''.

SEC. 245. POSSESSION OF FIREARMS IN RELATION TO COUNTS OF VIOLENCE OR DRUG TRAFFICKING CRIMES.

(a) In General.—Sections 924(c)(1) and 929(a)(1) of title 18, United States Code, are each amended—

(1) by striking ''in relation to'' and inserting ''in close proximity to''; and

(2) by striking ''uses or carries'' and inserting ''possesses''.

(b) Amendment of Federal Sentencing Guidelines.—

(1) Definitions.—In this subsection, the terms ''crime of violence'' and ''drug trafficking crime'' have the same meanings as in section 924(c) of title 18, United States Code.

(2) Sentencing enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentence enhancement with respect to any defendant who discharges a firearm during or in close proximity to any crime of violence or any drug trafficking crime.

(3) Consistency.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishment for substantially the same offense.

SEC. 246. INCREASED PENALTY FOR TRANSFERRING A FIREARM TO A MINOR FOR USE IN A CRIME.

Section 924(h) of title 18, United States Code, is amended by inserting ''except if the transferee is a person who is less than 18 years of age, not more than 15 years,'' before ''fined in accordance with this title, or both''.

SEC. 247. ELIMINATION OF STATUTE OF LIMITATIONS FOR MURDER.

(a) In General.—Section 3281 of title 18, United States Code, is amended to read as follows:

''§ 3281. Capital offenses and Class A felonies involving murder

''An indictment for any offense punishable by death or an indictment or information for a Class A felony involving murder (as defined in section 1111 or as defined under applicable State law in the case of an offense under section 1963(a) involving racketeering activity described in section 1961(1)) may be found at any time without limitation.''.

(b) Applicability.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

SEC. 248. EXTENSION OF STATUTE OF LIMITATIONS FOR VIOLENT AND DRUG TRAFFICKING CRIMES.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3295. Class A violent and drug trafficking offenses

''Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as that term is defined in section 924(c)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''.

(b) Applicability.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

(c) Conforming Amendments.—The chapter analysis for chapter 213 of title 18, United States Code, is amended—

(1) in the item relating to section 3281, by inserting ''and Class A felonies involving murder'' before the period; and

(2) by adding at the end the following:

''3295. Class A violent and drug trafficking offenses.''.

PART 2—GANG PARAPHERNALIA

SEC. 251. ENHANCING LAW ENFORCEMENT ACCESS TO CLONE NUMERIC PAGERS.

(a) Amendment to Chapter 206.—Chapter 206 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking ''and Trap and Trace Devices'' and inserting: ''Trap and Trace Devices, and Clone Numeric Pagers'';

(2) in the chapter analysis—

(A) by striking ''and trap and trace device'' each place that term appears and inserting ''trap and trace device, and clone pager''; and

(B) by striking ''or a trap and trace device'' each place that term appears and inserting '', a trap and trace device, or a clone pager'';

(3) in section 3121—

(A) in the section heading, by striking ''**AND TRAP AND TRACE DEVICE**'' and inserting ''**, TRAP AND TRACE DEVICE, AND CLONE PAGER**''; and

(B) by striking ''or a trap and trace device'' each place that term appears and inserting '', a trap and trace device, or a clone pager'';

(4) in section 3122—

(A) in the section heading, by striking ''**OR A TRAP AND TRACE DEVICE**'' and inserting ''**, A TRAP AND TRACE DEVICE, OR A CLONE PAGER**''; and

(B) by striking ''or a trap and trace device'' each place that term appears and inserting '', a trap and trace device, or a clone pager'';

(5) in section 3123—

(A) in the section heading, by striking ''**OR A TRAP AND TRACE DEVICE**'' and inserting ''**, A TRAP AND TRACE DEVICE, OR A CLONE PAGER**'';

(B) by striking subsection (a) and inserting the following:

''(a) In General.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court, or of a clone pager the service provider for which is within the jurisdiction of the court, if the court finds, upon a showing by certification of the attorney for the Government or the State law enforcement or investigative officer, that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.'';

(C) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A), by inserting before the semicolon the following: '', or in the case of a clone pager, the identity, if known, of the person to whom is leased, or who is the subscriber of the paging device communications to which will be intercepted by the clone pager''; and

(II) in subparagraph (C), by inserting before the semicolon the following: '', or in the case of a clone pager, the number of the paging device to which the clone pager is identically programmed''; and

(ii) in paragraph (2), by striking ''or trap and trace device'' and inserting ''trap and trace device, or a clone pager''; and

(D) in subsection (c), by striking ''or trap and trace device'' and inserting ''trap and trace device, or a clone pager''; and

(E) in subsection (d)—

(i) in the subsection heading, by striking ''or Trap and Trace Device'' and inserting '', Trap and Trace Device, or Clone Pager''; and

(ii) in paragraph (2), by inserting ''or the paging device, communications to which will be intercepted by the clone pager,'' after ''attached,'';

(6) in section 3124—

(A) in the section heading, by striking ''**OR A TRAP AND TRACE DEVICE**'' and inserting ''**, A TRAP AND TRACE DEVICE, OR A CLONE PAGER**'';

(B) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(C) by inserting after subsection (b) the following:

''(c) Clone Pager.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to acquire and use a clone pager under this chapter, a Federal court may order, in accordance with section 3123(b)(2), a provider of a paging service or other person to furnish to such investigative or law enforcement officer, all information, facilities, and technical assistance necessary to accomplish the operation and use of a clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the programming and use is to take place.'';

(7) in section 3125—

(A) in the section heading, by striking ''**AND TRAP AND TRACE DEVICE**'' and inserting ''**, TRAP AND TRACE DEVICE, AND CLONE PAGER**''; and

(B) in subsection (a)—

(i) by striking ''or trap and trace device'' and inserting '', a trap and trace device, or a clone pager'';

(ii) by striking the quotation marks at the end; and

(iii) by striking ''or trap and trace device'' each place that term appears and inserting '', trap and trace device, or clone pager'';

(8) in section 3126—

(A) in the section heading, by striking ''**AND TRAP AND TRACE DEVICES**'' and inserting ''**, TRAP AND TRACE DEVICES, AND CLONE PAGERS**''; and

(B) by inserting ''or clone pagers'' after ''devices''; and

(9) in section 3127—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) the term 'clone pager' means a numeric display device that receives transmissions intended for another numeric display paging device.''.

(c) Conforming Amendments.—

(1) Section 2511(2)(H) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

''(i) to use a pen register, a trap and trace device, or a clone pager (as those terms are defined for the purposes of chapter 206 (relating to pen registers, trap and trace devices, and clone pagers) of this title); or".

(2) Section 2510(12) of title 18, United States Code, is amended—

(A) in subparagraph (B), by striking "or" at the end; and

(B) by inserting after subparagraph (C) the following: "or

"(D) any transmission made through a clone pager (as defined in section 3127(5) of this title).".

SEC. 252. PROHIBITIONS RELATING TO BODY ARMOR.

(a) Definitions.—In this section—

(1) the term "body armor" means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) the term "law enforcement officer" means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant used body armor.

(c) Consistency.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

(d) Applicability.—No Federal sentencing guideline amendment made under this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 253. PROHIBITIONS RELATING TO LASER SIGHTING DEVICES.

(a) Definitions.—In this section—

(1) the term "firearm" has the same meaning as in section 921 of title 18, United States Code; and

(2) the term "laser-sighting device" includes any device designed to be attached to a firearm that uses technology, such as laser sighting, red-dot-sighting, night sighting, telescopic sighting, or other similarly effective technology, in order to enhance target acquisition.

(b) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant—

(1) possessed a firearm equipped with a laser-sighting device; or

(2) possessed a firearm and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser-sighting device (capable of being readily attached to the firearm).

(c) Consistency.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

Subtitle E—Rights of Victims in State Juvenile Courts

SEC. 261. STATE GUIDELINES.

(a) In General.—

(1) State guidelines.—The Attorney General shall establish guidelines for State programs to require—

(A) prior to disposition of adjudicated juvenile delinquents, that victims, or in appropriate cases their official representatives, shall be provided the opportunity to make a statement to the court in person or to present any information in relation to the disposition;

(B) that victims of the juvenile adjudicated delinquent be given notice of the disposition; and

(C) that restitution to victims may be ordered as part of the disposition of adjudicated juvenile delinquents.

(2) Definition of victim.—In this section, the term "victim" means any individual against whom a crime of violence has been committed that has as an element the use, attempted use, or threatened use of physical force against the person or property of another or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(b) No Cause of Action Created.—Nothing in this section shall be construed to create a cause of action against any State or any agency or employee thereof.

(c) Compliance.—

(1) Compliance.—Not later than 3 years after the date of enactment of this Act, each State shall implement this section, except that the Attorney General may grant an additional 2 years to a State if the Attorney General determines that the State is making good faith efforts to implement this section.

(2) Ineligibility for amounts.—

(A) In general.—Beginning on the expiration of the period described in paragraph (1) (or such extended period as the Attorney General may provide with respect to a State under that paragraph), during each fiscal year that any State fails to comply with this section, that State shall receive—

(i) not more than 90 percent of the amount that the State would otherwise receive under subtitle C of this title; and

(ii) not more than 90 percent of the amount that the State would otherwise receive under section 362 of title III.

(B) Reallocation of amounts.—In each fiscal year, any amounts that are not allocated to States described in subparagraph (A) shall be allocated to otherwise eligible States that are in compliance with this section on a pro rata basis.

TITLE III—PREVENTION AND TREATMENT OF YOUTH DRUG ABUSE AND ADDICTION

Subtitle A—Protecting Youth From Dangerous Drugs

SEC. 301. RESCHEDULING OF "CLUB" DRUGS.

Notwithstanding section 201 or subsection (a) or (b) of section 202 of the Controlled Substances Act (21 U.S.C. 811, 812(a), 812(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order add ketamine hydrochloride to schedule III of such Act.

Subtitle B—Development of Medicines for the Treatment of Drug Addiction

PART 1—PHARMACOTHERAPY RESEARCH

SEC. 321. REAUTHORIZATION FOR MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) of the Public Health Service Act (42 U.S.C. 285o–4(e)) is amended to read:

"(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002 of which the following amount may be appropriated from the Violent Crime Reduction Trust Fund:

"(1) $100,000,000 for fiscal year 2001; and

"(2) $100,000,000 for fiscal year 2002.".

PART 2—PATENT PROTECTIONS FOR PHARMACOTHERAPIES

SEC. 331. RECOMMENDATION FOR INVESTIGATION OF DRUGS.

Section 525(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa(a)) is amended—

(1) by striking "States" each place it appears and inserting "States, or for treatment of an addiction to illegal drugs"; and

(2) by striking "such disease or condition" each place it appears and inserting "such disease, condition, or treatment of such addiction".

SEC. 332. DESIGNATION OF DRUGS.

Section 526(a) of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)) is amended—

(1) in paragraph (1)—

(A) by inserting before the period in the first sentence the following: "or for treatment of an addiction to illegal drugs";

(B) in the third sentence, by striking "rare disease or condition" and inserting "rare disease or condition, or for treatment of an addiction to illegal drugs,"; and

(C) by striking "such disease or condition" each place it appears and inserting "such disease, condition, or treatment of such addiction"; and

(2) in paragraph (2)—

(A) by striking "(2) For" and inserting "(2)(A) For";

(B) by striking "(A) affects" and inserting "(i) affects";

(C) by striking "(B) affects" and inserting "(ii) affects"; and

(D) by adding at the end the following:

"(B) Treatment of an addiction to illegal drugs.—The term 'treatment of an addiction to illegal drugs' means any pharmacological agent or medication that—

"(i) reduces the craving for an illegal drug for an individual who—

"(I) habitually uses the illegal drug in a manner that endangers the public health, safety, or welfare; or

"(II) is so addicted to the use of the illegal drug that the individual is not able to control the addiction through the exercise of self-control;

"(ii) blocks the behavioral and physiological effects of an illegal drug for an individual described in clause (i);

"(iii) safely serves as a replacement therapy for the treatment of drug abuse for an individual described in clause (i);

"(iv) moderates or eliminates the process of withdrawal for an individual described in clause (i);

"(v) blocks or reverses the toxic effect of an illegal drug on an individual described in clause (i); or

"(vi) prevents, where possible, the initiation of drug abuse in individuals at high risk.

"(C) Illegal drug.—The term 'illegal drug' means a controlled substance identified under schedules I, II, III, IV, and V in section 202(c) of the Controlled Substance Act (21 U.S.C. 812(c)).".

SEC. 333. PROTECTION FOR DRUGS.

Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended—

(1) by striking "rare disease or condition" each place it appears and inserting "rare disease or condition or for treatment of an addiction to illegal drugs";

(2) by striking "such disease or condition" each place it appears and inserting "such disease, condition, or treatment of the addiction"; and

(3) in subsection (b)(1), by striking "the disease or condition" and inserting "the disease, condition, or addiction".

SEC. 334. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS.

Section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360dd) is amended—

(1) by striking "rare disease or condition" and inserting "rare disease or condition or for treatment of an addiction to illegal drugs"; and

(2) by striking "the disease or condition" each place it appears and inserting "the disease, condition, or addiction".

PART 3—ENCOURAGING PRIVATE SECTOR DEVELOPMENT OF PHARMACO THERAPIES

SEC. 341. DEVELOPMENT, MANUFACTURE, AND PROCUREMENT OF DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"Subchapter D—Drugs for Cocaine and Heroin Addictions

"SEC. 551. CRITERIA FOR AN ACCEPTABLE DRUG TREATMENT FOR COCAINE AND HEROIN ADDICTIONS.

"(a) In General.—Subject to subsections (b) and (c), the Secretary shall, through the Institute of Medicine of the National Academy of Sciences, establish criteria for an acceptable drug for the treatment of an addiction to cocaine and for an acceptable drug for the treatment of an addiction to heroin. The criteria shall be used by the Secretary in making a contract, or entering to a licensing agreement, under section 552.

"(b) Requirements.—The criteria established under subsection (a) for a drug shall include requirements—

"(1) that the application to use the drug for the treatment of addiction to cocaine or heroin was filed and approved by the Secretary under this Act after the date of enactment of this section;

"(2) that a performance based test on the drug—

"(A) has been conducted through the use of a randomly selected test group that received the drug as a treatment and a randomly selected control group that received a placebo; and

"(B) has compared the long term differences in the addiction levels of control group participants and test group participants;

"(3) that the performance based test conducted under paragraph (2) demonstrates that the drug is effective through evidence that—

"(A) a significant number of the participants in the test who have an addiction to cocaine or heroin are willing to take the drug for the addiction;

"(B) a significant number of the participants in the test who have an addiction to cocaine or heroin and who were provided the drug for the addiction during the test are willing to continue taking the drug as long as necessary for the treatment of the addiction; and

"(C) a significant number of the participants in the test who were provided the drug for the period of time required for the treatment of the addiction refrained from the use of cocaine or heroin for a period of 3 years after the date of the initial administration of the drug on the participants; and

"(4) that the drug shall have a reasonable cost of production.

"(c) Review and Publication of Criteria.—The criteria established under subsection (a) shall, prior to the publication and application of such criteria, be submitted for review to the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate. Not later than 90 days after notifying each of the committees, the Secretary shall publish the criteria in the Federal Register.

"SEC. 552. PURCHASE OF PATENT RIGHTS FOR DRUG DEVELOPMENT.

"(a) Application.—

"(1) In general.—The patent owner of a drug to treat an addiction to cocaine or heroin, may submit an application to the Secretary—

"(A) to enter into a contract with the Secretary to sell to the Secretary the patent rights of the owner relating to the drug; or

"(B) in the case in which the drug is approved by the Secretary for more than 1 indication, to enter into an exclusive licensing agreement with the Secretary for the manufacture and distribution of the drug to treat an addiction to cocaine or heroin.

"(2) Requirements.—An application described in paragraph (1) shall be submitted at such time and in such manner, and accompanied by such information, as the Secretary may require.

"(b) Contract and Licensing Agreement.—

"(1) Requirements.—The Secretary may enter into a contract or a licensing agreement with a patent owner who has submitted an application in accordance with (a) if the drug covered under the contract or licensing agreement meets the criteria established by the Secretary under section 551(a).

"(2) Special rule.—The Secretary may enter into—

"(A) not more than 1 contract or exclusive licensing agreement relating to a drug for the treatment of an addiction to cocaine; and

"(B) not more than 1 contract or licensing agreement relating to a drug for the treatment of an addiction to heroin.

"(3) Coverage.—A contract or licensing agreement described in subparagraph (A) or (B) of paragraph (2) shall cover not more than 1 drug.

"(4) Purchase amount.—Subject to amounts provided in advance in appropriations Acts—

"(A) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to cocaine shall not exceed $100,000,000; and

"(B) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to heroin shall not exceed $50,000,000.

"(c) Transfer of Rights Under Contracts and Licensing Agreement.—

"(1) Contracts.—A contract under subsection (b)(1) to purchase the patent rights relating to a drug to treat cocaine or heroin addiction shall transfer to the Secretary—

"(A) the exclusive right to make, use, or sell the patented drug within the United States for the term of the patent;

"(B) any foreign patent rights held by the patent owner;

"(C) any patent rights relating to the process of manufacturing the drug; and

"(D) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug.

"(2) Licensing agreements.—A licensing agreement under subsection (b)(1) to purchase an exclusive license relating to manufacture and distribution of a drug to treat an addiction to cocaine or heroin shall transfer to the Secretary—

"(A) the exclusive right to make, use, or sell the patented drug for the purpose of treating an addiction to cocaine or heroin within the United States for the term of the patent;

"(B) the right to use any patented processes relating to manufacturing the drug; and

"(C) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug relating to use of the drug to treat an addiction to cocaine or heroin.

"SEC. 553. PLAN FOR MANUFACTURE AND DEVELOPMENT.

"(a) In General.—Not later than 90 days after the date on which the Secretary purchases the patent rights of a patent owner, or enters into a licensing agreement with a patent owner, relating to a drug under section 551, the Secretary shall develop a plan for the manufacture and distribution of the drug.

"(b) Plan Requirements.—The plan shall set forth—

"(1) procedures for the Secretary to enter into licensing agreements with private entities for the manufacture and the distribution of the drug;

"(2) procedures for making the drug available to nonprofit entities and private entities to use in the treatment of a cocaine or heroin addiction;

"(3) a system to establish the sale price for the drug; and

"(4) policies and procedures with respect to the use of Federal funds by State and local governments or nonprofit entities to purchase the drug from the Secretary.

"(c) Applicability of Procurement and Licensing Laws.—The procurement and licensing laws of the United States shall be applicable to procurements and licenses covered under the plan described in subsection (a).

"(d) Review of Plan.—

"(1) In general.—Upon completion of the plan under subsection (a), the Secretary shall notify the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate, of the development of the plan and publish the plan in the Federal Register. The Secretary shall provide an opportunity for public comment on the plan for a period of not more than 30 days after the date of the publication of the plan in the Federal Register.

"(2) Final plan.—Not later than 60 days after the date of the expiration of the comment period described in paragraph (1), the

Secretary shall publish in the Federal Register a final plan. The implementation of the plan shall begin on the date of the final publication of the plan.

“(e) Construction.—The development, publication, or implementation of the plan, or any other agency action with respect to the plan, shall not be considered agency action subject to judicial review.

“(f) Regulations.—The Secretary may promulgate regulations to carry out this section.

“SEC. 554. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1998 through 2000.”.

Subtitle C—Prevention and Treatment Programs

PART 1—COMPREHENSIVE DRUG EDUCATION

SEC. 351. EXTENSION OF SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM.

Title IV of the Elementary and Secondary Education Act (20 U.S.C. 7104) is amended to read as follows:

“TITLE IV—AUTHORIZATIONS

“SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated for State grants under subpart 1 and national programs under subpart 2, $655,000,000 for fiscal years 1998 through 2000, and $955,000,000 for fiscal years 2001 through 2002, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

“(1) $300,000,000 for fiscal year 2001; and

“(2) $300,000,000 for fiscal year 2002.”.

PART 2—DRUG COURTS

SEC. 361. REAUTHORIZATION OF DRUG COURTS PROGRAM.

Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(G) $400,000,000 for fiscal year 2001; and

“(H) $400,000,000 for fiscal year 2002.”.

SEC. 362. JUVENILE DRUG COURTS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Y as part Z;

(2) by redesignating section 2501 as 2601; and

(3) by inserting after part X the following:

“PART Y—JUVENILE DRUG COURTS

“SEC. 2501. GRANT AUTHORITY.

“(a) Appropriate Drug Court Programs.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribes to establish programs that—

“(1) involve continuous early judicial supervision over juvenile offenders, other than violent juvenile offenders with substance abuse, or substance abuse-related problems; and

“(2) integrate administration of other sanctions and services, including—

“(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

“(B) substance abuse treatment for each participant;

“(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

“(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support service for each participant who requires such services;

“(E) payment by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; or

“(F) payment by the offender of restitution, to the extent practicable, to either a victim of the offense at issue or to a restitution or similar victim support fund.

“(b) Continued Availability of Grant Funds.—Amounts made available under this part shall remain available until expended.

“SEC. 2502. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

“The Attorney General shall issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders.

“SEC. 2503. DEFINITION.

“In this part, the term ‘violent offender’ means an individual charged with an offense during the course of which—

“(1) the individual carried, possessed, or used a firearm or dangerous weapon;

“(2) the death of or serious bodily injury of another person occurred as a direct result of the commission of such offense; or

“(3) the individual used force against the person of another.

“SEC. 2504. ADMINISTRATION.

“(a) Regulatory Authority.—the Attorney General shall issue any regulations and guidelines necessary to carry out this part.

“(b) Applications.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

“(1) include a long term strategy and detailed implementation plan;

“(2) explain the inability of the applicant to fund the program adequately without Federal assistance;

“(3) certify that the Federal support provided will be used to supplement, and not supplant, State, tribal, or local sources of funding that would otherwise be available;

“(4) identify related governmental or community initiatives that complement or will be coordinated with the proposal;

“(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

“(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

“(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

“(8) describe the methodology that will be used in evaluating the program.

“SEC. 2505. APPLICATIONS.

“To request funds under this part, the chief executive or the chief justice of a State, or the chief executive or chief judge of a unit of local government or Indian tribe shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

“SEC. 2506. FEDERAL SHARE.

“(a) In General.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2505 for the fiscal year for which the program receives assistance under this part.

“(b) Waiver.—The Attorney General may waive, in whole or in part, the requirement of a matching contribution under subsection (a).

“(c) In-Kind Contributions.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this part.

“SEC. 2507. DISTRIBUTION OF FUNDS.

“(a) Geographical Distribution.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

“(b) Indian Tribes.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

“SEC. 2508. REPORT.

“A State, Indian tribe, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General, in March of the year following receipt of a grant under this part, a report regarding the effectiveness of programs established pursuant to this part.

“SEC. 2509. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

“(a) Technical Assistance and Training.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

“(b) Evaluations.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

“(c) Administration.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

“SEC. 2510. UNAWARDED FUNDS.

“The Attorney General may reallocate any grant funds that are not awarded for juvenile drug courts under this part for use for other juvenile delinquency and crime prevention initiatives.

“SEC. 2511. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part from the Violent Crime Reduction Trust Fund—

“(1) such sums as may be necessary for each of the fiscal years 1998, 1999, and 2000;

“(2) $50,000,000 for fiscal year 2001; and

“(3) $50,000,000 for fiscal year 2002.”.

PART 3—DRUG TREATMENT

SEC. 371. DRUG TREATMENT FOR JUVENILES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

“PART G—RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES

“SEC. 575. RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES.

“(a) In General.—The Director of the Center for Substance Abuse Treatment shall award grants to, or enter into cooperative agreements or contracts, with public and nonprofit private entities for the purpose of providing treatment to juveniles for substance abuse through programs in which, during the course of receiving such treatment the juveniles reside in facilities made available by the programs.

"(b) AVAILABILITY OF SERVICES FOR EACH PARTICIPANT.—A funding agreement for an award under subsection (a) for an applicant is that, in the program operated pursuant to such subsection—

"(1) treatment services will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and

"(2) the services will be made available to each person admitted to the program.

"(c) INDIVIDUALIZED PLAN OF SERVICES.—A funding agreement for an award under subsection (a) for an applicant is that—

"(1) in providing authorized services for an eligible person pursuant to such subsection, the applicant will, in consultation with the juvenile and, if appropriate the parent or guardian of the juvenile, prepare an individualized plan for the provision to the juvenile or young adult of the services; and

"(2) treatment services under the plan will include—

"(A) individual, group, and family counseling, as appropriate, regarding substance abuse; and

"(B) followup services to assist the juvenile or young adult in preventing a relapse into such abuse.

"(d) ELIGIBLE SUPPLEMENTAL SERVICES.—Grants under subsection (a) may be used to provide an eligible juvenile, the following services:

"(1) HOSPITAL REFERRALS.—Referrals for necessary hospital services.

"(2) HIV AND AIDS COUNSELING.—Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

"(3) DOMESTIC VIOLENCE AND SEXUAL ABUSE COUNSELING.—Counseling on domestic violence and sexual abuse.

"(4) PREPARATION FOR REENTRY INTO SOCIETY.—Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the juvenile.

"(e) MINIMUM QUALIFICATIONS FOR RECEIPT OF AWARD.—

"(1) CERTIFICATION BY RELEVANT STATE AGENCY.—With respect to the principal agency of a State or Indian tribe that administers programs relating to substance abuse, the Director may award a grant to, or enter into a cooperative agreement or contract with, an applicant only if the agency or Indian tribe has certified to the Director that—

"(A) the applicant has the capacity to carry out a program described in subsection (a);

"(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

"(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

"(2) STATUS AS MEDICAID PROVIDER.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Director may make a grant, or enter into a cooperative agreement or contract, under subsection (a) only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State involved—

"(i) the applicant for the grant, cooperative agreement, or contract will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement plan and is qualified to receive such payments.

"(B) SERVICES.—

"(i) IN GENERAL.—In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(ii) VOLUNTARY DONATIONS.—A determination by the Director of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(C) MENTAL DISEASES.—

"(i) IN GENERAL.—With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of any such service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age.

"(ii) DEFINITION OF INSTITUTION FOR MENTAL DISEASES.—In this subparagraph, the term 'institution for mental diseases' has the same meaning as in section 1905(i) of the Social Security Act (42 U.S.C. 1396d(i)).

"(f) REQUIREMENTS FOR MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

"(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

"(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

"(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) OUTREACH.—A funding agreement for an award under subsection (a) for an applicant is that the applicant will provide outreach services in the community involved to identify juveniles who are engaging in substance abuse and to encourage the juveniles to undergo treatment for such abuse.

"(h) ACCESSIBILITY OF PROGRAM.—A funding agreement for an award under subsection (a) for an applicant is that the program operated pursuant to such subsection will be operated at a location that is accessible to low income juveniles.

"(i) CONTINUING EDUCATION.—A funding agreement for an award under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

"(j) IMPOSITION OF CHARGES.—A funding agreement for an award under subsection (a) for an applicant is that, if a charge is imposed for the provision of authorized services to or on behalf of an eligible juvenile, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the economic condition of the juvenile involved; and

"(3) will not be imposed on any such juvenile whose family has an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

"(1) describing the utilization and costs of services provided under the award;

"(2) specifying the number of juveniles served, and the type and costs of services provided; and

"(3) providing such other information as the Director determines to be appropriate.

"(l) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

"(m) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among Indian tribes, subject to the availability of qualified applicants for the awards.

"(n) DURATION OF AWARD.—

"(1) IN GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

"(2) APPROVAL OF DIRECTOR.—The provision of payments described in paragraph (1) shall be subject to—

"(A) annual approval by the Director of the payments; and

"(B) the availability of appropriations for the fiscal year at issue to make the payments.

"(3) NO LIMITATION.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this section.

"(o) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

"(p) REPORTS TO CONGRESS.—

"(1) INITIAL REPORT.—Not later than October 1, 1998, the Director shall submit to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing programs carried out pursuant to this section.

"(2) PERIODIC REPORTS.—

"(A) IN GENERAL.—Not less than biennially after the date described in paragraph (1), the Director shall prepare a report describing programs carried out pursuant to this section during the preceding 2-year period, and shall submit the report to the Administrator for inclusion in the biennial report under section 501(k).

"(B) SUMMARY.—Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

"(q) DEFINITIONS.—In this section:

"(1) AUTHORIZED SERVICES.—The term 'authorized services' means treatment services and supplemental services.

"(2) JUVENILE.—The term 'juvenile' means anyone 18 years of age or younger at the time that of admission to a program operated pursuant to subsection (a).

"(3) ELIGIBLE JUVENILE.—The term 'eligible juvenile' means a juvenile who has been admitted to a program operated pursuant to subsection (a).

"(4) FUNDING AGREEMENT UNDER SUBSECTION (A).—The term 'funding agreement under subsection (a)', with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

"(5) TREATMENT SERVICES.—The term 'treatment services' means treatment for substance abuse, including the counseling and services described in subsection (c)(2).

"(6) SUPPLEMENTAL SERVICES.—The term 'supplemental services' means the services described in subsection (d).

"(r) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary for fiscal years 1998, 1999, and 2000. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund $300,000,000 in each of the fiscal years 2001 and 2002.

"(2) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized in such paragraph to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

"(3) RULE OF CONSTRUCTION.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

"SEC. 576. OUTPATIENT TREATMENT PROGRAMS FOR JUVENILES.

"(a) GRANTS.—The Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to establish projects for the outpatient treatment of substance abuse among juveniles.

"(b) PREVENTION.—Entities receiving grants under this section shall engage in activities to prevent substance abuse among juveniles.

"(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.".

Subtitle D—National Drug Control Policy

SEC. 381. REAUTHORIZATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) REAUTHORIZATION.—Section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking "1997" and inserting "2002".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1011 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1508) is amended by striking "8" and inserting "13".

SEC. 382. STUDY ON EFFECTS OF CALIFORNIA AND ARIZONA DRUG INITIATIVES.

(a) DEFINITION.—In this section, the term "controlled substance" has the same meaning as in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(b) STUDY.—The Director of National Drug Control Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall conduct a study on the effect of the 1996 voter referenda in California and Arizona concerning the medicinal use of marijuana and other controlled substances, respectively, on—

(1) marijuana usage in Arizona and California;

(2) usage of other controlled substances in Arizona and California;

(3) perceptions of youth of the dangerousness of marijuana and other controlled substances in Arizona and California;

(4) emergency room admissions for drug abuse in Arizona and California;

(5) seizures of controlled substances in Arizona and California;

(6) arrest rates for use of controlled substances in Arizona and California;

(7) arrest rates for trafficking of controlled substances in Arizona and California;

(8) conviction rates in cases concerning use of controlled substances in Arizona and California; and

(9) conviction rates in jury trials concerning use of controlled substances in Arizona and California.

(c) REPORT.—Not later than January 1, 1998, the Director of National Drug Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall—

(1) issue a report on the results of the study under subsection (b); and

(2) submit a copy of the report to the Committees on the Judiciary of the House of Representatives and the Senate.

(d) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 and 1999.

Subtitle E—Penalty Enhancements

SEC. 391. INCREASED PENALTIES FOR USING FEDERAL PROPERTY TO GROW OR MANUFACTURE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

"(5) OFFENSES ON FEDERAL PROPERTY.—Any person who violates subsection (a) by cultivating or manufacturing a controlled substance on any property in whole or in part owned by or leased to the United States or any department or agency thereof shall be subject to twice the maximum punishment otherwise authorized for the offense.".

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement to ensure that violations of section 401(b)(5) of the Controlled Substances Act are punished substantially more severely than violations that do not occur on Federal property.

(c) CONSISTENCY.—In carrying out this subsection, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 392. TECHNICAL CORRECTION TO ENSURE COMPLIANCE OF FEDERAL SENTENCING GUIDELINES WITH FEDERAL LAW.

Section 994(a) of title 28, United States Code, is amended by striking "consistent with all pertinent provisions of this title and title 18, United States Code," and inserting "consistent with all pertinent provisions of Federal law".

TITLE IV—PROTECTING YOUTH FROM VIOLENT CRIME

Subtitle A—Grants for Youth Organizations

SEC. 401. GRANT PROGRAM.

The Attorney General may make grants to States, Indian tribes, and national nonprofit organizations in crime prone areas, such as Boys and Girls Clubs, Police Athletic Leagues, 4-H Clubs, D.A.R.E. America, and Kids 'N Kops programs, for the purpose of—

(1) providing constructive activities to youth during after school hours, weekends, and school vacations to prevent the criminal victimization of program participants;

(2) providing supervised activities in safe environments to youth in crime prone areas;

(3) providing antidrug education to prevent drug abuse among youth;

(4) supporting police officer training and salaries and educational materials to expand D.A.R.E. America's middle school campaign; or

(5) providing constructive activities to youth in a safe environment through parks and other public recreation areas.

SEC. 402. GRANTS TO NATIONAL ORGANIZATIONS.

(a) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief operating officer of a national community-based organization shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(D) written assurances that all activities will be supervised by an appropriate number of responsible adults;

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs; and

(F) any additional statistical or financial information that the Attorney General may reasonably require.

(b) GRANT AWARDS.—In awarding grants under this section, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the history and establishment of the applicant in providing youth activities on a nationwide basis; and

(3) the extent to which the organizations shall achieve an equitable geographic distribution of the grant awards.

SEC. 403. GRANTS TO STATES.

(a) APPLICATIONS.—

(1) IN GENERAL.—The Attorney General may make grants under this section to States for distribution to units of local government and community-based organizations for the purposes set forth in section 401.

(2) GRANTS.—To request a grant under this section, the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(3) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (2) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the community;

(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(D) written assurances that all activities will be supervised by an appropriate number of responsible adults; and

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs.

(b) GRANT AWARDS.—In awarding grants under this section, the State shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the history and establishment of the applicant in the community to be served;

(3) the level of juvenile crime, violence, and drug use in the community;

(4) the extent to which structured extracurricular activities for youth are otherwise unavailable in the community;

(5) the need in the community for secure environments for youth to avoid criminal victimization and exposure to crime and illegal drugs;

(6) to the extent practicable, achievement of an equitable geographic distribution of the grant awards; and

(7) whether the applicant has an established record of providing extracurricular activities that are generally not otherwise available to youth in the community.

(c) ALLOCATION.—

(1) STATE ALLOCATIONS.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to each State that has applied for a grant under this section.

(2) INDIAN TRIBES.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to Indian tribes, in accordance with the criteria set forth in subsections (a) and (b).

(3) REMAINING AMOUNTS.—Of the amount remaining after the allocations under paragraphs (1) and (2), the Attorney General shall allocate to each State an amount that bears the same ratio to the total amount of remaining funds as the population of the State bears to the total population of all States.

SEC. 404. ALLOCATION; GRANT LIMITATION.

(a) ALLOCATION.—Of amounts made available to carry out this subtitle—

(1) 20 percent shall be for grants to national organizations under section 402; and

(2) 80 percent shall be for grants to States under section 403.

(b) GRANT LIMITATION.—Not more than 3 percent of the funds made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 405. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 1998, and October 1 of each year thereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the year to which the report relates—

(1) the activities provided;

(2) the number of youth participating;

(3) the extent to which the grant enabled the provision of activities to youth that would not otherwise be available; and

(4) any other information that the Attorney General requires for evaluating the effectiveness of the program.

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 1999, and March 1 of each year thereafter, the Attorney General shall submit to the Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this subtitle, and an evaluation of programs established by grant recipients under this subtitle.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this subtitle, the Attorney General shall consider—

(1) the number of youth served by the grant recipient;

(2) the percentage of youth participating in the program charged with acts of delinquency or crime compared to youth in the community at large;

(3) the percentage of youth participating in the program that uses drugs compared to youth in the community at large;

(4) the percentage of youth participating in the program that are victimized by acts of crime or delinquency compared to youth in the community at large; and

(5) the truancy rates of youth participating in the program compared to youth in the community at large.

(d) DOCUMENTS AND INFORMATION.—Each grant recipient under this subtitle shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this subtitle.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of the fiscal years 1998 through 2000;

(2) for fiscal year 2001, $125,000,000; and

(3) for fiscal year 2002, $125,000,000.

(b) CONTINUED AVAILABILITY.—Amounts made available under this subtitle shall remain available until expended.

Subtitle B—"Say No to Drugs" Community Centers Act of 1997

SEC. 421. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This subtitle may be cited as the "Say No to Drugs Community Centers Act of 1997".

(b) DEFINITIONS.—For purposes of this subtitle—

(1) the term "community-based organization" means a private, locally initiated organization that—

(A) is a nonprofit organization, as that term is defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) involves the participation, as appropriate, of members of the community and community institutions, including—

(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

(ii) educators;

(iii) religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with program activities funded under this subtitle);

(iv) law enforcement agencies; and

(v) other interested parties;

(2) the term "eligible community" means a community—

(A) identified by an eligible recipient for assistance under this subtitle; and

(B) an area that meets such criteria as the Attorney General may, by regulation, establish, including criteria relating to poverty, juvenile delinquency, and crime;

(3) the term "eligible recipient" means a community-based organization or public school that has—

(A) been approved for eligibility by the Attorney General, upon application submitted to the Attorney General in accordance with section 412(b); and

(B) demonstrated that the projects and activities it seeks to support in an eligible community involve the participation, when feasible and appropriate, of—

(i) parents, family members, and other members of the eligible community;

(ii) civic and religious organizations serving the eligible community;

(iii) school officials and teachers employed at schools located in the eligible community;

(iv) public housing resident organizations in the eligible community; and

(v) public and private nonprofit organizations and organizations serving youth that provide education, child protective services, or other human services to low income, at-risk youth and their families;

(4) the term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved; and

(5) the term "public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of that Act (42 U.S.C. 1141(d)).

SEC. 422. GRANT REQUIREMENTS.

(a) IN GENERAL.—The Attorney General may make grants to eligible recipients, which grants may be used to provide to youth living in eligible communities during after school hours or summer vacations, the following services:

(1) Rigorous drug prevention education.

(2) Drug counseling and treatment.

(3) Academic tutoring and mentoring.

(4) Activities promoting interaction between youth and law enforcement officials.

(5) Vaccinations and other basic preventive health care.

(6) Sexual abstinence education.

(7) Other activities and instruction to reduce youth violence and substance abuse.

(b) LOCATION AND USE OF AMOUNTS.—An eligible recipient that receives a grant under this subtitle—

(1) shall ensure that the stated program is carried out—

(A) when appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility that is—

(i) in a location easily accessible to youth in the community; and

(ii) in compliance with all applicable State and local ordinances;

(2) shall use the grant amounts to provide to youth in the eligible community services and activities that include extracurricular and academic programs that are offered—

(A) after school and on weekends and holidays, during the school year; and

(B) as daily full day programs (to the extent available resources permit) or as part day programs, during the summer months;

(3) shall use not more than 5 percent of the amounts to pay for the administrative costs of the program;

(4) shall not use such amounts to provide sectarian worship or sectarian instruction; and

(5) may not use the amounts for the general operating costs of public schools.

(c) APPLICATIONS.—

(1) IN GENERAL.—Each application to become an eligible recipient shall be submitted to the Attorney General at such time, in such manner, and accompanied by such information, as the Attorney General may reasonably require.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain a comprehensive plan for the program that is designed to achieve identifiable goals for youth in the eligible community;

(C) describe in detail the drug education and drug prevention programs that will be implemented;

(D) specify measurable goals and outcomes for the program that will include—

(i) reducing the percentage of youth in the eligible community that enter the juvenile justice system or become addicted to drugs;

(ii) increasing the graduation rates, school attendance, and academic success of youth in the eligible community; and

(iii) improving the skills of program participants;

(E) contain an assurance that the applicant will use grant amounts received under this subtitle to provide youth in the eligible community with activities and services consistent with subsection (g);

(F) demonstrate the manner in which the applicant will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(G) include an estimate of the number of youth in the eligible community expected to be served under the program;

(H) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(I) contain an assurance that the applicant will comply with any evaluation under section 522, any research effort authorized under Federal law, and any investigation by the Attorney General;

(J) contain an assurance that the applicant will prepare and submit to the Attorney General an annual report regarding any program conducted under this subtitle;

(K) contain an assurance that the program for which the grant is sought will, to the maximum extent practicable, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

(L) contain an assurance that the applicant will maintain separate accounting records for the program for which the grant is sought.

(3) PRIORITY.—In determining eligibility under this section, the Attorney General shall give priority to applicants that submit applications that demonstrate the greatest local support for the programs they seek to support.

(d) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Attorney General shall, subject to the availability of appropriations, provide to each eligible recipient the Federal share of the costs of developing and carrying out programs described in this section.

(2) FEDERAL SHARE.—The Federal share of the cost of a program under this subtitle shall be not more than—

(A) 75 percent of the total cost of the program for each of the first 2 years of the duration of a grant;

(B) 70 percent of the total cost of the program for the third year of the duration of a grant; and

(C) 60 percent of the total cost of the program for each year thereafter.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of the cost of a program under this subtitle may be in cash or in kind, fairly evaluated, including plant, equipment, and services. Federal funds made available for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this subtitle.

(B) SPECIAL RULE.—Not less than 15 percent of the non-Federal share of the costs of a program under this subtitle shall be provided from private or nonprofit sources.

(e) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES AND INDIAN TRIBES.—

(i) IN GENERAL.—In any fiscal year in which the total amount made available to carry out this subtitle is equal to not less than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(ii) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS AND PUBLIC SCHOOLS FROM ALLOCATIONS.—For each fiscal year described in subparagraph (A), the Attorney General may award grants from the appropriate State or Indian tribe allocation determined under subparagraph (A) on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(C) REALLOCATION.—If, at the end of a fiscal year described in subparagraph (A), the Attorney General determines that amounts allocated for a particular State or Indian tribe under subparagraph (B) remain unobligated, the Attorney General shall use such amounts to award grants to eligible recipients in another State or Indian tribe to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle. In awarding such grants, the Attorney General shall consider the need to maintain geographic diversity among eligible recipients.

(D) AVAILABILITY OF AMOUNTS.—Amounts made available under this paragraph shall remain available until expended.

(2) OTHER FISCAL YEARS.—In any fiscal year in which the amount made available to carry out this subtitle is equal to or less than $20,000,000, the Attorney General may award grants on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(3) ADMINISTRATIVE COSTS.—The Attorney General may use not more than 3 percent of the amounts made available to carry out this subtitle in any fiscal year for administrative costs, including training and technical assistance.

SEC. 423. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund—

(1) for fiscal year 2001, $125,000,000; and

(2) for fiscal year 2002, $125,000,000.

Subtitle C—Missing Children

SEC. 431. AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT.

(a) DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.—Section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) in subsection (b)—

(A) by striking "(b) The Administrator" and all that follows through "shall—" and inserting the following:

"(b) TOLL-FREE HOTLINE AND NATIONAL RESOURCE CENTER.—The Administrator shall make grants to or enter into contracts with the National Center for Missing and Exploited Children, for purposes of—";

(B) in paragraph (1)—

(i) in subparagraph (A), by striking "establish and operate" and inserting "providing"; and

(ii) in subparagraph (B), by adding "and" at the end;

(C) in paragraph (2)—

(i) by striking "establish and operate" and inserting "operating";

(ii) in subparagraph (A), by inserting "foreign governments," after "State and local governments"; and

(iii) in subparagraph (D)—

(I) by inserting "foreign governments," after "State and local governments"; and

(II) by striking "; and" at the end and inserting a period;

(D) in paragraph (3), by striking "(3) periodically" and inserting the following:

"(c) NATIONAL INCIDENCE STUDIES.—The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

"(1) periodically"; and

(E) by redesignating paragraph (4) as paragraph (2).

(b) GRANTS.—Section 405(a) of the Missing Children's Assistance Act (42 U.S.C. 5775(a)) is amended by inserting "the National Center for Missing and Exploited Children and with" before "public agencies".

TITLE V—IMPROVING YOUTH CRIME AND DRUG PREVENTION

Subtitle A—Comprehensive Study of Federal Prevention Efforts

SEC. 501. STUDY BY NATIONAL ACADEMY OF SCIENCE.

(a) IN GENERAL.—The Attorney General shall enter into a contract with a public or nonprofit private entity, subject to subsection (b), for the purpose of conducting a study or studies—

(1) to evaluate the effectiveness of federally funded programs for preventing youth violence and youth substance abuse;

(2) to evaluate the effectiveness of federally funded grant programs for preventing criminal victimization of juveniles;

(3) to identify specific Federal programs and programs that receive Federal funds that contribute to reductions in youth violence, youth substance abuse, and risk factors among youth that lead to violent behavior and substance abuse;

(4) to identify specific programs that have not achieved their intended results; and

(5) to make specific recommendations on programs that—

(A) should receive continued or increased funding because of their proven success; or

(B) should have their funding terminated or reduced because of their lack of effectiveness.

(b) NATIONAL ACADEMY OF SCIENCES.—The Attorney General shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study or studies described in subsection (a). If the Academy declines to conduct the study, the Attorney General shall carry out such subsection through other public or nonprofit private entities.

(c) ASSISTANCE.—In conducting the study under subsection (a) the contracting party may obtain analytic assistance, data, and other relevant materials from the Department of Justice and any other appropriate Federal agency.

(d) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than January 1, 2000, the Attorney General shall submit a report describing the findings made as a result of the study required by subsection (a) to the Committee on the Judiciary and the Committee on Economic and Educational Opportunity of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate.

(2) CONTENTS.—The report required by this subsection shall contain specific recommendations concerning funding levels for the programs evaluated. Reports on the effectiveness of such programs and recommendations on funding shall be provided to the appropriate subcommittees of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(e) FUNDING.—There are authorized to be appropriated to carry out the study under subsection (a) $1,000,000,000.

Subtitle B—Evaluation Mandate for Authorized Programs

SEC. 522. EVALUATION OF CRIME PREVENTION PROGRAMS.

The Attorney General, with respect to the programs in titles II, III, and IV of this Act shall provide, directly or through grants and contracts, for the comprehensive and thorough evaluation of the effectiveness of each program established by this Act and the amendments made by this Act.

SEC. 523. EVALUATION AND RESEARCH CRITERIA.

(a) INDEPENDENT EVALUATIONS AND RESEARCH.—Evaluations and research studies conducted pursuant to this subtitle shall be independent in nature, and shall employ rigorous and scientifically recognized standards and methodologies.

(b) CONTENT OF EVALUATIONS.—Evaluations conducted pursuant to this title may include comparison between youth participating in the programs and the community at large of rates of—

(1) delinquency, youth crime, youth gang activity, youth substance abuse, and other high risk factors;

(2) risk factors in young people that contribute to juvenile violence, including academic failure, excessive school absenteeism, and dropping out of school;

(3) risk factors in the community, schools, and family environments that contribute to youth violence; and

(4) criminal victimizations of youth.

SEC. 524. COMPLIANCE WITH EVALUATION MANDATE.

The Attorney General may require the recipients of Federal assistance for programs under this Act to collect, maintain, and report information considered to be relevant to any evaluation conducted pursuant to section 502, and to conduct and participate in specified evaluation and assessment activities and functions.

SEC. 525. RESERVATION OF AMOUNTS FOR EVALUATION AND RESEARCH.

(a) IN GENERAL.—The Attorney General, with respect to titles II, III, and IV shall reserve not less than 2 percent, and not more than 4 percent, of the amounts made available pursuant to such titles and the amendments made by such titles in each fiscal year to carry out the evaluation and research required by this title.

(b) ASSISTANCE TO GRANTEES AND EVALUATED PROGRAMS.—To facilitate the conduct and defray the costs of crime prevention program evaluation and research, the Attorney General shall use amounts reserved under this section to provide compliance assistance to grantees under this Act who are selected to participate in evaluations pursuant to section 522.

Subtitle C—Elimination of Ineffective Programs

SEC. 531. SENSE OF SENATE REGARDING FUNDING FOR PROGRAMS DETERMINED TO BE INEFFECTIVE.

It is the sense of the Senate that programs identified in the study performed pursuant to section 501 as being ineffective in addressing juvenile crime and substance abuse should not receive Federal funding in any fiscal year following the issuance of such study.

TITLE VI—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

SEC. 601. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) for fiscal year 2001, $6,500,000,000; and

"(8) for fiscal year 2002, $6,500,000,000.".

(b) BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 251A(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a(b)) is amended—

(1) by striking all after "$4,904,000,000."; and

(2) by adding at the end the following:

"(E) For fiscal year 1999, $5,639,000,000.

"(F) For fiscal year 2000, $6,225,000,000.

"(G) For fiscal year 2001, $6,225,000,000.

"(H) For fiscal year 2002, $6,225,000,000.".

(c) REDUCTION IN DISCRETIONARY SPENDING LIMITS.—Beginning on the date of enactment of this Act, the discretionary spending limits set forth in section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2) (as adjusted in conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and in the Senate, with section 301 of House Concurrent Resolution 178 (104th Congress)) for fiscal years 2001 through 2002 are reduced as follows:

(1) For fiscal year 2001, for the discretionary category: $6,500,000,000 in new budget authority and $6,225,000,000 in outlays.

(2) For fiscal year 2002, for the discretionary category: $6,500,000,000 in new budget authority and $6,225,000,000 in outlays.

Mr. LEAHY. Mr. President, I am pleased to join with Senator DASCHLE and other Democratic Senators in introducing S. 15, the Youth Violence, Crime and Drug Abuse Control Act.

Unfortunately, we need to look no further than today's headlines to see how badly we need this legislation. Over the past week, the chilling story has unfolded about Darryl Hall, a 12-year-old boy violently abducted on his way home from school in our Nation's Capital and then found dead and frozen with a gunshot to the back of his head. Three youths have been arrested, and the police suspect this heinous crime was the work of a gang. We must put a stop to the brutality of children killing children.

We all want to protect the children of this country from becoming victims of crime, from joining gangs, and from becoming drug addicts. This is not a partisan issue. Gang members do not ask their new recruits whether they are Republican or Democrat. Criminals do not ask before they strike whether their victim is Republican or Democrat. We in Congress need to make every effort to work together to get a handle on this problem.

The Democratic crime initiative we are introducing today builds on and continues the proven elements of the 1994 crime bill and takes the next steps to confront the problems of youth crime, drug abuse and gang violence. Our bill targets youthful offenders for certain punishment when they commit violent acts and offers helpful treatment when they need it. Although the number of juveniles arrested for violent crimes dipped in 1995, these numbers remain at unacceptable levels: sixty-four percent more juveniles were arrested for violent crimes in 1995 than in 1987.

Concern about the spread of gangs—the violence, the drug dealing and other criminal activity that gangs leave in their wake—has spread from our large cities to rural American towns. Indeed, one of the major factors responsible for the increases in juvenile crime over the past decade is the growth of criminal street gangs across this country. Although places such as Los Angeles or New York City first spring to mind when the word "gang" is mentioned, gangs are spreading across State boundaries and are problems today in many rural areas, as well as in urban centers.

In my days as a prosecutor, gangs were unheard of in Vermont. Unfortunately, this is no longer the case. Just last month, the Vermont Corrections Commissioner reported significant increases in gang activity occurring in Vermont's prisons. There are also reports that franchises of the "los solidos" gang have set up shop in Rutland, and the "la familia" gang has moved into St. Johnsbury.

Gangs violate the law, corrupt our youth, and disturb the tranquility of our streets. They are a problem we all now face, and they are a driving force in the crime wave which this Congress and the Federal Government must address, in partnership with our States and communities and with law enforcement authorities at all levels.

What do we propose to do about it? First, we hope to work constructively with our colleagues from the other side of the aisle to deal with the problems of gangs and youth violence. We were able to do that in 1994. Senator BIDEN, who was then chairman of the Senate Judiciary Committee, worked tirelessly to ensure passage of the 1994 crime law. The Democratic youth violence bill we introduce today has been crafted under the leadership of Senator DASCHLE and reflects the contributions of Senators BIDEN, KOHL, FEINSTEIN, KENNEDY, and others.

This Democratic leadership bill builds on the successes of the 1994 crime law, which is putting 100,000 cops on our Nation's streets and increased prevention and intervention efforts to keep children safe from crime and drugs. Specifically, our bill will:

Expand the community oriented policing [COPS] Program to put 25,000 more cops on the beat;

Continue the Violence Against Women Act by providing $600 million to prosecute batterers, shelter 400,000 battered women and their children and continue the national domestic violence hotline; and

Provide $5 billion to build prisons so that States requiring serious violent offenders to serve at least 85 percent of their sentences will be better able to house criminals.

The Democratic crime bill also looks to the future with new laws and programs to crack down on violent youth and gang violence. These measures target the use of "gang paraphernalia," the spread of gang "franchises," the intimidation of witnesses, and reform of the juvenile justice system, with more protection for the victims of juvenile crime.

Specifically, our bill would increase the penalties for illegally using "gang paraphernalia" such as body armor and laser sighting devices. Police officers use kevlar vests to protect their lives and hence our public safety. When criminals use kevlar vests, they do so to ensure their escape and enjoy the fruits of their crime. Under this bill, they would get more time when they are caught using such body armor in the commission of a crime.

The bill also makes it easier for law enforcement to use clone beepers to investigate gang activity. Beepers are how gang members and drug dealers keep in touch with each other. One tool law enforcement uses to investigate these criminals is a "clone beeper," which displays the same numbers displayed on the beepers of targeted criminals. This bill will permit law enforcement to get a clone beeper with the same kind of court order they already use to get information on the numbers dialed to or from a telephone. This is not to be confused with wiretap order to eavesdrop on what people say; clone beepers only give information on the numbers displayed on the beeper. The bill will speed up the process for law enforcement to get "clone beepers."

Our bill would double the penalty for using physical violence or threatening physical violence against witnesses, victims or informants. Nothing undermines our system of justice more than scaring people away from providing information that helps the police, prosecutors, judges and juries from finding the truth.

The bill would create a new Federal crime for expanding gangs across State borders and increase penalties for using firearms to commit drug trafficking crimes and crimes of violence.

We also propose several needed changes in the juvenile justice system to respond to the need to crack down on violent youth with the full force of the law. This means increasing the incarceration periods for juvenile offenders so that they may be incarcerated until the age of 26 instead of mandatory release at the age of 21, streamlining procedures for prosecuting violent juveniles as adults, and building more prisons to incarcerate juvenile offenders. In addition, our bill creates new juvenile gun and drug courts to speed prosecution and sentencing for drug abuse and weapons violations.

The bill also improves the rights of victims of violent juvenile crime. Whether the perpetrator of a violent crime is an adult or a juvenile, the victim should have the opportunity to speak to the sentencing judge and be entitled to restitution.

Drugs have had a devastating effect on our society. It is clear that no solution to the juvenile crime problem will work if it does not address the role that drug abuse and drug trafficking play in creating unsafe environments for our children. For this reason, the Democratic crime bill includes measures to prevent and treat youth drug addiction. These measures include:

Providing $200 million investment in research and development of medicines to treat heroin and cocaine addiction; and

Extending the drug courts program to force more than 500,000 adult and juvenile drug offenders to engage in a rigorous drug testing and drug treatment—or face certain imprisonment.

We also protect children from becoming the victims of crime, with programs that would keep children like Darryl Hall in safer environments. These measures include:

Extending the Safe and Drug Free Schools Program; and

Creating after-school "safe havens" where children are protected from drugs, gangs and crime in supervised and productive environments.

In Vermont, we have a very successful program called "Kids 'N Kops" that brings school-age children and our law enforcement officers together in a fun and constructive way. Last spring, the attorney general attended an annual event in Vermont celebrating this program and urged that the program be replicated elsewhere in the country. This bill would help make that a reality.

Youth crime has many causes, and no one bill can solve them all. But that should not paralyze us from taking sensible steps, in partnership with States and communities of all sizes and in all regions of the Nation, to begin turning the tables on youth crime and drug abuse. This bill proposes a balanced approach combining strong, targeted law enforcement measures with the prevention efforts that law enforcement officers on the front lines tell us are necessary to make a dent in the problem.

In the final stages, the 1994 crime bill was passed over vigorous partisan obstacles and objections, and crime bills often spark some of our most partisan debates. But this time, we truly have the opportunity to pass a bipartisan bill with the active support of a President who is making youth crime prevention a priority in his second term and who supports the thrust of what we are proposing in this package. We have come forward with balanced, commonsense solutions to youth crime. We should debate and refine this bill as we go along, but these are not suggestions that should divide us along party lines.

We look forward to working with the administration, our Republican colleagues and the Department of Justice—which has demonstrated its ability to move effectively in implementing anti-crime initiatives—in bringing these proposals to Congress' front burner for debate and prompt action.

Mr. BREAUX. Mr. President, I am pleased to be an original cosponsor of this Democratic leadership bill—the youth violence, crime, and drug abuse bill.

Crime ranks among the highest concerns of all Americans, no matter what their race or social background. Louisiana is no exception. In a recent poll, 86 percent of Louisianians said crime is a serious problem, ranking it as the No. 1 problem in our State. The city of New Orleans is experiencing a murder rate that is eight times higher than the national average. People want us and their local governments and State governments to do something about this problem.

The Federal Bureau of Investigation recently released statistics showing that serious and violent crime dropped nationwide in the first half of last year. It is good news, certainly, that violent crime in this country has gone down; but the bad news is that juvenile crime is on the increase. Youth crimes, particularly homicides perpetrated with guns, have skyrocketed. The average cost of incarcerating a juvenile for just 1 year is somewhere between $23,000 and $64,000. I strongly support this Democratic legislation because it focuses directly on juveniles, punishes violent youthful offenders, and provides more access to treatment and prevention programs.

We must continue the success of the COPS Program and put 25,000 more cops on the beat. We must create a new Federal crime targeting the interstate franchising spread of criminal street gangs and other changes aimed at gang violence, such as increasing the penalties for witness intimidation. We must extend the drug court program to force some 500,000 drug offenders to engage in rigorous drug testing and treatment, or face imprisonment and, finally, we must continue to provide funds to arrest and prosecute batterers and shelter 400,000 battered women. Mr. President, this bill includes all of these provisions, and I would urge my colleagues to support it.

For the sake of generations to come, it is time that we attack crime with a renewed vigor. Today's juvenile criminal becomes tomorrow's adult criminal. We must pass this legislation.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. JOHNSON, Mr. DORGAN, Mr. CONRAD, Mr. KERREY, Mr. BAUCUS, Mr. BINGAMAN, Mr. KOHL, Mr. FEINGOLD, Mr. LEAHY, and Mr. WELLSTONE):

S. 16. A bill to ensure the continued viability of livestock producers and the livestock industry in the United States, to assure foreign countries do not deny market access to United States meat and meat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE CATTLE INDUSTRY IMPROVEMENT ACT OF 1997

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 16

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cattle Industry Improvement Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CATTLE INDUSTRY IMPROVEMENT

Sec. 101. Prohibition on noncompetitive practices.
Sec. 102. Domestic market reporting.
Sec. 103. Import reporting.
Sec. 104. Protection of livestock producers against retaliation by packers.
Sec. 105. Review of Federal agriculture credit policies.
Sec. 106. Streamlining and consolidating the United States food inspection system.
Sec. 107. Labeling system for meat and meat food products produced in the United States.
Sec. 108. Sense of Senate on interstate shipment of State-inspected meat, poultry, and eggs.
Sec. 109. Exchange of cattle production data with Canada.

TITLE II—MARKET ACCESS FOR UNITED STATES MEAT PRODUCTS

Sec. 201. Short title.

Subtitle A—Identification of Countries

Sec. 211. Findings; purposes.
Sec. 212. Identification of countries that deny market access.
Sec. 213. Investigations.
Sec. 214. Authorized actions by United States Trade Representative.

Subtitle B—Review of Third Country Meat Directive

Sec. 221. Findings.
Sec. 223. Definitions.
Sec. 224. Requirement for determination by United States Trade Representative.
Sec. 225. Request for dispute settlement.
Sec. 226. Review of certain meat facilities.

TITLE I—CATTLE INDUSTRY IMPROVEMENT

SEC. 101. PROHIBITION ON NONCOMPETITIVE PRACTICES.

Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) in subsection (g), by striking the period at the end and inserting "; or"; and

(2) by adding at the end the following:

"(h) Engage in any practice or device that the Secretary by regulation, after consultation with producers of cattle, lamb, and hogs, and other persons in the cattle, lamb, and hog industries, determines is a detrimental noncompetitive practice or device relating to the price or a term of sale for the procurement of livestock or the sale of meat or other byproduct of slaughter.".

SEC. 102. DOMESTIC MARKET REPORTING.

(a) PERSONS IN SLAUGHTER BUSINESS.—Section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)) is amended—

(1) by striking "(g) To" and inserting the following:

"(g) COLLECTION AND DISSEMINATION OF MARKETING INFORMATION.—

"(1) IN GENERAL.—To"; and

(2) by adding at the end the following:

"(2) DOMESTIC MARKET REPORTING.—

"(A) MANDATORY REPORTING.—Each person engaged in the business of slaughtering a quantity of livestock determined by the Secretary shall report to the Secretary in such manner as the Secretary shall require, as soon as practicable but not later than 24 hours after a transaction takes place, such information relating to prices and the terms of sale for the procurement of livestock and the sale of meat food products and livestock products as the Secretary determines is necessary to carry out this subsection.

"(B) NONCOMPLIANCE.—Whoever knowingly fails or refuses to provide to the Secretary information required to be reported by subparagraph (A) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

"(C) VOLUNTARY REPORTING.—The Secretary shall encourage voluntary reporting by any person engaged in the business of slaughtering livestock who is not subject to subparagraph (A).

"(D) AVAILABILITY OF INFORMATION.—The Secretary shall make information received under this subsection available to the public only in the aggregate and shall ensure the confidentiality of persons providing the information.

"(E) TERMINATION OF AUTHORITY.—The authority provided by this paragraph shall terminate on the date that is 1 year after the date of enactment of this paragraph, except that the Secretary may extend the authority beyond that date if the Secretary determines the extension is necessary or appropriate.".

(b) ELIMINATION OF OUTMODED REPORTS.—The Secretary of Agriculture, after consultation with producers and other affected parties, shall periodically—

(1) eliminate obsolete reports; and

(2) streamline the collection and reporting of data related to livestock and meat and livestock products, using modern data communications technology, to provide information to the public on as close to a real-time basis as practicable.

(c) DEFINITION OF "CAPTIVE SUPPLY".—For the purpose of regulations issued by the Secretary of Agriculture relating to reporting under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) and the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), the term "captive supply" means livestock obligated to a packer in any form of transaction in which more than 7 days elapses from the date of obligation to the date of delivery of the livestock.

SEC. 103. IMPORT REPORTING.

(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Commerce shall, using modern data communications technology to provide the information to the public on as close to a real-time basis as practicable, jointly make available to the public aggregate price and quantity information on imported meat food products, livestock products, and livestock (as the terms are defined in section 2 of the Packers and Stockyards Act, 1921 (7 U.S.C. 182)).

(b) FIRST REPORT.—The Secretaries shall release to the public the first report under subsection (a) not later than 60 days after the date of enactment of this Act.

SEC. 104. PROTECTION OF LIVESTOCK PRODUCERS AGAINST RETALIATION BY PACKERS.

(a) RETALIATION PROHIBITED.—Section 202(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192(b)), is amended—

(1) by striking "or subject" and inserting "subject"; and

(2) by inserting before the semicolon at the end the following: ", or retaliate against any livestock producer on account of any statement made by the producer (whether made to the Secretary or a law enforcement agency or in a public forum) regarding an action of any packer".

(b) SPECIAL REQUIREMENTS REGARDING ALLEGATIONS OF RETALIATION.—Section 203 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193), is amended by adding at the end the following:

"(e) SPECIAL PROCEDURES REGARDING ALLEGATIONS OF RETALIATION.—

"(1) CONSIDERATION BY SPECIAL PANEL.—The President shall appoint a special panel consisting of 3 members to receive and initially consider a complaint submitted by any person that alleges prohibited packer retaliation under section 202(b) directed against a livestock producer.

"(2) COMPLAINT; HEARING.—If the panel has reason to believe from the complaint or resulting investigation that a packer has violated or is violating the retaliation prohibition under section 202(b), the panel shall notify the Secretary who shall cause a complaint to be issued against the packer, and a hearing conducted, under subsection (a).

"(3) EVIDENTIARY STANDARD.—In the case of a complaint regarding retaliation prohibited under section 202(b), the Secretary shall find that the packer involved has violated or is violating section 202(b) if the finding is supported by a preponderance of the evidence.".

(c) DAMAGES FOR PRODUCERS SUFFERING RETALIATION.—Section 203 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193) (as amended by subsection (b)), is amended by adding at the end the following:

"(f) DAMAGES FOR PRODUCERS SUFFERING RETALIATION.—

"(1) IN GENERAL.—If a packer violates the retaliation prohibition under section 202(b), the packer shall be liable to the livestock producer injured by the retaliation for not more than 3 times the amount of damages sustained as a result of the violation.

"(2) ENFORCEMENT.—The liability may be enforced either by complaint to the Secretary, as provided in subsection (e), or by suit in any court of competent jurisdiction.

"(3) OTHER REMEDIES.—This subsection shall not abridge or alter a remedy existing at common law or by statute. The remedy provided by this subsection shall be in addition to any other remedy.".

SEC. 105. REVIEW OF FEDERAL AGRICULTURE CREDIT POLICIES.

The Secretary of Agriculture, in consultation with the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Board of the Farm Credit Administration, shall establish an interagency working group to study—

(1) the extent to which Federal lending practices and policies have contributed, or are contributing, to market concentration in the livestock and dairy sectors of the national economy; and

(2) whether Federal policies regarding the financial system of the United States adequately take account of the weather and price volatility risks inherent in livestock and dairy enterprises.

SEC. 106. STREAMLINING AND CONSOLIDATING THE UNITED STATES FOOD INSPECTION SYSTEM.

(a) PREPARATION.—In consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and all other interested parties, the President shall prepare a plan to consolidate the United States food inspection system that ensures the best use of available resources to improve the consistency, coordination, and effectiveness of the United States food inspection system, taking into account food safety risks.

(b) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress the plan prepared under subsection (a).

SEC. 107. LABELING SYSTEM FOR MEAT AND MEAT FOOD PRODUCTS PRODUCED IN THE UNITED STATES.

(a) LABELING.—Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

"(g) LABELING OF MEAT OF UNITED STATES ORIGIN.—

"(1) IN GENERAL.—The Secretary shall develop a system for the labeling of carcasses, parts of carcasses, and meat produced in the United States from livestock raised in the United States, and meat food products produced in the United States from the carcasses, parts of carcasses, and meat, to indicate the United States origin of the carcasses, parts of carcasses, meat, and meat food products.

"(2) ASSISTANCE.—The Secretary shall provide technical and financial assistance to establishments subject to inspection under this title to implement the labeling system.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.".

SEC. 108. SENSE OF SENATE ON INTERSTATE SHIPMENT OF STATE-INSPECTED MEAT, POULTRY, AND EGGS.

It is the sense of the Senate that—

(1) not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture should convene a public meeting of State inspection officials and all other interested parties to determine whether the interstate shipment of State-inspected meat, poultry, and egg products should be permitted; and

(2) the meeting should be structured to ensure that all parties are given an opportunity to present their views on the subject described in paragraph (1).

SEC. 109. EXCHANGE OF CATTLE PRODUCTION DATA WITH CANADA.

The Secretary of Agriculture shall seek immediate consultation with the Minister of Agriculture of Canada to provide for a regular monthly exchange of cattle production data, including cattle on feed, cattle slaughtered, and cattle and beef shipped to the United States.

TITLE II—MARKET ACCESS FOR UNITED STATES MEAT PRODUCTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Meat Products Market Access Act of 1997".

Subtitle A—Identification of Countries

SEC. 211. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The export of meat and meat products is of vital importance to the economy of the United States.

(2) In 1995, agriculture was the largest positive contributor to the United States merchandise trade balance with a trade surplus of $25,800,000,000.

(3) The growth of exports of United States meat and meat products should continue to be an important factor in improving the United States merchandise trade balance.

(4) Increasing exports of meat and meat products will increase farm income in the United States, thereby protecting family farms and contributing to the economic well-being of rural communities in the United States.

(5) Although the United States efficiently produces high-quality meat and meat products, United States producers cannot realize their full export potential because many foreign countries deny fair and equitable market access to United States agricultural products.

(6) The Foreign Agricultural Service estimates that United States agricultural exports are reduced by $4,700,000,000 annually due to unjustifiable imposition of sanitary and phytosanitary measures that deny or limit market access to United States products.

(7) The denial of fair and equitable market access for United States meat and meat products impedes the ability of United States farmers to export their products, thereby harming the economic interests of the United States.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to reduce or eliminate foreign unfair trade practices and to remove constraints on fair and open trade in meat and meat products;

(2) to ensure fair and equitable market access for exports of United States meat and meat products; and

(3) to promote free and fair trade in meat and meat products.

SEC. 212. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS.

(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

"SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS FOR MEAT AND MEAT PRODUCTS.

"(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the annual report is required to be submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative') shall identify—

"(1) those foreign countries that—

"(A) deny fair and equitable market access to United States meat and meat products, or

"(B) apply standards for the importation of meat and meat products from the United States that are not related to public health concerns or cannot be substantiated by reliable analytical methods; and

"(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

"(b) SPECIAL RULES FOR IDENTIFICATIONS.—

"(1) CRITERIA.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

"(A) that engage in or have the most onerous or egregious acts, policies, or practices that deny fair and equitable market access to United States meat and meat products,

"(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

"(C) that are not—

"(i) entering into good faith negotiations, or "(ii) making significant progress in bilateral or multilateral negotiations,

to provide fair and equitable market access to United States meat and meat products.

"(2) CONSULTATION AND CONSIDERATION REQUIREMENTS.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

"(A) consult with the Secretary of Agriculture and other appropriate officers of the Federal Government, and

"(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

"(3) FACTUAL BASIS REQUIREMENT.—The Trade Representative may identify a foreign country under subsection (a)(1) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

"(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

"(A) the history of meat and meat products trade relations with the foreign country, including any previous identification under subsection (a)(2), and

"(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair and equitable market access for United States meat and meat products.

"(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

"(1) AUTHORITY TO ACT AT ANY TIME.—If information available to the Trade Representative indicates that such action is appropriate, the Trade Representative may at any time—

"(A) revoke the identification of any foreign country as a priority foreign country under this section, or

"(B) identify any foreign country as a priority foreign country under this section.

"(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

"(d) FAIR AND EQUITABLE MARKET ACCESS.—For purposes of this section, a foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product through the use of laws, procedures, practices, or regulations which—

"(1) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

"(2) constitute discriminatory nontariff trade barriers.

"(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of the action under subsection (c).

"(f) ANNUAL REPORT.—The Trade Representative shall, not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving fair and equitable market access for United States meat and meat products.".

(b) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 182 the following:

"Sec. 183. Identification of countries that deny market access for meat and meat products.".

SEC. 213. INVESTIGATIONS.

(a) INVESTIGATION REQUIRED.—Subparagraph (A) of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)) is amended by inserting "or 183(a)(2)" after "section 182(a)(2)" in the matter preceding clause (i).

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 302(b)(2) of such Act is amended by inserting "concerning intellectual property rights that is" after "any investigation".

SEC. 214. AUTHORIZED ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

Section 301(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D)(iii)(II) and inserting "; or"; and

(3) by adding at the end the following:

"(E) with respect to an investigation of a country identified under section 183(a)(1), to request that the Secretary of Agriculture (who, upon receipt of such a request, shall) direct the Food Safety and Inspection Service of the Department of Agriculture to review certifications for the facilities of such country that export meat and other agricultural products to the United States.".

Subtitle B—Review of Third Country Meat Directive

SEC. 221. FINDINGS.

Congress makes the following findings:

(1) The European Union's Third Country Meat Directive has been used to decertify more than 400 United States facilities exporting beef and pork products to the European Union even though United States health inspection procedures are equivalent to those provided for in the Third Country Meat Directive.

(2) An effect of the decertifications is to prohibit the importation of United States beef and pork products into the European Union.

(3) As a result of the decertifications, the highly competitive United States pork industry loses as much as $60,000,000 each year from trade with European Union countries.

(4) In July 1987 and November 1990, at the request of affected United States industries, the United States initiated investigations under section 301 of the Trade Act of 1974 into the European Union's administration of the Third Country Meat Directive and sought resolution of the meat and pork trade problems through the dispute settlement process established under the General Agreement on Tariffs and Trade.

(5) The United States Trade Representative preliminarily concluded on October 10, 1992, that the European Union's administration of the Third Country Meat Directive created a burden on and restricted United States commerce.

(6) Bilateral talks, initiated as a result of that finding, resulted in an Exchange of Letters in which the United States and the European Union concluded that the meat inspection systems of the United States and the European Union provided "equivalent safeguards against public health risks" and agreed to take steps to resolve remaining differences regarding meat inspection.

(7) Even though the United States terminated the section 301 investigation as a result of the Exchange of Letters, the United States determined that the practices under investigation would have been actionable if an acceptable agreement had not been reached.

(8) United States meat and pork producers have displayed consistent interest in exporting products to the European Union and have undertaken substantial investment to take the steps specified by the Exchange of Letters.

(9) The European Union has failed to acknowledge changes in plant safety and inspection procedures undertaken in the United States specifically at the European Union's request and has not fulfilled its obligation to inspect and relist United States producers who have taken the steps specified by the Exchange of Letters.

(10) The actions of the European Union in conducting United States plant inspections places the European Union in violation of commitments made in the Exchange of Letters.

(11) The European Union, in addition to being a party to the Exchange of Letters, is a signatory to GATT 1994 and to the Agreement on the Application of Sanitary and Phytosanitary Measures, which requires that meat and pork inspection procedures under Department of Agriculture regulations be treated as equivalent to inspection procedures required by the European Union under the Third Country Meat Directive.

(12) Whenever a foreign country is not satisfactorily implementing an international trade measure or agreement, the United States Trade Representative is required under section 306(b)(1) of the Trade Act of 1974 (19 U.S.C. 2416(b)(1)) to determine the actions to be taken under section 301(a) of such Act.

SEC. 222. DEFINITIONS.

For purposes of this subtitle:

(1) EXCHANGE OF LETTERS.—The term "Exchange of Letters" means the exchange of letters concerning the application of the Community Third Country Directive, signed in May 1991 and November 1992, which constitute the agreement between the United States and the European Economic Community regarding the Third Country Meat Directive.

(2) GATT 1994.—The term "GATT 1994" means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

(3) THIRD COUNTRY MEAT DIRECTIVE; COMMUNITY THIRD COUNTRY DIRECTIVE.—The terms "Third Country Meat Directive" and "Community Third Country Directive" mean the European Union's Council Directive 72/462/EEC relating to inspection and certification of slaughter and processing plants that export meat and pork products to the European Union.

(4) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement establishing the World Trade Organization entered into on April 15, 1994.

SEC. 224. REQUIREMENT FOR DETERMINATION BY UNITED STATES TRADE REPRESENTATIVE.

Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall determine, for purposes of section 306(b)(1) of the Trade Act of 1974, whether the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement.

SEC. 225. REQUEST FOR DISPUTE SETTLEMENT.

If the United States Trade Representative determines under section 224 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the agreement.

SEC. 226. REVIEW OF CERTAIN MEAT FACILITIES.

(a) REVIEW BY FOOD SAFETY AND INSPECTION SERVICE.—If the United States Trade Representative determines pursuant to section 224 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement, the United States Trade Representative shall request the Secretary of Agriculture (who, upon receipt of the request, shall) direct the Food Safety and Inspection Service of the Department of Agriculture to review certifications for European Union facilities that import meat and other agricultural products into the United States.

(b) RELATIONSHIP TO USTR AUTHORITY.—The review authorized under subsection (a) is in addition to the authority of the United States Trade Representative to take actions described in section 301(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)).

By Mr. DASCHLE (for himself, Mr. BREAUX, Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. DORGAN, Mr. JOHNSON, Mr. ROCKEFELLER, Mr. KERRY, Ms. MOSELEY-BRAUN, Mr. REID, and Mr. LAUTENBERG):

S. 17. A bill to consolidate certain Federal job training programs by developing a system of vouchers to provide to dislocated workers and economically disadvantaged adults the opportunity to choose the type of job training that most closely meets the needs of such workers and adults, by establishing a one-stop career center system to provide high quality job training and employment-related services, and for other purposes; to the Committee on Labor and Human Resources.

THE WORKING AMERICANS OPPORTUNITY ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 17

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Working Americans Opportunity Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—JOB TRAINING VOUCHERS

Sec. 101. Establishment.
Sec. 102. Individual choice.
Sec. 103. Eligibility.
Sec. 104. Obtaining a voucher.
Sec. 105. Oversight and accountability.
Sec. 106. Eligibility requirements for job training providers.
Sec. 107. Evaluation of voucher system.
Sec. 108. Apportionment of funds.

TITLE II—CONSOLIDATION OF FEDERAL JOB TRAINING PROGRAMS

Sec. 201. Consolidation of programs.

TITLE III—EMPLOYMENT-RELATED INFORMATION AND SERVICES THROUGH ONE-STOP CAREER CENTERS

Sec. 301. One-stop career centers.
Sec. 302. Access to information.
Sec. 303. Direct loans to United States workers.

TITLE IV—REPORTS AND PLANS

Sec. 401. Consolidation and streamlining.
Sec. 402. Report relating to income support.

TITLE V—GENERAL PROVISIONS

Sec. 501. Authorization of appropriations.
Sec. 502. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) increasing international competition, technological advances, and structural changes in the economy of the United States present new challenges to private firms and public policymakers in creating a skilled workforce with the ability to adapt to change and progress;

(2) a substantial number of workers in the United States lose jobs due to the constantly changing world and national economies rather than cyclical downturns, with more than 2,000,000 full-time workers permanently displaced annually due to plant closures, production cutbacks, and layoffs;

(3) the current response of the Federal Government to dislocation and structural employment is a patchwork of categorical programs, with varying eligibility requirements and different sets of services and benefits;

(4) the lack of coherence among existing Federal job training programs creates administrative and regulatory obstacles that hamper the efforts of individuals who are seeking new jobs or reemployment;

(5) enacted in 1944, the Servicemen's Readjustment Act of 1944, (commonly known as the "G.I. Bill of Rights"), helped millions of World War II veterans and, later, Korean and Vietnam War veterans, finance college educations and assisted in building the middle class of the United States;

(6) restructuring the current job training system, with respect to dislocated and disadvantaged workers, in a manner that is conceptually similar to the G.I. Bill of Rights will help millions of workers in the United States to become more competitive in today's dynamic world economy, in which most of the workers—

(A) can expect to move to new jobs a number of times, voluntarily or by layoff; and

(B) must upgrade their skills continuously;

(7) success in this ever-changing environment depends, in part, on an individual's effective management of the individual's career based on personal choice and reliable information;

(8) there is insufficient job market information and assistance regarding access to job training opportunities that lead to good employment opportunities;

(9) only a small fraction of individuals eligible for current Federal job training are now served, and by removing obstacles and layers of administrative costs, more funds will be made available to individuals to enable such individuals to receive the job training of their choice; and

(10) while the Federal Government proceeds to create a new marketplace for job training, the Federal Government must also maintain a commitment to providing intensive services to assist individuals who are economically disadvantaged adults.

(b) PURPOSES.—The purposes of this Act are to—

(1) enhance the choices available to dislocated workers, and economically disadvantaged adults, who want to upgrade their work skills and learn new skills to compete in a changing economy;

(2) enable individuals to make choices that are best for the careers of such individuals;

(3) consolidate job training programs and provide a simple voucher system that relies on individual choice and provides high quality job market information;

(4) allow an individual to tailor job training and education to the personal needs of such individual so that such individual may remain in long-term employment yet have the means to be flexible when necessary; and

(5) create a system that provides timely and reliable information to individuals to use to assist such individuals in making the best choices with respect to the use of vouchers for job training.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private nonprofit organization that—

(A) is representative of a community or a significant segment of a community; and

(B) provides job training and employment-related services.

(2) DISLOCATED WORKER.—

(A) IN GENERAL.—The term "dislocated worker" means an individual who—

(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment, is eligible for or has exhausted entitlement to unemployment compensation, and is unlikely to return to a previous industry or occupation;

(ii) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(iii) has been unemployed long-term and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individual resides, including an older individual who may have substantial barriers to employment by reason of age;

(iv) was self-employed (including a farmer, a rancher, and a fisher) and is unemployed as a result of general economic conditions in the community in which such individual resides or because of a natural disaster, subject to regulations prescribed by the Secretary; or

(v) is an employee of the Department of Defense or of a private defense contractor who has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of the closure or realignment of a military installation, or a reduction in defense spending as determined by the Secretary of Defense.

(B) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—The Secretary of Labor shall establish categories of self-employed individuals and of economic conditions and natural disasters to which subparagraph (A)(iv) applies.

(C) SPECIAL RULE FOR DISPLACED HOMEMAKERS.—The term "dislocated worker" shall, for the purpose of applying provisions related to job training and employment-related services under titles I and III within a State, include a displaced homemaker (as defined by the Secretary of Labor in regulation), if the State determines that such definition of the term is appropriate and will not adversely affect the delivery of services to other dislocated workers in the State.

(3) ECONOMICALLY DISADVANTAGED ADULT.—The term "economically disadvantaged adult" means an individual who is age 18 or older and who had received an income, or is a member of a family that had received a total family income, for the 6-month period prior to application for the activity involved (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, does not exceed the higher of—

(A) the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for an equivalent period; or

(B) 70 percent of the lower living standard income level, for an equivalent period.

(4) JOB TRAINING PROVIDER.—The term "job training provider" means a public agency, private nonprofit organization, or private for-profit entity that delivers job training.

(5) SERVICE DELIVERY AREA.—The term "service delivery area" means an area established under section 101 of the Job Training Partnership Act (29 U.S.C. 1511).

(6) STATE.—The term "State", used to refer to a jurisdiction, means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(7) WORKFORCE DEVELOPMENT ENTITY.—The term "workforce development entity" means a private industry council as described in section 102 of the Job Training Partnership Act (29 U.S.C. 1512), or such successor entity as may be established by Federal statutory law specifically to serve as such entity.

TITLE I—JOB TRAINING VOUCHERS

SEC. 101. ESTABLISHMENT.

The Secretary of Labor shall, pursuant to the requirements of this title, establish a job training system that provides vouchers to individuals for the purpose of enabling the individuals to obtain job training.

SEC. 102. INDIVIDUAL CHOICE.

(a) IN GENERAL.—Upon notification of approval of an application submitted under section 104, an individual may receive a voucher for a 2-year period, beginning on the date on which the application is approved.

(b) USE OF VOUCHERS FOR JOB TRAINING.—

(1) IN GENERAL.—An individual who is a recipient of a voucher under subsection (a) may use such voucher to pay for job training obtained from a job training provider that meets the requirements of section 106.

(2) AUTHORIZED JOB TRAINING.—The job training described in paragraph (1) may include training through—

(A) associate degree and nondegree programs at—

(i) two- and four-year colleges;

(ii) vocational and technical education schools;

(iii) private for-profit and not-for-profit training organizations;

(iv) public agencies and schools; and

(v) community-based organizations;

(B) employer work-based training programs; and

(C) in the case of individuals who are economically disadvantaged adults, preemployment training programs.

SEC. 103. ELIGIBILITY.

An individual shall be eligible to receive a voucher under this title if such individual is—

(1) a dislocated worker; or

(2) an economically disadvantaged adult.

SEC. 104. OBTAINING A VOUCHER.

(a) APPLICATION.—An individual who desires to receive a voucher under this title shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) ASSISTANCE TO APPLICANTS.—

(1) ONE-STOP CAREER CENTERS.—Each one-stop career center established under section 301 shall—

(A) provide applications for vouchers under this title to interested individuals, assist such individuals in completing such applications, and collect completed applications for determination of eligibility;

(B) provide performance-based information to the applicants relating to job training providers eligible to receive payment by vouchers in accordance with section 106;

(C) provide information to the applicants on—

(i) the local economy and availability of employment;

(ii) profiles of local industries; and

(iii) details of local labor market demand; and

(D) carry out such other duties relating to the voucher system as may be specified in regulations issued by the Secretary of Labor.

(2) CONFLICT OF INTEREST STANDARDS.—The Secretary of Labor shall issue regulations establishing procedures to ensure that a one-stop career center that is operated by an entity that is concurrently an eligible job training provider under the voucher system provides information to the applicants relating to the other eligible job training providers in the service delivery area in an objective and equitable manner.

SEC. 105. OVERSIGHT AND ACCOUNTABILITY.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall issue regulations that—

(1) specify the—

(A) voucher application requirements;

(B) form of the vouchers;

(C) use of the vouchers;

(D) method of redemption of the vouchers;

(E) most expeditious and effective process of distribution (consistent with the findings and purposes of this Act) of the vouchers to eligible individuals; and

(F) the arrangements necessary to phase in the voucher system in each State in a timely manner;

(2) specify the duties and responsibilities of job training providers under a voucher system under this title;

(3) specify the Federal and State responsibilities in oversight of job training providers, including the enforcement responsibilities and the determination of administrative costs with respect to the voucher system under this title; and

(4) specify the manner in which economically disadvantaged adults will receive adequate counseling and support services necessary to take full advantage of voucher assistance under this title.

(b) PUBLIC COMMENT.—In issuing regulations under subsection (a), the Secretary of Labor shall provide an opportunity for comment from the public, including the business community, labor organizations, and community-based organizations.

SEC. 106. ELIGIBILITY REQUIREMENTS FOR JOB TRAINING PROVIDERS.

(a) ELIGIBILITY REQUIREMENTS.—A job training provider shall be eligible to receive payment by vouchers under this title if such provider—

(1) is—

(A) eligible to participate in programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(B) determined to be eligible under the procedure described in subsection (b); and

(2) provides the performance-based information required pursuant to subsection (c).

(b) ALTERNATIVE ELIGIBILITY PROCEDURE.—

(1) IN GENERAL.—The State shall establish an alternative eligibility procedure for job training providers desiring to receive payment by vouchers under this title, but that are not eligible to participate in programs under title IV of the Higher Education Act of 1965.

(2) PROCEDURE REQUIREMENTS.—In establishing the procedure described in paragraph (1), the State shall establish minimum acceptable levels of performance for job training providers based on factors and guidelines developed by the Secretary of Labor in consultation with the Secretary of Education. Such factors shall be comparable in rigor and scope to the provisions of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099a et seq.) that are used to determine the eligibility of an institution of higher education to participate in programs under such title and are appropriate to the type of job training provider seeking eligibility under this subsection and the nature of the job training to be provided.

(3) LIMITATION.—Notwithstanding paragraph (1), if the participation of an institution of higher education in any of the programs under title IV of the Higher Education Act of 1965 is terminated, such institution shall not be eligible to receive funds under this title for a period of 2 years beginning on the date of such termination.

(c) PERFORMANCE-BASED INFORMATION.—

(1) CONTENTS.—The Secretary of Labor shall identify performance-based information that is to be submitted by job training providers desiring to receive payment by vouchers under this title. Such information may include information relating to—

(A) the percentage of students completing the programs conducted by a job training provider;

(B) the rates of licensure of graduates of the programs conducted by such job training provider;

(C) the percentage of graduates of the programs conducted by such job training provider that meet industry-specific skill standards;

(D) the rates of placement and retention in employment, and earnings of, the graduates of the programs conducted by such job training provider;

(E) the percentage of graduates of the programs conducted by such job training provider who obtained employment in an occupation related to such programs conducted by such provider; and

(F) the warranties or guarantees provided by such job training provider relating to the skill levels or employment to be attained by graduates of the programs conducted by such provider.

(2) ADDITIONS.—The State may, pursuant to the approval of the Secretary of Labor, prescribe additional performance-based information that shall be submitted by job training providers pursuant to this subsection.

(d) ADMINISTRATION.—

(1) STATE AGENCY.—The Governor shall designate a State agency to collect, verify, and disseminate the performance-based information submitted pursuant to subsection (c).

(2) APPLICATION.—A job training provider desiring to be eligible to receive funds under this title shall submit the information required under subsection (c) to the State agency designated under paragraph (1) at such time and in such form as such State agency may require.

(3) LIST OF ELIGIBLE PROVIDERS.—The State agency designated under paragraph (1) shall compile a list of eligible job training providers, accompanied by the performance-based information submitted, and disseminate such list and information to the one-stop career centers established under section 301, and other appropriate entities within the State.

(4) ACCURACY OF INFORMATION.—

(A) IN GENERAL.—If the State agency determines that a job training provider submitted inaccurate performance-based information under this subsection, such provider shall be disqualified from receiving funds under this title for a period of 2 years beginning on the date of such determination, unless such provider can demonstrate, to the satisfaction of the State agency designated pursuant to paragraph (1), that the information was provided in good faith.

(B) APPEAL.—The State shall establish a procedure for a job training provider to appeal a determination by a State agency that results in a disqualification under subparagraph (A). Such procedure shall provide an opportunity for a hearing and include appropriate time limits to ensure prompt resolution of the appeal.

(5) ASSISTANCE IN DEVELOPING INFORMATION.—The State agency designated under paragraph (1) may provide technical assistance to a job training provider in developing the performance-based information required under subsection (c). Such assistance may include facilitating the utilization of State administrative records, such as unemployment compensation wage records, and conducting other appropriate coordination activities.

(6) CONSULTATION.—The Secretary of Labor shall consult with the Secretary of Education regarding the eligibility of institutions of higher education to participate in programs under this title.

SEC. 107. EVALUATION OF VOUCHER SYSTEM.

The Secretary of Labor shall annually—

(1) monitor the effectiveness of the voucher system;

(2) evaluate the benefit of such system to voucher recipients under this title and the taxpayer; and

(3) submit information obtained from such evaluation to the appropriate committees of Congress.

SEC. 108. APPORTIONMENT OF FUNDS.

(a) IN GENERAL.—The Secretary of Labor shall, without in any way reducing the commitment of, or the level of effort by, the Federal Government to improve the job training, employment, and earnings of all workers and jobseekers (particularly in hard-to-serve communities), apportion sums appropriated under section 501 to each State for each fiscal year in accordance with subsections (b) and (c), to enable States and service delivery areas in the States to carry out this title and title III.

(b) ALLOCATION BY CATEGORY.—

(1) FUNDING FOR DISLOCATED WORKERS.—From the sums appropriated pursuant to section 501 for each fiscal year, the Secretary of Labor shall determine the portion of the sums to be made available for providing job training and employment-related services for dislocated workers under this title and title III, which shall be not less than the total amount made available to the States for such purpose for fiscal year 1997. The Secretary shall apportion such portion among the States, based on consideration of factors described in subsection (c), as appropriate.

(2) FUNDING FOR ECONOMICALLY DISADVANTAGED ADULTS.—From the sums appropriated pursuant to section 501 for each fiscal year, the Secretary of Labor shall determine the portion of the sums to be made available for providing job training and employment-related services for economically disadvantaged adults under this title and title III. The Secretary shall apportion such total amount among the States, based on consideration of factors described in subsection (c), as appropriate.

(c) CONSIDERATION OF FACTORS FOR APPORTIONMENT TO STATES.—The apportionment of the portions described in subsection (b) by the Secretary to each State shall be based on the following factors:

(1) The relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(2) The relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States.

(3) The relative number of individuals who have been unemployed for 15 weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(4) The relative number of economically disadvantaged adults who reside in each State as compared to the total number of such adults in all the States.

(d) STATE RESERVE.—

(1) DISLOCATED WORKER FUNDS.—From the amount apportioned to each State from the portion described in subsection (b)(1), the State may reserve to carry out State activities, including rapid response assistance (as described in section 314(b) of the Job Training Partnership Act, as in existence on the date of enactment of this Act (29 U.S.C. 1661c(b))) and State administration, an amount that is not greater than the proportion of funds reserved for State activities under title III of the Job Training Partnership Act, as in existence on such date (29 U.S.C. 1651 et seq.) for fiscal year 1997.

(2) ECONOMICALLY DISADVANTAGED ADULTS.—From the amount apportioned to each State from the portion described in subsection (b)(2), the State may reserve to carry out State activities, including State administration, an amount that is not greater than the proportion of funds reserved for State activities under part A of title II of the Job Training Partnership Act, as in existence on the date of enactment of this Act (29 U.S.C. 1601 et seq.) for fiscal year 1997.

(e) CONSIDERATION OF FACTORS FOR APPORTIONMENT TO SERVICE DELIVERY AREAS.—The apportionment of amounts received by each State under subsection (c), and not reserved under subsection (d), to service delivery areas within such State shall be based on the following factors:

(1) The relative number of unemployed individuals who reside in each service delivery area within the State as compared to the total number of unemployed individuals in all such service delivery areas.

(2) The relative excess number of unemployed individuals who reside in each service delivery area within the State as compared to the total excess number of unemployed individuals in all such service delivery areas.

(3) The relative number of individuals who have been unemployed for 15 weeks or more and who reside in each service delivery area within the State as compared to the total number of such individuals in all such service delivery areas.

(4) The relative number of economically disadvantaged adults who reside in each service delivery area within the State as compared to the total number of such adults in all such service delivery areas.

(f) FUNDS FOR VOUCHERS.—Not less than 75 percent of funds apportioned to a service delivery area under subsection (e) and used for job training under this Act by the service delivery area shall be made available in the form of vouchers to individuals in such area who are eligible under section 103.

(g) DEFINITION.—For purposes of this section, the term "excess number of unemployed individuals" means the number that represents unemployed individuals in excess of 4.5 percent of the civilian labor force in a State or service delivery area, as appropriate.

TITLE II—CONSOLIDATION OF FEDERAL JOB TRAINING PROGRAMS

SEC. 201. CONSOLIDATION OF PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the consolidation and streamlining of Federal job training programs should be accomplished without in any way reducing the commitment of, or the level of effort provided by, the Federal Government to improve the job training, employment, and earnings of all workers and jobseekers (particularly in hard-to-serve communities).

(b) REPEALS OF FEDERAL JOB TRAINING PROGRAMS.—The following provisions are repealed:

(1) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)).

(2) Section 106(b)(7) of the Job Training Partnership Act (29 U.S.C. 1516(b)(7)).

(3) Section 123 of such Act (29 U.S.C. 1533).

(4) Section 204(d) of such Act (29 U.S.C. 1604(d)).

(5) Part A of title II of such Act (29 U.S.C. 1601 et seq.).

(6) Section 302(c) of such Act (29 U.S.C. 1652(c)).

(7) Part A of title III of such Act (29 U.S.C. 1661 et seq.).

(8) Section 325 of such Act (29 U.S.C. 1662d).

(9) Section 325A of such Act (29 U.S.C. 1662d–1).

(10) Section 326 of such Act (29 U.S.C. 1662e).

(11) Sections 301 through 303 of such Act (29 U.S.C. 1651 et seq.).

(12) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(13) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.).

(14) Subchapter I of chapter 421 of title 49, United States Code.

(15) Title II of Public Law 95-250 (92 Stat. 172).

TITLE III—EMPLOYMENT-RELATED INFORMATION AND SERVICES THROUGH ONE-STOP CAREER CENTERS

SEC. 301. ONE-STOP CAREER CENTERS.

(a) ESTABLISHMENT.—Each service delivery area receiving funds under this Act shall develop and implement a network of one-stop career centers for the area to provide access for jobseekers, workers, and businesses to a comprehensive array of high quality job training described in section 102(b)(2) and employment-related services (including provision of information) described in subsections (f) and (g).

(b) PROCEDURES.—Each workforce development entity for a service delivery area, in conjunction with the appropriate local chief elected official for the area, shall negotiate with the State a method for establishing one-stop career centers (including designating one-stop career center operators) for the area, consistent with criteria established by the Secretary of Labor.

(c) ELIGIBLE ENTITIES.—Each entity within the service delivery area that provides the services specified in subsection (f) or (g) shall be eligible to be designated as a one-stop career center operator.

(d) PERFORMANCE STANDARDS.—The Secretary of Labor shall establish a performance standard system for assessing the performance of each one-stop career center operator.

(e) PERIOD OF SELECTION.—Each one-stop career center operator shall be designated for 2-year period. Every 2 years, the workforce development entity for a service delivery area shall reevaluate the designation of one-stop career center operators for the area, based on performance under the standards established under subsection (d).

(f) EMPLOYMENT-RELATED SERVICES TO INDIVIDUALS.—Each one-stop career center for a service delivery area may make available—

(1) outreach to make individuals aware of, and encourage the use of, services available from workforce development programs operating in the service delivery area;

(2) intake and orientation to the information and services available through the one-stop career center;

(3) assistance in filing initial claims for unemployment compensation;

(4) initial assessments (including appropriate testing) of the skill levels and service needs of individuals, including basic skills, occupational skills, work experience, employability, interest, aptitude, and supportive service needs;

(5) job search assistance, including resume and interview preparation and workshops;

(6) information relating to the supply, demand, price, and quality of job training available in each service delivery area in the State involved, including performance-based information provided pursuant to section 106(c);

(7) job market information, including—

(A) data on the local economy and availability of employment;

(B) profiles of local industries;

(C) details of local labor market demand; and

(D) local demographic and socioeconomic characteristics;

(8) referral to appropriate job training and employment services, and to other services described in this subsection, in the service delivery area;

(9) supportive services, including child care;

(10) job development; and

(11) counseling.

(g) EMPLOYMENT-RELATED SERVICES TO EMPLOYERS.—Each one-stop career center for a service delivery area may provide to employers, at the request of the employers—

(1) information relating to supply, demand, price, and quality of job training available in each service delivery area in the State;

(2) customized screening and referral of individuals for employment;

(3) customized assessment of skills of the workers of the employer;

(4) an analysis of the skill needs of the employer; and

(5) other specialized employment and training services.

SEC. 302. ACCESS TO INFORMATION.

(a) FINDINGS.—Congress finds that accurate, timely, and relevant data regarding employment, job training, job skills, and job training opportunities are useful for individuals making choices about the careers of such individuals.

(b) AUTHORITY.—The Secretary of Labor is authorized to make arrangements to develop and provide through one-stop career centers and other appropriate mechanisms relevant job market information to interested individuals, including voucher recipients under title I, jobseekers, employers, and workers.

SEC. 303. DIRECT LOANS TO UNITED STATES WORKERS.

(a) FINDINGS.—Congress finds that the William D. Ford Federal Direct Loan Program authorized by part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), is a valuable financing tool for United States workers who desire to take advantage of training and education programs, consistent with the goals of such workers, to learn new skills for careers that may bring higher salaries and improved quality of life.

(b) AWARENESS.—The Department of Education shall endeavor to make known the value and availability of direct loans through the William D. Ford Federal Direct Loan Program authorized by part D of title IV of the Higher Education Act of 1965 through cooperative arrangements with one-stop career centers, training and educational training programs, State agencies, and other Federal agencies.

TITLE IV—REPORTS AND PLANS

SEC. 401. CONSOLIDATION AND STREAMLINING.

(a) REPORT ON CONSOLIDATING NONCOVERED FEDERAL JOB TRAINING PROGRAMS.—Not later than January 1, 1998, and each year thereafter, the Secretary of Labor shall prepare and submit to Congress a report that describes how additional Federal job training programs not covered by this Act can be consolidated into a more integrated and accountable workforce development system that better meets the needs of jobseekers, workers, and business.

(b) PLAN ON USE OF COMMON DEFINITIONS, MEASURES, STANDARDS, AND CYCLES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall develop a plan that, wherever practicable, requires the Federal job training programs to use common definitions, common outcome measures, common eligibility standards, and common funding cycles in order to make such training programs more accessible.

SEC. 402. REPORT RELATING TO INCOME SUPPORT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) many dislocated workers and economically disadvantaged adults are unable to enroll in long-term job training because such workers and adults lack income support after unemployment compensation is exhausted;

(2) evidence suggests that long-term job training is among the most effective adjustment service in assisting dislocated workers and economically disadvantaged adults to obtain employment and enhance wages; and

(3) there is a need to identify options relating to how income support may be provided to enable dislocated workers and economically disadvantaged adults to participate in long-term job training.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prepare and submit to Congress a report that—

(1) examines the need for income support to enable dislocated workers and economically disadvantaged adults to participate in long-term job training;

(2) identifies options relating to how such income support may be provided to such workers and adults; and

(3) contains such recommendations as the Secretary of Labor determines are appropriate.

TITLE V—GENERAL PROVISIONS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out titles I and III such sums as may be necessary for each of fiscal years 1998 through 2002.

(b) PROGRAM YEAR.—Appropriations for any fiscal year for activities carried out under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

SEC. 502. EFFECTIVE DATE.

This Act shall take effect on July 1, 1998.

By Mr. LAUTENBERG (for himself, Mr. BAUCUS, Mr. REID, Mr. MOYNIHAN, Mr. GRAHAM, Mrs. BOXER, Mr. WYDEN, Mr. LEVIN, Mr. TORRICELLI, Mr. BREAUX, and Mr. KENNEDY):

S. 18. A bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes; to the Committee on Environmental and Public Works.

THE BROWNFIELDS AND ENVIRONMENTAL CLEANUP ACT OF 1997

Mr. LAUTENBERG. Madam President, today along with Senators DASCHLE, BAUCUS, MOYNIHAN, GRAHAM, HARRY REID, BOXER, WYDEN, LEVIN, TORRICELLI, SARBANES, and BREAUX, I am introducing the Brownfields and Environmental Cleanup Act of 1997. This legislation is designed to foster the cleanup of potentially thousands of toxic waste sites across this country, and just as importantly this bill is about jobs, about revenue, and economic opportunity, because it will help turn abandoned industrial sites into engines of economic development.

Madam President, I have been interested for a long time now in the issue of these abandoned, underutilized, and contaminated industrial sites, commonly known as brownfields. Our Nation's great industrial tradition was the lifeblood of our Nation's economy. But this industrial tradition also entailed tremendous environmental costs. Sites were contaminated, and then when the manufacturers, the companies left, the legacy remained behind. Today, decaying industrial plants define the skyline and contaminate the land in many of our urban areas. Their rusting frames, like aging skyscrapers, are a silent reminder of those manufacturers that left, taking inner-city jobs and often inner-city hope with them.

Yet, Madam President, in these foul fields may lie the seeds of urban revitalization, and I continue to feel as I did when I introduced similar legislation in 1993 and 1996, that a brownfields cleanup program can spur significant economic development and create jobs. This type of cleanup initiative makes good environmental sense and good business sense. To appreciate, one need only look at a few of the brownfields success stories from across the States. Now, these are sites again that do not qualify as a Superfund site because they are not toxic enough, but they lie there and they contaminate not only the aesthetics of the area but also the opportunity for jobs and for business investment.

A pilot project in Cleveland resulted in $3.2 million in private investment, a $1 million increase on the local tax base, and more than 170 new jobs. In Elizabeth, NJ, a former municipal landfill will be turned by the fall of 1998 into a major mall with 5,000 employees.

Madam President, the potential for job creation across the country is enormous, and every revitalized brownfields may represent for someone a field of dreams, especially to an unemployed urban worker.

While fostering jobs, brownfield cleanup also means that dangerous contaminants are removed from our environment, and the scars of decades of neglected industrial waste which disfigure our cities and suburbs and even rural areas may be finally allowed to heal. The Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in this country of ours 100,000 of these brownfield sites that do not fall under Superfund because of lower levels of contamination.

What do we do? We can't just watch them keep these communities from revitalizing themselves. The risks posed by many of these sites may be relatively low and others even nonexistent, because brownfields are abandoned or underutilized industrial or commercial sites where expansion or redevelopment is complicated by real or even perceived, not really factually established, environmental contamination. But their full economic use is being stymied because there is no ready mechanism for getting them evaluated or, if necessary, cleaned up, even when the owner of the property is ready, willing and eager to do so.

In addition, prospective purchasers and developers are reluctant to get involved in transactions with these properties because of their concern, however minimal, they might potentially create enormous environmental liability.

The challenge is to turn these abandoned properties into thriving businesses that can generate needed jobs and act as a catalyst for economic development.

My legislation would provide financial assistance in the form of grants to local and State governments to inventory and evaluate brownfields sites. This would enable interested parties to know what would be required to clean the site and what reuse would best suit the property.

My bill would also provide grants to State and local governments to establish and capitalize low-interest loan programs. These funds would be loaned to current owners, prospective purchasers and municipalities to facilitate voluntary cleanup actions where traditional lending mechanisms are just not available. The minimum seed money involved in the program would leverage substantial economic payoffs, as well as turning lands which may be of negative worth into assets for the future.

The bill also would limit the potential liability of innocent buyers of these properties, and it would set a standard to gauge when parties couldn't have reasonably known that the property was contaminated. So there is no hidden liability in there. There is no sudden surprise for someone who conscientiously and innocently made an investment, and suddenly they find they are liable for far, far more than their initial investment.

Madam President, cleaning up brownfields will mean a safer environment and more jobs for places that badly need them. It will also send a message to those who want to invest in our urban areas that they don't have to leave the inner city in search of open space. They can build right there in our downtowns, the places that already have the services, the infrastructure and the people to do the job.

There has been bipartisan interest, Madam President, in addressing brownfields, both in the Senate and in the other body on the other side of the Capitol. I am hopeful we can move this legislation forward in a cooperative way with support of Members on both sides of the aisle.

I ask unanimous consent that a copy of the bill, a section-by-section analysis and a letter of endorsement from the Regional Planning Association, the country's oldest planning organization, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Brownfields and Environmental Cleanup Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

Sec. 101. Definitions.
Sec. 102. Inventory and assessment grant program.
Sec. 103. Grants for revolving loan programs.
Sec. 104. Economic redevelopment grants.
Sec. 105. Reports.
Sec. 106. Limitations on use of funds.
Sec. 107. Effect on other laws.
Sec. 108. Regulations.
Sec. 109. Authorizations of appropriations.

TITLE II—PROSPECTIVE PURCHASERS

Sec. 201. Limitations on liability for response costs for prospective purchasers.

TITLE III—INNOCENT LANDOWNERS

Sec. 301. Innocent landowners.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) past uses of land in the United States for industrial and commercial purposes have created many sites throughout the United States that have environmental contamination;

(2) Congress and the governments of States and political subdivisions of States have enacted laws to—

(A) prevent environmental contamination; and

(B) carry out response actions to correct past instances of environmental contamination;

(3) many sites are minimally contaminated, do not pose serious threats to human health or the environment, and can be satisfactorily remediated expeditiously with little government oversight;

(4) promoting the assessment, cleanup, and redevelopment of contaminated sites could lead to significant environmental and economic benefits, particularly in any case in which a cleanup can be completed quickly and during a period of time that meets short-term business needs;

(5) the private market demand for sites affected by environmental contamination frequently is reduced, often because of uncertainties regarding liability or potential cleanup costs of innocent landowners and prospective purchasers under Federal law;

(6) the abandonment or underutilization of brownfield sites impairs the ability of the Federal Government and the governments of States and political subdivisions of States to provide economic opportunities for the people of the United States, particularly the unemployed and economically disadvantaged;

(7) the abandonment or underuse of brownfield sites also results in the inefficient use of public facilities and services, as well as land and other natural resources, and extends conditions of blight in local communities;

(8) cooperation among Federal agencies, departments and agencies of States and political subdivisions of States, local community development organizations, and current owners and prospective purchasers of

brownfield sites is required to accomplish timely response actions and the redevelopment or reuse of brownfield sites;

(9) there is a need to provide financial incentives and assistance to inventory and assess certain brownfield sites and facilitate the cleanup of the sites so that the sites may be redeveloped for beneficial uses; and

(10) there is a need for a program to—

(A) encourage cleanups of brownfield sites; and

(B) facilitate the establishment and enhancement of programs by States and local governments to foster cleanups of brownfield sites through capitalization of loan programs.

(b) Purposes.—The purposes of this Act are to create new business and employment opportunities through the economic redevelopment of brownfield sites that generally do not pose a serious threat to human health or the environment and to stimulate the assessment and cleanup of brownfield sites by—

(1) encouraging States and local governments to provide for the assessment and cleanup of brownfield sites that may not be remediated under other environmental laws (including regulations) in effect on the date of enactment of this Act;

(2) encouraging local governments and private parties, including local community development organizations, to participate in programs, such as State cleanup programs, that facilitate expedited response actions that are consistent with business needs at brownfield sites;

(3) directing the Administrator of the Environmental Protection Agency to establish programs that provide financial assistance to—

(A) facilitate site assessments of certain brownfield sites;

(B) encourage cleanup of appropriate brownfield sites through capitalization of loan programs; and

(C) encourage workforce development in areas adversely affected by contaminated properties; and

(4) reducing transaction costs and paperwork, and preventing needless duplication of effort and delay at all levels of government.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

SEC. 101. DEFINITIONS.

In this title:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Brownfield site.—The term "brownfield site" means a facility that has or is suspected of having environmental contamination that—

(A) could prevent the timely use, development, reuse, or redevelopment of the facility; and

(B) is relatively limited in scope or severity and can be comprehensively assessed and readily analyzed.

(3) Contaminant.—The term "contaminant" includes any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

(4) Disposal.—The term "disposal" has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(5) Environment.—The term "environment" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) Environmental contamination.—The term "environmental contamination" means the existence at a facility of 1 or more contaminants that may pose a threat to human health or the environment.

(7) Facility.—The term "facility" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(8) Grant.—The term "grant" includes a cooperative agreement.

(9) Ground water.—The term "ground water" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(10) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(11) Local government.—The term "local government" has the meaning given the term "unit of general local government" in the first sentence of section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)), except that the term includes an Indian tribe.

(12) Natural resources.—The term "natural resources" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(13) Owner.—The term "owner" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(14) Person.—The term "person" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(15) Prospective purchaser.—The term "prospective purchaser" means a prospective purchaser of a brownfield site.

(16) Release.—The term "release" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(17) Response action.—The term "response action" has the meaning given the term "response" in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(18) Site assessment.—

(A) In general.—The term "site assessment" means an investigation that determines the nature and extent of a release or potential release of a hazardous substance at a brownfield site and meets the requirements of subparagraph (B).

(B) Investigation.—For the purposes of this paragraph, an investigation that meets the requirements of this subparagraph—

(i) shall include—

(I) an onsite evaluation; and

(II) sufficient testing, sampling, and other field-data-gathering activities to accurately determine whether the brownfield site is contaminated and the threats to human health and the environment posed by the release of contaminants at the brownfield site; and

(ii) may include—

(I) review of such information regarding the brownfield site and previous uses as is available at the time of the review; and

(II) an offsite evaluation, if appropriate.

(19) State.—The term "State" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

SEC. 102. INVENTORY AND ASSESSMENT GRANT PROGRAM.

(a) In General.—The Administrator shall establish a program to award grants to States or local governments to inventory brownfield sites and to conduct site assessments of brownfield sites.

(b) Scope of Program.—

(1) Grant awards.—To carry out subsection (a), the Administrator may, on approval of an application, provide financial assistance to a State or local government.

(2) Grant application.—An application for a grant under this section shall include, to the extent practicable, each of the following:

(A) An identification of the brownfield sites for which assistance is sought and a description of the effect of the brownfield sites on the community, including a description of the nature and extent of any known or suspected environmental contamination within the areas.

(B) A description of the need of the applicant for financial assistance to inventory brownfield sites and conduct site assessments.

(C) A demonstration of the potential of the grant assistance to stimulate economic development, including the extent to which the assistance will stimulate the availability of other funds for site assessment, site identification, or environmental remediation and subsequent redevelopment of the areas in which eligible brownfield sites are situated.

(D) A description of the local commitment as of the date of the application, which shall include a community involvement plan that demonstrates meaningful community involvement.

(E) A plan that shows how the site assessment, site identification, or environmental remediation and subsequent development will be implemented, including—

(i) an environmental plan that ensures the use of sound environmental procedures;

(ii) an explanation of the appropriate government authority and support for the project as in existence on the date of the application;

(iii) proposed funding mechanisms for any additional work; and

(iv) a proposed land ownership plan.

(F) A statement on the long-term benefits and the sustainability of the proposed project that includes—

(i) the ability of the project to be replicated nationally and measures of success of the project; and

(ii) to the extent known, the potential of the plan for each area in which an eligible brownfield site is situated to stimulate economic development of the area on completion of the environmental remediation.

(G) Such other factors as the Administrator considers relevant to carry out this title.

(3) Approval of application.—

(A) In general.—In making a decision whether to approve an application under paragraph (1), the Administrator shall—

(i) consider the need of the State or local government for financial assistance to carry out this section;

(ii) consider the ability of the applicant to carry out an inventory and site assessment under this section;

(iii) ensure a fair distribution of grant funds between urban and nonurban areas; and

(iv) consider such other factors as the Administrator considers relevant to carry out this section.

(B) Grant conditions.—As a condition of awarding a grant under this section, the Administrator may, on the basis of the criteria considered under subparagraph (A), attach such conditions to the grant as the Administrator determines appropriate.

(4) GRANT AMOUNT.—The amount of a grant awarded to any State or local government under subsection (a) for inventory and site assessment of 1 or more brownfield sites shall not exceed $200,000.

(5) TERMINATION OF GRANTS.—If the Administrator determines that a State or local government that receives a grant under this subsection is in violation of a condition of a grant referred to in paragraph (3)(B), the Administrator may terminate the grant made to the State or local government and require full or partial repayment of the grant.

SEC. 103. GRANTS FOR REVOLVING LOAN PROGRAMS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Administrator shall establish a program to award grants to be used by State or local governments to capitalize revolving loan funds for the cleanup of brownfield sites.

(2) LOANS.—The loans may be provided by the State or local government to finance cleanups of brownfield sites by the State or local government, or by an owner or a prospective purchaser of a brownfield site (including a local government) at which a cleanup is being conducted or is proposed to be conducted.

(b) SCOPE OF PROGRAM.—

(1) IN GENERAL.—

(A) GRANTS.—In carrying out subsection (a), the Administrator may award a grant to a State or local government that submits an application to the Administrator that is approved by the Administrator.

(B) USE OF GRANT.—The grant shall be used by the State or local government to capitalize a revolving loan fund to be used for cleanup of 1 or more brownfield sites.

(C) GRANT APPLICATION.—An application for a grant under this section shall be in such form as the Administrator determines appropriate. At a minimum, the application shall include the following:

(i) Evidence that the grant applicant has the financial controls and resources to administer a revolving loan fund in accordance with this title.

(ii) Provisions that—

(I) ensure that the grant applicant has the ability to monitor the use of funds provided to loan recipients under this title;

(II) ensure that any cleanup conducted by the applicant is protective of human health and the environment; and

(III) ensure that any cleanup funded under this Act will comply with all applicable Federal and State laws that apply to the cleanup.

(iii) Identification of the criteria to be used by the State or local government in providing for loans under the program. The criteria shall include the financial standing of the applicants for the loans, the use to which the loans will be put, the provisions to be used to ensure repayment of the loan funds, and the following:

(I) A complete description of the financial standing of the applicant that includes a description of the assets, cash flow, and liabilities of the applicant.

(II) A written statement that attests that the cleanup of the site would not occur without access to the revolving loan fund.

(III) The proposed method, and anticipated period of time required, to clean up the environmental contamination at the brownfield site.

(IV) An estimate of the proposed total cost of the cleanup to be conducted at the brownfield site.

(V) An analysis that demonstrates the potential of the brownfield site for stimulating economic development on completion of the cleanup of the brownfield site.

(2) GRANT APPROVAL.—In determining whether to award a grant under this section, the Administrator shall consider—

(A) the need of the State or local government for financial assistance to clean up brownfield sites that are the subject of the application, taking into consideration the financial resources available to the State or local government;

(B) the ability of the State or local government to ensure that the applicants repay the loans in a timely manner;

(C) the extent to which the cleanup of the brownfield site or sites would reduce health and environmental risks caused by the release of contaminants at, or from, the brownfield site or sites;

(D) the demonstrable potential of the brownfield site or sites for stimulating economic development on completion of the cleanup;

(E) the demonstrated ability of the State or local government to administer such a loan program;

(F) the demonstrated experience of the State or local government regarding brownfield sites and the reuse of contaminated land, including whether the government has received any grant under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) to assess brownfield sites, except that applicants who have not previously received such a grant may be considered for awards under this section;

(G) the efficiency of having the loan administered by the level of government represented by the applicant entity;

(H) the experience of administering any loan programs by the entity, including the loan repayment rates;

(I) the demonstrations made regarding the ability of the State or local government to ensure a fair distribution of grant funds among brownfield sites within the jurisdiction of the State or local government; and

(J) such other factors as the Administrator considers relevant to carry out this section.

(3) GRANT AMOUNT.—The amount of a grant made to a State or local applicant under this section shall not exceed $500,000.

(4) REVOLVING LOAN FUND APPROVAL.—Each application for a grant to capitalize a revolving loan fund under this section shall, as a condition of approval by the Administrator, include a written statement by the State or local government that—

(A) cleanups to be funded under the loan program of the State or local government shall be conducted under the auspices of, and in compliance with, the State voluntary cleanup program or State Superfund program or Federal authority;

(B) the cleanup or proposed voluntary cleanup is cost-effective; and

(C) the estimated total cost of the cleanup is reasonable.

(c) GRANT AGREEMENTS.—Each grant under this section for a revolving loan fund shall be made pursuant to a grant agreement. At a minimum, the grant agreement shall include provisions that ensure the following:

(1) COMPLIANCE WITH LAW.—The grant recipient will include in all loan agreements a requirement that the loan recipient shall comply with all applicable Federal and State laws applicable to the cleanup and shall ensure that the cleanup is protective of human health and the environment.

(2) REPAYMENT.—The State or local government will require repayment of the loan consistent with this title.

(3) USE OF FUNDS.—The State or local government will use the funds solely for purposes of establishing and capitalizing a loan program in accordance with this title and of cleaning up the environmental contamination at the brownfield site or sites.

(4) REPAYMENT OF FUNDS.—The State or local government will require in each loan agreement, and take necessary steps to ensure, that the loan recipient will use the loan funds solely for the purposes stated in paragraph (3), and will require the return of any excess funds immediately on a determination by the appropriate State or local official that the cleanup has been completed.

(5) NONTRANSFERABILITY.—The funds will not be transferable, unless the Administrator agrees to the transfer in writing.

(6) LIENS.—

(A) DEFINITIONS.—In this paragraph, the terms "security interest" and "purchaser" have the meanings given the terms in section 6323(h) of the Internal Revenue Code of 1986.

(B) LIENS.—A lien in favor of the grant recipient shall arise on the contaminated property subject to a loan under this section.

(C) COVERAGE.—The lien shall cover all real property included in the legal description of the property at the time the loan agreement provided for in this section is signed, and all rights to the property, and shall continue until the terms and conditions of the loan agreement have been fully satisfied.

(D) TIMING.—The lien shall—

(i) arise at the time a security interest is appropriately recorded in the real property records of the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located; and

(ii) be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is or has been perfected under applicable State law before the notice has been filed in the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located.

(7) OTHER CONDITIONS.—The State or local government will comply with such other terms and conditions as the Administrator determines are necessary to protect the financial interests of the United States and to protect human health and the environment.

(d) AUDITS.—

(1) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall audit a portion of the grants awarded under this section to ensure that all funds are used for the purposes set forth in this section.

(2) FUTURE GRANTS.—The result of the audit shall be taken into account in awarding any future grants to the State or local government.

SEC. 104. ECONOMIC REDEVELOPMENT GRANTS.

(a) EXPENDITURES FROM THE SUPERFUND.—Amounts in the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986 shall be made available consistent with, and for the purposes of carrying out, the grant programs established under sections 102 and 103.

(b) AUTHORITY TO AWARD GRANTS.—There is authorized to be appropriated from the Hazardous Substance Superfund for grants to State and local governments under sections 102 and 103, $25,000,000 for each of fiscal years 1998 through 2002.

SEC. 105. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and not later than January 31 of each of the 3 calendar years thereafter, the Administrator shall prepare and submit a report describing the results of each program established under this title to—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Commerce of the House of Representatives.

(b) CONTENTS OF REPORT.—Each report shall, with respect to each of the programs established under this title, include a description of—

(1) the number of applications received by the Administrator during the preceding calendar year;

(2) the number of applications approved by the Administrator during the preceding calendar year; and

(3) the allocation of assistance under sections 102 and 103 among the States and local governments.

SEC. 106. LIMITATIONS ON USE OF FUNDS.

(a) EXCLUDED FACILITIES.—A grant for site inventory and assessment under section 102 or to capitalize a revolving loan fund under section 103 may not be used for any activity involving—

(1) a facility that is the subject of a planned or an ongoing response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), except for a facility for which a preliminary assessment, site investigation, or removal action has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery action;

(2) a facility included, or proposed for inclusion, on the National Priorities List maintained by the Administrator under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(3) a facility with respect to which a record of decision, other than a no-action record of decision, has been issued by the President under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604) with respect to the facility;

(4) a facility that is subject to corrective action under section 3004(u), 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

(5) any land disposal unit with respect to which a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted and closure requirements have been specified in a closure plan or permit;

(6) a facility at which there has been a release of a polychlorinated biphenyl and that is subject to the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(7) a facility with respect to which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(D) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

(E) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(8) a facility at which assistance for response activities may be obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986; and

(9) a facility owned or operated by a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe.

(b) FINES AND COST-SHARING.—A grant made under this title may not be used to pay any fine or penalty owed to a State or the Federal Government, or to meet any Federal cost-sharing requirement.

(c) OTHER LIMITATIONS.—

(1) IN GENERAL.—Funds made available to a State or local government under the grant programs established under sections 102 and 103 shall be used only to inventory and assess brownfield sites as authorized by this title and for capitalizing a revolving loan fund as authorized by this title, respectively.

(2) RESPONSIBILITY FOR CLEANUP ACTION.—Funds made available under this title may not be used to relieve a local government or State of the commitment or responsibilities of the local government or State under State law to assist or carry out cleanup actions at brownfield sites.

SEC. 107. EFFECT ON OTHER LAWS.

Nothing in this title affects the liability or response authorities for environmental contamination under any other law (including any regulation), including—

(1) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

SEC. 108. REGULATIONS.

(a) IN GENERAL.—The Administrator may issue such regulations as are necessary to carry out this title.

(b) PROCEDURES AND STANDARDS.—The regulations shall include such procedures and standards as the Administrator considers necessary, including procedures and standards for evaluating an application for a grant or loan submitted under this title.

SEC. 109. AUTHORIZATIONS OF APPROPRIATIONS.

(a) SITE ASSESSMENT PROGRAM.—There is authorized to be appropriated to carry out section 102 $10,000,000 for each of fiscal years 1998 through 2002.

(b) ECONOMIC REDEVELOPMENT ASSISTANCE PROGRAM.—There is authorized to be appropriated to carry out section 103 $15,000,000 for each of fiscal years 1998 through 2002.

(c) AVAILABILITY OF FUNDS.—The amounts appropriated under this section shall remain available until expended.

TITLE II—PROSPECTIVE PURCHASERS

SEC. 201. LIMITATIONS ON LIABILITY FOR RESPONSE COSTS FOR PROSPECTIVE PURCHASERS.

(a) LIMITATIONS ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(n) LIMITATIONS ON LIABILITY FOR PROSPECTIVE PURCHASERS.—Notwithstanding paragraphs (1) through (4) of subsection (a), to the extent the liability of a person, with respect to a release or the threat of a release from a facility, is based solely on subsection (a)(1), the person shall not be liable under this Act if the person—

"(1) is a bona fide prospective purchaser of the facility; and

"(2) does not impede the performance of any response action or natural resource restoration at a facility.".

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by subsection (a)) is amended by inserting after subsection (n) the following:

"(o) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

"(1) IN GENERAL.—In any case in which there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n), and the conditions described in paragraph (3) are met, the United States shall have a lien on the facility, or may obtain, from the appropriate responsible party or parties, a lien on other property or other assurances of payment satisfactory to the Administrator, for the unrecovered costs.

"(2) AMOUNT; DURATION.—The lien—

"(A) shall be for an amount not to exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

"(B) shall arise at the time costs are first incurred by the United States with respect to a response action at the facility;

"(C) shall be subject to the requirements for notice and validity specified in subsection (l)(3); and

"(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.

"(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

"(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

"(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed on the date that is 180 days before the response action was commenced.".

(c) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

"(39) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person who acquires ownership of a facility after the date of enactment of the Brownfields and Environmental Cleanup Act of 1997, or a tenant of such a person, who can establish each of the following by a preponderance of the evidence:

"(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

"(B) INQUIRY.—

"(i) IN GENERAL.—The person made all appropriate inquiry into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

"(ii) STANDARDS.—The standards and practices issued by the Administrator under paragraph (35)(B)(ii) shall satisfy the requirements of this subparagraph.

"(iii) RESIDENTIAL PROPERTY.—In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a site inspection and title search that reveal no basis for further investigation shall satisfy the requirements of this subparagraph.

"(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

"(D) CARE.—The person exercised appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

"(i) stop ongoing releases;

"(ii) prevent threatened future releases of hazardous substances; and

"(iii) prevent or limit human or natural resource exposure to hazardous substances previously released into the environment.

"(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to such persons as are authorized to conduct response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

"(F) RELATIONSHIP.—The person is not liable, or is not affiliated with any other person that is potentially liable, for response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.".

TITLE III—INNOCENT LANDOWNERS

SEC. 301. INNOCENT LANDOWNERS.

(a) KNOWLEDGE OF INQUIRY REQUIREMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

"(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

"(i) DEFINITION OF CONTAMINATION.—In this subparagraph, the term 'contamination' means an existing release, a past release, or the threat of a release of a hazardous substance.

"(ii) REQUIREMENT.—

"(I) INQUIRY.—To establish that the defendant had no reason to know (under subparagraph (A)(i)), the defendant must have made, at the time of the acquisition, all appropriate inquiry (as well as comply with clause (vii)) into the previous ownership and uses of the facility, consistent with good commercial or customary practice in an effort to minimize liability.

"(II) CONSIDERATIONS.—For the purpose of subclause (I) and until the President issues or designates standards as provided in clause (iv), the court shall take into account—

"(aa) any specialized knowledge or experience on the part of the defendant;

"(bb) the relationship of the purchase price to the value of the property if uncontaminated;

"(cc) commonly known or reasonably ascertainable information about the property;

"(dd) the obviousness of the presence or likely presence of contamination at the property; and

"(ee) the ability to detect the contamination by appropriate investigation.

"(iii) CONDUCT OF ENVIRONMENTAL ASSESSMENT.—A person who has acquired real property shall be considered to have made all appropriate inquiry within the meaning of clause (ii)(I) if—

"(I) the person establishes that, within 180 days prior to the date of acquisition, an environmental site assessment of the real property was conducted that meets the requirements of clause (iv); and

"(II) the person complies with clause (vii).

"(iv) ENVIRONMENTAL SITE ASSESSMENT.—

"(I) IN GENERAL.—An environmental site assessment meets the requirements of this clause if the assessment is conducted in accordance with the standards set forth in the American Society for Testing and Materials (ASTM) Standard E1527-94, titled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process' or with any alternative standards issued by regulation by the President or issued or developed by other entities and designated by regulation by the President.

"(II) STUDY OF PRACTICES.—Before issuing or designating alternative standards under subclause (I), the President shall conduct a study of commercial and industrial practices concerning environmental site assessments in the transfer of real property in the United States.

"(v) CONSIDERATIONS IN ISSUING STANDARDS.—In issuing or designating any standards under clause (iv), the President shall consider requirements governing each of the following:

"(I) Conduct of an inquiry by an environmental professional.

"(II) Interviews of each owner, operator, and occupant of the property to determine information regarding the potential for contamination.

"(III) Review of historical sources as necessary to determine each previous use and occupancy of the property since the property was first developed. In this subclause, the term 'historical sources' means any of the following, if reasonably ascertainable: each recorded chain of title document regarding the real property, including each deed, easement, lease, restriction, and covenant, any aerial photograph, fire insurance map, property tax file, United States Geological Survey 7.5 minutes topographic map, local street directory, building department record, and zoning/land use record, and any other source that identifies a past use or occupancy of the property.

"(IV) Determination of the existence of any recorded environmental cleanup lien against the real property that has arisen under any Federal, State, or local law.

"(V) Review of reasonably ascertainable Federal, State, and local government records of any facility that is likely to cause or contribute to contamination at the real property, including, as appropriate—

"(aa) any investigation report for the facility;

"(bb) any record of activities likely to cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground storage tank record, hazardous waste handler and generator record, and spill reporting record; and

"(cc) any other reasonably ascertainable Federal, State, and local government environmental record that could reflect an incident or activity that is likely to cause or contribute to contamination at the real property.

"(VI) A visual site inspection of the real property and each facility and improvement on the real property and a visual site inspection of each immediately adjacent property, including an investigation of any hazardous substance use, storage, treatment, or disposal practice on the property.

"(VII) Any specialized knowledge or experience on the part of the person that acquired the property.

"(VIII) The relationship of the purchase price to the value of the property if uncontaminated.

"(IX) Commonly known or reasonably ascertainable information about the property.

"(X) The obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

"(vi) REASONABLY ASCERTAINABLE.—A record shall be considered to be reasonably ascertainable for purposes of clause (v) if a copy or reasonable facsimile of the record is publicly available by request (within reasonable time and cost constraints) and the record is practicably reviewable.

"(vii) APPROPRIATE INQUIRY.—A person shall not be treated as having made all appropriate inquiry under clause (ii)(I) unless—

"(I) the person has maintained a compilation of the information reviewed and gathered in the course of any environmental site assessment;

"(II) the person exercised appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

"(aa) stop ongoing releases of hazardous substances;

"(bb) prevent threatened future releases of hazardous substances; and

"(cc) prevent or limit human or natural resource exposure to hazardous substances previously released into the environment; and

"(III) the person provides full cooperation, assistance, and facility access to such persons as are authorized to conduct response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

"(viii) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search that reveal no basis for further investigation shall satisfy the requirements of clause (ii).".

(b) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency may—

(A) issue such regulations as the Administrator considers necessary to carry out the amendment made by this section; and

(B) delegate and assign any duties or powers imposed on or assigned to the Administrator by the amendment made by this section, including the authority to issue regulations.

(2) AUTHORITY TO CLARIFY AND IMPLEMENT.—The authority under paragraph (1) includes authority to clarify or interpret all terms, including the terms used in this section, and to implement any provision of the amendment made by this section.

SECTION-BY-SECTION SUMMARY OF THE BROWNFIELDS AND ENVIRONMENTAL CLEANUP ACT OF 1997

Section 1 states the short title: the "Brownfields and Environmental Cleanup Act of 1997."

Section 2(a) makes 10 findings summarizing the brownfields problem, and affirming a need for financial incentives and assistance to redevelop brownfield sites; and (b) states the purpose of the bill: economic redevelopment of the sites.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

Section 101 presents 19 definitions of terms used in the bill.

Section 102. Inventory and Assessment Grant Program. The bill directs EPA to establish a program of grants to local governments to inventory brownfield sites within their jurisdictions, and to conduct site characterizations of sites targeted for cleanup under a state cleanup program. It sets eight requirements of what the grant application must contain, and establishes the criteria EPA is to use in deciding whether to approve a grant. EPA may attach conditions to the grant award, and may terminate the grant if the conditions are violated. Grants may not exceed $200,000.

Section 103. Grants for Revolving Loan Programs. The bill directs EPA to establish a grant program for state and local governments to capitalize loan programs for site cleanup. The loan fund is to be used by the local or state entity to make loans to finance brownfield cleanups by the owner or a prospective purchaser of an affected site. The grant application must demonstrate the government's ability to manage a revolving loan program and oversee loans they grant under the program. Twelve factors to be considered by EPA in determining whether to award a grant are laid out. A loan program grant to a local or State applicant shall not exceed $500,000.

Section 104 authorizes $25 million to be appropriated from the Superfund for each of fiscal years 1997 through 2001 for the programs provided for in sections 101 and 102.

Section 105 requires EPA to submit an annual report to the congressional authorizing committees describing the achievements of each program, including the number of applications received and approved, and detailing the allocation of assistance among the states and local governments.

Section 106 limits how funds may be used. No grant may be used to pay fines or penalties to a state or the federal government, or for federal cost-sharing requirements. Nor may it be used to relieve a state or local government of its cleanup responsibility under state law at affected sites.

Section 107. Statutory Construction. The section states that nothing in this title is intended to affect the liability of response authorities of any other law, including the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or the Superfund Act), the Solid Waste Disposal Act, the Federal Water Pollution Control Act, and the Safe Drinking Water Act.

Section 108 authorizes EPA to promulgate regulations to carry out the Act.

Section 109 specifies that $10 million of the section 104 appropriation shall be for the section 101 site characterization program each year, and $15 million shall be for the section 102 economic redevelopment assistance program. The appropriations shall remain available until expended.

TITLE II—PROSPECTIVE PURCHASERS

Section 201(a). Liability Limitation. The bill amends section 107 of CERCLA, exempting a bona fide prospective purchaser from liability provided he does not impede the performance of response actions or natural resource restoration at a facility.

Section 1201(b). Windfall Lien. The bill further amends section 107 to give the United States a lien on the facility when a response action has been carried out at the facility and there are unrecovered response costs for which the prospective purchaser is not liable. Alternatively, the United States may obtain from the appropriate responsible party a lien on other property or other assurances of payment. The lien shall not be for more than the increase in fair market value of the property attributable to the response action.

Section 201(c) amends section 101 of CERCLA to define "bona fide prospective purchaser." The definition requires that: all disposal of hazardous substances occurred before the person acquired the facility; the purchaser made all appropriate inquiry into its previous ownership and uses; the person provided proper notice regarding the discovery of hazardous substances at the facility; he exercised appropriate care; he provided full cooperation, assistance, and facility access to those conducting the response action; and there is no family or business relationship with a potentially responsible party at the facility.

TITLE III—INNOCENT LANDOWNERS

Section 301(a) amends section 101(35) of CERCLA clarifying the exception from liability of innocent landowners. The requirements that such a person make "all appropriate inquiry" is satisfied if he has an environmental site assessment conducted within the 180 days preceding the acquisition of the property "Environmental site assessment" means one conducted in accordance with the American Society of Testing and Materials (ASTM) standard for a Phase I environmental site assessment (Standard E1527–94), or an alternative standard issued by the President. To be treated as having made "all appropriate inquiry," a person must: (1) maintain a compilation of the information gathered in the course of the site assessment; (2) exercise appropriate care by stopping on-going releases, preventing threatened future releases, and limiting human and natural resource exposure to hazardous substances; and (3) provide full cooperation assistance, and facility access to persons conducting response actions at the facility. For the purposes of this subsection and 101(35) (the definition of "contractual relationship"), the term "contamination" means an existing release, a past release, or the threat of a release.

The court shall take into account any specialized knowledge of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known information about the property, the obviousness of the presence of contamination at the property, and the ability to detect the contamination. EPA shall issue or designate standards and practices that satisfy these requirements. The bill identifies 10 factors for EPA to consider in issuing the standards:

1. Conduct of an inquiry by an environmental professional.
2. Interviews with past and present owners, operators, and occupants of the facility.
3. A review of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records.
4. A search for recorded environmental liens, filed under Federal, state, or local law.
5. A review of Federal, state, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records.
6. A visual inspection of the facility, and adjoining properties.
7. Any specialized knowledge or experience on the part of the defendant.
8. The relationship of the purchase price to the value of the property if uncontaminated.
9. Commonly known or reasonably ascertainable information about the property.
10. The obviousness of the presence of contamination, and the ability to detect it by appropriate investigation.

In the case of a property for residential or similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search are sufficient to satisfy the requirements.

Section 301(b) authorizes EPA to issue regulations to carry out section 301, and gives it the authority to clarify or interpret all terms.

REGIONAL PLAN ASSOCIATION,
Newark, NJ, January 20, 1997.

Senator FRANK LAUTENBERG,
Hart Office Building, Washington, DC.

Re: Brownfields and Environmental Cleanup Act of 1997.

DEAR SENATOR LAUTENBERG: As Director of the New Jersey Office of Regional Plan Association, I am happy to support your proposed Brownfields and Environmental Cleanup Act. RPA is the country's oldest private, non profit regional planning organization charged with improving transportation, environmental conservation and economic development in the 31-county New York, New Jersey and Connecticut metropolitan area. RPA has been a leading force in brownfields redevelopment in New Jersey, having successfully coordinated the award-winning OENJ brownfields Model Redevelopment Project in Elizabeth, and overseeing the Legislative and Regulatory Reform committee of the EPA Brownfields Pilot Project in Newark.

The proposed Brownfields and Environmental Cleanup Act of 1997 will go a long way towards stimulating redevelopment of the region's abandoned, contaminated land. In particular, the provisions for local site characterization grants and site cleanup loans will provide an important incentive for local governments to prioritize and implement redevelopment of critical sites within their municipalities. The liability limitations under Section 201 are also important incentives at the federal level to encourage prospective purchasers to invest in brownfields redevelopment. Some of these provisions are being discussed at the State level in New Jersey. The passage of federal legislation will greatly assist our efforts to promote brownfields cleanup nationwide.

I am grateful for this opportunity to support your far-reaching legislation, and wish you the best of luck in its speedy passage.

Sincerely,

LINDA P. MORGAN,
Director.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mrs. MURRAY, Mr. TORRICELLI, and Mrs. BOXER):

S. 19. A bill to provide funds for child care for low-income working families, and for other purposes; to the Committee on Labor and Human Resources

WORKING FAMILIES CHILD CARE ACT OF 1997

Mr. DODD. Mr. President, I rise today to introduce the Working Families Child Care Act of 1997.

Mr. President, balancing the daunting responsibilities of work with the responsibilities of raising children is always a difficult task. It is especially challenging when so many parents today are working outside the home and are forced to depend on child care.

Not surprisingly, these challenges are especially acute for low-income, working families. In fact according to a national child care study, when compared to all other income groups, the working poor are the least likely to receive assistance with child care costs—even though it consumes a disproportionate share of their income—24 percent, compared to 6 percent for middle-income families.

What's more, it's a constant struggle for low-income families to remain self-sufficient without child care assistance. In a survey of families on a waiting list in one community, it was found that of those paying for child care, 71 percent faced serious debt or bankruptcy.

Currently, in 38 States and the District of Columbia the working poor are on waiting lists to receive child care. Georgia has 41,000 on its waiting list; Texas 36,000; Illinois 20,000; Alabama 20,000. Most of the States which don't have a waiting list either don't keep one, are expecting to create one in the future, or currently are experiencing a brief respite.

In my own State of Connecticut, new openings for child care assistance were frozen in November 1993. When new slots became available, for only 2 days this past summer, 5,500 applications were received.

During the last Congress, we intensely debated the issue of child care—in the larger context of welfare reform legislation. The original welfare legislation in January 1995, cut funds for child care and eliminated critically important health and safety standards.

In the 104th Congress I continued to fight for child care, offering amendments to increase funding and ensure quality. While I disagreed with the final welfare reform bill, I am pleased that many of these amendments succeeded and that in the end, the final bill included child care funding of $14.2 billion over 6 years and restored rigorous health and safety standards.

However, while the bill we passed made significant and crucial strides in providing child care for welfare recipients—there is still work to be done.

The bill I am proposing today will address the issue of child care for low-income working families and make it easier for them to access adequate child care assistance.

First, this legislation restores $1.4 billion in child care funding.

According to a recent CBO report, even if States meet the work requirements of the welfare bill they will still be short $1.4 billion for money needed to continue serving certain low-income working families. These aren't new recipients we're talking about, but instead families who were receiving child care assistance prior to passage of welfare reform legislation.

The legislation I am introducing today will prevent working parents from losing child care assistance simply as a result of the welfare reform bill.

Second, it begins to address the shortage of assistance for working families, by raising the authorization for child care subsidies for low-income working families from $1 billion to $2 billion per year.

And finally, it authorizes $500 million per year through 2002 to help communities meet supply shortages in areas such as infant care and school age care.

Even when subsidies are available, child care can be difficult to obtain. According to the National Academy of Sciences, there is "Consistent evidence of a relatively low supply of care for infants, for school age children, for children with disabilities and special health care needs and for parents with unconventional or shifting work hours."

What's more, a 1995 GAO study based in Michigan found a shortage of infant and special needs child care in inner cities and a shortage of all types of child care in rural areas. So, we're not simply talking about financial assistance for child care, but whether child care actually exists.

This shortage of child care is a problem for both working families and welfare recipients who want to become self-sufficient. How can we expect someone to make the difficult transition from welfare to work when they cannot find an adequate provider for an infant or are forced to have a 6, 7 or 8 year old spend hours alone at home when the school day ends?

This lack of supervision can have a devastating long-term impact. One study found that children who start to take care of themselves in elementary school are significantly more likely to report high use of alcohol by the eighth grade. Eighth graders left home alone for 11 or more hours a week report significantly greater use of cigarettes, alcohol, and marijuana than children not left home alone. We know all this, and yet only one third of the schools in low-income neighborhoods offer school age child care, compared with 52 percent in more affluent areas.

For those struggling to make the difficult journey to self-sufficiency, the lack of available child care before 9, after 5, and on weekends can be an enormous problem. What's worse, such arrangements put the safety of a child in question.

The reality is that nearly 1 in 5 full time workers—14.3 million—work nonstandard hours. More than 1 in 3 are women. However, only 10 percent of child care centers and 6 percent of family day care provide care on weekends. Yet one third of working mothers with incomes below poverty and one fourth of mothers with income above poverty, but below $25,000, work on weekends.

An additional supply problem is that head start and other prekindergarten programs are part day and part year. As a result, they often do not meet the needs of parents who work full time. Less than 30 percent of Head Start programs operate on a full-time, full-year basis.

Simply put, child care funds need to be available to make these programs accessible for working parents. In my view, we as a nation have a solemn commitment to guarantee that children will not be left to fend for themselves while their parents are working to put food on the table.

Child care is one of the most important ingredients for helping poor working families achieve and maintain economic security. Like parents in any community and of any financial background, low-income families need to know that when they go to work, their children will receive the care and assistance they need.

The bill I am introducing today will make it easier for low-income, working families to balance the responsibilities of work and caring for their children. I urge all my colleagues to join together in supporting this legislation—for the good of America's children.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 19

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Working Families Child Care Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Assistance for low-income working families.
Sec. 4. Grants for child care supply shortages.
Sec. 5. Report on access to child care by low-income working families.
Sec. 6. Effective date.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Availability and affordability of quality child care is a major obstacle for working parents who struggle to remain self-sufficient.

(A) Compared to all other income groups, the working poor are the least likely to receive assistance with their child care costs.

(B) Low-income families spend 24 percent of their household income on child care, whereas middle-income families spend 6 percent of their household income on child care.

(C) 38 States have waiting lists for child care for the working poor. Among those States, Georgia has 41,000 individuals on its waiting list, Texas has 36,000 individuals on its waiting list, and Illinois and Alabama each have 20,000 individuals on their waiting lists.

(D) One survey of low-income families on a waiting list for subsidized child care found that of those families paying for child care out of their own funds, 71 percent faced serious debt or bankruptcy.

(E) Half of the States and the District of Columbia, even before the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2105) during the 104th Congress, increased the proportion of child care slots or dollars going to families on welfare, rather than to working poor families.

(2) The Congressional Budget Office estimates that there will be $1,400,000,000 less expenditures of child care funds for working poor families as a result of the States implementing the work requirements imposed under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2105).

(3) Important types of child care are not available in certain States including infant care, school-age care, care for children with disabilities and special health care needs, and child care for parents with unconventional or shifting work hours.

(A) A 1995 State study by the Comptroller General of the United States found a shortage of child care for infants and children with special needs in inner cities, and a shortage of all types of child care in rural areas.

(B) Only⅓ of the schools in low-income neighborhoods offer school-age child care, compared with 52 percent of schools in more affluent areas offering such care.

(C) Eighth-graders who are left home alone for 11 or more hours a week report significantly greater use of cigarettes, alcohol, and marijuana than eighth-graders who are not left home alone.

(D) Existing child care arrangements do not accommodate the work schedules of many working women. According to a 1995 statistic published by the Department of Labor, 14,300,000 workers, nearly 1 in 5 full-time workers work nonstandard hours, and more than 1 in 3 of those workers are women.

(E) Only 10 percent of child care centers and 6 percent of family day care providers offer child care on weekends. Yet⅓ of working mothers with annual incomes below the poverty level and¼ of mothers with annual incomes above the poverty level but below $25,000 work on weekends.

(F) Less than 30 percent of Head Start programs operate on a full-time, full-year basis.

SEC. 3. ASSISTANCE FOR LOW-INCOME WORKING FAMILIES.

Section 658B of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended to read as follows:

"SEC. 658B. FUNDING OF GRANTS.

"(a) Authorization of Appropriations.—Except as provided in subsection (b), there is authorized to be appropriated to carry out this subchapter $2,000,000,000 for each of fiscal years 1997 through 2002.

"(b) Appropriation.—The Secretary shall pay, from funds in the Treasury not otherwise appropriated, $1,400,000,000 for fiscal years 1997 through 2002, through the awarding of grants to States under this subchapter for the purpose of providing child care services for families who have left the State program of assistance under part A of title IV of the Social Security Act because of employment, families that are at risk of becoming dependent on such assistance program, and low-income working families described in section 658E(c)(3)(D). Funds shall be paid under this subsection to the States in the same manner, and subject to the same requirements and limitations, as funds are paid to the States under section 418 of the Social Security Act (42 U.S.C. 618).".

SEC. 4. GRANTS FOR CHILD CARE SUPPLY SHORTAGES.

(a) Grants for Child Care Supply Shortages.—Section 658E(c)(3) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended by adding at the end the following:

"(E) Child care supply shortages.—

"(i) In general.—A State shall ensure that 100 percent of amounts paid to the State out of funds appropriated under section 658B(a)(2) with respect to each of the fiscal years 1997 through 2002 shall be used to carry out child care activities described in clause (ii) in geographic areas within the State that have a shortage, as determined by the State, in consultation with localities, of child care services.

"(ii) Child care activities described.—The child care activities described in this clause include the following:

"(I) Infant care programs.

"(II) Before- and after-school child care programs.

"(III) Resource and referral programs.

"(IV) Nontraditional work hours child care programs.

"(V) Extending the hours of pre-kindergarten programs to provide full-day services.

"(VI) Any other child care programs that the Secretary determines are appropriate.".

(b) Authorization of Appropriations.—Section 658B(a) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858(a)), as amended by section 2, is amended—

(1) by striking "Except as provided in" and inserting the following:

"(1) In general.—Except as provided in paragraph (2) and"; and

(2) by adding at the end the following:

"(2) Child care supply shortages.—There is authorized to be appropriated to carry out section 658E(c)(3)(E), $500,000,000 for each of fiscal years 1997 through 2002.".

(c) Conforming Amendment.—Section 658(c)(3)(A) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)(A)) is amended by striking "(D)" and inserting "(E)".

SEC. 5. REPORT ON ACCESS TO CHILD CARE BY LOW-INCOME WORKING FAMILIES.

(a) State Reporting Requirement.—Section 658K(a)(2) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858i(a)(2)) is amended—

(1) in subparagraph (D), by striking "and" at the end; and

(2) by inserting after subparagraph (E), the following:

"(F) the total number of families described in section 658B(b) that were eligible for but did not receive assistance under this subchapter or under section 418 of the Social Security Act and a description of the obstacles to providing such assistance; and

"(G) the total number of families described in section 658B(b) that received assistance provided under this subchapter or under section 418 of the Social Security Act and a description of the manner in which that assistance was provided;".

(b) Secretarial Reporting Requirement.—Section 658L of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858j) is amended by inserting ", with particular emphasis on access of low-income working families," after "public".

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2105).

By Mr. DASCHLE (for himself, Mr. Reid, Mr. Lieberman, Mr. Dorgan, Mr. Breaux, Mr. Kohl, Mr. Wyden, and Mr. Bingaman):

S. 20. A bill to amend the Internal Revenue Code of 1986 to increase the rate and spread the benefits of economic growth, and for other purposes; to the Committee on Finance.

TARGETED INVESTMENT INCENTIVE AND ECONOMIC GROWTH ACT OF 1997

Mr. DASCHLE. I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the "Targeted Investment Incentive and Economic Growth Act of 1997".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—TAXATION OF CAPITAL GAINS AND LOSSES

SEC. 101. ROLLOVER OF CAPITAL GAINS ON CERTAIN SMALL BUSINESS INVESTMENTS.

(a) In General.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end the following new section:

"SEC. 1045. ROLLOVER OF GAIN ON SMALL BUSINESS INVESTMENTS.

"(a) Nonrecognition of Gain.—In the case of the sale of any eligible small business investment with respect to which the taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any other eligible small business investment purchased by the taxpayer during the 6-month period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

"(b) Definitions and Special Rules.—For purposes of this section—

"(1) Purchase.—The term 'purchase' has the meaning given such term by section 1043(b)(4).

"(2) Eligible small business investment.—Except as otherwise provided in this section, the term 'eligible small business investment' means any stock in a domestic corporation, and any partnership interest in a domestic partnership, which is originally issued after December 31, 1996, if—

"(A) as of the date of issuance, such corporation or partnership is a qualified small business entity,

"(B) such stock or partnership interest is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or "(ii) as compensation for services (other than services performed as an underwriter of such stock or partnership interest), and

"(C) the taxpayer has held such stock or interest at least 6 months as of the time of the sale described in subsection (a).

A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this section.

"(3) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation, and a partnership interest in a partnership, shall not be treated as an eligible small business investment unless, during substantially all of the taxpayer's holding period for such stock or partnership interest, such corporation or partnership meets the active business requirements of subsection (c). A rule similar to the rule of section 1202(c)(2)(B) shall apply for purposes of this section.

"(4) QUALIFIED SMALL BUSINESS ENTITY.—

"(A) IN GENERAL.—The term 'qualified small business entity' means any domestic corporation or partnership if—

"(i) such entity (and any predecessor thereof) had aggregate gross assets (as defined in section 1202(d)(2)) of less than $25,000,000 at all times before the issuance of the interest described in paragraph (2), and

"(ii) the aggregate gross assets (as so defined) of the entity immediately after the issuance (determined by taking into account amounts received in the issuance) are less than $25,000,000.

"(B) AGGREGATION RULES.—Rules similar to the rules of section 1202(d)(3) shall apply for purposes of this paragraph.

"(c) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—For purposes of subsection (b)(3), the requirements of this subsection are met by a qualified small business entity for any period if—

"(A) the entity is engaged in the active conduct of a trade or business, and

"(B) at least 80 percent (by value) of the assets of such entity are used in the active conduct of a qualified trade or business (within the meaning of section 1202(e)(3)).

Such requirements shall not be treated as met for any period if during such period the entity is described in subparagraph (A), (B), (C), or (D) of section 1202(e)(4).

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, an entity is engaged in—

"(A) startup activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4), such entity shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether the entity has any gross income from such activities at the time of the determination.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), (7), and (8) of section 1202(e) shall apply for purposes of this subsection.

"(d) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (f), (g), (h), and (j) of section 1202 shall apply for purposes of this section, except that a 6-month holding period shall be substituted for a 5-year holding period where applicable.

"(e) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any eligible small business investment which is purchased by the taxpayer during the 6-month period described in subsection (a).

"(f) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any eligible small business investment and there is in effect an election under subsection (a) with respect to such gain, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing other eligible small business investments which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase other eligible small business investments within the 6-month period described in subsection (a), or

"(C) a failure to make such purchase within such 6-month period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, or otherwise and regulations to modify the application of section 1202 to the extent necessary to apply such section to a partnership rather than a corporation."

(b) CONFORMING AMENDMENT.—Paragraph (23) of section 1016(a) is amended—

(1) by striking "or 1044" and inserting ", 1044, or 1045", and

(2) by striking "or 1044(d)" and inserting ", 1044(d), or 1045(e)".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1045. Rollover of gain on small business investments."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

SEC. 102. LOSSES ON ELIGIBLE SMALL BUSINESS INVESTMENTS.

(a) INCREASE IN MAXIMUM AMOUNT.—Section 1244(b) (relating to maximum amount for any taxable year) is amended—

(1) by striking "$50,000" in paragraph (1) and inserting "$150,000", and

(2) by striking "$100,000" in paragraph (2) and inserting "$300,000".

(b) EXTENSION OF APPLICATION OF SECTION 1244 TO PARTNERSHIP INTEREST AND INCREASE IN VALUE OF CORPORATIONS ELIGIBLE FOR APPLICATION.—

(1) EXTENSION TO PARTNERSHIPS.—So much of section 1244(c) as precedes paragraph (2) is amended to read as follows:

"(c) SECTION 1244 INTEREST DEFINED.—

"(1) SECTION 1244 INTEREST.—For purposes of this section—

"(A) IN GENERAL.—The term 'section 1244 interest' means an eligible small business investment (as defined in section 1045(b)(1)) in a qualified small business entity (as defined in section 1045(b)(4)) if such entity, during the period of its 5 most recent taxable years ending before the date the loss on such investment was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

"(B) TRANSITION RULE.—Any stock in a domestic corporation issued before January 1, 1997, which was section 1244 stock under this section on December 31, 1996 (determined under this section as in effect on such date), shall be treated as a section 1244 interest for purposes of this section."

(2) CONFORMING AMENDMENTS.—

(A) Section 1244(a) is amended by striking "section 1244 stock" and inserting "a section 1244 interest".

(B) Section 1244(c)(2) is amended—

(i) by striking "PARAGRAPH (1)(C)" in the heading and inserting "PARAGRAPH (1)",

(ii) by striking "paragraph (1)(C)" each place it appears and inserting "paragraph (1)",

(iii) by striking "corporation" each place it appears and inserting "entity", and

(iv) by striking "Paragraph (1)(C)" in subparagraph (C) and inserting "Paragraph (1)".

(C) Section 1244(c) is amended by striking paragraph (3).

(D) Section 1244(d) is amended—

(i) by striking "section 1244 stock" each place it appears and inserting "a section 1244 interest",

(ii) by striking "stock" each place it appears and inserting "interest",

(iii) by striking "paragraphs (1)(C) and (3)(A) of subsection (c)" in paragraph (2) and inserting "subsection (c)(1)", and

(iv) by striking "(other than subparagraph (C) thereof)" and inserting "(other than the gross receipts test thereof)".

(E)(i) The heading for section 1244 is amended by striking "**stock**" and inserting "**interest**".

(ii) The item relating to section 1244 in the table of sections for part IV of subchapter P of chapter 1 is amended by striking "stocks" and inserting "interests".

(F) Section 165(m)(5) is amended by striking "stock" and inserting "interests".

(G) Section 1274(c)(3)(A)(i) is amended—

(i) by inserting ", as in effect on the day before the date of enactment of subclause (IV)" after "section 1244(c)(3)" in subclauses (II) and (III),

(ii) by striking "or" at the end of subclause (II),

(iii) by striking the period at the end of subclause (III) and inserting ", or", and

(iv) by adding at the end the following new subclause:

"(IV) by a section 1244 interest (as defined in section 1244(c)(1))."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

SEC. 103. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended by striking "other than a corporation".

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 is amended by adding at the end the following new paragraph:

"(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock shall not be treated as qualified small business stock if such stock was at any time held by any member of the parent-subsidiary controlled group (as defined in subsection (d)(3)) which includes the qualified small business."

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Section 57(a) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Section 53(d)(1)(B)(ii)(II) is amended by striking ", (5), and (7)" and inserting "and (5)".

(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) Section 1202(d)(1) is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(2) Section 1202(d) is amended by adding at the end the following new paragraph:

"(4) INFLATION ADJUSTMENT OF ASSET LIMITATION.—In the case of stock issued in any calendar year after 1997, the $100,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000,000, such amount shall be rounded to the next lower multiple of $1,000,000."

(d) PER-ISSUER LIMITATION.—Section 1202(b)(1)(A) is amended by striking "$10,000,000" and inserting "$20,000,000".

(e) OTHER MODIFICATIONS.—

(1) WORKING CAPITAL LIMITATION.—Section 1202(e)(6) is amended by striking "2 years" each place it appears and inserting "5 years".

(2) REDEMPTION RULES.—Section 1203(c)(3) is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitation of this section."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsection (b), (d), and (e) shall apply to stock issued after August 10, 1993.

SEC. 104. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000 ($500,000 in the case of a joint return where both spouses meet the use requirement of subsection (a)).

"(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer or his spouse to which subsection (a) applied.

"(B) PREMARRIAGE SALES BY SPOUSE NOT TAKEN INTO ACCOUNT.—If, but for this subparagraph, subsection (a) would not apply to a sale or exchange by a married individual by reason of a sale or exchange by such individual's spouse before their marriage—

"(i) subparagraph (A) shall be applied without regard to the sale or exchange by such individual's spouse, but

"(ii) the amount of gain excluded from gross income under subsection (a) with respect to the sale or exchange by such individual shall not exceed $250,000.

"(C) PRE-1997 SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before January 1, 1997.

"(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(2) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale of exchange shall not exceed—

"(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

"(B) the shorter of—

"(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

"(ii) the period after the date of the most recent prior sale or exchange by the taxpayer or his spouse to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

"(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

"(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

"(i) a failure to meet the ownership and use requirements of subsection (a), or

"(ii) subsection (b)(2), and

"(B) such sale or exchange is by reason of a change in place of employment, health, or other unforeseen circumstances.

"(d) SPECIAL RULES.—

"(1) JOINT RETURNS.—For purposes of this section, if a husband and wife make a joint return for the taxable year of the sale or exchange of property, subsection (a) shall, subject to the provisions of subsection (b), apply if either spouse meets the ownership and use requirements of subsection (a) with respect to such property.

"(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

"(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

"(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

"(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(4) INVOLUNTARY CONVERSIONS.—

"(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

"(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

"(5) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1996, in respect of such property.

"(6) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

"(A) becomes physically or mentally incapable of self-care, and

"(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

"(7) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

"(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

"(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

"(f) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

"(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used."

(b) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section

1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "section 1034" and inserting "section 121": sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(3), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking "(as defined in section 1034(h)(3))" and by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period."

(3) Subparagraph (A) of 143(m)(6) is amended by inserting "(as in effect on the day before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997)" after "1034(e)".

(4) Subsection (e) of section 216 is amended by striking "such exchange qualifies for nonrecognition of gain under section 1034(f)" and inserting "such dwelling unit is used as his principal residence (within the meaning of section 121)".

(5) Section 512(a)(3)(D) is amended by inserting "(as in effect on the day before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997)" after "1034".

(6) Paragraph (7) of section 1016(a) is amended by inserting "(as in effect on the day before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997)" after "1034" and by inserting "(as so in effect)" after "1034(e)".

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

"(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121."

(8) Subsection (e) of section 1038 is amended to read as follows:

"(e) PRINCIPAL RESIDENCES.—If—

"(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

"(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property."

(9) Paragraph (7) of section 1223 is amended by inserting "(as in effect on the day before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997)" after "1034".

(10) Paragraph (7) of section 1250(d) is amended to read as follows:

"(7) DISPOSITION OF PRINCIPAL RESIDENCE.—Subsection (a) shall not apply to a disposition of property to the extent used by the taxpayer as his principal residence (within the meaning of section 121, relating to gain on sale of principal residence)."

(11) Subsection (c) of section 6012 is amended by striking "(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)" and inserting "(relating to gain from sale of principal residence)".

(12) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(13) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(14) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

"Sec. 121. Exclusion of gain from sale of principal residence."

(15) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1034.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

(2) BINDING CONTRACTS, ETC.—At the election of the taxpayer, the amendments made by this section shall not apply to a sale or exchange after December 31, 1996, if—

(A) such sale or exchange is pursuant to a contract which was binding on the date of the enactment of this Act, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date.

This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

TITLE II—RETIREMENT SAVINGS

SEC. 201. INCREASE IN DEDUCTION FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Section 219(b)(1)(A) is amended by striking "$2,000" and inserting "$2,500".

(b) CONFORMING AMENDMENTS.—Subsections (a)(1), (b), and (j) of section 408 are each amended by striking "$2,000" each place it appears and inserting "$2,500".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 202. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $400,000 ($200,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) Distribution Rules.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) Individual Required To Report Qualified Contributions.—

"(1) In general.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) Information required to be supplied.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) Penalties.—For penalties relating to reports under this paragraph, see section 6693(b)."

(b) Contributions Not Deductible.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) Contributions to asset rollover accounts.—No deduction shall be allowed under this section with respect to a contribution under section 1034A."

(c) Excess Contributions.—

(1) In general.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(e) Asset Rollover Accounts.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A."

(2) Conforming amendments.—

(A) Section 4973(a)(1) is amended by inserting "an asset rollover account (within the meaning of section 1034A)," after the comma at the end.

(B) The heading for section 4973 is amended by inserting "**ASSET ROLLOVER ACCOUNTS**," after "**CONTRACTS**".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) Technical Amendments.—

(1) Section 408(a)(1) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Section 408(d)(5)(A) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Section 6693(b)(1)(A) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm
assets into asset rollover account."

(e) Effective Date.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

TITLE III—PERFORMANCE STOCK OPTIONS

SEC. 301. PERFORMANCE STOCK OPTIONS.

(a) In General.—Part II of subchapter D of chapter 1 (relating to certain stock options) is amended by redesignating section 424 as section 425 and by inserting after section 423 the following new section:

"SEC. 424. PERFORMANCE STOCK OPTIONS.

"(a) In General.—Section 421(a) shall apply with respect to the transfer of a share of stock to any person pursuant to the exercise of a performance stock option if no disposition of such share is made by such person within 1 year after the transfer of such share to such person.

"(b) Performance Stock Option.—For purposes of this part—

"(1) In general.—The term 'performance stock option' means an option to purchase stock of any corporation described in paragraph (4) which is granted to any person—

"(A) in connection with the performance of services for an entity described in paragraph (4), and

"(B) upon the attainment of performance goals established by the entity.

"(2) Additional requirements.—An option shall not be treated as a performance stock option unless the following requirements are met:

"(A) Nondiscrimination.—Either—

"(i) the option is granted to an employee who, at the time of the grant, is not a highly compensated employee, or

"(ii) immediately after the grant of the option, employees who are not highly compensated employees hold performance share options which permit the acquisition of at least 50 percent of all shares which may be acquired pursuant to all performance stock options outstanding (whether or not exercisable) as of such time.

For purposes of clause (ii), only that portion of the options held by persons other than nonhighly compensated employees which results in the requirements of clause (ii) not being met shall be treated as options which are not performance stock options, and such portion shall be allocated among options held by such persons in such manner as the Secretary may prescribe.

"(B) Specific number of options.—The option is granted pursuant to a plan that includes either—

"(i) the aggregate number of shares that may be issued under options granted under the plan, or

"(ii) a method by which the aggregate number of shares that may be issued under options granted under the plan can be determined (without regard to whether such aggregate number may change under such method),

and which is approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted.

"(C) Time when option granted.—The option is granted within 10 years after the date the plan described in subparagraph (B) is adopted, or the date such plan is approved by the stockholders, whichever is earlier.

"(D) Time for exercising option.—The option by its terms is not exercisable after the expiration of 10 years from the date such option is granted.

"(E) Option price.—Except as provided in paragraph (6) of subsection (c), the option price is not less than the fair market value of the stock at the time the option is granted.

"(F) Transferability.—The option by its terms is not transferable by the person holding the option, other than—

"(i) in the case of an individual, by will or the laws of descent and distribution, or pursuant to a qualified domestic relations order (as defined in subsection (p) of section 414), and

"(ii) in the case of any other person, by any transaction in which gain or loss is not recognized in whole or in part.

"(3) Election not to treat option as performance stock option.—An option shall not be treated as a performance stock option if—

"(A) as of the time the option is granted the terms of such option provide that it will not be treated as a performance stock option, or

"(B) as of the time such option is exercised the grantor and holder agree that such option will not be treated as a performance stock option.

"(4) Entities to which section applies.—This section shall apply to an option granted to a person who performs services for—

"(A) the corporation issuing the option, or its parent or subsidiary corporation,

"(B) a partnership in which the corporation issuing the option holds (at the time of the grant) a capital or profits interest representing at least 20 percent of the total capital or profits interest of the partnership, or

"(C) a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which section 425(a) applies.

"(5) Highly compensated employee.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) Special Rules.—

"(1) Good faith efforts to value stock.—If a share of stock is acquired pursuant to the exercise by any person of an option which would fail to qualify as a performance stock option under subsection (b) because there was a failure in an attempt, made in good faith, to meet the requirement of subparagraph (E) of subsection (b)(2), the requirement of subparagraph (E) of subsection (b)(2) shall be considered to have been met.

"(2) Permissible provisions.—An option that meets the requirements of subsection (b) shall be treated as a performance stock option even if—

"(A) the option holder may pay for the stock with stock of the corporation granting the option,

"(B) the option holder has the right to receive property at the time of the exercise of the option,

"(C) the right to exercise all or any portion of a performance stock option may be subject to any condition, contingency or other criteria (including, without limitation, the continued performance of services, achievement of performance objectives, or the occurrence of any event) which are determined in accordance with the provisions of the plan or the terms of such option, or

"(D) the option is subject to any condition not inconsistent with the provisions of subsection (b).

"(3) Fair market value.—For purposes of this section, the fair market value of stock shall be determined without regard to any restriction other than a restriction that, by its terms, will never lapse.

"(4) Definition of parent and subsidiary corporations.—For purposes of this section, the terms 'parent corporation' and 'subsidiary corporation' have the meanings given such terms by subsections (e) and (f) of section 425 except that such subsections shall be applied by substituting '20 percent' for '50 percent' each place it appears.

"(5) PERFORMANCE CRITERIA.—In the case of a performance stock option that provides that its exercise is subject to any conditions or criteria described in subparagraph (C) of paragraph (2), the date or time the option is granted with respect to each share that may be acquired shall be the date or time the original performance share option is granted and subject to the provisions of section 425(h), no portion of the option shall be treated as granted at any other time.

"(6) CONVERSION OF OPTIONS.—If—

"(A) there is a transfer of an incentive stock option in exchange for a performance stock option, and

"(B) the number of shares that may be acquired pursuant to such performance stock option and the transferred incentive stock option are the same.

then the option acquired shall qualify as a performance stock option if the option price pursuant to the performance share option is no less than the option price under the transferred incentive stock option."

(b) CONFORMING AMENDMENTS.—

(1) Section 421(a) is amended by striking "or 423(a)" and inserting ", 423(a), or 424(a)".

(2) Section 421(b) is amended—

(A) by striking "or 423(a)" and inserting ", 423(a), or 424(a)", and

(B) by striking "or 423(a)(1)" and inserting "423(a)(1), or 424(a)".

(3) Section 421(c)(1)(A) is amended by inserting "and the holding period requirement of section 424(a)" after "423(a)".

(4)(A) Sections 421(a)(2), 422(a)(2), and 423(a)(2) are each amended by striking "424(a)" and inserting "425(a)".

(B) Clause (ii) of section 402(e)(4)(E) is amended by striking "424" and inserting "425".

(5) Section 423(b)(3) is amended by striking "424(d)" and inserting "425(d)".

(6) Section 425(a), as redesignated by subsection (a), is amended by striking "424(a)" and inserting "425(a)".

(7) Section 425(c)(3)(A)(ii), as redesignated by subsection (a), is amended by striking "or 423(a)(1)" and inserting ", 423(a)(1), or 424(a)".

(8) Section 425(g), as redesignated by subsection (a), is amended by striking "and 423(a)(2)" and inserting ", 423(a)(2) and 424(b)(4) (as modified by section 424(c)(4))".

(9) Section 425(j), as redesignated by subsection (a) (relating to cross-references), is amended by inserting "performance stock option" after "employee stock purchase plans,".

(10) Section 1042(c)(1)(B)(ii) is amended by striking "or 423" and inserting "423, or 424".

(11)(A) Section 6039(a)(1) is amended by inserting "or performance stock option" after "incentive stock option".

(B) Section 6039(b)(1) is amended by inserting ", performance share option," after "incentive stock option".

(C) Section 6039(c) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and" and by adding at the end the following new paragraph:

"(3) the term 'performance share option', see 424(b)."

(12) The table of sections for part II of subchapter D of chapter 1 is amended by striking the item relating to section 424 and inserting the following new items:

"Sec. 424. Performance stock options.
"Sec. 425. Definitions and special rules."

SEC. 302. TAX TREATMENT OF GAIN ON PERFORMANCE SHARE OPTIONS.

(a) EXCLUSION.—

(1) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end the following new section:

"SEC. 1203. 50-PERCENT EXCLUSION FOR GAIN FROM STOCK ACQUIRED THROUGH PERFORMANCE STOCK OPTIONS.

"(a) GENERAL RULE.—Gross income shall not include 50 percent of the gain from the disposition of any stock acquired pursuant to the exercise of a performance stock option if such disposition occurs more than 2 years after the date on which such option was exercised with respect to such stock.

"(b) DEFINITIONS AND RULES.—For purposes of this section—

"(1) PERFORMANCE STOCK OPTION.—The term 'performance stock option' has the meaning given such term by section 424(b).

"(2) CERTAIN ACQUISITIONS DISREGARDED.—If stock described in subsection (a) is disposed of and the basis of the person acquiring the stock is determined by reference to the basis of the stock in the hands of the person who acquired it through exercise of the performance stock option, such person shall be treated as acquiring such stock pursuant to such option on the date such stock was acquired pursuant to the exercise of such option.

"(3) EXERCISE BY ESTATE.—If a performance stock option is exercised after the death of an individual holder by the estate of the decedent, or by a person who acquired the right to exercise such option by bequest or inheritance or by reason of the death of the decedent, the 2-year holding requirement of subsection (a) shall not apply to the disposition by such estate or person."

(2) CONFORMING AMENDMENTS.—

(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets, and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 or 1203. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(C) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 or 1203 shall not be taken into account."

(D) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1202, 1203, and 1211".

(E) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to sections 1202 and 1203 and" after "except that".

(F) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1202 the following new item:

"Sec. 1203. 50-percent exclusion for gain from stock acquired through performance stock options."

(b) TREATMENT FOR WAGE WITHHOLDING AND EMPLOYMENT TAXES.—

(1) FICA TAXES.—Section 3121(a) (defining wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", or", and by adding after paragraph (21) the following new paragraph:

"(22) any gain from the exercise of a performance stock option (as defined in section 424(b)) or from the disposition of stock acquired pursuant to the exercise of such a performance stock option."

(2) FUTA TAXES.—Section 3306(b) (defining wages) is amended by striking "or" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", or", and by adding after paragraph (17) the following new paragraph:

"(18) any gain described in section 3121(a)(22)."

(3) WAGE WITHHOLDING.—

(A) Section 3401(a) (defining wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", or", and by adding at the end the following new paragraph:

"(22) any gain from the exercise of a performance stock option (as defined in section 424(b)) or from the disposition of stock acquired pursuant to such a performance stock option."

(B) Section 421(b) (relating to effect of disqualifying disposition) is amended by adding at the end the following new sentence: "A deduction to the employer corporation in the case of a transfer pursuant to an option described in section 422, 423, or 424 shall not be disallowed by reason of a failure to withhold tax under chapter 24 with respect to gain on stock acquired in the transfer."

SEC. 303. EFFECTIVE DATE.

The amendments made by this title shall apply to options granted after the date of the enactment of this Act.

TITLE IV—EMPLOYER-PROVIDED TRAINING

SEC. 401. EXTENSION OF EXCLUSION FOR EDUCATIONAL ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 127 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 402. STUDY OF NONDISCRIMINATION RULES APPLICABLE TO EDUCATIONAL ASSISTANCE PROGRAMS.

(a) STUDY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall conduct a study which examines—

(1) the pattern in which taxpayers providing job-related training and education assistance programs under section 127 of the Internal Revenue Code of 1986 extend such benefits to highly compensated employees and nonhighly compensated employees;

(2) the merits and administrative feasibility of applying nondiscrimination rules to job-related training and educational assistance programs under section 127 of the Internal Revenue Code of 1986 which are similar to the nondiscrimination rules applicable to employer-provided pension plans; and

(3) the merits and administrative feasibility of conditioning the exclusion for job-related training and section 127 assistance on an employee remaining with the employer for at least 1 year after receiving the training or educational assistance.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the

Secretary of Labor shall report to the Congress the results of the study conducted under subsection (a), including any recommendations for legislation as the Secretary determines appropriate.

TITLE V—ESTATE TAX RELIEF

SEC. 501. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) $900,000, reduced by the amount of any exclusion allowed under this section with respect to the estate of a previously deceased spouse of the decedent.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death.

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section

877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	The applicable percentage is:
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax).".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 502. PORTION OF ESTATE TAX SUBJECT TO 4-PERCENT INTEREST RATE INCREASED TO $1,600,000.

(a) IN GENERAL.—Subparagraph (B) of section 6601(j)(2) (defining 4-percent portion) is amended by striking "$345,800" and inserting "$600,800".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 503. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

"(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

TITLE VI—TRANSPORTATION INVESTMENT

SEC. 601. FINDINGS.

Congress finds that—

(1) decaying roads and bridges are clogging the economic lifelines and hampering growth of communities around the country, costing nearly $40,000,000,000 in annual losses from traffic congestion alone;

(2) with "just-in-time" manufacturing a critical aspect of our economic competitiveness, a modern, efficient transportation system is more vital now than ever;

(3) user fee revenues continue to flow into our transportation trust funds for their intended purpose of infrastructure investment;

(4) Federal budget constraints have prevented States from fully utilizing all amounts of the transportation trust fund revenues made available to them;

(5) at the same time, recent Federal initiatives have equipped States with new infrastructure financing tools that help attract private investment, stimulate the Nation's economy, and create jobs; and

(6) enabling States to use a portion of their unobligated balances of apportioned Highway Trust Fund revenues via these new financing tools will maximize the benefits of vitally needed infrastructure investments.

SEC. 602. PROGRAM STRUCTURE.

(a) IN GENERAL.—The Secretary of Transportation (referred to in this title as the "Secretary") shall make available to a State a portion of the State's unobligated balance in accordance with section 603.

(b) QUALIFYING PROJECT.—Federal funds made available under this title may be used only to provide assistance with respect to a project eligible for assistance under section 133(b) of title 23, United States Code.

(c) PROJECT ADMINISTRATION.—A project receiving assistance under this title shall be carried out in accordance with title 23, United States Code.

SEC. 603. FUNDING.

(a) UNOBLIGATED BALANCES.—

(1) IN GENERAL.—For each fiscal year, upon the request of a State, the Secretary shall make available to the State to carry out projects eligible for assistance under this title an aggregate amount not to exceed 10 percent, as of the last day of the preceding fiscal year, of the funds that were apportioned to the State under sections 104(b)(1), 104(b)(3), 104(b)(5), 144, and 160 of title 23, United States Code, and are not obligated.

(2) URBANIZED AREAS OVER 200,000.—Funds that were apportioned to a State under section 104(b)(3) or 160 of title 23, United States Code, and attributed to an urbanized area of the State with an urbanized area population of over 200,000 under section 133(d)(3) of that title may be made available by the Secretary under paragraph (1) only if the metropolitan planning organization designated for the area concurs, in writing, with that use.

(b) USE OF FUNDS.—

(1) STATE INFRASTRUCTURE BANKS.—

(A) IN GENERAL.—A State shall contribute the amounts made available to the State under subsection (a)(1) to the State infrastructure bank established by the State in accordance with section 350 of the National Highway System Designation Act of 1995 (23 U.S.C. 101 note; 109 Stat. 618). Federal funds contributed to the bank under this subparagraph shall constitute a capitalization grant for the infrastructure bank.

(B) DISBURSEMENTS.—The Secretary shall ensure that the disbursements of the Federal funds referred to in subparagraph (A) to the infrastructure bank shall be at a rate consistent with historic rates for the Federal-aid highway program.

(2) GRANTS.—In lieu of contributing the funds to an infrastructure bank, and upon approval by the Secretary, a State may obligate amounts made available to the State under subsection (a)(1) for a project eligible for assistance under section 602(b).

(3) NO OBLIGATION LIMITATION.—No limitation shall apply to obligations of amounts made available under subsection (a)(1).

By Mr. MOYNIHAN:

S. 21. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

THE MEDICAL EDUCATION TRUST FUND ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise to introduce legislation that would establish a medical education trust fund to support America's 142 accredited medical schools and 1,250 teaching hospitals. These institutions are national treasures; they are the very best in the world. Yet today they find themselves in a precarious financial situation as market forces reshape the health care delivery system in the United States. Explicit and dedicated funding for these institutions, which this legislation will provide, will ensure that the United States continues to lead the world in the quality of its health care system.

This legislation requires that the public sector, through the Medicare and Medicaid Programs, and the private sector, through an assessment on health insurance premiums, contribute broad-based and fair financial support.

BRIEF HISTORY

My particular interest in this subject began in 1994, when the Finance Committee took up the President's Health Security Act. I was chairman of the committee at the time. In January of that year, I asked Dr. Paul Marks, M.D., president of Memorial Sloan-Kettering Cancer Center in New York City, if he would arrange a seminar for me on health care issues. He agreed, and gathered a number of medical school deans together one morning in New York.

Early on in the meeting, one of the seminarians remarked that the University of Minnesota might have to close its medical school. In an instant I realized I had heard something new. Minnesota is a place where they open medical schools, not close them. How, then, could this be? The answer was that Minnesota, being Minnesota, was a leading State in the growth of competitive health care markets, in which competing managed care organizations try to deliver services at lower costs. In this environment, HMO's and the like do not send patients to teaching hospitals, absent which you cannot have a medical school.

We are in the midst of a great era of discovery in medical science. It is certainly not a time to close medical schools. This great era of medical discovery is occurring right here in the United States, not in Europe like past ages of scientific discovery. And it is centered in New York City. This heroic age of medical science started in the late 1930's. Before then, the average patient was probably as well off, perhaps better, out of a hospital as in one. Progress from that point 60 years ago has been remarkable. The last few decades have brought us images of the inside of the human body based on the magnetic resonance of bodily tissues; laser surgery; micro surgery for reattaching limbs; and organ transplantation, among other wonders. Physicians are now working on a gene therapy that might eventually replace bypass surgery. I can hardly imagine what might be next.

After months of hearings and debate on the President's Health Security Act, I became convinced that special provisions would have to be made for medical schools, teaching hospitals, and medical research if we were not to see this great moment in medical science suddenly constrained. To that end, when the Committee on Finance voted 12 to 8 on July 2, 1994, to report the Health Security Act, it included a graduate medical education and academic health centers trust fund. The trust fund provided an 80-percent increase in Federal funding for academic medicine; as importantly, it represented stable, long-term funding. While nothing came of the effort to enact universal health care coverage, the medical education trust fund enjoyed widespread support. An amendment by Senator Malcolm Wallop to kill the trust fund by striking the source of its revenue—a 1.75-percent assessment on health insurance premiums—failed on a 7 to 13 vote in the Finance Committee.

I continued to press the issue in the first session of the 104th Congress. On September 29, 1995, during Finance Committee consideration of budget reconciliation legislation, I offered an amendment to establish a similar trust fund. With a new majority in control and the committee in the midst of considering a highly partisan budget reconciliation bill, my amendment failed on a tie vote, 10 to 10. Notably, however, the House version of the reconciliation bill did include a graduate medical education trust fund. That provision ultimately passed both Houses as part of the conference agreement, which was subsequently vetoed by President Clinton. The budget resolution for fiscal year 1997 as passed by Congress also appeared to assume that a similar trust fund was to be included in the Medicare reconciliation bill—a bill which never materialized.

The chairman of the House Ways and Means Committee, Representative BILL ARCHER, was largely responsible for the inclusion of trust fund provisions in the Balanced Budget Act of 1995 and the budget resolution for fiscal year 1997. He and I share a strong commitment to ensuring the continued success of our system of medical education. Indeed, Chairman ARCHER and I were both honored last year to receive the American Association of Medical Colleges' Public Service Excellence Award.

That is the history of this effort, briefly stated.

NEED FOR LEGISLATION

Medical education is one of America's most precious public resources. Within our increasingly competitive health care system, it is rapidly becoming a public good—that is, a good from which everyone benefits, but for which no one is willing to pay. Therefore, it would be explicitly financed with contributions from all sectors of the health care system, not just the Medicare Program as is the case today. The fiscal pressures of a competitive health market are increasingly closing off traditional implicit revenue sources (such as additional payments from private payers) that have supported medical schools, graduate medical education, and research until now. In its June, 1995 Report to Congress, the Prospective Payment Assessment Commission [ProPAC], created to advise Congress on Medicare hospital insurance [part A] payment, summarized the situation of teaching hospitalsas follows:

> As competition in the health care system intensifies, the additional costs borne by teaching hospitals will place them at a disadvantage relative to other facilities. The role, scale, function, and number of these institutions increasingly will be challenged.... Accelerating price competition in the private sector ... is reducing the ability of teaching hospitals to obtain the higher patient care rates from other payers that traditionally have contributed to financing the costs associated with graduate medical education.

ProPAC's June, 1996 Report to Congress confirmed that "major teaching hospitals have the dual problems of higher overall losses from uncompensated care and less above-cost revenue from private insurers."

The State of New York provides a good example of what is happening as health care markets become more competitive. Effective at the end of the 1996 calendar year, New York repealed a State law that set hospital rates. Hospitals must now negotiate their fees with each and every health plan in the State. Where teaching hospitals were once guaranteed a payment that recognized, to some degree, its higher costs of providing services, the private sector is free to squeeze down payments to hospitals with no such recognition. While the State of New York operates funding pools that provide partial support for graduate medical education and uncompensated care, it is largely up to the teaching hospitals to try to win higher rates than other hospitals when negotiating contracts with health plans. Some may succeed in doing so, but most will probably not. New York's State law was unique, but the same process of negotiation between hospitals and private health plans takes place across the country. Who, in this context, will pay for the higher costs of operating teaching hospitals?

It is obvious that teaching hospitals can no longer rely on higher payments from private payers to do so. Nor should they. The establishment of this trust fund, which explicitly reimburses teaching hospitals for the costs of graduate medical education, will ensure that teaching hospitals can pursue their vitally important patient care, training, and research missions in the face of an increasingly competitive health system.

Medical schools also face an uncertain future. There are many policy issues that need to be examined regarding the role of medical schools in our health system, but two threats faced by medical schools require immediate attention. This legislation addresses both. First, many medical schools are immediately threatened by the dire financial condition of their affiliated teaching hospitals. Medical schools rely on teaching hospitals to provide a place for their faculty to practice and perform research, a place to send third and fourth-year medical school students for training, and for some direct revenues. By improving the financial condition of teaching hospitals, this legislation significantly improves the outlook for medical schools.

The second immediate threat faced by medical schools stems from their reliance on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are shrinking. This legislation provides payments to medical schools from the trust fund that are designed to partially offset this loss of revenue.

None of the foregoing is meant to suggest that the new competitive forces reshaping health care have brought only negative results. To the contrary, the onset of competition has had many beneficial effects, the dramatic curtailing of growth in health insurance premiums being the most obvious. But as Monsignor Charles J. Fahey of Fordham warned in testimony before the Finance Committee in 1994, we must be wary of the "commodification of health care," by which he meant that health care is not just another commodity. We can rely on competition to hold down costs in much of the health system, but we must not allow it to bring a premature end to this great age of medical discovery, an age made possible by this country's exceptionally well-trained health professionals and superior medical schools and teaching hospitals. This legislation complements a competitive health market by providing tax-supported funding for the public services provided by teaching hospitals and medical schools.

DESCRIPTION OF LEGISLATION

Accordingly, the medical education trust fund established in the legislation I have just reintroduced would receive funding from three sources broadly representing the entire health care system: a 1.5 percent tax on health insurance premiums—the private sector's contribution—Medicare and Medicaid—the latter two sources comprising the public sector's contribution. The relative contribution from each of these sources will be in rough proportion to the medical education costs attributable to their respective covered populations.

Over the 5 years following enactment, the medical education trust fund provides average annual payments of about $17 billion. The tax on health insurance premium—including self-insured health plans—raises approximately $4 billion per year for the trust fund. Federal health programs contribute about $13 billion per year to the trust fund: $9 billion in transfers of Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

This legislation is only a first step. It establishes the principle that, as a public good, medical education should be supported by dedicated, long-term Federal funding. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following: alternative and additional sources of medical education financing; alternative methodologies for financing medical education; policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the appropriate role of medical schools in graduate medical education; and policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals.

Mr. President, the services provided by this Nation's teaching hospitals and medical schools—ground breaking research, highly skilled medical care, and the training of tomorrow's physicians—are vitally important and must be protected in this time of intense economic competition in the health system.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 21

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medical Education Trust Fund Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Medical Education Trust Fund.
Sec. 3. Amendments to medicare program.
Sec. 4. Amendments to medicaid program.
Sec. 5. Assessments on insured and self-insured health plans.
Sec. 6. Medical Education Advisory Commission.
Sec. 7. Demonstration projects.

SEC. 2. MEDICAL EDUCATION TRUST FUND.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XX the following new title:

"TITLE XXI—MEDICAL EDUCATION TRUST FUND

"TABLE OF CONTENTS OF TITLE

"Sec. 2101. Establishment of Trust Fund.
"Sec. 2102. Payments to medical schools.
"Sec. 2103. Payments to teaching hospitals.

"SEC. 2101. ESTABLISHMENT OF TRUST FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Medical Education Trust Fund (in this title referred to as the 'Trust Fund'), consisting of the following accounts:

"(1) The Medical School Account.

"(2) The Medicare Teaching Hospital Indirect Account.

"(3) The Medicare Teaching Hospital Direct Account.

"(4) The Non-Medicare Teaching Hospital Indirect Account.

"(5) The Non-Medicare Teaching Hospital Direct Account.

Each such account shall consist of such amounts as are allocated and transferred to such account under this section, sections 1876(a)(7), 1886(j) and 1931, and section 4503 of the Internal Revenue Code of 1986. Amounts in the accounts of the Trust Fund shall remain available until expended.

"(b) EXPENDITURES FROM TRUST FUND.—Amounts in the accounts of the Trust Fund are available to the Secretary for making payments under sections 2102 and 2103.

"(c) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the accounts of the Trust Fund which the Secretary determines are not required to meet current withdrawals from the Trust Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—The Secretary of the Treasury may sell at market price any obligation acquired under paragraph (1).

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations held in each such account, and proceeds from any sale or redemption of such obligations, are hereby appropriated to such account.

"(d) MONETARY GIFTS TO TRUST FUND.—There are appropriated to the Trust Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Trust Fund. Such amounts shall be allocated and transferred to the accounts described in subsection (a) in the same proportion as the amounts in each of the accounts bears to the total amount in all the accounts of the Trust Fund.

"SEC. 2102. PAYMENTS TO MEDICAL SCHOOLS.

"(a) FEDERAL PAYMENTS TO MEDICAL SCHOOLS FOR CERTAIN COSTS.—

"(1) IN GENERAL.—In the case of a medical school that in accordance with paragraph (2) submits to the Secretary an application for fiscal year 1998 or any subsequent fiscal year, the Secretary shall make payments for such year to the medical school for the purpose specified in paragraph (3). The Secretary shall make such payments from the Medical School Account in an amount determined in accordance with subsection (b), and may administer the payments as a contract, grant, or cooperative agreement.

"(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments under such paragraph for a fiscal year is in accordance with this paragraph if—

"(A) the medical school involved submits the application not later than the date specified by the Secretary; and

"(B) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(3) PURPOSE OF PAYMENTS.—The purpose of payments under paragraph (1) is to assist medical schools in maintaining and developing quality educational programs in an increasingly competitive health care system.

"(b) AVAILABILITY OF TRUST FUND FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.—

"(1) AVAILABILITY OF TRUST FUND FOR PAYMENTS.—The following amounts shall be available for a fiscal year for making payments under subsection (a) from the amount allocated and transferred to the Medical School Account under sections 1876(a)(7), 1886(j), 1931, 2101(c)(3) and (d), and section 4503 of the Internal Revenue Code of 1986:

"(A) In the case of fiscal year 1998, $200,000,000.

"(B) In the case of fiscal year 1999, $300,000,000.

"(C) In the case of fiscal year 2000, $400,000,000.

"(D) In the case of fiscal year 2001, $500,000,000.

"(E) In the case of fiscal year 2002, $600,000,000.

"(F) In the case of each subsequent fiscal year, the amount specified in this paragraph in the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the general health care inflation factor (as defined in subsection (d)) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this subparagraph in the projected health care inflation factor.

"(2) AMOUNT OF PAYMENTS FOR MEDICAL SCHOOLS.—

"(A) IN GENERAL.—Subject to the annual amount available under paragraph (1) for a fiscal year, the amount of payments required under subsection (a) to be made to a medical school that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to an amount determined by the Secretary in accordance with subparagraph (B).

"(B) DEVELOPMENT OF FORMULA.—The Secretary shall develop a formula for allocation of funds to medical schools under this section consistent with the purpose described in subsection (a)(3).

"(c) MEDICAL SCHOOL DEFINED.—For purposes of this section, the term 'medical school' means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

"(d) GENERAL HEALTH CARE INFLATION FACTOR.—The term 'general health care inflation factor' means the consumer price index for medical services as determined by the Bureau of Labor Statistics.

"SEC. 2103. PAYMENTS TO TEACHING HOSPITALS.

"(a) FORMULA PAYMENTS TO ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—In the case of any fiscal year beginning after September 30, 1997, the Secretary shall make payments to each eligible entity that, in accordance with paragraph (2), submits to the Secretary an application for such fiscal year. Such payments shall be made from the Trust Fund, and the total of the payments to the eligible entity for the fiscal year shall equal the sum of the amounts determined under subsections (b), (c), (d), and (e).

"(2) APPLICATION.—For purposes of paragraph (1), an application shall contain such information as may be necessary for the Secretary to make payments under such paragraph to an eligible entity during a fiscal year. An application shall be treated as submitted in accordance with this paragraph if it is submitted not later than the date specified by the Secretary, and is made in such form and manner as the Secretary may require.

"(3) PERIODIC PAYMENTS.—Payments under paragraph (1) to an eligible entity for a fiscal year shall be made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

"(4) ADMINISTRATOR OF PROGRAMS.—The Secretary shall carry out responsibility under this title by acting through the Administrator of the Health Care Financing Administration.

"(5) ELIGIBLE ENTITY.—For purposes of this title, the term 'eligible entity', with respect to any fiscal year, means—

"(A) for payment under subsections (b) and (c), an entity which would be eligible to receive payments for such fiscal year under—

"(i) section 1886(d)(5)(B), if such payments had not been terminated for discharges occurring after September 30, 1997;

"(ii) section 1886(h), if such payments had not been terminated for cost reporting periods beginning after September 30, 1997; or

"(iii) both sections; or

"(B) for payment under subsections (d) and (e)—

"(i) an entity which meets the requirement of subparagraph (A); or

"(ii) an entity which the Secretary determines should be considered an eligible entity.

"(b) DETERMINATION OF AMOUNT FROM MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account under sections 1876(a)(7) and 1886(j)(1), and subsections (c)(3) and (d) of section 2101 for such fiscal year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(d)(5)(B) if—

"(A) such payments had not been terminated for discharges occurring after September 30, 1997; and

"(B) such payments included payments for individuals enrolled in a plan under section 1876, except that for fiscal years 1998, 1999, and 2000, only the applicable percentage (as defined in section 1876(a)(7)(B)) of such payments shall be taken into account.

"(c) DETERMINATION OF AMOUNT FROM MEDICARE TEACHING HOSPITAL DIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Direct Account under sections 1876(a)(7) and 1886(j)(2), and subsections (c)(3) and (d) of section 2101 for such fiscal year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(h) if—

"(A) such payments had not been terminated for cost reporting periods beginning after September 30, 1997; and

"(B) such payments included payments for individuals enrolled in a plan under section 1876, except that for fiscal years 1998, 1999, and 2000, only the applicable percentage (as defined in section 1876(a)(7)(B)) of such payments shall be taken into account.

"(d) DETERMINATION OF AMOUNT FROM NON-MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account for such fiscal year under section 1931, subsections (c)(3) and (d) of section 2101, and section 4503 of the Internal Revenue Code of 1986.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year for an eligible entity is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1886(d)(5)(B) if—

"(A) such payments had not been terminated for discharges occurring after September 30, 1997; and

"(B) non-medicare patients were taken into account in lieu of medicare patients.

"(e) DETERMINATION OF AMOUNT FROM NON-MEDICARE TEACHING HOSPITAL DIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Non-Medicare Teaching Hospital Direct Account for such fiscal year under section 1931, subsections (c)(3) and (d) of section 2101, and section 4503 of the Internal Revenue Code of 1986.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year for an eligible entity is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1886(h) if—

"(A) such payments had not been terminated for cost reporting periods beginning after September 30, 1997; and

"(B) non-medicare patients were taken into account in lieu of medicare patients.".

SEC. 3. AMENDMENTS TO MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking "The Secretary shall provide" and inserting the following: "For discharges occurring before October 1, 1997, the Secretary shall provide";

(2) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking "the Secretary shall provide" and inserting "the Secretary shall, subject to paragraph (6), provide"; and

(B) by adding at the end the following new paragraph:

"(6) LIMITATION.—

"(A) IN GENERAL.—The authority to make payments under this subsection shall not apply with respect to—

"(i) cost reporting periods beginning after September 30, 1997; and

"(ii) any portion of a cost reporting period beginning on or before such date which occurs after such date.

"(B) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education."; and

(3) by adding at the end the following new subsection:

"(j) TRANSFERS TO MEDICAL EDUCATION TRUST FUND.—

"(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

"(A) TRANSFER.—

"(i) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subparagraph (B).

"(ii) ALLOCATION.—Of the amount transferred under clause (i)—

"(I) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to the Medical Education Trust Fund under title XXI (excluding amounts transferred under subsections (c)(3) and (d) of section 2101) for such fiscal year; and

"(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account.

"(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for each fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1997.

"(2) DIRECT COSTS OF MEDICAL EDUCATION.—

"(A) TRANSFER.—

"(i) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subparagraph (B).

"(ii) ALLOCATION.—Of the amount transferred under clause (i)—

"(I) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to the Medical Education Trust Fund under title XXI (excluding amounts transferred under subsections (c)(3) and (d) of section 2101) for such fiscal year; and

"(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Direct Account.

"(B) DETERMINATION OF AMOUNTS.—For each hospital, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods beginning after September 30, 1997.

"(C) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.".

(b) MEDICARE HMO'S.—Section 1876(a) of the Social Security Act (42 U.S.C. 1395mm(a)) is amended by inserting after paragraph (6) the following new paragraph:

"(7)(A) In determining the adjusted average per capita cost under paragraph (4) for fiscal years after 1997, the Secretary shall not take into account the applicable percentage of costs under sections 1886(d)(5)(B) (indirect costs of medical education) and 1886(h) (direct graduate medical education costs).

"(B) For purposes of subparagraph (A), the applicable percentage is—

"(i) for fiscal year 1998, 25 percent;

"(ii) for fiscal year 1999, 50 percent;

"(iii) for fiscal year 2000, 75 percent; and

"(iv) for fiscal year 2001 and each subsequent fiscal year, 100 percent.

"(C)(i) There is appropriated and transferred to the Medical Education Trust Fund each fiscal year an amount equal to the aggregate amounts not taken into account under paragraph (4) by reason of subparagraph (A).

"(ii) Of the amounts transferred under clause (i)—

"(I) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to the Medical Education Trust Fund under section 2101 (excluding amounts transferred under subsections (c)(3) and (d) of such section) for such fiscal year; and

"(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account under such section and the Medicare Teaching Hospital Direct Account under such section in the same proportion as the amounts attributable to the costs under sections 1886(d)(5)(B) and 1886(h) were of the amounts transferred under clause (i).

"(iii) The Secretary shall make payments under clause (i) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in the same manner as the Secretary determines under section 1886(j).".

SEC. 4. AMENDMENTS TO MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1931 as section 1932; and

(2) by inserting after section 1930, the following new section:

"TRANSFER OF FUNDS TO ACCOUNTS

"SEC. 1931. (a) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—For fiscal year 1998 and each subsequent fiscal year, the Secretary shall transfer to the Medical Education Trust Fund an amount equal to the amount determined under subsection (b).

"(2) ALLOCATION.—Of the amount transferred under paragraph (1)—

"(A) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under paragraph (1) bears to the total amounts transferred to the Medical Education Trust Fund under title XXI (excluding amounts transferred under subsections (c)(3) and (d) of section 2101) for such fiscal year; and

"(B) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account, in the same proportion as the amounts transferred to each account under section 1886(j) relate to the total amounts transferred under such section for such fiscal year.

"(b) AMOUNT DETERMINED.—

"(1) OUTLAYS FOR ACUTE MEDICAL SERVICES DURING PRECEDING FISCAL YEAR.—Beginning with fiscal year 1998, the Secretary shall determine 5 percent of the total amount of Federal outlays made under this title for acute medical services, as defined in paragraph (2), for the preceding fiscal year.

"(2) ACUTE MEDICAL SERVICES DEFINED.—The term 'acute medical services' means items and services described in section 1905(a) other than the following:

"(A) Nursing facility services (as defined in section 1905(f)).

"(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

"(G) Community supported living arrangements services under section 1930.

"(H) Case-management services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in a previous subparagraph.

"(J) Services furnished in an institution for mental diseases (as defined in section 1905(i)).

"(c) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to the Non-Medicare Teaching Hospital Indirect Account, the Non-Medicare Teaching Hospital Direct Account, and the Medical School Account of amounts determined in accordance with subsections (a) and (b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after October 1, 1997.

SEC. 5. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) GENERAL RULE.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding after chapter 36 the following new chapter:

"CHAPTER 37—HEALTH RELATED ASSESSMENTS

"SUBCHAPTER A. Insured and self-insured health plans.

"Subchapter A—Insured and Self-Insured Health Plans

"Sec. 4501. Health insurance and health-related administrative services.

“Sec. 4502. Self-insured health plans.

“Sec. 4503. Transfer to accounts.

“Sec. 4504. Definitions and special rules.

“SEC. 4501. HEALTH INSURANCE AND HEALTH-RELATED ADMINISTRATIVE SERVICES.

“(a) Imposition of Tax.—There is hereby imposed—

“(1) on each taxable health insurance policy, a tax equal to 1.5 percent of the premiums received under such policy, and

“(2) on each amount received for health-related administrative services, a tax equal to 1.5 percent of the amount so received.

“(b) Liability for Tax.—

“(1) Health insurance.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

“(2) Health-related administrative services.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

“(c) Taxable Health Insurance Policy.—For purposes of this section—

“(1) In general.—Except as otherwise provided in this section, the term ‘taxable health insurance policy’ means any insurance policy providing accident or health insurance with respect to individuals residing in the United States.

“(2) Exemption of certain policies.—The term ‘taxable health insurance policy’ does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

“(A) liabilities incurred under workers’ compensation laws,

“(B) tort liabilities,

“(C) liabilities relating to ownership or use of property,

“(D) credit insurance, or

“(E) such other similar liabilities as the Secretary may specify by regulations.

“(3) Special rule where policy provides other coverage.—In the case of any taxable health insurance policy under which amounts are payable other than for accident or health coverage, in determining the amount of the tax imposed by subsection (a)(1) on any premium paid under such policy, there shall be excluded the amount of the charge for the nonaccident or nonhealth coverage if—

“(A) the charge for such nonaccident or nonhealth coverage is either separately stated in the policy, or furnished to the policyholder in a separate statement, and

“(B) such charge is reasonable in relation to the total charges under the policy.

In any other case, the entire amount of the premium paid under such policy shall be subject to tax under subsection (a)(1).

“(4) Treatment of prepaid health coverage arrangements.—

“(A) In general.—In the case of any arrangement described in subparagraph (B)—

“(i) such arrangement shall be treated as a taxable health insurance policy,

“(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy, and

“(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

“(B) Description of arrangements.—An arrangement is described in this subparagraph if under such arrangement—

“(i) fixed payments or premiums are received as consideration for any person’s agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided, and

“(ii) substantially all of the risks of the rates of utilization of services is assumed by such person or the provider of such services.

“(d) Health-Related Administrative Services.—For purposes of this section, the term ‘health-related administrative services’ means—

“(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy if the charge for such services is not included in the premiums under such policy, and

“(2) processing claims, arranging for provision of accident or health coverage, or performing other administrative services in connection with an applicable self-insured health plan (as defined in section 4502(c)) established or maintained by a person other than the person performing the services.

For purposes of paragraph (1), rules similar to the rules of subsection (c)(3) shall apply.

“SEC. 4502. SELF-INSURED HEALTH PLANS.

“(a) Imposition of Tax.—In the case of any applicable self-insured health plan, there is hereby imposed a tax for each month equal to 1.5 percent of the sum of—

“(1) the accident or health coverage expenditures for such month under such plan, and

“(2) the administrative expenditures for such month under such plan to the extent such expenditures are not subject to tax under section 4501.

In determining the amount of expenditures under paragraph (2), rules similar to the rules of subsection (d)(3) apply.

“(b) Liability for Tax.—

“(1) In general.—The tax imposed by subsection (a) shall be paid by the plan sponsor.

“(2) Plan sponsor.—For purposes of paragraph (1), the term ‘plan sponsor’ means—

“(A) the employer in the case of a plan established or maintained by a single employer,

“(B) the employee organization in the case of a plan established or maintained by an employee organization, or

“(C) in the case of—

“(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

“(ii) a voluntary employees’ beneficiary association under section 501(c)(9), or

“(iii) any other association plan,

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

“(c) Applicable Self-Insured Health Plan.—For purposes of this section, the term ‘applicable self-insured health plan’ means any plan for providing accident or health coverage if any portion of such coverage is provided other than through an insurance policy.

“(d) Accident or Health Coverage Expenditures.—For purposes of this section—

“(1) In general.—The accident or health coverage expenditures of any applicable self-insured health plan for any month are the aggregate expenditures paid in such month for accident or health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4501.

“(2) Treatment of reimbursements.—In determining accident or health coverage expenditures during any month of any applicable self-insured health plan, reimbursements (by insurance or otherwise) received during such month shall be taken into account as a reduction in accident or health coverage expenditures.

“(3) Certain expenditures disregarded.—Paragraph (1) shall not apply to any expenditure for the acquisition or improvement of land or for the acquisition or improvement of any property to be used in connection with the provision of accident or health coverage which is subject to the allowance under section 167, except that, for purposes of paragraph (1), allowances under section 167 shall be considered as expenditures.

“SEC. 4503. TRANSFER TO ACCOUNTS.

“For fiscal year 1998 and each subsequent fiscal year, there are hereby appropriated and transferred to the Medical Education Trust Fund amounts equivalent to taxes received in the Treasury under sections 4501 and 4502, of which—

“(1) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred to the Medical Education Trust Fund under title XXI of the Social Security Act under this section bears to the total amounts transferred to such Trust Fund (excluding amounts transferred under subsections (c)(3) and (d) of section 2101 of such Act) for such fiscal year; and

“(2) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account, in the same proportion as the amounts transferred to such account under section 1886(j) relate to the total amounts transferred under such section for such fiscal year.

Such amounts shall be transferred in the same manner as under section 9601.

“SEC. 4504. DEFINITIONS AND SPECIAL RULES.

“(a) Definitions.—For purposes of this subchapter—

“(1) Accident or health coverage.—The term ‘accident or health coverage’ means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in section 4501(c)).

“(2) Insurance policy.—The term ‘insurance policy’ means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

“(3) Premium.—The term ‘premium’ means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating. Amounts returned where the amount is not fixed in the contract but depends on the experience of the insurer or the discretion of management shall not be included in return premiums.

“(4) United States.—The term ‘United States’ includes any possession of the United States.

“(b) Treatment of Governmental Entities.—

“(1) In general.—For purposes of this subchapter—

“(A) the term ‘person’ includes any governmental entity, and

“(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the taxes imposed by this subchapter except as provided in paragraph (2).

“(2) Exempt governmental programs.—In the case of an exempt governmental program—

“(A) no tax shall be imposed under section 4501 on any premium received pursuant to such program or on any amount received for health-related administrative services pursuant to such program, and

"(B) no tax shall be imposed under section 4502 on any expenditures pursuant to such program.

"(3) Exempt governmental program.—For purposes of this subchapter, the term 'exempt governmental program' means—

"(A) the insurance programs established by parts A and B of title XVIII of the Social Security Act,

"(B) the medical assistance program established by title XIX of the Social Security Act,

"(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

"(i) members of the Armed Forces of the United States, or

"(ii) veterans, and

"(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

"(c) No Cover Over to Possessions.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.".

(b) Clerical Amendment.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by inserting after the item relating to chapter 36 the following new item:

"Chapter 37. Health related assessments."

(c) Effective Date.—The amendments made by this section shall apply with respect to premiums received, and expenses incurred, with respect to coverage for periods after September 30, 1997.

SEC. 6. MEDICAL EDUCATION ADVISORY COMMISSION.

(a) Establishment.—There is hereby established an advisory commission to be known as the Medical Education Advisory Commission (in this section referred to as the "Advisory Commission").

(b) Duties.—

(1) In general.—The Advisory Commission shall—

(A) conduct a thorough study of all matters relating to—

(i) the operation of the Medical Education Trust Fund established under section 2;

(ii) alternative and additional sources of graduate medical education funding;

(iii) alternative methodologies for compensating teaching hospitals for graduate medical education;

(iv) policies designed to maintain superior research and educational capacities in an increasing competitive health system;

(v) the role of medical schools in graduate medical education; and

(vi) policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals;

(B) develop recommendations, including the use of demonstration projects, on the matters studied under subparagraph (A) in consultation with the Secretary of Health and Human Services and the entities described in paragraph (2);

(C) not later than January 1999, submit an interim report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services; and

(D) not later than January 2001, submit a final report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services.

(2) Entities described.—The entities described in this paragraph are—

(A) other advisory groups, including the Council on Graduate Medical Education, the Prospective Payment Assessment Commission, and the Physician Payment Review Commission;

(B) interested parties, including the Association of American Medical Colleges, the Association of Academic Health Centers, and the American Medical Association;

(C) health care insurers, including managed care entities; and

(D) other entities as determined by the Secretary of Health and Human Services.

(c) Number and Appointment.—The membership of the Advisory Commission shall include 9 individuals who are appointed to the Advisory Commission from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary of Health and Human Services, and shall include individuals from each of the following categories:

(1) Physicians who are faculty members of medical schools.

(2) Officers or employees of teaching hospitals.

(3) Officers or employees of health plans.

(4) Deans of medical schools.

(5) Such other individuals as the Secretary determines to be appropriate.

(d) Terms.—

(1) In general.—Except as provided in paragraph (2), members of the Advisory Commission shall serve for the lesser of the life of the Advisory Commission, or 4 years.

(2) Service beyond term.—A member of the Advisory Commission may continue to serve after the expiration of the term of the member until a successor is appointed.

(e) Vacancies.—If a member of the Advisory Commission does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) Chair.—The Secretary of Health and Human Services shall designate an individual to serve as the Chair of the Advisory Commission.

(g) Meetings.—The Advisory Commission shall meet not less than once during each 4-month period and shall otherwise meet at the call of the Secretary of Health and Human Services or the Chair.

(h) Compensation and Reimbursement of Expenses.—Members of the Advisory Commission shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Advisory Commission. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) Staff.—

(1) Staff director.—The Advisory Commission shall, without regard to the provisions of title 5, United States Code, relating to competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under 5382 of title 5, United States Code.

(2) Additional staff.—The Secretary of Health and Human Services shall provide to the Advisory Commission such additional staff, information, and other assistance as may be necessary to carry out the duties of the Advisory Commission.

(j) Termination of the Advisory Commission.—The Advisory Commission shall terminate 90 days after the date on which the Advisory Commission submits its final report under subsection (b)(1)(D).

(k) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 7. DEMONSTRATION PROJECTS.

(a) Establishment.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish, by regulation, guidelines for the establishment and operation of demonstration projects which the Medical Education Advisory Commission recommends under subsection (b)(1)(B) of section 6.

(b) Funding.—

(1) In general.—For any fiscal year after 1997, amounts in the Medical Education Trust Fund under title XXI of the Social Security Act shall be available for use by the Secretary in the establishment and operation of demonstration projects described in subsection (a).

(2) Funds available.—

(A) Limitation.—Not more than 1⁄10 of 1 percent of the funds in such trust fund shall be available for the purposes of paragraph (1).

(B) Allocation.—Amounts under paragraph (1) shall be paid from the accounts established under paragraphs (2) through (5) of section 2101(a) of the Social Security Act, in the same proportion as the amounts transferred to such accounts bears to the total of amounts transferred to all 4 such accounts for such fiscal year.

(c) Limitation.—Nothing in this section shall be construed to authorize any change in the payment methodology for teaching hospitals and medical schools established by this Act.

Summary of the Medical Education Trust Fund Act of 1997

OVERVIEW

The legislation establishes a Medical Education Trust Fund to support America's 142 medical schools and 1,250 teaching hospitals. These institutions are in a precarious financial situation as market forces reshape the health care delivery system. Explicit and dedicated funding for these institutions will guarantee that the United States continues to lead the world in the quality of its health care system.

The Medical Education Trust Fund Act of 1997 recognizes the need to begin moving away from existing medical education payment policies. Funding would be provided for demonstration projects and alternative payment methods, but permanent policy changes would await a report from a new Medical Education Advisory Commission established by the bill. The primary and immediate purpose of the legislation is to establish as Federal policy that medical education is a public good which should be supported by all sectors of the health care system.

To ensure that the burden of financing medical education is shared equitably by all sectors, the Medical Education Trust Fund will receive funding from three sources: a 1.5 percent assessment on health insurance premiums (the private sector's contribution), Medicare, and Medicaid (the public sector's contribution). The relative contribution from each of these sources is in rough proportion to the medical education costs attributable to their respective covered populations.

Over the five years following enactment, the Medical Education Trust Fund will provide average annual payments of about $17 billion, roughly doubling federal funding for medical education. The assessment on health insurance premiums (including self-insured health plans) contributes approximately $4 billion per year to the Trust Fund. Federal health programs contribute about $13 billion per year to the Trust Fund: $9 billion in transfers of current Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

Estimated average annual trust fund revenue by source, first 5 years

[In billions of dollars]

1.5 percent assessment	4
Medicare	9
Medicaid	4
Total	17

INTERIM PAYMENT METHODOLOGIES

Payments to Medical Schools

Medical schools rely on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are being constrained. Payments to medical schools from the Trust Fund are designed to partially offset this loss of revenue. Initially, these payments will be based upon an interim methodology developed by the Secretary of Health and Human Services.

Payments to Teaching Hospitals

To cover the costs of education, teaching hospitals have traditionally charged higher rates than other hospitals. As private payers become increasingly unwilling to pay these higher rates, the future of these important institutions, and the patient care, training, and research they provide, is placed at risk. Payments from the Trust Fund reimburse teaching hospitals for both the direct[1] and indirect[2] costs of graduate medical education.

Payments for direct costs are based on the actual of costs of employing medical residents. Payments for indirect costs are based on the number of patients cared for in each hospital and the severity of their illnesses as well as a measure of the teaching load in that hospital.[3] For the purposes of payments to teaching hospitals, the allocation of Medicare funds is based on the number of Medicare patients in each hospital; the allocation of the tax revenue and Medicaid funds is based on the number of non-Medicare patients in each hospital.

The legislation also includes a "carve out" of graduate medical education payments from Medicare's payment to HMOs. Under current law, this payment is based on Medicare's average fee-for-service costs—including graduate medical education costs. Therefore, every time a Medicare beneficiary enrolls in an HMO, money that was being paid to teaching hospitals for medical education in the form of additional payments for direct and indirect costs, is paid instead to an HMO as part of a monthly premium. There is no requirement that HMOs use any of this payment to support medical education. Over a four-year period, the legislation removes graduate medical education payments from HMO payment calculation. These funds are deposited into the Medical Education Trust Fund and paid directly to teaching hospitals.

MEDICAL EDUCATION ADVISORY COMMISSION

The legislation also establishes a Medical Education Advisory Commission to conduct a study and make recommendations, including the potential use of demonstration projects, regarding the following: Operations of the Medical Education Trust Fund; alternative and additional sources of medical education financing; alternative methodologies for distributing medical education payments; policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the role of medical schools in graduate medical education; and policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals.

The Commission, comprised of nine individuals appointed by the Secretary of Health and Human Services, will be required to issue an interim report no later than January 1, 1999, and a final report no later than January 1, 2001.

FOOTNOTES

[1] Medical residents' salaries are the primary direct cost.

[2] These indirect costs include the cost of treating more seriously ill patients and the costs of additional tests that may be ordered by medical residents.

[3] The legislation will use Medicare's measure of teaching load as an interim measure.

By Mr. MOYNIHAN:

S. 22. A bill to establish a bipartisan national commission to address the year 2000 computer problem; to the Committee on Governmental Affairs.

THE YEAR 2000 COMPUTER PROBLEM LEGISLATION

Mr. MOYNIHAN. Mr. President, 1,074 days. Rather, one thousand seventy-four days and counting. We have 1,074 days until January 1, 2000. Historically, the passage of the century has caused quite a stir. Until now, however, there has been little factual basis on which doomsayers and apocalyptic fearmongers could spread their gospel. I rise today, on the first day of legislative business in the 105th Congress, to warn that we have cause for fear.

In the 6th century AD, the Western world began the practice of numbering years consecutively. The 6th-century monk, Dionysius Exiguus (known as "Denis the Small"), introduced the first consecutive year calendar. Popular mythology would have us believe that at the end of the first millennium, Christians and pagans everywhere were cowering in fear of the end of the world. Yet, current historians believe that at the end of the year 999, much of the populace had no idea what year it was, and thus no idea that the millennium was coming to a close. In an ironic twist of fate, many calendars in our current, most advanced technological society ever may be as inaccurate as those of the people who faced the beginning of the Second Millennia A.D.

I have no proof that the Sun is about to rise on the apocalyptic millennium of which chapter 20 of the Book of Revelation speaks, nor do I have proof that, armed with flood and catastrophe, the Four Horsemen will arrive on January 1, 2000. I do know, however, that a seemingly innocuous "computer glitch" relating to how computers use the date could wreak worldwide havoc. This lack of recognition on the part of computers—called the year 2000 Computer Problem, or Y2K as computer aficionados call it—could cause everything from the failure of weapons systems, widespread disruption of business operations, the miscalculation of taxes by the Internal Revenue Service, possible misdiagnosis or improper medical treatment due to errors in medical records, to incorrect traffic signals at street corners across the country.

In the 1950's and 1960's, computer programmers decided that, in order to minimize the consumption of computer memory, most computer languages would be designed to express the date with only six digits. In this format, the date of this speech would be 97–01–21. The century designation "19" is assumed. The problem is that many programs will read January 1, 2000 as January 1, 1900. Millions of computer programs will not function correctly because they cannot recognize the 21st century. The answer to this problem is a costly, time-consuming process of rewriting the computer codes.

Estimates to fix the problem in the United States alone are in the range of $300 billion ($600 billion worldwide). That's billion with a "B". Experts have estimated that about half the cost of upgrading U.S. computers will have to be paid by Government entities. Furthermore, the cost of fixing the 'Y2K' problem will increase at 20 to 50 percent per year due to the decreasing supply of, and increasing demand for, the skilled professionals who can rewrite the codes.

There is no time to cower at the immensity and pervasiveness of the problem, even though it is true that at our current rate of addressing this problem, millions of computer programs across the globe will not recognize the year 2000. We have developed the medicine to cure the disease. It is our job to recognize the extent of our ills and the time-consuming nature of the cure.

I now enter my second year warning of this problem. People have begun to listen. But neither the public nor private sector is anywhere near where they need to be. I congratulate my counterparts in the other Chamber of Congress, namely Representative STEPHEN HORN, Representative CAROLYN MALONEY, Representative CONNIE MORELLA, and Representative JOHN TANNER, who have held hearings on this matter and helped uncover the Federal Government's lack of preparation for this crisis. The administration has only begun to stir.

In his November 25, 1996 letter (answering my July 31st letter to the President) Franklin Raines, the Director of the Office of Management and Budget, stated that:

> We have been meeting with senior agency officials and urging them to complete their assessments of the scope of the problem now, so they will have time to fix it. We have assurances that all of their systems will either

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[1]*Footnotes to appear at end of article.

> be fixed, replaced, or scrapped before 2000, and we will continue to monitor their progress. As we develop the President's 1998 budget, we are working with the agencies to assure that there is adequate funding to support agency year 2000 activities.

Mr. Raines paints a much more comfortable picture than was revealed in the Congressional findings of just 2 months prior. In September 1996, the House Committee on Government Oversight reported that: only 9 of the 24 departments and agencies (which the Committee had just queried) had a plan for addressing the problem; five had not even designated an official within the organization to be responsible for the problem; and 17 of the departments and agencies lacked any cost estimates for the problem. I am encouraged that Representative STEPHEN HORN (R-CA) will continue his subcommittee's oversight hearings on February 24, 1997.

Yet, someone or something needs to ensure that the Federal Government, State governments, and all sectors of the economy are "Year 2000 Compliant." The OMB has neither the staff nor the resources to do this alone. I am introducing today a revamped bill that will set up a Commission to address this problem.

Commissions are not by definition weak. This commission will assume responsibility for assuring that all Federal agencies are Year 2000 compliant by January 1, 1999 (a year early, so as to leave enough time for testing—some say the longest part). The Commission will be composed of experts on the Federal response and the State response in order to face the problems of integration. The Commission will prioritize which agencies are most at risk of not performing vital functions, and through its reports to the President and Congress, it will recommend the appropriate triage process and medicine. It it not enough to recognize that this problem exists. Unless we install the doctors for the triage, the Y2K disease will manifest itself in all sectors of government and the economy.

We are told that the President will include adequate funding for the Executive Agencies in his budget plan for fiscal year 1998. My hope is that Congress will recognize the importance of providing the funding now; for if we wait, not only will the costs rise, but we are liable to see major Government agencies and State governments unable to perform critical functions.

It is January 21 of 1997; we have 1,074 days remaining until January 1, 2000. Too late to lament, time to act.

In the first stanza of his epic work, "The Second Coming," Yeats wrote of the onslaught of the apocalypse:

> Turning and turning in the widening gyre
> The falcon cannot hear the falconer;
> Things fall apart; the center cannot hold;
> Mere anarchy is loosed upon the world,
> The blood dimmed tide is loosed . . .

At the upcoming turn of the millennium, we cannot test what "blood dimmed tide" computer malfunctions could loose on our society.

By Mr. SPECTER (for himself and Ms. MOSELEY-BRAUN):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

NEW AGENDA FOR AIDING AMERICA'S CITIES ACT OF 1997

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that will deal with the plight of our Nation's cities and Washington's increasing neglect of them. There is an urgent need to improve our urban economies and the quality of life for the millions of Americans who live in our cities. My proposal, the "New Agenda For Aiding America's Cities Act of 1997" is based on legislation which I introduced in the 103d and 104th Congress along with my distinguished colleague, Senator CAROL MOSELEY-BRAUN, and I am pleased she is again joining in this effort. The bill constitutes an effort to give our cities some much-needed attention, but reflects the Federal budget constraints which govern all that we in Congress do these days.

This bill, based in significant part on suggestions by Philadelphia Mayor Edward G. Rendell and the League of Cities, offers aid to the cities without increasing Federal expenditures and by re-instituting important cost-effective tax breaks which have been discontinued.

If we are to really address many of the very serious social issues that we face—unemployment, teenage pregnancy, welfare dependency, and other pressing issues—we cannot give up on our cities. There must be new strategies for dealing with the problems of urban America. The days of creating "Great Society" Federal aid programs are clearly past, but that is no excuse for the National Government to turn a blind eye to the problems of the cities.

The goals of this initiative have strong bipartisan support as indicated during the vice-presidential debate in the 1996 campaign, where both the Republican and Democratic candidates spoke of the need to focus our economic resources in our Nation's urban areas. The recent November elections reaffirm the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government.

The impact of last year's welfare reform legislation also requires close scrutiny on what will be happening to America's big cities.

Urban areas remain integral to America's greatness as centers of commerce, industry, education, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our Nation's poor, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

I commend the mayor of Philadelphia, Edward Rendell, for his efforts to revitalize America's cities. Collaborating with the Conference of Mayors and the National League of Cities, he proposed in 1994 a "New Urban Agenda." Much of that proposal is the basis of this legislation.

As a Philadelphia resident, I have first-hand knowledge of the growing problems that plague our cities. As of 1990, Philadelphia had over 300,000 individuals in poverty. Reflecting on my experience as a Philadelphian, I have long supported a variety of programs to assist our cities, such as increased funding for Community Development Block Grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April 1994, I hosted my Senate Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who wanted to obtain work, but had found few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods in America's cities. What my Republican colleagues saw then in Philadelphia is the urban rule across our country and not the exception.

There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America. I cite my own boyhood experience illustratively: Born in Wichita, Kansas, raised in Russell, a small town of 5,000 people on the plains of Kansas, where there is not much detailed knowledge of what goes on in Philadelphia, Pennsylvania, or other big cities like Los Angeles, San Francisco, New York, Miami, Pittsburgh, Dallas, Detroit or Chicago.

Those big cities are alien to people in much of America. But there is a growing understanding that the problems of big cities contribute significantly to the general problems affecting our Nation and have an economic impact, at the very least, on our small towns. For rural America to prosper, we need to make sure that urban America prospers and vice-versa. For example, if cities had more economic growth, taxes could be reduced on all Americans at the federal and state level because revenues would increase and social welfare spending would be reduced.

What are the problems? Crime for one. Take the Bloods and the Crips gangs from Los Angeles, California, and similar gangs; that are all over America. They are in Lancaster, Pennsylvania; Des Moines, Iowa; Portland, Oregon; Jackson, Mississippi; Racine, Wisconsin; and Martinsburg, West Virginia. They are literally everywhere, big city and small city alike.

According to the National League of Cities 1992 report, "State of America's Cities," 397 randomly selected municipal leaders said that after overall economic conditions, crime and drugs were the second and third items that had caused their cities to deteriorate the most in the prior five years. In Atlanta, the number of crimes per 100,000 people was 17,067, making it number one in 1995. We have all heard of that unenviable moniker for our nation's capital—the "murder capital."

Not just municipal leaders voice concern about crime's impact. Mr. Scott Zelov, President of VIZ Manufacturing in the Germantown section of Philadelphia, told my staff that his workers can't even walk to work in safety anymore, making it difficult for him to retain his employees and to continue to stay in business, causing him to consider moving out of the city to a safer location or even closing his business altogether.

Dan DeRitis, owner of Sisko, Inc., a property management and development company in the University City section of West Philadelphia, wrote to me to tell me while he has been a resident and business owner in West Philadelphia for more than twenty years, and while the city had been good to him and his family in the past, recently, he has had reason to fear for the safety of his children, his employees and ultimately, his business. He looks desperately for reasons to stay, but everyday it gets harder and harder.

Joblessness and a less skilled work force is another problem. To facilitate economic development and job creation in the United States, I supported the Balanced Budget Act of 1995, which contained such provisions as the Job Training Partnership Act and the Targeted Job Tax Credit. As Congress put the final touches on that legislation, I circulated a joint letter from several Senators to then-Majority Leader Dole and Speaker GINGRICH recommending spurring job creation and economic growth in our cities through several urban initiatives such as: a targeted capital gains exclusion, commercial revitalization tax credit, historic rehabilitation tax credit, and child care credit.

As part of that effort, on December 19, 1995, I arranged a meeting between Majority Leader Dole and Mayors Edward Rendell of Philadelphia, Thomas Menino of Boston, Richard Daley of Chicago, and Victor Ashe, of Knoxville, Tennessee, to discuss their top tax priorities, which were reflected in the joint letter to the Majority Leader Dole and Speaker GINGRICH. In that meeting the Mayors stressed the necessity of strengthening economic growth in our urban centers to impact directly on social ills identified with weak economic infrastructures. These problems include poverty, crime, and joblessness. Census data from 1990 shows that many of our urban centers suffered from critically high poverty rates as of 1989.

As of 1990, New York City led the way, with 1.3 million individuals in poverty. My home of Philadelphia had 313,374 individuals in poverty at that time. These facts emphasize the need for more efforts to be focused on strengthening our inner city businesses which, in turn, will boost local economies and serve to provide more jobs, reduce poverty and, hopefully, reduce crime.

I have previously introduced legislation to provide targeted tax incentives for investing in small minority- or women-owned businesses. Small businesses provide the bulk of the jobs in this country. Many minority entrepreneurs, for instance, have told me that they are dedicated to staying in the cities to employ people there, but continue to confront capital access issues. My "Minority and Women Capital Formation Act of 1993" would have helped remove the capital access barriers, thereby enabling these entrepreneurs to grow their businesses and payrolls.

Municipal leaders are stressing many of the same concerns that business people are voicing. In a July, 1994 National League of Cities report dealing with poverty and economic development, municipal leaders ranked inadequate skills and education of workers as one of the top three reasons, in addition to shortage of jobs and below-poverty wages, for poverty and joblessness in their cities. They said, according to the survey, that more jobs must be created through local economic development initiatives.

This "skills deficit" is highlighted in an urban revitalization plan prepared in 1991 by the National Urban League called "Playing to Win: A Marshall Plan for America's Cities." The report cites a statistic by the Commission on Achieving Necessary Skills which showed that 60 percent of all 21–25 year-olds lack the basic reading and writing skills needed for the modern workplace, and only 10 percent of those in that age group have enough mathematical competence for today's jobs.

The economic problems our cities are facing are not easy to deal with or answer. In a report by the National League of Cities entitled "City Fiscal Conditions in 1996," municipal officials from 381 cities answered questions on the economic state of their cities. In response to state budgetary problems, 21.7 percent of responding cities reduced municipal employment and 18.5 percent had frozen municipal employment. Nearly 6 out of 10 cities raised or imposed new taxes or user fees during the past twelve months.

These numbers are of concern to me and I believe they highlight the need for federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to balance cuts in services or enact higher taxes. Neither choice is easy and it often counteracts municipal efforts to retain residents or businesses.

One issue, in particular, that is hurting many cities is the erosion of their tax bases, evidenced particularly by middle-class flight to the suburbs. Mr. Ronald Walters, professor of Political Science at Howard University, in testimony before the Senate Banking Committee in April 1993, stated that in 1950, 23 percent of the American population lived outside central cities; by 1988, that number was up to 46 percent.

In an October 9, 1994 article in The Washington Post Magazine, David Finkel profiled Ward 7 of Washington, DC and wrote that Ward 7 lost 13,000 residents between 1980 and 1990 alone. He noted further that the population decline in Washington, DC has averaged 10,000 people a year since 1990. This trend continues into 1997. These losses are devastating, not only to the financial stability of the city, but to the social fabric as well.

On the financial side, statistics show that those people fleeing cities were earning an average of $30,000 to $75,000 a year. On the social side, roughly half of these are African-American middle-class families. By losing this critical demographic group, the city loses much of what makes it strong.

Eroding tax bases are also caused by job-flight and job loss. Professor Walters testified that Chicago lost 47 percent of its manufacturing jobs between 1972 and 1982. Los Angeles lost 327,000 jobs, half of which were in the manufacturing sector. More recently, according to Census data, New York City had only 11.4 percent of its population employed in manufacturing. According to Stephen Moore and Dean Stansel in a March, 1994 USA Today Magazine article, since the 1970's more than 50 Fortune 500 company headquarters have fled New York City, representing a loss of over 500,000 jobs.

It is clear that the social fabric of our cities is also deteriorating. The issues of infant mortality and single-parent families are tragic problems that plague American urban areas. According to 1990 Census data, Washington, DC ranked first out of 77 cities for infant death rates per 1,000 live births in 1988. Detroit led the same number of cities in the percentage of one-parent households in 1990 at 53 percent.

When I traveled to Pittsburgh in 1984, I saw one-pound babies for the first time and I learned that Pittsburgh had the highest infant mortality rate of African-American babies of any city in the United States. It is a human tragedy for a child to be born weighing 16 ounces with attendant problems that last a lifetime. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one-pound baby, about as big as my hand. Indeed, our cities are desperate, and the issues are heavy.

Historically, cities have been the center of commerce and culture. Surrounding communities have relied on a thriving, growing economy in our metropolitan areas to provide jobs and opportunities. As I have noted though, over the past several decades, America's cities have struggled with the loss or exodus of residents, businesses and industry and other problems. The resulting tax base shrinkage causes enormous budget problems for city governments. Across the country, cities such as New York, Los Angeles, and the District of Columbia have experienced the flight of major industries to the suburbs.

As a result, city residents who remain are faced with problems ranging from increased tax burdens and lesser services to dwindling economic opportunities, leading to welfare dependence and unemployment assistance. In the face of all this, what do we do?

The Federal Government has attempted to revitalize our ailing urban infrastructure by providing Federal funding for transit and sewer systems, roads and bridges. I have supported this. For example, as a member of the Transportation Appropriations Subcommittee and as co-chair of an informal Senate Transit Coalition, I have been a strong supporter of public transit which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the nation's deficit and debt. Therefore, we must find alternatives to reinvigorate our nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

I believe there are ways Congress can assist the cities. In 1994, Mayor Rendell came up with a legislative package which contains many good ideas. I have since added and revised provisions to take into account new developments at the federal, state and local levels.

First, recognizing that the federal government is the nation's largest purchaser of goods and services, this legislation would require that no less than 15 percent of federal government purchases be made from businesses and industries within designated urban Empowerment Zones and Enterprise Communities. Similarly, it would require that not less than 15 percent of foreign aid funds be redeemed through purchases of products manufactured in urban Empowerment Zones and Enterprise Communities. I presented this idea to then-Treasury Secretary Bentsen at a March 22, 1994, hearing of the Appropriations Subcommittee on Foreign Operations. The Secretary responded favorably.

I have also written to several mayors across the country regarding this concept. By letter dated July 28, 1994, Miami Mayor Stephen P. Clark responded: "Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas." Miami has a wide range of businesses, such as high-technology firms and medical equipment manufacturers that would benefit from this provision. And by letter dated April 6, 1994, Harrisburg, Pennsylvania Mayor Stephen R. Reed wrote: "Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers. . . Therefore, in brief, we believe the voucher proposal has considerable merit and that this city would benefit from the same." I ask unanimous consent that a copy of my letter and the letters from Mayor Clark and Mayor Reed be included in the RECORD at the end of my statement.

The second major provision of this bill would commit the federal government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of federal facilities in urban areas. To accomplish this, all federal agencies would be required to prepare and submit to the President an Urban Impact Statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand federal tax incentives that were eliminated or restricted in the Tax Reform Act of 1986. Until there is passage of legislation on the flat tax, which would provide benefits superior to all targeted tax breaks, I believe America's cities should have the advantages of such tax benefits. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit which supports inner city revitalization projects. According to information provided by Mayor Rendell, there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the Historic Rehabilitation Tax Credit. In Chicago, 302 projects prior to 1985 generated $524 million in investment and created 20,695 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs.

Nationally, according to National Park Service estimates for the 16 years before the 1986 Act, the Historic Rehabilitation Tax Credit stimulated $16 billion in private investment for the rehabilitation of 24,656 buildings and the creation of 125,306 homes which included 23,377 low and moderate income housing units. The 1986 Tax Act dramatically reduced the pool of private investment capital available for rehabilitation projects. In Philadelphia, projects dropped from 356 to 11 by 1988 from 1985 levels. During the same period, investments dropped 46 percent in Illinois and 92 percent in St. Louis.

Another tool is to expand the authorization of commercial industrial development bonds. Under the Tax Reform Act of 1986, authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to Mayor Rendell, from 1986—the last year commercial development bonds were permitted—to 1987, the total number of city-supported projects in Philadelphia was reduced by more than half.

Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, particularly the construction of sports, convention and trade show facilities; free standing parking facilities owned and operated by the private sector; air and water pollution facilities owned and operated by the private sector; and, industrial parks.

The bill I am introducing would allow this. It would also increase the small issue exemption—which means a way to help finance private activity in the building of manufacturing facilities—from $10 million to $50 million to allow increased private investment in our cities.

A minor change in the federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the federal government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I am informed that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government. This bill would allow cities to keep the arbitrage earned so that they can use it to fund city projects and for other necessary purposes.

My legislation also provides important incentives for businesses to invest and locate in our nation's cities. Specifically, the bill includes a provision which I have advocated to provide a 50 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. I also want to note that the exclusion would extend to any venture funds that invest in those small businesses, which is critical because venture funds are often the lifeblood of a small business. This is one of the incentives I recommended to Senator Dole in December, 1995 for inclusion in the Balanced Budget Act of 1995 which was later vetoed by President Clinton. A targeted capital gains exclusion will serve as a catalyst for job creation and economic growth in our cities by encouraging additional private investment in our urban areas.

A fourth provision of this legislation provides needed reforms to regulations concerning affordable housing. This legislation provides language to study streamlining Federal housing program assistance to urban areas into "block grant" form so that municipal agencies can better serve local residents. Affordable housing is not currently widely available to most low income families. According to the National Housing Law Project, in 1996, only one in four families were eligible to receive HUD assistance. The bill would improve the circumstances of public housing tenants by encouraging the location of newly built units on the lots of demolished older housing and allowing the original residents to move into the new units. This provision will contribute to community stability and promote urban renewal.

Last, this bill helps urban areas by taking several important steps toward reforming the current Superfund law. First, the legislation authorizes a Federal brownfields program to help clean up idle or underused industrial and commercial facilities and waives Federal liability for persons who fully comply with a State cleanup plan to clean sites in urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List. The Environmental Protection Agency currently operates this pilot program under general authority provided by the Superfund law. My legislation would make this a permanent program and substantially increase the funding levels from $36.7 million to a $50 million authorized level for Fiscal Year 1998. The EPA could expend funds to identify and examine potential idle or underused Brownfield sites and to provide grants to States and local governments of up to $200,000 per site to put them back to productive use. One such grant has been used to great success by Pittsburgh Mayor Tom Murphy, and I hope this provision will generate additional success stories of redeveloping urban brownfields.

The Brownfields program allows sites with minor levels of toxic waste to be cleaned up by State and local governments with Federal and non-Federal funds. Companies and individuals who are interested in developing land into industrial, commercial, recreational, or residential use are often reluctant to purchase property with any level of toxic waste because of a fear of being saddled with cleanup liability under the Superfund law. Through expanded Brownfields grants, cleanup at such sites will be expedited and will encourage redevelopment of otherwise unusable urban property.

My bill would also waive Federal liability for persons who fully comply with a State cleanup plan to clean sites in urban areas pursuant to State law, providing that the site is not listed or proposed to be listed on the National Priorities List. Many States, including Pennsylvania, have developed their own toxic waste cleanup programs and have done good work to clean up many of these sites. Pennsylvania Governor Tom Ridge has developed an extensive plan, where contaminated sites are made safe based on sound science by returning the site to productive use through the development of uniform cleanup standards, by creating a set of standardized review procedures, by releasing owners and developers from liability who fully comply with the State cleanup standards and procedures, and by providing financial assistance. However, the efforts of States like Pennsylvania are often stifled because the Federal Government has not been willing to work with the States to release owners and developers from liability, even when they fully comply with the state plans.

This section of my bill only applies only to sites that are not on the National Priorities List. These are sites that the State has identified for which the State has created a comprehensive cleanup plan. If the Federal Government has concerns with the cleanup procedure or the safety of the site, then the government has full authority to place that site on the National Priority List. The plans, like that developed by Governor Ridge, deal with sites not controlled by the Superfund law. By not allowing the individual states to take the initiative to clean up these sites, and by not providing a waiver for federal liability to those who fully comply with the procedures and standards of the State cleanup, the Federal Government chills the efforts of the States to work to clean up their own sites. This provision takes a significant step toward encouraging states to take the responsibility for their toxic waste sites and to encourage the effective cleanup of these sites in our Nation's urban areas.

In the 103d Congress, my "New Urban Agenda Act" (S. 2535) contained a section that would eliminate unfunded Federal mandates based on legislation I cosponsored in the 103d Congress (S. 993) which was introduced by my distinguished colleague from Idaho, Senator Dirk Kempthorne. There is no longer a need to include that provision in my urban agenda bill because Congress enacted the unfunded Federal mandates bill in February, 1995.

Mr. President, it may well be that America has given up on its cities. That is a stark statement, but it is one which I believe may be true—that America has given up on its cities. But this Senator has not done so. And I believe there are others in this body on both sides of the aisle who have not done so.

As one of a handful of United States Senators who lives in a big city, I understand both the problems and the promise of urban America. This legislation for our cities is good public policy. The plight of our cities must be of extreme concern to America. We can ill-afford for them to wither and die. I am committed to a new urban agenda that relies on market forces, and not welfare-statism, for urban revitalization. I invite the input and assistance of my colleagues in order to fashion a strong approach assisting the cities with their pressing problems.

I ask unanimous consent that my bill be printed in the Record as if read, along with an Executive Summary. I thank the Chair and yield the floor.

Executive Summary

NEW AGENDA FOR AIDING AMERICA'S CITIES ACT OF 1997

A. Promote Urban Economic Development through Empowerment and Enterprise Zones. Requires a portion of federal and foreign aid purchases (not less than 15 percent) to be from businesses operating in urban zones, and commits the government to purchase recycled products from businesses operating in urban zones.

B. Locating/Relocating Federal Facilities in Distressed Urban Areas. Requires an urban impact statement, with Presidential approval, that details the impact on cities of agency downsizing or relocation. Under the bill, a "distressed urban area" follows HUD's definition, namely any city having a population of more than 100,000.

C. Revives and Expands Federal Tax Incentives. Expands the Historic Rehabilitation Tax Credit which was reduced in 1986. It would restore the issuance of tax-free industrial development bonds and would allow cities to keep the arbitrage earned from the issuance of tax-free municipal bonds. Currently, local governments are required to rebate to the federal government arbitrage earned from the issuance of tax-free municipal bonds, and often spend more on compliance than on the actual rebate.

D. Contains Incentives for Businesses. To encourage businesses to invest and locate in our nation's cities, provides a 50 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. The exclusion also extends to any venture that invest in those small businesses.

E. Lifts Federal Restrictions on Community-Based Housing Development. To boost the efficiency of regional housing authorities, a study would be done to streamline current and future housing programs into "block grants." The bill would also allow the reconstruction of new units on demolished sites, and relocate the original tenants to the newly constructed units.

F. Reforms Superfund Law to Encourage Industrial Cleanup. Authorizes an expanded federal brownfields grant program to help clean up idle or underused industrial and commercial facilities. Also provides regulatory relief by waiving federal liability for businesses and individuals that fully comply with a state cleanup plan to clean sites in urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List.

S. 23

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "New Urban Agenda Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

Sec. 101. Federal purchases from businesses in empowerment zones, enterprise communities, and enterprise zones.
Sec. 102. Minimum allocation of foreign assistance for purchase of certain United States goods.
Sec. 103. Preference for location of manufacturing outreach centers in urban areas.
Sec. 104. Preference for construction and improvement of Federal facilities in distressed urban areas.
Sec. 105. Definitions.

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT.

Sec. 201. Treatment of rehabilitation credit under passive activity limitations.
Sec. 202. Rehabilitation credit allowed to offset portion of alternative minimum tax.
Sec. 203. Commercial industrial development bonds.
Sec. 204. Increase in amount of qualified small issue bonds permitted for facilities to be used by related principal users.
Sec. 205. Simplification of arbitrage interest rebate waiver.
Sec. 206. Qualified residential rental project bonds partially exempt from state volume cap.
Sec. 207. Expansion of qualified wages subject to work opportunity credit.
Sec. 208. Exclusion for capital gains on certain investments within empowerment zones and enterprise communities.

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

Sec. 301. Block grant study.
Sec. 302. Demolition and disposition of public housing.

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

Sec. 401. Release from liability of persons that fulfill requirements of State and local law.
Sec. 402. Brownfield program.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) cities in the United States have been facing an economic downhill trend in the past several years; and

(2) a new approach to help such cities prosper is necessary.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide various incentives for the economic growth of cities in the United States;

(2) provide an economic agenda designed to reverse current urban economic trends; and

(3) revitalize the jobs and tax base of such cities without significant new Federal outlays.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

SEC. 101. FEDERAL PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND ENTERPRISE ZONES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND ENTERPRISE ZONES

"SEC. 38. (a) MINIMUM PURCHASE REQUIREMENT.—Not less than 15 percent of the total amount expended by executive agencies for the purchase of goods in a fiscal year shall be expended for the purchase of goods from businesses located in empowerment zones, enterprise communities, or enterprise zones.

"(b) RECYCLED PRODUCTS.—To the maximum extent practicable consistent with applicable law, the head of an executive agency shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or enterprise zones.

"(c) REGULATIONS.—The Federal Acquisition Regulations shall include provisions that ensure the attainment of the minimum purchase requirement set out in subsection (a).

"(d) DEFINITIONS.—In this section:

"(1) The term 'empowerment zone' means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

"(2) The term 'enterprise community' means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

"(3) The term 'enterprise zone' has the meaning given such term in section 701(a)(1) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(1)).".

(b) EFFECTIVE DATE.—Section 38 of the Office of Federal Procurement Policy Act, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply with respect to fiscal years beginning after September 30, 1996.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

"Sec. 38. Purchases from businesses in empowerment zones, enterprise communities, and enterprise zones.".

SEC. 102. MINIMUM ALLOCATION OF FOREIGN ASSISTANCE FOR PURCHASE OF CERTAIN UNITED STATES GOODS.

(a) ALLOCATION OF ASSISTANCE.—Notwithstanding any other provision of law, effective beginning with fiscal year 1997, not less than 15 percent of United States assistance provided in a fiscal year shall be provided in the form of credits which may only be used for the purchase of United States goods produced, manufactured, or assembled in empowerment zones, enterprise communities, or enterprise zones within the United States.

(b) UNITED STATES ASSISTANCE.—As used in this section, the term "United States assistance" means—

(1) any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.);

(2) sales, or financing of sales under the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(3) assistance and other activities under the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

SEC. 103. PREFERENCE FOR LOCATION OF MANUFACTURING OUTREACH CENTERS IN URBAN AREAS.

(a) DESIGNATION.—In designating an organization as a manufacturing outreach center under paragraph (11) of section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(11)), the Secretary of Commerce shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or enterprise zones.

(b) FINANCIAL ASSISTANCE.—In utilizing a competitive, merit-based review process to determine the manufacturing outreach centers to which to provide financial assistance under such section, the Secretary shall give such additional preference to centers located in empowerment zones, enterprise communities, and enterprise zones as the Secretary determines appropriate in order to ensure the continuing existence of such centers in such zones.

SEC. 104. PREFERENCE FOR CONSTRUCTION AND IMPROVEMENT OF FEDERAL FACILITIES IN DISTRESSED URBAN AREAS.

(a) PREFERENCE.—Notwithstanding any other provision of law, in determining the location for the construction of a new facility of a department or agency of the Federal Government, in determining to improve an existing facility (including an improvement in lieu of such construction), or in determining the location to which to relocate functions of a department or agency, the head of the department or agency making the determination shall take affirmative action to construct or improve the facility, or to relocate the functions, in a distressed urban area.

(b) URBAN IMPACT STATEMENT.—A determination to construct a new facility of a department or agency of the Federal Government, to improve an existing facility, or to relocate the functions of a department or agency may not be made until the head of the department or agency making the determination prepares and submits to the President a report that—

(1) in the case of a facility to be constructed—

(A) identifies at least one distressed urban area that is an appropriate location for the facility;

(B) describes the costs and benefits arising from the construction and utilization of the facility in the area, including the effects of such construction and utilization on the rate of unemployment in the area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation;

(2) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least one facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and utilization of the facility located in such area as an alternative location for the facility to be improved, including the effect of the improvement and utilization of the facility so located on the rate of unemployment in such area; and

(C) describes the effect on the economy of such area of the closure or consolidation, if any, of Federal facilities located in such area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in such area as a result of such closure or consolidation;

(3) in the case of a facility to be improved that is located in a distressed urban area—

(A) describes the costs and benefits arising from the improvement and continuing utilization of the facility in the area, including the effect of such improvement and continuing utilization on the rate of unemployment in the area; and

(B) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation; or

(4) in the case of a relocation of functions—

(A) identifies at least one distressed urban area that would serve as an appropriate location for the carrying out of the functions;

(B) describes the costs and benefits arising from carrying out the functions in the area, including the effect of carrying out the functions on the rate of unemployment in the area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation.

(c) APPLICABILITY TO DEPARTMENT OF DEFENSE FACILITIES.—The requirements set forth in subsections (a) and (b) shall apply to a determination to construct or improve any facility of the Department of Defense, or to relocate any functions of the Department, unless the President determines that the waiver of the application of such requirements to the facility, or to such relocation, is in the national interest.

(d) DEFINITION.—In this section, the term "distressed urban area" means any city having a population of more than 100,000 that meets (as determined by the Secretary of Housing and Urban Development) the qualifications for making an Urban Development Action Grant to a community experiencing severe economic distress that are otherwise established for large cities and urban counties under subpart G of part 570 of title 24, Code of Federal Regulations.

SEC. 105. DEFINITIONS.

As used in this title:

(1) The term "empowerment zone" means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(2) The term "enterprise community" means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(3) The term "enterprise zone" has the meaning given such term in section 701(a)(1) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(1)).

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

SEC. 201. TREATMENT OF REHABILITATION CREDIT UNDER PASSIVE ACTIVITY LIMITATIONS.

(a) GENERAL RULE.—Paragraphs (2) and (3) of section 469(i) of the Internal Revenue Code of 1986 (relating to $25,000 offset for rental real estate activities) are amended to read as follows:

"(2) DOLLAR LIMITATIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the aggregate amount to which paragraph (1) applies for any taxable year shall not exceed $25,000, reduced (but not below zero) by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

"(B) PHASEOUT NOT APPLICABLE TO LOW-INCOME HOUSING CREDIT.—In the case of the portion of the passive activity credit for any taxable year which is attributable to any credit determined under section 42—

"(i) subparagraph (A) shall not apply, and

"(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

"(I) $25,000, reduced by

"(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable and is not attributable to the rehabilitation credit determined under section 47) to which paragraph (1) applies after the application of subparagraph (A).

"(C) $55,500 LIMIT FOR REHABILITATION CREDITS.—In the case of the portion of the passive activity credit for any taxable year which is attributable to the rehabilitation credit determined under section 47—

"(i) subparagraph (A) shall not apply, and

"(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

"(I) $55,500, reduced by

"(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable) to which paragraph (1) applies for the taxable year after the application of subparagraphs (A) and (B).

"(3) ADJUSTED GROSS INCOME.—For purposes of paragraph (2)(A), adjusted gross income shall be determined without regard to—

"(A) any amount includable in gross income under section 86,

"(B) any amount excludable from gross income under section 135, 911, 931, or 933,

"(C) any amount allowable as a deduction under section 219, and

"(D) any passive activity loss.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 469(i)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) REDUCTION FOR SURVIVING SPOUSE'S EXEMPTION.—For purposes of subparagraph (A), the $25,000 amounts under paragraph (2)(A) and (2)(B)(ii) and the $55,500 amount under paragraph (2)(C)(ii) shall each be reduced by the amount of the exemption under paragraph (1) (determined without regard to the reduction contained in paragraph (2)(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate.".

(2) Subparagraph (A) of section 469(i)(5) of such Code is amended by striking clauses (i), (ii), and (iii) and inserting the following:

"(i) '$12,500' for '$25,000' in subparagraphs (A) and (B)(ii) of paragraph (2),

"(ii) '$50,000' for '$100,000' in paragraph (2)(A)", and

"(iii) '$27,750' for '$55,500' in paragraph (2)(C)(ii).".

(3) The subsection heading for subsection (i) of section 469 of such Code is amended by striking "$25,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act, in taxable years ending on or after such date.

SEC. 202. REHABILITATION CREDIT ALLOWED TO OFFSET PORTION OF ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) REHABILITATION INVESTMENT CREDIT MAY OFFSET PORTION OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of the rehabilitation investment tax credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) for purposes of applying paragraph (1) to such credit—

"(I) the tentative minimum tax under subparagraph (A) thereof shall be reduced by the minimum tax offset amount determined under subparagraph (B) of this paragraph, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the rehabilitation investment tax credit).

"(B) MINIMUM TAX OFFSET AMOUNT.—For purposes of subparagraph (A)(ii)(I), the minimum tax offset amount is an amount equal to—

"(i) in the case of a taxpayer not described in clause (ii), the lesser of—

"(I) 25 percent of the tentative minimum tax for the taxable year, or

"(II) $20,000, or

"(ii) in the case of a C corporation other than a closely held C corporation (as defined in section 469(j)(1)), 5 percent of the tentative minimum tax for the taxable year.

"(C) REHABILITATION INVESTMENT TAX CREDIT.—For purposes of this paragraph, the term 'regular investment tax credit' means the portion of the credit under subsection (a) which is attributable to the credit determined under section 47.".

(b) CONFORMING AMENDMENT.—Section 38(d) of the Internal Revenue Code of 1986 (relating to components of investment credit) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR REHABILITATION CREDIT.—Notwithstanding paragraphs (1) and (2), the rehabilitation investment tax credit (as defined in subsection (c)(2)(C)) shall be treated as used last.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 203. COMMERCIAL INDUSTRIAL DEVELOPMENT BONDS.

(a) FACILITY BONDS.—

(1) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting a comma, and by adding at the end the following new paragraphs:

"(13) sports facilities,

"(14) convention or trade show facilities,

"(15) freestanding parking facilities,

"(16) air or water pollution control facilities, or

"(17) industrial parks.".

(2) INDUSTRIAL PARKS DEFINED.—Section 142 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(k) INDUSTRIAL PARKS.—A facility shall be treated as described in subsection (a)(17) only if all of the property to be financed by the net proceeds of the issue—

"(1) is—

"(A) land, and

"(B) water, sewage, drainage, or similar facilities, or transportation, power, or communication facilities incidental to the use of such land as an industrial park, and

"(2) is not structures or buildings (other than with respect to facilities described in paragraph (1)(B)).".

(3) CONFORMING AMENDMENTS.—

(A) Section 147(c) of the Internal Revenue Code of 1986 (relating to limitation on use for land acquisition) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR INDUSTRIAL PARKS.—In the case of a bond described in section 142(a)(17), paragraph (1)(A) shall be applied by substituting '50 percent' for '25 percent'.".

(B) Section 147(e) of such Code (relating to no portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.) is amended by striking "A private activity bond" and inserting "Except in the case of a bond described in section 142(a)(13), a private activity bond".

(b) SMALL ISSUE BONDS.—Section 144(a)(12) of the Internal Revenue Code of 1986 (relating to termination of qualified small issue bonds) is amended—

(1) by striking "any bond" in subparagraph (A)(i) and inserting "any bond described in subparagraph (B)",

(2) by striking "a bond" in subparagraph (A)(ii) and inserting "a bond described in subparagraph (B)", and

(3) by striking subparagraph (B) and inserting the following:

"(B) BONDS FOR FARMING PURPOSES.—A bond is described in this subparagraph if it is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any land or property not in accordance with section 147(c)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1996.

SEC. 204. INCREASE IN AMOUNT OF QUALIFIED SMALL ISSUE BONDS PERMITTED FOR FACILITIES TO BE USED BY RELATED PRINCIPAL USERS.

(a) IN GENERAL.—Clause (i) of section 144(a)(4)(A) of the Internal Revenue Code of 1986 (relating to $10,000,000 limit in certain cases) is amended by striking "$10,000,000" and inserting "$50,000,000".

(b) CLERICAL AMENDMENT.—The heading of paragraph (4) of section 144(a) of the Internal Revenue Code of 1986 is amended by striking "$10,000,000" and inserting "$50,000,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) obligations issued after the date of the enactment of this Act, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 205. SIMPLIFICATION OF ARBITRAGE INTEREST REBATE WAIVER.

(a) IN GENERAL.—Clause (ii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) is amended to read as follows:

"(ii) SPENDING REQUIREMENT.—The spending requirement of this clause is met if 100 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception for reasonable retainage) is repealed.

(2) Subclause (II) of section 148(f)(4)(C)(vi) of such Code (relating to available construction proceeds) is amended by striking "2-year period" and inserting "3-year period".

(3) Subclause (I) of section 148(f)(4)(C)(vii) of such Code (relating to election to pay penalty in lieu of rebate) is amended by striking ", with respect to each 6-month period after the date the bonds were issued," and ", as of the close of such 6-month period,".

(4) Clause (viii) of section 148(f)(4)(C) of such Code (relating to election to terminate 1½ percent penalty) is amended by striking "to any 6-month period" in the matter preceding subclause (I).

(5) Clause (ii) of section 148(c)(2)(D) of such Code (relating to bonds used to provide construction financing) is amended by striking "2 years" and inserting "3 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 206. QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS PARTIALLY EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by inserting after paragraph (4) the following:

"(5) 75 percent of any exempt facility bond issued as part of an issue described in section 142(a)(7) (relating to qualified residential rental projects).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 207. EXPANSION OF QUALIFIED WAGES SUBJECT TO WORK OPPORTUNITY CREDIT.

(a) INCREASE IN PERCENTAGE.—Section 51(a) of the Internal Revenue Code of 1986 (relating to determination of amount) is amended by striking "35 percent" and inserting "50 percent".

(b) FIRST 3 YEARS OF WAGES SUBJECT TO CREDIT.—Section 51 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended—

(1) in subsections (a) and (b)(3), by striking "first-year"; and

(2) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year—

"(A) with respect to an individual who is a member of a targeted group, and

"(B) attributable to service rendered by such individual during the 3-year period beginning with the day the individual begins work for the employer."; and

(B) by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 208. EXCLUSION FOR CAPITAL GAINS ON CERTAIN INVESTMENTS WITHIN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 1395. EXCLUSION FOR GAIN FROM ZONE OR COMMUNITY INVESTMENTS.

"(a) GENERAL RULE.—In the case of a taxpayer, gross income shall not include any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 3 years.

"(b) QUALIFIED ZONE ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone asset' means, with respect to any qualified small business—

"(A) any qualified zone stock,

"(B) any qualified zone property, and

"(C) any qualified zone partnership interest.

"(2) QUALIFIED SMALL BUSINESS.—

"(A) IN GENERAL.—The term 'qualified small business' means any entity or proprietorship the aggregate gross assets (within the meaning of section 1202(d)(2)) of which do not exceed $50,000,000.

"(B) APPLICATION OF RULES.—In determining if an entity or proprietorship is a qualified small business, rules similar to the rules of subsections (a) and (b) of section 52 shall apply.

"(3) QUALIFIED ZONE STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

"(B) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(4) QUALIFIED ZONE PROPERTY.—

"(A) IN GENERAL.—The term 'qualified zone property' has the meaning given to such term by section 1397C, except that references to empowerment zones shall be treated as including references to enterprise communities.

"(5) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, "(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

"(6) Treatment of subsequent purchasers.—The term 'qualified zone asset' includes any property which would be a qualified zone asset but for paragraph (3)(A)(i), section 1397(a)(1)(B), or paragraph (5)(A) in the hands of the taxpayer if such property was a qualified zone asset in the hands of any prior holder.

"(7) 10-year safe harbor.—If any property ceases to be a qualified zone asset by reason of paragraph (3)(A)(iii), section 1397(a)(1)(C), or paragraph (5)(C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

"(8) Treatment of zone or community terminations.—The termination of any designation of an area as an empowerment zone or enterprise community shall be disregarded for purposes of determining whether any property is a qualified zone asset.

"(c) Other Definitions and Special Rules.—For purposes of this section—

"(1) Enterprise zone business.—For purposes of this section, the term 'enterprise zone business' has the meaning given to such term by section 1394(b)(3).".

"(2) Qualified capital gain.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain.

"(3) Certain gain on real property not qualified.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

"(4) Gain attributable to periods after termination of zone or community designation not qualified.—The term 'qualified capital gain' shall not include any gain attributable to periods after the termination of any designation of an area as an empowerment zone or enterprise community.

"(d) Treatment of Pass-Thru Entities.—

"(1) Sales and exchanges.—Gain on the sale or exchange of an interest in a pass-thru entity which is a qualified small business held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 3 years shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 3 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (2)(B) shall apply for purposes of the preceding sentence.

"(2) Distributions.—

"(A) In general.—Any amount included in income by reason of holding an interest in a pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held the interest to which such inclusion relates) shall be treated as gain described in subsection (a) if such amount meets the requirements of subparagraph (B).

"(B) Requirements.—An amount meets the requirements of this subparagraph if—

"(i) such amount is attributable to gain on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

"(ii) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

"(C) Limitation based on interest originally held by taxpayer.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified zone asset was acquired.

"(3) Pass-thru entity.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(e) Sales and Exchanges of Interests in Partnerships and S Corporations Which are Qualified Zone Businesses.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S Corporation, which was an enterprise zone business during substantially all of the period the taxpayer held such interest or stock) is an enterprise zone business, the amount of qualified capital gain shall be determined without regard to—

"(1) any intangible, and any land, which is not an integral part of any qualified business (as defined in section 1397B(d)), and

"(2) gain attributable to periods before the designation of an area as an empowerment zone or enterprise community.

"(f) Certain Tax-Free and Other Transfers.—For purposes of this section—

"(1) In general.—In the case of a transfer of a qualified zone asset to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such asset in the same manner as the transferor, and

"(B) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) Transfers to which subsection applies.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 3-year holding requirement).

"(3) Certain rules made applicable.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.".

(b) Conforming Amendments.—

(1) Section 172(d)(2)(B) of the Internal Revenue Code of 1986 (relating to modifications with respect to net operating loss deduction) is amended by striking "section 1202" and inserting "sections 1202 and 1395B".

(2) Section 642(c)(4) of such Code (relating to adjustments) is amended by inserting "or 1395B(a)" after "section 1202(a)" and by inserting "or 1395B" after "section 1202".

(3) Section 643(a)(3) of such Code (defining distributable net income) is amended by striking "section 1202" and inserting "sections 1202 and 1395B".

(4) Section 691(c)(4) of such Code (relating to coordination with capital gain provisions) is amended by striking "1202, and 1211" and inserting "1202, 1395B, and 1211".

(5) The second sentence of section 871(a)(2) of such Code (relating to capital gains of aliens present in the United States 183 days or more) is amended by inserting "or 1395B" after "section 1202".

(6) Part II of subchapter U of chapter 1 of such Code is amended to read as follows:

"PART II—INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.".

(7) The table of parts of subchapter U of chapter 1 of such Code is amended to read as follows:

"Part II. Incentives for empowerment zones and enterprise communities.".

(8) The table of sections of part II of subchapter U of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 1395. Exclusion for gain from zone or community investments.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

SEC. 301. BLOCK GRANT STUDY.

(a) Study.—

(1) In general.—The Secretary of Housing and Urban Development shall conduct a study regarding—

(A) the feasibility of consolidating existing public and low-income housing programs under the United States Housing Act of 1937 into a comprehensive block grant system of Federal aid that—

(i) provides assistance on an annual basis;

(ii) maximizes funding certainty and flexibility; and

(iii) minimizes paperwork and delay; and

(B) the possibility of administering future public and low-income housing programs under the United States Housing Act of 1937 in accordance with such a block grant system.

(2) Public housing/section 8 moving to work demonstration.—In conducting the study described in paragraph (1), the Secretary of Housing and Urban Development shall consider data from and assessments of the demonstration program conducted under section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134, 110 Stat. 1321).

(b) Report to Comptroller General.—Not later than 18 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Comptroller General of the United States a report that includes—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations for legislation.

(c) Report to Congress.—Not later than 24 months after the date of enactment of this

Act, the Comptroller General of the United States shall submit to the Congress a report that includes—

(1) an analysis of the report submitted under subsection (b); and

(2) any recommendations for legislation.

SEC. 302. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

Section 18(b) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) the public housing agency develops a plan that provides, subject to the approval of both the unit of general local government in which the property on which the units to be demolished or disposed of are located and the local public housing agency, for—

"(A) the eventual reconstruction of units on the same property on which the units to be demolished or disposed of are located; and

"(B) the ultimate relocation of displaced tenants to that property.".

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

SEC. 401. RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 2) is amended by adding at the end the following:

"(o) Release From Liability of Persons That Fulfill Requirements of State and Local Law.—

"(1) In general.—Neither the President nor any other person may bring an administrative or judicial enforcement action under this Act with respect to a facility located in an urban area that is not listed or proposed for listing on the National Priorities List against a person that has fulfilled all requirements applicable to the person under State and local law to conduct response action at the facility, as evidenced by a release from liability issued by authorized State and local officials, to the extent that the administrative or judicial action would seek to require response action that is within the scope of the response action conducted in accordance with State and local law.

"(2) Urban area defined.—For purposes of paragraph (1), the term 'urban area' has the meaning given that term under section 1393(a)(3) of the Internal Revenue Code of 1986.".

SEC. 402. BROWNFIELD PROGRAM.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"SEC. 127. BROWNFIELD PROGRAM.

"(a) Definition of Brownfield Facility.—In this section, the term 'brownfield facility' means—

"(1) a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

"(2) does not include—

"(A) a facility that is the subject of a removal or planned removal under this title;

"(B) a facility that is listed or has been proposed for listing on the National Priorities List or that has been removed from the National Priorities List;

"(C) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time at which an application for a grant or loan concerning the facility is submitted under this section;

"(D) a land disposal unit with respect to which—

"(i) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

"(ii) closure requirements have been specified in a closure plan or permit;

"(E) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

"(F) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

"(G) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

"(b) Maintenance of Brownfield Program.—The Administrator shall maintain the brownfield program established by the Administrator before the date of enactment of this section.

"(c) Elements of Program.—In conducting the brownfield program, the Administrator may—

"(1) expend funds to identify and examine idle or underused industrial and commercial facilities for inclusion in the brownfield program; and

"(2) provide grants to State and local governments to clean up brownfields and return brownfields to productive use.

"(d) Maximum Grant Amount.—A grant under subsection (c) shall not exceed $200,000 with respect to any brownfield facility.

"(e) Authorization of Appropriations.—There are authorized to be appropriated out of the Hazardous Substance Superfund to carry out this section—

"(1) $50,000,000 for fiscal year 1998;

"(2) $55,000,000 for fiscal year 1999; and

"(3) $60,000,000 for fiscal year 2000.".

By Mr. SPECTER:

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

HEALTH CARE ASSURANCE ACT OF 1997

Mr. SPECTER. Mr. President, the start of the 105th Congress gives those of us in the Senate and the House a new opportunity to make a real difference in the lives of the American people. It is a chance for us to learn from the past concerning how to best respond to the challenges that are before us and forge important alliances to enable us to pass legislation that is important to the American people. One of our first priorities must be additional reforms of our Nation's health care system.

In the 104th Congress, I was pleased to cosponsor the Health Insurance Portability and Accountability Act of 1996, better known as the Kassebaum-Kennedy bill (S. 1028). There is no question that Kassebaum-Kennedy made significant steps forward in addressing troubling issues in health care. The bill's incremental approach to health care reform is what allowed it to generate consensus support in the Senate; we knew that it did not address every single problem in the health care delivery system, but it would make life better for millions of American men, women, and children.

There is much more that needs to be done. Accordingly, today I am introducing the Health Care Assurance Act of 1997, which, if enacted, will take us further down the path of incremental reforms started by Kassebaum-Kennedy. It is my firm belief that the best approach to addressing our Nation's health care problems is to enact reforms that improve upon our current market based health care system without completely overhauling our current system. My bill is intended to initiate and stimulate discussion in order to move the health care reform debate forward. I welcome any suggestions my colleagues may have concerning how the bill can be improved, as long as such suggestions are consistent with the incremental approach to reform that has proven to be the only way to obtain successful health care reform.

I want to note at the outset that through a State-run voucher system, my legislation would address health care coverage for the first time for the vast majority of the 10 million American children who lack health care insurance today. My proposal is compassionate and efficient and will preserve patient choice as its hallmark.

THE NEED FOR A BIPARTISAN APPROACH

Given the importance of succeeding in enacting this type of legislation, it is worth reviewing recent history. In particular, the debate over President Clinton's Health Security Act during the 103d Congress is replete with lessons concerning the pitfalls and obstacles that inevitably lead to legislative failure. Several times during the 103d Congress, I spoke on the Senate floor to address what seemed obvious to me to be the wisest course—to pass incremental health care reforms with which we could all agree. Unfortunately, what seemed obvious to me, based on comments and suggestions by a majority of Senators who favored a moderate approach, was not obvious at the time to the Senate's Democratic leadership.

This failure to understand the merits of an incremental approach was demonstrated during my attempts in April 1993 to offer a health care reform amendment based on the text of S. 631, an incremental reform bill I had introduced earlier in the session incorporating moderate, consensus principles. First, I attempted to offer the bill as an amendment to debt ceiling legislation. Subsequently, I was informed that the consideration of this bill would be structured in a way that my offering an amendment would be impossible. Therefore, I prepared to offer my health care bill as an amendment to the fiscal year 1993 emergency supplemental appropriations bill. The majority leader, Senator Mitchell, and Senator BYRD worked together to ensure that I could not offer my amendment by keeping the Senate in a quorum call, a parliamentary tactic used to delay and obstruct. I was unable to obtain unanimous consent to end the quorum call, and thus could not proceed with my amendment.

Three years later, well after the behemoth Clinton health care reform bill was derailed, the Senate once again endured a lengthy political battle concerning the Kassebaum-Kennedy bill. We achieved a breakthrough in August 1996, when enough Senators sensed the growing frustration of the American people and finally passed health care insurance market reforms such as increased portability. I would note that the final version of the Health Insurance Portability and Accountability Act of 1996 contained many elements which were in S. 18, the incremental health care reform bill I had introduced when the 104th session of Congress began on January 4, 1995.

In retrospect, I urge my colleagues to note a most important fact—the Kassebaum-Kennedy bill was enacted only after the most liberal Democrats abandoned their hopes for passing a nationalized, big government health care scheme, and the most conservative Republicans abandoned their position that access to health care is really not a major problem in the United States demanding Federal action.

Although we succeeded in enacting incremental insurance market reforms, there is still much we need to do to improve our health care system. Additional reforms must be enacted if we are serious about our commitment to meet the needs of the American people. The bill I am introducing today is an updated version of the proposals I have introduced in the 102d, 103d, and 104th Congresses. I am hopeful that my colleagues understand how important it is to our constituents that we continue to reform the health care system. Looking back at our success with the Kassebaum-Kennedy bill, I am equally hopeful that my colleagues have come to realize that if we are to continue to be successful in meeting our constituents' needs, the solutions to our Nation's health care problems must come from the political center, not from the extremes.

Mr. President, there is no time to waste. Many of our Nation's health care problems are getting worse, not better. There is as much need now as ever before to correct the problems in our health care system for the 40.3 million or 17.4 percent of Americans for whom the system is not working. This is a group which, according to the Census Bureau, contained 900,000 more uninsured individuals in 1995 than the previous year. As I have said many times, we can fix the problem for these 40.3 million Americans without resorting to big government and turning the best health care system in the world, serving 82.6 percent of all Americans, on its head. The recent November elections reaffirmed the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government. Consistent with this principle, my legislation will fix the problem for many of the uninsured and underinsured while leaving intact what already works for those Americans with health insurance coverage.

To be sure, health care reform remains a very complex issue for Congress to address. But it is not so complex that we cannot act now and in a bipartisan way. As many of my colleagues will recall, in 1990 Congress passed Clean Air Act amendments that many said could not be achieved. That issue was brought to the Senate floor, and task forces were formed which took up the complex question of sulfuric acid in the air. We targeted the removal of 10 million tons in a year. We made significant changes in industrial pollution and in tailpipe emissions. We produced a balanced bill which protected the environment and retained jobs. Last year's enactment of Kassebaum-Kennedy is another example of such bipartisan success.

PREVIOUS EFFORTS ON REFORMING THE HEALTH CARE SYSTEM

I have advocated health care reform in one form or another throughout my 16 years in the Senate. My strong interest in health care dates back to my first term, when I sponsored the Health Care Cost Containment Act of 1983, S. 2051, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain joint activities such as acquiring or processing information, and collecting and distributing insurance claims for health care services aimed at curtailing then escalating health care costs. In 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birth weight babies and infant mortality. Since 1983, I have introduced and cosponsored numerous other bills concerning health care in our country. A complete list of the 21 health care bills that I have sponsored since 1983 is included for the RECORD.

During the 102d Congress, I pressed the Senate to take action on this issue. On July 29, 1992, I offered a health care amendment to legislation then pending on the Senate floor. This amendment included provisions from legislation introduced by Senator CHAFEE, which I cosponsored and which was previously proposed by Senators Bentsen and Durenberger. The amendment included a change from 25-percent to 100-percent deductibility for health insurance purchased by self-employed persons and small business insurance market reform to make health coverage more affordable for small businesses. When then-Majority Leader George Mitchell argued that the health care amendment I was proposing did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, just as product liability legislation had been placed on the calendar for September 8, 1992. The Majority Leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102d Congress. My July 29, 1992, amendment was defeated on a procedural motion by a vote of 35 to 60, along party lines.

The substance of that amendment, however, was adopted later by the Senate on September 23, 1992, when it was included in an amendment to broader tax legislation (H.R. 11), offered by Senators Bentsen and Durenberger and which I cosponsored. This amendment, which included substantially the same self-employed deductibility and small group reforms that I had proposed on July 29, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference. It is worth noting for the RECORD that on January 23, 1994, when Senator Mitchell was asked on the television program "Face The Nation" about Senator Bentsen's bill from 1992, he stated that President Bush vetoed that provision as part of a broader bill. In fact, the legislation sent to President Bush never included that provision.

On August 12, 1992, I introduced legislation entitled the Health Care Affordability and Quality Improvement Act of 1992, S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, lowered the cost of health care through use of the most appropriate provider, and improved the quality of health care.

On January 21, 1993, the first day of the 103d Congress, I introduced the Comprehensive Health Care Act of 1993, S. 18. This legislation was comprised of reform initiatives that our health care system could have adopted immediately. These reforms would have both improved access and affordability of insurance coverage and would have implemented systemic changes to lower the escalating cost of care in this country. S. 18, which is the principal basis of the legislation I am introducing today, melded the two health care reform bills I introduced and the one bill that I cosponsored in the 102d Congress, and contained several new provisions.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators COHEN, KASSEBAUM, BOND, and MCCAIN, as well as my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a critical mass as a starting point. As I noted earlier, I was precluded by Majority Leader Mitchell from obtaining Senate consideration of my legislation as a floor amendment on several occasions. Finally, on April 28, 1993, I offered the text of S. 631 as an amendment to the pending Department of Environment Act (S. 171) in an attempt to urge the Senate to act on health care reform. My amendment was defeated 65 to 33 on a procedural motion, but the Senate had finally been forced to contemplate action on health care reform.

On the first day of the 104th Congress, January 4, 1995, I introduced a slightly modified version of S. 18, the Health Care Assurance Act of 1995 (also S. 18), which contained provisions similar to those ultimately enacted in Kassebaum-Kennedy, including insurance market reforms, an extension of the tax deductibility of health insurance for the self employed, and deductibility of long term care insurance for employers.

In total, I have taken to this floor on 16 occasions over the past 4 years to urge the Senate to address health care reform and on two occasions, I offered health care reform amendments which were voted on by the Senate.

As my colleagues are aware, I can personally report on the miracles of modern medicine. Three years ago, an MRI detected a benign tumor (meningioma) at the outer edge of my brain. It was removed by conventional surgery, with five days of hospitalization and five more weeks of recuperation.

When a small regrowth was detected by a follow-up MRI in June 1996, it was treated with high powered radiation from the "Gamma Knife." I entered the hospital in the morning of October 11 and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is a recent invention, coming into widespread use in the past decade. I ask unanimous consent to insert in the RECORD an article from the Pittsburgh Post-Gazette about my experience with the Gamma Knife as well as an essay I wrote for several Pennsylvania newspapers on this subject.

My own experience as a patient has given me deeper insights into the American health care system beyond the U.S. Senate hearings where I preside as chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services. I have learned: First, our health care system, the best in the world, is worth every cent we pay for it; second, patients sometimes have to press their own cases beyond the doctors' standard advice; third, greater flexibility must be provided on testing and treatment; fourth, our system has the resources to treat the 39 million Americans not now covered, but we must find the way to pay for it; and fifth, all Americans deserve the access to health care from which I and others with coverage have benefited.

I share the American people's frustration with government and their desire to have the problems addressed. Over the past four years, I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal Government. The message we heard loudest was that Americans did not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed more slowly and to target what isn't working in the health care system while leaving in place what is working.

THE CLINTON HEALTH PLAN

As I have said both publicly and privately, I am willing to cooperate with President Clinton in solving the problems facing our country. However, in the past I have found many important areas where I differed with the President's approach and I did so because I believed that they were proposals that would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system. Most importantly, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I first became concerned about the potential growth in bureaucracy in September 1993 after reading the President's 239-page preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant to make me a list of all of them. Instead, she decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or additional responsibilities.

When the President's 1,342-page Health Security Act was transmitted to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, programs, and agencies with new or expanded jobs. This chart received national attention after being used by Senator Bob Dole in his response to the President's State of the Union Address on January 24, 1994.

The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy. Numerous groups and associations, such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications—amounting to hundreds of thousands more in distribution. Bob Woodward of the Washington Post later stated that he thought the chart was the single biggest factor contributing to the demise of the Clinton health care plan. And, as recently as the November 1996 election, my chart was used by Senator Dole in his Presidential campaign to illustrate the need for incremental health care reform as opposed to a big government solution.

COMPONENTS OF THE HEALTH CARE ASSURANCE ACT OF 1997

As I begin to describe my new proposal, the Health Care Assurance Act of 1997, in greater detail, I want to reiterate that in creating solutions, it is imperative that we do not adversely affect the many positive aspects of our health care system which works for 82.6 percent of all Americans. It is more prudent to implement targeted reforms and then act later to improve upon what we have done. I call this trial and modification. We must be careful not to damage the positive aspects of our health care system upon which more than 224 million Americans justifiably rely.

The legislation I am introducing today has three objectives: First, to provide affordable health insurance for the 40.3 million Americans now not covered; second, to reduce health care costs for all Americans; and (3) to improve coverage for underinsured individuals and families. This legislation is comprised of initiatives that our health care system can readily adopt in order to meet these objectives, and it does not create an enormous new bureaucracy to meet them.

This bill builds and improves upon provisions put forth in my legislation from the 104th Congress, S. 18. That legislation included provisions to encourage the formation of small group purchasing arrangements, increase access to prenatal care and outreach for the prevention of low birth weight babies, facilitate the implementation of patients' rights regarding medical care at the end of life, improve health education, place greater emphasis on an expanded access to primary and preventive health services, utilize nonphysician providers, reform the COBRA law to extend the time period for employees who leave their jobs to maintain their health benefits until alternative coverage becomes available, and increase the availability and use of consumer information and outcomes research.

This year, I have added a new title I to provide vouchers to cover children who lack health insurance coverage. Preliminary data from the Census Bureau shows that in 1995, there were 10 million uninsured Americans under the age of 18 in the United States, representing 14 percent of all children. According to a July, 1996, General Accounting Office report, this vulnerable population reached an all time high number of uninsured in 1994. The number of children without health insurance coverage was greater in 1994 than any other time in the last 8 years. This is partly because the proportion of children with private insurance is decreasing as companies increasingly are covering only workers and not their spouses and children.

Children are our Nation's greatest resource and our most vulnerable population, along with our Nation's seniors. In 1965, we ensured that our Nation's seniors would have access to health care. In 1997, we should do no less for our Nation's children.

My approach is to give minimum federal directives and leave it to the States to determine how this health coverage would be delivered. The size of the benefits package would be keyed to the average cost in each State of providing insurance coverage for three basic types of services: First, preventive care; second, primary care; and third, acute care services. Full Federal subsidies would be provided to uninsured children living in families with incomes up to 185 percent of the poverty line. On average, a family of four living at 185 percent of the poverty level lives on $28,860 a year. Partial subsidies would be provided to uninsured children living in families with incomes between 185 and 235 percent of the poverty line. On average, a family of four living at 235 percent of the poverty level lives on $36,660 a year. Under this plan, more than 7.5 million children or 77 percent of all uninsured children would receive health care coverage.

The subsidy levels in my plan are modeled after our excellent programs in Pennsylvania that provide health care for needy children. A unique public-private partnership has enabled approximately 60,000 children to receive basic health care coverage under one of two programs: The Children's Health Insurance Program of Pennsylvania and the Caring Program for Children sponsored by Highmark Blue Cross/Blue Shield and Independence Blue Cross.

States have traditionally been the great laboratories for experimentation. Accordingly, I leave it to the States to work out the details on how this program should be run. My hope is that the subsidy program will be so successful it will be used as a model for reform of the Medicaid program. Savings through other health care reforms detailed later in this statement will provide the funds needed to implement the essential effort to take care of the health of our Nation's children.

I have also added a new title VIII to establish a national fund for health research within the Department of Treasury. This fund will supplement the moneys appropriated for the National Institutes of Health. It is to be on budget, but the financing mechanism is not specified. This proposal was first developed by my distinguished colleagues, Senators Mark Hatfield and TOM HARKIN. Senator Hatfield, who retired after the 104th Congress, worked closely with me on medical research funding issues. The concept of a national fund for health research was incorporated into the National Institutes of Health Revitalization Act of 1996, which was passed by the Senate, but not by the House.

Responding to decreases in discretionary funding, in the 104th Congress, Senators Hatfield and HARKIN introduced S. 1251, the National Fund for Health Research Act. They wisely anticipated that we cannot continue to look solely to the appropriations process for the necessary resources to sustain sufficient growth in biomedical research. The great advancements made by the United States in biomedical research are part of what makes this country among the best in the world when it comes to medical care. Their idea is a sound one and ought to be adopted. I look forward to working together with Senator HARKIN to enact a biomedical research fund this Congress.

Taken together, I believe the reforms proposed in this bill will both improve the quality of health care delivery and will bring down the escalating costs of health care in this country. These proposals represent a blueprint which can be modified, improved, and expanded. In total, I believe this bill can significantly reduce the number of uninsured Americans, improve the affordability of care, ensure the portability and security of coverage between jobs, and yield cost savings of billions of dollars to the Federal Government, which can be used to cover the remaining uninsured and underinsured Americans.

INCREASING COVERAGE

According to the U.S. Bureau of the Census, in 1995, 224 million Americans derived their health insurance coverage as follows: approximately 64 percent from employer plans; 14.3 percent from Medicare and Medicaid; 4 percent from other public sources; and about 7 percent from other private insurance. However, 40.3 million people were not covered by any type of health insurance.

Statistics from the Employment Benefit Research Institute November 1996 show that small businesses generally provide less health insurance coverage than larger businesses or the public sector. About 73 percent of employees in the public sector are provided with health insurance; while 55.5 percent of employees in the private sector are covered. Both levels are far higher than businesses with fewer than 10 employees—25.8 percent; with 10 to 24 employees—38.8 percent; or with 25 to 99 employees—54.4 percent.

As I mentioned previously, title I of the bill gives Federal subsidies to provide health care coverage for our Nation's children. Early estimates are that the total cost of these vouchers will be approximately $24 billion over 5 years. This $24 billion is a worthwhile investment because it will mean healthier children and substantially reduced anxiety for millions of parents who cannot afford to pay for needed medical care for their children.

Title II contains provisions to make it easier for small businesses to buy health insurance for their workers by establishing voluntary purchasing groups. It also obligates employers to offer, but not pay for, at least two health insurance plans that protect individual freedom of choice and that meet a standard minimum benefits package. It extends COBRA benefits and coverage options to provide portability and security of affordable coverage between jobs. While it is not possible to predict with certainty how many additional Americans will be covered as a result of the reforms in title II, a reasonable expectation would be that these reforms will cover approximately 10 million Americans. This estimate encompasses the provisions included in title II which I will discuss in further detail.

Specifically, title II extends the COBRA benefit option from 18 months to 24 months. COBRA refers to a measure which was enacted in 1985 as part of the Consolidated Omnibus Budget Reconciliation Act [COBRA '85] to allow employees who leave their job, either through a layoff or by choice, to continue receiving their health care benefits by paying the full cost of such coverage. By extending this option, such unemployed persons will have enhanced coverage options.

In addition, options under COBRA are expanded to include plans with lower premiums and higher deductibles of either $1,000 or $3,000. This provision is incorporated from legislation introduced in the 103d Congress by Senator PHIL GRAMM and will provide an extra cushion of coverage options for people in transition. According to Senator GRAMM, with these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

With respect to the uninsured and underinsured, my bill would permit individuals and families to purchase guaranteed, comprehensive health coverage through purchasing groups. Health insurance plans offered through the purchasing groups would be required to meet basic, comprehensive standards with respect to benefits.

Such benefits must include a variation of benefits permitted among actuarially equivalent plans to be developed by the National Association of Insurance Commissioners. The standard plan would consist of the following services when medically necessary or appropriate: First, Medical and surgical devices; second, medical equipment; third preventive services; and fourth, emergency transportation in frontier areas. It is estimated that for businesses with fewer than 50 employees, voluntary purchasing cooperatives such as those included in my legislation could cover up to 10 million people who are currently uninsured.

My bill would also create individual health insurance purchasing groups for individuals wishing to purchase health insurance on their own. In today's market, such individuals often face a market where coverage options are not affordable. Purchasing groups will allow small businesses and individuals to buy coverage by pooling together within purchasing groups, and choose from among insurance plans that provide comprehensive benefits, with guaranteed enrollment and renewability, and equal pricing through community rating adjusted by age and family size. Community rating will assure that no one small business or individual will be singularly priced out of being able to buy comprehensive health coverage because of health status. With community rating, a small group of individuals and businesses can join together, spread the risk, and have the same purchasing power that larger companies have today.

For example, Pennsylvania has the ninth lowest rate of uninsured in the Nation, with 90 percent of all Pennsylvanians enrolled in some form of health coverage. Lewin and Associates found that one of the factors enabling Pennsylvania to achieve this low rate of uninsured persons is that Pennsylvania's Blue Cross-Blue Shield plans provide guaranteed enrollment and renewability, an open enrollment period, community rating, and coverage for persons with preexisting conditions. My legislation seeks to enact reforms to provide for more of these types of practices. The purchasing groups, as developed and administered on a local level, will provide small businesses and all individuals with affordable health coverage options.

Unique barriers to coverage exist in both rural and urban medically underserved areas. Within my State of Pennsylvania, such barriers result from a lack of health care providers in rural areas, and other problems associated with the lack of coverage for indigent populations living in inner cities. This bill improves access to health care services for these populations by: First, expanding Public Health Service programs and training more primary care providers to serve in such areas; second, increasing the utilization of nonphysician providers, including nurse practitioners, clinical nurse specialists, and physician assistants, through direct reimbursements under the Medicare and Medicaid Programs; and third, increasing support for education and outreach.

Title II of my bill also includes an important provision to give the self-employed 100-percent deductibility of their health insurance premiums. The Kassebaum-Kennedy bill extended the deductibility of health insurance for the self-employed to 80 percent by 2006. My bill would extend this to 100 percent in 2007. Under current law, all other employers can deduct 100 percent of the cost of health care insurance for their workers. It is unfair not to give the self-employed the same tax benefit as other employers receive. The self-employed are every bit in need of this benefit and we should be doing everything we can to support this important group which is the backbone of the American economy.

While I reiterate the difficulty of making definitive conclusions regarding the reforms put forth under this legislation and accomplishing universal health coverage for all Americans, I believe this is a promising starting point. Admittedly, the figures are inexact, but by my rough calculations, potentially 17.6 million of the 40.3 million uninsured will be able to obtain affordable health care coverage under my bill. I arrive at this figure by estimating that at least 7.6 million children will receive health insurance under the title I voucher system. In addition, 10 million will be able to purchase insurance by encouraging individuals and small employers to purchase insurance through voluntary purchasing cooperatives.

I welcome any and all suggestions that make sense within our current constraints to increase coverage. I am committed to enacting reforms this year and would like to determine a time certain when Congress must revisit this issue. We should act on these reforms and correct problems related to coverage where they still exist.

COST SAVINGS

It is anticipated that the increased costs to employers electing to cover their employees as provided under title II in my bill would be offset by the administrative savings generated by development of the small employer purchasing groups. Such savings have been estimated at levels as high as $9 billion annually. In addition, by addressing some of the areas within the health care system that have exacerbated costs, significant savings can be achieved and then redirected toward direct health care services.

While examining the issues that have contributed to our health care crisis, I was struck by the fact that so much attention has been focused on treating symptoms and very little attention has been given to the root causes. Although our existing health care system suffers from very serious structural problems, commonsense steps can be taken to head off the remaining problems before they reach crisis proportions. Title III of my bill includes three initiatives which will enhance primary and preventive care services aimed at preventing disease and ill-health.

Each year about 7 percent, or 273,000, of the approximately 3.9 million babies born in the United States are born with a low birth weight, multiplying their risk of death and disability. Approximately 29,338 of those born die before their first birthday, but about 1,000 of those deaths are preventable. Although the infant mortality rate in the United States fell to an all-time low in 1989, an increasing percentage of babies still are born of low birth weight. The Executive Director of the National Commission To Prevent Infant Mortality put it this way: "More babies are being born at risk and all we are doing is saving them with expensive technology."

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw 1-pound babies in 1984 when I was astounded to learn that Pittsburgh, PA, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered how that could be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.

Beyond the human tragedy of a low birth weight, there are serious financial consequences which result. Although low birth weight infants represent only about 7 percent of all births, the National Center for Health Statistics reports that in 1994, the expenditures for their care totaled about 57 percent of costs incurred for all newborns. In addition, the Department of Health and Human Services states that care for each premature baby costs from $10,000 to $25,000 with a total national cost estimate of $2 billion a year. Low birth weight children, those who weigh less than 5.5 pounds, account for 16 percent of all costs for initial hospitalization, rehospitalization, and special services up to age 35.

The short- and long-term costs of saving and caring for infants of low birth weight is staggering. A study issued by the Office of Technology Assessment in 1988 concluded that $8 billion was expended in 1987 for the care of 262,000 low birth weight infants in excess of that which would have been spent on an equivalent number of babies born of normal birth weight, averted by earlier or more frequent prenatal care. If adequate prenatal care had been provided, especially to women at-risk for delivering low birth weight babies, the U.S. health care system could have saved between $14,000 and $30,000 per child in the first year in addition to the projected savings over the lifetime of each child. The Department of Health and Human Services has also estimated that between $1.1 billion and $2.5 billion per year could be saved if the number of low birth weight children were reduced by 82,000 births.

We know that in most instances, prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight that does not have a genetic link is most often associated with inadequate prenatal care or the lack of prenatal care. To improve pregnancy outcomes for women at risk of delivering babies of low birth weight, title III of my bill authorizes the Secretary of Health and Human Services to award grants to States for Healthy Start projects to reduce infant mortality and the incidence of low birth weight births, as well as to improve the health and well-being of mothers and their families, pregnant women and infants. The funds would be awarded to community-based consortia, made up of State and local governments, the private sector, religious groups, community health centers, and hospitals and medical schools, whose goal would be to develop and coordinate effective health care and social support services for women and their babies.

I initiated action that led to the creation of the Healthy Start Program in 1991, working with the Bush administration and Senator HARKIN. As chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have worked with my colleagues to ensure the continued growth of this important program. In 1991, we allocated $25 million for the development of 15 demonstration projects. This number grew to 22 in 1994, and the Health Resources and Services Administration expects the number of projects to increase again in 1997. For fiscal year 1997, we secured $96 million for the program, which is currently undergoing a formal evaluation by Mathematica Policy Research, Inc. However, preliminary results from the projects themselves suggest these programs have been enormously successful. In Pennsylvania, our Pittsburgh Healthy Start project estimates that infant mortality has decreased 20 percent in the overall project area as a result of this program. For those women in Pittsburgh who have taken advantage of the case management offered by the program, infant mortality has been reduced by as much as 61 percent. Similarly, our Philadelphia project reports that infant mortality has been reduced by 25 percent.

The second initiative under title III involves the provision of comprehensive health education and prevention initiatives for our Nation's children. The Carnegie Foundation for the Advancement of Teaching recently conducted a survey of teachers. More than half of the respondents said that poor nourishment among students is a serious problem at their schools; 60 percent cited poor health as a serious problem. Another study issued in 1992 by the Children's Defense Fund reported that children deprived of basic health care and nutrition are ill-prepared to learn. Both studies indicated that poor health and social habits are carried into adulthood and often passed on to the next generation.

To interrupt this tragic cycle, our Nation must invest in proven preventive health education programs. My legislation provides increased support to local educational agencies to develop and strengthen comprehensive health education programs, and to Head Start resource centers to support health education training programs for teachers and other day care workers.

Title III further expands the authorization of a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These existing programs are designed to improve the public health and prevent disease through primary and secondary prevention initiatives. It is essential that we invest more resources in these programs now if we are to make any substantial progress in reducing the costs of acute care in this country.

As chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have greatly encouraged the development of prevention programs which are essential to keeping people healthy and lowering the cost of health care in this country. In my view, no aspect of health care policy is more important. Accordingly, my prevention efforts have been widespread. Specifically, I joined my colleagues in efforts to ensure that funding for the Centers for Disease Control and Prevention [CDC] increased $1.3 billion or 132 percent since 1989. Fiscal year 1997 funding for the CDC totals $2.304 billion. We have also worked to elevate funding for CDC's breast and cervical cancer early detection program to $140 million in fiscal year 1997, a 40-percent increase in 2 years. In addition, I have supported providing funding to CDC to improve the detection and treatment of reemerging infectious diseases.

I have also supported programs at CDC which help children. CDC's childhood immunization program seeks to eliminate preventable diseases through immunization and to ensure that at least 90 percent of 2-year-olds are vaccinated. The CDC also continues to educate parents and care givers on the importance of immunization for children under 2 years. Along with my colleagues on the Appropriations Committee, I have helped to ensure that funding for this important program increased by $172 million, or 58 percent. The CDC's lead poisoning prevention program annually identifies about 50,000 children with elevated blood levels and places those children under medical management. The program prevents children's blood levels from reaching dangerous levels and is currently funded at over $38 million.

In recent years, we have also strengthened funding for community and migrant health centers, which provide immunizations, health advice, and health professions training. For fiscal year 1997, over $800 million was provided for these centers, an increase of about $44 million over fiscal year 1996.

As chairman of the Select Committee on Intelligence and chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have worked to transfer CIA imaging technology to the fight against breast cancer. Through the Office of Women's Health within the Department of Health and Human Services, I secured a $2 million contract in fiscal year 1996 for the University of Pennsylvania and a consortium to perform the first clinical trials testing the use of intelligence community technology for breast cancer detection. For fiscal year 1997, an additional $2 million was appropriated to continue the clinical trials.

Finally, I have been a strong supporter of funding for AIDS research, education, and prevention programs. In fiscal year 1997, AIDS funding increased 14 percent, $392 million above the fiscal year 1996 level, for a total of $3.115 billion. Within this amount, $617 million was allocated for prevention, testing, and counseling at the CDC.

The proposed expansions in preventive health services included in title III of my bill are conservatively projected to save approximately $2.5 billion per year or $12.5 billion over 5 years. However, I believe the savings will be higher. Again, it is impossible to be certain of such savings—only experience will tell. For example, how do you quantify today the savings that will surely be achieved tomorrow from future generations of children that are truly educated in a range of health-related subjects including hygiene, nutrition, physical and emotional health, drug and alcohol abuse, and accident prevention and safety? I have suggested these projections, subject to future modification, to give a generalized perspective on the potential impact of this bill.

Title IV of my bill would establish a Federal standard and create uniform national forms concerning a patient's right to decline medical treatment. Nothing in my bill mandates the use of uniform forms, rather, the purpose of this provision is to make it easier for individuals to make their own choices and determination regarding their treatment during this vulnerable and highly personal time. Studies have also indicated that advance directives do not increase health care costs. According to recent data from the Journal of the American Medical Association authored by Ezekiel Emmanuel of the Center for Outcomes and Policy Research of the Dana Farber Cancer Institute, end-of-life costs account for about 10-percent of total health care spending and 27 percent of total Medicare expenditures. It has been projected that a 10 percent savings made in the final days of life would result in approximately $10 billion of savings in medical costs per year, and about $4.7 billion in savings for Medicare alone.

However, economic considerations are not and should not be the primary reasons for using advance directives. They provide a means for patients to exercise their autonomy over end-of-life decisions. A study done at the Thomas Jefferson University Medical College in Philadelphia cited research which found that about 90 percent of the American population has expressed interest in discussing advance directives, but only 8 to 15 percent of adults have prepared a living will. My bill would provide information on an individual's rights regarding living wills and advanced directives, and would make it easier for people to have their wishes known and honored. In my view, no one has the right to decide for anyone else what constitutes appropriate medical treatment. Encouraging the use of advance directives will ensure that patients are not needlessly and unlawfully treated against their will. No health care provider would be permitted to treat an adult contrary to the adult's wishes as outlined in an advance directive. However, in no way would the use of advance directives condone assisted suicide or any affirmative act to end human life.

Incentives to improve the supply of generalist physicians and increase the utilization of nonphysician providers, such as nurse practitioners, clinical nurse specialists, and physician assistants, through direct reimbursement under the Medicare and Medicaid Programs are contained in title V of my bill. I believe these provisions will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected savings of 10 to 15 percent of all medical costs. While our system is dramatically different from that of Canada, it may not be unreasonable to project annual savings of 5 percent, or $55 billion, from an increased number of primary care providers in our system. Again, experience will raise or lower this projection. Assuming these savings, based on an average expenditure for health care of $3,821 per person in 1995, it seems reasonable that we could cover over 10 million uninsured persons with these savings.

Outcomes research, included in title VI of my bill, is another area where we can achieve considerable long-term health care savings while also improving the quality of care. According to most outcomes management experts, it is estimated that about 25 to 30 percent of medical care is inappropriate or unnecessary. Dr. Marcia Angell, former editor in chief of the New England Journal of Medicine, also stated that 20 to 30 percent of health care procedures are either inappropriate, ineffective, or unnecessary. In 1995, health care expenditures totaled $1.1 trillion annually. A cost of illness model published in the October 1995 issue of Archives of Internal Medicine estimated that $76.6 billion annually is for drug-related morbidity and mortality in the ambulatory setting. It is not unreasonable to anticipate that with the implementation of medical practice guidelines and enhanced appropriateness of care, 10 to 20 percent of costs could be eliminated, resulting in savings between $8 and $15 billion in drug-related morbidity and mortality alone. Ideally, if all inappropriate care could be removed, between $110 and $220 billion in savings could be realized annually for all health care expenditures. A reasonable estimate is that with the implementation of medical practice guidelines, we may achieve savings of 20 to 30 percent of the lower range end—$110 billion—which amounts to $22 to $33 billion in savings annually.

A well-funded program for outcomes research is therefore essential, and is supported by Dr. C. Everett Koop, former Surgeon General of the United States. Title V of my bill would establish such a program by imposing a one-tenth of one cent surcharge on all health insurance premiums. Based on the Health Care Financing Administration's 1995 health spending review, private health insurance premiums totaled $325.4 billion. As provided in my bill, a surcharge would generate $325.4 million for an outcomes research fund, in addition to the $144 million appropriated in this area for fiscal year 1997.

It is also vital to reduce the administrative costs incurred by our health care system. According to the Health Care Financing Administration, in 1994, about 6.2 percent of our total national health care expenditures were for administrative costs—over $58 billion annually. We can reasonably expect to reduce administrative costs by 5 percent, or $2.9 billion annually. While the development of a national electronic claims system to handle the billions of dollars in claims is complex and will take time to implement fully, I believe it is an essential component in the operation of a more efficient health care system, and for achieving the necessary savings to provide insurance for the remaining uninsured Americans. Title VI of my bill is intended to improve consumer access to health care information. True cost containment and competition cannot occur if purchasers of health care services do not have the information available to them to compare cost and quality.

Title VI also authorizes the Secretary of Health and Human Services to award grants to States to establish or improve a health care data information system. Currently, 38 States have a mandate to establish such a system, and 23 States are in various stages of implementation. In my own State, the Pennsylvania Health Care Cost Containment Council has received national recognition for the work it has done to help control health care costs through the promotion of competition in the collection, analysis and distribution of uniform cost and quality data for all hospitals and physicians in the Commonwealth. Consumers, businesses, labor, insurance companies, health maintenance organizations, and hospitals have utilized this important information. Specifically, hospitals have used this information to become more competitive in the marketplace; businesses and labor have used this data to lower their health care expenditures; health plans have used this information when contracting with providers; and consumers have used this information to compare costs and outcomes of health care providers and procedures.

The States have not yet produced any figures on statewide savings resulting from the implementation of health information systems, however, there are many examples of savings experienced by users of these systems across the country. For example, the Pennsylvania Health Care Cost Containment Council [PHC4] has been utilized by the Hershey Foods Corp., which provides health insurance coverage for its employees, their dependents, and retirees, totaling roughly 17,000 persons. Hershey has offered a flexible benefits package since 1988, but saw health care expenditures increase in the late 1980's and early 1990's. The company used the PHC4 data as part of its health care plan reengineering efforts and created its own Health Maintenance Organization [HMO] called HealthStyles as another alternative to the four traditional HMO's already offered to employees and retirees. The PHC4 data were used to help Hershey define its specialized hospital network within this new HMO. Hershey states that the company has seen costs decline for some of the services provided by the other HMO plans offered to its employees. This is just one example of how health data information can be used wisely to inform the public and consumers and allow the market to control costs. There are many other examples of savings being achieved, and I believe that if these systems were implemented in every State, the savings could be substantial.

Home nursing care is another significant issue which must be addressed. The cost of this care is exorbitant. Title VII of my bill therefore would provide a tax credit for premiums paid to purchase private long-term care insurance. It also proposes home and community-based care benefits as less costly alternatives to institutional care. The Joint Tax Committee estimates that the cost of this long term care tax credit to the Treasury would be approximately $14 billion over 5 years. Other tax incentives and reforms provided in my bill to make long term care insurance more affordable include: First, allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; second, excluding from income tax the life insurance savings used to pay for long term care; and third, setting standards for long term care insurance that reduce the bias that currently favors institutional care over community- and home-based alternatives.

While precision is again impossible, it is reasonable to project that my proposal could achieve a net annual savings of between $94 and $105 billion. I arrive at this sum by totaling the projected savings of $101 to $112 billion annually—$9 billion in small employer market reforms coupled with employer purchasing groups; $2.5 billion for preventive health services; $22 to $33 billion for reducing inappropriate care through outcomes research; $10 billion from advanced directives; $55 billion from increasing primary care providers; and $2.9 billion by reducing administrative costs and netting this against the $2.8 billion for long-term care; and $4.8 billion for increasing childrens' coverage. I ask unanimous consent that a list of anticipated savings and costs associated with the bill be included in the RECORD.

Although there are no precise savings estimates for each of these areas, I propose this bill as a starting point to address the remaining problems with our health care system. Experience will require modification of these projections, and I am prepared to work with my colleagues to develop implementing legislation and to press for further action in the important area of health care reform.

CONCLUSION

The provisions which I have outlined today contain the framework for providing affordable health care for all Americans. I am opposed to rationing health care. I do not want rationing for myself, for my family, or for America. The question is whether we have the essential resources—doctors and other health care providers, hospitals, and pharmaceutical products—to provide medical care for all Americans. I am confident that we do. The issue is how to pay for and deliver such health care.

In my judgment, we should not scrap, but rather we should build on our current health delivery system. We do not need the overwhelming bureaucracy that President Clinton and other Democratic leaders proposed in 1993 to accomplish this. I believe we can provide care for the 40.3 million Americans who are now not covered and reduce health care costs for those who are covered within the currently growing $1.1 trillion in health care spending.

With the savings projected in this bill, I believe it is possible to provide access to comprehensive affordable health care for 17.6 million Americans. This bill is a significant next step in obtaining that objective. It is obvious that reforming our health care system will not be achieved immediately or easily, but the time has come for concerted action in this arena.

I understand that there are several controversial issues presented in this bill and I am open to suggestions on possible modifications. I urge the congressional leadership, including the appropriate committee chairmen, to move this legislation and other health care bills forward promptly.

I ask unanimous consent that a summary and other material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEALTH CARE ASSURANCE ACT OF 1997

SUMMARY OF THE BILL

Title I: Health Care Coverage for Children: Title I ensures health care coverage for all eligible children in the United States under the age of 18. States complying with rules approved by the Secretary shall receive federal funds to provide vouchers to families with eligible children. This will enable the states to enroll children in health plans that provide coverage for preventive, primary care, and acute care services. Payments to states will be calculated based upon the average annual cost of enrollment in a health care plan providing those types of services to children in the state. Children in families with a combined income of 185% of poverty level ($28,860 for a family of four) and not eligible for Medicaid will receive a full subsidy for enrollment in health plans, and children who are in families with incomes up to 235% of poverty level ($36,660 for a family of four) will receive a partial subsidy reduced on a sliding scale based on poverty level. States will have the flexibility to design and implement their programs as they see fit.

Title II: Health Care Insurance Coverage: Tax Equity for the Self-Employed: Provides self-employed individuals and their families 100 percent tax deductibility for the cost of health insurance coverage beginning in 2007. Under current law, beginning in 1997, self-employed persons may deduct 40 percent of cost; 45 percent in 1998 through 2002; 50 percent in 2003; 60 percent in 2004; 70 percent in 2005; and 80 percent in 2006 and thereafter. However, all other employers may deduct 100 percent of such costs. Title II corrects this inequity for the self-employed, 3.9 million of which are currently uninsured.

Small Employer and Individual Purchasing Groups: Establishes voluntary small employer and individual purchasing groups designed to provide affordable, comprehensive health coverage options for such employers, their employees, and other uninsured and underinsured individuals and families. Health plans offering coverage through such groups will: (1) provide a standard health benefits package; (2) adjust community rated premiums by age and family size in order to spread risk and provide price equity to all; and (3) meet certain other guidelines involving marketing practices.

Standard Benefits Package: The standard package of benefits would include a variation of benefits permitted among actuarially equivalent plans developed through the National Association of Insurance Commissioners (NAIC). The standard plan will consist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas.

COBRA Portability Reform: For those persons who are uninsured between jobs and for insured persons who fear losing coverage should they lose their jobs, Title II reforms the existing COBRA law by: (1) extending to 24 months the minimum time period in which COBRA covers individuals through their former employers' plans; and (2) expanding coverage options to include plans with a lower premium and a $1,000 deductible—saving a typical family of four 20 percent in monthly premiums—and plans with a lower premium and a $3,000 deductible—saving a family of four 52 percent in monthly premiums.

Title III: Primary and Preventive Care Services: Authorizes the Secretary of Health and Human Services to provide grants to States for projects (healthy start initiatives) to reduce infant mortality and low weight births and to improve the health and well-being of mothers and their families, pregnant women and infants. Title III also would provide assistance through a grant program to local education agencies and pre-school programs to provide comprehensive health education. In addition, Title III increases authorization of several existing preventive health programs such as, breast and cervical cancer prevention, childhood immunizations, and community health centers. In addition, Title II reauthorizes the Adolescent Family Life program (Title XX) for the first time since 1984. It has been funded annually in Labor, Health and Human Services and Education appropriations, but without authorization or reform. This program provides demonstration grants and contracts for initiatives focusing directly on issue of abstinence education.

Title IV: Patient's Right to Decline Medical Treatment: Improves the effectiveness and portability of advance directives by strengthening the federal law regarding patient self-determination and establishing uniform federal forms with regard to self-determination.

Title V: Primary and Preventive Care Providers: Utilizes non-physician providers such as nurse practitioners, physician assistants, and clinical nurse specialists by providing direct reimbursement without regard to the setting where services are provided through the Medicare and Medicaid programs. Title V also seeks to encourage students early on in their medical training to pursue a career in primary care and it provides assistance to medical training programs to recruit such students.

Title VI: Cost Containment: Cost containment provisions include: Outcomes Research: Expands funding for outcomes research necessary for the development of medical practice guidelines and increasing consumers' access to information in order to reduce the delivery of unnecessary and overpriced care.

New Drug Clinical Trials Program: Authorizes a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments with priority given to the most costly diseases impacting the greatest number of people.

National Health Insurance Data and Claims System: Authorizes the development of a National Health Insurance Data System to curtail the escalating costs associated with paperwork and bureaucracy. The Secretary of Health and Human Services is directed to create a system to centralize health insurance and health outcomes information incorporating effective privacy protections. Standardizing such information will reduce the time and expense involved in processing paperwork, increase efficiency, and reduce costs.

Health Care Cost Containment and Quality Information Project: Authorizes the Secretary of Health and Human Services to award grants to States to establish a health care cost and quality information system or to improve an existing system. Currently 39 States have State mandates to establish an information system, and of those 39, approximately 20 States have information systems in operation. Information such as hospital charge data and patient procedure outcomes data, which the State agency or council collects is used by businesses, labor, health maintenance organizations, hospitals, researchers, consumers, States, etc. Such data has enabled hospitals to become more competitive, businesses to save health care dollars, and consumers to make informed choices regarding their care.

Title VII: Tax Incentives for Purchase of Qualified Long-Term Care Insurance: Increases access to long-term care by: (1) establishing a tax credit for amounts paid toward long-term care services of family members; (2) excluding life insurance savings used to pay for long-term care from income tax; (3) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (4) setting standards that require long-term care to eliminate the current bias that favors institutional care over community and home-based alternatives.

Title VIII: National Fund for Health Research: Authorizes the establishment of a National Fund for Health Research to supplement biomedical research through the National Institutes of Health. Funds will be distributed to each of the member institutes and centers in the same proportion as the amount of appropriations they receive for the fiscal year.

NET ANNUAL HEALTH CARE SYSTEM SAVINGS FROM THE HEALTH CARE ASSURANCE ACT OF 1997

[In billions of dollars]

Bill title	Annual savings	Annual cost
I—Increase health insurance coverage for children	....	(4.8)
II—Small businesses group purchasing	9.0	
III—Preventive care services	2.5	
IV—Advanced directives	10	
V—Increase use of non-physician providers	55	
VI—Outcomes research	33	
—national electronic claims system	2.9	
VII—Long term care	....	(2.8)
Net Annual Total Savings	104.	

[From the Pittsburgh Post Gazette, Oct. 12, 1996]

RAY ATTACKS NEW SPECTER BRAIN TUMOR

(By Steve Twedt)

U.S. Sen. Arlen Specter greeted well-wishers in spirited fashion yesterday, hours after undergoing a specialized radiation treatment at the University of Pittsburgh Medical Center to stop the regrowth of a benign brain tumor.

And, after answering reporters' questions at a hastily scheduled press conference, Specter, his wife, Joan, and son, Shanin, left the hospital, declining his doctor's suggestion that he stay overnight.

"I feel fine," he assured everyone. "I've had a tougher time when I've gone to the dentist.'"

Specter, 66, revealed yesterday that, during a routine magnetic resonance imaging scan in June, doctors discovered that a tumor surgically removed three years earlier had reappeared at the left front part of his brain. He said he never felt any symptoms.

The tumor was one-tenth the size of the one found in 1993 and, because it grew slowly, Specter waited until the end of the congressional session to seek treatment.

He said he came to UPMC because of the experience and reputation of Dr. L. Dade Lunsford's gamma knife program, the first of its kind in North America when it began in 1987. The program has treated more than 2,000 patients during the past nine years.

The gamma knife is used to treat tumors and malformed blood vessels in sensitive areas of the brain. Without making a surgical cut, the machine precisely shoots 201 beams of cobalt-60 photon radiation at the tumor while the patient lies on a bed with a special helmet covering his head. Only a local anesthetic is used.

Specter's procedure took less than four hours. When the Philadelphia Republican met with reporters a few hours later, the only evidence of his treatment was a faint red mark on each side of his forehead from the pins used to hold his head still.

Lunsford, who is chief of neurosurgery at UPMC, said he saw no evidence that the tumor in Specter's brain, called a meningioma, was malignant, nor any indication of other tumors.

On the basis of his experience with other patients, Lunsford said, there's a 98 percent chance the gamma knife will accomplish its goal—halting the tumor's growth. Nearly half the time, the tumors will even shrink, he said.

Patients undergoing $12,000 gamma knife treatment usually do not experience nausea or headaches, and typically leave the hospital within 24 hours.

[From the East Penn Press, Nov. 4–10, 1996]

SOMETIMES PATIENTS SHOULD BE IMPATIENT

I can personally report on the miracles of modern medicine.

Three years ago, an MRI detected a benign tumor (meningioma) at the outer edge of my brain. It was removed by conventional surgery with five days of hospitalization and five more weeks of recuperation.

When a small regrowth was detected by a follow-up MRI this June, it was treated with high powered radiation from the "Gamma Knife." I entered the hospital in the morning and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is a recent invention, coming into widespread use in the past decade.

My own experience as a patient has given me deeper insights into the American health care system beyond the U.S. Senate hearings where I preside as chairman of the Appropriations Subcommittee with jurisdiction over health and human services. I have learned: (1) our health care system, the best in the world, is worth every cent we pay for it; (2) patients sometimes have to press their own cases beyond the doctors' standard advice; (3) greater flexibility must be provided on testing and treatment; and (4) our system has the resources to treat the 40 million Americans not now covered, but we must find the way to pay for it.

Health care in America costs $1 trillion out of our $7 trillion economy. The Senate and House Subcommittees on Health have taken the lead to raise funding for medical research for the National Institutes of Health.

Notwithstanding budget cuts generally, we added $820 million this year to bring the total research budget to $12.7 billion.

For that investment, we have seen dramatic breakthroughs in gene therapy and advances in treatment for heart disease, cancer, AIDS, diabetes, Alzheimers, etc. Scanning devices such as satellite imaging used by the CIA are now applied to detect breast cancer. Complex computerization assists MRIs to define the scope of treatment.

It isn't enough to have such machines. We have to use them more extensively.

In the spring of 1993, I complained to many doctors about a tightness in my collar and light pains running up the sides of my head. All tests proved negative. The symptoms persisted.

I asked for an MRI scan. The doctor said it wasn't indicated. I insisted. I got it. The MRI showed a benign tumor the size of a golf ball between my brain and skull.

While MRIs are expensive, those costs can be reduced by around-the-clock use of the machine. The marginal cost of operating it from midnight to 8 a.m. are small.

The inconvenience to the patient is worth it. The extra cost to insurance companies would be more than made up by preventing more serious illness and higher costs later.

While my June 1993 operation was performed by one of the finest surgeons at one of the best hospitals, I was among the approximately 15 percent where tiny cells at the margin apparently caused a small regrowth. The general recommendation was surgery.

A minority of doctors suggested consideration of a relatively new procedure known as the Gamma Knife. Since there was no urgency. I took some time to study the alternatives.

Most doctors, even some with extensive experience with the Gamma Knife, insisted on conventional surgery. Why? (1) Because that was the traditional approach; (2) because there was more long-term follow-up data on surgery even though successful Gamma Knife procedures were on record for more than 20 years; and (8) because the tumor was in a good location for surgery.

Somehow the Gamma Knife, it was argued, should be reserved for locations the surgeon's knife could not reach. But my tumor was also in a good spot for radiation.

My inquiries among doctors in the United States and Sweden (where the Gamma Knife was invented) disclosed almost universal agreement that the Gamma Knife, if unsuccessful, would not make the tumor more difficult to treat. Later surgery could always be utilized. The non-invasive Gamma Knife eliminated the risk of anesthesia and infection from surgery.

With a high success rate from the worldwide experience of 40,000 Gamma Knife procedures and 5,000 meningioma like my own, it was hard to understand why it was not used more. I found Dr. Dade Lunsford at the University of Pittsburgh Presbyterian Hospital had to most experience in the United States with the Gamma Knife.

Since 1987, his team had used the procedure 2,100 times. Only one of his 270 memingioma patients had required later surgery. Dr. Lunsford estimated the overall success rate at 98 percent.

So I checked into the hospital at 6:15 one morning, had a brace attached to my head and took another MRI. All I required was local anesthesia before pins were pressed to my head to make the brace secure.

I then watched the computer calculate how much radiation should be applied to the tumor and its margins as shown on the MRI scan.

At about 9:30 a.m., my head was inserted into a 500 pound helmet with 201 holes which directed cobalt beams from all directions to focus on the meningioma. Each beam was relatively minute, but the confluence was high powered.

There were seven bombardments of radiation for three minutes or less. In between, my position was altered with one change of the helmet.

At about 10:50 a.m., the radiation was completed and a head compress was applied for two hours. After lunch and a brief conversation with Dr. Lunsford, we briefed the news media. I left the hospital in mid-afternoon to spend the night in a local hotel and then resume my schedule the next day.

Now, five days later. I feel fine. I am back on the squash court. I am back to my 14-hour days traveling across Pennsylvania.

An MRI will be taken in six months. I have some apprehension as to how it will all work out, but so far, so good. I feel very lucky!

Nothing is more important than a person's health. We have done a great job in the United States in producing the greatest health care system in the world. I am aware that it is better for some, like myself, than for others. I am convinced that America has the doctors, nurses, hospitals, medical equipment, pharmaceuticals, etc. to provide for all our people. My pending legislation provides a plan to do that with the current $1 trillion expenditure.

Informed, aggressive patients can do much to help themselves.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. THOMPSON, Mr. WELLSTONE, Mr. GRAHAM, Mr. KERREY, Mr. DODD, Mr. KERRY, Mr. BINGAMAN, Mr. GLENN, Mrs. MURRAY, Mr. KOHL, Mr. WYDEN, Ms. MOSELEY-BRAUN, Mr. REID, Mr. FORD, Mr. LEAHY, Mr. CLELAND, Mr. JOHNSON, and Mr. DURBIN):

S. 25. A bill to reform the financing of Federal elections; to the Committee on Rules and Administration.

THE BIPARTISAN CAMPAIGN FINANCE BILL OF 1997

Mr. MCCAIN. Mr. President, I am pleased to be joined by Senators FEINGOLD, THOMPSON, and WELLSTONE in introducing the Bipartisan Campaign Finance Reform bill of 1997. This measure is similar to last year's bill that we introduced on the same subject. I will not lay out all the details of the bill at this time, but will submit for the record a summary of our bill at a later date.

Passage of campaign finance reform is necessary if we are to curb the public's growing cynicism for politics and Congress in particular. We can no longer wait to address this issue.

I am under no illusions that this will be an easy fight. No other issue is felt more personally by Members of this body. No other issue stirs the emotions of Members of the Senate more. But we were sent here to make tough decisions and we must address this subject.

The public demands that we achieve three goals: limit the role of money in politics, make the playing field more level between challengers and incumbents, and to pass a legislative initiative that will become law.

To pass a bill will require principled compromise and a great deal of work. I want the Members of my party to know that I am willing to work with you to address your concerns regarding this legislation. I want to let my friends know on the other side of the aisle that the offer also stands for them. The cosponsors for this bill are willing to negotiate technical aspects of the bill. The three principals I just outlined, however, are not negotiable.

Twenty-five years after Watergate, the electoral system is out of control. Our elections are awash in money which is flowing into the system at record levels. Some public interest groups estimate that when all is said and done, that nearly $1 billion will have been spent during this last election cycle. Something must be done.

Do we have the perfect solution? No. I do not know if a perfect solution even exists. But our bill, the McCain-Feingold-Thompson bill is a good first step toward reform. I hope that soon we will be on the floor debating this measure. I look forward to working with all my colleagues as we move forward. It is only in a bipartisan manner, putting parochial interests aside, that we will be able to do the people's business—that we will pass meaningful campaign finance reform.

Mr. FEINGOLD. I rise today to join with my colleague from Arizona [Mr. MCCAIN] in introducing the Bipartisan Campaign Reform Act.

I want to acknowledge the Democratic and Republican Senators who have agreed to join myself and the Senator from Arizona [Mr. MCCAIN] as original co-sponsors in introducing this historic legislation. Those co-sponsors include the Senator from Tennessee [Mr. THOMPSON], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Florida [Mr. GRAHAM], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. KERREY], the Senator from Massachusetts [Mr. KERRY], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Washington [Mrs. MURRAY], the Senator from Wisconsin [Mr. KOHL], the Senator from Oregon [Mr. WYDEN], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Kentucky [Mr. FORD], the Senator from Vermont [Mr. LEAHY], the Senator from Nevada [Mr. REID], the Senator from Georgia [Mr. CLELAND], the Senator from South Dakota [Mr. JOHNSON] and the Senator from Illinois [Mr. DURBIN].

I think it is clear Mr. President, that the few remaining pillars holding up our crumbling election system finally collapsed. According to the latest figures provided by the Federal Election Commission, congressional candidates spent a total of $742 million in the 1996 elections, a noticeable increase over the 1994 levels despite the absence of a single Senate contest in any of the largest States including California, New York, Florida, Pennsylvania, or Ohio. And that $742 million figure does not even include the record amounts of so-called "soft money" contributions raised and spent by the national political parties in the last election cycle.

Every campaign year we are hit with these astonishing spending figures and every year we acknowledge that a new record has been set. And just when the spending and abuses seem like they cannot get any worse, they do. Last November, our campaign finance system lurched out of control, filling the headlines and airwaves with charges and countercharges about which candidates and parties were abusing our laws and loopholes the worst. Another cadre of millionaires spent vast sums of personal wealth on their campaigns, 94 percent of House and Senate challengers lost their election bids, and the smallest percentage of Americans went to the ballot box in 72 years.

Coupled with the continued need to reduce the Federal budget deficit, there may be no more fundamentally important issue than the need to pass meaningful reform of our campaign finance system.

The bill we are introducing today has several components, but is centered primarily on what I believe are the two cornerstones of reform. The first cornerstone is the creation of a voluntary system that offers qualified candidates an opportunity to participate in the electoral process without being compelled to raise and spend outrageous sums of money.

This voluntary system merely says to candidates that if you agree to follow a set of ground rules, we will provide you with the tools that will not only reduce the high costs associated with campaigning, but at the same time enhance your ability to sufficiently convey your message to the voters of your State.

What are those ground rules and benefits, Mr. President.

First, candidates who elect to voluntarily participate in the system must agree to limit the overall amount of money they spend on their campaigns. This spending cap is based on the voting-age population in each State. For example, in my State of Wisconsin the primary spending limit would be about $1 million while the general election cap would be about $1.5 million. In a larger State such as New York, the primary limit would be about $2.7 million while the general election limit would be about $4 million.

The second rule candidates must follow is to limit how much of their personal wealth they contribute to their campaigns. Again, this would be based on the size of each State. In Wisconsin, it would be about $150,000 and in no State would it be higher than $250,000.

Finally, candidates must agree to raise 60 percent of their contributions from individuals within their home States. This rule is grounded in our belief that anyone wishing to receive the benefits of the bill should be able to demonstrate a strong base of support from the people they intend to represent. Moreover, candidates and officeholders will be compelled to focus their campaign and fundraising activities on the people who matter most —the voters back home.

If candidates elect to participate in the system and follow these simple ground rules, they are entitled to certain benefits.

The first benefit is a postage discount. Eligible candidates would be given a special postage rate, currently only available to non-profit organizations and political parties, for a number of mailings equal to two times the voting-age population of the candidate's State.

Second, the bill provides each eligible candidate with up to 30 minutes of free television advertising time from the broadcast stations in the candidate's State and any adjoining States.

Third, and most importantly, the bill offers eligible candidates a 50-percent discount off of the lowest unit rate for their television advertising 60 days before their general election and 30 days before the primary. Current law merely provides Federal candidates with the lowest unit rate—our bill would cut the costs of television advertising for eligible candidates almost in half.

That, Mr. President, is the first foundation of meaningful reform, creating a voluntary system—purely voluntary—that provides candidates who agree to limit their campaign spending with the means to convey their ideas and message to the voters and also significantly reduce their campaign costs, therefore reducing the need to raise millions and millions of dollars.

The second foundation of reform is to ban so-called "soft money," those contributions to the national parties from corporations, labor unions and wealthy individuals that are unlimited and unregulated by federal election law and yet are funneled into federal campaigns around the country.

It was soft money, Mr. President, that garnered so much outrage in the last election. To illustrate how expansive of a loophole soft money has become, consider how much of this unregulated money the national parties have raised over the last two election cycles in which we had a presidential election. In 1992, the Republican National Committee raised $50 million in soft money while the Democratic National Committee raised $36 million. In 1996, the RNC raised $141 million while the DNC raised $122 million. Overall, soft money contributions to the two parties went from $86 million in 1992 to $263 million in 1996. That is a staggering increase.

In the wake of the countless media reports documenting this abuse, Americans were left wondering why an individual who is limited to contributing $1,000 to a federal candidate by federal election law is somehow able to contribute $100,000 or $1 million to the Democratic or Republican National Committees. They want to understand why labor unions and corporations, which are prohibited by law from using their treasury funds to make contributions or expenditures to advocate for or against a federal candidate, are able to funnel millions and millions of their treasury dollars directly into the two national parties and indirectly into various House and Senate elections. Clearly, a ban on soft money contributions to the political parties must be a part of a serious reform proposal.

The Supreme Court has spoken clearly on the constitutionality of limiting campaign contributions from individuals and organizations. They have upheld the statutes barring corporate and labor union direct contributions. They have upheld the statute limiting individuals to contributing $1,000 to federal candidates per election and $20,000 to national parties per year. And yet the soft money loophole has allowed interested parties to blow these limits away, leaving the average citizen who wishes to contribute $25 to their local congressman wondering just how much of a voice they have in the electoral process.

The McCain-Feingold proposal simply bans all soft money contributions to the national parties. Individuals can still contribute to the national parties, but they will have to abide by the current law $20,000 "hard money" limit. Corporations and labor unions will also be able to contribute to the national parties, but they too will have to follow the "hard money" limits. That means they will have to contribute through their separate segregate funds, also known as PAC's, rather than using their general treasury funds, and their contributions to the national parties will be limited to $15,000 per party committee per year.

We heard considerable debate in the last election about foreign money—both coming from foreign nationals oversees, which is clearly illegal, and from noncitizens residing in the United States, which is not. This is a problem and we have a new provision in our legislation to address this abuse. But I have always said that the problem is whether anyone should be permitted to contribute $400,000 in our election system, whether it is from Jakarta or Janesville, WI. And the soft money ban in our legislation will prohibit any future such contributions, regardless of their source.

The legislation includes a new proposal that bars anyone who is not eligible to vote in a federal election from contributing to a federal candidate. This will affect noncitizens, minors under 18 years of age and certain convicted felons. Simply put, if our laws and Constitution do not allow an individual to participate in the political process with their ballot, there is no reason the same individual should be permitted to participate with their checkbook.

The McCain-Feingold bill includes a number of other important provisions as well. For example, we propose a new definition of what constitutes "express advocacy" in a federal election. "Express advocacy" is the standard used to determine to what extent election activities may be limited and regulated. If a particular activity, such as an independent expenditure, is deemed to expressly advocate the election or defeat of a particular federal candidate, then that activity must be paid for with fully disclosed and limited "hard money" dollars. Labor unions, corporations and other political organizations would have to fund such activities through a PAC, comprised of voluntary, limited and disclosed contributions.

If on the other hand, an expenditure is used for an activity that does not expressly advocate the election or defeat of a particular candidate, such as a television ad that attempts to raise important issues without advocating a candidate, then that expenditure may be funded with "soft money" dollars—undisclosed and unlimited monies, such as corporation's profits or a labor union's member dues.

Unquestionably, the largest abuse in recent elections is the use of non-party soft money to fund huge electioneering activities under the guise that there is an absence of express advocacy. Current FEC regulations defining express advocacy are so weak that these organizations are able to channel unlimited resources into activities that are thinly veiled as "voter education" or "issue ads" when in truth they seek to directly advocate the election or defeat of a candidate.

These activities, outside the scope of federal election law, have come to dominate many House and Senate campaigns. And while political parties and outside organizations have poured unlimited resources into these "issue ads," candidates have found their role in their own elections shockingly diminished.

If we are to have any control of our election process, we must have a clear standard in the law that defines what sort of activities are an attempt to influence the outcome of a federal election.

The McCain-Feingold proposal includes a new definition of what constitutes "express advocacy." Under this proposal, the definition of "express advocacy" will include any general public communication that advocates the election or defeat of a clearly identified candidate for federal office by using such expressions as "vote for", "support" or "defeat". Further, any disbursement aggregating $10,000 or more for a communication that is made within 30 days of a primary election or 60 days of a general election shall be considered express advocacy if the communication refers to a clearly identified candidate and a reasonable person would understand it as advocating the election or defeat of that candidate.

If such a communication is made outside of the 30 day period before the primary election or the 60 day period before the general election, it shall be considered express advocacy if the communication is made with the purpose of advocating the election or defeat of a candidate as shown by one or more factors including a statement or action by the person making the communication, the targeting or placement of the communication, or the use by the person making the communication of polling or other similar data relating to the candidate's campaign or election.

This will ensure that a much larger proportion of the expenditures made by political parties and independent organizations with the intent to influence the outcome of a federal election will be covered by federal law and subject to the appropriate restrictions and disclosure requirements.

The McCain-Feingold proposal will also protect candidates who are targeted by independent expenditures. First, the legislation requires groups who fund independent expenditures to immediately disclose those expenditures. The FEC would then be required to transmit a copy of that report to any candidate who has agreed to limit their spending and has been targeted by such an expenditure. This will give candidates advance notice that they have been targeted. The legislation also allows candidates to respond to such expenditures without these "response expenditures" counting against their overall spending limit. This will ensure that targeted candidates are not bound by the spending caps and unable to respond. And finally, the bill tightens statutory language to ensure that independent expenditures made by political parties are truly independent and not coordinated with campaigns in any way.

The legislation also includes a ban on Political Action Committee [PAC] contributions to federal candidates. In case such a ban is held to be unconstitutional by the Supreme Court, the legislation includes a "back-up" provision that lowers the PAC contribution limit from $5,000 to $1,000 and limits Senate candidates to accepting no more than 20% of the applicable overall spending limit in aggregate PAC contributions.

The bipartisan bill is further helpful to challengers in that it prohibits Senators from sending out taxpayer-financed, unsolicited franked mass mailings in the calendar year of an election. Often, these mass mailings are thinly disguised "newsletters" that help to bolster an incumbent's name recognition and inform constituents of their accomplishments. Such unsolicited activity by officeholders can be unfair in an election year.

The final major piece of this reform effort is our enhanced enforcement provisions. There is legitimate criticism that our federal election laws are not adequately enforced, and much of this problem can be directly attributed to Congress' unwillingness to provide adequate funding to what is supposed to be the government's watchdog agency, the Federal Election Commission. Regardless, there are reforms we can pass that will allow the FEC to better enforce the current laws we have on the books as well as the new laws enacted as part of this legislation.

First and foremost is a provision that will require all federal campaigns to file their disclosure reports with the FEC electronically. Currently, this is optional and the result is a disclosure system that is marginally reliable. We need a disclosure system that is readily accessible to the public and will allow the American people to know where from and to whom the money is flowing. The bill also requires candidates to disclose the name and address of every contributor who gives more than $50 to a candidate. Currently, that threshold is only for contributions over $200 and the result is millions of dollars of undisclosed contributor information.

Second, we allow the FEC to conduct random audits of campaigns. This will provide a mechanism to make sure candidates are complying with all of the limitations and restrictions in federal election law.

The bill toughens penalties for "knowing and willful" violations of the law. If such a standard is met, the FEC is permitted to triple the amount of the civil penalty. We must send a message to candidates and campaigns that deliberate attempts to evade the law will be met with serious penalties.

Mr. President, the support the McCain-Feingold proposal garnered last year was bipartisan and broad based. It was strongly supported by President Clinton, who first endorsed the McCain-Feingold proposal in his State of the Union Address almost one year ago and has recently reaffirmed his strong commitment to the legislation this year. It was endorsed by Ross Perot, Common Cause, Public Citizen, United We Stand America, the American Association of Retired Persons and some 30 other grassroots organizations. It received editorial support from over 60 newspapers nationwide.

This legislation is also bicameral. Republican Representative CHRIS SHAYS, Democratic Representative MARTY MEEHAN and a number of others will soon be introducing a House version of the McCain-Feingold proposal in the 105th Congress.

Recently, the Wall Street Journal conducted a poll on this issue. They found that 92 percent of the American people believe we spend too much money on political campaigns. This is consistent with numerous other polls that have found similar results. Coupled with the troubling fact that the smallest percentage of Americans went to the ballot box in 72 years, it is clear that the American people want meaningful reform of our electoral process. It is also clear that they want less polarization in the Congress, and for Democrats and Republicans to work together and find effective solutions to our common problems.

For years, campaign finance reform has stalled because of the inability of the two parties to join together and craft a reform proposal that was fair to both sides. We believed we have bridged those differences, and produced a proposal that calls for mutual disarmament and will lead to fair and competitive elections.

It is my hope that the distinguished majority leader will recognize how important this issue is to the American people and our democratic system and will allow this legislation to be considered in the coming weeks. I want to thank my friend from Arizona [Mr. MCCAIN] for his dedication to this issue.

Mr. THOMPSON. Mr. President I join my colleagues in introducing our campaign finance reform legislation with mixed emotions. On the one hand, I am more optimistic about the chances of our being able to enact reforms than I was when we introduced our bill over a year ago. On the other hand, I regret that it has taken another round of public disappointment and anger over the role of money in federal elections to bring us to this point.

The factors which led us to introduce this legislation in the last Congress have become even more prominent. Too much money is needed, too much time must be spent raising it, too much is asked of a limited number of special interests, and too much is going on outside of the regulatory system we established—some within the bounds of the law, some allegedly not.

Most importantly, in my view, the public is increasingly concerned by what they see happening here. If they have no faith in the system which put us here, if they are turned off by what we do to get elected, how are they going to trust us to carry out our work in their best interests?

Next, money raising consumes an inordinate amount of office-holders' and candidates' time and effort. Candidates should be reaching out to as broad a spectrum of people and interests as possible, and not feel they must concentrate on those who can afford to make a donation.

Last, it is difficult for a challenger to raise sufficient funds to get his or her message out. Congress needs to move away from professionalism and more toward a citizen legislature. The process should be more open, instead of more closed. Because of the role money plays, unless a candidate has access to large sums of money, he or she is pretty much cut out of the process.

I believe the revised legislation I am joining my colleagues Senators MCCAIN and FEINGOLD in introducing provides some solutions to these problems. It doesn't provide all the solutions, or perfect solutions, but it is a good faith effort and, in my view, a good place to start.

This legislation reduces the appearance and reality of special interests buying and selling political favors by prohibiting federal PACs, restricting contribution "bundling", prohibiting so-called "soft money", and putting a cap on out-of-state fundraising. I do not believe PACs are inherently evil. There are other ways special interests can enhance their financial influence in a campaign. Contributions are bundled, or the word just goes out that a particular interest—be it business, or social, or labor—is concentrating donations on a particular race. PACs are a more formal association of people with common interests. Our test in legislating reforms should be whether the public feels they continue to serve an acceptable purpose.

Furthermore, in this revised bill we have tightened up on the definitions of independent and coordinated expenditures, as well as those for express advocacy. Today we have a system under which, in many cases, the majority of the expenditures in an election are outside the system and the candidate's control. In 1992, "soft money" expenditures by the Republican and Democratic parties totaled $86 million. In 1996, they totaled $263 million. It is little wonder that we are looking at where some of it came from.

I look forward to working with our colleagues on both sides of the aisle, in the House of Representatives, and with the President to fashion and pass meaningful reform. I believe a successful effort will renew the public's faith in our system and in us, and thus in our ability to do what they sent us here to do.

Mr. WELLSTONE. Mr. President. I am extremely pleased to be an original cosponsor of the McCain-Feingold-Thompson-Wellstone campaign finance reform bill. I hope the Senate will bring it to the floor very early in this Congress—preferably during the first three months of this year. Campaign finance reform is clearly one of the most crucial issues we face, and the public is more than ready for fundamental reform.

I have been working hard with my colleagues on this bipartisan bill, which we hope becomes the vehicle for genuine reform this year. I hope that public dissatisfaction with campaign politics-as-usual, especially as exemplified by the abuses of the campaign season just past, will push this Congress to act decisively. We should choose the best aspects of the various bills that will be introduced this year and fix the problems which have made themselves so apparent. We know there will opposition to any significant changes in the way we organize and finance campaigns for federal office, but if there is sufficient pressure from around the country, we can pass real reform.

So let us bring this bill to the floor and amend it. No reform bill is perfect. Let Republicans and Democrats offer their changes. As the only viable, bipartisan campaign finance reform bill, this proposal represents our best hope for taking a significant step toward genuine reform.

In some ways this bill does not go as far as I believe will be necessary in order to repair our damaged campaign finance system. But it would ban "soft money" contributions to parties. It would impose voluntary spending limits and require greater disclosure of independent expenditures. It would restrict PAC contributions and "bundling," and it would place more restrictions on foreign contributions. It is a good bill. Its enactment would be an excellent start toward restoring integrity to our political process.

We must enact comprehensive reform. But I am especially committed this year to addressing the striking abuses in the areas of "soft money" and issue-advocacy ads. A system which invites circumvention mocks itself.

Mr. President, I intend to speak at greater length in the coming days on the subject of campaign finance reform. Today, I enthusiastically endorse this bipartisan effort to move real reform and to begin to restore Americans' belief in our democratic institutions.

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. DORGAN, Mr. CONRAD, Mr. KERREY, and Mr. BINGAMAN):

S. 26. A bill to provide a safety net for farmers and consumers and to promote the development of farmer-owned value added processing facilities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL SAFETY NET ACT OF 1997

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 26

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Safety Net Act of 1997".

SEC. 2. MARKETING ASSISTANCE LOANS.

(a) IN GENERAL.—Section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232) is amended—

(1) in subsection (a)(1)—

(A) by striking "be—" and all that follows through "(A) not" and inserting "be not"; and

(B) by striking "; but" and all that follows through "per bushel";

(2) in subsection (b)(1)—

(A) by striking "be—" and all that follows through "(A) not" and inserting "be not"; and

(B) by striking "; but" and all that follows through "per bushel";

(3) in subsection (c)(2), by striking "or more than $0.5192 per pound";

(4) in subsection (d)—

(A) by striking "be—" and all that follows through "(1) not" and inserting "be not"; and

(B) by striking "; but" and all that follows through "per pound"; and

(5) in subsection (f)—

(A) in paragraph (1)(B), by striking "or more than $5.26"; and

(B) in paragraph (2)(B), by striking "or more than $0.093".

(b) TERM OF LOAN.—Section 133 of the Agricultural Market Transition Act (7 U.S.C. 7233) is amended by striking subsection (c) and inserting the following:

"(c) EXTENSIONS.—The Secretary may extend the term of a marketing assistance loan for any loan commodity for a period not to exceed 6 months.".

SEC. 3. EXPANSION OF CROP REVENUE INSURANCE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) in subsection (b)—

(A) by striking paragraph (9); and

(B) by redesignating paragraph (10) as paragraph (9); and

(2) by adding at the end the following:

"(o) CROP REVENUE INSURANCE.—

"(1) IN GENERAL.—The Secretary shall offer a producer of wheat, feed grains, soybeans, or such other commodity as the Secretary considers appropriate insurance against loss of revenue from prevented or reduced production of the commodity, as determined by the Secretary.

"(2) ADMINISTRATION.—Revenue insurance under this subsection shall—

"(A) be offered by the Corporation or through a re-insurance arrangement with a private insurance company;

"(B) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance; and

"(C) be actuarially sound".

SEC. 4. PRIORITY FOR FARMER-OWNED VALUE-ADDED PROCESSING FACILITIES.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

"(h) PRIORITY FOR FARMER-OWNED VALUE-ADDED PROCESSING FACILITIES.—In approving applications for loans and grants authorized under this section, section 306(a)(11), and other applicable provisions of this title (as determined by the Secretary), the Secretary shall give a high priority to applications for projects that encourage farmer-owned value-added processing facilities.".

By Mr. THURMOND:

S. 27. A bill to amend title 1 of the United States Code to clarify the effect and application of legislation; to the Committee on the Judiciary.

AN ACT TO CLARIFY THE APPLICATION AND EFFECT OF LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce an act to clarify the application and effect of legislation which the Congress enacts. My act provides that unless future legislation expressly states otherwise, new enactments would be applied prospectively, would not create private rights of action, and would be presumed not to preempt existing State law. This will significantly reduce unnecessary litigation and court costs, and will benefit both the public and our judicial system.

The purpose of this legislation is quite simple. Many congressional enactments do not indicate whether the legislation is to be applied retroactively, whether it creates private rights of action, or whether it preempts existing State law. The failure or inability of the Congress to address these issues in each piece of legislation results in unnecessary confusion and litigation. Additionally, this contributes to the high cost of litigation and the congestion of our courts.

In the absence of action by the Congress on these critical threshold questions of retroactivity, private rights of action and preemption, the outcome is left up to the courts. The courts are frequently required to resolve these matters without any guidance from the legislation itself. Although these issues are generally raised early in a lawsuit, a decision that the lawsuit can proceed generally cannot be appealed until the end of the case. If the appellate court eventually rules that one of these issues should have prevented the trial, the litigants have been put to substantial burden and unnecessary expense which could have been avoided.

Trial courts around the country often reach conflicting and inconsistent results on these issues, as do appellate courts when the issues are appealed. As a result, many of these cases eventually make their way to the Supreme Court. This problem was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeal all over this Nation were required to resolve whether the 1991 act should be applied retroactively, and the issue ultimately was considered by the U.S. Supreme Court. However, by the time the Supreme Court resolved the issue in 1994, well over 100 lower courts had ruled on this question, and their decisions were split. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

In the same way, the issues of whether new legislation creates a private right of action or preempts State law are frequently presented in courts around the country, yielding expensive litigation and conflicting results.

The bill I am introducing today eliminates this problem by providing the rule of construction that, unless future legislation specifies otherwise, newly enacted laws are not to be applied retroactively, do not create a private right of action, and are presumed not to preempt State law. Of course, my bill does not in any way restrict the Congress on these important issues. The Congress may override this ordinary rule by simply stating when it wishes legislation to be retroactive, create new private rights of action or preempt existing State law.

This act will eliminate uncertainty and provide rules which are applicable when the Congress fails to specify its position on these important issues in legislation it passes. One U.S. District Judge in my State informs me that he spends 10 to 15 percent of his time on these issues. It is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding much uncertainty and litigation which currently exists over these issues.

Mr. President, if we are truly concerned about relieving the backlog of cases in our courts and reducing the costs of litigation, we should help our judicial system to focus its limited resources, time and effort on resolving the merits of disputes, rather than deciding these preliminary matters.

By Mr. LUGAR:

S. 29. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

S. 30. A bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes; to the Committee on Finance.

S. 31. A bill to phase out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

ESTATE TAX LEGISLATION

Mr. LUGAR. Mr. President, I am pleased to introduce three bills aimed at eliminating the burden that estate and gift taxes place on our economy. My first bill would repeal the estate and gift taxes outright. My second bill would phase out the estate tax over 5 years by gradually raising the unified credit each year until the tax is repealed after the fifth year. My third bill would immediately raise the effective unified credit from $600,000 to $5 million in an effort to address the disproportionate burden that the estate tax places on farmers and small businesses.

I believe the best option is a simple repeal of the estate tax. I am hopeful that during this Congress, as Members become more aware of the effects of this tax, we can eliminate it from the Tax Code. However, even if the estate tax is not repealed, the unified credit must be raised. The credit has not been increased since 1987 when it was established at the $600,000 level. Since then, inflation has caused a growing percentage of estates to be subjected to the estate tax. My second bill is intended to highlight this point and provide a gradual path to repeal.

Finally, my third bill focuses on relieving the estate tax burden that falls disproportionately on farmers and small business owners. By raising the exemption amount from $600,000 to $5 million, 96 percent of estates with farm assets and 90 percent of estates with noncorporate business assets would not have to pay estate taxes, according to the IRS.

The estate tax began as a temporary tax in 1916, limited to 10 percent of one's inheritance. The tax intended to prevent the accumulation of wealth in the hands of a few families. Today, however, the effect is often the opposite. The estate tax forces many family-owned farms and small businesses to sell to larger corporations, further concentrating the wealth.

The estate tax has mushroomed into an exorbitant tax on death that discourages savings, economic growth and job formation by blocking the accumulation of entrepreneurial capital and by breaking up family businesses and farms. With the highest marginal rate at 55 percent, more than half of an estate can go directly to the government. By the time the inheritance tax is levied on families, their assets have already been taxed at least once. This form of double taxation violates perceptions of fairness in our tax system.

In addition to tax liabilities, families often must pay lawyers, accountants and planners to untangle one of the most complicated areas of our tax code. In 1996, a Gallup poll estimated that a small family-owned business spent an average of $33,138 for lawyers and accountants to settle estates with the IRS. Larger family-owned businesses averaged $70,000. Families averaged 167 hours complying with the Byzantine rules of the estate tax, and the

IRS estimates that they must audit nearly 40 percent of estate tax returns—a much higher rate than the 1.7 percent audit rate on incomes taxes.

Let us consider the consequences of the estate tax on the American economy. The estate tax is counterproductive because it falls so heavily on our most dynamic job creators—small businesses. About two out of every three new jobs in this country are created by small business. From 1989 to 1991, a period of unusually slow economic growth, virtually all new net jobs were created by firms with fewer than twenty employees.

Recent economic studies and surveys of small business owners support the thesis that the estate tax discourages economic growth. A 1994 study by the Tax Foundation concluded that the estate tax may have roughly the same effect on entrepreneurial incentives as would a doubling of income tax rates. A 1996 report prepared by Price Waterhouse found that even more family business owners were concerned about estate taxes than about capital gains taxes. A Gallup poll found that one-third of family-owned businesses expect to sell their family's firm to pay estate tax liability. Sixty-eight percent said the estate tax makes them less likely to make investments in their business, and 60 percent said that without an estate tax, they would have expanded their workforce.

If we are sincere about boosting economic growth, we must consider what effect the estate tax has on a business owner deciding whether to invest in new capital goods or hire a new employee. We must consider its affect on a farmer deciding whether to buy new land, additional livestock or a new tractor. If you know that when you die your children will probably have to sell the business you build up over your lifetime, does that make you more likely to take the risk of starting a new business or enlarging your present business? It is apparent that the estate tax does discourage business and farm investments.

One might expect that for all the economic disincentives caused by the estate tax, it must at least provide a sizable contribution to the U.S. Treasury. But in reality, the estate tax only accounts for about 1 percent of federal taxes. It cannot be justified as an indispensable revenue raiser. Given the blow delivered to job formation and economic growth, the estate tax may even cost the Treasury money. Our nation's ability to create new jobs, new opportunities and wealth is damaged as a result of our insistence on collecting a tax that earns less than 1 percent of our revenue.

But this tax affects more than just the national economy. It affects how we as a nation think about community, family and work. Small businesses and farms represent much more than assets. They represent years of toil and entrepreneurial risk taking. They also represent the hopes that families have for their children. Part of the American Dream has always been to build up a business, farm or ranch so that economic opportunities and a way of life can be passed on to one's children and grandchildren.

I have some personal experience in this area. My father died when I was in my early thirties, leaving his 604-acre farm in Marion County, Indiana, to his family. I managed the farm, which built up considerable debts during my father's illness at the end of his life. Fortunately, after a number of years, we were successful in working out the financial problems and repaying the money. We were lucky. That farm is profitable and still in the family. But many of today's farmers and small business owners are not so fortunate. Only about 30 percent of businesses are transferred from parent to child, and only about 12 percent of businesses make it to a grandchild.

The strongest negative effects of the estate tax are felt by the American family farmer. Currently, proprietorships and partnerships make up about 95 percent of farms and ranches. In the vast majority of cases, family farms do not produce luxurious lifestyles for their owners. Farmers have large assets but relatively little income. The income of a family-run farm depends on modest returns from sizable amounts of invested capital. Much of what the farmer makes after taxes in reinvested into the farm, bolstering the estate-tax-derived "paper value" even more.

As happens so often, family farms cannot maintain the cash assets necessary to pay estate taxes upon the death of the owner. Frequently, selling part of a farm is not an option, either because there is no suitable buyer or because reducing acreage would make the operation inviable. In these cases, a fire-sale of the family farm or business is required to pay the estate tax. Devastating to any business, such a forced sale hits farm families particularly hard because they frequently must sell at a price far below the invested value. Entire lifetimes of work are liquidated, and the skills of family members experienced in agriculture are lost to the American economy.

Mr. President, I introduce today a set of bills to repeal the estate tax in an effort to expand investment incentives and job creation and to reinvigorate an important part of the American Dream. I am hopeful that Senators will join me in the effort to free small businesses, family farms and our economy from this counterproductive tax.

By Mr. THURMOND:

S. 32. A bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

JUDICIAL TAXATION PROHIBITION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to prohibit Federal judges from ordering new taxes or ordering increases in existing tax rates as a judicial remedy.

In 1990, the Supreme Court decided in Missouri versus Jenkins to allow Federal judges to order new taxes or increases as a judicial remedy. It is my firm belief that this narrow 5 to 4 decision permits Federal judges to exceed their proper boundaries of jurisdiction and authority under the Constitution.

Mr. President, this ruling and congressional response raises two constitutional issues which warrant discussion. One is whether Federal courts have authority under the Constitution to inject themselves into the legislative area of taxation. The second constitutional issue arises in light of the Judicial Taxation Prohibition Act which I am now introducing to restrict the remedial jurisdiction of the Federal courts. This narrowly drafted legislation would prohibit Federal judges from ordering new taxes or ordering increases in existing tax rates. I believe it is clear under article III that the Congress has the authority to restrict the remedial jurisdiction of the Federal courts in this fashion.

First, I want to speak on the issue of judicial taxation. Not since Great Britain's ministry of George Grenville in 1765 have the American people faced the assault of taxation without representation as now authorized in the Jenkins decision.

As part of his imperial reforms to tighten British control in the colonies, Grenville pushed the Stamp Act through the Parliament in 1765. This Act required excise duties to be paid by the colonists in the forms of revenue stamps affixed to a variety of legal documents. This action came at a time when the colonies were in an uproar over the Sugar Act of 1764 which levied duties on certain imports such as sugar, indigo, coffee, linens and other items.

The ensuing firestorm of debate in America centered on the power of Britain to tax the colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the Parliament did not have power to tax the colonies because Americans had no representation in that body. Mr. Otis had been attributed in 1761 with the statement that "taxation without representation is tyranny."

In October, 1765, delegates from nine states were sent to New York as part of the Stamp Act Congress to protest the new law. It was during this time that John Adams wrote in opposition to the Stamp Act, "We have always understood it to be a grand and fundamental principle . . . that no freeman shall be subject to any tax to which he has not given his own consent, in person or by proxy." A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated, "It is inseparably essential to the freedom of a people . . . that no taxes be imposed on them, but with their own consent, given personally or by their representatives." The resolutions concluded that the Stamp Act had a "manifest tendency to subvert the rights and liberties of the colonists."

Opposition to the Stamp Act was vehemently continued through the colonies in pamphlet form. These pamphlets asserted that the basic premise of a free government included taxation of the people by themselves or through their representatives.

Other Americans reacted to the Stamp Act by rioting, intimidating tax collectors, and boycotts directed against England. While Grenville's successor was determined to repeal the law, the social, economic and political climate in the colonies brought on the American Revolution. The principles expressed during the earlier crisis against taxation without representation became firmly embedded in our Federal Constitution of 1787.

Yet, the Supreme Court has overlooked this fundamental lesson in American history. The Jenkins decision extends the power of the judiciary into an area which has traditionally been reserved as a legislative function within the Federal, State, and local governments. In the Federalist No. 48, James Madison explained that in our democratic system, "the legislative branch alone has access to the pockets of the people."

This idea has remained steadfast in America for over 200 years. Elected officials with authority to tax are directly accountable to the people who give their consent to taxation through the ballot box. The shield of accountability against unwarranted taxes has been removed now that the Supreme Court has sanctioned judicially imposed taxes. The American citizenry lacks adequate protection when they are subject to taxation by unelected, life tenured Federal judges.

There are many programs and projects competing for a finite number of tax dollars. The public debate surrounding taxation is always intense. Sensitive discussions are held by elected officials and their constituents concerning increases and expenditures of scarce tax dollars. To allow Federal judges to impose taxes is to discount valuable public debate concerning priorities for expenditures of a limited public resource.

Mr. President, the dispositive issue presented by the Jenkins decision is whether the American people want, as a matter of national policy, to be exposed to taxation without their consent by an independent and insulated judiciary. I most assuredly believe they do not.

This brings us to the second Constitutional issue which we must address in light of this Jenkins decision. That issue is congressional authority under the Constitution to limit the remedial jurisdiction of lower Federal courts established by the Congress. Article III, Section 1, of the Constitution provides jurisdiction to the lower Federal courts as the "Congress may from time to time ordain and establish." There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under Article III to "ordain and establish" the lower Federal courts as it deems appropriate. This basic premise has been upheld by the Supreme Court in a number of cases including Lockerty versus Phillips, Lauf versus E.G. Skinner and Co., Kline versus Burke Construction Co., and Sheldon versus Sill.

This legislation would preclude the lower Federal courts from issuing any order or decree requiring imposition of "any new tax or to increase any existing tax or tax rate." I firmly believe that this language is wholly consistent with Congressional authority under Article III, Section 1 of the Constitution.

There is nothing in this legislation which would restrict the power of the Federal courts from hearing constitutional claims. It accords due respect to all provisions of the Constitution and merely limits the availability of a particular judicial remedy which has traditionally been a legislative function. The objective of this legislation is straightforward, to prohibit Federal courts from increasing taxes. The language in this bill applies to the lower Federal courts and does not deny claimants judicial access to seek redress of any Federal constitutional right.

Mr. President, how long will it be before a Federal judge orders tax increases to build new highways or prisons? I do not believe the Founding Fathers had this type of activism in mind when they established the judicial branch of government. The role of the judiciary is to interpret the law. The power to tax is an exclusive legislative right belonging to the Congress and governments at the state level. We are accountable to the citizens and must justify any new taxes. The American people deserve a timely response to the Jenkins decision and we must provide protection against the imposition of taxes by an independent judiciary.

By Mr. THURMOND:

S. 33. A bill to provide that a Federal justice or judge convicted of a felony shall be suspended from office without pay, to amend the retirement age and service requirements for Federal justices and judges convicted of a felony, and for other purposes; to the Committee on the Judiciary.

FEDERAL JUDGE LEGISLATION

Mr. THURMOND. Mr. President, today I am introducing legislation which provides that a justice or judge convicted of a felony shall be suspended from office without pay pending the disposition of impeachment proceedings.

I believe that the citizens of the United States will agree that those who have been convicted of felonies should not be allowed to continue to occupy positions of trust and responsibility in our Government. Nevertheless, under current constitutional law it is possible for judges to continue to receive a salary and to still sit on the bench and hear cases even after being convicted of a felony. If they are unwilling to resign, the only method which may be used to remove them from the Federal payroll is impeachment.

Currently, the Congress has the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. Even when a court has already found an official guilty of a serious crime, Congress must then essentially retry the official before he or she can be removed from the Federal payroll. The impeachment process is typically very time consuming and can occupy a great deal of the resources of Congress.

Mr. President, one way to solve this problem would be to amend the Constitution. Today, I am also introducing a Senate resolution proposing a constitutional amendment providing for forfeiture of office by Government officials and judges convicted of felonies involving moral turpitude. While I believe that a constitutional amendment may be the best solution to the problem, I am also introducing this statutory remedy to address the current situation.

This legislation will provide that a judge convicted of a felony involving moral turpitude shall be suspended from office without pay. The legislation specifies that the suspension begins upon conviction and that no additional time accrues toward retirement from that date. However, the judge would be reinstated if the criminal conviction is reversed upon appeal or if articles of impeachment do not result in conviction by the Senate.

Mr. President, the framers of the Constitution could not have intended convicted felons to continue to serve on the bench and to receive compensation once they have seriously violated the law and the trust of the people. I urge my colleagues to carefully consider this legislation.

By Mr. FEINGOLD:

S. 34. A bill to phase out Federal funding of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

TENNESSEE VALLEY AUTHORITY LEGISLATION

Mr. FEINGOLD. Mr. President, today I am introducing legislation, similar to that which I sponsored in the 104th Congress, to terminate funding for little known activities of the Tennessee Valley Authority [TVA], the TVA's nonpower programs, that are funded by appropriated funds. In fiscal year 1997, Congress appropriated a total of $106 million to support these programs.

The TVA was created in 1933 as a government-owned corporation for the unified development of a river basin comprised of parts of seven States. Those activities included the construction of an extensive power system, for which the region is now famous, and regional development or "nonpower" programs. TVA's responsibilities in the nonpower programs include maintaining its system of dams, reservoirs and navigation facilities, and managing TVA-held lands. In addition, TVA provides recreational programs, makes economic development grants to communities, promotes public use of its land and water resources, and operates an Environmental Research Center. Only the TVA power programs are intended to be self-supporting, by relying on TVA utility customers to foot the bill. The expense of these "nonpower" programs, on the other hand, are covered by appropriated taxpayer funds.

This legislation terminates funding for all appropriated programs of the TVA after fiscal year 2000. While I understand the role that TVA has played in our history, I also know that we face tremendous Federal budget pressure to reduce spending in many areas. I believe that TVA's discretionary funds should be on the table, and that Congress should act, in accordance with this legislation, to put the TVA appropriated programs on a glide path toward dependence on sources of funds other than appropriated funds. I think that this legislation is a reasonable phased-in approach to achieve this objective, and explicitly codifies both the fiscal year 1996 President's Budget and TVA's own recommendations regarding activities at the TVA's Environmental Research Center in Alabama.

I am introducing this legislation to terminate TVA'S appropriated programs because there are lingering concerns, brought to light in a 1993 Congressional Budget Office [CBO] report, that nonpower program funds subsidize activities that should be paid for by non-Federal interests. When I ran for the Senate in 1992, I developed an 82+ point plan to eliminate the Federal deficit and have continued to work on the implementation of that plan since that time. That plan includes a number of elements in the natural resource area, including the termination of TVA's appropriations-funded programs.

In its 1993 report, CBO focused on two programs: The TVA Stewardship Program and the Environmental Research Center. Stewardship activities receive the largest share of TVA's appropriated funds. The funds are used for dam repair and maintenance activities. According to 1995 testimony provided by TVA before the House Subcommittee on Energy and Water Appropriations, when TVA repairs a dam it pays 70 percent, on average, of repair costs with appropriated dollars and covers the remaining 30 percent with funds collected from electricity ratepayers.

This practice of charging a portion of dam repair costs to the taxpayer, CBO highlighted, amounts to a significant subsidy. If TVA were a private utility, and it made modifications to a dam or performed routine dredging, the ratepayers would pay for all of the costs associated with that activity.

TVA also runs an Environmental Research Center, formerly a Fertilizer Research Center, that received $15 million in funding in fiscal year 1997. The Center formerly developed and tested about 80 percent of commercial fertilizers developed in the United States, which CBO identified as a direct research cost subsidy to fertilizer companies. The measure I am introducing today phases out Federal funding for the Center by the year 2000.

In fiscal year 1996, I successfully sponsored an amendment to cap funding for the TVA Environmental Research Center. The amendment also required the Center to examine its research program, and evaluate how it could reduce its dependence on appropriated funds. Though the funding cap was eliminated in conference on the fiscal year 1996 Energy and Water Appropriations, TVA did complete an assessment of its research program. The Center proposes to make a complete transition to competing for Federal grants by fiscal year 2000. My measure would codify such a transition.

I have included specific language on the Environmental Research Center in this legislation because I believe that it is important certain regions do not receive earmarked preference over others in receiving scarce environmental research, natural resource management and economic development dollars from the Federal Government. In this time of tight budgets, I believe that all opportunities to decrease and supplement Federal support for projects and leverage additional private, local and State government funds should be examined and implemented when feasible.

Again, while I understand the important role that TVA played in the development of the Tennessee Valley, many other areas of the country have become more creative in Federal and State financing arrangements to address regional concerns. Specifically, in those areas where there may be excesses within TVA, I believe we can do better to curb subsidies and eliminate the burden on taxpayers without completely eliminating the TVA, as some in the other body have suggested.

Mr. President, I ask unanimous consent that the full text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 34

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TENNESSEE VALLEY AUTHORITY.

(a) DISCONTINUANCE OF APPROPRIATIONS.—Section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831z) is amended—

(1) by inserting "for fiscal years through fiscal year 2000" before the period; and

(2) by adding at the end the following: "No appropriations may be made available for the Tennessee Vally Authority Environmental Research Center for fiscal year 2000.".

(b) PLAN.—No later than January 1, 1998, the Director of the Office of Management and Budget shall develop and submit a plan to Congress that—

(1) provides for the Tennessee Valley Authority Environmental Research Center to make a transition to sources of funds other than appropriated funds by fiscal year 2000; and

(2) recommends any legislation that may be appropriate to carry out the objectives of this Act.

By Mr. FEINGOLD:

S. 35. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

IRRIGATION SUBSIDY REDUCTION ACT OF 1997

Mr. FEINGOLD. Mr. President, I am introducing a measure that I sponsored in the 104th Congress to reduce the amount of Federal irrigation subsidies received by large agribusiness interests. I believe that reforming Federal water pricing policy by reducing subsidies is an important area to examine as a means to achieve our deficit reduction objectives. This legislation is also needed to curb fundamental abuses of reclamation law that cost the taxpayer millions of dollars every year.

In 1901, President Theodore Roosevelt proposed legislation, which came to be known as the Reclamation Act of 1902, to encourage development of family farms throughout the western United States. The idea was to provide needed water for areas that were otherwise dry and give small farms—those no larger than 160 acres—a chance, with a helping hand from the Federal Government, to establish themselves. According to a 1996 General Accounting Office report, since the passage of the Reclamation Act, the Federal Government has spent $21.8 billion to construct 133 water projects in the west which provide water for irrigation. Irrigators, and other project beneficiaries, are required under the law to repay to the

Federal Government their allocated share of the costs of constructing these projects.

However, as a result of the subsidized financing provided by the Federal Government, some of the beneficiaries of Federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, irrigators generally receive the largest amount of Federal financial assistance. Since the initiation of the irrigation program in 1902, construction costs associated with irrigation have been repaid without interest. The GAO further found, in reviewing the Bureau of Reclamation's financial reports, that $16.9 billion, or 78 percent, of the $21.8 billion of Federal investment in water projects is considered to be reimbursable. Of the reimbursable costs, the largest share—$7.1 billion—is allocated to irrigators. As of September 30, 1994 irrigators have repaid only $941 million of the $7.1 billion they owe. GAO also found that the Bureau of Reclamation will likely shift $3.4 billion of the debt owed by irrigators to other users of the water projects for repayment.

There are several reasons why irrigators continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres to 960 acres. The RRA of 1982 expressly prohibits farms that exceed 960 acres in size from receiving federally-subsidized water. These restrictions were added to the reclamation law to close loopholes through which Federal subsidies were flowing to large agribusinesses rather than the small family farmers that reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water received on land in excess of their 960 acre entitlement. Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving federal subsidies. The General Accounting Office and the Inspector General of the Department of the Interior continue to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage will exceed the 960 acre limit, are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are farmed under a single management agreement often through a combination of leasing and ownership.

In a 1989 GAO report, the activities of six agribusiness trusts were fully explored. According to GAO, one 12,345 acre cotton farm (roughly 20 square miles), operating under a single partnership, was reorganized to avoid the 960 acre limitation into 15 separate land holdings through 18 partnerships, 24 corporations, and 11 trusts which were all operated as one large unit. A seventh very large trust was the sole topic of a 1990 GAO report. The Westhaven Trust is a 23,238 acre farming operation in California's Central Valley. It was formed for the benefit of 326 salaried employees of the J.G. Boswell Company. Boswell, GAO found, had taken advantage of section 214 of the RRA, which exempts from its 960 acre limit land held for beneficiaries by a trustee in a fiduciary capacity, as long as no single beneficiary's interest exceeds the law's ownership limits. The RRA, as I have mentioned, does not preclude multiple land holdings from being operated collectively under a trust as one farm while qualifying individually for federally subsidized water. Accordingly, the J.G. Boswell Company reorganized 23,238 acres it held as the Boston Ranch by selling them to the Westhaven Trust, with the land holdings attributed to each beneficiary being eligible to receive federally subsidized water.

Before the land was sold to Westhaven Trust, the J.G. Boswell Company operated the acreage as one large farm and paid full cost for the Federal irrigation water delivered for the 18-month period ending in May 1989. When the trust bought the land, due to the loopholes in the law, the entire acreage became eligible to receive federally subsidized water because the land holdings attributed to the 326 trust beneficiaries range from 21 acres to 547 acres—all well under the 960 acre limit.

In the six cases the GAO reviewed in 1989, owners or lessees paid a total of about $1.3 million less in 1987 for Federal water than they would have paid if their collective land holdings were considered as large farms subject to the Reclamation Act acreage limits. Had Westhaven Trust been required to pay full cost, GAO estimated in 1990, it would have paid $2 million more for its water. The GAO also found, in all seven of these cases, that reduced revenues are likely to continue unless Congress amends the Reclamation Act to close the loopholes allowing benefits for trusts.

The legislation that I am introducing today combines various elements of proposals introduced during previous attempts by other Members of Congress to close loopholes in the 1982 legislation and to impose a $500,000 means test. This new approach limits the amount of subsidized irrigation water delivered to any operation in excess of the 960 acre limit which claimed $500,000 or more in gross income, as reported on their most recent IRS tax form. If the $500,000 threshold were exceeded, an income ratio would be used to determine how much of the water should be delivered to the user at the full-cost rate, and how much at the below-cost rate. For example, if a 961 acre operation earned $1 million dollars, a ratio of $500,000 (the means test value) divided by their gross income would determine the full cost rate, thus the water user would pay the full cost rate on half of their acreage and the below cost rate on the remaining half.

This means testing proposal will be featured, for the second year in a row, in this year's 1997 Green Scissors report which is scheduled for release next month. This report is compiled by Friends of the Earth and Taxpayers for Common Sense and supported by a number of environmental and consumer groups, including the Concord Coalition, and the Progressive Policy Institute. The premise of the report is that there are a number of subsidies and projects that could be cut to both reduce the deficit and benefit the environment. This report underscores what I and many others in the Senate have long known: we must eliminate practices that can no longer be justified in light of our enormous annual deficit and national debt. The Green Scissors recommendation on means testing water subsidies indicates that if a test is successful in reducing subsidy payments to the highest grossing 10% of farms, then the Federal Government would recover between $440 million and $1.1 billion per year, or at least $2.2 billion over 5 years.

When countless Federal programs are subjected to various types of means tests to limit benefits to those who truly need assistance, it makes little sense to continue to allow large business interests to dip into a program intended to help small entities struggling to survive. Taxpayers have legitimate concerns when they learn that their hard earned tax dollars are being expended to assist large corporate interests in select regions of the country who benefit from these loopholes, particularly in tight budgetary times. Other users of Federal water projects, such as the power recipients, should also be concerned when they learn that they will be expected to pick up the tab for a portion of the funds that irrigators were supposed to pay back. The Federal water program was simply never intended to benefit these large interests, and I am hopeful that legislative efforts, such as the measure I am introducing today, will prompt Congress to fully reevaluate our Federal water pricing policy.

In conclusion, Mr. President, it is clear that the conflicting policies of the Federal Government in this area are in need of reform, and that Congress should act. Large agribusinesses should not be able to continue to soak the taxpayers, and should make their fair share of payments to the Federal Government. We should act to close these loopholes and increase the return to the Treasury from irrigators as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 35

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Irrigation Subsidy Reduction Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Federal reclamation program has been in existence for over 90 years, with an estimated taxpayer investment of over $70,000,000,000;

(2) the program has had and continues to have an enormous effect on the water resources and aquatic environments of the western States;

(3) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are increasing and competing demands;

(4) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but this purpose has been frustrated over the years by inadequate implementation of subsidy and acreage limits;

(5) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases to the wealthiest western farmers would provide an economic incentive for greater water conservation;

(6) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program's acreage limitations that seek to limit water subsidies to smaller farms; and

(7) including a means test based on gross income in the reclamation program will increase the effectiveness of carrying out the family farm goals of the Federal reclamation laws.

SEC. 3. AMENDMENTS.

(a) DEFINITIONS.—Section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—

(1) in paragraph (6), by striking "owned or operated under a lease which" and inserting "that is owned, leased, or operated by an individual or legal entity and that";

(2) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (8), (10), (11), (12), and (13), respectively;

(3) by inserting after paragraph (6) the following:

"(7) LEGAL ENTITY.—The term 'legal entity' includes a corporation, association, partnership, trust, joint tenancy, or tenancy in common, or any other entity that owns, leases, or operates a farm operation for the benefit of more than 1 individual under any form of agreement or arrangement.";

(4) by inserting after paragraph (8) (as redesignated by paragraph (2)) the following:

"(9) OPERATOR.—

"(A) IN GENERAL.—The term 'operator'—

"(i) means an individual or legal entity that operates a single farm operation on a parcel (or parcels) of land that is owned or leased by another person (or persons) under any form of agreement or arrangement (or agreements or arrangements); and

"(ii) if the individual or legal entity—

"(I) is an employee of another individual or legal entity, includes each such other individual or legal entity; or

"(II) is a legal entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

"(B) OPERATION OF A FARM OPERATION.—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or legal entity is the person that performs the greatest proportion of the decisionmaking for, and supervision of, the farm operation on land served with irrigation water."; and

(5) by adding at the end the following:

"(14) SINGLE FARM OPERATION.—

"(A) IN GENERAL.—The term 'single farm operation' means the total acreage of land served with irrigation water for which an individual or legal entity is the operator.

"(B) RULES FOR DETERMINING WHETHER SEPARATE PARCELS ARE OPERATED AS A SINGLE FARM OPERATION.—

"(i) EQUIPMENT- AND LABOR-SHARING ACTIVITIES.—The conduct of equipment- and labor-sharing activities on separate parcels of land by separate individuals or legal entities shall not by itself serve as a basis for concluding that the farm operations of the individuals or legal entities constitute a single farm operation.

"(ii) PERFORMANCE OF CERTAIN SERVICES.—The performance by an individual or legal entity of an agricultural chemical application, pruning, or harvesting for a farm operation on a parcel of land shall not by itself serve as a basis for concluding that the farm operation on that parcel of land is part of a single farm operation operated by the individual or entity on other parcels of land.".

(b) IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS OF SINGLE FARM OPERATIONS.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended by inserting after section 202 the following:

"SEC. 202A. IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS OF SINGLE FARM OPERATIONS.

"(a) IN GENERAL.—Subject to subsection (b), for each parcel of land to which irrigation water is delivered or proposed to be delivered, the Secretary shall identify a single individual or legal entity as the owner, lessee, or operator.

"(b) SHARED DECISIONMAKING AND SUPERVISION.—If the Secretary determines that no single individual or legal entity is the owner, lessee, or other individual that performs the greatest proportion of decisionmaking for, and supervision of, the farm operation on a parcel of land—

"(1) all individuals and legal entities that own, lease, or perform a proportion of decisionmaking and supervision that is equal as among themselves but greater than the proportion performed by any other individual or legal entity shall be considered jointly to be the owner, lessee, or operator; and

"(2) all parcels of land of which any such individual or legal entity is the owner, lessee, or operator shall be considered to be part of the single farm operation of the owner, lessee, or operator identified under paragraph (1).".

(c) PRICING.—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

"(d) SINGLE FARM OPERATIONS GENERATING MORE THAN $500,000 IN GROSS FARM INCOME.—

"(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (c), in the case of—

"(A) a qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year; or

"(B) a limited recipient that received irrigation water on or before October 1, 1981, and that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

irrigation water may be delivered to the single farm operation of the qualified recipient or limited recipient at less than full cost to a number of acres that does not exceed the number of acres determined under paragraph (2).

"(2) MAXIMUM NUMBER OF ACRES TO WHICH IRRIGATION WATER MAY BE DELIVERED AT LESS THAN FULL COST.—The number of acres determined under this paragraph is the number equal to the number of acres of the single farm operation multiplied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

"(3) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—For any taxable year beginning in a calendar year after 1997, the $500,000 amount under paragraphs (1) and (2) shall be equal to the product of—

"(i) $500,000; and

"(ii) the inflation adjustment factor for the taxable year.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for 1996. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

"(C) GDP IMPLICIT PRICE DEFLATOR.—In subparagraph (B), the term 'GDP implicit price deflator' means the first revision of the implicit price deflator for the gross domestic product as computed and published by the Secretary of Commerce.

"(D) ROUNDING.—If any adjustment of the $500,000 amount determined under subparagraph (A) is not a multiple of $100, the adjustment shall be rounded to the next lowest multiple of $100.".

(d) CERTIFICATION OF COMPLIANCE.—Section 206 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff) is amended to read as follows:

"SEC. 206. CERTIFICATION OF COMPLIANCE.

"(a) IN GENERAL.—As a condition to the receipt of irrigation water for land in a district that has a contract described in section 203, each owner, lessee, or operator in the district shall furnish the district, in a form prescribed by the Secretary, a certificate that the owner, lessee, or operator is in compliance with this title, including a statement of the number of acres owned, leased, or operated, the terms of any lease or agreement pertaining to the operation of a farm operation, and, in the case of a lessee or operator, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land.

"(b) DOCUMENTATION.—The Secretary may require a lessee or operator to submit for the Secretary's examination—

"(1) a complete copy of any lease or other agreement executed by each of the parties to the lease or other agreement; and

"(2) a copy of the return of income tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year in which the single farm operation of the lessee or operator received irrigation water at less than full cost.".

(e) TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (43 U.S.C. 390nn) is repealed.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PENALTIES.—Section 224(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(c)) is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) REGULATIONS; DATA COLLECTION; PENALTIES.—

"(1) REGULATIONS; DATA COLLECTION.—The Secretary"; and

(B) by adding at the end the following:

"(2) PENALTIES.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation issued under this Act.".

(2) INTEREST.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: "The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(3)(C).".

(g) REPORTING.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390zz) is amended by inserting "operator or" before "contracting entity" each place it appears.

(h) MEMORANDUM OF UNDERSTANDING.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 230 as sections 230 and 231, respectively; and

(2) by inserting after section 228 the following:

"SEC. 229. MEMORANDUM OF UNDERSTANDING.

"The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 6103 of the Internal Revenue Code of 1986, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.".

By Mr. FEINGOLD:

S. 37. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES TERMINATION AND DEFICIT REDUCTION ACT OF 1997

Mr. FEINGOLD. Mr. President, I am today introducing legislation terminating the Uniformed Services University of the Health Sciences [USUHS], a medical school run by the Department of Defense. The measure is one I proposed when I ran for the U.S. Senate, and was part of a larger, 82 point plan to reduce the Federal budget deficit. The Congressional Budget Office [CBO] estimates that terminating the school would save $369 million over the next six years.

USUHS was created in 1972 to meet an expected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military's new physicians, less than 12 percent in 1994 according to CBO. This contrasts dramatically with the military's scholarship program which provided over 80 percent of the military's new physicians in that year.

Mr. President, what is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that based on figures from 1995, USUHS trained physicians cost the military $615,000 per person. By comparison, the scholarship program cost about $125,000 per person, with other sources providing new physicians at a cost of $60,000. As CBO noted in their Spending and Revenue Options publication, even adjusting for the lengthier service commitment required of USUHS trained physicians, the cost of training them is still higher than that of training physicians from other sources, an assessment shared by the Pentagon itself. Indeed, CBO's estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources.

The other body has voted to terminate this program on several occasions, and the Vice President's National Performance Review joined others, ranging from the Grace Commission to the CBO, in raising the question of whether this medical school, which graduated its first class in 1980, should be closed because it is so much more costly than alternative sources of physicians for the military.

Mr. President, the real issue we must address is whether USUHS is essential to the needs of today's military structure, or if we can do without this costly program. The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians obtained from other sources as a justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an appropriate mix of retention rates. Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel noted that the military's scholarship program meets the retention needs of the services.

And while USUHS only provides a small fraction of the military's new physicians, it is important to note that relying primarily on these other sources has not compromised the ability of military physicians to meet the needs of the Pentagon. According to the Office of Management and Budget, of the approximately 2,000 physicians serving in Desert Storm, only 103, about 5 percent, were USUHS trained.

Mr. President, let me conclude by recognizing that USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the federal government can no longer afford to continue every program that provides some useful function.

In the face of our staggering national debt and annual deficits, we must prioritize and eliminate programs that can no longer be sustained with limited Federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The future of USUHS continues to be debated precisely because in these times of budget restraint it does not appear to pass the higher threshold tests which must be applied to all Federal spending programs.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 37

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 1997".

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) TERMINATION.—

(1) IN GENERAL.—The Uniformed Services University of the Health Sciences is terminated.

(2) CONFORMING AMENDMENTS.—

(A) Chapter 104 of title 10, United States Code, is repealed.

(B) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(b) EFFECTIVE DATE.—The termination referred to in subsection (a), and the amendments made by such subsection, shall take effect on the date of the graduation from the Uniformed Services University of the Health Sciences of the last class of students that enrolled in such university on or before the date of the enactment of this Act.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 38. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

PRESIDENTIAL APPOINTEES LEGISLATION

Mr. FEINGOLD. Mr. President, I am pleased to be joined by my good friend the senior Senator from Arizona [Mr. MCCAIN] in introducing legislation to reduce the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. The Congressional Budget Office [CBO] estimates this measure would save $392 million over the next 6 years.

The bill is based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the Presidential Appointment Process. The task force findings, released last fall, are only the latest in a long line of recommendations that we reduce the number of political appointees in the executive branch. For many years, the proposal has been included in CBO's annual publication Reducing the Deficit: Spending and Revenue Options, and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

Mr. President, this proposal is also consistent with the recommendations of the Vice President's National Performance Review, which called for reductions in the number of federal managers and supervisors, arguing that "over-control and micro management" not only "stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs."

Those sentiments were also expressed in the 1989 report of the Volcker Commission, when it argued the growing number of presidential appointees may "actually undermine effective presidential control of the executive branch." The Volcker Commission recommended limiting the number of political appointees to 2,000, as this legislation does.

Mr. President, it is essential that any administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership.

Between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of executive branch employees and looking back to 1960 their growth is even more dramatic. In his recently published book Thickening Government: Federal Government and the Diffusion of Accountability, author Paul Light reports a startling 430 percent increase in the number of political appointees and senior executives in Federal Government between 1960 and 1992.

In recommending a cap on political appointees, the Volcker Commission report noted that the large number of Presidential appointees simply cannot be managed effectively by any President or White House. This lack of control is aggravated by the often competing political agendas and constituencies that some appointees might bring with them to their new positions. Altogether, the commission argued that this lack of control and political focus "may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable."

The Volcker Commission also reported that the excessive number of appointees are a barrier to critical expertise, distancing the President and his principal assistants from the most experienced career officials. Though bureaucracies can certainly impede needed reforms, they can also be a source of unbiased analysis. Adding organizational layers of political appointees can restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

Author Paul Light says, "As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them." Light adds that "Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively* * *"

Finally, the Volcker Commission also asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service by discouraging talented individuals from remaining in Government service or even pursuing a career in Government in the first place.

Mr. President, former Attorney General Elliot Richardson put it well when he noted:

> But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type—a campaign advance man, or a regional political organizer. For a senior civil servant, it's irksome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill.

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the mushrooming number of political appointees, namely the increasingly lengthy process of filling these thousands of positions. As the task force reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The task force noted that "on average, appointees in both administrations were confirmed more than eight months after the inauguration—one-sixth of an entire presidential term." By contrast, the report noted that in the presidential transition of 1960, "Kennedy appointees were confirmed, on average, two and a half months after the inauguration."

In addition to leaving vacancies among key leadership positions in Government, the appointment process delays can have a detrimental effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can "wait for months on end in a limbo of uncertainty and awkward transition from the private to the public sector."

Mr. President, a story in the National Journal in November of 1993, focusing upon the delays in the Clinton administration in filling political positions, noted that in Great Britain, the transition to a new government is finished a week after it begins, once 40 or so political appointments are made. That certainly is not the case in the United States, recognizing, of course, that we have a quite different system of government from the British parliament form of government.

Nevertheless, there is little doubt that the vast number of political appointments that are currently made creates a somewhat cumbersome process, even in the best of circumstances. The long delays and logjams created in filling these positions under the Bush and Clinton administrations simply illustrates another reason why the number of positions should be cut back.

Mr. President, let me also stress that the problem is not simply the initial filling of a political appointment, but keeping someone in that position over time. In a recent report, the General Accounting Office reviewed a portion of these positions for the period of 1981 to 1991, and found high levels of turnover—7 appointees in 10 years for one position—as well as delays, usually of months but sometimes years, in filling vacancies.

Mr. President, while I recognize that this legislative proposal is not likely to be popular with some in both parties, I want to stress that this effort to reduce the number of political appointees is bipartisan. The sponsorship of this bill reflects this, and the bill itself applies not only to the current Democratic administration, but to all future administrations as well, whatever their party affiliation.

The sacrifices that deficit reduction efforts require must be spread among all of us. This measure requires us to bite the bullet and impose limitations upon political appointments that both parties may well wish to retain. The test of commitment to deficit reduction, however, is not simply to propose measures that impact someone else.

As we move forward to implement the NPR recommendations to reduce the number of government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Mr. President, when I ran for the U.S. Senate in 1992, I developed an 82 point plan to reduce the Federal deficit and achieve a balanced budget. Since that time, I have continued to work toward enactment of many of the provisions of that plan and have added new provisions on a regular basis.

The legislation I am introducing today reflects one of the points included on the original 82 point plan calling for streamlining various Federal agencies and reducing agency overhead costs. I am pleased to have this opportunity to continue to work toward implementation of the elements of the deficit reduction plan.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 38

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN NUMBER OF POLITICAL APPOINTEES.

(a) DEFINITION.—In this section, the term "political appointee" means any individual who—

(1) is employed in a position on the executive schedule under sections 5312 through 5316 of title 5, United States Code;

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3132(a) (5), (6), and (7) of title 5, United States Code, respectively; or

(3) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(b) LIMITATION.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (including reduction in force actions under procedures established under section 3595 of title 5, United States Code) to ensure that the total number of political appointees shall not exceed 2,000.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 1997.

Mr. MCCAIN. Mr. President, I am pleased to join with my good friend, the junior Senator from Wisconsin [Mr. FEINGOLD] to introduce legislation that will limit the number of political appointees in the executive branch a total of 2,000. This legislation could save an estimated $400 million over the next five years.

There is no doubt that our Government is bloated. In recent years, the number of political appointees has grown exponentially. Author Paul Light, in his book Thickening Government: Federal Government and the Diffusion of Accountability, reports a 430 percent increase in the number of political appointees and senior executives in the Federal Government between 1960 and 1992. The Congressional Research Service also found that from 1980 to 1992, the number of political appointees in the executive branch grew 3 times faster than the total number of executive branch employees 17 percent compared to 5.6 percent.

The Government must continue to tighten its belt, and the executive branch must not protect itself from needed cuts. Our current $5 trillion debt and our efforts to reach a balanced budget by the year 2002 call for immediate action. No area of Government spending should be overlooked, not the least of which is funding for Government employees. I am hopeful that this administration will live up to their rhetoric about reducing the deficit and balancing the budget by supporting this and other measures that get us closer to a balanced budget.

Since this measure is consistent with the recommendations of the Vice President's National Performance Review [NPR], the administration should not have a problem endorsing this legislation. NPR called for reducing Federal managers and supervisors, arguing that "over-control and micromanagement" not only "stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs."

Limiting the number of political appointees to 2,000 was recommended by former Federal Reserve Board Chairman Paul Volcker who chaired The National Commission on Public Service. His report supported reducing the number of Presidential appointees, stating that the number of political appointees may "actually undermine effective presidential control of the executive branch."

Despite all this compelling evidence, Senator FEINGOLD and I have yet to be successful in actually getting this legislation enacted. Last year, we passed an amendment to the Treasury-Postal appropriations bill that would have placed a 2,300 cap on political appointees. Unfortunately, however, the cap was dropped in conference. Given the new era of bipartisanship and the President's repeated statements that he wants to balance the budget, I am hopeful that we will be successful in this Congress.

I look forward to working with my friend from Wisconsin to enact this important legislation that will streamline Government operations and save the taxpayers money.

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. THURMOND, and Mr. MURKOWSKI):

S. 39. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACT

Mr. STEVENS. Mr. President, during the 104th Congress, Senators BREAUX, CHAFEE, MOSELEY-BRAUN, MURKOWSKI, THURMOND, SIMPSON and I introduced legislation (S. 1420) to implement the "Panama Declaration," an agreement under which twelve nations would comply with a new regime to reduce dolphin mortality and conserve marine resources in the Eastern Tropical Pacific Ocean (ETP). Our bill was approved by voice vote in the Senate Commerce Committee, and its companion (H.R. 2823) was passed overwhelmingly in the House of Representatives.

Because of our focus in the second session of the 104th Congress on reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act, we were not able to turn to the International Dolphin Conservation Program Act until the closing weeks, and opponents of the measure were able to prevent its passage simply by objecting on the Senate floor. We believe the bill would have passed in the Senate by a large majority if they had not objected.

I am pleased today to be joined by Senators BREAUX, THURMOND, and MURKOWSKI in reintroducing the bill. On September 30, 1996, Majority Leader LOTT committed to us that he will do everything he can to provide time on the Senate floor if it is necessary to pass this important measure.

The Panama Declaration would cap dolphin mortality in the ETP at 5,000 dolphin per year and set a goal of eventually eliminating dolphin mortality altogether in that area. Only twenty years ago, hundreds of thousands of dolphin were being killed each year in the ETP. The Declaration presents the opportunity to lock in a maximum of 5,000 dolphin mortalities per year and strengthen other conservation measures, including measures relating to fishery observers, bycatch reduction, and the protection of specific stocks of dolphins in the ETP.

The dolphin mortality cap and new conservation measures under the Panama Declaration will only take effect if specific changes are made to U.S. law. The two key changes are: (1) a change to allow tuna caught in compliance with the Panama Declaration (including through the encirclement of dolphins) to be imported into the United States; and (2) a change so that "dolphin Safe" in the U.S. will mean tuna caught in a set in which no dolphin mortality occurred (rather than through non-encirclement). Our bill would make these changes and allow the new regime under the Panama Declaration to go forward. If the U.S. does not make the changes, other nations will move forward without adequate conservation measures and significant increases in dolphin mortality may occur.

Our legislation would guarantee U.S. consumers that no dolphin were killed during the harvest of tuna that is labeled as "dolphin safe." Under existing law, dolphins may have been killed, but as long as the tuna was not harvested by intentionally encircling dolphins, it can be labeled as "dolphin safe." To avoid consumer confusion and increase confidence in the "dolphin safe" label, other labels with respect to marine mammals will not be allowed. Only ETP tuna caught without killing any dolphins would be labeled as "dolphin safe."

The Administration helped negotiate the Panama Declaration, and the President and Vice President strongly support our legislation to implement it. The bill is also supported by the U.S. tuna boat owners, mainstream environmental groups such as Greenpeace, the Center for Marine Conservation, the Environmental Defense Fund, the National Wildlife Federation, and the World Wildlife Fund, the American Sportfishing Association, the National Fisherman's Union, Seafarers International, and United Industrial Workers, the 12 nations who signed the Panama Declaration (Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela), and the editorial boards of a number of the major U.S. newspapers.

Mr. President, I ask for unanimous consent that the following material related to the bill be printed in the RECORD immediately following my statement: First, the Panama Declaration; second, letter from President Clinton to the President of Mexico supporting the legislation; third, letter from Vice President GORE supporting the legislation; fourth, article by State Department Under Secretary Tim Wirth supporting the legislation; and fifth, editorials, op-eds, and opinion pieces from USA Today, the Washington Post, the Dallas Morning News, the Houston Chronicle, the New York Times, and the Christian Science Monitor supporting the legislation; sixth, letters from numerous environmental, fishing, and labor organizations supporting the legislation.

I look forward to working with the Chairman and Ranking Member of the Senate Commerce Committee to secure the expeditious approval of the Committee of this important bill, and with the majority leader once the bill has been reported by the Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF PANAMA

The Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, United States of America, Vanuatu and Venezuela, meeting in Panama City, Republic of Panama on October 4, 1995, hereby reaffirm the commitments and objectives of the La Jolla Agreement of (1) progressively reducing dolphin mortality in the eastern Pacific Ocean (EPO) fishery to levels approaching zero through the setting of annual limits and (2) with a goal of eliminating dolphin mortality in this fishery, seeking ecologically sound means of capturing large yellowfin tunas not in association with dolphins.

Recognizing the strong commitments of nations participating in the La Jolla Agreement and the substantial successes realized through multilateral cooperation and supporting national action under that Agreement, the Governments meeting in Panama, including those which are, or have announced their intention to become, members of the Inter-American Tropical Tuna Commission (IATTC), announce their intention to formalize by January 31, 1996, the La Jolla Agreement as a binding legal instrument which shall be open to all nations with coastlines bordering the EPO or with vessels fishing for tuna in this region. This shall be accomplished by adoption of a binding resolution of the IATTC or other legally binding instrument. The adoption of the IATTC resolution or other legally binding instrument, that utilizes to the maximum extent possible the existing structure of the IATTC, is contingent upon the enactment of changes in United States law as envisioned in Annex I to this Declaration. The binding legal instrument shall build upon the strengths and achievements of the La Jolla Agreement, the working groups established under it, and the actions of the Governments participating in that Agreement. This binding legal instrument shall consist of the La Jolla Agreement, its appendices, and the decisions of the governments under that Agreement as modified to achieve the objectives and commitments contained herein.

The Governments meeting in Panama agree that in concluding, adopting, and implementing this binding legal instrument, they will:

Commit to the conservation of ecosystems and the sustainable use of living marine resources related to the tuna fishery within the EPO. Adopt conservation and management measures that ensure the long-term sustainability of tuna stocks and other stocks of living marine resources in the EPO. Such measures shall be based on the best scientific evidence, including that based on a precautionary methodology, and shall be designed to maintain or restore the biomass of harvested stocks at or above levels capable of producing maximum sustainable yield, and with the goal to maintain or restore the biomass of associated stocks at or above levels capable of producing maximum sustainable yield. These measures and methodology should take into consideration, and account for, natural variation, recruitment rate, natural mortality rate, population growth rate, individual growth rate, population parameters K and r, and scientific uncertainty.

Commit, according to their capacities and in coordination with the IATTC, to the assessment of the catch and bycatch of juvenile yellowfin tuna and other stocks of living marine resources related to the tuna fishery in the EPO and the establishment of measures to, inter alia, avoid, reduce and minimize the bycatch of juvenile yellowfin tuna and bycatch of non-target species, in order to ensure the long-term sustainability of all these species, taking into consideration of the interrelationships among species in the ecosystem.

Commit in the exercise of their national sovereignty to enact and enforce this instrument through domestic legislation and/or regulation, as appropriate.

Adopt cooperative measures to ensure compliance with this instrument, building upon decision IGM 6/93, Appendix IV, "Guiding Principles Respecting Relationships between States Both Party and Non-Party to the Agreement," taken by the nations participating in the La Jolla Agreement Working Group in Vanuatu in June 1993, and advance the work of the Working Group on Compliance, building upon decision IGM 6/93, Appendix V, "Options for Action Against Nations Not Complying With the Agreement." (Annex II)

Enhance the practice of reviewing and reporting on compliance with this instrument, building upon past practices under the La Jolla Agreement.

Establish a per-stock per-year cap of between 0.2% of the Minimum Estimated Abundance (Nmin) (as calculated by the U.S. National Marine Fisheries Service or equivalent calculation standard) and 0.1% of Nmin, but in no event shall the total annual mortality exceed 5000 consistent with the commitments and objectives stated in the preamble above. In the year 2001, the per-stock, per-year cap shall be 0.1% of Nmin.

Conduct in 1998 a scientific review and assessment of progress toward the year 2001 objective, and consider recommendations as appropriate. Up to the year 2001, in the event that annual mortality of 0.2% of Nmin is exceeded for any stock, all sets on that stock and on any mixed schools containing members of that stock shall cease for that fishing year. Beginning in the year 2001, in the event that annual mortality of 0.1% of Nmin for any stock is exceeded, all sets on that stock and on any mixed schools containing members of that stock shall cease for that fishing year. In the event that annual mortality of 0.1% of Nmin is exceeded for either Eastern Spinner or Northeastern Spotted dolphin stocks, the governments commit to conduct a scientific review and assessment and consider further recommendations.

Establish a per-vessel maximum annual DML consistent with the established per-year mortality caps.

Establish a system that provides incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality in the EPO.

Establish or strengthen National Scientific Advisory Committees (NATSAC), or the equivalent, of qualified experts, operating in their individual capacities, which shall advise their respective governments on mechanisms to facilitate research, and on the formulation of recommendations for achieving the objectives and commitments contained herein, or strengthen existing structures in order to conform with the requirements delineated herein. Membership to NATSACs shall include, inter alia, qualified scientists from the public and private sector and NGOs. The NATSACs shall:

1. Receive and review data, including data provided to national authorities by the LATTC;
2. Advise and recommend to their governments measures and actions that should be undertaken to conserve and manage the stocks of living marine resources of the EPO;
3. Make recommendations to their governments regarding research needs, including ecosystems; fishing practices; and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear; and the coordination and facilitation of such research;
4. Conduct scientific reviews and assessments by the year 1998 regarding progress toward the year 2001 objective stated above, and make appropriate recommendations to their governments concerning these reviews and assessments, as well as additional assessments in the year 2001 as provided above;
5. Consult other experts as needed;
6. Assure the regular and timely full exchange of data among the parties and the NATSACs on catch of tuna and associated species and bycatch, including dolphin mortality data, for the purposes of developing conservation and management recommendations to their governments as well as recommendations for enforcement and scientific research while not violating the confidentiality of business-confidential data;
7. Establish procedures to, inter alia, hold public meetings and maintain the confidentiality of business-confidential data.

Reports of the NATSACs, including of their cooperative meetings, shall be available to the parties and the public.

The NATSACs shall cooperate, through regular and timely meetings, including at a minimum in conjunction with the meetings of the LATTC, in the review of data and the status of stocks, and in the development of advice for achieving the objectives and commitments contained herein.

Promote transparency in their implementation of this Declaration, including through public participation as appropriate.

As soon as possible, the nations of the Intergovernmental Group convened under the auspices of the LATTC will initiate discussions related to formulation of a new, permanent, binding instrument.

ANNEX I

Envisioned changes in United States law:

1. Primary and Secondary Embargoes. Effectively lifted for tuna caught in compliance with the La Jolla Agreement as formalized and modified through the processes set forth in the Panama Declaration.

2. Market Access. Effectively opened to tuna caught in compliance with the La Jolla Agreement as formalized and modified through the processes set forth in the Panama Declaration with respect to States to include: IATTC Member States and other States that have initiated steps, in accordance with Article 5.3 of the IATTC Convention, to become members of that organization.

3. Labeling. The term "dolphin safe" may not be used for any tuna caught in the EPO by a purse seine vessel in a set in which a dolphin mortality occurred as documented by observers by weight calculation and well location.

ANNEX II

Guiding Principles respecting relationships between States both Party and Non-Party to the Agreement.

The Parties to the Agreement incorporate into the Agreement a guiding principle that no Party shall act in a manner that assists non-parties to avoid compliance with the objectives of the Agreement.

When a coastal state that is a Party issues a license to engage in fishing in its Exclusive Economic Zone portion of the eastern Pacific Ocean (EPO), either directly or through a licensing agreement, to a vessel of a non-party, the license should be subject to the provisions of the Agreement.

The Parties should consider prohibiting persons under their jurisdiction from assisting in any way vessels of non-complying Parties or non-parties operating in the fishery.

Any state whose vessels are conducting purse-seine tuna-fishing operations in the EPO should be invited to join the Agreement. The Parties should draw the attention of any state that is not a party to the Agreement to any activity undertaken by its nationals or vessels which, in the opinion of the Parties, affects the implementation of the objectives of the Agreement.

Options for Action With Respect to Nations Party to the Agreement

Diplomatic actions:

Collective representation to the non-complying nation. This would constitute a communication emanating from plenary meeting of the participating nations after consultation with the non-complying nation.

Diplomatic communication. Each participating nation, acting individually or in concert with other nations, would undertake a diplomatic demarche to the non-complying nation.

Public opinion actions:

Dissemination of information regarding the non-compliance of the nation to the public through appropriate media, e.g., a press conference.

Operational restrictions:

Denial of access to the Exclusive Economic Zones of nations party to the agreement for fishing operations by tuna fishing vessels of the non-complying nation. The scope of this action would have to be determined by the International Review Panel (IRP) by defining what constitutes a tuna-fishing vessel, i.e., vessels covered by the Agreement, or other tuna-fishing vessels as well. This action should not restrict freedom of navigation or other rights of vessels under international law.

Restriction of access to ports and port servicing facilities for tuna fishing vessels of the non-complying nation. This would not apply to vessels in distress.

Refusal of logistical support and/or supplies to tuna-fishing vessels of the non-complying nation. Reduction of Dolphin Mortality Limits (DMLs) to all vessels of the non-complying Party by specified percentages. DMLs would be restored immediately upon a determination that the nation is in compliance.

Economic sanctions:

Trade measures. The Working Group discussed at length trade measures against non-complying nations. These might include embargoes or other restrictions on the imports of, for example, tuna, other fish products, other marine products, or other products.

The consideration of such measures was recognized to be an extremely delicate and evolving policy issue for which few guidelines exist in international law. The Working Group noted ongoing discussions concerning this issue in other international fora. In light of these considerations, the Working Group agreed that trade measures should receive further review by the Parties prior to making any recommendation in this respect.

Fines (monetary penalties). The Working Group considered that the IRP should identify procedures for imposing fines, including defining the value of the fines (this could be based on a percentage of the amount of the commercial value of the catch), and the destination of the fines (e.g., an international trust fund) as issues that the Parties should discuss. The Working Group noted that there apparently is no precedent for such fines.

B. Options for Action With Respect to Nations Not Party to the Agreement

Diplomatic actions:

Collective representation to the non-party. This would constitute a communication emanating from a plenary meeting of the participating nations after consultations with the non-party.

Diplomatic communication. Each participating nation, acting individually or in concert with other nations, would undertake a diplomatic demarche to the non-party.

Public opinion actions:

Dissemination of information regarding the non-compliance of the non-party to the public through appropriate media, e.g., a press conference.

Operational restrictions:

Restriction of access to ports and port servicing facilities for tuna-fishing vessels of the non-party. The scope of this action would have to be determined by the IRP by defining what constitutes a tuna-fishing vessel, i.e., solely vessels covered by the Agreement, or other tuna-fishing vessels as well. This action should not restrict freedom of navigation and other rights of vessels under international law, and particularly would not apply to vessels in distress.

Refusal of logistical support and/or supplies to tuna fishing vessels of the non-party nation.

Prohibiting nationals from assisting in any way vessels of the non-party operating in the fishery.

Economic sanctions:

The Working Group noted that economic sanctions with respect to non-parties call into consideration all the issues raised above with respect to the imposition of such sanctions on Parties, and noted that the imposition of such sanctions with respect to non-parties involves additional complex legal considerations. The Working Group recommends that the Parties consider whether such sanctions against non-parties are an appropriate means of promoting compliance with the objectives of the Agreement and whether they are consistent with international law.

THE WHITE HOUSE,
Washington, October 7, 1996.

His Excellency, ERNESTO ZEDILLO PONCE DE LEON,
President of the United Mexican States, Mexico, D.F.

DEAR MR. PRESIDENT: As you know, our governments have been working diligently for several years to protect dolphins and other marine life in the Eastern Tropical Pacific. The adoption of the Panama Declaration last year brought with it the promise of further international cooperation in these efforts.

This year, the United States Congress considered legislation to implement the Panama Declaration. The House of Representatives passed such legislation by a large majority. However, despite the considerable efforts of my Administration and many others in our country who support the Panama Declaration, we were unable to secure final passage of the legislation.

I wanted to express my deep disappointment with the failure to enact legislation to implement the Panama Declaration this year. Let me assure you that passing such legislation is a top priority for my Administration and for me personally. We will work with members of the bipartisan coalition supporting the Panama Declaration to introduce implementing legislation in the first 30 days of the new Congress and to pass such legislation as soon as possible thereafter.

I believe it is important for us to continue to work together on this issue.

Sincerely,

BILL CLINTON.

THE VICE PRESIDENT,
Washington, June 3, 1996.

Hon. TED STEVENS,
Chairman, Subcommittee on Oceans and Fisheries, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR TED: I am writing to thank you for your leadership on the International Dolphin Conservation Program Act, S. 1420. As you know, the Administration strongly supports this legislation, which is essential to the protection of dolphins and other marine life in the Eastern Tropical Pacific.

In recent years, we have reduced dolphin mortality in the Eastern Tropical Pacific tuna fishery far below historic levels. Your legislation will codify an international agreement to lock these gains in place, further reduce dolphin mortality, and protect other marine life in the region. This agreement was signed last year by the United

States and 11 other nations, but will not take effect unless your legislation is enacted into law.

As you know, S. 1420 is supported by major environmental groups, including Greenpeace, the World Wildlife Fund, the National Wildlife Federation, the Center for Marine Conservation, and the Environmental Defense Fund. The legislation is also supported by the U.S. fishing industry, which has been barred from the Eastern Tropical Pacific tuna fishery.

Opponents of this legislation promote alternative fishing methods, such as "log fishing" and "school fishing," but these are environmentally unsound. These fishing methods involve unacceptably high by-catch of juvenile tunas, billfish, sharks, endangered sea turtles and other species, and pose long-term threats to the marine ecosystem.

I urge your colleagues to support this legislation. Passage of this legislation this session is integral to ensure implementation of an important international agreement that protects dolphins and other marine life in the Eastern Tropical Pacific.

Sincerely,

AL GORE.

[From the Christian Science Monitor]

TAKE THE FINAL STEP TO PROTECT DOLPHINS

(By Timothy E. Wirth)

One of the sharpest criticisms of the environmental movement is that it is forever emphasizing major ecological ailments while refusing to acknowledge even the slightest environmental progress.

Make no mistake, the magnitude of the world's environmental challenges is as immense as it is ominous. Yet in only a flash of human history, we have begun to take on these challenges. There are successes about which we can be optimistic; and they demonstrate that reason and resolve, partnership and passion, can get the better of dangerous ecologist trends.

Almost 10 years ago, horrific footage of dolphins being slaughtered in large numbers drove home the need for efforts to prevent dolphin mortality in the tuna fishing industry. Having adopted a Marine Mammal Protection Act for domestic fishing operations, the US began working with international partners through the Inter-American Tropical Tuna Commission (IATTC), with the aim of reducing dolphin mortality. Congress also enacted legislation that included a domestic ban on the sale of tuna not caught in a manner deemed "dolphin safe."

The results: Dolphin mortality has been virtually eliminated, cut by more than 90 percent in what is known as the Eastern Tropical Pacific tuna fishery. This dramatic decline in dolphin mortality is attributable to American leadership and international cooperation. The IATTC has evolved into one of the best and most rigorously enforced conservation regimes in the world.

It's time the United States and all conservationists recognize the enormous drop in dolphin mortality, strengthen this international program, and set the stage for further progress. To do this we must reopen our market to trade in tuna with cooperative nations in the hemisphere.

Fortunately, last fall a coalition of environmental groups and Latin American countries reached an agreement in Panama that will accomplish these goals. The "Panama Declaration," endorsed by Greenpeace, the Center for Marine Conservation, the Environmental Defense Fund, National Wildlife Federation, and the World Wildlife Fund, is a model agreement not only for international cooperation, but also as a way to acknowledge our accomplishments even as we aim to do better in the future.

The Panama Declaration sets a goal of eliminating dolphin mortality altogether, establishes a binding program to protect a wide variety of species throughout the Eastern Tropical Pacific ecosystem, and requires that internationally trained observers are on all tuna vessels, as well as additional measures to ensure compliance.

The US will enable the Panama agreements to take effect by reopening the US market to tuna caught in compliance with the IATTC program, lifting the tuna embargo, and requiring that labels for "dolphin safe" tuna define fish caught without incidental deaths of dolphins. A bipartisan coalition—led by Sens. John Breaux (D) of Louisiana and Ted Stevens (R) of Alaska—has introduced legislation to implement these agreements, and the Clinton administration is working with Congress to ensure their immediate passage.

Gains of this magnitude in the conservation of marine mammals are difficult enough for one nation to achieve. Brokering resolution to these challenges on an international scale is far more challenging. It means persuading other nations, particularly those less fortunate than our own, to sacrifice short-term political and economic interests in the name of long-term ecological and economic health. This is particularly true with dolphin conservation. Without the Panama Declaration, most observers say, the IATTC will collapse.

There are some environmental organizations who understandably say we should aim for an even higher moral standard, one where no dolphins are killed during tuna fishing (the Panama agreements would allow incidental deaths totalling less than one-tenth of 1 percent of all dolphins in the Eastern Tropical Pacific). Yet the Panama Declaration is more than a moral victory. It celebrates an environmental success story and rewards international partners for their cooperation and commitment in conserving marine mammals. It aims for no dolphin deaths in the future.

There is little alternative to the agreements signed in Panama. Countries throughout the hemisphere have made it clear they are losing patience with what they see as an unfair trade barrier—particularly in light of the progress made in reducing dolphin mortalities. If the US fails to take the steps necessary to implement the Panama Declaration, these countries intend to return to fishing methods that kill more dolphins.

At a time when our environmental laws and commitments are under attack, it is essential that we consolidate gains made in protecting the global environment. It's time to declare victory with swift congressional enactment of legislation that will implement the Panama Declaration.

[From USA Today, Jan. 6, 1997]

HELP SAVE DOLPHINS

I was pleased to see your Dec. 27 editorial supporting enactment of legislation for the protection of dolphins accidentally caught during fishing operations for tuna ("Dolphin law has served its purpose; reform it," Our View, Debate).

This legislation would implement a strong international agreement among the nations fishing for tuna in the eastern Pacific—one of the best international marine resource agreements in the world.

The agreement locks into place the dramatic reduction in dolphin mortalities, which is highlighted in the editorial, and includes a commitment by the nations involved in the fishery to work toward a goal of eliminating all dolphin deaths. The agreement also provides for comprehensive monitoring by observers and strict penalties for violations.

Because the tuna fishery in the eastern Pacific Ocean is conducted almost entirely by foreign vessels on the high seas or in their own waters, it can be regulated effectively only by international agreement. Yet, as your editorial recognizes, the dolphin protection agreement is in jeopardy because tuna trade embargoes imposed before the agreement was negotiated continue against those nations participating in the program. The administration strongly supports your call for legislative reform to remove the trade embargoes and implement this important international program.

[From USA Today, Jan. 3, 1997]

INTERNATIONAL COOPERATION NEEDED TO PROTECT DOLPHINS, OTHER OCEAN LIFE

The editorial "Dolphin law has served its purpose; reform it" (Our View, Debate, Dec. 27) hit the nail on the head by pointing out that so-called dolphin-safe fishing methods are harmful to other wildlife including sharks, billfish and sea turtles, which are as much a part of the oceans as dolphins.

That is a major reason the Center for Marine Conservation (CMC), Environmental Defense Fund, Greenpeace, National Wildlife Federation and World Wildlife Fund all support legislation in Congress to implement the Panama Declaration, a binding international agreement signed by the United States and 11 Latin American nations. The agreement will ensure continued reduction of dolphin deaths in the Eastern Tropical Pacific (ETP) tuna fishery and also protect other ocean wildlife.

As one of the organizations that led the fight for dolphin-safe labeling, CMC agrees with USA TODAY that we should benefit from experience and recognize that the current law is having some unintended and unacceptably harmful impacts on ocean life.

Our commitment to conserving dolphins and all ocean creatures leads us to support legislation to implement the Panama Declaration. The legislation would lock in the dramatic progress that has been made in reducing dolphin deaths in the ETP by more than 95 percent. It would reduce unintended catches of sharks, billfish and sea turtles in tuna nets and assure U.S. consumers no dolphins died, regardless of fishing method, in capturing the tuna found on the shelves.

While those who oppose the agreement might like to live in a world where the U.S. dictates international environmental policy, the reality is far different. Increasingly, we are seeing the need to promote international cooperation, which can be a tremendous boon to environmental protection.

Failure to adopt this legislation could result in loss of controls on dolphin deaths. The choice is between the rule of law and anarchy on the seas.

[From USA Today, Dec. 27, 1996]

DOLPHIN LAW HAS SERVED ITS PURPOSE; REFORM IT

Last year, fewer than 3,300 dolphins died in the gigantic nets used to catch yellowfin tuna in the eastern tropical Pacific Ocean. That sounds like a lot, but it's down from more than 130,000 in 1986, and it's compelling evidence that it's time to reform the federal ban on tuna that is not "dolphin safe."

For some unknown reason, tuna swim beneath dolphins. So for years, fishers set their tuna nets around dolphins. Unfortunately, the dolphins would get tangled in the nets with the tuna. Hundreds of thousands drowned each year.

That slaughter inspired Congress to begin passing laws to protect marine mammals as early as 1972. And the tuna industry has responded, designing dolphin-friendly nets and developing tactics for herding dolphins out before winching tuna in. Most recently, in 1992, Congress embargoed all tuna caught by encircling dolphins and made the "dolphin-safe" label a condition for all tuna sold in the country.

The result has been both satisfying and troubling. The industry has developed safe ways of netting the tuna that run with dolphins. But the embargo also encourages fishers to set their nets around ocean debris and schools of smaller tuna. This is "dolphin safe," but it nets and kills thousands of tons a year of other creatures—sharks, marlin, even endangered sea turtles.

That's a fast way to trash an ecosystem. Yet the practice continues because otherwise—no label. And no label, no market.

It's time to sing a different tuna. First, lift the embargo, which applies only to tuna caught by encircling dolphins, even though other tactics may kill some dolphins, too. Instead, embargo fish when strict dolphin mortality rates are exceeded. And redefine "dolphin safe" to mean fish caught without a single dolphin death. This will:

Help ease testy trade relations with countries like Mexico, which has lost market share because of the embargo.

Give the industry a reason to fish with methods that are "ocean safe" as well as dolphin safe.

And help recover some of the American jobs that fled to Asia when the embargo made it difficult to compete.

Contrary to some claims, the reforms would not put dolphins in greater peril. In fact, without these changes, nations that now voluntarily follow dolphin-safe practices have threatened to stop. That *would* increase dolphin mortality.

There's another reason to reform the law. To be effective, the nation's enviroregs need to harness market forces. And to be credible, they must also acknowledge success. Tuna reform would satisfy both requirements while proving to skeptics that Congress can indeed capitalize on and reward compliance. Doing so should be at the top of the new Congress' fish-list.

DOLPHINS SAFER

The number of dolphins killed in tuna nets in the eastern tropical Pacific Ocean has fallen steeply.

1989	96,979
1990	52,531
1991	27,292
1992	15,539
1993	3,601
1994	4,096
1995	[1]3,274

[1] Estimated. Source: Marine Mammal Commission.

[From the Washington Post, Dec. 16, 1995]

Saving Dolphins

American law tries to protect dolphins even in international waters, and the time has come to revise that law. In its present form, it will be much less effective in the future. But the opposed revisions now moving through Congress sharply divide environmentalists.

Tuna have the habit of swimming under the dolphins, and to get the tuna, fishermen encircle the dolphins with their nets. In the past this has led to an immense slaughter of dolphins—three decades ago, more than 700,000 a year died in those nets in the great fishing grounds of the eastern Pacific. American law now bans the importation not only of tuna caught by encirclement but tuna from any country that permits its fishermen to use those nets. That includes Mexico, but Mexican fishermen, hoping to regain access to the U.S. market, have greatly improved their practices. The dolphin kill last year was under 5,000—a triumph of conservation.

But it won't last. For one thing, the alternative methods of catching tuna, while sparing the dolphins, are wasteful of other valuable and sometimes rare marine life. More important, admission to the U.S. market is becoming less effective as an incentive. Other markets are opening up rapidly in Asian and Latin American countries that have no rules whatever on the tuna catch.

To lock in the recent progress, the United States has negotiated a binding agreement among all the countries that have fishing fleets in the eastern Pacific. It would continue to press for lower dolphin mortality, but it would permit the use of the encircling nets. They can be manipulated to spill out the dolphin before the tuna are hauled aboard, and international observers are on every tuna boat in the eastern Pacific. The new agreement would allow into this country tuna taken in any supervised haul that did not result in the death of dolphins.

Some environmental organizations object vehemently to encircling nets on any terms and point out that, while the number of dolphin deaths would be small, it wouldn't be zero. They demand zero. Other environmentalists reply that if Congress doesn't accept this deal, the new international agreement will come unraveled and old-style fishing, cruder and cheaper, will reappear along with much higher dolphin deaths. They're right. This agreement, carried out by the bill that Sens. Ted Stevens (R-Alaska) and John Breaux (D-La.) are sponsoring, can provide permanent protection—as present law does not—to the Pacific's dolphins.

[From the Dallas Morning News, July 30, 1996]

Foul Fishing

U.S. SHOULD ACT TO MAKE TUNA TRULY "DOLPHIN-SAFE"

Congratulations, Flipper!

Your chances of surviving to old age have improved greatly since the United States began to embargo tuna caught in dolphin-killing nets and the food industry began to entice environmentally conscious consumers with "dolphin-safe" tuna.

The proof is in the numbers: Dolphin deaths related to tuna fishing in the eastern Pacific Ocean fell to fewer than 5,000 in 1994 from 600,000 in 1972.

However, you probably think that 5,000 dolphin deaths are still too many. And you're probably concerned that the methods used to trap tuna still end up killing hundreds of thousands of pounds of other species, including sharks, marlins and endangered sea turtles.

Furthermore, you probably worry that the "dolphin-safe" label on tuna cans is misleading. The label means only that dolphins were not encircled by nets in the eastern Pacific. It does not mean that no dolphins were killed, or that dolphin-deadly methods were not used elsewhere in the Pacific or in other waters.

So, you probably like the new international agreement designed to drastically reduce the killing. So do we. Emphatically.

The Panama Declaration, which was signed last year by the United States and 11 other countries, would allow fleets to return to the old encirclement method of catching tuna. But it would require signatories to use techniques that allow dolphins to escape. Those countries also would investigate ways to avoid killing other species.

The best thing about the new agreement is that it is multilateral rather than unilateral. In other words, it involves many countries rather than just the United States.

Current U.S. law is well meaning, but it puts the heaviest burden on U.S. fleets by forbidding them alone from using the ancirclement method. And it puts the United States in the awkward position of heavy-handedly denying its market to foreigners to compel good behavior.

Bills to approve the agreement have passed unanimously in Senate and House committees. They have President Clinton's support. Despite opposition from some environmental groups, who cling to the outdated notion that unilateral action by the United States is best, there is no good reason why both houses of Congress should not pass the bills and send them to Mr. Clinton for his signature.

[From the Houston Chronicle, July 13, 1996]

Dolphin Safe

Consumers who choose only tuna marked "dolphin safe" because they believe it means these highly intelligent mammals are not being harmed in the tuna fishing process may not be getting what they are paying for.

A bill now before Congress that has broad support from environmental groups and the tuna fishing industry will ensure that "dolphin safe" means what it implies. The bill would also help safeguard the delicate ecosystem of prime tuna fishing waters, ensuring a healthy tuna fishery to future generations.

The pending legislation in the House and Senate would undo damage from a well-intentioned 1988 embargo that banned tuna from any nation that fished in the Eastern Tropic Pacific Ocean (ETP) that killed dolphin at rates higher than did the U.S. fleet, The hope was to stop the annual drowning of hundreds of thousands of dolphins in nets cast around them for the tuna that tend to swim with dolphins. It backfired. Within two years, all foreign nations had been embargoed.

Then, in 1990, Congress said any fishing boats that stopped using the dangerous encircling net technology in the ETP could label their product "dolphin safe." This too has been a disaster because other fishing methods tend to kill great numbers of other animals, such as endangered sea turtles, sharks, billfish and juvenile tuna.

Moreover, these attempts to protect dolphins in the ETP prompted a mass exodus of the U.S. tuna fleet in those waters, leaving foreign fishing boats, which were embargoed in the U.S. anyway to continue their harmful fishing practices in the ETP and the U.S. fleet to continue ensnaring dolphins elsewhere.

Under the proposal before Congress, only tuna catches that involved no dolphin kills whatsoever—and that fact must be certified by an independent inspector aboard ship—could be labeled "dolphin safe." Such observers are already aboard many ships as a result of voluntary measures adopted by 12 countries, including the United States and Mexico. The bill also seeks to lift the tuna embargo to give foreign fishermen the incentive to continue those voluntary measures.

The voluntary agreement, which induced tuna fishermen to actually free ensnared dolphins by hand, are set to expire in 1999. Best estimates show only 5,000 dolphins were killed under the voluntary protection measures. Congress should continue this progress by passing this vital legislation.

[From the New York Times, July 7, 1996]

The Best Way To Save Dolphins

The environmental community is engaged in a rare and bitter brawl over competing Congressional bills aimed at protecting a beloved environmental symbol—the bottlenosed dolphin. Each side thinks it has the better scheme to protect dolphins that are incidentally trapped and killed by the giant nets used by tuna fleets. This is a complex, emotional issue and all the disputants are animated by the best of intentions. But the approach contained in a measure sponsored by Representative Wayne Gilchrest, a Maryland Republican, and supported by the Clinton Administration, offers the dolphin a better chance than the alternatives.

Mr. Gilchrest's bill rubs a lot of people the wrong way because it seems to endorse the very fishing methods that got the dolphin in trouble in the first place. For reasons that are not fully understood by scientists, adult tuna in the rich fishing grounds of the eastern Pacific tend to congregate underneath dolphins. Tuna vessels follow a school of dolphins, cast their mile-long nets and haul in the tuna below. Until a few years ago, thousands of dolphins routinely drowned in the nets or were crushed when the boats winched them in.

In 1990, Congress placed an embargo on all tuna caught by this method, known as "encirclement," costing big tuna-fishing countries like Mexico, Ecuador and Costa Rica hundreds of millions of dollars. In 1992, these countries convened in La Jolla, Calif., with United States officials and pledged to adopt safer fishing methods. They did not abandon the encirclement method, but they vastly improved it. They installed dolphin "safety panels" in their nets, which acted as escape hatches. They deployed divers to assist dolphins who could not find their way out. They learned how to dip their nets deeper into the water to allow dolphins to escape while retaining the tuna. These new techniques led to a stunning drop in dolphin mortality in the eastern Pacific—from 133,000 killed in 1986 to 3,274 last year, a figure calculated by independent monitors on boats that used the improved encirclement techniques. Even so, the tuna caught by encirclement have remained embargoed.

Mr. Gilchrest's bill, which has the endorsement of Vice President Al Gore, would reward these efforts by lifting the embargo. The bill would also reward any batch of tuna caught without a single dolphin death—a fact to be verified by on-board monitors—with the coveted and commercially important "dolphin-safe" label.

The Gilchrest measure has the support of Greenpeace, the Environmental Defense Fund and several other advocacy groups. It is opposed by the Sierra Club and the Defenders of Wildlife, and by the Earth Island Institute in San Francisco, which has done more than any other group to call attention to dolphin mortality. Earth Island's champion in the Senate is Barbara Boxer, the California Democrat, whose bill would continue to ban all tuna caught by the encirclement method.

Unfortunately, the other methods of trapping tuna carry serious disadvantages. Under one approach, fishermen cast their nets around logs and other debris floating near the shoreline, which often attract tuna. That is safe for dolphins, but it kills a huge "bycatch" of sharks, turtles and other valuable marine life, not to mention tons of juvenile tuna whose demise imperils future tuna stocks.

Senator John Chafee, a Republican environmentalist who is sponsoring a Senate bill comparable to Mr. Gilchrest's, believes that not just the dolphin but an entire marine ecosystem is at stake. He has concluded, rightly, that the best response is the once-reviled but much-improved encirclement method.

[From the Washington Post, July 4, 1996]

Save Most of the Dolphins

For reasons humans have yet to understand, dolphins in the eastern Pacific Ocean often swim above schools of yellowfin tuna. This made them for years the unintended victims of tuna fishermen, innocent bystanders killed at a rate of perhaps half a million per year. In 1990, when American consumers saw videotape of dolphins suffering in giant tuna nets, an outcry led to a movement for "dolphin-safe" tuna. The largest canneries pledged not to buy any fish captured alongside dolphin, and Congress enacted an embargo against countries engaging in the kind of fishing that endangers these highly intelligent animals.

Since then, an international effort led by the United States has led to a remarkable change in the behavior of the fishing fleet. Boats in the eastern Pacific still use circle nets that capture dolphins, but their operators have developed gear and methods that allow most of the dolphins to escape. During the past two years, the number of dolphins killed has fallen to about 4,000 per year. International observers posted on every boat makes these figures credible. The dolphin population of 9.5 million is believed to be stable or increasing.

Now the Clinton administration, with bipartisan backing in Congress and the support of Greenpeace, the World Wildlife Fund and other environmental groups, wants the embargo lifted. The argument is simple: If fleets do not receive some reward for their changed behavior soon, they will revert to their old and easier ways of fishing, and dolphin casualties will rise. Under the proposal, the international monitoring program would remain in effect.

But opponents in Congress may stall any action. The opponents are backed by other environmental groups, such as the Sierra Club and Earth Island Institute. They argue for zero-tolerance in dolphin-killing, and they also believe that the chasing and encirclement may harm dolphins without killing them.

Unfortunately, alternative methods of tuna fishing appear to produce large "bycatches" of immature tuna, thus raising questions of depletion, and of other species, including endangered turtles. More to the point, an insistence on zero dolphin deaths could squander the progress made so far, since virtually all of the fishing in question takes place in international waters by foreign fleets. And alternative markets exist.

Sen. Barbara Boxer (D-Calif.), who helped lead the campaign for dolphin-free tuna, is right to insist on research on the effects on the dolphin population of circle-net fishing. Further studies also should be conducted on the bycatch dangers of alternative methods. But this is one case where a quest for perfection could unravel the substantial progress that has been achieved.

ATTENTION REPRESENTATIVES—OPEN LETTER TO REPRESENTATIVES ON H.R. 2823, THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACT AND THE PANAMA DECLARATION, JANUARY 3, 1996

DEAR REPRESENTATIVE: Recently, twelve nations, including the United States, signed the Declaration of Panama, an historic international agreement to protect dolphins and biodiversity in the Eastern Tropical Pacific Ocean. The Panama Declaration, endorsed by the Clinton Administration, the Center for Marine Conservation, Environmental Defense Fund, Greenpeace, National Wildlife Federation, and World Wildlife Fund, will continue progress in reducing dolphin deaths in these waters and will extend protection to other marine life as well.

Further, the Center for Marine Conservation, the Environmental Defense Fund, Greenpeace, National Wildlife Federation, and World Wildlife Fund support H.R. 2823, the International Dolphin Conservation Protection Act. H.R. 2823, if enacted, will implement the Panama Declaration which will:

Achieve a legally binding agreement on all fishing nations, mandating progressive reductions in dolphin mortality toward zero through the setting of annual limits;

Build upon recent gains in dolphin protection, accelerate the current schedule for reducing dolphin mortality by several years, impose mortality limits that are more restrictive than those currently in place, and lock in the goal of eliminating dolphin mortality in the tuna fishery;

Establish mortality limits and protection for individual dolphin stocks to ensure their growth and recovery;

Preserve and strengthen the existing dolphin conservation program which makes it illegal to set nets around dolphins after dark or use explosives to disorient dolphins;

Expand and further develop enforceable onboard observer programs and tracking systems that guarantee that no dolphins died to catch "dolphin-safe" tuna from the Eastern Tropical Pacific Ocean;

Prevent the dismantlement of existing international agreements and the Inter-American Tropical Tuna Commission which have effectively reduced dolphin mortality and managed the tuna fishery in the Eastern Tropical Pacific;

Link enforcement of the binding international agreement to strong embargo provisions;

Protect the ecosystem of the Eastern Tropical Pacific Ocean by reducing bycatch of other marine species such as juvenile tuna, sharks, and endangered sea turtles in the tuna fishery; and

Strengthen the scientific basis for the conservation and management of the tuna fishery, as well as research into assessing the impact of chase and encirclement on dolphins and developing gear and techniques that do not require setting nets around dolphins to catch tuna.

In short, the current voluntary international regime is not durable. Accordingly, it is essential that we act now to lock in long term protections for dolphin populations, rather than wait until the international commitments for dolphin conservation unravel. This legislation will resolve the long-standing tuna/dolphin controversy and establish measures that will protect dolphins and the ecosystem. We urge you to cosponsor H.R. 2823. If you have questions, please contact: Rodrigo Prudencio, National Wildlife Federation, 202–797–6603; Nina Young, Center for Marine Conservation, 202–857–3276; Annie Petsonk, Environmental Defense Fund, 202–387–3500; Gerry Leape, Greenpeace, 202-462-1177; Scott Burns/David Schorr, World Wildlife Fund, 202-293-4800.

CENTER FOR MARINE CONSERVATION, ENVIRONMENTAL DEFENSE FUND GREENPEACE, NATIONAL WILDLIFE FEDERATION, WORLD WILDLIFE FUND

"GREEN" POINTS IN SUPPORT OF H.R. 2823

From a conservation and environmental perspective, H.R. 2823 (the International Dolphin Conservation Program Act) merits full House passage because (not prioritized):

1. It's Better for Dolphins:

Locks into place binding international legal protections for dolphins in the Eastern Tropical Pacific (ETP) Ocean. The current ETP dolphin protection is entirely voluntary, based on the 1992 "La Jolla" program. In October 1995, all of the ETP fishing nations signed the "Panama Declaration." That Declaration strengthens further the "La Jolla" program, and sets in motion a process to make the program legally binding, contingent on changes in U.S. law that are part and parcel of H.R. 2823's reforms, including observers and other monitoring, verification and tracking of catch; research and enforcement.

Allows dolphin stocks to recover. The remarkable success of the MMPA and the voluntary La Jolla agreement have resulted in an almost 99 percent reduction in dolphin mortality in the ETP. Up until the early 1990s, though, many dolphin species in the ETP suffered annual mortality rates high enough to hamper or retard their recovery. But now, those stocks are stable, with mortality rates (for all stocks) below 0.2% of the population abundance—a level more than four times lower than that recommended by the National Research Council to allow recovery. Moreover, H.R. 2823 requires that these annual mortality rates be further reduced to less than 0.1% of the population abundance, with the goal of eliminating mortality entirely. These new levels of protection for dolphins have been endorsed by leading scientists.

Addresses effectively the issue of "chase and encirclement" of dolphins, establishing a process for investigation and further action, as merited, regarding the health-related impacts of capture stress. Concerns have been raised that the chase and encirclement of dolphins causes harm and stress levels that can impede dolphin reproduction or result in dolphin deaths. While dolphins that are chased and encircled probably experience some level of stress, there is no conclusive scientific evidenced that chase and encirclement reduces reproductive capacity, causes dolphins to die after release, or develop stress-related diseases. In fact, there is evidence that some dolphins have habituated to encirclement and have developed behaviors that reduce their risks in the net. Nevertheless, the stress issue should be further investigated, followed by a report and recommendations to Congress—as called for in H.R. 2823 (Sec. 302(d)(4)).

2. It's Better for Other Sea Life:

Contains tough provisions that require fishers to protect not only the dolphins, but also the tuna stocks on which the fishery depends, as well as other species, like sharks, bill fish and sea turtles that get caught in the purse seine nets used in the ETP fishery. One of the MMPA's stated objectives is to maintain the health and stability of marine ecosystems, but to date little attention has been given to this objective. H.R. 2823 requires observers stationed on every vessel to record bycatch of all species, and requires fishers to minimize that bycatch.

Recognizes that "dolphin-safe" and "ecosystem-safe" fishing go hand-in-hand. Recent data indicate that fishing methods that do not involve setting nets around dolphins, such as setting nets on schools of tuna or logs, have 10 to 100 times greater bycatch of other sea life. This bycatch is alarming, especially for species that reproduce slowly, such as sharks, sea turtles and billfish. In addition, the IATTC estimates that, if sets on dolphin were replaced by school and log sets, from 10 to 25 million juvenile tuna would be discarded. Domestic and international fisheries conservation efforts have made bycatch reduction a priority. H.R. 2823 provides the best vehicle to develop immediate measures to avoid, reduce, and minimize bycatch of juvenile yellowfin tuna and other marine life. In contrast, the Miller substitute (H.R. 2856) unfortunately promotes a substantial increase in the waste of immature tuna and other bycatch species, by encouraging shifts to those non-encirclement fishing methods.

3. It's Better for Consumers:

Strengthens the popular "dolphin-safe" label, assuring consumers that no dolphins died in the catch of labelled tuna. Under the current definition (carried forward in the Miller substitute), consumers are misled into believing the current "dolphin-safe" label has solved the tuna-dolphin issue, and that dolphins no longer die in tuna sets. Sadly, this is not the case. Fishers continue to encircle dolphins at the same rate as prior to the establishment of the "dolphin-safe" label. Truth-in-labeling lies in the passage of H.R. 2823, because it tells the consumer whether or not a dolphin died, and not just about what fishing technique was used. It gives consumers the ability to choose tuna caught without killing dolphins, and that power of choice, in turn, gives fishers the incentive to reduce dolphin mortality further toward zero.

4. It's Better for International Environmental Policy:

Raises other countries' environmental performance to the U.S. level, and to more sustainable levels, by ensuring that foreign-caught tuna sold in foreign countries will meet the same strong dolphin and other species/ecosystem protection requirements that we apply to tuna sold in our country. Moreover, H.R. 2823 provides that if ETP fishing nations fail to meet the multilaterally-agreed standards, their tuna will be banned from import into the United States—a trade sanction that serves as one of the means of ensuring compliance with and enforcement of the proposed legally binding agreement called for in the Panama Declaration.

Makes possible stronger international conservation policy for dolphins, as well as other marine species impacted in the ETP fishery. The Panama Declaration, and the resulting multilateral environmental agreement (MEA) made possible by H.R. 2823's passage, will result in strengthened conservation and enforcement measures applicable to all ETP fishing nations. At the same time, that MEA, once agreed by all ETP fishing nations, will be far less vulnerable to a WTO-type trade challenge than have been the unilateral MMPA sanctions like those challenged by Mexico in 1991.

A Dolphin-Safe Label That Really Means It

What's in a label? Well, if you have eaten tuna in the past five years, take note: the "dolphin-safe" label you have grown to trust is neither as dolphin-safe nor ecologically-sound as you may think. Our nation's landmark dolphin protection and product labeling laws have resulted in unintended consequences which have actually exacerbated some marine resource problems, while failing to guarantee that dolphins were not killed when harvesting your tuna.

The campaign to save dolphins had all the right intentions. Combined with the 25-year effort to enact and strengthen the Marine Mammal Protection Act (MMPA), the campaign educated the public about a serious problem. Since its 1972 passage, the MMPA went on to spur a reduction in dolphin mortalities in the Eastern Tropical Pacific ocean (ETP) from as many as 600,000 a year to fewer than 5,000 by 1994.

The effort to continue this success resulted in the landmark 1992 dolphin-safe laws, which encompassed three key elements: disallowing the common fishing practice of encircling dolphins to catch the tuna that migrate with them, monitoring and reporting of any dolphin deaths that did occur, and an embargo on imports of non-dolphin-safe tuna. These principles were the backbone of what American consumers recognize as the "dolphin-safe" label.

More than three years later, however, the failings of the 1992 law are evidenced not only in the continuing deaths of dolphins, but of the damage to the ocean ecosystem as a whole. To understand why this destruction of marine life persists, it is necessary to examine the shortcomings of the 1992 laws—and the recent and most promising attempt to address these problems on an international level, the Panama Declaration.

At the root of the problem is the fact that while tuna is caught around the world, U.S. dolphin protection laws are applicable only in the ETP. As strong as the laws may be, they do not uniformly apply in other regions, which yield as much as 80 percent of the world's tuna. Unfortunately, this policy is based on the unproven assumption that tuna outside the ETP do not migrate with marine mammals. Hence, tuna sold in the U.S. from other regions are also afforded the "dolphin-safe" label, amounting to little more than a p.r. gimmick here and abroad.

Furthermore, the "dolphin-safe" label only means that no dolphins were "encircled" by fishing nets in the ETP; it does not mean that no dolphins or other marine mammals were harmed or killed during tuna harvests. The prohibition of dolphin encirclement by American vessels in the ETP sparked a mass exodus of more than 95 percent of the U.S. fleet. Most vessels headed for the Southern Pacific, while some owners simply sold their boats to citizens of other nations. So while few if any recent dolphin deaths are attributable to U.S. tuna vessels, these deaths continue in regions where U.S. law is irrelevant.

Disallowing encirclement of dolphins, with whom adult tuna migrate, put fishermen in the position of focusing their effort on juvenile tuna which tend to congregate near shore in schools, or under floating debris such as logs. This breaks the cardinal rule of successful fisheries management; harvest only mature fish which have spawned at least once. Biologists are concerned that a currently well-managed, healthy fishery will begin to decline if efforts continue to focus on young tuna.

Equally alarming is a Greenpeace study showing that methods considered "dolphin-safe" under U.S. law have resulted in hundreds of thousands of pounds of by-catch (incidental harvest) of other species in the past 3 years alone. Sharks, sea turtles, other fish, and yes, even dolphins, congregate with juvenile tuna and are unavoidably killed in the fishery. From an ecosystem perspective, this is intolerable.

So what needs to be done to protect dolphins? Switching from one fishing method to another in a small section of the world's ocean has not solved the problem. And simply shutting down the tuna fishery altogether would threaten the survival of fishing communities and the ability to feed a growing world population. Tuna is the leading seafood product consumed in America, and a renewable protein source for poor and low-income persons the world over.

Unilateral embargoes by the U.S. alone also have proved unable to save the world's dolphins. Indeed, the unilateral embargo on imports of "dolphin-unsafe" tuna has led to a trade dispute under the General Agreement on Tariffs and Trade (GATT).

Clearly, there has long been a need for a strong international approach. Recognizing this, international negotiators began developing an alternative, multilateral agreement which put observers on all tuna vessels fishing in the ETP, regardless of nationality and method of fishing. That program also set progressively declining caps on dolphin mortality.

This plan has now been strengthened and extended in a recent accord known as the "Panama Declaration." Supported by Greenpeace, the Seafarers International Union (SIU), the Clinton administration and a growing contingent in Congress, this accord take a significant step towards achieving the twin goals of saving dolphins and other marine species from extinction while insuring a sustainable and healthy tuna fishery.

Hammered out through difficult negotiations between government representatives, environmentalists, and fishermen, this agreement would legally bind countries to require mandatory enforcement measures and reporting internationally, while rewarding fishermen who do not kill dolphins. The agreement would mandate continued reductions of dolphin deaths, and would bring many new boats under a regulatory framework to reduce by-catch of all marine species.

To take the next step, U.S. laws on dolphin-safe labeling requirements must be rewritten in accord with the Panama Declaration. Also, the current unilateral embargo must be replaced with internationally agreed upon enforcement measures which allow the U.S. to impose trade sanctions on nations failing to live up to their commitment to dolphins. Congress is now considering these changes. Greenpeace and the SIU strongly opposed passage of the NAFTA and GATT treaties last year. We believed then as now that those agreements fundamentally weaken a nation's ability to pass and enforce strong environmental, health, safety, and labor protection laws.

At the same time, many environmental crises know no borders, and the unnecessary killing of marine mammals is one such crisis. One country acting alone cannot save the oceans and protect their bounty. Once we succeed in getting governments and fishermen to agree to a goal of zero dolphin deaths, we will achieve real truth in labeling, and more importantly, a package dolphins can truly live with.

BARBARA DUDLEY,
Executive Director, Greenpeace U.S.
JOSEPH SACCO,
Executive Vice President, Seafarers International Union of North America.
STEVE EDNEY,
National Director, United Industrial Workers.
TERRY HOINSKY,
President, Fishermen's Union of America.

Mr. BREAUX. Mr. President, today, along with Senator STEVENS and others, I am introducing legislation that will implement the Panama Declaration for the protection of dolphins in the tuna fishery of the eastern tropical Pacific Ocean. The United States signed the Panama Declaration on October 4, 1995, along with the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela. by agreeing to the Panama Declaration, these countries have demonstrated their commitment to the conservation of ecosystems and the sustainable use of living resources related to the tuna fishery in the eastern tropical Pacific.

By implementing the Panama Declaration, we will strengthen the Inter-American Tropical Tuna Commission [IATTC], which has proven to be an extremely effective international resource management organization. Implementing the Panama Declaration will ensure the reduction of dolphin mortalities associated with tuna fishing in the eastern tropical Pacific Ocean. In addition, we will enable American tuna fishermen to re-enter that tuna fishery on the same footing as foreign fishermen.

Since 1949, the IATTC has served as the regional fishery management organization for the tuna fishery of the eastern tropical Pacific Ocean, managing that fishery in an exemplary manner. Managing migratory species requires a multilateral approach, one which the IATTC is well-suited to perform. The yellowfin tuna fishery of the eastern tropical Pacific Ocean, which the Panama Declaration addresses, falls under the auspices of the IATTC. In that fishery, tuna fishermen use dolphins to locate schools of large, mature yellowfin tuna which, for unknown reasons, associate with schools of dolphin. Once the schools of dolphin have been located, the fishermen use purse seine nets to encircle the dolphins with the objective of catching the tuna swimming below. The dolphins are then safely released before the tuna is hauled abroad.

In recent years, there has been some concern about these fishing practices which, in the past, have resulted in excessive incidental mortality to dolphins. In 1992, in an effort to address this problem, 10 nations with tuna vessels operating in the eastern tropical Pacific signed an agreement known as the La Jolla Agreement. The La Jolla Agreement established the International Dolphin Conservation Program [IDCP], which is administered by the IATTC.

The regional objective of the IDCP is to reduce dolphin mortalities to insignificant levels approaching zero, with a goal of eliminating them entirely. Pursuant to that program, the number of dolphins killed accidentally in the tuna fishery has been reduced to less than 4,000. annually from a previous average of over 300,000 killed annually. The current dolphin mortality represents approximately four one-hundredths of 1 percent of the 9.5 million dolphins of the eastern tropical Pacific. Thus, the IDCP has been remarkably successful in achieving its goal of reducing unintended dolphin mortalities to biologically insignificant levels approaching zero.

This legislation will implement the Panama Declaration, formalize the 1992 La Jolla Agreement and make it a legal agreement binding on the member countries of the IATTC. The Panama Declaration strengthens the IDCP and furthers its goals by placing a cap of 5,000 per year on dolphin mortalities.

Although U.S. fishermen developed the techniques now used in capturing tuna and safely releasing dolphins, they effectively have been forced from fishing in the eastern tropical Pacific since the 1992 amendments to the Marine Mammal Protection Act, which prohibit the encirclement of dolphins. The legislation to implement the Panama Declaration will eliminate the inequitable treatment of United States tuna fishermen and enable them to reenter this important fishery on an equal footing with foreign fishermen.

The 1992 ban on encirclement of dolphins has required fishermen to use alternative fishing practices which have serious environmental consequences. Alternative fishing practices lead to excessive bycatch of endangered sea turtles, sharks, billfish, and great numbers of immature tuna and other fish species. In an attempt to manage a single species, in this case dolphins, we have caused serious harm to the entire ecosystem. This legislation will result in a reduction of this bycatch problem as well as permit fishermen to encircle dolphins as long as they comply with the stringent regulations imposed by the IATTC.

The purpose of this bill is to improve and solidify efforts to protect dolphins in the eastern tropical Pacific Ocean, eliminate the bycatch problems caused by alternative fishing methods, and recognize the tremendous gains by other countries in reducing dolphin mortality. The Panama Declaration establishes a common environmental standard for all countries fishing in the region. By formalizing the La Jolla Agreement, U.S. and foreign fishermen in the eastern tropical Pacific will be subject to the most stringent fishery regulations in the world.

The Panama Declaration represents a tremendous environmental achievement, and it enjoys support from such diverse interests as major, mainstream environmental groups, the U.S. tuna fishing fleet, the Clinton administration, and other countries whose fishermen operate in the eastern tropical Pacific.

Mr. President, I ask unanimous consent that a letter of support from Vice President GORE be entered into the RECORD.

I am encouraged that the majority leader, on the Senate floor on September 30, 1996, had promised to provide floor time at the beginning of this Congress to vote on this legislation. I urge my colleagues to join me in supporting this legislation in order that we may implement this important international agreement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE VICE PRESIDENT,
Washington, June 3, 1996.

Hon. JOHN B. BREAUX,
U.S. Senate,
Washington, DC.

DEAR JOHN: I am writing to thank you for your leadership on the International Dolphin Conservation Program Act, S. 1420. As you know, the Administration strongly supports this legislation, which is essential to the protection of dolphins and other marine life in the Eastern Tropical Pacific.

In recent years, we have reduced dolphin mortality in the Eastern Tropical Pacific tuna fishery far below historic levels. Your legislation will codify an international agreement to lock these gains in place, further reduce dolphin mortality, and protect other marine life in the region. This agreement was signed last year by the United States and 11 other nations, but will not take effect unless your legislation is enacted into law.

As you know, S. 1420 is supported by major environmental groups, including Greenpeace, the World Wildlife Fund, the National Wildlife Federation, the Center for Marine Conservation, and the Environmental Defense Fund. The legislation is also supported by the U.S. fishing industry, which has been barred from the Eastern Tropical Pacific tuna fishery.

Opponents of this legislation promote alternative fishing methods, such as "log fishing" and "school fishing," but these are environmentally unsound. These fishing methods involve unacceptably high by-catch of juvenile tunas, billfish, sharks, endangered sea turtles and other species, and pose long-term threats to the marine ecosystem.

I urge your colleagues to support this legislation. Passage of this legislation this session is integral to ensure implementation of an important international agreement that protects dolphins and other marine life in the Eastern Tropical Pacific.

Sincerely,

AL GORE.

By Mr. HELMS:

S. 41. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read twice and placed on the calendar.

VOLUNTARY SCHOOL PRAYER PROTECTION

Mr. HELMS. Mr. President, this year marks the 200th anniversary of George Washington's departure from public life. A few months before the end of his Presidency, in his farewell address to the Nation, he included a parting word of advice—and a final warning—that is just as significant and relevant today as it was then. Washington counseled the new Nation:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute to patriotism who should labor to subvert these great pillars of human happiness.

Our Founding Fathers understood well the intricate relationship between freedom and responsibility. They knew that the blessings of liberty engendered certain obligations on the part of a free people—namely, that citizens conduct their actions in such a way that society can remain cohesive without excessive government intrusion. The American experiment would never have succeeded without the traditional moral and spiritual values of the American people—values that allow people to govern themselves, rather than be governed.

Not long ago, my friend, Margaret Thatcher, highlighted for us the words of another of our Nation's founders, John Adams, who said, "Our Constitution was designed only for a moral and religious people. It is wholly inadequate for the government of any other." Yet over the last 30 years, our society has evidenced increasing apathy—and, in some cases, outright hostility—toward the spiritual principles upon which our Nation was founded.

Mr. President, Bill Bennett once observed to me that America has become the kind of country that civilized countries once dispatched missionaries to centuries ago. If we care about cleaning up the streets and classrooms, if we care about the long-term survival of our Nation—how could there be anything more important for Congress to protect than the right of America's children to participate in voluntary, constitutionally protected prayer in their schools?

Mr. President, the legislation I am introducing today will ensure that student-initiated prayer is treated the same as all other student-initiated free speech—which the U.S. Supreme Court has upheld as constitutionally protected as long as it is done in an appropriate time, place, and manner such that it "does not materially disrupt the school day". [*Tinker* v. *Des Moines School District*, 393 U.S. 503.]

Under this bill, school districts could not continue—in constitutional ignorance—enforcing blanket denials of students' rights to voluntary prayer and religious activity in the schools. For the first time, schools would be faced with real consequences for making uninformed and unconstitutional decisions prohibiting all voluntary prayer. The bill creates a complete system of checks and balances to ensure that school districts do not shortchange their students one way or the other.

This proposal, Mr. President, prevents public schools from prohibiting constitutionally protected voluntary student-initiated prayer. It does not mandate school prayer and suggestions to the contrary are simply in error. Nor does it require schools to write any particular prayer, or compel any student to participate in prayer. It does not prevent school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer—the same kind of restrictions that are placed on other forms of speech in the schools.

What this proposal will do is prevent school districts from establishing official policies or procedures with the intent of prohibiting students from exercising their constitutionally protected right to lead, or participate in, voluntary prayer in school.

Mr. President, this bill is especially noxious to school prayer opponents because it explodes the myth popular among school administrators and bureaucrats—a myth perpetuated by liberal groups such as the American Civil Liberties Union—that the U.S. Constitution somehow prohibits every last vestige of religion from the public schools.

Seldom is it heard on the issue of school prayer that the Constitution also forbids governmental restrictions on the free exercise of religion, or that the Constitution protects students' free speech—whether religious or not—and that student-initiated, voluntary prayer expressed at an appropriate time, place and manner, has never been outlawed by the Supreme Court.

Mr. President, I find it more than a little ironic that I am forced to revisit this issue on the floor of the Senate. I remind Senators that in 1994, this same proposal—offered in amendment form by Senator LOTT and myself—passed this body overwhelmingly, 75 to 22. In the House of Representatives, this language was approved on two different occasions by similar 3-to-1 margins. Yet this simple protection of constitutional rights was dropped in the closing 60 seconds of a conference with no debate, no discussion, and no vote—just a wink and a nod between the senior Senator from Massachusetts and his counterpart on the House side.

So I am obliged to offer this measure once again to protect the constitutional rights of America's children to participate in voluntary school prayer. Indeed, standing here brings to mind the words of the legendary New York Yankee catcher, manager, and philosopher Yogi Berra: "it's deja vu all over again."

Well, this time, Mr. President, I hope Congress will accede to the wishes of a huge majority of the American people, and enact this legislation. A Wirthlin poll reported in Reader's Digest indicates that 75 percent of our citizens favor prayer in public schools. My legislation ensures that the American people's will to protect constitutionally sanctioned prayer in our Nation's schools is accomplished—and shows Congress's respect for the moral and spiritual values that make our Nation whole.

By Mr. HELMS:

S. 42. A bill to protect the lives of unborn human beings; read twice, and placed on the calendar.

THE UNBORN CHILDREN'S CIVIL RIGHTS ACT

Mr. HELMS. Mr. President, 2 years ago—and on five occasions prior to that—I have offered the Unborn Children's Civil Rights Act, proposing that the Senate go on record in favor of reversing the Roe versus Wade decision. That wrongful U.S. Supreme Court decision, handed down 24 years ago tomorrow, paved the way for the destruction of more than 35 million innocent children—1.5 million little innocent, helpless lives every year.

An enormous number of men and women of all ages will descend upon Washington tomorrow—as they have every year since the fateful Roe versus Wade decision—pleading with Congress to remember that a nation which fails to value the God-given gifts of life and liberty will one day find itself in the dustbin of history.

So, as the 105th Congress begins its work, I do hope that all Senators will give thought to the need to put an end to the legalized deliberate destruction of the lives of innocent, helpless little human beings.

The Unborn Children's Civil Rights Act proposes four things:

First, to put Congress clearly on record as declaring that one, every abortion destroys deliberately, the life of an unborn child; two, that the U.S. Constitution sanctions no right to abortion; and three, that Roe versus Wade was improperly decided.

Second, this legislation will prohibition Federal funding to pay for, or to promote, abortion. Further, this legislation proposes to defund abortion permanently, thereby relieving Congress of annual legislative battles about abortion restrictions in appropriation bills.

Third, the Unborn Children's Civil Rights Act proposes to end indirect Federal funding for abortions by one, prohibiting discrimination, at all federally funded institutions, against citizens who as a matter of conscience object to abortion and two, curtailing attorney's fees in abortion-related cases.

Fourth, this legislation proposes that appeals to the Supreme Court be provided as a right if and when any lower Federal court declares restrictions on abortion unconstitutional, thus effectively assuring Supreme Court reconsideration of the abortion issue.

Mr. President, it has become fashionable today for America's courts to discard the Constitution in order to create rights and protect freedoms founded upon mankind's depraved nature instead of God's eternal and moral truths.

Yet, never has a court handed down such a misguided decision than when it created the right of a woman to choose to terminate the life of her child. Roe versus Wade has no foundation whatsoever in the text or history of the Constitution. It was a callous invention. Justice White said it best in his dissent: Roe, he declared, was an exercise in raw judicial power.

Why has this Supreme Court's exercise in raw judicial power been allowed to stand? Why has Congress stood idly by for 24 years while 4,000 unborn babies are deliberately, intentionally destroyed every day as a result of legalized abortion?

The answer is simple, Mr. President. Even though Roe versus Wade was and is an unconstitutional decision, Congress has been unwilling to exercise its powers to check and balance a Supreme Court that deliberately allows the destruction of the most defenseless, most innocent humanity imaginable.

So, Mr. President, Roe versus Wade still stands; millions of children continue to be deprived of their right to live, to love, and to be loved. It is not a failure of the U.S. Constitution. It is a failure of both the Supreme Court and the Congress for 24 years to overturn Roe versus Wade.

By Mr. HELMS (for himself, Mr. DEWINE, Mr. HATCH, Mr. NICKLES, Mr. ABRAHAM, and Mr. FAIRCLOTH):

S. 43. A bill to throttle criminal use of guns; read twice and placed on the calendar

THROTTLE CRIMINAL USE OF GUNS

Mr. HELMS. Mr. President, on December 6, 1995, the U.S. Supreme Court handed down an opinion that has undermined the prosecution of literally hundreds of violent and drug trafficking criminals. There could not have been a worse time to go soft on criminals, but when the Supreme Court's decision was announced, hardened convicts across America were overjoyed by the prospect of prison doors swinging open for them.

Sure enough, since the Court's decision just over 1 year ago, hundreds of criminals have indeed been set free.

The bill I am introducing today will correct the Supreme Court's blunder, and it will crack down on gun-toting thugs who commit all manner of unspeakable crimes. I am advised that my bill is being numbered S. 43, and it provides that a 5-year mandatory minimum sentence shall be imposed upon any criminal possessing a gun during and in relation to the commission of a violent or drug trafficking crime. If the criminal fires the weapon, the mandatory penalty is elevated to 10 years. If there is a killing during the crime, the punishment is life imprisonment or the death penalty.

This is just common sense, Mr. President; violent felons who possess firearms are demonstrably more dangerous than those who do not. This legislation, of course, does not apply to anyone lawfully possessing a gun.

Current Federal law provides that a person who, during a Federal crime of violence or drug trafficking crime, uses or carries a firearm shall be sentenced to 5 years in prison. That law has been used effectively by Federal prosecutors across the country to add 5 additional years to the prison sentences of criminals who use or carry firearms.

But along came the Supreme Court's unwise decision thwarting prosecutors' effective use of this statute. The Court, in Bailey versus United States, interpreted the law to require that a violent felon actively employ a firearm as a precondition of receiving an additional 5-year sentence. The Court held that the firearm must be brandished, fired or otherwise actively used; so if a criminal merely possesses a firearm, but doesn't fire or otherwise use it, he escapes the additional 5 year penalty.

Someone put it this way: As a result of the Court's decision, any thug who hides a gun under the back seat of his car, or who stashes a gun with his drugs, may now get off with a slap on the wrist. The fact is, Mr. President, that firearms are the tools of the trade of most drug traffickers. Weapons clearly facilitate the criminal transactions and embolden violent thugs to commit their crimes.

Mr. President, this Supreme Court decision poses serious problems for law enforcement. It has weakened the Federal criminal law and has already led to the early release of hundreds of violent criminals.

After the word got out about the Bailey decision, prisoners frantically began preparing and filing motions to get out of jail as fast as they could write. Prosecutors were inundated with petitions from criminals. One example is a man named Lancelot Martin, who ran a Haitian drug trafficking operation out of Raleigh, my hometown, the capital city of North Carolina. Martin used the U.S. Postal Service to receive and sell drugs. Police seized his drugs and recovered a 9 mm semiautomatic pistol that Martin used to protect his drug business.

Lancelot Martin was convicted of drug trafficking charges and received a 5-year sentence for using the gun. But on March 11 of last year, years before his sentence expired, Martin walked free, simply because while his gun and a hefty supply of drugs were found—the gun was not actively employed at the time he was caught.

So, Mr. President, this bill will ensure that future criminals possessing guns, like Lancelot Martin, serve real time when they possess a gun in furtherance of a violent or drug trafficking crime.

The Supreme Court, recognizing the consequences of its decision, issued this invitation to us: "Had Congress intended possession alone to trigger liability * * * it easily could have so provided." That, Mr. President, is precisely the intent of this legislation—to make clear that possession alone does indeed trigger liability.

Mr. President, a modified version of this legislation passed the Senate last year, only to be blocked in the House of Representatives. This bill is a necessary and appropriate response to the Supreme Court's judicial limitation of the mandatory penalty for gun-toting criminals. According to Sentencing Commission statistics, more than 9,000 armed violent felons were convicted from April 1991, through October 1995. In North Carolina alone, this statute was used to help imprison over 800 violent criminals. We must strengthen law enforcement's ability to use this strong anticrime provision.

Fighting crime is, and must be, a prime concern in America. It has been estimated that in the United States one violent crime is committed every 16 seconds. We must fight back with the most severe punishment possible for those who terrorize law-abiding citizens. Enactment of this legislation is a necessary step toward recommitting our Government and our citizens to a real honest-to-God war on crime.

Mr. ABRAHAM. Mr. President, I rise to cosponsor Senator HELMS' bill to amend section 924 of title 18 of the United States Code. This bill would ensure that stiff, mandatory sentences are imposed on criminals who possess firearms while committing a crime of violence or drug trafficking offense.

As currently written, title 18 of section 924(c) already mandates that a sentence of 5 years or more be imposed on any defendant who uses or carries a firearm while committing a crime of violence or drug trafficking offense. Over the past several years, however, courts have struggled with the issue of whether a defendant uses a weapon for purposes of section 924(c) if he technically possesses the weapon but does not actually employ it in committing the underlying offense.

This issue was recently taken up by the Supreme Court in the case of Bailey versus United States. Hewing closely to the ordinary meaning of "use," the Court unanimously held that "use" in section 924(c) signifies "an active employment of the firearm by the defendant." After observing that the term "possess" is frequently used elsewhere in Federal gun-crime statutes, the Court reasoned that, "[h]ad Congress intended possession alone to trigger liability under section 924(c)(1), it easily could have so provided."

The bill I cosponsor today does so provide, as it would amend section 924(c)(1) to apply to any defendant who "uses, carries, or possesses" a firearm while committing a crime of violence or drug trafficking offense. This is a worthwhile change. Any crime becomes far more dangerous when committed by a criminal who controls a firearm. Such a criminal should not be rewarded if, in a particular case, it turns out that he has no need actually to employ the weapon. The fact that he so augmented the danger attending his crime is reason enough to impose the stiff sentences set forth in section 924.

Thus, in short, this bill closes a dangerous loophole in current law. I applaud the Senator from North Carolina for his leadership on this issue, and look forward to the bill's speedy enactment.

By Mr. HELMS:

S. 44. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read twice and placed on the calendar.

CIVIL RIGHTS OF INFANTS ACT

Mr. HELMS. Mr. President, the distinguished Senator from New Hampshire, Mr. ROBERT SMITH, introduced legislation in the 104th Congress prohibiting the destruction of helpless, unborn babies by a procedure called partial-birth abortions.

Congress heeded the outcry of the American people against this shameful abuse of the most innocent humans imaginable; the Partial-Birth Abortion Ban Act was passed by both the House and the Senate only to have it vetoed by President Clinton.

Mr. President, another stalwart Senator of New Hampshire, Mr. Humphrey brought to the attention of the Senate in 1989 incredibly brutal practice in America—abortions performed solely because prospective mothers prefer a child of a gender from the babies in their womb.

Senator Humphrey, in the 1989 debate called attention to the New York Times article published Christmas morning the year before. It was titled "Fetal Sex Test Used as Step to Abortion." Sadly, Senator Humphrey's remarks and subsequent legislation were met with general disinterest among those who sanctimoniously defend what they regard as a woman's right to destroy her unborn child. Those holding such views never discuss an unborn child's right to live, to love and be loved.

Mr. President, it was typical for the New York Times, that the Times article which Senator Humphrey deplored beganas follows:

> In a major change in medical attitudes and practices, many doctors are providing prenatal diagnoses to pregnant women who want to abort a fetus on the basis of the gender of the unborn child.
>
> Geneticists say that the reasons for this change in attitude are an increased availability of diagnostic technologies, a growing disinclination of doctors to be paternalistic, deciding for patients what is best, and an increasing tendency for patients to ask for the tests. Many geneticists and ethicists say they are disturbed by the trend.

Mr. President, this rhetorical horseradish is simply another measurement of how far the moral and spiritual priorities of America have fallen. Professor George Annas of the Boston University School of Medicine was quoted as saying:

> I think the [medical] profession should set limits and I think most people would be outraged, and properly so, at the notion that you would have an abortion because you don't want a boy or you don't want a girl. If you are worried about a woman's right to an abortion, the easiest way to lose it is not set any limits on this technology.

Mr. President, how sad it is that any mother in a civilized society would be willing to destroy the unborn female child she is carrying simply because she happens to prefer a male child—or vice-versa. But believe it. It is happening without the Government of the United States lifting an eyebrow, let alone a finger.

And that, Mr. President, is why I am again offering legislation to limit this incredibly inhumane practice.

As I mentioned at the outset of my remarks, the 104th Congress acted on legislation to outlaw the brutal killings of unborn babies subjected to partial-birth abortions. I pray the 105th Congress will take action to end another callous cruelty against the unborn—gender-selection abortions.

Specifically, the legislation I have sent to the desk proposes to amend title 42 of the United States Code governing civil rights. Anyone who administers an abortion for the purpose of choosing the gender of the infant will protect unborn children as title 42 presently protects any other citizen who is a victim of discrimination.

Mr. President, the American people are clearly opposed to this practice. A Boston Globe poll reports that 93 percent of the American people reject the taking of life as a means of gender selection. Another poll conducted by Newsweek/Gallup showed that four out of every five Americans oppose gender selection abortions.

Even radical feminists cannot ignore the absurdity of denying a child the right to life simply because the parents happened to prefer a child of the opposite gender. The Associated Press reported on August 22, 1996, that the platform adopted by last year's U.N. women's conference in Beijing included a provision condemning sex-selection abortions.

Of course, feminists proclaim that gender selection abortions are atrocities in China—or in India where a survey was taken 7 years ago which revealed that of 8,000 abortions, 7,999 were female.

Now, Mr. President, I do not believe—even for a minute—that the proabortion crowd and its amen corner in Congress would want to see action on this legislation. I deliberately stated that the feminists in Beijing—led by the American coalition—could not ignore this cruel practice. But lipservice is all that will be paid to this violent practice by most of those who call themselves pro-choice.

Just as they did during debate on the Partial-Birth Abortion Ban Act, I suspect NOW and NARAL supporters in the Senate will do their best to stop the Civil Rights of Infants Act. Cries will go up and the charge will be made that the Senate is somehow trying to take away the freedom of American women. In the meantime, the freedoms of life and liberty are being denied to thousands of unborn children.

Nonetheless, those of us who support the rights of the unborn must do our best. Hopefully, this 105th Congress will take early action to fulfill the desires of the overwhelming majority of the American people who rightfully believe it is immoral to destroy unborn babies simply because the mother demands freedom-of-gender choice.

By Mr. HELMS:

S. 45. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services; read twice and placed on the calendar.

FEDERAL ADOPTION SERVICES ACT OF 1997

Mr. HELMS. Mr. President, there's a significant question about the use of the American taxpayers' money.

Should State and local health departments, hospitals, and other family planning organizations funded under title X of the Public Health Service Act, be specifically allowed to offer adoption services to pregnant women?

The answer, Mr. President, is: Absolutely.

And Congress should be unmistakably clear in expressing our judgment that public and private health facilities can and should offer adoption services.

The vast majority of the American people agree. Many polls have shown that people approve of their tax dollars being used by clinics to promote and encourage adoptions instead of the heinous destruction of unborn children.

Statistics emphasize the merit of the proposal that clinics and agencies receiving title X funding should explicitly be authorized to offer adoption services. The National Council for Adoption asserts that an estimated 2 million couples are today hopefully and prayerfully waiting to adopt a child. Yet, 1.5 million babies are refused the right to live every year.

Mr. President, if every abortion in this country could be prevented this year there would still be 500,000 couples ready and waiting to adopt children. Small wonder that adoption is called "the loving option."

But it is even more tragic, Mr. President, that women with unplanned or unwanted pregnancies are unaware of the wonderful opportunities available to their child through adoption. These women, states Jeff Rosenberg, formerly of the National Council for Adoption, "are not hearing about adoption, and thus [are] not considering it as a possibility. Young pregnant women are frequently not told by counselors and social workers that adoption is an alternative."

With this in mind, I offer today the Federal Adoption Services Act of 1997, a bill that proposes to amend title X of the Public Health Services Act to permit federally-funded planning services to provide adoption services based on two factors: No. 1, the needs of the community in which the clinic is located, and No. 2, the ability of an individual clinic to provide such services.

Mr. President, those familiar with the many Senate debates of the past regarding title X will recall the excessive emphasis placed on preventing and/or spacing of pregnancies, and limiting the size of the American family.

I hope that this year, we can refocus this debate, emphasizing the need to affirm life rather than preventing or terminating it.

Sure, the radical feminists and other pro-abortionists will voice their hysterical objections. So before they raise their voices, let's make clear what this legislation will not do. For example:

No woman will be threatened or cajoled into giving up her child for adoption. Family planning clinics will not be required to provide adoption services. Rather, this legislation will make it clear that Federal policy will allow, or even encourage adoption as a means of family planning. Women who use title X services—one-third of whom are teenagers—will be in a better position to make informed, compassionate judgments about the unborn children they are carrying.

Mr. President, I contend that it is not the responsibility of civilized society to protect the rights of the most innocent and most helpless human beings imaginable. Furthermore, shouldn't we do our best to provide couples willing to love and care for these children an opportunity to do so? That question, Mr. President, answers itself—in the affirmative.

By Mr. HELMS:

S. 46. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read twice and placed on the calendar.

CIVIL RIGHTS RESTORATION ACT OF 1997

Mr. HELMS. Mr. President, I send to the desk legislation I first submitted in amendment form on June 25, 1991—which I subsequently introduced as a bill in both the 103d and 104th Congresses. But as I introduce once more the Civil Rights Restoration Act, I recall that similar antidiscrimination legislation passed this body long before 1973, when I first became a Member of the Senate.

Thirty-three years ago, Congress passed the historic Civil Rights Act of 1964. The intent of that legislation was to prohibit discrimination based on race in a broad variety of circumstances, including hiring practices. Proponents of the Civil Rights Act proclaimed that there was nothing in the bill that would require any quotas or preferential treatment.

Well, three decades later, the Federal Government's quota establishment—aided and abetted by an activist Federal judiciary—have so perverted the plain language and intent of the Civil Rights Act that it is unrecognizable. My proposal today is intended to ensure that all civil rights laws are consistent with the goal of a color-blind society.

Specifically, this legislation prevents Federal agencies, and the Federal courts, from interpreting title VII of the Civil Rights Act of 1964 to allow an employer to grant preferential treatment in employment to any group or individual on account of race.

This proposal prohibits the use of racial quotas once and for all. During the past several years, almost every Member of the Senate—and the President of the United States—have proclaimed that they are opposed to quotas. This bill will give Senators an opportunity to reinforce their statements by voting in a rollcall vote against quotas.

Mr. President, this legislation emphasizes that from here on out, employers must hire on a race neutral basis. They can reach out into the community to the disadvantaged and they can even have businesses with 80 or 90 percent minority workforces as long as the motivating factor in employment is not race.

This bill clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of its authors, Hubert Humphrey and Everett Dirksen. Let me state it for the RECORD:

> It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for

any person, except as provided in subsection (e) or paragraph (2).

It shall not be an unlawful employment practice for an entity described in paragraph (1) to recruit individuals of an underrepresented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity.

Specifically, this bill proposes to make part (j) of section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those subsections to make preferential treatment on the basis of race—that is, quotas—an unlawful employment practice.

Mr. President, I want to be clear that this legislation does not make outreach programs an unlawful employment practice. Under language suggested years ago by the distinguished Senator from Kansas, Bob Dole, a company can recruit and hire in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in the schools, establish day care programs, and expand its labor pool in the poorest sections of the community. In other words, expansion of the employee pool is specifically provided for under this act.

Mr. President, this legislation is necessary because in the 33 years since the passage of the Civil Rights Act, the Federal Government and the courts have combined to corrupt the spirit of the act as enumerated by both Hubert Humphrey and Everett Dirksen, who made clear that they were unalterably opposed to racial quotas. Yet in spite of the clear intent of Congress, businesses large and small must adhere to hiring quotas in order to keep the all-powerful Federal Government off their backs.

Several times before, I have directed the attention of Senators to the Daniel Lamp Co., a small Chicago lamp factory harassed by investigators from the Equal Employment Opportunity Commission. The CBS news program, "60 Minutes," did a story several years back that exposed the mentality of the quota-enforcing bureaucrats at the EEOC to the Nation.

The Daniel Lamp Co. was a small, struggling business which employed 28 people when "60 Minutes" began its investigation—8 of whom were black and 18 of whom were Hispanic. But this obviously nondiscriminatory hiring practice was simply not enough for the EEOC. According to the "60 Minutes" reporter, Morley Safer, the EEOC told the owner of the Daniel Lamp Co. that "based on other larger companies' personnel, Daniel Lamp should employ 8.45 blacks." In other words, this small company—which had never had over 30 people on its payroll—had failed to meet the Federal Government's hiring quotas.

The Daniel Lamp Co., which was justifiably proud of its mostly minority workforce, decided to stand up to the EEOC. For their troubles, they were forced to pay a fine of $148,000, meet the quota set by the agency, and spend $10,000 on newspaper advertisements to tell other job applicants that they might have been discriminated against—and to please contact the Daniel Lamp Co. for a potential financial windfall.

Yet through all of this outrageous conduct, the EEOC continued to insist that the agency does not set hiring quotas. And although one would have reasonably expected that "60 Minutes" exposure of the Daniel Lamp Co.'s predicament would embarrass the Federal Government's quota establishment into mending its ways, it is still business as usual among the bureaucrats.

For example, on November 21, 1996, my office received an unsolicited facsimile transmission from the Department of Labor's Office of Federal Contract Compliance Program [OFCCP]. For those unfamiliar with the OFCCP, this is the branch of the Department of Labor that engages in race and gender nose-counting for private businesses who have contracts with the Federal Government.

This facsimile was titled "OFCCP Egregious Discrimination Cases." Curious as to what constituted egregious in the eyes of the Labor Department bureaucrats, I reviewed this document—and one particular case caught my eye.

During June 1993, OFCCP investigators conducted a so-called compliance review of the San Diego Marriott and Marina. In the course of their walk-through, the OFCCP officers believed they did not see enough African-American women in visible jobs to satisfy their notion of an acceptable workplace.

This unscientific observation prompted a massive investigation of the San Diego Marriott's hiring practices. After a year-long inquiry—paid for by the American taxpayer, I might add—the OFCCP uncovered only this unremarkable revelation: that of the hotel's 1,579 employees, 950 were minorities and/or women, including 101 African-Americans.

Instead of being satisfied that over 60 percent of the workforce were minorities or women, the OFCCP found this an egregious case of race discrimination—because not enough black women were employed to suit their idea of diversity. In the view of the OFCCP, a 60 percent minority workforce is insufficient unless the "right" kind of minorities are represented. Mr. President, if that is not a quota, I don't know what is.

In any event, rather than trying to fight the Department of Labor, the San Diego Marriott settled to the tune of $627,000. And Mr. President, the Marriott Corporation could at least afford such an extravagant settlement. Thousands of small businesses across the country would be bankrupt by such a fine—and all it would take is one Federal bureaucrat failing to see what he or she considers the right kind of faces in the workplace.

Well, this bill is designed to put an end to all this nonsense bandied about by the Federal Government's power-hungry quota establishment.

Mr. President, as I have said at outset, this legislation should be familiar to students of history. This legislation will bring our civil rights laws full circle, putting America back on the course that Everett Dirksen and Hubert Humphrey envisioned when they sponsored the Civil Rights Act of 1964.

Speaking of Hubert Humphrey, Mr. President—he was a man admired by all of us who served with him. Senator Humphrey was one of the principal authors of the Civil Rights Act of 1964. He hated the idea of quotas and preferential treatment based on race. Senator Humphrey stood right here on the floor of this chamber and said in the strongest terms possible that the Act could not possibly be interpreted to permit quotas:

> "if there is any language [in the Civil Rights Act of 1964] which provides that any employer will have to hire on the basis of percentages or quotas related to color, race, or religion or national origin, I will start eating the pages one after another because it is not there."

Those words have become so familiar to us during the course of our debates regarding this issue, that they perhaps need a little added emphasis. The authors of the Civil Rights Act explicitly stated that the bill was not to be interpreted to require any quotas or percentage-based hiring.

Well, Mr. President, tell that to the Daniel Lamp Company. Tell that to the San Diego Marriot. Tell that to all the policemen, firemen, or small businessmen across this country who have found that, in the United States of America, merit and achievement is sometimes not good enough.

Mr. President, after 30 years, it is obvious that the social experiment known as affirmative action has outlived its usefulness. It is time for the Congress to return the civil rights laws to their original intent of preventing discrimination, and restore the principles upon which our country was built—personal responsibility, self-reliance, and hard work. The Civil Rights Restoration Act aims to do just that.

Mr. President, I ask unanimous consent that a March 20, 1995 article by Paul Craig Roberts and Lawrence M. Stratton, Jr. in National Review be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Review, March 20, 1995]

HOW WE GOT QUOTAS—COLOR CODE

(By Paul Craig Roberts and Lawrence M. Stratton, Jr.)

Bureaucrats and judges have turned the 1964 Civil Rights Act on its head, creating a system of preferences based on race and sex. Can we restore equality before the law?

Forty years after *Brown* v. *Board of Education*, the civil-rights movement has strayed far from the color-blind principles of Martin Luther King Jr., Public outrage over preferential treatment for "protected minorities" has taken the place of guilt over segregation. Americans who supported desegration and equal rights are astonished to find themselves governed by quotas, which were prohibited by the Civil Rights Act of 1964.

In California momentum is building for a 1996 initiative, modeled on the 1964 Civil Rights Act, that would amend the state's constitution to prohibit the use of quotas by state institutions. Polls indicate that the initiative's objective of ending affirmative action is enormously popular, even in traditionally liberal bastions such as Berkeley and San Francisco. Citizens in other states are organizing to place similar measures on the ballot. The prospects for such measures are bright: surveys find that some 80 per cent of Americans oppose affirmative action in employment and education.

The hostility to race and gender preferments reflects a general sense that reverse discrimination violates fundamental norms of justice and fair play. Thomas Wood, a codrafter of the California initiative and executive director of the California Association of Scholars, says he has been denied a teaching job because he is a white male: "I was told by a member of a search committee at a university, 'You'd walk into this job if you were the right gender.'" Glynn Custred, a California State University anthropology professor, says he decided to join Wood in drafting the initiative because he was concerned about the destructive impact racial quotas were having on higher education, where "diversity" overshadows academic merit.

The California initiative has drawn support from across the political spectrum. Charles Geshekter, a teacher of African history at Chico State University and a supporter of the initiative, wrote in the August 14 *Chico Enterprise Record*: "As a liberal Democrat, I despise those who advocate preferential treatment based on genitalia or skin color. Having taught university classes on the history of European racism toward Africa for 25 years, I am appalled to watch sexist and racist demands for equality of outcomes erode the principle of affirmative equality of opportunity." University of California Regent Ward Connerly, a black businessman who supports the initiative, lamented in the August 10 *Sacramento Bee* that "we have institutionalized this preferential treatment."

THE PERVASIVENESS OF PREFERENCES

Opposition to quotas was initially unfocused, because their impact was not widely felt. The public was aware of a few celebrated cases, but they seemed to be the exception rather than the rule. This is no longer the case. Preferential treatment based on race and sex pervades private and public employment, university admissions and hiring, and the allocation of government contracts, broadcast licenses, and research grants. Consider a few examples:

A 1989 survey by *Fortune* magazine found that only 14 per cent of Fortune 500 companies hired employees based on talent and merit alone; 18 per cent admitted that they had racial quotas, while 54 per cent used the euphemism "goals."

—A Defense Department memo cited on the November 18 broadcast of ABC's *20/20* declares, "In the future, special permission will be required for the promotion of all white men without disabilities."

—The Federal Aviation Administration officially recognizes the Council of African American Employees, the National Asian Pacific American Association, the Gay, Lesbian, or Bisexual Employees group, and the Native American/Alaska Native Coalition, granting them access to bulletin boards, photocopiers, electronic mail, voice mail, and rooms in government buildings for meetings on government time. By contrast, the Coalition of Federal White Aviation Employees has been seeking recognition from the FAA since 1992 without success; FAA employees are even forbidden to read the group's literature.

—In the 1994 case *Hapwood* v. *State of Texas*, U.S. District Court Judge Sam Sparks found that the constitutional rights of four white law-school applicants had been violated by quota policies at the University of Texas. However, he awarded them each only $1 in damages and refused to order them admitted ahead of protected minorities with substantially lower scores.

A case that came before the U.S. Supreme Court in January shows even more clearly how preferential policies have warped basic concepts of fairness. Randy Pech, owner of Adarand Constructors, lost in the bidding for a guard-rail construction project in Colorado's San Juan National Forest because of his skin color. Pech put in the lowest bid. However, the prime contractor was eligible for a bounty of $10,000 in taxpayers' money from the U.S. Department of Transportation for hiring minority-owned subcontractors, and the bounty was greater than the difference in the bids submitted by Pech and his competitor, a Hispanic-owned firm.

Pech filed a discrimination lawsuit. When it reached the Supreme Court, U.S. Solicitor General Drew S. Days III argued that Pech had no standing to sue, even though the U.S. Government had paid the prime contractor $10,000 to discriminate against him. Whatever the technical merits of the solicitor general's argument, it reveals the system of racial preferments that today passes for civil rights. "Protected minorities" have standing to sue without any requirement of showing that they themselves have ever suffered from an act of discrimination. Today's college-aged protected minorities have never suffered from legal discrimination, yet U.S. policy assumes they are victims and provides remedies in the form of preferments. In contrast, victims of reverse discrimination have no remedy and no legal standing.

The political repercussions of this double standard are by no means restricted to California. In November's congressional elections, white males deserted the Democratic Party in droves, voting Republican by a margin of 63 per cent to 37 per cent. The *Wall Street Journal* has identified "angry white males" as an important new political group.

But more is at stake than the plight of white males and the relative fortunes of political parties. At issue is equality before the law and the democratic process itself. As freedom of conscience, goodwill, and persuasion are supplanted by regulatory and judicial coercion, privilege reappears in open defiance of Justice John Marshall Harlan's dictum: "There is no caste here. Our Constitution is color-blind."

Color-blindness was the guiding principle of the 1964 Civil Rights Act. The basic act was full of language prohibiting quotas, and various amendments to it defined discrimination as an intentional act, insulated professionally developed employment tests from attack for disproportionately screening out racial minorities, and restricted the Equal Employment Opportunity Commission (EEOC) from issuing any substantive interpretive regulations. Senator Hubert H. Humphrey (D., Minn.), the chief sponsor of the act, confidently declared that if anyone could find "any language which provides that an employer will have to hire on the basis of percentage or quota related to color, race, religion, or national origin, I will start eating the pages one after another, because it is not in there." In less than a decade, federal bureaucrats and judges had cast aside Congress's rejection of preferential treatment for minorities and stuffed the pages of the 1964 Civil Rights Act down Hubert Humphrey's throat.

TWO MODELS OF DISCRIMINATION

The Civil Rights Act of 1964 undertook to put millions of employer decisions through a government filter. Such a massive intrusion into private life had not previously occurred in a free society. Congress assumed that the EEOC, the agency created by the act to run the filter, would be like the state Fair Employment Practice (FEP) commissions that had been created in some Northern states after World War II.

Civil-rights activists regarded these commissions, many of which had more power than the EEOC, as ineffective. As University of Chicago economist Gary Becker observed, however, there was an explanation for the paucity of enforcement actions by the FEP commissions: discrimination doesn't pay. In his 1957 book, *The Economics of Discrimination*, Becker showed that racial discrimination is costly to those who practice it and therefore sets in motion forces that inexorably reduce it. Meritorious employees who are underpaid and underutilized because of their race will move to firms where they get paid according to their contributions. An employer who hires a less qualified white because of prejudice against blacks will disadvantage himself in competition against those who hire the best employees they can find.

Indeed, scholars who studied the cases handled by FEP commissions found that the complainant's problem was usually his job qualifications, not his race. Sociologist Leon Mayhew, who studied employment-discrimination complaints filed with the Massachusetts FEP commission from 1946 to 1962, found that most complaints were based on "mere suspicion" and usually resulted in a finding that the employer had not discriminated. He pointed out that most complainants were poor and lacked job skills. Thus, ordinary, profit-oriented business decisions "regularly produced experiences that could be interpreted as discrimination." This phenomenon "permits Negroes to blame discrimination for their troubles. Hence, some complaints represent a projection of one's own deficiencies onto the outside world."

This argument did not appeal to those who wanted to achieve racial integration through government policy. Activists such as Rutgers law professor Alfred W. Blumrosen, who as the EEOC's first compliance chief became the de facto head of the commission in its formative years, rejected the complaint-based, "retail" model of FEP enforcement and envisioned a "wholesale" model attacking the entrenched legacy of discrimination. In 1965 Blumrosen wrote in the *Rutgers Law Review* that FEP commissions focused too much on individual acts of discrimination and "did not remedy the broader social problems" by reducing the disparity between black and white unemployment. Seeking to redefine discrimination in terms of statistical disparity, he dismissed other explanations of economic differences between blacks and whites, such as education and illegitimacy, as harmful "attempt[s] to shift focus." Blumrosen disdained the Civil Rights Act's definition of discrimination as an intentional act, preferring a definition that Congress had rejected. In his 1971 book, *Black Employment and the Law*, he wrote:"

"If discrimination is narrowly defined, for example, by requiring an evil intent to injure minorities, then it will be difficult to find that it exists. If it does not exist, then the plight of racial and ethnic minorities must be attributable to some more generalized failures in society, in the fields of basic education, housing, family relations, and the like. The search for efforts to improve the condition of minorities must then focus in these general and difficult areas, and the answers can come only gradually as basic institutions, attitudes, customs, and practices are changed. We thus would have before us generations of time before the effects of subjugation of minorities are dissipated.

"But if discrimination is broadly defined, as, for example, by including all conduct which adversely affects minority group employment opportunities . . . then the prospects for rapid improvement in minority employment opportunities are greatly increased. Industrial relations systems are flexible; they are in control of defined individuals and institutions; they can be altered either by negotiation or by law. If discrimination exists within these institutions, the solution lies within our immediate grasp. It is not embedded in the complications of fundamental sociology but can be sharply influenced by intelligent, effective, and aggressive legal action.

"This is the optimistic view of the racial problem in our nation. This view finds discrimination at every turn where minorities are adversely affected by institutional decisions, which are subject to legal regulation. In this view, we are in control of our own history. The destruction of our society over the race question is not inevitable."

BLUMROSEN'S AGENDA

Blumrosen figured that a redefinition of discrimination to include anything that yielded statistical disparities between blacks and whites would force employers to give preferential treatment to blacks in pursuit of proportional representation, so as to avoid liability in class-action suits. He set out to "liberally construe" Title VII of the Civil Rights Act, which prohibited discrimination in employment, in order to advance "the needs of the minorities for whom the statute had been adopted." By promoting quotas, he could "maximize the effect of the statute on employment discrimination without going back to the Congress for more substantive legislation."

Blumrosen's EEOC colleagues kidded him that he was working on a textbook entitled *Blumrosen on Loopholes*. He took pride in his reputation for "free and easy ways with statutory construction." He later praised the agency for being like "the proverbial bumble bee" that flies "in defiance of the laws governing its operation." Blumrosen's strategy was based on his bet that "most of the problems confronting the EEOC could be solved by creative interpretation of Title VII which would be upheld by the courts, partly out of deference to the administrators." History has proved Blumrosen right.

As inside-the-Beltway lore expresses it, "Personnel is policy." Blumrosen had a free hand because Franklin Delano Roosevelt Jr., the EEOC's first chairman, spent most of his time yachting. Staffers jokingly changed the lyrics of the song "Anchors Aweigh" and sang "Franklin's Away" during his frequent absences. Roosevelt resigned before a year was out, and his successors stayed little longer. The EEOC had four chairmen in its first five years, which enhanced Blumrosen's power.

The White House Conference on Equal Employment Opportunity in August 1965 indicated what was to come. Speaker after speaker described "deeply rooted patterns of discrimination" and "under-representation" of minorities that the EEOC should counter in order to promote "equal employment opportunity." The conference report stressed on its first page that the "conferees were eager to move beyond the letter of the law to a sympathetic discussion of those affirmative actions required to make the legal requirement of equal opportunity an operating reality." Another telling line said that "it is not enough to obey the technical letter of the law; we must go a step beyond in order to assure equal employment opportunity." One panel concluded that "it is possible that the letter of the law can be obeyed to the fullest extent *without* eliminating discrimination in hiring and promotion. For the legislative intent of Title VII to be met, the law will have to be obeyed in spirit as well as in letter."

The report noted that many panelists shared Blumrosen's suspicion that if the EEOC limited its activities to responding to complaints of discrimination, the agency would never "reach the extent of discriminatory patterns." Blumrosen inserted a paragraph into the report suggesting that the agency should initiate proceedings against employers even in the absence of complaints of discrimination. Underutilizers of minority workers could be identified by using "employer reports of the racial composition of the work force as a sociological 'radar net' to determine the existence of patterns of discrimination."

Blumrosen succeeded in setting up a national reporting system of racial employment statistics despite the Civil Rights Act's specific prohibition of such data collection. An amendment introduced by Senator Everett Dirksen (R., Ill.), said employers did not have to report statistics to the EEOC if they were already reporting them to local or state FEP commissions. Blumrosen later admitted that the requirement he imposed on employers to report the racial composition of their work forces was based on "a reading of the statute contrary to the plain meaning." But what was a mere statute?

Columbia University law professor Michael Sovern predicted that the EEOC would be called on the carpet for exceeding its authority. In a study for the Twentieth Century Fund, *Legal Restraints on Racial Discrimination*, he wrote that Title VII "cannot possibly be stretched to permit the Commission to insist on the filing of reports" and predicted that Blumrosen would "encounter resistance." But no resistance materialized. As Hugh Davis Graham observed in *The Civil Rights Era*, "In 1965 Congress was distracted by debates over voting rights and Vietnam and Watts and inflation and scores of other issues more pressing than agency records."

After Blumrosen got his way in forcing employers to submit reports, the agency developed the confidence to dispense with other statutory restrictions on its mission. The EEOC saw the reporting requirement as a "calling card" that "gives credibility to an otherwise weak statute." Blumrosen knew that "with the aid of a computer," the EEOC could now get "lists of employers who, prima facie, may be underutilizing minority-group persons" and eventually force them to engage in preferential hiring of blacks.

In mid 1965 Blumrosen sent EEOC investigators to Newport News, Virginia, to solicit discrimination complaints against the Newport News Shipbuilding & Dry Dock Company, one of the world's largest shipyards, employing 22,000 workers. Knocking on doors in black neighborhoods, the investigators found 41 complainants, later narrowed down to 4. Blumrosen then successfully pressured the company, which received 75 per cent of its business from Navy contracts, to promote 3,890 of its 5,000 black workers, designate 100 blacks as supervisors, and adopt a quota system in which the ratio of black to white apprentices in a given year would match the region's ratio of blacks to whites. One shipyard worker told *Barron's* that the EEOC had done its worst to "set black against white, labor against management, and disconcert everybody."

Armed with the national reporting system's racial data and the victory at Newport News, Blumrosen and his colleagues decided to build a body of case law under Title VII to impose minority-preference schemes on employers across the country. The barrier to this strategy was Title VII itself. An internal EEOC legal memorandum concluded: "Under the literal language of Title VII, the only actions required by a covered employer are to past notices, and not to discriminate subsequent to July 2, 1965. By the explicit terms of Section 703(j), an employer is not required to redress an imbalance in his work force which is the result of past discrimination." Fearing a storm over quotas like the one that had occurred during the congressional debates on the Civil Rights Act, the EEOC ruled out trying to amend the Act itself. The memorandum instead urged the agency to rewrite the statute on its own and influence the courts to embrace the EEOC's "affirmative theory of nondiscrimination," under which compliance with Title VII requires that "Negroes are recruited, hired, transferred, and promoted in line with their ability and numbers."

THE ASSAULT ON EMPLOYMENT TESTS

To implement the "affirmative theory of non-discrimination," the EEOC decided to assault employment tests that failed blacks at a higher rate than whites. Commissioner Samuel Jackson told members of the NAACP that the EEOC had decided to interpret Title VII as banning not only racial discrimination per se but also employment practices "which prove to have a demonstrable racial effect." EEOC lawyers formed an alliance with civil-rights attorneys at the NAACP and began a litigation drive to redefine discrimination in terms of statistical effects.

Summer riots and Vietnam protests helped activists target employment tests. The Kerner Commission's report on civil disorders described employment tests as "artificial barriers to employment and promotion." The Kerner Commission blamed these "artificial barriers" and the "explosive mixture which has been accumulating in our cities" on racism and concluded, "Our nation is moving toward two societies, one black, one white—separate and unequal."

The EEOC's chief psychologist, William H. Enneis, attacked "irrelevant and unreasonable standards for job applicants and upgrading of employees, [which] pose serious threats to our social and economic system. The results will be denial of employment to qualified and trainable minorities and women." Enneis said the EEOC would not "stand idle in the face of this challenge. The cult of credentialism is one of our targets," to be fought "in whatever form it occurs."

The EEOC issued guidelines in 1966 and 1970 designed to abrogate the pro-testing amendment to the Civil Rights Act introduced by Senator John Tower (R., Tex.) by defining the phrase "professionally developed ability tests" as tests that either passed blacks and whites at an equal rate or met complex "validation" requirements for "fairness" and "utility." Under the validation requirements that Enneis designed, employers had to prove that the tests measured skills they needed. The objective was to make tests so difficult to defend in court that employers would simply abandon them and hire by racial quota. Enneis testified before Congress in 1974 that he knew of only three or four test-validation studies that satisfied his guidelines. As a 1971 *Harvard Law Review* survey of developments in employment law deduced, the EEOC guidelines "appear designed to scare employers away from any objective standards which have a differential impact on minority groups, because, applied strictly, the testing requirements are impossible for many employers to follow." As a result, the guidelines "encourage many employers to use a quota system of hiring." An EEOC staffer told the *Harvard Law Review* that "the anti-preferential-hiring provisions [of Title VII] are a big zero, a nothing, a nullity. They don't mean anything at all to us."

The EEOC's attack on tests gutted not only Senator Tower's amendment but also the statutory definition of discrimination as an intentional act. The commission was well aware that it was treading on legal thin ice. A history of the EEOC during the Johnson Administration, prepared by the EEOC for the Johnson Library under the direction of Vice Chairman Luther Holcomb, detailed the EEOC's strategy of redefining discrimination and suggested that it was on a collision course with the text and legislative intent of Title VII. The history said the EEOC had rejected the "traditional meaning" of discrimination as "one of intent in the state of mind of the actor" in favor of a "constructive proof of discrimination" that would "disregard intent as crucial to the finding of an unlawful employment practice" and forbid employment criteria that have a "demonstrable racial effect without clear and convincing business motive."

Noting that this redefinition would conflict with Senator Dirksen's insertion of the word "intentional" into the statute, the history said "courts cannot assume as a matter of statutory construction that Congress meant to accomplish an empty act by the amendment" defining discrimination as intentional. The history predicted that "the Commission and the courts will be in disagreement as to the basis on which they find an unlawful employment practice" and conclude that "eventually this will call for the reconsideration of the amendment by Congress or the reconsideration of its interpretation by the Commission."

As things turned out neither the EEOC nor Congress had to reconsider the meaning of discrimination, because the courts also ignored the law. In the 1971 case *Griggs* v. *Duke Power*, the Supreme Court accepted the EEOC's rewrite of the Civil Rights Act. The opinion was written by Chief Justice Warren Burger, President Richard Nixon's first appointee to the Supreme Court. Coveting the fame of his predecessor, Earl Warren, Chief Justice Burger told his clerks that he wanted to "confuse his detractors in the press" by writing some "liberal opinions."

BLUMROSEN WINS HIS BET

When Burger declared that "the administrative interpretation of the Act by the enforcing agency is entitled to great deference," Professor Blumrosen won his bet that the EEOC's "creative interpretation of Title VII would be upheld by the courts, partly out of deference to the administrators." Burger got the acclaim he coveted. Blumrosen cheered the Chief Justice's opinion as a "sensitive, liberal interpretation of Title VII" that "has the imprimatur of permanence."

In *Griggs* the Court ignored clear statutory language and unambiguous legislative history. In fact, *Griggs* paralleled a 1964 Illinois case, *Myart* v. *Motorola*, that had troubled many of the legislators who approved the Civil Rights Act. *Myart* struck down Motorola Corporation's use of an employment test that blacks failed at a higher rate than whites. The EEOC's history for the Johnson Library noted that "many members of Congress were concerned about this issue because the court order against Motorola was handed down during the debates. The record establishes that the use of professionally developed ability tests would not be considered discriminatory." Nevertheless, the Supreme Court ruled that Duke Power Company was discriminating against blacks by requiring employees seeking promotions to have a high-school diploma or a passing grade on intelligence and mechanical-comprehension tests.

The Supreme Court agreed with the lower courts that Duke Power had not adopted the requirement with any intention to discriminate against blacks. Burger admitted that the company's policy of financing two-thirds of the cost of adult high-school education for its employees suggested good intent. But the lack of a racist motive did not make any difference to the Chief Justice. He decreed that the "absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as 'built-in headwinds' for minority groups." Burger was mistaken when he wrote, "Congress directed the thrust of the Act to the *consequences* of employment practices, not simply the motivation." It was precisely this misinterpretation of the statute that the Dirksen Amendment was crafted to prevent.

Burger viewed the promotion requirements as "built-in-headwinds" against blacks because blacks were less likely than whites to have completed high school or to do well on aptitude tests. He cited 1960 census statistics showing that 34 percent of white males in North Carolina had completed high school, compared to 12 percent of black males, and EEOC findings that 58 percent of whites passed the tests used by Duke Power, compared to 6 percent of blacks. Blaming these disparities on segregation, Burger said that "under the Act, practices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to 'freeze' the status quo of prior discriminatory employment practices." Burger destroyed job testing when he declared, "The Act proscribes not only overt discrimination but also practices that are fair in form, but discriminatory in operation."

Burger's casuistry was to be given a name. In the 1976 book *Employment Discrimination Law*, EEOC District Counsel Barbara Lindemann Schlei and co-author Paul Grossman called the new emphasis on consequences "disparate impact" analysis. One year later, the Supreme Court used the phrase for the first time in the case *International Brotherhood of Teamsters* v. *United States*, which dealt with burdens of proof in Title VII cases attacking union seniority systems. "Proof of discriminatory motive," the Court said, "is not required under a disparate-impact theory." Henceforth, any requirement that had a disparate impact on the races, regardless of intent or the reasonableness of the requirement, constituted discrimination. In employment and promotions, unequals had to be treated as equals. The same was soon to follow in university admissions testing. Race-based privileges had found their way into law.

In *Griggs* Chief Justice Burger said employers could escape prima facie Title VII liability only if test requirements are "demonstrably a reasonable measure of job performance." Pulling a phrase out of thin air, Burger said "the touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited." Burger invented a statutory hook for his ruling by asserting, falsely, that "Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question." It was precisely this heavyhanded intrusion into job requirements that the Tower Amendment was designed to prevent.

Burger's deference to the EEOC meant that the agency would become the national arbiter of job tests. Following *Griggs*, the agency immediately issued manuals warning employers that unless they "voluntarily" increased their minority statistics, they risked costly liability. Ultimately, it became prohibitively expensive to use job tests unless they were race-normed so that blacks could qualify with lower scores.

THE IMPACT OF DISPARATE IMPACT

In a subsequent case interpreting *Griggs*, Justice Harry Blackmun expressed his concern that the EEOC's guidelines would lead to hiring based on race rather than merit. He warned that "a too-rigid application of the EEOC guidelines will leave the employer little choice, save an impossibly expensive and complex validation study, but to engage in a subjective quota system of employment selection. This, of course, is far from the intent of Title VII."

By then it was too late. *Griggs* had killed four birds with one stone: Senator Tower's amendment on tests, Senator Dirksen's amendment on intent, Senator Humphrey's guarantee that the Civil Rights Act could not be used to induce quotas, and the amendment introduced by Representative Emanuel Celler (D., N.Y.) prohibiting the EEOC from issuing substantive regulatory interpretations of Title VII. The EEOC wanted quotas, and thanks to *Griggs* it would get them. "At the EEOC we believe in numbers," Chairman Clifford Alexander declared in 1968. In pursuit of its goal, the agency assumed powers it did not have. In 1972 Blumrosen boasted in the *Michigan Law Review* that the EEOC's power to issue guidelines "does not flow from any congressional grant of authority."

When Burger created what would come to be known as disparate-impact analysis he did not realize its quota implications. He thought he was just attacking "credentialism." As the holder of a law degree from an obscure night school in St. Paul, Minnesota, Burger may have been thinking of himself when he wrote that "history is filled with examples of men and women who rendered highly effective performance without the conventional badges of accomplishment in terms of certificates, diplomas, or degrees." Surrounded by Court colleagues and clerks with prestigious Ivy League degrees, Burger might have tasted credential discrimination. He thought that the Court could take away the "headwind" of credentialism that blew against blacks without creating a privileged position for minorities.

Yet before *Griggs*, any employer who was so inclined could take the measure of prospective employees and make bets on people with obscure backgrounds who may not have had the best chances in life. After *Griggs*, no employer could risk hiring a white male from William Mitchell Law School in St. Paul over a black from Harvard. *Griggs* made race a critical factor in employment decisions. High-school diplomas, arrest records, wage garnishments, dishonorable military discharges, and grade-point averages all became forbidden considerations in hiring decisions, because they are criteria that could have a disparate impact on blacks. Farmers have even been sued for asking prospective farm hands whether they could use a hoe, on the grounds that blacks have a greater propensity to back problems. Perfectly sensible height and weight requirements for prison guards and police officers have also been struck down for having a disparate impact on women.

The EEOC strategy that led to *Griggs* was not created in a vacuum. Civil-rights activists needed a new cause, and preferences that would enable blacks to attain equality of result became the new goal. In January 1965, *Playboy* asked Martin Luther King Jr., "Do you feel it's fair to request a multibillion-dollar program of preferential treatment for the Negro, or for any other minority group?" King replied, "I do indeed." In 1969, the U.S. Court of Appeals for the Fifth Circuit, the same court that had initiated school busing in the name of "racial balance," cast aside the prohibition of quotas in Section 703(j) of the Civil Rights Act by upholding a court order that every other person admitted to a Louisiana labor union must be black. Responding to the argument that this order clearly violated Section 703(j), the three judge panel simply wrote, "We disagree."

President Johnson was the most prominent proponent of the shift away from the color-blind ideal. At his commencement speech at Howard University on June 4, 1965, Johnson said the disappearance of legal segregation was not enough:

"You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race, and then say, "You are free to compete with all the others," and still justly believe that you have been completely fair.

"Thus it is not enough just to open the gates of opportunity. All our citizens must have the ability to work through those gates.

"This is the next and the more profound state of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result."

To back up his speech with action, Johnson issued Executive Order 11246, which put the phrase "affirmative action" into common parlance. The order required all Federal Government contractors and subcontractors to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin."

Johnson's equality-of-results rhetoric and his metaphor of helping a hobbled runner have provided the main emotional justification for "affirmative action," but the quotas that now web federal contractors under Executive Order 11246 were not implemented by his Administration. Facing strong opposition from the Department of Defense, labor unions, members of Congress, and Comptroller General Elmer Staats, Johnson's labor secretary, Willard Wirtz, dropped his plans to impose quotas on federal construction projects in Philadelphia.

That task fell to George P. Shultz, Richard Nixon's labor secretary. Just as Burger considered *Griggs* a blow against credentialism, Shultz, a labor economist from the University of Chicago, saw the Philadelphia Plan as a way of making an end run around the Davis-Bacon Act, which inflated the cost of federal construction contracts by setting wages at "prevailing union levels." Davis-Bacon meant non-union contractors and laborers (many of whom were black) could not get government contract work. Sensitive to charges that he was hostile to civil rights, Nixon wrote in his memoirs that he accepted Shultz's proposal to revive the Philadelphia Plan in order to demonstrate to blacks "that we *do* care."

On June 27, 1969, Assistant Secretary of Labor Arthur A. Fletcher, a black former businessman who had been a professional football player, announced the Philadelphia Plan in the City of Brotherly Love. He said that while "visible, measurable goals to correct obvious imbalances are essential," the plan did not involve "rigid quotas." The *Congressional Quarterly* disagreed with Fletcher's scholastic distinction, calling the Philadelphia Plan a "nonnegotiable quota system."

Under the plan, the Labor Department's Office of Federal Contract Compliance (OFCC) would assess conditions in the five-county Philadelphia area and set a target percentage of minorities to be employed in several construction trades, with the aim of attaining a racially proportionate work force. Potential federal contractors would have to submit complex plans detailing goals and timetables for hiring blacks within each trade to satisfy the OFCC's "utilization" targets. Arthur Fletcher said the Philadelphia Plan "put economic flesh and bones on Dr. King's dream."

In 1971 the U.S. Court of Appeals for the Third Circuit accepted the Nixon Administration's argument that "goals and timetables" were not quotas and that, even if they were, the Civil Rights Act's ban on quotas applied to Title VII remedies, not to executive orders. The Supreme Court avoided the controversial quota issue by refusing to review the case. Although the appeals court's ruling had no force outside the Third Circuit, the Nixon Administration interpreted the Supreme Court's lack of interest as a green light. As Laurence H. Silberman, who was undersecretary of labor at the time, later wrote, the Nixon Administration went on to spread Philadelphia Plans "across the country like Johnny Appleseed." The Labor Department quickly issued Order #4, which required all federal contractors to meet "goals and timetables" to "correct any identifiable deficiencies" of minorities in their work forces. The carrot of government contracts and the stick of disparate-impact liability under *Griggs* quickly established quotas. For many corporate managers, hiring by the numbers was the only protection against discrimination lawsuits and the loss of lucrative government contracts. Contractors hired minorities to guard against the sin of "underutilization," and racial proportionality became a precondition of government largesse. Arthur Fletcher estimated that the new quota regime covered "from one-third to one-half of all U.S. workers."

The Section 703(j) prohibition of quotas in the Civil Rights Act remained in the law but meant nothing. Reverse discrimination was in. When the liberal William O. Douglas, the only remaining member of the *Brown* Court, tried to get his Supreme Court colleagues to review the case of a white who was refused admission to the Arizona bar to make room for blacks with lower bar-exam scores, he argued that "racial discrimination against a white was as unconstitutional as racial discrimination against a black." Douglas failed to persuade his fellow Justices. He reports in his autobiography that Thurgood Marshall replied: "You guys have been practicing discrimination for years. Now it is our turn."

THE SPREAD OF QUOTAS

Although the phrase "federal contractor" conjures up images of workers in hard hats busy with construction projects or weapons systems, colleges and universities are also federal contractors, receiving federal funds through research grants and financial aid to students. Following the Labor Department's lead, Nixon's Department of Health, Education, and Welfare soon required similar "goals and timetables" for faculty hiring. Before long the practice had spread to student admissions as well.

In 1974 Douglas tried to get the Court to address quotas in this area. Marco DeFunis challenged the University of Washington Law School's 20 per cent quota for blacks. The school had rejected DeFunis though his GPA and test scores surpassed those of 36 of the 37 admitted blacks. Using his powers as a Circuit Justice, Douglas stayed the Washington Supreme Court's ruling against DeFunis and ordered his admission.

By the time DeFunis's case came before the Supreme Court, however, he was about to receive his degree. This let the Court avoid the quota issue by declaring the case moot. Douglas dissented on the mootness ruling and addressed the case's merits. He viewed *DeFunis* just as he had *Brown:* "There is no superior person by constitutional standards. A DeFunis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter what his race or color. Whatever his race, he had a constitutional right to have his application consideration on its individual merits in a racially neutral manner."

But time had passed Douglas by. In Douglas's mind, discrimination was still connected with merit. DeFunis's scores showed that he met a higher objective standard than those admitted in his place. But by this time any standard that had disparate impact was ipso facto discriminatory. In the eyes of Douglas's colleagues, DeFunis was simply a beneficiary of a discriminatory standard. Douglas, who had supported the *Griggs* decision, obviously did not comprehend its implications.

The quota issue re-emerged in 1978, when Allan Bakke, a white male refused admission to the University of California Medical School, challenged the school's policy of reserving 16 per cent of its slots for minorities. Each of the accepted minorities had academic credentials inferior to Bakke's. In a 156-page opinion with 167 footnotes, the Justices reached the schizophrenic conclusion that Bakke should be admitted, but that certain skin colors could nevertheless be considered grounds for college admissions if the goal was to enhance "educational diversity."

A year later the Supreme Court ruled that companies could "voluntarily" impose quotas on themselves to avoid liability. Pressured by OFCC affirmative-action requirements and the need to forestall Title VII liability under *Griggs*, Kaiser Aluminum, like many other companies, had entered into a quota agreement with its union, the United Steelworkers of America, in 1974. The agreement stipulated that "not less than one minority employee will enter" apprentice and craft training programs "for every nonminority employee" until the percentage of minority craft workers approximated the percentage of minorities in the regions surrounding each Kaiser plant. Two seniority lists were drawn up, one white and one black, and training openings were filled alternately from the two lists.

Brian Weber, a 32-year-old white blue-collar worker who had ten years' seniority as an unskilled lab technician at Kaiser Aluminum's plant in Gramercy, Louisiana, applied for a training-program slot but was denied in favor of two blacks with less seniority. After his union denied his grievance, Weber wrote the local EEOC office requesting a copy of the 1964 Civil Rights Act. When the Civil Rights Act arrived in the mail, Weber read it through and found that it said "exactly what I thought. Everyone should be treated the same, regardless of race or sex." Encouraged by the statute's words, he filed a class-action suit representing his plant's white workers and won before district and appellate courts.

During Supreme Court oral arguments in *United Steelworkers* v. *Weber* Justice Potter Stewart quipped that the Justices had to determine whether employers may "discriminate against some white people." Justice William Brennan's answer, for a 5 to 2 majority, was an emphatic "yes." Brennan said the meaning of the 1964 Civil Rights Act could not be found in its statutory language but resided in its spirit, which Brennan had divined. He asserted that the Act's clear statutory language and the Dirksen, Tower, and Celler amendments conveyed a meaning that was the opposite of what Congress had really intended. A literal reading of Title VII, he said, would "bring about an end completely at variance with the purpose of the statute." In enacting the Civil Rights Act, Brennan continued, "Congress's primary concern" was with the plight of the Negro in our economy. Anything that helped minorities was broadly consistent with this purpose. This included racial quotas, as long as they were voluntarily adopted by companies and not required by the Federal Government under Title VII. Brennan denied that Kaiser's plan would lead to quotas: "The plan is a temporary measure; it is not intended to maintain racial balance, but simply to eliminate a manifest racial imbalance."

BURGER HAS SECOND THOUGHTS

Chief Justice Burger had created disparate-impact analysis in his *Griggs* opinion without realizing its quota implications. Now that quotas were upon him, he found himself joining in dissent with Justice William Rehnquist. Brennan's *Weber* opinion, they said, was "Orwellian." In *Griggs*, the Court had declared that "discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed." But eight years had passed, and the Civil Rights Act had been fully reconstructed. Burger and Rehnquist's alarm showed in their dissenting language: "By a tour de force reminiscent not of jurists such as Hale, Holmes, and Hughes, but of escape artists such as Houdini, the Court eludes clear statutory language, uncontradicted legislative history, and uniform precedent in concluding that employers are, after all, permitted to consider race in making employment decisions." The Court "introduces into Title VII a tolerance for the very evil that the law was intended to eradicate," Rehnquist said. Moreover, Brennan's reading of Section 703(j) was "outlandish" in the light of Title VII's other "flat prohibitions" against racial discrimination and is "totally belied by the Act's legislative history." Rehnquist cited a congressional interpretative memorandum clearly stating that "Title VII *does not permit* the ordering of racial quotas in businesses or unions and does not permit interferences with seniority rights of employees or union members." But Burger had set the stage for *Weber* with *Griggs*, and it was the pot calling the kettle black when he accused Brennan of amending the Civil Rights Act "to do precisely what both its sponsors and its opponents agreed the statute was not intended to do."

Having ruled in *Weber* that reverse discrimination was "benign discrimination," the Supreme Court upheld other quota schemes in subsequent cases. In the 1980 case *Fullilove* v. *Klutznick*, the Court said a federal spending program setting aside 10 per cent of public-works money for minority businesses violated neither the Constitution's guarantee of equal protection of the laws nor the 1964 Civil Rights Act.

In the 1987 case *Johnson* v. *Transportation Agency Santa Clara County*, the issue was the maleness rather than the whiteness of white males. The Court ruled that job discrimination against a white male in favor of a woman with lower performance ratings was perfectly legal under Title VII, even though the county's transportation agency had no record of prior discrimination requiring remedies. Rehnquist, Byron White, and Antonin Scalia didn't like the decision. Scalia said, "We effectively replace the goal of a discrimination-free society with the quite incompatible goal of proportionate representation by race and by sex in the workplace." He noted that civil rights had become a cynical numbers game played by politicians, lobbyists, corporate executives, lawyers, and government bureaucrats.

In 1989 there was a brief retrenchment when the Supreme Court, with its Reagan appointees, confronted the quota implications of *Griggs* and the decisions that had followed it. In *Wards Cove* v. *Atonio*, the Court ruled that statistical disparities were insufficient to establish a prima facie case of discrimination. In this case, the racial minorities who made up a majority of the unskilled work force at two Alaskan salmon canneries brought a discrimination lawsuit based on the fact that whites held a majority of skilled office positions. The suit claimed that this constituted underutilization of preferred minorities in office positions and was evidence of racial discrimination. The majority opinion, written by Justice White, rejected the discrimination claim. White noted that:

"Any employer who had a segment of his work force that was—for some reason—racially imbalanced, could be hauled into court and forced to engage in the expensive and time-consuming task of defending the 'business necessity' of the methods used to select the other members of his work force. The only practicable option for many employers will be to adopt racial quotas, ensuring that no portion of his work force deviates in racial composition from the other portions thereof; this is a result that Congress expressly rejected in drafting Title VII."

A week after *Wards Cove*, the Court ruled in *Martin* v. *Wilks* that victims of reverse discrimination due to consent decrees that imposed quotas had the right to challenge the decrees in court. The Court noted that victims of reverse discrimination found their rights affected by lawsuits to which they were not parties. Citing a long-standing legal tradition, the majority held that "a person cannot be deprived of his legal rights in a proceeding to which he is not a party."

These rulings caused an uproar among civil-rights activists, who charged that the new Reagan Court was racist. The illegal privileges that had evolved in the 18 years since *Griggs* was decided had become a squatter's right, and Congress and the Bush Administration were bullied into enacting the new inequality into law. The 1991 Civil Rights Act in effect repealed the 1964 Act by legalizing racial preferences as the core of civil-rights law. The new Act was designed to overturn the *Wards Cove* and *Wilks* rulings and to codify the disparate-impact standard of *Griggs*.

The statute also slammed shut the courthouse doors on white male victims of reverse discrimination. If statistical disparities or racial imbalance is proof of discrimination, white males adversely affected by quotas can have no standing in court. To give them standing would necessarily imperil the quota remedies for racial imbalance. You cannot simultaneously declare that anything short of proportional racial representation is discrimination and recognize the adverse impact of the "remedy" on white males. Under the 1991 Civil Rights Act, white makes have no grounds for discrimination lawsuits until they are statistically underrepresented in management and line positions. They have no claims to be statistically represented as hirees, trainees, and promotees until preferred minorities are proportionately represented in management and line positions. Indeed,under Brennan's interpretation of the Civil Rights Act, which says that anything that helps preferred minorities is broadly consistent with the law, the disparate-impact standard could one day be ruled inapplicable to whites.

The 1991 Civil Rights Act added the threat of compensatory and punitive damages to the pressure for quotas. In "Understanding the 1991 Civil Rights Act," an article in *The Practical Lawyer*, Irving M. Geslewitz recommended that corporations apply cost-benefit analysis to determine whether "they are safer in hiring and promoting by numbers reflecting the percentages in the surrounding community than in risking disparate-impact lawsuits they are likely to lose," To counter charges of "hostile work environments," company lawyers want to be able to tell juries that their clients have many minority and women employees at all levels.

The day after the Civil Rights Act of 1991 became law, a *New York Times* article, "Affirmative Action Plans Are Part of Business Life," observed that quota policies are as "familiar to American businesses as tally sheets and bottom lines." A 1991 *Business Week* article entitled "Race in the Workplace: Is Affirmative Action Working?" reported that affirmative action is "deeply ingrained in American corporation culture.

. . . The machinery hums along, nearly automatically, at the largest U.S. corporations. They have turned affirmative action into a smoothly running assembly line, with phalanxes of lawyers and affirmative-action managers."

The 1964 Civil Rights Act, which undertook to eliminate race and sex from private employment decisions, has instead been used to make race and sex the determining factors.

Reverse discrimination is now a fact of life. Indeed, in strictly legal terms, the situation for white males today is worse than the situation for blacks under *Plessy* v. *Ferguson's* separate-but-equal doctrine. In practice, blacks suffered unequal treatment under *Plessy*, but the decision officially required equal treatment, Under today's civil-rights regime, by contrast, whites can be legally discriminated against in university admissions, employment, and the allocation of government contracts.

In his famous dissent from *Plessy*, Justice John Marshall Harlan worried that the Louisiana law requiring racial segregation on public transportation would allow class distinctions to enter the legal system, since blacks and whites were economically as well as racially distinct. Harlan was certain that he wanted no status-based distinctions in the law. Our Constitution, he said, "is colorblind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful." Today, civil-rights activists reject Harlan's color-blind views. Privilege before the law has replaced equality before the law.

By Mr. HELMS:

S. 47. A bill to prohibit the executive branch of the Federal Government from establishing an additional class of individuals that is protected against discrimination in Federal employment, and for other purposes; read twice and placed on the calendar.

FREEDOM OF SPEECH ACT

Mr. HELMS. Mr. President, many readers of the Washington Times on December 31, 1996, were offended when they read an article, "Postal Inspectors' Bias Code Seen as Silencing Anti-Gay Views." The article reported that the U.S. Postal Service's law enforcement branch had recently issued a new code of conduct forbidding employees from expressing their personal and religious beliefs regarding homosexuality—even during off-duty hours.

When asked about the Postal Service's decision, Robert Maginnis, an analyst at the Family Research Council, asserted correctly that "People who have deeply-held moral beliefs * * * need not apply for the Federal jobs. Talk about discrimination! This is reverse discrimination of the worst kind."

Mr. Maginnis was right on target: Freedom of speech is not permitted to those who deplore the favoritism shown people who have the morals of alley cats. I recall the 1994 episode in which the Senate came to the defense of a faithful and longtime employee of the Department of Agriculture, Dr. Karl Mertz, whose freedom of speech was callously violated after he dared to stand up against sodomy. Dr. Mertz did so on his own time, when he opposed his government's giving special rights to homosexuals.

Mr. President, during the incident involving Dr. Mertz, it because abundantly clear, at least to me, that the Clinton Administration had conducted and continues to conduct a concerted effort to give homosexuals special rights, privileges, and protections throughout the Federal agencies—rights not accorded to most other groups and individuals.

The fact is, no other group in America is given special rights based on its sexual behavior. To grant special rights to homosexuals would be redundant—the 1964 Civil Rights Act already protects every American from discrimination.

Moreover, the Senate, on September 10, 1996, defeated attempts by Senator KENNEDY and others to amend the Civil Rights Act in order to extend special rights to employees based exclusively on the employees' sexual preferences.

Mr. President, after Dr. Mertz's plight was brought to light in 1994, my office began to hear from Federal Government employees throughout Washington and the country who were personally concerned about the Administration's attempts to defend and promote special rights for homosexuals in the workplace.

And we continue to hear from them. These are not hate-filled or mean-spirited; they are understandably disturbed by the government's attempts to sanction and protect a lifestyle they—and many Americans—regard as immoral.

Mr. President, let's look at statements issued by three of the Administration's cabinet members regarding efforts by the Clinton Administration to confer special rights and protections upon homosexuals and lesbians.

On April 15, 1993, then-Secretary of Agriculture, Mike Espy, issued a Civil Rights Policy Statement in which he stated that the USDA would "create a work environment free of discrimination and harassment based on gender or sexual orientation."

On December 6, 1993, the Secretary of Health and Human Services, Donna Shalala, issued her agency's directive to celebrate cultural "diversity" in a workplace free of discrimination against gays and lesbians.

On August 30, 1994, Henry Cisneros, the Secretary of the Department of Housing and Urban Development, likewise informed all HUD employees that his department would not tolerate discrimination on the basis of sexual orientation.

In fact, Mr. President, Leonard Hirsch, president of Gay, Lesbian and Bisexual Employees of the Federal Government (GLOBE), told the Washington Times that every Cabinet-level department, excluding the Pentagon, now has rules barring discrimination based on sexual orientation.

Which brings us to the issue of whether the Federal Government intends to expand the definition of discrimination to include suppression of the constitutional rights of its employees to voice personal and religious beliefs regarding homosexuality. The fact is, it is already happening.

To the delight of the homosexual community, Federal employees are required to leave their moral and spiritual views at home every morning since Federal agencies and departments have unilaterally adopted a policy to treat homosexuals as a special class protected under various titles of the Civil Rights Act of 1964.

Congress must not remain silent as the executive branch creates special protections for homosexuals without regard to the constitutional right of freedom of speech enjoyed by all Federal employees. That is the purpose of the legislation I offer today.

Under this bill, no Federal department or agency shall implement or enforce any policy creating a special class of individuals in Federal employment discrimination law. This bill will also prevent the Federal government from trampling the first amendment rights of Federal employees to express their moral and spiritual values in the workplace.

Finally, this bill will turn back the tide of the homosexual community in its efforts to force Americans to accept, and even legitimize, moral perversion.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

By Mr. HELMS:

S. 48. A bill to abolish the National Endowment for the Arts and the National Council on the Arts; read twice placed on the calendar.

THE NATIONAL ENDOWMENT OR THE ARTS TERMINATION ACT OF 1997

Mr. HELMS. Mr. President, something more than 7 years ago, I first reported to the Senate some evidence that a war was then being waged against America's standards of decency by some self-proclaimed "artists" funded by the national Endowment for the Arts.

When I came to the Senate floor that day, July 26, 1989, and suggested that Senators should examine some examples of the material that the taxpayers were being required to subsidize, and that I had an amendment to put an end to it, the distinguished manager of the bill took one look and said, "We" take your amendment."

And that's when the battle began. Since that time some of the know-it-all media have tried in vain to make a silk purse out of the NEA's sow's ear. They failed miserably to persuade the American people that such so-called "art" deserved the taxpayers' money allocated to the arrogant artists whose minds belonged in the sewer.

The names of these self-proclaimed "artists" consist of a wide range of curious individuals who have no regard for decency—Annie Sprinkle, Holly Hughes, and Karen Finley performing their live sex acts; Andres Serrano sticking a crucifix in a jar filled with his urine, taking a picture of it, and choosing for its title a mockery of Jesus Christ. Then there was Robert Mapplethorpe, who became noted for his filthy homosexual photographs; Joel-Peter Witken who used bodies of dead men and women to produce stomach-churning photographs; and many others.

From burning the American flag to flouting their own bodies and those of others, such depravity knows no bounds. The only religiously-oriented "art" funded by the NEA were scurrilous attacks on the Catholic church or blasphemous insults to the deity of Jesus Christ.

More recently, The Washington Times, in an article last June, reported that the National Endowment for the Arts had, in 1995, awarded $31,500 to a lesbian film director for her production of the film titled, "Watermelon Woman". In her description of the film to the NEA, the film's director boasted that with the NEA's support, she would "be one of the first African American lesbian film makers who promotes our rarely seen lifestyles."

Mr. President, I will not waste the Senate's time further detailing the outrageous abuse of Federal tax dollars by the National Endowment for the Arts. But it continues, despite the efforts by those in Congress to reform the agency. Sadly, the real travesty is found in the efforts of a few misguided souls to defend requiring the American taxpayers to finance the attempted to glorify perversion and immorality.

When I came to the Senate floor that day in 1989, I told Senators that the arts community and the media—because they balked at any restriction on Federal funding—had left Congress with two choices: First, absolutely no Federal presence in the arts; or second, granting artists the absolute freedom to use tax dollars as they wish, regardless of how vulgar, blasphemous, or despicable their works may be. I said at the time that if we indeed must make this choice, then the Federal Government should get out of the arts. But, I felt then that Congress could make another choice—to clean up the NEA, and merely prevent the use of Federal funds to support the creation or production of vulgar or sacrilegious works.

Well, Mr. President, as Paul Harvey says, now you know the rest of the story. For more than 7 years, I offered numerous amendments to put an end to the taxpayer-subsidized obscenity I've detailed today. But without fail, every year, the American people are shocked to hear of another instance in which the NEA has given its blessing—and the taxpayers' money—to an organization or individual determined to cross the lines of decency and morality.

The last card was played out, Mr. President, when a liberal Federal appeals court, on November 5, 1996, usurped the right of Congress to put any semblance of restrictions on the way the NEA uses the money granted to it by Congress. The U.S. 9th Circuit Court thumbed its nose at Congress—and the American people—when it upheld the right of so-called "artists" such as Karen Finley and Holly Hughes to continue to be subsidized for their decadent acts.

Mr. President, no more choices or compromises remain. I have concluded, as have so many Americans, that the only way Congress can stop the irresponsible use of the taxpayers' money by the NEA is to abolish it.

Moreover, there is much to be said for the priority to confront the existing $5.3 trillion Federal debt and the effect that it will have on the futures of today's young people. The sky will not fall if the Congress votes to privatize the NEA as the arts already swim in an ocean of private funds—more than $9 billion annually. Bruce Fein wrote in his editorial, "Dollars for Depravity," that "NEA funds are but a tiny fraction of national art expenditures. Thus, a denial of an NEA grant is far from tantamount to a professional death sentence."

For these reasons, I today introduce The National Endowment for the Arts Termination Act of 1997. The bill mirrors the legislation offered in the House of Representatives this year by Phil Crane, Sam Johnson, and Charlie Norwood.

This bill finally alleviates the burden, shouldered by the American taxpayers, of allocating money every year to an agency whose mission has been sorely mistreated. The strings will be cut and the Federal government will no longer be in the business of propping up "artists" such as Robert Mapplethorpe and Andres Serrano. Furthermore, Congress will rid itself of the annual fight to defend the cultural high ground against a group of people who are in a lifelong crusade to destroy the Judeo-Christian foundations of this country.

Mr. President, this bill is the only solution to end the irresponsible use of the taxpayers' money by this agency. Efforts to reform it have failed. It is time to put the National Endowment for the Arts to rest.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

THE ALASKA WETLANDS CONSERVATION ACT

Mr. STEVENS. Mr. President, I am pleased to introduce the Alaska Wetlands Conservation Act, a bill to conform wetlands protection to the unique conditions found throughout Alaska.

My State contains more wetlands than all other States combined. Since 1780 we have developed less than 1/10 of one percent of those wetlands. According to the United States Fish and Wildlife Service, about 170.2 million acres of wetlands existed in Alaska in the 1780's and about 170 million acres exist today. That represents a negligible loss rate over a period of 217 years. Furthermore almost ninety percent of our wetlands are publicly owned, protected by strict land use designations that guarantee these wetlands will remain intact permanently.

We Alaskans have substantially conserved our wetlands. Unfortunately Federal policies established to protect and restore wetlands in the southern forty-eight States do not recognize our unique circumstances nor do these policies provide an appropriate level of flexibility in managing the roughly one percent of land available for private or commercial development in Alaska.

My bill continues to require Alaskans who apply for discharge permits under section 404 of the Clean Water Act to avoid or minimize adverse impacts on wetlands, but it would eliminate requirements to mitigate for unavoidable impacts. It also removes the burden for an applicant to prove that no alternative sites are available. Most of Alaska's communities are surrounded by literally millions of acres of wetland. These areas are made unaccessible under the law for mitigation purposes since they are already protected. In Alaska, mitigation makes no sense except to extort compensatory concessions from applicants which would otherwise not be justified.

The threat of mitigation sends a chilling message to potential investors by artificially raising the costs of doing business in Alaska. In turn, this contributes to unemployment and weakening the economic self sufficiency of our far flung communities. In the long run, the current program wastes taxpayer money in an ill advised attempt to protect abundant wetlands that are already more than adequately protected in Alaska. The resources at risk in Alaska are not our wetlands, they are our people.

The blind application of legislation written to protect wetlands elsewhere inhibits reasonable growth by our Native villages and local governments. In effect, the section 404 program has a life threatening choke hold on Native Alaskans. It is difficult to place a stake in the ground in Alaska without impacting a wetland, let alone to build critical infrastructure. Compounding the problem, we have recently seen the Administration begin to phase out nationwide permits. This makes it increasingly difficult to address the huge task facing our local and State officials in providing safe drinking water, sanitation systems, electric power and other critical services to far flung Alaskan communities. Without this bill, the Federal wetlands bureaucracy simply lacks the authority to apply common sense.

Mr. President, many rural Alaskans are trapped living under third world conditions by well-meaning outsiders and bureaucrats narrowly focused on environmental protection. Unfortunately for Alaska, in this case the problem is larger than protecting our over abundance of wetlands. Wetlands policies conflict with other laws which were passed to promote the economic self sufficiency of Alaskans. My bill would require approval of permit applications with reasonable safeguards for "economic base lands" meaning those lands conveyed under the Alaska Native Claims Settlement Act or Alaska Statehood Act, both acts intended to provide the means for Alaskans to achieve economic self sufficiency.

The Alaska Wetlands Conservation Act is a common sense approach to Alaska's circumstances. It maintains flexibility to protect wetlands without hurting people. With respect to existing activities related to airport safety, logging, mining, ice pads and roads, and snow removal or storage, the bill prevents Alaskans from having to obtain section 404 permits to continue those activities. The bill would also require the Army Corps of Engineers to approve general wetlands permits with reasonable safeguards for specific categories of activities if the general permit is requested by the State of Alaska.

There has been negligible benefit to the environment in Alaska as a result of the expansive wetlands regulations issued by bureaucrats inside the beltway. On the other hand, the harm caused by overzealous Federal wetlands police is documented in many examples of bureaucratic delay, expense and irrational decision making. Ask the Mayor of Juneau how the Federal Government handled that city's application for a general permit. It is a national disgrace simply because laws intended to protect scarce wetlands elsewhere were strictly applied in an area of abundance. This bill restores rational decision making authority to those closest to the wetlands situation of Alaska. I encourage my colleagues in the Senate and the House to act expeditiously on my proposed remedy.

By Mr. FEINGOLD:

S. 51. A bill to amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for certain minerals; to the Committee on Finance.

DEPLETION ALLOWANCES LEGISLATION

Mr. FEINGOLD. Mr. President, I am pleased to introduce legislation to eliminate percentage depletion allowances for four mined substances—asbestos, lead, mercury, and uranium—from the Federal tax code. This measure is based on language passed as part of the Energy Policy Act of 1992 by the other body during the 102d Congress.

Analysis by the Joint Committee on Taxation on the similar legislation that passed the House estimated that, under that bill, income to the Federal treasury from the elimination of percentage depletion allowances in just these four mined commodities would total $83 million over 5 years, $20 million in this year alone. These savings are calculated as the excess amount of federal revenues above what would be collected if depletion allowances were limited to the actual costs in capital investments.

These four allowances are only a few of the percentage depletion allowances contained in the tax code for extracted fuel, minerals, metal and other mined commodities—with a combined value, according to 1994 estimates by the Joint Committee on Taxation, of $4.8 billion.

Mr. President, unlike depreciation or cost depletion, the ability to use so-called percentage depletion allows companies to deduct far more than their actual costs. The result is a generous loophole for the company, and an expensive subsidy for the taxpayer.

Historically, percentage depletion allowances were placed in the tax code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment, exploration and output. However, unlike cost depletion or even accelerated depreciation, percentage depletion also makes it possible to recover more than the amount of the original investment. As noted in the Budget Committee's report on tax expenditures, this makes percentage depletion essentially a mineral production subsidy.

There are two methods of calculating a deduction to allow a mining companies to recover the costs of their capital investment: cost depletion, and percentage depletion. Cost depletion allows for the recovery of the actual capital investment over the period which the reserve produces income. Using cost depletion, a company deducts a portion of their original capital investment minus any previous deductions, in an amount that is equal to the fraction of the remaining recoverable reserves. Under this method, the total deductions cannot exceed the original capital investment.

However, under percentage depletion, the deduction for recovery of a company's investment is a fixed percentage of "gross income"—namely, sales revenue—from the sale of the mineral. According to the Budget Committee's summary of tax expenditures, under this method, total deductions typically exceed the capital that the company invested.

Mr. President, given the need to reduce the deficit and balance the budget, there is just as clear a need to review the spending done through the tax code as there is to scrutinize discretionary spending and entitlement programs. All of these forms of spending must be asked to justify themselves, and be weighed against each other in seeking to reach the broader goal of a balanced budget.

In the case of these particular tax expenditures, we must decide who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource. The current tax break provided to the users and producers of these resources increases pressure on the budget deficit, and shifts a greater tax burden onto other businesses and individuals to compensate for the special treatment provided to the few.

Mr. President, the measure I am introducing is straightforward. It eliminates the percentage depletion allowance for asbestos, lead, mercury, and uranium while continuing to allow companies to recover reasonable cost depletion.

Even as a production subsidy, the percentage depletion tax loophole is inefficient. As the Budget Committee summary of tax expenditures notes, it encourages excessive development of existing properties rather than the exploration of new ones.

Moreover, Mr. President, the four commodities covered by my bill are among some of the most environmentally adverse. The percentage depletion allowance makes a mockery of conservation efforts. The subsidy effectively encourages mining regardless of the true economic value of the resource. The effects of such mines on U.S. lands, both public and private, has been significant—with tailings piles, scarred earth, toxic by-products, and disturbed habitats to prove it.

Ironically, the more toxic the commodity, the greater the percentage depletion received by the producer. Mercury, lead, uranium, and asbestos receive the highest percentage depletion allowance, while less toxic substances receive lower rates.

Mr. President, particularly in the case of the four commodities covered by my bill, these tax breaks create absurd contradictions in government policy. While Federal public health and environmental agencies are struggling to come to grips with a vast children's health crisis caused by lead poisoning, spending millions each year to prevent lead poisoning, test young people, and research solutions, the tax code is providing a subsidy for lead production—a subsidy that is not provided for the lead recycling industry.

Asbestos, too, has posed massive public health problems, and it is indefensible that this commodity, the use of which the Federal Government will effectively ban before the year 2000, continues to receive a massive tax subsidy.

Mr. President, the time has come for the Federal Government to get out of the business of subsidizing business in ways it can no longer afford—both financially and for the health of its citizens. This legislation is one step in that direction.

Mr. President, in 1992, I developed an 82+ plan to eliminate the Federal deficit and have continued to work on implementation of the elements of that plan since that time. Elimination of special tax preferences for mining companies was part of that 82+ point plan. Just as we must cut direct spending programs, if we are to balance that budget, we must also curtail these special taxpayer subsidies to particular industries that can no longer be justified.

Finally, Mr. President, in conclusion I want to pay tribute to several elected officials from Milwaukee, Mayor John Norquist and Milwaukee Alderman Michael Murphy, who have brought to my attention the incongruity of the federal government continuing to provide taxpayer subsidies for the production of toxic substances like lead while our inner cities are struggling to remove lead-based paint from older homes and buildings where children may be exposed to this hazardous material. I deeply appreciate their support and encouragement for my efforts in this area.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 51

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) IN GENERAL.—Section 613(b)(1) of the Internal Revenue Code of 1986 (relating to percentage depletion rates) is amended—

(A) in subparagraph (A), by striking "and uranium"; and

(B) in subparagraph (B), by striking "asbestos,", "lead,", and "mercury,".

(b) CONFORMING AMENDMENTS.—

(1) Section 613(b)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(2) Section 613(b)(4) of such Code is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(3) Section 613(b)(7) of such Code is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following:

"(D) mercury, uranium, lead, and asbestos."

(4) Section 613(c)(4)(D) of such Code is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1996.

By Mr. FEINGOLD:

S. 52. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 55. A bill to amend the Dairy Production Stabilization Act of 1983 to prohibit bloc voting by cooperative associations of milk producers in connection with the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 56. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DOMESTIC DAIRY POLICY LEGISLATION

Mr. FEINGOLD. Mr. President, today I rise to introduce three bills which attempt to rectify three different problems with domestic dairy policy. My State of Wisconsin is home to more than 26,000 dairy farmers. Over the past 4 years during the more than 288 listening sessions I've held in Wisconsin counties, I have heard from many of those dairy farmers on the issues addressed by the legislation I am introducing today.

The first bill I am introducing today, if enacted, will be a first step towards rectifying the inequities in the Federal Milk Marketing Order system. The Federal Milk Marketing Order system, created 60 years ago, establishes minimum prices for milk paid to producers throughout various marketing areas in the United States.

My legislation is very simple. It identifies the single most inequitable and injurious provision in the current system, and corrects it. That provision—known as single basing point pricing—is USDA's practice of basing prices for fluid milk—Class I milk—in all marketing areas east of the Rocky Mountains on the distance from Eau Claire, WI, when there is little economic justification for doing so.

In general, the price for fluid milk increases at a rate of 21 cents per 100 miles from Eau Claire, WI. Fluid milk prices, as a result, are $2.98 cents higher in Florida than in Wisconsin, more than $2 higher in New England, and more than $1 higher in Texas.

While this system has been around since 1937, the practice of basing fluid milk price differentials on the distance from Eau Claire was formalized in the 1960's, when arguably the Upper Midwest was the primary reserve for additional supplies of milk. The idea was to encourage local supplies of fluid milks in areas of the country that did not traditionally produce enough fluid milk to meet their own needs. At that time, this was important because our transportation infrastructure made long distance bulk shipments of milk difficult. Thus, the only way to ensure consumers a fresh local supply of fluid milk was to provide dairy farmers in those distant regions with a milk price high enough to encourage local production. Mr. President, the system worked too well. Ultimately, it has worked to the disadvantage of the Upper Midwest, and in particular, Wisconsin dairy farmers.

The artificially inflated Class I prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those marketing orders. Those manufactured products directly compete with Wisconsin's processed products, eroding our markets and driving national prices down.

Under the provisions of the 1996 farm bill, the U.S. Department of Agriculture is currently undergoing an informal rulemaking process to consolidate the number of Federal Milk Marketing Orders from 32 to 10. USDA is also looking at how to set prices for milk in those consolidated orders. By statute USDA is prohibited from basing the new prices on the structure of the existing milk differentials set by the 1985 farm bill. The reforms must be completed by spring, 1999. Secretary of Agriculture Dan Glickman will no doubt be pressured by many supporters of the status quo to maintain the overall price structure that has discriminated against Wisconsin farmers for so many years. I will do everything I can to prevent that from happening. Wisconsin farmers need real Class I price reform that removes the artificial competitive advantages provided to other regions to other regions of the country and allows Upper Midwest farmers to compete on a level playing field.

The legislation that I am introducing today identifies the one change that is absolutely necessary in any outcome—the elimination of single basing point pricing. It prohibits the Secretary of Agriculture from using distance or transportation costs from any location as the basis for pricing milk, unless significant quantities of milk are actually transported from that location into the recipient market. The Secretary will have to comply with the statutory requirement that supply and demand factors be considered as specified in the Agricultural Marketing Agreement Act when setting milk prices in marketing orders.

This legislation sends a very simple message to the Secretary of Agriculture—that among all the Class I pricing reform options from which the Secretary must choose, he should in no case select on option that either by intent or effect sets prices based on distance from a single location. I will work toward enactment of this legislation prior to the completion the proposed rule on class I pricing reform.

Mr. President, my next two bills address inequities to dairy producers throughout the country under the Dairy Promotion and Research Order—also known as the dairy checkoff. I am pleased to be joined by Senator Kohl today on these two very important bills.

The National Dairy Promotion and Research Program collect roughly $225 million every year from dairy farmers each paying a mandatory 15 cents for every 100 pounds of milk they produce. The program is designed to promote dairy products to consumers and to conduct research relating to milk processing and marketing.

While 15 cents may appear to be a small amount of money, multiplied by all the milk marketed in this country, it adds up to thousands of dollars each year for the average producer. Given the magnitude of this program, it is critical that Congress take seriously the concerns producers have about their promotion program.

Since participation in the checkoff is mandatory and producers are not allowed refunds, Congress required that producers vote in a referendum to approve the program after it was authorized. The problem is that Congress didn't provide for a fair and equitable voting process in the original act and it's time to correct our mistake. My bill does that by eliminating a process known as bloc voting by dairy cooperatives.

Under current law, dairy cooperatives are allowed to cast votes in producer referenda en bloc for all of their farmer-members, either in favor of or against continuation of the National Dairy Board. While individual dissenters from the cooperative's position are allowed to vote individually, many farmers and producer groups claim the process stacks the deck against those seeking reform of the program.

Mr. President, the problem bloc voting creates is best illustrated by the results of the August 1993 producer referendum on continuation of the National Dairy Promotion and Research Board, called for by a petition of 16,000 diary farmers. In that referendum, 59 dairy cooperatives voting en bloc, cast 49,000 votes in favor of the program. Seven thousand producers from those cooperatives went against co-op policy and voted individually against continuing the program.

While virtually all of the votes in favor of the program were cast by cooperative bloc vote, nearly 100 percent of the votes in opposition were cast by individuals. Bloc voting allows cooperatives to cast votes for every indifferent or ambivalent producer in their membership, drowning out the voices of dissenting producers. It biases the referendum in favor of the Dairy Board's supporters, whose votes should not have greater weight than the dissenters.

The inappropriate nature of bloc voting in Dairy Board referendum is even clearer given that none of the 17 other commodity promotion programs allow cooperatives to bloc vote despite the existence of marketing cooperatives for many of those commodities.

Mr. President, it is time to give dairy farmers a fair voting process for their promotion program. I urge my colleagues to support this very important legislation.

My last bill, Mr. President, provides equity to domestic producers who have been paying into the promotion program for over 10 years while importers have gotten a free ride. Since the National Dairy Promotion and Research Board conducts generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Program Equity Act requires that all dairy product importers contribute to the Dairy Promotion Program for all dairy products imported at the same rate as domestic dairy farmers. This is not an unusual proposal, Mr. President. Many of our largest generic promotion programs in agriculture already assess importers for their fair share of the program, including programs for pork, beef, and cotton.

This legislation is particularly important in light of the passage of the General Agreement on Tariffs and Trade which will result in greater imports of dairy products over the next several years. An assessment of this type on importers would also be allowed under the GATT since our own milk producers are already paying the same assessment.

We have put our own producers at a competitive disadvantage for far too long. It's high time importers paid for their fair share of the program.

I am also pleased to be an original cosponsor of the National Dairy Promotion Board Reform Act introduced today by Senator Kohl. That bill further enhances producer representation on the National Dairy Board by providing for the direct election of National Dairy Board members, rather than appointment by the Secretary. That process will allow producers to elect members to the board that represent their views on promotion and eliminates the divisive impact of the political appointment process on the Dairy Board. Direct producer election of board members should also increase the accountability to their fellow dairy farmers.

I believe that these bills together comprise a sound reform package for the National Dairy Promotion and Research Board by providing a stronger voice to dairy farmers. These reforms will create a stronger, more effective and more representative Dairy Board. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of all three bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOCATION ADJUSTMENTS FOR MINIMUM PRICES FOR CLASS I MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) in clause (3) of the second sentence, by inserting after "the locations" the following: "within a marketing area subject to the order"; and

(B) by striking the last 2 sentences and inserting the following: "Notwithstanding subsection (18) or any other provision of law, when fixing minimum prices for milk of the highest use classification in a marketing area subject to an order under this subsection, the Secretary may not, directly or indirectly, base the prices on the distance from, or all or part of the costs incurred to transport milk to or from, any location that is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the basis for the minimum prices referred to in the preceding sentence, including a certification that the minimum prices are made in accordance with the preceding sentence."; and

(2) in paragraph (B)(c), by inserting after "the locations" the following: "within a marketing area subject to the order".

S. 55

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON BLOC VOTING.

Section 117 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4508) is amended—

(1) in the first sentence, by striking "Secretary shall" and inserting "Secretary shall not"; and

(2) by striking the second through fifth sentences.

S. 56

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dairy Promotion Equity Act".

SEC. 2. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) Declaration of Policy.—The first sentence of section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended—

(1) by inserting after "commercial use" the following: "and on imported dairy products"; and

(2) by striking "products produced in" and inserting "products produced in or imported into".

(b) Definitions.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking "and" at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(m) the term 'imported dairy product' means any dairy product that is imported into the United States, including—

"(1) milk and cream and fresh and dried dairy products;

"(2) butter and butterfat mixtures;

"(3) cheese;

"(4) casein and mixtures; and

"(5) other dairy products; and

"(n) the term 'importer' means a person that imports an imported dairy product into the United States.".

(c) Funding.—

(1) Representation on board.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(A) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively;

(B) in paragraph (1) (as so designated), by striking "thirty-six" and inserting "38";

(C) in paragraph (2) (as so designated), by striking "Members" and inserting "Of the members of the Board, 36 members"; and

(D) by inserting after paragraph (5) (as so designated) the following:

"(6) Importers.—

"(A) In general.—Of the members of the Board, 2 members shall be representatives of importers of imported dairy products.

"(B) Appointment.—The importer representatives shall be appointed by the Secretary from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.".

(2) Assessment.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended—

(A) by designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(B) by adding at the end of the following:

"(6) Importers.—

"(A) In general.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

"(B) Rate.—The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

"(C) Value of products.—For the purpose of determining the assessment on imports under subparagraph (B), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.".

(3) Records.—The first sentence of section 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(k)) is amended by striking "person receiving" and inserting "importer of imported dairy products, each person receiving".

(4) Referendum.—Section 116 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4507) is amended by adding at the end the following:

(d) Referendum on Dairy Promotion Equity Act.—

"(1) In general.—On the request of a representative group comprising 10 percent or more of the number of producers subject to the order, the Secretary shall—

"(A) conduct a referendum to determine whether the producers favor suspension of the application of the amendments made by section 2 of the Dairy Promotion Equity Act; and

"(B) suspend the application of the amendments until the results of the referendum are known.

"(2) Continuation of suspension.—The Secretary shall continue the suspension of the application of the amendments referred to in paragraph (1)(A) only if the Secretary determines that suspension of the application of the amendments is favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.".

By Mr. HATCH (for himself, Mr. Leahy, Mr. Thurmond, and Mr. Moynihan):

S. 53. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes; to the Committee on the Judiciary.

THE CURT FLOOD ACT OF 1997

Mr. HATCH. Mr. President, I am introducing today, along with Senators Leahy, Thurmond, and Moynihan, the Curt Flood Act of 1997, clarifying the applicability of antitrust law to major league baseball. This legislation, which is basically the same bill that was approved by the Judiciary Committee last Congress, marks what I hope will be the final chapter in a long and, at times, frustrating effort to correct a mistaken decision by the Supreme Court.

As was true before, the bill simply makes clear that major league baseball, like all other professional sports, is subject to our Nation's antitrust laws, except with regard to team relocation, the minor leagues, and sports broadcasting. It overturns the Court's mistaken premise that baseball is not a business involved in interstate commerce, and it eliminates the unjustifiable legal precedent that individuals who play professional baseball should be treated differently from those who participate in other professional sports.

In 1922, in *Federal Baseball Club of Baltimore* v. *National League of Professional Baseball Clubs*, 259 U.S. 200 (1922), the Supreme Court ruled that professional baseball was immune from the reach of the Federal antitrust laws because baseball was not a business in interstate commerce. Obviously, the Court at that time could not have imagined the modern game or a 1993 World Series where Canada's Toronto Blue Jays defeated the Philadelphia Phillies in games that were televised literally around the world.

Fifty years after the Supreme Court's decision in *Federal Baseball Club*, the Court rendered its decision in *Flood* v. *Kuhn*, which repudiated the legal basis of its prior decision as an "anomaly" and "aberration confined to baseball" but, because of its reluctance to overturn long-standing decisions, left the job of remedying its mistake to Congress.

Unfortunately, Congress has been reluctant to follow the Court's instruction. In the past, it has been argued that this issue was not ripe, that it should not be considered too close to a labor dispute or, as was the case most recently, that it should not be discussed during a labor dispute. Fortunately, that now infamous dispute, which has done so much to tarnish the game, is resolved. The time has come to pass this legislation.

Moreover, for the first time, the primary impediment to passage has been eliminated. In the new collective bargaining agreement the owners have pledged to work with the players to pass legislation that makes clear that professional baseball is subject to the antitrust laws with regard to labor relations.

It is our hope that this year, Congress will finally rectify the Court's mistake and make clear once and for all that baseball no longer has any claim to antitrust immunity. It has been 25 years since Curt Flood jeopardized his career by unsuccessfully challenging baseball's reserve clause, a suit which resulted in the unfortunate decision mentioned above.

Yesterday, Curt Flood tragically died of throat cancer at the age of 59. The hearts of baseball fans all over the country go out to Mr. Flood's family. I join these fans in expressing my deepest regrets to the Flood family, and let me suggest today that the time has come to finish what Curt Flood so courageously began.

Let me emphasize that our bill does not impose a big government solution to baseball's problems. On the contrary, it would get government out of the way by eliminating a serious government-made obstacle to resolution of the labor difficulties in baseball. Baseball's antitrust immunity has distorted labor relations in major league baseball and has sheltered baseball from the market forces that have allowed the other professional sports, such as football and basketball, to thrive.

I should note that comparable legislation has been introduced in the other body by Mr. Conyers of Michigan, the ranking member of the House Judiciary Committee, whose bill bears Mr. Flood's number.

Mr. President, I ask unanimous consent that the full text of our bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 53

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Curt Flood Act of 1997".

SEC. 2. APPLICATION OF THE ANTITRUST LAWS TO PROFESSIONAL MAJOR LEAGUE BASEBALL.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) Subject to subsection (b), the antitrust laws shall apply to the business of professional major league baseball.

"(b) Nothing in this section shall be construed to affect—

"(1) the applicability or nonapplicability of the antitrust laws to the amateur draft of professional baseball, the minor league reserve clause, the agreement between professional major league baseball teams and teams of the National Association of Baseball, commonly known as the 'Professional Baseball Agreement', or any other matter relating to the minor leagues;

"(2) the applicability or nonapplicability of the antitrust laws to any restraint by professional baseball on franchise relocation; or

"(3) the application of Public Law 87-331 (15 U.S.C. 1291 et seq.) (commonly known as the 'Sports Broadcasting Act of 1961').".

Mr. THURMOND. Mr. President, I rise today in support of the Curt Flood Act of 1997, which I am cosponsoring with Senator HATCH, Senator LEAHY, and others. Our legislation would repeal the antitrust exemption which shields major league baseball from the antitrust laws that apply to all other sports and unregulated businesses in our Nation. This bill is virtually identical to S. 627 in the last Congress which was the result of discussions between myself and Senators HATCH and LEAHY following the February 1995 hearing I chaired on this important issue. The bill is a compromise which has been carefully drafted to ensure that it achieves its purpose without imposing any unnecessary hardship on major league baseball.

It is fitting that this bill is named after Curt Flood, who died yesterday, for the Supreme Court denied Mr. Flood the relief he sought by upholding the antitrust exemption which we now seek to change. In his 1972 Supreme Court case, Mr. Flood challenged baseball's reserve clause which bound players to teams for their entire careers. Although unsuccessful because of the judicially-created antitrust exemption, Mr. Flood's selfless actions paved the way for the success of other players through arbitration. It is now time for us to resolve the antitrust exemption.

The bill we are introducing today eliminates baseball's antitrust exemption, with two exceptions. The legislation maintains the status quo for franchise location, and for the relationship with the minor leagues. It is important to protect the existing minor league relationships in order to avoid disruption of the more than 170 minor league teams which exist throughout our Nation. Continuing to shield franchise relocation decisions from the antitrust laws resolves the uncertainty facing team owners in other professional sports.

Mr. President, it is my belief that the Congress should repeal the court-imposed antitrust exemption and restore baseball to the same level playing field as other professional sports and unregulated businesses. In the last Congress, we were successful in passing S. 627 in the Antitrust, Business Rights, and Competition Subcommittee and in the Committee on the Judiciary. In this Congress we should make a concerted effort to enact the Curt Flood Act.

Mr. LEAHY. Mr. President, I join today in introducing the Curt Flood Act of 1997. Like the earlier version of this legislation that I sponsored in the last Congress, this bill is intended to cut back on the unjustified, judicially created exemption from the antitrust laws. In my view no one is or should be above the law.

Last Congress for the first time in our history, the Senate Judiciary Committee favorably reported language designed to cut back baseball's judicially mandated and aberrational antitrust exemption. We did so with the support of the Clinton administration and a bipartisan coalition of Senators. This bill reflects that language.

The Senate refused to consider the measure over the last 2 years. In part that may be explained by the opposition from major league baseball team owners and perhaps by a feeling among some that we should not legislate during a time in which there was a labor-management impasse. Both those concerns have now been removed with the recent, 5-year agreement between the major league baseball team owners and the Major League Baseball Players Association. Indeed, a provision in that agreement calls for the owners to lobby Congress in support of the repeal of the antitrust exemption, at least to the extent it relates to labor-management relations.

It is time to build on the progress we made last year and long past time for the Senate to act. Congress may not be able to solve every problem or heal baseball's self-inflicted wounds, but we can do this: We can pass legislation that will declare that professional baseball can no longer operate above the law.

Our antitrust laws protect competition and benefit consumers. We are faced with an anomalous situation where the Federal antitrust laws have not applied to certain major league baseball functions and operations for over 70 years.

I hope that we will, at long last, take up the issue of major leagues baseball's antitrust exemption. The burden of proof is on those who seek to justify this exemption from the law. No other business or professional or amateur sport is possessed of the exemption from law that major league baseball has enjoyed and abused.

One of the players who testified at our hearings last Congress asked a most perceptive question: If baseball were coming to Congress today to ask us to provide a statutory exemption, would such a bill be passed? I believe the answer to that question is a resounding no.

In addition, there is and has been no independent commissioner who could look out for the best interests of baseball and its fans. Despite repeated assurances, there has been no action to restore a strong, independent commissioner to oversee the game and it has suffered the consequences. It is only now beginning to emerge from a 4-year struggle without a labor-management agreement. I see that the owners last week authorized their executive committee to begin a search for a new commissioner. In my view baseball would be well served by making a serious commitment to a strong, independent commissioner. Neither fans nor Congress will be inspired by delay, drift or lack of direction.

In Vermont when I was growing up virtually everyone was a Red Sox fan. Now loyalties are split among teams and among various sports. We have a successful minor league team, the Vermont Expos, the champions of the New York-Penn League last season. We also have businesses and jobs that depend on baseball and fans who have been hurt by its shortsightedness and mismanagement over the past several years. There is a strong public interest in baseball and it reverberates throughout the country.

I am concerned about the interests of the public and, in particular, the interests of baseball fans. To reiterate the words of baseball's last commissioner, Fay Vincent: "Baseball is more than ownership of an ordinary business. Owners have a duty to take into consideration that they own a part of America's national pastime—in trust. This trust sometimes requires putting self-interest second." Baseball's fans feel that this trust had been violated over the last several years.

It is the public that is being shortchanged by the policies and practices of major league baseball and by disregard for the interests of the fans. I look forward to moving ahead thoughtfully to reconsider major league baseball's exemption from legal requirements to which all other businesses must conform their behavior. Since the multi-billion dollar businesses that have grown from what was once our national pastime are now being run accordingly to a financial bottom line, a healthy injection of competition may be just what is needed.

I want to be reassured, for example, that the minor league teams will not be abandoned or exploited by major league owners and that the negotiations concerning the Professional Baseball Agreement proceed to a fair conclusion without being skewed by some notion of antitrust exemption. I want to consider whether there are measures we in Congress might take to strengthen the hands of cities, taxpayers and fans against the extortionate demands for new stadiums at public expense. I want to revisit the issues of antitrust immunity in connection with sports broadcasting rights and restrictions on viewers' access to programming imposed by major league owners. If I had my way, we would make progress in clarifying each of these matters.

In an effort to act expeditiously, I am cosponsoring this consensus measure. I look forward to our prompt hearings, Committee and Senate consideration and to working with others to forge a legal framework in which the public will be better served.

I am delighted and encouraged that the ranking Democratic member of the House Judiciary Committee, Rep. JOHN CONYERS, JR., also acted on the first day of legislative activity in the House to introduce H.R. 21, companion baseball antitrust legislation based on what we reported last Congress. It is right and fitting that he chose Curt Flood's number for this bill.

Mr. Flood passed away yesterday. His contributions to the game of baseball went well beyond his all star play and outstanding statistics. He was a critical part of championship teams during his years patrolling center field for the St. Louis Cardinals in the late 50's and 60's. He was an outstanding hitter, fielder and all around player in an era of great players.

His part in baseball history has even more to do with his resolve to stand up for what he knew was the right thing and his legal challenge to the reserve clause, which had bound players to teams for life. He was the plaintiff who sacrificed his career and a place in baseball's Hall of Fame by taking the matter all the way to the United States Supreme Court where, in 1972, the Court challenged Congress to correct the aberration that baseball's antitrust immunity represents in our law. There would be no more fitting tribute to Curt Flood's courage than for this Congress finally to answer that 25-year-old call to action. I hope that we will do so without further delay.

Mr. MOYNIHAN. Mr. President, I am pleased to be an original cosponsor of the Curt Flood Act of 1997, a bill drafted by the distinguished chairman of the Judiciary Committee, Senator HATCH.

This bill is designed to be a partial repeal of major league baseball's antitrust exemption. It would leave the exemption in place as it pertains to minor league baseball and the ability of major league baseball to control the relocation of franchises.

In 1922, the Supreme Court of the United States, in *Federal Baseball Club* v. *National League*, held that "exhibitions of base ball" were not interstate commerce and thus were exempt from the antitrust laws. Fifty years later, in *Flood* v. *Kuhn* in 1972, the Court concluded that the antitrust exemption was an "anomaly" and an "aberration confined to baseball" and that "professional baseball is a business and it is engaged in interstate commerce." Even so, the Court refused to reverse its 1922 decision in *Federal Baseball*. Justice Blackmun, delivering the opinion of the Court in *Flood*, wrote:

> If there is any inconsistency or illogic in all this, it is an inconsistency and illogic of long standing that is to be remedied by the Congress and not by this Court.

This decision clearly laid responsibility for baseball's antitrust exemption on Congress. It also explicitly recognized baseball's evolution into a major industry. Clearly, baseball is a business engaged in interstate commerce, and should be subject to the antitrust laws to the same extent that all other businesses are. So now, in 1997, on the 75th anniversary of *Federal Baseball*, the time has come for Congress to act.

On the first day of the 104th Congress, I introduced my own legislation on the subject. My bill, S. 15, the National Pastime Preservation Act of 1995, would have applied the antitrust laws to major league baseball without the exceptions suggested by my friend from Utah.

At this time, I am pleased to support any efforts that will provide a more level playing field for baseball's labor negotiations and that should help to prevent future strikes like the one we experienced in 1994 and 1995 from interrupting the fans enjoyment of the game of baseball itself. While I am happy that both the owners and the players agreed to support this limited repeal of baseball's antitrust exemption, it is important to keep in mind that the players and owners do not write the labor laws, Congress does.

It is most appropriate that this bill has been named in honor of Curt Flood, the man responsible for the second significant challenge to baseball's antitrust immunity. Curt Flood was a battler. Sadly, he lost a different battle yesterday, to throat cancer. He was only 59.

Mr. Flood hit over .300 six times playing for the St. Louis Cardinals and he finished his 15-year career with a lifetime batting average of .293. he was also a seven-time Gold Glove winner, a three-time all-star, and he helped lead the Cardinals to their World Series titles in 1964 and 1967.

After the 1969 season, however, at the age of 32, Curt Flood was traded to the Phillies. Mr. Flood did not want to move. St. Louis was his home (he had played for the Cardinals for 11 years) and he was concerned about the racial politics in Philadelphia at the time. He sent a letter to Commissioner Bowie Kuhn asking him to nullify the trade, but his request was denied. It was in response to this denial that Mr. Flood initiated his historic suit challenging baseball's antitrust exemption.

Curt Flood put his career on the line by sitting out the 1970 season as he challenged baseballs' reserve clause—rules that prohibited players from choosing which teams they wished to play for. While he resumed playing in 1971 after St. Louis and Philadelphia made a deal with the Washington Senators, the year off hurt Mr. Flood. his level of play was not the same and he retired after playing only 13 games for the Senators. The head of the players' union, Don Fehr, called Mr. Flood "a man of quiet dignity." He added, "Curt Flood conducted his life in a way that set an example for all who had the privilege to know him. When it came time to take a stand, at great personal risk and sacrifice, he proudly stood firm for what he believe was right."

I thank my friend from Utah for inviting me to cosponsor this legislation, and hope other Senators agree with us that the time has come to act.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. D'AMATO, Mr. HARKIN, and Mr. REID):

S. 54. A bill to reduce interstate street gang and organized crime activity, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL GANG VIOLENCE ACT OF 1997

Mr. HATCH. Mr. President, I rise today to introduce the Federal Gang Violence Act. I am pleased to be joined in this important effort by Senator FEINSTEIN, as well as by Senators D'AMATO, HARKIN, and REID.

Gang violence in many of our communities is reaching frightening levels. Last year, my hometown of Salt Lake City was shocked by a particularly awful example. Asipeli Mohi, a 17-year-old Utahn, was tried and convicted of the gang-related beating and shooting death of another teenager, Aaron Chapman. Why was Aaron Chapman murdered? He was wearing red, apparently the color of a rival gang. Ironically, Mr. Chapman was on his way home from attending an anti-gang benefit concert when he was killed. Before committing this murder, the killer had racked up a record of five felonies and fifteen misdemeanors in juvenile court. Sadly, this example of senseless gang violence is not an isolated incident in my State or elsewhere. It is a scene replayed with disturbing frequency.

Gang violence is now common even in places where this would have been unthinkable several years ago. Indeed, many people find it hard to believe that Salt Lake City or Ogden could have such a problem—gangs, they think, are a problem in cities like New York, Chicago, and Los Angeles, but not in our smaller cities.

However, reality is much grimmer. Since 1992, gang activity in Salt Lake City has increased tremendously. For instance, the number of identified gangs has increased fifty-five percent, from 185 to 288, and the number of gang members has increased 146 percent, from 1,438 to 3,545.

The number of gang-related crimes has increased a staggering 196 percent, from 1,741 in 1992 to 5,158 in the first eleven months of 1996. In 1995, there were 174 gang-related drive-by shootings, and in the first eleven months of 1996, this dismaying statistic increased to 207.

Our problem is severe. Moreover, there is a significant role the Federal Government can play in fighting this battle. I am not one to advocate the unbridled extension of Federal jurisdiction. Indeed, I often think that we have federalized too many crimes. However, in the case of criminal street gangs, which increasingly are moving interstate to commit crimes, there is a very proper role for the Federal Government to play.

This bill will strengthen the coordinated, cooperative response of Federal, State, and local law enforcement to criminal street gangs by providing more flexibility to the Federal partners in this effort. It provides the Federal prosecutorial tools needed to combat gang violence. Violent crimes committed by youth continue to be the fastest growing type of crime. Indeed, even as the general crime rate has leveled off, or even declined slightly over the last couple of years, violent youth crime, much of it committed by gangs, has increased. As my colleagues know, the sophistication and the interstate nature of these gangs has increased as well.

This bill puts teeth into the Federal gang statute, by adding tough penalties based on the existing Continuing Criminal Enterprise statute in title 21 [21 U.S.C. 848]. Federal prosecutors will be able to charge gang leaders or members under this section if they engage in two or more criminal gang offenses.

These offenses include violent crimes, serious drug crimes, drug money laundering, extortion, and obstruction of justice—all offenses commonly committed by gangs.

Our bill adds a one to ten year sentence for the recruitment of persons into a gang. Importantly, there are even tougher penalties for recruiting a minor into a gang, including a four year mandatory minimum sentence.

The bill adds the use of a minor in a crime to the list of offenses for which a person can be prosecuted under the federal racketeering laws, known as RICO.

It enhances the penalties for transferring a handgun to a minor, knowing that it will be used in a crime of violence, and adds a new federal sentencing enhancement for the use of body armor in the commission of a federal crime.

Finally, the legislation we introduce today adds serious juvenile drug offenses to the list of predicates under the federal Armed Career Criminal Act, and authorizes $20 million over five years to hire federal prosecutors to crack down on criminal gangs.

Mr. President, these are common sense, needed provisions. They're tough. We need to get tough with gangs who recruit kids with the lure of easy money and glamour. This legislation is not a panacea for our youth violence crisis. But it is a large and critical step in addressing this issue. I look forward to working with my colleagues on this bill, and urge their support.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 54

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Gang Violence Act".

SEC. 2. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.

(a) Definition.—In this section, the term "criminal street gang" has the same meaning as in section 521(a) of title 18, United States Code, as amended by section 3 of this Act.

(b) Amendment of Sentencing Guidelines.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels, for any offense, if the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang and the defendant was a member of the criminal street gang at the time of the offense.

(c) Construction With Other Guidelines.—The amendment made pursuant to subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal sentencing guidelines.

SEC. 3. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

(a) In General.—Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Definitions.—" and inserting the following:

"(a) Definitions.—In this section:", and

(B) by striking "'conviction" and all that follows through the end of the subsection and inserting the following:

"(1) Criminal street gang.—The term 'criminal street gang' means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

"(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

"(B) any members of which engage, or have engaged during the 5-year period preceding the date in question, in a pattern of criminal gang activity; and

"(C) the activities of which affect interstate or foreign commerce.

"(2) Pattern of criminal gang activity.—The term 'pattern of criminal gang activity' means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal street gang—

"(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

"(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

"(C) that were committed on separate occasions.

"(3) Predicate gang crime.—The term 'predicate gang crime' means an offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—

"(A) a Federal offense—

"(i) that is a crime of violence (as that term is defined in section 16) including carjacking, drive-by-shooting, shooting at an unoccupied dwelling or motor vehicle, assault with a deadly weapon, and homicide;

"(ii) that involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is imprisonment for not less than 5 years;

"(iii) that is a violation of section 844, section 875 or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 1955 (relating to gambling), chapter 44 (relating to firearms), or chapter 73 (relating to obstruction of justice);

"(iv) that is a violation of section 1956 (relating to money laundering), insofar as the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(v) that is a violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328) (relating to alien smuggling);

"(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

"(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

"(3) State.—The term 'State' includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory of possession of the United States."; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

"(b) Criminal Penalties.—Any person who engages in a pattern of criminal gang activity—

"(1) shall be sentenced to—

"(A) a term of imprisonment of not less than 10 years and not more than life, fined in accordance with this title, or both; and

"(B) the forfeiture prescribed in section 413 of the Controlled Substances Act (21 U.S.C. 853); and

"(2) if any person engages in such activity after 1 or more prior convictions under this section have become final, shall be sentenced to—

"(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and

"(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853).".

(b) CONFORMING AMENDMENT.—Section 3663(c)(4) of title 18, United States Code, is amended by inserting before “chapter 46” the following: “section 521 of this title,”.

SEC. 4. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL STREET GANGS.

(a) TRAVEL ACT AMENDMENTS.—

(1) PROHIBITED CONDUCT AND PENALTIES.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

“(a) PROHIBITED CONDUCT AND PENALTIES.—

“(1) IN GENERAL.—Any person who—

“(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

“(i) distribute the proceeds of any unlawful activity; or

“(ii) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

“(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A),

shall be fined under this title, imprisoned not more than 10 years, or both.

“(2) CRIMES OF VIOLENCE.—Any person who—

“(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

“(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), commits, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity,

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.”.

(2) DEFINITIONS.—Section 1952(b) of title 18, United States Code, is amended to read as follows:

“(b) DEFINITIONS.—In this section:

“(1) CONTROLLED SUBSTANCE.—The term ‘controlled substance’ has the same meaning as in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

“(2) STATE.—The term ‘State’ includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

“(3) UNLAWFUL ACTIVITY.—The term ‘unlawful activity’ means—

“(A) predicate gang crime (as that term is defined in section 521);

“(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances, or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

“(C) extortion, bribery, arson, robbery, burglary, assault with a deadly weapon, retaliation against or intimidation of witnesses, victims, jurors, or informants, assault resulting in bodily injury, possession of or trafficking in stolen property, illegally trafficking in firearms, kidnapping, alien smuggling, or shooting at an occupied dwelling or motor vehicle, in each case, in violation of the laws of the State in which the offense is committed or of the United States; or

“(D) any act that is indictable under section 1956 or 1957 of this title or under subchapter II of chapter 53 of title 31.”.

(b) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines so that—

(A) the base offense level for traveling in interstate or foreign commerce in aid of a criminal street gang or other unlawful activity is increased to 12; and

(B) the base offense level for the commission of a crime of violence in aid of a criminal street gang or other unlawful activity is increased to 24.

(2) DEFINITIONS.—In this subsection—

(A) the term “crime of violence” has the same meaning as in section 16 of title 18, United States Code;

(B) the term “criminal street gang” has the same meaning as in 521(a) of title 18, United States Code, as amended by section 3 of this Act; and

(C) the term “unlawful activity” has the same meaning as in section 1952(b) of title 18, United States Code, as amended by this section.

SEC. 5. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY.

(a) PROHIBITED ACTS.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

“§ 522. Recruitment of persons to participate in criminal street gang activity

“(a) PROHIBITED ACT.—It shall be unlawful for any person to—

“(1) use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, request, induce, counsel, command, or cause another person to be a member of a criminal street gang, or conspire to do so; or

“(2) recruit, solicit, request, induce, counsel, command, or cause another person to engage in a predicate gang crime for which such person may be prosecuted in a court of the United States, or conspire to do so.

“(b) PENALTIES.—A person who violates subsection (a) shall—

“(1) if the person recruited—

“(A) is a minor, be imprisoned for a term of not less than 4 years and not more than 10 years, fined in accordance with this title, or both; or

“(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

“(2) be liable for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18.

“(c) DEFINITIONS.—In this section—

“(1) the terms ‘criminal street gang’ and ‘predicate gang crime’ have the same meanings as in section 521; and

“(2) the term ‘minor’ means a person who is younger than 18 years of age.”.

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines to provide an appropriate enhancement for any offense involving the recruitment of a minor to participate in a gang activity.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

“522. Recruitment of persons to participate in criminal street gang activity.”.

SEC. 6. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL STREET GANGS AND FIREARMS OFFENSES AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking “or” before “(F)”; and

(2) by inserting before the semicolon at the end the following: “, (G) an offense under section 522 of this title, or (H) an act or conspiracy to commit any violation of chapter 44 of this title (relating to firearms)”.

SEC. 7. PROHIBITIONS RELATING TO FIREARMS.

(a) PENALTIES.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A);

(3) in subparagraph (A), as redesignated—

(A) by striking “(B) A person other than a juvenile who knowingly” and inserting “(A) A person who knowingly”;

(B) in clause (i), by striking “not more than 1 year” and inserting “not less than 1 year and not more than 5 years”; and

(C) in clause (ii), by inserting “not less than 1 year and” after “imprisoned”; and

(4) by adding at the end the following:

“(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 13 years of age.”.

(b) SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PREDICATES.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking “or” at the end;

(2) in clause (ii), by adding “or” at the end; and

(3) by adding at the end the following:

“(iii) any act of juvenile delinquency that if committed by an adult would be an offense described in clause (i) or (ii);”.

(c) TRANSFER OF FIREARMS TO MINORS FOR USE IN CRIME.—Section 924(h) of title 18, United States Code, is amended by striking “10 years, fined in accordance with this title, or both” and inserting “10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not less than 3 years, fined in accordance with this title, or both”.

SEC. 8. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) DEFINITIONS.—In this section—

(1) the term “body armor” means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) the term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) SENTENCING ENHANCEMENT.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any crime in which the defendant used body armor.

(c) APPLICABILITY.—No Federal sentencing guideline amendment made pursuant to this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 9. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, and 2002 for the hiring of Assistant United States Attorneys and attorneys in the Criminal Division of the Department of Justice to prosecute juvenile criminal street gangs (as that term is defined in section 521(a) of title 18, United States Code, as amended by section 3 of this Act).

By Mr. FEINGOLD (for himself and Mr. REID):

S. 57. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, to limit soft money of political party committees, and for other purposes; to the Committee on Rules and Administration.

THE SENATE CAMPAIGN FINANCING AND SPENDING REFORM ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce the proposed Senate Campaign Financing and Spending Reform Act of 1997, legislation that would provide public financing for Senate elections.

The need for comprehensive campaign finance reform is unquestionable. Each election year continues to set new records for campaign spending by federal candidates, with 1996 campaign expenditures expected to surpass $1.6 billion. This explosion in campaign spending has alienated the American people from the election process, discouraged thousands of qualified yet underfunded candidates from seeking public office, and heightened public disgust with the ways of Washington to levels not seen since the dark days of Watergate.

I have long believed that we need to sever the nexus between money and politics, and end as a prerequisite for elected office a candidate's ability to raise and spend millions of dollars. The most straightforward way to achieve that result is through a system of public financing.

The legislation I am introducing today, which I also introduced at the outset of the 104th Congress, would provide qualified candidates with the means to run a credible, competitive and issue-based campaign without having to raise the average $5 million it takes to win a Senate election.

This bill will establish voluntary spending limits based on each State's individual voting age population. With the cooperation of the candidates, this will finally curtail the skyrocketing spending that has plagued political campaigns in recent years. Just as important, these spending limits will allow Members of Congress to focus on their duties and responsibilities as elected officials rather than spending substantial amounts of time raising money. For those candidates that do abide by the spending limits, there will be matching funds in the primary election for contributions under $250, once a candidate has raised 15 percent of that State's spending limit in contributions of $250 or less, half of which must come from within the candidate's state. There will be a 100 percent match for contributions under $100, and a 50 percent match for contributions between $101 and $250.

These provisions, along with only providing matching funds for in-state contributions, will encourage candidates to focus on smaller contributions from their home States. I believe this focus upon raising money within our home States is critical. General election candidates will become eligible for public financing benefits equal to the general election spending limit for their State.

In addition to agreeing to limit their overall campaign spending, candidates who receive the public benefits must agree to not spend more than $25,000 of their own money.

Opponents of campaign finance reform have often suggested that voluntary spending limits are unconstitutional. That is unfounded. In fact, in the landmark Supreme Court decision in *Buckley* v. *Valeo*, the Court noted that "Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forego private fundraising and accept public funding."

The legislation also bans so-called "soft money" that has allowed corporations, labor unions, and wealth individuals to contribute unlimited funds, up to millions of dollars, to the political parties outside the scope of Federal election law. The legislation restricts Political Action Committee (PAC) contributions to Federal candidates, prohibits lawmakers from sending out franked mass mailings during the calendar year of an election, bars lobbyists from contributing to elected officials they have lobbied in a 12-month period, and codifies a recent ruling by the Federal Election Commission that bars candidates from using campaign funds for personal purposes, such as mortgage payments, country club memberships, and vacations.

Public financing of campaigns will give challengers a legitimate opportunity to run a competitive campaign, will allow incumbents to focus on their legislative responsibilities, and will help to extinguish public perceptions that the United States Congress is under the control of the Washington special interests.

Public support for this sort of reform is strong. According to a recent poll by the Mellman Group, 59 percent of the American people—the highest level since Watergate—support full public financing for congressional campaigns. Just 29 percent of the American people oppose this proposal. The Mellman Group even found two out of every three self-described Republicans supported public financing. A Gallup poll found similar results, finding 64 percent overall support for a public financing system.

And perhaps most revealing, a very recent Wall Street Journal/NBC News poll found 92 percent of the American people simply believe too much money is spent in Federal elections.

I have no illusions that a public financing proposal would win approval in the 105th Congress. I believe that one day those who have opposed public financing will finally get the message the voters are trying to send us and there will be wider support within the Congress for this approach to cleaning up election campaigns.

In the meantime, I do believe there are meaningful reforms that can be considered and enacted with bipartisan support. That is why I have joined with a number of my colleagues on both sides of the aisle, including Senators MCCAIN, THOMPSON, WELLSTONE and others in co-authoring the first bipartisan campaign finance reform proposal offered in a decade.

That legislation, strongly supported by President Clinton, Common Cause, and numerous grassroots organizations and newspapers nationwide, would begin the process of fundamentally changing and reducing the role of money in our political system. It also encourages candidates to limit their campaign spending, but instead of offering direct public financing it provides substantial discounts on broadcast media and postage rates to candidates who agree to limit their overall spending, who agree to limit their own personal spending, and who agree to raise 60 percent of their campaign funds from their home States. I look forward to working with my colleagues on passing such meaningful reform, and will press for action in the first 100 days of this new Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 57

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Campaign Financing and Spending Reform Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and declarations of the Senate.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Expenditure Limits and Benefits

Sec. 101. Senate expenditure limits and benefits.
Sec. 102. Political action committees.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by candidates other than eligible Senate candidates.

Subtitle B—General Provisions

Sec. 131. Broadcast rates and preemption.
Sec. 132. Extension of reduced third-class mailing rates to eligible Senate candidates.
Sec. 133. Campaign advertising amendments.
Sec. 134. Definitions.
Sec. 135. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Reporting requirements for certain independent expenditures.

TITLE III—EXPENDITURES

Subtitle A—Personal Funds; Credit

Sec. 301. Contributions and loans from personal funds.
Sec. 302. Extensions of credit.

Subtitle B—Soft Money of Political Party Committees

Sec. 311. Soft money of political party committees.
Sec. 312. Reporting requirements.

TITLE IV—CONTRIBUTIONS

Sec. 401. Contributions through intermediaries and conduits; prohibition on certain contributions by lobbyists.
Sec. 402. Contributions by dependents not of voting age.
Sec. 403. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 404. Limited exclusion of advances by campaign workers from the definition of the term "contribution".

TITLE V—REPORTING REQUIREMENTS

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Personal and consulting services.
Sec. 503. Contributions of $50 or more.
Sec. 504. Computerized indices of contributions.

TITLE VI—FEDERAL ELECTION COMMISSION

Sec. 601. Use of candidates' names.
Sec. 602. Reporting requirements.
Sec. 603. Provisions relating to the general counsel of the Commission.
Sec. 604. Penalties.
Sec. 605. Random audits.
Sec. 606. Prohibition of false representation to solicit contributions.
Sec. 607. Regulations relating to use of non-Federal money.
Sec. 608. Filing of reports using computers and facsimile machines.

TITLE VII—MISCELLANEOUS

Sec. 701. Prohibition of leadership committees.
Sec. 702. Polling data contributed to candidates.
Sec. 703. Restrictions on use of campaign funds for personal purposes.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.
Sec. 802. Severability.
Sec. 803. Expedited review of constitutional issues.

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) permitting candidates for Federal office to raise and spend unlimited amounts of money constitutes a fundamental flaw in the current system of campaign finance, and has undermined public respect for the Senate as an institution;

(3) the failure to limit campaign expenditures has caused individuals elected to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(4) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns; and

(5) to prevent the appearance of undue influence and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system which provides public benefits to candidates who agree to limit campaign expenditures.

(b) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent a system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;

(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's cap on campaign expenditures.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Expenditure Limits and Benefits

SEC. 101. SENATE EXPENDITURE LIMITS AND BENEFITS.

(a) AMENDMENT OF FECA.—Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"TITLE V—EXPENDITURE LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. DEFINITIONS.

"In this title:

"(1) ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate who is certified under section 505 as being eligible to receive benefits under this title.

"(2) EXCESS EXPENDITURE AMOUNT.—The term 'excess expenditure amount', with respect to an eligible Senate candidate, means the amount applicable to the eligible Senate candidate under section 504(c).

"(3) EXPENDITURE.—The term 'expenditure' has the meaning given in paragraph (9) of section 301, excluding subparagraph (B)(ii) of that paragraph.

"(4) FUND.—The term 'Fund' means the Senate Election Campaign Fund established by section 509.

"(5) GENERAL ELECTION EXPENDITURE LIMIT.—The term 'general election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(b).

"(6) PERSONAL FUNDS EXPENDITURE LIMIT.—The term 'personal funds expenditure limit' means the limit stated in section 503(a).

"(7) PRIMARY ELECTION EXPENDITURE LIMIT.—The term 'primary election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 502(d)(1)(A).

"(8) RUNOFF ELECTION EXPENDITURE LIMIT.—The term 'runoff election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 502(d)(1)(B).

"SEC. 502. ELIGIBLE SENATE CANDIDATES.

"(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

"(1) files a primary election eligibility certification and declaration under subsection (b) and is in compliance with the representations made in the certification and declaration; and

"(2) files a general election eligibility certification and declaration under subsection (c) and is in compliance with the representations made in the certification and declaration.

"(b) PRIMARY ELECTION ELIGIBILITY CERTIFICATION AND DECLARATION.—

"(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate—

"(A) a certification, under pending of perjury, that the candidate has met the threshold contribution requirement of subsection (e); and

"(B) a declaration that the candidate and the candidate's authorized committees—

"(i)(I) will not exceed the primary election expenditure limit or runoff election expenditure limits; and

"(II) will accept only an amount of contributions for the primary election and any runoff election that does not exceed the primary election expenditure limit and, if there is a runoff election, the runoff election expenditure limit;

"(ii)(I) will not exceed the primary and runoff election multicandidate political committee contribution limits of subsection (f); and

"(II) will accept only an amount of contributions for the primary election and any runoff election from multicandidate political committees that does not exceed those limits;

"(iii) will not accept contributions for the primary or runoff election that would cause the candidate to exceed the limitation on contributions from out-of-State residents under subsection (g);

"(iv) will not exceed the personal funds expenditure limit; and

"(v) will not exceed the general election expenditure limit.

“(2) DEADLINE FOR FILING DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files as a candidate for the primary election.

“(c) GENERAL ELECTION ELIGIBILITY CERTIFICATION AND DECLARATION.—

“(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate—

“(A) a certification, under penalty of perjury, that—

“(i) the candidate and the candidate's authorized committees—

“(I) did not exceed the primary election expenditure limit or runoff election expenditure limit;

“(II) did not accept contributions for the primary election or runoff election in excess of the primary election expenditure limit or runoff election expenditure limit, reduced by any amounts transferred to the current election cycle from a preceding election cycle;

“(III) did not accept contributions for the primary or runoff election in excess of the multicandidate political committee contribution limits under subsection (f);

“(IV) did not accept contributions for the primary election or runoff election that caused the candidate to exceed the limitation on contributions from out-of-State residents under subsection (g); and

“(ii) at least 1 other candidate has qualified for the same general election ballot under the law of the candidate's State; and

“(B) a declaration that the candidate and the authorized committees of the candidate—

“(i) except as otherwise provided by this title, will not make expenditures that exceed the general election expenditure limit;

“(ii) except as otherwise provided by this title, will not accept any contribution for the general election to the extent that the contribution—

“(I) would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit, reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

“(II) would cause the candidate to exceed the limitation on contributions from out-of-State residents under subsection (g);

“(III) would be in violation of section 315;

“(iii) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

“(vi) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

“(v) will cooperate in the case of any audit and examination by the Commission under section 506 and will pay any amounts required to be paid under that section.

“(2) DEADLINE FOR FILING DECLARATION AND CERTIFICATION.—The declaration and certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

“(A) the date on which the candidate qualifies for the general election ballot under State law; or

“(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

“(d) PRIMARY AND RUNOFF ELECTION EXPENDITURE LIMITS.—

“(1) IN GENERAL.—The requirements of this subsection are met if—

“(A) the candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

“(i) 67 percent of the general election expenditure limit; or

“(ii) $2,750,000;

“(B) the candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit.

“(2) INDEXING.—The $2,750,000 amount under paragraph (1)(A)(ii) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1) and section 503(b)(3), the base period shall be calendar year 1996.

“(3) INCREASE.—The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, the candidate during the primary or runoff election period, whichever is applicable, that are required to be reported to the Secretary of the Senate or to the Commission with respect to that period under section 304.

“(4) EXCESS AMOUNT OF CONTRIBUTIONS.—

“(A) IN GENERAL.—If the contributions received by a candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either election—

“(i) the excess amount of contributions shall be treated as contributions for the general election; and

“(ii) expenditures for the general election may be made from the excess amount of contributions.

“(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that treatment of excess contributions in accordance with subparagraph (A)—

“(i) would result in the violation of any limitation under section 315; or

“(ii) would cause the aggregate amount of contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

“(e) THRESHOLD CONTRIBUTION REQUIREMENT.—

“(1) IN GENERAL.—The requirement of this subsection is met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

“(A) 10 percent of the general election expenditure limit; or

“(B) $250,000.

“(2) DEFINITIONS.—In this section and subsections (b) and (c) of section 504:

“(A) ALLOWABLE CONTRIBUTION.—

“(i) IN GENERAL.—The term ‘allowable contribution’ means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

“(ii) EXCLUSIONS.—The term ‘allowable contribution’ does not include—

“(I) a contribution from any individual during the applicable period to the extent that the aggregate amount of such contributions from the individual exceeds $250; or

“(II) a contribution from an individual residing outside the candidate's State to the extent that acceptance of the contribution would bring a candidate out of compliance with subsection (g).

“(iii) APPLICABILITY.—Items subclauses (I) and (II) of clause (ii) shall not apply for purposes of section 504(a).

“(B) APPLICABLE PERIOD.—The term ‘applicable period’ means—

“(i) the period beginning on January 1 of the calendar year preceding the calendar year of a general election and ending on—

“(I) the date on which the certification and declaration under subsection (c) is filed by the candidate; or

“(II) for purposes of subsection (a) of section 503, the date of the general election; or

“(ii) in the case of a special election for the office of United States Senator, the period beginning on the date on which the vacancy in the office occurs and ending on the date of the general election.

“(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have accepted from multicandidate political committees allowable contributions that do not exceed—

“(1) during the primary election period, an amount equal to 20 percent of the primary election spending limit; and

“(2) during the runoff election period, an amount equal to 20 percent of the runoff election spending limit.

“(g) LIMITATION ON OUT-OF-STATE CONTRIBUTIONS.—

“(1) REQUIREMENTS.—The requirements of this subsection are met if at least 50 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State.

“(2) PERSONAL FUNDS.—For purposes of paragraph (1), amounts consisting of funds from sources described in section 503(a) shall be treated as contributions from individuals residing outside the candidate's State.

“(3) TIME FOR DETERMINATION.—A determination whether the requirements of paragraph (1) are met shall be made each time a candidate is required to file a report under section 304 and shall be made on an aggregate basis.

“SEC. 503. LIMITS ON EXPENDITURES.

“(a) PERSONAL FUNDS EXPENDITURE LIMIT.—

“(1) IN GENERAL.—The aggregate amount of expenditures that may be made during an election cycle by an eligible Senate candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

“(2) SOURCES.—A source is described in this paragraph if it is—

“(A) personal funds of the candidate or a member of the candidate's immediate family; or

“(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

“(b) GENERAL ELECTION EXPENDITURE LIMIT.—

“(1) IN GENERAL.—Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

“(A) $5,500,000; or

“(B) the greater of—

“(i) $950,000; or

“(ii) $400,000; plus

“(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

“(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

“(2) EXCEPTION.—In the case of an eligible Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

“(A) ‘80 cents’ for ‘30 cents’ in subclause (I); and

“(B) ‘70 cents’ for ‘25 cents’ in subclause (II).

“(3) INDEXING.—The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for the calendar year under section 502(d)(2).

“(c) PAYMENT OF TAXES ON EARNINGS.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local income taxes on the earnings of a candidate's authorized committees.

“(d) EXPENDITURES.—For purposes of this title, the term ‘expenditure’ has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi).

“(e) EXPENDITURES IN RESPONSE TO INDEPENDENT EXPENDITURE.—If an eligible Senate candidate is notified by the Commission under section 304(c)(4) that independent expenditures totaling $10,000 or more have been made in the same election in favor of another candidate or against the eligible candidate, the eligible candidate shall be permitted to spend an amount equal to the amount of the independent expenditures, and any such expenditures shall not be subject to any limit applicable under this title to the eligible candidate for the election.

“SEC. 504. BENEFITS FOR ELIGIBLE SENATE CANDIDATES.

“(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

“(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

“(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

“(3) payments in an amount equal to—

“(A) the public financing amount determined under subsection (b);

“(B) the excess expenditure amount determined under subsection (c); and

“(C) the independent expenditure amount determined under subsection (d).

“(b) PUBLIC FINANCING AMOUNT.—

“(1) DETERMINATION.—The public financing amount is—

“(A) in the case of an eligible candidate who is a major party candidate and has met the threshold requirement of section 502(e)—

“(i)(I) during the primary election period, the public financing an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

“(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election expenditure limit; reduced by

“(III) the threshold requirement under section 502(e);

(ii)(I) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

“(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election expenditure limit; and

“(III) during the general election period, an amount equal to the general election expenditure limit; and

“(B) in the case of an eligible candidate who is not a major party candidate and who has met the threshold requirement of section 502(e)—

“(i)(I) during the primary election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

“(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election expenditure limit; reduced by

“(III) the threshold requirement under section 502(e);

“(ii)(I) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus,

“(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election expenditure limit; and

“(iii)(I) during the general election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less, plus;

“(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the general election expenditure limit.

“(c) EXCESS EXPENDITURE AMOUNT.—

“(1) DETERMINATION.—The excess expenditure amount is—

“(A) in the case of a major party candidate, an amount equal to the sum of—

“(i) if the opponent's excess is less than 33⅓ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; plus

“(ii) if the opponent's excess equals or exceeds 33⅓ percent but is less than 66⅔ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; plus

“(iii) if the opponent's excess equals or exceeds 66⅔ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; and

“(B) in the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the least of—

“(i) the amount of allowable contributions accepted by the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 502(e);

“(ii) 50 percent of the general election expenditure limit; or

“(iii) the opponent's excess.

“(2) DEFINITION OF OPPONENT'S EXCESS.—In this subsection, the term ‘opponent's excess’ means the amount by which an opponent of an eligible Senate candidate in the general election accepts contributions or makes (or obligates to make) expenditures for the election in excess of the general election expenditure limit.

“(d) INDEPENDENT EXPENDITURE AMOUNT.—The independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate that are required to be reported by the persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

“(e) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—

“(1) RECIPIENTS OF EXCESS EXPENDITURE AMOUNT PAYMENTS AND INDEPENDENT EXPENDITURE AMOUNT PAYMENTS.—

“(A) IN GENERAL.—An eligible Senate candidate who receives payments under subsection (a)(3) that are allocable to the independent expenditure or excess expenditure amounts described in subsections (c) and (d) may make expenditures from the payments for the general election without regard to the general election expenditure limit.

“(B) NONMAJOR PARTY CANDIDATES.—In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit shall be increased by the amount (if any) by which the excess opponent expenditure amount exceeds the amount determined under subsection (b)(2)(B) with respect to the candidate.

“(2) ALL BENEFIT RECIPIENTS.—

“(A) IN GENERAL.—An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to the personal funds expenditure limit or general election expenditure limit if any 1 of the eligible Senate candidate's opponents who is not an eligible Senate candidate raises an amount of contributions or makes or becomes obligated to make an amount of expenditures for the general election that exceeds 200 percent of the general election expenditure limit.

“(B) LIMITATION.—The amount of the expenditures that may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit.

“(3) ACCEPTANCE OF CONTRIBUTION WITHOUT REGARD TO SECTION 502(C)(1)(B)(iv).—

“(A) A candidate who receives benefits under this section may accept a contribution for the general election without regard to section 502(c)(1)(B)(iv) if—

“(i) a major party candidate in the same general election is not an eligible Senate candidate; or

“(ii) any other candidate in the same general election who is not an eligible Senate candidate raises an amount of contributions or makes or becomes obligated to make an amount of expenditures for the general election that exceeds 75 percent of the general election expenditure limit applicable to such other candidate.

“(B) LIMITATION.—The amount of contributions that may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit.

“(e) USE OF PAYMENTS.—

"(1) Permitted use.—Payments received by an eligible Senate candidate under subsection (a)(3) shall be used to make expenditures with respect to the general election period for the candidate.

"(2) Prohibited use.—Payments received by an eligible Senate candidate under subsection (a)(3) shall not be used—

"(A) except as provided in subparagraph (D), to make any payments, directly or indirectly, to the candidate or to any member of the immediate family of the candidate;

"(B) to make any expenditure other than an expenditure to further the general election of the candidate;

"(C) to make an expenditure the making of which constitutes a violation of any law of the United States or of the State in which the expenditure is made; or

"(D) subject to section 315(i), to repay any loan to any person except to the extent that proceeds of the loan were used to further the general election of the candidate.

"SEC. 505. CERTIFICATION BY COMMISSION.

"(a) Certification of Status as Eligible Senate Candidate.—

"(1) In general.—The Commission shall certify to any candidate meeting the requirements of section 502 that the candidate is an eligible Senate candidate entitled to benefits under this title.

"(2) Revocation.—The Commission shall revoke a certification under paragraph (1) if the Commission determines that a candidate fails to continue to meet the requirements of section 502.

"(b) Certification of Eligibility To Receive Benefits.—

"(1) In general.—Not later than 7 business days after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 504, the Commission shall issue a certification stating whether the candidate is eligible for payments under this title and the amount of such payments to which such candidate is entitled.

"(2) Contents of request.—A request under paragraph (1) shall—

"(A) contain such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) contain a verification signed by the candidate and the treasurer of the principal campaign committee of the candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(c) Determinations by the Commission.—All determinations made by the Commission under this title (including certifications under subsections (a) and (b)) shall be final and conclusive, except to the extent that a determination is subject to examination and audit by the Commission under section 506 and judicial review under section 507.

"SEC. 506. EXAMINATIONS AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) Examinations and Audits.—

"(1) After a general election.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States in which there was an eligible Senate candidate on the ballot, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the general election for the office the selected candidate is seeking.

"(2) With reason to believe there may have been a violation.—The Commission may conduct an examination and audit of the campaign accounts of any eligible Senate candidate in a general election if the Commission determines that there exists reason to believe that the eligible Senate candidate may have failed to comply with this title.

"(b) Excess Payment.—If the Commission determines any payment was made to an eligible Senate candidate under this title in excess of the aggregate amounts to which the eligible Senate candidate was entitled, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the excess.

"(c) Revocation of Status.—If the Commission revokes the certification of an eligible Senate candidate as an eligible Senate candidate under section 505(a)(1), the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the payments received under this title.

"(d) Misuse of Benefit.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay the amount of that benefit.

"(e) Excess Expenditures.—If the Commission determines that an eligible Senate candidate who received benefits under this title made expenditures that in the aggregate exceed the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the amount of the excess expenditures.

"(f) Civil Penalties.—

"(1) Misuse of benefit.—If the Commission determines that an eligible Senate candidate has committed a violation described in subsection (d), the Commission may assess a civil penalty against the eligible Senate candidate in an amount not greater than 200 percent of the amount of the benefit that was misused.

"(2) Excess expenditures.—

"(A) Low amount of excess expenditures.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by 2.5 percent or less the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to the amount of the excess expenditures.

"(B) Medium amount of excess expenditures.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by more than 2.5 percent and less than 5 percent the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to 3 times the amount of the excess expenditures.

"(C) Large amount of excess expenditures.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by 5 percent or more the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to the sum of 3 times the amount of the excess expenditures plus an additional amount determined by the Commission.

"(g) Unexpended Funds.—

"(1) Retention for purposes of liquidation of obligations.—An eligible Senate candidate may retain for a period not exceeding 120 days after the date of a general election any unexpended funds received under this title for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period.

"(2) Repayment.—At the end of the 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(h) Limit on Period for Notification.—No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of the election.

"(i) Deposits.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"SEC. 507. JUDICIAL REVIEW.

"(a) Judicial Review.—Any agency action by the Commission under this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in that court within 30 days after the date of the agency action.

"(b) Application of Title 5, United States Code.—Chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission under this title.

"(c) Agency Action.—For purposes of this section, the term 'agency action' has the meaning given the term in section 551(13) of title 5, United States Code.

"SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) Appearances.—The Commission may appear in and defend against any action instituted under this section and under section 507 by attorneys employed in the office of the Commission or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to chapter 51 and subchapter III of chapter 53 of that title.

"(b) Actions for Recovery of Amount of Benefits.—The Commission, by attorneys and counsel described in subsection (a), may bring an action in United States district court to recover any amounts determined under this title to be payable to any entity that afforded a benefit to an eligible Senate candidate under this title.

"(c) Action for Injunctive Relief.—The Commission, by attorneys and counsel described in subsection (a), may petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) Appeals.—The Commission, on behalf of the United States, may appeal from, and may petition the Supreme Court for certiorari to review, any judgment or decree entered with respect to actions in which the Commission under this section.

"SEC. 509. REPORTS TO CONGRESS; REGULATIONS.

"(a) Reports.—

"(1) In general.—As soon as practicable after each general election, the Commission shall submit a full report to the Senate setting forth—

"(A) the expenditures (shown in such detail as the Commission determines to be appropriate) made by each eligible Senate candidate and the authorized committees of the candidate;

"(B) the amounts certified by the Commission under section 505 as benefits available to each eligible Senate candidate;

"(C) the amount of repayments, if any, required under section 506 and the reason why each repayment was required; and

"(D) the balance in the senate Election Campaign Fund, and the balance in any account maintained by the Fund.

"(2) PRINTING.—Each report under paragraph (1) shall be printed as a Senate document.

"(b) REGULATIONS.—

"(1) IN GENERAL.—The Commission may issue such regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as the Commission considers necessary to carry out the functions and duties of the Commission under this title.

"(2) STATEMENT TO SENATE.—Not less than 30 days before issuing a regulation under paragraph (1), the Commission shall submit to the Senate a statement setting forth the proposed regulation and containing a detailed explanation and justification for the regulation.

"SEC. 510. PAYMENTS TO ELIGIBLE CANDIDATES.

"(a) SENATE ELECTION CAMPAIGN FUND.—

"(1) ESTABLISHMENT OF CAMPAIGN FUND.—There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2) APPROPRIATIONS.—

(A) IN GENERAL.—There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

"(i) any contributions by persons which are specifically designated as being made to the Fund;

"(ii) amounts collected under section 506(i); and

"(iii) any other amounts that may be appropriated to or deposited into the Fund under this title.

"(B) TRANSFERS.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

"(C) FISCAL YEAR.—Amounts in the Fund shall remain available without fiscal year limitation.

"(3) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(A) making payments required under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(4) FUND ACCOUNT.—The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS ON CERTIFICATION.—On receipt of a certification from the Commission under section 505, except as provided in subsection (c), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"(c) INSUFFICIENT FUNDS.—

"(1) WITHHOLDING.—If, at the time of a certification by the Commission under section 505 for payment to an eligible Senate candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of the payment any amount that the Secretary determines to be necessary to ensure that each eligible Senate candidate will receive the same pro rata share of the candidate's full entitlement.

"(2) SUBSEQUENT PAYMENT.—Amounts withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies in the Senate Election Campaign Fund to pay all or a portion of the funds withheld from all eligible Senate candidates, but, if only a portion is to be paid, the portion shall be paid in such a manner that each eligible candidate receives an equal pro rata share.

"(3) NOTIFICATION OF ESTIMATED WITHHOLDING.—

"(A) ADVANCE ESTIMATE OF AVAILABLE FUNDS AND PROJECTED COSTS.—Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of funds that will be available to make payments under this title in the general election year; and

"(ii) the costs of implementing this title in the general election year.

"(B) NOTIFICATION.—If the Secretary determines that there will be insufficient funds under subparagraph (A) for any calendar year, the Secretary shall notify by registered mail each candidate for the Senate on January 1 of that year (or, if later, the date on which an individual becomes such a candidate) of the amount that the Secretary estimates will be the pro rata withholding from each eligible Senate candidate's payments under this subsection.

"(C) INCREASE IN CONTRIBUTION LIMIT.—The amount of an eligible candidate's contribution limit under section 502(c)(1)(B)(iv) shall be increased by the amount of the estimated pro rata withholding under subparagraph (B).

"(4) NOTIFICATION OF ACTUAL WITHHOLDING.—

"(A) IN GENERAL.—The Secretary shall notify the Commission and each eligible Senate candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection.

"(B) GREATER AMOUNT OF WITHHOLDING.—If the amount of a withholding exceeds the amount estimated under paragraph (3), an eligible Senate candidate's contribution limit under section 502(c)(1)(B)(iv) shall be increased by the amount of the excess.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1998.

(2) APPLICABILITY TO CONTRIBUTIONS AND EXPENDITURES.—For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (b)—

(A) no expenditure made before January 1, 1999, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after that date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1999, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1999, to pay for expenditures that were incurred (but unpaid) before that date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF TITLE.—If section 502, 503, or 504 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) or any part of those sections is held to be invalid, this Act and all amendments made by this Act shall be treated as invalid.

(d) PROVISIONS TO FACILITATE VOLUNTARY CONTRIBUTIONS TO SENATE ELECTION CAMPAIGN FUND.—

(1) GENERAL RULE.—Part VIII of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

"Subpart B—Designation of Additional Amounts to Senate Election Campaign Fund

"Sec. 6097. Designation of additional amounts.

"SEC. 6097. DESIGNATION OF ADDITIONAL AMOUNTS.

"(a) GENERAL RULE.—Every individual (other than a nonresident alien) who files an income tax return for any taxable year may designate an additional amount equal to $5 ($10 in the case of a joint return) to be paid over to the Senate Election Campaign Fund.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made for any taxable year only at the time of filing the income tax return for the taxable year. Such designation shall be made on the page bearing the taxpayer's signature.

"(c) TREATMENT OF ADDITIONAL AMOUNTS.—Any additional amount designated under subsection (a) for any taxable year shall, for all purposes of law, be treated as an additional income tax imposed by chapter 1 for such taxable year.

"(d) INCOME TAX RETURN.—For purposes of this section, the term 'income tax return' means the return of the tax imposed by chapter 1.".

(2) CONFORMING AMENDMENTS.—(A) Part VIII of subchapter A of chapter 61 of such Code is amended by striking the heading and inserting:

"PART VIII—DESIGNATION OF AMOUNTS TO ELECTION CAMPAIGN FUNDS

"Subpart A. Presidential Election Campaign Fund.

"Subpart B. Designation of additional amounts to Senate Election Campaign Fund.

"Subpart A—Presidential Election Campaign Fund".

(B) The table of parts for subchapter A of chapter 61 of such Code is amended by striking the item relating to part VIII and inserting:

"Part VIII. Designation of amounts to election campaign funds."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 102. POLITICAL ACTION COMMITTEES.

(a) LIMITATIONS ON MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS TO CANDIDATES.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) by striking "(2) No multicandidate" and inserting the following:

"(2) MULTICANDIDATE POLITICAL COMMITTEES.—

"(A) IN GENERAL.—No multicandidate";

(2) in subparagraph (A) by striking "$5,000" and inserting "$1,000";

(3) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(4) by adding at the end the following:

"(B) Contributions to candidates.— Notwithstanding subparagraph (A)(i) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the Senate or an authorized committee of a Senate candidate, or for a Senate candidate to accept a contribution, to the extent that the making or accepting of the contribution would cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

"(i) $825,000; or

"(ii) 20 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit (as those terms are defined in section 501) that is applicable (or, if the candidate were an eligible Senate candidate (as defined in section 501) would be applicable) to the candidate.".

(b) Indexing.—The $825,000 amount under subparagraph (B) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)), except that for purposes of subparagraph (B), the base period shall be the calendar year 1996.

(c) Return of excess.—A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under subparagraph (B) shall return the amount of the excess contribution to the contributor.

(d) Limitations on Multicandidate Committee Contributions to Political Committees.—Paragraphs (1)(C) and (2)(A)(iii) of section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)), as amended by subsection (a), are amended by striking "$5,000" and inserting "$1,000".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1998.

(2) Applicability.—In applying the amendments made by this section, there shall not be taken into account—

(A) a contribution made or received before January 1, 1999; or

(B) a contribution made to, or received by, a candidate on or after January 1, 1999, to the extent that the aggregate amount of such contributions made to or received by the candidate is not greater than the excess (if any) of—

(i) the aggregate amount of such contributions made to or received by any opponent of the candidate before January 1, 1999; over

(ii) the aggregate amount of such contributions made to or received by the candidate before January 1, 1999.

SEC. 103. REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 304 the following:

"SEC. 304A. REPORTING REQUIREMENTS FOR SENATE CANDIDATES.

"(a) Meanings of Terms.—Any term used in this section that is used in title V shall have the same meaning as when used in title V.

"(b) Candidate Other Than Eligible Senate Candidate.—

"(1) Declaration of intent.—A candidate for the office of Senator who does not file a certification with the Secretary of the Senate under section 502(c) shall, at the time provided in section 502(c)(2), file with the Secretary of the Senate a declaration as to whether the candidate intends to make expenditures for the general election in excess of the general election expenditure limit.

"(2) Reports.—

"(A) Initial report.—A candidate for the Senate who qualifies for the ballot for a general election—

"(i) who is not an eligible Senate candidate under section 502; and

"(ii) who receives contributions in an aggregate amount or makes or obligates to make expenditures in an aggregate amount for the general election that exceeds 75 percent of the general election expenditure limit;

shall file a report with the Secretary of the Senate within 24 hours after aggregate contributions have been received or aggregate expenditures have been made or obligated to be made in that amount (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's aggregate amount of contributions received and aggregate amount of expenditures made or obligated to be made for the election as of the date of the report.

"(B) Additional reports.—After an initial report is filed under subparagraph (A), the candidate shall file additional reports (until the amount of such contributions or expenditures exceeds 200 percent of the general election expenditure limit) with the Secretary of the Senate within 24 hours after each time additional contributions are received, or expenditures are made or are obligated to be made, that in the aggregate exceed an amount equal to 10 percent of the general election expenditure limit and after the aggregate amount of contributions or expenditures exceeds 133⅓, 166⅔, and 200 percent of the general election expenditure limit.

"(3) Notification of other candidates.—The Commission—

"(A) shall, within 24 hours after receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate of the filing of the declaration or report; and

"(B) if an opposing candidate has received aggregate contributions, or made or obligated to make aggregate expenditures, in excess of the general election expenditure limit, shall certify, under subsection (e), the eligibility for payment of any amount to which an eligible Senate candidate in the general election is entitled under section 504(a).

"(4) Action by the commission absent report.—

"(A) In general.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts that would require a report under paragraph (2).

"(B) Notification of eligible senate candidates.—The Commission shall—

"(i) within 24 hours after making a determination under subparagraph (A), notify each eligible Senate candidate in the general election of the making of the determination; and

"(ii) when the aggregate amount of contributions or expenditures exceeds the general election expenditure limit, certify under subsection (e) an eligible Senate candidate's eligibility for payment of any amount under section 504(a).

"(c) Reports on Personal Funds.—

"(1) Filing.—A candidate for the Senate who, during an election cycle, expends more than the personal funds expenditure limit during the election cycle shall file a report with the Secretary of the Senate within 24 hours after expenditures have been made or loans incurred in excess of the personal funds expenditure limit.

"(2) Notification of eligible senate candidates.—Within 24 hours after a report has been filed under paragraph (1), the Commission shall notify each eligible Senate candidate in the general election of the filing of the report.

"(3) Action by the commission absent report.—

"(A) In general.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the Senate has made expenditures in excess of the amount under paragraph (1).

"(B) Notification of eligible senate candidates.—Within 24 hours after making a determination under subparagraph (A), the Commission shall notify each eligible Senate candidate in the general election of the making of the determination.

"(d) Candidates for Other Offices.—

"(1) Filing.—Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for that office, held any other Federal, State, or local office or was a candidate for any such office; and

"(C) who expended any amount during the election cycle before becoming a candidate for the office of United States Senator that would have been treated as an expenditure if the individual had been such a candidate (including amounts for activities to promote the image or name recognition of the individual);

shall, within 7 days after becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Applicability.—Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election that has been held before the individual becomes a candidate for the office of United States Senator.

"(3) Determination.—The Commission shall, as soon as practicable, make a determination as to whether any amounts reported under paragraph (1) were made for purposes of influencing the election of the individual to the office of Senator.

"(d) Basis of Certifications.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with this Act or on the basis of the Commission's own investigation or determination.

"(e) Copies of Reports and Public Inspection.—The Secretary of the Senate shall—

"(1) transmit a copy of any report or filing received under this section or under title V (whenever a 24 hour response is required of the Commission) as soon as possible (but not later than 4 working hours of the Commission) after receipt of the report or filing;

"(2) make the report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4); and

"(3) preserve the reports and filings in the same manner as the Commission under section 311(a)(5).".

SEC. 104. DISCLOSURE BY CANDIDATES OTHER THAN ELIGIBLE SENATE CANDIDATES.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) (as amended by section 133) is amended by adding at the end the following:

"(f) Disclosure by Candidates Other Than Eligible Senate Candidates.—A broadcast, cablecast, or other communication that is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such a candidate, shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.".

Subtitle B—General Provisions

SEC. 131. BROADCAST RATES AND PREEMPTION.

(a) Broadcast Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking "(b) The charges" and inserting the following:

"(b) Broadcast Media Rates.—

"(1) In general.—The charges";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(3) in paragraph (1)(A) (as redesignated by paragraph (2))—

(A) by striking "forty-five" and inserting "30";

(B) by striking "sixty" and inserting "45"; and

(C) by striking "lowest unit charge of the station for the same class and amount of time for the same period" and inserting "lowest charge of the station for the same amount of time for the same period on the same date"; and

(4) by adding at the end the following:

"(2) Eligible senate candidates.—In the case of an eligible Senate candidate (as described in section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the general election period (as defined in section 301 of that Act) shall not exceed 50 percent of the lowest charge described in paragraph (1)(A).

(b) Preemption; Access.—Section 315 of the Communications Act of 1947 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) Preemption.—

"(1) In general.—Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b)(1).

"(2) Circumstances beyond control of licensee.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

"(d) Time for Legally Qualified Senate Candidates.—In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time without regard to the rates charged for the time.".

SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking "and the National" and inserting "the National"; and

(B) by striking "Committee;" and inserting "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives or Senate candidate;";

(2) in paragraph (2)(B), by striking "and" after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) The terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

(5) by adding after paragraph (2) the following paragraph:

"(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the congressional district or State, whichever is applicable.".

SEC. 133. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) by striking "Whenever" and inserting the following:

"(a) Disclosure.—When a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or when";

(B) by striking "an expenditure" and inserting "a disbursement";

(C) by striking "direct"; and

(D) in paragraph (3), by inserting "and permanent street address" after "name";

(2) in subsection (b), by inserting "Same Charge as Charge for Comparable Use.—" before "No"; and

(3) by adding at the end the following:

"(c) Requirements for Printed Communications.—A printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d) Requirements for Broadcast and Cablecast Communications.—

"(1) Paid for or authorized by the candidate.—

"(A) In general.—A broadcast or cablecast communication described in paragraph (1) or (2) of subsection (a) shall include, in addition to the requirements of those paragraphs, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(B) Televised communications.—A broadcast or cablecast communication described in paragraph (1) that is broadcast or cablecast by means of television shall include, in addition to the audio statement under subparagraph (A), a written statement—

"(i) that states: 'I [name of candidate] am a candidate for [the office the candidate is seeking], and I have approved this message';

"(ii) that appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(iii) that is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(2) Not paid for or authorized by the candidate.—A broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the statement—

'__________________ is responsible for the content of this advertisement.';

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if the communication is broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 134. DEFINITIONS.

(a) In General.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following:

"(19) The term 'general election'—

"(A) means an election that will directly result in the election of a person to a Federal office; but

"(B) does not include an open primary election.

"(20) The term 'general election period' means, with respect to a candidate, the period beginning on the day after the date of the primary or runoff election for the specific office that the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of the general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(21) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(22) The term 'major party' has the meaning given the term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least 1 other candidate's qualifying for the ballot in the general election, the candidate shall be treated as a candidate of a major party for purposes of title V.

"(23) The term 'primary election' means an election that may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(24) The term 'primary election period' means, with respect to a candidate, the period beginning on the day following the date of the last election for the specific office that the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(25) The term 'runoff election' means an election held after a primary election that is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(26) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office that the candidate is seeking and ending on the date of the runoff election for that office.

"(27) The term 'voting age population' means the number of residents of a State who are 18 years of age or older, as certified under section 315(e).

"(28) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate is seeking and ending on the date of the next general election for that office or seat; and

"(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election.".

"(29) The term 'lobbyist' means—

"(A) a person required to register under the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); and

"(B) a person who receives compensation in return for having contact with Congress on any legislative matter.".

(b) IDENTIFICATION.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended by striking "mailing address" and inserting "permanent residence address".

SEC. 135. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

(a) MASS MAILINGS OF SENATORS.—Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking "It is the intent of Congress that a Member of, or a Member-elect to, Congress" and inserting "A Member of, or Member-elect to, the House"; and

(2) in subparagraph (C)—

(A) by striking "if such mass mailing is postmarked fewer than 60 days immediately before the date" and inserting "if such mass mailing is postmarked during the calendar year"; and

(B) by inserting "or reelection" before the period.

(b) MASS MAILINGS OF HOUSE MEMBERS.—Section 3210 of title 39, United States Code, is amended—

(1) in subsection (a)(7) by striking ", except that—" and all that follows through the end of subparagraph (B) and inserting a period; and

(2) in subsection (d)(1) by striking "delivery—" and all that follows through the end of subparagraph (B) and inserting "delivery within that area constituting the congressional district or State from which the Member was elected.".

(c) PROHIBITION ON USE OF OFFICIAL FUNDS.—The Committee on House Administration of the House of Representatives may not approve any payment, nor may a Member of the House of Representatives make any expenditure from, any allowance of the House of Representatives or any other official funds if any portion of the payment or expenditure is for any cost related to a mass mailing by a Member of the House of Representatives outside the congressional district of the Member.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. DEFINITIONS.

(a) INDEPENDENT EXPENDITURE; EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

"(A) IN GENERAL.—The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of, or without the consultation of, a candidate or a candidate's representative.

"(B) EXCLUSIONS.—The term 'independent expenditure' does not include the following:

"(i) An expenditure made by—

"(I) an authorized committee of a candidate; or

"(II) a political committee of a political party.

"(ii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's representative and the person making the expenditure.

"(iii) An expenditure if, in the same election cycle, the person making the expenditure—

"(I) is or has been authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) is serving or has served as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(iv) An expenditure if the person making the expenditure has played a significant role in advising or counseling the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

"(v) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

"(C) DEFINITIONS.—For purposes of subparagraph (B)—

"(i) the person making the expenditure includes any officer, director, employee, or agent of a person; and

"(ii) the term 'professional service' includes any service (other than legal and accounting services for purposes of ensuring compliance with this title) in support of a candidate's pursuit of nomination for election, or election, to Federal office.

"(18) EXPRESS ADVOCACY.—

"(A) IN GENERAL.—The term 'express advocacy' means a communication that is taken as a whole and with limited reference to external events, makes an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party.

"(B) EXPRESSION OF SUPPORT FOR OR OPPOSITION TO.—In subparagraph (A), the term 'expression of support for or opposition to' includes a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or to refrain from taking action.".

"(C) VOTING RECORDS.—The term 'express advocacy' does not include the publication and distribution of a communication that is limited to providing information about votes by elected officials on legislative matters and that does not expressly advocate the election or defeat of a clearly identified candidate.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by adding at the end the following:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that is excluded from the meaning of 'independent expenditure' under paragraph (17)(B).".

SEC. 202. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures aggregating an additional $1,000 are made with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before an election shall file a report describing the expenditures within 48 hours that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures aggregating an additional $10,000 are made with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS; TRANSMITTAL.—

"(A) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(i) shall be filed with the Commission; and

"(ii) shall contain the information required by subsection (b)(6)(B)(iii), including whether each independent expenditure was made in support of, or in opposition to, a candidate.

"(B) TRANSMITTAL TO CANDIDATES.—In the case of an election for United States Senator, not later than 48 hours after receipt of a report under this subsection, the Commission shall transmit a copy of the report to each eligible candidate seeking nomination for election to, or election to, the office in question.

"(4) OBLIGATION TO MAKE EXPENDITURE.—For purposes of this subsection, an expenditure shall be treated as being made when it is made or obligated to be made.

"(5) DETERMINATIONS BY THE COMMISSION.—

"(A) IN GENERAL.—The Commission may, upon a request of a candidate or on its own initiative, make its own determination that a person, including a political committee, has made, or has incurred obligations to make, independent expenditures with respect to any candidate in any Federal election that in the aggregate exceed the applicable amounts under paragraph (1) or (2).

"(B) NOTIFICATION.—In the case of a United States Senator, the Commission shall notify each candidate in the election of the making of the determination within 2 business days after making the determination.

"(C) TIME TO COMPLY WITH REQUEST FOR DETERMINATION.—A determination made at the request of a candidate shall be made with 48 hours of the request.

"(6) NOTIFICATION OF AN ALLOWABLE INCREASE IN INDEPENDENT EXPENDITURE LIMIT.—When independent expenditures totaling in the aggregate $10,000 have been made in the same election in favor of another candidate or against an eligible Senate candidate, the Commission shall, within 2 business days, notify the eligible candidate that such candidate is entitled to an increase under section 503(e) in the candidate's applicable election limit in an amount equal to the amount of such independent expenditures.".

TITLE III—EXPENDITURES

Subtitle A—Personal Funds; Credit

SEC. 301. CONTRIBUTIONS AND LOANS FROM PERSONAL FUNDS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

"(i) LIMITATIONS ON REPAYMENT OF LOANS AND RETURN OF CONTRIBUTIONS FROM PERSONAL FUNDS.—

"(1) REPAYMENT OF LOANS.—If a candidate or a member of the candidate's immediate family made a loan to the candidate or to the candidate's authorized committees during an election cycle, no contribution received after the date of the general election for the election cycle may be used to repay the loan.

"(2) RETURN OF CONTRIBUTIONS.—No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting at the end the following:

"(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on a broadcasting station, in a newspaper or magazine, or by a mailing, or relating to other similar types of general public political advertising, if the extension of credit is—

"(I) in an amount greater than $1,000; and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which the goods or services are furnished or the date of a mailing.".

Subtitle B—Soft Money of Political Party Committees

SEC. 311. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

"(a) NATIONAL COMMITTEES.—A national committee of a political party and the congressional campaign committees of a political party (including a national congressional campaign committee of a political party, an entity that is established, financed, maintained, or controlled by the national committee, a national congressional campaign committee of a political party, and an officer or agent of any such party or entity but not including an entity regulated under subsection (b)) shall not solicit or accept an amount or spend any funds, or solicit or accept a transfer from another political committee, that is not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—Any amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party and an agent or officer of any such committee or entity) during a calendar year in which a Federal election is held, for any activity that might affect the outcome of a Federal election, including any voter registration or get-out-the-vote activity, any generic campaign activity, and any communication that identifies a candidate (regardless of whether a candidate for State or local office is also mentioned or identified) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) ACTIVITY EXCLUDED FROM PARAGRAPH (1).—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an expenditure or disbursement made by a State, district, or local committee of a political party for—

"(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

"(ii) the costs of a State, district, or local political convention;

"(iii) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of the individual's time on activity during the month that may affect the outcome of a Federal election) except that for purposes of this paragraph, the non-Federal share of a party committee's administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election year to the committee's administrative and overhead expenses in the election year in question;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office; and

(v) the cost of any campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, if the candidate activity is not an activity described in paragraph (1).

"(B) FUNDRAISING COSTS.—Any amount spent by a national, State, district, or local committee, by an entity that is established, financed, maintained or controlled by a State, district, or local committee of a political party, or by an agent or officer of any such committee or entity to raise funds that are used, in whole or in part, in connection with an activity described in paragraph (1) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(c) TAX-EXEMPT ORGANIZATIONS.—No national, State, district, or local committee of a political party shall solicit any funds for or make any donations to an organization that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986.

"(d) CANDIDATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office may—

"(A) solicit or receive funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

"(B) solicit or receive funds that are to be expended in connection with any election for other than a Federal election unless the funds—

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under section 315(a) (1) and (2); and

"(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office.

"(2) EXCEPTION.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for the individual's State or local campaign committee.".

SEC. 312. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(d) POLITICAL COMMITTEES.—

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, a congressional campaign committee of a political party, and any subordinate committee of a national committee or congressional campaign committee of a political party, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 324 APPLIES.—A political committee (not described in paragraph (1)) to which section 324 applies shall report all receipts and disbursements.

"(3) TRANSFERS.—A political committee to which section 324 applies shall—

"(A) include in a report under paragraph (1) or (2) the amount of any transfer described in section 324(d)(2); and

"(B) itemize those amounts to the extent required by section 304(b)(3)(A).

"(4) OTHER POLITICAL COMMITTEES.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

"(5) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for the person in the same manner as under paragraphs (3)(A), (5), and (6) of subsection (b).

"(6) REPORTING PERIODS.—Reports required to be filed by this subsection shall be filed for the same time periods as reports are required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

"(C) REPORTING REQUIREMENT.—The exclusion provided in subparagraph (B)(viii) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.".

(c) REPORTS BY STATE COMMITTEES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434 (as amended by subsection (a)) is amended by adding at the end the following:

"(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed under this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines that such a report contains substantially the same information as a report required under this Act.".

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by inserting "and" at the end of subparagraph (I); and

(C) by adding at the end the following:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year"; and

(B) by striking "such operating expenditures" and inserting "operating expenses, and the election to which the operating expense relates".

TITLE IV—CONTRIBUTIONS

SEC. 401. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS; PROHIBITION ON CERTAIN CONTRIBUTIONS BY LOBBYISTS.

(a) CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.—Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended by striking paragraph (8) and inserting the following:

"(8) INTERMEDIARIES AND CONDUITS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) ACTING ON BEHALF OF THE ENTITY.—The term 'acting on behalf of the entity' means soliciting one or more contributions—

"(I) in the name of an entity;

"(II) using other than incidental resources of an entity; or

"(III) by directing a significant portion of the solicitations to other officers, employees, agents, or members of an entity or their spouses, or by soliciting a significant portion of the other officers, employees, agents, or members of an entity or their spouses.

"(ii) BUNDLER.—The term 'bundler' means an intermediary or conduit that is any of the following persons or entities:

"(I) A political committee (other than the authorized campaign committee of the candidate that receives contributions as described in subparagraph (B) or (C)).

"(II) Any officer, employee or agent of a political committee described in subclause (I).

"(III) An entity.

"(IV) Any officer, employee, or agent of an entity who is acting on behalf of the entity.

"(V) A person required to be listed as a lobbyist on a registration or other report filed pursuant to the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) or any successor law that requires reporting on the activities of a person who is a lobbyist or foreign agent.

"(iii) DELIVER.—The term 'deliver' means to deliver contributions to a candidate by any method of delivery used or suggested by a bundler that communicates to the candidate (or to the person who receives the contributions on behalf of the candidate) that the bundler collected the contributions for the candidate, including such methods as—

"(I) personal delivery;

"(II) United States mail or similar services;

"(III) messenger service; and

"(IV) collection at an event or reception.

"(iv) ENTITY.—The term 'entity' means a corporation, labor organization, or partnership.

"(B) TREATMENT AS CONTRIBUTIONS FROM PERSONS BY WHOM MADE.—

"(i) IN GENERAL.—For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, shall be treated as contributions from the person to the candidate.

"(ii) REPORTING.—The intermediary or conduit through which a contribution is made shall report the name of the original contributor and the intended recipient of the contribution to the Commission and to the intended recipient.

"(C) TREATMENT AS CONTRIBUTIONS FROM THE BUNDLER.—Contributions that a bundler delivers to a candidate, agent of the candidate, or the candidate's authorized committee shall be treated as contributions from the bundler to the candidate as well as from the original contributor.

"(D) NO LIMITATION ON OR PROHIBITION OF CERTAIN ACTIVITIES.—This subsection does not—

"(i) limit fundraising efforts for the benefit of a candidate that are conducted by another candidate or Federal officeholder; or

"(ii) prohibit any individual described in subparagraph (A)(ii)(IV) from soliciting, collecting, or delivering a contribution to a candidate, agent of the candidate, or the candidate's authorized committee if the individual is not acting on behalf of the entity.".

(b) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 314(b)) is amended by adding at the end the following:

"(m) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—

"(1) IN GENERAL.—A lobbyist, or a political committee controlled by a lobbyist, shall not make a contribution to or solicit contributions for or on behalf of—

"(A) a Federal officeholder or candidate for Federal office if, during the preceding 12 months, the lobbyist has made a lobbying contact with the officeholder or candidate; or

"(B) any authorized committee of the President or Vice President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

"(2) CONTRIBUTIONS TO MEMBER OF CONGRESS OR CANDIDATE FOR CONGRESS.—A lobbyist who, or a lobbyist whose political committee, has made a contribution to a member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution, make a lobbying contact with the member or candidate who becomes a member of Congress or with a covered executive branch official.

"(3) SOLICITATION OF CONTRIBUTIONS.—If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the lobbyist's regular employer), or to a political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for or on behalf of—

"(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

"(B) an authorized committee of the President or Vice President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

"(4) DEFINITIONS.—In this subsection, the terms 'covered executive branch official', 'lobbying contact', and 'lobbyist' have the meanings given those terms in section 3 of the Federal Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), except that—

"(A) the term 'lobbyist' includes a person required to register under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); and

"(B) for purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

"(i) the member of Congress;

"(ii) any person employed in the office of the member of Congress; or

"(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.".

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 401(c)) is amended by adding at the end the following:

"(n) DEPENDENTS NOT OF VOTING AGE.—

"(1) IN GENERAL.—For purposes of this section, any contribution by an individual who—

"(A) is a dependent of another individual; and

"(B) has not, as of the time of the making of the contribution, attained the legal age for voting in an election to Federal office in the State in which the individual resides;

shall be treated as having been made by the other individual.

"(2) ALLOCATION BETWEEN SPOUSES.—If such individual described in paragraph (1) is the dependent of another individual and the individual's spouse, a the contribution described in paragraph (1) shall be allocated among such individuals in the manner determined by them.".

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

"(9) AGGREGATION OF CONTRIBUTIONS FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES.—Notwithstanding paragraph (5)(B), a candidate may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such a committee), if the contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds would cause the total amount of contributions to exceed a limitation on contributions to a candidate under this section.".

SEC. 404. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking "and" after the semicolon at the end;

(2) in clause (xiv), by striking the period at the end and inserting: "; and"; and

(3) by adding at the end the following new clause:

"(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $500 with respect to an election.".

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for Federal office)".

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

SEC. 503. CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(2)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)2)(A)) is amended by inserting ", including the name and address of each person who makes contributions aggregating at least $50 but not more than $200 during the calendar year" after "political committees".

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) maintain computerized indices of contributions of $50 or more.".

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4) NAME OF POLITICAL COMMITTEE.—

"(A) AUTHORIZED COMMITTEE.—The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) UNAUTHORIZED COMMITTEE.—A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(3) by inserting the following new subparagraph at the end:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-primary election report and a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—Section 304(a)(4)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 603. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by adding at the end the following:

"(5) VACANCY.—In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence; and

(2) by striking the third sentence.

SEC. 604. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—

(1) CIVIL PENALTY FOR VIOLATION OF ACT.—Section 309(a)(5)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation".

(2) PENALTY FOR KNOWING AND WILLFUL VIOLATION OF ACT.—Section 309(a)(5)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—

(1) COMMISSION PROCEEDINGS INSTITUTED FOR AN ORDER.—Section 309(a)(6)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.".

(2) COURT ORDERS.—Section 309(a)(6)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation;

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.".

(3) KNOWING AND WILLFUL VIOLATION PENALTY.—Section 309(a)(6)(C) of Federal Election Campaign Act of 1971 (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—"

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.".

SEC. 605. RANDOM AUDITS.

Section 311(b) of Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by adding at the end the following new paragraph:

"(2) RANDOM AUDITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act.

"(B) SELECTION OF SUBJECTS.—The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process.

"(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of an eligible Senate candidate subject to audit under section 505(a) or an authorized committee of an eligible House of Representatives candidate subject to audit under section 605(a).".

SEC. 606. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) FALSE SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 607. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 306 of Federal Election Campaign Act of 1971 (2 U.S.C. 437c) is amended by adding at the end the following:

"(g) REGULATIONS.—The Commission shall promulgate regulations to prohibit devices or arrangements which have the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.".

SEC. 608. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended by adding at the end the following new paragraph:

"(6)(A) The Commission, in consultation with the Secretary of the Senate, may prescribe regulations under which persons required to file designations, statements, and reports under this Act—

"(i) are required to maintain and file them for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file them in that manner if not required to do so under regulations prescribed under clause (i).

"(B) The Commission, in consultation with the Secretary of the Senate, shall prescribe regulations which allow persons to file designations, statements, and reports required by this Act through the use of facsimile machines.

"(C) In prescribing regulations under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulations. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(D) The Secretary of the Senate and the Clerk of the House of Representatives shall ensure that any computer or other system that they may develop and maintain to receive designations, statements, and reports in the forms required or permitted under this paragraph is compatible with any such system that the Commission may develop and maintain.".

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

(a) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

(b) PROHIBITION.—Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) LIMITATIONS.—A political committee that supports or has supported more than 1 candidate shall not be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of the political party as the candidate's principal campaign committee if the national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."; and

(2) by adding at the end the following:

"(6) PROHIBITION OF LEADERSHIP COMMITTEES.—

"(A) IN GENERAL.—

"(i) PROHIBITION.—A candidate for Federal office or an individual holding Federal office shall not establish, finance, maintain, or control any political committee or non-Federal political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3).

"(ii) CANDIDATE FOR MORE THAN 1 OFFICE.—A candidate for more than 1 Federal office may designate a separate principal campaign committee for the campaign for election to each Federal office.

"(B) TRANSITION.—

"(i) CONTINUATION FOR 12 MONTHS.—For a period of 12 months after the effective date of this paragraph, any political committee established before that date but that is prohibited under subparagraph (A) may continue to make contributions.

"(ii) DISBURSEMENT AT THE END OF 1 YEAR.—At the end of that period the political committee shall disburse all funds by 1 or more of the following means:

"(I) Making contributions to a person described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of the United States Code.

"(II) Making a contribution to the Treasury of the United States.

"(III) Contributing to the national, State, or local committee of a political party.

"(IV) Making a contribution of not to exceed $1,000 each to candidates or non-Federal candidates.".

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), as amended by section 314(b), is amended by inserting at the end the following:

"(D) VALUATION OF POLLING DATA AS A CONTRIBUTION.—A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

SEC. 703. RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR PERSONAL PURPOSES.

(a) RESTRICTIONS ON USE OF CAMPAIGN FUNDS.—Title III of Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 311) is amended by adding at the end the following:

"SEC. 325. RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR PERSONAL PURPOSES.

"(a) DEFINITIONS.—In this section:

"(1) CAMPAIGN EXPENSE.—The term 'campaign expense' means an expense that is attributable solely to a bona fide campaign purpose.

"(2) INHERENTLY PERSONAL PURPOSES.—The term 'inherently personal purpose' means a purpose that, by its nature, confers a personal benefit, including a home mortgage, rent, or utility payment, clothing purchase, noncampaign automobile expense, country club membership, vacation, or trip of a noncampaign nature, household food items, tuition payment, admission to a sporting event, concert, theater or other form of entertainment not associated with a campaign, dues, fees, or contributions to a health club or recreational facility, and any other inherently personal living expense as determined under the regulations promulgated pursuant to section 301(b) of the Senate Campaign Financing and Spending Reform Act.

"(b) PERMITTED AND PROHIBITED USES.—An individual who receives contributions as a candidate for Federal office—

"(1) shall use the contributions only for legitimate and verifiable campaign expenses; and

"(2) shall not use the contributions for any inherently personal purpose.".

(b) REGULATION.—Not later than 90 days after the date of enactment of this Act, the Federal Election Commission shall issue a regulation consistent with this Act to implement subsection (a). The regulation shall apply to all contributions possessed by an individual on the date of enactment of this Act.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1999.

SEC. 802. SEVERABILITY.

Except as provided in section 101(c), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of the provision to other persons and circumstances, shall not be affected thereby.

SEC. 803. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

By Mr. FEINGOLD:

S. 58. A bill to modify the estate recovery provisions of the medicaid program to give States the option to recover the costs of home and community-based services for individuals over age 55; to the Committee on Finance.

MEDICAID BENEFICIARIES LEGISLATION

Mr. FEINGOLD. Mr. President, I am pleased to introduce legislation today to eliminate the current mandate on States to place liens on the homes and estates of older Medicaid beneficiaries receiving home and community-based long-term care services, and to provide more than adequate funding for that change by establishing a certificate of need process to regulate the growth of federally funded nursing home beds.

This legislation modifies the estate recovery provisions of OBRA 93 to clarify that States may pursue recovery of the cost of Medicaid home and community-based long-term care services from the estate of beneficiaries, but that States are not required to do so.

Mr. President, slowing the growth of rising Medicaid costs is central to easing pressure on both Federal and State budgets, and addressing the long-term care portion of those Medicaid budgets is a key to containing those costs. Meaningful reform of our long-term care system is the ultimate solution to this problem, and I will introduce long-term care reform legislation in the near future that will outline the path we need to follow—helping States provide flexible, consumer-oriented and consumer-directed home and community-based long-term care services.

In the meantime, however, we can take a few important steps down the path toward long-term care reform by repealing the cumbersome mandate on States that they recover the cost of some services by imposing liens on the homes and estates of seniors using home and community-based long-term care services.

Mr. President, in the past, States have had the option of recovering payments for those services from the estates of beneficiaries, but in some cases, at least, have chosen not to do so. In Wisconsin, estate recovery for home and community-based long-term care services was implemented briefly in 1991, but was terminated because of the significant problems experienced with the home and Medicaid waiver programs. Many cases were documented where individuals needing long-term care refused community-based care because of their fear of estate recovery or the placement of a lien on their homes.

One case in southwestern Wisconsin involved an older woman who was suffering from congestive heart failure, phlebitis, severe arthritis, and who had difficulty just being able to move. She was being screened for the Medicaid version of Wisconsin's model home and community-based long-term care program, the Community Options Program, when the caseworker told her of the new law, and that a lien would be put on the estate of the program's clients. The caseworker reported that the older woman began to sob, and told the caseworker that she had worked hard all her life and paid taxes and could not understand why the things she had worked for so hard would be taken from her family after her death.

When asked if she would like to receive services, the client refused. As frail as this client was, the social worker noted that she preferred to chance being on her own rather than endanger her meager estate by using Medicaid funded services.

In northeastern Wisconsin, a 96-year-old woman was being cared for by her 73-year-old widowed daughter in their home. The family was receiving some Medicaid long-term care services, including respite services for the elderly caregiver daughter, but the family discontinued all services when they heard of the new law because the older daughter needed to count on the home for security in her own old age.

A 72-year-old man, who had four bypass surgeries and was paralyzed on one side, and his 66-year-old wife, who had 3 bypass surgeries and rheumatoid arthritis, both needed some assistance to be able to live together at home. But when Medicaid was suggested, they refused because of the new law.

Mr. President, these examples are not unusual. Nor were many of the individuals and families who refused help protecting vast estates. For many, the estates being put at risk were modest at best. A couple in the Green Bay area of Wisconsin who lived in a mobile home and had less than $20,000 in life savings told the local benefit specialist that they would refuse Medicaid funded services rather than risk not leaving their small estate to their family members.

Leaving even a small bequest to a loved-one is a fundamental and deeply felt need of many seniors. Even the most modest home can represent a lifetime's work, and many are willing to forego medical care they know they need to be able to leave a small legacy.

Mr. President, while the vision of this mandate on States from inside the Washington beltway may appear simple, the estate recovery requirements are not so simple for program administrators. States, counties, and nonprofit agencies, administrators of Medicaid services, are ill-equipped to be real estate agents.

Further, divestment concerns in the Medicaid Program, already a problem, could continue to grow as pressure to utilize existing loopholes increases with estate recovery mandated in this way. Worse, as the Coalition of Wisconsin Aging Groups has pointed out, children who feel "entitled to inheritance" might force transfers, constituting elder abuse in some cases.

Too, Mr. President, there is a very real question of age discrimination with the estate recovery provisions of OBRA 93. Only individuals over age 55 are subject to estate recovery. Such age-based distinctions border on age discrimination and ought to be minimized.

Mr. President, because I am committed to reducing the deficit and balancing the budget, I firmly believe we must find offsetting spending cuts to fully fund legislative proposals, even when we might disagree with the cost estimates for those proposals. For that reason, I have included provisions in this measure that have been scored by the Congressional Budget Office to more than offset the officially estimated loss in savings from the estate recovery mandate. Nevertheless, while this bill includes offsetting cuts to fund the proposed change, I also believe that the savings ascribed to the existing mandate are questionable.

Prior to enacting estate recovery in Wisconsin, officials estimated $13.4 million a year could be recovered by the liens. Real collections fell far short. For fiscal year 1992, the State only realized a reported $1 million in collections. And for the period of January to July 1993, even after officials lowered their estimates, only $2.2 million was realized of an expected $3.8 million in collections.

In addition to lower than expected collections, the refusal to accept home and community-based long-term care because of the prospect of a lien on the estate could lead to the earlier and more costly need for institutional care. Such a result would not only undercut the questionable savings from the program, but would be directly contrary to the Medicaid home and community-based waiver program, which is intended precisely to keep people out of institutions and in their own homes and communities.

The brief experience we had in Wisconsin led the State to limit estate recovery to nursing home care and related services, where, as a practical matter, the potential for estate recovery and liens on homes are much less of a barrier to services. Indeed, just as we should provide financial incentives to individuals to use more cost-effective care, so too should we consider financial disincentives for more costly alternatives. A recent study in Wisconsin showed that two Medicaid waiver programs saved $17.6 million in 1992 by providing home and community-based alternatives to institutional care.

In that context, retaining the more expansive institutional care alternatives in the estate recovery mandate makes good sense, and my legislation would not change that portion of the law. But it does not make sense to jeopardize a program that has produced many more times the savings in lowered institutional costs than even the overly optimistic estimates suggest could be recovered from the estates of those receiving home and community-based long-term care.

All in all, the estate recovery provisions of OBRA 93 are likely to produce more expensive utilization of Medicaid services, may cause an administrative nightmare for State and local government, could aggravate the divestment problem, may result in increased elder abuse, and could well constitute age discrimination.

Though many long-term care experts maintain that mandating estate recovery for home and community-based long-term care services will only lead to increased utilization of more expensive institutional alternatives, and thus increased cost to Federal taxpayers, the CBO estimated a revenue loss of $20 million in the first year and $260 million over 5 years for this proposal.

As I noted above, it is important to act responsibly to fund that formal cost estimate with offsetting spending cuts. The additional savings I firmly believe will be generated beyond the scored amounts would then help reduce our Federal budget deficit. This measure includes a provision that more than offsets the official scored revenue loss from eliminating the estate recovery mandate. That provision regulates the growth in the number of nursing home beds eligible for Federal funding through Medicaid, Medicare, or other Federal programs by requiring providers to obtain a certificate of need [CON] to operate additional beds.

For any specified area, States would issue a CON only if the ratio of the number of nursing home beds to the population that is likely to need them falls below guidelines set by the State and subject to Federal approval.

This approach allows new nursing home beds to operate where there is a demonstrated need, while limiting the potential burden on the taxpayer where no such need has been established. CBO has estimated that the proposed regulation of nursing home bed growth would generate savings of $35 million in the first year, and $625 million over 5 years, more than offsetting the CBO estimates for removing the State mandate on estate recoveries sought in this bill. The net fiscal effect of this proposal would be to generate about $15 million in savings in the first year, and $365 million over 5 years.

Slowing the growth of nursing home beds is critical to reforming the current long-term care system. In Wisconsin, limiting nursing home bed growth has been part of the success of the long-term care reforms initiated in the early 1980's. While the rest of the country experienced a 46-percent increase in Medicaid nursing home bed use between 1980 and 1993, Wisconsin saw Medicaid nursing home bed use decline by 15 percent.

The certificate of need provision is far more modest than the absolute cap on nursing home beds adopted in Wisconsin, and recognizes that there needs to be some flexibility to recognize the differences of long-term care services among States. It is also consistent with the kind of long-term care reform I will be proposing as separate legislation.

Certainly, our ability to reform long-term care will depend not only on establishing consumer-oriented, consumer-directed home and community-based services that are available to the severely disabled of all ages, but also on establishing a more balanced and cost-effective allocation of public support of long-term care services by eliminating the current bias toward institutional care.

Mr. President, taken together, the change in the estate recovery provisions and the slowing of nursing home bed growth, these two provisions will help shift the current distorted Federal long-term care policy away from the institutional bias that currently exists and toward a more balanced approach that emphasizes home and community-based services.

That is the direction that we will need to take if we are to achieve significant long-term care reform.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 58

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAID ESTATE RECOVERIES.

Section 1917(b)(1)(B) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)) is amended by striking "consisting of—" and all that follows through the period and inserting the following: "consisting of—

"(i) nursing facility services and related hospital and prescription drug services; and

"(ii) at the option of the State, any additional items or services under the State plan.".

SEC. 2. REQUIRING STATES TO REGULATE GROWTH IN THE NUMBER OF NURSING FACILITY BEDS.

(a) IN GENERAL.—A nursing facility shall not receive reimbursement under the medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, or any other Federal program for services furnished with respect to any beds first operated by such facility on or after the date of the enactment of this Act unless a certificate of need is issued by the State with respect to such beds.

(b) ISSUANCE OF CERTIFICATE.—A certificate of need may be issued by a State with respect to a geographic area only if the ratio of the number of nursing facility beds in such area to the total population in such area that is likely to need such beds is below the ratio included in guidelines that are established by the State and approved by the Secretary of Health and Human Services under subsection (c).

(c) APPROVAL OF GUIDELINES.—The Secretary of Health and Human Services shall promulgate regulations under which States may submit proposed guidelines for the issuance of certificates of need under subsection (b) for review and approval.

(d) DEFINITION OF NURSING FACILITY.—In this section, the term "nursing facility" has the meaning given the terms—

(1) "skilled nursing facility", under the medicare program under title XVIII of the Social Security Act; and

(2) "nursing facility", under the medicaid program under title XIX of such Act.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 59. A bill to terminate the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM TERMINATION AND DEFICIT REDUCTION ACT OF 1997

Mr. FEINGOLD. Mr. President, today I am introducing legislation for myself and Senator KOHL, which we offered during the 103d and 104th Congress to terminate the Extremely Low Frequency Communications System, located in Clam Lake, WI, and Republic, MI.

This project has been opposed by residents of Wisconsin since its inception, but for years we were told that the national security considerations of the cold war outweighed our concerns about this installation in our State. As we continue our efforts to reduce the Federal budget deficit and as the Department of Defense continues to struggle to meet a tighter budget, it is clear that Project ELF should be closed down. If enacted, my legislation would save $9 to $20 million a year.

Project ELF was developed in the late 1970's as an added protection against the Soviet naval nuclear deployment. It is an electromagnetic messenger system—otherwise known as a bell ringer—used primarily to tell a deeply submerged Trident submarine that it needs to surface to retrieve a message. Because it communicates through very primitive pulses, called phonetic-letter-spelled-out [PLSO] messages, ELF's radiowaves transmit very limited messages.

With the end of the cold war, Project ELF becomes harder and harder to justify. Trident submarines no longer need to take that extra precaution against Soviet nuclear forces. They can now surface on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency [VLF] radiowaves or lengthier messages through satellite systems, if it can be done more cheaply.

Not only do Wisconsinites think the mission of Project ELF is unnecessary and anachronistic, but they are also concerned about possible environmental and public health hazards associated with it. While I have heard some ELF supporters say there is no apparent environmental impact of Project

ELF, we can only conclude that we do not know that—in fact, we do not know much about its impact at all.

The Navy itself had yet to conclude definitively that operating Project ELF is safe for the residents living near the site. It you are a resident in Clam Lake, that is unsettling information. For example, in 1992, a Swedish study found that children exposed to relatively weak magnetic fields from powerlines develop leukemia at almost four times the expected rate. We also know that in 1984, a U.S. district court ruling on State of Wisconsin versus Weinberger ordered Project ELF to be shut down because the Navy paid inadequate attention to the system's possible health effects and violated the National Environmental Policy Act. That decision was overturned on appeal, however, in a ruling that claimed national security interests at the time prevailed over environmental concerns. More recent studies of the impact of electromagnetic fields in general still leave unanswered questions and concerns.

During the 103d Congress, I worked with the Senator from Georgia, Senator NUNN to include an amendment in the National Defense Authorization Act for fiscal year 1994 requiring a report by the Secretary of Defense on the benefits and costs of continued operation of Project ELF. The report issued by DOD was particularly disappointing because it basically argued that because Project ELF may have a purpose during the cold war, it should continue to operate after the cold war as part of the complete complement of command and control links configured for the cold war.

Did Project ELF play a role in helping to minimize the Soviet threat? Perhaps. Did it do so at risk to the community? Perhaps. Does it continue to play a vital security role to the Nation? No.

Most of us in Wisconsin don't want it anymore. Many of my constituents have opposed Project ELF since its inception. Congressman DAVID OBEY has consistently sought to terminate Project ELF, and in fact, we have him to thank in part for getting ELF scaled down from the large-scale project first conceived by the Carter administration. I look forward to continue working with him on this issue in the 105th Congress.

As we take up the budget for fiscal year 1998, the Department of Defense and the Armed Services Committee will again be searching for programs that have outlived their intended purpose. I hope they will seriously consider zeroing out the ELF transmitter system, as I propose in this bill, and save the taxpayers $9 to $20 million a year. Given both its apparently diminished strategic value and potential environmental and public health hazards, Project ELF is a perfect target for termination.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 59

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Extremely Low Frequency Communication System Termination and Deficit Reduction Act of 1997".

SEC. 2. PROHIBITION OF FURTHER FUNDING OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) PROHIBITION ON USE OF FUNDS.—Except as provided in subsection (b), funds appropriated on or after the date of enactment of this Act to or for the use of the Department of Defense may not be obligated or expended for the Extremely Low Frequency Communication System of the Navy.

(b) LIMITED EXCEPTION FOR TERMINATION COSTS.—Subsection (a) does not apply to expenditures solely for termination of the Extremely Low Frequency Communication System.

By Mr. LOTT:

S. 61. A bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II; to the Committee on Veterans Affairs.

THE MERCHANT MARINERS FAIRNESS ACT OF 1997

Mr. LOTT. Mr. President, today, it is my pleasure to introduce the Merchant Mariners Fairness Act. My bill would grant veterans status to American merchant mariners who have been denied this status.

In 1988, the Secretary of the Air Force decided, for the purposes of granting veterans benefits to merchant seamen, that the cut-off date for service would be August 15, 1945, V–J Day, rather than December 31, 1946, when hostilities were declared officially ended. My bill would correct the 1988 decision and extend veterans benefits to merchant mariners who served from August 15, 1945 to December 31, 1946. It would extend eligibility for burial benefits and related veterans benefits for certain members of the U.S. Merchant Marine during World War II.

I urge my distinguished colleagues to join me in supporting this important legislation.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 62. A bill to prohibit further extension of establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes; to the Committee on Energy and National Resources.

THE IDAHO PROTECTION ACT OF 1997

Mr. CRAIG. Mr. President, I rise today to introduce legislation that has been forced by recent events. I am talking about President Clinton's proclamation of last fall declaring nearly two million acres of southern Utah a national monument.

After the President's announcement, Senator KEMPTHORNE and I introduced the Idaho Protection Act of 1996. That bill would have required that the public and the Congress be included before a national monument could be established in Idaho.

When we introduced that bill, I was immediately approached by other Senators seeking the same protection. What we see unfolding before us in Utah ought to frighten all of us. Without including Utah's Governor, Senators, congressional delegation, the State legislature, county commissioners, or the people of Utah—President Clinton set off-limits forever approximately 1.7 million acres of Utah.

Under the 1906 Antiquities Act, President Clinton has the unilateral authority to create a national monument where none existed before. And if he can do it in the State of Utah, he can do it in Idaho. In fact, since 1906, the law has been used some 66 times to set lands aside. I would note—with very few exceptions, these declarations occurred before enactment of the National Environmental Policy Act of 1969 which recognized the need for public involvement in such issues and mandated public comment periods before such decisions are made.

Just as 64 percent of the land in Utah is owned by the Federal Government, 62 percent of Idaho is owned by Uncle Sam. What the President has done in Utah, without public input, he could also do in Idaho or any or the States where the Federal Government has a presence.

With Senator KEMPTHORNE as a cosponsor, I am once again introducing the Idaho Protection Act. This bill would simply require that the public and the Congress be fully involved and give approval before such a unilateral Presidential declaration of a new national monument could be imposed on Idaho.

The President's action in Utah has been a wake-up call to people across America. While we all want to preserve what is best in our States, people everywhere understand that much of their economic future is tied up in what happens on their public lands.

In the West, where public lands dominate the landscape, issues such as grazing, timber harvesting, water use, and recreation access have all come under attack by this administration seemingly bent upon kowtowing to a segment of our population that wants these uses kicked off our public lands.

Everyone wants public lands decisions to be made in an open and inclusive process. No one wants the President, acting alone, to unilaterally lock up enormous parts of any State. We certainly don't work that way in the

West. There is a recognition that with common sense, a balance can be struck that allows jobs to grow and families to put down roots while at the same time protecting America's great natural resources.

In my view, the President's actions are beyond the pale and for that reason—to protect others from suffering a similar fate, I am cosponsoring this bill.

By Mr. FEINGOLD:

S. 63. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

THE CIVIL RIGHTS PROCEDURES PROTECTION ACT OF 1997

Mr. FEINGOLD. Mr. President, I rise today to introduce the Civil Rights Procedures Protection Act of 1997. The 105th Congress will mark the third successive Congress that I have introduced this legislation. Very simply Mr. President, this legislation addresses the rapidly growing and, in my opinion, troubling practice of employers conditioning employment or professional advancement upon their employees willingness to submit claims of discrimination or harassment to arbitration, rather than pursuing them in the courts. In other words, employees raising claims of harassment or discrimination by their employers must submit the adjudication of those claims to arbitration, irrespective of what other remedies may exist under the laws of this Nation.

To address the growing incidents of compulsory arbitration, the Civil Rights Procedures Protection Act of 1997 amends seven civil rights statutes to ensure that those statutes remain effective when claims of this nature arise. Specifically, this legislation affects claims raised under Title VII of the Civil Rights Act of 1965, Section 505 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Section 1977 of the Revised Statutes, the Equal Pay Act, the Family and Medical Leave Act and the Federal Arbitration Act (FAA). In the context of the Federal Arbitration Act, the protections of this legislation are extended to claims of unlawful discrimination arising under State or local law and other Federal laws that prohibit job discrimination.

Mr. President, I want to be clear that this legislation is in no way intended to bar the use of arbitration, conciliation, mediation or any other form of adjudication short of litigation in resolving these claims. I have long been and will continue to be a strong supporter of "voluntary" forms of alternative dispute resolution. The key, however, is that the practices targeted by this bill are not voluntary. Rather they are imposed upon working men and women and are mandatory. Furthermore, the ability to be promoted, or in some cases, to be hired in the first place, is often conditioned upon the employee accepting this type of mandatory arbitration. Mandatory arbitration allows employers to tell all current and prospective employees in effect, 'if you want to work for us, you will have to check your rights as a working American citizen at the door.' In short, working men and women all across this country are faced with the tenuous choice of either accepting these mandatory limitations on their right to redress in the face of discrimination or placing at risk employment opportunities or professional advancement. These requirements have been referred to recently as "front door" contracts; that is, they require an employee to surrender certain rights up front in order to "get in the front door." As a nation which values work as well as deplores discrimination, we should not allow this situation to continue.

As I noted Mr. President, today marks the third successive Congress in which this important legislation has been introduced. Given that much of the rhetoric coming out of Washington and this body in recent months, certainly during the most recent elections, dealt with helping working families, it is my hope that this legislation will receive consideration in the coming months. The practice of mandatory arbitration should be stopped now—if people are being discriminated against, they should retain all avenues of redress provided for in the laws of this Nation. This bill will help restore integrity in relations between hard working employees and their employers, but more importantly, it will ensure that the civil rights laws which we pass, will continue to protect all Americans.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD at the conclusion of my remarks.

Mr. President, I also ask unanimous consent that a newspaper article from the September 24, 1996 edition of the Boston Globe, entitled, "A cautionary tale about signing away right to sue," be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 63

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Procedures Protection Act of 1997".

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 719. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 16. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to resolve such right or such claim through arbitration or another procedure.".

SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF 1973.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on right under section 501, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES OF THE UNITED STATES.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a right to make and enforce a contract of employment under this section, such procedures shall be the exclusive procedures applicable to a claim based on such right unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal statute of general applicability that would modify any of the powers or procedures expressly applicable to a claim based on violation of this subsection, such powers and procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended by adding at the end the following new section:

"SEC. 406. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on a right provided under this Act or under an amendment made by this Act, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 9. AMENDMENT TO TITLE 9 OF THE UNITED STATES CODE.

Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

SEC. 10. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply with respect to claims arising on and after the date of the enactment of this Act.

[From the Boston Globe, Sept. 24, 1996]

A CAUTIONARY TALE ABOUT SIGNING AWAY RIGHT TO SUE; ON THE JOB

(By Diane E. Lewis)

Jane Lajoie thought she had an open-and-shut discrimination case against her employer. Instead, she now has a cautionary tale for the growing number of American workers whose employers have asked them to sign away their rights to have employment complaints brought before a jury.

Lajoie's story begins in 1987 when, after receiving an MBA, she joined Fidelity Management Research Corp. as a data analyst for the publishing group's Mutual Fund Guide. Over the next seven years, she took on more responsibilities, rising to managing editor and then publisher of the guide.

But the Marlborough woman says there was a dark cloud over what should have been a successful career: She was convinced that she was not being compensated fairly, that men in comparable posts had more prestigious titles and were getting a lot more money for the same work. And she voiced her concerns.

Lajoie, 51, alleges that not long after she spoke up, a company lawyer asked her to register as a principle with the New York Stock Exchange and the National Association of Securities Dealers. Lajoie says she agreed, think she was required to register. She admits that she didn't read the fine print.

Today, Lajoie claims she was tricked into signing a so-called U-4 securities arbitration form stating that any dispute or claim against her employer must be submitted to private arbitration. In a lawsuit filed in Norfolk Superior Court, she alleges that she was replaced by a younger woman and then fired after she signed the form.

Fidelity denies discriminating against Lajoie. "There was no discrimination. She was compensated properly and fairly. She was also replaced by another woman," said attorney Wilfred Benoit Jr., who represents the Boston firm.

As for trickery, Benoit asserted: "Jane Lajoie was not tricked into signing anything. She signed a U-4 application as a principal in the securities industry and, as far as we know, she understood what it was."

Thus far, two Massachusetts courts have upheld Fidelity's right to arbitration, and an arbitration hearing is expected this year. The dispute may or may not end there.

Attorney Nancy Shilepsky, who represents Lajoie, says the Massachusetts Court of Appeals has acknowledged that her client may have good grounds for an appeal. But the court also ruled the Lajoie must arbitrate first and then, if unhappy with the findings, appeal.

For employers, mandatory arbitration has been a boon. Not only does it limit lengthy and expensive court battles, but it also reduces the kind of publicity that can seriously damage a company's image. In the five years since the US Supreme Court ruled that U-4s were legal, scores of companies have sought to have sexual harassment, age, gender and other discrimination claims moved from courts to the system of private justice known as binding arbitration. In the securities industry alone, about 500,000 Wall Street employees are legally bound by arbitration agreements.

Not surprisingly, the American Arbitration Association reports that employment arbitration claims increased 70 percent between 1994 and 1995.

Criticism has kept pace with the trend. Both the Equal Employment Opportunity Commission and the National Labor Relations Board have denounced the increased use of mandatory arbitration forms. The National Employment Lawyers Association has an ongoing campaign against the agreements.

The critics argue that the agreements are generally signed at the time of hiring or in the course of a policy change at a company—times when workers are concerned about making a good first impression or are probably not focused on the consequences of compliance.

Last year, the EEOC succeeded in enjoining an employer from requiring workers to sign mandatory arbitration forms and from firing those workers who refused.

This spring, the NLRB took a similar stand when it issued a complaint against a luggage maker that fired an employee for refusing to sign a form stating that all workplace disputes would have to be arbitrated.

"Nobody should be forced to use an employer's private justice system," says Lewis Maltby, director of workplace rights at the American Civil Liberties Union in New York.

Maltby, who sits on the board of the American Arbitration Association, concedes that there are times when employees may be better off arbitrating a dispute than taking the matter to a backlogged court or a beleaguered government agency.

In Boston, the Massachusetts Commission Against Discrimination is hoping arbitration will help reduce a two-year backlog of cases. For those who opt for binding arbitration, the dispute would be heard within 30 days after filing and decided in 60 days. Decisions would be binding on both sides.

Still, MCAD Commissioner Michael Duffy has drawn the line: His program will not mediate any cases stemming from mandatory arbitration agreements.

"We're not against arbitration or mediation," said Duffy. "We think it's fine when all parties agree. But problems arise when employees are told they must do it or are made to feel they could lose a job, and then they wind up giving up their right to a jury trial."

In the meantime, he and others advise what consumer advocates have been telling the public for years: Read the fine print before signing on the bottom line.

By Mr. LUGAR:

S. 64. A bill to state the national missile defense policy of the United States; to the Committee on Armed Services.

THE DEFEND THE UNITED STATES OF AMERICA ACT OF 1997

Mr. LUGAR. Mr. President, as we commence the 105th Congress and take up, as we surely will, issues with regard to national missile defense and theater missile defense, a key question is whether continued adherence to the ABM Treaty, in its original or a modified form, is compatible with the kind of missile defense we need.

Is this an "either/or" choice?

I hold the view that the ABM Treaty does have, or can be made to have, sufficient flexibility or elasticity to accommodate certain kinds of national missile or theater missile defense systems. By the same token, I reject the notion that we can only achieve the types of theater missile defense or national missile defense we need by outright abrogation of the ABM Treaty.

I am struck more by the commonality than the differences between the prevailing views of some of my Republican colleagues in the Senate and views in the Administration on this subject. Much of the difference has to do with timing, stemming in part from different assessments of the intelligence information on the ballistic missile threat facing the country. Ultimately, responsible policy makers must come to grips with the management of the risk entailed by the threat and how much money we are willing to spend, in a tight budget situation, for various levels of missile defense to counter that threat.

At this point in our debates, there seems to be general agreement that we are not trying to protect the U.S. against a massive nuclear strike from a reconstituted Soviet Union or even a general exchange with Russia. Nor, for that matter, are we talking about protection against a deliberate, massive Chinese nuclear attack on the United States.

A consensus between the prevailing positions on the Hill and that of the administration comes closer if there is an acceptance that this range of Russian or Chinese threats are beyond our technological and financial means in the near term and that our objective is one of defending America against a Third World, long-range ballistic missile capability from a regime not subject to any rational laws of deterrence.

It is the prospect that rogue states will at some point obtain strategic ballistic missiles—ICBM's—that can reach American shores which propels us to consider the deployment of a national missile defense. A second prospect involves an unauthorized or accidental launch of an ICBM from Russia or China.

The kind of national missile defense system promoted both on the Hill and in the administration would not be capable of defending against thousands of warheads being launched against the United States. Rather, both sides are talking about a system capable of defending against the much smaller and relatively unsophisticated ICBM threat that a rogue nation or terrorist group could mount anytime in the foreseeable future as well as one capable of shooting down an unauthorized or accidentally launched missile.

The critical difference between many of the plans offered on the Hill and those proposed by the administration has to do with timing. Some Congressional proposals would require selection of a missile defense system to be made within a year, with deployment to begin within three years. The administration has argued for the need to develop a system, assess the threat in three years, and make a deployment decision accordingly.

It is the difference between the various plans over timing on system selection and deployment that holds practical implications for existing and potential arms control agreements—START II, the ABM Treaty, START III?—as well as the potential effectiveness of the system deployed. The more immediate the commitment to deploy a national defense system, the greater the risk of a Russian rejection of the START II Treaty and of an outright American rejection of the original ABM Treaty.

Second, differences over timing have been linked to the issue of the effectiveness of the system deployed by the United States. The administration has argued that selection of a system within the next year or so will limit the options to build a system that is better matched to the threat, and that the real choice between various Congressional plans and that of the administration is between building an advanced system to defeat an actual threat and a less capable system to defeat a hypothetical threat.

Mr. President, is there a middle ground—one that satisfies neither the administration nor various Congressional proponents fully but that does move us in the direction of providing the American people with a limited national defense system against the most urgent ballistic missile threats? I believe there is, and this legislation is an attempt to chart it.

Mr. President, I sense a greater willingness in both branches to try to come together in the interest of providing the American people with some form of limited, national defense system against the most urgent form of ballistic missile threat—to seek to bridge gaps rather than score debating points.

Moreover, with the passage of time, the differences over preferred dates of system selection and deployment have narrowed.

With that in mind, and with a felt need to change the terms of reference of previous ballistic missile defense debates by focusing on areas of commonality between the administration's position and the various congressional plans, I offer this legislation as one of the starting points for a more constructive exchange on the subject of national missile defense.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFEND THE UNITED STATES OF AMERICA ACT OF 1997—SECTION-BY-SECTION ANALYSIS

I. SHORT TITLE

This act may be cited as the "Defend the United States of America Act of 1997".

II. FINDINGS

Describes the linkages between U.S. missile defenses, the ABM Treaty, and continued Russian adherences to other arms reduction treaties like START I and START II.

Describes the newly-emerging threats posed by other kinds of weapons of mass destruction than nuclear weapons, and other delivery means than long-range ballistic missiles.

Hearings over the last two years have shown the pervasive threat to the U.S. from chemical, biological, and radiological weapons, and the relative unpreparedness of U.S. governments at all levels to cope with such terrorist incidents.

Restates what DoD and Congress have learned about major weapons system development, with emphasis on the necessity for thorough testing and careful systems cost-effectiveness analysis prior to a commitment to deployment.

III. NATIONAL MISSILE DEFENSE POLICY

Development for deployment not later than 2003 of a National Missile Defense system designed to defend against accidental, unauthorized, and limited attacks.

The initial National Missile Defense system to be developed and deployed at the former Safeguard ABM site in compliance with the ABM Treaty, and to consist of:

Fixed, guard-based battle management radars;

Up to 100 ground-based interceptor missiles;

Space based adjuncts allowed by the ABM Treaty; and

Large phased array radars on the periphery of the U.S., facing outward, as necessary.

A requirement for a Presidential recommendation in 2000 on whether or not to deploy the developed system, and a set of criteria that should be used by the Congress in 2000 to aid in making a deployment decision. The criteria include:

The threat, as it exists in 2000 and is projected over the next several years;

The projected cost and effectiveness of the system, based on development and testing results;

The projected cost and effectiveness of the National Missile Defense system if deployment were deferred for one to three years, while additional development occurs;

Arms control factors; and

Where the U.S. stands in preparedness for, and defenses against, all the other nuclear, chemical and biological threats to the U.S.

The establishment of provisions to give the 106th Congress a vote on whether or not to authorize deployment of the system, as a privileged motion under expedited procedures.

This is a process that has been used by previous Congresses to insure an up-or-down vote in both Houses on the B–2 bomber, the MX missile, and on B–52s.

In sum, this section establishes a process whereby Congress will vote in 2000 on whether or not to deploy whatever National Missile Defense system may be ready to begin deployment at that time, and with better information than we have today.

IV. NATIONAL MISSILE DEFENSE VS. ARMS CONTROL AGREEMENTS

A statement that it is the United States' legal right to deploy such a National Missile Defense system, and that such a deployment does not threaten Russian or Chinese deterrent capabilities.

A direction to the President to seek both further cooperation with Russia on a variety of Theater Missile Defense issues, and the relaxation of the ABM Treaty to allow both sides to have two National Missile Defense sites.

This would greatly increase the effectiveness of our National Missile Defense systems against Third World missile attacks aimed at targets on our distant borders, while not posing a threat to Russia's deterrent.

This section also contains a provision requiring the President, if the ballistic missile threat to the U.S. exceeds that which the initial National Missile Defense system is capable of handling, to consult with the Congress regarding the exercise of our right to withdraw from the ABM Treaty under Article XV.

V. DOD TO CONTINUE R&D ON NATIONAL MISSILE DEFENSE

Directs the Secretary of Defense to continue a research and development program on advanced National Missile Defense technologies while the initial site is developed and deployed; this program would be conducted in full compliance with the ABM Treaty.

VI. U.S. POLICY TOWARD OTHER WMD DELIVERY THREATS

Sets forth U.S. policy on reducing the threat to the U.S. from weapons of mass destruction and associated delivery systems. It further directs the Administration to develop a balanced comprehensive plan for reducing the threat to the U.S. from all weapons of mass destruction and all delivery means.

VII. PRESIDENTIAL AND CONGRESSIONAL REVIEW OF U.S. DEFENSES AGAINST ALL TYPES OF WMD ATTACK

Requires a review, following the initial deployment of a National Missile Defense, by

the President and the Congress to determine the future course of U.S. defenses against all types of weapons of mass destruction.

VIII. REPORTING REQUIREMENTS

Administration reporting requirements to Congress.

IX. LEGAL DEFINITIONS

The legal definitions of the treaties mentioned in the bill.

By Mr. HATCH:

S. 65. A bill to amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes; to the Committee on Finance.

MEMBERSHIP DUES DISCLOSURE AND DEDUCTIBILITY LEGISLATION

Mr. HATCH. Mr. President, for many years, Congress has recognized that private institutions can often provide better service in certain areas than the government. In this regard, membership organizations that serve various public needs are given tax-exempt treatment. However, some tax-exempt membership organizations are involved in political and lobbying activities. These activities may or may not meet with the approval of those who pay dues and certainly should not be subsidized by the taxpayers.

Today, I am introducing legislation that is designed to rectify this problem. My bill is very simple. It requires tax-exempt membership organizations to disclose to their members these political activities and organizational resources spent on them. In addition, this bill will give the members of these tax-exempt organizations the opportunity to deduct the nonpolitical portion of their dues for income tax purposes without regard to the so-called "two percent limitation."

First, let me discuss the issue of full disclosure.

Mr. President, in the Omnibus Budget Reconciliation Act of 1993, Congress disallowed a deduction for expenses relating to lobbying and political activities. Lobbying is no longer a legitimate deductible expense for American businesses. Since tax-exempt organizations generally do not pay any income tax, the law was amended to further disallow an individual taxpayer a tax deduction for the portion of annual dues paid to a tax-exempt organization that is attributable to any lobbying or political activities of the organization. To assist association members in knowing what portion is and what portion is not deductible when paying their dues, the law requires organizations to annually disclose to the IRS and to the individual members the amount of money spent on political activities by the organization.

However, certain exceptions to the disclosure rules are provided in the tax code and an organization is not required to disclose such information if (1) political activities do not exceed $2,000 a year; (2) the organization elects to pay a proxy tax on the nondeductible portion in order to avoid providing disclosure; or (3) substantially all of the individual members do not deduct their annual dues payments on their tax returns as itemized deductions.

In 1995, the IRS put forth an interpretation of this third exception and explained what they believe Congress meant by substantially all dues are not deductible. In Revenue Procedure 95-35, the IRS let all but three categories of tax-exempt organizations off the hook from the disclosure rules. The three that must comply are: section 501(c)(4) organizations that are not veterans organizations, 501(c)(5) agricultural and horticultural organizations, and 501(c)(6) organizations.

Interestingly, Mr. President, the IRS choose to grant labor unions, which are also 501(c)(5) organizations, a complete exemption from the lobbying disclosure rules. Thus, unions do not have to inform their members how much of their dues are used for political purposes.

I am sure that my colleagues see the obvious problems in this. It is simply not fair that the IRS would treat a labor union preferentially. Why are unions exempt and not, for example, farm cooperatives?

Mr. President, it seems to me that the Clinton administration has twisted the law to favor their friends in union leadership at the expense of the right to know for the rank and file. Let me reiterate this point: the law says clearly that tax-exempt organizations must disclose their political and lobbying activities. It is only the IRS interpretation that enables unions to duck this disclosure requirement and still benefit from tax-exempt status.

Second, I find it outrageous that union leadership are able to coerce dues from workers in many states as a condition of employment. But, it adds insult to injury that those dues can be used for political purposes without the knowledge, let alone permission, of the rank and file.

The Supreme Court, in 1988, in *Beck* v. *Communication Workers of America*, declared that workers were entitled to know how much of their dues were being directed to political uses and to receive a refund for that portion of dues paid. This seems like a simple common sense solution to this violation of free speech rights. However, in one of his first acts upon taking office in 1993, President Clinton rescinded the executive order enforcing this decision of the Supreme Court.

Mr. President, in the *Beck* case, for example, it was found that only 21 percent of the dues collected by the Communications Workers of America went for bargaining-related activities. This meant that Harry Beck, the former Maryland union shop steward who spent 13 years fighting his case in the courts, was entitled to get a substantial rebate of his dues, plus interest. Yet, this case is merely illustrative of a widespread injustice. Where is the fairness in requiring a worker to contribute to a political cause or a lobbying effort with which he or she does not agree?

Forcing people to contribute portions of their earnings to political causes they oppose violates their First Amendment rights. In his *Beck* opinion, Justice William Brennen cited Thomas Jefferson's view that forcing people to finance opinions they disagree with was "sinful and tyrannical."

Mr. President, it is often a requirement or a condition of employment for workers to be members of a labor union. Yet, this requirement is often very costly. Union dues can run from about $300 to over $1,000 a year. Now, I am the first to acknowledge that unions play an important role in employee-employer relations. I will wager that I am one of the few members of this body who was ever a member of a union. And, that experience, perhaps, is the reason I believe so strongly that the rank and file have rights that must be protected.

Citizens of a free country ought to be free to spend their own money on the political causes and candidates they wish to support. In 1992, union officials admit to having spent at least $92 million on political contributions and expenses. In-kind contributions could be 3 to 5 times that amount. In other words, organized labor may have actually spent from $300 million to $500 million on political activities in 1992. While some union members would approve of these expenditures, some definitely would not.

But, I want to be absolutely clear that the bill I am introducing today does *not* affect any provision in the National Labor Relations Act, the ability of unions to establish closed or agency shops in any state where they are currently permitted, or the ability of unions to assess dues or collect fees. Those are debates for another day.

Rather, this bill deals only with the obligation of labor unions, as tax exempt organizations, to disclose political and lobbying activities to their members. All union members deserve to know how their organizations spend their money. Moreover, because these are tax-exempt organizations, the taxpayers deserve to know what they are subsidizing.

While union members are certainly capable of reading a headline like, "Union leaders commit $35 million to Democrats," they may wish to have a more comprehensive disclosure of political and lobbying activity financed with their dues—and I cannot blame them one bit.

Mr. President, polling data suggests that union members would prefer that their unions not engage in partisan political campaign activities at all. But, by an overwhelming 84 percent to 9 percent margin, according to a survey by Luntz and Associates, union members want to force their union leaders to explain what happens to their dues. They simply want to know where the money is spent and why. This seems utterly reasonable and fair to me.

Furthermore, only 19 percent of union members know that they can request a refund if they do not agree with an ideological position and/or political position of their particular union. When told that they have the right to a refund, 20 percent say they would "definitely" request their money back, and another 20 percent would be "very likely" to request a refund.

Mr. President, let me turn to the issue of deductibility.

Currently, an individual union member may deduct his union dues only if the amount exceed two percent of his or her adjusted gross income [AGI]. For all intents and purposes, this means that union dues and fees are not deductible at all for most workers, even if such dues and fees are required as a condition of employment.

I believe that union dues and fees, especially to the extent that so many workers are forced to pay them, ought to be fully deductible for those who itemize deductions. Therefore, I am proposing this bill to remove the two percent threshold and to permit union members and fee payers to deduct that portion of their dues and fees that is not used for political or lobbying activities. This conforms union dues and fees with all other sorts of business expenses and contributions to tax-exempt organizations.

Moreover, this deduction is a form of tax break that could put real money back in the pockets of American workers.

Mr. President, to summarize, if my bill is enacted into law, tax-exempt organizations would be required—really required—to disclose to their members the amount of their political and lobbying activities. It goes further by allowing full deductibility of membership dues to the extent they are used for nonpolitical or lobbying activities.

Mr President, this proposal is a step in the direction of campaign finance reform. One important objective of campaign finance reform should be to return political power to individual citizens and to diminish the influence of large organizational special interests.

Well, Mr. President, knowledge has always been power. To return power to individual voters, they need to know where their dollars are going. If my bill is passed, workers will no longer be in the dark about their dues. At the same time they will be getting a tax break and possibly an increase in their take-home pay. I believe this is the fair and honest thing to do. I urge all my colleagues to support and cosponsor this bill.

By Mr. HATCH (for himself, Mr. LIEBERMAN, Mr. GRASSLEY, and Mr. BREAUX):

S. 66. A bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes; to the Committee on Finance.

THE CAPITAL FORMATION ACT OF 1997

Mr. HATCH. Mr. President, I am pleased to be joined by Senators LIEBERMAN, GRASSLEY, and BREAUX in introducing the Capital Formation Act of 1997.

Mr. President, reducing the high rate on capital gains has long been a priority of mine. During the last Congress, I joined my good friend, the chairman of the House Ways and Means Committee, Bill Archer, in sponsoring the Archer-Hatch capital gains bill. Then later in the session Senator LIEBERMAN and I offered a bipartisan capital gains tax reduction bill. The Hatch/Lieberman bill, S. 959, contained the same 50 percent deduction for capital gains as well as an enhanced incentive for investments in newly issued stock of small corporations. This measure was supported by 45 senators, and we were pleased that its provisions were included in the Balanced Budget Act of 1995.

The bill we are introducing today is substantially the same. Our bill combines two important elements of capital gains relief with a broad based tax cut and a targeted incentive to give an extra push for newly formed or expanding small businesses. Like the capital gains measure that passed the House and Senate during the last Congress, our bill would allow individual taxpayers to deduct 50 percent of any net capital gain. This means that the top capital gains tax rate for individuals would be 19.8 percent. Also, it grants a 25-percent maximum capital gains tax rate for corporations. Our bill also includes an important provision that would allow homeowners who sell their personal residences at a loss to take a capital gains deduction.

A provision that is not in our bill is a provision for indexing assets. Many of our Senate colleagues have expressed concern that indexing capital assets would result in undue complexity and possibly lead to a resurgence of tax shelters. While I continue to support the concept of indexing capital assets to prevent the taxation of inflationary gains, I believe even more strongly that capital gains tax relief is essential for our long-term economic growth. Therefore, in an effort to streamline this bill and expedite its passage, we have omitted the indexing provisions. I hope that some form of indexing can be developed that will achieve the goals of indexing without adding undue complexity or the potential for abuse.

In addition to the broad-based provisions listed above, our bill also includes some extra capital gains incentives targeted to individuals and corporations who are willing to invest in small businesses. We see this add-on as an inducement for investors to provide the capital needed to help small businesses get established and to expand.

Mr. President, this additional targeted incentive works as follows: If an investor buys newly issued stock of a qualified small business, which is defined as one with up to $100 million in assets, and holds that stock for three or more years, he or she can deduct 75 percent of the gain on the sale of that stock, rather than just the 50 percent deduction provided for other capital gains.

In addition, any time after the end of the 3 year period, if the investor decides to sell the stock of one qualified small business and invest in another qualified small business, he or she can completely defer the gain on the sale of the first stock and not pay taxes on the gain until the second stock is sold. In essence, the investor is allowed to roll over the gain into the new stock until he or she sells the stock and cashes out the assets. We think that this additional incentive will make a tremendous amount of capital available for new and expanding small businesses in this country.

In particular, these special incentives should really make a difference in the electronics, biotechnology, and other high tech industries that are so important to our economy and to our future. The software and medical device industries in Utah are perfect examples of how these industries have transformed our economy. While these provisions are not limited to high tech companies by any means, these are the types of businesses that are most likely to use them because it is so hard to attract capital for these higher risk ventures. In addition, many start-up companies have large research and development needs. With the uncertainty of the R&E tax credit, this bill will give investors an incentive to fund high risk research companies that may be a Novell or Thiokol of tomorrow.

Mr. President, our economy is becoming more connected to the global marketplace every day. And, it is vital for us to realize that capital flows across national boundaries very rapidly. Therefore, we need to be concerned with how our trading partners tax capital and investment income.

Unfortunately, the U.S. has the highest tax rate on individual capital gains of all of the G–7 nations, except the U.K. And, even in the U.K., individuals can take advantage of indexing to alleviate capital gains caused solely by inflation. For example, Germany totally exempts long-term capital gains on securities. In Japan, investors pay the lesser of 1 percent of the sales price or 20 percent of the net gain. I think it is no coincidence, Mr. President, that Germany's saving rate is twice ours, and Japan's is three times as high as ours. In order to stay competitive in the world, it is vital that our tax laws provide the proper incentive to attract the capital we need here in the U.S.

We are aware that some of the opponents of capital gains tax reductions have asserted that such changes would inordinately benefit the wealthy, leaving little or no tax relief for the lower and middle income classes. Nothing could be further from the truth. In fact, capital gains taxation affects every homeowner, every employee who participates in a stock purchase plan, or every senior citizen who relies on income from mutual funds for their basic needs during retirement. A capital gains tax cut is for everybody.

It is interesting to note how the current treatment of capital gains only gives preferential treatment to those taxpayers whose incomes lie in the highest tax brackets. Under the Capital Formation Act of 1997, the benefits will tilt decidedly toward the middle-income taxpayer. A married couple with $30,000 in taxable income who sells a capital asset would, under our bill, pay only a 7.5-percent tax on the capital gain. Further, this bill would slash the taxes retired seniors pay when they sell the assets they have accumulated for income during retirement.

I also believe there is a misperception about the term "capital asset." We tend to think of capital assets as something only wealthy persons have. In fact, a capital asset is a savings account—which we should all have—a piece of land, a savings bond, some stock your grandmother gave you, a mutual fund share, your house, your farm, your 1964 Mustang convertible, or any number of things that have monetary worth. It is misleading to imply that only "the wealthy" would benefit from this bill.

I want to elaborate on this point, Mr. President. Current law already provides a sizeable differential between ordinary income tax rates and capital gains tax rates for upper income taxpayers. The wealthiest among us pay up to 39.6 percent on ordinary income but only 28 percent on capital gains. We certainly believe that income tax rates are too high. And, for middle-income taxpayers in the 28 percent income tax bracket, there is no difference between their capital gains rate and their ordinary income rate. Thus, current law provides no tax incentive for middle income taxpayers to invest assets that may have capital gains. Our bill would correct this problem and give the largest percentage rate reduction to the lowest income taxpayers. For example, the rate for high income earners would change from 28 percent to 19.8 percent—a 8.2 percentage point reduction. Whereas, a middle income taxpayer—who is getting no benefit under current law—would be taxed at 14 percent—a 14 percentage point reduction.

Frankly, Mr. President, the introduction of a bipartisan capital gains bill couldn't come at a better time than now. Congress is in the midst of formulating a plan to balance the federal budget. The elements of this plan will have consequences far beyond this year or even beyond 2002 when we hope to achieve our balanced budget goal. Crucial to the achievement of a balanced budget is the underlying growth and strength of our economy. Small changes in the behavior of the economy can make or break our ability to put our fiscal house in order. Thus, especially now, we can ill afford to have our economy slow down and create an increased fear of future job insecurity. Both Republicans and Democrats alike can agree that the creation of new and secure jobs is imperative for a vibrant and growing economy.

This is where a reduction of the capital gains rate can be so important. By stimulating the economy and spurring job creation, a cut in the capital gains rate can stave off the downturn that may be on its way.

Many Americans have expressed concern about the wisdom of a tax reduction while we are trying to balance the budget. However, Mr. President, we see this bill as a change that will help us balance the budget. The evidence clearly shows that a cut in the capital gains tax rate will increase, not decrease, revenue to the Treasury. During the period from 1978 to 1985, the tax rate on capital gains was cut from almost 50 percent to 20 percent. Over this same period, however, tax receipts increased from $9.1 billion to $26.5 billion. The opposite occurred after the 1986 Tax Reform Act raised the capital gains tax rate. The higher rate resulted in less revenue.

Mr. President, the capital gains tax is really a tax on realizing the American dream. For those Americans who have planted seeds in small or large companies, family farms, or other investments, and who have been fortunate enough and worked hard enough to see them grow, the capital gains tax is a tax on success. It is an additional tax on the reward for taking risks. The American dream is not dead; it's just that we have been taxing it away.

I urge my colleagues on both sides of the aisle to take a close look at this bill. We believe it offers a solid plan to help us achieve our goal of a brighter future for our children and grandchildren. When it comes down to it, jobs, economic growth, and entrepreneurship are not partisan issues. They are American issues.

Mr. President, I ask unanimous consent that the text and a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 66

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Capital Formation Act of 1997".

(b) REFERENCE TO 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—CAPITAL GAINS REFORM

Subtitle A—Capital Gains Deduction for Taxpayers Other Than Corporations

SEC. 101. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following:

"SEC. 1202. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1997—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1997, and

"(B) if the net capital gain for such year exceeds the amount taken into account under subsection (a), the rate of tax imposed by section 1 on such excess shall not exceed 28 percent.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.".

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (15) the following:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1 is amended by striking subsection (h).

(2) Section 170(e)(1) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent ($\frac{25}{35}$ in the case of a corporation) of the amount of gain".

(3) Section 172(d)(2)(B) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed.".

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account.".

(5) Section 642(c)(4) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account.".

(7) Section 643(a)(6)(C) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account".

(8) Section 691(c)(4) is amended by striking "sections 1(h), 1201, 1202, and 1211" and inserting "sections 1201, 1202, 1203, and 1211".

(9) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "section 1202".

(10)(A) Section 904(b)(2) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.".

(B) Section 904(b)(2)(A), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Section 904(b)(3) is amended by striking subparagraphs (D) and (E) and inserting the following:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).".

(D) Section 593(b)(2)(D)(v) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,"; and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(11) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(12)(A) Section 1211(b)(2) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.".

(B) So much of section 1212(b)(2) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.".

(C) Section 1212(b) is amended by adding at the end the following:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1998), is treated as a capital loss in the first taxable year beginning after December 31, 1997, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1997, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1997.".

(13) Section 1402(i)(1) is amended by inserting ", and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply" before the period at the end thereof.

(14) Section 1445(e) is amended—

(A) in paragraph (1), by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "25 percent (or, to the extent provided in regulations, 19.8 percent)"; and

(B) in paragraph (2), by striking "35 percent" and inserting "25 percent".

(15)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies"; and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (25 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies"; and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (25 percent".

(16) The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following:

"Sec. 1202. Capital gains deduction.
"Sec. 1203. 50-percent exclusion for gain from certain small business stock.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section apply to taxable years ending after December 31, 1996.

(2) CONTRIBUTIONS.—The amendment made by subsection (c)(2) applies to contributions on or after January 1, 1997.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (c)(12) apply to taxable years beginning after December 31, 1997.

(4) WITHHOLDING.—The amendments made by subsection (c)(14) apply only to amounts paid after the date of enactment of this Act.

Subtitle B—Capital Gains Reduction for Corporations

SEC. 111. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 25 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of any taxable year ending after December 31, 1996, and beginning before January 1, 1998, in applying subsection (a), net capital gain for such taxable year shall not exceed such net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1996.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(d)(2) shall apply for purposes of paragraph (1).

"(c) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A).".

(b) Conforming Amendment.—Section 852(b)(3)(D)(iii) is amended by striking "65 percent" and inserting "75 percent".

(c) Effective Date.—The amendments made by this section apply to taxable years ending after December 31, 1996.

Subtitle C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

SEC. 121. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) In General.—Section 165(c) (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following:

"(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer.".

(b) Effective Date.—The amendments made by subsection (a) apply to sales and exchanges after December 31, 1996, in taxable years ending after such date.

TITLE II—SMALL BUSINESS VENTURE CAPITAL STOCK

SEC. 201. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) Increase in Exclusion Percentage.—

(1) In general.—Section 1203(a), as redesignated by section 101, is amended—

(A) by striking "50 percent" and inserting "75 percent"; and

(B) in the heading, by striking "50-PERCENT" and inserting "PARTIAL".

(2) Conforming amendments.—

(A) Section 1203, as so redesignated, is amended by adding at the end the following:

"(*l*) Cross Reference.—

"For treatment of eligible gain not excluded under subsection (a), see sections 1201 and 1202.".

(B) The heading for section 1203, as so redesignated, is amended by striking "50-PERCENT" and inserting "PARTIAL".

(C) The table of sections for part I of subchapter P of chapter 1, as amended by section 101(d), is amended by striking "50-percent" in the item relating to section 1203 and inserting "Partial".

(b) Reduction in Holding Period.—Subsection (a) of section 1202 is amended by striking "5 years" and inserting "3 years".

(c) Exclusion Available to Corporations.—

(1) In general.—Section 1203(a), as redesignated by section 101, is amended by striking "other than a corporation".

(2) Conforming amendment.—Section 1203(c), as so redesignated, is amended by adding at the end the following:

"(4) Stock held among members of controlled group not eligible.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (d)(3)) shall not be treated as qualified small business stock while held by another member of such group.".

(d) Repeal of Minimum Tax Preference.—

(1) In general.—Section 57(a) is amended by striking paragraph (7).

(2) Conforming amendment.—Section 53(d)(1)(B)(ii)(II) is amended by striking ", (5), and (7)" and inserting "and (5)".

(e) Stock of Larger Businesses Eligible for Exclusion.—

(1) In general.—Section 1203(d)(1), as redesignated by section 101, is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(2) Inflation adjustment.—Section 1203(d), as so redesignated, is amended by adding at the end the following:

"(4) Inflation adjustment of asset limitation.—In the case of stock issued in any calendar year after 1998, the $100,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.".

(f) Repeal of Per-Issuer Limitation.—Section 1203, as redesignated by section 101, is amended by striking subsection (b).

(g) Other Modifications.—

(1) Repeal of working capital limitation.—Section 1203(e)(6), as redesignated by section 101, is amended—

(A) in subparagraph (B), by striking "2 years" and inserting "5 years"; and

(B) by striking the last sentence.

(2) Exception from redemption rules where business purpose.—Section 1203(c)(3), as so redesignated, is amended by adding at the end the following:

"(D) Waiver where business purpose.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.".

(h) Qualified Trade or Business.—Section 1203(e)(3), as redesignated by section 101, is amended by inserting "and" at the end of subparagraph (C), by striking ", and" at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(i) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section apply to stock issued after the date of enactment of this Act.

(2) Special rule.—The amendments made by subsections (a), (c), (e), and (f) apply to stock issued after August 10, 1993.

SEC. 202. ROLLOVER OF GAIN FROM SALE OF QUALIFIED STOCK.

(a) In General.—Part III of subchapter O of chapter 1 is amended by adding at the end the following:

"SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL BUSINESS STOCK TO ANOTHER QUALIFIED SMALL BUSINESS STOCK.

"(a) Nonrecognition of Gain.—In the case of any sale of qualified small business stock with respect to which the taxpayer elects the application of this section, eligible gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this title.

"(b) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified small business stock.—The term 'qualified small business stock' has the meaning given such term by section 1203(c).

"(2) Eligible gain.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) Purchase.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

"(4) Basis adjustments.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

"(c) Special Rules for Treatment of Replacement Stock.—

"(1) Holding period for accrued gain.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as gain from the sale or exchange of qualified small business stock held more than 5 years to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

"(2) Tacking of holding period for purposes of deferral.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 5 years, gain from such stock shall be treated eligible gain for purposes of subsection (a).

"(3) Replacement qualified small business stock.—For purposes of this subsection, the term 'replacement qualified small business stock' means any qualified small business stock the basis of which was reduced under subsection (b)(4).".

(b) Conforming Amendments.—

(1) Section 1016(a)(23) is amended—

(A) by striking "or 1044" and inserting ", 1044, or 1045"; and

(B) by striking "or 1044(d)" and inserting ", 1044(d), or 1045(b)(4)".

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following:

"Sec. 1045. Rollover of gain from qualified small business stock to another qualified small business stock.".

(c) Effective Date.—The amendments made by this section apply to stock sold or exchanged after the date of enactment of this Act.

SUMMARY OF CAPITAL FORMATION ACT OF 1997

The Capital Formation Act of 1997 would reduce the tax rate on capital gains and encourage investment in new and growing business enterprises through the following provisions:

I. Broad-Based Tax Relief:

(1) Individual taxpayers would be allowed a deduction of 50 percent of any net capital gain. The top effective rate on capital gains would thus be 19.8 percent.

(2) Corporations would have a maximum capital gains tax rate of 25 percent.

(3) Capital loss treatment would be allowed with respect to the sale of a taxpayer's principal residence.

(4) Indexing of capital assets would not be included.

(5) Would be effective for taxable years ending after December 31, 1996.

II. Targeted Incentives to Invest in Small Business Enterprises:

(1) Provides an exclusion of 75 percent of capital gains from the sale of investments in qualified small business stock held for more than three years.

(2) Allows 100 percent deferral of capital gains tax, after the three year period, if proceeds from the sale of qualified small business stock are rolled over within 60 days into another qualified small business stock. Gains accrued after the rollover would qualify for a 50 percent deduction if held for more than one year, 75 percent exclusion if held for more than another three years, or, at any time, could be rolled over yet again into another qualified small business stock for 100 percent deferral.

(3) Would be effective upon date of enactment.

Example: A taxpayer buys qualified small business stock in 1997 for $10,000. She sells the stock in 2001 for $20,000. She would be allowed to exclude 75 percent of the gain, or $7,500, and then deduct 50 percent of the remaining gain of $2,500. Thus, she would pay tax on only $1,250. Or, if she chose to roll over the $20,000 proceed from the sale into another qualified small business stock within 60 days, she would defer all tax until she ultimately sold the second stock.

Qualified small business stock is defined as newly issued stock of corporations with up to $100 million in assets and is an expansion of the current law targeted small business capital gains exclusion added by the 1993 tax act. The changes in the targeted small business stock incentive from current law would include:

(1) Allow corporations to participate.

(2) Remove the current law per-issuer limitation.

(3) Expand the working capital limitation.

Mr. LIEBERMAN. Mr. President, I am proud to join Senator HATCH in introducing this important capital gains legislation today.

This bill is nearly identical to S. 959, legislation that I introduced with Senator HATCH in the last Congress. Ultimately that bill had over 40 cosponsors. A variation of that bill was included in the broader budget and tax bill which was approved by the Congress in 1995 but failed to become law. In addition, a version of S. 959 was included in the Centrist Coalition budget, a budget which was crafted by a group of 22 Senators evenly divided between Republicans and Democrats. That package was offered on the floor of the Senate in May of 1996 and received a very respectable 46 votes.

The capital gains bill we are introducing today contains a broad-based capital gains cut which would allow individuals to deduct 50 percent of their capital gains and a corporate rate of 25 percent. It also has a targeted provision which provides a "sweetener" for investments in qualified small businesses. In addition, it allows taxpayers to deduct losses on the sale of a principal residence, something which is very important in places like my home state of Connecticut as well as in California and Texas.

This bill gives people at all income levels a reason to put their money in places where that money will help businesses start and grow and that means more jobs for Americans and more economic prosperity for our country. The benefits of this capital gains cut will not flow just to people of wealth. Anyone who has stock, who has money invested in a mutual fund, who owns a home, who has a stock option plan at work, has a stake in capital gains tax relief. This means millions and millions of middle-class American families stand to benefit from this legislation. I often cite data on employee stock options and stock purchase plans in talking about stakeholders in a capital gains cut. A recent count showed that over three hundred American companies with over seven million workers offered these plans. Each of those workers and their spouses and their children stand to gain from this legislation.

This capital gains bill rewards those people who are willing to invest their money and not spend it. It rewards people who put their money in places where it will add to our national pool of savings. Businesses can draw on this pool of savings to meet their capital needs, expand their businesses and hire more workers. The 1995 Nobel Prize winner in Economics, Robert Lucas, had this to say about capital gains taxes in the fall of 1995: "When I left graduate school in 1963, I believed that the single most desirable change in the U.S. tax structure would be the taxation of gains as ordinary income. I now believe that neither capital gains nor any of the income from capital should be taxed at all." Professor Lucas went on to say that his analysis shows that even under conservative assumptions, eliminating capital gains taxes would increase available capital in this country by about 35 percent. While we reduce not eliminate the tax on capital in this country, we hope you will consider joining us in cosponsoring this important legislation.

I would also like to point out that this bill contains a targeted sweetener for investments in qualified small businesses. This is an attempt to promote investments in small businesses, the firms that are driving job creation in our economy. We expect these provisions to be very helpful to the kinds of small businesses we need for our future, the high technology companies that will be the source of new jobs in the next century. The bill provides a 75 percent exclusion of capital gains from sales of investment in qualified small business stock held more than three years. In addition, it allows a 100 percent deferral of capital gains, after the three year period, if proceeds from the sale of qualified small business stock are rolled over within 60 days into another qualified small business stock. If the taxpayer continues to roll into qualified stock, and holds that stock for at least a year, this deferral could continue indefinitely.

Before I go any further, I must give credit where credit is due. The targeted provisions of this legislation build on the fine work of Senator DALE BUMPERS, who has been a leader in providing incentives for start-up businesses to attract capital. He worked mightily to have a targeted incentive piece included in the 1993 reconciliation bill and he succeeded. The legislation we are introducing today builds on, and we hope, improves, on that targeted incentive.

I would also like to note that I am also joining Minority Leader DASCHLE today as a cosponsor of his Targeted Investment Incentive and Economic Growth Act of 1997. That proposal contains a capital gains rollover provision which contains features of a targeted rollover piece I introduced in the last Congress, S. 1053, as well as features from the targeted section of the bill I am introducing with Senator HATCH today. Senator DASCHLE's legislation is also very helpful insofar as he improves upon the targeted capital gains bill we passed in 1993, much in the same way the broader capital gains bill being introduced today does.

I am also delighted that Senator DASCHLE's bill incorporates a version of a bill I introduced in June of 1993, The Equity Expansion Act of 1993. That bill created a preferred type of stock options for companies willing to offer stock options to a wide cross section of their employees. Under current law, taxpayers are taxed on a stock option when they exercise their right to buy stock, not when they sell that stock. The perverse effect of taxing this paper gain is that many people feel compelled to sell their stock when they exercise their option to buy it in order to pay the tax. The Equity Expansion Act began with the premise that we ought to encourage people to hold their investment in their company. It changed the taxable event from the date of exercise to the date of sale for a new class of stock options known as performance-based stock options [PSOs]. Under my bill, as under the bill being introduced by the Minority Leader, in order to qualify for this new class of stock options, at least half of a company's stock options would have to go to non-highly compensated employees.

In addition, 50 percent of any capital gain on these PSO's would be exempt from tax if they are held by the taxpayer for more than two years. I hope this will prove a powerful incentive for employees to buy and hold the investments they are making in their company.

In closing, I applaud both Senator HATCH and Minority Leader DASCHLE, in their efforts to promote economic growth by changing the way we tax investment in this country. They have done yeoman's work on this issue and I hope that we will be able to move forward in a bipartisan way to make these incentives a reality in the very near future.

By Ms. SNOWE:

S. 67. A bill to amend the Public Health Service Act to extend the program of research on breast cancer; to the Committee on Labor and Human Resources.

THE BREAST CANCER RESEARCH EXTENSION ACT OF 1997

Ms. SNOWE. Mr. President, I am extremely pleased that one of the first resolutions introduced in the 105th Congress by the Republican leadership will significantly increase biomedical research funding at NIH. I truly believe that this is a momentous occasion which will reap enormous benefits for all Americans. Building on this, I rise to introduce legislation which authorizes increased funding for breast cancer research.

Over the past 6 years, Congress has demonstrated an increased commitment to the fight against breast cancer. Back in 1991, less than $100 million was spent on breast cancer research. Since then, Congress has steadily increased this allocation. These increases have stimulated new and exciting research that has begun to unravel the mysteries of this devastating disease and is moving us closer to a cure. Today, we must send a message through our authorization level to scientists and research policymakers that we are committed to continued funding for this important research.

This increase in funding is necessary because breast cancer has reached crisis levels in America. In 1997, it is estimated that 180,200 new cases of breast cancer will be diagnosed in this country, and 43,900 women will die from this disease. Breast cancer is the most common form of cancer and the second leading cause of cancer deaths among American women. Today, over 2.6 million American women are living with this disease. In my home State of Maine, it is the most commonly diagnosed cancer among women, representing more than 30 percent of all new cancers in Maine women.

In addition to these enormous human costs, breast cancer also exacts a heavy financial toll—over $6 billion of our health care dollars are spent on breast cancer annually.

Today, however, there is cause for hope. Recent scientific progress made in the fight to conquer breast cancer is encouraging. Researchers have isolated the genes responsible for inherited breast cancer, and are beginning to understand the mechanism of the cancer cell itself. It is imperative that we capitalize upon these advances by continuing to support the scientists investigating this disease and their innovative research.

For this reason, my bill increases the fiscal year 1998 funding authorization level for breast cancer research to $590 million. This level represents the funding level scientists believe is necessary to make progress against this disease. This increased funding will contribute substantially toward solving the mysteries surrounding breast cancer. Our continued investment will save countless lives and health care dollars, and prevent undue suffering in millions of American women and families.

On behalf of the 2.6 million women living with breast cancer, I urge my colleagues to support this important bill.

By Mr. KYL:

S. 68. A bill to establish a commission to study the impact on voter turnout of making the deadline for filing Federal income tax returns conform to the date of Federal elections; to the Committee on Rules and Administration.

THE VOTER TURNOUT ENHANCEMENT STUDY COMMISSION ACT

Mr. KYL. Mr. President, I rise today to introduce the Voter Turnout Enhancement Study (VoTES) Commission Act, a bill designed to promote fiscal responsibility while helping to motivate more Americans to get to the polls on Election Day.

Mr. President, there are far too many people who, for one reason or another, choose not to exercise their right to vote. Although the reasons for their non-participation are undoubtedly varied, I suspect that it comes down to a perception that the choices they will make on the ballot will not make enough of a difference. One person, explaining why she chose not to participate in last November's election, told the Tucson Citizen that "it doesn't make any difference in my life who's President." This is a common enough sentiment that the election last fall posted one of the lowest voter turnout rates this century.

The motor voter bill that President Clinton championed a few years ago as a way to get out the vote apparently had little effect, other than to impose additional costs and mandates on State and local governments and their taxpayers. Although the bill did help increase voter registration, it did little, if anything, to motivate people to get to the polls. Like the woman in Tucson, too many people did not believe they had enough of a stake in the outcome of the election to take the time to vote.

Of course, people do have a stake in the outcome of every election. For one thing, the candidates chosen determine how much and for what purpose citizens are taxed. Most people I hear from say that is one area where the majority of those elected in the past failed to heed their concerns; they say their taxes are far too high.

One survey, which was published in Reader's Digest last year, found that more than two-thirds of Americans felt their own taxes were "too high." According to the poll, the maximum tax burden that Americans think a family of four should bear is 25 percent of its total income, even if the family's income is $200,000 per year.

But the Government takes far more than that. The average family—whose income is not $200,000, but something far less than that—now pays nearly 40 percent of its income in taxes. That is more than it spends on food, clothing, and shelter combined. People around the country are reacting to that heavy burden. The new faces in the House and Senate in recent years have been those of people pledging to oppose tax increases and support tax cuts. President Clinton won reelection, promising to support tax cuts. In some cases, people around the country have also placed limits on how much their State governments can tax them. But advocates of tax cuts, and tax limits themselves, can only achieve their purpose if people are willing to go to the polls to support them.

With that in mind, one way to demonstrate to people that their choices at the polls have a real effect on their lives would be to move the deadline for filing income tax returns to Election Day. That would give people a reason to vote by focusing their attention on the role of government—and how much it actually takes from them in taxes—on the day of the year that they have the greatest opportunity to influence change. Moving Tax Day to Election Day would probably result in more voter turnout and more change in Washington than anything else we could do. And of course, maximizing voter turnout is the best way to ensure that government officials heed the will of the people and make sound public policy.

The bill I am introducing today would provide for a thoughtful and thorough analysis of a change in the tax-filing deadline from April to November, its potential effect on voter turnout, as well as any economic impact it might have. The bill explicitly requires that an independent commission conduct a cost-benefit analysis—a requirement that Congress would be wise to impose routinely on legislative initiatives to separate the good ideas from the bad, and save taxpayers a lot of money in the process. A number of other cost-limiting provisions have been included to protect taxpayers' interests.

While just about every day of the year is celebrated by special interest groups around the country for the government largesse they receive, the taxpayers—the silent majority—have only one day of the year to focus on what that largesse means to them—how much it costs them—and that is Tax Day. I believe that it ought to coincide with Election Day.

Mr. President, I invite my colleagues to join me as cosponsors of this initiative, and I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 68

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voter Turnout Enhancement Study Commission Act".

SECTION 2. FINDINGS.

(a) Findings.—The Congress finds that:

(1) The right of citizens of the United States to vote is a fundamental right.

(2) It is the duty of federal, state, and local governments to promote the exercise of that right to vote to the greatest extent possible.

(3) The power to tax is a power that citizens of the United States only guardedly vest in their elected representatives to the federal, state, and local governments.

(4) The only regular contacts most Americans have with their government are the filing of their personal income tax returns and their participation in federal, state, and local elections.

(5) About 14 million individual income tax returns were filed in 1996, but only about 92 million Americans cast votes in that year's presidential election.

SECTION 3. ESTABLISHMENT OF COMMISSION.

(a) Establishment.—There is established a commission to be known as the Voter Turnout Enhancement Study Commission (hereafter in this Act referred to as the 'Commission').

(b) Membership.—

(1) Composition.—The Commission shall be composed of nine members of whom—

(A) 3 shall be appointed by the President;

(B) 3 shall be appointed by the Majority Leader of the Senate, and

(C) 3 shall be appointed by the Speaker of the House of Representatives.

(c) Period of Appointment, Vacancies.—Members shall be appointed no later than 30 days after the date of the enactment of this Act, and serve for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Compensation.—

(1) Rates of pay.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) Travel expenses.—Each member of the Commission shall receive travel expenses, include per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) Meetings.—After the initial meeting, the Commission shall meet at the call of the Chairman.

(g) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(h) Chairman and Vice Chairman.—The Commission shall select a Chairman and Vice Chairman from among its members.

SECTION 4. DUTIES OF THE COMMISSION.

(a) Study.—

(1) In general.—The Commission shall conduct a thorough study of all matters relating to the propriety of conforming the annual filing date for federal income tax returns with the date for holding biennial federal elections.

(2) Matters studied.—The matters studied by the Commission shall include:

(A) whether establishment of a single date on which individuals can fulfill their obligations of citizenship as both electors and taxpayers would increase participation in federal, state, and local elections; and

(B) a cost-benefit analysis of any change in tax filing deadlines.

(b) Report.—No later than 12 months after the date of the enactment of this Act, the Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SECTION 5. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such information as the Commission considers advisable to carry out the purposes of this Act.

(b) Information To Be Gathered.—The Commission shall obtain information from sources as it deems appropriate, including, but not limited to, taxpayers and their representatives, Governors, state and federal election officials, and the Commissioner of the Internal Revenue Service.

SECTION 6. TERMINATION OF THE COMMISSION.

The Commission shall terminate upon the submission of the report under section 4.

SECTION 7. AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. KYL:

S. 69. A bill to amend the Internal Revenue Code of 1986 to allow a one-time election of the interest rate to be used to determine present value for purposes of pension cash-out restrictions, and for other purposes; to the Committee on Finance.

THE RETIREMENT PROTECTION ACT AMENDMENT ACT OF 1997

Mr. KYL. Mr. President, today I am introducing the Retirement Protection Act Amendments of 1997, a bill that will make a small but very important change in the pension-related provisions of the 1994 Uruguay Round Agreements Act.

Mr. President, the 1994 trade act made some very significant changes in pension law, including a modification in the interest rate used to calculate lump-sum distributions from defined benefit pension plans. The act required such plans to use the interest rate on 30-year Treasury securities, a rate that is proving too volatile for many retirement plans, particularly small plans.

Bruce Tempkin, an actuary and small business pension specialist at Louis Kravitz & Associates, described the effect of the change this way: "it is similar to taking out a variable-rate mortgage with no cap." You could find yourself getting ready to retire and expecting a lump-sum distribution of a given amount, but being told that you will actually get a third less because the government just mandated an interest-rate change. That is not only unfair, it discourages people from participating in private pension plans at the very time we need to be encouraging more such planning.

Recognizing the problem created by the 1994 law, legislators included language in the Small Business Job Protection Act last year to delay the effective date of the change for plans adopted and in effect before December 8, 1995. While I supported that delay, it is, at best, only a temporary solution.

The bill I am introducing today proposes a permanent solution. It would give plans a one-time option to choose a fixed interest rate between five percent and eight percent instead of the floating 30-year Treasury rate. That will make it easier for employers to plan for the required contributions, and for employers and employees alike to understand what their lump-sum benefits will ultimately be.

Mr. President, I invite my colleagues to join me as cosponsors of this initiative.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 69

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Protection Act Amendments of 1997".

SECTION 2. INTEREST RATE FOR DETERMINATION OF PRESENT VALUE FOR PURPOSES OF PENSION CASH-OUT RESTRICTIONS.

(a) In General.—Subclause (II) of section 417(e)(3)(A)(ii) of the Internal Revenue Code of 1986 (relating to determination of present value) is amended by inserting ", or, at the irrevocable election of the plan, an annual interest rate specified in the plan, which may not be less than 5 percent nor more than 8 percent" after "prescribe".

(b) Conforming Amendment.—Subclause (II) of section 205(g)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(g)(3)(A)(ii)) is amended by inserting ", or, at the irrevocable election of the plan, an annual interest rate specified in the plan, which may not be less than 5 percent nor more than 8 percent" after "perscribe".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of the amendments made by section 767 of the Uruguay Round Agreements Act.

By Mrs. BOXER (for herself, Mr. Chafee, Mr. Reed, and Mr. Durbin):

S. 70. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

THE AMERICAN HANDGUN STANDARDS ACT

Mrs. BOXER. Mr. President, today I am to introducing the American Handgun Standards Act, a bill to require that handguns made in the United States meet the same quality and safety standards currently required of imported handguns. I am joined in this effort by Senators JOHN CHAFEE, JACK REED, and DICK DURBIN.

This bill is aimed at junk guns—the cheap, unsafe, and easily concealable handguns that are the criminals' clear favorite. Under our bill, junk guns will no longer be allowed to be manufactured or sold in the United States of America.

Nearly 30 years ago, Congress thought it had solved the problem of junk guns. Following the assassination of Senator Robert Kennedy, Congress passed the Gun Control Act of 1968, which banned the importation of junk guns. At the time, virtually all junk guns were imported, so restricting their domestic manufacture was not considered necessary.

To implement the new law, a quality and safety test was designed to measure a gun's suitability for import. Any foreign-made firearm that fails this test is, by definition, a junk gun, and it cannot be imported into the United States. This bill would require that all handguns made in the United States pass this common sense quality and safety test.

The Gun Control Act of 1968 created a junk gun double standard. Imported handguns were subjected to rigorous quality and safety standards, but guns made in the United States were left totally unregulated. Even toy guns are subject to quality and safety standards, but real handguns made in the United States are not required to meet even one.

The need for strong action is clear. Gunshots are now the leading cause of death among children in California. A child dies from gunfire every 92 minutes in the United States. A total of 39,720 people died from gunshot wounds in 1994 and approximately 250,000 Americans were injured. If we were in a war with this many casualties, there would be protests in the streets to end it. Let us end now, end this junk gun war.

For each person killed by gunfire, up to 8 are wounded. Many survivors of gun violence face debilitating injuries that require constant medical attention. The economic costs of gun violence are staggering. Direct medical costs alone cost Americans more than $20 billion. When indirect costs, such as lost productivity, are considered, the total economic cost of gun injuries soars to over $120 billion.

I first introduced junk gun legislation less than a year ago. Since then, I have received support so strong that it has surpassed even my most optimistic hopes. More than two dozen California cities and counties have passed local ordinances banning junk gun sales, and my legislation has been endorsed by the California Police Chiefs Association and 36 individual police chiefs and sheriffs representing some of California's largest cities, including Los Angeles, San Francisco, San Jose and Sacramento.

This legislation has generated such strong support in the law enforcement community because police know the danger of these junk guns first hand. They know that junk guns are the criminals' favorite firearms.

Junk guns are 3.4 times as likely to be used in crimes as are other firearms. And newly compiled ATF data shows that in 1996, the three firearms most frequently traced at crime scenes were junk guns made in America.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 70

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Handgun Standards Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Gun Control Act of 1968 prohibited the importation of handguns that failed to meet minimum quality and safety standards;

(2) the Gun Control Act of 1968 did not impose any quality and safety standards on domestically produced handguns;

(3) domestically produced handguns are specifically exempted from oversight by the Consumer Product Safety Commission and are not required to meet any quality and safety standards;

(4) each year—

(A) gunshots kill more than 35,000 Americans and wound approximately 250,000;

(B) approximately 75,000 Americans are hospitalized for the treatment of gunshot wounds;

(C) Americans spend more than $20 billion for the medical treatment of gunshot wounds; and

(D) gun violence costs the United States economy a total of $135 billion;

(5) the disparate treatment of imported handguns and domestically produced handguns has led to the creation of a high-volume market for junk guns, defined as those handguns that fail to meet the quality and safety standards required of imported handguns;

(6) traffic in junk guns constitutes a serious threat to public welfare and to law enforcement officers;

(7) junk guns are used disproportionately in the commission of crimes; and

(8) the domestic manufacture, transfer, and possession of junk guns should be restricted.

SEC. 3. DEFINITION OF JUNK GUN.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(33)(A) The term 'junk gun' means any handgun that does not meet the standard imposed on imported handguns as described in section 925(d)(3), and any regulations issued under such section.".

SEC. 4. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN HANDGUNS.

Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(y)(1) It shall be unlawful for a person to manufacture, transfer, or possess a junk gun that has been shipped or transported in interstate or foreign commerce.

"(2) Paragraph (1) shall not apply to—

"(A) the possession or transfer of a junk gun otherwise lawfully possessed under Federal law on the date of the enactment of the American Handgun Standards Act of 1997;

"(B) a firearm or replica of a firearm that has been rendered permanently inoperative;

"(C)(i) the manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a junk gun; or

"(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a junk gun for law enforcement purposes (whether on or off-duty);

"(D) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a junk gun for purposes of law enforcement (whether on or off-duty); or

"(E) the manufacture, transfer, or possession of a junk gun by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. LAUTENBERG):

S. 71. A bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Labor and Human Resources.

PAYCHECK FAIRNESS ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 71

By the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paycheck Fairness Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Women have entered the workforce in record numbers.

(2) Even in the 1990s, women earn significantly lower pay than men for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions.

(3) The existence of such pay disparities—

(A) depresses the wages of working families who rely on the wages of all members of the family to make ends meet;

(B) prevents the optimum utilization of available labor resources;

(C) has been spread and perpetuated, through commerce and the channels and instrumentalities of commerce, among the workers of the several States;

(D) burdens commerce and the free flow of goods in commerce;

(E) constitutes an unfair method of competition in commerce;

(F) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and

(G) interferes with the orderly and fair marketing of goods in commerce.

(4)(A) Artificial barriers to the elimination of discrimination in the payment of wages on the basis of sex continue to exist more than 3 decades after the enactment of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.).

(B) Elimination of such barriers would have positive effects, including—

(i) providing a solution to problems in the economy created by unfair pay disparities;

(ii) substantially reducing the number of working women earning unfairly low wages, thereby reducing the dependence on public assistance; and

(iii) promoting stable families by enabling all family members to earn a fair rate of pay.

(5) Only with increased information about the provisions added by the Equal Pay Act of 1963 and generalized wage data, along with more effective remedies, will women recognize and enforce their rights to equal pay for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions.

(6) Certain employers have already made great strides in eradicating unfair pay disparities in the workplace and their achievements should be recognized.

SEC. 3. ENHANCED ENFORCEMENT OF EQUAL PAY REQUIREMENTS.

(a) Nonretaliation Provision.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(1) by striking "or has" each place it appears and inserting "has"; and

(2) by inserting before the semicolon the following: ", or has inquired about, discussed, or otherwise disclosed the wages of the employee or another employee".

(b) Enhanced Penalties.—Section 16(b) of such Act (29 U.S.C. 216(b)) is amended—

(1) by inserting after the first sentence the following: "Any employer who violates section 6(d) shall additionally be liable for such compensatory or punitive damages as may be appropriate.";

(2) in the sentence beginning "An action to", by striking "either of the preceding sentences" and inserting "any of the preceding sentences of this subsection";

(3) in the sentence beginning "No employees shall", by striking "No employees" and inserting "Except with respect to class actions brought to enforce section 6(d), no employee";

(4) by inserting after such sentence the following: "Notwithstanding any other provision of Federal law, any action brought to enforce section 6(d) may be maintained as a class action as provided by the Federal Rules of Civil Procedure."; and

(5) in the sentence beginning "The court in"—

(A) by striking "in such action" and inserting "in any action brought to recover the liability prescribed in any of the preceding sentences of this subsection"; and

(B) by inserting before the period the following: ", including expert fees".

(c) Action by Secretary.—Section 16(c) of such Act (29 U.S.C. 216(c)) is amended—

(1) in the first sentence—

(A) by inserting "or, in the case of a violation of section 6(d), additional compensatory or punitive damages," before "and the agreement"; and

(B) by inserting before the period the following: ", or such compensatory or punitive damages, as appropriate";

(2) in the second sentence, by inserting before the period the following: and, in the case of a violation of section 6(d), additional compensatory or punitive damages";

(3) in the third sentence, by striking "the first sentence" and inserting "the first or second sentence"; and

(4) in the last sentence, by inserting after "in the complaint" the following: "or becomes a party plaintiff in a class action brought to enforce section 6(d)".

SEC. 4. COLLECTION OF PAY INFORMATION BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

Section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4) is amended by adding at the end the following new subsection:

"(l)(1) The Commission shall, by regulation, require each employer who has 100 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year to maintain payroll records and to prepare and submit to the Commission reports containing information from the records. The reports shall contain pay information, analyzed by the race, sex, and national origin of the employees. The reports shall not disclose the pay information of an employee in a manner that permits the identification of the employee.

"(2) The third through fifth sentences of section 709(c) shall apply to employers, regulations, and records described in paragraph (1) in the same manner and to the same extent as the sentences apply to employers, regulations, and records described in such section.".

SEC. 5. TRAINING.

The Equal Employment Opportunity Commission, subject to the availability of funds appropriated under section 8(b), shall provide training to Commission employees and affected individuals and entities on matters involving discrimination in the payment of wages.

SEC. 6. RESEARCH, EDUCATION, AND OUTREACH.

The Secretary of Labor shall conduct studies and provide information to employers, labor organizations, and the general public concerning the means available to eliminate pay disparities between men and women, including—

(1) conducting and promoting research to develop the means to correct expeditiously the conditions leading to the pay disparities;

(2) publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the media, and the general public the findings resulting from studies and other materials, relating to eliminating the pay disparities;

(3) sponsoring and assisting State and community informational and educational programs;

(4) providing information to employers, labor organizations, professional associations, and other interested persons on the means of eliminating the pay disparities;

(5) recognizing and promoting the achievements of employers, labor organizations, and professional associations that have worked to eliminate the pay disparities; and

(6) convening a national summit to discuss, and consider approaches for rectifying, the pay disparities.

SEC. 7. ESTABLISHMENT OF THE NATIONAL AWARD FOR PAY EQUITY IN THE WORKPLACE.

(a) In General.—There is established the Robert Reich National Award for Pay Equity in the Workplace, which shall be evidenced by a medal bearing the inscription "Robert Reich National Award for Pay Equity in the Workplace". The medal shall be of such design and materials, and bear such additional inscriptions, as the Secretary may prescribe.

(b) Criteria for Qualification.—To qualify to receive an award under this section a business shall—

(1) submit a written application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including at a minimum information that demonstrates that the business has made substantial effort to eliminate pay disparities between men and women, and deserves special recognition as a consequence; and

(2) meet such additional requirements and specifications as the Secretary determines to be appropriate.

(c) Making and Presentation of Award.—

(1) Award.—After receiving recommendations from the Secretary, the President or the designated representative of the President shall annually present the award described in subsection (a) to businesses that meet the qualifications described in subsection (b).

(2) Presentation.—The President or the designated representative of the President shall present the award with such ceremonies as the President or the designated representative of the President may determine to be appropriate.

(3) Publicity.—A business that receives an award under this section may publicize the receipt of the award and use the award in its advertising, if the business agrees to help other United States businesses improve with respect to the elimination of pay disparities between men and women.

(d) Business.—For the purposes of this section, the term "business" includes—

(1)(A) a corporation, including a nonprofit corporation;

(B) a partnership;

(C) a professional association;

(D) a labor organization; and

(E) a business entity similar to an entity described in any of subparagraphs (A) through (D);

(2) an entity carrying out an education referral program, a training program, such as an apprenticeship or management training program, or a similar program; and

(3) an entity carrying out a joint program, formed by a combination of any entities described in paragraph (1) or (2).

SEC. 8. INCREASED RESOURCES FOR ENFORCEMENT AND EDUCATION.

(a) General Resources.—There is authorized to be appropriated to the Equal Employment Opportunity Commission, for necessary expenses of the Commission in carrying out title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), $36,000,000, in addition to sums otherwise appropriated for such expenses. Any amounts so appropriated shall remain available until expended.

(b) TARGETED RESOURCES.—There is authorized to be appropriated to the Equal Employment Opportunity Commission to carry out section 5, $500,000, in addition to sums otherwise appropriated for providing training described in such section. Any amounts so appropriated shall remain available until expended.

(c) RESEARCH, EDUCATION, OUTREACH, AND NATIONAL AWARD.—There is authorized to be appropriated to the Secretary of Labor to carry out sections 6 and 7, $1,000,000. Any amounts so appropriated shall remain available until expended.

By Mr. KYL:

S. 72. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers, and for other purposes; to the Committee on Finance.

S. 73. A bill to amend the Internal Revenue Code of 1986 to repeal the corporate alternative minimum tax; to the Committee on Finance.

S. 74. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

AGENDA FOR ECONOMIC GROWTH AND OPPORTUNITY

Mr. KYL. Mr. President, I rise today to introduce a series of bills aimed at improving our Nation's rate of economic growth, encouraging investment in small businesses, enhancing wages of American workers, and making our country more competitive in the global economy. The bills make up what I will call the Agenda for Economic Growth and Opportunity.

Mr. President, it was just over 34 years ago that President John F. Kennedy made the following observation in his State of the Union message—an observation that someone could just as easily make about today's economy. He said, "America has enjoyed 22 months of uninterrupted economic recovery". The current expansion, albeit one of the weakest this century, has gone on a little longer. "But", President Kennedy went on to say, "recovery is not enough. If we are to prevail in the long run, we must expand the long-run strength of our economy. We must move along the path to a higher rate of economic growth".

Economic growth. Tracking it is the domain of economists and statisticians, but what does it mean for the average American family, and why should policy-makers be so concerned about the slow rate of economic growth during the last 4 years?

Slow growth means fewer job opportunities for young Americans just entering the work force and for those people seeking to free themselves from the welfare rolls. It means stagnant wages and salaries, and fewer opportunities for career advancement for those who do have jobs. It means less investment in new plant and equipment, and new technology—things needed to enhance workers' productivity and ensure that American businesses can remain competitive in the global marketplace. It means less revenue for the U.S. Treasury, compared to what we could collect with higher rates of economic growth, for the critical programs serving the American people. And it means that interest rates are higher than they need to be because national debt as a share of Gross Domestic Product is higher. As a result, we all pay more for such things as home mortgages, college loans, and car loans.

For most of the 20th century, our Nation enjoyed very strong rates of economic growth and the dividends that came with it. The 1920s saw annual economic growth above 5 percent. In the 1950s, it was above 6 percent. Economic growth during the Kennedy and Johnson years averaged 4.8 percent annually. During the decade before President Clinton took office, the economy grew at an average rate of 3.2 percent a year, according to data supplied by the Joint Economic Committee.

The Clinton years, by contrast, have seen the economy grow at an average rate of only about 2.3 percent. What that means is that, while we may not exactly be hurting as a Nation, we are not becoming much better off, either. And we are certainly not leaving much of a legacy for our children and grandchildren to meet the needs of tomorrow.

So what do we do to enhance economic growth—to ensure that jobs are available for those who want them, that families can earn better wages, and that American business maintains a dominant role in the global economy? Those are, after all, the goals of the agenda I am laying out today—an agenda for economic growth and opportunity for all Americans, for those struggling to make ends meet today, and for our children when they enter the work force tomorrow.

Let me answer then, beginning with another quotation from John Kennedy:

> [I]t is increasingly clear—to those in Government, business, and labor who are responsible for our economy's success—that our obsolete tax system exerts too heavy a drag on private purchasing power, profits, and employment. Designed to check inflation in earlier years, it now checks growth instead. It discourages extra effort and risk. It distorts use of resources. It invites recurrent recessions, depresses our Federal revenues, and causes chronic budget deficits.

Mr. President, the agenda I am proposing attacks some of the most significant deficiencies in our Nation's Tax Code that are inhibiting savings and investment, and job creation—deficiencies that are preventing us from reaching our potential as a Nation. I do not make these proposals as a substitute for fundamental tax reform, which I believe is the ultimate solution to the problem. But fundamental tax reform is going to take some time to accomplish, maybe several years. What we need now are interim steps—things we can do quickly—to make sure our movement into the 21st century is based on the bedrock of a strong and growing economy.

I believe these Tax Code changes will help strengthen the economy and, in turn, produce more revenue for the Federal Government to assist in deficit reduction. Still, I recognize that under existing budget rules which require static scoring of tax bills, there may be a need to find offsetting spending cuts. With that in mind, I am asking the Joint Committee on Taxation, as well as the respected Institute for Policy Innovation, to estimate the economic impact of these proposals, including the effect on Federal revenues. Should the result of those analyses indicate that there will be some revenue loss—most likely because of rules requiring static scoring—my intention would be to propose some offsetting spending cuts.

Mr. President, the cuts I would identify would come in so-called corporate welfare programs. In other words, in exchange for the targeted subsidies from corporate welfare programs, we would adopt broadly applicable tax incentives to support activities vetted by the free market. That is what free enterprise is all about.

THE CAPITAL GAINS REFORM ACT

Mr. KYL. Mr. President, the first of the five tax-related bills I am introducing is based upon President John Kennedy's own growth package from three decades ago. Like the Kennedy plan, the legislation would reduce the percentage of long-term capital gains included in individual income subject to tax to 30 percent. It would reduce the alternative tax on the capital gains of corporations to 22 percent.

I would note that Democratic President John Kennedy's plan called for a deeper capital gains tax cut than the Republican-controlled Congress proposed last year.

There was a reason that John Kennedy called for a significant cut in the capital gains tax. "The present tax treatment of capital gains and losses is both inequitable and a barrier to economic growth", the President said. "The tax on capital gains directly affects investment decisions, the mobility and flow of risk capital from static to more dynamic situations, the ease or difficulty experienced by new ventures in obtaining capital, and thereby the strength and potential for growth of the economy."

So, if we are concerned whether new jobs are being created, whether new technology is developed, whether workers have the tools they need to do a better, more efficient job, we should support measures that reduce the cost of capital to facilitate the achievement of all these things. Remember, for every employee, there is an employer who took risks, made investments, and created jobs. But that employer needed capital to start.

Also remember that the capital gains tax represents a second tax on amounts saved and invested. As a result, individuals and businesses that save and invest end up paying more taxes over time than if all income is consumed and no saving takes place at all. To make matters even worse, the tax is applied to gains due solely to inflation.

Mr. President, it may come as a surprise to some people, but experience shows that lower capital gains tax rates have a positive effect on federal revenues. The most impressive evidence, as noted in a recent report by the American Council for Capital Formation, can be found in the period from 1978 to 1985. During those years, the top marginal federal tax rate on capital gains was cut by almost 45 percent—from 35 percent to 20 percent—but total individual capital gains tax receipts nearly tripled—from $9.1 billion to $26.5 billion annually.

Research by experts at the prestigious National Bureau of Economic Research indicates that the maximizing capital gains tax rate—that is, the rate that would bring in the most Treasury revenue—is somewhere between nine and 21 percent. The bill I am introducing today would set an effective top rate on capital gains earned by individuals, by virtue of the 70 percent exclusion, at 11.88 percent.

Mr. President, when capital gains tax rates are too high, people need only hold onto their assets to avoid the tax indefinitely. No sale, no tax. But that means less investment, fewer new businesses and new jobs, and—as historical records show—far less revenue to the Treasury than if capital gains taxes were set at a lower level. Just as the Target store down the street does not lose money on weekend sales—because volume more than makes up for lower prices—lower capital gains tax rates can encourage more economic activity and, in turn, produce more revenue for the Government.

Capital gains reform will help the Treasury. A capital gains tax reduction would help unlock a sizable share of the estimated $7 trillion of capital that is left virtually unused because of high tax rates. More importantly, it will help the family that has a small plot of land it would like to sell, and the business that could expand, buy new equipment and create new jobs.

And evidence shows that most of the benefits will go to Americans of modest means. A special U.S. Treasury study covering 1985 showed that nearly half of all capital gains that year were realized by taxpayers with wage and salary income of less than $50,000 a year. An update of the Treasury study by the Barents Group, a subsidiary of the public accounting firm of KPMG Peat Marwick, estimates that for 1995, middle-income wage and salary earners making $50,000 or less in inflation-adjusted dollars will continue to receive almost half of all capital gains.

President Clinton recognized the importance of lessening the capital gains tax burden by proposing to eliminate the tax on most gains earned on the sale of a home. I would support the President's proposal, but I would also ask, if a capital gains tax cut is good for homeowners, is it not also good policy to apply a tax cut to other kinds of gains that help create new businesses and new jobs?

I believe John Kennedy's plan was far superior—far more beneficial for the Nation's economy—than the very limited one Bill Clinton has proposed. That is why I encourage the Senate to take up the Capital Gains Reform Act, which is based on the Kennedy plan, and which I am introducing today.

CORPORATE TAX EQUITY ACT

Mr. KYL. Mr. President, the second in this series of bills is the Corporate Tax Equity Act, a bill designed to help U.S. businesses make larger capital expenditures and thereby enhance productivity growth and job creation by repealing the corporate Alternative Minimum Tax (AMT).

Mr. President, the original intent of the AMT was to make it harder for large, profitable corporations to avoid paying any federal income tax. But the way to have accomplished that objective was not, in my view, to impose an AMT, but to identify and correct the provisions of law that allowed large companies to inappropriately lower their federal tax liabilities to begin with. Ironically, the primary shelters corporations were using to minimize their tax liability—that is, the accelerated depreciation and safe harbor leasing of the old Tax Code—were being corrected at the time the AMT was enacted.

I would point out that the AMT is not a tax, per se. As indicated in an April 3, 1996 report by the Congressional Research Service, the AMT is merely intended to serve as a prepayment of the regular corporate income tax, not a permanent increase in overall corporate tax liability. What that means in practical terms is that businesses are forced to make interest-free loans to the federal government under the guise of the AMT. Corporations pay a tax for which they are not liable, but which they are able to apply toward their future regular tax liability.

I would also point out that most of the corporations paying the AMT are relatively small. The General Accounting Office, in a 1995 report on the issue, found that, in most years between 1987 and 1992, more than 70 percent of corporations paying the AMT had less than $10 million in assets.

The AMT's effect on the economy, moreover, is disproportionate to the small amount of revenue raised, due in large part to its requirement that corporations calculate their tax liability under two separate but parallel income tax systems. Firms must calculate their AMT liability even if they end up paying the regular tax. At a minimum, that means that firms must maintain two sets of records for tax purposes.

The compliance costs are substantial. In 1992, for example, while only about 28,000 corporations paid the AMT, more than 400,000 corporations filed the AMT form, and an even greater—but unknown—number of firms performed the calculations needed to determine their AMT liability. A 1993 analysis by the Joint Committee on Taxation found that the AMT added 16.9 percent to a corporation's total cost of complying with federal income tax laws.

Mr. President, repealing the corporate AMT would help free up badly needed capital to assist in business expansion and job creation. According to a study by DRI/McGraw-Hill, repeal of the AMT would, over the 1996–2005 time period, increase fixed investment by a total of 7.9 percent, raise Gross Domestic Product by 1.6 percent, and increase labor productivity by 1.6 percent. The study also projected repeal would produce an additional 100,000 jobs a year during the years 1998 to 2002.

SMALL BUSINESS INVESTMENT AND GROWTH ACT

Mr. KYL. Mr. President, the third bill in this package is the Small Business Investment and Growth Act, which would ensure that small businesses do not pay a higher income tax rate than large corporations. Congressman PHIL CRANE of Illinois has promoted similar legislation in the House of Representatives.

Mr. President, the 1990 and 1993 increases in the marginal income tax rates applicable to individuals put a tremendous strain on small businesses organized as S corporations, because they pay taxes at the individual rate. S corporations, facing 36 percent and 39.6 percent tax rates at the highest levels, are forced to compete against larger corporations, which pay a top rate of 34 percent.

The bill I am introducing would establish 34 percent as the top rate that small businesses must pay. Taxable small business income would be limited to income from the trade or business of certain eligible small businesses, specifically excluding passive income. To benefit from the maximum 34 percent rate, businesses must reinvest their after-tax income into the business.

The intent is to provide relief for those small businesses that invest income into their business operations, thereby creating new jobs. In fact, successful small manufacturers have been able to create three to four new jobs for every additional $100,000 they retain in the business.

FAMILY HERITAGE PRESERVATION ACT

Mr. KYL. Mr. President, the fourth in the series of economic growth incentives is a bill to enhance the economic security of older Americans and small businesses around the country, a bill known as the Family Heritage Preservation Act. It would repeal the onerous

Federal estate and gift tax, and the tax on generation-skipping transfers. A companion bill will be introduced in the House of Representatives by Congressman CHRIS COX of California.

Mr. President, most Americans know the importance of planning ahead for retirement. Sometimes that means buying a less expensive car, wearing clothes a little longer, or foregoing a vacation or two. But by doing with a little less during one's working years, people know they can enjoy a better and more secure life during retirement, and maybe even leave their children and grandchildren a little better off when they are gone.

Savings not only create more personal security, they help create new opportunities for others, too. Savings are really investments that help others create new jobs in the community. They make our country more competitive. And ultimately they make a citizen's retirement more secure by providing a return on the money invested during his or her working years.

So how does the government reward all of this thrift and careful planning? It imposes a hefty tax on the end result of such activity—up to 55 percent of a person's estate. The respected liberal Professor of Law at the University of Southern California, Edward J. McCaffrey, observed that "polls and practices show that we like sin taxes, such as on alcohol and cigarettes." "The estate tax," he went on to say, "is an anti-sin, or a virtue, tax. It is a tax on work and savings without consumption, on thrift, on long term savings. There is no reason even a liberal populace need support it."

At one time, the estate tax was required of only the wealthiest Americans. Now inflation, a nice house, and a good insurance policy can push people of even modest means into its grip. The estate tax is applied to all of the assets owned by an individual at the time of death. The tax rate, which starts at 37 percent, can quickly rise to a whopping 55 percent—the highest estate tax rate in the world.

It is true that each person has a $600,000 exemption, but that does not provide as much relief as one might expect. Unless a couple goes through expensive estate planning so that trusts are written into their wills and at least $600,000 of the assets are owned by each spouse—that is, not held jointly—the couple will end up with only one $600,000 exemption. Many people do not realize that literally every asset they own, including the face value of life insurance policies, all retirement plan assets, including Individual Retirement Accounts, is counted toward the $600,000 limit.

As detrimental as the tax is for couples, it is even more harmful to small businesses, including those owned by women and minorities. The tax is imposed on a family business when it is least able to afford the payment—upon the death of the person with the greatest practical and institutional knowledge of that business's operations. It should come as no surprise then that a 1993 study by Prince and Associates—a Stratford, Connecticut research and consulting firm—found that nine out of 10 family businesses that failed within three years of the principal owner's death attributed their companies' demise to trouble paying estate taxes. Six out of 10 family-owned businesses fail to make it to the second generation. Nine out of 10 never make it to the third generation. The estate tax is a major reason why.

Think of what that means to women and minority-owned businesses. Instead of passing a hard-earned and successful business on to the next generation, many families have to sell the company in order to pay the estate tax. The upward mobility of such families is stopped in its tracks. The proponents of this tax say they want to hinder "concentrations of wealth." What the tax really hinders is new American success stories.

With that in mind, the 1995 White House Conference on Small Business identified the estate tax as one of small business's top concerns. Delegates to the conference voted overwhelming to endorse its repeal.

Obviously, there is a great deal of peril to small businesses when they fail to plan ahead for estate taxes. So many small business owners try to find legal means of avoiding the tax or preparing for it, but that, too, comes at a significant cost. Some people simply slow the growth of their businesses to limit their estate tax burden. Of course, that means less investment in our communities and fewer jobs created. Others divert money they would have spent on new equipment or new hires to insurance policies designed to cover estate tax costs. Still others spend millions on lawyers, accountants, and other advisors for estate tax planning purposes. But that leaves fewer resources to invest in the company, start up new businesses, hire additional people, or pay better wages.

The inefficiencies surrounding the tax can best be illustrated by the findings of a 1994 study published in the Seton Hall Law Review. That study found that compliance costs totalled a whopping $7.5 billion in 1992, a year when the estate tax raised only $11 billion.

The estate tax raises only about one percent of the federal government's annual revenue, but it consumes eight percent of each year's private savings. That is about $15 billion sidelined from the Nation's economy. Economists calculate that if the money paid in estate taxes since 1971 had been invested instead, total savings in 1991 would have been $399 billion higher, the economy would have been $46 billion larger, and we would have 262,000 more jobs. Obviously, the income and payroll taxes that would have been paid on these gains would have topped the amount collected by the government in estate taxes.

There have been nine attempts to reform the estate tax during the last 50 years. Few would contend that it has been made any fairer or more efficient. The only thing that has really changed is that lobbyists and estate planners have gotten a little wealthier. Probably the best thing we could do is repeal the estate tax altogether. That is what I am proposing in the Family Heritage Preservation Act.

Mr. President, the National Commission on Economic Growth and Tax Reform, which studied ways to make the tax code simpler, looked at the estate tax during the course of its deliberations just over a year ago. The Commission concluded that "[i]t makes little sense and is patently unfair to impose extra taxes on people who choose to pass their assets on to their children and grandchildren instead of spending them lavishly on themselves." It went on to endorse repeal of the estate tax.

INVEST MORE IN AMERICA ACT

Mr. KYL. Mr. President, the last in the series of bills that make up what I call the Agenda for Economic Growth and Opportunity is the Invest More in America Act, a bill that would allow small businesses to fully deduct the first $250,000 they invest in equipment in the year it is purchased. The bill is based on another recommendation made by the White House Conference on Small Business in 1995.

Mr. President, Congress last year approved legislation to phase in an increase in the expensing limit to $25,000 by the year 2003. That is a step in the right direction, but it is not nearly enough.

Businesses investing more than the annual expensing allowance must recover the cost of their investments over several years using the current depreciation system. Inflation, however, erodes the present value of their depreciation deductions taken in future years. Moreover, many businesses are required to make significant capital investments to comply with various government regulations, including environmental regulations, yet in many cases are unable to immediately expense such costs.

The increased expensing allowance provided by the Invest More in America Act would spur additional investment in business assets and lead to increased productivity and more jobs.

CONCLUSION

Mr. KYL. Mr. President, as I said at the beginning of my remarks, I am asking the Joint Tax Committee and the Institute for Policy Innovation to analyze the economic and revenue effects of this economic growth package. It is my intention that, if there is a revenue loss to the Treasury associated with it, the loss could at least partially be offset by reductions in corporate welfare spending.

Mr. President, the Agenda for Economic Growth and Opportunity will help improve the standard of living for all Americans. It will help eliminate from the federal budget much of the largesse the government showers on a select group of business enterprises through corporate welfare.

I invite my colleagues' support for this very important initiative.

By Mr. BREAUX:

S. 77. A bill to provide for one additional Federal judge for the middle district of Louisiana by transferring one Federal judge from the eastern district of Louisiana; to the Committee on the Judiciary.

LOUISIANA JUDICIAL DISTRICTS LEGISLATION

Mr. BREAUX. Mr. President, I rise today to offer legislation that will correct a serious inequity in Louisiana's judicial districts.

My legislation adds an additional judge to the middle district of Louisiana, based in Baton Rouge. U.S. District Judges John Parker and Frank Polozola, the two Baton Rouge, judges, each have almost 2,000 cased pending. The national average for federal judges is 400 cased pending. Case filings in the Middle District have totaled more than four times the national average. The Baton Rouge district also ranks first among the Nation's 97 federal court districts in total filings, civil filings, weighted filings and in the percent change in total filings last year.

Louisiana's Middle District is composed of nine parishes. The state capital and many of the State's adult and juvenile prisons and forensic facilities are located in this district. The Court is regularly required to hear most of the litigation challenging the constitutionality of State laws and the actions of State agencies and officials. The District now has several reapportionment and election cases pending on the docket which generally require the immediate attention of the court. Additionally, because numerous chemical, oil, and industrial plants and hazardous waste sites are located in the Middle District, the Court has in the past and will continue to handle complex mass tort cases. One environmental case alone, involving over 7,000 plaintiffs and numerous defendants, is being handled by a judge from another district because both of the Middle District's judges were recused.

Since 1984, the Middle District has sought an additional judge because of its concern that its caseload would continue to rise despite the fact that its judges' termination rate exceeded that national average and ranked among the highest in numerical standing within the United States and the Fifth Circuit. Both the Judicial Conference and the Judicial Council of the Fifth Circuit have approved the Middle District's request for an additional judgeship after each biennial survey from 1984 through 1994.

Mr. President, I know that my colleagues will agree with me that the clear solution to this obvious inequity is to assign an additional judge to Louisiana's Middle District. I look forward to the Senate's resolution of this important matter.

By Mr. HATCH (for himself and Mr. THOMAS):

S. 78. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

THE MULTIPLE PUNITIVE DAMAGES FAIRNESS ACT OF 1997

Mr. HATCH. Mr. President, I rise today to introduce legislation which will at last deal with one of the most unfair aspects of our civil justice system—the availability of multiple awards of punitive damages for the same wrongful act. I introduced identical legislation last Congress, in the form of S. 671, and I hope that we can move this bill in the 105th Congress.

While there are countless abuses and excesses in our civil justice system, the fact that one defendant may face repeated punishment for the same conduct is one of the most egregious and unconscionable. This can happen in a variety of ways, but in any case is unjust and unfair. A defendant might, for example, be sued by a different plaintiff for essentially the same action, or might be sued by the same parties in a different state based on essentially the same conduct. The only effective means of addressing these problems is through a nationwide solution, which the legislation I introduce today would provide.

Significantly, this legislation will not affect the compensatory damages that injured parties will be entitled to receive. Even in cases of multiple lawsuits based on the same conduct, under this legislation injured parties will be entitled to receive full compensatory damages when they are wrongfully harmed. My legislation deals only with punitive damages. Punitive damages are not intended to compensate injured plaintiffs or make them whole, but rather constitute punishment and an effort to deter future egregious misconduct. Punitive damages reform is not about shielding wrongdoers from liability, nor does such reform prevent victims of wrongdoing from being rightfully compensated for their damages. It is about ensuring that wrongdoers do not face excessive and unfair punishments.

I certainly do not argue that a person or company that acts maliciously should not be subject to punitive damages. But it is neither just nor fair for a defendant to face the repeated imposition of punitive damages in several states for the same act or conduct, as our system currently permits. Exorbitant and out-of-control punitive damage awards also have the effect of punishing innocent people: employees, consumers, shareholders, and others who ultimately pay the price of these outrageous awards.

This is not a hypothetical problem. Last Term, the Supreme Court considered a case, *BMW* v. *Gore*, in which a state court let stand a multimillion dollar punitive damage award against an automobile distributor who failed to inform a buyer that his new vehicle had been refinished to cure superficial paint damage. The defendant in that case could be exposed to thousands of claims based on the same conduct.

The plaintiff, a purchaser of a $40,000 BMW automobile, learned nine months after his purchase that his vehicle might have been partially refinished. As a result of the discovery, he sued the automobile dealer, the North American distributor, and the manufacturer for fraud and breach of contract. He also sought an award for punitive damages. He won a ridiculously high award of punitive damages.

At trial, the jury was allowed to assess damages for each of the partially refinished vehicles that had been sold throughout the United States over a period of ten years. As sought by the plaintiff's attorney, the jury returned a verdict of $4,000 in compensatory damages and $4,000,000 in punitive damages. On appeal to the state supreme court, the punitive damage award was reduced to $2 million, applicable to the North American distributor.

On reviewing the *BMW* v. *Gore* case, the United States Supreme Court recognized that excessive punitive damages "implicate the federal interest in preventing individual states from imposing undue burdens on interstate commerce." While that decision for the first time recognizes some outside limits on punitive damage awards, the Court's decision leaves ample room for legislative action. Legislative reforms are now—more than ever before—desperately needed to set up the appropriate boundaries.

In the 5-4 decision, the Supreme Court held that the $2 million punitive damages award was grossly excessive and therefore violated the due process clause of the Fourteenth Amendment. The Court remanded the case, and the majority opinion set out three guideposts for assessing the excessiveness of a punitive damages award: the reprehensibility of the conduct being punished, the ratio between compensatory and punitive damages, and the difference between the punitive award and criminal or civil sanctions that could be imposed for comparable conduct.

Unfortunately, even under the Supreme Court's decision, this same defendant can be sued again and again for punitive damages by every owner of a partially refinished vehicle. The company could still be sued for punitive damages for the same act in every other state in which it sold one of its vehicles. In fact, the very same plaintiffs' attorney who filed the *BMW* v. *Gore* case filed numerous similar lawsuits against BMW.

Defendants and consumers are not the only ones hurt by excessive, multiple punitive damage awards. Ironically, other victims can be those the system is intended to benefit—the injured parties themselves. Funds that might otherwise be available to compensate later victims can be wiped out at any early stage by excessive punitive damage awards.

The imposition of multiple punitive damage awards in different states for the same act is an issue that can be addressed only through federal legislation. If only one state limits such awards, other states still remain free to impose multiple punitive damages. The fact is that a federal response in this area is the only viable solution.

This bill provides that response by generally prohibiting the award of multiple punitive damages. With one exception, the bill prevents courts from awarding punitive damages based on the same act or course of conduct for which punitive damages have already been awarded against the same defendant. Under the exception, an additional award of punitive damages may be permitted if the court determines that the claimant will offer new and substantial evidence of previously undiscovered, wrongful behavior on the part of the defendant. In those circumstances, the court must make specific findings of fact to support the award, must reduce the amount of punitive damages awarded by the amounts of prior punitive damages based on the same acts, and may not disclose to the jury the court's determination and action under the provisions. The provisions would not apply to any action brought under a federal or state statute that specifically mandates the amount of punitive damages to be awarded.

This legislation is needed to correct a glaring injustice. I hope my colleagues will join me in supporting it, and I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 78

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiple Punitive Damages Fairness Act of 1997".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) CLAIMANT.—The term "claimant" means any person who brings a civil action and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(2) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(3) DEFENDANT.—The term "defendant" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(4) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future.

(5) SPECIFIC FINDINGS OF FACT.—The term "specific findings of fact" means findings in written form focusing on specific behavior of a defendant.

(6) STATE.—The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 3. MULTIPLE PUNITIVE DAMAGES FAIRNESS.

(a) FINDINGS.—The Congress finds the following:

(1) Multiple or repetitive imposition of punitive damages for harms arising out of a single act or course of conduct may deprive a defendant of all the assets or insurance coverage of the defendant, and may endanger the ability of future claimants to receive compensation for basic out-of-pocket expenses and damages for pain and suffering.

(2) The detrimental impact of multiple punitive damages exists even in cases that are settled, rather than tried, because the threat of punitive damages being awarded results in a higher settlement than would ordinarily be obtained. To the extent this premium exceeds what would otherwise be a fair and reasonable settlement for compensatory damages, assets that could be available for satisfaction of future compensatory claims are dissipated.

(3) Fundamental unfairness results when anyone is punished repeatedly for what is essentially the same conduct.

(4) Federal and State appellate and trial judges, and well-respected commentators, have expressed concern that multiple imposition of punitive damages may violate constitutionally protected due process rights.

(5) Multiple imposition of punitive damages may be a significant obstacle to comprehensive settlement negotiations in repetitive litigation.

(6) Limiting the imposition of multiple punitive damages awards would facilitate resolution of mass tort claims involving thousands of injured claimants.

(7) Federal and State trial courts have not provided adequate solutions to problems caused by the multiple imposition of punitive damages because of a concern that such courts lack the power or authority to prohibit subsequent awards in other courts.

(8) Individual State legislatures can create only a partial remedy to address problems caused by the multiple imposition of punitive damages, because each State lacks the power to control the imposition of punitive damages in other States.

(b) GENERAL RULE.—Except as provided in subsection (c), punitive damages shall be prohibited in any civil action in any State or Federal court in which such damages are sought against a defendant based on the same act or course of conduct for which punitive damages have already been sought or awarded against such defendant.

(c) CIRCUMSTANCES FOR AWARD.—If the court determines in a pretrial hearing that the claimant will offer new and substantial evidence of previously undiscovered, additional wrongful behavior on the part of the defendant, other than the injury to the claimant, the court may award punitive damages in accordance with subsection (d).

(d) LIMITATIONS ON AWARD.—A court awarding punitive damages pursuant to subsection (c) shall—

(1) make specific findings of fact on the record to support the award;

(2) reduce the amount of the punitive portion of the damage award by the sum of the amounts of punitive damages previously paid by the defendant in prior actions based on the same act or course of conduct; and

(3) prohibit disclosure to the jury of the court's determination and action under this subsection.

(e) APPLICABILITY AND PREEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (3), this section shall apply to—

(A) any civil action brought on any theory where punitive damages are sought based on the same act or course of conduct for which punitive damages have already been sought or awarded against the defendant; and

(B) all civil actions in which the trial has not commenced before the effective date of this Act.

(2) APPLICABILITY.—Except as provided in paragraph (3), this section shall apply to all civil actions in which the trial has not commenced before the effective date of this Act.

(3) NONAPPLICABILITY.—This section shall not apply to any civil action involving damages awarded under any Federal or State statute that prescribes the precise amount of punitive damages to be awarded.

(4) EXCEPTION.—This section shall not preempt or supersede any existing Federal or State law limiting or otherwise restricting the recovery for punitive damages to the extent that such law is inconsistent with the provisions of this section.

SEC. 4. EFFECT ON OTHER LAW.

Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) create a cause of action for punitive damages.

By Mr. HATCH (for himself, Mr. KYL, and Mr. THOMAS):

S. 79. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for the reform of the civil justice system; to the Committee on the Judiciary.

THE CIVIL JUSTICE FAIRNESS ACT OF 1997

Mr. HATCH. Mr. President, today I introduce the Civil Justice Fairness Act of 1997. Last Congress, I introduced a similar bill that, had it been enacted, would have granted significant relief from litigation abuses to individuals, consumers, small businesses and others. Unfortunately, given President Clinton's repeated vetoes of litigation reform measures in the 104th Congress, it was clear that we would be unable to enact more broad-reaching civil justice reform.

This Congress, I urge my colleagues to revisit the important issue of litigation reform. Product liability reform remains badly needed, as do the more comprehensive reforms of the civil litigation system embodied in my civil justice reform bill, the Civil Justice Fairness Act of 1997.

Americans in Utah and every other State overwhelmingly agree that there is a crying need for reform of our civil justice system. They are sick and tired of the abuses of our system, and are fed up with million dollar awards for scratched paint jobs, spilled coffee, and other minor harms. The system fails to deliver justice in far too many cases. Success for plaintiffs can depend more on chance than the merits of the case, and defendants may find themselves forced to settle for significant sums in circumstances in which they have done little or no wrong, simply due to the high litigation costs involved in defending against a weak or frivolous lawsuit.

I have gone through the litany of problems with our civil justice system time and time again. They continue to include excessive legal fees and costs, dilatory and sometimes abusive litigation practices, the increasing use of "junk science" as evidence, and the risk of unduly large punitive damage awards.

The problems with our current civil justice system have resulted in several perverse effects. First, all too often the system fails to accomplish its most important function—to compensate deserving plaintiffs adequately. Second, it imposes unnecessarily high litigation costs on all parties. Those costs are passed along to consumers—in effect, to each and every American—in the form of higher prices for products and services we buy. Those costs can even harm our nation's competitiveness in the global economy.

Congress must face these problems and enact meaningful legislation reforming our civil justice system. Reforms are needed to eliminate abuses and procedural problems in litigation, and to restore to the American people a civil justice system deserving of their trust, confidence and support. To achieve this goal, I am introducing civil justice reform legislation. This bill will correct some of the more serious abuses in our present civil justice system through a number of provisions.

The legislation will address the problems of excessive punitive damage awards and of multiple punitive damage awards. We all know that punitive damage awards are out of control in this country. Further, the imposition of multiple punitive damages for the same wrongful act raises particular concerns about the fairness of punitive damages and their ability to serve the purposes of punishment and deterrence for which they are intended.

The Supreme Court, legal scholars, practicing litigators, and others have acknowledged for years that punitive damages may raise serious constitutional issues. A decision from the U.S. Supreme Court last term finally held that in certain circumstances a punitive damage award may violate due process and provided guidance as to when that would occur.

In the case, BMW versus Gore, the Supreme Court acknowledged that excessive punitive damages "implicate the federal interest in preventing individual states from imposing undue burdens on interstate commerce." The decision for the fist time recognizes some outside limits on punitive damage awards. The Court's decision leaves plenty of room for legislative action, and legislative reforms are now needed more than ever to set up the appropriate boundaries.

The decision also highlights some of the extreme abuses in our civil justice system. The BMW versus Gore case was brought by a doctor who had purchased a BMW automobile for $40,000 and later discovered that the car had been partially refinished prior to sale. He sued the manufacturer in Alabama State court on a theory of fraud, seeking compensatory and punitive damages. The jury found BMW liable for $4,000 in compensatory damages and $4 million in punitive damages. On appeal, the Alabama Supreme Court reduced the punitive damages award to $2 million—which still represents an astonishing award for such inconsequential harm.

In its 5 to 4 decision, the Supreme Court held that the $2 million punitive damages award was grossly excessive and therefore violated the due process clause of the 14th amendment. The court remanded the case for further proceedings. The majority opinion set out three guideposts for courts to employ in assessing the constitutional excessiveness of a punitive damages award: the reprehensibility of the conduct being punished, the ratio between compensatory and punitive damages, and the difference between the punitive award and criminal or civil sanctions that could be imposed for comparable conduct.

Justice Breyer, in a concurring opinion joined by Justices O'Connor and Souter, emphasized that, although constitutional due process protections generally cover purely procedural protections, the narrow circumstances of the case justified added protections to ensure that legal standards providing for discretion are adequately enforced so as to provide for the "application of law, rather than a decisionmaker's caprice." Congress has a similar responsibility to ensure fairness in the litigation system and the application of law in that system. It is high time for Congress to provide specific guidance to courts on the appropriate level of damage awards, and to address other issues in the civil litigation system.

The BMW case also illustrates the potential abuses of the system that can occur through the availability of multiple awards of punitive damages for essentially the same conduct. Under current law, the company can still, in every other state in which it sold one of its vehicles, be sued for punitive damages for the same act.

Multiple punitive damage awards can hurt not only defendants but also injured parties. Funds that would otherwise be available to compensate later victims can be wiped out at any early stage by excessive punitive damage awards. A Federal response is critical: if only the one State limits such awards, other States still remain free to impose multiple punitive damages. An important provision in my bill limits these multiple punitive damage awards. I am also today introducing separate legislation that would deal only with the multiple punitive damages problem.

In addition to reforming multiple punitive damage awards, my broad civil justice reform legislation addresses general abuses of punitive damages litigation. It includes a heightened standard of proof to ensure that punitive damages are awarded only if there is clear and convincing evidence that the harm suffered was the result of conduct either specifically intended to cause that harm, or carried out with conscious, flagrant indifference to the right or the safety of the claimant.

The bill also provides that punitive damages may not be awarded against the seller of a drug or medical device that received pre-market approval from the Food and Drug Administration.

Additionally, this legislation would allow a bifurcated trial, at the defendant's request, on the issue of punitive damages and limits the amount of the award to either $250,000 or three times the economic damages suffered by the claimant, whichever is greater. The bill provides a special limit in the cases of small business or individuals; in those cases, punitive damages will be limited to the lesser of $250,000 or three times economic damages.

The legislation would also limit a defendant's joint liability for non-economic damages. In any civil case for personal injury, wrongful death, or based upon the principles of comparative fault, a defendant's liability for non-economic loss shall be several only and shall not be joint. The trier of fact will determine the proportional liability of each person, whether or not a party to the action, and enter separate judgments against each defendant.

Another provision of this bill would shift costs and attorneys fees in circumstances in which a party has rejected a settlement offer, forcing the litigation to proceed, and then obtain a less favorable judgment. This provision encourages parties to act reasonably, rather than pursue lengthy and costly litigation. It allows a plaintiff or a defendant to be compensated for their reasonable attorneys fees and costs from the point at which the other party rejects a reasonable settlement offer.

Another widely reported problem in our civil justice system is abuse in contingency fee cases. This bill encourages attorneys to disclose fully to clients the hours worked and fees paid in all contingency fee cases. The bill calls upon the Attorney General to draft model State legislation requiring such disclosure to clients. It also requires the Attorney General to study possible abuses in the area of contingency fees and, where such abuses are found, to draft model State legislation specifically addressing those problems.

This legislation restricts the use of so-called "junk science" in the courtroom. This long overdue reform will improve the reliability of expert scientific evidence and permit juries to consider only scientific evidence that is objectively reliable.

This legislation includes a provision for health care liability reform. It limits, in any health care liability action, the maximum amount of non-economic damages that may be awarded to a claimant of $250,000. This limit would apply regardless of the number of parties against whom the action is brought, and regardless of the number of claims or actions brought. To avoid prejudice to any parties, the jury would not be informed about the limitations on non-economic damages.

This legislation would also establish a reasonable, uniform statute of limitations for the bringing of health care liability actions. Further, if damages for losses incurred after the date of judgment exceed $100,000, the Court shall allow the parties to have 60 days in which to negotiate an agreement providing for the payment of such damages in a lump sum, periodic payments, or a combination of both. If no agreement is reached, a defendant may elect to pay the damages on a periodic basis. Periodic payments for future damages would terminate in the event of the claimant's return to work, or upon the claimant's death. This is an exception for the portion of such payments allocable to future earnings, which shall be paid to any individual to whom the claimant owed a duty of support immediately prior to death, to the extent required by law at the time of the claimant's death.

This legislation also allows states the freedom to experiment with alternative patient compensation systems based upon no-fault principles. The Secretary of Health and Human Services would award grants based on applications by interested states according to enumerated criteria and subject to enumerated reporting requirements. Persons or entities participating in such experimental systems may obtain from the Secretary a waiver from the provisions of this legislation for the duration of the experiment. The Secretary would collect information regarding these experiments and submit an annual report to Congress, including an assessment of the feasibility of implementing no-fault systems, and legislative recommendations, if any.

I urge my colleagues to take a serious look at these problems within our civil justice system. I believe this bill addresses these issues in a common sense way, and I hope my colleagues will join me in supporting this legislation.

Mr. President, I ask for unanimous consent that a section-by-section description of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION DESCRIPTION OF THE CIVIL JUSTICE FAIRNESS ACT OF 1997

TITLE I—PUNITIVE DAMAGES REFORM

Sec. 101. Definitions.—This section defines various terms used in Title I of the bill.

Sec. 102. Multiple Punitive Damages Fairness.—This section generally prohibits the award of multiple punitive damages. With one exception, it prevents courts from awarding punitive damages based on the same act or course of conduct for which punitive damages have already been awarded against the same defendant. Under the exception, an additional award of punitive damages may be permitted if the court determines in a pretrial hearing that the claimant will offer new and substantial evidence of previously undiscovered, additional wrongful behavior on the part of the defendant, other than injury to the claimant. In those circumstances, the court must make specific findings of fact to support the award, must reduce the amount of punitive damages awarded by the amounts of prior punitive damages based on the same acts, and may not disclose to the jury the court's determination and action under the section. This section would not apply to any action brought under a federal or state statute that specifically mandates the amount of punitive damages to be awarded.

Sec. 103. Uniform Standards for Award of Punitive Damages.—This section sets the following uniform standards for the award of punitive damages in any State or Federal Court action: (1) In general, punitive damages may be awarded only if the claimant establishes by clear and convincing evidence that the conduct causing the harm was either specifically intended to cause harm or carried out with conscious, flagrant indifference to the rights or the safety of the claimant. (2) Punitive damages may not be awarded in the absence of an award of compensatory damages exceeding nominal damages. (3) Punitive damages may not be awarded against a manufacturer or product seller of a drug or medical device which was the subject of pre-market approval by the Food and Drug Administration (FDA). This FDA exemption is not applicable where a party has withheld or misrepresented relevant information to the FDA. (4) Punitive damages may not be pleaded in a complaint. Instead, a party must establish at a pretrial hearing that it has a reasonable likelihood of proving facts at trial sufficient to support an award of punitive damages, and may then amend the pleading to include a prayer for relief seeking punitive damages. (5) At the defendant's request, the trier of fact shall consider in separate proceedings whether punitive damages are warranted and, if so, the amount of such damages. If a defendant requests bifurcated proceedings, evidence relevant only to the claim for punitive damages may not be introduced in the proceeding on compensatory damages. Evidence of the defendant's profits from his misconduct, if any, is admissible, but evidence of the defendant's overall wealth is inadmissible in the proceeding on punitive damages. (6) In any civil action where the plaintiff seeks punitive damages under this title, the amount awarded shall not exceed three times the economic damages or $250,000, whichever is greater. This provision shall be applied by the court and shall not be disclosed to the jury. (7) A special rule applies to small businesses and individuals. In any action against an individual whose net worth does not exceed $500,000, or a business or organization having 25 or fewer employees, punitive damages may not exceed the lesser of $250,000 or 3 times the amount awarded for economic loss.

Sec. 104. Effect on Other Law.—This section specifies that certain state and federal laws are not superseded or affected by this legislation. Choice-of-law and forum nonconveniens rules are similarly unaffected.

TITLE II—JOINT AND SEVERAL LIABILITY REFORM

Sec. 201. Several Liability for Non-Economic Loss.—This section limits a defendant's joint liability for non-economic damages. In any civil case, a defendant's liability for non-economic loss shall be several only and shall not be joint. The trier of fact will determine the proportional liability of each defendant and enter separate judgments against each defendant.

TITLE III—CIVIL PROCEDURAL REFORM

Sec. 301. Trial Lawyer Accountability.—This section contains two major provisions. The first provides that it is the sense of the Congress that each State should require attorneys who enter into contingent fee agreements to disclose to their clients the actual services performed and hours expended in connection with such agreements. The second provision directs the Attorney General to study and evaluate contingent fee awards and their abuses in State and Federal court; to develop model legislation to require attorneys who enter into contingency fee agreements to disclose to clients the actual services performed and hours expended, and to curb abuses in contingency fee awards based on the study; and to report the Attorney General's findings and recommendations to Congress within one year of enactment.

Sec. 302. Honesty in Evidence.—This section amends Federal Rule of Evidence 702 to reform the rules regarding the use of expert testimony. It clarifies that courts retain substantial discretion to determine whether the testimony of an expert witness that is premised on scientific, technical, or medical knowledge is based on scientifically valid reasoning, is sufficiently reliable, and is sufficiently established to have gained general acceptance in the particular field in which it belongs. The section follows the standard for admissibility of expert testimony enunciated in *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.*, 113 S. Ct. 2786 (1993). It also mirrors the common law *Frye* rule that requires that scientific evidence have "general acceptance" in the relevant scientific community to be admissible. This section further clarifies that expert witnesses have expertise in the particular field on which they are testifying. Finally, this section mandates that the testimony of an expert retained on a contingency fee basis is inadmissible.

Sec. 303. Fair Shifting of Costs and Reasonable Attorney Fees.—This section modifies Federal Rule of Civil Procedure 68 to allow either party, not just the defendant, to make a written offer of settlement or to allow a judgment to be entered against the offering party. It expands the time period during which an offer can be made from 10 days before trial to any time during the litigation. If within 21 days the offer is accepted, a judgment may be entered by the court. If, however, a final judgment is not more favorable to an offeree than the offer, the offeree must pay attorney fees and costs incurred after the time expired for acceptance of the offer. Thus, this is not a true "loser pays" provision where a loser pays the winner's attorney's fees, but rather a narrower attorney fee and cost-shifting idea applicable only when a party has made an offer of settlement or judgment. This section also significantly expands the definition of recoverable costs. Currently, costs are narrowly defined and do not create enough of a financial incentive for a party to make an offer that allows judgment to be entered. Finally, this section also allows a party to make an offer of judgment after liability has already been determined but before the amount or extent has been adjudged.

TITLE IV—HEALTH CARE LIABILITY REFORM

Sec. 401. Definitions.—This section sets up definitions for various terms used in Title IV of the bill.

Sec. 402. Limitations on Noneconomic Damages.—In any health care liability action the maximum amount of noneconomic damages that may be awarded to a claimant is $250,000. This limit shall apply regardless of the number of parties against whom the action is brought, and regardless of the number of claims or actions brought. The jury shall not be informed about the limitations on non-economic damages.

Sec. 403. Statute of Limitations.—This section provides a reasonable uniform statute of limitations for health care liability actions, with one exception for minors. The general rule is that an action must be brought within two years from the date the injury and its cause was or reasonably should have been discovered, but in no event can an action be brought more than six years after the alleged date of injury. This section also allows an exception for young children. The rule for children under six years of age is that an action must be brought within two years from the date the injury and its cause was or reasonably should have been discovered, but in no event can an action be brought more than six years after the alleged date of injury or the date on which the child attains 12 years of age, whichever is later.

Sec. 404. Periodic Payment of Future Damages.—This section allows for the periodic payment of large awards for losses accruing in the future. If damages for losses incurred after the date of judgment exceed $100,000, the court shall allow the parties to have 60 days in which to negotiate an agreement providing for the payment of such damages in a lump sum, periodic installments, or a combination of both. If no agreement is reached within those 60 days, a defendant may elect to pay the damages on a periodic basis. The court will determine the amount and periods for such payments, reducing amounts to present value for purposes of determining the funding obligations of the individual making the payments. Periodic payments for future damages terminate in the event of the claimant's recovery or return to work; or upon the claimant's death, except for the portion of the payments allocable to future earnings which shall be paid to any individual to whom the claimant owed a duty of support immediately prior to death to the extent required by law at the time of death. Such payments shall expire upon the death of the last person to whom a duty of support is owed or the expiration of the obligation pursuant to the judgment for periodic payments.

Sec. 405. State No-Fault Demonstration Projects.—This section allows states to experiment with alternative patient compensation systems based upon no-fault principles. Grants shall be awarded by the Secretary of Health and Human Services based on applications made by interested states according to enumerated criteria and subject to enumerated reporting requirements. Persons or entities involved in the demonstrations involved may obtain a waiver from the Secretary from the provisions of this Title for the duration of the experiment, which shall be not greater than five years. The Secretary shall collect information regarding these experiments and submit an annual report to Congress including an assessment of the feasibility of implementing no-fault systems and legislative recommendations, if any.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Federal Cause of Action Precluded.—This section provides that the bill does not provide any new basis for federal court jurisdiction. The resolution of punitive damages claims is left to state courts or to federal courts that currently have jurisdiction over those claims.

Sec. 502. Effective Date.—This section states that the bill, except as otherwise provided, shall be effective 30 days after the date of enactment and apply to all civil actions commenced on or after such date, including those in which the harm, or harm-causing conduct, predates the bill's enactment.

By Mr. KOHL:

S. 80. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

FAMILY FARM RETIREMENT EQUITY ACT OF 1997

Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act of 1995, a bill to help improve the retirement security of our Nation's farmers.

As we begin the 105th Congress, we can anticipate legislative action dealing with pension reform and the tax treatment of retirement savings. In his 1996 State of the Union address, President Clinton mentioned his concerns about the retirement security of farmers and ranchers, and many of us in Congress have sought to address this concern, as well.

Last year, Congress passed the 1996 farm bill, bringing sweeping changes to the traditional farm support programs, and greatly affecting the income side of the average farmer's financial sheet. But it is equally important that we address the other side of the farmers' financial equation—the cost side. And some of the biggest costs that farmers face are the costs associated with retirement planning. In fact, those costs are sometimes so monumental that farmers reach retirement age without having made the appropriate provisions for their security.

In the last Congress, efforts were made to address the financial concerns of retiring farmers and ranchers. In fact, the Senate version of the 1995 Budget Reconciliation Act included the legislation that I am reintroducing today, the Family Farm Retirement Equity Act. Unfortunately, that important provision did not survive the conference negotiations between House and Senate budget leaders. It is my hope that we will be able to revisit this matter this year, and address this growing concern in rural America.

Farming is a highly capital-intensive business. To the extent that the average farmer reaps any profits from his or her farming operation, much of that income is directly reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. Instead, farmers tend to rely on the sale of their accumulated capital assets, such as real estate, livestock, and machinery, in order to provide the income to sustain them during retirement. All too often, farmers are finding that the lump-sum payments of capital gains taxes levied on those assets leave little for retirement.

The legislation that I am reintroducing today would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Another concern that I have about rural America is the diminishing interest of our younger rural citizens in continuing in farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that this will be one tool we can use to make farming more viable for the next generation.

This proposal is supported by farmers and farm organizations throughout the country. It has been endorsed by the American Farm Bureau Federation, the American Sheep Industry Association, the American Sugar Beet Association, the National Association of Wheat Growers, the National Cattleman's Beef Association, the National Corn Growers Association, National Pork Producers Council, and the Southwestern Peanut Growers Association.

Further, I am very pleased that a modified version of this legislation has also been included in the Targeted Investment Incentive and Economic Growth Act of 1997, as introduced today by Minority Leader DASCHLE and other Senators. I look forward to swift action on that legislation, so that the working families and small businesses targeted for assistance can enjoy tax relief as soon as possible.

Mr. President, I ask unanimous consent that the full text of the bill and a summary be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 80

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) Short Title.—This Act may be cited as the "Family Farm Retirement Equity Act of 1997".

(b) Reference to Internal Revenue Code of 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) In General.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) Nonrecognition of Gain.—Subject to the limits of subsection (c), if for any taxable year a taxpayer has qualified net farm gain from the sale of qualified farm assets, then, at the election of the taxpayer, such gain shall be recognized only to the extent it exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) Asset Rollover Account.—

"(1) General rule.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) Asset rollover account.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) Contribution Rules.—

"(1) No deduction allowed.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) Aggregate contribution limitation.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) Annual contribution limitations.—

"(A) General rule.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) Spouse.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) Time when contribution deemed made.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) Qualified Net Farm Gain; Etc.—For purposes of this section—

"(1) Qualified net farm gain.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with dispositions of qualified farm assets.

"(2) Qualified farm asset.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) Qualified farmer.—

"(A) In general.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) Material participation.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) Rollover contributions.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) Distribution Rules.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) Individual Required To Report Qualified Contributions.—

"(1) In general.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) Information required to be supplied.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) Penalties.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) Contributions Not Deductible.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) Contributions to asset rollover accounts.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) Excess Contributions.—

(1) In general.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(e) Asset Rollover Accounts.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) Conforming amendments.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "**ASSET ROLLOVER ACCOUNTS,**" after "**CONTRACTS**".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) Technical Amendments.—

(1) Section 408(a)(1) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Section 408(d)(5)(A) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Section 6693(b)(1)(A) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

FAMILY FARM RETIREMENT EQUITY ACT OF 1997

Allows retiring farmers to roll over up to $500,000 from the sale of their farm assets into a tax-deferred individual retirement account, called an Asset Rollover Account [ARA]. In this manner, they avoid paying lump-sum capital gains, and instead pay taxes only as they withdraw the funds from the retirement account.

Each farmer would be allowed to rollover an amount equal to $10,000—$20,000 for a couple—for each year that he or she was a "qualified farmer," with a maximum contribution of $250,000—or $500,000 per farm couple.

The maximum allowed contribution to the ARA would be reduced by any amount in excess of $100,000 that the qualified farmer and spouse already have in a separate IRA.

A qualified farmer is a farmer who: For the 5-year period ending on the date of sale of the farm, was materially participating in the business of the farm. A farmer is determined to be materially participating in the farm operation if they meet the requirements of section 2032A individually, or jointly in the case of a couple, owns at least 50 percent of the farm asset during the 5-year period.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 81. A bill to amend the Dairy Production Stabilization Act of 1983 to require that members of the National Dairy Promotion and Research Board be elected by milk producers and to prohibit bloc voting by cooperative associations of milk producers in the election of the producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL DAIRY PROMOTION REFORM ACT OF 1997

Mr. KOHL. Mr. President, one of the basic tenets upon which this Nation was founded was that there should be no taxation without representation. But the dairy farmers of this nation know all too well that taxation without representation continues today. They live with that reality in their businesses every day.

Dairy farmers are required to pay a 15 cent tax, in the form of an assessment, on every hundred pounds of milk that they sell. This tax goes to fund dairy promotion activities, such as those conducted by the National Dairy Promotion and Research Board, commonly known as the National Dairy Board. Yet these same farmers that pay hundreds, or in some cases thousands, of dollars every year for these mandatory promotion activities have no direct say over who represents them on that Board.

In the summer of 1993, a national referendum was held giving dairy producers the opportunity to vote on whether or not the National Dairy Board should continue. The referendum was held after 16,000 dairy producers, more than 10 percent of dairy farmers nationwide, signed a petition to the Secretary of Agriculture calling for the referendum.

Farmers signed this petition for a number of reasons. Some felt they could no longer afford the promotion assessment that is taken out of their milk checks every month. Others were frustrated with what they perceived to be a lack of clear benefits from the promotion activities. And still others were alarmed by certain promotion activities undertaken by the Board with which they did not agree. But overriding all of these concerns was the fact that dairy farmers have no direct power over the promotion activities which they fund from their own pockets.

When the outcome of the referendum on continuing the National Dairy Board was announced, it had passed overwhelmingly. But because nearly 90 percent of all votes cast in favor of continuing the Board were cast by bloc-voting cooperatives, there has been skepticism among dairy farmers about the validity of the vote.

While I believe that dairy promotion activities are important for enhancing markets for dairy products, it matters more what dairy farmers believe. After all, they are the ones who pay hundreds or thousands of dollars every year for these promotion activities. And they are the ones who have no direct say over who represents them on that Board.

It is for this reason that I rise today to reintroduce the National Dairy Promotion Reform Act of 1997.

Some in the dairy industry have argued that this issue is dead, and that to reintroduce such legislation will only reopen old wounds. But I must respectfully disagree.

The intent of this legislation is not to rehash the referendum debate, which was a contentious one. Instead, the intent is to look forward.

Farmers in my state have traditionally been strong supporters of the cooperative movement, because the cooperative business structure has given them the opportunity to be equal partners in the businesses that market their products and supply their farms. I have been a strong supporter of the cooperative movement for the same reason.

But there is a growing dissention among farmers that I believe is dangerous to the long-term viability of agricultural cooperatives. As I talk to farmers around Wisconsin, I hear a growing concern that their voices are not being heard by their cooperatives. They frequently cite the 1993 National Dairy Board referendum as an example. The bill that I am reintroducing today seeks to address one small part of that concern, by giving dairy farmers a more direct role in the selection of their representatives on the National Dairy Board. Whereas current law requires that members of the National Dairy Board be appointed by the Secretary of Agriculture, this legislation would require that the Board be an elected body.

Further, although the legislation would continue the right of farmer cooperatives to nominate individual members to be on the ballot, bloc voting by cooperatives would be prohibited for the purposes of the election itself. There are many issues for which the cooperatives can and should represent their members. But on this issue, farmers ought to speak for themselves.

It is my hope that this legislation will help restore the confidence of the U.S. dairy farmer in dairy promotion. To achieve that confidence, farmers need to know that they have direct power over their representatives on the Board. This bill gives them that power.

I welcome my colleague from Wisconsin, Senator FEINGOLD, as an original cosponsor of this bill, and I am also pleased to join today as an original cosponsor of two pieces of legislation that he is introducing today, as well.

Senator FEINGOLD's two bills would make other needed improvements in the national dairy promotion program. Specifically, one bill would require that imported dairy products be subject to the same dairy promotion assessment as are paid on domestic dairy products today. The other would prohibit the practice of bloc voting by cooperatives for the purpose of any future farmer referenda regarding the National Dairy Board.

I thank my colleague Senator FEINGOLD for his efforts on these matters, and I believe that our three bills provide dairy promotion program reforms that are both complementary and necessary.

I ask unanimous consent that the full text of the bill and summary be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 81

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Dairy Promotion Reform Act of 1997".

SEC. 2. DAIRY VOTING REFORM.

Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(1) by designating the first and second sentences as paragraphs (1) and (2), respectively;

(2) by designating the third through fifth sentences as paragraph (3);

(3) by designating the sixth sentence as paragraph (4);

(4) by designating the seventh and eighth sentences as paragraph (5);

(5) by designating the ninth sentence as paragraph (6);

(6) in paragraph (1) (as so designated), by striking "and appointment";

(7) by striking paragraph (2) (as so designated) and inserting the following:

"(2) QUALIFICATIONS, NOMINATION, AND ELECTION OF MEMBERS.—

"(A) QUALIFICATIONS AND ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), each member of the Board shall be a milk producer nominated in accordance with subparagraph (B) and elected by a vote of producers through a process established by the Secretary.

"(ii) BLOC VOTING.—In carrying out clause (i), the Secretary shall not permit an organization certified under section 114 to vote on behalf of the members of the organization.

"(B) NOMINATIONS.—

"(i) SOURCE.—Nominations shall be submitted by organizations certified under section 114, or, if the Secretary determines that a substantial number of milk producers are not members of, or the interests of the producers are not represented by, a certified organization, from nominations submitted by the producers in the manner authorized by the Secretary.

"(ii) CONSULTATION WITH MEMBERS.—In submitting nominations, each certified organization shall demonstrate to the satisfaction of the Secretary that the milk producers who are members of the organization have been fully consulted in the nomination process.";

(8) in the first sentence of paragraph (3) (as so designated), by striking "In making such appointments," and inserting "In establishing the process for the election of members of the Board,"; and

(9) in paragraph (4) (as so designated)—

(A) by striking "appointment" and inserting "election"; and

(B) by striking "appointments" and inserting "elections".

National Dairy Promotion Reform Act of 1997

SUMMARY OF THE BILL

The bill would amend the Dairy Production Stabilization Act of 1983 to require that future members of the National Dairy Board be elected directly by dairy producers, and not appointed by the Secretary of Agriculture as they are currently.

The bill would also prohibit the practice of bloc voting of members by producer cooperatives for the purposes of the Board elections.

However, cooperatives could continue to nominate members to be on the ballot, as long as they adequately consult with their membership in the nomination process.

The explicit details of the election process would be developed by the Secretary of Agriculture.

By Mr. KOHL:

S. 82. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

CHILD CARE INFRASTRUCTURE ACT

Mr. KOHL. Mr. President, today I rise to introduce the Child Care Infrastructure Act. This legislation is designed to give incentives to private companies to get involved in the provision of quality child care. I introduced the bill as S. 2088 late last year, and I intend to make its passage this year one of my highest priorities.

My bill responds to the challenges presented by the landmark welfare legislation enacted last Congress. And it responds to the fundamental changes in the American economy that have led to parents entering the work force in record numbers.

The Child Care Infrastructure Act creates a tax credit for employers who get involved in increasing the supply of quality child care. The credit is limited to 50 percent of $150,000 per company per year. The credit will sunset after 3 years. The credit goes to employers who engage in activities like: Building and subsidizing an entire child care center on the site of a company or near it; participating, along with other businesses, in setting up and running a child care center jointly; contracting with a child care facility to provide a set number of places to employees—this gives existing centers the steady cash flow they need to survive, or it can give a startup center the steady income it needs to get off the ground; contracting with a resource and referral agency to provide services such as placement or the design of a network of local child care providers.

This legislation responds to a great need, a great challenge, and a great opportunity. The need is to provide a safe and stimulating place for our youngest children to spend their time while their parents are at work. The challenge is to make the American workplace more productive by making it more responsive to the needs of the American family. And the opportunity is to take what we are learning about the importance of early childhood education and use it to help our children become the best educated adults of the 21st century.

The need for quality child care is certainly apparent. As real wages have stagnated over the last decade, many families have adapted by having two wage earners per family. Also, over the same period, the number of children living in mother-only families has increased—in 1950, 6 percent of all children lived in mother-only families; in 1994, that number was 24 percent. In my home State of Wisconsin, 67 percent of women with children under 6 years old are in the work force according to Children's Defense Fund. And in Milwaukee County, about 56 percent of children under the age of 6 have both parents in the work force or their sole parent in the work force. That translates into about 67,600 children under the age of 6 in that county who right now are already in need of or in child care.

With the passage of the welfare reform law, and the implementation of W–2, Wisconsin's welfare reform State plan, the need for child care will become even greater. A recent report done for the Community Coordinated Child Care of Milwaukee found that the implementation of W–2 will lead to the need for over 8,000 new full-time child care slots in Milwaukee County alone.

Wisconsin is not unique in facing this overwhelming shortage of child care slots. Across the Nation, States and communities are facing the same issue. Where are our youngest children going to spend the day while their parents are at work?

This is not the sort of market shortage we can or should address haphazardly. There is nothing less at stake than the welfare of our children. Study after study has found the enormous importance of early childhood education and care—and by early education, the experts mean the education of 0 to 4 year olds. One University of Chicago researcher has claimed that intelligence appears to develop as much during the years 0 to 4 as it does from the years 4 to 18.

If we are simply warehousing kids in these early years, we are going to not only hamper their ability to develop fulfilling and productive lives, but we are hurting ourselves. We are resigning ourselves to trying to solve educational and developmental problems—at great expense—for the rest of these children's lives.

As obvious as this point may seem, the desperate need for quality early child care is not a problem that this Nation has addressed. As a Nation—and I mean Federal, State, local, and private resources—over the last 10 years, we have doubled our expenditures on educating 5 to 25 year olds to $500 billion. Contrast that with the mere $4 billion we are spending on Head Start, and 95 percent of that is on children 3, 4, and 5 years old. Only $100 million out of $500 billion is spent on the period when the most significant development takes place—that's one-fifth of one thousandth of what we spend on ages 5 through 25.

Obviously, our investment in children has not kept up with what we now know about how children learn and develop in their earliest year.

There is another reason to care about the supply of quality child care—especially for businesses to care about quality child care. Employees who are happy with their child care situations are better employees. They are more productive, have less absenteeism, and are more loyal to their company.

Clearly, there is a shortage of quality child care, and equally clearly, there is a benefit to the private sector if they are involved in solving that shortage. The approach I take in my legislation is to try to encourage private businesses to undertake activities that would increase the supply of quality child care.

The legislation gives flexibility to businesses that want to get involved in providing child care for their employee's dependents. Though the shortage of quality child care is definitely a national problem, it does have uniquely local solutions. What sort of child care infrastructure works best in a community is going to depend on the sort of work that community does—whether there are many part-time or odd hour shifts, whether the local economy has a few very large employers or a lot of small employers, or some mix. My legislation includes a tax incentive that would allow many different kinds of businesses to take advantage of it—and that would allow them to be as creative as possible.

The 21st century economy will be one in which more of us are working, and more of us are trying to balance work and family. How well we adjust to that balance will determine how strong we are as an economy and as a Nation of families. My legislation is an attempt to encourage businesses to play an active role in this deeply important transition.

In the 1950's, Federal, State, local governments, communities, and businesses banded together to build a highway system that is the most impressive in the world. Those roads allowed our economy to flourish and our people to move safely and quickly to work. In the 1990's, we need the same sort of national, comprehensive effort to build safe and affordable child care for our children. As more and more parents—of all income levels—move into the work force, they need access to quality child care just as much as their parents needed quality highways to drive to work. And if we are successful—and I plan to be successful—in the 21st century excellent child care will be as common as interstate highways.

Child care is an investment that is good for children, good for business, good for our States, and good for the Nation. We need to involve every level of government—and private communities and private businesses—in building a child care infrastructure that is the best in the world. My legislation is a first, essential step toward this end.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Infrastructure Act of 1997".

SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(A) to acquire, construct, rehabilitate, or expand property—

"(i) which is to be used as part of a qualified child care facility of the taxpayer,

"(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

"(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

"(D) under a contract to provide child care resource and referral services to employees of the taxpayer.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this sub section, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Employer-provided child care credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

By Mr. AKAKA:

S. 83. A bill to consolidate and revise the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PLANT PROTECTION ACT

Mr. AKAKA. Mr. President, today I am introducing the Plant Protection Act, a comprehensive consolidation of Federal laws governing plant pests and diseases, noxious weeds, and the plant products that harbor pests and weeds.

During the past century, numerous Federal laws were enacted to address problems caused by plant pests and noxious weeds. While some of these laws continue to protect agriculture and the environment, others are ambiguous, outmoded, or difficult to enforce. The Nation's agricultural community, as well as private, state, and Federal land managers, cannot afford the continuing uncertainty caused by the hodgepodge of Federal plant pest laws, some of which were enacted before World War I. Legislation to revise and consolidate federal plant pest laws is urgently needed and long overdue.

Agriculture Secretary Dan Glickman highlighted the problem created by federal plant protection laws when he told Congress that "in some instances, it is unclear which statutes should be relied upon for authority. It is difficult to explain to the public why some apparently similar situations have to be treated differently because different authorities are involved."

A 1993 report issued by the Office of Technology Assessment reached the same conclusion. The OTA found that Federal and State statutes, regulations, and programs are not keeping pace with new and spreading alien pests.

The Plant Protection Act will address many of these problems. The bill I introduced today will enhance the Federal Government's ability to combat weeds, plant pests, and diseases, and protect our farms, environment, and economy from the harm they cause.

Plant pests are a problem of monumental proportions. Insects such as Mediterranean fruit fly, fire ant, and gypsy moth plague America's farmers and cause billions of dollars in crop losses annually. Destructive plant diseases include chestnut blight, which wiped out the most common tree of our Appalachian forests, elm blight, which destroyed many splendid trees throughout our towns and cities, and the white pine blister rust, which eliminated western white pine as a source of timber for several decades.

Alien weeds also cause havoc, and nowhere is this problem more apparent than in Hawaii. Because our climate is so accommodating, Hawaii is heaven-on-earth for weeds. Weeds such as gorse, ivy gourd, miconia, and banana poka are ravaging our tropical and subtropical landscape.

Invasive noxious weeds do more than just compete with domestic species. They transform the landscape, change the rules by which native plants and animals live, and undermine the economic and environmental health of the areas they infest.

Alien weeds fuel grass and forest fires, promote soil erosion, and destroy critical water resources. They significantly increase the cost of farming and ranching. Noxious weeds destroy or alter natural habitat, damage waterways and powerlines, and depress property values. Some are toxic to humans, livestock, and wildlife.

Alien weeds are biological pollution, pure and simple. Due to the worldwide growth in trade and travel we are witnessing an explosion in the number of foreign weeds that plague our Nation.

Just how big is this problem? Let me offer an example. Last year, on Federal lands alone, we lost 4,500 acres each day to noxious weeds. That's a million-and-a-half acres a year, or an area the size of Delaware. By comparison, forest fires—one of the most fearsome natural disasters—claimed only half as many Federal acres as weeds.

Noxious weeds have also been called biological wildfire, and for good reason. Forests, national parks, recreation areas, urban landscapes, wilderness, grasslands, waterways, farm and range land across the Nation are overrun by noxious weeds.

Farmers experience the greatest economic impact of this problem. The Office of Technology Assessment estimates that exotic weeds cost U.S. farmers $3.6 to $5.4 billion annually due to reduced yields, crops of poor quality, increased herbicide use, and other weed control costs. Noxious weeds are a significant drain on farm productivity.

Despite the magnitude of this problem, few people get alarmed about weeds. The issue certainly doesn't appear on the cover of Time or Newsweek. Perhaps if kudzu, a weed known as the "vine that ate the South," attacked the Capitol grounds, weeds would finally get the attention they deserve.

Several of these foreign weeds are truly the King Kong of plants. Some are 50 feet tall. Others have 4 inch thorns. Some have roots 25 feet deep, and others produce 20 million seeds each year.

My least-favorite weed is the tropical soda apple, a thorny plant with a sweet-sounding name. It bears small yellow and green fruit. But, like fruit from the forbidden tree, tropical soda apples are a source of great strife.

This import from Brazil has inch-long spikes covering its stems and leaves. The fruit is a favorite among cattle, and when they pass the seeds in their manure new weeds quickly sprout. As cattle are shipped from state to state with soda apple seeds in their stomachs you can easily imagine how the problem rapidly spreads. Tropical soda apple is a weed control nightmare.

The saga of tropical soda apple prompted me to introduce S. 690, the Federal Noxious Weed Improvement Act during the 104th Congress. S. 690 would grant the Secretary of Agriculture emergency powers to restrict the entry of a foreign weed until formal action can be taken to place it on the noxious weed list. This legislation would prevent future tropical soda apples from taking root.

I have incorporated the text of S. 690 into section 4 of the Plant Protection Act. Other provisions of the legislation I have introduced today are drawn from USDA recommendations for consolidating weed and plant pest authorities.

Because the U.S. Department of Agriculture's authority over plant pests and noxious weeds is dispersed throughout many statutes, Federal efforts to protect agriculture, forestry, and our environment are seriously hindered. To enable the Department to respond more efficiently to this challenge, the Plant Protection Act will consolidate these authorities into a single statute.

I ask unanimous consent that the text of the Plant Protection Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 83

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Plant Protection Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the detection, control, eradication, suppression, prevention, and retardation of the spread of plant pests and noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;

(2) biological control—

(A) is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds; and

(B) should be facilitated by the Secretary of Agriculture, Federal agencies, and States, whenever feasible;

(3) markets could be severely impacted by the introduction or spread of pests or noxious weeds into or within the United States;

(4) the unregulated movement of plant pests, noxious weeds, plants, biological control organisms, plant products, and articles capable of harboring plant pests or noxious weeds would present an unacceptable risk of introducing or spreading plant pests or noxious weeds;

(5) the existence on any premises in the United States of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States could threaten crops, other plants, plant products, and the natural resources and environment of the United States and burden interstate commerce or foreign commerce; and

(6) all plant pests, noxious weeds, plants, plant products, or articles capable of harboring plant pests or noxious weeds regulated under this Act are in or affect interstate commerce or foreign commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) ARTICLE.—The term "article" means any material or tangible object that could harbor a pest, disease, or noxious weed.

(2) BIOLOGICAL CONTROL ORGANISM.—The term "biological control organism" means a biological entity, as defined by the Secretary, that suppresses or decreases the population of another biological entity.

(3) ENTER.—The term "enter" means to move into the commerce of the United States.

(4) ENTRY.—The term "entry" means the act of movement into the commerce of the United States.

(5) EXPORT.—The term "export" means to move from the United States to any place outside the United States.

(6) EXPORTATION.—The term "exportation" means the act of movement from the United States to any place outside the United States.

(7) IMPORT.—The term "import" means to move into the territorial limits of the United States.

(8) IMPORTATION.—The term "importation" means the act of movement into the territorial limits of the United States.

(9) INDIGENOUS.—The term "indigenous" means a plant species found naturally as part of a natural habitat in a geographic area in the United States.

(10) INTERSTATE.—The term "interstate" means from 1 State into or through any other State, or within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(11) INTERSTATE COMMERCE.—The term "interstate commerce" means trade, traffic, movement, or other commerce—

(A) between a place in a State and a point in another State;

(B) between points within the same State but through any place outside the State; or

(C) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(12) MEANS OF CONVEYANCE.—The term "means of conveyance" means any personal property or means used for or intended for use for the movement of any other personal property.

(13) MOVE.—The term "move" means to—

(A) carry, enter, import, mail, ship, or transport;

(B) aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;

(C) offer to carry, enter, import, mail, ship, or transport;

(D) receive to carry, enter, import, mail, ship, or transport; or

(E) allow any of the activities referred to this paragraph.

(14) NOXIOUS WEED.—The term "noxious weed" means a plant, seed, reproductive part, or propagative part of a plant that—

(A) can directly or indirectly injure or cause damage to a crop, other useful plant, plant product, livestock, poultry, or other interest of agriculture (including irrigation), navigation, public health, or natural resources or environment of the United States; and

(B) belongs to a species that is not indigenous to the geographic area or ecosystem in which it is causing injury or damage.

(15) PERMIT.—The term "permit" means a written or oral authorization (including electronic authorization) by the Secretary to move a plant, plant product, biological control organism, plant pest, noxious weed, or article under conditions prescribed by the Secretary.

(16) PERSON.—The term "person" means an individual, partnership, corporation, association, joint venture, or other legal entity.

(17) PLANT.—The term "plant" means a plant or plant part for or capable of propagation, including a tree, shrub, vine, bulb, root, pollen, seed, tissue culture, plantlet culture, cutting, graft, scion, and bud.

(18) PLANT PEST.—The term "plant pest" means—

(A) a living stage of a protozoan, animal, bacteria, fungus, virus, viroid, infection agent, or parasitic plant that can directly or indirectly injure or cause damage to, or cause disease in, a plant or plant product; or

(B) an article that is similar to or allied with an article referred to in subparagraph (A).

(19) PLANT PRODUCT.—The term "plant product" means a flower, fruit, vegetable, root, bulb, seed, or other plant part that is not considered a plant or a manufactured or processed plant or plant part.

(20) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(21) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(22) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

SEC. 4. RESTRICTIONS ON MOVEMENT OF PLANTS, PLANT PRODUCTS, BIOLOGICAL CONTROL ORGANISMS, PLANT PESTS, NOXIOUS WEEDS, ARTICLES, AND MEANS OF CONVEYANCE.

(a) IN GENERAL.—The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the interstate dissemination of a plant pest or noxious weed.

(b) MAIL.—

(1) IN GENERAL.—No person shall convey in the mail, or deliver from a post office or by a mail carrier, a letter or package containing a plant pest, biological control organism, or noxious weed unless it is mailed in accordance with such regulations as the Secretary may issue to prevent the introduction into the United States, or interstate dissemination, of plant pests or noxious weeds.

(2) POSTAL EMPLOYEES.—This subsection shall not apply to an employee of the United States in the performance of the duties of the employee in handling the mail.

(3) POSTAL LAWS AND REGULATIONS.—Nothing in this subsection authorizes a person to open a mailed letter or other mailed sealed matter except in accordance with the postal laws and regulations.

(c) STATE RESTRICTIONS ON NOXIOUS WEEDS.—No person shall move into a State, or sell or offer for sale in the State, a plant species the sale of which is prohibited by the State because the plant species is designated as a noxious weed or has a similar designation.

(d) ADMINISTRATION.—The Secretary may issue regulations to carry out this section, including regulations requiring that a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued in a manner and form required by the Secretary or by an appropriate official of the country or State from which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests; and

(4) in the case of a plant or biological control organism, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the plant or biological control organism may be infested

with a plant pest or noxious weed, or may be a plant pest or noxious weed.

(e) List of Restricted Noxious Weeds.—

(1) Publication.—The Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

(2) Petitions to add or remove plant species.—

(A) In general.—A person may petition the Secretary to add or remove a plant species from the list required under paragraph (1).

(B) Action on petition.—The Secretary shall—

(i) act on a petition not later than 1 year after receipt of the petition by the Secretary; and

(ii) notify the petitioner of the final action the Secretary takes on the petition.

(C) Basis for determination.—The Secretary's determination on the petition shall be based on sound science, available data and technology, and information received from public comment.

(D) Inclusion on list.—To include a plant species on the list, the Secretary must determine that—

(i) the plant species is nonindigenous to the geographic region or ecosystem in which the species is spreading and causing injury; and

(ii) the dissemination of the plant in the United States may reasonably be expected to interfere with natural resources, agriculture, forestry, or a native ecosystem of a geographic region, or management of an ecosystem, or cause injury to the public health.

(f) Conforming Amendments.—

(1) Section 102 of the Act of September 21, 1944 (58 Stat. 735, chapter 412; 7 U.S.C. 147a) is amended by striking "(a)" in subsection (a) and all that follows through "(2)" in subsection (f)(2).

(2) The matter under the heading "Enforcement of the Plant-Quarantine Act:" under the heading "Miscellaneous" of the Act of March 4, 1915 (commonly known as the "Terminal Inspection Act") (38 Stat. 1113, chapter 144; 7 U.S.C. 166) is amended—

(A) in the second paragraph—

(i) by striking "plants and plant products" each place it appears and inserting "plants, plant products, animals, and other organisms";

(ii) by striking "plants or plant products" each place it appears and inserting "plants, plant products, animals, or other organisms";

(iii) by striking "plant-quarantine law or plant-quarantine regulation" each place it appears and inserting "plant-quarantine or other law or plant-quarantine regulation";

(iv) in the second sentence—

(I) by striking "Upon his approval of said list, in whole or in part, the Secretary of Agriculture" and inserting "On the receipt of the list by the Secretary of Agriculture, the Secretary"; and

(II) by striking "said approved lists" and inserting "the lists";

(v) by inserting after the second sentence the following: "On the request of a representative of a State, a Federal agency shall act on behalf of the State to obtain a warrant to inspect mail to carry out this paragraph."; and

(vi) in the last sentence, by striking "be forward" and inserting "be forwarded"; and

(B) in the third paragraph, by striking "plant or plant product" and inserting "plant, plant product, animal, or other organism".

SEC. 5. NOTIFICATION OF ARRIVAL AND INSPECTION BEFORE MOVEMENT OF PLANTS, PLANT PRODUCTS, BIOLOGICAL CONTROL ORGANISMS, PLANT PESTS, NOXIOUS WEEDS, ARTICLES, AND MEANS OF CONVEYANCE.

(a) Notification and Holding by Secretary of the Treasury.—

(1) In general.—Except as provided in paragraph (2), the Secretary of the Treasury shall—

(A) promptly notify the Secretary of the arrival of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance at a port of entry; and

(B) hold the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance until inspected and authorized for entry into or transit movement through the United States, or otherwise released by the Secretary.

(2) Application.—Paragraph (1) shall not apply to a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is imported from a country or region of countries that the Secretary designates as exempt from paragraph (1), pursuant to such regulations as the Secretary may issue.

(b) Notification by Responsible Person.—The person responsible for a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to subsection (a) shall promptly, on arrival at the port of entry and before the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is moved from the port of entry, notify the Secretary or, at the Secretary's direction, the proper official of the State to which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is destined, or both, as the Secretary may prescribe, of—

(1) the name and address of the consignee;

(2) the nature and quantity of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance proposed to be moved; and

(3) the country and locality where the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance was grown, produced, or located.

(c) No Movement Without Inspection and Authorization.—No person shall move from the port of entry or interstate an imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance unless the imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance has been inspected and authorized for entry into or transit movement through the United States, or otherwise released by the Secretary.

SEC. 6. REMEDIAL MEASURES OR DISPOSAL FOR PLANT PESTS OR NOXIOUS WEEDS; EXTRAORDINARY EMERGENCY.

(a) Remedial Measures or Disposal for Plant Pests or Noxious Weeds.—

(1) In general.—Except as provided in subsection (c), if the Secretary considers it necessary to prevent the dissemination of a plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States, the Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of—

(A) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is moving into or through the United States or interstate and that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(B) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that has moved into the United States or interstate and that the Secretary has reason to believe was infested with the plant pest or noxious weed at the time of the movement;

(C) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this Act;

(D) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that has not been maintained in compliance with a post-entry quarantine requirement;

(E) a progeny of a plant, plant product, biological control organism, plant pest, or noxious weed that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this Act; or

(F) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is infested with a plant pest or noxious weed that the Secretary has reason to believe was moved into the United States or in interstate commerce.

(2) Ordering treatment or disposal by the owner.—Except as provided in subsection (c), the Secretary may order the owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to disposal under paragraph (1), or the owner's agent, to treat, apply other remedial measures to, destroy, or otherwise dispose of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance, without cost to the Federal Government and in a manner the Secretary considers appropriate.

(3) Classification system for noxious weeds.—

(A) In general.—To facilitate control of noxious weeds, the Secretary shall develop a classification system to describe the status and action levels for noxious weeds.

(B) Categories.—The classification system shall differentiate between—

(i) noxious weeds that are not known to be introduced into the United States;

(ii) noxious weeds that are not known to be widely disseminated within the United States;

(iii) noxious weeds that are widely distributed within the United States; and

(iv) noxious weeds that are not indigenous, including native plant species that are invasive in limited geographic areas within the United States.

(C) Other categories.—In addition to the categories required under subparagraph (B), the Secretary may establish other categories of noxious weeds for the system.

(D) Varying levels of regulation and control.—The Secretary shall develop varying levels of regulation and control appropriate to each of the categories of the system.

(E) Application of regulations.—The regulations issued to carry out this paragraph shall apply, as the Secretary considers appropriate, to—

(i) exclude a noxious weed;

(ii) prevent further dissemination of a noxious weed through movement or commerce;

(iii) establish mandatory controls for a noxious weed; or

(iv) designate a noxious weed as warranting control efforts.

(F) Revisions.—The Secretary shall revise the classification system, and the placement of individual noxious weeds within the system, in response to changing circumstances.

(G) Integrated management plans.—In conjunction with the classification system, the Secretary may develop an integrated management plan for a noxious weed for the geographic region or ecological range of the United States where the noxious weed is found or to which the noxious weed may spread.

(b) Extraordinary Emergencies.—

(1) In general.—Subject to paragraph (2), if the Secretary determines that an extraordinary emergency exists because of the presence of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States and that the presence of the plant pest or noxious weed threatens a crop, other plant, plant product, or the natural resources or environment of the United States, the Secretary may—

(A) hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(B) quarantine, treat, or apply other remedial measures to a premises, including a plant, plant product, biological control organism, article, or means of conveyance on the premises, that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(C) quarantine a State or portion of a State in which the Secretary finds the plant pest or noxious weed, or a plant, plant product, biological control organism, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed; or

(D) prohibit or restrict the movement within a State of a plant, plant product, biological control organism, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(2) Requirements for action.—

(A) Inadequate state measures.—After review and consultation with the Governor or other appropriate official of the State, the Secretary may take action under this subsection only on a finding that the measures being taken by the State are inadequate to eradicate the plant pest or noxious weed.

(B) Notice to state and public.—Before taking any action in a State under this subsection, the Secretary shall—

(i) notify the Governor or another appropriate official of the State;

(ii) issue a public announcement; and

(iii) except as provided in subparagraph (C), publish in the Federal Register a statement of—

(I) the Secretary's findings;

(II) the action the Secretary intends to take;

(III) the reason for the intended action; and

(IV) if practicable, an estimate of the anticipated duration of the extraordinary emergency.

(C) Notice after action.—If it is not practicable to publish a statement in the Federal Register under subparagraph (B) prior to taking an action under this subsection, the Secretary shall publish the statement in the Federal Register within a reasonable period of time, not to exceed 10 business days, after commencement of the action.

(3) Compensation.—

(A) In general.—The Secretary may pay compensation to a person for economic losses incurred by the person as a result of action taken by the Secretary under paragraph (1).

(B) Final determination.—The determination by the Secretary of the amount of any compensation paid under this subsection shall be final and shall not be subject to judicial review.

(c) Least Drastic Action To Prevent Dissemination.—No plant, plant product, biological control organism, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible, and that would be adequate, to prevent the dissemination of a plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

(d) Compensation of Owner for Unauthorized Disposal.—

(1) In general.—The owner of a plant, plant product, biological control organism, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under this section may bring an action against the United States in the United States District Court of the District of Columbia, not later than 1 year after the destruction or disposal, and recover just compensation for the destruction or disposal of the plant, plant product, biological control organism, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for importation, entry, exportation, movement in interstate commerce, or release into the environment) if the owner establishes that the destruction or disposal was not authorized under this Act.

(2) Source for payments.—A judgment rendered in favor of the owner shall be paid out of the money in the Treasury appropriated for plant pest control activities of the Department of Agriculture.

SEC. 7. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) In General.—Consistent with guidelines approved by the Attorney General, the Secretary may—

(1) stop and inspect, without a warrant, a person or means of conveyance moving into the United States to determine whether the person or means of conveyance is carrying a plant, plant product, biological control organism, or article regulated under this Act or is moving subject to this Act;

(2) stop and inspect, without a warrant, a person or means of conveyance moving in interstate commerce on probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, or article regulated under this Act or is moving subject to this Act;

(3) stop and inspect, without a warrant, a person or means of conveyance moving in interstate commerce from or within a State, portion of a State, or premises quarantined under section 6(b) on probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, or article regulated under this Act or is moving subject to this Act; and

(4) enter, with a warrant, a premises in the United States for the purpose of making inspections and seizures under this Act.

(b) Warrants.—

(1) In general.—A United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, within the judge's or magistrate's jurisdiction, on proper oath or affirmation showing probable cause to believe that there is on certain premises a plant, plant product, biological control organism, article, facility, or means of conveyance regulated under this Act, issue a warrant for entry on the premises to make an inspection or seizure under this Act.

(2) Execution.—The warrant may be executed by the Secretary or a United States Marshal.

SEC. 8. COOPERATION.

(a) In General.—To carry out this Act, the Secretary may cooperate with—

(1) other Federal agencies;

(2) States or political subdivisions of States;

(3) national, State, or local associations;

(4) national governments;

(5) local governments of other nations;

(6) international organizations;

(7) international associations; and

(8) other persons.

(b) Responsibility.—The individual or entity cooperating with the Secretary shall be responsible for conducting the operations or taking measures on all land and property within the foreign country or State, other than land and property owned or controlled by the United States, and for other facilities and means determined by the Secretary.

(c) Transfer of Biological Control Methods.—At the request of a Federal or State land management agency, the Secretary may transfer to the agency biological control methods utilizing biological control organisms against plant pests or noxious weeds.

(d) Improvement of Plants, Plant Products, and Biological Control Organisms.—The Secretary may cooperate with State authorities in the administration of regulations for the improvement of plants, plant products, and biological control organisms.

SEC. 9. PHYTOSANITARY CERTIFICATE FOR EXPORTS.

The Secretary may certify a plant, plant product, or biological control organism as free from plant pests and noxious weeds, and exposure to plant pests and noxious weeds, according to the phytosanitary requirements of the country to which the plant, plant product, or biological control organism may be exported.

SEC. 10. ADMINISTRATION.

(a) In General.—The Secretary may acquire and maintain such real or personal property, employ such persons, make such grants, and enter into such contracts, cooperative agreements, memoranda of understanding, or other agreements as are necessary to carry out this Act.

(b) Personnel of User Fee Services.—Notwithstanding any other law, the Secretary shall provide adequate personnel for services provided under this Act that are funded by user fees.

(c) Tort Claims.—

(1) In general.—The Secretary may pay a tort claim (in the manner authorized in the first paragraph of section 2672 of title 28, United States Code) if the claim arises outside the United States in connection with an activity authorized under this Act.

(2) TIME LIMITATION.—A claim may not be allowed under paragraph (1) unless the claim is presented in writing to the Secretary not later than 2 years after the claim accrues.

SEC. 11. REIMBURSABLE AGREEMENTS.

(a) PRECLEARANCE.—

(1) IN GENERAL.—The Secretary may enter into a reimbursable fee agreement with a person for preclearance (at a location outside the United States) of plants, plant products, and articles for movement into the United States.

(2) ACCOUNT.—All funds collected under this subsection shall be credited to an account that may be established by the Secretary and remain available until expended without fiscal year limitation.

(b) OVERTIME.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may pay an employee of the Department of Agriculture performing services under this Act relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by the employee, at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT OF SECRETARY.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for any funds paid by the Secretary for the services.

(3) ACCOUNT.—All funds collected under this subsection shall be credited to the account that incurs the costs and remain available until expended without fiscal year limitation.

(c) LATE PAYMENT PENALTY AND INTEREST.—

(1) PENALTY.—On failure of a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person.

(2) INTEREST.—Overdue funds due the Secretary under this section shall accrue interest in accordance with section 3717 of title 31, United States Code.

(3) ACCOUNT.—A late payment penalty and accrued interest shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 12. VIOLATIONS; PENALTIES.

(a) CRIMINAL PENALTIES.—A person who knowingly violates this Act, or who knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act shall be guilty of a misdemeanor, and, on conviction, shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—A person who violates this Act, or who forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(2) FINAL ORDER.—The order of the Secretary assessing a civil penalty shall be treated as a final order that is reviewable under chapter 158 of title 28, United States Code.

(3) VALIDITY OF ORDER.—The validity of an order of the Secretary may not be reviewed in an action to collect the civil penalty.

(4) INTEREST.—A civil penalty not paid in full when due under an order assessing the civil penalty shall (after the due date) accrue interest until paid at the rate of interest applicable to a civil judgment of a court of the United States.

(c) PECUNIARY GAINS OR LOSSES.—If a person derives pecuniary gain from an offense described in subsection (a) or (b), or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than an amount that is the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the imposition of a fine or sentence under subsection (a) or (b).

(d) AGENTS.—For purposes of this Act, the act, omission, or failure of an officer, agent, or person acting for or employed by any other person within the scope of the employment or office of the other person shall be considered also to be the act, omission, or failure of the other person.

(e) CIVIL PENALTIES OR NOTICE IN LIEU OF PROSECUTION.—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this Act.

SEC. 13. ENFORCEMENT.

(a) INVESTIGATIONS, EVIDENCE, AND SUBPOENAS.—

(1) INVESTIGATIONS.—The Secretary may gather and compile information and conduct any investigations the Secretary considers necessary for the administration and enforcement of this Act.

(2) EVIDENCE.—The Secretary shall at all reasonable times have the right to examine and copy any documentary evidence of a person being investigated or proceeded against.

(3) SUBPOENAS.—

(A) IN GENERAL.—The Secretary shall have power to require by subpoena the attendance and testimony of any witness and the production of all documentary evidence relating to the administration or enforcement of this Act or any matter under investigation in connection with this Act.

(B) LOCATION.—The attendance of a witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(C) NONCOMPLIANCE WITH SUBPOENA.—If a person disobeys a subpoena, the Secretary may request the Attorney General to invoke the aid of a court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated to require the attendance and testimony of a witness and the production of documentary evidence.

(D) ORDER.—If a person disobeys a subpoena, the court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence.

(E) NONCOMPLIANCE WITH ORDER.—A failure to obey the court's order may be punished by the court as a contempt of the court.

(F) FEES AND MILEAGE.—

(i) IN GENERAL.—A witness summoned by the Secretary shall be paid the same fees and reimbursement for mileage that is paid to a witness in the courts of the United States.

(ii) DEPOSITIONS.—A witness whose deposition is taken, and the person taking the deposition, shall be entitled to the same fees that are paid for similar services in a court of the United States.

(b) ATTORNEY GENERAL.—The Attorney General may—

(1) prosecute, in the name of the United States, a criminal violation of this Act that is referred to the Attorney General by the Secretary or is brought to the notice of the Attorney General by a person;

(2) bring an action to enjoin the violation of or to compel compliance with this Act, or to enjoin any interference by a person with the Secretary in carrying out this Act, if the Secretary has reason to believe that the person has violated or is about to violate this Act, or has interfered, or is about to interfere, with the Secretary; and

(3) bring an action for the recovery of any unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this Act.

(c) JURISDICTION.—

(1) IN GENERAL.—Except as provided in section 12(b), a United States district court, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of other territories and possessions shall have jurisdiction over all cases arising under this Act.

(2) VENUE.—Except as provided in subsection (b), an action arising under this Act may be brought, and process may be served, in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

(3) SUBPOENAS.—A subpoena for a witness to attend court in a judicial district or to testify or produce evidence at an administrative hearing in a judicial district in an action or proceeding arising under this Act may apply to any other judicial district.

SEC. 14. PREEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), no State or political subdivision of a State may regulate any article, means of conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in foreign commerce to control a plant pest or noxious weed, eradicate a plant pest or noxious weed, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed.

(b) STATE NOXIOUS WEED LAWS.—This Act shall not invalidate the law of any State or political subdivision of a State relating to noxious weeds, except that a State or political subdivision of a State may not permit any action that is prohibited under this Act.

SEC. 15. REGULATIONS AND ORDERS.

The Secretary may issue such regulations and orders as the Secretary considers necessary to carry out this Act, including (at the option of the Secretary) regulations and orders relating to—

(1) notification of arrival of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, or means of conveyance;

(2) prohibition or restriction of or on the importation, entry, exportation, or movement in interstate commerce of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, or means of conveyance;

(3) holding, seizure of, quarantine of, treatment of, application of remedial measures to, destruction of, or disposal of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, premises, or means of conveyance;

(4) in the case of an extraordinary emergency, prohibition or restriction on the movement of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, or means of conveyance;

(5) payment of compensation;

(6) cooperation with other Federal agencies, States, political subdivisions of States, national governments, local governments of other countries, international organizations, international associations, and other persons, entities, and individuals;

(7) transfer of biological control methods for plant pests or noxious weeds;

(8) negotiation and execution of agreements;

(9) acquisition and maintenance of real and personal property;

(10) issuance of letters of warning;

(11) compilation of information;

(12) conduct of investigations;

(13) transfer of funds for emergencies;

(14) approval of facilities and means of conveyance;

(15) denial of approval of facilities and means of conveyance;

(16) suspension and revocation of approval of facilities and means of conveyance;

(17) inspection, testing, and certification;

(18) cleaning and disinfection;

(19) designation of ports of entry;

(20) imposition and collection of fees, penalties, and interest;

(21) recordkeeping, marking, and identification;

(22) issuance of permits and phytosanitary certificates;

(23) establishment of quarantines, post-importation conditions, and post-entry quarantine conditions;

(24) establishment of conditions for transit movement through the United States; and

(25) treatment of land for the prevention, suppression, or control of plant pests or noxious weeds.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS; TRANSFERS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(2) INDEMNITIES.—Except as specifically authorized by law, no part of the money made available under paragraph (1) shall be used to pay an indemnity for property injured or destroyed by or at the direction of the Secretary.

(b) TRANSFERS.—

(1) IN GENERAL.—In connection with an emergency in which a plant pest or noxious weeds threatens any segment of the agricultural production of the United States, the Secretary may transfer (from other appropriations or funds available to an agency or corporation of the Department of Agriculture) such funds as the Secretary considers necessary for the arrest, control, eradication, and prevention of the spread of the plant pest or noxious weed and for related expenses.

(2) AVAILABILITY.—Any funds transferred under this subsection shall remain available to carry out paragraph (1) without fiscal year limitation.

SEC. 17. REPEALS.

The following provisions of law are repealed:

(1) Public Law 97-46 (7 U.S.C. 147b).

(2) The Joint Resolution of April 6, 1937 (50 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).

(3) Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f).

(4) The Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149).

(5) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(6) The Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

(7) The Act of August 20, 1912 (commonly known as the "Plant Quarantine Act") (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.).

(8) The Halogeton Glomeratus Control Act (7 U.S.C. 1651 et seq.).

(9) The Act of August 28, 1950 (64 Stat. 561, chapter 815; 7 U.S.C. 2260).

(10) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), other than the first section of the Act (Public Law 93-629; 7 U.S.C. 2801 note) and section 15 of the Act (7 U.S.C. 2814).

By Mr. GRAMM:

S. 84. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

S. 85. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

AMERICAS FREE TRADE ACT AND NAFTA ACCESSION ACT

Mr. GRAMM. Mr. President, when America trades, America wins. The United States of America is the greatest trading Nation the world has ever known. From beef to computers to engineering, last year American workers exported more than $830 billion in goods and services. No other country even came close.

Over the last decade, America's exports in goods of all kinds grew by 131 percent. By comparison, Europe's exports of goods grew by 55 percent, and Japan's total grew less than half the rate of Europe's by 24 percent. The U.S. trade expansion involved virtually every sector of the economy, but it was particularly pronounced in the export of manufactured goods. From 1985 to 1995, U.S. exports of manufactured goods grew by over 180 percent. That growth rate was six times the rate for Germany and almost nine times Japan's export growth.

In short, trade is our game. American workers, businesses, and farms are more competitive and far more successful than the merchants of fear and defeatism advertise.

Fortunately, we have resisted incessant cries to model our economic and trade policies after those of Japan, Germany, and others, and we have outperformed them in every respect. Lately, one does not hear much talk about the Japanese economic miracle, and Germany's double-digit unemployment rate finds few admirers. Instead, what Pericles said of ancient Athens in the days of that city's glory may without fear be said of us. "The magnitude of our city draws the produce of the world into our harbor, so that to the Athenian the fruits of other countries are as familiar a luxury as those of his own."

In fact, successful economic and trade policies have resulted in the addition of 18 million jobs to the Nation since 1985, 6 million jobs more than the total job creation for Japan and the nations of the European Community combined.

We must not forget that the most valuable products of trade are high-wage jobs. An export-related job in America pays better, 15 percent better, than the average pay in the Nation. Today, America exports over $26,000 in manufactured goods for every man and woman employed in manufacturing.

In January 1988, President Reagan gave his final State of the Union address. As a veteran of those trade battles, President Reagan warned us all: "A creative, competitive America is the answer to a changing world, not trade wars that would close doors, create great barriers, and destroy millions of jobs. We should always remember: protectionism is destructionism."

Mr. President, on May 21, 1986, I introduced legislation to begin negotiations for a free trade agreement with Mexico. On February 26, 1987, I introduced a bill that laid out a framework for negotiating a North American free trade area, and on June 26 of that same year the Senate adopted an amendment that I offered to the omnibus trade bill, authorizing the negotiation of a North American Free Trade Agreement.

On February 7, 1989, I once again introduced trade legislation and called for a free trade agreement encompassing the entire Western Hemisphere. I have introduced similar legislation in the 103d and the 104th Congress, providing authority for negotiation of a free trade agreement with the nations of the Americas.

Today I am introducing two pieces of legislation to extend free trade from Point Barrow, AK, to Cape Horn at the tip of South America. The first bill, the Americas Free Trade Act, will provide fast track authority for consideration of free trade agreements with any or all of the nations of the Western Hemisphere.

While renewing fast track authority, the legislation provides two very important reforms made necessary by the abuse of the fast track authority in the most recent trade agreement. First of all, the legislation explicitly excludes labor and environmental provisions from the fast track approval process. These are important issues to be addressed in our relations with other nations, but the Senate must not surrender its constitutional treaty review responsibilities over these important matters.

The legislation also deals with the problem of unrelated matters being included in a bill implementing a trade agreement. Similar to the Byrd Rule that excludes extraneous matter from reconciliation legislation, this bill will permit a point of order to be raised against any provision in an implementing bill that is not necessary to carry out the provisions of the trade agreement. This point of order, as with the Byrd Rule, would strike the offending provision from the bill rather than cause the entire bill to fail.

As with legislation that I have introduced in the past, this bill provides special procedures for trade agreements with Cuba. In short, Fidel Castro's Cuba would not be eligible, but a free trade agreement with a free Cuba would be made a national priority.

I am also introducing today legislation to provide for Chile to join the North American Free Trade Agreement. While I would prefer the extension of fast track authority for free trade agreements for any nation of the Western Hemisphere, as the Americas Free Trade Act would do, I do not believe that we should delay the process of including Chile in NAFTA, or hold Chile hostage to that process, should a broader trade bill require more time to be enacted. I believe that a free trade agreement with Chile could and should be concluded this year, and I am eager to see the progress toward lower barriers to trade and economic growth move forward.

We are the best competitor the world has ever known, and we have the biggest stake. Trade and expanding economic opportunity power America's engines of economic growth and prosperity. Let us embrace them, not destroy them.

Mr. President, I ask unanimous consent that the text of the Americas Free Trade Act and the NAFTA Accession Act, together with an outline of each bill, be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 84

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Americas Free Trade Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The countries of the Western Hemisphere have enjoyed more success in the twentieth century in the peaceful conduct of their relations among themselves than have the countries in the rest of the world.

(2) The economic prosperity of the United States and its trading partners in the Western Hemisphere is increased by the reduction of trade barriers.

(3) Trade protection endangers economic prosperity in the United States and throughout the Western Hemisphere and undermines civil liberty and constitutionally limited government.

(4) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the Western Hemisphere, enhancing prosperity in place of the cycle of increasing trade barriers and deepening poverty that results from a resort to protectionism and trade retaliation.

(5) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(6) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), and the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AREA FOR THE WESTERN HEMISPHERE.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with the sovereign countries located in the Western Hemisphere, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade, for the purpose of promoting the eventual establishment of a free trade area for the entire Western Hemisphere.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) BILATERAL OR MULTILATERAL BASIS.—Agreements may be entered into under subsection (a) on a bilateral basis with any foreign country described in that subsection or on a multilateral basis with all of such countries or any group of such countries.

SEC. 4. FREE TRADE WITH FREE CUBA.

(a) RESTRICTIONS PRIOR TO RESTORATION OF FREEDOM IN CUBA.—The provisions of this Act shall not apply to Cuba unless the President certifies to Congress that—

(1) freedom has been restored in Cuba; and

(2) the claims of United States citizens for compensation for expropriated property have been appropriately addressed.

(b) STANDARDS FOR THE RESTORATION OF FREEDOM IN CUBA.—The President shall not make the certification that freedom has been restored in Cuba, for purpose of subsection (a), unless the President determines that—

(1) a constitutionally guaranteed democratic government has been established in Cuba with leaders chosen through free and fair elections;

(2) the rights of individuals to private property have been restored and are effectively protected and broadly exercised in Cuba;

(3) Cuba has a currency that is fully convertible domestically and internationally;

(4) all political prisoners have been released in Cuba; and

(5) the rights of free speech and freedom of the press in Cuba are effectively guaranteed.

(c) PRIORITY FOR FREE TRADE WITH FREE CUBA.—Upon making the certification described in subsection (a), the President shall give priority to the negotiation of a free trade agreement with Cuba.

SEC. 5. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 3, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 3—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE.—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term "implementing bill" means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the Houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(3) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(4) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—

(i) WAIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(c) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting "section 5 of the Americas Free Trade Act," after "the Omnibus Trade and Competitiveness Act of 1988,"; and

(B) by amending subparagraph (C) to read as follows:

"(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority."; and

(2) in subsection (c)(1), by inserting "or under section 5 of the Americas Free Trade Act," after "the Uruguay Round Agreements Act,".

THE AMERICAS FREE TRADE ACT—SUMMARY

I. The President is directed to undertake negotiations to establish free trade agreements between the United States and countries of the Western Hemisphere (including North and South America and the Caribbean). Agreements may be bilateral or multilateral.

II. The President, before seeking a free trade agreement with Cuba under the Act, would have to certify (1) that freedom has been restored in Cuba, and (2) that the claims of U.S. citizens for compensation for expropriated property have been appropriately addressed. The President could make the certification that freedom has been restored to Cuba only if he determines that—

A. constitutionally guaranteed democratic government has been established in Cuba, with leaders freely and fairly elected;

B. private property rights have been restored and are effectively protected and broadly exercised;

C. Cuba has a convertible currency;

D. all political prisoners have been released; and

E. free speech and freedom of the press are effectively guaranteed.

If the President certifies that freedom has been restored to Cuba, priority will be given to the negotiation of a free trade agreement with Cuba.

III. Congressional fast track procedures for consideration of any such agreement (i.e. expedited consideration, no amendments) are extended permanently.

IV. Fast track procedures are amended to provide that they apply to an implementing bill only if such bill contains legislation that is "necessary" to implement the trade agreement. Also, such bills will be subject in the Senate to a procedure like the Byrd Rule that applies to extraneous provisions in reconciliation bills. That is, any provision that does not meet the "necessary" standard is subject to a point of order which, if sustained, causes the offending provisions to be stricken from the bill (rather than the whole bill falling), and this point of order can be overruled only by a vote of three-fifths of the members duly sworn.

V. Labor and environmental standards may not be included as elements of an implementing bill.

S. 85

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NAFTA Accession Act".

SEC. 2. ACCESSION OF CHILE TO THE NORTH AMERICAN FREE TRADE AGREEMENT.

Subject to section 3, the President is authorized to enter into an agreement which provides for the accession of Chile to the North American Free Trade Agreement and the provisions of section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)) shall apply with respect to a bill to implement such agreement if such agreement is entered into on or before December 31, 1998.

SEC. 3. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILL.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 2, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 2—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE.—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term "implementing bill" means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the Houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(3) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(4) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—

(i) WAIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(c) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting "section 3 of the NAFTA Accession Act," after "the Omnibus Trade and Competitiveness Act of 1988,"; and

(B) by amending subparagraph (C) to read as follows:

"(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority."; and

(2) in subsection (c)(1), by inserting "or under section 3 of the NAFTA Accession Act," after "the Uruguay Round Agreements Act,".

THE NAFTA ACCESSION ACT—SUMMARY

I. The President is directed to undertake negotiations for the accession of Chile to the North American Free Trade Agreement.

II. Congressional fast track procedures for consideration of any such agreement (i.e., expedited consideration, no amendments), are extended through December 31, 1998.

III. Fast track procedures are amended to provide that they apply to an implementing bill only if such bill contains legislation that is "necessary" to implement the trade agreement. Also, such bill will be subject in the Senate to a procedure like the Byrd rule that applies to extraneous provisions in reconciliation bills. That is, any provision that does not meet the "necessary" standard is subject to a point of order which, if sustained, causes the offending provision to be stricken from the bill (rather than the whole bill falling), and this point of order can be overruled only by a vote of three-fifths of the members duly sworn.

IV. Labor and environmental standards may not be included as elements of an implementing bill.

By Ms. SNOWE (for herself and Mr. LEAHY):

S. 86. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Labor and Human Resources.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 87. A bill to amend the Public Health Service Act to provide a one-stop shopping information service for individuals with serious or life-threatening diseases; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 88. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Labor and Human Resources.

S. 89. A bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services; to the Committee on Labor and Human Resources.

S. 90. A bill to require studies and guidelines for breast cancer screening for women ages 40–49, and for other purposes; to the Committee on Labor and Human Resources.

S. 91. A bill to establish an Office on Women's Health within the Department of Health and Human Services; to the Committee on Labor and Human Resources.

WOMEN'S HEALTH LEGISLATION

Ms. SNOWE. Mr. President, I rise today to introduce a package of six bills designed to improve the health of countless women across America. By introducing these bills during the opening days of the 105th Congress, I hope to convey that women's health is one of my top legislative priorities for this Congress, and that I will do everything I can to ensure that it is a priority for the 105th Congress as well.

For too many years, women's health care needs were ignored or poorly understood, and women were systematically excluded from important health research. One famous medical study on breast cancer examined hundreds of men. Another federally-funded study examined the ability of aspirin to prevent heart attacks in 20,000 medical doctors, all of whom were men, despite the fact that heart disease is the leading cause of death among women.

Today, Members of Congress and the American public understand the importance of ensuring that both genders benefit equally from medical research and health care services. Unfortunately, equity does not yet exist in health care, and we have a long way to go. Knowledge about appropriate courses of treatment for women lags far behind that for men for many diseases. For years, research into diseases that predominantly affect women, such as breast cancer, went grossly underfunded. And many women do not have access to reproductive and other vital health services.

Throughout my tenure in the House and Senate, I have worked hard to expose and eliminate this health care gender gap and improve women's access to affordable, quality health services. As co-chairs of the Congressional Caucus for Women's Issues (CCWI), Representative Pat Schroeder and I, along with Representative Henry Waxman, called for a GAO investigation into the inclusion of women and minorities in medical research at the National Institutes of Health. This study documented the widespread exclusion of women from medical research, and spurred the Caucus to introduce the first Women's Health Equity Act (WHEA) in 1990. This comprehensive legislation provided Congress with its first broad, forward looking health agenda designed to redress the historical inequities that face women in medical research, prevention and services.

Since the initial introduction of WHEA, we have made important strides on behalf of women's health. Legislation from that first package became law in June 1993, mandating the inclusion of women and minorities in clinical trials at NIH. We secured dramatic funding increases for research into breast cancer, osteoporosis, and cervical cancer, and my legislation established the Office of Research on Women's Health at NIH. And last year the Mothers' and Newborns' Health Protection Act, which I cosponsored, became law. This Act will end the practice of "drive-thru deliveries", where hospitals discharge mothers and their newborns too soon after delivery.

Despite these achievements, women remain at a stark and singular disadvantage in our health care system and in health research. Equality in women's health remains a goal, not a completed task. Legislators must build on the gains that we have made on behalf of women's health to take the next crucial steps toward achieving equity. I believe that the package of bills which I am introducing today provides this framework for progress.

Several of the bills I am introducing today target one of the major public health crises facing this nation—breast cancer. This year alone, 180,000 new cases of breast cancer will be diagnosed in this country, and more than 44,000 women will die from the disease. Breast cancer is the most common form of cancer and the second leading cause of cancer deaths among American women.

Our first priority in the fight against breast cancer must be to maintain and strengthen our commitment to discovering new treatments for this deadly disease. As the Federal Government continues to fund breast cancer research, we also must ensure that funding goes to those projects which victims of breast cancer believe are important and meaningful to them in their fight against this disease.

Over the past three years, the Department of Defense has included lay breast cancer advocates in breast cancer research decision making. The involvement of these breast cancer advocates has helped foster new and innovative breast cancer research funding designs and research projects. While maintaining the highest level of quality assurance through peer review, breast cancer advocates have helped to ensure that all breast cancer research reflects the experiences and wisdom of the individuals who have lived with the disease. In addition, breast cancer advocates provide a vital educational link between the scientific and lay communities.

The first bill I am introducing today, which I am introducing with my colleague from Vermont, Senator LEAHY, urges the National Institutes of Health to follow the DOD's lead. This bill, the Consumer Involvement in Breast Cancer Research Act, urges NIH to include breast cancer advocates in breast cancer research decision making, and to report on progress that the Institute is making next year.

But funding new research alone is not enough—we must ensure that people who are suffering from deadly diseases such as breast cancer have access to information about the latest, most-innovative therapies which are frequently available only through experimental drug trials. At a breast cancer hearing which I sponsored last year with my colleagues, Senators CONNIE MACK and DIANNE FEINSTEIN, we heard testimony from breast cancer advocates on the difficulty patients and physicians face in learning about ongoing clinical trials. The second bill I introduce today addresses this knowledge gap, by establishing a data bank of information on clinical trials and experimental treatments for all serious or life-threatening illnesses.

This "one-stop shopping information service" will include a registry of all privately and publicly funded clinical trials, and will contain information describing the purpose of the trial, eligibility criteria for participating in the trial, as well as the location of the trial. The database will also contain information on the results of completed clinical trials, enabling patients to make fully informed decisions about medical treatments. The bill would allow people with a serious or life-threatening illness, or the doctor of a family member, to call a toll-free number to access this critical information so they could locate a clinical trial near them that may offer hope by extending their lives or alleviating their suffering. I am pleased that my colleague from California, Senator FEINSTEIN, is joining me in introducing this important bill.

Providing people with information about clinical trials is only the first step in increasing access to experimental treatments—we must also ensure that they have adequate insurance coverage to cover costs associated with clinical trials. While pharmaceutical companies typically cover the costs of the experimental treatment, insurance companies are expected to cover the costs of non-experimental services. Yet many insurance companies deny coverage for these non-experimental services when a patient is enrolled in an experimental trial.

As a result, many patients who could benefit from these potentially life-saving investigational treatments do not have access to them because their insurance will not cover these associated costs. Denying reimbursement for these services also impedes the ability of scientists to conduct important research, by reducing the number of patients who are eligible to participate in clinical trials.

The third bill I am introducing today, the Improved Patient Access to Clinical Studies Act of 1997, addresses this problem. This bill would prohibit insurance companies from denying coverage for services provided to individuals participating in clinical trials, if those services would otherwise be covered by the plan. This bill would also prevent health plans from discriminating against enrollees who choose to participate in clinical trials.

Another form of discrimination in health insurance we see today is based on genetic information. This is a particular concern to women who inherit or may have inherited a mutated form of the breast cancer gene [BRCA1 or BRCA2]. Women who inherit either of these mutated genes have an 85 percent risk of developing breast cancer in their lifetime, and a 50 percent chance of developing ovarian cancer. Although there is no known treatment to ensure that women who carry the mutated gene do not develop breast cancer, genetic testing makes it possible for carriers of these mutated genes to take extra precautions in order to detect cancer at its earliest stages—precautions such as mammograms and self-examinations.

The tremendous promise of genetic testing, however, is significantly threatened when insurance companies use the results of genetic testing to deny or limit coverage to consumers on the basis of genetic information. Yet this practice is relatively common today. In fact, a recent survey of individuals with a known genetic condition in the family revealed that 22 percent had been denied health insurance coverage because of genetic information.

In addition to the potentially devastating consequences of being denied health insurance on the basis of genetic information, the fear of discrimination has equally harmful consequences for consumers and for scientific research. For example, many women who might take extra precautions if they knew they had the breast cancer gene may not seek testing because they fear losing their health insurance. Patients may be unwilling to disclose information about their genetic status to their physicians out of fear, hindering treatment or preventive efforts. And people may be unwilling to participate in potentially ground breaking research because they do not want to reveal information about their genetic status.

The Kassebaum/Kennedy Health Care Reform Act took the first step in protecting Americans in group health plans from genetic discrimination by preventing discrimination in health insurance based on a pre-exiting genetic condition. My bill, the Genetic Information Nondiscrimination in Health Insurance Act of 1997, takes the next crucial steps to prohibit genetic discrimination. My bill prevents insurers from charging higher premiums based on genetic information, prohibits insurers from requiring or requesting a genetic test as a condition of coverage, requires informed written consent before an insurance company can disclose genetic information to a third party, and extends these important protections to Medigap.

While there is much that we still do not know in the fight against breast cancer, we do know that mammograms are currently the most effective weapon we have in the fight against breast cancer. Yet experts still disagree about the effectiveness of mammograms for women in their forties. In fact, the National Cancer Institute (NCI) in 1993 reversed its position on the effectiveness of mammograms for women in their forties, producing widespread confusion in women and their doctors. To assure that American women have clear guidance from their government on when to have a mammogram, I am reintroducing my bill, the Breast Cancer Screening Act of 1997, directing NCI to reissue its guidelines recommending mammograms for women in this age group. This legislation is particularly crucial in light of recent studies that show a reduced death rate for women in their forties who seek mammograms. In fact, one Swedish study of 150,000 women conducted in 1996 showed a 25 percent lower death rate for women who obtained mammograms beginning in their forties.

Finally, the sixth bill I am introducing is the Women's Health Office Act of 1997. This bill creates or codifies offices of women's health at various federal agencies, including the Office of the Assistant Secretary at HHS, the Centers for Disease Control, the Agency for Health Care Policy and Research, the Health Resources and Services Administration and the Food and Drug Administration. This bill provides for short and long-range goals and coordination of all activities that related to disease prevention, health promotion, delivery of health services and scientific research concerning women. The bill also creates a clearinghouse for information on women's health.

By statutorily creating Offices of Women's Health, the Deputy Assistant Secretary for Women's Health will be able to better monitor various Public Health Service agencies and advise them on scientific, legal, ethical and policy issues. Agencies would establish a Coordinating Committee on Women's Health to identify and prioritize which women's health projects should be conducted. This will also provide a mechanism for coordination within and across these agencies, and with the private sector. But most importantly, this bill will ensure the presence of enduring offices dedicated to addressing the ongoing needs and gaps in research policy, programs, and education and training in women'shealth.

Improving the health of American women requires a far greater understanding of women's health needs and conditions, and ongoing evaluation in the areas of research, education, prevention, treatment and the delivery of services. I believe that passage of these important bills will help ensure that women's health will never again be a missing page in America's medical textbook.

Mrs. FEINSTEIN. Mr. President, today Senator SNOWE and I are introducing S. 87, a bill to set up a toll-free service so that people with life-threatening diseases and the medical community can find out about research projects on new treatments.

There are thousands of serious and life-threatening diseases, diseases for which we have no cure. For genetic diseases alone, there are 3,000 to 4,000. We are familiar with diseases like cancer, Alzheimer's disease and multiple sclerosis. But there are thousands of others that are not so common, like cystinosis, Tay-Sachs disease, Wilson's disease, and Sjogren's syndrome. Indeed, there are over 5,000 known rare diseases, diseases most of us have never heard of, affecting between 10 and 20 million Americans.

Cancer kills half a million Americans per year. Diabetes afflicts 15 million Americans per year, half of whom do not know they have it. Arthritis affects 40 million Americans every year.

15,000 American children die every year. Among children, the rates of chronic respiratory diseases (asthma, bronchitis and sinusitis), heart murmurs, migraine headaches, anemia, epilepsy and diabetes are increasing. Few families escape illness today. Every family fears it.

THE BILL

Our bill requires the Secretary of Health and Human Services to establish a "one-stop shopping" database, including a toll-free telephone number, so that patients and physicians can conveniently find out what clinical research trials are being conducted on experimental treatments. By accessing this database, users would be able to find out the purpose of the study, eligibility requirements, research locations, and a contact person. Information would have to be presented in "plain English," not "medicalese," so that the average person could understand it.

Our bill is endorsed by the American Cancer Society, the National Organization for Rare Disorders, AIDS Action and the Alzheimer's Association.

A CONSTITUENT SUGGESTION

The need for this information center came from my constituent, Nancy Evans, of San Francisco's Breast Cancer Action, in a June 13, 1996 hearing of the Senate cancer coalition, which I co-chair with Senator MACK. She described the difficulty that cancer patients have in trying to find out what experimental treatments might be available, research trials sponsored by the federal government and by private companies. Most of them are desperate; most have tried everything. She testfied that the National Cancer Institute has established 1-800-4-CANCER, but the NCI information is incomplete. It does not include all trials and the information is often difficult for the lay person to understand.

In addition, the National Kidney Cancer Association has called for a central database.

PEOPLE IN SERIOUS NEED

It is helpful to think about the plight of the individuals that this bill could help. These are people who have a terminal illness; their physicians have tried every treatment they can find. Cancer patients, for example, have probably had several rounds of chemotherapy, which has left them, debilitated, virtually lifeless. These patients cling to slim hopes. They are desperate to try anything. But step one is finding out what is available, even if it is still in the experimental stage.

One survey found that a majority of patients and families are willing to use investigational drugs (drugs being researched but not approved for sale), but find it difficult to locate information on research projects. A similar survey of physicians found that 42 percent of physicians are unable to find printed information about rare illnesses.

HELP FOR PHYSICIANS

Physicians, no matter how competent and well trained, also cannot be knowledgeable about experimental treatments being researched. And most Americans do not have sophisticated computers hookups that provide them instant access to the latest information. Our witness, Nancy Evans, testified that she can find out more about a company's clinical trials by calling her stockbroker than by calling existing data services.

Many desperate families have called me, their U.S. Senator, seeking help. Others have lodged their pleas at the White House. Others call lawyers, 911, the local medical society, the local Chamber of Commerce, anything they can think of. Getting information on health research projects should not require a "fishing expedition" of futiile calls, "good connections" or the involvement of elected officials.

In 1988, Congress directed HHS to establish an AIDS Clinical Trials Information Services. It is now operational (1-800-TRIALS-A) so that patients, providers and their families can find out about AIDS clinical trials. All calls are confidential and experienced professionals at the service can help people.

IMPROVING HEALTH, RESEARCH

Facilitating access to information can also strengthen our health research effort. With a national database enabling people to find research trials, more people could be available to participate in research. This can help researchers broaden their pool of research participants.

MODEST HELP FOR THE ILL

The bill we introduce does not guarantee that anyone can participate in a clinical research trial. Researchers would still control who participates and set the requirements for the research. But for people who cling to hopes for a cure, for people who want to live longer, for people who want to feel better, this database can offer a little help.

If you have a life-threatening illness, you should not have to have political or other connections, computer sophistication or access to top-flight university medical schools to find out about research on treatments of disease

I hope this bill will offer some hope to the millions who are suffering today.

By Mr. KERRY:

S. 92. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on Labor and Human Resources.

WORKPLACE RELIGIOUS FREEDOM ACT

Mr. KERRY. Mr. President, I am proud today to introduce the Workplace Religious Freedom Act of 1997. This bill would protect workers from on-the-job discrimination. It represents a milestone in the protection of religious liberty, assuring that all workers have equal employment opportunities.

In 1972, Congress amended the Civil Rights Act of 1964 to require employers to reasonably accommodate an employee's religious practice or observance unless doing so would impose an undue hardship on the employer. This 1972 amendment, although completely appropriate, has been interpreted by the courts so narrowly as to place little restraint on an employer's refusal to provide religious accommodation. The "Workplace Religious Freedom Act" will restore to the religious accommodation provision the weight that Congress originally intended and help assure that employers have a meaningful obligation to reasonably accommodate their employees' religious practices.

The restoration of this protection is no small matter. For many religiously observant Americans the greatest peril to their ability to carry out their religious faiths on a day-to-day basis may come from employers. I have heard accounts from around the country about a small minority of employers who will not make reasonable accommodation for employees to observe the Sabbath and other holy days or for employees who must wear religiously-required garb, such as a yarmulke, or for employees to wear clothing that meets religious modesty requirements.

The refusal of an employer, absent undue hardship, to provide reasonable accommodation of a religious practice should be seen as a form of religious discrimination, as originally intended by Congress in 1972. And religious discrimination should be treated fully as seriously as any other form of discrimination that stands between Americans and equal employment opportunities. Enactment of the "Workplace Religious Freedom Act" will constitute an important step towards ensuring that all members of society, whatever their religious beliefs and practices, will be protected from an invidious form of discrimination.

It is important to recognize that, in addition to protecting the religious freedom of employees, this legislation protects employers from an undue burden. Employees would be allowed to take time off only if their doing so does not pose a significant difficulty or expense for the employer. This common sense definition of "undue hardship" is used in the Americans with Disabilities Act and has worked well in that context.

I believe this bill should receive bipartisan support. The same bill was endorsed in the last session by a wide range of organizations including the American Jewish Committee, the Baptist Joint Committee on Public Affairs, the Christian Legal Society, and the Jewish Community Relations Council of Greater Boston.

I urge this body to pass this legislation so that all American workers can both be assured of equal employment opportunities and the ability to practice their religion.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 92

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Workplace Religious Freedom Act of 1997".

SEC. 2. AMENDMENT.

(a) DEFINITIONS.—Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

(1) by inserting "(1)" after "(j)";

(2) by inserting ", after initiating and engaging in an affirmative and bona fide effort," after "unable"; and

(3) by adding at the end the following:

"(2) As used in this subsection, the term 'undue hardship' means an accommodation requiring significant difficulty or expense. For purposes of determining whether an accommodation requires significant difficulty or expense, the factors to be considered shall include—

"(A) the identifiable cost of the accommodation in relation to the size and operating cost of the employer; and

"(B) the number of individuals who will need a particular accommodation to a religious observance or practice.".

(b) EMPLOYMENT PRACTICES.—Section 703 of such Act (42 U.S.C. 2000e-2) is amended by adding at the end the following:

"(o)(1) As used in this subsection:

"(A) The term 'employee' includes a prospective employee.

"(B) The term 'undue hardship' has the meaning given the term in section 701(j)(2).

"(2) For purposes of determining whether an employer has committed an unlawful employment practice under this title by failing to provide a reasonable accommodation to the religious observance or practice of an employee, an accommodation by the employer shall not be deemed to be reasonable if—

"(A) such accommodation does not remove the conflict between employment requirements and the religious observance or practice of the employee; or

"(B)(i) the employee demonstrates to the employer the availability of an alternative accommodation less onerous to the employee that may be made by the employer without undue hardship on the conduct of the employer's business; and

"(ii) the employer refuses to make such accommodation.

"(3) It shall not be a defense to a claim of unlawful employment practice under this title for failure to provide a reasonable accommodation to a religious observance or practice of an employee that such accommodation would be in violation of a bona fide seniority system if, in order for the employer to reasonably accommodate to such observance or practice—

"(A) an adjustment would be made in the employee's work hours (including an adjustment that requires the employee to work overtime in order to avoid working at a time that abstention from work is necessary to satisfy religious requirements), shift, or job assignment, that would not be available to any employee but for such accommodation; or

"(B) the employee and any other employee would voluntarily exchange shifts or job assignments, or voluntarily make some other arrangement between the employees.

"(4)(A) An employer shall not be required to pay premium wages for work performed during hours to which such premium wages would ordinarily be applicable, if work is performed during such hours only to accommodate religious requirements of an employee.

"(B) As used in this paragraph, the term 'premium wages' includes overtime pay and compensatory time off, pay for night, weekend, or holiday work, and pay for standby or irregular duty.".

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by section 2 take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 2 do not apply with respect to conduct occurring before the date of enactment of this Act.

By Mr. KERRY:

S. 93. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

WORKING FAMILIES CHILD CARE ASSISTANCE ACT

Mr. KERRY. Mr. President, today I am introducing the "Working Families' Child Care Assistance Act" to help the many working families who face great struggles to find affordable, good-quality child care.

Mr. President, we no longer live in an era when one parent generally stays at home full time to take care of the children. Today, 60 percent of women with children younger than six are in the labor force. The result is that approximately seven million children of working parents are cared for each month by someone other than a parent. And most of these children spend 30 hours or more each week in child care, according to the National Research Council.

New research also confirms that our current social reality has placed enormous strains on working families' budgets because many families must pay for child care. According to a new study of 100 child care centers entitled "Cost, Quality, and Child Outcomes in Child Care Centers," families spend an average of $4,940 per year to provide services for each enrolled child. Annual child care costs of this size represent a whopping 28 percent of $17,481, which is the yearly income of an average family in the bottom two-fifths of the income scale.

But even for families who can afford the cost of child care, in some communities child care continues to be hard to obtain at any cost. In 1994, 36 States reported State child care assistance waiting lists, according to the Children's Defense Fund. Eight States had at least 10,000 children waiting for assistance. Georgia's list was the longest with 41,000, while in Texas the list had 36,000 names and a wait of about 2 years. In Massachusetts, the statewide waiting list contains the names of 4,000 working families. Additionally, a 1995 U.S. General Accounting Office (GAO) study found that shortages of child care for infants, sick children, children with special needs, and school-age children before and after school pose difficulties for many families.

I believe the child care situation may worsen because of a provision to which I was opposed in last year's welfare reform bill which cuts the Title XX Social Services Block Grant by 15 percent. Many States use Title XX funding to pay for child care for working families; unfortunately, this cut will result in even more families needing child care assistance.

Mr. President, it is time to provide help to working families to afford quality child care. My bill would double the funding through the Child Care Development Block Grant, increasing child care funding by $1 billion per year. In my home State of Massachusetts, this would result in more than 5,000 families receiving child care help which otherwise would not receive it.

Working parents face an extraordinary uphill battle in trying to make ends meet and cover the high cost of child care. Well over half the women in the work force are parents of preschool children, and they need access to affordable, quality child care they can trust. This bill provides real help to working families and hopefully will send a strong signal that their work and their efforts to provide reliable child care for their children are valued and supported.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 93

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED FUNDING FOR CHILD CARE.

(a) IN GENERAL.—Section 418(a) of the Social Security Act (42 U.S.C. 618(a)) is amended by striking paragraph (3) and inserting the following:

"(3) APPROPRIATION.—For grants under this section, there are appropriated—

"(A) $2,967,000,000 for fiscal year 1997;

"(B) $3,067,000,000 for fiscal year 1998;

"(C) $3,167,000,000 for fiscal year 1999;

"(D) $3,367,000,000 for fiscal year 2000;

"(E) $3,567,000,000 for fiscal year 2001; and

"(F) $3,717,000,000 for fiscal year 2002.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on August 22, 1996.

By Mr. DORGAN:

S. 95. A bill to provide for Federal campaign finance reform, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN FINANCE REFORM LEGISLATION

Mr. DORGAN. Mr President, the current system of electing Members of Congress is badly in need of reform. Elections are too long, too negative and too expensive; incumbents have a decided advantage over challengers, voter participation continues to decline, and 30-second political attack ads are polluting the airways. The American people want us to fix the system, and they want us to do it now. It is my view that campaign finance reform, along with balancing the budget, should be the highest priorities on the Senate agenda in the 105th Congress.

Successive Supreme court decisions have made it increasingly difficult to control campaign spending. In its review of the Federal Election Campaign Act (FECA) of 1971, the Court, in Buckley v. Valeo, stuck down the mandatory spending limits in that law as an infringement of First Amendment rights. The Court stated unequivocally: "In the free society ordained by our Constitution, it is not the government, but the people—individuals as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign." The Court at that time did, however, retain the section of FECA which limited contributions to political candidates because of the Court's stated concern that unlimited gifts to candidates were a recipe for corruption. Simply put, the Courts have prohibited mandatory spending limits while preserving contribution limits. In the long run, it seems to me that we will have to pass a constitutional amendment to get a handle on the spending side of the campaign equation, and I intend to cosponsor just such a measure.

Nevertheless, there are short term solutions that can and should be addressed, including voluntary spending limits. The system is awash in money, and the public is disgusted with the ever increasing amounts of money flowing into congressional campaign coffers. Whether we like it or not, the public believes the money is tainted. They know that money flows towards power, and are convinced that large campaign contributions buy influence. To put their concerns in some perspective, one need only look at the statistics. The average cost of winning a Senate seat rose from $609,100 in 1976 to $3.6 million in the 1996 election cycle, and incumbents on average have a spending advantage of more than 2-1 over challengers.

There is simply no way to justify these escalating expenditures. No wonder the American people have grown cynical of public institutions and officials, and no wonder talented people in our communities do not want to run for elective office. If we hope to reverse public attitudes and restore confidence in our government officials and institutions, we should begin with campaign finance reform. We have a unique opportunity this year to pass meaningful and bipartisan reform, something that has eluded us for more than a decade. I hope we will seize the moment.

While I intend to support comprehensive reform efforts as I have in the past, I am introducing legislation today to address what I perceive to be the most serious problems in the system now. My bill includes the following provisions which I will describe briefly:

1. VOLUNTARY SPENDING LIMITS/LIMITATION ON PERSONAL FUNDS/FEE ON NON-COMPLYING CANDIDATES

As a result of the Supreme Court decisions mentioned above, the only way to control spending in the short term is through voluntary spending limits. My bill contains voluntary limits which are based on a percentage of the voting age population in each state. These are the same limits that were contained in the campaign finance reform bill that passed the Senate in the 103rd Congress and which have been the basis of comprehensive reform proposals in the 104th Congress. In addition, my bill would limit the amount of personal or family money that a candidate can contribute to his or her campaign to $25,000. I don't believe any candidate should be able to spend unlimited personal funds in an attempt to buy a seat in the U.S. Senate.

Unlike other bills, however, my proposal imposes a fee on candidates who choose not to comply with the spending limits. Under my legislation, noncomplying candidates would be charged a fee of 50 percent on all expenditures exceeding the spending limits. The fee would be due and payable at the time candidates are currently required to submit quarterly and other reports to the Federal Election Commission. The proceeds from the fee would be distributed by the FEC on a fair and equitable basis among complying candidates for the same federal office. It is my hope that this fee will provide a strong inducement for candidates to comply with the voluntary spending limits.

2. SOFT MONEY

My bill prohibits national political parties and congressional campaign committees from raising or spending so-called "soft money." Only money raised and spent according to the requirements and restrictions of federal law can be used to "expressly advocate" the election or defeat of a federal candidate. This is called "hard money." However, unlimited amounts of soft money are being raised by the national parties and congressional campaign committees, outside the constraints of federal election law, ostensibly to support state and local candidates as well as federal candidates to the extent that they do not directly advocate the election or defeat of that candidate. In practice, however, soft money is being raised and spent on federal elections because of a loophole in federal election law.

Soft money is raised from unions and corporations, which are prohibited from contributing to federal elections except through their PACs, and from individuals who have reached the aggregate federal contribution limits of $25,000 a year. In a nutshell, soft money contributions are unlimited and unregulated.

It is this pot of soft money which has dramatically increased in recent election cycles. The Republican national committees raised $141.2 million in soft money in the 1996 election cycle, a 183 percent increase over the $49.2 raised in 1992. The Democratic party committees raised $122 million in 1996, a 237 percent increase over their 1992 level of $36.5 million. A substantial portion of soft money spending by party campaign committees has gone to finance the generic issue ads we have come to know as attack ads. The figures above illustrate the problem. My bill would eliminate it by preventing national committees from raising or spending soft money which does not comply with the source and dollar restrictions in federal campaign finance law.

3. EXPRESS ADVOCACY

As mentioned above, only money raised under the restrictions and prohibitions of federal election law can be used to advocate the election or defeat of a candidate for federal office. As currently defined in FEC regulations, only communications which use such words as "vote for", "elect", "support", "defeat", "reject" or "Smith for Congress" are considered express advocacy which must be paid for with money raised under federal election law restraints, i.e., hard money.

This overly narrow definition of what constitutes express advocacy has created a giant loophole for attack ads. Simply by avoiding the magic words mentioned above, political parties, corporations, unions and other special interest groups can pay for brutal attack ads which certainly have the intent of influencing the outcome of federal elections—and they can do it without having to disclose it to the FEC.

My bill would expand the current express advocacy standard to include both the content and intent of such ads. It would not prohibit such ads; it would simply ensure—as Congress intended—that such ads are paid for with money which is subject to regulation and disclosure. Any political ads that clearly identify a candidate(s) and which are broadcast within 60 days prior to an election (or 90 days prior to a general election with respect to a candidate for Vice President or President) will be considered express advocacy and, therefore, will be subject to the restrictions and limitations of federal election law. The bottom line is that you would have to pay for these ads with hard money which is more difficult to raise and which requires full disclosure to the FEC.

4. POLITICAL ADVERTISING

I have long thought that the 30-second political attack ad does little, if anything, to advance the cause of public debate. They tend to be hit-and-run ads. Under current federal communications law, television broadcasters are required to provide political candidates with their lowest unit rate—the rate they charge their best customers—for political ads run in the 45 days prior to a primary election and 60 days prior to a general election. Unfortunately, oftentimes the candidate never appears in the ad. My bill would require broadcasters to provide this reduced rate only for ads which are at least one minute in length and in which the candidate appears at least 75 percent of the time.

5. NON-CITIZENS

It is my strong view that people who are not citizens of the United States should not be able to influence our election process in any way. Therefore, my bill prohibits non-citizens from raising funds for or contributing to federal elections.

6. VOTER PARTICIPATION

I am extremely disheartened by the lack of individual involvement in the political process and the every increasing decline in voter participation numbers. Between 1948–1968, voter turnout for presidential elections was 60.43 percent. Between 1972–1992, it fell to 53.21 percent. Last year, it fell below 50 percent. These statistics are a national disgrace Certainly, there must be something that can be done to increase voter participation. Unfortunately, past initiatives have had little or marginal impact on increasing the number of voters who choose to fulfill their civic responsibility to vote. I believe we need a comprehensive analysis of what has worked, what has not worked or what we might try to change public attitudes, educate voters and improve participation. Early voting, extended polling hours and weekend voting are areas that ought to be researched. My bill provides $150,000 for the Federal Election Commission to conduct such a study and to make recommendations to Congress. This is a small amount of money to invest in an increasingly serious public problem.

7. TAX CREDIT

If we want to encourage participation by ordinary citizens, I believe it is in our national interest to restore a tax credit for small contributors similar to what existed between 1972 and 1986. My bill does that by providing an annual 100% tax credit for the first $100 ($200 for joint returns) of contributions to congressional campaigns. It is my belief that many people who want to participate financially in the political process simply cannot afford to do so. These voters believe they have no power or influence. They are increasingly frustrated, disgusted and disengaged. My bill will afford them the opportunity to participate in the process.

The American public and the voters in my state of North Dakota are clearly appalled by the amount of money involved in electing federal officials. They are adamant that we clean up the system—NOW. If we don't, we do so at our personal and collective peril.

I want the people of North Dakota and the Members of this body to know that I intend to support and to work as hard as I can to enact comprehensive campaign finance legislation this year. I think is in all our best interests to do so, and I hope my bill will stimulate debate and be incorporated in the final reform package.

By Mr. INOUYE:

S. 96. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

MILITARY SERVICE LEGISLATION

Mr. INOUYE. Mr. President, I am reintroducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought side by side and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits that, I believe, they are entitled to. As this population becomes older, it is important for our nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great nation that we are today.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 96

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(A) ISSUANCE OF CERTIFICATE OF SERVICE.—The Secretary shall issue a certificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Department of Veterans Affairs pursuant to regulations issued by the Secretary of Veterans Affairs.

SEC. 8. DEFINITIONS.

In this Act:

(1) The term "Secretary" means the Secretary of the Army.

(2) The term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946.

By Mr. KERRY:

S. 97. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to require the Internal Revenue Service to collect child support through wage withholding and to eliminate State enforcement of child support obligations other than medical support obligations; to the Committee on Finance.

THE UNIFORM CHILD SUPPORT ENFORCEMENT ACT OF 1997

Mr. KERRY. Mr. President, I am introducing legislation today to help ensure that children across this country get the economic support they need and deserve from both parents in order to have a wholesome childhood, grow up healthy, and thrive.

Mr. President, child support reform is an urgent public issue because it affects so many children. In 1994, one out of every four children lived in a family with only one parent present in the home. Half of all the 18.7 million children living in single-parent families in 1994 were poor, compared with only slightly more than one out of every ten children in two-parent families. Clearly the payment of child support by the absent parent is an important determinant of the economic status of these children.

Unfortunately, the failure to pay child support is extraordinarily widespread, cutting across income and racial lines. Of the 10 million women raising children with an absent parent, over 4 million had no support awarded. Of those 5.4 million women who were due support, slightly over half received the full amount due, while a quarter received partial payment and a quarter received nothing at all. Let me repeat that, Mr. President—more than half of the women with child support orders received no support or less than the full amount.

Mr. President, common sense will tell you that children are hurt when parents do not pay support. But perhaps some evidence will make the point even clearer. A recent survey of single parents in Georgia, Oregon, Ohio, and New York documents the real harm children suffer when child support is not paid: during the first year after the parent left the home, more than half the families surveyed faced a serious housing crisis. Nearly a third reported that their children went hungry at some point during the year. And over a third reported that their children lacked appropriate clothing such as a winter coat.

Mr. President, it is also evident that better child support enforcement can produce a lot more money for children. A 1994 study by the Urban Institute estimates that if child support orders were established for all children with a living non-custodial father and these orders were fully enforced, aggregate child support payments would have been $47.6 billion dollars in 1990—nearly three times the amount of child support actually paid in this country.

Unfortunately, this country has made all too little progress in tackling the child support problem, and this has been true under both Democratic and Republican Administrations. Over the past decade, the average child support payment due to all women with a child support award, the average amount received by those women, as well as the percentage of women with awards have remained virtually unchanged (adjusting for inflation). Similarly, the state child support enforcement system that serves welfare families and non-welfare families who ask for help has made progress in paternity establishment, but little progress overall. Over half a million children had their paternity established by state agencies in FY 1994—a fifty percent increase from five years earlier. But fewer than one out of every five cases served by state agencies had any child support paid in FY 1994—a figure that has risen only slightly since FY 1990. Mr. President, it is an intolerable situation for our nation's children when state child support agencies are making absolutely no collection in 80 percent of their cases.

My bill will help make sure that we achieve real progress for children. Last year, Congress passed some important improvements in the child support system in the welfare reform bill that became law. My bill would give states a chance to implement these new changes and then assess their success or failure. If these reforms succeed in dramatically improving the performance of state child support offices, then this bill would not tinker with success. If, however, we do not see dramatic improvement in collections within the next three years, this bill would ensure that we take bold steps to help children. This bill would leave establishment of paternity and child support orders at the state level but move collection of support to the national level where we can more aggressively pursue interstate cases and send a message to all parents obligated to pay support that making full and timely support payments is an obligation as serious as making full and timely payment of taxes. If more than half the states do not achieve a 75 percent collection rate in their child support cases, then the system of collection would be federalized to ensure that children get the support they need and deserve.

Mr. President, it has been 13 years since this Congress passed the first major child support legislation. Despite this legislative effort and additional reforms in 1988, according to a recent study there is a higher default rate on child support payments than on used car loans. I believe that every single member of this body will agree with me that this is wrong. If, under the newly revised federal law, states can rectify this situation, we can all take pleasure and satisfaction from watching them do it. If they cannot, we must take action. I urge my colleagues to support this bill so that America's children of every income level will be assured of the support they need and deserve.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 97

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniform Child Support Enforcement Act of 1997".

SEC. 2. EFFECTIVE DATE; AMENDMENTS.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the first day of the first calendar month that begins after the 3-year period that begins with the date of the enactment of this Act, if the Secretary of Health and Human Services certifies to the Congress that on such first day more than 50 percent of the States have not achieved a 75 percent collection rate in child support cases in which child support is awarded and due under the jurisdiction of such States pursuant to part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(b) ELIMINATION OF PROVISIONS OF LAW RELATING TO STATE ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OTHER THAN MEDICAL SUPPORT OBLIGATIONS.—Not later than 90 days after the effective date of this Act and the amendments made by this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of the Congress a legislative proposal proposing such technical and conforming amendments as are necessary to eliminate State enforcement of child support obligations other than medical support obligations and to bring the law into conformity with the policy embodied in this Act.

SEC. 3. NATIONAL CHILD SUPPORT ORDER REGISTRY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish in the Internal Revenue Service a national registry of abstracts of child support orders.

(2) CHILD SUPPORT ORDER DEFINED.—As used in this section, the term "child support order" means an order, issued or modified by a State court or an administrative process established under State law, that requires an individual to make payments for support and maintenance of a child or of a child and the parent with whom the child is living.

(b) CONTENTS OF ABSTRACTS.—The abstract of a child support order shall contain the following information:

(1) The names, addresses, and social security account numbers of each individual with rights or obligations under the order, to the extent that the authority that issued the order has not prohibited the release of such information.

(2) The name and date of birth of any child with respect to whom payments are to be made under the order.

(3) The dollar amount of child support required to be paid on a monthly basis under the order.

(4) The date the order was issued or most recently modified, and each date the order is required or scheduled to be reviewed by a court or an administrative process established under State law.

(5) Any orders superseded by the order.

(6) Such other information as the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall, by regulation require.

SEC. 4. CERTAIN STATUTORILY PRESCRIBED PROCEDURES REQUIRED AS A CONDITION OF RECEIVING FEDERAL CHILD SUPPORT FUNDS.

Section 466(a) of the Social Security Act (42 U.S.C. 666(a)) is amended by inserting after paragraph (19) the following:

"(20)(A) Procedures which require any State court or administrative agency that issues or modifies (or has issued or modified) a child support order to transmit an abstract of the order to the Internal Revenue Service on the later of—

"(i) the date the order is issued or modified; or

"(ii) the effective date of this paragraph.

"(B) Procedures which—

"(i) require any individual with the right to collect child support pursuant to an order issued or modified in the State (whether before or after the effective date of this paragraph) to be presumed to have assigned to the Internal Revenue Service the right to collect such support, unless the individual affirmatively elects to retain such right at any time; and

"(ii) allow any individual who has made the election referred to in clause (i) to rescind or revive such election at any time.".

SEC. 5. COLLECTION OF CHILD SUPPORT BY INTERNAL REVENUE SERVICE.

(a) In General.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7525. COLLECTION OF CHILD SUPPORT.

"(a) Employee To Notify Employer of Child Support Obligation.—

"(1) In general.—Each employee shall specify, on each withholding certificate furnished to such employee's employer—

"(A) the monthly amount (if any) of each child support obligation of such employee, and

"(B) the TIN of the individual to whom each such obligation is owed.

"(2) When certificate filed.—In addition to the other required times for filing a withholding certificate, a new withholding certificate shall be filed within 30 days after the date of any change in the information specified under paragraph (1).

"(3) Period certificate in effect.—Any specification under paragraph (1) shall continue in effect until another withholding certificate takes effect which specifies a change in the information specified under paragraph (1).

"(4) Authority to specify smaller child support amount.—In the case of an employee who is employed by more than 1 employer for any period, such employee may specify less than the monthly amount described in paragraph (1)(A) to each such employer so long as the total of the amounts specified to all such employers is not less than such monthly amount.

"(b) Certain Obligations Exempt.—This section shall not apply to a child support obligation for any month if the individual to whom such obligation is owed has so notified the Secretary and the individual owing such obligation more than 30 business days before the beginning of such month.

"(c) Employer Obligations.—

"(1) Requirement to deduct and withhold.—

"(A) In general.—Every employer who receives a certificate under subsection (a) that specifies that the employee has a child support obligation for any month shall deduct and withhold from the wages (as defined in section 3401(a)) paid by such employer to such employee during each month that such certificate is in effect an additional amount equal to the amount of such obligation or such other amount as may be specified by the Secretary under subsection (d).

"(B) Limitation on aggregate withholding.—In no event shall an employer deduct and withhold under this section from a payment of wages an amount in excess of the amount of such payment which would be permitted to be garnished under section 303(b) of the Consumer Credit Protection Act.

"(2) Notice to secretary.—

"(A) In general.—Every employer who receives a withholding certificate shall, within 30 business days after such receipt, submit a copy of such certificate to the Secretary.

"(B) Exception.—Subparagraph (A) shall not apply to any withholding certificate if—

"(i) a previous withholding certificate is in effect with the employer, and

"(ii) the information shown on the new certificate with respect to child support is the same as the information with respect to child support shown on the certificate in effect.

"(3) When withholding obligation takes effect.—Any withholding obligation with respect to a child support obligation of an employee shall commence with the first payment of wages after the certificate is furnished.

"(d) Secretary To Verify Amount of Child Support Obligation.—

"(1) Verification of information specified on withholding certificates.—Within 45 business days after receiving a withholding certificate of any employee, or a notice from any person claiming that an employee is delinquent in making any payment pursuant to a child support obligation, the Secretary shall determine whether the information available to the Secretary under section 3 of the Uniform Child Support Enforcement Act of 1996 indicates that such employee has a child support obligation.

"(2) Employer notified if increased withholding is required.—If the Secretary determines that an employee's child support obligation is greater than the amount (if any) shown on the withholding certificate in effect with respect to such employee, the Secretary shall, within 45 business days after such determination, notify the employer to whom such certificate was furnished of the correct amount of such obligation, and such amount shall apply in lieu of the amount (if any) specified by the employee with respect to payments of wages by the employer after the date the employer receives such notice.

"(3) Determination of correct amount.—In making the determination under paragraph (2), the Secretary shall take into account whether the employee is an employee of more than 1 employer and shall appropriately adjust the amount of the required withholding from each such employer.

"(e) Child Support Obligations Required To Be Paid With Income Tax Return.—

"(1) In general.—The child support obligation of any individual for months ending with or within any taxable year shall be paid—

"(A) not later than the last date (determined without regard to extensions) prescribed for filing his return of tax imposed by chapter 1 for such taxable year, and

"(B)(i) if such return is filed not later than such date, with such return, or

"(ii) in any case not described in clause (i), in such manner as the Secretary may by regulations prescribe.

"(2) Credit for amount previously paid.—The amount required to be paid by an individual under paragraph (1) shall be reduced by the sum of—

"(A) the amount collected under this section with respect to periods during the taxable year, plus

"(B) the amount (if any) paid by such individual under section 6654 by reason of subsection (f)(3) thereof for such taxable year.

"(f) Failure To Pay Amount Owing.—If an individual fails to pay the full amount required to be paid under subsection (e) on or before due date for such payment, the Secretary shall assess and collect the unpaid amount in the same manner, with the same powers, and subject to the same limitations applicable to a tax imposed by subtitle C the collection of which would be jeopardized by delay.

"(g) Credit or Refund for Withheld Child Support in Excess of Actual Obligation.—There shall be allowed as a credit against the taxes imposed by subtitle A for the taxable year an amount equal to the excess (if any) of—

"(1) the aggregate of the amounts described in subparagraphs (A) and (B) of subsection (e)(2), over

"(2) the actual child support obligation of the taxpayer for such taxable year.

The credit allowed by this subsection shall be treated for purposes of this title as allowed by subpart C of part IV of subchapter A of chapter 1.

"(h) Child Support Treated as Taxes.—

"(1) In general.—For purposes of penalties and interest related to failure to deduct and withhold taxes, amounts required to be deducted and withheld under this section shall be treated as taxes imposed by chapter 24.

"(2) Other rules.—Rules similar to the rules of sections 3403, 3404, 3501, 3502, 3504, and 3505 shall apply with respect to child support obligations required to be deducted and withheld.

"(3) Special rule for collections.—For purposes of collecting any unpaid amount which is required to be paid under this section—

"(A) paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply, and

"(B) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children.

"(i) Collections Dispersed to Individual Owed Obligation.—

"(1) In general.—Payments received by the Secretary pursuant to this section or by reason of section 6654(f)(3) which are attributable to a child support obligation payable for any month shall be paid (to the extent such payments do not exceed the amount of such obligation for such month) to the individual to whom such obligation is owed as quickly as possible. Any penalties and interest collected with respect to such payments also shall be paid to such individual.

"(2) Shortfalls in payments made by other withheld amounts.—If the amount payable under a child support obligation for any month exceeds the payments (referred in paragraph (1)) received with respect to such obligation for such month, such excess shall be paid from other amounts received under subtitle C or section 6654 with respect to the individual owing such obligation. The treasury of the United States shall be reimbursed for such other amounts from collections from the individual owing such obligation.

"(3) Families receiving state assistance.—In the case of an individual with respect to whom an assignment of child support payments to a State is in effect—

"(A) of the amounts collected which represent monthly support payments, the first $50 of any payments for a month shall be paid to such individual and shall not be considered as income for purposes of calculating amounts of State assistance, and

"(B) all other amounts shall be paid to such State pursuant to such assignment.

"(j) Treatment of Arrearages Under Child Support Obligations Not Subject To Section For Prior Period.—If—

"(1) this section did not apply to any child support obligation by reason of subsection (b) for any prior period, and

"(2) there is a legally enforceable past-due amount under such obligation for such period,

then such past-due amount shall be treated for purposes of this section as owed (until paid) for each month that this section applies to such obligation.

"(k) DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section—

"(A) WITHHOLDING CERTIFICATE.—The term 'withholding certificate' means the withholding exemption certificate used for purposes of chapter 24.

"(B) BUSINESS DAY.—The term 'business day' means any day other than a Saturday, Sunday, or legal holiday (as defined in section 7503).

"(2) TIMELY MAILING.—Any notice under subsection (c)(2) or (d)(2) which is delivered by United States mail shall be treated as given on the date of the United States postmark stamped on the cover in which such notice is mailed.

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) WITHHELD CHILD SUPPORT TO BE SHOWN ON W-2.—Subsection (a) of section 6051 of such Code, as amended by section 310(c)(3) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by inserting after paragraph (11) the following new paragraph:

"(12) the total amount deducted and withheld as a child support obligation under section 7525(c)."

(c) APPLICATION OF ESTIMATED TAX.—

(1) IN GENERAL.—Subsection (f) of section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by striking "minus" at the end of paragraph (2) and inserting "plus", by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) the aggregate amount of the child support obligations of the taxpayer for months ending with or within the taxable year (other than such an obligation for any month for which section 7525 does not apply to such obligation), minus".

(2) Paragraph (1) of section 6654(d) of such Code is amended by adding at the end the following new subparagraph:

"(D) DETERMINATION OF REQUIRED ANNUAL PAYMENT FOR TAXPAYERS REQUIRED TO PAY CHILD SUPPORT.—In the case of a taxpayer who is required under section 7525 to pay a child support obligation (as defined in section 7525) for any month ending with or within the taxable year, the required annual payment shall be the sum of—

"(i) the amount determined under subparagraph (B) without regard to subsection (f)(3), plus

"(ii) the aggregate amount described in subsection (f)(3)."

(3) CREDIT FOR WITHHELD AMOUNTS, ETC.—Subsection (g) of section 6654 of such Code is amended by adding at the end the following new paragraph:

"(3) CHILD SUPPORT OBLIGATIONS.—For purposes of applying this section, the amounts collected under section 7525 shall be deemed to be a payment of the amount described in subsection (f)(3) on the date such amounts were actually withheld or paid, as the case may be."

(d) PENALTY FOR FALSE INFORMATION ON WITHHOLDING CERTIFICATE.—Section 7205 of such Code (relating to fraudulent withholding exemption certificate or failure to supply information) is amended by adding at the end the following new subsection:

"(c) WITHHOLDING OF CHILD SUPPORT OBLIGATIONS.—If any individual willfully makes a false statement under section 7525(a), then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both."

(e) NEW WITHHOLDING CERTIFICATE REQUIRED.—Not later than 90 days after the date this Act takes effect, each employee who has a child support obligation to which section 7525 of the Internal Revenue Code of 1986 (as added by this section) applies shall furnish a new withholding certificate to each of such employee's employers. A certificate required under the preceding sentence shall be treated as required under such section 7525.

(f) REPEAL OF OFFSET OF PAST-DUE SUPPORT AGAINST OVERPAYMENTS.—

(1) Section 6402 of such Code, as amended by section 110(*l*)(7) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended by striking subsections (c) and (h) and by redesignating subsections (d), (e), (f), (g), (i), and (j) as subsections (c), (d), (e), (f), (g), and (h), respectively.

(2) Subsection (a) of section 6402 of such Code, as so amended, is amended by striking "(c), (d), and (e)" and inserting "(c) and (d)".

(3) Subsection (c) of section 6402 of such Code (as redesignated by paragraph (1)) is amended—

(A) by striking "(other than past-due support subject to the provisions of subsection (c))" in paragraph (1),

(B) by striking "after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26) of the Social Security Act and" in paragraph (2).

(4) Subsection (d) of section 6402 of such Code (as redesignated by paragraph (1)) is amended by striking "or (d)".

(g) REPEAL OF COLLECTION OF PAST-DUE SUPPORT.—Section 6305 of such Code is hereby repealed.

(h) CLERICAL AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 64 of such Code is amended by striking the item relating to section 6305.

(2) The table of sections for chapter 77 of such Code is amended by adding at the end thereof the following new item:

"Sec. 7525. Collection of child support."

(h) USE OF PARENT LOCATOR SERVICE.—Section 453(a) of the Social Security Act (42 U.S.C. 653(a)) is amended by inserting "or the Internal Revenue Service" before "information as".

By Mr. GRAMS (for himself, Mr. HUTCHINSON, Mr. NICKLES, Mr. KYL, and Mr. COATS):

S. 98. A bill to amend the Internal Revenue Code of 1986 to provide a family tax credit; to the Committee on Finance.

THE FAMILY TAX FAIRNESS ACT OF 1997

Mr. GRAMS. Madam President, I thank my colleague from Oklahoma for helping us in supporting this bill.

Madam President, I rise today to introduce legislation, together with Senator HUTCHINSON, my distinguished colleague from Arkansas, a bill to provide the $500 per child tax credit for America's working families. We are pleased, as I said, to be joined by Senator NICKLES, along with Senators KYL and COATS, in introducing this bill.

The November election sends us a very clear message that the American people want us to work together, to work together in a bipartisan manner, to balance the Federal budget, control the growth of Government, and to restore its accountability. While we see the tax burden increase on the middle class, working families need our help, and it is time that Congress and the President come together to deliver it.

Since the opening days of the 105th Congress, a renewed spirit of cooperation has settled in over Washington. Instead of the partisan politics that have often and too often exploited our disagreements, the talk from the Capitol Building to the White House has centered on creating consensus. Just yesterday in his inaugural address the President affirmed this commitment when he said, "The American people returned to office a President of one party and a Congress of another. Surely they did not do this to advance the politics of petty bickering and partisanship, which they plainly deplore."

While a sign of that new commitment, I believe, is the strongest and the most compassionate statement this Congress and this President can make in 1997 on behalf of working families is to cut their taxes and to leave them a little bit more of their own money at the end of the day, the extensive debate that we have undertaken in the past 2 years over fiscal policy has helped us to understand that working families are indeed overtaxed.

The child tax credit is appropriate and necessary to stimulate economic growth and to allow families to make more of their own spending decisions. The people of Minnesota sent me to Washington with their instructions to make the $500-per-child tax credit a top priority. Like struggling men and women nationwide, Minnesotans have seen what our outrageous tax burden has done to their families over the past 40 years. It is far from merely being a fact of life. Taxes today dominate the family budget.

There is no better argument for tax relief than to consider that taxpayers today are spending more to feed their Government than they are spending to feed, clothe, and shelter their families. When we debated the $500-per-child tax credit in the last Congress, some of my colleagues expressed their concern that any tax relief now would jeopardize their efforts to balance the Federal budget. Balance the budget first, they said, and then cut taxes later. Their concerns missed a very important part. The budget will never be balanced or stay balanced until we decide that it is the people who should prosper under it and not the Government.

Recent economic data reveal that despite a shrinking Federal deficit, the Government is in fact getting bigger, not smaller. Government spending and taxes continue to soar, and total taxation now claims the largest bite in the

Nation's income in history. Without significant policy changes, the deficit will begin climbing again in fiscal year 1998 and reach over $200 billion by the year 2002.

By enacting the $500-per-child tax credit we can begin turning back the decades of abuse which taxpayers have suffered at the hands of their own Government, a Government often eager to spend the taxpayers' money with reckless regard. The $500-per-child tax credit is the right solution because it takes power out of the hands of Washington's big spenders and puts it back where it can do the most good, and that is in the hands of families.

Nobody outside of Washington's insulated fantasy world really thinks the Government can spend the family's dollars more efficiently than the family would. By leaving that money in the family bank accounts, taxpayers are then empowered to use it to directly benefit their own household. They can make the best decisions on how to spend those dollars. Beyond the direct benefits, families' tax relief can have a substantial and a positive impact on the economy as a whole.

It was John F. Kennedy who observed that "an economy hampered with high tax rates will never introduce enough revenue to balance the budget, just as it will never produce enough output and enough jobs." President Kennedy was able to put these theories to work in the early 1960's when he enacted significant tax cuts that sparked one of the few periods of sustained growth that we have experienced in the last half century.

It was 20 years later when President Ronald Reagan cut taxes once again that reinvigorated the economy, which responded enthusiastically with 19 million new jobs that were created, and take-home pay grew 13 percent between 1982 and 1996. It is now President Clinton who has the opportunity to work alongside Congress as we cut taxes and generate a new era of growth in the economy and prosperity for American families. I am encouraged by his public cause for family tax relief, and in particular his words in support of the $500-per-child tax credit.

With the President truly committed to working with us, there is every reason to believe that a plan that will balance the budget and reduce the tax load for working families will pass this Congress and be signed into law this year. We made a promise to middle class Americans that we would cut their taxes. We laid the groundwork for the $500-per-child tax credit in the 104th Congress, so now in the 105th it is time that we put aside politics and deliver on the promise.

So I ask that S. 9 be introduced and properly referred.

The PRESIDING OFFICER. The bill will be appropriately referred.

Mr. GRAMS. Thank you very much, Madam President.

Mr. HUTCHINSON. Madam President, I rise today in support of America's families. It is with a deep sense of honor that I stand for the first time before this great deliberative body. As the first Republican Senator to be popularly elected from the great state of Arkansas, I believe it is fitting that my first legislative initiative be on behalf of those whom we hold most dear—the children of America's families. It is doubly fitting that I join my dear friend from our days in the House of Representatives and now Senate colleague, ROD GRAMS, in cosponsorship of the Family Tax Fairness Act of 1997.

My career of public service has been grounded in principles of faith, preservation of the family and honest but less intrusive government. These tenets will be my guide post as I serve the good people of Arkansas in the United States Senate.

In my lifetime, I have observed the precipitous decline of the economic and moral health of the American family. This decline is attributable to many causes not the least of which is the rising tax burden. As a member of the baby boomer generation, I, like all of you, have watched our 2% tax rate of the 1950's grow to 25%, nearly a 300% increase since World War II. This means that America's families send one out of every four dollars to Washington. In real terms, the average American family pays more in federal taxes than it spends on food, clothing, transportation, insurance, and recreation combined.

What is the payback for millions of hardworking American families? It is increased crime rates, failing educational systems, intrusive government, and a very real threat to our overall quality of life by the shrinking of America's backbone—the middle class. It is my belief that over taxation is slowly destroying the middle class American family. Families are working harder and harder and taking home less and less. Measured by average after-tax per capita income, families with children are now the lowest income group in America. Their average after-tax income is below that of elderly households. It is below that of single individuals, and it is below that of couples without children. The shrinking family paycheck because of ever-higher taxes forces families with children to spend more time at work and less time at home. Less family time translates into children with less parental supervision with all of its attendant problems.

The Family Tax Fairness Act of 1997 with a $500 tax credit for every child under the age of 18, provides the stimulus to keep our families strong. It translates into over $25 billion of tax relief each year, of which over 78 percent would directly benefit working and middle class families. I am convinced that parents, not government, can best decide how to allocate resources. Under this proposal, a family with two children would receive $1,000 to pay for clothes, college, or health insurance for the children. The Family Tax Fairness Act of 1997 is a statement by our government and our society that all our families and all of our children are valuable.

In closing, I am reminded of the words of William Sumner in his speech, The Forgotten Man.

"The Forgotten Man . . . delving away in patient industry supporting his family, paying his taxes, casting his vote, supporting the church and school . . . but he is the only one for whom there is no provision in the great scramble and the big divide. Such is the Forgotten Man. He works, he votes, generally he prays—but his chief business in life is to pay . . . Who and where is the Forgotten Man in this case? Who will have to pay for it all?"

Sadly, the Forgotten Man is a metaphor for today's American family. So, while I urge support for the repeal of the death tax—the inheritance tax—that killer of the American dream . . . and while I urge support for dramatically cutting the capital gains tax rate, which both economists and experience teach will actually increase federal revenues, let us not forget the American family.

I urge my colleagues to join Senator GRAMS and myself in support of the Family Tax Fairness Act of 1997.

I thank the chair and yield the floor.

Mr. NICKLES. Madam President, Senator GRAMS and Senator Hutchinson will be introducing legislation dealing with the $500 tax credit per child. I compliment them on this legislation. I am happy to cosponsor it with them. It is outstanding legislation that will restore individual families the opportunity to keep more of their own money. I might mention that the definition of "child" in the legislation which we are introducing includes children up to age 18 in contrast to that introduced by the President which is up to age 12, a big difference. It is a very profamily, very positive protaxpayer piece of legislation of which I am very happy to cosponsor. And I compliment my colleagues from Minnesota and Arkansas for their leadership on this issue.

By Mrs. BOXER:

S. 99. A bill to amend the Internal Revenue Code of 1986 to allow companies to donate scientific equipment to elementary and secondary schools for use in their educational programs, and for other purposes; to the Committee on Finance.

THE COMPUTER DONATION INCENTIVE ACT OF 1997

Mrs. BOXER. Mr. President, in March 1996 scores of volunteers throughout California helped make NetDay 96 one of the most successful one-day public projects in history. At the time, we all noted that this electronic barn-raising could be a turning point in educational history—but only if we followed through with other steps to help our children travel the information superhighway. I would like to take one step by introducing the Computer Donation Incentive Act of 1997.

The successful education of America's children is closely linked to the use of innovative educational technologies, particularly computer-based instruction and research. Unfortunately, however, far too many public elementary and secondary school classrooms lack the computers they need to take advantage of these new educational technologies.

The Computer Donation Incentive Act will help get our students those computers. Current law allows computer manufacturers to receive a greater deduction for donations of computers to college and universities, for scientific and research purposes, than for donations made to elementary and secondary schools for education purposes. That limitation may have made sense when this provision was enacted, before the personal computer boom, but not in the era of the Information Superhighway, such a limitation is unreasonable.

The Computer Donation Incentive Act provides computer manufacturers the same enhanced deduction for donating computers for educational purposes that they currently receive for donating computers to colleges and universities for scientific purposes. Similarly, the bill will allow nonmanufacturers to receive a deduction for donating computers to elementary and secondary schools for educational use.

The Boxer-Chafee bill will provide a reasonable incentive for businesses to donate computer to the schools. I would like to emphasize the donated computers must be nearly new; those donated by manufacturers must be no more than 2 year old, and those donated by nonmanufacturers must be no more than 3 year old.

Along with computers and software, businesses should also donate their expertise, providing the training required to bring our schools fully on-line—and we challenge them to do so. Teachers and students both need such training in order to integrate computer-based lessons into their basic curriculum.

Alone, neither NetDay nor an adjustment to the Tax Code can solve all our educational problems or even make every student computer literate for the next century. But together, each initiative we take will help provide our students with the tools they need to drive on the information Superhighway and compete in a global information-based marketplace. Such initiatives are investments in the futures of our children.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 99

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE CONTRIBUTIONS OF SCIENTIFIC EQUIPMENT TO ELEMENTARY AND SECONDARY SCHOOLS.

(a) IN GENERAL.—Subparagraph (B) of section 170(e)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) QUALIFIED RESEARCH OR EDUCATION CONTRIBUTION.—For purposes of this paragraph, the term 'qualified research or education contribution' means a charitable contribution by a corporation of tangible personal property (including computer software), but only if—

"(i) the contribution is to—

"(I) an educational organization described in subsection (b)(1)(A)(ii),

"(II) a governmental unit described in subsection (c)(1), or

"(III) an organization described in section 41(e)(6)(B),

"(ii) the contribution is made not later than 3 years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed),

"(iii) the property is scientific equipment or apparatus substantially all of the use of which by the donee is for—

"(I) research or experimentation (within the meaning of section 174), or for research training, in the United States in physical or biological sciences, or

"(II) in the case of an organization described in clause (i) (I) or (II), use within the United States for educational purposes related to the purpose or function of the organization,

"(iv) the original use of the property began with the taxpayer (or in the case of property constructed by the taxpayer, with the donee),

"(v) the property is not transferred by the donee in exchange for money, other property, or services, and

"(vi) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (iv) and (v)."

(b) DONATIONS TO CHARITY FOR REFURBISHING.—Section 170(e)(4) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(D) DONATIONS TO CHARITY FOR REFURBISHING.—For purposes of this paragraph, a charitable contribution by a corporation shall be treated as a qualified research or education contribution if—

"(i) such contribution is a contribution of property described in subparagraph (B)(iii) to an organization described in section 501(c)(3) and exempt from taxation under section 501(a),

"(ii) such organization repairs and refurbishes the property and donates the property to an organization described in subparagraph (B)(i), and

"(iii) the taxpayer receives from the organization to whom the taxpayer contributed the property a written statement representing that its use of the property (and any use by the organization to which it donates the property) meets the requirements of this paragraph."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (4)(A) of section 170(e) of the Internal Revenue Code of 1986 is amended by striking "qualified research contribution" each place it appears and inserting "qualified research or education contribution".

(2) The heading for section 170(e)(4) of such Code is amended by inserting "OR EDUCATION" after "RESEARCH".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

By Mr. KERRY:

S. 100. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes; to the Committee on Labor and Human Resources.

AVIATION SAFETY PROTECTION ACT

Mr. KERRY. Mr. President, in an effort to increase overall safety of the airline industry, I am introducing the "Aviation Safety Protection Act of 1997," which would establish whistle blower protection for aviation workers.

The worker protections contained in the Occupational Safety and Health Act [OSHA] are very important to American workers. OSHA properly protects both private and Federal Government employees who report health and safety violations from reprisal by their employers. However, because of a loophole, aviation employees are not covered by these protections. Flight attendants and other airline employees are in the best position to recognize breaches in safety regulations and can be the critical link in ensuring safer air travel. Currently, those employees who work for unscrupulous airlines face the possibility of harassment, negative disciplinary action, and even termination if they report work violations.

Aviation employees perform an important public service when they choose to report safety concerns. No employee should be put in the position of having to choose between his or her job and reporting violations that threaten the safety of passengers and crew. For that reason, we need a strong whistle blower law to protect aviation employees from retaliation by their employers when reporting incidents to Federal authorities. Americans who travel on commercial airlines deserve the safeguards that exist when flight attendants and other airline employees can step forward to help Federal authorities enforce safety laws.

This bill would close the loophole in OSHA law and provide the necessary protections for aviation employees who provide safety violation information to Federal authorities or testify about or assist in disclosure of safety violations. The act provides a Department of Labor complaint procedure for employees who experience employer reprisal for reporting such violations, and assures that there are strong enforcement and judicial review provisions for fair implementation of the protections. The act also protects airlines from frivolous complaints by establishing a fine which will be imposed on an employee who files a complaint if the Department of Labor determines that there is no merit to the complaint.

I want to acknowledge the leadership of Representative JAMES CLYBURN who will introduce the bill in the House of Representatives. I am pleased to introduce the companion legislation in the Senate.

This bill will provide important protections to aviation workers and the general public. I urge my colleagues to join me in supporting it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Protection Act of 1997".

SEC. 2. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE.—Chapter 421 of title 49, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"§ 42121. Protection of employees providing air safety information

"(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee of the air carrier or the contractor or subcontractor of an air carrier or otherwise discriminate against any such employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to air safety under this subtitle or any other law of the United States;

"(2) has filed, caused to be filed, or is about to file or cause to be filed a proceeding relating to air carrier safety under this subtitle or any other law of the United States;

"(3) testified or is about to testify in such a proceeding; or

"(4) assisted or participated or is about to assist or participate in such a proceeding.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—

"(A) IN GENERAL.—In accordance with this paragraph, a person may file (or have a person file on behalf of that person) a complaint with the Secretary of Labor if that person believes that an air carrier or contractor or subcontractor of an air carrier discharged or otherwise discriminated against that person in violation of subsection (a).

"(B) REQUIREMENTS FOR FILING COMPLAINTS.—A complaint referred to in subparagraph (A) may be filed not later than 180 days after an alleged violation occurs. The complaint shall state the alleged violation.

"(C) NOTIFICATION.—Upon receipt of a complaint submitted under subparagraph (A), the Secretary of Labor shall notify the air carrier, contractor, or subcontractor named in the complaint and the Administrator of the Federal Aviation Administration of the—

"(i) filing of the complaint;

"(ii) allegations contained in the complaint;

"(iii) substance of evidence supporting the complaint; and

"(iv) opportunities that are afforded to the air carrier, contractor, or subcontractor under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—Not later than 60 days after receiving a complaint under paragraph (1), and after affording the air carrier, contractor, or subcontractor named in the complaint the opportunities specified in subparagraph (B), the Secretary of Labor shall conduct an investigation to determine whether there is reasonable cause to believe that a complaint submitted under this subsection has merit.

"(B) OPPORTUNITY FOR RESPONSE.—Before the date specified in subparagraph (A), the Secretary of Labor shall afford the air carrier, contractor, or subcontractor named in the complaint an opportunity to—

"(i) submit to the Secretary of Labor a written response to the complaint; and

"(ii) meet with a representative of the Secretary of Labor to present statements from witnesses.

"(C) NOTIFICATION.—Upon completion of an investigation under subparagraph (A), the Secretary of Labor shall notify the complainant and the air carrier, contractor, or subcontractor alleged to have committed a violation of subsection (a) of the findings of the investigation.

"(D) ORDERS.—If, on the basis of the investigation conducted under this paragraph, the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall—

"(i) issue a preliminary order providing the relief prescribed by paragraph (3)(B); and

"(ii) provide a copy of the order to the parties specified in subparagraph (C).

"(E) OBJECTIONS.—Not later than 30 days after receiving a notification under subparagraph (C), the air carrier, contractor, or subcontractor alleged to have committed a violation in a complaint filed under this subsection or the complainant may file an objection to the findings of an investigation conducted under this paragraph or a preliminary order issued under this paragraph and request a hearing on the record. The filing of an objection under this subparagraph shall not operate to stay any reinstatement remedy contained in a preliminary order issued under this paragraph.

"(F) HEARINGS.—A hearing requested under this paragraph shall be conducted expeditiously.

"(G) FINAL ORDER.—If no hearing is requested by the date specified in subparagraph (E), a preliminary order shall be considered to be a final order that is not subject to judicial review.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—

"(i) IN GENERAL.—Not later than 120 days after conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order that—

"(I) provides relief in accordance with this paragraph; or

"(II) denies the complaint.

"(ii) SETTLEMENT AGREEMENT.—At any time before issuance of a final order under this paragraph, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the air carrier, contractor, or subcontractor alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the air carrier, contractor, or subcontractor that the Secretary of Labor determines to have committed the violation to—

"(i) take action to abate the violation;

"(ii) reinstate the complainant to the former position of the complainant and ensure the payment of compensation (including back pay) and the restoration of terms, conditions, and privileges associated with the employment; and

"(iii) provide compensatory damages to the complainant.

"(C) COSTS OF COMPLAINT.—If the Secretary of Labor issues a final order that provides for relief in accordance with this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the air carrier, contractor, or subcontractor named in the order an amount equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant (as determined by the Secretary of Labor) for, or in connection with, the bringing of the complaint that resulted in the issuance of the order.

"(D) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint brought under paragraph (1) is frivolous or was brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney fee in an amount not to exceed $5,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—

"(i) IN GENERAL.—Not later than 60 days after a final order is issued under paragraph (3), a person adversely affected or aggrieved by that order may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of that violation.

"(ii) REQUIREMENTS FOR JUDICIAL REVIEW.—A review conducted under this paragraph shall be conducted in accordance with chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order that is the subject of the review.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order referred to in subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

"(A) IN GENERAL.—If an air carrier, contractor, or subcontractor named in an order issued under paragraph (3) fails to comply with the order, the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce that order.

"(B) RELIEF.—In any action brought under this paragraph, the district court shall have jurisdiction to grant any appropriate form of relief, including injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order is issued under paragraph (3) may commence a civil action against the air carrier, contractor, or subcontractor named in the order to require compliance with the order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the order.

"(B) ATTORNEY FEES.—In issuing any final order under this paragraph, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party if the court determines that the awarding of those costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, or contractor or subcontractor of an air carrier who, acting without direction from the air carrier (or an agent, contractor, or subcontractor of the air carrier), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 421 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"42121. Protection of employees providing air safety information.".

SEC. 3. CIVIL PENALTY.

Section 46301(a)(1)(A) of title 49, United States Code, is amended by striking "subchapter II of chapter 421" and inserting "subchapter II or III of chapter 421".

By Mrs. BOXER:

S. 101. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence; to the Committee on Labor and Human Resources.

THE DOMESTIC VIOLENCE IDENTIFICATION AND REFERRAL ACT

Mrs. BOXER. Mr. President, I rise today to introduce the Domestic Violence Identification and Referral Act.

Spousal abuse, child abuse, and elder abuse injures millions of Americans each year, and is growing at an alarming rate. An estimated 2 to 4 million women are beaten by their spouses or former spouses each year. In 1993, 2.9 million children were reported abused or neglected, about triple the number reported in 1980. Studies also showed that spouse abuse and child abuse often go hand-in-hand.

Doctors, nurses, and other health care professionals are on the front lines of this abuse, but they cannot stop what they have been trained to see or talk about. The Domestic Violence Identification and Referral Act addresses this need by encouraging medical schools to incorporate training on domestic violence into their curriculums.

There is a need for this legislation. While many medical specialities, hospitals, and other organizations have made education about domestic violence a priority, this instruction typically occurs on the job or as part of a continuing medical education program. A 1994 survey by the Association of American Medical Colleges [AAMC] found that 60 percent of medical school graduates rated the time devoted to instruction in domestic violence as inadequate.

The bill I am introducing today would give preference in Federal funding to those medical and other health professional schools which provide significant training in domestic violence. It defines significant training to include identifying victims of domestic violence and maintaining complete medical records, providing medical advice regarding the dynamics and nature of domestic violence, and referring victims to appropriate public and nonprofit entities for assistance.

The bill also defines domestic violence in the broadest terms, to include battering, child abuse and elder abuse.

I hope my colleagues agree that this legislation is a critical next step in the fight to bring the brutality of domestic violence out in the open. It mobilizes our Nation's health care providers to recognize and treat its victims—and will ultimately save lives by helping to break the cycle of violence.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Violence Identification and Referral Act of 1997".

SEC. 2. ESTABLISHMENT, FOR CERTAIN HEALTH PROFESSIONS PROGRAMS, OF PROVISIONS REGARDING DOMESTIC VIOLENCE.

(a) TITLE VII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 791 of the Public Health Service Act (42 U.S.C. 295j) is amended by adding at the end the following:

"(c) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

"(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

"(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of medicine, a school of osteopathic medicine, a graduate program in mental health practice, a school of nursing (as defined in section 853), a program for the training of physician assistants, or a program for the training of allied health professionals.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1997, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying the health professions entities that are receiving preference under paragraph (1); the number of hours of training required by the entities for purposes of such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.".

(b) TITLE VIII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 860 of the Public Health Service Act (42 U.S.C. 298b-7) is amended by adding at the end the following:

"(f) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

"(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

"(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of nursing or other public or nonprofit private entity that is eligible to receive an award described in such paragraph.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1997, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying the health professions entities that are receiving preference under paragraph (1); the number of hours of training required by the entities for purposes of such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.".

By Mr. BREAUX (for himself, Mr. AKAKA, Mr. BINGAMAN, Mr. CHAFEE, Mr. COCHRAN, Mr. CRAIG, Mr. GLENN, Mr. JEFFORDS, Mr. LEAHY, Mr. INOUYE, Ms. MIKULSKI, and Mr. REID):

S. 102. A bill to amend title XVIII of the Social Security Act to improve medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes; to the Committee on Finance.

Mr. BREAUX. Mr. President, diabetes is the fourth leading cause of death from diseases in the United States. Deaths accountable to diabetes or resulting complications number about 250,000 per year. Diabetes also results in about 12,000 new cases of blindness each year and greatly increases an individual's chance of heart disease, kidney failure, and stroke.

The terrible irony, Mr. President, is that diabetes is largely a treatable condition. While there is no known cure, individuals who have diabetes can lead completely normal, active lives so long as they stick to a proper diet, carefully monitor the amount of sugar in their blood, and take their medicine, which may or may not include insulin. In order to take proper care of themselves, diabetics need to take self-maintenance education programs—at least once when they are diagnosed with the disease and then periodically after that to keep up with the latest treatments and any changes in their own condition.

Appropriate preventive education services for diabetics have the potential to save a great deal of money that would otherwise go for hospitalizations and other acute care costs—not to mention a great deal of unnecessary pain and suffering. CBO projects that this proposal would save Medicare money in the long-run.

Medicare currently covers diabetes self-maintenance education services in inpatient or hospital-based settings and in limited outpatient settings, specifically hospital outpatient departments or rural health clinics. Medicare does not cover education services if they are given in any other outpatient setting, such as a doctor's office. Even the limited coverage of outpatient settings that is currently permitted under Medicare is subject to State-by-State variation according to fiscal intermediaries' interpretation.

Medicare also covers the cost of the paper test strips that are used to monitor the sugar levels in the blood—but only for diabetics who require insulin to control their disease. All noninsulin dependent diabetics must purchase these test strips at their own expense.

Today, I am introducing the Medicare Diabetes Education and Supplies Amendments of 1997. This legislation would provide Medicare coverage for outpatient education on a consistent equitable basis throughout the country. The bill would extend Medicare coverage of outpatient programs beyond hospital-based programs and rural health clinics and direct the Secretary of Health and Human Services to do two things: First, to develop and implement payment amounts for outpatient diabetes education programs; and second, to adopt quality standards for outpatient education programs. Only qualified programs would be eligible to receive Medicare reimbursement. Furthermore, this legislation would mandate test strip coverage for all diabetics.

This preventive measure is a sensible one that will show savings for the Medicare Program in the long run. I encourage my colleagues to join me in supporting its passage this Congress.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. GRAMS, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. HELMS, Mr. THURMOND, Mr. KYL, Mr. HOLLINGS, Mr. MACK, Mr. FAIRCLOTH, Mr. HATCH, Mr. WARNER, Mr. BOND, Mr. SMITH of New Hampshire, Mr. ROBERTS, Mr. SANTORUM, Mr. LOTT, and Mr. JEFFORDS):

S. 104. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Natural Resources.

THE NUCLEAR WASTE POLICY ACT OF 1997

Mr. MURKOWSKI. Mr. President, last summer, the U.S. Court of Appeals issued a ruling that confirmed something that many of us already understood: the Federal Government has an obligation to provide a safe, centralized storage place for our Nation's spent nuclear fuel and nuclear waste, beginning less than 1 year from today.

This is a commitment that Congress, and the Department of Energy, made 15 years ago. We've collected $12 billion from America's ratepayers for this purpose. But after spending 6 billion of those dollars, the Federal Government is still not prepared to deliver on its promise to take and safely dispose of our Nation's nuclear waste by 1998. Hardworking Americans have paid for this as part of their monthly electric bill. But they haven't gotten results. So a lawsuit was filed, and the court confirmed that there is a legal obligation, as well as a moral one. We have reached a crossroads. The job of fixing this program is ours. The time for fixing the program is now.

Today, high-level nuclear waste and highly radioactive used nuclear fuel is accumulating at over 80 sites in 41 States, including waste stored at DOE weapons facilities. It is stored in populated areas, near our neighborhoods and schools, on the shores of our lakes and rivers, in the backyard of constituents young and old all across this land. Used nuclear fuel is being stored near the east and west coasts, where most Americans live. It may be in your town. Near your neighborhood.

Unfortunately, used fuel is being stored in pools that were not designed for long-term storage. Some of this fuel is already over 30 years old. Each year that goes by, our ability to continue storage of this used fuel at each of these sites in a safe and responsible way diminishes. It is irresponsible to let this situation continue. It is unsafe to let this dangerous radioactive material continue to accumulate at more than 80 sites all across the country. It is unwise to block the safe storage of this used fuel in a remote area, away from high populations. This is a national problem that requires a coordinated, national solution.

Today, on behalf of myself, Mr. CRAIG, Mr. GRAMS, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. HELMS, Mr. THURMOND, Mr. KYL, Mr. HOLLINGS, Mr. MACK, Mr. FAIRCLOTH, Mr. HATCH, Mr. WARNER, Mr. BOND, Mr. ROBERT SMITH, Mr. ROBERTS, Mr. SANTORUM, Mr. LOTT, and Mr. JEFFORDS, I introduce the text of S. 1936, from the 104th Congress, as the Nuclear Waste Policy Act of 1997. This legislation, which was passed by the Senate last summer by a 63-to-37 vote, sets forth a program that will allow the Department of Energy to meet its obligation as soon as possible. The bill provides for an integrated system to manage used fuel from commercial nuclear powerplants and high-level radioactive waste from DOE's nuclear weapons facilities. The integrated system includes construction and operation of a temporary storage center, a safe transportation network to transfer these byproducts, and continuing scientific studies at Yucca Mountain, NV, to determine if it is a suitable repository site.

During floor consideration of S. 1936 last year, we received many constructive suggestions for improving the bill. The final version of S. 1936 passed by the Senate incorporated many of these changes. The most important provisions of the bill include:

Role for EPA.—The bill provides that the Environmental Protection Agency shall issue standards for the protection of the public from releases of radioactive materials from a permanent nuclear waste repository. The Nuclear Regulatory Commission is required to base its licensing determination on whether the repository can be operated in accordance with EPA's radiation protection standards.

National Environmental Policy Act [NEPA].—The bill complies fully with NEPA by requiring two full environmental impact statements, one in advance of operation of the temporary storage facility and one in advance of repository licensing by the Nuclear Regulatory Commission. The bill provides that where Congress has statutorily determined need, location, and size of the facilities, these issues need not be reconsidered.

Transportation routing.—The bill includes language of an amendment offered by Senator MOSELEY-BRAUN, which provides that, in order to ensure that spent nuclear fuel and high-level nuclear waste is transported safely, the Secretary of Energy will use transportation routes that minimize, to the maximum practicable extent, transportation through populated and sensitive environmental areas. The language also requires that the Secretary develop, in consultation with the Secretary of Transportation, a comprehensive management plan that ensures the safe transportation of these materials.

Transportation requirements.—The bill contains language clarifying that transportation of spent fuel under the Nuclear Waste Policy Act shall be governed by all requirements of Federal, State, and local governments and Indian tribes to the same extent that any person engaging in transportation in interstate commerce must comply with those requirements, as provided by the Hazardous Materials Transportation Act. The bill also requires the Secretary to provide technical assistance and funds for training to unions with experience with safety training for transportation workers. In addition, the bill clarifies that existing employee protections in title 49 of the United States Code concerning the refusal to work in hazardous conditions apply to transportation under this act. Finally, S. 1936 provides authority for the Secretary of Transportation to establish training standards, as necessary, for workers engaged in the transportation of spent fuel and high-level waste.

Interim storage facility.—In order to ensure that the size and scope of the interim storage facility is manageable in the context of the overall nuclear waste program, and yet adequate to address the Nation's immediate spent fuel storage needs, the bill would limit the size of phase I of the interim storage facility to 15,000 metric tons of spent fuel and the size of phase II of the facility to 40,000 metric tons. Phase II of the facility would be expandable to 60,000 metric tons if the Secretary fails to meet his projected goals with regard to licensing of the permanent repository site.

Preemption of other laws.—The bill provides that, if any law does not conflict with the provisions of the Nuclear Waste Policy Act and the Atomic Energy Act, that law will govern. State and local laws are preempted only if those laws are inconsistent with or duplicative of the Nuclear Waste Policy Act or the Atomic Energy Act. This language is consistent with the preemption authority found in the existing Hazardous Materials Transportation Act.

Finally, the bill contains bipartisan language that was drafted to address the administration's objections to the siting of an interim facility at the Nevada test site before the viability assessment of the Yucca Mountain permanent repository site was available.—The language provides that construction shall not begin on an interim storage facility at Yucca Mountain before December 31, 1998. The bill provides for the delivery of an assessment of the viability of the Yucca Mountain site to the President and Congress by the Secretary 6 months before the construction can begin on the interim facility. If, based upon the information before him, the President determines, in his discretion, that Yucca Mountain is not suitable for development as a repository, then the Secretary shall cease work on both the interim and permanent repository programs at the Yucca Mountain site. The bill further provides that, if the President makes such a determination, he shall have 18 months to designate an interim storage facility site. If the President fails to designate a site, or if a site he has designated has not be approved by Congress within 2 years of his determination, the Secretary is instructed to construct an interim storage facility at the Yucca Mountain site. This provision ensures that the construction of an interim storage facility at the Yucca Mountain site will not occur before the President and Congress have had an ample opportunity to review the technical assessment of the suitability of the Yucca Mountain site for a permanent repository and to designate an alternative site for interim storage based upon that technical information. However, this provision also ensures that, ultimately, an interim storage facility site will be chosen. Without this assurance, we leave open the possibility we will find in 1998 that we have no interim storage, no permanent repository program and, after more than 15 years and $6 billion spent, that we are back to where we started in 1982 when we passed the first version of the Nuclear Waste Policy Act.

During the debate that will unfold, we will have the Senators from Nevada oppose the bill with all the arguments that they can muster. That's understandable. They are merely doing what Nevadans have asked them to do. Nobody wants nuclear waste in their State, but it has to go somewhere. Both Senators from Nevada are friends of mine. We've talked about this issue at length. They are doing what they feel they must do to satisfy Nevadans. But as U.S. Senators, we must sometimes take a national perspective. We must do what's best for the country as a whole.

No one can continue to pretend that there is an unlimited amount of time to deal with this problem. The Federal Government must act—and act now—to ensure that there is a safe and secure place to put radioactive waste it is obligated to accept. Although the court did not address the issue of remedies, the court was very clear that DOE has an obligation to take spent nuclear fuel in 1998, whether or not a repository is ready.

So far, DOE's only response to the court's decision has been to send out a letter asking for suggestions on how it can meet its obligation to take spent fuel in 1998. Finally, it is clear that we all agree on the question. Now is the time for answers.

We have a clear and simple choice. We can choose to have one remote, safe, and secure nuclear waste storage facility. Or through inaction and delay, we can face an uncertain judicial remedy which will almost certainly be costly, and which is unlikely to actually move waste out of America's backyards.

It is not morally right to shirk our responsibility to protect the environment and the future of our children and grandchildren. We cannot wait until 1998 to decide whether the Department of Energy will store this nuclear waste. We have received letters from 23 State Governors and attorneys general, including Arizona, Arkansas, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and Wisconsin, urging the Congress to pass, and the President to sign, a bill that provides for an interim storage site in Nevada. Congress must speak now and provide the means to build one, safe and monitored facility at the Nevada test site, a unique site so remote that the Government used it to explode nuclear weapons for 50 years, or another site designated by the President and Congress.

The time is now—the Nuclear Waste Policy Act of 1997 is the answer.

Mr. CRAIG. Mr. President, today we begin a new Congress and an urgent environmental problem remains unresolved. Today I am reintroducing legislation to address the problem that continues to vex us—that is, how to address our Nation's high-level nuclear waste disposal. The Nuclear Waste Policy Act of 1997 that is introduced today answers this problem and is responsible, fair, environmentally friendly, and supported by Members of both parties.

Today, high-level nuclear waste and highly radioactive used nuclear fuel continues to accumulate at more than 80 sites in 41 States. Each year, as more and more fuel accumulates and our ability to continue to store this used fuel at each of these sites in a safe and responsible way diminishes. The only responsible choice is to support legislation that solves this problem by safely moving this used fuel to a safe, monitored facility in the remote Nevada desert. This answer will lead us to a safer future for all Americans.

To facilitate our consideration of such legislation, Senator MURKOWSKI and I along with 16 other cosponsors are introducing a bill to amend the Nuclear Waste Policy Act of 1982. This legislation is identical to S. 1936 that passed the Senate toward the end of the past Congress. Unfortunately, that legislation was not acted upon by the other body nor signed into law. It is my intent to assure that is not the fate of this legislation. The Senate Energy and Natural Resources Committee will hold a hearing on this bill on February 5 and will move to a speedy markup. I encourage the Senate and House to act quickly and to send it to the President for his signature.

This bill contains all of the important clarifications and changes addressing the concerns that were raised prior to and during floor debate in the 104th Congress. This is legislation that will allow a solution for nuclear waste disposal. Let us move forward to enact it into law. I encourage the administration to work with us to make that a reality.

This bill provides a clear and simple choice. We can choose to have one, remote, safe, and secure nuclear waste storage facility. Or, through inaction and delay, we can perpetuate the status quo and have 80 such sites spread across the Nation. The courts have made clear the Department of Energy must act to dispose of this material in 1998. It is irresponsible to shirk our responsibility to protect the environment and the future for our children and grandchildren. This Nation needs to confront its nuclear waste problem now. I urge my colleagues to support the Nuclear Waste Policy Act of 1997.

Mr. KEMPTHORNE. Mr. President, I rise in support of the Nuclear Waste Policy Act of 1997 introduced today by my good friends Senator CRAIG and Senator MURKOWSKI, the chairman of the Senate Energy and Natural Resource Committee. This important bill will make substantial, necessary and meaningful progress in our Nation's effort to deal with the problem of radioactive nuclear waste. The bill is similar to the Nuclear Waste Policy Act of 1996 which passed the Senate by a 2-to-1 ratio last year.

The Nuclear Waste Policy Act of 1997, which I am proud to cosponsor, will establish an interim storage facility for spent nuclear fuel and high-level radioactive waste at the Nevada test site. The interim storage site will address our near-term problem of safely storing spent nuclear fuel and high-level waste while the characterization, permitting and construction of the permanent repository at Yucca Mountain proceeds.

My State of Idaho currently stores a wide variety of Department of Energy, Navy and commercial reactor spent nuclear fuel at the Idaho National Engineering Laboratory. This spent nuclear fuel is stored in temporary facilities that are reaching the end of their design life. This phenomenon is happening across the country as temporary storage facilities are used beyond their design life because our Nation has not developed a comprehensive policy of dealing with nuclear waste. Instead of dealing with this difficult issue, for far too long our Government, under Democratic and Republican leadership, has kicked the hard decisions down the road. The Craig-Murkowski bill will tackle this difficult problem and it deserves the support of the Congress and the administration.

The Nuclear Waste Policy Act of 1997 directs the Environmental Protection Agency's role to determine the appropriate radiation protection standards for the interim storage facility. The language directing establishment of an interim storage facility complies with the National Environmental Protection Act which requires preparation of an environmental impact statement before operation of the interim storage facility can begin. The Craig-Murkowski bill also directs that all shipments to the interim storage facility must comply with existing transportation laws and standards.

The Nuclear Waste Policy Act offers justice to the rate payers and electric utilities who have paid into the nuclear waste fund and gotten little if any benefit from those fees. After collecting billions in fees, the Craig-Murkowski bill will force the Federal Government to provide the storage facility promised to those currently storing spent nuclear fuel.

Mr. President, this is a very good bill which solves a vexing nation problem. The Craig-Murkowski bill will make important progress in the way the United States stores radioactive nuclear waste. The bill will show the citizens of this country that this Congress will solve tough problems in a fair and rational manner.

I urge my colleagues to support the Nuclear Waste Policy Act of 1997 and I want to thank Senators CRAIG and MURKOWSKI for their tenacious determination to solve this national problem.

Mr. ABRAHAM. Mr. President, today I join several of my colleagues in cosponsoring the Nuclear Waste Policy Act of 1997. This bill, a replica of the legislation that was passed by the Senate during the 104th Congress, is vital to securing this Nation's commercial waste at a single, safe facility.

I believe an agreement for the consolidation of this Nation's commercial nuclear waste is long overdue. Today, old fuel is stored at over 100 facilities around the country. In 1980, the Department of Energy [DOE] recognized the danger of such a system and entered into an agreement with much of the nuclear power industry to fund the research and development of a central, permanent facility. DOE was to be responsible for collecting and storing the fuel starting in 1988. Since 1980, the DOE has collected over $11 billion of the taxpayers' dollars for this permanent facility. Last year, however, the DOE announced that it will not be able to begin storing waste from commercial reactors until at least the year 2010.

In my opinion, Michigan cannot wait that long. Michigan has four nuclear plants in operation today. All four were designed with some storage capacity, but none are capable of storing used fuel for an extended period of time. Indeed, the Palisades plant in Southaven, MI, has already run out of used fuel storage space. The plant now stores its nuclear waste in steel casks which sit on a platform about 100 yards from Lake Michigan. This storage arrangement illustrates the need for a new national storage policy.

Mr. President, Michigan needs a national storage facility for nuclear waste. I am pleased to be a cosponsor of the Nuclear Waste Policy Act and hope that both the House and Senate will move quickly to pass this legislation and present it to the President.

By Mr. MOYNIHAN:

S. 105. A bill to repeal the habeas corpus requirement that a Federal court defer to State court judgments and uphold a conviction regardless of whether the Federal court believes that the State court erroneously interpreted Constitutional law, except in cases where the Federal court believes the State court acted in an unreasonable manner; to the Committee on the Judiciary.

HABEAS CORPUS LEGISLATION

Mr. MOYNIHAN. Mr. President, I introduce this bill to repeal an unprecedented provision—unprecedented until the 104th Congress—to tamper with the constitutional protection of habeas corpus.

The provision reads:

> (d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—
>
> (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

Last year we enacted a statute which holds that constitutional protections do not exist unless they have been unreasonably violated, an idea that would have confounded the framers. Thus, we introduced a virus that will surely spread throughout our system of laws.

Article I, section 9, clause 2 of the Constitution stipulates, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

We are mightily and properly concerned about the public safety, which is why we enacted the counterterrorism bill. But we have not been invaded, Mr. President, and the only rebellion at hand appears to be against the Constitution itself. We are dealing here, sir, with a fundamental provision of law, one of those essential civil liberties which precede and are the basis of political liberties.

The writ of habeas corpus is often referred to as the "Great Writ of Liberty." William Blackstone (1723-80) called it "the most celebrated writ in English law, and the great and efficacious writ in all manner of illegal imprisonment."

* * * * *

I repeat what I have said previously here on the Senate floor: If I had to choose between living in a country with habeas corpus but without free elections, or a country with free elections but without habeas corpus, I would choose habeas corpus every time. To say again, this is one of the fundamental civil liberties on which every democratic society of the world has built political liberties that have come subsequently.

I make the point that the abuse of habeas corpus—appeals of capital sentences—is hugely overstated. A 1995 study by the Department of Justice's Bureau of Justice Statistics determined that habeas corpus appeals by death row inmates constitute 1 percent of all Federal habeas filings. Total habeas filings make up 4 percent of the caseload of Federal district courts. And most Federal habeas petitions are disposed of in less than 1 year. The serious delays occur in State courts, which take an average of 5 years to dispose of habeas petitions. If there is delay, the delay is with the State courts.

It is troubling that Congress has undertaken to tamper with the Great Writ in a bill designed to respond to the tragic circumstances of the Oklahoma City bombing last year. Habeas corpus has little to do with terrorism. The Oklahoma City bombing was a Federal crime and will be tried in Federal courts.

Nothing in our present circumstance requires the suspension of habeas corpus, which was the practical effect of the provision in that bill. To require a Federal court to defer to a State court's judgment unless the State court's decision is "unreasonably wrong" effectively precludes Federal review. I find this disorienting.

Anthony Lewis has written of the habeas provision in that bill: "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." We have agreed to this; to what will we be agreeing next? I restate Mr. Lewis' observation, a person of great experience, long a student of the courts, "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." Backward reels the mind.

On December 8, 1995, four former U.S. Attorneys General, two Republicans and two Democrats, all persons with whom I have the honor to be acquainted, Benjamin R. Civiletti, Jr., Edward H. Levi, Nicholas Katzenbach, and Elliot Richardson—I served in administrations with Mr. Levi, Mr. Katzenbach, Mr. Richardson; I have the deepest regard for them—wrote President Clinton.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

December 8, 1995.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The habeas corpus provisions in the Senate terrorism bill, which the House will soon take up, are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty. We strongly urge you to communicate to the Congress your resolve, and your duty under the constitution, to prevent the enactment of such unconstitutional legislation and the consequent disruption of so critical of part of our criminal punishment system.

The constitutional infirmities reside in three provisions of the legislation: one requiring federal courts to defer to erroneous state court rulings on federal constitutional matters, one imposing time limits which could operate to completely bar any federal habeas corpus review at all, and one prevent the federal courts from hearing the evidence necessary to decide a federal courts from hearing the evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill that you and Senator Biden worked out in the last Congress together with representatives of prosecutors' organizations.

The deference requirement would bar any federal court from granting habeas corpus relief where a state court has misapplied the United States Constitution, unless the constitutional error rose to a level of "unreasonableness." The time-limits provisions set a single period of the filing of both state and federal post-conviction petitions (six months in a capital case and one year in other cases), commencing with the date a state conviction become final on direct review. Under these provisions, the entire period could be consumed in the state process, through no fault of the prisoner or counsel, thus creating an absolute bar to the filing of federal habeas corpus petition. Indeed, the period could be consumed before counsel had even been appointed in the state process, so that the inmate would have no notice of the time limit or the fatal consequences of consuming all of it before filing a state petition.

Both of these provisions, by flatly barring federal habeas corpus review under certain circumstances, violate the Constitution's Suspension Clause, which provides: "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in the case of rebellion or invasion the public safety may require it" (Art. I, Sec. 9, cl. 1). Any doubt as to whether this guarantee applies to persons held in state as well as federal custody was removed by the passage of the Fourteenth Amendment and by the amendment's framers' frequent mention of habeas corpus as one of the privileges and immunities so protected.

The preclusion of access to habeas corpus also violates Due Process. A measure is subject to proscription under the due process clause if it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," as viewed by "historical practice." *Medina* v. *California*, 112 S.Ct. 2572, 2577 (1992). Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus. Nothing else is more deeply rooted in America's legal traditions and conscience. There is no case in which "a state court's incorrect legal determination has ever been allowed to stand because it was reasonable," Justice O'Connor found in *Wright* v. *West*, 112 S.Ct. 2482, 2497; "We have always held that federal courts, even on habeas, have an independent obligation to say what the law is." Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The deference requirement may also violate the powers granted to the judiciary under Article III. By stripping the federal courts of authority to exercise independent judgment and forcing them to defer to previous judgments made by state courts, the provision runs afoul of the oldest constitutional mission of the federal courts: "the duty . . . to say what the law is." *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803). Although Congress is free to alter the federal courts' jurisdiction, it cannot order them how to interpret the Constitution, or dictate any outcome on the merits. *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1871). In 1996, the Supreme Court reiterated that Congress has no power to assign "rubber stamp work" to an Article III court. "Congress may be free to establish a . . . scheme that operates without court participation," the Court said, "but that is a matter quite different from instructing a court automatically to enter a judgment pursuant to a decision the court has not authority to evaluate." *Gutierrez de Martinez* v. *Lamagno*, 115 S. Ct 2227, 2234.

Finally, in prohibiting evidentiary hearings where the constitutional issue raised does not go to guilt or innocence, the legislation again violates Due Process. A violation of constitutional rights cannot be judged in a vacuum. The determination of the facts assumes "and importance fully as great as the validity of the substantive rule of law to be applied." *Wingo* v. *Wedding*, 418 U.S. 461, 474 (1974).

Prior to 1996, the last time habeas corpus legislation was debated at length in constitutional terms was in 1968. A bill substantially eliminating federal habeas corpus review for state prisoners was defeated because, as Republican Senator Hugh Scott put it at the end of debate, "if Congress tampers with the great writ, its action would have about as much chance of being held constitutional as the celebrated celluloid dog chasing the asbestos cat through hell."

In more recent years, the habeas reform debate has been viewed as a mere adjunct of the debate over the death penalty. But when the Senate took up the terrorism bill this year, Senator Moynihan sought to reconnect with the large framework of constitutional liberties: "If I had to live in a country which had habeas corpus but not free elections," he said, "I would take habeas corpus every time." Senator Chafee noted that his uncle, a Harvard law scholar, has called habeas corpus "the most important human rights provision in the Constitution." With the debate back on constitutional grounds, Senator Biden's amendment to delete the deference requirement nearly passed, with 46 votes.

We respectfully ask that you insist, first and foremost, on the preservation of independent federal review, i.e., on the rejection of any requirement that federal courts defer to state court judgments on federal constitutional questions. We also urge that separate time limits be set for filing federal and state habeas corpus petitions—a modest change which need not interfere with the setting of strict time limits—and that they begin to run only upon the appointment of competent counsel. And we urge that evidentiary hearings be permitted wherever the factual record is deficient on an important constitutional issue. Congress can either fix the constitutional flaws now, or wait through several years of litigation and confusion before being sent back to the drawing board. Ultimately, it is the public's interest in the prompt and fair disposition of criminal cases which will suffer. The passage of an unconstitutional bill helps no one.

We respectfully urge you, as both President and a former professor of constitutional law, to call upon Congress to remedy these flaws before sending the terrorism bill to your desk. We request an opportunity to meet with you personally to discuss this matter so vital to the future of the Republic and the liberties we all hold dear.

Sincerely,

BENJAMIN R. CIVILETTI, Jr.,
Baltimore, MD.
EDWARD H. LEVI,
Chicago, IL.
NICHOLAS DEB. KATZENBACH,
Princeton, NJ.
ELLIOT L. RICHARDSON,
Washington, DC.

Let me read excerpts from the letter:

> "The habeas corpus provisions in the Senate bill . . . are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty . . .
>
> The constitutional infirmities . . . violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process . . .
>
> . . . A measure is subject to proscription under the due process clause if it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," as viewed by "historical practice."

That language is Medina versus California, a 1992 decision. To continue,

> Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus.
>
> Nothing else is more deeply rooted in America's legal traditions and conscience. There is no clause in which "a state court's incorrect legal determination has ever been allowed to stand because it was reasonable."

That is Justice O'Connor, in Wright versus West. She goes on, as the attorneys general quote. "We have always held that federal courts, even on habeas, have an independent obligation to say what the law is."

If I may interpolate, she is repeating the famous injunction of Justice Marshall in Marbury versus Madison.

The attorneys general go on to say,

> Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The letter from the Attorneys General continues, but that is the gist of it. I might point out that there was, originally, an objection to ratification of the Constitution, with those objecting arguing that there had to be a Bill of Rights added. Madison wisely added one during the first session of the first Congress. But he and Hamilton and Jay, as authors of The "Federalist Papers," argued that with habeas corpus and the prohibition against ex post facto laws in the Constitution, there would be no need even for a Bill of Rights. We are glad that, in the end, we do have one. But their case was surely strong, and it was so felt by the framers.

To cite Justice O'Connor again: "A state court's incorrect legal determination has never been allowed to stand because it was reasonable."

Justice O'Connor went on: "We have always held that Federal courts, even on habeas, have an independent obligation to say what the law is."

Mr. President, we can fix this now. Or, as the Attorneys General state, we can "wait through several years of litigation and confusion before being sent back to the drawing board." I fear that we will not fix it now.

We Americans think of ourselves as a new nation. We are not. Of the countries that existed in 1914, there are only eight which have not had their form of government changed by violence since then. Only the United Kingdom goes back to 1787 when the delegates who drafted our Constitution established this Nation, which continues to exist. In those other nations, sir, a compelling struggle took place, from the middle of the 18th century until the middle of the 19th century, and beyond into the 20th, and even to the end of the 20th in some countries, to establish those basic civil liberties which are the foundation of political liberties and, of those, none is so precious as habeas corpus, the "Great Writ."

Here we are trivializing this treasure, putting in jeopardy a tradition of protection of individual rights by Federal courts that goes back to our earliest foundation. And the virus will spread. Why are we in such a rush to amend our Constitution? Why do we tamper with provisions as profound to our traditions and liberty as habeas corpus? The Federal courts do not complain. It may be that because we have enacted this, there will be some prisoners who are executed sooner than they otherwise would have been. You may take satisfaction in that or not, as you choose, but we have begun to weaken a tenet of justice at the very base of our liberties. The virus will spread.

This is new. It is profoundly disturbing. It is terribly dangerous. If I may have the presumption to join in the judgment of four Attorneys Generals, Mr. Civiletti, Mr. Levi, Mr. Katzenbach, and Mr. Richardson—and I repeat that I have served in administrations with three of them—this matter is unconstitutional and should be repealed from law.

Fifteen years ago, June 6, 1982, to be precise, I gave the commencement address at St. John University Law School in Brooklyn. I spoke of the proliferation of court-curbing bills at that time. I remarked:

> * * * some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to Debate, Legislate, Litigate.
>
> They have embarked upon an altogether new and I believe quite dangerous course of action. A new triumvirate hierarchy has emerged. Convene (meaning the calling of a constitutional convention), Overrule (the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution), and Restrict (to restrict the jurisdiction of certain courts to decide particular kinds of cases).
>
> Perhaps the most pernicious of these is the attempt to restrict courts' jurisdictions, for it is * * * profoundly at odds with our Nation's customs and political philosophy.
>
> It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts protect the rights of the minority.
>
> While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.
>
> This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American jurisprudence than Marbury v. Madison and few more famous dicta than Chief Justice Marshall's that
>
> "It is emphatically the province and the duty of the judicial department to say what the law is."

But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

We need to deal resolutely with terrorism. And we have. But the guise of combating terrorism, we have diminished the fundamental civil liberties that Americans have enjoyed for two centuries; therefore the terrorists will have won.

My bill will repeal this dreadful, unconstitutional provision now in public law. I ask unanimous consent that the article entitled "First in Damage to Constitutional Liberties," by Nat Hentoff from the Washington Post of November 16, 1996; and the article entitled "Clinton's Sorriest Record" from the New York Times of October 14, 1996; be printed in the Record at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 16, 1996]

FIRST IN DAMAGE TO CONSTITUTIONAL LIBERTIES

(By Nat Hentoff)

There have been American presidents to whom the Constitution has been a nuisance to be overruled by an means necessary. In 1798, only seven years after the Bill of Rights was ratified, John Adams triumphantly led Congress in the passage of the Alien and Sedition Acts, which imprisoned a number of journalists and others for bringing the president or Congress into "contempt or disrepute." So much for the First Amendment.

During the Civil War, Abraham Lincoln actually suspended the writ of habeas corpus. Alleged constitutional guarantees of peaceful dissent were swept away during the First World War—with the approval of Woodrow Wilson. For example, there were more than 1,900 prosecutions for anti-war books, newspaper articles, pamphlets and speeches. And Richard Nixon seemed to regard the Bill of Rights as primarily a devilish source of aid to his enemy.

No American president, however, has done so much damage to constitutional liberties as Bill Clinton—often with the consent of Republicans in Congress. But it has been Clinton who had the power and the will to seriously weaken our binding document in ways that were almost entirely ignored by the electorate and the press during the campaign.

Unlike Lincoln, for example, Clinton did a lot more than temporarily suspend habeas corpus. One of his bills that has been enacted into law guts the rights that Thomas Jefferson insisted be included in the Constitution. A state prisoner on death row now has only a year to petition a federal court to review the constitutionality of his trial or sentence. In many previous cases of prisoners eventually freed after years of waiting to be executed, proof of their innocence has been discovered long after the present one year limit.

Moreover, the Clinton administration is—as the ACLU's Laura Murphy recently told the National Law Journal—"the most wiretap-friendly administration in history."

And Clinton ordered the Justice Department to appeal a unanimous 3rd circuit Court of Appeals decision declaring unconstitutional the Communications Decency Act censoring the Internet, which he signed into law.

There is a chilling insouciance in Clinton's elbowing the Constitution out of the way. He blithely, for instance, has stripped the courts of their power to hear certain kinds of cases. As Anthony Lewis points out in the New York Times, Clinton has denied many people their day in court.

For one example, says Lewis. "The new immigration law * * * takes away the rights of thousands of aliens who may be entitled to legalize their situation under a 1986 statute giving amnesty to illegal aliens." Cases involving as many as 300,000 people who may still qualify for amnesty have been waiting to be decided. All have now been thrown out of court by the new immigration law.

There have been other Clinton revisions of the Constitution, but in sum—as David Boaz of the Cato Institute has accurately put it—Clinton has shown "a breathtaking view of the power of the Federal government, a view directly opposite the meaning of 'civil libertarian.' "

During the campaign there was no mention at all of this breathtaking exercise of federal power over constitutional liberties. None by former senator Bob Dole who has largely been in agreement with this big government approach to constitutional "guarantees." Nor did the press ask the candidates about the Constitution.

Laura Murphy concludes that "both Clinton and Dole are indicative of how far the American people have slipped away from the notions embodied in the Bill of Rights." She omitted the role of the press, which seems focused primarily on that part of the First Amendment that protects the press.

Particularly revealing were the endorsements of Clinton by the New York Times, The Washington Post and the New Republic, among others. In none of them was the president's civil liberties record probed. (The Post did mention the FBI files at the White House.) Other ethical problems were cited, but nothing was mentioned about habeas corpus, court-stripping, lowering the content of the Internet to material suitable for children and the Clinton administration's decided lack of concern for privacy protections of the individual against increasingly advanced government technology.

A revealing footnote to the electorate's ignorance of this subverting of the Constitution is a statement by N. Don Wycliff, editorial page editor of the Chicago Tribune. He tells Newsweek that "people are not engaged in the [political] process because there are no compelling issues driving them to participate. It would be different if we didn't have peace and prosperity."

What more could we possibly want?

[From the New York Times, Oct. 14, 1996]

ABROAD AT HOME; CLINTON'S SORRIEST RECORD

(By Anthony Lewis)

Bill Clinton has not been called to account in this campaign for the worst aspect of his Presidency. That is his appalling record on constitutional rights.

The Clinton years have seen, among other things, a series of measures stripping the courts of their power to protect individuals from official abuse—the power that has been the key to American freedom. There has been nothing like it since the Radical Republicans, after the Civil War, acted to keep the courts from holding the occupation of the South to constitutional standards.

The Republican Congress of the last two years initiated some of the attacks on the courts. But President Clinton did not resist them as other Presidents have. And he proposed some of the measures trampling on constitutional protections.

Much of the worst has happened this year. President Clinton sponsored a counterterrorism bill that became law with a number of repressive features in it. One had nothing to do with terrorism: a provision gutting the power of Federal courts to examine state criminal convictions, on writs of habeas corpus, to make sure there was no violation of constitutional rights.

The Senate might well have moderated the habeas corpus provision if the President had put up a fight. But he broke a promise and gave way.

The counterterrorism law also allows the Government to deport a legally admitted alien, on the ground that he is suspected of a connection to terrorism, without letting him see or challenge the evidence. And it goes back to the McCarthy period by letting the Government designate organizations as "terrorist"—a designation that could have included Nelson Mandela's African National Congress before apartheid gave way to democracy in South Africa.

The immigration bill just passed by Congress has many sections prohibiting review by the courts of decisions by the Immigration and Naturalization Service or the Attorney General. Some of those provisions have drastic retroactive consequences.

For example, Congress in 1986 passed an amnesty bill that allowed many undocumented aliens to legalize their presence in this country. They had to file by a certain date, but a large number said they failed to do so because improper I.N.S. regulations discouraged them.

The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.

Another case, in the courts for years, stems from an attempt to deport a group of Palestinians. Their lawyer sued to block the deportation action; a Federal district judge, Stephen V. Wilson, a Reagan appointee, found that it was an unlawful selective proceeding against people for exercising their constitutional right of free speech. The new immigration law says the courts may not hear such cases.

The immigration law protects the I.N.S. from judicial scrutiny in a broader way. Over the years the courts have barred the service from deliberately discriminatory policies, for example the practice of disallowing virtually all asylum claims by people fleeing persecution in certain countries. The law bars all lawsuits of that kind.

Those are just a few examples of recent incursions on due process of law and other constitutional guarantees. A compelling piece by John Heilemann in this month's issue of Wired, the magazine on the social consequences of the computer revolution, concludes that Mr. Clinton's record on individual rights is "breathtaking in its awfulness." He may be, Mr. Heilemann says, "the worst civil liberties President since Richard Nixon." And even President Nixon did not leave a legacy of court-stripping statutes.

It is by no means clear that Bob Dole would do better. He supported some of the worst legislation in the Senate, as the Gingrich Republicans did in the House.

Why? The Soviet threat, which used to be the excuse for shoving the Constitution aside, is gone. Even in the worst days of the Red Scare we did not strip the courts of their protective power. Why are we legislating in panic now? Why, especially, is a lawyer President indifferent to constitutional rights and their protection by the courts?

By Mrs. BOXER:

S. 106. A bill to require that employees who participate in cash or deferred arrangements are free to determine whether to be invested in employer real property and employer securities, and if not, to protect such employees by applying the same prohibited transaction rules that apply to traditional defined benefit pension plans, and for other purposes; to the Committee on Finance.

S. 107. A bill to require the offer in every defined benefit plan of a joint and ⅔ survivor benefit annuity option and to require comparative disclosure of all benefit options to both spouses; to the Committee on Finance.

S. 108. A bill to require annual, detailed investment reports by plans with qualified cash or deferred arrangements, and for other purposes; to the Committee on Labor and Human Resources.

LEGISLATION TO PROTECT AMERICAN PENSION FUNDS

Mrs. BOXER. Mr. President, today I am introducing three bills designed to protect Americans' pension funds.

I. THE 401(K) PENSION PLAN PROTECTION ACT

The first bill, the "401(k) Pension Plan Protection Act of 1997", would give employees who participate in a 401(k) plan the assurance that their employer cannot force them to invest their employee contributions in the company.

The 401(k) Pension Protection Act will increase employees' investment freedom and protect employees against low yielding and undiversified 401(k) investments in their employer. It allows employees to protect themselves against loss of jobs and pensions if their employer becomes bankrupt.

Unfortunately, such losses have already occurred. A year ago, Color Tile, Inc., a nationwide retailer of floor and counter coverings, filed bankruptcy. Color Tile had one pension plan, a 401(k) plan. The 401(k) allowed employees no choice of investments. All investment decisions were made by Color Tile.

At the time of bankruptcy, 83 percent of the 401(k)'s investments were in 44 Color Tile stores. Many of those stores were closed in the bankruptcy. Those investments—and the employees retirement savings—are now at risk of a large, possibly total loss.

In 1991, in my own State, another bankruptcy resulted in a substantial loss to a 401(k) plan enrolling 10,000 employees. Carter Hawley Hales stores went bankrupt with more than 50 percent of its assets invested in Carter Hawley Hale stock. As a result of the bankruptcy, the stock lost 92 percent of its value. Many employees lost a pension and a job simultaneously.

The 401(k) Pension Protection Act is designed to prevent situations such as Color Tile and Carter Hawley Hale from reoccurring. The act would prevent a company from requiring that more than 10 percent of employee contributions to a 401(k) plan, contributions known as salary deferrals, be invested in the employer stock or employer real estate.

The act exempts a certain type of 401(k) plan from the 10 percent limit—where employees are free to direct how their contributions are invested and to move their investments in the 401(k) with reasonable frequency. In such situations, the 10 percent limitation does not apply and employees are free to assume the risk of undiversified investment in their employer.

The 401(k) Pension Protection Act would protect 23 million employees in 401(k) plans investing more than 675 million dollars in assets.

All 401(k) members need the 401(k) Pension Protection Act. Unlike traditional pension plans, companies sponsoring 401(k)s do not guarantee that investments will provide the promised pension. Instead, 401(k) participants bear all risk of undiversified investment in the employer.

Participants in 401(k)s also need the protections of the act because—unlike traditional pension plans—401(k)s are not insured against bankruptcy of the plan sponsor by the Pension Benefit Guaranty Corp., or PBGC.

II. THE PENSION BENEFITS FAIRNESS ACT OF 1997

The second bill that I offer today is the Pension Benefits Fairness Act of 1997. The act would require that traditional pension plans offer equal survivor retirement benefits to both spouses.

Current Federal law requires an unequal survivors retirement benefit option. Unless they voluntarily offer a better benefit, traditional pension plans are required to offer a benefit option that pays one spouse double the amount paid to other spouse, when one spouse dies. Many plans do not voluntarily offer an equal benefit.

Current law also requires that only one spouse be given a description of the retirement benefit option or options offered by the plan. This leaves one spouse in a marriage uninformed of a decision that affects their income for the rest of their life. It is doubly important that they understand the decision to accept a particular benefit because they can never change their decision.

Under current law, the spouse who gets the required description is also the spouse who gets a survivor benefit that is twice as large.

The preferred spouse is the spouse who participated in the retirement plan. This means that the unequal treatment disproportionately impacts women because women's jobs are less often covered by a pension plan. Women need better pension survivor benefits because three out of four marriages they outlive their husbands

The Pension Benefits Fairness Act would correct this problem by requiring that pension plans treat spouses equally with regard to benefits and disclosure of benefit options.

The act imposes no additional pension costs on plans, employers, or participants. The act would increase the benefits paid to the many surviving spouses while resulting in no material reduction in the pension paid to a typical couple.

III. THE SMALL 401(K) PENSION PLAN DISCLOSURE ACT OF 1997

The third pension bill that I introduce today is the Small 401(k) Pension Plan Disclosure Act of 1997.

Current Federal law requires that pension plans file an annual investment report with the Department of Treasury and make the report available if a participant asks for it. Participants in small 401(k)s should not be required to ask where their pension contributions are invested. Participants in small 401(k)s are often hesitant to request the information for fear of being identified as questioning their employer's handling of a 401(k). Participants in large plans, where there is greater anonymity, are less hesitant.

Participants in 401(k)s should know where their plan is invested. Unlike traditional, defined pension plan participants, 401(k) participants have neither a plan sponsor's guarantee nor PBGC insurance against poor investment return. Participants bear the risk themselves.

It is only fair that 401(k) participants be informed how their money is invested.

The Small 401(k) Pension Plan Disclosure Act of 1997 eliminates the need to ask. It requires that the Secretary of Labor issue regulations requiring that small 401(k)s to provide each participant with an annual investment report. The details of the report are left to the Secretary, but certain details are suggested as a guide.

The act also encourages the Secretary to provide for the delivery of reports through company e-mail. This should help minimize the cost of providing reports.

The act exempts 401(k) accounts where participants direct their investments because current law already requires that those participants receive investment descriptions and reports.

Mr. President, these bills increase the retirement security of the American work force, diversify 401(k) investments, require equal benefits for husband and wife, and inform employees in small 401(k) plans where their money is invested.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 109. A bill to provide Federal housing assistance to Native Hawaiians; to the Committee on Indian Affairs.

THE NATIVE HAWAIIAN HOUSING ASSISTANCE ACT OF 1997

Mr. INOUYE. Mr. President, I rise today to introduce the native Hawaiian Housing Assistance Act of 1997—a measure which seeks to provide housing assistance to those families most in need, both nationally and in my home state of Hawaii—native Hawaiians.

Less than 2 years ago, in 1995, the U.S. Department of Housing and Urban Development released a report entitled, "Housing Problems and Needs of Native Hawaiians." This report found, astoundingly, that native Hawaiians experience the highest percentage of housing problems in the Nation—49 percent—higher than even that of American Indians and Alaska Natives residing on reservation—44 percent—and substantially higher than that of all U.S. households—27 percent.

These findings, taken in conjunction with those of two other reports: The final report of the National Commission on American Indian, Alaska Native, and native Hawaiian Housing, "Building the Future: a Blueprint for Change" (1992) and the State Department of Hawaiian home lands report, "Department of Hawaiian Homelands Beneficiary Needs Study" (1995), document that:

Native Hawaiians have the worst housing conditions in the State of Hawaii and are seriously overrepresented in the Stat's homeless population, representing over 30 percent of the homeless population.

Among the native Hawaiian population, the needs of the native Hawaiians eligible to reside on lands set aside under the Hawaiian Homes Commission Act are the most severe. Ninety-five percent of the current applicants, approximately 13,000 native Hawaiians, are in need of housing, with one half of those applicant households facing overcrowding and one third paying more than 30 percent of their income for shelter; and under the Department of Housing and Urban Development [HUD] guidelines, 70.8 percent of the Department of Hawaiian Home Lands (DHHL) lessees and applicants fall below the HUD median family income, with more than half having incomes below 30 percent.

Mr. President, I find these statistics deplorable and unconscionable. They are the direct result of a pattern of purposeful neglect on the part of our Federal Government.

At the time of the arrival of Captain Cook to Hawaii's shores in 1778, there was a thriving community of nearly 1 million indigenous inhabitants. But over time, introduced diseases and the devastating physical, cultural, social, and spiritual effects of Western contact nearly decimated the native Hawaiian population. In 1826, less than 50 years later, the native Hawaiian population had decreased to an estimated 142,650, and by 1919, this number had dropped to 22,600.

In recognition of this catastrophic decline, and of the role the Federal Government played in facilitating such a decline, the Congress enacted The Hawaiian Homes Commission Act [HHCA], which set aside 200,000 acres of CEDED public lands for homesteading by native Hawaiians. As then Secretary of the Interior Franklin K. Lane was quoted in the committee report to the HHCA as saying: "One thing that impressed me—was the fact that the natives of the islands who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers, and many are in poverty." Congress thus sought to return the Hawaiian people to the land, thereby revitalizing a dying race.

And yet, despite what arguably were good intentions, the Congress subsequently and systematically failed to appropriate sufficient funds for the administration of the HHCA. Faced with no means of securing the necessary funding which would enable the development of infrastructure or housing, the administrators were forced to lease large tracts of the homelands to non-Hawaiians for commercial and other purposes in order to generate revenue to administer and operate the program. Hawaiians were thereby denied the benefits of residing on those very lands set aside for their survival as the indigenous inhabitants of Hawaii.

Over the years, I am sad to report, this Government has taken the anomalous legal position that native Hawaiians residing on these home lands must be excluded from access to existing Federal Housing and Infrastructure Development programs because the expenditure of Federal funds to benefit these lands was somehow deemed unconstitutional.

While the Clinton administration has reversed this position—arguing before the Ninth Circuit Court of Appeals that the home lands were not set aside exclusively for native Hawaiians—there are those who nonetheless seem to want it both ways. They want to deny that any Federal responsibility flows from the provisions of a Federal law, and yet they want to bar native people from their rights of access to existing Federal housing programs.

It is this reverse discrimination that I find repugnant and unacceptable. It is a mentality that enables the Federal Government to set aside lands for native Hawaiians, retain certain powers over the administration of these lands, and then deny those native Hawaiians residing on these lands access to programs made available to all others, including Indians residing on reservations, on the basis that the lands set aside by the United States only benefit native Hawaiians.

I am happy to report that, with the assistance of outgoing HUD Secretary Cisneros, we have worked to identify and remove some barriers which have prevented native Hawaiians residing on the home lands, from securing access to existing federally-assisted housing programs. For his understanding of and dedication toward these matters, I am most grateful. However, I would be the first to admit that much more remains to be done.

When the National Commission of American Indian, Alaska Native, and Native Hawaiian Housing issued its report, after full consideration of the deplorable housing conditions native Hawaiian families face, they submitted the following recommendation: That Congress enact a "Native Hawaiian Housing and Infrastructure Assistance Program" to alleviate and address the severe housing needs of native Hawaiians by extending to them the same Federal housing assistance available to American Indians and Alaska Natives.

This, Mr. President, is exactly what this bill is designed to accomplish. It amends the Native American Housing and Self-Determination Act of 1996 by creating a separate title to establish a parallel housing program for native Hawaiians. This program would not benefit all native Hawaiians, but is limited in scope to those most in need because this Government has consistently denied them access to existing housing programs—those native Hawaiians eligible to reside on the home lands.

This bill would provide funding, in the form of a block grant, to the department of Hawaiian Home Lands, to carry out affordable housing activities which are identical to those activities authorized under the Native American Housing Assistance and Self-Determination Act. The bill provides that, to the extent practicable, the Department shall employ private nonprofit organizations experienced in the planning and development of affordable housing for native Hawaiians. In addition, the bill authorizes the Secretary to adopt modifications which are deemed necessary in order to meet the unique needs of native Hawaiians.

Finally, an additional section of the bill creates a loan guarantee program similar to that which exists for American Indians. Neither of these programs would tap into existing tribal monies, but instead would authorize a separate funding stream.

Mr. President, this is a bill whose foundation is a dual one—one based on need, on statistics which show that native Hawaiians face the highest incidence of housing needs in the nation, and that among the native Hawaiian population, those native Hawaiians eligible to reside on the home lands are the most in need, and one based on the special historical relationship between the United States and the native Hawaiian people.

While history has shown that the Congress has fallen far short of its commitment to provide sufficient funding for the administration of the Hawaiian Homes Commission Act, let history also reflect, that in this, the 105th Congress, we sought to finally, balance the scales, by creating housing opportunities for native Hawaiians similar to those provided to other native Americans.

Mr. President, I thank you for your consideration of this most important measure and ask unanimous consent that the bill be printed in the RECORD in its entirety. I urge my colleagues to act favorably and expeditiously on this measure.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Housing Assistance Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Federal Government has a responsibility to promote the general welfare of the Nation by employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and by developing effective partnerships with governmental and private entities to accomplish these objectives.

(2) Based upon the status of the Kingdom of Hawaii as an internationally recognized and independent sovereign and the unique historical and political relationship between the United States and Native Hawaiians, the Native Hawaiian people have a continuing right to local autonomy in traditional and cultural affairs and an ongoing right of self-determination and self-governance that has never been extinguished.

(3) The authority of Congress under the Constitution of the United States to legislate and address matters affecting the rights of indigenous peoples of the United States includes the authority to legislate in matters affecting Native Hawaiians.

(4) In 1921, in recognition of the severe decline in the Native Hawaiian population, Congress enacted the Hawaiian Homes Commission Act, 1920, which set aside approximately 200,000 acres of the ceded public lands for homesteading by Native Hawaiians, thereby affirming the special relationship between the United States and the Native Hawaiians.

(5) In 1959, under the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States reaffirmed the special relationship between the United States and the Native Hawaiian people—

(A) by transferring what the United States deemed to be a trust responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but continuing Federal superintendence by retaining the power to enforce the trust, including the exclusive right of the United States to consent to land exchanges and any amendments to the Hawaiian Homes Commission Act, 1920, enacted by the legislature of the State of Hawaii affecting the rights of beneficiaries under such Act; and

(B) by ceding to the State of Hawaii title to the public lands formerly held by the United States, mandating that such lands be held "in public trust" for "the betterment of the conditions of Native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920", and continuing Federal superintendence by retaining the exclusive legal responsibility to enforce this public trust.

(6) In recognition of the special relationship that exists between the United States and the Native Hawaiian people, Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indians and Alaska Natives under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the National Museum of the American Indian Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, the Native American Languages Act, the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act, the Job Training and Partnership Act, and the Older Americans Act of 1965.

(7) The special relationship has been recognized and reaffirmed by the United States in the area of housing—

(A) through the authorization of mortgage loans insured by the Federal Housing Administration for the purchase, construction, or refinancing of homes on Hawaiian Home Lands under the National Housing Act;

(B) by mandating Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing;

(C) by the inclusion of Native Hawaiians in the Native American Veterans' Home Loan Equity Act; and

(D) by enactment of the Hawaiian Home Lands Recovery Act, which establishes a process that enables the Federal Government to convey lands to the Department of Hawaiian Home Lands equivalent in value to lands acquired by the Federal Government.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To implement the recommendation of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing (in this Act referred to as the "Commission") that Congress establish a Native Hawaiian Housing and Infrastructure Assistance Program to alleviate and address the severe housing needs of Native Hawaiians by extending to them the same Federal housing assistance available to American Indians and Alaska Natives.

(2) To address the following needs of the Native Hawaiian population, as documented in the Final Report of the Commission, "Building the Future: A Blueprint for Change" (1992); the United States Department of Housing and Urban Development report, "Housing Problems and Needs of Native Hawaiians (1995);" and the State Department of Hawaiian Home Lands report "Department of Hawaiian Home Lands Beneficiary Needs Study" (1995):

(A) Native Hawaiians experience the highest percentage of housing problems in the Nation: 49 percent, compared to 44 percent for American Indian and Alaska Native households in tribal areas, and 27 percent for all United States households, particularly in the area of overcrowding (27 percent versus 3 percent nationally) with 36 percent of Hawaiian homelands households experiencing overcrowding.

(B) Native Hawaiians have the worst housing conditions in the State of Hawaii and are seriously over represented in the State's homeless population, representing over 30 percent.

(C) Among the Native Hawaiian population, the needs of the native Hawaiians eligible for Hawaiian homelands are the most severe. 95 percent of the current applicants, approximately 13,000 Native Hawaiians, are in need of housing, with one-half of those applicant households facing overcrowding and one-third paying more than 30 percent of their income for shelter. Under Department of Housing and Urban Development guidelines, 70.8 percent of Department of Hawaiian Homelands lessees and applicants fall below the Department of Housing and Urban Development median family income, with more than half having incomes below 30 percent.

SEC. 3. HOUSING ASSISTANCE.

The Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104–330) is amended by adding at the end the following new title:

"TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

"SEC. 801. DEFINITIONS.

"In this title—

"(1) the term 'Department of Hawaiian Home Lands' means the Department of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920;

"(2) the term 'Hawaiian Home Lands' means those lands set aside by the United States for homesteading by Native Hawaiians under the Hawaiian Homes Commission Act, 1920, and any other lands acquired pursuant to that Act; and

"(3) the term 'Native Hawaiian' has the same meaning as in section 201 of the Hawaiian Homes Commission Act, 1920.

"SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.

"(a) AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make grants under this section on behalf of Native Hawaiian families to carry out affordable housing activities in the State of Hawaii. Under such a grant, the Secretary shall provide the grant amounts directly to the Department of Hawaiian Home Lands. The Department of Hawaiian Home Lands shall, to the maximum extent practicable, employ private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians, in order to carry out such activities.

"(b) APPLICABILITY OF OTHER PROVISIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), titles I through IV apply to assistance provided under this section in the same manner as titles I through IV apply to assistance provided on behalf of an Indian tribe under title I.

"(2) EXCEPTION.—The Secretary may by regulation provide for such modifications to the applicability of titles I through IV to assistance provided under this section as the Secretary determines to be necessary to meet the unique housing needs of Native Hawaiians.

"SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title for each of fiscal years 1997, 1998, 1999, 2000, and 2001.".

SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a) is amended—

(1) in subsection (k), by adding at the end the following new paragraphs:

"(10) The term 'Hawaiian Home Lands' means those lands set aside by the United States for homesteading by Native Hawaiians under the Hawaiian Homes Commission Act, 1920, and any other lands acquired pursuant to that Act.

"(11) The term 'Native Hawaiian' has the same meaning as in section 201 of the Hawaiian Homes Commission Act, 1920.

"(12) The term 'Native Hawaiian housing authority' means any public body (or agency or instrumentality thereof) established under the laws of the State of Hawaii, that is authorized to engage in or assist in the development or operation of low-income housing for Native Hawaiians, and includes the Department of Hawaiian Home Lands and the Office of Hawaiian Affairs."; and

(2) by adding at the end the following new subsection:

"(*l*) APPLICABILITY TO NATIVE HAWAIIAN HOUSING.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), subsections (a) through (k) apply to Native Hawaiian families, Native Hawaiian housing authorities, and private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians, in the same manner as those subsections apply to Indian families and to Indian housing authorities, respectively.

"(2) EXCEPTION.—The Secretary may by regulation provide for such modifications to the applicability of subsections (a) through (k) to Native Hawaiian families, Native Hawaiian housing authorities, and private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians as the Secretary determines to be necessary to meet the unique housing needs of Native Hawaiians.

"(3) LIMITATION.—Any assistance provided under this subsection, including any assistance provided to Native Hawaiians not residing on the Hawaiian Home Lands, shall be limited to the State of Hawaii.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.".

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 110. A bill to amend the Native American Graves Protection and Repatriation Act to provide for improved notification and consent, and for other purposes; to the Committee on Indian Affairs.

THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT AMENDMENT ACT OF 1997

Mr. INOUYE. Mr. President, I rise today to introduce a bill to amend the Native American Graves Protection and Repatriation Act to clarify certain provisions of that act as they pertain to Indian tribes and native Hawaiian organizations. This bill is similar to the bill I introduced in the last session of the Congress—a bill which passed this body by unanimous consent on September 13, 1996. Unfortunately, the House of Representatives failed to act on the measure prior to the adjournment of the 104th Congress.

In 1990, the Congress enacted the Native American Graves Protection and Repatriation Act [NAGPRA] to address the growing concern among Indian tribes, Alaska Native villages, and native Hawaiian organizations regarding the proper disposition of thousands of Native American human remains and sacred objects in the possession and control of museums and Federal agencies.

NAGPRA requires museums and Federal agencies to compile summaries and inventories of human remains, associated and unassociated funerary objects, sacred objects, and cultural patrimony, to notify an Indian tribe or native Hawaiian organization that have an ownership or possessory interest in the remains, objects or patrimony, and, upon request, to repatriate those remains or cultural items to the appropriate Indian tribe or native Hawaiian organization.

NAGPRA further provides a process governing the treatment of human remains or cultural items inadvertently discovered and intentionally excavated from Federal or tribal lands.

In the years since the enactment of NAGPRA, native Hawaiians have been at the forefront in the repatriation of ancestral remains and the treatment of ancestral remains inadvertently discovered on Federal lands.

Hundreds of native Hawaiian kupuna—ancestors—have been returned to Hawaii—released from the confines of more than 25 museums in the Untied States, Canada, Switzerland, and Austrialia—and returned to the land of their birth.

Despite these accomplishments, native Hawaiian organizations have experienced difficulty in ensuring the implementation of the act—ironically, not abroad, but in Hawaii.

In written testimony submitted to the Committee on Indian Affairs by Hui Malama I Na Kupuna O Hawaii Nei, a native Hawaiian organization recognized under NAGRPA, for a December 9, 1995 oversight hearing on the act, a number of concerns were raised—concerns which this bill seeks to address, namely: The lack of written consent where native American remains are excavated or removed from Federal lands for purposes of study; following an inadvertent discovery of Native American remains, the lack of assurances that the process for removal complies with the requirements that are associated with an intentional excavation; and the lack of required notification to native Hawaiian organizations when inadvertent discoveries of Native American human remains are made on Federal lands.

In addition to amendments which address these concerns, this bill also incorporates two technical amendments requested by the administration: a provision expanding the responsibility of the NAGPRA Review Committee to include associated funerary objects in the compilation of an inventory of culturally unidentifiable human remains; and provisions providing the Secretary of The Interior with authority to use fines collected to supplement the cost of enforcement-related activities.

As one of the original sponsors of the act, it is my view that these amendments are consistent with the original purpose, spirit, and intent of NAGPRA, and are necessary to clarify the existing law.

It is my expectation that if adopted, these amendments will ensure better cooperation by Federal agencies in the implementation of the act in the State of Hawaii and the rest of the United States. For while these amendments address concerns raised by the native Hawaiian people, they will also serve to benefit Indian country.

The responsibility borne by those who choose, or who are called upon to care for the remains of their ancestors is a heavy one. By acting favorably on this measure, I hope that we can assist these individuals and organizations as they continue in their efforts to bring their ancestors home and provide them with proper treatment when they are disturbed from sacred burial sites.

Mr. President, I thank you for this time today, and I urge my colleagues to support this bill when it comes before the Senate for consideration.

Mr. President, I ask unanimous consent that the test of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT.

(a) WRITTEN CONSENT REQUIRED IF NATIVE AMERICAN REMAINS ARE EXCAVATED OR REMOVED FOR PURPOSES OF STUDY.—Section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(c)) is amended—

(1) in paragraph (3), by striking "and" at the end of the paragraph;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) in the case of any intentional excavation or removal of Native American human remains for purposes of study, such remains are excavated or removed after written consent is obtained from—

"(A) lineal descendants, if known or readily ascertainable; or

"(B) each appropriate Indian tribe or Native Hawaiian organization.

The requirement under paragraph (1) shall not be interpreted as allowing or requiring, in the absence of the consent of each appropriate Indian tribe or Native Hawaiian organization, any recordation or analysis that is in addition to any recordation or analysis that is otherwise allowed or required under this Act.".

(b) REQUIREMENTS FOR INADVERTENT DISCOVERIES.—Section 3(d) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "with respect to Federal lands" and inserting "with respect to those Federal lands";

(B) by inserting after the first sentence the following: "In any case in which a Federal agency or instrumentality receives notice of a discovery of Native American cultural items on lands with respect to which the Federal agency or instrumentality has management authority, the appropriate official of the Federal agency or instrumentality shall notify each appropriate Indian tribe or Native Hawaiian organization. The notification required under the preceding sentence shall be provided not later than 3 business days after the date on which the Federal agency or instrumentality receives notification of the discovery."; and

(C) in the last sentence, by inserting ", and, in the case of Federal lands, the appropriate official of the Federal agency or instrumentality with management authority over those lands notified each appropriate Indian tribe or Native Hawaiian organization by the date specified in this paragraph," after "that notification has been received,"; and

(2) in paragraph (2), by adding at the end the following new sentence: "Any person or entity that disposes of, or controls, a cultural item referred to in the preceding sentence shall comply with the applicable requirements of subsection (c).".

(c) REVIEW COMMITTEE.—Section 8(c)(5) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3006(c)(5)) is amended—

(1) by inserting "and associated funerary objects" after "culturally unidentifiable human remains"; and

(2) by striking "for developing a process for disposition of such remains" and inserting "for developing a process for the disposition of the remains and associated funerary objects".

(c) ENFORCEMENT.—Section 9 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3007) is amended by adding at the end the following:

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the amounts collected by the Secretary as penalties under this section shall be used to supplement the amounts made available by appropriations for conducting enforcement activities related to this section.

"(2) AUTHORITY OF SECRETARY.—In carrying out enforcement activities related to this section, the Secretary may—

"(A) pay any person who furnishes information that leads to the assessment of a civil penalty under this section (other than an officer or employee of the Federal Government or a State or local government (including a tribal government) who furnishes or who renders service in the performance of official duties) the lesser of—

"(i) half of the amount of the civil penalty; or

"(ii) $1,000; and

"(B) reduce the amount of a civil penalty that would otherwise be assessed under this section if the violator against whom the civil penalty is assessed agrees to pay to the aggrieved parties involved an aggregate amount of restitution not to exceed the amount of the reduction.".

By Mr. INOUYE:

S. 111. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

THE AMERASIAN IMMIGRATION ACT AMENDMENT ACT OF 1997

Mr. INOUYE. Mr. President, today, I rise to introduce legislation which amends Public Law 97–359, the Amerasian Immigration Act, to include Amerasian children from the Philippines and Japan as eligible applicants. This legislation also expands the eligibility period for the Philippines to November 24, 1992, the date of the last United States military base closure and the date of enactment of the proposed legislation for Japan.

Under the Amerasian Immigration Act (Public Law 97–359) children born in Korea, Laos, Kampuchea, Thailand, and Vietnam after December 31, 1950, and before October 22, 1982, who were fathered by United States citizens, are allowed to immigrate to the United States. The initial legislation introduced in the 97th Congress included Amerasians born in the Philippines and Japan with no time limits concerning their births. The final version as enacted by the Congress included only those areas where the U.S. had engaged in active military combat from the Korea War onward. Consequently, Amerasians from the Philippines and Japan were excluded from eligibility.

Although the Philippines and Japan were not considered war zones from 1950 to 1982, the extent and nature of U.S. military involvement in both countries are not dissimilar to U.S. military involvement in other Asian countries during the Korean and Vietnam conflicts. The role of the Philippines and Japan as vital supply and stationing bases brought tens of thousands of U.S. military personnel to these countries. As a result, interracial relations in both countries were common, leading to a significant number of Amerasian children being fathered by U.S. citizens. There are now over 50,000 Amerasian children in the Philippines. According to the Embassy of Japan, there are 6,000 Amerasian children in Japan born between 1987 and 1992.

Public Law 97–359 was passed in the hope of redressing the situation of Amerasian children in Korea, Laos, Kampuchea, Thailand, and Vietnam who, due to their illegitimate or mixed ethnic make-up, their lack of a father or stable mother figure, or impoverished state, have little hope of escaping their plight. It became the ethical and social obligation of the United States to care for these children.

The stigmatization and ostracism felt by Amerasian children in those countries covered by the Amerasian Immigration Act also is felt by Amerasian children in the Philippines and Japan. These children of American citizens deserve the same viable opportunities of employment, education, and family life that is afforded their counterparts from Korea, Laos, Kampuchea, Thailand, and Vietnam.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204(f)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(f)(2)(A)) is amended—

(1) by inserting "(I)" after "born"; and

(2) by inserting after "subsection," the following: "(II) in the Philippines after 1950 and before November 24, 1992, or (III) in Japan after 1950 and before the date of enactment of this subclause,".

By Mr. MOYNIHAN:

S. 112. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS PROTECTION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I am introducing legislation today to amend Title 18 of the United States Code to strengthen the existing prohibition on handgun ammunition capable of penetrating policy body armor, commonly referred to as bullet-proof vests. This provision would require the Secretary of the Treasury and the Attorney General to develop a uniform ballistics test to determine with precision whether ammunition is capable of penetrating police body armor. The bill also prohibits the manufacture and sale of any handgun ammunition determined by the Secretary of the Treasury and the Attorney General to have armor-piercing capability.

I am encouraged that, on behalf of its 277,000 members, the Fraternal Order of Police has decided to support this bill. In addition the Law Enforcement Steering Committee, which represents eight of the largest Associations of law enforcement officers, has also indicated that they are in support of this bill.

I am also pleased that President Clinton has taken an avid interest in this subject. In a statement similar to remarks he made many times at campaign appearances around the country, President Clinton said to an audience in Cincinnati, Ohio on September 16, 1996:

> So that's my program for the future—do more to break the gangs, ban those cop killer bullets, drug testing for parolees, improve the opportunities for community-based strategies that lower crime and give our kids something to say yes to.

Mr. President, it has been fifteen years since I first introduced legislation in the Senate to outlaw armor-piercing, or "cop-killer," bullets. In 1982, Phil Caruso of the Patrolman's Benevolent Association of New York City alerted me to the existence of a

Teflon-coated bullet capable of penetrating the soft body armor police officers were then beginning to wear. Shortly thereafter, I introduced the Law Enforcement Officers Protection Act of 1982 to prohibit the manufacture, importation, and sale of such ammunition.

At that time, armor-piercing bullets—most notably the infamous "Green Hornet"—were manufactured with a solid steel core. Unlike the softer lead composition of most other ammunition, this hard steel core prevented these rounds from deforming at the point of impact—thus permitting the rounds to penetrate the 18 layers of Kevlar in a standard-issue police vest or "flak-jacket." These bullets could go through a bullet-proof vest like a hot knife through butter. My legislation simply banned any handgun ammunition made with a core of steel or other hard metals.

Despite the strong support of the law enforcement community, it took four years before this seemingly non-controversial legislation was enacted into law. The National Rifle Association initially opposed it—that is, until the NRA realized that a large number of its members were themselves police officers who strongly supported banning these insidious bullets. Only then did the NRA lend its grudging support. The bill passed the Senate on March 6, 1986 by a vote of 97–1, and was signed by President Reagan on August 8, 1986 (Public Law 99–408).

That 1986 Act served us in good stead for 7 years. To the best of my knowledge, not a single law enforcement officer was shot with an armor-piercing bullet. Unfortunately, the ammunition manufacturers eventually found a way around the 1986 law. By 1993, a new Swedish-made armor-piercing round, the M39B, had appeared. This pernicious bullet evaded the 1986 statute's prohibition because of its unique composition. Like most common ammunition, it had a soft lead core, thus exempting it from the 1986 law. But this core was surrounded by a heavy steel jacket, solid enough to allow the bullet to penetrate body armor. Once again, our nation's law enforcement officers were at risk. Immediately upon learning of the existence of the new Swedish round, I introduced a bill to ban it.

Another protracted series of negotiations ensued before we were able to update the 1986 statute to cover the M39B. We did it with the support of law enforcement organizations, and with technical assistance from the Bureau of Alcohol, Tobacco and Firearms. In particular, James O. Pasco, Jr., then the Assistant Director of Congressional Affairs at BATF, worked closely with me and may staff to get it done. The bill passed the Senate by unanimous consent on November 19, 1993 as an amendment to the 1994 Crime Bill.

Despite these legislative successes, it was becoming evident that continuing "innovations" in bullet design would result in new armor-piercing rounds capable of evading the ban. It was at this time that some of us began to explore in earnest the idea of developing a new approach to banning these bullets based on their performance, rather than their physical characteristics. Mind, this concept was not entirely new; the idea had been discussed during our efforts in 1986, but the NRA had been immovable on the subject. The NRA's leaders, and their constituent ammunition manufacturers, felt that any such broad-based ban based on a bullet "performance standard" would inevitably lead to the outlawing of additional classes of ammunition. They viewed it as a slippery slope, much as they have regarded the assault weapons ban as a slippery slope. The NRA had agreed to the 1986 and 1993 laws only because they were narrowly drawn to cover individual types of bullets.

And so in 1993 I asked the ATF for the technical assistance necessary to write into law an armor-piercing bullet "performance standard." At the time, however, the experts at the ATF informed us that this could not be done. They argued that it was simply too difficult to control for the many variables that contribute to a bullet's capability to penetrate police body armor. We were told that it might be possible in the future to develop a performance-based test for armor-piercing capability, but at the time we had to be content with the existing content-based approach.

Well. Two years passed and the Office of Law Enforcement Standards of the National Institute of Standards and Technology wrote a report describing the methodology for just such a armor-piercing bullet performance test. The report concluded that a test to determine armor-piercing capability could be developed within six months.

So we know it can be done, if only the agencies responsible for enforcing the relevant laws have the will. The legislation I am introducing requires the Secretary of the Treasury, in consultation with the Attorney General, to establish performance standards for the uniform testing of handgun ammunition. Such an objective standard will ensure that *no* rounds capable of penetrating police body armor, regardless of their composition, will ever be available to those who would use them against our law enforcement officers.

I wish to assure the Senate that this measure would in no way infringe upon the rights of legitimate hunters and sportsmen. It would not affect legitimate sporting ammunition used in rifles. It would only restrict the availability of armor-piercing rounds, for which no one can seriously claim there is a genuine sporting use. These cop-killer rounds have no legitimate uses, and they have no business being in the arsenals of criminals. They are designed for one purpose: to kill police officers.

The 1986 and 1993 cop-killer bullet laws I sponsored kept us one step ahead of the designers of new armor-piercing rounds. When the legislation I have introduced today is enacted—and I hope it will be early in the 105th Congress—it will put them out of the cop-killer bullet business permanently.

Mr. President, I ask unanimous consent that the letter of support from the Fraternal Order of Police be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 16, 1997.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the 277,000 members of the Fraternal Order of Police, I am writing to advise you of our support of legislation which you plan to introduce banning "cop-killer" bullets.

Continuing innovations in the construction of ammunition place the vest-wearing police officer in jeopardy. Your bill requiring performance-based evaluations in order to restrict the availability of armor-piercing bullets for hand-guns will secure a greater measure of safety for all of America's law enforcement officers. And though no bill or piece of legislation can protect them fully from the dangers inherent to police work, your bill will enhance the value of the body armor, which, sometimes, is all that stands between life and death.

The F.O.P. supports this effort to quantify and identify "cop-killer" bullets for handguns based on their ability to penetrate body armor, to prevent them from being used against law enforcement officers. If I can be of assistance in working to pass this legislation, please do not hesitate to contact me, or Executive Director Jim Pasco, at (202) 547–8189.

Again, thank you for continued concern and support for the safety and protection of America's law enforcement officers.

Sincerely,

GILBERT G. GALLEGOS,
National President.

By Mr. INOUYE:

S. 113. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Labor and Human Resources.

THE PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 1997

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution in serving the Nation's medically undeserved populations. Expertise in behavorial science is useful in addressing many of our most distressing concerns such as violence, addiction, mental illness, children's behavior disorders, and family disruption. Establishment of a psychology post-doctoral program could be most effective in finding solutions to these pressing societal issues.

Similar programs supporting additional, specialized training in traditionally undeserved settings or with specific undeserved populations have been demonstrated to be successful in providing services to those same undeserved populations during the years following the training experience. That is, mental health professionals who have participated in these specialized federally funded programs have tended not only to meet their payback obligations, but have continued to work in the public sector or with the undeserved populations with whom they have been trained to work.

While the doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, the specialized post-doctoral fellowship programs provide particular diagnostic and treatment skills required to effectively respond to these underserved populations. For example, what looks like severe depression in an elderly person might be a withdrawal related to hearing loss, or what looks like poor academic motivation in a child recently relocated from Southeast Asia might be reflective of a cultural value of reserve rather than a disinterest in academic learning. Each Of these situations requires very different interventions, of course, and specialized assessment skills.

Domestic violence is not just a problem for the criminal justice system, it is a significant public health problem. A single aspect of the issue, domestic violence against women results in almost 100,000 days of hospitalization, 30,000 emergency room visits, and 40,000 visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of rural populations could be of special benefit in addressing these problems.

Given the changing demographics of the Nation—the increasing life span and numbers of the elderly, the rising percentage of minority populations within the country, as well as an increased recognition on the long-term sequel of violence and abuse—and given the demonstrated success and effectiveness of these kinds of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowship programs that respond to the needs of the Nation's underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294o) is amended by adding at the end thereof the the following:

"SEC. 779. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

"(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

"(b) ELIGIBLE ENTITIES.—

"(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

"(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

"(B) will provide services in a medically underserved population during the period of such grant;

"(C) will comply with the provisions of subsection (c); and

"(D) will provide any other information or assurances as the Secretary determines appropriate.

"(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

"(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

"(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (2);

"(C) will not use in excess of 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

"(D) will provide any other information or assurance as the Secretary determines appropriate.

"(c) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

"(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' or 'medically unserved populations'.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1998 through 2000.".

By Mr. INOUYE (for himself, Mr. THOMAS, Mr. COCHRAN, and Mr. STEVENS):

S. 114. A bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment; to the Committee on Finance.

Mr. INOUYE. Mr. President, I rise to introduce legislation to restore the business meals and entertainment tax deduction to 80 percent. I am joined by Senators THOMAS, COCHRAN, AND STEVENS. Restoration of this deduction is essential to the livelihood of the food service, travel and tourism, and entertainment industries throughout the United States. These industries are being economically harmed as a result of this reduction. All are major industries which employ millions of people, many of whom are already feeling the effects of the reduction.

The deduction for business meals and entertainment was reduced from 80 to 50 percent under the Omnibus budget Reconciliation Act of 1993, and went into effect on January 1, 1994. Many companies, small and large, have changed their policies and guidelines on travel and entertainment expenses as a result of the tax reduction in the business meals and entertainment expenses deduction. Businesses have also been forced to curtail company reimbursement policies because of the reduction in the business meals and entertainment expenses deduction. In some cases, businesses have eliminated their expense accounts. Consequently, restaurant establishments, which have replied heavily on business lunch and dinner services, are being adversely affected by the reduction in business meals. For example:

Jay's Restaurant in Dayton, Ohio, closed its lunch service on July 14, 1994, following a 15 percent decrease in lunch business. This decision was based on 2,000 fewer lunch customers from January through June 1994 as compared to the same period in 1993.

The Wall Street Restaurant in Des Moines, Iowa, an upscale restaurant serving American and Continental cuisine, has seen its revenues decline 40 percent since the beginning of 1994. Owner Joey Fasano reduced his staff from 50 to 35 employees.

The Boca in Middlesex County, New Jersey, averaged 40 to 60 lunches per day prior to 1994. The restaurant now serves between 5 to 15 lunches per day. Owner Robert Campione reduced his staff from 18 to 14 employees.

The 37th Street Hideaway Restaurant in New York City did 150 lunches a day prior to 1994. Owner Van Panopoulos now serves 40 lunches and his dinner business has dropped 30 to 40 percent. Mr. Panopoulos reduced his staff from 20 to 10 employees.

Bianco's in Denver, Colorado, closed its lunch service in April 1994 because of the decline in business. Owner Fred White reduced his staff from 26 to 15 employees.

Edward's at Kanoloa in Hawaii has seen its revenues decline by 15 percent since 1994. Owner Edward Frady attributes the decline in his business to the reduction in business meals and entertainment expense deduction.

I sincerely hope that the business meals reduction to 50 percent does not become a Luxury Tax Two, in which the Congress moves toward restoration only after the damage has been done and huge job losses have occurred. Accordingly, I urge my colleagues to join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the bill text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF REDUCTION IN BUSINESS MEALS AND ENTERTAINMENT TAX DEDUCTION.

(a) IN GENERAL.—Paragraph (1) of section 274(n) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by striking "50 percent" and inserting "80 percent".

(b) CONFORMING AMENDMENT.—The heading for section 274(n) is amended by striking "50" and inserting "80".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December, 31, 1996.

By Mr. INOUYE:

S. 115. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MERCHANT MARINE LEGISLATION

Mr. INOUYE. Mr. President, the legislation I am introducing today would centralize the authority in the Secretary of Transportation for administering our cargo preference laws. The background of these laws, the need for them, and the problems with, in my view, necessitate the legislation, are succinctly stated in a Journal of Commerce article dated November 18, 1988. While the printing of this article was several years ago, the background it provides and the light it sheds on our present needs are still pertinent. I ask unanimous consent that the text of the bill and the article be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 115

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES.

Section 901(b)(2) of the Merchant Marine Act. 1936 (46 U.S.C. App. 1241 (b)(2)), is amended to read as follows:

"(2)(A) The Secretary of Transportation shall have the sole responsibility for determining and designating the programs that are subject to the requirements of this subsection. Each department or agency that has responsibility for a program that is designated by the Secretary of Transportation pursuant to the preceding sentence shall, for the purposes of this subsection, administer such program pursuant to regulations promulgated by such Secretary.

"(B) The Secretary of Transportation shall—

"(i) review the administration of the programs referred to in subparagraph (A); and

"(ii) on an annual basis, submit a report to Congress concerning the administration of such programs.".

[From the Journal of Commerce, November 18, 1988]

CARGO PREFERENCE

What It Is: A series of statutes, going back to 1904, intended to assure U.S.-flag ships a minimum share of cargoes produced by U.S. government programs. It is the oldest U.S. maritime promotional program and while subsidies and financing aids have shrunk over the years, preference has survived.

Background: The preference laws began by tracking this country's extension of its military and naval power, starting with the Spanish-American War. More recently, they have come to reflect the expansion of government programs extending U.S. economic power and interest abroad.

The Military Transportation Act of 1904 was the first of the preference statutes and its requirement for U.S.-flag vessel use, 100 percent, is the highest.

In 1934 Congress adopted Public Resolution 17 to require that half of the exports financed by the Reconstruction Finance Corp. were to move in U.S.-flag vessels. Later that resolution was made to apply to financing of the Export-Import Bank, established originally to facilitate trade with the Soviet Union.

In the early postwar period, Congress acted each year to apply the resolution's 50 percent U.S.-flag share to foreign aid shipments. It permanently inserted the requirements into the 1954 Agricultural Trade Development and Assistance Act, better known as Food for Peace and PL–480.

Public Law 664 in 1961 made clear that preference should benefit and protect all U.S.-flag vessels, not just liners, and that all U.S. programs, including those where nonmilitary agencies procured equipment, materials or commodities for themselves or foreign governments, had to use U.S. flags to the extent of 50 percent.

Importance to Carriers: In the last year for which statistics are available, calendar 1986, U.S.-flag carriers hauled more than 33 million metric tons of ****preference**** ****cargo****, somewhat more than the 28.5 million tons of commercial shipments carried that year. As an industry, the revenue amounted to about $502 million.

Necessity for Preference: Preference statutes are formally predicated on the need for assured cargoes to encourage the existence of a U.S.-flag merchant fleet to act as a military auxiliary in times of national emergencies.

Past efforts to apply preference to commercial cargoes have failed, reflecting U.S. governmental sensitivity to objections by this country's trading partners as well as stern opposition from U.S. exporters, importers and agricultural interests. The availability of preference cargoes has unquestionably kept some U.S. carriers in business but critics argue that preference has encouraged keeping obsolete vessels in operation long after they should have been scrapped.

Extent of Program: The Defense Department, the Agriculture Department and the Agency for International Development are the agencies most heavily involved in utilizing shipping and observing cargo preference. But there are at least 10 others with the same cargo preference responsibilities although smaller volumes. The Export-Import Bank in 1987 reported an unusually high, 91 percent rate of U.S.-flag vessel use. It brought participating carriers some $14.5 million in revenue.

Problems: The Maritime Administration is responsible for monitoring other government agencies to try to make sure they live up to preference requirements. In fiscal year 1987, those agencies met the cargo share minimums for the most part. Among the exceptions were cases in which the cargo origins and destinations were such that U.S.-flag vessels were simply not available.

Despite Reagan administration pledges to honor cargo preference requirements, the Navy and the Agriculture Department have had a number of preference fights with the maritime industry.

One produced an agreement by which the carriers agreed to forgo preference claims on new Agriculture Department-supported export programs with commercial-like terms in return for increasing to 75 percent their share of giveaway relief food shipments.

In another such dispute, the Navy and the U.S. State Department were forced to negotiate a cargo-sharing agreement with Iceland for military shipments there. Iceland threatened the future of U.S. bases in that country if the United States didn't agree to a departure from 100 percent U.S.-flag carriage of defense shipments.

There have been other, largely budget-driven attempts to bypass preference, but carriers and their supporters in Congress generally have managed to forestall them.

Comment: Budgetary austerity and the Defense Department's strict insistence of competitive procurement have combined to make for increasing carrier dissatisfaction, especially with the Navy's Military Sealift Command.

Efforts already are under way to change the competitive procurement system the command uses. Carriers hope generally, to end the pressures they believe force rates downward to depressed levels.

The presidentially appointed Commission on Merchant Marine and Defense has recommended that all U.S.-flag preference requirements programs be raised to 100 percent but the tight budget and such interests as farmers and traders will work against such a step. Agricultural interests have tried unsuccessfully to have existing preference removed from government programs in the belief that they inhibit U.S. farm exports.

By Mr. INOUYE:

S. 116. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

MEMORIAL DAY LEGISLATION

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making the last Monday in May, Memorial Day, we have lost sight of the significance of this day to our nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Day as days for prayer and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our Nation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) IN GENERAL.—Section 6103(a) of title 5, United States Code, is amended in the item relating to Memorial Day by striking out "the last Monday in May." and inserting in lieu thereof "May 30.".

(b) DISPLAY OF FLAG.—Section 2(d) of the joint resolution entitled "An Act to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America", approved June 22, 1942 (36 U.S.C. 174(d)), is amended by striking out "the last Monday in May;" and inserting in lieu thereof "May 30;".

(c) PROCLAMATION.—The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe Memorial Day as a day for prayer and ceremonies showing respect for American veterans of wars and other military conflicts.

By Mr. INOUYE:

S. 117. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of residential ground rents, and for other purposes; to the Committee on Finance.

RESIDENTIAL GROUND RENTS LEGISLATION

Mr. INOUYE. Mr. President, I rise today to speak on an issue of great importance to Hawaii's leasehold homeowners. In fiscal year 1992, at my request, the Congress appropriated $400,000 to study the feasibility of reforming the Internal Revenue Code to address ground lease rent payments and to determine what role, if any, the Federal Government should play in encouraging lease to fee conversions. The nationwide study was conducted by the Hawaii Real Estate and Research Center.

The legislation I am introducing today is based on the recommendations of this study. The bill would: First, provide a mortgage interest deduction for residential leasehold properties by allowing the nonredeemable ground lease rents to be claimed as an interest deduction; and second, include a tax credit for up to $5,000 for certain transaction costs on the transfer of certain residential leasehold land for a 5-year period, ending on December 31, 2001. Transaction costs include closing costs, attorneys' fees, surveys and appraisals, and telephone, office, and travel expenses.

In most private home ownership situations in this country, a homeowner owns both the building and land. Under a leasehold arrangement a homeowner owns the building—single-family home, condominium, or cooperative apartment—on leased land. The research conducted under the leasehold study shows that residential leaseholds are not uncommon in other parts of the United States and elsewhere in the world. Residential leaseholds exist in places such as Baltimore, MD, Irvine, CA, native American lands in Palm Springs, CA, Fairhope, AL, Pearl River Basin, MS, and New York, NY.

The study further indicates that there are few States that regulate residential leaseholds. Of those that do, the most common requirement applies only to condominium or time share units and is one requiring adequate disclosure of the lease terms. For the most part, States are unaware of any leasehold problems in their jurisdictions. However, residential leaseholds have proven to be problematic for the State of Hawaii.

The formation of Hawaii's land tenure system can be traced back to 1778 when British Capt. James Cook made his first contact with the Hawaiian civilization. Leasing was the preferred system to maintain control and retain a portfolio asset value. Residential leaseholds were first developed on the Island of Oahu after World War II. Population increases created a demand for housing and other types of real estate development. Federal income tax policy encouraged the retention of land to avoid payment of large capital gains taxes.

Hawaii's land tenure system is now anomalous to the rest of the United States because of the concentration of land in the hands of government, large charitable trusts, large agriculturally based companies and owners of small parcels or urban properties. High land prices and high renegotiated rents continue to create instability in Hawaii's residential leasehold system. In 1967, the Hawaii State Legislature enacted a Land Reform Act which did not become effective until the U.S. Supreme Court issued its 1984 decision in *Hawaii Housing Authority* v. *Midkiff*, 104 S. Ct. 231 (1984). The act and the Supreme Court decision basically divided the market into a "single-family home market in which leaseholds were subject to mandatory conversion, and a leasehold condominium market which did not come within the scope of the law."

Mandatory conversions on the single-family home market occurred from 1979 to 1982, and 1986 to 1990. As of 1992, there are approximately 4,600 single-family homes remaining in residential leaseholds. However, resolution over condominium leasehold reform remains uncertain. In 1990, the Honolulu City Council enacted legislation that would cap lease rent increases. The constitutionality of the law as challenged in U.S. District Court, District of Hawaii. The court found the law unconstitutional because the formula it used to arrive at permitted lease rent was illogical.

In 1991, due to the Hawaii State Legislature's unwillingness to address the leasehold problems, the Honolulu City Council again enacted a mandatory leasehold conversion law for leasehold condominiums, Ordinance 01–95. The constitutionality of this law is currently being challenged in the Federal court. Another bill which linked lease rent increases with the Consumer Price Index and the level of disposable income available to condominium owners was also considered. This bill, similar to the one enacted in 1990, was found to be unconstitutional.

The uncertainty in the residential leasehold market continues to create economic and emotional distress for the leasehold residents of Hawaii. Voluntary conversion has helped to ease the situation and substantially reduce the stock of leasehold residential units in Hawaii. Yet, voluntary conversion is not enough to resolve the residential leasehold problems.

My legislation will help reduce the economic hardship due to the uncertainty in Hawaii's residential leasehold system. The leasehold study contains an analysis of the tax revenue effects of this legislation by allowing individual tax deductions for residential ground rent. The analysis suggests that there are potential revenues to the Federal Government if this legislation is enacted into law.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MORTGAGE INTEREST DEDUCTION FOR QUALIFIED NON-REDEEMABLE GROUND RENTS.

(a) IN GENERAL.—Section 163(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(c) GROUND RENTS.—For purposes of this subtitle, any annual or periodic rental under a redeemable ground rent (excluding amounts in redemption thereof) or a qualified non-redeemable ground rent shall be treated as interest on an indebtedness secured by a mortgage."

(b) TREATMENT OF QUALIFIED NON-REDEEMABLE GROUND RENTS.—

(1) IN GENERAL.—Subsections (a), (b), and (d) of section 1055 of the Internal Revenue Code of 1986 (relating to redeemable ground rents) are amended by inserting "or qualified non-redeemable" after "redeemable" each place it appears.

(2) DEFINITION.—Section 1055 of such Code is amended by redesignating subsection (d)

as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Qualified Non-Redeemable Ground Rent.—For purposes of this subtitle, the term 'qualified non-redeemable ground rent' means a ground rent with respect to which—

"(1) there is a lease of land which is for a term in excess of 15 years,

"(2) no portion of any payment is allocable to the use of any property other than the land surface,

"(3) the lessor's interest in the land is primarily a security interest to protect the rental payments to which the lessor is entitled under the lease, and

"(4) the leased property must be used as the taxpayer's principal residence (within the meaning of section 1034)."

(3) Conforming amendments.—

(A) The heading for section 1055 of such Code is amended by striking "redeemable".

(B) The item relating to section 1055 in the table of sections for part IV of subchapter O of chapter 1 of subtitle A of such Code is amended by striking "Redeemable ground" and inserting "Ground".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act, with respect to taxable years ending after such date.

SEC. 2. CREDIT FOR TRANSACTION COSTS ON THE TRANSFER OF LAND SUBJECT TO CERTAIN GROUND RENTS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by inserting after section 30A the following new section:

"SEC. 30B. CREDIT FOR TRANSACTION COSTS.

"(a) Allowance of Credit.—

"(1) In general.—At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the transaction costs relating to any sale or exchange of land subject to ground rents with respect to which immediately after and for at least 1 year prior to such sale or exchange—

"(A) the transferee is the lessee who owns a dwelling unit on the land being transferred, and

"(B) the transferor is the lessor.

"(2) Credit allowed to both transferor and transferee.—The credit allowed under paragraph (1) shall be allowed to both the transferor and the transferee.

"(b) Limitations.—

"(1) Limitation per dwelling unit.—The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $5,000 per dwelling unit, or

"(B) 10 percent of the sale price of the land.

"(2) Limitation based on taxable income.—The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the sum of—

"(A) 20 percent of the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, 29, 30, and 30A plus

"(B) the alternative minimum tax imposed by section 55.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Transaction costs.—

"(A) In General.—The term 'transaction costs' means any expenditure directly associated with a transaction, the purpose of which is to convey to the lessee, by the lessor, land subject to ground rents.

"(B) Specific expenditures.—Such term includes closing costs, attorney fees, surveys and appraisals, and telephone, office, and travel expenses incurred in negotiations with respect to such transaction.

"(C) Lost rents not included.—Such term does not include lost rents due to the premature termination of an existing lease.

"(2) Dwelling unit.—A dwelling unit shall include any structure or portion of any structure which serves as the principal residence (within the meaning of section 1034) for the lessee.

"(3) Reduction in basis.—The basis of property acquired in a transaction to which this section applies shall be reduced by the amount of credit allowed under subsection (a).

"(4) Election.—This section shall apply to any taxpayer for the taxable year only if such taxpayer elects to have this section so apply.

"(d) Carryover of Credit.—

"(1) Carryover period.—If the credit allowed to the taxpayer under subsection (a) for any taxable year exceeds the amount of the limitation imposed by subsection (b)(2) for such taxable year (hereafter in this subsection referred to as the 'unused credit year'), such excess shall be a carryover to each of the 5 succeeding taxable years.

"(2) Amount carried to each year.—

"(A) Entire amount carried to first year.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 5 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) Amount carried to other 4 years.—The amount of unused credit for the unused credit year shall be carried to each of the remaining 4 taxable years to the extent that such unused credit may not be taken into account for a prior taxable year because of the limitation imposed by subsection (b)(2).

"(e) Termination.—This section shall not apply to any transaction cost paid or incurred in taxable years beginning after December 31, 2001."

(b) Clerical Amendment.—The table of sections for such subpart B is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Credit for transaction costs on the transfer of land subject to certain ground rents."

(c) Effective Date.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 1996.

By Mr. INOUYE:

S. 118. A bill to provide for the completion of the naturalization process for certain nationals of the Philippines; to the Committee on the Judiciary.

FILIPINO NATURALIZATION LEGISLATION

Mr. INOUYE. Mr. President, section 405 of the Immigration Act of 1990 was enacted to make naturalization under section 329 of the Immigration and Nationality Act available to those Filipino World War II veterans whose military service during the liberation of the Philippines makes them deserving of United States citizenship. The naturalization authority to allow the veterans to be naturalized in the Philippines was first granted under Section 113 of the fiscal year 1993 Departments of Commerce, Justice, State, Judiciary and related agencies appropriations bill.

The original intent of Congress in providing the Immigration and Naturalization Service [INS] with the authority to naturalize applicants in the Philippines was to relieve the unnecessary hardships that section 405 applicants would encounter by having to travel to the United States for an interview and naturalization ceremony, since many are elderly and have no relatives in the United States. The initial period for filing an application under this provision was from November 29, 1990 to November 30, 1992. Section 113 further extended the filing period to February 3, 1995.

Unfortunately, the authority to naturalize applicants in the Philippines has now expired. The legislation I am introducing today would immediately restore, for a 5-year period, the authority for the U.S. Embassy in Manila to complete the naturalization process of approximately 12,000 remaining applications which were properly filed under section 405 of the 1990 Act. The legislation does not extend the application period. The legislation also makes clear that naturalization is available only to those applicants who were found by the Recovered Personnel Division of the U.S. Army and the Guerrilla Affairs Division of the U.S. Army to deserve benefits from the U.S. Government.

Mr. President, I ask unanimous consent that the bill text be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. ___. COMPLETION OF THE NATURALIZATION PROCESS FOR CERTAIN NATIONALS OF THE PHILIPPINES.

(a) In General.—Section 405 of the Immigration and Nationality Act of 1990 (8 U.S.C. 1440 note) is amended—

(1) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

"(B) who—

"(i) is listed on the final roster prepared by the Recovered Personnel Division of the United States Army of those who served honorably in an active duty status within the Philippine Army during the World War II occupation and liberation of the Philippines,

"(ii) is listed on the final roster prepared by the Guerrilla Affairs Division of the United States Army of those who received recognition as having served honorably in an active duty status within a recognized guerrilla unit during the World War II occupation and liberation of the Philippines, or

"(iii) served honorably in an active duty status within the Philippine Scouts or within any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946;";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3)(A) For purposes of the second sentence of section 329(a) and section 329(b)(3) of the

Immigration and Nationality Act, the executive department under which a person served shall be—

"(i) in the case of an applicant claiming to have served in the Philippine Army, the United States Department of the Army;

"(ii) in the case of an applicant claiming to have served in a recognized guerrilla unit, the United States Department of the Army or, in the event the Department of the Army has no record of military service of such applicant, the General Headquarters of the Armed Forces of the Philippines; or

"(iii) in the case of an applicant claiming to have served in the Philippine Scouts or any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946, the United States executive department (or successor thereto) that exercised supervision over such component.

"(B) An executive department specified in subparagraph (A) may not make a determination under the second sentence of section 329(a) with respect to the service or separation from service of a person described in paragraph (1) except pursuant to a request from the Service."; and

(3) by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—(1) Notwithstanding any other provision of law, for purposes of the naturalization of natives of the Philippines under this section—

"(A) the processing of applications for naturalization, filed in accordance with the provisions of this section, including necessary interviews, shall be conducted in the Philippines by employees of the Service designated pursuant to section 335(b) of the Immigration and Nationality Act; and

"(B) oaths of allegiance for applications for naturalization under this section shall be administered in the Philippines by employees of the Service designated pursuant to section 335(b) of that Act.

"(2) Notwithstanding paragraph (1), applications for naturalization, including necessary interviews, may continue to be processed, and oaths of allegiance may continue to be taken in the United States.".

(b) REPEAL.—Section 113 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1440 note), is repealed.

(c) EFFECTIVE DATE; TERMINATION DATE.—

(1) APPLICATION TO PENDING APPLICATIONS.—The amendment made by subsection (a) shall apply to applications filed before February 3, 1995.

(2) TERMINATION DATE.—The authority provided by the amendment made by subsection (a) shall expire February 3, 2001.

By Mr. INOUYE:

S. 119. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the Health Careers Opportunity Program, the Minority Centers of Excellence Program, and programs of grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Labor and Human Resources.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. INOUYE. Mr. President, on behalf of our Nation's clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation will: First, establish a new social work training program; second, ensure that social work students are eligible for support under the Health Careers Opportunity Program and that social work schools are eligible for support under the Minority Centers for Excellence programs; Third, permit schools offering degrees in social work to obtain grants for training projects in geriatrics; and fourth, ensure that social work is recognized as a profession under the Public Health Maintenance Organization [HMO] Act.

Despite the impressive range of services social workers provide to the people of this Nation, particularly our elderly, disadvantaged, and minority populations, few Federal programs exist to provide opportunities for social work training in health and mental health care. This legislation builds on the health professions education legislation enacted by the 102d Congress enabling schools of social work to apply for AIDS training funding and resources to establish collaborative relationships with rural health care providers and schools of medicine or osteopathic medicine. This bill provides funding for traineeships and fellowships for individuals who plan to specialize in, practice, or teach social work, or for operating approved social work training programs; it assists disadvantaged students to earn graduate degrees in social work with concentrations in health or mental health; it provides new resources and opportunities in social work training for minorities; and it encourages schools of social work to expand programs in geriatrics. Finally, the recognition of social work as a profession merely codifies current social work practice and reflects the modifications made by the Medicare HMO legislation.

I believe it is important to ensure that the special expertise and skills social workers possess continue to be available to the citizens of this Nation. This legislation, by providing financial assistance to schools of social work and social work students, recognizes the long history and critical importance of the services provided by social work professionals. In addition since social workers have provided quality mental health services to our citizens for a long time and continue to be at the forefront of establishing innovative programs to serve our disadvantaged populations, I believe that it is time to provide them with the proper recognition of their profession that they have clearly earned and deserve.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SOCIAL WORK STUDENTS.

(a) SCHOLARSHIPS, GENERALLY.—Section 737(a)(3) of the Public Health Service Act (42 U.S.C. 293a(a)(3)) is amended by striking "offering graduate programs in clinical psychology" and inserting "offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work".

(b) FACULTY POSITIONS.—Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293b(a)(3)) is amended by striking "offering graduate programs in clinical psychology" and inserting "offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work".

(c) HEALTH PROFESSIONS SCHOOL.—Section 739(h)(1)(A) of the Public Health Service Act (42 U.S.C. 293c(h)(1)(A)) is amended by striking "or a school of pharmacy" and inserting "a school of pharmacy, or a school offering graduate programs in clinical social work, or programs in social work".

(d) HEALTH CAREERS OPPORTUNITIES PROGRAM.—Section 740(a)(1) of the Public Health Service Act (42 U.S.C. 293d(a)(1)) is amended by striking "which offer graduate programs in clinical psychology" and inserting "offering graduate programs in clinical psychology or programs in social work".

SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 777(b)(1) of the Public Health Service Act (42 U.S.C. 294o(b)(1)) is amended by inserting "schools offering degrees in social work," after "teaching hospitals,".

SEC. 3. SOCIAL WORK TRAINING PROGRAM.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end the following:

"SEC. 779. SOCIAL WORK TRAINING PROGRAM.

"(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school offering programs in social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

"(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of social work;

"(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

"(b) ACADEMIC ADMINISTRATIVE UNITS.—

"(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in social work.

"(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

"(A) establishing an academic administrative unit for programs in social work; or

"(B) substantially expanding the programs of such a unit.

"(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 1998 through 2000.

"(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b).".

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e–1) is amended—

(1) in paragraphs (1) and (2), by inserting "clinical social worker," after "psychologist," each place it appears;

(2) in paragraph (4)(A), by striking "and psychologists" and inserting "psychologists, and clinical social workers"; and

(3) in paragraph (5), by inserting "clinical social work," after "psychology,".

By Mr. INOUYE:

S. 120. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in clinical psychology eligible to participate in various health professions loan programs; to the Committee on Labor and Human Resources.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. INOUYE. Mr. President, I am introducing legislation today to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much needed infusion of behavioral science expertise into our public health efforts. There is a growing recognition of the valuable contribution that is being made by our nation's psychologists toward solving some of our Nation's most distressing problems such as domestic violence, addictions, occupational stress, child abuse, and depression.

The participation of students of all kinds is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists, for example, have an advantage in the provision of critical services to minority populations because they are more likely to understand or, perhaps, share the cultural background of their clients and are often able to communicate to them in their own language. Also significant is the fact that, when compared with non-minority graduates, ethnic minority graduates are less likely to work in private practice and more likely to work in community or non-profit settings, where ethnic minority and economically disadvantaged individuals are more likely to seek care.

It is important that a continued emphasis be placed on the needy populations of our nation and that continued support be provided for the training of individuals who are most likely to provide services in underserved areas.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting ", or any public or nonprofit schools that offer graduate programs in clinical psychology" after "veterinary medicine";

(2) in subsection (b)(4), by striking "or doctor of veterinary medicine or an equivalent degree" and inserting "doctor of veterinary medicine or an equivalent degree, or a graduate degree in clinical psychology"; and

(3) in subsection (c)(1), by inserting ", or schools that offer graduate programs in clinical psychology" after "veterinary medicine".

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by striking "or doctor of veterinary medicine or an equivalent degree" and inserting "doctor of veterinary medicine or an equivalent degree, or a graduate degree in clinical psychology"; and

(2) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking "or podiatry" and inserting "podiatry, or clinical psychology"; and

(B) in paragraph (4), by striking "or podiatric medicine" and inserting "podiatric medicine, or clinical psychology".

By Mr. MOYNIHAN (for himself, Mr. CHAFEE, Mr. KENNEDY, and Ms. MOSELEY-BRAUN):

S. 121. A bill to amend the Internal Revenue Code of 1986 to provide for 501(c)(3) bonds a tax treatment similar to governmental bonds, and for other purposes; to the Committee on Finance.

THE HIGHER EDUCATION BOND PARITY ACT

S. 122. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities; to the Committee on Finance.

THE STOP TAX-EXEMPT ARENA DEBT ISSUANCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce two tax bills which I introduced together for the first time last summer. The two bills are both significant in their own rights. Yet, when taken together, they correct a serious misallocation of our limited resources under present law: a tax subsidy that inures largely to the benefit of wealthy sports franchise owners and their players would be replaced with increased for higher education and research.

The first bill, the Higher Education Bond Parity Act of 1997, has been introduced several times previously by this Senator, with several of my distinguished colleagues as cosponsors. It would undo what ought never have been done. It would remove the "private activity" label from the tax-exempt bonds of private, nonprofits higher education institutions and other organizations, and thereby eliminate the arbitrary $150 million cap on the amount of tax-exempt bonds that such as institution may have outstanding.

The Tax Reform Act of 1986 imposed the "private activity" label (and a $150 million cap) on bonds issued on behalf on nonprofit institutions, collectively known as section 501(c)(3) organizations. This was a serious error. The cap has relegated private, higher education institutions to a diminished, restricted status, relative to their public counterparts.

Already, this has caused observable, harmful effects on many of our Nation's leading colleges and universities. Thirty-four of them presently are at or near the $150 million cap, and unlike their public counterparts are precluded from using tax-exempt to finance classrooms, libraries, research laboratories, and the like. A few years ago, as the $150 million cap was bargaining to take effect, 19 of the universities that ranked in the top 50 in research undertaking were private institutions. Today, only 14 of those 19 private institutions remain in the top 50, and all but one are foreclosed form tax-exempt financing as a result of the $150 million per institution limit.

We must act soon to restore the access of private colleges and universities to tax-exempt financing equal to that of their public counterparts. Otherwise, the vitality of our private institutions in higher education and research will be at risk. And we will lose a distinguishing feature of American society of inestimable value—the singular degree to which we maintain an independent sector—"private universit[ies] in the public service," to paraphrase the motto of New York University. This is no longer so in most of the democratic world; it never was so in the rest. It is a treasure and a phenomenon that has clearly produced excellence—indeed, the envy of the world—and it must be sustained.

The practical effect of the $150 million cap is to deny tax-exempt financing to large, private, research-oriented educational institutions most in need of capital to carry out their research mission. This will have a predictable impact over a generation: the distribution of major research in this country will inevitably shift to public institutions. If I may use California as an example, we could look up one day and find Stanford to be still an institution of the greatest quality as an undergraduate teaching facility—with a fine law school and excellent liberal arts degree program—but with all the big science projects at Berkeley, the State institution.

By removing the "private activity" label, this legislation will restore the parity of treatment of private nonprofit institutions and their public counterparts, and reinstate proper recognition in the tax code of the essential public purposes served by such private institutions.

The capital needs of private colleges and universities merit the close attention of this body. The cost of these changes is modest, given their importance. The staff of the Joint Committee on Taxation has estimated the revenue loss previously at $308 million over 5 years. The Senate has twice passed legislation to remove the "private activity" label and the $150 million bond cap—in the Family Tax Fairness, Economic Growth, and Health Care Access Act of 1992 (H.R. 4210) and the Revenue Act of 1992 (H.R. 11)—only to have both bills vetoed for other reasons by President Bush. We should correct this error before it is too late. Otherwise, we will soon look up and find that we do not recognize the higher education sector.

Mr. President, the second tax bill I introduce today—the Stop Tax-exempt Arena Debt Issuance Act (or STADIA for short)—was introduced by this Senator for the first time last summer. Since that time, the bill has attracted the close scrutiny of bond counsel and their clients and has received much attention in the press almost all of which has been favorable.

Mr. Keith Olbermann, anchor of ESPN's Sportscenter program, even declared that the introduction of the bill was "paramount among all other sports stories" last year. Mr. Olbermann's support for this legislation is so emphatic that he compared its author to Dr. Jonas Salk. Passage of the bill, Mr. Olbermann says, is "the vaccine that * * * could conceivably at least towards the cure, if not cure immediately, almost all the ills of sports."

Mr. Olbermann is far too generous to this Senator, but he is right about the importance of this bill, both to sports fans and to taxpayers. This bill closes a big loophole, a loophole that ultimately injures State and local governments and other issuers of tax-exempt bonds, that provides an unintended Federal subsidy (in fact, contravenes Congressional intent), that underwrites bidding wars among cities battling for professional sports franchises, and that contributes to the enrichment of persons who need no Federal assistance whatsoever.

A decade ago, I was much involved in the drafting of the Tax Reform Act of 1986. A major objective of that legislation was to simplify the Tax Code by eliminating a large number of loopholes that had come to be viewed as unfair because they primarily benefited small groups of taxpayers. One of the loopholes we sought to close in 1986 was one that permitted builders of professional sports facilities to use tax-exempt bonds. Mind, we had nothing against new stadium construction, but we made the judgment that scarce Federal resources could surely be used in ways that would better serve the public good. The increasing proliferation of tax-exempt bonds had driven up interest costs for financing roads, schools, libraries, and other governmental purposes, led to mounting revenue losses to the U.S. Treasury, caused an inefficient allocation of capital, and allowed wealthy taxpayers to shield a growing amount of their investment income from income tax by purchasing tax-exempt bonds. Thus, we expressly forbade use of "private activity" bonds for sports facilities, intending to eliminate tax-exempt financing of these facilities altogether.

Unfortunately, our effort in 1986 backfired. Team owners, with help from clever tax counsel, soon recognized that the change could work to their advantage. As columnist Neal R. Pierce wrote recently, team owners "were not checkmated for long. They were soon exhibiting the gall to ask mayors to finance their stadiums with [governmental] purpose bonds." Congress did not anticipate this. After all, by law, governmental bonds used to build stadiums would be tax-exempt only if no more than 10 percent of the debt service is derived from stadium revenue sources. In other words, nonstadium governmental revenues (i.e., tax revenues, lottery proceeds, and the like) must be used to repay the bulk of the debt, freeing team owners to pocket stadium revenues. Who would have thought that local officials, in order to keep or get a team, would capitulate to team owners—granting concessionary stadium leases and committing limited government revenues to repay stadium debt, thereby hindering their own ability to provide schools, roads and other public investments?

The result has been a stadium construction boom unlike anything we have ever seen. In the last 6 years alone, over $4 billion has been spent on building 30 professional sports stadiums. According to Prof. Robert Baade, an economist at Lake Forest College in Illinois and a stadium finance expert, that amount could "completely refurbish the physical plants of the nation's public elementary and secondary schools." An additional $7 billion of stadiums are in the planning stages, and no end is in sight.

What is driving the demand for new stadiums? Mainly, team owners' bottom lines and rising player salaries. Although our existing stadiums are generally quite serviceable, team owners can generate greater income, increase their franchise values dramatically, and compete for high-priced free agents with new tax-subsidized, single-purpose stadiums equipped with luxury skyboxes, club seats and the like. Thus, using their monopoly power, owners threaten to move, forcing bidding wars among cities. End result: new, tax-subsidized stadiums with fancy amenities and sweetheart lease deals.

To cite a case in point, Mr. Art Modell recently moved the Cleveland Browns professional football team from Cleveland to Baltimore to become the Ravens. Prior to relocating, Mr. Modell had said, "I am not about to rape the city [of Cleveland] as others in my league have done. You will never hear me say 'if I don't get this I'm moving.' You can go to press on that one. I couldn't live with myself if I did that." Obviously, Mr. Modell changed his mind. And why? An extraordinary stadium deal with the State of Maryland.

The State of Maryland (and the local sports authority) provided the land on which the stadium is located, issued $87 million in tax-exempt bonds (yielding interest savings of approximately $60 million over a 30 year period as compared to taxable bonds), and contributed $30 million in cash and $64 million in state lottery revenues toward construction of the stadium. Mr. Modell agreed to contribute $24 million toward the project and, in return, receives rent-free use of the stadium (the franchise pays only for the operating and maintenance costs), $65 million in sales of rights to purchase season tickets (so called "personal seat licenses"), all revenues from selling the right to name the stadium luxury suites, premium seats, in-park advertising, and concessions, and 50 percent of all revenues from stadium events other than Ravens' games (with the right to control the booking of those events).

Financial World reports that the value of the Baltimore Ravens' franchise increased from $165 million in 1992 (i.e., before the move from Cleveland) to an estimated $250 million, after its first season in the new stadium. It's little wonder that Mr.

Modell recently stated: "The pride and presence of a professional football team is far more important than 30 libraries, and I say that with all due respect to the learning process."

Meanwhile, the City of Cleveland has agreed to construct a new, $225 million stadium to house an expansion football team. When Mr. Modell decided to move his team to Baltimore, the NFL agreed to create a new Cleveland football team with the same name: the Cleveland Browns. Most cities are not as fortunate when a team leaves.

We are even reaching a point at which stadiums are being abandoned before they have been used for 10 or 15 years. A recent article in Barron's reports that this owner-perceived "economic obsolescence" has doomed even recently-built venues:

> The eight-year-old Miami Arena is facing a future without its two major tenants, the Florida Panthers hockey team and the Miami Heat basketball franchise, because of inadequate seating capacity and a paucity of luxury suites. The Panthers have already cut a deal to move to a new facility that nearby Broward County is building for them at a cost of around $200 million. Plans call for Dade County to build a new $210 million arena before the end of the decade, despite the fact that the move will leave local taxpayers stuck with servicing the debt on two Miami arenas rather than just one.

How do taxpayers benefit from all this? They don't. Tickets prices go way up—and stay up—after a new stadium opens. So while fans are asked to foot the bills through tax subsides, many no longer can afford the price of admission. A study of Newsday recently found that tickets prices rose by 32 percent in five new baseball stadiums, as compared to a major league average of 8 percent. Not to mention the refreshments and other concessions, which also cost more in the new venues.

According to Barron's the projects "cater largely to well-heeled fans, meaning the folks who can afford to pay for seats in glassed-in luxury boxes. While the suit-and-cell-phone crowd get all the best seats, the average taxpayer is consigned to 'cheap seats' in nosebleed land or, more often, for following his favorite team on television."

Nor do these new stadiums provide much, if any, economic benefit to their local communities. Professor Baade studied new stadiums in 30 metropolitan areas. He found no discernible positive impact on economic development in 27 of the areas, and a negative impact in the other 3.

Any job growth that does result is extremely expensive. The Congressional Research Service [CRS] reports that the new $177 million football stadium for the Baltimore Ravens is expected to cost $127,000 per job created. By contrast, the cost per job generated by Maryland's economic development program is just $6,250. Another recent study in New York found that a proposed $1 billion stadium for the Yankees would cost over $500,000 for every job created.

Finally, Federal taxpayers receive absolutely no economic benefit for providing this subsidy. As CRS points out, "Almost all stadium spending is spending that would have been made on other activities within the United States, which means that benefits to the nation as a whole are near zero." After all, these teams will invariably locate somewhere in the United States, it is just a matter of where. And should the Federal taxpayers in the team's current home town be forced to pay for the team's new stadium in the new city? The answer is unmistakably no.

The STADIA bill would save about $50 million a year now spent to subsidize professional sports stadiums. So I ask you once again this year, should we subsidize the commercial pursuits of wealthy team owners, encourage escalating player salaries, and underwrite bidding wars among cities seeking (or fighting to keep) professional sports teams, or, would our scarce resources be put to better use for public needs, like higher education and research? To my mind, this is not a difficult choice.

Mr. President, I ask unanimous consent that the two bills be printed in the RECORD, along with explanatory statements. I also ask unanimous consent that the following articles be printed in the RECORD following the bills and explanatory statements.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Higher Education Bond Parity Act".

SEC. 2. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) In General.—Section 150(a) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following:

"(2) Exempt person.—

"(A) In general.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) Governmental unit not to include federal government.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) organization.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a).".

(b) Repeal of Qualified 501(c)(3) Bond Designation.—Section 145 of the Internal Revenue Code of 1986 (relating to qualified 501(c)(3) bonds) is repealed.

(c) Conforming Amendments.—

(1) Section 141(b)(3) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraphs (A)(ii)(I) and (B)(ii), by striking "government use" and inserting "exempt person use";

(B) in subparagraph (B), by striking "a government use" and inserting "an exempt person use";

(C) in subparagraphs (A)(ii)(II) and (B), by striking "related business use" and inserting "related private business use";

(D) in the heading of subparagraph (B), by striking "RELATED BUSINESS USE" and inserting "RELATED PRIVATE BUSINESS USE"; and

(E) in the heading thereof, by striking "GOVERNMENT USE" and inserting "EXEMPT PERSON USE".

(2) Section 141(b)(6)(A) of such Code is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Section 141(b)(7) of such Code is amended—

(A) by striking "government use" and inserting "exempt person use"; and

(B) in the heading thereof, by striking "GOVERNMENT USE" and inserting "EXEMPT PERSON USE".

(4) Section 141(b) of such Code is amended by striking paragraph (9).

(5) Section 141(c)(1) of such Code is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 of such Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) Certain Issues Used To Provide Residential Rental Housing for Family Units.—

"(1) In general.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units. This paragraph shall not apply if the bond would not be a private activity bond if the section 501(c)(3) organization were not an exempt person.

"(2) Exception for bonds used to provide qualified residential rental projects.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) Substantial rehabilitation.—

"(A) In general.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) Exception.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) Certain property treated as new property.—Solely for purposes of determining under paragraph (2)(A) whether the

1st use of property is pursuant to tax-exempt financing—

"(A) IN GENERAL.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE NO OPERATING STATE OR LOCAL PROGRAM FOR TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing.".

(7) Section 141(f) of such Code, as redesignated by paragraph (6), is amended—

(A) at the end of subparagraph (E), by adding "or";

(B) at the end of subparagraph (F), by striking ", or" and inserting a period; and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) of such Code is amended by striking "(determined" and all that follows to the period.

(9) Section 144(c)(2)(C)(ii) of such Code is amended by striking "a governmental unit" and inserting "an exempt person".

(10) Section 146(g) of such Code is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) by striking "Paragraph (4)" and inserting "Paragraph (3)".

(11) The heading of section 146(k)(3) of such Code is amended by striking "GOVERNMENTAL" and inserting "EXEMPT PERSON".

(12) The heading of section 146(m) of such Code is amended by striking "GOVERNMENT" and inserting "EXEMPT PERSON".

(13) Section 147(b) of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(14) Section 147(h) of such Code is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond.".

(15) Section 148(d)(3)(F) of such Code is amended—

(A) by striking "or which is a qualified 501(c)(3) bond"; and

(B) in the heading thereof, by striking "GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3)" and inserting "EXEMPT PERSON".

(16) Section 148(f)(4)(B)(ii)(II) of such Code is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Section 148(f)(4)(C)(iv) of such Code is amended—

(A) by striking "a governmental unit or a 501(c)(3) organization" both places it appears and inserting "an exempt person";

(B) by striking "qualified 501(c)(3) bonds,"; and

(C) by striking the comma after "private activity bonds" the first place it appears.

(18) Section 148(f)(7)(A) of such Code is amended by striking "(other than a qualified 501(c)(3) bond)".

(19) Section 149(d)(2) of such Code is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)"; and

(B) in the heading thereof, by striking "CERTAIN PRIVATE" and inserting "PRIVATE".

(20) Section 149(e)(2) of such Code is amended—

(A) in the second sentence, by striking "which is not a private activity bond" and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)"; and

(B) by adding at the end the following: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person.".

(21) The heading of section 150(b) of such Code is amended by striking "TAX-EXEMPT PRIVATE ACTIVITY BONDS" and inserting "CERTAIN TAX-EXEMPT BONDS".

(22) Section 150(b)(3) of such Code is amended—

(A) in subparagraph (A), by inserting "owned by a 501(c)(3) organization" after "any facility";

(B) in subparagraph (A), by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person"; and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(23) Section 150(b)(5) of such Code is amended—

(A) in subparagraph (A), by striking "private activity";

(B) in subparagraph (A), by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond";

(C) by striking subparagraph (B) and inserting the following:

"(B) such facility is required to be owned by an exempt person, and"; and

(D) in the heading thereof, by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" and inserting "EXEMPT PERSONS".

(24) Section 150 of such Code is amended by adding at the end the following:

"(f) CERTAIN RULES TO APPLY TO BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued).".

(25) Section 1302 of the Tax Reform Act of 1986 is repealed.

(26) Section 57(a)(5)(C) of such Code is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(27) Section 103(b)(3) of such Code is amended by inserting "and section 150(f)" after "section 149".

(28) Section 265(b)(3) of such Code is amended—

(A) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).";

and

(B) in subparagraph (C)(ii)(I), by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to bonds (including refunding bonds) issued with respect to capital expenditures made on or after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply to bonds issued before January 1, 1997, for purposes of applying section 148(f)(4)(D) of the Internal Revenue Code of 1986.

HIGHER EDUCATION BOND PARITY ACT OF 1997

PRESENT LAW

Interest on State and local governmental bonds generally is excluded from income if the bonds are issued to finance direct activities of these governments (sec. 103). Interest on bonds issued by these governments to finance activities of other persons, e.g., private activity bonds, is taxable unless a specific exception is included in the Code. One such exception is for private activity bonds issued to finance activities of private, charitable organizations described in Code section 501(c)(3) ("section 501(c)(3) organizations") when the activities do not constitute an unrelated trade business (sec. 141(e)(1)(G)).

Classification of section 501(c)(3) organization bonds as private activity bonds

Before enactment of the Tax Reform Act of 1986, States and local governments and section 501(c)(3) organizations were defined as "exempt persons," under the Code bond provisions. As exempt persons, section 501(c)(3) organizations were not treated as "private" persons, and their bonds were not "industrial development bonds" or "private loan bonds" (the predecessor categories to current private activity bonds). Under present law, a bond is a private activity bond if its proceeds are used in a manner violating either (a) a private business test or (b) a private loan test. The private business test is a conjunctive two-pronged test. First, the test limits private business use of governmental bonds to no more than 10 percent of the proceeds.[1] Second, no more than 10 percent of the debt service on the bonds may be secured by or derived from private business users of the proceeds. The private loan test limits to the lesser of 5 percent or $5 million the amount of governmental bond proceeds that may be used to finance loans to persons other than governmental units.

Special restrictions on tax-exemption for section 501(c)(3) organization bonds

Present law treats section 501(c)(3) organizations as private persons; thus, bonds for their use may only be issued as private activity "qualified 501(c)(3) bonds," subject to the restrictions of Code section 145. The most significant of these restrictions limits the amount of outstanding bonds from which a section 501(c)(3) organization may benefit to $150 million. In applying this "$150 million limit," all section 501(c)(3) organizations under common management or control are treated as a single organization. The limit does not apply to bonds for hospital facilities, defined to include only acute care, primarily impatient, organizations. A second restriction limits to no more than five percent the amount of the net proceeds of a bond issue that may be used to finance any activities (including all costs of issuing the bonds) other than the exempt purposes of the section 501(c)(3) organization.

Legislation enacted in 1988 imposed low-income tenant occupancy restrictions on existing residential rental property that is acquired by section 501(c)(3) organizations in tax-exempt-bond-financed transactions. These restrictions required that a minimum number of the housing units comprising the property be continuously occupied by tenants having a family incomes of 50 percent (60 percent in certain cases) of area median income for periods of up to 15 years. These same low-income tenant occupancy requirements apply to for-profit developers receiving tax-exempt private activity bond financing.

Other restrictions

Several restrictions are imposed on private activity bonds generally that do not apply to bonds used to finance State and local government activities. Many of these restrictions also apply to qualified 501(c)(3) bonds. No more than two percent of the proceeds of a bond issue may be used to finance the costs of issuing the bonds, and these monies are not counted in determining whether the bonds satisfy the requirement that at least 95 percent of the net proceeds of each bond issue be used for the exempt activities qualifying the bonds for tax-exemption.

The weighted average maturity of a bond issue may not exceed 120 percent of the average economic life of the property financed with the proceeds. A public hearing must be held and an elected public official must approve the bonds before they are issued (or the bonds must be approved by voter referendum).

If property financed with private activity bonds is converted to use not qualifying for tax-exempt financing, certain loan interest penalties are imposed.

Both governmental and private activity bonds are subject to numerous other Code restrictions, including the following:

1. The amount of arbitrage profits that may be earned on tax-exempt bonds is strictly limited, and most such profits must be rebated to the Federal Government;
2. Banks may not deduct interest they pay to the extent of their investments in most tax-exempt bonds; and
3. Interest on private activity bonds, other than qualified 501(c)(3) bonds, is a preference item in calculating the alternative minimum tax.

REASONS FOR CHANGE

A distinguishing feature of American society is the singular degree to which the United States maintains a private, non-profit sector of private higher education, health care, and other charitable institutions in the public service. It is important to assist these private institutions in their advancement of the public good. The restrictions of present law place these section 501(c)(3) organizations at a financial disadvantage relative to substantially identical governmental institutions, and are particularly inappropriate. For example, private, non-profit research universities are subject to the $150 million limitation on outstanding bonds, whereas State-sponsored universities competing for the same research projects do not operate under a comparable restriction. A public hospital generally has unlimited access to tax-exempt bond financing, while a private, non-profit hospital is subject to a $150 million limitation on outstanding bonds to the extent the bonds finance health care facilities that do not qualify under the present-law definition of hospital. These and other restrictions inhibit the ability of America's private, non-profit institutions to modernize their health care facilities and to build state-of-the-art research facilities for the advancement of science, medicine, and other educational endeavors.

Inhibiting the access of private, non-profit research institutions to sources of capital financing, in relation to their public counterparts, distorts the distribution of major research among the leading institutions, and over time will lead to the decline of research undertakings by private, non-profit universities. The tax-exempt bond rules should reduce these distortions by treating more equally State and local governments and those private organizations which are engaged in similar actions advancing the public good.

EXPLANATION OF PROVISION

The bill amends the tax-exempt bond provisions of the Code to conform generally the treatment of bonds for section 501(c)(3) organizations to that provided for bonds issued to finance direct State or local government activities, including construction of public hospitals and university facilities. Certain restrictions, described below, that have been imposed on qualified 501(c)(3) bonds (but not on governmental bonds) since 1986, and that address specialized policy concerns, are retained.

Repeal of private activity bond classification for bonds for section 501(c)(3) organizations

The concept of an "exempt person" that existed under the Code bond provisions before 1986, is reenacted. An exempt person is defined as (a) a State or local governmental unit or (b) a section 501(c)(3) organization, when carrying out its exempt activities under Code section 501(a). Thus, bonds for section 501(c)(3) organizations are generally no longer classified as private activity bonds. Financing for unrelated business activities of such organizations continue to be treated as a private activity for which tax-exempt financing is not authorized.

As exempt persons, section 501(c)(3) organizations are subject to the same limits as States and local governments on using their bond proceeds to finance private business activities or to make private loans. Thus, generally no more than 10 percent of the bond proceeds[2] can be used in a business use of a person other than an exempt person if the Code private payment test is satisfied, and no more than 5 percent ($5 million if less) can be used to make loans to such "non-exempt" persons.

Repeal of most additional special restrictions on section 501(c)(3) organization bonds

Persent Code section 145, which establishes additional restrictions on qualified 501(c)(3) bonds, is repealed, along with the restriction on bond-financed costs of issuance for section 501(c)(3) organization bonds (sec. 147(h)). This eliminates the $150 million limit on non-hospital bonds for section 501(c)(3) organizations.

Retention of certain specialized requirements for section 501(c)(3) organization bonds

The bill retains certain specialized restrictions on bonds for section 501(c)(3) organizations. First, the bill retains the requirement that existing residential rental property acquired by a section 501(c)(3) organization in a tax-exempt-bond-financed transaction satisfy the same low-income tenant requirements as similar housing financing for for-profit developers. Second, the bill retains the present-law maturity limitations applicable to bonds for section 501(c)(3) organizations, and the public approval requirements applicable generally to private activity bonds. Third, the bill continues to apply the penalties on changes in use of tax-exempt-bond-financed section 501(c)(3) organization property to a use not qualified for such financing.

Finally, the bill makes no amendments, other than technical conforming amendments, to the tax-exempt arbitrage restrictions, the alternative minimum tax tax-exempt bond preference, or the provisions generally disallowing interest paid by banks on monies used to acquire or carry tax-exempt bonds.

EFFECTIVE DATE

The provision is generally effective for bonds issued with respect to capital expenditures made after the date of enactment. The provision does not apply to bonds issued prior to January 1, 1997 for the purposes of applying the rebate requirements under Section 148(f)(4)(D).

FOOTNOTES

Footnotes at end of article.

[1] No more than 5 percent of bond proceeds may be used in a private business use that is unrelated to

the governmental purpose of the bond issue. the 10-percent debt service test, described below, likewise is reduced to 5 percent in the case of such "disproportionate" private business use.

[2] This limit would be reduced to 5 percent in the case of disproportionate private use as under the present-law governmental bond disproportionate private use limit.

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Tax-Exempt Arena Debt Issuance Act".

SEC. 2. TREATMENT OF TAX-EXEMPT FINANCING OF PROFESSIONAL SPORTS FACILITIES.

(a) IN GENERAL.—Section 141 of the Internal Revenue Code of 1986 (defining private activity bond and qualified bond) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN ISSUES USED FOR PROFESSIONAL SPORTS FACILITIES TREATED AS PRIVATE ACTIVITY BONDS.—

"(1) IN GENERAL.—For purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) to provide professional sports facilities exceeds the lesser of—

"(A) 5 percent of such proceeds, or

"(B) $5,000,000.

"(2) BOND NOT TREATED AS A QUALIFIED BOND.—For purposes of this title, any bond described in paragraph (1) shall not be a qualified bond.

"(3) PROFESSIONAL SPORTS FACILITIES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'professional sports facilities' means real property or related improvements used for professional sports exhibitions, games, or training, regardless if the admission of the public or press is allowed or paid.

"(B) USE FOR PROFESSIONAL SPORTS.—Any use of facilities which generates a direct or indirect monetary benefit (other than reimbursement for out-of pocket expenses) for a person who uses such facilities for professional sports exhibitions, games, or training shall be treated as a use described in subparagraph (A).

"(4) ANTI-ABUSE REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including such regulations as may be appropriate to prevent avoidance of such purposes through related persons, use of related facilities or multiuse complexes, or otherwise."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (5), the amendments made by this section shall apply to bonds issued on or after the first date of committee action.

(2) EXCEPTION FOR CONSTRUCTION, BINDING AGREEMENTS, OR APPROVED PROJECTS.—The amendments made by this section shall not apply to bonds—

(A) the proceeds of which are used for—

(i) the construction or rehabilitation of a facility—

(I) if such construction or rehabilitation began before June 14, 1996, and was completed on or after such date, or

(II) if a State or political subdivision thereof has entered into a binding contract before June 14, 1996, that requires the incurrence of significant expenditures for such construction or rehabilitation, and some of such expenditures are incurred on or after such date; or

(ii) the acquisition of a facility pursuant to a binding contract entered into by a State or political subdivision thereof before June 14, 1996, and

(B) which are the subject of an official action taken by relevant government officials before June 14, 1996—

(i) approving the issuance of such bonds, or

(ii) approving the submission of the approval of such issuance to a voter referendum.

(3) EXCEPTION FOR FINAL BOND RESOLUTIONS.—The amendments made by this section shall not apply to bonds the proceeds of which are used for the construction or rehabilitation of a facility if a State or political subdivision thereof has completed all necessary governmental approvals for the issuance of such bonds before June 14, 1996.

(4) SIGNIFICANT EXPENDITURES.—For purposes of paragraph (2)(A)(i)(II), the term "significant expenditures" means expenditures equal to or exceeding 10 percent of the reasonably anticipated cost of the construction or rehabilitation of the facility involved.

(5) EXCEPTION FOR CERTAIN CURRENT REFUNDINGS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any bond the proceeds of which are used exclusively to refund a qualified bond (or a bond which is a part of a series of refundings of a qualified bond) if—

(i) the amount of the refunding bond does not exceed the outstanding principal amount of the refunded bond,

(ii) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

(iii) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of clause (ii), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.

(B) QUALIFIED BOND.—For purposes of subparagraph (A), the term "qualified bond" means any tax-exempt bond to finance a professional sports facility (as defined in section 141(e)(3) of such Code, as added by subsection (a)) issued before the first date of committee action.

THE STOP TAX-EXEMPT ARENA DEBT ISSUANCE ACT

PRESENT LAW

Interest on State and local governmental bonds generally is excluded from income if the bonds are issued to finance direct activities of these governments (sec. 103). Interest on bonds issued by these governments to finance activities of other persons, e.g., private activity bonds, is taxable unless the bonds satisfy certain requirements. Private activity bonds must be within certain statewide volume limitations, must not violate the arbitrage and other applicable restrictions, and must finance activities within one of the categories specified in the Code. The Tax Reform Act of 1986 repealed the private activity bond category for sports facilities; therefore no private activity bonds may be issued for this purpose.

Bonds issued by State and local governments are considered to be government use bonds, unless the bonds are classified as private activity bonds. Bonds are deemed to be private activity bonds if both the (i) private business use test and (ii) private security or payment test are met. The private business use test is met if more than 10 percent of the bond proceeds, including facilities financed with the bond proceeds, is used in a nongovernmental trade or business. The private security or payment test is met if more than 10 percent of the bond repayments is secured by privately used property, or is derived from the payments of private business users. Additionally, bonds are deemed to be private activity bonds if more than five percent of the bond proceeds or $5 million are used to finance loans to persons other than governmental units.

REASONS FOR CHANGE

The use of tax-exempt financing for professional sports facilities provides an indirect and inefficient federal tax subsidy. Congress intended to eliminate this subsidy for professional sports facilities in the Tax Reform Act of 1986, by repealing the private activity bond category for sports facilities. Congress did not intend to continue the subsidy by allowing the use of tax-exempt bonds to finance the identical underlying private business use through alternative financing arrangements.

In addition, the use of tax-exempt bonds to finance professional sports facilities is particularly inappropriate where the facilities to be built are used to entice professional sports franchises to relocate.

EXPLANATION OF PROVISION

The bill would provide that bonds issued to finance professional sports facilities are private activity bonds, and that such bonds are not qualified bonds. Therefore, professional sports facilities will not qualify for tax-exempt bond financing.

A professional sports facility is defined to include real property and related improvements which are used for professional sports exhibitions, games, or training, whether or not admission of the public or press is allowed or paid. In addition, a facility that is used for a purpose other than professional sports will nevertheless be treated as being used for professional sports if the facility generates a direct or indirect monetary benefit (other than reimbursement for out-of-pocket expenses) for a person who uses the facility for professional sports. These benefits are intended to include an interest in revenues from parking fees, food and beverage sales, advertising and sports facility naming rights, television rights, ticket sales, private suites and club seats, and concessions.

Public use infrastructure improvements that connect to larger public-use systems, such as highway access ramps and sewer and water connections, are not intended to be subject to the bill. Thus, bonds issued to finance such improvements could still qualify for tax-exempt status, if such bonds otherwise qualify for such status under applicable tax-exempt bond rules. Improvements which generate a direct or indirect monetary benefit for a person who uses the facility for professional sports are meant to be covered by the bill. For example, if a professional sports team owner receives revenues from the use of a parking garage, the garage is not eligible for tax-exempt financing under the bill.

The Secretary of the Treasury is authorized to issue anti-abuse regulations to prevent transactions intended to improperly divert the indirect Federal subsidy for traditional governmental uses inherent in tax-exempt bonds for the benefit of professional sports facilities or professional sports teams.

It is intended that no tax-exempt bond proceeds may finance a ball park used for professional sports exhibitions, even if the ball park is made a part of a larger multi-use complex used 365 days a year for other purposes. In addition, it is intended that reciprocal usage of sports facilities by professional sports franchises that divide their usage among several facilities in order to avoid the 5% use test be aggregated for purposes of this provision.

No inference is intended regarding the rules under present law regarding the issuance or holding of, or interest paid or accrued on, any bonds issued prior to the effective date of this bill to finance sports facilities.

EFFECTIVE DATE

The bill is effective with respect to bonds issued on or after the first date of committee action.

The bill does not apply to bonds issued to finance a professional sports facility if actual construction or rehabilitation of the facility began prior to June 14, 1996 (or a State or political subdivision thereof had entered into a binding contract prior to that date to construct, rehabilitate or acquire the facility) and such bonds are the subject of appropriate official action approving the bonds or submitting approval to a voter referendum. In addition, the bill does not apply to bonds issued to finance a professional sports facility if a State or political subdivision thereof has completed all necessary governmental approvals for the issuance of such bonds.

The bill does not apply to the issuance of certain current refunding bonds, where the refunded bonds are qualified bonds issued prior to the first date of committee action, the average maturity and outstanding principal amount of the refunding bonds do not exceed that of the refunded bonds, the proceeds of the refunding bonds are used to redeem the refunded bonds within 90 days, and the refunding bonds are otherwise permissible under applicable provisions of the Code.

[From Barron's, August 19, 1996]

FOUL PLAY?

TEAM OWNERS GET SPORTS PALACES AND FAT CONCESSION DEALS

TAXPAYERS GET STUCK WITH THE TAB

(By Jonathan R. Laing)

Sports stadiums have come to play an almost religious role in American culture, a fact noted by observers as varied as famed architect Philip Johnson and best-selling author James Michener. Like cathedrals of yore, today's towering sports venues often dazzle the masses with their immense size and evoke fervent emotions with their ritual events. And for some fans, cheering along with a crowd of 60,000 people is about as close to a religious experience as they'll ever get.

This facet of American life is worth contemplating, if for no other reason than, in the 1990s alone, 30 professional sports palaces have been built in the U.S., at a total cost of over $4 billion. And the trend shows no signs of stopping. Over the next five to seven years, according to Fitch Investors Services, some 40 more major-league teams are likely to get new homes. Total price tag: an added $7 billion.

The surge of building activity is mind-boggling on a number of counts. To begin with, it is being financed mainly by state and local governments in spite of the fact that budgets are tight everywhere, leaving schools and social programs facing deep cutbacks. Yet in referendum after referendum, voters regularly approve large dollops of city and state backing to projects that will cater largely to well-heeled fans, meaning the folks who can afford to pay for seats in glassed-in luxury boxes. While the suit-and-cell-phone crowd get all the best seats for corporate entertaining, the average taxpayer is consigned to "cheap" seats in nosebleed land or, more often, to following his favorite team on cable television.

But voters don't seem to mind. In Cincinnati last March they decided to raise Hamilton County's sales tax to 6% from 5.5%, to help pay for a $540 million plan to eventually raze the city's Riverfront Stadium and replace it with separate, state-of-the-art edifices for the Bengals football squad and the Reds baseball team.

And even in places where referenda have failed, local politicians leap into the fray to rescue beleaguered projects. Example: When a proposal to use proceeds from a statewide lottery to fund a new ballpark for the Milwaukee Brewers went down to defeat, the Wisconsin State Legislature gave the venture new life by approving a hike in the sales tax in the five-county area around Milwaukee to finance the bulk of the proposed $250 million project. Likewise, two defeats for stadium referenda in Seattle were insufficient to keep the Washington State Legislature from meeting in emergency session to approve a financial package clearing the way for a new $300 million baseball stadium for the Seattle Mariners, complete with a retractable roof.

Even privately financed facilities, of which there are a handful, typically benefit from public subsidies in the form of land donations and free infrastructure improvements. The Carolina Panthers' new $170 million Ericsson Stadium in Charlotte, for instance, received plenty of such goodies, as will a proposed $250 million downtown baseball stadium for San Francisco's Giants.

Perhaps more bizarre, many of the stadiums that have already been demolished or are slated for abandonment are relatively new and in good condition. The days may be numbered, for example, for the multi-use ovals built in the early 'Seventies such as Veterans Stadium in Philadelphia and Three Rivers Stadium in Pittsburgh. Both of these facilities will likely lose their baseball and football teams. Such stadiums simply lack the skyboxes and other revenue-producing "fan amenities" demanded by today's team owners.

So-called "economic obsolesence" may also doom venues of even newer vintage. The eight-year-old Miami Arena is facing a future without its two major tenants, the Florida Panthers hockey team and the Miami Heat basketball franchise, because of inadequate seating capacity and a paucity of luxury suites.

The Panthers have already cut a deal to move to a new facility that nearby Broward County is building for them at a cost of around $200 million. Plans call for Dade County to build a new $210 million arena for the Heat before the end of the decade, despite the fact that the move will leave local taxpayers stuck with servicing the debt on two Miami arenas rather than just one.

"The shelf life on sports facilities seems to be ever-compressing as teams force local authorities and municipalities to build them new venues so that every conceivable source of revenue they can identify can be engineered into the new structure," observes Robert Baade, an economist at Lake Forest College in Illinois. "The situation of the Miami Arena and other modern facilities that are being scrapped is crazy. For the more than $4 billion that has so far been spent on new stadiums, we could completely refurbish the physical plants of the nation's public elementary and secondary schools."

The new stadiums befit the crass commercialism and endless cross-marketing of the current business era. The games themselves are almost submerged in a sea of collateral activity, including food courts, sports bars, interactive game rooms, private clubs and sports-merchandise stores. Inside the arenas, there are intrusive Jumbotron video systems and lavish corporate entertainment in skyboxes, which run as high as $250,000 a year at Boston's Fleet Arena, where the Celtics and Bruins now play.

No possible revenue source goes untapped. Corporations like United Airlines, BancOne and Coors buy the rights to put their names on stadiums for more than $1 million a year in some instances. The sensory overload of advertising signage is distracting, to say the least. No area is sacrosanct, including the wall behind homeplate. Teams in the National Basketball Association are now minting advertising revenues by selling ads that silently scroll on computer-controlled signboards at courtside.

The Portland Trail Blazers, owned by Microsoft billionaire Paul Allen, have taken high-tech amenities to an as-yet-unsurpassed level in their new Rose Garden arena. Some of its club seats feature fiber-optic wiring allowing spectators to play music, order food or punch up replays on their own video screens. The arena also plans to experiment with online kiosks that will hawk computer hardware and software.

Team owners argue that enhanced revenues are essential for acquiring or retaining top athletes in the high-stakes world of professional sports. But there is another factor at work. Unlike fees paid by television networks and general-admission revenues, a stadium's income from premium seats, concessions, stadium advertising, parking and the like generally doesn't have to be shared with other teams in the league.

Yet both the NFL and NBA have attempted to institute some controls on players' salaries by establishing league-wide team salary caps. And scant linkage has been established between the size of team payrolls and performance in baseball and hockey. Otherwise, the New York Yankees of the past two decades, with their bloated salary structure, might have enjoyed the dominance of the Yankee dynasties of yore.

Even so, a veritable stadium arms race seems only to be intensifying. Even teams in leagues with salary caps claim to need additional stadium revenues because the teams with the highest revenues keep driving up the averages upon which the caps are based. "This is certainly true in the NBA, where top-grossing teams like the Bulls, the Knicks and the Lakers are creating problems for the rest of the league," Jerry Reinsdorf, controlling partner of the Chicago Bulls and White Sox, explains. "All I can say is that I'm glad I have two new stadiums [the United Center and New Comiskey Park] with strong in-park revenues."

What's indisputable, though, is that new venues enrich team owners by fattening the teams' bottom lines and franchise values. It's no accident, for example, that four of the top 10 most valuable baseball franchises in Financial World magazine's latest annual survey—the Baltimore Orioles, Toronto blue Jays, Texas Rangers and Colorado Rockies—boast new stadiums, which give them the financial heft to compete with teams in larger advertising markets such as New York, Chicago and Los Angeles. Likewise, new stadiums have helped the Phoenix Suns, Detroit

Pistons and Chicago Bulls push the New York Knicks for the top spot among basketball franchises on Financial World's list.

And in all of professional sports, no team comes close to the Dallas Cowboys franchise, with its estimated value of $272 million. Team owner Jerry Jones was lucky to inherit a stadium already loaded with skyboxes in 1988 to which he added some 80 suites. In addition, he has inked stadium sponsorship agreements with the likes of Nike, PepsiCo. American Express and AT&T. As a result, Financial World estimates that the Cowboys earned revenues of nearly $40 million on their stadium, compared with a league average of just $6.2 million. Such riches gave Jones the bucks to exploit loopholes in the salary cap, enabling him to carry a payroll some 50% larger than the NFL average.

In Jones' case, he financed his own stadium improvements. But in the main, it's the taxpayer who ends up subsidizing the stadiums that shower such wealth on the owners. And these days, teams seem to hold all the cards in their negotiations with local politicians. For the demand for professional franchises from cities wanting the cachet of being "big league" far exceeds the supply of teams, even with the big leagues' steady expansion efforts. "No city can take its teams for granted or they will find another locale in which to realize team value," explains Reinsdorf, who cynically played of the state of Illinois against St. Petersburg, Fla, to win a $150 million in tax-exempt funding to build the New Comiskey Park in 1991.

Observers are still agog at the deal the former Los Angeles Rams football team negotiated to move to St. Louis last year. The city, state and St. Louis County incurred some $262 million in debt to provide the team with the 70,000-seat Trans World Dome. Then the city sold instruments called "personal seat licenses," requiring football-crazy fans to pay as much as $4,500 just for the privilege of buying season tickets for the stadium's best 45,000 seats. The $70 million or so in proceeds from these licenses didn't go toward the constructions costs of the new stadium, however. Instead, the Rams were allowed to use the funds to defray some $20 million in moving costs, build a $10 million practice facility and clean up some debts in their old home in Anaheim.

And that's not all. The Rams were able to lock in an annual rent over a 30-year lease period of just $250,000, the fifth-lowest rent rate in the NFL. Yet the Rams will receive 100% of the revenues from the stadium's 100 luxury suites and 6,250 club seats. On top of that, the team got the option to add 20 more luxury boxes and convert 4,500 more seats to club status, plus a guarantee that 85% of all suites and club seats will be sold over the next 15 years. The team also gets all concession revenues generated by the stadium, $4.5 million of the first $6 million received in stadium advertising and 90% of any ad revenues over $6 million. The Rams also get to pocket the $1.3 million a year that Trans World Airlines is paying for the stadium naming rights. Lastly, St. Louis agreed to build a store for the Rams to sell team merchandise.

The total package of the stadium construction costs, debt-service expense and other goodies doled out by St. Louis will end up costing area taxpayers more than $700 million, according to a reckoning by a St. Louis public-interest group. A consultant who represented the Rams was heard to crow, "This will be the best stadium deal ever in the NFL, except for the next one."

Truer words were never spoken, for the new Baltimore Ravens (formerly the Cleveland Browns) won an extraordinary deal on their $200 million stadium currently under construction in the shadow of Oriole Park at Camden Yards. The new stadium will be financed by state lottery proceeds and revenue bonds. In addition to being able to keep the $65 million in personal seat license fees, the Ravens will be charged no rent over their 30-year lease other than a 10% tax on all tickets. The team will be responsible only for covering operating and maintenance expenses of the facility.

The Ravens will be able to keep all stadium revenues from the luxury suites, premium seats, concessions and in-park advertising, plus it will garner 50% from all revenues at the stadium from non-football events. No wonder S&P described the deal cooked up by Ravens owner Art Modell as "Maryland throws the bomb."

Financial World estimates that after its first season in the new stadium (1998), the Ravens' franchise value will appreciate some 50%, to around $250 million, and could be second only to the Dallas Cowboys'.

In the stadium game, spin, bargaining ploys and fancy dancing are difficult to separate from concrete developments. Proposed new stadium packages are leaked to the local press only to go through myriad changes before ground is broken and financing is in place.

George Steinbrenner wants out of the Bronx. One month he is rumored to be looking at suburban New Jersey for his Yankees, the next he's said to be considering a proposal by New York City to build a facility on Manhattan's West Side that would cost $1 billion. Not to be outdone, the Mets are said to be angling for a new stadium next to Shea that would cost around $450 million and, perhaps, include a theme park in the complex.

Rick Horrow, a Miami-based stadium development consultant to the NFL, ticks off the names of 12 football teams that have unsettled stadium situations and are likely to move to new facilities in the years ahead: the Minnesota Vikings, Chicago Bears, Tampa Bay Buccaneers, San Francisco 49ers, Seattle Seahawks, Denver Broncos, Arizona Cardinals, Philadelphia Eagles, Pittsburgh Steelers, Washington Redskins, Detroit Lions and New England Patriots. One proposal calls for the Pats to move from Foxboro, Mass., to a domed stadium in downtown Boston that would be part of a $750 million convention-center megaplex.

These NFL teams should be able to exert plenty of leverage over their local politicians. According to Horrow, cities such as Houston, Los Angeles, Memphis, Orlando, Sacramento, Toronto and Mexico City all hunger for an NFL franchise. Various suburban locations also beckon.

Likewise, such arenas as the L.A. Forum, Houston's Summit Arena, Dallas's Reunion Arena, Charlotte Coliseum and Indianapolis's Market Square Arena are all likely to lose their NBA tenants despite the recent vintage of many of these facilities. The Detroit Pistons' Palace at Auburn Hills, with its rows of skyboxes encircling the arena, changed the entire economics of indoor venues following its opening in 1988.

Some obstacles could block this torrent of prospective stadium deals. Of greatest moment, perhaps, is a bill that was introduced two months ago by Sen. Daniel Patrick Moynihan (D.-N.Y.) that would outlaw tax-exempt bond financing for professional sports facilities. He argues that such financing in effect constitutes a subsidy by federal taxpayers that largely enriches team owners and serves no legitimate public purpose.

Even Moynihan concedes that the proposal has no chance of passing in the current session of Congress. Nor are the bill's prospects very bright next year. The U.S. Council of Mayors and other lobbying organizations have already mounted a jihad against the measure. And it doesn't hurt that professional sports has the stature of organized religion these days.

Nonetheless, the bill has temporarily cast a pall over certain stadium plans that are being considered. The fear is that the bill might someday pass in its current form. Particularly vulnerable would be new football and baseball stadiums. They almost always require some tax-exempt financing because of their high price tags—$200 million and up.

John Gillespie, a managing director of Bear Stearns's sports facility banking team, estimates that at current spreads, the cost of the typical stadium proposal would rise by 15%–20% if public authorities were forced to switch from the tax-exempt to the taxable public-debt market. Says Gillespie: "Clearly, a number of stadium deals wouldn't fly under these circumstances because even on a tax-exempt basis they were pushing the envelope on a feasibility basis. I don't think the bill has a prayer of passing, but then, I'm prejudiced."

Ironically, past attempts by Congress to curb the use of tax-exempt financing for sports stadiums have only exacerbated the problem. The Tax Reform Act of 1986, for example, declared that public financings of stadiums would lose their tax-exemption if more than 10% of the revenues earned by the facility were subsequently used to service the construction debt.

Rather than quashing such activity, the stricture left municipalities even more at the mercy of team owners. To retain local franchises or attract new teams, public officials were compelled to tap revenue streams other than the stadium to back construction debt. Today's stadium bonds are backed by general revenue sources as diverse as state lotteries, sales taxes, hotel and motel occupancy imposts, car-rental fees and alcohol and tobacco taxes.

The balance of power has shifted so dramatically in recent years that public stadium authorities consider themselves fortunate if pro sports teams pay enough rent to cover the operating costs of the facility, let alone contribute anything to debt service.

"The new structure is inequitable in that it forces broad categories of people in a given area to finance a facility that only benefits fans, team owners and athletes," asserted Dennis Zimmerman, an economist at the Library of Congress's Congressional Research Service, whose study on the subject of tax-exempt stadium financing helped spur the Moynihan bill. "Certainly federal taxpayers receive no benefits for granting this subsidy."

Cities try to make new stadiums more palatable to their electorates by offering up "economic impact" studies showing the gains in regional income and employment that the project will produce. The financial benefits trumpeted in such studies are so humongous that he multimillion-dollar cost of the sport palaces seems almost trivial by comparison.

The University of Cincinnati Center for Economic Education concluded last January, for example, that the $540 million project to build a new football stadium and a new baseball stadium in Cincinnati would generate more than $1.1 billion in economic activity. In subsequent years, the study said the Cincinnati area could count on $73 million annually in added spending by local consumers,

$4.4 million a year in taxes and $28 million per year in local spending by out-of-town fans.

But such impact studies are often flawed. Stanford University economist Roger Noll points out that the majority of fans attending games come from within a 20-mile radius of the venue. Any money they end up dropping at the ballpark would likely have been spent on other modes of local recreation or entertainment. Americans, after all, spend virtually all their income anyway. This "substitution effect" means that stadiums may actually represent very little, if any, net economic gain to local businesses.

The studies also play games with the multiplier or ripple effect of fan spending. They assume that all the munificence earned by the players, owners and concessionaires is repatriated to the local economy. Lake Forest College economist Robert Baade argues that the money frequently doesn't stay put and that this "leakage" can actually have a negative impact. He has, in fact, developed econometric models indicating that in some 36 instances new stadiums had a nonexistent or even negative impact on local job and income growth.

Few stadium projects have been as trumpeted as the Gateway Development in Cleveland. The site encompasses two new facilities, including the Indians' Jacobs Field, with its retro charm, and the Cavaliers' sleek Gund Arena. The two new venues draw sellout crowds totaling five million fans a year, and they are credited with having sparked a revival in the once-sagging fortunes of downtown Cleveland. But as the Indians streak toward their second straight pennant, the project's finances continue to deteriorate. The problem lies in construction cost overruns incurred by both facilities and the fact that Gateway Development Corp., the quasi-public authority that owns both venues, isn't getting enough from its leases with the Indians and Cavs to pay the debt service on some $120 million in bonds that helped finance the Gund project.

As a result, Cuyahoga County, which guaranteed the debt, has had to ante up some $23 million to cover Gateway's arrears, and will likely to be forced to lay out at least $70 million more over the next 16 years. At that point, Gateway will have the opportunity to renegotiate the Indians' lease and perhaps have a prayer of meeting its obligations.

Meantime, the city of Cleveland is taking a bath on some $40 million in bonds it sold to build two parking garages for the Gateway complex. The city is having to subsidize the debt service on the bonds because of lower-than-projected parking revenues.

"The facilities are beautiful, the teams are minting money, and the county and city taxpayers are left holding the bag," grouses Steve Letsky, Cuyahoga County's director of accounting. "We're paying a hell of a price for downtown economic redevelopment."

Even more gruesome was the bloodletting the Province of Ontario took on Toronto's Skydome, a combination stadium, hotel and entertainment complex that opened in 1989. Ontario got stuck with the huge cost overruns, and by late 1991 the province ended up taking a nearly $200 million loss when it dumped its controlling interest in the project for $110 million.

Even with that writedown, the Skydome's financial future is by no means secure. Attendance has waned from the halcyon days of the early 'Nineties as the Blue Jays have sunk in the standings. The all-important leases on the stadium's luxury suites are due to expire in two years, and revenues could take a tumble.

With deals like this going down, it's little wonder that the halo effect of having a new stadium seems to be diminishing. Brian McGough, a J.P. Morgan investment banker involved in stadium deals, reports that a recent study shows that new venues seem to spur attendance for just about three years. Comiskey Park and the Ballpark at Arlington, Texas, aren't packing in fans they way they did only a few years ago, despite the fact that both stadiums have baseball teams that are very much in contention for the pennant.

Resistance to the stadium-building boom does seem to be mounting. Several politicians have been forced to walk the plank recently for backing sales-tax increases to fund new baseball stadiums. Among the banished were a Maricopa County commissioner from Arizona's Sun City and a Wisconsin state senator from Racine, one of the five counties that will contribute tax revenues for the Milwaukee Brewers' new stadium.

Nonetheless, new stadium projects seem to have a dynamic that defies all considerations of economic prudence and taxpayer unrest. For when all else fails, public officials invariable justify their reflexive resort to the public purse by prattling on about pro sports' positive impact on civic pride and quality of life.

Perhaps new stadiums appeal to some deeply-rooted edifice complex-the plaque on the wall of the venue conferring a measure of immortality to the politicians who built it. Maybe it's true that without a vibrant pro sports scene, major corporation won't put their headquarters in certain cities. Or possibility the local citizenry walk just a little taller in burgs that are genuinely big-league. "Psychic reward," as economists call it.

Whatever the case, the surge in popularity of pro sports is a worldwide phenomenon. Social scientists advance in all kinds of theories to explain the boom. Increasing job specialization is deemed to have robbed modern man of satisfaction in his workaday world, forcing him to turn to sports for tangibility of results. Others commentators claim that pro athletes have become proxies for acting out the aggressions of increasingly alienated populations around the globe.

Rand Araskog, chairman of ITT Corp., obviously believes in a bright future for pro sports and franchise values. ITT teamed up with Cablevision in 1994 to buy Madison Square Garden, the New York Knicks and the Rangers from Viacom for $1 billion. The operation's cash flow has burgeoned since.

According to Araskog and ITT President Robert Bowman, a myriad of factors will propel the pro sports boom. More and more media and entertainment companies are buying pro sport franchises because they afford relatively cheap and compellingly dramatic programming. ComCast and Walt Disney are merely the most recent corporate entrants. Women are increasingly hooked on pro sports as a result of federal laws that require schools to spend equal amounts of men's and women's sports.

As for international interest, the National Basketball Association is just the first pro league in the U.S. to catch the worldwide tidal wave. Others will follow. And finally, technology, with its proliferation of sports delivery mechanisms and its promise of eventually bringing the playing field into the living room, will only enhance the appeal.

Bear Stearns's Gillespie goes so far as to predict that pro sports franchises will double in value in the next five to six years. One can only hope he's right. Maybe then team owners will stop hitting up taxpayers for new stadiums and pay the freight themselves.

COSTLY BUILDING BOOM

More than $4 billion has been spent on sports arenas, with $7 billion more expected.

Facility	Team	Approx total cost in millions	Opened	Debt type
Skydome	Toronto Blue Jays	$600	1989	P/P
TWA Dome at America's Center	St. Louis Rams	290	1995	Public
Molson Centre	Montreal Canadians	230	1996	Private
Coors Field	Colorado Rockies	215	1995	Public
Georgia Dome	Atlanta Falcons	214	1992	Public
CoreStates Center	Philadelphia Flyers/76ers	210	1996	Private
Orioles Park at Camden Yards	Baltimore Orioles	210	1992	Public
Corel Center (Palladium	Ottawa Senators	200	1996	P/P
Ballpark of Arlington	Texas Rangers	191	1994	P/P
Alamodome	San Antonio Spurs	186	1993	Public
GM Place	Vancouver Canucks/Grizzlies	180	1995	Private
United Center	Chicago Blackhawks/Bulls	180	1994	Private
Jacobs Field	Cleveland Indians	168	1994	P/P
San Jose Arena	San Jose Sharks	163	1993	P/P
Fleet Center	Boston Celtics/Bruins	160	1995	Private
Gund Arena	Cleveland Cavaliers	155	1994	P/P
Comiskey Park	Chicago White Sox	150	1991	Public
Rose Garden	Portland Trail Blazers	145	1995	P/P
Gator Bowl	Jacksonville Jaguars	136	1995	Public
Marine Midland Arena	Buffalo Sabres	128	1996	P/P
Arrowhead Pond of Anaheim	Anaheim Mighty Ducks	120	1993	P/P
Ice Palace	Tampa Bay Lightning	120	1996	P/P
Target Center	Minnesota Timberwolves	104	1990	P/P
America West Arena	Phoenix Suns	101	1992	P/P
Orlando Arena	Orlando Magic/Solar Bears	100	1989	P/P
Kiel Center	St. Louis Blues	99	1994	Private
Bradley Center	Milwaukee Bucks	80	1988	Private
Ericsson Stadium	Carolina Panthers	70	1996	Private
Palace of Auburn Hills	Detroit Pistons	70	1988	Private

Facility	Team	Approx total cost in millions	Opened	Debt type
Charlotte Coliseum	Charlotte Hornets	58	1988	Public
Delta Center	Utah Jazz	55	1991	Private
Miami Arena	Miami Heat/Florida Panthers	52	1988	P/P
Arco Arena	Sacramento Kings	40	1988	Private

[From the New York Times, July 27, 1996]

PICKING UP THE TAB FOR FIELDS OF DREAMS

TAXPAYERS BUILD STADIUMS; OWNERS CASH IN

(By Leslie Wayne)

WASHINGTON.—In Baltimore, the Ravens, formerly the Cleveland Browns, are coming to a $200 million football stadium to be built on their behalf. Nashville has lured the Oilers from Houston with the promise of a sparkling new $389 million stadium. In New York, there is talk of a new ball-park for the Yankees, while discussion continues about replacing venerable Tiger Stadium in Detroit and Fenway Park in Boston, both now celebrating their 84th anniversaries.

But even as multimillion-dollar sports places are being proposed for assorted Bears, Bengals, Hawks, Vikings and other professional teams, a lot of people in Washington would like to clamp down on lucrative public subsidies that they contend do much more to help already-wealthy professional sports team owners than the communities that support the teams.

Senator Daniel Patrick Moynihan, a New York Democrat, has fired the opening shot by introducing legislation to end the use of tax-free dollars to build sports stadiums. But, retreating under a hail of lobbying fire, Mr. Moynihan admits his measure has no chance of being enacted this year. Still, that has not stopped him from vigorously arguing that Federal tax dollars would be better devoted to public needs like higher education than subsidizing the current stadium building boom.

"Building new professional sports facilities is fine by me," Mr. Moynihan said. "Let the new stadiums be built. But, please, do not ask the American taxpayer to pay for them."

With an estimated $6 billion of new sports stadiums and arenas on the drawing boards, the mere introduction of a bill that would prevent local governments from tapping the tax-exempt municipal bond market for such projects is sending shock waves through the world of sports finance. "The Moynihan bill has had an immediate, horrendous impact," said Howard Richard, a lawyer at Katten Muchin & Zavis in Chicago. "There's intense lobbying. No one believes this bill will pass, but it is wreaking havoc with the market".

The controversy over stadium financing dates back to the 1988 Tax Reform Act, which was though to have eliminated the public subsidies by forcing team owners to finance stadiums with taxable, rather than tax-free dollars.

That effort, however, backfired. With team owners precluded from tapping the public bond markets and reluctant to use more costly taxable debt, sports-starved cities stepped in to build and own the stadiums themselves, using municipal bonds.

And since the 1986 tax act prevents stadium revenues from being used to pay off any tax-free, stadium-related debt, a bizarre situation has developed. The municipality is often forced to pay with its own dollars for all of the borrowings, but the team owner virtually alone gets the revenues from the stadium. Under the tax code, only a small portion of the stadium revenues and lease payments—less than 10 percent—can be drawn on by municipalities to repay tax-free stadium debt.

Some of the newest, and most stylish, stadiums rely exclusively on public debt: Camden Yards and Ravens Stadium in Baltimore and the new Comiskey Park in Chicago are just a few of many. To pay off this debt, local governments have had to raise taxes, tap lottery proceeds or use other public revenues. Other stadiums, like the indoor America West Arena in Phoenix, were built as public-private partnerships, with some construction costs footed by the team owner; it all depends on the bargain struck. In all, $3.9 billion in public debt for stadiums has been issued since 1990.

Teams owners, to bring their franchise to town or to be persuaded to stay put, are demanding not just new and bigger stadiums, but more ways to make money from them: luxury skyboxes that rent for $50,000 to $200,000 a year; "personal seat licenses," which are options bought by ticket holders to insure season tickets in perpetuity; new tiers of "club seats" that cost more than regular seats. And then there are "pouring rights," which are paid by beverage companies to peddle their beers and soda; more "totem" space to sell advertising, and bigger car-parking concessions.

"We thought we shut down public financing to private sports stadiums in 1986," said Senator Byron L. Dorgan, a Democrat from North Dakota who is a supporter of the Moynihan measure. "Now a decade later, we see that the only remaining healthy public housing is in sports stadiums for wealthy team owners. We thought we closed a loophole and they found a way through it."

Brian McGough, who specializes in stadium financing for J.P. Morgan & Company, explained the unintended consequences of the legislation; "Congress forced public officials back into the arms of team owners. It was a sea change difference."

The effect of these changes has been to give team owners more financial leverage in bargaining with local governments. And experts say the new-found riches from stadium deals, television contracts and other sources have been an important factor in the escalating salaries in professional sports. When some team owners have more cash in hand, they bid up everyone's prices for top players—witness the $98 million, seven-year contract for the basketball player Juwan Howard to join the Miami Heat or the $121 million, seven-year contract for Shaquille O'Neal to move to the Los Angeles Lakers.

"A lot of these financial benefits flow to the talent because talent is key, especially in basketball," said Mr. Richard, the Chicago lawyer. "Look at the Chicago Bulls. You are seeing a $25 million raise for Micheal Jordan and millions for others. They say that this is creating the necessity for a new stadium because they need the skybox revenues to pay for the players. When you see all these salaries and the new stadiums, what is the cause and what is the effect?"

More troubling to critics is the evidence that the money spent on sports stadiums provides few economic benefits to the surrounding community. Indeed, several studies indicate that communities could benefit more if these investments, which cost taxpayers hundreds of millions of dollars a year, were spent on other forms of economic development.

"The economic research on whether these stadiums provide benefits for state and local taxpayers suggest that they do not," said Dennis Zimmerman, author of a Congressional Research Service report on stadium financing. "There are a lot more productive things that state and local governments could have done with this money."

Mr. Zimmerman, using data the State of Maryland offered in making the case for building the Ravens' new stadium, found that more jobs could be created by investing the same $177 million in the state's "Sunny Day" economic development fund. He also concluded that in many cases the money local governments saved by issuing tax-free municipal bonds to build these stadiums ended up costing Federal taxpayers more than the local benefit.

"It would be cheaper for the Federal Government to just give a subsidy for these stadiums," Mr. Zimmerman said.

Robert Baade, an economist at Lake Forest College, is one of the strongest critics of the present system. "The distribution of income and benefits is skewed: The owners and the players get the lion's share," Mr. Baade said, "If I've raised taxes to finance a stadium, I can't argue that every dollar of that stadium is a boon to the economy."

Opponents of Mr. Moynihan's measure argue that eliminating tax-free dollars for sports stadiums would take decision-making away from local officials and increase the costs to municipalities by forcing them to borrow in the taxable markets. Indeed, the only way some of these stadiums can be built, they say, is with lower-cost public debt. Football stadiums, in particular, could become endangered, since they often cost as much as $200 million, yet may be used for only eight to 10 games a year, making it hard to generate enough revenues to repay the debts.

"A stadium is not conceptually different from a lot of other public projects," said Micah Green, the Washington lobbyist for the Public Securities Association, a trade group representing the municipal bond industry. "If cities and states decide to raise taxes to pay for these stadiums, then that's O.K. That makes it a governmental bond. The local decision of the electorate is the best test."

(Sometimes, however, local sentiment has to be swayed. The Ravens Stadium proposal passed by only two votes amid controversy in the Maryland Senate. Cincinnati voters approved two new stadiums to replace Riverfront Stadium only after a hard-fought campaign by downtown boosters. In Nashville, opponents forced the city's first-ever bond referendum before the new Oilers stadium won approval.)

Six local government organizations, including the United States Conference of Mayors and the National League of Cities, sent a letter to Mr. Moynihan arguing against his proposal. "It is simply not good public policy to constrain local flexibility in deciding what projects to undertake on a tax-exempt basis," the letter said.

Cathy Spain, the Washington lobbyist for the Government Finance Officers Association, said her group opposes the strict restrictions that preclude the use of stadium-related revenues from repaying municipal debt. Ms. Spain said the association's warnings to Congress about the problem went unheeded when the tax act was changed in 1986. Now, she said, her group would like to allow, say, 25 percent of stadium revenues to be diverted to municipalities instead of team owners.

Stadium financing experts say that regardless of the economics, the lure of professional sports is so strong that politicians and communities will still seek to attract and keep the limited number of sports teams available.

And what about cities that just say no? They may be better off in purely economic terms, but still left with an empty feeling.

"St. Louis lost the football Cardinals to Phoenix because they refused to build a new stadium," said James Gray, assistant director at the National Sports Law Institute in Milwaukee. "Now they are paying triple to lure the Rams from Los Angeles. Being part of a major league is something unique in our society. Lots of people believe it's a worthwhile investment and will do anything to keep a team there."

[From ESPNET Sports Zone, ESPN Studios]

YOUR TAX DOLLARS IN ACTION—FOR REAL

(By Keith Olbermann)

The biggest sports story of the week got about as little publicity as possible.

Legislation has been introduced in the U.S. Senate that would cripple so-called "Franchise Free Agency," stop the merry-go-round of teams blackmailing cities and cities bribing teams with public funds, and restore a little sanity to the ever decreasingly sane world of sports.

The "Stop Tax-Exempt Arena Debt Issuance Act," sponsored by Sen. Daniel Patrick Moynihan, D-N.Y., would make it illegal for states, counties or cities to try to float tax-free bonds to build new sports stadiums and arenas. It's what we've been crying for here for months, and as pathetic as most of our politicians are, I am ready to nominate Sen. Moynihan for Deity.

A Congressional Research Service report recently concluded that the most frequently-used justification for building a new park for a ballclub, that the ancillary financial benefits created by such a new facility more than make up for the huge expense, is a falsehood. Just as Stanford economist Roger Moll pointed out several months ago: if stadiums really made money, the teams would build them themselves, wouldn't they?

If passed, the measure would virtually stop the kind of rapacious marriages of glory-hungry politicians and money-hungry owners that greased the skids for the Cleveland Browns move to Baltimore. The Brewers need a new stadium in Milwaukee? Have a lovely time building it, Bud. Oh, you'll move to Charlotte instead: Have a lovely time getting a business loan to build Selig Stadium there. No more endless threats from George Steinbrenner to move the Yankees to New Jersey. No more repeat winners in Owner Blackmail like the Seattle Mariners. No more publicly-funded white elephants like ThunderDome in St. Petersburg or the Alamodome in San Antonio.

Enactment of this law might go even further toward righting the sports ship. If owners couldn't count on government to pull their chestnuts out of the financial fire, they could not possibly continue to permit salaries to spiral upward. They could not possibly continue to jack ticket prices upward as a prerequisite to not moving elsewhere (see "Whalers, Hartford"). Some of the less economically-skilled owners might even sell out, and might find that the only corporations willing to take the franchise off their hands would be the same kind of community-based, almost not-for-profit group that owns the Green Bay Packers—a team that if owned by a Bill Bidwill or a Georgia Frontiere would have moved out 20 years ago.

In short, this is genius—and, though I swore I'd never say anything like this about any issue: let your congressman or senator know how you feel. We'll keep you posted on the progress of Sen. Moynihan's measure in this cyberspace.

By Mr. INOUYE:

S. 123. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Armed Services.

THE U.S. MILITARY CHIEF NURSE CORPS AMENDMENT ACT OF 1997

Mr. INOUYE. Mr. President, I rise today to introduce an amendment that would change existing law regarding the designated position and grade for the Chief Nurses of the United States Army, the United States Navy, and the United States Air Force. Currently the Chief Nurses of the three branches of the military are one-star level general officer grades; this law would change the current grade to Major General in the United States Army and Air Force and Rear Admiral (upper half) in the United States Navy. Our military Chief Nurses have an awesome responsibility—a degree of responsibility that is absolutely deserving of this change in grade.

You might be surprised at how big their scope of duties actually is. For example, the Chiefs are responsible for both peacetime and wartime health care doctrine, standards and policy for all nursing personnel within their respective branches. In fact, the Chief Nurses are responsible for more than 80,000 Army, 5,200 Navy, and 26,000 Air Force nursing personnel. This includes officer and enlisted nursing specialties in the active, reserve and guard components of the military. This level of responsibility certainly supports the need to change the grade for the Chief Nurses which would insure that they have a seat at the corporate table of policy and decision making.

There has been much discussion about the so-called glass ceilings that unfairly impact the ability of women to achieve the same status as their male counterparts. While I do not want to make this a gender-discrimination issue, the reality is that military nurses hit two glass ceilings: one as a nurse in a physician-dominated health care system and one as a woman in a male-dominated military system. The simple fact is that organizations are best served when the leadership is composed of a mix of specialty and gender groups—of equal rank—who bring their unique talents to the corporate table. For military nurses, the two-star level of general officer Chief Nurse will insure that nurses indeed get to the corporate executive table.

I strongly believe that it is very important, and past time, that we recognize the extensive scope and level of responsibility the military Chief Nurses have and make sure that future military health care organizations will continue to benefit from their expertise and unique contributions.

Mr. President, I request unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 3069(b) of title 10, United States Code, is amended by striking out "brigadier general" in the second sentence and inserting in lieu thereof "major general".

(b) NAVY.—The first sentence of section 5150(c) of such title is amended—

(1) by inserting "rear admiral (upper half) in the case of an officer in the Nurse Corps or" after "for promotion to the grade of"; and

(2) by inserting "in the case of an officer in the Medical Service Corps" after "rear admiral (lower half)".

(c) AIR FORCE.—Section 8069(b) of such title is amended by striking out "brigadier general" in the second sentence and inserting in lieu thereof "major general".

By Mr. GRAMM (for himself, Mr. MACK and Mrs. HUTCHINSON):

S. 124. A bill to invest in the future of the United States by doubling the amount authorized for basic science and medical research; to the Committee on Labor and Human Resources.

THE NATIONAL RESEARCH INVESTMENT ACT OF 1997

Mr. GRAMM. Mr. President, in 1965, 5.7 percent of the federal budget was spent on non-defense research and development. Thirty-two years later, that figure has dropped by two-thirds to 1.9 percent. In no year since 1970 has the United States spent as large a percentage of its GDP on non-defense research and development as Japan or Germany. Unfortunately, recent signs point to this situation becoming worse rather than better. From 1992 through 1995, for the first time in 25 years, real federal spending on research declined for 4 straight years. If we don't restore the high priority once afforded science and technology in the federal budget and increase federal investment in research, it will be impossible to maintain the United States' position as the technological leader of the world.

As a nation, we have an interest in the research funding decisions of the private sector. Investing in basic science and medical research can provide much needed help to all our technology companies without giving any single company a special advantage over its competitors. Our goal should be to raise all the boats in the harbor, not just the ones belonging to the politically well-connected.

The United States simply does not spend enough on basic research. This bill would double the amount spent by the federal government on non-defense research over ten years in a dozen agencies, programs, and activities, from $32.5 billion in FY 1997 to $65 billion in FY 2007, making sure that within that amount the funding for the National Institutes of Health would double from $12.75 billion to $25.5 billion. At the same time, in order to be sure the increase in funding is spent wisely, the bill gives priority to investments in basic science and medical research in order to develop new scientific knowledge which will be available in the public domain. The legislation does not allow funds to be used for the commercialization of technologies, and allocates funds using a peer review system. Expanding the nations's commitment to basic research in science and medicine is a critically important investment in the future of our Nation.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 125. A bill to provide that the Federal medical assistance percentage for any State or territory shall not be less than 60 percent; to the Committee on Finance.

FEDERAL MEDICAL ASSISTANCE LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill, cosponsored by Senator D'Amoto, to revise the formula for determining the Federal Medical Assistance Percentage.

Medicaid services and associated administrative costs are financed jointly by the Federal government and the States. The formula for the Federal share of a State's payments for services, known as the Federal Medical Assistance Percentage [FMAP], was established when Medicaid was created as part of the Social Security Amendments of 1965. The Federal share of administrative costs is 50 percent for all States, though higher rates are applicable for specific items.

The FMAP is an exotic creature, derived from the Hill-Burton Hospital Survey and Construction Act of 1946, specifically designed to provide a higher Federal matching rate for states with lower per capita income. Rather than comparing per capita income directly, the HILL-BURTON formula is designed to exaggerate the differences between States' per capita income. A Senate colleague once described it to me as the South's revenge for the war between the States.

The Federal government's share depends upon the square of the ratio of state per capita income to national per capita income. Per capita income is only a proxy but not the only proxy for measuring the States' relative fiscal capacity. In March 1982, the Advisory Commission on Intergovernmental Relations stated that,

> * * * the use of a single index, resident per capita income, to measure fiscal capacity, seriously misrepresents the actual ability of many governments to raise revenue. Because states tax a wide range of economic activities other than the income of their residents, the per capita income measure fails to account for sources of revenue to which income is only related in part. This misrepresentation results in the systematic over and understatement of the ability of many states to raise revenue. In addition, the recent evidence suggests that per capita income has deteriorated as a measure of capacity.

Sqaring the ratio of state per capita income to national per capita income exaggerates the differences between States with regard to this incomplete proxy. Suppose my income is $1 and your income $2. The difference we have to make up is $1. If we compare squares, the difference we have to make up is $3.

I proposed a change to the HILL-BURTON formula in June of 1977—at a commencement address at Kingsborough Community College in Brooklyn, New York—to compare square roots. Going back to our example, if we were to compare square roots, the difference would only be 59 cents—better than $3. Nonetheless, the idea has not caught on.

Current law stipulates that no State may have an FMAP lower than 50 percent or higher than 83 percent. In Fiscal Year 1997, 11 States and the District of Columbia receive the minimum 50 percent FMAP while Mississippi receives the highest FMAP of 77.22 percent. States are responsible for the nonfederal share of Medicaid costs. Meaning that a State with a FMAP of 50 percent puts up 50 percent of the money and the Federal government puts up 50 percent of the money. A State with a FMAP of 80 percent puts up 20 percent of the funds with a Federal match of 80 percent. This inequity has existed for over 50 years. It is time for change.

The bill I introduce today would change the minimum FMAP from 50 percent to 60 percent. A modest proposal. As I mentioned before, there are 11 States and the District of Columbia which receive 50 percent. An additional 14 States have an FMAP between 50 and 60 percent. All other States get more.

The Finance Committee passed this measure as part of its Budget Reconciliation Recommendations in 1995 but it never became law.

This legislation gives high cost States such as New York the flexibility to realize savings without cost to the Federal government. It does not propose to change the amount of Federal funds such States receive. With an FMAP of 50 percent, a State receiving $1000 in Federal funds would be required to match it with $1000. With a 60 percent FMAP, the same State would still receive $1000 in Federal funds but would only be required to put up $667, a one-third reduction in the amount of state money required.

Allocation formulas are designed to target Federal funds to States according to need. The FMAP does not. The savings realized by a 60 percent minimum would provide some relief for States with low matching rates and would make the FMAP a bit less regressive. Adjusted for the cost-of-living, New York has the fifth highest poverty rate in the nation. Yet it has an FMAP of 50 percent. Arkansas has the 24th highest poverty rate, yet has an FMAP of 73.29. Our current formula is a regressive one that needs repair.

I urge my colleagues to support this measure.

By Mr. INOUYE:

S. 126. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Labor and Human Resources.

PHYSICAL THERAPY AND OCCUPATION THERAPY EDUCATION ACT OF 1997

Mr. INOUYE. Mr. President, today, I am introducing The Physical Therapy and Occupational Therapy Education Act of 1997. This legislation will assist in educating physical therapy and occupational therapy practitioners to meet the growing demand for the valuable services they provide in our communities.

In its most recent report, the Department of Labor's Bureau of Labor Statistics projected that the demand for services provided by physical therapy practitioners will increase dramatically over the next decade. According to the Bureau, between 1994 and 2005 the increase in demand will create a need for 81,000 additional physical therapists, an 80 percent increase over 1994 figures. Demand for physical therapist assistants is expected to grow at an even faster rate, experiencing an 83 percent increase over the same time period.

The Bureau also predicts increasing demand for practitioners in the field of occupational therapy. Between 1994 and 2005 the increase in demand will create a need for 39,000 occupational therapists, a 72 percent increase over 1994 figures. Demand for occupational therapist assistants is projected to experience an 82 percent increase over the same time period.

Several factors contribute to the present need for Federal support in this area. The rapid aging of our nation's population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care have out paced our ability to educate an adequate number of physical therapy and occupational therapy practitioners. In addition, technological advances are allowing injured and disabled individuals to survive conditions that in the past would have proven fatal.

America's inability to educate an adequate number of physical therapists and occupational therapists has led to an increased reliance on foreign-educated, non-immigrant temporary workers (H–1B visa holders). The U.S. Commission on Immigration Reform has identified the physical therapy and occupational therapy fields as having among the highest number of H–1B visa holders in the U.S., second only to computer specialists.

According to the Immigration and Naturalization Service (INS), we know that 1,389 H–1B visa holders sought employment as physical therapists in 1994. This number represents 5.9 percent of the 23,500 arrivals for which the INS can verify their known occupation. An additional 82,399 holders of H–1B visas were reported to have entered the U.S. in 1994 for which the INS does not have occupation data. If we assume that the same percentage of H–1B visa holders are seeking employment in physical therapy as in the known-occupation pool, we can calculate that an additional 4,861 foreign-educated physical therapists were also seeking employment (5.9 percent of 82,399 aliens). Thus, the total number of foreign-educated physical therapists seeking employment in the U.S. during 1994 was approximately 6,250. In comparison, U.S. programs of physical therapy graduated a total of 5,846 physical therapists from 141 institutions nationwide in the same year.

While the INS does not categorize occupational therapy as a separate profession when tracking H–1B visa entrants, the National Board for Certification in Occupational Therapy documents that the percentage of newly certified occupational therapists who are foreign graduates has risen from 3 percent in 1985 to more than 20 percent in 1995.

The legislation I introduce today would provide necessary assistance to physical therapy and occupational therapy programs throughout the country to meet the health care demands of the 21st century. In awarding grants, preference would be given to those applicants that seek to educate and train practitioners at clinical sites in either rural or urban medically underserved communities.

In addition to a shortage of practitioners, the present shortage of physical therapy and occupational therapy faculty impedes the expansion of established programs. The critical shortage of doctoral-prepared physical therapists and occupational therapists has resulted in an almost nonexistent pool of potential faculty. Presently, there exist 117 faculty vacancies among the 131 accredited, professional-level physical therapy programs in the U.S. Similarly, during the '93-'94 academic year there existed 51 faculty vacancies among the 85 accredited, professional-level occupational therapy programs. The legislation I introduce today would assist in the development of a pool of qualified faculty by giving preference to those grant applicants seeking to develop and expand post-professional programs for the advanced training of physical therapists and occupational therapists.

The investment we make through passage of The Physical Therapy and Occupational Therapy Education Act of 1997 will help reduce America's dependence on foreign labor and help create high-skilled, high-wage employment opportunities for American citizens. I look forward to working with my colleagues in the Congress to enact this important legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Congressional Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Physical Therapy and Occupational Therapy Education Act of 1997".

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

Subpart II of part D of title VII of the Public Health Service Act (42 U.S.C. 294d et seq.) is amended by adding at the end the following:

"SEC. 768. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

"(a) In General.—The Secretary may make grants to, and enter into contracts with, programs of physical therapy and occupational therapy for the purpose of planning and implementing projects to recruit and retain faculty and students, develop curriculum, support the distribution of physical therapy and occupational therapy practitioners in underserved areas, or support the continuing development of these professions.

"(b) Preference in Making Grants.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that seek to educate physical therapists or occupational therapists in rural or urban medically underserved communities, or to expand post-professional programs for the advanced education of physical therapy or occupational therapy practitioners.

"(c) Peer Review.—Each peer review group under section 798(a) that is reviewing proposals for grants or contracts under subsection (a) shall include not fewer than 2 physical therapists or occupational therapists.

"(d) Report to Congress.—

"(1) In general.—The Secretary shall prepare a report that—

"(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

"(B) specifies the identity of entities receiving the grants or contracts; and

"(C) evaluates the effectiveness of the program based upon the objectives established by the entities receiving the grants or contracts.

"(2) Date certain for submission.—Not later than February 1, 2001, the Secretary shall submit the report prepared under paragraph (1) to the Committee on Commerce and the Committee on Appropriations of the House of Representatives, the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate.

"(e) Authorization of Appropriations.—For the purpose of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 1997 through 2000.".

Mr. MOYNIHAN (for himself, Mr. Roth, Mr. Chafee, Mr. Baucus, Mr. Bingaman, Mrs. Boxer, Mr. Bryan, Mr. Craig, Mr. D'Amato, Mr. Ford, Mr. Glenn, Mr. Grassley, Mr. Hatch, Mr. Kennedy, Mr. Kerry, Mr. Kyl, Mr. Leahy, Mr. Lieberman, Mr. McConnell, Ms. Moseley-Braun, Mrs. Murray, Mr. Robb, Mr. Rockefeller, Mr. Shelby, Mr. Torricelli, and Mr. Wyden):

S. 127. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

THE EMPLOYEE EDUCATIONAL ASSISTANCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation that will make permanent the tax exclusion for employer-provided educational assistance under section 127 of the Internal Revenue Code. This bill, which is cosponsored by the distinguished chairman of the Committee on Finance, Senator Roth, and by Senators Baucus, Boxer, Bryan, Chafee, Craig, D'Amato, Ford, Glenn, Grassley, Hatch, Kennedy, Kerry, Kyl, Leahy, Lieberman, McConnell, Moseley-Braun, Murray, Robb, Rockefeller, Sarbanes, Shelby, Torricelli, Wyden, and Bingaman ensures that employees may receive up to $5,250 annually in tuition reimbursements or similar educational benefits for both undergraduate and graduate education from their employers on a tax-free basis.

Section 127 is one of the most successful education programs that the Federal Government has ever undertaken. A million persons benefit from this provision every year. And they benefit in the most auspicious of circumstances. An employer recognizes that the worker is capable of doing work at higher levels and skills and says, "Will you go to school and get a degree so we can put you in a higher position than you have now—and with better compensation?" Unlike so many of our job training programs that have depended on the hope that in the aftermath of the training there will be a job, here you have a situation where the worker already has a job and the employer agrees that the worker should enlarge his or her situation in a manner that is beneficial to all concerned.

This is a program that works. Yet, outside the organizations involved, not many people know of this program. It administers itself. It has no bureaucracy—there is no bureau in the Department of Education for employer-provided educational assistance, no titles, no confirmations, no assistant secretaries. There is nothing except individual contracts, employee and employer, with a great value-added.

Since its inception in 1978, section 127 has enabled millions of workers to advance their education and improve their job skills without incurring additional taxes and a reduction in take-home pay. Without section 127, workers will find that the additional taxes or reduction in take-home pay impose a significant, even prohibitive, financial obstacle to further education. For example, an unmarried clerical worker pursuing a college diploma who has income of $21,000 in 1997 and who receives tuition reimbursement for two semesters of night courses—worth approximately $4,000—would owe additional Federal income and payroll taxes of $866 on this educational assistance. If the worker has children and was receiving the earned income tax credit, the worker would owe additional taxes—including loss of the EITC benefits—of up to $1,708.

Section 127 makes an important contribution to simplicity in the tax law. Absent section 127, a worker receiving educational benefits from an employer is taxed on the value of the education received, unless the education is directly related to the worker's current job. Permanent reinstatement of section 127 will allow workers to receive employer-provided educational assistance on a tax-free basis, without the need to consult a tax advisor to determine whether the education is directly related to their current job.

A well-trained and educated work force is a key to our Nation's competitiveness in the global economy of the 21st century. Pressures from international competition and technological change require constant adjustment by our work force. Education and retraining will be necessary to maintain and strengthen American industry's competitive position. Section 127 has an important, perhaps vital, role to play in this regard. It permits employees to adapt and retrain without incurring additional tax liabilities and a reduction in take-home pay. By removing the tax burden from workers seeking education and retraining, section 127 helps to maintain American workers as the most productive in the industrialized and developing world.

Section 127 has also helped to improve the quality of America's public education system, at a fraction of the cost of direct-aid programs. A survey by the National Education Association a few years ago found that almost half of all American public school systems provide tuition assistance to teachers seeking advanced training and degrees. This has enabled thousands of public school teachers to obtain advanced degrees, augmenting the quality of instruction in our schools.

Our most recent extension of section 127 last year excluded expenses of pursuing graduate level education for courses beginning after June 30, 1996. This was a serious mistake. Historically, one quarter of the individuals who have used section 127 went to graduate schools. Ask major employer about their training systems, and they will say nothing is more helpful than being able to send a promising young person, or middle management person, to a graduate school to learn a new field that has developed since that person had his education.

When we eliminate graduate level education from section 127, we impose a tax increase on many citizens who work and go to graduate school at the same time. But not all of them. Only the ones whose education does not directly relate to their current jobs. For these unlucky persons, we have erected a barrier to their upward mobility. Who are these people? The engineer seeking a masters degree in geology to enter the field of environmental science. The bank teller seeking an MBA in finance or an MPA in accounting. The production line worker seeking an MBA in management.

Simple equity among taxpayers demands that section 127 be made permanent. Contrast each of the above examples with the following: The environmental geologist seeking a masters in geology, the bank accountant seeking an MPA, and the management trainee seeking an MBA each qualify for tax-free education. There is no justification for this difference in tax treatment.

Thus, section 127 removes a tax bias against lesser-skilled workers. The tax bias arises because lesser-skilled workers have narrower job descriptions, and a correspondingly greater difficulty proving that educational expenses directly relate to their current jobs. Less-skilled workers are in greater need of remedial and basic education. And they are the ones least able to afford the imposition of tax on their educational benefits.

It is important to note that employer-provided educational assistance is not an extravagant benefit for highly paid executives. It largely benefits low- and moderate-income employees seeking access to higher education and further job training. A study published by the National Association of Independent Colleges and Universities in December, 1995 found that 85 percent of section 127 recipients in the 1992-93 academic year earned less than $50,000, with the average recipient earning less than $33,000. An earlier Coopers & Lybrand study indicated that over 70 percent of recipients of section 127 benefits in 1986 were earning less than $30,000, and that participation rates decline as salary levels increase.

I hope that Congress will recognize the importance of this provision, and enact it permanently. Our on-again, off-again approach to section 127 creates great practical difficulties for the intended beneficiaries. Workers cannot plan sensibly for their educational goals, not knowing the extent to which accepting educational assistance may reduce their take-home pay. As for employers, the fits and starts of the legislative history of section 127 have been a serious administrative nuisance: there have been 8 retroactive extensions of this provision since 1978. If section 127 is in force, then there is no need to withhold taxes on educational benefits provided; if not, the job-relatedness of the educational assistance must be ascertained, a value assigned, and withholding adjusted accordingly. Uncertainty about the program's continuance magnifies this burden, and discourages employers from providing educational benefits.

For example, section 127 expired for a time after 1994. During 1995, employers did not know whether to withhold taxes or curtail their educational assistance programs. Workers did not know whether they would face large tax bills, and possible penalties and interest, and thus faced considerable risk in planning for their education. Some of my constituents who called my office reported that they were taking fewer courses—or no courses—due to this uncertainty. And when we failed to extend the provision by the end of 1995, employers had to guess as to how to report their worker's incomes on the W-2 tax statements, and employees had to guess whether to pay tax on the benefits they received. In the Small Business Job Protection Act of 1996 enacted last August, we finally extended the provision retroactively to the beginning of 1995. As a result, we had to instruct the IRS to expeditiously issue guidance to employers and workers on how to obtain refunds.

The provision expires after June 30, 1997. Will we subject our constituents, once again, to similar confusion? The legislation I introduce today would restore certainty to section 127 by extending it retroactively—from July 1, 1996—for graduate level education, and maintaining it on a permanent basis for all education.

Thomas Jefferson, as ever, was right to observe that American liberty depends on an educated electorate. In 1816, the year in which the Senate Committee on Finance was founded, Jefferson warned "If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

Previous efforts to extend this provision have enjoyed broad and bipartisan support. Encouraging workers to further their education and to improve their job skills is an important national priority. It is crucial for preserving our competitive position in the global economy. Permitting employees to receive educational assistance on a tax-free basis, without incurring significant cuts in take-home pay, is a demonstrated, cost-effective means for achieving these objectives. This is a wonderful piece of unobtrusive social policy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Educational Assistance Act".

SEC. 2. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) PERMANENT EXTENSION.—Section 127 of the Internal Revenue Code of 1986 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) of such Code is amended by striking ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

(3) EXPEDITED PROCEDURES.—The Secretary of the Treasury shall establish expedited procedures for the refund of any overpayment of taxes imposed by the Internal Revenue Code of 1986 which is attributable to amounts excluded from gross income during 1996 or 1997 under section 127 of such Code, including procedures waiving the requirement that an employer obtain an employee's signature where the employer demonstrates to the satisfaction of the Secretary that any refund collected by the employer on behalf of the employee will be paid to the employee.

By Mr. INOUYE:

S. 128. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH CARE TRAINING ACT OF 1997

Mr. INOUYE. Mr. President, I rise today to introduce the Rural Preventive Health Care Training Act of 1997, a bill that responds to the dire situation our rural communities face in obtaining quality health care and disease prevention programs.

Almost one fourth of Americans live in rural areas and thus frequently lack access to adequate physical and mental health care. For example, approximately 1,700 rural communities in virtually every state of the union suffer critical shortages of health care providers. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. In areas where providers exist, there are numerous limits to access, such as geography and distance, lack of transportation, and lack of knowledge about available resources. Additionally, due to the diversity of rural populations, ranging from native Americans to migrant farm workers, language and cultural obstacles are often a factor.

Compound these problems with slim financial resources and many of America's rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected and often develop into full blown disorders.

An Institute of Medicine (IOM) report from their two-year study entitled, "Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research" highlights the benefits of preventive care for all health problems. Rural health care providers face a lack of training opportunities. Training in prevention is crucial in order to meet the demand for care in underserved areas.

Beyond the scope of simple prevention training, interdisciplinary preventive training in rural health is important because of a growing array of evidence that links mental disorders to physical ailments. For example, it has been estimated that from fifty to seventy percent of visits to physicians for medical symptoms are due in part or whole to psychosocial problems. By encouraging interdisciplinary training, rural communities can integrate the behavioral, biological, and psychological sciences to form the most effective preventive care possible.

The problems with quality, access, and understanding of health care in rural areas all suggest that promoting interdisciplinary training of psychologists, nurses, and social workers is essential. The need becomes clearer when considering that many of the behavior-related problems afflicting rural communities are amenable to proven risk reduction strategies that are best provided by trained mental health care professionals.

Interdisciplinary team prevention training will facilitate both health and mental health clinics sharing single service sites and routine consultation between groups. Social workers, psychologists, clinical psychiatric nurse specialists, and paraprofessionals play an important role in extending rural mental health services to those in need. Linkage of these services can provide better utilization of existing mental health care personnel, increase awareness and understanding of mental health services, and contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 1997, targeted specifically toward rural communities, would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors for a certain disorder and the implementation of specific preventive strategies to target groups with those risk factors. The IOM Committee aptly demonstrates that methods of risk reduction have proven highly successful in many health-related areas, such as cardiovascular disease, smoking reduction, and the numerous childhood diseases and conditions that are preventable by early prenatal care for pregnant women.

The cost of human suffering caused by poor health is immeasurable, but the huge financial burden placed on communities, families, and individuals is evident. By implementing preventive measures, the potential for savings in psychological and financial realms is enormous. This savings is the goal of the Rural Preventive Health Care Training Act of 1997.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Preventive Health Care Training Act of 1997".

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Section 778 of the Public Health Service Act (42 U.S.C. 294p) is amended—

(1) in subsection (b)(3)(C), by striking "this section" and inserting "subsection (a)";

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively;

(3) by inserting after subsection (d) the following new subsection:

"(e) PREVENTIVE HEALTH CARE TRAINING.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with paragraph (3), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this paragraph, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

"(2) LIMITATION.—To be eligible to receive training using assistance provided under paragraph (1), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

"(3) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this subsection shall be used—

"(A) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

"(B) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

"(C) to provide training in appropriate research and program evaluation skills in rural communities;

"(D) to create and implement innovative programs and curricula with a specific prevention component; and

"(E) for other purposes as the Secretary determines to be appropriate.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for each of fiscal years 1998 through 2000."; and

(4) in subsection (g) (as so redesignated), by inserting "except subsection (e)," after "section,".

By Mr. INOUYE:

S. 129. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

FORMER PRISONERS OF WAR LEGISLATION

Mr. INOUYE. Mr. President, today I am introducing legislation to enable those former prisoners of war who have been separated honorably from their respective services and who have been rated to have a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize that it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation's enemies, I do feel that this gesture is both meaningful and important to those concerned. It also serves as a reminder that our Nation has not forgotten their sacrifices.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

"§ 1064a. Use of commissary stores by certain disabled former prisoners of war

"(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in subsection (b) may use commissary and exchange stores.

"(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war who—

"(1) is separated from active duty in the armed forces under honorable conditions; and

"(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

"(c) DEFINITIONS.—In this section:

"(1) The term 'former prisoner of war' has the meaning given the term in section 101(32) of title 38.

"(2) The term 'service-connected' has the meaning given the term in section 101(16) of title 38.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1064 the following new item:

"1064a. Use of commissary stores by certain disabled former prisoners of war.".

By Mr. INOUYE:

S. 130. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

CHILD RESTRAINT SYSTEM AMENDMENTS ACT OF 1997

Mr. INOUYE. Mr. President, today I am introducing legislation to provide for a federal income tax credit for those families who purchase a child restraint system for their automobiles.

Accidents and injuries continue to cause almost half of the deaths of children between the ages of one and four, more than half of the deaths of children between five and fifteen, and continue to be the leading cause of death among children and young adults.

It is my understanding that although the Department of Transportation has made injury prevention among children a top priority, a significant number of parents either do not have adequate child restraint systems or do not have them properly installed.

It is imperative that we create this opportunity to provide America's parents with a financially accessible alternative to the insufficient level of child safety measures currently available for use in automobiles.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Congressional RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PURCHASE OF CHILD RESTRAINT SYSTEMS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by adding at the end the following:

"SEC. 25A. PURCHASE OF CHILD RESTRAINT SYSTEM.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the costs incurred by the taxpayer during such taxable year in purchasing a qualified child restraint system for any child of the taxpayer.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD RESTRAINT SYSTEM.—The term 'qualified child restraint system' means any child restraint system which meets the requirements of section 571.213 of title 49 of the Code of Federal Regulations.

"(2) CHILD.—The term 'child' has the meaning given the term in section 151(c)(3).".

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following:

"Sec. 25A. Purchase of child restraint system.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1996.

By Mr. MOYNIHAN (for himself, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 131. A bill to amend chapter 5 of title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

THE POVERTY DATA CORRECTION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Poverty Data Correction Act of 1997, a bill to require that any data relating to the incidence of poverty in subnational areas be corrected for the differences in the cost of living in those areas. This legislation, cosponsored by Senators LIEBERMAN and JEFFORDS, would correct a longstanding inequity and would provide us with more accurate information on the number of Americans living in poverty.

Mr. President, residents of New York and Connecticut earn more than do the residents of Mississippi or Alabama. But they also must spend more. The 1990 Census of Population and Housing, for instance, determined that homeowner costs with a mortgage averaged $1,096 per month in Connecticut, $894 in New York State—not city, $555 in Alabama, and $511 in Mississippi. The national average was $737.

Yet, we have a national poverty threshold adjusted only by family size and composition, not by where the family lives. A family of four just above the poverty threshold in New York City is demonstrably worse off than a family of four just below the threshold in, say, rural Arkansas. And yet the family in New York might be ineligible for aid, and will not count in the poverty population tallies used to allocate funds while the Arkansas family will receive aid, and will be counted.

An August 7, 1994 New York Times editorial endorsing a version of this bill introduced in the 104th Congress sums it up nicely:

> The cost of food, rent and other consumer goods can be twice as high in Manhattan as in Little Rock, Ark. Yet the income cutoff for poverty programs is the same in both places, $14,769 for a family of four. That produces the ridiculous and unfair result that a Manhattan family earning $15,000 does not qualify for Federal nutrition or education programs while an Arkansas family earning $14,500—the equivalent of $29,000 in Manhattan—does.
>
> * * * Federal poverty levels are supposed to identify families that cannot buy minimally decent food, clothes and shelter. To act as if living costs do not matter, or as if financially strapped states will pick up where Washington leaves off, amounts to a vicious attack on the poor who happen to live in high-cost states.

Professor Herman B. "Dutch" Leonard and Senior Research Associate Monica Friar of the Taubman Center for State and local government at Harvard have devised an index of poverty statistics that reflects the differences in the cost of living between States. If we look at the "Friar-Leonard State Cost-of-Living index," as it has come to be known, we find that New York has a cost-adjusted poverty rate of 20.4 percent, the fifth highest in the Nation. Florida has the 12th highest adjusted poverty rate; Arkansas drops from 14th to 24th. New York fifth; Arkansas 24th. Georgia as the 25th highest. It is no longer the case that the incidence of poverty is highest in the Mississippi Delta or Appalachia. The fifth highest poverty rate is in New York. We seem not to have grasped this.

In 1995, a National Academy of Sciences (NAS) panel of experts released a study on redefining poverty. Our poverty index dates back to the work of Social Security Administration economist Mollie Orshansky who, in the early 1960s, hit upon the idea of a nutritional standard, not unlike the "pennyloaf" of bread of the 18th century British poor laws. Our poverty standard would be three times the cost of the Department of Agriculture-defined minimally adequate "food basket." During consideration of the Family Support Act of 1988, I included a provision mandating the National Academy of Sciences to determine if our poverty measure is outdated and how it might be improved. The study, edited by Constance F. Citro and Robert T. Michael, is entitled Measuring Poverty: A New Approach. A Congressional Research Service review of the report states:

> The NAS panel * * * makes several recommendations which, if fully adopted, could dramatically alter the way poverty in the U.S. is measured, how federal funds are allotted to the States, and how eligibility for many Federal programs is determined. The recommended poverty measure would be based on more items in the family budget, would take major noncash benefits and taxes into account, and would be adjusted for regional differences in living costs.
>
> * * * Under the current measure the share of the poor population living in each region was: Northeast: 16.9 percent; Midwest: 21.7 percent; South: 40.0 percent; and West: 21.4 percent. Under the proposed new measure, the estimated share in each region would be: Northeast: 18.9 percent; Midwest: 20.0 percent; South 36.4 percent; and West: 24.5 percent.

Mr. President, our current poverty data are inaccurate. And these substandard data are used in allocation formulas used to distribute millions of Federal dollars each year. As a result, States with high costs of living—States like New York, Connecticut, Vermont, Hawaii, and California, just to name a few—are not getting their fair share of Federal dollars because differences in the cost of living are ignored. And the poor of these high cost States are penalized because they happen to live there. It is time to correct this inequity.

I ask unanimous consent that the New York Times editorial be inserted into the RECORD.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 7, 1994]

Poverty Is Unfairly Defined

The cost of food, rent and other consumer goods can be twice as high in Manhattan as in Little Rock, Ark. Yet the income cutoff for poverty programs is the same in both places, $14,764 for a family of four. That produces the ridiculous and unfair result that a Manhattan family earning $15,000 does not qualify for Federal nutrition or education programs while an Arkansas family earning $14,500—the equivalent of $29,000 in Manhattan—does.

The Federal definition of poverty is blind to the real costs paid by people struggling to purchase the necessities of life. That is why Senator Joseph Lieberman, Democrat of Connecticut, and Representative Dean Gallo, Republican of New Jersey, have proposed bills that would adjust poverty levels for state differences in the cost of living. That way poor families in Los Angeles and Philadelphia will get their fair share of the $20 billion or more that Congress spends on need-based programs. Senator Daniel Patrick Moynihan of New York, an expert on poverty, says that adjusting poverty levels for living costs will produce poverty rates in New York nearly as high as those in the Deep South.

The only argument against the bills is that high-income states like New York and California can afford to pay more to help their poor than can low-income states like Mississippi and South Carolina. But the poor in New York are not just the responsibility of taxpayers in New York; helping the poor is every American's duty, best carried out by Federal payments that take account of differences in the cost of living. Of course, wealthy states like New York will pay a disproportionate share of the taxes that support such payments.

The argument for letting rich states take care of "their" own poor fails for another reason: they will shirk. If state governments try to finance generous welfare, they trigger in-migration of the poor and out-migration of wealthy taxpayers. Therefore they underfinance welfare; over the past two decades, states welfare benefits have dwindled.

Federal poverty levels are supposed to identify families that cannot buy minimally decent food, clothes and shelter. To act as if living costs do not matter, or as if financially strapped states will pick up where Washington leaves off, amounts to a vicious attack on the poor who happen to live in high-cost states.

By Mr. MOYNIHAN:

S. 132. A bill to prohibit the use of certain ammunition, and for other purposes. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

S. 133. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handgun ammunition, to impose the special occupational tax and registration requirements on importers and manufacturers of handgun ammunition, and for other purposes; to the Committee on Finance.

LEGISLATION TO CONTROL DESTRUCTIVE AMMUNITION

Mr. MOYNIHAN. Mr. President, I introduce two measures to help fight the epidemic of bullet-related violence in America: the Real Cost of Destructive Ammunition Act and the Destructive Ammunition Prohibition Act of 1997. The purpose of these bills is to prevent from reaching the marketplace some of the most deadly rounds of ammunition ever produced.

Some of my colleagues may remember the Black Talon. It is a hollow-tipped bullet, singular among handgun ammunition in its capacity for destruction. Upon impact with human tissue, the bullet produces razor-sharp radial petals that produce a devastating wound. It is the very same bullet that a crazed gunman fired at unsuspecting passengers on a Long Island Railroad train in December 1993, Killing the husband of now Congresswoman CAROLYN MCCARTHY and injuring her son. That same month, it was also used in the shooting of Officer Jason E. White of the District of Columbia Metropolitan Police Department, just 15 blocks from the Capitol.

I first learned of the Black Talon in a letter I received from Dr. E.J. Gallagher, director of Emergency Medicine at Albert Einstein College of Medicine at the Municipal Hospital Trauma Center in the Bronx. Dr. Gallagher wrote that he has never seen a more lethal projectile. On November 3, 1993, I introduced a bill to tax the Black Talon at 10,000 percent. Nineteen days later, Olin Corp., the manufacturer of the

Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 103d Congress came to a close without the bill having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet, nor is there any existing impediment to the sale of similar rounds that might be produced by another manufacturer. So today I reintroduce the bill to tax the Black Talon as well as a bill to prohibit the sale of the Black Talon to the public. Both bills would apply to any bullet with the same physical characteristics as the Black Talon. These bullets have no place in the armory of criminals.

It has been estimated that the cost of hospital services for treating bullet-related injuries is $1 billion per year, with the total cost to the economy of such injuries approximately $14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, despite the fact that the national crime rate has decreased in recent months, the number of deaths and injuries caused by bullet wounds is still at an unconscionable level. It is time we took meaningful steps to put an end to the massacres that occur daily as a result of gunshots. How better a beginning than to go after the most insidious culprits of this violence? I urge my colleagues to support these measures and to prevent these bullets from appearing on the market.

By Mr. MOYNIHAN:

S. 134. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

THE HANDGUN AMMUNITION CONTROL ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today to introduce a measure to improve our information about the regulation and criminal use of ammunition and to prevent the irresponsible production of ammunition. This bill has three components. First, it would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms [BATF] on the disposition of ammunition, including the amount, caliber and type of ammunition imported or manufactured. Second, it would require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations on the efficacy of reducing crime by restricting access to ammunition. Finally, it would amend title 18 of the United States Code to raise the application fee for a license to manufacture certain calibers of ammunition.

While there are enough handguns in circulation to last well into the 22d century, there is perhaps only a 4-year supply of ammunition. But how much of what kind of ammunition? Where does it come from? Where does it go? There are currently no reporting requirements for manufacturers or importers of ammunition; earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual Uniform Crime Reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or quantity of ammunition used in crime. In short, our data base is woefully inadequate.

I supported the Brady law, which requires a waiting period before the purchase of a handgun, and the recent ban on semi-automatic weapons. But while the debate over gun control continues, I offer another alternative: Ammunition control. After all, as I have said before, guns do not kill people; bullets do.

Ammunition control is not a new idea. In 1982 Phil Caruso of the New York City Patrolmen's Benevolent Association asked me do something about armor-piercing bullets. Jacketed in tungsten or other materials, these rounds could penetrate four police flak jackets and five Los Angeles County telephone books. They are of no sporting value. I introduced legislation, the Law Enforcement Officers Protection Act, to ban the cop-killer bullets in the 97th, 98th, and 99th Congresses. It enjoyed the overwhelming support of law enforcement groups and, ultimately, tacit support from the National Rifle Association. It was finally signed into law by President Reagan on August 28, 1986.

The crime bill enacted in 1994 contained may amendment to broaden the 1986 ban to cover new thick steel-jacketed armor-piercing rounds.

Out cities are becoming more ware of the benefits to be gained from ammunition control. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the city of Los Angeles banned the sale of all ammunition 1 week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air. And in September 1994, the city of Chicago became the first in America to ban the sale of all handgun ammunition.

Such efforts are laudable. But they are isolated attempts to cure what is in truth a national disease. We need to do more, but to do so, we need information to guide policymaking. This bill would fulfill that need by requiring annual reports to BATF by manufacturers and importers and by directing a study by the National Academy of Sciences. We also need to encourage manufacturers of ammunition to be more responsible. By substantially increasing application fees for licenses to manufacturer .25 caliber, .32 caliber, and 9-mm ammunition, this bill would discourage the reckless production of unsafe ammunition or ammunition which causes excesses damage.

I urge my colleagues to support this measure.

By Mr. MOYNIHAN:

S. 135. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition and to increase taxes on certain bullets; to the Committee on Finance.

THE VIOLENT CRIME CONTROL ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that comprehensively seeks to control the epidemic proportions of violence in America. This legislation, the Violent Crime Control Act of 1997, combines most of the provisions of two of the other crime-related bills I am introducing today as well.

By including two different crime-related provisions, my bill attacks the crime epidemic on more than just one front. If we are truly serious about confronting our Nation's crime problem, we must learn more about the nature of the epidemic of bullet-related violence and ways to control it. To do this, we must require records to be keep on the disposition of ammunition.

In October 1992, the Senate Finance Committee received testimony that public health and safety experts have, independently, concluded that there is an epidemic of bullet-related violence. The figures are staggering.

In 1995, bullets were in the murders of 23,673 people in the United States. By focusing on bullets, and not guns, we recognize that much like nuclear waste, guns remain active for centuries. With minimum care, they do not deteriorate. However, bullets are consumed. Estimates suggest we have only a 4-years supply of them.

Not only am I proposing that we tax bullets used disproportionately in crimes, 9 millimeter, .25 and .32 caliber bullets, I also believe we must set up a Bullet Death and Injury Control Program within the Centers for Disease Control's National Center for Injury Prevention and Control. This Center will enhance our knowledge of the distribution and status of bullet-related death and injury and subsequently make recommendations about the extent and nature of bullet-related violence.

So that the Center would have substantive information to study and analyze, this bill also requires importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco, and Firearms [BATF] on the disposition of ammunition. Currently, importers and manufacturers of ammunition are not required to do so.

Clearly, it will take intense effort on all of our parts to reduce violent crime in America. We must confront this epidemic from several different range, recognizing that there is no simple solution.

By Mr. MOYNIHAN:

S. 136. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

VIOLENT CRIME REDUCTION ACT

S. 137. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

REAL COST OF HANDGUN AMMUNITION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I introduce two bills: the Violent Crime Reduction Act of 1997 and the Real Cost of Handgun Ammunition Act of 1997. Their purposes are to ban or heavily tax .25 caliber, .32 caliber, and 9 mm ammunition. These calibers of bullets are used disproportionately in crime. They are not sporting or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the fourth time in as many Congresses that I have introduced legislation to ban or tax these pernicious bullets. As the terrible gunshot death toll in the United States continues unabated, so too does the need for these bills, which, by keeping these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates their true cost to American society. Just look at the data:

In 1995, 13,673 people—68.2 percent of all people murdered—were murdered by gunshot. In addition, others lost their lives to bullets by shooting themselves, either purposefully or accidentally. And although no national statistics are kept on bullet-related injuries, studies suggest they occur two to five times more frequently than do deaths.

The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of death in battle faced by U.S. servicemen in the Vietnam war. For black males, the lifetime risk of death from homicide is 1 in 28, twice the risk of death in battle faced by Marines in Vietnam.

As noted by Susan Baker and her colleagues in the book "Epidemiology and Health Policy," edited by Sol Levine and Abraham Lilienfeld:

> There is a correlation between rates of private ownership of guns and gun-related death rates; guns cause two-thirds of family homicides; and small easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death.

Baker states that:

> * * * these facts of the epidemiology of firearm-related deaths and injuries have important implications. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened appears to be a major determinant of the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to gun control have evoked such strong sentiments that epidemiologic data are rarely employed to good advantage.

Strongly held views on both sides of the gun control issue have made the subject difficult for epidemiologists. I would suggest that a good deal of energy is wasted in this never-ending debate, for gun control as we know it misses the point. We ought to focus on the bullets and not the guns.

I would remind the Senate of our experience in controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences on human diseases—the first modern epidemiological study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. It wasn't until 1795 that the British Navy accepted his analysis and required limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I believe so.

In 1854 John Snow and William Farr collected data that clearly showed cholera was caused by contaminated drinking water. Snow removed the handle of the Broad Street pump in London to prevent people from drawing water from this contaminated water source and the disease stopped in that population. His observations led to a legislative mandate that all London water companies filter their water by 1857. Cholera epidemics subsided. Now treatment of sewage prevents cholera from entering our rivers and lakes, and the disinfection of drinking water makes water distribution systems uninhabitable for cholera vibrio, identified by Robert Koch as the causative agent 26 years after Snow's study.

In 1900, Walter Reed identified mosquitos as the carriers of yellow fever. Subsequent mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology success stories showed the world that epidemics require an interaction between three things: the host—the person who becomes sick or, in the case of bullets, the shooting victim); the agent—the cause of sickness, or the bullet); and the environment—the setting in which the sickness occurs or, in the case of bullets, violent behavior. Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach applies to the control of bullet-related injury and death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of this century it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1960 Presidential campaign, I drafted a statement on the subject which was released by Senator John F. Kennedy as part of a general response to enquiries from the American Automobile Association. Then Senator Kennedy stated:

> Traffic accidents constitute one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The new highways will do much to control the rise of the traffic toll, but by themselves they will not reduce it. A great deal more investigation and research is needed. Some of this has already begun in connection with the highway program. It should be extended until highway safety research takes its place as an equal of the many similar programs of health research which the federal government supports.

Experience in the 1950's and early 1960's prior to passage of the Motor Vehicle Safety Act, showed that traffic safety enforcement campaigns designed to change human behavior did not improve traffic safety. In fact, the death and injury toll mounted. I was Assistant Secretary of Labor in the mid-1960's when Congress was developing the Motor Vehicle Safety Act, and I was called to testify.

It was clear to me and others that motor vehicle injuries and deaths could not be limited by regulating driver behavior. Nonetheless, we had an epidemic on our hands and we needed to do something about it. My friend William Haddon, the first Administrator of the National Highway Traffic Safety Administration, recognized that automobile fatalities were caused not by the initial collision, when the automobile strikes some object, but by a second collision, in which energy from the first collision is transferred to the interior of the car, causing the driver and occupants to strike the steering wheel, dashboard, or other structures in the passenger compartment. The second collision is the agent of injury to the hosts—the car's occupants.

Efforts to make automobiles crashworthy follow examples used to control infectious disease epidemics. Reduce or eliminate the agent of injury. Seatbelts, padded dashboards, and airbags are all specifically designed to reduce, if not eliminate, injury caused by the agent of automobile injuries, energy transfer to the human body during the second collision. In fact, we've done nothing revolutionary. All of the technology used to date to make cars crashworthy, including airbags, was developed prior to 1970.

Experience shows the approach worked. Of course, it could have worked better, but it worked. Had we been able to totally eliminate the agent—the second collision—the cure would have been complete. Nonetheless, merely by focusing on simple, achievable remedies, we reduced the traffic death and injury epidemic by 30 percent. Motor vehicle deaths declined in absolute terms by 13 percent from 1980 to 1990, despite significant increases in the number of drivers, vehicles, and miles driven. Driver behavior is changing, too. National seatbelt usage is up dramatically, 60 percent now compared to 14 percent in 1984. These efforts have resulted in some 15,000 lives saved and 100,000 injuries avoided each year.

We can apply that experience to the epidemic of murder and injury from bullets. The environment in which these deaths and injuries occur is complex. Many factors likely contribute to the rise in bullet-related injury. Here is an important similarity with the situation we faced 25 years ago regarding automobile safety. We found we could not easily alter the behavior of millions of drivers, but we could—easily—change the behavior of three or four automobile manufacturers. Likewise, we simply cannot do much to change the environment—violent behavior—in which gun-related injury occurs, nor do we know how. We can, however, do something about the agent causing the injury: bullets. Ban them. At least the rounds used disproportionately to cause death and injury; that is, the .25 caliber, .32 caliber, and 9 millimeter bullets. These three rounds account for the ammunition used in about 13 percent of licensed guns in New York City, yet they are involved in one-third of all homicides. They are not, as I have said, useful for sport or hunting. They are used for violence. If we fail to confront the fact that these rounds are used disproportionately in crimes, innocent people will continue to die.

I have called on Congress during the past several sessions to ban or heavily tax these bullets. This would not be the first time that Congress has banned a particular round of ammunition. In 1986, it passed legislation written by the Senator from New York banning the so-called "cop-killer" bullet. This round, jacketed with tungsten alloys, steel, brass, or any number of other metals, had been demonstrated to penetrate no fewer than four police flak jackets and an additional five Los Angeles County phonebooks at one time. In 1982, the New York Police Benevolent Association came to me and asked me to do something about the ready availability of these bullets. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association, the measure passed the Congress and was signed by the President as Public Law 99-408 on August 28, 1986. In the 1994 crime bill, we enacted my amendment to broaden the ban to include new thick steel-jacketed armor-piercing rounds.

There are some 220 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some 2 billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventory.

In all cases, with the exception of pistol whipping, gun-related injuries are caused not by the gun, but by the agents involved in the second collision: the bullets. Eliminating the most dangerous rounds would not end the problem of handgun killings. But it would reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year and prevent up to 50,000 wounds.

Water treatment efforts to reduce typhoid fever in the United States took about 60 years. Slow sand filters were installed in certain cities in the 1880's, and water chlorination treatment began in the 1910's. The death rate from typhoid in Albany, NY, prior to 1889, when the municipal water supply was treated by sand filtration, was about 100 fatalities per 100,000 people each year. The rate dropped to about 25 typhoid deaths per year after 1889, and dropped again to about 10 typhoid deaths per year after 1915, when chlorination was introduced. By 1950, the death rate from typhoid fever had dropped to zero. It will likely take longer than 60 years to eliminate bullet-related death and injury, but we need to start with achievable measures to break the deadly interactions between people, bullets, and violent behavior.

The bills I introduce today would begin the process. They would begin to control the problem by banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds. The bills recognize the epidemic nature of the problem, building on findings contained in the June 10, 1992 issue of the Journal of the American Medical Association which was devoted entirely to the subject of violence, principally violence associated with firearms.

Mr. President, it is time to confront the epidemic of bullet-related violence. I urge my colleagues to support these bills.

By Mr. DASCHLE (for himself, Mr. HOLLINGS, Mr. KENNEDY, Ms. MIKULSKI, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. INOUYE, Mrs. MURRAY, Mr. JOHNSON, Mr. BRYAN, Mr. SARBANES, Mr. FORD, and Mr. LAUTENBERG):

S. 143. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer; to the Committee on Labor and Human Resources.

THE BREAST CANCER PATIENT PROTECTION ACT OF 1997

Mr. DASCHLE. Mr. President, today Senator HOLLINGS and I are introducing the Breast Cancer Patient Protection Act of 1997. I want to thank Senators KENNEDY, MILULSKI, MOSELEY-BRAUN, BOXER, FEINSTEIN, LEVIN, INOUYE, MURRAY, JOHNSON, BRYAN, SARBANES, FORD and LANDRIEU, for joining us as original cosponsors. We welcome the support of all of our colleagues, on both sides of the aisle, for this important legislation. Our bill is a companion to H.R. 135, which was introduced in the House of Representatives by Representatives DELAURO, DINGELL, and ROUKEMA on January 7, 1997.

I bring this bill to the Senate both to put an end to the relatively new practice of forcing women to have mastectomies on an outpatient basis and to begin a discussion on how to develop and maintain policies that protect patients and ensure continued access to affordable high quality medical care.

Every 3 minutes another woman is diagnosed with breast cancer. This year alone, more than 180,000 women will find out they have breast cancer. This disease strikes at the core of American families, taking our mothers, wives, sisters, and daughters on an often terrifying tour of our health care system.

The Breast Cancer Patient Protection Act seeks to make the journey less worrisome by requiring insurance companies to provide at least a minimum amount of inpatient hospital care for patients undergoing mastectomies or lymph node dissections for the treatment of breast cancer. The language is modeled after last year's carefully drafted and unanimously supported compromise agreement that established a similar policy to end the practice of drive-through deliveries.

The bill was designed in part to counter a consulting firm's recommendation to its insurance company clients that both mastectomies and lymph node dissections be performed on an outpatient basis. As a result, some surgeons have been forced to send patients home still groggy from anesthesia and with drainage tubes in place. Yet, with few exceptions, hospitalization following major breast cancer surgery is necessary not only to control pain and manage postoperative care, but also to provide a supportive environment for women who have undergone an undeniably traumatic and challenging surgery.

Under this targeted legislation, women would be guaranteed at least 48 hours of impatient care following a mastectomy, and a minimum of 24 hours following lymph node dissection for the treatment of breast cancer. patients and their physicians—not insurance companies—could jointly decide whether it is appropriate for the patient to leave the hospital earlier. These timeframes, which were designed in consultation with surgeons who specialize in this area, reflect the minimum amount of inpatient care thought to be necessary following these procedures. It is our hope that insurers would choose to make an investment in the future health of their enrollees by allowing coverage for as long as the provider determines to be medically appropriate to ensure a proper recovery.

I would also like to call to your attention Senator KENNEDY's forthcoming bill that will require insurance companies who cover mastectomies to also cover reconstruction surgery. Too often, women and their physicians are faced with having to justify to the insurance carrier the clear need for reconstruction surgery following amputation of a diseased breast. This is wrong. Women who have undergone difficult and disfiguring surgery for breast cancer should not have to undergo additional hardship while simply seeking to be made physically whole again. Senator KENNEDY'S bill, which I will cosponsor, will address this important issue.

While these bills respond to ill-conceived policies that we believe have dangerous implications for women with breast cancer, let them serve as reminders of our broken health care system. Addressing health insurance problems relating to quality of care and patient protection issues on a piecemeal basis may be our only way to accomplish meaningful reforms in this increasingly important area.

With one in eight women likely to develop breast cancer, it is increasingly likely that all of our families will be in some way affected by this devastating disease. Let us take this small step to ensure the experience is not aggravated by unnecessarily difficult encounters with the companies that have agreed under contract to stand by us not only in health but also in sickness.

This bill is strongly supported by the National Breast Cancer Coalition, the National Alliance of Breast Cancer Organizations, the American College of Surgeons, the American Society of Plastic and Reconstructive Surgeons, the Y-Me National Breast Cancer Organization, the American Cancer Society, Families USA, and the Women's Legal Defense Fund.

Together, I am hopeful that we can put critical health care decisions back in the hands of breast cancer patients and their physicians.

Mr. President, I ask that the full text of the Breast Cancer Patient Protection Act be inserted following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Breast Cancer Patient Protection Act of 1997".

SEC. 2. COVERAGE OF MINIMUM HOSPITAL STAY FOR CERTAIN BREAST CANCER TREATMENT.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by section 703(a) of Public Law 104–204, is amended by adding at the end the following new section:

"SEC. 2706. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

"(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING MASTECTOMY OR LYMPH NODE DISSECTION.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

"(A) except as provided in paragraph (2)—

"(i) restrict benefits for any hospital length of stay in connection with a mastectomy for the treatment of breast cancer to less than 48 hours, or

"(ii) restrict benefits for any hospital length of stay in connection with a lymph node dissection for the treatment of breast cancer to less than 24 hours, or

"(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

"(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the woman involved prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the woman.

"(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(c) RULES OF CONSTRUCTION.—

"(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 713(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

"(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(f) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

"(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

"(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

"(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

"(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).".

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)), as amended by section 604(b)(2) of Public Law 104–204, is amended by striking "section 2704" and inserting "sections 2704 and 2706".

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section 702(a) of Public Law 104–204, is amended by adding at the end the following new section:

"SEC. 713. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

"(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING MASTECTOMY OR LYMPH NODE DISSECTION.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

"(A) except as provided in paragraph (2)—

"(i) restrict benefits for any hospital length of stay in connection with a mastectomy for the treatment of breast cancer to less than 48 hours, or

"(ii) restrict benefits for any hospital length of stay in connection with a lymph node dissection for the treatment of breast cancer to less than 24 hours, or

"(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

"(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the woman involved prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the woman.

"(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(c) RULES OF CONSTRUCTION.—

"(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

"(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(f) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

"(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 731(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

"(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

"(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

"(2) CONSTRUCTION.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).".

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of such Act (29 U.S.C. 1191(c)), as amended by section 603(b)(1) of Public Law 104–204, is amended by striking "section 711" and inserting "sections 711 and 713".

(ii) Section 732(a) of such Act (29 U.S.C. 1191a(a)), as amended by section 603(b)(2) of Public Law 104–204, is amended by striking "section 711" and inserting "sections 711 and 713".

(iii) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Standards relating to benefits for certain breast cancer treatment.".

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act, as amended by section 605(a) of Public Law 104–204, is amended by inserting after section 2751 the following new section:

"SEC. 2752. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

"(a) IN GENERAL.—The provisions of section 2706 (other than subsection (d)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 713(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.

"(c) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

"(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

"(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

"(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

"(2) CONSTRUCTION.—Section 2762(a) shall not be construed as superseding a State law described in paragraph (1).".

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)), as added by section 605(b)(3)(B) of Public Law 104–204, is amended by striking "section 2751" and inserting "sections 2751 and 2752".

(c) EFFECTIVE DATES.—

(1) GROUP MARKET.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

(2) INDIVIDUAL MARKET.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join the list of cosponsors of the Breast Cancer Patient Protection Act of 1997. I think this act is vitally important to prevent health providers from cutting costs at the expense of women's health.

Breast cancer is the most common cancer among women. This year alone approximately 184,300 women will be diagnosed with breast cancer while another 44,300 women will die of the disease. Breast cancer is a disease that will affect one in every eight women. With statistics like these, it is possible that every family in America will feel the effects of this disease.

This act would ensure that health insurers which already provide for the treatment of breast cancer cover a minimum hospital stay of 48 hours for patients undergoing mastectomies and 24 hours for those undergoing lymph node removal if she and her doctor choose. I am cosponsoring this bill to ensure that breast cancer surgery is not relegated to routine outpatient surgery.

The average hospital stay of a breast cancer patient has dwindled from 4–6 to 2–3 days and currently some patients are sent home a few hours after their operation. Both the American College of Surgeons and the American Medical Association believe that most patients require hospital stays that are longer than the current trends. In addition, accepted practice has shown that breast cancer surgery patients require at least 48 hours in the hospital after a mastectomy and 24 hours' hospital stay after a lymph node removal.

The important aspect of this matter is that women are being sent home after breast cancer surgery before they are neither physically nor emotionally ready to be released from the hospital. The reason for sending these women home has nothing to do with medical standards of care and everything to do with the bottom line. I support the Breast Cancer Patient Protection Act because it will allow the decisions on how long to stay in the hospital to be determined by the patient and her doctor. If it is determined that the patient is not in need of a 48-hour stay, the doctor may release the patient from hospital care. The crucial distinction between this scenario and what is currently being practiced is that insurers will not be able to force someone out on a purely arbitrary basis. Decisions will be made based on the needs of the patient rather than the fiscal concerns of the insurer.

This legislation enjoys the support of the National Breast Cancer Coalition, the National Association of Breast Care Organizations, the Y-me National Breast Cancer Organization, the Families USA foundation, the Women's Legal Defense Fund, and the American Society of Plastic and Reconstructive Surgeons.

I have given careful consideration to the issues involved and believe that this act will ensure that American women receive the health care treatment and coverage that they are entitled to. I strongly encourage all of my colleagues to endorse this effort.

Mr. FORD. Mr. President, I rise in support of the Breast Cancer Protection Act introduced earlier today by my friend the Democratic Leader, Senator Tom DASCHLE. I am pleased to be an original cosponsor of this important legislation to provide women with breast cancer the best care and health coverage available.

I come here not as an authority on this subject, but as one of the many Americans who have been touched by this disease. My own daughter is a breast cancer survivor, as is a former staff member. Unfortunately, another member of my staff for 18 years, Martha Moloney, was not so lucky. After a long battle with breast cancer, she died in November 1995.

It is for these women, and the thousands of others affected by this disease, that I lend my support to this effort to ensure all women with breast cancer are treated with dignity and respect. Rather than being rushed out the door hours after a breast cancer surgery, women deserve to consult with their physician to determine the appropriate hospital stay. That is why I am supporting the Breast Cancer Protection Act to provide a minimum hospital stay of 48 hours for mastectomies and 24 hours for lymph node removals.

Over the past 10 years, the length of hospitalization for patients undergoing breast cancer surgery has decreased significantly. Today, hospitalization time for patients undergoing mastectomies has dwindled to a mere 2–3 days, down from 4–6 days, 10 years ago.

Under pressure to cut costs, surgeons have been instructed by managed care companies to perform lymph node dissections and even mastectomies as outpatient surgery. I have heard stories about companies that require patients to be sent home a few hours after their surgery, even though they may be in severe pain, groggy from anesthesia, and have surgical tubes still in place. Some companies have even denied women hospitalization on the day of their surgery. These situations place doctors in the difficult position of having to choose between delivering the quality care their patients deserve and a penalty for failing to follow an insurer's guidelines.

Mr. President, women with breast cancer suffer not only from physical pain but also emotional and psychological trauma. They should not have to worry whether their physician is struggling to comply with an arbitrary length of stay guideline or their own best health interests. The Breast Cancer Protection Act will help ease their anxiety by ensuring that crucial health decisions are left in the hands of doctors and patients, not accountants.

I am pleased to support this important effort to provide women with breast cancer the thorough health care coverage they deserve.

Mr. JOHNSON. Mr. President, I am proud and grateful to be here today as a co-sponsor of The Breast Cancer Patient Protection Act of 1997. I am proud because this bill is the right thing to do—it's a common sense measure that protects women undergoing breast cancer treatments. And I am grateful because, as the husband of a woman who has suffered from breast cancer, I know that every step makes a difference in preserving and protecting the quality of life for those afflicted with this disease.

As health care costs spiral out of control, more and more decisions are being made based on the bottom-line rather than on the needs of the patient. A twenty-four hour stay is not always long enough for a mother and newborn child. And a twenty-four hour stay is often not long enough for a woman who has undergone surgical treatment for breast cancer.

I know this not just from literature or fact sheets or discussions with health care professionals. I know that twenty-four hours isn't long enough for everyone because I helped my wife home from the hospital after her cancer surgery. With tubes running everywhere, we brought her into our home twenty-two hours after her surgery. Many families aren't equipped to give the care needed. And many women aren't well enough to give themselves the care needed. An additional twenty-four hours in the hospital can decrease the risk of infection, allow women to rest more comfortably, and ensure that any crucial health care decision is being made in the best possible environment.

My wife and I are not alone. Nearly one out of every eight women will develop breast cancer. Approximately, 185,000 women will be diagnosed with the disease this year. Sadly, more than 44,000 women will also die from this disease in the next 365 days. The numbers of those afflicted with this disease must decrease, but the options must increase.

These are our grandmothers, our mothers, our daughters, our sisters, our wives. They deserve the best that we can give.

This bill does not do it all, but, as we look for a cure and other innovative treatments, it is part of a package to ease the pain of this invasive disease. I will do all that I can to make sure this bill becomes law.

Mr. HOLLINGS. Mr. President, first I want to thank my colleague, Senator DASCHLE, for introducing this legislation in the Senate. Also, I must thank Congresswoman ROSA DELAURO for taking the lead in the House in protecting mastectomy patients from new Health Management Organization [HMO] payment guidelines. Today, one in eight American women develop breast cancer, and they and their families will thank her when the bipartisan members of this Congress act to ensure that medical decisions for mastectomy patients are made by the doctors and patients involved in the case, rather than by HMO's or insurers.

When I notified one constituent that I would help introduce legislation to guarantee women at least 48 hours of hospital coverage for mastectomies and 24 hours for lymph node removals, he asked "what have we come to when we need legislation like this?" What have we come to, indeed.

Most Senators are not doctors, but common sense dictates that mastectomy is not generally an outpatient procedure. Not only the pain, but also the need to tend drainage tubes and the psychological shock usually require at least two days of medical care and adjustment, and often more. Unfortunately, managed care payment rules have led to cases where women are forced out of the hospital on the same day as their mastectomies, before spending a night in the hospital.

These extreme cases are part of a nationwide reduction in hospital stays for women with breast cancer. Outpatient mastectomies have risen from less than two percent of mastectomies 5 years ago to nearly 8 percent now. Mastectomy patients overall now spend only half of the time in the hospital that they would have ten years ago—2–3 days rather than 4–6. Medical experts know that sometimes a shorter stay is appropriate or even requested by a patient who wants to get home and has access to adequate follow-up care. But we obviously need to take note of increased pressure to send women home early. Medical and personal considerations between the patient and attending physician, and not HMO financial rules, should be the determining factor.

I am still collecting data in my home State of South Carolina, which is among the States least affected so far by HMO's. With our more personalized medicine, we have not seen the same-day discharges without an overnight stay. But South Carolina has a relatively high number of mastectomies and it appears that many South Carolina women stay 21 hours, or 23 hours in the hospital after their surgery. Again, something is wrong when patients tell me that they felt like the stay was too short, the newfound pain was still there, and the medical practitioners speak in terms of 21 or 23 hours. Obviously, this is someone's attempt to call a procedure "outpatient" by not covering 24 hours in the hospital, and it represents a more subtle affect of insurance payment rules on medicine which this Congress should consider.

Mr. President, I will also join my colleagues, Senator D'AMATO and Senator SNOWE, in introducing slightly broader legislation. I am heartened that so many Senators of both parties are anxious to pass legislation in this area and I commend their bipartisanship. I invite all of my colleagues to join these efforts to make sure in this Congress that doctors and breast cancer patients, rather than insurers, determine the best length of stay in the hospital for each mastectomy case.

Mr. KENNEDY. Mr. President, I join Senator DASCHLE in introducing legislation to ban the abusive practice of drive-by" mastectomies. This legislation will respond to the concerns of women throughout the country who fear that, in dealing with the cruel disease of breast cancer, their health plan's bottom line will take precedence over their health needs. This legislation will require health insurers to provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer. The legislation allows outpatient surgery when the patient and the doctor decide that a hospital stay is not necessary, but it prohibits a health plan from forcing patients to go home on the same day that they have these major surgical procedures.

The Daschle bill is a companion to bipartisan legislation (H.R.135) introduced by Representative ROSA DELAURO in the House of Representatives. It will ban an abusive practice that even the health plans themselves have recognized should not be tolerated.

This legislation is of major importance to millions of women. Breast cancer is the most common solid tissue cancer among women. In 1996, approximately 184,000 new cases of invasive breast cancer were diagnosed. It is now the leading cause of death in women between the ages of 40 and 55.

This legislation is supported by the National Breast Cancer Coalition the National Association of Breast Care Organizations, the Y-me National Breast Cancer Organization, the Families USA Foundation, the Women's Legal Defense Fund, and the American Society of Plastic and Reconstructive Surgeons. It prohibits plans from requiring hospital stays shorter than 48 hours for patients after mastectomy and 24 hours after lymph node dissection.

Decisions about the need for hospital care after such surgery should be made by a woman and her doctor. The social, medical, geographic and health issues unique to each person must be considered in deciding the required amount of in-hospital care. In certain circumstances and with proper support, it may be possible for some women to undergo these procedures with a shorter hospital stay, or even on occasion as an outpatient. Each circumstance is unique.

This bill preserves every woman's ability to avail herself of needed services without fear of penalty or prejudice. It does not require a stay in the hospital for any fixed period of time. Rather, it guarantees that hospital care will be provided when it is needed.

Last year, Congress voted overwhelmingly to ban the practice of health plans forcing excessively short stays after delivery of a baby. This legislation is a further needed step to protect consumers against a particularly abusive practice, and I look forward to its early bipartisan approval by Congress.

By Mr. MOYNIHAN (for himself and Mr. KERREY):

S. 144. A bill to establish the Commission to Study the Federal Statistical System, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL STATISTICAL SYSTEM LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to reintroduce, along with Senator KERREY of Nebraska, legislation to establish a commission to study the Federal Statistical System.

Statistics are part of our constitutional arrangement, which provides for a decennial census that, among other purposes, is the basis for apportionment of membership in the House of Representatives. I quote from Article I, Section I:

> * * * enumeration shall be made within three Years after the first meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct.

But, while the Constitution directed that there be a census, there was, initially, no Census Bureau. The earliest censuses were conducted by U.S. marshals. Later on, statistical bureaus in State governments collected the data, with a Superintendent of the Census overseeing from Washington. It was not until 1902 that a permanent Bureau of the Census was created by the Congress, housed initially in the Interior Department. In 1903 the Bureau was transferred to the newly established Department of Commerce and Labor.

The Statistics of Income Division of the Internal Revenue Service, which was originally an independent body, began collecting data in 1866. It too was transferred to the new Department of Commerce and Labor in 1903, but then was put in the Treasury Department in 1913 following ratification of the 16th amendment, which gave Congress the power to impose an income tax.

A Bureau of Labor, created in 1884, was also initially in the Interior Department. The first Commissioner, appointed in 1885, was Colonel Carroll D. Wright, a distinguished Civil War veteran of the New Hampshire Volunteers.

A self-trained social scientist, Colonel Wright pioneered techniques for collecting and analyzing survey data on income, prices, and wages. He had previously served as chief of the Massachusetts Bureau of Statistics, a post he held for 15 years, and in that capacity had supervised the 1880 Federal census in Massachusetts.

In 1888, the Bureau of Labor became an independent agency. In 1903 it was once again made a Bureau, joining other statistical agencies in the Department of Commerce and Labor. When a new Department of Labor was formed in 1913, giving labor an independent voice—as labor was "removed" from the Department of Commerce and Labor—what we now know as the Bureau of Labor Statistics was transferred to it.

And so it went. Statistical agencies sprung up as needed. And they moved back and forth as new executive departments were formed. Today, some 89 different organizations in the Federal Government comprise parts of our national statistical infrastructure. Eleven of these organizations have as their primary function the generation of data. These 11 organizations are:

Agency	Department	Date Established
National Agricultural Statistical Service	Agriculture	1863
Statistics of Income Division, IRS	Treasury	1866
Economic Research Service	Agriculture	1867
National Center for Education Statistics	Education	1867
Bureau of Labor Statistics	Labor	1884
Bureau of the Census	Commerce	1902
Bureau of Economic Analysis	Commerce	1912
National Center for Health Statistics	Health and Human Services.	1912
Bureau of Justice Statistics	Justice	1968
Energy Information Administration	Energy	1974
Bureau of Transportation Statistics	Transportation	1991

NEED FOR LEGISLATION

President Kennedy once said:

> Democracy is a difficult kind of government. It requires the highest qualities of self-discipline, restraint, a willingness to make commitments and sacrifices for the general interest, and also it requires knowledge.

That knowledge often comes from accurate statistics. You cannot begin to solve a problem until you can measure it.

This legislation would require the new commission to conduct a comprehensive examination of our current statistical system and focus particularly on the agencies that produce data as their primary product—agencies such as the Bureau of Economic Analysis [BEA] and the Bureau of Labor Statistics [BLS].

In September 1996, prior to the first introduction of this bill, I received a letter from nine former chairmen of the Council of Economic Advisers [CEA] endorsing this legislation. Excluding the two most recent chairs, who were still serving in the Clinton administration, the signatories include virtually every living chair of the CEA. While acknowledging that the United States "possesses a first-class statistical system," these former chairmen remind us that "problems periodically arise under the current system of widely scattered responsibilities." They concludeas follows:

> Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise of showing the way to major improvements.

The letter is signed by: Michael J. Boskin, Martin Feldstein, Alan Greenspan, Paul W. McCracken, Raymond J. Saulnier, Charles L. Schultze, Beryl W. Sprinkel, Herbert Stein, and Murray Weidenbaum.

I ask unanimous consent that the full text of this letter be printed in the RECORD following my statement.

It happens that this Senator's association with the statistical system in the executive branch began over three decades ago. I was Assistant Secretary of Labor for Policy and Planning in the administration of President John F. Kennedy. This was a new position in which I was nominally responsible for, inter alia, the Bureau of Labor Statistics. I say nominally out of respect for the independence of that venerable institution, which as I noted earlier long predated the Department of Labor itself. The then-Commissioner of the BLS, Ewan Clague, could not have been more friendly and supportive. And so were the statisticians, who undertook to teach me to the extent I was teachable. They even shared professional confidences. And so it was that I came to have some familiarity with the field.

For example, we had just received a report on price indexes from a committee led by George J. Stigler, who later won a Nobel prize in economics.

The Committee stressed the importance of accurate and timely statistics, noting that:

> The periodic revision of price indexes, and the almost continuous alterations in details of their calculation, are essential if the indexes are to serve their primary function of measuring the average movements of prices.

And while the recently released Final Report of the Advisory Commission To Study The Consumer Index (The Boskin Commission) focused primarily on the extent to which changes in the CPI overstate inflation, the Boskin Commission also addressed issues related to the effectiveness of Federal statistical programs and recommended that:

> Congress should enact the legislation necessary for the Department of Commerce and Labor to share information in the interest of improving accuracy and timeliness of economic statistics and to reduce the resources consumed in their development and production.

Our Government officials are not oblivious to the growing need for reform. In fact, Under Secretary of Commerce for Economic Affairs Everett M. Ehrlich has been most forthcoming on this point. In a November 24, 1996 New York Times article, Under Secretary Ehrlich states:

> Our statistical system is failing to keep track with a rapidly changing economy. The data we provide give us a good picture of where we are in the business cycle but risk misrepresenting such long-term phenomena as inflation, productivity growth and the economy's changing composition.

To address this problem, Under Secretary Ehrlich has proposed a 3-year program to improve the Department of Commerce's measurement of statistics.

There is, of course, a long history of attempts to reform our Nation's statistical infrastructure. Between 1903 and 1990, 16 different committees, commissions, and study groups have convened to assess our statistical infrastructure, but in most cases little or no action has been taken on their recommendations. The result of this inaction has been an ever-expanding statistical system. It continues to grow in order to meet new data needs, but with little or no regard for the overall objectives of the system. Janet L. Norwood, former Commissioner of the BLS, writes in her book Organizing to Count:

> The U.S. system has neither the advantages that come from centralization nor the efficiency that comes from strong coordination in decentralization. As presently organized, therefore, the country's statistical system will be hard pressed to meet the demands of a technologically advanced, increasingly internationalized world in which the demand for objective data of high quality is steadily rising.

In this era of government downsizing and budget cutting it is unlikely that Congress will appropriate more funds for statistical agencies. It is clear that to preserve and improve the statistical system we must consider reforming it, yet we must not attempt to reform the system until we have heard from experts in the field. It is also clear there is a need for a comprehensive review of the Federal statistical infrastructure. For if the public loses confidence in our statistics, they are likely to lose confidence in our policies as well.

DESCRIPTION OF LEGISLATION

The legislation established the Commission to Study the Federal Statistical System. The Commission would consist of 13 members: 5 appointed by the President with no more than 3 from the same political party, 4 appointed by the President pro tempore of the Senate with no more than 2 from the same political party, and 4 appointed by the Speaker of the House with no more than 2 from the same political party. A chairman would be selected by the President from the appointed members. The members must have expertise in statistical policy with a background in disciplines such as actuarial science, demography, economics, finance, and management.

The Commission will conduct a comprehensive study of all matters relating to the Federal statistical infrastructure, including: and examination of multipurpose statistical agencies such as the Bureau of Labor Statistics [BLS]; a review and evaluation of the mission and organizational structure of statistical agencies, including activities that should be expanded or eliminated and the advantages and disadvantages of a centralized statistical agency; an examination of the methodology involved in producing data and the accuracy of the data itself; a review of interagency coordination and standardization of collection procedures; a review of information technology and an assessment of how data is disseminated to the public; an identification and examination of issues regarding individual privacy in the context of statistical data; a comparison of our system with the systems of other nations; and recommendations for a strategy to maintain a modern and efficient statistical infrastructure.

All of these objectives will be addressed in an interim report due no later than June 1, 1998, with a final report due January 15, 1999.

The Commission is expected to spend $10 million: $2.5 million in 1997, $5 million in 1998, and $2.5 million in 1999. The Commission will cease to exist 90 days after the final report is submitted.

This legislation is only a first step, but an essential one. The Commission will provide Congress with a blueprint for reform. It will be up to us to finally take action after nearly a century of inattention to this very important issue.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD immediately after my statement.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission to Study the Federal Statistical System Act of 1997".

SEC. 2. FINDINGS.

The Congress, recognizing the importance of statistical information in the development and administration of policies for the private and public sector, finds that—

(1) accurate Federal statistics are required to develop, implement, and evaluate government policies and laws;

(2) Federal spending consistent with legislative intent requires accurate and appropriate statistical information;

(3) business and individual economic decisions are influenced by Federal statistics and contracts are often based on such statistics;

(4) statistical information on the manufacturing and agricultural sectors is more complete than statistical information regarding the service sector which employs more than half the Nation's workforce;

(5) experts in the private and public sector have long-standing concerns about the accuracy and adequacy of numerous Federal statistics, including the Consumer Price Index, gross domestic product, trade data, wage data, and the poverty rate;

(6) Federal statistical data should be accurate, consistent, continuous, and be designed to best serve explicitly stated purposes;

(7) the Federal statistical infrastructure should be modernized to accommodate the increasingly complex and ever changing American economy;

(8) Federal statistical agencies should utilize all practical technologies to disseminate statistics to the public;

(9) the Federal statistical infrastructure should maintain the privacy of individuals; and

(10) the Federal statistical system should be designed to limit redundancy of activities while achieving the maximum practical level of knowledge, expertise, and data.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Study the Federal Statistical System (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 13 members of whom—

(A) 5 shall be appointed by the President;

(B) 4 shall be appointed by the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate; and

(C) 4 shall be appointed by the Speaker of the House of Representatives, in consultation with the Majority Leader and Minority Leader of the House of Representatives.

(2) POLITICAL PARTY LIMITATION.—(A) Of the 5 members of the Commission appointed under paragraph (1)(A), no more than 3 members may be members of the same political party.

(B) Of the 4 members of the Commission appointed under subparagraphs (B) and (C) of paragraph (1), respectively, no more than 2 members may be members of the same political party.

(3) CONSULTATION BEFORE APPOINTMENTS.—In making appointments under paragraph (1), the President, the President pro tempore of the Senate, and the Speaker of the House of Representatives shall consult with the National Academy of Sciences and appropriate professional organizations, such as the American Economic Association and the American Statistical Association.

(4) QUALIFICATIONS.—An individual appointed to serve on the Commission—

(A) shall have expertise in statistical policy and a background in such disciplines as actuarial science, demography, economics, finance, and management;

(B) may not be a Federal officer or employee; and

(C) should be an academician, a statistics user in the private sector, a corporate manager with experience related to information technology, or a former government official with experience related to—

(i) the Bureau of Labor Statistics of the Department of Labor; or

(ii) the Bureau of Economic Analysis or the Bureau of the Census of the Department of Commerce.

(5) DATE.—The appointments of the members of the Commission shall be made no later than 150 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN.—The President shall designate a Chairman of the Commission from among the members.

SEC. 4. FUNCTIONS OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a comprehensive study of all matters relating to the Federal statistical infrastructure, including longitudinal surveys conducted by private agencies and partially funded by the Federal Government, for the purpose of identifying opportunities to improve the quality of statistics in the United States.

(2) STUDY AND RECOMMENDATIONS.—The matters studied by and recommendations of the Commission shall include—

(A) an evaluation of the accuracy and appropriateness of key statistical indicators and recommendations on ways to improve such accuracy and appropriateness so that the indicators better serve the major purposes for which they were intended;

(B) an examination of multipurpose statistical agencies that collect and analyze data of broad interest across department and functional areas, such as the Bureau of Economic Analysis and the Bureau of the Census of the Commerce Department, and the Bureau of Labor Statistics of the Labor Department, for the purpose of understanding the interrelationship and flow of data among agencies;

(C) a review and evaluation of the collection of data for purposes of administering such programs as Old-Age, Survivors and Disability Insurance and Unemployment Insurance under the Social Security Act;

(D) a review and evaluation of the mission and organization of various statistical agencies, including—

(i) recommendations with respect to statistical activities that should be expanded or eliminated;

(ii) the order of priority such activities should be carried out;

(iii) a review of the advantages and disadvantages of a centralized statistical agency or a partial consolidation of the agencies for the Federal Government; and

(iv) an assessment of which agencies could be consolidated into such an agency;

(E) an examination of the methodology involved in producing official data and recommendations for technical changes to improve statistics;

(F) a review of interagency coordination of statistical data and recommendations of methods to standardize collection procedures and surveys, as appropriate, and presentation of data throughout the Federal system;

(G) a review of information technology and recommendations of appropriate methods for disseminating statistical data, with special emphasis on resources, such as the Internet, that allow the public to obtain and report information in a timely and cost-effective manner;

(H) an identification and examination of issues regarding individual privacy in the context of statistical data;

(I) a comparison of the United States statistical system to statistical systems of other nations for the purposes of identifying best practices and developing a system of maintaining best practices over time;

(J) a consideration of the coordination of statistical data with other nations and international agencies, such as the Organization for Economic Cooperation and Development; and

(K) a recommendation of a strategy for maintaining a modern and efficient Federal statistical infrastructure to produce meaningful information as the United States society and economy change.

(b) REPORT.—

(1) INTERIM REPORT.—No later than June 1, 1998, the Commission shall submit an interim report on the study conducted under subsection (a) to the President and to the Congress.

(2) FINAL REPORT.—No later than January 15, 1999, the Commission shall submit a final report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, and recommendations for such legislation and administrative actions as the Commission considers appropriate.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—Subject to paragraph (2), each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) CHAIRMAN.—The Chairman shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission. Such travel may include travel outside the United States.

(c) STAFF.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall, without regard to the provisions of title 5, United States Code, relating to the competitive service, appoint an executive director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code. The Commission shall appoint such additional personnel as the Commission determines to be necessary to provide support for the Commission, and may compensate such additional personnel without regard to the provisions of title 5, United States Code, relating to the competitive service.

(2) LIMITATION.—The total number of employees of the Commission (including the executive director) may not exceed 30.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits the final report of the Commission.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,500,000 for fiscal year 1997, $5,000,000 for fiscal year 1998, and $2,500,000 for fiscal year 1999 to the Commission to carry out the purposes of this Act.

SEPTEMBER 23, 1996.

Hon. DANIEL P. MOYNIHAN,
Hon. J. ROBERT KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATORS MOYNIHAN AND KERREY: All of us are former Chairmen of the Council of Economic Advisers. We write to support the basic objectives and approach of your Bill to establish the Commission to Study the Federal Statistical System.

The United States possesses a first-class statistical system. All of us have in the past relied heavily upon the availability of reasonably accurate and timely federal statistics on the national economy. Similarly, our professional training leads us to recognize how important a good system of statistical information is for the efficient operations of our complex private economy. But we are also painfully aware that important problems of bureaucratic organization and methodology need to be examined and dealt with if the federal statistical system is to continue to meet essential public and private needs.

All of us have particular reason to remember the problems which periodically arise under the current system of widely scattered responsibilities. Instead of reflecting a balance among the relative priorities of one statistical collection effort against others, statistical priorities are set in a system within which individual Cabinet Secretaries recommend budgetary tradeoffs between their own substantive programs and the statistical operations which their departments, sometimes by historical accident, are responsible for collecting. Moreover, long range planning of improvements in the federal statistical system to meet the changing nature and needs of the economy is hard to organize in the present framework. The Office of Management and Budget and the Council of Economic Advisers put a lot of effort into trying to coordinate the system, often with success, but often swimming upstream against the system.

We are also aware, as of course are you, of a number of longstanding substantive and methodological difficulties with which the current system is grappling. These include the increasing importance in the national economy of the service sector, whose output and productivity are especially hard to measure, and the pervasive effect both on measures of national output and income and on the federal budget of the accuracy (or inaccuracy) with which our measures of prices capture changes in the quality of the goods and services we buy.

Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise of showing the way to major improvements.

Sincerely,

Professor Michael J. Boskin, Stanford University; Dr. Martin Feldstein, National Bureau of Economic Research; Alan Greenspan; Professor Paul W. McCracken, University of Michigan; Raymond J. Saulnier; Charles L. Schultze, The Brookings Institution; Beryl W. Sprinkel; Herbert Stein, American Enterprise Institute; Professor Murray Weidenbaum, Center for the Study of American Business.

By Mr. MOYNIHAN:

S. 145. A bill to repeal the prohibition against government restrictions on communications between government agencies and the INS; to the Committee on the Judiciary.

GOVERNMENT AGENCIES LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to repeal section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and subsections (a) and (b) of section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 434 of the first act provides that:

> Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service (INS) information regarding the immigration status, lawful or unlawful, of an alien in the United States.

This provision, along with portions of section 642 of the aforementioned illegal immigration law, conflicts with an executive order, issued by the mayor of New York in 1985, prohibiting city employees from reporting suspected illegal aliens to the Immigration and Naturalization Service unless the alien has been charged with a crime. The executive order, which is similar to local laws in other States and cities, was intended to ensure that fear of deportation does not deter illegal aliens from seeking emergency medical attention, reporting crimes, and so forth.

On September 8, 1995, during Senate consideration of H.R. 4, the Work Opportunity Act of 1995, Senators

SANTORUM and NICKLES offered this provision as an amendment. The amendment was adopted by a vote of 91 to 6. The Senators who voted "no" were: AKAKA, CAMPBELL, INOUYE, MOSELEY-BRAUN, MOYNIHAN, and SIMON.

Four of these six—Senators AKAKA, MOSELEY-BRAUN, SIMON, and the Senator from New York—were also among the 11 Democrats who voted against H.R. 4 when it passed the Senate 11 days later on September 19, 1995. The provision remained in H.R. 3734, the welfare bill recently signed by President Clinton.

Mayor Rudolph W. Giuliani of New York City filed suit last year to challenge section 434 of the new welfare law and section 642 of the illegal immigration law in U.S. District Court and I introduced a similar bill at the time. The mayor's lawsuit deserves to succeed for the same reason this legislation deserves to pass: the provisions at issue are onerous and represent bad public policy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF THE PROHIBITION AGAINST GOVERNMENT RESTRICTIONS ON COMMUNICATIONS BETWEEN GOVERNMENT AGENCIES AND THE INS.

(a) WELFARE.—Section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2275) is repealed.

(b) IMMIGRATION.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208, 110 Stat 3009–1834) is amended—

(1) by striking subsections (a) and (b); and

(2) in subsection (c), by striking "(c) OBLIGATION TO RESPOND TO INQUIRIES.—".

By Mr. FRIST (for Mr. ROCKEFELLER (for himself and Mr. FRIST)):

S. 146. A bill to permit medicare beneficiaries to enroll with qualified provider-sponsored organizations under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

THE PROVIDER-SPONSORED ORGANIZATION ACT OF 1997

• Mr. ROCKEFELLER. Mr. President. I am extremely pleased to be introducing legislation with my colleague from Tennessee, Senator FRIST, that will give Medicare beneficiaries the opportunity to receive their health care services from a locally-based, provider-owned and operated, health care plan.

In my own State of West Virginia, the health care landscape is changing rapidly. Managed care is becoming more prominent, and, with it, a concern that profits are being put ahead of a patient's health care needs. My constituents want to be sure that their doctor is making his or her own medical decisions on patient care and treatment. They do not want to be told that their care is being directed by anonymous insurance officials in another State available only through a 1-800 phone number.

Under current law, Medicare beneficiaries have a choice of receiving their health care services under traditional Medicare fee-for-service or from a Health Maintenance Organization (HMO). Our legislation would allow seniors to choose another option and would make sure that patient care and treatment decisions remain in the hands of health care providers. This is accomplished by allowing provider-sponsored organizations [PSOs] to directly provide benefits to Medicare beneficiaries without the insurance middleman. Our bill would mean that insurance administrative and overhead costs would be reduced, freeing funds which are better spent on patient care costs.

Our legislation is necessary because insurance regulations in most States do not take into account the unique characteristics of a PSO. Only 4 States have adopted licensure requirements aimed at encouraging the development of provider sponsored organizations. Our bill carves out a time-limited Federal role of 4 years for direct federal Medicare certification as a qualified PSO. During those 4 years, a PSO could apply directly to the Medicare Program to be designated as a qualified PSO that would be paid on a capitated prospective basis and could serve Medicare beneficiaries. Beginning on January 1, 2002, State licensure would replace the Federal certification process as long as a State's standards for PSOs were sufficiently similar to Federal PSO standards. PSOs could continue to apply for a Federal waiver after the initial 4 years if a State failed to act on a PSO's application within a reasonable time period or if a State continued to apply unfair or unreasonable criteria for PSOs to enter the market.

Mr. President, our bill is actually quite similar to legislation enacted in the early 70s directed at promoting and fostering the growth of HMOs. According to a recent issue briefing prepared by the Congressional Research Service on the HMO debate in the 1970s, "state solvency requirements were seen as excessive and unappreciative of the unique resources available to a HMO . . . the outcome of the debate was the Health Maintenance Organization Act . . . which enabled HMOs meeting Federal requirements to be exempt from specific State laws." In many States, the State HMO requirements that evolved were designed to address issues presented by large, insurer-owned and operated HMOs, not smaller community-based provider organizations.

Our bill does not in any way weaken quality assurance or solvency standards for PSOs that choose to contract directly with the Medicare program. Our legislation is very specific on the solvency and quality standards that must be met in order for a PSO to be federally qualified. Overall, I believe, our standards are even more detailed and explicit than current Medicare law relating to quality and solvency for HMOs.

Our bill retains all of the consumer protections in current law that apply to health plans that serve Medicare beneficiaries. Beneficiaries would continue to be protected from incurring any financial liability if a health care plan became insolvent. In addition, rules on open enrollment and arranging for continuing Medigap coverage—without any pre-existing condition limitations—would apply as they do under current Medicare law. Our legislation would also require Medicare to contract with local agencies for ongoing monitoring of PSO performance and beneficiary access to services.

Specifically on solvency, our legislation builds on fiscal soundness and solvency standards that were developed by the National Association of Insurance Commissioners [NAIC]. Our bill slightly modifies the HMO Model Act to take into account how affiliation arrangements are structured within PSOs. It also recognizes a variety of alternative means, that many States already use, of meeting the solvency standards. In this way, our approach goes beyond earlier PSO legislative proposals which merely required the Secretary to develop specific solvency standards. I believe this approach will address concerns raised by some that complete secretarial discretion on fiscal soundness and solvency would somehow result in weakened solvency standards.

In 1972, a proxy measure for quality was enacted by Congress which required health plans to meet an arbitrary standard of plan enrollment. Under the so-called "50-50 rule," a health plan's Medicare and Medicaid enrolles cannot exceed 50 percent of its total enrollment. The underlying premise of the 50–50 rule is that if a plan has a significant enrollment of private or commercial enrolles its quality will be higher than a health plan strictly serving Medicaid or Medicare beneficiaries. This is an issue that is especially important in rural States like West Virginia. Many rural provider networks—which this bill seeks to encourage—would be unable to meet a 50–50 enrollment quota because a disproportionate share of the elderly reside in rural areas.

Also, since adoption of the 50–50 rule, there have been significant advances made in measuring and assuring quality care. While still far from perfect, I believe that we have gained sufficient knowledge to adopt an approach that relies on specific quality standards, rather than a rough proxy based on a plan's enrollment mix. Quality assurance will continue to be a work in progress, but our bill begins to lay the groundwork for explicitly setting and measuring the quality of health care received by Medicare beneficiaries. Under our bill, the 50-50 rule would be waived for any health plan that contracts with the Medicare Program if the plan meets the enhanced quality requirements in our bill and also has experience in providing managed or coordinated care. PSOs would go further by adhering to additional standards governing utilization review to reduce intrusions into the doctor patient relationship, as well as how physicians participate in PSO networks.

Mr. President, last year Congress debated a variety of ways to improve quality and to put an end to medical decision-making driven by a desire to earn hefty profits for a company's stockholders. Our bill gives health care providers the opportunity to get back in the driver's seat. In addition, by cutting out the insurance company middleman, more money could be spent on providing patient care instead of on processing claims and realizing profits.

I look forward to discussing this issue and pursuing the goal of this new bill later this year with my colleagues in the Finance Committee as we look at a variety of ways to improve and strengthen the Medicare program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) Short Title.—This Act may be cited as the "Provider-Sponsored Organization Act of 1997".

(b) References to Social Security Act.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2. QUALIFIED PROVIDER-SPONSORED ORGANIZATIONS AS MEDICARE HEALTH PLAN OPTION.

Section 1876(b) (42 U.S.C. 1395mm(b)) is amended to read as follows:

"(b)(1) For purposes of this section, the term 'eligible organization' means a public or private entity (which may be a health maintenance organization, a competitive medical plan, or a qualified provider-sponsored organization) that—

"(A) is organized and licensed under State law to offer prepaid health services or health benefits coverage in each State in which the entity seeks to enroll individuals who are entitled to benefits under this title; and

"(B) is described in paragraph (2), (3), or (4).

"(2) An entity is described in this paragraph if the entity is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act).

"(3)(A) An entity is described in this paragraph if the entity—

"(i) provides to enrolled members health care services that include at least—

"(I) physicians' services performed by physicians (as defined in section 1861(r)(1));

"(II) inpatient hospital services;

"(III) laboratory, X-ray, emergency, and preventive services; and

"(IV) out-of-area coverage;

"(ii) is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member;

"(iii) provides physicians' services primarily—

"(I) directly through physicians who are either employees or partners of such organization; or

"(II) through contracts with individual physicians or 1 or more groups of physicians (organized on a group practice or individual practice basis);

"(iv) except as provided in subsection (i), assumes full financial risk on a prospective basis for the provision of health care services listed in clause (i), except that such entity may—

"(I) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in clause (i), the aggregate value of which exceeds $5,000 in any year;

"(II) obtain insurance or make other arrangements for the cost of health care services listed in clause (i) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity;

"(III) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year; and

"(IV) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions; and

"(v) has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

"(B) Subparagraph (A)(i)(II) shall not apply to an entity that has contracted with a single State agency administering a State plan approved under title XIX for the provision of services (other than inpatient hospital services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970.

"(4) An entity is described in this paragraph if the entity is a qualified provider-sponsored organization (as defined in subsection (l)(1)(A)).".

SEC. 3. PARTIAL RISK ARRANGEMENTS.

Section 1876 (42 U.S.C. 1395mm) is amended—

(1) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(2) by inserting after subsection (h) the following:

"(i) The Secretary may enter into a partial risk contract with an eligible organization under which—

"(1) notwithstanding subsection (b)(3)(A)(iv), the organization and the program established under this title share the financial risk associated with the services the organization provides to individuals entitled to benefits under part A and enrolled under part B or enrolled under part B only;

"(2) notwithstanding subsections (a)(1) and (h)(2), payment is based on—

"(A) a blend of—

"(i) the payments that would otherwise be made to such organization under a risk-sharing contract under subsection (g); and

"(ii) the payments that would be made to such organization under a reasonable cost reimbursement contract under subsection (h); or

"(B) any other methodology agreed upon by the Secretary and the organization; and

"(3) adjustments, if appropriate, are made to payments to the organization under this section to reflect any risk assumed by such program.".

SEC. 4. STANDARDS AND REQUIREMENTS FOR QUALIFIED PROVIDER-SPONSORED ORGANIZATIONS.

Section 1876 (42 U.S.C. 1395mm), as amended by section 3 of this Act, is amended by adding at the end the following:

"(l)(1)(A) For purposes of this section, the term 'qualified provider-sponsored organization' means a provider-sponsored organization that—

"(i) provides a substantial proportion (as defined by the Secretary, in accordance with subparagraph (C) and the regulations established under section 1889) of the health care items and services under the contract under this section directly through the provider or through an affiliated group of providers that comprise the organization; and

"(ii) is certified under section 1890 as meeting the regulations established under section 1889, which, except as provided in the succeeding paragraphs of this subsection, shall be based on the requirements that apply to an organization described in subsection (b)(3) with a risk contract under subsection (g).

"(B) For purposes of this section, the term 'provider-sponsored organization' means a public or private entity that is a provider or a group of affiliated providers organized to deliver a spectrum of health care services (including basic hospital and physicians' services) under contract to purchasers of such services.

"(C) In defining a 'substantial proportion' for purposes of subparagraph (A)(i), the Secretary—

"(i) shall take into account the need for such an organization to assume responsibility for providing—

"(I) significantly more than the majority of the items and services under the contract under this section through its own affiliated providers; and

"(II) most of the remainder of the items and services under the contract through providers with which the organization has an agreement to provide such items and services,

in order to assure financial stability and to address the practical considerations involved in integrating the delivery of a wide range of service providers;

"(ii) shall take into account the need for such an organization to provide a limited proportion of the items and services under the contract through providers that are neither affiliated with nor have an agreement with the organization; and ''(iii) may allow for variation in the definition of substantial proportion among such organizations based on relevant differences among the organizations, such as their location in an urban or rural area.

''(D) For purposes of this paragraph, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

''(i) one provider, directly or indirectly, controls, is controlled by, or is under the control of the other;

''(ii) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations;

''(iii) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986; or

''(iv) both providers are part of an affiliated service group under section 414 of such Code.

''(E) For purposes of subparagraph (D), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

''(2)(A) Subject to subparagraph (B), subsection (b)(1)(A) (relating to State licensure) shall not apply to a qualified provider-sponsored organization.

''(B) Beginning on January 1, 2002, subsection (b)(1)(A) shall only apply (and subparagraph (A) of this paragraph shall no longer apply) to a qualified provider-sponsored organization in a State if—

''(i) the financial solvency and capital adequacy standards for licensure of the organization under the laws of the State are identical to the regulations established under section 1889; and

''(ii) the standards for licensure of the organization under the laws of the State (other than the standards referred to in clause (i)) are substantially equivalent to the standards established by regulations under section 1889.

''(C)(i) A provider-sponsored organization, to which subsection (b)(1)(A) applies by reason of subparagraph (B), that seeks to operate in a State under a full risk contract under subsection (g) or a partial risk contract under subsection (i) may apply for a waiver of the requirement of subsection (b)(1)(A) for that organization operating in that State.

''(ii) The Secretary shall act on such a waiver application within 60 days after the date it is filed and shall grant a waiver for an organization with respect to a State if the Secretary determines that—

''(I) the State did not act upon a licensure application within 90 days after the date it was filed; or

''(II)(aa) the State denied a licensure application; and

''(bb) the State's licensing standards or review process are determined by the Secretary to impose unreasonable barriers to market entry, including through the imposition of any requirements, procedures, or other standards on such organization that are not generally applicable to any other entities engaged in substantially similar activities.

''(iii) In the case of a waiver granted under this paragraph for an organization—

''(I) the waiver shall be effective for a 24-month period, except that it may be renewed based on a subsequent application filed during the last 6 months of such period;

''(II) if the State failed to meet the requirement of clause (ii)(I)—

''(aa) any application for a renewal may be made on the basis described in clause (ii)(I) only if the State does not act on a pending licensure application during the 24-month period specified in subclause (I);

''(bb) any application for renewal (other than one made on the basis described in clause (ii)(I)) may be made only on the basis described in clause (ii)(II); and

''(cc) the waiver shall cease to be effective on approval of the licensure application by the State during such 24-month period; and

''(III) any provisions of State law that relate to the licensing of the organization and prohibit the organization from providing coverage pursuant to a contract under this title shall be superseded during the period for which such waiver is effective.

''(D) Nothing in this paragraph shall be construed as—

''(i) limiting the number of times such a waiver may be renewed under subparagraph (C)(iii)(I); or

''(ii) affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

''(3) The requirement of subsection (b)(3)(A)(i) (relating to benefit package for commercial enrollees) shall not apply to a qualified provider-sponsored organization.

''(4) The requirement of subsection (b)(3)(A)(iii) (relating to delivery of physicians' services) shall apply to a qualified provider-sponsored organization, except that the Secretary shall by regulation specify alternative delivery models or arrangements that may be used by such organizations in lieu of the models or arrangements specified in such subsection.

''(5) The requirement of subsection (b)(3)(A)(iv) (relating to risk assumption) shall apply to a qualified provider-sponsored organization, except that any such organization with a full risk contract under subsection (g) may (with the approval of the Secretary) obtain insurance or make other arrangements for covering costs in excess of those permitted to be covered by such insurance and any arrangements under subsection (b)(3)(A)(iv)(III).

''(6)(A) A qualified provider-sponsored organization shall be treated as meeting the requirement of subsection (b)(3)(A)(v) (relating to adequate provision against risk of insolvency) if the organization is fiscally sound.

''(B) A qualified provider-sponsored organization shall be treated as fiscally sound for purposes of subparagraph (A) if the organization—

''(i) has a net worth that is not less than the required net worth (as defined in subparagraph (C)); and

''(ii) has established adequate claims reserves (as defined in subparagraph (D)).

''(C) For purposes of subparagraph (B)(i), the term 'required net worth' means—

''(i) in the case of an organization with a full risk contract under subsection (g), a net worth (determined in accordance with statutory accounting principles for insurance companies and health maintenance organizations), not less than the greatest of—

''(I) $1,500,000 at the time of application and $1,000,000 thereafter,

''(II) the sum of—

''(aa) 8 percent of the cost of health services that are not provided directly by the organization or its affiliated providers to enrollees; and

''(bb) 4 percent of the estimated annual costs of health services provided directly by the organization or its affiliated providers to enrollees; or

''(III) 3 months of uncovered expenditures; and

''(ii) in the case of an organization with a partial risk contract under subsection (i), an amount determined in accordance with clause (i), except that in applying subclause (II) of such clause, the Secretary shall substitute for the percentages specified in such subclause such lower percentages as are appropriate to reflect the risk-sharing arrangements under the contract.

''(D) For purposes of subparagraph (B)(ii), the term 'adequate claims reserves' means, with respect to an organization, reserves for claims that are—

''(i) incurred but not reported; or

''(ii) reported but unpaid,

that are determined in accordance with statutory accounting principles for insurance companies and health maintenance organizations and with professional standards of actuarial practice and are certified by an independent actuary as adequate in light of the operations and contracts of the organization.

''(E) In applying statutory accounting principles for purposes of determining the net worth of an organization under subparagraph (B)(i), the Secretary shall—

''(i) treat as 'admitted assets'—

''(I) land, buildings, and equipment of the organization used for the direct provision of health care services;

''(II) any receivables from governmental programs due for more than 90 days; and

''(III) any other assets designated by the Secretary; and

''(ii) recognize, as a contribution to surplus, amounts received under subordinated debt (meeting such requirements as the Secretary may specify).

''(F) The Secretary shall recognize ways of complying with the requirement of subparagraph (A) other than by means of subparagraph (B), including (alone or in combination)—

''(i) letters of credit from a bank;

''(ii) financial guarantees from financially strong parties including affiliates;

''(iii) unrestricted fund balances;

''(iv) diversity of lines of business and presence of nonrisk related revenue;

''(v) certification of fiscal soundness by an independent actuary;

''(vi) reinsurance ceded to, or stop loss insurance purchased through, a recognized commercial insurance company; and

''(vii) any other methods that the Secretary determines are acceptable for such purpose.

''(7)(A) A qualified provider-sponsored organization shall not be treated as meeting the requirements of subsection (c)(6) (relating to an ongoing quality assurance program) unless the quality assurance program of the organization meets the requirements of subparagraphs (B) and (C).

''(B) A quality assurance program meets the requirements of this subparagraph if the program—

''(i) stresses health outcomes;

''(ii) provides opportunities for input by physicians and other health care professionals;

''(iii) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

''(iv) evaluates the continuity and coordination of care that enrollees receive;

''(v) establishes mechanisms to detect both underutilization and overutilization of services;

''(vi) after identifying areas for improvement, establishes or alters practice parameters;

"(vii) takes action to improve quality and assess the effectiveness of such action through systematic followup;

"(viii) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate); and

"(ix) is evaluated on an ongoing basis as to its effectiveness.

"(C) If a qualified provider-sponsored organization utilizes case-by-case utilization review, the organization shall—

"(i) base such review on written protocols developed on the basis of current standards of medical practice; and

"(ii) implement a plan under which—

"(I) such review is coordinated with the quality assurance program of the organization; and

"(II) a transition is made from relying predominantly on case-by-case review to review focusing on patterns of care.

"(D) A qualified provider-sponsored organization shall be treated as meeting the requirements of subparagraphs (A) and (B) and the requirements of subsection (c)(6) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1889 to carry out this paragraph and subsection (c).".

SEC. 5. EXEMPTION FROM CERTAIN ENROLLMENT REQUIREMENTS FOR ELIGIBLE ORGANIZATIONS MEETING ENHANCED QUALITY ASSURANCE REQUIREMENTS.

(a) In General.—Section 1876 of the Social Security Act (42 U.S.C. 1395mm), as amended by section 4 of this Act, is amended by adding at the end the following:

"(m)(1) An eligible organization shall be deemed to meet the requirements of subsection (f) (relating to enrollment composition) if the organization demonstrates that it—

"(A) is capable of providing coordinated care in accordance with the quality assurance standards established under subsections (c)(6) and (l)(7)(B); and

"(B) has experience, under a past or present arrangement, providing coordinated care to individuals (other than individuals who are entitled to benefits under this title) who are enrollees, participants, or beneficiaries of a health plan or a State plan approved under title XIX.

"(2) An eligible organization shall be treated as meeting the quality assurance standards referred to in paragraph (1)(A) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the requirements of that subparagraph.

"(3) For purposes of paragraph (1), the term 'health plan' means—

"(A) any contract of insurance, including any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract, that is provided by a carrier; and

"(B) an employee welfare benefit plan insofar as the plan provides health benefits and is funded in a manner other than through the purchase of one or more policies or contracts described in subparagraph (A).

"(4) For purposes of paragraph (3), the term 'carrier' means a licensed insurance company, a hospital or medical service corporation (including an existing Blue Cross or Blue Shield organization), or any other entity licensed or certified by a State to provide health insurance or health benefits.".

(b) Size Requirement for Eligible Organizations.—Section 1876(g)(1) (42 U.S.C. 1395mm(g)(1)) is amended—

(1) by striking "5000" and inserting "1500"; and

(2) by striking "fewer" and inserting "500 or more".

(c) Conforming Amendment.—Section 1876(f)(1) (42 U.S.C. 1395mm(f)(1)) is amended by striking "Each eligible" and inserting "Except as provided in subsection (m), each eligible".

SEC. 6. ADJUSTED COMMUNITY RATE FOR A QUALIFIED PROVIDER-SPONSORED ORGANIZATION.

Section 1876(g) (42 U.S.C. 1395mm(g)) is amended by adding at the end the following:

"(7) In the case of a qualified provider-sponsored organization, the adjusted community rate under subsection (e)(3) and paragraph (2) may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.".

SEC. 7. PROCEDURES RELATING TO PARTICIPATION OF A PHYSICIAN IN A QUALIFIED PROVIDER-SPONSORED ORGANIZATION.

Section 1876 (42 U.S.C. 1395mm), as amended by section 5 of this Act, is amended by adding at the end the following:

"(n) A qualified provider-sponsored organization shall not be treated as meeting the requirements of this section unless the organization—

"(1) establishes reasonable procedures, as determined by the Secretary, relating to the participation (under an agreement between a physician or group of physicians and the organization) of physicians under contracts under this section, including procedures to provide—

"(A) notice of the rules regarding participation;

"(B) written notice of a participation decision that is adverse to a physician; and

"(C) a process within the organization for appealing an adverse decision, including the presentation of information and views of the physician regarding such decision; and

"(2) consults with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

Paragraph (1)(C) shall not be construed to require a live evidentiary hearing, a verbatim record, or representation of the appealing party by legal counsel.".

SEC. 8. ESTABLISHMENT OF REGULATIONS; CERTIFICATION PROCEDURES.

Part C of title XVIII (42 U.S.C. 1395x et seq.) is amended by inserting after section 1888 (42 U.S.C. 1395yy) the following:

"ESTABLISHMENT OF REGULATIONS FOR QUALIFIED PROVIDER-SPONSORED ORGANIZATIONS

"Sec. 1889. (a) Interim Regulations.—

"(1) In general.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to implement the requirements for qualified provider-sponsored organizations under section 1876). Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall remain in effect until the end of December 31, 2001.

"(2) Consultation.—In developing regulations under this subsection, the Secretary shall consult with the National Association of Insurance Commissioners, the American Academy of Actuaries, State health departments, associations representing provider-sponsored organizations, quality experts (including private accreditation organizations), and medicare beneficiaries.

"(3) Contracts with state agencies.—The Secretary shall enter into contracts with appropriate State agencies to monitor performance and beneficiary access to services provided under this title during the period in which interim regulations are in effect under this subsection.

"(b) Permanent Regulations.—

"(1) In general.—Not later than July 1, 2001, the Secretary shall issue permanent regulations to implement the requirements for qualified provider-sponsored organizations under section 1876.

"(2) Consultation.—In developing regulations under this subsection, the Secretary shall consult with the organizations and individuals listed in subsection (a)(2).

"(3) Effective date.—The permanent regulations developed under this subsection shall be effective on and after January 1, 2002.

"CERTIFICATION OF PROVIDER-SPONSORED ORGANIZATIONS

"Sec. 1890. (a) In General.—

"(1) Process for certification.—The Secretary shall establish a process for the certification of provider-sponsored organizations as qualified provider-sponsored organizations under section 1876. Such process shall provide that an application for certification shall be approved or denied not later than 90 days after receipt of a complete application.

"(2) Fees.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to pay the costs to the Secretary resulting from the certification process.

"(b) Decertification.—If a qualified provider-sponsored organization is decertified under this section, the organization shall notify each enrollee with the organization under section 1876 of such decertification.".

SEC. 9. DEMONSTRATION OF COORDINATED ACUTE AND LONG-TERM CARE BENEFITS; QUALIFIED PROVIDER-SPONSORED ORGANIZATIONS UNDER MEDICAID PROGRAMS.

(a) Demonstration of Coordinated Acute and Long-Term Care Benefits.—The Secretary of Health and Human Services shall provide, in not less than 10 States, for demonstration projects that permit State medicaid programs under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to be treated as eligible organizations under section 1876 of that Act (42 U.S.C. 1395mm) for the purpose of demonstrating the delivery of primary, acute, and long-term care through an integrated delivery network that emphasizes noninstitutional care to individuals who are—

(1) eligible to enroll with an organization under such section; and

(2) eligible to receive medical assistance under a State program approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) Provider-Sponsored Organizations Under Medicaid Programs.—Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)) is amended, in the matter preceding clause (i), by inserting "(which may be a provider-sponsored organization, as defined in section 1876(l)(1)(B))" after "public or private organization".

(c) Conforming Amendments.—

(1) Section 1866(a)(1)(O) is amended by striking "1876(i)(2)(A)" and inserting "1876(j)(2)(A)".

(2) Section 1877(e)(3)(B)(i)(II) is amended by striking "1876(i)(8)(A)(ii)" and inserting "1876(j)(8)(A)(ii)".

SEC. 10. REPORT ON MEDICARE CONTRACTS INVOLVING PARTIAL RISK.

(a) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(b) CONTENTS OF REPORT.—The report described in subsection (a) shall include—

(1) the number and type of partial-risk contracts entered into by the Secretary under section 1876(i) of the Social Security Act (42 U.S.C. 1395mm(i));

(2) the type of eligible organizations operating such contracts;

(3) the impact such contracts have had on increasing beneficiary access and choice under the medicare program under title XVIII of that Act (42 U.S.C. 1395 et seq.); and

(4) a recommendation as to whether the Secretary should continue to enter into partial-risk contracts under section 1876(i) of that Act (42 U.S.C. 1395mm(i)).

SEC. 11. EFFECTIVE DATES; INTERIM FINAL REGULATIONS.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(2) ELIGIBLE ORGANIZATION AMENDMENTS.—The amendments made by sections 2 through 8 shall take effect on the date of enactment of this Act and shall apply to contract years beginning on or after January 1, 1998.

(b) USE OF INTERIM FINAL REGULATIONS.—In order to carry out the amendments made by this Act in a timely manner for eligible organizations under section 1876 of the Social Security Act (42 U.S.C. 1395mm), excluding organizations described in subsection (b)(4) of that section, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and opportunity for public comment.●

Mr. FRIST. Mr. President, earlier today the President of the United States announced that in his budget, which will be released on February 6, that he would aim to achieve approximately $138 billion in savings in the Medicare program. He described this as a first gesture, which I think should be applauded because the President clearly recognized the importance of saving Medicare and strengthening it for future generations.

The real issue is what policy lies behind that number of $138 billion in savings. And to make it a legitimate first step, a first step that really does start the debate in Medicare, we need to make sure that there is policy which does things like expand choice for senior citizens, give them the same options that most other people today have. The structural reform I think should include looking at some of the payment methodology, another element that relates to this choice in the structural reform. We have to accomplish this structural reform if we are going to truly strengthen the Medicare program and not just play with numbers.

Again, we will be looking at a lot of numbers over the next several weeks. I, as a physician, will keep coming back to the importance of having true structural reform built into the program, both part A and part B, in the overall Medicare program so that we truly will strengthen the system and make sure it is there for not only the 38 million Americans today, senior citizens and individuals with disabilities, but is there 5 years from now, 10 years from now, 15, 20 years from now on into the future.

I say all that to reface my reason for rising today, and that is to introduce a bill, the Provider Sponsored Organization Act of 1997, to be introduced along with my distinguished colleague from West Virginia, Mr. ROCKEFELLER. This bill, I believe, offers one of those very important structural components which does expand choice for our senior citizens, which when injected into the Medicare system today will do something very important, and that is inject quality into the considerations of options and choices among Medicare recipients. I will explain this shortly.

Provider sponsored organizations, or PSOs, are integrated health care delivery systems that are sponsored by local health care providers, physicians in hospitals at the local level. Their purpose is to deliver a full spectrum of health services. Very specifically, this bill .establishes the Federal solvency requirements, the licensing requirements and those quality standards that PSOs, provider sponsored organizations, must meet in order to come to the table and participate in the Medicare Program.

It was more than 20 years ago that Congress really stepped up to the plate and, I think, quite innovatively provided Federal guidance for the entry of a brand-new phenomenon, and that was of HMOs, health maintenance organizations. HMOs were established with the primary purpose of coordinating health care delivery in such a way that there could be competition and in some way control those skyrocketing costs that previously had been associated with the fee-for-service programs. What it did, it allowed a combining of the financing delivery system to the health care delivery system.

Today Senator ROCKEFELLER and I are proposing to level the playing field once again with our bill to allow PSOs, for the first time, to have access to the Medicare market. Our bill sets the national rules by which these locally-based networks of providers may compete head to head with the traditional managed care organizations. All of that is done with the hope that the providers, the physicians, the hospitals, the frontline people who are taking care of patients, will be able to more actively participate in coordinating the overall health care for Medicare beneficiaries. We trust that free and fair competition will give Medicare beneficiaries more choices and ultimately improve the cost, and as I will discuss shortly, the quality of the services they receive.

All of us know that today's health care market in its broadest sense is in the midst of dynamic change. The cost of care does continue to rise rapidly. There are a growing number of Americans all across this country who are shifting from a traditional fee-for-service model to a managed-care model. Today's paper, the Washington Post, released new figures that show that 75 percent, three-quarters of all working Americans today, receive their health insurance benefits through some type of managed care. Unfortunately, I think, in many ways, the accompanying perception with this shift of managed care, although it is not always fair, has been that managed care companies focus almost entirely on cutting costs, and then only after costs are cut is the quality issue discussed.

In addition, physicians who have to clear practice decisions through managed care organizations, and I can recall before coming to the U.S. Senate 3 years ago picking up the telephone and calling a bureaucrat or someone sitting 200, 300 and 400 miles away, to ask if I could discharge my patient, or if my patient met criteria for discharge, whether the hematic or blood count was appropriate, this intrusion is really resented by physicians, that health care delivery which really is in this country a pact, a relationship between a doctor and a patient.

The mother-may-I mentality that has emerged has frustrated both parties and providers and led them to question who is in charge. Is it the physician, working with the patient, taking care, who knows that patient, who has been trained to take care of that patient, or is it a bureaucrat or somebody hundreds of miles away?

On the other side of the coin, it is very clear that managed care has been very successful in forcing an out-of-date delivery system to be more accountable. This has had very important benefits for patients. That leads me to think of how outcomes, data and results are studied very carefully by most managed care organizations, driving us into the whole realm of quality assessment. That has been a huge contribution of managed care, as well as HMOs. Much of that would not have occurred without HMOs or managed care.

Amidst all this change is a great deal of uncertainty. We have senior citizens who are scared to death to change anything, and that was reinforced in the recent campaigns where huge advertising campaigns were put on television, "Don't change anything."

Today, purchasers, consumers and providers are really forcing attention back to that issue of quality. As a physician, I find that very encouraging.

People will still tell you today though, as you travel across Tennessee or our respective States, that their fear of managed care stems a great deal from the fact that they feel their physician is no longer in charge of their case, that somebody who is watching just the dollars and cents or some bureaucrat is now in charge of their care.

Now, this has generated, and it really starts at a grassroots level, has generated a lot of proposals in the last several months, both at the State level and at the Federal level. That includes the ban on the gag rule clauses and various length-of-stay proposals after various procedures that are done in the hospital.

America's largest health care payer today is the Federal Medicare Program. It has had difficulty, interestingly enough, in attracting seniors to managed care. The figure that I just mentioned, three-quarters of all people today being in managed care, contrasts with those senior citizens, all of whom are in Medicare. Only 11 percent, only 11 percent compared to 75 percent of Medicare beneficiaries are signed up to participate. It is very clear that our senior citizens have a great fear today of being herded into the traditional managed care plans where they have a fear they will not include the physician they choose or the hospital that they might choose.

The outmoded blank check mentality, on the other hand, of fee-for-service system is not sustainable over time. It can be one of the choices, but it cannot be and will not be the only choice. Given that Medicare's own trustees have reported that the program is going to be bankrupt in 4 to 5 years, Medicare clearly has to find a way to have its growth slowed.

Medicare beneficiaries who fear managed care may well feel much more secure knowing that they have the choice of a health care plan that is actually run by providers—doctors working with hospitals, and not just a business, not just a traditional insurance company.

PSOs will help push the market to elevate the level of quality at all levels of plans of negotiation and delivery because of the direct involvement of physicians with hospitals, of the people who are actually delivering that care in every step of the process. Quality, all of a sudden, becomes the primary goal. Once at the negotiating table, you bring physicians into the room.

Many see all of this as an "us-versus-them scenario." In fact, neither group acts alone when funds are limited, whether care is paid for by a Government program, an employer, an insurer, an individual. Medicare providers and plan administrators simply must work together to increase the value of health care dollars.

Before coming to the U.S. Senate, as one who used to negotiate, as a transplant surgeon and running a large transplant center I negotiated with managed care plans. Based on that negotiation, all too often quality was not the issue, really, at the table. People would come in and say, "I need a discount of 10 percent, of 15 percent or 20 percent." What was missing at that table was someone—a group of providers, physicians with hospitals, working together—who would ask those questions about quality. Why do they ask the questions about quality? Because they are on the frontline. At the table we will bring physicians who are delivering that care to individuals.

That to me is one of the most exciting things about this bill. It injects quality back into the marketplace. Is there any evidence today that senior citizens will respond to this alternative? This year the Health Care Financing Administration established the demonstration project called Medicare Choices.

This pilot project is examining ways of expanding the choice of health care plan options available to Medicare beneficiaries. Included in this demonstration are a number of PSO's. Senator MACK recently shared with me his experience in Florida with this new demonstration project during its first 3 weeks of enrollment. A participating PSO in Orlando received 5,500 phone calls from interested beneficiaries in the first 5 days. They have already processed enrollment for 400 Medicare beneficiaries. They started out holding 13 informational seminars each week and had 600 attendees. They are now conducting 15 seminars a week with 700 attendees. In addition, the PSO staffs have been making home visits to those beneficiaries who are unable to come to the seminars, and as a result of those home visits, they are enrolling seven to nine individuals a day. The Orlando PSO has already enrolled another 400 beneficiaries just for February. So, yes, I think our senior citizens will respond to this new option, this new option that expands choice, when we bring physicians and hospitals through a PSO entity to the table.

Clearly, we can make managed care options more attractive to America's seniors by allowing PSO's to participate in the Medicare program. What are the other advantages that provider-sponsored organizations offer? These groups offer many advantages.

First, "one-stop shopping" for a coordinated package of health care services really saves time and the expense of negotiating with individual provider contracts.

Second, because it is the providers who are coordinating care, clinical decisions and utilization reviews are conducted by the providers themselves and not by a faceless third party charged with conducting these reviews.

Third, incentives to control costs are borne by the only group that can truly deliver systematic quality improvement and cost efficiency over the long run. Why? Because it is the providers who are monitoring that quality. It is the physicians and hospitals who are actually providing that care and, thus, they are in a position to best monitor that quality.

Finally, PSO's simply tend to have much lower startup and administrative costs, making it easier for them to enter the market in those key areas that we need to look at, and that is the rural areas. These rural areas have a real risk of being underserved without this new entity, a PSO.

What are the advantages of the PSO's—provider-sponsored organizations—for the country as a whole? The managed care industry has been able to change our paradigms about health care tremendously over the last 10 years. Health care is becoming less costly and more efficient. But now we have to come back to quality and inject quality back into the system and the effectiveness of that health care delivery. By bringing providers, the people delivering that care every day, to the table for the first time in Medicare, PSO's will create that opportunity.

The PSO's are really in the health care business day in and day out. Remember, it is a group of physicians who, every day, are taking care of patients who we are bringing to the table for the first time. PSO's are in the health care business, not in the insurance business, and they are currently excluded from fair participation in the market by a system ill-suited to their needs. Let me give a couple of examples.

Providers navigating the complex State licensure process for the first time are really at a significant disadvantage compared to the very large insurance companies and the large managed care plans. In a competitive marketplace, the timing of entry is critical.

Even though PSO's do not take on the same level of insurance risk as other players, PSO's are now required to submit the same State-defined solvency tests and net worth requirements as HMO's. Since the law now only allows Medicare to contract with organizations that are licensed by the States as HMO's, many PSO's are forced to perform administrative contortions in order to serve Medicare patients—contortions that make them look like insurance companies, even though, in reality, they are not.

How does the Provider Sponsored Organization Act develop solutions to the problem?

First, it recognizes the potential for PSO's to serve beneficiaries by enabling them to contract directly with

Medicare, thus expanding the range of choices available to each Medicare beneficiary.

Second, it will provide Federal leadership to the States in fashioning a more nationally consistent, streamlined PSO approval process.

However, with access must come accountability. This bill will also require PSO's to meet strict standards that ensure that they are able to take on the financial risks associated with delivering health care services for a set fee, but these are tailored to their primary role as providers, as physicians and hospitals; it will require collective accountability, where quality and cost are both measured by overall practice patterns across the entire PSO, not by case-by-case utilization review; finally, it will set a standard for quality assurance, a standard that will set the pace for the rest of the industry.

This legislation—I need to be very clear about this—does not, in any way, eclipse other health care plans. Rather, it complements, adds to the existing menu of health care services. Qualified provider-sponsored organizations will challenge all health care organizations participating with Medicare to meet the goal of an integrated health system, a system which truly provides an environment with lower costs, better care, higher quality, and preserved relationships between caregivers and their patients.

Mr. President, I send the bill to the desk and ask that it be referred to the appropriate committee.

The PRESIDING OFFICER. The bill will be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask unanimous consent that a letter of endorsement from a wide variety of hospital associations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 21, 1997.

Hon. BILL FRIST,
U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: We endorse enthusiastically "The Provider Sponsored Organization Act of 1997" which you are introducing in the Senate today. This legislation provides an important new health care choice for Medicare beneficiaries, the Provider Sponsored Organization (PSO) option.

Medicare beneficiaries deserve a greater variety of high quality health care options from which they can choose—and PSOs provide an outstanding additional choice for them. Medicare PSOs will hold down health care costs by directly managing both the use of services and the cost of providing those services. These PSOs will offer affordable, high-quality and coordinated care and be sponsored by organizations that are concerned about the health of the entire community. Because the PSO is focused on the Community, its medical management policies are locally focused rather than nationally driven. And, in a PSO plan, a consumer is more likely to maintain stable relationships with his or her personal physician and community hospital, whereas other health plans may change their rosters of participating providers from year to year.

Your legislation recognizes that Medicare PSOs will not be in the insurance business, but will focus on what has been their primary business for years, the delivery of high quality care. The bill requires, however, high solvency standards for those participating in the program and organizational arrangements that assure the plans are integrated, fully operational, and responsive to the needs of the Medicare beneficiaries that they will serve. Also, Medicare PSOs will reduce administrative expenses in comparison to many of the options offered to Medicare beneficiaries today by streamlining the organization of administrative functions between the provider and the Medicare program.

In short, Medicare beneficiaries need and deserve additional health care choices built from the base of their local community of hospitals and doctors. And they should be assured the uniformity of plan standards that only federal regulation can bring.

We look forward to working with you to seek enactment of this important legislation in the first session of the 105th Congress.

Sincerely,

American Hospital Association; Association of American Medical Colleges; Catholic Health Association; Federation of American Health Systems; InterHealth; National Association of Childrens' Hospitals; National Association of Public Hospitals; Premier, Inc.; Voluntary Hospitals of America.

By Mr. DASCHLE (for himself, Mr. CHAFEE, Mr. KENNEDY, Mr. JOHNSON, and Mr. REID):

S. 147. A bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid program, and for other purposes; to the Committee on Finance.

THE MEDICAID SUBSTANCE ABUSE TREATMENT ACT

By Mr. DASCHLE (for himself, Mr. CHAFEE, Mr. BINGAMAN, Mr. INOUYE, Mrs. MURRAY, Mr. JOHNSON, Mr. CAMPBELL and Mr. REID):

S. 148. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome; to the Committee on Labor and Human Resources.

THE COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION ACT

Mr. DASCHLE. Mr. President, today I am introducing two bipartisan bills to help prevent the tragic occurrence of alcohol-related birth defects, including both fetal alcohol syndrome [FAS] and fetal alcohol effects [FAE]. I speak on behalf of all cosponsors when I say we are hopeful we can move these two simple, but important, pieces of legislation this year.

FAS and FAE are devastating, complex birth defects. Many people fail to realize that FAS is the leading cause of mental retardation. Too many women remain uninformed about the real dangers of alcohol consumption during pregnancy. And, unfortunately, misconceptions about the impact of alcohol intake during pregnancy are not limited to the general public. Even some health care providers are unaware of the danger of drinking during pregnancy, and for many years it was widely held that moderate alcohol consumption during pregnancy was beneficial. I am happy to report that several medical schools have begun teaching their students about FAS and FAE, and I remain hopeful that medical professionals will continue to learn more about how to appropriately diagnose and counsel women who are pregnant or are considering pregnancy.

Recent estimates indicate that up to 12,000 children are born each year in the United States with FAS. Thousands more are born with FAE. It is estimated that the incidence of FAS may be as high as one per 100 in some Native American communities.

The costs associated with caring for individuals with FAS are staggering. The Centers for Disease Control and Prevention estimates that the lifetime cost of treating an individual with FAS is almost $1.4 million. The total cost in terms of health care and social services to treat all Americans with FAS was estimated to be $2.7 billion in 1995. This is an extraordinary and unnecessary expense, especially when one considers that all alcohol-related birth defects are 100 percent preventable.

The first step toward illuminating this devastating disease is raising the public's consciousness about FAS/FAE. Although great strides have been made in this regard, much more work remains to be done. The Comprehensive Fetal Alcohol Syndrome Prevention Act attempts to fill in the gaps in our current FAS/FAE prevention system. It contains four major components, representing the provisions of the original legislation that have not yet been enacted. These provisions include the initiation of a coordinated education and public awareness campaign; increased support for basic and applied epidemiologic research into the causes, treatment and prevention of FAS/FAE; widespread dissemination of FAS/FAE diagnostic criteria; and the establishment of an interagency task force to coordinate the wide range of Federal efforts in combating FAS/FAE.

A prevention strategy cannot succeed in the absence of increased access to comprehensive treatment programs for pregnant addicted women. Many pregnant substance abusers are denied treatment because facilities refuse to accept them, or the women cannot accept treatment because they lack adequate child care for their existing children while they receive treatment. In fact, many treatment programs specifically exclude pregnant women or women with children. To make matters worse, while Medicaid covers some services associated with substance abuse, like outpatient treatment and detoxification, it rails to cover non-hospital based residential treatment, which is considered by most health care professionals to be the most effective method of overcoming addiction.

The Medicaid Substance Abuse Treatment Act would permit coverage of residential alcohol and drug treatment for pregnant women and certain family members under the Medicaid program, thereby assuring a stable source of funding for States that wish to establish these programs. The bill has three primary objectives. First, it would facilitate the participation of pregnant women who are substance abusers in alcohol and drug treatment programs. Second, by increasing the availability of comprehensive and effective treatment programs for pregnant women and, thus, improving a woman's chances of bearing healthy children, it would help combat the serious and ever-growing problem of drug-impaired infants and children, many of whom are born with FAS and FAE. Third, it would address the unique situation of pregnant addicted Native American and Alaska Native women in Indian Health Service areas.

Mr. President, the cost of prevention is substantially less than the downstream costs in money and human capital of caring of children and adults who have been impaired due to prenatal exposure to alcohol and drugs. These prevention and treatment services are an investment that yields substantial long-term dividends—both on a societal level, as costs and efforts associated with taking care of children born with alcohol-related birth defects decline, and on an individual level, as mothers plagued by alcohol and drug addiction are given the means to heal themselves and give their unborn children a healthier start in life.

FAS and FAE represent a national tragedy that reaches across economic and social boundaries. With researchers from Columbia University reporting that at least one of every five pregnant women uses alcohol and/or other drugs during pregnancy, the demand for a comprehensive and determined response to this devastating problem is clear. I welcome the support of my colleagues on these important bills.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Substance Abuse Treatment Act of 1997".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a woman's ability to bear healthy children is threatened by the consequences of alcoholism and drug addiction and particularly by the use of alcohol and drugs during pregnancy;

(2) hundreds of thousands of infants each year are born drug-exposed, approximately 12,000 infants are born each year with fetal alcohol syndrome, and thousands more are born each year with fetal alcohol effects, a less severe version of fetal alcohol syndrome;

(3) drug use during pregnancy can result in low birthweight, physical deformities, mental retardation, learning disabilities, and heightened nervousness and irritability in newborns;

(4) fetal alcohol syndrome is the leading identifiable cause of mental retardation in the United States and the only cause that is 100 percent preventable;

(5) drug-impaired individuals pose extraordinary societal costs in terms of medical, educational, foster care, residential, and support services over the lifetimes of such individuals;

(6) women, in general, are underrepresented in drug and alcohol treatment programs;

(7) due to fears among service providers concerning the risks pregnancies pose, pregnant women face more obstacles to substance abuse treatment than do other addicts and many substance abuse treatment programs, in fact, exclude pregnant women or women with children;

(8) residential alcohol and drug treatment is an important prevention strategy to prevent low birthweight, transmission of AIDS, and chronic physical, mental, and emotional disabilities associated with prenatal exposure to alcohol and other drugs;

(9) effective substance abuse treatment must address the special needs of pregnant women who are alcohol or drug dependent, including substance-abusing women who may often face such problems as domestic violence, incest and other sexual abuse, poor housing, poverty, unemployment, lack of education and job skills, lack of access to health care, emotional problems, chemical dependency in their family backgrounds, single parenthood, and the need to ensure child care for existing children while undergoing substance abuse treatment;

(10) nonhospital residential treatment is an important component of comprehensive and effective substance abuse treatment for pregnant addicted women, many of whom need long-term, intensive habilitation outside of their communities to recover from their addiction and take care of themselves and their families; and

(11) a gap exists under the medicaid program for the financing of comprehensive residential care in the existing continuum of covered alcoholism and drug abuse treatment services for pregnant medicaid beneficiaries.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase the ability of pregnant women who are substance abusers to participate in alcohol and drug treatment;

(2) to ensure the availability of comprehensive and effective treatment programs for pregnant women, thus promoting a woman's ability to bear healthy children;

(3) to ensure that nonhospital residential treatment is available to those low-income pregnant addicted women who need long-term, intensive habilitation to recover from their addiction;

(4) to create a new optional medicaid residential treatment service for alcoholism and drug dependency treatment; and

(5) to define the core services that must be provided by treatment providers to ensure that needed services will be available and appropriate.

SEC. 3. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES FOR PREGNANT WOMEN, CARETAKER PARENTS, AND THEIR CHILDREN.

(a) COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—

(1) OPTIONAL COVERAGE.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) in paragraph (24), by striking "and" at the end;

(ii) by redesignating paragraph (25) as paragraph (26); and

(iii) by inserting after paragraph (24) the following new paragraph:

"(25) alcoholism and drug dependency residential treatment services (to the extent allowed and as defined in section 1931); and"; and

(B) in the sentence following paragraph (26), as so redesignated—

(i) in subparagraph (A), by striking "or" at the end;

(ii) in subparagraph (B), by striking the period and inserting "; or"; and

(iii) by inserting after subdivision (B) the following:

"(C) any such payments with respect to alcoholism and drug dependency residential treatment services under paragraph (25) for individuals not described in section 1932(d).".

(2) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES DEFINED.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1932 as section 1933; and

(B) by inserting after section 1931, the following:

"ALCOHOLISM AND DRUG DEPENDENCY
RESIDENTIAL TREATMENT SERVICES

"SEC. 1932. (a) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—The term 'alcoholism and drug dependency residential treatment services' means all the required services described in subsection (b) which are provided—

"(1) in a coordinated manner by a residential treatment facility that meets the requirements of subsection (c) either directly or through arrangements with—

"(A) public and nonprofit private entities;

"(B) licensed practitioners or federally qualified health centers with respect to medical services; or

"(C) the Indian Health Service or a tribal or Indian organization that has entered into a contract with the Secretary under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 502 of the Indian Health Care Improvement Act (25 U.S.C. 1652) with respect to such services provided to women eligible to receive services in Indian Health Facilities; and

"(2) pursuant to a written individualized treatment plan prepared for each individual, which plan—

"(A) states specific objectives necessary to meet the individual's needs;

"(B) describes the services to be provided to the individual to achieve those objectives;

"(C) is established in consultation with the individual;

"(D) is periodically reviewed and (as appropriate) revised by the staff of the facility in consultation with the individual;

"(E) reflects the preferences of the individual; and

"(F) is established in a manner which promotes the active involvement of the individual in the development of the plan and its objectives.

"(b) REQUIRED SERVICES DEFINED.—

"(1) IN GENERAL.—The required services described in this subsection are as follows:

"(A) Counseling, addiction education, and treatment provided on an individual, group, and family basis and provided pursuant to individualized treatment plans, including the opportunity for involvement in Alcoholics Anonymous and Narcotics Anonymous.

"(B) Parenting skills training.

"(C) Education concerning prevention of HIV infection.

"(D) Assessment of each individual's need for domestic violence counseling and sexual abuse counseling and provision of such counseling where needed.

"(E) Room and board in a structured environment with on-site supervision 24 hours-a-day.

"(F) Therapeutic child care or counseling for children of individuals in treatment.

"(G) Assisting parents in obtaining access to—

"(i) developmental services (to the extent available) for their preschool children;

"(ii) public education for their school-age children, including assistance in enrolling them in school; and

"(iii) public education for parents who have not completed high school.

"(H) Facilitating access to prenatal and postpartum health care for women, to pediatric health care for infants and children, and to other health and social services where appropriate and to the extent available, including services under title V, services and nutritional supplements provided under the special supplemental food program for women, infants, and children (WIC) under section 17 of the Child Nutrition Act of 1966, services provided by federally qualified health centers, outpatient pediatric services, well-baby care, and early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r)).

"(I) Ensuring supervision of children during times their mother is in therapy or engaged in other necessary health or rehabilitative activities, including facilitating access to child care services under title IV and title XX.

"(J) Planning for and counseling to assist reentry into society, including appropriate outpatient treatment and counseling after discharge (which may be provided by the same program, if available and appropriate) to assist in preventing relapses, assistance in obtaining suitable affordable housing and employment upon discharge, and referrals to appropriate educational, vocational, and other employment-related programs (to the extent available).

"(K) Continuing specialized training for staff in the special needs of residents and their children, designed to enable such staff to stay abreast of the latest and most effective treatment techniques.

"(2) REQUIREMENT FOR CERTAIN SERVICES.—Services under subparagraphs (A), (B), (C), and (D), of paragraph (1) shall be provided in a cultural context that is appropriate to the individuals and in a manner that ensures that the individuals can communicate effectively, either directly or through interpreters, with persons providing services.

"(3) LIMITATIONS ON COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B), services described in paragraph (1) shall be covered in the amount, duration, and scope therapeutically required for each eligible individual in need of such services.

"(B) RESTRICTIONS ON LIMITING COVERAGE.—A State plan shall not limit coverage of alcoholism and drug dependency residential treatment services for any period of less than 12 months per individual, except in those instances where a finding is made that such services are no longer therapeutically necessary for an individual.

"(c) FACILITY REQUIREMENTS.—The requirements of this subsection with respect to a facility are as follows:

"(1) The agency designated by the chief executive officer of the State to administer the State's alcohol and drug abuse prevention and treatment activities and programs has certified to the single State agency under section 1902(a)(5) that the facility—

"(A) is able to provide all the services described in subsection (b) either directly or through arrangements with—

"(i) public and nonprofit private entities;

"(ii) licensed practitioners or federally qualified health centers with respect to medical services; or

"(iii) the Indian Health Service or with a tribal or Indian organization that has entered into a contract with the Secretary under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 502 of the Indian Health Care Improvement Act (25 U.S.C. 1652) with respect to such services provided to women eligible to receive services in Indian Health Facilities; and

"(B) except for Indian Health Facilities, meets all applicable State licensure or certification requirements for a facility of that type.

"(2)(A) The facility or a distinct part of the facility provides room and board, except that—

"(i) subject to subparagraph (B), the facility shall have no more than 40 beds; and

"(ii) subject to subparagraph (C), the facility shall not be licensed as a hospital.

"(B) The single State agency may waive the bed limit under subparagraph (A)(i) for one or more facilities subject to review by the Secretary. Waivers, where granted, must be made pursuant to standards and procedures set out in the State plan and must require the facility seeking a waiver to demonstrate that—

"(i) the facility will be able to maintain a therapeutic, family-like environment;

"(ii) the facility can provide quality care in the delivery of each of the services identified in subsection (b);

"(iii) the size of the facility will be appropriate to the surrounding community; and

"(iv) the development of smaller facilities is not feasible in that geographic area.

"(C) The Secretary may waive the requirement under subparagraph (A)(ii) that a facility not be a hospital, if the Secretary finds that such facility is located in an Indian Health Service area and that such facility is the only or one of the only facilities available in such area to provide services under this section.

"(3) With respect to a facility providing the services described in subsection (b) to an individual eligible to receive services in Indian Health Facilities, such a facility demonstrates (as required by the Secretary) an ability to meet the special needs of Indian and Native Alaskan women.

"(d) ELIGIBLE INDIVIDUALS.—

"(1) IN GENERAL.—A State plan shall limit coverage of alcoholism and drug dependency residential treatment services under section 1905(a)(24) to the following individuals otherwise eligible for medical assistance under this title:

"(A) Women during pregnancy, and until the end of the 12th month following the termination of the pregnancy.

"(B) Children of a woman described in subparagraph (A).

"(C) At the option of a State, a caretaker parent or parents and children of such a parent.

"(2) INITIAL ASSESSMENT OF ELIGIBLE INDIVIDUALS.—An initial assessment of eligible individuals specified in paragraph (1) seeking alcoholism and drug dependency residential treatment services shall be performed by the agency designated by the chief executive officer of the State to administer the State's alcohol and drug abuse treatment activities (or its designee). Such assessment shall determine whether such individuals are in need of alcoholism or drug dependency treatment services and, if so, the treatment setting (such as inpatient hospital, nonhospital residential, or outpatient) that is most appropriate in meeting such individual's health and therapeutic needs and the needs of such individual's dependent children, if any.

"(e) OVERALL CAP ON MEDICAL ASSISTANCE AND ALLOCATION OF BEDS.—

"(1) TOTAL AMOUNT OF SERVICES AS MEDICAL ASSISTANCE.—

"(A) IN GENERAL.—The total amount of services provided under this section as medical assistance for which payment may be made available under section 1903 shall be limited to the total number of beds allowed to be allocated for such services in any given year as specified under subparagraph (B).

"(B) TOTAL NUMBER OF BEDS.—The total number of beds allowed to be allocated under this subparagraph (subject to paragraph (2)(C)) for the furnishing of services under this section and for which Federal medical assistance may be made available under section 1903 is for calendar year—

"(i) 1998, 1,080 beds;

"(ii) 1998, 2,000 beds;

"(iii) 2000, 3,500 beds;

"(iv) 2001, 5,000 beds;

"(v) 2002, 6,000 beds; and

"(vi) 2003 and for calendar years thereafter, a number of beds determined appropriate by the Secretary.

"(2) ALLOCATION OF BEDS.—

"(A) INITIAL ALLOCATION FORMULA.—For each calendar year, a State exercising the option to provide the services described in this section shall be allocated from the total number of beds available under paragraph (1)(B)—

"(i) in calendar years 1998 and 1999, 20 beds;

"(ii) in calendar years 2000, 2001, and 2002, 40 beds; and

"(iii) in calendar year 2003 and for each calendar year thereafter, a number of beds determined based on a formula (as provided by the Secretary) distributing beds to States on the basis of the relative percentage of women of childbearing age in a State.

"(B) REALLOCATION OF BEDS.—The Secretary shall provide that in allocating the number of beds made available to a State for the furnishing of services under this section that, to the extent not all States are exercising the option of providing services under this section and there are beds available that have not been allocated in a year as provided in paragraph (1)(B), that such beds shall be reallocated among States which are furnishing services under this section based on a formula (as provided by the Secretary) distributing beds to States on the basis of the relative percentage of women of childbearing age in a State.

"(C) INDIAN HEALTH SERVICE AREAS.—In addition to the beds allowed to be allocated under paragraph (1)(B) there shall be an additional 20 beds allocated in any calendar year to States for each Indian Health Service area within the State to be utilized by Indian Health Facilities within such an area and, to the extent such beds are not utilized by a State, the beds shall be reapportioned to Indian Health Service areas in other States.".

(3) MAINTENANCE OF STATE FINANCIAL EFFORT AND 100 PERCENT FEDERAL MATCHING FOR SERVICES FOR INDIAN AND NATIVE ALASKAN WOMEN IN INDIAN HEALTH SERVICES AREAS.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsections:

"(x) No payment shall be made to a State under this section in a State fiscal year for alcoholism and drug dependency residential treatment services (described in section 1932) unless the State provides assurances satisfactory to the Secretary that the State is maintaining State expenditures for such services at a level that is not less than the average annual level maintained by the State for such services for the 2-year period preceding such fiscal year.

"(y) Notwithstanding the preceding provisions of this section, the Federal medical assistance percentage for purposes of payment under this section for services described in section 1932 provided to individuals residing on or receiving services in an Indian Health Service area shall be 100 percent.".

(b) PAYMENT ON A COST-RELATED BASIS.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by adding "and" at the end of subparagraph (F); and

(3) by adding at the end the following new subparagraph:

"(G) for payment for alcoholism and drug dependency residential treatment services which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide all the services listed in section 1932(b) in conformity with applicable Federal and State laws, regulations, and quality and safety standards and to assure that individuals eligible for such services have reasonable access to such services;".

(c) CONFORMING AMENDMENTS.—

(1) CLARIFICATION OF OPTIONAL COVERAGE FOR SPECIFIED INDIVIDUALS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter following subparagraph (F)—

(A) by striking "; and (XIII)" and inserting ", (XIII)"; and

(B) by inserting before the semicolon at the end the following: ", and (XIII) the making available of alcoholism and drug dependency residential treatment services to individuals described in section 1932(d) shall not, by reason of this paragraph, require the making of such services available to other individuals".

(2) CONTINUATION OF ELIGIBILITY FOR ALCOHOLISM AND DRUG DEPENDENCY TREATMENT FOR PREGNANT WOMEN FOR 12 MONTHS FOLLOWING END OF PREGNANCY.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended in subsection (e)(5) by striking "under the plan," and all through the period at the end and inserting "under the plan—

"(A) as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends; and

"(B) for alcoholism and drug dependency residential treatment services under section 1932 through the end of the 1-year period beginning on the last day of her pregnancy.".

(3) REDESIGNATIONS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is further amended in subsection (a)(10)(C)(iv), by striking "(24)" and inserting "(25)".

(d) ANNUAL EDUCATION AND TRAINING IN INDIAN HEALTH SERVICE AREAS.—The Secretary of Health and Human Services in cooperation with the Indian Health Service shall conduct on at least an annual basis training and education in each of the 12 Indian Health Service areas for tribes, Indian organizations, residential treatment providers, and State health care workers regarding the availability and nature of residential treatment services available in such areas under the provisions of this Act.

(e) EFFECTIVE DATE; TRANSITION.—(1) The amendments made by this section apply to alcoholism and drug dependency residential treatment services furnished on or after January 1, 1998, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State under title XIX of the Social Security Act with regard to alcoholism and drug dependency residential treatment services (as defined in section 1932(a) of such Act) made available under such title on or after January 1, 1998, before the date the Secretary issues final regulations to carry out the amendments made by this section, if the services are provided under its plan in good faith compliance with such amendments.

S. 148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Fetal Alcohol Syndrome Prevention Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable;

(2) each year, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effects, which are lesser, though still serious, alcohol-related birth defects;

(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1000) than children of those women who do not use alcohol (8.6 per 1000);

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effects are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effects are up to 30 times greater than national averages;

(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately $2,500,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least $1,400,000;

(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effects increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate, support, and conduct basic and applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

(3) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

SEC. 4. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART O—FETAL ALCOHOL SYNDROME PREVENTION PROGRAM

"SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

"(a) FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effects prevention program that shall include—

"(1) an education and public awareness program to—

"(A) support, conduct, and evaluate the effectiveness of—

"(i) training programs concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(ii) prevention and education programs, including school health education and school-based clinic programs for school-age children, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(iii) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations concerning the programs referred to in subparagraph (A); and

"(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

"(i) evaluating the effectiveness, with particular emphasis on the cultural competency and age-appropriateness, of programs referred to in subparagraph (A);

"(ii) providing training in the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(iii) educating school-age children, including pregnant and high-risk youth, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, with priority given to programs that are part of a sequential, comprehensive school health education program; and

"(iv) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally competent projects, programs, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective intervention methods to prevent fetal exposure to alcohol;

"(2) an applied epidemiologic research and prevention program to—

"(A) support and conduct research on the causes, mechanisms, diagnostic methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) provide technical and consultative assistance and training to States, Tribal governments, local governments, scientific and academic institutions, and nonprofit organizations engaged in the conduct of—

"(i) Fetal Alcohol Syndrome prevention and early intervention programs; and

"(ii) research relating to the causes, mechanisms, diagnosis methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

"(i) conducting innovative demonstration and evaluation projects designed to determine effective strategies, including community-based prevention programs and multicultural education campaigns, for preventing and intervening in fetal exposure to alcohol;

"(ii) improving and coordinating the surveillance and ongoing assessment methods implemented by such entities and the Federal Government with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(iii) developing and evaluating effective age-appropriate and culturally competent prevention programs for children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(iv) facilitating coordination and collaboration among Federal, State, local government, Indian tribal, and community-based Fetal Alcohol Syndrome prevention programs;

"(3) a basic research program to support and conduct basic research on services and effective prevention treatments and interventions for pregnant alcohol-dependent women and individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(4) a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effects diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals; and

"(5) the establishment, in accordance with subsection (b), of an interagency task force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

"(b) INTERAGENCY TASK FORCE.—

"(1) MEMBERSHIP.—The Task Force established pursuant to paragraph (5) of subsection (a) shall—

"(A) be chaired by the Secretary or a designee of the Secretary, and staffed by the Administration; and

"(B) include representatives from all relevant agencies and offices within the Department of Health and Human Services, the Department of Agriculture, the Department of Education, the Department of Defense, the Department of the Interior, the Department of Justice, the Department of Veterans Affairs, the Bureau of Alcohol, Tobacco and Firearms, the Federal Trade Commission, and any other relevant Federal agency.

"(2) FUNCTIONS.—The Task Force shall—

"(A) coordinate all Federal programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, including programs that—

"(i) target individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(ii) provide health, education, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) coordinate its efforts with existing Department of Health and Human Services task forces on substance abuse prevention and maternal and child health; and

"(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies.

"(c) SCIENTIFIC RESEARCH AND TRAINING.—The Director of the National Institute on Alcohol Abuse and Alcoholism, with the cooperation of members of the interagency task force established under subsection (b), shall establish a collaborative program to provide for the conduct and support of research, training, and dissemination of information to researchers, clinicians, health professionals and the public, with respect to the cause, prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and the related condition know as Fetal Alcohol Effects.

"SEC. 399H. ELIGIBILITY.

"To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

"(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

"SEC. 399I. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, such sums as are necessary for each of the fiscal years 1997 through 2001.".

Mr. DASCHLE. Mr. President, today I am reintroducing two bipartisan bills to help prevent the tragic occurrence of alcohol-related birth defects, including both fetal alcohol syndrome [FAS] and fetal alcohol effects [FAE]. I speak on behalf of all cosponsors when I say we are hopeful we can move these two simple, but important pieces of legislation this year.

Recent estimates indicate that up to 12,000 children are born each year in the United States with FAS. Thousands more are born with FAE. It is estimated that the incidence of FAS may be as high as one per 100 in some Native American communities.

FAS and FAE are devastating, complex birth defects. Many people fail to realize that FAS is the leading cause of mental retardation. Too many women remain uninformed about the real dangers of alcohol consumption during pregnancy. In fact, at least one recently published popular pregnancy book actually recommends a drink or two to relax later in pregnancy. And, unfortunately, misconceptions about the impact of alcohol intake during pregnancy are not limited to the general public. For many years it was widely, though mistakenly, believed in the medical community that moderate alcohol consumption during pregnancy was beneficial. These misperceptions are not only frightening, but life threatening. Children born to women who drink alcohol during pregnancy have a 50 percent higher infant mortality rate than the children of women who abstain. Fortunately, several medical and nursing schools have begun offering a course specifically on FAS and FAE. I remain hopeful that medical professionals will continue to learn more about how to appropriately counsel women who are pregnant or are considering pregnancy and how to recognize and diagnose children who may be suffering from FAS or FAE.

The costs associated with caring for the individual with FAS and FAE are staggering. The Centers for Disease Control and Prevention estimates that the lifetime cost of treating an individual with FAS is almost $1.4 million. The total costs in terms of health care and social services to treat all Americans with FAS was estimated to be $2.7 billion 1995. This is an extraordinary and unnecessary expense, especially when one considers that all alcohol-related birth defects are 100% preventable.

The first step eliminating this devastating disease is raising the public's consciousness about FAS/FAE. Although great strides have been made in this regard, much more work remains to be done. The Comprehensive Fetal Alcohol Syndrome Prevention Act attempts to fill in the gaps in our current FAS/FAE prevention system. In contains four major components, representing the provisions of the original legislation that have not yet been enacted. These provisions include the initiation of a coordinated education and public awareness campaign; increased support for basic and applied epidemiologic research into the causes, treatment and prevention of FAS/FAE; widespread dissemination of FAS/FAE diagnostic criteria; and the establishment of an inter-agency task force to coordinate the wide range of federal efforts in combating FAS/FAE.

A prevention strategy cannot succeed in the absence of increases access to comprehensive treatment programs for pregnant addicted women. Many pregnant substance abusers are denied treatment because facilities specifically exclude them, or they cannot find or afford adequate child care for their existing children while they receive residential treatment. To make matters worse, while Medicaid covers some services associated with substance abuse, like outpatient treatment and detoxification, it fails to cover nonhospital based residential treatment, which is considered by most health care professionals to be the most effective method of overcoming addiction.

The Medicaid Substance Abuse Treatment Act would create an optional Medicaid benefit that would permit coverage of non-hospital based residential alcohol and drug treatment for Medicaid-eligible pregnant women and their children. This would assure a stable source of funding for states that wish to establish these programs. The bill has three primary objectives. First, it would facilitate the participation of pregnant women who are substance abusers in alcohol and drug treatment programs. Second, by increasing the availability of comprehensive and effective treatment programs for pregnant women and, thus, improving a woman's ability to bear health children, it would help combat the serious and ever-growing problem of drug-impaired infants and children, many of whom are also born with FAS or FAE. Third, it would address the unique situation of pregnant, addicted Native American and Alaska Native women in Indian Health Service areas.

Mr. President, the cost of prevention is substantially less than the downstream costs in money and human capital of caring for children and adults who have been impaired due to prenatal exposure to alcohol and drugs. These prevention and treatment services are an investment that yields substantial long-term dividends—both on a societal level, as costs and efforts associated with taking care of children born with alcohol-related birth defects decline and on a individual level, as mothers plagued by alcohol and drug addiction are given the means to heal themselves and give their unborn children a healthier start in life.

FAS and FAE represent a national tragedy that reaches across economic and social boundaries. With researchers from Columbia University reporting that at least one of every five pregnant women uses alcohol and/or other drugs during pregnancy, the demand for a comprehensive and determined response to this devastating problem is clear. I welcome the support of my colleagues on these important bills.

By Mr. MOYNIHAN (for himself and Mr. GRASSLEY):

S. 149. A bill to amend the National Narcotics Leadership Act of 1988 to establish qualification standards for individuals nominated to be the Deputy Director of Demand Reduction in the Office of National Drug Control Policy; to the Committee on Labor and Human Resources.

NATIONAL DRUG CONTROL POLICY LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill, cosponsored by Senator CHARLES E. GRASSLEY, to amend the Anti-Drug Abuse Act of 1988 to establish qualification standards for individuals nominated for the position of Deputy Director of Demand Reduction in the Office of National Drug Control Policy.

On May 17, 1988, then-Senate Majority Leader ROBERT S. BYRD established a working group on substance abuse which I was to co-chair with Senator Sam Nunn of Georgia. Interdiction and crackdown were then all the rage. My role on the working group was to assert that, other than to raise the price of drugs somewhat, interdiction was not going to have the slightest effect on supply. We saw the failure of supply side measures during Prohibition and in the French Connection model of cutting off production abroad. Accordingly, any comprehensive legislation should place at least equal emphasis on demand.

The Anti-Drug Abuse Act of 1988, which became law on November 18 of that year, did just that. Section 2012 sets out the purposes of the law. They include: To increase to the greatest extent possible the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

The legislation established an Office of National Drug Control Policy in the executive office of the President. It was headed by a so-called czar and included a deputy director of supply reduction and a deputy director for demand reduction. The Deputy Director for Demand would seek a clinical device, a pharmacological block, similar to methadone treatment for heroin. The Deputy Director would know the chemistry of the subject enough to promote some treatment beyond the sort of psychiatric treatment currently available.

President Bush made extraordinary, fine appointments. He appointed Dr. William Bennett as the head of the office. As the Deputy Director for Demand Reduction he appointed Dr. Herbert Kleber, a physician at the Yale Medical School, a research scientist, and exactly the person you would want for this.

Then, after a while, Bennett left, and Kleber also left. Kleber has gone to Columbia College of Physicians and Surgeons and is working at the New York Psychiatric Institute in this field.

Nobody succeeded him in a scientific role. There have been a number of persons in the job. I am sure they are good persons, but they are nothing like what we had in mind in the legislation.

The bill I introduce today would require that the Deputy Director of Demand Reduction have a scientific background and be a leader in the field of substance abuse prevention or treatment. This is no more than what the 1988 Act intended. We enacted a good statute which has been trivialized. If we are serious about getting hold of the drug dealer epidemic in this country, we must have an individual eminent in the field of substance abuse prevention leading the charge on demand reduction.

Mr. GRASSLEY. Mr. President, Senator MOYNIHAN and I are introducing Legislation today to spell out more specifically the requirements for the office of Deputy Director for Demand Reduction at the Office of National Drug Control Policy. I know it is Senator MOYNIHAN'S view, and mine, that this office requires an incumbent of the highest qualifications in the demand reduction area. This is especially true at this time. We have seen 4 years of rising teenage drug use in this country. We have seen initiatives that move us perilously close to legalizing a dangerous drug. We have seen the cynical exploitation of the public's trust in order to do this. In response, we need credible, visible leadership of the highest caliber in the Nation's chief demand reduction office. These qualifications were what Congress had in mind when we created the Drug Czar's office and the position of Deputy Director for Demand Reduction. Today, we are introducing legislation that will spell out more clearly this intent.

Last year, Congress increased funding to restore the Drug Czar's office to effective staffing levels. This year we will be reviewing the reauthorization of the office. Congress remains deeply interested in ONDCP and I and others will be working to ensure that it is meeting the expectations that we have in it.

As we work during this Congress to ensure a drug-free future for our children, we must have an individual in charge of our national demand reduction efforts who can command the respect of parents, doctors, treatment and prevention specialist, and the public. I am pleased to join Senator MOYNIHAN in this effort. Our legislation will ensure that we will see candidates for this important post who command universal respect. I welcome the support of our colleagues. I look forward to having someone of outstanding capabilities with whom we can work and in whom the public can have confidence.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. DODD):

S. 150. A bill to amend section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), to provide for disclosure of information relating to individuals who committed Nazi war crimes, and for other purposes; to the Committee on the Judiciary.

THE WAR CRIMES DISCLOSURE ACT

Mr. MOYNIHAN. Mr. President, today I am joined by Senators D'AMATO and DODD in introducing the War Crime Disclosure Act. This legislation is a companion to a measure introduced in the House, sponsored by Representative MALONEY.

The measure is a simple one. It requires the disclosure of information under the Freedom of Information Act regarding individuals who participated in Nazi war crimes.

Ideally, such documents would be made available to the public without further legislation and without having to go through the slow process involved in getting information through the Freedom of Information Act [FOIA]. Unfortunately, this is not the case. Researchers seeking information on Nazi war criminals are denied access to relevant materials in the possession of the U.S. Government, even when the disclosure of these documents no longer poses a threat to national security—if indeed such disclosure ever did.

With the passing of time it becomes ever more important to document Nazi war crimes, lest the enormity of those crimes be lost to history. The greater access which this legislation provides will add clarity of this important effort. I applaud those researchers who continue to pursue this important work.

I would also like to call to the attention of my colleagues the excellent work of the Office of Special Investigations of the Department of Justice. This office has a monumental task and I would not wish to add to that burden or divert its officials from their primary goal of pursuing Nazi war criminals. To that end, I would note that this legislation does not apply to the Office of Special Investigations, as it is not identified in paragraph (1)(B) of the bill as a "specified agency." I would also add that there is a provision in the bill which specifically prohibits the disclosure of information which would compromise the work of the Office of Special Investigations.

I would like to thank Representative MALONEY for her original work on this subject in the House of Representatives. I would also thank Senators D'AMATO and DODD for joining me in this effort here in the Senate.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 25, 1996]

MS. MALONEY AND MR. WALDHEIM

(By A.M. Rosenthal)

For a full half-century, with determination and skill, and with the help of the law, U.S. intelligence agencies have kept secret the record of how they used Nazis for so many years after World War II, what the agencies got from these services—and what they gave as payback.

Despite the secrecy blockade, we do know how one cooperative former Wehrmacht officer and war crimes suspect was treated. We know the U.S. got him the Secretary Generalship of the U.N. as reward and base.

For more than two years, Congress has had legislation before it to allow the public access to information about U.S.-Nazi intelligence relations—a bill introduced by Representative Carolyn B. Maloney, a Manhattan Democrat, and now winding through the legislative process.

If Congress passes her War Crimes Disclosure Act, H.R. 1281, questions critical to history and the conduct of foreign affairs can be answered and the power of government to withhold them reduced. The case of Kurt Waldheim is the most interesting example—the most interesting we know of at the moment.

Did the U.S. know when it backed him for Secretary General that he had been put on the A list of war-crime suspects, adopted in London in 1948, for his work as a Wehrmacht intelligence officer in the Balkans, when tens of thousands of Yugoslavs, Greeks, Italians, Jew and non-Jew, were being deported to death?

If not, isn't that real strange, since the U.S. representative on the War Crimes Commission voted to list him. A report was sent to the State Department. Didn't State give the C.I.A. a copy—a peek?

And when he was running for Secretary General why did State Department biographies omit any reference to his military service—just as he forgot to mention it in his autobiographies?

If all that information was lost by teams of stupid clerks, once the Waldheim name came up for the job why did not the U.S. do the obvious thing—check with Nazi and war-crime records in London and Berlin to see if his name by any chance was among those dearly wanted?

Didn't the British know? They voted for the listing too. And the Russians—Yugoslavia moved to list him when it was a Soviet satellite. Belgrade never told Moscow?

How did Mr. Waldheim repay the U.S. for its enduring fondness to him? Twice it pushed him successfully for the job. The third time it was among few countries that backed him again but lost. Nobody can say the U.S. was not loyal to the end.

Did he also serve the Russians and British? One at a time? Or was he a big-power groupie, serving all?

One thing is not secret any longer, thanks to Prof. Robert Herzstein of the University of South Carolina history department. He has managed through years of perseverance to pry some information loose. He found that while Mr. Waldheim worked for the Austrian bureaucracy, the U.S. Embassy in Vienna year after year sent in blurby reports about his assistance to American foreign policy—friendly, outstanding, cooperative, receptive to American thinking. All the while, this cuddly fellow was on the A list, which was in the locked files or absent with official leave.

On May 24, 1994, I reported on Professor Herzstein's findings and the need for opening files of war-crime suspects. Representative Maloney quickly set to work on her bill to open those files to Freedom of Information requests—providing safeguards for personal privacy, on-going investigations and national security if ever pertinent.

Her first bill expired in the legislative machinery and in 1995 she tried again. She got her hearing recently thanks to the chairman of her subcommittee of the Government Reform Committee—Stephen Horn, the California Republican.

If the leaders of Congress will it, the Maloney bill can be passed this year. I nominate my New York Senators to introduce it in the Senate. It will be a squeeze to get it passed before the end of the year, so kindly ask your representatives and senators to start squeezing.

If not, the laborious legislative procedure will have to be repeated next session. Questions about the Waldheim connection will go unanswered, and also about other cases that may be in the files or strangely misplaced, which will also be of interest.

By Mr. MOYNIHAN:

S. 151. A bill for the relief of Dr. Yuri F. Orlov of Ithaca, New York; to the Committee on Governmental Affairs.

SOVIET DISSIDENT LEGISLATION

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill to recognize the immeasurable debt which we owe to a leading Soviet dissident. Dr. Yuri F. Orlov, a founding member of the Soviet chapter of Amnesty International and founder of the Moscow Helsinki Watch Group (the first nationwide organization in Soviet history to question government actions), who now lives in Ithaca, New York, is threatened by poverty. Yuri Orlov could not be stopped by the sinister forces of the Soviet Union and, no doubt, he will not be stopped by poverty. But I rise today in hopes that it will not come to that.

Dr. Orlov's career as a dissident began while he was working at the famous Institute for Theoretical and Experimental Physics in Moscow. At the Institute in 1956 he made a pro-democracy speech which cost him his position and forced him to leave Moscow. He was able to return in 1972, whereupon he began his most outspoken criticism of the Soviet regime.

On September 13, 1973, in response to a government orchestrated-public smear campaign against Audrei Sakharov, Orlov sent "Thirteen Questions to Brezhnev," a letter which advocated freedom of the press and reform of the Soviet economy. One month later, he became a founding member of the Soviet chapter of Amnesty International. His criticism of the Soviet Union left him unemployed and under constant KGB surveillance, but he would not be silenced.

In May, 1976 Dr. Orlov founded the Moscow Helsinki Watch Group to pressure the Soviet Union to honor the human rights obligations it had accepted under the Helsinki Accords signed in 1975. His leadership of the Helsinki Watch Group led to his arrest and, eventually, to a show trial in 1978. He was condemned to seven years in a labor camp and five years in exile.

After having served his prison sentence, and while still in exile, Dr. Orlov was able to immigrate to the United States in 1986 in an exchange arranged by the Reagan Administration. A captured Soviet spy was returned in exchange for the release of Dr. Orlov and a writer for U.S. News & World Report who had been arrested in Moscow, Nicholas Daniloff.

Since then, Dr. Orlov has served as a senior scientist at Cornell University in the Newman Laboratory of Nuclear Studies. Now that he is 72 years old, he is turning his thoughts to retirement. Unfortunately, since he has only been in the United States for 10 years, his retirement income from the Cornell pension plus Social Security will be insufficient: only a fraction of what Cornell faculty of comparable distinction now get at retirement.

His scientific colleagues, Nobel physicist Dr. Hans A. Bethe, Kurt Gottfried of Cornell, and Sidney Drell of Stanford, have made concerted efforts to raise support for Dr. Orlov's retirement, but they are in further need.

To this end, I have agreed to assist these notable scientists in their endeavor to secure a more appropriate recompense for this heroic dissident. That is the purpose that brings me here to the Senate floor today, on the first day of the 105th Congress, to introduce a bill on Dr. Orlov's behalf. While I acknowledge the daunting prospects that face private relief bills these days, I offer the bill at least as a step toward bringing the kind of attention to Dr. Orlov's situation which he deserves.

To understand Dr. Orlov's contributions to ending the Cold War, I would draw my colleagues attention to his autobiography, Dangerous Thoughts: Memoirs of a Russian Life. It captures the fear extant in Soviet society and the courage of men like Orlov, Sakharov, Sharansky, Solzhenitsyn, and others who defied the Soviet regime. Dr. Orlov, who spent 7 years in a labor camp and two years in Siberian exile, never ceased protesting against oppression. Despite deteriorating health and the harsh conditions of the camp, Dr. Orlov smuggled out messages in support of basic rights and nuclear arms control. His bravery and that of his dissident colleagues played no small role in the dissolution of the Soviet Union. I am sure many would agree that we owe them a tremendous debt. This then is a call to all those who agree with that proposition. Dr. Orlov is now in need; please join our endeavor.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 152. A bill to provide for the relief and payment of an equitable claim to the estate of Dr. Beatrice Braude of New York, New York; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill, cosponsored by Senator D'AMATO, to provide for the relief and payment of an equitable claim to the estate of Dr. Beatrice Braude.

Mr. President, this is a measure of justice which brings back memories of an old and awful time. Dr. Braude, a linguist fluent in several languages, was dismissed from her position at the United States Information Agency (USIA) in 1953 as a result of accusations of disloyalty to the United States. The accusations were old; two years earlier, the State Department's Loyalty Security Board had investigated and unanimously voted to dismiss them. The Board sent a letter to Dr. Braude stating "there is no reasonable doubt as to your loyalty to the United States Government or as to your security risk to the Department of State."

Dr. Braude was terminated one day after being praised for her work and informed that she probably would be promoted. USIA officials told her that the termination was due to budgetary constraints. Congress had funded the USIA at a level 27 percent below the President's request. The Supplemental Appropriation Act of 1954 (Public Law 83-207) authorized a reduction in force commensurate to the budget cut. Fair enough. As Dr. Braude remarked years later, "I never felt that I had a lien on a government job." But what Dr. Braude did not know is that she was selected for termination because of the old—and answered—charges against her. And because she did not know the real reason for her dismissal, she was denied certain procedural rights (the right to request a hearing, for instance).

The true reason for her dismissal was kept hidden from her. When she was unable, over the next several years, to secure employment anywhere else within the Federal Government—even in a typing pool despite a perfect score on the typing test—she became convinced that she had been blacklisted. She spent the next 30 years fighting to regain employment and restore her reputation. Though she succeeded in 1982 (at the age of 69) in securing a position in the CIA as a language instructor, she still had not been able to clear her name by the time of her death in 1988. The irony of the charges against Dr. Braude is that she was an anti-communist, having witnessed first-hand communist-sponsored terrorism in Europe while she was an assistant cultural affairs officer in Paris and, for a brief period, an exchange officer in Bonn during the late 1940s and early 1950s.

Mr. President, I would like to review the charges against Dr. Braude because they are illustrative of that dark era and instructive to us even today. There were a total of four. First, she was briefly a member of the Washington Book Shop at Farragut Square that the Attorney General later labeled subversive. Second, she had been in contact with Mary Jane Keeney, a Communist Party activist employed at the United Nations. Third, she had been a member of the State Department unit of the Communist-dominated Federal Workers' Union. Fourth, she was an acquaintance of Judith Coplon.

With regard to the first charge, Dr. Braude had indeed joined the Book Shop shortly after her arrival in Washington in 1943. She was eager to meet congenial new people and a friend recommended the Book Shop, which hosted music recitals in the evenings. I must express some sensitivity here: my F.B.I. records report that I was observed several times at a "leftist musical review" in suburban Hampstead while I was attending the London School of Economics on a Fulbright Fellowship.

Dr. Braude was aware of the undercurrent of sympathy with the Russian cause at the Book Shop, but her membership paralleled a time of close U.S.-Soviet collaboration. She drifted away from the Book Shop in 1944 because of her distaste for the internal politics of other active members. Her membership at the Book Shop was only discovered when her name appeared on a list of delinquent dues. It appears that her most sinister crime while a member of the book shop was her failure to return a book on time.

Dr. Braude met Mary Jane Keeney on behalf of a third woman who actively aided Nazi victims after the war and was anxious to send clothing to another woman in occupied Germany. Dr. Braude knew nothing of Keeney's political orientation and characterized the meeting as a transitory experience.

With regard to the third charge, Dr. Braude, in response to an interrogatory from the State Department's Loyalty Security Board, argued that she belonged to an anti-Communist faction of the State Department unit of the Federal Workers' Union.

Remember that the Loyalty Security Baird invested these charges and exonerated her.

The fourth charge, which Dr. Braude certainly did not—or could not—deny, was her friendship with Judith Coplon. Braude met Coplon in the summer of 1945 when both women attended a class Herber Marcuse taught at American University. They saw each other infrequently thereafter. In May 1948, Coplon wrote to Braude, then stationed in Paris and living in a hotel on the Left Bank, to announce that she would be visiting shortly and needed a place to stay. Dr. Braude arranged for Coplon to stay at the hotel. Coplon stayed for 6 weeks, during which time Dr. Braude found her behavior very trying. The two parted on unfriendly terms. The friendship they had prior to parting was purely social.

Mr. President, Judith Coplon was a spy. She worked in the Justice Department's Foreign Agents Registration Division, an office integral to the FBI's counter-intelligence efforts. She was arrested early in 1949 while handing over notes on counterintelligence operations to Soviet citizen Valentine Gubitchev, a United Nations employee. Coplon was tried and convicted—there was no doubt of her guilt—but the conviction was overturned on a technicality. Gubitchev was also convicted but was allowed to return to the U.S.S.R. because of his quasi-diplomatic status.

My involvement in Dr. Braude's case dates back to early 1979, when Dr. Braude came to me and my colleague at the time, Senator Javits, and asked us to introduce private relief legislation on her behalf. In 1974, after filing a Freedom of Information Act request and finally learning the true reason for her dismissal, she filed suit in the Court of Claims to clear her name and seek reinstatement and monetary damages for the time she was prevented from working for the Federal Government. The Court, however, dismissed her case on the grounds that the statute of limitations had expired. On March 5, 1979, Senator Javits and I together introduced a bill, S. 546, to waive the statute of limitations on Dr. Braude's case against the U.S. Government and to allow the Court of Claims to render judgment on her claim. The bill passed the Senate on January 30, 1980. Unfortunately, the House failed to take action on the bill before the 96th Congress adjourned.

In 1988, and again in 1990, 1991, and 1993, Senator D'AMATO and I re-introduced similar legislation on Dr. Braude's behalf. Our attempts met with repeated failure. Until at last, on September 21, 1993, we secured passage of Senate Resolution 102, which referred S. 840, the bill we introduced for the relief of the estate of Dr. Braude, to the Court of Claims for consideration as a congressional reference action. The measure compelled the Court to determine the facts underlying Dr. Braude's claim and to report back to Congress on its findings.

The Court held a hearing on the case in November of 1995 and on March 7 of last year Judge Roger B. Andewelt of the Court of Federal Claims issued his verdict that the USIA had wrongfully dismissed Dr. Braude and intentionally concealed the reason for her termination. He concluded that such actions constituted an equitable claim for which compensation is due. Forty-three years after her dismissal from the USIA and 8 years after her death, the Court found in favor of the estate of Dr. Braude.

Senator D'AMATO and I wish to express our profound admiration for Judge Andewelt's decision in which he absolved Dr. Beatrice Braude of the surreptitious charges of disloyalty with which she was never actually confronted. The Court declared that Dr. Braude "cared about others deeply and was loyal to her friends, family and country."

We are equally grateful to Christopher N. Sipes and William Livingston, Jr. of Covington & Burling, two of the many lawyers who have handled Dr. Braude's case on a pro bono basis over the years. Mr. Sipes quite properly remarked that the decision represents an important page in the annals of U.S. history: "The Court of the United States has said it recognizes that this conduct is out of bounds. It tells the government it must acknowledge its wrongs and pay for them."

Justice Department attorneys have reached a settlement with lawyers representing the estate of Dr. Beatrice Braude concerning monetary damages equitably due for the wrongful dismissal of Dr. Braude from her Federal job in 1953 and subsequent blacklisting. The estate will receive $200,000 in damages. Family members have announced that the funds—which Congress must now appropriate—will be donated to Hunter College, the institution from which Dr. Braude received her bachelor's degree.

Now that the parties to the Braude case have reached an agreement on the monetary damages equitably due to Dr. Braude's estate, Senator D'AMATO and I are offering legislation to release the $200,000 to her estate. I hope that we will have the unqualified and unanimous support of our colleagues.

What happened to Dr. Braude was a personal tragedy. But it was also part of a national tragedy, too. This Nation lost, prematurely and unnecessarily, the exceptional services of a gifted and dedicated public servant. Stanley I. Kutler, a professor of constitutional history at the University of Wisconsin, estimates that Dr. Braude was one of about 1,500 Federal employees who were dismissed as security risks between 1953 and 1956. Another 6,000 resigned under the pressure of security and loyalty inquiries, according to Professor Kutler, who testified as an expert witness on Dr. Braude's behalf. It was, as I said earlier, an awful time. We had settled "as on a darkling plain, Swept with confused alarm of struggle and flight, Where ignorant armies clash by night." It must not happen again.

Mr. MOYNIHAN (for himself and Mr. ASHCROFT):

S. 153. A bill to amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under an arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes; to the Committee on Labor and Human Resources.

THE FACULTY RETIREMENT INCENTIVE ACT

Mr. MOYNIHAN. Mr. President, today I rise to introduce the Faculty Retirement Incentive Act. This bill will amend the Age Discrimination in Employment Act of 1967 (ADEA) to allow the use of age-based incentives for the voluntary retirement of tenured faculty at colleges and universities. I am pleased that Senator Ashcroft is an original cosponsor of this legislation.

Since the late 1950s, there has been a vast expansion in the number of individuals pursuing careers in academia. Now, an unusually large cohort of tenured faculty make it difficult for universities to hire more recent graduates. As a practical matter, it is extremely difficult or costly or both for institutions to bring on new tenured faculty except where tenure positions open up as a result of retirement. In order for academic institutions to remain effective centers of teaching and scholarship they must have a balance of old and new faculty. This balance, however, is threatened by continuing uncertainties created by recent legislation.

I support the ADEA, but when it was amended in 1986 to extend the protections of the act to individuals age 70 and over, I expressed concern that the application of this change to the unique situation of tenured faculty members at colleges and universities would affect teaching and scholarship at these institutions. While it did include an exemption from the provisions for the bill for tenured faculty, the exemption only lasted seven years. Therefore, I was pleased when that bill included a request for the National Academy of Sciences (NAS) to appoint a commission to study the impact of removing the mandatory retirement age for faculty members at colleges and universities.

When the National Research Council released this study, Ending Mandatory Retirement for Tenured Faculty: The Consequences for Higher Education, on behalf of NAS in 1991, the report concluded that diminished faculty turnover—particularly at research universities—could increase costs and limit institutional flexibility in responding to changing academic needs, particularly with regard to necessary hires in new and existing disciplines. In concluding that there was "no strong basis for continuing the exemption for tenured faculty," the NAS report presumed that the Federal government would allow "Practical steps" such as age-based early-retirement incentives to mitigate the impact of an uncapped retirement age for tenured faculty. Specifically, the NAS report stated: "The committee recommends that Congress, the Internal Revenue Service, and the Equal Employment Opportunity Commission permit colleges and universities to offer faculty voluntary-retirement incentive programs that are not classified as an employee benefit, include an upper age limit for participants and limit participation on the basis of institutional needs."

These practical steps, however, were not taken although the exemption was allowed to run out. Instead, passage of the Older Workers Benefit Protection Act of 1990 (OWBPA) further confused the issue. OWBPA made early-retirement incentives permissible in the context of defined-benefit retirement plans but did not address the status of such incentives in the context of defined-contribution retirement plans. Defined-contribution retirement plans are most popular with tenured faculty due to their pension portability. The OWBPA did not preclude defined-contribution retirement plans, but by not addressing the issue at all, it added to the ambiguity surrounding the matter. Functionally, early-retirement incentives operate in the same manner for both types of plans. There is continued uncertainty, however, whether early-retirement incentives with an upper-age limit that are offered to tenured faculty conflict with the purpose of ADEA of prohibiting arbitrary age discrimination.

I am troubled by the continued uncertainty created by these bills, and I hope that the Faculty Retirement Incentive Act will provide a "safe harbor" for colleges and universities by clarifying that the early retirement incentives are permitted by the ADEA. Universities must ensure that older faculty members retire at an appropriate age, not simply to "make room" for younger faculty, but to maintain a contemporary, innovative, and creative atmosphere at our nation's colleges and universities.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 154. A bill to improve Orchard Beach, New York; to the Committee on Environment and Public Works.

THE ORCHARD BEACH, NEW YORK IMPROVEMENT ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today to introduce a most important piece of legislation for the State of New York, and to ask my Senate colleagues for their support. This bill directs the Secretary of the Army to repair a section of waterfront parkland in the Bronx, New York, known as Orchard Beach. My colleague in New York City, Bronx Borough President Fernando Ferrer, has worked hard for many years to get this beach—so beloved by the citizens of the Bronx—restored to its former glory.

Orchard Beach is a splendid natural sanctuary and recreational spot within the Bronx, which is one of New York City's most urbanized areas. Orchard Beach provides a welcome respite from urban living and is particularly valued by low-income families with children who cannot afford summer homes or trips to the tonier beach resorts on Long Island or the Jersey shore. Over two million people visit Orchard Beach annually. For many of New York's working families, it offers the only affordable and convenient place for their children to play in the sea and sand.

In addition, the beach and surrounding wetlands and salt marshes provide a vital habitat for many marine creatures, including crabs, lobsters, striped bass and winter flounder, as well as numerous species of overwintering waterfowl.

But today, the beach is in urgent need of repair—there is widespread erosion due to repeated storm damage, threatening both the recreational utility of the beach and the stability of the animal and ocean life habitats. It seems only appropriate that we come to the rescue of this treasure now before irreversible damage is done.

In the Water Resources Development Acts of 1992 and 1996, a total of $5.6 million was authorized to study and then conduct an Orchard Beach shoreline protection project to address storm damage prevention, recreation, and environmental restoration. The bill I introduce today would help to ensure that this important project for New York goes forward.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 155. A bill to redesignate General Grant National Memorial as Grant's Tomb National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MOYNIHAN. Mr. President, I rise to introduce, along with my friend and colleagues, Senator D'Amato, a bill to designate President Grant's tomb a national monument. This April 27 will be the centennial of the dedication of the tomb. I can think of no better observance than to pass this designation and the other provisions in this bill that would protect and preserve the tomb and make it more attractive to visitors.

The Nation owes President Grant a great debt for his efforts during the Civil War alone. He proved to be the capable general President Lincoln lacked in the early years of that conflict. Grant provided the leadership, strategy, determination, and courage to do what was necessary to win the war. He should also be remembered for his efforts to include Blacks in the Union Army and later for his relentless opposition to the Ku Klux Klan. Many Southerners appreciated his generous terms with General Lee, which included allowing Lee's men to keep their horses for the spring plowing. Grant went on to become the eighteenth President and to serve two terms.

In 1881 the former President moved to New York City, and four years later to Mount McGregor near Saratoga. He died in 1885. In the next few years, 90,000 people contributed to a fund-raising effort that brought in $600,000. This was enough to build structure on Riverside Drive in Manhattan modeled on the tombs of the Emperor Hadrian in Rome, Napoleon in Paris, and King Mausolis in Turkey. Inside are two eight-and-a-half ton sarcophagi made of Wisconsin red granite and a great mural depicting Lee's surrender to Grant at Appomattox.

The tomb became a leading attraction for New York residents and for tourists. However, the neighborhood around the tomb has changed in recent years and visitorship is down. Vandalism is an ongoing concern. This bill takes several steps that are past due to protect and preserve the tomb.

The bill would make Grant's Tomb a National Monument and require the Secretary of the Interior to "administer, repair, restore, preserve, maintain, and promote" the tomb in accordance with the law applicable to all National Monuments. It requires the Secretary to build a visitors center. It also calls for a study over two years to plan interpretive programs, restoration, and security and maintenance.

This bill addresses the needs at Grant's Tomb. It can again become a leading attraction in New York. More important, the bill does what is right for the memory of our eighteenth President.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 156. A bill to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes; to the Committee on Energy and Natural Resources.

THE LOWER BRULE SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND ACT OF 1997

Mr. DASCHLE. Mr. President, I am pleased to introduce the Lower Brule

Sioux Tribe Infrastructure Development Trust Fund of 1997. This legislation is the companion bill to the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996, which was signed by President Clinton on October 1, 1996.

When the Senate considered the Crow Creek Sioux bill last fall, I told my colleagues it is important to enact legislation to address similar claims by the Lower Brule Sioux and Cheyenne River Sioux tribes. The introduction of this legislation is intended to start that process for the Lower Brule Sioux Tribe. I intend to introduce similar legislation for the Cheyenne River Sioux Tribe later in this session.

The need for this legislation is great. In 1944, Congress passed the Flood Control Act, authorizing the Pick-Sloan Plan to build five dams on the Missouri River. Four of the Pick-Sloan dams are located in South Dakota. While the Pick-Sloan Project has been instrumental in providing the region with irrigation, hydropower and flood control capabilities, its construction took a serious toll on many Native American tribes, who were forced to cede land to the project and suffer the turmoil associated with relocating entire communities.

Like many of the tribes along the Missouri River, the Lower Brule Sioux Tribe shouldered a disproportionate amount of the cost to implement the Pick-Sloan project. Three decades ago, the Big Bend and Fort Randall dams flooded more than 22,000 acres of the Lower Brule Sioux land. Over 70 percent of the tribe's residents were forced to settle elsewhere. The tribe suffered the loss of fertile and productive land along the river that provided many of the tribe's basic staples, including wood for fuel and construction, edible plants, and wildlife habitat that supported the game on which the tribe relied for food. This land, which once played such an important role in the day-to-day lives of the tribal members, now lies underneath the Missouri River reservoirs. The tribe was never adequately compensated for this extraordinary loss.

It was not until 1992 that Congress formally acknowledged the federal government's failure to provide the tribes with adequate compensation. The passage of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act, which I cosponsored, established a recovery fund to compensate these tribes. This fund is financed entirely from Pick-Sloan power revenues, and payments to the fund are structured in such a way that they will not result in rate increases to power customers. This is appropriate and fair. As with any well-run business, the revenues from the project should be used to pay its costs.

With the legislation that I am introducing today, we have an opportunity to finally compensate the Lower Brule Sioux Tribe for the sacrifices it has had to bear since being relocated forcibly decades ago. We have an opportunity to mitigate the effects of dislocating the tribal communities and inundating the natural resources that the tribe depended upon for its survival. This legislation will help the Lower Brule Sioux Tribe build new facilities and improve existing infrastructure. Hopefully, by doing so, it will improve the lives of tribal residents in a meaningful and lasting way and promote greater economic self-sufficiency.

Under this legislation, a fund similar to the Crow Creek Sioux Infrastructure Development Trust Fund will be established for the Lower Brule Sioux Tribe. The trust fund will be capitalized from hydropower revenues until the fund accumulates $39.3 million—a figure well documented by Dr. Michael Lawson in his study of the history of this issue entitled An Analysis of the Impact of Pick-Sloan Dam Projects on the Lower Brule Sioux Tribe. The tribe will be able to use the interest generated from the fund to finance its own economic development priorities according to a plan prepared in conjunction with the Bureau of Indian Affairs and the Indian Health Service.

Mr. President, in conclusion I want to emphasize the broad support this legislation enjoys in South Dakota. Senator TIM JOHNSON is a cosponsor and Governor Bill Janklow has endorsed this bill. Establishing this fund for the Lower Brule Sioux Tribe benefits the entire state of South Dakota, as well as the tribal members. It will spur greater economic activity within the state and help the Lower Brule Sioux Tribe establish the infrastructure necessary to participate more fully in the region's economy.

It is my hope that my colleagues will join with me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) under the Act of December 22, 1994, commonly known as the "Flood Control Act of 1994" (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Fort Randall and Big Bend projects are major components of the Pick-Sloan Missouri River Basin program, and contribute to the national economy by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(3) the Fort Randall and Big Bend projects overlie the western boundary of the Lower Brule Indian Reservation, having inundated the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Lower Brule Sioux Tribe and the homeland of the members of the Tribe;

(4) Public Law 85-923 (72 Stat. 1773 et seq.) authorized the acquisition of 7,997 acres of Indian land on the Lower Brule Indian Reservation for the Fort Randall project and Public Law 87-734 (76 Stat. 698 et seq.) authorized the acquisition of 14,299 acres of Indian land on the Lower Brule Indian Reservation for the Big Bend project;

(5) Public Law 87-734 (76 Stat. 698 et seq.) provided for the mitigation of the effects of the Fort Randall and Big Bend projects on the Lower Brule Indian Reservation, by directing the Secretary of the Army to—

(A) as necessary, by reason of the Big Bend project, protect, replace, relocate, or reconstruct—

(i) any essential governmental and agency facilities on the reservation, including schools, hospitals, offices of the Public Health Service and the Bureau of Indian Affairs, service buildings, and employee quarters existing at the time that the projects were carried out; and

(ii) roads, bridges, and incidental matters or facilities in connection with those facilities;

(B) provide for a townsite adequate for 50 homes, including streets and utilities (including water, sewage, and electricity), taking into account the reasonable future growth of the townsite; and

(C) provide for a community center containing space and facilities for community gatherings, tribal offices, tribal council chamber, offices of the Bureau of Indian Affairs, offices and quarters of the Public Health Service, and a combination gymnasium and auditorium;

(6) the requirements under Public Law 87-734 (76 Stat. 698 et seq.) with respect to the mitigation of the effects of the Fort Randall and Big Bend projects on the Lower Brule Indian Reservation have not been fulfilled;

(7) although the national economy has benefited from the Fort Randall and Big Bend projects, the economy on the Lower Brule Indian Reservation remains underdeveloped, in part as a consequence of the failure of the Federal Government to fulfill the obligations of the Federal Government under the laws referred to in paragraph (4);

(8) the economic and social development and cultural preservation of the Lower Brule Sioux Tribe will be enhanced by increased tribal participation in the benefits of the Fort Randall and Big Bend components of the Pick-Sloan Missouri River Basin program; and

(9) the Lower Brule Sioux Tribe is entitled to additional benefits of the Pick-Sloan Missouri River Basin program.

SEC. 3. DEFINITIONS.

In this Act:

(1) FUND.—The term "Fund" means the Lower Brule Sioux Tribe Infrastructure Development Trust Fund established under section 4(a).

(2) PLAN.—The term "plan" means the plan for socioeconomic recovery and cultural preservation prepared under section 5.

(3) PROGRAM.—The term "Program" means the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) TRIBE.—The term "Tribe" means the Lower Brule Sioux Tribe of Indians, a band of the Great Sioux Nation recognized by the United States of America.

SEC. 4. ESTABLISHMENT OF LOWER BRULE SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.

(a) LOWER BRULE SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the "Lower Brule Sioux Tribe Infrastructure Development Trust Fund".

(b) FUNDING.—Beginning with fiscal year immediately following the fiscal year during which the aggregate of the amounts deposited in the Crow Creek Sioux Tribe Infrastructure Development Trust Fund is equal to the amount specified in section 4(b) of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (110 Stat. 3026 et seq.), and for each fiscal year thereafter, until such time as the aggregate of the amounts deposited in the Fund is equal to $39,300,000, the Secretary of the Treasury shall deposit into the Fund an amount equal to 25 percent of the receipts from the deposits to the Treasury of the United States for the preceding fiscal year from the Program.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) ESTABLISHMENT OF ACCOUNT AND TRANSFER OF INTEREST.—The Secretary of the Treasury shall, in accordance with this subsection, transfer any interest that accrues on amounts deposited under subsection (b) into a separate account established by the Secretary of the Treasury in the Treasury of the United States.

(2) PAYMENTS.—

(A) IN GENERAL.—Beginning with the fiscal year immediately following the fiscal year during which the aggregate of the amounts deposited in the Fund is equal to the amount specified in subsection (b), and for each fiscal year thereafter, all amounts transferred under paragraph (1) shall be available, without fiscal year limitation, to the Secretary of the Interior for use in accordance with subparagraph (C).

(B) WITHDRAWAL AND TRANSFER OF FUNDS.—For each fiscal year specified in subparagraph (A), the Secretary of the Treasury shall withdraw amounts from the account established under paragraph (1) and transfer such amounts to the Secretary of the Interior for use in accordance with subparagraph (C). The Secretary of the Treasury may only withdraw funds from the account for the purpose specified in this paragraph.

(C) PAYMENTS TO TRIBE.—The Secretary of the Interior shall use the amounts transferred under subparagraph (B) only for the purpose of making payments to the Tribe.

(D) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (C) only for carrying out projects and programs pursuant to the plan prepared under section 5.

(3) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this subsection may be distributed to any member of the Tribe on a per capita basis.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. PLAN FOR SOCIOECONOMIC RECOVERY AND CULTURAL PRESERVATION.

(a) PLAN.—

(1) IN GENERAL.—The Tribe shall, not later than 2 years after the date of enactment of this Act, prepare a plan for the use of the payments made to the Tribe under section 4(d)(2). In developing the plan, the Tribe shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(2) REQUIREMENTS FOR PLAN COMPONENTS.—The plan shall, with respect to each component of the plan—

(A) identify the costs and benefits of that component; and

(B) provide plans for that component.

(b) CONTENT OF PLAN.—The plan shall include the following programs and components:

(1) EDUCATIONAL FACILITY.—The plan shall provide for an educational facility to be located on the Lower Brule Indian Reservation.

(2) COMPREHENSIVE INPATIENT AND OUTPATIENT HEALTH CARE FACILITY.—The plan shall provide for a comprehensive inpatient and outpatient health care facility to provide essential services that the Secretary of Health and Human Services, in consultation with the individuals and entities referred to in subsection (a)(1), determines to be—

(A) needed; and

(B) unavailable through facilities of the Indian Health Service on the Lower Brule Indian Reservation in existence at the time of the determination.

(3) WATER SYSTEM.—The plan shall provide for the construction, operation, and maintenance of a municipal, rural, and industrial water system for the Lower Brule Indian Reservation.

(4) RECREATIONAL FACILITIES.—The plan shall provide for recreational facilities suitable for high-density recreation at Lake Sharpe at Big Bend Dam and at other locations on the Lower Brule Indian Reservation in South Dakota.

(5) OTHER PROJECTS AND PROGRAMS.—The plan shall provide for such other projects and programs for the educational, social welfare, economic development, and cultural preservation of the Tribe as the Tribe considers to be appropriate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Fund.

SEC. 7. EFFECT OF PAYMENTS TO TRIBE.

(a) IN GENERAL.—No payment made to the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

(b) EXEMPTIONS; STATUTORY CONSTRUCTION.—

(1) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed as diminishing or affecting—

(A) any right of the Tribe that is not otherwise addressed in this Act; or

(B) any treaty obligation of the United States.

By Mr. INOUYE:

S. 157. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State medicaid programs; to the Committee on Finance.

THE NURSING SCHOOL CLINICS ACT OF 1997

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 1997, a bill that has two main purposes. First, it builds on our concerted efforts to provide access to quality health care for all Americans by furnishing grants and incentives for nursing schools to establish primary care clinics in areas where additional medical services are most needed. Second, it provides the opportunity for nursing schools to enhance the scope of their students' training and education by giving them firsthand clinical experience in primary care facilities.

Any good manager knows that when major problems are at hand and resources are tight, the most important act is the one that makes full use of all available resources. The American health care system is particularly deficient in this regard. We all know only too well that many individuals in the Nation have no or inadequate access to health care services, especially if they live in many of our rural towns and villages or inhabit our Indian communities. Many good people are trying to deliver services that are so vitally needed, but we need to do more. We must make full use of all health care practitioners, especially those who have been long waiting to give the nation the full measure of their professional abilities.

Nursing is one of the noblest professions, with an enduring history of offering effective and sensitive care to those in need. Yet it is only in the last few years that we have begun to recognize the role that nurses can play as independent providers of care. Only recently, in 1990, Medicare was changed to authorize direct reimbursements to nurse practitioners. Medicaid is gradually being reformed to incorporate their services more effectively. The Nursing School Clinics Act continues the progress toward fully incorporating nurses in the delivery of health care services. Under the act, nursing schools will be able to establish clinics, supervised and staffed by nurse practitioners and nurse practitioner students, that provide primary care targeted to medically underserved rural and native American populations.

In the process of giving direct ambulatory care to their patients, these clinics will also furnish the forums in which both public and private schools of nursing can design and implement clinical training programs for their students. Simultaneous school-based education and clinical training have been a traditional part of physician development, but nurses have enjoyed fewer opportunities to combine classroom instruction with the practical experience of treating patients. This bill reinforces the principle for nurses of joining schooling with the actual practice of health care.

To accomplish these objectives, title XIX of the Social Security Act is amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to start the clinics and to keep them going.

To meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we are going to have to think about and debate a variety of proposals, both large and small. Most important, however, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 1997 recognizes the central role they can perform as care givers to the medically underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (24), by striking "and" at the end;

(2) by redesignating paragraph (25) as paragraph (26); and

(3) by inserting after paragraph (24), the following:

"(25) nursing school clinic services (as defined in subsection (t)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and".

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following:

"(t) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.".

(c) CONFORMING AMENDMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(C)(iv), by striking "through (24)" and inserting "through (25)"; and

(2) in subsection (j), by striking "through (25)" and inserting "through (26)".

(d) EFFECTIVE DATE.—The amendments made by this Act shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act for calendar quarters commencing with the first calendar quarter beginning after the date of the enactment of this Act.

By Mr. INOUYE:

S. 158. A bill to amend title XVII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program, and for other purposes; to the Committee on Finance.

THE CLINICAL SOCIAL WORKER SERVICES ACT OF 1997

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes that are contained in this legislation are necessary to clarify the current payment process for clinical social workers and to establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation would set payment for clinical social worker services according to a fee schedule established by the Secretary. Currently, the methodology for reimbursing clinical social workers' services is set at a percentage of the fee for another nonphysician provider group, creating a greater differential in charges than that which exists in the marketplace. I am aware of no other provision in the Medicare statute where one nonphysician's reimbursement rate is tied to that of another nonphysician provider. This is a precedent that clinical social workers understandably wish to change. I also wish to see that clinical social workers' services are valued on their own merit.

Second, this legislation makes it clear that services and supplies furnished incident to a clinical social worker's services are a covered Medicare expense, just as these services are currently covered for other mental health professionals in Medicare. Third, the bill would allow a clinical social worker to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider team. They are legally regulated in every state of our nation and are recognized as independent providers of mental health care throughout the health care system. Clinical social worker services were made available to Medicare beneficiaries through the Omnibus Budget Reconciliation Act of 1989. I believe that it is time now to correct the reimbursement problems that this profession has experienced through Medicare.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 13951(a)(1)(F)(ii)) is amended to read as follows: "(ii) the amount determined by a fee schedule established by the Secretary,".

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of such Act (42 U.S.C. 1395x(hh)(2)) is amended by striking "services performed by a clinical social worker (as defined in paragraph (1))" and inserting "such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))".

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking "and services" and inserting "clinical social worker services, and services".

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of such Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking "and services" and inserting "clinical social worker services, and services".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments made for clinical social worker services furnished on or after January 1, 1998.

By Mr. INOUYE:

S. 159. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician, and for other purposes; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. INOUYE. Mr. President, today I am introducing legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is truly unfortunate that programs such as this currently require clinical supervision of the services provided by certain health professionals and do not allow each of the various health professions to truly function to the extent of their state practice acts. In my judgment, it is especially appropriate that those who need the services of outpatient rehabilitation facilities have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services through the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by inserting before the semicolon "(except with respect to services provided by a clinical psychologist or a clinical social worker)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to services provided on or after January 1, 1998.

By Mr. INOUYE:

S. 160. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by a enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

PRISONER OF WAR MEDAL LEGISLATION

Mr. INOUYE. Mr. President, all too often we find that our nation's civilians who have been captured by a hostile government do not receive the recognition they deserve. My bill would correct this inequity and provide a prisoner of war medal for civilian employees of the federal government.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—(1) Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

"CHAPTER 25—MISCELLANEOUS AWARDS

"Sec.
"2501. Prisoner-of-war medal: issue.

"§ 2501. Prisoner-of-war medal: issue

"(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government, was forcibly detained or interned, not as a result of such person's own willful misconduct—

"(1) by an enemy government or its agents, or a hostile force, during a period of war; or

"(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

"(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

"(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

"(d) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

"(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

"(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

"(g) In this section, the term 'period of war' has the meaning given such term in section 101(11) of title 38.".

(2) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

"25. Miscellaneous Awards .... 2501".

(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of such section.

By Mr. INOUYE:

S. 161. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologist in the Veterans Health Administration, and for other purposes; to the Committee on Veterans Affairs.

THE VETERANS' HEALTH ADMINISTRATION ACT OF 1997

Mr. INOUYE. Mr. President, I am introducing legislation today to amend chapter 74 of title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration (VHA).

The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served their country in the Armed Forces. It is certainly fitting that this should be done.

Recently a quite distressing situation regarding the care of our veterans has come to my attention. In particular, the recruitment and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions from which a significant portion of our veterans suffer. For example, programs related to homelessness, substance abuse, and post traumatic stress disorder [PTSD] have received funding from the Congress in recent years.

Certainly, psychologists, as behavioral science experts, are essential to the successful implementation of these programs. However, the high vacancy and turnover rates for psychologists in the VHA (over 11 percent and 18 percent respectively as reported in one recent survey) might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale not commensurate with private sector rates of pay as well as by the low number of clinical and counseling psychologists appearing on the register of the Office of Personnel Management [OPM]. Most new hires have no post-doctoral experience and are hired immediately after a VA internship. Recruitment, when successful, takes up to six months or more.

Retention of psychologists in the VA system poses an even more significant problem. I have been informed that almost 40 percent of VHA psychologists had five years or less of post-doctoral experience. Without doubt, our veterans would benefit from a higher percentage of senior staff who are more experienced in working with veterans and their particular concerns. My bill provides incentives for psychologists to continue their work with the VHA and seek additional education and training.

Several factors are associated with the difficulties in retention of VHA psychologists including low salaries and lack of career advancement opportunities. It seems that psychologists are apt to leave the VA system after five years because they have almost reached peak levels for salary and professional development in the VHA. Furthermore, under the present system psychologists cannot be recognized nor appropriately compensated for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mastery. Our veterans with behavioral disorders and mental health problems are deserving of better psychological care from more experienced professionals than they are currently receiving.

A hybrid title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems in several ways. The length of time it takes to recruit psychologists could be abbreviated by eliminating the requirement for applicants to be rated by the Office of Personnel Management. This would also facilitate the recruitment of applicants who are not recent VA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention of behavioral science experts will be greatly alleviated with the implementation of a hybrid title 38 system for VA psychologists, primarily through offering financial incentives for psychologists to pursue professional development with the VHA. Achievements that would merit salary increases under title 38 should include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and/or efficiency of patient care, making significant contributions to the science of psychology, earning the ABPP diplomate status, and becoming a Fellow of the American Psychological Association.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in title 38. This is, without question, a significant factor in the recruitment and retention difficulties that I have addressed. Ultimately, an across-the-board salary increase might be necessary. However, the conversion of psychologists to a hybrid title 38, as proposed by this amendment, would provide relief for these difficulties and enhance the quality of care for our Nations' veterans and their families.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF AUTHORITY RELATING TO APPOINTMENT OF CLINICAL AND COUNSELING PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking out "who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary".

(b) CERTAIN OTHER APPOINTMENTS.—Section 7405(a) of such title is amended—

(1) in paragraph (1)(B), by striking out "Certified or" and inserting in lieu thereof "Clinical or counseling psychologists, certified or"; and

(2) in paragraph (2)(B), by striking out "Certified or" and inserting in lieu thereof "Clinical or counseling psychologists, certified or".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of enactment of this Act.

(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of clinical and counseling psychologists in the Veterans Health Administration under section 7401(3) of title 38, United States Code (as amended by subsection (a)), not later than 1 year after the date of enactment of this Act.

By Mr. INOUYE:

S. 162. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

TRAVEL PRIVILEGES LEGISLATION

Mr. INOUYE. Mr. President, today I am introducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on a space-available basis on nonscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for 100 percent service-connected disabled veterans.

Surely, we owe these heroic men and women, who have given so much to our country, a debt of gratitude. Of course, we can never repay them for the sacrifice they have made on behalf of our nation but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying "thank you" by supporting this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding after section 1060a the following new section:

"§1060b. Travel on military aircraft: certain disabled former members of the armed forces

"The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1060a the following new item:

"1060b. Travel on military aircraft: certain disabled former members of the armed forces.".

By Mr. INOUYE:

S. 163. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

THE NATIONAL ACADEMIES OF PRACTICE RECOGNITION ACT OF 1997

Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a federal charter for the National Academies of Practice. This organization represents outstanding practitioners who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, podiatry, social work, and veterinary medicine. When fully established, each of the nine academies will possess 100 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress have systematic access to the recommendations of an interdisciplinary body of health care practitioners.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.

The National Academies of Practice (hereafter referred to in this Act as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. PURPOSES OF CORPORATION.

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) Use of Income and Assets.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) Loans.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) Political Activity.—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) Issuance of Stock and Payment of Dividends.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) Claims of Federal Approval.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) Books and Records of Account.—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) Names and Addresses of Members.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) Right To Inspect Books and Records.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) Application of State Law.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended—

(1) by redesignating paragraph (72) as paragraph (71);

(2) by designating the paragraph relating to the Non Commissioned Officers Association of the United States of America, Incorporated, as paragraph (72);

(3) by redesignating paragraph (60), relating to the National Mining Hall of Fame and Museum, as paragraph (73); and

(4) by adding at the end the following:

"(75) National Academies of Practice.".

SEC. 12. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit for such fiscal year required by section 3 of the Act referred to in section 11 of this Act. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION.

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

SEC. 16. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.

By Mr. INOUYE:

S. 164. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

THE PSYCHIATRIC AND PSYCHOLOGICAL EXAMINATIONS ACT OF 1997

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title 18 of the United States Code to allow our nation's clinical social workers to provide their mental health expertise to the federal judiciary.

I feel that the time has come to allow our nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our nation's best interest.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.

Section 4247(b) of title 18, United States Code, is amended in the first sentence by—

(1) striking out "or" after "certified psychiatrist" and inserting a comma; and

(2) inserting after "psychologist," the following: "or clinical social worker,".

By Mr. INOUYE:

S. 165. A bill for the relief of Donald C. Pence; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) Relief.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now-deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on March 31, 1993.

(b) Limitation on Fees.—Not more than a total of 10 percent of the payment authorized by subsection (a) shall be paid to or received by agents or attorneys for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 166. A bill to amend section 1086 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes; to the Committee on Armed Services.

THE CHAMPUS AMENDMENT ACT OF 1997

Mr. INOUYE. Mr. President, I feel that it is very important that our nation continue its firm commitment to those individuals and their families who have served in the Armed Forces and made us the great nation that we are today. As this population becomes older, they are unfortunately finding that they need a wider range of health services, some of which are simply not available under Medicare. These individuals made a commitment to their nation, trusting that when they needed help the nation would honor that commitment. The bill that I am recommending today would ensure the highest possible quality of care for these dedicated citizens and their families, who gave so much for us.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF MEDICARE EXCEPTION TO THE PROHIBITION OF CHAMPUS COVERAGE FOR CARE COVERED BY ANOTHER HEALTH CARE PLAN.

(a) AMENDMENT AND REORGANIZATION OF EXCEPTIONS.—Subsection (d) of section 1086 of title 10, United States Code, is amended to read as follows:

"(d)(1) Section 1079(j) of this title shall apply to a plan contracted for under this section except as follows:

"(A) Subject to paragraph (2), a benefit may be paid under such plan in the case of a person referred to in subsection (c) for items and services for which payment is made under title XVIII of the Social Security Act.

"(B) No person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in facilities of the Department of Veterans Affairs.

"(2) If a person described in paragraph (1)(A) receives medical or dental care for which payment may be made under both title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and a plan contracted for under subsection (a), the amount payable for that care under the plan may not exceed the difference between—

"(A) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under that title; and

"(B) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under the plan.

"(3) A plan contracted for under this section shall not be considered a group health plan for the purposes of paragraph (2) or (3) of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)).

"(4) A person who, by reason of the application of paragraph (1), receives a benefit for items or services under a plan contracted for under this section shall provide the Secretary of Defense with any information relating to amounts charged and paid for the items and services that, after consulting with the other administering Secretaries, the Secretary requires. A certification of such person regarding such amounts may be accepted for the purposes of determining the benefit payable under this section.".

(b) REPEAL OF SUPERSEDED PROVISION.—Such section is further amended—

(1) by striking out subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 2. CONFORMING AMENDMENT.

Section 1713(d) of title 38, United States Code, is amended by striking out "section 1086(d)(1) of title 10 or".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to health care items or services provided on and after the date of enactment of this Act.

By Mr. INOUYE:

S. 167. A bill for the relief of Alfredo Tolentino of Honolulu, Hawaii; to the Committee on Governmental Affairs.

PRIVATE RELIEF LEGISLATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 8337(b) of title 5, United States Code, Alfredo Tolentino of Honolulu, Hawaii may file an application no later than 60 days after the date of the enactment of this Act with the Office of Personnel Management for a claim of disability retirement under the provisions of such section.

By Mr. DEWINE:

S. 168. A bill to reform criminal procedure, and for other purposes; to the Committee on the Judiciary.

THE TRIGGERLOCK ACT OF 1997

Mr. DEWINE. Mr. President, there are two truly fundamental issues we need to address in the area of crime. First, what is the proper role of the Federal Government in fighting crime in this country? Second, despite all the rhetoric, what really works in law enforcement?

What matters? What doesn't matter?

Today, I would like to discuss one issue that I believe really matters: How do we go about protecting America from armed career criminals?

I am talking about repeat violent criminals who use a gun while committing a crime.

In this area, too, we need to be asking: What works? And what level of Government should do it?

In the area of gun crimes, we have a pretty good answer.

We all know that there is some controversy over whether general restrictions on gun ownership would help to reduce crime. But there is no controversy over whether taking guns away from felons would reduce crime.

There is legitimate disagreement over whether the Brady bill would reduce crime. Similarly, reasonable people can disagree on the question of whether a ban on assault weapons would reduce crime. I happen to support both those measures—but I recognize that some people think they are not effective.

But what I am talking about today is something on which there is absolutely no controversy. There's simply no question that taking the guns away from armed career criminals will reduce crime.

No question, Mr. President. When it comes to felons, unilateral disarmament of the thugs is the best policy. Let's disarm the people who hurt people.

We have actually tried it—and we know it works. One of the most successful crime-fighting initiatives of recent years was known as Project Triggerlock. This project was wildly successful precisely because it addresses a problem squarely—and places the resources where they are most needed.

Let me tell you a little about project Triggerlock. The U.S. Justice Department began Project Triggerlock in May 1991. The program targeted for prosecution—in Federal court—armed and violent repeat offenders.

Under Triggerlock, U.S. Attorneys throughout the country said to State and local prosecutors: If you catch a felon with a gun, and if you want us to, we—the Federal prosecutors—will take over the prosecution.

We will prosecute him. We will convict him. We will hit him with a stiff Federal mandatory sentence. And we will lock him up in a Federal prison at no cost to the State or local community.

That's what Triggerlock did. Triggerlock was an assault on the very worst criminals in America. And it worked.

This program took 15,000 criminals off the streets in an 18-month period.

Incredibly, the Clinton Justice Department abandoned Project Triggerlock. It was the most effective Federal program in recent history for targeting and removing armed career criminals. But the Justice Department stopped Triggerlock dead in its tracks.

What I am proposing in this bill is that we resurrect Project Triggerlock.

My bill requires the U.S. attorneys in every jurisdiction in this country to make a montly report to the Attorney General in Washington on the number of arrests, prosecutions, and convictions they have gotten on gun-related offenses. The Attorney General should then report, semi-annually, to the Congress on the work of these prosecutors.

Like all prosecutors, U.S. attorneys have limited resources. So—like all prosecutors—U.S. attorneys have to exercise discretion about whom to prosecute. We all recognize the Congress can't dictate to prosecutors whom they should prosecute—but it's clear that we should go on record with the following proposition: There's nothing more important than getting armed career criminals off the streets.

Mr. President, I think Project Triggerlock is a very important way to keep the focus on the prosecution of gun crimes. Getting gun criminals off the streets is a major national priority—and we ought to behave accordingly.

MANDATORY MINIMUMS

Mr. President, the second thing we need to do is change the law. We need to toughen the law against those who use a gun to commit a crime. My bill would say to career criminals—if you possess a gun after being convicted for gun crimes, you will get a mandatory 15-year sentence.

Under current law, a first-time felon gets a 5-year mandatory minimum sentence. A third-time felon gets a mandatory minimum of 15 years. But there is a gap—there's no mandatory minimum for a second-time felon.

My legislation would fix that. It would provide a mandatory minimum of 10 years for a second-time felon.

That would make it a lot easier for police to get gun criminals off our streets.

BAIL REFORM

A third thing we have to do is reform the bail system.

Under current law—the Bail Reform Act—certain dangerous accused criminals can be denied bail detention if they have been charged with crimes of violence. But it's unclear under current law whether possession of firearms should be considered a crime of violence.

Mr. President, let us do a reality check on this. If someone who is a known convicted felon is walking around with a gun, what's the likelihood that person is carrying the gun for law-abiding purposes?

I think it is perfectly reasonable to consider that person prima facie dangerous. We should deny bail—and keep that convicted felon off the streets while awaiting trial on the new charge.

My legislation would eliminate the ambiguity in current law. My bill would define a "crime of violence" specifically to include possession of a firearm by a convicted felon.

If you are a convicted felon, and you're walking around with a gun—you're dangerous. You need to be kept off the streets. We need to give prosecutors the legal right to protect the community from these people while they are awaiting trial.

CRACK DOWN ON ILLEGAL GUN SUPPLIERS

A fourth way we can crack down on gun crimes is to go after those who knowingly provide the guns to felons. Under current law, you can be prosecuted for providing a gun only if you know for certain that it will be used in a crime.

The revision I propose would make it illegal to provide a firearm if you have reasonable cause to believe that it's going to be used in a crime.

The is the best way to go after the illegal gun trade—those who provide guns to the predators on society. We will no longer allow these gun providers to pretend ignorance. They are helping felons—and they need to be stopped.

All of these proposals are motivated by a single purpose: I—along with the police officers of this country—believe that we have to get the guns away from the gun criminals.

Project Triggerlock is one major initiative we can pursue at the Federal level to help make this happen. Imposing stiff mandatory minimums and cracking down on illegal gun providers are also important measures.

All of the gun proposals contained in my crime legislation have the same goal. They are designed to assure American families who are living in crime-threatened communities that we're going to do what it takes to get guns off your streets.

We are going to go after the armed career criminals. We're going to prosecute them. We're going to convict them. We are going to keep them off the streets.

This is why we have a government in the first place—to protect the innocent, to keep ordinary citizens safe from violent, predatory criminals.

I think Government needs to do a much better job at this fundamental task—and that's why targeting the armed career criminals is such a major component of this bill.

By Mr. CRAIG:

S. 169. A bill to amend the Immigration and Nationality Act with respect to the admission of temporary H–2A workers; to the Committee on the Judiciary.

THE AGRICULTURAL WORK FORCE STABILITY AND PROTECTION ACT

Mr. CRAIG. Mr. President, I rise to introduce the Agricultural Work Force Stability and Protection Act. This bill would make needed reforms to the so-called "H–2A Program," the program intended by Congress in the Immigration and Nationality Act to allow for a reliable supply of legal, temporary, immigrant workers in the agricultural sector, under terms that also provide reasonable worker protections, when there is a shortage of domestic labor in this sector.

Last year, Senator Alan Simpson, then the Chairman of the Judiciary Committee's Subcommittee on Immigration, and then this body as a whole, acknowledged the importance of this issue by agreeing to including in the Illegal Immigration Reform conference report some compromise language regarding the Sense of the Congress on the H–2A Program and requiring the General Accounting Office to review the effectiveness of the program.

The language included in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was essentially the same as language agreed to in the conference report on fiscal year 1997 Agriculture Appropriations. With these provisions, the Congress went on record twice on the importance of having a program that helps ensure an adequate workforce for agricultural producers.

This is an issue that is of the utmost importance to this country's farmers and ranchers, especially in light of the impact that immigration reform will have on the supply of agricultural labor. There is very real concern among Idaho farmers and throughout the country that these reforms will reduce the availability of agricultural workers.

Farmers need access to an adequate supply of workers and want to have certainty that they are hiring a legal work force. In 1995, the total agricultural work force was about 2.5 million people. That equals 6.7 percent of our labor force, which is directly involved in production agriculture and food processing.

Hired labor is one of the most important and costly inputs in farming. U.S. farmers spent more than $15 billion on hired labor expenses in 1992—one of every eight dollars of farm production expenses. For the labor-intensive fruit, vegetable and horticultural sector, labor accounts for 35 to 45 percent of production costs.

The competitiveness of U.S. agriculture, especially in the fruit, vegetable and horticultural specialty sectors, depends on the continued availability of hired labor at a reasonable cost. U.S. farmers, including producers of labor-intensive perishable commodities, compete directly with producers in other countries for market share in both U.S. and foreign commodity markets.

Wages of U.S. farmworkers will not be forced up by eliminating alien labor, because growers' production costs are capped by world market commodity prices. Instead, a reduction in the work force available to agriculture will force U.S. producers to reduce production to the level that can be sustained by a smaller work force.

Over time, wages for these farm workers have actually risen faster than non-farm worker wages. Between 1986–1994, there was a 34.6 percent increase in average hourly earnings for farm workers, while non-farm workers only saw a 27.1 percent increase.

Even with this increase in on-farm wages, this country has historically been unable to provide a sufficient number of domestic workers to complete the difficult manual labor required in the production of many agricultural commodities. In Idaho, this is especially true for producers of fruit, sugar beets, onions and other specialty crops.

The difficulty in obtaining sufficient domestic workers is primarily due to the fact that domestic workers prefer the security of full-time employment in year round positions. As a result the available domestic work force tends to prefer the long term positions, leaving the seasonal jobs unfilled. In addition, many of the seasonal agricultural jobs are located in areas where it is necessary for workers to migrate into the area and live temporarily to do the work. Experience has shown that foreign workers are more likely to migrate than domestic workers. As a result of domestic short supply, farmers and ranchers have had to rely upon the assistance of foreign workers.

The only current mechanism available to admit foreign workers for agricultural employment is the H–2A program. The H–2A program is intended to serve as a safety valve for times when domestic labor is unavailable. Unfortunately, the H–2A program isn't working.

Despite efforts to streamline the temporary worker program in 1986, it now functions so poorly that few in agriculture use it without risking an inadequate work force, burdensome regulations and potential litigation expense. In fact, usage of the program has actually decreased from 25,000 workers in 1986 to only 17,000 in 1995.

The bill I am introducing would provide some much-needed reforms to the H–2A program. I urge my colleagues to consider the following reasonable modifications of the H–2A program.

First, the bill would reduce the advance filing deadline from 60 to 40 days before workers are needed. In many agricultural operations, 60 days is too far in advance to be able to predict labor needs with the precision required in H–2A applications. Furthermore, virtually all referrals of U.S. workers who actually report for work are made close to the date of need. The advance application period serves little purpose except to provide time for litigation.

Second, in lieu of the present certification letter, the Department of Labor [DOL] would issue the employer a domestic recruitment report indicating that the employer's job offer meets the statutory criteria and lists the number of U.S. workers referred. The employer would then file a petition with INS for admission of aliens, including a copy of DOL's domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision. The purpose is to restore the role of the Labor Department to that of giving advice to the Attorney General on labor availability, and return decision making to the Attorney General.

Third, the Department of Labor would be required to provide the employer with a domestic recruitment report not later than 20 days before the date of need. The report either states sufficient domestic workers are not available or gives the names and Social Security numbers of the able, willing and qualified workers who have been referred to the employer. The Department of Labor now denies certification not only on the basis of workers actually referred to the employer, but also on the basis of reports or suppositions that unspecified numbers of workers may become available. The proposed change would assure that only workers actually identified as available would be the basis for denying foreign workers.

Fourth, the Immigration and Naturalization Service [INS] would provide expedited processing of employers' petitions, and, if approved, notify the visa issuing consulate or port of entry within 15 calendar days. This would ensure timely admission decisions.

Fifth, INS would provide expedited procedures for amending petitions to increase the number of workers admitted on 5 days before the date of need. This is to reduce the paperwork and increase the timeliness of obtaining needed workers very close to or after the work has started.

Sixth, DOL would continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. This method is needed to allow the employer at a date certain to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

Seventh, the bill would enumerate the specific obligations of employers in occupations in which H–2A workers are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

1. The employer offers a competitive wage for the position.
2. The employer would provide approved housing, or a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.
3. The employer continues to provide current transportation reimbursement requirements.
4. A guarantee of employment is provided for at least three-quarters of the anticipated hours of work during the actual period of employment.
5. The employer would provide workers' compensation or equivalent coverage.
6. Employer must comply with all applicable Federal, State, and local labor laws with respect to both United States and alien workers.

This combination of employment requirements would eliminate the discretion of Department of Labor to specify terms and conditions of employment on a case-by-case basis. In addition, the scope for litigation would be reduced since employers (and the courts) would know with particularity the required terms and conditions of employment.

Eighth, the bill would provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Ninth, certainty would be given to employers who comply with the terms of an approved job order. If at a later date the Department of Labor requires changes, the employer would be required to comply with the law only prospectively. This very important provision removes the possibility of retroactive liability if an approved order is changed.

As the Illegal Immigration Reform law is implemented, action on these H–2A reforms will be necessary in the coming months to avoid jeopardizing the labor supply for American agriculture.

Therefore, I am introducing this bill at this time and invite and urge my colleagues to sign on as cosponsors. It is time to begin in earnest to discuss these issues and examine these vitally-needed reforms. I hope and expect the Senate will pass constructive legislation along these lines this year.

Thank you, Mr. President. At this time, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE AGRICULTURAL WORK FORCE STABILITY AND PROTECTION ACT

The following proposed changes to the H–2A program would improve its timeliness and utility for agricultural employers in addressing agricultural labor shortages, while providing wages and benefits that equal or exceed the median level of compensation in non-H–2A occupations, and reducing the vulnerability of the program to being hamstrung and delayed by litigation.

1. Reduce the advance filing deadline from 60 to 40 days before workers are needed.

Rationale. In many agricultural operations, 60 days is too far in advance to be able to predict labor needs with the precision required in H–2A applications. Furthermore, virtually all referrals of U.S. workers who actually report for work are made close to the date of need. The advance application period serves little purpose except to provide time for litigation.

2. In lieu of the present certification letter, DOL would issue the employer a domestic recruitment report indicating that the employer's job offer meets the statutory criteria (or the specific deficiencies in the order) and the number of U.S. workers referred, per #3 below. The employer would file a petition with INS for admission of aliens (or transfer of aliens already in the United States), including a copy of DOL's domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision.

Rationale. The purpose is to restore the role of the Labor Department to that of giving advice to the AG on labor availability, and return the true gatekeeper role to the AG. Presently the certification letter is, de facto, the admission decision.

3. DOL provides employer with a domestic recruitment report not later than 20 days before the date of need stating either that sufficient domestic workers are not available,

or giving the names and Social Security Numbers of the able, willing and qualified workers who have been referred to the employer and who have agreed to be available at the time and place needed. DOL also provides a means for the employer to contact the referred worker to confirm availability close to the date of need. DOL would be empowered to issue a report that sufficient domestic workers are not available without waiting until 20 days before the date of need for workers if there are already unfilled orders for workers in the same or similar occupations in the same area of intended employment.

Rationale: DOL now denies certification not only on the basis of workers actually referred to the employer, but also on the basis of reports or suppositions that unspecified numbers of workers may become available. These suppositions almost never prove correct, forcing the employer into costly and time wasting redeterminations on or close to the date of need and delaying the arrival of workers. The proposed change would assure that only workers actually identified as available would be the basis for denying foreign workers. DOL also interprets the existing statutory language as precluding it from issuing each labor certification until 20 days before the date of need, even in situations where ongoing recruitment shows that sufficient workers are not available.

4. INS to provide expedited processing of employer's petitions, and, if approved, notify the visa issuing consulate or port of entry within 15 calendar days.

Rationale: To assure timely admission decisions.

5. INS to provide an expedited procedures for amending petitions to increase the number of workers admitted (or transferred) on or after 5 days before the date of need, to replace referred workers whose continued availability can not be confirmed, who fail to report on the date of need, or who abandon employment or are terminated for cause, without first obtaining a redetermination of need from DOL.

Rationale: To reduce the paperwork and increase the timeliness of obtaining needed workers very close to or after the work has started.

6. DOL would continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. Employers would be required to give preference to able, willing and qualified workers who agree to be available at the time and place needed who are referred to the employer until 5 days before the date workers are needed. After that time, employers would be required to give preference to U.S. workers who are immediately available in filling job opportunities that become available, but would not be required to bump alien workers already employed.

Rationale: A method is needed to allow the employer at a date-certain close to the date of need to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

7. Create a "bounded definition" of adverse effect by enumerating the specific obligations of employers in occupations in which H–2A aliens are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

7a. Offer at least the median rate of pay for the occupation in the area of intended employment.

7b. Provide approved housing or, if sufficient housing is available in the approximate area of employment, a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.

NOTE: Provision should also be made to allow temporary housing that does not meet the full set of Federal standards for a transitional period in areas where sufficient housing that meets standards is not presently available, and for such temporary housing on a permanent basis in occupations in which the term of employment is very short (e.g. cherry harvesting, which lasts about 15–20 days) if sufficient housing that meets the full standards is not available. Federal law should pre-empt state and local laws and codes with respect to the provision of such temporary housing.

7c. Current transportation reimbursement requirements (i.e. employer reimburses transportation of workers who complete 50 percent of the work contract and provides or pays for return transportation for workers who complete the entire work contract).

7d. A guarantee of employment for at least three-quarters of the anticipated hours of work during the actual period of employment.

7e. Employer-provided Workers' Compensation or equivalent.

7f. Employer must comply with all applicable federal, state and local labor laws with respect to both U.S. and alien workers.

Rationale: The objective is to eliminate the discretion of DOL to specify terms and conditions of employment on a case-by-case basis and reduce the scope for litigation of applications. Employers (and the courts) would know with particularity, up front, what the required terms and conditions of employment are. The definition also reduces the cost premium for participating in the program by relating the Adverse Effect Wage Rate to the minimum wage and limiting the applicability of the three-quarters guarantee to the actual period of employment.

8. Provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Rationale: To reduce litigation costs.

9. Provide that if an employer complies with the terms of an approved job order, and DOL or a court later orders a provision to be changed, the employer would be required to comply with the new provision only prospectively.

Rationale: To reduce the exposure of employers to litigation seeking to overturn DOL's approval of job orders, and to retroactive liability if an approved order is changed.

By Mr. DEWINE:

S. 170 A bill to provide for a process to authorize the use of clone pagers, and for other purposes; to the Committee on the Judiciary.

THE CLONE PAGER AUTHORIZATION ACT OF 1996

Mr. DEWINE. Mr. President, I believe that, to stop crime, we have to do more. That doesn't mean another rhetorical assault on crime—or even a flashy ten-point program. Rather, we have to do more of the little things that—when you put them all together—make a big difference.

The most important of these is giving law enforcement officials the tools they need to do their jobs. Today, I am introducing legislation that will help us do that.

The bill I am introducing today would simply rectify an imbalance in current Federal law which makes it more difficult for law enforcement officials to fight drug trafficking. Today, drug traffickers have taken advantage of technological advances to advance their own criminal interests.

Drug traffickers—on a regular basis—use digital display paging devices, better known as beepers—in transacting their business. They do this because it gives them the freedom to run their criminal enterprise out of any available phone booth, and to avoid police surveillance. If law enforcement officials knew from whom they were receiving the calls to their beepers it would certainly aid efforts in tracking down drug traffickers.

The technology now exists to allow law enforcement to receive the digital display message, without intercepting the content of any conversation or message. It is called a "clone pager." This clone pager is programmed identically to the suspect's pager and allows law enforcement to receive the digital displays at the same time as the suspect.

This device functions identically to a pen register. Mr. President, as you may know, a pen register is a device which law enforcement attaches to a phone line to decode the numbers which have called a specific telephone. Like a clone pager, the pen register only intercepts phone numbers, not the content of any conversation or message.

Since both devices serve the same purpose, a reasonable person would conclude that both the system for receiving authorization to use these devices, and the procedures mandated by the courts once the authorization was granted would be the same. However, in both cases it is not.

Under current law, the requirements for obtaining authorization to use a clone pager are much more stringent than they are for using a pen register. I would like to briefly outline the differences.

In order to obtain authorization to use a pen register, a Federal prosecutor must certify to a district court judge the phone number to which the pen register will be attached, the phone company that delivers service to that number, and that the pen register serves a legitimate law enforcement purpose. In other words, the prosecutor must show only that the use of the pen register is based on an ongoing investigation. The district court judge may then grant the authorization on a mere finding that the prosecutor has made the required certification. The pen register can then be used for a period of 60 days—with no requirement that law enforcement report pen register activity to the court.

In contrast, the U.S. Attorney for a particular district must sign off on a request for clone pager authorization. Once this occurs, a prosecutor may then go before a district court judge where he must show that there is probable cause to suspect an individual has committed a crime—a much higher standard than what is required for a pen register authorization. He must also detail what other investigative techniques have been used, why they have not been successful, and why they will continue to be unsuccessful. Moreover, the prosecutor must disclose other available investigative techniques and why they are unlikely to be successful. Only after all of this is done can authorization to use a clone pager be granted.

But these are not the only differences in treatment. After the authorization is granted, it can only be used for 30 days. During that 30 days, the prosecutor must report activity from the clone pager to the issuing judge at least once every 2 weeks.

I do not believe that the authorization disparity in authorization for these two devices is warranted.

The legislation that I am introducing today would simply amend the Federal code to end this disparity. This bill would give law enforcement agents ready access, with warranted limitations, to the tools they need to do their jobs. This bill will bring Federal law enforcement into the 21st century. The drug traffickers are already there. It's time for law and order to catch up with them.

By Mr. DEWINE:

S. 171. A bill to amend title 18, United States Code, to insert a general provision for criminal attempt; to the Committee on the Judiciary.

THE ATTEMPT ACT OF 1997

Mr. DEWINE. Mr. President, I am introducing a bill today that will give law enforcement officers a tool they need to their jobs—protecting American families. It would establish, for the first time in the Federal Criminal Code, a general attempt provision. Thankfully, criminals to not succeed every time they set out to commit a crime. We need to take advantage of these failed crimes to get criminals off the streets.

Mr. President, under current Federal law, there is no general attempt provision applicable to all Federal offenses. This has forced Congress to enact separate legislation to cover specific circumstances. This approach to the law has led to a patchwork of attempt statutes—leaving gaps in coverage, and failing to adequately define exactly what constitutes an attempt in all circumstances.

Some statutes include attempt language within the substantive offense, but don't bother to define exactly what an attempt is. Others define, as a separate crime, conduct which is only a step toward commission of a more serious offense. Moreover, there is no offense of attempt for still other serious crimes, such as disclosing classified information to an unauthorized person.

This ad hoc approach to attempt statutes is causing problems for law enforcement officials. At what point is it OK for law enforcement officials to step in to prevent the completion of a crime? If someone is seriously dedicated to committing a crime, law enforcement must be able to intervene and prevent it—without having to worry whether doing so would cause a criminal to walk. In the absence of a statutory definition of an attempt, the courts have been called upon to decide whether specific actions fit within existing statutory language.

When a criminal is attempting to commit a crime where attempt is not an offense, then law enforcement must wait until the crime is completed, or find some other charge to fit the criminal's actions. Law enforcement should never be placed in either of these positions.

The bill that I am introducing today will solve these problems in the current law. As I mentioned earlier, this legislation will add a general attempt provision to the U.S. Criminal Code. It provides congressional direction in defining what constitutes an attempt in all circumstances. And, it will serve to fill in the irrational gaps in attempt coverage.

In my view, it's time for the American people—acting through the Congress—to clarify their intention when it comes to this area of the law.

Millions of Americans work hard every day to make ends meet and raise their families and provide a better life for their children.

But, there are some people who choose a different approach to life—a life of crime. We as Americans need to leave no doubt where we stand on that choice. If you even try to commit a crime, we're going to prosecute you and convict you. This bill will make it easier for our law enforcement officers to protect our families and our communities.

By Mr. DEWINE:

S. 172. A bill to amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes; to the Committee on the Judiciary.

THE MILITARY AND CIVILIAN JUSTICE ACT

Mr. DEWINE. Mr. President, there are shortcomings in the Code of Military Law that have terrible repercussions in the streets of civilian America. These failures of the military judicial system too often result in military criminals being pushed out of the service and into our civilian streets—where these criminals continue to behave as lawless predators. This bill closes two such gaps in the Military Code and ensures that the enlisted criminal is not pushed out to prey on decent citizens. This bill protects civilians from military personnel who have committed crimes, just as the Military protects itself from those same people.

My bill addresses an important gap in the law. Under current law, many illegal acts committed abroad by U.S. soldiers or accompanying civilians go unpunished by the military courts. The prosecution of these crimes is left to the discretion of a military court, which either chooses to do no more than hand down a dishonorable discharge or lacks jurisdiction over the civilian defendant. This should not be the case.

This bill guarantees that a soldier or accompanying civilian abroad, committing an illegal act punishable under the United States Code by more than a year's imprisonment, will be handed over to civilian authorities for prosecution under the United States Code.

There is another aspect of this bill intended to protect civilian Americans from the actions of those who commit crimes while in the military. This bill also mandates that when an enlisted criminal is discharged from the service, the military Secretary will turn over to the FBI all the criminal records of that soldier for inclusion in the FBI criminal records system. Again, Mr. President, this is another way to protect the tax-paying, law-abiding American from dishonorably discharged criminals. Under current law, the criminal histories of these military personnel do not become part of the National Crime Information Center database. This bill will ensure that they do.

By Mr. DEWINE:

S. 173. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on the Judiciary.

THE PRIVATE SECURITY OFFICERS QUALITY ASSURANCE ACT

Mr. DEWINE. Mr. President, I rise today to introduce the Private Security Officer Assurance Act of 1997. This bill establishes an expedited procedure for State regulators or private security officers to obtain criminal records background checks through the FBI prior to issuing state permits to security officers. Currently, it frequently takes between 6 to 18 months to complete such checks.

My bill would authorize the Attorney General to designate an association of employers of security officers to collect signature cards from applicants and forward them to the FBI for a comparison against the Federal criminal history records on file. The records would then be forwarded to the appropriate State regulators who would decide the qualification of the applicants for permits based on State laws. Under this bill, the applicant would pay fees to compensate for the cost of the background checks. No criminal history information would go to the employer.

I would note that Congress has established similar procedures for banks, the parimutuel industry and the financial securities industry. The process that I described takes about 3 weeks for these industries.

Mr. President, I believe this bill will help improve public safety by ensuring the integrity of those hired as security officers.

By Mr. DEWINE:

S. 174. A bill to establish the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Energy and Natural Resources.

THE FALLEN TIMBERS ACT

Mr. DEWINE. Mr. President, I rise today to introduce legislation that will designate the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis as National Historic Sites.

Mr. President, the people of northwest Ohio are committed to preserving the historic heritage of the United States and the State of Ohio, as well as that of their own community.

The truly national significance of the Battle of Fallen Timbers and Fort Meigs have been acknowledged already. In 1960, Fallen Timbers was designated as a National Historic Landmark. In 1969, Fort Meigs received this designation.

The Battle of Fallen Timbers is acknowledged by the National Park Service as a culminating event in the history of the struggle for dominance in the old Northwest Territory.

Fort Meigs is recognized by the National Park Service as "the zenith of the British advance in the west as well as the maximum effort by Native forces under the Shawnee, Tecumseh, during the War of 1812."

Fort Miamis, which was attacked twice without success by British troops, led by General Henry Proctor, in the spring of 1813, is listed on the National Register of Historic Places.

Recently, the National Park Service completed a special resource study examining the proposed National Historic Site designation and the suitability of these sites for inclusion in the National Park System.

The Park Service concluded that these sites were suitable for inclusion in the National Park System—with non-Federal management and National Park Service assistance. The bill I am introducing today would act on that recommendation.

My legislation will accomplish the following:

Recognize and preserve the 185-acre Fallen Timbers Battlefield site;

Formalize the linkage between the Fallen Timbers Battlefield and Monument to Fort Meigs and Fort Miamis;

Preserve and interpret U.S. military history and Native American culture during the period from 1794 through 1813; and,

Provide technical assistance to the State of Ohio as well as interested community and historical groups in the development and implementation of programming and interpretation of the three sites.

However, my legislation will not require the Federal Government to provide direct funding to these three sites. That responsibility remains with—and is welcomed by—the many individuals, community groups, elected officials, and others who deserve recognition for their many hours of hard work dedicated to this issue.

Mr. President, we have entered an era where the responsibility and the drive behind the management, programming, and—in many cases—the funding for historic preservation is the responsibility of local community groups, local elected officials, and local business communities.

This legislation to designate the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis as National Historic Sites represents just such an effort. In my opinion, it is long overdue.

Mr. President, it is time to grant these truly historic areas the measure of respect and recognition they deserve. I agree with the National Park Service—and the people of Ohio—on this issue. That is why I am proposing this important legislation today.

By Mr. INOUYE:

S. 175. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

THE CLINICAL SOCIAL WORKERS' RECOGNITION ACT OF 1997

Mr. INOUYE. Mr. President, I rise today to introduce the Clinical Social Workers' Recognition Act of 1997 to correct an outstanding problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the Nation. However, title V, United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought about by Federal employees. The bill I am introducing corrects this problem.

All 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands legally regulate social workers through licensure or certification. Thirty-one States and the District of Columbia have enacted laws that mandate reimbursement for clinical social workers by insurance plans that offer mental health care coverage. All Federal insurance programs that authorize the provision of mental health care services, including Medicare, the Federal Employee Health Benefits Program [FEHBP], and the Civilian Health and Medical Program of the Uniformed Services [CHAMPUS] recognize the ability of clinical social workers to provide mental health services.

It is a sad irony that Federal employees may select a clinical social worker through their health plans to provide mental health services but may not go to this professional for a workers' compensation evaluation. Studies show that as much as 65 percent of all mental health services are provided by clinical social workers and clinical social workers are often the only providers of mental health service in rural areas of the country. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits the choice of Federal employees in selecting a provider to conduct the mental health evaluation and may well impose an undue burden for Federal employees in certain areas where clinical social workers are the only available providers for mental health care. This legislation will correct such an inequity.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinical Social Workers' Recognition Act of 1997".

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2) by striking "and osteopathic practitioners" and inserting "osteopathic practitioners, and clinical social workers"; and

(2) in paragraph (3) by striking "and osteopathic practitioners" and inserting "osteopathic practitioners, and clinical social workers".

By Mr. INOUYE:

S. 176. A bill for the relief of Susan Rebola Cardenas; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Susan Rebola Cardenas shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Susan Rebola Cardenas as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. INOUYE:

S. 177. A bill to provide for a special application of section 1034 of the Internal Revenue Code of 1986; to the Committee on Finance.

SPECIAL APPLICATION LEGISLATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the case of Rita Bennington—

(1) who purchased her new principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) in January 1992, and

(2) who was unable to meet the requirements of such section with respect to the sale of an old principal residence until May 1994, because of unexpected delays caused by Hurricane Iniki, the Secretary of the Treasury, in the administration of section 1034 of the Internal Revenue Code of 1986, shall apply subsection (a) of such section by substituting "2.5 years" for "2 years" each place it appears.

By Mr. DEWINE:

S. 178. A bill to amend the Social Security Act to clarify that the reasonable efforts requirement includes consideration of the health and safety of the child; to the Committee on Finance.

FOSTER CARE LEGISLATION

Mr. DEWINE. Mr. President, in 1980, Congress passed the Adoption Assistance and Child Welfare Act, known as CWA. The 1980 Act has done a great deal of good. It increased the resources available to struggling families. It increased the supervision of children in the foster care system. And it gave financial support to people to encourage them to adopt children with special needs.

But while the law has done a great deal of good, many experts are coming to believe that this law has actually had some bad unintended consequences.

Under the 1980 Act, for a state to be eligible for Federal matching funds for foster care expenditures, the state must have a plan for the provision of child welfare services approved by the Secretary of HHS and this State plan must provide, and I quote:

> that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home.

In other words, Mr. President, no matter what the particular circumstances of a household may be the state must make reasonable efforts to keep it together, and to put it back together if it falls apart.

What constitutes reasonable efforts? How far does the State have to go?

This has not been defined by Congress. Nor has it been defined by HHS.

This failure to define what constitutes "reasonable efforts" has had a very important—and very damaging—practical result. There is strong evidence to suggest that in the absence of a definition, reasonable efforts have become in some cases extraordinary efforts. Efforts to keep families together at all costs.

Mr. President, during the past year, I have traveled throughout the state of Ohio, talking to social work professionals. In these discussions I have found that there is great disparity in how the law is being interpreted by judges and social workers.

Let me give you an example. I posed this hypothetical to representatives of children's services in both rural and urban counties.

Mary is a 28-year-old crack-addicted mother who has seven children. Steve, the 29-year-old father of the children, is an abusive alcoholic, and all seven of the children have been taken away—permanently—by the county.

Now, Mary gives birth to an eighth child, little Peggy. The newborn Peggy tests positive for crack. Therefore, it is obvious that her mother is still addicted to crack. Steve, the father, is still an alcoholic.

Pretend for a moment that you work for the county children's services department. Does the law allow you to get the new baby out of the household? And if you do, should you file for permanent custody so that the baby can be adopted?

The answer will surprise you. In fact, I was surprised at the response I got when I asked a number of Ohio social work professionals that very same question. The answer varied from county to county, but I heard too much "no" in the answers I got. Some officials said they could apply for emergency custody of the baby and take her away on a temporary basis, but they would have to make a continued effort to send the baby back to her mother.

Other social workers said that if they went to court to get custody of the baby, they probably wouldn't be able to get even temporary custody of her. In one county, I was told it would be 2 years before the baby could be made available for adoption. Another county said it would be 5 years.

One social worker—just one, out of all the ones I asked—told me that her department would move immediately for permanent custody of the baby. But she said that their success would still depend on the judge assigned to the case.

Should our Federal law really push the envelope, so that extraordinary efforts are made to keep that family together—efforts that any of us would not consider reasonable?

It is clear after 17 years of experience with this law that there is a great deal of confusion as to how the act applies.

My legislation would clarify, once and for all, the intent of Congress in the 1980 Act. My legislation would amend that language in the following way: "In determining reasonable efforts, the best interests of the child, including the child's health and safety, shall be of primary concern."

The 1980 Act was a good bill. There are some families that need a little help if they are going to stay together, and it's right for us to help them. That's what the Child Welfare Act did.

But by now it should be equally clear that the framers of the 1980 Act did not intend for extraordinary efforts to be made to reunite children with their abusers. As Peter Digre, the director of the Los Angeles County Department of Children and Family Services, testified at a hearing last year before the House Ways and Means Subcommittee on Human Resources: "We cannot ignore the fact that at least 22 percent of the time infants who are reunited with their families are subjected to new episodes of abuse, neglect, or endangerment."

That was not the intention of Congress in the 1980 law. But too often, that law is being misinterpreted in a way that is trapping these children in abusive households.

I believe we should leave no doubt about the will of the American people on this issue affecting the lives of America's children. The legislation I am proposing today would put the children first.

By Mr. HATCH (for himself, Mr. LOTT, Mr. THURMOND, Mr. CRAIG, Mr. NICKLES, Mr. DOMENICI, Mr. STEVENS, Mr. ROTH, Mr. BRYAN, Mr. KOHL, Mr. GRASSLEY, Mr. GRAHAM, Mr. SPECTER, Mr. BAUCUS, Mr. THOMPSON, Mr. BREAUX, Mr. KYL, Ms. MOSELEY-BRAUN, Mr. DEWINE, Mr. ROBB, Mr. ABRAHAM, Mr. ASHCROFT, Mr. SESSIONS, Mr. D'AMATO, Mr. HELMS, Mr. LUGAR, Mr. CHAFEE, Mr. MCCAIN, Mr. JEFFORDS, Mr. WARNER, Mr. COVERDELL, Mr.

COCHRAN, Mrs. HUTCHISON, Mr. MACK, Mr. GRAMM, Ms. SNOWE, Mr. ALLARD, Mr. BROWNBACK, Ms. COLLINS, Mr. ENZI, Mr. HAGEL, Mr. HUTCHINSON, Mr. ROBERTS, Mr. SMITH of Oregon, Mr. BENNETT, Mr. BOND, Mr. BURNS, Mr. CAMPBELL, Mr. COATS, Mr. FAIRCLOTH, Mr. FRIST, Mr. GORTON, Mr. GRAMS, Mr. GREGG, Mr. INHOFE, Mr. KEMPTHORNE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH of New Hampshire, and Mr. THOMAS):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

THE CONSTITUTIONAL BALANCED BUDGET ACT

Mr. HATCH. Mr. President, let me just say I compliment my colleagues for the excellent job they have done in coming up with the first 10 bills of this session. I think they are bills that the American people have to be very interested in. There is no question that each and every one is essential for the future of our country. I am very appreciative that so many colleagues are willing to cosponsor and to push these particular bills.

Having said that, the No. 1 issue on our agenda is, as it has always been for Republicans and I think some very courageous Democrats as well, S.J. Res. 1, the balanced budget constitutional amendment.

Mr. President, this is an amendment that literally could change the future of our country for the better. We are now approaching a $6 trillion deficit. It has been largely accumulated over the last 15 or 20 years. We have had a period of almost 60 years of unbalanced budgets, except on very rare occasions.

The Senate and the House seem to be institutionally incapable of reaching balanced budget appropriations and budget acts. And I might add, the President is incapable, as well. If you look at the last budgets that the President has submitted, even the one that he called the balanced budget, it was heavily loaded in the rear end of the budget, in the last 2 years, knowing that there is no way in the world that when we ultimately reach 2001 and 2002 that we can actually balance the budget.

It has been a phony game. It is time to end that game. It is time to literally strike out for the people of this country and for our children and grandchildren of future generations by getting our fiscal house in order. The only way that many of the now 62 cosponsors, and another 6 who have said to their constituents that they will vote for this amendment, it is the only way we can bring about a fiscal sanity that will reduce taxes, reduce the interest rates of our society, keep the stock market going, protect Social Security, Medicaid, Medicare, veterans pensions and other matters, by having a strong fiscal economy through the balanced budget amendment.

We are very concerned. This is a major, major battle this year. We have 62 cosponsors—all 55 Republicans and 7 courageous Democrats so far. We have another six Democrats who have promised their people at home that they would vote for the balanced budget amendment. Everybody knows this game. Everybody knows there will be some killer amendments trying to defeat this amendment. In the end, everybody knows what the amendment is. It is precisely the same as that found in the House and that which will be brought up in the House. If we are ever going to get this fiscal house in order, this is the way to do it. It is only the first step.

Even if both Houses of Congress do pass the balanced budget amendment by the requisite two-thirds vote, the amendment still has to be submitted to the States, and three-quarters of them, or 38 States, have to ratify the amendment. It is a very, very difficult process at best.

I just believe this is the year to do it. I hope that everybody will live up to the commitments they have made to their constituents at home. If they do, we will have set this country on a fiscal order path that will be very beneficial for all of our children and grandchildren and future generations.

Mr. President. I rise to speak on the Balanced Budget Amendment, which I have just introduced. Last Congress, when the Amendment fell a mere one vote short of passage here in the Senate, I vowed that we would be back to try to pass this amendment and put America back on the course of fiscal responsibility. We are back again and I have brought 61 other Senators with me. Every one of the 55 Republicans in the Senate are original co-sponsors, and we are joined by seven strong Democrats. The Balanced Budget Amendment has 62 original cosponsors. If only five other Senators join us we will have the votes America needs to see the Senate pass the Balanced Budget Amendment. If everyone votes as they said they would before the November election and keeps their promise to their constituents, the Senate will pass the balanced budget amendment.

The Balanced Budget Amendment will again be S.J. Res. 1. It is right that it should be, because it is the single most important piece of legislation that will be voted on this Congress. It is that important because if enacted it will change forever the way business is done in Washington.

The idea of a Balanced Budget Amendment is not new. Unfortunately, neither is the problem it is designed to solve. About 30 years ago, we got off track and ran a deficit. It was not the first deficit we had ever run, and it was only a small one, nothing to get too worried about. But we never got back on track: we ran another deficit the next year, and again the next year after that, and never got back into balance. In fact, we have run a deficit every year since 1969. And that budget in 1969 was the only balanced budget since 1960.

Today, the national debt is estimated to be $5.311 trillion. Last Friday, when we began hearings on S.J. Res 1, the debt was at less than $5.310 trillion. In other words, the debt has already increased by more than $1 billion since the Senate began consideration of the measure last week. Portioned out equally, every man, woman, and child in America owes about $20,000. If the debt were piled into a single stack of pennies, that pile could reach past the Moon, past Mars, and all the way to Jupiter! It is enough money to buy every single automobile ever sold in the United States and every plane ticket ever sold for travel in the United States.

And, Mr. President, the debt continues to grow. If you spent a dollar a second, it would take you over 150,000 years to spend as much as the national debt. But we have managed to accumulate our national debt much faster. This year, we will increase the debt by about $4,500 every second. At this rate it won't be long before we're all going to have to learn what comes after trillion. The reality is that the bridge we are building to the 21st century is awash in debt.

I read recently that this year the European Union will be deciding which nations qualify to join the new single currency in the first tier. In order to join, nations must satisfy several criteria. One of those criteria is that the nation's total debt must be no greater than 60 percent of that nation's GDP. Well, Mr. President, our debt is about 70 percent of our GDP. Which means if we tried to join the European Union's new currency now, the United States would not qualify. By international standards, we are too far in debt to be trusted financially. This nation faces a future with higher taxes, lower wages, and dramatically reduced world influence if we do not get our spending habits under control. As well, failure to get our national debt under control could prove catastrophic to current and future older Americans.

Over the next few weeks, opponents of the balanced budget amendment are going to try to change the subject to a discussion of Social Security and Medicare. For example, Treasury Secretary Rubin testified before the Judiciary Committee on Friday in opposition to the balanced budget amendment and suggested—no less than eight times during a six page statement—that passage of the Balanced Budget Amendment would result in Social Security or Medicare checks being stopped. Opponents of the balanced budget amendment want the public to believe that passing the balanced budget amendment and balancing our Federal budget threatens the retirement security of older Americans. What they ignore is that Congress simply never will allow Social Security or Medicare checks to stop. It simply will not happen. Furthermore, they fail to appreciate—or fail to mention—the positive effect the Balanced Budget Amendment would have on the long term stability of Social Security as well as the retirement investments for most every American.

To listen to opponents of the balanced budget amendment, one would think that Americans are counting exclusively on Social Security for their economic security during retirement when in fact, more and more Americans are relying on Wall Street. A recent PBS Frontline documentary, "Betting on the Market," explains how Americans are increasingly entrusting their long-term retirement savings in Wall Street. There are 34 million households that have invested in the stock market in some form. As financial expert and the best-selling author of "Smart Money," Jim Cramer, points out, if you have a pension, it's likely that it's invested in stocks. If you have a 401K plan, it's probably invested in stocks. Worth magazine's Ken Kurson points out that in 1996, 34 percent of households headed by someone under 25 had some sort of mutual fund. Stock mutual funds represent the biggest chunk of young investor's money. At the same time Americans carry record credit card debt. As financial historian Peter Bernstein points out, the money that people used to put in the stock market was money that they hoped to get rich on. Today, we are investing our blood money—our savings; our nest eggs. America's affection for the markets is demonstrated by Paine Webber's recent announcement that it achieved a 50-percent increase in earnings last quarter. This is all well and good while the Dow Jones Industrial keeps setting new highs—it closed yesterday at 6,843. NASDAQ also reached record levels benefiting from a boost in technology stocks.

With more and more Americans relying on mutual funds and stocks—whether they know it or not—for their retirement, what happens to our retirement security if we experience an economic downturn precipitated by our failure to address our nation's growing debt? What happens if Congress once again demonstrates an unwillingness to pass the balanced budget amendment and take this necessary step towards balancing the budget? With the fortunes of Wall Street affecting the quality of life for more and more future retirees, Congress needs to concern itself with how our growing debt and our willingness to make tough choices will affect Wall Street. Nothing the Congress can do would have a more positive effect on Wall Street and, in turn, the stability of our retirement savings than passing the balanced budget amendment and balancing the budget. More than 250 economists share this view. If my colleagues are concerned with the financial security of current and future older Americans, they will refrain from the wedge politics of Medicare and Social Security cuts and, instead, support the balanced budget.

The fact is that every political incentive in this town is to spend now and let the next guy worry about paying the bill. Fiscal accountability is the enemy of big government. There is only one way to break Washington's addiction to spending other people's money and borrowing from our children to do so: the pressure of a constitutional amendment for a balanced budget.

I look forward to the debate on this important measure, and I look forward to more fully explaining why I think that only a structural change in our basic charter can restore the fiscal responsibility we seem to have lost over the three or so decades.

Mr. President, I ask unanimous consent that the text of the Joint Resolution be printed in the RECORD.

There being no objection, the Joint Resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

Mr. HATCH. I am delighted to yield to my colleague and friend from Idaho who I think has played not only a singularly important role in the Senate, but long has played a very important role when he was in the House of Representatives, as well, and has been a great partner in fighting this battle. I yield to the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank the senior Senator from Utah for yielding but for a moment, to add to the comments that he has made as we have introduced S.J. Res. 1, or Senate Joint Resolution 1, the balanced budget constitutional amendment. The Senator from Utah has outlined, as chairman of the Judiciary Committee, what we bring to the floor and the very critical nature of this debate. For a moment, let me humanize it, if I can, as to what it means to you, to me, to our children, and to the future of this country.

Without a fiscally responsible Government that begins to rein in the growth of the Federal debt, already at $5.3 trillion, and the ongoing year-after-year multibillion-dollar deficit that we have seen now for decades, the financial future of our country and its citizens is in doubt. There is no question today that the Congress and our President mouth the words of a balanced budget. We even work toward that by the very actions undertaken in writing the annual budgets.

To guarantee it, to assure that when it gets to the time of making the tough votes to truly create a balanced budget, can we do it? Will we have the will of the people behind us and the support to accomplish that? I think that, absent a balanced budget amendment, the strength will not be there. I say that having watched this institution for many decades, I recognize that in the end when it really comes to the business of sorting out Government, the decisions become very tough.

If we pass a balanced budget amendment to our Constitution this year, and if the States ratify it within the next 2 years, we will offer to the young people born today a unique opportunity. What is that opportunity? That they will pay in their lifetime $180,000 less in taxes, compared to what they would pay under the trends of the status quo, because of the rate at which our Government currently grows.

We will offer to the average American family an opportunity unprecedented, and that is a better standard of living and actually more take-home pay and more dollars to spend, on an annualized basis, of more than $1,500 a year, in addition to their current income. We will offer our senior citizens the economic security we have promised them, by protecting Social Security and Medicare from the ravages of a massive debt and interest payments that crowd out all our other priorities. Let us remember, the debt is the threat to Social Security and to our seniors.

When the Senator from Utah and the Senator from Idaho began to work to convince the Congress and the American people that a constitutional amendment to require a balanced budget was necessary in the early 1980's, if it had passed at that time, if it had become part of the Constitution, the Concord Coalition and others have estimated that the average income per American family today would be $15,000 more than it currently is. I think, from that kind of fact, you begin to recognize the power and the importance of what we offer up today. You begin to recognize the very critical nature of what a $5.3 trillion debt really is, and how it is growing by $800 million a day and more than $9,000 a second. If this Senate is to stand in the shadow of today's work a decade from now and say that we did for our country what we thought was necessary to assure the American dream to our children, to be able to say to Americans that you will have the same unique opportunity that your forebears had, then we must make sure that we have produced, and locked in the requirement of, a Government that is fiscally responsible.

What we offer today and what we will be debating in the coming weeks is a Balanced Budget Amendment to our Constitution which assures that this body and the other, as well as the President and his budget office, must operate in a fiscally sound and responsible way. It is what the American people say is their No. 1 issue. It must be our No. 1 issue.

I am pleased today to join as a cosponsor in this critical amendment and look forward to the debate in the coming weeks as we say to the American people, "We have heard your message and we will fight to be fiscally responsible in the building and the maintaining of a federally balanced budget."

I yield back to the Senator from Utah.

Mr. HATCH. I thank my colleague from Idaho for his excellent remarks and for his ardent fight for this amendment through the years.

Mr. President, there are 13 Democrats who have promised to vote for this amendment. If we add all 55 Republicans and the 13 heroic Democrats who have agreed to vote for this amendment, that will give us 68 votes, 1 more than we need. We know the President is going to put on a full-court press. We also know that the minority leader and others will do the same. It is important that these people live up to the commitments they made to the constituents at home, and we are counting on them to do it. I believe they will.

Thus far, only seven have cosponsored, but I believe the others will be on board when the debate comes to the floor. I hope, with all my heart, they realize how important this is. I hope they also realize how very deeply I feel about their courageous stand on this issue.

Mr. ABRAHAM. Mr. President, 2 years ago, the Senate failed by one vote to support a constitutional amendment requiring a balanced budget. At the time, opponents told the Senate that balancing the budget didn't require amending the Constitution. All we needed, they told us, was to make the tough choices and cast the hard votes. Two budgets, hundreds of tough votes, and one Government shutdown later, the budget is still in deficit, and the case for a constitutional balanced budget amendment is stronger than ever.

That's not to say we haven't made progress in the past 2 years. We have. Since the 1994 elections, Congress has worked hard to hold the line on discretionary spending while just last fall we passed historic reforms to the 60-year-old welfare state. Perhaps just as importantly, we have witnessed a dramatic shift in the debate itself. Two years ago, President Clinton submitted a budget that never reached balance. Today all sides have agreed—at least in principle—to the goal of balancing the budget by the year 2002.

That's the good news.

The bad news is that while we have all seemingly agreed on the goal of balancing the budget, we are miles apart on the details. It's one thing to say you support a balanced budget—it's quite another to make the tough decisions necessary to make it happen.

Mr. President, that's where Senator HATCH's amendment to the Constitution comes in. As an original cosponsor of this amendment, I believe it will force the hand of an unwilling Congress to set its fiscal house in order. Where Congress has failed, I am confident the Constitution will succeed. How would it work?

Section 1 of the amendment requires that total outlays of the Government not exceed receipts unless three-fifths of the whole number of both Houses waives the requirement. Once this amendment is passed, a three-fifths vote of both the House and the Senate will be necessary in order to increase the deficit.

Section 2 prohibits Congress from raising the debt ceiling unless three-fifths of the whole number of both Houses of Congress waives the requirement.

And, finally, section 4 requires that there be no revenue increases unless approved by a majority of the whole number of each House in Congress. If this proposal becomes the 28th amendment to the Constitution, then in order to increase taxes, you would need first, a recorded vote and, second, the support of at least 51 U.S. Senators and 218 Members of the House.

Quite simply, Mr. President, the Balanced Budget Amendment raises the procedural bar necessary for Congress to incur debt and raise taxes. Given Congress' historic predilection toward doing both, I believe this amendment is possibly the most important measure we will consider in the 105th Congress.

Having focused on what the balanced budget amendment does, it is just as important to focus on what it doesn't do. The first thing it doesn't do is endanger the Social Security System. Social Security currently operates with a surplus, and some Members have argued that sound fiscal policy demands that we should exclude that surplus from the amendment and our deficit calculations.

I am of the opinion that this argument is more of a diversion than anything else. It has been raised to confuse the issue and provide some Members with a smokescreen to cover their opposition to a measure that is supported by an overwhelming majority of Americans. Balancing the budget will strengthen, not weaken, the Social Security System.

The second thing this amendment doesn't do is endanger the health of the national economy. Some—including the President—argue the Balanced Budget Amendment will prevent Congress from responding to shifting economic recessions and booms.

Mr. President, the amendment being discussed today does not prohibit running a deficit or borrowing money. It requires a three-fifths vote in order to do those things. Under the circumstances generally described in support of an economic exception, I think it is incumbent upon the exceptions advocates to explain why they could not get the necessary votes. Furthermore, I am interested to hear why the higher standards established by the balanced budget amendment would be more restrictive than the prospect of continued annual deficits, higher debt and debt payments, and less real discretionary spending under Congress' control.

Finally, this amendment does not transfer undue power to the judiciary. One concern raised about the balanced budget amendment is the role the courts will play in enforcing its provisions. In the past, some have argued that the courts will involve themselves in the Federal budget process in order to enforce the balanced budget amendment. As someone with deep concerns about judicial activism, I have inspected this issue closely, and I am confident that adoption of this amendment will not authorize courts to insert themselves into the budget process.

As I mentioned previously, the balanced budget amendment establishes new procedures that encourage Congress to move toward and adopt a balanced budget. It does not, however, create a "right" to a balanced budget. It does not disturb the powers of Congress under Article I of the Constitution, it does not confer those powers on the courts, and it does not give to the courts authority to interfere in those powers.

Mr. President, in conclusion, let me say the greatest danger facing our economy, our senior citizens, and future generations is not an amendment to the Constitution restricting Congress' ability to borrow money or raise taxes, but rather the endless stream of deficits and huge mountains of debt that a previous, unrestricted Congresses have imposed upon this and future generations. It is unfair, irresponsible, and immoral to pass this burden on to our children, and I applaud you and the Republican leadership for making passage of Senate Joint Resolution 1 the No. 1 priority of the 105th Congress.

Mr. CAMPBELL. Mr. President, for many years I have spoken out in favor of a Balanced Budget Amendment to the Constitution, and have supported and voted for this measure each time I have had the opportunity to do so. Now, once again, I join many of my colleagues as an original cosponsor of the Balanced Budget Amendment which is being introduced today, and I applaud Senator ORRIN HATCH, Majority Leader TRENT LOTT, and the leadership for making this particular item a top priority for the 105th Congress.

It would be so easy to give up on the idea of passing the Balanced Budget Amendment. For a number of years, despite the hard work of many individuals, this measure has failed to pass through Congress and move on to the states for ratification where it belongs. However, I believe passage of this Amendment is in the best interest of the future of this country. It will force us to make the tough choices that need to be made to balance the budget and eventually eliminate the staggering debt.

There are those that believe there is no need for the Balanced Budget Amendment, that Congress can continually balance the budget without being mandated by the Constitution to do so. However, I have been a member of this institution for ten years now, and I have yet to see Congress and the administration bite the bullet, balance the budget, and tackle our enormous debt. If we do not address this important issue, the amount of the federal budget devoted toward paying off the interest on the debt and the entitlement programs will increase to the point that there will be barely any money left for those programs which deserve and require federal funding such as education, law enforcement, national security, or even our national parks and monuments. I think we owe more to the American people and to future generations.

For those of us who remain committed to this effort, this piece of legislation is a vital tool for tackling the difficult task of balancing the budget. I would like to see an increase not only in our standard of living and national savings rate but also in the amount of money the Federal Government devotes to worthwhile and beneficial programs—programs which could suffer due to our financial troubles.

Congress came within one vote last session of passing the Balanced Budget Amendment. I am optimistic that this year we can pass this legislation and send the measure on to the states for their deliberation. It is time to allow the American people and the State legislatures the opportunity to debate the merits of the Balanced Budget Amendment, and I hope that the Congress will see fit to entrust this measure to those who must ratify or reject it.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. DORGAN, Mr. SHELBY, Mr. REID, Mr. FORD, and Mr. REED):

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

THE CAMPAIGN FINANCE REFORM CONSTITUTIONAL AMENDMENT

Mr. HOLLINGS. Mr. President, I rise today, along with my collegue and cosponsor Senator SPECTER, to introduce for the sixth time a constitutional amendment to limit campaign spending. Although I commend the efforts of the Minority Leader and others seeking to statutorily reform our campaign finance laws, I am convinced the only way to solve the chronic problems surrounding campaign financing is to reverse the Supreme Court's flawed decision in Buckley versus Valeo by adopting a constitutional amendment granting Congress the right to limit campaign spending.

We all know the score—we're hamstrung by that decision and the ever increasing cost of a competitive campaign. With the total cost for congressional elections, just general elections, skyrocketing from $403 million in 1990 to over $626 million in 1996, the need for limits on campaign expenditures is more urgent than ever. For nearly a quarter of a century, Congress has tried to tackle runaway campaign spending with bills aimed at getting around the disjointed Buckley decision. Again and again, Congress has failed.

Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have become bogged down in partisanship as Democrats and Republicans each tried to gore the other's sacred cows. During the 103d Congress there was a sign that we could move beyond this partisan bickering, when the Senate in a bipartisan fashion expressed its support for a constitutional amendment to limit campaign expenditures. In May 1993, a nonbinding sense of the Senate resolution was agreed to which advocated the adoption of a constitutional amendment empowering Congress and States to limit campaign expenditures.

Now it is time to take the next step. We must strike the decisive blow against the anything-goes fundraising and spending tolerated by both political parties. Looking beyond the current headlines regarding the source of these funds, the massive amount of money spent is astonishing and serves only to cement the commonly held belief that our elections are nothing more than auctions and that our politicians are up for sale. It is time to put a limit on the amount of money sloshing around campaign war chests. It is time to adopt a constitutional amendment to limit campaign spending—a simple, straightforward, nonpartisan solution.

As Prof. Gerald G. Ashdown has written in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches-to-reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated."

Right to the point, back in 1974, Congress responded to the public's outrage over the Watergate scandals by passing, on a bipartisan basis, a comprehensive campaign finance law. The centerpiece of this reform was a limitation on campaign expenditures. Congress recognized that spending limits were the only rational alternative to a system that essentially awarded office to the highest bidder or wealthiest candidate.

Unfortunately, the Supreme Court overturned these spending limits in its infamous Buckley versus Valeo decision of 1976. The Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court came to the conclusion that limits on campaign contributions but not spending furthered "* * * the governmental interest in preventing corruption and the appearance of corruption" and that this interest "outweighs considerations of free speech."

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. The Court made a huge mistake. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by the Buckley decision.

After all, as a practical reality, what Buckley says is: Yes, if you have a fundraising advantage or personal wealth, then you have access to television, radio, and other media and you have freedom of speech. But if you do not have a fundraising advantage or personal wealth, then you are denied access. Instead of freedom of speech, you have only the freedom to say nothing.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking between $1,000 and $2,000 for 30 seconds of primetime advertising. In New York City, it's anywhere from $30,000 to $40,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flushed with money go directly to the TV studio. Those without a fundraising advantage or personal wealth are sidetracked to the time-consuming pursuit of cash.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of his speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right and Ross Perot and Steve Forbes have proved it. Massive spending of their personal fortunes immediately made them contenders. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.9 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, and up to $4.3 in 1996. To raise that kind of money, the average Senator must raise over $13,800 a week, every week of his or her 6-year term. Overall spending in congressional races increased from $446 million in 1990 to more than $724 million in 1994—almost a 70 percent increase in 4 short years. I predict that when the final FEC reports are compiled for 1996, that figure will go even higher.

This obsession with money distracts us from the people's business. It corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting a big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. We're out chasing dollars.

During my 1992 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It's a vicious cycle.

I remember Senator Richard Russell saying: "They give you a 6-year term in this U.S. Senate: 2 years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue." Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to politics and demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, $800,000 per Senate candidate in a small State like South Carolina—a far cry from the millions spent by my opponent and me in 1992. And bear in mind that direct expenditures account for only a portion of total spending. For instance, my 1992 opponent's direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let's be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of mortality in upper chamber elections. And as to the alleged invulnerability of incumbents in the House, I would simply note that well over 50 percent of the House membership has been replaced since the 1990 elections and just 3 weeks ago we swore in 15 new Senators.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable amount any way you cut it. Spending will be under control, and we will be able to account for every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and limited individual influence to band together with others of mutual interest so their message is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, "Oh, no; your influence is corrupting, your money is tainted". This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment Senator SPECTER and I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures and allow States to do the same with regard to State and local elections.

Such a reform would have four important impacts. First, it would end the mindless pursuits of ever-fatter campaign war chests. Second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is not coincidence that five of the last seven amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you're talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through a constitutional amendment.

And let's not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since the early 1970's, and we haven't advanced the ball a single yard. All-the-while the Supreme Court continues to strike down campaign limit after campaign limit. It has been a quarter of a century, and no legislative solution has done the job.

Except for the 27th amendment, the last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 1998 election. Once passed by the Congress, the Joint Resolution goes directly to the States for ratification. Once ratified, it becomes the law of the land, and it is a Supreme Court challenge.

And, by the way, I reject the argument that if we were to pass and ratify this amendment, Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974, and we can certainly do it again.

Mr. President, this amendment will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In the Buckley decision, it prescribed a bogus if-you-have-the-money-you-can-talk version of free speech. In its place, I urge the Congress to move beyond these acrobatic attempts at legislating around the Buckley decision. As we have all seen, no matter how sincere, these plans are doomed to fail. The solution rests in fixing the Buckley decision. It is my hope that as the campaign financing debate unfolds, the Majority Leader will provide us with an opportunity to vote on this resolution—it is the only solution.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 2

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within 7 years after the date of final passage of this joint resolution:

"ARTICLE—

"SECTION 1. Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

"SECTION 2. A State shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, State or local office.

"SECTION 3. Congress shall have power to implement and enforce this article by appropriate legislation.".

Mr. SPECTER. Mr. President, I have sought recognition today to join with Senator HOLLINGS in introducing a joint resolution providing for an amendment to the United States Constitution which would provide authority to the Congress to regulate Federal election spending and to the States to regulate spending in State and local elections.

This joint resolution is very similar to S.J. Res. 48, which I introduced in the 104th Congress on January 26, 1996, 3 days before the 20th anniversary of the Supreme Court's decision in Buckley versus Valeo. It is also very similar to constitutional amendments which Senator HOLLINGS and I have proposed since 1989.

Now, more than ever, the time has come for meaningful election law reform—reform which necessitates overturning the Buckley decision.

The unprecedented spending levels during 1996 Presidential and Congressional campaigns should serve as the impetus for approving this consitutional amendment. Presidential candidates spent a total of $237 million in the 1996 primary campaigns, of which $56 million represented publicly funded matching payments. Public financing of the general election added $153 million to the total. One primary candidate decided not to take Federal matching funds and used $37 million of his own resources to fund a campaign in which he was not restricted from the same state-by-state and overall limits as other candidates.

The 1996 Congressional campaign cycle was similarly grim for all but television station advertising managers and political consultants. There were record levels of spending including $220.8 million by Senate candidates and $405.6 million by House candidates. This spending, much of which went to negative television commercials, did little to restore the public's confidence in the electoral process, much less our institution.

The Supreme Court has made this proposed amendment even more urgent through its June, 1996 decision in Colorado Republicans Federal Campaign Committee versus Federal Election Commission. In that case, the Court cut an enormous hole in the remaining Federal campaign spending limits by striking down a restriction on party spending when the parties are acting independently of the candidates they support. Justice Breyer's plurality opinion stated that the "independent expression of a political party's views is core 1st Amendment activity" entitled to full protection. Until the Colorado decision, Federal election law limited how much the parties themselves could spend on House and Senate races. Now, it's a multi-million dollar free-for-all, with a prospect of subsequent litigation over the "independence" of such expenditures and a rash of complaints filed against candidates in future election cycles.

If nothing else, the vast sums of money spent in this recent election, coupled with the June Supreme Court decision, have raised the profile of the

Buckley decision even further. I am pleased to note that the view that Buckley should be overturned is shared by a group of prominent constitutional scholars who recently began a campaign to overturn the Buckley decision. According to a November 10, 1996 New York Times article, 26 scholars have signed a statement urging the Supreme Court to reconsider and reverse its 1976 decision, which has essentially allowed an unlimited amount of money to flow into campaign war chests. Among the scholars signing the statement are Bruce Ackerman (Yale Law School), Ronald Dworkin (New York University Law School), Peter Arenella (University of California at Los Angeles Law School), and Robert Aronson (University of Washington Law School). Such a concerted effort by legal scholars, when coupled with Congressional efforts and the public's revulsion at the amount of money in politics, should lead to a new day for campaign finance in which rational, reasonable limits bring sanity back into the political process.

Overturning the Buckley decision has long been a priority of mine. In fact, the Buckley decision had a very significant impact on this Senator, because at that time in 1976, I was running for the U.S. Senate. I had announced my candidacy on November 17, 1975, for the seat being vacated by a very distinguished Senator, Hugh Scott. Under the 1974 federal election law, there was a limited amount a candidate for the Senate could spend of his or her own money, based on population. For a State the size of Pennsylvania, it was $35,000. That was about the limit of the means which I had at that time, having been extensively involved in public service as district attorney of Philadelphia and for a relatively short period of time in the private practice of law.

However, I had decided to run for the office of U.S. Senate against a very distinguished American who later became a U.S. Senator, John Heinz, who had more financial resources than I did. I should note that after my eventual election in 1980, he and I formed a very close working partnership and very close friendship.

In the middle of that campaign, on January 29, 1976, the U.S. Supreme Court decided Buckley v. Valeo and said a candidate can spend any amount of his own money. John Heinz was in a position to do so and did just that. That made an indelible impression upon me, so much so that when the decision came down on January 29, I petitioned for leave to intervene as amicus and filed a set of legal appeals, all of which were denied. John Heinz subsequently won the primary and general elections and served with great distinction until his tragic death.

As I noted at the outset, this is not a new issue for me to bring before my colleagues. I have sponsored and cosponsored legislation for 7 years and, during the 101st Congress, testified in support of such a constitutional amendment before the Senate Subcommittee on the Constitution on February 28, 1990.

I gained significant new insight, however, on the subject of campaign spending from my experiences as a candidate for the Republican nomination for the Presidency during 1994 and 1995. During my travels to 30 States as a Presidential candidate, I was once again impressed with how important fundraising is and how disproportionate it is to the undertaking of a political candidacy.

My concept of running for elective office, Mr. President, is a matter of issues, a matter of tenacity, a matter of integrity, and how you conduct a campaign. However, money has become the dominant issue in the Presidential campaign. And the media focus on it to the virtual exclusion of the many issues of substantive matters which are really involved in a campaign for the Presidency.

It has seemed to me since my experiences in 1976, as I have watched enormous expenditures in campaign financing by individuals, that the Buckley decision was based on unsound constitutional interpretation and certainly created unsound public policy. There is nothing in the Constitution, in my legal judgment, which guarantees freedom of speech on any reasonable, realistic, logical constitutional interpretation which says you ought to be able to spend as much money as you have to win an elective office. I think it is high time for the Congress of the United States and the 50 States to reexamine that in a constitutional amendment, which is the purpose of the joint resolution we are introducing today.

Simply put, Congress should have the authority to establish a spending limit in Federal elections without regard to the first amendment limitation which was applied by the Supreme Court in Buckley. In approaching this matter, Mr. President, I am very concerned about amending the first amendment to the U.S. Constitution, which covers the freedoms of speech, religion, press, and assembly. But, the constitutional amendment we are proposing really does not go to any of these core first amendment values. This is not a matter affecting religion. It is not a matter really affecting speech.

I think it was a very far stretch when a divided U.S. Supreme Court said that a campaign contribution from an individual was not a matter of freedom of speech, but spending one's own money in a campaign is protected speech. At that time, the Supreme Court did not affect the limitation on spending where an individual could contribute only $1,000 in the primary and $1,000 in the general, except for contributions by political action committees, which could receive $5,000.

I would note that in 1976, my brother had considerably more financial means than I did and would have been very much interested in helping his younger brother, but the limitation on my brother in that primary was $1,000. It seemed to me then and it seems to me now that if a candidate has the right to spend as much of his or her money as he or she chooses, then why should not any other citizen have the same right under the first amendment to express himself or herself by political contributions. That distinction by the Buckley court still seems unfounded 20 years later.

There have been many, many examples of multimillion-dollar expenditures in this body, the U.S. Senate, the U.S. House of Representatives, and in State government, and in 1992 and 1996 we have witnessed such expenditures by two men running for President of the United States. The fact of life is, if you advertise enough on television, if you sell candidacies like you sell soap, the sky is the limit. Even the White House of the United States of America, the Office of the President, may be, in fact, up for sale if someone is willing to start off by announcing a willingness to spend $25 million. If you have $400 million, $25 million is not an enormous sum; you still have $375 million left after your campaign. As I have said before, most people can get by on $375 million. Given some of the personal fortunes out there, it is conceivable that someone could spend $50 million or even $75 million to promote a candidacy, both to articulate a positive view and then, perhaps even more effectively, to fund negative television advertisements aimed at opponents.

A constitutional amendment is also a direct way to deal with campaign finance reform without having a further burden on the Treasury of the United States. We have debated campaign finance reform repeatedly in a variety of contexts. Most proposals come down to a proposition to have Federal subsidies for candidates and then to call upon the candidates to relinquish their rights under Buckley versus Valeo in order to qualify for Federal funding. I have opposed such Federal funding because I think it is unwise to further burden the Treasury by having campaigns paid for by the U.S. Treasury.

During the 103d Congress, the Senate went on record on this very issue, adopting an amendment to S.3, the campaign finance reform bill, that stated that it was the sense of the Senate that Congress should adopt a joint resolution proposing a constitutional amendment empowering Congress and the States to set reasonable limits on campaign expenditures. The amendment was approved by a 52–43 vote on May 27, 1993. However, in the 104th Congress, the Senate went backwards in my view. It had the opportunity to adopt this proposal as an amendment to the Balanced Budget Amendment, but it was defeated on a procedural motion by 52–45.

I am hopeful that the vote in 1995 was an aberration and that a majority of my colleagues will, at long last, agree with me and Senator HOLLINGS, among others, that it is high time we amend the Constitution to overturn the Buckley decision.

I ask unanimous consent that the text of the New York Times article of November 10, 1996, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times National, Nov. 10, 1996]

AFTER THE ELECTION: READJUSTING AND RECONSIDERING—CAMPAIGN FINANCE—SCHOLARS ASK COURT TO BACKTRACK, SHUTTING FLOODGATES ON POLITICAL SPENDING

(By Leslie Wayne)

WASHINGTON, Nov. 6—A group of prominent constitutional scholars has begun a campaign to get the Supreme Court to overturn a 20-year-old landmark decision that has allowed unlimited amounts of money to flow into political races.

The group is seeking to overturn Buckley v. Valeo, a 1976 decision that struck down some of the Watergate-era campaign finance changes that Congress had enacted in 1974. In doing so, the Court removed any limits on campaign spending.

In Buckley, the Court said that any infringement on campaign spending was an infringement on free speech and, by that action, legal scholars say, opened the floodgates to the high-cost campaigns of today.

"This was a bad decision," said Prof. Ronald Dworkin of the New York University Law School, who is involved in the scholars' campaign. "Public opinion is now becoming revolted at the amount of money in politics. And that may provoke the Court into reconsidering this decision. The Buckley decision appears to try to represent an ideal of democracy, but it is an incomplete ideal."

Professor Dworkin and 25 other scholars have signed a statement calling on the Court to reconsider and reverse the decision. The effort is being coordinated by the Brennan Center for Justice at New York University, a nonprofit organization named for former Supreme Court Justice William J. Brennan Jr.

The Brennan Center plans to hold a conference on the subject and is also planning to have Federal judges hold mock Supreme Court arguments on this case.

The legal scholars are also speaking out. In an article in a recent issue of The New York Review of Books, Professor Dworkin said: "The case for overruling Buckley is a strong one, and we should feel no compunction in declaring the decision a mistake. The decision misunderstood not only what free speech really is, but what it really means for free people to govern themselves."

Among the scholars signing the statement are Bruce Ackerman, a professor at Yale Law School; Peter Arenella, a professor at the law school of the University of California at Los Angeles; John Rawls, a professor emeritus of law at Harvard University; Milton S. Gwirtzman, a member of the senior advisory board at the John F. Kennedy School of Government at Harvard, and Robert Aronson, a professor of the University of Washington law school.

Prof. Erwin Chemerinsky of the University of Southern California law school, who is among the signers, said: "My hope is that if I and other scholars speak long enough and are persuasive enough, it might swing the Court. Having experts in constitutional law speak out might make a difference. I believe the Court was wrong with Buckley."

Yet, even these scholars believe their efforts may be a long shot, given a recent Court decision and many lower-court decisions that have been moving in the opposite direction of overturning Buckley and have, instead, allowed money to be spent even more freely on behalf of candidates for Federal office.

Congress passed legislation in 1974 to curb the excesses of the Watergate scandal, limiting both the amount of money that could be raised and the amount that could be spent in a political campaign.

The Buckley decision had, as its central element, the elimination of restrictions that Congress had imposed on campaign spending but, in what critics say was odd, it left in place restrictions on contributions.

This, over time, had the effect of allowing candidates to spend as much money as they want—something the Court said was protected by the First Amendment guarantee of free speech. But it forced candidates to come up with creative fund-raising strategies to skirt restrictions that capped campaign donations at $1,000 from individuals and $5,000 from political action committees.

"The Court struck down one-half of the 1974 law and left the other half in effect, and we ended up with a law that was the worst of all," said Burton Neuborne, a New York University law professor and head of the Brennan Center. "This created a schizophrenic market where the supply of money was limited, but the demand for it was not."

"The worst part of all," Professor Neuborne added, "is that as a result of Buckley, the campaign finance laws are shot with loopholes because candidates have to drive through all of them in order to get money."

Since the Buckley decision, candidates and the political parties have become masters at exploiting all loopholes to meet the demand for campaign money. This year's biggest development is the growth in the use of "soft money"—funds that can be raised by political parties in unlimited amounts and spent by them in behalf of candidates for Federal office. Donations to the parties avoid the tight $1,000-per-candidate cap.

Moreover, in a subsequent ruling handed down last June, the Court upheld a decision in a Colorado case that allows political parties to spend unlimited amounts on "independent ads"—advertisements that are on behalf of candidates but are not designed in coordination with them. That decision was seen by many campaign finance critics as eliminating the last barrier against any restrictions on spending by political parties and promoting the back-door financing of Federal campaigns.

"It's not only Buckley v. Valeo, but how it is being interpreted by the Court," said Norman J. Ornstein, a resident scholar at the American Enterprise Institute who opposes the Buckley decision but did not sign the statement. "The Colorado decision had the bizarre conclusion that political parties can act independent of their own candidates. And that's what really helped open the floodgates even more this year."

In addition, the Buckley decision has been continually cited by lower courts in fending off efforts to regulate "issue advocacy" advertisements. This type of advertising is paid for by activist groups like the Christian Coalition or environmental groups; they may not say "vote for" or "vote against" specific candidates, but they still clearly support one candidate or another.

In nearly a dozen lower-court decisions, these advertisements have been ruled to be protected by the First Amendment guarantee of free speech, as outlined in the Buckley decision, and cannot be regulated by the Government. That means such spending cannot be restricted.

Kenneth Gross, an election law specialist in Washington, said it was highly doubtful that the scholars' group would be successful.

"Overturning Buckley is wishful thinking," he said. "Every time the Supreme Court gets hold of a case that involves the ideas in Buckley, they reaffirm them. The Court hasn't shown any inclination in turning away from Buckley."

Still, the group hopes that its perseverance will pay off. "They are many examples in past history of the Supreme Court reconsidering landmark cases after sustained public outcry and scholarly criticism," said E. Joshua Rosenkrantz, executive director of the Brennan Center. "That is what we are trying to generate. Buckley has got to be one of the most unpopular opinions existing today, and it is viewed by reformers of campaign finance as the big oak tree that occupies the field, forcing everyone to play around it."

By Mr. THURMOND:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

VOLUNTARY SCHOOL PRAYER CONSTITUTIONAL AMENDMENT

Mr. THURMOND. Mr. President, today, I am introducing the voluntary school prayer constitutional amendment. This bill is identical to Senate Joint Resolution 73 which I introduced in the 98th Congress at the request of then President Reagan and reintroduced every Congress since.

This proposal has received strong support from our colleagues on both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960's, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to provide "a period of silence * * * for meditation or voluntary prayer" at the beginning of each school day. As I stated when that opinion was issued and repeat again—the Supreme Court has too broadly interpreted the establishment clause of the first amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious or other purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the establishment clause of the first amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what has originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the free exercise clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precludes the government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: "We are a religious people whose institutions presuppose a Supreme Being." Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation "under God." Our currency is inscribed with the motto, "In God We Trust". In this body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers—such a practice has been recently upheld as constitutional by the Supreme Court. It is unreasonable that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the Framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans.

I strongly urge my colleagues to support prompt consideration and approval of this bill during this Congress.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S.J. Res. 5. A joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative; to the Committee on Finance.

U.S. TRADE REPRESENTATIVE LEGISLATION

Mr. ROTH. Mr. President, today I, along with my colleague Senator MOYNIHAN, introduce a joint resolution that will waive certain provisions of the Trade Act of 1974 relating to the administration's nomination of Ambassador Charlene Barshefsky to the position of U.S. Trade Representative [USTR].

Specifically, the resolution will provide a waiver for Ambassador Barshefsky from the application of section 141(b)(3) of the Trade Act of 1974, as amended by section 21 of the Lobbying Disclosure Act. This provision prohibits the appointment of any person to serve as USTR or Deputy USTR, who has directly represented, aided, or advised or foreign government or foreign political party in a trade dispute or trade negotiation with the United States.

The administration has sought the waiver because of questions surrounding Barshefsky's work for the Government of Canada while practicing law in the private sector. Ambassador Barshefsky was already serving as Deputy USTR when the law went into effect.

When the Finance Committee acts on her nomination. I will ask it to mark up the joint resolution waiving, in her case, the application of the prohibition to eliminate any questions about her eligibility to serve. Ambassador Barshefsky now enjoys an exemption from this prohibition as Deputy USTR, and I believe that the extension of this exemption by waiver is appropriate. Because this waiver will have the force of law, it must be passed by both the Senate and the House and then presented to the President for signature.

In past statements, I have expressed my strong support for Charlene Barshefsky's nomination as USTR. She is a very capable public servant, and I fully expect she will distinguish herself as USTR much as she did in her service as Deputy USTR.

By Mr. KYL (for himself and Mrs. FEINSTEIN):

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

THE VICTIMS' RIGHTS CONSTITUTIONAL AMENDMENT

Mr. KYL. Mr. President, to ensure that crime victims are treated with fairness, dignity, and respect, I rise to introduce, along with Senator FEINSTEIN, a resolution proposing a constitutional amendment to establish and protect the rights of crime victims.

This resolution is the product of extended discussions with Chairman HENRY HYDE, Senators HATCH and BIDEN, the Department of Justice, the White House, law enforcement officials, major victims' rights groups, and such diverse scholars as Professors Larry Tribe and Paul Cassell. As a result of these discussions, the core values in the original amendment remain unchanged, but the language has been refined to better protect the interest of all parties.

Each year, about 40 million Americans are victimized, first by criminals and a second time by a government that affords them no constitutional rights. The Victims' Rights Amendment is a constitutional amendment that will bring balance to the system by giving crime victims the rights to be informed, present, and heard at critical stages throughout their ordeal—the least the system owes to those it failed to protect.

NEED TO PROTECT CRIME VICTIMS' RIGHTS—SCALES OF JUSTICE IMBALANCED

Last Congress, the amendment was cosponsored by 29 Senators. Both the Republican and Democratic Party platforms called for a victims' rights amendment, as did Senator Dole and President Clinton in a Rose Garden ceremony in June 1996 and in his acceptance speech at the Democratic convention.

This strong bipartisan support makes clear that the Victims' Rights Amendment is not a partisan issue, or some election-year gimmick. The idea stems from a 1982 President's Task Force on Victims of Crime, which concluded that "the criminal justice system has lost its essential balance," and that constitutional protection of victims' rights was the only way to guarantee fair treatment of crime victims. Since then, grass-roots citizens' organizations around the country have pushed for amendments to their State constitutions. A majority of States have responded to the unjust treatment crime victims face, and have enacted constitutional amendments. But this patchwork of State constitutional amendments is inadequate. A Federal amendment would establish a basic floor of crime victims's rights—a floor below which States could not go.

Victims of serious crimes need a constitutional amendment to protect their rights and restore balance to our justice system. Those accused of crime have many constitutionally protected rights: They have the right to due process; right to confront witnesses; right against self-incrimination; right to a jury trial; right to a speedy trial; right to a public trial; right to counsel; right to be free from unreasonable searches and seizures.

Yet, despite rights for the accused, the U.S. Constitution, our highest law, has no protection for crime victims. The recognized symbol of justice is a figure holding a balanced set of scales, but in reality the scales are heavily weighted on the side of the accused. Our proposal will not deny or infringe any constitutional right of any person accused or convicted of a crime. But it will add to the body of rights we all enjoy as Americans.

Crime victims have no constitutional rights. They are often treated as mere inconveniences, forced to view the process from the sidelines. Defendants can be present through their entire trial because they have a constitutional right to be there. But in many trials, crime victims are ordered to leave the courtroom. Victims often are not informed of critical proceedings, such as hearings to consider releasing a defendant on bail or allowing him to plea bargain to a reduced charge. Even when crime victims find out about these proceedings, they frequently have no opportunity to speak.

RIGHTS IN THE AMENDMENT

The amendment gives crime victims the rights:

To be notified of the proceedings;

To be heard at certain crucial stages in the process;

To be notified of the offender's release or escape;

To proceedings free from unreasonable delay;

To an order of restitution;

To have the safety of the victim considered in determining a release from custody; and

To be notified of these rights.

STATISTICS

As I noted earlier, each year about 40 million Americans are victims of serious crime. During 1995 there were 9.9 million crimes of violence, 6.4 million simple assaults, 2.0 million aggravated assaults, 1.3 million robberies, and 355,000 rapes or other types of sexual assault, according to the most recent statistics from the Department of Justice.

The breakdown of social order and the crisis of crime which accompany it have swelled the ranks of criminals, and those who suffer at their hands, to proportions that astonish us, that break our hearts, and that demand collective action. And the process of detecting, prosecuting, and punishing criminals continues, in too many places in America, to ignore the rights of crime victims to fundamental justice.

STRONG PUBLIC SUPPORT—TWENTY-NINE STATES HAVE CONSTITUTIONAL AMENDMENTS

Since 1982 when the need for a constitutional amendment was first recognized by a President's Task Force on Victims of Crime, 29 states have passed similar measures—by an average popular vote of almost 80 percent.

In 1996, eight states approved constitutional amendments—all by landslides. Connecticut: 78 percent. Indiana: 89 percent. Nevada: 74 percent. North Carolina: 78 percent. Oklahoma: 91 percent. Oregon: 57 percent. South Carolina: 89 percent. Virginia: 84 percent.

AMENDING THE CONSTITUTION IS A BIG STEP, BUT A NECESSARY ONE

Amending the constitution is, of course, a big step—one which I do not take lightly—but, on this issue, it is a necessary one. As Thomas Jefferson once said: "I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and options change, with the change of circumstances, institutions must advance also to keep pace with the times."

Who would be comfortable now if the right to free speech, or a free press, or to peaceably assemble, or any of our other rights were subject to the whims of changing legislative or court majorities: When the rights to vote were extended to all regardless of race, and to women, were they simply put into a statute? Who would dare stand before a crowd of people anywhere in our country and say that a defendant's rights to a lawyer, a speedy public trial, due process, to be informed of the charges, to confront witnesses, to remain silent, or any of the other constitutional protections are important, but don't need to be in the Constitution?

Such a position would not stand. Yet that is precisely what critics of the Victims' Bill of Rights would tell crime victims. Victims of crime will never be treated fairly by a system that permits the defendant's constitutional rights always to trump the protections given to victims. Such a system forever would make victims second-class citizens. It is precisely because the Constitution is hard to change that basic rights for victims need to be protected in it.

SUPPORT

The amendment is supported by major national victims' rights groups: Parents of Murdered Children, Mothers Against Drunk Driving [MADD], the National Organization for Victim Assistance, the National Victim Center, and the National Victims' Constitutional Amendment Network, the Victim Assistance Legal Organization, the Doris Tate Crime Victims Bureau, Citizens for Law and Order, the National Coalition Against Sexual Assault, and the Law Enforcement Alliance of America.

CONCLUSION

In closing, I would like to thank Senator DIANNE FEINSTEIN for her hard work on this amendment and for her tireless efforts on behalf of crime victims.

Mr. President, for far too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims have none. We need a new definition of justice—one that includes the victim.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD at the end of my statement.

THE PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 6

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE—

SECTION 1. Each victim of a crime of violence, and other crimes that Congress may define by law, shall have the rights to notice of, and not to be excluded from, all public proceedings relating to the crime—

to be heard, if present, and to submit a written statement at a public pretrial or trial proceeding to determine a release from custody, an acceptance of a negotiated plea, or a sentence;

to the rights described in the preceding portions of this section at a public parole proceeding, or at a non-public parole proceeding to the extent they are afforded to the convicted offender;

to notice of a release pursuant to a public or parole proceeding or an escape;

to a final disposition of the proceedings relating to the crime free from unreasonable delay;

to an order of restitution from the convicted offender;

to consideration for the safety of the victim in determining any release from custody; and

to notice of the rights established by this article; however, the rights to notice under this section are not violated if the proper authorities make a reasonable effort, but are unable to provide the notice, or if the failure of the victim to make a reasonable effort to make those authorities aware of the victim's whereabouts prevents that notice.

SECTION 2. The victim shall have standing to assert the rights established by this article. However, nothing this article shall provide grounds for the victim to challenge a charging decision or a conviction; to obtain a stay of trail; or to compel a new trial. Nothing in this article shall give rise to a claim for damages against the United States, a State, a political subdivision, or a public official, nor provide grounds for the accused or convicted offender to obtain any form of relief.

SECTION 3. The Congress and the States shall have the power to enforce this article within their respective jurisdictions by appropriate legislation, including the power to enact exceptions when required for compelling reasons of public safety or for judicial efficiency in mass victim cases.

SECTION 4. The rights established by this article shall apply to all proceedings that begin on or after the 180th day after the ratification of this article.

SECTION 5. The rights established by this article shall apply in all Federal and State proceedings, including military proceedings to the extent that Congress may provide by law, juvenile justice proceedings, and collateral proceedings such as habeas corpus, and including proceedings in any district or territory of the United States not within a State.

By Mr. KYL:

S.J. Res. 8. A joint resolution proposing an amendment to the Constitution of the United Stats to provide that expenditures for a fiscal year shall exceed neither revenues for such fiscal year nor 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year; to the Committee on the Judiciary.

THE BALANCED BUDGET/SPENDING LIMITATION CONSTITUTIONAL AMENDMENT

Mr. KYL. Mr. President, I rise today to introduce the Balanced Budget/Spending Limitation Amendment, a resolution to amend the Constitution of the United States to require a balanced federal budget and to limit spending to 19 percent of Gross Domestic Product (GDP).

Mr. President, few people realize it, but for the last 40 years, revenues to the U.S. Treasury have remained relatively steady as a share of national income. No matter whether economic times were good or bad, whether the nation was at peace or engaged in military conflict, or whether income tax rates were as high as 90 percent or as low as 28 percent, the total amount of revenue flowing to the U.S. Treasury has always amounted to about 19 percent of the nation's income.

That is really quite remarkable. With history as a guide, it means that higher tax rates will not produce more revenue for the government proportionate to the size of the economy. Such rate increases merely slow down the rate of economic growth, and that is why tax increases never produce as much revenue as anticipated.

At the family level, it means some people will work fewer hours to avoid being pushed into a higher tax bracket. Others will invest less, or invest in less productive ventures, in order to minimize their tax burdens. Still others, when hit by higher taxes, cut back on the goods or services they buy, and that means less work—and less taxable income—for someone else.

In other words, changes in the tax code affect people's behavior. Lower tax rates stimulate the economy, resulting in more taxable income and transactions, and, in turn, more revenue to the Treasury. Higher taxes discourage work, production, savings, and investment, so revenues are always less than initially projected. Although tax cuts and tax rate increases may create temporary declines and surges in revenue, history proves that revenues always adjust at roughly the same percentage of GDP as people adjust their behavior to the new tax code.

It is important for us to understand this phenomenon because it means that Congress cannot balance the Federal budget by raising tax rates. If the goal is to balance the budget—and that is what a balanced budget amendment will require—the only way to succeed is to limit federal spending to the level of revenue that the economy is willing to bear. That happens to be 19 percent of GDP. That is what the Balanced Budget/Spending Limitation Act seeks to do in a very explicit way.

Other versions of the Balanced Budget Amendment would achieve the same objective, including the version of the amendment that is most likely to pass in the next few weeks. The problem is, without explicitly limiting spending and precluding tax rate increases, Congress might try to balance the budget by raising taxes. And as I have illustrated in prior remarks, that would not only be ineffective, it would be harmful to the economy.

Higher taxes would mean that fewer jobs would be created; some people would lose their jobs. Wages would not grow as fast. Output would fall, or would grow only slowly. And in the end, spending would probably still outpace revenue, requiring another round of deficit reduction to meet the requirements of the balanced budget amendment. If balance were actually achieved, it could probably not be sustained for very long because high tax rates would slow the economy, resulting in lower revenues in future years.

The advantage of the Balanced Budget/Spending Limitation Amendment is that it keeps our eye on the ball. It tells Congress to limit spending. And by linking spending to economic growth, it gives Congress a positive incentive to enact pro-growth economic policies. Only a healthy and growing economy—measured by GDP—would increase the dollar amount that Congress is allowed to spend, although always proportionate to the size of the economy.

In other words, 19 percent of a larger GDP represents more revenue to the Treasury than 19 percent of a smaller GDP.

I urge my colleagues to consider the advantages of the Balanced Budget/Spending Limitation Amendment and to join me as cosponsors of the initiative. In the event that a different version of the balanced budget amendment passes, I suggest we will have to consider a free-standing spending limitation amendment in the future if we are interested in promoting both fiscal responsibility and economic growth and opportunity for all Americans.

Mr. President, I ask that the text of the amendment be reprinted in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 8

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. Except as provided in this article, outlays of the United States Government for any fiscal year may not exceed its receipts for that fiscal year.

"SEC. 2. Except as provided in this article, the outlays of the United States Government for a fiscal year may not exceed 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year.

"SEC. 3. The Congress may, by law, provide for suspension of the effect of sections 1 or 2 of this article for any fiscal year for which three-fifths of the whole number of each House shall provide, by a roll call vote, for a specific excess of outlays over receipts or over 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year.

"SEC. 4. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except those for the repayment of debt principal.

"SEC. 5. This article shall apply to the second fiscal year beginning after its ratification and to subsequent fiscal years, but not to fiscal years beginning before October 1, 2001.".

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. BROWNBACK, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INHOFE, Mr. MCCAIN, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, and Mr. THOMPSON):

S.J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes; to the Committee on the Judiciary.

THE TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. KYL. Mr. President, I rise today on behalf of myself and 17 of my Senate colleagues to introduce the Tax Limitation Amendment, a proposed amendment to the Constitution to require a two-thirds vote of the House and Senate to increase taxes.

Mr. President, on Election Day last year, by overwhelming majorities, voters from Florida to California approved initiatives aimed at limiting government's ability to raise taxes. Florida's Question One, which would require a two-thirds vote of the people to enact or raise any state taxes or fees, passed with 69.2 percent of the vote.

Seventy percent of Nevada voters approved the Gibbons amendment, requiring a two-thirds majority vote of the state legislature to pass new taxes or tax hikes. South Dakotans easily approved an amendment requiring either a vote of the people or a two-thirds vote of the legislature for any state tax increase.

And California voters tightened the restrictions in the most famous tax limitation of all, Proposition 13, so that now all taxes at the local level must be approved by a vote of the people. Of course, voters in my home state of Arizona overwhelmingly approved a state tax limit of their own in 1992.

The Tax Limitation Amendment I am introducing would impose similar constraints on federal tax-raising authority. It would require a two-thirds majority vote of each house of Congress to pass any bill levying a new tax or increasing the rate or base of any existing tax. In short, any measure taking more out of the taxpayers' pockets would require a supermajority vote to pass.

Congress could vote to waive the requirement in times of war, or when the United States is engaged in military conflict which causes an imminent and serious threat to national security. But any new taxes imposed under such a waiver could only remain in effect for a maximum of two years.

Most Americans believe the federal government is already taxing them far too much. In 1950, the average family paid one dollar in taxes to the federal government out of every 50 dollars earned. Today, it pays almost one dollar out of every three dollars earned. Add state and local taxes to the mix, and the tax bite is closer to one out of every two-and-a-half dollars earned.

I would note that the Tax Limitation Amendment would not affect Congress' ability to cut taxes. That could still be achieved by simple majority vote. It would, however, make it much harder to raise taxes, particularly if there is no broad-based, bipartisan support for the proposition in Congress or around the country. It would, for example, have prevented enactment of the tax hike of 1993, one of the largest in history, and one which even a majority of Senators did not support. Vice President GORE broke a 50 to 50 vote tie to secure its passage. The TLA would have prevented enactment of the Bush tax increase of 1990.

Raising sufficient revenue to pay for government's essential operations is obviously a necessary part of governing, but raising tax rates is not necessarily the best way to raise revenue. And in any event, voters around the country seem to believe that raising taxes should only be done when there is broad support for the proposition. The TLA will ensure that no tax can be raised in the future without such consensus.

I invite my colleagues to cosponsor the initiative, and I ask unanimous consent that the text of the amendment be reprinted in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 9

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein) That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. Any bill to levy a new tax or increase the rate or base of any tax may pass only by a two-thirds majority of the whole number of each House of Congress.

"SEC. 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

"SEC. 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.".

SENATE RESOLUTION 15—RELATIVE TO BIOMEDICAL RESEARCH

Mr. MACK (for himself, Mr. FRIST, Mr. D'AMATO, Mr. SPECTER, and Mr. GRAMM) submitted the following resolution; which was referred to the Committee on Appropriations:

S. RES. 15

Whereas heart disease was the leading cause of death for both men and women in every year from 1970 to 1993;

Whereas mortality rates for individuals suffering from prostate cancer, skin cancer, and kidney cancer continue to rise;

Whereas the mortality rate for African American women suffering from diabetes is 134 percent higher than the mortality rate for Caucasian women suffering from diabetes;

Whereas asthma rates for children increased 58 percent from 1982 to 1992;

Whereas nearly half of all American women between the ages of 65 and 75 reported having arthritis;

Whereas AIDS is the leading cause of death for Americans between the ages of 24 and 44;

Whereas the Institute of Medicine has described United States clinical research to be "in a state of crisis" and the National Academy of Sciences concluded in 1994 that "the present cohort of clinical investigators is not adequate;

Whereas biomedical research has been shown to be effective in saving lives and reducing health care expenditures;

Whereas research sponsored by the National Institutes of Health has contributed significantly to the first overall reduction in cancer death rates since recordkeeping was instituted;

Whereas research sponsored by the National Institutes of Health has resulted in the identification of genetic mutations for osteoporosis; Lou Gehrig's Disease, cystic fibrosis, and Huntington's Disease, breast, skin and prostate cancer; and a variety of other illnesses;

Whereas research sponsored by the National Institutes of Health has been key to the development of Magnetic Resonance Imaging (MRI) and Positron Emission Tomography (PET) scanning technologies;

Whereas research sponsored by the National Institutes of Health has developed effective treatments for Acute Lymphoblastic Leukemia (ALL). Today, 80 percent of children diagnosed with Acute Lymphoblastic Leukemia are alive and free of the disease after 5 years; and

Whereas research sponsored by the National Institutes of Health contribute to the development of a new, cost-saving cure for peptic ulcers: Now, therefore, be it

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Biomedical Research Commitment Resolution of 1997".

SEC. 2. SENSE OF THE SENATE.

It is the sense of the Senate that appropriations for the National Institutes of Health should be increased by 100 percent over the next 5 fiscal years.

Mr. MACK. Mr. President, I will take just a couple of minutes to explain this resolution and also the motivation, if you will.

The Senate resolution calls for doubling the investment in medical research at the National Institutes of Health over the next 5 years. There are many, many motivations for doing this. As most of my colleagues know, both my wife and I are survivors of cancer, Priscilla with breast cancer; I am a melanoma survivor.

In my quest to gain more knowledge about the various weapons that might be at our disposal to fight this disease and to hope that someday we can find a series of cures. I have also had the opportunity to listen to research scientist in many different areas, many different diseases, whether that be Parkinson's disease, whether that be diabetes, whether that be in spinal cord injuries, in the area of cancer, prostate, breast cancer, melanoma, and so forth.

There was a hearing held at the end of the last Congress by now retired Senator Mark Hatfield and Senator Bill Cohen. There were a number of individuals who testified at that hearing and made, I thought, a remarkable case about why it was no longer acceptable for the Congress of the United States, for the Federal Government to continue a kind of business-as-usual attitude with respect to medical research, biomedical research. One of the individuals who spoke to us, Joan Samuelson, speaking about Parkinson's disease, said:

> The current Federal policy on Parkinson's wastes billions in public and private dollars coping with its effects, when millions could simply cure it.

I remember vividly the testimony of Travis Roy, a young man who today is a quadriplegic, the result of an injury during an ice hockey game. Part of his testimony was that he dreams in essence for the day when he can hug his mother again.

Now, if that statement had been made before a hearing of the Congress 20, 25, 30 years ago, the response pretty much would have been that we all certainly could understand the hurt that this individual and this family has experienced. Most of us probably would have concluded, well, but there is nothing that we can do. To put more money into research of a problem we all know; we can remember those stories about spinal cord injuries years ago—there is no way to find a cure.

The reality is in America today, this Nation happens to believe that in all areas, or in so many different areas of diseases we are on the verge of discovering many cures, that we can no longer take this attitude of business as usual, and that if we make the investment in research we can in fact find ways to solve these problems, and to find cures, and, most importantly, to offer hope to our loved ones.

So I have introduced S. 15. I know there will be people, for example, who will say, "Well, Senator, you are taking about spending more money." Yes, I am talking about spending more money, but it is an area in which I believe the Federal Government should be more active, and I believe it is an area where we will get a major return for it. In response to a question just recently about budget matters, my reaction was stop and calculate what we have saved as a Nation as a result of finding the cure for polio. In my view, there is no reason why we cannot today operate from the perspective that there are cures out there if we could just provide the resources to our research scientists around this Nation. I am confident we can succeed, and I must say, Mr. President, I stand here today filled with joy, with the recognition that so many of my colleagues feel the same as I. I am confident again, if we make this investment, we can offer great hope to so many millions of Americans.

I thank the Chair.

SENATE RESOLUTION 16—RELATIVE TO ABOLISHING THE INCOME TAX

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 16

Whereas the savings level in the United States has steadily declined over the past twenty-five years, and lagged behind our industrialized trading partners;

Whereas our economy cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity;

Whereas the income tax, the accompanying capital gains tax, and the estate and gift tax discourage savings and investment;

Whereas the methods necessary to enforce the income tax infringe on the privacy of our citizens and divert an estimated $157 billion of taxpayer resources to comply with its rules and regulations;

Whereas the Internal Revenue System estimates that each year it fails to collect 17 percent, or $127 billion, of the income tax owed to the federal government;

Whereas the income tax system employs a withholding mechanism that limits the transparency of federal taxes;

Whereas the most effective tax system is one that promotes savings, fairness, simplicity, privacy, border adjustability, and transparency;

Whereas it is estimated that the replacement of the income tax system with a national sales tax would cause our savings rate to substantially increase;

Whereas the national sales tax would achieve fairness by employing a single tax rate, taxing the underground economy, and closing loopholes and deductions;

Whereas the national sales tax would achieve simplicity by eliminating record keeping for most taxpayers and greatly reducing the number of collection points;

Whereas the national sales tax would be the least intrusive tax system because most taxpayers would not be required to file returns or face audits from the Internal Revenue Service;

Whereas the national sales tax is border adjustable and would place United States exporting on a level playing field with our foreign competitors;

Whereas a national sales tax is a transparent tax system that would raise Americans' awareness of the cost of the federal government;

Whereas a national sales tax would best achieve the goals of an effective tax system: Now, therefore, be it

Resolved, That it is the sense of the Senate that:

(1) the income tax system, both personal and corporate, the estate and gift tax, and the accompanying capital gains tax be replaced with a broad-based, single-rate national sales tax on goods and services;

(2) the national sales tax rate be set at a level that raises an equivalent level of revenue as the income taxes replaced;

(3) the federal government work with the states to develop a state-based system to administer the national sales tax and that states be adequately compensated for their efforts; and

(4) the Congress and states work together in an effort to repeal the sixteenth amendment.

Mr. LUGAR. Mr. President, I am pleased to submit a Senate Resolution expressing the sense of the Senate that the income tax system be abolished and replaced with a broad-based consumption tax on goods and services.

Despite a booming stock market and several years of economic growth, I have found that many citizens—particularly young Americans—are anxious about their future and have diminishing hope for better economic opportunities.

Long-term economic trends justify these apprehensions. From 1950 through 1973, hourly compensation—including both wages and benefits—increased an average of 3.0 percent per year. Since 1973, the average wage increase has been less than one-half of 1 percent. During the past two decades, economic growth has been cut in half, averaging only 2.5 percent annually. If this isn't discouraging enough, limiting growth to 2.5 percent appears to be the economic course of the Federal Reserve Board.

Much of this economic underachievement can be attributed to our national savings rate, which has fallen to alarmingly low levels. After averaging 13.3 percent in the 1960's, our Nation's savings rate has sunk to 5.5 percent in the 1990's. Because of this low rate of savings, capital to fuel our economy has become increasingly scarce. As a result, productivity gains have averaged just 1.1 percent from 1974 to 1994. The Concord Coalition estimates that had our productivity held its pre-1974 annual growth rate of 2.9 percent, the median family income would now be $50,000 annually, instead of the current level of $35,000.

Although several other factors have contributed to this slowing of savings and prosperity, including continuing Federal budget deficits and the ensuing debt, our income tax system remains a significant drag on our long-term economic expansion. I propose that Congress should work toward the elimination of the income tax, the accompanying capital gains tax, and the estate and gift tax and replace them with a broad-based, single-rate national sales tax on goods and services.

The Federal income tax system is inherently flawed. By taxing savings and investment at least twice, it has become the biggest impediment to economic growth in the country. Each year it costs Americans more than 5 billion hours of time to comply with it. That is equal to the total worker output of my State of Indiana. It is unfair and riddled with loopholes. It has been changed 31 times in the past 41 years. And finally, it doesn't work. By its own admission, the Internal Revenue Service fails to collect from nearly 10 million taxpayers, with an estimated $127 billion in uncollected taxes annually. Anything this broken should be ended decisively.

One can evaluate a tax system using several criteria. It must be: (1) simple, (2) the least intrusive, (3) fair, (4) transparent, (5) border adjustable, and (6) friendly to savings and investment. I have studied recent tax reform proposals with these six factors in mind. Many are better than the current income tax. But if we are going to overhaul our tax system, we should choose the one that meets these criteria. I have concluded that a national sales tax is the best alternative.

The first factor in choosing an effective tax system is its simplicity. Under a national sales tax, the burden of complying with the income tax code would be lifted. There would be no records to keep or audits to fear. The money a person made would be his or her own. You may decide if you want to save it, invest it, or give it to your children. It is only when you buy something that you pay a tax.

The national sales tax is the least intrusive of the tax proposals. The IRS would be substantially dismantled. The IRS would no longer look over the shoulders of every taxpayer. Americans would not waste time and effort worrying about record keeping, deductions, or exemptions that are part of the current tax code.

The national sales tax is the fairest. Everyone pays the tax including criminals, illegal aliens, and others who currently avoid taxation. Wealthy Americans with lavish spending habits would pay substantial amounts of taxes under the national sales tax. Individuals who save and invest their money will pay less. Gone are the loopholes and deductions that provide advantages to those with the resources to shelter their income.

The national sales tax would also tax the underground economy. When criminals consume the proceeds of their activities, they will pay a tax. Foreign tourists and illegal aliens will pay the tax. Tax systems that rely on income reporting will never collect any of this potential revenue.

Of course, the fairness test must likewise consider those with limited means to pay taxes. Like the income tax system, a national sales tax can and should be constructed to lessen the tax burden on those individuals with the least ability to pay. One strategy for addressing this problem would exempt a threshold level of goods and services consumed by each American from the Federal sales tax. Another strategy is to exempt items such as housing, food or medicine. I am committed to designing a tax system that does not fall disproportionately on the less fortunate.

The national sales tax is the most transparent. A Federal tax that is evident to everyone would bolster efforts in Congress to achieve prudence in Federal spending. There should be no hidden corporate taxes that are passed on to consumers or withholding mechanisms that mask the amount we pay in taxes. Every year the public and Congress should openly debate the tax rate necessary for the Federal Government to meet its obligations. If average Americans are paying that rate every day, they will make certain that Congress spends public funds wisely.

American exports would also benefit from the enactment of a national sales tax. We must adopt a tax system that encourages exports. Most of our trading partners have tax systems that are border adjustable. They are able to strip out their tax when exporting their goods. In comparison, the income tax is not border adjustable. American goods that are sent overseas are taxed twice—once by the income tax and once when they reach their destination. In comparison, the national sales tax would not be levied on exports. It would place our exports on a level playing field with those of our trading partners.

But the last and most imperative reason for replacing the income tax with a national sales tax is that it would energize our economy by encouraging savings. For the first time in the modern era, the next generation of Americans may be economically worse off than the previous one. Despite robust economic growth over the past several years, the average income of families has declined. They feel trapped in a box with diminishing hope of escaping.

The bottom line is that as a nation, we do not save enough. Savings are vital because they are the source of all investment and productivity gains—savings supply the capital for buying a new machine, developing a new product or service, or employing an extra worker.

The Japanese save at a rate nine times greater than Americans and the Germans save five times as much as we do. Today, many believe that Americans inherently consume beyond their means and cannot save enough for the future. Few realize that before World War II, before the income tax system developed into its present form, Americans saved a larger portion of their earnings than the Japanese.

A national sales tax would reverse this trend by directly taxing consumption and leaving savings and investment untaxed. Economists agree that a broad-based consumption tax would increase our savings rate substantially. Economist Laurence Kotlikoff of Boston University estimates that our savings rate would more than triple in the first year. Economist Dale Jorgenson of Harvard University has concluded that the United States would have experienced $1 trillion in additional economic growth if it had adopted a consumption tax like the national sales tax in 1986 instead of the current system.

As I have outlined here today, I believe the national sales tax is the best tax system to replace the income tax. If we enact a tax system that encourages investment and savings, billions of dollars of investment will flow into our country. This makes sense—America has the most stable political system, the best infrastructure, a highly educated workforce and the largest consumer market in the world. Our economic growth and prosperity would be unsurpassed. I am committed to bringing this message of hope to all Americans, and I look forward to working with my colleagues on advancing this important endeavor.

SENATE RESOLUTION 17—RELATIVE TO THE CHEMICAL WEAPONS CONVENTION

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 17

Resolved, That (a) the Senate hereby expresses its intention to give its advice and consent to the ratification of the Chemical Weapons Convention at the appropriate time after the Senate has proceeded to the consideration of the Convention, subject to the conditions of subsection (b) and the declarations of subsection (c):

(b) CONDITIONS.—It is the sense of the Senate that the advice and consent of the Senate to the ratification of the Convention should be subject to the following conditions, which would be binding upon the President:

(1) AMENDMENT CONFERENCES.—The United States will be present and participate fully in all Amendment Conferences and will cast its vote, either affirmatively or negatively, on all proposed amendments made at such conferences, to ensure that—

(A) the United States has an opportunity to consider any and all amendments in accordance with its Constitutional processes; and

(B) no amendment to the Convention enters into force without the approval of the United States.

(2) PRESIDENTIAL CERTIFICATION ON DATA DECLARATIONS.—(A) Not later than 10 days after the Convention enters into force, or not later than 10 days after the deposit of the Russian instrument of ratification of the Convention, whichever is later, the President shall either—

(i) certify to the Senate that Russia has complied satisfactorily with the data declaration requirements of the Wyoming Memorandum of Understanding; or

(ii) submit to the Senate a report on apparent discrepancies in Russia's data under the Wyoming Memorandum of Understanding and the results of any bilateral discussions regarding those discrepancies.

(B) For purposes of this paragraph, the term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989,

(3) PRESIDENTIAL CERTIFICATION ON THE BILATERAL DESTRUCTION AGREEMENT.—Before the deposit of the United States instrument of ratification of the Convention, the President shall certify in writing to the Senate that—

(A) a United States-Russian agreement on implementation of the Bilateral Destruction Agreement has been or will shortly be concluded, and that the verification procedures under that agreement will meet or exceed those mandated by the Convention, or

(B) the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons will be prepared, when the Convention enters into force, to submit a plan for meeting the Organization's full monitoring responsibilities that will include United States and Russian facilities as well as those of other parties to the Convention.

(4) NONCOMPLIANCE.—If the President determines that a party to the Convention is in

violation of the Convention and that the actions of such party threaten the national security interests of the United States, the President shall—

(A) consult with, and promptly submit a report to, the Senate detailing the effect of such actions on the Convention;

(B) seek on an urgent basis a meeting at the highest diplomatic level with the Organization for the Prohibition of Chemical Weapons (in this resolution referred to as the "Organization") and the noncompliant party with the objective of bringing the noncompliant party into compliance;

(C) in the event that a party to the Convention is determined not to be in compliance with the Convention, request consultations with the Organization on whether to—

(i) restrict or suspend the noncompliant party's rights and privileges under the Convention until the party complies with its obligations;

(ii) recommend collective measures in conformity with international law; or

(iii) bring the issue to the attention of the United Nations General Assembly and Security Council; and

(D) in the event that noncompliance continues, determine whether or not continued adherence to the Convention is in the national security interests of the United States and so inform the Senate.

(5) FINANCING IMPLEMENTATION.—The United States understands that in order to ensure the commitment of Russia to destroy its chemical stockpiles, in the event that Russia ratifies the Convention, Russia must maintain a substantial stake in financing the implementation of the Convention. The costs of implementing the Convention should be borne by all parties to the Convention. The deposit of the United States instrument of ratification of the Convention shall not be contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia or any other party to the Convention.

(6) IMPLEMENTATION ARRANGEMENTS.—If the Convention does not enter into force or if the Convention comes into force with the United States having ratified the Convention but with Russia having taken no action to ratify or accede to the Convention, then the President shall, if he plans to implement reductions of United States chemical forces as a matter of national policy or in a manner consistent with the Convention—

(A) consult with the Senate regarding the effect of such reductions on the national security of the United States; and

(B) take no action to reduce the United States chemical stockpile at a pace faster than that currently planned and consistent with the Convention until the President submits to the Senate his determination that such reductions are in the national security interests of the United States.

(7) PRESIDENTIAL CERTIFICATION AND REPORT ON NATIONAL TECHNICAL MEANS.—Not later than 90 days after the deposit of the United States instrument of ratification of the Convention, the President shall certify that the United States National Technical Means and the provisions of the Convention on verification of compliance, when viewed together, are sufficient to ensure effective verification of compliance with the provisions of the Convention. This certification shall be accompanied by a report, which may be supplemented by a classified annex, indicating how the United States National Technical Means, including collection, processing and analytic resources, will be marshalled, together with the Convention's verification provisions, to ensure effective verification of compliance. Such certification and report shall be submitted to the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate.

(c) DECLARATIONS.—It is the sense of the Senate that the advice and consent of the Senate to ratification of the Convention should be subject to the following declarations, which would express the intent of the Senate:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the Resolution of Ratification with respect to the INF Treaty, approved by the Senate on May 27, 1988. For purposes of this declaration, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

(2) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power set forth in Article II, Section 2, Clause 2 of the Constitution.

(3) RETALIATORY POLICY.—The Senate declares that the United States should strongly reiterate its retaliatory policy that the use of chemical weapons against United States military forces or civilians would result in an overwhelming and devastating response, which may include the whole range of available weaponry.

(4) CHEMICAL DEFENSE PROGRAM.—The Senate declares that ratification of the Convention will not obviate the need for a robust, adequately funded chemical defense program, together with improved national intelligence capabilities in the nonproliferation area, maintenance of an effective deterrent through capable conventional forces, trade-enabling export controls, and other capabilities. In giving its advice and consent to ratification of the Convention, the Senate does so with full appreciation that the entry into force of the Convention enhances the responsibility of the Senate to ensure that the United States continues an effective and adequately funded chemical defense program. The Senate further declares that the United States should continue to develop theater missile defense to intercept ballistic missiles that might carry chemical weapons and should enhance defenses of the United States Armed Forces against the use of chemical weapons in the field.

(5) ENFORCEMENT POLICY.—The Senate urges the President to pursue compliance questions under the Convention vigorously and to seek international sanctions if a party to the Convention does not comply with the Convention, including the "obligation to make every reasonable effort to demonstrate its compliance with this Convention", pursuant to paragraph 11 of Article IX. It should not be necessary to prove the noncompliance of a party to the Convention before the United States raises issues bilaterally or in appropriate international fora and takes appropriate actions.

(6) APPROVAL OF INSPECTORS.—The Senate expects that the United States will exercise its right to reject a proposed inspector or inspection assistant when the facts indicate that this person is likely to seek information to which the inspection team is not entitled or to mishandle information that the team obtains.

(7) ASSISTANCE TO RUSSIA.—The Senate declares that, if the United States provides limited financial assistance for the destruction of Russian chemical weapons, the United States should, in exchange for such assistance, require Russia to destroy its chemical weapons stocks at a proportional rate to the destruction of United States chemical weapons stocks, and to take the action before the Convention deadline. In addition, the Senate urges the President to request Russia to allow inspections of former military facilities that have been converted to commercial production, given the possibility that these plants could one day be reconverted to military use, and that any United States assistance for the destruction of the Russian chemical stockpile be apportioned according to Russia's openness to these broad based inspections.

(8) EXPANDING CHEMICAL ARSENALS IN COUNTRIES NOT PARTY TO THE CHEMICAL WEAPONS CONVENTION.—It is the sense of the Senate that, if during the time the Convention remains in force the President determines that there has been an expansion of the chemical weapons arsenals of any country not a party to the Convention so as to jeopardize the supreme national interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether adherence to the Convention remains in the national interest of the United States.

(9) COMPLIANCE.—Concerned by the clear pattern of Soviet noncompliance with arms control agreements and continued cases of noncompliance by Russia, the Senate declares the following:

(A) The Convention is in the interest of the United States only if the both the United States and Russia, among others, are in strict compliance with the terms of the Convention as submitted to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply.

(B)(i) Given its concern about compliance issues, the Senate expects the President to offer regular briefings, but not less than several times a year, to the Committees on Foreign Relations and Armed Services and the Select Committee on Intelligence of the Senate on compliance issues related to the Convention. Such briefings shall include a description of all United States efforts in diplomatic channels and bilateral as well as the multilateral Organization fora to resolve the compliance issues and shall include, but would not necessarily be limited to a description of—

(I) any compliance issues, other than those requiring challenge inspections, that the United States plans to raise with the Organization; and

(II) any compliance issues raised at the Organization, within 30 days.

(ii) Any Presidential determination that Russia is in noncompliance with the Convention shall be transmitted to the committees specified in clause (i) within 30 days of such a determination, together with a written report, including an unclassified summary, explaining why it is in the national security interests of the United States to continue as a party to the Convention.

(10) SUBMISSION OF FUTURE AGREEMENTS AS TREATIES.—The Senate declares that after

the Senate gives its advice and consent to ratification of the Convention, any agreement or understanding which in any material way modifies, amends, or reinterprets United States and Russian obligations, or those of any other country, under the Convention, including the time frame for implementation of the Convention, should be submitted to the Senate for its advice and consent to ratification.

(11) RIOT CONTROL AGENTS.—(A) The Senate, recognizing that the Convention's prohibition on the use of riot control agents as a "method of warfare" precludes the use of such agents against combatants, including use for humanitarian purposes where combatants and noncombatants intermingled, urges the President—

(i) to give high priority to continuing efforts to develop effective nonchemical, nonlethal alternatives to riot control agents for use in situations where combatants and noncombatants are intermingled; and

(ii) to ensure that the United States actively participates with other parties to the Convention in any reassessment of the appropriateness of the prohibition as it might apply to such situations as the rescue of drowned air crews and passengers and escaping prisoners or in situations in which civilians are being used to mask or screen attacks.

(B) For purposes of this paragraph, the term "riot control agents" is used within the meaning of Article II(4) of the Convention.

(d) DEFINITION.—For purposes of this resolution, the term "Chemical Weapons Convention" and the term "Convention" refer to the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature and signed by the United States at Paris on January 13, 1993, including the following annexes and associated documents, all such documents being integral parts of and collectively referred to in this resolution as the "Convention" (contained in Treaty Document 103-21):

(1) The Annex on Chemicals.

(2) The Annex on Implementation and Verification (also known as the "Verification Annex").

(3) The Annex on the Protection of Confidential Information (also known as the "Confidentiality Annex").

(4) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(5) The Text on the Establishment of a Preparatory Commission.

Mr. LUGAR. Mr. President, On April 29, 1997 the multilateral Chemical Weapons Convention [CWC] that bans the development, production, acquisition, stockpiling, use, and direct or indirect transfer of chemical weapons to anyone will enter into force whether or not the Senate acts and the President ratifies the Convention.

Thus over the next three months it will be necessary for the Senate to consider the Convention and to fashion a corresponding resolution of ratification if the United States is to benefit from the provisions of the agreement and the U.S. chemical industry is not to suffer from the disadvantages imposed on chemical firms of non-Parties.

The Senate was on the verge of taking up the CWC on the floor through consideration of a resolution of ratification that I co-authored and which was reported out of the Senate Committee on Foreign Relations by a vote of 13-5 on April 30, 1996.

Given the arrival of new Members to the Senate and the need for all Members to inform themselves in the near term on the benefits and costs to the United States of full participation in the Convention, I am submitting in the form of a sense-of-the-Senate resolution the resolution of ratification that was to have served as the vehicle for debate in the Senate during the 104th Congress.

It is my hope that this will be helpful to all Senators and can serve as an important benchmark for a more constructive exchange during the 105th Congress on the subject of ratification of the Chemical Weapons Convention.

SENATE RESOLUTION 18—RELATIVE TO THE NATIONAL DEBT

Mr. FAIRCLOTH submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one committee reports, the other committee has 30 days to report or be discharged:

S. RES. 18

Whereas the United States national debt is approximately $4.9 trillion;

Whereas the Congress has authorized the national debt by law to reach $5.5 trillion;

Whereas it is likely that the 105th Congress and the President will both present plans to balance the budget by the year 2002, by which time our national debt will be approximately $6.5 trillion.

Whereas this accumulated debt represents a significant financial burden that will require excessive taxation and lost economic opportunity for future generations of the United States;

Resolved, That it is the sense of the Senate that any comprehensive legislation that balances the budget by a certain date and that is agreed to by the Congress and the President shall also contain a strategy for reducing the national debt of the United States.

SENATE RESOLUTION 19—RELATIVE TO GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. LEAHY, Mr. JEFFORDS, Mr. DODD, Mr. FEINGOLD, and Mr. WELLSTONE) submitted the following resolution: which was referred to the Committee on Foreign Relations:

S. RES. 19

Whereas the Chinese Government sentenced Ngawang Choephel to an 18-year prison term plus 4 years subsequent deprivation of his political rights on December 26, 1996, following a secret trail;

Whereas Mr. Choephel is a Tibetan national whose family fled Chinese oppression to live in exile in India in 1968;

Whereas Mr. Choephel, studied ethnomusicology at Middlebury College in Vermont as a Fulbright Scholar, and at the Tibetan Institute of Performing Arts in Dharamsala, India;

Whereas Mr. Choephel returned to Tibet in July, 1995 to prepare a documentary film about traditional Tibetan performing arts;

Whereas Mr. Choephel was detained in August, 1995 by the Chinese authorities and held incommunicado for over a year before the Government of the People's Republic of China admitted to holding him, and finally charged him with espionage in October, 1996;

Whereas there is no evidence that Mr. Choephel's activities in Tibet involved anything other than purely academic research;

Whereas the Government of the People's Republic of China denies Tibetans their fundamental human rights, as reported in the State Department's *Country Reports on Human Rights Practices*, and by human rights organizations including Amnesty International and Human Rights Watch, Asia;

Whereas the Government of the People's Republic of China is responsible for the destruction of much of Tibetan civilization since its invasion of Tibet in 1949;

Whereas the arrest of Tibetan scholar, such as Mr. Choephel who worked to preserve Tibetan culture, reflects the systematic attempt by the Government of the People's Republic of China to repress cultural expression in Tibet;

Whereas the Government of the People's Republic of China, through direct and indirect incentives, has established discriminatory development programs which have resulted in an overwhelming flow of Chinese immigrants into Tibet, including those areas incorporated into the Chines provinces of Sichuan, Yunnan, Gansu, and Quinghai, and have excluded Tibetans from participation in important policy decisions, which further threatens traditional Tibetan life;

Whereas the Government of the People's Republic of China withholds meaningful participation in the governance of Tibet from Tibetans and has failed to abide by its own constitutional guarantee of autonomy of Tibetans;

Whereas the Dalai Lama of Tibet has stated his willingness to enter into negotiations with the Chinese and has repeatedly accepted the framework Deng Xiaoping proposed for such negotiations in 1979;

Whereas the United States Government has not developed an effective plan to win support in international fora, such as the United Nations Commission on Human Rights, to bring international pressure to bear on the Government of the People's Republic of China to improve human rights and to negotiate with the Dalai Lama;

Whereas the Chinese have displayed provocative disregard for American concerns by arresting and sentencing prominent dissidents around the time that senior United States Government officials have visited China;

Whereas United States Government policy seeks to foster negotiations between the Government of the People's Republic of China and the Dalai Lama, and presses China to respect Tibet's unique religious, linguistic and cultural traditions. Now, therefore, be it hereby

Resolved by the Senate that, It is the sense of the Senate that—

(1) Ngawang Choephel and other prisoners of conscience in Tibet, as well as in China, should be released immediately and unconditionally;

(2) to underscore the gravity of this matter, in all official meetings with representatives of the Government of the People's Republic of China, U.S. officials should request

Mr. Choephel's immediate and unconditional release;

(3) the United States Government should take prompt action to sponsor and promote a resolution at the United Nations Commission on Human Rights regarding China and Tibet which specifically addresses political prisoners and negotiations with the Dalai Lama;

(4) an exchange program should be established in honor on Ngawang Choephel, involving students of the Tibetan Institute of Performing Arts and appropriate educational institutions in the United States; and,

(5) the United States Government should seek access for internationally recognized human rights groups to monitor human rights in Tibet.

Mr. MOYNIHAN. Mr. President, I rise to submit a resolution in response to the egregious prison sentence which was recently imposed by the Chinese Government on Ngawang Choephel.

Mr. Choephel is a Tibetan whose family fled Chinese oppression to live in exile in India in 1968. He studied ethnomusicology at Middlebury College in Vermont as a Fulbright Scholar in 1992 and 1993, after having studied at the Tibetan Institute of Performing Arts in Dharamsala, India. The Tibetan Institute of Performing Arts was formed by the Dalai Lama to preserve the Tibetan performing arts while in exile.

Mr. Choephel returned to Tibet in July, 1995 to prepare a documentary film about traditional Tibetan performing arts. He was detained in August, 1995 by the Chinese authorities and held incommunicado for over a year before the Government of the People's Republic of China admitted to holding him, and finally charged him with espionage in October, 1996.

On December 26, 1996, the Chinese Government sentenced Ngawang Choephel to an 18-year prison term plus 4 years subsequent deprivation of his political rights following a secret trial. This is the most severe sentence of a Tibetan by the Chinese Government in 7 years.

There is no evidence that Mr. Choephel's activities in Tibet involved anything other than purely academic research. His arrest and the long sentence subsequently imposed appear to stem from his collecting information to preserve Tibetan performing arts. Such censure is indicative of the extreme measures the Chinese Government continues to take to repress all forms of Tibetan cultural expression. My daughter, Maura Moynihan, has traveled to Tibet several times. After her most recent trip last year, she wrote in the Washington Post of the Chinese assault on Tibetan religion and culture:

> Beijing's leaders have renewed their assault on Tibetan culture, especially Buddhism, with an alarming vehemence. The rhetoric and the methods of the Cultural Revolution of the 1960s have been resurrected—reincarnated, what you will—to shape an aggressive campaign to vilify the Dalai Lama.

The New York Times echoed just such sentiments in its January 2 editorial on Ngawang Choephel's arrest:

> The basis of Ngawang Choepel's conviction is unclear, but even taping Tibetan culture for export could qualify as espionage under Chinese law. Since its invasion of Tibet in 1950, Beijin has gradually increased its efforts to erase Tibet's identity. China has arrested those who protested the takeover and tried to eradicate the people's affection for the leader of Tibetan Buddhism, the Dalai Lama.

Ngawang Choephel is a symbol of the Chinese Government's continued pursuit of Maoist policies when dealing with what it sees at the "Tibet problem." Tibetan religion and culture are seen by the Chinese as an impediment to successfully unifying Tibet with the "motherland."

This resolution will record the United States Senate's response to these Chinese policies, which we reject. In the words of the International Commission of Jurists in 1960, "Tibet demonstrated from 1913 to 1950 the conditions of statehood as generally accepted under international law." We will continue to stand with the Tibetan people. As the Senate recorded in 1991 in S. Res. 107:

> * * * the government of the People's Republic of China should know that as the Tibetan people and His Holiness the Dalai Lama of Tibet go forward on their journey toward freedom the Congress and the people of the United States stand with them.

I thank all my colleagues who have cosponsored this resolution. In particular I would like to recognize the long commitment that the Chairman of the Foreign Relations Committee has shown in support of Tibetans and thank him for joining me in this effort today.

I would especially note the work of the senior Senator from Vermont, Mr. LEAHY. Since Mr. Choephel was reported missing, Senator LEAHY has sought to win his release. In November, Senator LEAHY, while traveling on a delegation to China with the Senate Democratic Leader and other Senators, raised his concerns directly to Chinese President Jiang Zemin. I thank Senator LEAHY for his commitment to this issue and for agreeing to cosponsor this measure.

I ask unanimous consent to have the New York Times editorial on this subject placed in the RECORD.

[From the New York Times, Jan. 2, 1997]

A PRISON TERM IN TIBET

Last week, the Chinese Government gave a 30-year-old scholar of Tibetan music an 18-year prison sentence for espionage. Even by Chinese standards, the sentence is astonishingly long. It is also a warning to Tibetans that their already scarce liberties are now further endangered.

Ngawang Choepel fled Tibet with his family when he was 2 to the Tibetan exile community in Dharmsala, India. He came to the United States in 1993 to study and teach at Middlebury College. In 1995 he went to Tibet to capture on video traditional songs and dances that he feared were being lost.

The basis of Ngawang Choepel's conviction is unclear, but even taping Tibetan culture for export could qualify as espionage under Chinese law. Since its invasion of Tibet in 1950, Beijing has gradually increased its efforts to erase Tibet's identity. China has arrested those who protested the takeover and tried to eradicate the people's affection for the leader of Tibetan Buddhism, the Dalai Lama.

In the 1960's and 1970's, the Chinese killed thousands of monks and nuns and destroyed virtually all Tibet's monasteries. China later tried a slightly softer line, but riots in 1987 brought another crackdown. Monks have been asked to redpudiate the Dalai Lama or face expulsion, and at least 700 Tibetans are now in prison for political offenses.

China's repressive policy is wrong both morally and politically. By smothering Tibetans' ability to speak, worship freely, or express their culture, China risks driving them to violence. Last week, a powerful, sophisticated bomb blew up outside a Government building in Lhasa. Although the Dalai Lama has never wavered in his commitment to nonviolence and denies any link to the bomb, he Government quickly blamed the bomb on "the Dalai clique" and has vowed to retaliate.

The Chinese Government went out of its way to link Ngawang Choepel to the United States, charging that Americans underwrote his trip and that he was gathering information for a foreign agency. Indeed, Chinese officials seem to delight in taunting the United States over human rights issues. During a visit by Secretary of State Warren Christopher in 1994, Beijing arrested China's leading democracy campaigner, Wei Jingsheng. In May of that year, Washington ended the linkage between China's behavior on human rights and its preferential trading status. Only two months later, hard-liners at a Communist Party meeting pushed through a policy that increased Chinese control of Tibet.

To be sure, American officials have scolded Beijing about human rights abuses in Tibet, Hong Kong, and China itself. But the Chinese know they can safely ignore such talk. The Clinton Administration, unwilling to damage its relations with Beijing, has failed to impose any real cost on Chinese repression. Whether or not Beijing intended Ngawang Choepel's sentence as a specific message to Washington, Washington should read it as an indication of China's continuing contempt for its weak defense of Tibetan rights.

Mr. LEAHY. Mr. President, I want to thank Senator MOYNIHAN for submitting this resolution on the first legislative day of the 105th Congress in support of Ngawang Choephel and other prisoners of conscience in Tibet.

I first learned about the detention of Tibetan music and dance scholar and former Middlebury College student Ngawang Choephel about a year ago. Students and faculty at Middlebury were leading a letter-writing campaign to urge Chinese authorities to release information about their friend and colleague, who had traveled in 1995 to Tibet to make a documentary film of traditional Tibetan dance and music after spending several months as a Fulbright scholar at Middlebury. No one had seen or herd from Mr. Choephel, until an exiled Tibetan reported seeing him in a Tibetan prison.

I wrote to the head of the Chinese Communist Party to find out what I could about Mr. Choephel's whereabouts, his health, the evidence against him, and whether he had access to a lawyer. I received no reply. I inquired further. Finally, in October, more than a year after his detention, Chinese authorities reported that Mr. Choephel was charged with violating the State Security Law. He was accused of espionage, and it was insinuated that he was a spy financed by the United States Government. No evidence to support such a claim has ever been produced. The State Department issued a statement calling for Mr. Choephel's release.

There is no evidence that Mr. Choephel was engaged in any improper activity or even any political activity whatsoever during his trip to Tibet. The 16 hours of film Mr. Choephel sent to India during the first weeks of his project contain the traditional music and dance that he intended to document. Like the State Department, I believe that the Chinese have made a terrible mistake in this case.

In November, I accompanied Senator DASCHLE on a trip to China. In meetings with President Jiang Zemin and other officials, I raised Ngawang Choephel's case and urged the President to look into it personally. I have received no response to those inquiries. Only weeks after returning from Beijing, I learned that Mr. Choephel had been sentenced to 18 years in prison, and I immediately wrote again to President Jiang Zemin, urging that Mr. Choephel be released.

Mr. Choephel's reported confession, secret trial, and unusually long prison sentence underscore the longstanding disregard for the rule of law and the lack of respect for political and cultural rights in Tibet and China. Mr. Choephel is one of thousands who have been persecuted for attempting to preserve what remains of Tibetan culture.

The resolution introduced by Senator MOYNIHAN calls on the Chinese Government to release Mr. Choephel unconditionally. It also calls on United States officials to raise his case in all meetings with Chinese authorities, to support a resolution on human rights in Tibet and China in the United Nations Commission on Human Rights, to urge the Chinese to allow international human rights groups to monitor human rights in Tibet, and to support an exchange program for Tibetan students.

These are measures that will emphasize the importance the United States Senate places on improving respect for human rights in China and Tibet. It is particularly important that the administration takes a stronger position in support of the resolution on China and Tibet in the U.N. Human Rights Commission this year.

Mr. President, I want to thank Senator MOYNIHAN again for his concern and his leadership on Tibet over the years. I urge all Senators to support this resolution.

AMENDMENTS SUBMITTED

THE SUPERFUND CLEANUP ACCELERATION ACT OF 1997

SMITH (AND OTHERS) AMENDMENT NO. 1

(Ordered referred to the Committee on Environment and Public Works)

Mr. SMITH of New Hampshire (for himself, Mr. CHAFEE, and Mr. LOTT) submitted an amendment intended to be proposed by them to the bill (S. 8) to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes; as follows:

At the end of title IX, add the following:

Subtitle B—Amendments to the Internal Revenue Code of 1986

SEC. 911. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND.

(a) Extension of Taxes.—

(1) Excise taxes.—Section 4611(e)(1) of the Internal Revenue Code of 1986 is amended by inserting ", on and after the 10th day after the date of the enactment of the Superfund Cleanup Acceleration Act of 1997, and before January 1, 2003" after "January 1, 1996".

(2) Income tax.—Section 59A(e)(1) of such Code is amended by inserting ", and to taxable years beginning after December 31, 1996, and before January 1, 2003" after "January 1, 1996".

(3) Conforming amendments.—Paragraph (2) of section 4611(e) of such Code is amended—

(A) by striking "1993" and inserting "2000";

(B) by striking "1994" each place it appears and inserting "2001"; and

(C) by striking "1995" each place it appears and inserting "2002".

(b) Increase in Aggregate Tax Which May Be Collected.—Paragraph (3) of section 4611(e) of such Code is amended—

(1) by striking "$11,970,000,000" each place it appears and inserting "$22,000,000,000",

(2) by striking "December 31, 1995" in subparagraph (A) and inserting "December 31, 2000", and

(3) by striking "January 1, 1996" inserting "January 1, 2003".

(c) Extension of Superfund Borrowing.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking "December 31, 1995" and inserting "December 31, 2002".

(d) Extension of Trust Fund Purposes.—Subparagraph (A) of section 9507(c)(1) of such Code is amended—

(1) by striking clause (i) and inserting the following:

"(i) paragraphs (1), (2), (5), (6), (7), and (8) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Cleanup Acceleration Act of 1997,"; and

(2) by striking clause (iii) and inserting the following:

"(iii) subsections (m), (n), (q), (r), (s), (t), and (u) of section 111 of CERCLA (as so in effect), or".

(e) Extension of Authorization of Appropriations to Trust Fund.—Subsection (b) of section 517 of the Superfund Revenue Act of 1986 (26 U.S.C. 9507 note) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a comma, and by adding at the end the following new paragraphs:

"(10) 1998, $250,000,000,
"(11) 1999, $250,000,000,
"(12) 2000, $250,000,000,
"(13) 2001, $250,000,000, and
"(14) 2002, $250,000,000."

(f) Coordination With Other Provisions.—Paragraph (2) of section 9507(e) of the Internal Revenue Code of 1986 is amended by striking "CERCLA" and all that follows through "Acts)" and inserting "CERCLA, the Superfund Amendments and Reauthorization Act of 1986, and the Superfund Cleanup Acceleration Act of 1997 (or in any amendment made by any of such Acts)".

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture Nutrition, and Forestry will hold a business meeting on Wednesday, January 22, 1997 at 9:30 a.m. in SR–328A. The purpose of the meeting will be to approve subcommittee assignments, committee rules, and committee budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Tuesday, January 28, 1997, at 9:30 a.m. to hold a hearing on the nomination of Alan M. Hantman, of New Jersey, to be Architect of the Capitol.

At 10:15 a.m., the committee will hold an organizational meeting and markup to consider pending legislative and executive business.

Individuals and organizations who wish to submit a statement on the nomination of Alan Hantman to be Architect of the Capitol are requested to contact Ed Edens of the Rules Committee staff on 224–6678. For further information regarding the confirmation hearing and organizational meeting markup, please contact Ed Edens of the committee staff on 224–6678.

ADDITIONAL STATEMENTS

MARTIN LUTHER KING, JR. DAY

• Mr. ABRAHAM. Mr. President, I rise today in recognition of a great man who did much to change our Nation for the better. Before he was struck down by an assassin's bullet, the Reverence Dr. Martin Luther King, Jr. awakened the conscience of a nation. His campaign of nonviolent protest brought to light the injustices of a racially segregated society and played a major role in fostering the legislation necessary to do away with many forms of official discrimination.

Our Nation remains far from perfect, particularly in regard to relations between the races. But America is more just and honest because of the efforts of this man of God. And, in confronting the problems now before us, we still can look to Dr. King for guidance.

Clearly we have more work ahead of us in order to achieve justice in our racial relations. But our greatest challenge in my view is that of restoring hope and opportunity to those of us living in our impoverished inner cities. Reverend King knew of this tragedy. And the spoke out forcefully against it. I myself have seen the poverty and isolation of many of our inner-city neighborhoods. These areas are cut off from the rest of the city, and suffer from a lack of economic hope and the breakdown of the institutions of community on which people everywhere must rely. America must address these pockets of hopelessness, to bring to them the economic growth and spiritual fulfillment necessary for a functioning community life.

Through his speeches and grassroots activism, Dr. King addressed the problem of poverty and the loss of community. He also gave us advice on how to face our problems. The key word, I submit, is "action." As Reverend King put it:

> We must come to see that human progress never rolls in on wheels of inevitability. It comes through the tireless efforts and persistent work of men willing to be coworkers with God, and without this hard work time itself becomes an ally of the forces of social stagnation. We must use time creatively, and forever realize that the time is always ripe to do right.

Mr. President, I am proud to say that many people in my State of Michigan are carrying on Dr. King's work even as we speak. They know that the time is ripe for doing right. In Detroit's Martin Luther King, Jr. High School, for example, students are participating in the DECA Program. These students have dedicated themselves to helping their community. They have adopted a local senior center to see to it that the resident senior citizens have the comfort and community provided by regular visitors. They have participated in walks for the homeless, put together a silent auction with proceeds going to the homeless, and given up a recent Sunday to assist with the Special Gift Holiday Party for Homeless Children held just before Christmas.

Mr. President, I commend participants in the DECA Program at Martin Luther King, Jr. High School in Detroit. I strongly believe that the kinds of positive local community action in which they are engaged do credit to the memory and legacy of Reverend King, and that their efforts can be part of a larger effort to rebuild our inner cities. Now that we have celebrated the life of Dr. King in our homes, let us celebrate his life by building on his legacy in our communities.•

CONSTITUTIONAL CHALLENGE TO THE LINE-ITEM VETO ACT

• Mr. MOYNIHAN. Mr. President, on Thursday, January 2, in the first civil action of 1997 in the U.S. District Court for the District of Columbia, a lawsuit was filed challenging the constitutionality of the Line-Item Veto Act of 1996. On this the first day of legislative business in the first session of the 105th Congress, I rise as one of the plaintiffs in the suit to inform the Senate that this action has commenced—as specifically provided for in the Line-Item Veto Act. Section 3(a) of the act provides that:

> Any Member of Congress or any individual adversely affected . . . may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

Six Members of Congress, led by our distinguished colleague from West Virginia, Senator ROBERT C. BYRD, have joined together to bring this suit, which is captioned *Byrd et al.* v. *Raines et al.*, Civil Action No. 97–001. The other plaintiffs are the Senator from New York, the Senator from Michigan, Mr. LEVIN; the former Senator from Oregon, Mr. Hatfield; Representative WAXMAN of California and Representative SKAGGS of Colorado.

I will simply restate for the RECORD what I said during our debates on this legislation during the last Congress. The Line-Item Veto Act effectuated an unprecedented and unconstitutional allocation of power from the legislative branch to the executive.

The law—Public Law 104–130—which took effect on January 1 of this year, gives the President the authority to cancel any specific appropriation, any item of new direct spending, or any limited tax benefit contained in a bill that the President has just signed into law.

Senators BYRD, Hatfield, LEVIN, and Congressmen WAXMAN and SKAGGS and I have filed this suit because we believe the act violates article I of the Constitution, which requires that a bill be passed by a majority vote in both houses of Congress and either approved or vetoed in its entirety by the President. The line-item veto gives the President the power to unilaterally repeal, without congressional approval, portions of laws which he has already signed.

In 1983, the Supreme Court declared in *INS* v. *Chadha* [462 U.S. 919, 954] that, and I quote:

> It emerges clearly that the prescription for legislative action in Article I, Section 7, represents the Framers' decision that the legislative power of the Federal government be exercised in accord with a single finely wrought and exhaustively considered procedure.

The Line-Item Veto Act departs dramatically from that "single, finely wrought and exhaustively considered procedure" for making or changing Federal law. The Constitution could not be more clear on this point. The presentment clause of article I, section 7 states:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it. . . .

The Line-Item Veto Act unconstitutionally expands the President's power by authorizing him to approve a bill and sign it into law and, from an instant up to 5 days later, disapprove and return parts of the bill, so that the parts of the bill disapproved by the President do not have the force and effect of law. The act also violates the requirements of bicameral passage and presentment by granting to the President, acting alone, the authority to cancel and thus repeal provisions of law.

Even if, as some have argued, the President will exercise this power sparingly, his ability to do so will forever shift the balance of power. A balance the Framers deemed fragile, and necessary for the proper functioning of the American Government. The Framers gave the power of the purse to Congress and Congress alone; Madison made the reason abundantly clear in Federalist No. 58:

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Whether the Line-Item Veto Act is viewed as granting the President a unilateral power of line-item revision of bills that have been presented for his signature, or as granting him a unilateral power to repeal portions of duly enacted laws, the act grants powers to the President that contravene the constitutional process for making Federal law. I might understand if the President were trying to seize this power. But why have we given it to him? The lawsuit filed earlier this month will allow the judiciary to review this issue under an expedited schedule. We hope to have a decision in the case by the Supreme Court in the next October term, and I will provide periodic updates on the progress of the case for the RECORD.•

CONGRESS-BUNDESTAG EXCHANGE

• Mr. LIEBERMAN. Mr. President, since 1983, the United States Congress and the German Parliament, the Bundestag, have conducted an annual exchange program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about each other's political institutions and convey Members' views on issues of mutual concern.

A staff delegation from the United States Congress will be chosen to visit Germany April 12 to April 26 of this year. During the 2-week exchange, the delegation will attend meetings with Bundestag members, Bundestag party staff members, and representatives of numerous political, business, academia, and media agencies. Cultural activities and a weekend visit in a Bundestag member's district will complete the schedule.

A comparable delegation of German staff members will visit the United States for 3 weeks this summer. They will attend similar meetings here in Washington and visit the districts of congressional Members.

The Congress-Bundestag exchange is highly regarded in Germany, and is one of several exchange programs sponsored by public and private institutions in the United States and Germany to foster better understanding of the politics and policies of both countries.

The U.S. delegation should consist of experienced and accomplished Hill staff members who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag sends senior staff professionals to the United States. The United States endeavors to reciprocate.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite United States delegation should exhibit a range of expertise in issues of mutual concern in Germany and the United States such as, but not limited to, trade, security, the environment, immigration, economic development, health care, and other social policy issues.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag staff members when they visit the United States. Participants are expected to assist in planning topical meetings in Washington, and are encouraged to host one or two Bundestag staffers in their Member's district over the Fourth of July break, or to arrange for such a visit to another Member's district.

Participants will be selected by a committee composed of U.S. Information Agency personnel and past participants of the exchange.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a résumé and cover letter in which they state why they believe they are qualified, and some assurances of their ability to participate during the time stated. Applications may be sent to Kathie Scarrah, in my office at 316 Hart Senate Building, by Friday, February 14.●

RETIREMENT OF PROCTOR JONES

● Mr. HOLLINGS. Mr. President, on the Appropriations Committee we have always prided ourselves for having the best and most professional staff in the Senate. We maintain a team of staff who are experts on budget and finance and a group of professionals who know these agency programs inside and out. In a few days we will be losing one of our very best staff members to have ever served this body. Proctor Jones, the minority staff director for the Energy and Water Development Subcommittee will be retiring from the Senate to take a position in the private sector.

Proctor Jones hails from Twin City, GA. He came to the Senate way back in 1960 as a special assistant to one of the greatest legislators to ever serve this institution, Senator Richard B. Russell. At that time Senator Russell was chairman of the Armed Services Committee and Proctor served as a special assistant working on military issues. From 1966 to 1968, Proctor took a leave of absence and served on active duty with the U.S. Marine Corps. In 1968, Proctor returned to the Senate and was assigned by Chairman Russell to work on the Appropriations Committee. In 1971, he was assigned to what was then known as the Subcommittee on Labor—Health, Education and Welfare. So, Proctor Jones and I have something in common. We both were close to Senator Richard B. Russell and considered him to be our mentor, and, like Proctor, Senator Russell also advised me that the only committee to be on is the Appropriations Committee.

In 1973, Proctor took over as staff director for the Subcommittee on Public Works for Water and Power Development, and Atomic Energy Commission and Related Agencies. In 1978, this subcommittee was given its current name, Energy and Water Development. Since that time Proctor has served as staff director or minority staff director of that subcommittee. Simply put, Proctor Jones has been the Senate's go-to man on issues regarding Army Corps of Engineers' civil works, defense nuclear weapons development and environmental cleanup, scientific research, power marketing administrations, and other energy issues. Whether it was the Appalachian Regional Commission or biomedical research, the Members of the Senate could trust Proctor Jones to understand the impact that the energy and water development bill had in their States. Proctor understood that these programs affected real people, communities, and institutions.

Of course, it is difficult to speak about Proctor Joines without also referring to Senator J. Bennett Johnston. In 1978, Senator Johnston took over as chairman of the Energy and Water Development Subcommittee. I am a member of that subcommittee. I can tell you that Senator Johnston and Proctor Jones have made an unbeatable team. They really mastered that bill and have run it in a straightforward and fair manner.

Mr. President, we do not acknowledge often enough the staff people who make this institution run day in and day out. In Proctor Jones we have had a superb individual who has dedicated over three decades to this Senate. I, for one, would like to express my appreciation for his hard work and his outstanding record. I wish him well and thank him for a job well done.●

SECOND ANNUAL PLAN TO BALANCE THE BUDGET

Mr. MOYNIHAN. Mr. President, last January, I outlined a brief two-step plan to balance the budget by the year 2002. I proposed that we correct for overindexation of Government programs resulting from using the Consumer Price Index [CPI], and that we postpone tax cuts. Starting with the President's budget proposals, and using CBO scoring, these two steps would have produced a balanced budget by 2002.

I now present my second, and if we act quickly my last, annual plan to balance the budget. As under the first plan, balancing the budget is relatively easy if we correct for overindexation and forgo tax cuts.

The Congressional Budget Office is expected to estimate the baseline deficit in 2002 at about $200 billion. If Congress acts now to balance the budget by 2002, interest rates will fall, economic growth will increase, and CBO will declare a fiscal dividend in 2002 of about $50 billion. So Congress need only find $150 billion in 2002.

Here is how to get that $150 billion:

[In billions of dollars]

Correct Indexation of Government Programs and Tax Laws by 1.1 Percentage Points (The Boskin Commission Estimate)	55
Reduce Growth in Medicare and Medicaid by at least amount in President's FY 1997 budget	45
Slow Annual Growth in Discretionary (both defense and non defense) by about 1.0 to 1.5 percentage points	50
Total Savings in 2002	150

These steps can be modified; for example, revenues from reinstating expired excise taxes can be used to finance high priority investments or avoid reductions in important domestic discretionary programs. But the point remains. With the correction for overindexation a balanced budget is within sight. Without the correction, we will have a protracted fiscal crisis.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM MAR. 31 TO APR. 9, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mark O. Hatfield:									
Costa Rica	Dollar		280.00						280.00
Brazil	Dollar		770.00						770.00
Chile	Dollar		628.00						628.00
Dr. Thomas Lovejoy:									
Costa Rica	Dollar		368.00						368.00
Brazil	Dollar		949.00						949.00
Chile	Dollar		267.00						267.00
Bruce Evans:									
Costa Rica	Dollar		220.00						220.00
Brazil	Dollar		530.00						530.00
Chile	Dollar		426.00						426.00
Virginia James:									
Costa Rica	Dollar		368.00						368.00
Brazil	Dollar		949.00						949.00
Chile	Dollar		801.00						801.00
Sue Masica:									
Costa Rica	Dollar		368.00						368.00
Brazil	Dollar		949.00						949.00
Chile	Dollar		801.00						801.00
Delegation expenses: [1]									
Costa Rica	Dollar						4,003.93		4,003.93
Brazil	Dollar						11,861.00		11,861.00
Chile	Dollar						14,071.92		14,071.92
Total			8,674.00				29,936.85		38,610.85

[1] The following individuals traveled under the authorization of the Republican and Democratic Leaders: Senator Claiborne Pell, Senator Alan Simpson, Senator Howell Heflin, Senator Frank Murkowski, and Ms. Julia Hart. Their reports appear under the authorizing source. Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Section 502(b) of the Mutual Security Act of 1954, as amended by Section 22 of Public Law 95–384, and Senate Resolution 179, agreed to May 25, 1977.

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Sept. 10, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William S. Cohen:									
Malaysia	Ringgit	2,021.73	808.00					2,021.73	808.00
James M. Bodner									
Malaysia	Ringgit	1,984.60	796.71					1,984.60	796.71
Total			1,604.71						1,604.71

STROM THURMOND,
Chairman, Committee on Armed Services, Oct. 1, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael E. Korens:									
United States	Dollar				742.55				742.55
United Kingdom	Pound	251.11	389.09					251.11	389.09
Total			389.09		742.55				1,131.64

LARRY PRESSLER,
Chairman, Committee on Commerce, Science,
and Transportation, Nov. 5, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Maureen Koetz:									
Switzerland	Franc	1,691.77	1,300.00					1,691.77	1,300.00
United States	Dollar				3,358.85				3,358.85

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1996—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			1,300.00		3,358.85				4,658.85

FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, Sept. 30, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Hank Brown:									
India	Rupee	35,151	923.68					35,151	923.68
Pakistan	Dollar		1,466.000						1,466.00
Indonesia	Rupia	1,846,100	784.12					1,846,100	784.12
Australia	Dollar		622.80						622.80
United States	Dollar				8,240.20				8,240.20
Senator Charles Robb:									
Mongolia	Dollar		168.75						168.75
China	Yuan	2,085.81	251.00					2,085.81	251.00
United States	Dollar				4,867.95				4,867.95
Ellen Bork:									
Indonesia	Rupia	520,250	225.00					520,250	225.00
Vietnam	Dollar		592.00						592.00
Hong Kong	Dollar	5,500	712.00					5,500	712.00
Peter Cleveland:									
Mongolia	Dollar		168.75						168.75
China	Yuan	2,085.81	251.00					2,085.81	251.00
United States	Dollar				4,867.95				4,867.95
Bonnie Coe:									
Hong Kong	Dollar	7,152.14	925.00					7,152.14	925.00
Taiwan	Dollar		915.00						915.00
United States	Dollar				2,905.95				2,905.95
Taiwan	Dollar	11,670.35	427.00					11,670.35	427.00
Vietnam	Dollar		196.00						196.00
Indonesia	Rupia	1,258,835	539.58					1,258,835	539.58
Australia	Dollar	309.71	246.00					309.71	246.00
United States	Dollar				4,853.65				4,853.65
Margaret Huang:									
Kenya	Dollar		705.00						705.00
Zaire	Dollar		630.00						630.00
Rwanda	Dollar		250.00						250.00
Tanzania	Shilling	92,535	155.00					92,535	155.00
United States	Dollar				6,454.95				6,454.95
Linda Rotblatt:									
Kenya	Dollar		705.00						705.00
Zaire	Dollar		630.00						630.00
Rwanda	Dollar		250.00						250.00
Tanzania	Shilling	92,535	155.00					92,535	155.00
United States	Dollar				6,454.95				6,454.95
Nancy Stetson:									
Vietnam	Dollar		2,090.00						2,090.00
	Dong			1,000,000	91.00			1,000,000	91.00
United States	Dollar				5,144.95				5,144.95
Puneet Talwar:									
Israel	Dollar		1,172.00						1,172.00
Jordan	Dollar		315.00						315.00
Syria	Dollar		1,026.00						1,026.00
United States	Dollar				2,303.00				2,303.00
Christopher Walker:									
Kenya	Dollar		956.00						956.00
Ethiopia	Dollar		500.00						500.00
Uganda	Dollar		375.00						375.00
Germany	Mark	866	580.00					866	580.00
United States	Dollar				6,676.00				6,676.00
Carter Pilcher:									
India	Rupee	9,431.00	262.00					9,431.00	262.00
Afghanistan	Dollar		1,032.00						1,032.00
Pakistan	Rupee	15,350	434.00					15,350	434.00
United States	Dollar				5,650.95				5,650.95
Michael Haltzel:									
Austria	Schilling	6,354.31	1,509.00					6,354.31	1,509.00
Bosnia	Schilling	3,088.46	1,196.00					3,088.46	1,196.00
United States	Dollar				3,569.15				3,569.15
Total			24,340.68		62,080.65				86,421.33

JESSE HELMS,
Chairman, Committee on Foreign Relations, Nov. 5, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator J. Robert Kerrey			296.00		4,157.45				4,453.45
Christopher Straub			611.00		4,065.45				4,676.45
Senator Arlen Specter			1,486.54		635.36				2,121.90
Charles Robbins			1,804.44						1,804.44

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1996—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mark Heilbrun			2,644.60						2,644.60
Don Mitchell			2,402.40		4,436.55				6,838.95
Alfred Cumming			2,140.00		4,436.55				6,576.55
Melvin Dubee			2,244.00		4,436.55				6,680.55
Kenneth Myers			6,172.65						6,172.65
Senator Richard Lugar			1,183.00						1,183.00
Arthur Grant			551.00		5,310.65				5,861.65
Craig Snyder			1,320.85		2,642.20				3,963.05
Senator Richard Lugar			803.00		3,298.25				4,101.25
Kenneth Myers			835.00		3,298.25				4,133.25
Senator Richard Shelby			1,566.00		6,186.25				7,752.25
Tom Young			1,574.00		6,186.25				7,760.25
Peter Dorn			2,430.25		5,958.25				8,388.50
Total			30,064.73		55,048.01				85,112.74

ARLEN SPECTER,
Chairman, Select Committee on Intelligence, Oct. 7, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Patricia Ruggles:									
United States	Dollar		2,000.00		1,069.75				3,069.75
Total			2,000.00		1,069.75				3,069.75

CONNIE MACK,
Chairman, Joint Economic Committee, Oct. 9, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JUNE 29 TO JULY 8, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Thad Cochran:									
Indonesia	Rupiah	520,250	225.00					520,250	225.00
Vietnam	Dollar		592.00						592.00
Hong Kong	Dollar	5,500	712.00					5,500	712.00
Mitchel Kugler:									
Indonesia	Rupiah	520,250	225.00					520,250	225.00
Vietnam	Dollar		592.00						592.00
Hong Kong	Dollar		712.00						712.00
Gregory McGinity:									
Indonesia	Rupiah	520,250	225.00					520,250	225.00
Vietnam	Dollar		592.00						592.00
Hong Kong	Dollar		712.00						712.00
Jan Paulk:									
Indonesia	Rupiah	520,250	225.00					520,250	225.00
Vietnam	Dollar		592.00						592.00
Hong Kong	Dollar		712.00						712.00
Delegation expenses: [1]									
Indonesia							429.00		429.00
Vietnam							554.15		554.15
Hong Kong							1,291.58		1,291.58
Total			6,116.00				2,274.73		8,390.73

[1] Delegation expenses include direct payments and reimbursements to the Department of State under authority of Section 502(b) of the Mutual Security Act of 1954, as amended by Section 22 of Public Law 95–384.

TRENT LOTT,
Majority Leader, Oct. 23, 1996.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Madam President, as in executive session, I ask unanimous consent that at 12 noon on Wednesday, January 22, the Senate proceed into executive session to consider the nomination of Madeleine Albright to be Secretary of State; further, that there be 2 hours of debate equally divided in the usual form on the nomination with an additional 10 minutes under the control of Senator SPECTER; that immediately following the expiration or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination; and, finally, that following the conclusion of the vote, the President be notified of the Senate's action and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT CERTAIN MEASURES

Mr. LOTT. Madam President, I ask unanimous consent that the following bills or resolutions that were introduced today be printed in the CONGRESSIONAL RECORD: Senate Joint Resolution 1, S. 1 through S. 20, Senate Resolution 15, S. 26, and S. 71.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE MINORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the minority leader, pursuant to Senate Resolution 105, adopted April 13, 1989, as amended by Senate Resolution 280, adopted October 8, 1994, announces the appointment of the following Senators as members of the Senate Arms Control Observer Group:

The Senator from Delaware [Mr. BIDEN];

The Senator from West Virginia [Mr. BYRD], designated to serve as minority administrative cochairman;

The Senator from Arkansas [Mr. BUMPERS];

The Senator from South Dakota [Mr. DASCHLE];

The Senator from Ohio [Mr. GLENN];

The Senator from Massachusetts [Mr. KENNEDY];

The Senator from Nebraska [Mr. KERREY];

The Senator from Michigan [Mr. LEVIN], designated to serve as cochairman for the minority;

The Senator from New York [Mr. MOYNIHAN]; and

The Senator from Maryland [Mr. SARBANES].

Mr. LOTT. Madam President, I yield the floor at this time.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Michigan.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 11 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MAKING TECHNICAL CORRECTIONS TO THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of House Joint Resolution 25, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk readas follows:

A joint resolution (H.J. Res. 25) making technical corrections to the Omnibus Consolidated Appropriations Act, 1997, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. GRAMS. Mr. President, I ask unanimous consent the joint resolution be deemed read a third time and passed, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 25) was deemed read the third time and passed.

ORDERS FOR WEDNESDAY, JANUARY 22, 1997

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Wednesday, January 22; further, immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until the hour of 12 noon, with Senators to speak for up to 5 minutes each, except for the following: Senator GRASSLEY, 60 minutes; Senator FEINSTEIN, 30 minutes; Senator DASCHLE, for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRAMS. Tomorrow morning there will be a period of morning business to accommodate several Senators who have requested time. Under a previous order, at 12 noon, the Senate will enter executive session in order to consider the nomination of Madeleine Albright to be Secretary of State. A rollcall vote is expected on that nomination at the conclusion or yielding back of the debate time, with that vote expected at approximately 2 p.m. tomorrow, if most of that time is used.

ORDER FOR ADJOURNMENT

Mr. GRAMS. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of Senator MURRAY of Washington.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EDUCATION FOR THE 21ST CENTURY ACT

Mrs. MURRAY. Mr. President, I rise today to thank Senator DASCHLE and all of my colleagues for the opportunity to discuss a topic frequently in the thoughts of most Americans, and that is education. There have been other opportunities in the past, and they will come again I know, but on this day, at the beginning of the 105th Congress of the United States, I want the Members of the Senate to recognize that education is one of those topics that is a day-to-day concern of most Americans.

We spend a lot of our time here talking about many things that are far less important to the American people than education. When Americans vote, education is important to them. When they answer polls, education is always a top concern. When they face obstacles in their lives, they see education as a way around those obstacles. And when they search for ways to make life for their children better than they have had it themselves, education is often the single best answer they will find.

Before us today a bill was introduced, the Education for the 21st Century Act. For much of my career in education and policymaking, I have seen bills and acts and programs with "21st century" in the title. Well, President Clinton was inaugurated this week, and 4 years from now there will be another inaugural ceremony and a new President will be sworn in, and he or she will become the first President who has a term in the 21st century. I trust that he or she will be gazing into a new millennium of American progress.

The bill that was introduced today makes several concrete investments in the new American century beginning some 4 years from now. The first investment is in helping people pay for their education, and the bill does it in three ways. The Hope scholarship allows people a $1,500-per-year refundable tax credit for the first 2 years of college, and allows half-time students a $750-per-year tax credit.

Students can instead choose to take advantage of the tax deduction for school expenses, which allows them to deduct up to $10,000 a year for higher education expenses. No matter which option students choose, they can also take advantage of the restored deduction for interest paid on their student loans.

These three opportunities aim to help good students of modest means attend that first day of class in their local community college. Based on everything we know about our economy, and with a look at where employment trends are heading, investing and getting people started in school is a prudent move on the part of our Nation. These incentives will help Americans take advantage of the connection between level of education and their employability in the next century.

The second part of the investment found in this bill is designed to jumpstart efforts to repair some of our Nation's worst crumbling schools. For an investment of $5 billion in school construction incentive funds, we expect to drive about $20 billion in renovation and construction across this Nation.

This is important because of the actual bricks and roofing and wiring that it will provide, but it is also an important symbol. It says to all of us that

American children deserve to go to school in buildings that are safe, healthy, well-lighted places where learning happens and community spirit abounds.

I especially thank Senator CAROL MOSELEY-BRAUN for her tireless efforts on this issue. People talk all the time about the role of Federal Government in local school policy. By championing this issue, Senator MOSELEY-BRAUN has pointed out that the Federal Government does have a role in K–12 education in this country. That role is not passing down curriculum or trying to tell teachers how to teach. The role is guaranteeing certain minimum standards for health and safety and equality, and that is what this proposal is all about.

I also want to remind all of my colleagues that it is important to retain flexibility in this proposal so it helps both urban and rural schools. There are schools in places like the small town of Raymond, WA, which the General Accounting Office has previously identified as needing help with school construction funding due to local economic factors. We should not rule out rural schools as we fine-tune this proposal.

The third investment in this bill is the reading ability of young children. America Reads will fund 30,000 reading specialists and volunteer coordinators, with the goal of getting children reading on their own by the third grade. It will establish a parents as first teachers challenge grant fund and will work with existing programs like AmeriCorps to maximize efforts.

Efforts to build literacy, whether aimed at helping young children read or helping adults read to their children or find a job, acts like yeast in bread dough. They allow people's aspirations to rise, and they will pull this country up to meet the challenges we face. It does not matter what adversity our children face or what they are presented with in life. If they can read, they have a chance to overcome it. The ability to read, write, communicate, and function in the work world—these things are a precious gift all children and all adults should have.

But literacy problems are complicated, so we must make sure our solutions are designed to reflect the most effective techniques we can find. As we move ahead with America Reads, we must allow local flexibility. We must honor the knowledge of those Americans who have been teaching literacy in our communities—in colleges, in schools, in social agencies and in local community-based organizations. We have to recognize that the best indicator of success in reading for a child is the education level of the child's primary caregiver. We must allow the tutor programs under America Reads to work with families to get the best results for children.

The act of reading is complicated, and I can tell you that as a former teacher. Reading is a multistep process. A reader has to recognize and decode parts of words, whole words and sentences of words, both through sight and sound, and figure out how the assembled parts relate to meaning.

Dynamic research is underway right now by Dr. Reid Lyon at the National Institute of Child Health and Human Development and by other researchers around the country in places like the University of Washington in Seattle. This research is unveiling just how complicated learning disabilities are. It is showing how the brain processes certain kinds of information in the reading process, and it is pointing to effective techniques for mitigating disabilities.

America Reads has to capitalize on the current research and build as many connections as possible between reading tutors, a student's primary reading teacher and the work of literacy researchers.

America Reads must also be seen as an unprecedented lens through which we can see literacy and education in general as seamless. Your age, your geographic location, your socio-economic status cannot be barriers to your ability to learn.

We have to get K–12 education, higher education, community education, employment training, local family literacy projects and other organizations all working together. We have to look at education, and at literacy specifically, as the tools Americans need to help themselves and to help this country achieve progress.

The fourth investment in this bill is technological literacy. This investment is ongoing, and it has already achieved some success. The bill will continue our efforts to improve learning across the country by increasing funds for the technology literacy challenge grants.

Over the next 5 years, this bill puts $1.8 billion into these grants to our local school districts so that they can help train teachers to integrate technology into their methods and curriculum to create new resources and to work with leaders in their communities to get students access to computers, the Internet and other high technology resources.

I want to especially thank Senator BINGAMAN for his vision on education technology and thank all who have supported this important issue.

One key component of the technology section of this bill picks up on the work that I started last Congress, taking advantage of surplus technology where it is appropriate in schools' technology plans.

In the last Congress, if you will remember, we passed the Murray amendment to the fiscal year 1997 Treasury Postal appropriations bill, which said that all Government agencies have to inventory their excess computer equipment and peripherals and then make them available to educational institutions through the GSA.

We also passed the Murray amendment to the fiscal year 1997 legislative branch appropriations bill which set up the same process for the Congress itself.

I want you to know that progress so far is very good. The letters I sent to heads of Federal agencies have brought in some very good responses, and Government computers are now going to schools.

The bill before us does, in a systemic fashion, what I have been setting up at the grassroots level in my State—education technology clearinghouses—a place where people can donate equipment and software, a place where schools can get this technology, and a place where a third party can reject technology that does not meet minimum requirements so it does not enter into our schools or libraries.

Several issues have come up in recent months regarding surplus technology. Many are addressed in this bill. If we are using surplus equipment side by side with new equipment, we have to assure that the surplus equipment meets the needs of the school or library that is receiving it. To send them our castoffs with no value sends the wrong message, and we should not be doing it.

Schools in my State are using surplus computers as file servers for networks of new computers, and they are using them for word processing and data processing. They have students doing the upgrades in some of our schools, and when the technology is still current generation, these uses are appropriate. When the technology is too old to be useful, we must recycle the components in other ways and not burden our schools and libraries with a gift that is going to cost much more than it is worth. Equity is another concern, and this bill addresses it. It requires clearinghouses to ensure equitable distribution of surplus technology.

Technology, a concentrated effort to build reading skills, school construction funding, and tuition assistance—our investments are prudent. The goals are very clear. People from both parties will support these kinds of efforts. With this sort of plan in place, Americans can feel proud of their Government's efforts to help them improve education across the Nation.

Let's look out ahead. In just 4 short years, people will be finishing up in the community college programs that they just picked up a brochure for today. They will be finishing the 4-year degree programs they started this fall. They will be graduating from high schools they are just entering this fall or next, depending on their grade, and they will be third graders in the elementary schools that they started on the first day of kindergarten this September.

How will their lives be better off thanks to this bill? What will their parents say, hope or dream? What will they think to tell us, if they still remember our names 4 years from now? Will they hail this bill as a success, like the Pell grant or GI bill? Will they thank us for working together across party lines to show support for teaching and learning in this country? We simply have to do the work ahead of us, and we will deserve any praise for our efforts, and we will all be thankful that we took steps today to assure a brighter future for our country.

UNIVERSAL CHILDREN'S HEALTH COVERAGE ACT

Mrs. MURRAY. Mr. President, I also would like to address a bill introduced today called the Universal Children's Health Coverage Act, and I commend the Democratic leader for his commitment to this critical issue. I also thank Senators KENNEDY, KERRY, and DODD for their work on behalf of millions of children who lack access to basic health care coverage.

As one of the newest members of the Labor and Human Resources Committee, I have been proud to work with them on the Children's Health Coverage Act, and I look forward to working with all of my colleagues, both Democrat and Republican, in the upcoming months on this very important legislation.

Since first being elected to the U.S. Senate in 1992, I have heard time and time again the phrase, "children are our most valuable resource." Sometimes, however, the actions of this body are not always as loud as the words we hear on the floor. If we all truly believe as strongly as I do that children are our most precious and valuable resource, why have we allowed so many children to go without basic health care coverage and why have we not worked harder to help families provide necessary health coverage for their children? We now have the opportunity to go beyond our rhetoric and work toward solutions.

The United States has one of the highest rates of uninsured children in the industrial world. Currently, one out of seven children lack health insurance in this country. And if that trend continues, only half of our children will have health insurance by the year 2000. Today, 10 million children lack health insurance coverage, which means that 10 million children have little or no access to affordable quality health care coverage. One child loses private coverage approximately every minute. Children are the fastest-growing segment of society with no health insurance.

It is easy to look at this problem solely in terms of numbers. But we also have to look at the faces of those children and their parents. We need to think of what it must be like to know that your child is suffering from an ear infection or strep throat and what it is like not to be able to afford to take them to a doctor or pay for the necessary antibiotic to treat the infection. There is no greater fear for a parent than not being able to take care of their sick child.

These are parents who work 40 or more hours a week, sometimes working two and three jobs to meet the basic needs of their family, like food and shelter and utility costs. They are not asking for a handout. They are asking for relief. They work hard and they pay their taxes, but they simply have little or no discretionary income.

Many do not have access to employer-sponsored health plans or cannot afford the premium costs for a family, which can be as high as $200 or $300 a month.

As I travel around my home State of Washington, I have talked to many of these parents who feel vulnerable, and they are deeply concerned about the lack of health insurance for their children. They know that they are only one major illness away from financial disaster. They also know that their child is not receiving the kind of preventive health care so important to their development.

We can all talk about the cost of the Children's Health Insurance Coverage Act or the financial mechanism, but we have to go beyond the simple calculations and look at the cost of not acting on this issue. Who pays for emergency room visits when a child is brought in with rheumatic fever? What is the cost of treating rheumatic fever as opposed to strep throat? What is the cost to the public health threat posed by a child that has not been vaccinated? What is the impact in the classroom of a child who is severely ill? What impact does this have on my child, the teacher, and the community? What is the cost to society for raising 10 million unhealthy children?

We all agree that nutritional assistance programs like WIC save $4 for every $1 spent. It is no different when examining health care costs. It is far less expensive to provide a child with a measles vaccine than treat a communitywide outbreak of measles.

Ten million children without health insurance is a problem that impacts every single one of us, and we can pay for it now or we can pay for it later. It is just that simple. I believe that it is much easier and much more cost-effective to act now.

According to the General Accounting Office, children without health insurance are less likely to receive timely preventive care and less likely to grow up to be healthy, productive adults. According to the Children's Defense Fund, uninsured children are more likely to need emergency room care at later stages of their illness and are more likely to require hospital admission. It does not take a health care expert to know that emergency room visits are, on average, twice as expensive as a doctor's office visit.

On average, hospital costs for low-birthweight babies are 10 times the cost of prenatal care. Again, according to the Children's Defense Fund, every $1 invested in basic immunization of preschoolers saves $7.40 in direct medical costs.

When we created the school lunch program, we recognized the fact that hungry children cannot learn and are disruptive to other children. The same holds true for sick children. A child with a fever of 102 and a sore throat cannot learn. If we hope to improve education in this country and work to ensure that American students can compete in tomorrow's global economy, we must first begin by guaranteeing that these children are healthy.

The Children's Health Coverage Act represents a major step in the right direction. The legislation will provide eligible families a tax credit on a timely basis to cover health insurance premiums. It ensures that the tax credit covers a significant portion of insurance premiums for low-income working families.

It guarantees them a market for private children's only health insurance by requiring insurers who participate in the Federal Employees Health Benefit Plan to offer these policies. It provides direct assistance to uninsured lower income pregnant women so that their child gets a healthy start in life. It ensures a comprehensive benefits package with a focus on preventative services, and provides coverage up to 18 years of age. It utilizes the private health insurance market, and it does not create a new Federal bureaucracy or entitlement, but builds on the success of several current State plans.

I recognize that this legislation is only one possible solution. Within the next few weeks, I will be joining Senators KENNEDY, KERRY, and DODD in introducing a voucher-based proposal which will meet the same goals and objectives as the bill being introduced today, but it provides for a different approach for assisting families in purchasing coverage.

The voucher-based legislation mirrors the plans currently utilized by 14 States in their efforts to help uninsured children. One of these States is my home State of Washington, which has implemented a plan to help uninsured children receive vital health care services. Because of this commitment in the State of Washington, the number of uninsured children has declined. But the States cannot do it alone. And the Federal Government must ensure that every family, regardless of where they live, have access to affordable health insurance and that the benefits are comprehensive and include an aggressive preventative strategy.

In the last Congress, we made a commitment to working Americans that they would not lose their health insurance coverage if they changed jobs or had a preexisting condition. The Kennedy-Kassebaum legislation will help hundreds of working families. Now we have the opportunity to build on this bipartisan legislation and work to help working families purchase health insurance coverage for their children.

I know that my Republican colleagues recognize the urgent need to give our children a healthy start. And I ask that we use the bipartisan approach utilized in passing the Kennedy-Kassebaum bill to help all of our children. Both the Democratic and Republican leadership are pledged to improving the quality of life for families and putting families first. I can think of no better and important issue for American families than the health security of all of our children.

In 1965, Congress made a commitment to our Nation's senior citizens that they would not have to go without health coverage. In 1965, we gave senior citizens access to affordable health insurance coverage to protect them from financial ruin and ensure a longer, healthy life. Let 1997 be the year that we make the same commitment to our children.

Again, I want to thank the Democratic leader for his efforts. And I am anxious to begin work on this important initiative and many others that are before us.

Mr. President, I ask unanimous consent that following the remarks of Senator FRIST, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I suggest the absence of a quorum. I withhold that.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

(The remarks of Mr. FRIST pertaining to the introduction of S. 146 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 7:19 p.m. adjourned until Wednesday, January 22, 1997, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate January 21, 1997:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AYSE MANYAS KENMORE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2000. (REAPPOINTMENT)

LEGAL SERVICES CORPORATION

JOHN T. BRODERICK, JR., OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1999. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SUSAN E. TREES, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE PETER SHAW, TERM EXPIRED.

INTER-AMERICAN FOUNDATION

JEFFREY DAVIDOW, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION, FOR A TERM EXPIRING SEPTEMBER 20, 2002, VICE ALEXANDER FLETCHER WATSON.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

PAUL ALBERT BISEK, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

SUSUMO KEN YAMASHITA, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

SUSAN KUCHINSKI BREMS, OF THE DISTRICT OF COLUMBIA
CHRISTINE M. BRYNE, OF VIRGINIA
JAMES ERIC SCHAEFFER, OF FLORIDA

DEPARTMENT OF COMMERCE

KARLA B. KING, OF FLORIDA
TERRY J. SORGI, OF WISCONSIN

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

TANIA BOHACHEVSKY CHOMIAK, OF FLORIDA
LINDA JOY HARTLEY, OF CALIFORNIA
SHARON HUDSON-DEAN, OF PENNSYLVANIA
CONSTANCE COLDING JONES, OF INDIANA
STEVEN LOUIS PIKE, OF NEW YORK
DAVID MICHAEL REINERT, OF NEW MEXICO

DEPARTMENT OF STATE

SARAH J. METZGER, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA EFFECTIVE JUNE 28, 1996:

DEPARTMENT OF STATE

MARC C. JOHNSON, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA

ROBERT L. ADAMS, OF VIRGINIA
VEOMAYOURY BACCAM, OF IOWA
DOUGLASS R. BENNING, OF THE DISTRICT OF COLUMBIA
STEVEN A. BOWERS, OF VIRGINIA
MICHAEL A. BRENNAN, OF CONNECTICUT
KERRY L. BROUGHAM, OF CALIFORNIA
ANDREA BROUILETTE-RODRIGUEZ, OF MINNESOTA
PAAL CAMMERMEYER, OF MARYLAND
PRISCILLA CARROLL CASKEY, OF MARYLAND
JULIANNE MARIE CHESKY, OF VIRGINIA
CARMELA A. CONROY, OF WASHINGTON
JULIE CHUNG, OF CALIFORNIA
EDWARD R. DEGGES, JR., OF VIRGINIA
THOMAS L. ELMORE, OF FLORIDA
WAYNE J. FAHNESTOCK, OF MARYLAND
DENIS BARRETT FINOTTI, OF MARYLAND
KENNETH FRASER, OF MARYLAND
GARY R. GIUFFRIDA, OF MARYLAND
PATRICIA M. GONZALEZ, OF TEXAS
DAVID J. GREENE, OF NEW YORK
RAYMOND FRANKLIN GREENE III, OF MARYLAND
RONALD ALLEN GREGORY, OF TENNESSEE
DEBORAH GUIDO-O'GRADY, OF VIRGINIA
AUDREY LOUISE HAGEDORM, OF VIRGINIA
PATTI HAGOPIAN, OF VIRGINIA
CHARLES P. HARRINGTON, OF VIRGINIA
RONALD S. HIETT, OF VIRGINIA
RUTH-ERCILE HODGES, OF NEW YORK
KRISTINA M. HOTCHKISS, OF VIRGINIA
ANDREAS O. JAWORSKI, OF VIRGINIA
RALPH M. JONASSEN, OF NEW YORK
MARNI KALUPA, OF TEXAS
JANE J. KANG, OF CALIFORNIA
SARAH E. KEMP, OF NEW YORK
FREDERICK J. KOWALESKI, OF VIRGINIA
STEVEN W. KRAPCHO, OF VIRGINIA
GREGORY R. LATTANZE, OF VIRGINIA
CHARLES W. LEVESQUE, OF ILLINOIS
JANICE O. MACDONALD, OF VIRGINIA
C. WAKEFIELD MARTIN, OF TEXAS
BRIAN I. MCCLEARY, OF VIRGINIA
ALAN D. MELTZER, OF NEW YORK
DAVID J. MICO, OF INDIANA
CHRISTOPHER S. MISCIAGNO, OF FLORIDA
JOSEPH P. MULLIN, JR., OF VIRGINIA
BURKE O'CONNOR, OF CALIFORNIA
EDWARD J. ORTIZ, OF VIRGINIA
MARIA ELENA PALLICK, OF INDIANA
DAVID D. POTTER, OF SOUTH DAKOTA
ERIC N. RICHARDSON, OF MICHIGAN
HEATHER C. ROACH, OF IOWA
TAYLOR VINSON RUGGLES, OF VIRGINIA
THOMAS L. SCHMIDT, OF SOUTH DAKOTA
JONATHAN L.A. SHRIER, OF FLORIDA
JAMES E. SMELTZER III, OF MARYLAND
CHRISTINE L. SMITH, OF VIRGINIA
KEENAN JABBAR SMITH, OF PENNSYLVANIA
BRIAN K. STEWART, OF VIRGINIA
CHRISTINE D. STUEBNER, OF NEW YORK
STEPHANIE FAYE SYPTAK, OF TEXAS
ERMINIDO TELLES, OF VIRGINIA
MARK TESONE, OF VIRGINIA
MICHAEL ANTHONY VEASY, OF TENNESSEE
GLENN STEWART WARREN, OF CALIFORNIA
MARK E. WILSON, OF TEXAS
ANTHONY L. WONG, OF VIRGINIA
GREGORY M. WONG, OF MISSOURI
KIM WOODWARD, OF VIRGINIA
MARTHA-JEAN HUGHES WYNNYCZOK, OF VIRGINIA
TERESA L. YOUNG, OF VIRGINIA

SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JOHN WEEKS, OF VIRGINIA

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

LARRY CORBETT, OF NEVADA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

HANS J. AMRHEIN, OF VIRGINIA

DEPARTMENT OF STATE

PHYLLIS MARIE POWERS, OF TEXAS
MICHAEL S. TULLEY, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

KIMBERLY J. DELANEY, OF VIRGINIA
EDITH FAYSSOUX JONES HUMPHREYS, OF NORTH CAROLINA

DEPARTMENT OF STATE

JEMILE L. BERTOT, OF CONNECTICUT

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ALFRED B. ANZALDUA, OF CALIFORNIA
DAVID A. BEAM, OF PENNSYLVANIA
DONALD ARMIN BLOME, OF ILLINOIS
P.P. DECLAN BRYNE, OF WASHINGTON
LAUREN W. CATIPON, OF NEW JERSEY
JAMES PATRICK DEHART, OF MICHIGAN
JOSEPH DEMARIA, OF NEW JERSEY
MICHAEL RALPH DETAR, OF NEW YORK
RODGER JAN DEUERLEIN, OF CALIFORNIA
STEPHEN A. DRUZAK, OF WASHINGTON
MARY EILEEN EARL, OF VIRGINIA

LINDA LAURENTS EICHBLATT, OF TEXAS
JESSICA ELLIS, OF WASHINGTON
STEPHANIE JANE FOSSAN, OF VIRGINIA
CHRISTOPHER SCOTT HEGADORN, OF THE DISTRICT OF COLUMBIA
HARRY R. KAMIAN, OF CALIFORNIA
MARC E. KNAPPER, OF CALIFORNIA
BLAIR L. LABARGE, OF UTAH
WILLIAM SCOTT LAIDLAW, OF WASHINGTON
KAYE-ANN LEE, OF WASHINGTON
BRIAN LIEKE, OF TEXAS
BERNARD EDWARD LINK, OF DELAWARE
LEE MACTAGGART, OF WASHINGTON
RICHARD T. REITER, OF CALIFORNIA
KAI RYSSDAL, OF VIRGINIA
NORMAN THATCHER SCHARPF, OF THE DISTRICT OF COLUMBIA
JENNIFER LEIGH SCHOOLS, OF TEXAS
JUSTIN H. SIBERELL, OF CALIFORNIA
ANTHONY SYRETT, OF WASHINGTON
HERBERT S. TRAUB III, OF FLORIDA
ARNOLDO VELA, OF TEXAS
J. RICHARD WALSH, OF ALABAMA
DAVID K. YOUNG, OF FLORIDA
DARCY FYOCK ZOTTER, OF VERMONT

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEREK A. BOWER, OF VIRGINIA
STEVEN P. CHISHOLM, OF VIRGINIA
HENRY J. HEIN, JR., OF VIRGINIA
HOLLY ANN HERMAN, OF VIRGINIA
E. KEITH KIRKHAM, OF MAINE
MARY PAT MOYNIHAN, OF VIRGINIA
JOHN W. RATKIEWICZ, OF NEW JERSEY

SECRETARY OF THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

WILLIAM B. CLATANOFF, JR., OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 18, 1992:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ELIZABETH B. BOLLMANN, OF MISSOURI
MARSHA D. VON DUEREKHEIM, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992 NOW TO BE EFFECTIVE APRIL 7, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JOAN ELLEN CORBETT, OF VIRGINIA
JUDITH RODES JOHNSON, OF TEXAS
MARY ELIZABETH SWOPE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW TO BE EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

SYLVIA G. STANFIELD, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON NOVEMBER 6, 1988, NOW EFFECTIVE OCTOBER 12, 1986:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JOAN ELLEN CORBETT, OF VIRGINIA
JUDITH RODES JOHNSON, OF TEXAS
MARY ELIZABETH SWOPE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON NOVEMBER 6, 1988, NOW EFFECTIVE JANUARY 3, 1988:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

SYLVIA STANFIELD, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON APRIL 7, 1991, NOW EFFECTIVE NOVEMBER 19, 1989:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

VIRGINIA CARSON YOUNG, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 6, 1991, NOW EFFECTIVE APRIL 7, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JUDITH M. HEINMANN, OF CONNECTICUT

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW EFFECTIVE APRIL 7, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JUDY LANDSTEIN MANDEL, OF THE DISTRICT OF COLUMBIA
MARY C. PENDLETON, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JEANANNE LOUIS, OF VIRGINIA
SHARON MERCURIO, OF CALIFORNIA
RUTH H. VAN HEUVEN, OF CONNECTICUT
ROBIN LANE WHITE, OF MASSACHUSETTS

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

TERRENCE J. BROWN, OF VIRGINIA
KELLY C. KAMMERER, OF THE DISTRICT OF COLUMBIA
LINDA E. MORSE, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ROSE MARIE DEPP, OF MARYLAND
GREGORY F. HUGER, OF THE DISTRICT OF COLUMBIA
GEORGE JONES, OF COLORADO
LINDA N. LION, OF VIRGINIA
CARLOS E. PASCUAL, OF THE DISTRICT OF COLUMBIA
ERIC R. ZALLMAN, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

HARRY F. BIRNHOLZ, OF NEW YORK
PAUL A. BISEK, OF ILLINOIS
DOUGLAS A. CHIRIBOGA, OF VIRGINIA
PAUL R. DEUSTER, OF VIRGINIA
WILLIAM J. GARVELINK, OF VIRGINIA
VIVIANN GARY, OF WASHINGTON
GENE V. GEORGE, OF NEW YORK
RICHARD H. GOLDMAN, OF FLORIDA
RICHARD J. GOUGHNOUR, OF FLORIDA
FREDERICK J. GUYMONT, OF FLORIDA
JOHN VAN D. LEWIS, OF THE DISTRICT OF COLUMBIA
JOHN R. MARTIN, OF ILLINOIS
LOUIS MUNDY III, OF FLORIDA
EVERETT B. ORR, OF FLORIDA
KAREN M. POE, OF VIRGINIA
THOMAS LEE RISHOI, OF FLORIDA
TERRENCE P. TIFFANY, OF OREGON

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES INFORMATION AGENCY FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

MARILYN MC AFFE, OF FLORIDA

EXTENSIONS OF REMARKS

ADOPTING THE RULES OF THE HOUSE FOR THE 105TH CONGRESS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SOLOMON. Mr. Speaker, during the debate on House Resolution 5, adopting House Rules for the 105th Congress, my good friend from Michigan [Mr. DINGELL] inserted a statement in the RECORD complaining about the provision in the rules packages that reduces from 3 days to 2 days after a measure or matter is approved by a committee, the time for filing additional, supplemental or minority views. To quote from his statement:

> I find it ironic indeed that during the 40 years of control by the Democratic Party, we never considered limiting this fundamental right of the minority to file views on legislation. Yet after just 2 years in control of the House, the Republicans have found the granting of 3 whole days to the minority to file its views as somehow being too onerous.

Mr. Speaker, I am responding to that inserted speech by inserting my own rebuttal under the general leave granted to Members to revise and extend their remarks on House Resolution 5.

I only regret that the gentleman from Michigan [Mr. DINGELL] was apparently not on the floor to hear my opening statement on the rules package in which I explained that the proposal for 2 rather than 3 days to file views was originally made by Rules Committee Chairman JOE MOAKLEY before the Joint Committee on the Organization of the Congress in the 103d Congress. Moreover, when the joint committee did not include that proposal in its recommended bill (H.R. 3801, Representative HAMILTON, Feb. 4, 1994), the chairman inserted it in his chairman's mark or substitute for the joint committee's bill.

We did not object to the proposal when Mr. MOAKLEY testified in support of it before the joint committee on May 20, 1993. Nor did we object to it when he included it in his chairman's mark of August 1, 1994. Nor did we present an amendment to the Rules Committee to delete it during the committee markup of H.R. 3801 on August 4, 1994—even though we did file with the committee a rather lengthy package of other amendments we intended to offer.

Although the markup was suspended on August 4 by Chairman MOAKLEY over the prospect of a repeal of proxy voting, after only one majority amendment had been disposed of, it should be made quite clear that the suspension of the markup was not caused by any Rules Committee Republican opposition raised or noticed on the 2-day rule for filing views.

Indeed, if that had been even a minor factor in the chairman's reasons for suspending markup, I doubt very much that he would have included the very same 2-day rule in his subsequent chairman's mark of September 19, 1994.

As I indicated to the House in my opening remarks on this rule package for the 105th Congress, we were offering the Moakley 2-day rule for filing views in the spirit of bipartisanship, giving him full recognition for being the author of the proposal, and full support for the Moakley rule. So the gentleman from Michigan is just factually, dead wrong in asserting that such a rule was never proposed by the Democrats in all of its 40 years of control of the House. In fact it was, and came very close to being adopted just prior to the 1994 elections when we gained control of the House.

As Mr. MOAKLEY made clear in his testimony before the joint committee in 1993, it was his hope that by shortening the period for filing views, it would be less necessary in the future for the Rules Committee to waive the 3-day requirement for reports to be available to Members before they can be considered by the House. We share that same hope.

Mr. Speaker, with that I insert at this point in the RECORD the testimony of Mr. MOAKLEY before that joint committee in 1993, as well as the relevant text of his rule from his August 1 and September 19, 1994, chairman's marks for H.R. 3801, which also included the automatic filing authority for committees on the second day.

The materials follow:

STATEMENT OF THE HONORABLE JOHN JOSEPH MOAKLEY, CHAIRMAN, COMMITTEE ON RULES, U.S. HOUSE OF REPRESENTATIVES BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS, MAY 20, 1993

Mr. Chairman, I would like to thank the Joint Committee for the opportunity to appear before you today to talk about committee and floor procedures in the U.S. House of Representatives. As Chairman of the House Rules Committee, I realize I am an obvious spokesperson for the procedures by which bills are considered in the House. I do not come before you today to blindly defend our current practices. Rather, I view this as a valuable and essential opportunity to take an objective, critical look at our rules and procedures and to comment on what areas might possibly be improved.

Before getting to specifics, I would like to briefly express my gratitude to the Joint Committee for the work it has done to date. I commend the Committee for both its diligence and the seriousness with which it has undertaken its work. Yours is not an easy task, I know. Change is always difficult, particularly when it is uncertain whether the proposed changes will actually improve the status quo. I can appreciate the enormity of your assignment and hope that my comments today assist you with your comprehensive evaluation of the Institution.

Reflecting upon the atmosphere in Congress of late, I must confess that I am almost relieved that we have reached this juncture—it is time for us to confront our problems, either real or perceived, and resolve them one way or another. In my twenty-one years in Congress, I have never experienced partisan tensions as aggravated and sustained as they have been over the past couple of years. While a certain amount of sparring between the parties is unavoidable, healthy even, I believe we have far surpassed the level of disagreement that characterizes a healthy democracy.

I am most concerned with the element of distrust that seems to pervade our daily interactions. We cannot do our jobs well when we distrust those with whom we work. We were sent here to make sound, well-reasoned policy decisions on behalf of our constituents, our country and the world. I am deeply concerned that the public good is being compromised in the conflicts of our rival parties.

It is out of these concerns that I admit certain changes are needed. On the procedural front, I think I can recommend several improvements which will not only enhance the quality of deliberation in the House of Representatives, but will also lessen some of the partisan jealousies which arguably consume too much of our time and energy. As I have not yet talked with the Speaker about these ideas, I in no way wish to imply that my remarks today reflect the sentiments of the Leadership.

First, I would like to note the Democratic Leadership's recent efforts to allow for more open, inclusive debate. By inclusive I mean providing for greater participation by both the majority and the minority. The views of the minority are a vital component of the legislative process, and within reason, should be accommodated. I say within reason because underlying the legislative procedures of the House is the general principle that a determined majority of members should be able to work its will on the floor without undue delay by the minority. While House rules and procedures generally recognize the importance of permitting any minority, partisan or bi-partisan, to present its views and prepare alternatives, the rules do not enable that minority to filibuster or use other devices to prevent the majority from accomplishing its objectives in a timely manner.

I think everyone would agree that it is the prerogative of the majority party leadership to both set the legislative agenda and to provide for the orderly consideration of legislation in the House. And while the role of the Rules Committee is to try to facilitate the Leadership's legislative agenda, its power is not without limitation. The Rules Committee can only recommend special rules to the House—it cannot impose its recommendations on the membership. It is for the House to decide, by majority vote, whether it is prepared to accept the ground rules, including any restrictions on amendments that the Committee proposes.

The Rules Committee structures its rules based not only on the views of its members, but also on its perception of what a majority—218 members—of the House is prepared to support. Ultimately, the House agenda is subject to control by a voting majority. This majority is not static, nor is it strictly partisan. Rather it is continually shifting and must be constructed and reconstructed from one issue to the next.

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Unfortunately, bare statistics do not always reflect the considerations behind the types of rules reported by my Committee. The first ten rules reported by the Rules Committee in the 103rd Congress were indeed by definition "restrictive", that is, providing certain limitations on the number or types of amendments that could be offered. But while my friends on the other side of the aisle suggest that there amendments were arbitrarily rejected by the Rules Committee, this simply isn't true.

Before condemning the Democratic Leadership as callous or insensitive to the ideas of the minority, one must examine the nature of the bills and the types of amendments offered. Interestingly, of the ten examples cited by the Republican Leadership Task Force on Deliberative Democracy as egregious examples of the Rules Committee unreasonably denying amendments for floor consideration, the first five amendments were not even germane to the measures being considered. It is common knowledge that House rules and precedents require all amendments to be germane to the text they would amend. Therefore, I see nothing unreasonable about the Rules Committee's decision not to make these amendments in order. Moreover, another two amendments cited by the Task Force would have been subject to other points of order. In sum, seven of the ten amendments cited by the Task Force would not even have been made in order under an open rule.

As for the restrictive rules that the Rules Committee has reported to date, let me say this: the baseball season is only one month old—just because the Tigers are now in the lead doesn't mean they're going to win the pennant. In other words, be patient. There is no rigid program governing the types of rules to be reported by the Rules Committee. Rather, each rule will be determined on a case by case basis.

As you know, the Rules Committee recently reported open rules on three bills—nobody should be surprised when such contentious issues such as reconciliation and campaign finance are considered under structured rules—but as the House moves further into its legislative season I anticipate more open rules being reported by my committee.

Another change I would recommend relates to the motion to recommit. The change would arguably strengthen the minority's ability to act as a constructive partner in the development of legislation. I endorse a modification of the plan proposed by Tom Mann and Norm Ornstein in one of their earlier reports to the Joint Committee.

I propose amending House Rule XVI, clause 4, so as to guarantee the minority a motion to recommit with instructions whenever a special order reported by the Rules Committee precludes the minority from offering amendments in the Committee of the Whole. This right would be subject to a couple of conditions. First, the motion would be guaranteed only if offered at the specific direction of the Minority Leader or his designee. Second, upon receipt of the motion, the Speaker would have the power to postpone debate and votes on the motion and final passage for up to two hours.

I consider these conditions to be reasonable as they would allow the minority a vote on its position on major issues and at the same time allow the majority a reasonable amount of time within which to prepare its response to the minority's alternative. Theoretically, limiting control of the motion to recommit to the Minority Leader or his designee would ensure that the motion would be used in a serious, constructive manner. Members with fringe views would be unable to make frivolous motions.

A third change I would recommend involves clause 2(l) (5) and (6) of House Rule XI which respectively provide for a three day period within which members may file supplemental, additional or minority views to be included in a committee's report, and an additional three day period for members to review the committee report before the measure is considered by the House. In his recent statement before the Joint Committee, Mr. Solomon expressed concern that the opportunity for members to review committee reports was too often being waived due to scheduling considerations. Let me say I empathize with Mr. Solomon and hope that my plan alleviates some of his concerns.

My proposal tries to balance the legitimate need for flexibility in scheduling legislation for floor action with the important right of members to express their alternative views and to review committee reports prior to debating a measure on the House floor. I don't believe the rule as it is presently written allows us to use our time efficiently. Presently, the three day period for filing views begins to toll the day immediately following the day on which a committee orders a measure reported and expires at midnight of the third day. Since presently there is no automatic authority for a committee to file immediately upon the expiration of this third day, it may be another day before the committee files its report, and yet another day before the report becomes available in the document room. Only then will the three day layover period for members' review of the report begin. Thus, more than two weeks may go by before a bill becomes available for floor consideration.

In the interest of both preserving this important right and using our time well I would recommend the following: tighten the way in which the three day period for filing views is calculated by starting the clock tolling immediately upon a committee's ordering of a bill reported. Often many valuable hours remain in a day on which a bill is ordered reported. Additionally, I would recommend giving committees automatic authority to file until midnight of the third day.

These changes arguably would achieve the dual goal of allowing for more efficient scheduling of legislation and insuring an adequate period for members to file and review views. While the Committee on Rules would still reserve its right to waive the three day layover requirement, I believe that if these changes were to be made the need for such waivers would be significantly reduced. In fact, I think it is safe to assert that had this proposal been in place earlier this Congress, none of the waivers of the three day layover period granted by my Committee would have been necessary.

My final recommendation is that the House, in some manner, implement the Oxford-Union style debate program proposed by Norm Ornstein and Tom Mann. Such a program strikes me as a useful vehicle for conducting thoughtful, substantive, and balanced debate on important national issues. Unlike one-minutes or special orders which tend to be one-sided monologues free of contest or rebuttal, such a program would allow for a meaningful exchange of ideas between members and would serve as a valuable supplement to our regular debate time on major legislation.

In closing, I would like to add that I agree with the prevailing sentiment that procedural or mechanical changes alone will not cure the ailments of this Institution. Attitudinal change is as important an ingredient. I am encouraged by the progress that is already being made in this area and hope that we can sustain this spirit of cooperation throughout the 103rd Congress.

I again thank the members of the Joint Committee for this opportunity to testify before you today. I would be happy to answer any questions.

FROM MOAKLEY SUBSTITUTE FOR H.R. 3804,
AUG. 1, 1994

SEC. 112. AVAILABILITY OF LEGISLATIVE INFORMATION.

(a) VIEWS.—Clause 2(l)(5) of rule XI of the Rules of the House of Representatives is amended—

(1) in its first sentence, by inserting "and including the day the measure or matter is approved" after "holiday"; and

(2) after its second sentence, by inserting the following new sentence: "Upon receipt of all such views, the committee may (without permission of the House) file the report until midnight of the third such calendar day.".

AMENDMENT TO H.R. 3801 OFFERED BY MR.
MOAKLEY, SEPTEMBER 19, 1994

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Legislative Reorganization Act of 1994".

RESPONSES TO QUESTIONS AND COMMENTS ON HOUSE RESOLUTION 5, ADOPTING HOUSE RULES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SOLOMON. Mr. Speaker, since the House adopted House Resolution 5 on January 7, 1997, establishing the standing rules of the House for the 105th Congress, several questions and comments have been raised as to the application or interpretation of the new rules.

Let me first direct my colleagues to the debate on House Resolution 5 in the CONGRESSIONAL RECORD of January 7, 1997, during which additional materials were inserted in the RECORD for the benefit and guidance of Members and committees. The text of the resolution itself begins at page H8 of the RECORD . My introductory remarks explaining the rules package begins at page H10. Immediately after my remarks are a "Highlights and Section-by-Section Summary" (pp. H11–12), followed by a more detailed "Section-by-Section Analysis" (pp. H12–15), and a letter from Ways and Means Committee Chairman BILL ARCHER further explaining the more specific definition of income tax rate increases contained in House Resolution 5 with respect to the three-fifths-vote rule and the prohibition on retroactive income tax rate increases (p. H15). I have also included in the RECORD a press release and table on comparative legislative data for the 103d and 104th Congresses (pp. H15–16); and a brief history of how the process for adopting House rules at the beginning of a Congress has evolved over the last century (pp. H16–17).

Mr. Speaker, since the adoption of the rules on January 7, I have: First, responded to two letters from colleagues regarding the "truth-in-testimony rule;" second, responded to a letter from the minority leader forwarded to my Rules Committee office by the Speaker; and third, written to the Parliamentarian to further clarify the intent and application of the rules that allows for exceptions to the 5-minute limit in questioning hearing witnesses, copies of which have been sent to all committee chairmen and ranking minority members. In addition, I have inserted remarks elsewhere in this RECORD in response to Mr. DINGELL's inserted statement on the new rule on time allowed for filing views on committee reports.

Mr. Speaker, at this point in the RECORD, I include my exchange of correspondence with Representatives FROST and SKAGGS on the "truth-in-testimony rule"; the minority leader's letter to the Speaker on several provisions in the rules package and my response; and my letter to the Parliamentarian on the rule allowing for extended questioning of witnesses.

The materials follow:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 24, 1996.

Hon. GERALD B. SOLOMON,
Chairman, Committee on Rules, The Capitol, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my opposition to the so-called "Truth in Testimony" amendment to the Rules of the House of Representatives. It is my understanding that while this amendment was not included in the package of amendments to the Rules of the House for the 105th Congress approved by the Republican Conference in November, it is currently under consideration for inclusion in that package. While I have not yet been provided with language of this or any other proposed amendment, I must register my strong opposition to including such a potentially far reaching amendment in the Rules of the House without providing those affected the opportunity to comment.

Having served as Chairman of the Democratic Caucus Committee on Organization, Study and Review for 10 years, I am fully aware that rules changes for a Congress are matters that are vetted through the party process. But it was my experience that serious and substantive changes to the operations of the House of Representatives were given ample opportunity to be discussed and analyzed within the Democratic Caucus. Had an amendment of this magnitude been proposed during my tenure as Chairman of that Committee, I can assure you that I would have referred it to the Committee on Rules for consideration in the regular committee process. I urge you to do that in this instance.

I cannot argue that substance of this proposal since I have not yet seen any language. But I do want to make a procedural case against including this amendment in the Republican rules package on January 7. This is a substantive matter and one that deserves full analysis and examination. I urge you, as Chairman of the Committee on Rules, to oppose including the amendment in the Republican rules package.

I appreciate your attention to this matter, and with every best wish for a happy New Year, I remain

Sincerely,

MARTIN FROST.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 9, 1997.

Hon. MARTIN FROST,
Rayburn House Office Building,
Washington, DC.

DEAR MARTIN: Thank you for your letter of December 24 expressing your opposition to the new "Truth-in-Testimony" rule, and for raising the issue for discussion at our Committee's organizational meeting yesterday.

You are correct that the proposed rule change was not included in the package presented to our Conference on November 22nd. It was initially felt that the Leadership would simply urge committees to adopt it as a committee rule, since nothing in House Rules would preclude that. However, during the discussion of the draft rules package at the November Conference, several Members spoke-out in strong support for including a uniform disclosure requirement in House Rules. The Leadership subsequently agreed with that recommendation and the provision was included in the package that was finally adopted by the Conference on the morning of January 7th.

Your point about the need to refer for Rules Committee consideration rules changes "of this magnitude," and how Democrats did this, is both curious and well taken. I do not recall the proposal for delegate voting in the Committee of the Whole ever being referred to the Rule Committee and yet it was included in your last Democratic House Rules package at the beginning of the 103rd Congress. On the other hand, the Doolittle "Truth-in-Testimony" rule was referred to the Rules Committee and was presented to us by Rep. Doolittle on July 17, 1996—the first in a series of four hearings we conducted entitled, "Building on Change: Preparing for the 105th Congress." (See pages 29–33 of printed hearings) So, contrary to your assertion that there has been no opportunity for comment, there has been plenty of opportunity dating back to the July 17th hearing. I'm only sorry you were not able to attend that hearing and therefore missed the testimony and the opportunity to question Rep. Doolittle on his proposal

As a result of some subsequent concerns expressed about the penalty in the Doolittle resolution of expunging a non-complying witness' testimony from the hearing record, we dropped that provision before it was presented to the Conference and the House.

I appreciate your calling my attention to the David Skaggs letter (which was delivered to us in the middle of our organizational meeting yesterday) calling for a Rules Committee hearing to discuss the effect and purpose of the "truth-in-testimony" rule.

The simple purpose of the rule is public disclosure of public funds received by an individual or organization so that Members and the public alike will have a better perspective on a witnesses' interests as they relate to the subject matter of a hearing. The simple effect of the rule will be better-informed committee members as they prepare for and participate in their committees' hearings. Too often, such information is requested at a hearing, and witnesses do not have it readily available. Consequently, it is only supplied at a later date for the hearing record when it is too late to ask relevant questions bearing on that information.

Madison, in Federalist 58 referred to the House's "power over the purse," as "the most complete and effectual weapon with which any constitution can arm the immediate representatives." Certainly, in this regard, it is a legitimate function, indeed an obligation, of our committees to have a better understanding of how public funds are being expended—by whom and for what purposes—especially as we continue to downsize the government and move towards a balanced budget. Our hearing and oversight process is one of the best methods we have for obtaining such information so that our committees, and ultimately the Congress, can effectively deliberate and make the best possible and most informed and prudent decisions.

What would be the effect of non- or partial-compliance? As we explained in our section-by-section analysis of the rules package that was inserted after my floor statement on H. Res. 5 yesterday (Congressional Record, Jan. 7, 1997, pp. 11–17), non-compliance would neither prevent a witness from testifying, nor result in the testimony being stricken from the hearing record. However, I think it could result in an objection to a unanimous consent request that the written statement be included in the hearing record, leaving only the oral summary of testimony actually presented as part of the official hearing record.

You can be assured that, just as we did during the 104th Congress with respect to the rules adopted on opening day of that Congress, the Rules Committee will be conducting ongoing oversight of the operation of this and other new rules as we prepare for the 106th Congress.

Sincerely,

GERALD B. SOLOMON,
Chairman.

HOUSE OF REPRESENTATIVES
January 8, 1997.

Hon. GERALD B.H. SOLOMON,
Chairman, Committee on Rules,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing to request that the Committee on Rules hold a hearing to take testimony and discuss the effect and purpose of section 10 of the H. Res. 5, adopting the Rules of the House of Representatives for the One Hundred Fifth Congress.

As you know, section 10, the so-called "Truth in Testimony" provision, requires any person appearing in a nongovernmental capacity as a witness before committees of the House to include as part of her written statement a list of the amount and source of all federal grants, subgrants, contracts, or subcontracts received during the previous three fiscal years by the witness or entities she represents.

As I stated yesterday on the Floor of the House, I have strong concerns about the effect and purpose of section 10 and regret that it was adopted without the full and thoughtful consideration made possible by committee hearings.

I believe this provision will only create another barrier to citizens exercising their right to petition the government, in this case the House of Representatives. In many cases, this provision will also force organizations to divert resources from productive work to the paperwork and administrative activities made necessary by the provision's requirements.

Again I urge the Committee on Rules to schedule a hearing to consider the effects of section 10 of H. Res. 5.

Sincerely yours,

DAVID E. SKAGGS.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 9, 1997.
Hon. DAVID E. SKAGGS,
Longworth House Office Building,
Washington, DC.

DEAR DAVID: Thank you for your letter of January 8 urging that the Rules Committee hold a hearing to discuss the effect and purpose of the new "truth-in-testimony" rule.

The fact is that we did hold a hearing on July 17, 1996, at which the proposal was presented by its sponsor, Rep. Doolittle, and discussed. The testimony was offered as part of our series of four hearings (at which you testified) entitled, "Building on Change: Preparing for the 105th Congress," from which many of the rules changes adopted by the House were initially proposed.

The simple purpose of the rule is public disclosure of public funds received by an individual or organization so that Members and the public alike will have a better perspective on a witnesses' interests as they relate to the subject matter of a hearing. The simple effect of the rule will be better-informed committee members as they prepare for and participate in their committees' hearings. Too often, such information is requested at a hearing, and witnesses do not have it readily available. Consequently, it is only supplied at a later date for the hearing record when it is too late to ask relevant questions bearing on that information.

Madison, in Federalist 58 referred to the House's "power over the purse," as "the most complete and effectual weapon with which any constitution can arm the immediate representatives." Certainly, in this regard, it is a legitimate function, indeed an obligation, of our committees to have a better understanding of how public funds are being expended—by whom and for what purposes—especially as we continue to downsize the government and move towards a balanced budget. Our hearing and oversight process is one of the best methods we have for obtaining such information so that our committees, and ultimately the Congress, can effectively deliberate and make the best possible and most informed and prudent decisions.

What would be the effect on non- or partial-compliance? As we explained in our section-by-section analysis of the rules package that was inserted after my floor statement on H. Res. 5 yesterday (Congressional Record, Jan. 7, 1997, pp. 11–17), non-compliance would neither prevent a witness from testifying, nor result in the testimony being stricken from the hearing record. However, I think it could result in an objection to a unanimous consent request that the written statement be included in the hearing record, leaving only the oral summary of testimony actually presented as part of the official hearing record.

I do not think the requirement will, as you assert, "force organizations to divert resources from productive work to the paperwork and administrative activities made necessary by the provision's requirements." Any business or organization that does not have ready access to basic information on the source and amounts of its Federal grants and contracts over the last three years is probably guilty of questionable or sloppy bookkeeping practices, which in turn raises the question of whether they should be entrusted with expending taxpayer funds in the first place.

You can be assured that, just as we did during the 104th Congress with respect to the rules adopted on opening day of that Congress, the Rules Committee will be conducting ongoing oversight of the operation of this and other new rules as we prepare for the 106th Congress.

Sincerely,
GERALD B. SOLOMON,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 9, 1997.
Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Since floor procedures yesterday limited our ability to have a full debate on all of the Republican Conference's recommended rules changes in H.Res. 5, I am writing to notify you of additional objections to certain provisions that our Leadership and minority members have put forth. Please note recommendations on the following seven points:

In section 8(a)(2), strike the proposed new subparagraph (2), providing that investigative and oversight reports will be "considered as read" in committee under certain circumstances, and redesignate accordingly;

Strike section 10, placing information burdens on non-governmental public witnesses by requiring them to disclose federal grants and contracts they have received;

Strike section 12, creating exceptions to the five-minute rule in hearings;

Strike section 14, reducing the time allotted for Members to file supplemental, minority, or additional views;

Strike section 15, creating a slush fund for committees;

Strike section 17, permitting "dynamic scoring" estimates to be included in reports on major tax bills;

In the last sentence of section 25, strike ", or at the expiration of January 21, 1997, whichever is earlier".

I would hope that you might consider revisiting these matters in light of minority objections. I am certain that such efforts would enhance the spirit of bipartisanship and comity in the 105th Congress.

Sincerely,
RICHARD A. GEPHARDT.

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 13, 1997.
Hon. RICHARD A. GEPHARDT,
Minority Leader, The Capitol,
Washington, DC.

DEAR MR. LEADER: This to acknowledge your letter regarding the rules changes contained in H. Res. 5. I have asked Rep. Gerald Solomon, chairman of the Committee on Rules, to review your comments to see if some accommodations can be made.

Regardless of the outcome of Chairman Solomon's review and his recommendations, I sincerely hope that you and other members of the Democrat leadership will do your utmost to see that the rules of the House are followed and that decorum is maintained.

Rest assured that the Republican leadership is committed to protecting the decorum of the House and the dignity of its proceedings.

Sincerely,
NEWT GINGRICH,
Speaker.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 16, 1997.
Hon. RICHARD A. GEPHARDT,
Minority Leader, The Capitol,
Washington, DC.

DEAR DICK: This is to acknowledge the Speaker's transmittal to me of your letter expressing concerns about several of the House Rules changes adopted on the opening day of the 105th Congress.

You have asked the Speaker that we might revisit these in light of minority objections, and in the spirit of bipartisanship and comity in the 105th Congress.

As I have already indicated in letter to both Martin Frost and David Skaggs with respect to the "truth-in-testimony rule" (one of those on your list), it is my full intention that our Committee will carefully monitor the operation of all the new rules adopted in H. Res. 5 as part of our ongoing oversight responsibilities over House rules and procedures.

As you will recall, during the course of the last Congress the Rules Committee reported modified versions of suggestions that were in your minority opening day rules amendments relating to the gift rule and book advances and royalties. Moreover, towards the end of the second session we held four hearings on "Building on Change: Preparing for the 105th Congress," at which we heard from Members of both parties who had suggestions for further rules changes. Many of those proposals were incorporated in this year's opening day package.

In summary, I fully intend to proceed on a bipartisan basis as we monitor the effectiveness of the rules changes and consider possible adjustments, additions or deletions. I welcome your continuing advice and suggestions as we proceed with this effort.

Sincerely,
GERALD B.H. SOLOMON,
Chairman.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 16, 1997.
Mr. CHARLES W. JOHNSON III,
Parliamentarian of the House, Office of the Parliamentarian, The Capitol, Washington, DC.

DEAR CHARLEY: It is my understanding that some questions have been raised regarding the application of section 12 ("Exceptions to the Five-Minute Rule in Hearings") of H.Res. 5, adopting House Rules for the 105th Congress. The purpose of this letter is to clarify the intent of that rule.

Section 12 amends clause 2(j)(2) of House Rule XI which previously provided that: "Each committee shall apply the five-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness."

The amendment adopted to that rule by section 12 of H. Res. 5 provides that, "Each committee may adopt a rule or motion permitting an equal number of its majority and minority party members each to question witnesses for a specified period not longer than 30 minutes," and that, "A Committee may adopt may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified period of time."

In the section-by-section analysis of the rules changes that I inserted following my introductory remarks on H.Res. 5 (Congressional Record, January 7, 1997, pp. H12–15) it is noted that, "That rule or motion could permit designated majority or minority party member or staff to question witnesses for a period longer than their usual 5-minute entitlement (p. H14, emphasis added)." The underscored words were intended to clarify that the exception to the five-minute rule for extended questioning applies to only those members designated. It in no way is meant to supplant the right of other committee members to question witnesses for five-minutes, though the extended questioning period could occur before other members are recognized.

It is not the intent of the rule to permit a motion that provides for further extended questioning of the same witness after 60-minutes of extended questioning has already been allowed. The 60-minutes should be the maximum limit on extended questioning of the same witness, whether by designated majority and minority party members or staff, in order to protect the rights of other members of a committee to exercise their rights to question a witness under the five-minute rule.

The analysis goes on to indicate that: "A motion under this House rule would not be privileged for any member of a committee to offer. Instead, it would be at the discretion of the chair to recognize a member to offer such a motion." However, it is not the intent of this rule that either a committee rule or motion allowing for such extended questioning should be used solely for the purpose of permitting such extended questioning only of witnesses of the chairman's or committee majority's choosing. Just as the rule imposes an equal time requirement for the parties' in the extended period for questioning witnesses, it is expected that the committee chair and/or committee majority would treat the minority fairly in allowing for extended questioning of a witness or witnesses of their choosing, and therefore that such arrangements could be worked out between the chair and ranking minority member in advance of a hearing.

For example, if the majority wishes to apply the extended questioning rule to witnesses A and B, the minority should be allowed to apply the extended questioning to witnesses C and D, i.e., an equal number of witnesses of their choosing. That is not to say that the minority should have a veto over extended questioning of witnesses A and B of the majority's choosing simply because the minority may not want to use their half of the time.

In summary, the rule was designed to provide fairness to both parties, both in terms of the time allowed for the extended questioning of witnesses, and in the determination of which witnesses may be subjected to such extended questioning.

I hope this will help to further clarify the rule's intent for any questions directed to your office, and for the purposes of any committee rules or motions developed to implement this rule.

Sincerely,

GERALD B.H. SOLOMON,
Chairman.

PAYING TRIBUTE TO SARA AND SIMHA LAINER

HON. HOWARD L. BERMAN

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 21, 1997

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Sara and Simha Lainer, close friends of mine for more than 40 years and people passionately dedicated to the welfare of the Jewish community of Los Angeles. This year the couple are receiving the Lifetime Humanitarian Achievement Award from the West Coast Friends of Bar-Ilan University in Israel. I cannot think of two more deserving recipients.

Sara Lainer, a distinguished author of scholarly articles, has been an active volunteer on behalf of Hadassah, Pioneer Women, General Israel Orphans Home, the Yiddish Culture Club, and many other organizations. She continues to lecture in Hebrew and Yiddish to groups in Los Angeles, and she holds an honorary doctorate from the Hebrew Theological College, Jewish University of America. Her commitment to the intellectual and spiritual components of Judaism is extraordinary.

Simha Lainer, who ran a successful real estate business in the San Fernando Valley, is a strong supporter of, and a dedicated volunteer with, the University of Judaism, the Jewish Community Foundation, the ADL, and West Coast Friends of the Hebrew University. Anyone who cares about the Jewish community of Los Angeles owes a huge thanks to him.

In 1989, the Lainers established the Simha and Sara Lainer Fund for Jewish Education, which has thus far awarded $290,000 in scholarships to 400 children around the city. I can think of nothing more important than ensuring Judaism remains vibrant and alive in Los Angeles.

Simha and Sara raised three sons, Mark, Nahum, and Luis, who have followed in the tradition of their parents in working hard on behalf of their community. I am indeed lucky to be good friends with all three, as well as their wives, Ellie, Alice, and Lee.

Mr. Speaker, I ask my colleagues to join me in saluting Sara and Simha Lainer, whose tireless efforts to make this a better world inspire us all.

HONORING THE ROTARY GREATER MIAMI URBAN PEACE CONFERENCE

HON. CARRIE P. MEEK

OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 21, 1997

Mrs. MEEK of Florida. Mr. Speaker, on February 8, 1997, the Rotary Clubs of Dade County will sponsor the Greater Miami Urban Peace Conference at the Wolfson Campus of Miami-Dade Community College.

Inspired by Rotary International President Luis Giay, the conference will focus on solutions to the problems of youth and violence. Rotary seeks to identify effective programs which demonstrate results, but which could benefit from additional assistance to reach their full potential. Rotary's purpose is to go beyond merely examining problems. They want to connect hundreds of Dade County Rotary volunteers with projects to stem youth violence.

I commend the work of Rotary to constructively address a matter of growing local and national concern. It is easy to rush toward punitive measures before providing positive role models to those most in need. Rotary is assembling forces who have the ability to provide real solutions to a very real challenge. I am sure that my colleagues will join me recognizing the Dade County Rotary Clubs for their endeavors.

TRIBUTE TO MRS. ISABEL MÉNDEZ

HON. JOSÉ E. SERRANO

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 21, 1997

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to an outstanding Puerto Rican woman, Mrs. Isabel Méndez, who has dedicated her life to taking care of others, especially Hispanics in New York City.

Mrs. Méndez was honored by the House of Puerto Rican Cultural Heritage, known as "La Casa de la Herencia Cultural Puertorriqueña," on January 11 in New York City for her longtime commitment to the advancement of the Hispanic community.

She was born in Yabucoa, Puerto Rico. In 1926, at the age of 17, she came to New York City. Since her arrival, she has fought every day to improve the living conditions of Hispanics and has helped them overcome the difficulties that are a part of the experience of immigrating to a new land.

In 1932, Mrs. Méndez was instrumental in founding the first Hispanic Catholic Church, "La Milagrosa Church," in El Barrio, east Harlem. Together with her husband, Tony Méndez, who was the first Puerto Rican male district leader of the Democratic Party, she fought tirelessly for the welfare of Hispanics in the city.

In 1950, she founded the Puerto Rican Association of Women Voters, which is still in existence. Through this organization she assisted in furthering the advancement of Puerto Rican women. Mrs. Méndez also served as an interpreter for 24 years, first as a volunteer and later on as an employee, at the New York City civil court.

Through her community activism, she has helped to ease the road for those who have come after and who have embraced New York City as their new home. She is the widow of Tony Méndez and the mother-in-law of State Senator Olga A. Méndez.

Mr. Speaker, I ask my colleagues to join me in recognizing Mrs. Isabel Méndez for her devotion to our community and for making all of us Puerto Ricans and fellow Americans proud.

THE FUTURE OF EDUCATION IN AMERICA

HON. GERALD B.H. SOLOMON

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 21, 1997

Mr. SOLOMON. Mr. Speaker, let me commend to you the following article from an editorial in the Post Star newspaper in Glen Falls, NY. This article succinctly expresses my reasons for calling for the abolishment of the U.S.

Education Department. While this Department was created with a noble eye toward protecting and advancing public education in this country, in reality it has only created dubious Federal mandates while siphoning scarce Federal dollars away from the students that truly need it. By creating an Office of Education to continue to represent public school interests and allowing more parental involvement, students will ultimately be much better served.

[From the Post Star, Glen Falls, NY]

EDUCATION DEPARTMENT NEEDS TO BE DISMANTLED

If you wonder what big idea Bill Clinton intends to ride into history, consider this one: Education.

Everybody agrees education is a wonderful thing, but increasingly, Americans fret about the quality of public schooling. The issue of instructional quality has split the educational establishment. On one side stand votaries of the National Education Association, which has worked long and hard to define mediocrity down. On the other are devotees of educational choice and home schooling, programs designed to spare kids the travail of politically correct education.

Enter President Clinton, promising to bridge the chasm. In a recent speech to the Democratic Leadership Council, he echoed Americans' apprehensions about the state of education: "We must dramatically reform our public schools, demanding high standards and accountability from every teacher and every student, promoting reforms like public choice, school choice and charter schools in every state.

At the same time, he staked out new ground for Uncle Sam: "I am not for federal government national standards. But I am for national standards of excellence and a means of measuring it so we know what our children are learning."

Here is Bill Clinton doing what he does best: bending a conservative issue to liberal ends. He has made it clear in subsequent talks that he wants to defend teachers unions, while creating a larger federal role in determining what students should and shouldn't learn.

That's not an encouraging sign, given recent trends in government-sponsored instruction. As Lynne Cheney has noted to devastating effect, school textbooks today subject students to politically correct nonsense. Some standard history books, for instance, mention Harriet Tubman more often than George Washington, Thomas Jefferson and Robert E. Lee combined!

Meanwhile, self-esteem programs assure students that accuracy isn't everything in mathematics: If you come close, that's good enough. (Tell that to the Internal Revenue Service.)

The President's case for standards rests on the beguiling but dubious notion that experts know enough to set "proper" standards. There are no data to support that claim, and considerable evidence that schools tend to thrive in direct proportion to parental involvement in school. In other words, mother and father know best.

Clinton's talk to the Democratic Leadership Council framed the upcoming reform debate. If you want a larger federal role, you're "for" education; if you want decentralized control, you're "against" standards that could guarantee excellence.

Republicans ought to hop into the fray immediately. The best way to protect the sovereignty of local systems is not to hand more power to the Department of Education. Just the opposite: The goals of excellence and local sovereignty would best be served by dismantling the department, and spinning off the Office of Educational Research and Improvement, which provides important and useful educational research.

Today, the federal government makes educators do everything from diagnosing sexual abuse and distributing condoms to serving as guardians for messed-up kids. At the same time it has heaped new duties on educators, it has clamped down on innovations Washington bureaucrats don't like. This happened to Detroit when local authorities tried to set up all-boys schools to deal with their very real problems.

By shutting down the education department while saving its research office, Congress could give Americans just what Bill Clinton is promising—a revitalized sense of local control, aided by a federal clearinghouse that could offer useful data about what does and doesn't work in the classroom.

TRIBUTE TO JON A. KASTRUP

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the personal achievement of one of our community's most talented and dedicated young men, Mr. Jon A. Kastrup. Jon's own success is sweeter than most, as he not only had to overcome the regular stresses of daily living but, also had to accomplish this while being profoundly deaf.

Many people like Jon would surrender to their condition, but Jon, never questioning his resolve, earned dual degrees in the fields of mechanical engineering and law and now holds the distinction of being one of only four functionally deaf attorneys in the United States. After his graduation from the Brigham Young University's J. Reuben Clark School of Law, Jon served as a legal intern for the U.S. Court of Federal Claims in Washington, DC. Previously, Jon lent his valuable services to the California Center for the Law and Deaf in Oakland, CA where he served as a legal assistant and law clerk, and in the State of Utah as a court appointed special advocate for the Guardian Ad Litem Program.

Jon has also served in several notable capacities for private and public sector institutions, including the Department of Human Development at the Rochester Institute of Technology, where he served as a student development assistant. He was also an engineering aide for the U.S. Navy and previously served as an engineer drafter for the Unidynamic Corp. of St. Louis, MO. Jon has excelled in everything he has set out to accomplish. Despite his physical limitations, he never once relented in his ambition to succeed. Jon has proven that through steadfast dedication and a deep belief in oneself, "if you can dream it, you can do it."

TRIBUTE TO BETTE JANE RODRIGUEZ

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to my friend, Bette Jane Rodriguez, who is being recognized by the city of Cudahy on February 13, 1997, as she retired after serving the Treasurer's Office for 33½ years.

Throughout her long and dedicated term, Bette Jane has served as deputy treasurer to several city treasurers. Her leadership while assisting the government of the city of Cudahy to run more effectively and efficiently should be commended.

Ms. Rodriguez has served on the Cudahy Area Business and Professional Women's Club since 1973. She has also served on the Cudahy Democratic Unit by providing assistance on several local and Presidential elections, as well as on the Cudahy Municipal Credit Union and on the Cudahy Historical Society for the last 10 years.

Bette Jane Rodriguez will truly be missed in City Hall, but knowing her as I do, she will only become more active in the community following her retirement. Therefore, it is with great pleasure I join Bette Jane's coworkers, the city of Cudahy, and many friends in honoring her many years of service and contributions to the city of Cudahy.

Best wishes, Bette Jane, and on behalf of the residents of the city of Cudahy, I offer a heartfelt "thank you" for your unselfish work over the years and for a job well done.

CONGRESSMAN BILL RICHARDSON: ON TO DIPLOMACY FOR HIS COUNTRY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. RADANOVICH. Mr. Speaker, a recent event affecting this House leaves us with mixed emotions. We are losing one of our Members, but the service to which he is going is greatly important to our Nation.

Congressman BILL RICHARDSON has been nominated to be America's next Ambassador to the United Nations. In that role, he will serve in the President's Cabinet and be a principal in the guidance and implementation of our country's foreign policy.

I salute President Clinton for his wise choice of BILL RICHARDSON. We need someone with his firmness and no-nonsense approach to represent our interests at the United Nations.

All of us are familiar with BILL RICHARDSON'S record as a hostage negotiator in troubled world areas. He showed on several occasions that he can identify critical issues and find the means of resolution.

My familiarity with BILL RICHARDSON comes not alone from being aware of his creative diplomatic strategies in North Korea, Iraq, and Sudan. I had the good fortune to serve with him on the Resources Committee and on its

National Parks, Forests and Lands Subcommittee, where he was the ranking Democrat.

BILL RICHARDSON, as the President said, in announcing his intention to nominate him, also is one of our Nation's most prominent and proud Hispanic leaders. His example is one that reflects pride to that community and his heritage.

In saluting our colleague as he embarks on a new set of challenges, I take pleasure in sharing with the House the following transition of an article that was published recently in the German newspaper, Handelsblatt. Written by diplomatic and political correspondent Viola Herms-Drath, this report makes plain the high hopes America's allies have for the role BILL RICHARDSON will play.

[From the Handelsblatt, Dec. 17, 1996]

CLINTON'S NEW U.N. AMBASSADOR SEEN AS UNORTHODOX DIPLOMAT

With the appointment of the long-time Congressman from New Mexico, Bill Richardson, as Washington's new U.N. Ambassador, U.S. President Bill Clinton has achieved two successful political moves. First, he has placed a politically correct Hispanic on his team and, second, he has appointed a creative diplomat with style and a great deal of tact. Clinton has no doubts that Richardson will be able to represent U.S. interests and ideals at the U.N. and in the world.

Richardson first came to public notice through his exploits in the political arena, especially because of his spontaneous actions for the release of American citizens being held by totalitarian countries, from North Korea to Bangladesh, Cuba and Iraq. Just a week ago this son of a Mexican mother and an American father was in the Sudan, negotiating an arrangement for the release of two Red Cross pilots and an Australian nurse. Richardson's extraordinary diplomatic mission began by chance when he was participating in Pjonjang in the discussion on nuclear disarmament. At the same time, a U.S. helicopter was shot down over Korea. Richardson took it upon himself to see to the release of the pilots.

In 1993 this cosmopolitan liberal Democrat helped Clinton with negotiations on the North American Free Trade Agreement (NAFTA) and in efforts to achieve as balanced a budget as possible. In opposition to the Senate Foreign Relations Committee, he opposed the embargo on Havana after the Cubans shot down two unarmed American planes and Clinton approved the step for tactical reasons and extended it to other countries, to the great irritation of his European trading partners.

This Democrat who is also popular with the Republicans now has the task of explaining the U.N. operations to the Senate committee which must confirm his appointment. Although the U.S., as a founding member of the U.N., has always recognized the principles of U.N., now Richardson must continually preserve U.S. prerogatives. The Clinton Administration has always, on the one hand, advocated strengthening the U.N. through reform measures, but on the other hand, has certainly made it clear that for its own economic and security interests, it intends to rely on its own strengths and alliances.

In contrast to the rather aggressive behavior of his predecessor, Madeleine Albright, who has now been elevated to the position of Secretary of State, Richardson has shown himself to be a flexible negotiator, a clever diplomat and a reliable go-between.

PAYING TRIBUTE TO MR. WADE BRUNSMANN

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. COSTELLO. Mr. Speaker, I want to ask my colleagues to join me in paying tribute to Mr. Wade Brunsmann, who was selected by the East-West Gateway Coordinating Council in the St. Louis Metropolitan Region to receive their Achievement Award in 1996.

I have known Wade for many years, through our joint service on the St. Clair County Board. Wade is a dedicated public servant; he is a Navy veteran of World War II, and has served on the county board since 1954, except for an 8-year gap. He is also an outstanding family man, married and the father of four grown children and five grandchildren. He is the retired owner/operator of Brunsmann's Heating and Refrigeration Service.

Wade Brunsmann has been a leader in the St. Clair County region. He currently serves as chairman of the County Board's environmental committee, and has served as such for the past 7 years. He has been an aggressive leader on zoning, land use, and landfill issues for all citizens. He also serves as a volunteer with Belleville Area College's Programs and Services for Older Persons, is a member of St. Theresa's Catholic Church and is an active and outstanding member of the Democratic Party.

Of course, for all of these contributions and his overall dedication to serving the public, East-West Gateway awarded him with their Achievement Award. I fully agree, and ask my colleagues to join me in congratulating him on this fine recognition.

HONORING PIKESVILLE VOLUNTEER FIRE COMPANY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. CARDIN. Mr. Speaker, I rise today to honor the Pikesville Volunteer Fire Company on its 100th anniversary.

It all began on February 4, 1897 when a group of local citizens met for the first time to discuss the need for organized fire protection, they met at the Odd Fellow's Hall. During this meeting, the group nominated several names for the fire company, The Pikesville Volunteer Fire Company won the election by an overwhelming margin of 23 to 6. The following year, a fire hall was built and a community wide dedication celebrated its opening.

Known as the company of first, the Pikesville Volunteer Fire Company is a leader in volunteer fire protection. Its members are made up of both civilian and military personnel. In fact, each year, a memorial service honors members of the Fire Company who served their country as well as their community.

Today, their membership roll is over 150 (a third of whom are active service) which provides enough manpower to keep the Pikesville Volunteer Fire Company responsive to the thousands of calls each year from the community.

I hope my colleagues will join me in extending congratulations to the Pikesville Volunteer Fire Company in celebrating its 100-year history in Baltimore County, and in thanking these volunteers for contributing to the growth and safety of the Pikesville community.

FLORIDA DEPARTMENT OF HEALTH INAUGURATED

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to express my best wishes to Secretary James Howell, M.D. MPH, and Executive Administrator Annie R. Neasman, R.N., M.S., as they assume the leadership of the State of Florida's new Department of Health.

The Florida Legislature voted in 1996 to create the Florida Department of Health as a separate entity. The legislature charged the Secretary and staff with promoting and protecting the health and safety of all Florida residents and visitors in partnership with county governments.

On February 3, Secretary Howell and the Florida Department of Health staff in Dade County will gather at Miami Dade Community College Wolfson Center with their local partners to inaugurate the department.

I congratulate them on this day as they embark on their mission to make Florida healthier. I know that under the leadership of Secretary Howell and Administrator Neasman, their dedicated staff and their community partners will rise to the many challenges ahead.

PAYING TRIBUTE TO IRWIN ROSENBERG

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Irwin Rosenberg, who for the past 8 years has played Santa Claus at the Pacoima Community Youth Culture Center's Christmas party. I have not met many Santas named Rosenberg; then again, I have not met many people like Irwin. A successful businessman, Irwin somehow finds the time to remain active in many organizations and on behalf of numerous causes. Like few others, he is there for his community.

Irwin is irrepressible. Not only does he immerse himself in outside activities, more often than not he ends up in a leadership role. For example, he is the past president of the Granada Hills Little League; past president and past chairman of the Government Relations Committee, San Fernando Chamber of Commerce; commissioner of the Los Angeles County Private Industry Council; and senior vice-chairman of the board of directors of New Directions for Youth. There is hardly a sector of the San Fernando Valley that has not been the recipient of Irwin's time and efforts.

In honor of his many charitable and civic contributions, Irwin has been the recipient of numerous awards. In 1989, he was given the California Association of Physically Handicapped's Humanitarian of the Year Award; in 1990, he was named Kiwanian of the Year (San Fernando); 2 years later he received the J. Leo Flynn Citizen of the Year Award from the San Fernando Chamber of Commerce.

Of all his civic and professional duties, I know that nothing gives Irwin more pleasure than being Santa to many underprivileged kids every year at the PCYCC Christmas party. He is every bit as happy to see the kids as they are to see him.

I ask my colleagues to join me in saluting Irwin Rosenberg, whose tireless work in the community is a shining example to us all. I am proud to be his friend.

THANK YOU DR. MALEEHA LODHI

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. MARTINEZ. Mr. Speaker, I rise on behalf of my colleagues and myself to place in the RECORD a bipartisan statement of appreciation for the outgoing Ambassador of Pakistan, Dr. Maleeha Lodhi, who is returning home shortly after completion of her tenure as Ambassador to the United States of America.

Ambassador Lodhi worked with dedication and resolve to strengthen the traditional friendship between the United States and Pakistan, paving the way for greater cooperation between our two nations. Through her untiring efforts, significant progress has been made towards redefining United States-Pakistan relations in the post-cold-war period.

In our interaction with Ambassador Lodhi, we always found her to be a highly persuasive advocate of her country in a forthright and objective spirit. We admire her commitment to democracy, freedom, and human rights, qualities that created a common bond with us.

Both the United States and Pakistan have been served with distinction by Ambassador Lodhi and we wish her the very best for the future.

> Tim Johnson, U.S. Senate; David E. Bonior, Member of Congress; Tom Lantos, Member of Congress; Eni F.H. Faleomavaega, Member of Congress; Cynthia McKinney, Member of Congress; Peter A Defazio, Member of Congress; Thomas M. Davis, Member of Congress; Gerald B.H. Solomon, Member of Congress; Dan Burton, Member of Congress; Peter King, Member of Congress; James P. Moran, Member of Congress; Edolphus Towns, Member of Congress.

TRIBUTE TO TWO IMPORTANT AMERICAN PATHOLOGY ORGANIZATIONS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to two outstanding organizations, the College of American Pathologists [CAP] and the American Society of Clinical Pathology [ASCP]. This year, CAP will be celebrating its 50th Anniversary, and ASCP will be celebrating its 75th Anniversary.

Dr. Rob Mckenna, who is the President of ASCP, and Dr. Ray Zastrow, the current CAP President and a good friend, have led these organizations with the help of their many members through a long history of protecting patients by providing high quality laboratory and patient care. ASCP is the largest organization of pathologists and medical technologists in the world, and CAP is the largest organization of board-certified members in the world.

These organizations and the members who practice pathology and laboratory medicine provide a substantial contribution to medical science and patient care through accurate medical test results that enable physicians to make accurate diagnoses and recommend appropriate treatments.

CAP started as an outgrowth of ASCP and they have worked closely ever since. Their common bond has been a symbol to both patients and fellow professionals of their dedication to professional excellence.

Congratulations, CAP and ASCP, on your many years of committed service to the field of medicine.

"IMMIGRANTS ARE NEW YORK CITY'S GREATEST ASSET"

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. KING. Mr. Speaker, throughout his years as U.S. Congressman, mayor of the city of New York and as mayor for life of the city of New York, Ed Koch has secured for himself the title "The Voice of Reason." Mayor Koch has a unique capacity to find common sense solutions for the problems that plague our society. Even more importantly, he is not afraid to be controversial. He is a true New Yorker who knows how to get to the heart of the problem. This quality was most recently typified in his recent column entitled "Immigrants are New York City's Greatest Asset" which appeared in the New York Post on January 17. I commend this column to my colleagues because it touches so meaningfully on the issue of immigration which is being exploited and demagogued by too many politicians today.

IMMIGRANTS ARE NEW YORK CITY'S GREATEST ASSET

(By Ed Koch)

Ellis Island is holy ground: My parents landed there separately in the early 1890s. Before 1924, there were no limits on the number of people permitted to enter this country. If you survived the voyage in steerage and did not suffer from a contagious disease, you gained entry.

My parents and millions of others came here looking for a better life. They sought economic opportunity and freedom from anti-Semitism. They did not believe the streets were paved with gold. But, like millions of others, they did believe America would be free of the daily cursing they endured from their non-Jewish neighbors in Poland. And they believed America would offer them and their children a future denied them elsewhere.

Several years before my father's death, my sister and her son Jared sat down with him and taped some of his early memories. She asked, "Daddy, what did you do for fun in the winter?" He replied, "Mostly we went inside to get warm."

My mother's home in Poland was part of the Austro-Hungarian Empire. I recall asking her, when I was quite young, "Mama, why do you always refer to Kaiser Franz Joseph as the 'good Kaiser Franz Joseph?'" She replied "Sonny, because he didn't kill the Jews."

For years, I always wondered if she was right. After her death, I read that Kaiser Franz Joseph issued a decree that there was to be no Jew-bashing in his domain. Mama was always right.

I've visited Ellis Island a number of times, both before and after its renovation and designation as a federal museum. Like many others whose parents or grandparents came through the Great Hall, I was elated when given an opportunity by the new museum to mark my parents' passage with metal markers.

Now, when I go to the island, I visit those markers. I touch my lips with my finger-tips in a symbolic kiss and then touch my parents' names inscribed on the metal plates.

My parents, who were marvelous people with very few worldly goods and a very limited education, nevertheless made it, raising three children—my brother, Harold, the eldest; my sister, Pat, the youngest; and me—and becoming part of America's middle class.

My mother died at age 62, my father at age 87. Mother lingered in excruciating pain before her death, an experience that has made me believe in physician-assisted suicide. I will never forget her screams of unending pain as she pleaded with me, "Eddie, please let me die." And I, in tears, replied "Mother, you're getting well," when I knew that she was not.

My father, a gentle and beloved man with an enormous number of friends, died easily, quickly and painlessly. We thanked God for allowing him to pass over to the next world in such peace. We were not so appreciative of the painful passage of our mother.

I've always been bewildered by the Catholic acceptance of pain in the onset of death. If I understand the concept correctly, the pain of one dying individual is in some mystical way a great benefit for humanity and provides enormous good for others.

Two princes of the Catholic Church—Joseph Cardinal Bernardin, whom I met briefly and admired, and Terence Cardinal Cooke, with whom I had a warm friendship—both embraced death and pain.

My mother told me early on, "Ed, don't mix in someone else's religion." So I won't. While I do not fear death, having had a full life, I do ask God to allow me to pass over without pain when the time to go arrives.

Why am I dwelling on the lives of my parents? Because recently there has been a spate of stories on immigrants, particularly those who came to New York in the last 10 years.

The City Planning Commission issued a report entitled "Annual Immigrant Tape Files, 1990-94, U.S. Immigration and Naturalization Service Population Division." I won't list its many conclusions—all favorable—concerning the impact of legal immigrants on the City of New York. But these conclusions reinforce the need to fight the mean-spirited efforts by Congress to punish immigrants.

It isn't wrong to require sponsors of immigrants to fulfill their legal obligations to support those they brought here who otherwise would become public charges, as the new law mandates.

But it is wrong to deny legal immigrants who arrived before this law went into effect the SSI coverage and welfare benefits they'd been receiving. The new laws stripping legal immigrants of welfare inclusion should have been prospective and not retroactive.

Recently I read the comments of Massachusetts Gov. William Weld, a Boston Brahmin, on the value to our country of the immigrant: "I have long said that in the 1920's and 1930's the best Americans were Europeans, and principally European Jews who had reason to know what made this country special. In the 80's, the best Americans were Asians, for the same reason." I silently cheered.

According to the City Planning Commission report, legal immigrants are coming to the U.S. in even larger numbers, and increasing percentages of the total number of these immigrants hail from parts of the world that did not participate in large-scale immigration when my parents came here, including Africa, Asia and Latin America.

These immigrants, like their predecessors—my parents among them—add to the richness of this country. They give us the benefit of their intelligence, their labor and their children. In the words of Martha Stewart, "It's a good thing."

My father never learned to write anything besides his name in English, although he could read. He worked hard all of his life, generally holding two jobs to support his family. He retired from his small fur coat manufacturing business at 75, but, bored, he went to work for Bloomingdales' fur coat storage six months later.

When elegant ladies asked him to store their coats, he would ask them to write their name and address on a ticket. He would invariably look at the ticket and say, "I see by your address that my son is your congressman."

It made no difference if these women lived in Brooklyn or Jersey City. My father saw me as representing the entire United States.

We should acknowledge the enormous contributions of immigrants, embrace them and warmly welcome them. Immigrants are New York City's greatest asset, today and for the future.

Updating the philosophy of the good Kaiser Franz Joseph, "Let there be no immigrant-bashing in the U.S."

HONORING ROSALIE KUNTZ OF PASADENA, TX

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BENTSEN. Mr. Speaker, I rise to honor one of my constituents, Rosalie Kuntz of Pasadena, who is a civic leader in her community and a pioneer for women in the insurance industry. Mrs. Kuntz is active in a wide range of community activities and served as the first female president of the Texas Association of Life Underwriters. The following article from the January 8, 1997, Houston Chronicle describes her many accomplishments and honors:

HER JOY IS IN THE JOURNEY—ROSALIE KUNTZ REVERED BY PASADENA COMMUNITY

(By Pat Swanson)

Willingness and commitment have not only earned Rosalie Kuntz success, but respect in her profession and in the Pasadena community she calls home.

Kuntz is celebrating 41 years in the insurance business. And, at age 72, she continues to be heavily involved in civic activities for the Pasadena-area community.

Kuntz and her husband Gerald (Jerry), a retired surveyor for Shell Oil Co., have lived in Pasadena 48 years. The couple are owners of the Kuntz Insurance Agency. Their children, Rita, Linda and Kyle have given them eight grandchildren. The Kuntz' are long-time members of St. Pius V Catholic Church.

Scott Loomis, an insurance man who has known Rosalie Kuntz for 30 years, said, "Rosalie is one person who could handle herself in a man's world before it was fashionable. While some men were intimidated by Rosalie, others wanted her on a project because they knew she would do a good job."

Parker Williams, president of San Jacinto College South, said, "Rosalie is known by her actions. She is the type of person that doesn't demand respect, but people respect her. She is one smart cookie. She has a bright mind and a deep faith.

"Rosalie is the type of person who believes you can do anything you want to do if you want to do it badly enough. You know she is always there if you need her. She gives back to the community what she takes out."

Kuntz was the first female president in the 59 year history of the Texas Association of Life Underwriters that has a membership of 8,300.

She served in that capacity for the 1984–1985 term. During that term, Kuntz received national honors at the National Life Underwriters Conventions for Public Service and Membership achievements for the State of Texas and Pasadena Association of Life Underwriters.

Prior to her presidency in the organization, Kuntz served as T.A.L.U. Vice-Chairman of Public Service and Public Service Chairman.

She is a life member of the Texas Leaders Round Table and a charter member of its Lone Star Leaders. Kuntz has served in all offices of the Pasadena Association of Life Underwriters, including president.

One of Kuntz's most memorable experiences was in 1983. As past president of Women Life Underwriters Conference, Kuntz was one of 50 women invited to be a luncheon guest of President Reagan in the White House.

Kuntz was born in Houston. After she and Jerry moved to Pasadena in 1948, Rosalie assumed the position of assistant manager at the Pasadena Bowling Center working for Charles (Monty) Manoshagen.

"Monty left the bowling center to go into the insurance business, and was also responsible for getting me into it. He and his wife came over to the house one night in 1956 with a bunch of books. He threw the books on the coffee table and said, 'Rosalie, you're going into the insurance business.' I told him I didn't know a thing about insurance. He said, 'I'll teach you.' And, he did. I will finish my 41st year in the business today, Jan. 8, 1997," Kuntz said.

"When I went into the business, there weren't many women in the insurance business. It was very difficult at first because women were not accepted in the insurance field, just like the real estate business.

"Now, women are building up in the real estate business and also in the insurance business," Kuntz said.

"I had some good friends and good teachers to teach me the business, and I went on from there. One doesn't do anything by themselves. They always have someone that will help them.

"I was very fortunate in having Mr. Manoshagen to be around to help me along. He kept up with me as long as he lived. (He died about four or five years ago.) He would always call me each year and say, 'What is your goal for next year?' And every goal I told him I had set, I made throughout the years.

"It is a great profession for women. And, it is the greatest career anyone could ever get into, any type of insurance business really, but specifically life and health," Kuntz said.

Jerry and Rosalie's secretary, Jannie Pugh, get much of the credit from Kuntz.

"Jerry helps me an awful lot. So does my secretary, Jannie, who has been with me almost 20 years. She is just like a member of the family. They are behind the scenes, but they sure do help a lot," said Kuntz.

"We have worked together so long, we are more like friends," said Pugh.

For her services to the community, Kuntz was chosen Pasadena Citizen of the Year in 1968. She was elected to the Pasadena Hall of Fame in 1988 for the same reason.

According to Stella Walters, owner of Bruco, Inc., "Rosalie and I have been involved with a lot of the same organizations for 30 years. We also are good personal friends. We have worked together on everything, including the Pasadena Chamber of Commerce, Optimists, Red Cross, YMCA, American Heart Association, to name a few.

"She has more energy in her, for her age, than anyone else I know. She and Jerry have been married 48 years. She is a good mother. I doubt there is anyone in business in Pasadena who does not know her. She is just amazing."

As a member of the San Jacinto Day Foundation, Kuntz chaired the first Strawberry Festival in Pasadena in 1974. She served as an advisory board member in 1986.

She was presented the 1992 Lone Star Award for volunteer service in the community. She was a director of the South Houston Chamber of Commerce from 1978 until 1980.

Kuntz has been Director and Membership Chairman of the Deer Park Chamber of Commerce since 1991 and is the immediate past president of the organization.

Kuntz was the first woman to be elected president of the Pasadena Chamber of Commerce, and currently serves as a member of the organization's Cultural Affairs, Voice of the Chamber and Governmental Affairs Committees.

She also was chairman of the Pasadena Chamber's New Member Orientation Committee during the 1990–1991 and 1992–1993 years.

From 1968 to 1996, Kuntz has been a director of the American Heart Association, Pasadena Unit. She served as chairman of the Heart Business Drive for 12 years, and was chosen Volunteer of the Year in 1987, with a grant named in her honor.

She was appointed to serve on the Advisory Board of the Battleship Texas from 1983 to 1989, by Texas Governor Mark White.

Kuntz is past president of the Soroptimist International of Pasadena, and has served on the advisory board of The Rose, a Texas-based, non-profit organization dedicated to breast cancer screening since 1987. She also has served as a member of the Rehabilitation Foundation since 1984.

Additionally, Kuntz has been a director of the former Barbour's Cut Seaman's Center since 1991. The facility is now the Lou Lawler Seaman's Center.

She is past director of the Texas Society of the Prevention of Blindness; the recipient of the 1975 Distinguished Service Award from the Pasadena Jaycees; 1969 chairman of the Pasadena Drug Abuse Committee; vice-chairman of the Committee for the National Olympic Girls Volleyball Team and past vice-chairman and member of the Pasadena City Beautification Commission.

As a longtime member of St. Pius V Catholic Church, Kuntz is a past secretary of the Diocese of Galveston-Houston Board of Education; the St. Pius Finance Committee and past member of the St. Pius V Church Parish Council.

For 25 years, Kuntz also served as a volunteer coach for the St. Pius V Catholic girls softball and volleyball teams.

According to Bud Osborne, former owner of Osborne-Apple Ford, "Rosalie is a vibrant get-up-and-go person. She always bought cars from us and insures our whole family. We like to kid her and tell her we sent all her kids to college. She comes by at least once a month to talk to us. She is just a wonderful person. We think a lot of Jerry, too."

"Rosalie is my dear friend," Nina Osborne said. "When she was inducted as president of the Deer Park Chamber of Commerce, she arranged to have us seated with her family. She is just like family to us, too."

Billie Fife, former Civil Defense Director for the City of Pasadena and administrative assistant to past Pasadena Mayor Clyde Doyle, said of her friend, "Her interest in you continues long after you take out a policy. There is no monetary reward.

"She is just there for her clients. She is there for your needs no matter when she last saw you—a couple of days ago or 15 years ago. She is just like that little rabbit with the battery. I believe her joy is in the journey. She will never retire."

CELEBRATING THE 100TH ANNIVERSARY OF THE BELLEVIEW

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. YOUNG of Florida. Mr. Speaker, one of the great privileges of serving from the 10th Congressional District of Florida is to represent one of our Nation's landmark hotels, the Belleview of Belleair, FL, which celebrates its 100th anniversary later this month. Not only is it world renowned as a tourist destination, but it is listed on our National Registry of Historic Places.

Henry B. Plant, the railroad magnate who became known as one of Florida's greatest developers, opened the doors to his elegant hotel named the Belleview on January 15, 1897. Built on a bluff that overlooks Clearwater Harbor, the original 145-room hotel quickly became recognized as a favored winter retreat.

Later, as golf courses and swimming pools were added, the hotel became uniquely modern for its time. In addition to serving its guests, the hotel was also the location for the Belleair post office and fire station. While the hotel ownership changed and the railroad cars left the siding, the importance of the Belleview to the area did not wane. In fact, during World War II, the hotel was leased to the U.S. Army Air Corps to serve as the auxiliary barracks for MacDill and Drew Fields in Tampa.

Several years later, the hotel, now with more than 500 rooms, reopened as a resort and began a new chapter that led to its being qualified for a listing in the National Register of Historic Places on March 7, 1980. I was privileged to have been a part of that program, and it is a special honor for me to be able to salute the Belleview Hotel—now the Belleview Mido—on this its 100th anniversary.

The Belleview has always been known for its hospitality and its graciousness. It has hosted countless numbers of dignitaries, conventioneers, and others who wish to enjoy its golf course, its pools and sunshine, its cuisine, and its spa and fitness center. Today its guests are no less important than those who were greeted by Henry B. Plant, and as we look to the new year and the 21st century, I congratulate the Belleview Mido on its 100th anniversary and I thank the management and staff for their work in preserving this magnificent structure, its history, and contributions to the Town of Belleair and to Pinellas County.

A TRIBUTE TO THE SAGINAW NEWS

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. CAMP. Mr. Speaker, I rise today to call my colleagues' attention to an editorial in the Saginaw News. To open the New Year, the editors published a set of principles. These principles remind us that our local communities are the wellspring of America's greatness, and an endless source of inspiration for our national leaders.

Put forth in these principles are many of the driving forces behind the work we do in Congress and the vision we share for our country: lower taxes, a smaller government, and economic opportunity for all Americans. I believe these principles serve as goalposts for the 105th Congress as well. I urge my colleagues to read the News' basic principles as we begin work in the new Congress.

Mr. Speaker, at this time I would like to submit the editorial from the January 1, 1997 edition of the Saginaw News:

ISSUES AND OPINIONS: OUR BASIC PRINCIPLES

The principles a newspaper holds may often be obscured by the rush of day-to-day events. But we think it's important for readers to know that our views of those issues are guided by a set of fundamental beliefs.

That's why The Saginaw News each year publishes a statement of the principles on which it intends to base editorial-page comments over the days and months to come.

Each matter on which we express our opinion is reviewed and judged on its own merits. As circumstances change, they may prompt a fresh look at our own ideas.

But the constant process of review and judgment that leads to editorial opinion rests on a firm foundation. Some issues are transitory; others, more fundamental to our lives and our society, bear repeated attention.

While the thoughts here are general expressions of ideas and ideals, they help determine our approach to the people, events and proposals that shape our life.

Our basic goal is to speak in which we perceive to be the best interests of our readers.

Editorials, while based on reporting and analysis of news events and developments, express a viewpoint. So we expect disagreement. If we stimulate independent thought and discussion, we believe we have achieved one of our major purposes whether or not our words have been persuasive.

But we believe we have an obligation to seek to persuade. A newspaper has a responsibility to its community to be, as best it can, not only its voice to the world, but its interpreter of that world; to be its advocate and defender, and sometimes its critic and counselor, always toward the benefit of its citizens.

We acknowledge that is a very large responsibility indeed. We welcome any and all suggestions from our readers on how we can better fulfill it. We don't seek to act in place of public opinion, but to give the public an opportunity to expand on its own beliefs.

That cannot happen, though, without mutual understanding.

We hope this statement of the principles of The Saginaw News will further that understanding.

LOCAL ISSUES

On Saginaw-area issues. The News supports:

Efficiently providing the best public service at the lowest possible cost to the taxpayers.

High-quality representation for all segments of each community.

Progressive, professional management at county, city and township levels.

Planning for development of human and physical resources in awareness of the constant challenge for fresh approaches.

A strong central urban area serving the entire community.

Maximum cooperation among all governments, with consolidation of municipal services to the greatest possible extent.

Recognition that racial and ethnic diversity is a strength on which to build toward the common goals that unite us.

Strong human-relations efforts to assure dignity and equal opportunity for all.

Care for our streets and homes, because a community can be no better than its neighborhoods.

School systems that provide a comprehensive education.

Strong academic and behavioral standards for students; quality instruction and administration; and equitable public financial support adequate to achieve those goals.

The free-enterprise profit system as that which most fully ensures economic liberty and a high standard of economic life to business, industry and employees.

Expansion of job opportunities, and diversification of the economic base, in recognition of the serious challenges of constantly changing times.

Workplace policies respecting the rights of employees, management—and the public.

STATE ISSUES

On state issues, The News supports:

A fair system of taxation to maintain efficient, quality state services at the lowest possible cost.

Achievement of an economic climate conducive to retaining existing industry and diversifying Michigan's economic base.

Preservation of Michigan's natural beauty and resources while balancing the legitimate needs of the state's agriculture, other economic institutions and population.

Recognition that the auto industry remains the region's and state's economic mainstay.

Swift and fair administration of justice. Respect for the law by citizens—and of citizens by the law and those sworn to enforce it.

Political leadership, at the state level and in our representation at the national level, that responds to the needs of the state and its people.

NATIONAL ISSUES

On national issues, The News supports:

A limited government under which political power rests in the wisdom of the governed, and the rights of the people to control their own destinies, through their representatives.

Strong defense of the Bill of Rights as the unique section of a unique Constitution on which rests preservation of our most fundamental individual liberties.

A decent respect for the financial resources of our citizens, expressed through restraint in taxation and spending.

Policies encouraging the opportunity to seek and find employment for all who desire it.

A strong, efficient defense, essential amid a changing world's twists and turns.

Safeguarding the national environment consistent with economic stability and growth.

Maintaining the strength of political parties as American institutions best able to build citizen interest and involvement in government, and to develop responsible leadership.

INTERNATIONAL ISSUES

On international issues, The News supports:

A foreign policy that stresses the desire of the United States to live in harmony with all nations; that recognizes the right of all peoples to peaceful self-determination; that encourages the continued expansion of freedom in all nations; that advocates nonviolent resolution of disputes; that recognizes that remaining threats to our freedom, and others', require strong alliances to deter aggression even as we welcome the reduction of the danger of war.

Free and fair trade as the interdependent economies of the world evolve in new directions.

The right of all people to achieve and maintain a decent standard of living, to develop and prosper.

PERSONAL LIFE

Finally, The Saginaw News believes there is more to the quality of life than our personal relationships, jobs and leisure activities. The News believes in encouraging people to look beyond themselves. We believe that life becomes more satisfying and meaningful when we care about all our neighbors and the community of which we all are a part.

IN HONOR OF THE CONCORD HIGH SCHOOL CRIMSON TIDE MARCHING BAND

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BASS. Mr. Speaker, I rise today to pay tribute to the Crimson Tide Marching Band of Concord High School in Concord, NH. The talents of this 120-piece band, under the direction of Bill Metevier, were recognized by the Presidential Inaugural Committee, leading to an invitation to perform in the Inaugural Parade in our Nation's capital on January 20, 1997.

Concord High School has one of the best marching bands in all of New England. These young musicians earned the wonderful opportunity to perform in front of the President and the First Lady, as well as the entire Nation watching on television.

The city of Concord embraced the Crimson Tide Marching Band, as individuals and local companies raised over $20,000 to help pay for the band's trip to Washington, DC. The Concord Schools Friends of Music deserve much credit for leading the fundraising effort to allow these students to enjoy an opportunity that will be remembered for a lifetime.

I know that the parents and families, the teachers, students and staff of the Concord School District, and the entire state of New Hampshire are exceedingly proud of the accomplishments of the Crimson Tide Marching Band.

Mr. Speaker, I ask all of my colleagues to join me in congratulating the musicians of the Concord High School Crimson Tide Marching Band for participating in a memorable and historic occasion, the 1997 Presidential Inaugural Parade.

RECOGNIZING THE GENEROSITY OF ALLEN LEEPA

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BILIRAKIS. Mr. Speaker, I rise today to recognize the extraordinary generosity of two wonderful people who live in my Ninth Congressional District in Florida. Allen Leepa and his wife Isabelle have donated a $2.15 million endowment and a multimillion dollar art collection to be housed in a new museum at the Tarpon Springs campus of the St. Petersburg Junior College in Tarpon Springs, FL.

Mr. Leepa has said that "art is a vehicle to promote education," and his gift will certainly benefit not only the students and faculty of the college, but the residents of Florida's suncoast as well.

The college will be building the Leepa/Rattner Museum of Fine Arts, which is to honor Mr. Leepa and his late stepfather, Abraham Rattner. The museum will house 150 works by Mr. Leepa, an abstract artist, and 20th century modernists including Georges Rouault, Hans Hoffman and Henry Moore. Two works by Pablo Picasso will also be included.

A resident of my birthplace in Tarpon Springs for 14 years, Dr. Leepa studied art in Chicago, New York, and Paris at the Sarbonne. He has taught at several fine universities around the country, and he has published three books about modern art.

Mr. Speaker, art means different things to different people. However, it does serve as an outlet for the creative side of all of us. Throughout history, the expressions of talented artists have contributed to a greater understanding of our society and of ourselves.

As a result of Dr. Leepa's generosity and kindheartedness, Floridians will be able to enjoy the finest in art right in the heart of Florida's suncoast. I ask my colleagues to join me in thanking Dr. Leepa and wishing the Leepa/Rattner Museum all of the best in the future.

CONGRATULATIONS TO SAN FERNANDO HIGH SCHOOL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to San Fernando High School, which this year is celebrating its 100th anniversary. I know of few high schools in southern California with such a long and rich history.

One way to judge a school is by its alumni. Using that criterion, San Fernando High School receives high marks. For example, Hawley Bowlus, the man who supervised the construction of the Spirit of St. Louis, Charles Lindbergh's plane, was a graduate of San Fernando High. Another alumnus, Denny Crum, is today one of the top college basketball coaches in the country. A third, Jimmy Velarde, is a four-time Emmy winner and producer of shows such as "Culture Clash."

The school has also had its share of sports glory. Two of the greatest running backs in USC history, Anthony Davis and Charles White, attended San Fernando High. Fifty years earlier, in 1925, San Fernando produced its first championship football team. Other sports fared well; the school has produced champions in baseball, track, and basketball.

San Fernando High School today has many reasons to be proud. The school commonly graduates 675 seniors out of a class of 700, and is virtually free of the crime, drugs, and gangs that unfortunately plague many urban high schools. I have attended several events at the school, and have always admired the spirit of its students and the commitment of its faculty and staff.

I ask my colleagues to join me in saluting San Fernando High School, an excellent institution with a proud history. Congratulations to all on this special anniversary.

TRIBUTE TO REV. JOSEPH M. ROLLINS, JR.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Rev. Joseph M. Rollins, Jr., who was honored on January 18 for his long and fruitful career as a community activist and pastor of Saint Augustine Presbyterian Church, at 838 East 165th Street in my congressional district, the South Bronx.

Reverend Rollins, a third generation Presbyterian minister, will be retiring as pastor of the church at the end of this year after 24 years of service. The tribute in his honor, entitled "This Is Your Life", highlighted his tireless work in the fight for civil rights and his dedication to the service of his fellowship and community.

Reverend Rollins was born in Newport News, VA, in 1926. He is the great grandson of a former slave, Mrs. Clements, who gained her freedom at the age of 11. Reverend Rollins holds a degree from Johnson C. Smith University, in Charlotte, NC, an institution which was formerly associated to the Presbyterian Church. In 1954, Reverend Rollins organized the Trinity Presbyterian Church in Tallahassee, FL.

A man of tremendous faith, he was among the first who believed in peaceful dissent as a catalyst of equal rights for all people regardless of color. In 1955, he was involved in the organization of the first bus boycott in Tallahassee, right after the arrest of three students from Florida A & M University. Reverend Rollins was among those who marched with Martin Luther King, Jr., during the civil rights movement.

In 1963, he came to New York City and served as associate executive for the Commission on Religion and Race for the Presbyterian Church. In 1968, he became the executive of the National Committee of Black Churchman, an ecumenical movement.

He was also a member of the National Presbyterian Black Caucus, and served in many community organizations, including Community Board #3, the South Bronx Leadership Forum, and 163 Improvement Council, all three in the Bronx.

Reverend Rollins has received two honorary degrees from University of Dubuque, IA and Inter-Denominational Theological Center in Atlanta, GA. He is the widower of Julia Rollins, with whom he had two children, Cecilia and Metz Rollins, and is the grandfather of three.

Mr. Speaker, I ask my colleagues to join me in recognizing Rev. Joseph M. Rollins, Jr. for his lifelong commitment to his ministry and for his community activism, which has so well served all of us countrymen.

HONORING THE "LOVE YOUR NEIGHBOR" CAMPAIGN

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mrs. MEEK of Florida. Mr. Speaker, I rise today to offer my congratulations and support for the "Love Your Neighbor" campaign that is sweeping south Florida.

The "Love Your Neighbor" campaign is dedicated to promoting the use and spirit of the phrase "Love Your Neighbor" in oral and written communications to make Miami and the world a better place; work toward reducing stress and improving our mental health; reduce suffering, violence, and crime by becoming considerate, respectful, and caring toward one another; and identify south Florida as a community that cares for all people regardless of race, ethnicity, religion, or social status.

Three years ago, Metropolitan Dade County embraced the "Love Your Neighbor" campaign. Since that time, over 750,000 "Love Your Neighbor" bumperstickers have been distributed, including 16,000 purchased by the Metro-Dade police department and 250,000 distributed by Dade County Public Schools. The Miami-Dade Public Libraries distribute "Love Your Neighbor" bookmarks, the phrase appears on the side of many Metro-Dade Transit buses, and a billboard flashes the sign at Miami International Airport.

The newly-elected mayor of Metropolitan Dade County, Alex Penelas, has endorsed a week of activities for February 9–15, 1997, and Governor Chiles has already proclaimed that week as "Love Your Neighbor" week in south Florida. Even Kenny Rogers Roasters has become involved in the campaign, carrying the message in all of their franchises. Other corporations have donated space on 600 billboards, and are involved in producing a music video and a public service announcement to be aired on local television.

"Love Your Neighbor" was started by Jim Ward, Dade County's Human Resources director. Mr. Ward is an ex-police officer, having protected and served the people of Jacksonville, FL for 17 years. He moved to south Florida 17 years ago, to Miami's great benefit. For the last 3 years he has worked tirelessly to promote the "Love Your Neighbor" campaign, watching it grow from one man's idealistic dream to the massive campaign it has become, spreading throughout south Florida and even as far as Macon, GA.

Mr. Speaker, Dade County and the city of Miami owe a great debt of gratitude to Jim Ward for the "Love Your Neighbor" campaign. I wish him every success in spreading his message throughout our community and our country.

CONGRATULATING THE CITY OF ELGIN, IL

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. HASTERT. Mr. Speaker, I rise today for two reasons. First, to congratulate Money Magazine on its 25th anniversary, but also to commend the magazine for adopting the city of Elgin, IL and beginning a year-long project to enhance the personal-finance knowledge of the city's residents.

Mr. Speaker, the city of Elgin, in my 14th District of Illinois, was chosen for this project because it is truly a microcosm of our Nation. A city with an industrial heritage that has seen a surge in suburban growth in recent years, Elgin is also home to several of the Nation's largest firms which have experienced strong export sales growth.

In the coming year, Money Magazine, in conjunction with Elgin Community College, will provide free financial seminars for Elgin residents. In addition, a dozen Elgin families will be highlighted in a series of articles dealing with family financial concerns and innovative ways of addressing those concerns. The project kicks off on January 29, 1997 with a ceremony at Elgin High School, to be attended by former President and Mrs. George Bush.

It is significant to note that while Money Magazine could have celebrated its 25th anniversary quietly, and without fanfare, the publisher and editors of the magazine have instead decided to mark this occasion by assisting this community and its residents with their financial planning. This action deserves our commendation and our thanks.

Mr. Speaker, I also congratulate the city of Elgin, its citizens, and civic and business leaders, on its selection for this worthy project. Elgin is an outstanding community, and one I am proud to represent in this House.

LOOKING TO THE WESTERN HEMISPHERE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. GALLEGLY. Mr. Speaker, today, I officially became the chairman of the Subcommittee on Western Hemisphere of the International Relations Committee. I am looking forward to working with my colleagues, both Republican and Democrat, on the subcommittee as we begin a very exciting and challenging period in which we will review our relations with our partners in the hemisphere.

The end of the cold war and the movement toward democracy and economic reform in Russia and central Europe held great promise that the world would enter a period free of superpower rivalry, a lowering of the nuclear threat, and an all-around feeling that peace and political stability would prevail throughout the world.

Despite the expectations that evolutionary changes in Europe would serve as a model for a greater global commitment to open societies, the promotion of democracy, and the development of strong economies and markets, the international environment remains as complex and as dangerous as ever.

United States foreign policy continues to face complex and ever changing challenges from Bosnia to China, from terrorism to the stability of the global economy, from Palestine to Northern Ireland.

But while U.S. policymakers within the administration and the Congress struggle to resolve the most difficult and dangerous of these issues, we are ignoring one of the most dramatic success stories of the post-cold war period. And the irony of it all, is that this transition is taking place right in our own backyard of the Western Hemisphere.

The evolution of the nations of Latin America to democratic governments, market economies, and open societies has been perhaps the most overlooked event since the fall of the Berlin Wall.

Despite the direct impact events in Latin America have on the United States in terms of trade, narcotics trafficking, and immigration, U.S. policymakers, including the Congress, have often, although not entirely, turned an uninterested eye south of our borders and have failed to take advantage of the enormous potential for peace, political stability, and economic opportunity these changes are bringing about.

The resolution of the crisis in Haiti, the recent peaceful elections in Nicaragua, and the signing of the peace accords in Guatemala, ending 35 years of confrontation, clearly argues that the transition to peace, cooperation, and the democratization of the entire hemisphere, although sometimes rocky, is in its final stages. The economic miracles taking place in Argentina, Brazil, and Chile are a credit to the genuine commitment of those governments and peoples to take their place as regional role models.

Unfortunately, these stories are going largely unnoticed and unappreciated in the United States.

Latin America is a success story which the United States should be celebrating by pursuing a more engaged foreign policy designed to support the peace process, promote continued political stability, renew old friendships, cultivate new ones, and lend strong support to regional economic development and free market economies.

Like many, though, I fear that the momentum achieved thus far by the nations of Latin America could be stalled unless the United States reenergizes its efforts to provide strong leadership throughout the region. Confronting no major conflict or problem in the region, U.S. policy seems to lack clarity or coherence which could lead to a further decline in our ability to influence events in the region.

There can be no doubt that economic growth in the region is the key to strengthening democracy, ensuring long-term political stability, and reducing poverty. The 1994 Summit of the Americas held great promise for the critical areas of trade and economic development. The momentum created there must be renewed and sustained.

But leadership requires a better knowledge and understanding of the nations of the hemisphere and the great strides made thus far. U.S. policy must look forward and should be based, not on what has happened in the past, but what can happen in the future if we work with the nations of the hemisphere in a cooperative partnership to strengthen democracy, implement economic development policies, encourage free trade, and to make a renewed commitment to civilian authority, human rights, and social justice.

This is not to say that all is well in the hemisphere. Lingering problems associated with drugs, illegal immigration, political corruption, arms competition, and the strength of the peso, temper the euphoria of the success story. Beyond those endemic problems, which must be addressed primarily by the nations of Latin America themselves, nagging questions arise regarding the future of the new democracies, NAFTA, fast track, and Cuba. Also, to a lesser, but nevertheless important degree to many in the United States are issues regarding intellectual property, patent, and copyright violations, the environment and labor standards which must be addressed.

The foreign policy agenda for the Western Hemisphere is large and laden with both promise and problems. And while these issues may not seem as important as issues facing this Nation elsewhere, I believe we would be making a tremendous mistake if we did not take advantage of the positive signs and events emerging from the hemisphere by actively engaging our neighbors to the south in a renewed partnership for peace, stability, and economic development.

This will be the thrust of the subcommittee's work and I look forward to getting on with the job.

TRIBUTE TO KENT SWANSON, JR.

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. EHRLICH. Mr. Speaker, today I rise to pay tribute to a heroic young man whose life ended tragically and prematurely, Kent Swanson, Jr.

Kent Swanson was raised in Phoenix, MD, where his parents still live, and graduated in 1989 from Dulaney High School in Cockeysville. He attended Lewis and Clark College in Portland, OR, receiving a degree in biology in 1995.

Kent had a lifelong love of the outdoors. Upon graduating from high school, Kent travelled to the Andes, where he climbed his first 20,000 foot mountain. His experiences in the majestic Pacific Northwest, however, defined the course of his life.

While in college, Kent joined the Portland Mountain Rescue Squad. This enabled him to use his love of the mountains to help others. He used his skills, his good judgement, and his intimate knowledge of the often treacherous mountain terrain to rescue skiers and climbers lost or stranded in the mountains.

On one occasion, Kent and his team braved freezing rain to reach three stranded colleagues. Such acts of heroism became routine in Kent's life. While a member of the ski patrol of Mammoth Mountain, a popular resort near Los Angeles that handles 15,000 skiers a day, he personally treated or rescued an estimated 3,000 injured skiers during one season.

Kent was known for his expertise as a mountain climber as well as for his bravery. He spent his summers working at the American Alpine Institute in California, where he developed a guide and instruction manual for the 14,494-foot Mount Whitney. "He had all the qualities that go into making a great teacher and guide," one of his supervisors said. "His clients liked him because of his teaching skills and his wonderful companionship."

On January 11, Kent Swanson, Jr. died in a helicopter crash in British Columbia. Typically, Kent was en route to an avalanche rescue class. This young man died as he lived—a hero.

He leaves behind his parents, Kent Sr. and Tricia Swanson; his maternal grandfather, Robert A. Bishton; and host of aunts, uncles, and cousins. He also leaves behind a lot of people who might not be alive today without his heroic efforts. My sympathy goes out to the Swanson family during this sad time. As they mourn his death, I hope they will take pride in his life.

TRIBUTE TO ARTHUR H. BILGER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in recognizing Arthur H. Bilger for his great contributions to the nonprofit House of Justice of Bet Tzedek Legal Services of Los Angeles.

Bet Tzedek Legal Services is one of the leading poverty law centers in the country. Thousands of indigent, elderly, and disabled individuals benefit each year from the free legal services provided at Bet Tzedek's headquarters in the Fairfax District of Los Angeles, the Valley Rights project in North Hollywood, and the 32 senior centers throughout the Los Angeles area. Bet Tzedek is open to all who pass through its doors and even makes house calls to the ill and frail. Its services are vital and they are not otherwise readily available to those who need them.

Arthur H. Bilger has been a constant believer in Bet Tzedek's mission to be a place of refuge and assistance to Los Angeles' most needy residents. As one of the most dedicated and successful fundraisers for Bet Tzedek, his efforts have allowed this generous organization to continue to operate at full capacity while maintaining its promise of services at no cost to its clientele. We owe Arthur H. Bilger a debt of gratitude for his vision, his devotion, and his support of this most worthy cause.

I am delighted to bring Mr. Bilger's tireless and selfless work on behalf of Bet Tzedek Legal Services to the attention of my colleagues and ask you to join me saluting him for his many important contributions.

VISCLOSKY HONORS RESIDENTS OF NORTHWEST INDIANA ON MARTIN LUTHER KING DAY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. VISCLOSKY. Mr. Speaker, as we celebrate the birth of Dr. Martin Luther King, Jr. today, and we reflect on his life and work, we are reminded of the challenges that democracy poses to us and the delicacy of liberty. Dr. King's life, and unfortunately his vicious murder, remind us that we must continually work and, if necessary, fight, to secure and protect our freedoms. Dr. King, in his courage to act, his willingness to meet challenges, and his ability to achieve, embodied all that is good and true in that battle for liberty.

The spirit of Dr. King lives on in many of the citizens in communities throughout our Nation. It lives on in the people whose actions reflect the spirt of resolve and achievement that will help move our county into the future. In particular, I would like to recognize several distinguished individuals from Indiana's First Congressional District, who, in the past year and in their own ways have, have acted with courage, met challenges, and used their abilities to reach goals and enhance their communities.

Mr. Jack Parton, director of the United Steelworkers of America, District 7, Mr. Eric Mason and Mr. Michael Krueger, both graduates of Portage High School, led a prodiversity rally in Portage, IN, last May to peacefully, but forcefully, counter a march by the Ku Klux Klan. Their efforts sent a strong and clear message to members of the KKK, as well as members of our communities and citizens throughout the country, that ethnic, racial, and religious hatred will not be tolerated. The counter-rally that they developed and carried out was an overwhelming success. It generated enormous support from religious, labor, business, and civic groups throughout the region. The courage of these men should be held up as an example to all that, through thoughtful, united action, the values of human rights that we all cherish can—and must—be maintained, even in the face of ignorance and hatred.

I would also like to recognize Janee Bryant, Brandon Crayton, Brandie Frifth, LaKisha Girder, Damara Hamlin, Markika Harris, Rasheedah Jackson, Leah Johnson, Jacleen Joiner, Ayashia Muhammad, Clinton Pearson, Kala Simmons, Sheria Smith, David Suggs, DeKeyur Summer, Jennifer Thompson, Stephanie Thompson, Courtney Williams, and Joey Willis.

These outstanding individuals are the members of the Tolleston Junior High School team, which won the Indiana State Bowl Championship in spelling. This wonderful accomplishment is a reflection of their hard work and dedication to study. Their scholastic effort and rigorous approach to learning have made them the best in the State. They have brought pride to themselves, their families, their school, and their communities. Their success is also a credit to the outstanding ability and leadership of their teacher-coaches, Mrs. Margaret Hymes, Mrs. Paula Thompson, Mrs. Sandra V. Alfred, Ms. Dionne Moore, Mrs. Janice L. Williams, and Mrs. Juanita Vincent. The Tolleston students, who won the State Bowl Championship in spelling, as well as their gifted teachers, deserve recognition as true role models in our State.

Though very different in nature, the achievement of all of these individuals reflects many of the same attributes that Dr. King possessed and the values he espoused. Like Dr. King, these individuals saw challenges and rose to the occasion. They had goals and worked to achieve them. Mr. Speaker, I urge you and my other colleagues to join me in commending their initiative, resolve, and dedication.

TRIBUTE TO THE VOLUNTEERS OF TABERNACLE TOWNSHIP

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to the residents of Tabernacle Township, NJ at the time of their second annual Tabernacle Volunteer Appreciation Dinner. It would be difficult to name, in the context of this extension of remarks, all those worthwhile organizations whose members are being honored. That one community supports such a myriad of organizations, which run the gamut from religious, civic, athletic, public safety, educational, community support, and political groups, is testament to its citizens.

On February 2, 1997, special recognition will be given to the Tabernacle Township PTA, Inc. at the time of its 75th anniversary. This association of parents and educators has been active in local schools since 1921. Through its provision of books, school equipment, scholarships, family activities, afterschool child care, and summer recreation programs, this organization has proven its worth for three-quarters of a century—quite an achievement.

I extend my congratulations to the PTA's members, past and present, as well as to the many selfless volunteers who will be honored for their commitment to their community.

They deserve our praise and thanks.

HOMELESS IN THE HEART

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. CAPPS. Mr. Speaker, I want to bring to my colleagues' attention an essay written by a constituent of mine that illustrates the best of the human spirit. Torin Rea, his mother, and his younger brother found themselves homeless and living in a shelter in my hometown of Santa Barbara when he was in his teens. But instead of giving up, he and his family worked hard to make a better life for themselves.

Torin's eloquent and moving essay details his struggle of dealing with the horrible toll homelessness can take on a family. But more importantly, he describes how, faced with adversity, a family can pull together and overcome even the toughest times, becoming even closer in the process.

When the word homeless is mentioned, one quickly pictures a poor soul huddled in a box, eating the few scraps of food they can find. Or a person too mentally imbalanced to lead a productive life in society, wandering down the street babbling in words only he or she can understand. In Jo Goodwin Parker's short story, "What is Poverty?", Parker tells her graphic and incisive experience with homelessness. She accounts the times when she had nothing to eat for herself, only her children. The hard nights on the street with the cold biting at her side, with no ability to warm herself, she curls up with her children in a cardboard box. The painful feeling of not being able to feed her children runs deep into the heart. This mother had no means of supporting herself or her children, but she valiantly continues to mother them in the best way she can. This woman felt so much humility and shame throughout her life, it is amazing she has any courage or strength left at all. Although her account was sad and full of despair, not all stories of homelessness are as shocking. Many families live in the same predicament with shelter. I have been a homeless child who lived in a community shelter. I too have shared the same fear and sadness, the shame of society, and the gained strength of independence from surviving the loss of my home.

My social status throughout my life has never been one of wealth, but far from poverty. My family lived in a beautiful country cottage for twelve years, while raising two boys and launching a prosperous business. We lived the American lifestyle. There was always dinner on the table, and presents under the tree at Christmas. Our needs and wants were always met.

When I was twelve my parents began suffering serious marital distress. Unable to resolve the issues that can sometimes never be resolved, my mother told my father to leave. With no other suitable and stable means of income my mother, brother, and I began to have financial problems. Unable to pay the rent, our landlord promptly served us with an eviction notice. Within thirty days we had nowhere to go, and nobody to turn to; reluctantly my abridged family moved into a nearby motel for a week. I recall that week as one of the most disorienting times in my life. When I came home to our motel room I had no bed to call my own, no kitchen to make myself a snack as we were living out of an ice box, and nothing to call my own anymore, just the bag that I came with. I constantly questioned my mother where we were going to move and she always replied, "I don't know son." Two days before our stay at the motel was up my mother told my brother and I that we were going to move into a family shelter in Santa Barbara. My heart sank into my shoes. Shelters were for people who lived in alleys. Shelters were for the people who had no family. Shelters were for people who had no place to go, and we had nowhere to go. Within two days we had moved our remaining valuable possessions into an eight by ten room. The shelter we moved into had five bedrooms crammed with bunk beds, clothes, and children. Each room housed a mother and her children, and a large restaurant style kitchen which served as our collective eatery. The floors were dirty, the kitchen smelled of rotting vegetables, but I was with my family and we were safe. The first night we were there I tried with all my might to decorate my room as if it were my home, but the walls felt as if they were cardboard, liable to disappear at any moment. I laid in bed that night, struggling with my emotions, and wondering if I would ever have a home again.

The next day while commuting to school, I tried to decide what I would tell my friends. How could I gracefully tell them, most of whom were all wealthy, that I had moved into a homeless shelter? I had never felt so much shame, and I had never felt so small. While my friends were going out to dinner every Friday night, I was at my dirty shelter cooking macaroni and cheese watching my brother and helping him with his homework. I could never leave him alone, or family services would come and take us both away from our mother. While my friends' parents were having dinner parties, my mother was out working extra hours to save for rent, and to put food on the table. Many nights I had to come home from school to baby-sit my brother while my mom was out. This made a social life completely unattainable. We were not allowed any visitors inside the shelter, so when friends came over, I shamefully told them to wait outside while I grabbed my things. They all asked where I lived and I told them I lived in an apartment complex, ashamed to tell them the truth. I had no extra money to spend on fun, as most of it was used on gas and maintenance on my car to get to school. My whole existence as a carefree teenager became the duty of a father to my brother, a confidant to my mother, and a starving student living in shame of his existence.

As time slowly passed by we became accustomed to the makeshift home we lived in. My mother continued saving money every day to move out, since we were only allowed six months to stay. I continued with school into my senior year, and was doing remarkably well. My brother, who used to be a shut in, began making friends at his new school in Santa Barbara. We trudged through day after day living in the shelter with screaming babies, and beaten wives, finding strength in places we never knew about. I began to cook more often, and enjoyed the simple satisfaction of serving my mother and brother dinner.

My mother became so strong and driven I couldn't help but to admire her courage and her grace in such a time of despair. My own strength grew as well and I began to see that everyone can have happiness if they choose to. I began to love the small family that lived in the shelter; the mothers, the babies, and the bond that we all shared by having nothing but one another. Coming towards the end of the sixth month, my mother found a home. She had finally saved enough money to move and our time in the shelter had come to an end. Six months of struggle, six months of humility, and six months of strength would now send us out into the world. Our dreams still intact, and our happiness soaring, we moved into our first house we could call our own.

Three years later I still look back upon that time in my life and smile. It was then when I truly found my strength and happiness. I had never been so close to my family until everything we had was taken from us. Becoming homeless can be the most horrible and humbling experience in a person's life, but it can also be the most empowering. Homelessness is not always bums on the sidewalk, it can be good decent families that have stumbled into hard times, unable to fight the power of money. My experience of being without a home was the most painful time in my life, but in a way it was the brightest. It was then I found myself and my strength. It was then when I found my family. It was when I had nothing, that I found everything. I will never forget our shelter on De La Vina street, and the person I found there.

Torin Rea is now 21 years old sharing a home in San Diego, CA, and working at one of the highest selling Nordstroms in the country. Last year he was the first 21-year-old ever to achieve the honor of top seller in the region. He is a legend in his own time.

A TRIBUTE TO COACH DISNEY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to Mr. Richard "Dick" Disney. Coach Disney was a long time teacher, coach, and friend to thousands of Escondido's children. His life exemplifies the hard work, dedication, and concern for our children that we expect from our Nation's teachers.

I submit for the RECORD the following article which chronicles Mr. Disney's life and achievements.

[From the North County Times, Jan. 15, 1997]

"COACH" DISNEY, 62, DIES AFTER COLLAPSING

(By L. Erik Bratt)

ESCONDIDO.—Richard "Dick" Disney's goals in life, his friends say, were to inspire students through athletics, build their self-esteem and make them realize that teamwork is the key to success.

He was about to bestow an award reflecting those ideals to a student-athlete at Orange Glen High School Monday night, but he never got the chance to do so.

Mr. Disney, 62, collapsed and died just before presenting the award—named after himself—to senior Matt Embrey, the grandson of legendary Escondido High coach Chick Embrey, now retired.

Mr. Disney, a trustee of the Escondido Union High School District and a former longtime coach and teacher at Orange Glen, was taken to Palomar Medical Center after collapsing at 8 p.m. from what his wife, Sharon, said was a major heart attack.

"He was the most wonderful husband in the world," Mrs. Disney said. "He died doing what he loved most, working with kids and trying to help them be the best they can be."

Mr. Disney, known to most Escondido residents simply as "coach," was a Point Loma High graduate. He taught at both San Marcos High and Escondido High before becoming a founding faculty member at Orange Glen when it opened in 1962. He was a physical education teacher, as well as the head football coach and athletic director for several years.

In 1967, he guided the Patriots to an undefeated record and the county championship, said Paul Moyneur, quarterback of that team and now a San Pasqual High teacher.

"I think the thing that stands out about him is that he genuinely enjoyed being around kids," Moyneur said. "He was very fair. He was very good at getting the most out of people."

Mr. Disney retired as head coach in 1972 but continued to serve as an assistant, as well as coach of the freshman team. At one point, he served as an assistant to Moyneur, who was head coach from 1976 to 1984.

Mr. Disney's first wife, Sandra, died of cancer in 1980, and he later remarried. He retired as a teacher in 1992. Two years later, he won a seat on the high school board in a landslide. He was an active member, helping solicit campaign donations to get the district's $43 million general obligation bond passed last June.

"I even called him 'coach' because the way he treated any kind of problem or concern was in a coaching way, never in a confrontational how to play ball with their youngsters so the children would not be ridiculed later in school," Gawronski said.

"He was, and always will be, a coach," said Charlie Snowder, school board president. "That is how he lived his life. He always promoted teamwork and individual excellence in everything he ever did in life."

Besides his wife, Mr. Disney is survived by his father, Richard V. Disney; his stepmother, Gladys Disney; two sons, Doug Disney and Richard Disney; two daughters, Darlene Coughlin and Dee Ann Disney-Jones; a stepdaughter, Wendy Leggett; and a stepson, Matt Wilson.

SENATE—*Wednesday, January 22, 1997*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God who gave us life, gave us liberty. Can the liberties of a nation be secure when you remove the conviction that these liberties are a gift of God?

Dear God, we open this Senate with a resounding response to Thomas Jefferson's pointed question. We reaffirm our conviction that we are one Nation under Your sovereign authority.

You were the inspiration of our Constitution that makes our Nation distinctly different and the author of the liberties that distinguish our democracy. May our gratitude for these liberties stir up our patriotism and strengthen our leadership. Our motto, "In God We Trust," is more than a shibboleth; it exposes our deepest commitment to trust You to guide us as we seek to confront the problems of our secularized society with Your solutions, Your absolutes in a culture that relies on relativism. We ask You to begin a spiritual awakening in our land and begin with us. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. LOTT. I thank the Chair.

THANKING THE CHAPLAIN

Mr. LOTT. Mr. President, again we thank our Chaplain for his words of wisdom in his morning prayer.

SCHEDULE

Mr. LOTT. Today there will be a period for morning business until 12 o'clock noon, with Senators to speak for up to 5 minutes each, with the following exceptions: Senator GRASSLEY for 60 minutes—and I see he is here and prepared to proceed—Senator FEINSTEIN for 30 minutes, and Senator DASCHLE 30 minutes.

At 12 noon today, following morning business, the Senate will proceed to executive session to consider the nomination of Madeleine Albright to be Secretary of State. Under the order that has been agreed to, there will be 2 hours and 10 minutes for debate on the nomination, with the vote to occur at the conclusion or yielding back of the debate time.

So I presume that will be around 10 minutes after 2 or so. It is my hope that some of that debate time will be yielded back so the Senate may vote on the nomination early enough to accommodate our colleagues who wish to attend the wake of former Senator Paul Tsongas.

Following the vote on the Albright nomination, I expect an additional period of morning business to allow Senators to introduce legislation they have been working on or perhaps to make comments on bills that were introduced yesterday.

Finally, I will announce that, if available later this week, the Senate may consider the nomination of our former colleague, Senator Bill Cohen, to be Secretary of Defense. We are not sure exactly how that will proceed. The committee is scheduled to have a hearing today. We are looking at the possibility of whether or not it could be taken up either later today or, if not today, then late tomorrow after our delegation returns from Massachusetts.

I had indicated to the President our desire to cooperate with him in getting his foreign policy and defense Cabinet nominees in place as soon as possible. So I would really like to see us get that done this week. I know there will be support for that on both sides of the aisle.

Therefore, additional rollcall votes may occur today or this week and Members will be notified accordingly. I think at this point there does not appear to be a necessity for us to have votes on Friday, although I am not making that commitment yet. Just be prepared to have more votes possibly today and tomorrow, on Thursday.

I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 12 noon with Senators permitted to speak therein for not to exceed 5 minutes. Again, under the previous order, the Senator from Iowa [Mr. GRASSLEY] is recognized to speak for up to 60 minutes.

Mr. GRASSLEY. Mr. President, I yield from my time the Senator from Texas 5 minutes for her to use any way she wants. I thank her for being one of the 54 cosponsors of the legislation I am going to speak on and introducing this morning.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair. I thank the Senator from Iowa for allowing me to introduce two more bills and also thank him for his leadership on the bill that he will talk about later to give some much needed and appropriate relief for the farm families of our country.

Mr. President, I send a bill to the desk and ask that it be referred to the appropriate committee.

The PRESIDING OFFICER. The bill will be referred to the appropriate committee.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 179 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 180 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY, Mr. GRAMS, Mr. ABRAHAM, and Mr. CAMPBELL pertaining to the introduction of S. 181 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I might be able to speak for 5 minutes, not on the time of the Senator from Iowa.

The PRESIDING OFFICER. The 5 minutes would have to come out of the time from the Senator from Iowa.

Mr. LEAHY. Mr. President, if nobody else on his list is seeking recognition, I wonder if I might continue.

Mr. GRASSLEY. Can we extend my time for 5 minutes to 11:05?

I will yield to the Senator from Vermont 5 minutes out of my time.

Mr. LEAHY. I thank the Senator from Iowa for his normal courtesy. Obviously, if someone from his group

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

comes to the floor seeking recognition. I will yield the floor.

BIPARTISANSHIP IN THE 105TH CONGRESS

Mr. LEAHY. I just have heard so much, Mr. President, about a desire to return to less partisanship and more comity at both ends of Pennsylvania Avenue. I hope that might happen for the sake of this country.

I go back to an experience my father used to tell me about when I was a child. It was in 1936. I was not yet alive. But my father was born, raised in Vermont. At that time it was probably the most Republican State in the Union, one of only two States, for example, that voted for Alf Landon in the Franklin Roosevelt landslide.

President Franklin Roosevelt came to Vermont in 1936, actually August 1, 1936. He went in an open car down State Street in Montpelier. The National Life Insurance Building had its headquarters at that time there. My family had their home almost across the street where they had the Leahy Press. My father, who was probably the only Democrat in Montpelier at the time, was standing in front of the National Life Building.

You must understand, National Life was sort of an adjunct to the Republican Party. They would determine, along with a couple other companies, who would be Governor this year to the next year and the next year at a time when we were solely a one-party State. I must say, as a Democrat I will have to admit they came up with some pretty good Governors too, but very, very much a Republican hierarchy place.

As the car went by, the President of the National Life took off his hat, stood at attention holding it over his heart. My father, standing next to him, said, "I never thought I'd see the day that you would take off your hat to Franklin Roosevelt."

He turned to my father and said, "Howard, I didn't take off my hat to Franklin Roosevelt. I took off my hat for the President of the United States of America." My father told me that story so many times growing up, and I had met the man who did that and I knew the facts of it. I recounted the story to a number of people, people writing books or speaking on this, as an example of a different era. Now, this man would never have voted for Franklin Roosevelt. He would have supported whoever ran against him, but he respected the office of the Presidency, as he respected the office of the Congress.

I hope, Mr. President, that all of us who serve in the Congress, in both parties, would stop trying to figure out how best to tear down these institutions. We are the most powerful democracy history has ever known. We are the only superpower in the world today. That brings with it certain responsibilities—to stay both a democracy and so powerful a country. We did it because of the genius of our three-part Government—the executive branch, legislative branch, and the judicial branch.

In recent years, with both Democrat and Republican Presidents, it has become a sport in this Nation to find every conceivable way to tear them down no matter what they do. I would ask myself and the public, is it conceivable that any person, man or woman, Democrat or Republican, could ever, anywhere in this Nation of 260 million people, reach the level of virtue and be the paragon that we seem to insist our President should be? If so, then that person is not a representative of 260 million Americans. But we try every which way to diminish the power of the Presidency, the leader of the most powerful nation on Earth. In the Senate and in the House we do it to ourselves, so that, again, the respect of the Nation is diminished. Now we see more and more attempts to do it to the judiciary.

Mr. President, let us stop and think. If we destroy, either by our actions or others', the respect that these institutions of Government must have, how long do we remain a democracy and how long before the checks and balances that have been so carefully built up, and built up based on the trust of the American people, how long before that trust is destroyed, the checks and balances fail, and suddenly you have an opening for a person on horseback to come in and take over the reins of power of the last great nuclear superpower, with the largest economy in the world, the most powerful nation on Earth, a nation that can justify its power and its position in this world only if it remains a democracy, only if it represents its own people, only if the reins of power maintain the respect of the people.

So I go back to that August day in Montpelier, VT, when that man was holding his hat over his heart as President Roosevelt went by, and as my father, a loyal long-time Democrat, may God rest his soul, took his hat off and held it over his heart when President Eisenhower honored the State of Vermont and drove through, and as I did, as a young prosecutor, for President Johnson and President Nixon and President Bush and President Clinton, stand at attention, thinking how honored our State was that they came and brought with them the symbols of the office of the Presidency.

Let us try. It is difficult in the time of the 30-second sound bites and special interest groups on the right and left. It is difficult when partisan feelings run high. But let us step back and say: Respect this country; respect the institutions; respect the integrity and the independence of our judiciary; respect the good will and patriotism of the men and women who have the opportunity to serve in the U.S. Senate and the House of Representatives; respect the fact that we, as a Nation, elect our President, a President who constitutionally can serve only 4 years at a time and no more than 8; respect the fact that we have those checks and balances. Maybe we ought to work at making Government work and earn the respect of our people and not try in so many ways to tear Government apart.

Mr. President, I thank my good friend from Iowa for his courtesy, and I yield the floor.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask the distinguished Senator from Iowa if he would have any objection if I continue on another matter, with the understanding that, of course, I will yield the floor when one of his speakers comes on the floor.

Mr. GRASSLEY. No objection, assuming that if some of my cosponsors come to the floor, he will yield to me.

Mr. LEAHY. Yes.

The PRESIDING OFFICER. The Senator from Vermont.

MADELEINE ALBRIGHT

Mr. LEAHY. Mr. President, there are few jobs on Earth more demanding, or where the stakes are greater, than the Secretary of State of the United States. The daily business of most heads of state around the world pales in comparison.

The President has made an outstanding nomination. Madeleine Albright brings to this job a lifetime of experience. She has proven her toughness and her fairness many times over. She has been an unwavering champion of the fundamental ideals our Nation stands for.

She has been a strong voice for international human rights and the dignity of all people. She is going to be looked at by millions of people all over the world—in democracies and countries that are not democratic—as our voice in foreign affairs.

My wife Marcelle and I have been privileged to know Madeleine Albright for over 20 years. We have traveled with her and we have worked with her. I also had the privilege to be appointed as a congressional delegate to the United Nations, when I joined with her in introducing resolutions on landmines. I have always found her to be a person of the highest integrity, the greatest ability, wide-ranging knowledge, and one real tough ambassador when she has to be, to protect the interests of the United States.

On an issue dear to my heart, the abolition of antipersonnel landmines, we could not ask for a more forceful or passionate advocate for an international ban. Her trip to Angola last year and her poignant descriptions of what she saw there gave a great boost to the effort to ban landmines not only in this country, but worldwide.

The recent United Nations vote, with 156 nations in favor and none opposed, for a U.S. resolution calling for urgent negotiations on a treaty to ban antipersonnel mines, was made possible in no small part because of Madeleine Albright's active role.

I ask unanimous consent to have printed in the RECORD a letter she wrote to the editor of the Christian Science Monitor about her Angola trip.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Oct. 11, 1996]

ALBRIGHT VIEW OF LAND MINES

The author of "A Sower of Land Mines Pleads to End Them," Oct. 2, eloquently describes the horrific impact of land mines around the world. Ending the devastation of what I have called "weapons of mass destruction in slow motion" is a high priority. As President Clinton told the United Nations General Assembly just a few days ago, "our children deserve to walk this earth in safety."

This is why the United States is at the forefront of efforts to end the use of land mines and their stockpiling, production, and transfer. In the last few months, dozens of countries have joined a moratorium on these activities and in a few weeks, at the direction of President Clinton, I will introduce a resolution in the UN that will commit the world community to negotiating and concluding an international agreement designed to end the scourge of these dreadful weapons forever.

At the same time, as the author discusses, tens of millions of land mines are already in the ground and they go on killing and maiming long after the conflict has ended. Along with other countries, we have contributed more than $90 million to demining efforts, and we are working hard to develop new technology to lower the costs of clearance and to reduce the danger to those heroes involved in this perilous work.

Finally, we are helping prevent greater suffering by alerting and educating on the hazards those millions of civilians, particularly children, whose lives are not only under threat everyday but whose ability to rebuild their communities is circumscribed by the hidden danger under roads, beneath playgrounds, or in unsown fields.

Whether in Cambodia, Angola, Bosnia, or in many other places, I have seen first hand the heartbreaking devastation of land mines and the continuing tragedy that they inflict. At the UN and around the world, as well as at the just-concluded Ottawa Conference, we will continue doing all we can to end this horror and make our earth safe once again.

Mr. LEAHY. As Secretary of State, Madeleine Albright and I will have many conversations on a wide range of foreign policy issues. I know Secretaries have traditionally steered clear of budgetary issues. As the budget for foreign assistance has fallen sharply in recent years, I hope she will become more directly involved in reversing this dangerous trend. Secretary Christopher called the decline in funding for foreign assistance "the biggest crisis we are facing in foreign policy today." Not Bosnia. Not the Middle East. Not the fate of democracy in Russia. Not North Korea. Not renewed violence in Northern Ireland. Not the simmering conflict between India and Pakistan—both nuclear powers. Not the danger of plutonium ending up in the hands of terrorists. Not war and hunger in Africa.

No, all of those things. Because we cannot deal with these problems unless we are willing to pay the price. Leadership costs money. Ambassador Albright knows that.

I believe she will make the foreign policy budget a high priority and keep it at the top of the agenda. There have already been a number of Senators, both Republicans and Democrats, who have said strongly and forcefully—respected voices in this Chamber—that they will work to ensure that the administration has the funding necessary to effectively carry out its foreign policy. We need her active and sustained support in this.

She is going to have her plate full. I urge her to give special attention to the needs of our own hemisphere, and I know that she will. We have seen real progress toward democracy and free markets in Latin America, but the future is far from certain.

We have a compelling interest in stopping the flow of drugs and refugees, in strengthening civilian governments and seeing human rights respected in places where they are not, and in broadening our trade relations. I know of nobody who would give a better voice to that.

So I think Madeleine Albright was a superb choice. She will make us all proud, as she already has as our representative to the United Nations. And I think the fact that we are hearing such strong voices on both sides of the aisle commending this choice bodes well for her as Secretary of State, and for all Americans. She will be confirmed overwhelmingly.

It truly is the American dream when the daughter of a Czechoslovakian escaping communism becomes America's Ambassador to the United Nations, and the Secretary of State of this great Nation.

Mr. President, again, I thank my dear friend from Iowa for his customary courtesy, and I yield the floor.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask that I be recognized in morning business for approximately 30 minutes.

The PRESIDING OFFICER. Under the previous order, the Senator from California controls the time until 11:30.

Mrs. FEINSTEIN. I thank the Chair.

FEDERAL GANG VIOLENCE ACT OF 1997

Mrs. FEINSTEIN. Mr. President, I rise today to discuss the Federal Gang Violence Act of 1997 which was introduced yesterday by Senator HATCH on behalf of himself and this Senator from California. I also believe my sentiments and cosponsorship are joined by Senators HARKIN, REID, and D'AMATO.

Mr. President, this legislation makes the Federal Government a much more active partner in the war on criminal activity that, I am regretful to say, has become violent and deadly and is perpetrated by organized street gangs. This bill was introduced with some differences in the last Congress, but the need for the legislation has only increased, and today I hope to lay out the case for the need for the legislation.

Gang violence has become a problem in the United States of America of epic proportions, and I think few people really understand the degree to which street gangs are crossing State lines and perpetrating violence.

Today, the Department of Justice reports that in the United States there are some 25,000 different street gangs. There are more than 652,000 members of these gangs. And they are not loosely organized. They are not the street kids glamorized in West Side Story.

Today's gangs are very different. They are organized. They are sophisticated. They are traveling crime syndicates much like the Mafia. They regularly cross State lines to recruit new members. They traffic in drugs and weapons, they smuggle illegal aliens, they steal, and they murder. In just one city, Los Angeles, consider this: Nearly 7,300 of its citizens were murdered in the last 16 years from gang warfare—7,300 citizens. This is more people than have been killed in all of the fighting in Northern Ireland.

Gangs were responsible for 43 percent of all homicides in Los Angeles in 1994. They were responsible for 41 percent of homicides in Omaha, NE, in 1995; more than half of all violent crimes in Buffalo, NY, in 1994. In Phoenix, gang-related homicides jumped 800 percent between 1990 and 1994. In Wichita, KS, drive-by shootings jumped from 8 in 1991 to 267 in 1993. That is a 3,000 percent increase in just 2 years. And this is a smaller city—300,000 people. A Justice Department survey found that gang problems are worsening in 48 percent of the responding communities.

These are just a few examples of the alarming rise in gang terror. The problem is we have become numb to it. Let me give you an example. In Los Angeles, on a Monday last February, with Mayor Dick Riordan, I announced this legislation at a news conference. The Los Angeles city councilwoman who is in charge of the public safety committee, Laura Chick, reported that just that weekend six people had been murdered by gangs on the streets of Los Angeles, and you know what? Not one was reported in the press. We have become so numb because this kind of violence has become so commonplace all across the United States.

Last September, a member of the Crips from Los Angeles was arrested in Dayton, OH, with two other men for conspiracy to distribute cocaine. Police seized approximately $1 million in cash in the raid.

A 1995 study of gang members by the National Gang Crime Research Center found that three-quarters of all gangs exist in more than one geographic area. One-half of gang members belong to gangs that did not arise locally but arose with contact from a gang outside the area. One-half of gang members had contact with the same gang in another city. And this is the clincher: 61 percent of gang members indicated their gang was an official branch of a larger national gang.

Sergeant Jerry Flowers of the gang crime unit in Oklahoma City captured the migration instinct of these gangs when he said, "The gang leaders realized that the same ounce of crack cocaine they sold for $300 in Los Angeles was worth nearly $2,000 in Oklahoma City."

Let me now tell you about the size and scope of some of America's most prominent street gangs. The Los Angeles Times recently conducted one of the most intensive investigative reports of major gang activity ever conducted by a newspaper in the United States.

Let me begin with the 18th Street Gang and the picture the L.A. Times painted. The 18th Street Gang has as many as 20,000 members in southern California alone—20 times the size of the notorious Bloods and Crips.

The 18th Street Gang is so influential in narcotics trafficking that the gang now deals directly with Mexican and Colombian drug cartels. The 18th Street Gang actually rents street corners to nongang dope peddlers, forcing them to pay so-called taxes of up to $1,000 a day.

The gang is growing and spreading. They have become the largest and fastest growing gang in Oregon, where they gunned down a 15-year-old member who wanted out of the gang. Utah officials say the 18th Street Gang has arrived there with a vengeance.

Even internationally, the 18th Street Gang is fighting for turf. In El Salvador, 18th Street is warring with rival gangs. Honduran authorities have sought advice from Los Angeles law enforcement on the gang. 18th Street has a cell in Tijuana, where they often flee to escape arrest and prosecution. On the average, someone in Los Angeles County is assaulted or robbed by the 18th Street Gang every single day of every month of every year.

While currently the deadliest and most prolific on the streets in southern California today, the 18th Street Gang is not the only gang. Let us talk for a moment about Bloods and Crips.

The Bloods and Crips that originated in Los Angeles in the late 1960's are the Nation's two largest street gangs. They are also continuing to expand, and you see this expansion as they move across the United States. Local police and the FBI have traced factions of these gangs to more than 119 cities in the West and Midwest. Some of those cities are on this map. They have more than 60,000 members nationally. According to the FBI, narcotics trafficking is their principal source of income.

Let me give another one, the Chicago-born Gangster Disciples. The Gangster Disciples, according to the authorities, is a Chicago-based, 30,000-member, multimillion-dollar gang operation spanning 35 States. They traffic in narcotics and weapons and are said to operate much like a Fortune 500 company, with two boards of directors, one in prison and one outside, a layer of governors and regents, a tax collector, and some 6,000 salespersons. Their income is estimated by Chicago authorities to be $300,000 daily.

Let me talk for a minute about Russian gangs. Russian organized crime activity in the United States has been expanding for the past 20 years, but its most significant growth has occurred during the past 5 years. Mr. President, 29 States now report activities by Russian crime groups. FBI Director Louis Freeh stated that more than 200 of Russia's 6,000 crime gangs operate with American counterparts in the United States, so they flow from Russia to the United States and back.

Russian gangs tend to be more loosely organized than other gangs, but they have formed networks that operate and shift alliances to meet particular needs. The California attorney general indicates that the most common activities by Russian organized crime gangs are fraud schemes involving fuel taxes, insurance, and credit card fraud. But they also engage in more common organized crime activities: extortion, loan sharking, drug trafficking, auto theft and prostitution.

Asian gangs: The Department of Justice indicates that among ethnic gangs, Jamaican and Asian gangs are considered by law enforcement officials to pose the largest threat. Asian gangs have been identified as major threats in more than 17 cities. In Los Angeles alone, there are more than 100 Asian gangs with 10,000 members. Illegal activities include alien smuggling, murder, kidnapping, extortion, home-invasion robberies, high-technology heists, and firearms trafficking.

Vietnamese gangs, in particular, have become a serious threat in many of our cities. They tend to be very violent. They are more sophisticated organizationally, and they specialize in stealing multimillion-dollar quantities of computer chips. At least 400 Silicon Valley companies in my State that deal in computer chips have been hit in the last year and a half. That is almost one a day. And they are losing tens of millions of dollars. Computer firms lose as much as $1 million a week in thefts, according to the Justice Department.

The legislation Senator HATCH and I have introduced does this: It doubles the sentence for any member of an organized criminal gang who commits a Federal crime. It expands the scope of gang-related criminal acts to include activities such as carjacking and drive-by shootings, and significantly increases penalties for those crimes. It checks the growth of gangs by making the recruitment of minors into criminal gangs a Federal offense with stiff penalties.

Specifically, this legislation doubles the actual sentence for any member of an organized criminal street gang who commits a Federal crime. Current Federal law increases the penalties for organizers, leaders, managers and supervisors of criminal activity, including gang leaders. However, members of known criminal street gangs currently are not subjected to higher penalties when a Federal crime is committed. Many prosecutors and law enforcement officials indicate that gang members, in addition to the leaders and supervisors of gangs, should see their penalties increased to provide a stronger deterrent for children to stay away from street gangs.

This legislation amends the sentencing guidelines so that individual gang members convicted of felonies would have their sentencing level approximately doubled. For example, currently, if a first-time offender who is a member of a gang is convicted of trafficking in 30 stolen guns, he or she would receive a minimum sentence of 4¾ to 6 years in jail. Under this legislation, that sentence would be increased to 9 to 11¼ years.

This legislation makes it a Federal offense to engage in a pattern of criminal gang activity, subject to severe and certain penalties. Under this legislation, if a person commits two or more predicate gang crimes, which include carjacking, drive-by shooting, drug dealing and obstruction of justice, in furtherance of a criminal street gang's activities within a 5-year period, that gangster is engaging in a pattern of criminal gang activity and he can be prosecuted federally. This is the Federal-local partnership we envision, to get at gang activity that crosses State lines. And this individual, if convicted, will be sentenced to at least 10 years in prison, up to life imprisonment for a first conviction of this offense; will be sentenced to at least 20 years imprisonment up to life imprisonment for a second or later conviction of this offense; and would be subject to asset seizures and forfeitures.

This legislation expands the definition of criminal street gangs in Federal law to better reflect modern-day gang activity. So it broadens the definition of criminal street gangs in title 18 of the criminal code to include State crimes such as drive-by shootings, rape, torture, carjacking, kidnapping, and assault with a deadly weapon.

It doubles the penalties for interstate gang-related crimes, and it expands the Travel Act to respond more effectively to the growing problem of highly sophisticated, mobile and organized street gangs. As most of us know, the Travel Act was written in 1961 and it had Mafia-style activity in mind. While the Travel Act as it is now written allows prosecutors to target some gang activities such as drug trafficking, the list is not complete. Law enforcement leaders and prosecutors, including U.S. attorneys, have recommended to us that the act be modernized to better reflect current crimes by gang members.

(Mr. BROWNBACK assumed the chair.)

Mrs. FEINSTEIN. Mr. President, under this legislation, the list of unlawful activities in the Travel Act will be expanded to include the following crimes: drive-by shooting; robbery; burglary; assault with a deadly weapon; intimidation of witnesses, victims, jurors or informants; assault resulting in bodily injury; possession and/or trafficking of stolen property; alien smuggling; and firearms trafficking.

In addition, the maximum penalties would be doubled, from 5 to 10 years, for those who commit nonviolent violations of these provisions. A conspiracy provision is also added to the statute.

We double the base offense levels under the sentencing guidelines for traveling in interstate or foreign commerce in aid of a street gang. This is to get at those gangs that come from other countries and States and operate back and forth. So traveling in interstate or foreign commerce in aid of a street gang would increase from 6 to 12 in sentencing levels, which increases the base sentencing range from a low of 0 to 6 months and a high of 12 to 18 months, to a new low of 10 to 16 months and a new high of 30 to 37 months. Committing violent crimes in aid of a street gang or racketeering activity would increase from 12 to 24, which increases the base sentencing range from a low of 10 to 16 months and a high of 30 to 37 months, to a new low of 51 to 63 months and a new high of 100 to 125 months.

One of the most insidious tactics of today's gangs is the way they target children to do their dirty work, and they indoctrinate them into a life of crime. Let me give you an example.

According to the Los Angeles Times, the 18th Street Gang, which I described earlier, "resembles a kind of children's army," with recruiters who scout middle schools for 11- to 13-year-old children to join the gang. The gang's real leaders are middle-age veteranos, long-time gang members who direct this criminal activity from the background.

Chicago's Gangster Disciples recruit not just at high schools, but even at elementary schools. One of the gang's members told a Federal court about his preference for children 17 and under as armed guards, "because they can go to jail and get out quicker."

This pattern is not unusual. A report by the National Gang Crime Research Center found, "The term 'youth gang' is itself somewhat of a misnomer when it comes to the major gangs in America today * * * the real leaders at the top of these major gangs are in fact older adults, many in their forties and even older * * * 84.8 percent"—85 percent—"of the gang members in our sample indicated that their gang does in fact have such older adult leaders."

Current Federal law contains no penalty for recruiting minors to participate in gang activity, and this is a critical part of our legislation. This legislation makes the recruitment or solicitation of persons to participate in gang activity subject to a 1-year minimum and a 10-year maximum penalty, or a fine of up to $250,000. If a minor is recruited or solicited, the minimum penalty is increased to 4 years.

In addition, the person convicted of this crime would have to pay the costs of housing, maintaining and treating the juvenile until the juvenile reaches the age of 18.

This act also makes violation of this section a predicate offense under the racketeering statutes, known as RICO statutes.

It is now a crime to knowingly transfer a firearm to be used to commit a violent crime or a drug trafficking crime. This legislation adds a mandatory minimum penalty of 3 years if the gun to be used in crime is transferred to a minor.

This legislation increases penalties for transferring handguns to minors. The Youth Handgun Safety Act, passed by Congress as part of the 1994 crime bill, does not contain sufficient penalties against juveniles who possess handguns for criminal purposes. In fact, one provision of this act requires only probation for first-time juvenile offenders who possess a handgun.

Such a weak penalty has meant that prosecutors don't bother to target and prosecute gang members. I have been told this by U.S. attorneys and by district attorneys, and we aim to correct that problem with this language. In addition, current law sets different penalties for juveniles and adults who transfer a weapon to a minor. The Federal Gang Violence Act toughens the penalties against juveniles and adults who transfer a firearm to a minor—and subjects juveniles and adults to the same penalties for violating this law.

This legislation changes the Youth Handgun Safety Act by:

First, setting a one-year minimum sentence for anyone—adult or juvenile—who provides a minor with a handgun.

Second, holding juveniles accountable when they unlawfully give another minor a firearm by applying the same 5-year maximum sentence now given to adults.

Third, setting a 1-year minimum sentence and applying the same 10-year maximum sentence to adults and juveniles who give a firearm to a minor and should have known the gun would be used in a crime of violence. Currently, the 10-year maximum sentence only applies to adults.

Juveniles under 13 years old, however, would not be subject to these mandatory minimum sentences.

The Armed Career Criminal Act provides that if a person has three or more prior convictions for certain crimes—is a "career criminal"—and he possesses, ships, transports or receives a gun or ammunition—is armed—he will be subject to a mandatory minimum 15 year penalty and fine of up to $25,000.

Serious drug offenses are already in the list of crimes which count toward the three-conviction minimum; this bill would allow juvenile convictions for serious drug offenses to also count toward that three-conviction minimum.

This would not apply to nickel-and-dime possession offenses, but to drug dealing which is punishable by 10 or more years in prison.

Many police officers around the country are confronting heavily-armed gang members who are wearing bullet-proof vests.

This legislation increases Federal sentences if a person wears body armor in the commission of a Federal offense, by directing the Sentencing Commission to provide for a sentencing enhancement under the Guidelines of at least two levels.

Presently, a 30-day time limit exists for bringing juveniles to trial. With crimes being committed by juveniles becoming increasingly violent and complex, prosecutors need additional time to adequately develop cases. This legislation increases the time limit to 45 days.

This bill adds firearms trafficking violations to the list of crimes that can be attacked by prosecutors under RICO. Currently, firearms violations are not RICO predicate acts. Prosecutors and law enforcement officials indicate an increasing use of firearms by criminal street gangs to commit home robberies, business invasions, and attacks on rival gangs.

Since most of the firearms have moved in interstate commerce—and because firearms are such an integral part of the gang's activity—law enforcement officials have suggested that firearms violations become predicate acts under RICO.

Finally, this legislation authorizes $100 million over the next 5 years for hiring additional Federal prosecutors to prosecute violent youth gangs.

I don't mean to go into detail, but I really want this body to understand that in this Senator's opinion, and I think Senator HATCH's and our cosponsors', this Nation's No. 1 criminal threat comes from organized street gangs now moving vociferously across State lines and across international lines. If we don't move now, I think we surrender the independence of this Nation to a kind of underground world of street gangs connected in Russia, connected in Asia, connected in Japan, connected in Latin America, and Central America.

What we aim to do is up the penalties and create some new penalties which can really be effective in dealing with crime. The addition of the RICO statutes, the use of asset seizures and forfeitures, treating street gangs today the way mafia organized crime was treated 10 to 15 years ago can make a big dent and deter gangs. Most important to me is that it becomes a Federal offense for anyone to go out there and recruit a member of a gang that moves their stolen goods, illegal immigrants, drugs, guns, murder, extortion, witness intimidation across State lines.

Mr. President, I would like to make one last comment on another subject before I yield the floor.

END THE BOMBINGS

Mrs. FEINSTEIN. Mr. President, this morning, on my way to work, on Connecticut Avenue, I ran into the fact that another bomb had been placed at a Planned Parenthood center. This is just January, and the number of these bombings and attempted bombings are already over six.

I rise today really to deplore these acts, and I rise today to say to the right-to-life movement: Please, make clear that terrorism is not part of your agenda. If you fail to do so and fail to do so now, I believe we are in for a terrible siege this year, if the month of January is any indication.

I am also hopeful that the Attorney General will join in the investigation and the subsequent prosecution as our legislation of the last session provides.

I thank the Chair, and I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that I be permitted to speak for not more than 5 minutes and that my remarks be included with the group of speakers, including the Senator from Iowa, [Mr. GRASSLEY], on alternative minimum tax relief.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 181 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota, Senator Dornan, is controlling the time until 12 noon.

Mr. DORGAN. Mr. President, I think the President said, "Mr. Dornan." Mr. Dornan is no longer serving in the House. I am Senator DORGAN from North Dakota. I would observe—I know the Senator knows the difference—but there is a substantial difference between former Congressman Dornan and Senator DORGAN.

The PRESIDING OFFICER. And the President apologizes for that. Mr. DORGAN, I do apologize. You are recognized, and you control the time until noon.

Mr. DORGAN. The President need not apologize. I was just calling attention to it.

Let me yield a couple minutes——

Mr. REID. How about 3 minutes.

Mr. DORGAN. Three minutes to the Senator from Nevada, Senator REID.

The PRESIDING OFFICER. The Senator from Nevada.

ABORTION AND VIOLENCE

Mr. REID. Mr. President, prior to coming to this body I was an attorney, practiced law, I have great respect for the law. I tried dozens and dozens of cases before juries. I did not always agree with the result of the verdicts that the jury came to, but I always respected what they did, their obligation to do what they felt was right. The U.S. Supreme Court, and other courts—I do not always agree with their decisions, but I respect the United States being a body that follows the law. We respect the law. We follow the law.

Mr. President, on the 24th anniversary of the Roe versus Wade decision, I feel it is appropriate that I come and offer a few words today about what is taking place in our country. My record—as you know, is that I am personally opposed to abortion. But, Mr. President, I am also opposed to what is going on in this country today where certain people feel that they are above the law, that the law is something that they can interpret on their own.

There is no justification for what is taking place in America today where violence is almost a way of life in some areas. Today on the news it had appeared that a bomb went off near an abortion clinic here in Washington, DC. It is not clear whether the bomb was meant to destroy the clinic, but all over the country there are abortion clinics that are being bombed. I think that is abhorrent and wrong.

Mr. President, if someone respects life, you cannot choose which life you respect. You cannot only respect the lives of those who agree with you politically or those who agree with certain decisions surrendered by the Supreme Court.

I am adamantly opposed to the use of violence to show one's displeasure with the law. I was the first Member of this body to come to the floor and denounce the killing of Dr. David Gunn in Florida. I am compelled to come to the floor again today, given the most recent bombings of abortion clinics.

It is incumbent upon the leaders of this country to condemn these shameful acts. It is incumbent upon the religious leaders that they condemn these shameful tactics. Yet we need more than people saying, well, I disagree with violence. We need people speaking out against this violence. We need people denouncing these acts. Through their silence, I believe there is an acquiescence to this violence.

The people who perpetrate these bombings are wrong. They are a fringe element. They are extremists who advocate violence as an alternative to meaningful debate and discussion. They believe, I assume, Mr. President, that they are above the law.

Let us continue to have passionate and vigorous debate on this subject and all other subjects, but do not take the law into our own hands. I repeat, those who respect life cannot choose which lives they respect. You cannot only respect the lives of those who agree with us.

Religion teaches us tolerance. This does not mean tolerance for only those people who agree with us. It means tolerance for all. If your message is to protect life, then you do not put other lives in jeopardy by your acts.

We have been told in Holy Scripture, Mr. President, as you have heard it said, that it is no longer appropriate that we have an eye for an eye and a tooth for a tooth. In fact, we have been told to turn the other cheek when we are struck. We have been told to love your enemies, bless those who curse you, do good to those who hate you.

I do not know how people have been lost in this debate, Mr. President, how they feel that they can come and bomb places of business, hurting innocent people.

So I say, we must stop this violence. And the very first way of stopping the violence is to speak out against it. We must all speak out against these horrendous acts that are taking place in our country.

I express my appreciation to the Senator from North Dakota for allowing me to speak out of order.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume and ask unanimous consent that following my presentation the Senator from Florida, Senator GRAHAM, be yielded 10 minutes from my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 181 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE AGENDA

Mr. DORGAN. Mr. President, I just finished testifying before the Senate Judiciary Committee on the issue of a constitutional amendment to balance the budget. When I appeared before the committee, there was a debt clock the chairman put up in the back of him. He hung it up in the room. It showed the debt increasing every second as we were there testifying. It was a fairly effective prop, I thought, because we ought to be concerned about the debt. And we are on the right subject when we are talking about eliminating the deficit and trying to reduce the Federal debt.

But I pointed out to the chairman of the committee that if we pass his proposed constitutional amendment to balance the budget, if we pass it right now, and then pass the proposed budget that will balance the budget in the year 2002, it doesn't stop the debt clock. The debt clock doesn't become a stopwatch on debt, because they are defining a balanced budget as a budget that takes all the money in the Social Security system that is coming in and uses it as other revenue to balance the Federal budget. The result is, in the year 2002, when they claim the budget will be in balance and they will comply with the constitutional requirement to balance the budget, the debt in America will increase by $130 billion.

I went to a small school, a high school class of nine. We didn't take the most sophisticated arithmetic in the world, but I guarantee you nobody in the country teaches that if you claim you balance the budget, it is OK for your debt to continue to increase. Let me say it again. They will enshrine in the U.S. Constitution a practice that takes dedicated trust funds that can be used only for Social Security to be used now as other revenue, and then claim they have balanced the budget, even as the Federal debt will continue to increase by $130 billion a year after they say the budget is balanced.

It is not budgeting that is correct, it is budgeting that—if you were in the private sector saying, by the way, in my business, I am going to take the workers' pension funds and use them to cover my operating loss in the business, it would get you sent off to 2 years of hard tennis in a minimum security prison. That is illegal. In Congress, they can simply change the definition so it allows them to say they have balanced the budget, even when they have not balanced the budget and are still borrowing $130 billion a year more. That is not a good recipe for my children or yours. And it is not an honest way to balance the budget.

We will introduce tomorrow, a group of us, a constitutional amendment to balance the budget that says, yes, we support it. Let us do it the right way, the honest way. If we are going to balance the budget, let us do it the old-fashioned way. In fact, putting the provision in the Constitution won't balance the budget. It will be men and women who vote for a combination of taxing and spending changes that ultimately will balance the budget.

We have made progress, and I am proud to say that I am part of the team that has allowed us to make that progress year after year, reductions in appropriations in program after program, year after year, biting the bullet to do the tough things, make the hard choices, to bring the budget deficit down 4 years in a row, down by 60 percent. I am pleased to be a part of the group in this body that says that is the right course, it's the responsible thing, a thing we ought to do for our children's future.

Now, Mr. President, let me make a final point. We are going to introduce that tomorrow with eight or nine of us as original cosponsors. I hope that will be considered whenever there is consideration of a constitutional amendment to balance the budget. That is an important first topic for this Congress—again, how to get our fiscal house in order. But there is much more to be done.

The convening of a new Congress is not just about trumpeting by elephants or parading by donkeys; it is about people representing men and women of good will across the country who send us here to do the public's business and to try to do the things that improve the future of this country.

We care about education because that is America's future. What do we do to improve education in this country? That is a topic that we need to address. We can address that in a bipartisan way, in my judgment.

What about health care? What about 10 million kids who don't have health care? What about a 2-year-old that is crying with an ache in his stomach, but his parents don't have money in their wallets and can't take him to a doctor they believe in? We should address health care. That is the right subject.

What about the environment? Nobody in America would have predicted that in the past 20 years we have doubled our use of energy, but we now have cleaner air and cleaner water. Why did we end up with cleaner air and water when we doubled our use of energy? Because this Congress said to those who pollute this country, "You can't do that anymore." We are not done with that job. There is more to do. But that is the right topic as well, to improve the future of this country.

Crime. Yes, crime. They say statistics show that crime has diminished. We have a lot to do on crime. I am somebody who believes we ought to say to people in this country: If you commit a violent act, you stay in jail until the end of your time, and no time off for good behavior. You go to prison and stay there. We have a lot to do on crime. We can do that, I hope, in a bipartisan way.

Trade. I hope in the next few days my distinguished colleague from West Virginia and I will introduce, once again, a piece of legislation we introduced toward the end of the last session, which says, what about the other deficit, the deficit that is increasing at an alarming rate, the merchandise trade deficit, which was the largest in the history of this country last year, breaking records 3 years in a row. What about the other deficit? How does this country get its trade in balance? Because the trade deficit, after all, must be repaid in the future with a lower standard of living in this country. That is why it is dangerous for our future. That represents an export of American jobs. Jobs that used to be here are there. Jobs that used to be ours are theirs. We must confront this trade deficit. It is dangerous for this country to proceed without dealing with the other deficit, the merchandise trade deficit, which, after all, in my judgment, is the deficit that will inexorably weaken this country.

No country will long remain a world economic power unless it retains a strong manufacturing base. The merchandise trade deficit represents the erosion of America's manufacturing base, the loss of American jobs, jobs that pay well, jobs that have good benefits. That is why it is so critically important to the future of our economy. I will be introducing again some days ahead, with Senator BYRD, the distinguished Senator from West Virginia, a piece of legislation that establishes an emergency commission to make recommendations in how to address this vexing, dangerous merchandise trade deficit.

Mr. President, I know the Senator from Florida is waiting for the floor. I yield the floor to him.

The PRESIDING OFFICER. The Senator from Florida is recognized for 10 minutes.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

Mr. GRAHAM. yes.

Mr. BYRD. Mr. President, I ask unanimous consent that at conclusion of the remarks by the distinguished Senator from Florida [Mr. GRAHAM], I be recognized for not to exceed 5 minutes in morning business for the purpose of introducing a bill and making some comments thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT SECURITY FOR AMERICANS

Mr. GRAHAM. Mr. President, this morning, I appreciate the opportunity to speak on behalf of an important set of provisions in the Democratic program of putting families first—in this case, the provision that gives families some additional security for their pension and retirement. There is no generation in American history which needs to plan more carefully for their retirement years than that which is currently in America's work force. Two fundamental things have occurred.

First, people are living longer. One of the great successes of our generation has been its capacity to extend life and extend the quality of life. Today a person who retires can look forward to almost 18 years of quality of life after they leave the workplace.

A second thing that has occurred is tremendous mobility within the work force. Our grandparents had an expectation when they completed their formal education of finding a place of employment and in many instances staying in that one employment for the rest of their work careers. Today people are much more mobile and change their jobs at frequent intervals.

The chart behind me indicates what has happened just in the last decade in terms of job mobility. To focus on one group of Americans, American males between the ages of 35 and 44, in 1987 the average American male in that middle-age active employment group had been with their current employer for 7.6 years. Less than 10 years later, the average has dropped to 6 years. The same is true of virtually every other category of males and females from the beginning worker to the worker who is on the edge of retirement.

Workers can no longer expect to spend a career with a single employer. The work force patterns of the last hundred years have evolved as industries, technologies, and the American economy has evolved. According to the Bureau of Labor Statistics, if you are an average employee between the ages of 18 and 29 you have held 7.6 jobs in that brief work career. On the occasion of a 30th birthday, 40 percent of Americans have been in their current jobs less than 2 years, making it easier for working Americans to successfully save for their retirement in this context of extended age after retirement, and the mobility of the work force is a matter of tremendous national importance. It is obviously important to the individual and their families to be well prepared for those retirement years, but also it has important implications to the communities in which they will live and to the Nation as a whole.

A retiree who is financially well prepared will not risk being a financial burden to their children, or to State, local, or Federal Government social service providers. They will be able to strengthen the economy in their local communities with home purchases and a variety of leisure and recreation activities. They will be able to use their free time for volunteer efforts to help the next generation with things like the President spoke of in his inaugural address, helping young people to learn to read, building homes for Habitat for Humanity, all the ways in which that discretionary time has served the community and the Nation.

Financial security retirement is valuable to the retiree. It is valuable to the Nation.

Our Nation's businesses offer a variety of benefits to their workers to give them a secure retirement to help them start saving for their postemployment life. These range from the traditional defined benefit programs to profit-sharing to 401(k) retirement accounts. I am going to focus on that third area in which employers have assisted their employees in preparing for retirement; that is, through incentives and encouragement to persons to voluntarily save for their own retirement, and how can we make that a more expansive and a more stable source of retirement income.

Generally, the 401(k) retirement benefits become available to employees after they have worked 5 to 7 years with a particular company. If an employee leaves before that time, some or all of the benefits which they derived can be lost. I applaud the Democratic leadership and specifically Senator DASCHLE for a legislative response that will greatly assist hard-working Americans in continuing their ability to prepare for their retirement even as they undergo these dramatic changes in their employment career.

This legislation provides for more rapid vesting for the employer contribution to a 401(k) plan as retirement savings. 401(k) plans have grown tremendously over the past two decades. In 1984, there were 17,300 qualified plans. Today there are over 140,000 such plans. Currently, 22 million American workers contribute part of their salary to a 401(k) plan to help prepare for retirement. In the aggregate, 401(k) plans now hold $675 billion in assets for American workers.

Employees are contributing large sums to their 401(k) in part because many employers match the employee contribution. But under current law, if an employee terminates his or her employment with a company prior to 5 years of service, then the employee may not get any of the employer's contribution to the plan. In today's mobile work force, many employees switch jobs in less than 5 years. We should recognize this reality of the mobility of the work force. We should recognize that it is a strength of the American economy. We should mitigate the current practice of penalizing mobility at less than 5 years by vesting an employer match after 3 years. That is one of the proposals for reform in the 401(k) program. But faster vesting alone is not enough. We need to explore other proposals that will make it easier on employers to transfer pension funds with an employee when the worker changes jobs.

As an example, under current law, if a new employer accepts pension funds that came from a new employee's previous company, a worker who has worked at company A, they have accumulated savings in their 401(k) plan and they want to carry those funds to their new employer B, the new employer has to make certain that pension funds are part of a plan that meets all the Federal requirements. Failing to do so, they can be subject to Internal Revenue Service penalties. Many businesses, particularly small businesses, would like to let employees bring pension funds with them, but the regulatory hassle makes it not worthwhile. We need to assure employers that if they allow an employee to roll over his or her old pension plan to carry it with them to their new point of employment, that the new employer will not risk IRS penalties.

Mr. President, 5 million American workers participate in retirement savings plans and change jobs every year. Some will be completely vested and have a smooth transition. Some will put themselves, their family and their retirement security at risk by losing a portion of the company's matching contributions.

Mr. President, the next chart indicates the percentage distribution of worker by years of tenure in their current job. For instance, for American workers in the 35 to 44 age group, 14.7 percent have been in their current employment for less than 1 year, 29 percent for less than 4 years, which means that 29 percent of Americans within that age group would not be in a status in which an employer contribution to their retirement would be mandatory vesting. This issue of making it more secure for employers to be able to provide a continuation of retirement benefits to their new employee, to give the new employee a greater assurance that their contribution and the employer contribution upon which they counted will be there when they reach retirement, are critical issues to the large population of Americans who will increasingly be looking to their own efforts in order to provide for their retirement years.

Mr. President, this planning for retirement will make a difference in the lives of millions of Americans today and in the future and in the communities in which they live. If we take steps today to secure the pension and retirement benefits of Americans, we will be making a contribution to the well-being of those families, communities, and the Nation.

I commend the leadership for having brought this important issue to such a level of priority in this 105th Congress and urge all of my colleagues to give it the appropriate consideration and support for the security of American families.

I thank the Chair.

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the Senator from West Virginia is recognized for 5 minutes.

Mr. BYRD. Mr. President, I thank the Chair.

(The remarks of Mr. BYRD pertaining to the introduction of S. 182 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, I yield the floor.

NOVEMBER 1996 TRIP TO THE NORTH ATLANTIC ASSEMBLY AND THE MIDDLE EAST

Mr. SPECTER. Mr. President, as has always been my practice on return home from official travels overseas, I have sought recognition today to record for the information of our colleagues and my constituents in Pennsylvania the results of my recess trip, from November 16 to November 24, to the North Atlantic Assembly and to the Middle East.

As you know, the Senate delegation in November 1996 to the North Atlantic Assembly included 13 Senators during all or part of a full schedule of meetings in Paris and London, arranged and ably chaired by Senator ROTH. Let me take a moment to note here the important news of Senator ROTH's election as the President of the North Atlantic Assembly.

Our delegation's mission began with a working flight to Paris early in the morning on Saturday, November 16. As the presiding officer knows how rare it is for eight Senators to share 7½ hours together—especially in the absence of a telephone—I know you can appreciate the value of this group of colleagues being able to exchange views and form plans relevant to the 105th Congress.

In Paris and, later in the week, in London, our Senate North American Assembly Delegation focused its work on the vital—but vexing—questions of the purposes, the structures and the problems of transatlantic relations in the post cold war era.

NATO has been perhaps the most successful international collective security arrangement in the world's history, ultimately achieving its once thought unattainable goal of containing and outlasting the empire of the former Soviet Union through a vigilant deterrence rather than actual conflict. It was this successful because it is more than a mutual defense pact. It is the coming together, across the Atlantic, of the power of the ideas of freedom and democracy. But NATO's very success in achieving its original aim is the basis of the present quandary of the alliance. In the wake of the dissolution of the Soviet Union, we must ask for many reasons—including our responsibility to wisely spend the American taxpayers' dollars—what is NATO for now, what countries should be a part of the alliance and what roles and burdens should be played and borne by the different members of the North Atlantic community.

Our Senate delegation took up these questions—and many subordinate ones as well, including the allied operation in Bosnia and trade and economic relations across the Atlantic—with our European parliamentary colleagues, senior officials of the executives of France, Britain, and other allied nations, international business leaders and, of course, our American Ambassadors and their staffs.

Apart from the formal itinerary of the entire delegation, I made a point to visit with Alan J. Blinken, the America Ambassador in Brussels, headquarters of the European Economic Community, to discuss the transatlantic trade situation and other matters, and to engage in substantive conversations with our Ambassador to France, Pamela Harriman, concerning a variety of security and international economic issues.

At mid-week, specifically, from Tuesday, November 19 through Thursday, November 21, I split off from my North American Assembly colleagues for an individual visit to the Middle East.

As the presiding officer is well aware, I have reported to the Senate and my constituents many times on my visits to the Middle East, visits I began making in 1964, some 16 years prior to my election to the Senate. As a Senator, I have traveled extensively in this vital, but deeply troubled, part of the world in order to better fulfill my responsibilities as a member of the Foreign Operations Subcommittee of Appropriations—where I have been a member since coming to the Senate—and my roles as chairman of the Judiciary Committee's Subcommittee on Terrorism and as chairman of the Select Committee on Intelligence, as well as my general duties as a Senator to be informed on a part of the world frequently requiring action by this body.

This past August, the first visit to the Middle East I had made since the Israeli elections of May 1996, my trip became something more than a fact-finding assessment of the always changing situation in that part of the world when Prime Minister Netanyahu asked me to carry a message to Syrian President Assad concerning the Prime Minister's views on the reopening of peace talks between Israel and Syria and, in an even more time-sensitive vein, on Israeli thinking regarding Syrian troop movements occurring at that time in Lebanon and in areas of Syria near the Israeli controlled Golan Heights.

As I stated on the floor upon my return at that time, I carried Prime Minister Netanyahu's messages to President Assad in Damascus and, following a substantive 3-hour exchange with the Syrian leader—with whom I have been meeting regularly since 1988—I returned to Israel to brief Prime Minister Netanyahu on President Assad's responses to the messages.

In preparation for my joining the North Atlantic Assembly Delegation visit to Europe—because I would be half-way there, so to speak—I met here in Washington with the Syrian Ambassador to the United States, Walid Al-Moualem, to get an update from his perspective on the situation between Syria and Israel. Ambassador Al-Moualem told me that his government viewed my August round of talks between Prime Minister Netanyahu and President Assad as having been helpful in deescalating the dangerous tensions, especially related to troop movements, between Israel and Syria and the Ambassador encouraged me to return to the region for another round of meetings aimed at helping the parties find a basis to reopen their peace negotiations.

Now, I do not know if the Ambassador is correct in his characterization of my August meetings as helpful in reducing military tensions, but I told him that I obviously would make myself available to be helpful—without seeking either to displace the President or his representatives in this matter and without seeking to advance any personal agenda on the substance of an Israeli-Syrian peace—if both sides had an interest in my so doing.

When consultations with Israeli officials, including a telephone conversation I had directly with Prime Minister Netanyahu, indicated a similar encouragement for me to make another visit to Israel and Syria as had been expressed by the Syrian Ambassador, I decided to make such a trip during a portion of the North Atlantic Assembly Delegation program in Europe.

Naturally, and any press accounts at the time to the contrary notwithstanding, I and my staff both informed the State Department about my planned trip and received extensive briefings by relevant administration officials as to the Israeli/Syrian situation and administration policy on the matter.

Mr. President, as you know, this sort of active involvement in foreign policy issues is, while—as I have already said—not meant to supplant the President, the Secretary of State or their representatives, a time-honored role for Members of the U.S. Senate, going back to such distinguished Senators as Arthur Vandenburg and William Fulbright. In any case, one could not responsibly pass up even a slight chance of being helpful in promoting peace between Israel and Syria when the alternative to peace could threaten dire consequences for us all.

I met with Prime Minister Netanyahu at 8 a.m. on Wednesday, November 20 at his office in the Israeli Knesset Building. United States Ambassador to Israel Martin Indyk was present. The Prime Minister told me that tensions with Syria have been reduced since the August/September time period and that he wants to continue to de-escalate the saber-rattling. He asked me to convey this, and specifically that Israel has no aggressive intent against Syria, when I went on to see President Assad that afternoon. He noted as an exception to the reduction of military dangers attacks on Israeli forces in southern Lebanon by Hezbollah and asked me to convey his request to President Assad that Syria seek to stop the Hezbollah attacks.

On the broader issue of reopening peace talks with Syria, Prime Minister Netanyahu told me to tell President Assad that he wishes to do so as soon as possible and that he is ready, willing, and able to be personally involved in such talks. He said that although there are clearly tough issues to be addressed in negotiating with Syria, he has a real sense that talks could be productive. Prime Minister Netanyahu reiterated that any talks with Syria will be based on the framework for Arab/Israel peace established by U.N. resolutions 242 and 338 and by the terms of reference of the 1991 Middle East peace conference organized by President Bush in Madrid. The Prime Minister's willingness to state the basis of talks with Syria in this way is significant because it indicates an acceptance that such talks would be based on the formula standardly called "land for peace."

The Prime Minister held his ground, however, on what has been the Syrian demand that new talks begin where the old talks left off, that is that Prime Minister Netanyahu's government be bound as a condition for reopening talks by what the Syrians consider a commitment by the prior Israel governments of Prime Ministers Rabin and Peres to full withdrawal by Israel from the Golan Heights to the June 4, 1967 line. He stated that he would not and could not agree to talks with such a precondition.

I flew on to Damascus that day and held a wide ranging, cordial but frank 3-hour meeting with President Assad, lasting from 1:20 p.m. to 4:20 p.m. Syrian Foreign Minister Sharra and United States Ambassador to Syria, Christopher Ross, were also present.

I raised with President Assad the mounting evidence of Iranian and perhaps Syrian involvement in or connection to the dastardly act of terrorist murder against United States soldiers at Khobar Towers in Dharhan, in Saudi Arabia, on June 15, 1996. I reminded President Assad that the United States had responded militarily against Libya in 1986 when we received proof of Libyan responsibility for a bombing at a nightclub in Germany which killed two American servicemen.

Our exchange on this subject was pointed but it was incumbent on me to take this opportunity of a face-to-face session at this time to reiterate that the United States cannot be targeted by terrorists with impunity.

On the central purpose of the meeting, I regret to say I can report little progress, frankly less than I had hoped based on the encouragement I had received to make this visit and on public statements by the Syrian Foreign Minister about the possibility of renewing talks with Israel.

President Assad did generally seem to share Prime Minister Netanyahu's desire to continue to ease and avoid military tensions which could lead to unintended hostilities. Although he denied having the ability to control Hezbollah activities in Lebanon, President Assad received this portion of Prime Minister Netanyahu's message positively and reiterated his own return message to the same effect. President Assad's position was unmovable, however, regarding the terms for the reopening of talks with Israel.

The Syrian leader asserts with complete conviction that he will not restart talks without a prior reaffirmation by Israel of the pledge he says he received from the prior Israeli governments, and ratified in his view by the United States as participants in the talks, for full Israeli withdrawal from the Golan Heights. In his view the next round of talks are only properly about the details of security arrangements along the new border and the process of normalization between the countries, not on the territorial question itself. This is not a "precondition" for future talks, he argues, because Syria already obtained this commitment from Israel and the United States in the prior talks and that commitment binds Israel despite its change of government.

I attempted to argue to President Assad that in any negotiation such as that between Syria and Israel, nothing is final until everything is final, and that in the absence of any signed document binding Israel as a state, the new Israeli government was not obligated by the negotiating position of a former administration. I also argued that Prime Minister Netanyahu's public comments accepting the land for peace framework for talks with Syria should be a sufficient basis to get back to the table and see what happens in that very different dynamic. I tried many formulations of these ideas but he would have none of it.

I returned to Israel that evening and met again with Prime Minister Netanyahu, to brief him on my talks with President Assad, on the following morning, Thursday, November 21, 1996.

While there is certainly a very sharp divide between the Israeli and Syrian leaders on the basis for a reopening of peace talks, I continue to believe that such a return to the negotiating table is not only essential, but possible if the American involvement in this process is taken to a new level. I came away from this round of meetings convinced that the logjam might be broken, but only with direct action by the President of the United States.

The United States has been more than an observer or facilitator of the Israeli/Syrian peace process so far. We have been an indispensable party, viewed by both sides as the guarantor of the integrity of both the negotiating process and of any final outcome which might be achieved. If the different accounts of where the last round of talks left off and what that means for future talks are to be resolved, it will happen only with the most active American role at the highest level.

Since my return, I have discussed with the President's National Security advisor—and CIA Director designee—Anthony Lake, and his Special Mid-East Envoy, Dennis Ross, and I intend to discuss with the President directly, my suggestion that President Clinton invite President Assad—who has never been to this country—and Prime Minister Netanyahu to a meeting in the Oval Office—not to conclude a final peace treaty at this time but simply to find a formula for the reopening of talks between their countries.

While nothing is ever certain in such a difficult situation, I believe it would be productive for the President to raise the stakes of the peace process between Israel and Syria—as an Oval Office invitation would surely do—because the stakes of a continued state of war between these two countries remain so high.

Mr. President, we must all continue to do all we can to find the path to a just and secure peace in the Middle East.

HONORING DAN KEMMIS

Mr. BAUCUS. Mr. President, I would like to take a moment to recognize a truly outstanding Montanan, and to make note of the recent honor extended to him by President Clinton.

Many in Montana know Dan Kemmis through his years of devoted public service, first in the Montana Legislature, where he rose to the position of Speaker of the House, and later as Mayor of the City of Missoula. In every aspect of public life, Dan has served as an example of the standards to which we all aspire. A true gentleman and a model leader he is a public servant who believes that the true greatness of democracy lives in the shared experience of the citizenry.

As mayor, even while working diligently on the problems of the day, Dan continued to think ahead, authoring "Community and the Politics of Place" in 1990, the acclaimed book serving as a written testament to his work to foster a sense of community in Missoula. Then in 1995 a second work, "The Good City and the Good Life," was published, again to an outstanding reception.

Many were surprised last spring when Dan stepped down as mayor to accept a new challenge as head of the Center for the Rocky Mountain West at The University of Montana. To those of us who know him, however, the move is simply the progression of Dan's unique talents as a leader. It is now his time to share the knowledge of the past years with rest of America, and a time to learn anew.

This past month President Clinton recognized the contributions of Dan Kemmis, not only to Missoula, but to communities throughout America, by awarding him the National Endowment for the Humanities' Charles Frankle Prize. I cannot think of an individual more deserving of the honor. Thoughtful and compassionate, a true visionary and thinker, Dan is one of Montana's treasures and an American leader.

In his prose as in his life, Dan has worked to shape the politics of the future, building consensus, and bringing people together, absent the rhetoric of the past that simply seeks to divide. As President Clinton so eloquently noted, he, "* * * is a welcome and convincing voice against cynicism and social divisiveness." For this alone, we all owe him a debt of gratitude.

I am honored to call Dan Kemmis a friend, and I join with all Montanans in expressing our thanks for his many years of service and congratulations upon receiving this most prestigious award.

BREAST CANCER PATIENT PROTECTION ACT OF 1997

Ms. MIKULSKI. Mr. President, I rise today in support of the Breast Cancer Patient Protection Act. I am proud to be an original cosponsor of this legislation. This bill is about ensuring that women receive equitable treatment in our Nation's health care system. It puts the care of grandmothers, mothers, and daughters with breast cancer before the financial interests of insurance companies.

One of every eight women in America will develop breast cancer. These women will undergo breast cancer treatments such as mastectomies or lymph node removal. Insurance companies know they can cut costs and increase profits if they give skimpy care to these women. Some insurance plans send women home just hours after breast cancer surgery with patients groggy from anesthesia, in pain and with drainage tubes still in place. Other plans require outpatient mastectomies.

The American College of Surgeons and the American Medical Association say that most patients are not ready to be sent home a few hours after surgery. It is just not good medicine. I believe these doctors, who want to do the right thing and give the right care, should not be discouraged or penalized for not following the insurance company's guidelines.

This legislation ensures that women with breast cancer receive the medical attention they need and deserve. The bill ensures that health plans which provide medical and surgical benefits for the treatment of breast cancer provide a minimum length of stay of 48 hours for patients undergoing mastectomies and 24 hours for those undergoing lymph node removals. Under this bill, patients and their physicians—not insurance companies—can determine if a shorter period of hospital stay is appropriate.

So, I salute the authors of this bill, but I also salute the women, the doctors, and the medical facilities that organized to challenge these unfair practices. I want to see managed care, not mandated care. And I don't want to see doctors managed. There is a fundamental distinction. We have to start getting our priorities straight and end the needless pain and neglect of women with breast cancer. This bill is a step in the right direction.

PAUL TSONGAS

Mr. KERRY. Mr. President, I rise today to speak about Paul Tsongas, who lost his battle against cancer on Saturday. We have all lost a great friend; the Nation has lost an extraordinary American who defined the concept of public service and whose courage and conviction set an example for each and every one of us.

Paul was the son of Greek immigrants in Lowell, MA. He worked in his father's drycleaning business, and served in the Peace Corps, as a Lowell city councilor, as a Middlesex county commissioner, as a U.S. Congressman, and as a U.S. Senator in the seat that I am now honored to occupy.

Paul was able to achieve so much in his life because no matter where he went, no matter what office he held, he never left the people of Lowell. He instinctively understood not only their problems but also how government could help provide some of the solutions which were necessary to resolve them.

In 1992, when George Bush looked unbeatable, Paul Tsongas ran for the Democratic Presidential nomination because he knew his ideas for our future were better.

We must not forget the timeless principles for which Paul Tsongas fought throughout his career in elective office: balancing the Federal budget and establishing sound fiscal principles for the Federal Government, investing in our country and our children, and building our economy so future generations can attain the dreams which seem to elude us today.

Although Paul did not win the nomination, he became the catalyst who turned the national spotlight on our fiscal policies and changed the political dialog in the United States forever.

After the campaign, Paul Tsongas joined with Warren Rudman and Pete Peterson to found the Concord Coalition to promote fiscal responsibility. This organization again and again has drawn national attention to our Nation's fiscal agenda.

Since the 1992 Presidential campaign, we have cut the Federal budget deficit by more than half. The question in Washington is no longer "Can we balance the budget?", but "How soon can we do so?" Much of the progress we have made can be attributed to Paul Tsongas and his economic call to arms.

The rebuilt, reinvigorated city of Lowell, MA is another long-lasting memorial to Paul. He as much or more than any other person shepherded the revitalization program through the Congress, and by seeing and breathing life into a local pride and spirit that were still alive, he transformed a rundown mill town into an international destination with an amazing story to tell and show visitors from near and far.

Paul Tsongas' accomplishments only explain part of what made him so extraordinary. There is no way to explain the impact on others of his decency, integrity, and courage. But that impact was real and pronounced.

In 1983, he was diagnosed with non-Hodgkin's lymphoma. The next year he retired from the Senate in order to spend more time with his wife Niki, and his three daughters, Ashley, Katina, and Molly. He successfully battled cancer for over a decade with a sense of grace and a strength of character that are remarkable.

It is terribly hard to acknowledge the death of such a person. Paul will be greatly and genuinely missed because he was greatly and genuinely loved. That is a compliment to which all of us can aspire when we leave this Earth. But Paul's life took him a step beyond even that status among his family and friends and all who know or observed him in his public service.

We can say truthfully and appreciatively that we are better people because of the example Paul Tsongas set during his life. In that way, he not only improved the lives of many in very direct ways, he will continue to live on as an inspiration to us.

We will miss him, but we are comforted by what he has given to us.

SAFE AND AFFORDABLE SCHOOLS ACT

Mr. McCONNELL. Mr. President, I rise in support of S. 1, the Safe and Affordable Schools Act. I am pleased Senator COVERDELL has introduced this important legislation which will provide our children with an affordable, quality education. By making this bill the first bill of the 105th Congress, it demonstrates to the American people the importance this Senate has placed on the education of our children.

I would like to comment on a very important provision contained in this bill which will make higher education more affordable. For the past several years, I have worked to allow the earnings invested in State-sponsored tuition savings accounts to grow tax-free when used for higher education expenses. This bill also will cover room and board cost. These changes will help families offset the rising cost of education by rewarding those who save.

For the past several years, I have worked to eliminate the tax on education savings. In 1994, I first introduced S. 1787, to make a family's investment earnings tax-free when invested in a State tuition savings plan. Again, in the 104th Congress, I introduced a similar bill, S. 386. Both bills were endorsed by the National Association of State Treasurers and their College Savings Plan Network, which represents the individual State programs.

On July 9, 1996, Congress passed many of the reforms proposed in S. 386, as part of the Small Business Tax Relief Act of 1996. This legislation was signed into law by the President on August 20, 1996.

While we made important gains last year, we need to finish what we started and fully exempt investment income from taxation. This legislation does that. It also expands the definition of qualified education expense to include room and board. Such costs make up nearly 50 percent of annual college expenses.

The facts are clear; education costs are outpacing wage growth and have created a barrier for students wanting to attend college. According to the General Accounting Office, tuition costs at a 4-year public university rose 234 percent between 1980–94. During this same period, median household income rose only 84 percent. It is no wonder fewer families can afford to send their children to college without financial assistance.

As tuition costs continue to increase, so does the need for assistance. In 1990, over 56 percent of all students accepted some form of financial assistance.

Today, it is increasingly common for students to study now, and pay later. In fact, more students than ever are forced to bear additional loan costs in order to receive an education. In 1994, Federal education loan volume rose by 57 percent from the previous year. On top of that, students have increased the size of their loan burden by an average of 28 percent.

So, not only are more students taking out more loans, they are taking out bigger loans as well. This year, nearly half of college graduates hit the pavement with their diplomas in one hand and a stack of loan repayment books in the other.

I believe we need to reverse this trend by boosting savings and helping families meet the education needs of their children before they enter college. If we continue to ignore this problem, more and more children will be forced to burden themselves with an increasing debt load when they go in search of their first job. This can be avoided with passage of S. 1.

Mr. President, in an effort to build on the accomplishments of last year, I look forward to working with Senator COVERDELL, the sponsor of this legislation, and the Senate Labor and Finance Committees to help families meet the rising cost of higher education.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now go into executive session and proceed to the consideration of the nomination of Madeleine Albright to be Secretary of State.

NOMINATION OF MADELEINE KORBEL ALBRIGHT, OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF STATE

The PRESIDING OFFICER. The clerk will report Executive Calendar No. 1.

The legislative clerk read the nomination of Madeleine Korbel Albright, of the District of Columbia, to be Secretary of State.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, am I correct there is a 2-hour time agreement on the nomination?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. I thank the Chair. I yield myself such time as I may require.

Mr. President, today the Senate will fulfill its constitutional duty on the nomination of Madeleine Albright to serve as Secretary of State of the United States. The Senate Committee on Foreign Relations met for more than 6 hours on January 8, to consider this nomination. During that hearing, the committee heard from then Secretary of State Warren Christopher, who presented Ambassador Albright, and I think that is the first time in history that an outgoing Secretary has presented to a committee the nominee to succeed him. In any case, Secretary Christopher presented her, and the nominee, Mrs. Albright, was questioned extensively by all members of the committee on a broad range of national security issues.

At the conclusion of the hearing, it was agreed to keep the record open until the close of business on January 10, so Senators could submit written questions to the nominee. And twelve Senators did submit more than 200 such questions, all of which were answered in writing by Ambassador Albright.

The committee still has an outstanding document request concerning Somalia, and we fully expect that the administration will cooperate and comply with that request, as the administration has promised to do.

In any case, this past Monday, January 20, after members had spent several days examining the written responses to questions, the committee met in a business meeting to consider the nomination. By a vote of 18 to nothing, unanimously, the Committee on Foreign Relations favorably reported the Albright nomination.

There are Senators who support this nomination but who, nonetheless, have honest disagreements with Ambassador Albright on major foreign policy issues. As I mentioned in the hearing myself, while I do not doubt that Ambassador Albright is sincere, on some issues I believe her to be sincerely wrong. Some of those differences were discussed during the hearing, others in private. And we will continue to discuss them after she is confirmed, which I am certain she will be.

Notwithstanding our differences, Mrs. Albright is a lady who understands Congress. She understands the important role that Congress must play in developing U.S. foreign policy. However, my support for the nominee should in no way be misconstrued as an endorsement of the administration's conduct of foreign policy. It would be insincere of me if I pretended otherwise. Many Americans, among them myself, hope that in the area of foreign policy, the next 4 years will not produce a sequel to the travail of the first 4 years.

After 12 years of Ronald Reagan and George Bush in the White House, the United States had once again become the undisputed leader of the free world. Our friends followed us, and our enemies, the enemies of freedom, thanks to Presidents Reagan and Bush, feared and respected the United States, because we were strong. The emphasis was on our constitutional requirement as a tripartite Government, to make sure that this Nation would lead the world as a strong, strong democracy.

Many of those important gains have been neutralized by a foreign policy too often vacillating and insecure; a foreign policy that has responded to world events, rather than shaping world events. And it is quite revealing when this administration, as it often does, boasts that the invasion of Haiti was a great foreign policy accomplishment.

Mr. President, sending American soldiers into harm's way on a tiny Caribbean island with no vital interest at stake to replace one group of thugs with another group of thugs does not seem to me to be much of an accomplishment. In any event, the Haiti excursion, at last count, has cost the American taxpayers more than $2 billion.

From there the list goes on and on: from Bosnia, where the United States subcontracted to the terrorist regime in Iran our responsibilities to help the Bosnians defend against genocide; to China, where vacillation led Beijing to believe it could get away with bullying Taiwan; to Somalia, where an uncertain United States policy resulted in the tragic and unnecessary deaths of 18 American Rangers; to Iraq, where our CIA Director himself admitted that Saddam Hussein is now politically stronger than ever before.

Time and time again, during the past 4 years, a message of weakened resolve was sent around the world, and with tragic results.

History teaches us one unmistakably clear lesson, I think, Mr. President, that being that the security of the American people is always less certain when our adversaries doubt our resolve, and our adversaries very much doubt our resolve at this moment.

If confirmed, Ambassador Albright must move swiftly and decisively to reverse that trend, and we have discussed it. As I said earlier, she is a strong lady, she is a courageous lady. She has proved that, and she is going to have to continue to push for strength of the United States. She must bring strength and courage and coherence and direction and fresh ideas to America's foreign policy.

Let's face it, one of her most critical responsibilities, if confirmed—and she will be—will be that the responsibility of advising the President when and where and under what conditions to commit American forces to combat or to dangerous missions abroad. Senator CHUCK HAGEL, a distinguished veteran of the Vietnam war and one of the newest members of the Senate Foreign Relations Committee, properly pressed nominee Albright on this very point during the hearing, as did another distinguished Senator, JOHN ASHCROFT. I applaud these two Senators for their perseverance on this issue, because their concerns are shared by many Senators and millions of the American people.

We must make certain that never again will American troops be sent into harm's way unless and until there is a clearly defined and precise mission and exit strategy and a clear American national security interest at stake. The debacle in Somalia vividly demonstrated that assertive multilateralism is no way to promote any conceivable American national security interest.

Mr. President, Ambassador Albright, based on her testimony, and I think on her career, appears to understand that concern. We have discussed it, and I am sure other Senators have discussed it with her as well. She acknowledged to the committee that with respect to the use of U.S. troops overseas, she has, and I quote her, "learned many lessons." And I thank the Lord for that.

She further said she is "deeply regretful of the lives lost in Somalia." Moreover, she assured the committee that she would "never advise using American forces where other means are available, where there is not the support of Congress and the people, where there is not a possibility of or where there is no exit strategy, and where there is not the likelihood or the reality of winning." End of quote, Ambassador Albright.

Actions speak louder than words, of course, and we will be watching her closely. She knows that. She expects that. We will watch her to ensure that this administration has, in fact, learned from the disasters of the past 4 years.

Another key responsibility of the next Secretary of State will be to reform and restructure the antiquated foreign policy bureaucracy. The 104th Congress passed major legislation to streamline our foreign policy apparatus and eliminate three unnecessary, bloated, and outdated Federal bureaucracies, one of which was described by its proponents in the 1960's as a "temporary" Federal agency. It is like Ronald Reagan said: Nothing is so near eternal life as a temporary Federal agency. But these agencies were promised to be in the 1950's and 1960's temporary, and they are still around spending money, in so many, many cases, unwisely.

Our plan last year, and the plan that will be submitted this year, will save the American people more than a billion dollars. Instead of endorsing that legislation last year and the year before, which was vigorously supported and endorsed by five former Secretaries of State, the administration opposed it every step of the way. In fact, the administration, while trashing our proposal, never came forward with a proposal of its own, despite promises to do so by the administration.

Vice President GORE, who served in the Senate and whom all of us like, issued a statement on January 27, 1995, promising the American people a plan to streamline the U.S. foreign policy bureaucracy and save, in his words—these are not my words, these are AL GORE's words—to save $5 billion over 5 years.

But 2 years have passed and the distinguished Vice President has yet to put forward any such proposal. I am hopeful that Madeleine Albright will prod our friend and former colleague, AL GORE, and get to work with us on this problem, because it is a jointly realized problem.

We must work together, and I hope I have indicated already, and some of the rest of us, that we want to work together. I pledge to do that. The support for our plan has not diminished, it has grown, among the American people.

If Madeleine Albright is confirmed, I intend to schedule an early meeting with her and other key Senators for the purpose of working together and reaching agreement on a bipartisan plan to restructure our foreign policy institutions to meet the new challenges we will face in our next century.

The point is this: Republican or Democrat—it doesn't matter—none of us should be willing to stand by and allow America to enter a new millennium with antiquated foreign policy institutions built, let's face it, to fight the cold war. And mark my words, if I have anything to do with it, we will not do so.

Mrs. Albright assured the committee that she will keep an open mind as she discusses this matter, and others. I intend to hold her to that commitment to work with us, to consult with us and cooperate with us so that we can work together for the goals that she and we have discussed and mutually agreed to.

Mrs. Albright must also work with Congress to achieve serious and lasting reform at the United Nations. The selection of a new Secretary General is an important first step, but it is only one step.

I think the American people are tired of all the rhetoric from the international community and the State Department blaming the United States for the United Nations' so-called fiscal crisis. One quarter of every dollar that the United Nations receives for its budget comes from the taxpayers of the United States. Over all, American taxpayers contribute upwards of $3.5 billion to the United Nations. By contrast, more than half of the United Nations members pay just one-hundredth of 1 percent of the United Nations regular budget. Senators must keep that in mind as we begin discussions on U.N. reform. Many countries have no incentive to reform because they gain more from the United Nations than they put into it.

So let me summarize in conclusion, Mr. President. Mrs. Albright knows that I intend to work with her. I think she understands that the entire Foreign Relations Committee intends to work with her. I intend to also work with the new Secretary-General, Mr. Annan, and with Senator ROD GRAMS, who is our congressional delegate to the United Nations, who has developed an important expertise on this issue. We will work with all of these and other Members of Congress to bring true reform to the United Nations, which is long overdue and badly needed.

I believe that on balance Mrs. Albright is well qualified for the post of Secretary of State. We have a lot of work to do. We have a lot of things on our agenda, and I look forward to working with her in moving our agenda forward.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from California is recognized to speak on the nomination under the time controlled by the minority.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

I yield myself 5 minutes.

Mr. President, I would like to thank the distinguished chairman for his comments and also for the speed with which he processed this nomination. I think it is very important and significant that he has done that, and it certainly speaks for the best interests of bipartisanship.

Mr. President, as the only woman on the Foreign Relations Committee, I consider this to be a historic appointment indeed. I rise to say that I am proud to indicate my very enthusiastic support for Madeleine Albright to be confirmed before this body as Secretary of State.

I want to commend President Clinton because he was certainly faced with an array of very qualified candidates. But I think he chose one of the very, very best. Anyone who heard her thoughtful responses to some 6 hours of questioning during her confirmation hearing would have been impressed by her knowledge, her eloquence and her skill. I fully expect Ambassador Albright to be a truly superb Secretary of State.

I look forward to working with her as various foreign policy issues come before the Senate of the United States. It is difficult to imagine a background and a body of experience better suited to the person we call on to be our Nation's chief diplomat and the President's chief foreign policy advisor. Madeleine Albright knows firsthand the "streets" of foreign policy, how actions by governments affect the lives of individuals. Her enormous intellect, her personal experience, her plain speaking, I think, will be huge assets.

As the United States approaches the 21st century, I believe it is crucial that our foreign policy be conducted in a bipartisan manner. The practice of reinventing the wheel of foreign policy every 4 years or at least with every change of administration has been difficult on our allies and weakens American credibility as the strongest nation on Earth.

Madeleine Albright holds a unique opportunity to cement a bipartisan foreign policy. If she can accomplish this, her legacy to this Nation and the world will be significant. One of the most complex issues that she will face, and the largest single area that I believe needs focused attention, is the entire Pacific rim. With 60 percent of the people of the world now living on the shores of the Pacific and American trade with the Pacific rim nations three times that of the Atlantic, the administration's No. 1 priority in foreign policy should be to maintain a strong and positive presence in Asia.

As part of this effort, the United States must build our most important, but still largely undeveloped, bilateral relationship—that with the People's Republic of China—into one of partnership and cooperation in our many areas of mutual interest.

Ambassador Albright's qualifications to be Secretary of State are unimpeachable. For the past 4 years she has served with distinction as the U.S. Permanent Representative to the United Nations, a member of the President's Cabinet, and a member of the staff of the National Security Council.

She has also headed one of Washington's foremost think tanks, served as professor of international affairs at Georgetown University's School of Foreign Service, and holds a doctorate from Columbia University. And, I might add, she served as a staff member for one of the true giants of the U.S. Senate, Edmund Muskie, who himself went on to serve as Secretary of State.

Beyond her professional accomplishments, her life—having fled Czechoslovakia at the dawn of the Second World War—provides a lesson in the values that we as Americans hold most dear and for the role in the world that America, at its best, can play.

As the first woman to serve as Secretary of State, Madeleine Albright's nomination will open up new doors for all women, not just in this country, but around the globe, in places unaccustomed to seeing women in high office. Whenever a woman crosses a threshold into an area that has been predominantly held by men, and performs effectively, the doors open for women everywhere.

I take particular pride in casting my vote for Ambassador Madeleine Albright. It is a tremendous step forward in our country for a woman to be named the Nation's top diplomat. As consequential as that is, in Madeleine Albright's case it is really a secondary consideration, because she is so eminently qualified for the job.

Although I am sure it is unnecessary to do so, I take pride in urging all of my colleagues to support this outstanding nomination.

I thank the Chair. I yield the floor and, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I strongly support the nomination of Madeleine Albright for Secretary of State. Ms. Albright brings a lifetime of credentials to the job. She has superb experience as a practitioner of the craft of diplomacy, and a wide knowledge of outside opinion on the range of options and potential solutions that confront us in given international situations. More than that, and most appropriate for the rather free-wheeling, often confusing international environment that we currently face, she is an initiator and an exponent of an energetic and forward-looking American leadership in world affairs.

Ms. Albright acquitted herself admirably as our most recent Ambassador to the United Nations. She is, I believe, sensitive to the role of Congress in formulating foreign policies, certainly partly because she has served as a foreign policy staffer in the Senate to the late Senator Ed Muskie of Maine. She has served in various posts in previous administrations, and stayed active on the faculty of Georgetown University while the other party controlled the White House and foreign policy making apparatus.

At the United Nations, Ambassador Albright, as a matter of practice and of principle, put American interests first, as she should have, but also introduced overdue cost analysis as a requirement in the development of Security Council resolutions pertaining to the commitment of United Nations contingents abroad. She made the American weight felt in the Security Council, not the least in her successful effort to bring a new Secretary General to power in New York.

There were, in the early years of the first administration of President Clinton, some growing pains in sorting out the role of the United States in the disorder that we confronted in the aftermath of the cold war, particularly as it related to the proper approach for both the United Nations and the United States in peacekeeping and so-called peace enforcing operations. We all learned some lessons from the experience of our involvement in Somalia, and the administration learned some lessons, as well. Ambassador Albright moved forcefully to resolve those lessons and established a laudable and workable mechanism for frequent consultation between her staff in New York, the State Department here in Washington, and the interested Senators and committees here in the Congress. I think that she believes, as I do, that early and substantive consultations between the administration and the Congress are essential for the successful conduct of American foreign affairs, and I fully expect the early development of an effective working relationship in that regard after she is confirmed by the Senate.

I congratulate Ms. Albright for her selection as the first female nominee to be an American Secretary of State, and I look forward to working with her during her tenure at the helm of the Department of State and its far-flung operations around the globe.

I shall cast my vote for Madeleine Albright this afternoon, and I shall do it with enthusiasm and with faith in her ability to perform the job and to perform it well.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. How much time remains?

The PRESIDING OFFICER. The Senator from Delaware has 45 minutes, 10 seconds remaining.

Mr. BIDEN. I thank the Chair.

Mr. President, I will yield myself 15 minutes.

Mr. President, let me begin, while both my senior colleagues are on the floor here, by complimenting Senator BYRD on his ringing endorsement of Madeleine Albright. Senator HELMS and I have been around here a long while, 24 years. But that is a short time compared to the senior Senator from West Virginia. We all know that when he stands to take the floor and give his endorsement to a candidate who requires confirmation, probably more than any other Senator on this floor, the Chamber listens.

Madeleine Albright is a fine candidate, but she is also a lucky candidate today to have such strong support from the Senator from West Virginia, and, as well, she is fortunate to have the Senator from North Carolina as chairman of the Foreign Relations Committee. I publicly thank him for how gracious he has been and for how he has expedited this nomination. We all know he is a man of very strong convictions, and we all know that when Senator HELMS concludes that there is something moving in the Senate too swiftly, or it is something he does not support, he is, along with the Senator from West Virginia, maybe the most effective person on the Republican side of the aisle in slowing things down.

There was a lot of discussion in the press and a lot of discussion in the Cloakrooms about whether or not Senator HELMS was going to cooperate. I am here to tell you that he has not only cooperated, he has expedited it, and he has been, as always, the consummate gentleman in the way in which he has dealt with his colleagues, the new ranking member in particular, but the committee in general and the Senate as a whole. I personally thank him for doing what I never doubted he would do once he concluded he was going to get this on the floor early. I want the record to note that we are moving on one of the two most important Cabinet posts, and we are doing it before anything else has happened in this body. I thank the chairman.

Mr. President, to state the obvious, I strongly support Madeleine Albright's nomination to become the 65th Secretary of State of the United States of America. Obviously, along with others who have spoken, I commend the President for nominating her.

There was a friend of ours who doesn't always like having a quote attributed to him, but I must attribute every quote. I never want to make that mistake again. I will not use his name, but I will acknowledge that this is not emanating from me. We had a colleague who served with the Senator from North Carolina and me for some years—and I will tell him the name after I finish—who used to say, "It is great in politics when conscience and convenience cross paths."

I would suggest that Madeleine Albright's nomination to be Secretary of State meets that test like none other since I have been here. This is truly a historic occasion. I know we do not and should not think in terms of quotas and affirmative action. But the fact of the matter is this is one of two remaining bastions where the mindset, I think, of a foreign policy establishment, the mindset of the public, the mindset of everyone, is that it is sort of the province of men. And that stereotypical notion is, in large part because of the cooperation of the Senator from North Carolina, about to end today. That does not mean that makes anyone a good Secretary of State or makes her the most qualified person. But that is where the conscience part comes in. It just so happens that the woman we are about to confirm—God willing and the creeks not rising—is also eminently qualified to be Secretary of State.

I have been here too long to use phrases like "this is the most qualified person." There are 50 people maybe in America who are qualified to do this job, and there are probably 10 as qualified, but none more qualified than Madeleine Albright.

One of the things I think that has endeared her and recommended her to Senator HELMS and to me, both of us having served on the Foreign Relations Committee for so long, is that we have encountered Madeleine Albright in our official capacities and our personal political lives on a number of other occasions, and we have found her, as professor, as foreign policy adviser, and as a politically active academic, to be extremely incisive, blunt, to the point, and honest with us in her assessments. You have no idea—maybe you do, Mr. President, but the longer you are here it will become even more apparent. I find that the hardest speak to understand is foreign policy speak. And I sometimes used to kid, after years of being the chairman or the ranking member of the Judiciary Committee, I would say to the witness, "You sound like you are from the State Department." That means that you get a nonanswer; never a wrong answer, but a nonanswer. Madeleine Albright is very straightforward. And it is a welcome thing. We had that in other Secretaries of State, Democrat and Republican. But it is always nice to know.

In her 4 years as our Representative to the United Nations, Ambassador Albright has ably demonstrated her qualifications to carry American foreign policy into the 21st century. Her personal history, her academic research and writing, her diplomatic experience, and her political acumen make her uniquely qualified to lead this country in working with our friends and allies—and our adversaries, and there are some—to further our national interests and the ideals of freedom and democracy that we espouse as a nation.

As we all know by now, Ambassador Albright was not born an American. She and her family chose to come to these shores out of a deep appreciation of what America stands for. She was born in Czechoslovakia, which between the two world wars was the only country in Central Europe to share our commitment to freedom and democracy.

She was twice forced to flee her native land, first in the wake of the Nazi occupation, then 10 years later after a Communist coup. She has seen firsthand the two worst forms of tyranny of this century, and she vividly understands the importance of standing firm against aggressors who seek to subvert freedom.

The young Madeleine Korbel earned a bachelor's degree from Wellesley College in political science in 1959, worked briefly as a journalist, then married and raised three bright, accomplished, and lovely daughters, two of whom I have had the occasion to get to speak with and get to know a little bit better.

At the same time she was raising her family, she attended graduate school at Columbia University. In 1968, she earned her master's degree and the certificate of the Russian Institute at Columbia. She went on to receive her Ph.D. from Columbia in 1976.

With her doctorate in hand, she came to Washington to work for one of the finest men ever to serve in this Senate—the late Senator from Maine, Edmund Muskie, who himself went on to become Secretary of State. As his chief legislative assistant, she gained an appreciation for the role of the Senate in helping the President and the Secretary of State craft American foreign policy, experience on which she will draw as we work with her in the years ahead.

Ambassador Albright left Senator Muskie's staff in 1978 to work for her former professor, Zbigniew Brzezinski, on the staff of President Carter's National Security Council. She then worked at two of the most prestigious think-tanks in Washington—the Center for Strategic and International Studies and the Woodrow Wilson International Center for Scholars—before becoming a professor at Georgetown University in 1982.

Mr. President, I ask unanimous consent to have printed in the RECORD the official biography of Madeleine Albright.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MADELEINE KORBEL ALBRIGHT

Madeleine Korbel Albright was appointed by President Clinton on January 27, 1993, as the United States Permanent Representative to the United Nations. President Clinton elevated this position and made the Ambassador a member of his Cabinet and a member of the National Security Council.

Prior to her appointment, Ambassador Albright was the President of the Center for National Policy. The Center is a non-profit research organization, formed in 1981 by representatives from government, industry, labor and education. Its mandate is to promote the study and discussion of domestic and international issues.

As a Research Professor of International Affairs and Director of the Women in Foreign Service Program at Georgetown University's School of Foreign Service, she taught undergraduate and graduate courses in international affairs, U.S. foreign policy, Russian foreign policy, and Central and Eastern European politics, and was responsible for developing and implementing programs designed to enhance women's professional opportunities in international affairs.

In 1981–82 Ambassador Albright was awarded a fellowship at the Woodrow Wilson International Center for Scholars at the Smithsonian following an international competition in which she wrote about the role of the press in political changes in Poland in 1980–82.

She also served as a Senior Fellow in Soviet and Eastern European Affairs at the Center for Strategic and International Studies, conducting research in developments and trends in the Soviet Union and Eastern Europe.

From 1978–1981 Ambassador Albright was a Staff Member on the National security Council, as well as a White House staff member, where she was responsible for foreign policy legislation.

From 1976–1978, she served as Chief Legislative Assistant to Senator Edmund S. Muskie.

Other professional experience includes Board Member of the National Endowment for Democracy, Board Member of the International Media Fund, Senior Foreign Policy Advisor to Presidential Candidate Michael S. Dukakis, Foreign Policy Advisor to the Mondale-Ferraro campaign, Vice-Chair of the National Democratic Institute for International Affairs, Member of the Board of Directors of the Atlantic Council of the United States, Member of the Board of Trustees of Wellesley College, Member of the Board of Trustees of the Black Student Fund, Member of the U.S. National Commission for the United Nations Educational, Scientific and Cultural Organization, Member of the Board of Trustees of the Washington Urban League, Member of the Board of Directors of the Center for National Policy, Member of the Chapter of the Washington National Cathedral, Member of the Board of Trustees of Williams College, Member of the Board of Trustees of the Democratic Forum, Member of the Executive Committee of D.C. Citizens for Better Public Education, Chairman of the Board of Trustees of Beauvoir School, Public Relations Staff of the Encyclopedia Britannica, and Reporter on the Rolla Daily News, Rolla, Missouri.

Awarded a B.A. from Wellesley College with honors in Political Science, she studied at the School of Advanced International Studies at Johns Hopkins University, received a Certificate from the Russian Institute at Columbia University, and her Masters and Doctorate from Columbia University's Department of Public Law and Government.

Ambassador Albright is fluent in French and Czech, with good speaking and reading abilities in Russian and Polish.

Selected writings include "Poland, the Role of the Press in Political Change" (New York: Praeger with the Center for Strategic and International Studies, Georgetown University, Washington, D.C. 1983); "The Role of the Press in Political Change: Czechoslovakia 1968" (Ph.D. Dissertation, Columbia University 1976); and "The Soviet Diplomatic Service: Profile of an Elite" (Master's Thesis, Columbia University 1968).

Ambassador Albright has three daughters.

For future correspondence, the Ambassador may be reached at either her Washington, D.C. or New York, offices: Suite 6333, Department of State, 2201 C Street N.W., Washington, D.C. 20520–6319, or U.S. Mission to the United Nations, 799 United Nations Plaza, New York, New York 10017.

Mr. BIDEN. Mr. President, in the 1980's as the Communist countries of Central and Eastern Europe were casting off the Soviet yoke, then-Professor Albright conducted research into the attitudes of the people of these countries, and she wrote about the need to assist them in their transition from communism to freedom.

That is where Senator HELMS and I and others on the Foreign Relations Committee got to see her again because she came and testified about that research and the polling data that she conducted.

Her academic and personal understanding of these issues will allow her to formulate policies to encourage the continued spread of political and economic freedom throughout the world as she attempts to implement this administration's foreign policy.

At the United Nations, Ambassador Albright successfully advanced and defended American interests and enlisted the support of others for our policies. Her straight talk and tireless commitment won her the admiration of Democrats and Republicans alike. She recognizes that while it is sometimes in America's interest to act alone, always acting alone is ineffective and an unnecessary use of our resources.

Two weeks ago, Ambassador Albright came before the Senate Foreign Relations Committee and outlined a comprehensive framework for American foreign policy into the next century, one in which none of us, I think, is likely to accept wholesale. But that is the way the process is supposed to work.

Mr. President, I ask unanimous consent that her insightful statement to our committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SECRETARY OF STATE-DESIGNATE MADELEINE K. ALBRIGHT BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE—JANUARY 8, 1997

Mr. Chairman and members of the Committee, it is a great honor and pleasure to be here with you this morning. I want to begin by thanking the President for his trust in nominating me to this high and very challenging position.

I am very grateful to Secretary Christopher both for his kind words of introduction and for the opportunity he has given me these past four years to observe how a steady and determined diplomat conducts business.

And I appreciate very much the Committee's courtesy in scheduling this hearing so promptly.

Mr. Chairman, we have reached a point more than halfway between the disintegration of the Soviet Union and the start of a new century. Our nation is respected and at peace. Our alliances are vigorous. Our economy is strong. And from the distant corners of Asia, to the emerging democracies of Central Europe and Africa, to the community of democracies that exists within our own hemisphere—and to the one impermanent exception to that community, Castro's Cuba—

American institutions and ideals are a model for those who have, or who aspire to, freedom.

All this is no accident, and its continuation is by no means inevitable. Democratic progress must be sustained as it was built—by American leadership. And our leadership must be sustained if our interests are to be protected around the world.

Do not doubt, those interests are not geopolitical abstractions, they are real.

It matters to our children whether they grow up in a world where the dangers posed by weapons of mass destruction have been minimized or allowed to run out of control.

It matters to the millions of Americans who work, farm or invest whether the global economy continues to create good new jobs and open new markets, or whether—through miscalculation or protectionism—it begins to spiral downward.

It matters to our families whether illegal drugs continue to pour into our neighborhoods from overseas.

It matters to Americans who travel abroad or go about their daily business at home whether the scourge of international terrorism is reduced.

It matters to our workers and businesspeople whether they will be unfairly forced to compete against companies that violate fair labor standards, despoil the environment or gain contracts not through competition but corruption.

And it matters to us all whether through inattention or indifference, we allow small wars to grow into large ones that put our safety and freedom at risk.

To defeat the dangers and seize the opportunities, we must be more than audience, more even than actors, we must be the authors of the history of our age.

A half century ago, after the devastation caused by Depression, holocaust and war, it was not enough to say that what we were against had failed. Leaders such as Truman, Marshall and Vandenberg were determined to build a lasting peace. And together with our allies, they forged a set of institutions that would defend freedom, rebuild economies, uphold law and preserve peace.

Today, it is not enough for us to say that Communism has failed. We must continue building a new framework—adapted to the demands of a new century—that will protect our citizens and our friends; reinforce our values; and secure our future.

In so doing, we must direct our energies, not as our predecessors did, against a single virulent ideology. We face a variety of threats, some as old as ethnic conflict; some as new as letter bombs; some as long-term as global warming; some as dangerous as nuclear weapons falling into the wrong hands.

To cope with such a variety of threats, we will need a full range of foreign policy tools.

That is why our armed forces must remain the best-led, best-trained, best-equipped and most respected in the world. And as President Clinton has pledged, and our military leaders ensure, they will.

It is also why we need first-class diplomacy. Force, and the credible possibility of its use, are essential to defend our vital interests and to keep America safe. But force alone can be a blunt instrument, and there are many problems it cannot solve.

To be effective, force and diplomacy must complement and reinforce each other. For there will be many occasions, in many places, where we will rely on diplomacy to protect our interests, and we will expect our diplomats to defend those interests with skill, knowledge and spine.

If confirmed, one of my most important tasks will be to work with Congress to ensure that we have the superb diplomatic representation that our people deserve and our interests demand. We cannot have that on the cheap. We must invest the resources needed to maintain American leadership. Consider the stakes. We are talking here about one percent of our federal budget, but that one percent may well determine fifty percent of the history that is written about our era.

Unfortunately, as Senator Lugar recently pointed out, currently, "our international operations are underfunded and understaffed." He noted, as well, that not only our interests, but our efforts to balance the budget would be damaged if American disengagement were to result in "nuclear terrorism, a trade war, an energy crisis, a major regional conflict . . . or some other preventable disaster.

Mr. Chairman, we are the world's richest, strongest, most respected nation. We are also the largest debtor to the United Nations and the international financial institutions. We provide a smaller percentage of our wealth to support democracy and growth in the developing world than any other industrialized nation.

And over the past four years, the Department of State has cut more than 2000 employees, downgraded positions, closed more than 30 embassies or consulates, and deferred badly-needed modernization of infrastructure and communications. We have also suffered a 30% reduction in our foreign assistance programs since 1991.

It is said that we have moved from an era where the big devour the small to an era where the fast devour the slow. If that is the case, your State Department, with its obsolete technology, $300 million in deferred maintenance and a shrinking base of skilled personnel, is in trouble.

If confirmed, I will strive to fulfill my obligation to manage our foreign policy effectively and efficiently. I will work with this Committee and the Congress to ensure that the American public gets full value for each tax dollar spent. But I will also want to ensure that our foreign policy successfully promotes and protects the interests of the American people.

In addition, I will want to work with you to spur continued reform and to pay our bills at the United Nations, an organization that Americans helped create, that reflects ideals that we share and that serves goals of stability, law and international cooperation that are in our interests.

The debate over adequate funding for foreign policy is not new in America. It has been joined repeatedly from the time the Continental Congress sent Ben Franklin to Paris, to the proposals for Lend Lease and the Marshall Plan that bracketed World War II, to the start of the SEED and Nunn-Lugar programs a few years ago. In each case, history has looked more kindly on those who argued for our engagement than on those who said we just could not afford to lead.

Mr. Chairman, any framework for American leadership must include measures to control the threats posed by weapons of mass destruction and terror; to seize the opportunities that exist for setting dangerous regional conflicts; to maintain America as the hub of an expanding global economy; and to defend cherished principles of democracy and law.

At the center of that framework, however, are our key alliances and relationships. These are the bonds that hold together not only our foreign policy, but the entire international system. When we are able to act cooperatively with the other leading nations, we create a dynamic web of principle, power and purpose that elevates standards and propels progress around the globe. This is our opportunity, for in the post Cold War era, big power diplomacy is not a zero-sum game.

THE TRANS-ATLANTIC PARTNERSHIP

A foremost example is the trans-Atlantic partnership.

It is a central lesson of this century that America must remain a European power. We have an interest in European security, because we wish to avoid the instability that drew five million Americans across the Atlantic to fight in two world wars. We have an interest in European democracy, because it was the triumph of freedom there that ended the Cold War. We have an interest in European prosperity, because our own prosperity depends on having partners that are open to our exports, investment and ideas.

Today, thanks to the efforts of President Clinton and Secretary Christopher, American leadership in Europe is on solid ground.

European institutions are evolving in directions that are making the continent more free, unified and peaceful than at any time in history.

Our key bilateral relationships, albeit spirited at times, are as strong and resilient as they have ever been.

The terrible carnage in Bosnia has ended.

The Partnership for Peace has broadened cooperation on security matters.

And there is continued progress on political and market reforms within Central Europe and the New Independent States.

If confirmed, I will be returning to this Committee often to ask your support for our vision of an integrated, stable and democratic Europe.

In July, at the NATO summit in Madrid, the alliance will discuss European security, including NATO adaptation to new missions and structures, a framework for enhanced consultation and cooperation with Russia, and enlargement.

The purpose of enlargement is to do for Europe's east what NATO did 50 years ago for Europe's west: to integrate new democracies, defeat old hatreds, provide confidence in economic recovery and deter conflict.

Those who say NATO enlargement should wait until a military threat appears miss the main point. NATO is a not a wild west posse that we mobilize only when grave danger is near. It is a permanent alliance, a linchpin of stability, designed to prevent serious threats from ever arising.

To those who worry about enlargement dividing Europe, I say that NATO cannot and should not preserve the old Iron Curtain as its eastern frontier. That was an artificial division, imposed upon proud nations, some of which are now ready to contribute to the continent's security. What NATO must and will do is keep open the door to membership to every European nation that can shoulder alliance responsibilities and contribute to its goals, while building a strong and enduring partnership with all of Europe's democracies.

Building a more cooperative and integrated Europe will be one of many issues that President Clinton will be discussing with President Yeltsin during his visit here to the United States in March. A democratic Russia can and must be a strong partner in achieving this shared goal.

We know that Russia remains in the midst of a wrenching transition, but gains made during the past five years are increasingly irreversible. Despite the threats posed by corruption and crime, open markets and democratic institutions have taken hold. And last summer marked the first fully democratic election of national leaders in Russia's long history.

President Yeltsin's challenge in his second term will be to restore the momentum behind internal reforms and accelerate Russia's integration with the west. We have a profound interest in encouraging that great country to remain on a democratic course, to respect fully the sovereignty of its neighbors and to join with us in addressing a full range of regional and global issues.

Our deepening friendship with a democratic Ukraine is also fundamental to Europe's integration. Ukraine was the first of the New Independent States to transfer power from one democratically-elected government to another. And, under President Kuchma, it has launched ambitious economic reforms that have subdued inflation and prevented economic collapse.

In our relations both with Russia and Ukraine, the binational commissions established with Vice-President Gore as the lead U.S. representative will serve as a valuable aid for setting the agenda, and facilitating cooperation across a broad range of endeavors.

Finally, the future of European stability and democracy depends, as well, on continued implementation of the Dayton Accords.

Although IFOR completed its military tasks brilliantly in Bosnia, more time is needed for economic reconstruction and political healing. SFOR's goal is to provide the time for peace to become self-sustaining.

Although the full promise of Dayton is not yet fulfilled, much has changed during the past 13 months. The fighting has stopped, peaceful elections have been held, and the framework for national democratic institutions has taken shape.

Much of this is due to American leadership. Our plan now, in cooperation with our many partners, is to consolidate and build on those gains. Our strategy is to continue diminishing the need for an international military presence by establishing a stable military balance, improving judicial and legal institutions, helping more people return safely to their homes and seeing that more of those indicted as war criminals are arrested and prosecuted.

Given the ongoing challenges, it is encouraging to note the history-making dimension of the process set in motion by the Dayton Accords.

Today, in Bosnia, virtually every nation in Europe is working together to bring stability to a region where conflict earlier this century tore the continent apart.

This reflects a sharp departure from the spheres of influence or balance of power diplomacy of the past, and an explicit rejection of politics based on ethnic identification. And it validates the premise of the Partnership for Peace by demonstrating the growth of a common understanding within Europe of how a common sense of security may be achieved.

The experience of IFOR and now SFOR in Bosnia heightens the potential for security cooperation among the full range of NATO and non-NATO European states. In Bosnia, soldiers from NATO, Russia, Poland, Ukraine, Romania and many other nations trust, defend and depend on each other. Our challenge is to extend that spirit to other joint endeavors and to keep it thriving long after SFOR concludes its work.

European stability depends in large measure on continued American engagement and leadership. And as history attests, European stability is also vital to our national interests. As a result, we will remain engaged, we will continue to lead, we will strengthen our alliances and we will continue to build with our democratic partners a Europe in which every nation is free and every free nation is our partner.

PROMOTING MUTUAL SECURITY AND PROSPERITY IN ASIA

Mr. Chairman, America must remain a European power. We must, and will, remain a Pacific power, as well.

Asia is a continent undergoing breathtaking economic expansion and measured, but steady, movement in the direction of democracy. Its commercial vigor reinforces our own and contributes to the vital interest we have in its security. This is, after all, an area in which America has fought three wars during the past six decades, and in which 100,000 American Troops are based.

President Clinton has elevated this dynamic region on our agenda, and I plan to devote much of my attention to its promise and perils.

Our priorities here are to maintain the strength of our core alliances while successfully managing our multi-faceted relationship with China.

Because of our commitment to regional security, we have maintained our forward-deployed military presence in the Western Pacific. We are encouraging regional efforts to settle territorial and other disputes without violence. We are working hard to open markets for American goods and services, both bilaterally and through APEC, which the President lifted to the summit level. We are broadening our diplomatic and security ties in Southeast Asia, home to the world's fastest growing economies. And we will continue to promote respect for internationally-recognized human rights and the spread of freedom.

Our closest and most wide-ranging bilateral relationship in the region is with Japan, with whom we have strongly reaffirmed our alliance.

We consult Japan regularly on a broad range of foreign policy questions from security in Asia to development in Africa. We appreciate its generous financial support for peace efforts from Bosnia to the Middle East. And we are working with Japan and another valued ally, the Republic of Korea, to implement the Framework agreement freezing North Korean development of nuclear arms. In recent weeks, we and Seoul have worked together successfully to reduce tensions, reinforce the nuclear freeze and improve prospects for dialogue on the Peninsula.

I look forward, if confirmed, to visiting both Japan and the Republic of Korea at an early date.

I am also looking forward to the visit here soon of the Chinese Foreign Minister.

A strong bilateral relationship between the United States and China is needed to expand areas of cooperation, reduce the potential for misunderstanding and encourage China's full emergence as a responsible member of the international community.

To make progress, our two countries must act towards each other on the basis of mutual frankness. We have important differences, especially on trade, arms transfers and human rights, including Tibet. We have concerns about Chinese policy towards the reversion of Hong Kong. While adhering to our one China policy, we will maintain robust unofficial ties with Taiwan. But we also have many interests in common, and have worked together on issues including the Korean peninsula, crime, the global environment and nuclear testing.

U.S. policy towards China has long been an issue of controversy in Congress and among the American people. There are disagreements about the proper balancing of the various elements of that policy. There should be no doubt, however, about the importance of this relationship, and about the need to pursue a strategy aimed at Chinese integration, not isolation.

PREVENTIVE DEFENSE THROUGH THE CONTROL OF DEADLY ARMS

The Cold War may be over, but the threat to our security posed by nuclear and other weapons of mass destruction has only been reduced, not ended. Arms control and nonproliferation remain a vital element in our foreign policy framework.

With our leadership, much has been accomplished. Russian warheads no longer target our homes. Nuclear weapons have been removed from Belarus and Kazakhstan and in Ukraine, the last missile silos are being planted over with sunflowers. Iraq's nuclear capability has been dismantled, and North Korea's frozen. The Nuclear Nonproliferation Treaty has been extended, indefinitely and without conditions. A comprehensive ban on nuclear tests has been approved and a chemical weapons ban will soon be in effect.

Mr. Chairman, these efforts to reduce the spread and number of weapons of mass destruction contribute to what Defense Secretary Perry has called "preventive defense". They are designed to keep Americans safe. We pursue them not as favors to others, but in support of our own national interests. But arms control and nonproliferation are works in progress, and we will need your help and that of this Committee and the Senate to continue that progress.

First, we will be asking your consent to the ratification of the Chemical Weapons Convention, or CWC, before it enters into force in late April.

As this Committee well knows, the CWC was begun under President Reagan and negotiated under President Bush. It is supported by many in both parties, by the business community and by our military. The CWC is no panacea, but it will make it more difficult for rogue states and others hostile to our interests to develop or obtain chemical weapons. I hope, Mr. Chairman, that we will be able to work together to get this Treaty approved in time for the United States to be an original party.

We will also be seeking your early approval of the CFE Flank agreement, which is essential to sustain the CFR Treaty, which in turn contributes mightily to European security.

Overseas, we will be working with Russia to secure prompt ratification by the Duma of the START II Treaty, and then to pursue further reductions and limits on strategic nuclear arms.

We will also continue efforts to fulfill the President's call for negotiations leading to a worldwide ban on the use, stockpiling, production and transfer of anti-personnel landmines. The humanitarian problems created by the misuse of anti-personnel landmines can only be dealt with on a global basis. In September, the President told the UN General Assembly that "our children deserve to walk the Earth in safety." This will be a major arms control objective of the next four years.

Arms control and nonproliferation are closely linked to our policies toward rogue states. We have a major interest in preventing weapons of mass destruction from being obtained by regimes with a proven disrespect for the rule of law. Accordingly, we will continue working to improve the security and prevent the diversion of fissile materials. We will continue to oppose strongly the sale or transfer of advanced weapons or technologies to Iran. And we will insist on maintaining tough UN sanctions against Iraq unless and until that regime complies with relevant Security Council resolutions.

VIGOROUS DIPLOMACY IN SUPPORT OF PEACE

Mr. Chairman, the appropriate American role in helping to end conflicts and respond to crises overseas has been debated widely, not only in our time, but throughout American history.

Because we have unique capabilities and unmatched power, it is natural that others turn to us in time of emergency. We have an unlimited number of opportunities to act around the world. But we do not have unlimited resources, nor do we have unlimited responsibilities. If we are to protect our own interests and maintain our credibility, we have to weigh our commitments carefully, and be selective and disciplined in what we agree to do.

Recognizing this, we have a strong incentive to strengthen other mechanisms for responding to emergencies and conflicts, including the United Nations and regional organizations. We should work closely with the entire network of public and nongovernmental organizations that has evolved to predict, prevent, contain and minimize the human and other costs of natural and human-caused disaster. And we should insist that other capable nations do their fair share financially, technically and—if necessary—militarily.

The primary obligation of the United States is to its own citizens. We are not a charity or a fire department. We will defend firmly our own vital interests.

But we recognize that our interests and those of our allies may also be affected by regional or civil wars, power vacuums that create targets of opportunity for criminals and terrorists, dire humanitarian emergencies and threats to democracy. Then, as President Clinton said recently, "The United States cannot and should not try to solve every problem, but where our interests are clear, our values are at stake, (and) where we can make a difference, we must act and we must lead."

During the past four years, under President Clinton and Secretary Christopher, the United States has been steadfast in supporting the peacemakers over the bombthrowers in historically troubled areas of the globe. Our goal has been to build an environment in which threats to our security and that of our allies are diminished, and the likelihood of American forces being sent into combat is reduced.

We recognize that, in most of these situations, neither the United States nor any other outside force can impose a solution. But we can make it easier for those inclined towards peace to take the risks required to achieve it.

As this statement is being prepared, sustained U.S. diplomacy in the Middle East has helped to build a renewed dialogue between Israel and its Palestinian partners, producing significant progress on Israeli redeployment in Hebron.

While an agreement is not yet in hand, the intensive negotiations which have been conducted over the past three months—including direct discussions between Prime Minister Netanyahu and Chairman Arafat—have restored a sense of momentum and greater confidence between the sides. This process began during the Washington summit called by President Clinton last October and has been sustained and advanced through our active diplomatic engagement.

Prime Minister Netanyahu and Chairman Arafat have reaffirmed to President Clinton their determination to continue their joint efforts for peace. The United States will stand by them as they do.

Today, there remain two competing visions in the Middle East. One is focused on the grievances and tragedies of the past; the other on the possibilities of the future. An agreement on Hebron would serve as a catalyst, strengthening the supporters of peace. Under the President's leadership, we intend to press vigorously on all tracks to realize a secure, comprehensive and lasting peace between Israel and her Arab neighbors.

Throughout, we will be guided by America's unshakeable commitment to Israel's security, and by our opposition to those who would disrupt this process through terrorism and violence.

Secretary Christopher leaves office after four years of historic progress in facilitating peace in the Middle East. While his presence will be missed, I will maintain fully the State Department's commitment to an active U.S. role in this long-troubled and strategic part of the globe.

Across the Mediterranean in Cyprus, another longstanding disagreement remains unresolved. In 1996, the parties moved no closer to a final decision on the status of the island. Moreover, disturbing incidents of violence marred the climate for negotiations, while underlining their urgency. The dispute here and related differences between our two NATO allies, Turkey and Greece, affect European stability and our vital interests. Accordingly, we are prepared in this new year to play a heightened role in promoting a resolution in Cyprus, but for any initiative to bear fruit, the parties must agree to steps that will reduce tensions and make direct negotiations possible.

In Northern Ireland, we are encouraged that multi-party talks began but we are disappointed by the lack of progress made, and strongly condemn the IRA's return to violence. We will continue to work with the Irish and British governments and the parties to help promote substantive progress in the talks. And we note that former Senator George Mitchell, who is chairing the multi-party talks, has been crucial to the forward steps that have been taken.

As we enter the 50th anniversary year of independence for both India and Pakistan, we will again consider the prospects for reducing the tensions that have long existed between these two friends of the United States.

We have a wealth of equities in this region, and a particular concern about the regional arms race and nuclear nonproliferation. India and Pakistan should both know that we will do what we can to strengthen their relations with us and encourage better relations between them, and that we expect both to avoid actions calculated to provoke the other.

Another dispute tangled by history and geography concerns Armenia, Azerbaijan and the status of Nagorno-Karabakh. The good news here is that the ceasefire has now held for more than two years. The bad news is that progress under the OSCE's Minsk process has been agonizingly slow. We have very substantial economic, political and humanitarian interests in this region, and are prepared to play a more visible role in helping to arrange a settlement. One step that Congress could take to increase our influence would be to lift restrictions on nonmilitary assistance to Azerbaijan, while maintaining support for our generous aid program in Armenia.

Finally, in Central Africa, we are striving with regional leaders and our allies to prevent a still-volatile situation from erupting into even greater tragedy. We are encouraging the repatriation of the remaining Rwandan refugees and assisting in their reintegration into Rwandan society. Through the efforts of Special Envoy Howard Wolpe, we are promoting a dialogue between the opposing parties in Burundi. And we support and end to conflict in Zaire based on recognition of Zaire's territorial integrity and full respect for human rights.

Mr. Chairman, I visited Central Africa last year. In Rwanda, in the beautiful region where they filmed "Gorillas in the Mist", there is an old stone church. By its side, American and other volunteers work with little brushes to clean and reassemble the skeletons of people slaughtered there in 1994. Among the hundreds of skeletons there, I happened to notice one in particular that was only two feet long, about the size of my little grandson.

It is said that foreign policy should not be influenced by emotion. That is true. But let us remember that murdered children are not emotions; they are human beings whose potential contributions are forever lost. America has an interest, as do all civilized people, to act where possible to prevent and oppose genocide.

One practical step we can take is to increase the capacity of African countries to engage successfully in peacekeeping efforts within their region. That is the purpose of the African Crisis Response Force proposed by the Administration last fall. This proposal has generated considerable interest both within and outside the region. With Congressional support, it will be a priority in the coming year.

LEADERSHIP FOR A GLOBAL ECONOMY

The Clinton Administration has had extraordinary success these past four years in creating jobs for Americans at home by opening markets abroad. The more than 200 trade agreements negotiated have helped our exports grow by 34% since 1993 and created 1.6 million new jobs. By passing NAFTA, concluding the GATT Uruguay Round and forging the Miami summit commitment to achieve free and open trade in our hemisphere by 2005 and the APEC commitment to do the same in the Asia-Pacific by 2020, the President has positioned the United States to become an even more dynamic hub of the global economy in the 21st century.

As Secretary of State, I would do all I can to see that this momentum continues. Already, I have talked with Treasury Secretary Rubin, Commerce Secretary-designate Bill Daley and Trade Representative-designate Charlene Barshefsky. We intend, if confirmed, to function as a team—America's team. And we intend to be a very tough team.

Competition for the world's markets is fierce. Often, our firms go head-to-head with foreign competitors who are receiving active support from their own governments. A principal responsibility of the Department of State is to see that the interests of American companies and workers receive fair treatment, and that inequitable barriers to competition are overcome. Accordingly, the doors to the Department of State and our embassies around the world are open—and will remain open—to U.S. businesspeople seeking to share their ideas and to ask our help.

In the years ahead, we must continue shaping a global economic system that works for America. Because our people are so productive and inventive, we will thrive in any true competition. However, maintaining the equity of the system requires constant effort. Experience tells us that there will always be some who will seek to take advantage by denying access to our products, pirating our copyrighted goods or under-pricing us through sweatshop labor.

That is why our diplomacy will continue to emphasize high standards on working conditions, the environment and labor and business practices. And it is why we will work for a trading system that establishes and enforces fair rules.

Although we will continue to work closely with our G–7 partners, the benefits of economic integration and expanded trade are not—and should not be—limited to the most developed nations. Especially now, when our bilateral foreign assistance program is in decline, public and private sector economic initiatives are everywhere an important part of our foreign policy. We can also leverage resources for results by working with and supporting the international financial institutions.

In Latin America, a region of democracies, we will be building on the 1994 Summit of the Americas to strengthen judicial and other political institutions and to promote higher standards of living through free trade and economic integration. I am pleased that, in this effort, we will have the assistance of the newly-designated special envoy for the Americas, Mack Mclarty.

Although much poverty remains, substantial gains have been made in many parts of the hemisphere through economic reforms, increased commerce, lower inflation and higher foreign investment. We believe that further progress can be achieved that will benefit us, as well as our hemispheric partners, through agreement on a Free Trade Area for the Americas by the year 2005. We also place a high priority on the early addition of Chile to the North American Free Trade Agreement on equitable terms, and on the extension to Central America and the Caribbean of Arrangements equivalent to NAFTA.

Even closer to home, we are encouraging continued economic and political reform in Mexico, with whom we share a 2000 mile border and a host of common concerns, including crime, narcotics, immigration and the environment.

In Africa, the overall economic outlook is improving, but daunting problems of debt, strife, environmental stress and inadequate investment remain.

It is in our interest to help the region's leaders overcome these problems and to build an Africa that is more prosperous, democratic and stable.

We know, however, that the primary impetus for development here, as elsewhere, must come from the private sector.

It is encouraging, therefore, that many African governments are facilitating growth through policies that allow private enterprise to take hold, while investing public resources wisely in education, health and measures that expand opportunities for women.

If confirmed, I will place great emphasis on working with Africa's democratic leaders to broaden and deepen these trends. More specifically, we will work towards the integration of Africa into the world's economy, participate in efforts to ease debt burdens, and help deserving countries, where we can, through targeted programs of bilateral aid.

PROMOTING FREEDOM AND EXTENDING THE RULE OF LAW

Mr. Chairman, the representative of a foreign power said once that his country had no permanent allies, only permanent interests.

It might be said of America that we have no permanent enemies, only permanent principles.

Those principles are founded in respect for law, human dignity and freedom not just for some, but for all people.

If I am confirmed, I can assure you that the United States will not hesitate to address frankly the violation of internationally-recognized human rights, whether those violations occur in Cuba or Afghanistan; Burma, Belgrade or Beijing.

We will work with others to defeat the forces of international crime and to put those who traffic in drugs permanently out of business.

We will pursue a hard line against international terror, insisting on the principle that sponsoring, sheltering or subsidizing terrorists cannot be rationalized; it is wrong; and those guilty should not be appeased, but isolated and punished.

We will maintain our strong backing for the international war crimes tribunal for Rwanda and the Balkans, because we believe that the perpetrators of ethnic cleansing should be held accountable, and those who consider rape just another tactic of war should answer for their crimes.

And we will continue to promote and advocate democracy because we know that democracy is a parent to peace, and that the American constitution remains the most revolutionary and inspiring source of change in the world.

THE ENVIRONMENTAL MAINSTREAM

One final note, Mr. Chairman. Before closing I wanted to make it clear that I intend, if confirmed, to build upon Secretary Christopher's wise decision to incorporate environmental goals into the mainstream of our foreign policy.

Over the past several years, I have traveled to almost every region of the world. I have seen the congestion caused by over-development, and the deforestation that results when expanding populations compete for shrinking natural resources. I have smelled the air of smoke-clogged cities where the environmental techniques made possible by modern technology have not yet been applied.

The threats we face from environmental damage are not as spectacular as those of a terrorist's bomb or a hostile missile. But they directly affect the health, safety and quality of life of families everywhere. We can choose to be passive in responding to those threats, and leave the hard work to our children, or we can be active and forward-looking now. I choose the latter course, and will not be shy in seeking congressional and public support.

CONCLUSION

Members of the Committee, I am deeply honored to appear here today. I have laid out some, but by no means all, of what I see as the principal challenges and opportunities we will face over the next four years. Clearly, we have a lot to do.

I could say to you that it had always been my ambition to be Secretary of State of the United States. But that is not true. Frankly, I did not think it was possible.

I arrived in America when I was 11 years old. My family came here to escape Communism and to find freedom and we did. My ambition at that time was only to speak English well, please my parents, study hard, and grow up to be an American.

The newspaper in Denver, where we lived, had a motto that read, "'Tis a privilege to live in Colorado."

My father used to repeat that motto on a regular basis, but he would often add a reminder: "Kids," he would say, "never forget that it is also a privilege to live in the United States."

Long after I left home, my mother would call on the Fourth of July to ask my children, her grandchildren: "Tell me, are you singing any patriotic songs?"

Senators, you on your side of the table and I on my side, have a unique opportunity to be partners in creating a new and enduring framework for American Leadership. One of my predecessors, Dean Acheson, wrote about being present at the creation of a new era. You and I have the challenge and the responsibility to help co-author the newest chapter in our history.

In so doing, let us remember that there is not a page of American history of which we are proud that was written by a chronic complainer or prophet of despair.

We are doers.

By rejecting the temptations of isolation, and by standing with those around the world who share our values, we will advance our own interests; honor our best traditions; and help to answer a prayer that has been offered over many years in a multitude of tongues, in accordance with diverse customs, in response to a common yearning.

That prayer is the prayer for peace, freedom, food on the table and what President Clinton once so eloquently referred to as "the quiet miracle of a normal life."

If with your consent, I am confirmed as Secretary of State, I will ask you to join me in doing all we can, as representatives of the indispensable nation, and with the help of God, to answer that prayer.

Thank you very much.

Mr. BIDEN. Thank you, Mr. President.

Mr. President, Ambassador Albright possesses a rare talent for articulating the reasons why events in seemingly far away places matter a great deal to ordinary Americans.

I was with another member of this administration, Sandy Berger, today and we were talking about it. I said that I had to leave to go and deal with Madeleine Albright's nomination on the floor. And I said, "They seem to like her." I don't think this is inappropriate to suggest. There is no State secret. He said, "We were at a meeting, and she used the line that I think is great, and it captures what is going on. She said, 'It is amazing that the 1 percent of the resources of this Government may very well' "—that is approximately what we spend on the whole foreign policy establishment of this Government—" '1 percent of the resources of this Government will probably determine 50 percent of the future of this Nation over the next 6 to 8 years.' "

The reason I bother to mention that as an aside is that one of the things she grasped very well, as all great Secretaries of State have, is in the context in which she is operating, and the context in which the foreign policy it will be her responsibility to promote will be hers.

Ambassador Albright has made a convincing argument for the United States to remain engaged throughout the world and for this Congress to give the State Department the resources it needs to, as she said, "promote and protect the interests of the American people."

I look forward to working with Ambassador Albright to secure an adequate level of funding for her to direct American diplomacy, in order that our Foreign Service officers, our U.S. Information Service officers, and our Agency for International Development workers can be active throughout the world. We need a diplomatic corps that can react quickly and decisively to crises before they escalate and then threaten peace and stability. We cannot afford to keep the State Department so underfunded that diplomats are reduced to making calls from pay phones because our missions are so poorly equipped that even the telephones don't work.

Mr. President, there is much more to say and much that has been said. I do not want to be the one to slow up the process. Let me conclude by suggesting that I particularly look forward to working with Ambassador Albright in a number of specific areas—the ratification of the Chemical Weapons Convention before it enters into force April 29, and to negotiate further arms control treaties, including a Start III accord.

I also look forward to developing a policy in Bosnia that allows us to withdraw our forces by mid-1998 without allowing a relapse into renewed fighting among the various parties there.

I also am looking forward to encouraging democracy throughout the world in places like Serbia, Belarus, Iraq, China, Burma, and Cuba, all of which are going to be daunting tasks we face. And to be sure, before NATO decides to admit new members—I hope that we will—that the enlargement will increase the security of all the countries in Europe, and, second, that the costs of enlargement are fairly allocated in a manner not unduly burdensome on the American taxpayer. And third, that a NATO charter with Russia can be concluded that allows the alliance the opportunity to consult with Moscow before making final decisions, in order to accommodate enhanced security in Europe. And also to increase our efforts at combating the scourge of international drug trafficking, which threatens so many of our neighborhoods and families.

The one thing that every Secretary of State has given lip service to is dealing with that issue. The one thing that every Secretary of State, Democrat or Republican, has promptly forgotten is a commitment I have gotten before from every Secretary that they will not forget. But I want the RECORD to note, if Madeleine Albright is listening, that I remind her I will not forget her commitment that the State Department should be involved in that testy, little, difficult item of dealing with the international drug problem. The truth of the matter is most folks at the State Department and foreign policy types think it is kind of beneath them to deal with drug policy, and I am here to tell them, now that I rank on the Democratic side, I will be a thorn in their side about increasing their attention to that issue.

Mr. President, I am enthusiastic about the prospect of working with Ambassador Albright over the next 4 years. I am confident that she will cooperate closely with the Senate to ensure that our foreign policy continues to embody American ideals and to serve the interests of the United States around the globe.

I strongly urge my fellow Senators to vote to confirm Madeleine Albright as our next Secretary of State.

I thank the Chair and yield the floor.

Mr. GREGG. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Will the Chair advise me of the time situation.

The PRESIDING OFFICER. The Senator from New Hampshire has 44 minutes remaining. The Senator from Delaware has 28 minutes remaining.

Mr. GREGG. It would be my proposal then to yield 5 minutes to the Senator from Montana and then speak myself 5 minutes to try to get the time more in line. I yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Senator from New Hampshire.

I rise today in support of the nomination of Madeleine Albright, our Ambassador to the United Nations, to be Secretary of State.

As we all know, the Ambassador is a highly intelligent woman with a solid history in foreign affairs. We have just completed visits to countries where we have a very high investment in military, and let me tell my colleagues in the Senate that we still live in a pretty tough world. Our challenges are still there.

Not only does she bring to her position experience from academia but also the administrative arm of our Government and the legislative side. So I am certain that she knows how this process works. Based on that knowledge, I think she knows how to work with this Congress and forms a solid foundation of trust and openness that is required of all of us.

Considering Secretary Christopher's introduction at the Foreign Relations Committee hearing and Ambassador Albright's testimony in which she stated, "I can assure you that I am going to tell it like it is here and also when I go abroad," I am hopeful that her relationship with the Congress will be an open one and an honest one.

By her frankness, however, there are issues which concern those of us who live in the State of Montana. We may disagree with the Ambassador in some areas. Although she has promised that "one of the major goals of this administration is to make sure that the American economic lifeline is protected," the Ambassador has also stated she is supportive of the fast track provision to include Chile into the North American Free Trade Agreement. Treaties like NAFTA have not exactly been a windfall for my State of Montana. And the mere suggestion of expanding it does not sit well when you have been impacted like we have, being a border State.

As legislators and leaders, we must ensure that free and fair trade is part of any treaty, and if it is not, then those treaties or agreements should not even be considered. I hope the Ambassador will remember this vital element when negotiating as a U.S. representative around the world.

Also, in the past, I have had great concerns about what I have perceived as her overly enthusiastic willingness to use American troops abroad just from some of the statements she has made.

I see she did in her testimony give a statement that would raise our comfort level a little more, and I think that statement is good enough for me. I have always believed that the United States should never forget that sending our troops into dangerous situations should only be done when our national security is in jeopardy. Ambassador Albright seems to understand the gravity of this concept, and I am now assured that she will not take such action when policies face that kind of situation.

Based on that, and I know we are squeezed for time and there are many statements to be made about this wonderful lady, I hope that my colleagues will support her to be confirmed in this nomination.

I thank my friend from New Hampshire. I yield the remainder of my time, and I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator is recognized on the nomination in the time under the control of the minority for 4 minutes.

Mr. SARBANES. I rise in very strong and enthusiastic support of the nomination of Madeleine K. Albright to be Secretary of State.

In my judgment, Ambassador Albright is an outstanding choice for this position. Her experience, both personal and professional, as well as her demonstrated leadership ability, her steadfast adherence to the values and principles that Americans hold dear, and her vast and indisputable knowledge of the many complex issues that will no doubt confront our next Secretary of State, make it clear why President Clinton has selected her.

Ambassador Albright's work with the administration over the past 4 years testifies to her ability to excel at two very different aspects of the position for which she has been nominated. She has worked within the administration to craft effective responses to the international challenges we face—obviously a prime responsibility of the Secretary of State. She also during these last 4 years has articulated those policies in a clear and persuasive manner, building support among the American people and winning the cooperation and respect of the international community. Her capability in both the private and public arenas of policymaking is most impressive.

It is abundantly clear to those familiar with her record that she represents a very tough-minded and perceptive choice on the part of the President. She has distinguished herself in many institutions and aspects of foreign policymaking, from the executive and legislative branches to the world of academia. Over the past two decades, she has served as a staff member both at the National Security Council and in the Senate, where she worked with our former colleague, Ed Muskie, who himself then later became Secretary of State. As a scholar, she has earned respect in the academic community as a researcher and teacher, consistently drawing high praise from her students—further testimony to her ability both to come up with solutions to complex issues as well as to explain them to the community at large.

As president of the Center for National Policy, a nonprofit research organization formed by representatives from government, industry, and labor, she not only gained an understanding of the nonprofit sector but worked to bring together these diverse groups in the interest of domestic and international policy.

For the past 4 years she has served in the President's Cabinet as Permanent Representative to the United Nations, where she has addressed issues ranging from economic development to peacekeeping to counternarcotics, and has dealt with conflicts that span the globe.

Under her leadership the United States gained Security Council approval for the United States-led, multinational effort to restore democracy in Haiti, for resolutions condemning human rights violations in countries including Cuba, Sudan, Burma, Nigeria, Iran, and Iraq, and for the establishment of an inspector general to crack down on waste and fraud within the U.N. system. That she accomplished these and many other important goals at a time when the United States was the world's largest debtor to the United Nations, thereby undercutting our influence in that institution, bears witness to her formidable diplomatic skills.

What Ambassador Albright will bring to this position, however, reaches far beyond the qualifications that are listed on her impressive résumé. Her own personal family history of escaping from persecution, first at the hands of the Nazis and subsequently at those of the Communists, has given her a profound understanding of the values and interests at the very heart of U.S. foreign policy. At her hearing, she eloquently reminded us that freedom and democracy can be challenged from both the left and the right of the political spectrum. She told the committee, "It might be said of America that we have no permanent enemies, only permanent principles. Those principles are founded in respect for law, human dignity and freedom, not just for some, but for all people."

Referring to the United States as "the indispensable nation," she challenged us to become "the authors of the history of our age" by seizing the opportunity to meet the demands of a new century.

I think we all agree on the importance of having the President's new foreign policy team in place as quickly as possible, and I am pleased that the Foreign Relations Committee and the full Senate are acting upon this nomination in such an expeditious manner. I understand the Armed Services Committee is also moving expeditiously to consider the nomination of our former colleague, Senator William Cohen, to be Secretary of Defense. We have before us a full and pressing agenda: the ratification of the Chemical Weapons Convention and budgeting adequate resources for the effective conduct of our foreign policy, to mention only two. Ambassador Albright's confirmation hearing proved to all of us President Clinton's insight in selecting her for this significant and weighty assignment. He chose her for her demonstrated competence, her broad range of experience, for her consistently sound advice, and her exceptional ability to explain international issues to Americans while conveying U.S. policies and principles to the world.

I believe that Madeleine Albright is eminently qualified to become Secretary of State. I urge my colleagues to join with me in approving her nomination.

Mr. President, I yield the floor.

Mr. McCONNELL. Mr. President, I am pleased to rise in support of Ambassador Albright's nomination as Secretary of State. I am confident she will serve our national security interests with distinction.

While she has managed a broad portfolio in her capacity as our Ambassador to the United Nations, there are two issues where I have had occasion to work closely with her and have been particularly impressed with her views and commitment.

On Burma, Ambassador Albright has consistently delivered a tough message to the ruling junta: We expect improvements on human rights, we expect a serious effort to be made to combat the scourge of narcotics trafficking.

She has recognized that the key to progress in both areas is to restore democracy to Burma.

To the supporters of Aung San Suu Kyi and her legitimately elected Government of Burma, robbed of their victory in 1991, Albright has been the sole voice of support and hope in this administration.

Following the International Conference on Women in Beijing, she traveled to Rangoon and met with Aung San Suu Kyi.

This may not seem to be exceptional, but Ambassador Albright is the only senior official in the administration to meet with Aung San Suu Kyi and has been alone yet unfailing in her outspoken support for the advancement of Burma's freedom from the thugs who currently rule.

A few weeks ago, after several hundred students and citizens were arrested for calling for political change, Ambassador Albright spoke out forcefully and in clear terms at the United Nations that this oppression must come to an end.

Last year, during consideration of the foreign operations bill, we included language which established criteria for imposing economic sanctions against SLORC.

Specifically, we required sanctions be applied if there was large scale repression against the opposition or if any action was taken to harm or rearrest Aung San Suu Kyi.

Since the bill passed, the administration continues to be in a holding pattern claiming our policy is under review, a review which has been going on for several years.

In the meantime, more than 500 people have been arrested when Aung San Suu Kyi ventured from her compound several weeks ago, her car was stoned and smashed by thugs as SLORC police looked on. Since then she has been under undeclared house arrest.

Given her past support I am hopeful Ambassador Albright will finally take the necessary steps to position this administration squarely in support of democracy and its most eloquent, dignified advocate Aung San Suu Kyi.

Let me comment briefly on one other area where I believe Ambassador Albright has already made a difference.

During the administration's recent consideration of the level of support for the foreign affairs account she has been unflinching and unapologetic about the need to provide adequate resources to administer American foreign policy and assistance programs.

I share her view that we have reached a crisis point—we cannot afford to compromise our financial support for our embassies and programs abroad based on a misguided notion that further reductions will actually make a difference in balancing the budget.

The 150 account is already less than 1 percent of Federal spending—further cuts will not make any meaningful contribution to controlling our budget deficit and, in fact may actually make it worse.

Cutting back on America's presence overseas has a direct impact on American commercial interests—without export promotion programs to launch and support them in critical but risky new markets, American business men will lose long term access and share—and as we all know, exports are the key to both American income and 11 million jobs.

It's not just our economy that is affected, our presence abroad has a direct affect on protecting our interests in combating terrorism and narcotics trafficking, direct threats to our communities and families.

American leadership has paid a premium in peace and prosperity but it comes at a price. Madeleine Albright has courageously and clearly defended the importance of making that down payment.

I am confident that she will bring the same frank, smart, and tough approach to her new responsibilities that we have seen her exercise in her current position.

I ask unanimous consent that Ambassador Albright's statement at the United Nations be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY AMBASSADOR MADELEINE K. ALBRIGHT, UNITED STATES REPRESENTATIVE TO THE UNITED NATIONS, IN THE GENERAL ASSEMBLY, ON THE HUMAN RIGHTS SITUATION IN BURMA, DECEMBER 12, 1996

The United States strongly supports this resolution on the human rights situation in Burma, and I congratulate my colleagues from Sweden for the skill and commitment with which they authored and gained agreement to it.

This resolution reflects the consensus view of the members of the United Nations, a view premised on the ideals of the UN Charter and the principles enshrined in the Universal Declaration of Human Rights. It reflects the hard-earned wisdom of the international community that every government of every society should be held to certain minimum standards of respect for the rights and freedoms of its own people.

Regrettably, the current government of Burma is not meeting these minimum standards. It has subjected democratic forces to a kind of rolling repression in which small steps forward alternate with crackdowns and episodes of intimidation and violence.

The Burmese authorities, known as the SLORC, have refused to enter into a meaningful dialogue with the leader of the National League for Democracy, Aung San Suu Kyi, or with other democratic leaders and representatives of the major ethnic groups. They have continued to deny to their citizens the fundamental political freedoms of expression and assembly. And they have engaged in torture, forced labor, forced relocations and summary executions.

It is increasingly clear that the failure of Burmese authorities to respect civil and human rights is causing unrest within the country.

Recent student demonstrations, although non-political in nature, have been harshly repressed. The Government has periodically curtailed the right of Aung San Suu Kyi to address her supporters in public and even to leave her home. Last November, her motorcade was attacked by a mob that could only have acted with official authority and blessing. As we speak, the restrictions on her movements and activities are the most severe since her release from "house arrest" in July, 1995.

Although the SLORC professes a desire to move Burma in the direction of democracy, it has not done so. The Constitutional Convention it established to create the illusion of a national political dialogue is a shamefully controlled and orchestrated by the government. As a result, the Convention has been a source not of reconciliation, but of further division.

Finally, the Government of Burma has refused to cooperate with the UN Special Rapporteur and with the Special Representative of the Secretary-General.

The Burmese authorities would like the world to believe that its harsh policies are necessary in light of Burma's turbulent history and the multi-ethnic nature of Burmese society. But as the Resolution approved today shows, the world does not accept that excuse. The right of people to participate freely in a democratic political process is an ally—not an enemy—to national unity and social peace.

Experience tells us that the kind of stability that may be achieved through repression is sterile, superficial and temporary. It is a stability maintained by fear, in which the human resources of a society are held back and beaten down.

Lasting stability, economic prosperity and a rich cultural life come when people are free to make use of their full talents and abilities. A society blossoms when those who govern respect those who are governed, and when the people have confidence in those they have chosen to make and enforce their laws.

For Burma, the path to that kind of future is outlined in this resolution.

In it, we call upon the government to cease abusing human rights, to empty their cells of those detained for political reasons, to permit UN representatives to visit; and to begin a genuine dialogue with democratic and ethnic leaders.

The more time elapses before these steps are taken, the more the pressure will build, the more divided Burma will become, and the more difficult it will be for Burma to achieve a peaceful transition to democratic rule.

The international community would like to see Burma develop into a stable, prosperous and democratic society. We would like to remove Burma from the list of nations about which we annually express concern.

But as long as repression remains the government's chosen means of conducting business with its own people, we will continue to meet our own responsibility to speak up; and to assert the validity in Burma of the universal and cherished principles by which all nations have agreed to live, and without which, no nation can fulfill its potential.

Mr. GREGG. Mr. President, I yield myself such time as I may consume.

I rise to speak, along with my colleagues, on the good counsel, good decision the President has made in choosing Madeleine Albright. I think it also is appropriate at this time to acknowledge the extraordinary effort and the extraordinary commitment of service that was made by Secretary Christopher during his term as Secretary of State. He was a patient and tireless pursuer of peace around the world. I may not have agreed with all his policies, but certainly in a number of areas his successes are considerable and I point specifically to the Mideast.

Equally important, he was an individual totally committed to raising up the standard of living and of support for members of his team, his Foreign Service team and their families, something I am also committed to, that, as chairman of the appropriations committee which has jurisdiction over the State Department, I feel very strongly we must continue to pursue. So I congratulate him on his efforts.

Ambassador Albright is someone I have had a chance to work with, relative to her time at the United Nations. I know she will bring to the office of Secretary of State a great deal of integrity and a great deal of energy. Of course she has a unique personal background that I think will be a tremendous asset to the President, as he and she develop international policy.

But, as we address the issue of Madeleine Albright's nomination I think we need to go beyond the person. I intend to vote for her and vote with enthusiasm for her, but I do believe very strongly that we need to raise the issue of policy, as to how this administration is pursuing the decisions of foreign policy in a number of arenas because there are some problems and I have significant reservations, as I know many of my colleagues do. I know there has been some discussion on the issue of Bosnia, and the question as to how the administration acted and is going to continue to act there, the fact that basically neither the Congress nor the American people were told fully of the policies there, and in fact were really misled as to the decisions that were made there, as to the removal of American troops. But rather than focusing on that issue, that I know some of my colleagues were talking about, I want to focus on two other issues I think are critical and about which this administration's policies need to be reviewed with considerable intensity.

The first issue is how we deal with the United Nations. It is my understanding the administration will be sending up a supplemental request or some other form of request for an appropriation to fully fund the arrearages that are due to the United Nations. I happen to be a supporter of the United Nations, its goals and purposes. But I also am realistic enough to know that body has not functioned very effectively and that body has spent a lot of money ineffectively and has had a significant track record of patronage, of misuse of funds, and in some instances of actual abusive use of funds.

The question becomes how should we pay these arrearages? Should we just do it in a carte blanche manner or just do it in an orderly manner that allows the United States to assert financial interests of the integrity within the institution, of its management of day-to-day operation, and of its delivery of services? To date we have not had a great deal of success in that area. There has been a lot of talk about it. The United Nations has claimed that it is now funding a no-growth budget, something which is very suspect even though the State Department has certified it. It is very suspect because there are $154 million worth of reductions in spending which they claim they are going to make, but which have not been identified. Yet we see the State Department accepting them at face value, which is something I think this Congress should have a great deal of problems doing for any American agency.

In addition, we hear the United Nations is aggressively pursuing reform within itself. But that reform does not seem to be broad. It also does not seem to be willing to be subject to significant review. An inspector general has been appointed, but that inspector general's portfolio has been significantly limited.

We, as a Congress, have also been significantly circumscribed in our ability to determine how the dollars are being spent.

Why is it important that we look at this? Well, because 25 cents of every dollar that the United Nations spends comes from the American taxpayer, and we have to go back to our constituents and say those dollars are being spent effectively.

I personally have no problem funding the United Nations at a level that is reasonable, but I do have a great deal of problem funding some group of individuals simply sitting at a desk who got those jobs out of patronage or because they happened to know somebody or related to somebody and are not pursuing and accomplishing a great deal, either to the benefit of the United Nations or the world. Yet, there appears to be a significant amount of that going on.

I had one U.N. spokesperson say to me, "But we have 290 countries looking over our shoulders making sure every cent is spent appropriately." The fact is, just a few nations are actually paying for the spending. Most of the nations that participate in the United Nations either contribute very little or, in some cases, nothing to general coffers, and they are not looking over their shoulders to determine how the money is being spent effectively. In many instances, they are looking over the shoulders to see how much money they can get spent on them.

So, really, it is the United States role in the exercise of reviewing the United Nations that we be much more aggressive in financial review and management of that institution.

This is something I do not think this administration has pursued aggressively enough. Ambassador Albright, to her credit, tried to pursue it aggressively, but I think that once we take off the lever of the arrearages issue and simply sign a blank check for arrearages, we lose our capacity to effectively pursue United Nations reform in its own house, and that is something that I will be very resistant to doing.

I believe Congress should put a strong fence around any funds for the United Nations, and before those moneys can be spent for arrearages, there must be a hard account—a hard account—of how the reforms have occurred and whether or not they are going to be effective.

Second, this administration's actions in the area of terrorism, which is a core issue of foreign policy—in fact, there is no greater threat to this country today than the act of a terrorist, either orchestrated by a foreign power or orchestrated by an international group of individuals directed at our country—there is no greater threat to our country today.

We came out of the cold war where the threat was two nations confronting each other with nuclear armament into a world where we have innumerable factions around the world who, for whatever reasons—whether they are religious, whether they are personal, whether they are just economic—have decided to make the United States the target of their concerns and, in many instances, these are fanatics.

We, as a nation, must be much more aggressive in addressing the issue of terrorism. To do this, we have to have a coordinated effort that starts with the President and involves the core agencies at the Federal level, including the State Department, the CIA, the Defense Department and the Justice Department, and especially the FBI in the Justice Department.

I have been concerned and have spoken on this floor a number of instances about the fact that although we have leadership in those Departments who have raised the issue of terrorism to a high standard within their Departments, and although those leaders talk to each other—Secretary Christopher was aggressive in talking to other agency heads, the Defense Department, CIA, and Justice—we do not yet have in place a systematic process for pushing down through the agencies the cooperation which is necessary in order to have a coordinated effort. In fact, we still have in the field significant resistance from the State Department to FBI agents being placed overseas for the basic purpose of law enforcement, and we have a real lack of communication, in many instances, between the FBI, CIA, and the field people who do the work for the State Department.

Until we put in place a systematic process of developing information and getting it back to a central group in this country who can use that information effectively, we will be continuing to blind ourselves as a nation as to the threat of terrorism and our ability to respond to it.

This has to come from the top. It has to come from the President. The President has to have the leadership of the agencies sit with him on a regular basis and develop a plan which is then communicated down through the various levels of the different Departments. But it has not occurred yet. To be honest, I do not think there is a sense of urgency expressed yet within this administration to do that. So, once again, I have a strong concern and hope that they will take this issue on.

So those are two public policy issues which I think this administration has yet to adequately address, and I hope the new Secretary of State, Ambassador Albright, will pursue them. They are put on the table by myself as a matter of a caveat item of concern that, as chairman of the committee which has jurisdiction over the State Department and the Justice Department, I intend to continue to push and to which I hope this administration will respond.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KERRY. Mr. President, I rise to strongly support the nomination of Madeleine Albright to be Secretary of State. I thank the majority leader for moving so rapidly to schedule both this debate as well as the vote.

I believe the overwhelming vote—probably unanimous—in favor of Madeleine Albright is going to properly reflect the confidence and esteem in which she is held by the U.S. Senate.

I think the President should be greatly commended for this nomination. Obviously, he has chosen not only someone who is eminently qualified to be Secretary of State, but he has made a wonderful statement to the world about the possibilities in the United States of America. It is something we often talk about, but Madeleine Albright will be a living example, an Ambassador, even as Secretary of State, of the opportunities in this country for an immigrant as well as for women. I think all of us should be very proud of that.

She brings a remarkable amount of knowledge and practical experience to this job. She is an academic with recognized expertise in the politics and policies of Russia, Central and Eastern Europe.

During her tenure as our representative at the United Nations, she has shown herself to be a remarkably forceful and effective diplomat. Of particular importance to us here, she understands the Hill, she understands the Congress, she understands the constitutional prerogatives thereof, and she has worked as well with the executive branch as she has with the legislative branch of our Government.

During her 4 years at the United Nations, she established an impressive record of accomplishments on behalf of our country. Thanks to her determination, the United States was able to hold the line on U.N. sanctions against Libya and Iraq and to gain the Security Council's approval for the United States-led multinational effort to restore democracy in Haiti, an effort, I might comment, met with significant resistance in this country, that represented both a gutsy, courageous decision and one which has made an enormous difference, ultimately, for the people of Haiti and, I think, also, one might say, to our country because of what we accomplished and also because of the practical things that we avoided with respect to the forced immigration and difficulties we were facing with refugees coming to Florida.

In addition to that, her very strong personal advocacy led to the establishment of the War Crimes Tribunal for Rwanda and the former Yugoslavia and for the fulfillment, really, of Eleanor Roosevelt's proposal for the establishment of a new position, the High Commissioner for Human Rights.

In the very difficult area of U.N. reform and management, which is an area Senator GREGG referred to, and other Senators have expressed a great deal of concern about, particularly those of us on the Foreign Relations Committee, Ambassador Albright's determined and personal efforts have led to the establishment of an inspector general, the adoption for the first time in history of a no-growth budget. As suspect as Senator GREGG says some of the promises may be, it is in place and I believe we are in a position to help leverage that now for the first time, and also, most important, the election of a new Secretary General who understands the paramount need for continued reform.

Those of us who know Ambassador Albright were not at all surprised by her deft handling of the nomination process itself, the way in which she impressed both the public and the Senators who were part of that confirmation process earlier this month.

As the former chairman and now ranking member of the International Operations Subcommittee, I was particularly pleased that Ambassador Albright shares my concern about two important issues. They are not the only things we share, but two that I want to just spend a moment on.

One is the need to ensure that the State Department has adequate resources to conduct our diplomacy in this increasingly complex world. I think it is vital for us in the Congress not to balance the budget of the United States on the great international interests we have, to nickel and dime many of those vital interests as we go forward in this far more complex world.

Many of my colleagues spend a lot of time extolling the virtues of the end of the cold war, and well we should. But the end of the cold war does not mean the end of the need for personal diplomacy or for vigilance or for American presence. I would respectfully submit that it means the need for more, not less. And the new kind of conflicts that we see, conflicts that emerge out of nationalism, out of fundamentalism, the problems of terrorism and working on treaties and various agreements, and legal agreements to exchange law enforcement and information, all of these things really demand more personal diplomacy than ever before.

Indeed, the extraordinary confrontations we face internationally on issues of resource allocation, refugees, human rights require the United States of America, the preeminent leader on these issues in the world, to be able to make our presence felt.

Mr. President, that means people talking to people. It does not mean closing every mission or closing every outpost in the world. It frankly means a greater presence, not a lesser presence. I believe that that will return to us in so many hundreds of thousands of ways, some of them immeasurable, but most of them measurable, that it is well worth the investment of this country.

The second area, I believe, is the importance of developing a multilateral strategy to combat the increasing threats positioned by international crime. Without such a strategy, we will find ourselves increasingly threatened in the face of a growing global criminal network that tears at the fabric of our society and jeopardizes our relationships with other nations.

In the coming months we have to address a host of important issues in the Senate: arms control and foreign policy issues, including the Chemical Weapons Convention, the Nuclear Safety Convention, the future of the Anti-Ballistic Missile Treaty, the U.N. funding and reform, and the question of resources for international affairs, agencies and programs. So I look forward to working with the new Secretary of State on those issues.

Mr. President, many of us have had the honor of working with Ambassador Albright for the last 4 years. We know she has a remarkable grasp of the issues that we face and a determination to confront the challenges. We should remember that she brings a very important additional quality to this job—it is a special quality, and I think particularly important in this time—and that is the ability to connect with the American people and to help define to the American people the complexities of our interests in foreign policy and to do so in a way that all Americans can understand and appreciate.

When we visited in my office prior to her confirmation hearing, Ambassador Albright said to me that her first objective was to make the American people understand what we are trying to accomplish, how we are trying to accomplish it, and their stake in what we are trying to accomplish in their name. Like any smart politician, she understands that no foreign policy can be successful ultimately without the support of the American people. I am confident that she will engender that support in her new role as Secretary of State.

So today we have an opportunity to help make history in the U.S. Senate by confirming a remarkably talented person who happens to also be a woman as the next Secretary of State. I am pleased to cast my vote along with others for Madeleine Albright. I know she will undertake her new job with great thoughtfulness and creativity and with a zest that will make us proud.

I reserve the remainder of time for our side of the aisle.

The PRESIDING OFFICER. Who yields time?

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you very much. I thank the Senator from North Carolina for this opportunity to speak.

I am delighted to have an opportunity to participate in the discussion of the confirmation of the President's choice for Secretary of State, Madeleine Albright.

Generally, Mr. President, I respect the Executive's prerogative to choose Cabinet officers whom the President believes will faithfully and diligently execute the Administration's policies. However, in our federal system, the

Senate plays an important role in the confirmation process through the constitutionally granted power to "advise and consent." It is this duty—the duty to advise and to grant consent—which brings me before you today, for I have grave concerns regarding the conduct of U.S. foreign policy under the Clinton administration.

As a member of the Foreign Relations Committee, I had the privilege and the responsibility to question Ambassador Albright concerning her strategic vision for the conduct of U.S. foreign policy. Ambassador Albright is a capable and forceful advocate of the Clinton administration's agenda. I am confident that she will serve the President with honor and distinction. Unfortunately, I am equally confident that Ambassador Albright will continue to promote the same misguided Clinton foreign policy that we have had for the past 4 years.

We need our foreign relations to be conducted at the highest level of integration and coordination, and the highest level of representation of the sovereign interests of this country and the American people. We must ensure that our influence is used to advance the national interest and to ensure respect for American leadership abroad. National prestige is reinforced and enhanced when we operate with a coherent, concise, and understandable foreign policy. As the world's only remaining superpower—we must enhance our capacity to deliver military, economic, and moral leadership with clarity.

To date, the Clinton administration has reacted to foreign policy developments, but has failed to a develop a foreign policy. The administration has lurched from managing one crisis to another, but never articulated the national interest in accordance with a core philosophy. Instead of consistently safeguarding and promoting our values abroad, the Clinton administration has acted on an ad hoc basis according to the exigencies of the moment, confusing our allies and emboldening rogue nations. China was emboldened to conduct missile tests off the coast of Taiwan; North Korea was emboldened to further the development of their nuclear weapons capabilities; Saddam Hussein was emboldened to strengthen his position in northern Iraq.

Mr. President, in her confirmation hearing Madeleine Albright said, quoting the President of the United States, "Where our interests are clear, our values are at stake, and where we can make a difference, we must act and we must lead." This formula for deploying American forces is one which is so broad and so vague that it sends signals which might confuse other players in the international arena.

"Where our interests are clear"—I suppose we could have an interest anywhere—and "where our values are at stake"—I am sure the values we hold dear are at stake in every situation around the world—and "where we can make a difference." Well, the truth of the matter is, no one would think that we would send our troops where we could not make a difference.

I remain concerned that if we deploy troops in too many instances just because there are interests and there are values at stake and we can make a difference, there may come a time when our troops will be so occupied that they will not be available to protect strategic national interests where we must make a difference.

It is important that we ask the Secretary of State-designate and this administration for a well-defined set of guidelines for how we deploy the strength of the United States around the world. The absence of such a policy, I think, could be disastrous in terms of our own interests and could be confusing and send the wrong signals to the international community. In that respect I send to the desk for inclusion in the RECORD an editorial from the Philadelphia Inquirer of January 13, 1997, regarding this matter and the hearing and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATECRAFT—AFTER MADELEINE ALBRIGHT SKATES TO CONFIRMATION, IT'LL BE PERFORMANCE, NOT RHETORIC, THAT COUNTS

During her confirmation hearings for secretary of state last week, Madeleine Albright was asked when America should intervene abroad.

She quoted a high-sounding but vague statement by President Clinton: "Where our interests are clear, our values are at stake, and where we can make a difference, we must act and we must lead."

Sen. John Ascroft, a Missouri Republican, asked with understandable perplexity, "How do we set those priorities? Are there ever times where we don't act where we could make a difference because we need to reserve our capacity to act where we *must* make a difference?"

Mrs. Albright, who served in Clinton's first term as ambassador to the United Nations, replied that such choices are policymakers' most difficult task. But that is precisely the mountain she must move if the Clinton foreign policy is to gain coherence. As Americans struggle to find the line between isolationism and global gendarme, Mrs. Albright still hasn't clarified where she stands.

Her confirmation hearing was a lovefest, in part because she charmed conservatives by bashing Cuba and former United Nations chief Boutros Boutros-Ghali, in part because she will be the first woman to hold such high office. But she didn't resolve the contradictions in her political and diplomatic track record of interventionism.

As a child of refugees from Hitler and Soviet communism, Mrs. Albright says her thinking was molded by Munich rather than Vietnam (that is, she sees U.S. intervention as good, not evil). But it has often seemed her litmus test for U.S. intervention was more a hope of doing good, than a pursuit of vital U.S. interests.

On taking her U.N. post, Mrs. Albright called for "assertive multilateralism," meaning America should lead, but work through international organizations like the United Nations. But she dropped that idea after the U.N. and American peacekeeping debacle in Somalia (for which she bears much responsibility).

Now Mrs. Albright talks about a pragmatic "doability doctrine." She said America isn't the world's policeman. But she never answered Sen. Ashcroft's question.

The lack of clues to an Albright doctrine wouldn't be so worrisome had she demonstrated a firmer grip of strategy over the past four years. Instead, she became known more as the queen of the TV sound bite, coining punchy foreign policy phrases to compensate for the taciturn Warren Christopher. Pundits praise her "passionate" approach, but in her new job it will be strategy and performance that count, not rhetoric. Perhaps she can avoid her boss' history of confusing the two.

Mr. ASHCROFT. Mr. President, during her confirmation hearing Ambassador Albright stated that "we are not the world's policeman, nor, . . . are we running a charity or a fire department." However, she failed to recognize that the combination of her so-called "assertive multilateralism" and a "do-ability doctrine"—whereby the United States acts "in the places where our addition of action will, in fact, be the critical difference"—places the United States, as a practical matter in the position of being the world's policeman, of running a charity or a fire department.

For the past 4 years, the pursuit of the United States' national interests has been obscured by an overriding reliance on multilateral action. The administration's embrace of 'assertive multilateralism' has resulted in both the abdication of our responsibilities and the misguided projection of our power. For example, instead of applying the Reagan Doctrine to Bosnia by equipping and training the Bosnian forces in spite of our allies' objections, the Clinton administration subcontracted our role of arming the Bosnians to a terrorist regime in Iran, allowing fundamentalists to gain a foothold in the heart of Europe and thus unnecessarily endangering the lives of U.S. troops. In contrast, the administration's attempt at nation building in Somalia sacrificed the lives of 19 brave Rangers without regard to whether such action advanced our vital national interests. When this administration acts according to the exigencies of the moment instead of according to an underlying philosophy, the country lurches from paralysis to mission creep without regard to the national interest.

Recently, there has been discussion of the possibility of reworking our entire military force structure—which is presently based on the capacity to fight two simultaneous major regional conflicts—in order to enable us to commit U.S. troops to an ever-growing number of multilateral peacekeeping missions. I am concerned that we may sacrifice our vital national security interests in order to be able to participate in peripheral endeavors. We should not be shortsighted. We should not lose sight of what we must do in order to accomplish what we can do. Our military should be used to protect our national security interests, not provide peacekeeping in areas without strategic significance.

We need to continue to very closely monitor the foreign policy of the Clinton administration in terms of the national security interests of the United States. We must be vigilant about the deployment of U.S. troops around the world, including deployments that might include an attempt to place U.S. troops under the command of individuals who are not U.S. citizens and who do not have the kind of values to which we are committed.

Mr. President, in this era of hegemonic stability, with the proliferation of fissile materials and missile delivery systems to rogue nations we must be constantly vigilant to security threats. We must ensure that adherence to Russia's narrow and one-sided interpretation of the ABM Treaty does not jeopardize the safety of the American people. Russia should not have veto power over developing a defensive system to protect the American people from missile attack. Ambassador Albright supports the administration's goal to develop a theater missile defense system that will protect our allies and our troops abroad—but not to develop a system to protect our own territory and citizens at home in the near term. I find this position to be untenable.

Mr. President, we must not only protect the physical security of the United States and the American people. We must also safeguard our sovereignty—our State and local laws and customs from international review. I am troubled by Ambassador Albright's assertion that "there is no such thing anymore as just a purely domestic issue or a purely foreign issue." She says there are only "intermestic" issues, meaning international and domestic issues combined. I think there are some issues of sovereignty that need to be reserved directly and appropriately, not only to the purview of our country, but to its citizens—to individuals and to families. I am concerned about her support of international treaties which could infringe upon the parental and religious rights Americans now enjoy.

I am concerned that we closely monitor the extent to which the United States from time to time by treaty cedes the sovereignty of the American people to international organizations. Madeleine Albright, the Secretary of State-designate, for instance, signed the United Nations Convention on the Rights of the Child. Britain, which has ratified the treaty, is now being called on the carpet because they allow moderate corporal punishment of children by parents. I simply do not think we need to look to the United Nations or international organizations to tell us whether moderate spanking of children is allowed in the United States. Inasmuch as she was an individual who signed the treaty on behalf of the United States, I think it behooves us, given her commitment to the so-called "intermestic" nature of all issues, that we ask her to be especially careful about the sovereignty of the United States and the prerogatives of individuals in specific States. Ambassador Albright stated that "the promotion and protection of international human rights may require that domestic state and local policies in certain areas be open to international scrutiny. We have no reason to fear it." I would suggest that any threat to our sovereignty, any threat to our State and local laws, any threat to the sanctity of the family, is a reason to be vigilant.

In order to safeguard the national interest, we must reorganize our foreign policy apparatus. This Nation is still saddled with an unwieldy cold war foreign policy bureaucracy in which many of the functions of AID, ACDA, and USIA could be better handled by the State Department. I was hoping that Ambassador Albright would come forward in support of this effort, as did Secretary of State Christopher—however fleetingly. The American people not only want our Government to reflect their wishes abroad, but they want it to do so coherently, concisely, and clearly. If we have a single voice in foreign policy representing the administration, be it Republican or Democrat, that single voice is most likely to get the job done, rather than the cacophony of voices from competing fiefdoms which undercut the authority of the Secretary of State.

For example, currently there is a "good-cop, bad-cop" approach to foreign policy, whereby the entities who hand out U.S. foreign aid maintain good relations with client nations, while the Department of State essentially holds the line in protecting U.S. interests. We should not be handing out foreign aid to a country at a time when that very country is clearly acting against our interests. When we distribute foreign aid, it should be with an understanding that the United States agency or department asking for coordination and cooperation from a country in one arena is the same agency or department that will be delivering assistance to that country.

We must prioritize our expenditures. There are those in this country, like Ambassador Albright, who think that there cannot be any cuts at all in the foreign relations area. The Clinton administration has actually asked for over $1 billion more in funding over last year's level. Lobbyists for more foreign aid kept trawling the Halls of Congress last year with their buttons saying "Just 1 percent." I just want to point out that the "Just 1 percent" is actually about $18 billion. Ambassador Albright is convinced that we have made "the most out of that (foreign aid) money." I am not so sanguine. We have poured hundreds of millions of dollars into countries over the years with little effect, because we have not tied that aid to internal changes in many countries which would make that aid meaningful and eventually unnecessary.

I am not in favor of abolishing foreign assistance, but I am in favor of sending a signal around the globe that when American citizens are tightening their belts, and exercising fiscal responsibility, there will be some ripple effects in terms of our aid. We need to send a clear signal that the shared sacrifice here at home should be matched by a certain degree of sacrifice around the world. There is a direct correlation between our international prestige and the fiscal health of this country. If we do not have the ability to put our financial house in order, we will not be respected by countries around the world. If we continue to race down the road to bankruptcy, our influence will not be substantial. It is my sense that our stock will rise on the exchange of the world's international community, when we demonstrate our intent to address seriously our responsibilities.

However, the United States is not alone in the need to downsize its bureaucracy and eliminate waste. The United Nations must do the same. To her credit, Ambassador Albright has been an outspoken critic of waste, fraud, and abuse in the United Nations. She was instrumental in initiating an oversight process. However, I am disturbed that she supports the payment of arrears by the United States. The Congress withheld those funds in order to exert leverage for reform. Those funds should not be released until there is tangible evidence that those reforms have been enacted as required by Congress.

I am casting my vote for Ambassador Albright with grave reservations. For I want to make clear that my vote for Ambassador Albright to ascend to the position of Secretary of State is not an endorsement of the Clinton administration's foreign policy. As I noted, I take my "advise and consent" responsibilities very seriously. I also take my oversight responsibilities very seriously. I pray that over time, my concerns that we are in store for 4 more years of an ad hoc foreign policy will prove to be unfounded. Ambassador Albright is an honorable, committed, and distinguished public official. She is eminently well qualified to be our 63d Secretary of State. It is a privilege to be able to cast the historic vote for the first woman to be nominated for this office. As a member of the Foreign Relations Committee, I look forward to working with her in the future to protect America's interests abroad.

Mr. HELMS. Mr. President, I have a housekeeping matter and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Second, Mr. President, following his remarks on the nomination, Senator DODD has requested a couple of minutes in morning business. I ask unanimous consent that that be granted and not charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask for 10 minutes.

Mr. BIDEN. How much time does the minority control?

The PRESIDING OFFICER. The minority has 12 minutes 21 seconds.

Mr. DODD. I will make it briefer than that then.

Mr. BIDEN. If the Senator needs 10, go ahead.

Mr. DODD. Mr. President, let me thank Senator BIDEN and also my colleague from North Carolina for his understanding. I also thank him and Senator LOTT for the expeditious manner in which this nomination has been treated. Finally, I thank my colleagues on the committee as well, who engaged in a long day of testimony by Madeleine Albright, under an arrangement that allowed us to move this nomination out of our committee on the day of the inauguration. Now, it will allow us to vote here today in the full Senate.

Mr. President, I believe that today's bipartisan cooperation on this nomination will help to forge the kind of working relationship between Republicans and Democrats in the Senate that should make it easier to get the American people's business taken care of here in Washington. I commend the leaders of both sides of the aisle for their efforts in that regard.

To be honest, Mr. President, reaching consensus on this nomination was not difficult at all. That's because the nominee we are considering today is so highly respected by everyone in the U.S. Congress—by Democrats and Republicans, liberals, moderates, and conservatives.

During her nomination hearing on January 8, Ambassador Albright demonstrated a profound understanding of the foreign policy issues confronting the United States as we prepare to enter the 21st century. In her opening statement on that day, she laid out very effectively, in my view, and succinctly why all Americans should care about foreign policy. I would like to quote her:

> Do not doubt.—
>
> Speaking of foreign policy interests.
>
> Those interests are not geopolitical abstractions, they are real.
>
> It matters to our children whether they grow up in a world where the dangers posed by weapons of mass destruction have been minimized or allowed to run out of control.
>
> It matters to our families whether illegal drugs continue to pour into our neighborhoods from overseas.
>
> It matters to Americans who travel abroad or go about their daily business at home whether the scourge of international terrorism is reduced.
>
> It matters to our workers and business people whether they will be unfairly forced to compete against companies that violate fair labor standards, despoil the environment or gain contracts not through competition but corruption.
>
> And it matters to us all whether through inattention or indifference, we allow small wars to grow into large ones that put our safety and freedom at risk.

Mr. President, I believe that summarizes very well why what happens outside of our borders is important to each and every American.

I know that time is limited and many of my colleagues wish to speak on this issue as well. So I will just cover some brief points here, if I can. I certainly would not want to allow the time to pass without making some personal observations about Madeleine Albright.

Obviously, Ambassador Albright's nomination is historic for a number of reasons, and those reasons have been outlined by the chairman of the committee, the Senator from North Carolina, as well as others, over the last several hours. She will be the first woman to hold the position of Secretary of State. Without a doubt, Madeleine is eminently qualified to discharge the duties of this office. She has the expertise, academic background, and leadership qualities that will make her an excellent Secretary of State. I may also point out, Mr. President, that Madeleine Albright speaks, I believe, four or five languages fluently—which will be a first, I think, for anyone to ever hold this position—including her native language of Czech, as well as Russian, Polish, French, and obviously English. This will provide an invaluable tool for the United States, to have a Secretary of State with such a proficient ability to communicate with leaders throughout the world.

I have known Ambassador Albright for many years. Our families have been close. My brother, Tom, was a colleague of Madeleine's at Georgetown University for many years, where they both taught.

Madeleine is also no stranger to the Congress and she keenly understands the need to return to a bipartisan consensus on American foreign policy. In fact, Mr. President, if I were asked what is the single-most important foreign policy issue facing this country today, I would say getting the Congress and the legislative branch to work together. I think that is No. 1. Every other issue you can mention is obviously important, but unless we figure out a way to return to a time when there was comity in the foreign policy agenda, it is going to be very difficult to deal with any foreign policy issue.

I happen to think Ambassador Albright is eminently qualified because she knows all of this so well. We have dealt with her, we know of her and her competence, and we have confidence in her. That is a very important step in allowing us to work together on behalf of shared goals. I've heard my chairman speak about this subject matter and I have a great deal of confidence that we are going to have great success under his leadership and the leadership of Ambassador Albright in that regard.

Madeleine has also worked closely with both Chambers over the past 4 years as the U.S. Permanent Representative to the United Nations. She has been a voice of wisdom and reason at the United Nations during the course of the many debates that have occurred there—on Bosnia, on Iraq, on Haiti, on Cuba, and on the need for institutional reform within that international body.

Why has Madeleine been so effective at representing U.S. interests? Perhaps because her own life story, which may not be well known to many people, is the epitome of what makes this country great.

Becoming the U.S. Ambassador to the United Nations was something of a homecoming for Ambassador Albright. She had, after all, been at the United Nations once before. Madeleine first came to the United States in 1948, at the age of 11, when her father was appointed as the Czech Ambassador to the United Nations.

Little did her family realize at that time that their stay in the United States would be more than the usual ambassadorial rotation. Soon after their arrival, the free Czechoslovakia they had left behind was under the grip of totalitarian rule. It had fallen to the dictatorship of communism.

I happen to know about that so well, because during that very brief time when Czechoslovakia was a free government, my father was fortunate to receive the Order of the White Lion, which was the highest honor that Czechoslovakia could give to a non-Czech, at the end of World War II. We still prize it as one of my father's most memorable moments in his life. So from that relationship, my family got to know Madeleine's family.

It is perhaps because of these unique personal experiences that Ambassador Albright has been such an effective U.S. spokesperson at the United Nations. Whatever the topic, Madeleine is able to speak out passionately—from the heart—about the importance of democracy and respect for human rights across the globe.

Even before going to the United Nations, Ambassador Albright already had a distinguished career of public service and academic achievement. She is a graduate of Wellesley College and Columbia University. She was a fellow at both the Woodrow Wilson Center and the Center for Strategic and International Studies. As I mentioned earlier, she was a professor of international relations at Georgetown University and president of the Center for National Policy.

Her public service is equally distinguished—as a staff member to the late Senator Edmund Muskie, then as a member of the National Security Council in the Carter administration and most recently Ambassador to the United Nations. Mr. President, I believe the same qualities that made her so effective in these positions will make her particularly effective as the next Secretary of State.

Heads of state and foreign ministries around the globe already know that our next Secretary of State is highly respected in the United States and internationally and that she can go toe to toe with the most seasoned diplomats and foreign leaders. But, they should also know that she has the full confidence of both the President and the U.S. Congress.

Mr. President, Madeleine Albright is uniquely qualified, at this moment in history, to be America's voice abroad. I am confident that she will be a superb Secretary of State and I urge all to join me in supporting her nomination.

I thank our colleague from Delaware and our chairman for moving this along. This is the way we ought to be able to do business around here. I commend him and thank the majority leader, as well.

Mr. SPECTER. Mr. President, I have sought recognition today principally to lend my support to the nomination of the Honorable Madeleine Albright to be Secretary of State.

It is a historic and fitting occasion that this will be the first vote in the U.S. Senate in the 105th Congress. I have come to know Ambassador Albright in her work at the United Nations, and have a very high regard for her competency. And I am pleased that the President has made this historic appointment because she is the first woman who will have this very important position.

She has an extraordinary record in academia: president of the Center for National Policy; a professor of international affairs at Georgetown University; a senior fellow in Soviet and Eastern European affairs at the Center for Strategic and International Studies; served on the National Security Council staff; has excellent academic credentials from Wellesley; also a masters and doctorate from Columbia University; and, perhaps most importantly is a graduate of the Senate family, having served as chief legislative assistant to Senator Edmund Muskie.

I had occasion to work with Ambassador Albright on a number of matters. One of the most important was working with her on the War Crimes Tribunal, where the United States has played an active role in bringing to justice the international criminals from Bosnia and Rwanda. She accompanied me in a meeting which I had several years ago with then Secretary General of the United Nations, Boutros Boutros-Ghali, and there has been really good cooperation from the U.S. Government on that important matter. I have had an occasion to visit the War Crimes Tribunal on two occasions; to visit with our staff there, and also the judges. She has played a very important role in promoting the War Crimes Tribunal.

It is my hope that Secretary of State Albright will pursue an activist foreign policy and will lend the prestige and the power of the United States to solve complex international problems, one which I refer to—and only one for the brevity of time—which involves the efforts to bring conciliation between the Governments of India and Pakistan.

About a year and a half ago Senator Brown and I were traveling in India and met with Prime Minister Gowda, who commented about his interest in having the subcontinent nuclear free. We then discussed the matter with Prime Minister Benazir Bhutto in Pakistan. The ministers of those two countries have not met. Senator Brown and I wrote to the President urging that he invite them to the Oval Office.

I mention that only as an illustration of what I am hopeful Secretary of State Albright will activate on U.S. policy.

I think it is important for the United States to remain active internationally. She has an extraordinary background having been born in Czechoslovakia and having come to this country at the age of 11, and is also known to be fluent in four languages.

So I am pleased to lend my support to her nomination today.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Chair.

Today, indeed, is a historic day. We gather on the Senate floor to be presented both to ourselves and the American people the nomination of Dr. Madeleine Albright to be Secretary of State—Madeleine Albright, the very first woman to be nominated Secretary of State; Madeleine Albright, the very first refugee to be nominated Secretary of State.

What a wonderful, historic opportunity we have to confirm her nomination and to make history as well as to help carry out President Bill Clinton's foreign policy, to make the world a better and safer place.

I know Dr. Albright well. We have been friends and colleagues for many years, and I am so enthusiastic about her nomination because of her skills, her experience, her character, her values. She is a woman of honor, integrity and extraordinary patriotism.

As President Clinton was making his decision, I called him. I called him to urge that he consider Dr. Albright. I said there are three important reasons why I felt Madeleine Albright is the best person to serve as Secretary of State in this new millennium. First, she is a woman of great competence in the area of foreign policy and demonstrated skills in that area as our Ambassador to the United Nations.

Second, her remarkable personal history is the story of America.

And third, she has a great and unusual ability to communicate our foreign policy to the American people and to the world.

First, she would bring great competency and experience to the post. Foreign policy is her life's work and her life's passion. In addition to her dazzling intellectual ability and scholarship, Ambassador Albright has diplomatic skills and the understanding of what this new world order is all about.

She has a proven record. As our Ambassador to the United Nations, she showed brains and backbone asserting U.S. policy. We do not need to question whether she can deal with China, different cultures or with dictators. She has already done it. She is respected by our allies and by our foes. She has proven that she is firm, fair, and tenacious.

For the past 4 years, she has defended our values and interests at the United Nations, and she has done more to bring fiscal responsibility to the United Nations. She stood up to dictators and stood by our friends.

As Secretary of State, Ambassador Albright will do something else. She will bring a story of America to people from the old world order as well as the new and emerging one. I discussed with President Clinton her personal story, that she is the daughter of the last Ambassador from a free Czechoslovakia until the end of the cold war. While her father was in this country, Czechoslovakia fell to a dictatorship. He defected so that he could serve Czechoslovakia by being a good American and by being a spokesman in this area. She comes from a history and tradition where patriots are willing to make sacrifices. She knows what it means to lose a home to dictatorship and therefore she reaches out to others who experience the same pain. She will understand those who labor tirelessly in exile to reclaim their freedom, and will support them.

And, as new immigrants, Madeleine Albright and her family used America's great opportunity structure so they could rebuild their lives, based on opportunity, merit, and hard work.

Where else in the world could a refugee rise to become the highest ranking woman in our history?

She has also been involved in the social movements of our time, whether the civil rights movement or the women's movement, or those social movements that help create a democracy. The world is not just transformed by treaty and law, but cultural and social transformations often occur through democratic social movements, institutionalized in a positive way. And Albright will do that.

As a child whose family fled from Europe as the Iron Curtain was raised and slammed down on the people of Central Europe, she stood up. She knows what this is all about. As a member of an immigrant family making a start in a new country, she will work to ensure that our foreign aid is used to foster opportunity around the world.

Mr. President, the third reason Ambassador Albright will be an extraordinary Secretary of State is she has an unusual talent for communication. She has already demonstrated her capacity to articulate the President's policy and agenda, not only to the world, but also to the American people. She will enable people to understand our American policies. This is essential to mobilize support for these policies, both at home and abroad. Even if our policies are not supported, they should be understood and respected. No one does a better job of explaining American foreign policy to the American people than Madeleine Albright. Most people are understandably concerned about their jobs, their children, their security. It is a lot to ask them to focus on Bosnia, Haiti, Chechnya, human rights, China. And after paying billions of dollars to win the cold war, many Americans wonder why we must continue that burden of leadership.

We cannot solve every problem in the world and we should not try. But we must act where we can make a difference, where American values and interests are at stake. With Dr. Madeleine Albright as Secretary of State, we will continue to have a foreign policy that reflects our values, that serves our interests, in consultation with Congress, and with mobilized American support.

Mr. President, let me conclude by saying this. There is an added bonus to Dr. Madeleine Albright's nomination. The Senate is about to confirm this highest ranking woman in American history. As the first woman elected by my own party to serve in her own right, and as the senior woman in the Senate, I must say this is truly a historic occasion. This is a moment for all of us to take pride in, in the opportunity and fairness of our country.

Mr. President, the American people will not have to worry about Madeleine Albright's service. When she was nominated, she said this to her daughters, "When you were little girls I often used to worry where you were and what you are doing. Now you will wonder where your mother is and what she is doing."

But, you know, the American people will not have to worry. Whether it is in Cyprus, Singapore, China, she will be defending American values and interests. She will be one of the best Secretaries of State we have ever had.

Mr. President, that concludes my remarks. I would like to extend my appreciation to the chairman of the Foreign Relations Committee for the way he conducted the hearing and the nomination process, with the fairness and civility and the expeditious way he does it.

I, and I know Dr. Albright and her entire family who support her, appreciate the courtesy and expeditious nature in which the distinguished Senator from North Carolina has dealt with this.

I yield the floor.

Mr. HELMS. I thank the Senator.

Mr. MOYNIHAN. Mr. President, I am pleased to rise in support of the nomination of Madeleine K. Albright to be Secretary of State. We stand at the end of a century of European conflict: two world wars followed by a cold war. In the wake of this hundred years' war it is hugely important that the President has nominated a woman, born in Europe amidst this turmoil, to be his Secretary of State to lead us into the next century.

The first point I would like to make, a point that deserves to be stressed by every Senator, is that when Ambassador Albright is confirmed, she will become the 64th Secretary of State, and the first woman ever to hold that office. No woman has ever held a higher office in the executive branch. I congratulate both the President and his distinguished nominee on this milestone.

Ambassador Albright came to the United States at the age of 11, having experienced herself the realities of this hundred years' war. Most recently she comes to us from Turtle Bay, NY, where she has served as our Permanent Representative to the United Nations. As the only Ambassador-Senator, and having served in the same post at the United Nations, I feel it incumbent upon me to inform my colleagues that for her to have endured 4 years of mind-numbing addresses at the United Nations is no small feat.

As Ambassador, she has earned the respect of many. Not the least of which are the editors of the *New Republic* who wrote in a December 30, 1996, editorial:

> The good news about Albright, in sum, is that she is a creature of the twentieth century. For this reason, she understands how appallingly similar to this century the next century is likely to be. A person whose primal scene was Nazism and then Stalinism is not likely to get drunk on talk of a new millennium. She is likely to know, rather, that evil is never permanently retired, and certainly not by technological change. Albright recognized early that the most pressing order of business for Clinton's foreign policy in its first term was not protectionism, it was genocide. And a person whose primal scene was not Vietnam will know that there is only one way to stop genocide, and this is the harsh, airborne way.

As I said at the beginning of my remarks, we find ourselves at the end of a century of conflict. We began the century trying to stay out of the affairs of Europe. That lasted only through Wilson's first term. Now we end the century having played a pivotal role in the events which shaped it. This is an occasion on which we recall the great hopes that Franklin D. Roosevelt had for the United Nations. We can now use the fruit of our century-long labors, most importantly the United Nations Charter, to realize the hopes of Roosevelt, Truman, Marshall, and Acheson.

Nowhere is the importance of the Charter more pronounced than in Bosnia. I have spoken in this chamber many times on the subject of Bosnia and Herzegovina. Had we invoked the charter early in the conflict and its provision for demonstrations under article 42, by "air, sea, or land forces, [to] restore international peace and security," much of the genocide that followed could have been prevented. We had the tools, but waited too long to use them.

The Bosnian conflict is far from over. Though the Dayton agreement and NATO forces have achieved relative stability over the past 13 months, there are still many important issues to be resolved.

None is more important, or pressing, then the work of the International Criminal Tribunal. Today 75 persons have been indicted for war crimes. It is appalling to report that 68 of them remain at large. Not because they cannot be found, but because pressure has not been brought to bear on countries to deliver indicted war criminals to The Hague.

This is an issue that cannot afford delay. I would ask the Secretary-designate to seek to address this important problem at the earliest possible date. She has made such a pledge during her testimony before the Foreign Relations Committee and I look forward to working with her to achieve these goals.

I say this with the deepest respect for Ambassador Albright, who, having spent 4 years at the United Nations, is keenly aware of the importance of these issues. I wish her well on her historic appointment.

Mr. DOMENICI. Mr. President, I believe that most Americans realize the world in which we live has changed dramatically over the last decade. The world which had been divided into two hostile yet stable camps since the end of World War II entered a new era when the Soviet Union ceased to exist. When the Berlin Wall fell the divide between the East and West did as well, and we entered a new era.

Today, democracy is spreading around the globe and our international priorities which once focused on strategic arms reduction treaties can now focus on other issues such as improving relations with democratic countries in South America, Asia, and Eastern Europe that have burgeoning market economies.

These tremendous changes, however, come hand in hand with new challenges. Fighting international terrorism and crime is important to law abiding citizens everywhere. Fighting international drug traffickers is of particular importance to the citizens of New Mexico since approximately 70 percent of all illegal drugs entering the United States comes across our southern border with Mexico.

Helping Russia emerge as a stable democracy with a growing economy is, also, very important. A strong, democratic Russia would be a stabilizing influence in Asia and could help prevent the proliferation of weapons of mass destruction. In fact, the Los Alamos National Laboratory in New Mexico is already working with Russia to safeguard its nuclear weapons and ensure that nuclear materials do not fall into the wrong hands.

Another important challenge is helping China emerge as a peaceful, responsible world power. A friendly China with its strong economic growth, huge population, and vast resources would be both a valuable partner in trade and a valuable ally in Asia. An aggressive China, however, could become a destabilizing influence in a region that is vital to our national interests.

The United States faces a number of other important international challenges. Among them are: arriving at an agreeable method to allow Eastern European and central Asian countries to join the North Atlantic Treaty Organization [NATO], resolving the dispute between Greece and Turkey over Cyprus, finding a lasting political solution to the problems of the Korean Peninsula, and securing the peace in Bosnia and Herzegovina and bringing the young men and women of the United States armed services home safely.

With all of the changes of the last decade, one might view the world as unstable. In fact, facing such a list of daunting tasks, one might consider these challenges insurmountable. I view them as an opportunity.

With strong leadership, and clearly defined and consistent international policies, the post-cold-war era could be one of even greater American prosperity. I believe Madeleine Albright, as Secretary of State, will provide such leadership.

Madeleine Albright spent 2 years working here, in the U.S. Senate, when she served as chief legislative assistant to Senator Muskie from 1976 to 1978. Her intelligence and competence were recognized when, in 1978, she moved to the National Security Council and the White House to handle foreign policy legislation. Many foreign policy professionals might consider being on the National Security Council the pinnacle of a career, but Madeleine Albright was just getting started. In 1981 she was awarded a fellowship at the Woodrow Wilson International Center for Scholars at the Smithsonian. She became a professor of international affairs, and the director of the women in foreign service program at the School of Foreign Service at Georgetown. She served as president of the Center for National Policy. In 1993, she was appointed U.S. Representative to the United Nations, and made a member of President Clinton's Cabinet.

Madeleine Albright is living proof of the American dream. Having fled Czechoslovakia and both the Nazis and Communists, Madeleine Albright came to the United States, studied hard, worked hard, and has now been nominated for the office of United States Secretary of State. Madeleine Albright, once a persecuted immigrant, is now the first women in United States history to be nominated to the highest office in the State Department. Not since Margaret Thatcher governed Britain has a woman occupied a position on such a scale of international influence. As Secretary of State, Madeleine Albright will negotiate with the world's most powerful leaders.

Mr. President, Madeleine Albright has done a superb job as Ambassador to the United Nations. She has worked to make the United Nations more efficient and more responsive to U.S. interests. She prevailed in urging the NATO bombing in Bosnia, which she argues eventually led to the Dayton Peace Accord last year. She condemned Cuba when it shot down two unarmed civilian airplanes over international air space. She has fought for the freedom and the rights of people around the world. For these reasons and others, I believe Madeleine Albright will provide the strong leadership necessary make the post-cold-war era one of opportunity, cooperation, and American leadership. It is my honor to support Madeleine Albright for the position of U.S. Secretary of State.

Mr. BOND. Mr. President, I rise to voice my strong reservations about the administration's foreign policies as we debate the confirmation of Ambassador Madeleine Albright as Secretary of State.

Following President Clinton's direction, Ambassador Albright signed the United Nations Rights of the Child Convention, a document which I believe is seriously flawed. As a nation, we hold our children dear. We have established laws on a national level and local levels to adequately protect our children and the rights of our families. The idea that a foreign state or an international federation knows better than we how to raise our children is abhorrent to our very essence.

We have engaged in diplomatic and physical conflict with other nations throughout our entire history over just such an issue. The root of all autocratic regimes has been that the state knows best. We cannot, we must not let that idea insinuate itself into how we conduct ourselves as a nation. I am concerned that Ambassador Albright through her vote in the United Nations, may have done just that.

Her support of policies which have come dangerously close to relinquishing command of our own troops to United Nations commanders who may or may not share the democratic ethic of our command authority concerned me in the past and concerns me today.

The rules under which our troops conduct themselves while assigned to duties with the United Nations places them under extraordinary pressure. Our soldiers are required to make judgments as to appropriateness of orders received by U.N. authorities not only as to their legality but as to whether the commands are in concert with United States policy. We should never place them in such a position, ever. Currently, if the policy of the United States comes into conflict with U.N. orders, it becomes incumbent upon the individual soldier to recognize the conflict and make the proper choice as to whether to follow the order or not. Recently though, to complicate that soldier's responsibility further, U.S. policy shifts have occurred during ongoing operations; peacekeeping mutating to nation building, embargo enforcement un-enforced. Ambassador Albright must not let this happen on her watch.

As Secretary of State, Ambassador Albright will be responsible for directing and implementing our foreign policy. I hope that if our stated policy for instance, is to impose an arms embargo on a war torn region that she would neither tacitly approve nor be a part of a plan to approve the introduction of inflammatory religious extremists and the weapons they chose to introduce into the region while hiding that fact from this body, the rest of the Congress or the American people.

As Secretary of State she must realize that the sovereignty of the United States can never be made secondary to any country, entity, or organization.

Mr. KENNEDY. Mr. President, it is a special honor for all of us who know and respect Madeleine Albright to vote for her confirmation as Secretary of State. This is an historic moment for the country, and I know that she will serve with great distinction as the first woman in our history to hold that high office.

Over the years, Madeleine Albright has always been an excellent source of wise advice to many of us in Congress on matters of foreign policy. I have always valued her counsel and respected her leadership, and the President's decision to nominate her as Secretary of State is a well-deserved honor.

In the course of her extraordinary career, she has skillfully combined public service and academic pursuits, and these abilities make her especially well-suited for the challenges she will face as Secretary of State. Many of us first came to know her when she was an able assistant to our former colleague Senator Edmund Muskie, and later as a member of President Carter's National Security Council. And all of us were proud of her brilliant service in recent years as our Ambassador to the United Nations.

Academically, she has served as a senior fellow at the Center for Strategic and International Studies, as a professor at Georgetown's School of Foreign Service, and as president of the Center for National Policy.

Her personal history of fleeing Hitler and Communism as a child from her home in Czechoslovakia and her rise in this country to the position of Secretary of State is one of the great American success stories of our time and a vivid symbol that the American dream is alive and well in our day and generation.

I commend her for her nomination, and I look forward to working closely with her in the years to come. I ask unanimous consent that a list of the 64 persons who have served as Secretary of State, including Madeleine Albright, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SECRETARIES OF STATE 1789–1997

Name	When appointed	President
1. Thomas Jefferson	Sept. 26, 1789	George Washington.
Do	Mar. 4, 1793	Do.
2. Edmund Randolph	Jan. 2, 1794	Do.
3. Timothy Pickering	Dec. 10, 1795	Do.
Do	Mar. 4, 1797	John Adams.
4. John Marshall	May 13, 1800	Do.
5. James Madison	Mar. 5, 1801	Thomas Jefferson.
Do	Mar. 4, 1805	Do.
6. Robert Smith	Mar. 6, 1809	James Madison.
7. James Monroe	Apr. 2, 1811	Do.
Do	Feb. 28, 1815	Do.
8. John Quincy Adams	Mar. 5, 1817	James Monroe.
Do	Mar. 5, 1821	Do.
9. Henry Clay	Mar. 7, 1825	John Quincy Adams.
10. Martin Van Buren	Mar. 6, 1829	Andrew Jackson.
11. Edward Livingston	May 24, 1831	Do.
12. Louis McLane	May 29, 1833	Do.
13. John Forsyth	June 27, 1834	Do.
Do	Mar. 4, 1837	Martin Van Buren.
14. Daniel Webster	Mar. 5, 1841	William H. Harrison.
Do	Apr. 6, 1841	John Tyler.
15. Abel P. Upshur	July 24, 1843	Do.
16. John C. Calhoun	Mar. 6, 1844	Do.
17. James Buchanan	Mar. 6, 1845	James K. Polk.
18. John M. Clayton	Mar. 7, 1849	Zachary Taylor.
19. Daniel Webster	July 22, 1850	Millard Fillmore.
20. Edward Everett	Nov. 6, 1852	Do.
21. William L. Marcy	Mar. 7, 1853	Franklin Pierce.
22. Lewis Cass	Mar. 6, 1857	James Buchanan.
23. Jeremiah S. Black	Dec. 17, 1860	Do.
24. William H. Seward	Mar. 5, 1861	Abraham Lincoln.
Do	Mar. 4, 1865	Do.
Do	Apr. 15, 1865	Andrew Johnson.
25. Elihu B. Washburne	Mar. 5, 1869	Ulysses S. Grant.
26. Hamilton Fish	Mar. 11, 1869	Do.
Do	Mar. 17, 1873	Do.
27. William M. Evarts	Mar. 12, 1877	Rutherford B. Hayes.
28. James G. Blaine	Mar. 5, 1881	James A. Garfield.
29. Frederick T. Frelinghuysen.	Dec. 12, 1881	Chester A. Arthur.
30. Thomas F. Bayard	Mar. 6, 1885	Grover Cleveland.
31. James G. Blaine	Mar. 5, 1889	Benjamin Harrison.
32. John W. Foster	June 29, 1892	Do.
33. Walter Q. Gresham	Mar. 6, 1893	Grover Cleveland.
34. Richard Olney	June 8, 1895	Do.
35. John Sherman	Mar. 5, 1897	William McKinley.
36. William R. Day	Apr. 26, 1898	Do.
37. John Hay	Sept. 20, 1898	Do.
Do	Mar. 5, 1901	Do.
Do	Mar. 6, 1905	Theodore Roosevelt.
38. Elihu Root	July 7, 1905	Do.
39. Robert Bacon	Jan. 27, 1909	Do.
40. Philander C. Knox	Mar. 5, 1909	William H. Taft.
41. William Jennings Bryan.	Mar. 5, 1913	Woodrow Wilson.
42. Robert Lansing	June 23, 1915	Do.
43. Bainbridge Colby	Mar. 22, 1920	Do.
44. Charles Evans Hughes	Mar. 4, 1921	Warren G. Harding.
Do		Calvin Coolidge.
45. Frank B. Kellogg	Feb. 18, 1925	Do.
46. Henry Lewis Stimson	Mar. 5, 1929	Herbert C. Hoover.
47. Cordell Hull	Mar. 4, 1933	Franklin D. Roosevelt.
48. Edward R. Stettinius, Jr.	Nov. 30, 1944	Do.
49. James F. Byrnes	July 2, 1945	Harry S. Truman.
50. George C. Marshall	Jan. 8, 1947	Do.
51. Dean G. Acheson	Jan. 19, 1949	Do.
52. John Foster Dulles	Jan. 21, 1953	Dwight D. Eisenhower.
53. Christian A. Herter	Apr. 21, 1959	Do.
54. Dean Rusk	Jan. 21, 1961	John F. Kennedy.
Do		Lyndon B. Johnson.
55. William P. Rogers	Jan. 21, 1969	Richard M. Nixon.
56. Henry A. Kissinger	Sept. 21, 1973	Do.
Do		Gerald R. Ford.
57. Cyrus Vance	Jan. 21, 1977	Jimmy Carter.
58. Edmund S. Muskie	May 8, 1980	Do.
59. Alexander Meigs Haig, Jr.	Jan. 22, 1981	Ronald Reagan.
60. George P. Shultz	July 16, 1982	Do.
61. James A. Baker III	Jan. 27, 1989	George Bush
62. Lawrence S. Eagleburger.	Dec. 10, 1992	Do.
63. Warren Christopher	Jan. 22, 1993	William J. Clinton.
64. Madeleine Korbel Albright.	Jan. 22, 1997 (confirmed by Senate).	Do.

Mr. GLENN. Mr. President, I have known Madeleine Albright for many years and consider her extraordinarily well qualified for the important post of Secretary of State. She has the knowledge, experience, intelligence, candor, energy, and strength of will necessary for this difficult job. I will support her confirmation with enthusiasm.

By now most Americans have heard the compelling story of Madeleine Albright's family flight from first fascism, and then communism. After coming to the United States, Madeleine Albright compiled an impressive academic resume, including a B.A. from Wellesley College and a masters and doctorate from Columbia University. Her subsequent career has been devoted to international affairs and government—from Capitol Hill, to the National Security Council, to the challenging post of United States U.N. Ambassador. She served as a professor at the Georgetown University's School of Foreign Service and a scholar at both the Smithsonian's Woodrow Wilson International Center for Scholars and the Center for Strategic and International Studies. Prior to her appointment to the U.N. post, Ambassador Albright was president of the Center for National Policy, a nonprofit research institution.

By any measure, the job of U.S. Ambassador to the United Nations is a most demanding one and Ambassador Albright handled it with great skill, earning praise from across the political spectrum. During Ambassador Albright's tenure at the United Nations, I had the pleasure of working with her to promote the establishment of an inspector general within the U.N. system. Ambassador Albright worked long and hard—and eventually successfully—to build a consensus among the member states for this U.S. initiative.

The cold war no longer provides the overarching architecture for U.S. foreign policy. And I doubt that any similarly comprehensive substitute will evolve in the near future. U.S. foreign policy now has several more or less equal priority objectives. Balancing these objectives one against the other and moving them all forward in today's complex international environment is a challenging task. I am confident that Ambassador Albright has not only the intellect to meet this challenge but also—and equally importantly—the ability to clearly articulate for the benefit of the American people the national interest involved in the foreign policy challenges we face and the choices we make.

I am pleased that someone of Madeleine Albright's character and ability has been chosen, and has agreed, to serve this President and this Nation as our primary representative to the world. I congratulate her on her imminent confirmation and look forward to working with her in the future.

Ms. LANDRIEU. Mr. President, today is indeed a historic milestone for our Nation. For the majority of this country's history, a full half of our citizens were left without the right to vote therefore they were left without a voice, without a collective voice in the direction of domestic affairs or international affairs for our country.

With the passage of the 19th amendment in 1920, this flawed policy was corrected, however since that time progress and change in this area has come, but very slowly. Today we take a great step forward for our country and the world in approving the nomination of Secretary of State designee Madeleine Albright.

Although there is little controversy surrounding our vote today on this confirmation we should take a moment to note the historical significance of this occasion.

There was a time not long ago when the nomination of any woman regardless of how qualified or experienced to lead our Nation's foreign policy would have been at the least controversial, and at the most unthinkable. Today, that time is over.

Ambassador Albright's confirmation is all but certain in just a few moments with the vote of this Senate. She is a tribute to her gender, but it is not to her gender that this accomplishment is due, it is through her exemplary career in foreign service.

To be here today on the floor of this historic Chamber to cast my first vote as a U.S. Senator is in itself a exhilarating experience, but to be able to cast that vote for Madeleine Albright the first woman ever to serve as Secretary of State of this great Nation makes it even more memorable.

Thank you Mr. President for the opportunity to share these thoughts.

Mr. COATS. Mr. President, the occasion of Ambassador Albright's imminent confirmation as Secretary of State raises some deep concerns regarding this administration's foreign policy.

While I believe there is much to be admired about Ambassador Albright—she has a reputation as a frank and forthright speaker, who is able to articulate forcibly her views—I have deep reservations about what I believe is her flawed philosophy of the role of U.S. forces in the conduct foreign policy.

As our U.N. Ambassador over the last 4 years, Mrs. Albright has consistently articulated an alarming vision of post-cold-war foreign policy. It is one which designates the United Nations as the world's guarantor of peace and in so doing seeks to subjugate United States' interests to this world body.

In June 1993, she articulated the concept of assertive multilateralism as a way of responding to internal political and economic turmoil, defiant regimes, and failed societies in countries around the globe.

The United States would act primarily as a part of the United Nations to respond to crises throughout the world.

Fundamental to this premise is the belief that every conflict, every disaster will eventually impact the United States and is therefore in our interests to intervene, militarily, to intervene.

The United Nations as the instrument of this collective security calls the shots and the United States responds by sending troops. The United States participating with other nations would be able to right the wrongs in the world. This is faulty in concept and dangerous in execution.

Consider some of the statements she has made:

> Our goal is to foster the development of a community capable of easing, if not terminating, the abominable injustices and conditions that still plague civilization, because only in such a community can America flourish.
>
> We are also facing increased ethnic and subnational violence. Wherever we turn, someone is fighting or threatening someone else. These disputes may be far removed from our borders but in today's global environment, chaos is an infectious disease.

The role of the United States is then to "reform or isolate the rogue states that act to undermine the stability and prosperity of the larger community and * * * to contain the chaos and ease the suffering in regions of greatest humanitarian concern."

There is an obvious and immediate danger to this type of thinking. The reality is there are many problems in the world which we simply cannot resolve. In exerting great effort to accomplish impossible goals we endanger the lives of our troops, damage U.S. leadership and prestige, squander valuable resources, and destroy the will of the American people to intervene when our own interests are indeed threatened.

The first year of the Clinton administration was dominated by behind the scenes effort to develop a document which would serve as the Clinton policy initiative on multilateral action. The consistent theme of this Presidential Review Directive [PRD–13] was to upgrade the U.N.'s military capabilities and to increase—even institutionalize—the U.S. involvement with U.N. peacekeeping operations.

Ambassador Albright's comments reveal the lines that PRD–13 would follow.

> We favor substantial enlargement and reorganization of the peacekeeping headquarters staff and the creation of a permanent foundation for rapid 24-hour communication, intelligence, lift, recruitment, training, and the full spectrum of in-theater logistical support.

Clinton's foreign policy team sought to expand the United Nations to a sort of global police force and equip it to carry out effectively this unrealistic job. The draft document included a rapid expansion of U.N. military capability as well as the idea of putting U.S. forces under U.N. command. This elevated peacekeeping philosophy is illustrated by events in Somalia.

During President Clinton's first year, he turned over the Bush limited food-delivery mission in Somalia to the United Nations. Over the next few months, United States troops were used to hunt down Somali warlord Aideed and participate in what became known as "nation-building" activities in order to—in Madeleine Albright's words—"promote democracy in that strife-torn nation." Ultimately 18 U.S. Rangers were killed by Aideed's men. The last American soldiers left Somalia in March 1994—100,000 troops were sent to Somalia; 30 died and 175 were wounded and at a cost of $1.5 billion. Since our departure, fighting erupted and today Somalia is no more better off for our misguided nation-building experience.

The tragedy of losing United States troops in Somalia forced the administration to back away from some of the aims of PRD–13. PRD–13, when finally signed as PDD–25, had undergone a number of changes. Madeleine Albright now couched the document in terms of fixing U.N. peacekeeping not expanding it. But the underlying premise of the policy still had not changed: greater emphasis on the United Nations for resolving conflict. In justifying use of force there was a shift in definition of national security interest.

In 1993, Ambassador Albright said:

> We have a national security interest in containing and, wherever possible, resolving regional conflicts * * * the cost of runaway regional conflicts sooner or later comes home to America. [June 1993.]

Her viewpoint—not unique to this administration—fundamentally shifts what previous Presidencies defined as a national security interest and consequently where the President would use American force. This significant alteration of U.S. interests has the profound impact of justifying greater and more diverse missions for our troops. Under the rubric of peace operations, U.S. forces have found themselves in almost every conceivable type mission: delivering food and medicine; building bridges; training police; hunting down warlords.

Colin Powell's comments in his autobiography further illustrate Madeleine Albright's thinking. He describes a meeting at the White House when she asked him "What's the point of having this superb military you're always talking about if we can't use it?"

The practical effects of this doctrine have led to our military involvement in Haiti, Bosnia, Central Africa, and other areas only peripherally in our interests.

What I fear Ambassador Albright has yet to understand is that there are serious costs to using force when our vital interests are not at issue. None of these interventions carried out or contemplated by the Clinton administration were in our security interests. And yet, great numbers of troops have risked their lives and we have spent billions of dollars.

In Somalia, our forces left, humiliated and at great cost, with the turmoil on the ground basically unchanged. In Haiti, we intervened to restore democracy but prospects for its survival are very much in question, despite our military contribution of $1.2 billion. After 2 years of gradual escalation of United States intervention in Bosnia, the President committed 20,000 of our forces to serve a year to enforce a separation between the warring factions. U.S. troops now extended for 18 months have the task of ensuring that civilian reconstruction proceeds. No one knows what will happen in Bosnia once our troops are removed.

The military has borne great expense because of these missions. And in an era of declining military budgets, there is a growing anxiety about our capability to deal with future national security threats. Last year military testimony before the Armed Services Committee revealed serious strains in our military planning and budgeting.

The President's proposed budget for defense was $10 billion lower than what was appropriated the previous year. And yet testimony after testimony by the CINC's and Service Chiefs indicated strong concerns with levels of spending. Readiness, modernization, quality of life were all areas needing focus and funding. The services altogether indicated their desire for more than $15 billion in increases.

While the administration has failed to provide adequately for our defense needs, it continues to deploy our troops in more and more missions around the world. In recent years our forces have been seriously overextended. We are asking our forces to do more but have drastically cut force structure by 30 percent. General Reimer, the Army Chief of Staff, testified that requirements on the Army have risen 300 percent. Today, more than 41,000 U.S. soldiers are deployed on nearly 1,700 missions in 60 countries.

And while the President failed to provide adequately for the military—to meet their current and future warfighting needs—he requested a separate budget for contingency operations—a clear indication that the trend toward greater peacekeeping missions will continue.

I am deeply concerned that the growing use of our forces in areas of peripheral interest will have a long lasting and detrimental impact on our military—and ultimately on the ability of the United States to protect our vital interests. The views of Ambassador Albright confirm her belief in using troops in this way. While the Armed Services Committee can take steps to provide our forces with the funding they need, there is little we can do to reign in how our troops are being used. these essential foreign policy decisions are made by the President, who is both Chief Executive and Commander in Chief. It is my fervent hope that extraordinary caution and wise deliberation will be exercised during the next 4 years in determining how to use American forces to further the foreign policy goals of this administration.

Mr. HARKIN. Mr. President, I rise in strong support of the nomination of Madeleine Albright to become our Nation's 64th Secretary of State. I have been privileged to know and work with Ambassador Albright for nearly two decades and I am confident that she will be a determined, effective voice for American interests as we face the foreign policy challenges of the 21st century.

This is a historic nomination. With this vote, Madeleine Albright will become the Nation's first woman to hold the office of Secretary of State. But it's clear that this nomination was not based on gender—but on qualifications. Madeleine Albright has been an outstanding leader for America and an outspoken advocate for freedom.

Today Madeleine Albright steps out in front and breaks a longstanding barrier. But that's no surprise because she has made a life of doing just that. From the time her family broke from the barriers of totalitarianism in Czechoslovakia and the brutal grip of Hitler and Stalin, Madeleine Albright has dedicated her life to spreading freedom and promoting international understanding.

She did it as a member of President Carter's National Security Council, as a noted scholar and professor at Georgetown University, as the president of the Center for National Policy, and—most recently—as America's Permanent Representative to the United Nations.

As in all her other work, Madeleine Albright brought energy and vitality to the job of U.S. Ambassador to the United Nations. And her plain spoken determination helped restore democracy in Haiti, prosecute war criminals in the former Yugoslavia, and make headway in achieving a comprehensive nuclear test ban. She also led the charge to achieve much needed reforms in the United Nations—by advocating lower budgets, more accountability, and a streamlined bureaucracy.

Madeleine Albright has rightly observed that the United States is the world's indispensable nation. But I would add that she herself has been an indispensable part of the foreign policy achievements of the Clinton administration over the past 4 years and she will continue to be in the years to come.

Finally, Mr. President, I look forward to working with Secretary Albright on an issue that I have long championed—ending abusive and exploitative child labor around the world. I hope that she will use the office of the Secretary of State to focus attention on this deplorable practice as she meets with leaders in government and commerce around the world. Working together, I know that we can finally end the curse of child labor.

Mr. President, I believe that Madeleine Albright is an excellent choice to become our Nation's top diplomat and I am proud to cast my vote in support of her nomination.

Ms. SNOWE. Mr. President, I would like to join my colleagues on both sides of the aisle in supporting the confirmation of Ambassador Madeleine Albright to be our Nation's 63d Secretary of State.

Many have commented on the historic nature of Ambassador Albright's nomination to be the first woman Secretary of State, the highest ranking of all Cabinet officers. But this would be just one more of a long history of ground-breaking roles in Madeleine Albright's distinguished career.

For instance, over the past 4 years, she has been the only woman serving as a U.N. Ambassador on the Security Council. In the first Clinton administration, she was the only woman to serve in a national security capacity on the President's Cabinet. She was also the first woman to serve as the top foreign policy advisor to a Presidential candidate, a role she served in 1988 to Gov. Michael Dukakis.

Ambassador Albright will bring a superb background to the job of Secretary of State. I would note that she began her rise in the foreign policy field as the top foreign affairs advisor to our former colleague, Senator Edmund Muskie when he was a senior member of the Foreign Relations Committee. Then after serving on the staff of the National Security Council in the Carter administration, she worked for over a decade as professor at Georgetown University and in various centers for public policy research.

Since 1992, Madeleine Albright has served ably as the U.S. Ambassador to the United Nations and has been a formal member of the President's Cabinet. This is a rare recognition granted to a U.N. Ambassador, and she was the first U.N. Ambassador to serve in this role since Ambassador Jeanne Kirkpatrick in the first Reagan administration.

At the United Nations, Ambassador Albright became known and respected as a fierce defender of American interests and values. She took the administration's lead role 1 year ago in denouncing Cuba's unprovoked murder of two American pilots who were flying unarmed civilian aircraft over international waters near Cuba. She emphasized the importance of this outrageous act of cowardice by Fidel Castro's totalitarian government with characteristically direct language that helped focus the attention of the world.

She also worked diligently—and successfully—in maintaining comprehensive economic sanctions on the repressive regime of Iraqi President Saddam Hussein. Despite the call by some nations of the world to lift those sanctions, she has succeeded in keeping them in place until the Government of Iraq ends its threats to its neighbors, shows greater respect for the human rights of its own people, and totally dismantles all weapons of mass production programs. These actions are called for not only in a series of Security Council resolutions enacted at the end of the 1991 gulf war, but also in obligations Iraq itself accepted in the cease fire agreement that ended that war.

Most recently, Ambassador Albright insisted on the replacement of U.N. Secretary Gen. Boutros Boutros-Ghali because of his inadequate attention to necessary reform of the U.N. system. She refused to bow to pressure from other countries—on the first Security Council vote on this issue the United States was opposed 14 to 1—and insisted on the election of a new reform-minded Secretary General as a matter of principle. With the recent successful election of the new U.N. Secretary Gen. Kofi Annan, there now is an opportunity for revitalizing this important international institution and restoring a bipartisan consensus on the United Nations in the Congress and among the American people.

As shown in just these few examples, Madeleine Albright is a strong advocate for U.S. foreign policy and is more than willing to take the tough and principled stands. It is my hope that she will help to restore American leadership and assertiveness in the international community.

In addition to her strong qualifications for the job, Madeleine Albright also brings a compelling personal experience and family background to this job. The daughter of a Czech diplomat, her family came to the United States as refugees after World War II. In fact, in the preceding years, her family had twice fled the forces of totalitarianism: first escaping the advancing armies of Nazi Germany, and again the Iron Curtain's descent on her homeland of Czechoslovakia, a country that had previously had the most vibrant economy and democratic system in central Europe.

During her confirmation hearing, Ambassador Albright discussed how her parents instilled in her a deep love for the United States and the ideals upon which our Nation was founded. Others have noted Ambassador Albright's strong views on such questions as human rights, democracy, and individual liberty. I have no doubt that her family's experiences have contributed to her evident devotion to these very American ideals.

If confirmed by the Senate, Ambassador Albright will become Secretary Albright and will move to a larger stage for the conduct of American foreign policy. Under the Clinton administration, the United States has been searching for a more unified vision and greater consistency in our Nation's foreign policy with the end of the cold war. A number of challenges will immediately confront her, and I hope and expect that she will be able to rise to these challenges.

For example, the international community is watching the rising world power of China, but for 4 years the Clinton administration has had difficulty maintaining a consistent foreign policy in relation to this increasingly important country. Tension between the important bilateral interests of human rights, trade, national security, and nonproliferation has too often led to confusion and vacillation in our Nation's policies. It is my hope that Madeleine Albright will rectify this weakness by bringing her temperament of toughness and consistency, combined with her strong grounding in long-term strategic thinking.

Another challenge awaits U.S. policy in the critically important region of the Middle East. There is no doubt that recent negotiations between Israel and the Palestinian Authority have been difficult, though thankfully last week's agreement over the redeployment of Israeli forces in Hebron shows that the peace process remains intact.

But over the next 2 years, the negotiations will become even more important and vastly more challenging. It is in this period that negotiations over a final status for the Palestinian entity are supposed to be reached, and the Palestinians' challenge against Israeli sovereignty over Jerusalem must be resolved. Ambassador Albright has long been acknowledged as a very strong friend of Israel. But she also has developed a very constructive working relationship with the Palestinian authority. In the world of international diplomacy, it is worth noting that two of the earliest congratulations she received for her nomination came from Israeli Foreign Minister David Levy and Palestinian Liberation Organization Chairman Yassir Arafat.

Mr. President, I have had the honor and the privilege to become personally acquainted with Ambassador Albright over the past 4 years from my position on the Senate Foreign Relations Committee during the 104th Congress, and as a senior member of the House Foreign Affairs Committee during the 103d Congress. While we have occasionally disagreed on policy issues, I have always found Ambassador Albright to be a forceful, effective, and persuasive advocate of administration policies. She has a true skill for explaining the purpose behind American foreign policy, and I am certain that she will use that skill to advance U.S. interests throughout the world.

I would like to again express my support for confirming Ambassador Madeleine Albright to be the 63d Secretary of State. I urge my colleagues to join with me in approving her nomination for this highest of all confirmable executive branch posts.

Mr. THOMPSON. Mr. President, while many of my colleagues have already addressed vital foreign policy issues during the consideration of Madeleine Albright to be the next Secretary of State, I would like to use this opportunity to address some equally vital management issues. I hope to use the confirmation process to elevate management issues that tend to get swept under the carpet during high-minded policy debates. When discussing policy goals, we must be careful to determine whether these goals are affordable and that the resources spent provide the best value for the taxpayers' investment.

Congress has laid the groundwork for significant Government management reforms with the passage of laws such as the Government Performance and Results Act, which requires agencies to measure the results of their efforts, the Chief Financial Officers Act, which requires agencies to shore up their financial recordkeeping, and recently enacted information management and procurement reforms. These laws apply commonsense approaches to the business of government to reduce inefficiencies and get real cost savings for taxpayers. It is questionable whether these new laws will be taken seriously and fully implemented without extensive congressional oversight—there are reports that agencies do not believe Congress is serious about the effective implementation of these laws. I am hereby serving notice that they would be seriously mistaken in that belief.

The State Department, which Ambassador Albright will head, has served this country admirably since its founding in 1789. But I wonder if Thomas Jefferson, the first Secretary of State, could have imagined that the Department would grow to a staff of approximately 24,500 with a departmental budget of about $3.9 billion, part of an even larger $19.2 billion international affairs budget. Maintaining the infrastructure necessary to support 160 embassies and 100 consulates worldwide, costs this nation over $2 billion a year. The Department buys over $500 million in goods and services each year and is responsible for $12 billion in property. Effectively managing these resources would be a daunting challenge for any Fortune 500 company, but the State Department must do it at the same time that it is carrying out its primary functions—performing its diplomatic and foreign policy missions, protecting and assisting American citizens traveling abroad, and providing the interagency coordination necessary for conducting foreign policy in an increasingly complex and dangerous world.

With a multitude of difficult missions to perform, management problems risk being ignored due to the exigencies of the day. The new Secretary will no doubt be consumed by critical foreign policy issues and crises from Bosnia to Korea that will demand a great deal of her personal attention. However, determining whether taxpayers are getting the best value for their multibillion dollar international affairs investment also must be one of the Secretary's highest priorities.

In times of fiscal austerity, we all have to do more with less. I do not advocate performing critical missions "on the cheap," but we must strive for the most efficient and effective use of our limited resources. The Government Performance and Results Act, for example, can be an effective tool to make Government work better by measuring the success or failure of Government programs and using this information to support budget decisions.

The effects of belt tightening are painful as is illustrated by the $300 million backlog in deferred maintenance, obsolete technology and shrinking base of skilled personnel at the Department of State. The Congress will no doubt be asked to provide more resources to State and in the international affairs budget to counteract some of these negative effects. On first glance, this seemingly makes sense. However, the spending for State Department operating expenses has increased in both actual and constant dollars since 1985. Therefore, I question whether the Department has done all it can. Has it cut to the bone and ignored the fat in order to generate a compelling case before Congress for more money? I have to say that I don't know, and we will not know the true story from the Department anytime soon because the detailed supporting financial information does not exist.

This is because the State Department does not have adequate financial and information systems to effectively manage and prioritize its programs. In the information age, the Government is increasingly dependent on good information—and yet this is what we are lacking. We need adequate information upon which to base sound decisions, otherwise we are making decisions in a vacuum. A good first step in developing this information would be for the Department to meet its responsibilities under the Chief Financial Officers Act and prepare an audited financial statement.

Good financial data relies upon the development of effective computer systems. Government computers are crucial to the State Department's ability to meets its foreign policy missions and business needs. In recent years, the Department has obligated over $300 million annually on computer systems. Yet, the State Department has had a poor history of managing these systems and, as a result, is struggling with aging computers that do not adequately meet the Department's needs. This has resulted in critical information shortfalls, as well as interruption of operations. Obviously, the Department needs to do a better job. Legislation Congress passed last year to establish a Chief Information Officer at the Department of State should help in focusing attention on this longstanding problem.

The Department has yet to change its business practices to reflect the new information age. In September 1994, the State Department launched a Strategic Management Initiative to identify its highest priority functions and products, as well as activities which were no longer necessary. However, GAO states that the State Department "has been reluctant or unable to significantly reduce its overseas presence and the scope of its activities or to substantially change its business practices." I would hope in the future that the Department will not continue to conduct business as usual and then complain it does not have the resources to fulfill its mission.

The State Department, like many other Federal agencies, is confronted by serious management problems that impede its ability to carry out its mission efficiently and effectively. GAO and inspector general reports have shown that in the past, top level attention has not been given to the stewardship of taxpayer resources. I am encouraged by Ambassador Albright's answers to my questions during her confirmation process. She assured us that she will be very much a hands-on manager and recognizes that the ability to conduct quality foreign policy depends upon attacking directly these management issues. Ambassador Albright stated at her confirmation hearing that she would work with Congress "to ensure that the American public gets full value for each tax dollar spent" and that she "is committed to making improvements in the Department's structure and operations that will produce a more efficient and effective use of our resources." I am hopeful that Ambassador Albright will provide the leadership necessary for the State Department to meet its management challenges of the next century. I look forward to working with her to achieve those objectives in the coming Congress and to effectively implement the bipartisan management reforms passed by Congress.

Mr. FEINGOLD. Mr. President, today the Senate votes to confirm the nomination of Madeleine Albright to be Secretary of State.

As many others will say today, this is a historic occasion, as the secretary-designate will soon become the highest ranking woman ever to serve in the United States Government. As a member of the Foreign Relations Committee, it was my distinct honor to approve her nomination at the committee level on Monday. And I am honored to vote for her again today on the floor of the Senate.

Back in the 1980's, I had the pleasure of meeting the distinguished nominee in Wausau, in my home state of Wisconsin, while I was a member of the Wisconsin State Senate. At the time, I was introduced to her as the future Secretary of State. I have since been impressed at how she has excelled—in domestic politics, as well as in foreign policy—to allow her to achieve this great honor, the nomination to be the President's chief foreign policy adviser.

In more recent days, I have observed her both in private, and at her confirmation hearing before the Foreign Relations Committee on January 8 of this year. And I was again impressed at how articulately and gracefully she responded to questions that literally spanned the globe.

Upon confirmation, Ambassador Albright will take on a position that, in my view, is one of the most challenging positions in public service. On the one hand, she will have a tremendous opportunity to affect world events because of the leadership role that the United States plays in so many conflicts around the world. But on the other hand, she will have awesome responsibilities.

Just a quick glance at the range and scope of the various bureaus at the State Department remind us that the job of Secretary of State is far-reaching. Not only will she be in charge of all the regional and administrative bureaus, but she will also be responsible for the Bureau of Democracy, Human Rights and Labor, the Bureau for International Narcotics and Law Enforcement Affairs, the Bureau for International Organization Affairs, Bureau of Oceans and International Scientific Affairs and the Bureau of Population, Refugees, and Migration.

This list underscores the fact that many of the problems that challenge us today are ones that belie traditional ways of looking at the world through regional, or even strictly political, lenses. Increasingly, we are faced with issues that transcend national borders and fly in the face of old political alliances. Concerns over drug trafficking, refugees, disease, and the environment have changed the way we define the national interest.

Of particular interest to me is the promotion of human rights worldwide. I strongly believe that the United States has a moral responsibility to put human rights at the top of our foreign policy agenda. I also believe that—although we might disagree on the manner in which we should raise human rights concerns with other governments—Ambassador Albright agrees with my basic premise here. In my view, it is incumbent upon U.S. diplomats to incorporate our views about human rights in bilateral discussions on other issues. For example, we have many interests in Indonesia, but we must never forget that its government continues to sustain a brutal military occupation of East Timor. Similarly, concerns over human rights abuses in Tibet and over the impending transition in Hong Kong must be pillars of our many-pronged China policy.

Ambassador Albright has, in the past, exhibited superior knowledge of human rights issues and of these other transnational problems. And, I hope she will guide the Administration to propose creative solutions to some of these problems.

Of particular regional concern to me is the African continent, which—too often—is left at the end of the priority lists of policymakers in this country. But Africa—a continent of 48 countries south of the Sahara—supports a population of nearly 620 million people. Its land mass stretches over one quarter of the Earth's surface.

While we often focus upon areas where crises evolve, as in Liberia or in the Great Lakes region, we also must actively support some of the successes in Africa, such as the stunning transition to majority rule in South Africa, Eritrean independence, or the fact that more than 30 democratic elections have taken place on the continent since 1989.

The United States can play an important role in all these events.

Finally, I wish to note that in addition to Ambassador Albright's many qualifications in the field of foreign policy, she also is especially prepared to work with Members of Congress. She spent nearly 2 years as the chief legislative assistant to Senator Edmund Muskie, who himself went on to be Secretary of State. She understands well the intent of the Constitution regarding the separate responsibilities and prerogatives of the legislative and executive branches of our Government. This is of particular concern to me where the deployment of American men and women to combat is involved. I trust Ambassador Albright will take the advice and consent role of the Senate seriously, and will consult fully with the Congress in all matters of troop deployment.

Ambassador Albright never shied away from speaking frankly with us and with the American people in her previous capacity as the U.S. permanent representative to the United Nations. I look forward to future open and candid dialog with her on all of these issues, and expect to work closely with her.

Mr. President, the job of Secretary of State is indeed a challenging one. I salute President Clinton for his superb choice, for it is my view that this nominee is more-than-qualified to take on the challenges of the position under consideration.

I also commend the honorable Senator from North Carolina for expediting the confirmation process.

In summary, Mr. President, I am honored to cast my vote in favor of the nomination of Madeleine Korbel Albright to be Secretary of State.

Mrs. MURRAY. Mr. President, I am honored today to express my strong support for Madeleine Albright's nomination to be the next U.S. Secretary of State. Long after I leave the United States Senate, I will recall fondly the day I voted to confirm Madeleine Albright as Secretary of State; our 63d and first female Secretary of State.

Madeleine Albright is a spectacular nominee; I've worked closely with her since I came to the Senate, particularly on the 1995 United Nations Conference on Women. I do speak personally of the great respect she's earned from many on Capitol Hill. And I know that same respect has been earned in Capitals around the globe throughout her distinguished career. There will be no on-the-job training for this public servant. In recent times, no Secretary of State has assumed the post with the breadth of experience and bipartisan support that Madeleine Albright will bring to the State Department.

Secretary of State is an enormously important job. One of Secretary Warren Christopher's final public statements underscores the importance of the job performed by the Secretary and the American citizens who work at the State Department and in postings around the world. Secretary Christopher, describing his tenure and accomplishments, said, "Russia's democracy was in crisis; its economy was near collapse. The nuclear arsenal of the former Soviet Union was scattered among four new countries with few safeguards. The war in Bosnia was at the peak of its brutality and threatening to spread. North Korea was developing nuclear weapons. The Middle East peace process was stalemated; negotiations were stymied. Repression in Haiti was pushing refugees to our shores. NAFTA's passage was in serious doubt." Certainly, Secretary Christopher's tenure was marked by many other difficult issues that met varying degrees of success. My point is to use Secretary Christopher's words to emphasize the enormity and the importance of the task ahead for Madeleine Albright.

Madeleine Albright will confront a similar list of issues important to our future economic and security interests. China and Asia as a whole have moved to the forefront and many have written that the President will make this important region of the world a "legacy issue" for his second term. I certainly support an activist U.S. role in Asia; from the Russian Far East which is increasingly linked to my State of Washington to South Asia where the threat of nuclear escalation will require careful diplomacy. Hong Kong is on the verge of a return to Chinese sovereignty, and numerous territorial disputes throughout Asia threaten to become military flashpoints. The United States is and must continue to be the stabilizing force in Asia that fosters peace and our economic growth in the region. Numerous regional groupings from APEC to the ASEAN Regional Forum will require U.S. leadership and vigilance. This region, with more than one-half of the world's population, must be a priority of the new Secretary. And I am sure Madeleine Albright will represent the ideals we cherish; the ideals we share with the world through an activist, engaged foreign policy.

Europe and the former Soviet states must also remain a priority issue. NATO expansion will be difficult. And international trade issues with the European Community will continue to be difficult as we seek to gain greater market access, end subsidized competition in manufacturing and agriculture, and continue to press for protection of U.S. intellectual property rights. Madeleine Albright, an immigrant from Prague, is uniquely qualified to represent U.S. interests in this region of mature and growing political and economic relationships.

Latin America is finally emerging from the throes of the cold war. El Salvador and Guatemala are continuing on important paths to peace and reconciliation. Virtually every Latin American country is now under some form of democracy; the United States must continue to foster this democratic development and reconciliation. NAFTA expansion to Chile and beyond will require a respected leader to negotiate agreements beneficial to the United States and to educate and understand the concerns of a skeptical public. Again, I believe Madeleine Albright will do a fabulous job for the American people in this region of the world.

Problems in Africa continue to go largely unnoticed in our country. Children throughout the world continue to suffer the evils of disease and malnutrition. Radical changes may come to Cuba and North Korea in the near future. All of these issues, and many more unforseen events, will require a person like Madeleine Albright.

Finally, following her confirmation, I want to urge the new Secretary to be a voice for the State Department and its family of employees, many of whom are scattered around the world in service to our country. I find it refreshing that Ambassador Albright during her confirmation hearing freely talked about the difficulties of conducting foreign relations, on the cheap.

As a member of the Appropriations Foreign Operations Subcommittee, I look forward to working closely with Secretary of State Madeleine Albright.

Mr. ENZI. Mr. President, I rise in support of Madeleine Albright's nomination to take the helm of the U.S. Department of State. I believe she is well qualified and has displayed a unique steadiness and pragmatism during her tenure as our Ambassador to the United Nations. From her difficult beginnings and throughout her life, she has proudly embraced this country. She has served America with dignity and patriotism. In her new position, I hope she will continue to sensibly promote our Nation's best interests.

All of these qualities are attested to by a very dear friend of mine, Edward Gnehm, our former Ambassador to Kuwait. He now serves as Deputy Assistant Ambassador under Madeleine Albright at the United Nations. I met Skip Gnehm in 1962, when we began 4 good years together at the George Washington University. I have always valued Skip's friendship and his insight—particularly in matters of foreign affairs.

Skip and I have recently discussed the changing role of the United States in global politics. We agree that, as a nation, we live in a rapidly changing part of the 20th century. World politics is no longer dominated by the tense United States-Soviet detente that defined United States foreign policy for so many years. Gone is our old familiar enemy, the Russian bear, growling on the horizon. But we have also lost the political stability Soviet hegemony provided in the region. No one here would argue for the return of a Communist-controlled Soviet empire, but in the wake of glasnost, we are left with a political minefield that demands careful attention.

Our foreign relations are more fragile than ever and demand increasing precision. The State Department, our eyes and ears abroad, is our country's first line of defense. Without an effective and supported foreign service, we will have little capability in combating today's imminent threats to American lives. Dangers such as international terrorism and nuclear proliferation among rogue nations truly pose a greater threat to our national security than Russia ever did.

In light of these facts, I am discouraged by the increasing trend toward isolationism. We cannot turn our eyes inward and ignore the problems of our neighbors. Like it or not, our world is interconnected, interdependent, and international. Today, we send e-mail on the internet across the globe with the push of a button. A phone call can bridge thousands of miles between family and friends. Businesses move money electronically across borders in the blink of an eye. A drought in Kansas can raise the price of bread in Moscow. It is true that domestic peace and prosperity in America are important, but you can't sustain peace and prosperity on an island in a global sea of discord.

So, I am using this opportunity to speak in support of Madeleine Albright's nomination, but also to voice my concern about the lack of direction and coordination in our foreign policy. We need to identify our goals and be very clear in our message. As the world's only superpower, we cannot stand around watching—simply reacting to random global events.

I believe Ambassador Albright has demonstrated her exceptional abilities as a diplomat and in offering thoughtful counsel to our President. I would now encourage her to utilize her proven diplomatic skills and her new high-profile job to bring some change in the President's Cabinet room. We need to introduce strategic planning into our foreign policy and she is the person to do it. With well-defined goals, a properly managed administration and a little enthusiasm, our State Department and Foreign Service could again receive the respect they deserve—both at home and abroad.

Mr. DASCHLE. Mr. President, the Senator from West Virginia [Mr. ROCKEFELLER] asked me to submit his statement in support of Madeleine Albright for Secretary of State. He is necessarily absent for the vote today because of responsibilities he has in leading a trade mission from his State of West Virginia to Asia. He regrets not being here to cast his own vote for Ms. Albright, and asks that his enthusiastic support for this outstanding individual be noted.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. ROCKEFELLER. Mr. President, I am submitting this statement to express my strongest support for the nomination of Madeleine Korbel Albright to be the Secretary of State of the United States of America. Unfortunately, I am necessarily absent from the Senate, and am unable to cast my vote for Ms. Albright. Because of plans that had to be scheduled long ago, I am presently leading a group of more than 30 West Virginians on a trade mission to Japan and Taiwan that is called Project Harvest II.

This trade mission, the second I have led to Asia, is vitally important to the long-term economic vitality of my State. Since the first Project Harvest Trade mission in 1995, tens of millions of dollars in contracts, and many new jobs have flowed back to West Virginia. That first trip also served as a key step in bringing companies like Sino-Swearingen and Toyota to West Virginia—international investments that have changed the face of West Virginia's manufacturing profile.

The globalization of the economy is the greatest force shaping international relations in the last years of the millennium, and the kinds of relationships that West Virginia is developing around the world are a key unifying factor in this new world order. Trade missions like Project Harvest can be an extension of America's international interest in fostering peace, stability, and prosperity across the globe.

I personally regret, however, that I am missing a chance to vote on the nomination of Madeleine Albright. Mr. President, I don't think President Clinton could have made a wiser choice in selecting Madeleine Albright for this central post in his administration. I have known Madeleine Albright for many years, and have rarely seen such a combination of intelligence, skill, experience, principle, values, and, Mr. President, patriotism, in all my days.

Madeleine Albright brings all these things to the service of her adopted nation. A daughter of Central European strife, she has a unique world view that brings into clear focus some of the most difficult and compelling challenges we face as the world's last true military and economic superpower.

Of course the world today is a remarkably different place than the one we faced 50 years ago, 15 years ago, and even 5 years ago. I am further struck by the fact that we are defining this time by what it is not, that is the cold war—rather than by what it is—a transition time in the world's history where one historic power, Europe, is struggling to define itself; and another, China, is struggling to assert its place in the world. It is into this breach that Madeleine Albright has been tasked to define and promote America's global interests.

Traditionally, American foreign policy has had Europe and the Atlantic as its focal point. While we must continue making Europe a priority, we also see Asia growing in importance in economic, military, and other terms. This means that geographically, strategically, and economically, the United States sits astride both worlds.

Because of my own long-time involvement in United States-Japan relations and Asia issues generally, I want to voice my confidence that Secretary of State Albright will provide the needed leadership, insight, and attention to the Pacific region in her role as the Clinton Administration's chief of international diplomacy and as a key part of his national security team. She understands the challenges we face together as Pacific neighbors; she appreciates the differences and complexities that are presented; and she will be a clear and forceful advocate for America's peaceable interests and the goals we share with our allies and the people of nations worldwide.

Mr. President, I believe that Madeleine Albright is a superb choice for Secretary of State. I ask her forgiveness that I am unable to stand and vote for her today, and I pledge to work with her in every way possible.•

Mrs. BOXER. Mr. President, I am proud to support the nomination of Madeleine K. Albright for Secretary of State. Ambassador Albright is extremely well-qualified for this important post and will make a tremendous leader of the Clinton administration's foreign policy team.

This nomination is truly historic. Ambassador Albright is the first woman ever nominated to be Secretary of State. She will not only become the most senior female appointee in this administration, but the highest ranking in the history of the United States. I am so very proud that today Madeleine Albright is shattering a glass ceiling that many thought would never be broken.

Ambassador Albright will also be the first refugee to hold this important post. Having fled totalitarianism herself, Ambassador Albright is especially sensitive to the needs of newly emerging democracies. She is a beacon of hope to the hundreds of millions of people around the world who have recently shed the shackles of authoritarian government.

Over the last 20 years, Ambassador Albright has worked tirelessly to promote a safer, more stable world. After working as a foreign policy adviser to the late Senator Edmund Muskie, she taught foreign policy at Georgetown University's School of Foreign Service. As U.S. Ambassador to the United Nations, she earned a reputation for toughness, fairness, and the tireless advocacy of American interests.

Madeleine Albright is a diplomat, scholar, and a role model for the Nation's young people—especially our young women. I am confident that she will make an excellent Secretary of State and I proudly support her nomination.

The PRESIDING OFFICER (Mr. GREGG). Who seeks recognition? Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Could I ask for a minute and a half?

Mr. HELMS. If you want, more than that.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized for a minute and a half—5 minutes. The Senator from Virginia is recognized for 5 minutes.

Mr. WARNER. Mr. President, I commend first the distinguished chairman of the Foreign Relations Committee for the manner in which he expedited the hearing on this very important, most senior of our Cabinet positions.

Also, I wish to commend the distinguished chairman of the Armed Services Committee. Our committee just completed its hearing on Senator Cohen, and we anticipate that today the Senate is likely to turn to that nomination also for a vote.

So that under the leadership of the majority leader, with the cooperation of the distinguished Democratic leader and the chairmen, we have, I think in record time, accomplished the very careful and thorough screening of two Cabinet posts and providing the President with that advice which he needs.

I have had the privilege of knowing the distinguished Ambassador, the nominee for the post of Secretary of State, for many years. Ambassador Albright has come before the Senate Armed Services Committee, over the 18 years I have been privileged to serve on that committee, on a number of occasions as an expert witness, which is a difficult role to carry out. But she has always done it in a very careful and well-informed manner. Early on, she gained the respect and admiration of both sides on our committee, as she worked her way up through a number of important posts before going to the United Nations as our Ambassador. And now I think the President is to be commended in selecting her for this assignment, which I anticipate she will discharge with equal if not greater wisdom and skill than her previous assignments.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest we let a quorum call be charged equally.

Mr. STEVENS. Mr. President, will the Senator yield just a moment?

Mr. HELMS. Certainly. Certainly.

Mr. STEVENS. Is there time left, Mr. President?

The PRESIDING OFFICER. The Senator from North Carolina has 19 minutes.

Mr. THURMOND. Are we going to vote, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I hope we will agree to vote as quickly as possible, but I do want to say that I welcome this nomination. Madeleine Albright at the United Nations as our Ambassador helped to make the world realize how important it is we conserve the oceans. She assisted in many ways with those of us who are trying to really protect the oceans. I welcome her coming to the Department of State now where I think she can carry on the same fight and help us really deal with the overwhelming problem of assuring that the oceans of the world continue to produce the food that mankind needs.

The PRESIDING OFFICER. Who yields time? If no time is yielded, time will be charged to both sides.

The Senator from North Carolina.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I believe we are prepared to complete the debate on the nominee to be Secretary of State.

I commend the committee members for the way they have handled this matter. Obviously, it was expeditious and a very pleasant experience. I thank the chairman for the way he has handled it. If he says the nominee is OK, that is very powerful in this institution. I thank the Senator from Delaware for his efforts also.

Mr. President, today is a historic day for the Senate, for the Department of State, and for the United States. Today, we will confirm America's 63d Secretary of State. Madeleine Albright will be the first woman to hold our country's highest diplomatic post.

Most of our Members are aware of Ambassador Albright' compelling personal history. As a child, she was forced to flee her native Czechoslovakia from the century's two great tyrannies: Nazi Germany and Soviet Communism. First-hand, she learned that freedom is not free, and that resistance to aggression is imperative.

Ambassador Albright is an American by choice. She has served her adopted land with distinction—at the National Security Council in the Carter administration, in politics and in the academic world, and most recently as U.S. Ambassador to the United Nations.

When I met with Ambassador Albright last week, we had a good discussion about a range of issues. I expressed my concern over the gradual decline of the role of Congress in foreign policy—at least that is the way Congress is sometimes treated by administrations—a trend that is not in keeping with my reading of what the framers of the Constitution intended.

Ambassador Albright told me she taught a course on "Congress and Foreign Policy" and that she very much understands and respects the role of the Congress in our power of the purse, our sole power to declare war, and the Senate's co-equal role in treaty making.

As secretary of State, Ambassador Albright will face many difficult issues. Perhaps her greatest challenge will be articulating a vision of America's role in the post-cold-war era—a vision that is readily understood and supported by the American people and their elected representatives.

Our leadership role in the world depends on the power of our ideals and the purpose to defend our interests. And it depends on the support of our citizens for a leadership role. I believe the American people know America must remain engaged in the world, and that they will be willing to support our engagement because it is ultimately to the benefit of each and every American.

In just the coming months, Ambassador Albright will have a very full agenda—on Capitol Hill and around the world. There are continued concerns about Russia's future, the threats posed by rogue regimes from Iran and Iraq to Libya and North Korea, the spread of weapons of mass destruction, terrorism, international crime, and narcotics trafficking, the United States relationship with Asia's emerging giant—China, pursuit of a lasting and secure peace in the Middle East, and serious attention to the problems and potential of our own hemisphere.

Each of these will demand a very experienced and committed Secretary of State. The Ambassador's skills and wisdom will be challenged every day.

Secretary Albright, assuming she is going to be confirmed here momentarily, will also need to spend much more time with the Congress. We have pledged to do what we can to move America ahead in a nonpartisan or bipartisan fashion. We will try to work together on arms control issues. We expect the administration to respect the Senate's role in providing advice and consent to the significant modifications they propose to the 1972 ABM Treaty.

The administration has tried to make a case for more money for the

United Nations and for international affairs spending in general. I do not believe in measuring American leadership by how many taxpayer dollars we send to the United Nations or to AID contractors—especially when our defense and intelligence capabilities have felt the impact of far more severe budget limitations.

We are also awaiting the administration's request for funding their decision to extend the American troop presence despite the promise of a 1-year only deployment in Bosnia. On all budget issues, we will try to work together on funding the administration's priorities and our priorities in a manner consistent with the move toward a balanced budget.

I expect to work closely with Secretary Albright to prepare the Senate and the American people for the historic expansion of the most successful alliance in history—NATO. We will work to support the historic progress toward peace in the Middle East, made possible because the enemies of Israel know that American support for our democratically is unswerving.

Today, with what I expect will be an overwhelming vote, the Senate will confirm Madeleine Albright as Secretary of State. The confirmation process moved rapidly and cooperatively, and I think it is indicative of what we can do in the months and years ahead.

I want to offer my congratulations to Secretary-to-be Albright, her family and her friends on this historic occasion. I believe President Clinton made a sound choice, and I believe Secretary Albright will serve America honorably.

With that, Mr. President, I have been asked to yield back time on both sides. I believe we are prepared to vote.

The PRESIDING OFFICER. All time is yielded back. The question is, Will the Senate advise and consent to the nomination of Madeleine Korbel Albright, of the District of Columbia, to be Secretary of State? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 1 Ex.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Rockefeller

The nomination was confirmed.

Mr. HELMS. I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Chair suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANOTHER RECORD FOR ROBERT C. BYRD

Mr. LOTT. Mr. President, so far, January has been quite a month for our highly esteemed colleague, the senior Senator from West Virginia. On January 8, Senator ROBERT C. BYRD observed the 50th anniversary of the day he entered public service as a member of the West Virginia House of Delegates.

To commemorate this significant event, Senator BYRD returned to the West Virginia State capitol on January 11 to join hundreds of grateful West Virginians and other friends in the unveiling of a bronze statue.

This likeness of Senator BYRD, prominently placed in the capitol's rotunda, will serve to remind future generations of his service to his State and to his country.

Just 2 days after the Charleston, WV, ceremony, ROBERT BYRD achieved another major distinction. On January 13, 1997, he became the fourth longest serving U.S. Senator in the history of our republic, with a service record of 38 years and 10 days.

Think of it, Mr. President. Of the 1,843 past and present senators, only three have served longer than ROBERT C. BYRD. In another 3 years, SENATOR BYRD will exceed the 41-year service record of my immediate predecessor from Mississippi, John C. Stennis.

After that, Senator BYRD's only challengers will be the current record holder, Carl Hayden of Arizona—41 years and 10 months, and the current second longest serving member, our highly regarded colleague from South Carolina, STROM THURMOND.

I shall have more to say about Senator THURMOND in May of this year, when he breaks Senator Hayden's record.

Each of us in this body, from the most junior to the most seasoned, would do well to pay close attention to ROBERT C. BYRD—a man of great historical knowledge. When ROBERT C. BYRD speaks about the role of the Senate in American Government, he deserves our most careful attention.

On behalf of all Senators, I commend Senator BYRD for his long service to our country.

(Applause, Senators rising.)

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, momentarily, we hope to propound a unanimous-consent agreement about the time and how we will handle the nomination of our colleague, former Senator Bill Cohen. We are working on the final preparation and notification on that, and then we will ask for an agreement at that time.

AUTHORIZING SENATE LEGAL COUNSEL REPRESENTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 21, submitted earlier today by myself and Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 21) to direct the Senate legal counsel to appear as amicus curiae in the name of the Senate in Sen. Robert C. BYRD, et al. v. Franklin D. Raines, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the resolution directs the Senate legal counsel to appear as amicus curiae, as friend of the court, in the name of the Senate in a case pending in the United States District Court for the District of Columbia, and ask for its immediate consideration.

Mr. President, on April 9, 1996, President Clinton signed into law the Line Item Veto Act. This act was the product of years of legislative consideration and much protracted debate.

Beginning January 1 of this year and through the year 2004, the Line Item

Veto Act provides the President with the authority, under a set of carefully circumscribed limitations, to cancel particular items of appropriation, direct spending or limited tax benefit in any bill.

The President must report any such cancellation to Congress by special message within 5 days after his approval of the bill containing such spending or tax provisions. Congress then has the opportunity to decide whether to pass a law disapproving the President's cancellation and mandating the spending or tax benefit.

As I have stated, this Act was passed after much consideration and debate understanding the potential Constitutional implications. In the end, Congress determined to empower the President in this manner in recognition of the fact that strong tools are necessary if we are to achieve our goal of finally getting the Federal budget in balance.

Mr. President, the distinguished Senator from West Virginia, Mr. BYRD, and three other of our colleagues, the former senior Senator from Oregon, Mr. Hatfield, the senior Senator from Michigan, Mr. LEVIN, and the senior Senator from New York, Mr. MOYNIHAN, joined by two Members of the House of Representatives, have filed an action in the United States District Court for the District of Columbia challenging the constitutionality of the act. They assert in their lawsuit that the act violates the lawmaking provisions of article I of the Constitution by authorizing the President to nullify the effect of portions of recently enacted laws.

The lawsuit at issue was commenced pursuant to a special judicial review provision, section 3 of the act, authorizing the filing of an action by any Member of Congress to seek declaratory or injunctive relief on the ground that the act violates the Constitution.

This judicial review provision also gives each House of Congress the right to intervene in the suit in defense of the act. Further, the law provides for direct appeal from any decision of the district court to the Supreme Court and requires both courts to expedite their handling of the action.

The Department of Justice will represent the defendants in the lawsuit, namely the Director of the Office of Management and Budget and the Secretary of the Treasury. As such, there appears to be no need for the Senate to intervene formally in the suit as a party defendant.

Nonetheless, title VII of the Ethics in Government Act authorizes the Senate to appear as amicus curiae, or friend of the court, in this or any such legal action in which the powers and responsibilities of the Congress under the Constitution are placed in issue.

Mr. President, appearance as amicus curiae in this lawsuit would enable the Senate to present to the court its reasons for enacting the Line Item Veto Act and the basis for its position that the law is consistent with the Constitution.

This resolution I offer today will authorize the Senate legal counsel to appear in this case in the name of the Senate as amicus curiae to support the constitutionality of the Line Item Veto Act.

The Senate, through the Senate legal counsel, would not take any position on the other issues, such as those related to the constitutional standing of the plaintiffs in the suit to bring the action, and the timeliness, or ripeness, of the issues before the court, that may be considered by the court in the case as such issues are not covered by the explicit terms of the resolution.

Mr. McCAIN. Mr. President, I rise in strong support of the resolution that is before the Senate.

This resolution directs the Senate legal counsel to appear in the name of the Senate to defend the constitutionality of the Line Item Veto Act, Public Law No. 104–130, 110 Stat. 1200 (1996). While both the Line Item Veto Act and the Ethics in Government Act of 1978 provide authority for the Senate to intervene or appear as amicus curiae in legal proceedings, the adoption of a resolution by the Senate is necessary in order to activate participation by legal counsel. By adopting this resolution, we will ensure that the Senate is fully represented in the case of Sen. Robert C. Byrd, et al. versus Franklin D. Raines, et al., which is pending in the U.S. District Court.

The case that has been filed by Senator BYRD, former Senator Hatfield, Senator LEVIN, Senator MOYNIHAN, Representative SKAGGS, and Representative WAXMAN challenges the constitutionality of the Line Item Veto Act on the grounds that it violates article I of the Constitution. I firmly believe that their assertion is false and that the Line Item Veto Act which was passed last year by an overwhelming vote of 69 to 31 is constitutional.

The act passed last year was very carefully drafted to ensure constitutionality. While I would not presume to tell the court how they should rule on this case, I am confident that the Senate legal counsel will present a very compelling argument that proves that Congress does have the authority to delegate this very limited and strictly defined power to the President.

Our $5 trillion debt, our voracity for spending and our lack of political courage to cut spending led Congress to pass the Line Item Veto Act. Finally, Members of Congress will be forced to defend their pork barrel spending projects publicly. I am hopeful, although not convinced, that the mere threat of a Presidential veto will cause Members of Congress to rethink putting special interest items in appropriations bills like aquaculture centers to study shrimp in landlocked Arizona, bicycle paths, and millions of dollars for pony trekking facilities in Ireland. The time has come to force Congress and the President to take responsibility for how we are spending taxpayers' dollars.

The purpose of the line-item veto is to reduce the deficit by allowing the President to cancel wasteful Congressional spending. Prior to passage of this important Government reform tool, it was easy for Members to slip projects into large appropriations bills or tax bills and not have to be accountable for wasting taxpayers' hard-earned dollars. When these large bills came to the President, often on a deadline, his hands were tied, leaving him with a take-it-or-leave-it decision on the entire bill. In essence, the old system allowed both Members of Congress and the President the ability to blame each other and point fingers without accepting responsibility for these ridiculous projects.

The court challenge launched by a few Members of Congress is simply an effort to continue their battle to preserve the status quo budget process—a budget process that favors seniority and the Appropriations Committee, and one that allows Members to hide wasteful and parochial spending projects in large appropriations bills that previously the President was forced to sign or reject in total. Some of these members support the current process because they directly benefit from it. Last September, the Portland Oregonian reported that since 1980, former Senator Hatfield sent $3.2 billion home to Oregon. It is simply not fair to allow a disproportionate share of taxpayer dollars to be distributed on the basis of position or committee assignment.

The Line Item Veto Act ends this practice of unaccountable spending by allowing the President to use an enhanced rescission process that builds on the President's current authority under the Impoundment Control Act of 1974. It strengthens the existing rescission authority by placing the onus on Congress to overturn the President's rescissions rather than waiting for Congress to act on rescissions that the President recommends.

History shows the current rescission process simply does not work because it is too easy for Congress to deliberately fail to act. Since 1974 only $23.7 billion of the $74 billion in rescissions proposed by Presidents have been adopted. That is just 32 percent—not a very good batting record. It was, after all, our frustration with the current process and the Congress' insatiable appetite for spending that led Congress to cede this limited authority to the President.

Our opponents will attempt to persuade the courts that we have abdicated our constitutional powers by delegating to the President powers that we do not have authority to delegate. There is strong historical evidence in tax and tariff law that proves Congress can delegate this kind of power to the President. The delegation of power is narrowly defined and limited to canceling dollar amounts of discretionary budget authority in an appropriation law, new items of direct spending, or limited tax benefits for the sole purpose of deficit reduction. The statute outlines strict prescriptions for how the President must use this authority and gives Congress an opportunity to overturn the President's cancellation under expedited procedures. All of these limitations on the President's use of this power ensure the constitutionality of this process change.

Despite what the plaintiffs in this case may lead you to believe, I have found nothing in the Constitution that requires the President to spend every dollar that Congress appropriates. Our opponents would like to equate preserving Congress' autonomy to spend taxpayers money with protecting the delicate balance of power of our government. Actually these big spenders are trying to cling to power that has been unfairly tipped in their favor. Since Congress usurped the President's power to impound funds in 1974, it has been Congress that has upset the delicate balance of power in our government system.

Congress' power has been even further expanded by the evolution of a budget process that results in huge appropriations bills, omnibus tax and reconciliation measures as well as passage of continuing resolutions at the last minute just before the fiscal year ends. In addition, this process of passing enormous bills has substantially undercut the current veto power to challenge wasteful spending measures. I doubt our founding fathers could have ever envisioned fathomed legislation totaling hundreds of pages. In their day, an appropriations bill was one page—giving the President a relatively easy choice.

The line item veto finally puts the President on a level playing field with the Congress by giving the President a necessary tool to govern responsibly in light of the how the legislative process has evolved. For over 25 years it has actually been Congress that has quietly undermined our system of checks and balances. Passage of the line item veto was necessary to restore an equilibrium between the executive and legislative branch.

The line item veto in no way alters or violates any of the principles of the Constitution. It preserves wholly the right of the Congress to control our Nation's purse strings—a trust I might add the Congress has often violated. The law as crafted does nothing more than embrace the Constitutional tenet to give the President functional veto power. I am confident that the court will look at this new authority in light of the historical evidence and court precedent and find that it is fully constitutional.

I do not believe it is necessary to engage in a lengthy discussion about the line item veto since the Senate has already debated this subject vigorously and I believe the record speaks for itself. I would, however, like to remind the Senate that two former solicitors general—one Democrat and one Republican—testified before Congress that the law is fully constitutional. The American Law Division of the Congressional Research Service reviewed the law and asserted "nothing in delegation doctrine suggests that Congress may not delegate powers . . ." And the Justice Department reviewed the legislation before the President signed the bill and determined it was constitutional.

In closing, let me say, I look forward to working with the President to help him identify spending and tax provisions that he should cancel. I hope that President Clinton has the political courage to exercise this authotity diligently and will not bow to the prolific spenders in Congress, thus squandering this historic opportunity. The American people have waited for this for over 120 years. Let us not disappoint them.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

Before the Chair's ruling, for the information of all Senators, this is a resolution that allows the Senate legal counsel to file a brief on behalf of the Senate with regard to support for the line-item veto.

The PRESIDING OFFICER. Without objection, the resolution and its preamble are agreed to.

The resolution (S. Res. 21) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 21

Whereas, in the case of *Sen. Robert C. Byrd, et al. v. Franklin D. Raines, et al.*, C.A. No. 97-0001, pending in the United States District Court for the District of Columbia, the constitutionality of the Line Item Veto Act (Public Law 104-130; 110 Stat. 1200), has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978 (2 U.S.C. 288b(c), 288e(a), 288l(a)), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the case of *Sen. Robert C. Byrd, et al. v. Franklin D. Raines, et al.*, to defend the constitutionality of the Line Item Veto Act.

EXECUTIVE SESSION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now return to executive session to consider the nomination of William Cohen, to be Secretary of Defense, and that the time on the nomination be limited to 20 minutes under the control of the chairman, Senator THURMOND, and 15 minutes under the control of the ranking member, Senator LEVIN, and following the conclusion or yielding back of the time, the Senate proceed to vote on the confirmation of Senator Cohen.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM COHEN OF MAINE TO BE SECRETARY OF DEFENSE OF THE UNITED STATES

The legislative clerk read the nomination of William Cohen of Maine to be Secretary of Defense of the United States.

Mr. LOTT. Mr. President, I have just one bit of clarification. We had hoped to have a full discussion of support for Senator Cohen on Thursday. But we do have the wake and funeral of our former colleague, Senator Tsongas. We are trying to accommodate Senators who need to leave this afternoon to go up to Massachusetts for the wake and for other commitments that were made tonight. We needed to go ahead and get this done today because Senators would not get back until late tomorrow afternoon. I apologize to Senators who may not have as much time as they wanted. I encourage those Senators to stay after the vote to speak on this, if they wish.

So for the information of all Senators, another vote is expected on the confirmation of our former colleague, Senator Cohen, at approximately 3:25 p.m. today.

Following that confirmation vote, there will be an additional period for morning business in which to introduce bills and make statements. However, there will be no further rollcall votes today. The next opportunity the Senate will have for votes, at this point, looks like Tuesday of next week. But we will further confirm that when we do our closing statement later today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself 2½ minutes.

I want to thank the majority leader, Senator LOTT, and the minority leader, Senator DASCHLE, for taking up the nomination of our former Colleague Senator Bill Cohen to be Secretary of Defense. As all Senators know, Secretary Perry, who has ably led the Department of Defense for the past 3 years, has departed. It is therefore essential that we fill the position of Secretary of Defense as quickly as possible.

The Armed Services Committee met this afternoon in an executive session and unanimously voted to recommend the confirmation of Senator Cohen as the 20th Secretary of Defense. Senator Cohen is well known by all Members of the Senate for his distinguished 18 years of service in the Senate representing the people of Maine. Each of us is aware of his character, ability, and dedication to providing unquestioned support for our men and women in uniform. Senator Cohen has repeatedly demonstrated a vision for how the United States must meet its defense needs. I believe that as the Secretary of Defense, Bill Cohen will continue to demonstrate the strong independent characteristics of New England gentlemen and will lead the Clinton administration to provide adequately for the security of the Nation and those who serve in our Armed Forces.

Mr. President, as chairman of the Armed Services Committee, I urge the Senate to confirm William S. Cohen, a dedicated public servant, as the next Secretary of Defense.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 5 minutes.

Mr. President, I am pleased to join the chairman of the Armed Services Committee in supporting the nomination of our former colleague, Senator Bill Cohen, to be Secretary of Defense.

I want to commend President Clinton for his willingness to reach across party lines to select a creative and independent thinker like Senator Cohen to serve as his Secretary of Defense. With this appointment, the President has shown his commitment to a bipartisan foreign policy and a strong national defense. He has selected someone who has very strong feelings about the role of Congress in making national security and foreign policy, and on the need for close consultation between the President and Congress in this area. I hope that Congress will reciprocate by working closely and constructively with the President and his new Secretary of Defense.

Mr. President, I come from a State that was represented in the Senate for 23 years by Senator Arthur Vandenberg, who perhaps more than any other Senator in history stands for bipartisanship in national security and foreign policy. I also sit on the Armed Services Committee where Senator Cohen, for 18 years, served with me and displayed to me over and over and over again, as he did to all of our colleagues during this period, his instinct to be a true American patriot—not a Republican, not a partisan, but a patriot when it comes to American security and foreign policy issues. I look forward to working with him in his new capacity to continue that tradition.

Senator Cohen's experience in the Senate should serve him well as he moves on to his new position. In his capacity as a member of the Armed Services Committee, Senator Cohen has been a leader in virtually every major national security debate in the Congress for the past two decades. He was a forceful advocate for improving the quality—and the quality of life—of the All Volunteer Force in the late 1970's. He played a key role in the Armed Services Committee in drafting and passing the landmark Goldwater-Nichols Department of Defense Reorganization Act in the mid-1980's, as well as the legislation that strengthened our Special Operations Forces. He has been an innovative thinker in the area of arms control, and he helped force a bipartisan compromise on antiballistic missile policy in the last Congress.

Senator Cohen has also shown his ability to work in a constructive manner across party lines on the Governmental Affairs Committee, where he and I served on the same subcommittee for 18 years, alternating as chairman and ranking minority members. We worked together on all of the recent acquisition reform legislation, including the Competition in Contracting Act, the Federal Acquisition Streamlining Act, and the Information Technology Management Reform Act. We cooperated on oversight hearings that led to significant savings in defense inventory, the purchase of commercial items, and DOD travel costs—everything from the purchase of commercial items—where we worked closely together to make sure we buy more commercial items, to DOD travel costs—where we worked to try to reduce the administrative costs associated with DOD.

Outside the defense arena, we worked side-by-side on the Senate floor to enact the Independent Counsel Act, the Whistleblower Protection Act, and the Lobbying Disclosure Act.

The Department of Defense and the Nation are fortunate to have been served by a long line of capable and effective Secretaries of Defense. I look forward to working with Senator Cohen to help him continue that tradition of effective leadership, and I am confident that my colleagues on both sides of the aisle share this view.

Mr. President, at this morning's hearing of the Armed Services Committee, I shared with Senator Cohen my experience from a visit that I recently made to Bosnia with Senator JACK REED, during which we met with our military personnel—the men and women of our Armed Forces serving there—and our leadership, as well as the governmental leadership inside Bosnia and Serbia.

We met with the three Presidents and two Prime Ministers of Bosnia and Herzegovina, with General Crouch, the Stabilization Force or SFOR Commander, and the United States and French sector commanders and troops, the Dayton Agreement High Representative Carl Bildt, and United States Embassy personnel.

As a result of these meetings, I have reached a conclusion, which I shared with Senator Cohen this morning, that two things are going to be true relative to Bosnia. One, that we are going to need some kind of an outside force at the end of the 18-month period which is currently the mission length in Bosnia. For a number of reasons, in my judgment, there is no way that the current so-called stabilization force can leave Bosnia at the end of 18 months with any other result but that the same situation will return to Bosnia as previously existed there.

Conclusion No. 1: There will need to be some form of an outside armed force to help maintain the stabilized situation which we are now creating in Bosnia.

But, No. 2, we should not have our ground forces in Bosnia at the end of 18 months. Europe should take a greater responsibility, and there is a new development inside of NATO which makes that a possibility.

There is a new development inside of NATO which is very fortuitous, which makes it possible for Europe to take over the leadership of any follow-on force after 18 months. That fortuitous development is that NATO is developing a European security and defense identity within the alliance which will permit European NATO nations, with NATO consent, to carry out operations under the political control and strategic direction of the western European Union, using NATO assets and NATO capabilities. That European initiative inside of NATO is the appropriate follow-on force after this 18-month period is over, should a follow-on force be necessary. In my judgment, at least, it will be.

I was pleased that Senator Cohen shared my view that U.S. combat forces should not remain on the ground in Bosnia for more than 18 more months, and that he shared my optimism that it was at least possible that this new European security and defense initiative would be the right follow-on force in Bosnia should an outside armed force continue to be necessary.

Although Senator Cohen has served on the Armed Services Committee for the past 18 years, the committee carried out the same thorough review of this nomination that we do for all nominations that come before the committee. We carefully reviewed his financial disclosure and his responses to the standard committee questionnaire. In late December, the committee submitted an extensive set of policy questions to Senator Cohen. His written answers were made available to all committee members and are part of the committee's written record of this nomination. Earlier today, the committee conducted a lengthy hearing with the nominee and examined his views on the full range of national security issues facing the United States.

Mr. President, based on the committee's review of this nomination, and based on my own experience working with Senator Cohen over the past 18 years, I urge my colleagues to join me in supporting this nomination.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, how much time do I have on my side?

The PRESIDING OFFICER. The Senator from South Carolina has 18 minutes.

Mr. THURMOND. Mr. President, I now yield 10 minutes to the able Senator from Maine, Senator SNOWE.

The PRESIDING OFFICER. Senator SNOWE is recognized.

Ms. SNOWE. Mr. President, I thank the chairman of the Armed Services Committee for yielding me this time this afternoon.

Mr. President, today the Senate will have the opportunity to vote on the confirmation of America's next Secretary of Defense.

This is, of course, a position of tremendous importance and responsibility—particularly as we look toward a new millennium and the national security challenges that it will present. These challenges will be many: restructuring our forces, modernizing our defense, reconciling our defense needs with the realities of our budget, our ongoing interests in the Mideast and Bosnia, and the potential for other conflicts yet unknown. And as always, the world will be looking to us—the greatest democracy on Earth—for strong and just leadership.

So the individual who will hold this office must be of the highest moral and intellectual fiber. This is why I am pleased and honored to rise today in strong support of the nomination of William S. Cohen to be our next Secretary of Defense.

While there are now Senators in this Chamber who have never served with Bill, I feel confident in saying that every one of them is nonetheless familiar with his contributions to this institution.

And yet, as we approach the time when we will confirm Bill Cohen as Secretary of Defense, I feel compelled to share with you my thoughts about Bill as a person, as a Senator, and as a leader.

It seemed just yesterday that I stood on this very floor to pay tribute and respect to a friend and colleague who was bidding farewell to the institution he had served so well for 18 years. I talked about Bill Cohen the man, and how he helped perpetuate the Senate's claim as the greatest deliberative body on Earth. And I talked about how he made Maine and the Nation proud. Little did I know—but little am I surprised—that I would soon stand before you speaking of how the country has lost a Senator but soon will gain an outstanding Secretary of Defense.

It has been said that the world is divided into those who want to become someone, and those who want to accomplish something. The irony is that in setting out to accomplish something, Bill Cohen has also become someone—someone we admire, someone we respect, and someone who can be entrusted with one of the toughest and most demanding jobs in the world.

Like the historic Maine lighthouses that dot Maine's coastline, Bill's record has been a beacon of light. His vision and resolve stood fast against the buffeting winds of political change. In a volatile and stormy climate, Bill Cohen and his rich experience in public service helped guide us to calmer waters. But while skillful in getting things done, politics is not what moves Bill. Principles and ideas are what Bill Cohen is really about.

That's why Bill became the standard-bearer for modern Maine politics from his first days in public service.

Born and raised in Bangor, where his parents ran a bakery, he graduated from Bowdoin College and from Boston University Law School 3 years later. After practicing law in Bangor for several years, Bill was elected to the Bangor City Council in 1969 and then served as mayor of Bangor. It was clear early on that he would have a distinguished career in public service.

In 1972, he was elected to the House from Maine's Second Congressional District and faced the toughest challenge of his fledgling tenure in Congress.

In the stormy sea of the Watergate scandal, while America was suffering a crisis of confidence, Bill Cohen charted a course straight through the heart of the storm as a member of the House Judiciary Committee, which was considering Articles of Impeachment against a President of the United States. A freshman, Bill was already a man of conscience and courage—someone who was willing to make the tough calls and risk his political future for the sake of truth and America's honor. And these values ultimately launched him here—to the U.S. Senate.

Back in our home State of Maine, people believe the ultimate measure of a person is how close they remain to their principles precisely when it is most difficult to do so.

It is a tradition that Margaret Chase Smith and Edmund Muskie followed in their personal and political lives and consistent with the ideals of Maine. Bill Cohen followed in their footsteps.

Throughout Bill's career, Maine and America have come to know that they can count on Bill to approach issues with thoughtfulness and reason. And Senators on both sides of the aisle developed a tremendous respect for the virtues Bill brought to this body because, above all, Bill Cohen voted his mind and his conscience. And that is what Americans want in their leaders. He has the intellect, the integrity, and the strength to know the right thing to do and the right way to do it. And he is a leader who believes in his solemn responsibility not simply to echo conventional wisdom but to seriously deliberate on the issues of the day.

This is the kind of person we need at the helm of the most powerful defense force in world history. We need someone with a firm grasp of history and a solid vision for the future, someone with both experience and a track record that engenders unflagging trust. Mr. President, Bill Cohen is such a person.

The defense of our Nation is one of the most sacred responsibilities of the Federal Government. "Life, liberty and the pursuit of happiness" is a meaningless concept unless we have the desire and the ability to defend those rights against those who would subvert them. We entrust the person who oversees our Armed Forces with nothing less than the defense of the Constitution and the greatest democracy the world has ever known. That is a tall order, but it is without reservation that I will put my full faith and trust in Bill Cohen to be that person.

As we all know, Bill is a respected and expert voice on intelligence and national security issues. As chairman of the Armed Services Subcommittee on Seapower and chairman of the Senate Intelligence Committee, he played a leadership role in defense policy at a critical time in our Nation's history, through some of the most trying days of the cold war and the challenging moments thereafter. Bill authored the nuclear arms build-down proposal which became the United States position in negotiations with the Soviet Union. He forged a bipartisan compromise on an antiballistic-missile policy, and his unwavering commitment to a strong national defense helped lay the groundwork for the fall of the Soviet empire and the end to the cold war.

Closer to home, Bill was instrumental in bringing about significant reforms of the Defense Department, including reorganizing the Pentagon and the Joint Chiefs of Staff to be more effective and prepared for combat situations and streamlining acquisition policies to ensure cost efficiency. His legislation also created a special operations antiterrorism unit designed to counter this growing scourge.

While serving on the Armed Services Committee, Bill was visionary in reshaping our military forces to be responsive to the post-cold-war threats that we face globally as well as sizing and equipping forces to carry out our national security policy. Bill has also been a leader in shaping our policy and forces to meet the future challenges we will face in the 21st century.

Bill Cohen also put forward a detailed proposal for reorienting our defense structure in the 1990's in a way that would reduce the burden on the Federal budget and recognize changes in the threats facing the United States. It called for sacrificing conventional forces and programs primarily designed to defeat Soviet aggression in Europe in favor of those, such as power projection forces and sealift, that will be needed to meet the variety of challenges the United States is likely to face in our changed global arena.

It is precisely this kind of responsible, visionary leadership that will be required for the next Secretary of Defense, so I can think of no finer nominee than Bill Cohen to lead and prepare the Department of Defense for this coming century. I commend President Clinton for his bold and wise and thoughtful selection of Bill Cohen to be our next Secretary of Defense, and I am thankful that Bill Cohen has decided to continue his commitment to public service.

Bill Cohen brings to the Pentagon not just a sense of bipartisanship. He also brings to the Cabinet expertise in working with Congress. And I expect we are going to be hearing a lot from Bill because he is familiar with this end of Pennsylvania Avenue. He knows that to be an effective Secretary of Defense one must have a strong and trustworthy relationship with the U.S. Congress.

Mr. President, my fellow colleagues, the world today is much different than the world of even 10 years ago. The Berlin wall has now been relegated to its rightful place—our museums. The Soviet Union is no more. And young Americans no longer go to sleep fearing that morning may never come. But let us make no mistake. The world is still a volatile and dangerous place, and that is why we need a person of Bill Cohen's caliber standing watch, willing to fight, willing to stand up for his principles, willing to take the time to do what he believes is right.

These are some of the qualities that Bill Cohen will bring to the Pentagon, and so I urge you to join with me in proudly casting your vote to confirm President Clinton's nomination of William S. Cohen to be the next Secretary of Defense for the United States of America.

Thank you. I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I now yield 2 minutes to the able Senator from Texas, Senator HUTCHISON.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair and I thank the Senator from South Carolina.

I support Senator Bill Cohen, now Secretary of Defense-designate Bill Cohen, because I believe he believes in a strong national defense, and he will fight to make sure that commitment remains true. He believes that the President should consult with Congress before deploying American troops into harm's way. He believes that mistakes have been made in Bosnia, and I think he will keep his word when he gives it to Congress and to the American people regarding our role and the clear mission that must be stated in Bosnia. He believes that we should move into the expansion of NATO very carefully, understanding that this is a mutual defense pact, and that we want to always keep our treaty obligations and therefore we must be very careful as we give them to make sure that we are covered.

Bill Cohen believes in privatization so that we will be able to maximize the use of our defense dollars for the readiness of our forces, the greatest forces on the face of the Earth today.

I am pleased to support the nomination of Bill Cohen, and I do wish to commend the President for making this kind of bold move because I think he has heard many of the things Senator Cohen has said over the past few years about the role of defense, about the role of our military in this great country, and I hope the President will listen as we move forward together in a bipartisan way to the good advice I know Bill Cohen will give him regarding the issues that are going to be before us. We cannot go separately when we are talking about the troops and the strength of our American Armed Forces.

So I do support this nomination, and I have every confidence that Bill Cohen will lead us into a strong national defense and also for America to keep all of its treaty obligations and to make sure that we have the missile defense technology to protect us and our shores and our troops when they are in the field.

I thank the Chair, and I yield the floor.

Ms. COLLINS. Mr. President, it is a tremendous honor to be able to cast my second vote as a U.S. Senator to confirm my friend and mentor, Senator Bill Cohen, as this Nation's Secretary of Defense.

In describing the characteristics that make Senator Cohen so well qualified for this job, it would be presumptuous and unnecessary for me to detail his expertise in defense matters to his former colleagues in the Senate. Most of you have worked closely with him on defense issues for many years, and all of you are certainly aware of the depth of his knowledge and experience in this arena. Simply put, Bill Cohen's understanding of the complexities of defense policy is unassailable.

But I do want to attest personally to Bill Cohen's integrity and character, and on that basis there is simply no one more qualified for this enormous responsibility. Bill Cohen embodies the patriotism, the thoughtfulness, the steadfastness, and the intellect that the task of overseeing our Nation's security requires. He brings to the job a fierce dedication to his principles, a level-headed ability to never make a rash or uninformed decision, and the desire to make the Nation's defense stronger while at the same time making it more effective and more efficient.

Most important of all, Bill Cohen will never put Americans troops at risk unnecessarily. In every decision involving the deployment of our men and women in uniform, he will see the faces of our troops, not just the statistics and logistics. He will bring to the Pentagon the reasoned, thoughtful approach that matters as weighty as war and peace require.

I have known Bill Cohen for more than 24 years. I first met him when he was running for Congress in 1972, seeking the seat representing Maine's Second District. He was walking more than 600 miles across the sprawling district, introducing himself to the voters. I volunteered to drive the campaign car as he criss-crossed the roads of northern Maine. I was inspired by his determination to meet the people whom he wanted to serve in Washington and by his sincere interest in their hopes and fears.

I was also impressed then, as I am now, by his commitment to public service, to doing what was best for the people he represented. Over the years, I saw countless examples of that commitment, whether he was representing the people of the Second District as a House Member, or the people of the whole State as a Senator. Now I have no doubt that he will bring the same dedication for public service to a job at the highest levels of public service, one that answers to the largest constituency of all—the Nation.

In the more than two decades since I first met Bill Cohen, he has been my inspiration, my guide, and my friend. It gives me great pride to be able to be here today to endorse his nomination. I am delighted that the President has made such an outstanding nomination for such a critical Cabinet post. This morning I testified before the Senate Armed Services Committee to urge its prompt and favorable consideration of Bill Cohen's nomination. I am pleased that the committee was able to act so quickly to bring this outstanding nomination to the Senate floor. And I know my colleagues will join me in unanimously approving Bill Cohen's nomination.

Mr. DOMENICI. Mr. President, I rise today to wholeheartedly support the nomination of former Senator Bill Cohen to be Secretary of Defense. Senator Cohen will be taking on a great responsibility in carrying out his duties as Secretary of Defense. When confirmed, he will be providing the President with essential advice about planning for the defense of our Nation and in making sure that America's finest men and women have all of the assets they require to carry out their mission. I am pleased that the President has chosen Senator Cohen for this position. The vast experience and knowledge he gained as a distinguished member of the Senate Armed Services and Intelligence Committees, and this body, will serve the President and the Nation well. He is highly qualified for this important position.

I have worked with Senator Cohen on many issues and have always found him to be knowledgeable, thoughtful, and a constructive consensus builder. He has demonstrated an ability to think issues through carefully and thoroughly. His record on critical defense matters during his tenure in the Senate speaks for itself. He has demonstrated that he is able to analyze the critical issues and make decisions based upon what his conscience tells him is that right thing to do for the country.

During this time of severe budget constraints I know that he will be able to help the President align budgets with priorities. Fundamental questions will have to be answered as we prepare our military for the future wars they will have to fight. The world is still a dangerous place. The recent missions the Department has undertaken are proof of that fact. As we move into the 21st century, and as the United States becomes more involved in crisis spots around the world, Senator Cohen's challenge will be to help ensure that our Armed Forces remain the best trained, best equipped fighting force in the world. This is no small task, but he has consistently supported these objectives in his position as a member of the Senate Armed Services Committee. He played an important role in calling for the Quadrennial Defense Review, has shown keen insights into the importance of weapons modernization, and has been a stalwart supporter calling for ballistic missile defenses.

I have been very pleased to know many Secretaries of Defense in my 24 years in the Senate, but I must say that I have been especially proud to know Secretary Designate Cohen. We began our legislative careers in 1973. He first started in the House of Representatives. But I watched his career develop there and then in the Senate where he won the respect of his colleagues and became a giant here on Defense and Intelligence issues.

I have enormous respect for Secretary of Defense Designate Cohen. I believe his confirmation will be good for the country. I think it is fair to say that he enjoys the respect of every Member of this body. I look forward to working with Senator Cohen in his new position as Secretary of Defense. I think the President has made an excellent choice in nominating him. The people of Maine can be truly proud of his accomplishments, as I am proud to support his nomination.

Mr. LEAHY. Mr. President, I rise in support of the nomination of William Cohen to be Secretary of Defense. After watching the Armed Services Committee hearings on his nomination I am not sure whether the Senate is voting in confirmation or coronation of my friend from Maine.

I can certainly understand how the committee provided such overwhelming support for this nomination. I have enjoyed working with Bill Cohen on a wide range of issues. He and I have served together on the Intelligence Committee and we have traveled together on arms control delegations. I am gratified by the support he has lent to efforts I have brought before the Senate to limit the export and use of land mines. He has that unique New England philosophy, increasingly rare these days, of working in a bipartisan fashion to build support for legislative initiatives for the good of the country. There will be a void in the Senate without him but the Nation is fortunate to have his leadership on defense issues.

There are two distinct qualities about Bill Cohen that I am confident will serve him well as Secretary of Defense. As all of us who have had the honor to serve with him know, Bill Cohen is his own individual. He is not afraid to stand up for what he believes is best for the Nation. He also possesses one of the most formidable intellects that I have worked with in my 22 years in the Senate. I know that these qualities will serve him well as he guides the Department of Defense and advises the President in the coming years.

Mrs. FEINSTEIN. Mr. President, I am pleased to speak today in support of President Clinton's nomination of former Senator William Cohen as Secretary of Defense. I truly believe that Senator Cohen has an extraordinary grasp of all defense matters, especially issues of concern to the Navy, and will be an asset as Secretary of Defense.

I have always found Senator Cohen to be a fair and thoughtful public servant who takes the time to understand all issues. In fact, I am happy to say that when Senator Cohen speaks on matters of our national defense and foreign policy, I turn up the volume on my television so that I can catch every word.

Since coming to the Senate, I have stressed the need to be more bipartisan in all that we do. This is especially true when considering what is necessary for our Nation's security. I am convinced that with the Senator's nomination as Secretary of Defense our ability to work together as Democrats and Republicans will be enhanced as will Congress' ability to work with the executive branch. The value of this cooperation cannot be underestimated.

I am also pleased that Secretary-designate Cohen has a keen understanding of international security issues across the board. He is particularly knowledgeable about the Asia-Pacific region and has traveled there many times. Secretary-designate Cohen supports continuing Secretary Perry's strong policy of engagement with China, including extensive military-to-military contacts. This kind of one-on-one relationship with our Asian counterparts is vital to the continued progress in our foreign policy relationship. We, however, must continue to maintain a strong military presence in the Pacific to protect our interests. I am convinced that Senator Cohen will continue to support this effort during his tenure as Secretary of Defense.

Eliminating sexual harassment and all forms of discrimination in our Armed Forces is another issue to which I know the Secretary-designate will dedicate his efforts. He was a leader during the scourge of Tailhook and I am confident that he will continue to monitor the Army's investigations into sexual harassment and assault inside its ranks.

Finally, I know that the Secretary-designate and I will have the opportunity to discuss and to work on those matters on which we do not see eye to eye. As a Senator, Secretary-designate Cohen had differing views on the administration's current Department of Defense privatization efforts. I look forward to working with him as we continue to explore the best ways to preserve the readiness needs of our military and the most cost-effective means to support our military's depot maintenance activities. I am positive that we will have, as we have always had, the ability to discuss these differences openly and honestly.

In closing, I was pleased to hear that Senator Cohen mentioned the problem of access to bombmaking information on the Internet during his testimony to the Senate Armed Services Committee today. This is a widespread problem for which I have been seeking a solution and I am pleased that the Secretary-designate understands its gravity.

I am happy to give my support for the nomination of former Senator William Cohen to the office of Secretary of Defense. I am positive he will be an asset to the Clinton administration and to our Nation as a whole.

Mr. KENNEDY. Mr. President, I am very pleased to vote for Senator Bill Cohen's confirmation to serve as Secretary of Defense. We are all very familiar with Senator Cohen's experience and commitment to the Nation's defense as a member of the Armed Services Committee and I am confident he will put those qualities to good use in leading the Department of Defense into the next century.

In the 8 years since the fall of the Berlin Wall, the Department has guided our Armed Forces through a challenging and often painful downsizing, while maintaining the preeminent position of our forces as the world's strongest, best led, best trained, and finest performing military. And we have done so while making major progress toward balancing the budget.

Senator Cohen is eminently qualified to carry on these important responsibilities.

We continue to face major challenges in maintaining a sound defense strategy to forthcoming years in the post-cold-war world.

Our nuclear arsenal and that of the four other nuclear powers are larger and are operated on higher alerts than the threats now justify. The threat from terrorists who seek to obtain and use weapons of mass destruction demands more of our attention and resources.

The Pentagon is embarking on a quadrennial defense review to determine the proper balance of size, structure, and funding to keep our forces equipped, trained, and ready. We all look forward to working with Senator Cohen and the President to deal with these critical issues for our national security.

Another vital challenge is to ensure that our military personnel have the quality of life to which their service entitles them. Health care, child care, and adequate housing are all initiatives on which the committee works closely with the Department, and I know these will continue to be priorities for the Pentagon under Secretary Cohen's leadership as well.

Finally, it was a special privilege for me to work with Senator Cohen on the Seapower Subcommittee for many years on issues of special importance to the Navy and Marine Corps. I commend him on his nomination and I look forward to continuing to deal with him on safeguarding our national defense.

Mr. DASCHLE. Mr. President, the Senator from West Virginia [Mr. ROCKEFELLER] asked me to submit his statement in support of William Cohen for Secretary of Defense. As with the earlier vote on the nomination of Madeleine Albright to be Secretary of State, he is necessarily absent for this vote because of responsibilities he has in leading a trade mission from his State of West Virginia to Asia. He regrets not being here to cast his own vote for his former colleague, Senator Cohen, and asks that his support for this outstanding nominee be noted.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. ROCKEFELLER. Mr. President, I am submitting this statement to express my support for the nomination of my former colleague, William Cohen, to be the Secretary of Defense of the United States of America. Unfortunately, as with today's earlier vote for Madeleine Albright to be Secretary of State, I am necessarily absent from the Senate, and am unable to cast my vote for Senator Cohen. Again, because of plans that had to be scheduled long ago, I am presently leading a group of more than 30 West Virginians on a trade mission to Japan and Taiwan that is called Project Harvest II.

I personally regret, however, that I am missing a chance to vote on the nomination of William Cohen. Senator Cohen and I served together in the Senate for twelve years, and in that time he distinguished himself as a serious legislator with a keen intellect who continually transcended party boundaries to build bridges and advance America's national interests.

The challenges facing Senator Cohen today are no less daunting than those faced by Secretaries of Defense in times of war and cold war. The United States stands today as the only military superpower in the world. That brings with it great responsibility to lead in all corners of the globe. Bill Cohen is uniquely talented to take on these challenges, and like my colleagues I applaud him for agreeing to take on this challenge, and the President for nominating him.•

Mr. SPECTER. Mr. President, the Honorable William S. Cohen was a great Senator and I am confident that he will carry on his outstanding record in public service as Secretary of Defense.

I compliment President Clinton both for his bipartisanship for nominating Bill Cohen and for his wisdom in selecting this man of unique ability and integrity.

I have worked closely with Bill Cohen for the past 16 years and have found him to be brilliant, tenacious, honest, and hardworking. If Bill Cohen finds all the others in a Cabinet meeting about to make an erroneous decision, I am confident he will be smart enough and strong enough to persuade them to the correct course.

I look forward to working with Secretary Cohen on many matters in the future.

Ms. MIKULSKI. Mr. President, I enthusiastically support the nomination of our colleague Senator Bill Cohen to be Secretary of Defense.

I salute President Clinton for reaching out beyond party lines. I salute Bill Cohen for being ready to join the Democratic administration. They both know that when it comes to the national defense of our country—we have no party interest—just national interest.

Senator Cohen has shown that he cares deeply about the national interest—and that means a lot more to him than party politics. He has proven this time and time again, not just on national security issues but when he worked on behalf of senior citizens, when he sought to reach a consensus on health care reform, when he supported affirmative action and when he fought for lobbying reform. His is a voice of independence, integrity, and moderation.

As a member of the Armed Services Committee, he was one of the Senate's most articulate voices for a strong and efficient national defense. He cares deeply about the men and women of our Armed Forces. He has long fought to make sure that while we downsize our military—we do not downgrade our military.

Mr. President, I believe Senator Cohen is the ideal person to lead our Armed Forces into the new century. I am proud to support his nomination, and I look forward to working with him to ensure that we maintain the best equipped, best trained, and most ethical military in the world.

Mr. ROBB. Madam President, in my 8 years of service in the Senate, and in particular during my time on the Armed Services Committee and the Intelligence Committee, I have had the privilege and honor of working with Bill Cohen. His expertise and thoughtfulness, as well as his ability to put the national interests above partisan politics, have made him an invaluable asset to this body. Whether regarding arms controls, missile defense, or acquisition reform, Bill Cohen's independence and reasoned approach have resulted in passage of major pieces of legislation on highly complex and politicized matters. Those same qualities will enable our next Secretary of Defense to guide the Nation through an uncertain future, and to make the many difficult choices we face in reconciling protection of our vital interests overseas with ever-increasing demands on our Federal budget here at home.

Bill Perry has proven himself as one of the most capable Defense Secretaries ever, and Bill Cohen will have a remarkable legacy to follow. But I am confident he shares the same kind of dispassionate, in-depth analytic qualities and measured, even-keeled leadership qualities that will keep America safe well into the 21st century. I wish him much success in his new position, and with that, Madam President, I yield the floor.

Mr. THURMOND. Mr. President, I yield 3 minutes to the able Senator from Virginia, Senator WARNER.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Virginia.

Mr. WARNER. I thank the chairman.

Madam President, President Clinton performed an act of political courage in reaching across the aisle and getting a proven Republican warrior to take on this important post. But that act is matched by the independence and, indeed, the courage that Bill Cohen brings to this office.

For 18 years, it has been my privilege to be seated next to him on the Senate Armed Services Committee, and to travel with him throughout the world.

The hearing today was thorough, the questions were tough, and that is the way Bill Cohen would have wanted it. That is the way the committee dealt with him today. It was not easy. It was a thorough and careful hearing, and I commend the chairman and Senator LEVIN.

In the course of the questioning, by myself and others, I think Senator Cohen made—I do not think, I know he made a commitment to the Congress that he will try to work in this next Clinton administration to improve the consultation between the President and his advisers and the Congress in a timely manner before we commit the men and women of the Armed Forces of the United States into harm's way.

On that point, I questioned him about what standard should be employed when U.S. troops are deployed into hostile situations. I drew Senator Cohen's attention to responses given by the Secretary of State-designate Albright at the time of her confirmation hearing on January 8. Ambassador Albright spoke of a series of situations when "our interests and those of our allies may be affected." In those instances, our new Secretary of State would recommend the use of U.S. forces. I felt that we should be more explicit in defining the standard for using U.S. troops in hostile situations. In my view, the men and women of the Armed Forces should know, before they are deployed by the President and the Secretary of Defense, that the mission of these fine troops is in our vital national security interest.

Senator Cohen came close defining the standard that I have applied on this issue—that is, that U.S. vital national security interests must be threatened before we agree to put U.S. troops in harm's way. But he said he wanted to leave room for the use of United States troops in those instances where there was a potential for a situation to approach a vital national security interest, such as in Bosnia. While he clearly stated that Bosnia was not in the vital national security interests of this country, he pointed out that, by virtue of the intervention of our troops and others, we avoided a situation where the conflict could have spread beyond the borders of Bosnia, thereby creating a situation which would be in the vital security interests of this country and indeed other nations. I will continue to work with my good friend to further tighten his standard regarding the use of U.S. troops.

There were several other issues I explored with our Secretary of Defense-designate during this morning's hearing that I would like to discuss at this time for the benefit of the entire Senate. The first is the critical issue of congressional involvement in international agreements which substantively modify the ABM Treaty. I reminded Senator Cohen that during the last Congress—and, indeed, dating back to 1991—he was my partner in our efforts to provide adequate missile defenses for our troops deployed overseas and to Americans here at home. One issue which has been of paramount concern to many Republican Members of Congress is the Clinton administration's repeated attempts during its negotiations with the Russians on a demarcation agreement to apply the limitations of the ABM Treaty to our shorter range, theater missile defense systems. I was in Moscow in 1972 when the ABM Treaty was signed. I know that the ABM Treaty was never envisioned to restrict our shorter range systems.

Unfortunately, the battle with the administration over the demarcation issue continues. Senator Cohen joined me in 1994 in cosponoring an amendment to the Fiscal Year 1995 Defense Authorization Act which states that any international agreement which substantively modifies the ABM Treaty must be submitted to the Senate as a treaty. During last year's conference on the Fiscal Year 1997 Defense Authorization Act, National Security Advisor Tony Lake came before the conferees and stated unequivocally that the administration had determined that the demarcation agreement the administration had tentatively concluded with the Russians was indeed a substantive modification of the ABM Treaty. Despite this position, and—in my view—the clear legal requirement that flows from the law enacted in 1994, the Clinton administration refuses to acknowledge that it must submit the final demarcation agreement to the Congress for approval.

To his credit, Senator Cohen reaffirmed his view that agreements which represent substantive modifications to the ABM Treaty must be submitted to the Senate for consideration. I am hopeful that from his new position, he can help us in resolving this longstanding dispute between the Congress and the Clinton administration.

The final issue I would like to mention concerns the negative impact that the Bosnia operation and other similar contingency operations are having on the overall level of military readiness, and on defense funding levels. I pointed out to Senator Cohen that our troops deployed to such operations as those in Bosnia are distracted from their normal training evolutions which are critical to maintaining their combat readiness. This problem is compounded by the ad hoc way the administration has been funding these contingency operations. As Senator Cohen acknowledged, we will soon be faced with a supplemental budget request of over $2 billion to fund our continued involvement in Bosnia. That $2 billion will be taken out of the critical readiness and procurement accounts which are already at dangerously low levels. Senator Cohen recognized the problems I outlined, and agreed to work with the Congress to find solutions. I look forward to that dialog.

Madam President, Bill Cohen will not only be a valuable adviser to the President, but I think to the Cabinet as a whole. His hallmark in the U.S. Senate was to bring disparate factions together and to try to strike a common ground of understanding between the strongest of differing viewpoints. Therefore, in those Cabinet meetings, I anticipate he will take on an added responsibility and role. He will quickly gain the respect, not only of the President, but of his other colleagues.

Lastly, Madam President, might I say, on the question of sexual harassment, he came down with a zero tolerance standard. And that was a message that I think all Americans wanted to hear. I reminded him of the success of the military in handling a very serious drug problem at the time he and I first came to the Senate. That is the benchmark for him to follow in dealing with the sexual harassment problem, as he institutes that zero tolerance policy, which I hope he will succeed in attaining.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I yield myself 3 minutes.

I am honored to stand to support the nomination of our former colleague, Bill Cohen, to be the Secretary of Defense. Being a member of the Armed Services Committee, watching Senator Cohen testify before us this morning, you could not help but be impressed. It was a tour de force—no pun intended here—for our future Secretary of Defense. He was thoughtful, he was well informed, he was strong, and he was, I believe, ready to innovate. I think you could not help but conclude, though much has been made of Senator Cohen's party affiliation, that President Clinton chose Bill Cohen to be our next Secretary of Defense because he was the best person to be our next Secretary of Defense. And, incidentally, he happened to be a Republican.

This, obviously, is serious business and a serious responsibility Secretary-designate Cohen now undertakes, the security of our country, the first responsibility of our Government; the power, along with the Commander in Chief, to put American soldiers in harm's way. I am confident, because all of us know Bill Cohen. In fact, we are in an unusual position, an advantage that we normally do not have when we consider nominees. We know this person. We know his values. We know his balance. We know his strength, and therefore we know how well prepared he is to be the Secretary of Defense.

He comes in at a time when America is the unchallenged, strongest nation in the world. Yet, to remain that way, not just for today and tomorrow but for the decades ahead, we must continue to innovate and lead and make tough decisions. Just like America's strongest companies who, after they have completed years in which they have made record profits, their CEO's come back and look for ways to innovate to make sure they will stay successful. That is exactly what Secretary-designate Cohen must, and I am sure will, do as our next Secretary of Defense. This morning he strongly supported the quadrennial defense review and national defense panel as aids to him and us in carrying out that responsibility.

Madam President, let me conclude simply by saying that this new assignment will test Senator Cohen's strength, his foresight, and his courage. I am absolutely convinced that he is ready to pass those tests and serve our Nation brilliantly.

I thank the Chair and yield the floor.

Mr. THURMOND. Madam President, how much time do we have left?

The PRESIDING OFFICER. There are 5 minutes remaining on both sides.

Mr. THURMOND. Five minutes?

The PRESIDING OFFICER. On both sides.

Mr. THURMOND. I yield 3 minutes to the able Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, I am pleased to share my feelings on a bipartisan basis for the man who is probably the best qualified individual going into the job of Secretary of Defense in a very difficult time in this Nation's history. I will single out four areas where he has demonstrated, in my opinion, a type of courage that many do not have, not to be encumbered by partisan politics or by politics in general, but to be concerned only with protecting this Nation from attack from outside.

The first area is, under the BRAC Commission, he has made the statement in the past that the burden of BRAC, the Base Realignment And Closure Commission, was to reduce the excess capacity and move that excess capacity into consolidated functions. I have no doubt in my mind but he will do this and keep that system free from political interference.

The second area is we really cannot afford in this Nation to have more defense cuts than we have already cut. I read a quote this morning out of a new book by Caspar Weinberger called "The Next War."

> Even to think about, much less propose, further cutting our Armed Forces, betrays a clear lack of real world thinking bordering on denial and delusion.

I believe Bill Cohen understands this.

The third area is the practice of sending our troops into areas where we do not have vital strategic interests at stake. This is something we have had a chance to talk about. We stood on the floor with Bill Cohen as a U.S. Senator, and he expressed himself very clearly that we not dilute our very scarce military assets by sending our troops to places that are not strategic, vital security interests of the United States.

Very closely associated with that is I am hoping we are going to be able to get away from a problem we have had for quite some time, and that is the administration coming in, encumbering us, putting our troops into areas such as Bosnia and approximating what it will cost, which was supposed to cost somewhere between $1.5 and $2 billion and now we are finding out it is going to be closer to $6 billion, $6.5 billion. This is in a way disenfranchising the U.S. Senate. We should be in on that decision, and I have every confidence we will be in on those decisions from this point forward.

Then the last area is one I have been very much concerned with, and that is our need for a sophisticated theater missile defense system and a national missile defense system. I have stood on this floor and shared thoughts with Senator Bill Cohen concerning this problem. This morning during the confirmation hearings I was just delighted to hear Senator Cohen make his statement as he characterized the proliferation of nuclear weapons and weapons of mass destruction to be the gravest problem facing the world today.

I am looking forward to voting for his confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I yield to the distinguished Senator from West Virginia 4 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I compliment the Presiding Officer, Senator SUSAN COLLINS, who presides over this body at this moment with a degree of dignity and skill and efficiency that is so rare as a day in June.

I strongly support the nomination of Senator Bill Cohen to be our next Secretary of Defense. He is highly qualified for this important position from the perspective of the long, creative, and intense years he has studied and put into effect his ideas regarding a strong defense from the position of his membership on the Senate Armed Services Committee.

I have worked with Senator Cohen on many issues of war and peace, of foreign policy, national security actions and have always found him to be knowledgeable, thoughtful, with excellent insight and a distinct lack of partisanship, and always with an unusual dose of excellent judgment and innovation.

He has always attempted to build consensus across the aisle on vital defense matters, and I have had this experience in working with him when I served as the Democratic leader and in the context of our membership together on the Armed Services Committee.

I commend President Clinton for submitting this outstanding—truly outstanding—nomination. I suggest that the nomination reflects highly on both the Senator and the President. It highlights the need for bipartisan national security decisionmaking, and I feel that it will be constructive in taking politics out of defense budgeting and defense policy.

It is an act of political courage on the part of the President, and it is matched by the independence of judgment and courage on the part of Bill Cohen over the years. Senator Cohen has demonstrated an ability to think a problem through carefully and clearly and reach consistently wise and independent judgments.

In this regard, I commend his comment in the committee's confirmation hearing today that there should be an end to our Bosnia deployment within the near term and that our European allies need to finally step up to the plate and assume whatever further military peace-enforcing responsibilities remain at the end of that period.

I know that Senator Cohen is a strong advocate of regular substantive consultations between the administration and the Congress on critical defense matters, and in particular on the question of the deployment of American Armed Forces into harm's way. I know that he urged President Bush to come to Congress on the matter of deploying our forces to Saudi Arabia in preparation to remove Iraq's forces from Kuwait. He has indicated that it is not sufficient for an administration to go only to the United Nations for such approval, and he supports his argument with both constitutional and practical reasons.

It is far sounder to deploy forces when an adversary knows that a national decision in the United States has been taken which has been validated by the people's representatives. America's credibility is stronger under such circumstances, and we are more likely to sustain a difficult operation and to prevail.

The nomination of Bill Cohen for Secretary of Defense is an unusually good one. I look forward to working closely with Secretary of Defense Bill Cohen on the very weighty and diverse responsibilities that come with that high and critical office.

I yield the floor.

Mr. THURMOND. Madam President, how much time do we have left?

The PRESIDING OFFICER. There are 2 minutes for the Senator from South Carolina and 1 minute for the Senator from Michigan.

Mr. THURMOND. I now yield 1 minute to the able Senator from New Hampshire, Senator Smith.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. I thank the distinguished chairman of the Armed Services Committee very much and also thank you, Madam President. It isn't often you get the opportunity to preside over your predecessor's new job. So it is a great honor. You will learn when Senator BYRD gives out compliments, he means them. So I think you should take it in that vein.

I am very honored and pleased and proud to support the nomination of Bill Cohen, with whom I have worked on the Armed Services Committee for the past 6 years on a number of issues. I compliment the President of the United States for having the courage to make a bipartisan selection. I don't think he could have picked a better one.

If you want to bridge the gap, if you will, that sometimes occurs between those of us on the Republican side on defense matters and the administration, I think if anybody can do it, Bill Cohen can do it. He is very knowledgeable, and I think one of the things that adds a different, perhaps a unique, dimension to Bill Cohen as Secretary of Defense is his experience in foreign policy.

I have been on some trips with him around the world, as many of my colleagues have, and he is very knowledgeable on Europe and NATO. His knowledge of the world is pretty well unequaled. I am proud to support his nomination.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN addressed the Chair.

Mr. LEVIN. I yield 10 seconds to the Senator from Delaware.

Mr. BIDEN. Madam President, the only thing I can say in 10 seconds is it is an inspired choice of a great man at the right time.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD addressed the Chair.

Mr. LEVIN. Madam President, to Senator CONRAD I yield 10 seconds.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I was in the centrist coalition with Senator Cohen. I have enormously high regard for his integrity, his honesty, and his ability to work with others. A superb choice.

Mr. THURMOND. Madam President, I now yield a half-minute to the able Senator from Rhode Island, Senator CHAFEE.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I join in the congratulations both to the President, for having chosen Bill Cohen, and Bill Cohen, for making himself available. Bill Cohen is one of the really great Senators with whom I have had the privilege of serving in this body.

As the Senator from North Dakota mentioned, he and I and others were part of a centrist coalition that was bipartisan, which reached across the aisle. We are going to see Bill Cohen conduct his office in the same fashion. It is going to be an office that will provide for all Americans.

It is with great pleasure that I second the nomination of Bill Cohen for Secretary of Defense.

Mr. THURMOND. Madam President, I now yield the remainder of the time to the able Senator from Idaho, Senator KEMPTHORNE.

Mr. KEMPTHORNE. Madam President, I thank the Senator from South Carolina very much.

I enthusiastically support the nomination of Bill Cohen for Secretary of Defense and commend the President for his decision. One of the encouraging things Bill Cohen said today, among all the other impressive things he said, was his commitment to the men and women in uniform.

We have the best fighting force in the world, but you have to take care of them. So the quality of life issues that are so important to those men and women, whether they are four-star generals or new privates or midshipmen coming in, we need to take care of them, and we have a Secretary of Defense who will continue what Bill Perry was doing, and that is improving the life of our men and women.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Michigan has 4 seconds.

Mr. LEVIN. Madam President, this morning, there were three wonderful introductions of Senator Cohen to the Armed Services Committee. The Presiding Officer, Senator SNOWE, and Senator MCCAIN made really stirring introductions of our former colleague, Senator Cohen. Not only were they wonderful, but it is a wonderful fact, indeed, that the person who is presiding over the Senate at this moment when he will be confirmed—I am sure overwhelmingly if not unanimously—is not only someone who is the successor to Senator Cohen, but someone who has Senator Cohen still no doubt as a mentor and was, indeed, on Senator Cohen's staff where she served so brilliantly as a subcommittee staff director on a subcommittee that I also chaired and was ranking member.

So I want to congratulate the Presiding Officer for being where she is at this moment. It must be a treat, indeed, for her to be sitting there.

The PRESIDING OFFICER. All time has expired.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William S. Cohen, of Maine, to be Secretary of Defense? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 2 Ex.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Rockefeller

The nomination was confirmed.

Mr. THURMOND. Madam President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Madam President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to the nomination and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

MORNING BUSINESS

Mr. LOTT. Madam President, I ask that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each, noting that a number of Senators had hoped to speak before the vote on behalf of this nominee's confirmation. I know a few would like to get their remarks in the RECORD at this point. Others will want to introduce bills and speak on their legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Reserving the right to object, I would like to have 25 minutes after the statements on Senator Cohen appear, if that is all right.

Mr. LOTT. Madam President, I amend that consent to allow the Senator from Ohio to take 25 minutes, with the understanding that we have a few Senators who would like to speak first for not more than 10 minutes on behalf of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DASCHLE. Madam President, I note to those Senators who may not have been told, there are no votes tomorrow or votes on Friday. I ask the leader if he can clarify that.

Mr. LOTT. Madam President, for the information of all Senators, we are pleased to announce that there will be no further votes today. The Senate will be in session tomorrow, Thursday, January 23, for a period of morning business, to continue the opportunity for Senators to offer bills and make statements on behalf of those bills.

The Senate then is expected to recess over until Monday, the 27th, for a pro forma session only. No business will be transacted during Monday's session. The next time the Senate will be in session to conduct business will be on Tuesday, January 28, when we hope and expect that we will have another nomination ready to be voted on. It hasn't been completed yet, but we hope to continue next week with confirmation votes. After meeting with the Democratic leader, we will begin to also notify Members as to when we hope bills will be coming up and will be ready for vote.

Mr. DASCHLE. Madam President, I thank the majority leader for his comments with regard to the schedule and also for his cooperation in moving these two nominations as quickly as we have.

I think the widespread support for both nominees is a real indication of the kind of support both colleagues have, and also a real indication of the kind of leadership demonstrated on the Republican side of the aisle when it comes to these nominations. This is in keeping with the comments made earlier by the majority leader. I appreciate his cooperation very much.

I yield to Senator ROBB at this time and reserve my right to the floor.

The PRESIDING OFFICER. The Senator from Virginia [Mr. ROBB] is recognized.

Mr. ROBB. Madam President, I will submit for the RECORD a statement relating to the nomination and confirmation of both now Secretary Madeleine Albright and now Secretary Bill Cohen. I was unable to get to the floor during those particular periods when their virtues were being extolled at some length. I have enormous respect for them individually, as all of our colleagues do.

I salute the leadership on both sides of the aisle for moving these nominations through expeditiously. I believe they are both committed to a strong national defense and assertive foreign policy. I think they will work well together as a team and with the President. I think their respective quick confirmations are good for the country. I commend all of those who helped to make that possible, including my distinguished senior Senator from Virginia and the distinguished majority leader, as well as the minority leader, for what they have done.

CONFIRMATION OF MADELEINE ALBRIGHT TO BE SECRETARY OF STATE

Mr. ROBB. Mr. President, I am pleased to support the distinguished choice of Madeleine Albright to be Secretary of State. Ambassador Albright has served the country with distinction over a 20-year period. She brings the requisite skills, knowledge, and experience to one of the most demanding jobs in Government, and I am confident that she will help President Clinton continue our leadership of the community of nations.

During her confirmation hearing, Ambassador Albright conveyed to me a strong sense of how the United States must act and lead in addressing problems around the world where our interests and values are at stake. She demonstrated a keen understanding of how diplomacy and force work together to advance our foreign policy goals.

Ambassador Albright stated to the committee that "force, and the credible possibility of its use, are essential to defend our vital interests and to keep America safe. But force alone can be a blunt instrument, and there are many problems it cannot solve. To be effective, force and diplomacy must complement and reinforce each other."

I believe we need to tangibly demonstrate our commitment to peace and stability, in both manpower and structure, as we forge a new security order in Europe and serve as a balancing wheel in Asia. American leadership abroad will depend on the President and his national security team having the spine to lead our allies against inimical forces, including rogue nations, terrorist elements, and the spread of weapons of mass destruction.

In that regard, President Clinton has chosen well in Madeleine Albright. She has a direct, no nonsense style that suits these times well, and will invigorate our foreign policy agenda. I look forward to joining hands with her as the administration continues its efforts to promote freedom, peace, and security abroad.

CONFIRMATION OF WILLIAM COHEN TO BE SECRETARY OF DEFENSE

Mr. ROBB. Mr. President, in my 8 years of service in the Senate, and in particular during my time on the Armed Services Committee and the Intelligence Committee, I have had the privilege and honor of working with Bill Cohen. His expertise and thoughtfulness, as well as his ability to put the national interests above partisan politics, have made him an invaluable asset to this body. Whether regarding arms controls, missile defense, or acquisition reform, Bill Cohen's independence and reasoned approach have resulted in passage of major pieces of legislation on highly complex and politicized matters. Those same qualities will enable our next Secretary of Defense to guide the Nation through an uncertain future, and to make the many difficult choices we face in reconciling protection of our vital interests overseas with ever increasing demands on our federal budget here at home.

Bill Perry has proven himself as one of the most capable Defense Secretaries ever, and Bill Cohen will have a remarkable legacy to follow. But I am confident he shares the same kind of dispassionate, in-depth analytic qualities and measured, even-keeled leadership qualities that will keep America safe will into the 21st century. I wish him much success in his new position.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

(Disturbance in the galleries.)

The PRESIDING OFFICER. The Sergeant at Arms will restore order in the galleries.

CONGRATULATIONS TO THE NEW CABINET MEMBERS—SECRETARY MADELEINE ALBRIGHT AND SECRETARY WILLIAM COHEN

Mr. DASCHLE. Madam President, I know there are a number of colleagues who wish to be recognized, and I will be very brief. I wanted to accommodate all of those in the short timeframe that we had prior to the votes, so I withheld comment at that time.

I congratulate both of our new members of the Cabinet on the strong support they received through the votes taken this afternoon. In the case of Madeleine Albright, I have had the opportunity to inform her of the Senate's vote and to personally congratulate her. Let me say how pleased I am with the overwhelming sentiment expressed by the Senate on both sides of the aisle.

Madeleine Albright is unquestionably qualified to be Secretary of State. She is one of our best foreign policy minds, particularly given the extraordinary experience she has had in so many roles in her past. As a professor at the Georgetown School of Foreign Service, Ambassador to the United Nations, serving as a counselor to the President on foreign policy, Madeleine Albright, as much as anybody else, has had the opportunity to be in the forefront of foreign policy in this administration. This vote, obviously, was quite historic. Madeleine Albright stands now as the first woman to be confirmed as Secretary of State in our Nation's history. I cannot think of a more appropriate honor to be bestowed on a woman of this caliber and with this degree of credibility. I commend her and commend the administration for nominating her for this most important position.

We stand ready to work with her in all the challenges that she now faces in all parts of the world given the heavy responsibility that she will face her new role as Secretary of State. I hope that we can demonstrate that politics will stop at the water's edge, as it has this afternoon in her confirmation. I look forward to working with her. And, again, let me publicly congratulate her on this historic occasion and on the overwhelming support demonstrated for her confirmation in the vote just taken.

The same could be said of our new Secretary of Defense. From the very outset of his 20-plus year service in Congress, Bill Cohen has demonstrated ability, independence, and extraordinary good judgment on a range of defense and intelligence issues. Through his work on the Armed Services and Intelligence Committees, Senator Cohen has become a real giant in the formulation of public policy and someone to whom many of us have gone for counsel, advice, and direction as we have faced many very difficult issues. He has stood on this very Senate floor on many occasions to express himself clearly and unequivocally on the issues confronting this body that require very careful judgment.

I also congratulate Senator Cohen for his clear and very decisive response to a question on the importance of the Chemical Weapons Convention. He made a compelling case for this vital treaty. I hope my colleagues on both sides of the aisle were listening to the comments made by our new Secretary of Defense on the importance of the Chemical Weapons Convention. His record in this Congress, including his testimony before the Armed Services Committee this morning, indicate why Bill Cohen is an extraordinary choice as our new Secretary of Defense. I look forward to working with him. I know that, again, on a bipartisan basis, Bill Cohen begins his tenure as our new Secretary with an appreciation for the friendships that he has created and the standing that he continues to have in our body with colleagues on both sides of the aisle.

A NEW RECORD FOR SENATOR BYRD

Mr. DASCHLE. Finally, let me just say, for just a moment, how pleased I was that the majority leader marked the important new record set by our distinguished senior Senator from West Virginia earlier today.

Senator BYRD, having served 38 years and 10 days in the Senate, has now become the fourth longest-serving Senator in U.S. history behind Senators Hayden, THURMOND, and Stennis.

He is a remarkable legislator. Many of us have called attention to his many, many records in this body now for some time.

I want to be among those to honor him once more, and to call attention to this most historic occasion.

Again, let me congratulate Senator BYRD on this important day, and again call attention to this milestone, and commend the many, many citizens of West Virginia who have shown such good judgment to send ROBERT C. BYRD to the U.S. Senate not once, not twice, but on seven different occasions.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Thank you, Madam President.

I also want to thank the distinguished Democratic leader for his recognition of Senator BYRD of West Virginia.

CABINET NOMINATIONS

Mr. LOTT. Madam President, let me thank the Democratic leader for his comments expressing his approval of the fact that we have moved these two very important nominees very quickly through the process. We had indicated to the President that we would try to do that and we would try to act immediately after his inauguration to confirm these nominees. We will continue to work on our nominations that we receive from the President in an expeditious manner. I am sure there will be some that will take a little longer. But we wanted to do these to make clear our good faith and our intentions to work with the President so he could have his Cabinet in place, particularly his foreign policy and national defense people.

So thank you for your comments. We will continue to hopefully work that way.

SECRETARY OF DEFENSE WILLIAM COHEN

Mr. LOTT. Mr. President, if I could just briefly make some comments here about our good friend, the Senator from Maine, Bill Cohen, I know the Presiding Officer feels this way very, very strongly, and I know she is very proud of his confirmation.

I must say that over the course of my tenure in the Congress I have often been very honored to know Secretaries of Defense. We have had some great ones. Still today I consider many of them personal friends but I have never known one that I have been more proud of than I am today of William Cohen in this new position.

Bill Cohen and I came to Congress together at the same time in 1973. We served in the House together. We served in the Senate together. We didn't always agree. In fact, we fought or disagreed pretty strongly the first couple of years we were in Congress, and it took years to get over that disagreement. But over that period of time in the House and Senate we became close friends, and I grew to admire him and sought out his advice and counsel which I found always very good even when he didn't agree sometimes with what I was trying to do. He gave me advice and help that was invaluable. I will also be thankful for that.

We have much in common. We both represent small coastal States which face similar challenges and interests. He has truly become a great friend to me and to our people in my own home State. He has my respect and my unqualified support as the next Secretary of Defense.

I think also we should take note of the fact that this was a grand gesture by the President. The President indicated that he wanted to have a look at some Republicans for his Cabinet. I was not sure he would do it. I know he considered several. But certainly he made a wise pick here, and it did not go unnoticed by the Republicans that he made this decision. I hope he will take the advice of his new Secretary of Defense. I think he will find it interesting and on occasion challenging and sometimes advice that he will not find easy to accept. But it will be invariably good advice.

Bill Cohen will have his hands full as the new Secretary of Defense. Perhaps the largest challenge of his illustrious career I think now looms before him. I think it is to his credit that he was willing to step aside from his goal of moving into the private sector to come back and to go into this very important, very difficult position.

I have become, in the last few months, increasingly concerned—actually, it has been moving in this direction for a number of years, but I am really to the point of being alarmed about what I see happening with our military, our military leadership in the

Pentagon, and what we have been doing to the defense budget of our country. And so we are now reaching the point where we are, I think, developing serious problems in O&M and procurement, and so Senator Cohen is going to have a tremendous job in righting this military monolith that has now reached the point where it has problems and will have growing problems in the future.

I know Bill Cohen has expressed those concerns as a member, a very distinguished senior member, of the Senate Armed Services Committee. Now he will be in a position to help really do something about that.

Over the last 2½ years, I must say that I think Bill Perry has performed admirably in a very difficult environment. He has often been dealt a weak hand both by insufficient funds to do the job and multiple demands that had to be fulfilled with those limited funds. But he has performed always masterfully, with intellect and integrity, and I think he has artfully managed the Pentagon at a very difficult time. So as he departs, Secretary Perry should be recognized for the fine job he did, and he truly has the gratitude of the Senate and I believe all Americans for his service to the Department of Defense.

As majority leader and as a longtime supporter of a strong national defense, I look forward to working with Bill Cohen as our new Secretary. Many people have voiced surprise that the President would make this decision, but I was not surprised. I knew that once he talked to Bill Cohen, he would have to be impressed, and in fact he was. He recognized him as an expert in defense and security policy. He is bright and capable. He will make an exceptional Secretary of Defense, and I am very proud of his confirmation today.

I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, the Senate rules allow me to just observe that the Presiding Officer, most fittingly, is the junior Senator from Maine at this time we in the Senate are speaking to the nomination of the former distinguished senior Senator from Maine—most appropriate.

I thank the Chair. I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I, too, join in sending my congratulations to our new Secretary of Defense, Bill Cohen, someone with whom I have had the privilege of serving on the Senate Armed Services Committee now for the past 8 years.

Bill has been a most articulate and most thoughtful member of that committee—obviously, someone whom we have all come to respect, someone of great intellect and experience, arriving at the House in 1973 and spending a significant part of his lifetime serving the people of Maine and serving the people of this country.

He is known as a writer. I think he has published eight books, and so it was always interesting to listen to his statements in the Chamber. They were always well-reasoned. They were always well-researched. They were always thoughtful. They were challenging and provocative. Bill had an independent streak which was a great asset. It allowed him to escape the orthodoxy of the political mantra we sometimes find ourselves repeating without a great deal of forethought. Yet Bill's challenge, I think, raised issues that we needed to discuss and needed to consider. While I did not always come to the same conclusion he did, I always respected his thoughtfulness and respect for the conclusions he reached.

He now assumes a very difficult assignment. These are not easy times at the Department of Defense, not because we find ourselves engaged in any major conflict but because, for a period of more than a decade, we have been undertaking a very significant reorganization following the demise of the cold war and following our success in the gulf. This is not without consequence, and we are now approaching, I believe, our 12th or 13th consecutive year of reductions in defense spending.

That has taken its toll. It has placed us in a very difficult position. Secretary-designate Cohen this morning in testimony before the Armed Services Committee talked about the world as it is today, the challenges that exist in that world, the threats that we still face, albeit in a different form, and the need to be militarily prepared and to have a strong national security.

We are undertaking a quadrennial review process which is going to force us, as Secretary Cohen said, to make and face some very difficult choices. The declining budget has not allowed us to maintain the kind of capability that many of us feel is necessary if we are going to pursue a two-regional-response strategy. We face some serious questions regarding modernization, balancing that with the need for readiness and the need for adequate compensation for our personnel and adequate benefits for our personnel, as well as the research and development needed to take us into the next century.

All of these difficult choices will now fall to our new Secretary of Defense. He is clearly someone with whom both Republicans and Democrats can work. In fact, we have worked together probably in a more bipartisan way on the Armed Services Committee than any other committee in the Senate. And so we stand ready to work with him in attempting to address some of these fundamental questions that are going to determine the course of our defense in future years.

I asked Bill Cohen this morning what experiences in his life and particularly during his tenure in Congress helped shape his views in terms of the role of the military and the role of defense. He shared with us a response which I had hoped he would give and was pleased that he did give in outlining some of the experiences he has had in traveling to and visiting with and being with our troops as they serve around the world.

We are often criticized here for some of the travel that we take. I note the Senator from Ohio [Mr. GLENN], is in the Chamber. I will never forget—and it has been a basis of some of the critical decisions I have had to make regarding defense expenditures and defense policy—the trip we took to Kuwait right after the war and watching Senator GLENN interact with marines and naval personnel and military personnel and they react with him. Senator MCCAIN was with us. There is no substitute for leaving the charts and leaving the Vu-Graphs and leaving the cold facts on a piece of paper and getting out in the field and talking to soldiers, whether it is generals or captains or privates or sergeants.

There is no substitute for learning some of the difficulties that take place, in terms of putting together an adequate defense, some of the challenges that face our country and face those personnel. There is no substitute for dealing with that on a personal basis. Senator Cohen shared that view and shared the view that, when you do that, when you personalize our decisions, when you realize that someone's son or daughter is going to be put at risk in defense of this country, it gives you a different perspective in terms of the kind of equipment, the kind of quality of life, the kind of support for their family, the kind of training and, frankly, the kind of decisions we make in terms of their deployment. I think it is important for every Member to have that perspective.

I have taken advantage of the opportunity as a member of the Armed Services Committee to travel as much as the schedule will allow and spend as much time with our troops in the field as time allows. It has been just an invaluable experience. I know Senator Cohen will place those experiences at the forefront of his thinking, in terms of the decisions he has to make in the Department of Defense.

I also congratulate Secretary Perry for just an outstanding tenure as Secretary of Defense. I was one of the people who raised the question early on as to whether Secretary Perry, while I acknowledged his masterful technological skills and management skills, whether he could be an effective Secretary of Defense in a political world, trying to deal with all of us and the give and take that takes place, because he is a mild, soft-spoken man. But he is a man of steel. It does not take shouting and it does not take fist pounding to be effective. Secretary Perry proved that.

I watched him in negotiations with the Soviets and with the Russians. I watched him in serious policy debates with some of our allies. I watched him interact with us on very important questions relative to defense, in testimony before our committee. He was a model of civility, a model of decency, a great intellect, a thoughtful, articulate spokesman for the Department of Defense. He served this country well and deserves our accolades.

Finally, let me say when Bill Cohen and I were in the House of Representatives we would participate in the annual Democrat and Republican baseball game. Bill Cohen was known for the best fastball on the team. He struck some fear in the hearts and minds of some of our Democrat opponents. It made me glad I was a Republican. I used to warm up Bill Cohen and that ball was not always down the middle of the plate. I never saw anybody really dig in against him.

There probably are Members of the House today who owe their health to the fact that every time Bill and I would try to run over from the Senate to play in that game, which Bill was then senior Senator, Senator Mitchell would not adjourn the Senate for us so we could participate. We had to carry our beepers. Inevitably, Senator Mitchell or someone else would call a vote and, before Bill made it to the mound to strike fear in the Democrats, the beeper would go off. I always suspected Senator Mitchell had some kind of communication system with his Democrat colleagues in the House and they would say, "Cohen is warming up in the bullpen, call a vote and get him out of here. Our very lives are at risk."

The ability to throw those high hard ones and sometimes keep his adversaries a little bit looser at the plate than maybe they would otherwise be, will serve him well as Secretary of Defense in the tough negotiations that he has coming before him. I wish him nothing but success and I look forward to working with him.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Madam President, I associate myself with the remarks all the people made regarding our new Secretary of Defense, now made official in that capacity this afternoon.

I have known Bill for many years. I worked with him. I think he will be a great Secretary of Defense. He will try to fill some very big shoes over there that Bill Perry leaves, who I think turned into one of the greatest Secretaries of Defense since there has been that position in Government.

But I have talked to Bill personally. He knows my admiration for him and my support for him in that office. So I just want to associate myself with all the other fine congratulations that are being offered here on the floor today.

Madam President, I also rise today to introduce the Human Research Subject Protection Act of 1997.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I thank the Chair.

(The remarks of Mr. GLENN pertaining to the introduction of S. 193 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MEDICAL RESEARCH APPROPRIATIONS

Mr. SPECTER. Mr. President, I was pleased to support yesterday as an original cosponsor Senate Resolution 15 which proposes to double appropriations for medical research over the next 5 years. That is a lofty goal. I subscribe to that goal.

During my tenure in the U.S. Senate I have served on the Appropriations Committee and on the subcommittee which has jurisdiction over the Department of Health and Human Services and the funding responsibility for the National Institutes of Health.

I am pleased to note that, notwithstanding very severe budget constraints over the years, the subcommittee has consistently raised the funding, whether it was Senator Weicker, Senator Chiles, or Senator HARKIN, or under my stewardship as chairman.

When I joined the committee in 1981 the appropriations were $3.6 billion. That has now risen to $12.7 billion. Since I became chairman in 1996 we raised the funding by 5.7 percent, and in 1997, fiscal year 1997, 6.9 percent, some $820 million to a total now of $12.7 billion dollars. When the resolution calls for doubling NIH spending within 5 years, that is a very, very tough goal and a very, very tough objective to me. That would really call for an increase of expenditures of about $2.5 billion a year. My own view is that it would be a priority worth meeting to reach the goal of $2.5 billion a year if the allocation to the subcommittee did permit that. But I have grave doubts that will be possible, although it is as I say a lofty goal.

We do need more grants in that field. There are some 27,000 grants now in operation. But only a fraction of the applications receive the grants, and there are many worthwhile grants that ought to be accepted.

There have been tremendous advances in breast cancer and prostate cancer, heart disease, Alzheimer's, and many, many more.

What I want to say today and do say is that as chairman of the subcommittee I am prepared to commit to an increase in the next year's budget of 7.5 percent, which would amount to some $950 million.

In making that statement, I want to emphasize how difficult it will be to reach $950 million and a 7.5-percent commitment. But in articulating, stating that view, that is a strong stretch, considering the funding and the allocation which is present for the subcommittee which I chair. So I invite my colleagues to look toward alternative methods of financing if we are to be able to meet the $2.5 billion mark, which we really ought to do. But I did want to make a statement today, following the introduction of the resolution yesterday, that there is the commitment that I am prepared to undertake the 7.5-percent figure or $950 million.

Mr. FAIRCLOTH. Mr. President, I am pleased to support the nomination of Madeleine Albright to be Secretary of State. Additionally, I am pleased to support the nomination of our former colleague, Bill Cohen to be Secretary of Defense.

I am concerned, however, about the general direction of President Clinton's foreign policy.

It has been a policy with very little direction. I fear that the U.S. Armed Forces have become an international cleanup force sent to all parts of the world that have no strategic relationship to the United States. Somalia, Bosnia, Haiti, and other U.N. peacekeeping missions have been costly with little tangible benefits for the United States.

In the case of Bosnia, clearly, the administration misled the Congress about the length of time troops would be present there. Only after the election did the President have the courage to tell the American people that the troops would not be coming home in December of 1996 and that the deployment would extend another 18 months.

Further, with respect to Bosnia, it has now become apparent that this conflict dragged on longer than it should have because the administration and Democratic leaders in Congress blocked arm shipments for the Bosnians. Yet, in a secret policy, they allowed Iran to arm the Bosnian muslims. This administration told the Congress one thing and Iran another.

This is an unacceptable way to conduct American foreign policy.

The Clinton administration has pursued what I call the un-Reagan doctrine. Rather than preside over the decline and fall of the last remaining Communist regimes, this administration has reached out and befriended them. It gave diplomatic recognition to Vietnam. We provided foreign aid to North Korea, and we sought warmer relations with Fidel Castro until he shot down innocent civilians out of the sky. In contrast, this administration ignored, almost to its peril, the new democracies in Eastern Europe and Russia, to the point that the Communists tried to stage an electoral comeback in Russia.

This is not foreign policy America can be proud of.

Another problem with this administration is its handling of our future security from nuclear attack.

In my view, nothing is more important to the national defense of this country than deployment of a national ballistic missile defense for the United States. More than 25 countries now possess or are seeking to acquire nuclear weapons.

We have to address this issue—we cannot ignore it.

I would hope that the two people we are confirming today, both of whom are honorable, decent, hard-working people will work on these issues and improve our defense and foreign policy in the next 4 years.

Finally, Mr. President, I wish Senator Cohen well in his new position. I was pleased to serve with him for the last 4 years, and we will certainly miss him in the Senate, but the United States will be better off by having him as Secretary of Defense.

THE NUCLEAR WASTE POLICY ACT OF 1997

Mr. GRAMS. Mr. President, I want to join with my distinguished colleagues, Mr. MURKOWSKI, chairman of the Energy and Natural Resources Committee, and Mr. CRAIG of Idaho, in introducing the Nuclear Waste Policy Act of 1997. As a cosponsor of the legislation passed by the Senate during the 104th Congress, I believe this legislation represents the best means of ensuring that the Department of Energy meet its legal obligations to begin accepting spent nuclear fuel by 1998.

Last year, nearly identical legislation was adopted by a strong bipartisan vote in the Senate. And with nuclear waste scattered over some 35 States, including my home State of Minnesota, it was no surprise that the national interest in resolving this issue is strong. However, a variety of factors, including a lack of action by the House of Representatives, led to the demise of the 104th Congress' bill.

But support for enacting a real solution has never been stronger. Last July, the U.S. Court of Appeals reaffirmed that the DOE continues to have responsibility for permanently storing our Nation's commercial waste. It is no wonder, considering our Nation's ratepayers have already contributed some $12 billion; over $250 million from Minnesotans alone.

Having recently returned from Yucca Mountain, the proposed permanent storage site located in Nevada, I believe much progress has been made over the last year. But after 15 years and with nearly half the nuclear trust fund depleted, there still remains no measurable value and the American public is fed up with empty promises from their Federal Government. They deserve action now.

The Nuclear Waste Policy Act of 1997 delivers such action. It provides all the tools necessary to break our interim storage impasse. Furthermore, it provides mechanisms to complete the characterization of Yucca Mountain and gets the program moving out of the current stalemate.

With 1998 just around the corner, timely action on this legislation is critical. For States like Minnesota, which stand to lose nearly 30 percent of its overall energy resources, action should have occurred last year. And now, with the confirmation of a new Energy Secretary required, and the program in transition, Congress is faced with some tough challenges but our resolve must remain strong. And the introduction of this legislation today is our first step.

In the coming weeks and months, we will be asking our colleagues to join us in supporting this long overdue legislation. Rarely does the Congress have the opportunity which meets the twin goals of protecting our environment and strengthening our economy. Mr. President, I hope that the support we had last Congress will be even stronger this year. I would encourage my colleagues to add their name today as cosponsors to the Nuclear Waste Policy Act of 1997.

TRIBUTE TO MIKE CANNELL

Mr. FEINGOLD. Mr. President, I rise to pay tribute to Mike Cannell, a dairy farmer and sustainable agriculture advocate from Cazenovia, WI who perished in a farming accident on December 2, 1996 while helping a neighbor unload corn. Mike died the same way he lived—helping others.

While those of us fortunate enough to have known Mike will miss him terribly, he has left us a great gift: his tireless work toward restoring and sustaining an agricultural community of healthy and economically viable family farms. His support of sustainable agriculture reflected his approach to life: balance. Sustainable agriculture is an integrated system of production that provides an adequate supply of food and fiber in a manner that enhances environmental quality, makes efficient use of limited natural resources, sustains small and medium sized farms and improves the quality of life for farmers and the community. It is an agricultural system that balances the many needs of our people and our planet.

Mike not only recognized the economic importance and the environmental benefits of a large number of small scale family farms, he recognized the ability of successfully owning and operating one's own farm to instill a sense of pride, accomplishment and satisfaction in the farmer-owner. In Mike's view, these things were at least as important as the many economic and environmental reasons to sustain small farms. In all things, especially farming, he sought balance.

I first met Mike Cannell when I was a State senator. He, along with other dairy farmers, met with me to express concern about the development of a new dairy technology that he felt was ill-timed, unnecessary and irresponsible. That technology was Bovine Growth Hormone, a product which when injected in cows results in greater milk production. The arguments made against BGH were many: increased milk production necessarily lowers milk prices; the technology will favor large farms over smaller ones; small farms will be driven out of business; there may be indirect but harmful environmental impacts, and many more.

But Mike's objections to BGH ran deeper. He did not believe in technology for technology's sake. He felt scientists and society's leaders were obligated to consider and recognize cultural traditions and predominant value systems of the community for which they were developing new technology. To him, the economic benefits of technology had to be weighed against the real or perceived ramifications on society. Mike didn't believe that the universities and private sector firms developing BGH had done that. He predicted the outrage that introduction of the product caused among dairy farmers and consumers in Wisconsin. To this day, many dairy products in Wisconsin are labeled as free of BGH in part, due to Mike's efforts. As usual, Mike's balanced approach was right on target.

Mike, however, did not reject new technology on its face and in fact, embraced and doggedly promoted technologies and new practices that advanced his goal of a sustainable agricultural community consisting of small and medium sized family farms.

Mike's approach to dairy farming was unique when he began milking cows 15 years ago.

He was an intensive rotational grazier—a practice that many said couldn't work in Wisconsin because of our harsh winter climate. Unlike confinement dairying, rotational grazing requires fewer chemical inputs, less labor, less capital and is environmentally beneficial as well. Mike, however, viewed grazing in a broader context. Grazing was not only an environmentally friendly method of producing quality milk at reduced cost, it was also capable of supporting a family and providing a high quality of life. Mike chose to become a dairyman because of the value he placed on these last two criteria. Mike, when speaking about grazing, put it in this context: "This is the real reason we live: for our families and for our communities. Any practice that promises to make us better farmers, in part, I evaluate by how much it contributes to our families and communities." For technology to be appropriate it had to be appropriate for the farm and the community surrounding it. Again, this was Mike's balance. He supported technology and practices that promoted the goals he believed to be most important.

Mike Cannell was an innovative leader among Wisconsin farmers, resolutely seeking solutions to the complex problems facing our dairy industry. To many farmers in Wisconsin, those problems appear insurmountable; so complicated, multifarious, and seemingly incomprehensible that one person couldn't possibly make a dent in them. Mike not only believed he could make a difference, he believed he had an obligation to use his talents to do so.

Even more remarkable than Mike's willingness to actively intervene in agricultural problems, was Mike's concept of a solution: one which was not only achievable and effective but which was also socially and morally responsible. In a manner more effective than few others I've known, Mike was able to articulate the problems and identify solutions. He was not shy at criticizing entities he felt were standing in the way of a sustainable family farm sector. But he always went beyond criticism to suggest solutions and to actively work with the entities—including universities, local, State and Federal Government—he was criticizing to eliminate the barriers facing family farms.

But Mike went still further. Rather than rely on others to solve all the dilemmas facing family farmers, he believed farmers also had both the ability and responsibility to help each other. And he put that into practice too.

Mike Cannell believed so strongly in the ability of rotational grazing to reverse the dramatic losses of Wisconsin family dairy farmers in the past decade that he spent the last 10 years trying to teach other farmers how to become graziers. He is responsible for starting a grazier technology transfer discussion group on the Internet—known as a List Serve—so that dairymen could share their expertise on grazing. That group now claims more than 1,000 members. He was also the founder of both regional and statewide farmer to farmer grazing networks, known as the Ocooch Graziers and Grassworks. Because of Mike Cannell, rotational grazing is no longer considered an unusual dairying practice in Wisconsin. It is fast becoming mainstream.

Mike also took initiative to solve one of Wisconsin's most challenging farm problems—the retirement of older dairy farmers without younger farmers to replace them. The long hours, hard work, low return and often dim outlook for dairying have dissuaded many young people from entering the dairy industry. Rather than consider this an inevitable outcome, Mike took steps to encourage young people to enter dairying. While his positive attitude might have been enough to persuade young farmers that there was a future in dairy farming, to persuade the cynics he founded the School for Beginning Dairy Farmers to teach young farmers how to be successful in a difficult profession.

Mike's contributions to the sustainable agriculture community are real and measurable and he will be remembered for them for many years. But Mike will likely be remembered more for his steady and unswerving pursuit of a way of life he loved and from which he gained great joy, his strong belief in the value of that way of life, his efforts to share his success with others, and most important, for his commitment to community and family. In Mike's view, all things in life and agriculture should be conducted with an eye toward how they contribute to community and family. It is a valuable lesson to learn. And it is the world's great loss that Mike Cannell won't be around to teach us anymore.

I yield the floor.

PAUL TSONGAS

Mr. KERRY. Mr. President, I rise today to speak about Paul Tsongas, who lost his battle against cancer on Saturday. I have lost a great friend; our Nation has lost an extraordinary American who defined the concept of public service and whose courage and conviction set an example for each and every one of us.

A son of Greek immigrants in Lowell, MA, Paul Tsongas worked in his father's drycleaning business, and served in the Peace Corps, as a Lowell City Councilor, as a Middlesex County Commissioner, as a U.S. Congressman and as a U.S. Senator in the seat that I am now honored to occupy.

Paul was able to achieve so much in his life because no matter where he went, no matter what office he held, he never left the people of Lowell. He instinctively understood not only their problems but also how government could help provide some of the solutions which were necessary to resolve them.

In 1992, when George Bush looked unbeatable, Paul Tsongas ran for the Democratic Presidential nomination because he knew his ideas for our future were better.

We must not forget the timeless principles for which Paul Tsongas fought throughout his career in elective office: balancing the Federal budget and establishing sound fiscal principles for the Federal Government, investing in our country and our children, and building our economy so future generations can attain the dreams which seem to elude us today.

Although Paul did not win the nomination, he became the catalyst who turned the national spotlight on our fiscal policies and changed the political dialog in the United States forever.

After the campaign, Paul Tsongas joined with Warren Rudman and Pete Peterson to found the Concord Coalition to promote fiscal responsibility. This organization again and again has drawn national attention to our Nation's fiscal agenda.

Since the 1992 Presidential campaign, we have cut the Federal budget deficit by more than half. The question in Washington is no longer "Can we balance the budget?", but "How soon can we do so?" Much of the progress we have made can be attributed to Paul Tsongas and his economic call to arms.

The rebuilt, reinvigorated city of Lowell, MA is another long-lasting memorial to Paul. He as much or more than any other person shepherded the revitalization program through the Congress, and by seeing and breathing life into a local pride and spirit that was still alive, he transformed a rundown mill town into an international destination with an amazing story to tell and show visitors from near and far.

Paul Tsongas' accomplishments only explain part of what made him so extraordinary. There is no way to explain the impact on others of his decency, integrity and courage. But that impact was real and pronounced.

In 1983, he was diagnosed with non-Hodgkin's lymphoma. The next year he retired from the Senate in order to spend more time with his wife Niki, and his three daughters, Ashley, Katina and Molly. He successfully battled cancer for over a decade with a sense of grace and a strength of character that are remarkable.

It is terribly hard to acknowledge the death of such a person. Paul will be greatly and genuinely missed because he was greatly and genuinely loved. That is a compliment to which all of us can aspire when we leave this Earth. But Paul's life took him a step beyond even that status among his family and friends and all who know or observed him in his public service.

We can say truthfully and appreciatively that we are better people because of the example Paul Tsongas set during his life. In that way, he not only improved the lives of many in very direct ways, he will continue to live on as an inspiration to us.

We will miss him, but we are comforted by what he has given to us.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the Federal Government is running on borrowed money—more than $5 trillion of it. As of the close of business yesterday, Tuesday, January 21, the Federal debt stood at $5,310,267,076,516.85. On a per capita basis, every man, woman, and child in America owes $19,919.19 as his or her share of the Federal debt.

More than two centuries ago, the Continental Congress adopted the Declaration of Independence. It's time for Congress to adopt a Declaration of Economic Responsibilities and an amendment requiring the President and Congress to come up with a balanced Federal budget—now.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 3:27 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 25. Joint resolution making technical corrections to the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208), and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. Thurmond).

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. SHELBY, from the Select Committee on Intelligence:

Special Report on Committee Activities of the Select Committee on Intelligence January 4, 1995 to October 3, 1996 (Rept. No. 105–1).

By Mr. MACK, from the Joint Economic Committee:

Special Report of the Joint Economic Committee Congress of the United States of the 1996 Economic Report of the President (Rept. No. 105–2).

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 20. A resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

William S. Cohen, of Maine, to be Secretary of Defense.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 179. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on Rules and Administration.

S. 180. A bill to amend the Internal Revenue Code of 1986 to allow married individuals to contribute to an IRA even if their spouse is a participant in a pension plan; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Dorgan, Mr. Gorton, Mr. Baucus, Mr. Lott, Mr. Nickles, Mr. Gramm, Mr. Hatch, Mr. Breaux, Ms. Moseley-Braun, Mr. Conrad, Mr. Kerrey, Mr. Daschle, Mr. Shelby, Mr. Bumpers, Mr. Hutchinson, Mr. McCain, Mrs. Feinstein, Mr. Campbell, Mr. Harkin, Mr. Craig, Mr. Kempthorne, Mr. Durbin, Mr. Lugar, Mr. Coats, Mr. Brownback, Mr. Roberts, Mr. Ford, Mr. McConnell, Mr. Sarbanes, Ms. Snowe, Mr. Abraham, Mr. Grams, Mr. Bond, Mr. Cochran, Mr. Burns, Mr. Helms, Mr. Hagel, Mr. Bingaman, Mr. DeWine, Mr. Inhofe, Mr. Wyden, Mr. Johnson, Mrs. Hutchison, Mr. Warner, Mrs. Murray, Mr. Enzi, Mr. Kohl, Ms. Mikulski, Mrs. Boxer, Mr. Robb, Mr. Gregg, Mr. Ashcroft, and Mr. Wellstone):

S. 181. A bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax; to the Committee on Finance.

By Mr. BYRD:

S. 182. A bill to make available for obligation such sums as are necessary to pay the Federal share of completion of construction of the Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD (for himself, Mr. Daschle, Mr. Kennedy, Mrs. Feinstein, and Mr. Kerry):

S. 183. A bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States work force, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. D'AMATO:

S. 184. A bill to provide for adherence with the MacBride Principles of Economic Justice by United States persons doing business in Northern Ireland, and for other purposes; to the Committee on Finance.

By Mr. HELMS:

S. 185. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; to the Committee on Labor and Human Resources.

By Mr. AKAKA:

S. 186. A bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 187. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services; to the Committee on Labor and Human Resources.

S. 188. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; to the Committee on Labor and Human Resources.

S. 189. A bill to prohibit the executive branch of the Federal Government from establishing an additional class of individuals that is protected against discrimination in Federal employment, and for other purposes; to the Committee on Governmental Affairs.

S. 190. A bill to protect the lives of unborn human beings; to the Committee on Governmental Affairs.

By Mr. HELMS (for himself, Mr. DeWine, Mr. Hatch, Mr. Nickles, Mr. Abraham, and Mr. Faircloth):

S. 191. A bill to throttle criminal use of guns; to the Committee on the Judiciary.

By Mr. HELMS:

S. 192. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; to the Committee on the Judiciary.

By Mr. GLENN:

S. 193. A bill to provide protections to individuals who are the human subject of research; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself, Mr. Moynihan, Mr. Abraham, and Mr. Kyl):

S. 194. A bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes; to the Committee on Finance.

By Mr. HELMS:

S. 195. A bill to abolish the National Endowment for the Arts and the National Council on the Arts; to the Committee on Labor and Human Resources.

By Mr. McCAIN:

S. 196. A bill to amend the Public Buildings Act of 1959 to require the Administrator of General Services to prioritize construction and alteration projects in accordance with merit-based needs criteria, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROTH (for himself, Mr. Lott, Mr. Breaux, Mr. Grassley, Mr. Nickles, Mr. Murkowski, Mr. Abraham, Mr. Kyl, Mr. Helms, Mr. D'Amato, Mr. Craig, Mrs. Hutchison, Mr. McConnell, Mr. Thomas, Mr. Smith of Oregon, Mr. DeWine, Mr. Inhofe, Mr. Bryan, Mr. Roberts, Ms. Mikulski, Mr. Smith of New Hampshire, Mr. Hatch, Mr. Bennett, Mr. Kempthorne, Mr. Inouye, Mr. Enzi, Mr. Ford, Mr. Burns, Mr. Lieberman, Mr. Hagel, Mr. Gramm, Mr. Dodd, Ms. Collins, Mr. Gregg, Mr. Grams, Mr. Bond, and Mr. Kohl):

S. 197. A bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN:

S. 198. A bill to prohibit campaign expenditures for services of lobbyists, and for other purposes; to the Committee on Rules and Administration.

S. 199. A bill to require industry cost-sharing for the construction of certain new federally funded research facilities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. AKAKA (for himself and Mr. INOUYE):

S.J. Res. 10. A joint resolution to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 20. A resolution authorizing expenditures by the Committee on Agriculture, Nutrition and Forestry; from the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

By Mr. LOTT (for himself, Mr. MCCAIN, Mr. COATS, and Mr. STEVENS):

S. Res. 21. A resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in Sen. Robert C. Byrd, et al. v. Franklin D. Raines, et al; considered and agreed to.

By Mr. LOTT (for himself, Mr. DASCHLE, and Mr. KERRY):

S. Res. 22. A resolution relative to the death of the Honorable Paul Tsongas, formerly a Senator from the Commonwealth of Massachusetts; considered and agreed to.

By Mr. CONRAD (for himself, Mr. DORGAN, Mr. DODD, Mr. BIDEN, Ms. MOSELEY-BRAUN, and Mr. DASCHLE):

S. Con. Res. 4. A concurrent resolution commending and thanking Honorable Warren Christopher for his exemplary service as Secretary of State; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 179. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on Rules and Administration.

THE CAMPAIGN FINANCE REFORM AND DISCLOSURE ACT OF 1997

Mrs. HUTCHISON. Mr. President, the bill that I introduce is the Campaign Finance Reform and Disclosure Act of 1997. This important legislation will correct several of the abuses that we have seen take place under the present system and will demonstrate to the American people that we in Congress intend to do everything possible to bring campaign-related activities into the light of day. Moreover, this bill will not force the American taxpayer to further subsidize Federal campaigns, nor will it impose an elaborate new system of costly and burdensome campaign regulations. First, the act will require that at least 60 percent of a Senate candidate's campaign funds come from individuals within that Senator's home State. It will terminate the mass mail franking privilege for Senators during the year in which he or she is seeking election, and thereby end one of the more substantial advantages of incumbents over challengers.

The bill will also make the contribution limits for political action committees equal to those in place for individuals, and will index that uniform limit to the rate of inflation. I believe PAC's serve a beneficial and necessary purpose in our system by allowing groups of individuals, whether at their place of employment, through an issue advocacy group, or elsewhere, to participate in a more direct way in the grassroots political process that is at the heart of our electoral system. But I want those PACs to have the same allowances and the same limitations as individuals, so that one does not have a disproportionate advantage over the other. The bill accomplishes this in a simple and responsible way by leveling the playing field between people who contribute to candidates directly and those who choose to leverage their contribution through PAC's. Individuals who wish to contribute money should continue to have that choice.

However, I do not believe that candidates should have the right to buy and then resell their office. Therefore, this bill will also place a limitation of $250,000 on the amount that a congressional candidate may repay himself from campaign funds for personal loans he or she makes to the campaign. Again, this will help level the playing field for all candidates.

In addition, the Campaign Finance Reform and Disclosure Act will ban once and for all campaign contributions by noncitizens. The use of campaign funds for personal use will also be totally banned. And political parties will be prohibited from accepting contributions earmarked for specific candidates, thereby bypassing the limitations that are in our laws today.

Mr. President, these are the main provisions of my legislation to reform our campaign finance laws. As the Senate continues to address this most important issue, I encourage my colleagues to review these simple and workable proposals and to answer the American people's call for reform in this area.

By Mrs. HUTCHISON:

S. 180. A bill to amend the Internal Revenue Code of 1986 to allow married individuals to contribute to an IRA even if their spouse is a participant in a pension plan; to the Committee on Finance.

HOMEMAKER IRA LEGISLATION

Mrs. HUTCHISON. Mr. President, this bill closes a loophole in the homemaker IRA bill that we passed in the last Congress. We made the homemakers of our country equal to wage earners in their ability to save for their retirement futures through individual retirement accounts. Presently, every person who is working at home or working outside the home can set aside $2,000 a year that earns tax-free interest for their retirement security. However, what families are not able to do under existing law and what this bill will enable them to do, up to $40,000 in income, is to save under a homemaker IRA even if the homemaker's spouse has a pension plan. This revision is critical to encourage average-income families to save for their retirement.

Mr. President, if our young people will avail themselves of this wonderful new opportunity which Congress has given them to allow homemakers as well as those who work outside the home to contribute $2,000 a year to an IRA, by the time they retire at age 65, they will be able to build a nest egg of a remarkable $1 million, if they both start contributing the maximum allowable amount from age 25—$1 million for this working, one-income family. If they even wait until they are 35, they would be able to build up $500,000 for retirement.

This is an opportunity that I hope every young couple will look at and take advantage of to provide for their retirement security. Last year we in Congress did the right thing by extending the IRA to homemakers. Now we simply need to ensure that this opportunity is available to all families of up to $40,000 of income. This bill will do just that.

By Mr. GRASSLEY (for himself, Mr. DORGAN, Mr. GORTON, Mr. BAUCUS, Mr. LOTT, Mr. NICKLES, Mr. GRAMM, Mr. HATCH, Mr. BREAUX, Ms. MOSELEY-BRAUN, Mr. CONRAD, Mr. KERREY, Mr. DASCHLE, Mr. SHELBY, Mr. BUMPERS, Mr. HUTCHINSON, Mr. MCCAIN, Mrs. FEINSTEIN, Mr. CAMPBELL, Mr. HARKIN, Mr. CRAIG, Mr. KEMPTHORNE, Mr. DURBIN, Mr. LUGAR, Mr. COATS, Mr. BROWNBACK, Mr. ROBERTS, Mr. FORD, Mr. MCCONNELL, Mr. SARBANES, Ms. SNOWE, Mr. ABRAHAM, Mr. GRAMS, Mr. BOND, Mr. COCHRAN, Mr. BURNS, Mr. HELMS, Mr. HAGEL, Mr. BINGAMAN, Mr. DEWINE, Mr. INHOFE, Mr. WYDEN, Mr. JOHNSON, Mrs. HUTCHISON, Mr. WARNER, Mrs. MURRAY, Mr. ENZI, Mr. KOHL, Ms. MIKULSKI, Mrs. BOXER, Mr. ROBB, Mr. GREGG, Mr. ASHCROFT, and Mr. WELLSTONE):

S. 181. A bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax; to the Committee on Finance.

THE FAMILY FARM ALTERNATIVE MINIMUM TAX RELIEF ACT OF 1997

Mr. GRASSLEY. Mr. President, today, as I introduce this legislation called the Family Farm Alternative Minimum Tax Relief Act of 1997, it is a way that 54 of us in this body—and we will still yet get more cosponsors, I am sure—are saying, "Shame on the Internal Revenue Service." This is our effort to hold the tax-collecting bureaucracy of the U.S. Government accountable to what Congress intended. We are holding them accountable to the taxpayers, and we will reduce somewhat the power of the IRS which comes through intimidation. I have worked very closely with three other Senators in a bipartisan fashion, Senator DORGAN, Senator GORTON, and Senator BAUCUS. I thank them for their leadership and their cooperation. We have been joined now by 50 of our colleagues in a broad bipartisan effort, with the support of the leadership of both parties, meaning Senator LOTT and Senator DASCHLE. I think that the sort of membership cosponsoring this legislation speaks louder, frankly, than anything I can say about the rationale behind this bill.

This bill repeals a very large problem created by the IRS regarding farmer-deferred contract arrangements. The problem is currently at a crisis level because it is income tax time. Particularly, it is income tax time for the farmers of America who must file earlier than others.

The IRS has found a way to tax farmers for their deferred sales contracts. This is contrary to congressional intent. I know the Presiding Officer is from Kansas and he understands this, but some might not. A deferred sales contract is a situation where a farmer delivers his crop this year and gets paid by the local cooperative elevator, or privately owned elevator, or some other buyer next year. Since Congress intends farmers to be able to use the cash accounting method, deferred contracts have been a perfectly acceptable method to defer income to another year for taxation. It has been perfectly legal over a long period of time.

Now the IRS has unilaterally decided to deem these traditional deferred sales contracts as if, in the words of the IRS, these were "installment sales" agreements. The problem is that installment sales are subject to the alternative minimum tax. Then, of course, by doing this, the IRS puts the family farmer in trouble for things that, over a long period of time, have been entirely legal.

This IRS initiative is a way for the IRS to deny farmers the use of the cash accounting method. When Congress passed the Tax Reform Act of 1986, it specifically intended that farmers retain the cash accounting method. That same act repealed the income averaging method for farmers. Income averaging was a way for farmers to level out their regularly large fluctuations of income between years. Farmers can have those fluctuations because, while local farmers are affected by local weather and the weather all over the world.

Listen to the prices of soybeans today. You will find that whether or not it rains right now in Brazil or Argentina is impacting the price of soybeans in Iowa and Kansas. The crop prices are affected by crop disease and a host of other things that ordinary taxpayers take for granted, that farmers have no control over. When income averaging was repealed, Congress intended farmers to retain the cash method of accounting. We are here today with this bill because the IRS has effectively repealed cash accounting, in opposition to the intent of Congress.

Cash accounting is repealed because the traditional deferred sales contracts are the practical application of cash accounting. By applying the alternative minimum tax, IRS has repealed the deferral in deferred contracts. They are contracts but no longer deferred income. Thus, the IRS has unilaterally broken the promise that Congress made to farmers, and our legislation rights that wrong.

Ironically, the IRS knows it is in the wrong on this matter, but, of course, the IRS is going to go ahead anyway. After all, they encourage, from the top to the bottom of the IRS bureaucracy, auditors to go out and find all the income they can to tax, and to stretch the law as far as they can. And if they do it in this instance, in the case of taxing deferred sales contracts, do you think the Internal Revenue Commissioner or the Secretary of the Treasury is going to say to some auditor out there—slap their hands and say, "You are wrong"? No, they are not going to do that. That would be the right thing to do, but they are not going to do that because that would discourage this attitude we have had in the IRS. They want to go out and get every dollar they can, even if they have to stretch the law to do it.

Well, in a sense, the Secretary of the Treasury, Robert Rubin—and I thank him—and IRS Commissioner Richardson—and I thank her—have agreed that this problem results from what they call legislative oversight in 1986, because they do not want to say their auditors may be wrong. So, they have agreed, in the spirit of this Presidency, this second term of office, that we are going to be bipartisan and we are going to work together to solve these problems. So Secretary Rubin and IRS Commissioner Richardson have said they would not oppose this legislation. They agree that Congress did not intend for farmer deferred contracts to make these contract incomes subject to the AMT. However, as I indicated, these two individuals believe they still must enforce what they know to be a bad law. Hence, the urgent need for our legislation.

You know, it would be really simple for the Commissioner to say, "We are wrong. We are not going to collect this money." But they cannot do that, presumably.

Not only is this ruling of the IRS effective right now and into the future, it is also retroactive. It is retroactive because, since it is a new interpretation of an old law, the IRS can pretend it has not changed its position, though it obviously has. Since it is retroactive, farmers are exposed to audit, not only for the current year and upon future years, but also on previous years. This problem is now in crisis proportions for farmers. The IRS made its retroactive change in October of 1996. At that time, much of the 1996 crop was already harvested. Farmers had already entered the traditional binding deferred contracts. They normally do this throughout the 12 months of the year. So, do we wonder why it is all of a sudden a crisis among farmers?

Before the IRS release, farmers had every reason to believe they would enjoy the same legal tax treatment previously allowed by IRS.

Congress and the President must address and solve this problem as soon as possible. Farmers are required to file their tax returns before March 1, 1997. This is unlike most other taxpayers who have until April 15. If Congress waits until after March 1 to fix this problem, then hundreds of thousands of farmers all across this country will already have been injured.

The IRS knows it is wrong on this issue, but it is out of control. It injures its own public relations by actions such as this. It is a sad commentary that it takes an emergency action of Congress to make the IRS do its job as Congress intended. Nonetheless, our bill will do exactly that.

Mr. President, besides being on the Finance Committee where this legislation will be considered, I happen to also be a member of a commission the Congress set up last year to restructure the IRS. There are two Senators, two House Members, and 13 people from the private sector on that commission. We have 1 year from last fall to make our report to the Congress.

The charter from the Congress to all 17 of us is to, in a sense, make the IRS more user friendly. Although we are at the same time kept from recommending changes in tax policy, how we administer the existing Tax Code is what we are dealing. We are examining how the IRS does its work and what we can do to enhance that from an efficiency standpoint. We want to save the taxpayers money and also to make IRS more customer friendly.

After 6 months of being on this commission—though the ultimate good is making the IRS more efficient and more customer friendly—it is my opinion that we need to make the Tax Code so simple that every single taxpayer understands the Tax Code as well as any IRS auditor understands that Tax Code. The complexity of the Tax Code gives the IRS its power. It is the mystery of the Tax Code, a mystery that the bureaucrat can sort through and understand, and the inability of the taxpayer to do that which brings the power of the auditor that gives IRS its power. The power to intimidate comes through the tax system.

So I ask my colleagues to observe the action of the commission to restructure the IRS and work with Senator KERREY from Nebraska and myself as representatives of the Senate on this issue. Let us know your opinions, but also understand that the complexity of the Tax Code is the major problem that we must fix. The bill that I am introducing today is just one very small example of the complexity of the Tax Code. It is an action against the intimidation of the IRS and impacts. In most cases, IRS usually attacks maybe just a few hundred taxpayers throughout the United States on some issues. On this particular issue, affecting a practice that has been legal by the farmers of the United States of America for decades, they are attacking thousands and thousands. They want farmers to think that all of a sudden what they have been doing is now presumably wrong.

I hope that Congress will work very quickly to pass this legislation before that March 1 deadline. It is badly needed to prevent an irreparable injury to farmers, and to make the Tax Code more understandable for the taxpayers. We also are sending a clear signal to the IRS: Shame on you.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Farm Alternative Minimum Tax Relief Act of 1997".

SEC. 2. MINIMUM TAX NOT TO APPLY TO FARMERS' INSTALLMENT SALES.

(a) IN GENERAL.—The last sentence of paragraph (6) of section 56(a) (relating to treatment of installment sales in computing alternative minimum taxable income) is amended to read as follows: "This paragraph shall not apply to any disposition—

"(A) in the case of a taxpayer using the cash receipts and disbursements method of accounting, described in section 453(l)(2)(A) (relating to farm property), or

"(B) with respect to which an election is in effect under section 453(l)(2)(B) (relating to timeshares and residential lots)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1987.

(2) SPECIAL RULE FOR 1987.—In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting "or in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453(l)(2)(A)" after "section 453C(e)(4)".

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, December 19, 1996.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for giving me the opportunity to meet with you to discuss your concerns about an Internal Revenue Service Technical Advice Memorandum or TAM concerning the tax treatment of farmers. The TAM stated that farmers utilizing deferred payment contracts for the sale of farm commodities were required to include the amount of the advanced sale for Alternative Minimum Tax or AMT purposes in the year of sale.

As I told you in our meeting, we believe that this TAM correctly interprets current law. I understand that Congress may consider legislation early next session to change this result for farmers who use the cash method of accounting. As you may be aware, Secretary Rubin, in a letter to Senator Daschle on the same issue, stated the following regarding this legislative change. "We would support the goals of this effort, as a reasonable tax policy, and recognize it is likely that Congress was not aware of the effect that its 1986 amendments to the AMT would have on farmers. I welcome the opportunity to work with you to address this matter through corrective legislation."

We also will be pleased to work with you and Treasury on the corrective legislation. Please feel free to contact me if I can be of any further assistance.

Sincerely,

MARGARET MINER RICHARDSON.

Mr. DORGAN. Mr. President, today Senator GRASSLEY and I are introducing legislation called the Family Farm Alternative Minimum Tax Relief Act. This legislation deals with a tax matter affecting farmers that is a foreign subject to some people. But, simplified, what has happened is the Internal Revenue Service has turned logic on its head and said to family farmers, "We're going to ask you to pay taxes on income you have not yet received." There is no basis for them doing that. That is not what we ever intended them to do.

It is not the way they interpreted the law previously or the instructions for IRS auditors and accountants all across the country or farmers across the country, but they have now decided to change the way they do business. The brain is apparently disconnected from the hand, and the hand writes that farmers should pay taxes on income they have not received.

I introduced the first piece of legislation on this. The Senator from Washington pointed out it was introduced in the House. But 18 months before it was introduced in the House in the last Congress, I introduced legislation to try to correct this.

When we introduced it today, Senator GRASSLEY from Iowa and I have organized a group of 54 Senators who support this legislation, including the cosponsorship of the Republican leader and the Democratic leader, including the support of the Treasury Secretary and of the agricultural community.

We are going to pass this. It ought not be necessary for us to pass this legislation, because the IRS should not have made the mistake it made. It should not have turned logic on its head. But we must pass it because in this country when the IRS makes a mistake, everybody pays. Somebody once said, "You have a right to be wrong in America." But the IRS does not have that right. When they are wrong in this case, family farmers are going to have to pay unfairly. And we are going to change that.

Mr. President, today I'm joined by Senator GRASSLEY and a majority of our colleagues in the Senate in reintroducing my legislation to rectify a serious tax problem confronting our family farmers.

The Internal Revenue Service [IRS] has, in my opinion, mistakenly taken a position that threatens to hit many farmers with huge tax bills for using deferred payment commodity contracts, which have been routinely used in their businesses for decades. In my judgment, the IRS's position is dead-wrong and is going to impose an unintended and unacceptable financial hardship on the farming industry.

For years, family farmers have used deferred payment contracts to sell their commodities in order to better manage their business income. For example, a typical grain contract between a farmer and grain elevator calls upon a farmer to sell and deliver grain to a grain elevator—often because the farmer does not have adequate storage—for a fixed amount. In many cases, one or more payments paid by the elevator to the farmer under the contract occur after the close of the farmer's taxable year.

For regular tax purposes, farmers are allowed to defer income from the deferred payments under the grain contracts in computing their regular tax liability. But because the IRS apparently now views all deferred payment grain contracts as installment sales, it now requires them to add back this income in computing the Alternative Minimum Tax [AMT] in the tax year preceding the year of payment. As a result, thousands of family farmers are potentially facing hefty tax bills because they are being whip-sawed by a new IRS policy which effectively repeals their ability to use such contracts, and to benefit from the cash basis method of accounting.

To make matters worse, many farmers were advised by tax experts and IRS field representatives, for that matter, that some traditional deferred payment commodity contracts will not amount to an installment sale that would require an AMT calculation. For this reason, many farmers have not made AMT adjustments on their income tax returns. Now they are being told by the IRS that they may owe large tax bills on income that they will not receive until later. This position is based upon an incorrect interpretation by the IRS which ignores the fact that our family farmers are, by law, permitted to manage their business operations on a cash basis.

That's why we are reintroducing my legislation from the last Congress to ensure that our family farmers are allowed to engage in deferred payment transactions and get the same kind of tax treatment they have always received.

We do not believe that Congress intended this kind of tax treatment for farmers using deferred payment commodity contracts for legitimate business purposes. Moreover, Treasury Department officials, who agree that this misguided IRS position was likely not the intent of Congress, support the goals of this effort as "reasonable tax policy, and * * * welcome the opportunity to work with Congress to address this matter through corrective legislation."

Our bill simply makes clear the original intent of Congress which is to allow farmers to continue to receive the tax benefit provided from the use of cash method accounting and from installment sales for their deferred payment transactions.

I urge my colleagues to include this much-needed legislation—which is strongly supported by the agricultural community—in any revenue measure considered by the Senate this year. This measure needs to be considered quickly to resolve any lingering doubt about the correct tax treatment for farmers using deferred commodity contracts.

Mr. ABRAHAM. Mr. President, today I join several of my colleagues in cosponsoring the Family Farm Alternative Minimum Tax Relief Act of 1997. This legislation will permit farmers to continue to defer tax liability through the use of deferred payment contracts.

Like other businesses, farmers are subject to the same peaks and valleys in consumer demand that govern product pricing and earned income. Unlike other businesses, however, farmers are also subject to the uncertainties of Mother Nature. In agriculture, poor growing seasons are inevitable. Probably every farmer has had a crop devastated by harsh weather or been challenged to feed their livestock because of resulting shortages.

The ability to defer tax liability on deferred payment contracts helps farmers prepare for these difficult times. To put it simply, deferred payment contracts allow farmers to receive a portion of payment on a crop in the next year. In addition to deferring payment, farmers also defer their resulting tax liability to the following year. Deferring payments and tax liabilities is a limited form of income averaging that allows individuals to cope with seasonal difficulties.

Now, a recent IRS decision has put this important economic tool in jeopardy. The IRS has stated that payments made under a deferred payment contract are subject to the Alternative Minimum Tax [AMT]. Under the IRS ruling, taxes on the latter year's payments are now due in the first year of the contract. With the sudden repeal of deferred tax liability, farmers all across the country now face unexpected, sizable tax bills and many could be driven out of business. This is absolutely unacceptable.

Mr. President, for the sake of this Nation's farmers, the IRS interpretation must be repealed. Since 1986, the only tool left for deferring tax liability has been the use of deferred payment contracts. In just the last 4 years, however, farmers in the midwest have suffered one of the centuries worst floods, the west has endured a terrible drought and last year, a long winter and tremendous rainfall significantly reduced Michigan's drybean, soybean, corn, and wheat harvests.

The Family Farm Alternative Minimum Tax Relief Act of 1997 will permit farmers to continue to defer tax liability through the use of deferred payment contracts and I am pleased to be a cosponsor. With tax time fast approaching, I hope that this bill can be acted upon by both Chambers of Congress and sent to the President for his signature as soon as possible.

Mr. President, the President of the Michigan Farm Bureau, Jack Laurie, recently explained the significance of the IRS's ruling in the Michigan Farm Bureau's Farm News. I think this article illustrates clearly the reasons why this legislation is necessary and I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECENT TAX POLICY ISSUES PROFOUND FOR AGRICULTURE

As the year draws to a close, many of us will be making crucial tax management decisions as a normal course of business. Making advance purchases of inputs for next year, delaying sales, and/or deferred payment contracts allow producers to manage tax burdens in good and in bad years.

Tax code provisions, such as cash accounting and deferred payment contracts, provide important financial and tax management tools for producers. Recognizing the impact of budget cuts for agricultural programs, Congress included language in the 1996 budget resolution that pledged to reexamine agricultural cuts unless, among other things, Congress acted to provide mechanisms to allow farmers to average tax loads over strong and weak income years.

Several pieces of Farm Bureau-supported legislation to allow income averaging were considered by the 104th Congress but were not enacted into law. Farm Bureau will be working to secure their passage as the bills are reintroduced next year.

Farm Bureau supports the option of cash accounting for farmers and the continuation and expansion of tax code provisions that allow farmers to match income with expenses. Farm Bureau also supports the reinstatement of income averaging for farm income and the creation of "farmer savings plans," which would allow farmers to put money into a pre-tax account for use during emergencies.

Farmers are also at risk of losing another tax management tool, thanks in large part to a recent change in tax policy interpretation by the Internal Revenue Service in how the agency will treat deferred payments. Recent rulings in Washington state and in Iowa penalize farmers attempting to average their income and tax burdens from year to year through the use of deferred payment contracts.

The IRS has begun classifying deferred payment contracts as a tax preference by allowing farmers to delay income through deferred payment contracts for their regular tax calculation but not for their Alternative Minimum Tax calculation, which can result in additional tax liabilities for farmers.

Several farmers in Washington state and Iowa are currently being examined by the IRS regarding the use of forward contracting in the sale of their crops. At least 35 Washington farm families are currently in IRS appeals awaiting the opinion of the Tax Court. Commodities included in the proposed adjustments include sweet corn, beans, hogs, potatoes, onions, and various seed crops.

Why is the IRS pursuing this issue? The answer is pretty simple. By disallowing farmers to defer income into the next year via deferred payment, they essentially throw two years of income into one year. This in turn increases the amount of taxes due, significantly, in some cases. There has been no change in the law, only a change in the IRS interpretation.

Legislation was introduced last year to provide that installment sales not be treated as preference with respect to the Alternative Minimum Tax. This language would have retroactively exempted farmers who entered into deferred payments contracts from being subject to Alternative Minimum Tax.

Unfortunately, this legislation did not pass. However, there is already a movement underway to pursue this issue again at the start of the next congressional session. Several senators from Iowa, North Dakota, Montana, and Washington will introduce legislation in January to clarify that deferred payment contracts are not a tax preference item that subjects farmers to AMT.

Michigan Farm Bureau will be working to secure the support of Sens. Carl Levin and Spencer Abraham for this legislation. As you go through the process of completing your farm books and begin tax preparation, I encourage you to take a moment to let your respective U.S. Representative and both of your Senators know how vital these tax management tools are and what their loss will mean to your operation.

Sincerely,

JACK LAURIE,
President.

Mr. CAMPBELL. Mr. President, today my colleagues, Senators CHUCK GRASSLEY and BYRON DORGAN, introduced legislation which will correct a tax problem facing many farmers across the country, including many in the State of Colorado. Along with over 40 of my Senate colleagues, I am pleased to join Senators GRASSLEY and DORGAN as an original cosponsor to this bill.

Farmers have typically used the deferred payment contract system as a means for managing their business income. It is common for a farmer to forward contract to sell a product. Under this type of contract, a farmer may deliver the product in a given tax year, and he may not receive one lump-sum payment at the time of delivery. In fact, the payments may be spread over 2 tax years.

Up until recently, the farmer was taxed on this income only for the actual amount received in a given tax year. However, last October, the Internal Revenue Service issued a ruling which disallows this practice. Under the ruling, all payments received under a deferred payment contract are subject to the Alternative Minimum Tax. Now, regardless of whether the actual payments under the contract are spread out over a multiple year period, the payments will be taxable in the year the contract is made.

Needless to say, this ruling requiring farm families to pay a tax on income they have not yet received places an unfair burden on those families. Farmers cannot control the weather, especially in Colorado where farmers fall victim to everything from tornados to droughts. Because of the uncertainties inherent in farming, deferred payment contracts offer farmers a critical financial management tool. We must allow them to manage the risks without unfairly penalizing them.

With the farmers' early filing deadline looming on the horizon, there is a need to act upon this legislation as quickly as possible. Many farmers are already calculating their taxes for their early deadline and without a reversal of the IRS' ruling, they will be forced to comply at what will no doubt be a severe financial burden for many.

I urge my colleagues to support this important piece of legislation and pass it in a timely manner.

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Minnesota. I thank him for his cosponsorship of this legislation, because in the State of Minnesota obviously he has, as in my State of Iowa, many farmers who are affected by the action of the IRS. I yield 5 minutes.

Mr. GRAMS. Thank you very much.

Mr. President, I rise in strong support of the bill introduced today by my colleagues, Senator GRASSLEY and Senator DORGAN, to clarify the intent of Congress and to allow farmers and ranchers to use deferred payment contracts without tax penalty under the alternative minimum tax.

Last year this Congress passed, and the President signed, the most sweeping reforms in agricultural policy in 60 years, giving our farmers and ranchers the freedom to farm. Farmers can now plant for the market, not for Uncle Sam.

But our commitment to agriculture did not—and cannot—end there. We promised farmers and ranchers regulatory reform, free and fair trade, market-oriented tools to better manage their risk, and tax relief. Unfortunately, the Internal Revenue Service has caused us to radically depart from this commitment in regard to tax relief. By ruling that producers are subject to tax liability on deferred payment contracts in the year the contract is signed, instead of when he or she actually receives the payment, the IRS has dealt American agriculture a very serious blow.

Cash-based accounting, as it is often called, is extremely important to Minnesota farmers because incomes fluctuate so radically from year to year depending on what Mother Nature decides to unleash on us. This is especially important in my home State of Minnesota because, as many of you know, some say it is the land of 9 months of winter and then 3 months of poor sledding.

But adding further to the importance of cash-based accounting is the fact that farmers and ranchers are only paid once or twice a year. Understandably, many farmers and ranchers like to receive their payments in installments. And that is much the way school teachers do over the summer months. Getting paid in increments can ease their cash flow problems that might otherwise occur.

Congress, to its credit, has always understood these unique circumstances and therefore always intended agriculture to have the benefit of cash-based accounting. As late as 1980, Congress reaffirmed this. But according to the IRS, this all changed in amendments to the Tax Code in 1986. I disagree. Without rehashing all of the arguments of why this decision is in error, let me offer just one.

As one Rutgers University tax law professor observed, had this been the intent of the proposed changes to the Tax Code in 1986, surely there would have been large-scale opposition at that time. And, no doubt, the opposition would have been spearheaded by Senator GRASSLEY, who sits on the tax writing committee. But there was not a word about it. Maybe that is why it took the IRS a decade to find out why.

None of us want to point fingers at who is responsible for this mistake. We only want congressional intent carried out. If the most efficient way of accomplishing this end is to pass legislation to clarify things, then that is what we should do.

Mr. President, I am proud to be an original cosponsor of this bill. I commend Senators GRASSLEY and DORGAN for their leadership on this issue. I urge timely consideration and passage of this extremely important bill.

Mr. GORTON. Mr. President, the Senator from Iowa, Mr. GRASSLEY, my friend Senator DORGAN from North Dakota, who is on the floor, and I and 51 other Senators have introduced today a bill on the alternative minimum tax as it is being unjustly and without precedent applied to farmers in all of our States and across the United States of America.

In short, farmers are now being told that they must pay taxes on income that they have not received. I repeat that, Mr. President. Our farmers are now being told by the Internal Revenue Service that they are to pay taxes on income that they have not received when they have transferred ownership of their crops to some other entity but are not to receive payment for those crops until the next tax year.

Mr. President, that is unprecedented. It is unjust. It is a terrible burden on many farmers who live under difficult circumstances and from hand to mouth. And it is not what Congress has intended in any of its amendments to the Internal Revenue Code.

It is wrong, Mr. President. It was discovered or started initially, I regret to say, in the State of Washington last year aimed against a particular potato farmer. It has now spread like wildfire all across the country and it has become the policy of the Internal Revenue Service.

A year ago, one Member of the House of Representatives from my State, GEORGE NETHERCUTT, introduced a bill on this without it being able to attain the attention that has been focused on it since that time. As I said, there are now 54 Members of this body who are sponsors of this bill to bring pure justice back to the administration of the Internal Revenue Code as it respects our farmers.

I am convinced that as soon as we have a revenue bill from the House, which under the Constitution must deal with such a bill first, that we will pass this proposal almost unanimously. Mr. President, so far we have no revenue estimate on it. It was estimated last year to be minimal because of course these taxes will in fact be collected when the cash is received by the farmers.

Farmers are not attempting through this bill to avoid a tax obligation. They are simply asking for the simple justice that that tax obligation not be imposed upon them until they have received the income on which the obligation is based.

It is for that reason and under the leadership of the Senator from Iowa and the Senator from North Dakota, who is here and whom I believe is next, that this bill is drafted, that we have made this proposal. We have now received the support of Mr. Rubin, the Secretary of the Treasury.

I do not know of any reasonable opposition or, for that matter, any opposition at all to doing justice in this case. I am delighted we have such strong support for this bill. I urge not only action on this bill, Mr. President, but the promptest action possible for the Senate to remedy an injustice against our farmers.

Mr. ENZI. Mr. President, I, too, join my new colleagues in cosponsoring this legislation. It is important that we act on this legislation before April 15 to correct a ruling by the Internal Revenue Service regarding the alternative minimum tax. It is a ruling that could dramatically and unfairly increase the tax burden on our farmers who use the cash method of accounting and who utilize installment sales on crops and livestock.

It is interesting to me that this tax problem is one of the first issues needing legislative correction to present itself to the 105th Congress. It is interesting because the problem arises in the areas of small business and accounting, two areas in which I feel I have some particularly relevant insight. I am a small businessman and an accountant—the only accountant in the Senate, in fact.

I have wondered for a long time why United States tax policymakers continue to subject small business owners to the onerous burden of calculating both corporate and alternative minimum tax liabilities. The fact is that fewer than 2 percent of the companies filing Federal income tax returns end up paying the alternative minimum tax. Still, all of these companies, many of them small businesses, have to maintain separate sets of records for tax purposes, and that is at a considerable cost.

In 1993, a Joint Tax Committee analysis confirmed what I as a small business owner and corporate accountant already knew, that compliance with the alternative minimum tax requirements can add 15 to 20 percent to a company's accounting bills at tax time. The effect is that we bury 100 percent of our small businesses in paperwork in order to increase tax revenue for about 2 percent of corporate tax filers. If that is not an unnecessary burden, I do not know what is.

The legislation that is introduced today will amend the 1986 Tax Reform Act to clarify confusion that was unintentionally created by the revenue act of 1987. I do not blame the IRS for the position it takes in the technical advice memorandum filed in 1995, which states that installment sales of farm property are not exempt from the alternative minimum tax liability in the year that it is expensed. It is the job of the IRS to maximize tax revenue within the confines of the congressionally approved statutes. The question then is, did Congress intend to subject cash receipts on forward commodity sales to a farmer's prior year alternative minimum tax? I do not believe that the 99th Congress intended to do that. For 10 years the IRS has not applied this rule in this way. To do so now is a retroactive tax increase on farmers. We, the 105th Congress, should make the necessary clarifications and pass this bill.

I believe the bill will pass because reasonable people can recognize simple facts and should agree to correct the problem. I am proud to be a cosponsor of the legislation, but I also hope that it will renew interest in reviewing the issue of alternative minimum tax reform in general. One of the issues I promised my constituents I would pursue if elected to the Senate is simplification of the U.S. Tax Code, and I believe that the phaseout of the alternative minimum tax is a necessary part of that promise. The alternative minimum tax inhibits capital investment, ties up resources and credits, and piles unnecessary compliance costs particularly on small business. It actually produces relatively small amounts of Federal revenue, not all of which would be foregone using regular tax computation.

The problem this bill would correct typifies the difficulties small business owners in our country have complying with this onerous AMT law. I was pleased that the last Congress was able to achieve consensus on a very good AMT reform bill, a bill that unfortunately became entangled in the highly emotional web of election year politics and subsequently suffered a swift death at the hands of the President.

I do believe we can and should move toward a more sensible corporate tax system, and I hope the administration is willing to work with us on that.

Mr. DASCHLE. Mr. President, I would like to express my strong support for the legislation Senators GRASSLEY and DORGAN are introducing today. The bill addresses one of the most pressing problems facing many family farms, and I am proud to cosponsor it.

Last fall, the IRS released a technical memorandum calling into question the tax treatment of deferred crop sales. Released during the harvest just as farmers were making marketing decisions, this apparent shift in policy created enormous confusion in the farm community. I say apparent shift in policy because, strictly speaking, the technical advice memorandum applies only to one taxpayer; the IRS has yet to issue a formal revenue ruling on the matter as guidance for all taxpayers.

It has been a long-standing and common practice for farmers to sell their crops on a deferred basis. Farmers often delay their receipts from commodity sales into future years in order to maximize their marketing opportunities and average their incomes over good and bad years. The legal basis for these deferred contracts dates at least as far back as an IRS revenue ruling issued in 1958.

Congress has repeatedly expressed its intention that smaller farms be permitted to manage their affairs on a cash-basis system of accounting. If implemented, the policy described in the IRS memorandum would have the effect of eliminating this important tool for many family farmers.

In my view, the IRS has mistakenly interpreted tax law and legislative history in arriving at the conclusion that deferred contract receipts are a "preference" for purposes of calculating alternative minimum tax liability. I and a number of my colleagues communicated this directly to the Secretary of the Treasury last month, and he agreed to support legislation to correct the problem.

Mr. President, I would hope that we could obtain agreement on both sides of the aisle to pass this legislation as promptly as possible. Doing so could save many families tens of thousands of dollars this winter—money they never anticipated owing to the government.

On November 21st of last year, I asked the Treasury Department to either suspend the application or narrow the scope of the IRS memorandum in order to prevent this from happening. Today, I would like to call publicly on the IRS to reconsider its resistance to my request. The Treasury Department supports our effort to fix this problem legislatively, and half of the Senate is cosponsoring the Grassley-Dorgan bill. Why force taxpayers to pay money this winter that they in good faith never thought they owed, and then place them in the position of having to file an amended return to get their money back when the legislation passes later this year? Surely, there must be a better way, and, in the interest of taxpayer service, I urge the IRS to try to find it.

Let's not forget that farmers are the backbone of rural America and one of the foundations of our economy. Family farmers tell me often of the hardships they face in managing businesses that are often as unpredictable as the weather. The apparent change in IRS policy on deferred commodity contracts does not help matters.

I congratulate Senators GRASSLEY and DORGAN on their legislation and look forward to working with them to secure its speedy passage.

Mr. SARBANES. Mr. President, I am pleased to join as an original cosponsor of the Family Farmer Alternative Minimum Tax Relief Act of 1997. This legislation will provide relief for family farmers from a recent Internal Revenue Service decision regarding deferred payment contracts which could result in sizable and unexpected tax bills for the coming year.

For over 16 years, family farmers in Maryland and across the country have used deferred payment contracts to sell their crops and livestock in order to better manage and even out their business income from year to year. The tax code has specifically permitted farmers to manage their business on a cash basis of accounting and use deferred payment contracts without AMT liability. However, a recent IRS decision to enforce alternative minimum taxation on all crop and livestock sales, including deferred payment contracts, effectively repeals farmers' ability to use these contracts to move their tax liability into future years. If relief is not soon provided, many family farmers will face sizable—and unexpected—tax bills for the coming tax year. The purpose of this legislation is to clarify the law and ensure that family farmers can continue to receive the tax benefit provided from the use of the cash method of accounting and from installment sales for their deferred payment commodities contracts as Congress originally intended.

I hope the committee will schedule hearings on this matter as quickly as possible so that this legislation can be enacted prior to the taxation filing deadline. I urge my colleagues to join me in supporting this important legislation.

By Mr. BYRD:

S. 182. A bill to make available for obligation such sums as are necessary to pay the Federal share of completion of construction of the Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

THE APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION ACT

Mr. BYRD. Mr. President, I rise today to introduce a critically important measure to ensure that sufficient funds will be made available over the next six years to complete the Appalachian Development Highway System by the year 2003, some 38 years after the initial authorization of this vital 3,025-mile highway network.

As Senators are aware, the funding authorizations for the Federal-Aid Highway program will expire at the end of fiscal year 1997. Consequently, one of the most important pieces of legislation we will take up during this congressional session will be the reauthorization of the Intermodal Surface Transportation Efficiency Act, or ISTEA. This legislation will provide new direction for our Federal highway and transit programs for the next six years. I commend the Majority Leader for recognizing the importance of this legislation in his remarks on the Senate Floor during the first day of this session, during which he cited his hope that we might turn to it prior to the Easter recess.

Our colleagues in the other body have already completed several hearings on the reauthorization of ISTEA, and I understand that the Senate Environment and Public Works Committee will begin its hearings shortly. As we approach the drafting of a new, comprehensive, Federal-aid highway bill, I am introducing this bill today so that my colleagues have available to them my proposal to ensure that the Federal government finally completes its commitment to the Appalachian Development Highway System in all affected thirteen states.

The necessity to expand highway access to spur the development of the Appalachian region was first cited by the President's Appalachian Regional Commission of 1964. The Commission's report stated: "Developmental activities in Appalachia cannot proceed until the regional isolation has been overcome by a transportation network which provides access to and from the rest of the nation and within the region itself. The remoteness and isolation of the region . . . are the very basis of the Appalachian lag. Its penetration by an adequate transportation network is the first requisite of its full participation in industrial America."

One year later, the Appalachian Regional Development Act of 1965 authorized several programs for the development of the region, the first of which called for the construction of a new highway network. According to the Act, these highways "will open up an area or areas with a developmental potential where commerce and communication have been inhibited by lack of adequate access." Subsequent amendments to the act defined the 3,025 miles that comprise the Appalachian Development Highway System.

Unfortunately, today, we find that while the Interstate Highway System is virtually 100 percent complete, the Appalachian Development Highway System is only 76 percent complete. Of the 3,025 miles that comprise the Appalachian system, roughly 725 miles remain unfinished. These unfinished miles are spread throughout the 13 states that have counties within the statutorily designated boundaries of Appalachia. These states include Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

Mr. President, the purpose of my legislation is to ensure that we expeditiously complete this vital highway network. Its completion is even more important today than it was 30 years ago, not only for the local economies of the Appalachian region but also for the entire nation. The citizens of Appalachia are required to drive through the existing, inadequate road system—dangerous, narrow roads which generally wind through the paths of river valleys and stream beds between mountains. These roads are, more often than not, two-lane roads that are squeezed into very limited rights-of-way. They are characterized by low travel speeds and long travel distances. They were often built to inadequate design standards and, thus, present very hazardous driving conditions.

Just last year, the Federal Highway Administration published a report indicating that substandard road conditions are a factor in 30 percent of all fatal highway accidents. I am quite sure that the percentage is a great deal higher in the Appalachian region. [In my own state, the inadequate two-lane road that currently lies along the alignment of our largest uncompleted segment of the ADHS represents the second most dangerous road in the entire state.] The Federal Highway Administration has found that upgrading two-lane roads to four-lane divided highways has served to decrease fatal traffic accidents by 71 percent and that widening traffic lanes has served to reduce fatalities by 21 percent. These are precisely the kinds of road improvements that will be funded through the legislation which I am introducing today. And until this legislation is enacted, many citizens will die unnecessarily on inadequate, unsafe roads.

While several of the thirteen Appalachian states have enjoyed significant economic expansion and job growth over the last three decades, each such state continues to have pockets of severe economic distress characterized by low academic achievement, chronic unemployment, and an inadequate tax base. There are still children in Appalachia who lack decent transportation routes to school. There are still pregnant mothers, elderly citizens, and others who lack timely road access to area hospitals. There are many people who cannot obtain sustainable well-paying jobs because of poor road access to major employment centers. These critical conditions affect not only the citizens of these local communities but also the economy of the entire nation. Instead of enjoying the full productive potential of all the citizens of Appalachia, our nation must bear the costs of Federal assistance that must be provided to those who cannot adequately care for themselves through no fault of their own—costs associated with unemployment benefits, health care, school lunch programs, etc.

The Appalachian Regional Commission has conducted a number of studies and surveys which confirm the linkage between economic prosperity and the completion of segments of the Appalachian Highway System. These same studies also highlight the fact that it is almost impossible for communities still awaiting completion of their segments of these highways to attract businesses and investment opportunities to their areas, largely due to an inadequate transportation system, inhibiting their access to the national markets.

The most rigorous of these studies was financed by the National Science Foundation and published just a year and a half ago. This study covered a twenty-year period and compared conditions in Appalachian counties versus similarly-situated counties outside the Appalachian region. When looking at conditions in the sixty-two rural Appalachian counties, the study revealed that the income levels of those counties with substantially complete Appalachian Development highways grew 80 percent faster and that earnings grew 62 percent faster than did the counties without such highway access.

Mr. President, the people of Appalachia have waited long enough for the Federal Government to fulfill its commitment to the Appalachian region. The bill I am introducing today will ensure that sufficient funds are set aside in the next major highway bill to complete the remaining 24 percent of the Appalachian Development Highway System in the thirteen-state region. This bill takes a different approach from that of the prior authorization acts for the Appalachian Highway System. The bill calls for direct contract authority to be made available from the highway trust fund. This contract authority would be distributed to the thirteen states of the Appalachian Region solely for the purpose of completing the 725 unfinished miles of the Appalachian Development Highway System.

One of the primary reasons why completion of the Appalachian Highway System has lagged behind that of the Interstate Highway System is because the interstate system has benefited from the direct availability of highway trust funds while the Appalachian Development Highway System has been required to be financed largely through incremental annual appropriations of general funds.

The bill I introduce today also makes clear that funds provided to the Appalachian states for the completion of the Appalachian Development Highway system will be provided in addition to the funds those states will receive from the Federal Aid Highway Program for their customary purposes. These states should not be required to choose between the maintenance of their interstate and other federal highways and the completion of the Appalachian system.

Under this bill, states will still be required to provide the standard 20 percent matching share for Federal funds for the completion of these roads, as is the case for all major Federal aid highway programs. The bill authorizes the Secretary to distribute "such sums as are necessary" for the completion of the Appalachian Development Highway System. Similar to the manner in which Federal funds are currently administered for Appalachian highways, the funds provided under this bill will be administered by the Appalachian Regional Commission (ARC). The ARC, with the cooperation of the Federal Highway Administration, is currently updating its estimate for the cost to complete the system. This study is expected to be completed by May 1 of this year, and I anticipate that, when this bill is incorporated into this year's highway legislation, it will identify and authorize the appropriate dollar figure that results from this ongoing study.

I should point out, Mr. President, that the Administration shares my goal for the completion of the Appalachian Development Highway System in the near term. In addition to having written to President Clinton several times in support of this legislative approach, I met with him personally in the Oval Office on December 16, 1996—last year. I have also had meetings on this subject with his OMB Director, Mr. Franklin Raines, and his Federal Highway Administrator and Transportation Secretary-designate, Mr. Rodney Slater. I am confident that the Administration will be supportive of my efforts to complete the construction of the ADHS as soon as possible.

So, Mr. President, I urge all my colleagues to support this legislation. Our entire nation has benefited from the improvements brought about by the Appalachian Development Highway System. So, too, will we all benefit from its completion in the near future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Appalachian Development Highway System Completion Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) enacted into law a Federal commitment to the completion of the Appalachian development highway system for the purpose of expanding highway access to the Appalachian region;

(2) economic prosperity within the Appalachian region since that time has been brought about by, and has centered around, the availability of adequate highway access;

(3) the rationale behind the completion of the Appalachian development highway system is as sound today as it was in 1965, but while the Interstate System is nearly 100 percent complete, the Appalachian development highway system is only 76 percent complete;

(4) those areas in which the Appalachian development highway system is not yet complete suffer from inadequate road systems characterized by low travel speeds, long travel distances, and unsafe conditions; and

(5) there are unfinished miles of the Appalachian development highway system in all 13 of the States with counties in the statutorily-designated Appalachian region.

SEC. 3. COMPLETION OF APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to subsection (d), there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the period of fiscal years 1998 through 2003 such sums as are necessary to fund the Federal share of the total estimated cost of completion of construction of the Appalachian development highway system authorized by section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.), as determined by the Secretary of Transportation.

(2) TRANSFER AND ADMINISTRATION OF FUNDS.—The Secretary shall transfer the funds made available by paragraph (1) to the Appalachian Regional Commission, which shall be responsible for the administration of the funds.

(b) FEDERAL SHARE.—The Federal share under this section shall be 80 percent.

(c) APPORTIONMENT TO STATES.—In carrying out subsection (a), the Secretary shall apportion the funds to the 13 States in the Appalachian region in accordance with each State's portion of the total estimated cost of completion.

(d) ALLOCATION PERCENTAGES.—One-sixth of the funds allocated by subsection (a) for the construction shall be available for obligation in each of fiscal years 1998 through 2003.

(e) DELEGATION TO STATES.—Subject to title 23, United States Code, the Secretary shall delegate responsibility for completion of construction of each segment of the Appalachian development highway system under this section to the State in which the segment is located, upon request of the State.

(f) ADVANCE CONSTRUCTION.—When a State that has been delegated responsibility for construction of a segment under subsection (c)—

(1) has obligated all funds allocated under this section for construction of the segment; and

(2) proceeds to construct the segment without the aid of Federal funds in accordance with all procedures and all requirements applicable to the segment, except insofar as the procedures and requirements limit the State to the construction of segments with the aid of Federal funds previously allocated to the State;

the Secretary, upon approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the segment at such time as additional funds are allocated for the segment under subsection (d).

(g) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

(1) the Federal share of the cost of any construction under this section shall be determined in accordance with subsection (b); and

(2) the funds shall remain available until expended.

(h) INAPPLICABILITY OF OBLIGATION LIMITATIONS.—Notwithstanding any other provision of law, any obligation limitation enacted for any of fiscal years 1998 through 2003 shall not apply to obligations authorized under this section.

(i) OTHER STATE FUNDS.—Funds made available to a State under this section shall not be considered in determining the apportionments and locations that any State shall be entitled to receive, under title 23, United States Code, and other law, of amounts in the Highway Trust Fund.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. KERRY):

S. 183. A bill to amend the Family and Medical Leave Act of 1993 to apply the act to a greater percentage of the U.S. work force, and for other purposes; to the Committee on Labor and Human Resources.

THE FAMILY AND MEDICAL LEAVE FAIRNESS ACT OF 1997

Mr. DODD. Mr. President, we do a great deal of important business here in the U.S. Senate, but much of it seems arcane and distant from the lives of American families. But last evening, with the airing of a CBS made for TV movie, "A Child's Wish," we had a particularly moving example of the power we have to make a positive difference in the lives of America's families. I don't know how many of my colleagues had a chance to see it. It was a fictional story based on the true life experiences of two families impacted by the Family and Medical Leave Act signed into law by President Clinton in 1993.

Dixie Yandle was one of those children. I believe she came from North Carolina, I say to my colleague from North Carolina. Dixie's father lost his job during her struggle with cancer as he sought to spend more time with her. She and her parents testified in fact before the Congress about the need for family medical leave legislation so that what happened to them would not happen to the other parents.

The second child, Melissa Weaver, was also diagnosed with cancer that ultimately proved to be fatal. But due to the Family and Leave Act the family was able to spend the last days of her life together. Melissa's story is one of many that I heard in 1994 during a series of public hearings of the Commission on Family and Medical Leave on the impact of the Family and Medical Leave Act.

"A Child's Wish" took the lives of these two children and wove them together to dramatize how important the Family and Medical Leave Act is and how meaningful it is to families. I am hopeful that this movie may have helped a lot of people understand the legislation better.

Today, at a time when many Americans are deeply cynical toward the work we do here in Washington, the family and medical leave stands in sharp contrast.

Not only is this legislation making a real difference in the lives of the American people, but it has been judged by a bipartisan commission to be an unqualified success.

The Family and Medical Leave Act fulfilled a genuine need among America's working families to take leave in times of medical and family need.

With this legislation we established in law a basic standard of decency toward America's families.

Eligible employees were guaranteed 12 weeks of unpaid leave during times of genuine family need—such as a birth or adoption, placement of a foster child, or in times of serious medical emergency for a child, spouse or parent.

This minimal benefit—unpaid leave—is providing millions of workers and their families with vital assistance during times of crisis.

Yet, even with the apparent success of the FMLA there is still more work to be done.

Millions of Americans continue to face painful choices involving their competing responsibilities to family and work.

Employees not covered by the Family and Medical Leave Act are still often told that they must choose between sick family members and their jobs.

In fact today, 43 percent of private sector employees remain unprotected by the Family and Medical Leave Act because their employer does not meet the current 50 or more employee threshold.

This legislation I introduce today—the Family and Medical Leave Fairness Act of 1997—will extend the Family and Medical Leave Act to millions of Americans who remain uncovered.

This bill would lower the threshold to include coverage for companies with 25 or more workers.

This small step would provide 13 million additional workers with the protection of the Family and Medical Leave Act—raising the total percentage of the private sector work force covered by the FMLA to 71 percent.

In my view, these workers deserve the same job security in times of family and medical emergency that workers in larger companies receive from the Family and Medical Leave Act.

With this legislation they will receive it.

Now, for those of my colleagues who still harbor doubts about the success of the Family and Medical Leave Act I strongly urge them to examine a recent bipartisan report that documents the positive impact of this legislation.

When the bill was passed in 1993, provisions in the legislation established a commission to examine the impact of the act on workers and businesses.

The Family and Medical Leave Commission's analysis spanned 2½ years.

It included independent research and field hearings across the country to learn first hand about the act's impact from individuals and the business community.

The report's conclusions are clear—the Family and Medical Leave Act is helping to expand opportunities for working Americans while at the same time not placing any undue burden on employers.

According to the Commission's final report, the Family and Medical Leave Act represents "A significant step in helping a larger cross-section of working Americans meet their medical and family care giving needs while still maintaining their jobs and economic security."

Due to this legislation, Americans now possess greater opportunities to keep their health benefits, maintain job security, and take longer leaves for a greater number of reasons.

In fact, according to the bipartisan commission—12 million workers took job-protected leave for reasons covered by the Family and Medical Leave Act during the 18 months of its study.

But, not only are American workers reaping the benefits. The law is working for American business as well. In fact, the conclusions of the bipartisan report are a far cry from the concerns that were voiced when this law was being considered in Congress.

The vast majority of businesses—over 94 percent—report little to no additional costs associated with the Family and Medical Leave Act.

More than 92 percent reported no noticeable effect on profitability.

And nearly 96 percent reported no noticeable effect on business growth.

Additionally, 83 percent of employers reported no noticeable impact on employee productivity.

In fact, 12.6 percent actually reported a positive effect on employee productivity from the Family and Medical Leave Act, twice as many as reported a negative effect.

And not only did employers report that compliance with the Family and Medical Leave Act was relatively easy and of minimal cost, but worksites with a small number of employees generally reported greater ease of administration and even smaller costs than large worksites.

Today, I introduce this legislation with the hope and expectation that we can put aside our political differences and build on the success of the Family and Medical Leave Act. Last November, the American people gave us a mandate—a mandate for good governance.

The Family and Medical Leave represents the fulfillment of this goal and I urge all my colleagues to join with me in supporting this critically important legislation for America's working families.

I think the fact that the law has been working so well has made a sufficient difference in people's lives in moments of crises. The fact that people are able to be there particularly when a child is dying, so that you have the love of parents and a family coming together and you don't have to choose between that job and your family is a wonderful thing. It has made such a difference in people's lives.

There have been many issues dealt with in this body over 16 years, and there is none that I am more proud of than the day that this body voted to support the family and medical leave legislation, and when President Clinton signed it into law.

I am pleased to be joined in this effort by Senator DASCHLE, Senator KENNEDY, Senator FEINSTEIN, and Senator KERRY. Mr. President, I can't miss the opportunity to briefly say that a friend of mine who is here from Pennsylvania, who I know is going to speak on the nomination of Madeleine Albright, but the body should know that the Senator from Pennsylvania, Senator SPECTER, was an invaluable ally in that effort beginning in the first day we arrived in the Senate some 16 years ago. We formed a caucus on children's needs. I thank him for his efforts over the years in that regard.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from Connecticut for those generous comments. He and I cochaired the Children's Caucus in the early 1980's. And he mentioned that he and I cosponsored the first family leave act exactly 10 years ago at this time—it was in 1987—which was very important legislation.

By Mr. D'AMATO:

S. 184. A bill to provide for adherence with the MacBride Principles of Economic Justice by United States persons doing business in Northern Ireland, and for other purposes; to the Committee on Finance.

THE NORTHERN IRELAND FAIR EMPLOYMENT PRACTICES AND PRINCIPLES OF ECONOMIC JUSTICE ACT OF 1997

Mr. D'AMATO. Mr. President, I rise today to offer the Northern Ireland Fair Employment Practices and Principles of Economic Justice Act of 1997. This amendment seeks to deter efforts to use the work place as an arena of discrimination in Northern Ireland. The Northern Ireland Fair Employment Practices and Principles of Economic Justice Act of 1997 incorporates the MacBride Principles, which are modeled after the famous Sullivan Principles, one of the initial efforts to apply United States pressure to change the system of apartheid in South Africa. The MacBride Principles are named in honor of the late Sean MacBride, winner of the Nobel Peace Prize and cofounder of Amnesty International.

This amendment will enlist the cooperation of United States companies active in Northern Ireland in the campaign to force the end of discrimination in the workplace by:

First, eliminating religious discrimination in managerial, supervisory, administrative, clerical, and technical jobs and significantly increasing the representation in such jobs of individuals from under represented religious groups.

Second, providing adequate security for the protection of minority employees at the workplace.

Third, banning provocative sectarian and political emblems from the workplace.

Fourth, publicly advertising all job openings and undertaking special recruitment efforts to attract applicants from under represented religious groups, and establishing procedures to identify and recruit minority individuals with potential for further advancement, including managerial programs.

Fifth, establishing layoff, recall, and termination procedures which do not favor particular religious groupings.

Sixth, abolishing job reservations, apprenticeship restrictions, and differential employment criteria which discriminate on the basis of religious or ethnic origin.

Seventh, developing and expanding upon existing training and educational programs that will prepare substantial numbers of minority employees for managerial, supervisory, administrative, clerical, and technical jobs.

Eighth, appointing a senior management staff member to oversee the U.S. company's compliance with the principles described above.

It is in the workplace in Northern Ireland, which can be used to eliminate discrimination, where improving the employment opportunities for the underprivileged will help factor out the economic causes of the current strife in Northern Ireland. This will hopefully begin the process toward a peaceful resolution of the so-called troubles.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Ireland Fair Employment Practices and Principles of Economic Justice Act of 1997".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Currently, overall unemployment in Northern Ireland is approximately 13 percent, as compared to 9 percent in the rest of the United Kingdom.

(2) Unemployment in the minority community in Northern Ireland is 16 percent (22 percent for males and 8 percent for females), and in some portions of the minority community unemployment has historically exceeded 70 percent.

(3) The British Government Fair Employment Commission (F.E.C.), formerly the Fair Employment Agency (F.E.A.), has consistently reported that a member of the minority community is two times more likely to be unemployed than a member of the majority community.

(4) The Investor Responsibility Research Center (IRRC), Washington, District of Columbia, lists more than 90 United States companies doing business in Northern Ireland, which employ approximately 11,000 individuals.

(5) The religious minority population of Northern Ireland is subject to discriminatory hiring practices by some United States businesses.

(6) The MacBride Principles are a nine point set of guidelines for fair employment in Northern Ireland which establishes a corporate code of conduct to promote equal access to regional employment but does not require disinvestment, quotas, or reverse discrimination.

SEC. 3. RESTRICTION ON IMPORTS.

An article from Northern Ireland may not be entered, or withdrawn from warehouse for consumption, in the customs territory of the United States unless there is presented at the time of entry to the customs officer concerned documentation indicating that the enterprise which manufactured or assembled such article was in compliance at the time of manufacture with the principles described in section 5.

SEC. 4. COMPLIANCE WITH FAIR EMPLOYMENT PRINCIPLES.

(a) COMPLIANCE.—Any United States person who—

(1) has a branch or office in Northern Ireland, or

(2) controls a corporation, partnership, or other enterprise in Northern Ireland,

in which more than ten people are employed shall take the necessary steps to ensure that, in operating such branch, office, corporation, partnership, or enterprise, those principles relating to employment practices set forth in section 5 are implemented and this Act is complied with.

(b) REPORT.—Each United States person referred to in subsection (a) shall submit to the Secretary—

(1) a detailed and fully documented annual report, signed under oath, on showing compliance with the provisions of this Act; and

(2) such other information as the Secretary determines is necessary.

SEC. 5. MACBRIDE PRINCIPLES OF ECONOMIC JUSTICE.

The principles referred to in section 4 are the MacBride Principles of Economic Justice, which are as follows:

(1) Increasing the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.

(2) providing adequate security for the protection of minority employees at the workplace.

(3) Banning provocative sectarian or political emblems from the workplace.

(4) Providing that all job openings be advertised publicly and providing that special recruitment efforts be made to attract applicants from underrepresented religious groups.

(5) Providing that layoff, recall, and termination procedures do not favor a particular religious group.

(6) Abolishing job reservations, apprenticeship restrictions, and differential employment criteria which discriminate on the basis of religion.

(7) Providing for the development of training programs that will prepare substantial numbers of minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to

train, upgrade, and improve the skills of minority employees.

(8) Establishing procedures to assess, identify, and actively recruit minority employees with the potential for further advancement.

(9) Providing for the appointment of a senior management staff member to be responsible for the employment efforts of the entity and, within a reasonable period of time, the implementation of the principles described in paragraphs (1) through (8).

SEC. 6. PROHIBITION.

Nothing in this Act shall require quotas or reverse discrimination or mandate their use.

SEC. 7. WAIVER OF PROVISIONS.

(a) WAIVER OF PROVISIONS.—In any case in which the President determines that compliance by a United States person with the provisions of this Act would harm the national security of the United States, the President may waive those provisions with respect to that United States person. The President shall publish in the Federal Register each waiver granted under this section and shall submit to the Congress a justification for granting each such waiver. Any such waiver shall become effective at the end of ninety days after the date on which the justification is submitted to the Congress unless the Congress, within that ninety-day period, adopts a joint resolution disapproving the waiver. In the computation of such ninety-day period, there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or because of an adjournment of the Congress sine die.

(b) CONSIDERATION OF RESOLUTIONS.—

(1) Any resolution described in subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(2) For the purpose of expediting the consideration and adoption of a resolution under subsection (a) in the House of Representatives, a motion to proceed to the consideration of such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

SEC. 8. DEFINITIONS AND PRESUMPTIONS.

(a) DEFINITIONS.—For the purpose of this Act—

(1) the term "United States person" means any United States resident or national and any domestic concern (including any permanent domestic establishment of any foreign concern);

(2) the term "Secretary" means the Secretary of Commerce; and

(3) the term "Northern Ireland" includes the counties of Antrim, Armagh, Derry, Down, Tyrone, and Fermanagh.

(b) PRESUMPTION.—A United States person shall be presumed to control a corporation, partnership or other enterprise in Northern Ireland if—

(1) the United States person beneficially owns or controls (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the corporation, partnership, or enterprise;

(2) the United States person beneficially owns or controls (whether directly or indirectly) 25 percent or more of the voting securities of the corporation, partnership, or enterprise, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(3) the corporation, partnership, or enterprise is operated by the United States person pursuant to the provisions of an exclusive management contract;

(4) a majority of the members of the board of directors of the corporation, partnership, or enterprise are also members of the comparable governing body of the United States person;

(5) the United States person has authority to appoint the majority of the members of the board of directors of the corporation, partnership, or enterprise; or

(6) the United States person has authority to appoint the chief operating officer of the corporation, partnership, or enterprise.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of enactment of this Act.

By Mr. AKAKA:

S. 186. A bill to amend the Energy Policy and Conservation Act with respect to purchases from the strategic petroleum reserve by entities in the insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

THE EMERGENCY PETROLEUM SUPPLY ACT

Mr. AKAKA. Mr. President, today I am introducing the Emergency Petroleum Supply Act, a bill to ensure that Hawaii has access to the strategic petroleum reserve during an oil supply disruption. The Emergency Petroleum Supply Act would guarantee Hawaii oil at a fair price and give tankers bound for Hawaii priority loading during an emergency.

This legislation passed the Senate in two previous Congresses. During the 104th Congress, the Senate Committee on Energy and Natural Resources once again approved the bill. Only the inability of the House to adopt strategic petroleum reserve reforms has prevented my bill from becoming law. I will work aggressively during the 105th Congress to enact this measure.

The objective of the Emergency Petroleum Supply Act can be summarized in one word: access. Because of its tremendous distance from the Gulf Coast, Hawaii needs guaranteed access to the strategic petroleum reserve [SPR], as well as priority access to the SPR loading docks.

My bill addresses both these concerns. First, it provides a mechanism to guarantee an award of SPR oil. Hawaii's energy companies will be allowed to submit binding offers for a fixed quantity of oil at a price equal to the average of all successful bids. This concept is modeled after the Federal Government's method of selling Treasury bills. It would give Hawaii ready access to emergency oil supplies at a price that is fair to the Government. Without this bill, Hawaii's energy companies, and the population they serve, face the risk that their bid for SPR oil would be rejected and that oil inventories would run dry.

The second component of my bill addresses the problem of delay. The Emergency Petroleum Supply Act grants Hawaii-bound ships expedited access to SPR loading docks. It would be a terrible misfortune if deliveries to Hawaii were delayed because the tanker scheduled to carry emergency supplies was moored in the Gulf of Mexico, waiting in line for access to the SPR loading docks.

As any grade-school geography student knows, Hawaii is a long way from the Gulf of Mexico, especially when you have to transit the Panama Canal. The distance between the SPR loading docks and Honolulu, by way of the canal, is 7,000 miles—more than one-quarter of the distance around the globe.

But distance alone is not the issue. When you add together the time between the decision to draw down the reserve and the time for oil from the reserve to reach our shores, the seriousness of the problem emerges. It takes time to solicit and accept bids for SPR oil, time to locate and position tankers, time for tankers to wait in line to gain access to SPR loading docks, and more time to transit the canal to Hawaii. Obviously, Hawaii is at the end of a very, very long supply line. People overlook the fact that insular areas have a limited supply of petroleum products on hand at any time. While Hawaii waited for emergency supplies to arrive, oil inventories could run dry and our economy could grind to a halt.

Recently, the Department of Energy asked Hawaii's East-West Center to study this problem. The East-West Center report concluded that my SPR access measure "is an excellent proposal which would greatly reassure the islands that their basic needs would be maintained."

The East-West Center report provides strong justification for granting Hawaii special access to SPR oil during an energy emergency. The report found that a major oil supply disruption would have a much more severe impact on the Pacific islands than on the rest of the United States. Although all of Asia would experience some degree of inflation and recession, the small economies of the insular areas would be virtually unprotected from volatile economic forces. While the rest of the United States does not have to rely on ocean transport from other nations for essential goods and services, the economies of Hawaii and the Pacific islands are heavily dependent on ocean-borne trade and foreign visitors.

The need for this provision is further justified by a December 1993 Department of Energy/State of Hawaii analysis of Hawaii's energy security which found the following:

> Hawaii depends on imported oil for over 92 percent of its energy. This makes Hawaii the most vulnerable State in the Nation to the disruption of its economy and way of life in the event of a disruption of the world oil market or rapid oil price increases.
>
> Currently, 40 percent of Hawaii's oil comes from Alaska and the remainder from the Asia-Pacific region. The export capabilities

of these domestic and foreign sources of supply are projected to decline by approximately 50 percent by the year 2000. This will likely increase Hawaii's dependence on oil reserves of the politically unstable Middle East.

Hawaii is also vulnerable to possible supply disruptions in the event of a crisis. The long distance from the U.S. Strategic Petroleum Reserve in Louisiana and Texas, combined with a declining number of U.S.-flag tankers capable of transiting the Panama Canal, make timely emergency deliveries problematic.

Other studies have consistently verified Hawaii's energy vulnerability and its need for special access to the SPR. An analysis by Mr. Bruce Wilson, an accomplished oil economist, determined that the delivery of SPR oil to Hawaii from the Gulf of Mexico could take as long as 53 days. That exceeds the State's average commercial working inventory by 23 days. As Mr. Wilson's research shows, an oil supply disruption is Hawaii's greatest nightmare.

Some suggest that market forces will ensure that Hawaii and the territories receive the oil they need during an energy emergency. Unfortunately, these are the same market forces that cause Hawaii's consumers to pay 50 percent more per gallon of gasoline than consumers pay on the Mainland. When a crisis hits, our energy prices can double or triple.

Hawaii may be the 50th State, but we deserve the same degree of energy security that the rest of the Nation enjoys. It's simply a matter of equity. Hawaii's tax dollars help fill and maintain the reserve; Hawaii should enjoy the energy security the SPR is designed to provide.

My bill will safeguard Hawaii from the harsh economic consequences of an oil emergency. The Emergency Petroleum Supply Act is not only good energy policy, it's good economic policy for Hawaii.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Petroleum Supply Act".

SEC. 2. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES.

Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

"(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES.—

"(1) DEFINITIONS.—In this subsection:

"(A) BINDING OFFER.—The term 'binding offer' means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to this Act, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

"(B) CATEGORY OF PETROLEUM PRODUCT.—The term 'category of petroleum product' means a master line item within a notice of sale.

"(C) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii.

"(D) FULL TANKER LOAD.—The term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

"(E) INSULAR AREA.—The term 'insular area' means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(F) OFFERING.—The term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

"(G) NOTICE OF SALE.—The term 'notice of sale' means the document that announces—

"(i) the sale of Strategic Petroleum Reserve products;

"(ii) the quantity, characteristics, and location of the petroleum product being sold;

"(iii) the delivery period for the sale; and

"(iv) the procedures for submitting offers.

"(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

"(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

"(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

"(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

"(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

"(3) LIMITATION ON QUANTITY.—

"(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

"(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

"(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

"(4) ADJUSTMENTS.—

"(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

"(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

"(i) less than 1 full tanker load; or

"(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

"(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

"(7) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

"(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than 1 eligible entity under this paragraph for each notice of sale.

"(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

"(7) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.".

SEC. 3. REGULATIONS.

(a) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by section 2.

(b) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by section 2 shall not be subject to—

(1) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(2) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

SEC. 4. EFFECTIVE DATE.

The amendment made by section 2 takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under section 3.

By Mr. GLENN:

S. 193. A bill to provide protections to individuals who are the human subject of research; to the Committee on Labor and Human Resources.

HUMAN RESEARCH SUBJECT PROTECTION ACT

Mr. GLENN. Madam President, I rise today to introduce the Human Research Subject Protection Act of 1997. I send the bill to the desk.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. GLENN. Madam President, if I approached any Senator here and I said, "You did not know it, but the last time they went to the doctor or went to the hospital, your wife or your husband or your daughter or your son became the subject of a medical experiment that they were not even told about. They were given medicine, they were given pills, they were given radiation, they were given something and were not even told about this, were not even informed about it, yet they are under some experimental research that might possibly do them harm—maybe some good will come out of it, but maybe it will do them harm also—but they do not know about it," people would laugh at that and say that is ridiculous. That cannot possibly happen in this country. Yet, that very situation is what this piece of legislation is supposed to address.

I have been in public life and have served this country for many years. Frankly, I do not think too many things that I see surprise me anymore about our laws and about Government. Three years ago, though, I began to learn about a gap in our legal system that does truly concern me. In 1993 the Governmental Affairs Committee began to investigate the cold war radiation experiments. These experiments are one of the unfortunate legacies of the cold war, when our Government sponsored experiments involving radiation on our own citizens without their consent. They did not even know the experiments were being run on them. It was without their consent.

One of the most infamous of these experiments took place in my own State of Ohio, when scores of patients at the University of Cincinnati were subjected to large doses of radiation during experimental treatments, without their consent, without their informed consent. During the course of this investigation, I began to ask the question, what protections are in place to prevent such abuses from happening again? What law prohibits experimenting on people without their informed consent?

What I found, when I looked into it, is there is no law on the books requiring that informed consent be obtained. More important, I believe there is a need for such a law, as there continue to be cases where this basic right—I do view it as a basic right—is abused. As I started out, I would like to put this on a personal level for everyone of my colleagues. You just think about your own family, your own son, your own daughter, or grandchildren who might be, the next time they go to a doctor, the subject of some medical experiment that they are not even told about. I do not think there can be many things more un-American than that.

With the introduction of this bill today I hope to begin the process of correcting some serious gaps in our legal system. I want to make clear right now I am not seeking to bring medical research to a screeching halt. Please do not anybody at NIH, or anybody doing research throughout this country, think we are trying to stop that. We are not. That is not my intent and not the intent of this bill.

This country has the very finest health care system in the world, in part because of basic research. In fact, in large part because we have put more effort, more resources, more of our treasure into health research than any other nation in this world. In fact, I believe most people are not opposed to participating themselves in scientific research, if they are told about the pros and the cons. That is the goal of this legislation, to make sure that people have the appropriate information to make an informed choice about their medical treatment.

Everyone listening today probably has heard of the Nuremberg Code. That is the list of 10 ethical research principles which were produced as part of the judgment against Nazi physicians who engaged in truly heinous medical experiments during World War II.

The first principle of the Nuremberg Code states that the voluntary consent of the human subject of research is absolutely essential. Unfortunately, as we look back through our history since the late 1940's, it appears that researchers in America may not have taken all that Nuremberg lesson completely to heart.

I ask my colleagues what the following names might have in common: thalidomide, Tuskegee, and Willowbrook?

Well, the answer is that these are all sad examples of unethical research conducted in the United States, and in the United States well after the Nuremberg Code was issued, adopted and worldwide attention had been focused on some of the abuses of that time during World War II.

Given this history, I find it astounding that even after Nuremberg, the thalidomide babies, Willowbrook, Tuskegee and the cold war radiation experiments, and who knows how many other cases, we still don't have a law on our books requiring that informed consent—those two words, "informed consent"—be obtained prior to conducting research on human subjects.

I have had research conducted on me because of my past activities before I came to the Senate in the space program and so on, but I knew what was being looked at, what was being tried. I knew the objectives of it, and I was willing to do that. I was happy to do it. But it was informed consent that I had personally, and I knew what I was getting into and glad to do it.

I think most people feel the same way. If they know what they are getting into and they feel there is a good purpose to it, they are willing to do it. But to do research on people when they don't even know what the research or the medicines or the radiation is that is being tried on them, I think is unconscionable.

What it comes down to is there are no criminal fines or penalties for violating the spirit or the letter of that Nuremberg Code that should be the basis of all of our informed consent in this country.

In fact, our own Constitution says, "The right of the people to be secure in their persons . . . shall not be violated."

So there is no explicit statutory prohibition against improper research. I must add that just because there is no law on the books does not mean there are no protections for people from unethical medical or scientific research.

These tragic incidents I have mentioned have resulted in changes in the way human research subjects are treated. I don't want to misrepresent this, because there is a very elaborate system of protections that have developed over the years. Unfortunately, though, this system does have some gaps and, if enacted, I believe this legislation will close those gaps.

Let me briefly describe the system that is currently in place.

Regulations governing the protection of human research subjects were issued by the Department of Health, Education, and Welfare in 1974 and may be found at part 46 of title 45 of the Code of Federal Regulations.

In 1991, 10 years after a recommendation of a congressionally chartered Presidential advisory board, 16 other agencies adopted a portion of this rule, a portion of the rule to apply to research that these agencies sponsored. And at that point, these regulations became known as the common rule.

The common rule requires research institutions receiving Federal support and Federal agencies conducting research to establish committees, and these are known as—the shorthand version is IRB's—Institutional Review Boards. Their job is to review research proposals for risk of harm to human subjects and to perform other duties to protect human research subjects.

The common rule also stipulates requirements related to informed consent, how researchers must inform potential subjects of the risks to which they, as study participants, agree to be exposed.

It should also be noted that HHS regulations contain additional protections not included in the common rule for research involving vulnerable populations; namely, pregnant women, fetuses, subjects of in vitro fertilization research, prisoners and children. No other Federal agency has adopted these additional protections.

Several mechanisms have been developed by HHS and research institutions over the years to extend the common-rule protections to more people. For example, many, but not all, research institutions which receive some Federal support voluntarily apply common-rule guidelines to all research conducted at their institutions.

Additionally, in order to receive approval for a drug or device from the Food and Drug Administration, a research institution or pharmaceutical company must comply with the requirements of the common rule as administered by the FDA.

In addition to the Federal regulations, most professional medical societies and associations have adopted ethical codes of conduct regarding research.

The first such ethical code, called the Helsinki Code, was adopted by the World Medical Association in 1964. So it has been on the books for a long time. Since that time, other prominent organizations, like the American Medical Association, the American Society for Clinical Investigation, and the American Federation of Clinical Research have also adopted such ethical codes.

Most recently, in October 1995, the President exhibited, I believe, strong leadership and established the National Bioethics Advisory Commission, NBAC. This had been a long time coming. It had been suggested, but no one had ever gone ahead and done this, and the President exerted the leadership and established the NBAC.

Quite simply, the scientific and ethical issues which the NBAC are supposed to evaluate represent some of the most important, some of the most complex and controversial questions of our time. NBAC's input will be critical to informed policymaking for both the legislative and executive branches.

The two primary goals of NBAC are to, first, evaluate the current level of compliance of Federal agencies to the common rule, and, second, evaluate the common rule and advise both the executive and legislative branches on any changes that might be needed to it.

I very strongly support the work of the NBAC but recently have become extremely concerned to hear that more than 15 months after its establishment, the NBAC is still operating with a volunteer staff. It was my understanding that a number of Federal agencies supported the creation of the NBAC and agreed to back up their support with resources and staff. Some NBAC members have stated in public meetings that they are frustrated with the progress the Commission is making and attribute the slow pace to the lack of resources. Additionally, the resource problem may be limiting the number of meetings of the Commission.

Further, if this problem is not resolved in the near term, the Commission may have to stop meeting altogether. I sent a letter to the President's science adviser a few days ago, Dr. John Gibbons, to express my concerns about this. Dr. Gibbons was working to resolve this funding problem, which I view as an urgent priority.

I am very glad to announce—as a matter of fact, it was just today—that these groups in Government that are interested in this had a meeting under Dr. Gibbons' leadership, and the $1.6 million that was supposed to accrue from these different agencies to be used by the NBAC is now forthcoming. So the NBAC is now funded so they can do the job they were originally supposed to do.

We are very glad to say that has happened just today, and I am glad it happened today, just when I am introducing this bill, because it looks as though we now truly are moving to support the NBAC that did not receive the kind of monetary support, the kind of funding that we thought it was going to have when it was first formed a year and a half ago.

There are a number of existing mechanisms that do protect human research subjects today. In fact, in March of 1996, the GAO reported to me that the testing protection system has reduced the likelihood of serious abuses from occurring. However, the GAO also pointed out a number of weaknesses and gaps in the current system.

There are at least four areas, four major gaps.

First, not all agencies have adopted the common rule, including agencies that currently sponsor research involving human subjects. The Department of Labor and the Nuclear Regulatory Commission are examples of agencies that sponsor such research but those agencies have not adopted the common rule, which I think they should have.

Second, the common rule's research is voluntarily applied in many cases. Most institutions which receive Federal funds will voluntarily apply the common rule to all research conducted at their institution. However, not all research institutions adopt this policy. And in any case, if any improper research is discovered at these institutions, there are very few steps available to the Federal Government to do much about it.

Third, a private institution or a researcher who conducts nonfederally funded research or is not seeking approval of a drug or device with the FDA does not have to apply the principles of the common rule to its research. In other words, there is a huge area of all the private medical research out there that is not under the common rule unless they just choose themselves to just voluntarily do it.

Fourth, no Federal agency, other than HHS, has applied the additional protections described in 45 CFR 46 for vulnerable populations—pregnant women and their fetus, children, prisoners—to their own research. So the purpose of this legislation is to help close the gaps that exist within the current system for protecting research subjects.

Well, is there really a problem out there?

Is this just a paper loophole that I am trying to close?

Unfortunately, Mr. President, there are ongoing problems with inappropriate, ethically suspect research on human subjects. It is difficult to know the extent of such problems because information is not collected in any formal manner on human research.

The Cleveland Plain-Dealer in my home State of Ohio has recently reported in a whole series of articles, after much investigation of this issue. And I quote from them:

> What the government lacks in hard data about humans, it more than makes up for with volumes of statistics about laboratory animals. Wonder how many guinea pigs were used in U.S. research? The Agriculture Department knows: 333,379. How many hamsters in Ohio? 2,782.

So we have all this data on animals and little on human beings. I would hasten to add that the guinea pigs the Plain-Dealer refers to are the four-legged kind too and not the guinea pigs that are humans being used for research.

The reason we know so much about the use of animals in research is that we have laws governing the handling and treatment of them.

For example, the Animal Welfare Act requires that certain minimum standards be maintained when using animals in research.

Let me give you some recent examples which indicate why, notwithstanding the common rule and the other protections that are in place, I think additional protections are needed in statute.

In 1994–95, in an effort to explore the rights and interests of people currently involved in radiation research conducted or sponsored by the Federal Government, the Presidential Advisory Committee on Human Radiation Experiments conducted an in-depth review of 125 research projects funded by HHS, DOE, DOD, VA, and NASA. According to the ACHRE report:

> Our review suggests that there are significant deficiencies in some aspects of the current system for the protection of human subjects.

The ACHRE found that documents provided to IRB's often did not contain enough information about topics that are central to the ethics of research involving human subjects. In some cases the committee found it was difficult to assess the scientific merit of a protocol based on the documentation provided.

ACHRE's report states that some consent forms studied by the committee are—and I quote—

> . . . flawed in morally significant respects, not merely because they are difficult to read but because they are uninformative or even misleading.

The report states further:

> Our review also raises serious concerns about some research involving children and adults with questionable decision-making capacity.

And the ACHRE concludes:

> All told, the documents of almost half the studies reviewed by the committee that involved greater than minimal risk [to the subject] raised serious or moderate concerns.

That is a horrible indictment.

As I mentioned earlier, from December 15 to 18, 1996, the Cleveland Plain-Dealer published a series of articles entitled "Drug Trials: Do People Know the Truth About Experiments."

And I want to give credit to the people that worked on that. Keith Epstein, has covered Capitol Hill here and has written much and done much investigative reporting working on this, as did Mr. Sloat, S-l-o-a-t, Bill Sloat. Those two fellows worked on this and did a great job in pointing out some of the problems that still exist. And we have talked to them about some of these things.

The Plain-Dealer uncovered a number of disturbing cases, very disturbing cases as a matter of fact, where people were either unaware of the fact that they were involved in research or were not provided full information about potential side effects of research. The series raises very serious questions about the adequacy of our current system of protecting human research subjects.

The Plain-Dealer found, for example, of "4,154 FDA inspections of researchers testing new drugs on people [since 1977] . . . more than half the researchers were cited by FDA inspectors for failing to clearly disclose the experimental nature of their work."

Another serious finding in this series is that researchers who receive the most severe penalty by the FDA, being designated "Disqualified Investigators," have little fear of this fact being found out by their peers or patients. One of the articles discusses potentially serious problems in the way research conducted outside of the United States is incorporated into applications for drug approvals in the United States.

The Plain-Dealer uncovered much evidence to suggest that the Federal Government continues to sponsor research where informed consent is not obtained. And this fact disturbed me greatly also.

On November 14, 1996, the Wall Street Journal published an article that examined the practice at one pharmaceutical firm, Eli Lilly and Co. in using homeless alcoholics in their clinical trials. The article raises some disturbing questions about the quality of the phase I trials conducted by this one company. Also serious ethical questions are raised concerning the appropriateness of paying homeless alcoholics significant sums to be human guinea pigs. It is not clear from the article whether these tests were reviewed by any IRB.

On December 27, 1996, the New York Times reported on a New York State appeals court ruling which found that the State's rules governing psychiatric experiments on children and the mentally ill were unconstitutional. The court found that the rules did not adequately protect people who, because of age or illness, cannot give informed consent to take part in drug tests or other experiments. The article mentions 10 to 15 of the 400 psychiatric experiments covered by the ruling as being "privately financed" and therefore outside the coverage of Federal rules.

How would you like it if your father, mother, son or daughter, husband, wife was in one of those institutions and was having experiments conducted on them without your knowing about it or without them knowing about it? That is what we are up against.

On August 15, 1994, the New York Times reported on ethical and legal questions regarding a company's efforts to promote a drug that can make some children grow taller than they otherwise would. The drug in question, Protropin, has been approved by FDA for use in children whose bodies do not make sufficient quantities of human growth hormone. However, once approved, doctors may prescribe it for other purposes at their discretion. In this case the company was apparently surveying schools for short children and then trying to funnel those children to doctors who would prescribe the drug whether or not the children lacked the human growth hormone. This unapproved research was occurring without the oversight of an IRB. And at least 15,000 children have taken this drug.

Another illustration of the precarious coverage of the common rule occurred in 1995 when it became known that researchers from the Center for Reproductive Health at the University of California Irvine, were fertilizing humans and implanting theses in different mothers without the consent of the donor. This research was not being funded by any Federal agency; however, NIH was funding more than $20 million worth of other research at the university. Even though several internal and external investigations by the university and the district attorney were being conducted on this experiment, a clarifying moment occurred when investigators from OPRR visited UC Irvine early last year. These investigators reminded university officials of the common rule; the fact that the university had agreed to apply it to all research conducted there—through OPRR's assurance process; and that NIH was currently funding a good deal of research at the institution. Within a week of OPRR's visit, the university took public action to halt the research and formally investigate the researchers.

On October 10, 1994, the New York Times reported on a New York doctor who adopted two types of drugs approved by FDA for cancer treatment and stomach ulcers for an unapproved use to perform nonsurgical abortions. The article quotes the doctor saying that in 121 of 126 cases his approach was successful. The remaining five cases required surgery to complete the procedure. Because the drugs were FDA approved and the doctor was not funded or connected to federally sponsored research, no IRB or approved informed consent procedures were required. Apparently, each patient signed a three-page consent form, but this was not approved by an IRB. According to the Times, once FDA approves a drug, physicians are generally allowed to use it for off label purposes.

Now Mr. President, some of the issues discussed in these articles are problems with how the common rule itself is being applied. Some of these examples illustrate the gaps in the common rule coverage. My legislation will address both the coverage and the application of the common rule.

Now how precisely would the legislation work?

It would require all research facilities to register with HHS. Registration shall include: First, statement of principles governing the research facility in its conduct of human subject research; second, designation of the official responsible for all human subject; third, designation of membership roster of IRB(s); and fourth, attestation that the research facility is complying with the protection requirements of the common rule.

The legislation includes a grandfather provision for all research entities which currently have negotiated project assurances with HHS. The vast majority of research facilities have such assurances.

The legislation contains a 3-year reregistration requirement.

The legislation includes criminal penalties for failure to comply with the act. Therefore, if enacted it would be a felony offense to experiment on someone without their informed consent.

The intent therefore of this legislation is twofold: First, to fill in the gaps of coverage of the common rule by requiring all research involving human subjects to abide by the rule; and second, to elevate the importance of conducting research ethically, the bill provides criminal fines and penalties for failure to comply with the requirements of this law, and by extension 45 CFR 46.

Finally Mr. President, my legislation would codify a recommendation which the Advisory Committee on Human Radiation Experiments made regarding the conduct of classified research involving human subjects.

Specifically, the advisory committee recommended that informed consent of all human subjects of classified research be required, and that such requirement not be subject to waiver or exemption. Under current rule and executive order, it is possible to waive informed consent and IRB review for classified research. Title II of this legislation would prohibit the waiver of either informed consent or IRB review for classified research.

The advisory committee also recommended that human subjects of classified research be provided with certain information regarding that research. My legislation would require that such subjects be information concerning: First, the identify of the sponsoring Federal agency; second, a statement that the research involves classified information; and third, an unclassified description of the purpose of the research.

Mr. President I have tried today to briefly lay out the case for the need for the legislation I am introducing. I know that my colleague from Ohio, Senator DEWINE, is also concerned about the issues I have raised today, and about those that appeared last month in the Plain Dealer. I believe that he has requested that the chairman of the Labor and Human Resources Committee hold hearings on this subject. I think that is entirely appropriate. And I hope that this legislation could be considered in that process. I look forward to working with the Labor Committee in this regard.

I do not claim to have the magic bullet solution with this bill. However, I believe there are some key principles which should guide the Senate's consideration of this legislation. These principles are:

First, informed consent and independent review of experiments involving human subjects must be required.

Second, anyone who violates the right of research subject to have informed consent, should be held criminally responsible for that violation.

I want to put this in personal terms once again. You can imagine your spouse, husband, wife, father, mother, children, being experimented on without your knowledge or their knowledge. That is unconscionable, and we should not permit that. This legislation will close many of the loopholes that permit that to happen now.

As the legislative process moves ahead, it is certain that the bill will undergo scrutiny and amendments. But I think the outcome, if this legislation is enacted into law, will be improved protections for all Americans.

Madam President, obviously, I welcome any cosponsors on this legislation. I will be sending out a "dear colleague" letter to all the offices, and I hope we get a good response to that. I think there are very few Senators who will not back this when they hear what can happen then to them, their families, and their constituents back home, if we do not pass something like this.

I think this is many years overdue. I don't want to scare people to death with this, because I think most of the research in this country is conducted in a way that is good and is with informed consent—in most cases. But just the few examples that I have mentioned here today, as well as the articles in the Cleveland Plain Dealer and New York Times I quoted from, indicate there is still a very major problem in this area and one that we want to close the gaps on so that no American is subjected to experiments like this, unless they know exactly what is going on and have given informed consent.

Thank you. I yield the floor.

By Mr. CHAFEE (for himself, Mr. MOYNIHAN, Mr. ABRAHAM, and Mr. KYL):

S. 194. A bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations and for other purposes; to the Committee on Finance.

PRIVATE FOUNDATIONS LEGISLATION

Mr. CHAFEE. Mr. President, today, I am introducing legislation which makes permanent the full value deduction for gifts of appreciated stock to private foundations. I am pleased that my distinguished colleagues, Senator MOYNIHAN and Senator ABRAHAM, have agreed to join me in this effort.

Since 1984, donors have been allowed to deduct the full fair market value of certain gifts of public traded stock to private foundations. This provision of the tax code was added as part of the Tax Reform Act of 1984 to encourage individuals to create foundations during their lifetime. Unfortunately, when this section was enacted it included a sunset date of December 31, 1994 which was extended through May 31, 1997 as part of the Small Business Jobs Protection Act. Without this provision, the number of new foundations—as well as additional endowments to existing foundations—is likely to fall off dramatically.

Private foundations are nonprofit organizations that support charitable activities in order to serve the common good. They provide support by making grants to other nonprofit agencies, or through operating their own programs. In some cases, such as scholarships and disaster relief, foundations may make grants to individuals.

Foundations are created with endowments—money given by individuals, families, or corporations. They make grants or operate programs with the income earned from investing the endowments. Since most foundations have permanent endowments, they do not need to raise funds each year from the public in order to continue their work. Freed from these constraints, foundations are perfectly positioned to act as the research and development arm of society.

In a 1965 Report on Private Foundations, the Treasury Department recognized the special nature of foundations by describing them as "uniquely qualified to initiate thought and action, experiment with new untried ventures, dissent from prevailing attitudes, and act quickly and flexibly." Indeed, foundations reflect the innovative spirit of the individuals and corporations that endow them.

There are more than 34,000 private foundations in America today that provide over $9 billion annually to support innumerable projects, large and small. Among other things, they help the poor and disadvantaged, advance scientific and medical research, and strengthen the American educational system.

Let me give you a few examples of some of the medical advances that have occurred as a result of the financial assistance provided by private foundations: The polio vaccine developed by Dr. Jonas Salk in 1953 after the Sarah Scaife Foundation provided him with the money he needed to establish and equip his virus laboratory.

With the help of the Commonwealth Fund, Dr. Papanicolaou discovered in 1923 that cervical cancer could be diagnosed before a woman presented any symptoms. That breakthrough led to the basic and now routine diagnostic technique known as the Pap smear.

In 1951, Dr. Max Theiler received the Nobel Prize in medicine for his work in developing the yellow fever vaccine. That effort was the direct result of a 30-year, all-out commitment by the Rockefeller Foundation to eradicate this disease.

But, Mr. President, private foundations have been involved in many more aspects of our daily lives than simply funding medical advances. Dr. John V.N. Dorr was an engineer in the early 1950's. He speculated that many accidents occurring on our Nation's highways during inclement weather were the result of drivers hugging the white lines painted in the middle of the road. Dorr believed that if similar lines were painted on the shoulder side of the road, lives could be saved.

Dorr convinced transportation engineers in Westchester County, NY, to test his theory along a particularly treacherous stretch of highway. The dropoff in accidents along this part of the road was dramatic, and Dr. Dorr used his own foundation to publicize the demonstration's results nationally. Today, although State funds are now used to paint white lines on the shoulder side of the Nation's highways, every person traveling in motor vehicles is indebted to Dorr and his foundation for implementing this lifesaving discovery.

As these examples indicate, private foundations provide a great many benefits to our society. By permanently extending this tax incentive, we can continue to encourage individuals to dedicate a substantial portion of their wealth to public, rather than private purposes. I hope my colleagues will support this legislation.

Our bill permanently extends the tax incentive for an individual who contributes stock to a private foundation. This provision currently expires on May 31, 1997.

Under this bill, a taxpayer who contributes publicly traded stock to a private foundation would be allowed a deduction for the full fair market value of the stock. Absent this legislation, the deduction would be limited to the cost basis of the stock, which for many donors effectively eliminates the incentive to make the donation.

The legislation also conforms the due date for a private foundation's first quarter estimated tax payment with the filing date for the annual tax return. Currently, a private foundation is required to make its first quarter estimated tax payment on April 15, even though the annual income tax return is not due until May 15. Under this bill, a foundation's first estimated tax payment would be due on May 15.

Finally, the bill also simplifies the rules governing distributions from a private foundation to a charity located outside the United States.

A similar proposal introduced in the 104th Congress was estimated by the Joint Committee on Taxation to cost $287 million over 5 years.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleague, Senator CHAFEE, in introducing this legislation to extend permanently the full, fair market value deduction for gifts of publicly traded stock to private foundations.

Much of the focus in Congress over the last several years has been on efforts to control or reduce Government spending in order to balance the budget. As programs are cut to meet budget constraints, pressure will be placed on other sectors, particularly the independent sector, to fill the void. Already, the extent to which nonprofit institutions in the United States perform functions that are typically governmental undertakings in other countries is perhaps not fully understood or appreciated. It is a unique feature of our society of inestimable value and must be sustained. As demand on the independent sector grows, we must support its efforts to promote the common good and confront social problems.

A bit of history: prior to 1969, contributions of appreciated property were deductible at their fair market value. In 1969, Congress adopted a number of rules to address certain abuses then occurring with respect to a small number of private foundations. These included a series of targeted Treasury Department recommendations to impose excise tax penalties on self-dealing transactions, excess business holdings, insufficient distributions for charitable purposes, and the like. However, in response to the negative publicity surrounding private foundations at the time, Congress felt it necessary to impose other restrictions beyond the targeted Treasury proposals. These included a provision to limit the deduction for gifts of appreciated property to private foundations to the donor's basis, usually, the original purchase price.

After 1969, the IRS and other experts concluded that the targeted antiabuse rules worked well to correct the problems with private foundations. And nothing indicated that the 1969 limit on deductibility of gifts of appreciated property to private foundations was necessary to prevent abuse, at least to the extent that the property's value was readily determinable. Thus, in 1984, Congress approved a rule, that sunset after 10 years, providing a deduction for the full value of gifts of publicly traded stock to private foundations. This temporarily restored parity of treatment to contributions of stock to public charities—already fully deductible—and to private foundations.

Then came the Tax Reform Act of 1986, which was largely an effort to broaden the tax base and reduce rates. One such base-broadening provision was the creation of a tax preference under the individual alternative minimum tax [AMT] for gifts of appreciated property to charitable organizations. Thus, taxpayers subject to the AMT could only deduct the basis of property donated to charitable organizations.

As it turned out, the 1986 Tax Act worked all too well. Not only was the base broadened, but charitable giving of appreciated property nearly disappeared. And the charitable organizations let us know that our action had hurt them financially in such a way that not only they, but the larger public trust they serve, were suffering. Thus, at the behest of this Senator, in 1990 Congress at first temporarily, and then in 1993 permanently, repealed the tax preference for contributions of appreciated property.

At the end of 1994, however, the full deduction for contributions of appreciated stock to private foundations expired. It had been intended as a 10-year experiment; the 10 years ran out, and the experiment was over. But most observers concluded that the experiment had worked—the private foundation rules continued to work reasonably well to prevent abuse, even while gifts of appreciated stock were fully deductible. In particular, the rule was not a source of compliance problems for the Internal Revenue Service. Thus, we agreed to extend the provision temporarily just last year in the Small Business Job Protection Act. Unfortunately, it will expire once again at the end of May. There being no harm done by this provision, and much good, it is a rule we should like to see extended once again—and this time permanently.

Mr. President, no reason exists to provide different treatment under the Tax Code for gifts of appreciated stock to private foundations than is provided for such gifts to public charities. Private foundations are an important component of our nonprofit, independent sector. They make vast contributions to our society in the areas of education, health, disaster relief, the advancement of knowledge and the preservation of historical and cultural artifacts, to name only a few. Government must play a role in ensuring that nonprofit institutions not merely survive, but thrive—particularly during an era of Government cutbacks. The legislation we introduce today will be a great help in this regard. I look forward to its early and favorable consideration in the 105th Congress.

By Mr. McCAIN:

S. 196. A bill to amend the Public Buildings Act of 1959 to require the Administrator of General Services to prioritize construction and alteration projects in accordance with merit-based needs criteria, and for other purposes; to the Committee on Environment and Public Works.

THE FEDERAL BUILDING CONSTRUCTION AND ALTERATION FUNDING IMPROVEMENT ACT

Mr. McCAIN. Mr. President, today I am introducing legislation to establish a system to ensure that funding for the construction and repair of Federal buildings is allocated according to need and priority. First, the bill would require the President to submit the administration's building construction budget request in the form of a prioritized list of projects. Second, and most importantly, the bill would require the General Services Administration to prepare and maintain a ranked priority list of all ongoing and proposed construction projects. The list would be updated and reprioritized with each new project added either through administrative or congressional action.

Last year, Congress provided nearly $900 million for Federal building construction and major repairs not including the funds provided to the Department of Defense. Over the past 5 years Congress obligated over $4 billion for this purpose. This is an enormous sum of money. Clearly, the Federal building construction program can and must share in the sacrifice as we seek to gain, control over the deficit.

As we rein in spending, it is more critical now than ever to ensure that scarce financial resources are allocated to our highest priorities. In order to trim the fat in an informed and efficient manner, Congress, the administration and the taxpaying public must know what our construction priorities are.

During debate on the rescission bill in the last Congress, the Senate considered proposals to cut Federal construction funding. The list of projects proposed for defunding was rather arbitrary and capricious. The tenets of good government dictate that when we reduce spending, our lowest priorities should be put on the chopping block first. Yet, Congress cannot readily determine what those priorities are. By requiring the General Services Administration, which administers the Federal building fund, to maintain a ranked list of project priorities, we can be sure that funding decisions will be made on the basis of merit rather than politics or congressional caprice.

Mr. President, foremost, this legislation will help us address the pork barrel politics which has played far too great a role in the process of Federal building construction. Currently, when a Member of Congress decides a new building is needed in his or her State or district, the General Services Administration conducts what is known as an 11b survey to determine the need. In most cases, the GSA determines that a need exists. The study is then used to justify project authorization and appropriation, even though a finding of need is not a finding that such a project is a priority.

As projects that are not in the President's budget request are added by Congress, we do not always have a clear idea of where they are ranked among competing priorities. Passage of this legislation will ensure that this vital information is readily available.

I urge the relevant committees to expeditiously examine this proposal so that we can approve rapidly this relatively minor but, I believe, important and helpful change in procedure.

By Mr. ROTH (for himself, Mr. LOTT, Mr. BREAUX, Mr. GRASSLEY, Mr. NICKLES, Mr. MURKOWSKI, Mr. ABRAHAM, Mr. KYL, Mr. HELMS, Mr. D'AMATO, Mr. CRAIG, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. THOMAS, Mr. SMITH of Oregon, Mr. DEWINE, Mr. INHOFE, Mr. BRYAN, Mr. ROBERTS, Ms. MIKULSKI, Mr. SMITH of New Hampshire, Mr. HATCH, Mr. BENNETT, Mr. KEMPTHORNE, Mr. INOUYE, Mr. ENZI, Mr. FORD, Mr. BURNS, Mr. LIEBERMAN, Mr. HAGEL, Mr. GRAMM, Mr. DODD, Ms. COLLINS, Mr. GREGG, Mr. GRAMS, Mr. BOND, and Mr. KOHL):

S. 197. A bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes; to the Committee on Finance.

THE SAVINGS AND INVESTMENT INCENTIVES ACT OF 1997

Mr. ROTH. Mr. President, today we reintroduce the super IRA, a savings plan that is well-known as the Roth-Breaux super IRA.

I'm honored again to be joined by Senator JOHN BREAUX, in introducing this bill. I believe now, as I did last Congress, that this is extremely well conceived legislation that succeeds in strengthening two fundamental components of our society: the family and the future of our economy. Much has been written and said about both of these lately, particularly as we look to a new century. Likewise, we're hearing more and more about the need to promote personal responsibility and self-sufficiency.

The Roth-Breaux super IRA will have a positive influence in all of these areas. Congress understands this. That's why Congress has passed similar legislation in the past. We all know that Washington must promote policies that strengthen family and create an environment where our economy can grow, this is why our IRA legislation in the past has been marked by a strong, cooperative, bipartisan spirit. In 1991, legislation similar to this had 78 cosponsors. In 1994, we had 58 cosponsors and in 1995, 52 cosponsors. I believe this legislation will find similar support.

Why? Because this super IRA will go a long way toward strengthening our families and restoring equity to work-at-home spouses and other workers without pensions. It will also boost our Nation's saving rate and lead to capital formation, increased investment and economic growth. The lack of saving in this country, as we all know, is a real concern. Chairman Alan Greenspan at the Federal Reserve says that the single most important long-term economic issue for this country is savings—savings that are essential for jobs, opportunity, and growth.

This super IRA has been designed to address our Nation's need for savings and to provide families with as much flexibility as possible to use their savings not only for their security, but for the important goals and challenges in life. For example, this super IRA allows withdrawals to be made penalty-free to purchase first homes, to pay for college, and to cover expenses during extended periods of unemployment.

This super IRA removes many of the Tax Code's barriers to retirement saving. First, this bill increases and phases out the IRA's income limits over 4 years, and increases the contribution limit to keep up with inflation. Furthermore, one of the key features of our bill is that we separate the IRA and the 401(k) or 403(b), so Americans can save the maximum in both, and so that spouses who work at home will not have their savings limited by their husband's or wife's 401(k).

To strengthen the way this super IRA serves our families, this legislation not only allows parents to use penalty free withdrawals to help their children meet these goals and challenges, but children can use their IRA's to help their parents. Grandparents can make penalty free withdrawals to help grandchildren. And grandchildren can use their IRA's to help their grandparents. Our objective is to make this IRA as family oriented, as flexible and as useful as possible. It will go a long way toward promoting opportunity and reliance on self and family.

Let me stress, this super IRA bill builds on what we did in the Small Business job Protection Act of 1996 and eliminates the unequal treatment of work-at-home spouses that now exists under current law. This bill allows spouses—husbands or wives—who work at home to make equal IRA contributions, up to $2,000, in their own accounts regardless of whether their spouse has an employer pension.

With the super IRA, we also create a new type of individual retirement account—an IRA in which an individual's contribution is not tax deductible, but where the earnings can be withdrawn tax free if the account is open for at least 5 years, and the account owner is at least 59½ when the funds are withdrawn.

Mr. President, it's clear to see why this is a bill whose time has come. We have passed it before—in both Houses of Congress—now we must pass it again. It serves the individual. It serves the family. It serves the Nation. It is equitable, restoring spousal contributions to where they should be. It is flexible, offering penalty free withdrawals for life's necessities. It promises the vital capital formation America needs to invest in its future. And it builds upon the very important concept of self-reliance.

Mr. BREAUX. Mr. President, today Senator ROTH and I are introducing the Savings and Investment Incentive Act of 1997. We have introduced this bill in past Congresses but it is even more timely now as the pressure builds to secure the retirement of the baby boomers.

The facts are staring us in the face. Within 30 years one out of every five Americans will be over 65. The baby boomers are 76 million strong, doubling the number of Social Security beneficiaries by the year 2040.

At the same time, Social Security outlays will begin out pacing Social Security receipts in 2013 and the Social Security trust fund will be bankrupt in 2029 if we don't take the necessary steps to preserve it. And our national savings rate is only 1 percent of GDP. This is one-half of what it was in 1970. By comparison, we save half as much as the Germans and one-third as much as the Japanese. This is a serious problem. We need to address it by reducing the budget deficit and eliminating the drain it places on our national savings but we need to address it in other ways, as well.

The Super IRA bill makes changes in the rules governing IRA's that will expand the availability of the IRA as a savings vehicle. The income caps will be eliminated over a 5-year period. Our bill creates a new kind of IRA that allows taxpayers to earn tax-free income. Funds can be withdrawn from either the current form of IRA or the new IRA to purchase a first home, meet a family's income needs during an extended period of unemployment or to pay for educational expenses.

IRA's have broad bipartisan support as demonstrated by the list of cosponsors. I hope that we will work together to pass this legislation this year.

By Mr. MCCAIN:

S. 198. A bill to prohibit campaign expenditures for services of lobbyists, and for other purposes; to the Committee on Rules and Administration.

THE LOBBYING CONFLICT OF INTEREST ELIMINATION ACT

Mr. MCCAIN. Mr. President today I am introducing legislation entitled the "Lobbying Conflict of Interest Elimination Act." This bill would ban a candidate or a candidate's authorized committee from paying registered lobbyists for political services. Additionally, the bill would mandate that any political contributions made by a registered lobbyist be reported by such individual when he or she files his or her lobbying disclosure report as mandated in the Lobbying Disclosure Act.

In the last Congress, we were successful in passing legislation that bans gifts from lobbyists to Members and staff in order to put a wall between lobbyists who seek to curry special favor by the giving of gifts. Unfortunately, a loophole allows lobbyists to serve as fundraisers for Members of Congress, which could result in an increase in their influence.

Mr. President, this practice must stop. Registered lobbyists who work for campaigns as fundraisers clearly represent a conflict of interest. When a campaign employs an individual who also lobbies that Member, the perception of undue and unfair influence is raised. This legislation would stop such practices.

The two important changes made by this legislation represent a substantial effort to close any loopholes that exist in our lobbying and gift laws. The Congress has begun to make great strides to restore the public's confidence in this institution. We must continue that good work.

By Mr. MCCAIN:

S. 199. A bill to require industry cost-sharing for the construction of certain new federally funded research facilities, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL RESEARCH FINANCING IMPROVEMENT ACT OF 1997

Mr. MCCAIN. Mr. President, today I am introducing legislation to restore fairness and fiscal accountability to the Federal Government's many research and development programs and activities. The bill would require that commercial interests share the cost of constructing and operating new Federal research facilities that are intended to benefit their industries. Last year, the Federal Government spent $73 billion for research programs, including facility construction. Many of these programs are intended primarily to assist private industries and are sponsored by a host of Federal agencies, predominantly the Department of Defense, the Department of Agriculture, the Department of Commerce, and the National Research Council.

For example, the Department of Agriculture spends nearly $750 million per year for 116 centers under the Agriculture Research Service. These federally funded centers are designed to help a variety of agricultural industries, many of which have enormous resources and do not require Federal assistance. I understand the agency is planning to construct even more facilities. Last year, Congress appropriated $26 million to construct a new swine research center at Iowa State University, even though we already have 12 Federal centers dedicated to swine research. This additional facility will cost nearly $10 million a year to operate.

Mr. President, I recognize the importance of research and development to our competitiveness and economic growth, although I seriously question why we need 13 centers dedicated to swine research. Nevertheless, given our serious fiscal condition at a time when we are contemplating significant reductions in practically every area of domestic discretionary spending, I see absolutely no reason why Government research that benefits private industries, many of them quite prosperous, should not be cost-shared by the private sector.

Regarding swine research centers, the pork industry generates nearly $66 billion per year. Surely, it is reasonable to expect the industry, and the many others that directly benefit from Federal research, to share the cost of the centers and its operation. I should add that the legislation would not require cost sharing for any research conducted for the purpose of helping industry comply with Federal regulations.

Mr. President, industry is historically more cautious with their resources than the Federal Government. If the private sector will not expend their resources for a program that is intended for their benefit, one must question why we should feel compelled to spend the taxpayers' hard-earned money on the same venture. Public-private cost-sharing arrangements for commercially oriented Federal research will ensure that proposed activities are truly cost-beneficial and that the potential outcomes of the research are worth the dollars invested.

Again, I realize and appreciate the importance of research and development. I believe, however, that the legislation is a prudent and responsible approach which, no doubt, can be improved, but which should receive the Senate's full and timely consideration. I hope that we can have a hearing in the very near future to examine what I believe is a very important fiscal issue.

By Mr. AKAKA (for himself and Mr. INOUYE):

S.J. Res. 10. A joint resolution to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Energy and Natural Resources.

THE HAWAIIAN HOMES COMMISSION ACT, 1920 AMENDMENTS CONSENT ACT OF 1997

Mr. AKAKA. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. Res. 10

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States consents to the following amendments to the Hawaiian Homes Commission Act, 1920, adopted by the State of Hawaii in the manner required for State legislation:

(1) Act 339 of the Session Laws of Hawaii, 1993.

(2) Act 37 of the Session Laws of Hawaii, 1994.

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. MACK, his name was added as a cosponsor of S. 1, a bill to provide for safe and affordable schools.

S. 2

At the request of Mr. MACK, his name was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for American families, and for other purposes.

S. 3

At the request of Mr. MACK, his name was added as a cosponsor of S. 3, a bill to provide for fair and accurate criminal trials, reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, reduce the fiscal burden imposed by criminal alien prisoners, promote safe citizen self-defense, combat the importation, production, sale, and use of illegal drugs, and for other purposes.

S. 4

At the request of Mr. MACK, his name was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

At the request of Mr. ASHCROFT, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 4, supra.

S. 5

At the request of Mr. MACK, his name was added as a cosponsor of S. 5, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 6

At the request of Mr. MACK, his name was added as a cosponsor of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

At the request of Mr. SANTORUM, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 6, supra.

S. 7

At the request of Mr. MACK, his name was added as a cosponsor of S. 7, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 8

At the request of Mr. MACK, his name was added as a cosponsor of S. 8, a bill to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes.

S. 9

At the request of Mr. MACK, his name was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 10

At the request of Mr. MACK, his name was added as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 15

At the request of Mr. INOUYE, his name was added as a cosponsor of S. 15, a bill to control youth violence, crime, and drug abuse, and for other purposes.

S. 40

At the request of Mr. FAIRCLOTH, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 40, a bill to provide Federal sanctions for practitioners who administer, dispense, or recommend the use of marihuana, and for other purposes.

S. 104

At the request of Mr. MURKOWSKI, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

SENATE CONCURRENT RESOLUTION 4—COMMENDING AND THANKING THE HONORABLE WARREN CHRISTOPHER

Mr. CONRAD (for himself, Mr. DORGAN, Mr. DODD, Mr. BIDDEN, Ms. MOSELEY-BRAUN, and Mr. DASCHLE) submitted the following concurrent resolution; which was considered and agreed to:

Whereas Secretary Warren Christopher served as Secretary of State from 1993 until 1997. and maintained the tradition of that Office by representing the international interests of the United States with great dignity. grace. and ability;

Whereas Secretary Christopher. during his tenure as Secretary of State. engaged in more international travel than any other Secretary of State in United States history. reflecting his indefatigable commitment to advancing peace and justice. protecting and promoting United States interests. and preserving United States leadership in international affairs;

Whereas Secretary Christopher has played a key leadership role in United States foreign policy achievements. including ending the war in Bosnia. restoring an elected government in Haiti. and advancing peace in the Middle East;

Whereas Secretary Christopher served with distinction as Deputy Secretary of State from 1977 until 1981 and. among his accomplishments as Deputy Secretary. is credited with skillfully negotiating the release of American hostages in Iran;

Whereas Secretary Christopher has had a distinguished career in law and public service in California;

Whereas Secretary Christopher. born in Scranton. North Dakota. is one of North Dakota's most distinguished native sons and has always displayed the quiet strength and work ethic associated with the people of the Great Plains;

Whereas in 1997 Secretary Christopher leaves his position as the 63d Secretary of State; and

Whereas Secretary Christopher has earned the respect and admiration of Congress and the American people: Now. therefore. be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends and thanks the Honorable Warren Christopher for his exemplary diplomatic service. and for his skillful and indefatigable efforts to advance peace and justice around the world.

SENATE RESOLUTION 20—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 20

Resolved, That. in carrying out its powers. duties. and functions under the Standing Rules of the Senate. in accordance with its jurisdiction under rule XXV of such rules. including holding hearings. reporting such hearings. and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate. the Committee on Agriculture. Nutrition and Forestry is authorized from March 1. 1997. through February 28. 1998. and March 1. 1998. through February 28. 1999. in its discretion (1) to make expenditures from the contingent fund of the Senate. (2) to employ personnel. and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration. to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1. 1997. through February 28. 1998. under this resolution shall not exceed $1.747.544. of which amount (1) not to exceed $4000 may be expanded for the procurement of the services of individual consultants. or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946. as amended). and (2) to exceed $4000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of the Legislative Reorganization Act of 1946).

(b) For the period of March 1. 1998. through February 28. 1999. expenses of the committee under this resolution shall not exceed $1.792.747. of which amount (1) not to exceed $4000 may be expended for the procurement of the services of individual consultants. or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946. as amended). and (2) not to exceed $4000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings. together with such recommendations for legislation as it deems advisable. to the Senate at the earliest practicable date. but not later than February 28. 1997. and February 28. 1998. respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee. except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate. or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper. United States Senate. or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery. United States Senate. or (4) for payments to the Postmaster. United States Senate. or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper. United

States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 21—TO DIRECT THE SENATE LEGAL COUNSEL

Mr. LOTT (for himself, Mr. MCCAIN, Mr. COATS, and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 21

Whereas, in the case *Sen. Robert C. Byrd, et al. v. Franklin D. Raines, et al.*, C.A. No. 97-0001, pending in the United States District Court for the District of Columbia, the constitutionality of the Line Item Veto Act (Public Law 104–130; 110 Stat. 1200), has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978 (2 U.S.C. 288b(c), 288e(a), 288l(a)), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the case of *Sen. Robert C. Byrd et al. v. Franklin D. Raines, et al.*, to defend the constitutionality of the Line Item Veto Act.

SENATE RESOLUTION 22—RELATIVE TO THE DEATH OF THE HONORABLE PAUL TSONGAS

Mr. LOTT (for himself, Mr. DASCHLE, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 22

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Paul Tsongas, formerly a Senator from the Commonwealth of Massachusetts.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the deceased Senator.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, January 22, 1997, at 10:30 a.m. in open session, to consider the nomination of William S. Cohen to be Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, January 22, 1997, at 3:00 p.m. in executive session, to consider the nomination of William S. Cohen to be Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, January 22, 1997, to conduct a hearing of the following nominee: Andrew M. Cuomo, of New York, to be Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that Commerce, Science, and Transportation me authorized to meet in executive session for the purpose of adopting Committee Rules at 2:00 p.m., January 22, 1997 and at 2:30 p.m. to hold a confirmation hearing for Mr. William Daley, to be Secretary of the Department of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, January 22, 1997, at 10:00 a.m. to hold a hearing on balanced budget amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, January 22, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IN SUPPORT OF THE FAMILY FRIENDLY WORKPLACE ACT

• Mr. KYL. Mr. President, I am pleased to join Senator ASHCROFT as an original cosponsor of S. 4, the Family Friendly Workplace Act.

S. 4 will update the Fair Labor Standards Act [FLSA] to better reflect the needs of today's workers. It will provide the kind of flexibility that workers and employers need in an age in which more and more of us are balancing roles as both parent and wage earner.

The current FLSA does not provide enough flexibility. S. 4 will allow employers and employees together to decide whether the employee should receive overtime pay or compensatory time off for working more than a 40-hour workweek. Under current law, an employer cannot allow an employee to work 45 hours one week in exchange for 35 hours the next week so the worker can attend, for example, a child's baseball game, a parent-teacher conference, or doctor's appointment. S. 4 will change this rigid interpretation of the FLSA. It will allow workers the ability to arrange biweekly work schedules—the employee could work any combination of 80 hours over 2 weeks, if agreed to by the employer. Someone could work a long week and then a short week to best fit the needs of his or her family.

The Family Friendly Workplace Act also provides, if agreed to by both employer and employee, a way for employees to "bank" overtime hours—up to 6 weeks of paid time—so that, when needed, employees will have a way to take extended leave and still have a paycheck. In contrast, President Clinton is proposing that Congress mandate to employers that an employee be granted extra—that is, unpaid—time off to attend to family needs.

As a safeguard against abuse, S. 4 requires that any flexible work arrangement or banked overtime hours be agreed upon by both the employer and the employee, without coercion. In addition, the amount of time an employee could accumulate would be limited to 240 hours. Moreover, at the end of the year, employers must "cash out" by paying the employee for the unused accumulated hours—The employee must be able to "cash out" his or her accumulated leave within 30 days. Collective bargaining agreements would remain unaffected, but the revised work schedule could be worked into a collective bargaining agreement.

Families today are looking for ways to better manage work and childrearing. Without imposing additional Government mandates on employers, S. 4 will provide employers and employees the flexibility to better juggle the responsibilities of work and family. According to Lynn Hayes, author of "The Best Jobs in America for Parents," when working parents are asked what they desire most in a job, a majority answer "flexibility in scheduling." And, according to a study commissioned a few years ago by Arizona's Salt River Project of the Southwest region, a majority of parents with children under 13 are willing to trade salary increases for flexible time, leave, and dependent-care benefits.

There are other studies showing that Americans want flexibility in the workplace. In a work/family study conducted by Johnson & Johnson, for example, the company expected a need for child care to surface. Instead, "the big issue that popped out was that of all the things that we would do as a corporation in support of parents, the biggest factor was that they wanted a flexible work schedule."

Mr. President, the Family Friendly Workplace Act will update labor law to allow for increased flexibility in the workplace and to better reflect the needs of today's families. As we all know, today's parents are under a great deal of pressure—to provide for their children financially and provide the time needed to raise a healthy child, capable of contributing positively to society. We in Congress should respond by correcting the law, when possible and without mandate, to improve the ability of parents to provide for their children.

Reforming both tax and labor law will go a long way toward improving the quality of life of the American family. In 1950, the average family paid one dollar in taxes to the Federal Government for every $50 earned. Today, it pays almost $1 out of every $3 earned. That is why I am introducing the Tax Limitation Amendment, a proposed amendment to the Constitution to require a two-thirds vote of the House and Senate to increase taxes—reducing taxes could be achieved by a simple majority—and why I support such initiatives as a $500 tax cut for families with children under 18.

Today's increased tax burden has kept parents working more hours to keep more of their own hard-earned dollars. High taxes are more than a strain on our pocketbooks—they are allowing us to spend less time with our children, or with others who may be dependent upon us. In concert with tax relief, the hours that the Family Friendly Workplace Act can provide a working mother or father to spend with growing children will begin to remove some of the financial and scheduling headaches presented by so many jobs today.

Once the public learns about the Family Friendly Workplace Act, and what it has to offer the American family, I believe there will be a groundswell of support that will be heard around the Capitol. I urge my colleagues in both the House and the Senate to quickly pass this bill and send it to the President, so that he will be given an early opportunity to, as he has said, "pass a flex-time law that allows employees to take their overtime pay in money, or in time off, depending on what's better for their family."•

DEATH OF CLYDE TOMBAUGH

• Mr. BINGAMAN. Mr. President, last week my State and this country lost an extraordinary man. Clyde Tombaugh, a retired New Mexico State University professor, died on January 17 at the age of 90.

In 1930, at the age of 24, this completely self-taught high school graduate was working at an observatory in Arizona when he spotted something unusual in a photographic plate. Remarkably, his discovery turned out to be the ninth planet, Pluto.

His discovery earned him a full scholarship to the University of Kansas to study astronomy, and he went on to a long and distinguished career. He founded the research astronomy department of NMSU, and retired in 1973 and served as professor emeritus.

This "remarkable man of science," as one colleague described him, has left a truly great legacy.•

TRIBUTE TO FATHER WILLIAM M. MOBLEY, JR.

• Mrs. MURRAY. Mr. President, I stand today in recognition of an extraordinary, colorful lifetime of service and dedication by one individual who strove to make a difference in his community. Father William M. Mobley was, in many respects, larger than life; he was the type of person who several centuries ago would have typified the Renaissance man. He was a soldier, historian, teacher, playwright, and actor. But, in addition to his high intellect and varied cultural interests, Father Mobley was a man grounded in his Catholic faith and dedicated to the everyday concerns of his parishioners.

He was known widely as Father Bill in Mukilteo and nearby Everett, cities just north of Seattle in my home State of Washington. It was here that he served St. John's Mission and St. Mary Magdalene Church from 1987 until his death this past Christmas Eve, December 24, 1996.

Father Mobley came to the priesthood, and his Catholic faith, late in his life. Born on April 3, 1929, he was raised in Southern Baptist roots in Birmingham, AL. He was first introduced to Catholicism while an Air Force soldier during the Korean war, and converted in 1954. In 1956, Father Mobley graduated with honors from Birmingham-Southern College, where he was widely acclaimed for his acting, directing, and writing abilities in the theater. Though he was offered a prestigious scholarship to the Yale Drama School, Father Mobley turned his attention to helping those around him. Influenced by this desire to serve others, Father Mobley joined Dr. Tom Barton, whom he had met while working at a hospital in Pell City, AL, and traveled to Green River, UT. From 1959 to 1970, Father Mobley assisted Dr. Barton in managing a badly needed medical center that serviced residents of Green River and east-central Utah.

In 1970, at the age of 41, Father Mobley entered the Pope John XXIII National Seminary in Weston, MA. Unfortunately, soon thereafter, Father Mobley suffered a heart attack, the first of three he would have in his lifetime, and had to have open-heart surgery. While this would have been an insurmountable hurdle for a lot of people, Father Mobley rose above his physical pains and persevered to complete his ordination in December 1973.

He then returned to Utah to serve in the Diocese of Salt Lake City. While there, Father Mobley touched innumerable lives and hearts, participated in charitable work, and ran a retreat house in Logan, UT. But the strains of his physical condition were taking their toll, and finally Father Mobley was forced to move from Salt Lake City, where, due to its high altitude, he was always accompanied by an oxygen mask. Although doctors advised retirement, Father Mobley chose to serve in the Washington Diocese in the Mukilteo and Everett areas, whose residents were fortunate enough to have been touched by this extraordinary person.

Today, I celebrate Father Mobley as an active, energetic, and generous man. He was generous with his faith sharing, he was generous with his counsel, and he was generous with his enthusiasm and conversation. Father Mobley was a man of incredible passion and compassion. His friends, family, and parishioners will remember him for his soulful sermons and championing of social justice.

Father Mobley challenged those around him to give and love unconditionally. This is a challenge each and every one of us can take inspiration from. He was truly a man who loved his fellow human beings, and he will be missed by those who had the opportunity to know him.•

TRIBUTE TO GOLD STAR MOTHERS

• Mr. DORGAN. Mr. President, as we begin a new session of Congress, I thought this would be an appropriate time to stop for a moment and reflect upon some of the sacrifices that have been made by our citizens to ensure the protection of liberty and democracy in this great Nation. One group of citizens comes immediately to mind—the Gold Star Mothers.

This organization was formed in the years following the end World War I. It is a nonprofit, nonpolitical group which was organized by 25 mothers in June 1928 and incorporated on January 5, 1929. The cost of membership is incalculable. To join, one must have lost a son or daughter during a war waged by the United States.

As a parent myself, I know from personal experience that there is nothing more costly that losing a child. To raise and nurture a son or daughter, instilling in them the aspirations and goals that are only achieved through a long and full life, and then to having their lives cut short is a tragic and devastating blow to any parent. The pain never goes away. It is a pain that Gold Star Mothers live with every day.

What is remarkable about this group of courageous women is that they refused to allow their grief to become the victor. Instead, they chose to channel their pain and suffering into productive work to benefit veterans and the community at large.

In 1940, Congress and President Franklin Roosevelt recognized their tireless efforts on behalf of veterans and Gold Star family members by enacting legislation to honor these brave women by designating the last Sunday in September as Gold Star Mothers Day. There is no organization more worthy of this perpetual honor.

But the Gold Star Mothers did not stop there. They wanted to expand their opportunities to assist veterans and their families and sought a congressional charter so they could work in veterans hospitals throughout the country. That charter was granted in 1984. The charter outlines the objective and purposes for which they were organized, including assisting all veterans and their dependents in claims to the VA; inspiring respect for the Stars and Stripes; encouraging a sense of individual obligation to the community, State, and Union; perpetuating the memory of those whose lives were sacrificed in our wars, and supporting and extending needful assistance to all Gold Star Mothers.

Over the ensuing years, Gold Star Mothers has provided assistance to countless veterans needing help. They do so with great dedication and great love. What greater love is there than a mother's love?

Although the group started out with only 25 members, Gold Star Mothers grew quickly and today has department officers covering all 50 states as well as the District of Columbia and Puerto Rico. And they keep expanding.

I just wanted to take this time to salute this organization, to assure them that a grateful nation has not forgotten their sacrifice, and to thank them for the good work they continue to do for this great nation. I would like to pay special tribute to a Gold Star Mother in my State, Margaret Renner, who lost a son in Vietnam in 1969. She has been an active member of Gold Star Mothers, Inc., for many years, and all of us who know her are grateful for her dedicated service to the men and women who have served the Nation honorably as well as to those who have lost their sons and daughters to war.•

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through January 22, 1997. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the budget (H. Con. Res. 178), show that current level spending is above the budget resolution by $16.9 billion in budget authority and by $12.6 billion in outlays. Current level is $17.8 billion above the revenue floor in 1997 and $99.2 billion above the revenue floor over the 5 years 1997–2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $222.4 billion, $4.9 billion below the maximum deficit amount for 1997 of $227.3 billion.

This is my first report for the first session of the 105th Congress.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 22, 1997.
Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through January 21, 1997. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

This is my first report for the first session of the 105th Congress.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1997, 105TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JANUARY 21, 1997

[In billions of dollars]

	Budget resolution (H. Con. Res. 178)	Current level	Current level over/under resolution
ON-BUDGET			
Budget authority	1,314.9	1,331.8	16.9
Outlays	1,311.3	1,323.9	12.6
Revenues:			
1997	1,083.7	1,101.5	17.8
1997–2001	5,913.3	6,012.5	99.2
Deficit	227.3	222.4	−4.9
Debt subject to limit	5,432.7	5,222.9	−209.8
OFF-BUDGET			
Social Security Outlays:			
1997	310.4	310.4	0.0
1997–2001	2,061.3	2,061.3	0.0
Social Security Revenues:			
1997	385.0	384.7	−0.3
1997–2001	2,121.0	2,120.3	−0.7

Note.—Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS JANUARY 21, 1997

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,100,335
Permanents and other spending legislation	843,140	804,154	
Appropriation legislation		238,523	
Offsetting receipts	−199,772	−199,772	
Total previously enacted	643,368	842,905	1,100,355
ENACTED SECOND SESSION, 104TH CONGRESS			
Appropriations Bills:			
Agriculture (P.L. 104–180)	52,345	44,922	
District of Columbia (P.L. 104–194)	719	719	
Energy and Water Development (P.L. 104–206)	19,973	13,090	
Legislative Branch (P.L. 104–197)	2,166	1,917	
Military Construction (P.L. 104–196)	9,982	3,140	
Omnibus Consolidated Appropriations Act (P.L. 104–208)[1]	499,841	352,017	−1
Transportation (P.L. 104–205)	12,599	12,270	
Veterans, HUD, Independent Agencies (P.L. 104–204)	84,303	49,666	
Authorization Bills:			
Taxpayer Bill of Rights 2 (P.L. 104–168)			−15
Federal Oil and Gas Royalty Simplification and Fairness Act (P.L. 104–185)	−2	−2	
Small Business Job Protection Act of 1996 (P.L. 104–188)[2]	−76	−76	550
Authorize Voluntary Separation Incentives at A.I.D. Act (P.L. 104–190)	−1	−1	
Health Insurance Portability and Accountability Act of 1996 (P.L. 104–191)	305	315	590
Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104–193)	−2,341	−2,934	60
National Defense Authorization Act for FY 1997 (P.L. 104–201)	−103	−103	
Railroad Unemployment Insurance Amendments Act of 1996 (P.L. 104–251)	12	12	
Federal Aviation Administration Authorization Act of 1996 (P.L. 104–264)	2,330	50	
Veterans Benefits Improvements Act of 1996 (P.L. 104–275)	3		

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS JANUARY 21, 1997—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Central Utah Project Completion Act (P.L. 104–286)	−72	−72	
Technical Corrections and Amendments to Trade Laws (P.L. 104–295)	1	1	−8
Sustainable Fisheries Act (P.L. 104–297)		−1	1
Navajo-Hopi Land Dispute Settlement Act, 1996 (P.L. 104–301)	48	48	
Accountable Pipeline Safety and Partnership Act of 1996 (P.L. 104–304)	3	3	
Fairness in Compensating Owners of Patents Used by the U.S. (P.L. 104–308)	3	3	
Repeal Requirement for Resident Review for Nursing Facilities (P.L. 104–315)	−8	−8	
Emergency Drought Relief Act of 1996 (P.L. 104–318)	7	7	
Coast Guard Authorization Act of 1995 (P.L. 104–324)	3	3	
United States Commemorative Coin Act of 1996 (P.L. 104–329)		−6	
Total enacted this session	682,040	474,980	1,177
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	6,428	6,015	
Total Current Level	1,331,836	1,323,900	1,101,532
Total Budget Resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under Budget Resolution			
Over Budget Resolution	16,901	12,579	17,804
ADDENDUM			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	1,555	1,210	
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	364	323	
Total emergencies	1,919	1,533	
Total current level including emergencies	1,333,755	1,325,433	1,101,532

[1] This act includes 1997 funding for six appropriation bills (Commerce/Justice, Defense, Foreign Operations, Interior, Labor/HHS/Education, and Treasury) and additional appropriations for hurricane and flood recovery, firefighting and antiterrorism. There are also several provisions that affect the following direct spending programs: FCC auction receipts, Bank Insurance Funds, and Food Stamp program, and the Small Business Administration loan program account.

[2] The supporting detail for the On-Budget Current Level Report, dated September 24, 1996, had on-budget revenues for this act of $579 million. Since that report, the Joint Committee on Taxation has revised this estimate to $550 million.●

FARMERS AND THE ALTERNATIVE MINIMUM TAX

● Mrs. MURRAY. Mr. President, I am pleased to join over 50 of my colleagues today in cosponsoring legislation to solve an unfortunate tax problem drastically affecting farmers in Washington State and throughout the Nation. This bill will prevent the alternative minimum tax from being applied to deferred payment contracts.

Farmers routinely use deferred payment contracts to assist their money management and farm operations. Wheat growers, potato growers, and other farmers in Washington State often enter into contracts requiring them to sell and deliver their crops on a specified date for a fixed amount. While these contracts may be entered into one year, the payments to the farmers agreed to in the contract, either in total or in part, often will not be received by the farmer until the following year. The Internal Revenue Service is now saying that farmers must pay taxes in the year of the contract, not the year of payment. I think it is wrong to require farmers to pay taxes on income they have not yet received. I believe most Americans would agree.

Farmers are not trying to avoid paying taxes. They simply consider it unfair to be burdened with a tax liability prior to receiving payment. I am particularly concerned about the retroactive approach the Internal Revenue Service has taken with regard to this issue. While the 1986 Tax Act omitted the exemption from the AMT for farmers, the IRS failed to impose the alternative minimum tax for 8 years. Now, all of a sudden, the IRS is imposing the AMT. And not only for the current year, but for all years open to audit. This could well cost family farmers tens of thousands of dollars. We cannot afford to impose such an egregious obligation on our family farms. It is not right. This bill will correct the situation.

This bill will make it clear that the alternative minimum tax shall not be applied to installment sales of farmers. It will insure that farmers pay taxes when they get paid, not before. It is that simple. While fancy terms like alternative minimum tax, deferred payment contracts, and installment sales of inventory property make the issue sound complex, it is really about simple tax fairness—paying taxes on income received, not on income expected.

The IRS Commissioner has stated that the IRS will not oppose this legislation. In addition, the Department of the Treasury welcomes "the opportunity to work with [Congress] to address this matter through corrective legislation". With a majority of the Senate cosponsoring this bill, my colleagues from both sides of the aisle and all parts of the country, I look forward to its timely consideration.●

BIPARTISAN CAMPAIGN REFORM ACT

● Mr. FEINGOLD. Mr. President, yesterday I joined with the senior Senator from Arizona [Mr. MCCAIN] and others in introducing S. 25, the Bipartisan Campaign Reform Act. I ask that the text of the bill be printed in the RECORD.

S. 25

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Campaign Reform Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SENATE ELECTION SPENDING LIMITS AND BENEFITS

Sec. 101. Senate election spending limits and benefits.
Sec. 102. Free broadcast time.
Sec. 103. Broadcast rates and preemption.
Sec. 104. Reduced postage rates.
Sec. 105. Contribution limit for eligible Senate candidates.
Sec. 106. Reporting requirement for Senate candidates.

TITLE II—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Political Action Committees

Sec. 201. Ban on political action committee contributions to Federal candidates.

Subtitle B—Provisions Relating to Soft Money of Political Party Committees

Sec. 211. Soft money of political party committee.
Sec. 212. State party grassroots funds.
Sec. 213. Reporting requirements.

Subtitle C—Soft Money of Persons Other Than Political Parties

Sec. 221. Soft money of persons other than political parties.

Subtitle D—Contributions

Sec. 231. Contributions through intermediaries and conduits.

Subtitle E—Independent Expenditures

Sec. 241. Reporting requirements for certain independent expenditures.

TITLE III—ENFORCEMENT

Sec. 301. Filing of reports using computers and facsimile machines.
Sec. 302. Audits.
Sec. 303. Authority to seek injunction.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Increase in penalty for knowing and willful violations.

Sec. 306. Prohibition of contributions by individuals not qualified to vote.
Sec. 307. Use of candidates' names.
Sec. 308. Prohibition of false representation to solicit contributions.
Sec. 309. Expedited procedures.

TITLE IV—MISCELLANEOUS

Sec. 401. Use of contributed amounts for certain purposes.
Sec. 402. Campaign advertising.
Sec. 403. Limit on congressional use of the franking privilege.
Sec. 404. Party independent expenditures.
Sec. 405. Coordinated expenditures; independent expenditures.
Sec. 406. Express advocacy.

TITLE V—CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 501. Severability.
Sec. 502. Review of constitutional issues.
Sec. 503. Effective date.
Sec. 504. Regulations.

TITLE I—SENATE ELECTION SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE ELECTION SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following new title:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. DEFINITIONS.

"In this title:

"(1) ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate who the Commission has certified under section 505 as an eligible primary election Senate candidate or as an eligible general election Senate candidate.

"(2) GENERAL ELECTION EXPENDITURE LIMIT.—The term 'general election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(d).

"(3) OUT-OF-STATE RESIDENT CONTRIBUTION LIMIT.—The term 'out-of-State resident contribution limit', with respect to an eligible Senate candidate, means the limit applicable to the candidate under section 502(e).

"(4) PERSONAL FUNDS EXPENDITURE LIMIT.—The term 'personal funds expenditure limit' means the limit stated in section 503(a).

"(5) PRIMARY ELECTION EXPENDITURE LIMIT.—The term 'primary election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(b).

"(6) RUNOFF ELECTION EXPENDITURE LIMIT.—The term 'runoff election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(c).

"SEC. 502. ELIGIBLE SENATE CANDIDATES.

"(a) IN GENERAL.—A candidate is—

"(1) an eligible primary election Senate candidate if the Commission certifies under section 505 that the candidate—

"(A) has met the primary election filing requirement of subsection (b); and

"(B) has met the threshold contribution requirement of subsection (d); and

"(2) an eligible general election Senate candidate if the Commission certifies under section 505 that the candidate—

"(A) has met the general election filing requirement of subsection (c); and

"(B) has been certified as an eligible primary election Senate candidate.

"(b) PRIMARY ELECTION FILING REQUIREMENT.—

"(1) IN GENERAL.—The requirement of this subsection is met if the candidate files with the Commission a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i)(I) will not exceed the personal funds expenditure limit, primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit; and

"(II) will accept only amounts of contributions for the primary election, any runoff election, and the general election that do not exceed the primary election expenditure limit, runoff election expenditure limit, and general election expenditure limit (reduced by any amount transferred to the current election cycle from a preceding election); and

"(ii) will not accept contributions for the primary election, any runoff election, or the general election that would cause the candidate to exceed the out-of-State resident contribution limit; and

"(B) at least 1 other candidate has qualified for the same primary election ballot under the law of the candidate's State.

"(2) DEADLINE FOR FILING PRIMARY ELECTION DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENT.—

"(1) IN GENERAL.—The requirement of this subsection is met if the candidate files with the Commission—

"(A) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that—

"(i) the candidate and the candidate's authorized committees—

"(I) did not exceed the personal funds expenditure limit, primary election expenditure limit, or runoff election expenditure limit;

"(II) did not accept amounts of contributions for the primary election or any runoff election in excess of the primary election expenditure limit or runoff election expenditure limit (reduced by any amount transferred to the current election cycle from a preceding election); and

"(III) did not accept contributions for the primary election or any runoff election that caused the candidate to exceed the out-of-State resident contribution limit;

"(ii) the candidate has met the threshold contribution requirement of subsection (d), as demonstrated by documents accompanying the declaration under subsection (b) or the declaration under this subsection; and

"(iii) at least 1 other candidate has qualified for the same general election ballot under the law of the candidate's State; and

"(B) a declaration that candidate and the candidate's authorized committees—

"(i) except as otherwise provided by this title, will not make expenditures in excess of the personal funds expenditure limit or general election expenditure limit; and

"(ii) except as otherwise provided by this title, will not accept any contribution for the general election to the extent that the contribution—

"(I) would cause the aggregate amount of contributions accepted to exceed the amount of the general election expenditure limit, reduced by any amounts transferred to the current election cycle from a previous election and not taken into account under subparagraph (A)(ii); or

"(II) would cause the candidate to exceed the out-of-State resident contribution limit.

"(2) DEADLINE FOR FILING GENERAL ELECTION DECLARATION.—The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date on which the candidate qualifies for the general election ballot under State law; or

"(B) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

"(d) THRESHOLD CONTRIBUTION REQUIREMENT.—

"(1) IN GENERAL.—The requirement of this subsection is met—

"(A) if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

"(i) 10 percent of the general election expenditure limit; or

"(ii) $250,000; and

"(B) the candidate files with the Commission a statement under penalty of perjury that the requirement of subparagraph (A) has been met, with supporting materials demonstrating that the requirement has been met.

"(2) DEFINITIONS.—In this subsection:

"(A) ALLOWABLE CONTRIBUTION.—

"(i) IN GENERAL.—The term 'allowable contribution' means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

"(ii) EXCLUSIONS.—The term 'allowable contribution' does not include a contribution from—

"(I) an individual residing outside the candidate's State to the extent that acceptance of the contribution would bring a candidate out of compliance with subsection (e); or

"(II) a source described in section 503(a)(2).

"(B) APPLICABLE PERIOD.—The term 'applicable period' means—

"(i) the period beginning on January 1 of the calendar year preceding the calendar year of a general election and ending on the date on which the declaration under subsection (b) is filed by the candidate; or

"(ii) in the case of a special election for the office of United States Senator, the period beginning on the date on which the vacancy in the office occurs and ending on the date of the general election.

"(e) OUT-OF-STATE RESIDENT CONTRIBUTION LIMIT.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The requirement of this subsection is met if at least 60 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State.

"(B) SPECIAL RULE FOR SMALL STATES.—In the case of a candidate to which the general election expenditure limit under section 503(d)(1)(B)(i) applies, the requirement of this subsection is met if, at the option of the candidate—

"(i) at least 60 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State; or

"(ii) at least 60 percent of the number of individuals whose names are reported to the Commission as individuals from whom the candidate and the candidate's authorized committees accept contributions are legal residents of the candidate's State.

"(2) PERSONAL FUNDS.—For purposes of paragraph (1), amounts consisting of funds from sources described in section 503(a) shall be treated as contributions from individuals residing outside the candidate's State.

"(3) TIME FOR MEETING REQUIREMENT.—The aggregate amount of contributions received by an eligible Senate candidate as of the end of each reporting period under section 304 shall meet the requirement of paragraph (1).

"(4) REPORTING REQUIREMENTS.—In addition to information required to be reported under section 304. a candidate that elects to comply with the requirements of paragraph (1)(B)(ii) shall include in each report required to be filed under section 304 the name and address of and the amount of contributions made by each individual that. during the calendar year in which the reporting period occurs. makes contributions aggregating $20 or more.

"SEC. 503. EXPENDITURE LIMITS.

"(a) PERSONAL FUNDS EXPENDITURE LIMIT.—

"(1) IN GENERAL.—The aggregate amount of expenditures that may be made during an election cycle by an eligible Senate candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed the lesser of—

"(A) 10 percent of the general election expenditure limit; or

"(B) $250.000.

"(2) SOURCES.—A source is described in this paragraph if the source is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(b) PRIMARY ELECTION EXPENDITURE LIMIT.—The aggregate amount of expenditures for a primary election by an eligible primary election Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

"(1) 67 percent of the general election expenditure limit; or

"(2) $2.750.000.

"(c) RUNOFF ELECTION EXPENDITURE LIMIT.—The aggregate amount of expenditures for a runoff election by an eligible primary election Senate candidate and the candidate's authorized committees shall not exceed 20 percent of the general election expenditure limit.

"(d) GENERAL ELECTION EXPENDITURE LIMIT.—

"(1) IN GENERAL.—Except as otherwise provided in this title. the aggregate amount of expenditures for a general election by an eligible general election Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5.500.000; or

"(B) the greater of—

"(i) $950.000; or

"(ii) $400.000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4.000.000; and

"(II) 25 cents multiplied by the voting age population in excess of 4.000.000.

"(2) EXCEPTION.—In the case of an eligible Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State. paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(e) EXCEPTIONS FOR COMPLYING CANDIDATES RUNNING AGAINST NONCOMPLYING CANDIDATES.—

"(1) FUNDRAISING IN ANTICIPATION OF INCREASE.—Notwithstanding any other provision of this title. if any opponent of an eligible Senate candidate is a noneligible candidate who—

"(A) has received contributions; or

"(B) has made expenditures from a source described in subsection (a);

in an aggregate amount equal to 50 percent of the primary election expenditure limit. runoff election expenditure limit. or general election expenditure limit. the eligible Senate candidate may accept contributions in excess of the primary election expenditure limit. runoff election expenditure limit. or general election expenditure limit (as the case may be) so long as the eligible Senate candidate does not make any expenditures with such excess contributions before becoming entitled to an increase in the limit under paragraph (2) or (3).

"(2) 50 PERCENT INCREASE.—If any opponent of an eligible Senate candidate is a noneligible candidate who has made expenditures in an aggregate amount equal to 105 percent of the primary election expenditure limit. runoff election expenditure limit. or general election expenditure limit. the primary election expenditure limit. runoff election expenditure limit. or general election expenditure limit (as the case may be of the eligible Senate candidate) shall be increased by 50 percent.

"(3) 100 PERCENT INCREASE.—If any opponent of an eligible Senate candidate is a noneligible candidate who has made expenditures in an aggregate amount equal to 155 percent of the primary election expenditure limit. runoff election expenditure limit. or general election expenditure limit. the primary election expenditure limit. runoff election expenditure limit. or general election expenditure limit (as the case may be of the eligible Senate candidate) shall be increased by 100 percent.

"(f) EXPENDITURES IN RESPONSE TO INDEPENDENT EXPENDITURES.—If an eligible Senate candidate is notified by the Commission under section 304(c)(4) that independent expenditures in an aggregate amount of $10.000 or more have been made in the same election in support of another candidate or against the eligible Senate candidate. the eligible Senate candidate shall be permitted to spend an amount equal to the amount of the independent expenditures. and any such expenditures shall not be subject to any limit applicable under this title to the eligible candidate for the election.

"(g) INDEXING.—The amounts under subsections (b)(1) and (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c). except that the base period shall be calendar year 1997.

"(h) PAYMENT OF TAXES.—The primary election expenditure limit. runoff election expenditure limit. and general election expenditure limit shall not apply to any expenditure for Federal. State. or local taxes with respect to earnings on contributions raised.

"(i) NOTICE OF FAILURE TO COMPLY WITH REQUIREMENTS.—A candidate who filed a declaration under section 502 and subsequently acts in a manner that is inconsistent with any of the statements made in the declaration shall. not later than 24 hours after the first of the acts—

"(1) file with the Commission a notice describing those acts; and

"(2) notify all other candidates for the same office by sending a copy of the notice by certified mail. return receipt requested.

"SEC. 504. BENEFITS FOR ELIGIBLE CANDIDATES.

"If an eligible Senate candidate has an opponent who has qualified for the ballot and who has received contributions (or expended funds from a source described in section 503(a)(2)) in an amount equal to 10 percent or more of the applicable expenditure limit. the eligible Senate candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

"(2) the free broadcast time provided under section 315(c) of the Communications Act of 1934; and

"(3) the reduced postage rates provided in section 3626(e) of title 39. United States Code.

"SEC. 505. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this title and. based on the determination. issue a certification stating whether the candidate is an eligible Senate candidate entitled to receive benefits under this title.

"(b) CERTIFICATION.—

"(1) PRIMARY ELECTION.—Not later than 7 business days after a candidate files a declaration under section 502(b). the Commission shall determine whether the candidate meets the eligibility requirements of section 502(b)(1) and. if so. certify that the candidate is an eligible primary election Senate candidate entitled to receive benefits under this title.

"(2) GENERAL ELECTION.—Not later than 7 business days after a candidate files a declaration under section 502(c). the Commission shall determine whether the candidate meets the eligibility requirement of section 502(c)(1). and. if so. certify that the candidate is an eligible general election Senate candidate entitled to receive benefits under this title.

"(c) REVOCATION.—

"(1) IN GENERAL.—The Commission shall revoke a certification under subsection (a). based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means. if the Commission determines that a candidate—

"(A) violates any of the expenditure limits contained in this title by making an aggregate amount of expenditures that exceeds any applicable expenditure limit by 5 percent or more;

"(B) uses a benefit made available to a candidate under this title in a manner not provided for in this title; or

"(C) fails to continue to meet the requirement of this title.

"(2) NO FURTHER BENEFITS.—A candidate whose certification has been revoked shall be ineligible for any further benefits made available under this title for the duration of the election cycle.

"(d) DETERMINATIONS BY COMMISSION.—A determination (including a certification under subsection (a)) made by the Commission under this title shall be final. except to the extent that the determination is subject to examination and audit by the Commission under section 506 and to judicial review.

"SEC. 506. MISUSE OF BENEFITS.

"(a) MISUSE OF BENEFITS.—If the Commission revokes the certification of an eligible Senate candidate. the Commission shall so notify the candidate. and the candidate shall pay to the provider of any benefit received by the candidate under this title an amount equal to the difference between the amount the candidate paid for such benefit and the amount the candidate would have paid for the benefit if the candidate were not an eligible Senate candidate.

"(b) Civil Penalties.—

"(1) Low amount of excess expenditures.—Any eligible Senate candidate who makes expenditures that exceed a limitation under this title by 2.5 percent or less shall pay to the Commission an amount equal to the amount of the excess expenditures.

"(2) Medium amount of excess expenditures.—Any eligible Senate candidate who makes expenditures that exceed a limitation under this title by more than 2.5 percent and less than 5 percent shall pay to the Commission an amount equal to 3 times the amount of the excess expenditures.

"(3) Large amount of excess expenditures.—Any eligible Senate candidate who makes expenditures that exceed a limitation under this title by 5 percent or more shall pay to the Commission an amount equal to 3 times the amount of the excess expenditures plus a civil penalty to be imposed pursuant to section 309.".

(b) Expenditures Made Before Effective Date.—An expenditure shall not be counted as an expenditure for purposes of the expenditure limits contained in the amendment made by subsection (a) if the expenditure is made before the date that is 60 days after the date of enactment of this Act.

SEC. 102. FREE BROADCAST TIME.

(a) In General.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in the third sentence of subsection (a) by striking "within the meaning of this subsection" and inserting "within the meaning of this subsection and subsection (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following:

"(c) Free Broadcast Time.—

"(1) In general.—Except as provided in paragraph (3), each eligible Senate candidate who has qualified for the general election ballot as a candidate of a major or minor party shall be entitled to receive a total of 30 minutes of free broadcast time from broadcasting stations within the candidate's State or an adjacent State.

"(2) Time.—

"(A) Prime time.—Unless a candidate elects otherwise, the broadcast time made available under this subsection shall be between 6:00 p.m. and 10:00 p.m. on any day that falls on Monday through Friday.

"(B) Length of broadcast.—Except as otherwise provided in this Act, a candidate may use such time as the candidate elects, but time may not be used in lengths of less than 30 seconds or more than 5 minutes.

"(C) Maximum required of any one station.—A candidate may not request that more than 15 minutes of free broadcast time be aired by any one broadcasting station.

"(3) More than 2 candidates.—In the case of an election among more than 2 candidates described in paragraph (1), only 60 minutes of broadcast time shall be available for all such candidates, and broadcast time shall be allocated as follows:

"(A) Minor party candidates.—The amount of broadcast time that shall be provided to the candidate of a minor party shall be equal to 60 minutes multiplied by the percentage of the number of popular votes received by the candidate of that party in the preceding general election for the Senate in the State (or if subsection (e)(4)(B) applies, the percentage determined under that subsection).

"(B) Major party candidates.—The amount of broadcast time remaining after assignment of broadcast time to minor party candidates under clause (i) shall be allocated equally between the major party candidates.

"(4) Only 1 candidate.—In the case of an election in which only 1 candidate qualifies to be on the general election ballot, no time shall be required to be provided by a broadcasting station under this subsection.

"(5) Exemption.—The Federal Election Commission shall by regulation establish a procedure to exempt from the requirements of this subsection—

"(A) licensees the signals of which are broadcast substantially nationwide; and

"(B) licensees that establish that the requirements of this subsection would impose a significant economic hardship on the licensees."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following:

"(3) the term 'major party' means, with respect to an election for the United States Senate in a State, a political party whose candidate for the United States Senate in the preceding general election for the Senate in that State received, as a candidate of that party, 25 percent or more of the number of popular votes received by all candidates for the Senate;

"(4) the term 'minor party' means, with respect to an election for the United States Senate in a State, a political party—

"(A) whose candidate for the United States Senate in the preceding general election for the Senate in that State received 5 percent or more but less than 25 percent of the number of popular votes received by all candidates for the Senate; or

"(B) whose candidate for the United States Senate in the current general election for the Senate in that State has obtained the signatures of at least 5 percent of the State's registered voters, as determined by the chief voter registration official of the State, in support of a petition for an allocation of free broadcast time under this subsection; and

"(5) the term 'Senate election cycle' means, with respect to an election to a seat in the United States Senate, the 6-year period ending on the date of the general election for that seat.".

(d) Effective Date.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 103. BROADCAST RATES AND PREEMPTION.

(a) Broadcast Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking "(b) The charges" and inserting the following:

"(b) Broadcast Media Rates.—

"(1) In general.—The charges";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(3) in paragraph (1)(A) (as redesignated by paragraph (2))—

(A) by striking "forty-five" and inserting "30"; and

(B) by striking "lowest unit charge of the station for the same class and amount of time for the same period" and inserting "lowest charge of the station for the same amount of time for the same period on the same date"; and

(4) by adding at the end the following:

"(2) Senate candidates.—

"(A) Eligible senate candidates.—In the case of an eligible Senate candidate (within the meaning of section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the lowest charge described in paragraph (1)(A).

"(B) Noneligible senate candidates.—In the case of a candidate for the United States Senate who is not an eligible Senate candidate, paragraph (1)(A) shall not apply.".

(b) Preemption; Access.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by section 102(a), is amended—

(1) by redesignating subsections (d) and (e) (as redesignated by section 102(a)(2)), as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d) Preemption.—

"(1) In general.—Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1)(A), of a broadcasting station by an eligible Senate candidate who has purchased and paid for such use pursuant to subsection (b)(2).

"(2) Circumstances beyond control of licensee.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

(c) Revocation of License for Failure To Permit Access.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking "or repeated";

(2) by inserting "or cable system" after "broadcasting station"; and

(3) by striking "his candidacy" and inserting "the candidacy of the candidate, under the same terms, conditions, and business practices as apply to the most favored advertiser of the licensee".

(d) Effective Date.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 104. REDUCED POSTAGE RATES.

(a) In General.—Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "and the National" and inserting "the National"; and

(ii) by inserting before the semicolon the following: ", and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;";

(B) in subparagraph (B), by striking "and" after the semicolon;

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

"(D) the term 'principal campaign committee' has the meaning given in section 301 of the Federal Election Campaign Act of 1971; and

"(E) the term 'eligible Senate candidate' has the meaning given in section 501 of the Federal Election Campaign Act of 1971."; and

(2) by adding after paragraph (2) the following:

"(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to that number of pieces of mail that is equal to 2 times the number of individuals in the voting age population (as certified under section 315(e) of the Federal Election Campaign Act of 1971) of the State.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 105. CONTRIBUTION LIMIT FOR ELIGIBLE SENATE CANDIDATES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A). by inserting "except as provided in subparagraph (B)." before "to";

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D). respectively; and

(3) by inserting after subparagraph (A) the following:

"(B) if the general election expenditure limit. primary election expenditure limit. or runoff limit election expenditure limit applicable to an eligible Senate candidate has been increased under section 503(d). to the eligible Senate candidate and the authorized political committees of the candidate with respect to any election for the office of United States Senator. which. in the aggregate. exceed $2.000;".

SEC. 106. REPORTING REQUIREMENT FOR SENATE CANDIDATES.

(a) CONTRIBUTIONS BY IN-STATE RESIDENTS.—Section 304(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting "; and"; and

(3) by adding at the end the following:

"(L) in the case of an eligible Senate candidate. the total amount of contributions from individuals who are residents of the State in which the candidate seeks office.".

(b) REPORTS BY SENATE CANDIDATES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 221) is amended by adding at the end the following:

"(h) SENATE CANDIDATES.—

"(1) EXPENDITURES OF PERSONAL FUNDS.—

"(A) IN GENERAL.—A candidate for the Senate who during an election cycle makes expenditures from sources described in section 503(a)(2) in excess of the personal funds expenditure limit under 503(a) shall report the expenditures to the Commission within 48 hours after the expenditures have been made.

"(B) ADDITIONAL REPORTS.—A candidate shall file an additional report within 48 hours after the date on which the candidate makes expenditures for the general election from sources described in section 503(a)(2) that in the aggregate exceed 25 percent of the general election expenditure limit.

"(2) EXPENDITURES OF PERSONAL FUNDS BY A SENATE CANDIDATE WHO IS NOT AN ELIGIBLE CANDIDATE.—

"(A) IN GENERAL.—A primary election Senate candidate or general election Senate candidate who is not certified as an eligible candidate under section 505 and who has received contributions or made expenditures from sources described in section 503(a)(2) in an aggregate amount that exceeds 50 percent of the general election expenditure limit shall file a report with the Commission within 48 hours after that amount of contributions have been received or expenditures have been made.

"(B) ADDITIONAL REPORTS.—A primary election Senate candidate or general election Senate candidate shall file an additional report within 48 hours after the candidate has received contributions or made expenditures from sources described in section 503(a)(2) in an aggregate amount that exceeds 105 percent or 155 percent of the applicable expenditure limits.

"(3) NOTIFICATION.—Within 48 hours after a report is filed under paragraph (1) or (2). the Commission shall notify each eligible Senate candidate in the election of the filing.

"(4) REPORT AND NOTIFICATION REQUIREMENTS WITHIN 20 DAYS OF AN ELECTION.—

"(A) REPORTS.—If any act which requires the filing of any report under paragraphs (1) or (2) occurs after the 20th day. but more than 24 hours before an election. the report shall be filed by the candidate within 24 hours of the occurrence of the act.

"(B) NOTIFICATION.—For any such report filed under this subsection. the Commission shall notify the appropriate eligible Senate candidate within 24 hours after the filing of such report.".

TITLE II—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Political Action Committees

SEC. 201. BAN ON POLITICAL ACTION COMMITTEE CONTRIBUTIONS TO FEDERAL CANDIDATES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. BAN ON POLITICAL ACTION COMMITTEE CONTRIBUTIONS TO FEDERAL CANDIDATES.

"Notwithstanding any other provision of this Act. no person other than an individual or a political committee may make a contribution to a candidate or candidate's authorized committee.".

(b) DEFINITION OF POLITICAL COMMITTEE.—

(1) SECTION 301(4).—Section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national. State. or district committee of a political party. including any subordinate committee thereof;

"(C) any local committee of a political party that—

"(i) receives contributions aggregating in excess of $5.000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5.000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1.000 during a calendar year; and

"(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities.".

(2) SECTION 316(b)(2).—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended—

(A) by inserting "or" after "subject;";

(B) by striking "and their families; and" and inserting "and their families."; and

(C) by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—

(1) CONTRIBUTIONS TO AUTHORIZED COMMITTEE.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2). any political committee that is established. financed. maintained. or controlled. directly or indirectly. by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(2) DESIGNATION OF AUTHORIZED COMMITTEE.—Section 302(e)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by striking paragraph (3) and inserting the following:

"(3) No political committee that supports. or has supported. more than one candidate may be designated as an authorized committee. except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee. if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.). during any period beginning after the effective date in which the limitation under section 324 (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a). (b). and (c) shall not be in effect; and

(2)(A) it shall be unlawful for a candidate for election. or nomination for election. to the Senate or an authorized committee of a Senate candidate to accept a contribution from a multicandidate political committee or an intermediary or conduit (within the meaning of paragraph (8)). to the extent that the making or accepting of the contribution would cause the aggregate amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees. intermediaries. and conduits to exceed 20 percent of the primary election expenditure limit. runoff election expenditure limit. or general election expenditure limit (as those terms are defined in section 501) that is applicable (or. if the candidate were an eligible Senate candidate (as defined in section 501). would be applicable) to the candidate. and a candidate shall return to the contributor the excess of any contributions received over the amount of contributions allowed to be accepted under this subparagraph; and

(B) it shall be unlawful for a political committee. intermediary. or conduit to make a contribution to any candidate or an authorized committee of a candidate that. in the aggregate. exceeds the amount that an individual is permitted. under section 315(a). to make directly to the candidate and candidate's authorized committees.

Subtitle B—Provisions Relating to Soft Money of Political Party Committees

SEC. 211. SOFT MONEY OF POLITICAL PARTY COMMITTEE.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201) is amended by adding at the end the following:

"SEC. 325. SOFT MONEY OF PARTY COMMITTEES.

"(a) NATIONAL COMMITTEES.—A national committee of a political party (including a national congressional campaign committee of a political party). an entity that is directly or indirectly established. financed. maintained. or controlled by a national committee or its agent. an entity acting on behalf of a national committee. and an officer or agent acting on behalf of any such committee or entity (but not including an entity regulated under subsection (b)) shall not solicit or receive any contributions. donations. or transfers of funds. or spend any funds.

that are not subject to the limitations. prohibitions. and reporting requirements of this Act.

"(b) STATE. DISTRICT. AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—Any amount that is expended or disbursed by a State. district. or local committee of a political party (including an entity that is directly or indirectly established. financed. maintained. or controlled by a State. district. or local committee of a political party and an officer or agent acting on behalf of any such committee or entity) during a calendar year in which a Federal election is held. for any activity that might affect the outcome of a Federal election. including any voter registration or get-out-the-vote activity. any generic campaign activity. and any communication that refers to a candidate (regardless of whether a candidate for State or local office is also mentioned or identified) shall be made from funds subject to the limitations. prohibitions. and reporting requirements of this Act.

"(2) ACTIVITY EXCLUDED FROM PARAGRAPH (1).—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an expenditure or disbursement made by a State. district. or local committee of a political party for—

"(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

"(ii) the costs of a State. district. or local political convention;

"(iii) the non-Federal share of a State. district. or local party committee's administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of the individual's time on activity during the month that may affect the outcome of a Federal election) except that for purposes of this paragraph. the non-Federal share of a party committee's administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election year to the committee's administrative and overhead expenses in the election year in question;

"(iv) the costs of grassroots campaign materials. including buttons. bumper stickers. and yard signs that name or depict only a candidate for State or local office; and

"(v) the cost of any campaign activity conducted solely on behalf of a clearly identified candidate for State or local office. if the candidate activity is not an activity described in paragraph (1).

"(B) FUNDRAISING COSTS.—Any amount spent by a national. State. district. or local committee. by an entity that is established. financed. maintained. or controlled by a State. district. or local committee of a political party. or by an agent or officer of any such committee or entity to raise funds that are used. in whole or in part. to pay the costs of an activity described in paragraph (1) shall be made from funds subject to the limitations. prohibitions. and reporting requirements of this Act.

"(c) TAX-EXEMPT ORGANIZATIONS.—A national. State. district. or local committee of a political party (including a national congressional campaign committee of a political party. an entity that is directly or indirectly established. financed. maintained. or controlled by any such national. State. district. or local committee or its agent. an agent acting on behalf of any such party committee. and an officer or agent acting on behalf of any such party committee or entity). shall not solicit any funds for or make any donations to an organization that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986.

"(d) CANDIDATES.—

"(1) IN GENERAL.—A candidate. individual holding Federal office. or agent of a candidate or individual holding Federal office shall not—

"(A) solicit. receive. transfer. or spend funds in connection with an election for Federal office unless the funds are subject to the limitations. prohibitions. and reporting requirements of this Act;

"(B) solicit. receive. or transfer funds that are to be expended in connection with any election other than a Federal election unless the funds—

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under section 315(a) (1) and (2); and

"(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office; or

"(C) solicit. receive. or transfer any funds on behalf of any person that are not subject to the limitations. prohibitions. and reporting requirements of the Act if the funds are for use in financing any campaign-related activity or any communication that refers to a clearly identified candidate for Federal office.

"(2) EXCEPTION.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for the individual's State or local campaign committee.".

SEC. 212. STATE PARTY GRASSROOTS FUNDS.

(a) INDIVIDUAL CONTRIBUTIONS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) (as amended by section 105) is amended—

(1) in subparagraph (C) by striking "or" at the end;

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following:

"(D) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which. in the aggregate. exceed $20.000;

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which. in the aggregate. exceed $5.000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20.000; or".

(b) LIMITS.—

(1) IN GENERAL.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by striking paragraph (3) and inserting the following:

"(3) OVERALL LIMITS.—

"(A) INDIVIDUAL LIMIT.—No individual shall make contributions during any calendar year that. in the aggregate. exceed $30.000.

"(B) CALENDAR YEAR.—No individual shall make contributions during any calendar year—

"(i) to all candidates and their authorized political committees that. in the aggregate. exceed $25.000; or

"(ii) to all political committees established and maintained by State committees of a political party that. in the aggregate. exceed $20.000.

"(C) NONELECTION YEARS.—For purposes of subparagraph (B)(i). any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held.".

(c) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1970 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'generic campaign activity' means a campaign activity that promotes a political party and does not refer to any particular Federal or non-Federal candidate.

"(21) The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 326(d).".

(d) STATE PARTY GRASSROOTS FUNDS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 211) is amended by adding at the end the following:

"SEC. 326. STATE PARTY GRASSROOTS FUNDS.

"(a) DEFINITION.—In this section. the term 'State or local candidate committee' means a committee established. financed. maintained. or controlled by a candidate for other than Federal office.

"(b) TRANSFERS.—Notwithstanding section 315(a)(4). no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee. except a transfer may be made to a district or local committee of the same political party in the same State if the district or local committee—

"(1) has established a separate segregated fund for the purposes described in subsection (d); and

"(2) uses the transferred funds solely for those purposes.

"(c) AMOUNTS RECEIVED BY GRASSROOTS FUNDS FROM STATE AND LOCAL CANDIDATE COMMITTEES.—

"(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (d) that are for the benefit of that candidate shall be treated as meeting the requirements of 325(b)(1) and section 304(d) if—

"(A) the amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A)(i); and

"(B) the State or local candidate committee—

"(i) maintains. in the account from which payment is made. records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

"(ii) certifies that the requirements were met.

"(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A). in determining whether the funds transferred meet the requirements of this Act described in paragraph (1)(A)—

"(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

"(B) the committee must be able to demonstrate that its cash on hand contains funds meeting those requirements sufficient to cover the transferred funds.

"(3) Reporting.—Notwithstanding paragraph (1). any State Party Grassroots Fund that receives a transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act. and shall submit to the Commission all certifications received. with respect to receipt of the transfer from the candidate committee.

"(d) Disbursements and Expenditures.—A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

"(1) any generic campaign activity;

"(2) payments described in clauses (v). (x). and (xii) of paragraph (8)(B) and clauses (iv). (viii). and (ix) of paragraph (9)(B) of section 301;

"(3) subject to the limitations of section 315(d). payments described in clause (xii) of paragraph (8)(B). and clause (ix) of paragraph (9)(B). of section 301 on behalf of candidates other than for President and Vice President;

"(4) voter registration; and

"(5) development and maintenance of voter files during an even-numbered calendar year.".

SEC. 213. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 241) is amended by adding at the end the following:

"(e) Political Committees.—

"(1) National and congressional political committees.—The national committee of a political party. any congressional campaign committee of a political party. and any subordinate committee of either. shall report all receipts and disbursements during the reporting period. whether or not in connection with an election for Federal office.

"(2) Other political committees to which section 325 applies.—A political committee (not described in paragraph (1)) to which section 325(b)(1) applies shall report all receipts and disbursements made for activities described in section 325(b) (1) and (2)(iii).

"(3) Other political committees.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

"(4) Itemization.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year. the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A). (5). and (6) of subsection (b).

"(5) Reporting periods.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Building Fund Exception to the Definition of Contribution.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii). respectively.

(c) Reports by State Committees.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by subsection (a)) is amended by adding at the end the following:

"(f) Filing of State Reports.—In lieu of any report required to be filed by this Act. the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(d) Other Reporting Requirements.—

(1) Authorized committees.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by inserting "and" at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph:

"(J) in the case of an authorized committee. disbursements for the primary election. the general election. and any other election in which the candidate participates;".

(2) Names and addresses.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by inserting ". and the election to which the operating expenditure relates" after "operating expenditure".

Subtitle C—Soft Money of Persons Other Than Political Parties

SEC. 221. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 213) is amended by adding at the end the following:

"(f) Election Activity of Persons Other Than Political Parties.—

"(1) In general.—A person other than a committee of a political party that makes aggregate disbursements totaling in excess of $10.000 for activities described in paragraph (2) shall file a statement with the Commission—

"(A) within 48 hours after the disbursements are made; or

"(B) in the case of disbursements that are made within 20 days of an election. within 24 hours after the disbursements are made.

"(2) Activity.—The activity described in this paragraph is—

"(A) any activity described in section 316(b)(2)(A) that refers to any candidate for Federal office. any political party. or any Federal election; and

"(B) any activity described in subparagraph (B) or (C) of section 316(b)(2).

"(3) Additional statements.—An additional statement shall be filed each time additional disbursements aggregating $10.000 are made by a person described in paragraph (1).

"(4) Applicability.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(5) Contents.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe. including—

"(A) the name and address of the person or entity to whom the disbursement was made;

"(B) the amount and purpose of the disbursement; and

"(C) if applicable. whether the disbursement was in support of. or in opposition to. a candidate or a political party. and the name of the candidate or the political party.".

Subtitle D—Contributions

SEC. 231. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended by striking paragraph (8) and inserting the following:

"(8) Intermediaries and conduits.—

"(A) Definitions.—In this paragraph:

"(i) Acting on behalf of the entity.—The term 'acting on behalf of the entity' means soliciting one or more contributions—

"(I) in the name of an entity;

"(II) using other than incidental resources of an entity; or

"(III) by directing a significant portion of the solicitations to other officers. employees. agents. or members of an entity or their spouses. or by soliciting a significant portion of the other officers. employees. agents. or members of an entity or their spouses.

"(ii) Bundler.—The term 'bundler' means an intermediary or conduit that delivers contributions made by other persons. and that is any of the following persons:

"(I) A political committee (other than the authorized campaign committee of the candidate receiving the funds) or an officer. employee or agent of a political committee.

"(II) A corporation. labor organization. or partnership or an officer. employee. or agent of a corporation labor organization. or partnership. acting on behalf of the corporation. labor organization. or partnership.

"(III) A person required to be listed as a lobbyist on a registration or other report filed pursuant to the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) or any successor law that requires reporting on the activities of a person who is a lobbyist or foreign agent.

"(iii) Deliver.—The term 'deliver' means to deliver contributions to a candidate by any method used or suggested by a bundler that communicates to the candidate (or to the person who receives the contributions on behalf of the candidate) that the bundler collected the contributions for the candidate. including such methods as—

"(I) personal delivery;

"(II) United States mail or similar services;

"(III) messenger service; and

"(IV) collection at an event or reception.

"(B) Treatment as contributions from persons by whom made.—

"(i) In general.—For purposes of the limitations imposed by this section. all contributions made by a person. either directly or indirectly. on behalf of a candidate. including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate. shall be treated as contributions from the person to the candidate.

"(ii) Reporting.—The intermediary or conduit through which a contribution is made shall report the name of the original contributor and the intended recipient of the contribution to the Commission and to the intended recipient.

"(C) Treatment as contributions from the bundler.—Contributions that a bundler delivers to a candidate. agent of the candidate. or the candidate's authorized committee shall be treated as contributions from the bundler to the candidate as well as from the original contributor.

"(D) No limitation on or prohibition of certain activities.—This subsection does not—

"(i) limit fundraising efforts for the benefit of a candidate that are conducted by another candidate or Federal officeholder; or

"(ii) prohibit an officer. employee. or agent of a corporation. labor organization. or partnership from soliciting. collecting. or delivering a contribution to a candidate. agent of the candidate. or the candidate's authorized committee if the officer, employee, or agent does so by use of the personal resources of the officer, employee, or agent and is not acting on behalf of the corporation, labor organization, or partnership.".

Subtitle E—Independent Expenditures

SEC. 241. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (7); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures aggregating an additional $1,000 are made with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures aggregating an additional $10,000 are made with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS; TRANSMITTAL.—

"(A) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(i) shall be filed with the Commission; and

"(ii) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.

"(B) TRANSMITTAL TO CANDIDATES.—In the case of an election for United States Senator, not later than 2 business days after receipt of a report under this subsection, the Commission shall transmit a copy of the report to each eligible candidate seeking nomination for election to, or election to, the office in question.

"(4) OBLIGATION TO MAKE EXPENDITURE.—For purposes of this subsection, an expenditure shall be treated as being made on the making of any payment or the taking of any action to incur an obligation for payment.

"(5) DETERMINATIONS BY THE COMMISSION.—

"(A) IN GENERAL.—The Commission may, upon a request of a candidate or on its own initiative, make its own determination that a person, including a political committee, has made, or has incurred obligations to make, independent expenditures with respect to any candidate in any Federal election that in the aggregate exceed the applicable amounts under paragraph (1) or (2).

"(B) NOTIFICATION.—In the case of independent expenditures made in connection with an election in which an eligible Senate candidate is on the ballot, the Commission shall notify each candidate in the election of the making of the determination within 2 business days after making the determination.

"(C) TIME TO COMPLY WITH REQUEST FOR DETERMINATION.—A determination made at the request of a candidate shall be made within 2 business days after the date of the request.

"(6) NOTIFICATION OF AN ALLOWABLE INCREASE IN INDEPENDENT EXPENDITURE LIMIT.—When independent expenditures totaling in the aggregate $10,000 have been made in the same election in support of an opposing candidate or against an eligible Senate candidate, the Commission shall, within 2 business days, notify the eligible Senate candidate that the eligible Senate candidate is entitled under section 503(e) to an increase in the applicable expenditure limit in an amount equal to the amount of the independent expenditures.".

TITLE III—ENFORCEMENT

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting at the end the following:

"(11)(A) The Commission may prescribe regulations under which persons required to file designations, statements, and reports under this Act—

"(i) are required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file a designation, statement, or report in that manner if not required to do so under regulations prescribed under clause (i).

"(B) The Commission shall prescribe regulations which allow persons to file designations, statements, and reports required by this Act through the use of facsimile machines.

"(C) In prescribing regulations under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulations. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

SEC. 302. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by adding at the end the following:

"(2) RANDOM AUDITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act.

"(B) SELECTION OF SUBJECTS.—The aggregate amount of contributions received by an eligible Senate candidate as of the end of each reporting period under section 304 shall meet the requirement of paragraph (1).

"(C) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under paragraph (1) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

"(D) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.".

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 303. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or a preliminary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.";

(2) in paragraph (7), by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(3) in paragraph (11), by striking "(6)" and inserting "(6) or (13)".

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking "$200" and inserting "$50"; and

(2) by striking the semicolon and inserting ", except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person".

SEC. 305. INCREASE IN PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.

Section 309(a)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking "the greater of $10,000 or an amount equal to 200 percent" and inserting "the greater of $15,000 or an amount equal to 300 percent".

SEC. 306. PROHIBITION OF CONTRIBUTIONS BY INDIVIDUALS NOT QUALIFIED TO VOTE.

(a) PROHIBITION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) in the heading by adding "**AND INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE**" at the end; and

(2) in subsection (a)—

(A) by striking "(a) It shall" and inserting the following:

"(a) PROHIBITIONS.—

"(1) FOREIGN NATIONALS.—It shall"; and

(B) by adding at the end the following:

"(2) INDIVIDUALS NOT QUALIFIED TO VOTE.—It shall be unlawful for an individual who is not qualified to register to vote in a Federal election to make a contribution, or to promise expressly or impliedly to make a contribution, in connection with a Federal election; or for any person to solicit, accept, or receive a contribution in connection with a Federal election from an individual who is not qualified to register to vote in a Federal election.''.

(b) INCLUSION IN DEFINITION OF IDENTIFICATION.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and'' the first place it appears; and

(B) by inserting '', and an affirmation that the individual is an individual who is not prohibited by section 319 from making a contribution'' after ''employer''; and

(2) in subparagraph (B) by inserting ''and an affirmation that the person is a person that is not prohibited by section 319 from making a contribution'' after ''such person''.

SEC. 307. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not—

''(i) include the name of any candidate in its name, or

''(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. 308. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after ''SEC. 322.'' the following: ''(a)''; and

(2) by adding at the end the following:

''(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.''.

SEC. 309. EXPEDITED PROCEDURES.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 303) is amended by adding at the end the following new paragraph:

''(14)(A) If the complaint in a proceeding was filed within 60 days immediately preceding a general election, the Commission may take action described in this subparagraph.

''(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in paragraph (13)(A) (ii), (iii), and (iv) are met, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, immediately seek relief under paragraph (13)(A).

''(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.''.

TITLE IV—MISCELLANEOUS

SEC. 401. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

''SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

''Amounts received by a candidate as contributions, and any other amounts received by an individual as support for his or her activities as a holder of Federal office, may be used by such candidate or individual for expenditures in connection with his or her campaign for Federal office, for any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, for contributions to any organization described in section 170(c) of title 26, or for transfers to any national, State or local committee of any political party. No such amounts may be converted by any person to any personal use. For the purposes of this section, such amounts are converted to personal use if they are used to fulfill any commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or individual's responsibilities as a Federal officeholder, including but not limited to, a home mortgage, rent or utility payment; clothing purchase; noncampaign automobile expense; country club membership; vacation, or trip of a noncampaign nature; household food items; tuition payment; admission to a sporting event, concert, theatre or other form of entertainment not associated with a campaign; and dues, fees or contributions to a health club or recreational facility.''.

SEC. 402. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(ii) by striking ''an expenditure'' and inserting ''a disbursement''; and

(iii) by striking ''direct''; and

(B) in paragraph (3), by inserting ''and permanent street address'' after ''name''; and

(2) by adding at the end the following:

''(c) Any printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement which—

''(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement: '____________ is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

SEC. 403. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

(a) IN GENERAL.—Section 3210(a)(6)(A) of title 39, United States Code, is amended to read as follows:

''(A) A Member of Congress shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that Office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that year or for election to any other Federal office.''.

(b) APPLICATION OF SAVINGS.—It is the intent of Congress that any savings realized by virtue of the amendment made by subsection (a) shall be designated to pay for the benefits of section 104 (relating to reduced postage rates for eligible Senate candidates) provided under section 104.

SEC. 404. PARTY INDEPENDENT EXPENDITURES.

Section 315(d) of the Federal Election Campaign Act of 1997 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1)—

(A) by inserting ''coordinated'' after ''make''; and

(B) by striking ''(2) and (3)'' and inserting ''(2), (3), and (4)''; and

(2) by adding at the end the following:

''(4) Before a committee of a political party may make coordinated expenditures in connection with a general election campaign for Federal office in excess of $5,000 pursuant to this subsection, the committee shall file with the Commission a certification, signed by the treasurer, that the committee has not and will not make any independent expenditures in connection with that campaign for Federal office. A party committee that determines to make coordinated expenditures pursuant to this subsection shall not make any transfers of funds in the same election cycle to, or receive any transfer of funds in the same election cycle from, any other party committee that determines to make independent expenditures in connection with the same campaign for Federal office.

"(5)(A) A committee of a political party shall be considered to be in coordination with a candidate of the party if the committee—

"(i) makes a payment for a communication or anything of value in coordination with the candidate, as described in section 301(8)(A)(iii);

"(ii) makes a coordinated expenditure under section 315(d) on behalf of the candidate;

"(iii) participates in joint fundraising with the candidate or in any way solicits or receives a contribution on behalf of the candidate;

"(iv) communicates with the candidate or an agent of the candidate (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising, message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics or strategy; or

"(v) provides in-kind services, polling data, or anything of value to the candidate.

"(6) For purposes of paragraphs (4) and (5), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established by State political parties shall be considered to be a single political committee.

"(7) For purposes of paragraph (5), any coordination between a committee of a political party and a candidate of the party after the candidate has filed a statement of candidacy constitutes coordination for the period beginning with the filing of the statement of candidacy and ending at the end of the election cycle.".

SEC. 405. COORDINATED EXPENDITURES; INDEPENDENT EXPENDITURES.

(a) DEFINITION OF COORDINATED EXPENDITURE.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) a payment made for a communication or anything of value that is for the purpose of influencing an election for Federal office and that is a payment made in coordination with a candidate."; and

(B) by adding at the end the following:

"(C) For the purposes of subparagraph (A)(iii), the term 'payment made in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with a view toward having the payment made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy or advisory position with the candidate's campaign or has participated in strategic or policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any individual or person who has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the professional is retained to work on activities relating to that candidate's campaign.

"(D) For purposes of subparagraph (C)(vi), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

(2) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking paragraph (B), and inserting the following:

"(B) Payments made in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be contributions to such candidate, and in the case of limitations on expenditures, shall be treated as expenditures for purposes of this paragraph.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

(c) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

"(A) IN GENERAL.—The term 'independent expenditure' means an expenditure that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of, or without consultation with, or without coordination with a candidate or a candidate's authorized committee or agent (within the meaning of section 301(8)(A)(iii)).

"(B) EXCLUSION.—The term 'independent expenditure' does not include an expenditure or payment made in coordination with a candidate (within the meaning of section 301(8)(A)(iii)).".

SEC. 406. EXPRESS ADVOCACY.

(a) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting a semicolon; and

(3) by adding at the end the following:

"(iii) any payment during an election year (or in a nonelection year, during the period beginning on the date on which a vacancy for Federal office occurs and ending on the date of the special election for that office) for a communication that is made through any broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising by a national, State, district, or local committee of a political party, including a congressional campaign committee of a party, that refers to a clearly identified candidate; and

"(iv) any payment for a communication that contains express advocacy.".

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by section 212(d)) is amended by adding at the end the following:

"(20) EXPRESS ADVOCACY.—

"(A) IN GENERAL.—The term 'express advocacy' includes—

"(i) a communication that conveys a message that advocates the election or defeat of a clearly identified candidate for Federal office by using an expression such as 'vote for,' 'elect,' 'support,' 'vote against,' 'defeat,' 'reject,' '(name of candidate) for Congress', 'vote pro-life,' or 'vote pro-choice', accompanied by a listing or picture of a clearly identified candidate described as 'pro-life' or 'pro-choice,' 'reject the incumbent', or a similar expression;

"(ii) a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising that involves aggregate disbursements of $10,000 or more, that refers to a clearly identified candidate, that a reasonable person would understand as advocating the election or defeat of the candidate, and that is made within 30 days before the date of a primary election (and is targeted to the State in which the primary is occurring), or 60 days before a general election; or

"(iii) a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising that involves aggregate disbursements of $10,000 or more, that refers to a clearly identified candidate, that a reasonable person would understand as advocating the election or defeat of a candidate, that is made before the date that is 30 days before the date of a primary election, or 60 days before the date of a general election, and that is made for the purpose of advocating the election or defeat of the candidate, as shown by 1 or more factors such as a statement or action by the person making the communication, the targeting or placement of the communication, or the use by the person making the communication of polling, demographic, or other similar data relating to the candidate's campaign or election.

"(B) EXCLUSION.—The term 'express advocacy' does not include the publication or distribution of a communication that is limited solely to providing information about the voting record of elected officials on legislative matters and that a reasonable person would not understand as advocating the election or defeat of a particular candidate.".

TITLE V—CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 501. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 502. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 503. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 504. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.●

ORDER OF BUSINESS

The PRESIDING OFFICER. Is the Senator from New Mexico seeking time?

Mr. BINGAMAN. Yes. Madam President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING EDUCATION A TOP PRIORITY IN THE 105TH CONGRESS

Mr. BINGAMAN. Madam President, I was very pleased that at the end of the last Congress, we finally did the right thing by education. We increased funding for education. It was a bipartisan effort. We got good support in the waning days of that Congress for improvements in education.

This time I believe we should not wait until the end of the Congress. I believe that education needs to be a top priority of this Congress beginning now and continuing on through the rest of the first session and, of course, the second session as well.

For this reason, I think it is timely that Education Week, which is perhaps the preeminent weekly publication dealing with education issues at the national level, issued its report card on the condition of public education in the 50 States just as this new Congress is beginning.

The report is entitled "Quality Counts." It is a very comprehensive, thorough look at the issue, and it goes through great detail in trying to assess how each State is doing in providing education to its young people.

I recommend this report to all of my colleagues and anybody who is watching. I think it does a good job. It focuses where we need to be focused. I think it needs to be taken very seriously by this Congress.

In the area of quality of teaching, which I am sure we would all agree is essential to a strong education, this report finds that 40 percent of high school teachers lack a college degree in the subject area that they are teaching in. There are too many unlicensed teachers being used in our classrooms today. Ongoing training is still not a reality in most of our States. So the national grade that we received for quality of teaching was a C, which I think all of us who have been through the educational system know is not a stellar performance.

A second finding is about "school climate." Here the findings were that nearly half of elementary teachers have classes of 25 or more students. More than half of high school teachers see in excess of 80 students per day. Almost 70 percent of students attend high schools of 900 or more.

The reason that this last statistic is important is that we have several studies now that conclude that the quality of education and the quality of student performance goes down as the size of the school increases. When you get a high school of more than 900 students the quality and level of student achievement goes down. So it is unfortunate that a majority of our students are in schools which our own experts tell us are too large. That is something we need to focus on nationally, and we got a C-minus on school climate because of those facts I just cited.

Third, on "overall spending," the States received a C-plus. The report found that most of the increases in spending have gone toward rising enrollment and special education and salaries for an aging work force. And we are not putting the resources into education that we should be, considering the growth in the school population.

Fourth, on "equity of funding", which means the disparities between the rich school districts and the poor school districts, the States got a B-minus. This is a little better than we have done in some of the other areas, but the report finds that the quality of the child's education still depends too greatly on skin color, on family income, and on which school district they happen to reside in.

The fifth indicator is the effective "allocation of funds." According to the report, classrooms still receive only 61 percent of total resources that go into our educational system. Too many of those resources get stopped at the administrative level. On average, there are still over 35 students for each multimedia computer in our school system. Thirty-three percent of districts have at least one serious school construction need. So in that area of allocation of funds, the States received a C-minus.

The sixth area is "standards and assessments." There the States got a B because the conclusion was that this is the area perhaps where we are making the most progress. However, in most States standards have not yet found their way into the classrooms. Even if tests were developed, we do not yet know how rigorous they are, and few States are ready to hold either the schools or the students sufficiently accountable.

The final indicator is "student achievement," which of course is the bottom line, the ultimate goal of our educational system. They did not give a grade there. They said that in student achievement our "results were disappointing." That was the phrase which was used. The report finds that only 28 percent of fourth graders nationwide ranked as being proficient in reading, which is not an adequate level of performance. Even the highest scoring States in the Nation have fewer than half of their elementary students scoring proficient in reading and in math.

Madam President, let me put this in some perspective. Many of us who try to follow education-related issues know that we have a national test that is given around the country periodically called the National Assessment of Educational Progress, or NAEP for short. This is a chart that shows trends in NAEP reading scores from 1971 through 1994. You don't need to look at this chart long before you notice that all of these lines are not going up. These lines are flat. That means that we essentially are seeing no significant improvement in reading scores by students in this period from 1971 to 1994. Madam President, we are stuck on mediocre, or perhaps stuck on even worse than that. I think this is a cause for concern.

When I look at my own State and read this report there are three areas in which New Mexico performs above the national average. We get an A for standards, compared to the B that most States get. We get a B for overall educational spending, versus the C that is given nationally by this report. And we get a B-minus for classroom resources, versus a C-minus nationally.

There are three other areas, however, in which my State of New Mexico performs worse than the national average. First, the State's test scores still are near the bottom in this National Assessment of Educational Progress test in almost all areas. Only 21 percent of the fourth graders in my State were judged to be at the proficient level in reading, and only 11 percent were judged proficient in math. Also we received a C-minus for teaching quality, compared to a C nationally. And we received a D-plus for school climate compared to a C-minus nationally.

S. 12, the Democratic leadership education bill, does address several of the key issues that are raised by this report. I think they are very important issues. Let me very briefly summarize what this bill is trying to do.

To address the low literacy rates that I described, S. 12 creates a program to increase the efforts of over 1 million teachers, parents, and volunteers in literacy training.

To lower financial barriers to college, including tuition that rose over 100 percent over the last 10 years, S. 12 proposes a $1,500 tax credit and a $10,000 deduction for students with a B average.

To help schools build and repair seriously deteriorating facilities, which 33 percent of all school districts report having, S. 12, provides $5.75 billion in bond interest subsidies.

And finally, to help schools address the fact that over 70 percent of the computer equipment available is outdated and cannot provide adequate instruction and there are roughly 35 students for every modern computer, S. 12 calls for $1.8 billion in funding for the 1994 Technology for Education Act, which was funded at the level of $200 million in the current fiscal year.

In conclusion, let me say that this report needs to be looked at by a great many people here in the Congress and elsewhere. It clearly reinforces other findings and reports that have raised these same issues in recent months.

Second, it is clear that nothing has changed since the end of the last Congress, when we finally gave education the attention it deserved and began to really do what should be done at the national level to support education. We need to keep that up, and maintain that momentum in this new Congress. I do believe we can renew our efforts to improve education, renew our efforts to put resources where the people of this country want them, and that is in the education of their children. There should be no letdown in the efforts of Congress in this regard.

Mr. President, I look forward to the additional opportunities in the coming weeks to focus on some of these issues, and I hope we can pursue this set of issues on a bipartisan basis and make real progress for the American people.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COATS). The clerk will call the roll.

Will the Senator withhold his request?

Mr. ENZI. Mr. President, I ask unanimous consent for 5 minutes in morning business.

The PRESIDING OFFICER. The Senator from Wyoming is recognized to speak for 5 minutes.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S. 180 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ENZI. I thank the Chair, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

THE NUCLEAR WASTE POLICY ACT OF 1997

Mr. MURKOWSKI. Mr. President, last summer the U.S. Court of Appeals issued a ruling that confirmed something that many of us already understood. The Federal Government has an obligation to provide a safe, centralized storage place for our Nation's spent fuel and nuclear waste, beginning less than 1 year from today.

This is a commitment that Congress and the Department of Energy made 15 years ago. We have collected $12 billion from the American ratepayers for this purpose. But, after spending some $6 billion, the Federal Government is still not prepared to deliver on its promise to take and safely dispose of our Nation's nuclear waste by 1998. Hard-working Americans have paid for this as part of their monthly electric bill. They simply have not gotten any results.

So a lawsuit was filed and the court confirmed that there is, indeed, a legal obligation as well as a moral one. We have reached a crossroads. The job of fixing this program and this injustice is ours. The time for fixing the program is now.

Today in this country, high-level nuclear waste and highly radioactive used nuclear fuel is accumulating at over 80 sites in 41 States, including waste stored at the Department of Energy's weapon facilities. It is stored in populated areas near our neighbors, near our neighborhoods, near our schools, on the shores of our lakes and rivers, in the backyards of constituents young and old across this land. Used nuclear fuel is being stored near the east and west coasts where most Americans live, maybe in your town and near your neighborhood. Used fuel is being stored in pools that were not designated for long-term storage.

Some of this fuel is already over 30 years old. Each year that goes by, our ability to continue storage of this used fuel at each of these sites in a safe and responsible way diminishes. It is irresponsible to let this situation continue. It is unsafe to let this dangerous radioactive material continue to accumulate in more than 80 sites all across the country, in 41 States. It is unwise to block the safe storage of this used fuel in a remote area away from high populations. It is a national problem that requires a coordinated national solution.

Yesterday, on behalf of myself and 19 other cosponsors, I introduced the exact text of S. 1936 from the 104th Congress as S. 104, the Nuclear Waste Policy Act of 1997. This legislation was passed by the Senate last summer by a vote of 63 to 37. It sets forth a program that will allow the Department of Energy to meet its obligations as soon as humanly possible.

S. 104 provides for an integrated system to manage used fuel for commercial nuclear powerplants and high-level radioactive waste from the Department of Energy's nuclear weapons facilities. The integrated system includes construction and operation of a temporary storage center, a safe transportation network to transfer these byproducts, and continuing scientific studies at Yucca Mountain, Nevada, to determine if it is a suitable repository site. During the floor consideration of the bill last year, we received many constructive suggestions for improving that bill. The final version passed by the Senate incorporated most of these changes.

The most important provisions of the bill include: First, the role of the Environmental Protection Agency. The bill provides that the Environmental Protection Agency shall issue standards for the protection of the public from releases of radioactive materials from a permanent nuclear waste repository. The Nuclear Regulatory Commission is required to base its licensing determination on whether the repository can be operated in accordance with the Environmental Protection Agency's radiation protection standards.

The National Environmental Policy Act, or NEPA—the bill complies fully with NEPA by requiring two full environmental impact statements, one in advance of operation of the temporary storage facility and one in advance of repository licensing by the Nuclear Regulatory Commission. The bill provides that, where Congress has statutorily determined need, location, and size of the facilities, these issues need not be reconsidered. There is simply no rationale for requiring that.

Another concern is transportation routing. The bill provides that, in order to ensure that spent nuclear fuel and high-level nuclear waste is transported safely, the Secretary of Energy will use transportation routes that minimize, to the maximum practical extent, transportation through populated and sensitive environmental areas. The language also requires that the Secretary develop, in consultation with the Secretary of Transportation, a comprehensive management plan that ensures the safe transportation of these materials.

Under transportation requirements, the bill contains language clarifying transportation of spent fuel under this act shall be governed by the requirements imposed by all Federal, State and local governments and Indian tribes, to the same extent as any other person transporting hazardous materials in interstate commerce.

With regard to the interim storage facility, in order to ensure that the size and scope of the interim storage facility is manageable, yet adequate to address the Nation's immediate spent fuel storage needs, the bill would limit the size of phase I of the interim storage facility to 15,000 metric tons of spent fuel and the size of phase II of the facility to 40,000 metric tons. Phase II of the facility would be expanded to 60,000 metric tons if the Secretary fails to meet his projected goal with regard to the licensing of the permanent depository site.

With respect to the preemption of other laws, a provision of the bill would provide that if any law does not conflict with the provisions of the Nuclear Waste Policy Act and the Atomic Energy Act, that law will govern. Further State and local laws are preempted only if those laws are inconsistent with or duplicative of the Nuclear Waste Policy Act or the Atomic Energy Act. The language is consistent with the preemption authority found in the existing Hazardous Materials Transportation Act.

Finally, the bill contains bipartisan language that was drafted to address this administration's objections to the siting of an interim facility at the Nevada test site before the viability assessment of the Yucca Mountain permanent repository site was available. The language provides construction shall not begin on an interim storage facility at Yucca Mountain before December 31, 1998. The bill provides for the delivery of an assessment of the viability of the Yucca Mountain site to the President and Congress, by the Secretary, 6 months before construction can begin on the interim facility.

If, based on the information before him, the President should determine in his discretion that the Yucca Mountain site is not suitable for development as a repository, then the Secretary shall cease work on both the interim and permanent repository programs at the Yucca Mountain site. The bill further provides if the President makes such a determination, he shall in 18 months designate an interim storage site. If the President should fail to designate a site or if a site he has designated has not been approved by the Congress within 2 years of his determination, the Secretary is instructed to construct an interim storage facility at the Yucca Mountain site.

This ensures the construction of an interim storage facility will not occur before the President and Congress have had ample opportunity to review the technical assessments of the suitability of the Yucca Mountain site for a permanent repository and to designate an alternate site for interim storage. However, this provision will also ensure that ultimately an interim storage facility site will be chosen.

Without this assurance, Mr. President, we leave open the possibility that we will find in 1998, just a year away, that we have, one, no interim storage; two, no permanent repository program; and three, after more than 15 years and the expenditure of $6 billion, we are back right where we started in 1982 when we passed the first version of the Nuclear Waste Policy Act.

During the debate that will unfold, we will undoubtedly have our friends from Nevada oppose the bill with all the arguments they can muster. That is understandable. They are merely doing what Nevadans have requested them to do.

But the difficulty we have with this issue, Mr. President, is nobody wants nuclear waste stored in their State. But you can't make it disappear. It has to be stored somewhere. What better site than the Nevada test site, the area in the Nevada desert where we tested nuclear devices for nearly 50 years.

Has any better site been identified by the scientists who have searched throughout the United States and even areas outside the United States? The answer is that there has not been any better site suggested.

So I implore those who criticize how we propose to dispose of this obligation to consider that they, too, have an obligation to come up with an alternative. The reality is, there have been a number of years to come up with those alternatives. Nobody has come up with one. In the meantime, an industry that generates nearly 22 percent of the total energy produced in this country is finding its storage sites filled to the maximum. The industry ability to store spent fuel at the reactor sites is limited by the legal requirements of the individual States, and some of the antinuclear groups see this as a way to terminate the nuclear industry, as we know it in the United States today.

In my opinion, those who have this objective are irresponsible, because they fail to tell us how we are going to generate the power that is currently provided by the nuclear industry in this country. Are we going to have more power generated by burning coal? Is it going to be more oil production? Is it going to be more hydroelectric production?

There is a give-and-take associated with this, and as we address the issues of global warming and greenhouse gases, it must be recognized that the nuclear industry makes a positive contribution to energy generation in this country, as those concerns are not matters of significance relative to nuclear power generation.

Again, the reality is nobody wants nuclear waste in their State, but it has to go somewhere. I have the utmost respect for my colleagues, my friends from Nevada. We have talked about this issue at length, and we have a simple difference of opinion. But, again, although they criticize storing it in their State, at the area where we have tested nuclear weapons for some 50 years, they really don't have a viable alternative either.

Some suggest we simply leave it where it is. Leave it at the sites in the 41 States. Well, we can't do that, Mr. President.

There is other technology being developed by the French and Japanese that reprocesses nuclear waste, recovers the plutonium, and reinjects it into the reactors, and reduces the proliferation threat. That is not a policy that is supported by this administration. Nor is it a policy that is supported by the Department of Energy although someday, I am afraid, we are going to have to look at that as a relief if we are unable to open a geologic repository for the spent fuel.

But in the meantime, this material is piling up at various sites around the United States, and a temporary central repository that stores spent fuel on the surface, in special casks that are approved by the Nuclear Regulatory Commission, is the appropriate action to be taken at this time.

As U.S. Senators, we have an obligation to take a nationwide perspective on a problem. We must do what is best for the country as a whole, and this is certainly a case in point.

No one can continue to pretend that there is an unlimited amount of time to deal with this problem. The Federal Government has entered into a contract with the ratepayers. They collected the funds. Now they must act and must act to ensure there is a safe, secure and responsible place to put the radioactive waste, and it is an obligation that we have committed to fulfill.

The court did not address the issue of remedies. The court was very clear that the Department of Energy has an obligation to take spent nuclear fuel in 1998, whether a repository is ready or not. The reality is a repository cannot be ready by that date. So I assume there are going to be a series of lawsuits filed against the Federal Government. That is another full employment act for the lawyers, Mr. President.

But so far, the Department of Energy's only response to the court decision has been to send out a letter asking for suggestions on how it can meet its obligation to take spent fuel in 1998. It is clear that we all agree on the question. Now is the time for answers.

We have a clear and simple choice. We can choose to have one remote, safe and secure temporary nuclear waste storage facility, or through inaction, through delay, we can face an uncertain judicial remedy which will almost certainly be costly, and which is unlikely to actually move waste out of America's backyards.

It is not morally right to shirk our responsibility to the environment and the future of our children and grandchildren. This is a situation we have created, and it is an obligation we must fulfill. We cannot wait until 1998 to decide where the Department of Energy will store this nuclear waste.

We have received letters from 23 Governors and attorneys general, including Arizona, Arkansas, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and Wisconsin, specifically urging this Congress to pass, and the President to sign, a bill that will provide for interim storage at the Nevada test site.

Congress must speak now and provide the means to build one safe monitored, temporary storage facility at the Nevada test site, a unique site so remote that the Government has used it to explode nuclear weapons for over 50 years, or, if that is not sufficient, another site designated by the President and Congress.

The jury is in on this issue. The time is now. The Nuclear Waste Policy Act of 1997 is the answer, and I urge my colleagues to join with me in cosponsoring this legislation and support the passage of S. 104 in the 105th Congress.

Mr. President, I yield the floor.

COMMENDING AND THANKING THE HONORABLE WARREN CHRISTOPHER

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 4, submitted earlier today by Senators CONRAD, DORGAN, DODD, BIDEN, MOSELEY-BRAUN and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 4) commending and thanking the Honorable Warren Christopher for his exemplary service as Secretary of State.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CONRAD. Mr. President, I rise to pay tribute to a great American on the occasion of his retirement from Government service, the Hon. Warren Christopher.

Anyone who has been reading the headlines for the past 4 years is well familiar with Secretary Christopher's many accomplishments. Through negotiations on ending the war in Bosnia, restoring elected government in Haiti, and advancing the peace process in the Middle East, Secretary Christopher has kept a steady, reliable hand on the ship of state. His calm demeanor, good humor, and sharp intelligence will be missed by all who knew him. America has benefitted from his able leadership, and it is my hope that he will continue to be active in the affairs of our Nation in his retirement.

Less widely known than Secretary Christopher's negotiating acumen is the fact that he hails from my home State, the Great State of North Dakota. Born in Scranton, Secretary Christopher has made proud a State which prides itself on hard work, quiet strength, and doing the right thing. Secretary Christopher is one of my State's most distinguished natives sons, and will always have a home in North Dakota.

In light of his many important achievements, today I am introducing a resolution which commends and thanks Secretary Christopher for his excellent service to the Nation. The resolution highlights his "indefatigable commitment to advancing peace and justice, protecting and promoting United States interests, and preserving United States leadership in international affairs." I trust that all of my colleagues will agree that Secretary Christopher deserves to be so honored, and will support my resolution.

Mr. DODD. Mr. President, earlier today on the third day of the 105th Congress, we cast a historic ballot—on behalf of the first woman to be confirmed as Secretary of State in our Nation's proud history.

But, as we prepare to usher in Madeleine Albright as America's new Secretary of State, I wanted to take this opportunity to voice my strong support for the pending resolution that honors the man whose shoes she will soon be filling—Warren Christopher.

Over the past 4 years, Warren Christopher provided the steadying hand and reservoir of experience that helped President Clinton successfully weave his way through the minefield of international diplomacy.

Through these efforts, he earned a revered statute—as the elder statesman of the President's Cabinet.

In the more than 200-year history of our Republic, no Secretary of State traveled more miles in the pursuit of democracy, open markets, and the promotion of American international interests than Warren Christopher. From Beijing to Buenos Aires, Johannesburg to Jakarta, and Mali to Moscow, no journey was too far and no effort unworthy of his personal diplomacy.

In the Middle East, his diplomatic endeavors paved the way for the first steps toward reconciliation and cooperation in the age-old conflict between Israelis and Palestinians.

Generations from now, Bosnians, Serbs, and Croats will look back with fondness and appreciation at his tireless efforts to bring the warring parties together at Dayton. In fact, at Dayton, after the bags were packed and the participants had all but given up, it was Warren Christopher who convinced all sides that a peaceful resolution was the only true hope for the Balkans.

Under his watch, the Haitian people were able to finally cast off the evils of dictatorship for the fruits of democracy. The Korean Peninsula took its first tentative steps toward limiting the development of nuclear weapons and curbing tensions in one of the cold war's last hotspots.

What's more, over the past 4 years—with the strong support of Warren Christopher and the Clinton administration, democracy spread its wings across every corner of the globe.

Today in Latin America every nation but one is a full-fledged democracy. In Russia, 70 years of totalitarian rule are giving way to free elections and open markets. And in Africa, a region scarred for so long by war, famine, and political instability, the seeds of democracy are beginning to take root.

However, for all the accomplishments that Warren Christopher achieved overseas, we must not forget the impact of his impressive contributions here at home. Besides helping to make America more secure and protecting our vital national interests, Warren Christopher presided over a period of great economic liberalization—a period that brought greater prosperity and limitless economic opportunity to millions of Americans.

Secretary Christopher built on the passage of NAFTA and GATT by working to create a framework for regional-wide trading blocs in all of Latin America and the Pacific rim. The result is increased opportunities for export, and new developing markets for American commerce.

But, most of all, Warren Christopher brought a quiet dignity, grace, and gentle demeanor to his role as Secretary of State.

At a time when public debate in our Nation is becoming coarser and more partisan, when style seems to take precedent over substance and when shrill voices garner more attention than quiet deliberation, Warren Christopher proved that you can still speak softly, yet carry a big stick.

A recent editorial in his hometown Los Angeles Times by Tom Plate describes the traits that define Warren Christopher best:

> Extreme loyalty to friends and colleagues; a faith in the institutions of government and the Constitution; respect for careerists in

the State Department as well as on his personal staff; discretion approaching squareness.

These are the attributes that inspired him through four Democratic administrations and years of public service. What's more, they are virtues that every American should expect from their leaders.

As he prepares to return to his beloved California with his wife, Marie, to spend more time with his children and grandchildren, I join all my colleagues in wishing him the best.

What's more, I urge all my colleagues to join me in supporting this resolution honoring a man who in all his travels—from the Great Plains of Scranton, ND, to the corridors of power in Foggy Bottom—never lost his sense of dignity, grace, and conviction to principle.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 4) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. Con. Res. 4

Whereas Secretary Warren Christopher served as Secretary of State from 1993 until 1997, and maintained the tradition of that Office by representing the international interests of the United States with great dignity, grace, and ability;

Whereas Secretary Christopher, during his tenure as Secretary of State, engaged in more international travel than any other Secretary of State in United States history, reflecting his indefatigable commitment to advancing peace and justice, protecting and promoting United States interests, and preserving United States leadership in international affairs;

Whereas Secretary Christopher has played a key leadership role in United States foreign policy achievements, including ending the war in Bosnia, restoring an elected government in Haiti, and advancing peace in the Middle East;

Whereas Secretary Christopher served with distinction as Deputy Secretary of State from 1977 until 1981 and, among his accomplishments as Deputy Secretary, is credited with skillfully negotiating the release of American hostages in Iran;

Whereas Secretary Christopher has had a distinguished career in law and public service in California;

Whereas Secretary Christopher, born in Scranton, North Dakota, is one of North Dakota's most distinguished native sons and has always displayed the quiet strength and work ethic associated with the people of the Great Plains;

Whereas in 1997 Secretary Christopher leaves his position as the 63d Secretary of State; and

Whereas Secretary Christopher has earned the respect and admiration of Congress and the American people: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends and thanks the Honorable Warren Christopher for his exemplary diplomatic service, and for his skillful and indefatigable efforts to advance peace and justice around the world.

PROVIDING FOR A JOINT SESSION OF CONGRESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 9, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 9) providing for a joint session of Congress to receive a message from the President on the state of the Union.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the resolution be deemed agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 9) was agreed to.

RELATIVE TO THE DEATH OF THE HONORABLE PAUL TSONGAS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 22, which is at the desk and was introduced earlier today by the majority leader and the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 22) relative to the death of the Honorable Paul Tsongas, formerly a Senator from the Commonwealth of Massachusetts.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 22) was agreed to as follows:

S. Res. 22

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Paul Tsongas, formerly a Senator from the Commonwealth of Massachusetts.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the deceased Senator.

ORDERS FOR THURSDAY, JANUARY 23, 1997

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 o'clock, Thursday, January 23, further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business with each Senator allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MURKOWSKI. Mr. President, for the information of all Senators, the Senate will be in session tomorrow for morning business to allow Members to introduce legislation and make statements. No rollcall votes will occur during Thursday's session of the Senate. When the Senate completes its business on Thursday, it will stand in adjournment until Monday, January 27, for a pro forma session only. No business will be transacted on Monday, and the Senate will then adjourn until Tuesday. The majority leader has announced that rollcall votes are possible on Tuesday on any nominations that may become available for consideration.

ADJOURNMENT UNTIL 11 A.M., THURSDAY, JANUARY 23, 1997

Mr. MURKOWSKI. If there is no further business, Mr. President, to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order in accordance with the provisions of Senate Resolution 22.

There being no objection, the Senate, at 5:30 p.m., adjourned until Thursday, January 23, 1997, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate January 22, 1997:

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE SECTION 601:

To be lieutenant general

LT. GEN. JAMES L. JONES, 2699.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE

NAVY UNDER TITLE 10. UNITED STATES CODE SECTION 12203:

To be captain

LARRY L. BLAKESLEY. 2911.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

SUSAN BASS LEVIN. OF NEW JERSEY. TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S. TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10. 1999. VICE RICHARD C. HACKETT.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED UNDER TITLE 10. UNITED STATES CODE SECTION 624:

To be major general

BRIG. GEN. GREGORY A. ROUNTREE. 9047.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10. UNITED STATES CODE SECTION 601:

To be lieutenant general

MAJ. GEN. MARTIN R. STEELE. 2490.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate January 22, 1997:

DEPARTMENT OF STATE

MADELEINE KORBEL ALBRIGHT. OF THE DISTRICT OF COLUMBIA. TO BE SECRETARY OF STATE.

DEPARTMENT OF DEFENSE

WILLIAM S. COHEN. OF MAINE. TO BE SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 23, 1997, may be found in the Daily Digest of today's RECORD .

MEETINGS SCHEDULED

JANUARY 28

9:30 a.m.
Environment and Public Works
To hold an organizational meeting.
SD–406

Rules and Administration
To hold hearings on the nomination of Alan M. Hantman, of New Jersey, to be Architect of the Capitol.
SR–301

10:00 a.m.
Budget
To hold hearings on the Congressional Budget Office economic and budget outlook.
SD–608

10:15 a.m.
Rules and Administration
Business meeting, to consider the nomination of Alan M. Hantman, of New Jersey, to be Architect of the Capitol.
SR–301

JANUARY 29

9:30 a.m.
Small Business
To hold an organizational meeting.
SR–428A

10:00 a.m.
Budget
To hold hearings on proposals for long-term Social Security reform.
SD–608

Commerce, Science, and Transportation
To hold hearings on the nomination of Rodney E. Slater, of Arkansas, to be Secretary of Transportation.
SR–253

Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for programs of the Individuals with Disabilities Education Act (IDEA).
SD–430

JANUARY 30

10:00 a.m.
Budget
To hold hearings on the consumer price index.
SD–608

Judiciary
Business meeting, to consider pending committee business.
SD–226

FEBRUARY 12

9:30 a.m.
Environment and Public Works
To hold hearings on the ozone and particulate matter standards proposed by the Environmental Protection Agency.
SD–406

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Thursday, January 23, 1997*

The Senate met at 11 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, thank You for the liberating power of an unreserved commitment to You and to our work in Government. When we commit to You our lives and each of the challenges we face, we are not only released from the tension of living on our own limited resources, but a mysterious movement of Your providence begins. The company of Heaven, plus people and circumstances, begin to rally to our aid. Unexpected resources are released, unexplainable good things start happening. The time to begin is now, and the place is here. We all have personal and professional burdens on our shoulders. Commitment is to roll them off our shoulders onto Your strong shoulders, Almighty God. We commit the challenges of this day to You and press on to our work with freedom and joy. We claim the promise of Proverbs 16:3, "Commit your works to the Lord and your thoughts will be established." We claim that, Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today, we will be in a period for morning business in order for all Senators to introduce legislation and to make statements in connection and support of those pieces of legislation, or to make statements on other issues, if they so desire.

As we announced last night, no rollcall votes will occur during today's session, and when the Senate completes its business today, it will stand in adjournment until Monday, January 27, for a pro forma session only. No business will be conducted during Monday's session, and the Senate will automatically adjourn over until Tuesday, January 28.

As all Members are aware, throughout the past week, and continuing into next week, committees are holding hearings with regard to various nominations for the President's Cabinet. That is one reason why we are trying to not force activity on the floor of the Senate, so that the committees can do their work and so the proper investigations and hearings can be held. It is my hope that next week the Senate will be able to consider additional nominations that may become available to the full Senate. It looks like there may be one or two that would be available next week sometime.

So I remind all Senators that rollcall votes are possible, and hopefully likely, beginning on Tuesday and throughout the week on those nominations or other matters that may become available.

Finally, I thank all of my colleagues for their cooperation in allowing us to finish action on the two nominations yesterday. It was not planned and it was not easy, because some Senators had made other arrangements. We had some Senators that wanted to go to Massachusetts for the wake of Senator Tsongas, and then we have the funeral proceedings today. But we were able to work through that, and there was a little give and take and I appreciate that.

I will be sending a letter—hopefully joined by the Democratic leader—if not tomorrow, early next week, to also ask Senators at the beginning of the session to be helpful to the leadership by not making unreasonable requests as to when votes will occur. I was shocked last year, when I came in as majority leader, at the requests we got from Senators who said, "Can we not have a vote until 11 o'clock on Tuesday?" "Could we not have any votes between 4 o'clock and 7 o'clock on Thursday?"

If we want to have a family friendly Senate, it begins with individual Senators. We will always try to accommodate all Senators wherever we can, and we work with the staff on both sides of the aisle when there are extenuating circumstances—planes are delayed, or when there are funerals that must be attended—and that's fine. But I really think that the practice that has evolved—and I believe it has evolved over several years—where 1 Senator is willing to ask 99 Senators to inconvenience themselves for their one need, is out of control. It is ridiculous and unfair. We are not going to be able to get our work done and be able to go home at a reasonable hour at night if we can't have votes on Monday, if we can't have any votes until 11 o'clock on Tuesday, and cannot vote on Thursday afternoon. So, frankly, we are not going to honor those requests when they are ridiculous and of that nature.

Senators should know that beginning at 9 o'clock on Tuesday until 6 or 7 o'clock on Tuesday, they will be expected to be here to vote, unless it is extraordinarily important. We are going to make sure we do it in a nonpartisan, bipartisan way. But I think we may have to prove a point here a couple of times. One of the reasons why we always want all Senators present is so they can record their constituents' views through their vote, but also because sometimes absentees lead to defeat on one side or the other. So Senators need to be here during normal working hours on Tuesday, Wednesday, Thursday, and probably some Mondays and Fridays. We will try to give as long a notice as possible. This is not an election year. We need to change our approach as to how we do our work.

I plead with the Senators, don't continue that practice. It will not be our intent to honor it when it borders on the verge of being, as I said twice before, ridiculous. We will send a written letter to every Senator from the leaders on both sides, hopefully, asking that this request be honored.

Seeing no Senator seeking recognition at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the transaction of morning business with Senators permitted to speak therein for not to exceed 10 minutes each.

DESIGNATING ALAN SCOTT FRUMIN AS A PARLIAMENTARIAN EMERITUS

Mr. LOTT. Mr. President, I send a resolution to the desk on behalf of myself, Senator DASCHLE, and Senator BYRD and ask for its immediate consideration and the clerk read the resolution in its entirety.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 23) designating Alan Scott Frumin as a Parliamentarian Emeritus.

S. RES. 23

Resolved, That Alan Scott Frumin be, and he is hereby, designated as a Parliamentarian Emeritus of the United States Senate.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The resolution (S. Res. 23) was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, if I could just be recognized momentarily, I am pleased to join with the Democratic leader and Senator BYRD in presenting this resolution for Alan Scott Frumin.

He is a Parliamentarian Emeritus who has already served 20 years. He is in his 21st year in the Senate with all of those years in the Parliamentarian's Office, and he says he has actually started understanding and learning the rules. But it has taken 21 years because it is not an easy thing to do.

But he, obviously, has done outstanding work. He has been nonpartisan, as he should be in that position. He has been the Parliamentarian of the Senate for 8 years.

He is a New York native with a law degree from Georgetown. He certainly has earned this distinction and this recognition. And I express our appreciation on behalf of the grateful Senate.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me associate myself with the remarks of the distinguished majority leader. I, too, want to congratulate Alan on his honor. It is certainly well-deserved.

He has made many of us look good as we sat in the chair of the Presiding Officer time and again, late at night and early in the morning. He turns around in his own tactful and subtle way and gives us the instructions to pass on to our colleagues as the Presiding Officer. So it is not only his knowledge but his demeanor that has meant a lot to me.

We respect him. He knows he has a lot of friends as Members who have come to rely upon him because of that respect. And today we call attention to his 21 years contributing to the Senate in the Parliamentarian's Office in such a professional way. We congratulate him, and we thank him for his service.

We thank Senator LOTT, Senator BYRD, and others who have seen fit to offer this resolution today.

Mr. LOTT. I yield the floor, Mr. President, if I still have recognition. I believe the Democratic leader has some remarks at this time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

TRIBUTE TO SENATOR PAUL TSONGAS

Mr. DASCHLE. Mr. President, this morning, several of our colleagues are traveling to Lowell, MA to say goodbye to one of our own, Senator Paul Tsongas. They carry with them the thoughts and prayers of every Senator.

Whether or not we knew him personally, whether we served in this Chamber with him or came after him, we are all indebted to Paul Tsongas for the lessons he taught us in his too brief time here, and his too brief life.

Paul Tsongas taught us important lessons about how to balance compassion and fiscal reality.

He taught us, by example, how to reach beyond party labels to something bigger. He taught us about how to live with purpose. And, in the end, he taught us something about how to die with dignity.

Paul Tsongas was the son of immigrants. His parents owned a dry-cleaning shop in Lowell, MA. Paul Tsongas spent every afternoon and every Saturday working behind the counter in his family's business. It was there, he said, that he learned the dignity of work.

Like many Americans of his generation, Paul Tsongas answered President Kennedy's call to join the Peace Corps. His experience in Ethiopia first sparked his interest in public service.

He was elected to the House in 1974 and to the Senate in 1978. He was a young man when he came here, only 38 years old. His disciplined yet open mind and his capacity for original thought brought him deserved attention quickly.

Paul Tsongas was a man of ideas and vision. He was a man of good humor who wasn't afraid to laugh at himself.

In a town in which decibel levels are too often mistaken for conviction, Paul Tsongas stood out for his low-key, reasoned approach to lawmaking. It was an approach that served him—and our Nation—well. Senator Tsongas accomplished more in one term than many Senators who served here much longer.

Paul Tsongas was 42 years old when he was diagnosed with lymphoma. He decided to step down after only one term in order to spend more time with his family—his wife, Niki, and their young daughters, Ashley, Katina, and Molly.

Having lost his own mother when he was only 6, he knew how important it was that his own children know their father. You have to "pour yourself into your children," he explained, "so that when you're not around, you're still around."

Paul Tsongas won his battle against cancer. He came back to establish the Concord Coalition with another of our former colleagues, Senator Warren Rudman, and even to run for President in 1992.

In a newspaper interview that year, he was asked why he would spend his time on a long-shot bid for the White House. He replied, "I guess my answer is kind of syrupy. I survived, and there is an obligation that goes with that . . . I have an obligation to give something back."

Paul Tsongas was a man of unusual courage. He fought until the end—even through pain and disappointment—to fulfill that obligation, to give something back. And, in the opinion of this Senator, he succeeded.

Senator Tsongas's determination to tell the truth, even when it was not popular, earned him a nickname. Some called him "St. Paul." Now St. Paul has gone on to meet St. Peter. And I suspect he is still working, trying to arrange some divine intervention to help us balance the budget.

Years ago, when Paul Tsongas still sat in this Chamber, he spoke to a reporter about his hopes for his political career. He admitted that he might like to be President, if the opportunity were given to him.

But, he said, "if it turns out that my job in this business is to help provide direction—if that's what I end up being remembered for while someone else carries the ball—well, I could live with that. With a severe pang every once in a while, but I could live with that."

Paul Tsongas gave us a sense of direction. He lived with purpose and passion. And we will all miss him.

Today, our thoughts and prayers go out to Senator Tsongas immediate family, to his twin sister, Thaleia Schlesinger and stepsister Victoria Peters, and to those who remember him as we remember him today. And we thank him for that.

FAREWELL AND THANKS TO SENATE PAGES

Mr. LOTT. Mr. President, I would like to say farewell and thanks to this class of Senate pages. Tomorrow is graduation day, and I know many of their parents are in town today and tomorrow for that special occasion.

Their job is a difficult one, with most days beginning long before the Senate convenes—early in the morning—and continuing until after the Senate adjourns, which quite often is late at night.

I thank them for their service. I wish them well.

Mr. President, I ask unanimous consent that the names of the 1996 fall pages, which was a historic time to be a page, be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

1996 FALL PAGES

Republicans:

Begin, Mary—Rhode Island
Diehl, Ryan—Washington
Haltwanger, James—South Carolina
Heydt, Zachary—Wyoming
Lyon, Morgan—Utah
Poole, Robert—Alabama
Ruff, Justin—South Carolina
Sperry, Kelly—Utah
Ulbrich, Brad—Delaware
Vongsasonh, Power—Rhode Island
Wachtel, Sarah—Vermont
Walden, Michelle—Mississippi

Weyher, Mercedes—Utah
Democrats:
Bravman, Rachel—Massachusetts
Crow, Cameron—South Dakota
Fitzgerald, Taylor—Montana
Golden, Lewis—Mississippi
Kitzmiller, Amy—Vermont
McMenamin, Amanda—Maryland
McMillan, Kevin—California
Schultz, Melissa—New Mexico
Sheldon, Kathryn—Wisconsin
Sydnor, Nathan—Virginia
Wright, William—Maryland
Zukas, Nathan—Wisconsin

TRIBUTE TO SENATE PAGES

Mr. DASCHLE. Mr. President, today the Senate must bid farewell to a great group of young people who served as U.S. Senate pages during the fall semester.

These young men and women from across the country witnessed history during their service to the Senate. Among other things, this class of pages saw the inauguration of President Clinton, the first Democrat to be reelected President since Franklin Roosevelt. They also were here for the confirmation of the first woman to become Secretary of State, Madeleine K. Albright.

These pages witnessed the final weeks of Senate service of our colleagues who retired at the end of the 104th Congress, many giants of the Senate among them. In the last few weeks, they also saw the swearing in, the first speeches, and the first votes of our new freshmen Senators, any one of whom may be a Senate giant of the future.

Having seen our debates and deliberations up close, this group of pages will take away from here many memories and valuable learning experiences. But they also should take with them our gratitude for everything they have done for us and recognition for a job well done.

Mr. President, a page's life is not easy. They are up before dawn, at page school at 6:15, then here in the Senate for the rest of the day. While they are here, their duties run the gamut. They help set up the Chamber, deliver messages all over the Capitol complex, help things work here on the Senate floor, and pack up the Chamber at the end of the day. Then, it is back to the dorm for homework, a little down time, and a little sleep before they wake up and do it again the next day.

On behalf of all Democratic Senators, I would like to thank the following Democratic pages for all their hard work and contributions to the Senate: Rachel Bravman of Massachusetts; Cameron Crow of South Dakota; Taylor Fitzgerald of Montana; Lewis Golden of Mississippi; Amy Kitzmiller of Vermont; Amanda McMenamin of Maryland; Kevin McMillan of California; Melissa Schultz of New Mexico; Kathryn Sheldon of Wisconsin; Nathan Sydnor of Virginia; William Wright of Maryland; and Nathan Zukas of Wisconsin.

I hope that each member of this page class takes back to his or her home State a better understanding of how this government works and a better appreciation of the need to work together to achieve a common goal. These young people are our future leaders. Measured by their brief service here in the U.S. Senate, we can all feel confident about our country's future. Perhaps someday, one or more of them will return as Members of the U.S. Senate.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

First of all, let me associate myself with the remarks of the minority leader. I never really had a chance to serve with Senator Tsongas, and I really never had a chance to get to know him, but it is hard not to admire his work. He will be missed by his family and loved ones, and he will also be missed by our country. As a Senator from Minnesota, I certainly want to send my love to Paul Tsongas' family.

CAMPAIGN FINANCE REFORM

Mr. WELLSTONE. Mr. President, for just a brief period of time today, I want to talk about reform because I think the whole issue of the mix of money and politics and what we are going to do to change the system is going to become the key issue of this 105th Congress.

People have been reading in the newspapers and they have been hearing on the radio or they have been seeing on TV all sorts of comment about the abuses which took place in this past campaign. My argument is that these abuses are embedded in the very ways in which we finance our campaigns.

What has happened—and I do not think any of us should fool ourselves here, whether we are Republicans or Democrats—is that to most of the people in the country, from Pennsylvania to Minnesota to California, it does not even look like elections; it looks like auctions, and I think all too many people believe that national political leaders are for sale.

I would like to say today on the floor of the Senate that I do not believe that is the case. I do not want to have anything to do with bashing of people in public service. I believe in public service. That is why I am here. That is why we are here.

I also want to say today on the floor of the Senate that as a matter of fact we are talking about a certain kind of corruption, not as in the wrongdoing of individual officeholders, but it is systemic, and it is more serious. It has to do with the ways in which money determines what issues are on the table. It has to do with the ways in which money determines who has the disproportionate amount of access to decisionmaking. It has to do with the relationship between money and political clout. It has to do with the political system where too few people probably have too much wealth, power and say and the vast majority of the people feel locked out, not well represented.

I would argue that the way big money has come to dominate politics has become the ethical issue of our time. I say to all of my colleagues—I make this appeal, and I want to follow up on this appeal with every bit of leverage I have as a Senator—that all of us in office should hate this system. On the one hand, it is a bit like the play "Fiddler on the Roof"—you can argue that, well, no, people should not hate the system because in a way the current system is wired for incumbents. They can raise more money. But I really think all of us should hate this system, because even if you believe in your heart of hearts, even if you are absolutely convinced that the compelling need to raise money never has affected any position you have taken on any issue, even if you believe that, and hopefully it is the case, it sure does not look that way to people. If we want people to believe in this political process, and we want people to believe in our work, and we want people to believe in the Congress, and we want people to believe in us, then we better get this big money out of politics and we better turn this system not upside down—it is upside down right now—we better turn this system right side up.

It is just crystal clear. The spending continues to skyrocket, and in 1996 spending was up and participation down—more disillusionment, more indignation, more people in the country losing faith in the elections and losing faith in this political process.

There are any number of different approaches that can be taken, and I want to talk about three. I have for the better part of last year, year and a half, worked with Senators FEINGOLD and MCCAIN, Senator Kassebaum was involved in this—she will be sorely missed—Senator THOMPSON, Senator GRAHAM, and this effort, this piece of legislation, which still keeps too many big private dollars in politics, sure represents a very important and positive step forward: getting rid of all the soft money, all of the huge amounts of money that people can contribute in the name of party building, getting the costs of campaigns down, voluntary spending limits, some resources for candidates to help challengers. It goes in the right direction, and I will work hard with Senator MCCAIN and Senator FEINGOLD.

There is a separate issue of soft money and all the ways in which people can contribute huge amounts of money, way beyond any spending limit, again, all in the name of party building. With more time, I will go into all of this in specifics. We ought to abolish that. And that would be a focus of mine. I will have a bill on soft money.

In the best of all worlds, if you want to talk about desirability, I will tell you something. People in the country are in a downright anti-status-quo mood, and I really think we ought to model ourselves after what Maine has done. Maine led the Nation. Maine passed the clean money option. And I will be introducing a bill, I hope with other Senators, as well, that essentially says, look, we are going to get all of the interested money out, and what we are going to essentially say to people in the country is, look, for around $5 per person, how about a system where the people own the elections? It is your election. And because it is your capital, it becomes your Government and we move all of this interested, big, private money out. We really do have a level playing field between challengers and incumbents, and we really do have clean money politics.

I think that is the best system of all, and I look forward to introducing that bill with other Senators and pushing that forward as well.

A final point. It may be that none of these approaches in their entirety will pass the Senate. And other people will have other ideas.

But first, to people in the country who might be watching, and I will figure out other ways of having a wider forum: You have to turn up the heat, people. The citizens in this country have to turn up the heat. On February 2[illegible] in Minnesota, we are going to have a town meeting, hopefully with the whole congressional delegation. Lots of people are going to be there from Minnesota. They are going to come, and they are going to say: Senators and Representatives, we may not know all the specifics of each bill, but we want reform. We want you to change this system. We are tired of all the big money and we are tired of all the vicious attacks.

People need to turn up the heat. I think we need something like Earth Day. I think we need Reform Day. I think we need to have congressional delegations from every State meeting with people back in the States on the same day within the next couple of months, because this Congress has to take action. And anybody listening, citizens who are listening, it has to happen in the first 100 days, because if it does not happen at the beginning of this Congress, the atmosphere is going to become poisonous. There will be finger pointing and accusations on both sides. Everybody is going to try to figure out their own angle, and it will not get done. But this is the time for the reform. Let us move towards real grassroots citizen action.

Second, President Clinton, it is important for you to be outspoken. Presidential leadership, Presidential power—you need to push for the reform. Both parties have made plenty of mistakes. There have been plenty of transgressions. There is plenty of wrong, and the accusations can go back and forth in perpetuity. Why do we not, once and for all, change the system?

Finally, for myself, at the beginning of this Congress—for a short period of time I had an interesting discussion with both leaders in which I maintained I did not know whether we should even go into recess. I thought between January 7 and January 20 we ought to focus just on reform. Now we have another recess period coming up in mid-February. I think we need to give very serious thought to focusing on reform at the very beginning. I am going to try to use whatever leverage I have as a Senator to push in that direction.

In the Labor and Human Resources Committee the other day I suggested another possibility. Again, these are just proposals as we try to figure out how we can move this process forward. I suggested that maybe, until we have the reform, what we need to do in every committee is to have people come in and testify, file written testimony as to whether or not they have given contributions or the organizations they represent have given contributions to the members of the committee in the year prior to testimony and the year after testimony. I do not know whether that is something to push forward and have a vote on or not.

But I think, again, all of these approaches are not efforts to point the finger at a Senator or Representative. That is bashing. I want nothing to do with it. Or, for that matter, at anybody who is testifying. But I want to bring into sharp focus what is wrong with this process, the perceptions people have about it around the country, all the ways in which it has undercut democracy. You cannot have all of these huge amounts of money pouring into politics and elections and at the same time have real democracy where each person counts as one and no more than one. This is the compelling issue for this Congress.

Mr. President, we have to take action.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I thank the Chair.

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 200 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask that I be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPPORTUNITIES IN THE NEW CONGRESS

Mr. THOMAS. Mr. President, it is sort of exciting to begin to move into a new Congress, the 105th Congress. You and I and others came first here to the Senate 2 years ago with some dedication to principles that we still hold. Now, we have a new opportunity to continue to work toward the implementation of those things that we came away from the election 2 years ago thinking that people in our States wanted, and people in this country continue to want those things. So we have a great opportunity now.

I think we had success, particularly in the last few months of the last session, as we moved toward doing something with health care. We did something about a couple of Federal mandates, Federal programs that were in place, such as welfare and farm programs, which have been changed now—and I think are more useful and effective—moving them closer to the States. I think that is a good thing to do.

So I hope that we can continue to follow on our efforts in the 104th Congress, efforts that will lead us to a smaller Federal Government, a Federal Government that is more defined in terms of its role, a Federal Government that is more efficient and effective in delivering services, one that is closer to the people that are governed, closer to the people who receive the services and benefits, more efficient in the delivery of those services, less bureaucratic and more accountable. I think that's what all of us would like to do. These are principles that most of us agree to.

I am pleased that the President has, in the last year, as well as in his inaugural address and other statements, indicated his support for a Government that has a balanced budget, that is financially and fiscally responsible not only to taxpayers now, but, maybe even more important, to our children and grandchildren in the future. The President has spoken of the era of big

Government being passed. I think we would find a lot of agreement to that in the country and here in the U.S. Senate. It is very easy to talk about those concepts, and it is something else to do it. It is something else to put it into place. We have seen and will continue to see—and, of course, I understand that this is the place of great debate, and frankly it is a place of differences of view. That is what the system is all about. That is what elections are about—to put out there alternative choices and voters choose what they support. So we will see that here, as we should—and I think we will debate, I hope, more civilly than we have sometimes those differences and come to an agreement. We will not have unanimous agreement, of course. But this place wasn't designed to have unanimous agreement. That is why we vote. That is what the system is all about. But it is very easy to talk about concepts, and, yet, you will see everyone say, "Yes, I am for a balanced budget. I want a balanced budget except for * * *" and then find many reasons why we can't do it.

So it is very difficult sometimes to move beyond the rhetoric, to move beyond the general principles and put it into place. That, I think, will be our challenge, and we are starting now to do that. So the challenge is, if these are the principles, if these are the philosophies, let us just do it. That is what I would like to talk about a little bit today. I would like to talk about doing some things within the Government that we have had as a policy for many years and really have not done, and that is more contracting in the private sector; some privatization of those kinds of functions of the Government that could well be carried on in the private sector.

Last year I introduced a bill called the Freedom From Government Competition Act. We supported that. As a matter of fact, the Senate voted 59 to 39 on an amendment which was offered as part of the Treasury-Postal bill which required, in the instance of activities that were not inherently governmental, that agency to test the alternative of doing it in the private sector and seeing if that would be cost efficient and cost effective.

The bill was not considered last year, but we intend this year to put it back in again. It will be something that I believe will move us toward the broader concepts that we are looking for. We can help save money. We can balance the budget. That is what it is all about. It will help eliminate some of the programs that are now there by the Government and bureaucracy that will help us move toward smaller government. The privatization of the contracting often can be done on a more local level, which moves it more, of course, toward the people who are, indeed, in the private sector. It strengthens the private sector and creates a broader tax base. These are the purposes of this kind of approach.

For some 40 years it has been the policy of government to contract wherever possible in the private sector. Unfortunately, that has not been done. CBO estimated that in 1987 nearly 1½ million Federal employees were engaged in the kinds of functions, the kinds of operations, that are commercial in nature. That is a lot of folks doing some things.

So what we need to do is to get this principle that has been there, this policy that has been in place but not implemented, I think, in some kind of statutory language which would be fairly simple. The bill simply requires that OMB, the Office of Management and Budget, go through all the functions of government and segregate those that are inherently government—and there are some, of course, which are only properly done by the Government and the bureaucracy but many that are not—and separate those and then have a system in place so that the work in those areas where it can be done easily be contracted or at least be offered for contract. And if they can be done more inexpensively and more efficiently by contract, then that would be done.

Let me add that it is a little more difficult than that in that it will take some change of culture of the agency to adjust itself to the idea of putting together specifications of bidding, the bidding process, and overseeing and carrying out of the bidding process, and it will take some changes in the agency to do that. If the agency stays the same and simply takes some of these functions and contracts, there will be nothing gained. There will just be additional things. But it can be done, and in fact is being done. The agency that probably does the most of that and does it the best is the Department of Defense. They do a number of things of that kind.

This is not a new idea. It is an idea that was talked about and suggested in the Reagan Office of Privatization, Citizens Against Waste, Citizens for a Sound Economy, the Defense Science Board, and the Grace Commission. Interestingly enough, all three sessions of the White House Conference on Small Business, 1980, 1986, and 1994, listed unfair Government competition as one of the top issues impacting small business. So it is not new. We have worked during the last 6 months substantially with groups in the private sector who now are involved in this activity of promoting this bill, and we look forward to it.

Lots of things could easily be done. Let me give you some examples: janitorial services, printing, map making, engineering services, surveying, and laboratory. In our Wyoming Legislature a number of years ago when I was a member there, we did this kind of thing, and the focus was sort of on laboratories. We had private laboratories that were very capable of doing these kinds of things that government labs were set up to do, and we were able to do that, and we were able to move those activities from the bureaucratic activity to a private one, which creates more jobs, creates more tax base, and creates less cost. So these are the things that we look forward to doing.

So, Mr. President, we will have an opportunity certainly over the next number of months to look at the Government, to take the philosophy that most of us have and put it in place to decide how we can make some changes. Change is not easy to make, of course. There is great resistance to change. There will be resistance to this kind of change. There will be resistance largely from labor unions that represent some of the workers in the Government agencies. But I think that there is a reasonable and logical explanation and reasonable and logical reason for taking a look at saving money, smaller Government, more in the private sector, and more tax base. These are the kinds of benefits that will accrue to families and to America if we can move forward in this direction.

Mr. President, we look forward to introducing the bill. We look forward to having the opportunity to implement the things that we have been talking about in general terms for the last several years.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky is recognized.

Mr. FORD. I thank the Chair.

Mr. President, I send a bill to the desk and ask it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

(The remarks of Mr. FORD pertaining to the introduction of S. 201 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

BRINGING UTAH'S CENTENNIAL TREE TO THE DISTRICT OF COLUMBIA

Mr. HATCH. Mr. President, I join the millions of Americans whose holidays were made just a little brighter this year by the sight of the magnificent 70-foot Engleman Spruce from Utah's Manti-LaSalle National Forest.

I speak not only of those fortunate enough to see the tree in Washington, but of others who saw this giant tree of the great American west pass through their cities and towns en route to Washington. Like the relay that brought the Olympic flame to Atlanta, the journey for Utah's centennial Christmas tree required no less in the way of planning and cooperation.

Many individuals and organizations contributed to this project. In a true holiday spirit, Mack trucks, which has a subsidiary in Pleasant Grove, UT, generously transported this special tree, along with 40 smaller trees to be displayed at other sites in the Nation's Capital, the 2,000 miles to Washington.

Stops along the way included Salt Lake City, UT; Cheyenne, WY; Spearfish, Rapid City, Pierre, and Sioux Falls, SD; LaCrosse, WI; South Bend, IN; Pittsburgh and Allentown, PA; and Hagerstown, MD. At each stop, people came out to see this great symbol of the season and to spread holiday cheer and good will.

At its final destination, in Washington, on the west lawn of the U.S. Capitol, the tree was appropriately welcomed with holiday carols sung by the Salt Lake Symphonic Choir and the Congressional Chorus. Speaker GINGRICH'S two nieces threw the switch that illuminated this spectacular Christmas tree. The staff of the Architect of the Capitol should be commended for the wonderful job they did erecting the tree and decorating it with the ornaments made by Utah's children.

Mr. President, Utah takes special pride in having provided the national holiday tree from its soil, particularly during the year commemorating our centennial anniversary as a State. And, we were proud that Utah's history was also a part of this holiday display. Under the tree was a miniature railroad to commemorate another great Utah event: the joining of the Nation's railway system with a golden spike at Promontory, UT, in 1869. Those who conceived and constructed these railroad cars did a fantastic job.

Finally, Mr. President, I want to reiterate a special note of thanks to the organizations and companies that worked diligently to make the tree the great success that it became. They include the many local communities surrounding Orem, UT; Utah's U.S. Forest Service personnel; the Utah Automotive Club; and such corporate sponsors as Mack trucks, D.M. Bowman, Inc.; Poulan weedeater; and the Hale Brake and Wheel Co. Few efforts like this are successful without the support of the community, and these organizations among many others helped to make Utah's centennial tree to the District of Columbia project possible.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–841. A communication from the Director of the Defense Procurement, Under Secretary of Defense, transmitting, pursuant to law, a rule entitled "Defense Acquisition Regulation Supplement" received on January 21, 1997; to the Committee on Armed Services.

EC–842. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "Linking Legacies: Connecting the Cold War Nuclear Weapons Production Process to Their Environmental Consequences"; to the Committee on Armed Services.

EC–843. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to brucellosis in cattle, received on January 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–844. A communication from the Administrator of the Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to grapes, received on January 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–845. A communication from the Administrator of the Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to olives, received on January 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–846. A communication from the Administrator of the Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Florida grapefruit, received on January 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. MURRAY (for herself and Mr. WYDEN):

S. 200. A bill to amend the Wild and Scenic Rivers Act to designate a portion of the Columbia River as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD:

S. 201. A bill to provide for the establishment of certain limitations on advertisements relating to, and the sale of, tobacco products, and to provide for the increased enforcement of laws relating to underage tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT:

S. 202. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 203. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to State and local government of certain surplus property for use for law enforcement or public safety purposes; to the Committee on Environment and Public Works.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. LEVIN, and Ms. MOSELEY-BRAUN):

S.J. Res. 11. A joint resolution commemorating "Juneteenth Independence Day," June 19, 1865, the day on which slavery finally came to an end in the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself, Mr. DASCHLE, and Mr. BYRD):

S. Res. 23. A resolution designating Alan Scott Frumin as a Parliamentarian Emeritus; considered and agreed to.

By Mr. INOUYE:

S. Res. 24. A resolution to express the sense of the Senate reaffirming the cargo preference policy of the United States; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE:

S. Res. 25. A resolution to express the sense of the Senate that the United States Postal Service should issue a series of stamps highlighting achievements of young Americans, including Samantha Smith of Manchester, Maine, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY (for herself and Mr. WYDEN):

S. 200. A bill to amend the Wild and Scenic Rivers Act to designate a portion of the Columbia River as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

THE COLUMBIA RIVER HANFORD REACH PROTECTION ACT OF 1997

Mrs. MURRAY. Mr. President, I rise today to introduce a bill that, in one act, will do more to protect and restore the threatened salmon runs on the Columbia River than anything else this Government has tried. This bill will designate the last free-flowing stretch of the Columbia River, the Hanford Reach, as a recreational river under the Wild and Scenic Rivers Act.

The bill I introduce today, with Senator RON WYDEN, is identical to S. 1489, my bill from the 104th Congress. That bill was developed with a broad spectrum of local interests who worked for months to create a bill with widespread support. While the 104th Congress did not take action on this bill, I feel confident that my colleagues of the 105th Congress will see the tremendous economic and environmental benefits of designating the reach a wild and scenic river and will help me pass this important legislation.

Much has happened in the year since I introduced S. 1489. Most important, the scientific community has verified what many locals already knew: The Hanford Reach will make an enormous contribution to salmon recovery on this embattled river. The Independent Scientific Group [ISG], an expert panel of fisheries scientists, reviewed the full range of salmon recovery programs now in place on the Columbia River. The ISG concluded that the Hanford Reach will be critical to our efforts to recover salmon throughout the Columbia Basin. It suggested that chinook salmon from the reach may serve as a core population from which adults could stray to upstream and downstream tributaries and, given good conditions, may reestablish lost or declining runs.

In this last year, we have fostered a growing consensus that the reach is too precious to risk harming. The Governors of the three States of Washington, Oregon, and Alaska recommended protection for the reach, citing it as critical to maintaining healthy stocks of salmon vital to sustaining the region's fishing economy. The Northwest Power Planning Council has endorsed designation of the reach as a wild and scenic river. Likewise, a number of tribal governments have supported continuing Federal protection of the Reach. Many other wildlife and conservation groups, including Trout Unlimited, the Nature Conservancy, American Rivers, and the Audubon Society have recognized the importance of this stretch of the Columbia and have joined the effort to save it. Finally, newspapers in Seattle, Portland, Yakima, and elsewhere have endorsed wild and scenic designation.

Let me remind my colleagues of the splendors of this 50-mile section of the river. While most of the Columbia River Basin was being developed for agriculture, hydroelectricity, and other economic activities, the Hanford Reach and other buffer lands within the Hanford Nuclear Reservation were kept pristine. Ironically, it was the veil of secrecy and security surrounding the Manhattan project that simultaneously protected the now scarce shrub-steppe ecosystem and created tremendous nuclear and chemical contamination. Fortunately, the arid land, the river's tremendous volume, and new cleanup and restoration technology has minimized the harm done to this vital river.

And vital it is. Its free-flowing nature provides superb habitat that produces 80 percent of the Columbia Basin's fall chinook salmon, as well as thriving runs of steelhead trout and sturgeon. It is the only truly healthy segment of the mainstem of the Columbia River. As the Pacific Northwest is struggling to restore declining salmon runs—and spending hundreds of millions of dollars annually to do so—protecting the Hanford Reach is the most cost-effective step we can take since it is already federally owned.

The reach is also rich in other natural and cultural resources. Bald eagles, wintering and migrating waterfowl, deer, elk, and a diversity of other wildlife depend on the reach. It contains dozens of rare, threatened, and endangered plants and animals. Biologists have identified several new plant species that they believe are unique and found only on lands near the reach.

This part of the Columbia basin is also of great important to native Americans, who have lived along the shores and islands of the reach for millennia. There are over 150 archaeological sites along the Hanford Reach, some dating back more than 10,000 years. The reach's naturally spawning salmon remain a vital part of the modern culture and religion of native Americans in the area.

Another area of importance within the reach is the White Bluffs. These fragile cliffs offer dramatic scenery, unique habitat, and fascinating geologic history. Unfortunately, a downstream section of the bluffs has been impacted by irrigation water flowing through the unstable Ringold formation sediments causing it to slide into the river, smothering spawning beds, reducing water quality, and deflecting the course of the river. Should these slumps continue or migrate upstream, some scientists fear the river could become contaminated when it is pushed onto the nuclear reactors lining its south shore. Wild and scenic river designation might help prevent such catastrophes.

The reach also provides an abundance of recreational opportunities. It is very close to the tri-cities of Kennewick, Pasco, and Richland, WA, and several hours drive from the major urban centers of Seattle and Portland. It affords residents and visitors opportunities to hunt, boat, fish, hike, kayak, water ski, bird watch, or simply relax and enjoy the solitude. The reach adds tremendously to the quality of life—and economy—of the area.

It is because of the reach's importance to the local residents and economy that I convened a diverse group of area citizens in 1995 to develop this bill that I reintroduce today. This Hanford Reach Advisory Panel had a wide array of interests and concerns that we addressed in this bill. For example, there was a concern about the potential impact of wild and scenic river designation could have on the traditional uses of the water and nearby lands. So, the panel incorporated specific language to protect current economic activities, such as agriculture, power generation and transmission, and water withdrawals. This bill excludes the 3 percent of private property recommended in the National Park Service's Record of Decision in order to honor the request of those private land owners. The legislation also guarantees that local government and interests have a formal role in the management of the river corridor, which will come under the jurisdiction of the U.S. Fish and Wildlife Service.

In addition, this bill includes the advisory panel's recommendation that the Secretary of the Interior and relevant Federal agencies work with local and State sponsors to develop a program of education and interpretation related to the Hanford Reach. The city of Richland and area tribes, among others, have been working with the Department of Energy on a museum and regional visitor center proposal and are eager to make the natural and human history of the reach part of the project.

This legislation includes provisions urged by the advisory panel to improve the habitat value, access, and appearance of the Columbia River shoreline in the tri-cities' area. Much of the rivershore is now lined with high, steep levees that were put in place before the network of dams controlled the flow of the river and reduced the need for such flood control structures. This bill directs the Army Corps of Engineers, which built, owns, and maintains the levees, to coordinate with local sponsors on demonstration projects to restore the rivershore. The bill directs the corps to undertake some small levee modification projects in partnership with Kennewick, Pasco, and the Port of Kennewick in the short-term. For the longer term, the corps is directed to undertake a comprehensive study of the levees and determine if rivershore restoration is feasible and should become a Federal priority.

Mr. President, let me conclude by again thanking my Hanford Reach Advisory Panel and reiterating to my colleagues the importance of protection of the Hanford Reach. The reach is the last free-flowing section of the mighty Columbia and as such produces outstanding salmon habitat, superb recreational opportunities, and vital economic benefits. I urge my colleagues to take speedy action, pass this important bill and permanently protect the Hanford Reach as a wild and scenic river.

By Mr. FORD:

S. 201. A bill to provide for the establishment of certain limitations on advertisements relating to, and the sale of, tobacco products, and to provide for the increased enforcement of laws relating to underage tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TOBACCO PRODUCTS CONTROL ACT OF 1997

Mr. FORD. Mr. President, pertaining to that bill I have just sent to the desk, Mark Twain used to tell the story about a businessman known for his ruthlessness. The man once told him that before he died he wanted to make a pilgrimage to the Holy Land, climb Mount Sinai, and read the Ten Commandments aloud at the top. "I have a better idea," Twain said. "Why don't you stay home and keep them."

As I reintroduce my legislation to combat youth smoking, that is the same message I would like to send to the antitobacco zealots. They are more than happy to shout from the mountaintop their message against youth smoking, but I have a better idea—sit down and make it happen.

The antitobacco advocates talk forcefully about the numbers of teenagers who begin smoking every day. In citing those figures, those advocates are nothing short of negligent if they reject my legislation and allow this issue to be delayed indefinitely by a court fight. They will clearly be choosing delay over compromise, self-promotion over certain progress.

The fact of the matter is that while they are willing to spend millions of dollars on glitzy ad campaigns, they are not willing to spend any energy forging a compromise. They will not even come to the table. That kind of hardheadedness may mean they can enjoy the limelight a little bit longer, but what about the kids they say they want to protect?

Back in August, just a day after receiving word that the administration was set to sign off on FDA's new regulations on youth smoking, I stood before a gathering of the Kentucky State Farm Bureau and told them that this was an issue that would be decided either in the courts or in Congress. I told them that without a doubt, the voice of the Kentucky farmer stood a much better chance of being heard in Congress.

But, what my colleagues and the American people need to understand is that our children also stand a much better chance if we solve it in Congress. That is why I am back to reintroduce legislation to solve the problem of youth smoking.

Why legislation over regulation? Because FDA regulation is tantamount to years of court wrangling, creates an entire new bureaucracy at a time of Government downsizing, and perhaps most disturbing to farmers, goes well beyond what is needed to target youth smoking.

The Federal Register notice accompanying the regulation says, "FDA intends to classify cigarettes and smokeless tobacco at a future time, and will impose any additional requirements that apply as a result of their classification * * *" If farmers look to FDA interpretation of that language, they see a grim future for tobacco. Bringing in the FDA also creates a whole new bureaucracy when tobacco is already regulated by at least seven Federal agencies. Listen to these. They are regulated by USDA, they are regulated by HHS, BATF, IRS, SAMHSA, EPA, and FTC.

If you want to know all those initials, I would be glad to do that. SAMHSA is important. That is the so-called Synar amendment, our departed colleague from Oklahoma, that he passed, as it related to youth smoking and set up criteria for States. My State has passed a law to meet the requirements of the SAMHSA legislation produced for and by our late, departed Congressman. My legislation seeks to reach the same goal, but under the framework already in place, which is the SAMHSA law.

But what should be most disturbing to all Americans about taking the regulatory route is the fact that the regulation will amount to nothing more than rhetoric, because it will inevitably be tied up in court for years and years over constitutional questions. What this problem calls for is reason, not more rhetoric. That is why I introduced legislation last year, and that is why I am introducing legislation this year.

My legislation represents serious, enforceable measures to combat teenage smoking. But it does not interfere with the legal, private decisions of adults, nor does it trample on the first amendment's protection of free speech. The same cannot be said for FDA regulations, which have already sent advertising, tobacco industry and FDA lawyers scrambling to the courts, setting up for lengthy legal challenges, where the fight will go on for years and years.

Even if FDA jurisdiction is upheld in the pending North Carolina lawsuit, litigation is still sure to go for years and years, with the problem of teen smoking continuing unabated.

My legislation is an effort to reach what I believe should be our common goal, reducing youth smoking, but reaching that goal within the limits set down by the Constitution, without creating a new bureaucracy, and most important, reaching it today rather than tomorrow.

The bill I introduced last year and the bill I am introducing today would ban outdoor advertising of cigarettes and smokeless tobacco products within 500 feet of schools, prevent advertising of cigarettes and smokeless tobacco products in publications with any significant youth subscribership, and prohibit sampling of cigarettes and smokeless tobacco products to young people.

I believe the bill I introduced last year was sufficient to reach our common goal. However, this year I have broadened that legislation to accommodate many of the other provisions of the FDA regulations, including a ban on advertising at sports and entertainment events attended by youth, and requiring the presentation of photo ID for the purchase of tobacco products. Many of our stores today are requiring photo ID. This will make it a law that they must present a photo ID for the purchase of tobacco products.

In many areas, my legislation actually goes beyond FDA regulations. For example, my bill bans both paid tobacco advertisements or props in movies and cigarettes or smokeless tobacco advertising in videos, video game machines, or family amusement centers.

My legislation this year is different from last year's legislation in one other important way. I believe it can represent a bipartisan effort to solve the problem. In the end, that might be the most important difference because, as my colleagues are well aware, no major tobacco legislation has ever been approved without bipartisan support.

Mr. President, antitobacco advocates—Democrats and Republicans—all share a common goal: reducing the number of youths smoking. If we put our collective efforts together resolving that problem rather than advancing personal agendas, I believe we can solve the problem. I look forward to doing so this year in the spirit of bipartisanship and cooperation.

Mr. President, I know that I am suspect because I am here representing a tobacco-growing State. But let me tell you that the University of Kentucky commissioned a poll, and almost 90 percent of the people in my State oppose youth smoking. I am not here representing just tobacco people, I am here representing my constituents who say that youth should not smoke.

All we are trying to do is make it an adult decision, trying not to create another layer of bureaucracy to stop youth smoking sooner than later. If these people who are antitobacco or antismoking want to really help, come to the table. Let's sit down and work these things out. Put it into law. The President will sign it, I have no question about that. But if we send this to the President, we get it signed, and it goes into force, we can stop it sooner than later. Five years from now it will still be in court. We have had some first-amendment questions before the Court recently—last year—that shook up the whole thrust of the FDA regulations.

So I am here with an honest effort, only armed with the silver tongue of the truth, as I have heard it said, but I would like for everyone to know that this is a serious, honest effort on behalf of my constituents and on behalf of the youth of this country that we get on with the business that we were sent here to do and to make this effort meaningful, and meaningful in the direction I think all of us want to go.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tobacco Products Control Act of 1997".

SEC. 2. AMENDMENT TO FEDERAL CIGARETTE LABELING AND ADVERTISING ACT.

The Federal Cigarette Labeling and Advertising Act is amended by inserting after section 7 (15 U.S.C. 1335) the following:

"SEC. 7A. (a) BILLBOARDS.—

"(1) IN GENERAL.—It shall be unlawful to advertise cigarettes on any outdoor billboard that is located within 500 feet of any public or private elementary or secondary school.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any advertisement that is non-brand name specific if such advertisement is erected or maintained at street level and affixed to business establishments selling tobacco products at retail.

"(b) PERIODICALS.—It shall be unlawful to advertise cigarettes in a newspaper, magazine, periodical or other publication if the subscribers of such publication who are under the age of 18 years constitute more than 15 percent of the total subscribership of such publication as certified by the publisher. The Federal Trade Commission shall annually publish a list of the publications that are subject to this subsection.

"(c) STADIA AND ARENAS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful to advertise cigarettes in any arena or stadium where amateur or professional sporting events or activities occur.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any advertisement that—

"(A) is contained in a program distributed at a sporting event;

"(B) is displayed at a concession stand that sells cigarettes; or

"(C) is displayed during a sporting event where the sponsor of the event involved has, prior to the event, provided the Federal Trade Commission with a certification that at least 75 percent of the attendees of such event are age 18 or older.

"(d) LICENSING PAYMENTS.—

"(1) IN GENERAL.—No payment shall be made for the use of a trade or brand name of a nontobacco product as the trade or brand name for a cigarette.

"(2) EXCEPTION.—Paragraph (1) shall not apply to a cigarette that uses a trade or brand name if such trade or brand name was used both for a cigarette and a nontobacco product sold in the United States on January 1, 1995.

"(e) TRANSPORTATION ADVERTISEMENTS.—It shall be unlawful to advertise cigarettes in or on taxis, buses, trains, or in subway, bus, or train stations, terminals, or platforms unless the advertisement is displayed at a site where cigarettes are sold.

"(f) MOTION PICTURES.—No payment shall be made by any cigarette manufacturer or any agent thereof for the placement of any cigarette, cigarette package, or cigarette advertisement as a prop in any motion picture produced for viewing by the general public.

"(g) VIDEO GAMES.—No cigarette brand name or logo shall be placed in a video or on a video game machine, and no brand name or logo may be placed on or within the premises of family amusement centers.

"(h) DEFINITIONS.—As used in this section—

"(1) AMUSEMENT RIDE OR ATTRACTION.—The term 'amusement ride or attraction' means—

"(A) any mechanized device or combination of devices that carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement; or

"(B) any building or structure around, over, or through which individuals may walk, climb, slide, jump or move that provides such individuals with amusement, pleasure, thrills, or excitement;

except that such term does not include coin-operated amusement devices that carry no more than 2 individuals, devices regulated by the Federal Aviation Administration, the Federal Railroad Administration (or State railroad administrations), or vessels under the jurisdiction of the Coast Guard (or State division of the water patrol), tractor pulls, auto or motorcycle events, horse shows, rodeos, or other animal shows, games and concessions, nonmechanical playground equipment, or any other devices or structures designated by the Federal Trade Commission.

"(2) FAMILY AMUSEMENT CENTER.—The term 'family amusement center' means an enterprise offering amusement or entertainment to the public through the use of one or more amusement rides or attractions.

"(3) VIDEO GAME.—The term 'video game' means any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or a monitor, that interacts with the user of the device.".

SEC. 3. AMENDMENT TO COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986.

The Comprehensive Smokeless Tobacco Health Education Act of 1986 is amended by inserting after section 3 (15 U.S.C. 4402) the following:

"ADVERTISING RESTRICTIONS

"SEC. 3A. (a) BILLBOARDS.—

"(1) IN GENERAL.—It shall be unlawful to advertise a smokeless tobacco product on any outdoor billboard that is located within 500 feet of any public or private elementary or secondary school.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any advertisement that is non-brand name specific if such advertisement is erected or maintained at street level and affixed to business establishments selling tobacco products at retail.

"(b) PERIODICALS.—It shall be unlawful to advertise any smokeless tobacco product in a newspaper, magazine, periodical or other publication if the subscribers of such publication who are under the age of 18 years constitute more than 15 percent of the total subscribership of such publication as certified by the publisher. The Federal Trade Commission shall annually publish a list of the publications that are subject to this subsection.

"(c) STADIA AND ARENAS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful to advertise smokeless tobacco product in any arena or stadium where amateur or professional sporting events or activities occur.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any advertisement that—

"(A) is contained in a program distributed at a sporting event;

"(B) is displayed at a concession stand that sells smokeless tobacco product; or

"(C) is displayed during a sporting event where the sponsor of the event involved has, prior to the event, provided the Federal Trade Commission with a certification that at least 75 percent of the attendees of such event are age 18 or older.

"(d) LICENSING PAYMENTS.—

"(1) IN GENERAL.—No payment shall be made for the use of a trade or brand name of a nontobacco product as the trade or brand name for a smokeless tobacco product.

"(2) EXCEPTION.—Paragraph (1) shall not apply to a smokeless tobacco product that uses a trade or brand name if such trade or brand name was used both for a smokeless tobacco product and a nontobacco product sold in the United States on January 1, 1995.

"(e) TRANSPORTATION ADVERTISEMENTS.—It shall be unlawful to advertise smokeless tobacco product in or on taxis, buses, trains, or in subway, bus, or train stations, terminals, or platforms unless the advertisement is displayed at a site where smokeless tobacco products are sold.

"(f) MOTION PICTURES.—No payment shall be made by any smokeless tobacco manufacturer or any agent thereof for the placement of any smokeless tobacco product, smokeless tobacco package, or smokeless tobacco advertisement as a prop in any motion picture produced for viewing by the general public.

"(g) VIDEO GAMES.—No smokeless tobacco product brand name or logo shall be placed in a video or on a video game machine, and no brand name or logo may be placed on or within the premises of a family amusement center.

"(h) DEFINITIONS.—As used in this section:

"(1) AMUSEMENT RIDE OR ATTRACTION.—The term 'amusement ride or attraction' means—

"(A) any mechanized device or combination of devices that carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement; or

"(B) any building or structure around, over, or through which individuals may walk, climb, slide, jump or move that provides such individuals with amusement, pleasure, thrills, or excitement;

except that such term does not include coin-operated amusement devices that carry no more than 2 individuals, devices regulated by the Federal Aviation Administration, the Federal Railroad Administration (or State railroad administrations), or vessels under the jurisdiction of the Coast Guard (or State division of the water patrol), tractor pulls, auto or motorcycle events, horse shows, rodeos, or other animal shows, games and concessions, nonmechanical playground equipment, or any other devices or structures designated by the Federal Trade Commission.

"(2) FAMILY AMUSEMENT CENTER.—The term 'family amusement center' means an enterprise offering amusement or entertainment to the public through the use of one or more amusement rides or attractions.

"(3) VIDEO GAME.—The term 'video game' means any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or a monitor, that interacts with the user of the device.".

SEC. 4. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 1926 of the Public Health Service Act (42 U.S.C. sec. 300x-26) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Subject to paragraph (2), for fiscal year 1998 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that—

"(A) it is unlawful for any manufacturer, retailer, or distributor of cigarettes or smokeless tobacco products to sell or distribute any such product to any individual under the age of 18, and such manufacturer, retailer, or distributor shall, in all face to face transactions involving an individual who appears to be under the age of 26, verify such age by means of an official (issued by the Federal or State government) photographic identification containing the date of birth of the bearer;

"(B) no person, firm, partnership, company, or corporation shall operate a vending machine which dispenses cigarettes or smokeless tobacco products unless such vending machine is in a location that is in plain view and under the direct supervision and control of the individual in charge of the location or his or her designated agent or employee;

"(C) the restrictions described in subparagraph (B) shall not apply in the case of a vending machine that is located—

"(i) at a private club;

"(ii) at a bar or bar area of a food service establishment;

"(iii) at a factory, warehouse, tobacco business, or any other place of employment which has an insignificant portion of its regular workforce comprised of individuals under the age of 18 years and only if such machines are located in an area that is not accessible to the general public; or

"(iv) in such other location or made available in another manner that is expressly permitted under applicable State law;

"(D) it is unlawful for any person engaged in the selling or distribution of cigarettes or smokeless tobacco products for commercial purposes to distribute without charge any cigarettes or smokeless tobacco products, or to distribute coupons which are redeemable for cigarettes or smokeless tobacco products, except that this subparagraph shall not apply in the case of distribution—

"(i) through coupons contained in publications for which advertising is not restricted under section 7A of the Federal Cigarette Labeling and Advertising Act or section 3A of the Comprehensive Smokeless Tobacco Health Education Act of 1986, coupons obtained through the purchase of cigarettes or smokeless tobacco products, or coupons sent through the mail;

"(ii) where individuals can demonstrate, through a photographic identification card, that the individual is at least 18 years of age;

"(iii) in locations that are separately segregated to deny access to individuals under the age of 18; or

"(iv) through such other manners or at other locations that are expressly permitted under applicable State law;

"(E) it is unlawful to for any manufacturer, retailer, or distributor of cigarettes or smokeless tobacco products to sell or distribute non-tobacco merchandise related to such cigarettes or smokeless tobacco products unless—

"(i) with respect to a face-to-face transactions, the individual is 18 years of age or older as verified, in the case of an individual who appears to be under the age of 26, by means of an official (issued by the Federal or State government) photographic identification containing the date of birth of the bearer;

"(ii) with respect to other transactions, the individual involved provides a signed certification together with a copy of an official (issued by the Federal or State government) photographic identification containing the date of birth of the individual that such individual is 18 years of age or older; and

"(iii) with respect to items of clothing or hats, such clothing or hat is made available in only adult sizes;

"(F) it is unlawful for any manufacturer, retailer, or distributor of cigarettes or smokeless tobacco products to display those products in a manner that causes those products to be accessible to anyone other than an employee of the manufacturer, retailer, or distributor, except that such prohibition shall not apply to a display—

"(i) if the display is located within the physical reach of an employee of the manufacturer, retailer, or distributor working at the normal work station of the employee; or

"(ii) if an employee of the manufacturer, retailer, or distributor is able to monitor the display through the use of in-store mirrors, video cameras, or by other means;

"(G) it is unlawful for any retailer to break or otherwise open any cigarette package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the quantity in the minimum cigarette package size of 20 cigarettes, or any quantity of cigarette tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use; and

"(H) it is unlawful for any retailer to break or otherwise open any smokeless tobacco package to sell or distribute any quantity of smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use.";

(2) in subsection (a)(2)—

(A) by striking "1993" and inserting "1997";

(B) by striking "1994" and inserting "1998"; and

(C) by striking "1995" and inserting "1999";

(3) in subsection (c)—

(A) in paragraph (1), by striking "10 percent" and inserting "20 percent";

(B) in paragraph (2), by striking "20 percent" and inserting "40 percent";

(C) in paragraph (3), by striking "30 percent" and inserting "60 percent"; and

(D) in paragraph (4), by striking "40 percent" and inserting "80 percent";

(4) in subsection (d)—

(A) in paragraph (1), by striking "1995" and inserting "1999"; and

(B) in paragraph (2), by striking "1994" and inserting "1998"; and

(5) by adding at the end the following:

"(e) ENFORCEMENT.—Any amounts made available to a State through a grant under section 1921 may be used to enforce the laws described in subsection (a).

"(f) DEFINITIONS.—As used in subsection (a)(1), the term 'private club' means an organization with no more than an insignificant portion of its membership comprised of individuals under the age of 18 years that regularly receives dues or payments from its members for the use of space, facilities and services.".

SEC. 5. AMENDMENT TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

"SEC. 906. PROHIBITION ON REGULATION OF TOBACCO PRODUCTS.

"Nothing in this Act or any other Act shall provide the Food and Drug Administration with any authority to regulate in any manner tobacco or tobacco products (as such terms are defined for purposes of section 5702(c) of the Internal Revenue Code of 1986.".

Mr. HELMS. Mr. President, Senator FORD's introduction of the Tobacco Products Control Act of 1997 is a good first step toward addressing the problem of youth access to tobacco products. I shall work with Senator FORD and other colleagues in solving it.

Mr. President, the tobacco industry has made it absolutely clear that the choice to smoke must be for adults only to make. There is not one tobacco farmer in North Carolina who approves of children and teenagers smoking.

However, the transparent vendetta waged by overzealous bureaucrats in the Food and Drug Administration against the tobacco family has been outrageous. It is a misguided attempt to expand the jurisdiction of FDA at a time when the agency is clearly failing in its stipulated mission, and is an obvious attempt to usurp congressional authority. Congress has considered—and rejected—numerous FDA attempts to regulate tobacco.

Mr. President, I thank my able colleague, Senator FORD, who has worked so faithfully on behalf of America's tobacco farmers. Once again, I am honored to stand with him.

Mr. FAIRCLOTH. Mr. President, I want to thank Senator FORD for introducing legislation regarding the regulation of tobacco.

With respect to this very controversial issue, let us set one thing straight—no one supports teen smoking. We need to do more to discourage youths from smoking. No one is opposed to reasonable legislation that would curb young people from smoking. That much is clear and everyone agrees on it.

Also, the tobacco companies have pledged that they will do more to curb teen smoking.

What is questionable is the notion of the FDA regulating tobacco as if it were a drug. This is a stretch by anyone's standards. President Clinton has said that the era of big government is over, and yet he has allowed the FDA to vastly increase its regulatory authority. Ask yourselves this question, should the Food and Drug Administration be regulating the color of race cars at NASCAR events? This is no—absolutely no.

What we need is a bill to address the problems of teen smoking, and one that protects small North Carolina farmers. I was not elected to the Senate to see small farmers slide into bankruptcy because of the Clinton administration.

The Ford bill is a good start. I continue to work with Senator HELMS, Senator MCCONNELL, and other Senators to develop a consensus document that can actually pass this Congress.

Our goal here is to get something passed so that we don't set the dangerous precedent of the FDA deciding that some product is suddenly decreed a drug—and that it will now be regulated.

Thank you Mr. President, and thank you Senator FORD for your leadership on this issue.

By Mr. LOTT:

S. 202. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

THE OLDER AMERICANS FREEDOM TO WORK ACT OF 1997

Mr. LOTT. Mr. President, I am reintroducing the Older Americans Freedom To Work Act and request my colleagues' support. This legislation would remove the limitation on the amount of outside income which Social Security beneficiaries, who have reached retirement age, may earn without incurring a reduction in benefits. It would abolish the onerous earnings best and allow senior citizens to work without being penalized.

As you know, the Social Security retirement earnings test reduces benefits to persons between ages 65 and 69 who earn more than $13,500. These reductions amount to $1 in reduced benefits for every $3 in earnings above the limit.

This limitation is unfair and poses a serious threat to the labor work force. Demographers tell us, that between the years 2000 and 2010, the baby boom generation will be in their retirement years. With fewer babies being born, this Nation is looking at a severe labor shortage. We need the skills, wisdom, and experience of our older workers, and this measure will encourage them to remain in the labor force.

Elimination of the retirement earnings test begins the process of providing employment opportunities for older Americans without punishing them for their efforts. In the 1930's when the earned income limit was devised, encouraging senior citizens to leave the workplace was seen as a positive act, designed to increase job opportunities for younger workers. Today, with our shrinking labor force, such a policy is senseless.

It is a pleasure to again sponsor legislation in the Senate to abolish the onerous retirement earnings test. I urge my colleagues to join me in supporting this vitally important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Americans' Freedom to Work Act of 1997".

SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c)(1), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" each place it appears and inserting "retirement age (as defined in section 216(l))";

(3) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(4) in subsection (f)(3)—

(A) by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8),"; and

(B) by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(5) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(6) in subsection (j)—

(A) in the heading, by striking "Age Seventy" and inserting "Retirement Age"; and

(B) by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clauses (i) and (ii), by striking "corresponding" each place it appears; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. (f)(8)(D)) is repealed.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c), in the last sentence, by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) APPLICATION TO BLIND BENEFICIARIES.—Section 223(d)(4)(A) of the Social Security Act (42 U.S.C. 423(d)(4)(A)) is amended by striking the second sentence.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1996.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 203. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to State and local government of certain surplus property for use for law enforcement or public safety purposes; to the Committee on Environment and Public Works.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT AMENDMENTS

Mrs. FEINSTEIN. Mr. President, I rise, for Senator BOXER and myself, to introduce legislation that amends the Federal Property and Administrative Services Act of 1949 to allow the Federal Government to transfer to State and local governments surplus Federal property for use for law enforcement or public safety purposes. This bill expands current authority which restricts this type of property transfer to State and local governments for use only as correctional facilities.

Our law enforcement and public safety officials need the flexibility that this legislation provides. While continuing to allow prisons to be built, this legislation provides communities with the options they need to establish or expand needed law enforcement training facilities, fire fighting academies, and the like given an area's particular need.

The one thing communities need after a military base closure is the flexibility to reuse bases to fulfill their greatest local needs. This bill will continue to facilitate the successful reuse of base realignment and closure sites, like March Air Force Base in California, for civilian and public safety purposes. Fighting crime continues to be a top priority for communities throughout the Nation. It makes sense to allow communities to put former military bases to use in that fight.

I urge my colleagues to cosponsor this legislation. Our communities affected by base closures deserve all options to facilitate successful reuse.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO TRANSFER SURPLUS PROPERTY FOR USE FOR LAW ENFORCEMENT OR PUBLIC SAFETY PURPOSES.

(a) IN GENERAL.—Section 203(p)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)) is amended by striking "required" and all that follows through "offenders as" and inserting "needed for use by the transferee or grantee for a law enforcement or public safety purpose".

(b) APPLICATION OF LAW TO PRIOR TRANSFERS AND CONVEYANCES.—Section 203(p) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)) is amended by adding at the end the following:

"(4) Any real or related personal property transferred or conveyed under this subsection before the date of the enactment of this paragraph may, with the approval of the Attorney General, be used for a law enforcement or public safety purpose.".

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. LEVIN, and Ms. MOSELEY-BRAUN):

S.J. Res. 11. A joint resolution commemorating Juneteenth Independence Day, June 19, 1865, the day on which slavery finally came to an end in the United States; to the Committee on the Judiciary.

THE JUNETEENTH INDEPENDENCE DAY COMMEMORATION JOINT RESOLUTION

Mr. LOTT. Mr. President, I am pleased to introduce today, on behalf of myself and Senator DASCHLE, the distinguished minority leader, a joint resolution concerning what has long been known as Juneteenth Independence Day.

Joining us as original sponsors of this resolution are Senators LEVIN and MOSELEY-BRAUN, who offered similar legislation in the 104th Congress.

The observance of Juneteenth has long been a tradition among black Americans. It commemorates the days in mid-June, 1865, when news of the end of slavery finally reached frontier areas of the country, especially in the American Southwest.

The African-Americans who then moved into freedom, and began new lives as citizens of the Republic, kept alive the memory of that occasion for their descendants.

Generation by generation, the experiences of the past have been preserved and shared. They have given us lessons in faith, in courage, and in perseverance.

Today, the National Association of Juneteenth Lineage fosters the observance of Juneteenth Independence Day, not only among those families whose ancestors were directly affected by it, but also among the general public. The association will be meeting this year in Dallas from January 23 to January 25.

The introduction of this joint resolution by the two Senate leaders is a timely expression of the Senate's regard and appreciation for the association's efforts.

I should mention that this joint resolution is especially appropriate as we prepare to observe February as Black History Month, which, to borrow the words of the resolution, "provides an opportunity for all Americans to learn more about our common past and to better understand the experiences that have shaped our nation."

With that in mind, I know Senator DASCHLE joins me in inviting our colleagues, from all regions of the country, to cosponsor this legislation.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 11

Whereas news of the end of slavery came late to frontier areas of the country, especially in the American Southwest,

Whereas the African-Americans who had been slaves in the Southwest thereafter celebrated June 19 as the anniversary of their emancipation,

Whereas their descendants handed down that tradition from generation to generation as an inspiration and encouragement for future generations,

Whereas Juneteenth celebrations have thus been held for 130 years to honor the memory of all those who endured slavery and especially those who moved from slavery to freedom,

Whereas their example of faith and strength of character remains a lesson for all Americans today, regardless of background or region or race, now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the annual observance of June 19 as Juneteenth Independence Day is an important and enriching part of our country's history and heritage, and

That the celebration of Juneteenth provides an opportunity for all Americans to learn more about our common past and to better understand the experiences that have shaped our nation, and

That a copy of this Resolution be transmitted to the National Association of Juneteenth Lineage as an expression of appreciation for its role in promoting the observance of Juneteenth Independence Day.

Mr. DASCHLE. Mr. President, today we recognize the date upon which slavery finally came to an end in the United States, June 19, 1865, also known as Juneteenth Independence Day. It was only on this day that slaves in the Southwest finally learned of the end of slavery. Since that time, for over 130 years, the descendants of slaves have celebrated this day in honor of the many unfortunate people who lived and suffered under slavery. Their suffering can never be repaired, but their memory can serve to ensure that no such inhumanity is ever perpetrated again on American soil. We commemorate Juneteenth Independence Day to honor the struggles of these slaves and former slaves, to acknowledge their suffering and so that we may never forget even the worst aspects of our Nation's history.

But this day and this joint resolution in honor of the end of slavery should also make us feel proud, proud that we as a nation have come so far toward advancing the goals of freedom and justice for all of our citizens. While we must continue ever forward in the search for justice, we should be thankful that the tireless efforts of vigilant Americans have enabled us to achieve a society built on democratic principles and the recognition that all men and women are created equal.

ADDITIONAL COSPONSORS

S. 99

At the request of Mrs. BOXER, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 99, a bill to amend the Internal Revenue Code of 1986 to allow companies to donate scientific equipment to elementary and secondary schools for use in their educational programs, and for other purposes.

SENATE JOINT RESOLUTION 9

At the request of Mr. KYL, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes.

SENATE RESOLUTION 23—DESIGNATING ALAN SCOTT FRUMIN AS A PARLIAMENTARIAN EMERITUS

Mr. LOTT (for himself, Mr. DASCHLE, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 23

Resolved, That Alan Scott Frumin be, and he is hereby, designated as a Parliamentarian Emeritus of the United States Senate.

SENATE RESOLUTION 24—RELATIVE TO THE CARGO PREFERENCE POLICY OF THE UNITED STATES

Mr. INOUYE submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 24

Whereas the maritime policy of the United States expressly provides that the United States have a Merchant Marine sufficient to carry a substantial portion of the international waterborne commerce of the United States;

Whereas the maritime policy of the United States expressly provides that the United States have a Merchant Marine sufficient to serve as a fourth arm of defense in time of war and national emergency;

Whereas the Federal Government has expressly recognized the vital role of the United States Merchant Marine during Operation Desert Shield and Operation Desert Storm;

Whereas cargo reservation programs of Federal agencies are intended to support the privately owned and operated United States-flag Merchant Marine by requiring a certain percentage of government-impelled cargo to be carried on United States-flag vessels;

Whereas when Congress enacted Federal cargo reservation laws Congress contemplated that Federal agencies would incur higher program costs to use the United States-flag vessels required under such laws;

Whereas section 2631 of title 10, United States Code, requires that all United States military cargo be carried on United States-flag vessels; Whereas Federal law requires that cargo purchased with loan funds and guarantees from the Export-Import Bank of the United States established under section 635 of title 12, United States Code, be carried on United States-flag vessels;

Whereas section 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f) requires that 75 percent of the gross tonnage of certain agricultural exports that are the subject of an export activity of the Commodity Credit Corporation or the Secretary of Agriculture be carried on United States-flag vessels;

Whereas section 901(b) of such Act (46 U.S.C. App. 1241(b)) requires that at least 50 percent of the gross tonnage of other ocean borne cargo generated directly or indirectly by the Federal Government be carried on United States-flag vessels;

Whereas cargo reservation programs are very important for the shipowners of the United States who require compensation for maintaining a United States-flag fleet;

Whereas the United States-flag vessels that carry reserved cargo provide quality jobs for seafarers of the United States;

Whereas, according to the most recent statistics from the Maritime Administration, in 1990, cargo reservation programs generated $2,400,000,000 in revenue to the United States fleet and accounted for one-third of all revenue from United States-flag foreign trade cargo;

Whereas the Maritime Administration has indicated that the total volume of cargoes moving under the programs subject to Federal cargo reservation laws is declining and will continue to decline;

Whereas, in 1970, Congress found that the degree of compliance by Federal agencies with the requirements of the cargo reservation laws was chaotic, uneven, and varied from agency to agency;

Whereas, to ensure maximum compliance by all agencies with Federal cargo reservation laws, Congress enacted the Merchant Marine Act of 1970 (Public Law 91–469) to centralize monitoring and compliance authority for all cargo reservation programs in the Maritime Administration;

Whereas, notwithstanding section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)), and the purpose and policy of the Federal cargo reservation programs, compliance by Federal agencies with Federal cargo reservation laws continues to be uneven;

Whereas the Maritime Administrator cited the limited enforcement powers of the Maritime Administration with respect to Federal agencies that fail to comply with section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)) and other Federal cargo reservation laws; and

Whereas the Maritime Administrator recommended that Congress grant the maritime Administration the authority to settle any cargo reservation disputes that may arise between a ship operator and a Federal agency: Now, therefore be it

Resolved, That it is the sense of the Senate that—

(1) each Federal agency should administer programs of the Federal agency that are subject to Federal cargo reservation laws (including regulations of the Maritime Administration) to ensure that such programs are, to the maximum extent practicable, in compliance with the intent and purpose of such cargo reservation laws; and

(2) the Maritime Administration should closely and strictly monitor any cargo that is subject to such cargo reservation laws.

Mr. INOUYE. Mr. President, the law of the land, specifically section (1) of the Merchant Marine Act of 1936, declares that the United States shall have a merchant marine sufficient, among other things, to:

> Carry a substantial portion of our international waterborne Commerce; and to serve as a fourth arm of defense in time of war and national emergency.

The importance of these requirements has been dramatically illustrated by the vital role of our merchant marine in World War II, Korea, Vietnam, during operations Desert Shield and Desert Storm, and most recently in Haiti, Somalia, and Bosnia.

While the privately owned and operated U.S. flag merchant marine has performed so magnificently and effectively in times of crisis, it has also made extraordinary efforts to ensure that a substantial portion of commercial cargo bound to and from the United States moves on U.S. bottoms. Given the chronic overtonnaging in international shipping, cut-throat competition, and the competitive edge our trading partners give their national flags, this has not been easy. In addition to competition with subsidized foreign carriers, U.S.-flag carriers are forced to compete with flag of convenience carriers. Over two-thirds of the international vessels operating in commerce are operating under flags of convenience. Flag of convenience registries include such major maritime powers as Panama, Liberia, the Marshall Islands, and Vanuatu. These registries only require their vessel owners to pay registration fees, and shipowners are not required to pay tax on revenues earned, nor do employees have to pay income tax, and the shipowner has little or no obligation to comply with the nation's law.

Nevertheless, if our commercial fleet is to continue to be an effective auxiliary in times of war or national emergency, it must first be commercially viable in times of peace. Otherwise, there will be no merchant fleet when the need arises.

I think we all would agree that there is a substantial national interest in promoting our merchant fleet. I think, also, that we would all agree that U.S. national security and economic security interests should not be held hostage for lack of U.S.-controlled sealift assets. Given the increasing diminution of the flag fleets of our NATO allies it will be more important in the future to sustain a viable U.S.-flag presence. Indeed, several laws of our land recognize that national interest and spell out specifically how the U.S. Government is to go about promoting it. Federal laws require that all U.S. military cargo, cargo purchased with all loan funds and guarantees from the Eximbank, 75 percent of concessionary agricultural, and at least 50 percent of all other international ocean borne cargo generated directly or indirectly by the Federal Government, be carried on U.S. flag vessels. The alarming news is that according to Maritime Administration [MarAd] the total volume of cargo moving under these programs is declining and will continue to do so.

According to a report by Nathan Associates, Inc., the 1992 economic impact of cargo preference for the United States is 40,000 direct, indirect, and induced jobs, $2.2 billion in direct, indirect, and induced household earnings, $354 million in direct, indirect, and induced Federal personal and business income tax revenues—$1.20 for every dollar of Government outlay on cargo preference, and $1.2 billion in foreign exchange.

It is, therefore, imperative that U.S. flag vessels carry every ton of cargo which these programs and the law intend them to carry. This brings me to the reason for the resolution I am introducing today. There are two substantial problems which threaten the viability of these programs and, therefore, the viability of our merchant fleet.

Several agencies administering cargo reservation programs continue to do their almighty best to evade the spirit and letter of the reservation laws, that is, find the law inapplicable to a particular program, or employ other loopholes.

Because of this problem of evasion and uneven confidence, the Congress amended the Merchant Marine Act of 1970 to centralize monitoring and compliance authority for all cargo reservation programs in MarAd. Nevertheless, the problem remains. Critics of MarAd maintain the agency is too timid, and does not discharge its obligation aggressively. MarAd, on the other hand, says it has limited enforcement powers over those Government agencies which are not in compliance.

In light of recent proposals to consolidate the Department of Transportation's operating divisions, I believe it is more important than ever for the Congress to reiterate its support for our cargo reservation laws, so that their administration and enforcement will not suffer from any departmental reorganization.

Mr. President, the resolution I am submitting today merely expresses the sense of the Senate that all of these Federal agencies do what they are supposed to be doing now, under existing law.

SENATE RESOLUTION 25—RELATIVE TO THE U.S. POSTAL SERVICE

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 25

Whereas the youth of America face more difficult challenges than ever before, with the lure of gangs, drugs, alcohol, and sex increasing the potential for irresponsible behavior and violence at ever earlier ages;

Whereas all too often the media focuses on negative stories about America's youth;

Whereas many young Americans have made extraordinary contributions to their communities and to their country;

Whereas 10-year old Samantha Smith of Manchester, Maine, wrote to Chairman Yuri Andropov of the Soviet Union in 1982 urging peace at the height of the Cold War;

Whereas Samantha was invited by Chairman Andropov to visit the Soviet Union the following year and became widely recognized as a spokesperson for the cause of peace until her death in a plane crash in 1985; and

Whereas America's young people need positive role models from among their peers: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Postal Service should issue a series of postage stamps highlighting the extraordinary achievements of young Americans and that a stamp honoring Samantha Smith of Manchester, Maine, should be the first in this series.

Ms. SNOWE. Mr. President, I am very pleased today to submit a resolution expressing the sense of the Senate that the U.S. Postal Service should issue a series of postage stamps honoring young Americans for their extraordinary achievements.

It is an unfortunate reality today that America's young people face more difficult challenges than ever before. The lure of gangs, drugs, alcohol, and sex increases the potential for irresponsible behavior and violence at ever earlier ages. On a daily basis, young people are exposed to a confusing array of messages and sometimes dubious role models. And even the best-intentioned working parents find it hard to spend the kind of quality time with their children that would help them sort through these pervasive influences. All too often, the media focuses on negative stories about America's young people.

Yet, there are many examples of exceptional young Americans who have risen above these challenges to accomplish extraordinary things for their community and for their country. Samantha Smith, who lived in Manchester, ME, is a prime example. In 1982, at the age of 10, Samantha wrote a letter to Chairman Yuri Andropov of the Soviet Union urging peace at the height of the cold war. As a result, she was invited by the Soviet leader to visit his country the following year. Samantha's trip received worldwide attention, and the schoolgirl became widely recognized as a spokesperson for peace and international understanding. Tragically, Samantha's life was cut short in 1985 in a fatal plane crash when she was only 13.

Other young Americans have demonstrated the same kind of initiative and vision which Samantha embodied. The youth of our country need to be aware of these positive role models from among their own age group. I am, therefore, introducing a sense-of-the-Senate resolution today calling upon the U.S. Postal Service to issue a series of stamps recognizing young Americans, starting with Samantha Smith, for the extraordinary contributions they have made.

ADDITIONAL STATEMENTS

FAMILY FRIENDLY WORKPLACE ACT

• Mr. ENZI. Mr. President, I rise today in support of S. 4, the Family Friendly Workplace Act. I am proud to be an original cosponsor of this important measure. By amending the Fair Labor Standards Act of 1938, this act would provide employees with flexible work schedules, and increase their choices and options for their time at work and quality time with their families. Ensuring that such opportunities are provided to our workers, better known as mothers and fathers, can only serve to strengthening our American families.

According to the Bureau of Labor Statistics, 63 percent of mother and father households now see both parents working outside of the home. Moreover, 76 percent of mothers with school-age children now work. That is why we must take action now to help employees balance the demands of work and family lives. I believe the Family Friendly Workplace Act is an important first step in helping our Nation's working parents do just that.

In 1993, the President signed the Family and Medical Leave Act into law. While well intended, the Federal Government took a 13-page law and transformed it into 300 pages of regulations. It then became a true administrative nightmare. Instead of targeting employees with choices and options for their work schedules, the President decided instead to target employers with a mandated mound of paperwork. To make matters worse, the President announced during the 1996 campaign his intention to expand the Family and Medical Leave Act by forcing employers to provide school activity and community leave for their employees. Such misguided mandates resurrect the words of Abraham Lincoln who said, "You cannot lift the wage earner by pulling down the wage payer." As lawmakers, we have the ability to prevent this Nation from traveling further down the road of federally mandated workplace conditions. By passing the Family Friendly Workplace Act, we will avoid the creation of an environment littered with friction and litigation and embrace mutual cooperation and respect.

Wage payers are not heartless and cruel reincarnations of Ebenezer Scrooge. Having played the wage payer role for over 26 years, I take great offense when employers are characterized as being the bad guys. The majority of employers cherish their most valuable assets—their employees. It is truly misleading and deceptive for anyone to say otherwise. For without the employee, management will ultimately have no staff, no profits—and no business. Watching out for employees is just good business.

As an alternative to employer mandates, this legislation would provide compensatory time off that would allow employers to offer and employees to choose to use compensatory time for school and family activities and a whole range of other personal reasons—without getting the Government involved in certifying and documenting these events. The President's expansion of the Family and Medical Leave Act would require employees to get certification for taking time off to attend a child's soccer match, piano recital, or even a meeting with a schoolteacher. Under this bill, employees have the right to choose compensatory time instead of cash wages at a rate not less than 1½ hours of each hour of overtime worked. Employees would be able to accrue up to 240 hours annually and have the opportunity to cash-out their accrued hours at least once a year. That's a lot of time we should be spending with our children—an investment in our future.

Federal employees have enjoyed flexible work schedules, chock full of choices and options, since 1978. Legislation that amends the Fair Labor Standards Act of 1938 is long overdue. We appear to have no confidence in private sector employees' ability to make rational decisions on how to spend their time.

I have been blessed with a wife and three wonderful children. Like many who place value in time shared with family, I believe that such moments are a priceless commodity that can never be replaced—or regained—once lost. At a time when our society clings to every fiber of family life, I can see no better way for Congress and the President to express our support for the American family than by passing and then urging the President to sign into law, S. 4, the Family Friendly Workplace Act.

I urge my colleagues to join me in giving employees the opportunity to balance their work and family obligations.

I yield the floor.•

THE FLOOD OF 1996

• Mr. MOYNIHAN. Mr. President, while people in Washington and around the country celebrated the Presidential inauguration this past weekend, people in New York State observed the 1-year anniversary of an event of a very different kind—one of the worst natural disasters we have ever faced. In New York, especially upstate New York, January 19, 1996, will forever be known as the day the waters came.

A combination of severe thunderstorms and melting snow led to one of the worst floods in our State's history. Forty-one of the State's 62 counties were declared disaster areas. According to the Federal Emergency Management Agency, damages were greater than $100 million. My home county, Delaware, was the hardest hit; bridges were washed away, homes were ruined, roads were destroyed, fields were inundated, and entire villages were left under water. Six of the eleven fatalities caused by the flood were in Delaware County.

Over the past year, the people of New York have tried to rebuild their homes and their lives. Our towns, villages, and counties have tried to rebuild their roads and municipal facilities. FEMA and the State Emergency Management Office, or SEMO, have been there to help, but it has not been easy. The flood of January 19 was not the only one of the year. It came just 2 weeks after the great blizzard of 1996. Then in October, the New York City area was hit by a severe flood, and only a month later, large parts of upstate New York were flooded again. Although not as severe as the January floods, heavy rains again caused damages in several areas of the State, especially Clinton and Essex Counties in the northeast corner, and once again, Delaware County was hit.

Ask any local official in upstate New York what they will remember most about 1996 and invariably he or she will say the floods. We have spent the last year trying to recover and rebuild, and I thank FEMA Director James Lee Witt and Regional Director Lynn Canton and SEMO Director Ed Jacoby for all their help. We have made a lot of progress but, as Delaware County Board of Supervisor's Chairman Ray Christensen will often tell you, "We have to realize things will never be the same."•

DEFENDING AMERICA ACT OF 1997

• Mr. ABRAHAM. Mr. President, I rise today to join the distinguished majority leader, and my colleagues, in cosponsoring Senate bill S. 7, the Defending America Act of 1997. This legislation builds on the significant, but still insufficient, progress we accomplished in the 104th Congress. During the last session of Congress, we were able to secure the funding necessary for the eventual deployment of a missile defense system capable of protecting the United States. But we were not able to explicitly direct that we deploy the missile defense system as soon as possible. This leaves us with no assurance that the funding we have secured will be used, efficiently and expeditiously, for its intended purpose.

Therefore, Mr. President, the majority leader, in close cooperation with Congress' national defense leadership, has crafted a proposal that would secure our Nation's missile defense through prudent development of policies and force structures. To begin with, we would produce the system necessary to protect the United States from limited, unauthorized, or accidental ballistic missile attacks. We then would augment that capability to defend our Nation against larger and more sophisticated ballistic missile threats. I am especially heartened that the most promising antiballistic missile technologies, including sea-based systems such as Navy Upper Tier, are fast approaching the point at which we will be able to make them operational.

We need this technology, in my view, because the post-cold-war world remains a dangerous place. Ballistic missile proliferation to rogue regimes continues apace. The security of nuclear armed ballistic missiles in the former Soviet Union has declined sharply. Given these facts, old strategies and treaties can no longer meet our national security needs. We must develop and deploy a ballistic missile defense system capable of protecting our cities and citizens from disastrous attack.

I mentioned old treaties, Mr. President. I would like in particular to discuss the Anti-Ballistic-Missile Treaty and its relationship to missile defense. Congress has repeatedly stated that the ABM Treaty does not, in any way, hinder the development of theater ballistic missile defenses. It has also called for a renegotiation of the ABM Treaty so as to allow the development of more robust national missile defense systems.

Mr. President, the times have changed since the ratification of the ABM Treaty. Our primary threats no longer come from a general nuclear attack by thousands of Soviet weapons—an attack that would probably overwhelm a ballistic missile defense system. Today our immediate threats come from rogue, unintentional, or unauthorized attacks of limited size and duration. I believe we are quickly approaching the point of our last, best hope in properly modifying the ABM Treaty, and protecting America from ballistic missile attack.

The majority leader has displayed the foresight and perceptiveness critical for developing effective national security strategies. There can be no doubt that a fully operational and technologically capable ballistic missile defense system is crucial to that strategy. Nor can there be any doubt that antiquated treaties which fail to adapt to vastly different national security threats must be either changed or discarded.

The majority leader's bill constitutes a reasonable and moderate attempt to bridge the philosophical gap that exists between Congress and the administration. We should not let this opportunity be lost.•

THE 50TH ANNIVERSARY OF THE U.S. PACIFIC COMMAND

• Mr. INOUYE. Mr. President, I rise today to recognize and commemorate, with very deep patriotic pride, the 50th anniversary of the U.S. Pacific Command.

On January 1, 1947, the U.S. Pacific Command was established to unify with the Alaskan and Far East commands.

As the largest of nine unified commands within the Department of Defense today, the U.S. Pacific Command interacts daily with foreign military and civilian leaders, serving as a key link for the United States in the most dynamic region of the world—a region that contains 44 countries, two-thirds of the world's population, and 7 of the world's largest armed forces.

During the past 50 years, the Asia-Pacific theater has grown from a war-torn region recovering from the devastation of World War II to the most dynamic economic region in the world. The importance of the United States' interest in the Asia-Pacific theater is best illustrated by the pivotal role of East Asia's economies in the world's economic order. The Asia-Pacific gross national product surpassed the European Union in 1990, and today, our trans-Pacific trade now exceeds $503 billion per year.

Fostering peace, providing security, and meeting the challenges within an area totaling more than half of the Earth's surface, the U.S. Pacific Command is represented by more than 300,000 trained and highly dedicated soldiers, sailors, airmen, and marines.

Mr. President, after World War II, our Nation's military leaders recognized the importance of unity of forces worldwide. On December 14, 1946, President Truman approved the first unified command plan, and on January 1, 1947, the U.S. Pacific Command was established.

During the past 50 years, the U.S. Pacific Command's responsibilities have expanded to include the west coast of the United States, the eastern shores of Africa, all points in Asia, and the Arctic to the Antarctic.

Mr. President, during the past 50 years, U.S. Pacific Command Forces have been engaged in three major conflicts and numerous military actions. During the Korean conflict, Vietnam conflict, and the Gulf war, the United States Pacific Command Forces have fought bravely.

The United States Pacific Command provided forces to support the United States, Far East and U.N. Commands during the Korean conflict. These support forces were primarily in the form of naval assets which conducted patrolling missions and aided amphibious operations by providing naval gunfire, sealift and airstrikes from carrier task forces. The naval airstrikes were an integral part of the overall air campaign.

The United States Pacific Command oversaw our involvement through all phases of the Vietnam conflict—from the build-up and military actions to the withdrawal of United States combat forces. However, Mr. President, as many will sadly agree, memories of the Vietnam conflict were not over for the United States Pacific Command. The command became deeply involved in the emotional repatriation of American prisoners of war during Operation Homecoming. Additionally, the United States Pacific Command assisted with the movement of Vietnamese nationals to the United States and the airlift of Vietnamese children during Operation New Life and Operation Babylift, respectively.

During Desert Shield and Desert Storm, the United States Pacific Command Forces provided vital ground, sea, and air assets in support of U.S. Central Command Operations conducted in Saudi Arabia, Kuwait, Iraq, and off-shore in the Arabian Sea.

The United States Pacific Command deployed forces to Haiti during Operation Uphold Democracy and continues to deploy forces in support of the United States' interests in the European and Middle Eastern theaters.

Today Mr. President, the U.S. Pacific Command's mission is to foster peace, deter aggression, and rapidly respond to crisis. If necessary, they will fight to maintain security and stability throughout the Asia-Pacific region.

In order to maintain security in the vast Asia-Pacific region, the U.S. Pacific Command has the U.S. Army Pacific, the Pacific Fleet, the Pacific Air Forces, and the Marine Forces Pacific as its service components. Additionally, its sub-unified command includes United States Forces Korea, United States Forces Japan, the Alaskan Command, and the Special Operations Command, Pacific.

The U.S. Pacific Command leads two task forces. The Joint Task Force Full Accounting was established to achieve the fullest accounting of Americans still missing in Southeast Asia as a result of the Vietnam conflict. Through the task force's efforts, more than 2,000 investigations have been completed and 350 sets of remains repatriated. The Joint Interagency Task Force West, the second standing task force, brings DOD resources to bear in support of law enforcement agencies to disrupt international drug traffickers from Southeast and Southwest Asia.

Mr. President, most recently and at my urging, the Asia-Pacific Center for Security Studies was established to strengthen existing bilateral relationships through the multilateral study of security, economic, social, and political issues in the Asia-Pacific region.

This further compliments the U.S. Pacific Command's mission of building bilateral and multilateral bonds within the Asia-Pacific region. Annually, the command conducts more than 400 exercises, and other bilateral and multilateral training events. The command assists 29 different nations with humanitarian and civic assistance funds and provide more than $12 million in equipment to developing and emerging nations. The U.S. Pacific Command also responds to natural disasters. The command has provided needed assistance in the wake of devastation caused by the earthquake in Kobe, Japan, the destructive winds of Hurricane Omar on Guam, and the earthquake and flooding in China, and helped their neighbors on the Island of Kauai following Hurricane Iniki. The U.S. Pacific Command actively engages our friends and allies through training exercise participation, military contacts, humanitarian aid, and disaster relief.

Mr. President, since its establishment, the U.S. Pacific Command has remained a beacon of democracy and freedom in the region. Today, it is an active living embodiment of U.S. security to the Asia-Pacific area. It is a commitment which has been maintained during the past 50 years—and a commitment I am confident they will fulfill well into the 21st century.

It is indeed a pleasure for me to salute the soldiers, sailors, airmen, marines, and civilian employees, both past and present, of the U.S. Pacific Command on its 50th anniversary. Thank you for your many contributions—lives saved, lives improved and enhanced for a better tomorrow. This was achieved, on occasion, at the cost of U.S. lives and U.S. blood spilt. We honor the memory of those brave men and women who made the supreme sacrifice for the sake of peace and stability in the region.

Adm. Joseph W. Prueher has the distinct honor of leading the U.S. Pacific Command on its 50th anniversary. I have no doubt that he will lead the command forward with the same valor and distinction as those who have come before him. Congratulations and best wishes to all.●

NATIONAL RESEARCH INVESTMENT ACT OF 1997

● Mr. GRAMM. Mr. President, yesterday I joined with Senator MACK and Senator HUTCHISON in introducing S. 124, the National Research Investment Act of 1997. I ask that the text of the bill be printed in the RECORD. The text of the bill follows:

S. 124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Research Investment Act of 1997".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) for fiscal year 1965, 5.7 percent of the Federal budget was expended for non-defense research and development activities;

(2) for fiscal year 1997, the percentage of the Federal budget allocated for nondefense research and development activities is 1.9 percent, which is 67 percent less than the percentage in fiscal year 1965;

(3) for the first time in 25 years during the period beginning with fiscal year 1992 and ending with fiscal year 1995, the amount of funds expended by the Federal Government on research (expressed in real dollars) declined each year;

(4) during the period beginning with fiscal year 1970, and ending with fiscal year 1995, the United States had not, during any fiscal year, expended an amount for nondefense research and development activities, that, expressed as a percentage of the Gross Domestic Product, was greater than or equal to the percentage expended by Japan or Germany for that fiscal year; and

(5) an increased level of investment in basic science and medical research by the Federal Government is essential to maintaining the position of the United States as the technological leader of the world.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To double the annual authorized amount of Federal funding for basic science and medical research over the 10-year period following the date of enactment of this Act, so that the amount of Federal funding for fiscal year 2007 is equal to $65,000,000,000.

(2) To restore the high priority that science and technology had previously been afforded in the Federal budget.

(3) To invest in the future of the United States and the people of the United States by expanding the research activities referred to in paragraph (1).

(4) To enhance the quality of life for all the people of the United States.

(5) To guarantee the leadership of the United States in science and medicine.

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

(a) FUNDS FOR COVERED RESEARCH AND DEVELOPMENT DEFINED.—For purposes of this section, the term "funds for covered research and development" means—

(1) any funds made available by appropriations for—

(A) the National Science Foundation;

(B) the National Aeronautics and Space Administration;

(C) the National Oceanic and Atmospheric Administration of the Department of Commerce;

(D) the National Institute for Standards and Technology of the Department of Commerce; and

(E) the National Institutes of Health of the Department of Health and Human Services;

(2) any funds made available by appropriations for use for research and development activities (as that term is used in the most recent applicable appropriations Act with respect to a Federal Agency) for basic science or medical research—

(A) by the Centers for Disease Control of the Department of Health and Human Services;

(B) by the Department of Energy, (to the extent that the activities are not defense-related activities);

(C) by the Department of Agriculture;

(D) by the Department of Veterans Affairs;

(E) by the Smithsonian Institution; and

(F) by the Department of Education; and

(3) any funds made available by appropriations to the Environmental Protection Agency for science and technology activities for basic science or medical research.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to the limitations under paragraph (2), there are authorized to

be appropriated as funds for covered research and development—

(A) for fiscal year 1998, $35,750,000,000, of which $14,025,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services;

(B) for fiscal year 1999, $39,000,000,000, of which $15,300,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services;

(C) for fiscal year 2000, $42,250,000,000, of which $16,575,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services;

(D) for fiscal year 2001, $45,500,000,000, of which $17,850,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services;

(E) for fiscal year 2002, $48,750,000,000, of which $19,125,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services;

(F) for fiscal year 2003, $52,000,000,000, of which $20,400,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services;

(G) for fiscal year 2004, $55,250,000,000, of which $21,675,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services;

(H) for fiscal year 2005, $58,500,000,000, of which $22,950,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services;

(I) for fiscal year 2006, $61,750,000,000, of which $24,225,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services; and

(J) for fiscal year 2007, $65,000,000,000, of which $25,500,000,000 shall be used by the National Institutes of Health of the Department of Health and Human Services.

(2) LIMITATIONS.—

(A) DEVELOPMENT OF PUBLIC INFORMATION.—In using funds made available under this section, the appropriate officials shall take such action as may be necessary to ensure that priority is given to basic scientific research that has the purpose of developing scientific information to be available to the general public.

(B) USE OF FUNDS.—No funds made available pursuant to the authorization under this subsection may be used for commercial purposes, except that such funds may only be used for precompetitive research and development for technology.

(C) PEER REVIEW.—In allocating funds made available under this section, the appropriate officials shall take such action as may be necessary to ensure that a peer review system is used.

SEC. 4. COMPLIANCE WITH DISCRETIONARY CAPS.

Notwithstanding any other provision of law, no funds may be made available under this Act in a manner that does not conform with the discretionary spending caps provided in the most recently adopted concurrent resolution on the budget.●

AN ISSUE OF LIFE-OR-DEATH IMPORTANCE

● Mr. MOYNIHAN. Mr. President, on Tuesday, January 22, 1997, I introduced S. 112, the Law Enforcement Officers Protection Act of 1997. One day after its introduction, the Law Enforcement Steering Committee—a committee of 10 police associations, representing 500,000 law enforcement officers nationwide—wrote me to endorse this bill in the strongest terms.

This legislation will require the Treasury Department to work with the Justice Department in order to develop uniform ballistics standards for testing the capability of ammunition to pierce police body armor. This bill will, I hope, mark my final step in a 15-year journey to ban all cop-killer bullets in America. In 1986 and 1994, Congress recognized the importance of this issue, and we passed bills that established a content-based ban on this type of ammunition. But, until we ban these bullets based on performance, rather than on their physical characteristics, policemen everywhere will remain in extreme peril.

As the Law Enforcement Steering Committee wrote in their letter to me, "This is an issue of life-or-death importance to every law enforcement officer in America." I have faith that my colleagues will once again recognize the crucial nature of this issue and enact S. 112 early in the 105th Congress.

I ask that the full text of the Law Enforcement Steering Committee's letter be printed in the RECORD.

The letter follows:

LAW ENFORCEMENT STEERING COMMITTEE,
Washington, DC, January 22, 1997.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the Law Enforcement Steering Committee, an organization representing approximately 500,000 law enforcement officers nationwide, we write in strong support of the Law Enforcement Officers Protection Act of 1997, your legislation to require uniform ballistics standards for testing the capability of ammunition to pierce police body armor. This is an issue of life-or-death importance to every law enforcement officer in America.

The existing statutory ban on armor-piercing bullets, which you wrote and successfully shepherded through Congress in 1986, and updated in 1993, has worked flawlessly for more than a decade. As you have pointed out, however, new styles of armor-piercing bullets continue to appear, making it impossible for the current content-based ban on "cop-killer" bullets to remain effective indefinitely. This is why we applaud your efforts to revise the law to ban any new bullets that are determined by a standardized ballistics test to have armor-piercing capability.

These "cop-killer" rounds have no legitimate sporting use, and it is imperative to ensure that criminals do not gain access to them. Now that the Commerce Department's National Institute of Standards and Technology (NIST) has demonstrated that it is possible to develop a ban based on performance standards, we agree with you that immediate action should be taken to enact such a ban.

Our members appreciate your continued attention to this issue since 1982, when you first introduced legislation to ban armor-piercing ammunition, and we hope that the Law Enforcement Officers Protection Act of 1997 will be enacted early in the 105th Congress.

Sincerely,

JAMES A. RHINEBARGER,
Chairman, National Troopers Coalition,
Chairman, LESC.

MEMBERS OF THE LAW ENFORCEMENT STEERING COMMITTEE

Federal Law Enforcement Officers Association, Fraternal Order of Police, International Brotherhood of Police Officers, Major Cities Chiefs, National Association of Police Organizations, National Organization of Black Law Enforcement Executives, National Sheriffs' Association, National Troopers Coalition, Police Executive Research Forum, Police Foundation.●

H. ROUSE CAFFEY DAY IN LOUISIANA

● Mr. BREAUX. Mr. President, on January 24, 1997, after 36 years of service, Dr. H. Rouse Caffey will retire from Louisiana State University, completing a career of notable accomplishments and a tenure of extraordinary leadership and service.

It is most appropriate, therefore, on the occasion of his retirement that the State will proclaim, January 24, 1997, as H. Rouse Caffey Day in Louisiana, a tribute of which he is most deserving.

For about 30 of those 36 years, I've known Dr. Caffey personally. I've worked closely with him on many occasions. I will miss him, as will many others who've had the privilege to work with him.

Distinguished leadership and service have been the hallmarks of Dr. Caffey's career, including his most recent role as chancellor of the LSU Agricultural Center, a position which he has held for 13 years.

His genuine devotion to the LSU Agricultural Center and the people of Louisiana has kept farmers, families, and youth knowledgeable about the most recent information available to help improve their lives.

Dr. Caffey's service to this country as national cochair of the International Science and Education Council from 1986 to 1991 and as national cochair of the Joint Council for Food and Agricultural Sciences from 1989 to 1995, earned him the respect and admiration of the U.S. Department of Agriculture and land grant institutions across the Nation.

In addition, Dr. Caffey's international agricultural activities in 30 foreign countries have earned for him, for LSU, for Louisiana, and for the Nation the respect and admiration of leaders abroad and have led to improved and lasting relationships with them.

His other LSU appointments have included superintendent of the LSU Rice Research Station at Crowley, LA; associate director of the Louisiana Agricultural Experiment Station in Baton Rouge; vice chancellor for administration of the Center for Agricultural Sciences and Rural Development; director of International Programs; and chancellor of LSU at Alexandria.

Throughout Dr. Caffey's career, he has received numerous awards and honors, including the 1993 LSU Alumni Association Alumnus of the year; 1994

Alumnus of the Year for the College of Agriculture and Home Economics at Mississippi State University; and Progressive Farmer magazine's 1986 Man of the Year for Louisiana Agriculture.

Dr. Caffey's personality, dedication, knowledge, service, and leadership have left a unique and lasting impression on LSU, its agricultural center, and the agricultural community nationally and internationally.

Dr. Caffey will always have my respect and admiration, sentiments which are shared, I know, by the many individuals and organizations led and served so well by him over the years.

In closing, Mr. President, I take this occasion to commend Dr. Caffey personally for his lifetime of distinguished leadership and service and to wish him every continued success in the future.•

RETIREMENT OF CLARENCE TABA

• Mr. INOUYE. Mr. President, I rise today to commemorate the retirement of Mr. Clarence Taba of Hawaii after 22 years of service as executive director of the Hawaii Bankers Association.

During World War II, Mr. Taba was one of the young men who enlisted and became a member of the 442d Regimental Combat Team—an infantry unit composed of Americans of Japanese ancestry. Mr. Taba's courage was prominently displayed during the rescue of the Texas "Lost Battalion"—141st Infantry of the 36th Division—in France, for which he earned a Silver Star and two Bronze Star Medals for leadership and gallantry in combat, and three Distinguished Unit Citations with 5 battle stars, for his participation in pivotal battles in Italy and France.

As a veteran, Mr. Taba served as the first State commander of the Hawaii Disabled American Veterans.

Mr. Taba is well known and well respected within Hawaii's financial community. His financial career commenced shortly after the end of World War II, when he organized a Federal credit union for his 442d Regimental Combat Team comrades. Mr. Taba became the first American to qualify as a certified credit union executive, and was also the first American to be awarded the Edward Filene Award for Volunteer Achievement. He also served the Hawaii financial community as the mortgage operations officer for Bank of Hawaii, cashier for City Bank of Honolulu during its organizing years, Senior vice president and operations officer for the State of Hawaii's largest savings and loan at that time, and senior bank examiner for the State of Hawaii.

Mr. Taba was appointed as the first executive director of the Hawaii Bankers Association in September 1975. Throughout the years, he has diligently worked to bring the local banks together, especially on significant issues such as the recodification of Hawaii banking laws, and the passage of such bills as the Credit Sales Contract Act and the Industrial Loan Act. He also spearheaded the many projects traditionally undertaken by the Hawaii Bankers Association throughout the calendar year, including the annual convention, installation luncheon, and various seminars. The Hawaii congressional delegation is extremely grateful for the assistance and guidance Mr. Taba has provided throughout his tenure at the HBA to ensure that Hawaii's interests were addressed.

The Hawaii Bankers Association continues to be a key player in the State of Hawaii's economy. Despite stiff competition, the different banks always work together in the spirit of aloha and harmony. Mr. Taba, in his own special way, has ensured all of that.

I wish to join the banking industry and the people of Hawaii in thanking Clarence Taba for his dedicated efforts over the years on behalf of the State of Hawaii and our Nation, and to wish him a happy and fulfilling retirement.•

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WINTER STORMS IN THE DAKOTAS

Mr. DORGAN. Mr. President, today the agricultural statistical folks who have been doing surveys in the Dakotas have told us that the winter storms—successive, bitter, awful winter storms that have hit one after another—in our State have killed somewhere around 13,000 cattle in North Dakota. It has been a rugged difficult time for North Dakotans and for livestock producers in our State.

I spoke the other day about the kind of bitter storms that we face, almost unlike any that most of us in North Dakota can remember. And again, within the last 24 hours, another storm has hit. Both interstate highways, the east-west highway in North Dakota and the north-south highway, were closed down completely. Snow, 50-mile-an-hour winds, and bitterly cold temperatures make this an awfully difficult time for North Dakotans.

Thousands and thousands of volunteers in North Dakota have responded to the crisis. And the Federal Government has too. President Clinton has declared that our entire State is suffering from a major disaster. The Federal Emergency Management Agency is in North Dakota. They are rounding up heavy equipment from around the country to come and help us open roads to help protect the lives of people and the livestock herds.

The Department of Agriculture has provided some feed assistance and some other aid to try to help producers get to their cattle and feed them. So we have had some help. But we need more. And today we are going to be visiting with the Department of Agriculture once again because the assistance they have offered so far—feed assistance for livestock—is simply too narrowly drawn to be of very much help to anybody. It is of help to some but it is just too narrow.

It is interesting. In the last Congress when the freedom to farm bill was passed these emergency feed programs were abolished. I thought it was the wrong thing to do. And it was. But they were abolished. Now we have gotten the Department of Agriculture to try to jury-rig an emergency approach to try to give us some help. But they need to broaden that substantially so the livestock producers—farmers and ranchers out there, many of whom have been operating on very thin margins anyway—have the capability of getting their roads open, getting the feed in, and feeding their herds.

We really do need some help not just in North Dakota but in our whole region of the country.

So we are going to be visiting with the Department of Agriculture again this afternoon to try to broaden this approach to see if we can't get some help in there. Mr. President, 13,000 cattle have died in North Dakota. Many more are at great risk because they have survived five or six blizzards now and are hit with another at the moment. We expect other storms. So this is a very difficult problem.

I spoke the other day about the heroes in our part of the country during this difficult winter, and talked about going out on a snowplow with a crew in conditions in which you couldn't see 2 feet in front of you; nearly whiteout conditions with 50-mile-an-hour winds, bitterly cold; going up by a trailer court where you could not see any trailer houses because even their roofs were not to be seen; snow was over the roof line. Conditions were about as difficult as they could get, and yet people made an emergency run to help get a 2-year-old boy, about whom I talked the other day, to a hospital who would have died had he not gotten there, a 20-mile trip that took 6 hours with four people driving two ambulances, two snowplows and two trucks plowing through roads that were impassable, in zero visibility conditions, with 40- and

50-mile-an-hour winds. The people who do that are public servants out there to whom we owe a great debt of gratitude and who are really truly heroes.

I also wanted to mention another fellow in North Dakota who I think deserves mention because when we have these tough times it is not just the program that is put in place to help people; it is the people who help people, neighbors coming together and doing things to help each other.

On Tuesday night this week, at 10 o'clock in the evening, Jan Novak was driving home, having just finished her work, in Grafton, ND. As Jan Novak was driving home—and that was a point when the blizzard was hitting and the interstates were being closed and giant winds were coming up—she lost her way and could not see much in front of her. She had to pull off the road and became stuck in a snowbank.

And there she was in the middle of this raging blizzard. This was just Tuesday evening of this week.

She did say she had blankets and she had some gas. She was not feeling that she maybe would not be found. She felt that she would be able to hold out, and she started her car intermittently in the terribly cold weather, but then she worried about whether her car was going to start just based on the sounds from her engine.

Her husband called the Walsh County Sheriff, Lauren Wild, about 1 o'clock in the morning, and the sheriff tried to get some people out to take a look to see where she was. They tried to search the road she might have taken to go home out in the country from Grafton, ND, and they searched for several hours, and in conditions of almost no visibility and could not find Jan Novak, who was then out there stuck in the car.

And they also called people along the route. They called a fellow named Halvorson, Don Halvorson, at 3:30 in the morning—he is a farmer—got him out of bed, woke him up and told him that there was a woman lost along this route and they could not seem to find her. Of course, Don Halvorson had not seen her, nor had anyone else passing along the way, and because nobody could see the roads they eventually had to call off the search.

Don Halvorson could not sleep, he said. So at 3:30 in the morning, after having gone back to bed and not being able to sleep, he got up, put his clothes on and went out in the yard and started his tractor, which had a cab on it, and went out to look. And with the tractor, in conditions of almost zero visibility, for 3 hours he searched up and down his road and up and down his area of the country, and somewhere around 6:30 in the morning this fellow named Don Halvorson, in his tractor, pulled up to Jan Novak's car. And he got out of the tractor and rescued her, took her back to his home. She says that he is a true hero, and he said he just could not sleep knowing there was somebody out in that storm.

It is interesting to me that these stories of people helping each other seem to get so little attention. This one did get a little attention. But bad news travels halfway around the world before good news gets its shoes on, they say, and I understand that. But there are wonderful stories of people who cannot sleep when something is wrong and who want to go out and help other people.

In our part of the country, and I expect in the part of the country that is represented by the Presiding Officer, we face some pretty difficult times. And the only way you get along is to work with each other, neighbors helping neighbors, folks helping folks. Don Halvorson could have gone back to sleep, I suppose. He did not know where Jan Novak was. He did not know Jan Novak. Instead, he got up, put on his clothes, got in his tractor in bitterly cold weather, with raging wind and zero visibility, and risked his life to go search for a woman stranded in the blizzard whose life was also at risk.

Even as I talked today about the need for some help from the Department of Agriculture for livestock feed and for ranchers and farmers out there who are struggling, I also wanted to pay homage to some heroes who are out there. Some are on road crews today working shift after shift. Some are also in farmhouses helping neighbors get along in about as difficult a winter as I can remember in the history of North Dakota.

Mr. President, with that, I yield the floor and make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRINTING OF SENATE DOCUMENT

Mr. LOTT. Mr. President, I ask unanimous consent that Members have until January 30 to submit eulogies of our friend and former colleague, Senator Paul Tsongas, and further, that statements be compiled and printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JANUARY 27, 1997 AND TUESDAY, JANUARY 28, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, January 27, for a pro forma session only; and further, immediately following the pro forma session, the Senate stand in adjournment until the hour of 10 a.m. on Tuesday, January 28; that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business until the hour of 12:30 p.m., with each Senator being allowed to speak for up to 5 minutes each, with the following exceptions: Senator LOTT, or his designee, 30 minutes; Senator DASCHLE, or his designee, 60 minutes; Senator COLLINS, 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask unanimous consent that on Tuesday, the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will be in session on Monday pro forma only, as I said. No business will be conducted on Monday, and the Senate will then adjourn until Tuesday.

On Tuesday, it is my hope the Senate will consider any available nominations that have been reported from committees. Members should expect rollcall votes beginning on Tuesday and throughout the remainder of next week as we consider nominations or any other legislative items that become available.

As we see what may be available on Monday or Tuesday, we will notify Members about exactly what they can expect, hopefully, on Wednesday or Thursday and whether there will be any need to be in on Friday. We need to look at the nominations. It could be we will have more than just one or two, or maybe only one or two. We will just have to see what is happening next week.

ADJOURNMENT UNTIL MONDAY, JANUARY 27, 1997, AT 10 A.M.

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:44 p.m., adjourned until Monday, January 27, 1997, at 10 a.m.

SENATE—*Monday, January 27, 1997*

The Senate met at 9:59 and 15 seconds a.m., on the expiration of the adjournment, and was called to order by the President pro tempore [Mr. THURMOND].

ADJOURNMENT UNTIL 10 A.M., TUESDAY, JANUARY 28, 1997

The PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until 10 a.m., Tuesday, January 28, 1997.

Thereupon, the Senate, at 9:59 and 30 seconds a.m., adjourned until Tuesday, January 28, 1997, at 10 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 28, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 29

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider the nomination of William M. Daley, of Illinois, to be Secretary of Commerce, and pending Coast Guard nominations.

SR-253

Energy and Natural Resources

To hold an organizational meeting.

SD-366

Small Business

To hold an organizational meeting.

SR-428A

10:00 a.m.

Budget

To hold hearings on proposals for long-term Social Security reform.

SD-608

Commerce, Science, and Transportation

To hold hearings on the nomination of Rodney E. Slater, of Arkansas, to be Secretary of Transportation.

SR-253

Finance

To hold hearings on the nomination of Charlene Barshefsky, of the District of Columbia, to be United States Trade Representative; to be followed by a business meeting to consider the nomination of Ms. Barshefsky and S.J. Res. 5, waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative.

SD-215

Foreign Relations

To hold hearings on the nomination of Bill Richardson, of New Mexico, to be the Representative of the United States to the United Nations with the rank of Ambassador, and the Representative of the United States in the Security Council of the United Nations.

SD-419

Governmental Affairs

To hold an organizational meeting.

SD-342

Labor and Human Resources

To hold hearings on proposed legislation authorizing funds for programs of the Individuals with Disabilities Education Act (IDEA).

SD-430

11:15 a.m.

Veterans' Affairs

To resume hearings to examine Persian Gulf War illnesses.

SH-216

2:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

Special on Aging

To hold an organizational meeting.

SD-628

JANUARY 30

9:00 a.m.

Budget

To hold hearings on the consumer price index.

SD-608

9:30 a.m.

Rules and Administration

To hold hearings to examine campaign finance reform proposals, including S. 57, and on proposed legislation authorizing funds for the Federal Election Commission (FEC).

SR-301

10:00 a.m.

Energy and Natural Resources

To hold hearings on the nomination of Federico Pena, to be Secretary of Energy.

SD-366

Finance

To resume hearings on the final report of the Advisory Commission to Study the Consumer Price Index.

SD-215

Foreign Relations

To hold an organizational meeting.

SD-419

Judiciary

Business meeting, to consider pending committee business.

SD-226

2:30 p.m.

Indian Affairs

To hold an organizational meeting.

SR-485

JANUARY 31

9:30 a.m.

Environment and Public Works

To hold hearings on the nomination of Rodney E. Slater, of Arkansas, to be Secretary of Transportation.

SD-406

FEBRUARY 4

9:30 a.m.

Labor and Human Resources

Employment and Training Subcommittee

To hold oversight hearings on the implementation of the Fair Labor Standards Act (FLSA).

SD-430

Rules and Administration

To hold hearings on proposed committee resolutions requesting funds for operating expenses for 1997 and 1998.

SR-301

FEBRUARY 5

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 104, to amend the Nuclear Waste Policy Act of 1982.

SD-366

Environment and Public Works

Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee

To hold hearings on ozone particulate matter standards proposed by the Environmental Protection Agency.

SD-406

Rules and Administration

To continue hearings on proposed committee resolutions requesting funds for operating expenses for 1997 and 1998.

SR-301

FEBRUARY 6

9:30 a.m.

Rules and Administration

To continue hearings on proposed committee resolutions requesting funds for operating expenses for 1997 and 1998.

SR-301

FEBRUARY 11

9:30 a.m.

Labor and Human Resources

To hold hearings on the implementation of the Health Insurance Portability and Accountability Act.

SD-430

Rules and Administration

Business meeting, to mark up proposed legislation authorizing biennial expenditures by standing, select, and special committees of the Senate, and to consider other pending legislative and administrative business.

SR-301

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Veterans of Foreign Wars.

345 Cannon Building

FEBRUARY 12

9:30 a.m.

Environment and Public Works

To hold hearings on the ozone and particulate matter standards proposed by the Environmental Protection Agency.

SD-406

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Labor and Human Resources
To hold hearings on the implementation of the Teamwork for Employees and Managers Act (TEAM).
SD–430

FEBRUARY 13

2:00 p.m.
Environment and Public Works
Transportation and Infrastructure Subcommittee
To hold hearings on the implementation of the Intermodal Surface Transportation Efficiency Act and transportation trends, infrastructure funding requirements, and transportation's impact on the economy.
SD–406

FEBRUARY 26

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

FEBRUARY 27

9:30 a.m.
Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

MARCH 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Paralyzed Veterans of America, the Jewish War Veterans, the Retired Officers Association, the Association of the U.S. Army, the Non-Commissioned Officers Association, and the Blinded Veterans Association.
345 Cannon Building

MARCH 19

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

MARCH 20

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of AMVETS, the American Ex-Prisoners of War, the Veterans of World War I, the Vietnam Veterans of America, and the Military Order of the Purple Heart.
345 Cannon Building

SENATE—*Tuesday, January 28, 1997*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, we need You more than anything You can give us. In Your presence we feel Your grace. We are assured that we are loved and forgiven. You replenish our diminished strength with a fresh flow of energy and resiliency. The tightly wound springs of tension within us are released and unwind until there is a profound peace inside. We relinquish our worries to You and our anxiety drains away. We take courage because You have taken hold of us. Now we know that courage is fear that has said its prayers. We spread out before You the challenges of the day ahead and see them in the proper perspective of Your power. We dedicate ourselves to do things Your way under Your sway. And now, Your joy that is so much more than happiness fills us. We press on to the work of the day with g3765enthusiasm. It's great to be alive. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. BURNS. Mr. President, today there will be a period for morning business until 12:30, with Senators to speak for up to 5 minutes each, with the following exceptions: Senator LOTT or his designee 30 minutes; Senator DASCHLE or his designee, 60 minutes. I ask unanimous consent that the time previously allocated to Senator COLLINS be vitiated and that Senator BOND have 20 minutes under his control during the morning business period.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURNS. At 12:30 the Senate will recess until 2:15 for the weekly policy conferences to meet. When the Senate reconvenes after the conferences, the majority leader would expect an additional period for morning business to accommodate a number of Senators who would like to speak this afternoon.

As for the schedule for the remainder of the week, the majority leader understands that the Banking Committee will be taking action today on the nomination of Andrew Cuomo to be Secretary of Housing and Urban Development. It is his hope that the full Senate will consider this nomination either today or tomorrow. The majority leader will notify all colleagues accordingly when that becomes scheduled.

It is also the majority leader's hope that this week the Senate will consider the nomination of William Daley to be Secretary of Commerce. It is believed the Commerce Committee will finish their work on that nomination tomorrow, Wednesday. Therefore the Senate may act on Mr. Daley on Wednesday or Thursday of this week.

Once again, Senators should expect rollcall votes on these important nominations this week. The majority leader thanks all Members in advance for their cooperation.

Mr. President, as we go into morning business, I yield to the Senator from Iowa, Senator GRASSLEY.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed beyond the hour of 12:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. GRASSLEY addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Iowa.

Mr. GRASSLEY. Thank you, Mr. President. The Senator from Montana is on the floor and he had an interest in what I am going to speak about.

FARMERS AND THE ALTERNATIVE MINIMUM TAX

Mr. GRASSLEY. Mr. President, we have had a victory—at least a temporary victory, but a good victory—with the IRS. Fifty-seven of us introduced a bipartisan bill, Senator DORGAN leading for the Democrats, myself for Republicans. The bill was introduced to do for farmers what has been the law since 1981, that if deferred sales contracts were used, farmers were still taxed on the year that the money was received.

The IRS made a ruling that for alternative minimum tax purposes that income would be taxed the year that the sale was made, not the year that the money was received. Well, obviously this, if it were to go forward, would create a tremendous hardship in the agricultural community because farmers would be taxed on two crops in 1 year, rather than the planning that normally goes on in cash accounting farming.

Common sense and reasonableness have prevailed at the IRS. Last night at about 6:30 I received a telephone call from the IRS stating their decision to delay for 1 year the enactment of their latest rule so that farmers now will be able to do during the current tax filing system what they have been doing for the last 15 years, to just keep on accounting for their income for tax purposes the way that it has legally been done.

Then just within the last hour Commissioner Richardson had delivered to me her letter in response to my letter of December and also the latest recommendations as far as the regulations are concerned implementing her decision.

The fact of life is, Mr. President, that the Internal Revenue Service was aware of 57 Members of this Senate in a bipartisan spirit—and maybe her decision was because she is an appointment of the President and that it then reflects the new attitude at the White House of bipartisanship during this congressional session.

Regardless of what brought this about, I am thankful that common sense and reasonableness have prevailed. I thank each of my 57 colleagues who have been involved in this issue for their timeliness in helping us sponsor this legislation, getting it in. We will now move forward to change an erroneous IRS ruling that has been backed up by an erroneous district court case so that law reflects what Congress has intended since 1981 when deferred sales contracts were made legal and, second, when we passed the alternative minimum tax legislation in 1986.

I ask unanimous consent that the documents I have referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, January 28, 1997.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington DC.

DEAR SENATOR GRASSLEY: In your December 31, 1996 letter, you asked me how farmers could comply with the Internal Revenue Service's position on the treatment of deferred contract commodity sales for alternative minimum tax (AMT) purposes on their 1996 federal income tax returns. You also asked that the Service provide guidance about complying with its position "before the traditional farmer tax filing deadline of March 1, 1997."

As you and I have discussed, the position of the Service is that for AMT purposes income from deferred contract commodity sales must be reported in the year of sale. However, some taxpayers have been reporting income from such sales for AMT purposes in the taxable year they received their payments—not the year of sale.

Earlier today, the IRS issued a Notice, a copy of which is enclosed, advising those who have not followed the Service's position how they should report deferred contract commodity sales for AMT purposes on their returns for 1996. Basically, for 1996 tax returns, taxpayers should make no changes in how they have been reporting sales—even if contrary to the Service's position.

The Notice also provides guidance about how to change the method of reporting deferred contract commodity sales for AMT purposes. Taxpayers who follow that guidance will receive audit protection with regard to the AMT issue for all open years unless they are currently under audit for this issue.

The way deferred contract commodity sales are reported for the AMT is a "method of accounting" for tax purposes. The law provides that the method of accounting a taxpayer uses for tax purposes, even if it is not the correct method, cannot be changed without the prior consent of the Commissioner.

The Service will issue automatic consent procedures for taxpayers to follow to change from the accounting method they currently use. This change must be made on a taxpayer's federal income tax return for the 1997 tax year. Thus, taxpayers do not need to change how they report deferred contract commodity sales until filing their 1997 returns.

I hope this information is helpful to you. Please let me know if you have any questions.

Sincerely,

MARGARET MILNER RICHARDSON.

PART III—ADMINISTRATIVE, PROCEDURAL, AND MISCELLANEOUS

Notice of intent to issue guidance allowing farmers to expeditiously change their method of accounting for deferred payment sales contracts in computing alternative minimum tax.

NOTICE 97–13

Summary: The Internal Revenue Service intends to provide approval for taxpayers engaged in the business of farming to change their method of accounting for the income from certain deferred payment sales contracts for purposes of computing their alternative minimum tax (AMT). Farmers will be allowed to change to a permissible method of accounting for this income, effective for taxable years beginning after December 31, 1996, by attaching Form 3115 to their 1997 federal income tax returns to be filed during 1998. Farmers who change their method of accounting in accordance with this procedure will then receive audit protection with respect to the use of an impermissible method of accounting for all taxable years prior to the change, in accordance with generally applicable rules.

Background: The Service has received numerous inquiries on the proper treatment, for AMT purposes, of income from the sale of products raised by farmers or other inventory property sold in the ordinary course of the farming business under deferred payment sales contracts. A deferred payment sales contract is one where at least one payment is to be received after the close of the taxable year in which the product is sold.

Section 56(a)(6) of the Code provides that, in computing alternative minimum taxable income (AMTI), income from the disposition of property such as farm products is determined without regard to the installment method under §453. Thus, a farmer using the cash method, who sells farm products under a deferred payment sales contract and does not elect out of the installment method of reporting, must include in AMTI in the year of the sale both the cash received and the fair market value (or the issue price) of the deferred payment obligation. Otherwise, the farmer is using an impermissible method of accounting. If the farmer elects not to apply the installment method to the sale, and reports the income in the year of the sale, there is no AMTI adjustment with respect to the sale.

Section 446(e) generally provides that a taxpayer that changes its method of accounting must secure the Commissioner's consent before computing income using the new method. In general, taxpayers who wish to change their method of accounting must file Form 3115, Application for Change in Accounting Method, with the Commissioner within the first 180 days of the taxable year in which the taxpayer desires to make the change, and must pay a user fee (ranging from $500 to $900). Treas. Reg. §1.446-1(e)(3)(i). In addition, §1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms and conditions necessary to obtain consent to change a method of accounting.

Automatic change in method of accounting: The Service will issue guidance that will allow farmers currently using an impermissible method of accounting for income from the sale of farm products under deferred payment sales contracts for AMT purposes to automatically change to a permissible method of accounting. Under the forthcoming guidance, farmers will be allowed to request the method change by attaching Form 3115 to their timely filed 1997 federal income tax return (due in 1998). No user fee will be required.

The method change will be effective for taxable years beginning after December 31, 1996. In addition, the method change will result in audit protection for all prior taxable years with respect to the impermissible method of accounting (*i.e.*, the examining agent will not propose that a farmer change the impermissible method of accounting for any prior taxable year) in accordance with generally applicable rules. See Rev. Proc. 92-20, Section 10.12, 1992-1 C.B. 685. Farmers currently using an impermissible method of accounting for such sales should continue to use that method in computing AMT for taxable years ending prior to January 1, 1997.

The automatic method change procedure will not be available to farmers who have received written notification from an examining agent (*e.g.*, by examination plan, information document request, notification of proposed adjustments or income tax examination changes) prior to January 28, 1997, specifically citing as an issue under consideration the farmer's method of accounting for income from sales of farm products under deferred payment sales contracts for AMT purposes. In addition, the guidance will not apply if the farmer's method of accounting for such income for AMT purposes is an issue under consideration by an appeals office or a federal court.

Drafting information: The principal author of this notice is William A. Jackson of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Jonathan Strum at (202) 622–4960 (not a toll-free call).

Mr. GRASSLEY. Mr. President, I ask unanimous consent for another 5 minutes on another issue.

The PRESIDING OFFICER (Mr. BURNS). The Senator has that right.

ACCOUNTABILITY AT THE DEPARTMENT OF DEFENSE

Mr. GRASSLEY. Mr. President, for my 85 colleagues who have served with me in past Congresses, what I am going to speak of is nothing new. It is about the lack of discipline and integrity in financial accounting at the Pentagon. This lack of integrity and discipline in accounting is the basis for the waste of the taxpayers' money that we have had at that institution for a long period of time.

But for the nine Republicans and six Democrats who are new Members of this body, I would ask them to be cognizant of the fact that what I am addressing is a crusade that I have been on for a long period of time to bring accountability to the expenditure of taxpayers' money at the Department of Defense. It is especially important for us Republicans to make sure that we are accountable for the taxpayers' money at the Defense Department where we tend to be somewhat lax, let me say, candidly. We should expect the same sort of accountability that we expect of liberals in this body when they spend money through the various domestic departments of Education, Labor, Health and Human Services and other departments of State government that maybe we Republicans ride herd on to a greater extent than we do the Defense Department.

So that subject is a breakdown of discipline and integrity in accounting at the Pentagon. When Mr. John Hamre became Comptroller of the Defense Department in 1993, I felt very hopeful. He made a personal commitment to clean up the books and to get control of the money. I really believed that he would get the job done. In fact, I have complimented him on this floor several times for making some changes—maybe not as fast as I would like to have had them made, but making changes. That is quite an accomplishment in that very bureaucratic organization.

So I have been working on him, specifically on the issue of unmatched disbursements. And, of course, as I have indicated, I thought we were making progress. Well, my confidence in Mr. Hamre has been shaken by a piece of paper that I am going to submit for the RECORD, which is floating around the Pentagon. I hope Mr. Hamre will reject this paper and thus restore my confidence. This piece of paper was brought to my attention by a concerned citizen. It is draft bill language. It is still under review, but it has lots of momentum. This language, if approved by Congress, would significantly loosen—in other words, going in the opposite direction of where we ought to be going—control over progress payments. The Department of Defense pays out about $20 billion a year in progress payments. So we are not talking about peanuts; we are talking about big chunks of money.

The language of this draft legislation tells me that Mr. Hamre and his lieutenants in the Pentagon are ready to throw in the towel on this problem. They have decided the accounting problem is just too big and too complicated to fix. They seem to be saying, "Let's forget about accounting today; we will try to fix it tomorrow."

The experts at the General Accounting Office are evaluating the meaning of this language, and their verdict isn't in yet. But a preliminary reading tells me that this language is bad medicine for the taxpayers. It's going to cut down on accountability at the Defense Department. It would make a bad situation worse. It would fix nothing. The DOD Inspector General has been keeping a close eye on the problem for a long time.

IG audit reports consistently show that the Department of Defense regularly violates the laws that this language would undo. This is like legalizing the crime. Instead of fixing the problem, just legalize the crime. The bureaucrats will be able to relax. The guillotine hanging over their heads to be accountable is gone. They don't have to worry about breaking the law and getting into trouble. It's OK. Go ahead and do it.

In a nutshell, Mr. President, these are the shortcomings the language would sanction:

Problem No. 1: The Department of Defense is unable to quantify and measure work progress on the factory floor.

Problem No. 2: If you can't accurately measure work performance, how do you make progress payments? You don't know how much to pay or what money to use.

Do you use fiscal year 1996 R&D funds, or do you use fiscal year 1994 procurement money? Those are some examples. But they would have much more leeway in making this decision. Less accountability.

Problem No. 3: If you don't know how to measure progress, or how much to pay, or what you are getting, you can't do normal bookkeeping, and so you are not as accountable.

This is why the Department's books are in shambles. When a Department of Defense check goes out the door, chances are it's in the wrong amount. It could be an overpayment, an underpayment, an erroneous payment, or even a fraudulent payment. I have documented proof that a number of people have literally stolen millions of dollars through this lax process.

Without accurate bookkeeping, it is impossible to control the money. The Pentagon check writing machine is stuck on automatic pilot, and nobody seems to know how to stop it.

This language would lock the check-writing machine on autopilot.

Mr. President, the Pentagon bureaucrats want to create a pool of money down at the business end of the DOD pipeline—where money is disbursed. They would do this by breaking down the integrity of the appropriation accounts established in law. That would allow them to make payments without regard to statutory law and the Constitution, as they once did before we abolished the memorable "M" account slush funds. The "M" accounts were closed by Congress in 1990.

This language, then, in this proposed draft would subvert the appropriations process. Every member of the Appropriations Committee ought to be concerned about this. Each year, that committee takes the DOD budget and carefully segregates the money in many different accounts. The amounts provided for each account are specified by the law. Under the law, the money must be expended for the purpose for which it was appropriated in the times allowed.

DOD bureaucrats are thumbing their noses at the appropriations process and the law. The IG tells us they do it with regularity—but at some risk.

Well, this language would remove all of that risk. It would authorize them to tear down the account barriers so carefully put up by the Appropriations Committee. If we are going to protect the taxpayers' money, if we are going to make the Department of Defense accountable, that's not right.

The Department of Defense should not be authorized to merge appropriation accounts downstream at the contract level, unless they are first merged upstream by Congress in law.

If the money is to be pooled at the contract level, then Congress must make some kind of corresponding adjustment in the way those moneys are appropriated. Otherwise, the appropriations process might become irrelevant down the road.

Mr. President, as I close, I want to say that I have already brought this language to the attention of my friend from Alaska, Senator STEVENS, the distinguished chairman of the Appropriations Committee. I have found him so many other times so respectful of the judgments that have been presented to him and his cooperation on other committees where he can raise very important questions. So I don't have any doubt but what this concerns Senator STEVENS, and Senator STEVENS will look into it and find a solution, but not let the Defense Department get away with their irresponsible draft language that would give them an open door to doing just about whatever they want to do.

I have asked Senator STEVENS to urge Mr. Hamre to reconsider this proposal and find some other way to fix the problem. I also ask my friend, John Hamre, to carry out his responsibilities under the Chief Financial Officers' Act of 1990, the CFO Act. Under that act, he is supposed to be tightening internal controls and improving financial accounting.

This language would move accounting in the opposite direction—the wrong direction. It would loosen internal controls and set accounting aside until some unknown future date.

Mr. President, this draft language floating around the Defense Department at this point needs close scrutiny. It really worries me, and it should worry the taxpayers because there is going to be less accountability of bureaucrats, who are responsible for spending the money, to the taxpayers if we would change existing law.

I ask unanimous consent that the document I referred to earlier be printed in the RECORD.

There being no objection the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM DRAFT BILL

SEC. . ACCOUNTING FOR CONTRACT FINANCING PAYMENTS.

Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection (i):

"(i) ACCOUNTING FOR PAYMENTS.—Payments under this section based upon a contract that is funded by multiple appropriations or multiple subdivisions within one appropriation may be paid from any one or more of the appropriations or subdivisions thereof funding the contract. However, proper accounting adjustments shall be made to conform to the requirements of subsection (a) of section 1301 of title 31 upon final payment for the items or services delivered and accepted in performance of the contract.".

SECTIONAL ANALYSIS

This proposal would authorize the Secretary of Defense, when making contract financing payments for a contract funded by multiple appropriations or multiple subdivisions within an appropriation, to charge any one or more of the appropriations or subdivisions thereof. The benefit of this section under 10 U.S.C. §2307, "Contract Financing" is to the temporary spreading of payments for work-in-process costs across appropriations funding the contract. This legislative relief will permit us the flexibility to exercise our stewardship over the public moneys more efficiently and effectively.

This section remedies a long standing and on-going problem in the current contract payment process that attempts to assign contract financing payments to a specific appropriation when the process is not capable of efficiently providing the need information. The Department of Defense (DOD) uses the contract financing authority at 10 U.S.C. §2307, as implemented by Federal Acquisition Regulation Part 32, for many of its contracts. These provisions authorize the disbursement of funds to a contractor prior to the acceptance of goods and services. Contract financing includes advance, partial payments under cost reimbursable contracts and progress payments. Pursuant to this authority, contractors receive progress payments from DOD to finance work performed under DOD contracts. These payments for work-in-process may be for specific work or tasks, or for production line setup and equipment or tooling for the entire contract and in some cases are not tied to specific work or tasks. The contracts are often funded with multiple and different appropriations.

In order to comply with 31 U.S.C. §1301, which requires that appropriations be applied only for the purpose for which they were made, payments based upon the contractor's work-in process costs must be identified to specific work or tasks and the related appropriation funding the effort. However, given that the nature of the cost incurred during the work-in-process period may be funded by multiple appropriations and therefore, cannot be efficiently identified to a specific appropriation, compliance with 31 U.S.C. §1301 is difficult and time consuming Furthermore, it is not cost effective or realistic to require additional government or contractor information or effort to determine the specific chargeable appropriations while making payments for work-in-process costs and for costs which are essentially a means of temporary financing for the contractor. In fact, this additional administrative work to develop the information would not significantly improve the precision of the estimate but would further increase the contractor and taxpayer costs. Currently, unless the specific line item and appropriation are identified to the payment office, contract financing payments are spread prorata across the appropriations funding the contract. During the work-in-process period, adequate controls exist to ensure that no appropriation is charged more than is available in the appropriation and, furthermore no payment is made without receipt of a proper government approved authorization to make the payment against the proper contract. The problem, however, is that this method is not in compliance with 31 U.S.C. §1301.

The enactment of this bill permit this accounting flexibility when viewed in conjunction with 31 U.S.C. §1301. The effect would be to provide a specific statutory exception to the requirements of 31 U.S.C. §1301 until payment is made.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

FAMILY FARMERS AND THE ALTERNATIVE MINIMUM TAX

Mr. DORGAN. Mr. President, while the Senator from Iowa is here, I wanted to comment on some remarks he made at the start of his presentation.

As the Presiding Officer and other Members may know, Senator GRASSLEY and I have cosponsored and introduced last week a piece of legislation dealing with this current Internal Revenue Service problem on the alternative minimum tax that is going to affect a lot of farmers in our part of the country.

I agree with the Senator from Iowa that the news that came out of the Internal Revenue Service this morning is indeed good news. The Internal Revenue Service, this morning, has indicated that it will, in effect, not enforce in 1996 a provision that it was intending to enforce, which we believe is a misinterpretation of tax law. What IRS was intending to do, in effect, on the alternative minimum tax was to force a number of family farmers to pay taxes on income they have not yet received.

We do not believe Congress ever intended for that kind of enforcement to occur, or for that interpretation of tax law to exist. We think the IRS was wrong.

The Senator from Iowa and I have repeatedly contacted the administration. I have visited with the Secretary of the Treasury and others to make this case. But, in any event, on a bipartisan basis, as the Senator from Iowa and I introduced legislation with 54 cosponsors—the Republican leader the Democratic leader are on the bill—it is clear, or would have been clear, it seems to me, to the IRS and Treasury that this legislation will pass in this Congress and in effect say to the IRS that your interpretation of the law is wrong.

I think the IRS has, to its credit, understood now that to enforce in this year and put a fair number of farmers at risk—asking them to pay taxes on income they have not yet received—would be really a travesty of justice. The IRS today has taken the position that they will allow farmers to file tax returns in 1996 as they have in the past with respect to deferred contract commodity sales. And I commend them for taking that position.

I appreciate the cooperation of the IRS and the Treasury Secretary on this issue. It is the right thing to do. It is what the Senator from Iowa and I and others have been advocating they do.

So we have made some incremental progress today. That ought to be good news for farmers who have been worried about this issue of how the IRS will enforce and treat and audit the deferred contract commodity sales.

I just wanted to follow the remarks of the Senator from Iowa to say that I am pleased to work with him on it. It is an example of a bipartisan effort to fix a problem, and we have at least gone part of the way to fix this problem.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I would like to use 10 minutes of my time, and then I would like to yield 10 minutes of the time under my control to the Senator from South Carolina, Senator HOLLINGS.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DORGAN, Mr. HOLLINGS, and Mr. FORD pertaining to the introduction of Senate Joint Resolution 12 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID addressed the Chair.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the morning hour be extended until I am able to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S.J. Res. 12 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

(The remarks of Mr. REID pertaining to the introduction of S. 206 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

THE PRESIDING OFFICER (Mr. BENNETT). The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 213 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. Mr. President, I see my good friend from Washington State is on the floor. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

Mr. GORTON. Mr. President, this is to express my deep concern over a decision President Clinton made last year concerning the Anti-Terrorism and Effective Death Penalty Act of 1996, but it has only recently come to light.

When President Clinton signed the antiterrorism bill into law on April 24 of last year he made a promise to the American people—a promise never to give in to terrorism or to terrorist forces. The President vowed to stand firm against nations that support terrorism and use violence and bloodshed for political ends. The President was right in his resolve.

As the world's only superpower, the United States must set an example for all nations. We must not allow the cowards responsibility for such atrocities as the downing of Pan Am Flight 103, the bombing of the World Trade Center, or the bombing of the Oklahoma City Federal building to gain from their actions.

That is why Congress included strict provisions in the Anti-Terrorism and

Effective Death Penalty Act of 1996 to isolate terrorist organizations and those who support them. Section 321 of the law prohibits U.S. businesses from engaging in any type of financial transactions with countries known to support international terrorism. This is an important weapon in our arsenal against terrorism that must be rigorously enforced.

Doing business with state sponsors of terrorism provides such rogue nations with links to the outside world and means for financing their ugly agenda. Any such financial transaction may well return in the form of violence against the American people, our allies or other innocent victims.

President Clinton purported to support this policy. In his address to the Nation on signing the antiterrorism bill, the President announced that America must resolve "to hold fast against the forces of violence and division * * * guard against them, speak against them and fight against them." Unfortunately, the President has not lived up to his own words.

As reported in the Washington Post last week, only 4 months after signing the antiterrorism bill, President Clinton made a special exemption in the law for Sudan, one of the seven nations classified by the Department of State as a state sponsor of terrorism. The exemption was made specifically to allow California-based Occidental Petroleum Corporation to negotiate with the Sudanese Government for a stake in a $930 million oil deal. The President made this decision despite the State Department's finding that Sudan is second only to Iran in its sponsorship of Islamic extremists engaged in terrorism against United States allies in the Middle East and against the United States itself.

Mr. President, I find these actions on the part of the President unconscionable, and I trust that most of my colleagues agree. This, unfortunately, is only the latest example of the flip-flopping on American foreign policy that marked the first term of President Clinton. Yet this particular change of heart may well be the most dangerous. The United States and our allies have known for decades that if we give terrorists an inch, they will take a mile. The more concessions we make, the more power we give to the forces of evil. It appears to me that our Commander in Chief engaged in the very practice he condemned in April.

The American people should not stand for such deception. President Clinton has an obligation to every American ever hurt by terrorism and every American who may be threatened by terrorism in the future to do what he said he would—stand firm. I truly hope the President will do just that and reverse his exemption of Sudan from the list of nations barred from doing business with American firms.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 208 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOND. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 210 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MURKOWSKI. I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JEFFREY ST. JOHN KNEW THE MEANING OF AMERICA

Mr. HELMS. Mr. President, a week or so ago—it was on January 13, 1997, to be exact—I was among those present at what proved to be a delightful memorial service for a gentleman whose life had demonstrated his understanding of, and his fidelity to, both the miracle and the meaning of America. His name was Jeffrey St. John who had died on January 3.

I attended the memorial service not because I was a close personal friend of Jeffrey St. John—I wish I could claim to have been, but because I admired so very much his remarkable talent and his unyielding courage in defending principles that deserve to survive. So just about everybody else present that afternoon had known Jeffrey St. John, and everybody else was equipped with personal anecdotes that more often than not demonstrated the good humor of their departed friend.

Mrs. St. John, Kathryn is her name, was there, of course—a charming lady who undoubtedly was a great source of strength to her husband during the years that he so unfailingly stood in defense of conservative principles.

Mr. President, following this occasion, which Mr. St. John would have enormously enjoyed—and, who knows, there's a better than even chance that he was indeed sitting on a cloud up there somewhere—I asked Paul Weyrich, one of America's most effective defenders of conservatism and freedom, to prepare for me a brief personal history of Jeffrey St. John.

Mr. Weyrich readily agreed to do so despite his own hectic schedule as president of the Free Congress Foundation and its myriad of activities.

Mr. President, I ask unanimous consent that Mr. Weyrich's review of Mr. St. John's life be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JEFFREY ST. JOHN—JOURNALIST AND HISTORIAN

(By Paul Weyrich)

On January 3, 1997, a great American passed away at his home in Randolph, VA. Jeffrey St. John was a noted author, journalist, broadcaster, and historian. He was one of the first conservative news commentators aired on national radio and television; his career included work as business correspondent for the Today show, a longtime news commentator for CBS–TV, CBS Radio, and Mutual Broadcasting, and as a news director for ABC radio. He produced and moderated TV and radio shows for stations in Washington, San Francisco, and New York. He wrote and narrated Headlines and History, a daily radio feature translated into 26 languages and broadcast by the Voice of America. Over the years, he received two Emmy Awards for his work in television.

Mr. St. John was a prolific author and columnist. His commentaries were carried in the New York Times, the Wall Street Journal, Chicago Tribune, and Christian Science Monitor. He was a syndicated columnist for Copley News Service, and wrote regularly for Saturday Review, Barron's, and Nation's Business and other publications. He was the author of eight books.

One of Jeffrey St. John's greatest works was a trilogy on the formation and adoption of the Constitution, establishment of the first Congress, and drafting of the Bill of Rights. The trilogy was published during 1987–92 by Jameson Books. Former Chief Justice of the Supreme Court, Warren Burger, was so impressed with Mr. St. John's historical works that the Chief Justice wrote the foreword to each of the three volumes. Chief Justice Burger then, as chairman of the Bicentennial of the United States Constitution, distributed the set to every high school and college library in America. Jeffrey St. John used the unique approach of writing about these crucial historical events from the viewpoint of a reporter observing the developments.

His journalistic efforts earned for him numerous awards. He received the Benjamin Franklin National Press Foundation Award for his writings on the Constitution from the U.S. Press Foundation; and the George

Washington Medal of Freedom from the Freedoms Foundation in Valley Forge for a radio series on the Life and Legacy of George Washington.

Mr. St. John covered the Korean War as a combat writer and photographer for Pacific Stars and Stripes and in 1956 was an on-the-spot reporter for the Suez crisis. He subsequently served as a correspondent at the United Nations and at the White House during the Eisenhower administration. In 1966, he was the Conservative Party candidate for Congress for the seat vacated for New York Mayor John Lindsay.

Jeffrey St. John loved his country. He proudly served in the Marine Corps. He cherished our Constitution and other documents of our Founding Fathers. His life and journalistic efforts provide unique documentation of high quality for the preservation of democracy. America has lost a true patriot and a journalistic giant.

Mr. HELMS. I thank the Chair.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

FAMILY HERITAGE PRESERVATION ACT

Mr. KYL. Mr. President, last week, I introduced legislation to enhance the economic security of older Americans and small businesses around the country. The bill, known as the Family Heritage Preservation Act, would repeal the onerous Federal estate and gift tax, and the tax on generation-skipping transfers. Fifteen Senators have joined me as cosponsors of this very important initiative.

Mr. President, most Americans know the importance of planning ahead for retirement. Sometimes that means buying a less expensive car, wearing clothes a little longer, or foregoing a vacation or two. But by doing with a little less during one's working years, people know they can enjoy a better and more secure life during retirement, and maybe even leave their children and grandchildren a little better off when they are gone.

Savings not only create more personal security, they help create new opportunities for others, too. Savings are really investments that help others create new jobs in the community. They make our country more competitive. And ultimately they make a citizen's retirement more secure by providing a return on the money invested during his or her working years.

So how does the Government reward all of this thrift and careful planning? It imposes a hefty tax on the end result of such activity—up to 55 percent of a person's estate. The respected liberal professor of law at the University of Southern California, Edward J. McCaffrey, observed that "polls and practices show that we like sin taxes, such as on alcohol and cigarettes." "The estate tax," he went on to say, "is an anti-sin, or a virtue, tax. It is a tax on work and savings without consumption, on thrift, on long-term savings. There is no reason even a liberal populace need support it."

At one time, the estate tax was required of only the wealthiest Americans. Now inflation, a nice house, and a good insurance policy can push people of even modest means into its grip. The estate tax is applied to all of the assets owned by an individual at the time of death. The tax rate, which starts at 37 percent, can quickly rise to a whopping 55 percent—the highest estate tax rate in the world.

As detrimental as the tax is for couples, it is even more harmful to small businesses, including those owned by women and minorities. The tax is imposed on a family business when it is least able to afford the payment—upon the death of the person with the greatest practical and institutional knowledge of that business' operations. It should come as no surprise then that a 1993 study by Prince and Associates—a Stratford, CT, research and consulting firm—found that 9 out of 10 family businesses that failed within 3 years of the principal owner's death attributed their companies' demise to trouble paying estate taxes; 6 out of 10 family owned businesses fail to make it to the second generation; 9 out of 10 never make it to the third generation. The estate tax is a major reason why.

Think of what that means to women and minority-owned businesses. Instead of passing a hard-earned and successful business on to the next generation, many families have to sell the company in order to pay the estate tax. The upward mobility of such families is stopped in its tracks. The proponents of this tax always speak of the need to hinder "concentrations of wealth." What the tax really hinders is new American success stories.

With that in mind, the 1995 White House Conference on Small Business identified the estate tax as one of small business's top concerns. Delegates to the conference voted overwhelmingly to endorse its repeal.

Obviously, there is a great deal of peril to small businesses when they fail to plan ahead for estate taxes. So many small business owners try to find legal means of avoiding the tax or preparing for it, but that, too, comes at a significant cost. Some people simply slow the growth of their businesses to limit their estate tax burden. Of course, that means less investment in our communities and fewer jobs created. Others divert money they would have spent on new equipment or new hires to insurance policies designed to cover estate tax costs. Still others spend millions on lawyers, accountants, and other advisors for estate tax planning purposes. But that leaves fewer resources to invest in the company, start up new businesses, hire additional people, or pay better wages.

The inefficiencies surrounding the tax can best be illustrated by the findings of a 1994 study published in the Seton Hall Law Review. That study found that compliance costs totaled a whopping $7.5 billion in 1992, a year when the estate tax raised only $11 billion.

The estate tax raises only about 1 percent of the Federal Government's annual revenue, but it consumes 8 percent of each year's private savings. That is about $15 billion sidelined from the Nation's economy. Economists calculate that if the money paid in estate taxes since 1971 had been invested instead, total savings in 1991 would have been $399 billion higher, the economy would have been $46 billion larger, and we would have 262,000 more jobs. Obviously, the income and payroll taxes that would have been paid on these gains would have topped the amount collected by the Government in estate taxes.

There have been nine attempts to reform the estate tax during the last 50 years. Few would contend that it has been made any fairer or more efficient. The only thing that has really changed is that lobbyists and estate planners have gotten a little wealthier. Probably the best thing we could do is repeal the estate tax altogether. That is what I am proposing in the Family Heritage Preservation Act.

Mr. President, the National Commission on Economic Growth and Tax Reform, which studied ways to make the Tax Code simpler, looked at the estate tax during the course of its deliberations just over a year ago. The Commission concluded that "it makes little sense and is patently unfair to impose extra taxes on people who choose to pass their assets on to their children and grandchildren instead of spending them lavishly on themselves." It went on to endorse repeal of the estate tax.

I invite my colleagues to cosponsor the Family Heritage Preservation Act.

SENATOR PAUL TSONGAS

Mr. BINGAMAN. Mr. President, with many of my colleagues, I traveled to Lowell, MA, last Thursday for the funeral of our friend, Paul Tsongas. He died at age 55. His battles were many, and so were his victories. His grace and courage will stand for many of us as beacons in our own lives.

Paul befriended me when I was running for the Senate. His desire to spend more time with his family caused him to retire at the close of his first term here, and our Senate days overlapped by only a couple of years. Still, he was an influence on my life, and certainly on my career.

There is no disagreement that Paul was one of the outstanding sons of Massachusetts. The affection for him and grief over his death which we all felt at the services are the kinds of emotions reserved for one of the family. The people of Massachusetts respected him, and valued what he stood for. We all did.

When he served in the Senate, one of the items in his office was a framed quotation from one of John Adams' many letters to his wife, Abigail. The Massachusetts College of Art had produced it in January 1980. I had admired it on visits to Paul's office and when Paul left the Senate, he sent it to me, with a handwritten note. I treasure them both, and the feeling behind John Adams' words:

> I must study politics and war that my sons may have liberty to study mathematics and philosophy * * * in order to give their children a right to study painting, poetry, and music * * * May 12, 1780.

I believe Paul Tsongas took this message to heart, and that it guided much of what he did. The country is fortunate to have had such service from such a man.

TRIBUTE TO SENATOR PAUL TSONGAS

Mr. DODD. Mr. President, it is with a great sense of sadness that I rise today to pay tribute to a man who epitomized personal and political courage and a fervent commitment to public service—Senator Paul Tsongas.

Paul and I both came to Congress in 1974, as part of the so-called Watergate class and we were together in the Senate from 1981 to 1984. In all that time, while we didn't always see eye to eye on every issue, our deep friendship and appreciation for each other never diminished.

Throughout his entire life, Paul Tsongas built on the strong belief in public service that he learned while a Peace Corps volunteer in Ethiopia and country director in the West Indies.

Whether it was in his hometown of Lowell, MA, where he served as a city councilor; or as a one-term Senator, who pushed through what President Carter called the most important conservation legislation of the century, the Alaska Lands Act of 1980; or even as a Presidential candidate and later cochairman of the Concord Coalition, preaching the gospel of a balanced budget, Paul Tsongas always had the best interests of his fellow citizens in mind.

In all the time I knew him, Paul Tsongas never wavered from the firmly held beliefs and principles that guided his public and private life. What is more, Paul was never afraid to speak his mind or voice an opinion, no matter how controversial or unpopular.

The courage was never more evident than in his hard fought battle to conquer the health problems that plagued him for more than a decade and eventually took his life. When Paul was diagnosed with cancer in 1983, he gave up what was then a promising political career in the U.S. Senate to undergo radical treatment and rehabilitation.

After his amazing recovery, Paul stayed close to his family arguing that no man ever died wishing he'd spent more time with his business.

But the pull of the arena was too strong for Paul Tsongas and after being cleared by doctors to resume his political career he began what most observers termed a futile campaign to unseat George Bush.

But, what he lacked in fiery oratory he made up for with a commonsense agenda that appealed to Democrats across the country. While Paul failed to gain the Democratic nomination he never lost his dignity or the trademark dry wit that always characterized him.

Teddy Roosevelt once said that of public service "It is not the critic that counts. * * * The credit belongs to the man who is actually in the arena; whose face is marked by dust and sweat and blood; who strives valiantly; who errs and comes short again and again; who knows the great enthusiasm and great devotions, and spends himself in a worthy cause, who at the best, knows in the end the triumph of high achievement; and who at the worst, if he fails, at least fails while daring greatly; so that his place shall never be with those cold and timid souls who know neither victory nor defeat."

Paul Tsongas knew well both the joys of victory and the anguish of defeat. No matter what adversity befell him, be it personal or political, he never paused from his tireless efforts to improve the world around him. For all those in the Senate and throughout the country who valued his wise counsel and commitment to public service he will be sorely missed.

My thoughts and prayers go out to his wife Niki and his three daughters Ashley, Katina, and Molly.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ENZI).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

ORDER OF PROCEDURE

Mr. WARNER. The distinguished majority leader is approaching the Chamber at this moment, and I ask the indulgence of my colleagues to await his momentary arrival. He is going to make a brief statement, so I am informed, following which either the majority leader or the Senator from Virginia will ask unanimous consent that we proceed to a period of morning business wherein Senators can speak for not to exceed 10 minutes.

I see him right here. Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I thank the Senator from Virginia for being here, Johnny-on-the-spot and ready to proceed with statements. I wish to say again how much we appreciate the great work he did as chairman of the Rules Committee in the inauguration. It was the best I have seen. I got very excited at one point; I thought the Senator from Virginia was going to take the oath of office. But I think he should be commended along with his friend and colleague, the ranking member, Senator FORD. It was an excellent effort and everybody was very blessed.

Mr. WARNER. Mr. President, I thank my distinguished leader. Coincidentally, I am going to give remarks thanking so many who made it possible and who contributed of their time and wisdom to make it a success and reflect credit upon the Congress of the United States, the Office of the Presidency and, indeed, the Federal judiciary. I thank the leader.

Mr. LOTT. I thank the Senator.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS THOMPSON AND GLENN

Mr. LOTT. Mr. President, I ask unanimous consent that at 4 p.m. today, Senator THOMPSON be recognized to speak for up to 20 minutes, to be followed by Senator GLENN for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I note that this is the chairman, in the case of Senator THOMPSON, and the ranking Democrat, in the case of Senator GLENN, of the Governmental Affairs Committee. These members have been charged with leadership of the Governmental Affairs Committee, which will be looking into questions of possible violations of campaign finance laws. They will set out, I am sure, here this afternoon at this designated hour how they intend to proceed and give us some idea of what timeframe might be involved in that. So I know all Senators will want to watch and listen. I think this will be a very important and a very interesting presentation.

SENATE SCHEDULE

Mr. LOTT. Mr. President, I do want to announce at this point also for the information of all Senators, there will be no recorded votes for the remainder of the day. There will be opportunity for Members to attend committee hearings, confirmation hearings and begin to have hearings on legislation, but there will be no recorded votes this afternoon.

It is our hope that we will be able to have debate this afternoon on the nominee to be head of the Department of Housing and Urban Development, Mr. Cuomo. We have not been able to get a time worked out on that, an agreement where we would be able to have a vote in the morning, but we would like to be able to get the debate done this afternoon. So any Senators who would like to speak on that may want to do that, and then maybe we can complete it in the morning, hopefully get a vote sometime early in the morning between perhaps 9:30 and 10.

We have run into a couple little bumps in the road. We may not be able to get that agreement worked out, but we are still working on it. We also expect to be able to vote on Thursday morning then, probably again between 9:30 and 10 o'clock, on Mr. Daley to be the Secretary of Commerce.

So we will definitely have one vote on Thursday, and we may have a vote on Wednesday on the other nomination. We will let Senators know later in the day if that is worked out. With that, Mr. President, I would be glad to yield the floor to the Senator from Virginia.

Mr. WARNER. Mr. President, might I ask the leader to address one other scheduled vote this week. The majority leader, as a member of the Rules Committee, is aware the committee voted in the affirmative on the new Architect of the Capitol. At some point the Senate will turn its attention to a vote. It is historic.

Mr. LOTT. We did not factor that into our thinking, but we would like to do that tomorrow if we could, I believe. Do we need a recorded vote on that?

Mr. WARNER. Certainly this Senator would not so desire.

Mr. LOTT. Let us check and see what the precedents are on whether or not a recorded vote is necessary. I know we have come up with a very strong nominee——

Mr. WARNER. Mr. Hantman.

Mr. LOTT. Which has been approved unanimously by the Rules Committee. We would like to formally complete his confirmation by the full Senate. We will check on when we might do that. We could do that tomorrow, but we might be affected by whether a recorded vote will be in order. We will check into it and get back to the Senator and notify all Senators later on today.

Mr. WARNER. I thank the majority leader. I, too, thank him for his participation in the selection of the Architect of the U.S. Capitol.

Mr. President, I would like to proceed as if in morning business for the stipulated period of not to exceed 10 minutes.

THE 1997 INAUGURAL CEREMONIES

Mr. WARNER. Mr. President, on Monday, January 20, the U.S. Congress, through the auspices of the Joint Congressional Committee on Inaugural Ceremonies, hosted the 53d Inauguration of the President and Vice President of the United States.

In addition to the senior Senator from Virginia, who served as Chairman, the members of the committee included: Senator WENDELL H. FORD, Senate Majority Leader TRENT LOTT, Speaker of the House of Representatives NEWT GINGRICH, House Minority Leader RICHARD GEPHARDT, and House Majority Leader RICHARD ARMEY.

With over one-quarter million people gathered on the west front of the U.S. Capitol and the Mall, and millions more watching on television and listening on radio—throughout the United States and around the world—William Jefferson Clinton reaffirmed the oath of office as the 42d President, and ALBERT GORE, Jr. reaffirmed the oath of office as the 45th Vice President of the United States.

This ceremony—at which the President and Vice President, standing before the people's elected representatives, are sworn to execute the will of the people as expressed by Congress—is central to America's governance, making the United States, the oldest, continuous, constitutional democratic republic in the World.

The ceremony has grown by tradition and precedent since George Washington first took the constitutionally prescribed oath of office as the Nation's first President.

It commemorates the peaceful transition of power and the continuity of leadership conceived by our Founding Fathers and reflected in both article II and the 20th amendment of the Constitution of the United States.

ARTICLE II, SECTION 1

* * * Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors Shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the Same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, * * *

Before he enters on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

AMENDMENT 20

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Mr. President, the objective of the Joint Congressional Committee on Inaugural Ceremonies was to ensure that the swearing-in ceremony was conducted in a manner reflecting dignity on the Office of the President, the Congress, and the U.S. Supreme Court—the three coequal branches of our Government.

To achieve this end, Congressional staff, military personnel, Executive Branch employees, and volunteers worked for more than 6 months to plan and execute this ceremony inaugurating the President and Vice President.

Viewing the ceremonies from the Capitol grounds or on television, it is difficult, if not impossible, to appreciate all the planning and effort that goes into an inaugural swearing-in ceremony and the luncheon that follows.

Every possible detail from the precise words used to introduce the President and his escorts to the platform to the location of television cameras had to be considered, reviewed and agreed to by representatives from the Congress, the Office of the President, the media, and numerous security organizations.

Particular commendation goes to the outstanding program participants whose lasting contributions of prayers, songs and poetry made this such a memorable, historic day in the continuing life of America.

To put the many thousands who came to the Capitol in a proper spirit, the morning began with a sing-along of patriotic music led by the U.S. Marine Band. So far as we can determine, this was a first.

The sing-along was followed by musical presentations by the choir from the College of William and Mary from Williamsburg, VA, and the choir from Hampton University from Hampton, VA.

The Rev. Billy Graham and the Rev. Gardner C. Taylor offered prayers. Jessye Norman, the Children of the Gospel Mass from the Washington Performing Arts Society, the Immanuel

Baptist Church Choir and Orchestra of Little Rock, Santita Jackson, and the Resurrection Choir lifted our spirits with song. The scholar Miller Williams presented an original poem written specifically for this occasion.

And for the first time, which I find astonishing, the Pledge of Allegiance was recited at the inaugural swearing-in ceremony.

Eagle Scout David Morales, a junior at James Madison High School in Vienna, VA, was selected to lead the Pledge. His performance was a tribute to the scouting movement and to the youth of our great Nation.

The Architect of the Capitol was tasked with the substantial logistical responsibilities of building the platform, arranging the seating, installing security fences, and maintaining the grounds.

The Capitol Police, the U.S. Secret Service, the Metropolitan Police Department, and the National Park Service had to consider every movement of the President and Vice President, how to afford security and, at the same time, provide the viewing public and other participants maximum opportunity to view their national leaders.

Everyone involved in carrying out this enormous task can take great pride in the high degree of professionalism with which they performed their duties.

The timing of all aspects of the ceremony, beginning with the departure of the traditional congressional escort committee going to the White House, meeting the President and bringing him to the Capitol, and ending with the President's departure from the Capitol following lunch required intense cooperation and coordination between the Office of the President and the Congress. Both were given in full measure on this challenge and all others.

A very special commendation goes to Terry McAuliffe and Ann Jordan, the co-chairmen of the President's Inaugural Committee. Their directions were well and carefully carried out by Tim Keating.

The traditional congressional luncheon honoring the President and Mrs. Clinton, and the Vice President and Mrs. GORE—from the brief speeches to the beggars pudding—was judged a success. Grayson Winterling, Ginny Sandahl, and Dot Svendsen deserve special recognition for their astute and sensitive planning and execution of every luncheon detail.

Beginning 100 years ago, with the inauguration of William McKinley in 1897, Congress has hosted a luncheon for the President and Vice President. This year our luncheon theme was the inauguration of John Adams and Thomas Jefferson in 1797.

The menu for the luncheon was based on foods Adams and Jefferson might have enjoyed in their time, and the memento provided each guest was a magnifier glass similar to ones used in that era.

As the chairman of the Joint Congressional Committee on Inaugural Ceremonies, and on behalf of the committee and the entire Congress, the senior Senator from Virginia extends a grateful thanks to all who helped make this historic swearing-in ceremony possible, including:

The staff of the Joint Committee on Inaugural Ceremonies: Susan Aheron Magill, executive director; John Chambers, deputy director; Jack Hoggard, Bobbie Kilberg, M.L. Faunce, Robert Paxton, Amelia Fields, Janel Ellison, Eric Ruff, Ned Monroe, John Campbell, Bill Sweeney, Eric Peterson, and Jennifer Joy Wilson.

The staff of the Senate Committee on Rules and Administration: Grayson Winterling, staff director; Kennie Gill, Chris Shunk, Bruce Kasold, Ginny Sandahl, and Sherry Little.

The representatives of Joint Congressional Committee Members: Eileen Mandell, Doriene Steeves—Senator WARNER; Allison Berger—Senator FORD; Susan Wells, Julie Morrison, Hardy Lott—Senator LOTT; Martha Morrison—Speaker GINGRICH; Sharon Daniels, Karen Brooke—Representative GEPHARDT; and Leah Levy, Representative ARMEY.

The Armed Forces Inaugural Committee: Chaired by Maj. Gen. Tom Foley, Commander, Military District of Washington, the Armed Forces Inaugural Committee was responsible for more than 10,000 military troops who provided invaluable manpower to carry out the day-long inaugural festivities.

General Foley was assisted by Tom Groppel, Military District of Washington, who has directed the Armed Forces Inaugural Committee in six previous inaugural ceremonies.

In addition, other key military personnel included Maj. Gen. Robert F. Foley, Lt. Col. Craig Benedict, Sgt. Maj. Boyd Sarratt, Maj. Don Holmes, USMC, and Maj. Dave Lapan, USMC.

U.S. Capitol Police: Chief Gary Abrecht, Deputy Chief Jim Rohan, Assistant Chief Bobby Howe, Capt. Michael Preloh, Capt. Greg Parman, Diane Marie Schmidt, Lt. Connors, John Caulfield, and Sgt. Dan Nichols.

Architect of the Capitol: William Ensign, Acting Architect of the Capitol; Alan Hantman, Architect of the Capitol Designee; Jim Ellison, Bruce Arthur, Roberto Miranda, Jim Wells, Dan Hanlon, Stuart Pregnall, Peggy Lambert, Ben Wimberly, and Matthew Evans.

Senate Sergeant at Arms: Greg Casey, Sergeant at Arms; Patty NcNally, and Loretta Symms.

House Sergeant at Arms: Bill Livingood, Sergeant at Arms; Jim Varey, and Tom Keating.

Secretary of the Senate: Gary Sisco, Secretary; and Jon Lynn Kerchner.

Senate Historian: Dick Baker, Historian; and Don Ritchie.

Senate Curator: Diane Skvarla.

Congressional Media Galleries: Larry Janezich, Senate Radio-TV Gallery; Bob Peterson, Senate Press Gallery; Maurice Johnson and Jeff Kent, Senate Press Photo Gallery; Jim Talbert, Senate Periodical Gallery; Tina Tate, House Radio-TV Gallery; Thayer Illsley, House Press Gallery; and David Holmes, House Periodical Gallery.

Senate Recording and Photographic Studio: Jim Granhe, Director; and Steve Benza, Senate Photographer.

Senate Telecommunications: Duane Ravenberg, Director.

Television Pool: Bill Headline, CNN; Margie Lehrman, NBC; and David Futrowsky.

Attending Physician: Adm. John F. Eisold, M.D.; and Robert J. Burg.

Supreme Court of the United States: Jim Duff, Administrative Assistant to the Chief Justice; Venessa Yarnall, Sharon DuBose, Jackie Johnson, Julia A. Radcliff, and Dale E. Bosley.

Government Printing Office: Charlie Cook, Jerry Hammond, and John Sapp.

Department of the Interior, U.S. Park Service: Stan Lock, Deputy Director; Maj. J.J. McLaughlin, Park Police; and Jim Novak, National Park Service, White House Liaison.

U.S. Secret Service: Eljay B. Bowron, Director; Bill Pickle, Katherine Crowly, Rachel Klay, Bob Campbell, and Patrick Sullivan.

White House Liaison: Tim Keating.

Presidential Inaugural Committee: Ann Jordan and Terry McAuliffe, Co-Chair Persons; Harold Ickes, Harry Thomason, Tom Baer, Page Reefes, Jason McIntosh, Debbie Wilhite, Andrew Ballard, and Bob Bean.

Finally, the hundreds of volunteers who handled the tough, sensitive problem of distributing many invitations, who served as ushers and escorts, and especially the Boy Scouts and Girl Scouts who greeted each guest as they arrived on the Capitol Grounds and distributed copies of the ceremony's program.

All joined in putting forward the very best of themselves, the Congress, the Nation's Capital, and our country. For this the Congress expresses its heartfelt thanks for a job well done.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I rise today to introduce two bills. The first bill is the National Beverage Container Reuse and Recycling Act of 1997.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 215 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. The second bill I will be introducing today with Senator

FRIST. This bill is IDEA. Then, after that, I will briefly talk on low-income fuel assistance and put in the RECORD a letter which myself and 49 Senators have participated in.

For now, I will go ahead and discuss and send to the desk the bill IDEA, for introduction.

(The remarks of Mr. JEFFORDS and Mr. FRIST pertaining to the introduction of S. 216 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR—S. 216

Mr. JEFFORDS. Mr. President, I ask unanimous consent Jim Downing, a legislative fellow in my office, be granted the privilege of the floor during consideration of the IDEA legislation, when it occurs.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE EMERGENCY LIHEAP FUNDS

Mr. JEFFORDS. Mr. President, last Thursday 48 Senators representing the Northeast-Midwest Senate Coalition, which I chair with Senator MOYNIHAN, my colleague from Vermont Senator LEAHY, and Senators from other States hard hit by skyrocketing heating prices and cold weather, sent a letter to President Clinton asking him to release $300 million in emergency low income home energy assistance funds [LIHEAP].

The 1997 Omnibus Appropriations Act allows the President to release up to $420 million in LIHEAP emergency funds. In the Northeast and Midwest, the price of home heating oil has jumped over 25 percent from last year, while natural gas and propane prices in all cold weather States are significantly higher. The Reverend Dr. Robert E. Martin of Newport, VT recently wrote me that the propane bill of the Lowell Congregational Church has risen 52 percent over last year. Any distribution of emergency LIHEAP funds must take into account this rise in fuel prices, which in Vermont, so far, has been worse than the weather.

Mr. President, the rising cost of energy weighs heavy on low-income working Americans who devote about 12 percent of their income to energy bills. The elderly and disabled low-income individuals relying on supplemental security income spend on average 19 percent of that income on energy bills, and families with children living on Aid to Families With Dependent Children devote almost 25 percent of their benefits to energy bills.

Although many State regulations prohibit utilities from terminating service for nonpayment during the winter, households that rely on home heating oil, propane, and wood do not have this same safety net. These households must pay for services up front or face fuel cutoffs. With the prolonged spike in fuel prices, additional Federal funds are needed to prevent many families from having to face life threatening cold this winter.

Mr. President, freezing temperatures and high fuel prices are a recipe for disaster for low-income Americans. Forty-eight Senators from both parties are urging President Clinton to act quickly so that low-income Americans do not have to choose between heating and eating this winter.

Mr. President, I yield the floor for others who desire to speak on this important issue.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I always appreciate working with the Senator from Vermont and the Senator from Massachusetts. We have been on the floor before talking about low-income energy assistance, and we really have to be on the floor today speaking about this.

Sometimes we talk about these issues, and we just talk. It may not be connected to people's lives. But what we say today on the floor of the U.S. Senate is connected to people's lives in many of our States.

It is between 8 and 15 degrees below zero in most of Minnesota today. It might get to zero this daytime.

Mr. President, we have had a brutal winter in our State and, in addition, as the Senator from Vermont mentioned, natural gas prices are up 60 percent from last year's prices, heating oil is up 40 percent over last year, and the cost of propane is 60 percent higher than last year.

Our State is colder than it was last year. It costs much more to heat a home. These oil prices have skyrocketed, and this means we have a crisis, all in capital letters.

Mr. President, the Governor, Governor Arne Carlson, has used $9 million of the State's fund for additional assistance, but we have in fiscal year 1997 additional money, several hundreds of millions of dollars, for emergency energy assistance. It is an emergency.

In Minnesota, we have about 300,000 citizens who are dependent upon this lifeline program. It is not a large grant. It averages about $350, but for many of these citizens—many of them elderly, many of them children—this is a lifeline program, without which either people go cold or people huddle in one room in their home. I wish that was an exaggeration, but it is not. I have visited with these families. Our people somehow figure out how to pay for their heat, but then they don't have enough money to buy food or they don't have enough money to buy prescription drugs that they need. This is a particular problem with the elderly.

Mr. President, we are going to run out of assistance. We are going to have a dire situation in Minnesota. This is no melodrama on my part. It is time this emergency money be released.

Almost every day I am on the phone talking to the White House, talking to Health and Human Services, the Office of Management and Budget, and I don't speak on the floor of the Senate today to point the finger, because I believe that in the next few days—the sooner the better—the White House will release this money.

Last year, I went to the President—other Senators joined: Senator KENNEDY, Senator JEFFORDS, and others—and just made the request face to face. I said, "Mr. President, I don't want people to go cold in my State."

This is not an exaggeration. I am sure that this money will be released, but today on the floor of the Senate, my appeal to the White House is: Please, make the decision. Please, make the decision today. Please release the funding. Time is not neutral. Time is not on our side. It doesn't do any good to get the funding in April. We need this assistance for vulnerable citizens in our cold-weather States, and we need it now.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I intend to speak to the Senate about this same subject that my friend, Senator WELLSTONE, spoke to. I think all of us have understood his strong leadership on this issue a year ago or 2 years ago and before he was elected. Now he is again battling away on the same issue with the same powerful voice, and I join in expressing strong appreciation for all of his leadership.

IDEA

Mr. KENNEDY. Mr. President, before speaking on the issue of LIHEAP, I want to thank the chairman of our Human Resources Committee, Chairman JEFFORDS, and also the Senator from Tennessee, Senator FRIST, for introducing the IDEA legislation today and to indicate this is one of the prime areas of priority for the Human Resources Committee.

This issue, in terms of helping and assisting the special needs of children in education, is of incredible importance to millions of families all across this country, and we cannot afford to let the authorizing legislation expire.

I join in commending the leadership that has been provided by Senator FRIST in our last Congress, along with Senator HARKIN, who has been our ranking member on the Subcommittee on Disability and who has made such a very important contribution on all of the issues relating to the disabled in this country over a very distinguished career, Senator JEFFORDS, and others on our committee.

This has been a strong bipartisan effort. We welcome the opportunity to work very closely with them. This is not to minimize the issues that are outstanding, but it does represent a continuing commitment of those who support the legislation to try to continue the very important efforts that have marked this legislation and finding cooperation and finding ways to deal with some of the still outstanding issues.

So I am very, very grateful for their statements on the floor today.

LIHEAP

Mr. KENNEDY. Mr. President, on the issue others have spoken to, I want to add my strong voice in hope and anticipation of the President's release of these emergency LIHEAP funds to help the families in the Northeast and Midwest. I think all of us have understood the extraordinary hardships and loss of lives that are affecting people in the Midwest, and people are hurting in my part of the country, in the Northeast, as well, with the soaring heating bills this winter.

The reduced benefit levels and the skyrocketing prices of home heating oil have been a double whammy for the 5 million low-income families nationwide who receive LIHEAP assistance.

Federal funding for LIHEAP is already near an all-time low—listen to this, Mr. President—down from $2.1 billion in 1985 to $1 billion today. In Massachusetts, Federal fuel aid has declined from $87 million to $41 million over that same period, about half of the resources in dollars. When you measure it out in terms of inflation, it is even less than that. When we see what has happened to the cost of home heating oil, we will see that people are in dire straits.

Local fuel assistance directors have been successful in past years in stretching the limited LIHEAP funds to serve as many needy families as possible. This winter, however, low stocks have sent heating oil prices through the roof, causing excessive hardships to LIHEAP recipients across the Nation.

According to the Massachusetts Division of Energy Resources, the cost of home heating oil has risen 20 percent, and, in some communities, considerably higher, from some 95 cents a gallon in December 1995, to over $1.15 today. Despite the oil companies' efforts to bring their inventories to last year's levels, heating oil prices still remain high because of increased world demand.

This rise in heating oil prices has imposed a heavy burden on low-income families, many of whom must devote a significant portion of their limited resources to paying their energy bills.

Who are these families, Mr. President? Forty-three percent of the recipients for the LIHEAP program are elderly or disabled citizens. They spend an average of 19 percent of their income to keep their homes warm in the winter, whereas middle-income families devote 4 percent.

That is who we are talking about: elderly people, the neediest people who are living and affected by this colder climate, are spending way out of proportion of their income in order to just remain warm.

The AFDC recipients spend as much as 25 percent of their income for home heating. At the same time, these families are hard pressed and struggle to pay their bills for food, rent, and health care.

A decade ago, LIHEAP assistance could sustain a low-income family through an entire winter, purchasing as much as 750 gallons of heating oil. Today, the higher cost of heating oil and the lower benefit levels will only purchase a third of that amount. Some 10 years ago, there was the ability to address this issue for the neediest families for the winter and now a third of the winter, even with these resources that would be available.

Many local fuel assistance directors are already planning for the worst. According to Jim Murphy, whose TRI-CAP Community Action Program serves 1,500 clients in Malden, MA, over 40 percent will be without any heating assistance at the end of next week unless emergency funds are provided.

Other communities in Massachusetts are facing a similar crisis. In Boston, as many as 2,000 families, out of 13,000 served by LIHEAP, have run out of heating oil. An additional 4,500 households will be at risk in the next few weeks. We are talking the next 2 to 3 weeks.

In economically distressed towns like Gloucester, many working families involved in the fishing industry have already exhausted their annual benefits. According to Eliott Jacobson, chairman of the New England Energy Directors Association, charities are being tapped for additional assistance 2 months ahead of schedule, taxing their limited resources to serve the community.

Clearly, without an immediate release of emergency funds, little relief is in site for these families. If another cold spell strikes, even more families will be without protection.

As we mentioned, 49 Senators wrote to the President last week requesting the release of the emergency LIHEAP funds before more cold weather grips the country. This year, $420 million in emergency funds could be made available at the President's discretion. The letter sent to the President Thursday requested $300 million of that amount. I hope all of my colleagues will support this necessary action and will support action by the President to respond to these very important and critical needs.

THE PRESIDENT'S EDUCATION BUDGET

Mr. KENNEDY. Mr. President, on another item, I want to draw the attention of the Senate to President Clinton's announcement today for making education a top priority in his balanced budget plan. The President has announced the proposal and recognizes the importance of investing in education as the cornerstone of a stronger future for the Nation.

In the coming years, a college education will be more important than ever. We know that by the year 2005, 60 percent of all of the new jobs will require not only a high school education, but also skills in the utilization of computers. So the President's program is focused on a number of priority areas. I will introduce at the end of my statement a brief summary of those items, but I would like to just mention some of those which I think are most important.

First of all, to try and assure working families in this country that not only high school will be available, but really the 13th and 14th grades, the first 2 years of college, would be available as well. That is being done in a number of ways:

First, with a $10,000 deduction for the payments of tuition that will be available to working families and middle-income families, what they call the Hope Tax Credit, which will be a $1,500 credit for the sons and daughters who are going to college.

This would amount to the payment in full of tuition for 67 percent of all the community colleges in the country; and then an expansion of the Pell grants by some $300 to a maximum of $3,000 for those individuals who are eligible for Pell grants. That is a very important and significant commitment. That will mean about 130,000 more students across this country will be able to take advantage of the Pell grants.

Then there are the changes in the Pell grant provisions that will be primarily targeted upon older students, those who have been out in the work force and are coming back, those who are 24 or 25 years old or older. I do not know whether the distinguished Chair has had the kind of opportunity I have had to visit some of the community colleges in his own State as I have in Massachusetts. We find changes which are taking place where the makeup of the student body is considerably older.

Changes in the Pell language are going to make available 218,000 additional slots for those individuals who are returning to college to upgrade their skills, which is very important.

We also have a strong commitment in the areas of literacy. We will see an expansion of the Work-Study Program, which provides important opportunities for students to help work their way through college. It is an absolutely vital link to permit students to match together what they are able to earn in the summertime by working, with what they earn working under the Work-Study Programs. There is a strong commitment to fulfill the President's commitment to try to make sure that every third grader is able to read by the year 2000. It is an important program that really builds upon the successful programs of the past. We will have more of a chance to review those in the Labor and Human Resources Committee later in the session.

We also see the willingness to try to help and assist those communities where a third of all of the high school students are going to school in dilapidated buildings. The Educational Facilities Improvement Act is a program that was developed by Senator CAROL MOSELEY-BRAUN and has been a very creative program which will be addressed in the President's program.

Finally, the President makes a strong commitment in the area of technology, about $2 billion over the next 5 years, to try to make sure that we are going to have technology—hardware and software—and, most importantly, trained teachers that will be able to use technology to help students learn more.

A number of States, including my own State of Massachusetts, are now involved in what we call the Net Day Program—there are 12 other States involved in it—where we have been able to bring the Software Council, the leaders of business in software, the Telecommunications Council, which represents the best in terms of telecommunications, the unions, working all together in order to provide wiring and also computers to the classrooms and schools of Massachusetts.

We were 48th out of 50 at the start of this whole effort; and we are now, I believe, leading all the States in the number of classrooms that we have already wired for the Internet with the help of this voluntary program which is very successful. More than 600 schools have now been adequately wired. We intend, within the next 15 months, to have the approximately 2,700 schools in Massachusetts achieve that.

We have benchmarks to be able to assess where we are. The next benchmark will be in April of this year. But nonetheless, this kind of commitment by the administration to technology and teacher training is enormously important.

It is our understanding that the new education programs and the strong commitment to education is paid for in the President's balanced budget. We will see the details of the President's budget in the next 10 days. But today we commend his strong commitment to education.

We are looking forward to working in our committee, the Labor and Human Resources Committee, under the chairmanship of Senator JEFFORDS, who has had a long and distinguished career of bipartisan leadership in education, to maintain the Nation's commitment to strengthen academic achievement and accomplishment. We should continue to support local school reform efforts and to help provide seed money to communities to help bring technology into their schools—and to help ensure that technology is available to schools in all parts of the country. In addition, we will continue to make college more accessible and affordable for all students.

We have every expectation that colleges and universities will join us in this partnership to increase accessibility and affordability and that they will not respond by raising tuition. We will work with them over the course of this Congress to ensure that this happens.

To reiterate, I commend President Clinton for making education a top priority in his balanced budget plan. The President's proposal recognizes the importance of investing in education as the cornerstone of a stronger future for the Nation.

In the coming years, a college education will be more important than ever. By 2005, 60 percent of all jobs created will require education beyond high school. A college graduate earns almost twice what a high school graduate earns, and almost three times what a high school dropout earns.

But too often, college is priced out of reach for many families. From 1980 to 1990, the cost of college rose by 126 percent, while family income increased by only 73 percent.

To meet the rising cost of college, students and their families are going deeper and deeper into debt. In the 1990's, students have borrowed more in student loans than in the three preceding decades combined. In 1996 alone, students borrowed $30 billion—a 65-percent increase since 1993. Since 1988, borrowing in the Federal student loan program has more than doubled.

The President's proposal recognizes that making college more accessible and affordable is a top priority for the Nation. His proposal increases funding for higher education, provides tax cuts for education, and cuts student loan fees.

Under the proposal, funding for higher education will increase by 20 percent by 2002, including a $1.6 billion increase in Pell grants. The Pell grant maximum will increase by $300 in the first year to $3,000, to give 130,000 low-income students greater access to college. With reforms in eligibility rules, the proposal will also help over 200,000 adults obtain the extra education and training they need to compete in the modern workplace.

The proposal targets tax cuts for education to help students and working families. Students with incomes below $70,000 would benefit from the $1,500 Hope Tax Credit, which makes 2 years of community college affordable.

All families with incomes below $100,000 may take advantage of a $10,000 tuition tax deduction. The President's budget also provides for penalty free withdrawals from IRA's to pay for education expenses. Student loan fees will be cut in half, saving students $2.6 billion over the budget period. The College Work-Study Program will be expanded to help up to 1 million students gain work experience while they earn money for college.

In the area of elementary and secondary education, the President's proposal provides significant support for school reform.

The Information Age has arrived, yet millions of children attend school in conditions inadequate to modern needs. By the year 2000, 60 percent of new jobs will require skills possessed by only 22 percent of the young people entering the labor market. Already, more than half of high-wage jobs require the use of network computers. Jobs that require computers pay 15 percent more, on average, than those that do not.

Schools across the country are struggling to repair decrepit facilities, let alone develop modern classrooms. Fourteen million children in a third of the Nation's schools are learning in substandard classrooms. Yet enrollments are at an all-time high of 52 million students and are continuing to rise.

We must also do more to help children learn to read—40 percent of all children now read below their grade level. Higher standards are clearly needed to encourage reading and other basic academic skills.

The President's proposal responds to these needs by investing almost $2 billion in improved education technology over the budget period—a $252 million increase in fiscal year 1998 alone.

The President's plan will also invest $2.45 billion over the budget period in the America Reads Challenge, to help children read well by the third grade. It invests $5 billion to improve school facilities. Funding for Goals 2000 will increase to help children meet higher academic standards. Funding for charter schools will increase. The title I program and the Eisenhower Teacher Training Program will receive increases to give students the extra help they need to improve their skills.

President Clinton's plan is effective and comprehensive. It sets the right priority for education, and the right priority for the Nation's future. President Clinton has proved once again, that he truly is the education President, and I look forward to working with all Members of Congress to achieve these essential goals.

CONTROLLING ILLEGAL IMMIGRATION AND PROTECTING JOBS

Mr. KENNEDY. Mr. President, last week I introduced a bill to control illegal immigration and protect U.S. jobs. I would like to take a few minutes to expand on that bill.

Last year, Congress passed landmark immigration reform legislation intended to curb illegal immigration.

But that Republican legislation addressed only half of the illegal immigration problem. Republicans did not get the job done. So today, with the support of our Democratic leader, Senator DASCHLE, I introduce legislation to address the unfinished business of controlling illegal immigration.

Immigration experts, policy think tanks, and blue-ribbon commissions over the past two decades all agree that effective enforcement against illegal immigration requires two steps.

We must stop people from crossing our borders illegally. But, we must also combine our border enforcement efforts with effective workplace enforcement to deter employers who hire illegal workers.

The Clinton administration should be commended for their aggressive enforcement strategy at the border. By the end of this year, the Clinton administration plans to have increased the Border Patrol from under 4,000 agents in 1993 to 6,859 agents—a 73-percent increase. And last year's immigration bill reenforced this increase by authorizing an additional 1,000 Border Patrol agents for each of the next 3 years.

In addition, last year's immigration bill contained new, stiff penalties against the crime syndicates that smuggle illegal immigrant workers into the United States.

But Republicans neglected the second key element of a successful immigration enforcement strategy, which is workplace enforcement to deny jobs to illegal immigrant workers. There is one reason, and one reason only, that illegal immigrants come to America: to find jobs. Last year's Republican immigration bill did almost nothing to address this problem. We will never reduce illegal immigration significantly until we shut off the job magnet that draws illegal immigrants to this country.

That was the conclusion of the Select Commission on Immigration and Refugee Policy in 1981, the so-called Hesburgh Commission. And it was the conclusion of the Jordan Commission in 1994. The Jordan Commission stated, "Reducing the employment magnet is the linchpin of a comprehensive strategy to reduce illegal immigration."

Consider the following fact. The Immigration and Naturalization Service says that at least 40 percent, and possibly half, of the illegal immigrant population in the United States actually entered the country legally, but stayed on and worked illegally after their visas expired. They came here originally as tourists or students, but overstayed their visas and are now illegally taking American jobs.

No amount of border enforcement will stop this major source of illegal immigrant workers. They arrive at our airports and at our borders with genuine passports and visas. There is no way to know that their real plans are to stay and work illegally.

The only way to deter this kind of illegal immigration is to deny jobs at the workplace. Rather than just beefing up our Border Patrol, we must also increase the capacity of the Immigration Service and the Department of Labor to protect American jobs by finding illegal immigrants in the workplace and prosecuting unscrupulous employers who hire and abuse them.

In 1986, Congress made it illegal for employers to hire illegal immigrant workers. But today it is far too easy for these workers to pose as legal immigrant workers or even U.S. citizens by using false documents.

We must also find new and better ways of assisting employers to determine who can and who cannot work in the United States. Under the current failed system, employers often cannot distinguish a real green card and makes someone eligible to work from a good fake.

Last year, the Senate adopted a proposal that Senator Simpson and I developed that contained aggressive pilot programs to test new and better ways of addressing this problem. Upon the completion of these programs, the President was required to submit to Congress a comprehensive plan that would enable employers to know with greater certainty whom they can and cannot hire. Without such a plan, illegal immigrants will continue to take American jobs from working families by the hundreds of thousands each year.

But Republicans in Congress, under pressure from lobbyists representing the employers, met in secret last summer and dropped this vital provision from the bill. They put in its place a weak requirement for only a single pilot program. And they stripped the bill of the requirement that the President present to Congress for its approval a comprehensive plan for denying jobs to illegal immigrant workers. Instead of standing up for working families and protecting their jobs, they chose to coddle unscrupulous employers who hire and abuse illegal immigrants to make a buck.

Our Democratic message to working families today is that we will not tolerate the loss of hundreds of thousands of your jobs each year. Last year's Republican immigration bill simply sets adrift the urgently needed workplace enforcement under our immigration laws to protect these jobs. Democrats say that working families need to be assured that their jobs will be protected under our immigration laws.

The bill I introduce today:

Provides the workplace enforcement we need to protect U.S. jobs. It increases the number of Department of Labor Wage and Hour investigators. These investigators will target employers who hire illegal immigrants to evade labor standards. And it provides funding for additional INS personnel to enforce our immigration laws in the workplace.

It increases penalties for employers who hire illegal workers. And it allows judges to double an employers penalties if they have violated both immigration and labor laws.

It mandates the President to fix the broken employment verification system. Currently employers have an obligation to verify whether those they hire are authorized to work in the United States. But, the verification system in place now does not work. My bill requires the President to propose a plan to Congress within 3 years for an improved employment verification system.

It prevents employers from discriminating against American and legal immigrant workers by making some workers go through more hoops to get a job than others, just because they may look or sound foreign.

Finally, my bill provides needed protections for battered immigrants. Many battered immigrants are afraid to seek protection from their abusers because they fear they will be deported or cannot find work to support their children. This bill removes the hurdles for battered immigrants, and protects their ability to qualify for green cards and jobs.

Last year's illegal immigration bill addressed only half the problem. The bill I introduce today will complete the picture and protect jobs for working families. And I look forward to working with our new Immigration Subcommittee chairman, Senator ABRAHAM, and the Republican leadership to see early enactment of this important measure.

Mr. President, I ask unanimous consent that the text of the legislation be included at this point in the RECORD.

There being no objection, the text of the bill ordered to be printed in the RECORD, as follows:

S. 103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO INA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States Worker Protection and Illegal Immigrant Deterrence Act of 1997".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to INA; table of contents.

TITLE I—ENFORCEMENT

Sec. 101. Increased personnel levels for immigration-related workplace enforcement.
Sec. 102. Earmark of appropriations for INS workplace inspectors.

TITLE II—EMPLOYER SANCTIONS PENALTIES AND AUTHORITIES

Sec. 201. Enhanced civil penalties if labor standards violations are present.
Sec. 202. Increased penalties for violations of immigration-related employment laws.
Sec. 203. Retention of employer sanctions fines for law enforcement purposes.
Sec. 204. Task force to improve public education regarding unlawful employment of aliens and unfair immigration-related employment practices.
Sec. 205. Subpoena authority for cases of unlawful employment of aliens or document fraud.

TITLE III—PRESIDENTIAL PLAN FOR EMPLOYMENT VERIFICATION

Sec. 301. Definitions.
Sec. 302. Establishment of plan.
Sec. 303. Objectives.
Sec. 304. System requirements.
Sec. 305. Remedies and penalties for unlawful disclosure.
Sec. 306. Employer safeguards.
Sec. 307. Restriction on use of documents.
Sec. 308. Protection from liability for actions taken on the basis of information provided by the verification system.
Sec. 309. Application of the Federal Tort Claims Act.
Sec. 310. Statutory construction.

TITLE IV—UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Sec. 401. Requiring certain remedies in unfair immigration-related discrimination orders.
Sec. 402. Treatment of certain documentary practices as lawful employment practices.
Sec. 403. Effective date.

TITLE V—PROTECTIONS FOR BATTERED IMMIGRANTS

Sec. 501. Waiver of section 245(i).
Sec. 502. Exemption from summary exclusion.
Sec. 503. Attorney General waiver of continuous presence requirement.
Sec. 504. Continued eligibility for immigrant status where abuser is removed.
Sec. 505. Fraudulent document waiver for battered aliens.

TITLE I—ENFORCEMENT

SEC. 101. INCREASED PERSONNEL LEVELS FOR IMMIGRATION-RELATED WORKPLACE ENFORCEMENT.

(a) INVESTIGATORS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Labor is authorized to hire in the Wage and Hour Division of the Department of Labor during the period beginning October 1, 1997, and ending September 30, 1998, not more than 150 full-time active-duty investigators and staff to enforce laws applying sanctions against employers who violate Federal wage and hour laws.

(2) ADDITIONAL AUTHORITY AVAILABLE.—The authority of paragraph (1) to hire the personnel described in that paragraph is in addition to the authority made available during fiscal year 1997 to hire such personnel.

(b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—Individuals employed under subsection (a) shall be assigned to investigate violations of both wage and hour laws and those immigration-related laws that are administered by the Secretary of Labor in areas of the United States where the Attorney General has notified the Secretary of Labor that there are high concentrations of aliens present in violation of law.

(c) PREFERENCE FOR BILINGUAL WAGE AND HOUR INSPECTORS.—In hiring new wage and hour inspectors pursuant to this section, the Secretary of Labor shall give priority to the employment of multilingual candidates who are proficient in both English and such other language or languages as may be spoken in the region in which such inspectors are likely to be deployed.

SEC. 102. EARMARK OF APPROPRIATIONS FOR INS WORKPLACE INSPECTORS.

Of the funds made available to the Immigration and Naturalization Service for fiscal years 1998 and 1999, not less than $36,076,000 shall be available only for each such fiscal year sufficient to pay the salaries and expenses of 300 full-time equivalent active-duty investigators, as authorized by section 131 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (as contained in Public Law 104–208).

TITLE II—EMPLOYER SANCTIONS PENALTIES AND AUTHORITIES

SEC. 201. ENHANCED CIVIL PENALTIES IF LABOR STANDARDS VIOLATIONS ARE PRESENT.

(a) IN GENERAL.—Section 274A(e)(4) (8 U.S.C. 1324a(e)(4)) is amended—

(1) by redesignating clauses (i), (ii), and (iii) of subparagraph (A) as subclauses (I), (II), and (III), respectively;

(2) by redesignating clauses (i), (ii), and (iii) of subparagraph (B) as subclauses (I), (II), and (III), respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(4) by striking “With” and inserting “(A) Except as provided in subparagraph (B), with”; and

(5) by adding at the end the following:

“(B) ENFORCEMENT OF CERTAIN LABOR LAWS.—

“(i) CIVIL PENALTIES.—The administrative law judge may require payment of a civil money penalty in an amount up to two times the amount of the penalty prescribed by this subsection in any case in which the Secretary of Labor or a court of competent jurisdiction determines that the employer has committed a willful violation or repeated violations of any of the following statutes:

“(I) The Fair Labor Standards Act (29 U.S.C. 201 et seq.).

“(II) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

“(III) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.).

“(ii) ADMINISTRATION.—The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 202. INCREASED PENALTIES FOR VIOLATIONS OF IMMIGRATION-RELATED EMPLOYMENT LAWS.

(a) INCREASED CIVIL MONEY PENALTIES FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—Section 274A(e)(4)(A) (8 U.S.C. 1324a(e)(4)(A)) is amended—

(1) in clause (i), by striking “$250” and “$2,000” and inserting “$1,000” and “$3,000”, respectively;

(2) in clause (ii) by striking “$2,000” and $5,000” and inserting “$3,000” and “$8,000”, respectively; and

(3) in clause (iii), by striking “$3,000” and “$10,000” and inserting “$8,000” and “$25,000”, respectively.

(b) INCREASED CIVIL MONEY PENALTIES FOR PAPERWORK VIOLATIONS.—Section 274A(e)(5) (8 U.S.C. 1324a(e)(5)) is amended by striking “$100” and “$1,000” and inserting “$200” and “$5,000”, respectively.

(c) INCREASED CRIMINAL PENALTIES FOR PATTERN OR PRACTICE VIOLATIONS.—Section 274A(f)(1) (8 U.S.C. 1324a(f)(1)) is amended by striking “$3,000” and “six months” and inserting “$7,000” and “two years”, respectively.

(d) INCREASED CIVIL PENALTIES FOR UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.—Section 274B(g)(2)(B) (8 U.S.C. 1324b(g)(2)(B)) is amended—

(1) in clause (iv)(I), by striking “$250” and “$2,000” and inserting “$1,000” and “$3,000”, respectively;

(2) in clause (iv)(II), by striking “$2,000” and “$5,000” and inserting “$3,000” and “$8,000”, respectively;

(3) in clause (iv)(III), by striking “$3,000” and “$10,000” and inserting “$8,000” and “$25,000”, respectively; and

(4) in clause (iv)(IV), by striking “$100” and “$1,000” and inserting “$200” and “$5,000”, respectively.

SEC. 203. RETENTION OF EMPLOYER SANCTIONS FINES FOR LAW ENFORCEMENT PURPOSES.

Section 286(a) (8 U.S.C. 1356(a)) is amended—

(1) by striking “(a)” and inserting “(a)(1)”; and

(2) by adding at the end the following:

“(2) All moneys received during each fiscal year in payment of penalties under section 274A of this Act in excess of $5,000,000 shall be credited to the Immigration and Naturalization Service Salaries and Expenses appropriations account that funds activities and related expenses associated with enforcement of that section and shall remain available until expended.”.

SEC. 204. TASK FORCE TO IMPROVE PUBLIC EDUCATION REGARDING UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) ESTABLISHMENT.—The Attorney General shall establish a task force within the Department of Justice charged with the responsibility of—

(1) providing advice and guidance to employers and employees relating to unlawful employment of aliens under section 274A of the Immigration and Nationality Act and unfair immigration-related employment practices under 274B of such Act; and

(2) assisting employers in complying with those laws.

(b) COMPOSITION.—The members of the task force shall be designated by the Attorney General from among officers or employees of the Immigration and Naturalization Service or other components of the Department of Justice.

(c) ANNUAL REPORT.—The task force shall report annually to the Attorney General on its operations.

SEC. 205. SUBPOENA AUTHORITY FOR CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

(a) SECRETARY OF LABOR SUBPOENA AUTHORITY.—

(1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

"SECRETARY OF LABOR SUBPOENA AUTHORITY

"SEC. 296. The Secretary of Labor may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing conducted in the enforcement of any immigration program for which the Secretary of Labor has been delegated enforcement authority under this Act. In such hearing, the Secretary of Labor may administer oaths, examine witnesses, and receive evidence. For the purpose of any such hearing or investigation, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary of Labor.".

(2) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 295 the following new item:

"Sec. 296. Secretary of Labor subpoena authority.".

TITLE III—PRESIDENTIAL PLAN FOR EMPLOYMENT VERIFICATION

SEC. 301. DEFINITIONS.

As used in this title:

(1) FEDERAL PUBLIC BENEFIT.—The term "Federal public benefit" has the meaning given the term in section 401(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) STATE OR LOCAL PUBLIC BENEFIT.—The term "State or local public benefit" has the meaning given the term in section 411(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(3) SYSTEM.—The term "system" means the system for confirmation of eligibility for employment and benefits that is described in this title.

SEC. 302. ESTABLISHMENT OF PLAN.

(a) DEVELOPMENT OF PLAN; REPORT TO CONGRESS.—Not later than 90 days after the end of the third year in which the pilot programs required by subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as contained in Public Law 104-208) are in effect, the President shall—

(1) develop and recommend to the Congress a plan for the establishment of a data system or alternative system (in this part referred to as the "system"), subject to sections 302 and 303, to confirm eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for any Federal public benefit;

(2) submit to the Congress a report setting forth—

(A) a description of such recommended plan;

(B) data on and analyses of the alternatives considered in developing the plan described in paragraph (1), including analyses of data from any demonstration project conducted, including the pilot programs conducted under subtitle A of title IV of the IIRIRA of 1996; and

(C) data on and analysis of the system described in paragraph (1), including estimates of—

(i) the proposed use of the system, on an industry-sector by industry-sector basis;

(ii) the public assistance programs and government benefits for which use of the system is cost-effective and otherwise appropriate;

(iii) the cost of the system;

(iv) the financial and administrative cost to employers;

(v) the reduction of undocumented workers in the United States labor force resulting from the system;

(vi) any unlawful discrimination caused by or facilitated by use of the system;

(vii) any privacy intrusions caused by misuse or abuse of system;

(viii) the accuracy rate of the system;

(ix) the overall costs and benefits that would result from implementation of the system; and

(x) evidence, including the results of pilot programs or demonstration projects, that the plan meets the requirements of section 303.

(b) EFFECTIVE DATE.—The plan described in subsection (a) shall take effect on the date of enactment of a bill or joint resolution approving the plan.

SEC. 303. OBJECTIVES.

The plan described in section 301(a) shall have the following objectives:

(1) To substantially reduce illegal immigration and unauthorized employment of aliens.

(2) To increase employer compliance, especially in industry sectors known to employ undocumented workers, with laws governing employment of aliens.

(3) To protect individuals from national origin or citizenship-based unlawful discrimination and from loss of privacy caused by use, misuse, or abuse of personal information.

(4) To minimize the burden on business of verification of eligibility for employment in the United States, including the cost of the system to employers.

(5) To ensure that those who are ineligible for public assistance or other government benefits are denied or terminated, and that those eligible for public assistance or other government benefits shall—

(A) be provided a reasonable opportunity to submit evidence indicating a satisfactory immigration status; and

(B) not have eligibility for public assistance or other government benefits denied, reduced, terminated, or unreasonably delayed on the basis of the individual's immigration status until such a reasonable opportunity has been provided.

SEC. 304. SYSTEM REQUIREMENTS.

(a) IN GENERAL.—A confirmation system may not be implemented under this title unless the system meets the following requirements:

(1) RELIABLE DETERMINATIONS.—The system must be capable of reliably determining with respect to an individual whether—

(A) the person with the identity claimed by the individual is authorized to work in the United States or has the immigration status being claimed; and

(B) the individual is claiming the identity of another person.

(2) RESTRICTIONS ON USE OF INFORMATION.—Any information obtained in connection with use of the system must not be made available to Government agencies, employers, or other persons except to the extent necessary—

(A) to confirm, by an individual who is authorized to conduct the employment verification process, that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3));

(B) to enforce the Immigration and Nationality Act or section 371, 911, 982, 1001, 1015, 1028, 1542, 1546, or 1621 of, or chapter 96 of, title 18, United States Code; or

(C) to confirm the individual's immigration status for purposes of determining eligibility for Federal public benefits.

(3) FORM AND EXAMINATION OF DOCUMENTS.—Any document (other than a document used under section 274A of the Immigration and Nationality Act) required by the system must be presented to or examined by either an employer or an administrator of public assistance or other government benefits, as the case may be, and—

(A) must be in a form that is resistant to counterfeiting and to tampering; and

(B) must not be required by any Government entity or agency as a national identification card or to be carried or presented except—

(i) to carry out the purposes of paragraph (2); or

(ii) if the document was designed for another purpose (such as a certificate of alien registration, an alien registration receipt card, a license to drive a motor vehicle, a certificate of birth, or a social security account number card issued by the Social Security Administration), as required under law for such other purpose.

(4) COMPLETE, ACCURATE, CONFIRMABLE, AND TIMELY.—The system must ensure that information is complete, accurate, confirmable, and timely. Corrections or additions to the system records of an individual provided by the individual, the Social Security Administration, or the Immigration and Naturalization Service, or other relevant Federal agency, must be checked for accuracy, processed, and entered into the system within 10 business days after the agency's acquisition of the correction or additional information.

(5) SPEED OF CONFIRMATION.—The system must be capable of accurately confirming electronically within 5 business days, whether a person has the required immigration status in the United States and is legally authorized for employment in the United States in a substantial percentage of cases (with the objective of not less than 99 percent).

(6) ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS.—In order to ensure the integrity, confidentiality, and security of system information, the system and those who use the system must maintain appropriate administrative, technical, and physical safeguards, such as—

(A) safeguards to prevent unauthorized disclosure of personal information, including passwords, cryptography, and other technologies;

(B) audit trails to monitor system use; or

(C) procedures giving an individual the right to request records containing personal information about the individual held by agencies and used in the system, for the purpose of examination, copying, correction, or amendment, and a method that ensures notice to individuals of these procedures.

(7) SAFEGUARDS AGAINST DISCRIMINATION.—There must be reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(A) the selective or unauthorized use of the system to confirm eligibility;

(B) the use of the system prior to an offer of employment;

(C) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional confirmation will be required, beyond what is required for most job applicants; or

(D) denial reduction, termination, or unreasonable delay of public assistance to an individual as a result of the perceived likelihood that such additional confirmation will be required.

(b) DEFINITION.—As used in this section, the term "business day" means any day other than Saturday, Sunday, or any day on which the appropriate Federal agency is closed.

SEC. 305. REMEDIES AND PENALTIES FOR UNLAWFUL DISCLOSURE.

(a) CIVIL REMEDIES.—

(1) RIGHT OF INFORMATIONAL PRIVACY.—The Congress declares that any person who provides to an employer the information required by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) has a privacy expectation that the information will only be used for compliance with this Act or other applicable Federal, State, or local law.

(2) CIVIL ACTIONS.—An employer, or other person or entity, who knowingly and willfully discloses the information that an employee is required to provide by this title or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be liable to the employee for actual damages. Jurisdiction and venue over actions brought under this paragraph shall be as provided by title 28 of the United States Code.

(b) CRIMINAL PENALTIES.—Any employer, or other person or entity, who willfully and knowingly obtains, uses, or discloses information required pursuant to this title or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be fined not more than $5,000, notwithstanding the provisions of any Federal law relating to fine levels, imprisoned for not more than 6 months, or both.

(c) PRIVACY ACT.—

(1) IN GENERAL.—Any person who is a United States citizen, United States national, lawful permanent resident, or other employment-authorized alien, and who is subject to confirmation of work authorization or lawful presence in the United States for purposes of benefits eligibility under this title, shall be considered an individual under section 552(a)(2) of title 5, United States Code, with respect to records covered by this title.

(2) DEFINITION.—For purposes of this subsection, the term "record" means an item, collection, or grouping of information about an individual which—

(A) is created, maintained, or used by a Federal agency for the purpose of determining—

(i) the individual's authorization to work; or

(ii) immigration status in the United States for purposes of eligibility to receive Federal, State or local benefits in the United States; and

(B) contains the individuals's name or identifying number, symbol, or any other identifier assigned to the individual.

SEC. 306. BENEFIT OF REBUTTABLE PRESUMPTION.

A person or other entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to the hiring (or recruitment or referral) of an individual for employment in the United States if the person or entity—

(1) obtains confirmation of identity and employment eligibility in compliance with the applicable terms and conditions of the system with respect to the hiring (or recruitment or referral) of the individual; and

(2) has complied with all procedures required by the system.

SEC. 307. RESTRICTION ON USE OF DOCUMENTS.

If the Attorney General determines that any document described in section 274A(b)(1) of the Immigration and Nationality Act as establishing employment authorization or identity does not reliably establish such authorization or identity or, to an unacceptable degree, is being used fraudulently or is being requested for purposes not authorized by this Act, the Attorney General may, by regulation, prohibit or place conditions on the use of the document for purposes of the system or the verification system established in section 274A(b) of the Immigration and Nationality Act.

SEC. 308. PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.

No person shall be civilly or criminally liable under section 274A of the Immigration and Nationality Act for any action adverse to an individual if such action was taken in good faith reliance on information relating to such individual provided through the system.

SEC. 309. APPLICATION OF THE FEDERAL TORT CLAIMS ACT.

Any individual claiming dismissal from employment or denial of employment by reason of an error in the operation of the confirmation system may seek settlement of the claim by the appropriate Federal agency or may institute a legal action against the Federal Government under chapter 271 of title 28, United States Code, for money damages in accordance with the procedures set forth under that chapter.

SEC. 310. STATUTORY CONSTRUCTION.

The provisions of this title supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

TITLE IV—UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

SEC. 401. REQUIRING CERTAIN REMEDIES IN UNFAIR IMMIGRATION-RELATED DISCRIMINATION ORDERS.

Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "CONTENTS OF ORDER" and inserting "DISCRETIONARY CONTENTS OF ORDER";

(B) by striking clauses (ii) and (vi); and

(C) by redesignating clauses (iii), (iv), (v), (vii), and (viii) as clauses (ii), (iii), (iv), (v), and (vi), respectively;

(2) in subparagraph (C), by striking "subparagraph (B)(iii)" and inserting "subparagraph (C)(ii)";

(3) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) MANDATORY CONTENTS OF ORDER.—Such an order shall require the person or entity—

"(i) to retain for the period referred to in clause (i) and only for purposes consistent with section 274A(b)(5), the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee, for employment in the United States; and

"(ii) to educate all personnel involved in hiring and complying with this section or section 274A about the requirements of this section or such section and to certify the fact of such education.".

SEC. 402. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS LAWFUL EMPLOYMENT PRACTICES.

Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "PRACTICES.—For purposes of paragraph (1), a" and inserting "PRACTICES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a";

(2) by striking "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)" and inserting "relating to the hiring of individuals"; and

(3) by adding at the end the following new subparagraph:

"(B) EXCEPTION.—A person or other entity—

"(i) may request a document proving a renewal of employment authorization when an individual has previously submitted a time-limited document to satisfy the requirements of section 274A(b)(1); or

"(ii) having reason to believe that an individual presenting a document that reasonably appears on its face to be genuine is nonetheless an unauthorized alien (I) may inform the individual of the question about the document's validity and of such person or other entity's intention to verify the validity of such document, and (II) may, upon receiving confirmation that the individual is unauthorized to work, dismiss the individual.

"(C) STATUTORY CONSTRUCTION.—Nothing in subparagraph (B) prohibits an individual from offering alternative documents that satisfy the requirements of section 274A(b)(1).".

SEC. 403. EFFECTIVE DATE.

The amendments made by section 401 shall apply to orders issued on or after the first day of the first month beginning at least 90 days after the date of the enactment of this Act.

TITLE V—PROTECTIONS FOR BATTERED IMMIGRANTS

SEC. 501. WAIVER OF SECTION 245(i).

Section 245(i) (8 U.S.C. 1255(i)) is amended—

(1) in the second sentence of paragraph (1), by striking "The" and inserting "Except as provided in paragraphs (4) and (5), the"; and

(2) by adding at the end the following new paragraph:

"(4)(A) The Attorney General may waive the fee specified in this subsection with respect to an alien—

"(i) if the alien or the alien's child—

"(I) has been battered or subjected to extreme cruelty by a spouse, parent, or member of the spouse or parent's family residing in the same household as the alien; and

"(II) the spouse or parent consented to or acquiesced to such battery or cruelty; and

"(ii) if the Attorney General determines that such waiver would enhance the safety of the alien or the alien's child.

"(B) An alien for whom the Attorney General waived the fee specified in this subsection shall not be considered a public charge under section 212(a)(4) or 237(a)(5) solely because of such waiver.

"(5)(A) In lieu of a waiver under paragraph (4), the Attorney General may permit an alien described in paragraph (4)(A)(i) to pay the fee specified in this subsection at the time of the alien's interview or in installments—

"(i) if the Attorney General determines that the alien's finances are sufficient; and

"(ii) if the Attorney General determines that such delayed payment would enhance the safety of the alien or the alien's child.

"(B) An alien for whom the Attorney General delayed payment of the fee specified in this subsection shall not be considered a public charge under section 212(a)(4) solely because of such waiver.".

SEC. 502. EXEMPTION FROM SUMMARY EXCLUSION.

Section 235(b)(1) (8 U.S.C. 1225(b)(1)) is amended by adding at the end the following new subparagraph:

"(G) EXCEPTION FOR BATTERED ALIENS.—Subparagraph (A) shall not apply to any alien who has been battered or subjected to extreme cruelty, or whose child has been battered or subjected to extreme cruelty, and who is eligible to file a petition under subparagraph (A) (iii) and (iv) or (B) (ii) and (iii) of section 204(a)(1) or under paragraph (2) of section 240A(b) based on the requirements of paragraph (2) of that section.".

SEC. 503. ATTORNEY GENERAL WAIVER OF CONTINUOUS PRESENCE REQUIREMENT.

Section 240A(d)(2) is amended by inserting before the period at the end the following: ", except that the Attorney General may extend the time periods described in this paragraph in the case of aliens who are otherwise eligible for relief under subsection (b)(2).".

SEC. 504. CONTINUED ELIGIBILITY FOR IMMIGRANT STATUS WHERE ABUSER IS REMOVED.

Section 204(a)(1)(B) (8 U.S.C. 1154(a)(1)(B)) is amended by adding at the end the following new clause:

"(iv) An alien who has resided in the United States with the alien's permanent resident spouse or parent who has committed a crime described in section 237(a)(2)(E) or violated a protection order described in that section may file a petition with the Attorney General under this subparagraph for classification of the alien under such section notwithstanding that the alien who committed the crime or violated the protection order has been removed, or is subject to removal, from the United States under section 237(a), if the alien filing the petition is—

"(I) the victim of the crime committed or is the individual protected by the protection order;

"(II) a person of good moral character; and

"(III) eligible for classification under section 203(a)(2)(A).".

SEC. 505. FRAUDULENT DOCUMENT WAIVER FOR BATTERED ALIENS.

Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended by inserting before the period at the end the following: ", or if the alien is eligible to file a petition under subparagraph (A) (iii) and (iv) or (B) (ii) and (iii) of section 204(a)(1) or under paragraph (2) of section 240A(b) based on the requirements of paragraph (2) of that section".

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, January 27, the federal debt stood at $5,222,049,625,819.53.

Five years ago, January 27, 1992, the Federal debt stood at $3,793,601,000,000.

Ten years ago, January 27, 1987, the Federal debt stood at $2,223,227,000,000.

Fifteen years ago, January 27, 1982, the Federal debt stood at $1,034,824,000,000.

Twenty-five years ago, January 27, 1972, the federal debt stood at $426,004,000,000 which reflects a debt increase of nearly $5 trillion—$4,796,045,625,819.53—during the past 25 years.

HONORING SKEETER WEEKS

Mr. LOTT. Mr. President, there are those moments as we navigate through life's journey in which our path crosses with people of genuine character and compassion. When we come about one of these persons, it is as if a window is raised allowing the spring breeze to enter our very soul. On these rare occasions, our spirit is lifted causing us to believe anew in the goodness of God and the magic of his gift to mankind. Mr. Albert Colmer Weeks of Pascagoula, MS, is one of these rare people.

Known as "Skeeter" to his friends—who are many—his life is a testament of service, love, and dedication to his family and community. While Skeeter counts Pascagoula as his home, he was born in Ponchatula, LA, and moved at the age of 3 to Perkinston, MS, where his father served as a coach, athletic director, and later vice president and dean of men at Perkinston Junior College. After completing high school in Perkinston in 1944, Skeeter was appointed a page in the U.S. House of Representatives by his uncle and former Congressman, Hon. Bill Colmer.

As many of my colleagues know, I also worked for Representative Colmer as his administrative assistant for 4 years. The fateful year in which I crossed paths with Skeeter in a large and substantive way was 1968. By that time, Skeeter had been working for Ingalls Shipbuilding for 9 years as director of public relations.

As director of public relations at Ingalls Shipbuilding, Skeeter was the one individual most responsible for planning, directing, and coordinating the launching, christening, and commissioning of hundreds of ships for the United States Navy. Skeeter is a big part of the reason Ingalls is today known as America's Shipyard. His professionalism, attention to detail, and customer oriented service ethic has endeared him to many of our nation's political leaders—from President's to Cabinet Secretaries to Secretaries of the Navy—over the span of almost 40 years.

On January 31, 1997, Skeeter will be retiring from Ingalls Shipbuilding. Behind he will leave a legacy of 38 years in service to Ingalls, the city of Pascagoula, Jackson County, the State of Mississippi, and indeed, the country as a whole. Skeeter is a veteran of the United States Navy, a 1951 graduate of Mississippi State University, and a man of honor.

To his wife, Janet, and his children Leah and Alice, I say thank you. We have all borrowed Skeeter's time and talent for years, a gift he has freely given us. Beginning Saturday, February 1, 1997, you have him all to yourself. It is your gain, and with this gain we give you our gratitude and envy.

As Skeeter turns the page and begins this new chapter in his life, I am reminded of a verse penned by Robert Louis Stevenson:

> So long as we love we serve; so long as we are loved by others, I would almost say we are indispensable; and no man is useless while he has a friend.

In celebration of this special event, I am proud to declare to the U.S. Senate, Albert Colmer Weeks is my friend. Enjoy your retirement, Skeeter. You have richly earned it.

TRIBUTES TO SENATOR PAUL E. TSONGAS

Mr. KENNEDY. Mr. President, last Thursday, January 23, many of us in the Senate and House of Representatives attended the funeral service in Lowell, MA, for our outstanding former colleague in the Senate, Paul E. Tsongas, who died on January 18. The service was extremely moving, and the eloquent eulogies by his friends and his three daughters were powerful tributes to Paul's extraordinary life and career. I believe that these tributes will be of interest to all of us in Congress, and I ask unanimous consent that they may be printed in the RECORD.

There being no objection, the tributes were ordered to be printed in the RECORD, as follows:

FUNERAL SERVICE FOR PAUL E. TSONGAS, TRANSFIGURATION GREEK ORTHODOX CHURCH, LOWELL, MA, JANUARY 23, 1997

EULOGY BY FORMER SENATOR WARREN B. RUDMAN

Niki, Ashley, Katina, and Molly, family of Paul Tsongas, former colleagues from the Congress, distinguished guests, Gov. Wald, friends: I appreciate this opportunity to be with you today, to tell you all how proud I am to have called Paul Tsongas my friend. How fortunate I am to have called him a friend, a colleague, and a man who became a very large part of my life. To celebrate his life and to recognize the tremendous purpose and courage with which he lived is why we gather here today. Paul as we all know was a soft-spoken man, of tremendous charm, and wonderful wit. He was one of the most decent, compassionate human beings you would ever want to meet. So when people talk about him, the words "tenacious" or "determined" have not often been the first that I used to describe him. But I am here to attest that I have never—not in the foxholes of Korea, not in the halls of Congress—never met a more determined, or more courageous man than Paul Tsongas. Another son of this Commonwealth, President John F. Kennedy, concluded his Pulitzer Prize-winning book, "Profiles in Courage," with this marvelous statement, which applies to our friend, Paul, and I want to share it with you this morning: "Without belittling the courage with which men have died, we should not forget those acts of courage, with which men have lived. The courage of life is often a less dramatic spectacle than the courage of the final moment, but it is no less a magnificent mixture of triumph and tragedy. A man does what he must, in spite of personal consequences; in spite of obstacles, and dangers, and pressures." And that is the basis of Paul—human morality. In whatever arena of life one may mast the challenges of courage, whatever may be the sacrifices he faces, each man must decide for himself the course he will follow. The stories of past courage can define that ingredient, they can teach, they can offer hope, they can provide inspiration, but they cannot supply courage itself. For this, each man—and I would add parenthetically—each woman, must look into his own soul. Paul Tsongas met the challenges of courage, solidly, and squarely. And he asked us to do the same. He asked that we each look into our soul, and find the best within ourselves. To find our courage, and to help us do so, he led us by example. Time and time again fate threw enormous obstacles and road blocks in his path, but each time, Paul looked within his soul and responded with courage, determination, and driving purpose. I often marveled at Paul's resolution and strength as we traveled this country for the last four years. I wondered what made him persevere. After all, having faced the condition that would've caused most men to lead a more guarded existence, Paul ran for president. But after I came to know him better, I have realized what motivated him. In short, Paul has an intense, profound, and enduring love for his family. Ashley, Katina, and Molly, I'm here today not only to mourn your loss and to celebrate your dad's life, but to affirm that which you already know, you were his inspiration and his motivation. It was out of love for you that your father found the courage to persevere, and to succeed. He wanted the best for you; for your generation. And he was willing to fight and to overcome great hurdles so you too might have the chance to achieve your dreams. Paul looked for the best in people. He asked us to put aside petty differences, and shun the path of least resistance. He asked that we, as a generation, pay our own bills. He implored our government's fiscal irresponsibility, because Paul Tsongas—like Thomas Jefferson—felt it was immoral, and I heard him use that word so often, immoral, for one generation to bind another, because it refused to live within its means. We will leave here today, saddened by his passing, inspired by his life, enriched by his friendship. We truly give thanks to the Almighty for this marvelous life.

EULOGY BY BRIAN J. MARTIN

My family. My city.

Those were the two things that Paul Tsongas cared about most in the world.

That's probably not news to anyone here, but it is important to remind ourselves of that fact, because it is the essence of the man we are remembering here this morning.

It is not a complicated concept. In fact, it is beautiful in its simplicity. Many of us share this philosophy, but few of us live it as well as he did.

His family. His city.

His family grieves today, but they also know they have been blessed to have had a husband, a father, a brother, an uncle and son-in-law like Paul.

I would like to say to Nikki: You are one of the strongest women I've ever known. You have my utmost admiration and respect.

You and Paul lived the greatest love story I could imagine. No book, no movie could tell a better one.

I would like to say to Ashley, Katina and Molly: You probably think the pain you feel today will never go away, but trust me, it will. In its place you will have wonderful memories of all the happy times you spent with your father. They will bring you great comfort, and inspire you every day of your life.

His family, his city.

Lowell is my city, too, and I have to admit I was worried for it when I heard Paul had died.

What are we going to do without Paul?

Then it hit me.

Paul's greatest gift to Lowell was not the National Park, the Lowell Plan, the Boott Mills, the arena or the Spinners.

It wasn't bricks or mortar, an organization or even a baseball or a hockey team.

It wasn't his influence or his ability to bring people together to make things happen.

Nor was it the great credit and recognition he brought to the city of Lowell through his public service in Washington.

Although I must say, he did make us proud to be from Lowell.

At one time, when people asked me where I was from, I'd say, "Boston," or "Massachusetts."

Now I proudly say, without hesitation, "I'm from Lowell." And when they ask me, "Where's that?", I tell them, "Next to Dracut."

Paul's greatest gift to his family, to his city, and to all of us was himself.

He inspired us.

He gave us a shinning example of how to live our lives to the fullest, and to make a difference.

He taught us what was truly important in life . . . what our priorities should be. Nobody knew how to stop and smell the roses better than Paul Tsongas.

He also showed us how to be brave.

His ability to deal with adversity was truly amazing. He taught us never, ever to give up.

Paul has motivated me, he has inspired me, and most importantly, prepared me to carry on his vision for Lowell. I can't wait to get started.

And I'm not the only one who feels this way. Because of Paul Tsongas, there are many others in this city who want to continue his work, to make Lowell one of the best cities in the country.

Some people say we'll never see his like again. But people probably said the same thing when Franklin Roosevelt or John Kennedy died.

It is true that there will never be another Paul Tsongas, but there's always someone to pick up the torch and carry on.

"We all will die someday," Paul wrote. "And on the next day, the sun will still be shinning somewhere, the rain will still be falling somewhere, and the moon and stars will still be in their place. The earth is timeless, not those who inhabit it. . . .

"And eventually, the next generation will have its term at the helm."

Perhaps someone right here in this church will someday become a city councilor, a congressman, a senator, or even president, because he or she was inspired by Paul Tsongas.

Today, when I look around the city, I don't despair or worry. I think of Paul fondly when I see things he has done to make Lowell better . . . and then I look to see what I can do to make it better still.

So Paul, don't worry about a thing. We'll pick up the ball . . . we'll finish the game.

We'll fight hard, and we'll win. Just like you.

And you know, I've got a funny feeling that you knew all along that we would.

I'll miss you, old friend.

I love you . . . and I thank you.

EULOGY BY DR. TAK TAKVORIAN

There are moments . . . there are moments when the future is open. There are moments when all the preparations in life: the education, the retirement plans, the hopes and the dreams are laid aside, and something happens that is fundamentally unplanned; something happens that we cannot control, and we are left with no notion of what comes next.

A frightening moment. And yet this moment represents something that is a fundamental gift, an amazing thing, a positive moment, a creative moment, a moment when we have no choice, but a moment when the future is open to us.

It is a moment when not our plans, but maybe some far deeper sense of who we are can take control, sustain us and make the future happen.

At such a moment, success is measured not by health, but by the depth of our very own soul and conviction, by how deeply we laugh and how deeply we hurt and by confronting the crux of who we are.

That moment has come and gone for Paul Tsongas, and in it we have witnessed his success and we see our own vulnerability. It seems as though he would always be here, and yet how more precious is the fleeting gift. None of us wants it to happen this way—not cancer and not in our youth. Maybe a heart attack, if it has to be, but not the big C. It is unnerving how much we presume it cannot happen to us.

And yet Paul met that moment—his moment—his defining moment—with courage, with determination, with good humor and a smile—always that self-effacing, Mona Lisa grin, infectious in its breadth and optimism, contagious in its enthusiasm and conviction.

I remember the first time we met; my job was to describe radical new treatment for a failing situation. I found him hiding in the waiting area under a pile of newspapers—which was to become his familiar insignia.

In my nervousness in the presence of such a great man, I was wordy in my speech. He listened intently, but it was Nicki who asked the questions. With an intensity rooted in conviction he simply said, "Let's do it." No debate. No challenge. No discussion. Just a commitment and resolve to battle on.

He did set down the rules, though. In exchange for being the model patient, he wanted an equal partnership, an honest relationship, the best that medicine could offer, and nothing less than a total commitment from me, including a promise to laugh at his witty jokes!

I knew then and there that I was in the presence of a one-of-a-kind, special guy, and I dug in my heels and braced myself for the ride of a lifetime, only now ended. We bonded then and there, and I joined the community of friends who benefited from his aura.

I want to tell you a story about one of my heroes of all times. He happens to be Jeremiah, but he could have been Paul Tsongas. One day he carried a clay pottery flask into a courtyard, explaining to all who had gathered that they were doing wrong in the sight of God. He then smashed the pottery to the ground to demonstrate what God was going to do to them. The priests had him arrested, beaten and put into the stocks overnight.

And in the morning they took him out of the pillory, and he should have gone home, and he should have licked his wounds, and he should have been quiet. But not my Jeremiah. He turned on them, hurling further insults, and when questioned why he was inviting more punishment, Jeremiah cried out: There is a fire shut up in my bones, that is so powerful that I am weary from trying to hold it in. There is a fire shut up in my bones, that is so powerful that I am weary from trying to hold it in.

A fire shut up in his bones. Something to live for that was more important than anything else in the world. An authentic center. A core. A fire in the bones that will make you fully alive in a way that you have never been and you will never be any other way.

Paul Tsongas was my Jeremiah. Paul Tsongas had an authentic core and knew that fire in his bones. He had a passion and courage for life that was more powerful, more important than anything else in the world and we were all witness to that. Although I knew him personally but 14 brief years, I am the richer for it because I came to know the essence of the man. I came to know the courage of the man combating his cancer and confronting his own mortality.

I came to know the courage of the man who signed onto experimental and dangerous therapy when the bounds of conventional medicine had failed. The courage of the man whose initial hopes for cure were dashed, repeatedly, only to fight the battle again and again and again. The courage of the man who often said he would re-choose a life with cancer rather than forego the lessons of these last fourteen years.

In the last years of his life, rather than dying day by day, predictably he chose to live day by day. In his proximity to death for many a year, he never lost sight of his own priorities, and they encompassed a far more expansive view of life than most of us could ever have, in which even the trivial took on importance. In his proximity to death, he remained selfless and he never stopped giving.

And rather than retreat behind the mask of self-pity and involution he reached out with that extended warm handshake, always volunteered, which was empowering, creating a mutual healing bond, charged and energized in its commonality.

His illness gave him an entitlement to speak out freely on all issues, without political encumbrance. It was the obligation of his survival, and he defended it with a moral imperative. His was a "return to a journey of purpose". But to cancer patients everywhere it had an even more universal message.

In fact, in a life rich with accomplishments, his most unique contribution, which humbly even he did not fully realize, may have been his role as consummate messenger to countless others living with cancer. He was their model for cancer survivorship.

He was a model of courage, empowering them to fight their own malignancies and to find that strength to do so within themselves; a model even to me, his doctor, when I broke my neck in the surf and needed guidance and encouragement to move on. He showed them how far one could go and that they too, even in the shadow of cancer, could go for their dreams and never abandon their beliefs. Win or lose, no dream is too large not to be pursued at any risk, compared to the risk of life itself.

He did not compose his life or construct his life or carefully plan or reason it out or discipline it or calculate how to advance within it—he just tried to live it. He just tried to find that authentic center, that core of who he was and to live it for all it was worth, no matter what the consequences.

The man seemed bigger than life due to the enormity of his ideas and accomplishments, but what remains are the memories of the essence of the man. Cancer did not kill his spirit, his humor, his shy warmth, and these are the gifts that we will have forever. It was his quiet, unforced, completely natural, sincere love and joy of humankind that attracted us all to him, and he never let us down. He loved people. He loved children. He loved his family and friends. He loved this town. He loved this country and what it might become. We all felt safe in his intellect, loved in his heart and ample in his company.

An authentic core. A fire in the bones that could not be extinguished by cancer.

He never came to age and walk on safer ground and treasure the memory of what he had accomplished, but therefore time will never dim for him what others lose or never find or never even seek. He possessed life with so much more, when ill-health, and not the vision, deceived him.

In closing, let me quote from the poem Ulysses by Alfred Lord Tennyson:

. . . Come, my friends,
'Tis not too late to seek a newer world,
Push off, and sitting well in order smite
The sounding furrows; for my purpose holds
To sail beyond the sunset, and the baths
Of all the western stars, until I die.
It may be that the gulfs will wash us down;
It may be we shall touch the Happy Isles,
And see the great Achilles, whom we knew.
Though much is taken, much abides; and though
We are not now that strength which in old days
Moved earth and heaven; that which we are, we are;
One equal temper of heroic hearts,
Made weak by time and fate, but strong in will
To strive, to seek, to find, and not to yield.

My belief is that our only hope is to have a lot more heroes. A lot more heroes of mythic proportion, a whole lot more men like Jeremiah, Ulysses and Paul Tsongas, who are willing to live life fully and authentically. His life challenges us to live life from the very depths of who we are, with a love that grips at our guts, tugs at our hearts and with a . . . was my patient, my friend, and my hero, Paul Tsongas.

May God in His wisdom give us the strength in our similar journeys and keep ever illuminated the inspiration that he was for us.

EULOGY BY F. MICHAEL KAIL

The very things that made Paul Tsongas different—unique—as a politician made him special as a person. And that is what I would like to share with you today. This is not meant to be sad, Niki asked that it not be sad. And I don't think Paul would mind if this made you secretly smile a little.

To begin with, there is what the press is fond of calling the "self-deprecating," or as one paper put it "self-depreciating" humor. I remember a birthday party for Niki in the mid-1980s. Paul looked great, but his hair was definitely not all the way back from the chemotherapy. Niki was beautiful, but had misplaced her contacts and was forced to wear some old, very non-designer glasses. Towards the end of the evening Paul rose, to propose a toast to Niki, whom he asked to rise as well. He looked at her and then turned to the guests, all of whom were waiting expectantly for some memorable words. Paul did not disappoint. Gazing into Niki's glasses and then rolling his eyes up to his bald head he said, "I am sure, seeing us standing before you tonight, you can understand the true meaning of "Love at first sight."

Of course, there's the legendary directness and the competitiveness. It showed up not only in the uphill campaigns and the senior swimming meets, but everywhere. One night we were at a particularly boring show and Paul buttonholed me to talk in private. At the time we each had two children. Without any preliminaries he asked, "Are you and Wendy going for three." I said, "We've got the Jeep and the Chevy and our oldest child is only nine, why do we need . . ." He cut me off, with a really withering look and said, "No, are you going for another kid." Without thinking, or asking what business it was of his, I said "Yeah, are you?" He shot back, without a moment's reflection, "Sure." But for that conversation there might never have been a Molly Tsongas or a Katie Kail.

And then there is the extraordinary sense of timing, the daring and the luck. I don't only mean in deciding to run as a Democrat for a House seat in a district that had been Republican for nearly a century or risking that same seat, after it had become safe, to challenge the only African American in the Senate, or seeing an opening when a sitting President's poll numbers were in the stratosphere. I mean even in board games. There was this Trivial Pursuit grudge match between the families on New Year's Eve, 1984. Both teams were on the verge of the winner's circle, but we were up first, and victory was clearly in our grasp. Our question: "How many colored squares make up a Rubik's cube?" Our son, Tommy, who was 6 whispered 54; I ignored him, did some quick calculations, and said 128. Tommy was right. Paul pulled the card with the Tsongas question. I was hoping for "Name Alex Haley's third novel" or "Where was Sky King's ranch" or "What emblem is in the center of the Pakistani flag?" But, no. I could not—and still cannot—believe the question he had drawn: "What is the address of the White House?"

When I think of these stories and others I have heard they do make me think of Paul Tsongas and the lessons of his life: Follow your instincts; Ask the tough questions; Listen to your children; Take what you do seriously, but not yourself; and And never give up.

Paul Tsongas was a one of a kind. And we will miss him more than words can say.

EULOGY BY DENNIS KANIN

I first met Paul a quarter of a century ago at the Middlesex County Reform Caucus. I was a delegate from Cambridge and he was one of three candidates vying for two slots on the reform ticket for County Commissioner. That was the first time that I had the chance to vote for the man whose campaigns I would manage, whose House and Senate offices I would run, who would become my law partner and dearest friend. I voted for the other guys. They were friends of mine and I didn't know Paul. But I redeemed myself when the race went to a second ballot. That was after I asked the three of them who they were supporting for President that year. My two friends hemmed and hawed and told me—correctly—that one's personal choice for President had no relationship to running a county. When I asked the stranger from Lowell, he didn't bat an eye and answered matter-of-factly "John Lindsay". Although I was no Lindsay fan (and I suspect Paul was his only supporter in Massachusetts that year), with those two words, Paul won my vote—and more.

It was a defining incident—a window into the personality of Paul Tsongas. I was soon to discover that this was the most centered and secure person I have even known—at peace with who he was. Perhaps that's why he was so honest, sometimes so painfully honest as we on his young staff used to grumble. We failed to grasp that it was that politically reckless candor—that refusal to evade when faced with tough questions—that was Paul's hallmark and his greatest political strength. Voters felt instinctively that even if they didn't totally agree with him they could trust him—and they were right.

Two years later, I had signed on to run Paul's longshot—and I mean longshot—candidacy for Congress. I came up to Lowell for a first strategy meeting the week Ashley was born and she was all Paul wanted to talk about. A democratic state committeeman from Lawrence was meeting with us and when Paul said he had been in the birthing room with Niki as Ashley was born, the committeeman said "That must have been disgusting". I still remember Paul's reply "Actually Jake, it was the most beautiful experience of my life." Even then, his family was his focus.

Although I had worked in many campaigns up till then—I was in my late 20's—I had never met a politician quite like Paul. When he made a decision, he did it quickly—some would say impulsively—and was willing to take big risks. When he ran for the Senate in 1978 he first considered the idea on April 30th of that year and announced his candidacy 18 days later. He was simply undaunted by the most formidable of odds. So when he sat down on the couch in my office at Foley, Hoag at the end of 1990 and said "I have a crazy idea . . ." I knew I was in trouble. Those five words were the starting signal for one of the most underfinanced and improbable presidential campaigns in history. It seemed like a crazy idea then. It doesn't now.

We all have our fears but Paul seemed to have so few. I will never forget that terrifying night in 1983 when we crossed the Allenby Bridge between Jordan and Israel, on foot, alone, in pitch blackness—something no civilian had ever done and lived to tell—because Paul didn't want to miss a critical meeting with Prime Minister Begin in Jerusalem the next morning. I still remember King Hussein waving us good luck as we left his palace for the bridge and Rich Arenberg and I trembling as we walked across in single file behind Paul using him as a shield to protect us—his aides—against sniper fire while he just chuckled at our timidity.

Paul was tough but he was also remarkably gentle and caring. In our 25 year history together, I can't remember when he truly lost his temper. I'm not counting when he played softball or charades. And even in the hours of his greatest adversity, he wanted to know how you were doing. A few months ago I was suffering from a couple of ruptured disks—not one of your major ailments—and Paul kept asking how I was doing when he couldn't even get off the bed. But that's how he was.

Paul saw the value in every situation, no matter how bad it might seem on the surface. Two weeks ago yesterday when we talked to him about the lack of success with the first shunt procedure, he smiled and said "What do you mean it wasn't successful? I'm here aren't I?" When an interviewer asked him about his cancer back in 1984 Paul said that if he hadn't had it, he would never have come to fully appreciate so much of what was staring him in the face—the beauty all around us that we take for granted. In reading his book Heading Home the other night, I found this passage describing the most poignant lesson he drew from his adversity. He wrote: "After the children were in bed, Niki and I would talk about the pleasure of being together like this. We had experienced the power and the glory, the excitement and glamour of national politics . . . But in the next room asleep were what gave us true joy. And we had each other . . . the cancer had caused me to understand what truly made me happy and what counted."

I think it is important to remember that Paul had always tried, even before he learned he had cancer, to balance family and career. As it was, he rarely went on the usual circuit of Washington cocktail parties and trade association receptions because he wanted to be home with Niki, Ashley, Katina, and Molly. We on his staff who had no kids or failed to share his priorities found this maddening—and Paul knew it and didn't care. But the cancer did crystallize his feelings further and he found, as he put it, that "the family was where I fulfilled my human aspirations. The Senate had become an obstacle to that."

Paul found his happiness—real happiness—planting flowers in Kittredge Park or being out on the boat at the Cape with Niki and the kids or sitting around a Thanksgiving dinner with his family and close friends or watching Ashley play rugby or Katina at hockey or Molly dancing.

His values seemed old-fashioned to some but I don't think Paul Tsongas ever felt emptiness from the day he married Niki. A few weeks ago, someone at the hospital asked Paul how he was doing and he replied "fine . . . as long as Niki's only three feet away". While he was strong for others she was his strength, whether it was campaigning for him around the country or caring for him through their long and courageous struggle together.

Paul told Carol Beattie, his nurse at Dana Faber that he had accomplished what he wanted most his remarkable 13½ years since he learned he had cancer—to see his daughters grow up. I would add that they didn't just grow up; they grew up to be people with the same kind of values and decency and caring as Niki and Paul. That is quite a testament.

Senator Kennedy called Paul a profile in courage and he surely was—a profile in both personal and political courage. His presidential campaign epitomized both those qualities. Paul had won 10 primaries and caucuses to Bill Clinton's 13 when he decided to drop out. He knew that if stayed in, he could deny Clinton the nomination and assure himself the role of a kingmaker at the convention. But that was not the purpose of his candidacy. Paul had run because he believed in something. While he lost the Presidency, he had won something that was for him far more profound. He had changed the debate about the future of his country and about its ability to confront the federal deficit. That, too, grew out of his experience with cancer and his determination not just to know his children but to secure their future and that of their generation—what he called "the obligation of my survival". It took courage to run in the first place, risking ridicule—and it was there in the early days. It took courage and integrity to insist that a candidacy of principle could not compromise on principles. Now the issues he raised in 1992 are at the center of America's public discourse. He lit the way.

I have often thought that I didn't have living heroes but I realize now that I was wrong. Paul was my hero. I wish I could have told him that before he died. What I did tell him was that I loved him and what a good friend he was but I know that in that I am not alone. For so many others across this city that he helped to rebuild, across this state that he loved and served so well, across this land that he awakened to a new reality, and across the generations to come whose freedom from unsustainable debt will be his legacy; they have lost a good friend as well.

EULOGY BY ASHLEY TSONGAS

Our father's love for us was fundamental to our lives. You don't question the existence of the ground you walk on or the air you breathe, and we never doubted the existence of our father's love. Even in the middle of a four-hour car ride, when the incessant sound of snapping gum and the muffled screams of smaller, weaker children emanating from the back seat had begun to wear on his nerves, and it became abundantly clear that he didn't like us too much at that moment, it would never occur to us that we had been ejected from our position at the center of his universe.

And then further down the road, when we'd exhausted ourselves and drifted into sleepy silence as a Red Sox game crackled on the radio, he'd reach back and touch each one of us and we'd be reminded how much we loved him too.

I'm having trouble realizing he's gone. During the events of the last couple of days I keep wondering at the absence of a keynote speaker, expecting my dad to walk in at any moment. It's hard to believe the man who offered to fax me a copy of his less-than-impressive college transcript when I was stressing about my grades is no longer going to offer me academic solace. And at rugby, it won't be the same without my dad in the sidelines armed with apple cider and blind admiration.

And with the absence of my father, who treated me as a person with legitimate ideas from as far back as I can remember, I know that I will now have to push myself to come up with real answers instead of easy ones. But these things and countless more were merely expressions of his love for me. And though my dad's no longer here, his acts of love over the last 22 years have created a kind of momentum that will carry me through the rest of my life.

EULOGY BY KATINA TSONGAS

When confronted with the possibility that he might not live to see us grow up, my father became concerned about our future and valued the time which he was able to spend with us. His realization of his own mortality shaped the way in which he lived his life with us, but he did not allow it to dictate how he lived. He was able to live in the present while always providing for our future.

Each time he defeated his illness he made the best of the time he earned. We lived the last 13 years in a way which was normal, and that normality is what made them so great and what gave me so many great memories. But these memories were not forced; they were not created by my father as a way to ensure that he would not be forgotten. The memories I have of the last 13 years are memories of a father who loved me and made the best of the time he had. He never let anything get in the way.

In thinking about my father in the last few days, I have realized what an extraordinary man he was. I have never been able to understand what it was exactly that inspired those New Hampshire campaigners to work day and night for a cause which was less than promising. I know now what it is they saw, and it remains with how many lives he touched and how many people grew to love him. I only wish that I could have realized how great he was when I was still able to tell him.

My dad's ability to live a normal life at home is what now makes it possible for me to see him as the amazing man that he was, but remember him as my father. Dad, we just wanted to tell you that we are going to be okay. You've made our city, state, country, world and home better and more importantly you married an incredible woman who is the best mother we could hope for. We miss you so much, and we're going to miss you every day for the rest of our lives. We love you, Dad.

EULOGY BY MOLLY TSONGAS

One day in fifth grade, my principal announced over the intercom that all the fifth-graders should report to the playground. We followed orders and made our way outside, where I was stopped dead is my tracks by the most humiliating sight my 11-year-old eyes had ever beheld. There was my dad handing out trash bags to my skeptical classmates and encouraging them to participate in picking up all the trash scattered around the playground.

If I wasn't mortified enough, he had packages of Oreos and Fig Newtons as our reward—two per person. As if any respectful fifth-grader ever ate Fig Newtons. I scurried to pick up every piece of trash and shove every Fig Newton down my throat to end this fiasco as soon as possible and send my dad on his way.

Looking back, I realize that I was not surprised to see him do this. I did not even question him. But I know that he was just trying to get me involved in keeping my school and city clean, that I had a place to be proud of and I would not allow others to do the job for me. Through bringing me around to the developments on the arena, the ball park or even the making of a new Market Basket, he made me realize someone as normal as my dad could make a difference if they just get up and do it. This spirit of his is something I will always remember and hopefully lead my life by.

However, in the long run, the politician or the man of Lowell is not who I am going to miss. I'm going to miss my dad and the way he always ate his English muffins with butter and jam, or how he'd wake up at 8 o'clock and swim across Schoolhouse Pond, or water Kittredge Park, or seeing him excitedly jump out of his chair during charades, or how he'd take us to some random field to play baseball, or how he'd tell me that I was a good kid. I'm even going to miss him helping me make my bed or trying to pick up my clothes from the bathroom floor.

No matter how many times I reassure myself that he had a wonderful life, he did a lot of amazing things, some of which I've just realized, nothing can make me stop wishing that my dad was here right now.

TRIBUTE TO SENATOR PAUL TSONGAS

Mr. FEINGOLD. Mr. President, when then-Representative Paul Tsongas of Lowell, MA, was running for the U.S. Senate in 1978, a newspaper columnist referred to him rather dismissively as "an obscure first-term Congressman." Candidate Tsongas responded quickly to correct the error, saying, "I'm an obscure second-term Congressman."

That was Paul Tsongas, meticulous with the facts, parrying an attack with laughter, and always keeping on course to his goal.

Mr. President, Paul Tsongas embodied the best qualities of a public servant. Uppermost in his mind was the responsibility to make his community, his district, his State, his Nation, his world a better place than he found it. Part of that responsibility was to speak plainly the truth as he saw it, even when speaking the truth might undermine his own ambitions.

During the 1992 Presidential campaign, for example, Senator Tsongas insisted on warning the American people, over and over, about the looming threat posed by our national deficit. He refused to embrace tax cuts, instead insisting that fiscal responsibility and prudent policy were the keys to bringing the Federal budget back into balance.

Because we shared a commitment to deficit reduction, Senator Tsongas came to Wisconsin in 1992 to campaign for me in my Senate race. Deficit reduction was the centerpiece of my campaign effort, and, like Senator Tsongas, I took the position that massive new tax cuts would undermine our efforts to reach a balanced budget. It was heartening to me to have Senator Tsongas' support and encouragement.

His principles of fiscal responsibility and prudent policymaking led Senator Tsongas, after ending his quest for the Presidency, to join with another former Senator, Republican Warren Rudman, to form the Concord Coalition, an organization that has become one of the leading voices for deficit reduction.

While I did not have the opportunity to serve with Senator Tsongas, our philosophies often crossed paths. I have been proud to have had the support of the Concord Coalition on various deficit-reduction efforts, and I have been inspired by Senator Tsongas' vision, energy, courage, and dedication, both on this issue and in the practice of public policymaking generally.

Mr. President, I had only recently begun my own career in public service when Paul Tsongas announced he would not run for re-election in 1984, because he had been diagnosed with non-Hodgkin's lymphoma. He wanted, he said, to spend more time with his family.

He endured bone-marrow transplants, a treatment that was experimental at the time, and he eventually came back, first to chair the Massachusetts Board of Higher Education, then to run for President and then to cofound the Concord Coalition.

Even as he was working in the highest circles of American politics, he always kept close contact with his beloved hometown of Lowell, where he served on the city council in the late 1960's and where he is recognized as one of the community leaders who help revive that former mill town.

Mr. President, in April 1963, Paul Tsongas was serving in the Peace Corps in Ethiopia, and he wrote then-Atty. Gen. Robert Kennedy, asking for help in securing a party worker's job in the upcoming national elections. In that letter, the 22-year-old Tsongas told Kennedy, "I feel confident that I have the raw material to become a successful public servant."

A typical understatement from Paul Tsongas, Mr. President. He will be missed.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Parliamentary inquiry, are we in morning business?

The PRESIDING OFFICER. The Senator is correct. The Senator is permitted to speak up to 10 minutes.

THE BALANCED BUDGET AMENDMENT

Mr. GREGG. Mr. President, I rise today to speak a little bit about the balanced budget amendment which is being brought forward on this floor in the near future. It is obviously one of the most significant items that this Congress will deal with. As we all know, in the last Congress it passed the House and unfortunately failed here in the Senate by one vote.

So it is a matter of substantive policy which we must attend to, and which we as a Congress should pass. There are a lot of reasons for passing the balanced budget amendment. The most important, in my opinion, is that we put in place procedures in this Nation which will not allow one generation to take from another generation its opportunity for hope and for economic prosperity. Unfortunately, every time we go to the well and borrow money here, as a Congress, we are requiring our children to pay that debt. It truly is unfair for one generation, which has benefited so much from the greatness and energy and prosperity of our Nation, to be taking from another generation its ability to also benefit from that greatness, energy, and prosperity. But that is what we do, we run up the debt of the United States and pass it on to the next generation.

In dealing with the balanced budget, there has been a lot of discussion as to how it should be structured, how this constitutional amendment for a balanced budget should be structured. One of the primary arguments that has been made, on the other side of the aisle especially, is that any balanced budget amendment must not include in its calculation the receipts that flow into the Social Security trust fund for the purposes of determining whether or not the Government is in balance. This is what is known as the Social Security argument.

I think it is put forward for a variety of reasons, some of them substantive and, regrettably, some of them political. We all know whenever you raise the issue of Social Security you not only gather the attention of a number of Americans but, in many instances, if you raise it in certain ways you scare a lot of Americans because many Americans' lifestyles, their ability to exist financially and their capacity to make it from day to day, depend on their capacity to receive Social Security and the support of Social Security. It has been an extraordinarily successful program.

But, in the context of the balanced budget amendment, the way it is being presented is, I think, a bit of an obfuscation of what is actually the situation. Because what is being represented, if you want to get down to the simplest statement of it, what is being represented is that today the Social Security funds are essentially being raided to operate the Federal Government. That is the basic argument that is being made on the other side. And the argument therefore follows that we should not do that, we should only use revenues that are available for the purposes of operating the Government in order to operate the Government.

In other words, if we raise $1 of taxes to pay for defense or to pay for education or to pay for any variety of things that we do at the Federal level, that is where that dollar should go. But if we raise $1 for purposes of the Social Security trust fund through the withholding tax, if we raise that dollar, it should only be spent on Social Security. And to set up a balanced budget amendment which may in some way use those dollars to operate the general Government is unfair and inappropriate to seniors who deserve that money to support them.

This argument makes sense just stated in that way. But it does not make any sense if you look at the substance of the way Social Security works. Today, in fact, it raises some very serious concerns about what the promoters of this argument really want to do with the Social Security trust fund. Because today the way the Social Security trust fund works is this. You pay $1 into the Social Security trust fund. That $1, as a working American—whether working on an assembly line in Detroit or whether you are working as a computer programmer in New Hampshire —you pay $1 into the Social Security trust fund and that dollar is immediately paid out to support somebody who is on Social Security today. Social Security is a pay-as-you-go system. Today, under the system as it is structured, more people are paying into the fund than are taking out of the fund in total dollars. If you discount interest payments as a technical thing, basically you are paying $29 billion more into the Social Security fund than is taken out of the Social Security fund, for the purposes of paying seniors their support under Social Security.

So the senior citizen might say, or some from the other side of the aisle seem to be saying, "Well, that $29 billion should be available to Social Security and only Social Security. Because, after all, it was raised with Social Security taxes." I am willing to accept that as an argument; as an argument. But how does it actually work? How does it actually work?

Under the law, what do the Social Security trustees do with this extra $29 billion they will receive this year that they are not going to pay out in benefits? Do they invest it in the private sector or put it in a savings account designated to a senior's name? Do they in some other way hold that asset for the benefit of that senior citizen, for the benefit of a senior citizen or for the benefit of the wage earner who paid into the trust fund? No, they do not. They do not. Why don't they? Because, under the law, the Social Security trustees can only do one thing with that surplus, with that extra $29 billion they are taking in this year they are not spending for benefits. They can only lend that money to the Federal Government. They cannot lend it to anybody else. They can only lend it to the Federal Government under a special loan document that yields a special interest payment.

So the money goes back to the Federal Government and is spent by the Federal Government as a loan. That means the $29 billion is not in some special savings account for a senior citizen or for the wage earner who paid it in. It is not in some special stock agreement, stock certificate. It is not invested in IBM or General Motors, or not invested in a mutual fund like the Fidelity fund. It can only be invested in the Federal Government.

Of course, what is the Federal Government going to do with that $29 billion? Is it going to sit on it? Hold it under a mattress? Of course not. What the Federal Government does with that $29 billion is it operates the Government of the United States. If the $29 billion that is being lent to the Federal Government by the Social Security system were not available to the Federal Government, the Federal Government would have to go out, theoretically, and borrow it from somebody else, borrow it in the marketplace by issuing Treasury notes. So, what you have here, essentially, is a pay-as-you-go system. Everything that is paid in is paid out. But to the extent it is not paid out, to the extent there is a surplus, the money has to go to the Federal Government.

What the other side is saying is the Federal Government should not be allowed to use that money for the purposes of accounting for its budget, as to whether or not it is balanced. As a practical effect, what does that mean? What does it really mean, what they are saying? It means one of two things. It means either: First, they want all that surplus invested in something other than Federal-issued debt, they must want it invested in the stock market or maybe they want to invest it in real estate, or maybe they want to invest it in futures funds or maybe they want to buy into the Albanian Ponzi scheme. But they do not want it invested in the Federal Government. That is the first thing it means. That is the first alternative.

I have to say that is a very dangerous idea. Many people have considered that idea and it has been of significant concern. But to just arbitrarily say the Federal Government will not be able to borrow money from the Social Security fund and therefore somebody else is going to have to borrow the money, they are going to have to lend it to somebody else, is to say you are going to privatize—that is what they are suggesting—they are going to suggest privatizing the surplus of the Social Security fund. Not designated to any individual contributor or taxpayer, which I happen to think makes sense, but, rather, just simply you cannot invest Social Security funds in the Federal Government any longer, you have to invest in some other vehicle. That is, in practice, what they are proposing. They are not saying that because they are using the political cover of this hocus pocus about Social Security.

But in practice, that's exactly what they are presenting as their concept. OK.

If that isn't the alternative, if the alternative is you should have to invest in something other than the Government with the Social Security surplus, then the other alternative is—what they are saying—we're looking at a bookkeeping event, because if the Federal Government is allowed to borrow the money from the Social Security trust fund, if the Federal Government is allowed to borrow the surplus from the Social Security trust fund, then what is the difference from today? There isn't any difference.

Today, the Federal Government, for the purposes of operation, borrows the money from the Social Security trust fund, gives the Social Security trust fund a debt instrument and pays interest on it. What they are suggesting is either, one, that shouldn't occur under their proposal, which means they are calling for the privatization of the surplus, or, two, if it should occur, then there's no difference from today, they're just talking about a bookkeeping event. Instead of the Federal Government accounting for it one way, the Federal Government will account for its borrowing another way. But the fact of the matter is, the Federal Government is still borrowing the money, and there will be absolutely no difference.

So this argument from the other side is highly specious. It cannot be defended on the basis of substance. It can be defended on the basis of politics, I admit to that. This is great politics: Let's trot out the old Social Security again. Let's scare the seniors. But on the basis of substance, it has no legs. All you have to do is look at the fact of the matter and recognize it has no legs, because I don't think these folks over there on the other side of the aisle who are suggesting this are suggesting we privatize the surplus, that we allow the surplus to be willy-nilly invested in the market.

I happen to think there are some strong arguments—this is another whole issue—if we are taking that surplus and rather than taxing it, rather than raising it through taxes, allowing the wage earner to retain that surplus, give them a tax cut, basically, on their payroll tax and let them put that surplus, that percentage of their payroll tax that represents that surplus, which is about 1 percent, in their own savings account so they can save for themselves for retirement. But that is not the issue here.

The issue here is whether the other side really believes they want to privatize the surplus, and if it is not their position they want to privatize the surplus, essentially what they are saying is they want a bookkeeping event to occur, because they are still going to let the Federal Government borrow the money under one scenario, under a balanced budget, and they borrow it under one set of books. Without the balanced budget, they would balance it under another set of books. But as a practical matter, the effect would be the same. The budget would be balanced.

Is my time expired? I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, what we have here is a great political game. There are a lot of people who don't want a constitutional amendment to balance the budget because they don't want the Federal Government to be put under the restraint of fiscal responsibility, and they ought to step forward and say that. They should not be hiding behind the Social Security argument, because it is fallacious, as I have just mentioned.

Or—here is another point—if they are going to make this point with the Social Security trust fund, that it should be outside the unified budget, that it should not be part of the budgeting process and the surplus should not be accounted for under the process, but that we create a new accounting method, which has the same effect as a practical matter, then why aren't they making the same point with the Medicare trust fund?

Why? Well, I will tell you why. Because if they were to make that point with the Medicare trust fund, you would see that their argument would require them to fill a huge Medicare hole. Medicare is going broke. The trust fund is going broke. It does not have a surplus.

Here is a chart that has just been put up. This chart reflects how much the Medicare trust fund is going broke. This is a bar chart, and we can see the Medicare trust fund began last year, I guess, actually, in the deficit. Then next year, it is a $48 billion deficit; in 2005, it is a $91 billion deficit, and it is a geometric progression from there, reflecting the tremendous imbalance in the Medicare trust fund, which we all know exists which, unfortunately, was denied during the election and any proposals to address it. I happen to have a couple that are fairly substantive which have been met with a bit of demagoguery.

The fact is, this exists, and the question becomes, why wouldn't the practical arguments that are being made on Social Security for taking it off budget be made on the trust fund for Medicare to take it off budget?

The obvious reasons are that the folks on the other side who are making this argument are not making this argument for substantive purposes, they are making it for political purposes. The politics of the situation require that they not talk about the Medicare trust fund problem, but rather that they talk about a nonexistent Social Security issue, as of today—a major Social Security issue down the road, but as of today, a nonexistent Social Security problem.

But if they were to raise the Medicare issue, then they would have to ask about how they are going to address the fund question, because if you use their logic for the Medicare trust fund, they would have to come up with a proposal this year, if the balanced budget amendment were passed with the Social Security language that has been proposed, but if that Social Security language was also applied to Medicare—Medicare being a trust fund as important to seniors as Social Security, I would argue, and, in many instances, even more important because it is a health care insurance—well, then this year they would have to come up with a proposal to bring into balance the Medicare trust fund to the tune of $48 billion—$48 billion. And that would create some significant policy questions.

That is exactly what we should do, of course, and exactly what I hope we will do. But the fact is, the reason it is not being discussed in this debate is because it means you have to face up to the hard policy decisions that are involved in balancing the Medicare trust fund.

So if you are going to separate the Social Security trust fund, why not separate the Medicare trust fund? The fact that they are not separated, I think, shows the political nature of this Social Security argument.

So that is just a quick recitation or response, if you will, to those folks who got on the floor today giving us the Social Security sales pitch.

The fact is that the initial proposal to take Social Security out of the balanced budget amendment proposal means one of two things: One, they either want to privatize the surplus and have it invested in places other than the Federal Government or, two, they are just going through a bookkeeping game, because the Federal Government will continue to borrow the money.

The fact that they haven't included the Medicare trust fund only reinforces the superficiality of their position and the fact that their position is political and not substantive.

There is going to be a lot more discussion about the balanced budget amendment before we get to the end of this road, before we get to a vote. We are going to hear a lot about Social Security. But I do hope that people will look beyond the language of the debate and actually look at the substance, because on the substance, the Social Security argument, as presented—the Social Security position, as presented—does not have any legs. You could present it so it did have legs, but, in this instance, that is not the case.

Mr. President, I yield back the remainder of my time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I would like to remind all committee chairmen that as required by rule XXVI of the Standing Rules of the Senate, "The rules of each committee shall be published in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. * * *"

The Committee on Rules and Administration adopted the following rules of procedure for the Committee on Rules and Administration at the committee's organizational meeting today. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

TITLE I—MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR–301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under the provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that in either instance, once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) of rule XXVI of the Standing Rules.)

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.

TITLE V—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN AND RANKING MINORITY MEMBER

The chairman and ranking minority member, acting jointly, are authorized to approve on behalf of the committee any rule or regulation for which the committee's approval is required, provided advance notice of their intention to do so is given to members of the committee.

Mr. WARNER. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. DOMENICI. Parliamentary inquiry. Are we in morning business?

The PRESIDING OFFICER. The Senate is conducting morning business. We do have a previous order to recognize the Senator from Tennessee at 4 o'clock.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak until 4 o'clock.

The PRESIDING OFFICER. The Senator has that right.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 222 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized for 20 minutes.

Mr. THOMPSON. Thank you, Mr. President.

THE GOVERNMENTAL AFFAIRS COMMITTEE AND THE 1996 PRESIDENTIAL CAMPAIGN

Mr. THOMPSON. Mr. President, as everyone knows, the Governmental Affairs Committee has begun an investigation into foreign campaign contributions and fundraising activities of the 1996 Presidential campaign. I believe that it is appropriate at the outset to set forth exactly what we were about, to discuss the committee's jurisdiction, the scope of its investigation, its purpose, and what principles we will apply in resolving the issues that will face us. The reasons to discuss this now at this time are several.

First, we who are on the committee and in the Congress need to remind ourselves of these basics so we may keep our focus in the days ahead.

Second, the American people need to understand the nature and purpose of our work in order that they will respect the process and the results of our efforts.

Third, it is necessary to respond to some of the questions in the media and elsewhere as to the committee's role and purpose.

Mr. President, my own analysis of these issues is just that; it's my own analysis. It is certainly subject to other views by other people. However, I do believe that there are certain principles that apply to our endeavor that can be gleaned from the Constitution, from the rules of the U.S. Senate, from court interpretations and, hopefully, from common sense in applying the lessons learned from the successes and failures of other committee investigations.

Mr. President, the granting of the legislative power to Congress in article I of the Constitution includes the power to investigate. As the Supreme Court held 70 years ago, "A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not possess the requisite information—which not infrequently is true—recourse must be had to others who do possess it." So long as an investigation addresses issues that can be the subject of legislation, the investigation is constitutionally permissible. Some of the most important inquiries the Congress has conducted in the past two centuries have involved the role of money in politics and its effect on policy: the Credit Mobilier scandal of the 1870's; an investigation of corporate campaign contributions in the 1912 campaign, at which Theodore Roosevelt testified concerning his own campaign; and, of course, the investigation of the 1972 Presidential campaign.

Congress' powers to investigate broadly encompasses all areas of the operation of the Federal Government, as well as flaws in the electoral system that makes the Government accountable to the American people. As Chief Justice Warren stated, the investigatory power "encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic, or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency, or waste."

Indeed, President Woodrow Wilson wrote that, "Unless Congress have and use every means of acquainting itself with the facts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served. * * *" Then he went on to say, "The informing function of Congress should be preferred even to its legislative function. * * * The only really self-governing people is that people which discusses and interrogates its administration."

Although every committee in this body exercises oversight jurisdiction, the full range of the Senate's informing functions is granted to the Senate Committee on Governmental Affairs. Its jurisdiction includes the effectiveness of the operations of all branches of Government, including misfeasance, corruption, and conflicts of interest. It is broad enough to include Presidential campaigns and even congressional campaigns if they are relevant to and reflect upon the way our Government currently operates. No other committee has within its investigatory authority the entire range of the Governmental Affairs Committee's jurisdiction, which is as broad as the Constitution permits.

The investigation we are now undertaking is neither a criminal investigation nor a seminar on campaign finance reform, although, it involves elements of both. Based on the information before us at this time, it is an inquiry into illegal or improper campaign finance activities in the 1996 Presidential campaign and related activities. This means, however, that any facts that may have occurred before the 1996 campaign that are relevant to or shed light upon that campaign or the operation of our Government may also be subject to our inquiry. Such a scope will necessarily involve examining our current campaign spending laws and how they operate.

Now, certainly, our work will include any improper activities by Republicans, Democrats, or other political partisans. It is of extreme importance that our investigation and our hearings be perceived by the American people as being fair and evenhanded. This does not mean that we must strain to create some false balance or that we have some sort of party quota system. It simply means letting the chips fall where they may. We are investigating activities here, not political parties.

While no one should be shut off for partisan advantage, we must have a sense of priorities based upon the seriousness of the activities or allegations that come to our attention. Otherwise, we will be at this much longer than anyone will want us to be. Neither I nor anyone else can determine at the outset all of the activities or areas that we will investigate. As matters arise, the committee will simply have to make those determinations.

It should be pointed out that these questions are not under the exclusive province of the majority. I have the greatest respect for Senator JOHN GLENN, the ranking Democrat on the Governmental Affairs Committee. His many years of service in this body have demonstrated beyond question his integrity and his love of his country. We are working together with our staffs to ensure that all information is equally available to appropriate staff members and committee members. We hope that in all cases the work of the committee can be done by the staff in a cooperative fashion. Consensus should emerge on which issues are the most serious and those matters which will receive the greatest consideration. But if legitimate disagreement arises as to priorities, the majority will in no way limit the minority's rights to investigate any and all parties within the jurisdiction of the committee. Moreover, the minority will be given the opportunity to call witnesses in for public hearings if we cannot agree upon a joint witness list.

Although I believe these comments are sufficient to describe what the committee plans to examine, I expect to receive further inquiries. So I will outline the following as some specific areas we will consider, although this is obviously not an exclusive list:

A. Whether the Presidential campaigns, national political parties, or others engaged in any illegal or improper campaign activities, or whether illegal campaign contributions were made to such entities, in connection with or relevant to the 1996 Presidential campaign.

B. Whether, during the course of the 1996 Presidential campaign, executive branch employees maintained and observed legal barriers between fundraising and the official business of governing.

C. Whether Presidential campaigns remained appropriately independent from the political activities pursued for their benefit by outside individuals or groups.

D. Whether any U.S. policies or national security decisions were affected by, No. 1, contributions made to or for the benefit of the President or, No. 2, improper actions of any executive branch employee or former employee.

E. Whether our existing campaign finance laws, including laws governing the disclosure of contributions to entities established for the benefit of public officials, should be substantially revised and, if so, in what manner.

F. Whether, based on the results of this investigation, laws other than campaign finance laws, such as the laws regulating the conduct of Federal officials and employees, should be revised, and, if so, in what manner.

The committee does not intend to examine specific allegations of wrongdoing that Congress has already previously considered.

Now, a significant portion of our inquiry will necessarily focus on the executive branch. This is consistent with Congress' historical function and obligation to conduct oversight of the executive branch. It is a part of our system of checks and balances. It is, by its very nature, somewhat of an adversarial process. As Justice Jackson wrote, the Constitution "enjoins upon its branches separateness but interdependence; autonomy but reciprocity. Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress."

Each branch of government has its rightful prerogatives, Mr. President. And just as Congress must understand its prerogatives and responsibilities in this process, so must the executive branch. And clearly, part of the executive branch's proper role is to protect the rightful prerogatives of the President and the Presidency, but also to provide prompt, truthful information when Congress requires it when it is needed to fulfill Congress' responsibilities. It is important that the executive branch refrain from claiming privileges that are inappropriate or simply do not exist.

For example, executive privilege, though not specifically granted to the President in the Constitution, is an implied power that has been recognized by the courts over the years. Presidents are entitled to candid advice from their aides concerning important policy matters that would not be forthcoming if it were subject to exposure by Congress or anyone else. On the other hand, the privilege does not extend to wrongdoing and it does not extend to any and all information that may prove embarrassing to the President or others. Although it has not been court tested, Senator Sam Ervin, chairman of the Watergate Committee, always took the position that matters that were purely political were not covered by executive privilege when confronted with a legitimate congressional need. What the courts have held is that when it is based only on the broad claim of the public interest in confidentiality, executive privilege may be outweighed by other considerations. In other instances, claims of executive privilege are strongest when invoked in the areas of military, diplomatic, or sensitive national security secrets.

Presidents have handled the executive privilege issue with regard to congressional investigations in different ways. President Nixon fought his executive privilege claim all the way to the Supreme Court and lost. President Reagan during the Iran contra investigation waived all executive privilege and attorney client privilege claims that he may have had. Also, President Carter waived all privileges when the activities of his brother were investigated. As instructive examples of the cooperation of these two Presidents, they both allowed congressional examination of all documents, and President Reagan even provided his personal notes and diary entries.

The President and others have correctly pointed out that the American people are tired of petty partisan bickering and the meanness that sometimes seem to pollute the atmosphere in Washington, DC. While this is undoubtedly accurate, I believe the American people also want us to stand for something, including the truth. That makes it our obligation to find it and lay it out. So the question becomes: Can we carry out our responsibilities and assist the American people in learning the truth about the strengths and weaknesses of the operation of their Government without engaging in mean spiritedness or partisan warfare? From time to time in our history, when the occasion required it, Members of this body have put partisanship aside, vocally criticized and even filed suit against an administration of their own party. Former Senator Howard Baker of Tennessee and former Senator Warren Rudman of New Hampshire come to mind. I have no doubt that my Democratic colleagues on the committee and in this body will do the same if the evidence calls for it. And I pledge my every effort to insure that their actions are not met with attempts to obtain partisan advantage.

But let us be frank at the outset. The extent to which we can have a thorough, bipartisan investigation without many of the recriminations we have seen in the past is going to depend in large part upon the attitude of those in the White House and the executive branch. The same can be said of the length of our inquiry. If one looks solely to the past, there is little reason to be optimistic. We have seen what appears to be a grudging release of information in drips and drabs and, seemingly, only when forced to. We have seen the broadest claims of executive and attorney client privilege in our history. We have seen all manner of delaying tactics which congressional oversight committees claimed were intended to avoid scrutiny by Congress, where noncooperation has been stretched past the cutoff dates of committee investigations or even sessions of Congress. Accusations have abounded that disclosure has been withheld until after the Presidential election to avoid scrutiny by the people. We understand the nature of that game and we will not play it. We will do whatever is necessary and proper to make sure that such actions are not rewarded, including the continuation of investigations and the institution of court proceedings when appropriate.

It doesn't have to be that way. I am still optimistic that it won't be that way. I think it possible that the President may have been overlawyered in the past; that while strategies may have been employed that were clever legal defense strategies, they were perhaps detrimental to the good of the country and even to the President himself. I am hoping for a new day. I am hoping the committee can establish its willingness to proceed in good faith. There is a new team in the White House, individuals with excellent reputations who commend respect. I am hoping that the new White House counsel will understand that his position is one of counsel to the office of the President. He is not the President's personal attorney.

And I cannot believe that the President does not want to get to the bottom of the serious allegations that have been made. In the first place, he took an oath of office to preserve, protect, and defend the Constitution, including his article II responsibility to take care that the laws are faithfully executed. The President has publicly acknowledged that some of the DNC's contributions were illegal. Since under the best of interpretations, these are matters that reflect upon him and his Presidency, he above all should want to seen them cleared up, and I believe that he does. I would like to think that the President would be outraged at this turn of events and feel an obligation and responsibility to get to the bottom of the matter, including clearing the names of anyone who may have been unjustly accused.

Nor is it enough to simply call for campaign finance reform. I trust that my position on this issue is well known. I cosponsored along with Senator MCCAIN and FEINGOLD, campaign finance reform legislation in 1995, my first year in the Senate. I was for campaign finance reform when campaign finance reform wasn't cool. I have long thought we simply spend too much time soliciting too much money from too many people who are interested in legislation that we consider. I'm not sure that the solution is and I am hopeful that part of what this investigation will do is examine our campaign finance system and seek out ways in which we can improve it. But those of us with responsibilities in this area, whether it be the President or Members of Congress, cannot let the call for reform serve to gloss over serious violations of existing laws. If we do that the reform debate will be cast in a totally partisan context and insure that, once again, campaign finance reform will be killed.

The question constantly arises as to when public hearings will begin. Interestingly, Democrats, Republicans, the White House, and the news media all are seemingly interested in having hearings as soon as possible—I would guess all for different reasons. I share that desire. However, the committee's obligation is not to do it early but to do it right. Certain things should be kept in mind by those who, on a daily basis, ask when hearings will begin. In the first place, establishing a hearing date, or even a target date when dealing with such a broad array of matters as listed above, would be nothing more than guesswork. The hearings should begin as soon as the matters have been properly investigated and not before. Time spent in proper investigation and preparation prevents disjointed hearings and saves time in the long run. This is not a matter of hauling a bunch of people whose names have been in the paper before the camera and hurling charge at them.

This committee as presently constituted and my chairmanship came about less than 3 weeks ago. We must rely extensively upon new staff that is just being hired and we do not have a full complement yet. Clearances must be obtained. Facilities must be set up. Documents must be gathered and carefully reviewed. A check of the history of other major committee investigations reveals that 3 or 4 months of investigation and preparation before the beginning of the hearing phase is the norm. That is not to say that it will take our committee that long. I am hopeful that it will not. But it will take whatever it takes. And as I have stated, the level of cooperation we receive from the White House and the rest of the executive branch is directly relevant. Most importantly, of course, one cannot tell in the beginning of an investigation what leads may be developed.

One final thought: Most of us did not come to Washington to tear down, but to build up. But, the Founding Fathers did not believe that the errors of government were self-correcting. They knew that only constant examination of our shortcomings, and learning from them, would enable representative government to survive for hundreds of years past their own time. They believed correctly that this process makes America stronger, not weaker. We are heirs to that legacy, and we will strive to be deserving of it, by taking this step toward restoring the public's confidence in the Government for which our forebears were willing to sacrifice everything.

Thank you, Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I have listened very carefully to my friend, the senior Senator from Tennessee and the chairman of our committee, and heard him describe an investigation that he plans to conduct as chairman of the Governmental Affairs Committee. I welcome his comments.

As the ranking member of the committee and as someone who was chairman for some 8 years, this can be a most important hearing for our committee. Today I want to publicly pledge to him my best efforts to cooperate in establishing the bipartisan atmosphere that he called for and that I believe Senator THOMPSON genuinely wants to have as we go forward.

I am pleased that Chairman THOMPSON in his opening remarks mentioned the importance of defining the scope of the investigation and its purpose. He also talked about principles that should be applied if the investigation is to be successful. I will refer back to these principles a little later in my remarks. But I think it was helpful that Chairman THOMPSON included a partial list of areas to be considered. There is no question that the issues raised in his list are among those that ought to be examined, and I support them. I agree with him fully when we talk about the informing function of Congress, but I agree with it more as a starting point than as an end to our investigation.

I think it becomes far more meaningful that instead of just limiting this to the 1996 Presidential campaign, we also use this informing function to recommend what can be done about the situation we are investigating. I think that is what the American people want.

So I think that a more meaningful, fair list must include additional questions about improper practices in national campaigns. In addition to looking at the problem of foreign contributions, which certainly should be looked at, the Governmental Affairs Committee must look, for example, at the problem of soft money used by unregistered organizations without disclosure and without limitation to influence elections, and the misuse of Government offices and staff for political purposes, and abuses of power in coercing campaign contributions, the misuse of charitable and other organizations and promises of special access to Government-elected officials. The Governmental Affairs Committee should look into these types of practices whether examples are found in connection with the executive or the legislative branch.

My point, Mr. President, is this: There is no end to the questions that might be asked about improper or illegal fundraising and spending in political campaigns. So we need to establish objectives for the investigation without making the inquiry too narrow and thereby risk at least a perceived partisan approach. Defining the committee's objectives will help determine the scope of the investigation, but, most of all, the committee's scope should be determined by the committee's purpose in these investigations. Any major Senate investigation —and this will be one—ought to have a clear purpose.

To make an analogy, I recall many of my colleagues asking on this Senate floor not too long ago when we were considering United States entry into Bosnia, what is the exit strategy? Demands were made for an exit strategy before there would be a vote.

That was a reasonable question then, and I think it is a reasonable question in regard to this inquiry. In each context, the exit strategy is inseparably linked to purpose. What is the purpose of this investigation? Or perhaps the better question to ask now is, what should be the purpose of this investigation?

The chairman has stated he intends this exercise to inform the public. That is one of our purposes as an oversight and investigatory committee, so I support that fully and completely. I do not think it is enough that we view our purpose as informational only. We need to take the next step. We need to correct the problems with our campaign system. That is what the American public wants. I think that is what we want on both sides of the aisle. That is what both political parties have said they want. It means that to correct the problems, we are going to have to investigate then wherever those problems may be, not just on a narrowly defined limit of the last election.

All the questions posed by my distinguished colleague in his remarks point to campaign finance practices that may be illegal or, if not, in my view ought to be illegal. I happen to think that the reform of campaign finance laws should be our daily objective in this Congress. However, I am convinced that the fight over passing real campaign finance reform will not be won until the pressure from the American people becomes overwhelming, and I think these hearings and this investigation can make that interest overwhelming. That is the reason I think we should go the next step.

This investigation, if done right—and I am convinced it will be—could be the vehicle to create that pressure. But it will not happen if this investigation somehow turns into partisan pointing and bickering back and forth, and I do not think it will happen if the inquiry drags on into next year, an election year, when changing the campaign finance laws will be virtually impossible.

If we do not use this unique opportunity to reach real reform, the American people will have a tendency to say a pox on both our houses, and I think they will probably be right.

So I say to Chairman THOMPSON and my Republican colleagues, let us not only inform but let us take that next step of enactment of campaign finance reform this year as our goal and as a major purpose of this investigation. Inform, certainly, but take the next step as well.

Let us examine the most important and egregious set of political fundraising and spending practices—not just pointing at one spot but let us look at the practice. Let us write a report this year that tells the American people really how badly this system has been operating and how it should be fixed. And Heaven knows, we are experts on it because we deal with this system every day and every time we have to run for reelection. And then let us go out and fix it before the year is over.

Is there misuse, for instance, of nonprofits and tax exempts? There is misuse of foreign funds; we know that. What are the major misuses of soft money? What are the misuses of Government itself? And wherever we need to go to get information that helps us correct those problems and others is where we should go.

These, Mr. President, are my thoughts about purposes and scope and duration of this investigation. So I think we need to devote the next few weeks to an effort hopefully integrating Chairman THOMPSON's vision of this investigation with what I have suggested here today, that we go beyond just the informational role and try and make some suggestions to fix the system.

Then we need to come back to the Senate—together perhaps—and present our plan for approval by the full body because the Senate will be very much involved with this whole effort. This inquiry presents us with an opportunity to accomplish something together. We have had people on both sides of the aisle this year in positions of leadership and regular membership talk about how we must work together this year. We have come off a couple of bruising years here in the Congress of the United States, so I view this inquiry as an opportunity, truly an opportunity as Democrats and Republicans that will be worthwhile and lasting for the American people.

As I indicated earlier in my remarks, I wish to address the issue of principles in the conduct of this investigation. The Senator from Tennessee made some very constructive remarks in his presentation regarding the role of the minority and the relationship of majority to minority in the conduct of this investigation, and I thank him for that and I wish to elaborate on them just a little bit.

First, to assure that the committee's investigation is fair, bipartisan, and legislatively productive, I think it is vital the Senate define the scope and procedures and duration of the investigation in the omnibus committee funding resolution.

Now, a definition of scope and duration will enable the Senate in providing funds for the investigation to establish what it is authorizing, the subjects about which it wishes to learn from the committee, and when it wishes the committee to report. There should also be a specification of evenhanded procedural ground rules for the investigation.

For example, the majority and minority should have contemporaneous access to all documentary evidence received by the committee. The majority and minority should have the right to be present at and participate equally in all depositions and investigatory interviews. And the majority and minority should have equal opportunity to obtain and present relevant testimonial and documentary evidence on the subjects of the committee's inquiry.

These are just safeguards for a fair and bipartisan inquiry which is in keeping with contemporary Senate practice. This is the way the last several Senate investigations have been done, and Senate practice from investigations of this kind dictate that it should be expressly spelled out before the actual investigating begins so we do not get into an unpleasant disagreement in the middle of the hearings.

Also, the minority should have sufficient personnel and resources to enable it to take part fully in acquiring and analyzing evidence. That may be a problem because ordinarily the committee split on resources here in the Senate is one-third/two-thirds. I do not anticipate that is going to change in this investigation. But it means on the minority side, that to have an even prospect of having an even ability to look at areas we might want to explore, we are at a disadvantage going in.

So it is obvious that many issues will have to be negotiated in order to reduce the risk that the Governmental Affairs investigation degenerates into a partisan finger pointing exercise. I certainly do not want to see that happen.

All of us in the Senate, and in particular all of us on the committee, have a grave responsibility. That responsibility is to ensure that this investigation moves forward in a constructive and bipartisan manner. I look forward to mutual respect among all participants. Most of all, we need to enter into this with the interests of the American people uppermost in our minds, rather than any partisan political advantage. And that means looking in all directions, wherever we find any information that may direct us to what I see as the secondary objective of our hearings, and that is not only to inform but to recommend ways to correct these problems so we do not go on into the next election with some of the same abuses taking place all over the country that occurred in this last election.

My distinguished chairman has said this is his aim. I certainly take him at his word. He is a man of his word. I know that. We want to work together on this. So I hope we can come quickly to an agreement on scope, on time, on process, on cost of the investigation, and place that agreement in the funding resolution for the Governmental Affairs Committee.

This can be a most important activity we are about to embark on here. From all appearances it is going to be fairly long and arduous, and I think it is important we set these kinds of rules before we get going; not important just for us on a personal basis here, but it is important that somebody work this out for the American people. That is what this committee has the opportunity to do.

I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. BROWNBACK]. Without objection, it is so ordered.

THE SITUATION IN BOSNIA

Mr. LEVIN. Mr. President, I recently returned from a trip to NATO headquarters, to the headquarters of the United States European command, in Stuttgart, and Senator JACK REED of Rhode Island joined me for a trip to the former Yugoslavia. While in Bosnia we visited Sarajevo, Tuzla, Simin Han, Hajvazi, and Mostar. We also visited Zagreb in Croatia and Belgrade in Serbia. I want to share the impressions and conclusions that I gained during the course of this trip.

The situation within Bosnia is relatively stable. The forces of the NATO-led Implementation Force that ended its deployment in December 1996, accomplished its mission of separating the forces of the former warring factions, overseeing the placing of heavy military equipment in cantonment areas, and generally creating an environment in which civilian aspects of the Dayton Peace Agreement could be carried out. The NATO-led stabilization force, which is scheduled to remain in Bosnia for 18 months from December 1996, is essentially continuing the mission of keeping the peace and creating a secure environment.

I was heartened that some institutions of the Government of Bosnia and Herzegovina have been formed. In our separate meetings with the three Presidents and two Prime Minister of Bosnia and Herzegovina, I was struck by their avowed intention of working together to implement the Dayton agreement. There will, of course, be problems and frustrations as they seek to work together, but I believe that these day-to-day problems can be overcome if the immediate and middle term challenges I am about to discuss can be satisfactorily addressed.

IMMEDIATE CHALLENGES

The next year is going to see many significant challenges to peace in Bosnia, and here are two:

First of all, a ruling of the international arbitration tribunal provided for in the Dayton agreement is due to be handed down on February 14, this year, concerning the disputed portion of the Inter-Entity Boundary Line in the Brcko area. Brcko was the scene of ethnic cleansing by the Bosnia Serbs of Bosnian Moslems, who were the majority there prior to the war. Brcko is located in the narrowest area of the Posavina corridor that separates the Serb Republic from the territory of the Bosniac-Croat Federation and which essentially also divides the eastern and western portions of the Serb Republic. In view of Brcko's strategic location, Bosnian Serb Premier Gojko Klickovic recently told reporters that Serbian forces were prepared to launch a Bosnia-wide war if the Serbs lost control of the city in the arbitration process.

Brcko is located in the United States sector of Bosnia and Herzegovina. Having visited with Maj. Gen. Montgomery Meigs and his troops, I know that they are prepared to handle any military contingency that might arise. It would be suicidal for the Bosnian Serbs to resort to force in view of the overwhelming advantage that the SFOR forces have, but emotions run very high over this issue. Even if the Bosnian Serbs did not resort to force, the lack of cooperation that would surely result from an adverse arbitration ruling would complicate further the implementation of the civilian aspects of the Dayton agreement.

A second immediate challenge relates to Eastern Slavonia, a strip of land in easternmost Croatia that borders on Serbia and northern Bosnia and Herzegovina.

A United Nations peacekeeping force has been administering Eastern Slavonia as it transitions back to the full control of the Government of Croatia. The mandate of the United Nations Transitional Administration in Eastern Slavonia ends on July 15, 1997. There are presently about 120,000 Croatian Serbs in Eastern Slavonia, half of whom were driven out of their homes in other parts of Croatia, particularly the Krajina. If the Croatian Serbs determine that they are unable to live in peace in Eastern Slavonia, their only alternatives are to go to Bosnia or Serbia. Neither place has the resources to absorb the Croatian Serbs and their departure, forced or voluntary, to either place would be highly unsettling.

It is important for the international community to clearly notify the Croatians that they must reassure the Croatian Serbs that their rights will be respected so they will remain in Croatia. It must be made clear to the Croatian Government that its relationship to the West and its access to western institutions will depend upon its treatment of the Serb minority within its borders.

MIDDLE TERM CHALLENGES

Mr. President, our visit to Bosnia and the region have convinced me that there will be a need for an outside armed force in Bosnia beyond the 18 months mission of the stabilization force.

That is the most important, significant conclusion that I reached, which is that at the end of this 18-month period there still will be a need for an outside armed force in Bosnia. I base that conclusion on the following factors:

RESETTLEMENT OF REFUGEES

The Dayton agreement provides for the early return of all refugees and displaced persons to their homes. There are an estimated 1.2 million refugees and displaced persons in Bosnia and another 900,000 elsewhere, primarily Western Europe. There are an estimated 330,000 refugees, mostly Bosnian Moslems, in Germany alone.

The homes that these approximately 2.1 million people have the right to return to are either destroyed or are presently occupied by other refugees or displaced persons. As reconstruction lags, the problem remains acute.

Additionally, the animosities that gave rise to the war and the horrible atrocities committed against civilians have not disappeared and serve to discourage people from returning to their homes of origin.

These obstacles to resettlement were dramatically brought home to me during a visit to U.S. Observation Post Rock located in the vicinity of the former Bosnian Muslim town of Hajvazi that is now just within the Serb area of Bosnia. Across the ravine from the observation post one can see a house occupied by the Bosnian Serb police. The police are determined first to prevent Bosnian Muslims from returning and second to bring Bosnian Serbs in to occupy the houses in the town. The Muslim mosque lies in rubble.

Most dramatic of all, however, is the interior of the observation post itself. A pillar in the middle of the observation post contains the bloody handprint of a young child and the cement floor of the structure had to be covered with wood flooring because the blood stains were so ingrained they could not be cleaned. The United States commander described the building as a slaughter house where Muslims were put to death. It is difficult to imagine Muslims and Serbs living peacefully side-by-side in the shadow of such recent atrocities, even putting aside their previous history.

We also visited Mostar, a city in which both Bosnian Muslims and Bosnian Croats have lived since pre-war days. Mostar was the site of heavy fighting between Muslims and Croats prior to the so-called Washington Agreement which brought an end to Muslim-Croat fighting and enabled them to join forces against the Bosnian Serbs. Subsequent to the Washington Agreement, Mostar sustained heavy damage from punitive shelling by the Bosnian Serbs who controlled the high ground surrounding the city. Despite extensive construction efforts funded by the European Union which sought to make a model of Mostar for Muslim-Croat cooperation, the terrible scars of the fighting are still visible in Mostar, particularly in the Muslim section of the city which sustained most of the damage, bearing witness to the cruel shelling and small arms fire that indiscriminately targeted civilians there.

Another complicating factor as to why it is going to be impossible to leave without some kind of a follow-on force after 18 months from last December, has to do with war criminals.

WAR CRIMINALS

Article IX of the General Framework Agreement, which with its several annexes make up the Dayton Agreement, specifically recites "the obligation of all Parties to cooperate in the investigation and prosecution of war crimes and other violations of international humanitarian law." The authorities of the Serb Republic have refused to hand over former President Radovan Karadzic and former military chief General Ratko Mladic, both of whom have been indicted by the International Tribunal for the Former Yugoslavia at the Hague. In a January 2, 1997, letter to new U.N. Secretary General Kofi Anan, Serbian Republic President Biljana Plavsic challenged the legal foundation of the international tribunal and stated that "It is our firm belief that if we were to hand over Dr. Karadzic and Gen. Mladic for trial, this would, in fact, threaten the existing peace."

NATO policy established first for the implementation force and continued for the stabilization force is not to search for indicted war criminals and to apprehend them only if they are encountered by the NATO-led force as it carries out its duties and only if apprehending them would not put the SFOR troops at significant risk. This policy decision is influenced no doubt by the lesson the international community learned during the U.N. operation in Somalia when United States and allied troops conducted a manhunt for General Aideed with disastrous results.

The United Nations has distributed posters with the photos of the indicted war criminals so that the stabilization force troops will be in a position to apprehend them if they are foolish enough to attempt to pass through a checkpoint or otherwise come in contact with those forces. In early January, one such indicted war criminal, a Bosnian Croat who was the former police chief in Vitez and has been indicted for overseeing the inhumane treatment of Bosnian Muslim civilians, did encounter an SFOR patrol. He was not apprehended because the patrol members were not carrying a U.N. poster and were unsure that he was a suspect, although they thought he might well be. They should have detained him until they were able to make sure whether he was or was not a suspect but they did not.

It should be noted that General Mladic, an indicted war criminal, while at large still is not really a free man. His location, where he is surrounded by heavily armed loyal troops, is known and his movement is restricted because of his fear of making contact with our troops. He is in a sense already in prison. Nevertheless, Mladic and former President Karadzic have not been turned over to the international tribunal and there are no signs that they will be turned over during the 18-

month timeframe in which SFOR is operating.

In an attempt to address the problem of apprehending war criminals, former Secretary of Defense Perry and Chairman of the Joint Chiefs of Staff General Shalikashvili proposed the creation of a special paramilitary police force to our NATO allies in December. The proposal reportedly did not resonate well with our allies.

The next complicating factor for why the 18-month period is not going to prove sufficient for the Dayton accords to be fully implemented is the lack of reconciliation.

RECONCILIATION

With dim prospects for the return of refugees and displaced persons to their homes, with the refusal of the Serb Republic authorities to hand over Karadzic and Mladic, the most prominent of the indicted war criminals, with the ever visible physical scars and undoubtedly even more long lasting internal scars of this terrible conflict, and with the absence of a free and independent media, as I will discuss a little later, I am convinced that reconciliation of Muslims, Croats, and Serbs will not occur sufficiently during the 18-month mandate of the stabilization force and that the Dayton accords will not be fully implemented during that period. A final complicating factor was to do with police forces.

POLICE FORCES

The NATO-led forces have been extraordinarily successful in implementing the military aspects of the Dayton agreement. The subregional arms control agreements, although poorly respected by the Bosnian Serbs, coupled with the American organized equip and train program for the Bosniac-Croat Federation, will result in rough military parity between the Federation and Bosnian Serb armies. Many of the former military troops have been demobilized and returned to civilian life and those who remain in uniform are tired of war. The police forces of the three entities are, however, not subject to the military aspects of the Dayton agreement and thus not expressly controlled by the stabilization force.

In Annex 11 to the Dayton agreement, the parties expressly requested the U.N. Security Council to establish a U.N. International Police Task Force [IPTF]. The IPTF, a force of approximately 1,600 unarmed officers, unlike the NATO-led force, was not granted enforcement authority and was and is limited to functions such as monitoring, observing, inspecting, advising, and the like. These functions were based upon the reasonable expectation that the police forces of the parties would possess limited capabilities. Unfortunately, many Bosnian police elements are relatively heavily armed and are trained and equipped to operate as small military units. Based upon their suspicions of their counterparts, they are reported to have secretly stockpiled huge amounts of weapons and ammunition. In November, joint surprise inspections of police stations by implementation force troops and the IPTF resulted in the confiscation and destruction of a large number of unauthorized weapons, mainly small arms and ammunition although numerous mines and light mortars were also discovered. Since that time, the New York Times reports that local police units have hidden their military equipment.

For the many reasons cited, and others, I am convinced that there will be a need for an armed outside force in Bosnia as a follow-on force after SFOR's 18-month mandate expires. Before I discuss such a follow-on force further, I want to address other pressures that bear on Bosnia.

OTHER PRESSURES

Mr. President, the parties to the General Framework Agreement for Peace in Bosnia and Herzegovina, the long title of the Dayton agreement, include the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia—hereafter referred to as Serbia. The Governments of Croatia and Serbia were wisely included because of the influence they have over the three factions in Bosnia and because events within their territories could have a spillover effect in Bosnia.

SERBIA

While in Belgrade, we were able to witness first hand the daily demonstrations being mounted by the students and the opposition coalition named "Together." The specific catalyst for the demonstrations in Belgrade and the democratic demonstrations in other cities throughout Serbia was Serbian President Slobodan Milosevic's attempt to deny the opposition the victories they achieved in municipal elections in Belgrade and 13 other Serbian cities last November. But the demonstrations are fueled also by dissatisfaction over an economy wrecked by mismanagement, corruption, and international sanctions, by distortions and lack of reporting of events by the government controlled television stations, and by the recognition that Milosevic's supernationalism was the major cause of the war that helped unravel Yugoslavia. Milosevic is doing all that he can to buy time but he is likely to be devoured by the nationalistic tiger he unleashed. Accordingly, for better or worse, Milosevic specifically and events in Serbia generally do not have the influence or impact that they previously had on Bosnia.

CROATIA

President Franjo Tudjman's poor health and the accompanying succession puzzle are distracting Croatia over virtually all other concerns. Additionally, Croatian authorities realize that they must have Western approval if Croatia is to have any chance of economic assistance and trade. These factors hopefully will prevent Croatia from using a heavy hand in its dealings with the Croatian Serbs in Eastern Slavonia. I remain cautiously optimistic that common sense will prevail and Croatian policies will not cause a mass exodus of Croatian Serbs when the U.N. mandate expires there on July 15.

THE MEDIA

As in Serbia, the government controlled media, particularly television, in Bosnia continuously presents a drumbeat of propaganda that fuel ethnic stereotyping and hatred. While this is most vitriolic in the Bosnian Serb stronghold in Pale, it is unfortunately echoed in Sarajevo and Mostar.

A free and independent media, especially television modeled after CNN and the British Sky News, along with good entertaining programs and objective, fair news presentations, would be very helpful. Only a small minority of people who have satellite dishes receive objective news. It is only through a free and independent media that Muslims, Croats and Serbs can understand the atrocities that were committed. Such an understanding would be the first step towards reconciliation and ultimate survival of a multi-ethnic Bosnia and Herzegovina.

ACCOMPLISHMENTS OF NATO-LED FORCE

Mr. President, as I have already noted, the NATO-led implementation force and its successor, the stabilization force, have been extraordinarily successful in implementing the military tasks of the Dayton agreement. This first ever NATO peace enforcement mission is an unqualified success so far. It is a particularly important achievement because it also involves the forces of non-NATO nations.

During our stay at Multinational Division North, the United States sector headquarters in Tuzla, we were able to travel to Simin Han where the Russian airborne battalion is located. It was wonderful to observe the excellent relationship between the U.S. commander, Maj. Gen. Monty Meigs, and his Russian counterpart. The Russian commander, his subordinate officers and troops were extremely proud of their role in the U.S. sector. I spoke to a number of U.S. soldiers who have been conducting joint patrols with the Russian troops and they were unanimously upbeat about the Russians whom they described as excellent soldiers.

In our visit to the French sector headquarters of the Multinational Division Southeast in Mostar, we were briefed by the French Commander, his German Chief of Staff, and his Spanish, French, Italian, and German staff officers. It was encouraging to see how easily these NATO allies work together. It was one of the best military briefings I have ever received and the graphics they used were among the best I have seen. The ability of our European NATO allies to work together so professionally, in this case under a French commander, gives me hope for the success of NATO's European Security and Defense Identity initiative, particularly once France returns to NATO's integrated military structure.

The participation of the forces of members of NATO's Partnership for Peace and their smooth integration into the NATO-led IFOR and SFOR mission are testament to the success of Partnership for Peace. Despite early criticisms of that program as a stalling tactic to gain time while NATO enlargement could be worked out, Partnership for Peace, with its emphasis on peacekeeping, has been a major success in leading the way to the participation of a host of nations in international peace operations.

The success of the NATO-led multinational peace enforcement mission, both during IFOR and now SFOR, is extraordinarily important for the future. The United States cannot be the world's policeman but the world needs a trained, equipped, and ready force to respond at the early stages of a crisis that threatens international peace and security. Events might have been very different in former Yugoslavia if such a force could have been deployed to Croatia in the summer of 1991 when the fighting between the Croatian Army and the Croatian Serbs backed by the Yugoslav People's Army first began. Such a deployment could have served to nip the crisis in the bud, saved tens of thousands of lives, and set the stage for a negotiated settlement before nationalist fervors were fanned beyond control.

FOLLOW-ON FORCE FOR BOSNIA

Mr. President, I am convinced that the SFOR mission duration of 18 months will not be sufficient for peace to gain a firm enough foothold in Bosnia and I fear that, in the absence of an outside armed force, the conflict will reignite.

I believe that the participation of United States combat troops on the ground in Bosnia should terminate with the end of SFOR's 18 month mandate. The United States is the only nation in the world with global commitments and the capability to meet those commitments. Only the United States can defeat aggression in the Persian Gulf or on the Korean peninsula or wherever it might threaten our vital interests. But the United States cannot afford to have its forces tied down indefinitely in Bosnia where our interests are real but not as vital as for the Europeans. The United States had to take the lead in negotiating and implementing the Dayton peace agreement because our European allies and friends were not ready to do so. Our participation in IFOR and now SFOR will have given our European allies 2½ years to become ready. It is time for them to start preparations now to fulfill that role to ensure that peace does not unravel in their neighborhood after SFOR's mandate ends 18 months after December 1996. The United States can and should still remain involved with logistic, intelligence, and other support activities.

Fortuitously, NATO is now developing a European Security and Defense Identity [ESDI] within the Alliance to permit the European NATO nations, with NATO consent, to carry out operations under the political control and strategic direction of the Western European Union [WEU] using NATO assets and capabilities. This initiative is tailor-made for a follow-on force to SFOR. And there is no reason why the Partnership for Peace nations should not be included as they have been in IFOR and SFOR. It will not happen, however, without firm pressure from the U.S. Congress and the administration and notice of our intent now to give our European friends plenty of time to prepare to take over leadership of the follow-on force to SFOR after 18 months, should such a force be needed as I predict it will be.

CONCLUSION

Mr. President, the end of the cold war has unleashed the forces of nationalism, ethnic hatred, and religious fanaticism. In Bosnia, this has led to the death of approximately 210,000 people, including about 150,000 civilians. More than 2.5 million Bosnians out of a prewar population of 4.4 million were forced to flee their homes, 2.1 million Bosnians are still refugees or displaced persons.

The NATO-led IFOR and SFOR have done and are doing an extraordinary job in implementing the military tasks of the Dayton peace agreement. Civilian implementation and reconstruction lag behind, however. While there are encouraging signs with the formation of central government institutions, they are still fragile and reconciliation among the Bosnian Muslims, Croats, and Serbs has barely begun.

There will be a need for a follow-on outside armed force in Bosnia once SFOR's 18-month mandate is finished. United States combat forces should not remain on the ground in Bosnia beyond that time. The European Security and Defense Identity initiative within NATO provides a mechanism for a follow-on force to sustain the peace there. Our European NATO allies and European friends, particularly those participating in NATO's Partnership for Peace Program, need to begin planning now to provide the follow-on force.

IFOR and SFOR have been extremely successful multinational peace enforcement missions. The international community needs to be able to field trained, equipped, and ready forces to nip crises in the bud. Hopefully, IFOR and SFOR and a Western European Union follow-on force for Bosnia can provide the model for the international community in other regions of the world.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF ANDREW CUOMO

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that at 9:30 a.m., on Wednesday, January 29, the Senate proceed to executive session to consider the nomination of Andrew Cuomo to be Secretary of the Department of Housing and Urban Development; further, that there be 30 minutes of debate on the nomination, equally divided between the chairman and ranking member, with a vote to occur on the nomination at the expiration or yielding back of that time; further, immediately following the vote the President be notified of the Senate's action and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 3 AND S. 10

Mr. LOTT. I ask unanimous consent, Mr. President, that S. 3 and S. 10 be star printed with the changes that I understand are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105-2

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on January 28, 1997, by the President of the United States: Taxation Treaty with Thailand, Treaty Document No. 105-2; I further ask unanimous consent the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the Government of the United States of America and the Government of the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Bangkok, November 26, 1996. An enclosed exchange of notes, transmitted for the information of the Senate, provides clarification with respect to the application of the Convention in specified cases. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to other tax treaties between the United States and developing nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for the exchange of information to prevent fiscal evasion and sets forth standard rules to limit the benefits of the Convention to persons that are not engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 28, 1997*.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–847. A communication from the Administrator of the Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to shelled almonds, (FV–95–305) received on January 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–848. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to brucellosis in cattle, (96–005–2) received on January 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–849. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on foreign policy export controls and the Bureau of Export Administration's annual report for fiscal year 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–850. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the administration of the Marine Mammal Protection Act of 1972 for calendar year 1993; to the Committee on Commerce, Science, and Transportation.

EC–851. A communication from the Assistant Secretary of Commerce for Communications and Information, transmitting, pursuant to law, a rule concerning the Telecommunications and Information Infrastructure Assistance Program (RIN0660–ZA02) received on January 21, 1997; to the Committee on Commerce, Science, and Transportation.

EC–852. A communication from the Office of the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of the revision of regulations for interlocking rail officers received on January 17, 1997; to the Committee on Commerce, Science, and Transportation.

EC–853. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report on Government dam use charges; to the Committee on Energy and Natural Resources.

EC–854. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, six rules including a rule entitled "The Acid Rain Program" (FRL5679–9, 5678–1, 5677–6, 5677–5, 5675–7, 5671–6) received on January 21, 1997; to the Committee on Environment and Public Works.

EC–855. A communication from the Director of the Fish and Wildlife Service, transmitting, pursuant to law, a rule entitled "Endangered Status For 2CA Insects" (RIN1018–AC50) received on January 22, 1997; to the Committee on Environment and Public Works.

EC–856. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Revenue Ruling 97–7, received on January 22, 1997; to the Committee on Finance.

EC–857. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Foreign Corporations, received on January 22, 1997; to the Committee on Finance.

EC–858. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to medicaid eligibility, (RIN0938–AH76) received on January 17, 1997; to the Committee on Finance.

EC–859. A communication from the Chief of Staff, Office of the Commissioner, Social Security Administration, transmitting, pursuant to law, the report of rule relative to growth impairment listings, (RIN0960–AE60) received on January 17, 1997; to the Committee on Finance.

EC–860. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the Taxation of Social Security and Railroad Retirement Benefits for 1992; to the Committee on Finance.

EC–861. A communication from the Chairman of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report on audit and investigative activities for fiscal year 1996; to the Committee on Governmental Affairs.

EC–862. A committee from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to the Procurement List, received on January 22, 1997; to the Committee on Governmental Affairs.

EC–863. A communication from the Chairman of the Board of Governors, United States Postal Service, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–864. A communication from the Postmaster General, Chief Executive Officer, United States Postal Service, transmitting, pursuant to law, the 1996 annual report; to the Committee on Governmental Affairs.

EC–865. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule relative to the Presidential Management Intern Program, (RIN 3206–AH53) received on January 22, 1997; to the Committee on Governmental Affairs.

EC–866. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report relative to the Pentagon; to the Committee on Appropriations.

EC–867. A communication from the Deputy Under Secretary (Industrial Affairs and Installations) for Acquisition and Technology, Department of Defense, transmitting, pursuant to law, the report on the National Defense Stockpile (NDS) for fiscal year 1996; to the Committee on Armed Services.

EC–868. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting, pursuant to law, the report of a rule entitled, "Regulatory Citations to Uniform Financial Institutions Rating System" (RIN1550–AA99), received on January 23, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–869. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the report on Open Dumps on Indian Lands; to the Committee on Indian Affairs.

EC–870. A communication from the Administrator of the U.S. Agency for International Development transmitting, pursuant to law, the report on Development Assistance Program Allocations for fiscal year 1997; to the Committee on Foreign Relations.

EC–871. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State transmitting the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–872. A communication from the Director of the Office Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule relative to refinancing loans (RIN2900–AH90) received on January 23, 1997; to the Committee on Veterans Affairs.

EC–873. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–874. A communication from the Director of the Office of Insular Affairs, Department of the Interior, transmitting, pursuant to law, the report, entitled "The Impact of the Compacts of Free Association on the United States Territories and Commonwealths and on the State of Hawaii"; to the Committee on Energy and Natural Resources.

EC–875. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to approval and promulgation of implementation plans (FRL5649–6) received on January 23, 1997; to the Committee on Environment and Public Works.

EC–876. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule relative to direct grant programs (RIN1880–AA61) received on January 24, 1997; to the Committee on Labor and Human Resources.

EC–877. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to the Noninsured Crop Disaster Assistance Program (RIN0560–AE85) received on January 22, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–878. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of a rule relative to eligibility and scope of financing (RIN3052–AB10) received on January 23, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–879. A communication from the Attorney General of the United States transmitting a report relative to Medicare and Medicaid Acts; to the Committee on Finance.

EC–880. A communication from the Chief of Staff, Office of the Commissioner, Social Security Administration, transmitting, pursuant to law, the report of rule relative to institutionalized children (RIN0960–AE61) received on January 23, 1997; to the Committee on Finance.

EC–881. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Federal Grants (RIN1545–AU93) received on January 24, 1997; to the Committee on Finance.

EC–882. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Controlled Foreign Corporation (RIN1545–AO73) received on January 23, 1997; to the Committee on Finance.

EC–883. A communication from the Acting Assistant Secretary of State, Legislative Affairs, transmitting, pursuant to law, the report of a certification regarding the incidental capture of sea turtles in commercial shrimping operations; to the Committee on Commerce, Science, and Transportation.

EC–884. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 541 received on January 22, 1997; to the Committee on Commerce, Science, and Transportation.

EC–885. A communication from the Acting Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report on assistance provided to foreign aviation authorities for fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

EC–886. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of 30 rules including one rule relative to Airworthiness Directives (RIN2120–AA64, AA65, AA66) received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–887. A communication from the Acting Deputy Assistant Administrator of the National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to the Farallones National Marine Sanctuary (RIN0648–XX79) received on January 24, 1997; to the Committee on Commerce, Science, and Transportation.

EC–888. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to the American Lobster Fishery Management Plan (RIN0648–AI83) received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–889. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to the American Sea Scallop Fishery Management Plan (RIN0648–AI77) received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–890. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Northeast Multispecies Fishery Management Plan (RIN0648–AJ31) received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–891. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to FM broadcast stations, received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–892. A communication from the Managing Director of the Federal Communications Commission transmitting, pursuant to law, the report of a rule relative to FM broadcast stations received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–893. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to FM broadcast stations, received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–894. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to FM broadcast stations, received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–895. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to FM broadcast stations, received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–896. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to FM broadcast stations, received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–897. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to maritime communications, received on January 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–898. A communication from the Secretary of the Mississippi River Commission, Corps of Engineers, Department of the Army, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–899. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports and testimony for December 1996; to the Committee on Governmental Affairs.

EC–900. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC–901. A communication from the Deputy Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule relative to prevailing rate systems (RIN3206–AH59); to the Committee on Governmental Affairs.

EC–902. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC–903. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–904. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the report under the Sunshine Act for 1996; to the Committee on Governmental Affairs.

EC–905. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–348 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–906. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–362 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–907. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–381 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–908. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–438 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–909. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–441 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–910. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–442 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–911. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–443 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–912. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–452 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–913. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–453 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–914. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–455 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–915. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–460 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–916. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–461 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–917. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–462 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–918. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–463 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–919. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–490 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–920. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–493 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–921. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–494 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–922. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–496 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–923. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–497 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–924. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–500 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–925. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–501 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–926. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–502 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–927. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–503 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–928. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–504 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

EC–929. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–506 adopted by the Council on January 24, 1996; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. Res. 26. A resolution authorizing expenditures by the Committee on Environment and Public Works.

By Mr. ROTH, from the Committee on Finance, without amendment:

S. Res. 27. An original resolution authorizing expenditures by the Committee on Finance.

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 28. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 29. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation.

By Mr. SHELBY, from the Select Committee on Intelligence, without amendment:

S. Res. 30. A resolution authorizing expenditures by the Select Committee on Intelligence.

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Res. 31. A resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

S. Res. 32. A resolution to authorize the printing of a collection of the rules of the committees of the Senate.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Andrew M. Cuomo, of New York, to be Secretary of Housing and Urban Development.

By Mr. WARNER, from the Committee on Rules and Administration:

Alan M. Hantman, of New Jersey, to be Architect of the Capitol for the term of 10 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 204. A bill for the relief of Dogan Umut Evans; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. ALLARD):

S. 205. A bill to eliminate certain benefits for Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID:

S. 206. A bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. THOMPSON, Mr. KERRY, Mr. FEINGOLD, Mr. KENNEDY, Mr. COATS, Mr. GLENN, Mr. LIEBERMAN, and Mr. BROWNBACK):

S. 207. A bill to review, reform, and terminate unnecessary and inequitable Federal subsidies; to the Committee on Governmental Affairs.

By Mr. BOND:

S. 208. A bill to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, and for other purposes; to the Committee on Small Business.

By Mr. BREAUX:

S. 209. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself and Mr. AKAKA):

S. 210. A bill to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE:

S. 211. A bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf war in order for those disabilities to be compensable by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

S. 212. A bill to increase the maximum Federal Pell grant award in order to allow more American students to afford higher education, and to express the sense of the Senate; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. FEINGOLD, and Mr. JEFFORDS):

S. 213. A bill to amend section 223 of the Communications Act of 1934 to repeal amendments on obscene and harassing use of telecommunications facilities made by the Communications Decency Act of 1996 and to restore the provisions of such section on such use in effect before the enactment of the Communications Decency Act of 1996; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. GLENN):

S. 214. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to combat fraud and price gouging committed in connection with the provision of consumer goods and services for the cleanup, repair, and recovery from the effects of a major disaster declared by the President, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JEFFORDS:

S. 215. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS (for himself, Mr. FRIST, and Mrs. HUTCHISON):

S. 216. A bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1998 through 2002, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BIDEN:

S. 217. A bill to amend title 38, United States Code, to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States; to the Committee on Veterans' Affairs.

S. 218. A bill to invest in the future American workforce and to ensure that all Americans have access to higher education by providing tax relief for investment in a college education and by encouraging savings for college costs, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. GRASSLEY):

S. 219. A bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. DASCHLE):

S. 220. A bill to require the U.S. Trade Representative to determine whether the European Union has failed to implement satisfactorily its obligations under certain trade agreements relating to U.S. meat and pork exporting facilities, and for other purposes; to the Committee on Finance.

By Mr. GREGG:

S. 221. A bill to amend the Social Security Act to require the Commissioner of Social Security to submit specific legislative recommendations to ensure the solvency of the social security trust funds; to the Committee on Finance.

By Mr. DOMENICI:

S. 222. A bill to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies; to the Committee on Governmental Affairs.

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. HELMS, Mr. HUTCHINSON, Mr. KEMPTHORNE, Mr. SHELBY, and Mr. SESSIONS):

S. 223. A bill to prohibit the expenditure of Federal funds on activities by Federal agencies to encourage labor union membership, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 224. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes; to the Committee on Armed Services.

By Mr. KOHL:

S. 225. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

By Mr. KOHL (for himself and Mr. DEWINE):

S. 226. A bill to establish felony violations for the failure to pay legal child support obligations, and for other purposes; to the Committee on the Judiciary.

By Mr. GREGG:

S. 227. A bill to establish a locally oriented commission to assist the city of Berlin, NH, in identifying and studying its region's historical and cultural assets, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. REID, Mrs. FEINSTEIN, Mr. FORD, Mr. HOLLINGS, and Mr. WYDEN):

S.J. Res. 12. A joint resolution proposing a balanced budget constitutional amendment; to the Committee on the Judiciary.

By Mr. SHELBY:

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 percent of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAFEE:

S. Res. 26. A resolution authorizing expenditures by the Committee on Environment and Public Works; from the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. ROTH:

S. Res. 27. An original resolution authorizing expenditures by the Committee on Finance; from the Committee on Finance; to the Committee on Rules and Administration.

By Mr. D'AMATO:

S. Res. 28. An original resolution authorizing expenditures by the Committee on Banking, Housing and Urban Affairs; from the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. MCCAIN:

S. Res. 29. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation; from the Committee on Commerce, Science, and Transportation; to the Committee on Rules and Administration.

By Mr. SHELBY:

S. Res. 30. A resolution authorizing expenditures by the Select Committee on Intelligence; from the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. WARNER:

S. Res. 31. A resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; from the Committee on Rules and Administration; placed on the calendar.

By Mr. WARNER:

S. Res. 32. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; from the Committee on Rules and Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 204. A bill for the relief of Dogan Umut Evans; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

• Mr. INOUYE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR DOGAN UMUT EVANS.

(a) IN GENERAL.—Dogan Umut Evans shall be classified as a child under section 101(b)(1)(F) of the Immigration and Nationality Act for purposes of approval of a relative visa petition filed under section 204 of such Act by his adoptive parent and the filing of an application for an immigrant visa or adjustment of status.

(b) ADJUSTMENT OF STATUS.—If Dogan Umut Evans enters the United States before the filing deadline specified in subsection (c), he shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the petition and the application for issuance of an immigrant visa or the application for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Dogan Umut Evans, the Secretary of State shall instruct the proper officer to reduce by 1, for the current or next following fiscal year, the worldwide level of family-sponsored immigrants under section 201(c)(1)(A) of the Immigration and Nationality Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Dogan Umut Evans, if any, shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.●

By Mr. FRIST (for himself and Mr. ALLARD):

S. 205. A bill to eliminate certain benefits for Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

THE CITIZEN CONGRESS ACT

● Mr. FRIST. Mr. President, I introduce the Citizen Congress Act, a bill that ends many of the perks and privileges that separate Members of Congress from the American people.

Our Founding Fathers envisioned a Congress of citizen legislators who would leave their families and communities for a short time to write legislation and then return home to live under the laws they helped to pass. Unfortunately, we have strayed far from that vision. A strong perception exists among the American people that elected officials in Washington have placed themselves above the laws and separated themselves from the public with perks and privileges. Enacting term limits would be the best way to re-create a citizen legislature, and I remain committed to passing a term limits amendment to the Constitution. In the meantime, reforming congressional pensions, pay, and perks offers an immediately achievable step toward making Congress more directly responsible and accountable to the American people.

When I was elected to the U.S. Senate a little more than 2 years ago, voters placed their trust in me to help change the way the U.S. Congress does business. With passage of the Congressional Accountability Act and tough lobbying reform in the last Congress, we have begun serious, bipartisan reform efforts. But we cannot afford to stop there.

Congressional perks and privileges are not limited to gifts from lobbyists and exemptions from certain laws. In fact, most people would be surprised—even shocked—to know that Members of Congress can receive free health care from military hospitals or that they receive automatic cost-of-living adjustments [COLA's] for their salaries and pensions. We must address these issues as well. To continue building confidence in our Government, we must continue building confidence in the people who serve there.

Today, I join my colleague from Colorado, Senator WAYNE ALLARD, in reintroducing a comprehensive congressional reform bill. The legislation, entitled the Citizen Congress Act, will help restore faith and trust in our Government by attacking the "10 Pillars of Perkdom." The 10 Pillars include:

Eliminating the taxpayer subsidy of congressional pensions.

Eliminating automatic cost-of-living adjustments for congressional pensions.

Eliminating automatic pay raises for Members of Congress.

Requiring a rollcall vote for any pay raise.

Requiring public disclosure of all Members' Federal retirement benefits.

Banning personal use of officially accrued frequent flier miles.

Banning taxpayer-financed mass mailings.

Restricting use of military aircraft by Members of Congress.

Prohibiting free treatment at military medical facilities.

Banning special parking privileges at Washington-area airports.

A companion bill, H.R. 436, was introduced in the House of Representatives by Congressman MARK SANFORD.

At a time when everyone is tightening their belts to balance the Federal budget and restore confidence in our Government, it is only right that Members of Congress eliminate the perks and privileges that are not necessary to conduct congressional business. The Citizen Congress Act launches the next stage of Government reform by focusing on the Members of Congress themselves. I encourage my colleagues to join me in passing this important legislation and bringing Congress another step closer to the American people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Citizen Congress Act".

SEC. 2. LIMITATION ON RETIREMENT COVERAGE FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective at the beginning of the Congress next beginning after the date of the enactment of this Act, a Member of Congress shall be ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System, except as otherwise provided under this section.

(b) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Notwithstanding subsection (a), a Member may participate in the Thrift Savings Plan subject to section 8351 of title 5, United States Code, at anytime during the 12-year period beginning on the date the Member begins his or her first term.

(c) REFUNDS OF CONTRIBUTIONS.—

(1) IN GENERAL.—Nothing in subsection (a) shall prevent refunds from being made, in accordance with otherwise applicable provisions of law (including those relating to the Thrift Savings Plan), on account of an individual's becoming ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) as a result of the enactment of this section.

(2) TREATMENT OF REFUND.—For purposes of any refund referred to in paragraph (1), a Member who so becomes ineligible to participate in either of the retirement systems referred to in paragraph (1) shall be treated in the same way as if separated from service.

(d) ANNUITIES NOT AFFECTED TO THE EXTENT BASED ON PRIOR SERVICE.—Subsection (a) shall not be considered to affect—

(1) any annuity (or other benefit) entitlement to which is based on a separation from service occurring before the date of the enactment of this Act (including any survivor annuity based on the death of the individual who so separated); or

(2) any other annuity (or benefit), to the extent provided under subsection (e).

(e) PRESERVATIONS OF RIGHTS BASED ON PRIOR SERVICE.—

(1) IN GENERAL.—For purposes of determining eligibility for, or the amount of, any annuity (or other benefit) referred to in subsection (d)(2) based on service as a Member of Congress—

(A) all service as a Member of Congress shall be disregarded except for any such service performed before the date of the enactment of this Act; and

(B) all pay for service performed as a Member of Congress shall be disregarded other than pay for service which may be taken into account under subparagraph (A).

(2) PRESERVATION OF RIGHTS.—To the extent practicable, eligibility for, and the amount of, any annuity (or other benefit) to which an individual is entitled based on a separation of a Member of Congress occurring after such Member becomes ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) by reason of subsection (a) shall be determined in a manner that preserves any rights to which the Member would have been entitled, as of the date of the enactment of this Act, had separation occurred on such date.

(f) REGULATIONS.—Any regulations necessary to carry out this section may be prescribed by the Office of Personnel Management and the Executive Director (referred to in section 8401(13) of title 5, United States Code) with respect to matters within their respective areas of responsibility.

(g) DEFINITION.—As used in this section, the terms "Member of Congress" and "Member" mean any individual under section 8331(2) or 8401(20) of title 5, United States Code.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply with respect to any savings plan or other matter outside of subchapter III of chapter 83 or chapter 84 of title 5, United States Code.

SEC. 3. DISCLOSURE OF ESTIMATES OF FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS.

(a) IN GENERAL.—Section 105(a) of the Legislative Branch Appropriations Act, 1965 (2 U.S.C. 104a; Public Law 88–454; 78 Stat. 550) is amended by adding at the end the following new paragraph:

"(4) The Secretary of the Senate and the Clerk of the House of Representatives shall include in each report submitted under paragraph (1), with respect to Members of Congress, as applicable—

"(A) the total amount of individual contributions made by each Member to the Civil Service Retirement and Disability Fund and the Thrift Savings Fund under chapters 83 and 84 of title 5, United States Code, for all Federal service performed by the Member as a Member of Congress and as a Federal employee;

"(B) an estimate of the annuity each Member would be entitled to receive under chapters 83 and 84 of such title based on the earliest possible date to receive annuity payments by reason of retirement (other than disability retirement) which begins after the date of expiration of the term of office such Member is serving; and

"(C) any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.".

(b) Effective Date.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 4. ELIMINATION OF AUTOMATIC ANNUITY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

The portion of the annuity of a Member of Congress which is based solely on service as a Member of Congress shall not be subject to a COLA adjustment under section 8340 or 8462 of title 5, United States Code.

SEC. 5. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) Pay Adjustments.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) Conforming Amendment.—Section 601(a)(1) of such Act is amended—

(1) by striking "(a)(1)" and inserting "(a)";

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ", as adjusted by paragraph (2) of this subsection".

SEC. 6. ROLLCALL VOTE FOR ANY CONGRESSIONAL PAY RAISE.

It shall not be in order in the Senate or the House of Representatives to dispose of any amendment, bill, resolution, motion, or other matter relating to the pay of Members of Congress unless the matter is decided by a rollcall vote.

SEC. 7. TRAVEL AWARDS FROM OFFICIAL TRAVEL OF A MEMBER, OFFICER, OR EMPLOYEE OF THE HOUSE OF REPRESENTATIVES TO BE USED ONLY WITH RESPECT TO OFFICIAL TRAVEL.

(a) In General.—Notwithstanding any other provision of law, or any rule, regulation, or other authority, any travel award that accrues by reason of official travel of a Member, officer, or employee of the House of Representatives may be used only with respect to official travel.

(b) Regulations.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) Definitions.—As used in this section—

(1) the term "travel award" means any frequent flier mileage, free travel, discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise; and

(2) the term "official travel" means, with respect to the House of Representatives, travel performed for the conduct of official business of the House of Representatives.

SEC. 8. BAN ON MASS MAILINGS.

(a) In General.—Paragraph (6)(A) of section 3210(a) of title 39, United States Code, is amended to read as follows:

"(6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail.".

(b) Technical and Conforming Amendments.—

(1) The second sentence of section 3210(c) of title 39, United States Code, is amended by striking "subsection (a) (4) and (5)" and inserting "subsection (a) (4), (5), and (6)".

(2) Section 3210 of title 39, United States Code, is amended—

(A) in subsection (a)(3)—

(i) in subparagraph (G) by striking ", including general mass mailings,"; and

(ii) in subparagraphs (I) and (J) by striking "or other general mass mailing";

(B) in subsection (a)(6) by repealing subparagraphs (B), (C), and (F), and the second sentence of subparagraph (D);

(C) by repealing paragraph (7) of subsection (a); and

(D) by repealing subsection (f).

(3) Section 316(a) of the Legislative Branch Appropriations Act, 1990 (39 U.S.C. 3210 note) is repealed.

(4) Subsection (f) of section 311 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(f)) is repealed.

(c) Effective Date.—The amendments made by this section shall take effect at the beginning of the Congress next beginning after the date of the enactment of this Act.

SEC. 9. RESTRICTIONS ON USE OF MILITARY AIR COMMAND BY MEMBERS OF CONGRESS.

(a) Restrictions.—

(1) In general.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following:

"§ 2646. Restrictions on provision of air transportation to Members of Congress

"(a) Restrictions.—A Member of Congress may not receive transportation in an aircraft of the Military Air Command unless—

"(1) the transportation is provided on a space-available basis as part of the scheduled operations of the military aircraft unrelated to the provision of transportation to Members of Congress;

"(2) the use of the military aircraft is necessary because the destination of the Member of Congress, or an airfield located within reasonable distance of the destination, is not accessible by regularly scheduled flights of commercial aircraft; or

"(3) the use of the military aircraft is the least expensive method for the Member of Congress to reach the destination by aircraft, as demonstrated by information released before the trip by the member or committee of Congress sponsoring the trip.

"(b) Destination.—In connection with transportation provided under subsection (a)(1), the destination of the military aircraft may not be selected to accommodate the travel plans of the Member of Congress requesting such transportation.

"(c) Aircraft Defined.—For purposes of this section, the term 'aircraft' includes both fixed-wing airplanes and helicopters.".

(2) Technical and conforming amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2646. Restrictions on provision of air transportation to Members of Congress.".

(b) Effect on Members Currently Receiving Transportation.—Section 2643 of title 10, United States Code, as added by subsection (a), shall not apply with respect to a Member of Congress who, as of the date of the enactment of this Act, is receiving air transportation or is scheduled to receive transportation in an aircraft of the Military Air Command until the Member completes the travel plans for which the transportation is being provided or scheduled.

SEC. 10. PROHIBITION ON USE OF MILITARY MEDICAL TREATMENT FACILITIES BY MEMBERS OF CONGRESS.

(a) Prohibition.—

(1) In general.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following:

"§ 1107. Prohibition on provision of medical and dental care to Members of Congress

"A Member of Congress may not receive medical or dental care in any facility of any uniformed service unless—

"(1) the Member of Congress is eligible or entitled to such care as a member or former member of a uniformed service or as a covered beneficiary; or

"(2) such care is provided on an emergency basis unrelated to the person's status as a Member of Congress.".

(2) Technical and conforming amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1107. Prohibition on provision of medical and dental care to Members of Congress.".

(b) Effect on Members Currently Receiving Care.—Section 1107 of title 10, United States Code, as added by subsection (a), shall not apply with respect to a Member of Congress who is receiving medical or dental care in a facility of the uniformed services on the date of the enactment of this Act until the Member is discharged from that facility.

SEC. 11. ELIMINATION OF CERTAIN RESERVED PARKING AREAS AT WASHINGTON NATIONAL AIRPORT AND WASHINGTON DULLES INTERNATIONAL AIRPORT.

(a) In General.—Effective 30 days after the date of the enactment of this section, the Airports Authority—

(1) shall not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) shall establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

(b) Definitions.—As used in this section, the terms "Airports Authority", "Washington National Airport", and "Washington Dulles International Airport" have the same meanings as in section 6004 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2453).●

● Mr. ALLARD. Mr. President, I am proud to be an original sponsor of the Citizen Congress Act with my distinguished colleague from Tennessee, Senator Bill Frist. As a Member of the other body, I was an original sponsor of this bill with Representative Mark Sanford, who reintroduced the CCA earlier this month.

This legislation is an important element of true political reform. A first step was the passage of the Congressional Accountability Act which applied labor laws to Congress. The next important step is the Citizen Congress Act. This act is to be a reminder to members of both legislative bodies that we are citizen legislators in the true sense of service as envisioned by our Founding Fathers.

The CCA is a comprehensive bill which eliminates many of the perks and privileges which Congress are afforded. It uses the congressional pension system to encourage limited service and calls for full disclosure of estimates of our retirement benefits. It also eliminates the automatic COLA for Member's salaries. If we want a salary increase, we will have to vote for an increase. The CCA disallows any personal use of frequent flier mileage accrued on official business. This bill would limit the use of frequent flier miles for only trips to and from the Senator's State. The CCA also bans all postal patron franked mailings. This means no more unsolicited mailings to constituents.

Also, Senators will no longer be able to travel on military aircraft, except where there is space available on already scheduled military flights or where there are no commercial flights to a specific destination. Members will no longer receive free medical attention at military hospitals unless they are veterans and can receive this medical benefit like any other veteran. Finally, the CAA eliminates special parking privileges for Members of Congress, Supreme Court Justices, and foreign diplomats at Washington National and Dulles airports.

I believe this will make us more responsive to our constituents because no longer will we have the special privileges which citizens are not given. Legislators should have to walk in the same shoes as everyone else, thus making them more sensitive to the concerns and trials of the constituents which we are serving.

Again, I thank Senator FRIST for all his hard work and effort in this endeavor.•

By Mr. REID:

S. 206. A bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes; to the Committee on the Judiciary.

THE RELIGIOUS FREEDOM RESTORATION ACT OF 1993 PRISONER PROHIBITION ACT OF 1997

Mr. REID. Mr. President, the reason I came to the floor today was not to talk about the balanced budget amendment, which I have been happy to do, but I came here because I am going to introduce legislation today that will exclude prison inmates from the protections of the Religious Freedom Restoration Act.

Why would I want to do something like that? Well, when this bill came to the Senate floor approximately 2 years ago, I offered an amendment at that time that said I want people's religious freedoms restored but I think we have to be careful about prisoners and they should not be part of this because they are going to take advantage of it. Well, they are taking advantage of it. One prisoner in New York has filed 3,000 lawsuits.

What are these lawsuits about?

In Nebraska there was a lawsuit filed because an inmate thinks he is a woman trapped in a man's body and strip searches by male prison officials are not allowed by his religion. Should we take up the courts' time with this type of litigation?

We have another case where a satanic group—they are in prison, of course—filed suit because they were not given unbaptized baby fat for their candles.

About 40 percent of the courts' time, the Federal courts' time in Nevada is taken up with this kind of stuff.

In Nevada we have an inmate suing a chaplain for refusing to conduct a marriage ceremony for this man and his male friend. The plaintiff and his friend are both members of the Universal Life Church which he claims allows two people of the same sex to marry.

In Nevada inmates allege their inability to practice a religion is being denied in violation of the first amendment because they want special services, including incense and special jewelry.

Mr. President, this is serious business that the prisoners have made a mockery of. My amendment should have passed when I offered it. We should make sure that this nonsense is stopped. There are protections in my legislation. If someone is being denied their religious practices, certainly there are protections there. But protections of the Religious Freedom Restoration Act would be denied these prisoners, and I believe rightfully so.

As I indicated, I addressed this problem several years go. The problem is inmates abuse the special protections provided under the Religious Freedom Restoration Act. During consideration of this bill in 1993 or 1994, I offered an amendment to exempt prisoners from the coverage of this act as I have indicated. I did so then because I feared these special protections would be abused by inmates. They have been abused by inmates. Whatever I said on the Senate floor was not enough, because they have even outdone my expectations.

I say, regrettably, I wish I would have been wrong. I wish that I had been wrong and that these inmates would not have abused the legislation that did pass. But it is apparent now that inmates are in fact abusing the special rights under this act.

I have worked with the chairman of the Judiciary Committee, my friend from the State of Utah, to address the larger problem of frivolous prisoner lawsuits, and we were able to accomplish something last year, maybe not enough. We may even need to revisit that to find out if we were able to plug all the holes with the Prisoner Litigation Reform Act.

I believe we need to do more to curb the ongoing abuses occurring under the Religious Freedom Restoration Act despite the Prisoner Litigation Reform Act.

Today I am introducing this bill which will prohibit the application of the Religious Freedom Restoration Act to inmates in a Federal, State, or local penal facility. I intend to meet with the Attorney General of the United States so that she appreciates the growing litigation that they face in the area. Criminals should not enjoy the same rights and privileges as law-abiding citizens. The sad commentary in our present system, Mr. President, is they enjoy more rights than many people who are outside prisons.

We need not go through the litany of cable television, gyms better than people can buy membership in on the outside, libraries that are unsurpassed, exercise areas, food, three square meals a day, nice clean clothes. They have a pretty good deal. One of the deals I do not think they should have is the ability to file these lawsuits with an unending array of ideas at the expense of the taxpayers.

The Religious Freedom Restoration Act sought to provide the legal protections supporting the right to freely exercise one's religious beliefs. Providing inmates with these same rights, I said, was a disaster and was a recipe for disaster; and it has been proven to be an understatement.

Our courts now have to spend their time wading through lawsuits filed by inmates that are ridiculous, for lack of a better description. I have described some of these lawsuits this morning. I have described them in the past. I ask my colleagues to join with me to take this pressure off our court system and off the taxpayers of this country. This is wrong, what they are doing, and we have the obligation to stop it.

By Mr. McCAIN (for himself, Mr. THOMPSON, Mr. KERRY, Mr. FEINGOLD, Mr. KENNEDY, Mr. COATS, Mr. GLENN, Mr. LIEBERMAN, and Mr. BROWNBACK):

S. 207. A bill to review, reform, and terminate unnecessary and inequitable Federal subsidies; to the Committee on Governmental Affairs.

THE CORPORATE SUBSIDY REFORM COMMISSION ACT

• Mr. McCAIN. Mr. President, today I am introducing legislation to establish an independent, nonpartisan Commission to eliminate corporate pork from the Federal budget.

The nine-member Commission, called the Corporate Subsidy Reform Commission, would be charged with reviewing all Federal subsidies to private industry, including special interest tax provisions. The Commission would identify those programs which are unnecessary, unfair, or not in the clear and compelling public interest, and recommend them to Congress for reform or termination. Congress would then be required to consider and vote on a comprehensive corporate subsidy reform package under expedited floor procedures.

Mr. President, our Nation cannot continue to bear the financial burden of servicing an ever-growing $5.3 trillion national debt—which equates to more than $19,000 in debt for every man, woman, and child in the country. We are asking millions of Americans—from families who receive food stamps to our men and women in uniform—to sacrifice in order to rein in our annual budget deficits and begin to pay down that debt.

As a matter of simple fairness, we have an obligation to ensure that corporate interests share the burden of deficit reduction. Last year, the CATO Institute and the Progressive Policy Institute identified 125 Federal programs that subsidize industry to the tune of $85 billion every year, and the Progressive Policy Institute found an additional $30 billion in tax loopholes for powerful industries.

The American public cannot understand why we continue to pay these huge subsidies to corporate interests, at a time when we are asking average private citizens to tighten their belts. Corporate pork cannot be justified in an environment where our highest fiscal priority is balancing the Federal budget.

Let me say very frankly that I do not generally like the idea of commissions. It is a sad commentary on the state of politics today that the Congress cannot even cut those programs that are obviously wasteful, unnecessary, or unfair. Unfortunately, however, Members of Congress have demonstrated time and again their unwillingness to cut programs that serve their own interests.

For many years, I have tried to cut wasteful and unnecessary spending from the annual appropriations bills—with only limited success, I must admit. A little over a year ago, I offered an amendment to eliminate 12 particularly egregious corporate pork barrel programs, and I garnered only 25 votes in the Senate.

Clearly, Members will not gore their own ox, unless others are forced to do the same. The recently ordered military base closures were finally accomplished only through the workings of an independent commission established by Congress. It appears we have reached a point that, unless congress is forced to act to eliminate programs, it will not. Perhaps independent commissions are the only fair way to ensure that neither side is given an advantage to protect their special interest corporate pork.

The independent commission and expedited congressional review process established by this legislation would depoliticize the process and guarantee that the pain is shared. In reality, the corporate pork commission is probably the only means of achieving the meaningful reform that the public and our dire fiscal circumstances demand.

Mr. President, corporate pork wastes resources, increases the deficit, and distorts markets. Corporate pork has no place either in a free-market economy or in a budget where we are asking millions of Americans to sacrifice for the good of future generations.

Finally, Mr. President, I want to take a moment to thank my cosponsors on both sides of the aisle—Senators THOMPSON, KERRY, FEINGOLD, KENNEDY, COATS, GLENN, LIEBERMAN, and BROWNBACK—and Congressman KASICH, who will introduce similar legislation in the House. I also want to thank the several private organizations who have lent their good names in support of this legislation—the Progressive Policy Institute, Citizens Against Government Waste, and Friends of the Earth—and I ask unanimous consent that statements of support from these organizations be included in the RECORD. With their help, I intend to pursue this effort in the 105th Congress to enactment.●

By Mr. BOND:

S. 208. A bill to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, and for other purposes; to the Committee on Small Business.

THE HUBZONE ACT OF 1997

Mr. BOND. Mr. President, today I introduce the HUBZone Act of 1997. The purpose underlying this bill is to create new opportunities for growth in distressed urban and rural communities, which have suffered tremendous economic decline. This legislation would provide for an immediate infusion of cash through the creation of new jobs in our Nation's economically distressed areas. During the 8 years I served as Governor of Missouri, I met frequently with community leaders who were seeking help in attracting business and jobs to their cities, their central downtown areas, their towns, and the rural areas of the State. We tried various programs, including the enterprise-zone concept, and we met with limited success. I am proud of the successes that we achieved there. But now, as U.S. Senator and as chairman of the Committee on Small Business, I continue to receive similar pleas for help. I hear the concerns expressed to me by people from all over my State. Since we have had the opportunity to expand hearings in other States, we have heard from other States as well.

So far, nothing that we put in place is the best formula for bringing economic hope and independence to these communities. The message, however, has changed somewhat. Although help from the Federal Government has been forthcoming, there is still high unemployment and poverty. For example, when I was talking about a summer jobs program with one very, very good community leader, he told me that the summer jobs program was nice, but, he said, "Stop sending me job training money. What we need right here in this part of the city is jobs, and more jobs. We have all the job training money we need. We need jobs to put these young people to work." And that is a problem that I hear time and time again.

Last March, I chaired a hearing before the Committee on Small Business on revitalizing inner cities and rural America and S. 1574, the HUBZone Act of 1996, which is nearly identical to the bill I am introducing today. Testifying before the committee were the cofounder and employees of e.villages, which has established a data management enterprise at Edgewood Terrace, an assisted multifamily housing project right here in Washington, DC. Residents of the housing project have been trained and they have established a new enterprise, Edgewood Technology Services, or ETS, which to me is a prototype HUBZone business.

The HUBZone Act of 1997 can have an important impact on our Nation's economically distressed inner cities as housing and income subsidies are reduced and put under constraints and as we work toward the national goal of moving people off the welfare rolls and into meaningful jobs.

Testifying in support of the HUBZone Act of 1996 was C. Austin Fitts, cofounder of e.villages, who testified about the "significant relationship between" S. 1574 and Federal housing policy. Ms. Fitts emphasized the importance of this legislation to create new inner city jobs for unemployed or underemployed residents.

The income generated by these new HUBZone jobs can offset the reduction of housing and income supplements. Furthermore, as an employee of ETS testified in support of the HUBZone bill, "We at e.villages are encouraged that the Congress is trying to find some ways to get work for us to do, and to enhance our standard of living."

I do not claim that the HUBZone Act of 1997 is going to solve all the problems, but I think it is a significant step in the right direction. These people who benefited from an enterprise started up in an assisted housing development without the benefit of the HUBZone provisions know that their example of success can be expanded. It can work and it can work on a broader basis. And it can bring more and more people into productive employment.

What distinguishes the HUBZone Act of 1997 from some other excellent proposals and well-intentioned efforts is that this bill would have an immediate impact on economically distressed communities. In recent years, numerous legislative proposals have stressed the importance of changing the U.S. Tax Code and providing other incentives to attract businesses to the needy communities. Many of these proposals have merit, and I have supported them.

As I said, I have supported enterprise zones. I have recommended it to the Missouri General Assembly. As Governor, I signed it into law. I saw it work. I saw it could bring benefits to areas of high unemployment. I urge my colleagues on other committees to take a look at those measures which can have an impact. No one of them is going to be the total solution. Let us move forward on all of them.

But I ask my colleagues to focus on the critical differences between those proposals and the provisions of the HUBZone Act of 1997. Under the HUBZone bill, entire communities would benefit because we would create absolute incentives for small businesses to operate and provide employment directly within America's most disadvantaged inner city neighborhoods and in the areas of high unemployment and poverty in rural areas. It is a matter of timing. The HUBZone Act of 1997 helps communities and their residents now. This bill is a matter of direct focus. This is not just incentives; this is bringing business to the areas of high unemployment and high poverty.

Specifically, the HUBZone Act of 1997 creates a new class of small businesses eligible for Federal Government contract set-asides and preferences.

To be eligible, a small business must be located in what we call a Historically Underutilized Business Zone—that is where HUBZone comes from, Historically Underutilized Business Zone—and not less than 35 percent of the work force must reside in a HUBZone. That is a key difference between some of the programs that are initially targeting to bring jobs to areas of need, bring jobs where social problems had flared up, such as the Watts riots many years ago.

It is important to contrast the HUBZone proposal with the Executive order promulgated by President Clinton to establish an empowerment contracting commission. I commend the President for focusing on the value of targeting Federal Government assistance to low-income communities, but I think the program falls short of meeting the goal of helping low-income communities and their residents. For example, under the President's plan, any business, large or small, located in a low-income community, would qualify for a valuable contracting preference, even if it does not employ one resident of the community. This is clearly a major deficiency or loophole when trying to assist the unemployed or underemployed.

A further weakness in the President's proposal is the failure to define more clearly criteria which makes a community eligible for this program. Unfortunately, we see the possibility, and it has been set forth in specific detail by the inspector general of HUD, that a lack of objective criteria may invite other influences in the political selection of an area to receive these preferences.

We must avoid creating another Federal Government program that ends up helping well-off individuals and companies while failing to have a significant impact on the poor, the unemployed and the underemployed.

I think the HUBZone Act of 1997 can and will make a difference. It makes a contracting preference available only if the small business is located in an economically distressed area and employs 35 percent of its work force from a HUBZone. This is a significant difference and one that is clearly designed to help attack deeply seated poverty in too many areas of the United States.

To qualify for the program, the small business must certify to the Administrator of the U.S. Small Business Administration that it is located in a HUBZone and will comply with certain rules governing subcontracting. In addition, a qualified small business must agree to perform at least 50 percent of the contract in a HUBZone, unless the terms of the contract require they be located outside the HUBZone. That would happen, for example, with a service contract requiring the small business' employees and workers be present in a Government-owned or leased building. In the latter case, no less than 50 percent of the work must be performed by employees who reside in a HUBZone.

Mr. President, the HUBZone Act of 1997 is designed to cut through Government redtape, while stressing a streamlined effort to place Government contracts and new jobs in economically distressed communities. Americans don't want another new law that creates a cottage industry of consultants necessary to fill out Government paperwork for a new Federal program.

Many of my colleagues are familiar with SBA's 8(a) Minority Small Business Program and the sometimes cumbersome rules for small businesses seeking to qualify for the program. Typically, an applicant to the 8(a) program has to hire a lawyer to help prepare the application and shepherd it through SBA. The procedure can take months. In fact, Congress was forced to legislate the maximum time the agency could review an application in our last-ditch effort to speed up the process.

The HUBZone Act of 1997 is specifically designed to avoid bureaucratic roadblocks that have delayed and discouraged small businesses from taking advantage of Government programs. Simply put, if you are a small business located in a HUBZone and you employ people from a HUBZone, at least 35 percent, then you are eligible. Once eligible, the small business notifies the SBA of its participation in the HUBZone program and is qualified to receive Federal Government contract benefits.

My goal is to have new Government contracts being awarded to small businesses in economically distressed communities. Therefore, I have included some fairly ambitious goals for each Government agency to meet.

In 1998, 1 percent of the total value of all prime Government contracts would be awarded to small businesses in HUBZones. The goal would increase to 2 percent in 1999, 3 percent in 2000 and 4 percent in the year 2001 and each succeeding year.

HUBZone contracting is a bold undertaking. Passage of the HUBZone Act of 1997 will create more hope for inner cities with high unemployment, distressed rural communities where poverty and joblessness reign and have too long been ignored. Most importantly, passage of the HUBZone Act will create hope for hundreds of thousands of underemployed or unemployed who long ago thought our country had given up on them. The hope is tangible; the hope is for jobs and income.

I think this bill can deliver. I soon hope to chair additional hearings before the Committee on Small Business on the HUBZone Act of 1997 and the role our Nation's small business community can play in revitalizing our distressed cities and counties. I firmly believe the HUBZone proposal has great merit. I urge my colleagues to study this proposal and give me their comments. I ask for cosponsors and I ask for good ideas. There are many, many ideas which have been incorporated in this bill that were presented to me by colleagues, both on the Small Business Committee and elsewhere.

I ask all of my colleagues, particularly if they are concerned about unemployment and underemployment in areas of their States—and I know of very few States that don't have that problem—I ask them to sit down with us and talk about how we can make this a better program. I would like to see it passed. I think it could provide a very significant boost and help get our country on the right track.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "HUBZone Act of 1997".

SEC. 2. HISTORICALLY UNDERUTILIZED BUSINESS ZONES.

(a) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(o) DEFINITIONS RELATING TO HISTORICALLY UNDERUTILIZED BUSINESS ZONES.—In this section:

"(1) HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term 'historically underutilized business zone' means any area located within one or more qualified census tracts or qualified nonmetropolitan counties.

"(2) SMALL BUSINESS CONCERN LOCATED IN A HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term 'small business concern located in a historically underutilized business zone' means a small business concern—

"(A) that is owned and controlled by one or more persons, each of whom is a United States citizen;

"(B) the principal office of which is located in a historically underutilized business zone; and

"(C) not less than 35 percent of the employees of which reside in a historically underutilized business zone.

"(3) QUALIFIED AREAS.—

"(A) QUALIFIED CENSUS TRACT.—The term 'qualified census tract' has the same meaning as in section 42(d)(5)(C)(i)(I) of the Internal Revenue Code of 1986.

"(B) QUALIFIED NONMETROPOLITAN COUNTY.—The term 'qualified nonmetropolitan county' means, based on the most recent data available from the Bureau of the Census of the Department of Commerce, any county—

"(i) that is not located in a metropolitan statistical area (as that term is defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986); and

"(ii) in which the median household income is less than 80 percent of the nonmetropolitan State median household income.

"(4) QUALIFIED SMALL BUSINESS CONCERN LOCATED IN A HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—

"(A) IN GENERAL.—A small business concern located in a historically underutilized business zone is 'qualified', if—

"(i) the small business concern has certified in writing to the Administrator that—

"(I) it is a small business concern located in a historically underutilized business zone;

"(II) it will comply with the subcontracting limitations specified in Federal Acquisition Regulation 52.219–14;

"(III) in the case of a contract for services (except construction), not less than 50 percent of the cost of contract performance incurred for personnel will be expended for employees of that small business concern or for employees of other small business concerns located in historically underutilized business zones; and

"(IV) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the small business concern (or a subcontractor of the small business concern that is also a small business concern located in a historically underutilized business zone) will perform work for not less than 50 percent of the cost of manufacturing the supplies (not including the cost of materials) in a historically underutilized business zone; and

"(ii) no certification made by the small business concern under clause (i) has been, in accordance with the procedures established under section 30(c)(2)—

"(I) successfully challenged by an interested party; or

"(II) otherwise determined by the Administrator to be materially false.

"(B) CHANGE IN PERCENTAGES.—The Administrator may utilize a percentage other than the percentage specified in under subclause (III) or (IV) of subparagraph (A)(i), if the Administrator determines that such action is necessary to reflect conventional industry practices among small business concerns that are below the numerical size standard for businesses in that industry category.

"(C) CONSTRUCTION AND OTHER CONTRACTS.—The Administrator shall promulgate final regulations imposing requirements that are similar to those specified in subclauses (III) and (IV) of subparagraph (A)(i) on contracts for general and specialty construction, and on contracts for any other industry category that would not otherwise be subject to those requirements. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B).

"(D) LIST OF QUALIFIED SMALL BUSINESS CONCERNS.—The Administrator shall establish and maintain a list of qualified small business concerns located in historically underutilized business zones, which list shall—

"(i) include the name, address, and type of business with respect to each such small business concern;

"(ii) be updated by the Administrator not less than annually; and

"(iii) be provided upon request to any Federal agency or other entity.".

(b) FEDERAL CONTRACTING PREFERENCES.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following:

"SEC. 30. HISTORICALLY UNDERUTILIZED BUSINESS ZONES PROGRAM.

"(a) IN GENERAL.—There is established within the Administration a program to be carried out by the Administrator to provide for Federal contracting assistance to qualified small business concerns located in historically underutilized business zones in accordance with this section.

"(b) CONTRACTING PREFERENCES.—

"(1) CONTRACT SET-ASIDE.—

"(A) REQUIREMENT.—The head of an executive agency shall afford the opportunity to participate in a competition for award of a contract of the executive agency, exclusively to qualified small business concerns located in historically underutilized business zones, if the Administrator determines that—

"(i) it is reasonable to expect that not less than 2 qualified small business concerns located in historically underutilized business zones will submit offers for the contract; and

"(ii) the award can be made on the restricted basis at a fair market price.

"(B) COVERED CONTRACTS.—Subparagraph (A) applies to a contract that is estimated to exceed the simplified acquisition threshold.

"(2) SOLE-SOURCE CONTRACTS.—

"(A) REQUIREMENT.—The head of an executive agency, in the exercise of authority provided in any other law to award a contract of the executive agency on a sole-source basis, shall award the contract on that basis to a qualified small business concern located in a historically underutilized business zone, if any, that—

"(i) submits a reasonable and responsive offer for the contract; and

"(ii) is determined by the Administrator to be a responsible contractor.

"(B) COVERED CONTRACTS.—Subparagraph (A) applies to a contract that is estimated to exceed the simplified acquisition threshold and not to exceed $5,000,000.

"(3) PRICE EVALUATION PREFERENCE IN FULL AND OPEN COMPETITIONS.—In any case in which a contract is to be awarded by the head of an executive agency on the basis of full and open competition, the price offered by a qualified small business concern located in a historically underutilized business zone shall be deemed as being lower than the price offered by another offeror (other than another qualified small business concern located in a historically underutilized business zone) if the price offered by the qualified small business concern located in a historically underutilized business zone is not more than 10 percent higher than the price offered by the other offeror.

"(4) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—

"(A) SUBORDINATE RELATIONSHIP.—A procurement may not be made from a source on the basis of a preference provided in paragraph (1), (2), or (3) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act.

"(B) SUPERIOR RELATIONSHIP.—A procurement may not be made from a source on the basis of a preference provided in section 8(a), if the procurement would otherwise be made from a different source under paragraph (1), (2), or (3) of this subsection.

"(5) DEFINITIONS.—In this subsection, the terms 'executive agency', 'full and open competition', and 'simplified acquisition threshold' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act.

"(c) ENFORCEMENT; PENALTIES.—

"(1) IN GENERAL.—The Administrator shall enforce the requirements of this section.

"(2) VERIFICATION OF ELIGIBILITY.—In carrying out this subsection, the Administrator shall establish procedures relating to—

"(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made by a small business concern under section 3(o)(4)(A)); and

"(B) verification by the Administrator of the accuracy of any certification made by a small business concern under section 3(o)(4)(A).

"(3) RANDOM INSPECTIONS.—The procedures established under paragraph (2) may provide for random inspections by the Administrator of any small business concern making a certification under section 3(o)(4).

"(4) PROVISION OF DATA.—Upon the request of the Administrator, the Secretary of Labor and the Secretary of Housing and Urban Development shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

"(5) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a 'small business concern located in a historically underutilized business zone' for purposes of this section, shall be subject to the provisions of—

"(A) section 1001 of title 18, United States Code; and

"(B) sections 3729 through 3733 of title 31, United States Code.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT.

(a) PERFORMANCE OF CONTRACTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ", small business concerns owned and controlled by socially and economically disadvantaged individuals" and inserting ", qualified small business concerns located in historically underutilized business zones, small business concerns owned and controlled by socially and economically disadvantaged individuals"; and

(B) in the second sentence, by inserting "qualified small business concerns located in historically underutilized business zones," after "small business concerns,";

(2) in paragraph (3)—

(A) by inserting "qualified small business concerns located in historically underutilized business zones," after "small business concerns," each place that term appears; and

(B) by adding at the end the following:

"(F) In this contract, the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.";

(3) in paragraph (4)—

(A) in subparagraph (D), by inserting "qualified small business concerns located in historically underutilized business zones," after "small business concerns,"; and

(B) in subparagraph (E), by striking "small business concerns and" and inserting "small business concerns, qualified small business concerns located in historically underutilized business zones, and";

(4) in paragraph (6), by inserting "qualified small business concerns located in historically underutilized business zones," after "small business concerns," each place that term appears; and

(5) in paragraph (10), by inserting "qualified small business concerns located in historically underutilized business zones," after "small business concerns,".

(b) AWARDS OF CONTRACTS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (g)(1)—

(A) by inserting "qualified small business concerns located in historically underutilized business zones," after "small business concerns," each place that term appears; and

(B) by inserting after the second sentence the following: "The Governmentwide goal for participation by qualified small business concerns located in historically underutilized business zones shall be established at not less than 1 percent of the total value of all prime contract awards for fiscal year 1998, not less than 2 percent of the total value of all prime contract awards for fiscal year 1999, not less than 3 percent of the total value of all prime contract awards for fiscal year 2000, and not less than 4 percent of the total value of all prime contract awards for fiscal year 2001 and each fiscal year thereafter.";

(2) in subsection (g)(2)—

(A) in the first sentence, by striking "., by small business concerns owned and controlled by socially and economically disadvantaged individuals" and inserting ", by qualified small business concerns located in historically underutilized business zones, by small business concerns owned and controlled by socially and economically disadvantaged individuals";

(B) in the second sentence, by inserting "qualified small business concerns located in historically underutilized business zones," after "small business concerns,"; and

(C) in the fourth sentence, by striking "by small business concerns owned and controlled by socially and economically disadvantaged individuals and participation by small business concerns owned and controlled by women" and inserting "by qualified small business concerns located in historically underutilized business zones, by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women"; and

(3) in subsection (h), by inserting "qualified small business concerns located in historically underutilized business zones," after "small business concerns," each place that term appears.

(c) OFFENSES AND PENALTIES.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended—

(1) in subsection (d)(1)—

(A) by inserting ", a 'qualified small business concern located in a historically underutilized business zone'," after "'small business concern',"; and

(B) in subparagraph (A), by striking "section 9 or 15" and inserting "section 9, 15, or 30"; and

(2) in subsection (e), by inserting ", a 'small business concern located in a historically underutilized business zone'," after "'small business concern',".

SEC. 4. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting before the semicolon the following: ", and qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)"; and

(2) in subsection (f), by inserting "or as a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)" after "subsection (a))".

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(13) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)) is amended—

(1) by striking "concerns and small" and inserting "concerns, small"; and

(2) by inserting ", and qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)" after "disadvantaged individuals".

(c) SMALL BUSINESS ECONOMIC POLICY ACT OF 1980.—Section 303(e) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(e)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act).".

(d) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 411(c)(3)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by inserting before the semicolon the following: ", or to a qualified small business concern located in a historically underutilized business zone, as that term is defined in section 3(o) of the Small Business Act".

(e) TITLE 31, UNITED STATES CODE.—

(1) CONTRACTS FOR COLLECTION SERVICES.—Section 3718(b) of title 31, United States Code, is amended—

(A) in paragraph (1)(B), by inserting "and law firms that are qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)" after "disadvantaged individuals"; and

(B) in paragraph (3)—

(i) in the first sentence, by inserting before the period "and law firms that are qualified small business concerns located in historically underutilized business zones";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(C) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.".

(2) PAYMENTS TO LOCAL GOVERNMENTS.—Section 6701(f) of title 31, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(C) qualified small business concerns located in historically underutilized business zones."; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(C) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act (15 U.S.C. 632(o)).".

(3) REGULATIONS.—Section 7505(c) of title 31, United States Code, is amended by striking "small business concerns and" and inserting "small business concerns, qualified small business concerns located in historically underutilized business zones, and".

(f) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—

(1) ENUMERATION OF INCLUDED FUNCTIONS.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(A) in paragraph (11), by inserting "qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)," after "small businesses,"; and

(B) in paragraph (12), by inserting "qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act (15 U.S.C. 632(o))," after "small businesses,".

(2) PROCUREMENT DATA.—Section 19A of the Office of Federal Procurement Policy Act (41 U.S.C. 417a) is amended—

(A) in subsection (a)—

(i) by inserting "the number of qualified small business concerns located in historically underutilized business zones," after "Procurement Policy"; and

(ii) by inserting a comma after "women"; and

(B) in subsection (b), by adding at the end the following: "In this section, the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act (15 U.S.C. 632(o)).".

(g) ENERGY POLICY ACT OF 1992.—Section 3021 of the Energy Policy Act of 1992 (42 U.S.C. 13556) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "or";

(B) in paragraph (3), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(4) qualified small business concerns located in historically underutilized business zones."; and

(2) in subsection (b), by adding at the end the following:

"(3) The term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act (15 U.S.C. 632(o)).".

(h) TITLE 49, UNITED STATES CODE.—

(1) PROJECT GRANT APPLICATION APPROVAL CONDITIONED ON ASSURANCES ABOUT AIRPORT OPERATION.—Section 47107(e) of title 49, United States Code, is amended—

(A) in paragraph (1), by inserting before the period "or qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)";

(B) in paragraph (4)(B), by inserting before the period "or as a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)"; and

(C) in paragraph (6), by inserting "or a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)" after "disadvantaged individual".

(2) MINORITY AND DISADVANTAGED BUSINESS PARTICIPATION.—Section 47113 of title 49, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking the period at the end and inserting a semicolon;

(ii) in paragraph (2), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(3) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act (15 U.S.C. 632(o)).''; and

(B) in subsection (b), by inserting before the period "or qualified small business concerns located in historically underutilized business zones".

HISTORICALLY UNDERUTILIZED BUSINESS ZONE ACT OF 1997— SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Historically Underutilized Business Zone Act of 1997, hereinafter referred to as the "HUBZone Act of 1997."

SECTION 2. HISTORICALLY UNDERUTILIZED BUSINESS ZONES

Definitions

Historically Underutilized Business Zone (HUBZone) is any area located within a qualified metropolitan statistical area or qualified non-metropolitan area.

Small business concern located in a Historically Underutilized Business Zone is a small business whose principal office is located in a HUBZone and whose workforce includes at least 35% of its employees from one or more HUBZones.

Qualified Metropolitan Statistical Area is an area where not less than 50% of the households have an income of less than 60% of the metropolitan statistical area median gross income as determined by the Department of Housing and Urban Development.

Qualified Non-metropolitan Area is an area where the household income is less than 80% of the non-metropolitan area median gross income as determined by the Bureau of the Census of the Department of Commerce.

Qualified Small Business Concern must certify in writing to the Small Business Administration (SBA) that it (a) is located in a HUBZone, (b) will comply with subcontracting rules in the Federal Acquisition Regulations (FAR), (c) will insure that not less than 50% of the contract cost will be performed by the Qualified Small Business.

Contracting Preferences

Contract Set-Aside to a qualified small business located in a HUBZone can be made by a procuring agency if it determines that 2 or more qualified small businesses will submit offers for the contract and the award can be made at a fair market price.

Sole-source Contracts can be awarded if a qualified small business submits a reasonable and responsive offer and is determined by SBA to be a responsible contractor. Sole-source contracts cannot exceed $5 million.

10% Price Evaluation Preference in full and open competition can be made on behalf of the Qualified Small Business if its offer is not more than 10% higher than the other offeror, so long as it is not a small business concern.

Enforcement; Penalties

The SBA Administrator or his designee shall establish a system to verify certifications made by HUBZone small businesses to include random inspections and procedures relating to disposition of any challenges to the accuracy of any certification. If SBA determines that a small business concern may have misrepresented its status as a HUBZone small business, it shall be subject to prosecution under title 18, section 1001, U.S.C., False Certifications, and title 31, sections 3729–3733, U.S.C., False Claims Act.

SECTION 3. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT

HUBZone Preference

The Small Business Act is amended to give qualified small business concerns located in HUBZones a higher preference than small business concerns owned and controlled by socially and economically disadvantaged individuals (8(a) contractors).

HUBZone Goals

This section sets forth government-wide goals for awarding government contracts to qualified small businesses. In Fiscal Year 1998, the goal will be not less than 1% of the total value of all prime contracts awarded to qualified small businesses located in HUBZones. In FY 1999, this goal will increase to 2%, in FY 2000, it will be 3%; and it will reach 4% in FY 2001 and each year thereafter.

Offenses and Penalties

This section provides that anyone who misrepresents any entity as being a qualified small business in order to obtain a government contract or subcontract can be fined up to $500,000 and imprisoned for not more than 10 years and be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812).

SEC. 4. OTHER TECHNICAL AND CONFORMING AMENDMENTS

This section makes technical amendments to other federal government agency programs that have traditionally provided contract set asides and preferences to disadvantaged small businesses by expanding each program to include small businesses located in an Historically Underutilized Business Zone.

By Mr. BREAUX:

S. 209. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary.

ILLEGAL DRUG TRAFFICKING LEGISLATION

• Mr. BREAUX. Mr. President, last year I was shocked to learn of the huge difference that exists between the Federal penalties for trafficking powder cocaine and for trafficking the exact same amount of crack cocaine.

Right now, selling five grams of crack cocaine results in the same 5-year mandatory minimum prison term as selling 500 grams of powder cocaine. Selling 50 grams of crack cocaine gets you a 10-year minimum sentence, while you'd have to sell 5,000 grams of powder cocaine to get the same 10 years in prison.

While these penalties are vastly different—100 times greater if you sell crack cocaine—the damage caused by these criminal acts are the same. Lives are lost, families are destroyed, careers are ruined, and our Nation itself is seriously threatened.

Tough penalties are necessary to send a clear signal that the United States will not tolerate selling illegal drugs. The answer to the problem presented by this wide difference in penalties is not to lower penalties for selling crack cocaine but to increase the penalties for selling powder cocaine.

Therefore, my legislation is very simple and very clear. Trafficking—that is the manufacture, distribution, or sale—of 50 grams of powder cocaine will result in a 10-year minimum sentence—the same as dealing in crack cocaine.

Manufacture, distribution or sale of 5 grams of powder cocaine will result in a 5-year minimum sentence—the same as dealing in crack cocaine.

I look forward to working with my colleagues to pass a bill that deters the use of all cocaine—powder and crack.•

By Mr. MURKOWSKI (for himself and Mr. AKAKA):

S. 210. A bill to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes; to the Committee on Energy and Natural Resources.

AMENDMENT LEGISLATION

Mr. MURKOWSKI. Mr. President, I send to the desk for appropriate referral legislation dealing with the several issues of the territories of the United States and the freely associated States. This is legislation that is similar to measures reported by the Committee on Energy and Natural Resources at the end of the last Congress and could not be considered prior to adjournment, although we had managed to work out the text with both the House and the administration. I want to acknowledge the contribution of the staff of the Energy and Natural Resources Committee, as well as the Resource Committee in the House as well.

Section 1 of the legislation proposed will extend the agriculture and food programs that the United States provides for the populations on the atolls in the Marshall Islands affected by the nuclear testing program for an additional 5 years.

The support program was initiated under the trusteeship and continued under the Compact of Free Association for a limited time period. Unfortunately, the atolls are not yet capable of fully supporting the populations, and an additional extension time is necessary.

The amendment will also alter the program to reflect changes in population since the effective date of the compact. I visited many of these areas last year and certainly concur with the recommendations in section 1.

Section 2 of the legislation would repeal a provision of law dealing with the American Memorial Park in Saipan that would permit the government of the Commonwealth to take over the park. While I think some transfer could be considered of the marina area if the Commonwealth were interested, I think that the actual war memorial and interpretive areas should remain under the jurisdiction of the National Park Service during the remainder of the lease.

Section 3 of the legislation makes a series of technical amendments to permit each of the three educational institutions in the freely associated States to operate independently as land grant institutions rather than having to operate as a College of Micronesia.

I visited that college and was very impressed with the dedication and the commitment of those who were responsible for education as well as the people of the area. They are very proud of that institution. I can tell you, Mr. President, there is a tremendous sacrifice being made to foster higher education in the College of Micronesia.

These amendments, as we propose, reflect the new status of the representative Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands and were requested by the President of the College of Micronesia-FSM when Senator AKAKA and I visited the campus last year.

Section 4, hopefully, will resolve a different issue and one that is difficult for Guam relating to the disposal of real property that the Department of Defense no longer needs for military purposes. These lands were acquired by the United States for defense purposes after World War II when Guam had been liberated from occupation by Japan and while Guam was a closed defense area.

We have the residents of Guam and their attitude where they have indicated that they are prepared to support the Federal Government of the United States as they are a territory, but did so with the expectation—in other words, the people of Guam expected that those lands, if no longer needed for defensive purposes, would be returned to either public or private ownership in Guam.

The Department of Defense presently owns about one-third of Guam, although we have been able to return several parcels over the past few years. As part of the discussion on the Commonwealth, the administration had agreed to similar general transfer language, but when we considered this legislation last year, the Fish and Wildlife Service testified in opposition. The Fish and Wildlife Service, in testifying in opposition, said that they had a desire to acquire some portions for a wildlife refuge.

I am going to talk a little bit about the U.S. Fish and Wildlife Services' interest in acquiring this refuge because I think there is a lack of continuity that deserves some examination.

I am not going to go into the curious presentation from the Service at our hearing or the question that they are unwilling to expend any of their own money on the eradication of the brown snake, which has virtually overrun the island, but only note they were able to block any agreement on land transfer previously.

What I am proposing this year is a general transfer authorization for all lands except those within the proposed overlay that would be a refuge overlay that are identified on a map that is subject to transfer only by statute. That, hopefully, will release the other lands to Guam.

No specific disposition is recommended for the other lands, and Congress will consider them on a parcel-by-parcel basis as they become surplus to defensive needs. This will allow both Guam and the Fish and Wildlife Service to make their case, assuming both want the lands, or anyone else.

I note that Congress, not the Executive, has the plenary authority under the Constitution to deal with territories and with the disposal of Federal properties. So it is appropriate that Congress—Congress—decide on the disposition of these lands when the time is right. And I think the time is right. The people of Guam have waited long enough.

I also note that this is the only method I can think of that will guarantee the Government of Guam an opportunity to participate in the process. I hope that the administration will support the public process.

One of the inconsistencies here in this land that is in dispute, approximately 2,000 acres that is held by the Department of Defense—clearly the defensive requirements are no longer pertinent that necessitate the Department of Defense to hold this land. So it is basically surplus land. The U.S. Fish and Wildlife Service, in its interest in acquiring the land, the rationale is to protect the various species on the island and maintain a natural habitat. Some of the species may be facing endangerment.

The inconsistency here is the U.S. Fish and Wildlife Service's inability to address what is eradicating many of the species that are in decline and may be in danger. That is the brown snake. The island is virtually overrun with the brown snake. The U.S. Fish and Wildlife Service refuses to initiate any action to eradicate the brown snake, which is really causing the decline in various other species that are unique to the island.

So I think it is fair to say that the U.S. Fish and Wildlife Service has been somewhat irresponsible in its obligation to address the perpetrator causing the decline of the various birdlife on Guam and other species because the ferociousness of the brown snake is such that it has really taken over the island. And they refuse to spend any of their own money.

I had an opportunity to visit with the Governor of Guam. We had an evening at his residence. He brought several of the brown snakes in cages and gave us a little rundown of what the brown snakes were doing in overrunning Guam and the inability of the U.S. Fish and Wildlife Service to meet its obligation to address any type of control, of predator-type control, to reduce and eliminate this.

So I think it is fair to say the U.S. Fish and Wildlife Service has had its opportunity. They cannot justify taking land and just holding it in a habitat without addressing their obligation to try to enhance the species native to Guam by eradicating the brown snake. So until they come up with some kind of realistic program, I do not have much sympathy for their claim for further land.

I think this land should go to the Commonwealth of Guam and be disposed of under the legislative jurisdiction by the elected people of Guam and get on with it. I intend to pursue that with a great deal of energy to ensure that we see that land transferred over to Guam for their disposition and designation as they see fit. I think they are the most appropriate ones to address some procedure relative to the concern of the brown snake and its continued expansion over the land mass of Guam.

Section 5 of the legislation—I might add further, the Fish and Wildlife Service testified last year that they had 18 listed species on Guam. I am told that three are extinct and five more no longer occur on Guam. At the rate that the Fish and Wildlife Service is dealing with the brown snake, this will be probably the only refuge dedicated to an extinct species.

I think that says something about the stewardship of the U.S. Fish and Wildlife Service with regard to the unique species that were native to Guam, and now the brown snake has taken over and that seems to be taking care of whatever is left. But the Fish and Wildlife Service continues to, I think, neglect its responsibility.

Moving on, section 5 of the legislation, Mr. President, makes a technical change in statutes dealing with drug enforcement to provide equal treatment for all the territories as we contemplated when the original act passed.

Section 6 of the legislation would make two changes to the Revised Organic Act of the Virgin Islands. The first would authorize the issuance of parity rather than priority bonds secured by the Rum fund—an authority generally available in the States; and the second would provide that the Governor would retain his authority when absent from the territory on official business, which is often the case.

Section 7 of the legislation provides for an economic study commission for the Virgin Islands. I think the idea of a study on what the future holds is important and timely. I want to emphasize that I want this commission to focus directly and quickly on realistic economic alternatives that are helpful to the Virgin Islands and the Congress and not produce a theoretical tome to gather dust on a shelf.

Section 8 clarifies the availability of assistance from the Public Health Service in the radiation related medical surveillance and treatment programs provided under section 177(b) of the Compact of Free Association in the Republic of the Marshall Islands to persons directly exposed as a result of the nuclear testing program in the Marshall Islands.

We observed those areas when we were over there last year, as well as meeting with the people. I think this is an appropriate action.

Section 9 would clarify that residents of the freely associated States who are lawfully admitted to the United States under the Compact of Free Association are eligible for assistance under certain programs. This assistance had been provided before the effective date of the Compact under the Trusteeship and subsequently until a particularly strained and convoluted interpretation by attorneys who demonstrated a questionable familiarity with English created a problem. As usual, the answer was that the interpretation didn't make a lot of sense and was contrary to past practice, but if Congress disagreed, it could clarify the law. Well I disagree and this language should clarify the law. One problem that was raised is that under current law, aliens are given a preference over United States citizens and that creates inequities in small areas like Guam and the Commonwealth of the Northern Mariana Islands. The answer, of course, is to treat residents of the freely associated States like United States citizens, not to fabricate a legal opinion to deny them benefits altogether. Section 9 would provide equal but not preferential treatment, and I think that is fully in line with our intent under the Compact in encouraging residents of the freely associated States to come to the United States for work and study.

Section 10 would provide the consent of the United States to two amendments to the Hawaiian Homes Commission Act as required by the Admissions Act for the State of Hawaii. This language was requested by the administration and is supported by the Hawaii delegation and I'm pleased to say by my colleagues, Senators INOUYE and AKAKA.

Section 11 would provide for an economic study commission for American Samoa similar to that provided for the Virgin Islands. Like the Virgin Islands Commission, the Secretary of the Interior will be a voting member ex officio in recognition of his responsibilities. Given the unique cultural situation in American Samoa and the importance of land tenure and Matai rights, three of the seven members of the commission will come from nominations by the Governor. Unlike the Virgin Islands, American Samoa still relies on annual appropriations for both operations and infrastructure, and the commission is directed to focus on the needs in those areas over the next decade and look to ways to minimize that dependence. As part of its report, the commission is directed to provide an historical overview of the relationship between American Samoa and the United States and include copies of relevant documents in an appendix to the report. I want to emphasize that this is an overview and I do not want the commission to depart from its focus on what economic opportunities exist to replicate scholarly studies. There are certain constraints on economic development in American Samoa as a result of its status outside the customs territory of the United States, for example, and that needs to be noted.

Mr. President, the Committee on Energy and Natural Resources plans to hold a hearing on this legislation on February 6. I hope to be able to report the measure and have it considered by the Senate prior to the February recess. I hope that the administration will support this measure, although I know they dislike commissions and studies. I am not a great fan of them either, but from time to time a fresh look at a problem can be useful. I do not want these commissions to go beyond their limited life and I want them to produce something useful. I hope the administration will agree with the unique circumstances surrounding these provisions and the need for them. and recognize the obligation that we have to these areas under the Organic Act of Guam and the revised Organic Act of the Virgin Islands and the Compact of Free Association Act that mandates an oversight and continued responsibility by the Federal Government.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 210

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARSHALL ISLANDS AGRICULTURAL AND FOOD PROGRAMS.

Section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2) is amended by striking "ten" and inserting "fifteen" and by adding at the end of subparagraph (B) the following:

"The President shall ensure that the amount of commodities provided under these programs reflects the changes in the population that have occurred since the effective date of the Compact.".

SEC. 2. AMERICAN MEMORIAL PARK.

Section 5 of Public Law 95–348 is amended by striking subsection (f).

SEC. 3. TERRITORIAL LAND GRANT COLLEGES

(a) LAND GRANT STATUS. Section 506(a) of the Education Amendments of 1972 (Public Law 92–318, as amended; 7 U.S.C. 301 note) is amended by striking "the College of Micronesia," and inserting "the College of the Marshall Islands, the College of Micronesia-FSM, the Palau Community College,".

(b) ENDOWMENT. The amount of the land grant trust fund attributable to the $3,000,000 appropriation for Micronesia authorized by the Education Amendments of 1972 (Public Law 92–318, as amended; 7 U.S.C. 301 note) shall, upon enactment of this Act, be divided equally among the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau for the benefit of the College of the Marshall Islands, the Collage of Micronesia-FSM, and the Palau Community College.

(c) TREATMENT. Section 1361(c) of the Education Amendments of 1980 (Public Law 96-374, as amended; 7 U.S.C. 301 note) is amended by striking "and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)" and inserting "the Republic of the Marshall Islands, and the Federated States of Micronesia, and the Republic of Palau".

SEC. 4. AMENDMENT TO THE GUAM ORGANIC ACT.

Section 28 of the Organic Act of Guam (48 U.S.C. 1421f) is amended by adding at the end the following new subsection:

"(d) TRANSFER OF EXCESS LAND. (1) At least 180 days before transferring to any Federal agency excess real property located in Guam other than real property identified on map ____ and dated ____ as land subject to transfer only by statute, the Administrator of General Services Administration shall notify the government of Guam that the property is available under this section.

"(2) The Administrator shall transfer to the government of Guam all right, title, and interest of the United States in and to excess real property located in Guam, by quit claim deed and without reimbursement, if the government of Guam, within 180 days after receiving notification under paragraph (1) regarding the property, notifies the Administrator that the government of Guam intends to acquire the property under this section.

"(3) For purposes of this subsection, the term 'excess real property' means excess property (as that term is defined in section 3 of the Federal Property and Administrative Services Act of 1949) that is real property.

"(4) With respect to any real property identified on the map referenced in paragraph (1) of this subsection, such property may not be transferred to another federal agency or out of federal ownership except pursuant to an Act of Congress specifically identifying such property.".

SEC. 5. CLARIFICATION OF ALLOTMENT FOR TERRITORIES.

Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(2)) is amended to read as follows:

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands;".

SEC. 6. AMENDMENTS TO THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS.

(a) Temporary Absence of Officials. Section 14 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1595) is amended by adding at the end the following new subsection:

"(g) An absence from the Virgin Islands of the Governor or the Lieutenant Governor, while on official business, shall not be a 'temporary absence' for purposes of this section.".

(b) Priority of Bonds. Section 3 of Public Law 94-392 (48 U.S.C. 1574c) is amended—

(1) by striking "priority for payment" and inserting "a parity lien with every other issue of bonds or other obligations issued for payment"; and

(2) by striking "in the order of the date of issue".

(c) Application. The amendments made by subsection (b) shall apply to obligations issued on or after the date of enactment of this section.

SEC. 7. COMMISSION ON THE ECONOMIC FUTURE OF THE VIRGIN ISLANDS.

(a) Establishment and Membership.

(1) There is hereby established a Commission on the Economic future of the Virgin Islands (the "Commission"). The Commission shall consist of six members appointed by the President, two of whom shall be selected from nominations made by the Governor of the Virgin Islands. The President shall designate one of the members of the Commission to be Chairman.

(2) In addition to the six members appointed under paragraph (1), the Secretary of the Interior shall be an ex-officio member of the Commission.

(3) Members of the Commission appointed by the President shall be persons who by virtue of their background and experience are particularly suited to contribute to achievement of the purposes of the Commission.

(4) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in the performance of their duties.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(b) Purpose and Report.

(1) The purpose of the Commission is to make recommendations to the President and Congress on the policies and actions necessary to provide for a secure and self-sustaining future for the local economy of the Virgin Islands through 2020 and on the role of the Federal Government. In developing recommendations, the Commission shall—

(A) solicit and analyze information on projected private sector development and shifting tourism trends based on alternative forecasts of economic, political and social conditions in the Caribbean;

(B) analyze capital infrastructure, education, social, health, and environmental needs in light of these alternative forecasts; and

(C) assemble relevant demographic, economic, and revenue and expenditure data from over the past twenty-five years.

(2) The recommendations of the Commission shall be transmitted in a report to the President, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives no later than June 30, 1999. The report shall set forth the basis for the recommendations and include an analysis of the capability of the Virgin Islands to meet projected needs based on reasonable alternative economic, political and social conditions in the Caribbean, including the possible effect of expansion in the near future of Cuba in trade, tourism and development.

(c) Powers.

(1) The Commission may—

(A) hold such hearings, sit and act at such times and places, take such testimony and receive such evidence as it may deem advisable;

(B) use the United States mail in the same manner and upon the same conditions as departments and agencies of the United States; and

(C) within available funds, incur such expenses and enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out the Commission's functions.

(2) Within funds available for the Commission, the Secretary of the Interior shall provide such office space, furnishings, equipment, staff, and fiscal and administrative services as the Commission may require.

(3) The President, upon request of the Commission, may direct the head of any Federal agency or department to assist the Commission and if so directed such head shall—

(A) furnish the Commission to the extent permitted by law and within available appropriations such information as may be necessary for carrying out the functions of the Commission and as may be available to or procurable by such department or agency; and

(B) detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as the Commission may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay or other employee status.

(d) Chairman. Subject to general policies that the Commission may adopt, the Chairman of the Commission shall be the chief executive officer of the Commission and shall exercise its executive and administrative powers. The Chairman may make such provisions as he may deem appropriate authorizing the performance of his executive and administrative functions by the staff of the Commission.

(e) Funding. There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary, but not to exceed an average of $300,000 per year, in fiscal years 1997, 1998 and 1999 for the work of the Commission.

(f) Termination. The Commission shall terminate three months after the transmission of the report and recommendations under subsection (b)(2).

SEC. 8. PUBLIC HEALTH SERVICE PHYSICIANS.

The Secretary of Health and Human Services shall provide, on a non-reimbursable basis, assistance for direct radiation related medical surveillance and treatment programs under section 177(b) of the Compact of Free Association. Such programs may include the services of physicians, surgeons, dentists, nurses, and other health care practitioners.

SEC. 9. ELIGIBILITY FOR HOUSING ASSISTANCE.

(a) Section 214(a) of the Housing Community Development Act of 1980 (42 U.S.C. 1436a(a)) is amended—

(1) by striking "or" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: *Provided*, That, within Guam and the Commonwealth of the Northern Mariana Islands any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.".

SEC. 10. CONSENT TO HAWAIIAN HOMES COMMISSION ACT AMENDMENTS.

As required by section 4 of the Act entitled "An Act to provide for the admission to the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States consents to the following amendments to the Hawaiian Homes Commission Act, 1920, adopted by the State of Hawaii in the manner required for State legislation:

(1) Act 339 of the Session Laws of Hawaii, 1993, and

(2) Act 37 of the Session Laws of Hawaii, 1994.

SEC. 11. AMERICAN SAMOA STUDY COMMISSION.

(a) Short Title.—This section may be cited as "The American Samoa Development Act of 1997".

(b) Establishment and Membership.

(1) There is hereby established a Commission on the Economic Future of American Samoa (the "Commission"). The Commission shall consist of six members appointed by the President, three of whom shall be selected from nominations made by the Governor of American Samoa, and the Secretary of the Interior ex officio. The President shall designate one of the appointed members of the Commission to be Chairman.

(2) Members of the Commission appointed by the President shall be persons who by virtue of their background and experience are particularly suited to contribute to achievement of the purposes of the Commission.

(3) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in the performance of their duties.

(4) Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(c) Purpose and Report.

(1) The purpose of the Commission is to make recommendations to the President and Congress on the policies and actions necessary to provide for a secure and self-sustaining future for the local economy of American Samoa through 2020 and on the role of the Federal Government. In developing recommendations, the Commission shall—

(A) solicit and analyze information on projected private sector development, including, but not limited to, tourism, manufacturing and industry, agriculture, and transportation and shifting trends based on alternative forecasts of economic, political and social conditions in the Pacific;

(B) analyze capital infrastructure, education, social, health, and environmental needs in light of these alternative forecasts;

(C) assemble relevant demographic, economic, and revenue and expenditure data from over the past twenty-five years;

(D) review the application of federal laws and programs and the effects of such laws and programs on the local economy and make such recommendations for changes in the application as the Commission deems advisable;

(E) consider the impact of federal trade and other international agreements, including, but not limited to those related to marine resources, on American Samoa and make such recommendations as may be necessary to minimize or eliminate any adverse effects on the local economy.

(2) The recommendations of the Commission shall be transmitted in a report to the President, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives no later than June 30, 1999. The report shall set forth the basis for the recommendations and include an analysis of the capability of American Samoa to meet projected needs based on reasonable alternative economic, political and social conditions in the Pacific Basin. The report shall also include projections of the need for direct or indirect federal assistance for operations and infrastructure over the next decade and what additional assistance will be necessary to develop the local economy to a level sufficient to minimize or eliminate the need for direct federal operational assistance. As part of the report, the Commission shall also include an overview of the history of American Samoa and its relationship to the United States from 1872 with emphasis on those events or actions that affect future economic development and shall include, as an appendix to its report, copies of the relevant historical documents, including, but not limited to, the Convention of 1899 (commonly referred to as the Tripartite Treaty) and the documents of cession of 1900 and 1904.

(d) POWERS.

(1) The Commission may—

(A) hold such hearings, sit and act at such times and places, take such testimony and receive such evidence as it may deem advisable: *Provided*, That the Commission shall conduct public meetings in Tutuila, Ofu, Olosega, and Tau;

(B) use the United States mail in the same manner and upon the same conditions as departments and agencies of the United States; and

(C) within available funds, incur such expenses and enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out the Commission's functions.

(2) Within funds available for the Commission, the Secretary of the Interior shall provide such office space, furnishings, equipment, staff, and fiscal and administrative services as the Commission may require.

(3) The President, upon request of the Commission, may direct the head of any Federal agency or department to assist the Commission and if so directed such head shall—

(A) furnish the Commission to the extent permitted by law and within available appropriations such information as may be necessary for carrying out the functions of the Commission and as may be available to or procurable by such department or agency; and

(B) detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as the Commission may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay or other employee status.

(e) CHAIRMAN. Subject to general policies that the Commission may adopt, the Chairman of the Commission shall be the chief executive officer of the Commission and shall exercise its executive and administrative powers. The Chairman may make such provisions as he may deem appropriate authorizing the performance of his executive and administrative functions by the staff of the Commission.

(f) FUNDING. There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary, but not to exceed an average of $300,000 per year, in fiscal years 1997, 1998 and 1999 for the work of the Commission.

(f) TERMINATION. The Commission shall terminate three months after the transmission of the report and recommendations under subsection (c)(2).

By Mr. WELLSTONE:

S. 211. A bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf war in order for those disabilities to be compensable by the Secretary of Veterans Affairs; to the Committee on Veterans Affairs.

THE PERSIAN GULF WAR VETERANS COMPENSATION ACT OF 1997

• Mr. WELLSTONE. Mr. President, I am pleased and proud to introduce a bill today that will address a serious problem faced by many Persian Gulf veterans—the denial of their claims for VA compensation based solely on the fact that their symptoms arose more than 2 years after they last served in the gulf. This bill is a companion to H.R. 466 introduced recently by Congressman LANE EVANS, ranking minority member of the House Veterans' Affairs Committee and an outstanding, energetic, and dedicated veterans' advocate.

This bill would extend from 2 to 10 years the time by which a veteran must develop symptoms after departing the gulf to be eligible to file for VA disability compensation.

While this legislation is simple and straightforward, there are a number of reasons that I am introducing it that require some elaboration.

Over a month ago Congressman EVANS and I sent a joint letter to VA Secretary Jesse Brown asking him to administratively extend the presumptive period from 2 to 10 years. We pointed out that the VA had denied about 95 percent of Persian Gulf veterans' claims for undiagnosed illnesses and noted that in House testimony last March Secretary Brown himself said that "most of the people we are denying, a large percentage of the people that we are denying, do not have a disease within the 2-year period." The Secretary added that there was a need to examine health problems emerging after that time period.

Mr. President, our letter also noted that continuing disclosures about possible exposures of our troops in the gulf to chemical weapons make it clear that it may take many years before we have a full understanding of what occurred during the Persian Gulf war and how these events affected our veterans. In closing, we stressed that gulf war veterans must be given the benefit of the doubt.

Although Secretary Brown has not yet replied to our letter, I know that he is a fearless and deeply committed advocate of our Nation's veterans and fully shares my view that America's veterans must always be given the benefit of the doubt. Under his leadership, the VA is now reviewing 11,000 cases to ensure that Persian Gulf veterans are indeed given the benefit of the doubt in the development and adjudication of their compensation claims.

Secretary Brown, at the request of President Clinton, is formulating a plan to expand the deadline for compensation which is to be submitted to the President in March. I anticipate that the administration will extend the deadline and believe that when this occurs they'll want congressional authorization. This bill is intended to grant them that authority.

Mr. President, so that my colleagues on both sides of the aisle will better understand my reasons for introducing this bill and why I believe the administration must and will extend the deadline for filing gulf war claims, permit me to list some of the key factors involved:

Sick Persian Gulf veterans shouldn't be kept in limbo, waiting years for the completion of research that should have been done years ago on the long-term health effects of low-level exposures to chemical and other agents;

In this connection, the experience of atomic veterans for over 50 years is hardly encouraging, with disputes among scientists persisting about the long-term effects of exposure to low-level radiation and about the validity of U.S. Government-funded radiation dose reconstructions—dose reconstructions which continue to be a major factor in denial of the vast majority of atomic veterans' claims for VA compensation;

While I'm pleased that research is finally taking place after a delay of over 5 years stemming from DOD's contention that there were no chemical exposures and that low-level exposures had no health effects, I fear there is a possibility that the etiology of Persian Gulf illnesses may never be known because needed scientific data was not collected immediately after the war and because of the complexity of figuring out the synergistic effects of various combinations of harmful agents present during the gulf war.

DOD and CIA are developing new information about possible chemical and other exposures during the gulf war that could further complicate the search for the causes of illnesses, while the media sometimes carry contradictory reports on such exposures that add to the uncertainties and anxieties of veterans and their families;

There are a number of serious diseases that are not manifested until 10 years or more after initial exposure to harmful agents.

In closing, Mr. President, I would like to pay tribute to the brave Minnesota veterans of Operation Desert Shield/Desert Storm whom I met with over a month ago. These Minnesota veterans who are my mentors told me about the illnesses and symptoms they developed after the war, including skin rashes, hair loss, reproductive problems, memory loss, headaches, aching joints, and internal bleeding. They said that they are scared to death about their health problems. I was deeply moved by their accounts and pledged to do all I could to help them. Moreover, I was distressed to learn that as of last month, out of 171 Minnesota gulf veterans who had filed disability claims, only 18 were receiving full or partial disability benefits.

As part of an action plan to help Minnesota gulf veterans, I told them that Congressman EVANS and I were writing to Secretary Brown to extend the 2-year period to 10 years. This initiative was supported both by Minnesota Persian Gulf veterans and State veterans' leaders and the bill I'm now introducing is a logical followup to the letter sent to Secretary Brown.

I am very pleased to note that this legislation is supported by the American Legion and the Vietnam Veterans of America and I urge my colleagues to join these organizations in strongly supporting this bill.

I dedicate this bill to the patriotic and courageous Minnesota veterans who served in the Persian Gulf war.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Persian Gulf War Veterans Compensation Act of 1997".

SEC. 2. EXTENSION OF PRESUMPTIVE PERIOD FOR MANIFESTATION OF CHRONIC DISABILITIES DUE TO UNDIAGNOSED SYMPTOMS IN VETERANS WHO SERVED IN THE PERSIAN GULF WAR.

Subsection (b) of section 1117 of title 38, United States Code, is amended to read as follows:

"(b) The provisions of subsection (a) shall apply in the case of a disability of a veteran becoming manifest within 10 years after the last date on which the veteran performed active military, naval, or air service in the Southwest Asia theater of operations during the Persian Gulf War."•

By Mr. WELLSTONE:

S. 212. A bill to increase the maximum Federal Pell Grant award in order to allow more American students to afford higher education, and to express the sense of the Senate; to the Committee on Labor and Human Resources.

THE AFFORDABLE HIGHER EDUCATION THROUGH PELL GRANTS ACT

Mr. WELLSTONE. Mr. President, on January 21 I cosponsored S. 12, the Senate leadership's version of President Clinton's education tax deduction and credit plan. As an educator for 20 years and a Senator who believes in education, I couldn't be more enthusiastic that the President and the leadership have chosen to invest $35 billion over the next 5 years into higher education in this country. This is a marvelous goal and I support it without hesitation.

When it comes to investing a large sum of money into education, with the goal of making education more affordable for more students and working families, I think that it is important to explore every viable option. The tax system is one way to distribute money to working families. Another existing system is the Pell Grant Program, which is already geared toward targeting money at the students who are most likely not to attend college because of a lack of funds. Currently, Pell Grants go almost exclusively to lower income families. But that is not how Pell was designed. It was designed to reach families based on their need, not based on their income. If the Pell Grant Program were to be funded up to its authorized level, it would be of great benefit to many middle-class families as well as lower middle-class families. Because Pell is a proven entity and a great deal could be gained by investing in it, I rise today to introduce a second option on how to bring higher education into the reach of more Americans.

It is both saddening and shameful that in this country, the best predictor of attending college is the family income. We have engineered a system in this country where the doors to college are closed for those who have the most to gain from higher education. Only 16 percent of college freshmen come from households earning $20,000 a year or less. Only half of them actually graduate by age 24, and those that drop out cite the expense of college as their No. 1 concern. Clearly, we are doing an inadequate job of addressing the financial needs of our Nation's college bound youth. According to David Wessel of the Wall Street Journal, three-quarters of higher income students attend college. Half of middle income students attend college. But just one-quarter of poorest income students attend college.

As reported by the New York Times, "the impact of [financial pressures on the poor] has been camouflaged by the steady growth in college attendance by more affluent students and by older people. But students from poor families have increasingly been left behind." The proportion of students earning college degrees by age 24 from families in the richest quarter of the population has jumped from 31 percent in 1979 to 79 percent in 1994. But the rate among students from families in the poorest population over the exact same years, 1979 to 1994, has stayed dead flat at 8 percent.

Looked at another way, affluent students in 1979 were 4 times more likely to graduate from college at 24 than poor students, but 10 times more likely in 1994. According to Thomas Mortenson, a higher education policy analyst in Iowa City, "there has been a redistribution of educational opportunity. We have a greater inequality of educational attainment by age 24 than at any time during the last 25 years. Lower income kids are having a terrible time in higher education."

Mr. President, 25 years ago, the Pell Program was created to respond to these discrepancies. The goal of Pell grants was to target funds toward those families that were likely to send their children to college but couldn't afford to. Consequently, Pell grants have no income limit. Even a family with a very high income is eligible for Pell, if it can be shown that they have need—for example, if they have several children and all the kids are in college, they are supposed to fall under the umbrella of the Pell Program. Pell grant awards go first to the neediest students, and are phased out as need decreases.

It was hoped that the Pell Program would pay off in three very important ways. First, it would enable more motivated but financially insecure students to gain the skills necessary to have productive lives. Second, it would increase the number of students enrolled in institutions of higher learning, and therefore reduce the cost of higher education for everyone. Third, it would provide to the Nation all the wonderful benefits of a well-educated population—a skilled work force, an improved ability to compete with other nations, a more financially secure country.

The Pell Grant Program has done a world of good. Over the 25 years, 68.2 million awards have been given out to an estimated 30 million students. Millions of lower income students have been able to attend college thanks to Pell. While Pell itself has been unable to actually reduce college tuitions, it is frightening to imagine how expensive colleges would be without the Pell

Program, and how few lower income families would be able to obtain diplomas. In terms of overall effect of the Pell Program on our country, it is almost impossible to overstate the significance of having educated so many people who otherwise would have been unlikely to have increased their standard of living and the standards of their families and those around them.

When Pell was created, it bore a price tag of $47.5 million—in 1971 dollars, $118 million in 1997 dollars—and benefited 176,000 grant recipients. By 1980 it aided 2.7 million students, and today, the Pell Grant Program invests $6.4 billion a year into the education of 3.6 million grant recipients a year. We should not misinterpret the growth of this program as having successfully met the need for the program; however, Pell Grants are something of which the Congress should be extremely proud.

Let me explain how the Pell Program works, and how it manages to invest money right where it is needed. The formula is simple. First, the "expected family contribution" is determined through a formula used for all Federal student aid programs. The nickname for the expected family contribution is EFC. The EFC takes into account the family income, the number of dependents in the family, the number of family members currently receiving aid or attending college, and certain assets if the family earns more than $50,000 a year.

Here's an example. A typical two-earner family with an income of $50,000 that has one dependent child in college would be expected to contribute $4,000 per year toward their child's education. The EFC is then subtracted from the maximum Pell Grant award, which under current law is authorized to be $4,500. If you add up the cost of the child's tuition, fees, room, board, and books and it comes out to more than $4,500, then that family could expect to receive $500 in Pell grants.

This example also succeeds in demonstrating the problem with the Pell grant system. Currently, the Pell maximum award is, indeed, authorized to be $4,500. However, because there was not enough money available for the Pell Program last year, the appropriators lowered the Pell maximum award to only $2,700. That means that the average three person family, which I have described above, will not receive a Pell grant award if their income is over $38,600.

You see, Pell, as originally designed, is supposed to benefit the middle class. But for this to be successful, enough money must be allocated to the program so that the appropriations process can provide the statutory maximum award for each student.

But this has seldom happened over the years. While the statute sets the maximum award, limited funds available for the program have meant that appropriations language has almost always reduced the maximum award.

Because the appropriations process reduces the maximum Pell award every year, the purchasing power of Pell grants has dwindled in relation to college costs. During the 80's and 90's, college costs have increased at an annual rate of between 5 percent and 8 percent, increases that have always outpaced inflation. In 1980, the average Pell award of $882 paid 26 percent of the total annual cost of attendance for a 4-year public institution—$3,409—as compared to today, when the average award of $1,579 pays only 16 percent of total costs of $9,649. This, in light of the fact that, as stated in the Higher Education Act, the purpose of the Pell Grant Program is to provide an award that "in combination with reasonable family and student contribution and—other Federal grant aid—will meet at least 75 percent of a student's cost of attendance."

In real dollars, appropriations for the Pell Grant Program have increased by almost 50 percent since 1980. However, the appropriated maximum grant has increased only 34 percent, which means that if inflation is factored in, the maximum award has fallen 13 percent. The result is that few families with incomes above $30,000 are likely to qualify for Pell. Last year, 54 percent of Pell recipients had incomes of less than $10,000.

This is where the bill I introduce today comes in. At a similar cost to the President's tax deduction and credit proposals—$35 billion over 5 years—my bill would increase the maximum Pell grant award to $5,000 from the present level of $2,700, thus bringing the award to the level at which it was created, adjusted for inflation. With the maximum increased, two intents would be accomplished. First, lower income students would be entitled to a larger award, thus having more opportunity to attend college. Second, because the maximum is increased, more students—including students from middle income families—would be eligible for Pell grants.

Here are a few illustrations. Under current law, a single, independent student with no children is ineligible for even a minimum Pell grant award if she has an income of over $9,800. My bill would effectively double the income eligibility; a single student with no children with an income of over $16,200 would still be eligible for Pell. If that student is a single parent, with two children, her income could be as high as $50,600 and she would still be eligible for Pell, as opposed to current law, which would eliminate her eligibility at an income of $38,800.

Parents trying to put a dependent child through college would also benefit from this bill. For example, a two-parent family with one child in college under current law is eligible only if their income is lower than $38,600. My bill would raise this eligibility to just under $50,000. Under Pell as it exists today, a family with four children in college receives the minimum award for each of their children as long as their income is lower than $72,600. Under this bill, an average family with four children in college would receive the minimum award for each child even if their income was as high as $107,300.

Now let me take a moment to explain why my proposal and the Clinton proposal are so deserving of the attention and support of this body.

These days, parents putting children through college, and young adults trying to do it on their own, are facing an increasingly daunting challenge. According to the college board, tuition costs have gone up more than 40 percent since 1985. Expressed in constant 1994 dollars, in 1985 tuition at the average private college was $10,058. By 1994, it was $14,486—a 44 percent increase. The average public college tuition was $2,095 in 1985. By 1994, it was $2,948—a 41 percent increase.

Last year alone, college tuition went up 6 percent, more than double the rate of inflation. Since 1980, college tuition has risen faster than medical costs, and more than twice as fast as family income.

For the last 10 years, tuition increases at State universities, community colleges, and technical colleges in Minnesota have ranged from 2 to almost 9 percent every single year. The largest trend in tuition increases began in the early 1980's. Since then, tuition at the University of Minnesota has risen 264 percent while the Consumer Price Index has gone up 71 percent—available chart shows only the increase between 1981 and 1992, that is why its numbers are smaller. Next academic year, a freshman at the UM Liberal Arts College will pay $3,618, plus a higher activity fee, plus a new $135 computing fee.

All over Minnesota—at private schools, public universities and colleges—tuition is going up faster than personal disposable income per capita.

Meanwhile, Government and private aid has declined. Federal appropriations for student aid fell 9 percent between 1980 and 1993 while States allocations fell 13 percent between 1986 and 1992. Corporate and private giving is far too small to offset these declines. Last year, the Federal Government spent nearly 40 percent less than it did the year before to help young people in Minnesota pay for college with Perkins loans. That's $1.5 million less in loans—3,214 fewer students getting help with their educations. Overall, public subsidies to higher education have shrunk from 45 percent of higher education's revenues in 1980 to 35 percent today, most of it to public universities.

Today, more than 80 percent of America's college students study at public universities.

The trend in Federal aid to post-secondary students is toward more loans and away from grants. Although more money is now available to college students, a greater proportion of it must be paid back. According to the college board, the Federal Government invested 80 percent of its higher education budget into Grants and only 20 percent in loans. Today, those numbers are almost exactly reversed. This is a trend that affects poorer students much more than those who are wealthier, as poor students are forced to ask themselves—what if I don't graduate, what will I do with my debt? For these students, Pell Grants are a lifeline that keeps being pulled out of their reach.

Between 1985 and 1994, the share of college costs covered by the maximum Pell grant has steadily fallen for all types of institutions. For example, at a private university, a Pell Grant covered about 17 percent the cost of attendance in 1985. By 1994, that fell to about 10 percent. Similarly, at a public university, a Pell Grant paid for about 50 percent of college costs in 1985. In 1994, that figure was down to about 30 percent.

As a result, the average debt of those emerging from higher education grows at a rate much greater than inflation. Six-and-a-half million students, nearly half of the Nation's enrollment, have loans totaling $23.8 billion. Student borrowing has grown at an average rate of 22 percent per year since 1990, outpacing personal income growth four times over.

At Moorehead State University in Moorehead, MN, students are graduating with a staggering amount of debt. The average student graduating this spring who finished her degree in 4 years owes $10,762. For those who take 5 years to graduate, their debt is even higher, an average of $11,450. Those figures are both much higher than only 4 years ago.

The Minnesota State Colleges and Universities report that students graduating from 2-year colleges incur debt of $8,000 to $10,000. Those attending State universities are coming out of school with $15,000 to $20,000 of debt.

It should be no surprise that defaults cost the Federal Government over $2 billion a year.

It's not only students that are increasingly saddled with debt. Parents are borrowing more and more in order to finance their children's educations. The average loan in the PLUS Program—parental loans for undergraduate students—between 1992 and 1993 jumped from $3,260 to $4,525. In addition, the loan volume for the program grew by 26 percent.

If you are a student planning to attend college, or a parent planning on paying for your child, you'd better start saving now. Even if you plan to send your child to a State school, and even if you start saving 17 years in advance, you are going to have to start putting away a chunk of change.

Put together, rising costs of education and decreasing Government aid spells a greater burden on students and their families—a burden that is often impossible to initiate, and at times, if attempted, impossible to sustain.

But it's crazy for us to allow this to go on. Education is the key to the economic security of this Nation. By the year 2000, 50 percent of all new jobs will require a college education. It is not only our duty and obligation to assist these students in their higher education endeavors, it is essential for our country's future.

Higher education pays off. Every year of higher education increases an individual's income between 6 and 12 percent. In fact, a college-educated male earns 83% more during his lifetime than a noncollege-educated male.

Education is married to earnings potential. A high school dropout can expect to earn, on average, under $13,000 a year; a high school graduate, under $19,000; while a college graduate can earn over $32,000 and a master's degree recipient can earn over $40,000; a doctoral recipient can earn over $54,000; and a professional degree recipient earns, on average, over $74,000.

A recent survey of managers showed that an investment in the educational level of their work force resulted in twice the return in increased productivity of a comparable increase in work hours and nearly three times the return of an investment in capital stock.

Data from the Society of Research also reveals that poverty rate declines as education levels increase. According to the 1992 Census, almost a quarter of the children under the age of 6 in the United States live in poverty. For many, the opportunity for a higher education lies only in the availability of Pell grants. Therefore, the Pell Grant Program is integral in breaking the chain of poverty. In fact, a national study conducted in 1995 revealed that AFDC recipients receiving financial aid are 80 percent more likely to graduate college and obtain permanent jobs.

Families who live in the middle or higher socio-economic bracket will send their children to college regardless of available financial assistance. Such is not the case for low income groups. Cut backs in financial assistance correlate to lack of enrollment and long term attendance among lower socio-economic groups. Without the availability of Pell grants, low income students will not have the opportunity for advanced degrees.

Mr. President, these are the reasons that I am introducing this bill. Ultimately, education is what separates those who achieve from those who can never realize the American Dream. The Government needs to invest in its citizens if democracy is to flourish, if we are to compete in the global marketplace, and if we are to live up to our responsibility to the American people.

As we plan for our country's future and that of its youth, let us be sure that a higher education is available and accessible for all. Let's create a system in the 21st century in which the No. 1 predictor of college attendance is not income, but rather desire.

I urge my colleagues to support S. 212 and to support this bill.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE

This bill shall be known as "The Affordable Higher Education through Pell Grants Act."

SEC. 2. FEDERAL PELL GRANTS.

Section 401(b)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(2)(A) is amended—

(1) in clause (iv), by striking "and" after the comma;

(2) in clause (v), by inserting "and" after the comma; and

(3) by inserting after clause (v) the following:

"(vi) $5,000 for academic year 1998–1999 and each of the 4 succeeding academic years,".

SEC. 3. SENSE OF THE SENATE

It is the sense of the Senate that Congress should appropriate funds to provide the maximum Federal Pell Grant award permitted under this Act for academic year 1998–1999 and each of the 4 succeeding academic years to all eligible students.

AID CUTS PUT COLLEGE BEYOND REACH OF POOREST STUDENTS

(By Karen W. Arenson)

As state governments keep whittling away their support for higher education, tuition at public institutions is likely to continue rising as financial aid shrinks, moving college further beyond the reach of poor students, education experts say.

"There has been a redistribution of educational opportunity," said Thomas G. Mortenson, a higher education policy analyst in Iowa City and a senior scholar at the National Council of Educational Opportunity Associations in Washington.

To some experts, New York State is a case in point. Earlier this month, Gov. George E. Pataki proposed to increase tuition at New York's public universities by $400 a year and reduce state aid for the state's neediest students. Tuition at both the State University colleges and City University would rise to $3,600 a year at CUNY's four-year colleges and $3,800 a year at SUNY's.

Governor Pataki's proposals are not certain to be adopted; the Legislature rejected similar cuts last year. But experts say that higher tuition and reduced aid are inevitable.

"It's not this 400 bucks that Governor Pataki is proposing, it's the general pattern," said Arthur Levine, president of Teachers College at Columbia University.

At the City University of New York, which charged no tuition until 1976, tuition now accounts for 43 percent of the four-year college's budget, up from 19 percent seven years ago, CUNY's current budget proposal shows. Students there say any increases strain their stretched personal budgets.

"If tuition goes up, I don't think I will have to drop out, but it will not be pleasant," said Michelle Whitfield, a 34-year-old Harlem resident who is a voice student at Brooklyn College's Conservatory of Music.

She works 30 hours a week as a temporary worker doing word processing on Wall Street to pay for college and to support herself and her elderly mother. She earns too much to qualify for financial aid, she said, but had to withdraw from college last spring when she ran out of money. Although she is back in school, she said she might have to sit out future semesters if costs rise.

Higher-income and middle-income students have been going to college in ever greater numbers as college becomes an increasingly important factor in earning a decent salary. But lower-income students are going in about the same proportions that they did in the 1970's.

For decades, public universities have remained an important source of higher education for those who cannot afford private institutions. Today, more than 80 percent of America's college students study at public universities.

But while these universities are still considerably less expensive than most private colleges, they, too, are increasingly pricing themselves beyond the means of the poorest Americans, experts say.

Morton Owen Schapiro, dean at the University of Southern California and a specialist in the economics of higher education, said that tuition at public colleges and universities had risen by an annual average of 4 percent to 4.5 percent after inflation since the late 1970's, well ahead of the growth in financial aid.

"That is going to hurt a lot of people," he said, adding that while some private colleges offer generous financial aid to needy students, most of them go to public institutions.

He and Michael S. McPherson, president of Macalester College in St. Paul, Minn., have found that public subsidies to higher education have shrunk from 45 percent of higher education's revenues in 1980 to 35 percent today—most of it to public universities.

Compounding the financial problems of many students are continuing cuts in financial aid. Federal Pell grants, aimed at helping the nation's neediest students pay expenses other than tuition, now amount to a maximum of $2,700 for students at public four-year colleges. Mr. Mortenson calculates that had they kept pace with inflation, they would amount to more than $5,500 today.

For many students, state tuition support has declined, too. For 20 years, New York's Tuition Assistance Program—available to students with incomes below a certain level—had always covered tuition at the public universities for students who qualified. But in 1995, New York reduced the maximum award for public university students to 90 percent of tuition.

And now Governor Pataki has again proposed that students who receive Pell grants as well as state tuition assistance should receive less from the state program.

To some extent, the impact of these financial pressures has been camouflaged by the steady growth in college attendance by more affluent students and by older people. But students from poor families have increasingly been left behind.

Mr. Mortenson has found that the proportion of students earning college degrees by age 24 from families in the richest quarter of the population (in 1994, those with incomes above $65,000) has jumped sharply, to 79 percent in 1994 from 31 percent in 1979. But the rate among students from families in the poorest population (with 1994 incomes below $22,000) stayed flat over the same years, at about 8 percent.

Looking at the trend another way, affluent students were nearly four times as likely as the poorest ones to graduate from college by age 24 in 1979, but nearly 10 times as likely in 1994. "We have greater inequality of educational attainment by age 24 than at any time in the last 25 years," Mr. Mortenson said. "Lower income kids are having a terrible time in higher education."

In 1995, City University surveyed 545 CUNY students who had left the university system even though they were in good academic standing. Thirty-four percent cited lack of money or the need to work as the reason. When the City University raised tuition by $750 in 1995 and New York State cut financial aid, the university saw a sudden drop in undergraduates: 138,000 students enrolled at its four-year colleges, 4,500 fewer than the previous year and about 6,500 fewer than projected.

"I am convinced that the reason was simply financial," said the university's Chancellor, W. Ann Reynolds. "Students needed to have much more cash on the barrel. I am convinced that we are denying opportunity for poor students to go to college."

City University, the nation's largest urban university system, has the highest percentage of students in poverty: about 40 percent of the 139,000 undergraduates at its four-year colleges come from households with incomes of less than 420,000. More than half of all undergraduates—85,000—qualify for Pell grants, and 72,000 get tuition assistance from New York State.

Still, more than half of the students also work: 27 percent hold full-time jobs and 32 percent work part time—many to support their own families, because 29 percent have children.

Even with multiple sources of support, many City University students encounter financial problems, which are reflected in their frequent moves in and out of school and the longer time they take to graduate.

Abdul Khan, a 36-year-old immigrant from Pakistan and an engineering major at City College, has been forced to skip semesters because his full-time job at a newsstand—which pays $13,000 a year—leaves little extra money after living expenses. If costs rise further, he said, "maybe I can take one semester every year."

Mr. Mortenson, the analyst of higher education, said that if financial aid is not increased, one answer for students like Mr. Khan may be to take out more loans—an often unpalatable option for those unsure they will be able to finish college.

David Torres, a 35-year-old psychology major at Brooklyn College who lives in Ozone Park, Queens, said he had weighed taking out a loan, now that he has exhausted his state tuition assistance.

"But loans terrify me," he said. "What if I don't finish and can't pay if off? It's scary."

Mr. Mortenson has an answer for students like Mr. Torres.

"What I tell kids," he said, "is that as scary as paying for college is, you have to go. The only thing more expensive than going to college is not going to college."

By Mr. LEAHY (for himself, Mr. FEINGOLD, and Mr. JEFFORDS):

S. 213. A bill to amend section 223 of the Communications Act of 1934 to repeal amendments on obscene and harassing use of telecommunications facilities made by the Communications Decency Act of 1996 and to restore the provisions of such section on such use in effect before the enactment of the Communications Decency Act of 1996; to the Committee on Commerce, Science, and Transportation.

LEGISLATION TO REPEAL THE INTERNET CENSORSHIP PROVISIONS OF THE COMMUNICATIONS DECENCY ACT

Mr. LEAHY. Mr. President, I rise to introduce a bill to repeal the Internet censorship law that the 104th Congress hastily passed as part of the new Telecommunications Act. I vigorously opposed the so-called Communications Decency Act, along with Senator FEINGOLD, as unnecessary, unworkable and—most significantly—unconstitutional.

So far, every court to consider this law has agreed with us that the Communications Decency Act flunks the constitutionality test. Two separate panels of Federal judges in Pennsylvania and New York have determined that the Internet censorship law serves as an unconstitutional ban on constitutionally protected indecent speech between and among adults communicating on-line. The first amendment to our Constitution will not tolerate this level of governmental intrusion into what people say to each other over computer networks. The matter is now before the Supreme Court, which will hear argument on this case in March.

We will be ready to pass this bill and repeal the Internet censorship law as soon as the Supreme Court acts—as I am confident they will—to strike down the law as unconstitutional. I exhort the Supreme Court to make clear that we do not forfeit our first amendment rights when we go on-line. Only such guidance will stop wrong-headed efforts in Congress and in State legislatures to censor the Internet.

The first amendment to our Constitution expressly states that "Congress shall make no law abridging the freedom of speech." The CDA flouts that prohibition for the sake of political posturing and in the name of protecting our children. Giving full-force to the first amendment on-line would not be a victory for obscenity or child pornography. This would be a victory for the first amendment and for American technology.

Let us be emphatically clear that the people at risk of committing a felony under the CDA are not child pornographers, purveyors of obscene materials or child sex molesters. These people can already be prosecuted and should be prosecuted under longstanding Federal criminal laws that prevent the distribution over computer networks of obscene and other pornographic materials harmful to minors, under 18 U.S.C. sections 1465, 2252, and 2423(a); that prohibit the illegal solicitation of a minor by way of a computer network, under 18 U.S.C section 2252; and that bar the illegal luring of a minor into sexual activity through computer conversations, under 18 U.S.C section 2423(b). In fact, we recently passed unanimously a new law that sharply increases penalties for people who commit these crimes.

There is absolutely no disagreement in the Senate about wanting to protect children from harm. All 100 Senators, no matter where they are from, would agree that obscenity and child pornography should be kept out of the hands of children and that those who sexually exploit children or abuse children should be vigorously prosecuted. As a former prosecutor, I have prosecuted people for abusing children. This is something where there are no political or ideological differences among us.

But that is not the issue before us. In the heated debate over censoring the Internet, I fear that many Members, who have never used a computer let alone surfed the Internet, may have been under the misapprehension that the Internet is full of sexually explicit material. While such material may be accessible on the Internet, one court estimated that "the percentage of Internet addresses providing sexually explicit content would be well less than one-tenth of 1 percent of such addresses" and that "as much as 30 percent of the sexually explicit material currently available on the Internet originates in foreign countries." Shea versus Reno, 930 F. Supp. 916, 931, S.D.N.Y. 1996. Banning indecent material from the Internet is like using a meat cleaver to deal with the problems better addressed with a scalpel.

We all want to protect our children from offensive or indecent online materials. But we must be careful that the means we use to protect our children does not do more harm than good. We can already control the access our children have to indecent material with blocking technologies available for free from some online service providers and for a relatively low cost from software manufacturers. At some point we ought to stop saying the Government is going to make a determination of what we read and see, the Government will determine what our children have or do not have. Let us encourage the technology that empowers parents—not the government—to make choices for about what is best for their children.

The CDA is a terribly misguided effort to protect children that instead tramples on the free speech rights of all Americans who want to enjoy this medium. The Internet censorship law takes a blunderbuss approach that puts all Internet users at risk of committing a crime. It penalizes with 2-year jail terms and large fines anyone who transmits indecent material to a minor, or displays or posts indecent material in areas where a minor can see it. By criminalizing what is vaguely referred to as "indecent" speech, this law imposes far-reaching new Federal crimes on Americans for exercising their free speech rights on-line and on the Internet.

What strikes some people as indecent or patently offensive may look very different to other people in another part of the country. Given these differences, a vague ban on patently offensive and indecent communications may make us feel good but threatens to drive off the Internet and computer networks an unimaginable amount of valuable political, artistic, scientific, health and other speech. Let me give a couple of examples of what is at risk.

A university professor would risk prosecution by making available online to a freshman literature class excerpts from certain classics, such as Catcher in the Rye or Of Mice and Men, all of which have been challenged in a number of communities as indecent for minors.

Forwarding to a child an on-line version of Seventeen magazine, which is a frequently challenged school library material, might violate this law, even though children are free to buy the magazine at newsstands.

An e-mail message from one teenager to another with certain four-letter swear words would violate this law.

Museums with Web sites will think twice before posting images of classic nude paintings or sculptures showing sexual organs, that are suspect under the new censorship law.

On-line discussions about AIDS and other sexually transmitted diseases may be illegal under this new law. No one knows.

Advertisements that would be perfectly legal in print could subject the advertiser to criminal liability if circulated on-line.

In short, the Internet censorship law leaves in the hands of the most aggressive prosecutor in the least tolerant community the power to set standards for what every other Internet user may say on-line.

In bookstores and on library shelves, the protections of the first amendment are clear. The courts are unwavering in the protection of indecent speech. Altering the protections of the first amendment for online communications could cripple this new mode of communication.

The Internet is an American technology that has swept around the world. As its popularity has grown, so have efforts to censor it in Germany, in China, in Singapore, and other countries. We should be leading the efforts to keep the Internet uncensored, and taking the high ground to champion first amendment freedoms. Instead, however, the Communications Decency Act tramples on the principles of free speech and free flow of information that has fueled the growth of this medium.

Let us get this new unconstitutional law off the books as soon as possible. This bill would repeal the provisions of Communications Decency Act that result in a ban of constitutionally protected on-line speech, and simply restores the provisions of section 223 of the Communications Act of 1934 in effect before passage of the CDA.

Mr. President, in the last Congress this body and the other body passed a piece of legislation called the Communications Decency Act. It was done I believe because many felt a concern about what might be seen by children on the Internet. Unfortunately—and I said this at the time on the floor—the bill is overly broad. It stepped into the first amendment in a way that would not have been done with anything else.

We would not have gone down the road of trampling on the first amendment and say that we would have to close down all magazine stores because they might sell a magazine, which while acceptable to adults might be objectionable to children. We would never say that we would close every library in the country, including the Library of Congress, because it may have books there that while acceptable to all adults might not be acceptable to children. And we would never pass a law to close down a publishing house because it published books that might be acceptable to adults but unacceptable to children.

But basically that is what we said we would do with the Internet. We said that even though the Internet may be providing something that is acceptable to adults, we would basically close down large segments of it with criminal penalties because it might have something unacceptable to children.

The first amendment to our Constitution says that Congress shall make no law abridging the freedom of speech. And what the CDA, or the Communications Decency Act, did was to go way beyond what we believe the first amendment stands for. I do not in any way hold any brief for child pornographers or child abusers. I am one of the few people in this body who have sent child abusers to prison. Whenever I had somebody who was involved in child molestation or abusing when I was the prosecutor, I prosecuted this as a top priority in my office and sought the strongest penalties possible. Everyone, whether parents or grandparents, would do everything possible to stop anybody from abusing our children. As parents, we would take the responsibility to make sure that our children are protected from offensive or indecent material, whether it is online, or the Internet, or elsewhere.

But, unfortunately, no matter what every single one of us feel, Republicans or Democrats, or no matter where we are from, the CDA is a terribly misguided effort to protect children that instead tramples on the free speech of all Americans who want to use the Internet. It takes a blunderbuss approach. It puts all Internet users at risk of committing a crime. It penalizes by a 2-year jail term and large fines anyone who transmits indecent material to a minor, or places or posts indecent material in areas where a minor might see it—not whether they do or not but they might.

What this means is a university professor risks prosecution by making available online to a freshman literature class excerpts from Catcher in the Rye, or Of Mice and Men—all of which have been challenged in communities as indecent for minors. Or forwarding to a child online a version of Seventeen magazine might violate the law, even though any child could buy that magazine freely at a newsstand. E-mail messages from one teenager to another using some four-letter words violates the law. Museums for web sites are going to think twice before posting images of something like Michelangelo's David because showing sexual organs would be specifically excluded under this law. Online discussions about sexually transmitted diseases could be illegal. Advertisements that would be illegal in print could be illegal here.

So it is because of that, because it went so far, that the courts have looked at this and have unanimously struck it down. They have said that it is unconstitutional. Multijudge panels in Philadelphia and New York City came unanimously to that view, and it is now before the U.S. Supreme Court.

Experts from the right to the left that I have spoken with on constitutional law predict that the Supreme Court will uphold the unanimous decision of the lower Federal court and find it unconstitutional.

So I am going to introduce a bill to repeal the Internet censorship parts of the Communications Decency Act, and I will do this along with Senator FEINGOLD because the law is unnecessary, unworkable, and, most significantly, unconstitutional. There are better ways of doing this. Let us work with computer software producers on programs that can screen out material which parents find offensive and allow a parent to know where a child has gone on the Internet and allow parents to make this decision—just as when my children were growing up before the Internet, I would say, "I know you can go to such and such a bookstore and buy this or that magazine but your mother and I prefer you do not. And let us instead give you some ideas of better things to read," and work with them.

Technology will allow parents to do that. It will allow them to block out offensive material. But perhaps more importantly when their children become computer literate—something that those of our age may not be able to do—allow parents to work with their children and find out how the Internet works and find out about the tremendous things available from the Smithsonian, the Library of Congress, the Vatican museum, the sports pages, computer games, information from major magazines and writers—and things that are sometimes junkie and frivolous but harmless nonetheless.

That is what we should do and not be in the position of putting the heavy hand of Government censorship on something that is so quintessentially American as the Internet, which has shown the genius of what we are able to do in this country and how we are able now to bring it to all other countries around the world. This happened because—and very specifically because—the Government stepped out of the picture and allowed the genius of individuals to do it. That means, just like the publishing of newspapers, magazines and everything else, that you get a certain amount of junk that gets in there. Most of us can pretty well decide what is junk and what is not. We discard that, and we go on to the best. We can do this.

So I submit, Mr. President, on behalf of myself, Mr. FEINGOLD, and Mr. JEFFORDS, legislation as I said, to repeal the Internet censorship provisions of the Communications Decency Act, and simply restore the law in effect before we banned constitutionally protected on-line speech. I ask unanimous consent that it be appropriately referred.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF PROVISIONS ON OBSCENE AND HARASSING USE OF TELECOMMUNICATIONS FACILITIES ENACTED BY COMMUNICATIONS DECENCY ACT OF 1996.

Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended by striking subsections (a) and (d) through (h).

SEC. 2. RESTORATION OF PROVISIONS ON OBSCENE AND HARASSING USE OF TELECOMMUNICATIONS FACILITIES IN EFFECT BEFORE COMMUNICATIONS DECENCY ACT OF 1996.

Section 223 of the Communications Act of 1934 (47 U.S.C. 223), as amended by section 1 of this Act, is further amended by inserting before subsection (b) the following new subsection (a):

"(a) Whoever—

"(1) in the District of Columbia or in interstate or foreign communications by means of telephone—

"(A) makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent;

"(B) makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number;

"(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(D) makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

"(2) knowingly permits any telephone facility under his control to be used for any purpose prohibited by this section,

shall be fined not more than $50,000 or imprisoned not more than six months, or both.".

Mr. FEINGOLD. Mr. President, I am pleased to join the Senator from Vermont [Mr. LEAHY] in introducing this legislation to repeal the Communications Decency Act [CDA]. I believe Congress made a grave mistake in enacting the CDA and it is time to correct it.

Congress passed the CDA without taking the time to fully examine its ability to protest children and its effect on the free speech rights of Americans. As a result, the CDA has been the subject of a court challenge since the day it was signed into law. Last June, a three-judge Federal panel granted a preliminary injunction against the Federal enforcement of key provisions of the CDA finding them unconstitutional. The Supreme Court will hear oral arguments in the first amendment challenge to the CDA on March 19, 1997.

The Communications Decency Act, enacted as part of the Telecommunications Act of 1996, subjected anyone who transmitted indecent material to minors over the Internet to criminal sanctions. The commonly accepted definition of "indecency" includes mild profanity.

I strongly opposed the CDA not only because I believe it violates our constitutionally guaranteed right to free speech, but also because I feel strongly that it fails to truly protect children from those who might seek to harm them.

The fundamental error of CDA proponents was their attempt to apply decades-old broadcasting standards to an emerging technology that defies categorization—the Internet. While the Supreme Court has allowed speech restrictions for broadcast media, it has made clear that such restrictions do not violate the first amendment only if there is a compelling Government interest in restricting speech and the restriction is applied in the least restrictive means. It is predominantly the nature of the medium which determines whether or not a criminal prohibition on speech is the least restrictive means of meeting a compelling Government interest. in the case of a radio or television, the fact that a child might simply turn on a station and hear offensive material provides a basis for allowing an arguably tighter restriction on indecent speech. Restraints upon newspapers and other print media, which are inherently noninvasive, have been very limited.

While the Net bears some similarities to both media, it is a unique and ever-changing communications medium. One can be a speaker, a publisher and a listener using the Internet. Currently, anyone with the know-how and the proper hardware and software can set up a Web page, become a de facto publisher, making information available to others at little cost to oneself or the consumer of that information. One can also post a message to an Internet newsgroup, an informal and often unmoderated information sharing forum, which can then be ready by anyone accessing that newsgroup.

The promise of the Internet is its free flow of information across vast physical distances and boundaries to anyone with access to a computer and an Internet connection. The threat of the Communications Decency Act is its undeniable ability to stifle this free-flowing speech on the Net. Mr. President, that threat exists because Congress failed to recognize the danger of applying an overly broad indecency standard to a technology with the characteristics of the Internet.

Out of fear of prosecution, the vagueness of the indecency standard, and an inability to control the age of those who might ultimately see the information, speakers on the Net will become silent. Those offering commercial access to the Internet will be required to restrict access to speech in order to protect themselves from criminal prosecution.

Last year, a panel of three Federal judges came to the same conclusion: this statute cannot be enforced without violating the Constitution. The Court stated:

> . . . the Internet may fairly be regarded as a never-ending worldwide conversation. The Government may not, through the CDA, interrupt that conversation. As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from government intrusion.

I believe the Federal Court came to this conclusion because the judges took the time to study and understand the characteristics of the Net before rushing to judgement—something Congress failed to do.

It is time to undo that mistake by repealing the Communications Decency Act. Not only does the CDA infringe on free speech rights of adults, it does not protect children from those who seek to harm them using the Internet, and it may actually impede the development of more sophisticated screening software in the marketplace. When Congress passed the CDA, there already existed filtering software which gave parents the ability to filter out objectionable content such as indecency, violence, adult topics etc. The passage of the CDA necessarily will reduce demand for such software products, which are effective in preventing children's access to such content. The CDA merely provides parents with a false sense of security that the Federal Government will somehow protect their children, so they no longer have to worry about the Internet themselves.

And that is the irony, Mr. President. The CDA is simply not capable of protecting children on the Internet. Much Internet content originates on foreign soil, making effective enforcement of the CDA impossible. Furthermore, the dissemination of materials which we all agree are most harmful to children—obscenity and child pornography—is already illegal on the Internet and subject to hefty criminal sanctions. We should put our law enforcement resources into aggressively prosecuting these criminal violations and recognize that the Internet is merely another tool used by those seeking to harm our children. We must prosecute the crime, not demonize the medium used by the criminal.

Mr. President, it is time to repeal the Communications Decency Act—an unconstitutional statute that fails to protect children. We owe that to all Americans and most important, we owe it to this country's children.

By Mr. AKAKA (for himself, Mr. INOUYE and Mr. GLENN):

S. 214. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to combat fraud and price-gouging committed in connection with the provision of consumer goods and services for the cleanup, repair, and recovery from the effects of a major disaster declared by the President, and for other purposes; to the Committee on Environment and Public Works.

THE DISASTER VICTIMS CRIME PREVENTION ACT OF 1997

• Mr. AKAKA. Mr. President, today I am introducing the Disaster Victims Crime Prevention Act of 1997, on behalf of myself, Senator INOUYE, and Senator GLENN to combat fraud against victims of Federal disasters. Like similar legislation I introduced in the 103d and 104th Congresses, this measure would make it a Federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

We are all aware of the tremendous costs incurred during a natural disaster. California is recovering from the devastating floods that have caused nearly $1.6 billion in damage and has made 42 of the State's 58 counties eligible for disaster assistance. Just before the dams and levees in California overflowed, the Pacific Northwest was hit with violent storms, and recently Minnesota, North Dakota and South Dakota have been declared Federal disaster areas, as have 13 counties in Idaho and four in Nevada.

During the 1990's, a number of deadly natural disasters have occurred throughout the United States and its territories including hurricanes, floods, earthquakes, tornadoes, wild fires, mudslides, and blizzards. Many were declared Federal natural disasters like Hurricane Iniki, which in 1993 leveled the island of Kauai in Hawaii causing $1.6 billion in damage and Hurricane Andrew which devastated southern Florida.

Through instant, onscreen media coverage, the Nation has had ringside seats to the destruction caused by these catastrophic events. We sympathetically watch television as families sift through the debris of their lives and as men and women assess the loss of their businesses. We witness the concern of others, such as Red Cross volunteers passing out blankets and food and citizens traveling hundreds of miles to help rebuild strangers' homes.

Despite the outpouring of public support that follows these catastrophes, there are unscrupulous individuals who prey on trusting and unsuspecting victims, whose immediate concerns are applying for disaster assistance, seeking temporary shelter, and dealing with the rebuilding of their lives.

The Disaster Victims Crime Prevention Act of 1997 would criminalize some of the activities undertaken by these unprincipled people whose sole intent is to defraud hard-working men and women. This legislation will make it a Federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

Every disaster has examples of individuals who are victimized twice—first by the disaster and later by unconscionable price hikes and fraudulent contractors. In the wake of the 1993 Midwest flooding, Iowa officials found that some vendors raised the price of portable toilets from $60 a month to $60 a day. In other flood-hit areas, carpet cleaners hiked their prices to $350 per hour, while telemarketers set up telephone banks to solicit funds for phony flood-related charities.

Nor will television viewers forget the scenes of beleaguered south Floridians buying generators, plastic sheeting, and bottled water at outrageous prices in the aftermath of Hurricane Andrew.

After Hurricane Iniki devastated the island of Kauai, a contractor promising quick home repair took disaster benefits from numerous homeowners and fled the area without completing promised construction. These fraud victims have yet to find relief.

While the Stafford Natural Disaster Act currently provides for civil and criminal penalties for the misuse of disaster funds, it fails to address contractor fraud. To fill this gap, our legislation would make it a Federal crime to take money fraudulently from a disaster victim and fail to provide the agreed-upon material or service for the cleanup, repair, and recovery.

The Stafford Act also fails to address price gouging. Although it is the responsibility of the States to impose restrictions on price increases prior to a Federal disaster declaration, Federal penalties for price gouging should be imposed once a Federal disaster has been declared. I am pleased to incorporate in this measure an initiative Senator GLENN began following Hurricane Andrew to combat price gouging and excessive pricing of goods and services. Fortunately, citizens in Hawaii were spared spiraling cost increases after Hurricane Iniki because the State government acted swiftly to counteract attempts at price gouging by instituting price and rent freezes.

There already is tremendous cooperation among the various State and local offices that deal with fraud and consumer protection issues, and it is quite common for these fine men and women to lend their expertise to their colleagues from out-of-State during a natural disaster. This exchange of experiences and practical solutions has created a strong support network.

However, a Federal remedy is needed to assist States when a disaster occurs. There should be a broader enforcement system to help overburdened State and local governments during a time of disaster. The Federal Government is in a position to ensure that residents within a federally declared disaster area do not fall victim to fraud. Federal agencies should assist localities to provide such a support system.

In addition to making disaster-related fraud a Federal crime, this bill would also require the Director of the Federal Emergency Management Agency to develop public information materials to advise disaster victims about ways to detect and avoid fraud. I have seen a number of antifraud materials prepared by State consumer protection offices and believe this section would assist States to disseminate antifraud-related material following the declaration of a disaster by the President.

I look forward to working with my colleagues to pass legislation that sends a clear message to anyone thinking of defrauding a disaster victim or raising prices unnecessarily on everyday commodities during a natural disaster.•

By Mr. JEFFORDS:

S. 215. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1997

Mr. JEFFORDS. Mr. President, I introduce the National Beverage Container Reuse and Recycling Act of 1997. This bill is identical to legislation that Senator Hatfield and I have introduced in past Congresses. I introduce this bill again today because I firmly believe that deposit laws are a common sense, proven method to increase recycling, save energy, create jobs, and decrease the generation of waste and proliferation of overflowing landfills.

The experience of 10 States, including Vermont, attest to the success of a deposit law or bottle bill as it is commonly called. Recycling rates of well over 70 percent have been achieved for beverage containers in bottle bill States. The rate is over 90 percent in Vermont. To put this in perspective, consider this: 30 percent of Americans who live in bottle bill States account for over 80 percent of beverage container recycling in this country.

The concept of a national bottle bill is simple: To provide the consumer with an incentive to return the container for reuse or recycling. Consumers pay a nominal cost per bottle when purchasing a beverage and are refunded their money when they bring the bottle back either to a retailer or redemption center. Retailers are paid a fee for their participation in the program, and any unclaimed deposits are used to finance State environmental programs.

Under my proposal, a 10-cent deposit on beer, water, and soft-drink containers would take effect in States which have beverage container recovery rates of less than 70 percent, the minimum recovery rate achieved by existing bottle bill States. Labels showing the deposit value would be affixed to containers, and retailers would receive a 2-cent fee per container for their participation in the program.

We are constantly reminded of the growing problem of excess waste as we hear news reports of waste washing up on our Nation's beaches, pitched battles over the siting of landfills and communities lacking adequate waste disposal facilities. Our country's solid waste problems are very real, and they will continue to haunt us until we take action. The throw-away ethic that has emerged in this country is not insurmountable, and recycling is part of the solution.

Finally, a national bottle bill serves a much greater purpose than merely cleaning up littered highways. Recycling creates jobs, saves energy, and preserves our Nation's precious natural resources. In fact, the demand for recycled glass and aluminum has grown to such a point that the Chicago Board of Trade now sells futures in these materials. Recycling makes good business sense.

The legislation I introduce today is consistent with our Nation's solid waste management objectives. A national bottle bill would reduce solid waste and litter, save natural resources and energy, and create a much needed partnership between consumers, industry, and local governments. I urge my colleagues to support this important legislation.

By Mr. JEFFORDS (for himself, Mr. FRIST, and Mrs. HUTCHISON):

S. 216. A bill to amend the Individuals With Disabilities Education Act to authorize appropriations for fiscal years 1998 through 2002, and for other purposes; to the Committee on Labor and Human Resources.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

Mr. JEFFORDS. Mr. President, with my colleague, Senator FRIST, I am introducing the Individuals With Disabilities Education Act Amendments of 1997. This legislation is identical to S. 1578, which was reported out of the Labor and Human Resources Committee in the last Congress. Senator FRIST did a tremendous job in assisting, getting that prepared and passed out of committee. Unfortunately, the bill did not pass in the last legislative session.

We are introducing this legislation today so everyone will have a common frame of reference. However, I want to make it very clear to my colleagues in the Senate and to my colleagues and friends within the education and disability community across the Nation that this legislation is not perfect and it can and will be improved. This is the beginning of the process, not the end.

I am well aware that there are still issues to be resolved and I intend to work with my colleagues to examine these issues and to move forward with revisions to this important law that are commonsense solutions to issues which are very real at the local school level.

We are aided in this effort by the majority leader, who is committed to helping us achieve the broadest based consensus on a final project, one that has the support of families of children with disabilities and educators, but also of all Members of Congress and the President. We have set an ambitious schedule for completing our work on IDEA, and by introducing the IDEA Amendments of 1997 today, we are taking a very important first step.

IDEA was originally enacted in 1975. I was a Member of the House at the time, and participated in the development of this landmark law. It was a response to court decisions that created a patchwork of legal standings, which in turn generated considerable uncertainty about rights and responsibilities. IDEA guaranteed each child with a disability access to a free, appropriate public education, and we all support that goal. In that sense, the legislation has clearly stood the test of time. But it has not in terms of the level of funding support that we promised to the States to assist them in meeting their obligation to educate children with disabilities.

In IDEA, Congress promised to contribute 40 percent of the cost of educating children with disabilities. Our colleague, Senator GREGG, has kept our feet to the fire, reminding us that we should keep our promise. In last year's appropriations measure we were able to garner large increases for this program. We must continue our effort to reach our full Federal commitment.

After 22 years, I think it is appropriate to thoroughly review the administrative and fiscal demands that are associated with providing a free appropriate education to children with disabilities. The population of students demanding assistance has changed significantly, but the law has not provided enough flexibility to States to meet those changing demands.

The writing is on the wall. If we do not make needed changes to IDEA now, based on common sense, school districts and parents will increasingly turn to the courts to get the answers. School districts will do so in hope of getting relief from or clarification of their responsibilities. The parents will do so in hope of procuring the services that they believe their child needs. Since the genesis of IDEA lay in avoiding litigation, true to its intent to do so today, we have an opportunity, through the reauthorization of IDEA, to ensure the emphasis will shift once again and remain on educating children, well into the next century.

If we work together, we have the power to ease the pressure on local communities and States. Through the reauthorization of IDEA, we have the power to give educators incentives and opportunities to educate children with disabilities, including those at risk of failing, with less bureaucracy and meaningful accountability. Let us do it now.

Mr. FRIST. Mr. President, the Individuals with Disabilities Education Act, commonly known as IDEA, is a civil rights law that ensures that children with disabilities have access to a free appropriate public education. This 22-year-old law has been a great success.

During the 104th Congress, I served as chairman of the Subcommittee on Disability Policy. In that capacity, I worked extensively on a bipartisan, commonsense approach to reauthorizing this vital law, but time ran out before the full Senate could vote on this comprehensive bill.

Today, Senator JEFFORDS and I are picking up where we left off by introducing the Individuals with Disabilities Education Act Amendments of 1997. The IDEA Amendments of 1997, which will serve as the starting point, is the very bill that I introduced last year and that was passed unanimously by the Labor and Human Resources Committee on March 21, 1996.

We are introducing the IDEA Amendments of 1997 not because the law is failing, but because it is succeeding.

These amendments reflect the recognition that our Nation's schools are moving past the initial challenge of how to educate children with disabilities to today's challenge of how to educate children with disabilities so that they may become productive, independent citizens. The IDEA Amendments of 1997 will help the Nation's schools succeed in that.

Twenty-two years ago, before IDEA, a newborn with a disability had little hope of receiving help during the critical early years of development; children with disabilities who went to school were segregated in buildings away from their siblings and peers; and many young people with disabilities were destined to spend their lives in institutions.

Young people with less-obvious disabilities, like learning disabilities and attention deficit disorder, were denied access to public education because they were considered too disruptive or unruly. These children tended to grow up on the streets and at home with no consistent access to an appropriate education.

Today, infants and toddlers with disabilities receive early intervention services; many children with disabilities attend school together with children without disabilities; and many young people with disabilities learn study skills, life skills and work skills that will allow them to be more independent and productive adults.

Children without disabilities are learning first hand that disability is a natural part of the human experience, and they are benefiting from individualized education techniques and strategies developed by the Nation's special educators.

Children with disabilities are now much more likely to be valued members of school communities, and the Nation can look forward to a day when the children with disabilities currently in school will be productive members of our community.

As a nation, we have come to see our citizens with disabilities as contributing members of society, not as victims to be pitied.

As a nation, we have begun to see that those of us who happen to have disabilities also have gifts to share, and are active participants in American society who must have opportunities to learn.

While there is no doubt that the Nation is accomplishing its goals to provide a free, appropriate public education to children with disabilities, many challenges remain, and we have made an effort to deal with them in the IDEA Amendments of 1997.

IDEA was originally enacted by the 94th Congress as a set of consistent rules to help States provide equal access to a free appropriate public education to children with disabilities. But over the years, that initial need to provide consistent guidelines to the States has sometimes been misinterpreted as a license to write burdensome compliance requirements.

The IDEA Amendments of 1997 address these problems. These amendments give educators the flexibility and the tools they need to achieve results and ease the paperwork burden that has kept teachers from spending the maximum time teaching.

By shifting the emphasis of IDEA to helping schools help children with disabilities achieve educational results, we are able to reduce many of the most burdensome administrative requirements currently imposed on States and local school districts.

The IDEA Amendments of 1997 streamline planning and implementation requirements for local school districts and States. In assessment and classification, these amendments would allow schools to shift emphasis from generating data dictated by bureaucratic needs to gathering relevant information that is needed to teach a child.

These amendments also give schools and school boards more control over how they use special purpose funds to provide training, research and information dissemination. We want to encourage every school in America to create programs that best serve the needs of all of their students, with and without disabilities.

The IDEA Amendments of 1997 clarify that the general education curriculum and standards associated with that curriculum should be used to teach children with disabilities and to assess their educational progress.

Educators at both the local and State levels will use indicators of student progress that allow them to track the progress of children with disabilities in meaningful ways along with the progress of other children.

In an effort to reduce confrontation and costly litigation, the IDEA Amendments of 1997 require States to offer mediation to parents who have a dispute over their child's education. The amendments also address the serious issue of disciplining children with disabilities who break school rules that apply to all children.

By providing fair and balanced guidelines to help schools discipline students with disabilities, the amendments ensure that all children in our public schools are given the opportunity to learn in a safe environment.

By preserving the right of children with disabilities to a free appropriate public education, by providing school districts with new degrees of procedural, fiscal, and administrative flexibility, and by promoting the consideration of children with disabilities in actions to reform schools and make them accountable for student progress, IDEA will remain a viable, useful law that will provide guidance well into the next century.

The introduction of the Individuals with Disabilities Education Act Amendments of 1997 today represents my continued commitment to the reauthorization of IDEA. I am pleased that the substantial work done on the reauthorization of IDEA during the last Congress will serve as a foundation for our efforts during this Congress. I recognize that there is still much debate to come, and much hard work to be done before we successfully strengthen and extend this vital law into the 21st century. I look forward to working with my Senate colleagues on both sides of the aisle and the disability and education communities during the upcoming reauthorization effort.

Together we have the opportunity to bring commonsense improvements to IDEA, improving the law and opportunities for children with disabilities.

Mr. JEFFORDS. Mr. President, I thank the Senator from Tennessee for all the work he has done. He deserves, and should get, accolades and helpful attention to this bill, because we do need help in making sure it gets into law. But the work he did last year has been incredibly helpful. It moves us a long way toward that goal.

By Mr. BIDEN:

S. 217. A bill to amend title 38, United States Code, to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States; to the Committee on Veterans' Affairs.

THE VETERANS PLOT ALLOWANCE ACT OF 1997

• Mr. BIDEN. Mr. President, for the third consecutive Congress, I am introducing legislation to expand the Federal Government's $150 payment to States when they bury veterans in State-owned veterans cemeteries.

For those who are not familiar with my proposal, it is quite simple. My bill says that if a State buries a veteran free of charge in a State-owned cemetery—and that veteran is eligible for burial in a national veterans cemetery—the Federal Government will pay the State $150 for the cost of the plot.

In other words, Mr. President, rather than the multiple and restricted criteria of plot allowance payments to States under current law, there would instead be only one standard in judging whether a State receives assistance from the Federal Government. And, that standard is: Is the veteran eligible for burial in a national cemetery? Period.

Not only is it simple, it is the only thing that makes sense and the only thing that is fair. When the plot allowance for States was first established a decade ago, Congress did it in part to relieve the pressure on the national cemetery system. Our national cemeteries were filling up rapidly. That trend continues today. More than half of all national cemeteries are closed to additional burials, and there is no where near enough space for all of America's World War II veterans, let alone the veterans from later conflicts. So, rather than undertake the expensive process of building more national cemeteries, we entered into a partnership with the States for the creation of State-owned veterans cemeteries.

That partnership has worked well, especially in States like Delaware that do not have a national cemetery to begin with. But, after entering into this partnership, the Federal Government then limited for whom it would reimburse States for the cost of the plot. We said that States would receive the $150 payment only if the veteran was receiving disability compensation or a pension; died in a veterans hospital; was indigent and the body was unclaimed; or was discharged from the military due to a disability.

In other words, we ask States to bury all veterans eligible for burial in a national cemetery—but then we do not financially help them when they do.

And, States are not even being reimbursed for all wartime veterans that they bury. Let me repeat that. States are not being reimbursed for all wartime veterans that are buried in State-owned veterans cemeteries. I mention that, Mr. President, because some people have characterized this bill as an attempt to provide the plot allowance to States for the burial of nonwartime veterans, and an attempt to give a benefit intended for those who fought in wartime to those who did not. That is simply not the case.

There are thousands of wartime veterans who do not meet the current law's criteria. In fact, each year, about 5,000 veterans—many of them wartime veterans—are eligible for burial in a national cemetery and are buried without charge in State-owned veterans cemeteries, but do not meet the criteria set forth in current law for the States to receive the plot allowance. That is not fair to the States, and it is not right for America's veterans.

Mr. President, the Congressional Budget Office has estimated that this proposal would cost $1 million per year. While we all want to balance the budget—and this proposal will be paid for—$1 million per year is a relatively small sum in order to fulfill our commitment to America's veterans.

In 1995, the Senate recognized this in unanimously approving this proposal as an amendment to the budget bill. Whether this bill is voted on separately or as part of another measure, it does not matter. What matters is that we work to ensure that America's veterans are guaranteed a decent and dignified burial.

I encourage my colleagues to join me in this effort.•

By Mr. BIDEN:

S. 218. A bill to invest in the future American work force and to ensure that all Americans have access to higher education by providing tax relief for investment in a college education and by encouraging savings for college costs, and for other purposes; to the Committee on Finance.

THE GET AHEAD ACT

• Mr. BIDEN. Mr. President, today I am reintroducing a comprehensive bill I first introduced last summer to make college more affordable for middle-class families. Formally titled the "Growing the Economy for Tomorrow: Assuring Higher Education Is Affordable and Dependable" Act, it is known as the Get Ahead Act for short.

This legislation contains numerous provisions—some of which have been or will be introduced by others as separate bills; other provisions are novel to this bill—but they all have one thing in common. They all are an attempt to renew our commitment to see that the American Dream of a college education remains within reach of all Americans.

Because, the plain truth is, that dream is slipping out of reach for many middle-class families. When I was in college 30 some years ago, my parents could send me to a State university for less than 5 percent of their income. And, it stayed about that much—college costs went up each year by about the same amount that the average family's income went up—until 1980. And, then, college costs exploded. Since 1980, the cost of public college tuition and fees has increased nearly three times faster than the average family's income.

We can debate endlessly the reasons why and who or what is to blame. But, all that middle-class families know is that the costs have skyrocketed, and they must constantly worry about how they will ever be able to afford to send their children to college.

For a long time now, Members on both sides of the aisle have believed that the Federal Government has a role and responsibility in helping Americans get to college. Not to guarantee that everyone in America goes to college, but to guarantee that no one who qualifies for college is turned away just because they cannot afford it. It is important for individual Americans—and it is important for the future of America as a whole.

But, I think it is legitimate to question that commitment today when costs are rising out of control; when we spend more on loans that have to be repaid and less on grants that do not; and when the tax law rewards investment in machines but not investment in people.

It is time, Mr. President, to renew and reaffirm our commitment to higher education. And, so, I offer the Get Ahead Act, and I invite my colleagues to join me in this effort.

Let me take just a few minutes to review what this bill would do. And, I ask that a much more detailed summary of the bill be included in the RECORD at the conclusion of my remarks.

First, the Get Ahead Act provides direct tax relief for the costs of higher education. This is accomplished by creating a $10,000 tax deduction for college tuition and fees as well as the interest on student loans. We currently give tax breaks to businesses for investment in the future—in research and development and in the purchase of new plant and equipment. I support that. But, at the same time, we do not provide tax relief to middle-class families who invest in their own children's future through higher education. We should.

In addition, under the Get Ahead Act, all scholarships, including that used for room and board, would be excluded from taxable income, as was the case prior to the 1986 Tax Reform Act.

And, the tax exclusion for employer-provided educational assistance would be extended and made permanent. As my colleagues know, when an employer pays part or all of the costs of an employee's education, that does not have to be counted as income to the employee for tax purposes. Last year, we extended that provision through May 31, 1997. What my bill does is make it a permanent part of the Tax Code—so we do not have to keep coming back and extending it every year or so—and my bill ensures that the tax exclusion applies to both undergraduate and graduate education. Last year, unfortunately in my view, in extending the tax exclusion, we applied it only to undergraduate education.

Second, Mr. President, the Get Ahead Act encourages people to save for the costs of higher education. Specifically, it would allow individuals to withdraw funds from their Individual Retirement Accounts for education expenses—without incurring a 10-percent penalty tax. Also, more Americans would be able to take advantage of Series EE Savings Bonds. These are the bonds where you do not have to pay tax on the interest if the money from the bonds is used to pay for college tuition.

And, my bill would create Education Savings Accounts—accounts similar to IRA's. Each year, families could put tax free up to $2,000 per child into an ESA for their children. That money would accumulate tax free—and you would never have to pay taxes on it if the money was used to pay for college.

Finally, Mr. President, the Get Ahead Act would award merit scholarships to all students who graduate in the top 5 percent of their class. While the $1,000 scholarship would cover about two-thirds of the cost of a community college, I realize this is not a large sum of money for someone attending a 4-year institution, especially if it is a private college. But, it could make a difference for many students, and I believe that, regardless, it is important that we start to reward students who meet high academic standards.

There is one provision not in the bill that was in last year's bill. Last year, I included a section clarifying the Federal tax treatment of State prepaid tuition plans. Similar provisions were enacted last year as part of the minimum wage bill, and therefore I did not need to include them in this year's bill.

Mr. President, the Get Ahead Act is aimed at seeing that individual Americans have the opportunity to get ahead. In today's economy, in today's world, you need a college education to do it. And, for those who would criticize this proposal as a handout to the middle class, let them ponder what the future of America will be like if the vast masses of the middle class are denied a college education.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE GET AHEAD ACT

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION; SUBTITLE A—TAX RELIEF FOR HIGHER EDUCATION COSTS; SECTION 101—DEDUCTION FOR HIGHER EDUCATION EXPENSES

An above-the-line tax deduction (available even to those who do not itemize deductions) would be allowed for the costs of college tuition and fees as well as interest on college loans.

In the case of tuition costs, beginning in tax year 2000, the maximum annual deduction would be $10,000 per year; a maximum deduction of $5,000 would be available in tax years 1997, 1998, and 1999. The full deduction would be available to single taxpayers with incomes under $70,000 and married couples with incomes under $100,000; a reduced (phased-out) deduction would be available to those with incomes up to $90,000 (singles) and $120,000 (couples). The income thresholds would be indexed annually for inflation.

Interest on student loans would be deductible beginning with interest payments made in tax year 1997. Interest payments could be deducted on top of the $10,000 deduction for payment of college tuition and fees. There would be no annual maximum and no income limits with regard to the deductibility of interest on student loans.

Language is included to coordinate this tax deduction with other education provisions of the tax code—to ensure that individuals do not receive a double benefit for the same payments. Specifically, qualified higher education expenses that could be tax deductible would be reduced by any payments made from Series EE savings bonds (and excluded from taxable income), any veterans educational assistance provided by the federal government, and any other payments from tax-exempt sources (e.g., employer-provided educational assistance). Also, tax-free scholarships and tax-excluded funds from Education Savings Accounts (see section 112) would first be attributed to room and board costs; the remainder, if any, would count against tuition and fees and would reduce the amount that would be tax deductible. However, if tuition and fees still exceeded $10,000 even after the reductions, the full tax deduction would be available.

SECTION 102—EXCLUSION FOR SCHOLARSHIPS AND FELLOWSHIPS

College scholarships and fellowship grants would not be considered income for the purposes of federal income taxes. This returns the tax treatment of scholarships and fellowships to their treatment prior to the 1986 Tax Reform Act (which limited the exclusion of scholarships and fellowships to that used for tuition and fees).

Scholarships and fellowship grants would be fully excludable for degree candidates. In the case of non-degree candidates, individuals would be eligible for a lifetime exclusion of $10,800—$300 per month for a maximum 36 months.

Language is included to clarify that federal grants for higher education that are conditioned on future service (such as National Health Service Corps grants for medical students) would still be eligible for tax exclusion.

This section would be effective beginning with scholarships and fellowship grants used in tax year 1997.

SECTION 103—PERMANENT EXCLUSION FOR EDUCATIONAL ASSISTANCE

As part of the minimum wage/small business tax relief bill enacted in 1996, the tax exclusion for employer-provided educational assistance was reinstated retroactively and extended through May 31, 1997. But, as of July 1, 1996, the tax exclusion only applies to educational assistance for undergraduate education.

This section would extend the employer-provided educational assistance tax exclusion by making it a permanent part of the tax code. In addition, it would retroactively reinstate the tax exclusion for graduate education.

SUBTITLE B—ENCOURAGING SAVINGS FOR HIGHER EDUCATION COSTS; SECTION 111—IRA DISTRIBUTIONS USED WITHOUT PENALTY FOR HIGHER EDUCATION EXPENSES

Funds could be withdrawn from Individual Retirement Accounts (IRAs) before age 59½ without being subject to the 10 percent penalty tax if the funds were used for higher education tuition and fees. (However, withdrawn funds, if deductible when contributed to the IRA, would be considered gross income for the purposes of federal income taxes.)

This section would be effective upon enactment.

SECTION 112—EDUCATION SAVINGS ACCOUNTS

This section would create IRA-like accounts—known as Education Savings Accounts (ESAs)—for the purpose of encouraging savings for a college education.

Each year, a family could invest up to $2000 per child under the age of 19 in an ESA. For single taxpayers with incomes under $70,000 (phased out up to $90,000) and married couples with incomes under $100,000 (phased out up to $120,000), the contributions would be tax deductible. (These income thresholds would be indexed annually for inflation.) For all taxpayers, the interest in an ESA would accumulate tax free; the contributions would not be subject to the federal gift tax; and, the balance in an ESA would not be treated as an asset or income for the purposes of determining eligibility for federal means-tested programs.

ESA funds could be withdrawn to meet the higher education expenses—tuition, fees, books, supplies, equipment, and room and board—of the beneficiary. Funds withdrawn for other purposes would be subject to a 10 percent penalty tax and would be considered income for the purposes of federal income taxes (to the extent that the funds were tax deductible when contributed). The penalty tax would not apply in cases of death or disability of the beneficiary of the ESA and in cases of unemployment of the contributors.

In addition, when the beneficiary of the account turns age 30 and is not enrolled in college at least half time, any funds remaining in the ESA would be (1) transferred to another ESA; (2) donated to an educational institution; or (3) refunded to the contributors. In the first two cases, there would be no penalty tax and the money would not be considered taxable income. In the third case, the penalty tax would not apply, but the funds would be counted as income to the extent that the funds were tax deductible when contributed.

Finally, parent could roll over funds from one child's ESA to another child's ESA without regard to any taxes, without regard to the $2000 annual maximum contribution to an ESA, and without regard to the age 30 requirement note above. Funds rolled over would also not be subject to the federal gift tax.

Language is also included to allow individuals to designate contributions to an ESA as nondeductible even if such contributions could be tax deductible. This gives families the option to build up the principal in an ESA while at a lower tax rate, rather than having to pay taxes on unspent ESA funds when the contributors are older and likely in a higher tax bracket.

Tax deductible contributions to ESAs would be allowed beginning in tax year 1997.

SECTION 113—INCREASE IN INCOME LIMITS FOR SAVINGS BOND EXCLUSION

For taxpayers with incomes below certain thresholds, the interest earned on Series EE U.S. Savings Bonds are not considered taxable income if the withdrawn funds are used to pay for higher education tuition and fees. This section increases the income thresholds to allow more Americans to use the Series EE Savings Bonds for education expenses.

Effective with tax year 1997, the income thresholds would be the same as the income thresholds for the higher education tax deduction (see section 101): $70,000 for single taxpayers (phased out up to $90,000), and $100,000 for couples (phased out up to $120,000). As with the higher education tax deduction, these income thresholds would be indexed annually for inflation.

TITLE II—SCHOLARSHIPS FOR ACADEMIC ACHIEVEMENT

Beginning with the high school graduating class of 1998, the top 5 percent of graduating seniors at each high school in the United States would be eligible for a $1000 merit scholarship. If an individual receiving such a scholarship achieved a 3.0 ("B") average during his or her first year of college, a second $1000 scholarship would be awarded.

However, the merit scholarships would be available only to those students in families with income under $70,000 (single) and $100,000 (couples). These income thresholds would be increased annually for inflation.

Funds are authorized (and subject to annual appropriations) for five years. The first year authorization (fiscal year 1998) is $130 million. In each of the next four years (FY 1999–FY 2002), because the scholarships could be renewed for a second year, the authorization is $260 million per year. Total five-year authorization: $1.17 billion.

TITLE III—DEFICIT NEUTRALITY

To ensure that the "GET AHEAD" Act does not increase the deficit, this title declares it the sense of the Senate that the costs of the bill should be paid by closing corporate tax loopholes.●

By Mr. DASCHLE (for himself and Mr. GRASSLEY):

S. 219. A bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States; to the Committee on Finance.

VALUE-ADDED AGRICULTURAL PRODUCTS MARKET ACCESS ACT OF 1997

Mr. DASCHLE. Mr. President, I am pleased to introduce today with my distinguished colleague, Senator GRASSLEY, two important pieces of international trade legislation. These bills are designed with one very simple, clear goal in mind: to secure fair trade opportunities for America's highly competitive producers of agricultural products.

There is no more important sector of the U.S. economy than agriculture as far as international trade is concerned. Last year, the trade surplus in agricultural products reached $28.5 billion, the largest of any industry, including aircraft. This surplus offset to an important degree the Nation's large and persistent deficit in manufactured goods.

Trade is vitally important to farmers. Production from more than one-third of harvested acreage is exported. Agricultural exports are important to the rest of the economy as well. According to the U.S. Department of Agriculture, each dollar generated by agricultural exports stimulates another $1.39 in supporting economic activity to produce those exports. Nearly every State exports farm products.

Despite the obvious success American producers are enjoying in world markets, a closer look reveals that we could be doing far better. Judging from the annual surveys compiled by the Office of the U.S. Trade Representative, roughly half of all foreign trade barriers facing U.S. products are in the agricultural sector. This suggests that our overall merchandise trade deficit, which is estimated to total nearly $170 billion for 1996, could be considerably lower if we succeeded in removing more of these barriers.

The recent Uruguay round took only the first, tentative steps toward devising effective and fair rules governing international agricultural trade. As our able negotiators would be the first to acknowledge, we have a long way to go. Although we made significant progress in subjecting export subsidies to international rules, the Uruguay round secured only modest commitments by governments to open their markets and administer food health and safety standards fairly. In the long run, the fairness of world trade in agricultural products will depend on how aggressively and systematically the U.S. Government insists on compliance by foreign governments with their existing commitments and presses them for new ones.

The two bills we introduce today will improve our ability to meet this challenge both institutionally and with respect to one specific, immediate problem regarding the European Union. Passage of this legislation will help to assure farmers and their communities that trade liberalization remains in their interest as much in practice as in theory.

THE VALUE-ADDED AGRICULTURAL MARKET ACCESS ACT OF 1997

The first bill, the Value-Added Agricultural Market Access Act of 1997, would improve our institutional capacity to set priorities among the vast array of foreign agricultural trade barriers we face and give those priorities the high-level attention they deserve within the executive branch. In so doing, it would provide our negotiators with an important new tool with which to increase their leverage in consultations with foreign governments.

The bill would create a "Special 301" procedure for value-added agricultural products virtually identical to that which currently exists for intellectual property products. It would require the U.S. Trade Representative [USTR] each year to designate as "priority countries" those trading partners having the most onerous or egregious acts, policies, or practices resulting in the greatest adverse impact—actual or potential—on U.S. value-added agricultural products.

The USTR would be required to initiate a section 301 investigation within 30 days after the identification of a priority foreign country with respect to any act, policy, or practice that was the basis of the identification, unless the USTR determines initiation of the investigation would be detrimental to U.S. economic interests and reports the reasons in detail to Congress. The procedural and other requirements of section 301 authority would generally apply to these cases with the important exception that investigations, and negotiations must be concluded and determinations made on whether the measures are actionable within 6 months, as opposed to 12 or 18 months for conventional section 301 cases. This 6-month deadline may be extended to 9 months if certain criteria are met. USTR may choose not to designate a country as a priority foreign country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide fair and equitable access to its markets.

According to the Congressional Research Service, agriculture as a whole is the largest positive contributor to the U.S. trade balance, and exports of value-added products—intermediate products such as wheat flour, feedstuffs, and vegetable oils or consumer-ready products such as meats—

have recently become the largest component of our agricultural trade. In fiscal year 1996, these higher value exports accounted for $32 billion, or 54 percent by value, of all such exports.

It is no wonder that U.S. value-added agriculture is making such gains. Our farmers have worked hard to increase their value-added production, and they should be proud of what they have accomplished. Unfortunately, they are being denied the full fruits of their labors by a varied and complex array of market restrictions in many foreign countries. Notwithstanding the progress made in the Uruguay round, many foreign governments maintain considerably stricter limits on U.S. products than we do on theirs. In addition, even as formal barriers fall or become more transparent as a result of the Uruguay round, new and informal trade barriers often take their place. These may take the form of arbitrary sanitary and phytosanitary measures that ignore sound principles of science and globally accepted food safety and inspection standards.

In the past few years alone, United States sausages have been denied entry to Korea because the Korean Government imposed arbitrary and unscientific shelf-life standards on imported sausages; the European Union has banned U.S. beef treated with natural hormones even though scientists from Europe and around the world have declared natural-hormone-treated beef to be safe; and, high-value U.S. pork products cannot be exported to Europe because European meat inspectors require U.S. slaughter and packing plants to meet standards that even their own producers cannot meet.

These are but a few examples of the barriers to entry facing U.S. producers of value-added farm products. The unfortunate result is that our farmers are being prevented from realizing their full export potential. The Foreign Agricultural Service estimates that U.S. agricultural exports are reduced by $4.7 billion annually due to unjustifiable sanitary and phytosanitary measures alone. Imagine the impact on farm income, rural communities, and the U.S. economy if these barriers were removed.

The Value-Added Agricultural Market Access Act of 1997 will bring added focus to this set of issues within the trade policymaking machinery of the U.S. Government. We have a strong inter-agency team of trade negotiators and analysts; over the years, through Democratic and Republican administrations alike, it has been one of the most efficient operations anywhere in the Federal Government. However, the USTR and its support agencies confront an almost overwhelming variety of demands and challenges. They currently are deeply involved in several very ambitious multilateral trade negotiations or preparations for them, including free trade arrangements in the Western Hemisphere and the Pacific rim, NAFTA expansion, and WTO agreements on high-technology products and telecommunications equipment and services.

The sheer number and complexity of the issues confronting the USTR make priority-setting one of USTR's most important responsibilities. With so much attention now on visionary multilateral initiatives, we must take care not to lose sight of two other practical aspects of trade policy: our bilateral efforts to improve market access and our responsibility to ensure that governments comply with the agreements they have already signed with us, be they multilateral or bilateral. These two aspects of U.S. trade policy are particularly important to the agricultural community, which, as I have emphasized, is second to none in terms of our international commercial prospects.

As my colleague, Senator GRASSLEY, the distinguished chairman of the Finance Subcommittee on International Trade, knows well, Congress holds a major share of the responsibility, indeed prerogative, for setting U.S. trade policy. It is explicitly assigned that power under article I, section 8 of the U.S. Constitution. Our bill would exercise this authority to institutionalize an appropriate degree of attention on agriculture in U.S. trade policy.

U.S. agriculture traditionally has been one of the strongest of any segment of the economy in its support for multilateral trade liberalization, including the negotiation of free trade agreements. Yet, in talking to individual farmers in my State as well as their national representatives, I have the impression that the strength of American agriculture's future support for such initiatives will hinge on how well our Government performs in these areas of our bilateral trade relations. Indeed, I believe that adroit use by the USTR of the procedures established by this bill would enhance our chance of achieving new multilateral rules for agriculture in the next negotiating round of the World Trade Organization in the same way that creation of "Special 301" by Congress in 1988 created leverage and momentum for our negotiators in the run-up to the adoption of intellectual property rules in the Uruguay round.

FAIR TRADE IN MEAT AND MEAT PRODUCTS ACT OF 1997

The second bill we are introducing today addresses one specific, egregious barrier to U.S. value-added agricultural exports: the European Union's [EU] continuing refusal to implement a commitment it made in 1992 to treat our food safety and inspection standards as roughly equivalent in effectiveness to their own. This procedural form of protectionism has shut American exports of pork and beef out of the European market. The loss of this lucrative market has contributed to the severe drop in cattle prices in this country and deprived American pork producers of an estimated $60 million in sales last year. By any objective standard, U.S. meat products are among the most competitive in the world and represent one of the most promising areas of growth for American trade.

On November 1, 1990, the European Union prohibited imports of U.S. pork and beef on the grounds that our products did not comply with the safety and inspection requirements of the EU's Third Country Meat Directive [TCD]. The prohibition was imposed despite the fact that the requirements of the TCD are largely similar to those already mandated by the U.S. Department of Agriculture. As a result, American pork and beef exports to the European Union virtually ceased.

Following this action, the industry filed and the Bush administration accepted a petition under section 301 of the 1974 Trade Act. After USTR concluded preliminarily that the EU's administration of the TCD imposed a burden and restriction on U.S. commerce, the EU agreed to resolve the dispute in an exchange of letters that came to be known as the 1992 Meat Agreement. At the time, U.S. Trade Representative Carla Hills noted that the practices of the European Union would have been actionable under section 301 absent the 1992 agreement and would become so again if the European Union violated its terms. Overwhelming evidence now indicates that the European Union has done just that.

The 1992 Meat Agreement outlined a specific series of steps that American producers could take to become eligible for export to the European Union, and concluded that the inspection systems of the United States and European Union provided "equivalent safeguards against public health risks." The GATT Agreement on Sanitary and Phytosanitary Measures corroborated this finding and required the European Union to treat USDA inspection requirements as equivalent to its own.

Five years later, after millions of dollars in investment by American producers to meet the terms of the 1992 Meat Agreement, only a handful of American plants have been recertified for export to the European Union. Plants managers report that inspections for certification have not been conducted in an objective or transparent manner, and the European Union has failed to acknowledge changes enacted specifically at its request. The cost of this unjustified action has been millions of dollars in lost sales to American pork and beef producers.

The administration has been more than patient with the European Union, consulting with its diplomats for many months. In my view, the time for waiting has ended. The European Union must tear down its walls and give our farmers and ranchers the level playing field they were promised. Indeed, in just the last few weeks, the European Union has been considering yet another change in animal product approval procedures that would block an additional $1 billion in agricultural exports to the European Union. This action was taken despite the fact that the United States has been working in good faith for over 2 years on a veterinary equivalence agreement that would accommodate European Union concerns. Simply put, it is time to send the European Union a clear message that we will not stand by while they ignore their obligations.

For this reason, Senator GRASSLEY and I are introducing legislation to require the USTR to determine formally whether the European Union has violated its international obligations, seek prompt initiation of the relevant international dispute settlement proceedings, and review our certification of their meat exporting facilities. This is a straightforward response to a blatant breach of faith on the part of the European Union. The bill sends a clear message that trade is a two-way street, and procedural protectionism is every bit as unacceptable as traditional market barriers like discriminatory quotas and tariffs.

Mr. President, we have consulted with the USTR and Department of Agriculture as we have drafted the legislation, and I am pleased to inform my colleagues that the administration is fast coming to an appreciation of the need for the type of action prescribed by the bill. Last week, it notified the European Union via telex that, absent a resolution of this issue, as of April 1, 1997, all European Union meat and meat product exports will have to "specifically adhere to and meet U.S. regulatory standards." Moreover, "Any plant in the member states of the European Unionropean Union which desires to ship meat, meat products, poultry, or poultry products to the United States will have to be inspected by officials of the Food Safety and Inspection Service of the U.S. Department of Agriculture and be certified before it is eligible to ship to market."

I am pleased that the administration is headed in the direction prescribed by our bill. I call on my colleagues to support this legislation as well as the value-added agricultural products market access bill as a way to reinforce our Government's emerging stance on this immediate problem and ensure that similar problems in the future receive the serious and timely attention they deserve.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Value-added Agricultural Products Market Access Act of 1997".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The export of value-added agricultural products is of vital importance to the economy of the United States.

(2) In 1995, agriculture was the largest positive contributor to the United States merchandise trade balance with a trade surplus of $25,800,000,000.

(3) The growth of United States value-added agricultural exports should continue to be an important factor in improving the United States merchandise trade balance.

(4) Increasing the volume of value-added agricultural exports will increase farm income in the United States, thereby protecting family farms and contributing to the economic well-being of rural communities in the United States.

(5) Although the United States efficiently produces high-quality value-added agricultural products, United States producers cannot realize their full export potential because many foreign countries deny fair and equitable market access to United States agricultural products.

(6) The Foreign Agricultural Service estimates that United States agricultural exports are reduced by $4,700,000,000 annually due to unjustifiable imposition of sanitary and phytosanitary measures that deny or limit market access to United States products.

(7) The denial of fair and equitable market access for United States value-added agricultural products impedes the ability of United States farmers to export their products, thereby harming the economic interests of the United States.

(b) PURPOSES.—The purposes of this Act are—

(1) to reduce or eliminate foreign unfair trade practices and to remove constraints on fair and open trade in value-added agricultural products;

(2) to ensure fair and equitable market access for exports of United States value-added agricultural products; and

(3) to promote free and fair trade in value-added agricultural products.

SEC. 3. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS.

(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

"SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS FOR VALUE-ADDED AGRICULTURAL PRODUCTS.

"(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the annual report is required to be submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative') shall identify—

"(1) those foreign countries that—

"(A) deny fair and equitable market access to United States value-added agricultural products, or

"(B) apply standards for the importation of value-added agricultural products from the United States that are not related to public health concerns or cannot be substantiated by reliable analytical methods; and

"(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

"(b) SPECIAL RULES FOR IDENTIFICATIONS.—

"(1) CRITERIA.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

"(A) that engage in or have the most onerous or egregious acts, policies, or practices that deny fair and equitable market access to United States value-added agricultural products,

"(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

"(C) that are not—

"(i) entering into good faith negotiations, or

"(ii) making significant progress in bilateral or multilateral negotiations,

to provide fair and equitable market access to United States value-added agricultural products.

"(2) CONSULTATION AND CONSIDERATION REQUIREMENTS.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

"(A) consult with the Secretary of Agriculture and other appropriate officers of the Federal Government, and

"(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

"(3) FACTUAL BASIS REQUIREMENT.—The Trade Representative may identify a foreign country under subsection (a)(1) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

"(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

"(A) the history of value-added agricultural trade relations with the foreign country, including any previous identification under subsection (a)(2), and

"(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair and equitable market access for United States value-added agricultural products.

"(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

"(1) AUTHORITY TO ACT AT ANY TIME.—If information available to the Trade Representative indicates that such action is appropriate, the Trade Representative may at any time—

"(A) revoke the identification of any foreign country as a priority foreign country under this section, or

"(B) identify any foreign country as a priority foreign country under this section.

"(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

"(d) DEFINITIONS.—For purposes of this section—

"(1) VALUE-ADDED AGRICULTURAL PRODUCT.—The term 'value-added agricultural product' means a product that has traditionally been considered by the Secretary of Agriculture as being a value-added product within the scope of section 303 of the Agricultural Trade Act of 1978 (7 U.S.C. 5653).

"(2) FAIR AND EQUITABLE MARKET ACCESS.—A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product through the use of laws, procedures, practices, or regulations which—

"(A) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

"(B) constitute discriminatory nontariff trade barriers.

"(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of the action under subsection (c).

"(f) ANNUAL REPORT.—The Trade Representative shall, not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving fair and equitable market access for United States value-added agricultural products.".

(b) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 182 the following:

"Sec. 183. Identification of countries that deny market access for value-added agricultural products.".

SEC. 4. INVESTIGATIONS.

(a) INVESTIGATION REQUIRED.—Subparagraph (A) of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)) is amended by inserting "or 183(a)(2)" after "section 182(a)(2)" in the matter preceding clause (i).

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 302(b)(2) of such Act is amended by inserting "concerning intellectual property rights that is" after "any investigation".

SEC. 5. AUTHORIZED ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

Section 301(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D)(iii)(II) and inserting "; or"; and

(3) by adding at the end the following:

"(E) with respect to an investigation of a country identified under section 183(a)(1), to request that the Secretary of Agriculture (who, upon receipt of such a request, shall) direct the Food Safety and Inspection Service of the Department of Agriculture to review certifications for the facilities of such country that export meat and other agricultural products to the United States.".

By Mr. GRASSLEY (for himself and Mr. DASCHLE):

S. 220. A bill to require the U.S. Trade Representative to determine whether the European Union has failed to implement satisfactorily its obligations under certain trade agreements relating to U.S. meat and pork exporting facilities, and for other purposes; to the Committee on Finance.

FAIR TRADE IN MEAT AND PORK PRODUCTS ACT OF 1997

Mr. GRASSLEY. Mr. President, I join the minority leader today in introducing two important bills regarding agricultural trade. The first is a bill that requires the U.S. Trade Representative to determine whether the European Union has violated its trade agreements with the United States by failing to certify U.S. beef and pork processing plants for export to the European Union. The failure to certify our plants has cost the pork industry alone as much as $60 million annually.

The problem arises under the E.U.'s so-called Third Country Meat Directive. This directive, which has been in place since 1985, calls for E.U. inspection and certification of U.S. meat plants as a condition for accepting exports from those plants. Simply put, if a plant has not been certified, it cannot export to the E.U. member nations. Since the mid-1980's the E.U. has used this directive to prohibit over 400 U.S. facilities from exporting beef and pork to the E.U.

Many bilateral discussions have taken place between the E.U. and the United States on this issue since 1985. But no satisfactory resolution has ever been reached. In early 1991, the then-U.S. Trade Representative, Carla Hills, initiated an action under section 301 of the 1974 Trade Act. After a year of consultations and the certification of some U.S. plants, we entered into a settlement agreement, known as the 1992 meat agreement. In exchange for the settlement agreement, the United States agreed to withdraw its 301 action.

Under the 1992 meat agreement, the E.U. agreed that U.S. plants would be certified if their inspection systems are equivalent to the E.U.'s. In spite of this agreement, and its commitments made under the WTO Agreement on Sanitary and Phytosanitary Measures, the E.U. has not made any significant progress in certifying U.S. plants. Europe effectively remains a closed market for United States beef and pork.

What this bill does is require the USTR to determine under section 306 whether the E.U. has violated its trade agreements. This is important because once a determination has been made, the USTR is required to take action. The action could take the form of unilateral retaliation, for example. Furthermore, the bill requires the U.S. Department of Agriculture to reconsider our certification of European plants if this problem continues.

Mr. President, the impact of the E.U.'s blatant disregard of our trade agreements is substantial for the U.S. meat industry. Our cattle and hog farmers have been effectively shut out of the entire European market. This comes at a time when American agriculture is becoming more dependent on foreign markets. In fact, USDA calculates that American farmers will soon derive up to 30 percent of their net income from foreign trade. So global market access is critical to the viability of the family farmer.

This bill sends a strong signal to the E.U. that we are no longer willing to tolerate this egregious behavior. Bilateral negotiations have failed. It is time to take swift and strong action to eliminate this barrier to our value-added agricultural products.

We must also send a signal to our other foreign trading partners. Trade agreements must be followed. Commitments must be kept. The United States will no longer sit idly by as the rest of the world thumbs it nose at their responsibilities as a trading partner. The stakes are simply too high in terms of American jobs and standard of living.

This leads me to the second bill that I have cosponsored today with the minority leader. This bill requires the USTR to identify, on an annual basis, those countries that deny market access to our value-added agricultural products. It also requires identifying countries who are violating the sanitary and phytosanitary provisions of the GATT. This procedure is similar to the special 301 procedure for intellectual property rights.

It is necessary to identify and understand the trade barriers faced by American agriculture so we can work to eliminate them. Not only is foreign trade vital to American farmers, it is vital to the U.S. balance of payments. Agriculture trade is the shining star in an otherwise increasing trade deficit. But we cannot rest on the success of the past. In existing markets we could be doing much better in terms of market share. And many markets remain closed to U.S. ag products.

This bill will help pinpoint our successes and our failures so we can move forward on bilateral negotiations and, eventually, a new round of agricultural negotiations in the World Trade Organization, beginning in 1999. This annual report will serve as a blueprint to achieving worldwide access for the commodities produced on America's family farms.

I appreciate the minority leader's hard work on these two pieces of legislation. And I look forward to working with him during this Congress to get these bill enacted into law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Trade in Meat and Pork Products Act of 1997".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The European Union's Third Country Meat Directive has been used to decertify more than 400 United States facilities exporting beef and pork products to the European Union even though United States health inspection procedures are equivalent to those provided for in the Third Country Meat Directive.

(2) An effect of the decertifications is to prohibit the importation of United States beef and pork products into the European Union.

(3) As a result of the decertifications, the highly competitive United States pork industry loses as much as $60,000,000 each year from trade with European Union countries.

(4) In July 1987 and November 1990, at the request of affected United States industries, the United States initiated investigations under section 301 of the Trade Act of 1974 into the European Union's administration of the Third Country Meat Directive and sought resolution of the meat and pork trade problems through the dispute settlement process established under the General Agreement on Tariffs and Trade.

(5) The United States Trade Representative preliminarily concluded on October 10, 1992, that the European Union's administration of the Third Country Meat Directive created a burden on and restricted United States commerce.

(6) Bilateral talks, initiated as a result of that finding, resulted in an Exchange of Letters in which the United States and the European Union concluded that the meat inspection systems of the United States and the European Union provided "equivalent safeguards against public health risks" and agreed to take steps to resolve remaining differences regarding meat inspection.

(7) Even though the United States terminated the section 301 investigation as a result of the Exchange of Letters, the United States determined that the practices under investigation would have been actionable if an acceptable agreement had not been reached.

(8) United States meat and pork producers have displayed consistent interest in exporting products to the European Union and have undertaken substantial investment to take the steps specified by the Exchange of Letters.

(9) The European Union has failed to acknowledge changes in plant safety and inspection procedures undertaken in the United States specifically at the European Union's request and has not fulfilled its obligation to inspect and relist United States producers who have taken the steps specified by the Exchange of Letters.

(10) The actions of the European Union in conducting United States plant inspections places the European Union in violation of commitments made in the Exchange of Letters.

(11) The European Union, in addition to being a party to the Exchange of Letters, is a signatory to GATT 1994 and to the Agreement on the Application of Sanitary and Phytosanitary Measures, which requires that meat and pork inspection procedures under Department of Agriculture regulations be treated as equivalent to inspection procedures required by the European Union under the Third Country Meat Directive if the regulations achieve the European level of sanitary protection.

(12) Whenever a foreign country is not satisfactorily implementing an international trade measure or agreement, the United States Trade Representative is required under section 306(b)(1) of the Trade Act of 1974 (19 U.S.C. 2416(b)(1)) to determine the actions to be taken under section 301(a) of such Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) EXCHANGE OF LETTERS.—The term "Exchange of Letters" means the exchange of letters concerning the application of the Community Third Country Directive, signed in May 1991 and November 1992, which constitute the agreement between the United States and the European Economic Community regarding the Third Country Meat Directive.

(2) GATT 1994.—The term "GATT 1994" means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

(3) THIRD COUNTRY MEAT DIRECTIVE; COMMUNITY THIRD COUNTRY DIRECTIVE.—The terms "Third Country Meat Directive" and "Community Third Country Directive" mean the European Union's Council Directive 72/462/EEC relating to inspection and certification of slaughter and processing plants that export meat and pork products to the European Union.

(4) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement establishing the World Trade Organization entered into on April 15, 1994.

SEC. 4. REQUIREMENT FOR DETERMINATION BY UNITED STATES TRADE REPRESENTATIVE.

Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall determine, for purposes of section 306(b)(1) of the Trade Act of 1974, whether the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement.

SEC. 5. REQUEST FOR DISPUTE SETTLEMENT.

If the United States Trade Representative determines under section 4 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the agreement.

SEC. 6. REVIEW OF CERTAIN MEAT FACILITIES.

(a) REVIEW BY FOOD SAFETY AND INSPECTION SERVICE.—If the United States Trade Representative determines pursuant to section 4 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement, the United States Trade Representative shall request the Secretary of Agriculture (who, upon receipt of the request, shall) direct the Food Safety and Inspection Service of the Department of Agriculture to review certifications for European Union facilities that import meat and other agricultural products into the United States.

(b) RELATIONSHIP TO USTR AUTHORITY.—The review authorized under subsection (a) is in addition to the authority of the United States Trade Representative to take actions described in section 301(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)).

By Mr. GREGG:

S. 221. A bill to amend the Social Security Act to require the Commissioner of Social Security to submit specific legislative recommendations to ensure the solvency of the Social Security trust funds; to the Committee on Finance.

SOCIAL SECURITY ACT AMENDMENTS

Mr. GREGG. Mr. President, I rise to introduce legislation which I now send to the desk.

Mr. President, I am sure that my colleagues are familiar with the report recently released by the Social Security Advisory Council. That group, appointed by HHS Secretary Donna Shalala, was charged with making recommendations as to how to place our largest and most popular program—Social Security—on a stable and secure path for the 21st century. Their recommendations have accelerated an already vigorous debate concerning the eventual course of Social Security reform.

As someone who is greatly concerned about the future of Social Security, let me offer my view that we cannot afford the kind of gridlock and partisanship in rescuing that program that we have seen in the Medicare debate. It is vitally important that all of us come together to address problems of retirement security in a bipartisan way—one that involves all of the important players in this debate—both in Congress and within the administration.

My legislation, Mr. President, would simply establish an additional safeguard for the solvency of the Social Security system on which so many American senior citizens depend. Specifically, it will require the Commissioner of Social Security—at the same time each year that the Social Security trustees report to Congress on the solvency of the Social Security system—to recommend those legislative actions which the Commissioner deems necessary to place the Social Security system in long-term actuarial balance.

Mr. President, I believe that there is broad bipartisan consensus about certain aspects of Social Security. Certainly there is wide bipartisan support for the view that protecting the stability and solvency of the system should be among our highest national priorities. And, most of us recognize the stark fiscal realities facing the Social Security system. I refer to the fact that according to the Social Security trustees, beginning in the year 2012, the Social Security system will face annual operating deficits, meaning that there will then be inadequate revenues coming into the system to support current benefits. From that year onward—indeed for most of the 75-year period during which actuarial solvency is measured—there is an ever widening gap between the promises of Social Security and the means available to pay for them, unless we act to change the law.

It is beyond those points of agreement, however, that our bipartisan consensus breaks down. Even though we all know that it will take bipartisan action to safeguard this system, the Social Security system could well become a sharpening focus of partisan political activity. Apparently the temptations here are simply too great for politicians to resist. It is the easier—though less responsible—course to ignore the problems within the system, and to take political advantage of those who seek to repair them.

We thus find ourselves in a peculiar situation. Each year, the Social Security trustees send information to Congress about Social Security's troubled future, and call upon Congress to act to restore the system to long-term solvency. Yet, at the same time, the custodians of that system—indeed, the soon-departing Social Security Commissioner herself—remain utterly silent as to how this is to be done. It is astounding to me that an individual will again be placed in charge of this most enormous and vital Government program, and yet not be required under the law to forward proposals to keep it stable and secure.

Toward the end of last year, the staff of the Budget Committee were briefed by representatives of the Social Security Administration as to how they were meeting their established performance goals under the Government Performance and Results Act. One of the goals established by the Social Security Administration was to improve public confidence in Social Security. Meanwhile, no recommendations are coming from the Commissioner of Social Security as to how to justify that confidence in the long term. It is long past time to repair this discontinuity.

I believe that this legislation should not be controversial. It stands to elementary reason that it should be part and parcel of the duties inherent in the position of Social Security Commissioner, to make such recommendations as are necessary to protect the future of the Social Security system. I hope that Congress will act quickly, and will pass this legislation early in this session.

By Mr. DOMENICI:

S. 222. A bill to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies; to the Committee on Governmental Affairs.

THE NATIONAL DROUGHT POLICY STUDY ACT OF 1997

Mr. DOMENICI. Mr. President, I rise to introduce legislation that I believe will finally start us down the long neglected road of developing a coherent, integrated, and coordinated national drought policy. I offer this legislation, Mr. President, in the wake of one of the most devastating droughts the southwestern United States has seen in a century, a drought for which there was simply no preparation at either Federal, State, or local levels.

Mr. President, some people do not consider a drought to be a disaster, but if I live in a drought, and live through a drought, it is just as much a disaster as a tornado or an earthquake. It causes just as much devastation.

The problem is it kind of creeps up. And in the flow of its destructive force are many ruined lives, many lost businesses, many people who cannot make the mortgages on their farms and homes. It is time we have some coordinated effort to address these disasters. This legislation seeks to get that done.

Before I talk about the particulars of my bill, however, I would like to spend a few minutes describing to my colleagues just how devastating a serious drought disaster can be. Unfortunately, my State of New Mexico can be used as a prime example of this devastation.

Mr. President, water is everything in New Mexico. Ours is an arid State, and the rain and snowfall we receive in the spring and winter is literally a matter of life and death to our cities, towns, businesses, and environment. In 1995–96, however, precipitation levels were the lowest they had been in the 100 years that the State has been keeping such records. The results were nothing less than disastrous.

For example, the drought decimated the State's agricultural community. Every single county in the State received disaster declarations from the USDA. Farmers in the southern part of the State were forced to go to water wells, depleting an already-taxed aquifer. And, in northeastern New Mexico, winter wheat crops failed for the first time in anyone's memory.

The drought also destroyed forage for livestock producers, causing an industry already hit hard by high feed prices to hurt even more. In all, it was estimated that ranchers lost up to 85 percent of their capital.

The drought had a catastrophic impact on New Mexico's forests. The Dome, Hondo, and Chino Wells fires were all sparked by the incredibly dry conditions brought on by the drought, and were exacerbated by the lack of water needed to extinguished them. In all, there were over 1,200 fires in New Mexico last year burning over 140,000 acres of land and wiping out dozens of homes and businesses.

The drought also caused municipal water systems to be taxed to the hilt, forcing many cities and towns to consider drastically raised water rates for their citizens. And the drought meant that critical stretches of the Rio Grande River were almost completely dry, which in turn meant vastly reduced amounts of water for wildlife such as the endangered silvery minnow.

And New Mexico's problems were those of just one State: the 1995–96 drought devastated the entire southwestern region. Arizona, California, Colorado, Nevada, Oklahoma, Texas, Utah, and Kansas were all severely impacted by the drought. Small businessmen, farmers, and ranchers all across the area were wiped out. Oklahoma experienced almost $500 million in agricultural losses alone. Texas's agricultural losses exceeded $2 billion, while its overall statewide losses were over $5 billion. And in the southwest as a whole, almost 3 million acres of land were engulfed by fire, an amount almost three times the 5-year acreage.

In short, Mr. President, this drought was a killer. We in the Southwest were fortunate that this year is proving to be a much better year for precipitation than the last. But we do not know what the next year will bring. There could be yet another drought, again sending towns scrambling to drill new water wells, sweeping fire across bone-dry forests, and forcing farmers and ranchers to watch their way of life being wiped out.

But I do not want to give the impression that severe droughts are solely the curse of the Southwest. Every region in the United States can be hit by these catastrophes. In 1976–77, a short but intense drought struck the Pacific Northwest, requiring the construction of numerous dams and reservoirs to secure millions of additional acre feet of needed water. The 1988 Midwest drought caused over $5 billion in losses. And the infamous 7-year drought of 1986–93 experienced by California, the Pacific Northwest, and the Great Basin States caused extensive damage to water systems, water quality, fish and wildlife, and recreational activities.

And yet, even though they are so pervasive, and even though they so seriously impact the economic and environmental well-being of the entire Nation, we in New Mexico have learned from hard experience that the United States is poorly prepared to deal with serious drought emergencies. As a result of the hardships being suffered in every part of my state last year, I convened a special Multi-State Drought Task Force of Federal, State, local, and tribal emergency management agencies to coordinate efforts to respond to the drought. The task force was ably headed up by the Federal Emergency Management Agency, and included every Federal agency that has programs designed to deal with drought.

Unfortunately, what the task force found was that although the Federal Government has numerous drought related programs on the books, there simply is no integrated, coordinated system of implementing those programs. For example, while most of the Federal drought programs require a person to apply proactively for relief under them, there was almost a total lack of knowledge about those programs on the part of the victims they were designed to help. Worse yet, the programs that are in place are fragmented and ad hoc, and stop well short of comprehensively helping people prepare for or respond to drought. Consequently, at first drought victims in this Nation do not know who to turn to for help, and then find that the help that is available is too late and totally inadequate.

These fundamental problems were specifically identified by the Multi-State Drought Task Force in its final report on the drought of 1995–96. The task force stated that "[t]he States are left to navigate the ocean of applicable assistance programs as best they can." The task force went on to observe:

> The Federal government does not have a national drought policy, national climatic monitoring system, nor an institutionalized organizational structure to address drought. Therefore, every time a drought occurs the Federal government is behind the power curve playing catch up in an ad hoc fashion to meet the needs of the impacted states and their citizens.

The Western Governors' Association recognized the exact same problems in its 1996 Drought Response Action Plan. The WGA stated that "[t[he absence of a lead agency to handle drought—in addition to the lack of Federal interagency coordination—has significantly reduced the Federal Government's ability to provide adequate support over the long term."

Indeed, the Multi-State Drought Task Force recommended that "Congress in coordination with the administration develop and adopt a National Drought Policy to include a national drought monitory system and an institutionalized organizational structure with a designated lead Federal agency to direct and coordinate the efforts of the Federal Government in preparing for, responding to, and recovering from drought, as well as mitigating the impacts of drought."

Similarly, the Western Governors' Association recommends "[d]evelop[ing] a national drought policy or framework that integrates actions and responsibilities among all levels of government (Federal, State, regional, and local). This policy should plainly spell out preparedness, response, and mitigation measures to be provided by each entity." And it is my understanding that the National Governors' Association is considering adopting a similar recommendation sponsored by Governor Johnson of New Mexico.

All of this, Mr. President, has led me to introduce today's legislation. I believe that my bill will be the first step toward finally establishing a coherent, effective national drought policy. My bill creates a commission comprised of representatives of those Federal, State, local, and tribal agencies and organizations which are most involved with drought issues. On the Federal side, the Commission will include representatives from USDA, Interior, the Army, FEMA, SBA, and Commerce—agencies which all currently have drought-related programs on the books. Equally important will be the nonfederal members, including representatives from the National Governors' Association, the U.S. Conference of Mayors, and four persons representative of those groups that are always hardest hit by drought emergencies.

The Commission will be charged with determining what needs exists on the Federal, State, local, and tribal levels with regard to drought; with reviewing existing Federal, State, local, and tribal drought programs; and with determining what gaps exist between the needs of drought victims and those programs currently designed to deal with drought.

More importantly, the Commission will then be charged with making recommendations on how Federal drought laws and programs can be better integrated into a comprehensive national policy to mitigate the impacts of, and respond to, serious drought emergencies. Should Federal drought programs be consolidated under one single existing agency? How can the Nation be better prepared for these disasters? Should emergency loan programs that stand the risk of sinking drought victims deeper into debt be reevaluated? These are just some of the questions that we in Congress need guidance on if we are to move to the next level in developing a national drought strategy.

In conclusion, Mr. President, my legislation is just the first step in addressing the major national problem of drought disasters, but it is a step that must be taken quickly. Drought can strike any State, at any time, for any duration. I urge my colleagues to support this bill.

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. HELMS, Mr. HUTCHINSON, Mr. KEMPTHORNE, Mr. SHELBY, and Mr. SESSIONS):

S. 223. A bill to prohibit the expenditure of Federal funds on activities by Federal agencies to encourage labor union membership, and for other purposes; to the Committee on Labor and Human Resources.

LABOR UNION MEMBERSHIP LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a very important piece of legislation that would affect every American taxpayer. This measure would prohibit Federal funds from being used to encourage labor union membership.

Mr. President, I was shocked to learn that the Department of Labor has published and distributed brochures which state, If you don't have a union, you may want to consider joining an existing union or working with others to start one. These brochures are designed to help American workers know their rights when it comes to various forms of discrimination. I recognize the importance of these brochures, but I firmly believe that it is not the responsibility of the Federal Government to encourage or discourage labor union membership in any form. Organized labor has the resources and the manpower to do their own recruiting. They certainly should not be receiving free solicitation at the expense of the American taxpayer.

The legislation that I am introducing today specifically prohibits any Federal agency from using Federal funds for programs, seminars, staff positions, or publications which would compel, instruct, encourage, urge, or persuade individuals to join labor unions. As I stated before, it simply is not the responsibility of the Federal Government to encourage union membership. The American taxpayer should not bear the burden of promoting labor unions.

My distinguished colleagues, Senators FAIRCLOTH, HELMS, HUTCHINSON, KEMPTHORNE, SHELBY, and SESSIONS, join me as original cosponsors of this measure that I send to the desk. I invite our other colleagues to join us in support of this important legislation.

By Mr. WARNER:

S. 224. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes; to the Committee on Armed Services.

MILITARY RETIREES HEALTH BENEFITS LEGISLATION

Mr. WARNER. Mr. President, I rise today to introduce legislation which will return a sense of fairness to the military health care system by providing Medicare-eligible military retirees the same health care plan that is currently available to every other retired Federal employee. Under this legislation, all Medicare-eligible military retirees and their family members will be given the option to participate in the Federal Employee Health Benefits Plan [FEHBP].

Under the current system military retirees lose their guaranteed access to military medical care at age 65 and are forced to rely exclusively on Medicare. It is worth noting that our military retirees are the only group of Federal employees whose health plan is taken away at age 65. I am sure that my colleagues would agree that this situation is not only inherently unfair, but that it also breaks a long standing health care commitment to our military retirees. When these men and women joined the Armed Forces, they were promised health care for both them and their families, for the rest of their lives. This was a commitment. This was in writing. Now, at age 65, they find out that this commitment is being withdrawn.

Mr. President, the commonly held belief that the health care provided for military retirees is second to none is a myth. The truth is that when you compare it to what is provided by other large employers including General Motors, IBM, Exxon, and the rest of the Federal Government, the health care that is provided to our Medicare-eligible military retirees and their family members has become second to almost all others.

This bill that I am introducing today is the same legislation that I introduced in the 104th Congress. Although my legislation was not adopted, the fiscal year 1997 Senate-passed version of the National Defense Authorization Act Conference Report directed the Department of Defense to conduct a study of the cost and feasibility of extending the option of enrollment in FEHBP to our Medicare-eligible military retirees. This report is due to Congress on March 1, 1997. I am hopeful that this study will thoroughly examine this issue and provide meaningful recommendations that we can use to strengthen the military health care system during the Armed Services Committee's consideration of the bill I am introducing today.

Mr. President, this legislation represents a major step forward in the application of equitable standards of health care for all Federal employees and honors our commitment to those veterans who served our Nation faithfully through many years of arduous military service. I invite my colleagues to join me as cosponsors of this bill.

By Mr. KOHL:

S. 225. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

THE SUNSHINE IN LITIGATION ACT

Mr. KOHL. Mr. President, I rise today to offer the Sunshine in Litigation Act, a measure that addresses the growing abuse of secrecy orders issued by our Federal courts. All too often our Federal courts allow vital information that is discovered in litigation—and which directly bears on public health and safety—to be covered up, to be shielded from people whose lives are potentially at stake, and from the public officials we have asked to protect our health and safety.

All this happens because of the use of so-called protective orders—really gag orders issued by courts—that are designed to keep information discovered in the course of litigation secret and undisclosed. Typically, injured victims agree to a defendant's request to keep lawsuit information secret. They agree because defendants threaten that, without secrecy, they will refuse to pay a settlement. Victims cannot afford to take such chances. And while courts in these situations actually have the legal authority to deny requests for secrecy, typically they do not—because both sides have agreed, and judges have other matters they prefer to attend to. So judges are regularly and frequently entering these protective orders, using the power of the Federal Government to keep people in the dark about the dangers they face.

The measure that I am introducing today will bring crucial information out of the darkness and into the light. The measure amends rule 26 of the Federal Rules of Civil Procedure to require that judges weigh the impact on public health and safety before approving these secrecy orders. It is simple, effective, and straightforward. The Judiciary Committee reported out identical legislation last Congress by a bipartisan 11 to 7 majority.

Our bill essentially codifies what is already the practice of the best judges. In cases that do not affect public health safety, existing practice would continue, and courts could still issue protective orders as they do today. But in cases affecting public health and safety courts would apply a balancing test: they could permit secrecy only if the need for privacy outweighs the public's need to know about potential health or safety hazards. Moreover, courts could not, under this measure, issue protective orders that would prevent disclosures to regulatory agencies.

Although the law may result in some small additional burden on judges, a little extra work from judges seems a tiny price to pay for protecting blameless people from dangers. Every day, in the course of litigation, judges make tough calls about how to construe the public interest and interpret other laws that Congress passes. I am confident that the courts will administer this law fairly and sensibly. If this requires extra work, then the work is well worth it. After all no one argues that spoiled meat should be let out on the market because stricter regulations mean more work for FDA meat inspectors.

The problem of excessive secrecy orders in cases involving public health and safety has been apparent for many years. The Judiciary Committee first held hearings on this issue in 1990. "Court Secrecy," Hearings before the Subcommittee. On Courts and Administrative Practice, Committee on the Judiciary, May 17, 1990, 101st Congress, 2d Session. The committee held hearings again in 1994.

In 1990, Arthur Bryant, the executive director of Trial Lawyers for Public Justice, told us: "The one thing we learned * * * is that this problem is far more egregious than we ever imagined. It goes the length and depth of this country, and the frank truth is that much of civil litigation in this country is taking place in secret." Four years later, the attorney Gerry Spence told us about 19 cases he had been involved in in which his clients had to sign secrecy agreements. They included cases involving defects in a hormonal pregnancy test that caused severe birth defect, a defective braking system of a steam roller, and an improperly manufactured tire rim.

Individual examples of this problem abound. For over a decade, Miracle Recreation, a U.S. playground equipment company, marketed a merry-go-round that caused serious injuries to scores of small children—including severed fingers and feet. Lawsuits brought against the manufacturer were confidentially settled, preventing the public and the Consumer Products Safety Commission from learning about the hazard. It took more than a decade for regulators to discover the hazard and for the company to recall the merry-go-round.

There are yet more cases like these. In 1973, GM began marketing vehicles with dangerously-placed fuel tanks that tended to rupture, burn, and explode on impact more frequently than regular tanks. Soon after these vehicles hit the American road, tragic accidents began occurring, and lawsuits were filed. More than 150 lawsuits were settled confidentially by GM. For years, this secrecy prevented the public from learning of the dangers of these vehicles—6 million of which are still on the road. It wasn't until a trial in 1993 that the public began learning of the dangers of GM sidesaddle gas tanks and the GM crash test data which demonstrated these dangers.

Another case involves Fred Barbee, a Wisconsin resident whose wife, Carol, died because of a defective heart valve. Mr. Barbee told us that months and years before his wife died, the valve manufacturer had quietly, without public knowledge, settled dozens of lawsuits in which the valve's defects were demonstrated. So when Mrs. Barbee's valve malfunctioned, she rushed to a health clinic in Spooner, WI, thinking, as did her doctors, that she was suffering from a heart attack. Ignorant of the evidence that her valve was defective, Mrs. Barbee was misdiagnosed. Mrs. Barbee was treated incorrectly and died. To this day, Mr. Barbee believes that but for the secret settlement of heart valve lawsuits, he and his wife would have been aware of the valve defect, and his wife would be alive today.

At the 1994 Judiciary Committee hearing, we heard from a family which I must call the Does because they are under a secrecy order and were afraid to use their own names when talking to us and to our committee. The Does were the victims of tragic medical malpractice that resulted in serious brain damage to their child. A friend of the Does is using the same doctor, but Mrs. Doe is terrified of saying anything to her friend for fear of violating the secrecy order that governed her lawsuit settlement. Mrs. Doe is afraid that if she talks, the defendant in her case will suspend the ongoing settlement payments that allow her to care for her injured child.

What sort of court system prohibits a woman from telling her friend that her child might be in danger? And the more disturbing question is this: What other secrets are currently held under lock and key which could be saving lives if they were made public?

Mr. President, having said all this, I must in fairness recognize that there is another side to this problem. Privacy is a cherished possession, and business information is an important commodity. For this reason, the courts must, in some cases, keep trade secrets and other business information confidential. The goal of this measure I have introduced is to ensure that courts do not carelessly and automatically sanction secrecy when the health and safety of the American public is at stake. At the same time, it will still allow defendants to obtain secrecy orders when the need for privacy is significant and substantial.

To attack the problem of excessive court secrecy is not to attack the business community. Most of the time, businesses seek protective orders for legitimate reasons. And although a few opponents of product liability reform may dispute that businesses care about public health and safety, we know that they do. Business people want to know about dangerous and defective products, and they want regulatory agencies to have the information necessary to protect the public.

The Sunshine in Litigation Act is a simple effort to protect the safety of the American people. Its benefits far outweigh any of the worst imaginable disadvantages. And the longer we wait to enact the legislation, the more people are put at risk.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sunshine in Litigation Act of 1997".

SEC. 2. PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1659. Protective orders and sealing of cases and settlements relating to public health or safety

"(a)(1) A court shall enter an order under rule 26(c) of the Federal Rules of Civil Procedure restricting the disclosure of information obtained through discovery or an order restricting access to court records in a civil case only after making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

"(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

"(2) No order entered in accordance with the provisions of paragraph (1) shall continue in effect after the entry of final judgment, unless at or after such entry the court makes a separate particularized finding of fact that the requirements of paragraph (1)(A) or (B) have been met.

"(b) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

"(c)(1) No agreement between or among parties in a civil action filed in a court of the United States may contain a provision that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

"(2) Any disclosure of information to a Federal or State agency as described under paragraph (1) shall be confidential to the extent provided by law.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1658 the following:

"1659. Protective orders and sealing of cases and settlements relating to public health or safety.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect 30 days after the date of the enactment of this Act and shall apply only to orders entered in civil actions or agreements entered into on or after such date.

By Mr. KOHL (for himself and Mr. DEWINE):

S. 226. A bill to establish felony violations for the failure to pay legal child support obligations, and for other purposes; to the Committee on the Judiciary.

THE DEADBEAT PARENTS PUNISHMENT ACT OF 1997

● Mr. KOHL. Mr. President, I introduce the Deadbeat Parents Punishment Act of 1997. Along with Senator SHELBY and Congressmen HYDE and SCHUMER, I introduced the original Child Support Recovery Act in 1992, and today Senator DEWINE and I are pleased to introduce a measure that will toughen the original law to ensure that more serious crimes receive more serious punishment. In so doing, we can send a clear message to deadbeat dads and moms: ignore the law, ignore your responsibilities, and you will pay a high price. In other words, pay up or go to jail.

Current law already makes it a Federal offense to willfully fail to pay child support obligations to a child in another State if the obligation has remained unpaid for longer than a year or is greater than $5,000. However, current law provides for a maximum of just 6 months in prison for a first offense, and a maximum of 2 years for a second offense. A first offense, however—no matter how egregious—is not a felony under current law.

Police officers and prosecutors have used the current law effectively, but they have found that current misdemeanor penalties do not adequately deal with more serious cases—those cases in which parents move from State to State to intentionally evade child support penalties, or fail to pay child support obligations for more than 2 years—serious cases that deserve serious, felony punishment. In response to these concerns, President Clinton has drafted legislation that would address this problem, and we are pleased to introduce it today.

This new effort builds on past successes achieved through bipartisan work. In the 4 years since the original deadbeat parents legislation was signed into law by President Bush, collections have increased by nearly 50 percent, from $8 to $11.8 billion, and we should be proud of that increase. Moreover, a new national database has helped identify 60,000 delinquent fathers, over half of whom owed money to women on welfare.

Nevertheless, there is much more we can do. It has been estimated that if delinquent parents fully paid up their child support, approximately 800,000 women and children could be taken off the welfare rolls. So our new legislation cracks down on the worst violators, and makes clear that intentional or long-term evasion of child support responsibilities will not receive a slap on the wrist. In so doing, it will help us continue the fight to ensure that every child receives the parental support they deserve.

Mr. President, with this bill we have a chance to make a difference in the lives of families across the country. So I look forward to working with my colleagues to give police and prosecutors the tools they need to effectively pursue individuals who seek to avoid their family obligations.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deadbeat Parents Punishment Act of 1997".

SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

"§ 228. Failure to pay legal child support obligations

"(a) OFFENSE.—Any person who—

"(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than one year, or is greater than $5,000;

"(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than one year, or is greater than $5,000; or

"(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than two years, or is greater than $10,000;

shall be punished as provided in subsection (c).

"(b) PRESUMPTION.—The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

"(c) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in the case of an offense under subsection (a)(2) or (a)(3), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

"(d) MANDATORY RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing:

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(2) the term 'State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

SECTION-BY-SECTION ANALYSIS

The Child Support Recovery Amendments Act of 1996 amends the current criminal statute regarding the failure to pay legal child support obligations, 18 U.S.C. §228, to create felony violations for egregious offenses. Current law makes it a federal offense willfully to fail to pay a child support obligation with respect to a child who lives in another State if the obligation has remained unpaid for longer than a year or is greater than $5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. A maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Egregious offenses, such as those involving parents who move from State-to-State to evade child support payments, require more severe penalties.

Section 2 of the bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than $5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another State, if the obligation has remained unpaid for a period longer than two years or is greater than $10,000. These offenses, proposed 18 U.S.C. §228(a) (2) and (3), indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. The level of culpability demonstrated by offenders who commit the offenses described in these provisions is akin to that demonstrated by repeat offenders under current law, who are subject to a maximum two-year prison term.

Proposed section 228(b) of title 18, United States Code, states that the existence of a support obligation in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that period. Although "ability to pay" is not an element of the offense, a demonstration of the obligor's ability to pay contributes to a showing of willful failure to pay the known obligation. The presumption in favor of ability to pay is needed because proof that the obligor is earning or acquiring income or assets is difficult. Child support offenders are notorious for hiding assets and failing to document earnings. A presumption of ability to pay, based on the existence of a support obligation determined under State law, is useful in a jury's determination of whether the nonpayment was willful. An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statute in the first instance. In addition, the presumption of ability to pay set forth in the bill is rebuttable; a defendant can put forth evidence of his or her inability to pay.

The reference to mandatory restitution in proposed section 228(d) of title 18, United States Code, amends the current restitution requirement in section 228(c). The amendment conforms the restitution citation to the new mandatory restitution provision of federal law, 18 U.S.C. §3663A, enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104–132, section 204. This change simply clarifies the applicability of that statute to the offense of failure to pay legal child support obligations.

For all of the violations set forth in proposed subsection (a) of section 228, the requirement of the existence of a State determination regarding the support obligation is the same as under current law. Under proposed subsection (e)(1), as under current subsection (d)(1)(A), the government must show that the support obligation is an amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

Proposed subsection (e)(2) of section 228 amends the definition of "State," currently in subsection (d)(2), to clarify the prosecutions may be brought under this statute in a commonwealth, such as Puerto Rico. The current definition of "State" in section 228, which includes possessions and territories of the United States, does not include commonwealths.•

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. REID, Mrs. FEINSTEIN, Mr. FORD, Mr. HOLLINGS and Mr. WYDEN):

S.J. Res. 12. A joint resolution proposing a balanced budget constitutional amendment; to the Committee on the Judiciary

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. DORGAN. Mr. President, I rise today to introduce a constitutional amendment for myself, Senator DASCHLE, Senator REID, Senator FEINSTEIN, Senator HOLLINGS, Senator FORD, and Senator WYDEN.

The constitutional amendment will be familiar to most Senators because it is about something that we are discussing a lot these days: balancing the Federal budget. It is a constitutional amendment to balance the Federal budget.

A number of us have taken the position that we would support a constitutional amendment to balance the budget if the constitutional amendment is the right kind of amendment. I want to talk a little about the constitutional amendment being proposed and the one was proposed 2 years ago here in the U.S. Senate.

I think fiscal discipline is necessary in this country, because our fiscal policy is out of whack. I think we have borrowed from our children and grandchildren. I think we ought to balance the Federal budget. I do not object to—in fact, I have supported and will support—the right kind of balanced budget constitutional amendment.

I will not, however, support a proposal to amend the U.S. Constitution that would enshrine in the Constitution the practice of using the Social Security trust funds to balance the Federal budget. That is precisely what the balanced budget amendment that the Judiciary Committee will mark up later this week would do. That is why Senator HOLLINGS and I and so many others are introducing a constitutional amendment to balance the budget, but one that will not use the Social Security trust funds to do so.

Let me explain why that is important. If you were in the private sector and you had a business and in that business you put away some money for your employees in a pension fund, and then at the end of the year you discovered that you had run a big loss, you might say, "Well, I will just take my employees' pension funds and bring them over into the operating side of the business, and I will tell everybody that I didn't have a loss. I am using the employee pension fund to cover my operating loss."

If you did that, you would be on your way to doing 2 years hard tennis in some minimum security prison because it is against the law. You can't do that. And we ought not to be able to do it in the public sector either.

We are going to collect $78 billion more this year in Social Security revenues than we will expend in the Social

Security system. We will, just this year alone, accrue a $78 billion surplus in Social Security. Why? Because we need the money after the turn of the century when the baby boomers retire. We have the biggest baby crop in the history of our country. When that baby crop retires after the turn of the century, we are going to have the largest strain on the Social Security system. Therefore, we are collecting more now than we need in the Social Security system and that savings is going to be used at the turn of the century to help fund the system when we need it.

But what is happening? What is happening is that extra revenue is used as just ordinary operating money and is used to say, "Well, now we have reached a balanced budget in the year 2002," when, in fact, the budget is not in balance at all. It appears in balance only because you use the Social Security revenue or trust funds to show a balanced budget.

I want to demonstrate this with a chart. This chart is important because I was at a hearing the other day and they had the debt clock at the hearing—this clock that keeps running at $4,000 a second, or it is. The debt clock keeps running and running. I said to the chairman of the committee, Senator HATCH, the debt clock actually makes the point I wanted to make at this hearing, because when you balance the budget, presumably you have stopped the debt clock from increasing. If you balance the Federal budget, the Federal Government ought not be taking on more debt. You have stopped the increase in debt. But guess what happens? In the very year in which the majority party says it will have balanced the budget, the Federal debt will increase by $130 billion, according to the Congressional Budget Office.

This is the debt. These are the numbers: $5.4 trillion in 2002, and it is still increasing on that year, by $130 billion. Why will the debt increase by $130 billion in the year in which you claim you have balanced the budget? Answer: The budget isn't in balance because you have collected the Social Security moneys that are an obligation because you need to use them later. But then you have brought them over here to use them to say you have balanced the budget.

We have not balanced the budget until and unless we stop the Federal debt increases. And the proposal to balance the budget before the Judiciary Committee does not do that. The congressional majority claimed that its budget plan would reach balance, but then the Congressional Budget Office says the deficit for that year is $104 billion, and the debt increases by $130 billion. This is a giant ruse. It, unfortunately, dishonestly uses the Social Security trust funds for a purpose that Congress never intended.

I know a little something about this because in 1983 I was on the House Ways and Means Committee when the Social Security reform bill was enacted. When it was enacted, it was determined there would be savings for the future when the Social Security trust funds would be needed. I offered an amendment that day 14 years ago in the committee saying, "If you do not put these savings aside and out of the reach of people who want to use them for other purposes, they will not in fact be saved." Now these have grown to significant surpluses, and they are not out of reach. They are supposed to be out of reach because of what the Senator from South Carolina did when he wrote section 13301 of the Budget Enforcement Act, but they are not out of reach. They are used to show a balanced budget when the budget is not in balance.

So what we have done is very simply say, go ahead and pass a constitutional amendment to balance the budget. Let's do it the right and honest way. Let us make sure that the massive surpluses that we are going to accrue in the Social Security system are set aside, not counted as ordinary revenue, and that we balance the budget and save the Social Security trust fund revenues that are being taken out of workers' paychecks for that very purpose.

Last evening I was on the phone with Congressman MARK NEUMANN from Wisconsin of the House of Representatives. Incidentally, he is a Republican Congressman from Wisconsin. He feels exactly the same way and says there are a couple dozen Members of the House who feel exactly the same way. They want to balance the budget. They believe it is appropriate to put a provision in the U.S. Constitution to do so, but they also believe it is inappropriate to use the Social Security trust funds which are saved for another purpose to show a balanced budget when, in fact, you are still increasing the Federal debt and you still have increases each year in the Federal deficit.

I have said before that I come from a town of 300 people and graduated in a high school class of nine. I probably didn't take the fanciest math in the whole world, but back in my hometown cafe, if they sit around and start talking about what "balances" are and what "deficits and debts" are, and if someone said, "Do you think it would be appropriate to claim you have balanced the budget when the debt and deficit is still going to increase," it wouldn't take a lot of strong coffee to persuade people that that is not the right way to approach it and that is not an honest budget.

So we are introducing today a constitutional amendment to balance the budget that says when the budget is balanced, you will not have an increase in the Federal debt. You will have turned that debt clock into a stopwatch: no more increases in Federal debt and no more Federal deficits. There is a right way to do things and a wrong way to do things.

We propose that if we change the U.S. Constitution, we do it the right way. We propose that no one enshrine in the Constitution an opportunity to misuse up to $3 trillion of Social Security revenues that are taken from workers' paychecks with a solemn promise: this tax taken from your paycheck goes into a trust fund to be used for only one purpose, and that is to fund the Social Security system.

Some in this Congress, believing double-entry bookkeeping means you use the same money twice, have said we can promise that to the workers and then we can also use their money as an accounting entry over here to claim we have in fact reached a balanced budget.

That is wrong. It is certainly the wrong way to amend the U.S. Constitution. And we propose that when this Congress acts on a constitutional amendment, it act on an amendment that does the right thing—the right thing for workers, the right thing for retired folks in this country, but especially the right thing to balance this country's books and prevent us from continually seeing an increase in debt and deficits year after year.

Mr. President, we intend to talk about this later today, but I am delighted to see that my colleague from Kentucky, Senator FORD, is here, and my colleague, Senator HOLLINGS from South Carolina. Both Senators are cosponsoring this constitutional amendment.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 12

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

Mr. HOLLINGS. I thank the distinguished Chair. Let me thank my distinguished colleague from North Dakota. Senator DORGAN has been forthright and persistent on this particular score. He has given us the necessary leadership to bring truth in budgeting.

I will never forget when we started out in this budget process back in 1973 and 1974—and I am the only remaining Member in either body, House and Senate, that still serves on that Budget Committee—the litany was all for a 10-year period and, particularly up through Gramm-Rudman-Hollings, about truth in budgeting. No more smoke and mirrors, no more rosy scenarios and those kinds of things—certainly no use of trust funds to obscure the actual size of the deficit.

It is very easy to determine what a deficit is. All you need to do is find out what the debt is this year and then what the debt is the ensuing year, and a simple subtraction will determine for you, if you please, that the debt this past fiscal year, for 1996, was $261 billion—not $107 billion. Not $107 billion, $261 billion.

I ask unanimous consent to have printed in the RECORD, if you please, a chart which shows that the U.S. budget "busts" the trust funds. It shows the trust fund surpluses, the real deficit, the gross Federal debt, and the gross interest costs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

President and year	U.S. budget (outlays—in billions)	Trust funds	Real deficit	Annual deficit change	Gross Federal debt (billions)	Gross interest
Truman:						
1945	92.7	5.4			260.1	
1946	55.2	[illegible]	−10.9		271.0	
1947	34.5	3.4	+13.9		257.1	
1948	29.8	3.0	+5.1		252.0	
1949	38.8	2.4	−0.6		252.6	
1950	42.6	−0.1	−4.3		256.9	
1951	45.5	3.7	+1.6		255.3	
1952	67.7	3.5	−3.8		259.1	
1953	76.1	3.4	−6.9		266.0	
Eisenhower:						
1954	70.9	2.0	−4.8		270.8	
1955	68.4	1.2	−3.6		274.4	
1956	70.6	2.6	+1.7		272.7	
1957	76.6	1.8	+0.4		272.3	
1958	82.4	0.2	−7.4		279.7	
1959	92.1	−1.6	−7.8		287.5	
1960	92.2	−0.5	−3.0		290.5	
1961	97.7	0.9	−2.1		292.6	
Kennedy:						
1962	106.8	−0.3	−10.3		302.9	9.1
1963	111.3	1.9	−7.4		310.3	9.9
Johnson:						
1964	118.5	2.7	−5.8		316.1	10.7
1965	118.2	2.5	−6.2		322.3	11.3
1966	134.5	1.5	−6.2		328.5	12.0
1967	157.5	7.1	−11.9		340.4	13.4
1968	178.1	3.1	−28.3		368.7	14.6
1969	183.6	−0.3	+2.9		365.8	16.6
Nixon:						
1970	195.6	12.3	−15.1		380.9	19.3
1971	210.2	4.3	−27.3		408.2	21.0
1972	230.7	4.3	−27.7		435.9	21.8
1973	245.7	15.5	−30.4		466.3	24.2
1974	269.4	11.5	−17.6		483.9	29.3
Ford:						
1975	332.3	4.8	−58.0		541.9	32.7
1976	371.8	13.4	−87.1		629.0	37.1
Carter:						
1977	409.2	23.7	−77.4		706.4	41.9
1978	458.7	11.0	−70.2		776.6	48.7
1979	503.5	12.2	−52.9		829.5	59.9
1980	590.9	5.8	−79.6		909.1	74.8
Reagan:						
1981	678.2	6.7	−85.7	[−6.1]	994.8	95.5
1982	745.8	14.5	−142.5	[−56.8]	1,137.3	117.2
1983	808.4	26.6	−234.4	[−91.9]	1,371.7	128.7
1984	851.8	7.6	−193.0	[+41.4]	1,564.7	153.9
1985	946.4	40.6	−252.9	[−59.9]	1,817.6	178.9
1986	990.3	81.8	−303.0	[−50.1]	2,120.6	190.3
1987	1,003.9	75.7	−225.5	[+77.5]	2,346.1	195.3
1988	1,064.1	100.0	−255.2	[−29.7]	2,601.3	214.1
Bush:						
1989	1,143.2	114.2	−266.7	[−11.5]	2,868.0	240.9
1990	1,252.7	117.2	−338.6	[−71.9]	3,206.6	264.7
1991	1,323.8	122.7	−391.9	[−53.3]	3,598.5	285.5
1992	1,380.9	113.2	−403.6	[−11.7]	4,002.1	292.3
Clinton:						
1993	1,408.2	94.2	−349.3	[+54.3]	4,351.4	292.5
1994	1,460.6	89.1	−292.3	[+57.0]	4,643.7	296.3
1995	1,514.4	113.4	−277.3	[+15.0]	4,920.0	332.4
1996	1,560.0	154.0	−261.0	[−16.3]	5,181.0	344.0

Note.—Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1962 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. You see, by subtracting last year's debt from this year's debt, the increase of the debt over the last fiscal year gives us a deficit of $261 billion. Immediately the question is: How do we all run around claiming that we have a $107 billion deficit? The truth of the matter is that we go and borrow from other trust funds.

I ask unanimous consent at this particular point to have printed in the RECORD a list of those particular borrowings in trust funds.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Gross debt 1996	5,181
Gross debt 1995	4,920
Difference	261
	1996
Deficit	107
Trust Funds:	
Social Security	66
Medicare HI	−4
Medicare SMI	14
Military, civilian, other	42
Total	118
Additional borrowing:	
Banking	16
Treasury loans	20
Real deficit	261
Gross interest	344

NOTE.—The HI part of Medicare is projected to go broke by 2001. Based on numbers reported by the Treasury Department.

Mr. HOLLINGS. You will see that we had in 1995 a debt of $4.920 trillion and a gross debt in 1996 of $5.181 trillion. So the difference was $261 billion. And the reason that we listed the $107 billion is because we borrowed $66 billion from Social Security, a net of some $10 billion from Medicare, some $42 billion from the military and civilian retirement funds, banking and Treasury loans amounted to some $36 billion, for a total of $154 billion.

Trying to put Government on a pay-as-you-go basis has been my intent since I arrived here 30 years ago. I balanced the budget in South Carolina, and as Governor I received the first AAA credit rating of any Southern State, ahead of Texas on up through Maryland. I am proud of running Government on a pay-as-you-go basis.

I worked with George Mahon back in 1968–69, and we balanced the budget under President Lyndon Johnson. Incidentally, we did not use Social Security trust funds. Even though he changed it to the unified budget, at this particular time the use of the funds was not necessary to balance the budget. So we have to credit President Johnson with the last balanced budget we have had in that 30-year period.

By the early 1980's, we realized that Social Security was going broke, and we came in here in a very formal fashion after a wonderful study by Alan Greenspan, the present Chairman of the Federal Reserve Board. We passed the Greenspan Commission program of tax increases in order to make Social Security solvent.

Let me go right now to the Greenspan Commission report, and you will find therein that "a majority of the members of the national commission recommends that the operations of the OASI, DI, HI, SMI, trust funds," which is Social Security trust funds, "should be removed from the unified budget. The national commission believes that changes in Social Security programs should be made only for programmatic reasons," and not—not—Mr. President, for balancing the budget.

When we debated this, we increased the taxes so that we would keep Social Security solvent until the distinguished occupant of the Chair was ready to receive his amount. This particular Senator is already receiving it. I am paying into Social Security. Senator THURMOND and I are also receiving Social Security. But, Mr. President, you are not going to receive it under the Domenici balanced budget to the Constitution. They absolutely prohibit it in the wording of this particular amendment.

Let me show you exactly what I am saying. You come right now to the resolution, S.J. Res. 1, just put in a couple days ago, and you will find:

> Total receipts shall include all receipts of the U.S. Government except those derived from borrowing. Total outlays shall include all outlays of the U.S. Government except for those for repayment of debt.

That repeals section 13-301. And if there were any doubt about it, let us read section 1.

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.

I repeat very calmly, very clearly: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year—unless three-fifths of the whole Congress votes it."

So that means that the very intent of the Greenspan Commission, namely that surpluses be built up to protect the baby boomers into the next generation—that money, even if it were saved, even if the surplus were built up and not being expended, as is the case—that money under this particular constitutional amendment could not be expended. You would have to cut right straight across the board. And let me be specific on just exactly what the Greenspan Commission stated at that particular time. If you refer to statement 5 on page 2, they talk about for the "75-year valuation period, ending with 2056." You can move on further. They refer to 75 years several times in the report. On page 5, statement 5, 75 years. They were trying to provide solvency to the year 2056. In the 75 years ending in 2056, we were going to have a solvent surplus, a redeemable Social Security trust fund. And they recommended it be put off budget, not included in the unified budget, and not expended for other matters.

Now, let us get to that particular point about the taxes Congress voted for in 1983, because when you continue doing what we are doing now, you violate the trust. Back in 1983 we did not vote an increase in the payroll taxes for defense or for housing or for welfare or for foreign aid or for the expenses of the President or the Congress. It was a trust fund. You would have never gotten a majority vote in this national Government, in this Congress of the United States; you would have never gotten an affirmative vote, as we did in a bipartisan fashion, to increase the payroll taxes for the other instances of Government. We all pledged that that money was going into Social Security, and to make sure that the trust was maintained we voted it formally in July 1990.

I refer, as a past chairman of the Budget Committee, to the conference report of the Committee on the Budget on the Social Security Preservation Act, dated July 10, 1990. If you see, at that particular point on page 20, there was a Hollings motion to report the Social Security Preservation Act. It passed by a vote of 20 to 1—only the distinguished Senator from Texas, Mr. GRAMM, voted against it. All of the other present Senators voted it out at that particular time.

Then, of course, later on the floor of the U.S. Senate we had a vote of 98 to 2. It was on October 18, 1990. A bipartisan vote of 98 Senators here said, Take Social Security and put it out as a trust fund, not a unified budget.

It is very interesting to read in this particular Social Security Preservation Act, the language—and I want all the Members' attention to this, because this is the present chairman of the Budget Committee—I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I refer, on page 29, to the additional views, by Mr. DOMENICI, the present chairman of our Budget Committee. I quote:

> I voted for Senator HOLLINGS' proposal because I support the concept of taking Social Security out of the budget deficit calculation. But I cast this vote with reservations.

And what was his reservation? It was that my provision was not strong enough. He wanted to build a firewall. He goes on to say:

> We need a firewall around those trust funds to make sure the reserves are there to pay Social Security benefits in the next century. Without a firewall or the discipline of budget constraints, the trust funds would be unprotected and could be spent on any number of costly programs.

I ask unanimous consent that these additional views of the distinguished chairman, the Senator from New Mexico, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF MR. DOMENICI

It is somewhat ironic that the first legislative mark-up in the 16 year history of the Senate Budget Committee produced a bill that does not do what its authors suggest and, more importantly, weakens the fiscal discipline inherent in the Gramm-Rudman-Hollings budget law.

I voted for Senator Hollings' proposal because I support the concept of taking Social

Security out of the budget deficit calculation. But I cast this vote with reservations.

The best way to protect Social Security is to reduce the Federal budget deficit. We need to balance our non-Social Security budget so that the Social Security trust fund surpluses can be invested (by lowering our national debt) instead of used to pay for other Federal operating costs. We could move toward this goal without changing the unified budget, a concept which has served us well for over twenty years now.

Changes in our accounting rules without real deficit reduction will not make Social Security more sound. In fact, we could make matters worse by opening up the trust funds to unrestrained spending. Under current law, the trust funds are protected by the budget process. Congress cannot spend the trust fund reserves without new spending cuts or revenue increases in the rest of the budget to meet Gramm-Rudman-Hollings deficit reduction requirements. If we take Social Security out of GRH without any new protection for the trust funds, Congress could spend the reserves without facing new spending cuts or revenue increases in other programs. And if we spend the trust fund reserves today, we will threaten the solvency of the Social Security program, putting at risk the benefits we have promised to today's workers.

Of course, I also understand that we might be able to restore some public trust by taking Social Security out of the deficit calculation. Trust that we in Congress are not "masking the budget deficit" with Social Security. That is why I believe we should take Social Security out of the deficit, but only if we provide strong protection against spending the trust fund reserves. We need a "firewell" around those trust funds to make sure the reserves are there to pay Social Security benefits in the next century. Without a "firewall" or the discipline of budget constraints, the trust funds would be unprotected and could be spent on any number of costly programs.

Unfortunately, the Hollings bill does not protect Social Security, which is why Senator Nickles and I offered our "firewall" amendment, defeated by a vote of 8 to 13. The amendment, drafted over the last six months by myself and Senators Heinz, Rudman, Gramm, and DeConcini, included: a 60 vote point of order against legislation which would reduce the 75 year actuarial balance of the Social Security trust funds; additional Gramm-Rudman-Hollings deficit reduction requirements in all years in which legislation lowered the Social Security surpluses; and notification to Social Security taxpayer on the Personal Earnings and Benefit Estimate Statements (PEBES) each time Congress lowered the reserves available to pay benefits to future retirees.

With just one exception, the other side of the aisle voted against this protection for Social Security beneficiaries.

Furthermore, the Hollings bill says nothing about how or when we will achieve balance in the non-Social Security budget. The bill simply takes Social Security out of the deficit calculation. If enacted, the Hollings bill would require $173 billion in deficit reduction in 1991 to meet the statutory GRH target (see attached table). Obviously, that is not going to happen.

I believe we need to extend Gramm-Rudman-Hollings to ensure we have the discipline to achieve balance in the non-Social Security portion of the budget. The Budget Summit negotiators are discussing a goal of $450 to $500 billion in deficit reduction over the next five years. Once we reach an agreement, that plan should be the framework for extending the GRH law.

I offered a Sense of the Congress amendment during the mark-up expressing this view. I offered this to put the Hollings bill in some context.

But the Democratic members of the Committee refused to consider even an amendment acknowledging the facts about our budget situation, rejecting my proposal by another 8 to 13 vote. In fact, the Chairman indicated that there was some concern on his side of the aisle about extending the Gramm-Rudman-Hollings discipline. One might infer that, for some, this mark-up was really an effort to kill Gramm-Rudman-Hollings.

I am not sure what we accomplished in reporting out a bill with no protection for Social Security and with no suggestion of what we think should happen regarding the deficit targets. I, for one, do not want to do anything which could endanger Social Security or Gramm-Rudman-Hollings budget discipline. At a minimum, I will offer the "firewall" amendment to protect Social Security should the reported bill be considered by the full Senate.

PETE V. DOMENICI.

CBO JUNE BASELINE DEFICIT ESTIMATES

[Dollars in billions]

	1991	1992	1993	1994	1995
Baseline deficit excluding RTC	$164	$158	$162	$160	$142
Baseline deficit including RTC	232	239	194	146	138
Social Security surplus	73	83	95	109	124
Baseline deficit excluding RTC, and excluding Social Security surplus	237	241	257	269	266
Baseline deficit including RTC, and excluding Social Security surplus	305	322	289	255	262
GRH targets	64	28	0	0	0
Deficit reduction required to meet GRH targets from: Baseline deficit excluding RTC, and excluding Social Security surplus	173	213	257	269	266
Baseline deficit including RTC, and excluding Social Security surplus	241	294	289	255	262

Prepared by SBC Minority Staff, 23-Jul-90.

Mr. HOLLINGS. So at that particular time, and when 98 percent of this U.S. Senate voted for it, we had, if you please, the distinguished chairman who was very much concerned that it was not enough protection.

Now, here is what he writes today—you will see the difference here—on January 13, 1997 to Republican colleagues, the statement of Senator DOMENICI to his Republican colleagues here earlier this month.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 13, 1997.

DEAR REPUBLICAN COLLEAGUES: We are likely to debate early in the 105th Congress the Constitutional amendment to require a balanced federal budget. When that debate begins, some Senators will push to remove Social Security from the balanced budget requirement.

I have always believed this effort to exempt Social Security from the Constitutional amendment was more of a diversion than anything else. It is raised to confuse the debate and provide a rationale for some to oppose the effort.

Nontheless, in preparation for debate in the Senate, I thought it was important to review with you the consequences of such a proposal so that we can all effectively debate it using facts.

One of the arguments made by those who push for excluding Social Security from the balanced budget amendment is that excluding Social Security will force us to "save" the Social Security surpluses and therefore enhance fiscal responsibility.

This is only a very small part of the story.

It is true that Social Security is currently running surpluses, and these surpluses offset deficit spending in the rest of the budget. If the balanced budget requirement excludes Social Security, we would be required by the Constitution to achieve balance in the "on-budget" portion of the federal government—which is everything except Social Security. The total, or unified, budget—which is the sum of the "on-budget" programs and Social Security—would therefore be in surplus in amounts equal to the Social Security surpluses. Between 2002 and 2018, these surpluses would total $1.2 trillion in 1996 dollars.

It should go without saying that, when we are amending the Constitution—now into its third century—we should take the long view. And in the long run, these near term Social Security surpluses will be overwhelmed by massive, long-term Social Security deficits.

These deficits are projected to total $9.3 trillion in 1996 dollars between 2019 and 2050, with a deficit of about $630 billion in 2050 alone, again in constant 1996 dollars.

If it is true that excluding Social Security from the balanced budget amendment would force us to "save" the short-term surpluses, it is equally true that excluding Social Security would allow us to run massive deficits equal to the deficits that are projected to occur in the Social Security trust funds beginning in 2019.

These deficits would be real deficits—just like the deficits we are experiencing today. And they would have the same negative economic consequences: lower national savings, higher interest rates, lower investment and productivity, and sluggish growth. The only difference is that these deficits would be much larger than anything we have ever experienced, and therefore the consequences would be much worse.

Ironically, these massive and unprecedented deficits would be specifically sanctioned by an amendment to the Constitution calling for "balanced budgets" excluding Social Security. Congress could continue to pass so-called "balanced budgets" while running up massive new debt which would tremendously burden our economy.

The attached chart shows graphically what I have just described. "On-budget" would show a zero deficit throughout the time period, as required by the Constitution. The total budget, which includes Social Security, would show surpluses for two decades or so followed by massive and unprecedented deficits.

It should be obvious from this analysis that, contrary to assertions by some who want to exclude Social Security, such a move will weaken fiscal responsibility, not strengthen it.

Sincerely,

PETE V. DOMENICI.

Mr. HOLLINGS. Mr. President, he said:

> It is true that Social Security is currently running surpluses, and these surpluses offset deficit spending in the rest of the budget.

Well, heavens above, that is what we are trying to stop. We are not trying to pass a constitutional amendment as a subterfuge to the American people. He comes now and says we, who want to protect Social Security—as he voted to do in the Budget Committee, and provided in his formal views in the Budget Committee report, and thereupon, as he did on the floor of the U.S. Senate—are using the surpluses to "offset deficit spending in the rest of the budget." That is a gimmick. That is a subterfuge. He expresses concern because we might build up deficits for Social Security in the next century. How about our deficit to Social Security this minute? Spending $66 billion, this past year over $70-some billion, we owe Social Security this minute $570 billion and by the year 2002 we will owe it $1 trillion.

Who is going to raise taxes $1 trillion to make Social Security solvent?

I ask unanimous consent to have printed in the RECORD, with this limited time, the Report of the Center on Budget and Policy Priorities.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE BALANCED BUDGET AMENDMENT AND SOCIAL SECURITY

In recent years, Congress has considered two versions of the balanced budget amendment. The version supported by the Republican Congressional leadership (herein termed the "Leadership version") requires the "unified budget" to be balanced each year, including Social Security. The other version, which Senators Wyden, Feinstein, Dorgan and others introduced in the last Congress, requires the budget exclusive of Social Security to be in balance.

The version that includes Social Security in the unified budget poses serious dangers for the Social Security system. It also is inequitable to younger generations, as it would likely cause those who are children today to be saddled with too heavy a tax load when they reach their peak earnings years. The Wyden/Feinstein version does not pose these problems.

BACKGROUND

In coming decades, Social Security faces a demographic bulge. The baby boomers are so numerous that when they retire, the ratio of workers to retirees will fall to a low level.

This poses a problem because Social Security has traditionally operated on a "pay-as-you-go" basis. The payroll taxes contributed by today's workers finance the benefits of today's retirees. Because there will be so many retirees when the baby boomers grow old, however, it will be difficult for the workers of that period to carry the load without large increases in payroll taxes.

The acclaimed 1983 bipartisan Social Security commission headed by Alan Greenspan recognized this problem. It moved Social Security from a pure "pay-as-you-go" system to one under which the baby boomers would contribute more toward their own retirement. As a result, the Social Security system is now building up surpluses. By 2019, these surpluses will equal $3 trillion. After that, as the bulk of the baby boom generation moves into retirement, the system will draw down the surpluses. This is akin to what families do in saving for retirement during their working years and drawing down their savings when they retire.

This approach has important merits. It promotes generational equity by keeping the burden on younger generations from becoming too high. In addition, if the Social Security surpluses were to be used in the next two decades to increase national saving rather than to offset the deficit in the rest of the budget, that would likely result in stronger economic growth, which in turn would better enable the country to afford to support the baby boomers when they reach their twilight years.

To pursue this approach, the tasks ahead are to reduce significantly or eliminate the deficit in the non-Social Security budget so that the surpluses in the Social Security trust funds contribute in whole or large part to national saving, and to institute further reforms in Social Security to restore long-term actuarial balance to the Social Security system. Restoring long-term balance will almost certainly entail a combination of building the surpluses to somewhat higher levels and reducing somewhat the benefits paid out when the boomers retire.

THE LEADERSHIP BBA AND SOCIAL SECURITY

Unfortunately, the balanced budget amendment pushed by the Leadership would undermine this approach to protecting Social Security and promoting generational equity. Under this version of the BBA, total government expenditures in any year—including expenditures for Social Security benefits—could not exceed total revenues collected in the same year. The implications of this requirement for Social Security are profound. It would mean that the Social Security surpluses could not be used to cover the benefit costs of the baby boom generation when it retires. The benefits for the baby boom generation would instead have to be financed in full by the taxes of those working in those years. The Leadership version thus would eviscerate the central achievement of the Greenspan commission.

The reason the Leadership version would have this effect is that even though the Social Security trust funds would have been accumulating large balances, drawing down those balances when the baby boomers retire would mean that the trust funds were spending more in benefits in those years than they were taking in, in taxes. Under the Leadership version, that would result in impermissible deficit spending.

By precluding use of the Social Security surpluses in the manner that the 1983 legislation intended, the Leadership version would be virtually certain to precipitate a massive crisis in Social Security about 20 years from now, even if legislation had been passed in the meantime putting Social Security in long-term actuarial balance. Since the $3 trillion surplus could not be used to help pay the benefits of the baby boom generation, the nation would face an excruciating choice between much deeper cuts in Social Security benefits that were needed to make Social Security solvent and much larger increases in payroll taxes than would otherwise be required. The third and only other allowable alternative would be to finance Social Security deficits in those years not by drawing down the Social Security surplus but instead by slashing the rest of government so severely that it failed to provide adequately for basic services, potentially including the national defense.

Given the numbers of baby boomers who will be retired or on the verge of retirement in those years, deep cuts in Social Security benefits are not likely at that time. Thus, under the leadership BBA, it is almost inevitable that younger generations will face a combination of sharp payroll tax increases and deep reductions in basic government services.

For these reasons, the Leadership BBA is highly inequitable to younger generations. Aggravating this problem, the Leadership version would undermine efforts to pass Social Security reforms in the near future. Why should Congress and the President bother to make hard choices now in Social Security that would build the surpluses to more ample levels if these surpluses can't be used when the boomers retire? Under the leadership BBA, there is no longer any reason to act now rather than to let Social Security's financing problems fester.

LEADERSHIP BBA ALSO POSES OTHER PROBLEMS FOR SOCIAL SECURITY

Under the Leadership version, reductions in Social Security could be used to help Congress and the President balance the budget when they faced a budget crunch. This could lead to too little being done to reduce or eliminate deficits in the non-Social Security part of the budget and unnecessary benefit cutbacks in Social Security.

At first blush, that may sound implausible politically. But the balanced budget amendment is likely to lead to periodic mid-year crises, when budgets thought to be balanced at the start of a fiscal year fall out of balance during the year, as a result of factors such as slower-than-expected economic growth. When sizable deficits emerge with only part of the year remaining, they will often be very difficult to address. Congress and the President may be unable to agree on a package of budget cuts of the magnitude needed to restore balance in the remaining months of the year. Congress also may be unable to amass three-fifths majorities in both chambers to raise the debt limit and allow a deficit.

In such circumstances, the President or possibly the courts may feel compelled to act to uphold the Constitutional requirement for budget balance. In documents circulated in November 1996 explaining how the amendment would work, the House co-authors of the amendment—Reps. Dan Schaefer and Charles Stenholm—write that in such circumstances, "The President would be bound, at the point at which the 'Government runs out of money' to stop issuing checks." This would place Social Security benefits at risk.

THE WYDEN/FEINSTEIN APPROACH

The Wyden/Feinstein approach resolves the problems the Leadership version creates in the Social Security area. It reinforces the 1983 Social Security legislation rather than undermining that legislation. It does so both by requiring that the surpluses in the Social Security system contribute to national saving rather than be used to finance deficits in the rest of the budget and by enabling the surpluses to be drawn down when the baby boomers retire.

The Wyden/Feinstein amendment thus improves intergenerational equity rather than undermining it. It ensures the surpluses will be intact when they are needed, rather than lent to the government for other purposes in the interim.

The amendment also ensures that Social Security benefits will not be cut—and Social Security checks not placed in jeopardy—if the balanced budget amendment leads to future budget crises and showdowns. However those crises would be resolved, Social Security would not be involved, because cuts in

Social Security would not count toward achieving budget balance.

Mr. HOLLINGS. I will read just one paragraph from this report and then my statement will be complete.

Unfortunately, the balanced budget amendment pushed by the leadership would undermine the approach to protect Social Security in promoting generational equity. Under this version of the balanced budget amendment, total Government expenditures in any year, including expenditures for Social Security benefits, could not exceed total revenues collected in the same year. The implications of this requirement for Social Security are profound. It would mean that Social Security surpluses could not be used to cover the benefit costs of the baby boom generation when it retires. The benefits for the baby boom generation would, instead, have to be financed in full by the taxes of those working in those years. The leadership version thus would eviscerate the central achievement of the Greenspan Commission.

Mr. President, we have some 33 cosponsors to Senate Joint Resolution 1, who now want to eviscerate the Social Security protections they voted for earlier. I have counted them. The majority of these cosponsors were here in 1990 when we voted to take it off budget—the others were not here in 1990 when this vote was taken, but 33 of these cosponsors were here.

We wrote a letter just a few years ago to Senator Dole, some five Members on this side. It was a letter dated March 1, 1995.

I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 1, 1995.

Hon. ROBERT J. DOLE,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: We have received from Senator Domenici's office a proposal to address our concerns about using the Social Security trust funds to balance the Federal budget. We have reviewed this proposal, and after consultations with legal counsel, believe that this statutory approach does not adequately protect Social Security. Specifically, Constitutional experts from the Congressional Research Service advise us that the Constitutional language of the amendment will supersede any statutory constraint.

We want you to know that all of us have voted for, and are prepared to vote for again, a balanced budget amendment. In that spirit, we have attached a version of the balanced budget amendment that we believe can resolve the impasse over the Social Security issue.

To us, the fundamental question is whether the Federal Government will be able to raid the Social Security trust funds. Our proposal modifies those put forth by Senators Reid and Feinstein to address objections raised by some Members of the Majority. Specifically, our proposal prevents the Social Security trust funds from being used for deficit reduction, while still allowing Congress to make any warranted changes to protect the solvency of the funds. The prior language of the Reid and Feinstein amendments was not explicit that adjustments could be made to ensure the soundness of the trust funds.

If the Majority Party can support this solution, then we are confident that the Senate can pass the balanced budget amendment with more than 70 votes. If not, then we see no reason to delay further the vote on final passage of the amendment.

Sincerely,

BYRON L. DORGAN.
ERNEST F. HOLLINGS.
WENDELL H. FORD.
HARRY M. REID.
DIANNE FEINSTEIN.

Mr. HOLLINGS. Look, I have cosponsored a balanced budget amendment to the Constitution. I voted for a balanced budget amendment to the Constitution. But I am not going to, by gosh, play tricks with the Social Security trust fund and repeal the law that I worked so diligently to have enacted and signed, on November 5, 1990, by George Walker Herbert Bush into law. So we said: Not one vote of Senator HATFIELD from Oregon, here, Mr. Leader Dole, you can pick up five votes.

I cannot speak for the other four this morning. I have not checked with them. But he can get the vote of this particular Senator from South Carolina, if they write the constitutional amendment so as not to violate the trust that we so formally voted into law.

Mr. FORD. Mr. President, if there ever was a statement that the American people should listen to, that was just given by my distinguished colleague from South Carolina. He is here with institutional memory about what transpired and why—the intent. Now we find ourselves where this couple of words, balance the budget, supersedes all the work that has been done, cuts it off at its knees, so to speak, the Social Security trust fund. I think the people of this country, once they understand what the Senator from South Carolina, Mr. HOLLINGS, has just said, they will not be so interested in passing this particular balance the budget amendment.

I am one of those the other side criticized last time, I am one of the six. I changed my vote from balance the budget to against it. Why wouldn't I? Listen to Senator HOLLINGS, that is the reason I changed my vote. I have a responsibility to the seniors. We promised them we would not cut it or increase it to balance the budget, and we voted 83 to 16 last year saying that. That was just last year. Was that a political gimmick? Was that a campaign slogan? Or did we really mean it? I hope 83 of us really meant it. But we voted 83 to 16, saying we shall not raise or cut the Social Security in order to balance the budget.

I do not know where we are coming from. You may fool all of the people some of the time; you can even fool some of the people all the time; but you can't fool all of the people all the time. So what we are trying to do here now is fool the American people, saying to balance the budget it is going to give tax cuts, it is going to give interest rates cuts, it is going to do all these fabulous things. But we turn right around and break our word to the American people.

During the last debate on a balanced budget amendment, the other side of the aisle proposed not touching the Social Security trust fund until the year 2008. Don't touch it until 2008. That was a tacit admission that the Republicans planned to utilize the trust funds—and I make that plural—to balance the budget.

As my distinguished friend from South Carolina said, the money in the Social Security surplus, $71 billion in this year alone and accumulating to nearly $3 trillion by the year 2019, will be too tempting, Mr. President, for a Congress bound by the Constitution to balance the budget.

Once the Constitution is amended to require that, and I quote—and you heard it from the Senator from South Carolina—"total outlays for any fiscal year shall not exceed total receipts for that fiscal year."

Social Security, I say to my friends, is placed in imminent danger, and it is likely that any attempt to exclude Social Security trust funds by implementing legislation—statutory language, that is—would be deemed then unconstitutional.

So, protecting the Social Security trust fund is not just a seniors issue. We promised not to reduce benefits—voted here for current Social Security beneficiaries—in order to balance the budget. We are just not going to do it.

But what about future retirees? Using the trust fund to offset other spending undermines generational equity, because under this scenario, total Government expenditures in any year, including expenditures for Social Security benefits, could not exceed total revenues collected in the same year. That would mean that Social Security surpluses could not be used to cover the benefit costs of the baby-boom generation when it retires.

We raised the taxes in 1983. We made a difference, so we would be able to cover. So now we say we can't expend more than we take in, and the trust fund is there so we can do it. So, therefore, we break our word to generations yet to come, as the Senator from South Carolina said to the occupant of the chair. The benefits, instead, would have to be financed in full by the taxes of those working in those years.

Using the Social Security surplus to pay for other spending programs would not only bankrupt Social Security, but would leave a system that needs long-term reform in order to meet the growth of future retirees virtually worthless. We need to reform and protect the Social Security trust fund in order to fulfill our contract of retirement security to working Americans.

You make a dollar and they take out your Social Security trust fund payments—all of it. Excluding the Social Security trust fund from a constitutional amendment to balance the budget is an important first step in fulfilling our contract with our working Americans and with those who want us to balance the budget.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, there are those in public service who feel that since posterity can do nothing for them, they see no reason to do anything for posterity. They look to the next election rather than the next generation, and this is the contrary for that.

We are not vying for the AARP or really the senior citizens. You don't get any letters on what we are talking about this morning from the AARP or any of those other seniors because they got their money. They know that surpluses are there right now. They are worried about Medicare, but they are not worried about this one.

The youngsters, the baby boomers that we are trying to look out for, the unborn that we are looking out for now have been told they are never going to get it, so they are all running around with IRAs and all these other kinds of things totally distorting a social insurance program.

Right to the point, and then I will sit down. We are doing this for the trust of the baby boomers, for the yet unborn in the next generation, not for the senior citizens right now. This is not a political thing for senior citizens or gimmick or tactic, as they call it in this morning's Washington Post. This is truth in budgeting and maintaining the trust that we all voted for 98 to 2.

Mr. REID. Mr. President, I say to all those within the sound of my voice that the two men whom you have just heard are people with an institutional memory, as Senator FORD has spoken. That is true. But also, these two Senators are gentlemen who have balanced budgets in their own States. They are Governors from two of the outstanding States in the Union, South Carolina and Kentucky. They know what they are talking about in truth in budgeting.

I am very happy to have been able to sit on the floor and listen to these two statements made by these two gentlemen who understand what we are talking about when we talk about balanced budgets. Of course, the three of us—the Senator from Kentucky, the Senator from South Carolina, the Senator from Nevada—support a balanced budget. We support a constitutional amendment to balance the budget, but we want to make sure it is a truth-in-budgeting balanced budget amendment, one that protects senior citizens and, most importantly, protects the real contract with America. That is the one that was developed some 50 years ago during the Great Depression when Social Security was first enacted.

We have an obligation to make sure that the moneys paid into that trust fund by the employers and employees is not used as a gimmick to balance the budget. Of course, it is easy to balance the budget if you use the hundreds of billions of dollars in the Social Security trust fund. But let's do it the hard way. Let's do it the right way. And that is why, Mr. President, I was so elated, felt so good about the fact that in the other body, there are Members of the House of Representatives in both parties who are talking about maybe those few straggling voices in the Senate who last year were able to talk about the importance of the Social Security trust fund had something. Maybe we should look at what has gone on in the House when they pell-mell voted for a constitutional amendment and, in the process, said that we are going to destroy Social Security.

I think it is good that the other body is talking about having a vote on a constitutional amendment that will protect Social Security. That is all that we are asking. That seems fair. It seems, if we are going to balance the budget, we should do it the right way.

Finally, let me say this. Our position has been strengthened during the past year. It has been strengthened because the bipartisan commission to study Social Security has reported back, and they have said a number of things, but for purposes of this statement, I think the most important they have said is that all 13 members believe that all or part of the Social Security trust fund moneys should be invested in the private sector in some way. I say, Mr. President, how can those moneys be invested if there are not any? It is impossible.

So, if the 13 members believe some of the Social Security trust fund moneys should be invested in the private sector, then our constitutional amendment, which we are going to introduce today, which says we want a balanced budget but we want to do it excluding Social Security, then I think we have the support of those 13 members of the bipartisan commission.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I have, in the last few minutes, secured what I observed last evening on television by a statement by the most distinguished of distinguished Senators—there is none more responsible—the distinguished Senator from Utah, Senator ORRIN HATCH.

I now have his news release, Judiciary Committee, dated January 21, 1997.

I ask unanimous consent that the statement be printed in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET AMENDMENT LEGISLATIVE PRIORITY FOR HATCH

Washington, D.C. Balancing the budget topped Sen. Orrin Hatch's legislative agenda for the 105th Congress as 61 senators joined him today in introducing a constitutional amendment requiring the President and Congress to balance the federal budget and put an end to the growing addiction to deficit spending.

"The Balanced Budget Amendment will again be S.J. Res. 1 and that is appropriate because it is the single most important piece of legislation that will be voted on this Congress," Hatch said. "The idea of a Balanced Budget Amendment is not new—unfortunately, neither is the problem it is designed to solve," Hatch said. "Since the balanced budget in 1969, Congress has promised balanced budgets and failed to deliver them. With our national debt at nearly $5.3 trillion, we still have people telling us we do not need the Balanced Budget Amendment. The truth is the only way to change Washington's addiction to spending other people's money is to use the pressure of a constitutional amendment requiring a balanced budget."

"Last Congress, when the Amendment fell a mere one vote short of passage in the Senate, I vowed that we would be back to try and pass this amendment and put America back on the course of fiscal responsibility," the senator added. "Every one of the 55 Republicans in the Senate are original cosponsors and we are joined by seven strong Democrats giving us 62 original cosponsors. If only five other senators join us we will have the votes necessary. If everyone keeps their promises to their constituents and votes as they said they would before the November elections, we will pass the balanced budget amendment."

Hatch noted that opponents to a constitutional amendment have tried and will continue to try to divert attention from the pressing issue of controlling our nation's debt. "The fact is, contrary to opponent's scare tactics, the balanced budget amendment would ensure the long term stability of social security and other retirement investments of every American, as well as long term growth of the U.S. economy."

The amendment introduced in the Senate today is the same as the one introduced in the last Congress. It requires a balanced federal budget by the year 2002. Any amendment to the Constitution needs a two-thirds approval in both houses of Congress as well as ratification by three-fourths of the states.

Hatch held hearings on the amendment Friday in the Senate Judiciary Committee and will convene a second hearing on the amendment Wednesday, January 22, 1997 at 10:00 a.m.

COSPONSORS OF S.J. RES. 1—THE BALANCED BUDGET AMENDMENT

Mr. Hatch (for himself and Mr. Lott, Thurmond, Craig, Nickles, Domenici, Stevens, Roth, Bryan, Kohl, Grassley, Graham, Specter, Baucus, Thompson, Breaux, Kyl, Moseley-Braun, DeWine, Robb, Abraham, Ashcroft, Sessions, D'Amato, Helms, Lugar, Chafee, McCain, Jeffords, Warner, Coverdell, Cochran, Hutchison, Mack, Gramm, Snowe, Allard, Brownback, Collins, Enzi, Hagel, Hutchinson, Roberts, Smith (OR), Bennett, Bond, Burns, Campbell, Coats, Faircloth, Frist, Gorton, Grams, Gregg, Inhofe, Kempthorne, McConnell, Murkowski, Santorum, Shelby, Smith (NH), and Thomas.

TEXT OF THE BALANCED BUDGET AMENDMENT

"Section 1. Total outlays for any fiscal year shall not exceed total receipts for that year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"Section 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by rollcall vote.

"Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"Section 7. Total receipts shall include all receipts of the United States except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"Section 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

Mr. HOLLINGS. I quote from this release.

> Hatch noted that opponents to a constitutional amendment have tried and will continue to try to divert attention from the pressing issue of controlling our Nation's debt. The fact is, contrary to the opponents' scare tactics, the balanced budget amendment would ensure the long-term stability of Social Security and other retirement investments of every American as well as long-term growth of the United States economy.

Absolutely the contrary is the case. You are not going to "ensure the long-term stability of Social Security" with this particular amendment.

This is the Senator that put it into the Budget Committee back in July 1990 where we voted 20 to 1 to protect Social Security. Thereupon, on the floor of this Senate, 98 Senators—the distinguished Presiding Officer was not present at that particular time—but 98 Senators voted in the affirmative, section 13-301 of the Budget Act signed into law by President Bush. That is what section 1 and section 7 of Senate Joint Resolution 1 does—vitiate, or to use the language that I included from the particular quote, "eviscerate the intent of the Greenspan Commission." All this, after I worked to put into the law a provision saying "Thou shalt not use Social Security trust funds to obscure the size of the deficit."

When you use that $107 billion deficit for last year's figure, that is exactly what you are doing. So this is not a scare tactic.

Unfortunately, the media has picked up on the diversion because, as you can see this morning's paper here, our friend Eric Pearman here says, "President Clinton intends to raise concerns about the potential impact of the amendment on the Social Security trust fund, a tactic Democrats used last time to defeat the amendment."

This is no tactic. I have not talked to President Clinton about it. In a way, I do not welcome his joining in because it tries to make it a partisan issue. It was bipartisan, 98 votes of 100 in this Senate when we put into law section 13-301. It was a Republican President that signed that into law. So it was not any Democratic tactic. It is truth in budgeting. And that is what we have a difficult time with.

You can see again in here—and I use the quote from our distinguished colleague from Utah:

> Last Congress when the amendment failed by a mere one vote of passage in the Senate, I vowed that we would be back to try and pass this amendment and put America back on the course of fiscal responsibility,

the Senator added.

> Every one of the 55 Republicans in the Senate are original cosponsors, and we are joined by 7 strong Democrats, giving us 62 original cosponsors. If only five other Senators join us, we will have the votes necessary. If everyone keeps their promises to their constituents and votes as they said they would before the November elections, we will pass a balanced budget amendment.

Mr. President, it wasn't one vote, it was five votes. And we had the five votes. We included it. I have that letter, Mr. President, for the CONGRESSIONAL RECORD. Here it is, dated March 1, 1995. We said at that particular time to Leader Dole, five Democratic Senators. It didn't fail by one vote, as they keep on saying. They had every opportunity to pass it, and they have every opportunity, I think, right at this moment to pass it. They say "If everyone keeps their promises to their constituents," but they want to eviscerate the commitment we have made to Social Security. When they voted in 1990, that was a promise to their constituents in law. It is formalized in law, section 13301 of the Budget Act. That is what we are trying to do, keep our promises to our constituents. That is what we are doing, trying to keep our promise to the Greenspan Commission. When we raised the taxes, we didn't raise the taxes for foreign aid and welfare and food stamps. We raised the taxes for the Social Security trust fund—not for the seniors today, but as the Greenspan Commission report says, for the baby boomers in the next century. That is what we are trying to do. That is why we are having such a difficult time.

The media is looking only at today's politics, and the seniors could not be less interested in today's politics. They are concentrating on Medicare and their health costs. They know there is a big surplus that is already built up. So they are going to get their Social Security checks. But it's the baby boomers who are now misled into IRA's and investments in the stock market and everything else, because they almost believe, to a man or woman, that they are never going to get that money. And we continue to make sure they don't get that money by passing Senate Joint Resolution 1.

Now, I have talked to the leadership and said, "Turn it around and make certain that we can carry out the trust that we instituted into law back in 1990." We voted for this again last year in another vote on the floor of the U.S. Senate by an overwhelming 86 votes. If we can carry out that promise to our constituents, you've got the Senator from South Carolina.

I believe in a balanced budget amendment to the Constitution. I have cosponsored it. I have introduced it. I have voted for it. But not with this situation here, where having passed it into law, I am supposed to vote to repeal my own trust and repeal my own law that I worked so hard on the Budget Committee to get.

We had a conscience in those days. We had a conscience. Now, it's all gimmickry, it's all pollster politics, unfortunately, on the floor of the National Government. Anything that is momentary, we fall. And right to the point, we are not really taking care of the needs of America.

I was on a panel—since we have a few moments—recently of 18 distinguished Senators and myself, and the question was, how could President Clinton make his mark now in history during the next 4 years? And the conventional wisdom right across the board with this particular panel, Mr. President, was that, look, there is not going to be any honeymoon. The Democrats are after GINGRICH, and GINGRICH was after GINGRICH. So any honeymoon would be short-lived. Very little would happen on the domestic front here in the next 4 years, just a little incremental adjustment perhaps on Medicare, a little bit on welfare. But the President's opportunity to make his mark in history was in foreign policy. They recommended—and it was a bipartisan group—what we ought to do is get computers to the third world, get technology to the emerging nations. That would make his mark in history.

When you drive home today, go down by Foggy Bottom, as I do, by the Watergate, and you will see the homeless lying on the streets of America. You will find this city in crime. You will find the children on drugs. You will find that schools are down, illiteracy is up. You will find the infrastructure, roads and bridges, haven't been repaired in 20 years. And those who are lucky enough to have a job are making less than what they were making some 20 years ago. As we work on that NIH budget, the medical brains of America come with these research grants, but 80 percent of the grants which are approved go unfunded. Medical and other research is languishing in this land. And here during this 4 years, we don't have a war, inflation is down, and the deficit is coming down, to President Clinton's credit.

The economy, generally speaking—the stock market—is strong. So this is a beautiful opportunity. With the fall of the Berlin Wall, where we had to sacrifice our economy heretofore during that 50-year period, we can now rebuild that economy. We can come in now and flesh out the meaningful programs that save us money in the long run. There is no question that only 50 percent of those on Women, Infants, and Children, Head Start, and title I for the disadvantaged are funded here at the Federal level. Rather than Goals, let's flesh out monetarily those programs; let's get revenue sharing back rather than Goals 2000; give the communities the revenue sharing to rebuild our educational system, the roadbeds of our railroads, and the infrastructure of our highways and airports. Instead, the $50 billion is going to be frittered away with pollster politics: a little here on capital gains, a little bit here for families, a little bit over here for some higher education. We can do way more on Pell grants than tax cuts for higher education. We haven't fleshed that out for those eligible.

We have a wonderful opportunity, but instead I am afraid we are on track now to get ourselves reelected. We are using the Government to get ourselves reelected. We are not responding to the needs, and the kick-off of this particular measure is totally political—Senate Joint Resolution 1, the balanced budget amendment to the Constitution. I will cut the spending with you. We will withhold on programs with you. We will increase taxes, if you can get some votes around here. My plan would not only reduce the deficit, it would reduce the trade deficit.

We are not willing to pay for what we are getting. That is the truth here in America.

Mr. DASCHLE. Mr. President, today I join with Senator DORGAN and others in introducing a balanced budget amendment to the Constitution. The amendment we are offering is identical to the one scheduled for markup in Judiciary Committee with one essential difference: Our amendment would protect Social Security by prohibiting the counting of Social Security trust funds toward balancing the budget.

The amendment to be considered in Judiciary Committee is likely to be the same as the one offered last year. It simply requires a balanced budget by a date certain without any consideration of the effect that it would have on Social Security.

We offered the amendment we are introducing today as an alternative in the last Congress. If the proponents of the Republican leadership amendment had accepted this single change, the amendment would have been sent to the States 2 years ago with resounding bipartisan support. Instead, they insisted on an amendment that in the year it claims to balance the budget will actually have a $104 billion deficit, masked by Social Security trust funds.

We believe to enshrine the practice of using Social Security funds as a part of the calculation for a balanced budget is just wrong. So our amendment would simply delete the Social Security trust funds from the calculations in determining whether the budget is balanced. It would ensure that, for all perpetuity, Social Security will not be abused again to balance the budget. Therefore, again this year, we will offer a balanced budget amendment to the Constitution that maintains a firewall between Social Security and rest of budget.

Why must Congress exclude Social Security? Looking back on the history of the program, it becomes clear that to do otherwise would perpetuate a massive fraud on the American taxpayer. In 1977, and again in 1983, Congress took bold steps to shore up Social Security with major legislation to restore solvency to the program. The intention was to forward fund the anticipated retirement needs of future generations, especially the large cohort of so-called baby boomers.

The result was successful in terms of generating large surpluses. This year alone, the Government collects $72 billion more than it pays in benefits. Since 1983, the trust funds have developed reserves of over $550 billion.

This experiment has been far less successful than intended in terms of setting those surpluses aside. Instead of being saved to meet the retirement needs of future generations, the surplus revenues are being spent as soon as they are collected to finance the deficits being run up in the rest of the budget. In other words, Social Security payroll taxes of hard-working Americans are being used to pay for programs having absolutely nothing to do with Social Security.

Mr. President, this practice must end. Congress should balance the budget without counting Social Security so that those reserves will be there when they are needed. Consider the magnitude of this problem. Over the next 6 years, by 2002, surpluses will total $525 billion. In 2002, when the budget supposedly balances, Congress will rely on $104 billion in Social Security revenues.

Raiding the trust funds borrows from the future and places the burden on our children and grandchildren. Congress must not enshrine this practice in the Constitution.

If we adopt a balanced budget amendment without excluding Social Security, it would have the effect of reversing an earlier decision by Congress to take the program off-budget. In 1990, the Senate voted 98 to 2 for an amendment by the distinguished Senator from South Carolina [Mr. HOLLINGS] to take Social Security off-budget. The amendment proposed in the Judiciary Committee this year breaks that promise: Social Security could be used to pay for any other spending Congress chooses.

If we do not properly craft a balanced budget amendment, the retirement security of today's workers and future retirees will be at risk. By 2020, the trust fund reserves will total about $3 trillion. At that time, however, when those reserves are needed, two circumstances will make them unavailable. First, unless we balance the budget not counting Social Security and actually build real reserves, no funds will be available in the future to draw down. Second, and equally importantly, if Social Security outlays are counted under a balanced budget amendment, any funds that are paid out from a reserve will have to be offset in the same year with other tax increases or spending cuts.

Mr. President, this second point deserves emphasis. Unless Social Security is exempted from a balanced budget amendment, the reserves now accumulating through the tax contributions of America's work force will not be available as promised for retirees. The balanced budget amendment would make a mockery of the supposed reason for the high payroll taxes currently endured by today's workers. Even if those funds were saved as they should be, they could not be used to pay for Social Security benefits in the future.

Thus, the balanced budget amendment proposed in the Judiciary Committee condones the continued reliance on payroll taxes to finance general government expenditures. Keep in mind that Social Security is funded by a 12.4-percent payroll tax. It is collected only on the first $62,700 of income. This arrangement forces low- and moderate-income taxpayers to pay a larger share of their income than higher-income taxpayers. These taxes are justified by the progressive nature of Social Security benefits. However, this rationale would be eviscerated by enactment of the proposed balanced budget amendment. It would absolutely prevent these surplus payroll tax collections from being used for their intended purpose.

Mr. President, 58 percent of taxpayers pay more Social Security than income taxes. These workers, and indeed all American taxpayers, reject the systematic abuse of dedicated payroll taxes for purposes other than Social Security.

We should stop playing with fire regarding the future of the Social Security system. Congress should not approve an amendment to the Constitution that threatens Social Security's future and makes a mockery of the financing system it has put in place.

If Congress votes on our version of the balanced budget amendment, it will be approved with overwhelming bipartisan support. That would be the appropriate note with which to begin the 105th Congress.

By Mr. SHELBY:

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States which requires—except during time of war and subject to suspension by the Congress—that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. SHELBY. Mr. President, today I am introducing a balanced budget amendment to the Constitution. This is the same amendment which I have introduced in every Congress since the 97th Congress. Over the past 20 years, I have devoted much time and attention to promoting this idea because I believe that the single most important thing the Federal Government could do to enhance the lives of all Americans and future generations is to balance the Federal budget.

Mr. President, Alexander Hamilton once wrote that "* * * there is a general propensity in those who govern, founded in the constitution of man, to shift off the burden from the present to a future day.* * *"

History has proven Hamilton correct. We have seen over the past 27 years, that deficit spending has become a permanent way of life in Washington. During the past three decades, we have witnessed countless "budget summits" and "bipartisan budget deals," and we have heard, time and again, the promises of "deficit reduction." But despite all of these charades, the Federal budget has never been balanced, and it remains severely out of balance today. The truth is, Mr. President, it will never be balanced as long as the President and the Congress are allowed to shortchange the welfare of future generations to pay for current consumption.

A balanced budget amendment to the Constitution is the only way possible to break the cycle of deficit spending and ensure that the Government does not continue to saddle our children and grandchildren with this generation's debts.

Mr. President, everyone in America would benefit from a balanced Federal budget. The Congressional Budget Office has stated that a balanced Federal budget would lower interest rates by up to 2 full percentage points. That would save the average American family with a $75,000 mortgage on their home, about $2,400 per year. It would save the average student with an $11,000 student loan about $1,900. That is real money put in the pockets of hard-working Americans, simply by the Government balancing its books.

Moreover, if the Government demand for capital was reduced, that would increase the private sector's access to capital, which in turn, would generate substantial economic growth and create thousands of new jobs.

On the other hand, without a balanced budget amendment, the Government will continue to waste the taxpayers' money on unnecessary interest payments. In fiscal year 1996, the Federal Government spent about $241 billion just to pay the interest on the national debt. That is more than double the amount spent on all education, job training, crime, and transportation programs combined.

Mr. President, we might as well be taking these hard-earned tax dollars and pouring them down a rat hole. We could be putting this money toward improving education, developing new medical technologies, finding a cure for cancer, or even returning it to the people who earned it in the first place. But instead, about 15 percent of the Federal budget is being wasted on interest payments because advocates of big government continue to block all efforts to balance the budget.

Mr. President, a balanced budget amendment will change all of that. It will put us on the path to begin paying off our national debt, which is currently more than $5 trillion. This amendment will help ensure that taxpayers' money will not continue to be wasted on interest payments.

Opponents of a balanced budget amendment act like it is something extraordinary. Mr. President, a balanced budget amendment will only require the Government to do what every American already has to do: balance their checkbook. It is simply a promise to the American people that the Government will act responsibly.

Mr. President, we do not need any more budget deals. We do not need any more "bipartisan" summits resulting in huge tax increases. What we need is a hammer to force the Congress and the President to agree on a balanced budget, not just for this year, but forever. Mr. President, a constitutional amendment to balance the budget is the only such mechanism available.

ADDITIONAL SPONSORS

S. 2

At the request of Mr. McCAIN, his name was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for American families, and for other purposes.

S. 3

At the request of Mr. McCAIN, his name was added as a cosponsor of S. 3, a bill to provide for fair and accurate criminal trials, reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, reduce the fiscal burden imposed by criminal alien prisoners, promote safe citizen self-defense, combat the importation, production, sale, and use of illegal drugs, and for other purposes.

At the request of Mr. HATCH, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 3, supra.

S. 4

At the request of Mr. McCAIN, his name was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 6

At the request of Mr. McCAIN, his name was added as a cosponsor of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 7

At the request of Mr. McCAIN, his name was added as a cosponsor of S. 7, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 9

At the request of Mr. NICKLES, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 15

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 15, a bill to control youth violence, crime, and drug abuse, and for other purposes.

At the request of Mr. KERREY, his name was added as a cosponsor of S. 15, supra.

S. 29

At the request of Mr. LUGAR, the name of the Senator from Nebraska

[Mr. HAGEL] was added as a cosponsor of S. 29, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 30

At the request of Mr. LUGAR, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 30, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes.

S. 31

At the request of Mr. LUGAR, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 31, a bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 75

At the request of Mr. KYL, the names of the Senator from Montana [Mr. BURNS] and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 94

At the request of Mr. BRYAN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 94, a bill to provide for the orderly disposal of Federal lands in Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes.

S. 102

At the request of Mr. BREAUX, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 102, a bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 104

At the request of Mr. MURKOWSKI, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Virginia [Mr. ROBB], and the Senator from Kansas [Mr. BROWNBACK] were added as cosponsors of S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 139

At the request of Mr. FAIRCLOTH, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 139, a bill to amend titles II and XVIII of the Social Security Act to prohibit the use of Social Security and Medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services.

S. 143

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 143, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 181

At the request of Mr. GRASSLEY, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Colorado [Mr. ALLARD], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 181, a bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax.

S.J. RES. 2

At the request of Mr. HOLLINGS, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 2, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S.J. RES. 6

At the request of Mr. KYL, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S.J. RES. 9

At the request of Mr. KYL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes.

S. RES. 15

At the request of Mr. MACK, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Maine [Ms. SNOWE], and the Senator from Maine [Ms. COLLINS] were added as cosponsors of Senate Resolution 15, a resolution expressing the sense of the Senate that the Federal commitment to biomedical research should be increased substantially over the next 5 years.

SENATE RESOLUTION 26—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CHAFEE, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 26

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion——

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,431,871, of which amount——

(1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended); and

(2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $2,494,014, of which amount——

(1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended); and

(2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee except that vouchers shall not be required——

(1) for the disbursement of salaries of employees paid at an annual rate;

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate;

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate;

(4) for payments to the Postmaster, United States Senate;

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate; or

(6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 27—ORIGINAL RESOLUTION REPORT AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FINANCE

Mr. ROTH, from the Committee on Finance, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. Res. 27

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reinbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $3,329,727, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $3,416,328, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery, supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 28—ORIGINAL RESOLUTION REPORT AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. Res. 28

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1997 through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period of March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,853,725 of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $850 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $2,928,278 of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $850 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations.

SENATE RESOLUTION 29—ORIGINAL RESOLUTION REPORT AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. Res. 29

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1997, through February 28, 1998, and from March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period from March 1, 1997, through February 28, 1998, under this resolution shall not exceed $3,448,034, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $3,539,226, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and from March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 30—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. SHELBY, from the Select Committee on Intelligence, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 30

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Intelligence is authorized from March 1, 1997 through February 28, 1998 and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,506,182, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $2,574,036, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997 and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee, from March 1, 1997, through February 28, 1998, and March 1, 1998 through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 31—ORIGINAL RESOLUTION REPORTED BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER, from the Committee on Committee on Rules and Administration, reported the following original resolution:

S. RES. 31

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees on Congress:

Joint Committee on Printing: John Warner, Thad Cochran, Mitch McConnell, Wendell H. Ford, Daniel K. Inouye.

Joint Committee on the Library of Congress: Ted Stevens, John Warner, Thad Cochran, Daniel Patrick Moynihan, Dianne Feinstein.

SENATE RESOLUTION 32—ORIGINAL RESOLUTION REPORTED BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 32

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the use of the Committee on Rules and Administration.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, January 30, 1997, at 9:30 a.m. to hold a hearing on FEC authorization and campaign finance reform.

For further information regarding the hearing, please contact Bruce Kasold of the committee staff on 224–3448.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nomination of Federico F. Peña to be Secretary of Energy.

The hearing will take place Thursday, January 30, 1997, at 10 a.m. in room SE–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Camille Heninger Flint at (202) 224–5070.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Thursday, January 30, 1997, at 2:30 p.m. to approve the committee budget for the 105th Congress. The business meeting will be held in room 485 of the Russell Senate Office Building.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that the hearing scheduled before the full Energy and Natural Resources Committee to receive testimony regarding S. 104, the Nuclear Waste Policy Act of 1997 will take place on Wednesday, February 5, 1997, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker, counsel (202) 224–3543 or Betty Nevitt, staff assistant at (202) 224–0765.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Women-Owned and Home-Based Businesses." The hearing will be held on Thursday, February 6, 1997, beginning at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey at 224–5175.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Tuesday, February 11, 1997, at 9 a.m. in SR–328A. The purpose of the hearing will be to discuss reform to the Commodity Exchange Act.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Thursday, February 13, 1997, at 9 a.m. in SR–328A. The purpose of the hearing will be to discuss reform to the Commodity Exchange Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, January 28, 1997, to conduct a markup of the following nominee: Mr. Andrew M. Cuomo, of New York, to be the Secretary of Housing and Urban Development. In addition the committee will consider certain organizational matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to organize and adopt committee rules, Tuesday, January 28, at 9:30 a.m., hearing room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, January 28, 1997, beginning at 9:30 a.m. until business is completed, to hold a hearing and markup session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, January 28, 1997, at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LAWRENCE B. LINDSEY'S DEPARTURE FROM THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE

• Mr. ABRAHAM. Mr. President, I rise today to note the departure of Lawrence B. Lindsey, member of the Board of Governors of the Federal Reserve System, from that body. Mr. Lindsey's departure is a great loss for the Federal Reserve, and the nation. His tenure on the Board of Governors has been invaluable. His service as chairman of the Board's Consumer and Community Affairs Committee and as chairman of the Neighborhood Reinvestment Corporation, as well as his participation in the general business of the Board, have played a vital role in sustaining economic growth and price stability in this country. He will be missed.

One can hardly blame Mr. Lindsey, however, for seizing the exciting and well-deserved opportunities that have come his way. As the Arthur F. Burns Chair in Economics at the American Enterprise Institute and as managing director of economic strategies, an economic advisory service based in New York City, Mr. Lindsey will be in a position to participate in both the intellectual and practical sides of global economic life during an exciting time. I am confident that all of us will benefit from the work he will be doing in both positions.

I am certain that the economic community will be hearing from Mr. Lindsey more than ever in his new capacities. I would like to take this opportunity to wish him the best of luck and offer him my heart-felt congratulations.•

ROBERT A. DEMARS

• Mr. LEVIN. Mr. President, I rise today to honor the life of State Representative Robert A. DeMars of Michigan's 25th District, who passed away on October 21, 1996 while campaigning for an 8th term in office.

Robert DeMars was a teacher by profession. For 26 years, he taught in the Lincoln Park Public School system. He served as local president of the Michigan Education Association and as local president, State vice president and National vice president of the American Federation of Teachers. Robert also served Lincoln Park as mayor, councilman and treasurer.

Robert DeMars was a proud veteran who served during World War II in the U.S. Navy's Submarine Service. Protecting and improving the status of veterans was a cause that was very close to Robert's heart. As a State Representative, he introduced legislation to provide special license plates for veterans of WW I, WW II, the Korean and Vietnam wars to honor their service to the Nation. He was the chairman of the House Veterans' Affairs Committee from 1982 to 1994.

Despite Robert's numerous professional accomplishments during his lifetime, he never lost touch with his constituents. His down-to-earth style was a large part of his political success. Robert was a member of several charitable organizations as well as a sponsor of Little League baseball teams. His passing is a dramatic loss to many different segments of the community. Robert is survived by his wife Deanie and their daughter Maeann.

On February 8, 1997, a Robert DeMars Memorial Charity Ball will be held to honor Robert's legacy and to raise money for the Make-A-Wish Foundation. This is a fitting tribute to Robert DeMars's life of public service and one I believe he would wholeheartedly approve of. I know my Senate colleagues join me in honoring the life of Robert A. DeMars.•

PARTIAL BIRTH ABORTION BAN

• Mr. ABRAHAM. Mr. President, I rise today to cosponsor Senate bill 6. In doing so I add my voice to the chorus calling for an end to partial birth abortion. The bill we are considering is designed to outlaw medical procedures "in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery." It is a narrowly drafted bill which specifically and effectively targets a rare but grisly and unnecessary practice.

I understand, Mr. President, that the American people are divided on many issues within the abortion debate. I am firmly pro-life. But in my view one need not resort to broad, ideological arguments in this case. Partial birth abortions occur in the second or third trimester of pregnancy. They are never required to save the life, health or child-bearing ability of the mother. They are unnecessary and regrettable.

We in this Chamber failed to override the President's veto of this legislation during the last Congress. But I remain convinced that all of us can agree that this Nation can do without this particular grisly procedure. I urge my colleagues to support this legislation.•

TRIBUTE TO PROCTOR JONES

• Mr. DORGAN. Mr. President, I rise to pay tribute to Proctor Jones for his outstanding service and dedication to the U.S. Senate since 1960. While his Senate employment was interrupted for 2 years for service in the U.S. Marine Corps, I don't believe any staffer has served in the Senate longer than Proctor. Certainly, no one has served this institution more honorably or with greater dedication.

During my tenure in the Senate, I have had the pleasure of working with Proctor on numerous occasions in his capacity as the staff director for the Democrats on the Energy and Water Subcommittee of Appropriations. Unfortunately, my State of North Dakota seems to be plagued with too little water or too much. Proctor was fully conversant with and sensitive to the unique needs of North Dakota and was always ready to assist us with our water problems. He was especially helpful to me over the past 3 years in finding additional funding to help the citizens of Devils Lake, ND, who have been devastated by flooding for 4 consecutive years.

Proctor represents the finest there is in public service. He was dedicated to the institution he so honorably served under a succession of outstanding chairmen of the Appropriations Committee. He was ever the student of the budget and appropriation processes. He was the master of the art of politics—forging compromises. He was the protector of the purse—evaluating Federal programs under a microscope to ensure that they were necessary, effective, responsible, and responsive. He was the ultimate professional. And he was a true gentleman.

During his more than 35 years in the Senate, Proctor earned the respect of Members and colleagues alike. His expertise, sound judgment, political skills and professional talents will be sorely missed in the Senate. But I want to join my colleagues in wishing Proctor good health and every success as he joins his former boss, Senator Bennett Johnston of Louisiana, in pursuing new challenges and opportunities in the private sector.•

BURT BARR

• Mr. McCAIN. Mr. President, when a good man dies, heaven profits at humanity's expense. My friend, Burt Barr, was a good man whose loss we can scarce afford lest our society further succumbs to the cynicism and distrust that cheapens our times. He was a man whose virtues were so exemplary and so apparent that he won the admiration and affection of all he encountered. He was the kind of man whom fathers hope their sons will become.

He grew to manhood in a time when Americans believed to sacrifice for your country was an ennobling experience. He took up arms in his country's defense, risked death and grave harm, endured enormous deprivation for a cause he knew was greater than his own life. He marched across Europe to liberate the peoples of that continent from tyranny; to protect America's freedoms, and to keep alive in this world the prospect that our freedoms and prosperity might someday flourish in all societies.

Burt's service in the Second World War, as it was for most of his generation, was the defining event of his life. The experience of shared hardship, of complete faith in and devotion to the men who fought beside you engendered in him an enduring love and respect for the men and women who have worn the uniform of the United States. But his experiences in war affected more than his regard for the military. They inspired in him an abiding love for and desire to remain of service to his country, and to distinguish his public service with an unflagging belief that we are all part of a cause more noble than self-interest, and that, as such, we deserve each other's respect and admiration.

No one who worked with Burt Barr ever suspected his purposes or doubted his decency. Republican and Democrat alike knew that in Burt the State of Arizona had found a model public servant whose sole public ambition was to work with any willing partner to help Arizona grow and prosper.

As is obvious by the presence here of so many Arizonans of different political affiliations, Burt was a man who kept his priorities straight. He never set the price of partisan advantage so high that it cheapened his regard for personal friendships. He knew by instinct, by instruction and by experience that political success is such an inconsequential thing when weighed against the love and trust of your neighbors and friends. When our days begin to run out there will be little solace found in the prideful recollection that we advanced our professional ambitions at the expense of others. That solace abides only in our family's love, God's grace, and the satisfaction of a life well-lived in the service of others, and not to the detriment of anyone.

As Bruce Babbitt and Art Hamilton can attest, as anyone who worked with Burt in the service of our beautiful State can attest, Burt won his share of political contests, but never at the cost of a friend. He presided as majority leader in the Arizona House for many years, and worked with many Governors. He did not exult in the perquisites of power, but only in the opportunity to be of use to his community. Under his patient, inclusive leadership, the legislature never functioned more smoothly or productively. He considered Bruce and Art and everyone who labored with him on behalf of Arizona to be comrades-in-arms, not enemies. War had taught him that such relationships were to be cherished as indispensable to a good life.

Burt's good life, his decency to others was of inestimable value to Arizona. Together with former Governor Babbitt, with Art, with all his Republican and Democratic colleagues, Burt helped to make this State the wonderful place to live it remains today. Arizona's extraordinary growth was not just coincident with, but was, in large part, a consequence of his public service, and the comity and trust that distinguished his relationships with his colleagues.

Burt was the first person whose advice I sought when I first considered a political career. I placed a high value on his counsel then and in all the following years of our friendship. That I continue my public career in a time of growing incivility and cynicism, in a time when partisan opponents seek to criminalize our political differences is a source of deep disappointment to me, as I'm sure it was to Burt, although he was always too kind to say so.

I am part of a system that has grown too coarse and venal, and I bear my share of responsibility for that decline. The memory of Burt Barr shames me, as it should shame all of us when we reduce public service to anything other than a noble calling to make our times a moment of hope and opportunity, of decency and unity. All the blessings of his friendship, all the wisdom of his counsel—though I cherish them greatly—will not make of me as good a man as Burt Barr. Only the shame that his memory will visit on me when I stray from his example gives me hope that when my days are near an end, I might know—as Burt knew—the great solace of a life well-lived in the service of something greater than self-interest.

Life will be less pleasant absent the company of this good man. His cheerful nature, his enormous generosity to me, his patience and kindness as he tried to help me become the kind of public servant that not just he, but that I could be proud of, make his loss indescribably profound. But he goes to a reward he so surely deserves, and we cannot begrudge him that.

He will rest now in the field where America buries her heroes. He well-earned his place there, and the place in God's presence we are all promised should we love our fellow man as well as Burt Barr loved us.

Louise, Stephanie, Michael, and Suzanne, there are no words to dull the pain of a loss felt so keenly as you feel that loss of Burt. But I know he wanted for you all the happiness that life affords. He would want you now to live happy and fulfilling lives until the time when by the grace of a loving God you will see him again.•

THE RETIREMENT OF PROCTOR JONES

• Mr. CONRAD. Mr. President, I rise today to salute Proctor Jones on his retirement from the Senate Appropriations Committee and to thank him for his many years of service to the Senate and the Nation. When Proctor retires at the end of this month after an amazing 35 years of public service, the Senate will lose one of its most distinguished staff members. Proctor will be remembered for his professionalism, dedication, and good judgment while working for the Appropriations Committee, and for his work as staff director for the Energy and Water Development Subcommittee for the past 23 years.

Mr. President, I have greatly appreciated all the help Proctor has given my office since I came to the Senate in 1987. North Dakota has many water development needs, and the work Proctor has done on the Energy and Water Development Subcommittee has been critical to helping meet those needs. The Garrison Diversion Project was first authorized in 1965 and was reformulated in 1986 to ensure my State an adequate supply of quality water for municipal, rural, and industrial uses. Water development in North Dakota is also essential for economic development, agriculture, recreation, and tourism. The Federal Government promised the Garrison project to North Dakota to compensate my State for the permanent flood of over 550,000 acres due to the construction of the Garrison and Oahe Dams. Proctor has played an instrumental role in funding this essential project to meet North Dakota's unmet water development needs and fulfill the Federal Government's promise to my State.

Mr. President, Proctor will be greatly missed by all who worked with him. I know we in the Senate will get our work done without Proctor's talent and ability, but filling his shoes will be a tremendous challenge for those who follow him. I am pleased to know that Proctor will remain in Washington, working with my good friend Senator Bennett Johnston.

Mr. President, I am delighted to wish Proctor all the best upon his departure from the Senate. I thank the Chair and yield the floor.•

HONORING DR. GORDON GUYER

• Mr. ABRAHAM. Mr. President, I rise to pay tribute to a great man and a great teacher: Dr. Gordon Guyer. Those who have followed Dr. Guyer's career see a man who has accepted challenge after challenge and built a reputation for success.

Dr. Guyer began attending college as a fisheries and wildlife major at Michigan State University in 1947. Dr. Guyer established the foundation for his lifelong work when he shifted his studies to entomology and earned three degrees. In 1954, he became an instructor of entomology at M.S.U., and only 10 years later was named professor and chairman of the Department of Entomology and director of M.S.U.'s Pesticide Research Center.

Dr. Guyer's achievements at Michigan State University have been remarkable. He has served as administrator and director of M.S.U.'s Cooperative Extension Service for 11 years, associate dean of the College of Agriculture and Natural Resources, associate dean of the College of Natural Science, director of the W.K. Kellogg Biological Station, and special assistant to the senior consultant to the president of M.S.U.

After retiring from Michigan State in 1986, Dr. Guyer was quickly named director of the Michigan Department of Natural Resources. However, he was destined to return to the University he loved after only 2 years as professor emeritus and vice president for governmental affairs.

In September 1992 he became president of Michigan State University and served in that capacity for over a year. Shortly after leaving the university, he was appointed director of the Michigan Department of Agriculture, from which position he retired in October 1996.

Dr. Guyer's success, while well known in Michigan, has spanned the globe. He is an internationally known entomologist and author of more than 70 scientific papers on aquatic ecology, insect control technology, integrated pest management, public policy and international agriculture.

Finally, throughout his extraordinary career, Dr. Guyer has been blessed by the companionship of his wife Norma Guyer. She is well known for her many activities in support of M.S.U. and its boosters as well as the cooperative extension service.

To honor Dr. Guyer and thank him for his decades of service, Michigan State University is working to establish the Gordon and Norma Guyer Endowed Internship Program. This endowment will provide M.S.U. students a variety of public policy internship opportunities and impart first-hand experience in potential career areas. The Gordon and Norma Guyer Endowed Internship Program will serve young individuals who seek to continue Dr. Guyer's work in agriculture and natural resources. I cannot think of a more fitting tribute to two wonderful people.

Dr. Guyer's dedication to Michigan, his contributions in the field of entomology, his focus and determination, and his integrity are an inspiration, and I am proud to call him a friend.•

THE FORUM MAGAZINE'S SEVENTH ANNUAL AFRICAN-AMERICAN PIONEER AWARDS

• Mr. LEVIN. Mr. President, I rise today to honor the recipients of the Seventh Annual African-American Pioneer Awards, hosted by the Forum magazine. In 1991, the Forum magazine began the African-American Pioneer Awards to "document, honor, and celebrate the little-known accomplishments of African-Americans from the Flint community and other parts of Michigan."

I am pleased to congratulate the following recipients of the 1997 African-American Pioneer Award:

Mr. Darwin Davis, a successful businessman and senior vice president of the Equitable. In a 1988 issue of Black Enterprise, Mr. Davis was listed as one of America's 25 most important black executives.

The Velvelettes, one of three Motown bands still performing with its original members. The group is comprised of Flint natives Norma Barbee-Fairhurst, Bertha Barbee-Fairhurst and Kalamazoo natives Mildred Gill-Arbor and Carolyn Gill-Street.

Creative Expressions Dance Studio, founded in 1990, which operates under the city of Flint's Parks and Recreation Department. The studio specializes in tap and ballet and has had great success in national and local competitions.

Mr. Mario J. Daniels, founding member of Mario J. Daniels & Associates, P.C., the first African-American certified public accounting firm in Flint-Genesee County.

Mr. Michael Shumpert, president-CEO of WOWE radio station, the only African-American owned and operated FM radio station in the Flint-Saginaw communities.

Mr. Gregory Jackson, currently the only African-American GM dealer in the Flint-Genesee County area.

Dr. Charlie Roberts, the first African-American to be appointed vice president at Mott Community College.

The Pioneer Awards recognize the great contributions African-Americans have made and are making in the community. I know my Senate colleagues will join me in honoring the achievements of these outstanding Americans.•

RULES OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

• Mr. CHAFEE. Mr. President, in accordance with the rules of the Senate, I ask that the rules of the Committee on Environment and Public Works, adopted by the committee January 28, 1997, be printed in the RECORD.

The rules follow:

RULES OF PROCEDURE

RULE 1. COMMITTEE MEETINGS IN GENERAL

(a) REGULAR MEETING DAYS: For purposes of complying with paragraph 3 of Senate Rule XXVI, the regular meeting day of the committee is the first and third Thursday of each month at 10:00 A.M. If there is no business before the committee, the regular meeting shall be omitted.

(b) ADDITIONAL MEETINGS: The chairman may call additional meetings, after consulting with the ranking minority member. Subcommittee chairmen may call meetings, with the concurrence of the chairman of the committee, after consulting with the ranking minority members of the subcommittee and the committee.

(c) PRESIDING OFFICER:

(1) The chairman shall preside at all meetings of the committee. If the chairman is not present, the ranking majority member who is present shall preside.

(2) Subcommittee chairmen shall preside at all meetings of their subcommittees. If the subcommittee chairman is not present, the Ranking Majority Member of the subcommittee who is present shall preside.

(3) Notwithstanding the rule prescribed by paragraphs (1) and (2), any member of the committee may preside at a hearing.

(d) OPEN MEETINGS: Meetings of the committee and subcommittees, including hearings and business meetings, are open to the public. A portion of a meeting may be closed to the public if the committee determines by rollcall vote of a majority of the members present that the matters to be discussed or the testimony to be taken—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 5(b) of Senate Rule XXVI.

(e) BROADCASTING:

(1) Public meetings of the committee or a subcommittee may be televised, broadcast, or recorded by a member of the Senate press gallery or an employee of the Senate.

(2) Any member of the Senate Press Gallery or employee of the Senate wishing to televise, broadcast, or record a committee meeting must notify the staff director or the staff director's designee by 5:00 p.m. the day before the meeting.

(3) During public meetings, any person using a camera, microphone, or other electronic equipment may not position or use the equipment in a way that interferes with the seating, vision, or hearing of committee members or staff on the dais, or with the orderly process of the meeting.

RULE 2. QUORUMS

(a) BUSINESS MEETINGS: At committee business meetings, six members, at least two of whom are members of the minority party, constitute a quorum, except as provided in subsection (d).

(b) SUBCOMMITTEE MEETINGS: At subcommittee business meetings, a majority of the subcommittee members, at least one of whom is a member of the minority party, constitutes a quorum for conducting business.

(c) CONTINUING QUORUM: Once a quorum as prescribed in subsections (a) and (b) has been established, the committee or subcommittee may continue to conduct business.

(d) REPORTING: No measure or matter may be reported by the committee unless a majority of committee members cast votes in person.

(e) HEARINGS: One member constitutes a quorum for conducting a hearing.

RULE 3. HEARINGS

(a) ANNOUNCEMENTS: Before the committee or a subcommittee holds a hearing, the chairman of the committee or subcommittee shall make a public announcement and provide notice to members of the date, place, time, and subject matter of the hearing. The announcement and notice shall be issued at least one week in advance of the hearing, unless the chairman of the committee or subcommittee, with the concurrence of the ranking minority member of the committee or subcommittee, determines that there is good cause to provide a shorter period, in which event the announcement and notice shall be issued at least twenty-four hours in advance of the hearing.

(b) STATEMENTS OF WITNESSES:

(1) A witness who is scheduled to testify at a hearing of the committee or a subcommittee shall file 100 copies of the written testimony at least 48 hours before the hearing. If a witness fails to comply with this requirement, the presiding officer may preclude the witness' testimony. This rule may be waived for field hearings, except for witnesses from the Federal Government.

(2) The presiding officer at a hearing may have a witness confine the oral presentation to a summary of the written testimony.

RULE 4. BUSINESS MEETINGS: NOTICE AND FILING REQUIREMENTS

(a) NOTICE: The chairman of the committee or the subcommittee shall provide notice, the agenda of business to be discussed, and the text of agenda items to members of the committee or subcommittee at least 72 hours before a business meeting.

(b) AMENDMENTS: First-degree amendments must be filed with the chairman of the committee or the subcommittee at least 24 hours before a business meeting. After the filing deadline, the chairman shall promptly distribute all filed amendments to the members of the committee or subcommittee.

(c) MODIFICATIONS: The chairman of the committee or the subcommittee may modify the notice and filing requirements to meet special circumstances, with the concurrence of the ranking member of the committee or subcommittee.

RULE 5: BUSINESS MEETINGS: VOTING

(a) PROXY VOTING:

(1) Proxy voting is allowed on all measures, amendments, resolutions, or other matters before the committee or a subcommittee.

(2) A member who is unable to attend a business meeting may submit a proxy vote on any matter, in writing, orally, or through personal instructions.

(3) A proxy given in writing is valid until revoked. A proxy given orally or by personal instructions is valid only on the day given.

(b) SUBSEQUENT VOTING: Members who were not present at a business meeting and were unable to cast their votes by proxy may record their votes later, so long as they do so that same business day and their vote does not change the outcome.

(c) PUBLIC ANNOUNCEMENT:

(1) Whenever the committee conducts a rollcall vote, the chairman shall announce the results of the vote, including a tabulation of the votes cast in favor and the votes cast against the proposition by each member of the committee.

(2) Whenever the committee reports any measure or matter by rollcall vote, the report shall include a tabulation of the votes cast in favor of and the votes cast in opposition to the measure or matter by each member of the committee.

RULE 6: SUBCOMMITTEES

(a) REGULARLY ESTABLISHED SUBCOMMITTEES: The committee has four subcommittees: Transportation and Infrastructure; Clean Air, Wetlands, Private Property, and Nuclear Safety; Superfund, Waste Control, and Risk Assessment; and Drinking Water, Fisheries and Wildlife.

(b) MEMBERSHIP: The committee chairman shall select members of the subcommittees, after consulting with the ranking minority member.

RULE 7: STATUTORY RESPONSIBILITIES AND OTHER MATTERS

(a) ENVIRONMENTAL IMPACT STATEMENTS: No project or legislation proposed by any executive branch agency may be approved or otherwise acted upon unless the committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

(b) PROJECT APPROVALS:

(1) Whenever the committee authorizes a project under Public Law 89–298, the Rivers and Harbors Act of 1965; Public Law 83–566, the Watershed Protection and Flood Prevention Act; or Public Law 86–249, the Public Buildings Act of 1959, as amended; the chairman shall submit for printing in the Congressional Record, and the committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

(2) Proponents of a committee resolution shall submit appropriate evidence in favor of the resolution.

(c) BUILDING PROSPECTUSES:

(1) When the General Services Administration submits a prospectus, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended, for construction (including construction of buildings for lease by the government), alteration and repair, or acquisition, the committee shall act with respect to the prospectus during the same session in which the prospectus is submitted. A prospectus rejected by majority vote of the committee or not reported to the Senate during the session in which it was submitted shall be returned to the GSA and must then be resubmitted in order to be considered by the committee during the next session of the Congress.

(2) A report of a building project survey submitted by the General Services Administration to the committee under section 11(b) of the Public Buildings Act of 1959, as amended, may not be considered by the committee as being a prospectus subject to approval by committee resolution in accordance with section 7(a) of that Act. A project described in the report may be considered for committee action only if it is submitted as a prospectus in accordance with section 7(a) and is subject to the provisions of paragraph (1) of this rule.

(d) NAMING PUBLIC FACILITIES: The committee may not name a building, structure or facility for any living person, except former Presidents or former Vice Presidents of the United States, former Members of Congress over 70 years of age, or former Justices of the United States Supreme Court over 70 years of age.

RULE 8. AMENDING THE RULES

The rules may be added to, modified, amended, or suspended by vote of a majority of committee members at a business meeting if a quorum is present.●

ORDERS FOR WEDNESDAY, JANUARY 29, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m., Wednesday, January 29; further, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then immediately proceed to executive session as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, at 9:30 tomorrow morning the Senate will begin

30 minutes of debate on the nomination of Andrew Cuomo to be Secretary of the Department of Housing and Urban Development. Therefore, all Senators should expect the rollcall vote on the nomination to begin at approximately 10 a.m., on Wednesday.

Following the vote, I expect a period for the transaction of morning business to allow Senators to make statements and to introduce legislation.

It is also possible on Wednesday that the Senate will debate the nomination, at least for a while, of William Daley to be Secretary of Commerce. However, the vote on the nomination may occur on Thursday of this week, and it will not occur tomorrow. Once again, all Members will be notified when this vote is scheduled for a time certain.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:59 p.m., adjourned until Wednesday, January 29, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 28, 1997:

DEPARTMENT OF ENERGY

FEDERICO PENA, OF COLORADO, TO BE SECRETARY OF ENERGY, VICE HAZEL ROLLINS O'LEARY, RETIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

JOHN C. KORNBLUM, OF MICHIGAN
EDWARD S. WALKER, JR., OF MARYLAND

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

MARSHALL P. ADAIR, OF FLORIDA
JEFFREY A. BADER, OF FLORIDA
LAWRENCE REA BAER, OF CALIFORNIA
DONALD KEITH BANDLER, OF PENNSYLVANIA
JAMES W. BAYUK, OF ILLINOIS
ELDON E. BELL, OF SOUTH DAKOTA
JAMES D. BINDENAGEL, OF CALIFORNIA
RALPH L. BOOYCE, JR., OF VIRGINIA
PRUDENCE BUSHNELL, OF VIRGINIA
WENDY JEAN CHAMBERLIN, OF VIRGINIA
LYNWOOD M. DENT, JR., OF VIRGINIA
C. LAWRENCE GREENWOOD, JR., OF FLORIDA
JOHN RANDLE HAMILTON, OF VIRGINIA
HOWARD FRANKLIN JETER, OF SOUTH CAROLINA
CHARLES KARTMAN, OF VIRGINIA
KATHRYN DEE ROBINSON, OF TENNESSEE
PETER F. ROMERO, OF FLORIDA
WAYNE S. RYCHAK, OF MARYLAND
EARL A. WAYNE, OF CALIFORNIA
R. SUSAN WOOD, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

WARRINGTON E. BROWN, OF NEW JERSEY
LAWRENCE E. BUTLER, OF MAINE
JAMES PHILIP CALLAHAN, OF FLORIDA
JAMES J. CARRAGHER, OF CALIFORNIA
JOHN R. DINGER, OF IOWA
BEN FLOYD FAIRFAX, OF VIRGINIA
NICK HAHN, OF CALIFORNIA
WILLIAM THOMAS HARRIS, JR., OF FLORIDA
ANN KELLY KORKY, OF NEW JERSEY
RICHARD E. KRAMER, OF TENNESSEE
RICHARD BURDETTE LEBARON, OF VIRGINIA
ANTOINETTE S. MARWITZ, OF VIRGINIA
ROBERT JOHN MC ANNENY, OF CONNECTICUT
EDWARD MC KEON, OF THE DISTRICT OF COLUMBIA
WILLIAM T. MONROE, OF CONNECTICUT
LAUREN MORIARTY, OF HAWAII
MICHAEL C. MOZUR, OF VIRGINIA
STEPHEN D. MULL, OF PENNSYLVANIA
MICHAEL ELEAZAR PARMLY, OF FLORIDA
JO ELLEN POWELL, OF THE DISTRICT OF COLUMBIA
DAVID E. RANDOLPH, OF ARIZONA
VICTOR MANUEL ROCHA, OF CALIFORNIA
ANTHONY FRANCIS ROCK, OF NEW HAMPSHIRE
LAWRENCE GEORGE ROSSIN, OF CALIFORNIA
JOHN M. SALAZAR, OF NEW MEXICO
SANDRA J. SALMON, OF FLORIDA
JANET A. SANDERSON, OF ARIZONA
RONALD LEWIS SCHLICHER, OF TENNESSEE
JOSEPH B. SCHREIBER, OF MICHIGAN
RICHARD HENRY SMYTH, OF CALIFORNIA
WILLIAM A. STANTON, OF CALIFORNIA
GREGORY MICHAEL SUCHAN, OF OHIO
LAURIE TRACY, OF VIRGINIA
FRANK CHARLES URBANCIC, JR., OF INDIANA
HARRY E. YOUNG, JR., OF MISSOURI

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JOHN R. BAINBRIDGE, OF MARYLAND
BERNARD W. BIES, OF SOUTH DAKOTA
MELVIN L. HARRISON, OF VIRGINIA
LAWRENCE N. HILL, OF CALIFORNIA
BERNARDO SEGURA-GURON, OF VIRGINIA
MARK STEVENS, OF FLORIDA
FREDERICK J. SUMMERS, OF CALIFORNIA
BROOKS A. TAYLOR, OF NEW HAMPSHIRE
WILLIAM L. YOUNG, OF VIRGINIA

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 531:

To be colonel

RICHARD COOPER, 1413
NEIL DENNINGTON, 1386
HUGH L. DUKES, 5130
JANET Y. HORTON, 8932
KENNETH LEINWAND, 4271
LAWRENCE R. MACK, 9807
DAVID E. MCLEAN, 0804
*OWEN J. MULLEN, 3177
GREGORY SCHANNEP, 7310

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

NEAL A. ANDREN, 0704
DAVID R. ARBUTINA, 9631
JOSEPH A. BARTOLONI, JR., 8979
GEORGE V. BLACKWOOD, 1614
STEVEN B. BLANCHARD, 5746
JAMES E. BLOOD, 2854
VICTOR P. BRADFORD, 7732
RAYMOND J. BYRON, JR., 7471
CHARLES W. CAMPBELL, JR., 0799
GERARD A. CARON, 8193
JON M. CASBON, 0809
JAMES D. COLLIER, 9039
DAVID E. CORMAN, 9122
CHARLES W. COTTA, 2279
EDWARD R. CUNNINGHAM, 5453
JOSEPH A. DEERING, 6169
STEPHEN DERDAK, 6172
KENNETH F. DESROSIER, 7874
WILLIAM E. DICKERSON, 4851
PHILIP J. DUCHAMP, 2253
JAMES R. EBERT, 8753
SAMUEL B. ECHAURE, 5757
MARK A. EDIGER, 6172
MICHAEL F. EYOLFSON, 2819
*JOSEPH C. FARMER, 1574
MICHAEL L. FARRELL, 2376
CESARIO F. FERRER, JR., 1302
THOMAS J. FOGARTY, 7177
CRAIG B. FOWLER, 6865
DONALD S. GEEZE, 5467
DAVID E. GEYER, 4002
PENNY M. GIOVANETTI, 4209
DENNIS N. GRAHAM, 3698
RICHARD G. GRIFFITH, 0934
DAVID L. GUERRA, 7128
DALE C. GULLICKSON, 8963
LYNN F. HAINES, 0186
MOLLY J. HALL, 4554
RAYMOND H. HANCOCK, 3119
LEO M. HATTRUP, 3263
PAUL A. HEIDEL, 9889
JAY B. HIGGS, 5287
DANIEL T. HINKIN, 5219
GEORGE M. HORSLEY, 1398
DAVID E. HRNCIR, 8682
LOREN M. JOHNSON, 7546
ALBERT L. KLINE, 8721
PHILIP A. LAKIER, 8669
JOHN A. LEVON, 9531
KATHLEEN A. LINDELL, 8853
CHRISTIAN L. MAEDER, 0444
CHARLES T. MORTON, 6481
MICHAEL F. NEUBAUER, 2597
JERRY B. OWEN, 8716
JOSEPH M. PALMA, 4496
NANCY G. PERRY, 0981
RONALD C. PRATT, 5574
ROMIE N. RICHARDSON, 2455
JOHN C. RIGILANO, 7683
DOUGLAS P. ROCKWOOD, 9468
MELISSA ROSADODECHRISTENSON, 0174
RUDOLF R. ROTH, 6882
FREDERICK W. RUDGE, 4734
DAVID C. RUPP, 3032
KEVIN P. RYAN, 0118
ARLEEN M. SAENGER, 0745
MAURICE R. SALAMANDER, 6656
ALAN C. SCHOLD, 5381
COURTNEY D. SCOTT, JR., 9085
STEPHEN J. SHARP, 2488
MICHAEL F. SHEDLOSKY, 6300
LESLIE M. SHIGETANI, 0908
STEPHEN M. SILVERS, 3456
RICK M. SMITH, 7177
LAWRENCE SPENCE, 0285
RICHARD L. STAHLMAN, 3409
WILLIAM E. STRAMPE, 9822
DONALD J. SWIERENGA, 5291
JOE R. TAYLOR, 5498
CYNTHIA P. THIEL, 1231
THOMAS W. TOWNSEND, 4523
THOMAS W. TRAVIS, 2543
DANIEL L. VAN SYOC, 8704
ROBERT L. VANHOUSE, 3599
JUDITH A. VARNAU, 2271
RONALD G. VERRETT, 4197
KEVIN H. VOSS, 4371
JANE B. WARD, 2439
KEVIN B. WEST, 2224
MARIE Y.A. WILLIAMS, 5301
DAVID T. WOFFORD, 8306
ROBERT C. ZALME, 0139
PAUL R. ZIAYA, 1224
BENTON P. ZWART, 0219

To be lieutenant colonel

ROOSEVELT ALLEN, JR., 9038
THOMAS E. APPLEGATE, 6839
TOMMY J. ATTAWAY, 3973
TREVOR C. AXFORD, 9096
PETER A. BAUER, 4932
DIANE M. BEECHER, 2062
CHRISTIAN R. BENJAMIN, 1352
MARK H. BENTELE, 0399
JAMES H. BERRO, 1928
RONALD L. BERRY, 6906
MARK C. BIDWELL, 4307
WILLIAM E. BOLGER, 2800
RICHARD P. BOYLE III, 5140
CHARLES F. BOTTI, 3050
JOSEPH A. BRENNAN, 7800
CRAIG A. BUTLER, 2238
WILBERT CAIN, 3899
WILLIAM M. CAMPBELL, 0016
BRICE B. CHOI, 0575
THOMAS M. CHOPP, 9816
MICHAEL P. COLLINS, 9953
GARY D. CROUCH, 1505
MICHAEL P. CUNNINGHAM, 5816
LOUIS A. DAGOSTINO, 6740
JEFFERY R. DENTON, 9000
ROBERT W. DODSON, 8768
MATTHEW J. DOLAN, 3479
WAYNE H. DUDLEY, 6141
DANIEL M. DUFFY, 5854
DANIEL G. DUPONT, 6414
BLAKE J. EDINGER, [illegible]
CHARLES R. ELLIS, 6683
EARL B. ELLIS, 7941
GEORGE W. ESTES, 4772
CRAIG A. FLICKINGER, 5709
WILLIAM J. FLYNN, 8912
GARY S. FRIES, 9767
DAVID W. GALE, 8164
STEPHEN E. GARNER, 5861
WILLIAM A. GIBSON, 3432
JAMES M. GLOVER, 0072
RICHARD M. GODDARD, 1256
MICHAEL C. GORDON, 2670
MICHAEL W. GORUM, 7265
MICHAEL K. GOWESKY, 6669
JOYCE R. GRISSOM, 1763
THOMAS E. GRISSOM, 4858
PHILLIP W. HALCUM, 1714
DAVID C. HALL, 4384
TIMOTHY J. HALLIGAN, 8444
DANIEL C. HAMAN, 6334
MARK S. HARBER, 4281
DIANNE Y. HARRIS, 9208
ROBERT M. HAWS, 6066
PETER J. HEATH, 9044
LORI J. HEIM, 9636
MICHAEL J. HERRMANN, 1262
RICHARD F. HOWARD, 9421
JOSE E. IBANEZPABON, 3459
JON D. IGELMAN, 9603

WILLIAM F. JENNINGS, 1927
TIMOTHY T. JEX, 6614
MARTIN L. JOHNSON, 7827
MICHAEL P. JONES, 9922
BARBARA B. KING, 3800
STEPHEN A. KNYCH, 3973
JON D. KUNSCH, 7355
DENNIS P. LAWLOR, 1201
JACK H. LINCKS, 3862
RUSSELL M. LINMAN, 8347
STEVEN C. LYNCH, 8190
ERIC A. MAIR, 6758
ANDREW C. MARCHIANDO, 4217
*GEORGE A. MARTIN, 8303
MICHAEL W. MARTIN, 7623
JOHN A. MASON, JR., 3819
*BRIAN J. MASTERSON, 8869
PAGE W. MCNALL, 9753
ROBERT J. MEDELL, 5975
DONALD M. MEDUNA, 3298
PATRICIA MERRILLWILSON, 0444
GREGG S. MEYER, 8757
*VINCENT J. MICHAUD, 6462
JAMES S. MOELLER, 9142
SUSAN W. MONGEAU, 2242
MICHAEL A. MOSUR, 2577
THOMAS A. NEAL II, 7725
WILLIAM E. NELSON, 0185
BRENT E. NIKOLAUS, 9329
DANIEL S. NOYES, 5209
KELLY P. O'KEEFE, 5882
MICHAEL J. OPATOWSKY, 0631
MICHAEL W. PALUZZI, 9149
MICHAEL S. PANOSIAN, 5555
THEODORE W. PARSONS, III, 8533
PHYLLIDA M. PATERSON, 2141
JAMES L. PAUKERT, 5236
MARY M. PELSZYNSKI, 6477
MARCUS L. PETERSON, 4684
*BRIAN D. PEYTON, 6118
MORIA C. PFEIFER, 2124
RONALD D. POOLE, 7178
*ELISHA T. POWELL, IV, 3946
WILLIAMS S. POWELL, JR., 8892
ADIN T. PUTNAM, II, 6093
DANIEL J. QUENNEVILLE, 2390
ROBERT D. RAKOV, 0690
RAUL E. RAMIREZACEVEDO, 8459
*BRIAN V. REAMY, 9761
DAVID A. RIGGS, 1817
*DIANE C. RITTER, 9315
MARK P. ROBBINS, 8213
*MARC S. ROBINS, 7352
JAMES L. RUSHFORD, 1571
BRADLEY S. RUST, 4397
CHRISTOPHER, SARTORI, 6349
JANE E. SASAKI, 5428
ANDREW J. SATIN, 5855
ROBERT P. SCHIERMEYER, 5942
FRANK J. SHELTON, 1713
PHILIP D. SHELTON, 3034
JODI L. SISKIN, 2375
THOMAS M. SLYTER, 8655
ROBERT E. SMITH, II, 0353
WILLIAM N. SNEARLY, 6780
WILLIAM H. SNEEDER, JR., 4227
MARK J. SNELL, 7225
JILL L. STERLING, 3999
JAMES R. STEWART, 8142
PATRICK R. STORMS, 4201
ALAN J. SUTTON, 1236
JEFFREY M. SWARTZ, 9011
CHARLES A. SYMS, 7704
KATHLEEN S. TAJIRI, 0213
DONALD F. THOMPSON, 0960
ERIC R. TOMPKINS, 7169
STEVEN M. TOMSKI, 5527
STEVEN M. TOPPER, 8969
ARJEN L. VANDEVOORDE, 5758
KAREN E. WARSCHAW, 6124
RONALD S. WATTS, 2794
GREGORY M. WICKERN, 3751
STEPHEN D. WINEGARDNER, 8752
PHILLIP A. WOLFE, 3530
GROVER K. YAMANE, 1107
MATHEW F. YETTER, 1087
PAUL A. YOUNG,* 2953
CHRISTOPHER M. ZAHN, 7492

To be major

GREGORY A. ABRAHAMIAN, 6999
ALAA Y. AFIFI, 8086
JON W. AHLSTROM, 9463
FRANK W. ALLARA, JR., 8212
SUZANNE M. ALLEN, 6355
PETER J. ALMQUIST, 9871
LAURA A. ANDERS, 7445
CHERRIE A.A. ANDERSEN, 3676
PAUL J. ANDREWS, 7006
ALAN K. ANZAI, 3474
GARY L. ARAGON, 1092
THEODORE V. AREVALO, 9883
JOSEPH M. ARMOTRADING, 0326
RICHARD D. BAKER, 5638
MICHAEL W. BAILEY, 0513
TIMOTHY D. BALLARD, 1167
BRUCE D. BANWART, 5036
LEV L. BARATS, 2183
SHAWN A. BARRETT, 8518
GORDON W. BATES, JR., 0839
SCOTT L. BEALS, 7107
BRIAN M. BEARD, 3821
ENRIQUE R. BEDIA, 8960
PETER F. BERGLAR, 0342
RONALD J. BERKA, 2045
ARACELIA BERNIER, 2516
CHARLES P. BIEDIGER, 5485
DAVID A. BILLINGS 4824
NATALY M. BILYK, 9227
CHRISTOPHER W. BLANK, 4054
DAN W. BODILY, 9788
JERRY D. BOGGS, 8614
KENNETH J. BOONE, 9800
JAMES J. BORDERS, 4162
PAUL J. BOTELHO, 2587
SANDRA J. BOXELLDUCKWORTH, 1720
JAMES E. BOYD, 0203
DAVID L. BOYER, 0783
JOHN E. BRADY, 0856
DAREN J. BRAGET, 7437
BLAINE A. BRECHT, 3698
RONALD E. BREININGER, 6541
DAVID A. BRICKEY, 5023
CHARLES D. BRICKNER, 8163
ELIZABETH PRICE BRIGGS, 0025
JONTHAN W. BRIGGS, 7190
DONALD A. BRIGHT, 2219
BRIAN C. BROST, 2454
DANIEL M. BRUDNAK, 8098
LAWRENCE T. BURD, 3095
ANN E. BURKE, 3118
JAMES A. BURNS, 8469
KIMBERLY L. BURNS, 7518
MARK P. BURTON, 9955
LEANDRO T. CABANILLA, 9703
JEFFREY S. CALDER, 7658
RANDY W. CALICOTT, 4528
STEFFEN S. CAMERON, 0199
CHRISTOPHER CAMPBELL, 9107
DANIEL S. CAPLIN, 7972
THOMAS A. CARLSON, 7665
DAVID B. CARMACK, 9009
LORAINE L. CARROLL, 4742
PAUL M. CARTER, 5073
RONALD C. CARVER, 5806
JON C. CASTER, 4293
WILLIAM F. CATELLI, 1954
LAMONT E. CAVANAGH, 5362
GEORGE J. CEREMUGA, 4903
JOHN B. CHACE, 9038
MICHELE K. CHAI, 9466
GEORGE L. CHANG, 8149
ALBERT C.M. CHEN, 0861
ANN M. CHILDERS, 5415
DARWIN B. CHILDS, 3008
NISHAN H. CHOBANIAN, JR., 2114
SCOTT L. CHRISTENSEN, 2452
WILLIAM A. CHRISTMAS, 8479
JOSEPH D. CLARK, 9808
THOMAS F. CLARKE, 7411
KEVIN E. CLEGG, 8040
RUSSELL T. COLEMAN, 7486
ANDREW J. COLLINS, 7471
ALBERTO M. COLON, 9189
PAUL B. CONDIT, 8484
FOY D. CONNELL, 3100
ROBERT R. COOPE, 4599
DAVID D. COPP, 4107
TERRY L. CORRELL, 2286
DANIEL L. COURNEYA, 6790
DANIEL J. COVERDELL, 5207
STEPHEN D. CRAIG, 3079
KENNETH E. CRAMER, 7753
GERALD E. CRITES, 1801
MARK T. CUCUZZELLA, 6922
DAVID L. CUNNINGHAM, 1612
RICHARD B. CURD, 9763
JOSEPH L. CVANCARA, 0869
PAUL CZERWINSKI, 0482
JOHN E. DAVINE, 9872
ERNEST B. DE BOURBON, 6023
MELANIE A. DEHART, 3311
DONNE E. P. DELLE, 0605
BRUCE J. DENENNY, 1787
RAJIV H. DESAI, 2179
JOSEPH V. DESANTI, 2807
KENDALL P. DESELMS, 4011
HEIKE DEUBNER, 1855
PAUL J. DICKINSON, 3540
LEE H. DIEHL, 2762
TUAN A. DOAN, 5587
STEPHEN M. DONAHUE, 4462
CHRISTEN MCINTYRE DOUCET, 9308
BRIAN B. DURSTELER, 1648
MARK E. DWINELL, 3288
DONALD T. EAGLE, 6042
GREGORY M. EBERHART, 5486
ROBERT J. ECKERSON, 1668
THOMAS F. ECKERT, 8276
THOMAS A. EDELL, 2340
PETER T. ENDER, 4004
JOANNA L. ENGLISH, 6784
MILTON E. ERHART JR., 4670
MARK A. ERICKSON, 4653
MARK D. ERVIN, 7388
VALERIE A. EVERHART, 8002
DAVID E. FARNIE, 8753
KENNETH D. FARR, 4551
DANIEL J. FEENEY, 9656
GREGG A. FERRERO, 8837
SEAN D. FINK, 3481
RONALD M. FIRTH, 5443
ADAM R. FISHER, 1791
DANIEL K. FLOOD, 1599
THEODORE J. FOONDOS, 9551
FREDRICK L. FOX, 0409
JAMES A. FRENCH, 8769
IMRE GAAL, JR., 7965
JILL A. GABRIELSEN, 1172
JOHN V. GANDY, 5420
PATRICIA L. GANNON, 2354
MONICA C. GAVIN, 4872
GARY J. GERACCI, 1020
JOHN S. GERAGHTY, 1649
TAMI GERSTNER, 0476
GEORGE E. GIBBONS, 4686
ANN M. GILBERT, 5911
JOHN M. GOOCH, 3334
STEVEN J. GRAF, 0565
KENNETH J. GRAHAM, 3813
PAUL B. GREENBERG, 6302
RICHARD L. GREENO, 4731
CLARK J. GREGOR, 8642
GEORGE B. GRIFFIN, 9589
PETER H. GRUBB, 8781
TODD D. HABEL, 8593
E. RONALD HALE, 3237
LISA V. HAMILL, 9268
ERIC H. HANSON, 7145
JOHN H. HARDY, JR., 6238
DONOVAN R. HARE, 3468
THOMAS W. HARRELL, 6848
BENJAMIN A. HARRIS, 4283
MARK D. HARRIS, 0123
VANESSA M. HART, 7406
CLAUDE A. HAWKINS, 3403
JOHN L. HAWS, 2604
ALLEN J. HEBERT, JR., 2652
DAVID P. HERNANDEZ, 7239
JAMES R. HERZOG, 7451
MARC A. HESTER, 8975
PATRICK V. HICKLE, 1889
STEPHEN V. HINGSON, 9897
PAUL D. HINRICHS, 8633
GRETCHEN NMN HINSON, 2474
DAVID E. HIPP, 2218
JOHN E. HO, 9700
FRANCIS T. HOLLAND, 6329
SCOTT A. HOLLINGTON, 0662
ERIC G. HOOVER, 1330
JAN HESTER HOPKINS, 0637
ELIZABETH C. HORENKAMP, 7833
ANN L. HOYNIAKBECKER, 3008
LORI B. HUDSON, 0883
PETER A. HUDSON, 3292
MARGARET M. HUFF, 1756
TIMOTHY W. HUISKEN, 3582
KRISTINE A. HUNTER, 4093
MYLENE P. HUYNH, 1024
DANIEL M. IHNAT, 2900
RICHARD D. INGLESE, 5154
EDWARD W. IRICK, 9598
CHRISTINA V. JACOBS, 7340
MICHAEL S. JAFFEE, 6487
JOEL K. JAGER, 0152
GORDON W. JAMES, 5600
GEORGE V. JANKU, 0726
RONALD W. JARL, 4865
DAVID J. JASKIERNY, 7587
JAMES E. JENNINGS, 3607
PAUL C. JOHNSON IV, 0828
MICHELE M. JOINES, 4595
KARA K. JORVE, 5007
ERIC L. KEAN, 0306
KRISTOPHER A. KECK, 5070
INEZ M. KELLEHER, 7344
AMIR I. KENDE, 9452
JOHN B. KERRISON, 0682
MICHAEL P. KEZMOH, 4247
MICHAEL KIM, 9907
RUSSEL F. KING II, 6668
TIFFANI L. KING, 0864
TAMMY L. KITCHENS, 6758
ALFRED L. KNABLE, 1821
LEANN K. KOCHER, 8224
PETER B. KOVATS, 9735
PAUL R. KOWALSKI, 3425
DAVID M. KUHLMANN, 8869
DAVID L. KUTZ, 0628
GIAEVITA. LANZANO, 6689
LARA INGA LARSON, 9095
DEREK B. LAURITZEN, 5421
KEITH W. LAWHORN, 8538
MARK E. LAWLOR, 4071
ROSE MARIE LEARY, 2286
THOMAS R. LECHNER, 9486
THOMAS J. LEYTHAM, 6131
ARLENE L. LIBBY, 8383
CHERYL A. LINN, 3973
ELIAHU A. LITMAN, 6519
RICHARD M. LITTLE, 5346
DARREN K. LOKKESMOE, 2101
FRANK E. LORCH IV, 8553
JACOB K. LUDER, 6219
WILLIAM B. LUJAN, 7791
KIRSTEN E. LYKE, 3356
WILLIAM R. LYMAN, 5206
MICHELE S. LYNCH, 6215
ROBERT MACDONALD IV, 6334
ZACHARY N. MALACHIAS, 5874
DARRYL E. MALAK, 1739
STEVEN C. MALLER, 6778
KENNETH E. MANN, 2363
TIMOTHY P. MANSON, 4992
ROBIN M. MANTOOTH, 6020
JENNIFER L. MARKLEY, 5824

ROY C. MARLOW, 6634
BARBARA MARTIN, 8055
TRACY L. MARTIN, 9952
SCOTT C. MASSIOS, 7265
ANDREW L. MATTHEWS, 2523
MICHAEL F. MAZZONE, 6140
BRIAN J. MC CALLIE, 0989
GEORGETTE J. MC CANCE, 3519
JOHN F. MC GUIRE, 0550
MARK B. MC HANEY, 9679
JOHN P. MC KENNA, JR., 9668
JAMES R. MC WILLIAM, 4375
CHRISTINE A. MEECE, 2394
JONATHAN F. MERCER, 2789
COLIN A. MIHALIK, 6338
SHANNON C. MILLER, 3714
JAMES A. MIRAZITA, 6854
JANE B. MIZENER, 7330
STEVEN A. MONTAGUE, 1359
SCOTT R. MOOSE, 3754
KEITH H. MORITA, 2612
KAREN L. MORRISSETTE, 9614
DAVID L. MORROW, 3872
KEVIN L. MORTARA, 7237
DEBORAH L. MUELLER, 7101
ERIC J. MUNN, 2091
MARCUS E. MURPHY, 4852
JULIO NARVAEZ, 5650
STEVEN M. NEEDLEMAN, 2569
TERESA A. NEENO, 7090
ERIK J. NELSON, 7562
LAURENCE M. NELSON, JR., 6840
THOMAS S. NEUHAUSER, 7449
HOA V. NGUYEN, 0244
SIMONE L. NORRIS, 0688
MONICA L. NORWICK, 4733
WILLIAM N. ODURO, 6860
JAMES R. OGBURN, JR., 5813
JEFFREY M. OSWALD, 8000
MICHAEL G. OLDROYD, 4625
NATHAN R. OLSEN, 6712
STEPHEN W. ORVILLE, 5697
JAMES M. OSBORN, 9896
D. CHASE OWENS, 6398
CAMILO H. PALACIO, 7989
MARK L. PALMERI, 1825
GREGORY C. PARK, 2690
DAVID P. PARKER, 9478
PHILLIP E. PARKER, 1341
VINCENT J. PASQUARELLO, JR., 6063
CRAIG P. PATTEN, 5725
ROBERT A. PATTERSON, 7976
JOSEPH P.R. PELLETIER, 4231
WILBUR D. PERALTA, 3623
JON F. PETERSEN, 7821
TAMARA JOY PFEILER, 0741
DONALD G. PHILLIPS, 7605
KORRI L. PHILLIPS, 2853
BRIAN R. PIERCE, 5937
MICHAEL R. PIERSON, 0814
AJIT V. PILLAI, 5621
SHARON R. PLAMP, 2070
TRACY L. POPEY, 5207
DAVID M. POWELL, 3668
DOUGLAS L. POWELL, 6026
JERRY W. PRATT, 2559
TODD G. PREWITT, 3156
ANTHONY M. PROPST, 6844
DOUGLAS M. RADMAN, 1977
RONALD T. RAKOWSKI, 3596
JONATHAN C. REBOTON, 3898
PATRICK R. REDDAN, 5087
JAMES E. REESE, 9471
CATHERINE A. REGAN, 2102
RONALD S. RENZEMA, 4848
JOHN E. REYNOLDS, 6714
MARK M. REYNOLDS, 1910
MARLAN L. RHAME III, 6638
ROBERT W. RHO, 6589
MICHAEL G. RHODE, 6156
GLORIA RIBAS SCHULTZ, 1076
JAMES R. RICK, 9726
SARA L.S. RICKMAN, 5163
WALTER P. RISLEY III, 3178
DAMIAN M. RISPOLI, 6942
ERIC R. RITCHIE, 8636
CAREY A. ROBAR, 4717
SANFORD E. ROBERTS II, 7126
COLETTE M. ROBERTSON, 0867
DAVID L. ROBINSON, 3077
NOEL K. ROBINSON, 0712
PAUL G. ROLINCIK III, 3150
JAVIER, ROMAN GONZALEZ, 9851
DOUGLAS M. ROUSE, 4409
ELIZABETH A. ROUSE, 3895
CHRISTOPHER J. RYAN, 8566
MALIN A. SADLER, 5838
JAY G. SAILER, 6695
MARIA SANTOS, 4119
DAVID S. SAPERSTEIN, 0212
DAVID C. SASSER, 6490
MARK T. SAVARISE, 5881
DAVID P. SCHAMMEL, 4809
CHRISTOPHER G. SCHARENBROCK, 2993
LOUIS M. SCHLICKMAN, 6918
WILLIAM E. SCHMIDT III, 0757
MICHAEL J. SCHNEIDER, 9577
PHILIP A. SCHOENFELD, 6192
WALTER W. SCHOUTOKO, 3398
SONIA J. SCHUEMANN, 9667
KIRK L. SCOFIELD, 6430
CAROLYN L. SCOTT, 3734
WILLIAM D. SEFTON, 9044
PETER C. SELINE, 8512
PATRICIA A. SERIO, 8610
KENNETH M. SHAFFER, 8180
LINDA G. SHAFFER, 9093
CATHERINE A. SHANAHAN, 9414
JANET C. SHAW, 3797
JACK B. SHELTON, JR., 6553
LORI H. SHILT, 0469
MICHAEL S. SIELING, 3260
AMY JO SILLIMAN, 2800
PETER R. SILVERO, 6981
STACEY A. SIMONSON, 6122
DAVID W. SIMPSON, 8093
JOSEPH P. SIMPSON, 2662
PAUL J. SIMS, 7035
BRIAN P. SKOP, 7374
ARNOLD SMALLS, 6946
ALICE B. SMITH, 0345
BARTON E. SMITH, 8752
BRYAN C. SMITH, 5973
ERIC W. SMITH, 3059
JESUS L. SOJO, 5615
THERESA M. SOTO, 2522
MICHELLE SPECTOR, 2911
NATHAN O. SPELL III, 6570
JENNIFER L. SPERANDIO, 3662
PATRICK R. SPIERING, 3425
BRYNNE B. STANDAERT, 6444
JULIE A. STARK, 8032
ANTHONY G. STEELE, 0291
JOEL W. STEELMAN, 8377
CHRISTOPHER C. STEFFY, 1084
STEVEN J. STEIN, 2595
THERESA L. STEWART, 4842
KANTHA R.K. STOLL, 4223
CHARLES A. STRICKLAND, 2595
DAVID L. STROBEL, 2435
IVAN J. SUNER, 6636
DAVID A. SVETEC, 3874
ROBERT G. SWANSON, 5329
HAROLD TATE, 1553
TODD A. TEGTMEIER, 2156
DAN E. THOMAS, 9329
PAUL C. THORNTON, 2848
DAVID C. THORNTON, 4668
PAUL H. TING, 9624
RICHARD J. TOM, 3441
ANDREA C. TRADER, 0649
CRAIG L. TREPTOW, 7862
DONALD E. TRUMMEL, 8211
DANIEL C. TUBBESING, 2933
TIMOTHY R. TUEL, 0388
JOHN D. TURNER, 1282
FREDERICK P. VANDUSEN, 8786
SARA E.G. VANSCOY, 0661
WILLIAM R. VANSCOY JR., 2221
EILEEN F. VENABLE, 2673
FELIPE L.G. VIDELA, 4401
HEATHER R. VIESSELMAN, 3346
ANTHONY VITALI, 8519
DALE A. VOLQUARTSEN, 7987
ROBERT B. WADE, 2282
MICHAEL N. WAJDOWICZ, 7791
JOHN K. WALL, 6126
APRIL C. WALTON, 4024
JOHN S. WALTZ, 3153
PETER WANG, JR., 7270
NATHAN C. WARD, 3375
EDITH A. WARREN, 6969
JOHN D. WARTELLA, 0659
ERIC R. WEIDMAN, 3058
CHRISTOPHER M. WEINMANN, 1424
ROBERT L. WEISS, 9643
RENEE R. WEST, 8908
JAMES W. WHELAN, 3405
DANIEL S. WHITE, 5341
DAVID K. WHITE, 9060
GREGORY J. WHITE, 0110
RICHARD G. WILLIAMS, 5883
RICHARD C. WOLONICK, 5903
MARK D. WOOD, 1792
MARK A. WULFF, 3401
JEROME L. YAKLIC, 8460
RICHARD E. ZAMBERNARDI, 2648
RANDALL C. ZERNZACH, 4146

SENATE—*Wednesday, January 29, 1997*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty Lord, the same yesterday, today, and forever, You have been our help in ages past and are our hope for years to come. The sure sign of an authentic relationship with You is that we believe in the future more than the past, and that our previous experiences of Your grace are only a prelude to Your plans for us.

Give us a fresh burst of enthusiasm for the next stage of the unfolding drama of the American dream. Infuse our souls with vibrant patriotism, energize our efforts with the power of Your spirit. You have made politics a high calling. In response we commit our time, effort, and resources to the sacred service of formulating public policy in keeping with Your will for our beloved Nation. May all that we do and are today be so obviously an expression of Your truth, righteousness, and justice for our Nation that we can press on with the confidence of Your blessing. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. COATS. Mr. President, on behalf of the majority leader I announce the schedule for today's session. This morning, the Senate will be proceeding to executive session to begin 30 minutes of debate on the nomination of Andrew Cuomo to be Secretary of Housing and Urban Development. All Senators should expect the rollcall vote to begin on that nomination at approximately 10 a.m. this morning. Following that vote, the Senate will begin a period of morning business to allow Senators to introduce legislation and make statements.

The majority leader has also announced that it is possible today the Senate will begin debate on the nomination of William Daley to be Secretary of Commerce. However, the rollcall vote on that nomination is not expected to occur until tomorrow and all Members will be notified accordingly.

EXECUTIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session to consider the nomination of Andrew Cuomo to be Secretary of Housing and Urban Development.

NOMINATION OF ANDREW M. CUOMO OF NEW YORK TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

The assistant legislative clerk read the nomination of Andrew M. Cuomo of New York to be Secretary of Housing and Urban Development.

The PRESIDENT pro tempore. The able Senator from New York is recognized.

PRIVILEGE OF THE FLOOR

Mr. D'AMATO. Mr. President, I ask unanimous consent that Melody Fennel and David Hardiman be permitted privileges of the floor during consideration of the pending nomination.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I rise today to support a native New Yorker, a fellow New Yorker, Andrew Cuomo, to be Secretary of the Department of Housing and Urban Development. I am pleased that the Senate Banking Committee reported Mr. Cuomo's nomination yesterday by a unanimous vote. I am privileged to support the confirmation of a native New Yorker, particularly one who has done so much in the area of housing in such a relatively short period of time. I commend Mr. Cuomo for his record of public service, first as an advocate for the homeless, and second in terms of his stewardship as Assistant Secretary for Community Planning and Development at HUD.

Since 1993, the Secretary has successfully presided over an annual budget of nearly $10 billion, encompassing a wide diversity of housing, community, and economic development programs. He has shown innovation, insight, and tireless efforts to serve our cities, suburbs and rural areas. He has done so in a way that has avoided partisanship with an eye toward giving to many of those who would otherwise not have the opportunity for good, safe, affordable housing. That is his record as it relates to the private sector in providing transitional housing for the homeless.

It is not good enough, Mr. President, to simply say, "Let's build a shelter, temporary, for the homeless," and bring them off the streets and leave them in a situation that during the day, or when the weather is not inclement, they go back out into the community and wander around aimlessly. We cannot then think the community has met its obligation, its moral and ethical responsibilities to those people—when we take them back in during inclement weather but again discharge them.

Mr. Cuomo, as a young man in 1986, founded and served as president of Housing Enterprise for the Less Privileged, known as HELP. HELP is a provider of housing which uses a strategy to move homeless people from the streets to transitional housing with supportive services to deal with the number of problems that these families may have, like drug addiction and alcohol addiction. HELP was a model for his approach to homelessness that he utilized at the Department of Housing and Urban Development. HELP is providing assistance for over 4,000 people each year.

His grassroots background working in communities, not coming in opposition and thrusting a program upon the community, but working with the community and the private sector, has helped provide him with the insights that I think are so necessary in order for us not to have a department that looks down upon the cities and the States and the communities, but instead works with them in partnership.

Mr. President, let me suggest the Department of Housing and Urban Development needs a lot of work. It needs to be improved. There are some very serious problems. Indeed, unless we address those problems we could face a very difficult situation with hundreds of thousands of people being in a position that they are unable to live in a decent place. We are now approaching a situation that has built up over the years. Our section 8 program's current renewal budget is something in the area of $3.4 billion. That is what we are going to spend to help people who live in this section 8 assisted housing pay for the differential in terms of what they can afford to pay and what the rent is established at. Mr. President, 38 percent are senior citizens. That budget need will rise this October from $3.4 billion to over $10 billion.

The total HUD budget is only $20 billion. And we have an increase of approximately $7 billion. Where will that money come from? Are we going to increase? Is the administration and the Congress going to increase by $7 billion the HUD budget? I do not think so.

This is going to take innovative leadership. It is going to take a husbanding and directing of resources in the way they should be directed to maximize our spending. I believe it will take a more enlightened approach by the administration and Congress to deal with the insufficiency of resources that HUD presently has.

I do not think it is going to be an easy job to get additional resources given the fact that the inspector general has indicated that there are some very severe problems that exist at HUD. There are serious problems ahead that the new Secretary and the Congress are going to have to deal with. HUD faces a fiscal crisis. Hard choices are going to have to be made.

This really calls upon all of us, including the Secretary under his leadership, to work together to ensure that our Nation's most needy, particularly our senior citizens, are not going to be jeopardized as a result of this fiscal crisis that we are facing. Again that crisis is going to be upon us sooner rather than later. It will be with us this coming October.

In conclusion, Mr. President, I again say that after a very thorough nomination hearing, and Mr. Cuomo meeting with just about every Banking Committee member, the committee unanimously voted for his confirmation. I look forward to a successful confirmation of Andrew Cuomo so that we can begin to work toward our mutual goals of improving access to housing in all of our Nation's communities.

I strongly urge my colleagues to approve this confirmation, and I applaud the President for choosing Andrew Cuomo and designating him to be our next Secretary of HUD.

Mr. President, I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Maryland is recognized.

Mr. SARBANES. I thank the Chair.

Mr. President, I join my colleague, the chairman of the Banking Committee, Senator D'AMATO of New York, in strong support of the nomination of Andrew Cuomo as the next Secretary of the Department of Housing and Urban Development.

In my judgment, Mr. Cuomo is well qualified for this position. In addition to his background, experience, and record of significant achievement, Andrew Cuomo will provide the Department with stability and continuity since he has been an Assistant Secretary at the Department over the past 4 years.

As HUD's Assistant Secretary for Community and Planning Development, Andrew Cuomo played a significant role in this administration's efforts to revitalize America's distressed communities and a significant role in their efforts to restructure the Department itself. In that regard, outgoing HUD Secretary Henry Cisneros—who I think deserves the thanks of all of us for the very stellar service he has given to the Nation—made significant progress in addressing the management difficulties that confronted the Department at the beginning of his tenure. Andrew Cuomo was part of that team, and his familiarity with the way the Department works and the reforms now underway will provide for a smooth transition that will allow this progress to move forward.

Mr. Cuomo's activities in the realm of housing and urban development prior to his joining the Department at the beginning of the first Clinton administration demonstrated the initiative and innovation that he has brought with him to the Department. He created HELP, a homeless assistance organization that is now the Nation's largest provider of transitional housing for the homeless. He also developed the alternative approaches to urban revitalization and community development that led to the founding of the Genesis project, a program that has created partnerships between State and local governments and the private sector to provide affordable housing.

Mr. Cuomo has put this past experience and the vision connected therewith to work over the past 4 years as HUD Assistant Secretary for Community Planning and Development. His achievements during this period in that office were many. This morning, I want to underscore three achievements, in particular, that indicate his promise as he takes on the larger challenge of stewardship of the entire Department of Housing and Urban Development.

First, I want to commend Mr. Cuomo's administration of the HOME Investment Partnership Program. Chairman D'AMATO and former housing subcommittee chairman, Senator Alan Cranston, were very much involved in establishing the HOME program. When the Clinton administration arrived, the relatively new HOME program was moving slowly, seemingly mired in regulation. Mr. Cuomo took the initiative in eliminating those regulations that were obstructing the program's progress. He worked closely with State and local governments and the private sector—both for-profit and nonprofit—to identify the features of the HOME program that needed to change in order to allow the program to function better. The result of his hard work is the effective housing program that HOME has become today. State and local governments, in conjunction with private for-profit and private not-for-profit partners, are producing significant results using HOME funds for activities ranging from housing rehabilitation to home ownership assistance.

Mr. Cuomo has also earned praise for his tireless work on behalf of the homeless. After 4 years as Assistant Secretary, he can take the credit for changing the way that our Nation's homeless programs are administered at the local level. Under his leadership communities have now instituted a continuum of care approach. The continuum of care is a phrase that Andrew Cuomo coined for a comprehensive system of assistance that provides prevention, outreach and screening, emergency shelters, transitional and supportive housing, and permanent housing with services to the homeless where needed. I have seen the effectiveness of the service delivery that comes with the local planning and coordination that are at the core of the continuum of care approach. Andrew Cuomo has made these happen.

Third, Mr. Cuomo deserves recognition for his direction of the HUD programs that assist local economic development. He has worked hard to make the Community Development Block Grant Program a more effective tool for local communities pursuing new economic development opportunities. He has also expanded the section 108 loan guarantee program, greatly improving that program's use by local government. And, he has served ably as the principal Federal official charged with the implementation of the Empowerment Zone and Enterprise Community Programs. All of these activities will become increasingly important as the Nation struggles with its commitment to move families from welfare to work.

Andrew Cuomo reiterated his commitment to his role as HUD Secretary in his statement before the Banking Committee last week, and I quote him:

> Our goal must be to create a future unlike any that has come before—a future open to all—in which no person is left behind and in which no community is forgotten. A future in which everyone willing to do his or her part will be empowered with the tools to reach as high as their talents and hard work will take them.

Mr. President, it is clear why President Clinton has selected Andrew Cuomo as the next Secretary of the Department of Housing and Urban Development. I urge my colleagues to join with me in supporting this very fine nomination.

Mr. President, I yield to the Senator from Connecticut whatever time he may require.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. DODD. Mr. President, I rise today in strong support of the nomination of Andrew Cuomo for the Secretary of Housing and Urban Development.

Those of us who have worked closely with Andrew Cuomo over the years, and have witnessed his remarkable range of skills, know that he will become an outstanding leader for the Department. He has a remarkable record of achievement in both the public and private sectors.

I commend President Clinton for selecting him to help our communities prepare for the next century.

For a number of years, Andrew Cuomo worked on the frontlines of community development. Although he could have lived a comfortable life as a partner at an established law firm, he answered the call to public service. In 1986, he started an organization called HELP, that worked to improve the lives of homeless people.

Under his leadership, HELP grew to 500 employees, and used its $30 million annual budget to build more than 120 million dollars worth of housing and help thousands of homeless people move off the streets.

While developing HELP, Andrew Cuomo realized that it was not enough to simply build housing. Although shelter was a key part of the formula for success, homeless people could not move to productive lives without additional support. Consequently, HELP also provided opportunities designed to make the homeless self-sufficient, including substance abuse treatment, mental health care, job training, education, and child care.

This experience at the local level, the hands-on effort to build housing and transform lives, gave Andrew Cuomo invaluable experience. He met a payroll. He dealt with Government bureaucracies. And he learned that public-private partnerships will only work if everyone performs efficiently.

Andrew Cuomo brought those lessons to HUD, when he was confirmed as Assistant Secretary of Community Planning and Development in 1993. His consolidated planning effort merged 12 bureaucratic processes into a streamlined system.

This system reduced paperwork and redtape. Now communities can use Government programs more effectively. We need more efforts like this—where the Federal Government is not the problem, but part of the solution.

Additionally, Andrew Cuomo helped make HUD's homeless programs work better. With the knowledge gained from his experience at HELP, he implemented a new continuum of care strategy. This strategy addresses each part of the homeless problem—from the emergency situation where someone is sleeping on the street, to the drug and alcohol problems that must be treated when a person is in transitional housing, to the final job-training efforts that are necessary to help someone become a productive and member of society.

This comprehensive approach to complex problems will be critical in the years ahead. Welfare reform will have a dramatic effect on cities across this country. We must all work to ensure that efforts to solve one problem do not create new problems.

In the years ahead, we must do much more to rebuild our cities. Too many families are trapped by poverty and despair. We have to free their talents with better educational and job-training opportunities. And most importantly, we must help people find work, because a good-paying job—and the respect and self-esteem that come with it—provides the foundation for a better life.

Andrew Cuomo's dedicated efforts to expand economic opportunity will play a critical role in helping to meet this challenge. At HUD, he helped strengthen job creation tools, including the Economic Development Initiative which provides low-interest loans to cities. With these tools, communities have leveraged over $8 billion from private sources, and helped put thousands of Americans to work.

In short, Andrew Cuomo offers the talent, dedication, and leadership that HUD needs to help communities meet the challenges of the next century.

During the Banking Committee hearing on his nomination, he demonstrated a keen understanding of the problems facing HUD, including staffing issues, expiring section 8 contracts, and the need to revitalize our cities. I am confident he will be an outstanding Secretary, and I urge my colleagues to support his nomination.

Before closing, I would also like to commend the outgoing Secretary, Henry Cisneros, for his outstanding work. When he took the reins back in 1993, the future of HUD looked bleak. The Department was still struggling to recover from years of corruption, mismanagement, and low morale. The turnaround has been remarkable.

Under the leadership of Secretary Cisneros, HUD is now a stronger partner in the national effort to build better communities. With a smaller work force, HUD is running more efficiently. Around the country, people are regaining confidence in the department.

The changes in public housing are a good example of the changes. Every Member of this body knows how badly conditions had deteriorated in some public housing developments.

I have been through too many buildings that were covered with graffiti, where the ceilings and walls were falling apart, and where families were afraid to go out after dark because gangs controlled the neighborhood.

Secretary Cisneros saw this national disgrace, and took action. HUD is well on its way to tearing down 100,000 units of decayed and dangerous housing. Working with the resilient residents who want to build a better neighborhood, he has brought not only better living conditions, but a sense of hope to families across this Nation.

In my home State of Connecticut, these efforts are helping to transform urban neighborhoods. At the Charter Oak Terrace development in Hartford, residents will soon have better housing, educational programs, and job opportunities. In New Haven, the redevelopment of the Elm Haven apartments will also help lift families out of poverty.

Working together, Henry Cisneros and Andrew Cuomo have already accomplished a great deal. With that experience, Andrew Cuomo will hit the ground running and build upon that record of success. I look forward to working with him in the years ahead.

Let me say in summation for those of us who have worked with and known Andrew Cuomo, this is going to be a very fine appointment. He understands the agency now, having been there for 3 years in a major capacity. He knows the personnel. He has demonstrated abilities, as I mentioned, in developing the kind of efficiencies in HUD that are absolutely critical.

My hope is that the housing issues and related subject matters will once again become what they were initially, and that is a bipartisan subject. When housing initiatives were identified and supported back in the late 1940's, it was through the efforts of Republicans and Democrats who said that decent, affordable shelter ought not to be something that divides people based on politics or party. I think it is vitally important we get back to that.

We have a wonderful opportunity, in my view, with the chairman of the committee, Senator D'AMATO, and the ranking member, Senator SARBANES, who understand these issues, and a very fine staff that wants to work on them. The fact that Andrew Cuomo comes from New York, the home State of the chairman of the committee, can only strengthen the excellent relationship between the Senate Banking Committee and HUD. I look forward to a new era of cooperation and bipartisanship in seeing to it that decent, affordable shelter and economic development are given the attention they deserve.

With that in mind, I am delighted to join my colleague from New York and my colleague from Maryland and others in strongly endorsing the nomination of Andrew Cuomo to be the Secretary of Housing and Urban Development.

I yield the floor.

Mr. KERRY. Mr. President, today I would like to stress my unambiguous support for President Clinton's nomination of Andrew Cuomo to serve as the next Secretary of the Department of Housing and Urban Development.

In my opinion, Mr. Cuomo has the potential to be one of the strongest HUD Secretaries in the agency's 30 years of existence. Not only does Andrew Cuomo bring strong and relevant skills to this job, but Mr. Cuomo will inherit an agency that is moving in the right direction.

HUD is in much better shape than the agency was in when Henry Cisneros arrived. HUD had suffered greatly during the 1980's from mismanagement and scandal. Secretary Cisneros applied his boundless energy and unique vision to a very difficult task. Those who oppose HUD's important mission tried to use the management difficulties at HUD as an excuse for eliminating the agency. The success of Secretary Cisneros' stewardship has deflated calls for HUD's elimination and has instead changed the national conversation about HUD and housing policy.

In this new conversation on housing programs, we can talk about the transformation of public housing. You can easily witness this transformation at many sites across the country. In my state, you can see public housing changing at the Orchard Park redevelopment site in Boston and at the Jackson Parkway HOPE VI site in Holyoke, MA. These HOPE VI sites have become the lifeblood for thousands of people and whole communities.

We can also talk about HUD's positive role as a partner with our States and cities: In Massachusetts, HUD is a partner with the State housing agency in a property disposition demonstration. In the neighborhoods of Roxbury and Allston-Brighton, HUD is a partner with the city and the nonprofit community development corporations using CDBG and HOME funds to revitalize distressed neighborhoods.

And, we are able to change the way we talk about cities: Violent crimes in the Nation's 50 largest cities have declined by an average of 13 percent, unemployment has been cut by 3.1 percent in the past 4 years, and home ownership has expanded with nearly 700,000 central city residents having become homeowners since 1990.

Andrew Cuomo has played an important role in these changes. He has helped to change this agency and its role in America's communities. And, because he has been a major player at HUD over the last 4 years, he will be able to capitalize on the progress that he and his predecessor have made.

We can be confident that Andrew Cuomo will be successful over the next 4 years because he has been extremely successful over the last 4. Mr. Cuomo has directed the empowerment zone and enterprise community programs for the Federal Government, he has made major changes in the administration of HUD's homeless assistance programs, he has nurtured and supported the highly successful YouthBuild Program, and he has expanded and improved upon the role that HUD plays in assisting the economic development of distressed communities. He has already made a major mark. He is well prepared to take over the reins at HUD.

In closing, Mr. President, let me reiterate my strong support for this nominee. Most importantly, he comes from one of the major urban centers in the country and from a tradition of paying attention to and assisting our communities. Over the course of the next few years, HUD could face some very tough choices and we need to understand what the consequences of those choices will be. Andrew Cuomo is wholly qualified to meet the challenges that he will face. As the ranking member of the subcommittee with primary responsibility for HUD and its programs, I pledge to do all that I can to aid Mr. Cuomo in succeeding as HUD Secretary. I look forward to working with him over the next 4 years to restore the agency, reinforce its mission, preserve affordable housing, and make significant progress in meeting the housing needs of our people and in revitalizing our distressed communities.

Ms. MIKULSKI. Mr. President, I offer today my strong support for the confirmation of Andrew Cuomo as the new Secretary of Housing and Urban Development.

I want my colleagues to know that Mr. Cuomo is a proven leader in the housing and community development field. For the past 4 years, he has served as the assistant secretary for HUD's Office of Community Planning and Development. While managing a $10 billion portfolio that has doubled over the last 4 years, he helped reduce administrative overhead by 20 percent—helping us to get more bang for the taxpayers buck. Mr. Cuomo's efforts in merging 12 bureaucratic processes into one streamlined system known as consolidated planning won him the Innovations in American Government award for 1996 from Harvard University's John F. Kennedy School of Government. His goal of streamlining, decentralizing, and consolidating programs is one that I have advocated for years as chairman and ranking member of the VA, HUD and Independent Agencies Appropriations Subcommittee. Many of Mr. Cuomo's initiatives were based on the recommendations made by the National Academy of Public Administration in a report that I commissioned as chairman of the subcommittee.

Mr. Cuomo has also overseen the implementation of the Empowerment Zone and Enterprise Community Initiative, which has combined local community planning with Federal dollars to help produce new jobs and housing in 72 cities. He also created a new economic development initiative which worked in conjunction with a loan guarantee program to provide $1.85 billion in much needed low-interest loans for cities in 1995, up from $229 million in 1993. Mr. Cuomo's work on implementing the continuum of care strategy to help the homeless has led to 14 times as many homeless people being served with only twice the funding. In addition, his emphasis on coordination of services and resources has generated 30 times more private and nonprofit dollars since 1992. His focus on real results instead of simplistic statistical compilations of program activity is one which I share and strongly commend.

Mr. Cuomo's service in the field dates back to his founding in 1986 of HELP—Housing Enterprises for the Less Privileged, which grew to become the Nation's largest provider of transitional housing for the homeless. Mr. Cuomo also founded the Genesis project—which develops comprehensive approaches to linking community development with affordable housing. His experiences on the front lines of the battle against urban poverty and despair help him to make practical decisions that work in the real world.

Mr. President, I look forward to working with Mr. Cuomo on making the Department of Housing and Urban Development a more effective and efficient agency. There are major issues that the Department and the Congress must address this year. We must continue to work to find solutions to the problem of the over-subsidized Section 8 assisted housing inventory. I will continue to insist that we don't create an additional burden for the taxpayers, and that we find a solution that does not lead to community destabilization.

Mr. President, we must also work with Mr. Cuomo to ensure that HUD maintains proper oversight and standards for local public housing authorities. HUD must stand sentry and ensure that local public housing authorities are providing real opportunities—not hollow opportunities—and ensuring adequate housing for the poor citizens of our Nation. I want to work with Mr. Cuomo on ending what I call the zip codes of pathology that have resulted from the programs of the past. We have repealed—in our annual appropriations bills—the Federal preferences that concentrated the poorest of the poor in one area. I will work with Mr. Cuomo and my colleagues on the Banking Committee to make these repeals permanent, in addition to the repeal of such Federal requirements as one-for-one replacement, take-one-take-all, and endless leases.

Mr. President, there is much work to be done at HUD. We must continue to streamline the agency, demolish the worst public housing, and deliver programs that focus on personal and community empowerment. I was pleased to see in Mr. Cuomo's testimony before the Senate Banking Committee on January 22, 1997, he noted that "the object of our efforts must be the development of self-sufficiency, not the perpetuation of government programs." Indeed, the days of a bloated bureaucracy with a focus only on bricks and mortar are gone. We must combine local sweat equity and public-private partnerships with Federal dollars to help rebuild the social fabric of our deteriorating communities. I look forward to working with Mr. Cuomo to make HUD a model agency that makes a real difference in the lives of the people it serves. I will support his efforts to make HUD smarter, smaller and better. I am certain he is up to the task.

Mr. DOMENICI. Mr. President, I believe Andrew M. Cuomo has the potential to be our Nation's finest Secretary of Housing and Urban Development. I am impressed with his understanding of our Nation's budget situation, and I am equally impressed with his commitment to meeting the housing challenges of needy Americans.

Andrew Cuomo impressed the Senate Banking Committee with his understanding of the section 8 crisis that is upon us. Section 8 is the program by which HUD provides landlords with the necessary subsidies to allow them to rent their property to low-income Americans. A typical section 8 HUD payment will make up the difference between the actual market rent and the ability of the renter to pay. Thus, landlords continue to provide private housing stock to needy Americans. Because many of the 20-year contracts for section 8 housing are expiring, new Federal commitments of $16.4 billion are needed by the year 2002. Continuing this basic HUD program will require careful balancing to avoid crowding out other needed housing and community development programs.

I have personally worked with Mr. Cuomo in his valiant efforts to increase funding for housing the homeless while streamlining the many HUD homeless programs. Together, and with the able guidance of the Senate Banking Committee chairman, Senator D'AMATO, we have consolidated them into fewer grants with greater and more reliable impact on the very tough problems of homeless Americans.

A little known HUD section 811 program for the disabled has come a long way under Mr. Cuomo's direction. HUD makes better housing available for the mentally ill and mentally retarded at reasonable costs, so that a handicapped person living on supplemental security income and Medicaid can afford to try more independent living. More group homes have been started to give these disabled Americans a fighting chance at independent living. I am confident that Secretary Cuomo will not abandon the mentally ill or the homeless when he makes his hard budget choices in the next few critical years.

Andrew Cuomo is the founder of the largest provider of homeless services in the Nation. He did this in his native State of New York. There he learned first hand the true value of federal housing assistance as well as its limitations and frustrations. Now he will lead the nation's efforts to help others like himself do the best possible for those most in need of temporary and permanent housing.

Before he left his widely respected HELP nonprofit in New York, Andrew Cuomo had built an organization with 350 employees, a $25 million budget, and more then $120 million worth of needed and affordable housing. While serving as HUD Assistant Secretary for Community Planning and Development, Andrew Cuomo got the Empowerment Zone and Enterprise Community Programs up and running after a stiff national competition to select participating towns and cities in urban and rural America.

Under his leadership, the fledgling HOME affordable housing program increased its achievements from less than 2,000 units of affordable housing to over 110,000 units across America. Andrew Cuomo created the HUD Economic Development Initiative, now seen by mayors as their most flexible economic development tool for revitalizing poor communities through a unique combination of HUD resources.

As he said in his confirmation hearing, HUD can be a vital partner with State and local government by being "smarter, smaller, and better." He has a keen eye for the projects that can attract private sector support. He understands the support HUD can give these projects in revitalization efforts in our inner cities and in rural towns.

I was very impressed with his observation that "the pride and dignity of having a job and earning one's own bread is the best social services program that exists."

Mr. President and Senate colleagues, I highly recommend Andrew M. Cuomo for the important job of Secretary of Housing and Urban Development. I urge you to vote in favor of his confirmation today. If you vote to confirm Mr. Cuomo, you will be doing a great service to the millions of Americans whose lives will be touched by his active and creative leadership.

Ms. MOSELEY-BRAUN. Mr. President, I strongly support the nomination of Assistant Secretary Andrew Cuomo to be the next Secretary of the U.S. Department of Housing and Urban Development and I look forward to his confirmation by the Senate today.

As a member of the Banking Committee, I had the pleasure of participating in Mr. Cuomo's confirmation hearing. I continue to be impressed by Mr. Cuomo's commitment to expanding housing opportunities for the people of this Nation and to cutting the bureaucracy which too often hinders such efforts.

When Congress passed the Public Housing Act of 1937, the findings stated, "It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit * * * to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income * * *" In other words, it is in the Nation's best interest to invest in housing for the American people.

In both word and deed, Andrew Cuomo has demonstrated that he believes in the goals of the 1937 act. From his work founding HELP, the Nation's largest nonprofit provider of transitional housing for the homeless, to his efforts as Assistant Secretary for the Office of Community Planning and Development at HUD, Secretary-designate Cuomo's commitment to expanding housing opportunities for all Americans is clear.

His work was recognized by former New York City Mayor David Dinkins who named Andrew Cuomo chairman of the New York City Commission on the Homeless. The commission's report, "The Way Home: A New Direction in Social Policy," suggested a continuum of care policy that was adopted by the mayor and has been recognized nationally as a model for ending homelessness.

One of the reasons that I am particularly pleased to be supporting this nominee today is that his approach to expanding housing opportunities is multifaceted. When we talk about housing, we are, in reality, talking about community. The home is the building block of the community which in turn is the building block of the Nation.

In order to build community, it is foolish to ignore the availability of capital, the presence or lack of jobs, the wealth or poverty of the residents, or the ability of people to pay their own way, now or in the future.

Andrew Cuomo understands that people often need not only a home, but a job to pay for that home. And he understands the fundamental role of public/private partnerships in providing access to both.

Under his tenure as Assistant Secretary for Community Planning and Development, there has been an increase in the amount of investment available for job creation, business expansion, and capital access for cities, a more effective strategy for reducing homelessness, and the implementation of the important empowerment zone/enterprise community initiatives.

Any new Secretary of HUD will face enormous challenges, not the least of which will be how to effectively streamline and improve the HUD bureaucracy. Good ideas and sound efforts are often prevented from succeeding because the costs of the bureaucracy are too great. Efficiency and economic savings must go hand-in-hand with vision and hard work. I am confident that Andrew Cuomo is the right person to address this set of problems.

I look forward to the rapid confirmation of Andrew Cuomo to be the Secretary of the Department of Housing and Urban Development.

I support his confirmation and look forward to working with him to tackle the challenges facing America's communities at the end of the 20th century and the beginning of the 21st century.

Mr. LEAHY. Mr. President, it is a pleasure to have the opportunity to cast my vote today in support of the nomination of Andrew Cuomo for Secretary of Housing and Urban Development. Given the opportunity to choose a replacement for outgoing Secretary Henry Cisneros, I would be hard pressed to find a better candidate.

Andrew Cuomo has spent his life helping low-income families find answers to housing problems. His work to combat homelessness in New York and most recently at the Department has helped to take countless needy people off of the streets and put them back on their feet. His innovative continuum of care initiative provided the impetus for Vermont and other States to bring together housing and service providers and develop a comprehensive plan for dealing with homelessness. This approach has ensured that the Department's homelessness programs get the most bang-for-the-buck, and should serve as a model for other Federal programs.

That Yankee knack for cost cutting will serve him well in his new position. When I look at the funding problems ahead for the section 8 housing program and the uncertain impact of welfare reform on the cost of HUD rental assistance programs, I don't know whether to congratulate Andrew Cuomo on his promotion or offer my sympathies. However, I do know that outgoing Secretary Cisneros is leaving the Department in good hands, and I look forward to working with Secretary Cuomo in the years ahead to address these and other problems facing our Nation's housing programs.

Andrew Cuomo had nationwide responsibilities which he exercised with great skill. In Vermont we look at the people who turned to him for help in my home city of Burlington. He listened. He helped. Today their life is better because of him.

Mrs. BOXER. Mr. President, I am very pleased about President Clinton's nomination of Andrew Cuomo for Secretary of the Department of Housing and Urban Development, and am delighted to support this nomination.

Secretary-designate Cuomo's accomplishments in the private sector and as Assistant Secretary of HUD's Office of Community Planning and Development are numerous. Housing assistance systems developed by Andrew Cuomo have served as model systems, achieving success all across this Nation.

At his hearing last week, Secretary-designate Cuomo showed his knowledge, not only of the management problems within HUD, but of the substantive programs as well. Moreover, Secretary-designate Cuomo expressed his vision for HUD with a refreshing realism. He understands HUD's mission, and the limited discretionary spending to achieve the goals of providing housing assistance in this country.

The issues I am primarily concerned about working on were clearly understood by the Secretary-designate. California faces the brunt of the burden with regard to section 8 renewals, preservation, and the impact of welfare reform on housing. Another issue I will continue to try and resolve with HUD and the Veterans' Administration is homelessness among veterans who fought this country's wars.

I believe Andrew Cuomo is distinctly qualified to be Secretary of HUD. The Secretary-designate has been with HUD in a leadership capacity since 1993. He worked closely with outgoing Secretary Henry Cisneros and understands the complex matrix that makes up HUD's existing programs. From his background, experience, and responses at his nomination hearing last week, Mr. Cuomo has shown he understands what it will take to improve upon that matrix.

Americans all across this Nation, in both urban and rural areas, can expect changes positively affecting housing assistance. Again, I fully support Mr. Cuomo's nomination as Secretary of HUD.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I yield back any time that we might have, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. I yield back any time remaining on this side.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Andrew M. Cuomo, to be Secretary of Housing and Urban Development? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 3 Ex.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith, (NH)
Smith, (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Inouye

The nomination was confirmed.

Mr. NICKLES. Mr. President, I wish to extend my congratulations to Mr. Cuomo.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. NICKLES. Mr. President, for the information of all Senators, there will be no further rollcall votes today. Members may continue to introduce legislation and make statements during the morning business period. It is possible that later today the Senate may debate the nomination of William Daley to be Secretary of Commerce. However, the rollcall vote on Mr. Daley will not occur until tomorrow morning, possibly at 9:45 or 10 o'clock. We urge all colleagues to be prompt. I thank my colleagues. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for not to exceed 20 minutes unless the majority leader comes on the floor and seeks recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 229 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

A GRATEFUL NATION REMEMBERS

Mr. FORD. Mr. President, shortly before closing his office, our dear former colleague, Howell Heflin, asked that I insert in the CONGRESSIONAL RECORD a speech made by Greg Reed, national commander of the Disabled American Veterans, at a banquet held in Birmingham the day before Veterans Day.

I would agree with Senator Heflin that Mr. Reed's speech is an excellent one, and I would ask for unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

A GRATEFUL NATION REMEMBERS

(REMARKS BY GREG REED)

Each year Americans give pause on Veterans Day to remember and honor the millions of men and women who have donned the uniforms of our great Nation in defense of freedom and democracy. It is a time set aside for our Nation to recognize the vanguard of freedom—America's veterans.

Our national tradition of honoring American veterans on a special day began one year after World War I ended.

On November 11, 1919, President Woodrow Wilson proclaimed that each November 11 was to be commemorated as "Armistice Day," a day of remembrance to honor the 116,000 American "doughboys," who, in World War I, died on the battlefields of Europe.

The Great War—that's what we called World War I. Sometimes, in our idealism, we called it "the war to end all wars." Of course, we could not know that just two decades later another war would engulf the world.

World War II would claim four times as many American lives as World War I. When the Germans invaded Poland in 1939, the world entered a holocaust unparalleled in world history.

Never before had war been waged by so many people, over so much of the globe, with such loss of life and destruction of property.

Although, 90 million troops from both sides took part in the war; 17 million of them—nearly one out of five—were consumed by it.

Another 18 million—civilians—died as a direct result of it. We'll never know the precise total of soldiers and civilians wounded and missing.

America mustered more than 16 million troops to battle on many fronts. When the war ended in 1945, more than 400,000 of them had lost their lives.

Within five short years, our nation's men and women would be summoned to answer the threat in a place deceptively known as the "Land of the Morning Calm."

Before the Korean War came to a close with an uneasy truce in 1953, nearly 35,000 Americans died, and more than 100,000 were wounded.

In 1954, Armistice Day was redesignated "Veterans Day."

First conceived to recognize those veterans who had died in World War I, the observance now was given a broader scope: to honor all American veterans in whatever war or period of peace they served.

For they were, and are, made of the same stuff. They were, and are, equally passionate in their patriotism and love of liberty.

We could not enjoy our freedom today were it not for the courage of those who defended us when we needed defending.

In the time of Vietnam, we had heroes and didn't see them. A million Americans soldiered there, and more than 58,000 of them died, some bravely, some just unluckily, all in the service of their country.

Neither the passage of time nor the vantage point of historical perspective has provided this country with answers about Vietnam or its veterans.

The sense of being alone may be the hallmark of the Vietnam experience—and it is taking many years to heal the social wounds inflicted by that war.

William Broyles, Jr., a former editor-in-chief of Newsweek and a Marine infantry officer in Vietnam, once said.

"The war in Vietnam divided America, most of all by driving a wedge between those who went and those who didn't. Vietnam divided us and troubles us still, not only in the hearts and minds of veterans and their families, but in our crippled self-confidence. It is a specter we have yet put to rest, a wound in need of healing."

For many of our fellow veterans the Vietnam war is still a terrible burden. There are too many unanswered questions about the delayed time bombs in their bodies and minds, too many unfulfilled promises about their education and their employment.

We owe them more than that. It is past time to remember the extraordinary service of these ordinary Americans.

When their country called, they answered, and they fought with all of the courage and valor of any army this nation ever sent into battle.

The men and women who served in the Gulf War paid another installment on a great debt that will never be erased so long as there are blood-bent tyrants in the world.

And, like their predecessors at Gettysburg, Normandy, Guadalcanal, Inchon or Khe Sanh, they paid in time . . . in effort . . . and in blood.

Veterans Day commemorates the courage and patriotism of all of America's veterans who have contributed so much to the cause of world peace and the preservation of our way of life.

This is our day to honor those veterans sacrificed in those struggles and pay our respects to those who survived their fallen comrades.

It is a day to celebrate the bright victories that grew from dark battles.

It is a day to review memories of past honor and sacrifice.

It is a day to dream of a brighter future.

It is a day to celebrate peace.

We can never say it too often: We are the children of your sacrifice, and we are grateful.

General Douglas MacArthur spoke of the American soldier as "one of the world's noblest figures."

Yet what sets apart the veterans we honor today? How do we identify them?

In truth, our veterans are the very embodiment of America itself. They reflect the diversity and strength that is the core of our nation.

Veterans are white . . . and they are black; they are of every race and ethnic heritage. They are men, and they are women. They are Christians, they are Muslims, they are Jews.

They're your neighbor next door, the merchant at the mall, and the police officer on the corner.

They are doctors and farmers, they are factory workers and schoolteachers.

They are 26 million Americans living today who served in the armed forces, and there are more than one million who have died in America's wars.

Most of these veterans are unsung heroes, ordinary citizens who did their duty. Their deeds have never been chronicled.

Those veterans who returned home after World War II, and those who did not, were all part of a generation from which we take inspiration.

They won the war, and then made sure we would not lose the peace. Without their subordination of self to the common good, our world would be radically different.

The tradition of the World War II veteran is the tradition of all American veterans.

From Lexington to Concord, that tradition has sustained us in every battle and every war, right up through Desert Storm.

It has marched with us and stood vigil in the frozen camps of Valley Forge, the steaming jungles of the Pacific rim, the bloody beaches of Normandy, the rice paddies of Korea and Vietnam, and the scorching sands of the Persian Gulf.

In that tradition, young, inexperienced Americans become tough, capable soldiers. They become veterans.

And they remind us all that this great nation was not established by cowards, nor will cowards preserve it.

America will remain the land of the free only so long as it is the home of the brave.

What we remember and honor on Veterans Day are those brave men and women who believed so much in an idea, and were so possessed by a sense of duty and honor, that they were willing to risk death for it. And the idea, of course, is liberty.

Liberty is America's core. It is central to our being, not only because it is practical and beneficial, but because it is morally just and right. But that liberty can be retained only by the eternal vigilance that has always been its price.

Americans hate war and its destructiveness. Our history reveals a passion to explore, to build, to renew, not to destroy.

The American spirit is not driven toward the domination of others.

Never has the American soldier been sent overseas to fight in the cause of conquest.

Not once did they come home claiming a single square inch of some other country as a trophy of war.

The only land abroad we occupy is beneath the graves where our heroes rest.

The American spirit understands that free people who respect the dignity of the individual do not wage war upon their neighbors.

The American spirit has a warm heart that yearns for mutual understanding and peace among nations of the world.

And as deeply as we cherish our beliefs, we do not seek to compel others to share them.

It is one of the great attributes of this nation that we have been willing to take up the mantle to fight for freedom on behalf of others.

Even as I stand before you today, American forces are once again in harm's way—

standing watch in Bosnia as that nation struggles toward peace.

And why are we there? Because the American spirit is committed to protect and preserve our friends from suppression in a turbulent world.

We have come to realize that we are, indeed, our brothers' keepers.

Just in the last decade, our world has undergone a massive realignment.

The Soviet empire has dissolved, and the major threat to world peace removed.

We live in a moment of hope, in a nation at peace. For the first time since the dawn of the nuclear age, no Russian missiles are pointed at our children.

Our economy is sound. And because free markets and democracy now are on the march throughout the world, more people than ever before have the opportunity to reach their God-given potential.

But our work is far from done. We must contain the world's most deadly weapons, extend the reach of democracy, and unite in opposing crimes against humanity.

We must keep our arms ready and our alliances strong because challenges of the future won't be any easier than those of the past.

As the American patriot Thomas Paine said:

"Those who expect to reap the blessings of freedom must . . . undergo the fatigue of supporting it . . . What we obtain too cheap, we esteem too lightly."

Let it never be said that we Americans esteem too lightly our blessings of life, liberty, and the pursuit of happiness.

America can never fully repay her veterans, and we will never be able to express our feelings to our fallen soldiers. If there is a crown in heaven, then they are the stars.

But we must never forget how blessed we are in the modern world to live in a free society, nor forget the sacrifices of our friends, relatives, neighbors and countrymen who served us all when duty called.

Our veterans did not disappoint their nation when it needed their service. They, in turn, should not be disappointed in their times of need.

Our duty today is clear, for there are many who need us. Yet, even as America remembers Veterans Day, there are veterans who do seem forgotten.

Yes, some of the very ones who survived the atrocities of Bataan; stormed the beaches at Guadalcanal and Normandy; and fought in other campaigns of World War II.

Since then, their numbers have swelled from those who fought in Korea, Vietnam, the Persian Gulf, Somalia, Haiti, Bosnia and in numerous other conflicts.

There are veterans who have lost family and friends, and who face a lonely future. Many are homeless and in need of medical care.

They struggle with war related disabilities.

They also struggle with bureaucratic red tape to get the benefits and health care they need.

The belief that sustained our troops in combat was as great as America herself.

Their heroism was prompted by faith in the fundamentals that have guided this nation from its beginnings—the idea that liberty must be protected, whatever the cost.

We must nurture and sustain those who distinguished their lives in the defense of freedom. We must provide a dignity befitting heroes . . . whatever the cost.

This Veterans Day we should remember our history as we prepare for our future, pray for peace as the poets and dreamers do, and on this day each year remember to be vigilant against threats to democracy and, most importantly, ratify our contract with American veterans.

We know that if the world is faced with the unfortunate occurrence of war, American men and women will be there to meet the challenges, defend our nation, and work toward peace.

America can and will change, both today and in the future. However, what must not change—not today, not tomorrow, not ever—is our recognition of the debt we owe to America's veterans for keeping the American way of life safe and free.

God bless America, and God bless those who love, guard and defend our precious freedom.

TRIBUTE TO EMBRY-RIDDLE UNIVERSITY

Mr. FORD. Mr. President, *Time Magazine* once referred to Embry-Riddle Aeronautical University as The Harvard of the Sky, a designation truly honoring both institutions. I say this because unsurpassed standards, values and public contributions constantly are reflected in achievements by those representing both schools.

On this occasion, however, my remarks are about Embry-Riddle, for it absolutely is one of our Nation's most intriguing centers of higher learning.

Recently, the New York Times featured the selection of Embry-Riddle for English and operational proficiency training of China's air traffic controllers.

ValuJet's crash in the Florida Everglades last May prompted the National Transportation Safety Board to name ERU alumnus, Greg Feith, as investigator-in-charge. The university's aviation safety role, through an extensive curriculum, real-situation training laboratories, research and issue guidance, is unparalleled. Air Force Capt. Scott O'Grady's amazing survival in Bosnia had as a postscript: ERU graduate. So it is with White House Fellow, David A. Moore.

Although ERU graduates hold key positions throughout business and commerce, we find this especially prevalent among airlines and the aerospace and aircraft industry. Some are astronauts. NASA's Lt. Comdr. Susan Leigh Still, USN, who received her bachelor of science degree, is scheduled for a mission in space this spring.

The school is a major contributor of pilots to military and civilian aviation for two reasons. One is the level of academics in engineering, aerospace science, aviation and related disciplines. The other is due to ERU's own air fleet, its own flight instruction, its own meteorology training, and its own aircraft and engine student maintenance programs. Under the critical eyes of certified instructors, undergraduates perform all engine and airframe maintenance. I understand there never has been a safety incident attributable to their work.

By invitation of the U.S. Army in Europe, Embry-Riddle now offers college classes to our servicemen deployed north of Croatia in support of Operation Joint Endeavor. This newest service adds to the university's extensive network of more than 100 education centers throughout the United States and Europe.

A late December item from the Kiplinger Washington Letter refers to global companies relying on associates who work in team settings or situations. Embry-Riddle student assignments routinely involve team involvement. They take it a step further—through distance learning.

For a particular assignment we might find one student in Daytona Beach serving with another located at the university's Prescott, AZ, campus, while a third comes from an extended campus overseas. A sophisticated networking system allows students to connect electronically with other institutions and class members around the world. In addition, identical courses are taught concurrently by a single instructor from either the Daytona or Prescott campuses as students from both locations interact.

ERU is ranked by U.S. News & World Report as one of the top 20 undergraduate engineering programs in our Nation. It has the largest engineering-physics program in America. Undergraduates last year won the national design competition for general aviation, an intensely challenging venture sponsored by NASA and the Federal Aviation Administration.

Quite often we hear the term, "student-athlete." At Embry-Riddle that designation has a real, rather than shallow, meaning. No better example is found than with this season's basketball team. Under the guidance of athletic director and coach Steve Ridder, a Kentucky native, not only does the team consistently win on the court, it also wins in the classroom.

For example, 11 of the squad's 17 members have a 3-point or better GPA. Of the five seniors this year, one has a 3.6 and another a 3.4 in aerospace engineering, one a 3.4 in engineering physics, one a 3.2 in aviation business, while the school's all-time leading scorer also carries a 3.2 in aviation business.

ERU President Steve Sliwa didn't arrive at the Daytona Beach, FL, campus via a traditional academic path. He brought an eclectic background to the university: aerospace engineer, entrepreneur, NASA division level manager, founder of a software firm and astute business administrator.

Those of us in Government should be particularly impressed with his most recent capital construction program, a $100 million, eight-project endeavor, on schedule and under budget.

Consider Dr. Sliwa's interests and experiences in computer and software technology, which have propelled Embry-Riddle onto the very apex of this science. Almost every facet of our life now depends on software. Yet, software is immature compared to other engineering disciplines. Official mandates for technological reliability and consumer protection simply do not exist.

Think about the countless applications of software: worldwide financial transfers; systems to fly airplanes, to operate medical equipment, to help vehicles function, and for a myriad of other daily tasks. What happens when such technology fails? The question is receiving increased attention at two universities. A consortium between Embry-Riddle and Carnegie Mellon has been established to address the issue of standards and methodologies to prevent future disasters due to unreliable or flawed software. The Department of Defense is keenly interested in their efforts.

ERU began in 1925 when a naive eastern Kentuckian, John Paul Riddle of Pikeville, and entrepreneur T. Higbee Embry of Cincinnati, OH, opened a school of aviation at Lunken Airport in Cincinnati, OH. Now moving into its eighth decade, the school gives new meaning to "cutting-edge" education.

From hands-on investigation of aircraft accidents—thanks to a unique outdoor laboratory featuring crashed planes—to design of computer systems and from leadership in national issues to redesign of roof flaps for NASCAR racing vehicles, ERU is indeed out in front.

Achievements as I have described don't happen without reasons. A most distinguished and forward-thinking faculty, visionary leadership and rare discipline combined with resourcefulness have propelled Embry-Riddle into what I believe is "tomorrow's institution of higher education today."

How fortunate for ERU students. How fortunate for America.

GIVING PRIORITY TO OUR FOOD PRODUCERS

Mr. DORGAN. Mr. President, America's family farmers and ranchers deserve a high priority in the legislative agenda of this new Congress. The families who produce our daily food and help feed a hungry world, have not been on the center stage here in the Nation's Capitol. They deserve our attention and our concern.

The 7-year farm bill that was passed in the last session of Congress is an economic disaster in the making for rural America. All that needs to happen is for mother nature to bless us with abundant crops, and farm prices will once again fall. Under that new farm law, there is no safety net for our Nation's farm and ranch families, who provide the economic base of rural America.

That is why I could not support that legislation. That is why President Clinton was very reluctant about signing this bill into law. If you remember, he only did so because further delay of the farm bill would have created planning chaos for farmers as they prepared for and began their spring's work last year.

In the closing debates of the farm bill, I said that we would have to come back to this issue when farm prices fall as they inevitably do. Well, the glow of high grain prices has faded and the reality of increased production costs has come home to hundreds of thousands of farm families.

It is time to consider what responsibility we as a nation have to those who grow our daily food.

It was important that on the very first day for the introduction of legislation in the 105th session, that we paid attention to agriculture. It is not only the key economic sector in rural America, but also continues to be the single largest industry in our Nation.

I am pleased that the minority leader, Senator TOM DASCHLE, introduced two bills that day as part of his leadership package to deal directly with the problems facing our family farmers and ranchers. I am proud to be a cosponsor on both bills.

CATTLE PRICES AND MARKET CONCENTRATION

One of the most immediate problems facing rural America is the continuing low prices that our cattle producers are facing. While these low prices can be attributed to some extent to the periodic pricing cycle in cattle, we should not ignore some of the fundamental changes that have occurred within our Nation's livestock marketing system in recent times.

The Cattle Industry Improvement Act of 1997—S. 16—which I have cosponsored, begins addressing some of the underlying questions that face our farmers and ranchers as they market their livestock.

The bill will help bring the livestock pricing structure into the open daylight. It requires the Secretary of Agriculture to establish a price-reporting system in which slaughtering firms would have to report the prices paid and the terms of sale to the Department of Agriculture. Smaller slaughtering firms would be exempted, but would be encouraged to do voluntary reporting.

It also gives the Secretary of Agriculture additional rulemaking authority to foster improved competition among packers in buying cattle. This would strengthen the ability of the Secretary to take the proactive actions needed to ensure a healthy competitive environment in today's cattle-marketing structures. It underscores the very purposes for which the Packers and Stockyards Act was established.

Last year the USDA Advisory Committee on Market Concentration concluded that the price reporting and price discovery system in the cattle market was a relic of days gone by. In fact, less than 2 percent of fed cattle go through terminal markets where prices for livestock are established through an open and competitive bidding process.

Essentially, cattle producers face a black hole when it comes to being able to accurately determine what is really happening in the marketplace. We need to give the Department of Agriculture the necessary tools to reach into this black hole and get accurate market information for our producers. Our price reporting system needs to be updated with the changes in the marketplace.

FOUR FIRMS CONTROL 80 PERCENT OF MARKET

The lack of solid market information on livestock is compounded by the concentration in the marketplace. Today, four firms control more than 80 percent of steer and heifer slaughter. In fact, three firms by themselves have over 80 percent of that slaughter. By any economic measure this is a very high level of concentration.

In contrast there are some 1.2 million farmers and ranchers across the country that produce our Nation's cattle. In other words more than 80 percent of the output of 1.2 million farmers and ranchers is funneled through only 4 firms. This is an enormous economic bottleneck.

Since 1980, the top four slaughtering firms have more than doubled their share of the market. They have moved from a 36-percent market share to an 82-percent market share.

When there is an underlying illness, symptoms of that illness often do not appear until the system comes under serious stress. The same is true in economic situations. We have a serious underlying economic disease in our livestock industry: a highly concentrated marketplace.

The symptoms have become more evident under the stress of the low end of the cattle price cycle. The lack of market power for our producers at the bottom rung should be self evident.

The USDA Advisory Committee on Concentration can best be summarized by a sentence from the minority report. The report stated:

> The upper levels maintain profit margins of various sizes within the production cycles, and the lowest, least concentrated levels have become the primary shock absorbers for fluctuations in the commodity cycle.

Coming from a State in which cattle producers are primarily cow-calf operators, I can certainly attest to this statement. Our cow-calf operators have seen their prices cut in half. They have been taking the brunt of this pricing cycle.

A few weeks ago I received a copy of a newspaper article about Al and Gene Urlacher of New England, ND. These two brothers brought a week-old dairy bull calf to the auction sales ring. Three years ago that calf would have sold for $175. What did they get?

They got a $10 bid for this calf. It cost them $8.55 in auction fees, so they split $1.45 between them. That means that each of them got 72 cents in their pocket, which did not even cover the cost of their gas to bring the calf to market. Nor would it buy a Big Mac for lunch that day. Yet these brothers thought they were lucky. Others who had brought calves to the sales ring that day didn't even get a bid.

FARMER'S SHARE OF RETAIL BEEF DOLLAR DECLINES

Let's look at the farmers' share of the retail beef dollar during the same period of time when the top four slaughtering firms more than doubled their market share.

In 1979, our Nation's farmers and ranchers received 64 percent of the retail price of beef. This past year, their share of the beef dollar was down to 48 percent. The long-term trend line demonstrates what has been happening to the market power of our producers.

As cattle prices have dropped in the past 3 years, the drop in the farm share of the retail beef dollar has been even more dramatic. It moved from 56 percent in 1993 down to 48 percent this past year.

The bill before us today is a rather modest proposal. It requires price disclosure so that everybody in the livestock business knows what is being paid and the terms of the sales. The base of this bill is to provide more information to those that participate in the livestock market.

The bill would also give the Secretary the needed rulemaking authority to more effectively carry out the provisions of the Packers and Stockyards Act. In addition, it would provide protection to livestock producers who do some whistleblowing from retaliation by cattle buyers. These are important steps to bring some daylight into the livestock pricing system.

Our bill would also establish a voluntary labeling system for meat produced in the United States, and requests USDA to convene a public meeting to consider the potential of allowing State-inspected meat and meat products in interstate commerce.

It also calls upon the Secretary of Agriculture to immediately work with the Agriculture Minister of Canada to develop a meaningful cattle data exchange system so that United States producers have better information on Canadian cattle production.

This legislation also addresses two trade concerns. First, it would require the U.S. Trade Representative to determine whether the European Union has violated its obligations under international law concerning the certification of U.S. meat export facilities.

Second, it establishes an annual procedure by which the U.S. Trade Representative would identify priority countries that maintain barriers to U.S. livestock and meat exports, including sanitary standards.

REBUILDING A SAFETY NET FOR FARM FAMILIES

The second bill that I cosponsored with Senator DASCHLE on the first day of bill introduction was S. 16, the Agricultural Safety Net Act of 1997. This legislation is a solid beginning to address the problems faced by our grain producers as they face declining prices.

Over the years there has been great variability in the prices received by America's farmers. During the last decade we have seen our wheat prices shift from a low of $2.42 per bushel in 1986 to the unusually high price of $4.45 per bushel this past year.

In fact, had it not been for the unique pricing conditions in our grain sector during the past 2 years, it is very unlikely that the freedom-to-farm bill would have ever been enacted into law, because our new farm bill eliminated the safety net to help our producers through low markets.

We have to be honest and admit that we do not have a level playing field for our grain producers in this new global economy. Too frequently our wheat producers are not competing against wheat producers in other countries, but are competing against the national treasuries of countries which continue to provide export subsidies to move their surplus production into the world market.

The irony of this past year is that wheat prices received by farmers across the Nation peaked just after our planting season. Our farmers responded to the marketplace by planting more wheat. They did the very thing the market indicated and made the extra investments to get a good crop. Now they are being rewarded for their good efforts with lower prices.

Wheat prices have been falling ever since this spring. In recent weeks, I have received many reports of wheat prices at below $3.50 per bushel at local elevators in my home State of North Dakota. The fact is that these prices are well below the full economic costs of production of recent years.

Our producers need a working safety net. The farm law has established price supports at 85 percent of the moving Olympic average of prices received by farmers during the past 5 years, dropping the high and low years.

The marketing assistance loans are supposed to help farmers move through the fluctuations of the market, and give them a means by which to hold their grain off the market so that they could make the best of their marketing opportunities.

While the farm law has the promise of these marketing assistance loans, it reneges on that promise by establishing a cap on these commodity loans at $2.58 per bushel on wheat and $1.89 per bushel on corn.

That makes these loans almost meaningless, especially for our beginning and other low-equity producers who have to sell their crops to pay their bills at harvest time. With the cap, these loan rates aren't high enough to cover even their out-of-pocket expenses, without considering their machinery and land costs.

The Agricultural Safety Net Act of 1997 would eliminate these caps on the marketing assistance loans. That would mean a commodity loan rate of about $3.72 for wheat and $2.64 on corn for this year's crops. That would make a world of difference to our producers. It would provide them some marketing flexibility and give them an opportunity to take advantage of market advances when they occur.

Another key feature of this bill is that it gives the Secretary of Agriculture the authority to extend the marketing assistance loans for an additional 5 months. That would also give additional opportunity for our producers to ride out the market.

EXPAND CROP REVENUE COVERAGE

Together with these improvements, the Agricultural Safety Net Act of 1997 would require the Secretary of Agriculture to offer a nationwide program of crop revenue insurance through the Federal Crop Insurance Corporation of wheat, feed grains, and soybeans.

Federal Crop has been conducting pilot programs on revenue and income insurance for producers. I am pleased that the crop revenue insurance program for wheat has been extended to many counties in North Dakota. I had sought inclusion of the entire State in this pilot program.

The crop revenue coverage pilot program has been very successful and received high interest and participation of producers where it has been available. This bill would move us out of the pilot program stage into a national program that would help producers with the twin risks of weather and price.

BUILDING FARMER CO-OPS

Another way that farmers have been able to meet the challenges of today's marketplace has been through the development of a new generation of value-added cooperatives. Back home in North Dakota this has become known as co-op fever.

These co-ops are a way for farmers to extend their influence in the marketplace. They not only add value to their production, but also they are moving these products further down the chain closer to the ultimate consumer.

This legislation would require the Secretary of Agriculture to give a high priority to loan and grant applications under the Consolidated Farm and Rural Development Act to farmer-owned, value-added processing facilities.

It would help make the development of farmer cooperative processing a priority in the rural development activities of this Nation.

These two bills which I cosponsored as part of the leadership package of priority bills are important steps to restoring opportunity for rural Americans. They represent a new beginning in our efforts to empower rural Americans and help them build a better society for themselves and the entire Nation.

These bills will need to be expanded with other legislative efforts during this session of Congress. They are simply the beginning foundation of how we can reshape Government so that we can provide rural Americans the tools they need to meet the challenges of our global marketplace.

I commend Senator DASCHLE for his work in the development of these bills. The priority that he has given to agriculture in introducing these bills as part of his leadership package is most welcome and most appropriate. I am proud to be part of his leadership team and a cosponsor of these two bills.

Both of these bills recognize that our Nation's family farmers and ranchers are the economic lifeblood of rural America. When they do well, rural America does well.

FAMILY PLANNING FUNDS

Mr. KERRY. Mr. President, I want to make available to all my colleagues and their staff an article by Wernor Fornos, president of the Population Institute, which articulates the importance of a vote that Congress will cast in February. This vote will affect the lives of thousands of families worldwide. This vote will determine whether previously appropriated fiscal year 1997 funds for international family planning will be released only 5 months after the fiscal year for which they were provided has begun, or 9 months after it has begun. Releasing these funds in March as opposed to July is critical—international family planning programs have sustained massive cuts over the past year and a half. These reductions have been punitive and unprecedented. They are, quite literally, threatening the health of women and children.

I ask my colleagues to consider this article when they cast their vote in February. I ask unanimous consent that the full text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 22, 1997]

NEEDED: FAMILY PLANNING FUNDS

(By Werner Fornos)

By Feb. 1, President Clinton is expected to present to the new Congress a finding that the current method of dispensing international population assistance is harmful and counterproductive to US program efforts, and unquestionably it is.

In an outrageous attempt to watch United States family planning efforts overseas die a slow death, Congress last year approved $385 million for these vital humanitarian programs in 1997. Congress further specified that the money could not be dispensed until July of this year, and even then at a rate of no more than 8 percent a month.

Since the 1997 fiscal year began on Oct. 1, 1996, and ends on Sept. 30, 1997, it is obvious that the legislation was calculated to undermine US efforts to assist developing countries with their family planning needs. The measure is an especially cruel hoax considering that some 500 million women need and want to regulate their fertility but lack access to contraceptives.

Moreover, 585,000 women die annually from causes related to pregnancy and childbirth. The World Health Organization believes that the provision of family planning to those who need and want it will reduce maternal mortality by one-fifth.

Sources at the Office of Population in the US Agency for International Development (AID) say the funding restrictions and delays are adding up to millions of dollars in administrative costs. The result is that fewer family planning services are being provided, the health of a great number of women is jeopardized, and government funds are wasted because of unwarranted micromanagement by Congress.

Meanwhile, other development programs—such as child survival, championed by Rep. Chris Smith (R) of New Jersey, Congress's leading opponent of international family planning aid—will be adversely affected because their administrative costs are derived from AID's overall operations budget.

Perhaps the most reprehensible element of the Byzantine metering of international population funds is that it is expected to increase abortions in the world's poorest countries, though its principal architects, Congressman Smith and House Appropriations chairman Bob Livingston (R) of Louisiana, purport to be abortion opponents.

It doesn't take a rocket scientist to figure out that reducing family planning funds is a sure-fire way to increase abortions. A 35 percent reduction of population spending last year was estimated to have caused 1.6 million additional abortions, and a nine-month moratorium plus metering may lead to an even greater number.

If both the US Senate and House of Representatives concur with Mr. Clinton's findings that the strange disbursement schedule for international population funds is detrimental to our family planning efforts overseas, the money can be released starting as early as March 1, rather than July 1.

Though it still will be squeezed out at the rate of 8 percent a month, at least the funds would be delayed five months rather than nine. Neither the federal budget nor the national deficit will be increased by the earlier release date. Congress has already agreed to spend the $385 million on family planning programs overseas. The question is when.

In a world where the population is climbing toward 5.9 billion and increasing by nearly 90 million annually, with 95 percent of the growth in the poorest countries, playing a legislative shell game with human lives is unworthy of a country that prides itself on its humanitarianism. Members of this Congress should take the opportunity to at least partially erase the shame perpetrated by the strident congressional henchmen of the antichoice movement in the last Congress.

TUNA-DOLPHIN BILL

Mrs. BOXER. Mr. President, last week, Senators STEVENS and BREAUX introduced a bill S. 39, that would significantly weaken protections for dolphins in the eastern tropical Pacific Ocean by rewriting—gutting—the "dolphin safe" tuna labeling law that Senator BIDEN and I wrote and urged into law in 1990.

Today, the $1 billion U.S. canned tuna market is a dolphin safe market. Consumers know that the dolphin safe label means that dolphins were not chased, harassed, captured, or killed.

Our definition of dolphin safe became law for all the right reasons. Those reasons are still valid today:

First, for the consumers, who were opposed to the encirclement of dolphins with purse seine nets and wanted guarantees that the tuna they consume did not result in harassment, capture, and killing of dolphins; second, for the U.S. tuna companies, who wanted a uniform definition that would not undercut their voluntary efforts to remain dolphin-safe; third, for the dolphins, to avoid harassment, injury and deaths by encirclement; and fourth, for truth in labeling.

Our law has been a huge success. Annual dolphin deaths have declined from 60,000 in 1990 to under 3,000 in 1995. Why mess with success?

The Stevens-Breaux bill would permit more dolphins to be killed than are killed now.

The bill promotes the chasing and encirclement of dolphins, a tuna fishing practice that is very dangerous to dolphins. It does so by gutting the meaning of dolphin safe, the label which must appear on all tuna sold in the United States. The "dolphin safe" label has worked: it doesn't need to be updated, as the bill's sponsors claim.

A number of arguments have been made in support of the Stevens-Breaux bill which I would like refute at this time.

1. ENVIRONMENTAL SUPPORT

Bill supporters claim that it is supported by the environmental community. In fact, only a few environmental groups support the Stevens-Breaux bill, while over 85 environmental, consumer, animal protection, labor, and trade groups oppose the Stevens-Breaux bill. I ask unanimous consent to insert a list of these groups in the RECORD at the conclusion of my remarks. The fact is that the vast majority of environmental organizations in this country and around the world oppose the Stevens-Breaux bill.

2. EMBARGO ON TUNA

The bill's supporters say that it is unreasonable for the United States to continue to impose a unilateral embargo on other fishing nations that wish to sell tuna in our country. I agree. It is time to lift the embargo. That is why Senator BIDEN and I, and a number of our colleagues, introduced legislation in the last session of Congress that would lift the country by country embargo against tuna that is caught by dolphin safe methods. Our bill would give all tuna fishermen the opportunity to export to the U.S. market as long as they use dolphin safe practices. In other words, we would open the U.S. market and comply with international trade agreements without gutting U.S. dolphin protection laws.

We have offered repeatedly over the past year to sit down and negotiate a compromise with the administration. We have stated repeatedly that we agree it is appropriate to lift the embargo. We want to reach a compromise that is in the best interest of the American consumer, dolphins, and our U.S. tuna processing industry.

3. SCIENCE

Supporters of the Stevens-Breaux bill believe that we should return to chasing and setting nets on dolphins because bycatch of other marine species is minimized. I believe that in order to sustain our renewable marine resources, we need to take a comprehensive ecosystem approach. I also recognize that management of a single species does not always produce benefits for the entire ecosystem. The bycatch of juvenile tuna and other marine species including endangered turtles, is an issue of concern that must be addressed. However, the bycatch arguments used by supporters of this bill are not based on solid science. We need more research before we can establish that bycatch is a problem.

4. OBSERVERS ON BOATS

Under the scheme supported by this bill, tuna fishing boats would continue to have only one observer on each. Currently, that one observer only has to observe whether or not a purse seine net was used on dolphins. If a net was deployed, the tuna caught on that fishing trip cannot be labeled "dolphin safe". Under the scheme in the Stevens-Breaux bill, an observer would have to see whether there are any dead dolphins in the nets that are used to catch tuna. These nets are huge—1½ miles long. How can we expect one single observer to know whether or not a dolphin died in a mile-and-a-half long net? This observer scheme would be unworkable and unenforceable. It also ignores all injuries to dolphin during the chase and encirclement process which can lead to eventual death.

5. INTERNATIONAL OBLIGATION

During the last session, the Panama Declaration was repeatedly referred to as a tuna-dolphin treaty, and it was suggested that unless the Senate passed the Stevens-Breaux bill, the United States was somehow reneging on a binding international agreement. This is simply untrue. It is a completely inaccurate characterization of the issue.

Mr. President, there is no tuna-dolphin treaty.

No treaty was signed by the United States or any other nation on the subject of tuna fishing and the killing of dolphins in the eastern tropical Pacific.

No treaty was submitted to the Senate for ratification, as required by the Case-Zablocki Act.

No treaty was referred to the Senate Foreign Relations Committee.

None of these things happened because there is no treaty.

The agreement that the Stevens-Breaux bill relates to is neither a treaty nor an international agreement. The so-called Panama Declaration is only a political statement—an agreement to agree in the future on a binding international agreement.

The declaration sets forth a series of principles which will ultimately be contained in this yet-to-be-drafted international agreement. But these principles are so vague and largely hortatory that they cannot possibly be read as imposing legal obligations.

If there were any doubt that the United States did not intend to be bound by this declaration, we need only turn to the statement issued by the United States representative to the meeting in Panama.

> The U.S. Administration supports this initiative which is an important step on the road to a permanent, binding instrument . . . The initiative . . . is contingent upon changes in U.S. legislation . . . The U.S. Administration needs to work with our Congress on this . . . We do not want to mislead anyone here as to what the final outcome of that process might be.

It is clear that the administration was not binding the United States to anything, other than to work with the Congress to enact this legislation.

That is the commitment of the United States. It is nothing more. If we don't pass the Stevens-Breaux bill, no binding agreement will have been broken, no international treaty obligation will have been violated.

In summary, the arguments made by the supporters of the Stevens-Breaux legislation—arguments of fact as well as arguments of law—are unsupportable. The bill is not needed for any convincing scientific or environmental purpose, and is not needed to meet any binding obligation of the United States.

I remain committed to blocking this legislation in its current form. I also remain committed to reaching a compromise solution.

We have stated repeatedly that we agree it is appropriate to lift the embargo. We want to reach a compromise that is in the best interest of the American consumer, dolphins, and our U.S. tuna processing industry.

I ask unanimous consent that the following material be printed in the RECORD immediately following my statement: First a letter to Senator BOXER from internationally renowned marine scientist Jacques-Yves Cousteau opposing the Stevens-Breaux proposed change of the definition of dolphin safe; second, a set of opinion pieces and a letter to the editor from Time magazine, the Washington Post, and the Journal of Commerce, and third, the list of bill opponents referred to earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPPONENTS OF THE STEVENS-BREAUX BILL

Action for Animals, California; Americans for Democratic Action, American Society for the Prevention of Cruelty to Animals, American Oceans Campaign, American Humane Association, Animal Protection Institute, Ark Trust, Australians for Animals, Bellerive Foundation, Italy & Switzerland; Born Free Foundation, Brigantine New Jersey Marine Mammal Stranding Center, BREACH, UK; Cetacea Defense, Chicago Animals Rights Coalition, Clean Water Action, Coalition for No Whales in Captivity, Coalition Against the United States Exporting Dolphins, Florida; Coalition for Humane Legislation, Colorado Plateau Ecology Alliance, Committee for Humane Legislation, Community Nutrition Institute.

Defenders of Wildlife, Dolphin Project Interlock International, Dolphin Connection, California; Dolphin Freedom Foundation, Dolphin Defenders, Florida; Dolphin Data Base, Dolphin Alliance, Inc.; Doris Day Animal League, Earth Island Institute, EarthTrust, Education and Action for Animals, Endangered Species Project, Inc.; European Network for Dolphins, Federation for Industrial Retention and Renewal, Fondation Brigitte Bardot, France; Friends of the Earth, Friends of Animals, Friends for the Protection of Marine Life, Friends of the Dolphins, California; Fund for Animals, Fundacion Fauna Argentina, Hoosier Environmental Council, Humane Society of Canada, Humane Society of the Midlands, Humane Society International, Humane Society of the United States.

In Defense of Animals, Institute for Agriculture and Trade Policy, Interhemispheric Resource Center, International Brotherhood of Teamsters, International Dolphin Project, International Wildlife Coalition, International Union of Electronic Workers, Irish Whale and Dolphin Society, Lifeforce Foundation, Maine Green Party, Marine Mammal Fund, Massachusetts Audubon Society, Midwest Center for Labor Research, National Consumers League, National Family Farm Coalition, Oil Chemical and Atomic Workers International, Pacific Orca Society, Canada; People for the Ethical Treatment of Animals, Performing Animal Welfare Society, Progressive Animal Welfare Society.

Public Citizen's Global Trade Watch, Pure Food Campaign, Reearth, Reseau-Cetaces, France; San Diego Animal Advocates, Sierra Club, Society for Animal Protective Legislation, South Carolina Association for Marine Mammal Protection, South Carolina Humane Society of Columbia, The Free Corky Project, UNITE, Vier Pfoten, Austria and Germany; Whale Tales Press, Whale Rescue Team, Whale and Dolphin Welfare Committee of Ireland, Whale and Dolphin Society of Canada, Working Group for the Protection of Marine Mammals, Switzerland; Zoocheck, Canada.

THE COUSTEAU SOCIETY,
Chesapeake, VA, July 12, 1996.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: Thank you for your letter about the Panama Declaration. Here at The Cousteau Society/Equipe Cousteau, my staff has been following the heated discussions among environmental organizations about the Declaration and pertinent legislation in the United States.

We agree with the proponents of the Panama Declaration that it is time to move away from trade sanctions and toward engaging all tuna-fishing nations in a commitment to techniques that are truly dolphin-safe. At the same time, we cannot accept a compromise that approves of catching tuna by chasing and encircling dolphins. We have faith that the nations involved can find a better solution.

Our best wishes to you in your work.

Sincerely,

JACQUES-YVES COUSTEAU.

[From the Monitor, Mar. 4, 1996]

CHICKEN OF THE SEA?—A “DOLPHIN-SAFE” TUNA FLAP MAKES THE U.S. SQUIRM

(By Eugene Linden)

Call it the flipper flip-flop. A squabble over attempt to amend the Marine Mammal Protection Act is forging some strange alliances even as it opens up a bitter rift in the environmental movement. In the end, it may be business interests—once the villains in the piece but now terrified of a boycott by dolphin-loving consumers—that decide the matter.

At issue are amendments to the 1972 act, which forbade imports of tuna caught using nets to encircle dolphins that for unexplained reasons swim together with tuna in parts of the Pacific. Before the act, this method suffocated as many as 500,000 of the marine mammals each year. After 1972, American fishermen drastically reduced their dolphin kill, but in the 1980s the number of dolphins killed by foreign boats rose dramatically.

Then in 1989, environmental activist Sam LaBudde galvanized public opinion by releasing dramatic videos of drowning dolphins. In 1990, StarKist, the world's largest tuna canner, responding to consumer sentiment, announced that it would buy only tuna caught by other methods. That same year, LaBudde's group, Earth Island Institute, successfully sued the Bush Administration to bar tuna imports from Mexico and other Latin American countries that failed to protect dolphins. European nations followed suit, which extended the embargo to an estimated 80% of the canned-tuna consumer market.

Mexico promptly filed an international trade complaint. But it also took steps to reduce dolphin deaths, and by 1995 the number of dolphins killed by tuna fishermen annually had dropped below 5,000 worldwide—demonstrating, Mexicans assert, that fishing boats can encircle dolphins without killing the animals. The U.S. and a coalition of green groups met with Latin nations in Panama last October to hammer out new guidelines for environmentally sound tuna fishing. Their declaration permits encirclement so long as onboard observers certify that no dolphin drowned during the netting operation, and its provisions became the basis for a bill introduced by Alaska Senator Ted Stevens that would, among other things, lift the U.S. embargo. California Senator Barbara Boxer, a Democrat, has introduced a competing bill that would also lift the sanctions on the Latin nations but maintain them on individual vessels that catch tuna by encirclement of dolphins.

Proving once again that politics makes strange bedfellows, the Clinton Administration has sided with Stevens—a leader of Republican efforts to roll back environmental regulations—as have the Environmental Defense Fund, the World Wildlife Federation and the Center for Marine Conservation. They argue that unless the Latin nations are given credit for their efforts, they will simply resume their bad old ways. Meanwhile, Earth Island Institute, the Sierra Club, the Humane Society and Friends of the Earth vehemently oppose the Stevens bill and support Boxer's charging that the delegation in Panama sold out the dolphins to free trade.

Proponents of the Boxer bill say complicated enforcement procedures and the potential for corruption under the Stevens bill will mean that dolphin deaths will rise again. Proponents of the Stevens bill argue that the alternatives to encircling dolphins have proved destructive to both tuna populations and other species, such as sea turtles and sharks. All that leaves Anthony O'Reilly, chairman of H.J. Heinz Co., which owns StarKist, loath to make any change that might be misinterpreted by dolphin-loving consumers. “I believe the definition should not be changed in the absence of consensus of scientists and public opinion,” he says. And he's the one who has to move the goods.

[From the Washington Post, July 23, 1996]

“DOLPHIN-SAFE” CLAIM IS IN DANGER

(By Colman McCarthy)

On the label of every can of tuna sold in the United States is the phrase “dolphin safe.” This means that tuna were not caught by intentionally setting encircling nets on dolphins. In the Eastern Pacific Ocean, fleets locate the deeper-swimming tuna by tracking dolphins.

The story of how “dolphin safe” came to be imprinted on labels is proof that environmentally harmful practices can be turned around when enough well-organized citizens demand it. Credit is shared by schoolchildren, their parents and teachers who threatened to boycott tuna because dolphins were also killed in the catch, and by such groups as the Humane Society of the United States, which has been toiling on this marine issue for more than 20 years.

Legislatively, the Dolphin Consumer Information Act was passed in 1990. Then came the International Dolphin Conservation Act, which bans the import and sale of tuna caught in nets that encircle dolphins. Both laws represent years of work by progressive politicians to ensure that dolphins are nearly as safe as they were before tuna fleets took to the high seas in 1959 with deadly mile-long purse seine nets. Over three decades, more than 7 million died in the nets. Under the laws, dolphin mortality has been reduced by 96 percent.

In politics, success in one thing, defending it another.

The integrity of the legislation, as well as the safety of dolphins, is at serious risk. The problem is not with the domestic tuna fleet. California-based, it amounts to only a half-dozen boats and with the owner eschewing settings nets on dolphins. It is the fleets of a few foreign nations—Mexico mainly, which has nearly 40 factory boats in the eastern Pacific—that want to market dolphin-unsafe tuna in the United States.

Mexico's fishers and their lobbyists in Washington are taking comfort in legislation offered by Sens. Ted Stevens (R–Alaska) and John Breaux (D–La.). Their bill, which recently was approved by a Republican controlled committee, would redefine “dolphin safe” to something like “Well, pretty safe.” Dolphins would be fair game for nets, along with the practice of helicopters and speedboats chasing the traumatized creatures into them.

To ward off troublesome school kids who like dolphins and might take to boycotting again, the Stevens-Breaux bill requires the fishers to “back down”—release dolphins from the nets while still tightening them around tuna. If no dolphins were “observed” dead in the nets, the dolphin-safe claim could be made.

Now the waters murk up. Even if an independent-minded observer can be found and be given the run of the factory boat by the Mexican captain, how precisely can one person monitor a mile's worth of nets in a waving sea? What about when they are sleeping or down below eating? What if the captain who isn't likely to be a dues-paying member of the Humane Society, disputes the observer's count of dead dolphins? Whose word is to be believed?

And then there is the effectiveness of enforcement. Jeffrey Pike of the Dolphin Safe Fair Trade Campaign, a group opposed to Stevens-Breaux, testified before Congress on the lack of enforcement powers by the Inter-American Tropical Tuna Commission, a regulatory group. When observers have cited the deaths of dolphins, “the reports are not acted on” by the commission. “To date, despite the fact that hundreds of violations have been reported, no monetary fines have been collected or penalties assessed. . . . In 1994, during four trips IATTC observers reported that they were prohibited by the vessel captain from carrying out their duties, an offense for which . . . a penalty of $50,000 each for the captain and vessel owners [is recommended]. In no case was the penalty collected.”

Congress and U.S. courts are powerless to regulate Mexican and other Latin fleets in international waters. They do have power—and are exerting it through legislation—to ban the import and sale of dolphin-unsafe tuna. Legislation offered by Sen. Barbara Boxer (D-Calif.) does not lower dolphin protection standards. Stevens-Breaux supporters argue that if U.S. laws aren't modified, Mexico will drop its economic anchor in countries that lack dolphin-safe requirements.

This argument drowns in a deep sea of facts. The United Nations Food and Agriculture Organization reports that 90 percent of the world's consumers of tuna live in the United States, Canada and Europe, which impose dolphin-safe requirements. Mexico, like the U.S. tuna fleet before it, had better face economic reality, even as it may find the environmental kind unpalatable.

It comes down to language on labels. The public wants the factual words “dolphin safe” on the cans. It doesn't want dolphin deadly.

[From the Journal of Commerce, Jan. 2, 1997]

DOLPHINS, TUNA AND TRADE

(By Rodger Schlickeisen)

A Dec. 16 editorial endorsed the Stevens-Breaux bill as the best approach for continuing the decline in dolphin mortalities and implementing the Panama Agreement for an enforceable fishery management policy in the eastern Pacific Ocean. As members of Congress long involved with this issue, we take exception to this statement of support.

Despite popular sentiment behind the current “dolphin safe” label—which means what it says—the Stevens-Breaux bill would allow tuna caught using deadly netting and encirclement techniques to be sold as “dolphin safe” as long as no one saw any dolphins die.

Supporters of the Stevens-Breaux bill argue that because an international observer will be on each tuna boat in the eastern Pacific Ocean, dolphin mortality will be easily monitored and controlled. That argument just doesn't hold water. One observer cannot possibly monitor the entire catch of a 100-foot vessel or investigate the contents of a mile-long purse seine net, particularly when the deadly dolphin chase is being carried out by speedboats traveling ahead of the mother ship with no observers on board.

Another assertion by the bill's proponents—that unless we weaken our laws substantially, international fishing operations will soon abandon the U.S. market and its dolphin-safe fishing techniques in favor of the lucrative and permissive Asian and Latin American markets—also lacks any credibility. The fact is that the U.S. market remains the world's largest, accounting for more than 60 percent of global tuna sales. And the European Community, the second-largest market, has dolphin-safe tuna practices that practically mirror the Boxer-Biden bill. Together, the United States and European Community dominate the world's tuna market.

Ultimately, the victim of this extreme effort to gut dolphin protection laws would be not only the dolphins, but also American consumers. By changing the definition of "dolphin safe," as the Stevens-Breaux bill proposes, even tuna caught by killing hundreds or thousands of dolphins could conceivably receive this label.

There is a better way: The Boxer-Biden International Dolphin Protection and Consumer Information Act of 1995. This bill maintains every word of the current dolphin-safe definition, while continuing the existing ban on selling all other types of tuna. Our bill also makes the necessary changes in current law to incorporate the Panama Agreement (a broad management plan for the eastern Pacific Ocean recently signed by the United States and 11 other countries).

Most significantly, our bill provides an important incentive for foreign and domestic tuna fishermen to fish in a dolphin-safe manner: access to the U.S. market. Under our bill, the ban on all tuna imports from countries that don't exclusively follow dolphin-safe practices will be amended to allow fishermen who use these methods to sell that tuna in the vast $1 billion U.S. market. This important modification will reward those who have altered their fishing methods and encourage the rest to follow suit.

[From the Journal of Commerce, Aug. 2, 1996]

DOLPHINS, TUNA AND TRADE

(By Rodger Schlickeisen)

The debate over tuna-dolphin legislation, which reached the floor of the House of Representatives this week, has become as tangled as an old fishing net. But it unravels to one basic reality: The Clinton administration and a few environmental groups are pushing legislation that would weaken the "dolphin-safe" program and allow the slaughter of thousands of dolphins annually. While this harmful legislation passed the House this week, there is still time to stop it when a companion bill reaches the Senate floor after the August congressional recess.

Thanks to the efforts of millions of schoolchildren and a coalition of conservation groups, since 1990 U.S. law has provided labels on cans to let consumers know whether tuna was caught by dolphin-safe methods.

Tuna in the eastern tropical Pacific tend to school beneath dolphins, so historically fishermen set nets on the dolphins to catch the tuna below, killing at least 7 million dolphins since the 1950s. Dolphin mortality has dropped dramatically, however, since the U.S. embargo of dolphin-unsafe tuna imports.

After its string of environmental victories against a hostile Congress, why would the administration seek to weaken such a popular environmental program and hand opponents an opportunity to regain ground on the environment? Considering that the majority of environmental organizations support the current dolphin-safe standard, why would a few support regression to a discredited method of fishing?

The answer is that Flipper has become entangled in deadly trade politics. Latin American countries are pressuring the administration to lift the embargo, which Mexico has challenged successfully before the World Trade Organization. They not only want to settle this longstanding dispute, but help boost the Mexican economy before the November election, in which Nafta will be an issue. Some want to appease Mexico's demands because they fear foreign tuna boat operators otherwise will abandon any safeguards.

Mexican lobbyists have convinced the administration that only changing the definition of dolphin-safe can ensure them access to the U.S. market, despite the fact that roughly a dozen Mexican tuna boats already fish dolphin-safe. The bill promoted by the administration would change the current definition to allow a dolphin-safe label on tuna caught by encircling, harassing and chasing dolphins—as long as no "observed" dolphin deaths occurred.

The assumptions of bill proponents are based on misleading industry information. For example, although they say 10 million dolphins exist in the eastern tropical Pacific, the tuna mostly follow two imperilled populations—spotted and spinner dolphins—which represent only a tiny fraction of the claimed millions. Although these two populations were recently listed as "depleted" under the Marine Mammal Protection Act, the administration proposal would allow setting nets on them.

Bill proponents claim that dolphin-safe fishing methods cause by-catch of other marine life such as sea turtles and sharks. They also claim that "new" techniques have been developed that make netting dolphins safer.

Marine biologist and tuna boat owner John Hall scoffs at those claims. He says the method of releasing dolphins from nets was developed by U.S. fishermen three decades ago and their recent adoption by some foreign fishermen has brought about no measurable protection for spotted and spinner dolphins. Moreover, the United Nations' Food and Agriculture Organization states that this fishery's by-catch under the present dolphin-safe definition is among the lowest in the world.

Furthermore, "observed" dolphin deaths under the new definition would not account for all deaths, according to Albert Myrick, who has coordinated U.S. research on dolphin stress. Current data strongly suggest that dolphins experience physiological damage and death after release from nets.

We lack viable means of ensuring that dolphins will not be killed when fishing nets are set on them. This year Mexican fishermen are known to have thrown observers off their boats. Many involved in the fishery are unconvinced that the present observer system can handle the intensive monitoring that enforcement of the new definition would require.

A grass-roots coalition of more than 80 environmental, consumer and animal welfare groups oppose weakening the present dolphin-safe standard.

U.S. tuna canneries, which six years ago went dolphin-safe in the face of unprecedented public pressure, also are concerned.

They rightly fear that they not only could lose their hard-won competitive advantage over foreign dolphin-unsafe canneries, but also again face boycotts over the misleading new label.

Ironically, if the president would abandon his attempt to change the definition of dolphin-safe, improvements could be made.

All agree that the present practice of embargoing all tuna from a country like Mexico for the behavior of a few bad fishermen is counterproductive.

We could allow the dolphin-safe tuna from Mexican fishermen to gain access immediately to the U.S. market.

This politically smart move also would be the right one.

KEEP THE CURRENT DOLPHIN-SAFE LABEL

Mr. BIDEN. Mr. President, today I join with my longtime colleague in this endeavor, Senator BOXER, to restate our continuing opposition to legislation changing the current dolphin-safe standard. As usual, she has explained the issue much better than I could, so my remarks will be brief.

Throughout the 1960's, 1970's, and 1980's, hundreds of thousands of dolphins were senselessly killed every year because of the use of gigantic purse seine fishing nets. Our efforts to require that each nation wishing to export tuna to the United States document that it possessed a dolphin protection program and a dolphin mortality rate comparable to ours largely failed, resulting in unilateral embargoes against noncomplying nations.

The senseless slaughter of dolphin justifiably outraged many Americans. Literally tens of thousands of letters, telegrams, and phone calls poured into tuna companies' offices and Capitol Hill. The message heard was loud and clear: Don't allow this needless massacre to continue.

Then, in 1990, something remarkable happened. American tuna companies, environmentalists, and consumers came together and revolutionized an entire industry. That April, Starkist, and shortly after that Chicken of the Sea, and Bumblebee—which combined sold more than 80 percent of the tuna in America—announced voluntary purchasing bans against all tuna caught in association with dolphins.

On the heels of this campaign, then-Congresswoman BOXER and I wrote and shepherded into law the Dolphin Protection Consumer Information Act—a landmark statute that set one very simple, uniform standard: No tuna caught by purse seine net fishing, or by a boat capable of purse seine net fishing, can be labeled as dolphin-safe.

Our labeling law immediately transformed the decades-long controversy.

Dolphin mortalities caused by both American and foreign tuna boats plummeted from more than 52,000 in 1990, to just under 3,000 in 1995. A tremendous decrease.

Millions of consumers now purchase tuna with a clear conscience, knowing that the deadly purse seine net method was not used.

Simply put, the Dolphin Protection Consumer Information Act remains a remarkable success story. It does not mandate anything. It does not require thousands of bureaucrats. It merely requires accurate, truthful labeling.

From the nutritional information printed on boxes of cereal, to salt content listings on low-sodium crackers, honesty in labeling is a well-established principle of law.

This does not necessarily mean that all types of a given product must conform to the requirements of a particular labeling law. All milk is not required to contain 2 percent milkfat, for example. But, if a dairy company wishes to label its product as 2 percent milkfat, it must meet that standard. In essence that is the concept underlying the current dolphin safe standard.

Unfortunately, legislation (S. 39) introduced recently by Senator STEVENS and Senator BREAUX changes the criteria for the current label, thereby eliminating the protection and honesty now provided. While the proposed no-mortalities requirement sounds good on its face, it is for all practical purposes unworkable and unenforceable. One observer, equipped with a pair of binoculars, can hardly keep accurate watch over the entire contents of a 1 to 2 mile long, half-mile wide net, submerged hundreds of feet below water.

I recognize the potential significance and power of the October 1995 Panama Declaration, and I agree that our unilateral embargoes deserve a serious reexamination. In fact, legislation I and Senator BOXER introduced during the 104th Congress would have implemented key parts of the declaration by repealing the current comparability embargoes and opening our market—literally the most lucrative in the world—to all tuna caught in compliance with the current dolphin-safe standard.

But market access issues, questions of whether to allow dolphin-safe and other tuna into our market, are separate from the reasoning behind the current label.

I look forward to working with my colleagues on both sides of the aisle and in the administration to lock-in the progress we have made. And I commend Senator BOXER for her diligent efforts to protect our environment while preserving our principles.

USE OF FEDERAL FUNDS TO ENCOURAGE LABOR UNION MEMBERSHIP

Mr. THURMOND. Mr. President, yesterday, I introduced S. 223, a bill to prohibit the use of Federal funds to encourage labor union membership.

I ask unanimous consent that the text of S. 223 be printed in the CONGRESSIONAL RECORD.

The bill follows:

S. 223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON USE OF FEDERAL FUNDS TO ENCOURAGE LABOR UNION MEMBERSHIP.

(a) DEFINITION.—For purposes of this Act the term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(b) PROHIBITION.—No funds appropriated from the Treasury of the United States may be used by any agency to fund, promote, or carry out any seminar or program, fund any position in an agency, or fund any publication or distribution of a publication, the purpose of which is to compel, instruct, encourage, urge, or persuade individuals to join labor unions.

TRIBUTE TO THE LATE JEANE DIXON

Mr. THURMOND. Mr. President, each morning for more years than anyone can remember, millions of Americans have religiously opened their newspapers and consulted their horoscope, checking their astrological sign for an idea of what good or bad fortune their day might hold. Whether these people did this out of a true belief that the stars could predict their fate, or just out of a sense of fun, it was the work of a prominent Washingtonian, Jeane Dixon, whose column more often than not they were reading. Sadly, her fans will no longer be able to gaze into the future over a cup of coffee and an English muffin, as Mrs. Dixon passed away this past Saturday at the age of 79.

Mrs. Dixon gained notoriety as an astrologer and psychic when she made some eerily accurate predictions concerning the tragic fate of the late President Kennedy, the election of Richard Nixon to the Presidency, that China would become Communist, and the eventual election of Ronald Reagan as Chief Executive. Whether she truly had the ability to see into the future will forever be a mystery, but she certainly made enough accurate forecasts about events that she earned a degree of credibility. From what I understand, she was often consulted by individuals inside and outside of Government, and she was certainly a favorite in Washington social circles, which is how I came to know Mrs. Dixon many years ago.

Those who only knew the Jeane Dixon whose name graced horoscope columns were not familiar with the generous and concerned nature of this woman who worked very hard to help build a better world through philanthropy. A devout Catholic, Mrs. Dixon gave freely to the church, supporting many worthy charities and relief projects designed to help the less fortunate and those in need. Additionally, Mrs. Dixon established the Jeane Dixon's Children to Children Foundation, an organization that has undertaken many fine efforts to help some of America's most vulnerable citizens, its children.

I am proud to have been able to count Jeane Dixon among my friends. She was the godmother to my youngest son, Paul, and the two would visit whenever possible. Unfortunately in later years, Paul's schedule as a tennis player and college student, and Jeane's busy traveling and business schedule did not permit as many get togethers as either would like. Still, they were good friends and did enjoy being able to see each other several times a year. As Jeane lived in town, I would see her frequently, and always enjoyed being able to host her and her friends for lunch in the Senate dining room. Without question, she was a kind and warmhearted woman who was always interested in politics and the events of the day. She was a witty conversationalist and it was always amusing and intriguing to hear what she believed was in store for the Nation and prominent figures in Government and entertainment.

Mr. President, Jeane Dixon led a full and unique life. She was known, admired, and liked by countless people and we shall all miss her. My condolences go out to her sister, Evelyn P. Brier; her brother, Dr. Warren E. Pinckert; and her nieces and nephews, all of whom survive her.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, January 28, the Federal debt stood at $5,317,192,254,267.62.

Five years ago, January 28, 1992, the Federal debt stood at $3,796,222,000,000.

Ten years ago, January 28, 1987, the Federal debt stood at $2,223,438,000,000.

Fifteen years ago, January 28, 1982, the Federal debt stood at $1,037,631,000,000.

Twenty-five years ago, January 28, 1972, the Federal debt stood at $426,168,000,000 which reflects a debt increase of nearly $5 trillion—$4,891,024,254,267.62—during the past 25 years.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOMBING OF THE KHOBAR TOWERS

Mr. BRYAN. Mr. President, I rise today because of strong concerns I have related to the Air Force's evaluation of the events surrounding the tragic Khobar Towers bombing in Saudi Arabia. The Air Force has not yet released its official report on these events, but it has been widely reported that the Air Force will recommend no disciplinary action against any officer in relation to this incident. Mr. President, I do not understand this recommendation.

As you will recall, shortly before 10 p.m. on the evening of Tuesday, June 25, 1996, a fuel truck pulled up to the perimeter of a Khobar Towers' complex in Dharan, Saudi Arabia. This complex housed almost 3,000 airmen of the 4404th Wing, as well as military personnel from the United Kingdom, France, and Saudi Arabia. Air Force guards spotted the truck and immediately began an effort to evacuate the building. Unfortunately, before they could succeed, a large explosion occurred that destroyed the face of Building 131, killing 19 American servicemembers and seriously injuring hundreds more.

In the immediate aftermath of the explosion the members of our Armed Forces acted heroically, restoring order and providing aid to those who had been injured. In less than 3 days the 4404th Air Wing had recovered and was once again flying its mission over the skies of southern Iraq.

This bombing and a Riyadh, Saudi Arabia, bombing in November 1995 that killed five Americans, raised a number of fundamental questions regarding the threat of terrorism to United States forces deployed overseas and the priority of force security among those military commanders charged with responsibility for providing that security. Secretary of Defense Perry took an important step in addressing these questions by establishing an independent task force to examine the facts and circumstances surrounding the bombing. This task force was led by Gen. Wayne A. Downing, a highly respected and distinguished retired four-star general.

The findings of the Downing report were significant and wide ranging. They covered force security standards and policies, intelligence, threat assessments, and United States-Saudi cooperation. Secretary Perry took these findings seriously and as a result has announced major changes in our approach to force protection. Unfortunately, in a number of areas it appears the Air Force has chosen to disregard the Downing task force findings.

The contrast between the Downing report and the Air Force's apparent findings, and I use the term "apparent findings" because at this point, Mr. President, the official report has not yet been released, finding 19 of the Downing report states "The chain of command did not provide adequate guidance and support to the Commander, 4404th Wing." Finding 20 states "The Commander, 4404th Wing did not adequately protect his forces from terrorist attack." Did not adequately protect his forces from terrorist attack. Yet the Air Force has apparently concluded that every person in the chain of command met standards of performance and acted with due care and reasonably. Furthermore, the Downing report details the information available on the terrorist threat against our forces in the Khobar Towers. The Downing report states that the Khobar Towers had been described as a soft target, critical target and a specific site of concern. In addition, the Downing report notes that there was a series of 10 suspicious incidents in the preceding 90 days surrounding this complex that indicated the possibility of a terrorist threat. In contrast, the Air Force has reportedly found that the chain of command considered the threats, in view of the information known at the time, and acted with due care and prudently. This judgment by the Air Force, in my opinion, is inexplicable.

Mr. President, the wing commander of the 4404th Wing, General Schwalier, has been scheduled for a promotion from brigadier general to two-star rank of major general. Now, I understand that hindsight is 20/20, yet I cannot ignore the findings of the Downing task force. For this reason, I have written a letter to the Secretary of the Air Force expressing strong concerns regarding this appointment. The Downing task force makes clear that General Schwalier did have command responsibility and authority for force protection of his personnel in the 4404th Wing while he could not have been expected to know the precise nature of the terrorist attack, the Downing report does raise a number of concerns regarding the priority of force protection under General Schwalier.

For example, in light of the terrorist threat, a number of additional measures could have substantially reduced the threat from a terrorist attack. The windows facing out from the complex, Building 131, could have been coated with a shatterproof substance known as Mylar. Airmen with outside rooms could have been moved into the interior of the complex. That was the area that was most exposed, Mr. President. Finally, a higher priority could have been placed at moving the perimeter fence farther away from housing quarters. When difficulties with the Saudi Government halted plans to move the fence, the matter should have been taken up and reported up the chain of command.

According to the Downing report, these steps were not taken. General Schwalier concentrated solely on the threat of a penetrating bomb attack and failed to address other kinds of terrorist attack. He failed to correct vulnerabilities he could have corrected, and for those vulnerabilities he could not correct by himself General Schwalier failed to raise the issues up the chain of command or coordinate with the host nation.

Mr. President, I do not believe that the Downing report was unreasonable or looking for scapegoats.

This task force took an independent, forthright, and tough look at the threat of terrorism and how we can respond to that threat in the future. I have no doubt this tough assessment will save U.S. lives in the future. In the same way, the Air Force must also take a tough look at its responsibilities to protect its forces from this new threat. And in this instance, Mr. President, I am afraid the Air Force has failed to do so. I urge the Secretary of the Air Force to reconsider the Air Force's conclusions regarding this horrible and tragic incident.

Mr. President, I thank you. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

The Senator from Ohio is recognized for 10 minutes.

DOE PROPERTY AND ASSET MANAGEMENT

Mr. GLENN. Today I am releasing a report, prepared at my direction by the minority staff of the Governmental Affairs Committee, on property and asset management at the Department of Energy. The report, aptly titled "Lost and Still Missing," discusses at some length the chronic personal property management problems at the Department, problems that have resulted in the loss of millions of dollars worth of taxpayer-purchased equipment. Recently, DOE has made some progress in tackling this problem, but much more needs to be done.

For many years, missing property and equipment and poor inventory controls have been a major problem at the Department of Energy. Estimates by the IG and GAO of the value of lost and unaccounted for equipment have ranged from tens of millions to hundreds of millions of taxpayer dollars. Missing equipment includes computers, furniture, machine tools, electric pumps, and cameras, plus more exotic items like semi- and flatbed trailers, electronic switchgear, nuclear fuel reprocessing equipment and technology, diesel engines, cranes and armored personnel carriers.

So we are not talking about a few missing pencils and paper clips. These are costly items. And all too often it appears that this material just flies out of DOE inventory and disappears into thin air.

Furthermore, equipment in working order and usable supplies have been sold as surplus for a small fraction of their market value. Other equipment has been left outdoors to be ruined by the elements.

Finally, many of the missing items are national security sensitive and did not go through proper demilitarization and declassification procedures.

Our review also found that the problem of missing property and poor inventory controls is not unique to any one DOE site, but is prevalent at numerous sites, including, among others, the Portsmouth Gas Centrifuge Enrichment Plant, the Rocky Flats Plant, the Idaho National Engineering Laboratory, Sandia National Laboratories, Los Alamos National Laboratory, the Fernald Environmental Restoration Corporation, and Oak Ridge National Laboratory. The specific problems at each site are discussed at length in the report. Some go back a couple of years, others are more recent. Let me give you a few examples.

Rocky Flats, CO—GAO identified $29 million in missing equipment. Missing items included: a semi-trailer, a boat, forklifts, furnaces, over 1,800 pieces of computer equipment, and 8 armored personnel carriers. The armored personnel carriers are a story in their own right. DOE initially donated the 8 carriers to a military museum, but did not demilitarize them. The museum gave one of the carriers away, which was subsequently resold twice before winding up in the hands of a man who supplies props to Hollywood movie studios. Since then, DOE has repossessed the vehicles.

Idaho National Engineering Laboratory—DOE sold as surplus national security sensitive nuclear fuel reprocessing equipment to a scrap dealer for $154,000 who then tried to sell it to a British company. Once the Department discovered its mistake, it bought back the equipment for $475,000. A separate sale to the same individual included between 25 and 50 personal computers whose hard drives were not sanitized in accordance with Department and GSA regulations. Unfortunately because INEL's records were so poor, it was not possible to determine exactly how many computers were sold, or, more importantly, whether they contained national security sensitive or restricted data.

Sandia, NM—An on-site inspection by the inspector general revealed that computers, machine tools, furniture, and rolls of cable were left outside for long periods of time. When Sandia officials tried to reuse the equipment, they discovered that it had been ruined by the elements. Other equipment had been improperly mixed with radiologically-contaminated items.

Portsmouth, OH—Equipment valued at $35 million was sold for less than $2 million. DOE's own documents indicate that some of this equipment may be nuclear proliferation sensitive. This includes technology used in the enrichment of uranium.

Why do these problems exist? It is a simple two-word answer. Poor management.

In some cases, the Department failed to provide effective policy, or negotiated management and operating contracts that did not meet its own regulations on property management; in others, the field offices failed to provide adequate oversight, especially in the development and review of property management systems. These failures have been compounded by antiquated property tracking systems with poor records, lack of proper training for employees charged with property management, wide variations in local policies that implement Department regulations, and, for one site at least—Rocky Flats—a failure, both in the field and at headquarters, to follow up on cases where there was reason to suspect theft.

The main reason for the Department's pervasive and decades-long problems with property management likely lies in its perception of the importance of its national security mission. This perception has resulted in the downgrading in importance of more routine responsibilities, such as proper accounting, custodianship, and disposal of equipment and other personal property. As one high-ranking Department official was quoted in the Washington Post: "When it's the life and death of civilization, people start being sloppy about some other things." That statement is grandiloquent excess at best, and utter nonsense as an excuse for poor management. In any case, the Department must finally recognize that its cold war mission is over. Now more than ever, the taxpayers are demanding cost-effective Government.

In and of themselves the personal property problems discussed in the report are significant and deserve management attention. The importance of addressing these problems is further compounded because DOE is just beginning to address long-term downsizing issues associated with the changes from its cold war mission. For example, within the next 10 years, DOE's installed capacity to produce and test nuclear weapons will be reduced to 10 percent of its cold war level. As a result DOE will need to dispose of thousands of fixed assets—including buildings, real property, vehicles, equipment, precious metals, fuel, et cetera. To manage this asset disposition process efficiently, DOE will need to carefully take to heart the lessons learned from the personal property management problems discussed in this report.

Recently the Department has taken encouraging and good faith efforts to correct some of these deficiencies, including the renegotiation of the personal property requirements in both new and existing M and O contracts, and implementing guidance and regulations on the handling of proliferation sensitive property. However, these efforts must be continued and expanded.

The report contains a number of recommendations on ways to improve personal property management. Our principal recommendation is that the Department establish a centralized Office of Property and Asset Management that would report directly to the Secretary. Currently, personal property, real property, and asset management responsibilities are spread across too many offices, both at headquarters and in the field, and that is one reason why the Department has such a problem. No one is accountable.

I will be taking this and the other recommendations up with Secretary-designee Pena as he goes through the confirmation process. I am sending letters today to both Chairman MURKOWSKI and Ranking Member BUMPERS of the Energy Committee in the hope that they will address the matter during confirmation hearings. This issue needs to be addressed at the highest level, not relegated to the bureaucratic backwaters as all too often has happened in the past.

In closing, our review is based on reports from the General Accounting Office and the DOE inspector general, documents obtained from the Department, interviews with Department officials, committee hearing records, press accounts and official DOE responses to questions that both the staff and I addressed to the Department. We have copies of the full report for those who would like it, and they could request it from my office.

I ask unanimous consent the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

LOST AND STILL MISSING . . .

MANAGING PROPERTY, EQUIPMENT AND ASSETS AT THE DEPARTMENT OF ENERGY

(A report by the Minority Staff of the Senate Governmental Affairs Committee)

Introduction

For many years, the Department of Energy has had serious problems managing property and equipment at its different sites. These problems have been the subject of numerous GAO and IG reports as well as hearings by the Governmental Affairs Committee. Estimates of the value of missing and unaccounted for equipment have ranged from tens to hundreds of millions of taxpayer dollars. Missing equipment includes computers, furniture, machine tools, electric pumps and cameras, plus more exotic items like semi and flatbed trailers, electronic switchgear, diesel engines, nuclear fuel reprocessing equipment, cranes and armored personnel carriers. Equipment in working order and usable supplies have been lost, stolen, sold as surplus for a small fraction of their market value, left outside to be ruined by the elements, and mixed with radiologically contaminated items.

At the direction of Senator John Glenn, Ranking Member of the Governmental Affairs Committee, the Minority Staff of the Committee conducted a review of property management at the Department of Energy. Our review is based on reports from the General Accounting Office and the DOE Inspector General, documents from the Department, interviews with Department officials, hearings records, press accounts and official DOE responses to questions that the staff and Sen. Glenn addressed to the Department and Secretary Hazel O'Leary.

Our review found that the problem of missing property and poor inventory controls is not unique to any one DOE site, but has been found at numerous sites, including, among others, the Portsmouth, Ohio Gas Centrifuge Enrichment Plant, the Rocky Flats Plant, the Idaho National Engineering Laboratory, Sandia National Laboratories, Los Alamos National Laboratory, the Fernald Environmental Restoration Corporation, and Oak Ridge National Laboratory. These site-specific problems are examined at length later in this report. The report will also summarize steps taken by the Department to correct its problems as well as suggest further steps that we believe could help prevent these problems from recurring in future years.

The lessons learned from past personal property management problems are doubly important because the Department is currently embarking on a large scale asset disposition program. This program is necessary in order to meet budget reduction targets and to dispose of unneeded property, equipment and inventory. Quite simply, the needs of the Department and nation have changed since the end of the Cold War. For example, current DOE plans will result in a nuclear weapons complex that has one-tenth the installed capacity that existed just a few years ago. As a result, the Department will need to dispose of thousands of fixed assets, including real property, buildings, equipment, vehicles, precious metals, fuel, etc. Some legislative authority will likely be necessary to accomplish the Department's goals for this program. While this program is a logical and potentially cost saving one for the Department to undertake, our report strongly recommends that DOE's ailing property management system be reformed and overhauled so as to prevent past property management abuses from happening again in the future. To that end, the report makes a number of specific recommendations on property management reforms.

Contributing Factors to DOE Property Management Problems

Many deficiencies in the management practices of the Department of Energy have led to missing and unaccounted for property. But all together it's a product of bad management. In some instances, the Department failed to provide effective policy, or signed management and operating contracts that did not meet the Department's own regulations on property management. In others, the Field Offices failed to provide adequate oversight, especially (but not only) in the development and review of site-based property management systems. These failures have been compounded by inadequate guidance on how to implement policies, inadequate funding for property management, antiquated property tracking systems, poor property records, lack of proper training for employees charged with property management, wide variations in local policies that implement Department regulations, and, for one site at least (Rocky Flats), a failure, both in the field and at Headquarters, to follow up on cases where there was reason to suspect theft.

Perhaps the root reason for the Department's pervasive and decades-long problem with property management lies in its perception of the overwhelming importance of its national security mission. This perception led to downgrading the importance of proper accounting, custodianship, and disposal of equipment and other personal property. As a highly placed Department executive said to the Washington Post: "When it's the life and death of civilization, people start being sloppy about some other things." But if that reason ever had merit, it does not now. Nor do we think that it was ever an adequate reason for such abuses as selling off no longer needed equipment for a small fraction of its market value.

Recent DOE Actions to Correct Problems

Recently the Department has taken encouraging and good faith efforts to correct some of these deficiencies. Property management has been given greater emphasis during the renegotiation of some DOE contracts. For example, the current contract at Rocky Flats contain provisions that assign personal responsibility to employees and establish corporate liability for property under their control. The Department has completed wall-to-wall inventories at some sites, including Los Alamos, Hanford, and INEL. However, there appears to be little consistency between each site's inventory practices.

Further, in November, 1994, DOE issued new interim guidelines both for the control of high risk personal property and on export control and nonproliferation. The high risk property guidelines have been refined several times since then, most recently in March, 1996. These regulations require controls be developed to safeguard against the inadvertent transfer or disposal of equipment or information that represents a high risk because of nuclear proliferation or national security concerns or because of environmental, health or safety hazards. (These regulations were revisited following a particularly embarrassing property incident at the INEL, discussed below.)

The Department is also taking steps to deal with training needs at the sites and field offices and the pressing need for good, consistent information, two themes that recur in the many GAO and IG reports on DOE property management problems. In January 1996, the Department established a Process Improvement Team to review training needs at the field offices and among its contractors; the Team will make recommendations on standardized courses. Also in January 1996, the field offices formed a team to review a new property management system (PRISM (Enhanced)) that could be used Department-wide, bringing a much-needed consistency to property management efforts.

Finally, a promising (if long-overdue) step is the approval of a number of property management systems in the past two and a half years. Approval of a property management system involves headquarters review to determine whether a contractor's property management system complies with applicable regulations. Whereas in January 1994, only seven of the 20 major contractors involved in defense related activities had property management systems approved by DOE, our latest information is that all but one system has been approved.

However, unaccounted for property and equipment remains a serious problem at numerous DOE sites. Furthermore, as mentioned above, the Department recently announced an asset disposition and sale program aimed at realizing $110,000,000 by September 30, 2003. As the Department downsizes over the next few years, there is a danger that taxpayer dollars will be further wasted, unless vigorous property management becomes not only a policy at Department Headquarters, but an ethic and a practice at all sites, among all employees and contractors. This is much easier said than done. The Department itself remarked, in response to the 1996 Inspector General's audit of DOE's arms and military-type equipment: ". . .while Department regulations are adequate, compliance is an issue." Secretary O'Leary has offered her own assessment that ". . .correcting deficiencies of the past is a continuous and long-term effort."

Additional Factors Affecting DOE Property Management

On-going efforts by the Department and the Congress to privatize DOE operations such as the Elk Hills Naval Petroleum Reserve (recently put on hold) and a number of the Power Marketing Administrations will place increase pressure on DOE's existing property management systems. Congress has also set criteria in law for DOE to transfer excess equipment to assist educational institutions and non-profit organizations, as well as the local economic development efforts of communities negatively impacted by downsizing. For these privatization and technology transfer efforts to succeed without substantial waste, we believe that the Department must focus increased attention on asset and property management.

The technology transfer and economic development assistance efforts of the Department require more than accurate inventories. They require that the field offices and the site contractors understand the procedures under the three acts governing such transfers, especially how to balance the interests of the Department against those of eligible potential recipients outside the Department. The Department has set up programs under the Stevenson-Wydler Technology Innovation Act of 1980, as amended, and the Department of Energy Science Education Act. These programs also include the Used Energy-Related Laboratory Equipment Grant Program and the Math and Science Equipment Gift Program. Furthermore, under the FY1994 Defense Authorization Act (P.L. 103–160), the Department has authority to transfer or lease excess Department-owned personal property to private businesses in order to support economic development initiatives that could mitigate the effects of closing or restructuring Departmental facilities. Here, there continue to be misunderstandings and conflicts between the claims of the Department and the claims of local development proponents. Policy and practice need to be clarified at both the field and headquarters levels to ensure that equipment transfers comply with the law and contribute to economic and technological development while also protecting the taxpayer's interest in what is often very valuable equipment. Such guidance will be crucial as the Department continues its downsizing efforts.

Management Attention Must Include Accountability

Notwithstanding the steps the Department has already taken, we believe that further actions are necessary to raise the priority of effective property management and assure taxpayers that loss and mismanagement of valuable property will not occur. Approved property management systems are a necessary first step, but they must be implemented by well-trained people who are working with modern systems in an environment that supports their efforts both actively and tacitly. Taxpayers expect a common-sense approach to managing property that goes beyond regulations, procedures and the latest technology. Although they certainly help, policies, procedures and technologies in and of themselves cannot ensure that abuses will not take place. The committment and knowledge of individuals do count.

More appropriately, the DOE should hold its staff and contractors accountable for the property they use. At the contractor level, the quality of property management should factor heavily into contractor renewal decisions; poor property management should result in fines or penalties or delay or reduction of award fees. At the individual level, poor property management should be grounds for disciplinary action, demotion, or even dismissal. This applies to both supervisory and working-level personnel, both in the field and at headquarters. Conversely, exemplary property management should be rewarded. And responsibility should lie not only with the field offices and the sites, but with individual DOE program managers.

An analysis of property management problems at various of DOE sites follows:

Discussion of Past DOE Property Management Problems by Site

Portsmouth, Ohio—Gas Centrifuge Enrichment Plant

A January 1995 DOE Inspector General audit (Case No.I93CN015)[1] prepared at the request of Sen. Glenn revealed that property DOE originally spent $177 million to acquire, and which the IG estimates had a market value of $35 million, was given away for a total of $2 million. This property and equipment came from the Gas Centrifuge Enrichment Plant (GCEP) facility which had been closed by DOE. The IG's report points out that poor inventory controls contributed to this outrageous waste of taxpayer dollars. How this situation developed is a complicated story that took place over a number of years. Still, the outcome shows that the Department made a number of mistakes and errors that have left it vulnerable to a loss of a significant dollar amount of equipment.

In 1985, DOE terminated the GCEP Program at Portsmouth. Many of the assets of that program subsequently became surplus. DOE began to inventory the surplus equipment and establish a database. An official in charge of the inventory effort and subsequently interviewed by the IG labeled the database a "best-guess effort" to identify one million pieces of equipment spread over 25 acres. DOE then searched for interested parties who might wish to make use of the equipment. On November 20, 1987, DOE entered into an agreement with AlChemIE, Inc. to transfer equipment and technology to the company for the purpose of using it to enrich non-fissile isotopes for medical, industrial, and research applications. The agreement stipulated that AlChemIE: remove the equipment at its sole expense; pay the Department a 2 percent annual royalty over 20 years on gross sales generated by the isotope production facility; and, deposit $2 million in an escrow account. AlChemIE and DOE also agreed on an inventory list of equipment to be transferred, a list that later proved to be incomplete and inaccurate. Prior to entering the agreement, DOE received an opinion from the Department of Justice that the agreement did not violate anti-trust law.

However, AlChemIE needed a license from the Nuclear Regulatory Commission (NRC) authorizing it to possess gas centrifuge equipment—equipment with national security implications given its potential application in the development of nuclear weapons—before it could construct the facility. But the NRC did not approve the license. On June 20, 1989, AlChemIE filed for bankruptcy and became insolvent by August 14, 1990. At that time, the IG estimated that equipment with an acquisition value of $46 million had been transferred to AlChemIE.

AlChemIE had secured $2.25 million in escrow monies through five personal loans from the Anderson County Bank in Tennessee to five individuals representing the company. With AlChemIE now bankrupt, Anderson County Bank assumed title for the remaining equipment secured through the escrow account. On November 28, 1990, the bank sold title to the equipment to John Smelser, a former executive with AlChemIE and now president of JHS, Inc., an equipment scrap and salvage company.

This escrow account raised questions among state banking authorities. As reported by the Oakridger and the Knoxville Journal on February 6, 1991, the U.S. Attorney indicted former bank president William Arowood, attorney Elbert Cooper, and John Smelser for conspiring to defraud Anderson County Bank of $150,000 from the escrow account. Subsequently, Mr. Arowood and Mr. Cooper were found to be guilty of bank fraud while Mr. Smelser was found to be innocent.

In the interim, Mr. Smelser had pursued litigation against the Department for access to equipment he claimed was owed him from the agreement with AlChemIE. After 14 months they settled, signing a January 23, 1992 agreement giving Mr. Smelser further access to the equipment as had been listed previously in the AlChemIE agreement. Still, a number of items of equipment remained in dispute and Mr. Smelser claimed that he had been wrongfully denied those items. An internal DOE memo noted that many of the items on the list had either been: 1) lost; 2) transferred to GSA; 3) were classified or contaminated; 4) had two ID numbers; or 5) otherwise were not available. The memo concluded "that DOE's position, should the dispute be litigated, was weak." So DOE entered into another agreement with Mr. Smelser on June 10, 1993. However, this agreement widened the scope of available equipment and appeared to give Mr. Smelser carte blanche to take any surplus equipment he wanted. The agreement gave him access to surplus equipment property yards at Paducah, Kentucky and Oak Ridge, Tennessee in addition to Portsmouth. According to the IG, the agreement's wording was vague and non-specific, for example, granting Mr. Smelser "all unclassified, uncontaminated loose items on third floor storage area" and "all unclassified, uncontaminated items that are not required to support building operations." The agreement also waived the first $100,000 in disposal costs incurred by DOE in removing the equipment, with Mr. Smelser to reimburse the Department for costs that exceeded that figure.

Sen. Glenn wrote the Department in 1995, asking them a number of questions about the missing equipment and their agreement with Mr. Smelser (Sen. Glenn's letter and the Department's response can be made available upon request). The response from Donald Pearman, Associate Deputy Secretary for Field Management, noted that the final agreement with Mr. Smelser expired on June 10, 1994. However, the letter also points out that Mr. Smelser owes DOE $487,228 for fees associated with removing equipment from the site, and that Mr. Smelser claims DOE did not provide all the equipment he was entitled to remove. As a result, there is pending litigation, still in the discovery process as of December of 1996, between DOE and Mr. Smelser. Mr. Smelser has filed a claim for $503,266,375 (i.e., more than a half billion dollars), and the Department has filed a counterclaim for $492,208 plus interest for removal services it rendered to Mr. Smelser.

Not only are inventory controls necessary for prudent fiscal management, they are also critical for environment, safety and health purposes, as well as for enforcing our non-proliferation policies, which ensure appropriate controls over equipment and technology that could be applied to the production of nuclear weapons. Department documents and correspondence with Mr. Smelser show that access to, and disposal of, contaminated or classified equipment were ongoing issues in the relationship. Moreover, there appears to be some confusion as to the impact of the disposition of the GCEP property from a non-proliferation perspective. The IG's report (page 7) states:

"the OIG has not identified, nor has any reason to believe, that any contaminated or classified equipment was released to AlChemIE or Mr.Smelser. It appears that the Department is complying with these procedures with respect to Mr. Smelser. The classified Program material never left the site at Portsmouth; therefore, U.S. Export Control Rules governing export of sensitive nuclear technology/equipment did not apply."

However, a report from DOE's Deputy Assistant Secretary for Security Evaluations to the Under Secretary entitled, "Release of Nuclear-Related Property and Associated Documentation by the Department of Energy since 1989," (page 12) dated December, 1994 is much less comforting:

"The only identified release of possibly nuclear-related, export-controlled property via technology transfer came about through an out-of-court settlement. . . This case involved the release of a large number of equipment items to a single individual by Oak Ridge and Portsmouth. . . during the period 1989 through June 1993. As a result of the out-of-court settlement, and in addition to the gas centrifuge equipment, all excess property from Oak Ridge and Portsmouth from June 1993 and June 1994 was released to this same individual. None of the approximately 325,000 line items released between 1989 and June 1994 were reviewed for export control. Therefore, it is possible that export-controlled items were part of this release. Although neither classified equipment nor critical process information was released, the large number of items associated with the gas centrifuge enrichment process, together with the excess property items (June 1993 through June 1994), makes this release potentially sensitive from a nonproliferation perspective." (Emphasis added.)

When Sen. Glenn asked the Department in his April 25, 1995 letter to comment on the apparent discrepancy between the IG's report and the December 1994 report to the Under Secretary, the Department responded that there appears to be no discrepancy. In response to a further inquiry, the Department responded in May, 1996 that all equipment declared surplus from the GCEP facility was reviewed prior to release to assure that the equipment was unclassified equipment, and that unclassified equipment is not subject to export control regulations.

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[1] See list of references, at the end of the report.

We note that this response cannot be reconciled with earlier statements from the Department. The issue is not only whether the equipment was classified or unclassified. Nor is the issue confined to just this site. As Secretary O'Leary pointed out in an internal memorandum of August 3, 1994 about the sale of surplus equipment at the Idaho National Engineering Laboratory:

"Apparently, the decisions . . . were based on whether or not the equipment and related documentation was unclassified. This is an inadequate form of control because a great deal of nuclear production processes have been unclassified for several years. A more appropriate form of control would utilize information regarding the proliferation sensitivity of the equipment, materials and related documentation."

Thus, we recommend that DOE be asked to review, for export control purposes, the equipment it does know was deemed surplus from the GCEP facility. Specifically, would any of the items released to Mr. Smelser, if exported, require either: (a) a validated license from the Department of Commerce; or (b) an authorization from the DOE; or (c) an export license from the NRC?

The GCEP saga is only one in a long list of DOE sites with chronically-ill personal property management systems. Other problem sites include Rocky Flats, the Idaho National Engineering Laboratory, Los Alamos, Sandia, the Central Training Academy, Fernald and Oak Ridge.

Rocky Flats, Colorado

The DOE site at Rocky Flats has had persistent problems managing personal property. In 1993, the Inspector General reported (DOE/IG–0329) that a 1991 inventory conducted by the site contractor found 5,900 pieces of government equipment with an acquisition cost of over $33 million unaccounted for or missing from the site, presumably either lost or stolen. A subsequent GAO report (GAO/RCED–94–77) summarized the 1991 inventory, and stated that the missing or unaccounted for equipment included about 1,400 items of computer equipment, plus lathes, drill presses, hoists, furnaces, laboratory equipment, forklifts, a photocopier and a boat. The IG also criticized management at Rocky Flats for storing sensitive items such as computer equipment outdoors in the open air, and commingling equipment potentially contaminated with radioactivity with uncontaminated items. In its 1994 report (GAO/RCED–94–77), GAO noted that a follow-up inventory, completed in 1993, found $12.8 million in equipment missing from the site and another $16.5 million that could not be physically located, for a total of $29.3 million. Missing items included: a semi-trailer, forklifts, cameras, desks, radios, typewriters, a wide variety of laboratory and shop equipment such as balances and lathes, and over 1,800 pieces of computer equipment such as monitors and keyboards. As of October, 1995, DOE considered that only $4.5 million of property was missing or could not be physically located. However, in a December 1995 report (GAO/RCED–96–39), GAO notes that DOE has written off $20.8 million in missing or unlocated property. This equipment presumably is lost forever.

A July 1995 GAO report (GAO/OSI–95–4) examined the likelihood that theft contributed to the inability of DOE and the site contractor to account for the millions of dollars of missing equipment at Rocky Flats. GAO concluded that the extent to which theft has been a factor is unknown, because of poor property management practices and inadequate records. GAO also concluded that poor management practices, such as characterizing possibly stolen equipment as missing without undertaking an investigation, contributed to an environment that allowed theft. GAO further noted that Rocky Flats did not always report suspected theft to DOE, and that DOE did not always report suspected thefts to the DOE Inspector General or to the FBI, as regulations require. GAO cited the Motor Vehicle Maintenance Shop as a place where automotive parts and supplies were easily stolen. DOE reports that physical security of property has been upgraded at Rocky Flats and that cases of possible theft are receiving better review.

The December 1995 GAO report notes that DOE has made improvements in management of personal property at Rocky Flats. For example, DOE has incorporated specific performance measures into its new site management contract that address many of the identified problems with property management. DOE has also established a computerized tracking system and allocated 2 FTEs and 2 support contractors to operate it. Because a large percentage of the data in the tracking system is inaccurate, DOE has made updating and correcting these records a priority task for FY96. Still, it seems unlikely that Rocky Flats will ever recover many of these missing items.

On May 15, 1995 the Associated Press reported the story of how David Wang, a collector of military vehicles who leases them as props to Hollywood movie studios, obtained an armored personnel carrier surplused from the site. (The story built on a May 5 news release from DOE reporting the recovery of the vehicle and seven others.) The carrier bought by Mr. Wang was one of eight previously donated by Rocky Flats to a military museum in Anderson, Indiana to be displayed for historical purposes. Rocky Flats officials were supposed to de-militarize the vehicles in accordance with DOE regulations, but they did not. The museum owner gave this vehicle away and it was subsequently resold twice before winding up in Mr. Wang's hands. One of the middlemen in the transaction, John Ferrie, when asked about the paperwork and procedures for obtaining the carrier, was quoted as saying, "It's kind of a handshake business."

As noted above, DOE seized back the vehicles. An investigation is currently underway to determine any criminal wrongdoing. A June 1996 follow up GAO report (GAO RCED–96–149R) found that physical controls and accounting procedures for firearms, ammunition, and other military equipment at Rocky Flats had improved.

Management of Arms and Military Equipment at Several DOE Sites

In a February 1996 report (DOE/IG–0385), the IG concluded that DOE has more weapons (handguns, shotguns, rifles, submachine guns, light anti-tank guns, howitzers, armored cars, and tanks) than are necessary for security purposes. The IG also found that weapons are not accurately accounted for, inventory documentation is not always correct, and property management regulations were violated in the lending of weapons to other organizations. Further, the report shows that problems with armored vehicles are not isolated to Rocky Flats, but occur at other sites as well. Highlights of the report follow.

"Oak Ridge: Site officials could account for only seven out of ten armored vehicles. After IG review, DOE discovered documentation showing the location of two of the three missing vehicles. About 66 weapons were unaccounted for: 50 had dropped off the inventory, and 16 had been transferred off-site, but officials were unable to say where. All 66 were eventually located. Three M–16s and six M–14s were loaned to local police five years ago without proper approval. (DOE regulations allow loans for one year, or longer if the head of the field organization approves.)

"INEL: One out of two armored vehicles were missing with no knowledge of its whereabouts. The IG found no documentation to support disposal or transfer.

"Los Alamos: The IG discovered several faulty entries on the inventory database. Six items listed as guns were radar, spray paint, or gas guns. An item labeled a vehicle tanker was an M–60 tank; another item labeled as a rifle was an 8-inch naval gun. The IG found a 20 mm machine gun that was not listed on the database. Two TOW launchers and one Russian rocket launcher were found in a bunker; none of the three were listed on the database.

"Hanford: Eight light armored personnel carriers were donated to a military museum. No documentation was found to show whether the vehicles had been demilitarized. Site officials loaned 24 rifles and shotguns to a local law enforcement department nine years ago. Information on the status of the loan agreement could not at first be found, but Richland eventually determined that a subsequent 1992 contract covered the firearms.

"Savannah River: Several years ago, 4,000 rounds of ammunition were lost and not recovered. Savannah River was unable to provide documentation that showed the demilitarization codes for four armored personnel carriers transferred as excess property to a Federal agency and a local law enforcement department.

"Sandia: The site averaged nearly 6 weapons per security officer. The IG observed 29 tanks, 4 howitzers, and 1 armored personnel carrier on site, all transferred from DOD. None of the items were on the inventory, and none had documents justifying their need or use."

In the February 1996 report, the IG made a number of specific recommendations for corrective action, including that DOE's Office of Nonproliferation and National Security conduct a "needs study" to 1) determine what arms and weapons are necessary and 2) identify unneeded arms for excess or destruction. In addition, the IG recommended that wall-to-wall inventories of arms be conducted at the sites; that reconciliation of inventory be updated; and that a formal process be established through a Memorandum of Understanding to transfer unneeded arms to an approved disposal site. In their comments on the IG report, DOE management concurred with the IG's recommendations and stated that they have either taken action, or are planning to take action, to resolve the issues raised in the report.

On March 1, 1996 Sen. Glenn wrote the Department asking for their response to the specific recommendations in the IG report. On April 26, 1996 the Secretary replied, agreeing that the Department had more military equipment than needed, and gave the recent changes in the Department's missions as the cause. Secretary O'Leary stated that the Department is working with the Department of Justice to arrange for the transfer of much of DOE's excess weapons and protective force equipment to local law enforcement agencies. The Secretary cited a number of actions the Department is taking in response to the

IG report, including requiring designated personnel to attend the Defense Demilitarization Program conducted by the U.S. Army Logistics Management College. The Secretary acknowledged that further improvements are needed, particularly in inventory control and records management.

Idaho National Engineering Laboratory

(A) Fuel processing restoration project property

A situation eerily reminiscent of the sale of equipment from the Portsmouth GCEP facility occurred in 1993 at DOE's INEL facility. In April 1992, because of a diminished need for reprocessed uranium, the Secretary of Energy terminated the Fuel Processing Restoration (FPR) program at INEL. The termination left DOE and the M&O contractor with nearly $54 million in property to be either used in other ways or disposed. The equipment included, among other things: specially designed vessels for nuclear fuel reprocessing, sheet metal, reinforcing steel, pipe fittings, computers, power tools, portable welders, flat bed trailers, heavy duty shop equipment, and office equipment.

A 1995 IG audit (WR-B-96-04) of $21.2 million of this property found that at least $4.2 million was not accurately accounted for and excessing procedures were not followed. The IG found that Westinghouse was responsible for $3.58 million of this equipment, while MK-Ferguson was responsible for $655,000. In addition, the Department procured at least $43,000 worth of property and equipment which duplicated that which was already available from the unneeded FPR property inventory.

The IG also found that only a small percentage (44 of 1,490) of items excessed outside the Lab were ever entered into the Department's system for excess property. According to the IG, Westinghouse project management would send lists of available property to contact points at other DOE facilities on an ad hoc basis, instead of using the established, Department-wide disposal system. As a result of using this informal system, property was not made available to all elements of the Department nor to other Federal agencies. Potential customers did not know that unneeded property was available and a lot of that property has gone unclaimed. Further the IG identified 2,700 stock items which had neither been identified for redistribution nor as excess. The IG concludes that: "Although we were able to physically locate most of the property, the lack of property accountability rendered the property readily susceptible to undetected theft or loss."

One subset of the FPR property has become notorious. The case first became public when the Wall Street Journal reported it in August 1994. In April 1993, after approximately $22 million of the FPR property was distributed within the DOE community through Westinghouse's and MK-Ferguson's informal process, and another $13 million or so retained by INEL, most of the remaining property (with an acquisition cost of about $18 million) was transferred to INEL's managing contractor, EG&G, for disposal outside the Department. EG&G advertised the equipment for sale in June 1993 in the Commerce Business Daily. On July 12, 1993, much of the equipment was purchased by Mr. Tom Johansen, of Frontier Car Corral/Frontier Salvage in Pocatello, Idaho. Mr. Johansen paid $154,000 for equipment originally purchased by DOE for $10 million.

The equipment Mr. Johansen purchased consisted of 57 large components to the fuel reprocessing system, including slab tanks, annular tanks, decanters, separation columns, and evaporators with external tube sheet heat exchangers. A subsequent DOE investigation found that, for countries that wish to reprocess nuclear fuel for use in a weapons program, acquiring this equipment could shorten the time necessary to develop and implement a reprocessing operation. For countries without advanced metal manufacturing industries, acquiring this equipment could lead to a significant time savings, according to the DOE report.

Soon after purchasing the equipment, Mr. Johansen received copies of architectural engineering design drawings associated with the facility through a FOIA request. On August 24, 1993 the DOE was informed by the State Department that Mr. Johansen was seeking to market his equipment to British Nuclear Fuels, a private, foreign company. The State Department also contacted the NRC who on August 25, 1993 advised Mr. Johansen that he would require an NRC license to export the equipment. By September 1993 DOE advised their own employees to be aware of nuclear proliferation concerns involving surplus property. The September notification notwithstanding, in January 1994 Mr. Johansen obtained from DOE's INEL office additional technical documents associated with the equipment, including radiographs and blueprints, and a world-wide directory of nuclear facilities.

During the next 12 months, as DOE began to fully realize the implications of this sale, the Department began negotiating with Mr. Johansen to obtain the equipment and the documents that had been sold or given to him. Eventually the Department paid Mr. Johansen $475,000 and took steps to ensure that the equipment would not be used for nuclear purposes. Most of the equipment was turned into scrap and sold, though some of it has been turned into art by an Idaho artist.

Following the Journal's articles in August 1994 and subsequent Congressional inquiries, the Department initiated an internal review of the matter. That report entitled "The Sale of Reprocessing Equipment at the Idaho National Engineering Laboratory" dated September 2, 1994 found that there existed within the Department:

". . .[an] apparent lack of vigilance at all levels for the potential impacts of releasing sensitive, nuclear fuel reprocessing equipment and information to the public. Another disturbing development was that the sale was facilitated by a number of DOE and DOE contractor employees located in Idaho and at DOE Headquarters, whose activities, though possibly well meaning, were contrary to the best interests of the Department. The Department's failure to provide effective policy in this area is of particular concern in light of Congressional pressure to implement legislation on export controls and the fact that a draft order on export controlled information has existed since 1988."

The report goes on to conclude: "Although actual damage in this case may be limited, the incident resulted in an appearance of ineptitude on the part of Departmental elements. More importantly, system breakdowns of this type could have more severe consequences in other similar situation where the equipment and documents involved may be extremely sensitive or even classified."

As a result of the Idaho sale, the Department reviewed all sales and releases to the public of nuclear-related property and information since 1989, issued new guidelines both on export control and nonproliferation and on the control of high-risk personal property and ordered the Operations and Field Offices to put a moratorium on release of equipment or materials until they certified in writing that procedures were in place to implement the new policies.

(B) Computer equipment

During the Governmental Affairs Committee's review of the INEL/Johansen affair, we discovered that in addition to buying surplus nuclear reprocessing equipment, Mr. Johansen also obtained more mundane, but potentially as disturbing, surplus equipment from INEL. It was alleged to the Committee that Johansen had obtained a number of surplus computers, and that some of these computers contained national security sensitive or restricted data. Sen. Glenn asked the General Accounting Office to investigate this allegation, and their report, "Department of Energy Procedures Lacking to Protect Computerized Data" (GAO/AIMD-95-118), was delivered to him in June 1995.

GAO discovered that INEL had sold at least 25, and possibly as many as 50, surplus personal computers to Mr. Johansen. Unfortunately because INEL's records were so poor, it was not possible to determine exactly how many computers were sold, or, more importantly, whether they contained national security sensitive or restricted data. GAO reported that a review by the DOE Idaho Operations Chief Information Office concluded that some of the computers sold to the salvage dealer may have contained sensitive data, but did not determine how many. The review reached this conclusion primarily because DOE's contractors involved in excessing computers with sensitive data possibly stored on the hard drives did not have written procedures explaining how to properly remove such data.

Of the 25 computers which Mr. Johansen was confirmed to have purchased, GAO was only able to receive positive assurance that 11 of them were not used to process classified or sensitive data. GAO examined 4 computers directly and found that they contained numerous data files related to DOE's spent nuclear fuel and radioactive waste management program, but these files were not found to be sensitive.

The General Services Administration has issued a government-wide regulation (entitled FIRMR Bulletin C-22) which applies to DOE and directs agencies to develop internal procedures to ensure the proper disposition of sensitive automated equipment, including personal computers. This regulation applies to contractors acting on behalf of the government as well. While DOE circulated FIRMR Bulletin C-22 to its field and operations offices, it has not ensured that these procedures are being fully implemented. And, as noted above, DOE contractors do not have procedures that instruct them on how to properly dispose of excess ADP equipment; thus DOE cannot ensure that all excess computers are properly "sanitized". This has been a common theme at INEL, as well as at other sites. While DOE's formal policies and rules exist on paper and are often sufficient as policies, they are not being implemented at the working or ground level.

This incident points to a potential gap throughout the DOE system regarding surplus computers. The Department should take immediate steps to implement procedures to ensure that surplus computers are properly sanitized of classified, restricted or sensitive data. In the absence of a more formal policy, the default policy of the DOE should be to sanitize all computers before they are surplused, thus ensuring that the inadvertant release of sensitive data will occur.

In response to the GAO report, DOE issued two memoranda to its operations and field offices asking them to ensure implementation of procedures to sanitize surplus computers at all sites, to review their procedures for sanitizing surplus computers and to make necessary changes to bring them into conformity with the appropriate regulations. In addition, during FY96, DOE committed to provide guidance to its sites on Bulletin C–22 and to issue the new Information Systems Protection Program Manual and Guidelines.

Sandia and Los Alamos, New Mexico

In a 1994 report (DOE/IG–0343), the IG reported equipment with a value of $389,000 missing at Sandia. The IG testified at a March 17, 1994 hearing held by the Senate Governmental Affairs Committee that computer equipment, machine tools, furniture and rolls of cable were left outside in the open for extended periods of time. When Sandia officials tried to re-use some of this equipment, they discovered that it was useless, ruined from over-exposure to the elements. Other equipment was improperly mixed with radiologically-contaminated items.

Furthermore, the IG found that a number of excess property items, reported as being in good working order by their property custodians, were listed as salvage or scrap after being declared excess. Some were computers, which their property custodian had thought were to be sent to the University of New Mexico. Instead, the equipment went to the outdoor lay down yards, marked "salvage" or "scrap."

The new Sandia Management and Operating Contract between DOE and the new contractor follows DOE property regulations more closely than did the old contract. The DOE Albuquerque Operations Office took a number of steps to remedy the flaws identified by the IG's investigation, including the review of Sandia's property management system, which DOE initially disapproved in August, 1994. Sandia then revised its property management system, which was conditionally approved in December, 1995, with the next review scheduled for April, 1997.

At Los Alamos, a 1993 IG report (DOE/IG–0338) estimated that the lab could not account for as much as $100 million in personal property, including computers, x-ray machines, and oscilloscopes. The IG estimated that another $207 million might be inaccurately inventoried, and that $62 million could not be inventoried. The IG identified four reasons for such poor property management: (1) Los Alamos users did not follow required procedures when moving property; (2) Los Alamos did not hold employees financially liable and personally accountable for missing, damaged or destroyed property; (3) Los Alamos's database did not maintain accurate information; and (4) Los Alamos did not ensure that loans of personal property to employees and others were adequately justified. In addition, the Albuquerque Operations Office failed to monitor Los Alamos's handling of personal property in accordance with Department regulations.

The Department disagreed with the $100 million estimate of unaccounted-for property, but acknowledged that Los Alamos's data base was so inaccurate that it could not validate the estimate from the database. During the audit, Los Alamos conducted a wall-to-wall inventory of personal property. Following the reconciliation of the wall-to-wall inventory, Los Alamos requested, and DOE approved, a write-off of nearly $10 million in acquisition value of equipment.

The Albuquerque Operations Office and Los Alamos have taken a number of corrective actions to respond directly to the four deficiencies noted above. In addition, Los Alamos's property management system, in a status of "Disapproved" in January, 1994, has since been approved. Finally, DOE reports that Los Alamos's inventory trends have substantially improved.

Central Training Academy (CTA), New Mexico

In a August 1, 1991 hearing held by the Committee on Governmental Affairs, we learned that the Department and its site contractor may have been using wiretaps and surveillance equipment to covertly monitor whistleblowers at Hanford. Subsequently, on August 13, 1991, the Undersecretary of Energy ordered that all surveillance equipment stored at the various DOE sites be transferred to CTA (a DOE training facility for security and other activities) until such time as legal and logistical arrangements could be made to transfer this property to Federal, state, or local law enforcement agencies. Items containing either secret audio or visual (or both) recorders included sprinkler heads, radios, speakers, a notebook binder, a pencil sharpener, an envelope, and a baseball cap, among others. Further, DOE's Director of the Office of Intelligence and National Security issued a memorandum on November 9, 1993 affirming Department policy prohibiting "the conduct of surveillance activities and the possession and/or use of surveillance equipment for any purpose." Exceptions could only be made for "law enforcement agencies/elements operating under . . . court order." In sum, DOE was to be getting out of the surveillance business.

Over three years after the Undersecretary's directive sending surveillance equipment to the CTA for temporary storage, a December 1994 IG report (DOE/IG–0365) stated that none of the equipment had been transferred to Federal, state, or local law enforcement, nor were there any arrangements to make such transfers as had been ordered by the Undersecretary. Further, the CTA's inventory records were incomplete. There were no records or receipts for more than 100 pieces of surveillance equipment stored at CTA. Finally, the IG noted a April 20, 1994 memo from the Director, Office of Safeguards and Security to its field personnel. The memo stated the Department might be able to achieve an agreement to obtain "a telephonic court order" to use the equipment in a "security emergency condition", in which case the CTA "will be requested to return to you specific Special Response Team equipment currently in storage." This memo seemingly contradicts both the 1991 and 1993 directive.

In April, 1995, the Department responded to the IG report, stating that the CTA technical surveillance equipment (TSE) had been inventoried and then transferred to the FBI and the National Park Service and that no TSE remained at the CTA. The Department position further stated: "The Director, Office of Nonproliferation and National Security will not authorize the general, unrestricted use of covert surveillance operations and equipment." We note the Department's renunciation of "general, unrestricted use" of covert surveillance, but we strongly recommend that DOE be asked to clearly and precisely explain the circumstances under which it thinks it would be entitled to engage in covert surveillance.

Fernald, Ohio

A February 1993 IG report (DOE/IG–0320) found that the outgoing Fernald contractor did not dispose of excess government equipment properly. Public sales of surplus equipment were not advertised, minimum prices were not established, and cash collection was not adequately controlled. The contractor also mixed radiologically contaminated equipment with uncontaminated equipment, which meant that the commingled equipment had to be classified as low level waste and sent to the Nevada Test Site for disposal. The net result of these improper practices, according to the IG, was that DOE incurred unnecessary costs and lost revenues of over $117,000 and equipment with a net book value of over $245,000 was improperly disposed of. Upon review, the DOE contracting officer allowed these costs. The bigger concern was that DOE would be vulnerable to larger losses as Fernald disposed of $27.8 million in excess equipment during site cleanup. Accordingly, the Fernald Field Office suspended sales of excess equipment until DOE approved proper sales procedures. Fernald submitted a property control system encompassing sales of property, which was approved in July, 1995. Fernald has resumed sales of excess property.

Other problems, as well as some progress, were found at Fernald. In 1993, Fernald, in its first complete physical inventory since the 1950s, identified $2.3 million in missing equipment, and in 1994, identified and declared more than $5 million of personal property as excess. These were good steps. However, a November 1994 IG report (ER–B–95–02) found that Fernald, under a new contractor, had incurred costs of $642,000 for purchase and storage of furniture in excess of needs. Further costs were incurred because of damage from mishandling. Moreover, storage practices placed supply items at risk of radiological contamination and inventory records were inaccurate. The IG also found that Fernald employees lacked the training to properly account for Government property. Fernald and the Ohio Field Office committed to a number of steps to respond to these problems.

Oak Ridge, Tennessee

A 1994 GAO analysis (GAO/RCED–94–249R) of property management activities at Oak Ridge found that the site prime contractor, Martin Marietta, had no system to monitor subcontractor use and possession of government-owned equipment. As a result, neither DOE and nor the prime contractor know which subcontractors have government property, what property they have, and how much its value is. Further, the prime contractor has not moved to implement a system that tracks and accounts for property held by its subcontractors, even though this problem has been consistently raised in DOE reviews since at least 1988. DOE concurred with the GAO findings, and directed the Oak Ridge Operations Office to develop a corrective action plan, which DOE Headquarters would review. The problem of inadequate oversight of subcontractors by the prime contractor is likely to occur at sites other than Oak Ridge.

Recommendations

Given the findings of this report, the history of property mismanagement at DOE, continued downsizing, existing legal requirements and directives, and the planned asset disposition program, the staff recommends that the Department take the following steps to improve its property management program.

(1) Create an Office of Property and Asset Management (OPAM)

This is our principal recommendation. We urge the establishment of a policy-level office based in Washington with authority to oversee field activity. As has been noted throughout this report, fragmented and poorly coordinated property management policies and practices have lead to many abuses in the field. If done properly, centralization of this responsibility should help prevent future abuses. The Office would report directly to the Secretary.

The mission and responsibilities of this policy-level office would be to:

(1) coordinate the implementation of the various internal property management initiatives;

(2) coordinate policy response to the legal property management directives (i.e. Stevenson-Wydler, Federal Property Act, Defense Authorization Act requirements, and any future asset disposition legislation);

(3) track and provide top-level management for asset sales;

(4) develop consistent, department-wide inventory practices and procedures that includes review and feedback procedures on current property management systems;

(5) consolidate existing personal property, real property, and asset management programs into one HQ office;

(6) develop long term (5, 10 year) property and asset management plans;

(7) conduct property and asset management oversight of field and program offices;

(8) establish property management perfomance standards as part of personnel evaluations for appropriate personnel;

(9) develop and recommend changes to accounting systems to better track and manage property and assets;

(10) search for and evaluate new technologies that may be used to better inventory and track personal property; and

(11) establish training courses and programs on sound property management policies and procedures;

The Office should also work closely with the DOE offices in charge of nonproliferation, national security and export controls to ensure that property with national security implications are disposed of properly. The Office should also consult and coordinate with the DOE environmental management programs to ensure that contaminated property is appropriately controlled. Furthermore, the Office should establish appropriate procedures to meet the requirements and further the missions of economic development and technology transfer, in cooperation with the Office of Worker and Community Transition and the Office of Technology Utilization.

(2) Review existing property management rules, orders and guidance

Through the OPAM, the Department should review existing rules, orders and guidance concerning the control of personal property, and issue new rules, or strengthen or clarify existing rules, as appropriate, pertaining to the following: Demilitarization procedures for appropriate equipment; sanitization of data contained on computers; export controls over nonproliferation or national security sensitive items; decontamination and disposal procedures for environmentally-contaminated property; reporting and investigative procedures when theft is a possibility; and priorities and procedures governing release of equipment for economic development, educational and other non-Departmental purposes. The Office should report annually to Congress on the results of this review.

(3) Improve and coordinate property management oversight with the General Services Agency (GSA)

DOE and GSA should jointly develop a plan to exercise more rigorous oversight over DOE's disposal of property in accordance with the Federal Property Act and, within one year, report to the Governmental Affairs Committee on its plan and the results of the plan.

(4) Incorporate strong property management principles in DOE contracts

DOE should continue to incorporate performance-based standards in personal property management as new M & O contracts are awarded, and extend those standards to subcontractor management of equipment. DOE should evaluate how well each principal management and operating contractor oversees its subcontractors who maintain and operate government equipment. It should explore contractual methods of linking M&O's performance (and payment) to their subcontractors property management performance.

(5) Hold contractor and civil service personnel accountable for property management abuses

DOE should take appropriate disciplinary action against DOE and field personnel responsible for the most egregious abuses in disposal of personal property. It should modify DOE personnel procedures and practices to hold DOE field and line personnel accountable for future implementation of effective personal property systems as well as develop incentive system to reward and encourage innovative property management successes.

(6) Allocate additional resources for property management

Where cost effective, DOE and Congress should dedicate more resources and FTEs to personal property management at both headquarters and in the field.

(7) Report to Congress

We recognize that DOE is taking several of the steps we are recommending, and we wish both to commend DOE for its initiative, and to reinforce the importance of those actions. We recommend that DOE report back in writing in one year to the Congress, and in particluar to the Governmental Affairs Committee, on the consideration given to, and the implementation of, the recommendations contained in this report. DOE's report to Congress should emphasize observed and measurable improvements in property management resulting from these efforts.

CONCLUSION

The Department has made encouraging efforts to correct the problems and abuses detailed in this report. Still, we believe the Department can and must do more. That's why this report includes specific recommendations—including the creation of an Office of Property and Asset Management—for corrective measures DOE should take as part of a comprehensive plan to remedy its chronic property management problems. These measures do not need legislation to be implemented, but, if the Department ignores them, we may recommend that they be incorporated into legislation.

The proposed Office of Property and Asset Management will force the Department to address the issue of personal property disposal as it downsizes, and to ensure such disposal is done in the best interest of the taxpayer. The Department has announced that it plans to save $14 billion over 5 years from downsizing and budget reductions and that sales of surplus assets are expected to generate at least $110 million by September 30, 2003. However, without further improvements in personal property management, and without the sustained higher priority for property management that the Office proposed in this report will provide, it is likely that we will continue to see abuses take place as the Department implements its downsizing plan.

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Oak Ridge, Tennessee

GAO/RCED–94–249R, Department of Energy's Property Management (July 1994).

Background on Several Sites

DOE/IG–0344, Summary Report on the Department of Energy's Management of Personal Property; (March 1994).

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Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GREGG). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR BOB DOLE'S REMARKS UPON RECEIVING THE PRESIDENTIAL MEDAL OF FREEDOM

Mr. CRAIG. Mr. President, I come to the floor this afternoon to place in the RECORD the remarks of a great American statesman who I and many of us had the privilege to watch being recognized in the White House on January 17. I speak to Senator Bob Dole and his leadership in our Nation, his statesmanship, his patriotism, and especially the comments he made in receiving the Presidential Medal of Freedom on January 17.

I think we were all captivated in the evening news by the great humor of Bob Dole—after this very prestigious ceremony in the East Room of the White House with the President offering up one of these most coveted recognitions in our Nation for the leader, Bob Dole, former Presidential candidate—when he stepped forward and in humor began to recite his oath of office.

That statement overshadowed the statement that was to follow, and that was the statement by Bob Dole as to his feelings and his emotions that are a part of the person that you, Mr. President, and I have grown to know and respect over the years as it relates to his Americanism, his leadership, and his patriotism.

So it is with that in mind that I insert into the RECORD this afternoon the statement that Senator Dole made that afternoon, this January 17, at the White House as he received the Presidential Medal of Freedom. It was a beautiful statement. It was an emotional statement. And for all of us who were there, it was the statement of a man who we had grown to know and who we knew as a Senator from Kansas, who we knew as a Presidential candidate, but most importantly a man who we knew as a leader of the U.S. Senate, a great American, a great American statesman, and a great American patriot.

With that in mind, I ask unanimous consent that the statement of Bob Dole as he received his Presidential Medal of Freedom award be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR BOB DOLE ON RECEIPT OF THE PRESIDENTIAL MEDAL OF FREEDOM; JANUARY 17, 1997

Mr. President, no one can claim to be equal to this honor. But I will cherish it as long as I live, because this occasion allows me to honor some others who are more entitled. At every stage of my life, I have been a witness to the greatness of this country.

I have seen American soldiers bring hope and leave graves in every corner of the world. I have seen this Nation overcome Depression and segregation and Communism, turning back mortal threats to human freedom. And I have stood in awe of American courage and decency—virtues so rare in history, and so common in this precious place.

I can vividly remember the first time I walked into the Capitol as a Member of Congress. It was an honor beyond the dreams of a small town. I felt part of something great and noble. Even playing a small role seemed like a high calling. Because America was the hope of history.

I have never questioned that faith in victory or in honest defeat. And the day I left office, it was undiminished. I know there are some who doubt these ideals. And I suspect there are young men and women who have not been adequately taught them. So let me leave a message to the future.

I have found honor in the profession of politics. I have found vitality in the American experiment. Our challenge is not to question American ideals, or replace them, but to act worthy of them.

I have been in Government at moments when politics was elevated by courage into history—when the Civil Rights Act was passed—when the Americans With Disabilities Act became law. No one who took part in those honorable causes can doubt that public service, at its best, is noble.

The moral challenges of our time can seem less clear. But they still demand conviction and courage and character. They still require young men and women with faith in our process. They still demand idealists, captured by the honor and adventure of service. They still demand citizens who accept responsibility and who defy cynicism, affirming the American faith, and renewing her hope. They still demand the President and Congress to find real unity in the public good.

If we remember this, then America will always be the country of tomorrow, where every day is a new beginning and every life an instrument of God's justice.

Mr. President, Elizabeth and Robin join me in wishing you and Mrs. Clinton all the best as you embark on your second term. May God bless you, and each inhabitant of this House, and may God bless America.

Mr. CRAIG. Thank you, very much, Mr. President, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, before I ask for some unanimous-consent agreements and do the close, I want to commend, also, the remarks of Senator Dole that were just printed in the RECORD by the distinguished Senator from Idaho. I attended the ceremony where Senator Dole received the Presidential Medal of Freedom. I must say, it was one of the most inspiring events I have ever attended.

First of all, I think the President deserves credit for presenting this very deserving leader of our country the Medal of Freedom.

Second, I think I have probably never been to an event where there was more of a combination of a feeling of good will, appreciation for our veterans, patriotism and humility and humor, all wrapped in one event. It was really an inspiration.

Bob Dole's remarks, which are in the RECORD, are typical of Bob. He said almost nothing about the fact that he was receiving this honor, other than the fact that he would cherish it. He, instead, chose to talk about American soldiers and the service they gave and the American experiment, Government, history—magnificent remarks. Also, he had that special moment of history where I thought for a moment he was going to be sworn in to be President of the United States instead of being given the Medal of Freedom.

It was a tremendous occasion. I am very proud that Bob Dole received this recognition, and I am delighted we put his statement in the RECORD for all Americans to read it.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–930. A communication from the Secretary of Transportation and the Secretary of Defense, transmitting jointly, pursuant to law, a report relative to the Coast Guard; to the Committee on Appropriations.

EC–931. A communication from the Assistant Secretary of Commerce for Export Administration, transmitting, pursuant to law, a rule entitled "Entity List" (RIN0694–AB24) received on January 27, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–932. A communication from the Deputy Assistant Administrator for Fisheries, Department of Commerce, transmitting, pursuant to law, a rule entitled "Financial Assistance for Research and Development Projects" (RIN0648–ZA26) received on January 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–933. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska" received on January 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–934. A communication from the Acting Director of the Office of Surface Mining, Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, a rule entitled "Texas Regulatory Program and Abandoned Mine Land Reclamation Plan" (TX025FOR) received on January

27, 1997; to the Committee on Energy and Natural Resources.

EC-935. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule entitled "Duplication Fees" (RIN3150-AF60) received on January 27, 1997; to the Committee on Environment and Public Works.

EC-936. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled "Migratory Bird Hunting" (RIN1018-AD94) received on January 27, 1997; to the Committee on Environment and Public Works.

EC-937. A communication from the Acting Director of the Office of Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, two rules including a rule entitled "Determination of Threatened Status" (RIN1018-AB75, AB88) received on January 27, 1997; to the Committee on Environment and Public Works.

EC-938. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-939. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Dental Devices" received on January 27, 1997; to the Committee on Labor and Human Resources.

EC-940. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report of the consolidated financial statements of the American Red Cross; to the Committee on Labor and Human Resources.

EC-941. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated January 1, 1997; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, and to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations, without amendment:

S. Res. 33. A resolution authorizing expenditures by the Committee on Appropriations.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 34. A resolution authorizing expenditures by the Committee on Energy and Natural Resources.

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, without amendment:

S. Res. 35. An original resolution authorizing expenditures by the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-22. A resolution adopted by the Military Order of the World Wars relative to the reevaluation of the national military strategy; to the Committee on Armed Services.

POM-23. A resolution adopted by the Military Order of the World Wars relative to the flag; to the Committee on Armed Services.

POM-24. A resolution adopted by the Military Order of the World Wars relative to terrorism; to the Committee on Armed Services.

POM-25. A resolution adopted by the Military Order of the World Wars relative to the retention of nuclear deterrent capabilities; to the Committee on Armed Services.

POM-26. A resolution adopted by the Military Order of the World Wars relative to national security; to the Committee on Armed Services.

POM-27. A resolution adopted by the Legislature of the State of New Jersey; to the Committee on Foreign Relations.

RESOLUTION NO. 126

Whereas, During the horrific period when the Nazis ruled Europe, many Jews in Germany and Eastern Europe saw Switzerland as the only safe haven for their assets because of Switzerland's neutrality and Switzerland's banking secrecy laws; and

Whereas, As a result of the Holocaust, many of the accounts established in Swiss banks were dormant after the end of World War II; and

Whereas, In 1962 Switzerland set up a system in which any money found in dormant accounts of which no claim had been made for five years and thought to belong to Holocaust victims was put into a special government account to be used to support charitable organizations; and

Whereas, The world has recently become aware of the probable misuse of those funds to compensate Swiss citizens for property expropriated by former communists regimes in Eastern Europe; and

Whereas, Every effort should be made to assure that surviving family members of Holocaust victims receive the money in dormant accounts that is legitimately and properly theirs; and

Whereas, In those instances in which no surviving members come forward or can be located, the monies in those accounts should be used to help Holocaust survivors throughout the world who are indigent and in need of financial assistance; and

Whereas, The President of the United States and the Congress of the United States should undertake all appropriate actions to encourage the government of Switzerland to establish a fund consisting of those unclaimed monies and to make those monies available to Holocaust survivors throughout the world who are indigent and in need of financial assistance; now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. This House calls upon the President of the United States and the Congress of the United States to undertake all appropriate actions to encourage the government of Switzerland to establish a fund consisting of the monies in any unclaimed accounts in Swiss banks belonging to victims of the Holocaust and to make those monies available to Holocaust survivors throughout the world who are indigent and in need of financial assistance.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, the majority and minority leaders of both Houses, and every member elected to the Congress from this State.

POM-28. A resolution adopted by the Metropolitan Nashville Arts Commission of Nashville, Tennessee relative to the Joe L. Evins Appalachian Center Crafts; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation:

William M. Daley, of Illinois, to be Secretary of Commerce.

(The above nomination was reported with the recommendation that he be confirmed.)

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably eight nominations lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORD on January 7, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 7, 1997, at the end of the Senate proceedings.)

The following Regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

Brian C. Conroy
Ronald J. Magoon
Arlyn R. Madsen, Jr.
Chris J. Thornton
Keith F. Christensen
Douglas W. Anderson
Timothy J. Custer
Nathalie Dreyfus
Scott A. Kitchen
Kurt A. Clason
Jack W. Niemiec
Gregory W. Martin
Rhonda F. Gadsden
Nona M. Smith
Glen B. Freeman
William H. Rypka
Robert C. Lafean
Gerald F. Shatinsky
Thomas J. Curley III
Steven M. Hadley
Jerome R. Crooks, Jr.
John F. Eaton, Jr.
Charles A. Howard
David H. Dolloff
Mark A. Hernandez
Stephen E. Maxwell
Robert E. Ashton
David W. Lunt
Abraham L. Boughner
William J. Milne
Glenn F. Grahl, Jr.
Gregory W. Blandford
Anne L. Burkhardt
Douglas C. Lowe
Thomas M. Miele
Eddie Jackson III
Anthony T. Furst
Matthew T. Bell, Jr.
Duane R. Smith
Marc D. Stegman
Kevin K. Kleckner
William G. Hishon
James A. Mayors
Larry A. Ramirez
Wyman W. Briggs
Benjamin A. Evans
Gwyn R. Johnson
Tracy L. Slack
Geoffrey L. Rowe
Thomas C. Hasting, Jr.
John M. Shouey
William H. Oliver II
Edward R. Watkins
Talmadge Seaman
William S. Strong
Mark E. Matta
Richard C. Johnson
Janis E. Nagy
James O. Fitton
Salvatore G. Palmeri, Jr.
Terry D. Converse
Mark D. Rizzo
John R. Lussier
Gregory P. Hitchen

Melvin W. Bouboulis
Richard W. Sanders
Melissa Bert
Jason B. Johnson
Anita K. Abbott
Raymond W. Pulver
Verne B. Gifford
Stuart M. Merrill
Scott N. Decker
Joseph E. Vorbach
Peter W. Gautier
Kevin E. Lunday
Matthew T. Ruckert
Brian R. Bezio
Christopher M. Smith
Christine L. MacMillian
Anthony J. Vogt
Joanna M. Nunan
James A. Cullinan
Joseph Segalla
Donald R. Scopel
John J. Plunkett
Gwen L. Keenan
Christopher M. Rodriquez
Richard J. Raksnis
Patrick P. O'Shaughnessy
Mark C. Riley
Spencer L. Wood
Eric A. Gustafson
Ricardo Rodriquez
Christopher E. Austin
Randall A. Perkins III
Richard R. Jackson, Jr.
Timothy B. O'Neal
Pete V. Ortiz, Jr.
Robert P. Monarch
Paul D. Lange
Edward J. Hansen, Jr.
Donald J. Marinello
Paul E. Franklin
Charles A. Milhollin
Steven A. Seiberling
Dennis D. Dickson
Scottie R. Womack
Timothy N. Scoggins
Ronald H. Nelson
Gene W. Adgate
Henry M. Hudson, Jr.
Barry J. West
Frank D. Gardner
Jeffrey W. Jessee
Ralph Malcolm, Jr.
George A. Eldredge
Donald N. Myers
Scott E. Douglass
Richard A. Paglialonga
John K. Little
James E. Hawthorne, Jr.
Samuel Walker VII
Jay A. Allen
Robert R. Dubois
Gordon A. Loebl
Robert J. Hennessy
Gary T. Croot
Thomas E. Crabbs
Samuel L. Hart
Steven D. Stilleke
Webster D. Balding
John S. Kenyon
Christopher N. Hogan
Douglas J. Conde
Thomas D. Combs III
William R. Clark
Beverly A. Havlik
Donna A. Kuebler
Thomas H. Farris, Jr.
Timothy A. Frazier
Timothy E. Karges
Rocky S. Lee
David Self
Randy C. Talley
John D. Gallagher
Robert M. Camillucci
Robert G. Garrott
Christopher B. Adair
Gregory W. Johnson
Eric C. Jones
Scott A. Memmott
Marc A. Gray
Anthony Popiel
Graham S. Stowe
Matthew L. Murtha
Christopher P. Calhoun
James M. Cash
Kyle G. Anderson
Dwight T. Mathers
Jonathan P. Milkey
Pauline F. Cook
Matthew J. Szigety
Robert J. Tarantino
Russel C. Laboda
John E. Harding
Andrew P. Kimos
Craig S. Swirbliss
John T. Davis
John J. Arenstam
Anthony R. Gentilella
John M. Fitzgerald
John G. Turner
Kirk D. Johnson
Ramoncito R. Mariano
David R. Bird
Leigh A. Archbold
William B. Brewer
Dana G. Doherty
William G. Kelly

The following Reserve officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

Monica L. Lombardi
Michael E. Tousley
Laticia J. Argenti
Thomas F. Lennon
Sloan A. Tyler
Donald A. LaChance II
Karen E. Lloyd

The following individual for appointment as a permanent regular commissioned officer in the U.S. Coast Guard in the grade of lieutenant commander:

Laura H. Guth

The following officers of the U.S. Coast Guard Permanent Commissioned Teaching Staff at the Coast Guard Academy for promotion to the grade indicated:

To be commander

Robert R. Albright II
Lucretia A. Flammang

To be lieutenant commander

James R. Dire

The following officers of the U.S. Coast Guard Reserve for promotion to the grade indicated:

To be captain

Francis C. Buckley

To be commander

Sharon K. Richey
Allen K. Harker

Pursuant to the provisions of 14 U.S.C. 729, the following-named commanders of the Coast Guard Reserve in the grade of captain:

Ronald G. Dodd
John M. Richmond
Michael E. Thompson

The following Regular officers of the U.S. Coast Guard for promotion to the grade of captain:

Joseph F. Ahern
Scott F. Kayser
Jeffrey G. Lantz
James B. Crawford
Adan D. Guerrero
William J. Hutmacher
Walter S. Miller
Glenn L. Snyder
Mark E. Blumfelder
Douglas P. Rudolph
Richard W. Goodchild
John L. Grenier
Jon T. Byrd
Timothy S. Sullivan
David W. Ryan
Mark G. Vanhaverbeke
Jeffrey A. Florin
James Sabo
John C. Simpson
Paul C. Ellner
William C. Bennett
Steven A. Newell
Joel R. Whitehead
Douglas E. Martin
James J. Lober, Jr.
Richard A. Rooth
Wayne D. Gusman
Lawrence M. Brooks
Michael J. Devine

The following Reserve officer of the U.S. Coast Guard for promotion to the grade of captain:

Catherine M. Kelly

Pursuant to the provisions of 14 U.S.C. 729, the following-named lieutenant commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of commander:

Roy F. Williams
Stephen N. Jackson
Theodore B. Royster
William C. Hansen
George J. Schuler
Joseph A. Keglovits
Jacqueline V. Wyland
David P. Roundy
Lawrence A. Gass
Thomas Plesnarski
Kristin Q. Corcoran
Warren E. Soloduk
Maryellen M. Colella
David H. Sulouff
David A. Maes
Robert C. Ludwick
John J. Madeira
Richard A. Reynolds
Jeanne Cassidy
Douglas A. Ash
Charles E. OPolk
David G. O'Brien
John A. Holub
Joseph J. Riordan
John W. Long
Needham E. Ward
Michael D. Oaks
Robert Q. Ammon
Ann M. Courtney
Brian D. Murphy
Anthony B. Canorro
Virginl F. Bateman
Larry L. Jones
Salvatore Brillante
Matthew P. Bernard
Nancy A. Mazur
Maureen B. Harkins
Michael A. Cicalese
Robert W. Grabb
Sidney J. Duck
Wayne C. Dumas
Phillip J. Jordan
Mark A. Jones
Joseph P. Cain

The following Regular officers of the U.S. Coast Guard for promotion to the grade of commander:

George A. Russell, Jr.
Mark A. Frost
Patrick J. Cunningham, Jr.
Mitchell R. Forrester
Dane S. Egli
Patrick J. Nemeth
Jeffrey S. Gorden
Curtis A. Stock
Bret K. McGough
Christopher K. Lockwood
Jody B. Turner
Barry L. Dragon
Mark L. McEwen
Michael D. Brand
Mark A. Skordinski
Bruce E. Grinnell
Donald K. Strother
Brian K. Swanson
Francis X. Irr, Jr.
Robert J. Malkowski
Robert A. Farmer
Brian J. Goettler
Richard M. Kaser
Charles W. Ray
Kurtis J. Guth
Stephen J. Minutolo
Gary E. Felicetti
Virginia K. Holtzman-Bell
Daniel A. Laliberte
Matthew M. Blizard
Kurt W. Devoe
Richard A. Rendon
Robert J. Legier
Bryan D. Schroder
Robert E. Korroch
John W. Yager, Jr.
Thomas P. Ostebo
Marshall B. Lytle III
Mark A. Prescott
Thomas D. Criman
Kenneth H. Sherwood
Stephen J. Ohnstad
Mark S. Guillory
Carol C. Bennett
Preston D. Gibson
Thomas E. Hobaica
David L. Hill
David S. Stevenson
Michael P. Farrell
James T. Hubbard
Richard A. Stanchi
George P. Vance, Jr.
Scott S. Graham
Robert M. Atkin
Mark R. Devries
Christine D. Balboni
Kenneth R. Burgess, Jr.
Mark D. Rutherford
Warren L. Haskovec
Patrick B. Trapp
Jennifer L. Yount
Dennis D. Blackall
Barry P. Smith
Bradley R. Mozee
William D. Lee
Richard J. Ferraro
John R. Lindley, Jr.
Richard L. Matters
Robert R. O'Brien, Jr.
Ekundayo G. Faux
Scott G. Woolman
David L. Lersch
William W. Whitson, Jr.
Ricki G. Benson
Larry E. Smith
Norman L. Custard, Jr.
Gregory B. Breithaupt
Steven E. Vanderplas
Frederick J. Kenney, Jr.
Steven J. Boyle
Thomas K. Richey
Dennis A. Hoffman
David M. Gundersen
Jeffrey N. Garden
James E. Tunstall
Kevin G. Quigley
John R. Ochs
Ronald D. Hassler
Timothy J. Dellot
Kenneth D. Forslund
Tomas Zapata
Dennis M. Sens
Peter V. Neffenger
Alvin M. Coyle
Daniel R. MaCleod
Melissa A. Wall
Robert M. Wilkins
Curtis A. Springer
Timothy G. Jobe
Christian Broxterman
Rickey W. George
Elmo L. Alexander II

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN (for himself, Mr. STEVENS, Mrs. HUTCHISON, Mr. ABRAHAM, and Mr. ASHCROFT):

S. 228. A bill to amend title 31, United States Code, to provide for continuing appropriations in the absence of regular appropriations; to the Committee on Appropriations.

By Mr. BUMPERS (for himself, Mrs. MURRAY, and Mr. WELLSTONE):

S. 229. A bill to provide for a voluntary system of public financing of Federal elections, and for other purposes; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. HATCH):

S. 230. A bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes; to the Committee on the Judiciary.

By Mr. BINGAMAN:

S. 231. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. LEAHY, Mrs. BOXER, Mrs. MURRAY, Mr. INOUYE, Ms. MIKULSKI, and Mr. KERRY):

S. 232. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 233. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, and for other purposes; to the Committee on Finance.

By Mr. HELMS:

S. 234. A bill to direct the Secretary of the Interior to transfer administrative jurisdiction over certain land to the Secretary of the Army to facilitate construction of a jetty and sand transfer system, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred—or acted upon—as indicated:

By Mr. STEVENS:

S. Res. 33. An original resolution authorizing expenditures by the Committee on Appropriations; from the Committee on Appropriations; to the Committee on Rules and Administration.

By Mr. MURKOWSKI:

S. Res. 34. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; from the Committee on Energy and Natural Resources; to the Committee on Rules and Administration.

By Mr. JEFFORDS:

S. Res. 35. An original resolution authorizing expenditures by the Committee on Labor and Human Resources; from the Committee on Labor and Human Resources; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GREGG:

S. 227. A bill to establish a locally oriented commission to assist the city of Berlin, NH, in identifying and studying its region's historical and cultural assets, and for other purposes; to the Committee on Energy and Natural Resources.

THE BERLIN, NH, COMMISSION ACT OF 1997

Mr. GREGG. Mr. President, I rise today to celebrate the 100th anniversary of Berlin, NH, and to introduce legislation that will assist Berlin in preserving this history.

While the city of Berlin is 100 years old this year, its history goes back further. The first settlers came to Berlin for no apparent reason. They were farmers and the land there did not promise to be any more fruitful than the land they left just down the Androscoggin River; but, they were restless and independent so they came across the mountains to start a new community in this isolated area.

The Plantation of Maynesborough, as Berlin was called, was named after the most illustrious of the English gentlemen to whom it was granted by the Crown in 1771. Although the land was rugged and it was a hard place to live, food was plentiful. The woods consisting of seemingly endless stands of timber were filled with deer and game; the brooks and river were loaded with trout.

Those first farmers who made the move from down the river found good farmland upstream from the falls. In 1824, William Sessions cleared 5 acres of land on the east side of the river and came back in 1825 with his nephew to plant crops and build a log house. William Sessions did not stay around long enough to see Maynesborough become officially incorporated as the city of Berlin 1897, but his nephew Cyrus Wheeler did.

Nearly half a century before, however, the character of Berlin began its change from farms to industry. In 1851, J.B. Brown and three other businessmen from Portland, ME, formed a partnership under the name of H. Winslow & Co. and purchased the land on top of the falls. They started a successful lumber business in the thick forest and used the natural water power of the river to power their mill. The J.B. Brown Co., saw the railroad coming to Berlin, thus, opening a direct line of transportation to Portland and market centers for the first time.

In the 1920's, Berlin, NH, was the capital of the papermaking world and was becoming known as the city that trees built. The Brown family's Berlin Mills Co., controlled 3 million acres in New England and Québec and was world renowned for cutting-edge forestry, research, and papermaking. The mills along the Androscoggin River made not only pulp and an array of paper products but also lumber, wood flour, conduit pipes, and furniture. Brown's staff of 4,000 to 5,000 swelled Berlin to a population of 20,000.

The growth of Berlin reflects the diversity of people who came to stay: French Canadians, Yankees from northern New England farms, Norwegians, Italians, Irish, and Russians. They sought a chance to make a better living and found it in the mills, blacksmith shops, machine shops, farms, stores, railroad yards, and in the winter logging camps. Berlin deserves recognition for many other reasons as well. For example tupperware and the Feron Rap and Rule, the first retractable ruler, were invented in Berlin. But one aspect of the city calls for special attention: Its heritage as a leader in introducing skiing to America.

Scandinavian immigrants were highly sought after by mill recruiters not only for their expertise in logging, but also because they were acquainted with long, severe winters similar to those of the North Country. They chose to develop their individual neighborhoods in clusters as did most of the immigrants. As a whole, the entire Scandinavian neighborhood was commonly known as Norwegian Village. Because of their love for winter, they, more than any other groups, forged the way for winter sports in Berlin. Both cross-country ski racing and competition ski jumping were introduced to the region by the Scandinavian community. These events were featured at many of the winter carnivals that Berlin hosted.

Other than its socioeconomic forest-based heritage, Berlin is probably best known for its major contribution to the development of skiing in the country. The use of skis by newly arriving Scandinavians was at first utilitarian, winter travel around the community. In time, cross-country ski racing became popular and Berlin became known as the Cradle of Nordic Skiing in America. The Nansen Ski Club, which is named in honor of arctic explorer Fridtjof Nansen, was founded in 1872 as the Skii Klubbin. Today, it remains the oldest continuously organized ski club in the United States. Starting in the 1890's, skiers used a small hill in Norwegian Village to practice and perform their jumps.

Then, in 1936, a new jump was constructed here at this site thanks to a cooperative effort between the city of Berlin and the Nansen Ski Club. This 80-meter jump has a 171.5-foot tower, a 225-foot vertical drop, and a descent angle of approximately 37.5 degrees. For almost 50 years, this was the largest ski jump in the Eastern United States and the foremost jump in the country. Also, this was the site of all major championship ski jumping competitions, as well as many Olympic tryouts. Several famous ski jumpers were competitors here including a host of Berlinites who went on to compete in the Olympics.

Mr. President, I have only touched on a few of the historical aspects that make Berlin, NH, unique. The legislation that I am introducing, the Androscoggin River Valley Heritage

Area Act, will establish a locally oriented commission to assist the city of Berlin in identifying and studying its region's historical and cultural assets of the past 100 years.

By Mr. McCAIN (for himself, Mr. STEVENS, Mrs. HUTCHISON, Mr. ABRAHAM, and Mr. ASHCROFT):

S. 228. A bill to amend title 31, United States Code, to provide for continuing appropriations in the absence of regular appropriations; to the Committee on Appropriations.

THE GOVERNMENT SHUTDOWN PREVENTION ACT

Mr. McCAIN. Mr. President, today Senators STEVENS, HUTCHISON, ABRAHAM, ASHCROFT, and I are introducing the Government Shutdown Prevention Act. This bill creates a statutory continuing resolution [CR]—a safety net CR which would trigger only if the appropriations acts do not become law or if there is no governing CR in place. This legislation ensures that the Government will not shutdown and that Government shutdowns cannot be used for political gains.

This safety net CR would set spending at the lowest of the following spending levels:

First, the previous year's appropriated levels;

Second, the House-passed appropriations bill;

Third, the Senate-passed appropriations bill;

Fourth, the President's budget request; or

Fifth, any levels established by an independent CR passed by the Congress subsequent to the passage of this act.

By setting the spending level for the safety net CR at the lowest possible level, there is new incentive to actually pass the appropriations bills on time. In addition, it restores the bias in appropriations negotiations toward saving the taxpayers money instead of spending it. We cannot afford another replay of last year's successful effort by the administration that forced Congress to spend billions more just to avoid a third Government shutdown. Passage of this legislation will guarantee that we are not faced with a choice between a Government shutdown and spending taxpayer dollars irresponsibly.

We all saw the effects of gridlock last year. No one wins when the Government shuts down. Shutdowns only confirm the American people's suspicions that we are more interested in political gain than doing the Nation's business. The American people are tired of gridlock. They want the Government to work for them—not against them.

The budget process in the last Congress was a fiasco. Our Founding Fathers would have been ashamed by our inability to execute the power of the purse in a responsible fashion. I am sure they would have been quite shocked by the 27 days the Government was shut down, 13 continuing resolutions and almost $6 billion in blackmail money given to the administration to ensure that the Government did not shut down a third time.

Although Republicans shouldered the blame for the Government shutdown, President Clinton and his Democrat colleagues were equally at fault for using it for their political gain. Republicans were outfoxed by President Clinton because we were not prepared for him to use the budget process for his own political gains. We thought that by doing the right thing—passing the first balanced budget in a generation and fiscally sound appropriations bills—we would eventually prevail. What we did not realize was that President Clinton was more interested in playing politics with the budget than actually balancing it. This year, we have to be prepared for these games and launch a preemptive strike to ensure that basic Government operations will not be put at risk during the next budget battle.

This legislation does not erode the power of the appropriators and gives them ample opportunity to do their job. It is only if the appropriations process is not completed by the beginning of the fiscal year, as was the case in the last Congress that this safety net CR will go into effect. In addition, I want to emphasize that entitlements are fully protected in the legislation. The bill specifically states that entitlements such as Social Security—as obligated by law—will be paid regardless of what appropriations bills are passed.

Mr. President, according to President Clinton the combined cost of last year's Government shutdowns was $1.5 billion. However, this figure does not begin to account for the millions of dollars that were lost by small businesses who depend on the Government being open. In my State of Arizona, during the Government shutdown the Grand Canyon was closed for the first time in 76 years. I heard from people who work close to the Grand Canyon. These were not Government employees. They were independent small businessmen and women. They told me that the shutdown cost them thousands of dollars because people couldn't go to the park. According to a CRS report, local communities near national parks lost an estimated $14.2 million per day in tourism revenues as a direct result of the Government shutdown—for a total of nearly $400 million over the course of the shutdown.

The cost of the Government shutdown cannot be measured in just dollars and cents. During the shutdown millions of Americans could not get crucial social services. For example: 10,000 new Medicare applications, 212,000 Social Security card requests, 360,000 individual office visits, and 800,000 toll-free calls for information and assistance were turned away each day. There were even more delays in services for some of the most vulnerable in our society including 13 million recipients of AFDC, 273,000 foster care children, over 100,000 children receiving adoption assistance services and over 100,000 Head Start children. Not to mention the new patients that were not accepted into clinical research centers, the 7 million visitors who could not attend national parks or the 2 million visitors turned away at museums and monuments. And the list could go on and on.

In addition our Federal employees were left in fear wondering whether they would be paid, would they have to go to work or would they be able to pay their bills on time. In my State of Arizona for example, of the 40,383 Federal employees over 15,000 of them were furloughed in the last Government shutdown. I do not want to put these workers at risk ever again.

A 1991 GAP report confirmed that permanent funding lapse legislation as necessary. In their report they stated, "shutting down the Government during temporary funding gaps is an inappropriate way to encourage compromise on the budget."

Mr. President, neither party can afford another break of faith with the American people. Our constituents are tired of constantly being disappointed by the actions of Congress and the President. They are tired of us not being prepared for what appears to be the inevitable. This is why this legislation is so important. We want the American people to know that there are some of us in Congress who are thinking ahead and who do not want a replay of the last Congress.

I want to especially note the support of my good friend Senator STEVENS, the distinguished Senator from Alaska and chairman of the Appropriations Committee. His support of this bill is crucial and I thank him for it. I wish him well in overseeing the appropriations process. While I am sure we will have our differences, I am confident that he will do his best to ensure that the Senate enacts the appropriations bills in an efficient and expeditious manner.

Let us show the American people that we learned our lessons from the last Congress. Passing this preventive measure will go a long way to restore American's faith that politics or stalled negotiations will not stop government operations. It will prove to our constituents that we will never again allow a Government shutdown, or the threat of a Government shutdown, to be used for political gain. I hope the Senate will act quickly on this important matter.●

By Mr. BUMPERS (for himself, Mrs. MURRAY, and Mr. WELLSTONE):

S. 229. A bill to provide for a voluntary system of public financing of

Federal elections, and for other purposes; to the Committee on Finance.

THE PUBLIC CONFIDENCE IN CAMPAIGNS ACT OF 1997

Mr. BUMPERS. Mr. President, I come to the floor today to introduce the Public Confidence in Campaigns Act of 1997 for Senator MURRAY and myself. We chose that title because the purpose of the bill is to establish public finance of political campaigns in this country.

The McCain-Feingold bill, of course, is the topic right now. That is the one that the press talks about. That is the one that everybody in the Senate is looking at. I am for the McCain-Feingold bill—and I have the utmost respect for the authors of the bill—but I can tell you that the McCain-Feingold bill is only a small step in the right direction, if the people of this body are really interested in reversing the pervasive cynicism about the political process that is abroad in our country.

Everybody knows that the money game is out of control in politics. Contributions during the last 2 years—that is, soft money and hard money combined—was up 73 percent from 1993 and 1994. You think about it. A 73-percent increase. I have no reason to believe that the increase will not be another 50 to 100 percent in the 2-year cycle prior to the year 2000. Why wouldn't the American people be cynical? The average Senate race today costs $4 million. I have never spent more than $1.5 million, not because of choice but because I am a lousy fundraiser. I never had it. But the average Senate race is $4 million. In California, $20 to $25 million is now typical for each of the candidates.

More and more millionaires are running for Congress because it is obvious that money dictates the outcome. Ninety percent of the people who are elected to Congress spent more money than their opponents. That means if you are a millionaire, or if you have the ability to raise more money than your opponent, you have a 90-percent chance of being elected. That is what the statistics show. The Congress is supposed to be a microcosm of America. There are at least 25 to 35 millionaires in the U.S. Senate. There are hardly 25 percent of the American people who are millionaires.

In 1995 and 1996, 400 corporations, labor unions, and individuals—400—gave the two major parties $100,000 or more in soft money. I repeat: Soft and hard money to the political parties is up 73 percent in 2 years. Even the stock market has not gone up that fast. And rightly or wrongly the cynicism of the American people about our political system is reflected in the small number of people in this country who contribute to campaigns. Why? Because "Joe Lunch Bucket" out there has this nagging suspicion that $100,000 contributions, $500,000 contributions, or even $5,000 individual contributions, are completely out of his league. He knows that his $10 or $15 is going nowhere. That is the one of the reasons he does not bother to vote. He has no confidence in his own ability to participate and make a difference, the very foundation of a democracy. And "Joe Lunch Bucket" knows that people who give $100,000 are not giving money out of patriotism and altruism.

For the whole process of Federal election in the last 2 years the parties and the individual candidates spent $2 billion. That is a staggering sum of money. Campaign spending 20 years ago when we started reforming the system was a mere fraction of $2 billion.

This morning, yesterday morning, every morning you pick up the Washington Post and the New York Times, and you'll see a story in there about the influence of money. It isn't just soft money given by Indonesians or aliens. The Times last week had a story showing that Members who vote right on particular issues get five times as much money later on from the people who benefit from that right vote than they had gotten in the past.

As long as we finance campaigns the way we are financing them now, the Post and the Times will continue to have a field day, and the Members of Congress will be like gladiators in the arena for the amusement and enjoyment of people who like to watch the battle. I am not being critical of the press for reporting these stories. All I am saying is that democracy is threatened by cynicism.

The formula for voluntary limits in the McCain-Feingold bill is a step in the right direction. It's the same formula we have in our bill: $400,000 plus 30 cents for the first 4 million eligible voters in your State; 25 cents for every eligible voter over 4 million with a minimum of $950,000 and maximum of $5.5 million. My State of Arkansas would get the minimum, $950,000, in a Senate race, and a maximum of $5.5 million would apply in California. And the figure of $5.5 million as a maximum is not an inducement for a Senate candidate in California to accept public funding and comply with that kind of a maximum when they are spending $20 to $25 million each in California. But let us admit it: Even $5.5 million is an obscene amount of money. That is what you get if you voluntarily limit the amount of money you are going to spend. If you agree, if you are from Arkansas, to accept $950,000, in the general election you will get full funding from the U.S. Treasury. And I will come back to where the money comes from in just a moment.

Mr. President, there is a fundamental question being asked in this country. And, if it isn't being asked, it ought to be; that is, how long can a democracy survive when the laws we pass and the people we elect depend on how much special interest money is put into a campaign? And consider the fact that the candidate with the most money wins 90 percent of the time. That speaks volumes. When you consider the fact that if you vote right on a bill that benefits somebody, and you get five times as much money from that somebody as you got in the past, that speaks volumes. Of course, our democracy is threatened when we continue this money game.

There is a study by the Library of Congress—and anybody who is interested in it, if they will drop me a line or call me, I will send them a copy of it—of campaign finance in 19 nations. And other than the United States only 1 of the 19 nations, Malaysia, finances campaigns with private contributions. We are the only Western nation that finances campaigns with private contributions in this way.

Mr. President, we may not pass this bill, but until a public finance bill passes, the media will continue to have a field day, and you can expect a story, not because you did anything illegal or unethical, but you can depend on a story anytime you vote on a major piece of legislation if anybody who benefited from that gave you money in the last election in any significant amount. And the people will harbor those same suspicions.

Why would the people of this body and the House of Representatives not want to get rid of such a system? They are the ones who are most vulnerable, to say nothing of the destruction of our democracy. Even under the McCain-Feingold bill, which I will support, you still are going to have special interest money, and it is not going to eliminate the basic problem, which is cynicism about what that money buys.

So, Mr. President, it is an interesting thing that the people of this body—and I have talked to a number trying to recruit cosponsors, Republicans and Democrats—almost without exception say, "I know public financing is where we are going, but not yet. Later."

Why later? McCain-Feingold has gotten all the attention, and perhaps McCain-Feingold is the most we can hope for this year, but it is time to start the debate on the public finance legislation that everybody in this body knows is absolutely essential to our future. It is going to pass. I may not be here when it passes, but I can promise you it is going to pass.

Everybody is playing the stock market today. The market has been on a roll, up about 30 percent in 1996. You cannot lose. Just put it on anything, they say. You cannot lose. I will tell you of a better investment than putting your money in the stock market, and that is to put your money into this Congressional Election Campaign Fund we are proposing and take special interest money out of the political process. You talk about a return on your investment. That will be the biggest return America ever got on every dollar it puts in.

People in the coffee shops of America do not do as they used to. One time about 2 years ago, I was in my hometown in the coffee shop where I used to drink coffee in this little town of 1,500, 2,000 people, and the subject came up with some of my old coffee-drinking buddies about public financing. The first thing I heard was, "I don't want my tax money going to politicians to finance campaigns." And I gave that friend of mine a lesson in 103-A civics and 103-A economics. No. 1, he has a civic duty to participate, which he does not do. He is not giving any of his private money, which is his right, and he does not want his tax money to be used, which is an abdication of his responsibility and an abdication of everything he believes about campaign finance because he is willing to let the rich people and wealthy organizations of the country give the money and yet it causes the very cynicism he exemplifies and that we are trying to remedy.

Why would the people of this body say "later" to public finance? Admittedly, 10 years ago, only 27 percent of the people believed public financing of campaigns was a good idea. But it has worked beautifully since 1976 for the Presidential campaign, and it will work for us. Why would it not? And why would Senators in 1997 be afraid to vote for public financing of campaigns when 68 percent of the people in a Mark Mellman Poll this fall said they favor the law in Maine, the only State in the Nation which has passed a full public funding campaign bill. And 68 percent of the people, when you explain the Maine bill, say, "I favor it." And 65 percent of the people in this country in a Gallup Poll said they favored banning all private contributions and believed in 100 percent public financing of campaigns.

Let me describe the details of the bill very quickly and then I will introduce the bill.

First of all, it establishes a Congressional Election Campaign Fund. And here is the way it works. When you file your tax returns today, there is a provision there which says that if you would like to direct $3 of your tax payment to the Presidential campaign fund, check here. It does not cost you a thing. You think about that. It does not cost you a thing; it is deducted from your taxes, and yet people are declining all the time to check the $3 contribution box even though their taxes are reduced by $3. It is really Federal funds. And yet we have to constantly prop people up and tell them it is their patriotic duty to contribute to that.

I found it very healthy in the last campaign to know that Senator Dole and President Clinton were using money in equal amounts. They were not out asking for private contributions. Each one of them said, "I will participate," and each one of them received about $60 million, and they got along just fine.

Under our bill, you can give $10, if you want, $3 to the Presidential campaign, $7 to the congressional campaign. As I said, that $10 contribution will pay you bigger dividends by far than any investment you ever made in your life. You will not have to worry why somebody voted for or against a bill; at least you will know they did not do it because somebody gave them money in the last campaign or has promised to give them money in a future campaign. And, in addition to the $10, we allow Americans to add on to their tax payment a contribution to the Congressional Election Campaign Fund. Wealthy people—and there are about 5 times as many millionaires right now as there were 10 years ago—would be allowed to give up to $5,000 to this campaign fund just because they are patriots. Up to $100 of this add-on is tax deductible. And if their spouses join in it, they have a $200 tax deduction. It is not much, a small incentive. But wouldn't it be wonderful if all the people worth $1 million, $5 million, $10 million in this country, or even those of ordinary means, would contribute $5,000 to that fund just because they love the country, believe in democracy and want to see it thrive?

We also have a provision that, if the fund runs dry, Congress will appropriate the deficiency. If Congress refuses to appropriate the deficiency, then everybody will be reduced on a pro rata basis.

Let me repeat. You do not qualify for this money unless you agree to limit your spending according to the formula that is set out in the bill. How do you get to the general election for full funding, since we have primaries before the general? Well, we will participate in that, too. And here is the way we do that. You can spend 60 percent of what you can spend in a general.

Back to my home State of Arkansas, let us assume we are eligible for $1 million. We can spend 60 percent of that in the primary, or $600,000, and, of the $600,000, you must raise 50 percent of that, or $300,000. So, to that extent, you still have to go out with your tin cup and raise $300,000. Contributions are still limited to $1,000, just as they are under existing law. But before you can even qualify for primary money, you have to raise $25,000 in $100 contributions from within your State. That is not harsh. Anybody in the State of Arkansas, or any other State, that cannot get 250 people to give $100 does not have any business running. He is not credible. But, once you raise $25,000, then you become eligible for 50 percent Federal funding in the primary.

We eliminate totally soft money. Soft money is what the investigation of contributions to the DNC is all about. When you consider the fact that soft money contributions and hard money contributions to the parties is up 73 percent—get rid of it. Who needs this investigation we are getting ready to launch here in the Congress? You think about all the people's business that we need to be conducting, and what are we doing? Holding an investigation about all the Indonesian money and alien money. Not only do we eliminate soft money, we say that no illegal alien, or even a legal alien, can contribute, unless they are eligible to vote. Nobody—nobody can contribute in these campaigns unless they are eligible to vote. I think that is about as good a test as you can find.

Let us assume, in the next election, I say, "OK, I am going to limit my spending to $1 million." That is the limit under my bill for this State. And I agree I will limit my spending to $1 million. My opponent, who happens to be worth $100 million says, "You have to be kidding. I am planning to buy this election. I have $100 million to do it with." Then, for every dollar he spends above $1 million, we will match up to 100 percent, which would be $2 million.

If you are running against a man or a woman who is willing to spend $10 million of his or her own money, I think you could win. I can tell you a story of a Governor's race in Arkansas in 1970. There was a young, good looking, dynamic man running for Governor down there who spent $300,000 dollars and beat somebody who spent $3.5 million.

You can shame people. You can shame people for spending too much money of their own. Sometimes shame is not enough because, as I have already pointed out, 90 percent of the time the candidate who spends the most money wins. So maybe our bill is not perfect on that score, but it will exact a political price from those who seek to buy an election by outspending a candidate who accepts these limits.

And, on independent expenditures, the bane of the Nation, these unnamed, unseen people who run television ads calling you every scurrilous name under the shining Sun, they don't mention the name of the guy running against you, they just tell the voters what a terrible guy you are—using whatever is a hot issue at the time, "He voted to burn American flags"—they never mention the opponent. Under our bill, if you have an independent expenditure of $1,000 or more, you have to report it within 24 hours, and if you spend more than $10,000 on independent expenditures, we will match that for the poor guy who has volunteered to limit his spending. The only difference between our bill and McCain-Feingold on PAC's is that we allow a $2,000 PAC contribution, and McCain-Feingold only allows $1,000. The current level is $5,000.

Let me elaborate just a moment on that. I am not a person who thinks PAC's are inherently evil. I think any time a group of people who get together and contribute to a fund because they would like to have some influence, rather than just giving $10, $20, $50, $100 apiece, they ought to be allowed to do that.

As I have already said, we only allow people who can vote in this country in Federal elections to contribute. And, if you agree to accept Federal funding, $10,000 is the maximum amount of your own money you can spend. And our bill takes effect in all elections after December 31, 1998.

Mr. President, while my bill is not perfect, we have been working on it for 4 months. We have met through staff conferences. I have talked to other Senators. I can tell you, the time has come to deal with public finance. I guess the best way to close—I think about a movie, one of my three or four all-time favorite movies, "To Kill A Mockingbird." Gregory Peck was a country lawyer, and I guess I relate to it because I was a country lawyer. You remember, he was defending a black man charged with rape, who was totally innocent, in a small Southern town. The case was charged with racism.

He made the most eloquent speech to the jury in his closing argument, and he finished by saying, "For God's sake, do your duty." I cannot think of a better way to end this statement to my colleagues. The time has come to do our duty to salvage, to save our democracy.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to printed in the RECORD, as follows:

S. 229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF ELECTION ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Public Confidence in Campaigns Act of 1997".

(b) AMENDMENT OF ELECTION ACT.—As used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Election Act; table of contents.

TITLE I—REFORM OF SENATE CAMPAIGN FINANCING

Subtitle A—Voluntary Congressional Senate Campaign Financing System

Sec. 101. Senate election campaign financing.

Sec. 102. Reporting requirements.

Sec. 103. Reporting requirements for certain independent expenditures.

Subtitle B—Reduction in Limit on PAC Contributions to Senate Candidates

Sec. 111. Reduction in limit on PAC contributions to Senate candidates.

TITLE II—PUBLIC FINANCING SYSTEM

Sec. 201. Increase in current voluntary checkoff system.

Sec. 202. Voluntary contributions to Congressional Election Campaign Fund.

TITLE III—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

Sec. 301. Soft money of political parties.

Sec. 302. State Party Grassroots Funds.

Sec. 303. Reporting requirements.

TITLE IV—PROHIBITION OF CONTRIBUTIONS BY INDIVIDUALS INELIGIBLE TO VOTE

Sec. 401. Prohibition of contributions by individuals ineligible to vote.

TITLE I—REFORM OF SENATE CAMPAIGN FINANCING

Subtitle A—Voluntary Congressional Senate Campaign Financing System

SEC. 101. SENATE ELECTION CAMPAIGN FINANCING.

(a) IN GENERAL.—FECA is amended by adding at the end the following new title:

"TITLE V—ELECTION SPENDING LIMITS AND BENEFITS

"TITLE V—ELECTION SPENDING LIMITS AND BENEFITS

"Subtitle A—Senate Election Campaigns

"Sec. 501. Expenditure limitations.

"Sec. 502. Contribution limitations.

"Sec. 503. Eligibility to receive benefits.

"Sec. 504. Benefits eligible candidate entitled to receive.

"Subtitle B—Administrative Provisions

"Sec. 521. Certifications by Commission.

"Sec. 522. Examination and audits; repayments and civil penalties.

"Sec. 523. Judicial review.

"Sec. 524. Reports to Congress; certifications; regulations.

"Sec. 525. Closed captioning requirement for television commercials of eligible candidates.

"Subtitle C—Congressional Election Campaign Fund

"Sec. 531. Establishment and operation of the Fund.

"Sec. 532. Designation of receipts to the Fund.

"Subtitle A—Senate Election Campaigns

"SEC. 501. EXPENDITURE LIMITATIONS.

"(a) IN GENERAL.—An eligible Senate candidate may not make expenditures with respect to any election aggregating more than the limit applicable to the election under subsection (b).

"(b) APPLICABLE LIMITS.—For purposes of subsection (a), except as otherwise provided in this subtitle—

"(1) GENERAL ELECTION EXPENDITURE LIMIT.—

"(A) IN GENERAL.—The limit for a general election shall be equal to the lesser of—

"(i) $5,500,000; or

"(ii) the greater of—

"(I) $950,000; or

"(II) $400,000, plus an amount equal to the sum of 30 cents multiplied by the voting age population not in excess of 4,000,000, and 25 cents multiplied by the voting age population in excess of 4,000,000.

"(B) SPECIAL RULE WHERE ONLY 1 TRANSMITTER.—In the case of an eligible Senate candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, subclause (II) of paragraph (1)(B)(ii) shall be applied by substituting '80 cents' for '30 cents' and '70 cents' for '25 cents'.

"(2) PRIMARY ELECTION EXPENDITURE LIMIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the limit for a primary election is an amount equal to 60 percent of the general election expenditure limit under paragraph (1).

"(B) CERTAIN PRIMARY ELECTIONS TREATED AS GENERAL ELECTIONS.—If a primary election may result in the election of a person to a Federal office, the limit for the election is the general election expenditure limit under paragraph (1).

"(3) RUNOFF ELECTION EXPENDITURE LIMIT.—The limit for a runoff election is an amount equal to 30 percent of the general election expenditure limit under paragraph (1).

"(c) PAYMENT OF TAXES.—The limitations under subsection (b) shall not apply to any expenditure for Federal, State, or local taxes with respect to earnings on contributions raised.

"(d) EXCEPTIONS FOR COMPLYING CANDIDATES RUNNING AGAINST NONCOMPLYING CANDIDATES.—

"(1) EXCESSIVE CONTRIBUTIONS TO, OR PERSONAL EXPENDITURES BY, OPPOSING CANDIDATE.—

"(A) 10 PERCENT EXCESS.—If any opponent of an eligible Senate candidate is a non-eligible candidate who—

"(i) has received contributions; or

"(ii) has made expenditures from a source described in section 502(a);

in an aggregate amount equal to 110 percent of the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit applicable to the eligible Senate candidate, the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit (as the case may be) applicable to the eligible Senate candidate shall be increased by 20 percent.

"(B) 50 PERCENT EXCESS.—If any opponent of an eligible Senate candidate is a non-eligible candidate who—

"(i) has received contributions; or

"(ii) has made expenditures from a source described in section 502(a);

in an aggregate amount equal to 150 percent of the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit applicable to the eligible Senate candidate, the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit (as the case may be) applicable to the eligible Senate candidate (without regard to subparagraph (A)) shall be increased by 50 percent.

"(C) 100 PERCENT EXCESS.—If any opponent of an eligible Senate candidate is a non-eligible candidate who—

"(i) has received contributions; or

"(ii) has made expenditures from a source described in section 502(a);

in an aggregate amount equal to 200 percent of the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit applicable to the eligible Senate candidate, the general election expenditure limit, primary election expenditure limit, or runoff election expenditure limit (as the case may be) applicable to the eligible Senate candidate (without regard to subparagraph (A) or (B)) shall be increased by 100 percent.

"(2) Revocation of eligibility of opponent.—If the status of eligible Senate candidate of any opponent of an eligible Senate candidate is revoked under this title, the general election expenditure limit applicable to the eligible Senate candidate shall be increased by 20 percent.

"(e) Expenditures in Response to Independent Expenditures.—If an eligible Senate candidate is notified by the Commission under section 304(c)(4) that independent expenditures totaling at least $1,000 or more have been made in the same election in favor of another candidate or against the eligible candidate, the eligible candidate shall be permitted to spend an amount equal to the amount of the independent expenditures, and any such expenditures shall not be subject to any limit applicable under this title to the eligible candidate for the election.

"SEC. 502. CONTRIBUTION LIMITATIONS.

"(a) Personal Contributions.—

"(1) In general.—An eligible Senate candidate may not, with respect to an election cycle, make contributions or loans to his or her own campaign from personal funds totaling more than $10,000.

"(2) Aggregation.—For purposes of paragraph (1), any contribution or loan to a candidate's campaign by a member of the candidate's immediate family shall be treated as made by the candidate.

"(b) Aggregate Contributions.—

"(1) General election.—An eligible Senate candidate may not solicit or receive contributions with respect to a general election.

"(2) Primary and runoff elections.—An eligible Senate candidate may, subject to any limits, prohibitions, or other requirements of this Act, receive contributions with respect to a primary or runoff election equal to an amount not greater than 50 percent of the applicable limit for the election under section 501 (determined without regard to subsection (d) or (e) thereof).

"SEC. 503. ELIGIBILITY TO RECEIVE BENEFITS.

"(a) In General.—For purposes of this subtitle, a candidate is an eligible Senate candidate if the candidate—

"(1) meets the filing requirements of subsection (b);

"(2) meets, and continues to meet, the expenditure and contribution limits of sections 501 and 502; and

"(3) in the case of a primary election, meets the threshold contribution requirements of subsection (c).

"(b) Filing Requirements.—

"(1) Primary.—The requirements of this subsection are met with respect to a primary election if, not later than the date the candidate files as a candidate for the election with the appropriate State election official (or, if earlier, not later than 30 days before the election), the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate will meet the expenditure and contribution limits of this subtitle;

"(B) the candidate will not accept any contributions in violation of section 315; and

"(C) the candidate will meet requirements similar to the requirements of clauses (ii), (iii), (iv), (v), (vi), and (vii) of paragraph (2)(A).

"(2) General election.—

"(A) In general.—The requirements of this subsection are met with respect to a general election if the candidate certifies, under penalty of perjury, to the Secretary of the Senate that—

"(i) the candidate has met the expenditure and contribution limits of this subtitle with respect to any primary or runoff election and will meet such limits for the general election;

"(ii) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(iii) the candidate will deposit all payments received under this subtitle in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(iv) the candidate will furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

"(v) the candidate will cooperate in the case of any audit and examination by the Commission under section 522 and will pay any amounts required to be paid under that section;

"(vi) the candidate will meet the closed captioning requirements of section 525; and

"(vii) the candidate intends to make use of the benefits provided under section 504.

"(B) Time for filing.—The certification under subparagraph (A) shall be filed not later than 7 days after the earlier of—

"(i) the date the candidate qualifies for the general election ballot under State law; or

"(ii) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(c) Threshold Contribution Requirements.—

"(1) In general.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount not less than $25,000.

"(2) Only $100 contributions taken into account.—Allowable contributions of an individual shall not be taken into account under paragraph (1) to the extent such contributions exceed $100.

"(3) Definitions.—In this subsection:

"(A) Allowable contribution.—The term 'allowable contribution' means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

"(B) Applicable period.—The term 'applicable period' means the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on the date on which the certification under subsection (b)(1) is filed by the candidate.

"SEC. 504. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

"(a) In General.—An eligible Senate candidate shall be entitled to payments from the Congressional Election Campaign Fund in an amount equal to—

"(1) in the case of a general election, an amount equal to the general election expenditure limit applicable to the candidate under section 501, and

"(2) in the case of a primary or runoff election, an amount equal to the sum of—

"(A) the amount of contributions received by the candidate with respect to the election not in excess of the limitation under section 502(b), plus

"(B) the amount of any increases in the applicable limit for such election by reason of subsections (d) and (e) of section 501 (relating to opponents exceeding limits and independent expenditures).

"(b) Use of Payments.—Payments received by a candidate under subsection (a) shall be used to defray expenditures incurred with respect to the applicable election period for the candidate.

"Subtitle B—Administrative Provisions

"SEC. 521. CERTIFICATIONS BY COMMISSION.

"(a) General Eligibility.—The Commission shall determine whether a candidate is eligible to receive benefits under subtitle A. The initial determination shall be based on the candidate's filings under this title. Any subsequent determination shall be based on relevant additional information submitted in such form and manner as the Commission may require.

"(b) Certification of Benefits.—

"(1) In general.—Not later than 5 business days after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 504, the Commission shall certify eligibility for, and the amount of, such benefits.

"(2) Requests.—Any request for payments under paragraph (1) shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirement of this title.

"(3) Partial certification.—If the Commission determines that any portion of a request does not meet the requirement for certification, the Commission shall withhold the certification for that portion only and inform the candidate as to how the request may be corrected.

"(4) Certification withheld.—The Commission may withhold certification if it determines that a candidate who is otherwise eligible has engaged in a pattern of activity indicating that the candidate's filings under this title cannot be relied upon.

"SEC. 522. EXAMINATION AND AUDITS; REPAYMENTS AND CIVIL PENALTIES.

"(a) Examinations and Audits.—

"(1) General elections.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 5 percent of the eligible Senate candidates, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether such candidates have complied with the conditions of eligibility and other requirements of this title. The Commission shall conduct an examination and audit of the accounts of all candidates for election to an office where any eligible candidate for the office is selected for examination and audit.

"(2) Special election.—After each special election involving an eligible candidate, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this Act.

"(3) Affirmative vote.—The Commission may conduct an examination and audit of the campaign accounts of any eligible Senate candidate in a general election if the Commission determines that there exists reason to believe whether such candidate may have violated any provision of this title.

"(b) Repayments.—

"(1) In general.—If the Commission determines that any amount of a payment to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, or was not used as provided for in this title, the Commission shall so notify such candidate, and such candidate shall pay the amount of such payment.

"(2) EXCESS EXPENDITURES OF CANDIDATES.—If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures in excess of any limit under subtitle A, the Commission shall notify the candidate and the candidate shall pay the amount of the excess.

"(c) CIVIL PENALTIES.—

"(1) EXCESS EXPENDITURES.—

"(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed a limitation under subtitle A by 2.5 percent or less shall pay to the Commission an amount equal to the amount of the excess expenditures.

"(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed a limitation under subtitle A by more than 2.5 percent and less than 5 percent shall pay to the Commission an amount equal to three times the amount of the excess expenditures.

"(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed a limitation under subtitle A by 5 percent or more shall pay to the Commission an amount equal to three times the amount of the excess expenditures plus, if the Commission determines such excess expenditures were willful, a civil penalty in an amount determined by the Commission.

"(2) MISUSED FUNDS OF CANDIDATES.—If the Commission determines that an eligible Senate candidate used any amount received under this title in a manner not provided for in this title, the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

"(d) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title and not expended on or before the date of the general election shall be repaid within 30 days of the election, except that a reasonable amount may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(e) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of such election.

"SEC. 523. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 524. REPORTS TO CONGRESS; CERTIFICATIONS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate and House of Representatives setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts of benefits certified by the Commission as available to each eligible candidate under this title; and

"(3) the amount of repayments, if any, required under section 522, and the reasons for each repayment required.

"(b) DETERMINATIONS BY COMMISSION.—Subject to sections 522 and 523, all determinations (including certifications under section 521) made by the Commission under this title shall be final and conclusive.

"(c) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (d), to conduct such audits, examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(d) REPORT OF PROPOSED REGULATIONS.—The Commission shall submit to the House of Representatives and to the Senate a report containing a detailed explanation and justification of each rule and regulation of the Commission under this title. No such rule, regulation, or form may take effect until a period of 30 calendar days has elapsed after the report is received. As used in this subsection, the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

"SEC. 525. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE CANDIDATES.

"No eligible Senate candidate may receive amounts under subtitle A unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.

"Subtitle C—Congressional Election Campaign Fund

"SEC. 531. ESTABLISHMENT AND OPERATION OF THE FUND.

"(a) IN GENERAL.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the Congressional Election Campaign Fund (hereafter in this title referred to as the 'Fund'). The amounts designated for the Fund shall remain available without fiscal year limitation for purposes of providing benefits under this title and making expenditures for the administration of the Fund. The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 521, except as provided in subsection (c), the Secretary shall issue within 48 hours to an eligible candidate the amount of payments certified by the Commission to the eligible candidate out of the Fund.

"(c) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—

"(1) IN GENERAL.—If, at the time of a certification by the Commission under section 521 for payment to an eligible candidate, the Secretary determines that the monies in the Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) PAYMENT UPON FINDING OF SUFFICIENT MONIES.—Amounts withheld under paragraph (1) shall be paid during the same election cycle when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3) ESTIMATES.—

"(A) IN GENERAL.—Not later than March 31 of any calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the Fund which will be available to make payments required by this title in the succeeding calendar year, taking into account the amounts estimated to be transferred to the Fund during the calendar year of the election; and

"(ii) the amount of expenditures which will be required under this title in such calendar year.

"(B) NOTICE OF ESTIMATED REDUCTION.—If the Secretary determines that there will be insufficient monies in the Fund to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on April 30 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments under this subsection. Such notice shall be by registered mail.

"(d) NOTIFICATION.—The Secretary shall notify the Commission and each eligible candidate by registered mail of any reduction of any payment by reason of subsection (c).

"SEC. 532. DESIGNATION OF RECEIPTS TO THE FUND.

"(a) APPROPRIATION.—There are hereby appropriated to the Fund the following amounts:

"(1) DESIGNATED AMOUNTS.—Amounts designated to the Fund under sections 6096(a)(2) and 6097 of the Internal Revenue Code of 1986.

"(2) PAYMENTS AND PENALTIES.—Payments and civil penalties received by the Commission under section 522.

"(b) AUTHORIZATION OF APPROPRIATIONS.—These are authorized to be appropriated for each fiscal year to the Fund the excess (if any) of—

"(1) the aggregate payments required to be made from the Fund under this title for the fiscal year, over

"(2) the sum of the balance in the Fund as of the close of the preceding fiscal year plus amounts paid into the Fund under subsection (a)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to elections occurring after December 31, 1998.

SEC. 102. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new sections:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"Sec. 304A. (a) Candidate Other Than Eligible Senate Candidate.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 503(b)(2) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for any primary, runoff, or general election in excess of the expenditure limit applicable to an eligible Senate candidate under section 501. Such declaration shall be filed at the time provided in section 503(b)(2)(B).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible Senate candidate under section 503; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for any primary, runoff, or general election which exceed 75 percent of the expenditure limit applicable to an eligible Senate candidate under section 501,

shall file a report with the Secretary of the Senate within 2 business days after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 2 business days after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 2 business days after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 100, 120, 140, 160, 180, and 200 percent of such limit.

"(3) The Commission—

"(A) shall, within 2 business days of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable election expenditure limit under section 501, shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 504(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 2 business days after making each such determination, notify each eligible Senate candidate in the election involved about such determination, and shall, when such contributions or expenditures exceed the election expenditure limit under section 501, certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 504(a).

"(b) Reports on Personal Funds.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502 during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 2 business days after such expenditures have been made or loans incurred.

"(2) The Commission within 2 business days after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 2 business days after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

"(c) Certifications.—Notwithstanding section 521(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of the Commission's own investigation or determination.

"(d) Shorter Periods for Reports and Notices During Election Week.—Any report, determination, or notice required by reason of an event occurring during the 7-day period ending with the general election shall be made within 24 hours (rather than 2 business days) of the event.

"(e) Copies of Reports and Public Inspection.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or under subtitle A of title V as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(f) Definitions.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V."

SEC. 108. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (8); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any person (including a political committee) making, obligating to make, or intending to make independent expenditures (including those described in subsection (b)(6)(B)(iii)) with respect to a candidate in an election aggregating $1,000 or more shall file a report within 24 hours after the date on which such person takes such action. An additional report shall be filed each time the person makes, obligates to make, or intends to make independent expenditures aggregating $1,000 or more are made with respect to the same candidate after the latest report filed under this subparagraph.

"(B) A report under subparagraph (A) shall be filed with the Clerk of the House of Representatives, the Secretary of the Senate, or the Commission, whichever is applicable, and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure is actually intended to support or to oppose. The Clerk of the House of Representatives and the Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a report transmit it to the Commission. Not later than 2 business days after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(4) The Commission may, upon a request of a candidate or on its own initiative, make its own determination that a person has made, has incurred obligations to make, or intends to make independent expenditures with respect to any candidate in any election which in the aggregate exceed the applicable amounts under paragraph (3). The Commission shall notify each candidate in such election of such determination within 2 business days after making it. Any determination made at the request of a candidate shall be made within 48 hours of the request.

"(5) At the time at which an eligible Senate candidate is notified under paragraph (3) or (4) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 504.

"(6) The Clerk of the House of Representatives and the Secretary of the Senate shall make any report received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).

"(7)(A) A person that makes a reservation of broadcast time to which section 315(a) of the Communications Act of 1947 (47 U.S.C. 315(a)) applies, the payment for which would constitute an independent expenditure, shall at the time of the reservation—

"(i) inform the broadcast licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the broadcast licensee of the names of all candidates for the office to which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and

"(iii) provide the broadcast licensee a copy of the report described in paragraph (3).

"(B) For purposes of this paragraph, the term 'broadcast' includes any cablecast."

Subtitle B—Reduction in Limit on PAC Contributions to Senate Candidates

SEC. 111. REDUCTION IN LIMIT ON PAC CONTRIBUTIONS TO SENATE CANDIDATES.

Section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) is amended to read as follows:

"(A) to any candidate and the candidate's authorized political committees with respect to—

"(i) any election for Federal office (other than United States Senator) which, in the aggregate, exceed $5,000, or

"(ii) any election for the office of United States Senator which, in the aggregate, exceed $2,000."

TITLE II—PUBLIC FINANCING SYSTEM

SEC. 201. INCREASE IN CURRENT VOLUNTARY CHECKOFF SYSTEM.

(a) In General.—Section 6096(a) of the Internal Revenue Code of 1986 (relating to designation by individuals) is amended to read as follows:

"(a) In General.—Every individual (other than a nonresident alien) whose income tax liability for the taxable year is $10 or more may designate that $10 shall be paid over to the Federal election campaign funds as follows:

"(1) $3 to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a).

"(2) $7 to the Congressional Election Campaign Fund in accordance with the provisions of subtitle C of title V of the Federal Election Campaign Act of 1971.

In the case of a joint return of a husband and wife having an income tax liability of $20 or more, each spouse may designate that $10 shall be paid as provided in the preceding sentence."

(b) Conforming Amendment.—Section 9006(a) is amended by striking "section 6096" and inserting "section 6096(a)(1)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 202. VOLUNTARY CONTRIBUTIONS TO CONGRESSIONAL ELECTION CAMPAIGN FUND.

(a) General Rule.—Part VIII of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

"Subpart B—Designation of Additional Amounts to Congressional Election Campaign Fund

"Sec. 6097. Designation of additional amounts.

"SEC. 6097. DESIGNATION OF ADDITIONAL AMOUNTS.

"(a) General Rule.—Every individual (other than a nonresident alien) who files an income tax return for any taxable year may designate an additional amount which is not less than $1 and not more than $5,000 to be paid over to the Congressional Election Campaign Fund established under subtitle C of title V of the Federal Election Campaign Act of 1971.

"(b) Manner and Time of Designation.—A designation under subsection (a) may be made for any taxable year only at the time of filing the income tax return for the taxable year. Such designation shall be made on the page bearing the taxpayer's signature.

"(c) Treatment of Additional Amounts.—Any additional amount designated under subsection (a) for any taxable year shall, for all purposes of law, be treated as an additional income tax imposed by chapter 1 for such taxable year.

"(d) Income Tax Return.—For purposes of this section, the term 'income tax return' means the return of the tax imposed by chapter 1."

(b) Deductibility of Contributions.—

(1) In general.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. CONTRIBUTIONS TO CONGRESSIONAL ELECTION CAMPAIGN FUND.

"There shall be allowed as a deduction for any taxable year an amount equal to the lesser of—

"(1) the amount designated on the income tax return for the taxable year under section 6097(a), or

"(2) $100 ($200 in the case of a joint return)."

(2) Above-the-line deduction.—Section 62(a) of such Code is amended by adding after paragraph (16) the following new paragraph:

"(17) Congressional campaign fund contributions.—The deduction allowed by section 221."

(c) Conforming Amendments.—

(1) Part VIII of subchapter A of chapter 61 of such Code is amended by striking the heading and inserting:

"PART VIII—DESIGNATION OF AMOUNTS TO ELECTION CAMPAIGN FUNDS

"Subpart A. Federal Election Campaign Funds.

"Subpart B. Designation of additional amounts to Congressional Election Campaign Fund.

"Subpart A—Federal Election Campaign Funds".

(2) The table of parts for subchapter A of chapter 61 of such Code is amended by striking the item relating to part VIII and inserting:

"Part VIII. Designation of amounts to election campaign funds."

(3) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 221 and inserting:

"Sec. 221. Contributions to Congressional Election Campaign Fund.

"Sec. 222. Cross reference."

(d) Effective Date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1996.

TITLE III—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

SEC. 301. SOFT MONEY OF POLITICAL PARTIES.

Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end the following:

"SEC. 324. SOFT MONEY OF POLITICAL PARTIES.

"(a) National Committees.—A national committee of a political party (including a national congressional campaign committee of a political party, an entity that is established, financed, maintained, or controlled by the national committee, a national congressional campaign committee of a political party, and an officer or agent of any such party or entity but not including an entity regulated under subsection (b)) shall not solicit or receive any contributions, donations, or transfers of funds, or spend any funds, not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) State, District, and Local Committees.—

"(1) Limitation.—Any amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party and an agent or officer of any such committee or entity) during a calendar year in which a Federal election is held, for any activity that might affect the outcome of a Federal election, including any voter registration or get-out-the-vote activity, any generic campaign activity, and any communication that identifies a candidate (regardless of whether a candidate for State or local office is also mentioned or identified) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Activity not included in paragraph (1).—

"(A) In general.—Paragraph (1) shall not apply to an expenditure or disbursement made by a State, district, or local committee of a political party for—

"(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

"(ii) the costs of a State, district, or local political convention;

"(iii) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of the individual's time on activity during the month that may affect the outcome of a Federal election) except that for purposes of this paragraph, the non-Federal share of a party committee's administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election year to the committee's administrative and overhead expenses in the election year in question;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office; and

"(v) the cost of any campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, if the candidate activity is not an activity described in paragraph (1).

"(B) Fundraising.—Any amount that is expended or disbursed by a national, State, district, or local committee, by an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party, or by an agent or officer of any such committee or entity to raise funds that are used, in whole or in part, to pay the costs of an activity described in subparagraph (A) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(c) Tax-Exempt Organizations.—No national, State, district, or local committee of a political party shall solicit any funds for or make any donations to an organization that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986.

"(d) Candidates.—

"(1) In general.—Except as provided in paragraph (2), no candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office may—

"(A) solicit or receive funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

"(B) solicit or receive funds that are to be expended in connection with any election for other than a Federal election unless the funds—

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under section 315(a) (1) and (2); and

"(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office.

"(2) Exception.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for the individual's State or local campaign committee."

SEC. 302. STATE PARTY GRASSROOTS FUNDS.

(a) Individual Contributions.—Section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B) by striking "or" at the end;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; and

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or".

(b) Multicandidate Committee Contributions to State Party.—Section 315(a)(2) of FECA (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which in the aggregate, exceed $15,000; and

"(ii) any other political committee established and maintained by a State committee of a political party which, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or".

(c) Overall Limit.—

(1) In general.—Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by striking paragraph (3) and inserting the following:

"(3) Overall limit.—

"(A) Election cycle.—No individual shall make contributions during any election cycle that, in the aggregate, exceed $60,000.

"(B) Calendar year.—No individual shall make contributions during any calendar year—

"(i) to all candidates and their authorized political committees that, in the aggregate, exceed $25,000; or

"(ii) to all political committees established and maintained by State committees of a political party that, in the aggregate, exceed $20,000.

"(C) Nonelection years.—For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held."

(2) Definition.—Section 301 of FECA (2 U.S.C. 431) is amended by adding at the end the following:

"(20) Election cycle.—The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate seeks and ending on the date of the next general election for that office or sea; and

"(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election."

(d) State Party Grassroots Funds.—

(1) In general.—Title III of FECA (2 U.S.C. 301 et seq.) (as amended by section 301) is amended by adding at the end the following:

"SEC. 325. STATE PARTY GRASSROOTS FUNDS.

"(a) Definition.—In this section, the term 'State or local candidate committee' means a committee established, financed, maintained, or controlled by a candidate for other than Federal office.

"(b) Transfers.—Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if the district or local committee—

"(1) has established a separate segregated fund for the purposes described in section 324(b)(1); and

"(2) uses the transferred funds solely for those purposes.

"(c) Amounts Received by Grassroots Funds From State and Local Candidate Committees.—

"(1) In general.—Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in section 324(b)(1) that are for the benefit of that candidate shall be treated as meeting the requirements of 324(b)(1) and section 304(d) if—

"(A) the amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A); and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

"(ii) certifies that the requirements were met.

"(2) Determination of compliance.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in paragraph (1)(A)—

"(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

"(B) the committee must be able to demonstrate that its cash on hand contains funds meeting those requirements sufficient to cover the transferred funds.

"(3) Reporting.—Notwithstanding paragraph (1), any State Party Grassroots Fund that receives a transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from the candidate committee."

(2) Definition.—Section 301 of FECA (2 U.S.C. 431) (as amended by subsection (c)(2)) is amended by adding at the end the following:

"(21) State party grassroots fund.—The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for the purpose of making expenditures and other disbursements described in section 324(b)."

SEC. 303. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) Political Committees.—(1) The national committee of a political party, any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 324(b)(1) applies shall report all receipts and disbursements.

"(3) Any political committee shall include in its report under paragraph (1) or (2) the amount of any contribution received by a national committee which is to be transferred to a State committee for use directly (or primarily to support) activities described in section 324(b)(2) and shall itemize such amounts to the extent required by subsection (b)(3)(A).

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

"(5) If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in subsection (b) (3)(A), (5), or (6).

"(6) Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)."

(b) Report of Exempt Contributions.—Section 301(8) of FECA (2 U.S.C. 431(8)) is amended by inserting at the end the following:

"(C) The exclusion provided in subparagraph (B)(viii) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported."

(c) Reports by State Committees.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(e) Filing of State Reports.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information."

(d) Other Reporting Requirements.—

(1) Authorized committees.—Section 304(b)(4) of FECA (2 U.S.C. 434(b)(4)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by inserting "and" at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) Names and addresses.—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year"; and

(B) by inserting ", and the election to which the operating expenditure relates" after "operating expenditure".

TITLE IV—PROHIBITION OF CONTRIBUTIONS BY INDIVIDUALS INELIGIBLE TO VOTE

SEC. 401. PROHIBITION OF CONTRIBUTIONS BY INDIVIDUALS INELIGIBLE TO VOTE.

(a) Prohibition.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) in the heading by adding "AND INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE" at the end; and

(2) in subsection (a)—

(A) by striking "(a) It shall" and inserting the following:

"(a) Prohibitions.—

"(1) Foreign nationals.—It shall"; and

(B) by adding at the end the following:

"(2) Individuals not qualified to vote.—It shall be unlawful for an individual who is not qualified to register to vote in a Federal election to make a contribution, or to promise expressly or impliedly to make a contribution, in connection with a Federal election; or for any person to solicit, accept, or receive a contribution in connection with a Federal election from an individual who is not qualified to register to vote in a Federal election.".

(b) Inclusion in Definition of Identification.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking "and" the first place it appears; and

(B) by inserting ", and an affirmation that the individual is an individual who is not prohibited by section 319 from making a contribution" after "employer"; and

(2) in subparagraph (B) by inserting "and an affirmation that the person is a person that is not prohibited by section 319 from making a contribution" after "such person".

Bumpers/Murray "Public Confidence in Campaigns Act of 1997"

VOLUNTARY SPENDING LIMITS AND PUBLIC FINANCING TO RESTORE FAITH IN OUR POLITICAL SYSTEM

Establishes Congressional Election Campaign Fund to provide public financing to eligible Senate candidates who agree to voluntary spending limits similar to McCain/Feingold. Provides eligible candidates with matching funds in primary, full public financing in the general election.

The Fund is financed by expansion of the Presidential tax return check-off from $3 to $10 and creation of a voluntary tax return add-on allowing citizens to contribute to the Fund. The first $100 contributed through the add-on is tax deductible. ($200 for joint filers.)

Eliminates soft money contributions to political parties.

Requires reporting of independent expenditures, including identification of the candidate the independent expenditure seeks to support or oppose. Provides additional matching funds to eligible candidates who are targeted by independent expenditures of greater than $10,000.

Reduces limit on PAC contributions to candidates to $2000 for the primary, $2000 for the general election.

Prohibits contributions by foreign nationals and others who are ineligible to vote in federal elections.

Eligible candidates may not spend more than $10,000 of their own funds.

Applies to all elections held after December 31, 1998.

By Mr. THURMOND (for himself and Mr. HATCH):

S. 230. A bill to amend section 1951 of title 18, United States Code—commonly known as the Hobbs Act—and for other purposes; to the Committee on the Judiciary.

HOBBS ANTI-RACKETEERING ACT AMENDMENTS

Mr. THURMOND. Mr. President, today, I am introducing legislation to amend the Hobbs Anti-Racketeering Act to reverse the 1973 Supreme Court decision in United States versus Enmons, and to address a serious, long term, festering problem under our Nation's labor laws. I am pleased to have Senator HATCH, chairman of the Committee on the Judiciary, join me in introducing this bill. The United States regulates labor relations on a national basis and our labor management policies are national policies. These policies and regulations are enforced by laws such as the National Labor Relations Act that Congress designed to preempt comparable State laws.

I believe it is time for the Government to act and respond to what the Supreme Court did when it rendered its decision in the case of United States versus Enmons in 1973. Although labor violence continues to be a widespread problem in labor management relations today, the Federal Government has not moved in a meaningful way to address this issue. It is this decision's unfortunate result which this bill is intended to rectify.

The Enmons decision involved the Hobbs Anti-Racketeering Act which is intended to prohibit extortion by labor unions. It provides that: "Whoever in any way * * * obstructs, delays, or affects commerce in the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires to do so or commits or threatens physical violence to any person or property * * *" commits a criminal act. This language clearly outlaws extortion by labor unions. It outlaws violence by labor unions.

Although this language is very clear, the Supreme Court in Enmons created an exemption to the law which says that as long as a labor union commits extortion and violence in furtherance of legitimate collective-bargaining objectives, no violation of the act will be found. Simply put, the Court held that if the ends are permissible, the means to that end, no matter how horrible or reprehensible, will not result in a violation of the act.

The Enmons decision is wrong. This bill will make it clear that the Hobbs Act is intended to punish the actual or threatened use of force or violence, or fear thereof, to obtain property irrespective of the legitimacy of the extortionist's claim to such property and irrespective of the existence of a labor management dispute.

Let me discuss the Enmons case. In that case, the defendants were indicted for firing high-powered rifles at property, causing extensive damage to the property owned by a utility company—all done in an effort to obtain higher wages and other benefits from the company for striking employees. The indictment was, however, dismissed by the district court on the theory that the Hobbs Act did not prohibit the use of violence in obtaining legitimate union objectives. On appeal, the Supreme Court affirmed.

The Supreme Court held that the Hobbs Act does not proscribe violence committed during a lawful strike for the purpose of achieving legitimate collective-bargaining objectives, like higher wages. By its focus upon the motives and objectives of the property claimant who uses violence or force to achieve his or her goals, the Enmons decision has had several unfortunate results. It has deprived the Federal Government of the ability to punish significant acts of extortionate violence when they occur in a labor management context. Although other Federal statutes prohibit the use of specific devices or the use of channels of commerce in accomplishing the underlying act of extortionate violence, only the Hobbs Act proscribes a localized act of extortionate violence whose economic effect is to disrupt the channels of commerce. Other Federal statutes are not adequate to address the full effect of the Enmons decision.

The Enmons decision affords parties to labor-management disputes an exemption from the statute's broad proscription against violence which is not available to any other group in society. This bill would make it clear that the Hobbs Act punishes the actual or threatened use of force and violence which is calculated to obtain property without regard to whether the extortionist has a colorable claim to such property, and without regard to his or her status as a labor representative, businessman, or private citizen.

Mr. President, attempts to rectify the injustice of the Enmons decision have been before the Senate on several occasions. Shortly after the decision was handed down, a bill was introduced which was intended to repudiate the decision. Over the next several years, attempts were made to come up with language which was acceptable to organized labor and at the same time restored the original intent of the Hobbs Act.

Although bills achieving the same goals as the bill I am introducing today have made progress and one even passed the Senate, none has been enacted. It is time for the Senate to reexamine this issue and to restate its opposition to violence in labor disputes. Encouraged by their special exemption from prosecution for acts of violence committed in pursuit of legitimate union objectives, union officials who are corrupt routinely use terror tactics to achieve their goals.

From January 1975 to June 1996, the National Institute for Labor Relations Research has documented more than 8,700 reported cases of union violence. This chilling statistic gives clear testimony to the existence of a pervasive national problem.

Mr. President, violence has no place in our society, regardless of the setting. Our national labor policy has always been directed toward the peaceful resolution of labor disputes. It is ironic that the Hobbs Act, which was enacted in large part to accomplish this worthy goal, has been virtually emasculated. The time has come to change that. I think that my colleagues on both sides of the aisle share a common concern that violence in labor disputes, whatever the source, should be eliminated. Government has been unwilling to deal with this problem for too long. It is time for this Congress to act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom From Union Violence Act of 1997".

SEC. 2. INTERFERENCE WITH COMMERCE BY THREATS OR VIOLENCE.

Section 1951 of title 18, United States Code, is amended to read as follows:

"§ 1951. Interference with commerce by threats or violence

"(a) PROHIBITION.—Except as provided in subsection (c), whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion, or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section, shall—

"(1) if death results, be fined in accordance with this title, imprisoned for any term of years or for life or sentenced to death, or both; or

"(2) in any other case, be fined in accordance with this title, imprisoned for a term of not more than 20 years, or both.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'commerce' means any—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) commerce between any point in a State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) commerce between points within the same State through any place outside that State; and

"(D) other commerce over which the United States has jurisdiction;

"(2) the term 'extortion' means the obtaining of property from any person, with the consent of that person, if that consent is induced—

"(A) by actual or threatened use of force or violence, or fear thereof; or

"(B) by wrongful use of fear not involving force or violence; or

"(C) under color of official right;

"(3) the term 'labor dispute' has the same meaning as in section 2(9) of the National Labor Relations Act (29 U.S.C. 152(9)); and

"(4) the term 'robbery' means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his or her will, by means of actual or threatened force or violence, or fear of injury, immediate or future—

"(A) to his or her person or property, or property in his or her custody or possession; or

"(B) to the person or property of a relative or member of his or her family, or of anyone in his or her company at the time of the taking or obtaining.

"(c) EXEMPTED CONDUCT.—

"(1) IN GENERAL.—Subsection (a) does not apply to any conduct that—

"(A) is incidental to otherwise peaceful picketing during the course of a labor dispute;

"(B) consists solely of minor bodily injury, or minor damage to property, or threat or fear of such minor injury or damage; and

"(C) is not part of a pattern of violent conduct or of coordinated violent activity.

"(2) STATE AND LOCAL JURISDICTION.—Any violation of this section that involves any conduct described in paragraph (1) shall be subject to prosecution only by the appropriate State and local authorities.

"(d) EFFECT ON OTHER LAW.—Nothing in this section shall be construed—

"(1) to repeal, amend, or otherwise affect—

"(A) section 6 of the Clayton Act (15 U.S.C. 17);

"(B) section 20 of the Clayton Act (29 U.S.C. 52);

"(C) any provision of the Norris-LaGuardia Act (29 U.S.C. 101 et seq.);

"(D) any provision of the National Labor Relations Act (29 U.S.C. 151 et seq.); or

"(E) any provision of the Railway Labor Act (45 U.S.C. 151 et seq.); or

"(2) to preclude Federal jurisdiction over any violation of this section, on the basis that the conduct at issue—

"(A) is also a violation of State or local law; or

"(B) occurred during the course of a labor dispute or in pursuit of a legitimate business or labor objective.".

By Mr. BINGAMAN:

S. 231. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL CAVE AND KARST RESEARCH INSTITUTE ACT OF 1997

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to create a National Cave and Karst Research Institute in Carlsbad, NM. This bill will continue the efforts started by Congress in 1988 to develop the information needed to effectively manage and preserve the Nation's cave and karst resources.

In 1988, Congress directed the Secretaries of the Interior and Agriculture to provide an inventory of caves on Federal lands and to provide for the management and dissemination of information about the caves. The results of that effort have increased our awareness that cave and karst land forms are a resource we must learn how to manage for our future welfare. For example, in America, the majority of the Nation's fresh water is groundwater—25 percent of which is located in cave and karst regions. As we look to the 21st century, the protection of our groundwater resources is of critical importance, especially in the arid West. Furthermore, recent studies have indicated that caves contain valuable information related to global climate change, waste disposal, groundwater supply and contamination, petroleum recovery, and biomedical investigations. Caves also often have historical or cultural significance. Many have religious significance for native Americans. Yet, academic programs on these systems are virtually nonexistent; most research is conducted with little or no funding and the resulting data is scattered and often hard to locate.

To begin addressing this problem, in 1990 Congress directed the National Park Service to establish a cave research program and to study the feasibility of a centralized cave and karst research institute. In December 1994, the National Park Service submitted to Congress the National Cave and Karst Research Institute Study. As directed by Public Law 101-578, the report studied the feasibility of creating a National Research Institute in the vicinity of Carlsbad Caverns National Park. The report not only supported the establishment of the National Cave and Karst Research Institute, but also concluded that now is the ideal time to consider it.

The report to Congress lists several serious threats to our cave resources from continued uninformed management paractices. These threats include alterations in the surface waterflow patterns in karst regions, alternations in or pollution of water recharge zones, inappropriately placed toxic waste repositories, and poorly managed or designed sewage systems and landfills. The findings of the report conclude that it is only through a better understanding of cave resources that we can prevent detrimental impacts to America's natural resources and cave and karst systems.

The goals of the National Cave and Karst Research Institute, as outlined in the report, would be to develop and centralize scientific knowledge of cave resources, foster interdisciplinary cooperation in cave and karst research programs, and to promote environmentally sound, sustainable resource management practices. The National Cave and Karst Research Institute would be jointly administered by the National Park Service and another public or private agency, organization, or institution as determined by the Secretary.

Mr. President, the Park Service report to Congress also notes that the vicinity of Carlsbad Caverns National

Park is ideal particularly in light of the incredibly diverse cave and karst resources found throughout the region and the community support which already exists for the establishment of the institute. Numerous varieties of world class caves are located nearby. Furthermore, the Carlsbad Department of Development, after reviewing the National Cave and Karst Research Institute study report, has developed proposals to obtain financial support from available and supportive organizational resources—including personnel, facilities, equipment, and volunteers. The Department of Development also believes that it can obtain serious financial support from the private sector and would seek a matching grant from the State of New Mexico equal to the available Federal funds.

Mr. President, my legislation will help provide the necessary tools to help discover the wealth of knowledge contained in these important, but largely unexplored landforms. Carlsbad, NM already has in place many of the needed cooperative institutions, facilities, and volunteers that will work toward the success of this project. It is imperative that we take advantage of these conditions and establish the National Cave and Karst Research Institute.

By Mr. HARKIN (for himself, Mr. LEAHY, Mrs. BOXER, Mrs. MURRAY, Mr. INOUYE, Ms. MIKULSKI, and Mr. KERRY):

S. 232. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

THE FAIR PAY ACT OF 1997

• Mr. HARKIN. Mr. President, there is perhaps no other form of discrimination that has as direct an impact on the day-to-day lives of workers as wage discrimination. When women aren't paid what they are worth, we all get cheated.

The Equal Pay Act of 1963 prohibits sex-based discrimination in compensation for doing the same job. However, this statute fails to address other components of the pay equity problem such as job segregation. Current law has not reached far enough to combat wage discrimination when employers routinely pay lower wages to jobs that are dominated by women. More than 30 years after the passage of the Equal Pay Act, women's wages still lag behind their male counterparts' wages. This important issue demands our attention.

In the last Congress, I introduced the Fair Pay Act so we could close the wage gap once and for all. I am reintroducing this legislation in the 105th Congress so we can continue to fight for fairness on behalf of working families.

The Fair Pay Act is designed to pick up where the Equal Pay Act left off. The heart of the bill seeks to eliminate wage discrimination based upon sex, race, or national origin. This important legislation would amend the Fair Labor Standards Act of 1938 to require employers to provide equal pay for work in jobs that are comparable in skill, effort, responsibility, and working conditions. The Fair Pay Act would apply to each company individually and would prohibit companies from reducing employees' wages to achieve pay equity.

Wage gaps can result from differences in education, experience, or time in the work force and the Fair Pay Act does not interfere with that. But just as there is a glass ceiling in the American workplace, there is also what I call a glass wall—where women are on the exact same level as their male coworkers. They have the same skills, they have the same responsibilities, but they are still obstructed from receiving the same pay. It's a hidden barrier, but a barrier all the same. The Fair Pay Act is about knocking down the glass wall. It's a fundamental issue of fairness to provide equal pay for work of equal value to an employer.

Fair pay is a commonsense business issue. Women make up almost half of the work force and fair pay is essential to attract and keep good workers.

Fair pay is an economic issue. Working women, after all, don't get special discounts when they buy food and clothing for their families. They don't pay less for a ticket to the movies or gasoline for their cars.

And fair pay is a family issue. When women aren't paid what they are worth, families get cheated too. Over a lifetime the average woman loses $420,000 due to unequal pay practices. Such gaps in income are life changing for women and their families. The income gap can mean the difference between welfare and self-sufficiency, owning a home or renting, sending kids to college or to a minimum wage job, or having a secure retirement tomorrow instead of scrimping to survive today.

The Fair Pay Act has already been endorsed by a wide variety of groups and organizations. In addition, polling data consistently shows that over 70 percent of the American people support a law requiring the same pay for men and women in jobs requiring skills and responsibilities. The American people want fair pay legislation. Their elected representatives ought to want it too.

I would ask my colleagues to review this important legislation and come to me or my staff with any questions you may have. I welcome your comments and suggestions and urge your support. It's a simple issue of fairness for women to earn equal pay for work of equal value to an employer.•

• Mr. LEAHY. Mr. President, I am privileged to join Senator TOM HARKIN to introduce the Fair Pay Act.

Early in the next century, women—for the first time ever—will outnumber men in the U.S. workplace. In 1965, women held 35 percent of all jobs. That has grown to more than 46 percent today. And in a few years, women will make up a majority of the work force.

Fortunately, there are more business and career opportunities for working women today than 30 years ago. Unlike 1965, Federal, State, and private sector programs now offer women many opportunities to choose their own future. Working women also have opportunities to gain the knowledge and skills to achieve their own economic security.

But despite these gains, working women still face a unique challenge—achieving pay equity. Women currently earn, on average, 28 percent less than men. That means for every dollar a man earns, a woman earns only 72 cents. Over a lifetime, the average woman will earn $420,000 less than the average man based solely on her sex. This is unacceptable.

We must correct this gross inequity, and we must correct it now.

How is this possible with our Federal laws prohibiting discrimination? It is possible because we in Congress have failed to protect one of the most fundamental human rights—the right to be paid fairly for an honest day's work.

Unfortunately, our laws ignore wage discrimination against women, which continues to fester like a cancer in workplaces across the country. The Fair Pay Act of 1997 would close this legal loophole by prohibiting discrimination based on wages.

I do not pretend that this act will solve all the problems that women face in the workplace. But it is an essential piece of the puzzle.

Equal pay for equal work is often a subtle problem that is difficult to combat. And it does not stand alone as an issue that women face in the workplace. It is deeply intertwined with the problem of unequal opportunity. Closing this loophole is not enough if we fail to provide the opportunity for women, regardless of their merit, to reach higher paying positions.

The Government, by itself, cannot change the attitudes and perceptions of individuals or private businesses in hiring and advancing women, but it can set an example. Certainly, President Clinton has shown great leadership by appointing an unprecedented number of women to his administration. Just last week, Madeleine Albright became the first woman Secretary of State for the United States of America. I am confident she will do a great job, and I look forward to the day when a woman reaching this high an office is not news simply because of her gender. We are moving toward that day, but we are not there yet.

The private sector also has a long way to go to provide equal opportunity. The report released recently by the Glass Ceiling Commission found that 95 percent of the senior managers of Fortune 1000 industrial and Fortune 500 companies are white males. The Glass Ceiling Commission also found that when there are women in high places, their compensation is lower than white males in similar positions. This wage inequality is the issue we seek to address today.

For the first time in our country's long history, this bill outlaws discrimination in wages paid to employees in equivalent jobs solely on the basis of a worker's sex. I say it is about time. I commend Senator HARKIN for introducing the Fair Pay Act, and I am proud to be an original cosponsor of it.

The Fair Pay Act would remedy gender wage gaps under a balanced approach that takes advantage of the employment expertise of the Equal Employment Opportunity Commission [EEOC], while providing flexibility to small employers . In addition, it would safeguard legitimate wage differences caused by a seniority or merit pay system. And the legislation directs the EEOC to provide educational materials and technical assistance to help employers design fair pay policies.

A few months ago, I was privileged to help organize the first annual Vermont Women's Economic Security Conference in Burlington, VT. At this conference, I heard about the daily triumph of Vermont women succeeding in the workplace, even though many of them are paid below their male counterparts. These woman did not complain. No, they are proud to be earning a living. But they want to be paid fairly, and they should be paid fairly.

It is a basic issue of fairness to provide equal pay for work of equal value. The Fair Pay Act makes it possible for women to finally achieve this fundamental fairness. I urge my colleagues to support this legislation.•

By Ms. SNOWE:

S. 233. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, and for other purposes; to the Committee on Finance.

THE SMALL BUSINESS ENHANCEMENT ACT

• Ms. SNOWE. Mr. President, I introduce legislation designed to help America's small business. This legislation will assist small businesses by increasing the tax deduction for health care coverage, requiring an estimate of the cost of a bill on small businesses before Congress enacts the legislation, and creating an assistant U.S. Trade Representative for Small Business.

Small business is the driving force behind our economy, and in order to create jobs—both in my home State of Maine and across the Nation—we must encourage small businesses expansion. Businesses with fewer than 10 employees make up 77 percent of Maine's jobs, and nationally, small businesses employ 53 percent of the private work force. In 1995, small businesses created an estimated 75 percent of the 2.5 million new jobs. Small businesses truly are the backbone of our economy.

Small businesses are the most successful tool we have for job creation. They provide about 67 percent of the initial job opportunities in this country, and are the original—and finest—job training program. Unfortunately, as much as small businesses help our own economy—and the Federal Government—by creating jobs and building economic growth, government often gets in the way. Instead of assisting small business, government too often frustrates small business efforts.

Federal regulations create more than 1 billion hours of paperwork for small businesses each year, according to the Small Business Administration. Moreover, because of the size of some of the largest American corporations, U.S. commerce officials too often devote a disproportionate amount of time to the needs and jobs in corporate America rather than in small businesses.

My legislation will address three problems facing our Nation's small businesses, and I hope it will both encourage small business expansion and fuel job creation.

First, this legislation will allow self-employed small business men and women to fully deduct their health care costs for income tax purposes. This provision builds on legislation enacted during the 104th Congress, the Health Insurance Reform Act, which increased the health insurance deduction for the self-employed from 30 to 35 percent this year and will gradually increase it to 80 percent by the year 2006.

My bill will allow the self-employed to deduct 100 percent of their insurance today. It will place small entrepreneurs on equal footing with larger companies by immediately increasing a provision in current law that limits deductions to 35 percent of the overall cost. At a time when America is facing challenges to its health care system, and the Federal Government is seeking remedies to the problem of uninsured citizens, this provision will help self-employed business people to afford health insurance without imposing a costly and unnecessary mandate.

From inventors to startup businesses, self-employed workers make up an important and vibrant part of the small business sector—and too often they are forgotten in providing benefits and assistance. Indeed, 9 percent of uninsured workers in America are self-employed. By extending tax credits for health insurance to these small businesses, we will help to provide health care coverage to millions of Americans.

My bill will also require a cost analysis of legislative proposals before new requirements are passed on to small businesses. Too often, Congress approves well-intended legislation that shift the costs of programs to small businesses. This proposal will ensure that these unintended consequences are not passed along to small businesses. According to the U.S. Small Business Administration, small business owners spend at least 1 billion hours a year filling out government paperwork, at an annual cost that exceeds $100 billion. Before we place yet another obstacle in the path of small business job creation, we should understand the costs our proposals will impose on small businesses.

This bill will require the Director of the Congressional Budget Office to prepare for each committee an analysis of the costs to small businesses that would be incurred in carrying out provisions contained in new legislation. This cost analysis will include an estimate of costs incurred in carrying out the bill or resolution for a 4-year period, as well as an estimate of the portion of these costs that would be borne by small businesses. This provision will allow us to fully consider the impact of our actions on small businesses—and through careful planning, we will succeed in avoiding unintended costs.

Finally, this legislation will direct the U.S. Trade Representative to establish a position of Assistant U.S. Trade Representative for Small Business. The Office of the U.S. Trade Representative is overburdened, and too often overlooks the needs of small business. The new Assistant U.S. Trade Representative will promote exports by small businesses and work to remove foreign impediments to these exports.

Mr. President, I am convinced that this legislation will truly assist small businesses, resulting not only in additional entrepreneurial opportunities but also in new jobs. I urge my colleagues to join me in supporting this legislation.•

By Mr. HELMS:

S. 234. A bill to direct the Secretary of the Interior to transfer administrative jurisdiction over certain land to the Secretary of the Army to facilitate construction of a jetty and sand transfer system, and for other purposes; to the Committee on Energy and Natural Resources.

THE OREGON INLET PROTECTION ACT OF 1997

Mr. HELMS. Mr. President, in offering today the Oregon Inlet Protection Act of 1997, I must emphasize that this legislation is vital to thousands of North Carolinians, especially citizens who work along the northeastern coast of North Carolina known as the Outer Banks, where commercial and recreational fishermen risk their lives every day trying to navigate the hazardous waters of Oregon Inlet.

These fishermen have been pleading for this legislation for decades because it is a matter of life or death for them.

At last count, 20 fishermen have lost their lives in Oregon Inlet during the past 30 years, the latest tragedy having occurred on December 30, 1992, when a 31-foot commercial fishing vessel sank in Oregon Inlet. This was the 20th vessel to be lost in those waters since 1961. Fortunately, both crewmen were rescued, but the Coast Guard never found the wreckage.

Mr. President, this legislation proposes neither the appropriation of money nor the authorization of new expenditures and projects; it merely requires the Secretary of the Interior to transfer two small parcels of Interior Department land to the Department of the Army so that the Corps of Engineers may begin work on a too-long-delayed project authorized by Congress in 1970—25 years ago. In doing so, 100 acres of land, adjacent to Oregon Inlet in Dare County, will be transferred to the Department of the Army.

Reviewing the legislative history involving this project, in October 1992, then Interior Secretary Manuel Lujan issued conditional permits for the Corps of Engineers to begin the construction process; the Clinton administration unwisely revoked those permits. Therefore, the bill I'm offering today serves notice to the self-proclaimed environmentalists who have for so long stalled this project that I will continue to do everything I can to protect the lives and livelihoods of the countless commercial and recreational fishermen who have been denied greater economic opportunities because of the failure of the Federal Government to do what it should have done more than a quarter of a century ago.

Consider this bit of history, Mr. President: In 1970, Congress authorized the stabilization of a 400-foot wide, 20 foot deep channel through Oregon Inlet and the installation of a system of jetties with a sand-bypass system designed by the U.S. Army Corps of Engineers. But ever since 1970, this project has been repeatedly and deliberately stalled by bureaucratic roadblocks contrived by the fringe elements of the environmental movement.

As a result, many lives and livelihoods have been lost. North Carolina's once thriving fishing industry has deteriorated, and access to the Pea Island National Wildlife Refuge and the Cape Hatteras National Seashore has been threatened. Since 1970, critics of this project have repeatedly claimed that more studies and time were needed. This was nothing more than stalling tactics, pure and simple, Mr. President, while men died unnecessarily and livelihoods were destroyed.

Mr. President, surely a quarter of a century devoted to deliberate delay is enough. The proposed Oregon Inlet project is bound to be the most overstudied project in the history of the Corps of Engineers and the Department of the Interior. Note this, Mr. President: Since 1969, the Federal Government has conducted 97—count them—97 major studies and three full-blown environmental impact statements; but, always environmentalists have demanded more and more delay.

As for the cost-benefit factor, the Office of Management and Budget—as recently as March 14, 1991—found the project to be economically justified. Then, in December 1991, a joint committee of the Corps of Engineers and the Department of the Interior recommended to then-Interior Secretary Lujan and subsequent to that, to Assistant Secretary of the Army for Civil Works Page that the jetties be built. The people of the Outer Banks have waited in vain. And they still wait, Mr. President.

Congress must act soon. Too many lives have been lost; the continued existence of the Outer Banks is now in question because nothing has been allowed to be done to manage the flow of sand from one end of the coastal islands to the other. If much more time is wasted, the self-appointed environmentalists won't have to worry about turtles or birds on Cape Hatteras, because a few short years hence, Oregon Inlet will have disappeared.

To understand why this project has become one of the Interior Department's most studied and controversial projects, the October 1992 edition of The Smithsonian magazine is highly instructive. In an article titled, "This Beach Boy Sings a Song Developers Don't Want to Hear," the magazine chronicles the adventures of a professor at a major North Carolina university who has made his living organizing opposition to all coastal engineering projects on the Outer Banks—Oregon Inlet in particular. The article further relates the confrontation between the professor and an angry Oregon Inlet fisherman, a man whose livelihood has been made more hazardous by the bureaucratic failure to keep open a safe channel at Oregon Inlet. When questioned about his motives and actions this university professor retorted that he and his radical friends boasted that they would not be satisfied until all the houses are taken off the shore to leave it the way it was before.

Mr. President, this is the response from a professor whose home occupies a large plot of land 200 miles west in the middle of North Carolina, a professor who is all too ready to deprive other North Carolinians of their rights to live and prosper.

That is not environmental activism. It is environmental hypocrisy.

Mr. President, the issue is clear. The time for delay is over. This legislation will mark the beginning of the end of the jetty debate on the Outer Banks, and will address the long-neglected concerns of North Carolina's coastal residents. Congress should not delay further in doing what it should have done a quarter of a century ago.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. LOTT, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 7, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 25

At the request of Mr. FEINGOLD, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 104

At the request of Mr. MURKOWSKI, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 181

At the request of Mr. GRASSLEY, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 181, a bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax.

S. 194

At the request of Mr. CHAFEE, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Maine [Ms. SNOWE] were added as cosponsors of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes.

SENATE RESOLUTION 33—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

Mr. STEVENS, from the Committee on Appropriations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 33

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $4,953,132, of which amount (1) not to exceed $175,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) for the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $5,082,521, of which amount (1) not to exceed $175,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 34—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 34

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1998, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998 under this resolution shall not exceed $2,637,966.

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $2,707,696.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered changes on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 35—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 35

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under Rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of Rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $4,113,888, of which amount not to exceed $22,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $4,223,533, of which amount not to exceed $22,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on January 29, 1997, immediately following the 9:30 a.m. business meeting on the nomination of Rodney Slater to be Secretary of the Department of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on January 29, 1997, at 9:30 a.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, January 29, 1997, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Finance be permitted to meet to conduct a hearing on Wednesday, January 29, 1997, beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 29, 1997, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, January 29, at 10 a.m. for its organizational meeting for the purpose of electing subcommittee chairs, amending the committee rules, and approving of the committee funding resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Reauthorization of the Individuals With Disabilities Education Act, during the session of the Senate on Wednesday, January 29, 1997, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for its organizational meeting for the 105th Congress on Wednesday, January 29, 1997, which will begin at 9:30 a.m., in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. LOTT. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on Persian Gulf War illnesses. The hearing will be held on January 29, 1997, at 11:15 a.m., in room 216 of the Hart Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, January 29, 1997, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. LOTT. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet at 2 p.m. on Wednesday, January 29, 1997, for the purpose of a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1997

• Ms. SNOWE. Mr. President, I am pleased to join my colleague from New York, Senator D'AMATO, along with Senators FEINSTEIN and HOLLINGS, in introducing the Women's Health and Cancer Rights Act of 1997. This bill provides key protections to women facing breast cancer, and to all Americans confronting a possible diagnosis of cancer.

Breast cancer is currently one of the major public health crises facing this Nation. In 1997, 180,000 new cases of breast cancer will be diagnosed in this country, and more than 44,000 women will die from the disease. Breast cancer is the most common form of cancer and the second leading cause of cancer deaths among American women. In my home State of Maine, 900 to 1,000 women will be diagnosed with breast cancer this year.

Consider for a moment what it must be like to face a cancer diagnosis. Then imagine what a woman with breast cancer goes through when she loses a breast to this disease. A mastectomy patient may endure great pain resulting from the surgery, and has a large wound with drainage tubes which must be properly cared for. She must also face the emotional pain of losing part or all of a breast, and may struggle with her fear of cancer and what lies ahead. Then try to imagine if she is released from the hospital within hours of surgery.

That is what some health plans are doing today. Yes—some health care plans have issued guidelines requiring mastectomies to be performed on an outpatient basis. The New York Times recently reported that approximately 7 to 8 percent of all mastectomies are performed on an outpatient basis. Doctors may feel pressured by their health care plan to release patients before it is medically appropriate, as health care plans push doctors harder and harder to cut costs. Women who are released from the hospital too early following a mastectomy, lumpectomy, or lymph node dissection do not have time to recover from the surgery in a supervised setting, or have an adequate opportunity to learn how to properly care for their wound, much less begin to deal with their emotional and physical pain. And some problems or complications from the surgery may not arise within the first hours following the surgery.

The Women's Health and Cancer Rights Act of 1997 will help ensure that women with breast cancer obtain medically appropriate care. This bill says that women who undergo a mastectomy, lumpectomy, or lymph node dissection can stay in the hospital as long as a doctor deems medically appropriate, in consultation with the patient. The bill does not mandate how long a patient should stay in the hospital, or prescribe an arbitrary time period. Instead, it encourages the highest standard of medical care by allowing a doctor to exercise his best medical judgment in determining how long a patient should remain in the hospital. The bill contains strong protections for doctors to ensure that they are not penalized by insurance companies for prescribing a given length of stay. The procedures could still be performed on an outpatient basis if deemed medically appropriate by the doctor, and agreed to by the patient.

Second, the bill requires insurance companies to cover breast reconstruction following cancer surgery, as well as reconstructive surgery to make breasts symmetrical following cancer surgery. I am extremely pleased that this provision is based on the law in my own State of Maine. Currently, insurance companies treat reconstructive surgery following breast cancer differently than other types of reconstructive surgery. In fact, a recent survey found that 43 percent of the respondents had been denied coverage for follow-up reconstructive symmetry procedures. The availability of reconstructive surgery is important not only for those women who believe it is necessary to return their lives to normal following cancer surgery, but because studies show that the fear of losing a breast is a leading reason why women do not participate in early breast cancer detection programs. If women understand that breast reconstruction is widely available, more might participate in detection programs.

Finally, this bill requires insurance companies to pay full coverage for secondary consultations whenever any cancer has been diagnosed by the patient's primary physician. It also requires a health plan to cover a second opinion even when the specialist finds the patient does not have cancer, and allows the patient to go outside an HMO for consultation by a specialist. This is designed to prevent all Americans from making inappropriate and uninformed decisions regarding medical treatment due to either a false-negative or a false-positive result.

I urge all of my colleagues to join me in supporting and securing swift passage of the Women's Health and Cancer Rights Act of 1997.•

EILEEN BUTLER, GIRL SCOUT GOLD AWARD RECIPIENT

• Ms. MIKULSKI. Mr. President, each year an elite group of young women rise above the ranks of their peers and confront the challenge of attaining the Girl Scouts of the United States of America's highest rank in scouting, the Girl Scout Gold Award.

It is with great pleasure that I recognize and applaud a young woman from the State of Maryland who is an honored recipient of this most prestigious and time honored award. She is Eileen Butler of Ijamsville, MD, and Girl Scout Troop 1034. She has been honored with the Girl Scouts of the U.S.A. Gold Award by Penn Laurel Girl Scout Council in York, PA.

The young women given this highest achievement in Girl Scouting are to be commended on their extraordinary commitment and dedication to their families, their friends, their communities, and to the Girl Scouts of the United States of America.

The qualities of character, perseverance, and leadership which enabled them to reach this goal will also help them to meet the challenges of the future. They are our inspiration for today and our promise for tomorrow.

I am honored to ask my colleagues to join me in congratulating Eileen Butler. For her Girl Scout Gold Award project, Eileen designed and set up three new exhibits for the Fountain Rock Park, a nature center. Her project addressed the need for a better understanding of the environment and the importance of working to improve the environment around you. She is one of the best and the brightest and serves as an example of character and moral strength for us all to imitate and follow.•

CONGRATULATING RECIPIENTS OF THE FORUM MAGAZINE'S 1997 PIONEER AWARDS

• Mr. ABRAHAM. Mr. President, this Sunday the Forum magazine will host the 7th Annual African-American Pioneer Awards in Flint, MI. I rise to pay tribute to the honorees for their great achievements and contributions to the African-American community and, indeed, to all of America.

This year the Forum magazine has assembled a truly impressive list of honorees. They are:

Mr. Darwin Davis, originally from Flint, has been named one of America's 25 most important and powerful black executives by Black Enterprise magazine. His promotion to senior vice president of The Equitable in 1987 was merely the latest in a series of impressive steps within that company. He won three national sales campaigns in 3 years, moved from agent to agency manager in 4½ years and moved from agent to agency vice president in just 9 years. Mr. Davis is a veteran, a former school teacher, and the recipient of two honorary doctorates.

The Velvelettes are one of only three all original Motown groups from the late 1960's and one of the few girl groups still performing today. This group is composed of four women: Flint natives Norma Barbee-Fairhurst and her cousin, Bertha Barbee-McNeal; and two Kalamazoo natives, Mildred Gill-Arbor and her sister, Carolyn Gill-Street. They had a number of successful hit records, including the top ten song, "Needle in a Haystack." All four women are very active in community projects, seeking to better their cities and neighborhoods.

Creative Expressions Dance Studio has operated under the city of Flint's Parks and Recreation Department since 1990. Under the leadership of Director Sheila Miller-Graham and tap dance instructor Alfred Bruce Bradley, Creative Expressions has competed at the local and national levels every year since its inception. The first professional dance troupe from Flint, Creative Expressions entered its first dance competition during its very first year of existence, making an impressive showing by winning two of the nine trophies for the Junior Division in that region. Creative Expressions continues to represent Flint, and to help its citizens develop their talents, skills, and confidence levels.

Mr. Mario J. Daniels is the founding director of Mario J. Daniels & Associates, P.C., the first African-American certified public accounting firm in Flint. A graduate of Flint Northern High School and Albion College, Mr. Daniels is very active in the United Way, NAACP, United Negro College Fund, and mentoring programs. He also has served as president of the National Association of Black Accountants.

Mr. Michael Shumpert founded WOWE radio, the only African-American-owned and operated FM radio station in the Flint/Saginaw area, in 1991. Mr. Shumpert also is an award-winning sales executive in marketing research and advertising sales. He also has produced a documentary film for the Michigan Genealogy Society, produced the Miss Black America pageant for television, and developed media scripts for a number of political campaigns.

Mr. Gregory Jackson is a highly successful General Motors dealer and owner of several businesses in the Flint area. He earned an accounting degree from Morris Brown College in Atlanta, GA, one of the historically black colleges under the United Negro College Fund. He holds an M.B.A. in business administration and Finance from Atlanta University School of Business. Mr. Jackson also is a member of Kappa Alpha Psi Fraternity, Beta Gamma Sigma—National Graduate Business Honor Society, and the National Association of black M.B.A.'s.

Dr. Charlie Roberts is the first African-American to be appointed vice president at Mott Community College. Dr. Roberts holds a Ph.D. in vocational-technical education from Michigan State University. He earned his masters degree in education from Wayne State University and his bachelor of science degree in industrial education and electronics from Norfolk State University in Norfolk, VA. In 1984 he was made dean of vocational-technical education at Mott; four years later he was promoted to dean of the School of Business Technology and Vocational Technical Education. From July 1993 to July 1994 he served as executive dean for continuing education and external affairs. Within a year he was promoted to his current position as vice president for institutional advancement and outreach.

Mr. President, all of these people have made significant contributions to their communities. Their accomplishments deserve the notice they are receiving from the Forum magazine. I congratulate them for being named recipients of the African-American Pioneer Award.•

TRIBUTE TO LESLIANNE SHEDD

• Mrs. MURRAY. Mr. President, I rise today with great sadness to commemorate the life of an outstanding individual from our State of Washington. Leslianne Shedd, a member of the United States Foreign Service Corps and a 1990 graduate of the Henry M. Jackson School of International Studies at the University of Washington, was killed when an Ethiopian Airlines plane crashed in the Indian Ocean last November.

A resident of Washington State since the age of two, Leslianne graduated with honor from Puyallup High School in 1986. According to family and friends, Leslianne's lifelong dream was to tour the world. To achieve this goal, she learned four languages, traveled in Europe, Africa, North America, and Thailand, and pursued a career in Foreign Service.

Leslianne was traveling from her post at the United States Embassy in Addis Ababa, Ethiopia to Nairobi, Kenya to celebrate Thanksgiving with friends when her plane was hijacked and then crashed. A commercial officer in the foreign service, she provided assistance to American companies doing business in the region. Before working in Ethiopia, she spent 2 years in the Ivory Coast in West Africa as a United States vice consul there.

It is no surprise that a young woman who touched so many lives around the globe has been described by her junior high English teacher as "a little ray of light." Her life provides inspiration to all of us by serving as an example of a forward-looking, intellectually curious, and selfless individual.

My thoughts are with Leslianne's parents Bob and Mickey Shedd, her brother Darin and sister Corinne, her friends, and all those touched by her warmth and kindness. Her work and accomplishments remind us all of the importance of public service, international awareness, and generosity. Our Nation and our world are better places because of her. I am certain Leslianne Shedd's legacy of service will be remembered for years to come.•

THE DEATH OF PANAMANIAN STATESMAN GABRIEL LEWIS GALINDO

• Mr. D'AMATO. Mr. President, I rise today to call attention to the recent death of Garbriel Lewis Galindo, a noted statesman from Panama and friend of the United States of America.

Gabriel Lewis is perhaps best known for his efforts to conclude the Panama Canal Treaty. As Panama's envoy to the United States on this issue he worked closely with the Carter administration to this end. In the process he gained the respect of many people in our Government.

Mr. Lewis continually sought to restore democratic principles to Panama and used the Panamanian-United States negotiations regarding the canal to press Panama's dictator, Omar Torrijos, to move in a more democratic direction. Mr. Lewis' hard work was rewarded as Omar Torrijos eventually granted more freedom to the media and political parties in Panama.

When Gen. Manuel Noriega rose to power in Panama 2 years after the death of Omar Torrijos, he undertook measures to reverse those democratic gains which had been achieved. Gabriel Lewis became an outspoken opponent of Manuel Noriega, a strategy which eventually forced him to leave Panama after he unsuccessfully sought Noriega's removal from power.

Gabriel Lewis was both pragmatic and visionary. He understood the need for a close and productive relationship between the United States and Panama based on respect, dignity, and shared ideals of democracy. Mr. Lewis fought to make this happen. He will be missed.•

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF WILLIAM DALEY

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that at 9:30 a.m. on Thursday, January 30, the Senate proceed to executive session for consideration of the nomination of William Daley to be Secretary of Commerce. I further ask unanimous consent there be 30 minutes of debate on the nomination, equally divided between the chairman and the ranking member, and immediately following the expiration or yielding back of debate time, the Senate proceed to a vote on the confirmation of the nomination.

I finally ask unanimous consent that following the vote on this issue, the President be immediately notified of the Senate's action and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JANUARY 30, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, January 30. I further ask unanimous consent that immediately following the prayer, the routine requests through the morning hour be granted and the Senate then proceed to executive session as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, at 9:30 tomorrow morning we will have 30 minutes of debate to be followed by a vote on the nomination of William Daley to be Secretary of Commerce. We should then expect a rollcall vote around 10 a.m. on Thursday. Following that rollcall, there will be no further rollcall votes this week.

We are moving forward with the nominations of the President to his Cabinet. This will be the fourth one that has been confirmed. Of course, committees are meeting and acting on other confirmation hearings and other issues. Those will begin to come to the floor of the Senate next week.

Next week will certainly be a busy period because we will have the President's State of the Union, we will begin debate on the constitutional amendment for a balanced budget, and on Thursday we receive the President's budget for the year. So we will have his information on that then, and we can really begin to proceed with business that needs to be acted on this year.

There will be a period of morning business tomorrow for Members to make statements, and the Senate may consider other legislative or executive matters that can be cleared. So I remind my colleagues once again, they should expect a vote at 10 a.m., and that will be the final vote of the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:57 p.m., adjourned until Thursday, January 30, 1997, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate January 29, 1997:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANDREW M. CUOMO, OF NEW YORK, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 30, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 31

9:30 a.m.
Environment and Public Works
To hold hearings on the nomination of Rodney E. Slater, of Arkansas, to be Secretary of Transportation.
SD–406

FEBRUARY 4

9:30 a.m.
Labor and Human Resources
Employment and Training Subcommittee
To hold oversight hearings on the implementation of the Fair Labor Standards Act (FLSA).
SD–430

Rules and Administration
To hold hearings on proposed committee resolutions requesting funds for operating expenses for 1997 and 1998.
SR–301

10:00 a.m.
Armed Services
To hold hearings to examine the Army sexual harassment incidents at Aberdeen Proving Ground and sexual harassment policies within the Department of Defense.
SH–216

Finance
To hold hearings to examine the current system of the Airport and Airway Trust Fund Taxes, including the 10% ticket tax, and proposals to restructure this system.
SD–215

FEBRUARY 5

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 104, to amend the Nuclear Waste Policy Act of 1982.
SD–366

Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To hold hearings on ozone particulate matter standards proposed by the Environmental Protection Agency.
SD–406

Rules and Administration
To continue hearings on proposed committee resolutions requesting funds for operating expenses for 1997 and 1998.
SR–301

10:00 a.m.
Select on Intelligence
To hold hearings on intelligence matters.
SH–216

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on conserving judicial resources, focusing on the consideration of appropriate allocation of judgeships in the United States Court of Appeals for the Fourth Circuit.
SD–226

FEBRUARY 6

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 210, to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act.
SD–366

Rules and Administration
To continue hearings on proposed committee resolutions requesting funds for operating expenses for 1997 and 1998.
SR–301

Small Business
To hold hearings to examine women-owned and home-based businesses.
SR–428A

2:30 p.m.
Select on Intelligence
Closed business meeting, on intelligence matters.
SH–219

FEBRUARY 11

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposals to reform the Commodity Exchange Act.
SR–332

9:30 a.m.
Labor and Human Resources
To hold hearings on the implementation of the Health Insurance Portability and Accountability Act.
SD–430

Rules and Administration
Business meeting, to mark up proposed legislation authorizing biennial expenditures by standing, select, and special committees of the Senate, and to consider other pending legislative and administrative business.
SR–301

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

FEBRUARY 12

9:30 a.m.
Environment and Public Works
To hold hearings on the ozone and particulate matter standards proposed by the Environmental Protection Agency.
SD–406

Labor and Human Resources
To hold hearings on the implementation of the Teamwork for Employees and Managers Act (TEAM).
SD–430

10:00 a.m.
Finance
To hold hearings on the Administration's budget and revenue proposals for fiscal year 1998.
SD–215

FEBRUARY 13

9:00 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposals to reform the Commodity Exchange Act.
SR–332

10:00 a.m.
Finance
To hold hearings on the Administration's budget for fiscal year 1998, focusing on Medicare, Medicaid and welfare proposals.
SD–215

2:00 p.m.
Environment and Public Works
Transportation and Infrastructure Subcommittee
To hold hearings on the implementation of the Intermodal Surface Transportation Efficiency Act and transportation trends, infrastructure funding requirements, and transportation's impact on the economy.
SD–406

FEBRUARY 25

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the impact of estate taxes on farmers.
SR–332

FEBRUARY 26

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the impact of capital gains taxes on farmers.
SR–332

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

FEBRUARY 27

9:30 a.m.

Labor and Human Resources

To hold hearings on proposed legislation authorizing funds for programs of the Higher Education Act.

SD–430

MARCH 5

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the Department of Agriculture's business plan and reorganization management proposals.

SR–332

MARCH 6

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Paralyzed Veterans of America, the Jewish War Veterans, the Retired Officers Association, the Association of the U.S. Army, the Non Commissioned Officers Association, and the Blinded Veterans Association.

345 Cannon Building

MARCH 11

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on proposed legislation authorizing funds for agricultural research.

SR–332

MARCH 13

9:00 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings on proposed legislation authorizing funds for agricultural research.

SR–332

MARCH 18

9:00 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings on proposed legislation authorizing funds for agricultural research.

SR–332

MARCH 19

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Disabled American Veterans.

345 Cannon Building

MARCH 20

9:00 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings on proposed legislation authorizing funds for agricultural research.

SR–332

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of AMVETS, the American Ex-Prisoners of War, the Veterans of World War I, the Vietnam Veterans of America, and the Military Order of the Purple Heart.

345 Cannon Building

SENATE—*Thursday, January 30, 1997*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Holy God, show us Your high intent and keep us from ever being easily content. This is Your Nation; we are here to serve You. Just as Daniel Webster said that the greatest conviction of his life was that he was accountable to You, we press on with intentionality in the duties and deliberations of this day. We want to know what You desire in everything we do and say. Make us aware that You are the unseen guest at every meeting, the silent observer of all our actions, and the careful listener at every conversation. Heighten our awareness not only of Your presence but also of Your power. Give us courage to attempt what only You could help us achieve. Renew our enthusiasm, reinvigorate our vision, revitalize our patriotism, replenish our strength. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator McCAIN, is recognized.

SCHEDULE

Mr. McCAIN. Mr. President, on behalf of the majority leader, I would like to announce today's schedule. In a moment, the Senate will proceed to executive session to begin 30 minutes of debate on the nomination of William Daley, to be Secretary of Commerce.

At the expiration of that debate time, the Senate will vote on the confirmation of that nomination. Therefore, all Senators should expect a rollcall vote this morning at approximately 10 a.m. Senator LOTT has announced that this vote will be the last rollcall vote of the week. However, the Senate may be asked to consider additional executive or legislative matters that can be cleared.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. KYL). Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of William M. Daley, to be Secretary of Commerce.

NOMINATION OF WILLIAM M. DALEY, OF ILLINOIS, TO BE SECRETARY OF COMMERCE

The assistant legislative clerk read the nomination of William M. Daley, of Illinois, to be Secretary of Commerce.

The PRESIDING OFFICER. There will be 30 minutes for debate on this nomination to be equally divided between the chairman and ranking minority member of the Committee on Commerce, Science, and Transportation.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, soon the Senate will vote on the nomination of William Daley to be Secretary of the Department of Commerce. Yesterday, the Commerce Committee reported favorably Mr. Daley's nomination by a vote of 19 to 1. I hope the full Senate will also vote overwhelmingly for Mr. Daley.

The confirmation of nominees by the Senate is a duty prescribed by the Constitution. The advise-and-consent obligation given to the Senate in the Constitution is an extremely important task. It should not and must not be taken lightly. At the same time, I believe that it is the President's prerogative to appoint whomever he chooses to administration positions and that such nominees should only be opposed and defeated if there is clear and compelling evidence that such nominee is unfit or unable to serve the Nation. Such decision should be made only after exhaustive questioning of the nominee and much soul searching.

Mr. William Daley has been asked by the President to serve this Nation as Secretary of the Department of Commerce. Three major lines of questioning were asked by the committee:

What are Mr. Daley's qualifications to serve as Secretary? What are Mr. Daley's plans for the Department? And what are Mr. Daley's policies that would implement those plans?

Numerous questions regarding the Commerce Department have been asked of the nominee. He has either fully answered the questions or has committed to providing the committee an answer in a timely fashion.

Mr. President, I am particularly pleased to announce that the Department will cut 100 political appointees from its ranks. The Department has a staggering 256 political appointment positions available. Mr. Daley pledged to reduce that number by 100. He should be strongly commended for this action.

Additionally, at his confirmation hearing, Mr. Daley announced that all foreign trade missions would be halted until the Department, in consultation with the Congress, develops a set of criteria designed to ensure such missions are not politicized. We have all read the press reports alleging that political quid pro quos were a part of such trade missions. Promoting U.S. products abroad and opening foreign markets to U.S. business, not electoral politics, should be the only purpose of such missions.

Again, I am very pleased that Mr. Daley has agreed to work with the committee to ensure that the occurrences of the past do not happen again. I am very pleased that Mr. Daley has agreed to refrain from preferential politics. Discretionary money appropriated to the Department of Commerce should be allocated based on a set of standards and fair criteria that do not give special treatment to any specific locality or region.

Mr. Daley's commitment in this area is commendable. Mr. Daley has also pledged to act expeditiously on any requests for information for files if asked for by any congressional committee.

Mr. President, I think it is appropriate for me to say that we all know that there are serious allegations concerning individuals who were part of the Department of Commerce. Mr. Daley is aware of those allegations. He is fully aware and appreciative of the obligation that he has to refurbish the image of that Department because of the activities of some. I am very confident that he is committed to doing so and will be able to do so. He is an experienced, talented individual who I believe is very capable of carrying out that daunting task.

Last, Mr. Daley promised to recuse himself from any issue that would present a conflict of interest and to work to restore the integrity of the Commerce Department. Such a task will certainly not be easy, but I believe it can and must be done.

For the record, Mr. President, some press reports have raised questions regarding Mr. Daley's past business and political activities. Such reports infer that Mr. Daley or his family may have benefited either personally or politically in certain circumstances. Those press reports have been made part of the permanent committee record. All such allegations were raised with the

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

nominee and found to either lack credibility, be proven false, or were fully explained to the satisfaction of the committee.

Let me reiterate that point. Based on the evidence presented by all concerned to the committee, the nominee has engaged in no activity that would cause this Member to vote against him. In fact, the nominee has taken great steps to rebut all allegations and explain the facts surrounding them. After such explanations were forthcoming by the nominee, the committee moved expeditiously to approve this nomination.

In closing, the Commerce Committee has looked into Mr. Daley's qualifications and his fitness to serve, and we believe he is a fine individual who will make an outstanding Commerce Secretary. Mr. Daley has a tough road ahead of him. But I am confident he is up to the task. He has already begun to demonstrate the leadership necessary to move the Department into the next century.

I look forward—and I know I speak for all Members on my side of the aisle—to working with the new Secretary and wish him and his family the very best during their time here in Washington. Mr. President, I strongly urge the Senate to confirm this nomination.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I am delighted to serve with my distinguished white-haired chairman. My wife says when I appear on TV I look like a Q-Tip.

Mr. President, next week the President of the United States will be delivering his State of the Union Message. The Union is in somewhat disrepair, intense disrepair, I might say, because for 50 years after World War II, with the Marshall plan, we sacrificed our economy. And it has worked. Capitalism has overcome communism. They are going the way of freedom and individual rights the world around now. But it has been at quite a cost to our economic strength.

We have lost over 2 million jobs just in the past 10 years. Our manufacturing sector has gone from 26 percent of our work force down to 13 percent. Now is the time to rebuild. In order to do that, we need a very strong Secretary. I am pleased that President Clinton has chosen an unusually strong Secretary in the person of Bill Daley of Chicago.

The fact of the matter is, for many years now he has been a business leader, a business attorney, a banker, an outstanding civic leader, in many respects, and more particularly we know him here in Washington as a special counsel to President Clinton on extending the North American Free-Trade Agreement from Canada down to Mexico. Necessarily, there was quite a difference on this side of the aisle with respect to that agreement, but be that as it may, Bill Daley handled that with thoroughness and with tact and with persistence. And it passed with strong bipartisan support.

He knows his subject of trade. He understands the business needs. He is a very strong individual. He came to the assignment immediately going over to brief himself on the Department and, as the distinguished chairman has already pointed out, has announced, in unique form for a nominee, that he was going to downsize some of the duplications there in the Department itself and make sure that the trips were made for industry and not for politics.

More than anything else, he is really intent on reestablishing the morale of the Department with the loss of Ron Brown who did an outstanding job as the Secretary of Commerce. And I say that advisedly because I have been at least through a dozen or so in the last 30 years and worked with them in that 30-year period, not only with respect to the authorization of the Department, but the appropriations there.

Ron Brown did an outstanding job. Yes, there were some solicitations. Thank heavens it was not solicitations by Ron Brown like most Secretaries of Commerce. We had one Republican Secretary of Commerce go to jail for his solicitations. If we have to get into solicitations, I am going to be glad to make the record.

But the spirit here is one of bipartisanship in the support for Bill Daley. I was particularly impressed that not only the distinguished Democratic Senators, Senator MOSELEY-BRAUN of Illinois, and our distinguished colleague, Senator DURBIN of Illinois, were there to present him in enthusiastic fashion, but he was presented to the committee by none other than the chairman of the House Judiciary Committee, the most respected HENRY HYDE of Illinois, and the campaign manager for Robert Dole's Presidency, the former Secretary of Defense, Donald Rumsfeld.

So we have the respect and confidence of the leadership in Chicago and Illinois that really knows him best. And it is with that record here that he comes. I am particularly enthusiastic that President Clinton has made this appointment. I want to yield now to our distinguished colleague from Illinois.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from South Carolina for yielding.

It is ironic that this is my first speech on the floor of the U.S. Senate and that I am speaking on behalf of a gentleman whom I have known for 25 years and one I am proud to support. I speak on my behalf and on the behalf of the senior Senator from Illinois, Senator CAROL MOSELEY-BRAUN, in support of this nomination of Bill Daley to be our new Secretary of Commerce.

Bill Daley, of course, is well known in the city of Chicago and across this Nation. The Daley name carries with it certain connotations of political leadership, mainly positive, maybe some negative on a national basis. But those of us who know what the Daley legacy has been in the State of Illinois feel that it is overwhelmingly positive because of the contribution that has been made to our State, to the city of Chicago, and to this Nation by the Daley family over the last few decades. It has been significant, significant in this respect: The Daley family has been willing to step forward into public service to face the slings and arrows that public figures face, and to lead.

And they have led, led our great city of Chicago forward, not only under Mayor Richard J. Daley but now Richard M. Daley, and through the other members of the Daley family.

William Daley—Bill Daley as we know him—has often been behind the scenes, not on the center of the stage. Of course, when his father was mayor, he was a young man. Now that his brother is mayor, and he is in a capacity to play a larger role, many times he has stepped to the side. He led in his own fashion, in his own way, and developed a reputation in Chicago, and I think across this country, for leadership, not only the obvious, leading in the city, in community endeavors, charitable undertakings, making certain there was some vision from the business community about the future of Chicago, but on the national scene as well.

It is interesting that when President Clinton faced one of his toughest challenges in his first term, in passing NAFTA, a controversial issue even within the Democratic party, that he would turn to Bill Daley of Chicago and say, "Come to Washington. Use your skills and leadership to help me pass this important trade agreement."

When the dust had settled and NAFTA had passed, even the critics of NAFTA gave credit to Bill Daley and said, "Here is a man who could be trusted." His door was open. His word was good. As I said at the Commerce Committee, he showed the skills of a playmaker like Michael Jordan, whose name may be known to even the Senator from South Carolina. We are proud of the fact that Bill Daley has served this country well. We think this designation of Bill Daley as the Secretary of Commerce creates another opportunity for him to serve his Nation well.

It is no surprise that the Department of Commerce has been under the spotlight in the last several months, and some questions have been raised, and I think deservedly so.

I want to salute my colleague from Arizona, Senator McCAIN, for noting that there is need for reform in the Department of Commerce. I say to Senator McCAIN, we could not choose a better person than Bill Daley to bring about real reform, because he is a professional.

I have to also note the Senator's comments about investigations into questions about his background have shown that they were fine, that he comes to this job with the level of honesty and integrity that we expect of Cabinet people and people in public service. He will be tested to put together a team to bring about real reform in the Department of Commerce. Bill Daley is going to meet that challenge. I think he is going to rise to that occasion.

I might speak to one other point before yielding back. During the course of this hearing and investigation, questions have arisen about the future of the Department of Commerce. Some have even questioned whether it should exist. I, for one, believe it plays a critically important role. Now that the cold war is behind us, we are engaged in a new war of equal proportion—a war over jobs, a war over opportunities, a war to find, I guess, for the next generation of Americans, the same opportunities other generations have enjoyed.

We cannot step back and hope that our reputation as a Yankee trader will be all that is needed for us to win in that war. We need to be on the front, in that battle, making certain that American workers and businesses are treated fairly when it comes to world commerce. That is the job of the Department of Commerce, one of the more important responsibilities that it faces. I hope the Department of Commerce is valued for that responsibility. It certainly is, in my estimation. I know Bill Daley feels the same.

His background in business, in banking, in the practice of law, and in public policy, make him uniquely qualified to come to this job in the Department of Commerce and to serve his Nation well. I am happy to stand today in support of this nomination. I hope that this body will join me in giving a solid vote of support to the designation of Bill Daley as our new Secretary of Commerce.

I thank the Senator from South Carolina for yielding me the time.

Mr. HOLLINGS. Mr. President, Michael Jordan makes his money in Chicago, but he spends it in South Carolina. We welcome him down there regularly. I think he is a property owner by now in Hilton Head. I will check it out, because that would be one of the few votes I could get on Hilton Head.

Mr. President, the appointment of William Daley to head the Department of Commerce comes at a critical juncture in our history. We have emerged triumphant from our long struggle against the forces of tyranny and totalitarianism. Our victory in the cold war was secured through the commitment and sacrifice of the American people, who willingly subordinated their economic interests to sustain the alliance against Soviet expansionism. It was access to the rich American market that enabled our allies to rise from the ashes and rebuild their economies. For four decades the American market absorbed the world's exports while our exporters confronted closed markets abroad. Our generosity has taken a tremendous toll on the American economy. For the past 20 years wages for the American worker have remained stagnant. The average American now earns 20 percent less today than he or she earned 20 years ago. The toll has been most devastating in the manufacturing sector. Manufacturing now accounts for a mere 13 percent of our GNP, half that of Germany or Japan. The most terrible price that we paid was the loss of 2 million manufacturing jobs, which were the backbone of the American economy.

Having triumphed abroad it is now time to rebuild at home. Restoring the promise of America and rebuilding our economy will require the same commitment and sacrifice that won the cold war. The Commerce Department should be at the forefront of this effort. There are some, who in the name of budget discipline, call for the Department's elimination. In an era in which economic and national security are synonymous, eliminating the Commerce Department would be tantamount to unilateral disarmament. The budget will not be balanced by political gimmicks and symbolic gestures. Abolishing the Commerce Department will not make a dent in balancing the budget; what it will do is put us at a competitive disadvantage in the global economy.

In today's new world economy American firms and American workers compete against foreign companies whose governments are allies of business, not adversaries. Where once we stood at the apex of the world economy, now no industry in America is immune from this intense foreign competition.

In market after market, industry after industry, U.S. companies compete against foreign companies that are the beneficiaries of strategic alliances with powerful ministries of trade and industry. Those who believe that government has no role in supporting industry and American workers seek to rewrite history and ignore the realities of the new international competition. In the new global economy, the line between public sector and private sector is at times indistinct.

Our competitors nurture industrial development through rigged capital markets, generous subsidies, infant industry protection, and favorable export incentives. The invisible hand of the free market did not develop Korea's world class semiconductor industry. Instead it was the iron fist of decrees laid down by Korea's Ministry of Trade, which kept out foreign competition unless they licensed technology to Korean companies. The iron fist was complemented by the largesse of Korea's Finance Ministry which provided low interest loans to foster the development of its industries.

The invisible hand of the market did not create Airbus, nor does it guide the development of the faster growing economies in the Pacific rim, which are following the Japanese model of development. The irony is that the market alone was not responsible for the development of our own industrial base. From Alexander Hamilton's "Report on Manufactures," to the revolution in information technology initiated through research conducted by the Department of Defense, our economic strength has been fortified by a symbiotic relationship between government and the private sector.

The strong Commerce Department is an essential prerequisite for competing in the global economy. The Commerce Department, through its technology administration, plays a crucial role in developing the critical technologies of the future. Although the National Institute for Standards and Technology [NIST] accounts for only 1 percent of the U.S. research and development budget—it is the principal program dedicated to fostering critical technologies that have a commercial application. U.S. companies face great pressure to deliver short run returns for the fund managers who dominate America's capital markets. As the Wall Street Journal noted, "the biggest U.S. companies have cut back sharply on research into 'basic science' to pursue short term goals * * *." This alarming trend did not go unnoticed by the Council on Competitiveness, which noted, "Long-term investments rates as a percentage of GDP are falling just when Asian and European competitors are ramping up their R&D programs." This is why it is crucial that we maintain our Advanced Technology Program. It enables industry and government to join forces in carrying out broad-based, long-term, peer-reviewed projects that could have large payoffs down the road. Eliminating the Government's role in technological development will consign our economy to second-rate status. Furthermore, it would allow Asians and Europeans to dominate the emerging technologies which will create the jobs of the future.

Not only does the Commerce Department play a critical role in fostering technology, it plays an equally important role in protecting U.S. industries from the predatory trade practices that have crippled many of our domestic industries. Vigorous enforcement of our antidumping laws is crucial to maintaining our standard of living. Far too often our competitors have hidden behind a citadel of protection in their home markets while simultaneously flooding our economy with illegally dumped products. A Commerce Department that aggressively enforces our trade laws will enable U.S. companies to sustain their investment in strategic technologies and keep jobs at home.

Strengthening the Commerce Department will require a strong Secretary. Bill Daley fits that description. He has been both a civic leader and a business leader. Those of us who opposed NAFTA know him as a worthy adversary, a man who gets things done. More important, Bill Daley is a man who understands what a privilege and an honor it is to be a public servant. While it may be fashionable in some quarters to denigrate public servants, this nominee knows how effective government can change people's lives for the better.

I urge my colleagues to vote to confirm this excellent appointment.

Mr. President, let me emphasize once again the point made by both our distinguished chairman and distinguished colleague, Senator DURBIN. The Commerce Department has got to be in this front line now of rebuilding our economic strength—a very, very important division within the Department, foreign commercial services, the International Trade Administration. The consensus, I should emphasize to my friends, that while we are spending some $600 million, in a couple of years that budget that is getting ready for the next millennium that everyone is talking about, that budget will jump to $1.5 billion. I can see some saying, "Heavens above, this is a runaway Department." But these endeavors cost, and we want to make sure that they do a credible job, as they have been doing, in my opinion.

We have the very strong divisions in there with respect to the Economic Development Administration that has worked extremely well over the years now, and the Department has a group of the best professionals with respect to this global competition. When the special trade representative, when the State Department and others come and try to learn the facts, it is our Department of Commerce that furnishes the weaponry, so to speak, the statistics, the findings, and everything else as to exactly where we are and how well we are doing to give them credibility in their negotiations.

So, to have the brilliance of Bill Daley of Chicago come to head up the Department, the conscientious nature that he has already displayed with respect to taking over these duties is heartening to this particular Senator, and I am delighted to be with our distinguished chairman in endorsing his nomination.

Ms. MOSELEY-BRAUN. Mr. President, I am very pleased to be able to speak on behalf of the nomination of William M. Daley to be the Secretary of Commerce. At the outset, I want to congratulate the President for selecting Bill Daley. I do not believe he could have made a better choice to lead the Department of Commerce into the new century.

The Department of Commerce has a long and distinguished history, but it is a department that sometimes seems to lack focus. Its mission includes things as diverse forecasting the weather, handling patents and trademarks, conducting the census, travel and tourism, and international trade. What brings all of these diverse subjects together however, is one overriding mission: assisting Americans in enhancing the competitiveness of the United States in the world economy. The Department of Commerce does not control the competitiveness of our economy, but its work opens up competitive opportunities for the private sector, and helps the private sector obtain the information it needs to realize its competitive potential.

The Department's mission goes beyond the dry names of its subagencies. It is part of the foundation of our economy. It helps open doors abroad for U.S. exporters. It helps us know where we stand, and where we might be going. It gives us the kind of data that helps both American business and American workers achieve a brighter, more prosperous future. It is an advocate for economic growth, and helps build the kind of broader, stronger trade links on which our future economic success in no small part depends.

Bill Daley has the background, the talent, the integrity, the energy, and the determination to ensure that the Commerce Department reaches its full potential as an asset for U.S. economic growth. He is the ideal person to build on the great work done by Mickey Kantor and the late Ron Brown.

His past accomplishments demonstrate what he will be able to achieve as Secretary. He is a real leader, both in Illinois and nationally. He has a strong record in the private sector, and an equally strong record in public and civic affairs. His résumé is a distinguished one. It includes serving as:

President and chief operating officer of the Amalgamated Bank of Chicago;

Special counsel to the President for the North American Free-Trade Agreement in the fall of 1993, helping President Clinton achieve passage of that major trade agreement;

A senior partner at one of Chicago's most prestigious law firms, Mayer, Brown & Platt; and

Cochair of Chicago 96, the nonpartisan, not for profit host committee that so successfully oversaw the city and community planning for the 1996 Democratic Convention in Chicago.

Bill Daley was born and raised in Illinois, and he was also educated in Illinois. His undergraduate degree is from Loyola University in Chicago, and he holds a L.L.B. from the John Marshall Law School in Chicago.

If I may be permitted a moment of regional chauvinism, I will say that Bill Daley has all the Midwestern virtues. He has an uncommon amount of common sense, he is an extremely hard worker, he is unpretentious, his life exemplifies the kind of family values we talk about so much here in Washington; and he is always focused on getting the job done. He is a skilled lawyer, an extraordinary negotiator, and an executive of rare ability. He has the kind of good judgment that makes him a person who is always being called on for help, and he has never failed to provide that help. And while most of his career has been in the private sector, he has unstintingly given of his time to public and charitable causes. Like his brothers, and his father before him, he has a real commitment to public and community service. Like all of the other members of his family, he is deeply patriotic, and dedicated to doing everything he can to help all of our people and every part of our country build an ever-brighter, ever-more prosperous future.

Bill Daley has the talent to manage a large, diverse organization like the Department of Commerce, and he is the kind of person that will make the Department run more efficiently and effectively. He understands business, and he knows how important it is for the United States to compete successfully in the world economy.

This is a time of enormous change, not just in our economy, but also in the Commerce Department. I cannot think of a person better suited to making the necessary reforms so that the Commerce Department can successfully meet the challenges of the new century that will soon be upon us. I know he will make a first-rate Secretary of Commerce, and I strongly recommend that the Senate act expeditiously and favorably on his nomination.

Mr. DOMENICI. Mr. President, I rise to express my support for the confirmation of Mr. William Daley as the next Secretary of Commerce.

I am glad to learn that Mr. Daley recognizes the need to streamline the Commerce Department and that he is willing to perform a top to bottom review of its agencies and programs to ensure productivity and efficiency. In addition, I am hopeful that Mr. Daley will address the numerous concerns which have hampered this Department's effectiveness in the recent past and that he will strive to restore the Department's good reputation.

As we enter into the 21st century, America must make new strides to ensure its strong standing in the ever growing global economy. We must continue to further our ties with foreign nations and businesses so that our economy will continue to be the engine that drives the world's prosperity.

Although our economy continues to grow yearly, I believe we should be concerned with how slow that rate of growth has been. Small businesses are the backbone of our national economy and I am hopeful that Mr. Daley will focus more attention on promoting the role of small business in foreign trade. With only 12 percent of our small businesses participating in foreign markets, I believe we have to focus more attention and resources to promoting their interests worldwide.

As it did with NAFTA and GATT, we need the Commerce Department to continue to open new markets. Additionally, the Department of Commerce must ensure that our trade partners comply with the promises set forth in all such agreements. As competition around the world becomes stronger by the day, the Department of Commerce, under its new Secretary, must strive to guarantee a level playing field to ensure the economic future of the American people.

With nearly one-fourth of our gross domestic product resulting from exports and with more than 11 million workers owing their jobs to their employer's overseas business, Mr. Daley's work as Secretary of Commerce will be felt nationwide.

Mr. President, I yield the floor.

Mr. BROWNBACK. Mr. President, it is with regret that I announce that today I will be voting in opposition to the nomination of William M. Daley to the position of the Secretary of the U.S. Department of Commerce. While Mr. Daley's character and his distinguished career in public service demonstrate that he has the qualifications for the position to which he has been nominated, these qualifications are necessary, but in and of themselves, not sufficient to merit my vote.

My chief concerns regarding Mr. Daley's suitability for the position reflect: First, questions over his willingness and commitment to deal with corporate welfare in the agency; and second, his commitment to engage in the fundamental overhaul of a Department whose management practices and many missions have been called into question by numerous reports by the Department's inspector general and by the General Accounting Office.

Corporate welfare has no place in this Government today. Mr. Daley generally agrees we should not have corporate welfare in the Federal Government. However, he disagrees with the appropriate definition of corporate welfare. I asked repeatedly for a specific commitment from him to study whether corporate welfare was being doled out by the agency. He was unwilling to do so, although he made a similar commitment with respect to the issue of foreign trips conducted by the agency.

My second concern is the redundancies at the Department of Commerce. According to a recent GAO study the Department of Commerce functions are duplicated 71 times throughout the Federal Government. I discussed this problem with Mr. Daley during the hearing. He stated that he would consider the issue, but made no specific commitments as to when he would address the issue nor in what quantity. He would not commit to report to Congress within 6 months or 1 year on these known redundancies nor would he commit to cutting back the number of redundancies by a minimum of even 10 percent. He did make such specific commitments regarding political appointees, which he agreed to reduce by 100.

Because Mr. Daley has refused to make specific commitments to address these problems I do not support his nomination. The next Secretary of Commerce should be someone who recognizes the seriousness of these problems, and who is committed to addressing them.

Mr. DASCHLE. Mr. President, I rise today to congratulate William Daley on his nomination to be Commerce Secretary of the United States. I believe his lifelong experience in the private sector and strong record of public service will provide him with an extraordinary range of skills that make him unquestionably qualified for this position.

First, he will bring a business perspective to the Department of Commerce. From the insurance industry, to a law practice that specialized in international trade, to serving as president of the Amalgamated Bank, William Daley understands the needs of the private sector.

As a special counsel to President Clinton during the debate over the North American Free-Trade Agreement, he also demonstrated an ability to work with lawmakers on both sides of the aisle and was instrumental in securing its congressional approval.

And finally, William Daley believes in the responsibility of the Department of Commerce to enhance the competitiveness of American companies in the global marketplace. He knows that our economy cannot grow without the strength of new ideas and a lasting commitment to the risk takers who develop them.

As a successful businessman and a dedicated public servant, I am confident that William Daley will build on the legacy of Mickey Kantor and the late Ron Brown, whose tireless efforts created countless new opportunities for American companies around the world.

As Commerce Secretary, William Daley will be an energetic promoter of our business interests, a skilled negotiator in opening new markets, and a visionary who believes in the value of researching and developing new products and ideas.

I look forward to working with him in advancing the interests of the American business community in the years ahead.

Mr. KERRY. Mr. President, I am pleased to support Bill Daley to be the next Secretary of Commerce. In his appearance before the Senate Commerce Committee, Mr. Daley impressed me and other members with his energy, his enthusiasm, and his firm grasp of the challenges faced by American companies attempting to compete in the world marketplace. In my view, Mr. Daley demonstrated that he possesses the qualities, energy, and instincts necessary to be a successful Secretary, and to lead the Commerce Department into the 21st century.

We all regret that, in recent years, the Department of Commerce has become the target of a great deal of criticism. Though some of this criticism may be warranted, in my view most of the criticism is not aimed at creating a better or more efficient Department but instead is an attempt to sacrifice valuable and important Federal activities for short-term ideological and partisan gain. Nevertheless, I applaud Mr. Daley for his forthright acknowledgment of the criticism and his commitment to address several of the concerns raised. His pledge to review the process by which persons are selected to accompany Department officials on trade missions abroad and his promise to reduce the number of political appointees at the Department are a strong testament of the sincerity of Mr. Daley's commitment.

From conversations with leaders of the Massachusetts business community, and especially with those who run the small businesses that are the engines of economic growth in my State, there is broad support for the functions performed by the Commerce Department, and there is near unanimous agreement that the U.S. Government must aggressively assist U.S. companies attempting to develop and utilize new technologies, and enter new markets overseas. Small and emerging companies in Massachusetts have benefited greatly from several Commerce programs. The Advanced Technology Program and the Manufacturing Extension Service are both excellent examples of government making smart investments in emerging companies. The evidence for both of these programs demonstrates that each dollar invested generates many more in return. The same is true for the programs administered by the Trade Promotion Coordinating Committee and the U.S. Foreign Commercial Service. The one-stop-shop trade center in Boston has helped hundreds of New England companies develop and expand markets overseas. Finally, the Economic Development Administration remains one of the few resources that cities can call on for capital planning or capital project assistance that will boost their economies and create jobs. For this reason, the EDA must be maintained and strengthened.

A vital but not-as-well-known arm of the Commerce Department is the National Oceanic and Atmospheric Administration. I consider NOAA to be one of the Federal Government's premier scientific research and resource management agencies, with responsibility for the stewardship of our marine resources, management of our coastal zone, and operation of the National Weather Service, environmental satellite systems and a fleet of oceanographic research vessels. These oceanic and atmospheric programs are a critical component in the integrated effort to study and maintain the Earth's ecosystem.

Other Commerce agencies, such as the National Institute of Standards, the Census Bureau, and the Patent and Trademark Office perform missions that are necessary to our economic and governmental functioning. In my view, the Commerce Department is in a unique position with responsibility for trade, technology, and environmental matters, and this presents Mr. Daley with a special opportunity: to successfully integrate U.S. policy on economic and environmental issues. After following his impressive career and after carefully listening to his recent testimony before the Senate Commerce Committee, I have every confidence that Mr. Daley understands and appreciates this unique mission. I support his confirmation, and I urge my colleagues to do the same.

Mrs. BOXER. Mr. President, I am delighted that the Senate will give its approval today to the nomination of William M. Daley to be Secretary of Commerce.

Mr. Daley is with the Chicago, IL, law firm of Mayer, Brown & Platt. He previously served as the president and chief operating officer of Amalgamated Bank of Chicago, and as special counsel to the President for the North American Free-Trade Agreement. I believe Mr. Daley's background and experiences will be of tremendous benefit to America's businesses as they navigate their way through the global economic marketplace in which they now operate.

It is particularly important to my home State of California that the Department of Commerce have a strong and effective leader. Bill Daley will be such a leader.

California is the Nation's leading exporter. Last year, California accounted for 16 percent—$90 billion—of the Nation's exports, an increase of almost $14 billion over the 1994 levels. This tremendous amount of exports supported approximately 1 million Californian jobs. From the period 1987 to 1995, California realized the largest dollar growth in merchandise exports—$59.1 billion—of any State. As a member of the International Finance Subcommittee, I look forward to working with Secretary Daley on the issue of exports and on a host of other issues of importance to the businesses in my home State of California.

In addition to the issues facing California businesses, there are also many significant and important issues, and challenges, facing our Nation as a whole as we move forward into the 21st century and begin to shift from an industrial base to a technological base in an information society. Bill Daley has the know-how, vision, and leadership necessary to effectively guide us across the bridge into the 21st century.

Mr. McCAIN. Mr. President, it is the wish of the majority leader that we not vote until 10 o'clock. I do not have a lot of additional comments to make about the nominee that I did not already make.

I appreciate the overall broad bipartisan support that has been given this nominee. I think he appreciates it as well. Because of the importance of working on these issues on a nonpartisan basis, the issue that Senator DURBIN and Senator HOLLINGS raise about trade are accurate.

I point out to my colleagues, yes, the Department of Commerce and Secretary of Commerce has a very important role to play in the conduct of trade and fostering relations and helping U.S. businesses compete abroad, and I also appreciate the Senator from Illinois' comments about the new kind of war we are in. But the problem has been, I point out, that there has been a lack of coordination and coherence to the conduct of these policies, where on the one hand we send our human rights secretary from the State Department, who bashes this particular country, in this one case, China, on human rights violations; and then our Secretary of Defense goes over, a very close and warm relationship with their military establishment—who, also, by the way, run many of these companies and corporations in China; and then our Commerce Secretary goes over and has an entirely different environment.

I think the President of the United States understands better, but not completely, the absolute requirement that if we are going to have a coherent foreign policy, which is probably the most important, single, fundamental conduct of foreign and trade policy, then we all have to have a coordinated effort, led by the President of the United States. Yes, human rights plays an important role in our relations with foreign countries; yes, in the furtherance of the United States' national security interests; yes, providing access and an equal playing field for U.S. companies and corporations to compete, especially in emerging nation markets, is important, but there cannot be discordant voices and disjointed messages to these people, otherwise they become confused and sometimes enraged, because you cannot tell the rulers of China, "By the way, I have no relationship whatever."

On one occasion they were told by our State Department that the President of Taiwan would not visit the United States of America. Two weeks later it was announced that the President of Taiwan was being given a visa to visit the United States of America.

Now, I could argue both sides of that position, but I cannot argue for that methodology. There is no excuse for that kind of methodology. You either say and make sure that the President of Taiwan visits the United States or you say that he will not—one of the two. But especially when we are talking about the power shift that is going on right now, a transition, with the leader who has taken longer to die than the Ayatollah Khomeini, and emerging, if not aggressive, certainly assertive behavior in the region, trade has an important role. But it has got to be part of an overall foreign policy. That has been and will be my major criticism of this administration's conduct of foreign policy.

I am pleased to say from my conversations with Secretary Daley that he understands that. He understands how important it is to coordinate his efforts with those of the President, the Secretary of State, the National Security Adviser and others so we can shape a far more effective foreign policy, which at the end of the day will help us immeasurably in our efforts in increasing trade than some of the kinds of modus operandi we have seen in the past. I am convinced our nominee has that understanding and that commitment.

I was interested and appreciated my dear friend's, Senator HOLLINGS, comments about Mr. Daley's efforts on behalf of NAFTA. I do believe that Mr. Daley did a very effective and important job in that effort. I know that both my colleagues here on the floor were aware of his effort at that particular point, showing his ability to work with the Congress of the United States on both sides of the aisle.

I yield the floor.

Mr. HOLLINGS. Mr. President, the problem of China is most frustrating. I guess the question is, how best do we extend freedom and individual rights in a country of that kind? It is very difficult for a nation with a 220-year history to tell a culture and nation of 3,000 to 5,000 years of age what to do and how to do it, particularly a country, Mr. President, of 1.2 billion.

If you have ever dealt with China, you understand immediately that human rights begins, first, with hunger. That is the first human right in the People's Republic. They have to feed 1.2 billion. The second human right is that of housing. The third human right is perhaps education. The fourth human right is ours—one man, one vote. If you start off on the other end of the spectrum, one man, one vote, you have chaos. I say that advisedly.

I wish I had the time as a southern Governor, because I stand with pride—no life was lost, no one was hurt during my 4 years. I integrated, as the distinguished president pro tempore's alma mater, Clemson University, in a peaceful fashion. We have a track record. We know how you have to handle crowds and make sure no one is hurt.

That approach to China with respect to commercialization and capitalization, I think, is going to be better than confrontation. It is good to come and say we will not trade with you unless you do A, B, and C; however, the others are going to trade with them. It is a nonstarter. It just will not work. The Germans, the French, and the Japanese are in there like gangbusters, and we cannot use that particular tool.

The bottom line, you can look at democratic India and its approach and you can look at the People's Republic and you may reason that perhaps the People's Republic approach will extend more housing, more feeding, more education in the next 10 or 20 years than the democratic India. It is going to be interesting to follow.

But mind you me, China is there. They feel very strongly with respect to Taiwan, to Hong Kong and those possessions that have been taken from them, and their stand has been recognized by us in our foreign policy. We have to be more realistic in its treatment. I yield the floor.

The PRESIDING OFFICER. All time of the Senator has expired.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. McCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I ask for the yeas and nays on the nomination of William Daley as Secretary of Commerce.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SMITH). The question is, Will the Senate advise and consent to the nomination of William M. Daley, of Illinois, to be Secretary of Commerce? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], and the Senator from Texas [Mrs. HUTCHISON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 4 Ex.]

YEAS—95

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—2

Brownback
Inhofe

NOT VOTING—3

Bond
D'Amato
Hutchison

The nomination was confirmed.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

The majority leader is recognized.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate begin a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, there will be no further rollcall votes this week. The Senate is expected to be in session into the afternoon for Senators to introduce legislation and to make statements. We have had indications that there are some Senators who intend to do that.

The Senate may also be asked to clear a few routine Legislative and Executive Calendar items. We do have a few we think we will be able to get cleared and complete those this afternoon.

Following the conclusion of today's session, it is anticipated that the Senate will be in recess tomorrow and a pro forma session on Monday.

It is my understanding the Judiciary Committee will order reported today from their committee the constitutional amendment with respect to a balanced budget. Allowing for the 3-day requirement for minority members to submit their minority views, it is then expected the Judiciary Committee would be able to report the constitutional amendment to the Senate on Monday. If that is the case, and the report could be available by late afternoon on Monday, it would be my intention to turn to the constitutional amendment with respect to a balanced budget on Wednesday, February 5.

I remind my colleagues, we will have the State of the Union Address by the President on Tuesday night, the 4th, and we expect to receive the President's budget submission on Thursday, February 6. So next week will be eventful.

We will continue to work to clear nominations just from getting reports from various committees. It looks to me like there could be a minimum of two or three more Presidential nominations—I think all of them are Cabinet level—that may be available next week. We will try to work those into the schedule as soon as they are available, presumably Wednesday and Thursday, on those nominations and confirmations.

I yield the floor, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROYALTIES FROM CRUDE OIL

Mrs. BOXER. Mr. President, I want to brief the Senate on an issue that is gaining steam in my home State of California, because, if it is resolved, it will result in about $80 million going directly into the school system in California to help the children there.

This issue involves the underestimation by oil companies of royalties that they owe the Federal Government from crude oil that they have pumped. They have underestimated these royalties and have been sent a bill by the Department of the Interior, and they have not yet paid.

At this point the amount owed is $385 million. We expect it will go up to $440 million.

Ten oil companies, the largest one being Shell, have been sent their bills. Shell Oil's bill is over $100 million. Those funds will go to the U.S. Treasury, and then a portion of those funds will go to the States in which the oil was pumped. California is the place where most of that oil comes from; and California will get between $75 and $80 million from the Federal Government when those funds are collected.

In California we have a law that the royalties all go to the State Schools Fund. I really hate to see years of protracted litigation, Mr. President, on this matter.

The oil companies are not cooperating. Many of them have refused the subpoenas. They are disregarding the subpoenas sent to them. The Justice Department is now involved. I hope that instead of being deadbeat oil companies, they will pay up. If they feel they have a case that the bills are too high, they can fight that out. They can try to settle it. But they should at least cooperate and begin paying some of what is owed.

Mr. President, I can tell you, the $75 to $80 million to California schools would mean that we could hire an additional 1,000 teachers or buy 40,000 computers. The children deserve that.

For Orange County alone the underpayments total more than $5 million; for Los Angeles, $18 million; for San Diego, $5 million; for Fresno, $2.25 million.

So I appeal to these oil companies, do right for our children, pay what you owe. Be good citizens, cooperate in this investigation, make some payments, work with us so that our children can get a better education.

I hope the people of this country will write to the CEO of Shell, will write to the CEO of Oryx, of Marathon, of Mobil and tell those CEO's that we are all in this together and that when an individual family gets a bill, when they do not pay it, they cannot stall, they cannot afford to hire lawyers. If, in fact, the individual says, "Well, I paid it," you know what you would do as a family member; you would say, "Here's my canceled check. I've paid this," or, "Come and look at this. This is a mistake."

That is not what these oil companies are doing. Three of them complied with the subpoenas, but five are fighting them. So I feel, Mr. President, this is an issue that deserves attention.

I am very pleased that Cynthia Quarterman, the Director of the Mineral Management Services, and Bob Armstrong are working on this case. They are going forward to collect these sums. They have written a new rule so that in the future there will not be any confusion about what is owed.

So I look forward to a successful conclusion, and I really do think if the people of this country and citizens of California write to these oil companies, maybe we will see some of these payments.

Thank you very much, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

VOTING RIGHTS OF MILITARY PERSONNEL

Mr. GRAMM. Madam President, I have risen today to talk about a problem in my State with regard to the voting rights of military personnel. Our dear colleague from Alabama, Senator SESSIONS, is on his way to the floor to join me in this discussion. While I am waiting for him, for at least a moment I want to talk about another subject. I want to say a little bit about the balanced budget amendment to the Constitution.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. GRAMM. Madam President, I understand that our colleagues today on the Democratic side of the aisle are offering in the Judiciary Committee an amendment that says that, if we require the Federal Government to live on a budget, if we fulfill the constitutional requirement that Thomas Jefferson thought necessary when he first saw the document upon returning from France, we ought to set up a system where we count the Social Security trust fund while it is in surplus between now and the year 2002 as part of the accounting system of the Government but that after 2002 we not count it as part of the budget of the Federal Government.

What our colleagues would have us do is to make it easy now to spend money but that when the Social Security system begins to move into the red, to not count that deficit as part of the deficit of the Federal Government. If we are going to balance the Federal budget, if we are going to guarantee the future of Social Security and Medicare and of Government services that our people need and deserve, we are going to have to control spending. We cannot balance the budget by simply exempting the largest program of the Federal Government from the budget. And the idea of saying that in the future, when Social Security is running huge deficits, it will not count as part of the budget, it seems to me, is not only shameless but is typical of an era where our own President in this year's budget is proposing that we take the single fastest growing item in Medicare, home health care, that we take it out of the Medicare trust fund in order to make the books look better. I do not think you have to have much imagination to understand that, if you do not count the deficit of Social Security in the future, not only will we have no incentive to control that deficit and make the system solvent but more and more Government functions will be shifted over into the part that does not count for a balanced budget amendment.

So I think we all know what the game is here. The game is we have a lot of people who promised in the election that they would vote for a constitutional amendment to force Congress and the President to balance the budget and now we are seeing gamesmanship where they say, "Well, I would vote for it but only if the largest spending program of the Federal Government were excluded and only if we could use the benefit from the surplus now, and only if we do not have to make up the deficit later." Have our Democratic colleagues who have offered this proposal no shame?

We have a choice as to whether we are going to change America. If you want to change America, you are for the balanced budget amendment to the Constitution and you are for a balanced budget where every program counts, where every program is important, where the Federal Government is forced to pay its bills.

How many families would like to be required to balance their budget without counting their mortgage payment or without counting the cost of their new car? I believe we make a mockery of the process.

I look forward to the day when we are going to stand up on the floor of the U.S. Senate and we are going to say yes or no. As we look back at the campaign literature of some of the very people who are now undecided and we look at what they said about being for a balanced budget amendment to the Constitution, what we are going to really test is, does our word count for anything? When we tell people we are for something and they vote for us and send us here to do it, will we do it, or will we engage in gimmicks to try to confuse the people and try to cover what is little more than going back on our word?

Madam President, I look forward to having my name down as one who is for the balanced budget amendment to the Constitution.

VOTING RIGHTS OF MILITARY PERSONNEL

Mr. GRAMM. Madam President, let me now turn to the subject that I came to the floor to speak on. Our colleague from Alabama will be here later. Let me explain, if I may, this problem and where we are in the discussion and why this is a very important issue for all 100 Members of the Senate and for all 260 million Americans.

We have an all-volunteer military force. We ask young men and women, in putting on the uniform of this country, to serve all over the world far away from home in lonely places. We ask them to defend our freedom and independence and our interests. We sometimes call upon them to give their lives in the service of our country. I am not aware that ever before in the history of America has there been any serious challenge, up until the case I am about to talk about, of the right of our military personnel to vote.

My dad was a sergeant in the Army; a career soldier. Like many people in the military, my dad decided where he wanted to declare as his legal residence. Millions of people wearing the uniform of the country over the history of our country since they serve all over the world tend to pick an area as their legal residence with the objective of coming back there to live when they get out of the service, or at least to have a place-holder as their identity with the very country they serve.

We have a case now before the Federal court in my home State of Texas in Val Verde County, Del Rio, which is the county where Laughlin Air Force Base is located, where we have the Texas Rural Legal Aid, which is predominantly funded by the Federal taxpayer. They, in clear violation of the law based on the provisions of the appropriations bill which we passed on the floor of the Senate last year which prohibited them from engaging in lawsuits related to political activity, have filed a lawsuit challenging the right of military personnel who are registered to vote in Val Verde County but who are not currently residing in the county during their military service to have their votes counted. Interestingly enough, they say, "Oh, you have a right to vote for President. You have a right to vote for Senate or Congress. But you do not have a right to vote in county elections."

This is the first time that I am aware of that this challenge has ever been made. The challenge is based on the Voting Rights Act, interestingly enough, because the argument is made that the roughly 800 military absentee ballots were cast by predominantly white voters and that the makeup of the general electorate was majority Hispanic and therefore there has been a violation of the Voting Rights Act by the fact that these absentee ballots have diluted minority voting strength.

I am not here today to testify what the racial makeup is of the electorate in Val Verde County. I do not know the exact numbers. I do not have any idea what the racial makeup is of the 800 absentee ballots. But the issue is, Do our warriors have a right to vote? Do those who protect our freedom have the basic guarantee of exercising that freedom?

As a result, according to the claimants in this lawsuit, of these 800 absentee ballots, 2 Republicans were elected. Their argument is that if you do not count these 800 absentee ballots from military personnel, 2 Democrats would have been elected.

Let me say, Madam President, I do not know that is the case, and that is not really the issue here. The issue here is the right of people to vote.

Let me, before going further, say that when the Legal Services Corporation was notified that Texas Rural Legal Aid, their grantee in Texas, had violated the law, they asked Texas Rural Legal Aid to give them an explanation by a certain deadline. They then asked Texas Rural Legal Aid to cease and desist. What Texas Rural Legal Aid has done, having done all of the workup for the case, is they have now moved to the position of being expert witnesses. This is clearly violating the intent of Congress. I want to put my colleagues on notice that God did not decree that appropriations bills have to pass, and we are going to address this issue in the upcoming Commerce-State-Justice appropriations bill. And unless we can get satisfaction that the Legal Services Corporation is going to abide by the law, those who are ready to pass that bill without those guarantees better be ready to get 60 votes.

Let me turn to the point I wanted to make today. I discovered yesterday that the Legal Services Corporation through their grantee, Texas Rural Legal Aid, Inc., sent out a questionnaire to 800 American warriors stationed all over the world, and it has this big official heading of "In the United States District Court for the Western District of Texas," and then it has all of this legalese. Then it has a questionnaire that in single space form is 23 pages long encompassing 54 comprehensive questions, many with multiple parts, and someone has to fill it out and they have to get it notarized where they are swearing under oath.

I would like to give you an indication from this questionnaire of the kind of things that are being asked, and I have up here a blowup of one little part of question 21. Imagine, you are in Berlin or you are in Korea. You have a job to do there. You are manning a Patriot battery in Korea. Your family is at home. And you get a document 23 pages long telling you that you have 3 days to fill it out.

Just look at these questions. These are the people who exercised their right to vote, something we encourage people to do. So this warrior is in South Korea defending the frontiers of freedom and they get this questionnaire. And this is just one section of one of the 50-odd questions:

> What is the complete address of the place where your spouse lived on November 5, 1996? If it is located outside the territorial limits of the United States please also indicate the last place your spouse resided which was in the territorial limits of the United States.
>
> Did your spouse usually sleep there at night? Yes. No. If no, what is the address where your spouse sleeps at night?
>
> Approximately how long (expressed in months, days, and years) has your spouse slept at this address?
>
> If your spouse did not then or does not now usually sleep at this address explain the reason(s) your spouse does not do so.

Is there no shame? Is there no shame? The Federal judge who approved this questionnaire ought to be embarrassed—ought to be embarrassed. It is outrageous that taxpayer money was used to send out a questionnaire to our warriors who are out defending freedom all over the world asking them because they dared to vote where their husband or wife sleeps at night. Madam President, this is absolutely outrageous.

We will shortly have a letter signed by the majority of the Members of the Senate urging our Attorney General to enter this case. We are dealing with two local candidates. I do not have any real knowledge of either one of them. I do not know what kind of attorney they have. I do not know how good a job they are doing presenting their case. But it seems to me that this is a fundamental issue: do people who wear the uniform of this country have a right to vote in the location that they can choose as their legal residence?

I obviously believe they do. It turns our whole political system on its head. To suggest that someone who has chosen Val Verde County as their legal residence while they are serving in the Air Force all around the world has less right to vote there because their race may be different from the race that someone claims to make up the population of that region is clearly outrageous, is a national issue of profound importance. I want the Attorney General of the United States of America to enter this case and defend the rights of our warriors to vote. And if they are voting and elected one candidate and defeated another, is that not what votes are about? Do we not each cast our vote believing that it might make a difference?

Madam President, I do not know whether or not it made any difference. I do not know the racial makeup of the 800 people who voted absentee who are in the Air Force, who have claimed Val Verde as their legal residence. I do not know how that changes the makeup of the electorate or racial basis, and I do not care. Our society is too preoccupied with race. The whole reason that this is before a Federal judge is that race is being used as an issue to take what is basically a voting rights issue, which is a State of Texas issue, and elevate it to the Federal Court based on a claim about the ethnic makeup of members of the military who voted absentee.

I believe this is a very serious issue. I believe it is a terrible indictment of the Clinton administration, that they have not intervened in this case. The Secretary of State of the State of Texas, the chief elections official of our State, has said that this lawsuit clearly in no way represents the election laws of our State. Our Attorney General has said that requiring this kind of questionnaire and documentation turns the whole election system on its head. The people who did not vote absentee who are not in the military received no such questionnaire.

Let me tell you what this questionnaire is about. This questionnaire is about voter intimidation. That is what this questionnaire is about. You imagine, if you are manning a military weapons system in South Korea and you took the time to vote in your elections in the county you claim is your legal residence and you get a 23-page legal document with 54 questions, many of which have numerous subquestions asking you where your wife sleeps at night or where your husband sleeps at night, and if your spouse does not sleep where you do, why not.

What do you think this is going to do to their willingness to vote in the next election? This is as clear a case of voter intimidation as it would be to have a literacy test written in Chinese. The clear objective of this questionnaire is to intimidate voters and not just any voters—people who wear the uniform of this country and who defend the very freedoms that we are now seeing the Federal Government through the Legal Services Corporation seek to deny them.

Madam President, I think this is one of the clearest outrages that I have seen in my period of time in public service. I think it is something that has to be stopped. I want my colleagues to know that since this is occurring in my State, and I speak for Senator HUTCHISON on this issue, we intend to see this fixed. I want to call on our Attorney General, Janet Reno—and let me say I had a very nice talk with her yesterday. She has promised me that she will look at this on an expedited basis. We had previously sent her a letter over a week ago.

My concern here is that we are talking about two locally elected officials who have been barred from taking office. They won the election, nobody doubts that. But they have been barred from taking office while Texas Rural Legal Aid, funded by the Legal Services Corporation, tries to intimidate military personnel who voted.

I don't know whether they can afford counsel. I don't know how good a job they are doing defending the right of our warriors to vote. I want the full weight of the Attorney General brought into this issue. Do our warriors serving in the military have a right to vote in that area that they choose to designate as their legal residence? Let me remind my colleagues, you don't have to own a home to be a legal resident. You don't have to actually reside there if you are in the military. You simply have to make a designation.

I see this as voter intimidation. I see it as a gross abuse of the Voting Rights Act. I cannot imagine that we would maintain a military facility in a county that did not let our military personnel vote. I would not—I don't care where it is—I would not support spending one dime to keep a military facility in a county that denied the right of military personnel to vote.

I think the time has come to make it clear that this old deal of abusing military personnel has to end. From the beginning of the Republic, we have wanted Washington and Uncle Sam to send the soldier boys out to build the fort, to buy our goods, and then they are abused. This is one of the worst cases of abuse that I have ever seen, and I am going to do everything I can, everything within my power, to see that this is fixed.

Our soldiers, sailors, airmen, marines, and Coast Guard personnel have a right to choose a legal residence.

I want to read, in concluding, a quote from Maj. Paul Smith. Maj. Paul Smith is in the Air Force. He grew up in Del Rio. He attended high school there. He went off to college, and then he came back to Laughlin to do pilot training. He declares Val Verde County as his residence.

We have been doing this since the Constitution was written. From the colonial period, we have allowed people wearing the uniform of the country, serving around the continent at first and now all over the world, to designate where they are going to exercise their legal rights.

Maj. Paul Smith grew up in Val Verde County in Del Rio, attended high school there, went to pilot training there, and he says he is a resident of and chooses to vote in Del Rio. I say he has that right.

Here is what he said about this document sent out by Texas Rural Legal Aid and the Legal Services Corporation demanding to know where his wife sleeps at night. He said: "This really infuriates me. I'm serving my country, putting my life on the line, protecting the right to vote. If they throw my vote out, well, that's not good."

It sure is not good, and it is not going to happen. It is not going to happen.

So I want to thank my colleagues for giving me this time. I want to call again on the Attorney General to enter this case. Defend the right of those who wear the uniform of this country to vote, whatever their race is, however they vote. The issue here is not race. The issue is not who won and who lost elections. The issue is, do people in the military, when they are moving all over the country and all over the planet, have a right to designate an area where they want to exercise their right to vote? It seems to me you cannot be more basic than that, and it doesn't matter what the other factors are in this case.

If somebody voted illegally, throw their vote out. But to indict every military personnel who voted absentee because their vote might have changed the racial composition of the election, and to send them an intimidating legal document demanding they answer it in 3 days, asking where their spouse slept, it seems to me is clear, unadulterated voter intimidation, and it is something that needs to be stopped. I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I have listened with growing concern and really anger at the remarks of the Senator from Texas. I agree with him. It is a cause of great concern to me. I served 15 years in the U.S. Department of Justice. I have served in the Army Reserve as a judge advocate. My responsibilities in that capacity were to protect the rights of servicemen and all their responsibilities, enforcing the Soldiers and Sailors Relief Act so that those service people can maintain their rights in their communities and not be abused while they were serving their country on active duty.

To me, this is a very unhealthy action. It outrages me for three particular reasons.

First of all, taxpayers' money was used for it. Legal Services Corporation lawyers actually going into court and seeking to deny soldiers, sailors and airmen the right to vote. It is fundamentally wrong, it is offensive to me, and I am glad the Senator has spoken out aggressively about it.

The Legal Services Corporation has had a history of abusing its charter. Time and time and time again, they are caught and held to account, and they back off and say, "Oh, we're sorry, we made a mistake, it won't happen again." But it has happened again and again and again, in my experience, and I think we ought not to forget that.

I also want to say it is particularly galling to me that the votes they seek to cancel are those of soldiers, sailors, and airmen and airwomen who are serving our country abroad and throughout this Nation. I firmly and strongly believe they ought to be able to vote in the location they choose as their residence and be able to participate in the votes at that time.

Finally, as an individual who served for 15 years in the U.S. Department of Justice, a tenure I treasure greatly, I think it is incumbent upon the Attorney General to take firm and quick action to join the side of those service men and women who are entitled to vote and have their vote counted. I think they ought to intervene in this case on the side of the servicemen and help make sure that justice is done.

I thank Senator GRAMM for his remarks and for calling this to the attention of the country. I think it is an important issue.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I have two quick orders of business.

UNANIMOUS-CONSENT AGREEMENT—ADDITIONAL COSPONSOR

Mr. GRAMS. Mr. President, I ask unanimous consent that in its first printing, the following Senator be added as an original cosponsor to the Department of Energy Abolishment Act of 1997, a bill to eliminate the Department of Energy: Mr. HAGEL of Nebraska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. I thank the Chair.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 238 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAMS. Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

RELATIONSHIP WITH CHINA

Mr. BYRD. Mr. President, the emerging relationship between the United States and China is one of immense opportunity for both nations, and deserves the steady attention of the highest levels of both governments. Both nations need to make every effort to broaden the area of common ground in our dealings and understandings, and to engage in an open and honest dialogue on those issues, such as weapons proliferation and human rights matters, on which we have serious differences. There is a rising tide of commentary on our bilateral relationship, and it is not particularly easy to arrive at the kind of balanced approach which is both clear-eyed regarding present realities, and at the same time visionary on future prospects. One of the most thoughtful recent attempts to paint the salient highlights of this complicated picture was made last week by the recently retired Senator from the State of Georgia, Sam Nunn.

On the occasion of his selection as the 1997 recipient of the Paul Nitze Award for Distinguished Public Service, Mr. Nunn described the current state of consensus in the United States on U.S.-China policy as "very, very fragile." If that consensus were to break down, and the relationship with China were to turn sour, a historic opportunity of profound importance could be lost. Both sides need to work hard to avoid that possibility.

The consensus within the United States that Senator Nunn describes includes the healthy notion that our support for the modernization of China's legal and banking and judicial, civil service and other institutions will pay long-range dividends for our overall relationship, and for progress in China, but that modernization will not emerge magically. Sustained efforts at cooperation in both public- and private-sector activities must be ongoing.

In his remarks, Senator Nunn rightly flags the importance of the circumstances accompanying the turnover of Hong Kong to China on July 1 of this year. How well China adheres to the commitment that she has made to the people of Hong Kong to preserve Hong Kong's distinct social, political and economic identity for the next 50 years will be vital. Senator Nunn states that China's "credibility is on the line," in that China has given its word, and extended a solemn promise. A very disquieting note has just been raised by the annual report by the State Department on human rights performance around the world according to the New York Times. The report says, "Hong Kong's civil liberties and political institutions were threatened by restrictive measures taken by the Chinese government in anticipation of Hong Kong's reversion to Chinese sovereignty" in July. If China does not honor its obligations to Hong Kong, her relationship with the world, as Senator Nunn points out, will be "dealt a severe blow." Keeping her word will be a key indicator of China's general willingness to adhere to the terms of other international obligations that the United States might support, such as membership in the World Trade Organization. Hong Kong will, in July, become an integral part of China and it will take some dexterity and work on the part of the Chinese government to fulfill its promise to honor Hong Kong's unique institutions. In this, as in many other aspects of our growing relationship, patience, calmness, understanding and open dialogue will be important keys to success. The United States would be mistaken to judge too quickly or to criticize too easily. We should be cognizant that the more our interrelationships develop across the board, the more likely it will be that the warm breezes of open democracy will have its effects on Chinese society.

It will take a special effort on both sides to continue to propel our relationship along constructive channels, and to do so will require sustained effort, frequent interchanges and constant communication.

I commend Senator Nunn for his contribution to this dialogue on our China policy and recommend a reading of his address to my colleagues. I hope that his remarks will receive wide distribution.

I ask unanimous consent, Mr. President, that the remarks of Senator Nunn to which I have just alluded be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES-CHINA POLICY—SEEKING A BALANCE

(By Sam Nunn)

It is a great honor for me to accept this award which bears the name of one of our Nation's greatest statesmen—Paul Nitze has dedicated his life to advancing our national interests—as a Governmental official—as a private citizen—in war and in peace. Paul is a public servant without peer—from NSC-68 and the wise men—to the Marshall plan and NATO—Paul has led with vision. From the Committee on present Danger and Nuclear Weapons Strategy—to charting a course in the post cold war era—Paul Nitze has had the courage of his vision and has demonstrated that one man can truly make a difference.

Paul—by your example—you have defined the true meaning of statesmanship. As an admirer—a student—and a friend—it is a great honor for me to accept the Paul Nitze Award.

I am grateful to Bob Murray and CNA's board of trustees for this special honor and for CNA's contributions to our Nation's security.

These are just a few examples of the great return the taxpayers get by investing in CNA. Bob, to you and your team—keep up the good work!

There is only one catch to this wonderful evening with Paul Nitze—the awardee must delivery a lecture on a matter important to our national security—so any hope that you may have that I will say a quick thank you and sit down—is dashed on the rocks of this obligation.

If Paul were presenting a paper this evening, he would cover NATO expansion, peace prospects in the Middle East, the effect of Islamic fundamentalism on U.S. interests, the quest for eliminating nuclear weapons from the globe—as well as the emergence of China—all in clear, succinct and persuasive form. Being a mere mortal, I will confine myself to only the last subject—the emergence of China. I believe that this is an important subject on the eve of the 25th anniversary of President Nixon's historic 1972 visit to China and at a time when many Americans are questioning the policy we have pursued under both Democratic and Republican Presidents since that time.

There are many think tanks in Washington—but CNA is unique—the only one whose scientists regularly deploy in war and in peace with our operational forces.

Those of us in the Congress dealing with national security are keenly aware of your reputation for excellence and objectivity—but most of all—we are aware of your effect on policy.

In the gulf war, one of our missiles misfired and killed our own people—CNA figured out why and prevented it from happening again.

The Defense Department has to become more efficient if we are to have the funding to modernize—CNA identified billions in infrastructure savings which have been adopted by the Navy.

One of our most effective weapons is the Tomahawk Missile—CNA's recommendations have significantly improved its performance.

The growing importance of China in world affairs demands a purposeful, coherent and consistent American policy. History is littered with the uninformed and ineffective responses of an established power towards a rising power, and vice versa.

Established powers must provide consistent and credible signals about their expectations and set forth reasonable terms on which they are willing to incorporate the rising power into the international system.

We are now watching the rise of China against the backdrop of Asia's rapid industrialization. China is a nuclear power with the world's largest army and a permanent member of the United Nations Security Council. China also is a nation with 1.2 billion people, an economy growing at nearly 10 percent a year over the last decade—and as we too often forget—a distinctive civilization of great antiquity.

China is in the midst of four major transitions:

From a planned economy to a state guided market economy.

From rule by the long march revolutionaries to rule by bureaucrats, technocrats, and military professionals.

From an agricultural society to an industrial society.

From a largely self-sufficient, isolated economy to one that is increasingly dependent upon the international economy.

China's transition is likely to be protracted. Uncertainty is a permanent quality of modern China. Even if China embarks upon a process of democratization, the development will be a lengthy one. History shows it takes a long time to create a legal system—guarantees for private property—a parliamentary system—a free press—and the political culture that can sustain a pluralistic and tolerant civil society.

We must engage China and its current leaders now rather than remain aloof from this vast, complex, and proud civilization until it becomes to our liking.

This can only be done if the leaders and peoples of both our countries are convinced that their national interests will be well served through greater U.S.-China cooperation. Let's consider a few examples:

FIRST: ARMS CONTROL AND NON-PROLIFERATION

Preventing the proliferation of weapons of mass destruction—and their means of delivery—and reducing stockpiles of these weapons are American interests of the highest priority.

As a nuclear power and a permanent member of the Security Council, China can either assist or torpedo efforts to stop the proliferation of weapons of mass destruction—its role is critical—China's attitude toward various arms control measures has certainly improved in the past decade—its recent commitment to cease nuclear testing and to support the comprehensive test ban treaty is an encouraging development. China seems to recognize its interest in reducing the dangers of nuclear proliferation globally and especially in East Asia.

But China also has been indifferent to the destabilizing consequences of its transfer of advanced technology and sale of materials related to strategic weapons in South Asia and the Middle East. Aspects of its military and technology relations with Pakistan and Iran are deeply troubling to the United States.

In our dialogue with the Chinese at high levels we should point out that as a growing importer of oil from the Middle East, China has an increasing stake in the tranquility of the Straits of Hormuz and the Persian Gulf—its pattern of arms sales does not seem to take this into account—we should also emphasize to Beijing that the U.S. Navy protects the waters through which oil tankers bring petroleum to China. China benefits from the stability our naval presence brings to the high seas.

SECOND: THE COLLAPSE OF THE SOVIET UNION

Both the United States and China must respond to the consequences of the collapse of the Soviet Union. With the Russian threat now greatly diminished, the security frameworks erected in the cold war era must take into account new realities. Plans are underway to extend NATO eastward (a move I remain very skeptical about—but that is the subject of another speech), and we are adjusting our treaties with Japan and Korea. These changes must be undertaken in ways that do not raise new and deep security concerns in Russia about its western flank or in China about its eastern flank, lest we inadvertently stimulate the two to begin a strategic relationship that neither prefers and which threatens stability.

Russia's new situation also has offered China opportunities to improve its relations with Moscow. This is a welcome development. Previous Soviet-Chinese rivalry and military confrontation brought tension to the entire region. Improved Sino-Russian relations help promote regional stability. But economic considerations on the Russian side and opportunism on the Chinese side could prompt an undisciplined flood of weapons and military technology to China, provoking an effort by the Asian Nations to balance China's growing strength, resulting in a destabilizing arms race.

In Central Asia, Mongolia, and the Russian Far East, China faces some serious questions:

Will the new Central Asian Nations stimulate separatist impulses among China's Islamic peoples?

Where is the Russian Far East headed, in light of Moscow's ebbing economic and political grasp over the region?

Will the migration of Chinese to Siberia continue and become a new source of tension between Russia and China?

How will the resources of the Russian Far East be developed in the next century?

We should discuss these broad strategic issues with Beijing. How to ease Russia's political and economic transformation; how to create a framework of stability for the states of the former Soviet Empire; and how to continue the current favorable alignment among the major powers of Asia. For the first time in a century, China, Russia, Japan, and the United States have good relations with one another, constant dialogue among China, Russia, Japan, and the United States is required to consolidate this relationship.

THIRD: REGIONAL SECURITY INTERESTS

In addition to its global strategic interests, the United States has enduring regional security concerns.

No region is more important to the United States than the Asia-Pacific Region, where America has fought three costly wars in this century and where rapidly growing economies offer the United States our greatest expanding markets. Needless to say, China also has a keen interest in maintaining stability in this region—our overlapping interests have enabled China and the United States to cooperate in sustaining peace in Korea and ending nearly 40 years of war on the Indochina Peninsula.

Our treaties with Japan and South Korea and the specific arrangements developed under them—the status or forces agreements, the basing arrangements and force structures—took shape in the cold-war era. Much has happened in the subsequent years. Japan and South Korea have emerged as prosperous, full democracies. Through consultations, the United States and China must forge an understanding that adjustments to these treaties are not aimed at China but are intended to ensure that the alliances remain a cornerstone of regional stability.

FOURTH: INTERNATIONAL ECONOMIC INTERESTS

The United States has a major interest in maintaining steady international economic growth, uninterrupted by financial crises or disruptions in the international monetary system. We seek access to the markets of other countries and we believe that the growth of imports into the United States should occur in an orderly fashion. We seek a level playing field—too frequently, foreign countries exploit their open access to American markets while limiting access to their markets or discriminating against American firms.

Sanctions should be employed with great care, but any American Government that ignores the American peoples' strong desire for a fair playing field in world trade will have great difficulty conducting a sensible trade policy or foreign policy.

With one of the world's largest economies, its rapid increase in foreign trade, its substantial foreign currency reserves (nearly $100 billion), and its external indebtedness (over $100 billion), China's economic performance clearly affects American interests. China has created a better institutional and legal environment to welcome foreign direct investment than most other countries in East Asia. It has taken measures to facilitate repatriation of profits. Its sovereign offerings are deemed credit worthy by international rating agencies.

Yet even though roughly 40 percent of China's exports are ultimately consumed in the United States, its Government appears reluctant to address its growing trade deficit with the United States through increased purchases from American vendors. While decrying American linkage of trade and politics, China is practicing its own form of linkage. Too often China has discriminated against American vendors on political grounds, even though China enjoys easier access to the American market than to markets of other developed countries.

Further—China's laws governing commerce remain underdeveloped, and corruption is a growing problem. Many non-tariff barriers still exist that restrict access to the China market.

As Bob Zoellick recently observed, we are likely to be more successful in pursuing our trade grievances if we seek an international coalition to promote and enforce international standards and if we stress China's self-interest in adhering to the rules.

FIFTH: PROBLEMS OF INTERDEPENDENCE

The United States has a major interest in reducing a wide range of problems that transcend national boundaries: Environmental degradation; international terrorism; illegal population migration; narcotics trafficking; the spread of communicable diseases; pressure on world food supplies; and rapid population growth. These problems threaten the survival of vast portions of the world's peoples and introduce global instability.

Chinese-American cooperation cannot assure success in addressing these most fundamental problems that threaten all humankind. But Chinese-American animosity would surely make it more difficult to cope with these issues. Acting together, the United States and China can accomplish much. in confrontation, both of us will suffer.

SIXTH: DEMOCRACY AND HUMAN RIGHTS

The United States must give expression to the values on which the Nation was founded and that draw Americans together as one people. These beliefs have universal appeal. They are a source of American strength.

Yet the authoritarian leaders of China believe that many political values that Americans espouse do not apply to China. their obstinate resistance to democratization and human rights is driven by complex reasons. I believe that China's leaders jeopardize their nation's economic progress and domestic stability by not moving more rapidly toward the rule of law and expanding the opportunities of their populace to participate meaningfully in their own governance. China cannot expect United States and world acquiescence or silence in response to flagrant abuses of human rights. This is particularly true in terms of China's treatment of the citizens of Hong Kong.

In assessing China's behavior, however, I believe that we must broaden our own definition of human rights. Professor Harry Harding has recently written that:

"While the individual political and civil freedoms enshrined in the American Constitution are indispensable to human rights as we know them, human rights also encompass such social and economic rights as the rights to subsistence, to development, to employment, to education, and the special rights of women and children and the elderly. Political and civil freedoms are not the only things that people value in their political lives. Other political goals, including stability, effective governance,and absence of corruption, are also worthy of pursuit."

As we shape our strategy, we need to keep these words of wisdom in mind. If we do, our justifiable criticisms of abuses are likely to have more credibility and more effect not only in China but also with our friends throughout Asia.

This review of America's foreign policy interests reveals that a thick web of partly convergent and partly divergent interests now binds the United States and China. In recognition of this reality, I believe that a new fragile consensus on China policy is slowly emerging in Washington and among the American people.

This fragile consensus rejects the extremes of rigid hostility or unconditional friendship with China. It seeks cooperation with China while realistically accepting disagreement where our values and interests diverge. If strengthened, this consensus has the potential to embrace several fundamental concepts.

First, Sino-American relations merit high level sustained attention of the United States Government. Management of this relationship cannot be relegated in chaotic fashion to the lower levels of each department in the executive branch, but must be coordinated at the highest levels of Government, including the Congress. The exchange of Presidential visits is a strong step in the right direction.

Second, the United States has an interest in a prosperous, stable and unified mainland that is effectively and humanely governed, not a weak, divided or isolated China which would surely threatened the region's peace and prosperity.

Third, the United States should seek to work constructively with China to facilitate its entry into the international regimes that regulate and order world affairs. China will be more likely to adhere to international norms that it has helped to shape. But China's entry must not be permitted on terms that jeopardize the purpose of those regimes.

Fourth, the United States should continue to adhere to our one China policy based on the Shanghai Communiqué, the normalization agreement, and the 1982 joint communiqué. We do not seek to detach Taiwan from the mainland permanently, but neither can we accept Taiwan's forcible reunification with the Mainland. Taiwan deserves a status in world affairs commensurate with its economic and political attainment. But realistically, Taiwan can best secure a greater international voice and stature through cooperation with Beijing and not through provocation.

Fifth, to attain all these objectives, the United States must retain a robust military presence in the Western Pacific. Until multilateral security arrangements are firmly in place and well rooted in East Asia—there will be no substitute for the Japanese-American and Korean-American security treaties—which are not directed against China.

Sixth, the United States—especially the private sector—should cooperate with China in its efforts to develop institutions necessary for its continued modernization: A legal system and the rule of law; a strengthened judiciary; an effective banking and revenue system; a civil service system; representative assemblies; and effective civilian control over the public security and military forces.

Finally, because of the attention that will be focused on the turnover of Hong Kong to China on July 1 of this year, Hong Kong will provide the prism through which Americans will view China. This 1997 view may affect the American people's perception of China for years to come, and may turn out to be the bellwether for the international community in judging Beijing's intent and approach to the world.

Will China carry out its solemn commitment to Britain and the people of Hong Kong to allow Hong Kong its own distinct social, political and economic identity for the next 50 years? If so, this example will lead to a positive view of China throughout the world, including the people of Taiwan. If not, China's relationship to the world will be dealt a severe blow and its relations with the people of Taiwan will be set back 50 years.

It is far from clear that the leaders of China are prepared to meet this responsibility by allowing Hong Kong to retain the qualities that are key to its success—such as a professional civil service, the rule of law, an independent judiciary, and freedom to receive and disseminate information.

Considering the large stakes, I believe that our own country must strive for balance in our assessment and our actions.

We should remember that Hong Kong was seized by force from a weak China and that the British subsequently ruled it as a British colony—not a democracy. Hong Kong and Macau are the last Western colonies in Asia, and represent the end of an era.

China should be told clearly and firmly that their credibility is on the line and that their behavior toward Hong Kong will have a major effect on their standing in the international community—in short, they must keep their world—our measuring stick of Chinese behavior should be based on their own solemn commitments—not on our dream of a Jeffersonian transformation.

It is essential that we not rush to a final verdict based on the first thing that goes wrong. This will be a long uneven process with many rough spots and mistakes. The transfer of power is a British and Chinese agreement, and the United States should not get drawn into a self-appointed role as the arbiter of the details.

The United States should not become the sole critic when China deviates from its commitment to Hong Kong. This will turn Hong Kong into a U.S.-China confrontation and will not be effective with a Chinese leadership that fears the perception in their own country that they are yielding to American pressure. While we have a huge stake in a prosperous Hong Kong and a China which keeps its commitments—so do our allies in Europe and Asia. We, of course, must lead—but we must lead the international community.

In the final analysis, after July 1, Hong Kong will again be part of China and its long term future will be determined by events in China itself. As the eyes of America and the world focus on the important trees of Hong Kong, we must not lose sight of the forest itself—China.

In our country the emerging consensus of U.S.-China policy is very, very fragile. The Presidential visits, the recent stabilization of Chinese-American relations and the prospects for improvement in the months ahead are particularly vulnerable to disruption by possible Chinese actions.

Many observers caution that for deeper reasons, the new consensus cannot be sustained, citing the historical "love-hate" relationship between these two great countries.

Some analysts claim that two civilizations as different as that of China and the United States simply cannot sustain constructive relations.

Other analysts assert that political and ideological differences preclude a close, cooperative relationship between Washington and Beijing.

Yet others claim that accommodations between the United States and China will necessarily prove to be temporary because of our differences in wealth and power and because the United States is a defender of an international system that we helped to create and that advances our interests.

Let us acknowledge and accept the dangers these observers offer. They remind us of the enormous challenges in fostering cooperative Sino-American relations. They caution us neither to harbor illusion nor to allow expectations to soar. But in the final analysis, what should we do with their warnings? Should our policy become fatalistic, devoid of hope that the United States and China can be partners in the building of a more stable and secure world? Should the United States look upon China as an enemy and therefore seek to weaken or divide it, thereby creating a reality we seek to avoid?

I believe the clear answer is no. To move in this direction would become a self-fulfilling prophecy. Forewarned of the difficulties, the leaders of China and the United States must persist in forging cooperative bonds between our two nations.

One conclusion is clear—in no small measure, the future well-being of the American and Chinese people depends on the ability of our two nations to cooperate. I remain hopeful that enlightened self-interest will prevail, as it has in the 25 years since President Nixon and Chairman Mao shook hands.

Thank you, ladies and gentlemen. Thank you, CNA. And thank you and God bless you. Paul Nitze.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 237 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS. Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

THE CASE FOR ENERGY CONSERVATION

Mr. SPECTER. Mr. President, I have sought recognition to address an ongoing threat to our Nation's security and prosperity, a threat with dual roots. In the precarious Middle East and right here at home there is reason for concern about our Nation's increased reliance on potentially unstable foreign sources of oil. I believe it is critical during the 105th Congress that we focus on efforts to increase energy conservation, particularly in the context of reauthorization of the Federal highway and transit programs.

We must think back to the days of the gulf war and further back to the oil crises of the 1970's to better understand the entire picture. American consumers too often forget the interdependence of world events, particularly when it comes to our use of imported foreign oil. There are currently legitimate reasons to question whether instability in the Mideast will once again jeopardize our access to that region's oil resources, putting our economy and perhaps our national security at significant risk.

By way of background, it is well known that the oil supplies in the Mideast are immense. An estimated 66 percent of the world's recoverable oil resources are found in the region. These supplies are critical to the United States as well as to our European allies. More than 20 percent of the oil we purchase comes from the Arab countries of the Organization of Petroleum Exporting Countries, commonly known as OPEC. Western Europe depends on the region for 25 percent of its oil consumption. These OPEC countries include alphabetically, Algeria, Iraq, Kuwait, Libya, Qatar, Saudi Arabia, and the United Arab Emirates.

I have been troubled that U.S. imports of foreign oil continue to increase. Currently, the U.S. imports constitute more than 50 percent of the oil which we consume. According to the American Petroleum Institute, this equals more than 9 million barrels per day, with a 6-percent increase in the amount of imported oil since 1995 alone. That is cause for real concern. This is a huge jump from the 6 million barrels imported per day in 1973. Further, if these trends continue, analysts say that in 10 years we will look to these overseas sources for two-thirds of our energy needs.

In part because of the ready availability of less expensive sources of foreign oil, it has not been cost effective for U.S. energy companies to increase domestic production. U.S. domestic production of oil continues to decline, with an estimated 17,000 U.S. oil wells ceasing production annually. U.S. industry claims that regulatory relief and tax measures are necessary to jump start domestic production again, and these are areas which we ought to consider.

This is a field that I have some personal knowledge in, Mr. President, from my roots in Kansas where my father ran a junkyard and where he and my brothers bought oil wells for salvage and then flooded wells. We have a great source of supply from those wells and other production in the United States which we really ought to reexamine in the context of this major international problem.

In an effort to protect ourselves against the disruption of oil supplies after the oil crises we faced in the 1970's, Congress established the Strategic Petroleum Reserve. That reserve was intended to minimize the effects of any disruptions from the import of oil, and by the end of 1989 that reserve held 580 million barrels. The first sale from that reserve occurred after the Iraqi invasion of Kuwait in August 1990, demonstrating that the reserve can serve its intended purpose, because it was used at that time.

The effectiveness of the reserve is measured by the number of days of net petroleum imports the reserve could supply in the event of an interruption in the supply of foreign oil. For example, in 1986 the reserve was said to contain 115 days of imports. By 1995, based on the decreasing U.S. production and a corresponding increase in foreign imports, the reserve was said to hold an amount comparable to 75 days of net imports.

As if it was not sufficient to let the effectiveness of the reserve dwindle, last year in an unprecedented move, the Administration decided to sell approximately 25 million barrels of petroleum from the reserve to generate revenues, an amount equivalent to almost 3 weeks supply of imports from Saudi Arabia. That timing, I suggest, was less than prudent, particularly considering the state of affairs in the Mideast today which should highlight the dangers and disadvantages of reliance on Mideast oil. Saudi Arabia, in particular, poses a unique cause for concern. The sovereign independence of Saudi Arabia is of vital interest to the United States, as President Bush said in 1990 after Iraq invaded Kuwait. If a hostile nation seized Saudi oil wells, the largest reserve in the world, the American economy and the world markets could tumble.

More recent events are again drawing our attention to Saudi Arabia. Last week, Attorney General Reno and FBI Director Louis Freeh publicly acknowledged what has been known for a long time; and that is that the Saudis are not cooperating with the United States investigation into the terrible terrorist attack at Dharhan on June 25 of 1996. We saw the terrorist attack on United States citizens in Riyadh in November of 1995. We saw the Saudi investigation. We saw the Saudi execution of four convicts, people they said were guilty, on May 31, 1996 without giving the FBI an opportunity to question those individuals. Now Director Freeh has been blunt about the lack of Saudi cooperation, and Attorney General Janet Reno said the same thing in public disclosures last week.

It is in the interest of the United States, Mr. President, for our relationship with Saudi Arabia to continue, and we want to have a good relationship with the Saudis. But we have some 5,000 U.S. military personnel there. We have thousands of other U.S. personnel there. I think it is important for the Saudis to understand that continued United States cooperation requires fair treatment for our investigative efforts.

Along a parallel line, it is important for the Saudis to understand that respect for United States personnel there, for their religious freedom, is of enormous importance. It was not too long ago, in the mid 1980's, when United States citizens were arrested in their households by the so-called "religious police" and held in detention.

But this effort to maintain our relationship with the Saudis, while of enormous importance, requires that we focus on a potential problem of what we will do if the oil supplies from Saudi Arabia are in any way threatened.

Mr. President, while our interest in reducing dependence on foreign oil is a difficult task, we can achieve meaningful reductions in energy consumption through prompt reauthorization of the Federal mass transit and highway programs contained in the Intermodal Surface Transportation Efficiency Act of 1991, known as ISTEA, as well as enactment of an Amtrak reform bill and continued public policy initiatives to promote the use of clean burning alternative-fueled vehicles such as natural gas and electric cars.

ISTEA is commonly referred to as the highway bill, but it does much more than pave roads. That legislation expands the mass transit formula and discretionary grant programs, authorizing some $31.5 billion over 6 years for public transportation. Other provisions established funding for bicycle paths and pedestrian walkways. That bill revolutionized Federal spending on transportation infrastructure improvements by establishing the National Highway System, funding the Congestion Mitigation and Air Quality Improvement Program, granting States and local governments more flexibility in determining transit and highway solutions, and promoting new technologies such as intelligent transportation systems and magnetic levitation systems, which are also important alternatives to help us reduce dependency on foreign oil.

The funding authority for ISTEA will expire on September 30 this year, therefore creating the necessity and an opportunity to focus national attention on the significant link between energy consumption and our transportation infrastructure. A Department of Transportation study of the 50 largest urban areas in the United States suggests that nearly 4 billion gallons of gasoline are wasted each year due to traffic congestion—approximately 94 million barrels of oil. There is much at stake, for the annual economic loss to business in the United States caused by traffic congestion is estimated in itself at $40 billion by the Federal Transit Administration. We will be correcting many problems if we work on mass transit and road improvements to reduce traffic congestion and also our dependence on foreign oil.

Legislation to reauthorize Federal highway programs will provide an opportunity to improve existing roadways, construct more efficient bypasses and highway interchanges and generally reduce congestion in our cities and towns. Further, a key weapon in our effort to reduce our dependence on oil shipments from potentially unstable regions is public transportation and mass transit.

Mass transit has developed to include traditional bus and subway lines, commuter rail, cable cars, monorails, water taxis, and several other modes of shared transportation. Public transportation is a lifeline for millions of Americans and deserves substantial funding for that reason alone. However, it deserves even greater funding when one considers that public transportation saves 1.5 billion gallons of fuel consumption annually in the United States and that each commuter who switches from driving alone to using public transportation saves 200 gallons of gasoline per year, according to government and private studies. Transit thus deserves a renewed and expanded Federal commitment as we begin consideration of the reauthorization of ISTEA.

The additional benefits of reducing fuel consumption and improving the environment, not to mention the millions of Americans who are involved in the transit industry, provide extra reason to stop and explore the case for mass transit. In our States, citizens and communities depend on good public transportation for mobility, access to jobs and health care providers, environmental control, and economic stability.

In the context of ISTEA reauthorization, I intend to work closely with my colleagues to ensure that sufficient funds are available for improving our transportation infrastructure, including both highways and transit. As a first step, I was pleased to join 56 of my colleagues in a recent bipartisan letter to Budget Committee Chairman PETE DOMENICI urging that the fiscal year 1998 budget resolution reflect the need for increased transportation funding. Further, I am currently working on legislation that reflects the energy and environmental benefits of public transportation by increasing funding for mass transit and preserving the elements of the transit program incorporated in the 1991 ISTEA law. The additional benefits of reducing fuel consumption and improving the environment will be present if we do have the highway-transit conservation ideas uppermost in our minds. Mr. President, I have taken some time today since we are in morning business and since there is not business at hand to speak on the subject of the interrelationship between the way we handle mass transit and oil conservation in the context of what is going on in the Mideast and very serious potential problems which we face there.

Mr. President, I ask unanimous consent that an article in the New York Times from last Sunday be printed at the conclusion of my comments, entitled "Oil Imports Are Up. Fretting About It Is Down," which summarizes some of the statistical basis for legitimate concern if we do not do something about those oil imports and if we do not focus on them. As the headline notes, fretting about oil imports is down. It is passe. We do remember those long lines, many of us do, in 1973, and we do see the problems in the Mideast and the issue of stability of the Saudi Government.

This is the interrelation of problems which I think we have to address in a number of ways. We can address these problems through our foreign policy with the Saudis, and by trying to reduce dependency on foreign oil in a variety of ways, such as first, stimulating our domestic oil production consistent with environmental concerns, and second, reauthorizing the ISTEA programs, which will give us an opportunity to achieve some meaningful economies through mass transit.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 26, 1997]

OIL IMPORTS ARE UP—FRETTING ABOUT IT IS DOWN

(By Matthew L. Wald)

WASHINGTON.—In his second inaugural address last week, Bill Clinton made promises on the usual problems, like race relations, education and health. But another hardy perennial, the nation's dependence on imported oil, went unmentioned. Not gone but forgotten, this problem is larger than ever.

Imports have risen to record levels—about 50 percent of consumption, according to the American Petroleum Institute. Needing cash last year, the Government sold off about 25 million barrels from its Strategic Petroleum Reserve, the equivalent of almost three weeks of imports from Saudi Arabia. That hoard might have been precious in a crisis.

But there will not be another crisis quite like the oil shortages of 1973 to 1974 and 1979 to 1980, experts say, and there are reasons that might justify America's profligate course. Last year, domestic production decreased, but the oil companies delivered 2.8 percent more fuel to their customers. As a result, imports, which are relatively cheap, increased 6 percent, the institute said.

The contrast between the bad old days and today is stunning. When imports were 40 percent of consumption, Jimmy Carter, donning a cardigan, said that America should cut imports by nearly a third by 1985 and declared "the moral equivalent of war." As President Carter's energy czar, James R. Schlesinger, put it last week, Americans now have evolved to "indifference without moralizing."

Efforts to find substitute fuels for vehicles continue, along with programs to pump more domestic oil and conserve use. But dependence on foreign sources will grow anyway, the General Accounting Office said last month, because rising demand will outstrip all these efforts as the economy grows. Even without a population increase or new factories to consume more energy, new Chevy Astros, Mercury Villagers and other vans are roaring out of showrooms as old fuel-efficient Chevy Chevettes and Honda Civics head for the scrap heap. That means more fuel per mile.

Combined with declining domestic production, imports could rise to 60 percent of consumption by 2015, the G.A.O. said.

Hazel R. O'Leary, whose job as Energy Secretary ended with Mr. Clinton's swearing-in, said in an interview just before her departure, that the American people needed to get the message, but delivering it was beyond the ability of an Energy Secretary. She said it would take another oil shock.

And that appears about as certain as another hurricane in Florida or earthquake in California. The only question is when. Many of the elements are already in place; Larry Goldstein, the president of the Petroleum Industry Research Foundation, said that idle production capacity is only about three million barrels a day, all of it in the Persian Gulf. "If you were to have a disruption in Kuwait or Saudi Arabia," he said, "the ability of the world to make it up is zero. And nobody would honestly say the Middle East is more secure today than it was a decade ago."

But Mr. Goldstein and other experts say oil is no longer at the top of America's problem list for a number of reasons.

For one, interruptions in supply from the Persian Gulf are possible, but there is no enemy superpower poised to march in. "When the Soviet Union was still around, it had six airborne divisions seemingly ready to fly into the gulf," said Mr. Schlesinger, who also did a turn as Secretary of Defense. OPEC has lost power too, he said.

In fact, the so-called North-South confrontation of the 1970's, with rich oil-consuming nations facing off against poor energy-producing ones, is mostly gone. Daniel Yergin, president of Cambridge Energy Research Associates, pointed out that in the 1970's and 1980's, oil-producing countries nationalized their industries, but now they are privatizing them and asking for Western investment. "It's back to a high degree of interdependence," he said. "Everybody wants to be on the same team now."

And America itself has changed. The amount of goods and services that 20 years ago required five barrels of oil to make now takes only three. Not only have utilities switched to coal and natural gas, but the output of the American economy has also shifted away from products using vast amounts of energy, like heavy manufactured goods, to those that use hardly any, like movies and computer software.

The price of oil is down, too. In 1980, oil sales were about 8.5 to 9 percent of gross domestic product. "Today, it's a little over 3 percent," Mr. Goldstein said.

Mr. Goldstein also distinguishes between dependency and vulnerability. If this country cut its dependency by several million barrels a day, it would still be just as vulnerable to price shock, he said, because in a free international market, "a disruption anywhere is a price shock everywhere." Making a similar point last month, the G.A.O. gave the example of Britain after the fall of the Shah of Iran and the subsequent price shock. That country was nearly self-sufficient in oil at the time, but when the price rose, the economic dislocation was severe. The G.A.O. report found that "vulnerability is linked to dependence on oil, not merely to dependence on imported oil."

Cheap oil is still a boon to the American economy. The G.A.O. put the benefits of cheap oil at hundreds of billions of dollars annually. Its analysis explicitly excluded the cost of human life in sending American soldiers back into Mideastern oil fields—or the limits that import dependency may impose an American foreign policy. In the current political climate, though, those costs do not seem to be high on anybody's list.

Mr. SPECTER. Mr. President, I thank the Chair and note the absence of a quorum.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EPA PROPOSED NEW AIR QUALITY STANDARDS

Mr. ENZI. Mr. President, I rise to express my deep concerns with the Environmental Protection Agency's proposed changes to air quality standards. The EPA kicked off the last Thanksgiving weekend by announcing its intention to move their air quality goalposts yet again. It seems they change the rules more frequently than the NFL and the NBA put together. I doubt there were many State or local governments that spent Thanksgiving giving thanks for that announcement. I was the mayor of Gillette, a coal producing town on the plains of Wyoming. I know firsthand how hard many of our Nation's cities and States have been working. They have been expending a huge amount of effort and dollars just to get into compliance with the standards established in 1990.

And let there be no mistake. Compliance, for better or worse, has been costly. It has been costly to small businesses, businesses that operate on thin profit margins in the best of circumstances. It has been costly to major industries that have spent hundreds of millions of dollars retooling their plants and factories to comply with that law. It has been costly to State and local governments that have had to divert scarce dollars to mandated planning and enforcement duties. And most of all, it has been expensive for the citizens who lose jobs when industries relocate overseas or to other areas of the country that are already in compliance. This costly compliance has resulted in the higher taxes levied to compensate for a smaller tax base. And citizens notice higher costs for goods and services.

I do recognize that the EPA excludes economic concerns from the formulation of their air quality standards. The 1990 amendments to the Clean Air Act require that oversight. The air quality standards established in 1990 have been beneficial to our Nation's environment and, by extension, our public health. Of course, the more radical environmentalists point to the absence of an economic apocalypse over the past 7 years as proof that no environmental standard is too strict and nothing is impossible. You and I know that nothing is impossible. But arm in arm with successes has come a dangerous corollary. It is also easy to believe that nothing is too outrageous.

In the name of species protection, logging in the Pacific Northwest has all but disappeared. Years of careful forest management had rendered these the most productive forest lands in the world. They are so productive that for every 100,000 acres of Pacific Northwest forest land taken out of production, we force a half-million acres of Siberian wilderness to be cut down to fill the void. Environmentalists may have saved a few spotted owls, but in the process they have probably signed the death warrant of the Siberian tiger. It is ridiculous to trade jobs for dubious environmental gain. It is ridiculous to think that we are saving the world by importing our natural resources. This is what Senator Hatfield used to refer to as "environmental imperialism"—imperialism inflicted on nations too desperate to ignore our resource markets yet too poor to enforce their own environmental standards.

Can the word "ridiculous" apply to the proposed standards themselves? The current standard for particulate matter limits particles to 10 microns or larger. The proposed standard would change that to particles larger than 2.5 microns. For comparison, a human hair is about 28 microns in width. For ozone, the current standard of .12 parts per million averaged over 1 hour would be replaced by a new standard of .08 parts per million averaged over 8 hours. In light of the fact that there are many cities across the Nation that have yet to satisfy the current standard and the fact that no one yet has justified these new standards, I think it is safe to say that the proposed standards fail the credibility test. The Congressional Research Service has stated that "The new standards would substantially increase the number of areas not attaining the Clean Air Act's air quality standards and magnify the difficulties faced by present nonattainment areas in reaching attainment." And the hardship to be imposed is without reasonable evidence of any additional benefit.

Billions—billions—of dollars were spent by cities and industry 10 years ago to comply with the current standards. Yet, now the EPA intends to require billions more to comply with the new standards. The capital invested in current compliance has yet to be paid off, in many instances. Areas that are not yet in compliance with the current standards will have to strengthen their restrictions by several orders of magnitude. The possibility of mandatory car pooling and bans on backyard barbecues and lawn mowing are ridiculous, but probably will be the result.

I can assure you they will not go over well in my State. Wyoming is populated with people gifted with a basic common sense. They are aggressively independent and free thinking. I can only imagine the head scratching that will ensue when they see county tanker trucks watering the dirt roads around there. After all, Wyoming has miles and miles of miles and miles, and many of those roads are gravel.

Anyone familiar with the average Wyoming winter understands the axiom that sand is safety, yet sand applied to ice-bound roads results in a dust level, and that dust level already violates the proposed standards in many communities. The current clean air standards are already causing wrecks and injury to people.

From an economic perspective, these standards will visit tremendous hardships upon my State and upon every State that depends on land-use industries. Wyoming is the largest coal producer in the Nation. Clean, low-sulfur coal, I might add. But mining does create some dust. Not really dust, it is smaller than that. That is why we are talking about the size of these particulates. I wish each of you would have an opportunity to visit a mine in Wyoming. Many of you would see a very clean industry. But now the particulates have to be even finer. And oil refining creates gases.

The Nation simply cannot have job-producing factories or heat in their homes without those byproducts. We are led to believe these standards would eliminate billowing clouds of pollution, but the current laws already do that. These proposed standards would place enormous burdens on our mining and refining industries and would simply spell the end of many western refineries.

The Environmental Protection Agency and its handmaiden, the environmental movement, are engaging in a form of execution attributed to the ancient Chinese. It is known as death by 10,000 slices, and its current victim is the American economy. Each swipe of the knife results in wounds that are individually minor but cumulatively disastrous. With every burdensome standard, the blade flashes and another small business goes under. With every new expensive regulation, a new slice drips red and another plant or factory moves overseas. With every additional surtax, the knife whistles by, and the American family has less money to place back into the economy.

Mr. President, we must restore a semblance of balance and reason to our environmental laws. We must introduce cost-benefit analysis and risk assessment into the environmental equation. We must evaluate science above politics. We must honor the work of the last Congress in restricting unfunded Federal mandates. We must stop moving the goalposts on cities, towns, States, and businesses that are already working hard to comply. We must give business and industry incentives to work toward our spiraling environmental goals. It is a small planet. It is where you and I live. We can't keep shifting environmental problems to poorer countries who can't afford the level of clean air we enjoy. We must recognize that the worst thing in the world for the environment is not responsible logging or ranching or mining, but poverty.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes in morning business.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

CAMPAIGN SPENDING

Mr. DORGAN. Mr. President, I noticed in the newspapers this morning that the chairman of the Governmental Affairs Committee is suggesting that he be given some $6.8 million to hire some 80 investigators on the issue of investigating campaign irregularities, apparently including the ones that are in the paper about the Democratic National Committee, and more.

It seems to me the first step in dealing with the issue of irregularities in campaigns—and if there are some, they ought to be investigated—the first step would be to give the Federal Election Commission some teeth. Invest a little bit in the Federal Election Commission and give it some teeth, and let them investigate. But if we are going to investigate in Congress, if we are going to have a group of politicians investigating another group of politicians, I don't think we need $6.8 million to do that. But if they decide to do that, I have a suggestion: Go ahead and rent a truck and back it up to whatever house—the Republican National Committee or the Democratic National Committee—and I hope all of them will encourage their minions to load up all the relevant paper and let people read it to see who did what, who didn't do what and who didn't comply with laws and who did comply with laws.

But it ought to be more than that. The trail of trouble, it seems to me, in campaign financing isn't just in the national committees—and there are some problems in both national committees. One fellow went to jail already earlier this year on the issue on the other side of the aisle. There are plenty of questions on this side of the aisle with respect to the DNC.

Let's find out where the trouble was and correct it. But that is not the only place there is trouble on the campaign trail. Let's also investigate the growth of these 501(c)(3) organizations that some in politics have created to get tax-exempt money and use it in the political system. Let's follow that string wherever that leads.

In my judgment, there are a substantial number of questions that need to be addressed by investigators in that whole range of areas. Once we start down this trail, let's make sure we follow the fresh trail all the way to the end, not just take a look at one little building or another little building. Let's look at all of it.

I say to those who are concerned about it—and I am concerned about it—the first step ought to be for us to come to the floor of the Senate—we could do it this afternoon or early next week—and decide there is too much money in politics and we ought to limit campaign spending.

The Supreme Court says that is hard to do, but there are mechanisms by which we could do it. If Republicans and Democrats decided to create a system in which there were voluntary spending limitations, we would limit spending in campaigns, and we would solve a lot of these problems.

We have some folks trotting around here who think there is not enough money in politics. They say we spend more money on washing machines and dog food than we do on politics, suggesting somehow that politics is a commercial activity like everything else, just buy and sell.

Our political system is our democracy. It ought not be for sale. What has happened to money in politics is that it has ratcheted up out of control in an exponential way, and it is time for us to put some limits on campaign spending. Let's limit campaign spending, and let's make it stick. There is too much money in politics, and we can do the American democratic system and the American public a real service if we would, on a bipartisan basis, decide to come together and support campaign finance reform that has real and effective spending limits.

Yes, it can be done and it ought to be done today, tomorrow, next week or next month. We do not need $6 million or 80 investigators to do that. All we need is the will to decide there is too much money in American politics and we ought to limit campaign spending.

Take a look at what has happened with campaign spending relative to the consumer price index in this country. You will see the consumer price index has risen a bit and campaign spending has risen out of sight. There is too much money in politics, and we ought to adopt a bill that the President will sign that limits spending in our political system.

Some won't like that, I suppose. We have one party that spends twice as much as another party. I suppose they would say, "We have a 2-to-1 advantage, so why would we want to do that?"

We ought to do it to clean up the political system. The fact is, there have been abuses on both sides. Any abuse ought to be investigated, and we ought to investigate it thoroughly. Let's not take one little cause of abuses and say, "All right, let's drive our trucks over there and send all our investigators over there." Let's look at all the whole thing. Let's look at 501(c)(3)'s using tax exemption and trying to contravene the law. Let's find out how they have done it, why they have done it, and what laws they have broken. If we are going to have an investigation, we ought to open that investigation, make it aggressive and don't limit the vision.

CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

Mr. DORGAN. Mr. President, we are going to have a vote on a constitutional amendment to balance the budget very soon. Some discussion on the floor of the Senate in the last day or so said that those of us who believe that when we put a provision in the Constitution requiring a balanced budget, we ought not enshrine in the Constitution the requirement to use the Social Security trust funds to balance the budget, because we think it is dishonest budgeting. They say, those of us who believe that, that is an accounting gimmick; just an accounting gimmick, they say.

There are two to three dozen folks over in the House of Representatives now, I am pleased to say, on the Republican side who are saying exactly what some of us have been saying for some long while, that it is not honest budgeting to collect money from paychecks of workers, call it Social Security taxes, tell them we promise we will put it in a trust fund, and then use it as an offset for other revenue so you can claim the budget is in balance when it isn't.

To those who say this is an accounting gimmick, I ask one question: Why is it that when those who want to use this device of misusing Social Security trust funds to balance the budget, why is it when their budget is balanced, the Federal Government will still borrow $130 billion more that year? Why, if your budget is in balance, is the Federal debt still growing?

The answer: The debt is still growing when those who advocate this practice claim the budget is in balance because the budget is not in balance. It is a ruse. It is a charade. More than that, it is misusing money that if you did it in the private sector, you would be on your way to some minimum security installation, because you can't do it in the private sector.

If you run a business and say to your employees, "I will put money away in a pension program for you, but, by the way, I had a loss in my business this year so I am going to take your pension money and offset it against my loss so I can say to people that I haven't lost any money," what happens to you isn't very pretty, because that is against the law.

That is exactly what is proposed we enshrine in the Constitution, by saying that we should take the Social Security trust funds and declare them revenue with all other revenue and then declare that we have balanced the budget.

In the same year when we declare we have balanced the budget, we will have to increase the debt limit because the debt is still increasing. And when the folks in North Dakota or Wyoming or New Mexico or elsewhere ask us the question, "If you have balanced the budget, why did you have to increase the debt limit?" I want to be around for the answer, because the answer is, the budget was not balanced.

I think fiscal discipline is a pretty good thing. I come from a small town, a small school, a small State. We believe in fiscal discipline. I am pleased I have been one of those who cast votes to reduce the Federal budget. The deficit is down 60 percent in the last 4 years. The last 4 years in a row it has been down. I cast tough votes to do that.

I will continue to do that. I will cast a vote in the coming weeks to support a constitutional amendment to balance the budget. But I will not cast a vote that puts something in the Constitution that is wrong. And it is fundamentally wrong to suggest that we take that balance of trust funds every year and use it to balance the budget.

In 1983, I was on the House Ways and Means Committee. Mr. Greenspan, at that point, headed a commission to make recommendations on Social Security funding. The commission recommended that we begin to accumulate a pool of savings so that when the baby boomers retire, there will be some money in the Social Security system to pay for their retirement. That is going to be the maximum strain on the Social Security system.

So we began to accumulate a surplus this year. We will collect $70 billion more in Social Security than we spend from that same system. Why? Because we designed to save that.

I will ask any of my colleagues on the floor whether double-entry bookkeeping means you can spend it twice. Can you claim you are saving it when in fact you use it over here with ordinary revenue and claim you use it to balance the budget? The answer is "no". There is no study, no set of studies in this country, that allows you to make that claim.

That is why, when we have a vote on a constitutional amendment to balance the budget, we will vote on two of them. One I will vote for and offer along with colleagues, and one I will oppose. That is the one that says, let us enshrine in the Constitution a practice that I think is fundamentally dishonest budgeting.

Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I wanted to visit some other issues today. I shall not do that and will wait until next week.

REAUTHORIZATION OF ISTEA

Mr. DORGAN. Mr. President, one issue I want to visit is the need to reauthorize the ISTEA program or the highway program in this country. It is important for States like North Dakota.

I notice the Senator from Alaska is on the floor. He will, I am sure, have the same feelings about this that I have. We are large States in land mass, small States in population. We have a need to construct a network of highways still across our States for interstate commerce and for a whole range of needs, but we have a very small tax base with which to do it.

We have seen developed in this discussion who are the donor States and who are the donee States with respect to highway moneys. Well, that is largely irrelevant to me. If they want to ship fresh fruit and frozen fish from Boston to Seattle, do they want to ship them on gravel roads through North Dakota and Wyoming? I do not think so. We want to maintain and develop a National Highway System that works for everybody. That means that we need, as small States in the debate on this highway system, fairness for the highway needs for our States.

I will just say that as we work through this debate in the coming weeks and months, those of us who come from States like North Dakota and Wyoming and Alaska and others are going to be working very hard to make sure that we are treated fairly in this reauthorization. Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

SUBCOMMITTEE ASSIGNMENTS, COMMITTEE ON APPROPRIATIONS, 105TH CONGRESS

Mr. STEVENS. Mr. President, the Committee on Appropriations held its organizational meeting on January 28. Among other business conducted, the Committee approved subcommittee assignments for the 105th Congress. I submit a list of the subcommittees and their membership for the 105th Congress, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SUBCOMMITTEES

Senator Stevens, as chairman of the Committee, and Senator Byrd, as ranking minority member of the Committee, are ex officio members of all subcommittees of which they are not regular members.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Senators Cochran,[1] Specter, Bond, Gorton, McConnell, Burns, Bumpers,[2] Harkin, Kohl, Byrd, Leahy. (6–5).

COMMERCE, JUSTICE, STATE, AND JUDICIARY

Senators Gregg,[1] Stevens, Domenici, McConnell, Hutchison, Campbell, Hollings,[2] Inouye, Bumpers, Lautenberg, Mikulski. (6–5).

DEFENSE

Senators Stevens,[1] Cochran, Specter, Domenici, Bond, McConnell, Shelby, Gregg, Hutchison, Inouye,[2] Hollings, Byrd, Leahy, Bumpers, Lautenberg, Harkin, Dorgan. (9–8).

DISTRICT OF COLUMBIA

Senators Faircloth,[1] Hutchison, Boxer.[2] (2–1)

ENERGY AND WATER DEVELOPMENT

Senators Domenici,[1] Cochran, Gorton, McConnell, Bennett, Burns, Craig, Reid,[2] Byrd, Hollings, Murray, Kohl, Dorgan. (7–6)

FOREIGN OPERATIONS

Senators McConnell,[1] Specter, Gregg, Shelby, Bennett, Campbell, Stevens, Leahy,[2] Inouye, Lautenberg, Harkin, Mikulski, Murray. (7–6)

INTERIOR

Senators Gorton,[1] Stevens, Cochran, Domenici, Burns, Bennett, Gregg, Campbell, Byrd,[2] Leahy, Bumpers, Hollings, Reid, Dorgan, Boxer. (8–7)

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION

Senators Specter,[1] Cochran, Gorton, Bond, Gregg, Faircloth, Craig, Hutchison, Harkin,[2] Hollings, Inouye, Bumpers, Reid, Kohl, Murray. (8–7)

LEGISLATIVE BRANCH

Senators Bennett,[1] Stevens, Craig, Dorgan,[2] Boxer. (3–2–)

MILITARY CONSTRUCTION

Senators Burns,[1] Hutchison, Faircloth, Craig, Murray,[2] Reid, Inouye. (4–3)

TRANSPORTATION

Senators Shelby,[1] Domenici, Specter, Bond, Gorton, Bennett, Faircloth, Lautenberg,[2] Byrd, Mikulski, Reid, Kohl, Murray. (7–6)

TREASURY, AND GENERAL GOVERNMENT

Senators Campbell,[1] Shelby, Faircloth, Kohl,[2] Mikulski. (3–2)

VA-HUD-INDEPENDENT AGENCIES

Senators Bond,[1] Burns, Stevens, Shelby, Campbell, Craig, Mikulski,[2] Leahy, Lautenberg, Harkin, Boxer. (6–5)

[1] Subcommittee chairman.

[2] Ranking minority member.

SUBCOMMITTEE ASSIGNMENTS

SENATOR STEVENS

Commerce, Justice, State, and Judiciary
Defense (Chairman)
Foreign Operations
Interior and Related Agencies
Legislative Branch
VA-HUD-Independent Agencies

SENATOR COCHRAN

Agriculture, Rural Development, and Related Agencies (Chairman)
Defense
Energy and Water Development
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies

SENATOR SPECTER

Agriculture, Rural Development, and Related Agencies
Defense
Foreign Operations
Labor, Health and Human Services, Education, and Related Agencies (Chairman)
Transportation and Related Agencies

SENATOR DOMENICI

Commerce, Justice, State, and Judiciary
Defense
Energy and Water Development (Chairman)
Interior and Related Agencies
Transportation and Related Agencies

SENATOR BOND

Agriculture, Rural Development, and Related Agencies
Defense
Labor, Health and Human Services, Education, and Related Agencies
Transportation and Related Agencies
VA-HUD-Independent Agencies (Chairman)

SENATOR GORTON

Agriculture, Rural Development, and Related Agencies
Energy and Water Development
Interior and Related Agencies (Chairman)
Labor, Health and Human Services, Education, and Related Agencies
Transportation and Related Agencies

SENATOR MCCONNELL

Agriculture, Rural Development, and Related Agencies
Commerce, Justice, State, and Judiciary
Defense
Energy and Water Development
Foreign Operations (Chairman)

SENATOR BURNS

Agriculture, Rural Development, and Related Agencies
Energy and Water Development
Interior and Related Agencies
Military Construction (Chairman)
VA-HUD-Independent Agencies

SENATOR SHELBY

Defense
Foreign Operations
Transportation and Related Agencies (Chairman)
Treasury and General Government
VA-HUD-Independent Agencies

SENATOR GREGG

Commerce, Justice, State, and Judiciary (Chairman)
Defense
Foreign Operations
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies

SENATOR BENNETT

Energy and Water Development
Foreign Operations
Interior and Related Agencies
Legislative Branch (Chairman)
Transportation and Related Agencies

SENATOR CAMPBELL

Commerce, Justice, State, and Judiciary
Foreign Operations
Interior and Related Agencies
Treasury and General Government (Chairman)
VA-HUD-Independent Agencies

SENATOR CRAIG

Energy and Water Development
Labor, Health and Human Services, Education, and Related Agencies
Legislative Branch
Military Construction
VA-HUD-Independent Agencies

SENATOR FAIRCLOTH

District of Columbia (Chairman)
Labor, Health and Human Services, Education, and Related Agencies
Military Construction
Transportation and Related Agencies
Treasury, General Government

SENATOR HUTCHISON

Commerce, Justice, State, and Judiciary
Defense
District of Columbia
Labor, Health and Human Services, Education, and Related Agencies
Military Construction

SENATOR BYRD

Agriculture, Rural Development, and Related Agencies
Defense
Energy and Water Development
Interior and Related Agencies (Ranking)
Transportation and Related Agencies

SENATOR INOUYE

Commerce, Justice, State, and Judiciary
Defense (Ranking)
Foreign Operations
Labor, Health and Human Services, Education, and Related Agencies
Military Construction

SENATOR HOLLINGS

Commerce, Justice, State, and Judiciary (Ranking)
Defense
Energy and Water Development
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies

SENATOR LEAHY

Agriculture, Rural Development, and Related Agencies
Defense
Foreign Operations (Ranking)
Interior and Related Agencies
VA-HUD-Independent Agencies

SENATOR BUMPERS

Agriculture, Rural Development, and Related Agencies (Ranking)
Commerce, Justice, State, and Judiciary
Defense
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies

SENATOR LAUTENBERG

Commerce, Justice, State, and Judiciary
Defense
Foreign Operations
Transportation and Related Agencies (Ranking)
VA-HUD-Independent Agencies

SENATOR HARKIN

Agriculture, Rural Development, and Related Agencies
Defense
Foreign Operations
Labor, Health and Human Services, Education, and Related Agencies (Ranking)
VA-HUD-Independent Agencies

SENATOR MIKULSKI

Commerce, Justice, State, and Judiciary
Foreign Operations
Transportation and Related Agencies
Treasury, and Government
VA-HUD-Independent Agencies (Ranking)

SENATOR REID

Energy and Water Development (Ranking)
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies
Military Construction
Transportation and Related Agencies

SENATOR KOHL

Agriculture, Rural Development, and Related Agencies
Energy and Water Development
Labor, Health and Human Services, Education, and Related Agencies
Transportation and Related Agencies
Treasury, General Government, (Ranking)

SENATOR MURRAY

Energy and Water Development
Foreign Operations
Labor, Health and Human Services, Education, and Related Agencies
Military Construction (Ranking)
Transportation and Related Agencies

SENATOR DORGAN

Defense
Energy and Water Development
Interior and Related Agencies
Legislative Branch (Ranking)

SENATOR BOXER

District of Columbia (Ranking)
Interior and Related Agencies
Legislative Branch
VA-HUD-Independent Agencies

RULES OF THE COMMITTEE ON APPROPRIATIONS, 105TH CONGRESS

Mr. STEVENS. Mr. President, I submit, for printing in the RECORD, the rules of the Committee on Appropriations, which were adopted at the organizational meeting of our Committee on January 28. Under the provisions of paragraph 2 of rule XXVI of the standing rules of the Senate, the rules of each committee shall be printed in the

CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress.

I ask unanimous consent that the rules be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES[1]

[1] Adopted pursuant to Rule XXVI, paragraph 2, of the "Standing Rules of the Senate."

I. MEETINGS

The Committee will meet at the call of the Chairman.

II. QUORUMS

1. Reporting a bill. A majority of the members must be present for the reporting of a bill.

2. Other business. For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

3. Taking testimony. For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

III. PROXIES

Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

IV. ATTENDANCE OF STAFF MEMBERS AT CLOSED SESSIONS

Attendance of Staff Members at closed sessions of the Committee shall be limited to those members of the Committee Staff that have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

V. BROADCASTING AND PHOTOGRAPHING OF COMMITTEE HEARING

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio. However, if any member of a subcommittee objects to the photographing or broadcasting of an open hearing, the question shall be referred to the Full Committee for its decision.

VI. AVAILABILITY OF SUBCOMMITTEE REPORTS

To the extent possible, when the bill and report of any subcommittee are available, they shall be furnished to each member of the Committee thirty-six hours prior to the Committee's consideration of said bill and report.

VII. AMENDMENTS AND REPORT LANGUAGE

To the extent possible, amendments and report language intended to be proposed by Senators at Full Committee markups shall be provided in writing to the Chairman and Ranking Minority Member and the appropriate Subcommittee Chairman and Ranking Minority Member twenty-four hours prior to such markups.

VIII. POINTS OF ORDER

Any member of the Committee who is floor manager of an appropriation bill, is hereby authorized to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriation bill.

TRIBUTE TO THE LATE ROBERT B. ATWOOD, ALASKA PIONEER

Mr. STEVENS. Mr. President, Alaska lost one of its greatest 20th century pioneers this month, when Robert B. Atwood died on January 10.

Many today remember him as the man who edited and published Alaska's largest newspaper, the Anchorage Times, for more than 50 years.

But some of my best memories are of the hours and days and weeks we spent together in the 1950's, when he was chairman of the Alaska Statehood Committee and I was assistant to the Secretary of the Interior Fred Seaton as Alaskans sought Statehood.

Bob Atwood was a leader in that fight. He crystallized the support of our Nation's press to put the 49th star on our flag. It was his understanding and knowledge of the news media, and his friendships among editors and publishers across our Nation that brought the press on board, to champion the cause for bringing Alaska into the union. Not too many years later, he was responsible for newspapers across our Nation understanding the importance of building our great Alaska pipeline.

Bob Atwood was more than a great publisher, more than the successful chairman of the Statehood Committee. He was a cultural renaissance man, who did much behind the scenes to promote the arts and education in Alaska.

Bob loved new technology, and brought his newspaper into the computer age long before most of the Nation's largest dailies were on line. He was the first one on the staff of the Anchorage Times to learn how to use the new computers, while his staff struggled with the transition from typewriters to the electronic age.

His knowledge of history, and of the many serious- and humorous-stories about Alaska and Alaskans who shaped my State's history, was extraordinary. Bob was generous in sharing those stories with organizations and groups who asked him to speak or to attend their meetings.

Above all, Bob Atwood understood the importance of a strong military presence in Alaska, the crossroads of the world, and he helped to make the Nation aware of our strategic global position.

He was a tireless supporter of our service men and women, and remained friends with many of them long after their tours of duty in Alaska were over. For 40 years Bob served on the military's civilian advisory boards in Alaska, and was president since 1976 of the Alaskan Command Civilian Advisory Board. He assured that in Alaska there was—and still is—a partnership between our military stationed in our State and Alaskans.

Immediately after the 1964 earthquake, he told me he wanted to buy land and build a house close to the area most damaged by the earthquake, to show his confidence in the future of Alaska. He built that house and opened it up time and again to men and women from our State and hundreds of others he had met during his travels in our country and all over the world.

My friend Bob was quietly generous to a number of causes which were never publicized. In addition, he was proud of those which bear his name, to which he donated millions of dollars, including the Atwood chair in journalism at the University of Alaska, the Atwood Center at Alaska Pacific University, and the Evangeline Atwood Theater at Anchorage's performing arts center. His generosity touched the lives of thousands of Alaskans, though they may never have known it.

Bob Atwood had the manners of an old-fashioned gentleman, the curiosity and sense of fun of a youngster, and writing and editing talents that could only be achieved through graceful maturity and a great understanding and love of words.

In helping to make life better for all Alaskans, Bob Atwood made history. He was indeed a great man, who helped to make our great land even greater. He was also a dear, good and loyal friend. I will miss him. Our sympathy goes out to his daughter Elaine and his grandsons and granddaughter, to whom he was devoted.

As a visitor comes into my office, there is a photo of Bob Atwood and me with our snowmachines in the broad fields near Alyeska, the ski resort in my home town, Girdwood, AK. I cherish those days when I spent time there with Bob, with Evangeline and Elaine Atwood.

Bob was a true Alaskan—a real pioneer.

Thank you very much, Mr. President.

TRIBUTE TO MAJ. GEN. CONRAD F. "NICK" NECRASON

Mr. STEVENS. Mr. President, our Nation lost one of the genuine heroes of World War II, a man who went on to a distinguished second career in Alaska, when Maj. Gen. Conrad F. "Nick" Necrason died this last month.

He was the recipient of the Silver Star, the Legion of Merit, and the Distinguished Flying Cross. He also received our State of Alaska's highest military award, the Legion of Merit.

He began his career at West Point. After his 1936 graduation, he went on to flying school, earning his wings in the Army Air Corps the next year.

When the Japanese attacked Pearl Harbor, General Necrason was flying to Pearl Harbor as part of a bomber squadron. He loved to tell the story of how he had to land on a golf course during the battle—the attack of the Japanese on Hawaii.

During World War II, General Necrason flew 360 air combat hours, and was recognized for developing low-level bombing techniques. He flew a whole variety of aircraft, most notably P–38 fighters and B–17 bombers. In 1943, he was wounded in action over Burma.

A few years later, he flew bombers during the Korean conflict.

General Necrason came to Alaska at an exciting time, just as statehood dawned, and was commander of the Alaskan Air Command at Elmendorf Air Force Base from 1958 to 1961.

After retirement in 1965, he became Alaska's Adjutant General and commander of the National Guard, serving from 1967 through 1972, and again from 1974 to 1982.

During those years, he effected a successful restructuring of the Alaska Army National Guard and the Alaska Air National Guard.

He brought the great workhorses of the air, C–130's, into service in Alaska, expanded our Eskimo scout contingent by establishing training programs for women, and led the guard in helping Alaska and Alaskans through floods and other natural disasters.

While many describe him as a soldier's soldier, Nick Necrason was equally as well-liked and at home in the civilian community.

He was known for his skill at bridge and at poker, and with his wife, Myrle, who survives him, as a gracious host, welcoming people from all parts of our State and our world to their home.

General Necrason's heroism during combat, his distinguished peacetime career, and his contributions to Alaska will not be forgotten. We extend our deepest sympathy to his wife Myrle, daughters Ginger and Sandy, and his grandchildren.

Thank you, Mr. President.

LT. GEN. SAMUEL E. EBBESEN, U.S. ARMY

Mr. STEVENS. Mr. President, today I salute an outstanding military officer, Lt. Gen. Samuel E. Ebbesen, U.S. Army. General Ebbesen is retiring this month with more than 35 years of dedicated service to our country, culminating in assignments as Commanding General, Second United States Army, and Deputy Assistant Secretary of Defense for Military Personnel Policy.

In his most recent position, he was responsible for the establishment of all policies concerning military personnel matters including accessions and retention programs; compensation and benefits; and the classification, assignment and career development for the 1.4 million service members of the Department of Defense. His accomplishments were many, resulting in improved quality of life for our service members and the enhanced readiness of our Armed Forces.

General Ebbesen, a native of St. Croix, VI, was commissioned in 1961 through the Reserve Officer Training Corps [ROTC]. He holds a Bachelor of Arts degree in political science from City College of New York and a Masters degree in public administration from Auburn University. His military schooling includes the Infantry Officer Basic and Advanced Courses, U.S. Army Command and General Staff College, and the Air War College.

During his distinguished career, General Ebbesen served in numerous leadership and key staff positions throughout the Army. He served as the commanding general, 6th Infantry Division, Light, Fort Wainwright, AK, as the deputy commander, Alaska Command [ALCOM] and as the assistant division commander, 6th Infantry Division, Light. After the division relocated—north of the range—in Alaska, General Ebbesen was instrumental in successfully integrating the 6th Infantry Division—Light—into the Fairbanks community. He fostered strong community relationships which endure today. Under General Ebbesen's tenure, the 6th Infantry Division achieved safety records which were unsurpassed in the United States Army at that time. This record was achieved in spite of adverse and difficult climatic conditions. He ensured that the 6th Infantry Division were pivotal players in the U.S. Pacific Command's Expanded Relations Program throughout the Asia-Pacific region. Further, General Ebbesen significantly improved quality of life for those soldiers and their families stationed throughout Alaska.

Additionally, General Ebbesen served as the Deputy Chief, Legislative Liaison, Office of the Chief of Legislative Liaison, United States Army, Washington, DC; Chief of Staff, I Corps, Fort Lewis, WA; commander, 1st Brigade, 101st Airborne Division, Air Assault, Fort Campbell, KY; Deputy Chief, Plans and Operations Division, and later Executive Officer, Office of the Chief, Legislative Liaison, Office of the Secretary of the Army, Washington, DC; and Commander, 2d Battalion, 32 Infantry, 7th Infantry Division; Executive Officer, 2d Brigade, 7th Infantry Division; and G3, 7th Infantry Division, Fort Ord, CA.

General Ebbesen's military awards and decorations include the Defense Distinguished Service Medal, Legion of Merit—with 3 Oak Leaf Clusters, Bronze Star Medal with "V" Device—with 2 Oak Leaf Clusters, Meritorious Service Medal—with Oak Leaf Cluster, Air Medal and Army Commendation Medal—with 2 Oak Leaf Clusters. His combat assignment and training resulted in the award of the Combat Infantry Badge. Expert Infantry Badge, Parachutist Badge, and Air Assault Badge. He is authorized to wear the Army General Staff Identification Badge and the Office of the Secretary of Defense Identification Badge.

Mr. President, I ask you and our colleagues to join me in saluting General Ebbesen for his distinguished service to this great Nation and to the great State of Alaska, as well as his superb leadership of the men and women of our Armed Forces. It is with great pride that I congratulate him upon his retirement and wish him the very best.

MARITIME SECURITY PROGRAM IMPLEMENTATION

Mr. LOTT. Mr. President, I rise today to draw my colleague's attention to the outstanding efforts and hard work of the men and women of the U.S. Maritime Administration. I want to offer my own heartfelt thanks to those individuals for their hard work and dedication in swiftly implementing the Maritime Security Act.

The Maritime Security Act, which was approved by the Senate on September 24, and signed into law by the President on October 8 last year. It will ensure the continued viability of the U.S.-flag merchant marine. It will guarantee that there will be an adequate number of private-sector, U.S.-flag vessels on hand for the Department of Defense in times of war or national emergency. Our Nation will continue to support a base of maritime employment to provide trained, loyal U.S.-citizen merchant mariners to crew the Department of Defense's Ready Reserve fleet of sealift vessels.

Quite simply, without this legislation the United States might have lost its merchant marine. Some of our Nation's most honored former military leaders let us know last year, in no uncertain terms, just how costly that would be. Our Armed Forces are counting on the U.S.-flag merchant marine to bring them the supplies they need to sustain their operations on hostile shores. If history has taught us one lesson, Mr. President, we should hold a deep appreciation for the importance of the U.S.-flag merchant marine to our Nation's security. That is why the outstanding efforts of the Maritime Administration deserves recognition.

In the days following enactment of the Maritime Security Act, the staff of the Maritime Administration worked tirelessly to iron out the contracts between the Government and the individual U.S.-flag vessel operators. This is the backbone of the Maritime Security Program.

At the same time, MARAD staff coordinated their efforts with the Department of Defense. This ensured that only the most modern and most militarily useful U.S.-flag vessels are chosen for the Maritime Security Program. These efforts will enhance our national defense capabilities.

The first contracts were signed last month, just before the holidays. And, I am pleased to report to my colleagues that the final contracts were just recently signed. In just 4 months, the complete 47-ship Maritime Security

Fleet has become a reality. We have MARAD to thank for taking our vision and translating it into a viable program.

I want to recognize the Administrator of MARAD, Vice Adm. Albert J. Herberger. His firm leadership at the helm of his agency has been exemplary. Vice Admiral Herberger is widely respected in the maritime industry, and his abilities as a manager, a negotiator and an administrator, coupled with his extensive military experience, played a major role in implementing this legislation.

The implementation of the Maritime Security Program also required the efforts of many MARAD employees. I want to take a moment to recognize several workers by name: Debra Aheron, Ray Barberesi, Murray Bloom, Joan Bondareff, Cher Brooks, Thomas Bryan, Jim Caponiti, Veronica Carver, Sharon Cassidy, Rhonda Davis, William Ebersold, John Graykowski, Steven Jackson, William Kurfehs, John Lesnick, Richard McDonnell, Jeffrey McMahon, Robert Patton, Carol Powell, John Swank, Kenneth Willis, and Joan Yim.

To conclude, Mr. President, I would like to add that the Maritime Administration will continue to administer the Maritime Security Program throughout the 10-year life of the Maritime Security Act. Although the work from the good folks at MARAD is just the beginning, we should honor their efforts. They have done so much to ensure that the American flag will still fly in the world's sea lanes. American merchant mariners will be on the decks of those ships. And, our Armed Forces will have the necessary strategic sealift capability to project America's presence overseas.

Thank you, MARAD.

RETIREMENT OF PROCTOR JONES

Mr. FORD. Mr. President, today marks the last day for one of the Senate's most competent and skilled legislative aides. Proctor Jones, staff director of the Appropriations Subcommittee on Energy and Water Development has spent the last 36 years helping to assure the legislative process moves forward. I know I am just one of many who are grateful for his guidance on a wide array of energy issues.

During his tenure in the Senate he has gained a reputation for doing his homework, having a deep understanding for the appropriations process, and perhaps most important, fairness. He was invaluable in securing major projects for my home State of Kentucky, and I feel certain his handprint can be found on important projects all across the country.

Jones leaves the Senate with an incredible body of knowledge, expertise and institutional knowledge. He also leaves after literally being the right hand of such powerful chairmen as Senators Russell, Ellender, McClellan, Magnuson, Stennis, BYRD and Hatfield.

It will be a huge loss to the Senate and to States like mine that have benefitted from his knowledge and expertise. But there's no doubt that Jones will continue to serve the greater community working with former Senator Johnston.

Let me close by wishing him and his family the best of luck and by once again thanking him for his commitment not only to the U.S. Senate, but to the American people. His service will not be forgotten and will continue to impact generations to come.

TRIBUTE TO PAUL TSONGAS

Mr. SARBANES. Mr. President, last week, America lost a public servant and a leader of unusual intelligence and vision. It is with great sadness that I rise to pay tribute to my former colleague and friend, Paul Tsongas, whose untimely passing has deeply affected both those who knew him well and the millions of Americans who respected and admired his exemplary life.

His frank and fearless commitment to a better America challenged us all. As remembered by the Hellenic Chronicle, a Massachusetts publication, Senator Tsongas "changed the face of politics in the 1990's and reminded us that honesty and the power of ideas can still count for something in American politics." He was unwavering in his ideals because he truly believed them. At his funeral, Bishop Methodios of Boston spoke of Senator Tsongas' insight, integrity and intelligence; fitting qualities for a person who, as the Bishop said, "looked deep within his heart and soul and there discovered his vision for a better America."

The son of a Greek immigrant, Senator Tsongas went from working in his father's drycleaning store to Dartmouth College, Yale Law School, and the Peace Corps. He won his first bid for public office in 1969, when he was elected to the Lowell City Council, the beginning of an esteemed career that included service as Middlesex County Commissioner in 1973, fifth congressional district representative to the U.S. House in 1974 —the first Democrat to win in his district in a century, and United States Senator from Massachusetts in 1979, an office never before held by a Peace Corps veteran.

In the Senate, I was privileged to serve with Senator Tsongas on the Banking and Foreign Relations Committees, where he fulfilled his duties with great capability and distinction. His understanding of the world beyond our borders, gained during his service in the Peace Corps, equipped him to make a significant contribution to a more effective American foreign policy. Senator Tsongas never took the privilege of being a U.S. Senator for granted. He was serious about his work and had high hopes and even higher standards for this country.

"Patriotism is like charity," wrote Henry James. "It begins at home." For Senator Tsongas, everything began at home. Whether it was Lowell, the town in which he made his life, or the family that was his life, Senator Tsongas never lost sight of what was most important. He often questioned the legacy he would leave behind for the people and places he cared for most. He should not have been concerned. Due to his efforts both in and out of office, the town of Lowell now claims a national historic park, thousands of jobs, a minor league baseball team, 14 new schools, and a real sense of pride. As the local paper noted, "We in Lowell need only walk through our city to celebrate—every day—what Paul Tsongas did for his hometown."

I will always remember Paul Tsongas, as will his fellow Americans, as a highly principled public servant who, unafraid of any challenge, was exceedingly able to affect the issues of his time. I will also remember him as the individual who inspired us all by confronting his own mortality with extraordinary grace and heroism. His faith in his own instincts not only gave him the courage to step down from office when the time was right, it was also the source of his strength during his distinguished service in the Congress of the United States.

Senator Tsongas left an indelible mark on our hearts, which now go out to his wife Niki, his daughters Ashley, Katina and Molly, and his sisters Thaleia and Vicki. They have so much to mourn, but they also have so much of which to be proud.

There is a requiem hymn sung in the Greek Orthodox Church which, here, seems apropos: "Eonia e mneeme." It means, "may he live in our memories forever." In the last years of his life, Senator Tsongas struggled with the question of history, with what he would leave us. The answer is, clearly, much. Paul Tsongas will live in the memories and records of his country, his town, and his family, forever.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I know that Senator KENNEDY wanted to be recognized, but because he is not here I ask unanimous consent that I be permitted to speak in morning business for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHINA: THE FUTURE

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to have printed in the RECORD a speech that this Senator made to the Asia Society yesterday morning entitled, "China: The Future."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHINA: THE FUTURE

(By Senator Dianne Feinstein)

As a Californian, I have been surprised to discover how Washington, and the whole East Coast foreign policy establishment tends to look primarily across the Atlantic to Europe, and how little it looks to Asia and the Pacific.

But the fact is that U.S. interests are no longer primarily in Europe. You've heard the phrase "the dawning of the Pacific Century" many times. Well, the Pacific Century is here.

Consider these facts: The Pacific trading theater has long since overtaken the Atlantic. Overall trade with Asia stands at $570 billion. With Europe it is $270 billion. Trade with Asia accounts for more than 30 percent of U.S. exports and close to 40 percent of U.S. imports. And today, more than 60 percent of the world's population lives on both sides of the Pacific Ocean.

All of this illustrates what Secretary of State John Hay meant when he said nearly a century ago: "The Mediterranean is the ocean of the past; the Atlantic, the ocean of the present; and the Pacific, the ocean of the future." That future is now.

CHINA'S IMPORTANCE

The single most important question facing the future of peace and prosperity in Asia is how China develops.

And there is no more important challenge facing U.S. foreign policy than the question of how to peacefully engage China in the international community.

China's influence is felt in so many ways: China's population of 1.25 billion, is nearly one quarter of the world's inhabitants; China's sheer size—her geographical reach includes common borders with such key nations as Russia, Japan, Korea, and India, and includes vast quantities of untapped natural resources; China's expanding military prowess, including a 3 million-man army, and her status as one of the five declared nuclear powers in the world today; China's permanent seat on the U.N. Security Council; and China's remarkable economic growth of roughly 10 percent a year, which has vaulted it to the position of the world's 11th largest exporter—China is where Japan was in 1980, but growing much faster.

For all of these reasons, the U.S. relationship with China is probably our single most important undeveloped bilateral relationship in the world today.

In 1997, Sino-American relations are entering a crucial new phase, ripe with both danger and opportunity.

Events in the next year, and how they are handled by Washington and Beijing, will determine for some time to come the nature of the relationship between our two countries.

I was very pleased to hear our new Secretary of State, Madeleine Albright, articulate the Administration's policy in clear terms during her confirmation hearing before the Foreign Relations Committee. She said: "Our goal is to expand areas of cooperation, reduce the potential for misunderstandings and encourage China's full emergence as a responsible member of the international community."

And, while she recognized that our two nations have important differences, the Secretary also stressed that we have a multifaceted relationship with China.

I want to make some comments this morning on what I believe to be the central issues in the U.S.-China relationship today: the question of engagement versus containment; the China-Taiwan relationship; nuclear proliferation; human rights; the trade imbalance; trade issues such as Most-Favored Nation status, Intellectual Property Rights, and China's accession to the WTO; and the transition of Hong Kong.

THE "ENGAGEMENT VS. CONTAINMENT" DEBATE

This question should be settled by now, but unfortunately it is not. There are still those who see China as an enemy, and who want the U.S.-China relationship to be modeled on Cold War strategies of the past. Containment is their mantra. But there are two problems with this approach:

First, it has not and will not work. No other country will join us in trying to contain the largest country and one of the fastest growing economies in the world.

Second, containment is not in the interest of the United States. We have far too many mutual interests with China—interests which far outweigh our differences, including: preserving stability, and preventing arms races in Northeast and Southeast Asia; a peaceful, non-nuclear Korean Peninsula; preventing nuclear escalation between India and Pakistan; preventing the introduction of nuclear or other destabilizing technology into the Persian Gulf; keeping sea lanes open for international commerce; maintaining the prosperity of Hong Kong and Taiwan; and curbing the trafficking of narcotics.

Attempting to influence these critically important issues by isolating China is a fruitless and very dangerous course of action. The only way we can make progress on these issues is through active engagement.

I have been saying for the past four years that I have been in the Senate that the U.S. needs to develop a long-term, strategic framework for building a relationship with China, based on our many mutual interests.

No single issue should be a litmus test for the entire U.S.-China relationship.

Managing and developing a positive relationship with China does not mean we must ignore the importance of key issues of concern with China—such as human rights, the transition of Hong Kong, or the issue of Taiwan. It does, however, mean that we should not allow our entire relationship to be called into question each time an incident occurs.

The United States must develop a long-range, strategic plan for our relationship with China.

The US must engage China. This engagement must be ongoing, it must be consistent, and it must be formed at the highest levels.

To date, interaction at the Presidential, Vice Presidential, Secretary of State, and Secretary of Defense level has not been frequent or deep enough. There is no "red telephone", no ability for the two Presidents to talk and work with each other during a crisis.

We cannot engage China solely at a second-tier level. Talks at the Deputy Assistant Secretary level are not sufficient, and, in the absence of regular higher level contacts, are probably counter-productive in the message it sends to China's leaders.

Secretary Albright will be meeting soon with Foreign Minister Qian Qichen, and she is committed to regular contact with her counterparts in Beijing. Vice President Gore will be traveling to Beijing this spring, setting the stage for an exchange of presidential visits this fall and next year.

These are positive steps that I hope will lead to development of sustained communication at the very highest levels.

President Clinton has an opportunity to shape the future course of Sino-American relations by developing a positive working relationship with Chinese President Jiang Zemin and other leaders. I hope he will seize this opportunity.

Congress also has an important role to play in this process.

It is critical that more members of Congress travel to China, meet with those in the Chinese leadership and others, and develop a working dialogue with those who are creating the China of the 21st century.

THE CHINA-TAIWAN RELATIONSHIP

Taiwan remains the one issue with the greatest potential to seriously disrupt efforts to stabilize the U.S.-China relationship. It is impossible to overstate the depth of Chinese feelings about Taiwan's role in the U.S.-China relationship. They are real, visceral, and deep.

During my trip this past November, Chinese officials and citizens made it clear: If the Taiwan issue is handled well, everything is possible in Sino-American relations; if it is mishandled, it will continue to shock, and possibly derail, U.S.-China relations.

The United States should, I believe, consistently and authoritatively reaffirm, both to Beijing and to Taipei, its commitment to the long-standing and bipartisan "One China" policy, as outlined in the three Joint Communiques.

It must be remembered that the status quo has been beneficial to all three parties, allowing Taiwan to become prosperous and democratic, and the U.S. and China to develop normalized relations befitting two world powers.

So Taiwan must understand that its efforts to assert itself internationally cannot be a guise for moving towards independence.

For its part, China should consistently make clear that reunification would take place only through peaceful means, and should refrain from any aggressive military actions and rhetoric.

Any impression that China might try to settle the Taiwan issue by the use of force presents a challenge not just to Taiwan but also, under the Taiwan Relations Act, to the United States as well. We could not stand idly by and countenance a military attack.

At the same time, Washington must make clear to Beijing that U.S. interests require continued robust—albeit unofficial—ties with Taipei, which are consistent with the "One China" policy.

Such unofficial access, however, should not be confused in either Beijing or Taipei as an invitation for official recognition by the U.S. We must not allow another incident such as the issuance of a visa to President Lee Teng-hui two years ago to needlessly provoke a crisis.

The United States should encourage Taiwan and China to resume the Cross-Straits Initiative that was conducted by China's Association for Relations Across the Taiwan Straits and Taiwan's Straits Exchange Foundation, which showed such promise until it was derailed a year and a half ago.

NONPROLIFERATION

One of the most important areas of concern in our relationship with China is nuclear nonproliferation.

Clearly China's record on nonproliferation is mixed. China has ratified the Chemical Weapons Convention—something the U.S. Senate has not yet done—and signed the Comprehensive Test Ban Treaty, as well as cooperated in efforts to extend the Nuclear Nonproliferation Treaty (NPT) indefinitely.

China has made important commitments, such as abiding by the guidelines of the Missile Technology Control Regime (MTCR) and not providing assistance to unsafeguarded nuclear facilities.

Nevertheless, we continue to have concerns about nuclear and missile technology that China has provided to Pakistan, and the possibility of similar sales to Iran.

It is vital that China be engaged in a new security partnership, one that is cooperative rather than confrontational. As I said earlier, isolating a nation of China's growing power and influence makes little sense.

China has recognized our mutual interest in preventing nuclear proliferation in North Korea. It is also clearly in the interests of both China and the United States to ensure that tensions are de-escalated in South Asia, where both India and Pakistan have the ability to launch nuclear devices in a matter of days.

We should encourage China to join us in the development of a coherent nuclear nonproliferation strategy, as a co-guarantor of stability and security in these regions.

We must try to convince China that arms control regimes should be adhered to not for ideological or legalistic purposes, but because they are in China's own best interest.

If China is willing to become an active and responsible party to international treaties and regimes, China should be granted an equal say in setting the "rules of the game." China must, of course, then agree to abide by those rules along with every other nation.

A partnership between China and the United States toward nuclear non-proliferation and stability is the key to success in these regions.

HUMAN RIGHTS

As I said earlier, no issue should be a litmus test in our relationship with China. But at times, human rights has been just that.

The U.S. has tried lecturing China on human rights; We have expressed outrage, and our relationship has zigged and zagged with each arrest, newly reported case of torture, or other egregious happening; And we have tried linking human rights to Most Favored Nation trading status.

These efforts have clearly been unsuccessful.

Let me speak about the negatives first.

I am remain deeply concerned by China's treatment of dissidents and its constant persecution of Tibetans in Tibet. I have talked with Tibetan refugees personally—some in Napal this past November—and I believe their stories to be true.

I believe there has been a tightening by the Chinese government on human rights in the last year.

For those of us who watch China closely, there are a number of signs. There has been a recent crackdown on religious liberties.

In Jiangxi province in November, 80 Catholics were arbitrarily arrested without warrants, beaten, and jailed.

There have been many recent arrests of leading dissidents, often resulting in disproportionately long sentences. Fro example: Wei Jingsheng was sentenced for 14 years; Chen Xi was sentenced for 10 years; Wang Dan was sentenced for 11 years in prison plus two years deprivation of political rights.

I cannot conceive of a reason why it is in China's interests to do these things. But whatever the reason, it is very disturbing, and it portends real danger for Hong Kong, which is a very religious Chinese community.

But let me also mention the positive side.

It must be recognized that progress is taking place in China. For example, the National People's Congress just enacted legislation intended to: help protect individuals from arbitrary punishment by police and government agencies; limit the practice "administrative detention" to thirty days; and require the State Council to secure the approval of the National People's Congress before declaring martial law.

As one who has traveled to China dozens of times over the last 20 years, it is clear to me that there have been remarkable changes: an increasing standard of living, increased wages, and savings, and improved education of the people; greater mobility and a freer lifestyle for the average Chinese; local and provincial governments that are more independent from Beijing—with over 300 million Chinese participating in direct local and provincial elections; a growing web of private property ownership in the provinces, and greater legal protection for the owners and investors in private enterprises; a more accessible court system for Chinese citizens to contest government actions that infringe on their freedoms and property.

To appreciate the scope of these changes one only needs to look back a mere 35 years to the Cultural Revolution and Great Leap Forward, during which millions of Chinese lost their lives in unprecedented brutality.

Yes, these changes are in their infancy compared to Western standards, but it is important to understand that China is a $5,000 year old nation—a nation governed by the rule of man for most of its history. It will not transition to the rule of law overnight—no matter how much pressure is applied from outside forces.

It was interesting for me to read an article by Henry Rowen entitled "The Short March," in which he describes conducting a Lexis-Nexis search on China and human rights in five major U.S. publications.

For the period January 1991 through June 1996 he found "on the one hand, 356 stories on abuses of various kinds, and on the other hand, 3 on local elections, 16 on efforts to introduce a rule of law, and 10 on the liberalizing of the mass media: in short, an overall ratio of 12 to 1."

So clearly, the bad gets reported and the good does not.

I believe that China will not change its ways merely to please America. The real key to change is convincing China that it in China's interests to change. And I believe that this can be done.

Most importantly, the U.S. should work with China to develop a modern legal system with an independent judiciary, due process of law and a modern penal and civil codes. China is receptive to our help in this area.

Through engagement and assistance such as this we can do more to advance the cause of human rights in China in the long run than through constant castigation, or isolation.

I would like to make a proposal that may be acceptable to both sides. I would propose a presidential human rights commission or forum. This commission would be appointed by both presidents, with the mission of charting the evolution of human rights in both countries over the last 20 to 30 years.

In reports to be delivered to both presidents, the commission would point out the successes and failures—both Tiananmen Square and Kent State—and make recommendations for goals for the future.

THE GROWING TRADE IMBALANCE

Another area of increasing concern is the growing trade gap with China.

What is essentially a trade problem today will become an acute political problem in the U.S.-China relationship if it is left unaddressed.

I have communicated my concern about this issue to the Chinese leadership. They agree that this is a potential problem, but they dispute the size of the trade imbalance.

The United States calculates the imbalance at about $38 billion, while the Chinese figure is closer to $10 billion.

When I was in China in November I proposed to Zhu Rongji, the Executive Vice Premier, who is in effect China's economic czar, that the United States and China establish a joint working group to sit down and establish once and for all a common method of calculating the trade imbalance, especially after Hong Kong's reversion to Chinese rule. Zhu Rongji told me he would support such a proposal.

MOST FAVORED NATION STATUS

Another constant flashpoint is the annual battle over China's Most Favored Nation Trading status.

Every summer Congress and the Administration go through a sort of ritual dance over the extension of MFN status to China. Congress had never overridden a President's decision to extend MFN for China, but we have often voted on it anyway.

Last year, the House, by a resounding vote of 286–141, rejected an attempt to deny or condition China's MFN status. It would be helpful to have that vote settle it once and for all, but, unfortunately, we are less than five months away from the next go around, which I suspect may not be any less rancorous.

The political implications of revoking MFN for China are great. For a country such as China, where face and respect are such central issues, the debate over revoking MFN is seen as tantamount to the United States telling China that we are still unsure whether to accept them as a member of the family of nations.

Denying MFN would seriously impair our ability to work with China on just about *any* issue.

Clearly, linking human rights with MFN has been a failure. I hope we do not make the same mistake twice by linking it to something else, like the negotiations on China's accession to the WTO.

MFN is our standard trading status, and it is granted to all but seven rogue states.

It is time to put an end to this destructive debate year after year. I support making MFN for China permanent.

HONG KONG

In the short run, the transition of Hong Kong is seen by some as a bellwether for China's willingness to act as a responsible great power.

It is key and critical that "one country, two systems" be carried out. The world is clearly watching to see whether in fact it is possible to have within China an autonomous region that charts its own domestic policy.

The Sino-British Joint Declaration and the Basic Law provide the foundation for the transfer, and for the future governance and economic life of Hong Kong.

I am troubled by the legislation submitted last week to the National People's Congress that would undo the Hong Kong bill of rights. Lu Ping, the Chinese official in charge of the Hong Kong transition, told me directly in Beijing in November that the question of public protest and assembly was a matter for the Hong Kong Special Administrative Region (SAR), and if SAR law permitted public expressions of dissent, China would have no objection.

If the central government of China reverses Hong Kong's Bill of Rights, and other civil liberties, it would be a blow to the credibility of “one country, two systems.”

Additionally, I would hope that the provisional legislature meeting this week in Shenzhen is sensitive to the pledge of domestic autonomy for Hong Kong.

I strongly agree with Secretary Albright when she said that the way events play out in Hong Kong will have an important effect on the overall U.S.-China relationship.

CONCLUSION

With this new Congress, and an Administration now seasoned in its second term, we now have the opportunity to move beyond some of the events that have soured Sino-American relations in the past several years.

President Clinton and Secretary Albright must immerse themselves fully in the details of this most delicate and critical of American relations.

In the final analysis, the goal of American policy must be to encourage China toward a full and active relationship with the West and to work together toward a China that is able to take its role as a stable leader of Asia and a guarantor of peace and security in the world.

WELFARE REFORM

Mrs. FEINSTEIN. Mr. President, we begin the 105th Congress with a sober recognition of the fact that the Federal Government cannot solve all problems. Anyone who questions this premise need only look at painful choices that must be made in order to balance the Federal budget, our first and most difficult task this session.

Having said that, the clearest message, I think, sent to us this past November was that the people of America want Republicans and Democrats to work together to solve real problems. I have been very concerned and I might even say dismayed by statements made by Members of this body and the House, that under no circumstances will there be any changes, no matter how meritorious, no matter how necessary, to the welfare bill which passed last year.

Mr. President, when this body debated and approved the historic welfare reform bill last year, I outlined to my colleagues what I saw as some of the major flaws in the drafting of that bill, and as a result, the impact that this legislation will have on the largest State in the Union—California. I want to take an opportunity this afternoon to update those comments.

The impact of this bill on California is huge. At this stage, it really is not fully known or even understood. Some estimate that California will absorb about $17 billion of the $55 billion saved by this bill. That is a body blow to our safety net. It could have a catastrophic impact both financially and in terms of human lives. I voted, because of this, against that welfare bill.

I am not alone in my concerns. Even the Republican Governors, many of them poster-children for the reform effort, are looking at the fine print now and saying, “How is my State going to pay for these costs? How are we going to provide the necessary care? How are we going to meet these requirements without turning people out on the streets?”—for some, in large numbers. Even the Republican Governors are asking for changes.

A headline in the Washington Post 2 days ago said it pretty clearly: “After getting responsibility for welfare, States may pass it down,” something that I, as a county supervisor and a mayor for some 18 years, recognize that it is exactly the way it goes. The buck usually stops with the lowest rung of a government. That is just what is going to happen with this bill. In California, a proposition 13 State, there is no way for local governments to raise their taxes or their revenue potential to deal with the problem.

In the months since the passage of the welfare bill, I directed my staff to examine how this bill would impact California counties. To date, my staff has met with the welfare directors of 22 out of California’s 58 counties. Their pleas were nearly universal. I will share them with you. The work requirements, they say, as currently outlined in the bill will most probably not be attainable even under the most optimistic of circumstances. The child care funds in the bill for California are not enough to satisfy the requirements of the bill. The legal immigrant provisions denying food stamps and SSI, particularly to the elderly, the sick, and the disabled, will have a devastating impact on county general assistance programs. The biggest impact will be on the largest county in the State, Los Angeles County. And the counties tell me they have no computer ability to track and monitor recipients under the new rules. How do they comply?

Some of the changes asked for by these counties are technical in nature, such as increasing the time permitted for job search to be more realistic for areas where the average search even for nonwelfare recipients is twice as long as that permitted under the bill. Other changes are more fundamental, such as restoring some assistance to the elderly and disabled legal immigrants. I know President Clinton shares many of these concerns, and will propose a number of changes in his budget soon to be released.

I hope the door is not closed to at least looking at what the facts are. I believe it would really be unconscionable, and in a sense, the height of irresponsibility, to arbitrarily say we will not look at any problem or any misdrafting in that bill. I will point out one area in my remarks later where I think it is simply a case of misdrafting.

Let me speak for a moment about legal immigrants. There are 500,000 elderly and disabled noncitizens nationwide who will lose SSI by August 22, 1997. Of these legal immigrants 205,000 are in California—more than 40 percent. That is a very real problem. Many of these individuals are seriously ill and completely destitute, with no family capable of supporting them. In Los Angeles County alone, there are 93,000 such people, and the ultimate transfer to the county will be in the hundreds of millions of dollars. When they lose their benefits they will turn to the counties.

Just last week, California’s State legislative analyst’s office estimated the ban on SSI and food stamps will cost California $5.8 billion over 6 years. Now, either this is a massive cost-shift or the homeless in America and in California are going to be greatly adding to their numbers. In Los Angeles County alone the nonmedical costs of supporting elderly and disabled legal immigrants could top $236 million annually.

San Francisco also estimates that 20,000 legal noncitizens may turn to the county’s general assistance program, at a total cost of up to $74 million annually.

Let me give an actual example from my hometown legal immigrants. My San Francisco staff met with a 73-year-old legal immigrant on SSI. She was welcomed to this county from Vietnam in 1980. She was a refugee from communism with no family in the United States. She speaks no English and she is suffering from kidney failure. She requires dialysis three times a week. Under this new law, this 73-year-old woman will lose SSI, her only source of support. Her well-being will become the responsibility, somehow, some way, of the county.

During the welfare debate I proposed an amendment to make this section of the bill prospective. I understand the majority’s concern that the legal immigrants’ use of SSI was increasing at a higher ratio than U.S. citizens’ use of SSI. I understand wanting to slow that number down. The way to do it is to say that in the future, everyone coming to this country following the date of enactment, which was August 22 last year, know that when you come to the United States of America as a legal immigrant, you are not eligible for SSI. For the people here before that time, what I propose is that there be an amendment to the bill that would say SSI could be continued for those who have no other verifiable source of support. These are the elderly, they are monolingual, they are destitute, and many of them are ill.

Let me speak for a moment, Mr. President, about the work requirements of the bill, because counties throughout California are really concerned.

Under the new welfare law, 25 percent of single-parent families on welfare and 75 percent of two-parent families on welfare must be engaged in work activities this year. By 2002, the requirements rise to 50 percent of single-parent families and 90 percent of two-parent families.

California's economy is recovering, but our unemployment rate is still 1½ points above the national rate. It is 6.8 percent. The national rate is 5.4 percent. So some 1 million Californians are still on unemployment.

Let me give you some examples of how unrealistic the work requirements of the welfare bill are on certain counties in California.

In Tulare County, the heart of the great Central Valley, the heart of the area that has the largest agriculture producers in the United States, the unemployment rate is 16.3 percent, more than 10 percentage points above the Nation, and one-third of the county is on public assistance—one-third of the county. There are no jobs for people.

In Merced County—again in the Central Valley—unemployment is even higher at 16.8 percent. Thirty-five percent of the population there receives some type of public assistance.

Here are others: Imperial County, 27 percent unemployment; Madera, 15.9; Monterey, 10.6 percent; Stanislaus County, 17.3 percent; and Sonoma County, 14 percent.

And these are not small population areas. In some of the cases, the population of these counties is actually more than the population of some of the States. These are larger areas.

With 2.7 million families in California on welfare, counties fear that the work requirement, as defined in the new welfare law, simply is not realistic for the State to be able to meet.

California is simply not creating jobs fast enough, and the kinds of jobs that the State is creating are high-technology, biotech, highly skilled jobs, and jobs in the import-export business; jobs that relate to Asia; jobs that have a level of educational requirement that can produce a high skill level.

In Riverside County in southern California, their GAIN Program, which is their welfare-to-work program, is the most successful program of its kind in the Nation. It is 12 years old. It has been the model for other programs all throughout the United States. Yet, in that time, only 14 percent of single-parent families currently meet the work requirement as set under welfare reform. And only 15 percent of two-parent families meet the work requirement. That is after 12 years of trying. If Riverside County can't meet the requirements, how many counties and States nationwide will actually be able to do so?

That is why I urge that the President and Members of Congress allocate some new funds—countercyclical moneys—that would apply particularly in counties where the unemployment rate is at a certain amount. You might want to make it over 1 percentage point from the national average, particularly in areas where there is a high welfare load, which gives testament to the fact that you can't produce jobs in that county.

I feel that Congress should amend the welfare law in significant ways to make it easier for States to meet the work requirements. And I would like to suggest some of them.

Doubling the time allowed for job search activities from 6 weeks to 12 weeks. That is what they say it actually takes and where there is success.

Expand the welfare law's definition of "work" to include 2 years of vocational education instead of 1. That is what they say it requires to be employable.

Include people who—this is a glitch, I think, in the drafting of the bill and one of the reasons that I am so concerned that the announcement has been made that even technical changes will not be made to the bill. The way the bill is drafted, it does not include people who leave welfare for work and those who are immediately placed in a given month as part of the State's total number of people moving from welfare to work. So, In other words, the way the bill is drafted, you don't get credit for the people that month you place in jobs. I think that this is a technical glitch. I think it is a drafting error. I think it is easy to correct. But if we have this policy of nothing no matter whenever it is not going to get corrected.

I would suggest creating a countercyclical funding program for the next 6 years, and I suggest targeting counties with high unemployment and high welfare caseloads.

Child care funding increases: Under the new welfare law, the money is insufficient to accommodate the increasing demands. Currently, my State subsidizes child care for 205,000 low-income children. But there are 1.8 million children on welfare in California—1.8 million. The State currently only has funds to subsidize 205,000.

In order to accommodate the increases in the work requirements which are required by this bill from 25 percent in 1997 to 50 percent in 2002 for an individual recipient, I would propose adding an additional $1.43 billion in child care funding over the next 6 years.

I would also propose exempting parents with children under the age of 12, instead of 6, from the work requirement if they cannot find child care.

This bill—mark my words—will be known as the "latchkey mandate bill" if people can't find work. And there is no reason for any child in elementary school be left home alone without any adult supervision.

Let me speak for just a moment on the reporting requirements.

When Federal welfare reform was enacted, little attention was paid to the 15 new reporting requirements that the law imposes on the States—everything from welfare recipients' race and citizenship status, to other Federal benefits they receive, to unemployment status and earnings.

California, like many other States, has no computer system in place to track and report all of this data. And without effective tracking and reporting, the Nation's largest State has no hope of enforcing the time limit and preventing welfare fraud. Contra Costa County's welfare director said that his county's ability to meet the reporting requirements of the bill is "literally zip." This is a big county.

I think that the welfare law's reporting requirements are important, and I do not advocate relaxing them. But I do believe that the counties are going to require additional support in the form of computer assistance that is greater than that which is provided in the bill today, and that we ought not to be so fixed that we cannot take a look at it.

I make these comments at this time in the hope that someone might read them, or even see them, or take notice of them, and that this statement that there will be no amendments to this bill can perhaps be changed to "Well, we will carefully consider amendments."

I thank the Chair. I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 235 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MOSELEY-BRAUN. I thank the Chair.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Are we in morning business?

The PRESIDING OFFICER. Yes, we are.

(The remarks of Mr. GREGG pertaining to the introduction of S. 252 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(Mr. FRIST assumed the Chair.)

THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. HATCH. Mr. President, I was pleased that the Senate Judiciary Committee reported out today, I think a little bit before 2 o'clock, the balanced budget constitutional amendment 13 to 5.

I want to personally express my appreciation to everybody on that committee for the cooperation that we had and for the effective debate that we had in getting that amendment out today. This will enable us to bring it up next week, if the leader so chooses. And I believe he does wish to bring the balanced budget amendment up next Wednesday. We will have the report filed by Monday. It is being circulated this afternoon. The minority will have 3 days to complete their remarks, or their position on the report, and then hopefully we will be in this battle next Wednesday. And I hope that we can have as much cooperation during the battle on the floor as we did in committee.

It is a tough issue, and there are people on all sides of it. We do have to fight it out the best we can here on the floor.

JUDICIAL ACTIVISM

Mr. HATCH. Mr. President, I rise today to speak on a subject which I have frequently addressed in the past, one that is extremely important to me and I think to every Member of this body—in fact, to everybody in this country: judicial activism.

We are witnessing today a rising tide of concern, shared not just by my Republican colleagues and myself, but indeed by an ever-growing segment of the public at large, about judicial activism and the prospect of filling the courts with more activists over the next 4 years. Today, when we talk about activists, we are talking about people who are substituting their own personal preferences for what the law really is—those who choose as unelected judges appointed for life to make laws from the bench and to usurp the powers of the legislative and executive branches of this Government. They are not elected to make the laws, but are appointed to interpret the laws.

Today, I would like to point out an especially egregious abuse of judicial power about which I have just learned. Judge Gladys Kessler, a Clinton appointee to the District Court for the District of Columbia—that is the U.S. District Court for the District of Columbia—took the truly extraordinary step, and as far as I know, a step which is virtually unprecedented in our Federal judicial system, and actually issued an order to show cause to three sitting U.S. Fourth Circuit judges—Fourth Circuit Court of Appeals judges, judges that are above her in the Federal system: Judges Karen Williams, Frances Murnaghan, and senior Judge Butzner. Judge Kessler in effect is seeking to force those appellate judges to come before her, a U.S. district court judge, and justify a decision that they recently handed down. Judge Kessler's order was personally served on Judge Williams' law clerk just yesterday. Let me tell you about this shocking order, dated January 3, 1997, and issued in Civil Action No. 96-2875-GK.

In 1972, one Restoney Robinson pled guilty in North Carolina State court to first-degree murder.

He was sentenced to life in prison, and he has since been imprisoned in North Carolina—which is located within the Fourth Circuit Court of Appeals' jurisdiction. After losing all of his appeals in the State courts, this convicted murderer, Mr. Robinson, has apparently been peppering the Federal district court for the middle district of North Carolina with frivolous petitions and, appealing the denials of those petitions to the higher court, the Fourth Circuit Court of Appeals. I understand that Mr. Robinson has brought more than 80 such actions.

This past October, a panel of fourth circuit judges, comprised of Judges Williams and Murnaghan and Senior Judge Butzner, denied Robinson's most recent frivolous appeal. In what can only be described as a truly bizarre, indeed lawless, action, Judge Kessler not only entertained the habeas corpus petition from Mr. Robinson, a petition over which she had absolutely no jurisdiction whatsoever, since Mr. Robinson is imprisoned in North Carolina, but had the gall to issue an order to those fourth circuit judges—requiring them within 30 days to come before her and explain to her, and to Mr. Robinson, the convicted murderer, why he should not be released from prison.

Indeed, I am told that just yesterday the U.S. marshals in Orangeburg, SC, personally served this order on Judge Williams' law clerk. I have a copy of the order right here, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the order was ordered to be printed in the RECORD, as follows:

United States District Court for the District of Columbia

Restoney Robinson, Petitioner vs. Murnaghan and Williams, Respondent(s)

Civil Action No. 96-287

ORDER DIRECTING RESPONDENT TO SHOW CAUSE

It is this 3rd day of January, 1997,

ORDERED that the respondent(s), by counsel, shall within 30 days of service of a copy of this Order and the Petition herein file with the Court and serve on petitioner a statement showing why the Writ of Habeas Corpus should not issue.

The Clerk of Court is directed to furnish a copy of the Petition and a certified copy of this Order to the United States Marshal for the purpose of making service on the respondent(s) and the U.S. Attorney's Office.

GLADYS KESSLER,
United States District Judge.

Mr. HATCH. I have been critical of the activism of many of President Clinton's judges, and let me tell you I have read many an activist decision in the last few years, but I have never ever seen, nor heard of, a district court judge requiring circuit court of appeals judges to justify their decision, let alone circuit court of appeals judges from an altogether different circuit. In fact, we have consulted with a number of Federal court scholars who have told the committee that to their knowledge such an action is unprecedented. I should hope so.

In short, Judge Kessler's order can only be explained as a blatant abuse of judicial authority and disregard for the basic structure of our Federal courts, or perhaps at the very least a gross oversight. But in any event, it is confounding and it is dumbfounding. That Judge Kessler apparently believes she somehow has the power to review fourth circuit judges' opinions is, quite frankly, nothing short of appalling and represents the worst short of judicial hubris.

Perhaps Judge Kessler does not appreciate the gravity of her actions or perhaps she is trying to make a statement. Either way, however, her order is very disturbing because it represents either a fundamental disregard for, or ignorance of, the most basic limits on judicial power.

Mr. President, when Republicans point out the activism of Clinton nominees, we are accused of using selective criteria. But as Clinton judges issue more and more activist decisions, it is becoming clear that a great number of them are—by any criterion—activist judges.

Now, I have asked that the show cause order be printed in the RECORD. I hope people will read that. It is an astounding document. I do not know how anybody, any judge sitting for the district court, could have issued that kind of order. Nevertheless, it is just evidence of some of the things we have been going through in this country.

Mr. D'AMATO. Will the Senator from Utah yield for a question?

Mr. HATCH. I am happy to yield.

Mr. D'AMATO. First, let me, if I might, say that I commend the Senator for taking the time to bring to the attention of the Congress and of the Senate such a glaring, incredible abuse of judicial authority. It is obvious that that is the case. But let me ask—I am confused as to how it is that the district court judge here in Washington would assert jurisdiction. What was her jurisdiction?

Mr. HATCH. There is none. It is absolutely astounding. Here is a Federal district judge, trial court judge in the District of Columbia, who has absolutely no connection to the Fourth Circuit Court of Appeals, telling appellate judges that they must come before her and explain why this murderer's frivolous appeal was denied.

Mr. D'AMATO. Was the crime committed here in DC?

Mr. HATCH. No. If I understand it, the crime was in North Carolina.

Mr. D'AMATO. So if the crime was in North Carolina, the prisoner is in the Carolinas, the question is total lack of jurisdiction. So the thing that becomes shocking is what is to prevent this judge from issuing or entertaining a case, let us say, from Utah where a Utah judge and court had ruled; she is claiming that she could ask that judge to come here and to explain to her why the judge made that decision.

Mr. HATCH. Or from New York. If we can have judges, district court judges, trial court judges in the District of Columbia issue an order to appellate judges in the Fourth Circuit Court of Appeals, then the structure and rationality of our Federal judicial system would be thrown into disarray.

Mr. D'AMATO. Has the Justice Department involved itself in this matter?

Mr. HATCH. I do not know that they know about it, but they certainly are going to know about it after we finish here today, because it is unbelievable.

Mr. D'AMATO. Is it the intent then of the Senator to bring this to the attention of the Justice Department and ask them, would it not be correct, to seek an order from a higher court right here to quash this? This is incredible.

Mr. HATCH. We intend to let the Justice Department know, but, more importantly, I think, I am serving notice around here that we are not going to continue to sit back and tolerate these activist judges. Nobody has been more fair to the Clinton judicial nominations than I have. But many of these nominees have come in here and said we are not going to be activist judges; we are not going to usurp the powers of the executive and legislative branches of Government; we are going to do what judges should do, and that is interpret the laws that are made by those who are elected. All of them mouth that kind of language, but when it comes right down to it, a significant number of them are, one on the bench, engaging in patently activist judging and usurping powers that they do not have.

So I am just serving notice that we are on to the games these nominees are playing, and do not intend to let this game go on. We are going to do what it takes to weed out those nominees who pay lip service to judicial restraint, but then think they can do anything they want to once they don their robes.

There are limitations to the judiciary. The judiciary can preserve itself and keep the high opinion of the American people by not acting as activists, by not usurping the powers of the other two separated branches of Government, and by living within the limits of the third branch.

I do not care whether activism comes from the right or whether it comes from the left. It is wrong, and I have never seen a more flagrant case of something that is wrong than this case. That is why I wanted to bring it to the attention of the Senate and also serve notice that we are going to treat the judgeship nominees over the next 4 years with the utmost diligence and scrutiny.

We appoint Federal judges for a lifetime, and accordingly expect them to live up to the high calling of the judiciary; to appreciate the inherent limits on judicial power, and not to substitute their own policy preferences for that which the law requires.

I hope that this sends a message to everybody, and I am serious about it. As one who has taken a lot of abuse from both sides on judges—including my own Republican colleagues—I am serving notice that we do not intend to allow this rising tide of judicial activism to continue. The integrity of our judiciary, and our very right to self-government is at stake.

I thank my colleague. I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I thank the chairman of the Judiciary Committee, Senator HATCH, for bringing to the attention of the Senate and to the Nation as a whole, I think, a very serious situation. Because this portends the kind of thing that may take place, I think notice has to be served by those within the court itself.

Clearly, this case goes well beyond the realm of someone having a difference of legal opinion. The question of jurisdiction alone is a frightening one and how someone could reach well beyond and entertain a matter—are we going to say any Federal judge in any Federal jurisdiction can review matters that do not legally come before them or within their purview or power?

(The remarks of Mr. D'AMATO pertaining to the introduction of S. 249 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. D'AMATO. I yield the floor and I thank the Chair.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that I be added as a cosponsor of Senator D'AMATO's legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, how much time am I allotted?

The PRESIDING OFFICER. Ten minutes.

Mr. FORD. I will not take that long.

(The remarks of Mr. FORD pertaining to the introduction of S. 250 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RULES OF PROCEDURE FOR THE COMMITTEE ON ARMED SERVICES

Mr. THURMOND. Mr. President, today I am reporting to the Senate the rules of procedure for the Committee on Armed Services as provided for in rule 26.2 of the Standing Rules of the Senate. These rules were unanimously adopted by the committee today, January 30, 1997, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

ARMED SERVICES COMMITTEE RULES OF PROCEDURE

(Adopted January 30, 1997)

1. *Regular Meeting Day*. The Committee shall meet at least once a month when Congress is in session. The regular meeting days of the Committee shall be Tuesday and Thursday, unless the Chairman directs otherwise.

2. *Additional Meetings*. The Chairman may call such additional meetings as he deems necessary.

3. *Special Meetings*. Special meetings of the Committee may be called by a majority of the members of the Committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

4. *Open Meetings*. Each meeting of the Committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee or a subcommittee thereof on the same subject for a period of no more than fourteen (14) calendar days may be closed to the public on a motion made and seconded to go into close session to discuss only whether the matters enumerated below in clauses (a) through (f) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity or any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

5. *Presiding Officer*. The Chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member present at the meeting or hearing shall preside unless by majority vote the Committee provides otherwise.

6. *Quorum*.

(a) A majority of the members of the Committee are required to be actually present to report a matter or measure from the Committee. (See Standing Rules of the Senate 26.7(a)(1)).

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, six members of the Committee shall constitute a quorum for the transaction of such business as may be considered by the Committee.

(c) Three members of the Committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full Committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. *Proxy Voting*. Proxy voting shall be allowed on all measures and matters before the Committee. The vote by proxy of any member of the Committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. Proxy must be given in writing.

8. *Announcement of Votes*. The results of all roll call votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the committee report, unless previously announced by the Committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee who was present at such meeting. The chairman may hold open a roll call vote on any measure or matter which is before the Committee until no later than midnight of the day on which the Committee votes on such measure or matter.

9. *Subpoenas*. Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued by the Chairman or any other member designated by him, but only when authorized by a majority of the members of the Committee. The Subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. *Hearings*.

(a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the Committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the Committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the Committee or subcommittee conducting such hearings.

(d) Witnesses appearing before the Committee shall file with the clerk of the Committee a written statement of their proposed testimony prior to the hearing at which they are to appear unless the chairman and the ranking minority member determine that there is good cause not to file such a statement. Witnesses testifying on behalf of the Administration shall furnish an additional 50 copies of their statement to the Committee. All statements must be received by the Committee at least 48 hours (not including weekends or holidays) before the hearing.

(e) Confidential testimony taken or confidential material presented in a closed hearing of the Committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or subcommittee.

(f) Any witness summoned to give testimony or evidence at a public or closed hearing of the Committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(g) Witnesses providing unsworn testimony to the Committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the Chairman.

11. *Nominations*. Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least seven (7) days before being voted on by the Committee. Each member of the Committee shall be furnished a copy of all nominations referred to the Committee.

12. *Real Property Transactions*. Each member of the Committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than $50,000. Any member of the Committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the Chairman of the Committee within thirty (30) days from the date of submission.

13. *Legislative Calendar*.

(a) The clerk of the Committee shall keep a printed calendar for the information of each committee member showing the bills introduced and referred to the Committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the Committee. A copy of each new revision shall be furnished to each member of the Committee.

(b) Unless otherwise ordered, measures referred to the Committee shall be referred by the clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the Committee. Each subcommittee of the Committee is part of the Committee, and is therefore subject to the Committee's rules so far as applicable.

15. *Powers and Duties of Subcommittees*. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, January 29, the Federal debt stood at $5,319,575,822,990.65.

One year ago, January 29, 1996, the Federal debt stood at $4,987,704,000,000.

Five years ago, January 29, 1992, the Federal debt stood at $3,799,219,000,000.

Ten years ago, January 29, 1987, the Federal debt stood at $2,222,608,000,000.

Fifteen years ago, January 29, 1982, the Federal debt stood at $1,038,379,000,000 which reflects a debt increase of more than $4 trillion ($4,281,196,822,990.65) during the past 15 years.

TRIBUTE TO PAUL TSONGAS

Mr. LEAHY. Mr. President, I stand here today to pay tribute to Paul Tsongas, one of the most courageous men and of the greatest humanitarians that I have had the honor of serving with in the U.S. Senate.

Paul Tsongas' work for his fellow man did not start nor stop here in Washington. Before he even dreamed of running for elected office, he donated his time to the Peace Corps, serving in Ethiopia and the West Indies.

But whether it was Ethiopia or Washington, DC, Paul Tsongas left his mark wherever he went.

In his hometown of Lowell, MA, one only needs to look at the Lowell National Historical Park to realize what he meant to his fellow citizens of that historical New England town.

He only served in the Senate for one term. But in just his second year, he led the efforts to pass the Alaska Lands Act of 1980 which has been recognized as one of the most important pieces of conservation legislation in history.

When diagnosed with lymphoma, he left the Senate to spend more time with his family. But he did not give in to his cancer. He fought it with the tenacity that those of us who knew him would only come to expect.

After undergoing experimental surgery to beat the cancer, he felt even more compelled to donate his life to helping his fellow citizens. One person he helped was my close friend Bill Gray. Bill, suffering from cancer, was constantly encouraged and cheered by Paul.

As we all remember, his remarkable run for President as an advocate for a balanced budget in 1992 helped shape America's political agenda.

After contributing to the campaign in a losing effort, he co-founded the Concord Coalition to advocate a balanced budget. Since then, the deficit has been cut in half and the Concord Coalition has become one of the most well respected bipartisan organizations in Washington.

Paul Tsongas will be remembered here in Washington and in his hometown of Lowell not only for his work as a legislator but for his work as a father, a husband, and a humanitarian.

My thoughts and prayers go out to his wife Niki, and his daughters Ashley, Katina, and Molly.

U.S. FOREIGN OIL CONSUMPTION: HERE'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, one troubling aspect of our determining national security is the manner in which the United States has become more and more deeply dependent upon foreign countries to supply the bulk of our energy needs for the American people.

I was holding hearings on this perilous situation a decade ago when I was chairman of the Agriculture Committee; and again this past Congress in my present capacity as chairman of the Senate Foreign Relations Committee.

The administration does acknowledge that this is a national security concern, but, the administration has done precisely nothing about U.S. dependency on foreign oil.

Mr. President, the American Petroleum Institute reports that for the week ending January 24, the U.S. imported 7,840,000 barrels of oil, 945,000 barrels more than the 6,895,000 imported during the same week a year ago.

To put it another way, Americans relied on foreign oil for 54.7 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Which raises the inevitable questions: is anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians would do well to ponder the economic calamity certain to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,840,000 barrels a day.

Mr. President, as I say, I shall continue to report to the Senate—and to the American people—on a regular basis regarding the increasingly dangerous U.S. dependency on foreign oil.

CPSC CHAIRMAN ANN BROWN BRINGS CONSUMER PRODUCT SAFETY MESSAGE TO NEVADANS

Mr. BRYAN. Mr. President, last month U.S. Consumer Product Safety Commission Chairman, Ann Brown, came to Nevada to deliver her vital safety messages to my constituents in Las Vegas and Reno. Her timely visit, just before the holidays, when many people are preparing their homes for visits by friends and relatives, reminded the citizens of my State of the practical things they can do to keep their homes safe.

In Las Vegas, we visited the home of Ms. Lori Black. Lori and her husband Mike are the parents of eight children. As we toured their home with Lori and her youngest daughter Leslie Mika and oldest daughter Ann, Chairman Brown reviewed the CPSC's baby safety checklist and found that they had done an excellent job of making their home safe for children.

In Reno, we visited the home of Lisa and Scott Anderson and their daughter Lyndsey Sue. There, Chairman Brown was able to point out that their baby crib passed the soda can test. She demonstrated that a soda can is useful to measure the spaces between the slats in a baby's crib. If the soda can cannot go through the slats, then the crib is baby safe.

Chairman Brown also demonstrated the importance of clipping the loop at the end of venetian blind cords. She told us in the past 14 years, 173 children had strangled in the loops of curtain and blind cords, but that as a result of a voluntary agreement she secured from the blind cord industry, manufacturers are now installing safety tassels at the end of their cords. She commended the Andersons for making their home safe for a baby by putting all medicines on an upper shelf far from a baby's curious hands and having no baby clothes with strings or cords.

In both Las Vegas and Reno, the homes contained smoke alarms, but lacked carbon monoxide detectors. Chairman Brown emphasized to both families the necessity of these devices. Every year, about 200 people die from carbon monoxide poisoning, and thousands are treated in hospital emergency rooms. With the installation of CO detectors and annual appliance inspections, these deaths and injuries can be prevented.

I want to commend Chairman Brown for her valuable work promoting consumer product safety in Nevada and across the country. The baby safety program she initiated is a model of the way business and government can work together as partners to advance the public interest.

The Gerber Products Co. underwrote the costs of printing the materials for the baby safety program. This has allowed the CPSC to make the baby safety checklist and other helpful materials available to thousands of people throughout the country.

The Consumer Product Safety Commission is a small agency with a big mission—to keep families safe in their homes and at play. It is also one of the taxpaying public's best bargains in government. CPSC's $42.5 million budget, about 16 cents per capita, helps to attack the $200 billion in annual societal costs and about $30 billion in direct medical costs. Thus, every dollar appropriated to CPSC has the potential to address about $5,000 in societal costs and about $600 in direct medical costs. As one example, the CPSC's work in making sure baby cribs are safe and removing unsafe cribs from the market has reduced crib-related deaths from 200 annually to less than 50 deaths per year. That one project alone saves society nearly $1 billion a year—or almost 25 times the CPSC's current annual budget.

But the CPSC is most concerned with saving lives and reducing injuries and it is working even now on actions to reduce those crib-related deaths to an even lower figure.

I would like to thank Chairman Brown for bringing her lifesaving message to the citizens of Nevada and to commend her for her excellent leadership of the Consumer Product Safety Commission. I urge my colleagues to share the CPSC's baby safety checklist with the new parents and grandparents in their States.

I ask unanimous consent that the baby safety checklist be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BABY SAFETY CHECKLIST

BEDROOM

Put your baby to sleep on her back or side in a crib with a firm, flat mattress and no soft bedding underneath her.

Make sure your baby's crib is sturdy and has no loose or missing hardware.

Never place your baby's crib or furniture near window blind or curtain cords.

BATHROOM

Keep medicines and cleaning products in containers with safety caps and locked away from children.

Always check bath water temperature with your wrist or elbow before putting your baby in to bathe.

Never, ever, leave your child alone in the bathtub or near any water.

KITCHEN

Don't leave your baby alone in a highchair; always use all safety straps.

Use your stove's back burners and keep pot handles turned to the back of the stove.

Lock household cleaning products, knives, matches, and plastic bags away from children.

LIVING AREAS

Install smoke detectors on each floor of your home, especially near sleeping areas; change the batteries each year.

Use safety gates to block stairways and safety plugs to cover electrical outlets.

Keep all small objects, including tiny toys and balloons, away from young children.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. LOTT. Good to see the Senator presiding this afternoon. Shall we begin the closing process, now, Mr. President? Would that be all right?

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–29. A petition from a citizen of the State of Mississippi relative to the eastern boundary of the State of Mississippi; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. Res. 37. An original resolution authorizing expenditures by the Committee on Foreign Relations.

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. Res. 38. An original resolution authorizing expenditures by the Committee on Armed Services.

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. Res. 39. An original resolution authorizing expenditures by the Committee on Governmental Affairs.

By Mr. BOND, from the Committee on Small Business, without amendment:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Small Business.

By Mr. GRASSLEY, from the Special Committee on Aging, without amendment:

S. Res. 41. An original resolution authorizing expenditures by the Special Committee on Aging.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

To be major general

Brig. Gen. Maxwell C. Bailey, 0835
Brig. Gen. William J. Dendinger, 3556
Brig. Gen. Dennis G. Haines, 8791
Brig. Gen. Charles R. Henderson, 0660
Brig. Gen. Charles R. Holland, 4055.
Brig. Gen. Silas R. Johnson, Jr., 2407
Brig. Gen. Thomas J. Keck, 7294
Brig. Gen. Rodney P. Kelly, 8032
Brig. Gen. Ronald P. Keys, 5357
Brig. Gen. David R. Love, 7046
Brig. Gen. Earl W. Mabry, II, 2663
Brig. Gen. Richard C. Marr, 7645
Brig. Gen. William F. Moore, 9750
Brig. Gen. Thomas H. Neary, 0508
Brig. Gen. Susan L. Pamerleau, 8423
Brig. Gen. Andrew J. Pelak, Jr., 7135
Brig. Gen. Gerald F. Perryman, Jr., 9961
Brig. Gen. Roger R. Radcliff, 8907
Brig. Gen. Richard H. Roellig, 6384
Brig. Gen. Lansford E. Trapp, Jr., 7799
Brig. Gen. Thomas C. Waskow, 1732
Brig. Gen. Charles J. Wax, 3013
Brig. Gen. John L. Woodward, Jr., 3961
Brig. Gen. Michael K. Wyrick, 5017

The following-named officer for appointment to the grade of general in the United States Air Force while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Lloyd W. Newton, 5211

The following-named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James L. Jones, 2699

The following-named Army Competitive Category officer for promotion in the Regular Army of the United States to the grade of major general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

To be major general

Brig. Gen. Larry G. Smith, 2572

The following-named Army Competitive Category officer for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

To be brigadier general

Col. Mitchell M. Zais, 7282

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Brig. Gen. Martin R. Steele, 2490

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 18 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the RECORD of January 7, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators:

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD January 7, 1997, at the end of the Senate proceedings.)

In the Air Force there are 12 promotions to the grade of lieutenant colonel and below (list begins with Samuel R. Bakalian, Jr.) (Reference No. 43)

In the Army there are 5 promotions to the grade of major (list begins with Robert J. Metz) (Reference No. 44)

In the Army there are 16 promotions to the grade of colonel (list begins with Owen H. Black) (reference No. 45)

In the Army there is 1 promotion to the grade of major (Randel D. Matney) (Reference No. 46)

In the Army there are 6 promotions to the grade of colonel and below (list begins with Ronald P. Turnicky) (Reference No. 47)

In the Army there are 2 promotions to the grade of lieutenant colonel (list begins with John E. Rueth) (Reference No. 48)

In the Army there is 1 appointment to the grade of colonel (Phillip J. Todd) (Reference No. 49)

In the Army there is 1 promotion to the grade of lieutenant colonel (Emmanuel M. Chiaparas) (Reference No. 50)

In the Army there are 5 appointments to the grade of lieutenant colonel and below (list begins with Benje H. Boedeker) (Reference No. 51)

In the Army there is 1 appointment to the grade of major (Rupert H. Peete) (Reference No. 52)

In the Army there are 3 appointments to the grade of lieutenant colonel and below (list begins with 4673X) (Reference No. 53)

In the Army there are 29 promotions to the grade of lieutenant colonel (list begins with Mark S. Ackerman) (Reference No. 54)

In the Marine Corps there is 1 promotion to the grade of lieutenant colonel (James W. Brown) (Reference No. 56)

In the Marine Corps there is 1 promotion to the grade of colonel (Chris J. Gunther) (Reference No. 57)

In the Marine Corps there is 1 promotion to the grade of major (Douglas S. Kurth) (Reference No. 58)

In the Marine Corps there are 3 appointments to the grade of lieutenant colonel (list begins with Randall N. Miller) (Reference No. 59)

In the Naval Reserve there are 3 appointments to the grade of captain (list begins with Gary D. Bumgarner) (Reference No. 61)

In the Navy there are 471 appointments to the grade of captain and below (list begins with Marcial B. Dumlao) (Reference No. 66)

By Mr. HELMS, from the Committee on Foreign Relations:

Karl Frederick Inderfurth, of North Carolina, to be an Alternate Representative of the United States of America to the 51st Session of the General Assembly of the United Nations.

Madeleine Korbel Albright, of the District of Columbia, to be a Representative of the

United States of America to the 51st Session of the General Assembly of the United Nations.

Victor Marrero, of New York, to be an Alternate Representative of the United States of America to the 51st Session of the General Assembly of the United Nations.

John Stern Wolf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as U.S. Coordinator for Asia Pacific Economic Cooperation (APEC).

Edward William Gnehm, Jr., of Georgia, to be a Representative of the United States of America to the 51st Session of the General Assembly of the United Nations.

John Francis Maisto, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

Nominee: John F. Maisto.

Post: U.S. Ambassador to Venezuela.

Contributions, amount, date, and donee:

1. Self: John F. Maisto, none.

2. Spouse: Maria Consuelo G. Maisto, none.

3. Children and spouses names: John Joseph Maisto/Karen Nelson, none; Maria Consuelo Maisto Lynch, none; Edward J. Lynch, none; Maria Cristina Maisto, none.

4. Parents names: John Maisto (deceased), none; Mary P. Maisto.

5. Grandparents names: Elpedio Maisto (deceased), none; Luisa Maisto (deceased), none.

6. Brothers and spouses names: Albert L. Maisto, none; Mary Jean Mills Maisto, none.

7. Sisters and spouses names: none.

Dennis K. Hays, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

Nominee: Dennis K. Hays.

Post: Suriname.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses names: none.

4. Parents names—Ronald and Jane Hays: $50 per year, Richard Matsuura (D–Hawaii); $25 per year, Gene Ward (R–Hawaii); $25 per year, Tom Okamura (D–Hawaii); $1,000 1996, 1995, Orson Swindle (R–Hawaii); $100 per year Republican National Committee.

5. Grandparents names: none.

6. Brothers and spouses names: none.

7. Sisters and spouses names: none.

Arma Jane Karaer, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands, and as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Vanuatu.

Nominee: Arma Jane Karaer.

Post: Port Moresby, Papua New Guinea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: Arma Jane Karaer, none.

2. Spouse: Yasar Karaer, none.

3. Children and spouses names: Alexandra Karaer, none; Ceren Karaer, none.

4. Parents: Alexander Szczepanski (father); deceased; Ida Szczepanski (mother), none.

5. Grandparents: Bronislaw Szczepanski, deceased; Caroline Szczepanski, deceased; Irving E. Anderson, deceased; Hedwig L. Anderson, deceased.

6. Brothers and Spouses: Bruce Szczepanski, none; Edith Szczepanski; none. David Szczepanski: $50, 3/95, MN Republican Party; $100, 8/95, Dennis Newinski; $200, 4/96 Dennis Newinski; $50, 7/96, MN Republican Party. Joan Szczepanski, deceased; Michael Szczepanski, none; Nancy Szczepanski, none; Steven Szczepanski, none; Thomas Szczepanski, none; Cynthia Szczepanski, none.

7. Sisters and spouses: none.

Anne W. Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

Nominee: Anne Woods Patterson.

Post: Republic of El Salvador.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: Anne W. Patterson, none.

2. Spouse: David R. Patterson, none.

3. Children and spouses names: Edward C. Patterson (Age 15), none; Andrew W. Patterson (age 9), none.

4. Parents names: John and Carol Woods, none.

5. Grandparents names: None living.

6. Brothers and spouses names: John Davis Woods, Jr., none; Jean Byers Woods, none.

7. Sisters and spouses names: none.

Genta Hawkins Holmes, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, as Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia.

Nominee: Genta Hawkins Holmes.

Post: Australia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses names: none.

4. Parents names: deceased.

5. Grandparents names: deceased.

6. Brothers and spouses names: Ronald H. Hawkins, none.

7. Sisters and spouses names: none.

Madeleine May Kunin, of Vermont, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Principality of Liechtenstein.

Nominee: Madeleine May Kunin.

Post: Ambassador to the Principality of Liechtenstein.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, date, donee, amount:

1. Self:

1996:	
Clinton/Gore Campaign	$100
Emily's List	125
Democratic Senate Campaign Committee	50
1995:	
Clinton/Gore Campaign	100
Democratic Senate Campaign Committee	50
Democratic Congressional Campaign Committee	50
Democratic Congressional Campaign Committee	50
1994:	
Emily's List	100
Vermont Democratic Party	100
1993:	
Howard Dean Campaign for Governor	50
Democratic Congressional Campaign Committee	50
Elaine Baxter for Congress	50
Don Hooper for Senate	50
Doug Racine for Lt. Governor	50
1992:	
Vermont Democratic Party	200
Clinton for President	100
Carol Mosley Braun	50
Leahy for Senate	25
Arnie Arneson for Governor, NH	100
Howard Dean for Governor	50
Women's Campaign Fund	50
Clinton Inaugural Committee	550
Lyn Yeakel for Senate	50
Vermont Women's Political Caucus	50
Barbara Boxer for Senate	50
Hooper for VT Secretary of State	50
1991:	
Vermont Democratic Party	100
Chittenden County Democratic Party	50
Women's Political Caucus	50

2. Spouse: divorced.

3. Children and spouses names: Peter & Lisa Kunin, none; Julie Kunin, none; Adam Kunin, none; Daniel Kunin, none.

4. Parents names: deceased.

5. Grandparents names: deceased.

6. Brothers and spouses names: Edgar May, $100, 1992, Clinton Campaign; $150, 1993, Doug Racine Campaign.

7. Sisters and spouses names: none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably four nomination lists in the Foreign Service which were printed in full in the RECORDS of January 21, and 28, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 21 and 28, 1997, at the end of the Senate proceedings.)

The following-named Career Members of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the classes indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Career Minister:

John C. Kornblum, of Michigan
Edward S. Walker, Jr., of Maryland

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Marshall P. Adair, of Florida
Jeffrey A. Bader, of Florida
Lawrence Rea Baer, of California
Donald Keith Bandler, of Pennsylvania
James W. Bayuk, of Illinois
Eldon E. Bell, of South Dakota
James D. Bindenagel, of California
Ralph L. Booyce, Jr., of Virginia
Prudence Bushnell, of Virginia
Wendy Jean Chamberlin, of Virginia
Lynwood M. Dent, Jr., of Virginia
C. Lawrence Greenwood, Jr., of Florida
John Randle Hamilton, of Virginia
Howard Franklin Jeter, of South Carolina
Charles Kartman, of Virginia
Kathryn Dee Robinson, of Tennessee
Peter F. Romero, of Florida
Wayne S. Rychak, of Maryland
Earl A. Wayne, of California
R. Susan Wood, of Florida

The following-named Career Members of the Foreign Service for promotion into the Senior Foreign Service, and for appointment as Consular Officers and Secretaries in the Diplomatic Service, as indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Warrington E. Brown, of New Jersey
Lawrence E. Butler, of Maine
James Philip Callahan, of Florida
James J. Carragher, of California
John R. Dinger, of Iowa
Ben Floyd Fairfax, of Virginia
Nick Hahn, of California
William Thomas Harris, Jr., of Florida
Ann Kelly Korky, of New Jersey
Richard E.Kramer, of Tennessee
Richard Burdette LeBaron, of Virginia
Antoinette S. Marwitz, of Virginia
Robert John McAnneny, of Connecticut
Edward McKeon, of the District of Columbia
William T. Monroe, of Connecticut
Lauren Moriarty, of Hawaii
Michael C. Mozur, of Virginia
Stephen D. Mull, of Pennsylvania
Michael Eleazar Parmly, of Florida
Jo Ellen Powell, of the District of Columbia
David E. Randolph, of Arizona
Victor Manuel Rocha, of California
Anthony Francis Rock, of New Hampshire
Lawrence George Rossin, of California
John M. Salazar, of New Mexico
Sandra J. Salmon, of Florida
Janet A. Sanderson, of Arizona
Ronald Lewis Schlicher, of Tennessee
Joseph B. Schreiber, of Michigan
Richard Henry Smyth, of California
William A. Stanton, of California
Gregory Michael Suchan, of Ohio
Laurie Tracy, of Virginia
Frank Charles Urbancic, Jr., of Indiana
Harry E. Young, Jr., of Missouri

Career Members of the Senior Foreign Service, Class of Counselor, and Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

John R. Bainbridge, of Maryland
Bernard W. Bies, of South Dakota
Melvin L. Harrison, of Virginia
Lawrence N. Hill, of California
Bernardo Segura-Guron, of Virginia
Mark Stevens, of Florida
Frederick J. Summers, of California
Brooks A. Taylor, of New Hampshire
William L. Young, of Virginia

The following-named Career Member of the Senior Foreign Service of the United States Information Agency for promotion in the Senior Foreign Service to the class indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Career Minister:

Marilyn McAfee, of Florida.

The following-named persons of the agencies indicated for appointment as Foreign Service Officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officer of Class One, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Larry Corbett, of Nevada

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Hans J. Amrhein, of Virginia

DEPARTMENT OF STATE

Phyllis Marie Powers, of Texas
Michael S. Tulley, of California

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Kimberly J. Delaney, of Virginia
Edith Fayssoux Jones Humphreys, of North Carolina

DEPARTMENT OF STATE

Jemile L. Bertot, of Connecticut

For appointment as Foreign Service Officer of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Alfred B. Anzaldua, of California
David A. Beam, of Pennsylvania
Donald Armin Blome, of Illinois
P.P. Declan Bryne, of Washington
Lauren W. Catipon, of New Jersey
James Patrick DeHart, of Michigan
Joseph DeMaria, of New Jersey
Michael Ralph DeTar, of New York
Rodger Jan Deuerlein, of California
Stephen A. Druzak, of Washington
Mary Eileen Earl, of Virginia
Linda Laurents Eichblatt, of Texas
Jessica Ellis, of Washington
Stephanie Jane Fossan, of Virginia
Christopher Scott Hegadorn, of the District of Columbia
Harry R. Kamian, of California
Marc E. Knapper, of California
Blair L. LaBarge, of Utah
William Scott Laidlaw, of Washington
Kaye-Ann Lee, of Washington
Brian Lieke, of Texas
Bernard Edward Link, of Delaware
Lee MacTaggart, of Washington
Richard T. Reiter, of California
Kai Ryssdal, of Virginia
Norman Thatcher Scharpf, of the District of Columbia
Jennifer Leigh Schools, of Texas
Justin H. Siberell, of California
Anthony Syrett, of Washington
Herbert S. Traub, III, of Florida
Arnoldo Vela, of Texas
J. Richard Walsh, of Alabama
David K. Young, of Florida
Darcy Fyock Zotter, of Vermont

The following-named Members of the Foreign Service of the Department of Commerce and the Department of State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Derek A. Bower, of Virginia
Steven P. Chisholm, of Virginia
Henry J. Hein, Jr., of Virginia
Holly Ann Herman, of Virginia
E. Keith Kirkham, of Maine
Mary Pat Moynihan, of Virginia
John W. Ratkiewicz, of New Jersey

Secretary in the Diplomatic Service of the United States of America:

William B. Clatanoff, Jr., of Virginia

The following-named Career Members of the Foreign Service of the Department of State for promotion in the Senior Foreign Service to the class indicated, effective October 18, 1992:

Career Members of the Senior Foreign Service of the United States of America; Class of Minister-Counselor:

Elizabeth B. Bollmann, of Missouri
Marsha D. von Duerekheim, of California

The following-named Career Members of the Foreign Service of the Department of State, previously promoted in the Senior Foreign Service to the class indicated on October 18, 1992 now to be effective April 7, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Joan Ellen Corbett, of Virginia
Judith Rodes Johnson, of Texas
Mary Elizabeth Swope, of Virginia

The following-named Career Member of the Foreign Service of the Department of Sate, previously promoted in the Senior Foreign Service to the class indicated on October 18, 1992, now to be effective October 6, 1991:

Career Member of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Sylvia G. Stanfield, of Texas

The following-named Career Member of the Foreign Service of the Department of State, previously promoted in the Senior Foreign Service to the class indicated on November 6, 1988, now effective October 12, 1986:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Joan Ellen Corbett, of Virginia
Judith Rodes Johnson, of Texas
Mary Elizabeth Swope, of Virginia

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on November 6, 1988, now effective January 3, 1988:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

Sylvia G. Stanfield, of Texas

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on April 7, 1991, now effective November 19, 1989:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

Virginia Carson Young, of the District of Columbia

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on October 6, 1991, now effective April 7, 1991:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

Judith M. Heiman, of Connecticut

The following-named Career Members of the Foreign Service of the Department of State, previously promoted in the Senior Foreign Service to the class indicated on October 18, 1992, now effective April 7, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Judyt Landstein Mandel, of the District of Columbia
Mary C. Pendleton, of Virginia

The following-named Career Members of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on October 18, 1992, now effective October 6, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

JeanAnne Louis, of Virginia
Sharon Mercurio, of California
Ruth H. van Heuven, of Connecticut
Robin Lane White, of Massachusetts

The following-named persons of the agencies indicated for appointment as Foreign Service Officers of the classes stated, and also for the other appointments indicated herewith: for appointment as Foreign Service Officer of Class One, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Paul Albert Bisek, of Virginia

For appointment as Foreign Service Officer of Class Two, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

Susumo Ken Yamashita, of Maryland

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Susan Kuchinski Brems, of the District of Columbia
Christine M. Bryne, of Virginia
James Eric Schaeffer, of Florida

DEPARTMENT OF COMMERCE

Karla B. King, of Florida
Terry J. Sorgi, of Wisconsin

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

U.S. INFORMATION AGENCY

Tania Bohachevsky Chomiak, of Florida
Linda Joy Hartley, of California
Sharon Hudson-Dean of Pennsylvania
Constance Colding Jones, of Indiana
Steven Louis Pike, of New York
David Michael Reinert, of New Mexico

DEPARTMENT OF STATE

Sarah J. Metzger, of Virginia

For appointment as Foreign Service Officer of Class Four, Consular Officer and Secretary in the Diplomatic Service of the United States of America effective June 28, 1996:

Marc C. Johnson, of the District of Columbia

The following-named Members of the Foreign Service of the Department of Commerce and the Department of State, to be Consular Officers and/or Secretaries in the Diplomatic Service of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Robert L. Adams, of Virginia
Veomayoury Baccam, of Iowa
Douglass R. Benning, of the District of Columbia
Steven A. Bowers, of Virginia
Michael A. Brennan, of Connecticut
Kerry L. Brougham, of California
Andrea Brouillette-Rodriguez, of Minnesota
Paal Cammermeyer, of Maryland
Priscilla Carroll Caskey, of Maryland
Julianne Marie Chesky, of Virginia
Carmela A. Conroy, of Washington
Julie Chung, of California
Edward R. Degges, Jr., of Virginia
Thomas L. Elmore, of Florida
Wayne J. Fahnestock, of Maryland
Denis Barrett Finotti, of Maryland
Kenneth Fraser, of Maryland
Gary R. Giuffrida, of Maryland
Patricia M. Gonzalez, of Texas
David J. Greene, of New York
Raymond Franklin Greene, III, of Maryland
Ronald Allen Gregory, of Tennessee
Deborah Guido-O'Grady, of Virginia
Audrey Louise Hagedorm, of Virginia
Patti Hagopian, of Virginia
Charles P. Harrington, of Virginia
Ronald S. Hiett, of Virginia
Ruth-Ercile Hodges, of New York
Kristina M. Hotchkiss, of Virginia
Andreas O. Jaworski, of Virginia
Ralph M. Jonassen, of New York
Marni Kalupa, of Texas
Jane J. Kang, of California
Sarah E. Kemp, of New York
Frederick J. Kowaleski, of Virginia
Steven W. Krapcho, of Virginia
Gregory R. Lattanze, of Virginia
Charles W. Levesque, of Illinois
Janice O. MacDonald, of Virginia
C. Wakefield Martin, of Texas
Brian I. McCleary, of Virginia
Alan D. Meltzer, of New York
David J. Mico, of Indiana
Christopher S. Misciagno, of Florida
Joseph P. Mullin, Jr., of Virginia
Burke O'Connor, of California
Edward J. Ortiz, of Virginia
Maria Elena Pallick, of Indiana
David D. Potter, of South Dakota
Eric N. Richardson, of Michigan
Heather C. Roach, of Iowa
Taylor Vinson Ruggles, of Virginia
Thomas L. Schmidt, of South Dakota
Jonathan L.A. Shrier, of Florida
James E. Smeltzer, III, of Maryland
Christine L. Smith, of Virginia
Keenan Jabbar Smith, of Pennsylvania
Brian K. Stewart, of Virginia
Christine D. Stuebner, of New York
Stephanie Faye Syptak, of Texas
Erminido Telles, of Virginia
Mark Tesone, of Virginia
Michael Anthony Veasy, of Tennessee
Glenn Stewart Warren, of California
Mark E. Wilson, of Texas
Anthony L. Wong, of Virginia
Gregory M. Wong, of Missouri
Kim Woodward, of Virginia
Martha-Jean Hughes Wynnyczok, of Virginia
Teresa L. Young, of Virginia

Secretary in the Diplomatic Service of the United States of America:

John Weeks, of Virginia

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. MOSELEY-BRAUN (for herself, Mr. ABRAHAM, Mr. D'AMATO, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. DASCHLE, and Mrs. MURRAY):

S. 235. A bill to amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites; to the Committee on Finance.

By Mr. GRAMS (for himself, Mr. ABRAHAM, Mr. ASHCROFT, Mr. FAIRCLOTH, Mr. HUTCHINSON, Mr. KYL, Mr. MCCAIN, Mr. STEVENS, and Mr. HAGEL):

S. 236. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS:

S. 237. A bill to provide for retail competition among electric energy suppliers for the benefit and protection of consumers, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAMS (for himself and Mr. GRAHAM):

S. 238. A bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. CONRAD, Mr. DORGAN, Mr. BAUCUS, Mr. HARKIN, and Mr. KERREY):

S. 239. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions; to the Committee on Finance.

By Mr. MCCAIN:

S. 240. A bill to provide for the protection of books and materials of the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

S. 241. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

S. 242. A bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. FORD, and Mr. GORTON):

S. 243. A bill to provide for a short term reinstatement of expired Airport and airway trust Fund taxes, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN:

S. 244. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on social security benefits; to the Committee on Finance.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 245. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges for the judicial district of Maryland; to the Committee on the Judiciary.

By Mr. GREGG:

S. 246. A bill to amend title XVIII of the Social Security Act to provide greater flexibility and choice under the medicare program; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 247. A bill for the relief of Rose-Marie Barbeau-Quinn; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. REID):

S. 248. A bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. DOMENICI, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, Mr. BIDEN, Mr. INOUYE, Mr. MURKOWSKI, Mr. DODD, Mr. KERREY, Mr. HATCH, Mr. GREGG, Mr. SMITH of New Hampshire, and Mr. FORD):

S. 249. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations; to the Committee on Finance.

By Mr. FORD:

S. 250. A bill to designate the United States courthouse located in Paducah, Kentucky, as the "Edward Huggins Johnstone United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. SHELBY (for himself, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS, Mr. ABRAHAM, and Mr. HUTCHINSON):

S. 251. A bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years; to the Committee on Finance.

By Mr. GREGG:

S. 252. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax for assets held more than 2 years, to impose a surcharge on short-term capital gains, and for other purposes; to the Committee on Finance.

By Mr. LUGAR:

S. 253. A bill to establish the negotiating objectives and fast track procedures for future trade agreements; to the Committee on Finance.

By Mr. KOHL:

S. 254. A bill to amend part V of title 28, United States Code, to require that the Department of Justice and State Attorneys General are provided notice of a class action certification or settlement, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 36. A resolution relative to the retirements of Arthur Curran, Donn Larson, and Richard Gibbons; considered and agreed to.

By Mr. HELMS:

S. Res. 37. An original resolution authorizing expenditures by the Committee on Foreign Relations; from the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. THURMOND:

S. Res. 38. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. THOMPSON:

S. Res. 39. An original resolution authorizing expenditures by the Committee on Governmental Affairs; from the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. BOND:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Small Business; from the Committee on Small Business; to the Committee on Rules and Administration.

By Mr. GRASSLEY:

S. Res. 41. An original resolution authorizing expenditures by the Special Committee on Aging; from the Special Committee on Aging; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MOSELEY-BRAUN (for herself, Mr. ABRAHAM, Mr. D'AMATO, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. DASCHLE and Mrs. MURRAY):

S. 235. A bill to amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites; to the Committee on Finance.

THE COMMUNITY EMPOWERMENT ACT OF 1997

Ms. MOSELEY-BRAUN. Mr. President, it gives me great pleasure, together with my colleagues, Senators ABRAHAM, D'AMATO, JEFFORDS, LIEBERMAN, MURRAY, and DASCHLE to reintroduce the Community Empowerment Act of 1997. This legislation is designed to create new jobs and spur economic growth by encouraging the cleanup and reuse of contaminated industrial and commercial sites known as Brownfields. This bill also creates 20 new additional empowerment zones and 80 new enterprise communities all across the Nation.

I like to call them environmentally challenged sites. They are sites on which there has been some contamination but not to a level sufficient to reach Superfund status. But they are contaminated nonetheless. They are, on the one hand, excellent locations for industrial and commercial redevelopment because the transportation, more often than not, already exists. The infrastructure, the utilities, and the labor force already exists.

However, these properties are often unattractive to potential redevelopers because of the known, unknown, or perceived contamination that may exist on the property. This factor creates an incentive for companies to locate and develop in greenfields, which are undeveloped areas generally in the suburbs. This urban flight contributes to urban sprawl, taking jobs away from the city.

It also results in the paving off of many of the greenfield areas of our country.

The challenge for all of us is to stop this trend. And one way to do that is by encouraging businesses through the Tax Code to redevelop and to reuse the existing brownfield sites; to reclaim, if you will, sites that have been contaminated which have been used or used up.

At present, if an industrial property owner does environmental damage to their property and then cleans up the site, the owner is allowed to deduct the cost of that cleanup from a single year's earnings. However, in a strange twist of logic, someone who buys an environmentally damaged piece of property and cleans up that property is not allowed to expense these cleanup costs, but instead must capitalize the cost and depreciate the cleanup expense over many years.

The result of this? The result has been an urban landscape littered with vacant or abandoned properties, properties that attract crime and bring down property values in surrounding neighborhoods.

Confronting the brownfields issue can help to address many of the problems that face high unemployment in older communities, including job creation, economic renewal, environmental justice, and environmental improvement. The collective efforts of everyone, particularly the nonprofit community, the private sector, government at all levels, developers, and community groups, are essential to begin the process of returning brownfields property back to productive use and to bring economic growth back to disadvantaged cities and rural areas.

Under the provisions of this legislation, qualifying brownfields will be provided full first-year expensing of environmental cleanup costs under the Federal Tax Code. Full first-year expensing simply means that a tax deduction will be allowed for the cleanup costs in the year that those costs are incurred.

The Community Empowerment Act provides tax incentives that we hope will break through some of the current barriers preventing the private sector from investing in brownfields cleanup projects.

So it provides a carrot, if you will, to the private sector to begin to help not only with the environmental cleanup but also with urban redevelopment. So it becomes a win-win in both regards in that way.

In my own State of Illinois, the brownfields provisions will have a major impact on efforts to help restore neglected and abandoned industrial areas. It will facilitate the cleanup of some 300 to 500 sites in Illinois, each of which has a remediation cost ranging from $250,000 to $500,000 per site.

The Treasury Department estimates that this act will provide $2 billion in tax incentives that will leverage an additional $10 billion in private investment, returning an estimated 30,000 brownfields across the country to productive use again. The $2 billion investment will be included in the President's balanced budget plan and so it will be paid for.

The Federal assistance that this proposal envisions will be concentrated in neighborhoods with the most severe problems and that are truly in need of such investment. The bill targets four areas.

First, the empowerment zones and enterprise communities across the country.

Second, areas with a poverty rate of 20 percent or more that are near industrial or former industrial sites.

Third, existing EPA brownfields pilot areas. The Environmental Protection Agency has already designated brownfields sites across the country.

Fourth, areas with a population of under 2,000 or more than 75 percent of which is zoned for industrial or commercial use.

So this is not just a big-city solution. This is something that will affect the cities, the suburbs, and the rural areas as well in providing an incentive to reclaim these environmentally challenged areas of our country.

In my hometown, in Chicago, Mayor Daley has taken the initiative to establish a brownfields pilot program which has made public investment leverage substantial private investment dollars. One of these projects is known as the Scott Peterson Meats Co., in Chicago. The site had been tax delinquent for several years when Scott Peterson Meats and the city began to work together. The city conducted an assessment of potential hazards that were identified and which included asbestos-containing materials, lead-based paints, and some 11 underground storage tanks, some of which were filled with tar. The city paid for environmental investigation, cleanup, and building demolition, which totaled some $250,000 in contractor costs. Due to the city's investment, however, the company, Scott Peterson Meats, then turned around and invested an additional $5.2 million in a new smokehouse on its existing property, and it has hired over 100 additional employees to date. So with the win-win of environmental cleanup and urban reclamation we also have job creation coming out of this legislative initiative.

Another example of a successful public-private partnership pulling people together to clean up a brownfields site is the Madison Equipment site located in Illinois. This abandoned industrial building was a neighborhood eyesore. Scavengers had stolen most of the wiring and plumbing, and illegal or what is called midnight dumping of trash and debris was rampant. Madison Equipment needed expansion space, but it feared the environmental liability. However, in 1993, the city of Chicago took the initiative to invest just a little over $3,000 in this project, in this environmental reclamation, this brownfields project, and 1 year later the company, Madison, put in $180,000 of its own to redevelop the building. The critical reason that lenders and investors look at this area now is because the city committed the public investment to spur private redevelopment and investment. When local government demonstrates the confidence to commit public funds, private financial institutions are more likely to follow suit. these types of examples show how a little investment can go a long way and how we can engage the partnership between the public and the private sector in nonbureaucratic ways in order to spur a result that truly is in the public interest.

Chicago's pilot project will successfully return all the pilot sites to productive use for a total of about $850,000 in public money. this pilot project is a perfect example of what this legislation can accomplish on a national level. But in order to make it happen, cooperation is the key. Effective strategies require strong partnerships among government, industry, organized labor, community groups, developers, environmentalists, and financiers, who all realize that when their efforts are aligned, when we work together, progress is made easier.

The second component of this legislation is the establishment of empowerment zones and 80 additional enterprise communities. They will receive a variety of tools for redevelopment from the Government.

First, they receive a package of tax incentives and flexible grants available over a 10-year period.

Second, they receive priority consideration for other Federal empowerment programs.

Third, they receive assistance in removing bureaucratic redtape and regulatory barriers that prevent innovative uses of the Federal assistance that they have received.

This approach recognizes that a top-down, big Government solution does not work in these times and what we have to do is enhance public-private partnerships and the involvement and engagement of all sectors in order to bring about again the public policy result that we are all desirous of seeing.

Economic empowerment can be achieved, but it is best done, I believe, through these public-private partnerships. Economic revitalization in this Nation's most distressed communities is essential to the growth of our entire country. With the concept of team effort, we can rebuild cities by stimulating investments and creating jobs. Environmental protection used in this way can and will be good business. It is also good policy. With this legislation, we will begin the effort to restore economic growth back into our country's industrial centers and rural communities all the while improving our environment.

Again, I wish to thank my colleagues, Senators ABRAHAM, D'AMATO, JEFFORDS, LIEBERMAN, MURRAY, and DASCHLE for their original cosponsorship of this legislation and for making this legislation a truly bipartisan effort. I urge all of my colleagues to join in supporting the quick passage of this legislation.

I ask unanimous consent that the full text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—ADDITIONAL EMPOWERMENT ZONES

SEC. 101. ADDITIONAL EMPOWERMENT ZONES.

(a) IN GENERAL.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking "9" and inserting "11",

(2) by striking "6" and inserting "8", and

(3) by striking "750,000" and inserting "1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that designations of new empowerment zones made pursuant to such amendments shall be made during the 180-day period beginning on the date of the enactment of this Act.

TITLE II—NEW EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SEC. 201. DESIGNATION OF ADDITIONAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1391 (relating to designation procedure for empowerment zones and enterprise communities) is amended by adding at the end the following new subsection:

"(g) ADDITIONAL DESIGNATIONS PERMITTED.—

"(1) IN GENERAL.—In addition to the areas designated under subsection (a)—

"(A) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate an additional 80 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 50 may be designated in urban areas and not more than 30 may be designated in rural areas.

"(B) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate an additional 20 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 15 may be designated in urban areas and not more than 5 may be designated in rural areas.

"(2) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 1999.

"(3) MODIFICATIONS TO ELIGIBILITY CRITERIA, ETC.—

"(A) POVERTY RATE REQUIREMENT.—

"(i) IN GENERAL.—A nominated area shall be eligible for designation under this subsection only if the poverty rate for each population census tract within the nominated area is not less than 20 percent and the poverty rate for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent.

"(ii) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate of not less than 25 percent if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which have a poverty rate of not less than 25 percent (determined without regard to this clause).

"(iii) EXCEPTION FOR DEVELOPABLE SITES.—Clause (i) shall not apply to up to 3 noncontiguous parcels in a nominated area which may be developed for commercial or industrial purposes. The aggregate area of noncontiguous parcels to which the preceding sentence applies with respect to any nominated area shall not exceed 1,000 acres (2,000 acres in the case of an empowerment zone).

"(iv) CERTAIN PROVISIONS NOT TO APPLY.—Section 1392(a)(4) (and so much of paragraphs (1) and (2) of section 1392(b) as relate to section 1392(a)(4)) shall not apply to an area nominated for designation under this subsection.

"(v) SPECIAL RULE FOR RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—The Secretary of Agriculture may designate not more than 1 empowerment zone, and not more than 5 enterprise communities, in rural areas without regard to clause (i) if such areas satisfy emigration criteria specified by the Secretary of Agriculture.

"(B) SIZE LIMITATION.—

"(i) IN GENERAL.—The parcels described in subparagraph (A)(iii) shall not be taken into account in determining whether the requirement of subparagraph (A) or (B) of section 1392(a)(3) is met.

"(ii) SPECIAL RULE FOR RURAL AREAS.—If a population census tract (or equivalent division under section 1392(b)(4)) in a rural area exceeds 1,000 square miles or includes a substantial amount of land owned by the Federal, State, or local government, the nominated area may exclude such excess square mileage or governmentally owned land and the exclusion of that area will not be treated as violating the continuous boundary requirement of section 1392(a)(3)(B).

"(C) AGGREGATE POPULATION LIMITATION.—The aggregate population limitation under the last sentence of subsection (b)(2) shall not apply to a designation under paragraph (1)(B).

"(D) PREVIOUSLY DESIGNATED ENTERPRISE COMMUNITIES MAY BE INCLUDED.—Subsection (e)(5) shall not apply to any enterprise community designated under subsection (a) that is also nominated for designation under this subsection.

"(E) INDIAN RESERVATIONS MAY BE NOMINATED.—

"(i) IN GENERAL.—Section 1393(a)(4) shall not apply to an area nominated for designation under this subsection.

"(ii) SPECIAL RULE.—An area in an Indian reservation shall be treated as nominated by a State and a local government if it is nominated by the reservation governing body (as determined by the Secretary of Interior)."

(b) EMPLOYMENT CREDIT NOT TO APPLY TO NEW EMPOWERMENT ZONES.—Section 1396 (relating to empowerment zone employment credit) is amended by adding at the end the following new subsection:

"(e) CREDIT NOT TO APPLY TO EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—This section shall be applied without regard to any empowerment zone designated under section 1391(g)."

(c) INCREASED EXPENSING UNDER SECTION 179 NOT TO APPLY IN DEVELOPABLE SITES.—Section 1397A (relating to increase in expensing under section 179) is amended by adding at the end the following new subsection:

"(c) LIMITATION.—For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii)."

(d) CONFORMING AMENDMENTS.—

(1) Subsections (e) and (f) of section 1391 are each amended by striking "subsection (a)" and inserting "this section".

(2) Section 1391(c) is amended by striking "this section" and inserting "subsection (a)".

SEC. 202. VOLUME CAP NOT TO APPLY TO ENTERPRISE ZONE FACILITY BONDS WITH RESPECT TO NEW EMPOWERMENT ZONES.

(a) IN GENERAL.—Section 1394 (relating to tax-exempt enterprise zone facility bonds) is amended by adding at the end the following new subsection:

"(f) BONDS FOR EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—

"(1) IN GENERAL.—In the case of a new empowerment zone facility bond—

"(A) such bond shall not be treated as a private activity bond for purposes of section 146, and

"(B) subsection (c) of this section shall not apply.

"(2) LIMITATION ON AMOUNT OF BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall apply to a new empowerment zone facility bond only if such bond is designated for purposes of this subsection by the local government which nominated the area to which such bond relates.

"(B) LIMITATION ON BONDS DESIGNATED.—The aggregate face amount of bonds which may be designated under subparagraph (A) with respect to any empowerment zone shall not exceed—

"(i) $60,000,000 if such zone is in a rural area,

"(ii) $130,000,000 if such zone is in an urban area and the zone has a population of less than 100,000, and

"(iii) $230,000,000 if such zone is in an urban area and the zone has a population of at least 100,000.

"(C) SPECIAL RULES.—

"(i) COORDINATION WITH LIMITATION IN SUBSECTION (C).—Bonds to which paragraph (1) applies shall not be taken into account in applying the limitation of subsection (c) to other bonds.

"(ii) CURRENT REFUNDING NOT TAKEN INTO ACCOUNT.—In the case of a refunding (or series of refundings) of a bond designated under this paragraph, the refunding obligation shall be treated as designated under this paragraph (and shall not be taken into account in applying subparagraph (B)) if—

"(I) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(II) the refunded bond is redeemed not later than 90 days after the date of issuance of the refunding bond.

"(3) NEW EMPOWERMENT ZONE FACILITY BOND.—For purposes of this subsection, the term 'new empowerment zone facility bond' means any bond which would be described in subsection (a) if only empowerment zones designated under section 1391(g) were taken into account under sections 1397B and 1397C."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 203. MODIFICATIONS TO ENTERPRISE ZONE FACILITY BOND RULES FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) MODIFICATIONS RELATING TO ENTERPRISE ZONE BUSINESS.—Paragraph (3) of section 1394(b) (defining enterprise zone business) is amended to read as follows:

"(3) ENTERPRISE ZONE BUSINESS.—

"(A) IN GENERAL.—Except as modified in this paragraph, the term 'enterprise zone business' has the meaning given such term by section 1397B.

"(B) MODIFICATIONS.—In applying section 1397B for purposes of this section—

"(i) BUSINESSES IN ENTERPRISE COMMUNITIES ELIGIBLE.—References in section 1397B to empowerment zones shall be treated as including references to enterprise communities.

"(ii) WAIVER OF REQUIREMENTS DURING STARTUP PERIOD.—A business shall not fail to be treated as an enterprise zone business during the startup period if—

"(I) as of the beginning of the startup period, it is reasonably expected that such business will be an enterprise zone business (as defined in section 1397B as modified by this paragraph) at the end of such period, and

"(II) such business makes bona fide efforts to be such a business.

"(iii) REDUCED REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as an enterprise zone business for any taxable year beginning after the testing period by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B if at least 35 percent of the employees of such business for such year are residents of an empowerment zone or an enterprise community. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

"(C) DEFINITIONS RELATING TO SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

"(i) STARTUP PERIOD.—The term 'startup period' means, with respect to any property being provided for any business, the period before the first taxable year beginning more than 2 years after the later of—

"(I) the date of issuance of the issue providing such property, or

"(II) the date such property is first placed in service after such issuance (or, if earlier, the date which is 3 years after the date described in subclause (I)).

"(ii) TESTING PERIOD.—The term 'testing period' means the first 3 taxable years beginning after the startup period.

"(D) PORTIONS OF BUSINESS MAY BE ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' includes any trades or businesses which would qualify as an enterprise zone business (determined after the modifications of subparagraph (B)) if such trades or businesses were separately incorporated."

(b) MODIFICATIONS RELATING TO QUALIFIED ZONE PROPERTY.—Paragraph (2) of section 1394(b) (defining qualified zone property) is amended to read as follows:

"(2) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1397C; except that—

"(A) the references to empowerment zones shall be treated as including references to enterprise communities, and

"(B) section 1397C(a)(2) shall be applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 204. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS DEFINITION FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1397B (defining enterprise zone business) is amended—

(1) by striking "80 percent" in subsections (b)(2) and (c)(1) and inserting "50 percent",

(2) by striking "substantially all" each place it appears in subsections (b) and (c) and inserting "a substantial portion",

(3) by striking ", and exclusively related to," in subsections (b)(4) and (c)(3),

(4) by adding at the end of subsection (d)(2) the following new flush sentence:

"For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certification that such lessee is an enterprise zone business.",

(5) by striking "substantially all" in subsection (d)(3) and inserting "at least 50 percent", and

(6) by adding at the end the following new subsection:

"(f) TREATMENT OF BUSINESSES STRADDLING CENSUS TRACT LINES.—For purposes of this section, if—

"(1) a business entity or proprietorship uses real property located within an empowerment zone,

"(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

"(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

"(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) SPECIAL RULE FOR ENTERPRISE ZONE FACILITY BONDS.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE III—EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS

SEC. 301. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

"SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

"(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

"(A) which is otherwise chargeable to capital account, and

"(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

"(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

"(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

"(1) QUALIFIED CONTAMINATED SITE.—

"(A) IN GENERAL.—The term 'qualified contaminated site' means any area—

"(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

"(ii) which is within a targeted area, and

"(iii) which contains (or potentially contains) any hazardous substance.

"(B) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

"(C) APPROPRIATE STATE AGENCY.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

"(2) TARGETED AREA.—

"(A) IN GENERAL.—The term 'targeted area' means—

"(i) any population census tract with a poverty rate of not less than 20 percent,

"(ii) a population census tract with a population of less than 2,000 if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which meet the requirement of clause (i) without regard to this clause,

"(iii) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

"(iv) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

"(B) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

"(C) CERTAIN RULES TO APPLY.—For purposes of this paragraph, the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

"(D) TREATMENT OF CERTAIN SITES.—For purposes of this paragraph, a single contaminated site shall be treated as within a targeted area if—

"(i) a substantial portion of the site is located within a targeted area described in subparagraph (A) (determined without regard to this subparagraph), and

"(ii) the remaining portions are contiguous to, but outside, such targeted area.

"(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

"(1) IN GENERAL.—The term 'hazardous substance' means—

"(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(B) any substance which is designated as a hazardous substance under section 102 of such Act.

"(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

"(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

"(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

"(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

"(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 198. Expensing of environmental remediation costs."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SECTION-BY-SECTION ANALYSIS

TITLE I—ADDITIONAL EMPOWERMENT ZONES

Section 101 would authorize the designation of an additional two urban empowerment zones under the 1994 first round.

TITLE II—NEW EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Section 201 authorizes a second round of designations, consisting of 80 enterprise communities and 20 empowerment zones. Of the 80 enterprise communities, 50 would be in urban areas and 30 would be in rural areas. Of the 20 empowerment zones, 15 would be in urban areas and 5 would be in rural areas. The designations would be made before January 1, 1999.

Certain of the eligibility criteria applicable in the first round would be modified for the second round of designations. First, the poverty criteria would be relaxed somewhat, so that unlike the first round there would be no requirement that at least 50 percent of the population census tracts have a poverty rate of 35 percent or more. In addition, the poverty criteria will not be applicable to areas specified in the application as developable for commercial or industrial purposes (1,000 acres in the case of an enterprise community, 2,000 acres in the case of an empowerment zone), and these areas will not be taken into account in applying the size limitations (e.g., 20 square miles for urban areas, 1,000 square miles for rural areas). The Secretary of Agriculture will be authorized to designate up to one rural empowerment zones and five rural enterprise communities based on specified emigration criteria without regard to the minimum poverty rates set forth in the statute. Rural census tracts in excess of 1,000 square miles or including a substantial amount of governmentally owned land may exclude such excess mileage or governmentally owned land from the nominated area. Unlike the first round, Indian reservations will be eligible to be nominated (and the nomination may be submitted by the reservation governing body without the State government's participation). The empowerment zone employment credit will not be available to businesses in the new empowerment zones, and the increased expensing under section 179 will not be available in the developable acreage areas of empowerment zones.

Section 202 authorizes a new category of tax-exempt financing for businesses in the new empowerment zones. These bonds, rather than being subject to the current State volume caps, will be subject to zone-specific caps. For each rural empowerment zone, up to $60 million in such bonds may be issued. For an urban empowerment zone with a population under 100,000, $130 million of these bonds may be issued. For each urban empowerment zone with a population of 100,000 or more, $230 million of these bonds may be issued.

Section 203 liberalizes the current definition of an "enterprise zone business" for purposes of the tax-exempt financing available under both the first and second rounds. Businesses will be treated as satisfying the applicable requirements during a 2-year start-up period if it is reasonably expected that the business will satisfy those requirements by the end of the start-up period and the business makes bona fide efforts to that end. Following the start-up period a 3-year testing period will begin, after which certain enterprise zone business requirements will no longer be applicable (as long as more than 35 percent of the business' employees are residents of the empowerment zone or enterprise community). The rules under which substantially renovated property may be "qualified zone property," and thereby be eligible to be financed with tax-exempt bonds, would also be liberalized slightly.

Section 204 liberalizes the definition of enterprise business for purposes of both the tax-exempt financing provisions and the additional section 179 expensing by reducing from 80 percent to 50 percent the amount of total gross income that must be derived within the empowerment zone or enterprise community, by reducing how much of the business' property and employees' services must be located in or provided within the zone or community, and by easing the restrictions governing when rental businesses will qualify as enterprise zone businesses. A special rule is also provided to clarify how a business that straddles the boundary of an empowerment zone or enterprise community (e.g., by straddling a population census tract boundary) is treated for purposes of the enterprise zone business definition.

TITLE III—EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS

Section 301 would provide a current deduction for certain remediation costs incurred with respect to qualified sites. Generally, these expenses would be limited to those paid or incurred in connection with the abatement or control of environmental contaminants. This deduction would apply for alternative minimum tax purposes as well as for regular tax purposes.

Qualified sites would be limited to those properties that satisfy use, geographic, and contamination requirements. The use requirement would be satisfied if the property is held by the taxpayer incurring the eligible expenses for use in a trade or business or for the production of income, or if the property is of a kind properly included in the inventory of the taxpayer. The geographic requirement would be satisfied if the property is located in (i) any census tract that has a poverty rate of 20 percent or more, (ii) any other census tract (a) that has a population under 2,000, (b) 75 percent or more of which is zoned for industrial or commercial use, and (c) that is contiguous to one or more census tracts with a poverty rate of 20 percent or more, (iii) an area designated as a federal EZ or EC or (iv) an area subject to one of the 40 EPA Brownfields Pilots announced prior to February 1997. Both urban and rural sites may qualify. Superfund National Priority listed sites would be excluded.

The contamination requirement would be satisfied if hazardous substances are present or potentially present on the property. Hazardous substances would be defined generally by reference to sections 101(14) and 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), subject to additional limitations applicable to asbestos and similar substances within buildings, certain naturally occurring substances such as radon, and certain other substances released into drinking water supplies due to deterioration through ordinary use.

To claim the deduction under this provisions, the taxpayer would be required to obtain a statement that the site satisfies the geographic and contamination requirements from a State environmental agency designated by the Environmental Protection Agency for such purposes or, if no such agency has been designated by the EPA, by the EPA itself.

This deduction would be subject to recapture under current-law section 1245. Thus, any gain realized on disposition generally would be treated as ordinary income, rather than capital gain, up to the amount of deductions taken with respect to the property.

• Mr. D'AMATO. Mr. President, I join my colleagues, Senators MOSELEY-BRAUN, ABRAHAM, JEFFORDS, DASCHLE, LIEBERMAN, and MURRAY, in introducing legislation that will provide a new tax incentive to encourage the private sector to clean up thousands of contaminated, abandoned sites known as brownfields. Brownfield sites are abandoned or vacant commercial and industrial properties suspected of being environmentally contaminated.

Under current law, the IRS has determined that costs incurred to clean up land and ground water are deductible as business expenses, as long as the costs are incurred by the same taxpayer that contaminated the land, and that taxpayer plans to use the land after the cleanup for the same purposes used prior to the cleanup. That means that new owners who wish to use land suspected of environmental contamination for a new purpose, would be precluded from deducting the costs of cleanup in the year incurred. They would only be allowed to capitalize the costs and depreciate them over time. Therefore, it is time for us to recognize the need for aggressive economic development policies for the future economic health of communities around the country, and to recognize the inequity of current tax law. My colleagues and I believe that our legislation is the type of initiative the Federal Government needs to encourage development of once abandoned, unproductive sites that will bring real economic benefits to urban distressed and rural areas across the United States. By encouraging redevelopment, jobs will be created, economic growth will continue, property values will increase as well as local tax revenues.

Mr. President, I am proud to say that in my State of New York, the city of Elmira has been selected as a fourth round finalist for the EPA's Brownfields Economic Redevelopment Initiative Demonstration Pilot Program. The city of Elmira has primed an unsightly and unsafe urban brownfield and is now in the final stages of turning it into a revenue- and jobs-producing venture. The city of Elmira initiated this important project with no guarantees of public or private funding and has done this at very minimal cost to taxpayers. Can you imagine what could and would be done if the public and private sector had the encouragement to also become involved?

Mr. President, I urge my colleagues on both sides of the aisle to join us in cosponsoring this important legislation.•

• Mr. JEFFORDS. Mr. President, I am pleased to join with Senators MOSELEY-BRAUN, D'AMATO, ABRAHAM, and LIEBERMAN in sponsoring the Community Empowerment Act of 1997, which will encourage the cleanup of abandoned industrial sites known as brownfields in Vermont and across the country.

The term "brownfields" refers to contaminated industrial sites. Most of these sites were abandoned during the

1970's and 1980's, as industrial development migrated away from urban areas to the greener landscape of the suburbs. One such site in Vermont is the Holden-Leonard Mill, a 20-building complex in Bennington, VT, that is poised to become a brownfields success story after 10 years of work.

Once employing one-quarter of Bennington's work force, the mill shut down in 1939 and then was owned by a patchwork of owners until the 1980's. After soil tests disclosed high levels of pollutants, the mill sat empty after 1986. Fortunately, a buyer of the site came forward in 1992 and with cooperation between the business, State agencies, and the EPA the mill has been refurbished and over 200 new employees have been hired. The process, however, of revitalizing this site began in 1986 and is still going on.

Our aim with this legislation is to provide tax incentives to businesses willing to clean up and redevelop brownfields sites so that more brownfield sites can be returned to productive use and so that the process doesn't have to take 10 years.

Last November, I sponsored a forum on brownfields redevelopment in Burlington, VT. There is only one unpolluted site in Burlington available for industrial development. Yet there are currently 17 brownfields sites in the city, all with great potential for development. I toured several of these sites and saw this potential first hand. Burlington is both an EPA brownfields pilot city and an enterprise community. Under our legislation, businesses that acquire these sites would be able to claim tax deductions for their environmental cleanup costs. With tax incentives for brownfields redevelopment, I am hoping that we will see more of these abandoned sites returned to productive use.

We treasure our open spaces in Vermont, and we are looking at ways to give incentives to companies to invest in our downtowns. When a company builds a facility on a brownfield site it takes advantage of existing infrastructure. The revitalization of a brownfield site means one less farm or field is paved over or forest cut down for the sake of a new plant or facility.

I urge my colleagues to join us in supporting this bill.●

● Mr. LIEBERMAN. Mr. President, I am delighted to join this distinguished group of Senators in introducing legislation to provide tax incentives for the cleanup of brownfields. This legislation will provide a powerful incentive to clean-up these sites. And that clean up will be followed by more jobs and more economic growth in areas that very much need both of those things. I am encouraged by the broad, bipartisan support both here in the Congress and in the administration and in the environmental community and in the business community, to provide tax incentives to get these sites cleaned up.

Brownfield sites are abandoned commercial and industrial properties that are environmentally contaminated. Developers and lenders avoid these sites both for liability reasons and because the tax incentives for cleaning up these sites is so limited. The result is an urban landscape littered with vacant and abandoned properties—properties which invite crime, depress surrounding housing and commercial prices, and hinder economic growth in these areas. Additionally, by discouraging the clean-up of brownfields, we are encouraging the development of undeveloped areas known as greenfields.

This bill is simple: it allows taxpayers who purchase contaminated properties to deduct the costs of cleaning up brownfields in the year that cleanup expenses occur. This tax incentive would apply to existing and future empowerment zones and enterprise communities, in areas with a poverty rate of 20 percent or more and in adjacent industrial and commercial areas and in existing brownfields pilot areas as designated by the Environmental Protection Agency. Currently, a taxpayer who buys a contaminated property and cleans it up must spread the costs of that cleanup over time. We expect the cost of this bill to be about $2 billion over 7 years. The administration has estimated that this proposal may bring as many as 30,000 brownfield sites back to productive use.

In Connecticut, my home State, we know first hand about the problems these brownfield sites can pose for a community. In her soon to be released study of various brownfields sites, Edith M. Pepper of the Northeast-Midwest Institute included the Bryant Electric Plant in Bridgeport, CT, as one of her case studies. As she notes, the Bryant Electric Plant shut down in 1988 after 90 years of operating in Bridgeport's west end. It is no secret that Bridgeport is in difficult shape economically. Closing this 500,000 square foot facility did nothing to help that situation.

However, as Ms. Pepper notes in her case study of this brownfields site, it appears that hope is on the way. A non-profit development group, the West End Community Development Corp. [CDC] is working to form a large business park on and around the Bryant site. Over $15 million has already been invested in the site, including a significant amount for cleanup. According to city officials, the developer plans to create 300–400 new jobs and invest $20–50 million in Bridgeport's west end.

The brownfields bill we are introducing today could help in Bridgeport. Undoubtedly it could help in places like New Haven and Hartford as well.

The bill we are introducing today expands upon a bill that Senator ABRAHAM and I introduced in the last Congress, S. 1542. That bill limited these cleanup incentives to the 104 empowerment zones and enterprise communities that exist in 42 States across the country. I am delighted by today's effort to expand on the number of regions and sites that will be covered in the brownfields legislation and I urge my colleagues to join us in cosponsoring this important legislation.●

● Mr. ABRAHAM. Mr. President, I join Senator MOSELEY-BRAUN, Senator JEFFORDS, Senator LIEBERMAN, Senator D'AMATO, and others in introducing the Community Empowerment Act of 1997. This legislation builds upon the legislation Senator LIEBERMAN and I introduced last Congress, as well as the similar legislation introduced by Senators MOSELEY-BRAUN, D'AMATO, and JEFFORDS.

Having now joined forces for the new Congress, the Moseley-Braun-Abraham legislation will provide tax incentives for the environmental cleanup of brownfields located in economically distressed areas. There are between 100,000 and 300,000 of these sites across the country, Mr. President, and they are a blight on both the landscape and the economy of our communities.

I am sponsoring this legislation because, in my view, too many of our troubled cities, towns, and rural areas have both environmental and economic problems. These problems conspire to produce an endless cycle of impoverishment. Contaminated sites are abandoned and new companies refuse to take over the property for fear of environmental lawsuits from government and/or private parties. As a result, contamination and joblessness continue and even get worse.

For example, a survey of Toledo, OH businesses found that environmental concerns were affecting 62 percent of the area's commercial and industrial real estate transactions. These effects are all but universally negative in terms of job creation and economic development.

Another example: Construction of a $3 million lumber treatment plant in Hammond, IN was abandoned after low levels of contamination were found at the proposed site. The developer concluded that uncertain costs and potential liabilities outweighed the site's benefits.

The city of Hammond lost construction jobs, 75 full-time lumber plant jobs, and any reasonable prospect that a developer would assume the risk of developing property anywhere on the 20 acre site.

In Flint, the former site of Thrall Oil Co., now sits vacant. Economic development officials believe this property should attract future manufacturing development. Unfortunately, because the Michigan Department of Environmental Quality has labeled it "contaminated," developers cannot be found.

For decades now, Mr. President, the Federal Government has tried, with little success, to revitalize economically distressed areas. The blight remains. Urban renewal and various welfare programs too often have only made things worse by spawning dependency on government help. Environmental laws have fared little better. Intended to force cleanup of contaminated sites, these laws instead have scared away potential investors with potentially unlimited liability, including liability for contamination the investors did not cause or even know about.

Environmental regulations and liability established under the Federal Superfund Program along with various other Federal and State environmental rules have helped create thousands of these brownfield properties in the United States. These are industrial or commercial sites suspected of being in some way environmentally contaminated. Although not serious threats to public health and safety, these properties have become unavailable for economic use, because legal rules make them too financially risky for investment and job creation.

Potential liability scares businesses and investors away from these sites, creating permanently abandoned blights on the urban and rural landscape. Investors are afraid of being dragged into multimillion-dollar litigation and cleanup over contamination they did not cause. Worse, investors willing to shoulder the liability of a potential environmental cleanup find that they cannot write off the cost of environmental remediation of brownfields. Instead these costs must be spread over a number of years. Thus, the Tax Code and environmental laws combine to scare away potential sources of investment and growth, often from our most economically distressed areas.

To help both our economy and our environment, the Moseley-Braun-Abraham legislation would target tax benefits at brownfields in economically distressed areas to encourage cleanup and job creation. We would allow investors in brownfields to expense their cleanup costs immediately—without having to split these costs up over a number of years. This will have three positive effects.

First, these incentives will help our communities. By encouraging redevelopment of abandoned, unproductive sites, these tax incentives will reinvigorate economic growth in distressed communities across the country. They will provide economic opportunity rather than government dependence by encouraging investment and entrepreneurship where it is most needed.

Second, this legislation will help the environment. These tax incentives will significantly improve our ability to clean up environmentally contaminated sites. The legacy of existing cleanup laws is a remarkable lack of progress. With thousands of sites across the country categorized as brownfields, we need to start cleaning them now, and we need private investment to get the job done. Furthermore, encouraging brownfields cleanup will save undeveloped land from unnecessary development. For every brownfield that is cleaned up and reused there will be a green field that remains clean and unused. Third, this solution, unlike those attempted in the past, utilizes the private sector to reclaim contaminated land and reinvigorate distressed communities. By encouraging private investment, rather than attempting to purchase or force cooperation with government mandates, we can free up private capital and initiative to do its job of revitalizing these distressed areas.

By adopting this approach, the Senate will take a significant step toward revitalized, reinvigorated, and renewed urban and rural zones. With the incentives, included in this amendment, good jobs and a clean environment will go together, to everyone's benefit. I thank Senators MOSELEY-BRAUN, D'AMATO, LIEBERMAN, JEFFORDS, and our other cosponsors for joining me in this important effort, and I look forward to seeing meaningful brownfields reforms passed this Congress.●

By Mr. GRAMS (for himself, Mr. ABRAHAM, Mr. ASHCROFT, Mr. FAIRCLOTH, Mr. HUTCHINSON, Mr. KYL, Mr. MCCAIN, Mr. STEVENS and MR. HAGEL):

S. 236. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY ABOLISHMENT ACT

Mr. GRAMS. Mr. President, I introduce legislation aimed at improving government as we know it. The Department of Energy Abolishment Act of 1997 comes after nearly two decades of debate. The basic question has always remained the same: Why should we expend taxpayer dollars on this Cabinet-level agency? And today, we ask the same question.

Following a year's worth of discussions on the blueprint I am putting forth, much progress has been made. When the 104th Congress began to tackle this issue, we looked at three main issues. First, we examined the fact that the Department of Energy no longer has a mission—which is clearly reflected by the fact that nearly 85 percent of its budget is expended upon nonenergy programs. Next, we studied those programs charged to the DOE and reviewed its ability to meet the related job requirements. And finally, we looked at the DOE's bloated budget in light of the first two criterion—determining whether the taxpayers should be forced to expend over $16 billion annually on this hodge-podge collection.

Nearly a year later, this Nation continues to grow increasingly dependent upon foreign oil—in total contrast to the DOE's core mission. Even in light of this administration's focus on alternative energy, the DOE expends less than one-fifth of its budget on energy-related programs. And after examining key DOE mission programs, such as the Civilian Nuclear Waste program, it is clear that the goals of those missions are not being met.

So we are challenged to either accept the status quo or move to change it. I must admit that the status quo may be easier in the short term. But in the context of the proverbial big picture, we cannot afford to turn our backs. Besides the fact that it is the role of Congress to oversee taxpayer expenditures and ensure a fair rate of return on their investments, this Nation is faced with a national debt in excess of $5.3 trillion.

However, gaining consensus on the need for change is easier than effecting such change. So, last year I worked with the Senate Task Force on Government Agency Elimination to develop a blueprint. Under the direction of the former Senate Majority Leader, Senator Dole, I worked with Senators FAIRCLOTH, ABRAHAM, and STEVENS to study proposals on the DOE.

After months of discussions with experts in the fields of energy and defense, we introduced legislation—legislation which is the core of the bill I am introducing today.

Let me be the first to state that the ideas contained within this bill are not all of my own. Just as the idea to eliminate the Department of Energy is not a new one—since its creation in 1978, experts have been clamoring to abolish this agency in search of a mission. This bill represents the comments and input of many who have worked in these fields for decades, but like all things—I consider it a work in progress.

As many of our colleagues will recall, the Senate Energy and Natural Resources Committee held a hearing on this very bill last September. During the hearing, we received testimony from such distinguished witnesses as the Former Assistant Energy Secretary Shelby Brewer and the Former Defense Secretary Caspar Weinberger in support of the proposal. Having either directly run these programs, or relied upon them, they provided strong firsthand evidence as to the detriment of leaving things as they are.

The committee also received testimony from the current Acting Secretary and then-Assistant Energy Secretary, Charlie Curtis, who testified in support of improving the delivery of the Department's missions, at lower cost, for the benefit of the American people. His testimony focused upon how the DOE was working to improve its efforts to fulfill various missions, and how changing horses midstream would derail the DOE's efforts. In his remarks, Mr. Curtis dismissed the DOE Abolishment Act because the DOE did not believe it appropriate to entertain matters of this moment and complexity in the context of a bill which has as its proposed objective changing the organizational structure and fate of the Department of Energy.

What the DOE fails to recognize is that the conclusions—to abolish the DOE—arise from an analysis of the Department's activities, rather than from any antigovernment ideology or mere desire to reduce government spending, as pointed out by Dr. Irwin Stelzer of the American Enterprise Institute. Supporters of the DOE Abolishment Act have always agreed that there are core functions performed by the DOE which must continue to be done, but the DOE has yet to provide a compelling argument as to why the DOE itself must continue to exist or successfully respond to our reasons for its elimination.

But Mr. Curtis' objections are understandable when placed in the context of remarks by Nobel-prize economist, Dr. Milton Friedman: "The Department of Energy offers an excellent example of a major difference between private and government projects. If a private project is a failure, it will be closed down; if a government project is a failure, it will be expanded. * * * It is in the self-interest of the Government officials in charge to keep the project alive; and they always have the ready excuse that the reason for failure was the lack of sufficient funds."

So today, I am joined by my colleagues, Senator ABRAHAM of Michigan, Senator ASHCROFT of Missouri, Senator FAIRCLOTH of North Carolina, Senator HUTCHINSON of Arkansas, Senators KYL and MCCAIN of Arizona and Senator STEVENS of Alaska, in reaffirming congressional intent to change the Department of Energy as we know it.

Under the Department of Energy Abolishment Act of 1997, we dismantle the patchwork quilt of government initiatives—reassembling them into agencies better equipped to accomplish their basic goals; we refocus and increase Federal funding toward basic research by eliminating corporate welfare; and, we abolish the bloated, duplicative upper management bureaucracy.

First, we begin by eliminating Energy's Cabinet-level status and establish a 3-year Resolution Agency to oversee the transition. This is critical to ensuring progress continues to be made on the core programs.

Under title I, the Federal Energy Regulatory Commission [FERC] is spun off to become an independent agency, like it was prior to the creation of the DOE. The division which oversees hearings and appeals is eliminated, with all pending cases transferred to the Department of Justice for resolution within 1 year. The functions of the Energy Information Administration are transferred to the Department of the Interior with the instruction to privatize as many as possible. And with the exception of research being conducted by the DOE labs, basic science and energy research functions are transferred to Interior for determination on which are basic research, and which can be privatized. Those deemed as core research will be transferred to the National Science Foundation and reviewed by an independent commission. Those that are more commercial in nature will be subject to disposition recommendations by the Secretary of the Interior.

The main reasoning behind this is to ensure the original mission of the DOE—to develop this Nation's energy independence—is carried out. With scarce taxpayer dollars currently competing against defense and cleanup programs within the DOE, it's no surprise that little progress has been made. However, by refocusing dollars into competitive alternative energy research—we will maximize the potential for areas such as solar, wind, biomass, and so forth. For States like Minnesota, where the desire for renewable energy technologies is high, growth in these areas could help fend off our growing dependence upon foreign oil while protecting our environment.

Under Title II, the laboratory structure within the DOE is revamped. First, the three defense labs are transferred to the Defense Department. They include Sandia, Los Alamos and Lawrence Livermore. The remaining labs are studied by a nondefense energy laboratory commission. This independent commission operates much like the Base Closure Commission and can recommend restructuring, privatization, or a transfer to the DOD as alternatives to closure. Congress is granted fast-track authority to adopt the Commission's recommendations.

Title III attempts to assess an inventory of the Power Marketing Administration's assets, liabilities, and so forth. This inventory is aimed at ensuring fair treatment of current customers and a fair return to the taxpayers. All issues, including payments by current customers must be included in the General Accounting Office's [GAO] audit.

Petroleum reserves are the focus of title IV. The Naval Petroleum Reserve is targeted for immediate sale. Any of the reserves that are unable to be disposed of within the 3-year window will be sold transitionally from the Interior Department. With the Strategic Petroleum Reserve, it is transferred to the Defense Department and an audit on value and maintenance costs is conducted by the GAO. Then, the DOD is charged with determining how much oil to maintain for national security purposes after reviewing the GAO report.

Under titles V and VI, all of the national security and environmental restoration-management activities to the Department of Defense. Therefore, all defense-related activities are transferred back to Defense, but are placed in a new civilian controlled agency—Defense Nuclear Programs Agency—to ensure budget firewalls and civilian control over sensitive activities such as arms control and nonproliferation activities.

And the program which has received much criticism as of late, the Civilian Nuclear Waste Program, is transferred to the Corps of Engineers. This section dovetails legislation adopted by the Senate last Congress. A key element is that the interim storage site is designated at Nevada's test site area 25. Building upon legislation I introduced last Congress, the GAO is directed to recommend privatization options and provide cost saving estimates for the overall program.

For 35 States, including my home State of Minnesota, timely resolution to the nuclear waste issue is essential. The continued impasse over the designation of interim and permanent waste sites implies additional slippages in the DOE's legal requirement to accept nuclear waste by 1998. Minnesota stands to lose nearly 30 percent of its energy resources shortly after the turn of the century, but 34 other States face similar crisis. Having paid over $250 million into the Nuclear Waste Trust Fund, Minnesota's ratepayers want resolution, not the continual foot-dragging we have seen from the DOE. And when we look at the $12 billion collected to date in contrast to the lack of progress over the past 15 years, it is clear that the status quo is not working. That is primarily the impetus behind today's announcement by the Nuclear Waste Strategy Coalition that they are petitioning the Courts for approval to stop payments to the Nuclear Waste Trust Fund. Until the Court order in July, the DOE even denied accountability for the program. It is time for a change if we want results. This legislation provides that change.

Overall, outside models estimate savings between $19 and $23 billion in the first 5 years, and approximately $5 to $7 billion annually thereafter. This is in sharp contrast to the former Secretary's Strategic Alignment Initiative, which boasts unconfirmed savings of $14 billion but no savings in the outyears.

In introducing this bill, our goals are to build upon the issues raised during last year's hearing; to hold additional hearings in conjunction with those who have expressed concerns over the Department of Energy—including Senator BROWNBACK of Kansas, chairman of the Government Affairs Subcommittee on Government Management Oversight; and, to move forward on implementing a widely supported proposal. And, in the coming weeks, Representative TIAHRT of Kansas will be introducing companion legislation in the House of Representatives in the near future.

Contrary to proponents of the status quo, the momentum is far from being derailed. In fact, if we were to look at the Department of Energy's own Report on External Regulation issued in December 1996, even its own working group recommended transferring the regulation of its nuclear facilities to outside entities. The report concluded that through external regulation, and adoption of the private sector's safety culture, program safety and public confidence would be greatly enhanced. We agree. And we would like to see such concepts applied across the board to DOE's programs—and the DOE ultimately eliminated. We welcome any input to that end from the administration.

And so looking back over the past year—examining how the debate has transformed from one of whether or not to maintain the status quo, to one of how to change it—I am encouraged over the progress we have made. Today, we mark the beginning of the debate on achieving our goal of streamlining government and improving the delivery of government services at lower costs to the American taxpayers. One year from now, it is my hope that we will be working toward the implementation of a restructuring plan on the Department of Energy.

By Mr. BUMPERS:

S. 237. A bill to provide for retail competition among electric energy suppliers for the benefit and protection of consumers, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELECTRIC CONSUMERS PROTECTION ACT OF 1997

Mr. BUMPERS. Mr. President, I rise today to introduce the Electric Consumers Protection Act of 1997. This bill provides for the transition toward deregulation and competition in electricity generation.

While very few people, including myself, find a discussion of the electric utility industry and the many laws and regulations governing the industry exciting, the fact is that electricity is an extremely important commodity which affects everyone on a daily basis. Any event that increases or reduces electric rates can impact: First, the lives of the poor and those on fixed incomes that depend on electricity to heat their homes in the winter and cool them in the summer; second, the price of goods we buy every day; as well as, third, the competitiveness of our factories. In addition, decisions made by electric generators often have a direct effect on our environment as well as our national security.

So, it is not at all inconsequential that the electric industry, which has remained relatively static for the last 60 years, is about to undergo a fundamental change. Instead of the traditional vertically integrated local utility, which generates power at its own plants, transmits that power over its own lines, and sells that power to all consumers in a particular area, consumers will soon be bombarded with all sorts of offers from companies competing to become their power supplier, and other entrepreneurs will be seeking to buy large blocks of power to serve certain kinds of consumers. Naturally, these changes are bound to create considerable apprehension among utilities, their shareholders, and consumers.

Mr. President, there are some who would prefer that we maintain the status quo. However, it is becoming increasingly certain that competition is inevitable. At least six States—California, New Hampshire, Rhode Island, Pennsylvania, Vermont, and Massachusetts—have already enacted legislation or promulgated regulations providing for competition. A number of other States have established proceedings to determine how to move toward competition. In all, more than 40 States have either ordered, or are examining the possibility of requiring, deregulation of the retail electric markets.

Theoretically, introducing competition among electric power providers should produce greater efficiencies and lower electric rates. Certainly large industrial consumers of electricity would see significant reductions in their energy bills, but I am more concerned about the potential impact on residential and small commercial consumers—the biscuit cookers as we call them in Arkansas. Generating companies may be less eager to compete to serve these customers, especially those located in rural areas. This reduced bargaining power could also end up causing residential and small commercial customers to pay for those costs arising from the transition to competition—that is, stranded costs—costs that industrial consumers can more easily avoid.

I believe it is the role of both Congress and the States to ensure that the biscuit cookers also benefit. It is not enough to simply proclaim that the days of the utilities' vertically integrated monopolies are over. We also have a solemn obligation to be fair to utility companies that have been operating in reliance on the ground rules we all created over the last 60 years. This will require a careful balancing of competing interests. Everyone will benefit by restructuring if it is done properly, and I consider this an absolutely essential result.

Mr. President, I am introducing this bill to begin the debate in the 105th Congress about how best to promote an orderly transition to a competitive retail electric market. This legislation is designed with the goals of allowing all consumers to enjoy the benefits of competition while not penalizing utilities for prudent decisions they made under the previous regulatory system.

There is significant debate over whether Congress should even pass legislation on this subject. The argument that the States should decide these issues certainly has some merit. After all, retail electric service has generally been the domain of the States, although requirements imposed at the Federal level by both FERC and Congress have had a direct impact on retail rates and service.

But I personally believe a State-by-State approach could produce a lot of unintended consequences which would limit the benefits associated with retail competition. Electric generation markets are becoming increasingly regional and even multiregional. What happens in one State can have direct and indirect impacts on consumers and utilities located in another State. Utilities operating in more than one State can be subjected to conflicting regulatory regimes which could impact the way they operate their systems and the electric rates paid by consumers.

This phenomenon is best illustrated by the multistate utility holding companies registered under the Public Utility Holding Company Act [PUHCA]. I have had a lot of experience with registered holding companies because two of them serve my home State of Arkansas. These holding companies generally plan for, and operate, generating facilities on a systemwide basis for the benefit of customers in the entire region served by the company. If restructuring proceeds on a State-by-State basis, these holding companies would find themselves subjected to different requirements which could negatively impact consumers.

For example, the Entergy System serves retail customers in parts of Louisiana, Texas, Mississippi, and Arkansas. If Louisiana and Texas were to order retail competition and Arkansas and Mississippi decided to delay competition, it would be difficult, if not impossible, for Entergy to operate a system of generating facilities designed to serve a particular load over a four-State area. It is quite possible that consumers in Arkansas and Mississippi would wind up paying more for their service. Entergy's captive customers in Arkansas and Mississippi could be further disadvantaged to the extent Entergy were to become financially imperiled as a result of the retail competition orders in Texas and Louisiana.

A State-by-State approach to retail competition also presents problems where utilities operate entirely within a single State. It would make no sense for a utility in a State that does not require retail competition, to be able to sell power at retail in an adjoining State that requires retail competition, while a utility subjected to retail competition is unable to mitigate its losses by competing for customers in the adjoining State. Such a result both increases stranded costs and distorts the generation marketplace.

My legislation requires that retail competition be implemented in each State by 2003. States will continue to have the option of choosing an earlier starting date. In addition, the States can individually oversee the transition to competition.

Moreover, if Congress is going to mandate retail competition then I believe we have an obligation to provide for utility recovery of its stranded investment in facilities that become uneconomic as a result of the transition to retail competition. That is not to say that a utility is automatically entitled to recover every penny of its investment. Rather, my bill limits utilities to recovery of their investments that: First, were prudent when incurred; second, are legitimate and verifiable; and third, cannot be mitigated by selling power to others in the competitive market.

My bill provides that if a utility seeks to recover stranded costs, a State commission would establish the level of such costs pursuant to an administrative determination or after the utility auctions off its assets to establish the market value of these facilities. Once the stranded costs are calculated, consumers would be assessed a wires charge to compensate the utility for its stranded costs.

It is vital that, as we proceed with electric restructuring, we act to ensure that the generation markets are truly competitive. It will do no good to remove Federal and State rate regulation if consumers do not have access to a sufficient number of potential power marketers. We have already seen this problem in other industries that have deregulated, where after an initial flurry of competitors entering a particular market, significant consolidation occurred.

Utilities obviously should not be allowed to use their advantageous positions with regard to transmission and distribution to gain a competitive advantage in the generation market. Utilities should not use funds from their transmission and distribution systems to subsidize their generation businesses. In addition, my bill requires the implementation of independent system operators [ISO's] to oversee the operation of transmission systems in each region.

We also must be mindful that power suppliers might not be falling all over themselves to serve certain consumers, especially those located in rural areas. My bill contains a universal service requirement to ensure that everyone who wants electric service has the opportunity to buy it at reasonable rates. The bill also authorizes States to collect fees from all consumers to help pay for the universal service obligation.

Mr. President, there are currently a number of utility-based programs which provide societal benefits. For instance, the Public Utility Regulatory Policies Act [PURPA] provides for utility purchases of energy generated at certain plants which use renewable resources or cogeneration. In addition, many States have programs requiring utilities to contribute to energy conservation and to help low-income people pay their energy bills. The costs of these programs are passed through to ratepayers. It will be more difficult for utilities to continue to implement these programs in a competitive retail environment. My bill authorizes States to collect wire charges to help pay for these kinds of programs.

Congressman DAN SCHAEFER has developed a proposal designed to promote the use of renewable generation. His portfolio approach would require each company selling power at retail to generate a portion of its power using renewable resources or to purchase credits from those companies that do generate in excess of the minimum requirements. I think it is very important that we do everything possible to promote the use of renewable energy and my bill contains a similar proposal.

Mr. President, over the last 25 years we have made substantial progress in cleaning our air and rivers, lakes and streams. It has come at a fairly big cost, but I doubt anyone would turn the clock back on our successes.

There are understandable conflicting positions about what will happen with the introduction of competition. Some argue that competition will increase the use of natural gas, which is more friendly to the environment than coal. Others argue that existing coal generating plants that were grandfathered in under the provisions of the Clean Air Act will be utilized more frequently. It is difficult to know who is right. But I think it is fair to say that we all have an obligation to protect our air quality and we shouldn't take this issue lightly. My bill requires EPA to submit a study to Congress within 2 years analyzing the issue and suggesting any changes to our laws that may need to be made to protect the environment.

Mr. President, the issues addressed by the Electric Consumers Protection Act of 1997 are very complex and far reaching. It is going to take Congress some time in order to sort them out and develop a consensus for a comprehensive approach to electric generation deregulation. I am introducing this bill today to begin the debate and propose one roadmap as to how we may get there. I look forward to working with my colleagues and all interested parties as we proceed to examine this very important issue over the next 2 years.

Mr. President, I ask unanimous consent that a copy of the bill and a summary of the bill be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Electric Consumers Protection Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Severability.

TITLE I—RETAIL COMPETITION

Sec. 101. Definitions.
Sec. 102. Mandatory retail access.
Sec. 103. Aggregation.
Sec. 104. Prior implementation.
Sec. 105. State regulation.
Sec. 106. Stranded cost recovery.
Sec. 107. Multistate utility company stranded costs.
Sec. 108. Universal service.
Sec. 109. Public benefits.
Sec. 110. Renewable energy.
Sec. 111. Transmission.
Sec. 112. Cross-subsidization.
Sec. 113. Competitive generation markets.
Sec. 114. Nuclear decommissioning costs.
Sec. 115. Tennessee Valley Authority.
Sec. 116. Enforcement.

TITLE II—PUBLIC UTILITY HOLDING COMPANIES

Sec. 201. Repeal of the Public Utility Holding Company Act of 1935.
Sec. 202. Definitions.
Sec. 203. Exemptions.
Sec. 204. Federal access to books and records.
Sec. 205. State access to books and records.
Sec. 206. Affiliate transactions.
Sec. 207. Clarification of regulatory authority.
Sec. 208. Effect on other regulation.
Sec. 209. Enforcement.
Sec. 210. Savings provision.
Sec. 211. Implementation.
Sec. 212. Resources.

TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT

Sec. 301. Definition.
Sec. 302. Facilities.
Sec. 303. Contracts.
Sec. 304. Savings clause.
Sec. 305. Effective date.

TITLE IV—ENVIRONMENTAL PROTECTION

Sec. 401. Study.

SEC. 2. FINDINGS.

The Congress finds that:

(a) Congress has the authority to enact laws, under the Commerce Clause of the United States Constitution, regarding the wholesale and retail generation, transmission, distribution, and sale of electric energy in interstate commerce.

(b) It is in the public interest that consumers receive reliable and inexpensive electric service and competition among electric suppliers can produce these benefits.

(c) Electric utility companies that prudently incurred costs pursuant to a regulatory structure that required them to provide electricity to consumers should not be penalized during the transition to competition.

(d) Consumers will not benefit from the introduction of competition among electric suppliers if certain suppliers have undue market power.

(e) It is important to encourage conservation and the use of renewable resources to reduce reliance on fossil fuels and to promote domestic energy security.

(f) The transition to electric competition should not degrade reliability nor cause consumers to lose electric service.

SEC. 3. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE I—RETAIL COMPETITION

SEC. 101. DEFINITIONS.

For purposes of this title:

(1) The term "affiliate" shall have the same meaning given the term in section 202(10) of this Act.

(2) The term "aggregator" means any person that purchases or acquires retail electric energy on behalf of two or more consumers.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "consumer" means a person who purchases retail electric energy.

(5) The term "corporation" means any corporation, joint-stock company, partnership, association, cooperative, municipal utility, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing.

(6) The term "large hydroelectric facility" means a facility which has a power production capacity, which together with any other facilities located at the same site is greater than 80 megawatts.

(7) The terms "local distribution facilities" and "retail transmission facilities" mean facilities used to provide retail electric energy to consumers.

(8) The term "mitigation" means any widely accepted business practice used by a retail electric energy provider to dispose of or reduce uneconomic assets or costs.

(9) The term "person" means an individual or corporation.

(10) The term "public utility holding company" shall have the same meaning given the term in section 202(6) of this Act.

(11) The term "renewable energy" means electricity generated from solar, wind, waste, except for municipal solid waste, biomass, hydroelectric or geothermal resources.

(12) The term "Renewable Energy Credit" means a tradable certificate of proof that one unit (as determined by the Commission) of renewable energy was generated by any person.

(13) The term "retail electric competition" means the ability of each consumer in a particular State to purchase retail electric energy from any person seeking to sell electric energy to such consumer.

(14) The term "retail electric energy" means electric energy and ancillary services sold for ultimate consumption.

(15) The term "retail electric energy provider" means any person who distributes retail electric energy to consumers regardless of whether the consumers purchase such energy from the provider or another supplier.

(16) The term "retail electric energy supplier" means any person which sells retail electric energy to consumers.

(17) The term "State" means any State or the District of Columbia.

(18) The term "State regulatory authority" means any State agency, including a municipality, which has ratemaking authority with respect to the rates of any retail electric energy provider and the Tennessee Valley Authority.

(19) The term "transmission system" means all facilities, including federally-owned facilities, transmitting electricity in interstate commerce in a particular region, including those located in the State of Texas and those providing international interconnections, but does not include local distribution and retail transmission facilities as defined by the Commission.

(20) The term "wholesale electric energy" means electric energy and related services sold for resale.

(21) The term "wholesale electric energy supplier" means any person which sells wholesale electric energy.

SEC. 102. MANDATORY RETAIL ACCESS.

(a) Customer Choice.—Beginning on December 15, 2003 each consumer shall have the right to purchase retail electric energy from any person, subject to any limitations imposed pursuant to section 105(a) of this Act, offering to sell retail electric energy to such consumer.

(b) Local Distribution and Retail Transmission Facilities.—Beginning on December 15, 2003 all persons seeking to sell retail electric energy shall have reasonable and nondiscriminatory access, on an unbundled basis, to the local distribution and retail transmission facilities of all retail electric energy providers and all related services.

SEC. 103. AGGREGATION.

Subject to any limitations imposed pursuant to section 105(a) of this Act, a group of consumers or any person acting on behalf of such group may purchase or acquire retail electric energy for the members of the group if they are located in a State or States where there is retail electric competition.

SEC. 104. PRIOR IMPLEMENTATION.

(a) State Action.—A State or State regulatory authority, if authorized under State law, may require retail electric energy providers selling retail electric energy to consumers in such State to provide reasonable and nondiscriminatory access, on an unbundled basis, to its local distribution and retail transmission facilities and all related services to competing retail electric energy suppliers prior to December 15, 2003.

(b) Nonregulated Providers.—A retail electric energy provider not subject to the jurisdiction of a State regulatory authority may elect to provide reasonable and nondiscriminatory access, on an unbundled basis, to its local distribution and retail transmission facilities and all related services to competing retail electric energy suppliers prior to December 15, 2003.

(c) Grandfather.—Legislation enacted by a State or a regulation issued by a State regulatory authority prior to January 30, 1997 which has the effect of requiring retail electric competition on or before December 15, 2003, shall be deemed to be in compliance with the requirements of sections 102, 106 and 107 of this Act, for so long as such retail electric competition exists.

SEC. 105. STATE REGULATION.

(a) State Requirements.—Nothing in this Act shall prohibit a State or a State regulatory authority from imposing requirements on persons seeking to sell retail electric energy to consumers in that State which are intended to promote the public interest, including requirements related to reliability and the provision of information to consumers and other retail electric suppliers. Any such requirements must be applied on a nondiscriminatory basis and may not be used to exclude any class of potential suppliers, such as retail electric energy providers, from the opportunity to sell retail electric energy providers, from the opportunity to sell retail electric energy.

(b) Maintenance of State Authority.—Nothing in this Act is intended to prohibit a State from enacting laws or imposing regulations related to retail electric energy service that are consistent with the requirements of this Act.

(c) Continued State Authority Over Distribution.—A State or State regulatory authority may continue to regulate local distribution and retail transmission service currently subject to State regulation in any manner consistent with this Act.

SEC. 106. STRANDED COST RECOVERY.

(a) Application for Recovery.—A retail electric energy provider that was subject to the jurisdiction of a State regulatory authority prior to the date of enactment of this Act may submit an application to the State regulatory authority seeking calculation of its total stranded costs in that State if—

(1) subsequent to January 30, 1997, the State regulatory authority has issued a regulation or the State has enacted legislation requiring retail electric competition which does not provide for the full recovery of stranded costs; of

(2) the retail electric energy provider's customers have access to retail competition as a result of the requirements of Section 102 of this Act.

(b) Calculation of Stranded Costs.—

(1) If a State regulatory authority calculates the applicant's stranded costs pursuant to subsection (a), the authority shall choose, within six months after the receipt of the application, between the calculation methodologies described in subsection (f) of this section.

(2) If a State regulatory authority does not calculate the retail electric energy provider's total stranded costs, the Commission shall calculate the provider's stranded costs using the methodology described in subsection (f)(2) of this section.

(c) Nonregulated Utilities.—A retail electric energy provider that is not subject to regulation by a State regulatory authority prior to the date of enactment of this Act may calculate the amount of its total stranded costs pursuant to either methodology described in subsection (f) of this section.

(d) Right of Recovery.—A retail electric energy provider shall be entitled to full recovery of its stranded costs, over a reasonable period of time, through a nonbypassable Stranded Cost Recovery Charge imposed on its distribution and retail transmission customers.

(e) Prohibition on Cost-Shifting.—No class of consumers in a State shall be assessed a Stranded Cost Recovery Charge that a State regulatory authority or the Commission, whichever is applicable, determines is in excess of the class' proportional responsibility for the retail electric energy provider's costs that existed prior to the implementation of retail electric competition in such State.

(f) Calculation of Stranded Costs.—For purposes of this section and section 107 of this Act, the term "stranded costs" means either (1) all legitimate, prudently incurred and verifiable investments made by a retail electric energy provider in generation assets, including binding power purchase contracts, and related regulatory assets which would have been recoverable but for the implementation of retail electric competition following the date of enactment of this Act, and which cannot be reasonably mitigated or (2) if a retail electric energy provider sells all of its generating facilities, the difference between the book value of such facilities less the amount received from their sale. Nothing in this title is intended to permit a reassessment of prudence with regard to the incurrence of costs related to a particular generating facility or contract in the event a State Regulatory Authority or the Commission has already made a legally binding determination.

SEC. 107. MULTISTATE UTILITY COMPANY STRANDED COSTS.

(a) Limitation on Obligation.—Customers of a retail electric energy provider that serves customers in more than one State or that is affiliated with another retail electric energy provider shall only be responsible for stranded costs associated with retail electric competition in the State or area in which such customers are located.

(b) Regional Generating Facilities.—

(1) The consent of Congress is given for the creation of a regional board if—

(A) each State regulatory authority regulating an affiliate of a public utility holding company with affiliate retail electric energy providers serving customers in more than one state elects to join such a board;

(B) an affiliate of the public utility holding company owns and/or operates a generating facility and sells power from that facility to two or more affiliates of the same holding company and did not sell retail electric energy prior to January 30, 1997 (hereinafter referred to as the "wholesale generating company"); and

(C) the public utility holding company notifies each State regulatory authority which regulates a retail electric energy provider affiliated with the holding company that it intends to seek recovery of the stranded costs associated with the generating facility or facilities (described in subsection (b)(1)(B)) owned by the wholesale generating company affiliated with such holding company.

(2) The regional board shall be formed if each State regulatory authority elects to create the board within six months after receiving the notification described in subsection (b)(1)(C). If such elections are not made within the requisite time period, the Commission shall assume the responsibilities of the board as described in this section.

(3) The regional board shall have one year after the date it is formed to calculate, on a unanimous basis, the stranded costs associated with the generating facility which is the subject of the proceeding in accordance with the definition contained in section 106(f) of the Act and to allocate such costs among the retail electric energy provider affiliates of the public utility holding company on a just and reasonable and nondiscriminatory basis.

(4) If the regional board fails to make either or both determinations, as described in subsection (b)(3) in the requisite time period, the Commission shall make the determination or determinations that have yet to be made.

(5) After its level of stranded costs is determined pursuant to this subsection, the wholesale generating company affiliate of the holding company shall be entitled to fully recover its stranded costs, over a reasonable period of time, from the retail electric energy provider affiliates to which it sells electric energy pursuant to the procedures established by this subsection.

(6) A retail electric energy provider's stranded cost payment obligations pursuant to this subsection shall be deemed stranded costs for the purposes of sections 106 and 107 of this Act.

SEC. 108. UNIVERSAL SERVICE.

(a) Service Obligation.—After December 15, 2003, each retail electric energy provider shall be obligated to sell retail electric energy to, or purchase retail electric energy on behalf of, any consumer in a particular State served by such retail electric energy provider if the State regulatory authority located in such State has determined that such consumer does not have reasonable access to competing retail electric energy suppliers and the consumer has not chosen an alternative supplier.

(b) Compensation.—

(1) If the retail electric energy provider performing the service described in subsection (a) is subject to State regulatory authority regulation of its distribution services, such provider shall be compensated at a just and reasonable rate established by such regulatory authority.

(2) If the retail electric energy provider performing the service described in subsection (a) is not subject to distribution service regulation by a State regulatory authority, such provider shall establish the appropriate level of compensation.

(3) A State or a State regulatory authority, if authorized by the State, may impose a nonbypassable Universal Service Charge imposed on the distribution and retail transmission customers of all retail electric energy providers in such State to fund all or part of the compensation provided in subsections (b)(1) and (b)(2).

(4) A State regulatory authority or the retail electric energy provider, if it establishes its own level of compensation pursuant to subsection (b)(2), may require the consumer receiving retail electric energy pursuant to subsection (a) to pay for all or part of the compensation provided in subsections (b)(1) and (b)(2).

SEC. 109. PUBLIC BENEFITS.

Nothing in this Act shall prohibit a State or State regulatory authority from assessing charges on consumers to fund public benefit programs such as those designed to aid low-income energy consumers, promote energy research and development or achieve energy efficiency and conservation.

SEC. 110. RENEWABLE ENERGY.

(a) Minimum Renewable Requirement.—Beginning on January 1, 2004 and each year thereafter, every retail electric energy supplier shall submit to the Commission Renewable Energy Credits in an amount equal to the required annual percentage of the total retail electric energy sold by such supplier in the preceding calendar year.

(b) State Renewable Energy Programs.—Nothing in this section shall be construed to prohibit any State or any State regulatory authority from requiring additional renewable energy generation in that State under any program adopted by the State.

(c) Required Annual Percentage.—Beginning in calendar year 2003, the required annual percentage for each retail electric energy supplier shall be 5 percent. Thereafter, the required annual percentage for each such supplier shall be 9 percent beginning in calendar year 2008 and 12 percent beginning in calendar year 2013.

(d) Submission of Credits.—A retail electric energy supplier may satisfy the requirements of subsection (a) through the submission of—

(1) Renewable Energy Credits issued by the Commission under this section for renewable energy sold by such supplier in such calendar year.

(2) Renewable Energy Credits issued by the Commission under this section to any other retail electric energy supplier for renewable energy sold in such calendar year by such other supplier and acquired by such retail electric energy supplier.

(3) Any combination of the foregoing.

A Renewable Energy Credit that is submitted to the Commission for any year may not be used for any other purposes thereafter.

(e) Issuance of Renewable Energy Credits.—

(1) The Commission shall establish by rule after notice and opportunity for hearing but not later than one year after the date of enactment of this Act, a National Renewable Energy Trading Program to issue Renewable Energy Credits to retail electric suppliers. Renewable Energy Credits shall be identified by type of generation and the State in which the facility is located. Under such program, the Commission shall issue—

(A) one-half of one Renewable Energy Credit to any retail electric energy supplier who sells one unit of renewable energy generated at a large hydroelectric facility;

(B) one Renewable Energy Credit to any retail electric energy supplier who sells one unit of renewable energy generated at a facility, other than a large hydroelectric facility, built prior to the date of enactment of this Act; and

(C) two Renewable Energy Credits to any retail electric supplier who sells one unit of renewable energy generated at a facility, other than a large hydroelectric facility, built on or after the date of enactment of this Act.

(2) The Commission shall impose and collect a fee on recipients of Renewable Energy Credits in an amount equal to the administrative costs of issuing, recording, monitoring the sale or exchange, and tracking such Credits.

(f) Sale or Exchange.—Renewable Energy Credits may be sold or exchanged by the person issued or the person who acquires the Credit. A Renewable Energy Credit for any year that is not used to satisfy the minimum renewable sales requirement of this section for that year may not be carried forward for use in another year. The Commission shall promulgate regulations to provide for the issuance, recording, monitoring the sale or exchange, and tracking of such Credits. The Commission shall maintain records of all sales and exchanges of Credits. No such sale or exchange shall be valid unless recorded by the Commission.

(g) Rules and Regulations.—The Commission shall promulgate such rules and regulations as may be necessary to carry out this section, including such rules and regulations requiring the submission of such information as may be necessary to verify the annual electric generation and renewable energy generation of any person applying for Renewable Energy Credits under this section or to verify and audit the validity of Renewable Energy Credits submitted by any person to the Commission.

(h) Annual Reports.—The Commission shall gather available data and measure compliance with the requirements of this section and the success of the National Renewable Energy Trading Program established under this section. On an annual basis not later than May 31 of each year, the Commission shall publish a report for the previous year that includes compliance data, National Renewable Energy Trading Program results, and steps taken to improve the Program results.

(i) Sunset.—The requirements of this section shall cease to apply on December 31, 2019.

SEC. 111. TRANSMISSION.

(a) Transmission Regions.—Within two years after the date of enactment of this Act, the Commission shall establish the broadest feasible transmission regions and designate an Independent System Operator to manage and operate the transmission system in each region beginning on December 15, 2003. In establishing transmission regions and designating Independent System Operators the Commission shall give deference to Independent System Operators approved by the Commission prior to the date of enactment of this Act, if it would be consistent with the requirements of this section.

(b) Independent System Operators.—A person designated as an Independent System Operator shall not be subject to the control of—

(1) any person owning any transmission facilities located in the region in which the Independent System Operator will operate; or

(2) any retail electric energy supplier selling retail electric energy to consumers in the region in which the Independent System Operator will operate.

(c) Regional Transmission Oversight Board.—After the Commission has designated an Independent System Operator for a particular transmission system, each State that is part of the transmission region established by the Commission may elect to join a Regional Transmission Oversight Board. If all States within the transmission region so elect within 180 days after the Commission designates an Independent System Operator for the transmission region, the Board shall be formed.

(d) Board Membership.—The Regional Transmission Oversight Board shall be composed of an equal number of members from each State which is a member of the Board. The Board shall prescribe its own rules for organization, practice and procedure for carrying out the functions assigned by this section.

(e) Transmission Regulation.—

(1) If a Regional Transmission Oversight Board is formed, it shall have the same authority as the Commission has pursuant to sections 205, 206, 211, and 212 of the Federal Power Act (16 U.S.C. 824d, 824e, 824j, and 824k), as amended by this Act, with respect to the transmission of electric energy in interstate commerce by the Independent System Operator within the transmission region designated by the Commission. Any actions taken by such Board pursuant to this subsection shall be consistent with Commission precedent.

(2) If a Regional Transmission Oversight Board is not formed for a particular region, the Commission shall continue to have authority over the transmission of electric energy in interstate commerce by the Independent System Operator within the transmission region designated by the Commission.

(3) The Commission shall have authority over the transmission of electric energy in interstate commerce between two or more transmission regions designated by the Commission.

(4) Section 212(f) of the Federal Power Act (16 U.S.C. 824k(f) shall be repealed on the date the Tennessee Valley Authority becomes a retail electric energy supplier.

(5) Section 212(g) of the Federal Power Act (16 U.S.C. 824k(g) is amended by adding "prior to December 15, 2003" immediately following "utilities".

(6) The prohibition outlined by section 212(h) of the Federal Power Act (16 U.S.C. 824k(h)) shall be inapplicable either:

(A) in any situation where a retail electric energy supplier is seeking access to a transmission facility for the purpose of selling retail electric energy to a consumer located in a State that has authorized retail electric competition prior to December 15, 2003; or

(B) in all cases beginning on December 15, 2003.

(f) Rules.—On or before January 1, 2002, the Commission shall issue binding rules for it and the various Regional Transmission Boards, governing oversight of the Independent System Operators, designed to promote transmission reliability and efficiency and competition among retail and wholesale electric energy suppliers, including rules related to transmission rates that inhibit competition and efficiency.

SEC. 112. CROSS-SUBSIDIZATION.

Nothing in this Act is intended to permit retail electric energy providers from recovering in its distribution and retail transmission rates any costs associated with unregulated activities.

SEC. 113. COMPETITIVE GENERATION MARKETS.

(a) Mergers.—

(1) Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended by adding "including the promotion of competitive wholesale and retail electric generation markets," immediately following "public interest".

(2) Add the following new subsections at the end of section 203 of the Federal Power Act (16 U.S.C. 824b):

"(c) Acquisition of Natural Gas Utility Company.—No public utility shall acquire the facilities or securities of a natural gas utility company unless the Commission finds that such acquisition is in the public interest.

"(d) Definition.—For purposes of this section, the term "natural gas utility company" means any company that owns or operates facilities used for the transmission at wholesale, or the distribution at retail (other than the distribution only in enclosed portable containers) of natural or manufactured gas for heat, light, or power.

(b) Market Power.—The Commission shall take such actions as it determines are necessary to prohibit any retail electric energy supplier or retail electric energy provider or any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric suppliers.

SEC. 114. NUCLEAR DECOMMISSIONING COSTS.

To ensure safety with regard to the public health and safe decommissioning of nuclear generating units, retail and wholesale electric energy suppliers and retail electric energy providers owning nuclear generating units prior to the date of enactment of this Act shall be entitled and obligated to recover, from their customers, all reasonable costs associated with Federal and State requirements for the decommissioning of such nuclear generating units.

SEC. 115. TENNESSEE VALLEY AUTHORITY.

(a) Competition in Service Territory.—Notwithstanding any other provision of law, all retail and wholesale electric energy suppliers shall have the right to sell retail and wholesale electric energy to consumers that currently purchase retail or wholesale electric energy either directly from the Tennessee Valley Authority or persons purchasing electric energy from the Tennessee Valley Authority, beginning on December 15, 2003 or, if the Tennessee Valley Authority, in its capacity as a State regulatory authority, chooses an earlier date, such earlier date.

(b) Ability To Sell Electric Energy.—Notwithstanding any other provision of law, the Tennessee Valley Authority shall be able to sell retail electric energy and wholesale electric energy to any person, subject to any State restrictions imposed pursuant to section 105 of this Act, beginning on the date retail electric competition in the Authority's service territory, as described in subsection (a), become effective.

(c) Protection of U.S. Treasury.—This section shall be inapplicable if the Secretary of Energy, in consultation with the Office of Management and Budget, determines that the application of this section is contrary to the financial interest of the United States.

SEC. 116. ENFORCEMENT.

(a) Violation of the Act.—If any individual or corporation or any other retail electric energy supplier or provider fails to comply with the requirements of this Act, any aggrieved person may bring an action against such entity to enforce the requirements of this Act in the appropriate Federal district court.

(b) State or Commission Action.—Notwithstanding any other provision of law, any person seeking redress from an action taken by a State Regulatory Authority, the Commission or a regulatory board pursuant to this Act shall bring such action in the appropriate circuit of the United States Court of Appeals.

TITLE II—PUBLIC UTILITY HOLDING COMPANIES

SEC. 201. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935, as amended, 15 U.S.C. 79 et seq., is hereby repealed, effective one year from the date of enactment of this Act.

SEC. 202. DEFINITIONS.

For purposes of this title:

(1) The term "person" means an individual or company.

(2) The term "company" means a corporation, joint stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing.

(3) The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission or distribution of electric energy for sale.

(4) The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers) of natural or manufactured gas for heat, light or power.

(5) The term "public utility company" means an electric utility company or gas utility company but does not mean a qualifying facility as defined in the Public Utility Regulatory Policies Act of 1992, or an exempt wholesale generator or a foreign utility company defined by the Energy Policy Act of 1992.

(6) The term "public utility holding company" means (A) any company that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of a public utility

company or of a holding company of any public utility company; and (B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility or holding company as to make it necessary or appropriate for the protection of consumers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed in this title upon holding companies.

(7) The term "subsidiary company" of a holding company means (A) any company 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and (B) any person the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the protection of consumers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed in this title upon subsidiary companies of holding companies.

(8) The term "holding company system" means a holding company together with its subsidiary companies.

(9) The term "associate company" of a company means any company in the same holding company system with such company.

(10) The term "affiliate" of a company means any company 5 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by a company.

(11) The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

(12) The term "Commission" means the Federal Energy Regulatory Commission.

(13) The term "State Commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that under the law of such State has jurisdiction to regulate public utility companies.

SEC. 203. EXEMPTIONS.

(A) FEDERAL AND STATE AGENCIES.—No provision of this title shall apply to: (1) the United States, (2) a State or any political subdivision of a State, (3) any foreign governmental authority not operating in the United States, (4) any agency, authority, or instrumentality of any of the foregoing, or (5) any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty.

(b) UNNECESSARY PROVISIONS.—The Commission, by rule or order, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if the Commission finds that regulation of such person or transaction is not relevant to the rates of a public utility company. The Commission shall not grant such an exemption, except with regard to section 204 of this Act, unless all affected State commissions consent.

(c) RETAIL COMPETITION.—The provisions of this title shall not apply to a holding company and every associate company of such holding company if the Commission certifies that the retail customers of every public utility subsidiary of such holding company have access to alternative sources of electricity in a manner that no longer requires regulation of the holding company for the protection of consumers.

SEC. 204. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) PROVISION OF BOOKS AND RECORDS.—Every holding company and associate company thereof shall maintain, and make available to the Commission, such books, records, accounts, and other documents as the Commission deems relevant to costs incurred by a public utility company that is an associate company of such holding company and necessary or appropriate for the protection of consumers with respect to rates.

(b) EXAMINATION OF BOOKS AND RECORDS.—The Commission may examine the books and records of any company in a holding company system, or any affiliate thereof, as the Commission deems relevant to costs incurred by a public utility company within such holding company system and necessary or appropriate for the protection of consumers with respect to rates.

(c) PROTECTED INFORMATION.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his knowledge during the course of examination of books, accounts, or other information as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

SEC. 205. STATE ACCESS TO BOOKS AND RECORDS.

(a) PROVISION OF BOOKS AND RECORDS.—Every holding company and associate company thereof, shall maintain, and make available to each State Commission regulating the rates of any public utility subsidiary of such holding company, such books, records, accounts, and other documents as the State Commission deems relevant to costs incurred by a public utility company that is an associate company of such holding company and necessary or appropriate for the protection of consumers with respect to rates.

(b) PROTECTED INFORMATION.—No member, officer, or employee of a State Commission shall divulge any fact or information that may come to his knowledge during the course of examination of books, accounts, or other information as hereinbefore provided, except insofar as he may be directed by the State Commission or a court.

SEC. 206. AFFILIATE TRANSACTIONS.

(a) INTERAFFILIATE TRANSACTIONS.—Both the Commission, with regard to wholesale rates, and State Commissions, with regard to retail rates, shall have the authority to determine whether a public utility company may recover in rates any costs of goods and services acquired by such public utility company from an associate company after July 1, 1994, regardless of when the contract for the acquisition of such goods and services was entered into.

(b) ASSOCIATE COMPANIES.—Both the Commission, with regard to wholesale rates, and State Commissions, with regard to retail rates, shall have the authority to determine whether a public utility company may recover in rates any costs associated with an activity performed by an associate company.

(c) INTERAFFILIATE POWER TRANSACTIONS.—

(1) Each State Commission shall have the authority to examine the prudence of a wholesale electric power purchase made by a public utility, which is not an associate company of a public utility holding company, providing retail electric service subject to regulation by the State Commission.

(2) Each State Commission shall have the authority to examine the prudence of a wholesale electric power purchase made by a public utility, which is an associate company of a public utility holding company, providing retail electric service subject to regulation by the State Commission, provided that the costs related to such purchase have not been allocated among two or more associated companies of such public utility holding company, by the Commission prior to the date of enactment and there is no subsequent reallocation after the date of enactment.

SEC. 207. CLARIFICATION OF REGULATORY AUTHORITY.

No public utility which is an associate company of a holding company may recover in rates from wholesale or retail customers any costs not associated with the provision of electric service to such customers, including those direct and indirect costs related to investments not associated with the provision of electric service to those customers, unless the Commission, with regard to wholesale rates, or a State Commission, with regard to retail rates, explicitly consents.

SEC. 208. EFFECT ON OTHER REGULATION.

Nothing in this Act shall preclude a State Commission from exercising its jurisdiction under otherwise applicable law to protect utility consumers.

SEC. 209. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825d–825p) to enforce the provisions of this Act.

SEC. 210. SAVINGS PROVISION.

Nothing in this title prohibits a person from engaging in activities in which it is legally engaged or authorized to engage on the date of enactment of this title provided that it continues to comply with the terms of any authorization, whether by rule or by order.

SEC. 211. IMPLEMENTATION.

The Commission shall promulgate regulations necessary or appropriate to implement this title not later than six months after the date of enactment of this title.

SEC. 212. RESOURCES.

All books and records that relate primarily to the function hereby vested in the Commission shall be transferred from the Securities and Exchange Commission to the Commission.

TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT

SEC. 301. DEFINITION.

For purposes of this title, the term "facility" means a facility for the generation of electric energy or an addition to or expansion of the generating capacity of such a facility.

SEC. 302. FACILITIES.

Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) shall not apply to any facility which begins commercial operation after the effective date of this title, except a facility for which a power purchase contract entered into under such section was in effect on such effective date.

SEC. 303. CONTRACTS.

After the effective date of this title or after the date on which retail electric competition, as defined in title I of this Act, is implemented in all of its service territories, whichever is earlier, no public utility shall be required to enter into a new contract or obligation to purchase or sell electric energy pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978.

SEC. 304. SAVINGS CLAUSE.

Notwithstanding sections 302 and 303, nothing in this title shall be construed:

(a) as granting authority to the Commission, a State regulatory authority, electric utility, or electric consumer, to reopen, force, the renegotiation of, or interfere with the enforcement of power purchase contracts or arrangements in effect on the effective date of this Act between a qualifying small power producer and any electric utility or electric consumer, or any qualifying cogenerator and any electric utility or electric consumer.

(b) To affect the rights and remedies of any party with respect to such a power purchase contract or arrangement, or any requirement in effect on the effective date of this Act to purchase or to sell electric energy from or to a qualifying small power production facility or qualifying cogeneration facility.

SEC. 305. EFFECTIVE DATE.

This title shall take effect on December 15, 2003.

TITLE IV—ENVIRONMENTAL PROTECTION

SEC. 401. STUDY.

The Environmental Protection Agency, in consultation with other relevant Federal agencies, shall prepare and submit a report to Congress by January 1, 2000, which examines the implications of differences in applicable air pollution emissions standards for wholesale and retail electric generation competition and for public health and the environment. The report shall recommend changes to Federal law, if any are necessary, to protect public health and the environment.

ELECTRIC CONSUMERS PROTECTION ACT OF 1997—SECTION-BY-SECTION ANALYSIS

TITLE I—RETAIL COMPETITION

Section 101—Definitions

Section 102—Mandatory Retail Access

All consumers (including current customers of investor-owned, municipal and rural cooperative electric utilities) have the right to purchase retail electric energy beginning on December 15, 2003.

All retail electric energy suppliers (entities selling retail electric energy) have access to local distribution and retail transmission facilities beginning on December 15, 2003.

Section 103—Aggregation

A group of consumers or any entity acting on behalf of such group is authorized to aggregate to purchase retail electric energy for the members of the group if they live in a State where retail electric competition exists.

Section 104—Prior Implementation

States may require retail electric competition prior to January 1, 2003.

Municipal electric utilities and rural electric cooperative utilities (not regulated by State regulatory authorities) may provide for retail electric competition in their service territories prior to December 15, 2003.

If a State enacted legislation or imposed a regulation prior to January 30, 1997, which requires retail electric competition prior to December 15, 2003, the legislation or regulation is deemed consistent with the mandatory retail access and stranded costs sections of the Act.

Section 105—State Regulation

States may impose requirements on retail electric energy suppliers to protect the public interest.

No class of potential retail electric energy suppliers can be excluded from selling retail electric energy.

States may continue to regulate local distribution and retail transmission service provided by retail electric energy providers (local distribution companies).

Section 106—Stranded Cost Recovery

A utility providing retail electric service subject to State regulation prior to the date of enactment, which is seeking recovery of its stranded costs, must request the State regulatory authority to calculate the amount of its stranded costs associated with the implementation of retail competition.

If the State regulatory authority agrees to calculate the utility's stranded costs it has two options: A. Determine the level of the utility's legitimate, prudently incurred and verifiable investments in generating assets and related regulatory assets that can't be mitigated; or B. require the utility to sell all of its generating facilities and then subtract the revenue received from the book value of the assets sold.

If the State does not calculate the stranded costs, FERC must require the utility to sell its generating facilities in order to calculate stranded costs.

A municipal electric utility or a rural electric cooperative not subject to regulation by a State regulatory authority may calculate its own stranded costs through either method authorized for State regulatory authorities calculating regulated utility stranded costs.

Once a utility has had its stranded costs calculated, it is entitled to recover such costs from its retail customers taking distribution or retail transmission service pursuant to a nonbypassable Stranded Cost Recovery Charge.

No class of customers (such as a utility's residential customers) can be required to pay a Stranded Cost Recovery Charge in excess of its proportional responsibility for utility costs prior to the implementation of retail electric competition.

Section 107—Multistate Utility Company Stranded Costs

Customers served by utility companies operating in more than one state either directly or through an affiliate are only responsible for stranded costs arising from retail electric competition in the State they reside.

All of the states regulating utility subsidiaries of a multistate utility holding company may form a regional board to calculate the stranded costs of a wholesale electric supplier subsidiary of the holding company that does not sell any retail electric energy and to allocate such costs among the utility subsidiaries of the holding company.

If the regional board is not formed or if the members of the regional board fail to produce a consensus on either determination required of the board, FERC shall perform the board's responsibilities.

Once the wholesale subsidiary's stranded costs have been determined, the subsidiary is entitled to recover such costs from its affiliated utility companies in the manner allocated by the board or FERC and the utility companies are entitled to recover such costs from its customers.

Section 108—Universal Service

If, after December 15, 2003, a State regulatory authority determines that a consumer does not have sufficient access to competing retail electric energy suppliers, the retail electric energy provider is obligated to sell power to or purchase power on behalf of the consumer.

The retail electric energy provider is entitled to just and reasonable compensation for the service performed.

States may impose a nonbypassable Universal Service Charge on distribution and retail transmission consumers to help pay for the retail electric energy provider's compensation.

Section 109—Public Benefits

States are not prohibited by the Act from imposing charges on retail electric energy consumers to fund public benefit programs (i.e. low-income and energy efficiency).

Section 110—Renewable Energy

Beginning in 2003, all retail electric energy suppliers are required to either (1) sell at least a minimum amount of renewable energy as part of the total amount of energy it sells or (2) purchase credits from retail electric energy suppliers that sell renewable energy in excess of the minimum requirements.

One-half of one Renewable Energy Credit will be provided to retail electric energy suppliers selling power generated from a large hydroelectric facility (more than 80 MW). One Renewable Energy Credit will be provided to retail electric energy suppliers selling power generated at all other renewable electric facilities built prior to the date of enactment. Two Renewable Energy Credits will be provided to retail electric energy suppliers selling power generated at all other renewable electric facilities built subsequent to the date of enactment.

Retail electric energy suppliers are required to have Credits worth 5% of its generation beginning in 2003, 9% of its generation beginning in 2008 and 12% of its generation beginning in 2013.

The requirements of this section expire on December 31, 2019.

Section 111—Transmission

Within two years of the date of enactment FERC must establish transmission regions and designate an Independent System Operator (ISO) to manage and operate all of the transmission facilities in each region beginning on December 15, 2003.

The ISO can't be affiliated with any person owning transmission facilities in the region or any retail electric energy supplier selling retail energy in the region.

The States making up a particular transmission region can form a Regional Transmission Oversight Board to oversee the ISO. If the Board is formed, it shall have the same authority FERC currently has over transmission pursuant to the Federal Power Act. If the Board is not formed; FERC shall retain authority.

FERC is required to issue rules by January 1, 2002 applicable to its and the Board's oversight of the ISOs to promote transmission reliability and efficiency and competition among retail and wholesale electric energy suppliers.

The Federal Power Act prohibition on FERC requiring transmission access for the purposes of retail wheeling is repealed on January 1, 2003 or at an earlier date for a particular retail wheeling request in a State that has retail electric competition prior to December 15, 2003.

Section 112—Cross-Subsidization

Retail electric energy providers are not authorized by this Act to recover costs related to unregulated activities in the rates it charges for retail transmission and distribution services.

Section 113—Competitive Generation Markets

FERC's authority over utility mergers pursuant to the Federal Power Act is extended to electric utility mergers with natural gas utility companies.

FERC review of mergers must take into account the impact of a merger on competitive wholesale and retail electric generation markets.

FERC has authority to take actions necessary to prohibit retail electric energy suppliers and providers from using their control of resources to inhibit retail and wholesale electric competition.

Section 114—Nuclear Decommissioning Costs

Utilities owning nuclear power plants prior to the date of enactment are entitled to recover costs to fund decommissioning of the plants from their customers.

Section 115—Tennessee Valley Authority

Beginning on December 15, 2003 (or an earlier date if it so decides) the Tennessee Valley Authority (TVA) can sell retail and wholesale electric energy outside of its service territory and its retail and wholesale customers can buy energy from other sellers.

If the Secretary of Energy, in consultation with OMB, determines that this section would be contrary to the financial interest of the U.S., the section shall not be applicable.

Section 116—Enforcement

All aggrieved persons may bring actions in U.S. District Court to enforce a provision of the Act against individuals, corporations and other retail electric energy providers and suppliers.

An appeal of a decision made by FERC or a State regulatory authority shall be filed in a U.S. Circuit Court of Appeals.

TITLE II—PUBLIC UTILITY HOLDING COMPANIES

Section 201—Repeal of PUHCA

PUHCA is repealed one year from the date of enactment of the Act.

Section 202—Definitions

Section 203—Exemptions

The title does not apply to federal or state agencies or foreign governmental authorities not operating in the U.S.

FERC may exempt anyone from any of the requirements of the title if the Commission finds the particular regulation not relevant to public utility company rates and the affected States consent.

The provisions of the title don't apply to a particular holding company when retail electric competition exists in the service territory of each utility subsidiary of the holding company.

Section 204—Federal Access to Books and Records

Each holding company and associate company of the holding company must make its books and records available to FERC.

Section 205—State Access to Books and Records

Each holding company and associate company of the holding company must make its books and records available to each State regulatory authority regulating a utility subsidiary of the holding company.

Section 206—Affiliate Transactions

FERC, with regard to wholesale rates and States, with regard to retail rates, have the authority to determine whether a public utility affiliate of a holding company may recover its costs associated with a non-power transaction with an affiliated company if such costs arose after July 1, 1994.

State regulatory authorities have the authority to review the prudence of a utility's wholesale power purchases from non-affiliated sellers.

State regulatory authorities have the authority to review the prudence of a utility's wholesale power purchase from an affiliated seller in the same holding company system unless FERC has allocated the costs of the purchase among two or more utility subsidiaries of the holding company prior to the date of enactment and there is no subsequent reallocation.

Section 207—Clarification of Regulatory Authority

FERC, with regard to wholesale rates, and State regulatory authorities, with regard to retail rates, must explicitly consent, before a utility affiliate of a utility holding company can recover costs in rates that are not directly related to the provision of electric service to its customers.

Section 208—Effect on Other Regulation

State regulatory authorities can exercise their jurisdiction under otherwise applicable law to protect utility consumers.

Section 209—Enforcement

FERC has the same enforcement authority under this title as it does under the Federal Power Act.

Section 210—Savings Provision

A person engaging in an activity it was legally entitled to engage in on the date of enactment may continue to be entitled to engage in the activity.

Section 211—Implementation

FERC must promulgate regulations to implement the title within 6 months of the date of enactment.

Section 212—Resources

The SEC must transfer its books and records related to holding company regulation to the FERC.

TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT

Section 301—Definition

Section 302—Facilities

Section 210 of PURPA doesn't apply to facilities beginning commercial operation after the effective date of the title unless the power purchase contract related to the facility was in effect on the effective date.

Section 303—Contracts

Public utilities are no longer required to enter into new purchase contracts under Section 210 of PURPA once there is retail electric competition in their service territories.

Section 304—Savings Clause

This title does not affect existing power purchase contracts under PURPA.

Section 305—Effective Date

The effective date of the title is December 15, 2003.

TITLE IV—ENVIRONMENTAL PROTECTION

Section 401—Study

EPA must submit a study to Congress by January 1, 2000 which examines the implications of wholesale and retail electric competition on the emission of pollutants and recommends and changes to law, if any are necessary, to protect public health and the environment.

By Mr. GRAMS (for himself and Mr. GRAHAM):

S. 238. A bill to amend title XVIII of the Social Security Act to ensure Medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes; to the Committee on Finance.

THE EMERGENCY MEDICAL SERVICES EFFICIENCY ACT

Mr. GRAMS. Mr. President, I have come to the floor today, with the support of my colleague from Florida, Senator GRAHAM, to introduce an important health care proposal that is designed to improve our emergency medical system and to ultimately benefit our constituents who depend on these services. The area is one I believe has not received the attention that it deserves.

In a nation where some 268,000 Americans turn to the 911 emergency response system for help every single day, our population relies on the readiness, efficiency and the quick response of our emergency medical system. It is something on which the American people have come to depend, a service we nearly take for granted. We don't know when we need it, but we want it to work well when we do. The men and women who risk their lives in delivering emergency care are true heroes, yet their desire to improve the services they provide is rarely recognized by Congress.

The nightly news is filled with the stories of local emergency response problems. You may recall the tragedy in Philadelphia in 1994 when a young boy died on the steps of his church after being beaten. It took police 40 minutes to respond after the first 911 call was received.

Here in the District of Columbia, some residents have waited for more than 25 minutes before an ambulance responded to their 911 medical emergency. Far too often, Congress fails to respond until there is a national crisis, but we can't afford to wait for a crisis to occur before we respond to the needs of our emergency medical system. Patients' lives are at risk if Congress doesn't begin to help the system become more efficient.

Currently, emergency medical service providers are not consulted when Washington is formulating national policy which affects their ability to respond in a timely and in an efficient manner, and there is no coordinated Government focus on EMS, no collection of national data and statistics which I believe would help Congress and the administration develop more effective policies to help improve EMS.

Furthermore, there is no lead EMS agency to provide guidance and direction to Congress and the States when implementing Federal policies concerning Medicare reimbursement issues, emergency management planning, or the effect of Federal regulations on EMS providers. This lack of coordination often negatively impacts providers of EMS and our constituents who rely upon them.

Later this year, Congress will be reauthorizing the Intermodal Surface Transportation Efficiency Act, for which its supporters will be asking for $26 billion in transportation spending, and yet the emergency medical services communities will likely not have a voice in improving our transportation system. That is the very system they depend upon to ensure that when they are dispatched to a patient in need of emergency medical services, the highway design or newest technologies will allow them to respond quickly and efficiently. EMS providers need a seat at the table.

I find it ironic that we expect so much from our EMS system and yet, when they seek assistance, we continue to ignore their 911 call for help.

That is why I am today introducing the Emergency Medical Services Efficiency Act of 1997. My legislation sets out a blueprint for responding to the needs of our emergency medical system and begins to address just a few of their concerns Washington has long ignored.

First, the Grams-Graham bill will require Medicare to reimburse for ambulance services provided for emergency medical care based on the original diagnosis by a prudent layperson, instead of the ultimate diagnosis determined by health professionals in the emergency room.

Mr. President, the division of emergency medical services for the city of St. Paul, MN, prepared a list for me of just some of their 1996 emergency ambulance transports that began as a 911 call for help, but were eventually denied payment by Medicare.

Among the cases where payment was denied include a 79-year-old female, on several prescription medications, who had fallen in the night and was suffering from vertigo; a 72-year-old male, on numerous prescription medications, who had fallen on the sidewalk, had lacerations on his arm, a cut over his right eye, and was confused; and also a 95-year-old female who awoke confused and weak, possibly suffering from a stroke.

In each of these incidents, emergency services personnel responded to what they believed to be medical emergencies. Even though the cases were ultimately ruled nonemergencies, the EMS providers should have been reimbursed by Medicare for the emergency transport service that they provided.

As Joseph A. Grafft, EMS Manager for the FIRE/EMS Center at Metropolitan State University in St. Paul noted in a letter to me, "Ambulance providers are not physicians and do not diagnose patients. They deal with presenting symptoms and give care based on these symptoms. The physicians diagnose and make the final determination. Ambulance providers should not be penalized for doing their job."

Our bill ensures that Medicare reimbursements are based on the original diagnoses of the 911 callers. At the same time, we do not seek reimbursements for medical conditions that are clearly not life-threatening.

Second, our bill establishes two separate advisory councils comprised of emergency service providers and others. The first will advise the Health Care Financing Administration on issues pertaining to Medicare reimbursement. The second advisory council will make recommendations to the administration and Congress in regard to improving the efficiency and coordination of our emergency medical system.

Third, our bill will designate a lead-EMS agency, to be established at the direction of the Secretary of Transportation in consultation with the Secretary of Health and Human Services. The Secretary will make recommendations to Congress as to which functions should be transferred to the Transportation Department in order to streamline and coordinate the EMS system.

Finally, our bill directs the Secretary of Transportation to establish a national database for the collection of statistics relating to the delivery of emergency medical services within our national transportation system and national emergency response system.

The Secretary will set forth the appropriate criteria for national data collection in consultation with State EMS agencies to ensure the least burdensome data collection reporting procedures. We would hope this database could be tied to an existing data collection system.

I believe these four provisions will begin to address a few of the needs that the EMS community has brought to my attention. This bill will allow Congress, the President, as well as State and local officials to have the resources and also the facts they need to make necessary improvements in emergency medical care to patients.

Dr. Daniel Hankins, president of the Minnesota Chapter of the American College of Emergency Physicians, made that point eloquently in a recent letter to me. He said, "For too long EMS has been forgotten when health care legislation has been proposed."

He went on to say, "EMS is a small, but crucial part of the overall health care system. It is in most rural areas the only lifeline for access into emergency care. It is a fragile safety net . . . that is only held together by the dedication of the many volunteers that comprise the EMS system."

Mr. President, I am pleased that I am joined today by the senior Senator from the State of Florida in the introduction of this legislation. We are proud to have a large number of organizations—organizations dedicated to improving emergency medical care—supporting our legislation.

I ask unanimous consent that a complete list of these organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF ORGANIZATIONS SUPPORTING THE EMERGENCY MEDICAL SERVICES EFFICIENCY ACT

(1) Minnesota Ambulance Association.

(2) Minnesota Air Medical Council.

(3) Healthspan Transportation.

(4) Lifelink III.

(5) Minnesota Emergency Medical Services Association.

(6) South Central Minnesota Emergency Medical Services Program.

(7) Minnesota Chapter, College of Emergency Physicians.

(8) Gold Cross Ambulance Service.

(9) North Memorial Health Care.

(10) Minnesota Hospital and Healthcare Partnership.

(11) West Central Minnesota Emergency Medical Services Program.

Mr. GRAMS. Thank you, Mr. President. The Emergency Medical Services Efficiency Act is not the answer to all of the problems. But it is the first step in addressing the concerns of a very important segment of both our health care and transportation systems. This bill is a blueprint for further improvements in emergency medical services to help all Americans.

By introducing today's legislation early in the session, it is my hope that we will call attention to the needs of EMS providers and move forward to a more comprehensive bill, one that addresses additional concerns that are equally important to the EMS community as those we have addressed here today.

Over the next few weeks, I will be working with EMS providers in Minnesota and throughout the country to look at improving four key areas: regulatory oversight, technology improvements in medicine and transportation, insurance reimbursement issues, and the EMS functions which should be transferred and streamlined under the Department of Transportation.

Senator GRAHAM has worked tirelessly to ensure that the definition of "prudent layperson" apply not only to ambulance service but also to care provided at emergency departments. In our second bill, it is our intent to include Senator GRAHAM's new language to ensure that patients are not denied reimbursement for emergency care because they failed to obtain proper certification or authorization from their insurance provider. I look forward to working with the American Association of Health Plans, which today announced new policies to clarify how health plans should cover emergency care, in developing an appropriate legislative solution.

The legislation we introduce today and our subsequent work will be part of an ongoing effort we hope to include in the newly drafted Rural Health Improvement Act. This important overall effort, in which I have also been involved, will help ensure that rural areas are not overlooked in our desire to improve health care delivery.

So finally, Mr. President, I look forward to working with Senator GRAHAM, Senator THOMAS, and others in the months and weeks ahead to improve emergency medical services for patients and providers and ensure the most efficient use of scarce tax dollars. The American people expect—and of course deserve—nothing less.

Thank you very much, Mr. President.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Medical Services Efficiency Act of 1997".

TITLE I—MEDICARE COVERAGE OF CERTAIN AMBULANCE SERVICES

SEC. 101. MEDICARE COVERAGE OF CERTAIN AMBULANCE SERVICES.

(a) COVERAGE.—Section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) is amended by striking "regulations;" and inserting "regulations, except that such regulations shall not fail to treat ambulance services as medical and other health services solely because the ultimate diagnosis of the individual receiving the ambulance services results in the conclusion that ambulance services were not necessary, as long as the request for ambulance services is made after the sudden onset of a medical condition that is manifested by symptoms of such sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect to result, without immediate medical attention, in—

"(A) placing the individual's health in serious jeopardy;

"(B) serious impairment to the individual's bodily functions; or

"(C) serious dysfunction of any bodily organ or part of the individual;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services provided on or after the date of enactment of this Act.

TITLE II—AMBULANCE SERVICES ADVISORY GROUP FOR THE HEALTH CARE FINANCING ADMINISTRATION

SEC. 201. ESTABLISHMENT OF ADVISORY GROUP.

(a) ESTABLISHMENT.—There is established an advisory group to be known as the Health Care Financing Administration Advisory Group for Ambulance Services (in this title referred to as the "Advisory Group").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Advisory Group shall be composed of 17 members of whom—

(A) 1 shall be appointed by the Director of each of the 10 operating districts within the National Highway and Traffic Safety Administration;

(B) 1 shall be appointed by the President;

(C) 2 shall be appointed by the Administrator of the Health Care Financing Administration;

(D) 1 shall be appointed by the Majority Leader of the Senate;

(E) 1 shall be appointed by the Minority Leader of the Senate;

(F) 1 shall be appointed by the Speaker of the House of Representatives; and

(G) 1 shall be appointed by the Minority Leader of the House of Representatives.

(2) INCLUSION OF CERTAIN DISCIPLINES ON ADVISORY GROUP.—In making appointments of members under paragraph (1), the appointing officials described in each subparagraph of that paragraph shall consult and collaborate with each other in order to ensure that the following groups are represented on the Advisory Group:

(A) Physicians who provide emergency medical services.

(B) Individuals who provide emergency ground and air transport services.

(C) Volunteer, private, and public emergency medical service providers.

(D) Trauma care providers.

(E) Patient's rights advocates.

(3) BACKGROUND.—Except in the case of a member of the Advisory Group described in paragraph (2)(E), any member of the Advisory Group appointed under paragraph (1) should have significant experience with the provision of ambulance services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) DATE.—The appointments of the members of the Advisory Group shall be made not later than January 1, 1998.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for a term of 4 years. Any vacancy in the Advisory Group shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Advisory Group have been appointed, the Advisory Group shall hold its first meeting.

(e) MEETINGS.—The Advisory Group shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Advisory Group shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Advisory Group shall select a Chairperson and Vice Chairperson from among its members.

SEC. 202. DUTIES OF THE ADVISORY GROUP.

(a) STUDY.—The Advisory Group shall conduct a thorough study of all matters relating to the provision of ambulance services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), which shall include matters relating to the reimbursement of such services under the medicare program.

(b) RECOMMENDATIONS.—The Advisory Group shall develop recommendations regarding the improvement of all matters relating to the provision of ambulance services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(c) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Advisory Group shall submit a report to the Administrator of the Health Care Financing Administration which shall contain a detailed statement of the results of the matters studied by the Advisory Group pursuant to subsection (a), together with the Advisory Group's recommendations formulated pursuant to subsection (b).

SEC. 203. POWERS OF THE ADVISORY GROUP.

(a) HEARINGS.—The Advisory Group may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Advisory Group considers necessary to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Advisory Group may secure directly from any Federal department or agency such information as the Advisory Group considers necessary to carry out the provisions of this title. Upon request of the Chairperson of the Advisory Group, the head of such department or agency shall furnish such information to the Advisory Group.

(c) POSTAL SERVICES.—The Advisory Group may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Advisory Group may accept, use, and dispose of gifts or donations of services or property.

SEC. 204. ADVISORY GROUP PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Members of the Advisory Group shall receive no additional pay, allowances, or benefits by reason of their service on the Advisory Group.

(b) TRAVEL EXPENSES.—The members of the Advisory Group shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Advisory Group.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Advisory Group may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Advisory Group to perform its duties. The employment of an executive director shall be subject to confirmation by the Advisory Group.

(2) COMPENSATION.—The Chairperson of the Advisory Group may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Advisory Group without compensation in addition to that received for service as an employee of the United States, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Advisory Group may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 205. FUNDING.

The Secretary of Health and Human Services shall provide to the Advisory Group, out of funds otherwise available to such Secretary, such sums as are necessary to carry out the purposes of the Advisory Group under this title.

SEC. 206. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Group.

TITLE III—FEDERAL ADVISORY COUNCIL FOR EMERGENCY AMBULANCE SERVICES

SEC. 301. DEFINITION.

As used in this title, the term "emergency ambulance services"—

(1) means resources used by a qualified public, private, or nonprofit entity to deliver medical care under emergency conditions—

(A) that occur as a result of the condition of a patient; or

(B) that occur as a result of a natural disaster or similar situation; and

(2) includes services delivered by an emergency ambulance employee that is licensed or certified by a State as an emergency medical technician, a paramedic, a registered nurse, a physician assistant, or a physician.

SEC. 302. ESTABLISHMENT OF ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established an advisory council to be known as the Federal Advisory Council for Emergency Ambulance Services (in this title referred to as the "Advisory Council").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Advisory Council shall be composed of 23 members, of whom—

(A) 1 shall be a member of the International Fire Chief's Association, appointed by the President from nominations submitted by the Executive Director of the International Fire Chief's Association;

(B) 1 shall be a member of the International Association of Firefighters, appointed by the President from nominations submitted by the general president of the International Association of Firefighters;

(C) 1 shall be a member of the American Ambulance Association, appointed by the President from nominations submitted by the executive vice president of the American Ambulance Association;

(D) 1 shall be a member of the National Association of Emergency Medical Services Physicians, appointed by the President from nominations submitted by the executive director of the National Association of Emergency Medical Services Physicians;

(E) 4 shall be appointed by the President, of whom—

(i) 1 shall be a representative of a volunteer ambulance service;

(ii) 1 shall be a representative of a hospital-based ambulance service;

(iii) 1 shall be a representative of a private ambulance service; and

(iv) 1 shall be a representative of an air ambulance service;

(F) 1 shall be an individual who is appointed by the Majority Leader of the Senate;

(G) 1 shall be an individual who is appointed by the Minority Leader of the Senate;

(H) 1 shall be an individual who is appointed by the Speaker of the House of Representatives;

(I) 1 shall be an individual who is appointed by the Minority Leader of the House of Representatives;

(J) 2 shall be employees of the Occupational Safety and Health Administration, appointed by the Secretary of Labor;

(K) 1 shall be an employee of the United States Coast Guard, appointed by the Secretary of Transportation;

(L) 2 shall be employees of the National Transportation Safety Board, appointed by the chairman of the National Transportation Safety Board;

(M) 2 shall be employees of the National Highway Traffic Safety Administration of the Department of Transportation, appointed by the Secretary of Transportation;

(N) 2 shall be employees of the Federal Emergency Management Agency, appointed by the Director of the Federal Emergency Management Agency; and

(O) 2 shall each be a member of a governing body of an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) ADDITIONAL REQUIREMENTS.—

(A) GEOGRAPHICAL REPRESENTATION AND URBAN AND RURAL REPRESENTATION.—In making appointments of members under paragraph (1), the appointing officials described in such paragraph shall, through consultation and collaboration with each other, select—

(i) members who are geographically representative of the United States; and

(ii) members who are representative of rural areas and urban areas.

(B) SPECIAL RULE.—The appointing officials described in subparagraph (A) shall ensure that, of the members appointed—

(i) 11 shall be representative of rural areas;

(ii) 11 shall be representative of urban areas; and

(iii) 1 shall be representative of a rural area or an urban area, as provided for in subparagraph (C).

(C) ALTERNATE REPRESENTATION.—The appointing officials described in subparagraph (A) shall appoint members under subparagraph (B)(iii) by alternating between a member representing a rural area and a member representing an urban area.

(3) DATE.—The appointments of the members of the Advisory Council shall be made not later than January 1, 1998.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Members shall be appointed for a term of 4 years.

(2) VACANCY.—

(A) IN GENERAL.—Any vacancy in the Advisory Council shall not affect the powers of the Advisory Council, but shall be filled in the same manner as the original appointment.

(B) FILLING UNEXPIRED TERMS.—An individual chosen to fill a vacancy under this paragraph shall be appointed for the unexpired term of the member replaced.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Advisory Council have been appointed, the Advisory Council shall hold its first meeting.

(e) MEETINGS.—The Advisory Council shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Advisory Council shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Advisory Council shall select a Chairperson and Vice Chairperson from among the members of the Advisory Council.

SEC. 303. DUTIES OF THE ADVISORY COUNCIL.

(a) STUDY.—

(1) IN GENERAL.—The Advisory Council shall conduct a study of—

(A) the workplace conditions and safety requirements with regard to employees who provide emergency ambulance services, including a review of the emergency ambulance services regulations and standards promulgated by the Secretary of Labor through the Occupational Safety and Health Administration;

(B) the emergency management planning functions of the Federal Emergency Management Agency; and

(C) the transportation-related functions of the Department of Transportation related to the provision of emergency ambulance services, including—

(i) the functions carried out under the Intelligent Vehicle-Highway Systems Act of 1991 (part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240); and

(ii) any other issue related to the provision of emergency ambulance services that the Secretary of Transportation recommends for study by the Advisory Council.

(2) INTERPRETATION OF DATA.—As part of the study conducted under this subsection, the Advisory Council shall use and interpret the data collected by the Office of Emergency Medical Services Data Collection of the Department of Transportation established under section 402.

(b) RECOMMENDATIONS.—The Advisory Council shall develop recommendations with regard to—

(1) the improvement of workplace conditions of employees who provide emergency ambulance services;

(2) the appropriate application by the Occupational Safety and Health Administration of occupational safety and health standards and regulations to employees who are employed to provide emergency ambulance services; and

(3) addressing the issues, and improving the functions, referred to in subparagraphs (B) and (C) of subsection (a)(1).

(c) REPORT.

(1) SUBMISSION OF REPORT TO AGENCY OFFICIALS.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Advisory Council shall prepare and submit to the Secretary of Labor, the Secretary of Commerce, and the Director of the Federal Emergency Management Administration a report that includes—

(A) a detailed statement of the results of the matters studied by the Advisory Council under subsection (a); and

(B) the recommendations of the Advisory Council developed under subsection (b).

(2) SUBMISSION OF REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Advisory Council shall prepare and submit to the appropriate committees of Congress the report described in paragraph (2).

SEC. 304. POWERS OF THE ADVISORY COUNCIL.

(a) HEARINGS.—The Advisory Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Advisory Council considers necessary to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Advisory Council may secure directly from any Federal department or agency such information as the Advisory Council considers necessary to carry out the provisions of this title. Upon request of the Chairperson of the Advisory Council, the head of such department or agency shall furnish such information to the Advisory Council.

(c) POSTAL SERVICES.—The Advisory Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Advisory Council may accept, use, and dispose of gifts or donations of services or property.

SEC. 305. ADVISORY COUNCIL PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Members of the Advisory Council shall receive no additional pay, allowances, or benefits by reason of the service of the members on the Advisory Council.

(b) TRAVEL EXPENSES.—The members of the Advisory Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the homes or regular places of business of the members in the performance of services for the Advisory Council.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Advisory Council may, without regard to the civil service laws and regulations, appoint

and terminate an executive director and such other additional personnel as may be necessary to enable the Advisory Council to perform the duties of the Advisory Council. The employment of an executive director shall be subject to confirmation by the Advisory Council.

(2) COMPENSATION.—The Chairperson of the Advisory Council may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Advisory Council without compensation in addition to that received for service as an employee of the United States, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Advisory Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 306. FUNDING.

The Secretary of Labor, the Secretary of Commerce, and the Director of the Federal Emergency Management Agency shall provide to the Advisory Council, out of funds otherwise available to such agency heads, such sums as are necessary to carry out the purposes of the Advisory Council under this title.

SEC. 307. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Council.

TITLE IV—DATA COLLECTION AND ADMINISTRATION BY DEPARTMENT OF COMMERCE

SEC. 401. PROPOSAL FOR TRANSFER OF CERTAIN EMERGENCY MEDICAL SERVICES FUNCTIONS.

(a) PROPOSAL.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Chairman of the National Transportation Safety Board, shall develop a proposal for transferring to the National Highway Traffic Safety Administration of the Department of Transportation any transportation-related functions of any other Federal agency concerning emergency medical services, other than the functions referred to in paragraph (2).

(2) EXCEPTIONS.—The proposal prepared under paragraph (1) shall not provide for the transfer of any function—

(A) of the Department of Defense; or

(B) related to a Federal health care program (including the medicare program under title 18 of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title 19 of the Social Security Act (42 U.S.C. 1396 et seq.)).

(b) REPORT.—Upon completion of the proposal under subsection (a), the Secretary of Transportation shall submit to Congress a report that contains the proposal, together with any legislative recommendations that the Secretary determines to be appropriate for carrying out the proposal.

SEC. 402. ESTABLISHMENT OF THE OFFICE OF EMERGENCY MEDICAL SERVICES DATA COLLECTION.

(a) ESTABLISHMENT.—There is established in the Department of Transportation an office to be known as the "Office of Emergency Medical Services Data Collection" (referred to in this section as the "Office"). The Office shall serve as a clearinghouse for data collected in accordance with the regulations promulgated under subsection (c).

(b) DIRECTOR.—The Secretary of Transportation shall appoint an individual to serve as the Director of the Office (referred to in this section as the "Director").

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Transportation, acting through the Director, and in consultation with the Secretary of Health and Human Services, the Chairman of the National Transportation Safety Board, and appropriate representatives of the agencies of States that have primary responsibility for regulating emergency medical services, shall promulgate regulations to establish a uniform data collection requirement concerning the collection, on a nationwide basis, of data relating to the provision of emergency medical services.

(2) USE OF EXISTING INFORMATION SERVICES.—In promulgating the regulations under this subsection, the Secretary of Transportation shall, to the maximum extent practicable, provide for the use of information services that are in existence at the time that the regulations are promulgated, including State data collection services.

(d) STATE DEFINED.—As used in this section, the term "State" means each of the several States of the United States, the District of Columbia, and the territories and possessions of the United States.

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. CONRAD, Mr. DORGAN, Mr. BAUCUS, Mr. HARKIN and Mr. KERREY):

S. 239. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather related conditions; to the Committee on Finance.

INVOLUNTARY CONVERSION OF LIVESTOCK LEGISLATION

Mr. DASCHLE. Mr. President, today I am reintroducing legislation to provide equitable treatment under the tax law for farmers and ranchers who are forced to sell their livestock prematurely due to extreme weather conditions. I am joined in this effort by Senators JOHNSON, CONRAD, DORGAN, BAUCUS, and HARKIN.

The last few weeks have seen the most extreme winter weather of the century in the upper Midwest. Prolonged sub-zero temperatures and back-to-back blizzards continue to devastate herds of cattle and other livestock. An estimated 50,000 cattle have died since the beginning of the year, and countless thousands of other head of livestock are under extreme stress. The President declared the region a national disaster area on January 10.

A few summers ago, Midwestern States suffered severe floods, which devastated lives and property along these States' rivers and shorelines. President Clinton responded quickly by providing disaster assistance, $2.5 billion, including $1 billion for agriculture, in emergency aid to flooded areas in the Midwest.

In addition to receiving disaster payments, many farmers were able to take advantage of provisions in the Internal Revenue Code designed primarily to spread out the impact of taxes on farmers in these situations. Ironically, however, while farmers who lose their crops due to floods are covered under these provisions, farmers who must involuntarily sell livestock due to flood and other extreme weather conditions, are not.

Normally, a taxpayer who uses the cash method of accounting, as most farmers do, must report income in the year in which he or she actually receives the income. The Tax Code, however, outlines certain exceptions to this rule where disaster conditions generate income to the farmer that otherwise would not have been received at that time. For example, one exception allows farmers who receive insurance proceeds or disaster payments when crops are destroyed or damaged due to drought, flood, or any other natural disaster to include those proceeds in income in the year following the disaster, if that is when the income from the crops otherwise would have been received.

Two other provisions deal with involuntary conversion of livestock. The first provision enables livestock producers who are forced to sell herds due to drought conditions to defer tax on any gain from these sales by reinvesting the proceeds in similar property within a 2-year period. The second provision allows livestock producers who choose not to reinvest in similar property to elect to include proceeds from the sale of the livestock in taxable income in the year following the sale.

For no apparent reason, the two provisions dealing with livestock do not mention the situation where livestock is involuntarily sold due to flooding, blizzards, or other extreme conditions. Thus, these weather emergencies do not trigger the benefits of those provisions. Yet, many livestock producers are currently being compelled to sell livestock because they are under stress, just as they were forced to by the floods the other year to sell their animals because the crops necessary to feed the livestock and the fences for containing them had been washed out.

Our proposal would expand the availability of the existing livestock tax provisions to include involuntary conversions of livestock due to flooding and other extreme, weather related conditions. This would conform the treatment of crops and livestock in this respect.

Last Congress, I introduced this bill in the Senate as S. 109, and my colleague, Senator JOHNSON, introduced a companion measure in the House—H.R. 1588—when he was a Member of that body. Similar legislation was passed by Congress as part of the Revenue Act of 1992. Unfortunately, that legislation was subsequently vetoed for unrelated reasons. The Department of the Treasury testified in support of the change in the last Congress. In 1995, the Joint Committee on Taxation estimated the revenue loss from my bill to be $17 million over 6 years.

Let me emphasize that the tax provisions we are dealing with here affect the timing of tax payments, not forgiveness of tax liability. The distinguished Governor of South Dakota, William Janklow, called me a few days ago and emphasized how important it would be for Congress to make this change as soon as possible. I hope my colleagues will agree that we should not shut out some farmers—livestock producers—from the disaster related provisions of the Tax Code simply because the natural disaster involved was severe winter conditions or a flood instead of a drought. That just doesn't make sense.

The American Farm Bureau Federation and the National Farmers Union have endorsed the bill. I urge my colleagues to give it favorable and early consideration.

Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 of the Internal Revenue Code of 1986 (relating to special rules of proceeds from livestock sold on account of drought) is amended—

(1) by striking "drought conditions, and that these drought conditions" in paragraph (1) and inserting "drought, flood, or other weather-related conditions, and that such conditions"; and

(2) by inserting ", FLOOD, OR OTHER WEATHER-RELATED CONDITIONS" after "DROUGHT" in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 of such Code (relating to livestock sold on account of drought) is amended—

(1) by inserting ", flood, or other weather-related conditions" before the period at the end thereof; and

(2) by inserting ", FLOOD, OR OTHER WEATHER-RELATED CONDITIONS" after "DROUGHT" in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

Mr. DORGAN. Mr. President, I'm pleased to join Senator DASCHLE and others in reintroducing legislation to bring much-needed tax relief to family farmers and ranchers whose businesses have suffered from unduly harsh weather conditions in the Upper Midwest this winter.

Livestock producers in North Dakota and other States in the Northern Plains have been facing unusually extreme conditions during this winter. North Dakota has experienced at least a half-dozen blizzards, winds of up to 50 miles per hour, and wind chills of near 80 below zero.

Our livestock producers have had great difficulty in moving snow and keeping paths open to both feed and livestock. Our interstate highways have been closed seven times this winter so it is easy to imagine the difficulties that our rural people have had in keeping township roads open and usable.

Some are beginning to compare this winter to the infamous winter of 1886 which nearly wiped out the cattle industry on the Northern Plains. That was the year in which Teddy Roosevelt lost his cattle herd on his ranch in the North Dakota badlands.

When this winter is over, we will be able to make some judgments as to whether this winter will be another of those history-making times which will haunt the memories of another generation of farmers and ranchers in the Dakotas.

But right now, we need to do everything possible to ease the burdens that our livestock producers are facing. The U.S. Department of Agriculture has been working very hard to get workable programs to help producers get to their livestock and feed. They have also been working on the longer range problem of helping ranchers and farmers with the extra feed supplies that are needed to get these cattle through the winter.

While USDA has had some problems in getting those programs on the ground, we certainly appreciate the Department's efforts especially when we consider the limited tools that are currently available to them. It should be noted that the Emergency Livestock Feed Assistance program that would normally have been available for such a situation was suspended by the 1996 farm law. This has put USDA in a position of having very limited resources and authorities for this emergency.

Compounding the problems of our livestock producers have been the very low cattle prices that have come from a combination of being at the bottom of a cattle pricing cycle together with record levels of concentration in the marketplace.

Our producers have had a hard time maintaining their herds even without this winter emergency. That is why it is extremely important that we help them through this time period.

Some of our producers are making the choice to either sell their cattle altogether or reduce the size of their herd, rather than to continue to maintain them at high costs and high risk.

Unfortunately our current tax laws hinder such sales in the case of most weather-related disasters except for drought. If a farmer or rancher is forced to sell cattle or other livestock prematurely this winter, they will be burdened with a large tax bill. There is no provision at present for tax deferral of gains on involuntary conversions of livestock for severe winter conditions. The Tax Code allows for such deferrals only for drought conditions.

In the last session of Congress, I cosponsored legislation with Senator DASCHLE that would have expanded this tax provision to respond to a variety of severe weather conditions.

Our legislation would allow a farmer or rancher to defer paying taxes on the proceeds of an involuntary sale of livestock due to severe weather-related emergencies if he reinvests the proceeds in similar property down the road. A farmer or rancher who decides not to reinvest the proceeds under these circumstances may elect to report the proceeds from the sale on the next year's tax return. This legislation, which is supported by the Administration, builds upon similar provisions in the Tax Code which is provided in the case of forced livestock sales due to drought.

Initial estimates following the January 10th blizzard across our State indicated that about 2,000 livestock producers were selling nearly 35,000 additional cattle as a result of that storm. The weekly reports from the North Dakota Agricultural Statistics Service indicate that cattle sales continue to be more than 20 percent above normal in the State.

This legislation will give these producers an additional tool in managing their operations so that these involuntary conversions do not impose additional financial hardships upon them.

Again I am pleased to once again cosponsor this legislation with Senator DASCHLE to help our producers meet the unusual conditions of this winter. I urge my colleagues to join us in this effort.

By Mr. McCAIN:

S. 240. A bill to provide for the protection of books and materials of the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

THE LIBRARY OF CONGRESS BOOK PROTECTION ACT

● Mr. McCAIN. Mr. President, today I am introducing legislation to help protect the valuable resources of the Library of Congress. The Library of Congress Protection Act will help the Library of Congress stop abuses of its free book loan program by authorizing the Library to impose fines for books that are long overdue.

I am introducing this legislation to empower Library of Congress officials to crack down on individuals who seriously abuse their Library privileges, by keeping books too long or failing to return them. Library of Congress officials should not have to tolerate the fact that many individuals are apparently unconcerned about returning the books that taxpayers provide for them. Congress should not prevent the Library from instituting strengthened policies to hold severely delinquent borrowers responsible for their tardiness.

This legislation will enable the Library of Congress to implement a reasonable overdue book charge policy similar to those of most public libraries across America. By doing so, the many Members of Congress, congressional staffers, and executive branch employees who benefit from this magnificent institution will have an added incentive to comply with the generous loan policies of the Library of Congress.

This proposal is very basic, but it will afford Library officials the leverage and flexibility they need to address this problem. This bill will help Library of Congress officials keep better track of their resources, and will spur many delinquent borrowers to return the books that taxpayers provide for them completely free of charge.

The Library of Congress Book Protection Act would direct the Library to implement an overdue book charge policy for books improperly held over 70 days. These individuals or offices will have their privileges suspended until their fines are paid in full. Library of Congress officials will, however, be able to waive such penalties when appropriate. The Library would also be authorized to retain the funds received from late book fines, as well. Finally, the offices of severely delinquent borrowers and the fines they owe will be published in the annual report submitted by the Library to its oversight committees.

While figures for the 104th Congress have not been published yet, preliminary data shows that as of December 28, 1996, over 2,200 books were over 30 days overdue. Figures published by the Library during the 103d Congress showed that out of the 20,000 books that were out on loan, over one-third were listed as overdue. One half of the 4,200 books on loan to congressional staff and the media were listed as overdue, and 1 in 5 books out on loan to Members, committees, and congressional support agencies had been overdue for more than 2 months. Library of Congress officials state that over 300,000 books are missing from their collections dating back to 1978, and the estimated cost of these thefts is $12 million.

I am concerned about the fact that it is all too easy for individuals to disregard their responsibility to return books to the Library of Congress in a timely manner. This negligence is not only unfair to the other users of the Library, but it also drains the Library's resources in chasing down overdue or missing books.

In addition to Members of Congress and congressional staff, the Library of Congress also makes loans to executive branch departments and agencies, the judiciary and diplomatic corps, the press, and other institutions. As I have mentioned, Mr. President, the Library of Congress is barred from charging late fees for overdue books in contrast to virtually every other publicly funded library in America. Furthermore, the Library cannot retain any funds that might be collected due to the loss or damage of loaned books. It's clearly time to change these unwise restrictions and strengthen the Library's ability to protect its resources, and I hope Members of the Senate will support this legislation to do so.

Surely, it's not asking too much of the individuals and offices fortunate enough to use the Library of Congress to do so in a responsible manner. Even under the new borrowing guidelines that would be instituted by this legislation, there really is no reason for any well-intentioned borrower ever to have to pay late fines or have their privileges suspended. I'm optimistic that the mere specter of having to pay overdue book fines will coax delinquent borrowers into responsibility renewing their book loans or returning the books.

I hope that the Senate will adopt this legislation to implement prudent new guidelines in the book loan policies of the Library of Congress.•

By Mr. McCAIN:

S. 241. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

THE AMERICAN FAMILY-OWNED BUSINESS ACT

• Mr. McCAIN. Mr. President, I rise today to introduce the American Family-Owned Business Act—a bill that will preserve the American family businesses and save jobs across the country. This bill cuts estate tax rates in half and also creates a new exclusion that completely eliminates the estate tax for small businesses. Under the new exclusion, family-owned businesses can exempt up to $1.5 million of family business assets from their estate. If a family business is valued at more than $1.5 million, the excess is taxed at one-half of the current rates—thus providing a maximum tax rate of 27.5 percent.

This legislation was introduced in the last Congress by my good friend, the former majority leader, Bob Dole. Although this legislation was included in S. 2, The Family Tax Relief Act, I feel so strongly about the need for estate tax relief for family-owned businesses and farmers that I felt it was necessary to introduce this legislation on its own.

The current Federal estate tax is just too burdensome on the American family. Time and time again, farmers and other business owners across the country have told me that estate tax rates are just too high. They rise quickly from 18 to 55 percent, effectively making the Government a 50–50 partner in a family business.

Even the most sophisticated estate tax planning and the purchase of life insurance cannot sufficiently mitigate the effects of these high rates, leaving families no recourse but to sell their businesses to pay the estate tax. This bill will stop these forced sales from happening again.

I agree with many who say that estate tax rates should be reduced across the board, or repealed entirely. I applaud my colleague, Senator KYL, who is leading the effort to repeal the estate tax. And I hope that we do that some day. But given our current budget crisis, we will likely have to take an incremental approach on the estate tax. This legislation takes an important step in that direction.

This legislation will protect and preserve family enterprises. We know too well the adverse impact of an estate tax-forced sale. The family loses its livelihood, the family business employees lose their jobs, and the community suffers.

We must do all that we can to help family-owned businesses not only survive, but also prosper. They are the job creators in this country. In the 1980's alone, family businesses accounted for an increase of more than 20 million private-sector jobs.

By relieving families of the burden of the estate tax and letting them keep their businesses, they can continue to prosper. And when families continue to operate their businesses, we all benefit—the business' employees keep their jobs, the government receives income taxes on business profits, and the families retain their livelihood.

The bill requires heirs to participate in the family business. These participation rules are deliberately flexible and recognize that different family businesses need differing levels of participation by heirs.

The estate tax is not a Democratic or a Republican problem, or one that affects only rural or urban families. There are farmers, ranchers, or other family businesses in each State that would benefit from this legislation.

This bill provides the critical relief needed for American families' businesses. I urge my colleagues to support this effort, and I hope that Congress will act expeditiously on this important legislation.●

By Mr. McCAIN:

S. 242. A bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

TAX FAIRNESS AND ACCOUNTABILITY ACT OF 1996

● Mr. McCAIN. Mr. President I introduce legislation entitled the "Tax Fairness and Accountability Act of 1997." This legislation requires a supermajority vote in the Senate in order to raise taxes and eliminates the 60-vote Congressional Budget Act point of order against reducing taxes. A supermajority vote requirement is the strongest possible defense for this body's spending excesses. By requiring 60 votes in the Senate to approve a tax increase rather than a simple majority, we will ensure that Congress does not balance the budget on the backs of taxpayers.

Although our national debt currently stands at over $5.3 trillion, Congress' insatiable appetite for spending has not diminished. Our inability to reach a balanced budget for the past 28 years is not due to undertaxation but rather over spending. It is time that we place limits on the ability of government to casually dip into the pockets of an already overtaxed citizenry.

According to the Tax Foundation, Americans spend more on their tax bill than food, shelter and clothing combined. This is simply outrageous. The American people cannot afford to be taxed anymore. Arizonans, for example, had to work until almost the beginning of May to pay their tax bill. Today nearly 40 percent of the American family's paycheck goes toward some kind of tax.

There have been numerous studies that show when Congress increases taxes it increases spending by a greater amount. One study by the Joint Economic Committee, showed that for every dollar that was raised in taxes, Congress spent $1.16. Thus, the deficit reduction claimed by those who support raising taxes is lost. The 1990 budget debacle is the best example of Congress' chronic disease called tax and spend. Under the 1990 budget deal Congress was supposed to cut spending but of course it never did. The tough spending caps that were put in place under this agreement, were raised by Congress in order to satisfy their insatiable appetite for spending. We must do everything in our power to find a remedy for this disease. The supermajority vote requirement is the first dose of the medicine.

This legislation is so important because politicians have forgotten whose money they are spending in Washington. Americans work very hard for the money they earn and send to Washington. Again and again studies show that people are working harder for less and are spending more time at work. In many families one or both parents must work two and three jobs just to make ends meet, leaving less and less time for family. Congress needs to take heed of these facts and recognize that families all across America are being forced to tighten their belts as the tax man continues to take an evergrowing portion of their money. Balancing the budget should require Congress to tighten their belt by reducing spending, not by asking Americans to pay more. I hope the Senate will act quickly on this important legislation.●

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. FORD, and Mr. GORTON):

S. 243. A bill to provide for a short term reinstatement of expired Airport and airway trust fund taxes, and for other purposes; to the Committee on Finance.

REINSTATEMENT OF THE AVIATION EXCISE TAXES

Mr. McCAIN. Mr. President, I rise today to introduce a bill, cosponsored by Senators HOLLINGS and FORD, to reinstate the aviation excise taxes until September 29, 1997.

On December 31, 1996, the aviation excise taxes expired. The aviation excise taxes include a 10-percent passenger ticket tax, a 6.25-percent freight waybill tax, a $6 per person international departure tax, and fuel taxes imposed upon general aviation aircraft. These taxes were the principal source of revenues for the airport and airway trust fund, which funds most of the budget of the Federal Aviation Administration [FAA] and all of the FAA capital programs.

Recent estimates by the General Accounting Office [GAO] and the FAA indicate that, unless the excise taxes are reinstated, the trust fund will be out of available moneys by March or April of this year. The FAA will have to terminate spending on its capital programs—the safety and security enhancements that we have worked so hard to institute.

It is unconscionable to allow the FAA to go without money that is absolutely essential to fund the safety and security programs of the national air transportation system.

The current estimates of when the trust fund will be out of available money—which I just learned today—are much more dire than originally anticipated. There are several reasons for the unexpected worsening of the FAA's fiscal situation.

The Treasury Department may have mistakenly credited the trust fund with $1.5 billion. Under normal circumstances, there is a gap in the time between the collection of taxes on airline tickets and the payment of those taxes into the Treasury by the airlines. In addition, those taxes are first paid into the general fund before being credited to the trust fund. When the aviation excise tax expired, so did the authority to transfer the revenues from the general fund to the trust fund.

The result of this process is that billions in tax revenues from 1996 are not paid to Treasury until 1997. Because those revenues cannot be transferred out of the general fund, the trust fund may have far less money than originally estimated. The trust fund could be out of available money by March, with curtailment of spending beginning even before that time because of the stringent provisions of the Anti-Deficiency Act.

On one particular point, I want to be very clear—the taxes should not be extended for more than a few months. We have a process in place to explore alternative long-term funding mechanisms to ensure the fiscal viability of the FAA and its important safety and security missions. Until the results of those studies are available and alternative mechanisms are in place, we must ensure that adequate funding is provided for these programs.

These taxes were allowed to expire at the end of last December so that reinstatement of the taxes would count for new revenues which can be used to offset tax cuts or spending in other parts of the Federal budget. Playing budget games with these excise taxes is simply deplorable. The excise taxes paid by the users of the national air transportation system must be dedicated to that system.

Mr. President, if the situation was dangerous before, it has now reached a very critical point. We must not delay any longer. Therefore, I am introducing this bill to take immediate action to begin the process of reinstating the aviation excise taxes until September 29, 1997. I will work closely with Senators LOTT and DASCHLE to ensure early Senate action on this vitally important measure, so that the safety of our airline transportation system is not adversely affected.

Mr. HOLLINGS. Mr. President, I rise today in support of extending the aviation ticket tax through the end of fiscal year 1997. This tax is very important to the day-to-day operation of our Nation's aviation system. Money to improve, maintain, and run our airports is 100 percent supported by fees paid by the users of the air transportation system. It is not paid for by the taxes we all pay on April 15. Every time they fly, people have been paying the user fees in the form of a ticket tax. That money has been going into the airport and airway trust fund, and the money is then disbursed through the appropriations process. We tell people to pay these fees, and we tell them we will then spend it on airports.

However, there is one small problem. The ticket tax expired at the end of 1996. Due to budget games, the money that we thought would be in the trust fund is not there. Originally we were advised that the trust fund would be broke in July, but now it appears that it will be depleted as early as March. If this situation is not corrected, millions of dollars in airport modernization projects, aviation safety enhancements, and airport security efforts will have to be delayed or terminated. The obvious answer to this untenable situation is to reinstate the aviation ticket tax, and that is why I am cosponsoring Senator MCCAIN's bill. I urge my fellow colleagues to quit playing budget games and start fulfilling Government's primary function—preserving the safety of the American people.

Mr. FORD. Mr. President, today I join my colleagues in cosponsoring a bill to reinstate the aviation ticket tax through September 29, 1997. This tax goes directly into the aviation trust fund. The tax has already expired and we cannot allow the trust fund to go broke. If that occurs, then it will be very difficult for us to continue to maintain the safety and security initiatives that are needed in order to secure and ensure the safety of our aviation system.

I do not need to remind my colleagues of the importance of aviation safety. Over the past year, we have seen too many headlines which have underscored the need for a safe and secure aviation system. I urge my colleagues to act expeditiously on this very important matter.

Mr. GORTON. Mr. President, on January 1, 1997, the aviation system in the United States received a serious blow when the aviation excise taxes lapsed. Together, these taxes—the 10-percent passenger ticket tax; the 6.25-percent cargo waybill tax; the $6.00 per person international departure tax; and certain general aviation fuel taxes—account for more than 90 percent of the revenues in the airport and airway trust fund, which funds the Federal Aviation Administration and its programs.

Without the collection of these revenues, the uncommitted balance of the airport and airway trust fund is quickly being depleted. In fact, it is running dry at a rate of $175 per second —more than $15 million every day. Yesterday, officials at the Department of the Treasury announced that if no action is taken to reimpose these taxes, the trust fund could be insolvent as early as March.

For this reason, I am pleased to join my colleagues, Senators MCCAIN, HOLLINGS, and FORD, in sponsoring the Airport and Airway Trust Fund Taxes Short Term Reinstatement Act. This legislation will extend the existing system of aviation excise taxes through September 29, 1997, and give Internal Revenue Service authority to transfer previously collected aviation excise taxes into the airport and airway trust fund.

The numerous aviation tragedies in 1996 have, I believe, lowered the public's confidence in the safety of the U.S. aviation system. While our system continues to be the safest aviation system in the world, Congress owes it to the American people to consider this legislation as quickly as possible to ensure aviation safety, security, and capital investment are not jeopardized in any manner.

By Mr. MCCAIN:

S. 244. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on Social Security benefits; to the Committee on Finance.

THE SENIOR CITIZENS' EQUITY ACT

Mr. McCAIN. Mr. President, I introduce legislation that repeals the increase in tax on Social Security benefits. The Omnibus Budget Reconciliation Act of 1993 increased the taxable proportion of Social Security benefits from 50 to 85 percent for Social Security recipients whose threshold incomes exceed $34,000—(single)—and $44,000—(couples). The legislation I am introducing today simply phases out this increase gradually over a 4-year period. In 1997, the applicable percentage would be 75 percent; in 1998, 65 percent; in 1999, 60 percent; in 2000, 55 percent; and finally in 2001, the taxable percentage would return to 50 percent.

I believe the increase in the taxable portion of Social Security benefits was blatantly unfair because it changed the rules in the middle of the game. Responsible senior citizens who had carefully planned for their retirement were penalized and saw their income fall while their marginal tax rate skyrocketed. Nearly 9,000 seniors representing 23.4 percent of recipients are affected by this provision. These Seniors relied on, and based their decisions on, the old law, and they have no recourse to go back in time to change their decisions based on the new law.

Clearly, we should be encouraging all Americans to save and invest for the future. We can no longer expect that Social Security benefits will take care of all our retirement needs. If Congress continues to change the rules after plans and investment decisions have been made, we will diminish the incentive for Americans to prepare for the future and plan accordingly.

I am consistently amazed by the perverse disincentives Congress enacts. Aside from being patently unfair, taxing 85 percent of Social Security benefits above the current income levels creates a tremendous disincentive for affected seniors to work. It simply doesn't make sense to work if every dollar you earn over the threshold drastically reduces your Social Security benefits.

I am pleased that this legislation is supported by the National Committee to Preserve Social Security and Medicare and the Seniors Coalition. I ask unanimous consent to submit their letters of endorsement into the RECORD.

The problems with this additional tax on Social Security benefits are strikingly similar to the Social Security earnings limit. I am pleased that Congress finally enacted an increase in the earnings limit last year and I hope that we will act expeditiously on this legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SENIORS COALITION,
Fairfax, VA, January 27, 1997.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the 2.4 million members of The Seniors Coalition, I would like to express our strong support for your legislation repealing the 1993 increase in taxes on Social Security benefits. While this legislation is desirable, total repeal would be preferable.

The arguments you made at the time of introduction are certainly persuasive. However, they apply as much to a tax on 50 percent of benefits as they do to a tax on 85 percent of benefits. We understand the arguments in favor of taxes on some portion of benefits, and recognize the supposed adverse revenue impacts from total repeal. Accordingly, while The Seniors Coalition would prefer to see total repeal of all taxes on Social Security benefits, we do recommend immediate passage of your bill at least rolling back the 1993 increase. We will be happy to make this case in public hearings, and you certainly have permission to use our support to promote passage of the bill.

Please let us know if there are further steps we can take to move this legislation to passage.

Sincerely,

THAIR PHILLIPS,
Chief Executive Officer.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, January 28, 1997.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: The National Committee to Preserve Social Security and Medicare welcomes as a major step in the right direction your legislation to repeal the inequitable tax increase on Social Security benefits enacted as part of the 1993 budget reconciliation bill.

The Omnibus Budget Reconciliation Act of 1993 increased the amount of Social Security benefits subject to tax from 50 percent to 85 percent for individual beneficiaries with income above $34,000 or for couples with income above $44,000. The "Senior Citizens' Equity Act" would gradually phase out this increase and return the taxable percentage to 50 percent by the year 2001.

The 1993 tax increase affects not only wealthy seniors but also middle income seniors. It unfairly penalizes responsible senior citizens who planned for their retirement through employment, saving, and investment. Many National Committee Members need or want to work, but they also deserve to receive their retirement benefits. Whether the senior works out of the need for income or the pleasure of working, taxing 85 percent of social security benefits over the current income thresholds exacts a high price. The increased tax rate only discourages work and retirement savings.

Moreover, a Price-Waterhouse analysis demonstrated that the 1993 bill targeted seniors by increasing their tax burden more than non-seniors in every income category—on average twice as great for senior families as non-senior families. Middle income seniors experienced a disproportionately large tax increase under the 1993 bill. For your information, we are enclosing a summary of the Price-Waterhouse data.

On behalf of older Americans, we thank you for your work to enact this important legislation.

Sincerely,

MARTHA A. MCSTEEN,
President.

Enclosure.

BUDGET RECONCILIATION CONFERENCE AGREEMENT UNFAIRLY TARGETS AMERICA'S SENIORS

The table below, compiled by Price-Waterhouse, demonstrates that the budget reconciliation conference agreement targets seniors by increasing their tax burden more than non-seniors in every income category—on average twice as great for senior families as non-senior families.

Families in the lowest income category will receive a tax cut of 28.1% while elderly families in the same category will see a tax increase of 4.6%. Senior families in the second lowest income category will see a tax increase of 3.8% while all families in the same category will see a reduction of 1.1%. While seniors in these groups are unaffected by the increased tax on Social Security benefits, they are affected by the energy tax and receive little or no assistance from the earned income tax credit.

Middle income seniors also will see a disproportionately large tax increase. Seniors with income between $24,000 and $72,000 will have tax increases that are 2.5 to 6 times higher than non-senior families without children in comparable income classes.

Under the conference bill, seniors will face an average increased tax burden of 7.5%, more than double the 3.5% increase for non-seniors without children.

PERCENTAGE CHANGE IN FEDERAL TAXES[1] FROM RECONCILIATION CONFERENCE BILL BY 2-PERSON FAMILY INCOME CLASSES[2] BY FAMILY TYPE

[1994 income levels for 1998 proposed tax law]

Adjusted family income for 2 persons	Senior families	Non-senior families w/o children	All families
0–$12,900	4.6	−4.3	−28.1
$12,901–$23,600	3.8	0.8	−1.1
$23,601–$35,300	2.8	1.0	1.0
$35,301–$53,300	2.3	0.9	1.0
$53.301–$72,000	6.4	1.0	1.4
$$72,000 or more	9.8	6.5	8.4
All	7.5	3.5	3.8

[1] Includes all permanent tax changes in conference agreement and includes the outlay portion of the earned income tax credit.

[2] Percentage change in taxes is for all families by family size adjusted income quintiles. For example, first quindle is for families with incomes below 145% of the poverty threshold (e.g., a 2 person family income of less than $12,900).

Source: Congressional Budget Office data complied by Price Waterhouse. CBO distribution table dated August 2, 1993.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 245. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges for the judicial district of Maryland; to the Committee on the Judiciary.

JUDGESHIP LEGISLATION

Mr. SARBANES. Mr. President, I rise for myself and my distinguished colleague from Maryland, Senator MIKULSKI, to introduce a bill crucial to the administration of justice and the economy in our State. This bill provides for two additional bankruptcy judgeships in the Federal Judicial District of Maryland. A look at the conditions currently facing Maryland's bankruptcy judges reveals the critical need for these new judgeships.

Recent years have witnessed a sharp rise in bankruptcy filings nationwide. Last year, for the first time in our history, filings during a 12-month period—June 1995–June 1996—exceeded 1 million, a 21.4-percent rise from the prior 12-month period. This trend has many causes, including greater access to credit, a lagging economy in some regions, and public and private downsizing. Such sharp increases in filings strain the ability of bankruptcy judges to administer justice promptly and effectively, and jeopardize the stabilization of creditor-debtor relations that is, after all, the goal of bankruptcy law.

No State has been more affected by these trends than Maryland. Bankruptcies there have quadrupled in the past decade. As filings rise nationwide, Maryland rates of increase have significantly exceeded Federal rates. No end appears to be in sight. Maryland filings during January-November 1996 exceeded State filings during the same period in 1995 by 36 percent; in the July-November 1996 period, State filings exceeded by 45 percent filings during the same period in 1995.

In 1991, the U.S. Judicial Conference, using a 1990 Federal Judicial Center time-management study, adopted a case-weighting system for bankruptcy judges, under which different types of cases were assigned different degrees of difficulty and overall weighted case-hour goals were established for the judges. Under this system, the average U.S. bankruptcy judge has a weighted case-hour load of about 1,250 hours per year. The Judicial Conference generally does not consider a request for new bankruptcy judgeships by a Federal judicial district unless the average case-hour total for the district's judges exceeds 1,500.

Given these yardsticks, the burdens facing the district of Maryland's bankruptcy judges are truly astounding.

In 1993, the national weighted case-hour average was 1,362 hours; by contrast, the Maryland average for that year was 59 percent greater—2,168 hours.

In 1994, the national average was 1,227 hours; the 1994 Maryland average was 75 percent greater—2,143 hours.

In 1995, the national average was 1,149 hours; the 1995 Maryland average was 72 percent greater—1,982 hours.

In 1996, the national average was 1,272 hours; the Maryland total for that year was 75 percent greater—2,230 hours.

So for each of the last 4 years, the average weighted case-hours for Maryland's bankruptcy judges have exceeded by a wide margin not only the national average, but also the 1,500-hour yardstick used by the Judicial Conference to rate requests for additional judges.

Other States have faced temporary overloads, but only Maryland can claim the dubious distinction of having one of the Nation's most overworked bankruptcy courts for each of the last 4 years. In fact, only the District of Maryland has ranked in the top 3 among the 91 Federal judicial districts during each of the 8 biannual evaluations of bankruptcy judges' case-hours since September 1992.

This situation cries out for remedial action. Recognizing as much, the Judicial Conference recommended to the 104th Congress that Maryland receive an additional bankruptcy judgeship. Unfortunately, this proposal was not enacted into law and, as a result, the problem has worsened considerably.

I have cited data on increased bankruptcy filings in Maryland during late 1996. If Maryland received one additional bankruptcy judge tomorrow, the case-hours per judge in the district would still be 1,784, 141 percent of the national average and well in excess of the 1,500-hour mark used to rate a district's need for new judges.

In fact, even if Maryland received two new bankruptcy judges, its per judge caseload would still exceed the national average by 18 percent. To place Maryland at the national average, three additional bankruptcy judges would be required. Yet this bill adds only two judgeships, the minimum response according to those most familiar with the problem. This is the number recommended to the Judicial Conference by the Fourth Circuit Judicial Council, and I fully expect the Judicial Conference to include two new Maryland judgeships in its spring recommendations to Congress.

New judgeships are essential not only for effective judicial administration, but also for Maryland's economy. Bankruptcy laws are crafted to foster orderly, constructive relationships between debtors and creditors during times of economic difficulty. This in turn results in businesses being reorganized, jobs—provided by creditors and debtors—preserved, and debts managed fairly. Overworked bankruptcy courts have a destabilizing effect on this system.

Consider an example. Bankruptcy law provides debtors temporary relief from the claims of creditors, allowing the debtor to adopt a reorganization plan, thereby improving its chances of recovery, and keeping creditors from cutting in line in front of other creditors who have priority claims on debtor assets. But the law also allows a court to grant creditors relief from a stay where the creditor shows that its claim will not receive adequate protection under normal procedures. Under this procedure, a court must hold a hearing 30 days after an application for relief from the stay, or automatically grant relief.

Because of the importance of these hearings, Maryland's bankruptcy judges routinely set aside 1 day per week to conduct them. One such judge, on December 6, 1996, had on his calendar 125 motions for relief from stay, a caseload that obviously precludes these cases from being fully heard. Thus, creditors seeking to cut in line, to the detriment of the debtor, other creditors, and the orderly administration of the bankrupt estate, may file for relief from stay, knowing that the case will not likely be heard and that the creditor will receive automatic relief under the law. Failure to hold a timely hearing may result in the inability of a debtor to reorganize, or in the cheating of other worthy creditors.

Similarly, the extreme caseloads faced by Maryland's bankruptcy judges allow dishonest debtors to dissipate assets, again at the expense of worthy creditors.

In short, the inevitable delays occasioned by the lack of judges harm both creditors and debtors, thereby imperiling businesses and the people employed by them. Is it any wonder that private bankruptcy practitioners and business groups also support additional bankruptcy judges for the District of Maryland? To quote Susan Souder, president of the Maryland Federal Bar Association, "Maryland citizens, businesses, and lenders should be entitled to the same protection of the courts as their counterparts in other States." Currently they do not receive such protection. Two new bankruptcy judges in the District of Maryland are imperative if we are to address this critical problem.

In closing, let me commend the dedicated efforts of Maryland's four sitting bankruptcy judges—Chief Judge Paul Mannes and Judges Duncan Kier, James Schneider, and Steve Derby. Their dedication to the administration of justice is especially impressive given the extraordinary burdens placed upon them.

Ms. MIKULSKI. Mr. President, I am pleased to join with my colleague, Senator PAUL S. SARBANES, in sponsoring this important legislation. This bill would authorize the appointment of additional bankruptcy judges for the State of Maryland.

Bankruptcy filings nationwide have dramatically increased. In my State of Maryland, over 20,000 individuals and businesses filed bankruptcy last year. Unfortunately, bankruptcy filings have hit a peak nationwide with both individuals and businesses seeking relief from financial debt. While the economic climate in Maryland is much better than in many parts of the country, the recent recession has had an impact on consumers in my State.

This bill will give relief to bankruptcy judges, who hear cases in Maryland. These judges have had a growing caseload to process. This is good news for consumers, who are seeking a reorganization of their debts and creditors seeking to protect their rights. It is critical that consumers are able to have their bankruptcy petitions processed in a timely manner. For the debtor seeking to protect his home under a chapter 13 filing, this bill will help expedite the process and allow the bankruptcy judge to give full consideration to the petition.

Maryland's bankruptcy judges have had to struggle to keep up with the growing docket. Because of the current heavy caseload, judges cannot schedule hearings in a timely manner. This adversely affects the debtor's reorganization and delays distributions to creditors.

The District of Maryland currently has four bankruptcy judges. The Judicial Conference recommended the authorization of an additional judge. Their findings were based on the weighted caseload per judge, which is a good indicator of a judge's workload.

Maryland's judges are working strenuously in the best interests of both debtors and creditors. But, their caseload requires additional assistance. Maryland needs at a minimum one more bankruptcy judge, but would prefer two more judges.

Judges from other districts have helped Maryland's bankruptcy judges. However, these judges have had to struggle with their own increasing caseloads.

The Judicial Conference found that Maryland's judges have a caseload per judge that is 70 percent above the national average. Clearly, the bankruptcy judges in Maryland's district are overwhelmed by the caseload. Even with the addition of another bankruptcy judge, Maryland's judges would still have a caseload that is above the national average. So, I hope we will be able to provide two additional slots.

I hope my colleagues will support this legislation. It is important for consumers and creditors to process their claims. It is also important to provide equity in handling the caseload in Maryland's bankruptcy courts.

By Mr. GREGG:

S. 246. A bill to amend title XVIII of the Social Security Act to provide greater flexibility and choice under the Medicare Program; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. GREGG. Mr. President, this piece of legislation which I have just sent to the desk is an update of the legislation which I introduced last year to address what is obviously one of the most critical issues which we face as a Congress, and that is the question of the solvency of the Medicare trust funds and the proper way to deliver health care to our senior citizens.

Last year the bill that I am introducing was basically used as the core concept for the structural reform which was included in the balance budget bill which was passed by this Senate and by the Congress and sent to the President, which he unfortunately decided to veto.

The bill that I have just introduced is an attempt to once again bring forward what I consider to be a number of very constructive and important initiatives in the area of making Medicare a more effective system of health care for our senior citizens.

We have all heard the facts, the facts being that the Medicare system is broken, that it is not only broken but that it is headed aggressively toward bankruptcy, that this year it lost $9.2 billion or spent $9.2 billion more in the part A trust fund than it had taken in, that the losses are increasing and will be more than $40 billion annually by the year 2000, and that, as I mentioned, the part A trust fund in Medicare will be broke, will be insolvent as of the year 2001, the early part of 2001, actually January.

I think the actuaries may have fudged a little bit there so they would not have to say 2000. I think we are going to find quickly that the insolvency of the trust fund is going to occur in the year 2000, which is not very far away from us.

What happens when the part A trust fund goes insolvent? Basically, the senior citizens do not have a health care system and do not have an insurance system. There is no provision in the law today that allows us to supply health care if there are no funds to pay for it in the part A trust fund. So the system will literally not exist, and senior citizens will be without a health insurance system.

We should have addressed this last year, of course. And there was an attempt to address it last year. But because of the politics of the season, because we were in an election year—both for this Congress and for the Presidency—it was not addressed, even though sincere attempts were made from this side of the aisle.

Those sincere attempts included, in significant part, the bill which I have just reintroduced. But they were confronted by an opposition which demagoged the issue and said that the proposals to try to bring about solvency in the Medicare part A trust fund were actually going to undermine that system when in fact what is undermining the system is the pending insolvency of the trust fund.

President Clinton, this year, to his credit, has decided to step up to the issue of Medicare or at least said he is going to publicly, and suggested that he will propose $138 billion in savings in the Medicare accounts.

Of course, last year when Republicans proposed savings in the Medicare accounts, they were accused of cutting Medicare. I will not use that term because I believe that we need to pursue an effort of constructive dialog here. But it is ironic that this year the President would be calling his proposal to save $138 billion as a constructive attempt to address Medicare when last year it was characterized as a savaging and extreme act, both by members of the President's party and by the Vice President, when we proposed savings not much higher than what are being proposed by the President today.

Unfortunately, in proposing his $138 billion in savings, the President has used a lot of old ideas and what you might call attempts to address the Medicare system at the margin. Unfortunately, also, although not accounted for allegedly in the $138 billion of savings, he has also used a massive bookkeeping gimmick of moving home health care out of the part A trust fund allegedly into the part B trust fund, so actually it is under the taxpayers of America and into the general fund. It is an incredible act of flim-flam and one which hopefully will not be accepted by this Congress.

Independent of that, the real problem of the $138 billion is not that it is inappropriate; it is that it does not address the underlying structural problem of Medicare. It addresses lower payments to providers, mostly. But the problem of Medicare is not the extra dollar we are paying to this provider or the extra 5 percent we are paying to that provider, it is the fact that it is presently structurally not supportable, the fact that the costs of Medicare are simply going up much faster than the cost of the Government generally and the rate of inflation. Not only generally, but also the rate of inflation in the health care industry.

The system is designed as a 1960's automobile. It was created in the 1960's. In the 1960's it was not a Cadillac system. Everybody knows that. It was probably an Oldsmobile. But it is the exact same Oldsmobile designed in the 1960's that is now on the road in the 1990's. It has been patched and repaired and fixed up here and there, but we are still driving down the road in the 1990's in a 1960's car. It is not working. It is not working because it does not acknowledge the fact that the health care delivery system in this country has changed fundamentally since the 1960's.

In the 1950's and 1960's most people had a doctor by name, an individual. Most people pursued what was known as fee-for-service medicine where they hired their doctor. Their doctor referred them to another doctor if they had a problem. They hired that doctor, and they went around hiring individual doctors. Today, health care is not provided that way in the private sector, or, for that matter, in the public sector, if you are a member of the Federal Government. Today, the way it is provided, usually you have a prepaid plan where you pay an amount upfront and you participate in a plan that provides you a variety of options with a variety of different physicians to go to. It may be in the form of an HMO or PPO or PSO, or it may be in the form of some hybrid, but there are usually a variety of different ways you get health care. Only rarely today in the private sector and in the Federal employee sector is that health care provided in the manner of going out and hiring an individual physician and then moving forward on a fee-for-service basis through the system.

Yet, we still have Medicare delivering the vast amount of its care, the vast amount of its service, under the fee-for-service system, which has created an inflation factor in the Medicare system in the cost of delivery of that system which is basically making it unaffordable and leading to the bankruptcy of the part A trust fund. Because there is no competition today in the senior citizens' health dollars, because the system remains a closed system where fee-for-service really is only the viable way—there are a few HMO's, but they are very limited in their applicability—then, as a result, we have not brought the market force into the system, we have not brought efficiencies into the system, and we have not seen occur in Medicare what has occurred in the general health care delivery system in this country.

Over the last 3 years, the rate of inflation of health care costs in this country, the inflationary rate of growth of health care costs in this country, were less than the general rate of inflation. The general rate of inflation was about 3 percent. The rate of growth of health care costs was below that number in the last 3 years in the private sector. Yet, in the Medicare system, the rate of growth of health care has remained about 10 percent.

What my legislation does essentially is give seniors more options. That is why it is called choice care. It says to senior citizens, you can go out in the marketplace and participate in the system you presently have if you want to, in the fee-for-service system. There is no reason you cannot stay in the system you are presently in, or, alternatively, you can go into one of the other delivery systems—HMO, PPO, or PSO—whatever you want to pursue. It gives the senior citizen, if you want to simplify it, it gives the senior citizen the same options, essentially, that a person who works for the Federal Government has who is under the Federal employee health benefits program. I, as a Member of Congress, have an option to choose a number of different health care plans. Why should the senior citizens not have that same option?

Basically, we asked that question, and we say they should. They should. Not only would it be more advantageous for a senior citizen to be able to go out and pick any number of health care programs, but it would be more advantageous for us, the Federal Government, and for the taxpayers to have those options, because we would bring competition into the system and hopefully, as a result, bring market forces into the system and, as a result, help to reduce the rate of growth of health care costs to something closer to what we are seeing in the private sector.

We never expect that a program designed for seniors will have the same rate of growth of health care costs as the private sector because seniors, regrettably, have more health problems. We know we can do better than a 10-percent annual rate of growth. In fact, to make the trust fund solvent, we do not have to get to the private sector rate of growth. We do not have to get to a 3 percent or less rate of growth. We can make the trust fund solvent with rate of growth somewhere between 6 or 7 percent annually.

We are only talking about reducing the rate of growth of the Medicare trust fund by 3 percent; we are talking about continuing to allow it to grow by 6 to 7 percent. This is a huge increase, a huge amount of new dollars flowing into the health care system every year. It is a result of the fact we are able to still balance the trust fund and make it solvent with that type of rate of growth that we create a huge marketplace incentive for people to compete for senior dollars in health care. It is that desire for competition, that use of competition which will lead us to a more competitive system, a more efficient system, and for a system which will actually deliver better health care to seniors.

We put some protections in here, also, to make it clear that seniors are not giving up anything by participating in choice care. First off, as I mentioned, they have the right to stay with fee-for-service, their present plan, if they want to. Second, any plan that wants to compete for a senior citizen dollar must provide the core services which are presently provided under the Medicare system. You may say, if that is the case, why are they ever going to be able to charge less if they have to provide the same amount as the senior presently gets? It is called the marketplace. There are ways to provide the same services and pay less for them and have them cost less by having more efficiencies in the provider. The marketplace will produce that sort of efficiency and you will have less costs.

Also, we give seniors the right to opt out if they choose another type of health care delivery service. If they are uncomfortable with it, they can disenroll from that service.

Furthermore, and most importantly, we do not allow people who are competing for the seniors' dollars to discriminate. In other words, if you are a provider and you are going to make yourself available to supply senior citizens with health care, you have to take all comers. There cannot be any attempt to screen out people because they have preexisting conditions. So it will not have adverse risk selection.

The practical implications of this are that a senior will annually receive a booklet or proposal, much like we receive as Federal employees, which will outline the various health care systems which are available to that senior. What I see happening is that there are going to be a lot of health care providers who will say, "Hey, we can provide that senior with the same health care they are getting today," because of the 6 to 7 percent annual increase. "We can provide that senior with that same health care and throw some other benefits in, too. We can offer prescription care, we can offer eyeglasses, we can offer a variety of things that are not presently available under Medicare because we know that we can more efficiently deliver the service than the senior is presently getting on fee-for-service."

What I expect will happen and what I am pretty confident will happen and what people who have looked at this in depth say will happen is that the marketplace will bring forward a variety of different options from which seniors will have a choice. At the same time, we will give seniors an incentive to go out and look at those choices because what we will say to seniors is, "Listen, today, we pay about $4,800 a year for your health care per senior. You, senior citizen, to the extent you choose a health care delivery service," which, again, has to have the core delivery services that you presently get so they cannot reduce their price because they are not delivering you what you need," to the extent you choose a delivery service which costs less than $4,800, we will let you, the senior, keep 75 percent of the savings."

So if the annual premium of an HMO supplying seniors with the same service is say $4,500 and the senior chooses to go with that HMO because the senior maybe has a family member—a son or daughter who is working and a member of that HMO—and the son or daughter say, "They can give us pretty good service," that senior will get to keep the difference between $4,800 and $4,500, or $300. That senior will get to keep 25 percent of that difference, and 75 percent will be returned to the trust fund.

So what we have created here is a market event where a senior citizen can get a savings by shopping thoughtfully and efficiently for their health care, and where the health care providers have an incentive to come in and compete for that health care dollar. What does that cause? That causes efficiency. It causes the marketplace to create efficiency. We have learned that the Federal Government can't produce efficiency. We have learned that by having a nationalized system, which is what Medicare is, you do not have an efficient system; that you have an inefficient system. What we know from experience is the way you create efficiency and lower costs is by having competition and having a playing field where the consumer is protected, which is exactly what this does.

So this proposal would give the seniors an incentive to be thoughtful purchasers, and would give the marketplace an incentive to come in and be thoughtful competitors, or strong competitors for the senior citizen dollars.

Another issue that is raised and is legitimate is the question of reimbursement and how we are going to reimburse these provider groups. The President has proposed that we cut the rate of reimbursement for HMO's from 95 to 90 percent arbitrarily across the board. I am not going to criticize the President for trying to address the cost of growth. I think that is important. But there is a better way to do this. The fact is that the reimbursement system as it is presently structured is out of kilter. For health care services which are identical—and in some cases they are better in the lower cost States than the higher cost States—the reimbursements are not identical. They are totally out of whack.

For example, there is a beneficiary reimbursement in South Dakota of about $200 per person. But on Staten Island it cost about $767 per person. Studies by Dr. Weinberg at Dartmouth, and a number of other professionals, have concluded that the service isn't any better but that it is simply an issue of regional disparity. And in fact in New Hampshire, which happens to be one of the lowest cost health care States in the country—a little more than South Dakota but not much more—we are rated the No. 1 State in the country for health care delivery systems. Yet, our delivery systems are done at a cost which is one-third the price of what it cost on Staten Island.

So this regional disparity has basically penalized States and areas that are trying to be efficient and effective in delivering their health care.

Take Hawaii, for example. Hawaii has one of the highest costs of living in the country because of the fact that it is an island, and everything has to be shipped in, I guess. But at the same time Hawaiian medical care is one of the most efficient cost delivery systems in the country. So they are penalized. Those health care systems are penalized by a lower reimbursement rate.

What we suggest—and this is a complicated issue—we are suggesting that as we go forward with this Choice Care proposal that we begin to level out the playing field on reimbursement so that we no longer are rewarding the inefficient, and so that the efficient receive the proper payment. We do this by not cutting anybody because we are increasing funding for Medicare throughout this period by 6 to 7 percent. We do not have to cut anything. What we are going to do is slow the rate of increase to those areas that have a much higher reimbursement and accelerate the rate of increase to those with lower reimbursement areas.

As a result, we will at some point—there is a timeframe in our bill that allows for this—about 5 to 7 years from now get to a period where we have everybody in a much narrower band of reimbursement which leads to a much more efficient market.

So the underlying theme here is simple. Under the Choice Care plan, which as I mentioned was adopted in significant proportions, or the concepts were adopted in significant proportions in the last budget, seniors should be given essentially the same choices that members of the Federal Government have and that the average working American has—the ability to go out in the marketplace and choose from a variety of different health care providers. And in making that choice they should be given an incentive to be efficient.

So we are going to reward them by giving them a return on the amount that they save, and at the same time we are going to say to the marketplace we are no longer going to disproportionately reward inefficient areas at the expense of efficient areas, and at the same time we are going to say to the seniors, "You have a variety of options to choose from. But, if you want to stay where you are, and you are happy where you are, you can do that."

So how does this help the Federal Government in the end? How does this get Medicare costs under control? It basically amounts to a major structural reform of the system. It is not playing at the edges the way the President proposes. It is a major structural reform. In the end we will have brought the marketplace into the system, we will have created an atmosphere where seniors will be looking at a variety of choices for health care, and where efficiency will be something that will have to be undertaken by the provider groups. They are going to be able to get the seniors' participation, and those seniors today who are in their fee-for-service probably are not going to opt into this overly aggressively because they were raised in the 1950's and

1960's with fee-for-service. We understand that. But what we also understand is that the coming generation of seniors has been in a workplace environment where the variety of health care service delivery system has been available to them. They are comfortable with a variety of health care delivery systems. And as such they are not going to shy away from taking advantage of the marketplace.

So, as we go down the road we will get the type of savings we need. We will see that rate of growth reduced from 10 percent back to 6 or 7 percent. That is still a substantial rate of growth. Then we will have put in place something that can give us a long-term lasting hope for restructure of reform, or reform in the Medicare trust fund in order to avoid the bankruptcy. If we do not do this, the trust fund part A goes bankrupt. It is that simple. That is not acceptable.

If we do not undertake structural reform, if we simply undertake the reform at the margins, like the President has proposed, we put off that bankruptcy maybe for 2, 3, or 4 years. But it still occurs. Our obligation as policymakers is to make the more fundamental broader changes that are needed for a long-term solution to this problem. And this is one major step in that direction.

Mr. President, I appreciate your time and yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President I really enjoyed the remarks of my distinguished colleague from New Hampshire. He makes a lot of very telling and important points in the field of health care. I think he deserves to be listened to, as certainly the distinguished doctor sitting in the chair, the Presiding Officer. As everybody knows, he has great interest in health care matters.

And I just want to say that I appreciate the work of both of these Senators, the Senator from New Hampshire and the Senator from Tennessee, in this area.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 247. A bill for the relief of Rose-Marie Barbeau-Quinn; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

• Mr. WYDEN. Mr. President, I introduce private relief legislation for Ms. Rose-Marie Barbeau-Quinn. Senator Hatfield championed Ms. Barbeau-Quinn's cause in the 104th Congress, and at his request and the request of many in the Portland area, I and Senator SMITH are now picking up the legislation to make Ms. Barbeau-Quinn a citizen of this country.

Ms. Barbeau-Quinn, a native of Canada, is a long time member of the Portland community and resident of Oregon. She lived in Portland with her now deceased husband, Mr. Michael Quinn since 1976, and together they ran the Vat and Tonsure Tavern, a unique and respected restaurant in the Portland area. While Ms. Barbeau-Quinn and her husband lived together for over 16 years, they did not actually marry until shortly before Michael Quinn's death in 1991.

Since Oregon does not recognize common law marriage, and Ms. Barbeau-Quinn was not married the 2 years required by immigration law, she has not been able to file for permanent residency in this country. While I do not intend to introduce many private relief bills, because of Senator Hatfield's involvement in this matter and Ms. Barbeau-Quinn's compelling case, I think it is appropriate that the Senate pass legislation to ensure that Ms. Barbeau-Quinn remains a member of the Portland community for many years to come.•

By Mrs. FEINSTEIN (for herself and Mr. REID):

S. 248. A bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals; to the Committee on the Judiciary.

THE STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS COMMISSION ESTABLISHMENT ACT OF 1997

Mrs. FEINSTEIN. Mr. President, today, with my distinguished colleague, HARRY REID, I am introducing S. 248, a bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals.

The Commission proposal emerged last year during a debate over a controversial bill to divide the Ninth Circuit Court of Appeals. As a result of that discussion, it became clear to me and the majority of my colleagues that there was no consensus on how best to resolve the problem of caseload growth in the U.S. courts. The idea of a study commission gained broad support and has independent merit.

Legislation to form a study commission was approved twice by the Senate in the 104th Congress: in March 1996 as a stand-alone bill, and later in the session as part of the Senate amendments to H.R. 3610, the Omnibus Consolidated Appropriations Act of 1997. Although the Senate amendment was not included in the final version of H.R. 3610 signed by the President on September 23, 1996, the initial funding for the Commission was appropriated therein. The authorizing legislation deserves a speedy enactment by the 105th Congress.

The Commission legislation we are offering today is evenhanded, fair, and genuinely bipartisan. It will consist of two members appointed by the Chief Justice of the United States, two members appointed by the President, two members appointed by the majority leader of the Senate, two members appointed by the minority leader of the Senate, two members appointed by the Speaker of the House of Representatives, and two members appointed by the minority leader of the House of Representatives.

The object is to have a balanced group of individuals who will examine the issues fairly and give full consideration of all relevant perspectives. With a balanced membership, we can be confident that the Commission's recommendations will be given due weight by all three branches of the National Government.

BROAD SUPPORT FOR A STUDY COMMISSION

The proposal for a study commission on Federal appellate structure has won enthusiastic support from prominent judges and scholars.

To underscore the need for this legislation, as well as its importance, I can do no better than quote from Judge Diarmuid F. O'Scannlain, who has served with distinction on the Ninth Circuit since his appointment by President Reagan in 1986. In a recent symposium in the Montana Law Review, Judge O'Scannlain wrote in favor of the study commission bill offered last year:

> As one member of the Court of Appeals most affected, I view [a study commission] as a far superior alternative to [a bill that] would have immediately divided the Ninth Circuit. The [study commission] bill also provides an historic opportunity to develop a comprehensive blueprint for the structure of the federal courts of appeals generally, and the Ninth Circuit in particular, for the 21st Century. No comprehensive review of the structure of the federal courts has been undertaken since the study chaired by . . . Senator Roman Hruska of Nebraska in the 1970s (the "Hruska Commission"), and in my view such a review is most timely.

Chief Judge Proctor Hug., Jr. of the Ninth Circuit, also writing in the Montana Law Review symposium, observed:

> Based upon its prior experience with the academic community and the benefits obtained from their insightful recommendations, the Ninth Circuit strongly supported Senator Dianne Feinstein's proposed legislation to establish a study commission . . . to take a full and fair look at the entire federal appellate system and to make recommendations to the Congress for how and where to make reforms.

Another participant in the symposium was Prof. Arthur D. Hellman of the University of Pittsburgh School of Law, a leading national authority on the Federal appellate courts. Professor Hellman wrote:

> . . . Congress should proceed systematically by creating a new, focused commission to examine the problems of the entire appellate system and make recommendations that will serve the country for the long run.

In a similar vein, Prof. Carl Tobias of the University of Montana Law School, a respected scholar of Federal procedure, has written in the National Law Journal:

> A preferable route would be to appoint a national commission to seek solutions to the

problems of the appellate system as it is currently constituted, and ways of handling its increasing dockets with efficiency. Careful study should provide sufficient information to make a fully informed decision . . . The time is now ripe for Congress to authorize such a study, rather than engage in piecemeal reform.

THE COMMISSION

Our bill directs the Commission to study "the present division of the United States into the several judicial circuits." Next, the statute calls for a study of "the structure and alignment of the Federal Court of Appeals system, with particular reference to the Ninth Circuit." Finally, the Commission must "report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeal, consistent with fundamental concepts of fairness and due process."

The language of the statute leaves no doubt that one task of the Commission would be to undertake a careful, objective analysis of the arguments raised by proposals to divide the ninth circuit. However, it is equally clear that the Commission's mandate is not limited to the ninth circuit or to the delineation of circuit boundaries generally. This reflects the fact that circuit alignment is one of a set of interrelated structural arrangements that govern the operation of the courts of appeal.

To ensure expeditious consideration of the issues at all levels, S. 248, contains three important deadlines. Section 2(b) requires that appointment of members be made within 60 days of enactment. Section 6 requires the Commission to submit its report within 2 years of the date on which its seventh member is appointed. Section 7 requires that the Senate Judiciary Committee act on the report no later than 60 days after submission.

There are three reasons why the Commission should be given 2 years in which to carry out its work. First, before the Commission can formulate its recommendations, it will have to secure informed, objective answers to specific and difficult questions. These questions cannot be answered merely through contemplation, or even by consultation with experts. They will require research, and research takes time.

Second, an important part of Commission process is obtaining public input. In particular, at an appropriate stage in its deliberations, the Commission should issue a draft report for public comment. Responses from constituencies should be taken into account in formulating the final recommendations.

Third, the 2-year timespan is supported by the experience of other commissions, such as the Hruska Commission of 1973 and Bankruptcy Commission of 1994. It may be argued that if, as with the Hruska Commission, the initial deadline proves unworkable, Congress can always extend it. But that is the wrong lesson to be drawn from the experience of the Hruska Commission. It is far more efficient to provide initially for the 2-year lifespan than to put everyone to the time and effort of seeking an extension later.

Our proposed Commission will be fair, and it will have sufficient time to conduct a credible study. The Commission will help determine the proper course for the future of our national judiciary, and therefore I urge my distinguished colleagues to support S. 248.

Mr. REID. Mr. President, the issue of whether to divide the Ninth Circuit Court of Appeals is one in which I have been very involved with since the initial proposal. I made clear my opposition to the proposed split last year, and I am still convinced that such an unnecessary and costly venture is unwarranted. However, I have agreed to the establishment of a commission to study the judicial circuits, the structure and alignment of the Federal court of appeals system, and to report to the President and the Congress its recommendations for such changes in the circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal courts of appeal.

Today, Senator FEINSTEIN and I are introducing a bill to create this commission. The commission makeup is fair, evenhanded, and bipartisan. It will consist of two members appointed by the President, two members appointed by the Chief Justice of the United States, two members appointed by the majority leader of the Senate, two members appointed by the minority leader of the Senate, two members appointed by the Speaker of the House of Representatives, and two members appointed by the minority leader of the House of Representatives. I think this is the most fair and equitable way to study this issue.

In today's environment of fiscal belt tightening, it is crucial that we carefully scrutinize proposals such as splitting a judicial circuit. It is necessary that we curtail the development of costly Federal proposals and engage in studied cost-benefit analysis before we create new programs. There are many unanswered questions in splitting the Ninth Circuit Court of Appeals. What are the costs associated with such a division? Will this require the construction of new courthouses and hiring of additional judges? If so, how many and how much? And what are the benefits of a division? The commission we propose will answer all of these questions before we even consider any possible division. Further, the commission will examine the structure and function of all the Federal courts of appeal.

This is a reasonable proposal for the establishment of a vital commission. I urge my colleagues to support this bill.

By Mr. D'AMATO (for himself, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. DOMENICI, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, Mr. BIDEN, Mr. INOUYE, Mr. MURKOWSKI, Mr. DODD, Mr. KERREY, Mr. HATCH, Mr. GREGG, Mr. SMITH of New Hampshire, and Mr. FORD):

S. 249. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations; to the Committee on Finance.

THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1997

Mr. D'AMATO. Mr. President, I come here today and rise to introduce a bill that I think is unfortunately necessary, unfortunately because HMO's and insurance carriers—and I don't mean this for all, but we are seeing a growing tendency—are doing the kinds of things nobody would have imagined, and they are doing it and interfering with good, sound medical care, because they are more interested in the bottom line.

Indeed, there are some who are already beginning to drumbeat against health maintenance organizations per se, and we would be losers, because there are important innovations and savings that can be made, but those savings and innovations should not be made at the expense of the traditional and important and sacred—sacred—right that a patient should have with their physician.

Maybe it takes the specter of cancer and breast cancer, in particular, because people are concerned and it is a fright, to get people to focus on what is taking place, and that is insurance carriers placing arbitrary limits on patients as it relates to the length of stay or time that they can use a medical facility, a hospital.

It is interesting and, indeed, ironic that as I make these remarks, the presiding officer who sits in the chair and presides over the Senate today is a distinguished Senator and a distinguished citizen who spent so much of his life in the area of healing and of practicing medicine and who knows better than I. I am so pleased to be able to have his counsel and to share these thoughts with him today personally.

While I introduce this legislation on behalf of 16 colleagues in the Senate of the United States and 20-plus Representatives in the House, Democrats and Republicans—totally bipartisan—I do not suggest that this is the cure-all for what we see taking place. Indeed, we have specifically limited this legislative initiative.

There were calls and outcries that HMO's and insurance carriers be required to provide at least a minimum of time as it relates to mastectomies. Many in the medical profession came forward and said, "We think that is the worst kind of legislation. We would rather see no time, nor do we think that the health providers should be setting times."

That is a larger debate for a larger area, but I subscribe to that, and I think that we should say very clearly here in the U.S. Senate and Congress, By gosh, insurance carriers should not be saying, "If there is a particular disease, we are only going to insure you up to X hours."

What happens if there is a complication? It may be that a procedure, whether it be a mastectomy or whether it be prostate cancer or whether it be some other disease, that ordinarily, under normal circumstances, there is an average length of time. It might be 1 day, 2 days, 3 days. But who is to say, if there is a complication and it takes 6 days or 2 weeks, are we then going to say something that ordinarily would be covered in insurance policies, that somehow because someone has adopted a rule—and why they have adopted that rule; I don't know how they can practice that, they are not practitioners—that we are going to exclude you if you go over that period of time?

This is wrong. This should not be the way in which we attempt to manage health care costs, and it is, I believe, taken by many people to mean the greed of the industry.

The fact that there are now today many in the HMO business, some almost startup companies overnight, making millions and millions of dollars—I am not against profits, but if you are going to make profits by denying adequate basic medical treatment, then that is wrong, that is immoral and we in the Congress of the United States have a business to do something about it.

I know there are going to be those who say let the marketplace work, let free competition work. Well, that is naive. To simply say that by insisting on a minimum standard, that minimums be observed, that no one interferes with the patient and that very special relationship with the doctor—we are now seeing that taking place, because there are those carriers who are punishing doctors, punishing them by denying them adequate compensation or penalizing them by denying them moneys they otherwise would have because they recommend treatments that may cost that insurance carrier more but which they feel are necessary for the safety, health, and protection of their patients.

How dare we permit and countenance that kind of thing today? We know it is going on, and to the health maintenance organizations and to the insurance carriers who say it is not going on and this legislation is not necessary, well, if it is not necessary, don't oppose it. It is that simple. If you are not penalizing doctors or rewarding them because they hold back on treatments that might cost more and which are necessary, then why should you be opposed to it? If you are not arbitrarily limiting the time that a patient may have or necessary treatments, then why would you be opposed to it?

This legislation basically says you cannot do that, you cannot prescribe 48 hours as it relates to mastectomies. You cannot deny that doctor-patient relationship by penalizing a doctor. We say you are not permitted to do that, or rewarding a doctor on the basis of cost-effectiveness.

In a third provision, we say that when it comes to the devastating disease and the specter of cancer, not only breast cancer, but prostate cancer—all cancers—that people are entitled to a second opinion. There is not anyone I know who, if they faced a diagnosis and were given a particular course of treatment that would be suggested, that they would not look for a second opinion. That is fact.

If the doctor and the attending physician recommended a second opinion, our legislation says the company must pay for that. If that physician feels that there is a need to get some specialist outside of the organization, outside of that HMO, the company must pay for that. What do we say to the average worker who has no independent resources who can't pay $500 or $1,000, or whatever it might be for that specialist, for that second opinion? You cannot have it?

So, Mr. President, we provide that with respect to this particular disease. I believe we should go further, and I think in the fullness of the discussions and the legislative actions that this Congress will undertake that we will examine this, and your committee, the Health Committee, in particular will be looking at it.

But I think certainly at this time we should begin to say, Listen, as it relates to this particular disease of cancer, where the treating and attending physician recommends a second opinion, that patient should have the ability and the right to be covered and have that second opinion.

I am going to relate two specific examples, because we have spent some time in shaping and putting together this legislation and it is by no ways written in stone or steel. It is in the sand, it is something to be looked at, something to be worked with. I look forward to the help and recommendations of the distinguished Senator from Tennessee, who presides today, on how we can improve and make this legislative effort a better one.

Last, but not least, in the area of breast cancer in particular, one of the very shattering thoughts and a fear that women live with today is the fact that they may be one of the eight who is diagnosed with breast cancer, and that is a national average. They are concerned about the treatment that might permanently disfigure them and, therefore, it becomes absolutely imperative that, as a nation, we indicate to people that there are courses of treatment that cannot only save a life but, indeed, do not have to be disfiguring, and in this way, as it relates to breast cancer in particular, have more women coming in for early diagnosis and treatment and avoid, No. 1, death, and, No. 2, disfigurement, because we provide that breast cancer reconstruction and that reconstructive surgery not be considered cosmetic.

If someone loses an ear, that surgery is not considered cosmetic. However, incredibly, we find insurance carriers denying reconstruction on the basis that it is cosmetic. So we create a double tragedy by denying women who have that disease and who don't have the ability to pay for reconstruction the ability to have that. And, second, and probably just as important, there are many who will not go for early diagnosis, and, therefore, the treatment is not available to them until it is too late. That has to be avoided.

So we provide that HMO's and insurance carriers must make this available. It is not an option that they can just simply turn away.

The title of our bill is called the "Women's Health and Cancer Rights Act of 1997."

Mr. President, I rise today to introduce the Women's Health and Cancer Rights Act of 1997. This important reform legislation will significantly change the way insurance companies provide coverage for women diagnosed with breast cancer. The problem of the so-called drive-through mastectomies must be eliminated from our society. Physicians must not be forced to have their best medical judgment questioned by insurance companies who put their bottom line before a woman's health. The women of New York and America deserve better.

Today, there are 2.6 million women living with breast cancer. In 1997 alone, more than 184,000 women will be diagnosed with breast cancer and, tragically, 44,000 women will die of this dreaded disease. Breast cancer is still the most common form of cancer in women; every 3 minutes another woman is diagnosed and every 11 minutes another woman dies of breast cancer. The D'Amato-Feinstein-Snowe legislation makes critically important changes in how breast cancer patients receive medical care.

Specifically, the bill requires health insurance companies to cover an unlimited stay in the hospital following mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer when the attending physician decides a longer stay is necessary. Every physician would have the freedom to prescribe longer stays when necessary, and the confidence that insurers will not punish them for practicing sound medical treatment. My bill would make it illegal to penalize a doctor for following good medical judgment. The time for a hospital stay will no longer be an arbitrary determination made on the basis of saving money.

Another important provision of the D'Amato-Feinstein-Snowe bill ensures that mastectomy patients will have access to reconstructive surgery. Scores of women have been denied reconstructive surgery following mastectomies because insurers have deemed the procedure cosmetic and not medically necessary. It is absolutely unacceptable and wrong that many insurers deem this essential surgery as cosmetic, and it is a practice that must be changed.

The Women's Health and Cancer Rights Act also includes a unique provision for coverage of second opinions by specialists. The bill would require health care providers to pay for secondary consultations when cancer tests come back either negative or positive. This important provision will help identify false negatives as well as false positives. Additionally, if the attending physician recommends consultation by a specialist not covered by the health plan, the bill would allow the doctor to make such a referral at no additional cost to the patient.

This legislation is particularly important for the women of Long Island. Our families have been ravaged by this horrible disease. Our grandmothers, mothers and daughters, sisters and wives, children and friends have been afflicted at rates that are unexplained and far too high.

We must continue to work together to find a cure for breast cancer. But until a cure is found, we must ensure that women receive the treatment they deserve. This legislation protects women and anyone ever diagnosed with cancer. It is the most comprehensive bill introduced in the Senate and I am proud to offer it today.

I want to thank Senator FEINSTEIN and Senator SNOWE for the contributions that they have made as it relates to helping prepare this legislation. The Women's Health and Cancer Rights Act is important. It is important again that we preserve adequate, decent, affordable medical care and not tamper with that sacred relationship that should be preserved between a doctor and his patient.

I would like, if I might, to share with the Senate the remarks of a great surgeon, Dr. Larry Norton, Chief of Breast Cancer Medicine at Sloan Kettering, one of the great cancer hospitals in this Nation. He is reflecting about a patient. I will not read all of it. He tells why, I think, this legislation is so necessary. He said:

> There was a patient that I saw on a second opinion not too long ago who paid herself for a second opinion because her HMO . . . wouldn't [do that]. I saw her and told her about a therapy that was very scientifically based that we thought was superior here, in fact clinical trials have demonstrated to be superior, and it has become a standard now, throughout the United States. . . . we offered her that particular treatment.
>
> Speaking to the person on the other end of the phone at her managed care plan, and I managed to work my way up to the physician level through several clerical levels. . . .

Here is the chief of surgery at Sloan Kettering Memorial calling an HMO to suggest this course of treatment. I want to describe what is going on. He had to call clerk after clerk after clerk, and he finally got someone who was a physician. By the way, most people cannot do that and they cannot work through that. And he was told that they would not pay for the care.

He went on to say—and this is the person on the other end:

> . . . Dr. Norton, we are not saying . . .

Imagine, this is an HMO, a doctor on the other side of the HMO. He is saying:

> . . . Dr. Norton, we are not saying that [it] is not the right treatment, we are just saying that we are not going to pay for it.

By the way, what I am reading to you is testimony he gave publicly about 10 days ago in New York at Sloan Memorial. He went on to say:

> I put the phone down, shaking, and called her [that is, his patient] to discuss this with her, and her 10-year-old son answered the phone. I said who I was and he said, calling to his mother, "Mommy, your doctor is on the phone." I knew at that moment that the discussion that she could not get the care that was appropriate was not what I was going to say. Through enormous efforts, and through the support of my terrific institution, [we] were able to provide her that care and things turned out very well for her, as we could have anticipated.

The doctor goes on to say:

> The point is that there is a holy alliance between the doctor and the patient, and the entire structure of medicine is because of that holy alliance. It is a religious experience [a religious experience] to take care of a patient well and, if you feel any less motivation, you are not [going to be] doing your job as a physician. We feel that kind of motivation here. We are living in an era where a lot of steps are coming between the doctors and the patients. Their motivations are not necessarily the same motivations that have driven us to this point of advance.
>
> What we see before us today . . .

He talks about legislation and the fact that it was a bipartisan effort to protect that relationship, that special relationship that I know that the President understands well.

Again, we are going to hear cries of intrusion, or about the marketplace. Well, since when do you tell me we do not have a right to set basic minimums? We do that in many areas. We do that as it relates to quality of food. We do that as it relates to protecting our drinking water. We certainly have a right to say you cannot interfere with that special relationship by punishing a doctor because he is giving what he feels is the proper medical advice and withholding from him and having him think that he may be penalized. That is wrong. That is wrong.

Mr. President, I want to share another experience. When we initially talked about introducing this bill, we did not talk about breast cancer reconstruction. And I got a call from the executive director of the American College of Obstetricians and Gynecologists of New York, a remarkable woman by the name of Mary McCarthy. She said, "Senator, we've been making studies." She was a person who brought to our attention, Senator FEINSTEIN and Senator SNOWE, and others, the fact that there was this great problem of insurance carriers not providing for reconstructive surgery when it came to the breast and considering it as cosmetic.

Let me just read to you her words which communicate the problem. Not only is she the executive director of the American College of Obstetricians and Gynecologists of New York, she goes on to say:

> I am a breast cancer patient myself. I would like to share [with you] my experiences on the three major subjects within the bill, the mastectomy surgery, the reconstructive surgery and the second opinion.

She says:

> I thought I was very well informed on health care and I thought I had excellent health care coverage. Yet my own reconstructive surgery and my second opinion were both denied by my health care plan. My reconstruction was denied last April as not medically necessary.

She went on to say she was able to eventually get this surgery. She said:

> I am concerned that other women do not have these kinds of resources. I would like to touch, although personal, on the importance of reconstructive surgery for women who opt to have reconstruction surgery. My mastectomy was clinically curative surgery, but my reconstruction was emotionally healing. There is no longer a reminder every day of my cancer. When I get dressed in the morning, in an intimate moment with my husband, if I have my nightgown on at home with my kids, I look normal and I feel normal. If you lose an ear or a testicle, or part of your face to cancer, there is no question that reconstruction is covered. Yet denials for breast [cancer] reconstruction are serious and they are rising.
>
> For a disease with the magnitude of cancer, it is very important to have access to second opinions and to be able to [go] outside your HMO, if necessary, for the kind of expertise you need. To my surprise, and to the surprise of my physicians within my plan, my plan adamantly refused to authorize my second opinion. I paid for my second opinion myself, not all women have these resources . . . No family should be forced to assume this kind of responsibility.

Then she goes on to say something.

> When I was in the hospital after my surgery . . . [the nurses] actually cringed [the people responsible for taking care of me] and looked upset when they changed my dressing. I spoke candidly to my husband, who is loving and caring and goes with me to most of my medical appointments, and he felt that he could not have handled the emotional or the clinical responsibility of helping with drains and bandages. The appropriate length of stay is critically needed and the language in the bill to ensure that the appropriate stay for each individual is met is vital.

What she is saying is that if she had been discharged, her husband could not have taken care of her. And you just simply cannot set a time limit.

Mr. President, I want to offer that bill. I send it to the desk with the cosponsors. I commend all of my colleagues to join in this legislative effort. It is one that we will be serious and purposeful for. I hope we can have hearings sooner rather than later.

Again, as I said, this is totally bipartisan in nature. Cancer does not look to see the politics of its victims. In particular, we address some of the major concerns as they relate to cancer. But I think problems that we have go well beyond this. This is something that this Congress should become involved in, the vital interest of the health of all of our citizens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Health and Cancer Rights Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) the offering and operation of health plans affect commerce among the States;

(2) health care providers located in a State serve patients who reside in the State and patients who reside in other States; and

(3) in order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.

SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 603(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 702(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (e).".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 603 of the Newborns' and Mothers' Health Protection Act of 1996 and section 702 of the Mental Health Parity Act of 1996, is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as added by section 604(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 703(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

"SEC. 2706. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTION SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (e).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to group health plans for plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 5. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Subpart 3 of part B of title XXVII of the Public Health Service Act (as added by section 605(a) of the Newborn's and Mother's Health Protection Act of 1996) is amended by adding at the end the following new section:

"SEC. 2752. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND SECONDARY CONSULTATIONS.

"The provisions of section 2706 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

SEC. 6. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 100 of the Internal Revenue Code of 1986 (relating to group health plan portability, access, and renewability requirements) is amended by redesignating sections 9804, 9805, and 9806 as sections 9805, 9806, and 9807, respectively, and by inserting after section 9803 the following new section:

"SEC. 9804. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted—

"(1) in the next mailing made by the plan to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES.—A group health plan may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan involved under subsection (e).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 9801(c)(1), 9805(b) (as redesignated by subsection (a)), 9805(c) (as so redesignated), 4980D(c)(3)(B)(i)(I), 4980D(d)(3), and 4980D(f)(1) of such Code are each amended by striking "9805" each place it appears and inserting "9806".

(2) The heading for subtitle K of such Code is amended to read as follows:

"Subtitle K—Group Health Plan Portability, Access, Renewability, and Other Requirements".

(3) The heading for chapter 100 of such Code is amended to read as follows:

"CHAPTER 100—GROUP HEALTH PLAN PORTABILITY, ACCESS, RENEWABILITY, AND OTHER REQUIREMENTS".

(4) Section 4980D(a) of such Code is amended by striking "and renewability" and inserting "renewability, and other".

(c) CLERICAL AMENDMENTS.—

(1) The table of contents for chapter 100 of such Code is amended by redesignating the items relating to sections 9804, 9805, and 9806 as items relating to sections 9805, 9806, and 9807, and by inserting after the item relating to section 9803 the following new item:

"Sec. 9804. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.".

(2) The item relating to subtitle K in the table of subtitles for such Code is amended by striking "and renewability" and inserting "renewability, and other".

(3) The item relating to chapter 100 in the table of chapters for subtitle K of such Code is amended by striking "and renewability" and inserting "renewability, and other".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

Mrs. FEINSTEIN. Madam President, as cochair of the Senate Cancer Coalition, I am pleased today to join with Senator D'AMATO in introducing S. 249, the Women's Health and Cancer Rights Act of 1997.

THE BILL

This bill does four things:

For treatment of breast cancer, it requires insurance plans to allow physicians to determine the length of a patient's hospital stay according to medical necessity; and it requires health insurance plans to cover breast reconstruction following a mastectomy.

For treatment of all cancers, it requires health insurance plans to cover second opinions by specialists whether the initial diagnosis is positive or negative; and it prohibits insurance plans from financially penalizing or rewarding a physician for providing medically necessary care or for referring a patient for a second opinion

TWO CALIFORNIA CASES

I have received two letters from constituents describing firsthand their treatment by insurance companies in having a mastectomy.

Nancy Couchot, age 60, of Newark, CA, wrote me that she had a modified radical mastectomy on November 4, 1996, at 11:30 a.m. and was released by 4:30 p.m. She could not walk and the hospital staff did not help her "even walk to the bathroom." She says, "Any woman, under these circumstances, should be able to opt for an overnight stay to receive professional help and strong pain relief."

Victoria Berck, of Los Angeles, wrote that she had a mastectomy and lymph node removal at 7:30 a.m. on November 13, 1996, and was released from the hospital 7 hours later, at 2:30 p.m. Ms. Berck was given instructions on how to empty two drains attached to her body and sent home. She concludes, "No civilized country in the world has mastectomy as an outpatient procedure."

These are but two examples of what, unfortunately, is becoming a national nightmare—insurance plans interfering with professional medical judgment and refusing to cover hospital stays of mastectomy patients.

NEED FOR THE BILL

Increasingly, insurance companies are dropping and reducing inpatient hospital coverage of mastectomies. This is beyond the pale. It is unconscionable.

The Wall Street Journal on November 6 reported that "some health maintenance organizations are creating an uproar by ordering that mastectomies be performed on an outpatient basis. At a growing number of HMOs, surgeons must document 'medical necessity' to justify even a one-night hospital admission."

In 1997, over 184,000 women—or 1 in every 8 American women—will be diagnosed with invasive breast cancer and 44,300 women will die from breast cancer; 2.6 million American women are living with breast cancer today. In my State, 20,000 women will be diagnosed with breast cancer and 5,000 will die or one every 27 minutes. San Francisco has among the highest incidence rates of breast cancer in the world.

After a mastectomy, patients must cope with pain from the surgery, with psychological loss—the trauma of an amputation—and with drainage tubes. These patients need medical care from trained professionals, medical care that they cannot provide themselves at home.

In the last 10 years, the length of overnight hospital stays for mastectomies has declined from 4 to 6 days to 2 to 3 days to, in some cases, no days. With the average cost of one day in the hospital at $930, if insurance plans refuse to cover a hospital stay, patients are forced to go home.

BREAST RECONSTRUCTION

Insurance plans also refuse to cover breast reconstruction. Our bill requires coverage. Breast reconstruction is an important followup part of breast cancer treatment and recovery. One study found that 84 percent of patients were denied insurance coverage for reconstruction of the removed breast. Commendably, my State has passed a law requiring coverage of breast reconstruction after a mastectomy. However, we need a national standard, covering all insurance policies.

SECOND OPINIONS COVERED

Another important feature of our bill is insurance coverage of second opinions for all cancers. The news of possible cancer is traumatic. It is a dreaded fear that we all live with daily. For this life-threatening disease for which there is no cure, more information is better than less. Expert advice is needed to make all-important decisions. I believe it is reasonable to encourage people to have a second consultation with a specialist, by requiring insurance plans to cover second opinions.

Patients often need specialty care. A December 1996 study reported in the New England Journal of Medicine found that specialty care improves the outcome of heart attack patients. This should come as no surprise. Specialists are knowledgeable about their field. A California doctor pointed out that nonspecialists may order a "battery of unnecessary and sometimes invasive and risky examinations" for patients. Thus, incentives that discourage the use of specialists or referrals to specialists, can end up costing the insurance plan more—instead of saving money.

NO FINANCIAL INCENTIVES

Finally, our bill prohibits insurance plans from including financial or other incentives to influence the care a doctor provides, similar to a law passed by the California legislature last year. Many physicians have complained that insurance plans include financial bonuses or other incentives for cutting patient visits or for not referring patients to specialists. Our bill bans financial incentives linked to how a doctor provides care. Our intent is to restore medical decisionmaking to health care.

For example, a California physician wrote me, "Financial incentives under managed care plans often remove access to pediatric specialty care." A June 1995 report in the Journal of the National Cancer Institute cited the suit filed by the husband of a 34-year-old California woman who died from colon cancer, claiming that HMO incentives encouraged her physicians not to order additional tests that could have saved her life.

Our bill tries to restore professional medical decisionmaking to medical providers, those whom we trust to take care of us. It should not take an act of Congress to guarantee good health care, but unfortunately that is where we are today.

I hope my colleagues will join us in enacting this bill, an important protection for millions of Americans who face the fear and the reality of cancer every day.

By Mr. FORD:

S. 250. A bill to designate the U.S. courthouse located in Paducah, Kentucky, as the "Edward Huggins Johnstone United States Courthouse"; to the Committee on Environment and Public Works.

THE EDWARD HUGGINS JOHNSTONE U.S. COURTHOUSE DESIGNATION ACT OF 1997

Mr. FORD. Mr. President, I rise today to offer legislation to designate the United States Courthouse in Paducah, KY as the Edward Huggins Johnstone United States Courthouse. There is much that I want to say about Edward Johnstone, a man known as "Big Ed" to his friends, and why this outstanding Kentuckian so richly deserves this accolade.

Edward Johnstone is a man who has spent his entire life in service to his country and the people of western Kentucky. Edward Johnstone is a veteran who fought for his country at the Battle of the Bulge, but finds nothing remarkable in his decorations of honor—to him they are reminders of his duty to country and fellow countrymen who never returned home. Edward Johnstone is a distinguished legal scholar who earned his law degree from the University of Kentucky and put his skills to work as a country lawyer in his hometown of Princeton, KY. Edward Johnstone is a judge who has served 21 years on the bench doling out words of wisdom and sentences of justice to those who come before him. Edward Johnstone is a tough, fair, hardworking Federal judge who puts in a full day's work even though he is a senior judge. Edward Johnstone is a man who gives me faith in the judicial process and those chosen to uphold our laws.

I am very proud to introduce legislation on behalf of myself and all of the western Kentuckians whose lives have been touched by this extraordinary individual.

Let me end my remarks, Mr. President, by remembering something that George Washington once said, "The administration of justice is the firmest pillar of government." As an administrator of justice, Edward Johnstone is our own marble column in the Western Kentucky community.

Mr. President, I send to the desk a bill designating the courthouse in Paducah, KY, as the Edward Huggins Johnstone United States Courthouse, and I ask that it be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located in Paducah, Kentucky, shall be known and designated as the "Edward Huggins Johnstone United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the Edward Huggins Johnstone United States Courthouse.

By Mr. SHELBY (for himself, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS, Mr. ABRAHAM, and Mr. HUTCHINSON):

S. 251. A bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years; to the Committee on Finance.

FARMER'S INCOME AVERAGING LEGISLATION

• Mr. SHELBY. Mr. President, today I am introducing legislation—along with Senators GRASSLEY, COCHRAN, ROBERTS, ABRAHAM, and HUTCHINSON—which will restore to American farmers an important tool in meeting their Federal income tax obligations.

Mr. President, America would not be what it is today without the dedication, sacrifice, and hard work of the American farmer. The American farmer is the most efficient farmer in the world. Each farmer in America provides food and fiber for 94 people in our country and an additional 35 people abroad. As a result, Americans enjoy the most affordable, healthy, and stable food supply of any country in the world.

Yet, despite the successes of the American farmer, they are faced with unique and difficult barriers they must overcome, including unpredictable weather, natural disasters, plagues of insects and diseases, and excessive Government regulations. All of these result in substantial income fluctuations for the average farmer.

Wide swings in farmers' income from year to year, result in a tax burden much higher than individuals with a stable source of income because surges in income are taxed at a higher rate than is a steady flow of income. This problem is compounded when a farmer's income is exaggerated by the sale of land or other assets.

Prior to 1986, farmers were allowed to average their income over a 2-year period in order to give them some sense of regularity and predictability in their payment of Federal taxes. This provision was repealed as part of the 1986 Tax Act, which reduced the number of tax brackets and lowered the top rate of 28 percent. However, since 1986, Congress has added two new tax brackets, and increased the top rate to 39.6 percent.

This change, along with the move to a more market-oriented farm program, makes it imperative that Congress restores to farmers the ability to average their income, and the legislation I am introducing today will do just that. The Joint Committee on Taxation estimated last year that this bill would cost about $90 million over 5 years.

Representative NICK SMITH has sponsored an identical bill in the House, and it has the broad support of the farming community. Groups endorsing this proposal include: Alabama Farmers Federation, American Farm Bureau Federation, National Association of Wheat Growers, National Cattlemen's Beef Association, National Farmers Union, National Grain Sorghum Producers, National Grange, National Pork Producers Council, and Women in Farm Economics.

Mr. President, the success of our Nation depends in large part on the success of the American farmer. Until we can enact broad-based tax reform, we should provide farmers with some sense of regularity and predictability in meeting their Federal tax obligation. This legislation will do that, and I hope my colleagues will support it.•

By Mr. GREGG:

S. 252. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax for assets held more than 2 years, to impose a surcharge on short-term capital gains, and for other purposes; to the Committee on Finance.

CAPITAL GAINS LEGISLATION

Mr. GREGG. Mr. President, I introduce a bill that will have a significant impact on the promotion of long-term investment through a reduction in the capital gains tax. I believe the Congress has a responsibility to enact laws promoting long-term capital investment and savings by all Americans. Part of fulfilling this obligation must include implementing a plan that would reduce the current capital gains tax rate on long-term investments.

We must also, however, balance this important economic goal against the moral issue of adding increasing debt onto our children's shoulders. This becomes an unavoidable issue in the capital gains debate because the Joint Committee on Taxation scores capital gains a big revenue loser. This scoring issue is an unfortunate fact that we in Congress cannot ignore.

Accordingly, I have developed legislation that would encourage long-term investment by amending the current capital gains tax using a sliding scale plan. My bill encourages an individual to hold an asset .over a number of years, thus, allowing a greater tax reduction on investments, with the maximum benefit being reached after 4 years. It would reward individuals who look toward contributing to a savings plan over a number of years, while at the same time making quick-fix investments less attractive. This sliding scale plan would encourage investments that benefit long-term savings, such as a child's education, an individual's retirement, or other non-speculative holdings.

The theory behind the sliding scale reduction on capital gains hinges upon an agreed goal: the promotion of savings and long-term investment through a capital gains cut, while recognizing our current fiscal realities. The Joint Committee on Taxation estimates this plan would lose just $7.4 billion in revenue over the 1995–2000 period.

Finally, Mr. President, I ask unanimous consent that a Washington Post op-ed by Louis Lowenstein, professor of finance at Columbia University, be included in the RECORD. Professor Lowenstein's piece outlines the current fiscal problem this legislation attempts to address.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Long-Term Investment Incentive Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REDUCTION OF TAX ON LONG-TERM CAPITAL GAINS ON ASSETS HELD MORE THAN 2 YEARS.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR ASSETS HELD BY NONCORPORATE TAXPAYERS MORE THAN 2 YEARS.

"(a) GENERAL RULE.—If a taxpayer other than a corporation has a net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to the sum of—

"(1) 20 percent of the qualified 4-year capital gain,

"(2) 10 percent of the qualified 3-year capital gain, plus

"(3) 5 percent of the qualified 2-year capital gain.

"(b) DEFINITIONS.—For purposes of this title—

"(1) QUALIFIED 4-YEAR CAPITAL GAIN.—The term 'qualified 4-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 4 years were taken into account, or

"(B) the net capital gain.

"(2) QUALIFIED 3-YEAR CAPITAL GAIN.—The term 'qualified 3-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 3 years but not more than 4 years were taken into account, or

"(B) the net capital gain, reduced by the qualified 4-year capital gain.

"(3) QUALIFIED 2-YEAR CAPITAL GAIN.—The term 'qualified 2-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 2 years but not more than 3 years were taken into account, or

"(B) the net capital gain, reduced by the qualified 4-year capital gain and qualified 3-year capital gain.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(d) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(e) TREATMENT OF COLLECTIBLES.—

"(1) IN GENERAL.—Solely for purposes of this section, any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(2) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of paragraph (1), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(3) COLLECTIBLE.—For purposes of this subsection, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).

"(f) Transitional Rule.—

"(1) In general.—Gain may be taken into account under subsection (b)(1)(A), (b)(2)(A), or (b)(3)(A) only if such gain is properly taken into account on or after February 1, 1997.

"(2) Special rules for pass-thru entities.—

"(A) In general.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) Pass-thru entity defined.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) Deduction Allowable in Computing Adjusted Gross Income.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) Long-term capital gains.—The deduction allowed by section 1202."

(c) Maximum Capital Gains Rate.—Clause (i) of section 1(h)(1)(A), as amended by section 3(a), is amended by striking "the net capital gain" and inserting "the excess of the net capital gain over the deduction allowed under section 1202".

(d) Treatment of Certain Pass-Thru Entities.—

(1) Capital gain dividends of regulated investment companies.—

(A) Subparagraph (B) of section 852(b)(3) is amended to read as follows:

"(B) Treatment of capital gain dividends by shareholders.—A capital gain dividend shall be treated by the shareholders as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the company as allocable to qualified 4-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years,

"(ii) the portion of any such dividend designated by the company as allocable to qualified 3-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iii) the portion of any such dividend designated by the company as allocable to qualified 2-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under clause (i), (ii), or (iii)."

(B) Clause (i) of section 852(b)(3)(D) is amended by adding at the end the following new sentence: "Rules similar to the rules of subparagraph (B) shall apply in determining character of the amount to be so included by any such shareholder."

(2) Capital gain dividends of real estate investment trusts.—Subparagraph (B) of section 857(b)(3) is amended to read as follows:

"(B) Treatment of capital gain dividends by shareholders.—A capital gain dividend shall be treated by the shareholders or holders of beneficial interests as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the real estate investment trust as allocable to qualified 4-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years,

"(ii) the portion of any such dividend designated by the trust as allocable to qualified 3-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iii) the portion of any such dividend designated by the trust as allocable to qualified 2-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under clause (i) or (ii)."

(3) Common trust funds.—Subsection (c) of section 584 is amended—

(A) by inserting "and not more than 2 years" after "1 year" each place it appears in paragraph (2),

(B) by striking "and" at the end of paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (6) and inserting after paragraph (2) the following new paragraphs:

"(3) as part of its gains from sales or exchanges of capital assets held for more than 2 years but less than 3 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 2 years but not more than 3 years,

"(4) as part of its gains from sales or exchanges of capital assets held for more than 3 years but less than 4 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 3 years but less than 4 years,

"(5) as part of its gains from sales or exchanges of capital assets held more than 4 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 4 years, and".

(e) Technical and Conforming Changes.—

(1) Subparagraph (B) of section 170(e)(1) is amended by inserting "(or, in the case of a taxpayer other than a corporation, the percentage of such gain equal to 100 percent minus the percentage applicable to such gain under section 1202(a))" after "the amount of gain".

(2) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(3)(A) Section 221 (relating to cross reference) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1(h) or 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account."

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 or any exclusion allowable to the estate or trust under section 1203(a). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) The last sentence of paragraph (3) of section 643(a) is amended to read as follows: "The deduction under section 1202 and the exclusion under section 1203 shall not be taken into account."

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".

(8) Paragraph (4) of section 691(c) is amended by striking "sections 1(h), 1201, and 1211" and inserting "sections 1(h), 1201, 1202, and 1211".

(9) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "1202".

(10) Subsection (d) of section 1044 is amended by striking "1202" and inserting "1203".

(11) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(f) Clerical Amendment.—The table of sections for part I of subchapter P of chapter 1 is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Capital gains deduction for assets
held by noncorporate taxpayers
more than 2 years."

(g) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after January 31, 1997.

(2) Contributions.—The amendment made by subsection (e)(1) shall apply to contributions on or after February 1, 1997.

SEC. 3. SURCHARGE ON CAPITAL GAINS ON ASSETS HELD 1 YEAR OR LESS.

(a) In General.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) Maximum Capital Gains Taxes.—

"(1) In general.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).

"(2) Surcharge on net short-term capital gain.—

"(A) IN GENERAL.—If a taxpayer has a net short-term capital gain for any taxable year, the tax imposed by this section (without regard to this paragraph) shall be increased by an amount equal to the sum of—

"(i) 5.6 percent of the taxpayer's 6-month short-term capital gain, plus

"(ii) 2.8 percent of the taxpayer's 12-month short-term capital gain.

"(B) MAXIMUM RATE.—

"(i) IN GENERAL.—Subparagraph (A) shall not be applied to the extent it would result in—

"(I) 6-month short-term capital gain being taxed at a rate greater than 33.6 percent, or

"(II) 12-month short-term capital gain being taxed at a rate greater than 30.8 percent.

"(ii) ORDERING RULE.—For purposes of clause (i), the rate or rates at which 6-month or 12-month short-term capital gain is being taxed shall be determined as if—

"(I) such gain were taxed after all other taxable income, and

"(II) 12-month short-term capital gain were taxed after 6-month short-term capital gain.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) 6-MONTH SHORT-TERM CAPITAL GAIN.—The term '6-month short-term capital gain' means the lesser of—

"(I) the amount of short-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for 6 months or less were taken into account, or

"(II) net short-term capital gain.

"(ii) 12-MONTH SHORT-TERM CAPITAL GAIN.—The term '12-month short-term capital gain' means the lesser of—

"(I) the amount of short-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 6 months but not more than 12 months were taken into account, or

"(II) net short-term capital gain, reduced by 6-month short-term capital gain.

For purposes of clause (i)(I) or (ii)(I), gain may be taken into account only if such gain is properly taken into account on or after February 1, 1997."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after January 31, 1997.

[From the Washington Post, Apr. 30, 1995]

A TAX CUT THAT WON'T SELL US SHORT

BY REWARDING ONLY LONG-TERM INVESTORS, WE ALL STAND TO GAIN

(By Louis Lowenstein)

The House has passed the Contract With America Tax Relief Bill of 1995 calling for not one, but two cuts in the capital gains tax. The first would cut the maximum rate in half, to just under 20 percent; the second would index the gain to eliminate the effects of inflation. With the Treasury Department estimating the 10-year cost at $92 billion, it is no wonder that critics label this a give-away to the rich.

Speaker Newt Gingrich and his allies are right about one thing—there is something wrong with the current capital gains tax structure. But their remedy doesn't fix the real problem, which is the refusal of today's investors to focus, as they once did, more on long-term business concerns than on the next twitch in interest rates, unemployment data or market prices. Their solution is not only misguided but a missed opportunity to correct some real wrongs in the tax system.

There is a better way: Cut the capital gains tax rate for people who hold stocks for long periods, and maintain or even raise the rates for short-term investors. This would reward productive investment, discourage speculators and avoid a costly increase in the deficit.

Such a policy has been endorsed in one form or another over the last half-century by such varied folk as Sen. Nancy Kassebaum, investment banker Felix Rohatyn, financier Warren Buffett and economist John Maynard Keynes—as well as by a 1992 Twentieth Century Fund task force on market speculation and corporate governance, of which I was a member. The proposal, so remarkably simple, calls for capital gains rates that would decline dramatically, but only as the holding period lengthens.

In other words, the capital gains tax benefit would be restricted to people who meet the traditional notion of investor. The dictionary defines an investor as "an individual or organization who commits capital to become a partner of a business enterprise." As recently as the beginning of the 1960's, investors still though in terms of owning a share of America, as the New York Stock Exchange used to say. They knew their companies and they held their stocks, on the average, for seven years. For these investors, the rate could be cut drastically—even to zero—after, say, 10 or 15 years. That would help return stock markets to their most useful function, one in which participation should be encouraged.

Stock markets enable corporations to raise long-term capital even while investors enjoy a high degree of liquidity. But those markets are not an end in themselves. Trading in stocks once they are issued can devolve into a game of "musical shares"; the players change places but at the end of the year nothing much else happened.

And, indeed, the concept of owning a share of American business has given way to short-term speculation, particularly by institutional investors. The turnover of shares of New York Stock Exchange companies, which had been 14 percent, a year in the early '60s, soared to 95 percent by the late 1980s. In 1987, the total cost of all that activity—commissions and other trading costs—was about $25 billion, or more than one-sixth of all corporate earnings.

That's a very different kind of market than the market, say, for wheat, which moves grain from farmers to elevator operators to millers to bakers to consumers. When institutions trade the same shares over and over, nothing is created except profits for the brokers. There is only duplication and waste, not gain.

While there is good reason to let the capital gains tax drop as the holding period lengthens, there is absolutely no reason to subsidize an already wasteful, frenetic trading game. At present, to qualify for capital gains treatment one need hold an investment position for just one year. That is why the tax on restless holders should, at the very least, not go down. Remember, it is mutual fund managers and other so-called professionals who are the problem. They spend other peoples commission dollars on their asset allocation and other market-timing strategies.

True, speculation fills gaps in trading in the market, dampening price changes between trades and allowing investors to accumulate or liquidate positions rapidly. But its social value is limited. And while most economists rarely see a market they do not admire, there is no economic reason for the tax system within which the stock market must operate to reinforce its worst tendencies. Even economists increasingly recognize that once the market wheels have been lubricated, added grease helps only the merchants of grease—the brokers.

Worse yet, a market focused on short-term trading values is far less likely to serve its fundamental goals—to allocate capital to its best uses and to encourage shareholders to monitor the corporate managers' performance. As one fund manager said, "It is not our job to be a good citizen at General Motors." But if not him, who?

The more immediate advantages of a steeply graduated capital gains tax are obvious. It can be formulated to be revenue-neutral, or nearly so, thus easing the budgetary pressure. It would obviate the need for inflation-indexing, for the simple reason that tax would fade rapidly as the holding period lengthened. And for those who, like this author and perhaps Gingrich too, dislike the old tax-shelter programs that enriched parasites at the expense of the public, a tax along the lines suggested here would discharge such games. All in all, it is difficult to think of any tax proposal that would accomplish so much at so little cost. The same cannot be said of an across-the-board capital gains cut for the rich to be paid for by the rest of us.

By Mr. LUGAR:

S. 253. A bill to establish the negotiating objectives and fast-track procedures for future trade agreements; to the Committee on Finance.

THE TRADE AGREEMENT IMPLEMENTATION REFORM ACT

• Mr. LUGAR. Mr. President, development of overseas markets and customers is vital to the future of U.S. agriculture. Demand for food and feed is growing rapidly. U.S. agriculture is efficient and competitive, however, tariff and nontariff barriers remain high in many countries.

As incomes rise in developing countries, their demands for our products will continue to expand. In 1996, agricultural exports reached a record $59.8 billion. Continued growth is vital. World commodity markets are often distorted by import barriers, export subsidies and State trading enterprises. These distortions put American farmers and agribusiness operators at a disadvantage. We must reduce trade barriers and allow our industry to supply the world's markets.

Today I will introduce the Trade Agreement Implementation Reform Act. This bill will grant the President the fast-track authority he needs to negotiate future trade agreements. It is in the national interest for the President to have this authority, but is has lapsed due in part to the way past implementing legislation was handled.

Earlier fast-track authority allowed side-deals, special-interest accommodations and provisions of questionable merit. As a result, public confidence in our trade policies eroded. Reforming the fast-track process and prohibiting these special-interest provisions is one step in gaining support for future trade agreements.

My bill contains two major changes from previous practice. First, legislation submitted under the fast-track authority will contain only provisions absolutely necessary to implement an agreement. Prior law allowed provisions necessary and appropriate and encouraged deals with special interests in exchange for support.

Second, although fast-track legislation is not amendable, we should make one exception. Senators should be able to amend or delete provisions that merely offset revenue losses from tariff changes. Such provisions in the Uruguay round legislation included the controversial Pioneer Preference and pension reform titles. Congress should have the ability to debate and amend items like these, but be subject to overall time limits.

The United States must continue to move forward in its effort to find new markets for our goods and services. We should take advantage of a favorable trade climate in South America by pursuing an agreement with Chile. Chile has advanced bilateral trade agreements with Canada and Mexico and has become an associate member of the Southern Cone Mercosur trading bloc. Before the United States can move forward, the administration must have fast-track authority. The President must now make a case to Congress and the American people that this is a priority of his administration.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Agreement Implementation Reform Act".

SEC. 2. TRADE NEGOTIATING OBJECTIVES.

The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are—

(1) to obtain more open, equitable, and reciprocal market access,

(2) to obtain the reduction or elimination of barriers and other trade-distorting policies and practices,

(3) to further strengthen the system of international trading disciplines and procedures, and

(4) to foster economic growth and full employment in the United States and the global economy.

SEC. 3. TRADE AGREEMENT NEGOTIATING AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this Act will be promoted thereby, the President—

(A) on or before June 1, 2003, may enter into trade agreements with foreign countries, and

(B) may, subject to paragraphs (2) through (5), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1)(B) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment,

(B) reduces the rate of duty on an article over a period greater than 10 years after the first reduction that is proclaimed to carry out a trade agreement with respect to such article, or

(C) increases any rate of duty above the rate that applied on the date of enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate amount that the rate of duty on any article may be reduced under paragraph (2) in any year shall not exceed an amount that is equal to the greater of 3 percent ad valorem or 10 percent of the total reduction in the rate of duty for such article required pursuant to a trade agreement entered into under paragraph (1).

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (2) (A) or (B) or paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number, or

(B) one-half of 1 percent ad valorem.

(5) ADDITIONAL LIMITATION.—A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) or (3) may take effect only if a provision authorizing such reduction or increase is included within an implementing bill provided for under section 4 of this Act and that bill is enacted into law.

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that any duty or other import restriction imposed by any foreign country or the United States or any other barrier to, or other distortion of, international trade—

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy,

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, or

(C) the reduction or elimination of such barrier or distortion is likely to result in economic growth or expanded trade opportunities for the United States,

and that the purposes, policies, and objectives of this Act will be promoted thereby, the President may, on or before June 1, 2003, enter into a regional, bilateral, or multilateral trade agreement described in paragraph (2).

(2) DESCRIPTION OF TRADE AGREEMENT.—A trade agreement is described in this paragraph if it is a regional, bilateral, or multilateral trade agreement entered into by the President with a foreign country providing for—

(A) the reduction or elimination of such duty, restriction, barrier, or other distortion, or

(B) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(3) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes substantial progress in meeting the applicable negotiating objectives described in section 2 and the President satisfies the conditions set forth in subsections (c) and (d).

(4) COMPLIANCE WITH URUGUAY ROUND AGREEMENTS AND OTHER OBLIGATIONS.—In determining whether to enter into negotiations with a particular country under this subsection, the President shall take into account whether that country has implemented its obligations under the Uruguay Round Agreements and any other trade agreement with respect to which the United States and such other country are parties.

(5) LIMITATION.—Notwithstanding any other provision of law, no trade benefit shall be extended to any country solely by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

(c) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—

(1) GENERAL RULE.—The President, at least 60 calendar days before initiating negotiations on any agreement that is subject to the provisions of subsection (b), shall—

(A) provide written notice to Congress of the President's intent to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations and the specific United States objectives for the negotiations,

(B) before submitting the notice, seek the advice of and consult with the relevant private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), regarding the negotiations and the negotiating objectives the President proposes to establish for the negotiations, and

(C) before and after submission of the notice, consult with Congress regarding the negotiations and the negotiating objectives.

(2) EXCEPTION.—Notwithstanding subsection (b)(3) and section 4(c), the provisions of this subsection shall not apply to an agreement which results from negotiations that were commenced before the date of enactment of this Act and the provisions of this Act regarding implementation shall apply to such agreement, if with respect to such agreement, the President provides notice, seeks advice, and consults in accordance with subparagraphs (A), (B), and (C) of paragraph (1) as soon as practicable after the date of enactment of this Act.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under subsection (b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and

(B) each other committee of the House and the Senate, and each joint committee of Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement,

(B) how and to what extent the agreement will achieve the applicable negotiating objectives, and

(C) all matters relating to the implementation of the agreement under section 4.

SEC. 4. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 120 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (3); and

(C) the implementing bill is enacted into law.

(2) RESTRICTIONS ON IMPLEMENTING BILL.—

(A) IN GENERAL.—An implementing bill referred to in paragraph (1) shall contain only necessary provisions.

(B) NECESSARY PROVISION.—For purposes of this Act, the term "necessary provision" means a provision in an implementing bill that—

(i)(I) makes progress in meeting the negotiating objectives contained in section 2 for the trade agreement with respect to which the implementing bill is submitted, and

(II) is required to put into effect, or sets forth a procedure to carry out, a substantive provision of the trade agreement with respect to which the implementing bill is submitted, or

(ii) is a revenue provision.

(3) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable negotiating objectives contained in section 2, and

(ii) setting forth the reasons of the President regarding, among other things—

(I) how and to what extent the agreement makes progress in achieving the applicable negotiating objectives referred to in clause (i), and why and to what extent the agreement does not achieve other negotiating objectives,

(II) how the agreement serves the interests of United States commerce,

(III) why the implementing bill and proposed administrative action is necessary to carry out the agreement,

(IV) how the provisions of the implementing bill are necessary to comply with the applicable negotiating objectives, and

(V) how any revenue provision in the implementing bill is necessary to comply with the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) OTHER CONSIDERATIONS.—To ensure that a foreign country that receives benefits under a trade agreement entered into under section 3(b) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILLS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection and subsection (c), the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) (hereafter in this Act referred to as "fast track procedures") apply to implementing bills submitted with respect to trade agreements entered into under section 3(b) on or before June 1, 2003 (or if extended under section 5, June 1, 2005).

(2) CERTAIN POINTS OF ORDER AND AMENDMENTS IN ORDER.—

(A) IN GENERAL.—

(i) POINTS OF ORDER.—A point of order may be made by any Senator against a provision in an implementing bill that is not a necessary provision (as defined in subsection (a)(2)(B)). If such point of order is sustained by a majority of the Members of the Senate duly chosen and sworn, the provision shall be stricken.

(ii) AMENDMENTS IN ORDER.—The provisions of section 151(d) of the Trade Act of 1974 shall not apply to a provision in an implementing bill that is a revenue provision and an amendment to a revenue provision shall be in order if the amendment meets the requirements of paragraph (4).

(B) TIME LIMIT.—Sections 151(f)(2) and 151(g)(2) of such Act shall be applied by substituting "25 hours" for "20 hours" each place such term appears and such time limits shall include all amendments to and points of order made with respect to an implementing bill.

(C) RULES FOR DEBATE IN THE SENATE.—Debate in the Senate on any amendment to or point of order made with respect to an implementing bill under this paragraph shall be limited to not more than 1 hour, to be equally divided between, and controlled by the mover and the manager of the implementing bill, except that in the event the manager of the implementing bill is in favor of any such amendment, the time in opposition thereto shall be controlled by the minority leader or the minority leader's designee. The majority and minority leader may, from the time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any amendment. A motion in the Senate to further limit debate on an amendment to any implementing bill is not debatable.

(3) REVENUE PROVISION.—For purposes of this Act, the term "revenue provision" means a provision in an implementing bill that—

(A) is not required to put into effect, or does not set forth a procedure to carry out, a substantive provision of the trade agreement with respect to which the implementing bill is submitted,

(B) is not inconsistent with the obligations of the United States under the trade agreement with respect to which the implementing bill is submitted, and

(C) either decreases specific budget outlays for the fiscal years covered by the implementing bill or increases revenues for such fiscal years in order to comply with the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) REQUIREMENTS FOR AMENDMENT.—It shall not be in order in the House of Representatives or the Senate to consider any amendment to a revenue provision in an implementing bill that would have the effect of increasing any specific budget outlays above the level of such outlays provided in the implementing bill for the fiscal years covered by the implementing bill or would have the effect of reducing any specific revenues below the level of such revenues provided in the implementing bill for such fiscal years, unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof for such fiscal years. For purposes of this paragraph, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate or of the House of Representatives, as the case may be.

(5) DIFFERENCE BETWEEN THE 2 HOUSES.—If the text of implementing bills described in subsection (b)(1) concerning any matter is not identical—

(A) the Senate shall vote passage on the implementing bill introduced in the Senate, and

(B) the text of the implementing bill passed by the Senate shall, immediately upon its passage (or, if later, upon receipt of the implementing bill passed by the House), be substituted for the text of the implementing bill passed by the House of Representatives, and such implementing bill, as amended shall be returned with a request for a conference between the 2 Houses.

(6) AMENDMENT BETWEEN HOUSES.—Except as provided in paragraph (7)—

(A) overall debate on all motions necessary to resolve amendments between the Houses on an implementing bill under this subsection shall be limited to 2 hours at any stage of the proceedings; and

(B) debate on any motion, appeal, or point of order under this subsection which is submitted shall be limited to 30 minutes, and such time shall be equally divided and controlled by, the majority leader and the minority leader or their designees.

(7) PROCEDURES RELATING TO CONFERENCE REPORTS.—

(A) APPOINTMENT OF CONFEREES.—A request for a conference shall be accepted and conferees shall be appointed—

(i) in the case of the Senate, by the President pro tempore, and

(ii) in the case of the House of Representatives, by the Speaker of the House,

not later than 3 calendar days after such request is made.

(B) GENERAL RULES FOR CONSIDERATION OF CONFERENCE REPORT.—Consideration in a House of Congress of the conference report on an implementing bill described in paragraph (5), including consideration of all amendments in disagreement (and all amendments thereto), and consideration of all debatable motions and appeals in connection therewith, shall be limited to 4 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(C) FAILURE OF CONFERENCE TO ACT.—If the committee on conference on an implementing bill considered under this section fails to submit a conference report within 10 calendar days after the conferees have been appointed by each House, any Member of either House may introduce an implementing bill containing only the text of the draft implementing bill of the President on the next day of session thereafter and the implementing bill shall be treated as a conference report and considered as provided in subparagraph (B).

(c) ADDITIONAL LIMITATIONS ON "FAST TRACK" PROCEDURES.—

(1) PRENEGOTIATION REQUIREMENTS.—

(A) IN GENERAL.—The fast track procedures shall not apply to any implementing bill that contains a provision approving any trade agreement which is entered into under section 3(b) with any foreign country if—

(i) the requirements of section 3(c) are not met with respect to the negotiation of such agreement; or

(ii) both Houses of Congress agree to a resolution disapproving the negotiation of such agreement before the later of—

(I) the close of the 60-calendar day period beginning on the date notice is provided under section 3(c); or

(II) the close of the 15-day period beginning on the date such notice is provided, computed without regard to the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of Congress sine die, and any Saturday or Sunday, not otherwise excluded under this subclause, when either House of Congress is not in session.

(B) RESOLUTION DISAPPROVING NEGOTIATIONS.—A resolution referred to in subparagraph (A)(ii) is a resolution of either House of Congress with which the other House of Congress concurs, the sole matter after the resolving clause of which is as follows: "That Congress disapproves the negotiation of the trade agreement notice of which was provided to Congress on ____ under section 3(c) of the Trade Agreement Implementation Reform Act.", with the blank space being filled with the appropriate date.

(2) LACK OF CONSULTATIONS.—

(A) IN GENERAL.—The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if both Houses of Congress separately agree to procedural disapproval resolutions within any 60 calendar day period.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to consult with Congress on trade negotiations and trade agreements in accordance with the provisions of the Trade Agreement Implementation Reform Act and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of the Trade Agreement Implementation Reform Act, if, during the 60 calendar day period beginning on the date on which this resolution is agreed to by ____, the ____ agrees to a procedural disapproval resolution (within the meaning of section 4(c)(2)(B) of the Trade Agreement Implementation Reform Act).", with the first blank space being filled with the name of the resolving House of Congress and the second blank space being filled with the name of the other House of Congress.

(3) PROCEDURES FOR CONSIDERING RESOLUTIONS.—

(A) IN GENERAL.—Resolutions under paragraph (1) and procedural disapproval resolutions under paragraph (2)—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules,

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules, and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(B) APPLICATION OF SECTION 152.—The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to resolutions under paragraph (1) and to procedural disapproval resolutions under paragraph (2).

(C) SPECIAL RULES RELATING TO HOUSE.—It is not in order for the House of Representatives to consider any resolution under paragraph (1) or any procedural disapproval resolution under paragraph (2) that is not reported by the Committee on Ways and Means and the Committee on Rules.

SEC. 5. EXTENSION OF TRADE AGREEMENTS AUTHORITY AND FAST TRACK PROCEDURES.

(a) EXTENSION OF FAST TRACK PROCEDURES TO IMPLEMENTING BILLS.—

(1) IN GENERAL.—The fast track procedures shall, as modified by this Act, be extended to implementing bills submitted with respect to trade agreements entered into under section 3(b) after May 31, 2003, and before June 1, 2005, if (and only if)—

(A) the President requests such extension under paragraph (2), and

(B) neither House of Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2003.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the fast track procedures should be extended to implementing bills described in paragraph (1), the President shall submit to Congress, not later than March 1, 2003, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under section 3(b) and the anticipated schedule for submitting such agreements to Congress for approval,

(B) a description of the progress that has been made in regional, bilateral, and multilateral negotiations to achieve the purposes, policies, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations, and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to Congress as soon as practicable, but not later than March 1, 2003, a written report that contains—

(A) its views regarding the progress that has been made in regional, bilateral, and multilateral negotiations to achieve the purposes, policies, and objectives of this Act, and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) REPORTS MAY BE CLASSIFIED.—The reports submitted to Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—

(A) IN GENERAL.—For purposes of this subsection, the term "extension disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the ____ disapproves the request of the President for the extension, under section 5(a)(1) of the Trade Agreement Implementation Reform Act, of the provisions of section 151 of the Trade Act of 1974 (as modified by section 4(b) of the Trade Agreement Implementation Reform Act) to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of the Trade Agreement Implementation Reform Act after June 1, 2003, because sufficient tangible progress has not been made in trade negotiations.", with the blank space being filled with the name of the resolving House of Congress.

(B) PROCEDURE.—Extension disapproval resolutions—

(i) may be introduced in either House of Congress by any Member of such House; and

(ii) shall be jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules.

(C) APPLICATION OF SECTION 152.—The provisions of sections 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) OTHER REQUIREMENTS.—It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or

(iii) either House of Congress to consider an extension disapproval resolution that is reported to such House after May 15, 2003.

(b) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (a) of this section, and section 4 (b) and (c), are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 and following) is amended as follows:

(1) IMPLEMENTING BILL.—Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by inserting "section 4 of the Trade Agreement Implementation Reform Act," after "the Omnibus Trade and Competitiveness Act of 1988,".

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act, section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreement Implementation Reform Act", and

(ii) in paragraph (2), by inserting "or section 3 (a) or (b) of the Trade Agreement Implementation Reform Act" after "1988",

(B) in subsection (b), by inserting "of the Omnibus Trade and Competitiveness Act of 1988 or section 3(a)(3) of the Trade Agreement Implementation Reform Act" before the end period, and

(C) in subsection (c), by striking "of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "of this Act, section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreement Implementation Reform Act".

(3) HEARINGS AND ADVICE CONCERNING NEGOTIATIONS.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting ", section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreement Implementation Reform Act,".

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by inserting "or section 3 of the Trade Agreement Implementation Reform Act" after "1988".

(5) INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135(a)(1)(A) (19 U.S.C. 2155(a)(1)(A)) is amended by inserting "or section 3 of the Trade Agreement Implementation Reform Act" after "1988".

(6) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—Section 135(e) (19 U.S.C. 2155(e)) is amended—

(A) in paragraph (1), by inserting "or section 3 of the Trade Agreement Implementation Reform Act" after "1988" the first two places it appears, and by inserting "or section 4(a)(1)(A) of the Trade Agreement Implementation Reform Act" after "1988" the third place it appears; and

(B) in paragraph (2), by inserting "or section 2 of the Trade Agreement Implementation Reform Act" after "1988".

(b) APPLICATION OF SECTIONS 125, 126, AND 127 OF THE TRADE ACT OF 1974.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136, and 2137)—

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974 (19 U.S.C. 2112).

SEC. 7. ADVISORY COMMITTEE REPORTS.

Section 135(e)(1) of the Trade Act of 1974 (19 U.S.C. 2155) is amended by striking "the date on which" and inserting "45 days after".

TRADE AGREEMENT IMPLEMENTATION REFORM ACT

Sec. 2. Negotiating objectives.—Overall negotiating objectives for all trade agreements are included in the act. These objectives do not provide authority to use trade negotiations to achieve environmental or labor policy goals. Specific negotiating objectives are to be the subject of consultations between the President and Congress prior to the initiation of negotiations. (See sec. 3(c))

Sec. 3(a). General tariff authority.—As in previous trade acts, authority is delegated to the President to negotiate and proclaim reciprocal tariff reductions without further Congressional action. This authority expires on June 1, 2003.

Sec. 3(b). Authority to negotiate tariff and non-tariff barriers.—The President is given authority to negotiate bilateral, regional, or multilateral trade agreements, including reduction or elimination of non-tariff barriers and subsidies.

Sec. 3(c)&(d). Notice and consultation before negotiation.—In addition to consulting with Congress before an agreement is entered into (as the 1988 act requires), this bill would require the President to notify Congress 60 days before initiating any trade negotiations and to consult with Congress and the private sector advisory committees concerning the specific negotiating objectives. Congress must also be notified of negotiations commenced before enactment of this act for the resulting agreement to receive fast track treatment.

Sec. 4(a). Notification.—In order for a trade agreement to be considered under fast track procedures, the President must notify Congress at least 120 days before the agreement is entered into. Once the agreement is entered into, the President submits a draft implementing bill and supporting documentation. Only necessary provisions are permitted in the implementing bill.

Sec. 4(b). Application of fast track procedures.—Fast track authority is available for agreements entered into by June 1, 2003, with the possibility of a two year extension for the deadline. In contrast to previous acts, the fast track authority provided for in this bill would permit amendments to provisions of the implementing bill that are revenue provisions related to pay/go. If there is no agreement in conference over the revenue amendments, the unamended implementing bill submitted by the President would be voted on.

Sec. 4(c). Disapproval resolution.—Congress may revoke fast track within the 60 day consultation period prior to initiation of negotiations. Fast track can also be revoked at any time during the negotiations for lack of consultations if disapproval resolutions are passed separately by both Houses within any 60 day period.

Sec. 5. Extension of fast track procedures.—Fast track procedures apply to any agreement entered into before June 1, 2003, with the possibility of a two year extension. The extension will be denied if either House passes a disapproval resolution.

Sec. 6. Conforming amendments.

Sec. 7. Advisory committee reports.—Private sector advisory committee reports have to be submitted not more than 45 days after the President notifies Congress of his intent to enter into an agreement.●

By Mr. KOHL:

S. 254. A bill to amend part V of title 28, United States Code, to require that the Department of Justice and State attorneys general are provided notice of a class action certification or settlement, and for other purposes; to the Committee on the Judiciary.

THE CLASS ACTION FAIRNESS ACT OF 1997

● Mr. KOHL. Mr. President, I introduce the Class Action Fairness Act of 1997. This legislation is necessary to address a troubling and growing problem in class action litigation—unfair and abusive settlements that ignore the best interests of injured plaintiffs while unscrupulous defendants and attorneys reap the rewards.

Let me give you an example of this situation. It involves a class action settlement that affected a constituent of mine, Martha Preston of Baraboo, WI. Ms. Preston was a member of a class action lawsuit filed in Alabama State Court against BancBoston Mortgage Corp. The suit alleged that the bank was holding an excess balance of Ms. Preston's money in her mortgage escrow account. As with many class members in this case—and in most class action lawsuits—Ms. Preston did not actually initiate the suit or even have knowledge that her mortgage company was being sued on her behalf. But a group of lawyers who claimed to represent her and all other people in a similar situation filed the suit on behalf of the class and negotiated a settlement of the suit, as they are allowed to under the law.

The settlement they negotiated provided that the bank would refund the excess money that it was holding and provide a small amount of compensation to the plaintiffs for lost interest. Pursuant to the settlement, Ms. Preston received a check for $4.38 to compensate her for the interest she would have earned had the excess money been invested. A few months later, a miscellaneous disbursement of $80.94 showed up on her escrow account. That $80 went to pay the class action attorneys their fee for getting her $4.38. So Ms. Preston ended up losing $75 as the result of a lawsuit filed without her knowledge and that purported to be to her advantage.

Unfortunately, Ms. Preston's losses did not end there. She was understandably upset at what happened to her. So she found an attorney who was willing to represent her pro bono. She sued the attorneys who had negotiated the agreement that cost her $75. No sooner had she sued them for what they had done, than these attorneys turned around and sued her and her pro bono attorneys in Alabama—a State she has never visited—for abuse of process and malicious prosecution and asked for $25 million in damages against her. Both of these lawsuits are ongoing; indeed the suit that Ms. Preston filed is now the subject of a petition for a writ of certiorari to the Supreme Court. Not only did Ms. Preston lose $75, but now as a result of trying to defend herself from being fleeced she is defending a $25 million lawsuit against her.

The Preston case is especially egregious. Unfortunately it is not uncommon. The system of class action law suits has created a climate where this kind of abuse is possible.

A class action is a lawsuit in which an attorney not only represents an individual plaintiff but, in addition, seeks relief for all those individuals who have suffered an injury similar to the plaintiff. For example, a suit brought against a pharmaceutical company by a person suffering from the side effects of a drug can, if the court approves it as a class action, be expanded to cover all individuals who used the drug.

Often, these suits are settled. The settlement agreements provide money and/or other forms of compensation. The attorneys who brought the class action suit also get paid for their work. All class members are usually notified of the terms of the settlement and frequently—but not always—given the chance to withdraw from the agreement if they do not want to be part of it. A court must ultimately approve a settlement agreement.

Many of these suits are brought and settled fairly and in good faith. Unfortunately, we also know that there are a few unscrupulous lawyers who file class actions in search of big attorney fees rather than to get compensation for victims. And the class action system does not adequately protect class members from such predatory acts. The primary problem is that the client in a class action is a diffuse group of thousands of individuals scattered across the country. The group is so diffuse that it is incapable of exercising meaningful control over the litigation. As a result, while in theory the class action lawyers must be responsive to their clients, in practice, the lawyers control all aspects of the litigation.

Moreover, when a class action is settled, the amount of the attorneys fee is negotiated between the plaintiffs' lawyers and the defendants. But in most cases the fee is paid by the class members—the only party that does not have a seat at the bargaining table.

In addition, class actions are now being used by defendants as a tool to limit their future liabilities. Class actions are being settled that cover all individuals exposed to a particular substance but whose injuries have not yet manifest themselves. As Prof. John Coffee of Columbia Law School has written, "the class action is providing a means by which unsuspecting future claimants suffer the extinguishment of their claims even before they learn of their injury."

In light of the incentives that are driving the parties, it is easy to see how the class members can be left out in the cold. Plaintiffs attorneys and corporate defendants can reach agreements that satisfy their respective interests—and even the interests of the name class plaintiffs—but that short sell the interests any class members who are not vigilantly monitoring the litigation.

Although members of class actions get notices of settlements, the settlements are often written in incomprehensible legalese. Let me give you an example of a recent notice:

> "The Rebate payable to the eligible member [sic] of the Open Class and the Closed Class shall be an amount equal to (i) the Average Surplus, as determined by the above subparagraph, multiplied by (ii) 50% multiplied by (iii) 3% multiplied by (a) 1 if the loan was serviced for at least 1 year but less than . . . ."

Even well trained attorneys are hard pressed to understand these notices. But these long, finely printed and intricate letters are being sent to class members. And on the basis of these notices, people's legal rights are being eliminated and in cases like Ms. Preston's they are being injured.

We all know that class action suits can result in significant and important benefits for class members and for our society. Class actions have been used to desegregate racially divided schools, to obtain redress for victims of employment discrimination, and to compensate individuals exposed to toxic chemicals or defective products. Class actions increase access to our civil justice system because they enable people to pursue claims that collectively that would otherwise be too expensive to litigate.

The difficulty in any effort to improve a basically good system is in weeding out the abuses without causing undue damage. The legislation I propose attempts to do this. It does not limit anyone's ability to file a class action or to settle a class action. It seeks to address the problem in two ways. First, it requires that State attorneys general be notified about potential class action settlements that would affect residents of their states. With this systematic notification in place, the attorneys general can intervene in cases where they think the settlements are unfair. Second, the legislation requires that class members be notified of a potential settlement in clear, easily understood English—not legal jargon.

Let me emphasize the limited scope of this measure: we do not require that State attorney generals do anything with the notice that they receive. No obligations are imposed upon them at all, although we are hopeful that they will act when appropriate. Moreover, we do not give the attorneys general any new or special rights to intervene in the settlements. They must work within current law.

The simple goal of this legislation is to provide better information and better consumer protection through greater knowledge. We do not want to close the courthouse door to meritorious cases, but merely assure that people are provided with meaningful information so that they can defend themselves.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This section may be cited as the "Class Action Fairness Act of 1997".

SEC. 2. NOTIFICATION REQUIREMENT OF CLASS ACTION CERTIFICATION OR SETTLEMENT.

(a) IN GENERAL.—Part V of title 28, United States Code, is amended by inserting after chapter 113 the following new chapter:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711. Notification of class action certifications and settlements.

"§1711. Notification of class action certifications and settlements

"(a) For purposes of this section, the term—

"(1) 'class' means a group of similarly situated individuals, defined by a class certification order, that comprise a party in a class action lawsuit;

"(2) 'class action' means a lawsuit filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State rules of procedure authorizing a lawsuit to be brought by 1 or more representative individuals on behalf of a class;

"(3) 'class certification order' means an order issued by a court approving the treatment of a lawsuit as a class action;

"(4) 'class member' means a person that falls within the definition of the class;

"(5) 'class counsel' means the attorneys representing the class in a class action:

"(6) 'electronic legal databases' means computer services available to subscribers containing text of judicial opinions and other legal materials, such as LEXIS or WESTLAW;

"(7) 'official court reporter' means a publicly available compilation of published judicial opinions;

"(8) 'plaintiff class action' means a class action in which the plaintiff is a class; and

"(9) 'proposed settlement' means a settlement agreement between the parties in a class action that is subject to court approval before it becomes binding on the parties.

"(b) This section shall apply to)

"(1) all plaintiff class actions filed in Federal court; and

"(2) all plaintiff class actions filed in State court in which—

"(A) any class member resides outside the State in which the action is filed; and

"(B) the transaction or occurrence that gave rise to the lawsuit occurred in more than one State.

"(c) No later than 10 days after a proposed settlement in a class action is filed in court, class counsel shall serve the State attorney general of each State in which a class member resides and the Department of Justice as if they were parties in the class action with—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints;

"(2) notice of any future scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A) their rights to request exclusion from the class action; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible the names of class members who reside in each State attorney general's respective State and their estimated proportionate claim to the entire settlement; or

(B) if not feasible, a reasonable estimate of the number of class members residing in each attorney general's State and their estimated proportionate claim to the entire settlement; and

"(8) any written judicial relating to the materials described under paragraphs (3) through (6).

"(d) A hearing to consider final approval of a proposed settlement may not be held earlier than 120 days after the date on which the State attorneys general and the Department of Justice are served notice under subsection (c).

"(f) Any court with jurisdiction over a plaintiff class action shall require that—

"(1) any written notice provided to the class through the mail or publication in printed media contain a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the legal consequences of joining the class action.

"(C) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) a good faith estimate of the dollar amount of any attorney's fee if possible; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(D) any other material matter; and

"(2) any notice provided through television or radio to inform the class of its rights to be excluded from a class action or a proposed settlement shall, in plain, easily understood language—

"(A) describe the individuals that may potentially become class members in the class action; and

"(B) explain that the failure of individuals falling within the definition of the class to exercise their right to be excluded from a class action will result in the individual's inclusion in the class action.

"(g) Compliance with this section shall not immunize any party from any legal action under Federal or State law, including actions for malpractice or fraud.

"(h)(1) A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action lawsuit if the class member resides in a State where the State attorney general has not been provided notice and materials under subsection (c). The rights created by this subsection shall apply only to class members or any person acting on their behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(2) Nothing in this chapter shall be construed to impose any obligations, duties, or responsibilities upon State attorneys general" or the attorney general of the United States.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V of title 28, United States Code, is amended by inserting after the item relating to chapter 113 the following:

"114. Class Actions 1711".

SEC. 3.

APPLICABILITY.

This section and the amendments made by this section shall apply to all class action lawsuits filed after or pending one year after the date of enactment of this Act.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 11

At the request of Mr. INOUYE, his name was added as a cosponsor of S. 11, a bill to reform the Federal election campaign laws applicable to Congress.

S. 19

At the request of Mr. DODD, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 19, a bill to provide funds for child care for low-income working families, and for other purposes.

S. 29

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 29, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 30

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 30, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes.

S. 31

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 31, a bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 86

At the request of Ms. SNOWE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 86, a bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute.

S. 122

At the request of Mr. MOYNIHAN, the name of the Senator from West Virginia [Mr. BYRD], was added as a cosponsor of S. 122, a bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities.

S. 127

At the request of Mr. MOYNIHAN, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 183

At the request of Mr. DODD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 183, a bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes.

S. 207

At the request of Mr. MCCAIN, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 207, a bill to review, reform, and terminate unnecessary and inequitable Federal subsidies.

SENATE RESOLUTION 36—RELATIVE TO RETIREMENTS

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 36

Whereas Arthur Curran, Donn Larson and Richard Gibbons will retire from the Senate on January 31, 1997;

Whereas Arthur Curran was appointed as a Senate Doorkeeper in 1975 by Vice President Rockefeller;

Whereas Arthur Curran rose to the post of Superintendent of Doorkeepers and has dutifully served in that post for the last 15 years;

Whereas Donn Larson first began his Senate career under an appointment from Senator Milton Young in 1959;

Whereas Donn Larson served in the Republican cloakroom from 1961 to 1968, leaving to work in the Federal Government until his return to the Senate in 1977, where he has served as deputy supervisor of the Doorkeepers since 1981;

Whereas Richard Gibbons has served as a Senate Doorkeeper since 1977, acting as press liaison outside the President's room just off the Senate floor;

Whereas since the 103d Congress Richard Gibbons has served in the Senate Chamber and has diligently assisted both Senators and staff alike in a myriad of tasks in addition to his role of helping to maintain order in the Chamber;

Whereas each of these three gentlemen has faithfully served the Senate and they have carried out their duties with efficiency and good nature: Now, therefore, be it

Resolved, That the Senate extends its thanks to Arthur Curran, Donn Larson, and Richard Gibbons for their many years of dedicated service and wishes them well in their future aspirations.

The Secretary of the Senate shall transmit a copy of this resolution to Arthur Curran, Donn Larson, and Richard Gibbons.

SENATE RESOLUTION 37—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 37

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations, is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,710,573, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $2,782,749, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 38—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURE BY THE COMMITTEE ON ARMED SERVICES

Mr. THURMOND, from the Committee on Armed Services, reported the following original resolutions; which was referred to the Committee on Rules and Administration:

S. RES. 38

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, and reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel or any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,704,397.

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $2,776,389.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquires and Investigations."

SENATE RESOLUTION 39—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THOMPSON, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 39

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998 through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $11,050,721, of which amount (1) not to exceed $375,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $4,653,386, of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. (a) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of government funds in transactions, contracts, and activities of the government or of government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking and corporate facilities to carry out criminal objectives;

(5) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(C) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(6) The efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into discovery and development of alternative energy supplies; and

(7) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, is authorized, in its, his, or their discretion (1) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(d) All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 71 of the One Hundredth Third Congress, second session, are authorized to continue.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1995, and February 1996, respectively.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery keeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 6. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 40—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS

Mr. BOND, from the Committee on Small Business, reported the following original resolution; which was referred to the Committee on Small Business:

S. RES. 40

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $1,084,471, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,112,732, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 41—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY, from the Special Committee on Aging, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 41

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $1,133,674, of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,162,865, of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required—

(1) for the disbursement of salaries of employees paid at an annual rate,

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate,

(4) for payments to the Postmaster, United States Senate,

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or

(6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations.".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, February 4, 1997, Wednesday, February 5, 1997, and Thursday, February 6, 1997, all at 9:30 a.m. to receive testimony from committee chairmen and ranking members on their committee funding resolutions for 1997 and 1998.

For further information concerning this hearing, please contact Chris Shunk of the committee staff on 224-9528.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that the hearing scheduled before the full Energy and Natural Resources Committee to receive testimony regarding S. 210, "To Amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes." The hearing will take place on Thursday, February 6, 1997, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call James Beirne, Senior counsel (202) 224-2564 or Betty Nevitt, staff assistant at (202) 224-0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 11 a.m. on Thursday, January 30, 1997, in executive session, to discuss committee organization and rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, January 30, 1997, for purposes of conducting a full committee hearing which is scheduled to begin at 10 a.m. The purpose of this oversight hearing is to consider the nomination of Federico F. Peña to be Secretary of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Finance be permitted to meet to conduct a hearing on Thursday, January 30, 1997, beginning at 10 a.m. in room 215-Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, January 30, 1997, immediately after the first rollcall vote to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, January 30, at 10 a.m. for the purpose of continuing its organizational meeting and approval of the committee funding resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, January 30, 1997 at 2:30 p.m. to conduct a business meeting to approve the committee's budget for the 105th Congress. The business meeting will be held in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet for an executive business meeting to take up committee business, and to mark up the S. Res. 1, the Balanced Budget Amendment, during the session of the Senate on Thursday, January 30, 1997, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, January 30, 1997, at 10 a.m. to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, January 30, 1997, beginning at 9:30 a.m. to hold a hearing on FEC Authorization and Campaign Finance Reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE CORPORATE SUBSIDY REFORM COMMISSION ACT

• Mr. THOMPSON. Mr. President, we introduced legislation earlier this week to establish a Corporate Subsidy Review, Reform, and Termination Commission. We know that many Americans believe that Government operates for the benefit of the few and the privileged. They believe the system does not operate fairly, and their lack of confidence in us affects our ability to enact the reforms and make the hard decisions which must be made if we are to get our country back on the right track again.

Last Congress, we actively sought to reform many areas of Government spending—we reduced Government spending by $53 billion, reformed the welfare system, restructured farm supports, rewrote telecommunications law, reformed the Federal procurement system, and adopted major immigration reforms. We identified and reformed areas of Government spending which needed fundamental reform because they did not work as well as they should.

As part of this process, a bipartisan group of Senators examined some programs whose primary beneficiaries are profit-making enterprises and proposed reforming 12 specific programs which are characterized by some element of corporate subsidization. We chose these examples to demonstrate that such programs exist in virtually every industry, from military construction, to energy production, to consumer product advertising. While all the sponsors were not uniformly enthusiastic about each of the 12 examples, we believed the package as a whole underscored an important point and demonstrated our willingness to examine Government spending in every area. This proposal was offered as an amendment to the reconciliation bill, and received the support of only one-fourth of the Senate. Clearly, this problem needed to be attacked in a different way.

As a result, we introduced another bill last Congress which was reported favorably by the Committee on Governmental Affairs. It is that bill we introduced this week to create a Commission to fairly and independently review corporate subsidies and make recommendations to the President and the Congress for the retention, reform, or termination of such subsidies.

Why establish a Commission and a new process to do what we could and should do directly?

First, this Commission will do what we cannot do well: Make an overall informed assessment of all programs, on both the spending and revenue sides, at one time. Over the years, we have created an intricate, interwoven system of subsidies, taxes, and exemptions. For example, a Tennessee utility which would have been affected by the spending cuts we proposed last Congress pointed out to me that they in turn are competing against other energy providers who receive subsidies in the form of Federal tax exemptions.

Second, our experience last Congress demonstrated that voting hit or miss on individual items is not going to be successful. One person's pork is another's prize. And no one wants to give up their prize program if there isn't shared sacrifice. With the commission approach, we will know that all programs have been examined and those which provide unjustified subsidies have been exposed.

Third, the members of the Commission will be appointed specifically for this purpose by the President and the Congress. They will possess the expertise, authority, and stature necessary to do the job.

Fourth, the Commission's recommendations will not be buried in the corner of a Federal agency or a congressional committee. While the President and Congress will be able to propose amendments to or outright reject the Commission's recommendations, they must address them.

S. 207 incorporates provisions to accommodate many of the concerns raised last Congress. This bill takes special note of the Federal Government's role in the area of international trade. In establishing the Commission's review of Federal subsidies, it is not our intent to unduly disadvantage U.S. business interests as they compete in the international marketplace. We recognize that foreign governments frequently subsidize business interests in their own countries. Eliminating a particular program or subsidy might make sense in a purely domestic context, but such action could place a U.S. company at a severe disadvantage when competing with a foreign company which has the benefit of a subsidy from its government. A U.S. Government subsidy may have been instituted in order to offset a similar subsidy to foreign competitors by foreign governments, with the intent of leveling the playing field for U.S. industry. To eliminate such a subsidy not only affects the direct U.S. business interests in global competition, but also reduces the leverage of the U.S. Government in trade negotiations. Having matched a foreign government subsidy, the U.S. Government may call for negotiations to end mutually the practice. We recognize the importance of those issues and have included provisions to address carefully the Federal Government's role in international trade.

Mr. President, we must require no less of profit-making enterprises than we ask of all Americans. It is a matter of fairness and shared sacrifice. At a time when the national debate is focused on getting control of the budget, now and in the future, we cannot afford to provide inappropriate corporate subsidies which undermine our efforts and which distort the free market. Perhaps most importantly, enactment of this legislation will demonstrate that Congress and the executive branch are serious about addressing and correcting a system which the American public as a whole sees as benefiting the few with access and influence, rather than serving the general public good.•

CONGRATULATIONS AND GOOD WISHES TO MARK SMITH

• Mr. BAUCUS. Mr. President, I rise to recognize and offer my deep gratitude to legislative director, Mark Smith, who tomorrow, after 14 years of public service, will leave our office to pursue a career in the private sector.

I first became acquainted with Mark in 1983, when he joined my office as a legislative correspondent. He worked on my second campaign for the Senate as a driver and advance worker. After attending law school, he returned to my staff as a natural resources expert, and finally became legislative director in 1993. Very rarely in my life have I met someone who so embodies the qualities of integrity, hard work, perseverance, and loyalty.

Mark's family comes from Thompson Falls in the northwest section of Montana. That part of our State is known around the world for its spectacular forests and mountains. And it is known throughout Montana for the respect its people hold for the land; for their strong ties of family and friendship; and for their old-fashioned values and work ethic.

All these have put their stamp on Mark, and Mark brings them to work every day.

He is an expert on the environment and natural resources. On these issues, Mark has always been able to find the elusive but essential balance. He has helped preserve Montana's most beautiful natural riches, while at the same time promoting and protecting the natural resource jobs that sustain so many Montana families. The preservation of Pompey's Pillar, the beauty of the Fort Peck Reservoir, and the prosperity of many Montana businesses are due in large part to Mark's appreciation of our great outdoors.

He has a respect for public service and reverence for the law that come right from the heart. Of Mark's many accomplishments here, perhaps the one that has made me proudest comes from this unique quality. That is the confirmation of two Montanans, Sid Thomas and Ron Molloy, as Federal judges. Mark helped me create a selection process that brought two of the most qualified individuals in America to the Federal bench. And that will benefit every Montanan for many years to come.

He has a rock solid work ethic and a deep respect for working men and women. Mark himself comes in to the job early and stays late. And when the Senate goes out on recess, Mark travels throughout Montana listening and learning from millworkers, farmers, small business owners, and people in every walk of life. And that has helped me more than I can say.

And finally, but perhaps most important of all, Mark is one of the most honest, loyal, and dedicated people I have ever met.

Now Mark is moving on. Everyone in our office will miss a valuable coworker, a respected adviser, and a good friend. But I and all the rest of us are very proud to have worked with Mark, and we wish him the best in the years to come.●

TRIBUTE TO THE TOWN OF BERLIN, NH, AS IT CELEBRATES ITS CENTENNIAL ANNIVERSARY

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the people of Berlin, NH, on their city's 100th anniversary. The residents of this north country community will begin celebrating this historic occasion February 2 and continue celebrating with a number of festivities including a parade, fireworks show, and music presentation.

The tract of New Hampshire's wilderness now known as Berlin allowed the first settlers striving for independence to come across the mountains to start a new community in the isolated but spectacularly beautiful, rugged land. At that time, the area was called the Plantation of Maynesborough after a renowned English gentleman to whom it was granted by the Crown in 1771. Though this area was severe in the winter, no one had to go hungry because the woods were full of deer and partridge, and the brooks and river teemed with trout. The seemingly endless stands of timber-pine, spruce, fir, and much more scenic beauty stretched across the land.

I travel to Berlin often. It is the gateway to northern New Hampshire. I am always heartened by the sense of community spirit and the dedication to excellence in the people of this industrial town. I have worked with the members of the city government, and many residents, on issues ranging from environmental protection to job security at the plants to economic development for local business. I know the people of Berlin to possess the Yankee independence exhibited by the first settler, William Sessions. That drive, fellowship, and community spirit still holds true in the Berlin of today.

The village was incorporated on February 2, 1897, by Governor Ramsdell, under the name of Berlin. Over the next 20 years, settlers continued farming, running sawmills, and raising homes and families. By 1920, Berlin became a busy industrial center and the capital of the papermaking world with the formation of the Brown family's Berlin Mills Co. It is an industry still prevalent today.

Thomas Green opened Berlin's first retail market for business in 1835. By 1890, Berlin developed a downtown of wood framed stores, churches, and other public buildings that lined the unpaved streets and wooden boardwalks. After the turn of the century, several hotels, theaters, and even a large opera house could be found in the center of Berlin's flourishing economy. On July 24, 1902, a street railway began operating between Berlin and Gorham, and in 1920, the railway transported over 1.6 million passengers.

Many of the buildings that graced the streets of Berlin in the early 1900's still exist today and exemplify some of Berlin's extraordinary architecture. Several of the events planned for Berlin's centennial celebration will take place in these historic areas of the city. Sunday evening's formal ceremonies will be held in Berlin's city hall, completed in 1914 by A.N. and J.B. Gilbert. The city hall illustrates Gerogian revival architecture.

I regret I cannot attend the joyous festivities today, but I warmly congratulate the residents of Berlin on 100 years of history. I wish to extend my very best wishes for a festive week of activities and continued prosperity. Happy birthday Berlin.●

RULES OF THE COMMITTEE ON SMALL BUSINESS

● Mr. BOND. Mr. President, pursuant to the Standing Rule 26, I submit the rules for the Committee on Small Business to be printed in the CONGRESSIONAL RECORD that was adopted by the committee during its business meeting on January 29, 1997.

The rules follow:

RULES OF THE COMMITTEE ON SMALL BUSINESS

1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee.

2. MEETING AND QUORUMS

(a) The regular meeting day of the Committee shall be the first Wednesday of each month unless otherwise directed by the Chairman. All other meetings may be called by the Chairman as he deems necessary, on 3 days notice where practicable. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, the Ranking Majority member present shall preside.

(b)(1) A majority of the Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) One-third of the Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one Minority Member is present. The term "routine business" includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments. 132 Congressional Record §3231 (daily edition March 21, 1986)

(3) In hearings, whether in public or closed session a quorum for the asking of testimony, including sworn testimony, shall consist of one Member of the Committee.

(c) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

(d) It shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless thirty written copies of such amendment have been delivered to the office of the Committee at least 24 hours prior to the meeting. This subsection may be waived by the Chairman or by a majority vote of the members of the Committee.

3. HEARINGS

(a)(1) The Chairman of the Committee may initiate a hearing of the Committee on his authority or upon his approval of a request by any Member of the Committee. Written notice of all hearings shall be given, as far in advance as practicable, to Members of the Committee.

(2) Hearings of the Committee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chairman and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting.

(b)(1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(b).

(2) Interrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chairman or Ranking Minority Member.

(3) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least 48 hours in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chairman and the Ranking Minority Member.

(c) Witnesses may be subpoenaed by the Chairman with the agreement of the Ranking Minority Member or by consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting. Subpoenas shall be issued by the Chairman or by the Member of the Committee designated by him. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents and records shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or closed hearing may be accompanied by counsel of his own choosing, who shall be permitted while the witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken, or confidential material presented to the Committee, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted voluntarily or pursuant to a supoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

4. SUBCOMMITTEES

The Committee shall not have standing subcommittees.

5. AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended; provided, however, that not less than a majority of the entire Membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.●

RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. MURKOWSKI. Mr. President, in accordance with rule XXVI, paragraph 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the rules of the Committee on Energy and Natural Resources.

The rules follow:

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and the ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), seven Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless eleven Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request on any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form required in the case of Presidential nominees under this rule.

CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing on business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.●

RULES OF PROCEDURE OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. JEFFORDS. Mr. President, in accordance with Rule XXVI, paragraph 2 of the Standing Rules of the Senate, I hereby submit for publication in the Record the Rules of Procedure of the Committee of Labor and Human Resources.

The rules follow:

Senate Committee on Labor and Human Resources

RULES OF PROCEDURE (AS AGREED TO JANUARY 22, 1997)

Rule 1. Subject to the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD-430, Dirksen Senate Office Building. The chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2. The chairman of the committee or of a subcommittee, or if the chairman is not present, the ranking majority member present, shall preside at all meetings.

Rule 3. Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.

Rule 4. (a) Subject to paragraph (b), one-third of the membership of the committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the committee which is composed of less than a majority of the members of the committee shall include at least one member of the majority and one member of the minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a minority member, the measure or matter shall lay over for a day. If the presence of a member of the minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the committee or a subcommittee unless a majority of the committee or subcommittee is actually present at the time such action is taken.

Rule 5. With the approval of the chairman of the committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6. Proxy voting shall be allowed on all measures and matters before the committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The committee may poll any matters of committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7. There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any committee member. The clerk of the committee, or the clerk's designee, shall have the responsibility to make appropriate arrangements to implement this rule.

Rule 8. The committee and each subcommittee shall undertake, consistent with the provisions of rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9. The committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the chairman and the ranking minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the committee or a subcommittee. The committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10. Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition.

Rule 11. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12. It shall be the duty of the chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13. Whenever a meeting of the committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of rule 26.5 of the Standing Rules of the Senate, no person other than members of the committee, members of the staff of the committee, and designated assistants to members of the committee shall be permitted to attend such closed session, except by special dispensation of the committee or subcommittee or the chairman thereof.

Rule 14. The chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the committee or a subcommittee for final consideration, the clerk shall place before each member of the committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted and in italics, the matter proposed to be added, if a member makes a timely request for such print.

Rule 16. An appropriate opportunity shall be given the minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the majority to examine the proposed text prior to filing or publication.

Rule 17. (a) The committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the committee or subcommittee shall constitute a quorum: provided, with the concurrence of the chairman and ranking minority member of the committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The committee may, by a majority vote, delegate the authority to issue subpoenas to the chairman of the committee or a subcommittee, or to any member designated by such chairman. Prior to the issuance of each subpoena, the ranking minority member of the committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the chairman of the committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the committee requesting same, or to any assistant to a member of the committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the chairman of the committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(d) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

Rule 18. Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and

(II) information relating to financial and other background of the nominee, to be made public when the committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (parts I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (part II) shall not be required of any nominee when the committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19. Subject to statutory requirements imposed on the committee with respect to procedure, the rules of the committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20. In addition to the foregoing, the proceedings of the committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

RULE XXV

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(m)(1) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.

2. Aging.

3. Agricultural colleges.

4. Arts and humanities.

5. Biomedical research and development.

6. Child labor.

7. Convict labor and the entry of goods made by convicts into interstate commerce.

8. Domestic activities of the American National Red Cross.

9. Equal employment opportunity.

10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.

11. Handicapped individuals.

12. Labor standards and labor statistics.

13. Mediation and arbitration of labor disputes.

14. Occupational safety and health, including the welfare of miners.

15. Private pension plans.

16. Public health.

17. Railway labor and retirement.

18. Regulation of foreign laborers.

19. Student loans.

20. Wages and hours of labor.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to health, education and training, and public welfare, and report thereon from time to time.

RULE XXVI

COMMITTEE PROCEDURE

1.[1] Each standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration.[2] The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

* * * * *

5. (a) Notwithstanding any other provision of the rules, when the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

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[1] As amended. S. Res. 281, 96–2, Mar. 11, 1980 (effective Feb. 28, 1981).

[2] Pursuant to section 68c of title 2, United States Code, the Committee on Rules and Administration issues Regulations Governing Rates Payable to Commercial Reporting Firms for Reporting Committee Hearings in the Senate." Copies of the regulations currently in effect may be obtained from the Committee.

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or other wise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance of any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

* * * * *

GUIDELINES OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES WITH RESPECT TO HEARINGS, MARKUP SESSIONS, AND RELATED MATTERS

HEARINGS

Section 133A*(a)* of the Legislative Reorganization Act requires each committee of the Senate to publicly announce the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of section 133A*(a)* and in order to assure that members of the committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. Seven days prior to public notice of each committee or subcommittee hearing, the committee or subcommittee should provide written notice to each member of the committee of the time, place, and specific subject matter of such hearing, accompanied by a list of those witnesses who have been or are proposed to be invited to appear.

3. The committee and its subcommittee should, to the maximum feasible extent, enforce the provisions of rule 9 of the committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. When statements are received in advance of a hearing, the committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members.

EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the committee so that there may be full and fair consideration of each bill which the committee or a subcommittee is marking up the following procedures should be followed:

1. Seven days prior to the proposed date for an executive session for the purpose of marking up bills the committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(a) two copies of each bill, joint resolution, or other legislative matter (or committee print thereof) to be considered at such executive session; and

(b) two copies of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session; and

2. Three days prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or subcommittee (as appropriate) should deliver to each of its members two copies of a Cordon print or an equivalent explanation of changes of existing law proposed to be made by each bill, joint resolution, or other legislative matter to be considered at such executive session.

3. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, each member of the committee or a subcommittee (as appropriate) should provide to all other such members two written copies of any amendment or a description of any amendment which that member proposes to offer to each bill, joint resolution, or other legislative matter to be considered at such executive session.

4. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

COMMITTEE REPORTS, PUBLICATIONS, AND RELATED DOCUMENTS

Rule 16 of the committee rules, requires that the minority be given an opportunity to examine the proposed text of committee reports prior to their filing and that the majority be given an opportunity to examine the proposed text of supplemental, minority, or additional views prior to their filing. The views of all members of the committee should be taken fully and fairly into account with respect to all official documents filed or published by the committee. Thus, consistent with the spirit of rule 16, the proposed text of each committee report, hearing record, and other related committee document or publication should be provided to the chairman and ranking minority member of the committee and the chairman and ranking minority member of the appropriate subcommittee at least forty-eight hours prior to its filing or publication.●

RETIREMENTS OF ARTHUR CURRAN, DONN LARSON, AND RICHARD GIBBONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 36 presented earlier today by myself and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 36) relative to the retirements of Arthur Curran, Donn Larson, and Richard Gibbons.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, when the First Congress convened in 1789, one of the more pressing problems for the Senate was its inability to keep a majority of Members in the Capitol long enough to establish a quorum, organize, and begin the business of Government. In response, the Senate established the Office of Doorkeeper. As the first officer of the Senate, the Doorkeeper's primary responsibilities were to keep Senators in and, as proceedings were held in closed session for the first 6 years, keep everyone else out.

In 1795, the Senate began holding open sessions which required the opening of public galleries. And, once again, it fell to the Doorkeepers to maintain decorum and enforce the rules of the Senate.

Mr. President, as I speak here today, and every day that the Senate is in session, there are more than a score of Doorkeepers, both on the floor of the Senate and dutifully standing post in the galleries. The Senate is grateful for the dedication and service of the ranks of the members of the Office of the Doorkeeper. In particular, I want to commend the service of three individuals who have given a cumulative service of nearly 70 years to the U.S. Senate.

On behalf of the Senate I want to thank Messrs. Richard Gibbons, Arthur Curran, and Donn Larson. Regrettably, I am informed that each will retire at the end of this month.

Arthur Patrick Curran has faithfully served the U.S. Senate as a Doorkeeper for the past 21 years. Initially appointed by Vice President Nelson Rockefeller in 1975, 6 years later he was promoted to Superintendent of Doorkeepers and has served in that capacity until his retirement in January 1997. In addition to his normal post at the Senate Chamber, Mr. Curran has performed his duties in numerous high profile Senate hearings, joint sessions, and Presidential inaugurations.

Mr. Curran, a native of Washington, DC, has strong links to New England and a keen interest in politics. In fact with his tall stature, bow tie, and stately appearance, he is often confused for being a Senator. On several occasions, as visitors have left the gallery, they have congratulated him for his fine speech.

Donn Larson, Deputy Superintendent of Doorkeepers, is also retiring after many years of dedicated service to the U.S. Senate. Donn started his career with the Senate under an appointment from Senator Milton Young (R-ND) in 1959. From 1961 to 1968, he worked in the Republican Cloakroom, assisting the Secretary to the Minority.

From 1969 to 1977, Donn worked in the Federal Government. He served with the State Department Inspector General for Foreign Assistance, as well as with the Department of Health, Education and Welfare. In 1977, Donn returned to the U.S. Senate, and in 1981 assumed the position of Deputy Superintendent of Doorkeepers.

Richard Gibbons began service with the Office of Doorkeeper in the 94th Congress—1977. For a number of years, he served as the press liaison for the Doorkeeper's Office. During the 103d Congress, Richard was assigned to work solely on the Senate floor, assisting Members of the Senate.

Each of us have known these men over the years for their tireless efforts in maintaining decorum of the Chamber and galleries and assisting Members on the floor of the Senate. Countless letters of appreciation have been written by our constituents thanking these men for there kindness and courtesies.

On the occasion of their retirement from Federal service, I want to extend the very best wishes of the U.S. Senate and a grateful Nation.

Mr. DASCHLE. Mr. President, this resolution commends the service of three very important Senate staff members, members who have served this institution exceedingly well, in some cases for many years, even decades. I want to add my own commendation and congratulations to these three very distinguished members of our Senate family.

Arthur Curran has been the Superintendent of Senate Doorkeepers for a long time. He was appointed by the Vice President in 1975, at that time Vice President Rockefeller, and has served as our Superintendent of Doorkeepers since 1981.

Those duties involving his particular position are extraordinarily consequential and far-reaching. He is responsible for joint sessions of Congress. He is also responsible for high-profile Senate hearings, and all of the inaugurations, including the one just completed last week.

He is a native of Washington, DC, and spent many summers in Maine as he was growing up. But over the time that I have had the good fortune to know him, Arthur has also proved to me to be a real connoisseur of good restaurants and has given me a lot of good tips over the years as to restaurants that I should try.

But far more important than his knowledge of good restaurants in the area, Arthur Curran has an institutional knowledge and respect that will be impossible to replace.

Arthur Curran leaves tomorrow with our good wishes, with our thanks, with our profuse respect. We thank him for a job well done. We encourage him to enjoy all of his new endeavors. And we thank those members of his family who have sacrificed, along with Arthur, that he might do the kind of job that he has now for more than 20 years.

Donn Larson is the Deputy Supervisor of Doorkeepers. He, too, was appointed decades ago. He was first appointed by Senator Milton Young in 1959. He worked in the Republican Cloakroom from 1961 to 1968; and from 1969 to 1977 worked for the State Department and the Department of Health, Education, and Welfare.

He returned to the U.S. Senate in 1977, and has been the Deputy Supervisor of the Doorkeepers, also, since 1981.

Donn Larson, like Arthur Curran, knows this institution. He has watched Senators come and go. He has watched the progress of democracy and heard all of the noise of democracy each day with all of its volume. His civility, his cooperation, his extraordinary demeanor is something that we will miss, beginning on Monday.

We again congratulate and commend Donn Larson for an extraordinary contribution to his country and for a remarkable career here in the U.S. Senate.

Richard Gibbons—somebody we all know because he is right here on the floor—is a floor attendant. He began working for the Senate doorkeepers in 1977. For many years he worked as press liaison outside the President's room just off the Senate floor. And during the 103d Congress, Richard was moved out to the floor where he has helped Senators and staff and everybody else who has come through with whatever needs they might have. He has helped to keep order in the Chamber, and he has done an extraordinarily effective job.

Richard Gibbons, too, deserves our thanks and deserves the respect that he has now earned on both sides of the aisle. We commend him. We thank him. We wish him well in all of his future endeavors as well.

As I mentioned a moment ago, men and women who come to work with us in the Senate Chamber make an immense sacrifice, oftentimes in terms of the income they could acquire at jobs outside of Capitol Hill, in time spent here when they could be spending it with their families. We thank their families for the support that they have given them. We thank them for their understanding. We thank them for allowing us the opportunity and good fortune to work with them with the frequency and with the success that we have.

So on this day it is with some sadness that we note the departure of Arthur Curran, Donn Larson, and Richard Gibbons. But with great enthusiasm, we wish them well as they take on new roles and new responsibilities and certainly many more opportunities in their lives ahead.

I know this resolution will pass overwhelmingly, as it should, because Republicans and Democrats owe these three individuals a very deep sense of gratitude.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 36), with its preamble, reads as follows:

S. RES. 36

Relative to the retirements of Arthur Curran, Donn Larson and Richard Gibbons;

Whereas Arthur Curran, Donn Larson and Richard Gibbons will retire from the Senate on January 31, 1997;

Whereas Arthur Curran was appointed as a Senate doorkeeper in 1975 by Vice President Rockefeller;

Whereas Arthur Curran rose to the post of superintendent of doorkeepers and has dutifully served in that post for the last 15 years;

Whereas Donn Larson first began his Senate career under an appointment from Senator Milton Young in 1959;

Whereas Donn Larson served in the Republican cloakroom from 1961 to 1968, leaving to work in the Federal Government until his return to the Senate in 1977, where he has served as Deputy Supervisor of the doorkeepers since 1981;

Whereas Richard Gibbons has served as a Senate doorkeeper since 1977, acting as press liaison outside the President's room just off the Senate floor;

Whereas since the 103rd Congress Richard Gibbons has served in the Senate Chamber and has diligently assisted both Senators and staff alike in a myriad of tasks in addition to his role of helping to maintain order in the Chamber;

Whereas each of these three gentlemen has faithfully served the Senate and they have carried out their duties with efficiency and good nature;

Now therefore be it resolved that the Senate extends its thanks to Arthur Curran, Donn Larson, and Richard Gibbons for their many years of dedicated service and wishes them well in their future aspirations.

The secretary of the Senate shall transmit a copy of this resolution to Arthur Curran, Donn Larson, and Richard Gibbons.

THE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 9 and 10, Senate Resolution 31 and Senate Resolution 32.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR MEMBERS ON THE PART OF THE SENATE OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 31) providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution, (S. Res. 31) was agreed to, as follows:

S. RES. 31

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: John Warner; Thad Cochran; Mitch McConnell; Wendell H. Ford; and Daniel K. Inouye.

JOINT COMMITTEE ON THE LIBRARY OF CONGRESS: Ted Stevens; John Warner; Thad Cochran; Daniel Patrick Moynihan; and Dianne Feinstein.

AUTHORIZING PRINTING OF A COLLECTION OF RULES OF COMMITTEES OF THE SENATE

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 32) to authorize the printing of a collection of the rules of the committees of the Senate.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 32) was agreed to, as follows:

S. RES. 32

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the Committee on Rules and Administration.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: No. 4, Alan Hantman, to be Architect, all routine military nominations reported by the Armed Services Committee today, and all nominations placed on the Secretary's desk in regard to the Coast Guard.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to these nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

CONGRESS OF THE UNITED STATES

Alan M. Hantman, of New Jersey, to be Architect of the Capitol for the term of ten years.

IN THE AIR FORCE

The following-named officer for appointment to the grade of general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Lloyd W. Newton, 5211.

The following-named officers for promotion in the Regular Air Force of the United States to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Maxwell C. Bailey, 0835.
Brig. Gen. William J. Dendinger, 3556.
Brig. Gen. Dennis G. Haines, 8791.
Brig. Gen. Charles R. Henderson, 0660.
Brig. Gen. Charles R. Holland, 4055.
Brig. Gen. Silas R. Johnson, Jr., 2407.
Brig. Gen. Thomas J. Keck, 7294.
Brig. Gen. Rodney P. Kelly, 8032.
Brig. Gen. Ronald E. Keys, 5357.
Brig. Gen. David R. Love, 7046.
Brig. Gen. Earl W. Mabry II, 2663.
Brig. Gen. Richard C. Marr, 7645.
Brig. Gen. William F. Moore, 9750.
Brig. Gen. Thomas H. Neary, 0508.
Brig. Gen. Susan L. Pamerleau, 8423.
Brig. Gen. Andrew J. Pelak, Jr., 7135.
Brig. Gen. Gerald F. Perryman, Jr., 9961.
Brig. Gen. Roger R. Radcliff, 8907.
Brig. Gen. Richard H. Roellig, 6384.
Brig. Gen. Lansford E. Trapp, Jr., 7799.
Brig. Gen. Thomas C. Waskow, 1732.
Brig. Gen. Charles J. Wax, 3013.
Brig. Gen. John L. Woodward, Jr., 3961.
Brig. Gen. Michael K. Wyrick, 5017.

IN THE ARMY

The following-named Army Competitive Category officer for promotion in the Regular Army of the United States to the grade of major general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

To be major general

Brig. Gen. Larry G. Smith, 2572.

The following-named Army Competitive Category officer for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

To be brigadier general

Col. Mitchell M. Zais, 7282.

MARINE CORPS

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James L. Jones, 2699.

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Martin R. Steele, 2490.

IN THE AIR FORCE

Air Force nominations beginning Samuel R. Bakalian, Jr., and ending Jerry A. Weihe, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

IN THE ARMY

Army nominations beginning Robert J. Metz, and ending Kathleen W. Carr, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning Owen H. Black, and ending Dale N. Woodling, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nomination of Randel D. Matney, which nomination was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning *Ronald P. Turnicky, and ending Matthew W. Raymond, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning John E. Rueth, and ending Douglas R. Yates, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nomination of Phillip J. Todd, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nomination of Emmanuel M. Chiaparas, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning *Benje H. Boedeker, and ending Martha K. Lenhart, which nominations were received by the Senate and appeared in the the Congressional Record on January 7, 1997.

Army nomination of *Rupert H. Peete, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning 4673X, and ending *Scott A. Svabek, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning Mark S. Ackerman, and ending Donna L. Wilkins, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

IN THE COAST GUARD

Coast Guard nomination of Laura H. Guth, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Robert R. Albright II, and ending James R. Dire, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Francis C. Buckley, and ending Allen K. Harker, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Ronald G. Dodd, and ending Michael E. Thompson, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Joseph F. Ahern, and ending Catherine M. Kelly, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Roy F. Williams, and ending Joseph P. Cain, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning George A. Russell, Jr., and ending Elmo L. Alexander II. which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Brian C. Conroy, and ending Karen E. Lloyd, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

IN THE MARINE CORPS

Marine Corps nomination of James W. Brown, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Marine Corps nomination of Chris J. Gunther, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Marine Corps nomination of Douglas S. Kurth, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Marine Corps nominations beginning Randall N. Miller, and ending Gary W. Schenkel, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

IN THE NAVY

Navy nominations beginning Gary D. Bumgarner, and ending Reynoldo Resendez, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Navy nominations beginning Marcial B. Dumlao, and ending Rebecca L. Kirk, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

NOMINATION OF ALAN HANTMAN

Mr. WARNER. Mr. President, I ask unanimous consent that the following biography of Alan M. Hantman be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

EXECUTIVE BIOGRAPHY OF ALAN M. HANTMAN, A.I.A., VICE PRESIDENT—FACILITIES PLANNING AND ARCHITECTURE, ROCKEFELLER CENTER MANAGEMENT CORPORATION

Alan M. Hantman has been with Rockefeller Center Management Corporation since 1986, serving as Vice President for Architecture, Planning, and Construction. In this position, he has been responsible for assuring the maintenance of Rockefeller Center's high standards as a cohesive urban complex, as a world-renowned blending of art and architecture, as both a National Historic and New York City Landmark, and as an attractive, high quality home for 65,000 tenants and 200,000 visitors who come there each day.

Mr. Hantman has played a leading role in Rockefeller Center Corporation's $300 million Capital Improvement Program, as well as in the day to day management of this 15 million square-foot "city within a city." This work includes coordination of internal architectural, engineering, and display/graphics professionals, project managers, and plan reviewers and archivists. The selection and monitoring of consulting architects, engineers, artists, preservationists, and construction contractors has also been an important part of his responsibilities. In 1995 Alan was named Vice President, Facilities Planning and Architecture and given strategic planning responsibilities for all buildings at Rockefeller Center along with continued oversight of all art, architecture, and preservation issues.

Alan came to Rockefeller Center from Cushman & Wakefield Inc.'s Development Consulting Group where he held the position of Project Director for architectural and planning projects. Responsibilities included providing consulting services for programming, planning and design for major corporate headquarters buildings, office structures and a wide variety of other commercial undertakings. Projects ranged from new construction to retrofit programs and tenant interiors. Major clients included The World Bank, Washington, DC; Dravo Corporation of Pittsburgh; Banco Mercantile of Caracus, Venezuela; and the New York State Department of Transportation at Stewart International Airport.

In his professional experience, Alan has also served as Assistant Chief Architect with the national architecture-engineering firm of Gibbs & Hill Inc., and with the internationally known architectural design firm of Ulrich Franzen & Associates. Among his clients were Mellon Bank, Equitable Life Assurance Society of America; The Royal Commission of Jubail and Yanbu, Saudi Arabia; Phillip Morris Inc.; Miller Brewing Company; Hunter College; and the New York State University Construction Fund.

Alan is a member of the American Institute of Architects, Building Owners and Managers Association, and The New York Building Congress, and has lectured on the subjects of the design and evolution of Rockefeller Center, computer assisted design, and facilities management, at various forums including Pratt School of Architecture, CCNY, and Cornell University's Masters Program in Facilities Planning and Management.

A registered architect in the states of New York and New Jersey, Alan is also certified by the National Council of Architectural Registration Boards, and holds a Masters Degree in Urban Planning. The New York Society of Architects awarded him its Sidney L. Strauss Award, "For Outstanding Achievement For the Benefit of the Architectural Profession," for his work at Rockefeller Center.

Licenses: Architect—New York and New Jersey Registrations Certification by National Council of Architectural Registration Boards.

Education: Masters in Urban Planning, 1979, Graduate Center, City University of NY; Bachelor of Architecture, 1966, College of the City of New York—CCNY; and B.S., Architecture 1965, College of the City of New York—CCNY.

Summary: Thirty years of increasingly responsible management experience covering all aspects of the building design-construction-management process. These responsibilities include: the direct control of art, architecture, preservation, and tenant occupancy considerations for Rockefeller Center, a 15 million square foot urban commercial office and retail complex; architectural consultant in the development consulting division of Cushman & Wakefield Inc., a national real estate firm; the position of Assistant Chief Architect for Gibbs & Hill Inc., a major architecture-engineering firm; multiple projects with the internationally known design firm of Ulrich Franzen & Associates.

Leadership Skills: Demonstrated ability to: communicate clearly and effectively with all organizational levels in formal and informal meetings and presentations; provide vision and oversight for strategic planning processes; direct inter-disciplinary teams of internal and consulting professionals in complex projects; select and monitor consulting architects, engineers, artists, preservationists and contractors; interface with regulatory agencies to facilitate timely project completion; develop and control budgets and schedules; work with staff to achieve job satisfaction while contributing to the accomplishment of organizational goals.

Detailed Experience 1986—Present: Rockefeller Center Management Corporation (Staff Size; approximately 1,200), Vice President Facilities Planning and Architecture Responsible for assuring the maintenance of Rockefeller Center's high standards as a cohesive urban complex, as a world renowned blending of art and architecture, and as both a National Historic and a New York City landmark. Responsible for major parts of RCMC's $300 million Capital Improvement Program, including: the restoration and reconstruction of the Rainbow Room complex; the Multi-Tenant Floor Improvement Program; the development of a master plan for roof and facade maintenance and repair; the 47th-50th Street Subway Station refurbishment; and the lobby renovation for 1270 Avenue of the Americas which won a New York State Institute of Architects Honor Award. Responsible for strategic planning for all Rockefeller Center buildings.

Specific management and oversight responsibilities include: Manage all environmental design and planning, aesthetic, and quality of environment considerations in as efficient and cost conscious manner as possible, consistent with quality standards. Recommend appropriate design programs having aesthetic and environmental implications for Rockefeller Center; Work to develop an enhanced design consciousness within the company to maintain and promote a positive public image of a corporation sensitive to quality and preservation issues in both public and private spaces; Develop budgets, obtain appropriate approvals, and implement projects. Responsible for strategic planning for all Rockefeller Center buildings; and Assist in developing within the entire management organization an anticipatory, participative operating style to promote job satisfaction and opportunities for advancement while achieving overall institutional goals.

Specific Rockefeller Center projects include: Restoration and reconstruction of the world famous Rainbow Room Complex ($25 million). This project won many awards for its design sensitivity and successful restoration work; Multi-Tenant Floor Improvement Program ($41 million); Master plan for roof and facade maintenance and repair (To Date: roofs—$19 million; facades—$14 million); 47th–50th Street Subway Station refurbishment ($3 million); Lobby Renovation for 1270 Avenue of the Americas ($2.5 million): This project won a New York State Institute of Architects Honor Award and includes newly commissioned artwork; Sidewalk reconstruction ($6 million); Lobby renovation for 1230 Avenue of the Americas ($1.8 million including newly commissioned artwork); All architectural input for new central plant, global control room, security center, etc. ($90 million plus); and Artwork restoration throughout Rockefeller Center ranging from stone bas reliefs, to three 18 ft. diameter mixed metal art deco medallions on the exterior of Radio City Music Hall ($1 million).

1983–1986—Cushman & Wakefield, Inc. (Staff Size: approximately 600); Architectural Development Consultant, and Responsible for developing corporate and institutional housing strategies, including considerations of image, growth and functional needs, and building retrofit potential. Responsible for integrating these needs with relevant brokerage, building, operations, financial analysis, and appraisal considerations to develop comprehensive housing recommendations to major clients. Implementation of these studies through the coordination of architectural, engineering and construction consultants on behalf of corporate, private and governmental clients throughout the process.

Specific Cushman & Wakefield projects and clients include: The World Bank, Washington D.C.: $25 M "J" Building at 18th and Pennsylvania Avenue, plus Master Plan studies for main World Bank complex: Banco Mercantil, Caracas, Venezuela: Study for square block commercial development; and New York State Department of Transportation, Stewart International Airport: Study for development of 9500 acre site.

1973–1983—Gibbs & Hill, Inc. (Staff Size: approximately 3,000) Assistant Chief Architect; Assistant Chief Architect for a large architectural-engineering firm with an architectural departmental staff of architects, interior designers, facilities managers, and graphic designers. In-depth involvement in all aspects of the day to day functioning of the department, including staffing, assignments production, procedures and standards, planning, scheduling and cost control. Specific experience included:

Planning, Scheduling, and Cost Control responsibilities for Architecture Departmental staff as well as major projects for which the department was responsible. Prepared RFP's of all sizes and formulated contracts for projects, consultants, and joint venture architects and interior designers.

Project Architect for the design and implementation of a phased master plan for a $2 billion half-mile square power-desalination complex for Yanbu, a new city in Saudi Arabia. Responsible for all phases from master planning through the development of detailed design and construction documents for 25 buildings: prestige office, central control and training facilities, quality industrial, maintenance, and warehouse structures.

Design Control on projects including: Master Plan and architectural design implementation of Yanbu power-desalination complex ($2 billion); architectural design of Simulator Training Center in Taiwan ($2 million); interior design for 400,000 SF of commercial office space at Gibbs & Hill's New York headquarters as well as regional facilities ($5 million); interior design for 100,000 SF of headquarters office space for real estate division of Equitable Life Assurance Society of America, Atlanta, GA ($8 million).

Facilities Management responsibilities for Gibbs & Hill's headquarters and regional office space including: program evaluation, individual work station design, preparation of budgets, construction drawings and specifications, field supervision, and the design, purchasing and installation of all furniture, furnishings and equipment.

Strategic and In-depth Corporate Growth Programming: Conducted in-depth interviews with a wide variety of clients, from CEOs to line managers of major corporations and financial institutions. Established long range, functional and basic programmatic needs for new building projects, renovations, and facilities management responsibilities. Clients include: Mellon Bank, N.A., Pittsburgh, PA; Equitable Life Assurance Society of America, Atlanta, GA; Dravo Corporation, Pittsburgh, PA; United National Bank & Trust Co., Canton, Ohio (30,000 SF study).

Computer Graphics research and development: Responsible for coordination of team effort to produce a user-friendly computer graphics system utilizing intelligent drawings for the production of Architecture, Interior Design and Facilities Management reports. Reports are produced interactively through a mainframe environment between graphic and alpha-numeric input terminals. Capabilities of this system include FF&E reports for vendor ordering, departmental and personnel location and space utilization reports, telephone directories, etc.

1968–1973—Ulrich Franzen & Associates (Staff Size: approximately 45) Project Manager; Responsibilities included: master planning and construction documents for the Faculty of Arts & Letters and Cultural Center, at the new 30,000 student State University of New York at Buffalo, Amherst (full design and construction documents for $6.5 million English and Modern Languages Building, schematic design for Music and Chamber Hall Buildings, and planning for Theaters and Art and Architecture Departments); planning and scheduling for major Hunter College urban expansion, New York City ($50 million); construction documents for Bronx State School for Mentally Retarded ($22 million); master planning for downtown redevelopment of Ossining, New York and a new 100 acre Miller Brewing Company plant and Visitor Center.

1968—Schofield & Colgan, Architects (Staff Size: approximately 25) Architectural Detailer; Responsibilities included: construction drawings for suburban corporate headquarters for Union Camp Corporation, Wayne NJ ($8 million).

1966–1967—Lathrop Douglas, Architects (Staff Size: approximately 40) Architectural Detailer; Responsibilities included: construction drawings for the Fashion Center, Paramus, NJ; Tyson's Corners Shopping Center, Fairfax County, VA; Menlo Park Shopping Center, Menlo Park, NJ.

Memberships and Awards: American Institute of Architects, Building Owners and Managers Association, The New York Building Congress, National Trust for Historic Preservation, The New York Society of Architects Sidney L. Strauss Award "For Outstanding Achievement for the Benefit of the Architectural Profession," for work at Rockefeller Center.

Lectures: Pratt School of Architecture, College of the City of New York School of Architecture, Cornell University Master's Program in Facilities Planning & Management.

Mr. LAUTENBERG. Mr. President, I rise today in support of Alan Hantman of New Jersey, who will soon become the next Architect of the Capitol.

Mr. President, Mr. Hantman is eminently qualified for this position, and has a long and successful track record. Most recently, he served as vice president of facilities planning and architecture at Rockefeller Center from 1986 until mid-July of last year.

As Architect of the Capitol, Mr. Hantman will be responsible for the maintenance of a large and varied Capitol complex. I know he will do an outstanding job. Over the past 30 years, he has earned the respect of many in his profession, who know him to be a man of great competence and leadership.

Mr. President, the Capitol is a very special place, not only for those of us fortunate enough to work here, but for all Americans. Indeed, the image of our Capitol dome is a symbol of freedom and liberty throughout our world.

We are fortunate that this special symbol, and the great complex of which it is a part, will be in the hands of someone as competent as Alan Hantman. I wish him all the best in his new position.

Ms. MIKULSKI. Mr. President, I rise today in support of the nomination of Alan Hantman to be the next Architect of the Capitol.

Mr. Hantman's nomination is the culmination of a long and thorough search process conducted by the bipartisan Architect of the Capitol Search Commission.

He has a distinguished record, having served as vice president for architecture, planning, and construction at the Rockefeller Center. I believe he is in an excellent position to lead the Architect of the Capitol into the 21st century.

The U.S. Capitol is a unique historical institution. The new Architect will face many challenges in leading the work force of 2,100 employees. The new Architect will have to work on not only preserving the historical integrity of the Capitol, but also of managing the work force, which is comprised of dedicated and hard-working men and women many of whom I am proud to say are Maryland residents. They are being required to do more work with less help.

I have had a particular interest in the Architect's employment practices and how the workers are being treated, most of whom are blue-collar, minority workers. My concern dates back many years to the tenure of George White. Many of the workers under then-Architect White came to me, as a last resort, to complain about the rampant discrimination that was prevalent within the Architect's office.

For instance, one worker with 30 years of service had never received a raise until I intervened. This was a clear case of discrimination. And, there were many others.

I asked the General Accounting Office in 1992 to investigate the management practices of the Architect's office. The GAO found that the Architect's office did not have a modern personnel management system in place.

As a result of the GAO report, I introduced legislation to establish a professional management system, the Architect of the Capitol Human Resources Act, which was passed into law in 1994. I also called for the resignation of George White, who failed to hold the managers and superintendents within the Architect's office accountable for poor management practices.

My legislation made extensive changes to the personnel system in the Architect's office. It established merit-based hiring and promotions, an equal employment opportunity program, equal pay for equal work, a training program, job evaluations, an open and fair disciplinary process, a confidential employee assistance program, and an employee personnel manual.

Some of the law's requirements have been slowly implemented. I think it should be the No. 1 priority of the new Architect to fully implement and enforce the law's requirements. I believe it is important for the workers to know that their workplace will be free of discrimination. It is no more than what we require for all businesses.

I hope Mr. Hantman will function not only as an Architect, but as a social architect in running the Architect of the Capitol. I have tremendous hope that we will see change in the Architect's office. It is long overdue.

I want to maintain the current work force. I do not want to see the next Architect rush to privatize services. It is important that we establish an independent task force to review the impact of privatization on employees, security, and cost-savings. I am confident that Mr. Hantman Architect will be willing to listen to these concerns.

I believe the confirmation of the next Architect could mark the beginning of a new and progressive era for the Architect of the Capitol and its employees.

I am prepared to work closely with Mr. Hantman to ensure that the reforms suggested by the GAO report and outlined in my law will take place.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

THE RETIREMENT OF WILLIAM L. ENSIGN, ACTING ARCHITECT OF THE CAPITOL

Mr. WARNER. Mr. President, William L. Ensign, Acting Architect of the Capitol, is retiring on February 3, 1997, after 20 years of Federal service. Bill began his distinguished career with the Office of the Architect of the Capitol as the Assistant Architect in May 1980. He occupied this position until November 22, 1995, when, upon the retirement of George M. White, he became the Acting Architect of the Capitol.

Bill, in his role as Assistant Architect, was also the Director of Architecture and the principal adviser to the Architect in all matters concerning the architectural design of new buildings, the restoration and renovation of existing buildings, and the planning and adaptive reuse of facilities throughout the Capitol Hill complex of buildings. Specifically, Bill was responsible for the Architecture and Construction Divisions encompassing design, construction, and production technology.

In November 1995, Bill inherited the leadership of the office. In this capacity he has been responsible to the Congress for all design, construction, care, operations, and maintenance of facilities within the Capitol Hill complex of buildings.

Prior to service with this Office, Bill was president and chief executive officer of the firm McLeod, Ferrara, Ensign Chartered Architects, from 1955 to 1980. He also served as an officer in the Civil Engineer Corps of the U.S. Navy from 1952 to 1955.

Mr. President, on the occasion of his retirement, I am honored to express and extend my gratitude and appreciation to William L. Ensign, for his many years of dedication and professionalism to the Congress and the Nation. Bill's commitment and expertise has assured that future generations will be able to visit the buildings and grounds and enjoy the rich history that is encompassed in the Capitol complex.

Mr. President, I thank Bill for his distinguished service and wish him and his family the very best during his retirement years.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that on Monday, February 3, committees have from the hours of 12 p.m. to 7 p.m. to file legislative or executive matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, FEBRUARY 3, 1997, AND TUESDAY, FEBRUARY 4, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Monday, February 3, for a pro forma session only. I further ask unanimous consent that immediately following the pro forma session on Monday, the Senate stand in adjournment until the hour of 11 a.m. on Tuesday, February 4; that on Tuesday, following the prayer, the routine requests through the morning hour be granted; further, that there then be a period for morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that on Tuesday, the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet as usual.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for all Senators' information, the Senate will not be in session on Friday. There will be a pro forma session on Monday, which we just pointed out, at 9:30, with no business to be conducted. The Senate will be in session on Tuesday, and it is possible that following the weekly policy luncheons on Tuesday, the Senate may consider additional nominations that will come available. There are some that are moving and, hopefully, have been reported, and maybe will be ready by Tuesday. So Senators should expect the possibility of rollcall votes on Tuesday during the session. Members will be notified of the specific times we will have those votes scheduled.

Under a previous consent, the Judiciary Committee will be able to file a report accompanying the balanced budget amendment on Monday. It is my hope we will then be able to begin consideration on that important constitutional amendment sometime during Wednesday's session of the Senate.

I also would like to remind my colleagues that the President's State of the Union Address is scheduled at 9 p.m. on Tuesday evening. All Senators are asked to be in the Senate Chamber at 8:30 p.m. on Tuesday so the Senate can proceed at 8:40 p.m. to the House of Representatives for the address.

Mr. President, we do hope that we will have one or two Cabinet nominations ready next week. Again, it depends on whether or not they are reported by the committees and we get them filed and agree on a time, which all Senators agree to, and have a vote. It looks likes it will not occur before Wednesday or Thursday. We cannot make that announcement at this time. We will continue to work on that next week.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 3, 1997, AT 9:30 A.M.

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:28 p.m., adjourned until Monday, February 3, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 30, 1997:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD J. TARPLIN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE JERRY D. KLEPNER, RESIGNED.

DEPARTMENT OF STATE

STANLEY A. RIVELES, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. COMMISSIONER TO THE STANDING CONSULTATIVE COMMISSION.

NATIONAL TRANSPORTATION SAFETY BOARD

GEORGE W. BLACK, JR., OF GEORGIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2001. (REAPPOINTMENT)

FARM CREDIT ADMINISTRATION

ANN JORGENSON, OF IOWA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 21, 2002, GARY C. BYRNE, RESIGNED.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be medical director

DAN L. LONGO

To be senior surgeon

MICHAEL A. FRIEDMAN
JEFFREY R. HARRIS
DOUGLAS B. KAMEROW
HENRY C. LANE

To be surgeon

ENRIQUE S. FERNANDEZ
DENNIS M. KLINMAN
DANIEL G. SCHULTZ
DAVID L. SWERDLOW

To be senior assistant surgeon

ALICE Y. BOUDREAU
JOANNA BUFFINGTON
ERLINDA R. CASUGA-MARQUEZ
A. RUSSELL GERBER
DOUGLAS W. KINGMA
DENISE T. KOO
ERIC D. MINTZ
MARK J. PAPANIA
DAVID H. SNIADACK
JUDITH THIERRY
JOHN C. WATSON
JANE R. ZUCKER

To be dental surgeon

ROSEMARY E. DUFFY

To be senior assistant dental surgeon

DAVID L. BRIZZEE
JEFFREY M. CAROLLA
MICHAEL E. KORALE
JANNA CHERYL MCINTOSH
REBECCA V. NESLUND
WILLIAM J. PEREZ
LINDA C. TORRES
JOHN T. ZIMMER

To be senior assistant nurse officer

JOYCE A. ANDERSON
VICTORIA L. ANDERSON
JUDITH E. ARNDT
LORI E. BEALLE
ERICA M. BOARDMAN
JEFFREY N. BURNHAM
LAURA M. CHISHOLM
MARIA L. DINGER
CINDY E. HAMLIN
DENNIS R. HAMMOND
ROLDIE C. JONES
CHRISTINE M. PARMENTIER
DANIEL REYNA
CLIFFORNIA J. ROLLE
MARY F. ROSSI-COAJOU
LESLIE L. ROYALL
ROSEMARY J. SULLIVAN
JAMES S. WHITING
CHRISTINE L. WILLIAMS
TONY M. ZORZYNSKI

To be assistant nurse officer

DANIEL J. ARONSON
ROBERT C. FRICKEY

To be senior assistant engineer officer

RAYMOND M. BEHEL II
DAVID M. BIRNEY
ERIC L. CRUMP
GARY S. EARNEST
MICHAEL G. GRESSEL
WILLIAM R. GRIFFITH
MICHAEL J. KOEHMSTEDT
LOUIS A. LIGHTNER, JR.
ROBERT B. MCVICKER
JACQUELINE M. PARKER
STEVEN E. RAYNOR
PAUL G. ROBINSON
GEORGE W. STYER
DANIEL C. TOMPKINS
DENNIS J. WAGNER
MAURICE C. WEST

To be assistant engineer officer

ANTHONY G. KATHOL

To be scientist

DONALD H. BURR

To be senior assistant scientist

DINA BIRMAN
FRANK P. GONZALES
BRUCE H. GRANT
NEAL R. MCMANN

To be sanitarian

BRENDA J. HOLMAN

To be senior assistant sanitarian

GARY J. GEFROH
KEVIN W. HANLEY
MICHAEL P. KEIFFER
GEOFFREY G. LANGER
JOHN P. LEFFEL
REVA J. MELTON
EDWARD PEREZ, JR.
FREDERICK A. RAMSEY
DORIS RAVENELL-BROWN
MICHAEL M. WELCH

To be veterinary officer

LINDA R. TOLLEFSON

To be senior assistant veterinary officer

TRACEY C. BOURKE
STEPHANIE I. HARRIS

To be senior assistant pharmacist

MICHAEL R. ALLEN
MARIA T. BURT
ROBERT B. CARLILE IV
JOHN M. COLEMAN
L. JANE DUNCAN
TRACI C. GALE
JILL G. GEOGHEGAN
KAREN G. HIRSHFIELD
ILENE R. KETTER
DAVID V. LARSON
KEITH E. ROST
LINDA M. SCHRAND
KASSANDRA C. SHERROD
THOMAS A. STICHT
JULIE E. WARREN

To be assistant pharmacist

DANA L. HALL
EDDIE J. WINN

To be senior assistant dietitian

YOUNG S. SONG
CONNIE Y. TORRENCE-THOMAS
JULI M. WHITSON

To be senior assistant therapist

BART E. DRINKARD

To be senior assistant health services officer

BRADLEY L. AUSTIN
TONI A. BLEDSOE
FRANK H. CROSS, JR.
WILLARD E. DAUSE
JAN DAVIS
MAUREEN E. GORMLEY
STEVE GURSKI III
R. ANDREW HUNT
WINSTON L. MOOREHEAD
JUDITH A. NELSON
GAY E. NORD
KENNETH B. STEWART

To be assistant health services officer

LOU A. RECTOR
CHRISTOPHER R. WALSH

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be medical director

LARRY J. ANDERSON
JOHN S. ANDREWS, JR.
KENNETH W. BERNARD
RICHARD O. CANNON
ROBERT H. CARLSON
JOSE F. CORDERO
JAIME M. DIAZ-HERNANDEZ
STEPHEN W. HEATH
DAVID G. HOOPER
VAN S. HUBBARD
T. STEPHEN JONES
DOUGLAS N. KLAUCKE
JEFFREY A. LYBARGER
MARK W. OBERLE
STEPHEN B. PERMISON
JEFFREY J. SACKS
JAMES H. SHELHAMER
DOROTHY D. SOGN
EDWARD TABOR
MICHAEL H. TRUJILLO

To be senior surgeon

ROBERT F. ANDA
RICHARD T. CALDWELL
JEFFREY A. CUTLER
RUTH A. ETZEL
JOHN T. FRIEDRICH
GEORGE E. GRANING
JOEL R. GREENSPAN
EVAN C. HADLEY
SCOTT D. HOLMBERG
MICHAEL J. HORAN
MARK A. KANE
JONATHAN E. KAPLAN
NORRIS S. LEWIS
DOROTHY K. MACFARLANE
NEIL J. MAKELA
RICHARD A. MARTIN
THOMAS R. NAVIN
EDWARD L. PETSONK
FRANK O. RICHARDS, JR.
CYNTHIA D. SCHRAER
MARY K. SERDULA
PHILLIP L. SMITH
HUGH K. TYSON
RONALD J. WALDMAN
ALLEN J. WILCOX
RAY YIP

To be surgeon

LYNN A. BOSCO
RALPH T. BRYAN
WILLIAM A. CALDER IV
RICHARD J. CALVERT
WILLIAM E. CARTER, JR.
PHILIP E. COYNE, JR.
ANDREW M. FRIEDE
TERENCE H. HAMEL
GEORGE H. HAYS, JR.
BRADLEY S. HERSH
JOHN R. LIVENGOOD
ADELINA D. MARINBERG
DIANE A. MITCHELL
JOHN S. MORAN
NEIL J. MURPHY
MARK G. PETERSON
MICHAEL PRATT
SAM S. SHEKAR

To be dental director

HAROLD A. BLACK
THOMAS J. DECARO
ROBERT S. ENDERS
JAMES W. FARRINGTON
DOUGLAS B. FRITZ
LAWRENCE J. FURMAN
ROBERT H. HARRY, JR.
JAMES A. LIPTON
DONALD W. MARIANOS
ROBERT A. PALMER
STEVEN H. POSNER
ALAN L. SANDLER

To be senior dental surgeon

VICTOR R. ALOS
CHARLES H. DETJEN
ALAN R. DEUBNER
M. ANN DRUM
ROBERT F. FELKER, JR.
JAMES D. FRIDAY
MICHAEL H. HESS
RICHARD T. HIGHAM
BENJAMIN F. HOWARD
JAMES J. JAN
MARK KODAY
MICHAEL L. MARK
GENE J. MCELHINNEY
STEVEN R. NEWMAN
FORREST H. PEEBLES
GARRY E. PITTS
MIGUEL RICO
BARRY H. WATERMAN
RICHARD H. WHITE
RUSSELL C. WILLIAMS, JR.
RODNEY WONG
DAVID K. WRIGHT
STEPHEN W. WYATT

To be dental surgeon

JEROME B. ALFORD
STEVEN J. BAUNE
ROBIN S. BERRIN
SAMUEL L. BUNDRANT
BILLY D. CARD, JR.
JAMES E. CODE
MARKUS P. ELDRED
MICHAEL A. FOSTER
KEVIN S. HARDWICK
MARK S. JACOBSON
THOMAS E. JORDAN
JAN T. JOSEPHSON
MARGARET L. LAMY
TAD R. MABRY
MARILYN R. MCKEAN
HOWARD W. PAYNE, JR.
PETER M. PRESTON
SANDRA L. SHIRE
ADELE M. TAYLOR
JOHN B. VEASLEY
CLIFFORD D. WHITE
PAUL YOUNG

To be nurse director

JANET M. DUMONT
MAY B. GIVAN
LORRAINE A. MACIAG
LYNN E. MCCOURT

To be senior nurse officer

MELISSA M. ADAMS
BRUCE C. BAGGETT
MARTINA P. CALLAGHAN
MARTHA J. COURY
ROBERTA A. HOLDER-MOSLEY
CHARLES R. MAUCH
NANCY E. MILLER-KORTH
CONSTANCE J. OVERBY
MARILYN K. PIERCE-BULGER
CRISTIN O. RODRIGUEZ
CAROL A. ROMANO
MYRA J. TUCKER
GALE G. WHITE
BEVERLY R. WRIGHT
SARAH C. ZAHNISER

To be nurse officer

ROBIN E. ANDERSON
ANA M. BALINGIT-CLARK
DORIS L. CLARKE
JAMES E. CLEVENGER
REGENA N. DALE
JOANNE DERDAK
FERN S. DETSOI
THOMAS J. EDWARDS
DANNY J. ENGLISH
MAUREEN Q. FARLEY
PAMELA R. GALLAGHER-NAVARRO
CLARICE GEE
ALAN D. GOLDSTEIN
MARTHA L. HAYNES
MARK W. HUNT
MERRIT C. JENSEN
DONNA M. KENISON
DAVID L. KERSCHNER
KATHLEEN M. KINSEY
MARK P. LECAPITAINE
LYNN M. LOWRY
JUDITH E. MAEDA
KENDA J. MATHEWS
TIMOTHY E. MATHEWS
SHERYL L. MEYERS
MICHAEL G. MIKULAN
ROGER A. MONSON
SUSAN J. MORRIS
ERNESTINE MURRAY
ROBINSON J. MYERS
BARBARA J. MYRICK
REBECCA K. OLIN
MARIA C. PADILLA
GLADYS V. PERKINS
JAMES M. POBRISLO
CHRISTINE L. RUBADUE
BEVERLY J. SANDERS
LESLIE A. SPOUSTA, JR.
TIMOTHY R. STOCKDALE
LAUREN C. TANCONA
DIANE R. WALSH
MARK S. WESSEL
JANET L. WILDEBOOR

To be engineer director

BRUCE P. ALMICH
DONALD B. BAD MOCCASIN
SAMUEL C. BRADSHAW
ALVIN CHUN
HERBERT W. DORSEY
MARIUS J. GEDGAUDAS
ALAN J. HOFFMAN
THOMAS T. KARIYA, JR.
STEPHEN B. LEIGHTON
WILLIAM H. MIDGETTE
DENNIS M. OBRIEN
RICHARD J. WAXWEILER
WAYNE E. WRUBLE

To be senior engineer officer

GERALD V. BABIGIAN
CURTIS C. BOSSERT
JOSEPH C. COCALIS
JOHN T. COLLINS
ALWIN L. DIEFFENBACH
JOHN R. GIEDT
ROBERT M. HAYES
WILLIAM A. HEITBRINK
GARY A. MCFARLAND
RICHARD D. MELTON
ELLIOT A. SHEFRIN
MICHAEL VERSCHELDEN
RANDY N. WILLARD
BRYAN K. H. YIM

To be engineer officer

RANDALL L. BACHMAN
JOSE F. CUZME
KENNITH O. GREEN
VALERIE J. HANEY
DANIEL L. HEINTZMAN
KENNETH F. MARTINEZ
RONALD L. MICKELSEN
DUGLAS C. OTT
GEORGE D. PRINGLE, JR.
ROGER G. SLAPE
KELLY R. TITENSOR
ROBERT L. WILSON

To be scientist director

CHARLES K. BOWLES
WILBUR H. CYR
ROBERT B. DICK
GEORGE C. JAN
ROBERT P. KLEIN
KENNETH KRELL
JOSEPH M. MADDEN
EVE K. MOSCICKI
ANNETTE W. ZIMMERN

To be senior scientist

RAYMOND F. BEACH, JR.
GREGORY M. CHRISTENSON
RAQUEL A. CRIDER
WILLIAM T. DILL
WILLIAM A. KACHADORIAN
ALAN C. SCHROEDER
CHUNG-YUI B. TAI
RICHARD W. TRUMAN

To be scientist

JOHN E. ABRAHAM
LESLIE P. BOSS
JOHN A. ELLIOTT
G. SHAY FOUT
SARA DEE MC ARTHUR
ROGER R. ROSA
MILDRED M. WILLIAMS-JOHNSON

To be sanitarian director

RICHARD M. BRYAN
DOUGLAS R. JACKSON
RALPH J. TOUCH, JR.

To be senior sanitarian

LARRY E. GLAZE
RANDY E. GRINNELL
JOHN J. HANLEY
RICHARD W. HARTLE
GREGORY M. HECK
GARY P. NOONAN
JOHN A. STEWARD

To be sanitarian

BYRON P. BAILEY
WILLIAM D. COMPTON
RALPH F. FULGHAM
BARRY S. HARTFIELD
ROBERT F. HENNES
JOSEPH L. HUGHART
MARK H. MATTSON
JOHN P. SARISKY
JEFFREY J. SMITH
KEVIN TONAT
L.J. DAVID WALLACE III
PAUL T. YOUNG

To be veterinary director

MICHAEL J. BLACKWELL

To be senior veterinary officer

MARGUERITE PAPPAIOANOU

To be veterinary officer

PETER B. BLOLAND

To be pharmacist director

DAVID BARASH
JOHN A. BOREN
RICHARD E. DAVIS
JIMMY P. DOWDY
GARY A. ERICKSON
STEVEN C. GARRETT
J. CRAIG HOSTETLER
JAMES E. KNOBEN
JAY D. MC GATH
STEVEN R. MOORE
JAMES C. MYERS
ROBERT W. PARRISH
STEVEN L. PETTITT
WILLIAM B. WELCH
PATRICIA T. L. YEE-SPENCER

To be senior pharmacist

RUSSELL E. ALGER
THOMAS L. BLUMENBERG
ROBERT W. BOYCE
ANTHONY J. BROOKS
SUSAN CARL
ANTHONY W. DECICCO
PAUL N. DERAMO
ROGER D. EASTEP
ROGER A. GOETSCH
ARDEN H. HANSON
PAUL L. HEPP
WILLIAM A. HESS
FRANCIS J. HUSSION
MICHAEL F. JOHNSTON
RALPH B. LILLIE
JAMES A. MAY
JON A. MC ARTHUR
THOMAS J. MC GINNIS
ROBERT C. NELSON
NICHOLAS P. PROVOST
GROVER H. RIVENBARK
LINDA J. SHULL
R. DAVID SIMPTON
RONNIE D. THOMAS
WILLIAM P. TYLER, JR.
PETER L. VACCARI
ROBERT L. WEST
STEPHEN W. WICKIZER

To be pharmacist

DIANE CENTENO-DESHIELDS
PAUL A. DAVID
JOSEPHINE E. DIVEL
STEVEN C. DOANE
MARY B. FORBES
ERIC D. GREGORY
MARTIN JAGERS
DANNY C. JONES
JAMES C. JORDAN
MICHAEL R. LILLA
ROBERT A. MC GOUGH
JAMES W. MITCHELL
MICHAEL J. MONTELLO
CECILIA-MARINA PRELA
ROBERT W. RIST
RENEE J. RONCONE
WILLIAM D. SAGE
THOMAS J. TROSHYNSKI

To be dietitian director

BEVERLY G. CRAWFORD

To be senior dietitian

SHIRLEY R. BLAKELY
SANDRA D. ROBINSON

To be dietitian

DIANE M. PRINCE
PAULETTE D. WICKS

To be therapist director

MICHAEL R. HUYLEBROECK

To be senior therapist

CHARLES L. MC GARVEY
MARIE A. SCHROEDER

To be therapist

TERRY T. CAVANAUGH
FRANKLIN D. KEEL
SHERRY L. PHILLIPS
BONNIE C. THORNTON

To be health services director

EVAN R. ARRINDELL
MARTIN J. BREE
ROBERT N. BURNS
WILLIAM M. CHAPIN, JR.
JAMES E. CLAIR
LARRY D. EDMONDS
JERRY G. GENTRY
ROBERT P. KUHLTHAU
MICHAEL A. LOPATIN
JOHN L. MC CROHAN, JR.
EMMETT E. NOLL
MARGARET T. ROPER
HARRY A. ROSENZWEIG
EDWIN L. SENSINTAFFAR
ROBERT SOLIZ
STUART M. SWAYZE
DAWN G. THARR

To be senior health services officer

MARY P. ANDERSON
KENNETH R. BAHM
STEPHEN J. BALCERZAK
ROGER W. BROSEUS
STEPHANIE D. BRYN
THOMAS F. CARRATO
VIVIAN T. CHEN
ROBERT L. DAVIDSON
CAROL A. DELANY
NORMAN E. DODDS
JEAN D. DOONG
JOHN D. DUPRE
ALAN S. FRIEDLOB
JOHN D. GALLICCHIO
DONALD W. GANN
JOHN M. GARBER
JESSE L. GLIDEWELL
TERENCE M. GRADY
RICHARD P. HASKINS
GLORIA J. HOLDER
ELLEN M. HUTCHINS
DEBRA Y. LEWIS
HECTOR LOPEZ
GEORGE G. MARTIN
JAMES D. MC GLOTHIN
CAROL REST-MINCBERG
S. JAY SMITH
FRANCIS P. WAGNER, JR.

To be health services officer

EUGENIA ADAMS
DUANE R. BECKWITH
FRANCIS J. BEHAN
ANNIE L. BRAYBOY-FAIR
ROBERT G. HAMMERNIK
TERESA C. HORAN
NINA R. LALICH
W. HENRY MACPHERSON
ROBERT J. SLAYTON
RACHEL E. SOLOMON
MARIA E. STETTER
NANCY A. TOLLISON
JOHN N. ZEY

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT IN THE JUDGE ADVOCATE GENERAL'S CORPS (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, UNITED STATES CODE SECTIONS 624, 531 AND 3283:

JUDGE ADVOCATE GENERAL'S CORPS

To be major

*IDA F. AGAMY, 0467
*MARIAN AMREIN, 9634
*BRETT E. BACON, 5875
HAL D. BAIRD, 7877
*MICHAEL P. BOEHMAN, 4296
*KEVIN M. BOYLE, 4550
*COREY L. BRADLEY, 6708
*GARY R. BROCK, 5360
*WADE L. BROWN, 4299
*DAVID C. CALDWELL, 2398
*VIRGINIA C. CARLTON, 4008
KEVIN M. CIEPLY, 0839
*ROBERT W. CLARK, 2513
*TIMOTHY J. CODY, 2989
*MELINDA A. COMFORT, 5980
*SILAS R. DEROMA, 6948
*HARVEY W. DEVONE, 6468
*WALTER R. DUKES, 9075
*BRENDA DURHAM, 0605
*JAMIE D. EAKER, 5376
*JOSEPH C. FETTERMAN, [illegible]
JAMES P. FLOWERS, 2801
*JAMES W. FRIEND, 5345
*BRIAN J. GODARD, 5891
VICTOR M. HANSEN, 3344
*JOHN M. HEAD, 7177
*ROBERT S. HRVOJ, 1133
*JACQUELINE J. JACKSON, 4095
*ROBB W. JEFFERSON, 7324
*ANTHONY D. JONES, 7762
*JOHN B. JONES, JR. 0298
*PAUL E. KANTWQILL, 3815
*BENJAMIN T. KASH, 1256
*DANIEL W. KELLY III, 1745
*THOMAS M. KULISH, 7731
*PAUL L. LEE, 4076
*CLAES H. LEWENHAUPT, 0581
*DAVID M. LOWE, 6361
*PATRICIA A. MARTINDALE, 2403
*PHILIP T. MC CAFFREY, 3650
*JOSEPH A. MC CLOSKEY IV, 4605
*MICHAEL G. MC GOVERN, 7407
*SUSANNE A. MILLER, 5230
*ROGER E. NELL, 4282
*DAVID NEWSOME, JR., 3115
*DAVID L. PARKER, 6303
*JFFFERY D. PEDERSEN, 7540
*DON F. POLLACK, 1161
*KARY B. REED, 3876
*DAVID H. ROBERTSON, 9724
*CHRISTOPHER W. ROYER, 2462
*MICHELE B. SHIELDS, 6601
*MICHAEL L. SMIDT, 3194
*ROBERT C. SPINELLI, 1366
*STEPHANIE L. STEPHENS, 5861
*MARK TELLITOCCI, 7619
*TIMOTHY M. TUCKEY, 9839
*JOSEPH J. VONNEGUT, 8957
*WILLIAM W. WAY, 5829
*WALTER S. WEEDMAN, 5316
*KERRY M. WHEELEHAN, 9311
*MICHELE E. WILLIAMS, 4115
*DAVID L. WILLSON, 6741
*CATHERINE M. WITH, 6440
*GREGORY G. WOODS, 2053
*SCOTT F. YOUNG, 4597

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

ARMY RESERVE

To be colonel

TIMOTHY ALBERTSON, 1120
CARLOS M. ALVAREZ, 2188
AMARAS AMARASINGHE, 9562
THOMAS C. ANDERSON, 7446
JAMES P. ASHER, 4272
STEPHEN BAKERJIAN, 2531
MILAGROS T. BANTON, 5079
JUNE B. BARRETT, 8973
ELAINE B. BAXLEY, 0322
TERRY L. BELVIN, 6451
ROY E. BERKOWITZ, 7917
JOHN M. BILLY, 0081
STEPHEN C. BIRD, 9479
MARTIN J. BLANCHARD, 7698
SAMUEL P. BOEHM, 7407
LUCAS H. BRENNECKE, 3118
RICHARD M. BRIGGS, 6943
SAMUEL, CAMPBELL, JR. 8281
PAUL E. CASINELLI, 3353
GODFREDO R. CELIS, 1928
DONALD M. CHOATE, 9813
RANDO CHRITIANSON, 9005
MICHAEL S. CLARKE, 6817
CHARLES B. CLIFFORD, 7417
JONATHAN W. COFFIN, 0390
RICHARD E. COLLINS, 3877
JOSEPH COMPETIELLO, 6513
ERIC P. COWART, 6926
JOSEPH A. CURRO, 3560
LAWERENCE H. DAVIS, 4287
ANNETTE M. DEENER, 0974
GIL E. DELOSREYES, 9062
ROBERT L. DRYDEN, 4473
VINCENT A. DUENAS, 7629
THOMAS E. DUKE, 2884
JAMES P. DUNN, 8241
SAMUEL D. FEE, 9222
HERMINIA P. FESTIN, 8688
NORMAN A. FLAXMAN, 0897
STANLEY L. FLEMMING, 1103
ROBERT M. FREY, 1249
DONALD J. FUCHS, 5110
ALLEN GILDERSLEEVE, 1052
GEORGE V. GOFF, 2435
JOHN M. GRAHAM, 8021
DANA H. GRAU, 8668
ROGER E. GRAVEL, 7193
LOUIS H. GUERNSEY, 6529
ISAAC S. HADLEY, 5789
ROBERT F. HAMBAUGH, 3227
JOHN J. HASSETT, 2946
W. HAYES, 7370
SHELBY A. HEFLIN, 2047
ROBERT M. HOUSE, 5323
JEAN E. HOWARD, 5316
RANDOLPH L. HUCK, 1519
CATHERINE HUNDLEY, 0600
ROBERT HUTCHINSON, 0607
RONALD I. HUTTON, 5205
OLEGARIO J. IGNACIO, 0349
M. IRIZARRYMARTINEZ, 1304
MILTON H. ISA, 1303
PAUL A. JENDRIAN, 0545
JAMES V. JOHNSON, 0856
TERRY T. JONES, 7850
WALTER E. JORDAN, 8585
ANTOINE J. JUMELLE, 7466
DONALD KAPLAN, 5111
ROBERT J. KASULKE, 2949
WILLIAM A. KEAN, 5726
JACK L. KILLEN, 2073
MICHAEL K. KIMBLE, 7878
ROLF W. KNOLL, 4774
WALTER M. KOBIALKA, 9290
EDWIN J. KOHNER, 3173
RUDOLPH R. KRAUS, 2972
LUCIANO G. LADAGA, 8323
ALEATHA W. LANDRY, 4506
GEORGE E. LANNING, 9551
BOBBILYNN H. LEE, 2839
JAMES D. LEITZELL, 5257
RICHARD M. LHEUREUX, 7545
JACK M. MARKUSFELD, 4060
AUDREY C. MC COOL, 9491
JANE I. MC CULLOUGH, 2805
JOHN D. MC DOWELL, 1757
RALPH E. MC ELMURRY, 9576
GERARD A. MC ENERNEY, 2781
REGINALD MC KINNEY, 3855
DONALD L. MELLOR, 8025
EDWARD A. METZ, 9217
EDITA P. MILAN, 3541
JAMES R. MILLER, 7579
THOMAS D. MILLS, 4814
JOSEPH MOONEY, 7887
ARNOLD A. MYHRA, 3888
JEANINE E. NORDEEN, 0349
RONALD B. PADGETT, 2147
MIGUEL E. PALOU, 3130
TERRY E. PARKMAN, 4195
DERICK PASTERNAK, 5474
DIANNE T. PHILP, 0149

ROBERT E. PICKARD, 3789
JUDITH M. POLCZER, 9792
TED W. PRATHER, 5566
[redacted]
JAMES L. RIBARY, 3198
ELISABETH ROBINSON, 7518
BRUCE N. ROGERS, 6877
ALFRED D. ROTH, 4632
KENNETH M. SADLER, 8935
MARK M. SAKAI, 7877
JOHN V. SAWICKI, 2204
JOSEPH SCHOONOVER, 9598
ARJINDERPAL SEKHON, 0111
SADASHIV S. SHENOY, 8610
WILLIAM D. SHERMAN, 1872
WILLIAM D. SHIRLEY, 3842
WALTER W. SIGG, 8817
DENNIS L. SIMCIK, 7784
CHARLES W. SIMMONS, 0641
GARY R. SMISEK, 2718
DAVID C. SMITH, 9448
TERRANCE L. SMITH, 7401
TONY D. STEM, 6636
TIMOTHY J. STROMAIN, 3402
ROBERT A. STROUSE, 7888
DAVID J. SZARELL, 4397
JOHN R. TAITANO, 3704
DAVID B. TATE, 6224
JUDITH A. TAYLOR, 6896
ROGER D. THOMAS, 2772
KAREN B. TRATENSEK, 4150
FRANCIS E. TRAXLER, 0738
ALVAS C. TULLOSS, 9717
GLENN E. TURNER, 6942
JOHN C. TURNIER, 1462
JAMES D. VALENTINE, 2361
CARRASQUILLO VAQUER, 5081
MILES H. VARN, 1374
ORLA VAZQUEZTORRES, 7349
FREDERICK G. VERNON, 3580
ROBERT W. VIT, 6675
WAYNE E. WALCOTT, 3547
RONALD L. WALKER, 8614
EARL WASHINGTON, JR., 7286
WILLIAM A. WATSON, 4040
CHARLES WEINSTEIN, 6214
YOU Y. WHIPPLE, 2794
ARVIS G. WILLIAMS, 0730
DAVID A. WILLIAMS, 7283
ADRIAN G. WILSON, 8135
MICHAEL C. WITTE, 0638
FRANKLIN D. WOO, 4638
WILSON WRIGHT, JR., 1063
KENNETH C. YOHN, 9366
PHILIP R. ZELSON, 7828

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

ARMY RESERVE

To be colonel

STEVEN R. ABT, 2197
PEDRO J. ACOSTA, 0400
CHARLES L. ADAMS, 3380
MICHAEL K. ADAMS, 3260
ROGER L. ALLEN, 3971
JOHNNY M. ALLEY, 6368
BEECHER C. ALLISON, 5456
JANET S. AMOR, 6664
CLIFFORD A. AMOS, 8481
[redacted]
CHARLES C. APPLEBY, 4826
WAYNE APPLEBY, 9713
[redacted]
NORMAN E. ARFLACK, 1964
JEFFREY L. ARNOLD, 2649
CHESTER A. ARTER, 7245
LUIS A. AVELLANET, 4950
DANIEL E. AVERETT, 4829
MICHAEL A. BAILEY, 1121
RICHARD A. BALLIET, 2800
WILLIAM K. BAMLER, 5394
BILLIE K. BANKS, 1822
JULIAN D. BANKS, 1605
TERRY F. BARKER, 9468
GAIL A. BATMAN, 8852
DAVID G. BATTAGLIA, 7209
GREGORY W. BAXTER, 2209
STANLEY R. BAYLEY, 4716
JOHN F. BAYNES, 8094
MICHAEL W. BEAMAN, 0589
GRATEN D. BEAVERS, 6588
ARTHUR C. BECK, 5619
GEORGE A. BECKER, 9713
ROBERT J. BEDELL, 0282
THOMAS N. BEDIENT, 3664
GEORGE M. BEDINGER, 5593
[redacted]
DANIEL E. BENES, 5680
JAMES L. BERDAN, 5741
[redacted]
DONALD R. BETZOLD, 4220
JOHN M. BIDDLE, 9384
PARK P. BIERBOWER, 9130
RUSSELL V. BIERL, 4578
JONATHAN BILLINGS, 4297
HAROLD BILLINGSLY, 4382
ABNER C. BLALOCK, 0594
ANDREW S. BOGUS, 8144
THOMAS A. BOLAND, 6510
ARNOLD F. BONNER, 0290
THOMAS H. BONORDEN, 0756
THOMAS E. BOOTH, 0199
KAYWARD BOUILLION, 6934
WILLIAM J. BOVER, 8873
GLADWYN G. BOWLIN, 6320
WILLIE J. BOYD, 1369
DOUGLAS M. BRANTLEY, 9608
CRAIG E. BRASFIELD, 2418
JOHN M. BRAUM, 5088
ROBERT T. BRAY, 7857
JUDITH E. BRENDEL, 6827
GORDON M. BREWER, 8161
M. BRILLON RODRIGUEZ, 4864
JAMES K. BRINKLEY, 4988
ALBERT H. BRINKMAN, 1147
WILLARD BROADWATER, 4722
SAMS C. BROUSSARD, 5004
GLEN J. BROWER, 1509
JAMES W. BROWN, 8165
REX A. BROWN, 9459
ROBERT C. BROWN, 2750
STEWART J. BROWN, 6877
CHRISTOPHER BROWNE, 3889
JAMES A. BRUNSON, 2895
HARRY L. BRYAN, 7766
THOMAS M. BRYSON, 0324
JOHN W. BUCHER, 9843
BRUCE M. BUCHHOLTZ, 6927
DAVID G. BUCK, 5621
ELBERT T. BUCK, 2038
BENJAMIN A. BUNN, 8760
MELVIN L. BURCH, 7883
RICHARD S. BURCHETT, 3357
WILLIAM A. BURCHARD, 2204
DAVID P. BURFORD, 3510
DONNIE R. BURGESS, 9143
MICHAEL T. BURK, 5165
MICHAEL E. BURKETT, 3581
JAMES L. BURSON, 2926
ALBERT J. BUSH, 9799
CAREY B. BUSSEY, 4724
ALAN G. BUTKI, 9388
DONALD D. BUTLER, 3284
JOHN L. CAIRER, JR., 4195
CHARLES A. CAMPBELL, 8820
ROSS A. CAMPBELL, 0374
WILLIAM M. CAMPBELL, 2620
JAN M. CAMPLIN, 8992
TIMOTHY W. CANNON, 8830
LARRY J. CARNES, 5972
EUGENE J. CAROLAN, 5664
MICHAEL E. CARR, 9872
WELBORN A. CARR, 4607
PAUL M. CARROLL, 5906
RONALD A. CASSARAS, 5372
GAYLE P. CHAFFIN, 2828
ZACHARY R. CHAKY, 6959
STEPHEN G. CHAMBERS, 3411
DUNCAN G. CHAPMAN, 1705
JAMES E. CHAPMAN, 8969
CRAIG C. CHENEY, 4072
JOHNNY P. CHERRY, 6702
BOBBY CHIN, 3976
DAN V. CHISHOLM, 7972
WILLIA CHRISTOPHER, 0010
RONALD L. CHUBB, 8230
JOSEPH M. CLAPS, 6093
ALAN N. CLARK, 7426
DANNY D. CLARK, 6352
WILLIAM G. CLARK, 3149
ALBERT A. CLYMER, 2971
ANTON COBIANMENDEZ, 7784
FABIO H. COLASACCO, 5797
WILLIAM D. COLVIN, 8212
CLINTON E. CONERLY, 1098
CARLILE L. CONNER, 1280
MANUEL CONSTANTINE, 1623
WILLIAM R. COOK, 7317
LARRY D. COPELIN, 9103
ALBERT J. COPPOLA, 5129
BILLY J. COSSON, 9244
BRUCE W. COTTERMAN, 7187
TERRY R. COUNCIL, 0396
ROBERT S. COUTCHIE, 0869
DON E. COWART, 4191
JAMES D. CRAWFORD, 9273
JAMES M. CREIGHTON, 0426
CHARLES H. CRISS, 5747
JAMES C. CROWDER, 5024
ALAN R. CUNNINGHAM, 1811
PAUL D. CUSHMAN 9378
STEPHEN C. DABADIE 3817
JOSEPH S. DANIEL, 7226
BYRON W. DANIELS, 6723
JAMES M. DAVIS, 1790
S.P. DAVIS, 4947
RICHARD C. DAWSON, 6380
WILLIAM H. DEANE, 1460
[redacted]
JUDITH L. DELANEY, 2110
RICHARD B. DELGADO, 8831
[redacted]
KENNETH J. DENSMORE, 3228
MICHAEL J. DIAMOND, 8630
DENNIS A. DIETZ, 2046
RANDY J. DILLON, 9857
DWIGHT L. DINKLA, 9788
ARRINGTON DIXON, 8685
CARMAN R. DIXON, 6938
JOHN R. DIXON, 5602
HOWARD B. DODSON, 5915
KERRY B. DOLAN, 2512
RICHARD G. DONOGHUE, 6771
JOHN R. DOUGLAS, 9092
WILLIAM J. DOWLING, 4588
DENNIS C. DRAKE, 9055
DONALD W. DRASHEFF, 3341
THEODUS L. DRAYTON, 2461
THOMAS E. DREW, 2201
WILLIAM H. DROHAN, 8466
HARRY M. DUBOSE, 4597
WILLIAM C. DUESBURY, 1749
DAVID N. DUNAGAN, 1675
JAMES R. DUNCAN, 7298
JAMES DUNKELBERGER, 7262
JAMES P. DWYER, 6236
DARRELL C. DYER, 8598
RODNEY F. DYER, 3165
CLARK J. EATON, 8635
CHARLES K. EBNER, 6011
ALAN A. ECKE, 4715
JAMES P. EGGLETON, 1830
DONALD A. ELBERT, 2666
GEORGE K. ELBRECHT, 4593
JERRY M. ELDER, 5865
MAIOS ELIADES, 3213
JOHN C. ELLIS, 9076
JOHN J. EMIG, JR., 8493
RONALD M. ESTROFF, 8670
BARTON EVANS, JR., 6085
JAMES R. EXNICIOS, 1209
CALVIN D. FARR, 9618
MARC M. FEINBERG, 7350
ANTHONY J. FELITTO, 6003
JOHN R. FENIMORE, 1882
DONALD F. FINDON, 7205
ROBERT FITZPATRICK, 7774
CHALRES E. FLEMING, 2330
WILLIAM A. FOGG, 7991
JAMES D. FORD, 4686
PATRICIA M. FOREST, 6949
REX D. FORTNER, 8528
CARY R. FOSTER, 5089
JIMMY T. FOX, 7685
ROBERT W. FREER, 9864
ROBERT P. FRENCH, 1355
MICHAEL J. FRIEDL, 0729
ALAN K. FRY, 1765
EDWARD D. FRY, 1475
JAY A. FUGGITI, 3003
SAMUEL FUOCO, 1423
JAMES H. GABRIEL, 2228
NEIL W. GAFNEY, 0300
FRED W. GAGE, 4233
PAUL J. GAJEWSKI, 2341
ALAN C. GAYHART, SR., 1480
DENNIS P. GEOGHAN, 4365
JOHN P. GERHARD, 2851
ROBERT C. GERHARD, 6922
HARRY L. GIBSON, 9410
MARK A. GILBERT, 6158
RICHARD P. GLASGOW, 7673
LARRY C. GLAZIER, 8140
GLENN A. GLOVER, 7734
GEORGE C. GOLLER, 0750
JOHN S. GONG, 7107
FRANCIS P. GONZALES, 1426
KENNETH A. GONZALES, 4085
GEORGE A. GORE, 6003
MICHAEL A. GORMAN, 3651
CURTIS GRANDSTAFF, 4651
RORER J. GRANT, 6637
TERRY F. GREENE, 2555
DAVID E. GREER, 6131
DAVID J. GRIFFITH, 9258
DARRELL P. GRITTEN, 9794
WILLIAM S. GROSS, 8722
WILLIAM E. GROWNEY, 6080
EDWARD J. GRUNDEL, 7007
RAYMOND GUILLAUME, 1769
JON O. GUSTFSON, 5553
THOMAS D. HADDAN, 9774
DIANA C. HAGLE, 0339
CHARLES W. HAIR, 5843
RONALD J. HAIRSTON, 0211
DAVID A. HALL, 8580
KENNETH E. HALL, 6590
EDWARD J. HAMILTON, 5873
KENNETH J. HANKO, 1097
DEAN R. HANSON, 7014
GARY M. HARA, 0631
BRUCE P. HARGREAVES, 8374
LEROY HARRIS, 3605
NOEL K. HARRIS, 3156
ROGENA G. HARRIS, 0526
BRINTON K. HARRISON, 0890
JAMES H. HARRISON, 4163
DONALD J. HASSIN, 0972
JOHNATHAN S. HAUB, 6532
JAMES HAUENSCHILD, 1462
JOHN G. HAUG, 7927
PAUL HAVEY, 7296
RICHARD M. HELGESON, 3777
RALPH B. HEMPHILL, 7255
LEONARD HENDERSON, 9222
GEORGE B. HENDRICKS, 1227
ROBERT S. HEPPE, 1918
ADRIA A. HERNANDEZ, 8125
PATRICK R. HERON, 4039
WILLIAM F. HERRBACH, 3411
GARY L. HERRINGTON, 3857
JOHN B. HERSHMAN, 9658
JAMES F. HESSE, 2241
DANNY H. HICKMAN, 0335

ROY L. HIGGINS, 8424
WAYNE F. HILL, 2966
WILLIAM J. HILL III, 5745
JAMES P. HILLS, 3234
FENTON D. HIRSCHI, 9072
KENNETH D. HISLOP, 6375
JOHN F. HOLECHEK, 4313
BENNIE J. HOLMES, 2168
RONALD D. HOLMES, 1824
JOHN S. HOOKER, 9618
DAWN R. HORN, 3444
MATTHEW A. HORN, 4950
RICHARD A. HORTON, 7066
DAVID A. HOSTETLER, 6789
GREGORY A. HOWARD, 9826
DONNA L. HUBBERT, 2928
MICHAEL HUMPHREYS, 0506
JOHN J. HUNT, 8501
ERIN A. HURD, 4925
WILLIAM E. INGRAM, 5691
JOHN K. IRELAND, 5592
ARLYN R. IRION, 7791
STANLEY G. JACOBS, 4628
DENNIS E. JACOBSON, 9345
THADDEU JALKIEWICZ, 1028
ROBERT N. JANNARONE, 6222
MICHAEL A. JANOVICZ, 2120
TOMMY J. JAWORSKY, 3633
MICHAEL K. JELINSKY, 5149
EDWARD M. JENKINS, 1902
PATRICK L. JENKINS, 1210
PAUL E. JENSEN, 2995
KLIXBULL O. JESSEN, 0177
ALBERTO J. JIMENEZ, 2864
ROBERT W. JOHANSON, 2878
RALPH K. JOHNS, 0066
JAMES L. JOHNSON, 4021
KENNETH W. JOHNSON, 3212
MICHAEL J. JOHNSON, 6043
ROBERT M. JOHNSON, 0231
RONALD D. JOHNSON, 6340
RONALD E. JOHNSON, 6592
WILLIAM G. JOHNSON, 4700
FREDDIE L. JONES, 3212
KEITH D. JONES, 6195
PAUL L. JONES, 2560
RICHARD A. JONES, 1308
WILLIE E. JONES, 8898
MARK T. JOOSSE, 3335
WARREN E. JORDANS, 7226
JOSEPH H. JUST, 8433
ANTHONY D. KALISH, 6356
ALLEN M. KAMEMOTO, 5775
BERNARD S. KAMINE, 1073
FRED A. KARNIK, 6863
ROBERT A. KEESECKER, 3788
WILLIAM H. KEETER, 2538
EDWARD V. KELLY, 7169
JOHN A. KENDALL, 1606
RANDAL L. KENNEDY, 9921
MICHAEL D. KERSHAW, 4155
DENNIS C. KIM, 2249
BARRETT T. KING, 3878
STEPHEN E. KING, 6207
WINSTON E. KING, 4009
JACK A. KINGSTON, 8751
BRUNO KIRSCH, JR., 5384
ROBERT E. KLEBA, 9152
ROBERT L. KLEIN, 8657
GERALD L. KLINE, JR., 2136
LEONARD P. KLOEBER, 1086
CLIFTON F. KNIGHT, 1651
LARRY KNIGHTNER, 5133
ROBERT A. KNOTTS, 6998
THEODOR KONFEDERAK, 5764
JONATHAN H. KOSARIN, 5236
JOHN E. KOSOBUCKI, 4076
JOHN G. KOVASH, 4745
ROGER W. KRAUEL, 2595
JULIA A. KRAUS, 8646
JOSEPH C. KULBOK, 7559
GLENN J. KUNTZ, 6556
DONALD W. LANE, 6740
JOSEPH A. LANESKI, 9129
GERALD E. LANG, 9562
LARRY G. LANGHOFF, 9285
GEOFFREY S. LANNING, 1765
ROLAND M. LAPOINTE, 6058
THOMAS E. LASSER, 0104
RONALD C. LASSITER, 0099
RUSSELL M. LATHEROW, 3603
DANIEL W. LAWRENCE, 9787
JOHN E. LEATHERMAN, 9004
CLYDE M. LEAVELLE, 0004
JOHN C. LEVASSEUR, 8050
DEAN A. LEVAY, 5906
GEORGE LEYH, JR., 0771
KENNETH LIESCHEIDT, 3869
EDDIE W. LILES, 6846
VERNON C. LINDGREN, 8013
RONALD G. LINN, 7419
SHELBY K. LITTLE, 2782
MICHAEL W. LOBDELL, 7918
RONALD L. LOGSDON, 5032
JAMES R. LONG, 1758
ROBERT W. LOWRY, 7155
MARTIN J. LUCENTI, 5655
BRIAN M. LUDERA, 3089
LEONARD LUZKY, 6706
VERNON J. MACDONALD, 3501
TIMOTHY V. MAHAR, 4790
ANTHONY J. MAJEWSKI, 7565
GREGG H. MALICKI, 8069
ROBERT D. MALLAMS, 5491
MICHAEL E. MALONE, 0177
GARY A. MANKER, [redacted]
RANDY E. MANNER, 8485
JOHN A. MANTOOTH, 8778
MARION D. MARSH, 1307
GEORGE K. MARTIN, 0848
JOHN T. MARTIN, 1852
RAYMOND C. MASON, 6950
DANA C. MATHER, 5583
RICHARD J. MCCALLUM, 2940
WILLIAM MCCLOSKEY, 4683
KENNETH A. MCCLUNG, 5965
WILLIAM L. MCCOY, 2893
GEORGE W. MCCULLEY, 0018
JOE D. MCDOWELL, 4423
PATRICK F. MCGOVERN, 9475
JEFFREY L. MCGOWAN, 7423
JAMES P. MCILLWAIN, 5646
RICHARD J. MCKENNA, 9385
DAVID W. MCLAUGHLIN, 7932
JAMES E. MCMANUS, 2897
WENDALL W. MCMILLAN, 4498
STEVEN C. MCNABB, 8074
JOHN F. MCNEILL, 6825
ROBERT J. MEHRING, 5027
PETER D. MENK, 0380
CHARLES L. MERCIER, 6931
DANIEL MERRYFIELD, 8274
JOHN A. MESKILL, JR., 2413
MARVIN G. METCALF, 3051
BERRI K. MEYERS, 9132
JAMES MEZA, JR., 9822
GREGORY B. MILLER, 2042
ROBERT M. MILLER, 1684
WILLIAM J. MILLER, 5565
RANDAL M. MILLING, 2291
DENNIS K. MINER, 1593
JAMES A. MINOR, JR., 1911
ROBERT D. MINTON, JR., 1900
CREIG W. MITCHELL, 2014
VERN T. MIYAGI, 2805
TERRILL K. MOFFETT, 6766
MICHAEL J. MORRISON, 5829
CHARLES H. MORROW, 1989
ROBERT P. MORROW, 9830
DAVID P. MURPHY, 2253
JOSEPH F. NASH, 3964
RONALD J. NASH, 7057
WILLIAM R. NASH, 3342
JOSEPH F. NEDER, 2939
MURRAY A. NEEPER, 8845
EDWARD J. NEIL, 1498
DANNY L. NELSON, 8717
DAVID E. NELSON, 0362
CHARLES H. NEWELL, 6819
JOHN D. NEWLOVE, JR., 8414
JOEL B. NEWTON, 4195
CRAIG NIEDERPRUEM, 4500
JAMES W. NUTTALL, 3643
DENNIS J. OBRIEN, 0958
TIMOTHY F. OBRIEN, 4102
CHARLES M. OCONNOR, 2449
DOUGLAS M. OCOYNE, 2235
KEVIN J. ODEA, 3387
HERSHELL ODONNELL, 9198
RANCEFORD OKADA, 5429
ANTHONY G. OLENCZUK, 4891
REED C. OLSON, 4757
JOHN R. ORESKOVICH, 5401
WILLIAM N. OROSZ, 2251
NICHOLAS OSTAPENKO, 8512
MICHAEL B. PACE, 3358
DALE L. PAINTER, 0216
GARY A. PAPPAS, 3580
DOMINIC A. PARIS, 7373
JAMES R. PARKER, 4612
JAMES S. PARKER, 2121
JOHN C. PARSONS, 2407
STEVEN D. PATRICK, 5038
CLAUDE W. PATTERSON, 6324
LARRY N. PATTERSON, 8287
DAVID J. PAYNE, 6204
JOHN M. PEARSON, 6479
JOHN E. PENDERGRASS, 2018
JOHN J. PERRONE 7273
PAUL C. PETERSEN, 3493
WILLIAM M. PETULLO, 3517
HARRY J. PHILIPS, 8457
FREDRICK L. PICCO, 9867
JOHN PIENKOWSKI, 4172
LEROY N. PIERCE, 5695
LARRY G. PIERSON, 1242
MARVIN W. PIERSON, 3373
DOMINIC E. PILERI, 1191
WILLIAM B. PITTMAN, 5669
NORMAN L. PIWONKA, 8516
ROBERT A. POLLMANN, 9222
GARY S. POPPLETON, 0777
STEPHEN P. POULOS, 7409
MELVIN E. PRICE, 0853
MICHAEL L. PRICE, 1357
UWE K. PRUSS, 7951
ROBERT A. QUALLS, 7928
GARY A. QUICK, 3573
WILLIAM R. RADFORD, 0885
DAVID W. RAES, 0084
RONALD B. RAGLAND, 6494
THOMAS R. RAGLAND, 6773
JO A. RALYEA, 7445
WILLIAM B. RANEY, 3756
RODNEY L. RAWLINGS, 3277
NANCY M. RAY, 5560
JOHN J. REECE, 3863
ROBERT E. REED, 3979
JOHNNY H. REEDER, 0024
STEWART A. REEVE, 3242
JOSEPH D. REI, 0727
ARNOLD RETHEMEIER, 0674
ROSENDO C. REYES, 8443
JAMES R. RHODES, 5875
RICHARD A. RHODES, 7140
STEVEN B. RICH, 4688
ANDREW RICHARDSON, 3728
HENRY B. RICHARDSON, 3777
CHARLES T. ROBBS, 6993
JON H. ROBINETT, 1870
PETER G. ROBINSON, 2489
TERRY L. ROBINSON, 1805
DAVID ROCKEFELLER, 8802
VICTOR L. RODRIGUEZ, 5114
DAVID B. ROGERS, 8526
GARY J. ROHEN, 7614
JOHN W. ROLLYSON, 6992
JOHN D. ROPER, 4233
CHARLES ROSENBLUM, 3486
CHARLES A. ROSS, 7084
ROBERT O. ROSS, 4413
KIRK W. RUBIDA, 9088
MICHAEL J. RUSSO, 8965
MICHAEL W. RYAN, 0214
RANDALL T. SABINE, 3248
LARRY G. SAGE, 2342
ROBERT A. SALVIANO, 8892
JAMES A. SANSONE, 3316
ELI SANTANANAZARIO, 6855
RANDALL E. SAYRE, 2290
GARY K. SCHALL, 1275
JOHN F. SCHARFELD, 2828
STEVEN SCHEUMANN, 7772
JAMES A. SCHILLER, 5764
REX C. SCHOTT, 0724
RICHARD SCHROEDER, 1257
ROBERT W. SCHULKINS, 6384
ROBERT W. SCHUPP, 5779
JOHN T. SCHWENNER, 2857
GARTH T. SCISM, 4547
MICHAEL SEBASTIAN, 6018
WALTER R. SEIFRIED, 5214
JAMES O. SELF, 3232
ADRIAN J. SERAFINI, 0342
DAVID E. SERVINSKY, 2552
RONALD J. SEVIGNY, 8698
JAMES P. SEWELL, 2130
JIM H. SHERMAN III, 5079
TOM L. SHIRLEY, 6526
CRAIG V. SHUEY, 6921
THEODORE G. SHUEY, 4807
JOHN G. SIGMAN, 3960
ALISON L. SIMMONS, 3757
JOSEPH N. SIMONIN, 0764
JAMES L. SIMPSON, 1607
KENNETH SIMURDIAK, 5808
THOMAS L. SINCLAIR, 7981
RONNIE G. SKETO, 0671
PAUL W. SKINNER, 8994
SHALON N. SLEDGE, 9460
CARLTON D. SLETTEN, 7840
WILLIAM A. SLOTTER, 3391
ROBERT H. SMILEY, 1101
BRIAN J. SMITH, 9924
DAVID N. SMITH, 5279
PAUL S. SMITH, 0082
RICHARD A. SMITH, 3655
ARTHUR J. SOSA, 2800
KENNETH R. SOUTH, 9311
GENE D. SPARKS, 9770
SAMUEL R. SPARKS, 4287
PHILLIP R. SPEAKE, 5793
JOHN E. SPEARMAN, 7664
JAMES K. SPRINGER, 7869
KARL R. SPRINGER, 3018
DAVI SPRYNCZYNATYK, 1827
JOHN J. STANKIEWICZ, 1844
KENNETH L. STARR, 7064
JOHN B. STAVOVY JR., 9983
FRANK J. STECH, 4327
RICHARD D. STEPHENS, 4391
JAMES M. STEWART, 0033
CHARLES R. STONE, 9220
THOMAS C. STREDWICK, 4321
JACK C. STULTZ, 5861
PAUL J. STURM, 8643
GERRY L. SUCHANEK, 1767
RICHARD C. TARICSKA, 0110
DANIEL J. TAYLOR, 2050
ROBERT S. TEMPLETON, 7014
LAVOY M. THIESSEN, 9797
FENTON THOMAS, 9571
BENJAMIN THOMPSON, 2255
JOHN S. THOMPSON, 7442
REX E. THOMPSON, 7954
THOMAS S. THORPE, 3044
THOMAS D. THURY, 3880
GARY L. TIDWELL, 0484
ROBIN C. TIMMONS, 7859
RICHARD A. TINDELL, 0709
JERRY W. TIPPS, 9003
GERALD R. TIPTON, 7173
JOHN P. TOBEY, 7298
ELROY K. TOMANEK, 1750
ROBERT S. TOMASOVIC, 3056
WILSON TORRES, 9086

PETER V. TRAIN, 2005
ROBERT G. TREGASKIS, 9486
CLARENCE TRIPLETTE, 8578
THOMAS M. TRITSCH, 0726
HALL C. TRUNDLE, 9980
GERALD G. TUCKER, 9758
THOMAS G. TUCKER, 9527
VAN N. TURNER, JR., 3969
PATRICK J. TUSTAIN, 0609
DANIEL D. TUTTLE, 4269
LEW G. TYREE, 4003
CLIFFORD UNDERWOOD, 7688
MATTHEW L. VADNAL, 1789
THOMAS VANDERPOOL, 3630
ROBERT W. VANMETER, 5537
JERRY A. VAUGHN, 0447
EZEQUIEL VAZQUEZ, 7870
LEWIS E. VEAL, 8303
ARTHUR H. VERBURG, 6111
EDWARD L. VEZEY, 2909
STEPHEN VILLACORTA, 8901
FREDERICK C. VOIGT, 2924
DAVID C. VOLLRATH, 4345
JEFFREY A. WAITE, 9198
RICHARD M. WALFORD, 0589
KENNETH WALKINGTON, 4360
GEORGE M. WALLER, 0569
WILLIAM L. WALLER, 7603
ANN T. WALSH, 9612
ELYSE G. WANDER, 7363
ROBERT B. WANGEN, 2405
ROGER L. WARD, 4572
STEVEN S. WARD, 8783
DOUGLAS C. WARNECKE, 9921
BILLY A. WATKINS, 7204
ROBERT K. WATTS, 4213
ALLISON L. WEAVER, 8465
JIM P. WEEMS, 8581
WILLIAM H. WEIR, 0308
FRANCIS E. WEISS, 5006
JAMES P. WELCH, 0067
GEORGE W. WELLS, 9978
MICHAEL P. WELSH, 7031
EDWARD W. WHITAKER, 4291
ROZANN S. WHITE, 9973
STEPHEN G. WHITLEY, 0425
BERT J. WHITTINGTON, 7749
ALBERT J. WILLIAMS, 4352
DWIGHT S. WILLIAMS, 4706
NORMAN K. WILLIAMS, 1099
RANDALL F. WILLIAMS, 4516
JOE D. WILLINGHAM, 9413
MITCHEL WILLOUGHBY, 8307
ADDISON G. WILSON, 8313
JAMES L. WILSON, 8613
MICHAEL E. WILSON, 7582
ULYSSES R. WINN, 3282
DENNIS WOOD, 9710
ROBERT H. WRIGHT, 7156
JAMES T. YARBROUGH, 2412
JEFFREY L. YEAW, 8249
MERREL W. YOCUM, 9183
JAMES H. YOUNGQUIST, 1094
GORDON J. YUSKA, 6015
MARK E. ZANIN, 1408
MICHAEL A. ZAVOSKY, 2757
EMIL C. ZIMMERMAN, 8114
JOHN E. ZUPKO, 3529

CONFIRMATIONS

Executive Nominations Confirmed by the Senate January 30, 1997:

CONGRESS OF THE UNITED STATES

ALAN M. HANTMAN, OF NEW JERSEY, TO BE ARCHITECT OF THE CAPITOL FOR THE TERM OF 10 YEARS.

DEPARTMENT OF COMMERCE

WILLIAM M. DALEY, OF ILLINOIS, TO BE SECRETARY OF COMMERCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. LLOYD W. NEWTON, 5211.

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. MAXWELL C. BAILEY, 0835.
BRIG. GEN. WILLIAM J. DENDINGER, 3556.
BRIG. GEN. DENNIS G. HAINES, 8791.
BRIG. GEN. CHARLES R. HENDERSON, 0660.
BRIG. GEN. CHARLES R. HOLLAND, 4055.
BRIG. GEN. SILAS R. JOHNSON, JR., 2407.
BRIG. GEN. THOMAS J. KECK, 7294.
BRIG. GEN. RODNEY P. KELLY, 8032.
BRIG. GEN. RONALD E. KEYS, 5357.
BRIG. GEN. DAVID R. LOVE, 7046.
BRIG. GEN. EARL W. MABRY II, 2663.
BRIG. GEN. RICHARD C. MARR, 7645.
BRIG. GEN. WILLIAM F. MOORE, 9750.
BRIG. GEN. THOMAS H. NEARY, 0508.
BRIG. GEN. SUSAN L. PAMERLEAU, 8423.
BRIG. GEN. ANDREW J. PELAK, JR., 7135.
BRIG. GEN. GERALD F. PERRYMAN, JR., 9961.
BRIG. GEN. ROGER R. RADCLIFF, 8907.
BRIG. GEN. RICHARD H. ROELLIG, 6384.
BRIG. GEN. LANSFORD E. TRAPP, JR., 7799.
BRIG. GEN. THOMAS C. WASKOW, 1732.
BRIG. GEN. CHARLES J. WAX, 3013.
BRIG. GEN. JOHN L. WOODWARD, JR., 3961.
BRIG. GEN. MICHAEL K. WYRICK, 5017.

IN THE ARMY

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be major general

BRIG. GEN. LARRY G. SMITH, 2572.

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be brigadier general

COL. MITCHELL M. ZAIS, 7282.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JAMES L. JONES, 2699.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. MARTIN R. STEELE, 2490

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING SAMUEL R. BAKALIAN, JR., AND ENDING JERRY A. WEIHE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

IN THE ARMY

ARMY NOMINATIONS BEGINNING ROBERT J. METZ, AND ENDING KATHLEEN W. CARR; WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING OWEN H. BLACK, AND ENDING DALE N. WOODLING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1977.

ARMY NOMINATION OF RANDEL D. MATNEY, WHICH NOMINATION WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING *RONALD P. TURNICKY, AND ENDING MATTHEW W. RAYMOND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING JOHN E. RUETH, AND ENDING DOUGLAS R. YATES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATION OF PHILLIP J. TODD, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATION OF EMMANUEL M. CHIAPARAS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING *BENJE H. BOEDEKER, AND ENDING MARTHA K. LENHART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATION OF *RUPERT H. PEETE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING 4673X, AND ENDING *SCOTT A. SVABEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING MARK S. ACKERMAN, AND ENDING DONNA L. WILKINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

IN THE COAST GUARD

COAST GUARD NOMINATION OF LAURA H. GUTH, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING ROBERT R. ALBRIGHT II, AND ENDING JAMES R. DIRE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING FRANCIS C. BUCKLEY, AND ENDING ALLEN K. HARKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING RONALD G. DODD, AND ENDING MICHAEL E. THOMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING JOSEPH F. AHERN, AND ENDING CATHERINE M. KELLY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING ROY F. WILLIAMS, AND ENDING JOSEPH P. CAIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING GEORGE A. RUSSELL, JR., AND ENDING ELMO L. ALEXANDER II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING BRIAN C. CONROY, AND ENDING KAREN E. LLOYD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF JAMES W. BROWN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

MARINE CORPS NOMINATION OF CHRIS J. GUNTHER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

MARINE CORPS NOMINATION OF DOUGLAS S. KURTH, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

MARINE CORPS NOMINATIONS BEGINNING RANDALL N. MILLER, AND ENDING GARY W. SCHENKEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

IN THE NAVY

NAVY NOMINATIONS BEGINNING GARY D. BUMGARNER, AND ENDING REYNOLDO RESENDEZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

NAVY NOMINATIONS BEGINNING MARCIAL B. DUMLAO, AND ENDING REBECCA L. KIRK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

SENATE—*Monday, February 3, 1997*

The Senate met at 9:30 a.m. and was called to order by the Honorable TED STEVENS, a Senator from the State of Alaska.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 3, 1997.

To the Senate:

Under the provisions of rule 1, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TED STEVENS, a Senator from the State of Alaska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

ADJOURNMENT UNTIL 11 A.M. TUESDAY, FEBRUARY 4, 1997

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will stand adjourned until 11 a.m., Tuesday, February 4, 1997.

Thereupon, the Senate, at 9:30 and 28 seconds a.m., adjourned until Tuesday, February 4, 1997, at 11 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, February 4, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 5

9:15 a.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine the recommendation of the National Institutes of Health consensus development conference on breast screening for women ages 40-49.
SD-192

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 104, to amend the Nuclear Waste Policy Act of 1982.
SD-366

Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To hold hearings on ozone particulate matter standards proposed by the Environmental Protection Agency.
SD-406

Rules and Administration
To continue hearings on proposed committee resolutions requesting funds for operating expenses for 1997 and 1998.
SR-301

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Janet L. Yellen, of California, to be a Member of the Council of Economic Advisers.
SD-538

Budget
To hold hearings to examine education reform and economic growth.
SD-608

Select on Intelligence
To hold hearings on intelligence matters.
SH-216

2:00 p.m.
Armed Services
To hold hearings on the nomination of Federico Peña, of Colorado, to be Secretary of Energy.
SR-222

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on conserving judicial resources, focusing on the consideration of appropriate allocation of judgeships in the United States Court of Appeals for the Fourth Circuit.
SD-226

FEBRUARY 6

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 210, to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act.
SD-366

Rules and Administration
To continue hearings on proposed committee resolutions requesting funds for operating expenses for 1997 and 1998.
SR-301

Small Business
To hold hearings to examine women-owned and home-based businesses.
SR-428A

10:00 a.m.
Armed Services
To hold open and closed hearings on the worldwide threat facing the United States.
SR-222

2:30 p.m.
Select on Intelligence
Closed business meeting, on intelligence matters.
SH-219

FEBRUARY 7

9:30 a.m.
Joint Economic
To hold hearings to examine the employment-unemployment situation for January and the Consumer Price Index (CPI).
1334 Longworth Building

10:00 a.m.
Budget
To hold hearings on the President's proposed budget for fiscal year 1998.
SD-608

FEBRUARY 10

2:00 p.m.
Joint Economic
To hold hearings on the 1997 Economic Report of the President.
2359 Rayburn Building

FEBRUARY 11

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposals to reform the Commodity Exchange Act.
SR-332

9:30 a.m.
Labor and Human Resources
To hold hearings on the implementation of the Health Insurance Portability and Accountability Act.
SD-430

Rules and Administration
Business meeting, to mark up proposed legislation authorizing biennial expenditures by standing, select, and special committees of the Senate, and to consider other pending legislative and administrative business.
SR-301

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

FEBRUARY 12

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To hold hearings on the ozone and particulate matter standards proposed by the Environmental Protection Agency.
SD-406

Governmental Affairs
International Security, Proliferation, and Federal Services Subcommittee
To hold hearings on the future of nuclear deterrence.
SD-342

Labor and Human Resources
To hold hearings on the implementation of the Teamwork for Employees and Managers Act (TEAM).
SD-430

Small Business
To hold hearings on the President's budget request for fiscal year 1998 for the Small Business Administration.
SR-428A

10:00 a.m.
Finance
To hold hearings on the Administration's budget and revenue proposals for fiscal year 1998.
SD-215

FEBRUARY 13

9:00 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposals to reform the Commodity Exchange Act.
SR-332

10:00 a.m.
Finance
To hold hearings on the Administration's budget for fiscal year 1998, focusing on Medicare, Medicaid and welfare proposals.
SD-215

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

2:00 p.m.
Environment and Public Works
Transportation and Infrastructure Subcommittee
To hold hearings on the implementation of the Intermodal Surface Transportation Efficiency Act and transportation trends, infrastructure funding requirements, and transportation's impact on the economy.
SD–406

FEBRUARY 25

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the impact of estate taxes on farmers.
SR–332

FEBRUARY 26

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the impact of capital gains taxes on farmers.
SR–332

9:30 a.m.
Environment and Public Works
Transportation and Infrastructure Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Intermodal Surface Transportation Efficiency Act.
SD–406

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

FEBRUARY 27

9:30 a.m.
Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

10:00 a.m.
Armed Services
To hold hearings concerning the Department of Defense actions pertaining to Persian Gulf illnesses.
SD–106

MARCH 5

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the Department of Agriculture's business plan and reorganization management proposals.
SR–332

MARCH 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Paralyzed Veterans of America, the Jewish War Veterans, the Retired Officers Association, the Association of the U.S. Army, the Non-Commissioned Officers Association, the Military Order of the Purple Heart, and the Blinded Veterans Association.
345 Cannon Building

MARCH 11

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation authorizing funds for agricultural research.
SR–332

MARCH 13

9:00 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation authorizing funds for agricultural research.
SR–332

MARCH 18

9:00 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation authorizing funds for agricultural research.
SR–332

MARCH 19

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

MARCH 20

9:00 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation authorizing funds for agricultural research.
SR–332

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of AMVETS, the American Ex-Prisoners of War, the Veterans of World War I, and the Vietnam Veterans of America.
345 Cannon Building

SENATE—*Tuesday, February 4, 1997*

The Senate met at 11 a.m. and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God our Father, we pause in the midst of the changes and challenges of life to receive a fresh experience of Your goodness. You are always consistent, never change, constantly fulfill Your plans and purposes, and are totally reliable. There is no shadow of turning with You; as You have been You will be forever. All Your attributes are summed up in Your goodness. It is the password for Your presence, the metonym for Your majesty, and the synonym for Your strength. Your goodness is generosity that You define. It is Your outrushing, unqualified love poured out in graciousness and compassion. You are good when circumstances seem bad. When we ask for Your help, Your goodness can bring what is best out of the most complicated problems.

Thank You for Your goodness given so lavishly to our Nation throughout our history. Today, again we turn to You for Your guidance for what is good for our country. Keep us grounded in Your sovereignty, rooted in Your commandments, and nurtured by the absolutes of Your truth and righteousness. May Your goodness always be the source of our Nation's greatness. In the name of our Lord and Saviour. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE,
Washington, DC, February 4, 1997.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. HAGEL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The Acting PRESIDENT pro tempore. The Chair recognizes the distinguished majority leader.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until the hour of 12:30, with Senators permitted to speak for up to 10 minutes each. At 12:30 today the Senate will recess until 2:15 to allow the weekly policy conferences to meet.

Following the conferences, the Senate may consider a Senate resolution regarding mammograms, which was submitted by Senator SNOWE. It is my hope we will be able to enter a short time limitation for debate and then have a rollcall vote on the adoption of that resolution. All Members will be notified when that agreement is reached as well as when the rollcall vote can be expected. We hope that we will have that vote probably not later than 4 o'clock or so this afternoon, but we will give the specific time a little later in the morning.

As expected, yesterday the Judiciary Committee did file their report on the constitutional amendment on the balanced budget. The report became available this morning and, therefore, under the rule, the Senate may begin consideration of that joint resolution on Thursday. It is possible that we may begin opening statements on the balanced budget amendment on Wednesday, tomorrow afternoon. I will notify all Members of that schedule after I confer further with the democratic leader.

In addition, several committees are expected to complete their work on some of the pending nominations during this week. Once again, I will alert all Members as to the Senate schedule with respect to these nominees. We have at least a couple that are close to being reported. We hope to have a vote on those Thursday, if at all possible.

Of course, on Thursday morning we will also be notified of the President's budget proposals, and we hope to have a quick meeting with the President up here on Capitol Hill in the President's room certainly within the next week. We are still working on the specifics and details of that meeting, so we can begin to actually roll up our sleeves and begin work on items where we think there is a good possibility for agreement so that we can move things, like the balanced budget agreement, some tax relief for working Americans, improvements in education at the local level with parents being involved on behalf of the children's interests, safer streets, safer neighborhoods, and toxic and nuclear waste cleanup. These are areas where we have a lot of common interests, concerns, and we should go to work on these big issues as quickly as we possibly can.

Mr. President, I yield the floor and suggest the absence of a quorum.

The Acting PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. CAMPBELL. Mr. President, I ask unanimous consent that at 2:45 today the Senate begin consideration of a Senate resolution submitted by Senator SNOWE regarding mammograms. I further ask unanimous consent that there be 30 minutes for debate equally divided between Senators SNOWE and MIKULSKI, with an additional 10 minutes under the control of Senator SPECTER; further, no amendments be in order, and following the conclusion or yielding back of time the resolution be temporarily set aside with a vote to occur on the adoption of this resolution at 5 p.m. this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Further, Mr. President, for the information of all Senators, in accordance with this agreement, the mammogram resolution will be debated this afternoon, with a vote occurring at 5 p.m.

UNANIMOUS-CONSENT AGREEMENT—SENATE JOINT RESOLUTION 1

The PRESIDING OFFICER. Mr. President, I also ask unanimous consent that at 3 p.m. on Wednesday, February 5, the Senate begin consideration of Senate Joint Resolution 1, regarding a constitutional amendment on the balanced budget. I further ask unanimous consent that only opening statements be in order during Wednesday's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I announce this agreement will allow us to begin debate on the balanced budget amendment on Wednesday. Senators may make opening statements on Wednesday; however, no amendments will be in order.

I also ask the Senate not be in session late tomorrow to accommodate a number of Senator's schedules.

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO APPOINT COMMITTEE OF ESCORT ON THE PART OF THE SENATE

Mr. CAMPBELL. I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held at 9 o'clock p.m. this evening, Tuesday, February 4, 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, pursuant to Public Law 85–874, as amended, appoints the Senator from Mississippi [Mr. LOTT] and the Senator from Alaska [Mr. STEVENS] to the Board of Trustees of the John F. Kennedy Center for the Performing Arts.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of 20 United States Code, sections 42 and 43, appoints the following Senators as members of the Board of Regents of the Smithsonian Institution: the Senator from Mississippi [Mr. COCHRAN] and the Senator from Tennessee [Mr. FRIST].

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 100–458, appoints William E. Cresswell, of Mississippi, to a term on the Board of Trustees of the John C. Stennis Center for Public Service Training and Development, effective October 11, 1996.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30, with Senators permitted to speak therein for up to 10 minutes each.

ROBERT MORRIS, PATRIOT WHO STOOD UP FOR AMERICA

Mr. HELMS. Mr. President, one of the disappointing aspects of serving in the Senate is the inescapable and unintended detachment we so often unknowingly experience in our efforts to keep up with the joyful things happening to our friends back home and elsewhere. But it is downright discouraging to discover sometimes long after the fact, that sadness has come to our friends and their families.

For example, the death this past December 29 of a remarkable American, Robert J. Morris, who immediately earned my admiration when I came to Washington in 1951 as administrative assistant to a fine North Carolina Senator.

I had a note the other day from Bob Morris's widow, Joan, about his death. Mr. President, when I arrived in Washington years ago, Bob Morris was the very bright and talented chief counsel of the Internal Security Subcommittee of the Senate Judiciary Committee.

The New York Times on January 2 of this year reported Bob Morris's death. The headline read: "Robert J. Morris Is Dead at 82; Crusader Against Communism".

The opening paragraphs of the obituary read as follows:

> Robert J. Morris, whose ministrations as counsel for a Cold War Senate Subcommittee bent on rooting out Communists marked a long career devoted to conservative causes, died on Sunday at Point Pleasant Hospital in Point Pleasant, N.J. He was 82 and lived in Mantoloking, N.J.
>
> The cause of death was congestive heart failure, said his son Geoffrey, who added that Mr. Morris had been suffering for more than a year from hydrocephalus, a condition that impedes brain function.
>
> Mr. Morris was chief counsel to the Senate Judiciary Subcommittee on Internal Security from 1951 to 1953, and again from 1956 to 1958, a period when the country was tormented by the specter of Communist infiltration at every level of life.
>
> A graduate of Fordham Law School, he had served on a New York State Assembly committee in 1940 that investigated New York's schools and colleges for Communist activities. He worked various aspects of the Senate hearings, appearing as a witness now and then and serving as a frequent spokesman and defender of its work.

After those somewhat objective paragraphs, Mr. President, the New York Times launched a full-fledged attack on Bob Morris because of his battles against communism.

I shall omit that part of the New York Times report regarding Bob Morris's death and pick up again when the obituary regains objectivity:

> Mr. Morris's interest in politics was part and parcel of his upbringing in Jersey City, where his father was known for organizing opposition to Frank Hague, the entrenched Hudson County boss. That interest sharpened while Mr. Morris served in the Navy during World War II.
>
> Turned down at first because of his inability to recognize the color red, an anecdote he repeated with delight through the years, he became a commander of counterintelligence and psychological warfare. At one point, his son said, he was in charge of writing the threats, printed in Japanese on what looked like money, that were dropped by the planeload on Japanese cities.
>
> He also interrogated prisoners, and began believing that Communism was a greater threat to world security than most leaders realized—an opinion that would influence the rest of his life.
>
> Politics continued to attract him after he left the subcommittee. In 1958, he made a bid for the Republican Senate nomination from New Jersey, running on a conservative platform that stressed his subcommittee work. Like all but one of his attempts to win public office—he was elected a municipal judge in New York City in 1954, and resigned two years later to rejoin the Senate investigations—it was unsuccessful.
>
> Turning his eye to education, Mr. Morris moved to Texas in 1960 to become president of the University of Dallas. He continued speaking out against Communism and on other issues, which became a source of friction at the university, which he left in 1962.
>
> That summer, he founded the Defenders of American Liberties, a group he described as modeled after the American Civil Liberties Union, "but with emphasis on different positions." The group quickly gained public attention with its defense of former Maj. Gen. Edwin A. Walker, who was accused of inciting unrest at the University of Mississippi at Oxford as James Meredith, its first black student, was attempting to start classes there.
>
> In 1964, he founded the University of Plano, now defunct, in Plano, Tex., which was intended to teach mildly disabled young people through "patterning," controversial at the time. It involved putting students through a series of physical exercises, including crawling and creeping, to stimulate nonphysical development in the brain.
>
> Mr. Morris was prompted to do so by the difficulties of one of his children, William, whom he enrolled in the university. He remained at the university until 1977, and it closed a short time later.
>
> He continued to be a vocal foe of Communism and to speak out against disarmament. While In Texas, he made two runs at the Senate, in 1962 and 1970, positioning himself as a conservative Republican. Both times he was defeated in the primary by George Bush.
>
> He was the author of five books, all but one dealing with the prospective unraveling of the world order. One, "Disarmament: Weapon of Conquest," became something of a best seller after it appeared in 1963.
>
> He also wrote a column, "Around the World," which was published from 1960 to the early 1980's in newspapers, among them The Manchester (N.H.) Union Leader and The New York Tribune. Among his interests were the politics of Africa, and he became a chairman of the American Zimbabwean Association.
>
> In 1984, he made one last bid for the New Jersey Senate nomination, campaigning on the same platform as President Ronald Reagan but losing nonetheless. Until last year, his son said, he remained active, writing and giving lectures to groups in the New York area.
>
> He is survived by his wife, Joan Byles Morris; a daughter, Joan M. Barry of Jackson, N.J.; six sons, Robert J. Jr., of Kauai, Hawaii, Paul E., of Montclair, N.J., Roger W., of Mantoloking, William E., of Mantoloking, John Henry 2d, of Bay Head, N.J., and Geoffrey J., of Armonk, N.Y.; two sisters, Alice Gougeon of Stone Harbor, N.J., and Kathleen Reinert of Point Pleasant Beach, N.J., and 12 grandchildren.

FUNDING FOR INTERNATIONAL FAMILY PLANNING

Mr. LEAHY. Mr. President, the Senate and House will soon vote on the President's finding that withholding disbursement of USAID family planning funds until July 1, 1997, will cause serious damage to the proper functioning of the program.

It is no surprise that the President reached this conclusion. It is beyond dispute that family planning services, including the provision of modern contraceptives, are the most effective way to prevent unwanted pregnancies and abortions. The examples that the President cites to support his finding should be read by every Member of Congress. They illustrate the harm these restrictions have already done to the program, and the further harm, measured in the numbers of women who will die from unsafe abortions that could be prevented, and children who will die from disease or starvation because their families could not care for them, as well as in added administrative costs, that a further delay in disbursement will cause. They also refute the flagrantly erroneous claim of the right-to-life lobby, that this vote is about whether or not to provide $123 million to organizations that fund abortion. Not one dime of these funds can be used for abortion, and the vote is only about when, not whether, these funds will be disbursed.

I will have more to say about this at the time of the vote, but I want to be sure that all Senators saw the editorial from this Saturday's Washington Post, and this Sunday's Post op-ed piece by David Broder, which make compelling arguments for upholding the President's finding. Perhaps most noteworthy is the quote from former Senator Hatfield, who was staunchly prolife but an equally strong supporter of family planning. He said "it is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase."

Mr. President, that should be the beginning and end of this debate. I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 1, 1997]

A KEY FAMILY PLANNING VOTE

In the familiar and frazzling congressional argument over U.S. foreign aid for family planning, the side whose explicit purpose is to oppose abortion has been marking up notable gains. In the past two years, these funds have been cut by a full third, kept from being spent until nine months of the fiscal year have passed and then allowed to be spent ("metered") only in small monthly sums. Now an important vote is coming up that the family planning side hopes will halt and reverse this legislative harassment of a valuable program. The vote this month is not about funding abortions—something prohibited by law and policy anyway. It will simply determine whether funds already appropriated for family planning in fiscal 1997 will be held up until July or released in March.

Not a great issue, it could be said: a battle over crumbs in Congress. But it is a great issue if you believe as we do that American voluntary family planning programs—carefully drawn, executed and monitored to ensure that they will not be diverted to abortions—have made a central, proven, 30-year contribution to reducing poverty and enhancing human dignity around the world. The effectiveness of well-run programs, in fact, is no longer at issue. They work. It is demonstrable that when programs and funds are reduced—by cuts, delays and policy encumbrances—unintended pregnancies and abortions follow.

We now come to the large and continuing mystery of these programs. A strange belief that abortions can be made to end if family planning is restricted in what apparently has led antiabortion advocates to work for the denial and diminution of family planning services. "Chris," Sen. Mark Hatfield wrote not long ago to one of those advocates, Rep. Chris Smith (R-N.J.), "you are contributing to an increase of abortions worldwide because of the funding restrictions on which you insisted in last year's funding bill. It is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase. . . . This is unacceptable to me as someone who is strongly opposed to abortion."

The global generation now coming of childbearing age is the largest single generation ever to reach reproductive maturity, the Rockefeller Foundation reports. This is a sobering reminder of the need for the United States to resume its leadership in an important field.

[From the Washington Post, Feb. 2, 1997]

A VOTE FOR POOR WOMEN OVERSEAS

(By David S. Broder)

For 30 years, the United States has led an international effort to reduce the toll of maternal deaths and unwanted pregnancies by providing money and technical assistance for family planning programs in underdeveloped countries. Despite its dramatic successes and despite universal agreement that federal funds would not be used to pay for abortions, the program was severely cut and then temporarily suspended last year by antiabortion forces in the House of Representatives.

Now that issue is about to be revisited in a February congressional vote that will directly affect the life prospects of countless women and children—and provide an important test of the shellshocked House Republican leadership's ability to maintain a degree of cohesion in its fragile majority.

The background is this: Since the mid-1960s, the United States, through aid to foreign countries and to private, nonprofit organizations, has helped make contraceptive advice and supplies available to couples in poor lands so they can plan the size of their families. Its success is undeniable. A report released last week by the Rockefeller Foundation, a longtime supporter of family planning, noted that in the past three decades, the percentage of women in these countries using contraception has grown from 10 percent to 50 percent and the average number of children they have borne has been reduced from six to three.

The reduction in family size has helped millions escape from poverty and, for many women, enhanced the prospects for education and a richer life—to say nothing of better health. Fewer risky pregnancies and many fewer abortions are among the benefits.

No one seriously questions the efficacy of the program and, equally, no one has sought to upset the longstanding ban on U.S. government money paying for abortions. But when the Republicans won control of the House in 1995, they sought to write into law a policy that Presidents Reagan and Bush had imposed by executive order banning U.S. aid to organizations that used their own funds to pay for abortions. President Clinton ended that policy two days after he took office, and the House Republicans sought to overrule him.

Rep. Chris Smith (R-N.J.), whose opposition to abortion is as fervent as it is sincere, argued that since money is fungible, grants to groups such as the International Planned Parenthood Federation, which offers privately financed abortion counseling and services, were indirectly subsidizing the procedure he despised. But before he retired last month, Sen. Mark Hatfield (R-Ore.), as staunch an opponent of abortion as can be found, rejected Smith's logic.

In a letter to Smith last September, Hatfield wrote: "I have reviewed the materials you recently sent to my office in response to my request that you provide proof that U.S. funds are being spent on abortion through AID's [the Agency for International Development] voluntary international family planning program. Unfortunately, I do not see anything in these materials to back up your assertion." Hatfield said, "AID has a rigorous process," enforced by outside monitors, to carry out the abortion ban. "In the meantime, Chris," he added, "you are contributing to an increase of abortions worldwide because of the funding restrictions on which you insisted. . . . It is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase."

In 1995 and 1996, the House majority followed Smith, the Senate Hatfield. To break the impasse and keep the program alive, Clinton agreed last year that if the House Republicans would not insist on reinstating the Reagan-Bush restrictions, he would accept a 35 percent cut in family planning funds and agree to the financing being suspended entirely for six to nine months.

That agreement guaranteed Clinton an up-or-down floor vote in the House and Senate this month on resuming the program without the Reagan-Bush restrictions. But Smith is pressing House Majority Leader Dick Armey to break the deal Republicans made with the White House last September and allow Smith to bring up his restrictive amendment again, sweetened with a partial rollback of the funding cut. Armey's spokeswoman told me, "We're leaning toward" giving Smith what he wants.

That prospect has impelled many of the three dozen House Republicans who support the international family planning program to write Armey that, rather than yield to Smith and his allies, they are prepared to fight their own leadership and, if necessary, hand them an embarrassing defeat on the first major legislative test since Speaker Newt Gingrich was disciplined for ethics violations. The issue goes before the House Republican Conference later this week. But the women and children who have most at stake around the world will not have a vote.

TRIBUTE TO CHARLES A. "BILL" BISHOP

Mr. BAUCUS. Mr. President, I rise today to ask that this body honor a man whose life was an honor to Montana. And a man whose death is a loss to us all.

My friend, Charles A. "Bill" Bishop, died on Sunday, January 26. But his memory will continue to live on in all of us who remember him. His loss is sudden, and we are left now to remember this man who gave us so much. Throughout his life, he was a husband, a father, an advocate, a learner, a jokester, and a teacher. In everything he did, he attacked it with a passion—an unquenchable zest for life.

Family was everything to Bill. He idolized his wife and children, and they loved him dearly. One of his favorite things in the world was spending time with his family. I extend my deepest sympathies to them in this time of sorrow.

Bill's zest for life can easily be seen in his legacy of outspoken advocacy for the environment. With a heart as big as the Mission Mountains that he loved so much, Bill was committed to leaving this planet a better place for his children and grandchildren. On these issues, Bill was often an adviser to me. If he agreed with something I did, he would let me know. If he disagreed, I could expect to get an earful from him. Yet through it all, he was thoughtful, respectful, and eager to find solutions to the many problems that confront Montana.

I still have a hard time imagining Montana without Bill Bishop. In many ways, I will never get used to his absence. To say that I will miss him is not enough. His passing leaves my life with a little less laughter and a little less joy.

Those of us who knew Bill will make sure that the memories stay always fresh, renewed over and over again by our love for this great man. God bless you, Bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, February 3, the Federal debt stood at $5,297,382,328,731.42.

Five years ago, February 3, 1992, the Federal debt stood at $3,795,010,000,000.

Ten years ago, February 3, 1987, the Federal debt stood at $2,231,437,000,000.

Fifteen years ago, February 3, 1982, the Federal debt stood at $1,036,317,000,000.

Twenty-five years ago, February 3, 1972, the Federal debt stood at $423,272,000,000 which reflects a debt increase of more than $4 trillion—$4,874,110,328,731.42—during the past 25 years.

ADDRESS BY PEACE CORPS DIRECTOR MARK GEARAN

Mr. KENNEDY. Mr. President, on December 16, 1996, Mark Gearan, the Director of the Peace Corps, delivered an eloquent address at the National Press Club on the current status of the Peace Corps. Mr. Gearan's address provides an excellent summary of the accomplishments of the Peace Corps and the extraordinary assistance that Peace Corps volunteers are providing to nations in all parts of the world. I know that President Kennedy would be proud of the way the Peace Corps is living up to its ideals, and I ask that Mr. Gearan's address be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY MARK D. GEARAN, DIRECTOR OF THE PEACE CORPS

The job of Director of the Peace Corps affords those who are privileged to hold it a unique perspective on the world and our country, one that is shaped by the enduring values that the Peace Corps represents, and by the spirit of service that Volunteers embody.

When Sargent Shriver, the first Director of the Peace Corps, came to the National Press Club in 1962, he made this observation:

"It is a complex world we live in today," he said. "While one man orbits the earth in a space capsule, another man squats for hours beside an Asian rice paddy, trying to catch a fish only as big as your thumb. While some men manufacture computers, other men plow with sticks."

What my predecessor said then still holds true today. We have men and women orbiting the earth in space capsules. But we still have men and women plowing with sticks in many parts of the world.

Yet it goes without saying that the world is much different than it was in 1962. The disparities that Sargent Shriver described are still with us. But advances in science, technology, the media, the spread of freedom and democracy, and the end of the Cold War, have not only made our lives more complicated, they have also given us new opportunities and new reason for hope.

Much the same can be said about the Peace Corps. Since President Kennedy sent the first group of Volunteers to Ghana in 1961, we have remained true to the vision and goals that were set out for us from the very beginning. Today, nearly 7,000 Volunteers are working with ordinary people in 90 countries to encourage social and economic progress at the grass-roots level. Peace Corps Volunteers are young and older; they are black, white, Asian, Hispanic, and Native American; and they come from every social, economic, and religious background.

Yet for all of their diversity, our Volunteers still share a common purpose: to help make the world a better place.

And just as it was in the beginning, the Peace Corps is still much more than a development agency. Our Volunteers are still strengthening the bonds of friendship and understanding between Americans and the people of the developing world that are, in many respects, the foundation of peace among nations.

Yet the Peace Corps has also changed to meet the needs of our time. We have worked hard to strengthen the Peace Corps while remaining faithful to our mission. And I believe that the state of the Peace Corps is as strong as it has ever been, and that its prospects for the future are bright and promising. From the number of qualified and motivated people who want to become Volunteers, to the new countries we are entering, to the strong support we have among the American people, this Administration, and in the Congress, the Peace Corps is moving forward and is poised to enter the 21st century with confidence and energy.

With this future in mind, we decided to take a look at the past and see what we could learn from some of the men and women who have served as Peace Corps Volunteers over the years. We have conducted the first comprehensive survey of returned Peace Corps Volunteers who have served in each of the last four decades since 1961.

I'll tell you more about the survey in a minute. But let me give you just a few examples that demonstrate the vitality of an agency that continues to capture the imagination of so many people.

First, we continue to attract the best that America has to offer. Last year, more than 100,000 people contacted us seeking information about how to become a Peace Corps Volunteer. Ten thousand went through our competitive application process, and we extended invitations to 3,500 of these talented and dedicated people.

Second, we are making sure that Volunteers are serving in the right countries for the times in which we live. That's why earlier this year, our Volunteers returned to Haiti after a five-year absence to work with the people of the poorest nation in this hemisphere.

That's why next month, Volunteers will go to South Africa for the first time in the history of the Peace Corps to help support and contribute to the historic transformation that is taking place in that critical country.

And that's why I recently signed an agreement with the government of Jordan that will allow Volunteers to begin serving there in April 1997 for the first time. Expanding the presence of Peace Corps Volunteers in the Middle East is an important step for us. I believe these Volunteers will help improve understanding between Americans and the people of the Arab world and contribute to Jordan's development.

Third, we are making sure that the work of our volunteers is driven by the needs of the communities where they are serving. Volunteers are working with their counterparts to help to protect and restore the environment. Others collaborate with small business people to create economic opportunities. They are working with teachers to expand access to education for children and adults, and they help farmers grow more and better food. Still others are helping to keep families healthy and prevent the spread of terrible diseases, such as HIV/AIDS.

Fourth, we are leading the way for international volunteer organizations to play an even greater role in the developing world. Earlier this year, we brought together the leaders of 35 international organizations that send volunteers outside of their own countries. Our purpose was to find ways to collaborate in the field and help those countries, such as Mali, Senegal, the Czech Republic and Malaysia, that want to establish their own volunteer organizations.

Finally, we are moving forward with the establishment of the Crisis Corps, one of our newest and most exciting initiatives. We are making it possible for experienced Peace Corps Volunteers and returned Volunteers to contribute their language skills, their cross cultural understanding, and their experience in development to short-term international relief efforts.

These are just a few of the important steps we are taking to ensure that the Peace Corps stays on the cutting edge of development and service. So like any forward-thinking organization, we thought we could learn something from the people who have contributed so much to the Peace Corps' success. We wanted to take advantage of the insights and experience of returned Volunteers who served in the Peace Corps for at least one year.

Let me share with you some of the highlights of what they had to say:

Perhaps the most impressive finding was that 94% of the respondents said that they would make the same decision to join the Peace Corps again, and 93% said they would recommend service in the Peace Corps to others.

One returned Volunteer wrote: "Aside from the births of my two daughters, my Peace Corps experience was the most gratifying experience of my life. I'm so proud and grateful for having been blessed with such a powerful and positive experience."

Ninety-four percent of the respondents believed they made a positive contribution to the development of the country where they served, and most indicated that their greatest contribution as Volunteers was to the individuals with whom they worked.

In addition, most of the respondents said that service in the Peace Corps met their expectations of helping others, experiencing a different culture, and their desire for travel and adventure. And 70% said that their Peace Corps experience had a positive impact on their careers.

The survey also revealed that some returned Volunteers did not leave their sense of humor overseas. In response to the question: "In what state are you currently living?", several Volunteers responded: "confusion, or bliss . . ."

Our survey also confirmed what we already know: Peace Corps Volunteers face some very difficult realities—from petty burglaries and assault, to racial and sexual harassment, to political unrest and natural disasters. Service in the Peace Corps can sometimes be tough, but the Volunteers confront these challenges head on every day with great courage.

Finally, this survey also reveals that, for most returned Volunteers, their commitment to service doesn't end when they come home. They tend to be active members of their communities. Seventy-eight percent said they have volunteered since coming home, and 63% have worked with people with "special needs," such as the elderly, the disabled, and refugees.

These are just some of the results of the 1996 survey of returned Peace Corps Volunteers. But what are we to make of all this? Does it matter? I think it does, and let me tell you why.

First, I believe that in many ways this survey reaffirms and justifies the confidence that Americans have placed in the Peace Corps over the years, something for which we are grateful and never take for granted.

Second, this survey also demonstrates in a small but important way that many Americans care about what happens in the world and want to help make it a better place. I believe they understand the connection between America's engagement in the world and our prosperity. And they are generous in their willingness to encourage progress and help other people.

But there is also a significant domestic dividend to the Peace Corps. Our country is fortunate to have a large cadre of people with international experience that broadens our understanding of other countries and cultures. This is a tremendous asset for America's participation in the global marketplace.

Moreover, the insights about other peoples and cultures that returned Volunteers bring back with them, I believe, can add to America's thinking and understanding of the many problems that we confront in our own multicultural society.

Finally, let me close by speaking directly to the young people in our country. The Peace Corps is an organization that is often identified with the 1960s. A lot of young people sometimes wish they had been around to witness the sweeping changes that occurred in our society and our culture back then. I believe there is much that we all can learn from that important era in our country's history.

But a nostalgic view of the past need not keep us from looking ahead and moving forward. I believe the times in which we live today are just as exciting and hold even more promise. Fifty years from now, young people will look back to the end of the 20th century and say: "I wish I had been around when the German people took their sledgehammers to the Berlin Wall, when the people of South Africa tasted freedom for the first time, when the Cold War ended and new democracies began to flourish." They will surely wish they had been alive when the information revolution took off and helped shrink the world by an order of magnitude.

But the men and women who are serving as Peace Corps Volunteers today are taking part in the great struggle that still lies ahead—the struggle for human dignity both here at home and around the world. President Kennedy and each of his successors, both Democratic and Republican alike, have summoned us to participate in that struggle, and I am very proud to say that Peace Corps Volunteers are doing their part.

I believe this is the best time to be part of the Peace Corps. We are grateful for the service of more than 145,000 Americans. We are excited about our future—from the new countries where Volunteers will be serving, to our new initiatives, including the Crisis Corps. The Peace Corps is moving into the next century, proud of the legacy that precedes us and confident that Peace Corps Volunteers are making a real difference in lives of people around the world.

IMPLEMENTATION OF MANAGEMENT REFORMS AT THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. THOMPSON. Mr. President, I would like to use the opportunity, following Senate confirmation of Andrew Cuomo as the next Secretary of Housing and Urban Development, to address some vital management issues at the Department. The Department of Housing and Urban Development [HUD], like many other federal agencies, is confronted by serious management problems that impede its ability to carry out its mission.

HUD, which Secretary-designate Cuomo will head, has a diverse group of activities under its purview. HUD manages an $885 billion loan portfolio and provides $25 billion in rental subsidies and over $5 billion annually in community development grants. As the principal agency concerned with the Nation's housing needs and redeveloping our decaying cities, HUD has a monumental task on its hands and should be run as efficiently and effectively as a Fortune 500 company. Unfortunately, this has not been the case in the past.

Historically, HUD has had a rocky track record. Departmentwide management deficiencies were a major factor leading to the 1989 HUD scandals. In 1994, the General Accounting Office placed the entire department on its high risk list, designating HUD as "especially vulnerable to waste, fraud, abuse, and mismanagement." I understand that this year GAO will continue to keep HUD on its high risk list, believing that the deficiencies hampering HUD's leadership in effectively managing the agency have yet to be resolved.

Congress has given agencies like HUD the tools to improve their management operations, most notably by passing legislation developed by the Governmental Affairs Committee such as the Chief Financial Officers [CFO] Act of 1990, the Government Performance and Results Act [GPRA] of 1993, and the procurement and information technology reforms of last Congress. These laws are designed to get the Federal Government to operate in a sound, businesslike manner and implementing these management reforms is a major responsibility for each department head. I urge Mr. Cuomo to devote as much of his time as necessary to use these laws to focus on getting results for the taxpayers who fund HUD and the many who depend on its programs.

The Government Performance and Results Act, for example, can be an effective tool to make government work better by measuring the success or failure of government programs and using this information to support budget decisions. I am encouraged by Secretary-designate Cuomo's enthusiastic support of GPRA in his responses to my questions submitted during his confirmation process. This is because effective GPRA implementation is especially needed at HUD. HUD's programs and missions often overlap or are linked only tangentially to HUD's primary missions. The National Academy of Public Administration and HUD's inspector general [IG] have recommended eliminating, consolidating, or restructuring many of HUD's 240 programs and activities, 91 of which, the IG said, were questionably related to the department's primary mission. GPRA, by focusing on agency missions and results, will give HUD, the Office of Management and Budget and the Congress the information necessary to consolidate and eliminate these wasteful and redundant programs.

Unfortunately, HUD has a long way to go toward effectively implementing GPRA. The HUD IG recently found that the department is just beginning to develop an agencywide strategic plan, the key underpinning and starting point for the process of goal-setting and performance measurements under GPRA. The IG report also indicated that HUD staff felt that the initial plans were developed only by a few of the Department's staff and did not involve input from a broad range of HUD offices. Given the need for broad acceptance of performance measures and established deadlines for implementing GPRA, I hope the new Secretary will take steps to ensure the integrity and successful implementation of GPRA at HUD.

GPRA is dependent on sound financial management—something that HUD is lacking. One of the reasons for GAO's designation of HUD as a high-risk area is its poorly integrated, ineffective, and generally unreliable information and financial management systems. These systems do not meet program managers' needs and provide inadequate control over HUD's housing and community development programs. HUD must get better control over its finances and prepare timely financial statements as required by the CFO Act.

Good financial data relies upon the development of effective computer systems and these systems are crucial to HUD's ability to meet its housing mission and business needs. In recent years, the Department has obligated over $170 million annually to activities related to information management. Yet HUD has had a poor history of managing its information resources, and as a result, is struggling with aging systems that do not adequately meet the agency's needs and are contributing causes of managerial inadequacies.

In response to its problems, HUD has undergone dramatic structural changes. In September 1995, HUD completed a major field reorganization which was intended to eliminate previously confused lines of authority, enhance communications, reduce levels of review and approval, and improve customer service. In January 1996, HUD announced additional plans to reduce headquarters staff and further streamline its field organization by, among other things, closing up to 10 of HUD's 81 field offices by the end of fiscal year 1997. However, it is questionable whether these changes have turned the tide as GAO has found that the Department still has an ineffective organizational structure.

The situation is not hopeless. HUD has made some progress in recent years addressing these Departmentwide management deficiencies, but success will require top-down management support. I hope Secretary-designate Cuomo will articulate a management vision that can improve operations at HUD and take measures required to take the agency off GAO's and Congress' high-risk list. I look forward to working with him to achieve those objectives in this Congress and to effectively implement the bipartisan management reforms passed by Congress in recent years.

THE PRESIDENT'S CERTIFICATION ON INTERNATIONAL FAMILY PLANNING

Mr. DASCHLE. Mr. President, on Friday, January 31, the President submitted to the Congress a certification that merits the support of all Members of Congress who wish to see improvements in the quality of life of women and families around the world.

The President has certified that the restrictions imposed by Congress in the fiscal year 1997 appropriations legislation are "having a negative impact on the functioning of the population planning program." Congress's approval of that certification would allow fiscal year 1997 family planning funds to be released at a rate of 8 percent per month beginning March 1 rather than July 1. Population programs around the world have not received any U.S. fiscal year 1997 funding even though the fiscal year began October 1, 1996, so approval of this resolution would simply reduce the delay of the funds' release from 9 months to 5.

U.S. contributions to family planning programs have immeasurably improved the lives of women in developing countries. The ability to plan the size of one's family is essential if women and children are to live longer and healthier lives and if women are to make the educational and economic gains they and we wish to see.

The Rockefeller Foundation released a report last week documenting the effectiveness of the family planning programs the United States supports. The report noted that the percentage of women in developing countries using contraception in the past three decades has grown from 10 to 50 percent, and the average number of children they have borne has dropped from 6 to 3.

Mr. President, there is a growing clamor that Congress is about to cast its first abortion vote of the 105th Congress when it votes on the President's certification. Nothing could be further from the truth. The truth is that Congress voted to cut U.S. contributions to population planning programs by 35 percent from fiscal year 1995 to fiscal year 1997 and then imposed a series of harsh metering requirements on the rate at which the money could be spent. This vote would simply remove one of the harshest requirements—that the funding be delayed by an additional 4 months.

It is tragic that the impact of these cutbacks and restrictions has been to increase the number of abortions. At a time when the number of women of childbearing age is increasing by 2.3 percent, or 24 million, per year, the United States is reducing its commitment to programs that reduce the incidence of abortion.

The close relationship between family planning and abortion is clear. In Russia, for example, the Russian Department of Health reports that the use of contraceptives grew from 19 to 24 percent between 1990 and 1994 with the establishment of 50 International Planned Parenthood Federation affiliates across Russia. During that time period, the number of abortions performed dropped from 3.6 to 2.8 million. In Colombia and Mexico, USAID has long been a major donor to their family planning programs. In Bogota, a one-third increase in use of all forms of contraception between 1976 and 1986 accompanied a 45-percent drop in the abortion rate. In Mexico City and the surrounding region, the use of all forms of contraception increased 24 percent between 1987 and 1992, while the abortion rate fell 39 percent.

Helping to provide women with the means to prevent pregnancy is a far better alternative than contributing to a situation in which they must choose between bringing a child into the world for whom they too often have neither the physical nor financial means to care, and obtaining an abortion that is often illegal and unsafe. No woman wants to face that choice.

The statistics clearly document this problem. UNICEF's 1996 "The Progress of Nations" reported that each year, 600,000 women die of pregnancy-related causes, 75,000 of them associated with self-induced, unsafe abortions. These women leave behind at least 1 million motherless children. In addition, an estimated 34,000 children under age 5 in developing countries die every day—a number that would surely decline if mothers were able to space the births of their children to improve the health and nutrition they can provide them.

I urge my colleagues to support this Presidential certification to reduce the most onerous restrictions on U.S. contributions to international family planning programs when it comes up for a vote this month.

CONSTRUCTION OF THE CLEAR CREEK COMPOSITE BRIDGE

Mr. FORD. Mr. President, today, I wish to extend my congratulations to the University of Kentucky, the Kentucky Transportation Center, the Great Lakes Composite Consortium, the U.S. Forest Service, and other composites manufacturers on the completion of the Clear Creek Composite Bridge in Bath County, KY, located in the Daniel Boone National Forest. This pedestrian bridge is the first of its kind in the world, and the successful creation of this bridge stems from a creative design, and a great deal of research.

The Clear Creek Bridge is a 60-foot composite bridge, which is lightweight, maintenance free, and most importantly, unobtrusive in its environment. Dr. Issam E. Harik, a professor of civil engineering, along with graduate students Pete Szak and Brad Robson of the University of Kentucky, were the research team that designed and constructed this visually appealing and structurally sound bridge.

The research and development of the technology which allowed the construction of this pedestrian bridge are essential for a competitive and strong economy, particularly with respect to the use of composite materials. The lightweight, maintenance-free bridges of the future are a welcomed change to current engineering practices, which will save taxpayers money.

Construction material and maintenance costs surrounding today's infrastructure needs are significant, and increasing rapidly. Particularly in this year, as Congress begins discussion of the reauthorization of the Intermodal Surface Transportation Efficiency Act, it is important to identify new processes which will allow the Nation to maintain our roadways and bridges at a more affordable rate than is currently possible.

It is my understanding that a major reason for the creation of this pedestrian bridge was to validate the concept of construction of composite vehicular bridges. I encourage the dedicated engineers who worked on this project to remain committed to their research and it is my hope that the people of Kentucky and throughout the country, will be driving over composite bridges sometime in the very near future. These will truly be the bridges of and to, the 21st century.

Other special recognition goes to Northwestern University in Evanston, IL; the Morison Molded Fiber Glass Co. of Bristol, VA; Owens Corning of Toledo, OH; Ashland Chemical in Columbus, OH, and Zoltek Corp. of St. Louis, MO. This is an example of the private sector, universities, and Federal Government working together to form a strong and successful partnership.

I commend and thank the University of Kentucky team and U.S. Forest Service for their determination and hard work in building this historic bridge. Outdoor enthusiasts from communities all over the Commonwealth of Kentucky will now be better connected to the wilderness.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of Senate Resolution 49 are located in today's RECORD under "Submission of concurrent and Senate resolutions.")

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from Missouri, the Chair asks unanimous consent that the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Indiana, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I make a parliamentary inquiry.

Are we under specific orders at this point?

The PRESIDING OFFICER. The Senator is informed that at 2:45 p.m. today the Senate will, in accordance with the previous order, move to Senate Resolution 47 offered by the Senator from Maine, for herself and the Senator from Maryland, and that debate will proceed for the next 40 minutes.

Mr. LEAHY. Mr. President, I will just speak for maybe a minute or so.

TRIBUTE TO ANNE DIBBLE JORDAN

Mr. LEAHY. Mr. President, it is easy for both elected officials and commenters to refer to all knowledge as residing outside the beltway.

It has been my experience that some of the greatest wealth of knowledge, experience, and ability represented in this country is inside the beltway. Rarely enough does that talent get recognized.

An exception, is the recognition in the Washington Post of the extraordinary talent of Anne Dibble Jordan. Mrs. Jordan was the cochair of the last Presidential inaugural of the 20th century.

It is my privilege to know this extraordinary woman and her noted husband, Vernon Jordan. Anne Jordan is one of those people who makes it possible for Washington and our Government to present a face worth seeing by the rest of the world. In fact for those who have come to know her, it is hard to think of anything she could not achieve.

Mr. President, I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 18, 1997]

THE WOMAN BEHIND THE CURTAIN—MONDAY IS ANN JORDAN'S BIG DAY—YOU WON'T EVEN KNOW SHE'S THERE

(By Roxanne Roberts)

It's the middle of a news conference at the Foreign Press Center. Ann Dibble Jordan and Terry McAuliffe, the chairmen of the Presidential Inaugural Committee sit on a stage briefing dozens of reporters from around the world about the seemingly endless list of celebratory events.

McAuliffe pops off with enthusiastic sound bites, jumping in to answer virtually every question. Jordan sits quietly, carefully offering written remarks. If there were an award for the inaugural chairman with the lowest possible profile, Jordan would win—hands down.

Her face is dominated by her red-framed glasses. She wears simple gold jewelry, a plain black dress and carriers an inexpensive Le Sportsac purse.

"I hate interviews. I hate publicity," she says later. "My husband tells me I'm the most private person he knows."

Herein lies the intriguing contradiction of Ann Jordan: a very private person who lives a very public life. Her husband is the much-respected and much-feared lawyer Vernon Jordan, power broker extraordinaire. The Jordans are on the A-list of every Washington social event, serve on numerous corporate and charitable boards, and count a vast number of powerful people as friends—including the president and first lady. Indeed, Vernon Jordan is a favorite golfing buddy of Bill Clinton; the couples are so close they had Christmas Eve dinner together.

Shortly after the election, Clinton picked up the telephone and called Ann Jordan. "I need your help," said the president, who asked that she accept the unpaid co-chairmanship. It was an offer she couldn't refuse.

"I didn't think I'd be doing all of this, I tell you," she says. "I thought I'd just be a worker. But I had worked in the previous inaugural, and I'd seen a lot of the things that probably would be helpful in doing this."

Jordan, 62, came aboard just before Thanksgiving, with an eye to creating a structure that was "open and honest." This year, there are no fund-raising responsibilities, so the job of chairman is primarily one of oversight: meetings every morning to go over all the plans, defining goals, and signing off on major decisions and expenditures. When a final decision had to be made, said committee members, it was often Jordan whose judgment carried the day.

And there are also news conferences—Jordan's least favorite part of the job.

"She doesn't crave the limelight," says co-chairman McAuliffe. "She's just been a joy to work with. She and I have not had one disagreement in the past two months."

"I am absolutely, totally impressed and in awe of her," says Harold Ickes, who is coordinating inaugural plans from the White House. "It is not unusual for someone of her social position to take the job and be sort of honorary about it, sweeping in and out. She does not throw her weight around, although—God knows—she knows everyone in Washington and can get anyone on the phone at the drop of a hat."

Of course, in Washington one expects the customary compliments from colleagues. But the genuine exuberance for Jordan goes beyond the predictable.

Jordan describes herself as "quite low-key . . . I know what my limits are." She doesn't mention the gala with Princess Diana or her vacations on Martha's Vineyard with the Clintons. She doesn't bring up the dinner at her home four years ago—the president-elect's first Washington party—or the fact that she sent cyclamens to all her neighbors apologizing for any inconvenience it may have caused.

Her official biography for the inauguration is three short paragraphs.

"She's raised in the old school," says events planner Carolyn Peachey, a close friend. "Your name is in the newspaper three times: born, married, died."

Hillary Rodham Clinton calls her "a woman of many talents." Jordan's work on the inaugural committee, says the first lady, highlights her "wonderful" organizational and management skills. "What I think I like most about her is her warm friendship, coupled with her marvelous sense of humor."

Vernon Jordan is not in the habit of discussing his personal life with the press. But he is downright effusive when it comes to his wife of 10 years.

"She's smart, independent, caring, loyal," he says. "She is my best friend in the world." The suggestion that she is shy produces Jordan's famed booming laugh. "She's not shy *at all*. She just keeps her own counsel. And she is in many ways a very private person, which is one of her more admirable qualities."

Nonetheless, it is difficult to be an entirely private person if one happens to be married to one of the most influential—and socially gregarious—men in the city. It is "just nonsense," says Jordan, to even suggest that his wife was asked to chair the inauguration because of his friendship with the first couple.

"I think she did this out of a sense of duty and responsibility," he says. "She loves to make things work right. And it's an honor, and I think she views it that way."

There is, in fact, a long history of public service in her life. She was born in Tuskegee, Ala., one of five children of a surgeon who ran the only hospital in the city that treated black patients.

Jordan attended prep school and then went to Vassar, where she was one of four black students. She was so fair-skinned that she had to tell classmates she was black. "You didn't want to have a conversation where you had to get up and walk out," she says. "Once you say it, you don't have to tell many more. It goes around quickly."

She took graduate courses in social work at the University of Chicago and later taught there and served as head of social services at the university's medical center. She married, had four children and divorced 11 years later. She stayed in Chicago, working full time and raising her children. "I was used to running my own life," she says.

That life was shaken by the 1981 death of a daughter in a car accident. "I think it makes you just stop and relive your life," says Jordan. "I mean, you think about your life and what's important, and it changes it."

Her other children—now in their thirties—were grown when she married Vernon in 1986. They had met years earlier while both were working with the Urban League. His first wife, Shirley, died of multiple sclerosis in 1985.

"What I like best about him is when we sit down to talk—he's very interested," she says. "And he's fun to be with. He's totally unpredictable."

And Vernon Jordan says, "When I want to get it straight, I talk to Ann."

And then he adds the one-liner of every clever husband: "The fact is that I married up."

Her new husband brought to the marriage the lifestyle of a wealthy, powerful man in this town. "It was sort of nice to enjoy the free time of living in Washington," she says. "It also allowed me to pursue a lot of my own interests. I was very busy. And Vernon is a very—to say the least—he's fun."

Being married to Jordan also brought invitations to every important social event in Washington, including the state dinner for South African President Nelson Mandela. "It was one of the great thrills of my life," she says. Mandela told her "a very funny story about his life after he got out of prison. . . . I'm certainly grateful for those kinds of opportunities."

Aside from inaugural duties, Jordan's time these days is devoted to her five grandchildren (all under 5 years old), volunteering in the White House social office and serving on various boards: WETA, Sasha Bruce Youthworks, the Kennedy Center and the Child Welfare League of America.

She has settled into her life in the nation's capital, but her affection for Chicago is such that she travels there as often as once a month. "It's a wonderful city and people don't realize it." Washington, she says, "is a wonderful city to live in. I mean for living purposes, it's very easy to get around, the weather's wonderful, and very interesting people here."

It was Jordan who pushed to include residents of Washington in more inaugural activities. She is most excited about the public events on the Mall, and she was instrumental in bringing "King," the musical tribute to Martin Luther King Jr., to the celebration.

"I love the fact that it can be open," she says. "Not only just free events, but very well done free events." She hopes to find time to drop by the children's tent for the storytellers: "My grandchildren want to see it."

Jordan doesn't mention the glamour of the inaugural balls. She'll attend five or six, wearing a dress that she's had a long time. "I wear it every year to the Kennedy Center," she says. "It's a black velvet dress that has—I don't know what you'd call 'em, not rhinestones but sort of sparkly" decor on the shoulders. "I love the dress."

On that night, her husband says simply that he'll be doing "whatever she says."

And afterward, instead of all the exclusive after-ball parties, you might see the inaugural chairman celebrating at . . . McDonald's.

"That's my favorite," she says. "A Quarter-Pounder without cheese. Then they have to cook it fresh. We're there all the time."

RESPECT FOR DEMOCRACY AND THE STATE OF THE UNION ADDRESS

Mr. LEAHY. Mr. President, 2 weeks ago I came to this floor and spoke of an event that happened in the late 1930's in Montpelier, VT, the capital of Vermont, the city where I was born. I will recount that only briefly because we have the state of the Union message tonight. I hope it may be instructive to some.

In the late 1930's, then-President Franklin Roosevelt visited Vermont. To put this in context, during the Roosevelt landslide, President Roosevelt carried all States but two: the State of Maine and the State of Vermont. We were not a hotbed of Democratic action, Vermont.

The president of the National Life Insurance Co. of Vermont was standing on State Street. That building was directly across the street from where my family lived. He was standing next to my father, who was probably the lone Democrat in Montpelier.

President Roosevelt's car went by, and the president of National Life, an ardent, lifelong, fervent, and proud Republican, stood at attention, took his hat off, and held it over his heart as a mark of respect, as did other men on the street.

My father, who knew him well, chided him a little bit and said, "I never thought I'd see the day you would salute Franklin Roosevelt." He turned to my father and said, "Howard, I didn't salute Franklin Roosevelt. I saluted the President of the United States." As a child I remember that same gentleman repeating the story to me in my father's presence.

I mention this because he was also very proud of the fact that he was one of the ones who, as he said, voted for sanity when he voted for Alf Landon and not Franklin Roosevelt.

In a way it reflects a different time, but in many ways, a good time. The United States was, in the late 1930's, approaching our eventual entry into World War II, when we had to pull together. We also showed that we respected our institutions.

Tonight there will be some of us who agree and some of us who disagree with what President Clinton says in the state of the Union message. I hope that in expressing both our agreements and our disagreements we will resolve that there are three great institutions deserving our civil respect in this country: the institution of the Presidency; the institution of the Congress itself, which is demeaned when we do things that harm or degrade it; and the institution of the judiciary.

This great democracy exists because of the respect of its people for these three institutions. This great democracy is diminished if we, especially we in the Senate, diminish any of these. Debate, yes; but respect our institutions, also, yes.

I yield the floor.

CONCERNING THE NEED FOR ACCURATE GUIDELINES FOR BREAST CANCER SCREENING

The PRESIDING OFFICER. Under the previous order, the Senator from Maine and the Senator from Maryland are recognized to speak for up to 15 minutes each, followed by a time reserved for Senator SPECTER from Pennsylvania for 10 minutes.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res 47) expressing the sense of the Senate concerning the need for accurate guidelines for breast cancer screening for women between the ages of 40 and 49.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Maine is recognized for such time as she may consume under the previous order.

Ms. SNOWE. Mr. President, I rise to offer a sense-of-the-Senate resolution in conjunction with my colleague, the Senator from Maryland, Senator MIKULSKI, who has been a longtime advocate, proponent of advancing women's health in America. We responded to the January 23 decision that was made by the advisory panel to the National Cancer Institute that recommended that women should refrain from having mammograms in their forties.

I want to thank the majority leader, Senator LOTT, the assistant majority leader, Senator NICKLES, and Senator JEFFORDS, chairman of the Labor and Human Resources Committee for their assistance in getting this resolution to the floor so quickly. I would also want to thank the Democratic leader and my friends on both sides of the aisle for allowing us to consider this resolution under a unanimous-consent agreement. Breast cancer is an issue that transcends party and politics.

My resolution expresses the sense of the Senate that NCI should conduct studies to determine, once and for all, the true benefit of mammograms for women in their forties. It also urges the Advisory Board to NCI, which will meet later this month, to consider reissuing the mammography guideline it rescinded in 1993 recommending that women in their forties seek routine mammograms. NCI must put an end to the unfortunate confusion that may cost some women their very lives.

Breast cancer is one of the most pressing public health crises facing American women today, striking one in every eight women during their lifetime. It will strike 180,000 American women this year, and kill 44,000 women—more than 10,000 of whom will be diagnosed with breast cancer in their forties. For women in this age group, it is the leading killer, and more women this year will be diagnosed with cancer in their forties than in their fifties.

Mammograms are the most powerful weapon we have in the fight against breast cancer. They enable us to detect and treat breast cancer at its earliest stages when the tumors are too tiny to be detected by a woman or her doctor, providing a better prognosis for treatment. An estimated 23.5 million mammograms were performed in 1992 at a cost of approximately $2.5 billion—a valuable downpayment in our fight against an unmerciful killer.

The question about whether women in their forties should seek regular mammograms has been an open question for years. On January 23, an NCI consensus panel decided not to recommend that women in their forties seek routine mammograms. To justify their position, they argued that the costs associated with routine mammograms for women in this age group potentially exceed the benefits. In making its decision, the panel gave undue weight to hypothetical risks, such as false-negative results that potentially provide women with a false sense of security, false-positive results that produce unnecessary anxiety, the potential for overtreatment, and radiation exposure.

If we ever hope to improve survival rates for breast cancer, women of all ages must receive accurate and consistent information regarding the importance of mammograms. Women and their doctors look to the Nation's preeminent cancer research institution—the National Cancer Institute—for clear guidance and advice on this issue.

Confusion on this issue is not new. In 1989, NCI, along with the American Cancer Society and the American Medical Association, issued breast cancer screening guidelines which advised women to begin having mammograms at age 40. In 1993, NCI rescinded these guidelines, stating that their review of clinical trials produced no evidence that mammograms significantly reduced breast cancer deaths for women in their forties. At the time, Congress and many experts questioned the appropriateness of this conclusion, based on the available scientific evidence. This is when I first introduced legislation urging NCI to reexamine this issue.

By rescinding its guideline, NCI produced widespread confusion and concern among women and physicians regarding the appropriate age at which to seek mammograms. This confusion eroded public confidence in mammography. It also reinforced the information barrier which discourages women from seeking care. Four years later, we are still mired in this controversy.

Yet new studies strongly suggest that routine mammograms for women in their forties can save lives. For example, investigators found a 24-percent lower death rate among women who received mammograms in their forties when the world's population-based trials were combined; and Swedish researchers in 1996 in two studies found a 44- and 36-percent lower death rate among women who received mammograms in their forties. And several studies have concluded that breast tumors in women under 50 grow far more rapidly than breast cancer in older women, suggesting that annual mammograms are of value to women in their forties.

In studying the research and scrutinizing the statistics, the panel appears to have lost sight of the human dimension of this question, and gave undue weight to the costs of screening, rather than the benefits. The panel emphasized that 2,500 women would have to be screened to save one life. But this 1 life represents someone's mother, wife, sister, or daughter.

The panel also emphasized that up to one-fourth of all invasive breast cancers are not detected by mammography in women in their forties. Yet, the flip side of this statistic is that three-fourths of all cancers in this age group are detected through mammography. While it may not be perfect, that clearly amounts to saved lives.

Finally, the NCI Panel also overemphasizes the risks of false-positives, suggesting that many women would undergo unnecessary surgical procedures. Yet, most women with positive findings subsequently undergo more refined diagnostic tests, including diagnostic mammograms, ultrasounds, and needle biopsies to confirm the presence of cancer, before any treatment decisions are made.

Appropriately, the Director of NCI, Dr. Richard Klausner, expressed his surprise and disappointment over the decision of the consensus panel, and has asked the NCI Advisory Board to convene next month to revisit this issue. Former NIH Director, Dr. Bernadine Healy, affirmed his views.

I am asking the Senate to consider my resolution today because women and physicians deserve to have guidance on this issue. My resolution expresses the sense of the Senate that NCI should conduct studies to determine, once and for all, the true benefit of mammograms for women in their forties. It also urges NCI's Advisory Board, which will meet later this month, to consider reissuing the mammography guidelines it rescinded in 1993 which recommended that women in their forties seek routine mammograms. Alternatively, NCI should direct women to other organizations which have issued clear guidelines on the issue, such as the American Cancer Society. This resolution does not dictate science—it simply helps to provide women with clearer guidance as they look to answer a potentially life or death question—should they get mammograms in their forties?

Ms. MIKULSKI. Mr. President, I rise in support of this sense-of-the-Senate resolution and am pleased to be a cosponsor of the resolution with my distinguished colleague, Senator SNOWE of Maine. Senator SNOWE has been an outstanding advocate for many years on the issue of women's health. This is yet one more action on her part that shows her deep commitment in this area.

Mr. President, this is a sense-of-the-Senate resolution. I am pleased to tell you that my colleagues in the Democratic caucus join with us on a bipartisan basis and have endorsed this. All six Democratic women have cosponsored this legislation. Over 30 of the men that we call the "Galahads" also cosponsored this resolution.

What does this resolution call for? It calls for three things that would protect women's health, particularly in the area of breast cancer. No. 1, it calls for further research on the benefits of mammograms for women in their forties; No. 2, it urges the public to follow screening guidelines issued by medical groups which call for mammography screenings in women between the ages of 40 and 49; and it calls upon the National Cancer Institute to again revisit the guidelines that they themselves promulgated, also urging that women who are between the ages of 40 and 49 seek mammograms.

We already have clearly on the record, and clear guidelines have established, that women over 50 should get an annual mammogram. It is clear that often the older you get, the more likely you are to get breast cancer. But there is a particular group of women between ages 40 and 49 who are particularly prone to breast cancer, and each day we are learning more what that category is. Therefore, we are urging through this sense-of-the-Senate resolution that traditional guidelines urging annual or, at the very least, biannual mammograms for women between the ages of 40 and 49 be pursued.

I could not believe when an NIH advisory panel decided that women in this age group might not need mammograms, and at the very best, they were either silent or tepid in their recommendations. They made this decision because they felt there was not substantial evidence that this group was at risk. This flies in the face of what we know through studies done at the National Institutes of Health, through extramural programs at our great academic centers of excellence, and also in worldwide studies of women. The NIH panel should have recognized, also, the weight that their announcement carries. This panel absolutely confused the public, scared women, and gave permission to insurance companies not to pay for a mammogram for a woman between the ages of 40 and 49.

Mr. President, we think this creates a public health concern. Now, why would we believe that? First, women often have been reluctant to seek a mammogram either out of fear or because they do not have the Federal resources to do it. We have been working on education to deal exactly with those issues and even to offer opportunities for women to be able to have funding for this. Also, we have been engaged in an impressive and assertive effort to educate primary care physicians in urging women to get mammograms.

We have been dealing with the insurance companies on the whole issue of breast cancer. Now some companies have that misguided approach of insisting that women leave a hospital in less than 48 hours after they have had a mastectomy. Mr. President, we say enough is enough. We should take time out, go back to our science, go back to our research, go back to the National Institutes of Health and ask them to come up with the recommendations that we need. We are urging them to do that. Not only are we urging them to do that, but the actual Director of the National Cancer Institute, Dr. Richard Klausner, is also recommending that this advisory board go back and take another look.

Senator SNOWE has talked about the risk of cancer. We all know that any woman can fall prey to breast cancer. It does not matter how old she is or what her income bracket is. We know she needs to be screened. We know 40,000 women die every year of breast cancer. We know over 138,000 women every year have some early signs of breast cancer. What we are saying on behalf of the women and the men who support us, let us go back to our standards.

I am happy to have joined in this resolution because I know that mammograms save lives. And if breast cancer is detected early, the probability that a woman will survive is greater than 90 percent. My position is simple: Stick to science, go to the guidelines that were properly promulgated, listen to doctors and other health care providers working in this field.

Mr. President, for some time we have been working in a bipartisan bicameral basis on this. I remember back in the House of Representatives when Senator SNOWE and I introduced one of the first Women's Health Equity Acts that we called for activity in this area. We have been working on that ever since, on a bipartisan bicameral basis, and not only with the women taking the lead, but with the enthusiastic support of the men in our body.

Thanks to the work of Senators SNOWE, MIKULSKI, and BOXER, and Representative MORELLA and others, we have established the Office of Women's Health at NIH. We made more money for research available for diseases most affecting women. We ensured that women were included in the protocols of medical research, where they had been excluded not because of science but because of gender. We worked to expand the coverage for mammograms under Medicare and even provided funds for low-income women to get mammograms. We also have led the fight for mammogram quality standards, which we will be reintroducing as it expires. We hope to do this together, to show that when it comes to fighting for women's health, we are there. We want to make sure that each family is able to ensure that breast cancer does not strike them. We are going to do it not only on a bipartisan basis, we are going to do it on a nonpartisan basis.

I thank Senator SNOWE for taking the lead on this as she has done in so many other areas. We are pleased on our side of the aisle to also join with her.

I send to the desk the list of the Democratic cosponsors. I look forward to voting for this bill and continuing our advocacy on this most crucial issue.

The PRESIDING OFFICER. Without objection, the sponsors will be added to the bill as requested by the Senator from Maryland.

Ms. SNOWE. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Maine has 9 minutes and 33 seconds remaining.

Ms. SNOWE. I just respond to the Senator from Maryland by commending her for her very strong statement, her commitment, and a resoluteness to this issue in the hope that women get the best health care in America. She has shown strong leadership on this issue throughout the years. As she mentioned, we worked on women's health issues beginning in the House of Representatives in making some extraordinary changes within the National Institutes of Health to create an Office of Women's Health, which was absolutely vital because women were excluded—as well as minorities, I might add—from clinical studies.

I thank the Senator and commend her for all she has done on behalf of women.

I yield 3 minutes to the Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of this resolution. For 2 weeks, like many Americans, I was disturbed by the news that the National Institutes of Health would not recommend regular mammograms for women in their forties.

Mr. President, we have to call this a deadly and silent disease. The fact is, cancer is the leading cause of death for women between the ages of 40 to 55. Mr. President, this statistic itself should dictate that women in their forties should have regular mammograms. It only makes common sense that they should. My worry is that without the National Institutes of Health's recommendation, women will be lulled into a false sense of security and believing that they do not need a mammogram, and that doctors may not always recommend that women in their forties have one.

The last thing we need to say to women juggling family, career, and all of the problems they are faced with, is that this can wait. If we lead them to believe that, then they will let it wait, and they will face dire consequences when they do.

Too often when these matters are debated, the fact that we are talking about the lives of people, the lives of wives, mothers, daughters, and friends—by remaining silent on this issue, we are putting their health at risk. I thank Senator SNOWE for bringing this issue to the floor. It is one that deserves national attention and certainly the attention of the Senate. I am proud to be an original cosponsor of the resolution. I thank Senator SNOWE for bringing it to the Nation's attention.

I yield the floor.

Ms. SNOWE. Mr. President, I now yield 4 minutes to the Senator from Texas.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Texas [Mrs. HUTCHISON] is recognized for 4 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I thank Senator SNOWE and Senator MIKULSKI. All of the women in the Senate are cosponsoring this resolution. I will never forget 2 years ago when Senator MIKULSKI called a hearing of all of the women in the Senate on the first time we saw there was a question by the National Institutes of Health about whether women should have screening before the age of 50. All of us, resoundingly, came together and said, "Of course they should." Now we have new Members in the Senate—Senator SNOWE, Senator COLLINS, Senator LANDRIEU, who have joined us in a unanimous verdict, which is that the women of this country deserve better.

The women of this country deserve to know the facts. The facts are that the studies have come in. In 1995, a study showed a 24-percent lower death rate among women who received mammograms in their forties. That was an American study. In 1996, Swedish researchers, in two studies, found a 44-percent and a 36-percent lower death rate among women who received mammograms in their forties.

So why are we getting a mixed message? Why aren't all of the experts coming together on an issue that is killing more women in their forties than any other disease? The women of America have no guidelines. They have no guidelines because we can't get our doctors to do what they do for every other medicine and every other disease that I can think of, and that is to say we can have a 24-percent lower death rate of the women in this country in the 40-to-49 age bracket if we will have mammograms. But there is a slight chance, perhaps less than 1 percent, that having a mammogram might induce cancer.

Now, I think we are intelligent enough to receive the full facts and not have a mixed message. That is not a mixed message. When we can save thousands of lives by having mammograms between the ages 40 and 49, and there is a, perhaps, less than 1 percent chance that it might be a danger, let's give women the facts without a muddled message. That is what this resolution does today. It says to the women of our country, very clearly, that their chances of surviving breast cancer are infinitely better, and all the studies show it, if they will have a mammogram, starting at the age of 35 or 40, every 2 years, and then when you are 50, every year. It is very simple. The women of this country deserve to know that their chances are a heck of a lot better if they will have this procedure done.

Now, something that you all have not mentioned yet, which I worry about very much, is that now that we have this mixed, garbled message, are insurance companies going to step forward and say, now, wait a minute, maybe we should not cover mammograms? Is this going to open the door to questions as to whether this very basic preventive procedure will be available to the women of this country?

We must speak with a certain voice today in saying to all of our health institutes: Come forward and give us leadership. You are the experts. I think we can take the facts, and I think we can save the lives of thousands of women if we will say exactly what all of the statistics show, which is to take care of yourself. Have a mammogram, starting at the age of 35 or 40, every 2 years, and then, at 50, every year. Let's not even introduce the option of insurance perhaps not covering this kind of preventive procedure that is killing more women between the ages of 40 and 49 than any other disease in this country.

So I commend all of my women colleagues and friends for coming together, along with all of the men cosponsoring this amendment and ask for a unanimous vote today at 5 o'clock supporting this, urging experts to help the women of our country protect themselves.

Ms. MIKULSKI. Mr. President, how much time is left on our side?

The PRESIDING OFFICER. The Senator from Maryland has 6 minutes 44 seconds. The Senator from Maine has 1 minute 40 seconds.

Ms. MIKULSKI. I reserve my time. Senator SPECTER has 10 minutes on his own time. I have no objection to his proceeding.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I support the pending resolution because it focuses attention on the need for mammograms that would give the imprimatur of the U.S. Senate to this important medical testing device. I, with many other Americans, was very surprised when, on January 23, a report was issued questioning the advisability of mammograms with the essential finding that there was not enough evidence that women in their forties would benefit by advising them to have the x-ray test as part of routine health screening. The question which then came to my mind was whether there was enough evidence to conclude that women in their forties would not benefit from the mammograms as part of routine health screening.

To articulate the conclusion in the form that there was not sufficient evidence to show that women would benefit is really not to answer the question, because where the evidence may be in doubt in the minds of some scientists, the practical sense conclusion is that there is very, very substantial evidence to show that mammograms are helpful and that underlying a decision not to have mammography is a question about cost-benefit ratio and a question about certain collateral issues, which need not necessarily be faced, as to whether there will be unnecessary biopsies.

This matter struck home with me especially, because in 1993, when I sought an MRI examination of my head, I was told by the doctors that I did not need it. I then insisted on having it, and they found a potentially life-threatening problem, which was corrected after I got the MRI. There is an attitude in many quarters that unless the burden of proof rises to a certain level, and perhaps a very high level, these tests ought not to be given. I think that is the wrong standard of evaluation.

Mammograms are expensive; MRI's are expensive. But I am convinced, from the work I have done as chairman of the Appropriations Subcommittee on Health and Human Services, that we have enough mammography equipment and enough specialists and enough administrators and enough MRI machines, et cetera, to conduct the necessary tests. It may be necessary to do them in the evening. If an MRI costs $800 at a convenient time during the day, maybe it could be accomplished at 2 a.m. or 3 a.m. for $50, with a margin of cost as to what it would take.

When this report came down on January 23, 12 days ago, I immediately scheduled a hearing of the Appropriations Subcommittee on Health and Human Services. Tomorrow we will be hearing from the people who came to the conclusion that mammograms are not warranted for women in their forties, and we will also be hearing from people who have reached the opposite conclusion.

I think it is very significant that Dr. Richard D. Klausner, Director of the National Cancer Institute, expressed shock when he heard of this report that mammograms were not warranted for women in their forties.

Dr. Bernadine Healy, former Director of NIH, made this succinct statement: "What are they saying—that ignorance is bliss?"

Dr. Daniel B. Kopans of the Harvard Medical School said the committee's report was "fraudulent," which was the way he termed it.

And if you take a look at this issue historically, in 1977, the National Cancer Institute and the American Cancer Society recommended that women 40 to 49 have mammograms only if their mothers or sisters had breast cancer. In 1980, the Cancer Society recommended that one-time mammograms for women 35 to 40 were warranted to establish a baseline for future measurements for women under 50. In 1983, the Cancer Society recommended that symptom-free women 40 to 49 have mammograms every 1 or 2 years.

In 1987, the Cancer Institute adopted a working guideline to begin screening women age 40 with mammograms every 1 to 2 years. In 1989, those guidelines were officially adopted by a conference of leading cancer organizations.

Then, in 1993, the National Cancer Institute changed the recommendation, saying "Experts do not agree on the value of routine screening of mammography of women ages 40 to 49." They do not agree that women in that age category ought not to have mammograms. And I say on the face of this record with succinct evidence that women do benefit from mammograms. Even though there is conflicting evidence, we ought to err on the side of safety, and mammograms ought to be available.

But when there is a national report questioning the value for women 40 to 49, immediately it is going to send shock waves to the women of America who will say, "Well, maybe I do not really need a mammogram."

It is very difficult to get some people to take medical tests because people very understandably, very naturally, are afraid of the results. If you have this conclusion from a group of experts that you really ought not to have it, that it is not a matter of necessity, then women are not going to take it. Where you have this kind of report too, those who are responsible for paying for mammograms are going to have a good reason to say, "We are not going to cover mammograms for women in the 40 to 49 category."

When we have the hearing in the Appropriations Subcommittee on Health and Human Services tomorrow it will be a rather unusual hearing as far as I am concerned. Most of the time we have these hearings to answer questions. This is one hearing that I am approaching with the fixed opinion from all that I have studied in the past to really find a direction so that the National Cancer Institute will take whatever steps are necessary to resolve this issue in favor of having mammograms. It is simply not sufficient to say on the evidence that when there is conflicting evidence we are going to reject mammograms for women in the 40 to 49 age category.

In addition, I think that the National Cancer Institute ought to be doing more on multiinstitutional testing of MRI's on imaging. Last year, with the help of the Central Intelligence Agency and a special contribution made with the help of then-Director John Deutch, some $2 million was put up by the CIA for imaging processes on the proposition that if the CIA could image and detect through clouds and look to the Earth to find out what was going on that those processes could be helpful in the detection of breast cancer.

So I compliment my distinguished colleague from Maine and my distinguished colleague from Maryland for their leadership.

I would like to add that for the National Institutes of Health budget, specific research funding for women was added that Senator HARKIN, then-chairman of the Appropriations Subcommittee on Health and Human Services, and I as ranking member, supported. I must say that I like it better to be chairman and have Senator HARKIN as ranking member. But there has been very considerable attention to this issue not only by our very distinguished women Senators but many on the male side as well.

I hope that the vote this afternoon—and I am confident that it will be, knowing our colleagues on issues of this sort—will be a resounding vote to send a message to the women of America that they ought to get mammograms, that they ought to protect their health, and that where it is an open question as to whether it is cost-effective, let us err on the side of taking the test.

I say that with some substantial experience in the field of having undergone a test that the experts said I didn't need, which for me was a lifesaving procedure.

I thank the Chair, and I yield the floor.

Mr. MURKOWSKI. Mr. President, I rise as a cosponsor of this important resolution which expresses the sense of the Senate that further research is necessary to determine the benefits of mammography in women ages 40 to 49.

Mr. President, I have been very involved with mammography issues in Alaska and have worked with my wife Nancy to promote access to this important diagnostic tool. I would like to bring to the Senate's attention the work my wife Nancy, and others, has promoted on behalf of the Breast Cancer Detection Center of Alaska.

The Breast Cancer Detection Center of Alaska had its beginnings in 1974 when seven Fairbanks women decided that health care for women, especially in the area of breast cancer, should be made more accessible and less expensive for residents who live in remote areas of Alaska. In 1976, with very humble beginnings, the center opened its doors in Fairbanks, staffed and equipped by volunteers. The State granted the moneys for a GE mammography machine and a local bank loaned the basement of a drive-in branch for the clinic offices. Furniture, carpeting, and paint was donated by local merchants, and a nurse-administrator, radiologist, and two doctors volunteered their services. Breast examination was taught and recommended mammograms were provided free of charge.

Today, the center, housed in a very spacious office, is staffed by an executive director, two office personnel, a certified mammographer, and a radiologist. The lo-rad mammography machine is one of the finest in the State. The center still maintains the policy of waiving a fee for women who cannot afford to pay or do not have insurance.

With the unwavering support of the Fairbanks community the center has been operating for 20 years with donations, insurance, and fundraisers by local service organizations.

Three years ago, the executive director informed the board of directors that a new mammography machine was needed to keep up with advancing technology. Nancy and I offered to do a fundraising fishing event in southeastern Alaska to benefit the center. At that first event, Waterfall '94, over $140,000 was raised for the breast cancer center and completely offset the cost of the new state-of-the-art lo-rad mammography unit.

Because of the overwhelming success of Waterfall '94, we decided to hold a similar event the following year to again benefit the center. Nancy, one of the original founders of the center, had long desired to have a mobile mammogram van to serve the Yukon River system villages, and the rural bush communities of Alaska. Waterfall '95 made that dream come true with a donation of $210,000 to the center. Waterfall '96 will benefit the center with an approximate $240,000 donation. Plans are already in place for the Waterfall '97 event with plans to incorporate prostate PSA tests, and to do cervical cancer checks as well.

The Breast Cancer Detection Center of Alaska now visits remote bush villages along the river system and the highways with a 43-foot van equipped with a mammogram unit and darkroom with a film processor, two dressing rooms which double as bunks for the driver and mammography technician, a small reception area, and a bathroom which can accommodate wheelchairs. There is a hydraulic lift for wheelchair entry into the van as well.

While most American women face a 1-in-9 risk of dying of breast cancer, Alaskan women face a 1-in-7 chance. Among Alaska Native women, cancer is the leading cause of death and breast cancer is the second most prevalent cancer. Now there is no reason for these women not to learn about early detection. Julia Roberts, from the small village of Tanana, said it all when she came to the van for her exam. "I know it's important. I know if you catch it early you can probably save your life. I have three children and I want to see my grandchildren."

Mr. President, we need more fundamental research on breast cancer. And I strongly support further study to determine the adequacy and effectiveness of mammography for women in the 40-to-49-age bracket.

Mrs. BOXER. Mr. President, I rise as an original cosponsor of this resolution concerning the need for accurate guidelines for mammography screening for women between the ages of 40 and 49.

Since 1993, when the NCI rescinded its original guidelines I have been trying to get them to return to their original position. In the past 3 years, I have written several letters to the heads of the National Cancer Institute [NCI], asking that it reconsider its position on mammography screening for women between the ages of 40 and 49.

We have seen study after study that shows that mammography screening at an earlier age can help save women's lives. Women and physicians have come to depend on the recommendations of the NCI in determining when they should begin mammography screening.

NCI's decision to back away from screening for women between the ages of 40 and 49 has led to confusion and anxiety. I applaud Dr. Klausner, head of the NCI, for convening the advisory panel. But like him, I am disappointed that the panel issued no concrete guidelines to aid women and their doctors.

Since we cannot prevent or cure breast cancer, mammography screening remains the best tool we have to detect it early when chances for survival are highest. We cannot now eliminate the only hope younger women have for fighting this dreaded disease.

This resolution is an important step in the right direction. The NCI needs to recognize the importance of mammograms for women in their forties and reissue its previous guidelines.

I ask unanimous consent that the three letters I referenced in my statement be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
HART SENATE OFFICE BUILDING,
Washington, DC, November 30, 1994.

SAMUEL BRODER, M.D.,
Director, National Cancer Institute, National Institutes of Health Buildings, Bethesda, MD.

DEAR DR. BRODER: I have previously expressed to you my deep concerns about the National Cancer Institute's position on mammography screening for women between the ages of 40 and 49. I am writing today because I believe that studies released this week underscore the need for prompt reconsideration of the position taken by the NCI.

As you probably know, two studies presented at the annual conference of the Radiological Society of North America concluded that mammography is of substantial benefit to women between 40 and 49. In a study done by the Screening Mammography Program of British Columbia, 15 percent of the cancers detected through mammography were in women under 50. Eighty-seven percent of the tumors discovered were at an early, curable stage.

Annual mammograms for women 40 and over also resulted in the greatest chance of recovery and the largest number of treatment options, in an analysis of 851 breast cancer patients at the Thomas Jefferson University Hospital in Philadelphia. The authors of this study concluded that mammography was particularly important for women under 50 due to the speed with which tumors develop in younger women.

With this new research strongly suggesting great benefit in mammography screening for women between 40 and 49, I ask the NCI once again to reconsider its position and return to its original guidelines.

Please contact me as soon as possible as I need to determine what further action I will take on this matter.

Sincerely,

BARBARA BOXER,
U.S. Senator.

U.S. SENATE,
HART SENATE OFFICE BUILDING,
Washington, DC, December 23, 1994.

Dr. SAMUEL BRODER,
Director, National Cancer Institute, National Institutes of Health Building, Bethesda, MD.

DEAR DR. BRODER: Three weeks ago I wrote to you about the National Cancer Institute's (NCI) position on mammography screening for women between the ages of 40 and 49. I continue to believe that this issue merits your immediate attention.

As I have stated previously, women and physicians have come to depend on the recommendations of the NCI in determining when they should begin mammography screening. NCI's decision to back away from screening for women between the ages of 40 and 49 has led to confusion and anxiety.

NCI's position on this issue is especially distressing in light of the conclusions found in a recent report prepared by the House Government Operations Committee titled "Misused Science: The National Cancer Institute's Elimination of Mammography Guidelines for Women in Their Forties."

This report notes that several senior scientists at NCI questioned the scope and quality of studies used by NCI to reverse its position on mammography and that NCI ignored the 14 to 1 decision by its own National Cancer Advisory Board "to defer" action on any changes to the mammography guidelines. The latter point was one which I had brought to your attention in July.

Two new research studies presented at the annual conference of the Radiological Society of North America last month now strongly support mammography screening for women under age 50. I outlined these studies and their findings in my letter to you of November 30.

It is time for the NCI to reconsider its position on mammography screening for younger women. I would like to meet with you personally to discuss what actions the NCI can take on this matter. Please contact me as soon as possible to arrange for an appointment.

Sincerely,

BARBARA BOXER,
U.S. Senator.

U.S. SENATE,
HART SENATE OFFICE BUILDING,
Washington, DC, December 3, 1996.

Dr. RICHARD KLAUSNER,
Director, National Cancer Institute, National Institutes of Health Building, Bethesda, MD.

DEAR DR. KLAUSNER: Over the past two years, I have written several letters to both you and your predecessor, Dr. Samuel Broder, asking that the National Cancer Institute (NCI) reconsider its position on mammography screening for women between the ages of 40 and 49.

As I have stated previously, women and physicians have come to depend on the recommendations of the NCI in determining when they should begin mammography screening. NCI's decision to back away from screening for women between the ages of 40 and 49 has led to confusion and anxiety.

As you know, yesterday at the Radiological Society of North America meeting in Chicago, new research was presented which supports the position that mammography screening for women should begin at age 40.

I understand that next month the NCI will convene a panel of experts to reconsider this issue. Given the new research which convincingly supports mammography screening for women between the ages of 40-49 when the panel convenes next month, I urge you to reconsider your position and reinstitute the original guidelines on mammography screening.

Since we cannot prevent or cure breast cancer, mammography screening remains the best tool we have to detect it early when chances for survival are highest. We cannot now eliminate the only hope younger women have for fighting this dreaded disease.

Sincerely,

BARBARA BOXER,
U.S. Senator.

Mr. KENNEDY. Mr. President, I support this sense-of-the-Senate resolution which calls for the National Cancer Institute to reissue guidelines for breast cancer screening for women between the ages of 40 and 50. Although an NIH advisory panel decided that women in their forties may not need mammograms, this finding continues to be a controversial one. Even though some studies have shown that mammography may not always be effective in detecting breast cancer, we can't ignore the importance of the early detection of this disease. Early detection and treatment will lead to reductions in breast cancer mortality. Failure to encourage breast cancer screening for women in their forties may well have disastrous results.

The scientific literature is controversial. In this situation, it makes no sense to rescind the current mammography guidelines and standards. The evidence is far from conclusive that screening brings no positive effect for women in their forties. Further studies need to be conducted before our choice is made. We need to do all we can to encourage the early detection of breast cancer. I commend Senator SNOWE and Senator MIKULSKI for their leadership, and I urge the Senate to pass this important resolution.

Mr. MACK. Mr. President, in 1993, the National Cancer Institute rescinded its recommendation that all women in their forties undergo mammography screening for breast cancer. Since then, American women have been receiving mixed messages about the importance of mammography.

Women are confused. Women are angry. Women are frightened. Given the wide variety of recommendations being made about mammography screening for younger women, one can certainly understand why.

The scientific community is deeply divided on the interpretation of data from mammography clinical trials conducted in the United States and elsewhere. Cancer advocacy organizations are split on the proper recommendations to give their members and the public. Physicians want to provide the best recommendations to their patients, but there is no single answer to give them. Insurance companies frequently deny coverage of benefits unless there is compelling scientific data to warrant coverage.

Clearly, women want to be more involved in making health care decisions for themselves. But when the medical, scientific, and patient advocacy communities cannot agree on the issue of mammography screening, women are being placed in a situation where they must make, at best, an educated guess as to what they should do to protect themselves from a disease which will kill an estimated 44,000 women this year.

Women and their families were hopeful they would get clear answers when the National Institutes of Health convened the Consensus Development Conference on Breast Cancer Screening for Women Ages 40–49.

Unfortunately, the Consensus Development Conference statement contains more mixed messages, more confusing data and few real answers.

The report concludes, "zero to 10 women would have their lives extended per 10,000 women ages 40–49 who are regularly screened. About 2,500 women should be screened regularly in order to extend one life." These two statements leave a great deal of room for interpretation by women, their physicians and their families.

The report concludes, "up to 25 percent of all breast cancer is not detected by mammogram in women ages 40–49." One could therefore logically conclude that 75 percent of all breast cancer is detected by mammography performed on women in this age group. To me, the fact that 75 percent of breast cancers will be detected through mammography is very significant. In addition, this conclusion also makes a compelling case for additional research to develop more sophisticated equipment which can detect breast cancer earlier than today's mammography technology can.

The report also concludes that use of mammography has contributed to a growing trend that breast cancer tumors are being detected when they are small, and at an early stage. The report states that, "the presence of smaller or earlier stage breast tumors can give a patient more choice in selecting among various treatment options." Research has shown that lumpectomy, combined with radiation therapy, is as effective as mastectomy when the tumor is detected early.

One area all parties involved in this issue can agree upon is the need for additional research. I have introduced Senate Resolution 15, to express the sense of the Senate that funding for biomedical research activities of the National Institutes of Health should be doubled over the next 5 fiscal years. It is only through research that definitive answers to these very important research questions can be obtained.

While I respect the conclusions of the consensus panel, I believe the message being sent to younger women throughout America is wrong. They are being told, in essence, that early detection of breast cancer may not be all that important. I believe most women reject that conclusion.

On numerous occasions, I have spoken about how my own family has been affected by cancer. My wife and my mother are both survivors of breast cancer because it was detected at an early stage. It haunts me to think what might have happened if they had received the message that women are currently receiving with this report.

I support this sense-of-the-Senate resolution. I believe it is important that the Senate send the message that more research is needed to further determine the benefits of mammography screening in younger women, that the National Cancer Institute should reconsider its mammography screening guidelines, and to encourage the public to consider cancer screening guidelines issued by other organizations.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I want to conclude the debate on this side by reaffirming that this resolution does not meddle with the National Institutes of Health. It does not meddle with science. It essentially says let us have more research on the subject of breast cancer in terms of its cause, in terms of its prevention, and in terms of its cures.

It also calls for the women of America and their physicians to follow those guidelines that are recommended by every physician group as well as the American Cancer Society on urging women in the age 40 to 49 group to have either an annual or biannual mammogram.

Third, it asks the National Cancer Institute to repromulgate its own guidelines urging the same.

I would like to comment that this advisory panel that made this report in January is not made up of NIH scientists. This is an outside advisory group to the National Institutes of Health.

Mr. President, I have the honor of representing the National Institutes of Health because it is in my State. How wonderful to be able to represent a Government organization devoted to saving lives by finding cures and causes for the diseases that threaten Americans and others around the world.

The National Cancer Institute has taken specific steps to be far more sensitive and to have a budget priority looking at those gender-specific diseases, particularly breast cancer and ovarian cancer. And we are pleased also with the work that is now being done in the area of prostate cancer as well.

I believe that the National Cancer Institute is on the right track. We want to be sure that they continue their scientific research, and if there is a gray area about when you should have a mammogram always go to the side of safety. Always go to the side of caution. One of the things we know is that when you are treated by a physician more information is often better information.

So, Mr. President, I urge unanimous adoption of this sense-of-the-Senate resolution.

Knowing no other Democrats who wish to comment on this issue, I yield the remainder of my time and look forward to the vote at 5 p.m.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, in conclusion I would like to make several final points.

First of all, I would like to commend Senator SPECTER for his commitment and devotion for years on this issue, and in particular tomorrow for holding a hearing as the chairman of the Labor-HHS Committee on Appropriations which I think will be very significant in highlighting and profiling the importance of this issue.

Finally, I also would like to say that I think it is critical that he send a very strong message to the Cancer Institute advisory panel that will be meeting later this month to revisit this issue, and, if they see that we have a very strong vote here in the U.S. Senate from all Senators across the political aisle, clearly I think they will rescind the statement that they made last month in not making any recommendation for women in their forties. I think it is an abdication of their responsibility, and an abdication of their knowledge of medical science in terms of what is best for women.

I am very pleased as well that all nine women here in the U.S. Senate—all Republican and all Democratic women—are cosponsors of this resolution.

I do hope that we can get unanimous support of this issue so that we can correct what I think has been a wrong decision on the behalf of women in America and does nothing to advance women's health.

That is why this resolution becomes a critically important statement to the lives, health, and safety of women in America.

I yield the remainder of my time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the vote on this resolution will occur at the hour of 5 p.m.

In my capacity as a Senator from the State of Idaho, I suggest the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

THE ENVIRONMENT

Mr. BUMPERS. Mr. President, while I and a number of my colleagues will come to the floor in the days ahead to introduce specific proposals affecting our Nation's parks and public lands, I would like to talk very generally about the environmental and natural resources agenda of the 105th Congress. My hope is that we have learned from the lessons of the last Congress and will not once again attempt to undo the most effective and progressive network of environmental laws in the world.

Over 25 years ago, with overwhelming bipartisan support, the National Forest Management Act, the Federal Land Policy and Management Act, the Wild and Scenic Rivers Act, the National Environmental Policy Act, the Endangered Species Act, and the Clean Water Act were enacted into law.

Today, as a result of those and other laws passed with strong support from both sides of the aisle, people are more actively involved in management of their public lands, more people are using public lands for recreation than ever before, our air and waters are cleaner, hunting and fishing is better, our Government is more open about the effects of its actions on the health and safety of families and local communities, and rare species such as the bald eagle and grizzly bear are thriving.

By protecting our natural resource heritage, we have become a wiser, stronger, and healthier nation.

At times we have a tendency to overlook the value—our moral and ethical obligation—to pass on healthy lands and waters to our children's children. How else can we explain efforts in the last Congress—and proposals by some of my colleagues today—to rewrite, overturn, or significantly weaken the protections afforded all Americans by these laws?

In this regard, I was encouraged by the recent words of Mike Dombeck, the new Chief of the Forest Service. His first day on the job, Chief Dombeck said:

> More and more, people are realizing that their jobs and professions, the quality of the water they drink and the air they breathe—the very fabric of their lives—are dependent on the land that sustains them.

Dombeck told his employees that this Nation's environmental laws:

> . . . represent the conservation values of mainstream America. Do not be disturbed by the debate surrounding their execution. This is background noise to a complex society and healthy, properly functioning democracy. There is an ongoing debate in this Nation over how national forests and rangelands should be managed. That's just fine. In fact, it is healthy. Debate and information are the essence of democracy. The people we serve, all of the American people, are now more fully engaged in defining how their public land legacy should be managed.

The new Chief succinctly stated what we inside the beltway sometimes forget, "We cannot meet the needs of the people if we do not first conserve and restore the health of the land." This Nation is blessed by a public land legacy that is the envy of the world. Our taxpayer-owned lands are the refuge of last resort for vanishing species. Moreover, these lands enable our children to experience the solitude of wilderness, pristine clear lakes, and a hunting and fishing experience unexcelled in pure delight anywhere else.

Last year many Members of Congress were shocked by the outrage of our citizenry over the efforts to dramatically cut the EPA budget. In 1960, 65 percent of our lakes and streams were neither swimmable nor fishable. Today 65 percent of our lakes and streams are swimmable and are fishable, and I can tell you, our people want that progress to continue until we reach 100 percent. I applaud Chief Dombeck's views and encourage my colleagues to allow him the time and resources to make the policy and personnel changes needed to achieve his critically important vision.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX CUT AND MEDICARE CUT PROPOSALS

Mr. BUMPERS. Mr. President, tonight the President will address the Nation on the State of the Union. I do not know precisely what the President is going to say, particularly about the economy and about the budget, tax cuts, the deficit, crime, education, the environment, and so on. I am sure he will address each one of those things and more.

But I would be less than candid with my colleagues and my constituents—and I would be less than honest with myself—if I did not voice some concerns about what I have been reading about what the Republicans want in the way of tax cuts and what the President wants in the way of tax cuts, what the President wants in the way of Medicare cuts, and what the Republicans want in Medicare cuts, what kind of incentives we want for our children to attend college, what kind of a tax cut we want for so-called middle class people.

So let me address those issues seriatim and say, first of all, it is my understanding that the proposal which has been in the public domain for some time now to cut Medicare by $138 billion over the next 6 years will probably be fairly well applauded. Nobody is going to object to any proposal that makes the Medicare system sounder and gives our elderly Medicare recipients a better sense of security. Anything we can do to cause the American elderly population to sleep better at night because they know the Medicare system is sound and will be sound for the foreseeable future is a highly desirable goal.

Now, having said that, I think the Republicans will want to cut Medicare more than $138 billion. And I am not saying they are right or wrong. I do not know what the figure ought to be. I might support additional proposals to do anything to make the Medicare system sounder than $138 billion will make it.

But having said that, I am puzzled by how you achieve a balanced budget while you are cutting $138 billion in Medicare, which alone would go right on the budget deficit over the next 6 years, I believe it is.

But we do not stop with that. The Republicans do not stop with it and the Democrats do not stop with it.

The Republicans have a proposal of a tax cut which they call the middle-class tax cut. It is designed to provide a $500 tax credit for each child in the family, but it is not refundable.

That means that if you are making $30,000 a year, and you pay $1,500 in taxes, you would get $1,500 back if you have three children—$500 for each child.

But if you happen to have a $30,000 income, and six children, and you do not pay any tax, you get nothing.

So the simple question must be asked, who needs a tax cut more, the parents with three children or the parents with six children?

Move on down the ladder to $25,000, move on down the ladder to $20,000, a single mother with one child who is working as a waitress in a Senate cafeteria. Her tax bill is $1,000, we will say. She would get $500. But if she had three children and was still paying $1,000, she would get $1,000, but nothing for the third child.

The third scenario: If she has children and is paying no tax, she gets nothing. And on top of that, as the Presiding Officer will tell you, and recall, we cut the earned income tax credit last year, which is so beneficial to the mother who is a waitress in a Senate cafeteria that I just described because she is entitled to an earned income tax credit by staying on the job and off welfare.

No less a person than Ronald Reagan said it was the greatest incentive for staying off welfare he could think of. Every President since that thing first came into effect has said that this is one of the best incentives to keep people off welfare we have. That is to say, "If you stay on the job all year long, don't get on welfare, and if you make less than $28,000 a year, we'll give you a sum of money at the end of the year, as high as $2,000."

So what are we doing here? What kind of social policy is it? Forget economics. What kind of social policy is it when we give money to people who have one or two children and pay income tax, give no money to people who work and pay no income tax because they have enough dependents to keep them from paying taxes and maybe whose income was cut this year because we cut the earned income tax credit? What kind of fairness is that?

So, Mr. President, I am troubled about the so-called $500 tax rebate for all your children. It is not refundable. Only if you pay taxes do you get it. Obviously, the people who are hurting most are not paying taxes because they do not make enough money.

Then we have this proposed capital gains tax cut. As I read the Republican proposal, CBO scores it to cost $33 billion over the next 5 years and $111 billion over the next 10 years. And who do you think gets the majority of the benefit? Why, it is the people who own stock in Microsoft and Intel and IBM. It is the people who are big investors in the stock market.

The rate of 28 percent on capital gains may be a tad high. There is probably nobody in this room who would quarrel with that. But if you are trying to balance the budget, which we have been doing a magnificent job of for the past 4 years, why do we want to muck it up and start cutting taxes, which is absolutely guaranteed to start the deficit back up again?

We tried that in 1981, cutting taxes massively, increasing defense spending massively, and winding up today with a $5.2 trillion debt. This is the slowest learning crowd I have ever seen. It is worse than trying to housebreak a dog I had one time. We just could not do it.

So what are we doing talking about these massive tax cuts and balancing the budget at the same time? It has never worked, and it never will. Where did all this talk get started? If you are going to cut taxes, cut taxes for people who honestly need the money.

If you cut capital gains, with 75 percent of the benefit going to people who make over $100,000, where is it going to go? Probably into the stock market. The mutual funds are putting $15 billion a month into the market right now. Who here believes that the stock market can absorb those kinds of investments? Everything that goes up has to come down at some point or another. But I am talking about the Republican proposal.

And now the President is going to announce tonight apparently a proposed capital gains tax cut for people who have homes worth $500,000. If you bought a home 20 years ago for $100,000 and you sell it today for $500,000, under the proposal of the President you would not pay a nickel tax.

I remember many years ago when we passed an exemption for homeowners to exclude $150,000 of the price tag. You could do that one time in your life, a $150,000 exclusion. If you had a $500,000 home that you had paid $100,000 for, you not only get your $100,000 cost back, you can add $150,000 to that and you have $250,000 capital gains on which you would pay a 28 percent tax. The President's proposal is that if you have a $500,000 home and you sell it for $500,000 there is no tax, no matter what you paid for it. You may have paid $25,000 for it and it may be worth $500,000 today because somebody wants to build a McDonald's where you are living, no tax. Now, Mr. President, would you like to know how many people in this country have a home that is valued in excess of $500,000? The answer is 1 percent. The President's proposal of a $500,000 exclusion will take care of 99 percent of all the homeowners in America. I do not know what the cost of it is supposed to be.

These things are all laudable. I never lost a vote voting for a tax cut. When you tell people you are for tax cuts, everybody applauds. If there is anything people want to hear, it is that they are overtaxed, they are overregulated, they are overeverything. I understand their frustration.

But let me ask you this: When you have an economy that grew at 4.7 percent in the fourth quarter of 1996—that is a staggering growth rate—with an inflation rate of 2.2 percent, about as low as you can ever get it, Treasury bills at 5 percent as of yesterday, the unemployment rate as low as it ever gets, in short, you have an economy that is performing absolutely magnificently, and the deficit has gone from $290 billion in 1992 to $107 billion, a 63-percent reduction in 1996, what are we going to do? We are going to start pandering again. Why can we not focus on that deficit? The people of this country have a nonnegotiable demand that we balance the budget.

Do you know why a lot of people are going to vote for the balanced budget amendment to the Constitution of the United States? Do you think it is because they think it is sound economic or social policy? I do not like to denigrate other people. It is arrogant to do that. But I can tell you one reason is because they have seen the polls. I know what the polls show. One of the reasons the polls show so many people want a constitutional amendment to balance the budget is two things. No. 1, they think a constitutional amendment to balance the budget and a balanced budget are the same thing. A constitutional amendment does not guarantee you anything. Yes, it does, too: It guarantees you chaos. It is the biggest political scam ever perpetrated and foisted off on an unsuspecting public that can bring nothing but utter chaos to this Nation down the road.

Do you know something? People did not elect 100 Senators to come up here and vote however the polls show every time. They elected people to come up here and to think, to read the Constitution, understand the sacredness of the Constitution, understanding that every single little problem that comes up ought not to be solved by tinkering with that sacred document. I have never voted for a constitutional amendment. I thought in 1984 when I voted against that great constitutional amendment of prayer in school that I was serving my last term in the Senate. Do you know something? I went home and I went from one end of the State to the other explaining to the people of my State what that meant, how the school boards could pick the prayers the children would say and tell them how many times a day they would say them. What kind of nonsense is that, giving up the greatest religious freedoms we have to the local school board? Do you know what? I had the fundamentalists and the mainliners and everybody clapping and cheering because they did not want that either. But at least I did not hesitate to talk to them about it and tell them where it would lead us.

So I do not have any hesitancy today in coming to the floor and saying I am very apprehensive about all the tax cut proposals. Why are we going to cut $138 billion from Medicare and turn right around and give it away in tax cuts to the wealthiest people in America? That is not my idea of responsible legislation. That is not my idea of a responsible economy. If you want a balanced budget, now is the time to show it, and do not tell me you will hide behind this constitutional amendment and go home and say, "I did my part. I cut taxes and then I voted for a constitutional amendment to balance the budget."

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCERNING THE NEED FOR ACCURATE GUIDELINES FOR BREAST CANCER SCREENING

The Senate continued with the consideration of the resolution.

Mr. BOND. Mr. President, I ask unanimous consent to be added as a cosponsor and urge my colleagues to vote for the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from South Carolina [Mr. THURMOND] is necessarily absent.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of attending a funeral.

The PRESIDING OFFICER (Mr. BROWNBACK). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—2

Murray
Thurmond

The resolution (S. Res. 47) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, read as follows:

S. RES. 47

Whereas the National Cancer Institute is the lead Federal agency for research on the causes, prevention, diagnosis, and treatment of cancer;

Whereas health professionals and consumers throughout the United States regard the guidelines of the National Cancer Institute as reliable scientific and medical advice;

Whereas it has been proven that intervention through routine screening for breast cancer through mammography can save the lives of women at a time when medical science is unable to prevent this disease;

Whereas the National Cancer Institute issued a guideline in 1989 recommending that women in their forties seek mammograms, but rescinded this guideline in 1993;

Whereas in 1993, it was difficult to have the same degree of scientific confidence about the benefit of mammography for women between the ages of 40 and 49 as existed for women between the ages of 50 and 69 due to inherent limitations in the studies that were conducted as of that date;

Whereas at that time, the American Cancer Society and 21 other national medical organizations and health and consumer groups were at variance with the decision of the National Cancer Institute to rescind the guidelines of the Institute for mammography for women between the ages of 40 and 49;

Whereas the statement of scientific fact on breast cancer screening issued by the National Cancer Institute on December 3, 1993, caused widespread confusion and concern among women and physicians, eroded confidence in mammography, and reinforced barriers and negative attitudes that keep women of all ages from being screened;

Whereas in 1995, investigators found a 24 percent lower death rate among women who received mammograms in their forties when the world's population-based trials were combined;

Whereas in 1996, Swedish researchers in 2 studies found a 44 and 36 percent lower death rate among women who received mammograms in their forties;

Whereas a number of studies have shown that breast tumors in women under the age of 50 may grow far more rapidly than in older women, suggesting, that annual mammograms are of value to women in this age group;

Whereas on January 23, 1997, a panel convened by the National Institutes of Health reviewed these and other compelling studies but decided not to recommend that the National Cancer Institute reissue its earlier guidelines;

Whereas the Director of the National Cancer Institute and other major national organizations, including the American Cancer Society, expressed surprise and disappointment with this decision;

Whereas the majority (approximately 80 percent) of women who are diagnosed with breast cancer have no identifiable risk for this disease;

Whereas breast cancer is the single leading cause of death for women in their forties and fifties, and a leading cause of death for women between the ages of 30 and 60; and

Whereas more women will be diagnosed with breast cancer this year in their forties (over 33,000 women) than in their fifties: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) adequately designed and conducted studies are needed to further determine the benefits of screening women between the ages of 40 and 49 through mammography and other emerging technologies; and

(2)(A) the Senate strongly urges the Advisory Panel for the National Cancer Institute to consider reissuing the guideline rescinded in 1993 for mammography for women between the ages of 40 and 49 when it convenes in February; or

(B) until there is more definitive data, direct the public to consider guidelines issued by the other organizations.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIKE DOMBECK, CHIEF OF THE U.S. FOREST SERVICE

Mr. LEAHY. Mr. President, I rise today to echo the words of Senator BUMPERS regarding national forest policy and to welcome Mike Dombeck as Chief of the U.S. Forest Service. The Forest Service is one of the oldest and one of the largest stewards of our public lands. This year marks the 100th anniversary of the Organic Act in which Congress laid out the purposes for our national forests. Since the Forest Service was created in 1905, it has grown to manage over 190 million acres of forest lands. These lands span the entire United States, ranging from the small national forests of the East to the multimillion-acre forests of the West. The mission of the Forest Service is to manage all of these forests under the principles of multiple use and sustained yield. As Gifford Pinchot, the first Forest Service Chief, declared in 1905, the role of the Forest Service was to achieve "the greatest good for the greatest number in the long run." This mandate still stands today and should guide us into the next century of national forest management.

As the Green Mountain National Forest in my State begins review of its forest plan, the Pinchot vision is what I would like to see the Forest Service follow. The challenges facing the Green Mountain in many ways reflect the challenges facing the Forest Service as we move into the next century—increased recreational use, pressure to increase timber production, and protection of the forest's wildlife habitat, streams, and wilderness areas. Over the last decade we have witnessed a boom in recreational use of the Green Mountain, with more than 1.5 million visitors using the forest for skiing, hiking, hunting, snowmobiling, and fishing. All of our national forests together host over 820 million visits a year.

Although visitor use is a valuable indication of the importance of these national forests, we must not forget the equally compelling reason to protect these national treasures. They represent some of our Nation's most unique ecosystems, from the tropical rainforests in the South, the alpine meadows of the Rocky Mountains, the coastal redwoods of the Pacific coast, and the hardwood forests in the East. This network of forests preserves natural resources for scientific, educational, and historical values. New scientific information and advances in technology have allowed us to improve the management of our forests to protect these values. I applaud Chief Dombeck's call for increased use of available technology, enhanced conservation education, and insistence on personal accountability to protect these natural resources.

At the same time, the resources available to the Forest Service to move our national forests into the next century must keep pace with the demands. The Forest Service is developing joint business ventures and cooperative agreements with both public and private partners to address this situation. It has looked to its neighbors to share in the responsibility and caretaking of the forests. It has reached out to private enterprises to operate facilities and develop viable business ventures to provide quality recreational opportunities while ensuring ecosystem protection.

In Vermont, the Green Mountain National Forest has worked with numerous volunteer organizations to maintain and develop campgrounds and trails in the forest. The Green Mountain also has been participating in a cooperative effort with the University of Vermont to develop a database of resource information to analyze different management scenarios in the forest. I appreciate Chief Dombeck's recognition of the value of these multipartner projects in reaching out to the communities who live near our national forests.

Although some people feel that these increasing pressures and sometimes conflicting demands on our national forests is reason to completely overhaul the laws that govern our forests, I believe that these laws are sound. When the National Forest Management Act [NFMA] was drafted in the mid-1970's there was a crisis facing the management of our forest, the competing interests of timber production and forest conservation were colliding. That environment created what I believe is a law that offers the flexibility, public participation, and accountability necessary to guide our national forests into the next century.

The responsibility of guiding our national forests into the next century lays on the shoulders of both the Chief and the many employees who serve him. The relationship between the Chief, Forest Service employees, and the public will become increasingly important as the demands on the National Forest System continue to grow and diversify. I have great admiration for the traditions and mission of the Forest Service; I have confidence that it has the statutory and administrative ability to maintain the balance between multiple-use and sustained yield management of our forests; I have respect for the knowledge and skills of the people that work for the Forest Service; but, I also have concerns that as the Agency faces the pressure to maintain timber production and expand recreational opportunities we could compromise the debt we owe to our children—conserving these forests for their use and enjoyment.

As the 14th Chief of the Forest Service, Chief Dombeck will have to lead the Agency through the swirling debate on how to manage our forests for multiple-use while protecting them for future generations. I believe Chief Dombeck has the vision and leadership ability to achieve this goal. I welcome the opportunity to work with him to implement his philosophy of collaborative stewardship and accountability to the public as a whole and to the direct neighbors of the national forests. Chief Dombeck has already laid out some changes to move in this direction. I urge my colleagues in Congress to work with Chief Dombeck to pursue changes that will enable the Forest Service to address the growing demands on our forests.

I do not see anybody seeking recognition, Mr. President, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPLEMENTATION OF MANAGEMENT REFORMS AT THE DEPARTMENT OF COMMERCE

Mr. THOMPSON. Mr. President, I want to take this opportunity to address some vital management issues at the Department of Commerce and urge Secretary-designate Daley to make use of the management tools Congress has provided to obtain better results for the taxpayers' investment. The Department of Commerce must tackle some endemic management problems before it can successfully carry out its mission of promoting the Nation's international trade, economic growth, and technological advancement.

The main problem with the Department of Commerce may be in the breadth of its mission. Commerce's writ runs from promoting American competitiveness in the global marketplace to providing the weather data we see on the news each night. The Department, which employs 35,000 people and spends $3.5 billion of taxpayer dollars is, in reality, a loose collection of more than 100 programs. In the last Congress, many questioned the value added of this departmental bureaucracy. This culminated in action by the Senate Governmental Affairs Committee to report out a bill that would have abolished the Department, as such, and reassigned many of its functions.

Clearly, the Department's new leadership will have a task ahead of it to ensure that its many bureaus and offices are efficiently run and are effectively serving the taxpayers' interest. For example, the General Accounting Office [GAO] has identified the National Weather Service's modernization efforts as being a high risk area which is especially vulnerable to the problems of waste, fraud, abuse, and mismanagement. This year, planning for the decennial census is expected to be added to that list. In addition, auditors have found significant accounting problems at the National Oceanic and Atmospheric Administration.

I hope that the Department of Commerce will be able to improve its operations through effective implementation of recently enacted legislation. Congress has given the agencies like the Department of Commerce the tools to improve their management operations, most notably by passing the Chief Financial Officers Act of 1990, the Government Performance and Results

Act [GPRA] of 1993, and the information management and procurement reforms of the 104th Congress. These laws are designed to get the Federal Government to operate in a sound, businesslike manner and implementing these management reforms is a major responsibility for each department head.

The Government Performance and Results Act, for example, can be an effective tool to make Government work better by measuring the success or failure of Government programs and using this information to support budget decisions. For example, GAO found that the Commerce Department shares its mission with at least 71 Federal departments, agencies, and offices. With this type of overlap and duplication, the Department needs to have a clear idea of its primary missions, otherwise it risks doing a lot of things poorly and nothing well at all. GPRA, by focusing on agency missions and results, will give Commerce, the Office of Management and Budget, and Congress the information necessary to consolidate and eliminate wasteful and redundant programs at the Department.

I submitted to Secretary-designate Daley several questions regarding his views on implementing GPRA and improving Commerce's financial accountability and information resources management as part of his confirmation process. I look forward to receiving from him a firm commitment to use GPRA's strategic planning process, performance goals, and performance measures to radically transform his agency to better serve the taxpayers.

There are many challenges ahead for Congress and Secretary-designate Daley as we address the problems at the Department of Commerce identified by GAO, the Department's inspector general and others. Certainly, the bipartisan management reforms we have enacted should be implemented to assist in that process. I am sure that together we can work to effectively implement sound management policies and practices and I look forward to achieving those objectives in the coming Congress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on Banking, Housing, and Urban Affairs.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT ON AGREEMENT BETWEEN THE UNITED STATES AND LITHUANIA—MESSAGE FROM THE PRESIDENT—PM 7

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to Public Law 94-265, 16 U.S.C. 1823(b), to the Committee on Commerce, Science, and Transportation and to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Lithuania Extending the Agreement of November 12, 1992, Concerning Fisheries Off the Coasts of the United States, with annex, as extended ("the 1992 Agreement"). The Agreement, which was effected by an exchange of notes at Vilnius on June 5 and October 15, 1996, extends the 1992 Agreement to December 31, 1998.

In light of the importance of our fisheries relationship with the Republic of Lithuania, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 4, 1997.*

REPORT ON AGREEMENT BETWEEN THE UNITED STATES AND ESTONIA—MESSAGE FROM THE PRESIDENT—PM 8

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to Public Law 94-265, 16 U.S.C. 1823(b), to the Committee on Commerce, Science, and Transportation and to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Estonia Extending the Agreement of June 1, 1992, Concerning Fisheries Off the Coasts of the United States, with annex, as extended ("the 1992 Agreement"). The Agreement, which was effected by an exchange of notes at Tallinn on June 3 and 28, 1996, extends the 1992 Agreement to June 30, 1998.

In light of the importance of our fisheries relationship with the Republic of Estonia, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 4, 1997.*

REPORT OF THE STATE OF THE UNION—MESSAGE FROM THE PRESIDENT—PM 9

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was ordered to lie on the table.

The PRESIDENT. Mr. Speaker, Mr. Vice-President, Members of the 105th Congress, distinguished guests, my fellow Americans:

I come before you tonight with a challenge as great as any in our peacetime history—and a plan of action to meet that challenge, to prepare our people for the bold new world of the 21st Century.

We have much to be thankful for. With four years of growth, we have won back the basic strength of our economy. With crime and welfare rolls declining, we are winning back our basic optimism, the enduring faith that we can master any difficulty. With the Cold War receding and global commerce at record levels, we are helping to win unrivaled peace and prosperity all across the world.

My fellow Americans, the state of our union is strong, but now we must rise to the decisive moment, to make a nation and a world better than any we have ever known. The new promise of the global economy, the Information Age, unimagined new work, life-enhancing technology—all are ours to seize. That is our honor and our challenge. We must be shapers of events, not observers. For if we do not act, the moment will pass—and we will lose the best possibilities of our future.

We face no imminent threat, but we do have an enemy: The enemy of our time is inaction.

So tonight, I issue a call to action—action by this Congress, by our states, by all our people, to prepare America for the 21st Century. Action to keep our economy and our democracy strong and working for all our people; action to strengthen education and harness the forces of technology and science; action to build stronger families and stronger communities and a safer environment; action to keep America the world's strongest force for peace and freedom and prosperity. And above all, action to build a more perfect union here at home.

The spirit we bring to our work will determine its success. We must all be committed to the pursuit of opportunity for all Americans, and responsibility for all Americans, in a community of all Americans, and to a new kind of government—not to solve all our problems for us, but to give all our people the tools to make the most of their own lives.

And we must work together. The people of this nation elected us all. They want us to be partners, not partisans. They put us all here in the same boat, they gave us all oars, and they told us to row. Here's the direction I think we should take.

First, we must move quickly to complete the unfinished business of our country—to balance our budget, renew our democracy, and finish the job of welfare reform.

Over the last four years, we brought new economic growth by investing in our people, expanding our exports, cutting our deficits, creating over 11 million new jobs. Now we must keep our economy the strongest in the world.

We here tonight have an historic opportunity. Let this Congress be the Congress that finally balances the budget.

In two days, I will propose a detailed plan to balance the budget by 2002.

This plan will balance the budget and invest in our people while protecting Medicare, Medicaid, education, and the environment. It will balance the budget and build on the Vice President's efforts to make our government work better, even as it costs less. It will balance the budget and provide middle class tax relief to pay for education and health care, to help raise a child, to buy and sell a home.

Balancing the budget requires only your vote and my signature. It does not require us to rewrite our Constitution. I believe it is unnecessary and unwise to adopt a balanced budget amendment that could cripple our country in time of crisis later on, and force unwanted results such as judges halting Social Security checks or increasing taxes. Let us agree: We should not pass any measure that threatens Social Security. We don't need a Constitutional amendment—we need action.

Whatever our differences, we should balance the budget now, and then, for the long-term health of our society, we must agree to a bipartisan process to preserve Social Security and reform Medicare, so that these fundamental programs will be as strong for our children as they are for our parents.

Our second piece of unfinished business requires us to commit ourselves tonight, before the eyes of America, to enacting bipartisan campaign finance reform.

Senators McCAIN and FEINGOLD, Representatives SHAYS and MEEHAN, have reached across party lines to craft tough and fair campaign reform. Their proposal would curb spending, reduce the role of special interests, create a level playing field between challengers and incumbents and ban contributions from noncitizens and all corporate sources, and the other large soft money contributions that both parties receive.

You know and I know that delay will mean the death of reform. So let's set our own deadline. Let's work together to write bipartisan campaign finance reform into law, and pass McCain-Feingold by the day we celebrate the birth of our democracy—July the 4th.

There is a third piece of unfinished business: Over the last four years, we moved a record two and a quarter million people off the welfare rolls. Then last year we enacted landmark welfare reform, demanding that able-bodied recipients assume the responsibility of moving from welfare to work.

Now each and every one of us has to fulfill our responsibility—indeed, our moral obligation—to make sure that people who must work, can work. Now we must act to meet a new goal: two million more people off the welfare rolls by the Year 2000.

Here is my plan: Tax credits and other incentives to businesses that hire people off welfare. Incentives for job placement firms and for states to create more jobs for welfare recipients. Training, transportation and child care to help people go to work.

Now I challenge every state: turn those welfare checks into private sector paychecks. I challenge every religious congregation, every community non-profit, and every business: hire someone off welfare. And I say especially to every employer in this country who has ever criticized the old welfare system: You cannot blame that old system anymore. We have torn it down. Now do your part. Give someone on welfare the chance to work.

Tonight, I am pleased to announce that five major corporations—Sprint, Monsanto, UPS, Burger King, and United Airlines—will be the first to join in a new national effort to marshal America's businesses, large and small, to create jobs so people on welfare can move to work.

We passed welfare reform. We were right to do it. But no one can walk out of this chamber with a clear conscience unless you are prepared to finish the job.

And we must join together to do something else too—something both Republican and Democratic governors have asked us to do—to restore basic health and disability benefits when misfortune strikes immigrants who came to this country legally, who work hard, pay taxes, and obey the law. To do otherwise is simply unworthy of a great nation of immigrants.

Next, the greatest step of all—the high threshold to the future we now must cross—and my number one priority as President for the next four years—is to ensure that Americans have the best education in the world.

Let's work together to meet these goals: Every 8 year old must be able to read; every 12 year old must be able to log on to the Internet; every 18 year old must be able to go to college, and every adult American must be able to keep on learning.

My balanced budget makes an unprecedented commitment to these goals—$51 billion dollars next year. But far more than money is required.

I have a plan, a Call to Action for American Education, based on these ten principles.

First, a national crusade for education standards—not federal government standards, but national standards representing what all of our students must know to succeed in the knowledge economy of the 21st Century. Every state and school must shape the curriculum to reflect these standards, and train teachers to lift students up to meet them. To help schools meet the standards and measure their progress, we will lead an effort over the next two years to develop national tests of student achievement in reading and math.

Tonight, I issue a challenge to the nation: Every state should adopt high national standards, and by 1999, every state should test every 4th grader in reading and every 8th grader in math to make sure these standards are met.

Raising standards will not be easy, and some of our children will not be able to meet them at first. The point is not to put our children down, but to lift them up. Good tests will show us who needs help, what changes in teaching to make, and which schools to improve. They can help us to end social promotion. For no child should move from grade school to junior high, or junior high to high school until he or she is ready.

Last month, Secretary of Education Dick Riley and I visited Northern Illinois, where 8th grade students from 20 school districts, in a project called "First in the World," took the Third International Math and Science Study—a test that reflects the world-class standards our children must meet for the new era. And those students in Illinois tied for first in the world in science, and came in second in math. Two of them, Kristin Tanner, and Chris Getsla are here tonight, with their teacher, Sue Winski. They prove that when we aim high and challenge our students, they will be the best in the world.

Second, to have the best schools, we must have the best teachers. Most of us would not be here tonight without the help of such teachers. I know I wouldn't be. For years, many educators, led by North Carolina's Governor Jim Hunt and the National Board for Professional Teaching Standards, have worked hard to establish nationally accepted credentials for excellence in teaching. Just 500 of these master teachers have been certified since 1995. My budget will enable 100,000 more to seek national certification as master teachers. We should reward our best teachers, quickly and fairly remove those few who don't measure up, and challenge our finest young people to consider teaching as a career.

Third: we must do more to help all our children read. 40% of our 8 year olds cannot read on their own. That's why we have just launched the America Reads initiative—to build a citizen army of one million volunteer tutors to make sure every child can read independently by the end of the 3rd grade. We will use thousands of AmeriCorps volunteers to mobilize this citizen army. We want at least 100,000 college students to help. And tonight, I am pleased that 60 college presidents have answered my call, pledging that thousands of their work study students will serve for one year as reading tutors.

This is also a challenge to every teacher and every principal: use these tutors to help students read. And it is especially a challenge to our parents: Read with your children every night.

This leads to the fourth principle: Learning begins in the first days of life. Scientists are now discovering how young children develop emotionally and intellectually from their first days, and, therefore, how important it is for parents to begin immediately talking, singing, even reading to their infants. The First Lady has spent years studying and writing about this issue. She and I will convene a White House Conference on Early Learning and the Brain this Spring, to explore how parents and educators can best use these startling new findings.

We already know we should start teaching children before they start schools. That's why my budget expands Head Start to one million children by 2002. And, in June, the Vice President and Mrs. Gore will host their annual family conference. This one will focus on the importance of parents' involvement throughout a child's education.

Fifth, every state should give parents the power to choose the right public school for their children. Their right to choose will foster the competition and innovation that can make our public schools better. We should also make it possible for more parents and teachers to start charter schools, schools that set and meet the highest standards, and survive only as long as they do. Our plan will help America create 3,000 of these charter schools by the next century—nearly seven times as many as there are today—so that parents will have even more choices in sending their children to the best public schools.

Sixth: character education must be taught in our schools. We must teach our children to be good citizens. And we must continue to promote order and discipline, supporting communities that introduce school uniforms, impose curfews, enforce truancy laws, remove disruptive students from the classroom, and have zero tolerance for guns and drugs.

Seventh: we cannot expect our children to raise themselves up in schools that are literally falling down. With the student population at an all time high, and record numbers of school buildings falling into disrepair, this has now become a serious national concern. My budget includes a new initiative: $5 billion to help communities finance $20 billion in school construction over the next four years.

Eighth: We must make the 13th and 14th years of education—at least two years of college—just as universal in America as a high school education is today, and we must open the doors of college to all.

To do that, I propose America's HOPE scholarship, based on Georgia's pioneering program: two years of a $1,500 tax credit for college tuition, enough to pay for the typical community college. I also propose a tax deduction of up to $10,000 a year for all tuition after high school; an expanded IRA you can withdraw from tax free for education; and the largest increase in Pell Grant scholarships in 20 years. This plan will give most families the ability to pay no taxes on money saved for college tuition. I ask you to pass it—to give every American who works hard the chance to go to college.

Ninth: In the 21st Century, we must expand the frontiers of learning across a lifetime. All our people, of whatever age, must have a chance to learn new skills. Most Americans live near a community college. The roads that take them there can be paths to a better future. My G.I. Bill for Workers will transform the confusing tangle of federal training programs into a simple skill grant that will go directly into eligible workers' hands. For too long, this bill has been sitting on that desk down there without action—and I ask you to pass it now. Let's give more of our workers the ability to learn and to earn.

Tenth: we must bring the power of the Information Age into all our schools. Last year, I challenged America to connect every classroom and library to the Internet by the year 2000, so that, for the first time in history, a child in the most isolated rural town, the most comfortable suburb, the poorest inner city school, will have the same access to the same universe of knowledge. I ask your support to complete this historic mission.

That is my plan—a Call to Action for American Education.

We must understand the significance of this endeavor: One of the greatest sources of our strength throughout the Cold War was a bipartisan foreign policy; because our future was at stake, politics stopped at the water's edge. Now I ask you—I ask all our nation's governors—and I ask teachers, parents and citizens all across America—for a new nonpartisan commitment to education—because education is one of the critical national security issues for our future—and politics must stop at the classroom door.

I pledge to take this Call to Action to our country, so that together, we can make American education, like America itself, the envy of the world.

To prepare America for the 21st century, we must harness the powerful forces of science and technology to benefit all Americans.

This is the first State of the Union carried live over the Internet. But we have only begun to spread the benefits of a technology revolution that should be the modern birthright of every citizen.

Our effort to connect every classroom is just the beginning. Now, we should connect every hospital to the Internet, so doctors can instantly share data about their patients with the best specialists in the field. And I challenge the private sector to start by connecting every children's hospital as soon as possible, so that a child in bed can stay in touch with school, family and friends. A sick child need no longer be a child alone.

We must build the second generation of the Internet so our leading universities and national laboratories can communicate at speeds 1000 times faster than today, to develop new medical treatments, new sources of energy, and new ways of working together.

But we cannot stop there. As the Internet becomes our new town square, a computer in every home—a teacher of all subjects, a connection to all cultures—this will no longer be a dream, but a necessity. And over the next decade, that must be our goal.

We must continue to explore the heavens, pressing on with the Mars probes and the international space station, both of which will have practical applications for our everyday living.

We must speed the remarkable advances in medical science. The human genome project is now decoding the genetic mysteries of life. American scientists have discovered genes linked to breast cancer and ovarian cancer, and medication that stops a stroke in progress and begins to reverse its effects—and treatments that dramatically lengthen the lives of people with HIV and AIDS.

Since I took office, funding for AIDS research at the National Institutes of Health has increased dramatically, to $1.5 billion. With new resources, NIH will now become the most powerful discovery engine for an AIDS vaccine, working with other scientists to finally end the threat of AIDS. Every year we move up the discovery of an AIDS vaccine, we can save millions of lives around the world.

To prepare America for the 21st Century, we must build stronger families.

Over the past 4 years, the Family and Medical Leave Act has helped millions of Americans take time off to be with their families. With new pressures on people in the way they work and live, we should expand Family Leave so that workers can take time off for teacher conferences and a child's medical checkup. We should pass flextime so workers can choose to be paid for overtime in income, or trade it for time off to be with their families.

We must continue, step-by-step, to give more families access to affordable, quality health care. 40 million Americans still lack health insurance. 10 million children still lack health insurance. 80% of them have working parents who pay taxes. That is wrong. My balanced budget will extend health coverage to up to five million of those children. Since nearly half of all children who lose their insurance do so because their parents lose or change jobs, my budget will also ensure that people who temporarily lose their jobs can still afford to keep their health insurance. No child should be without a doctor just because a parent is without a job.

My Medicare plan modernizes Medicare, increases the life of the Trust Fund to 10 years, provides support for respite care for the many families with loved-ones afflicted with Alzheimers—and for the first time, it would fully pay for annual mammograms.

Just as we ended drive through deliveries of babies last year, we must now end the dangerous and demeaning practice of forcing women home from the hospital only hours after a mastectomy. I ask your support for bipartisan legislation to guarantee that women can stay in the hospital for 48 hours after a mastectomy. With us tonight is Dr. Kristen Zarfos, a Connecticut surgeon whose outrage at this practice spurred a national movement and inspired this legislation. We thank her for her efforts.

In the last four years, we have increased child support collections by 50%. Now, we should go further, and make it a felony for any parent to cross state lines in an attempt to flee from this, his or her most sacred obligation.

Finally, we must also protect our children by standing firm in our determination to ban the advertising and marketing of cigarettes that endanger their lives.

To prepare America for the 21st Century, we must build stronger communities.

We should start with safe streets. Serious crime has dropped five years in a row. The key has been community policing—and we must finish the job of putting 100,000 community police on our streets. We should pass the Victims' Rights Amendment to the Constitution.

And I ask you to join me in mounting a full scale assault on juvenile crime, with legislation that: declares war on gangs, with new prosecutors and tougher penalties; extends the Brady Bill so violent teen criminals will never be able to buy handguns; requires child safety locks on handguns to prevent unauthorized use; and helps to keep our schools open after hours, on weekends, and in the summer, so young people will have someplace to go and something to say yes to.

My balanced budget includes the largest anti-drug effort ever: to stop drugs at their source, punish those who push them, and teach our young people that drugs are wrong, drugs are illegal, and drugs will kill them.

Our growing economy has helped to revive poor urban and rural neighborhoods. But we must do more, to empower them to create the conditions in which families can flourish, and to create jobs through investment by business and loans by banks.

We should double the number of empowerment zones. They have already brought hope to communities like Detroit, where the unemployment rate has been cut in half in four years. We should restore contaminated urban land and buildings to productive use. We should expand the network of community development banks.

And together, we must pledge tonight that we will use this empowerment approach—including private sector tax incentives—to renew our capital city, so that Washington is a great place to live and work, and is once again the proud face America shows to the world.

We must protect our environment in every community. In the last four years, we cleaned up 250 toxic waste sites, as many as in the previous twelve. Now we should clean up 500 more of them, so that our children grow up next to parks, not poison. Big polluters must live by this simple rule: If you pollute our environment, you pay to clean it up.

In the last four years, we strengthened the nation's safe food and clean drinking water laws. We protected some of America's rarest, most beautiful land in Utah's Red Rocks region, created three new national parks in the California desert, and began to restore Florida's Everglades. Now we must be as vigilant with our rivers as we are with our land. Tonight, I announce that this year I will designate 10 American Heritage Rivers, to help communities alongside them revitalize their waterfronts and clean up pollution in the rivers, proving once again that we can grow the economy as we protect the environment.

We must also protect our global environment, working to ban the worst toxic chemicals and to reduce the greenhouse gasses that challenge our health even as they change our climate.

We all know that in all of our communities, some of our children simply do not have what they need to grow and learn in their homes, or schools, or neighborhoods. The rest of us must do more, for they are our children too. That is why President Bush, General Colin Powell, and former Housing Secretary Henry Cisneros will join Vice President GORE and me to lead the President's Summit of Service in Philadelphia in April.

Our national service program, Americorps, has already helped 70,000 young people work their way through college as they serve America. Now we intend to mobilize millions of Americans to serve in thousands of ways. Citizen service is an American responsibility, which all Americans should embrace.

I'd like to make one last point about our national community. Our economy is measured in numbers and statistics, and it's very important. But the enduring worth of our nation lies in our values and our soaring spirit. So instead of cutting back on our modest efforts to support the arts and humanities, I believe we should stand by them, and challenge our artists, musicians and writers, our museums, libraries and theaters, to join with all Americans to make the Year 2000 a national celebration of the American spirit in every community—a celebration of our common culture in the century that has passed, and in the new one to come in the new millennium, so that we can remain the world's beacon of liberty and creativity, long after the fireworks have faded.

To prepare America for the 21st Century, we must master the forces of change in the world and keep American leadership strong and sure for an uncharted time.

Fifty years ago, a farsighted America led in creating the institutions that secured victory in the Cold War and built a growing world economy. As a result, today more people than ever embrace our ideals and share our interests.

Already, we have dismantled many of the blocs and barriers that divided our parents' world. For the first time, more people live under democracy than dictatorship, including every nation in our hemisphere but one—and its day too will come.

Now, we stand at another moment of change and choice—and another time to be farsighted, to bring America 50 more years of security and prosperity.

Our first task is to help build, for the first time, an undivided, democratic Europe. When Europe is stable, prosperous and at peace, America is more secure.

To that end, we must expand NATO by 1999, so that countries that were once our adversaries can become our allies. At the special NATO summit this summer, that is what we will begin to do. We must strengthen NATO's Partnership for Peace with non-member allies. And we must build a stable partnership between NATO and a democratic Russia.

An expanded NATO is good for America. And a Europe in which all democracies define their future not in terms of what they can do to each other, but in terms of what they can do together for the good of all—that kind of Europe is good for America.

Second, America must look to the East no less than the West. Our security demands it: Americans have fought three wars in Asia this century. Our prosperity requires it: more than 2 million American jobs depend upon trade with Asia.

There, too, we are helping to shape an Asian Pacific community of cooperation, not conflict. But we must not let our progress there mask the peril that remains. Together with South Korea, we must advance peace talks with North Korea and bridge the Cold War's last divide. And I call on this Congress to fund our share of the agreement under which North Korea must continue to freeze and then dismantle its nuclear weapons program.

We must pursue a deeper dialogue with China—for the sake of our interests and our ideals. An isolated China is not good for America. A China playing its proper role in the world is. I will go to China and I have invited China's president to come here, not because we agree on everything, but because engaging China is the best way to work on common challenges like ending nuclear testing—and to deal frankly with fundamental differences like human rights.

Third, the American people must prosper in the global economy. We have worked hard to tear down trade barriers abroad, so that we can create good jobs at home. I am proud to say that today, America is once again the most competitive nation, and the number one exporter in the world.

Now, we must act to expand our exports, especially to Asia and Latin America, the two fastest growing regions on earth—or be left behind as these emerging economies forge new ties with other nations. That is why we need the authority now to conclude new trade agreements that open markets to our goods and services even as we preserve our values.

We need not shrink from the challenge of the global economy. We have the best workers and the best products. In a truly open market, and we can out-compete anyone in the world.

But this is about more than economics. By expanding trade, we can advance the cause of freedom and democracy around the world.

We should all be proud that America led the effort to rescue our neighbor Mexico from its economic crisis—and we should all be proud that last month, Mexico repaid the United States, three years ahead of schedule, with a half a billion dollars profit for us. And today our exports to Mexico are at an all time high.

Fourth, America must continue to be an unrelenting force for peace—from the Middle East to Haiti—from Northern Ireland to Africa. Taking reasonable risks for peace keeps us from being drawn into far more costly conflicts later.

With American leadership, the killing has stopped in Bosnia. Now, the habits of peace must take hold. The new NATO force will allow reconstruction and reconciliation to accelerate. Tonight, I ask Congress to continue its strong support for our troops there. They are doing a remarkable job for America—and America must do right by them.

Fifth, we must move strongly against new threats to our security. In the past four years, we agreed to ban nuclear testing. With Russia, we dramatically cut our nuclear arsenal; we stopped targeting each others citizens. We are acting to rid the world of landmines, and prevent nuclear materials from falling into the wrong hands. We are working with other nations, with renewed intensity, to stop terrorists and drug traffickers before they act, and to hold them fully accountable if they do.

Now, we must rise to a new test of leadership: ratifying the Chemical Weapons Convention. It will make our troops safer from chemical attack. It will help us to fight terrorism. We have no more important obligations—especially in the wake of what we now know about the Gulf War. This treaty has been bipartisan from the beginning, supported by Republican and Democratic administrations alike—and Republican and Democratic Members of Congress alike—and already approved by 68 nations. If we do not act by April 29—when this Convention goes into force, with us or without us—we will lose the chance to have Americans leading and enforcing this effort. Together, we must make the Chemical Weapons Convention law, so that at last we can begin to outlaw poison gas from the earth.

Finally, we must have the tools to meet all these challenges.

We must maintain a strong and ready military. We must increase funding for weapons modernization by the Year 2000, and we must take good care of our men and women in uniform. They are the world's finest.

We must also renew our commitment to America's diplomacy—and pay our debts and dues to international financial institutions like the World Bank, and to a reforming United Nations. Every dollar we devote to preventing conflicts, to promoting democracy, to stopping the spread of disease and starvation, brings a sure return in security and savings. Yet international affairs spending today is just one percent of the federal budget—a tiny fraction of what America invested in diplomacy to choose leadership over escapism at the start of the Cold War. If America is to continue to lead the world, we here who lead America simply must find the will to pay our way.

A farsighted America moved the world to a better place over these last fifty years. And it can do so for another fifty years. But a shortsighted America will soon find its words falling on deaf ears all around the world.

Almost exactly fifty years ago, in the first winter of the Cold War, President Harry Truman stood before a Republican Congress and called upon our country to meet its responsibilities of leadership. This was his warning: "If we falter, we may endanger the peace of the world—and we shall surely endanger the welfare of this nation." That Congress, led by Republicans like Senator Arthur Vandenberg, answered President Truman's call. Together, they made the commitments that strengthened our country for fifty years. Now let us do the same. Let us do what it takes to remain the indispensable nation—to keep America strong, secure and prosperous for another fifty years.

In the end, more than anything else, our world leadership grows out of the power of our example here at home, out of our ability to remain strong as one America.

All over the world, people are being torn asunder by racial, ethnic, and religious conflicts that fuel fanaticism and terror. We are the world's most diverse democracy. And the world looks to us to show that it is possible to live and advance together across those kinds of differences.

America has always been a nation of immigrants. From the start, a steady stream of people, in search of freedom and opportunity, have left their own lands to make this land their home. We started as an experiment in democracy fueled by Europeans. We have grown into an experiment in democratic diversity fueled by openness and promise.

My fellow Americans, we must never believe that diversity is a weakness—it is our greatest strength. Americans speak every language, know every country. People on every continent can look to us and see the reflection of their own greatness, as long as we give all of our citizens, whatever their background, an opportunity to achieve their greatness.

We are not there yet. We still see evidence of abiding bigotry and intolerance, in ugly words and awful violence, in burned churches and bombed buildings. We must fight against this, in our country and in our hearts.

A few days before my second inauguration, one of America's best known pastors, Rev. Robert Schuller, suggested that I read Isaiah 58:12. It says: "Thou shalt raise up the foundations of many generations, and thou shalt be called, the repairer of the breach, the restorer of paths to dwell in." I placed my hand on that verse when I took the oath of office, on behalf of all Americans. For no matter what our differences—in our faiths, our backgrounds, our politics—we must all be repairers of the breach. We may not share a common past, but surely we share a common future.

I want to say a word about two other Americans who show us the way to that common future. Congressman FRANK TEJEDA was buried yesterday, a proud American whose family came from Mexico. He was only 51 years old. He earned the Silver Star, the Bronze Star and the Purple Heart fighting for his country in Vietnam, and he went on to serve Texas and America fighting for our future in this chamber. We are grateful for his service and honored to have his mother, Lillie Tejeda, with us tonight.

Gary Locke, the newly elected Governor of Washington State, is our first Chinese-American Governor, the proud son of two of the millions of Asian-American immigrants who have strengthened America with their hard work, family values, and good citizenship.

Rev. Schuller, Congressman TEJEDA, Governor Locke, along with Kristin Tanner, Chris Getsla, Sue Winski and Dr. Kristen Zarfos—all Americans from different roots, whose lives reflect our shared values and the best of what we can become when we are one America.

Building that one America is our most important mission, "the foundation of many generations," of every other strength we must build for the new century. Money cannot buy it. Power cannot compel it. Technology cannot create it. It must rise from the human spirit.

America is far more than a place. It is an idea, the most powerful idea in the history of nations. We are now the bearers of that idea, leading a great people into a new world. A child born tonight will have almost no memory of the 20th Century. Everything that child will know of America, will be because of what we do now to build a new century.

We don't have a moment to waste. Tomorrow morning, there will be just over 1,000 days until the Year 2000. 1,000 days to prepare our people. 1,000 days to work together. My fellow Americans, we have work to do. Let us seize the days and the century.

Thank you, God bless you, and God bless America.

MESSAGES FROM THE HOUSE

At 4:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 35. That the House has heard with profound sorrow of the death of the Honorable FRANK TEJEDA, a Representative from the State of Texas.

The message also announced that pursuant to the provisions of section 637(b) of Public Law 104-52, as amended by section 2904 of Public Law 104-134, the Speaker reappoints Mr. PORTMAN of Ohio to the National Commission of Restructuring the Internal Revenue Service.

The message further announced that pursuant to section 637(b) of Public Law 104-52, the minority leader accepts the resignation of ROBERT T. MATSUI of California from the National Commission on Restructuring the Internal Revenue Service and hereby appoints Mr. WILLIAM J. COYNE of Pennsylvania to the Commission for the remainder of its term.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-942. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, reports of three deferrals of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, and to the Committee on Foreign Relations.

EC-943. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule relative to financial reporting, received on January 29, 1997 to the Committee on Agriculture, Nutrition, and Forestry.

EC-944. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report on salary range structure and performance merit pay matrix for 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-945. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to the fluid milk promotion program, received on January 27, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-946. A communication from the President of the United States, transmitting, pursuant to law, the report concerning the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process; to the Committee on Banking, Housing, and Urban Affairs.

EC-947. A communication from the Assistant to the Board of Governors of the Federal Reserve Board, transmitting, pursuant to law, the report a rule relative to home mortgage disclosure, received on January 28, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-948. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules including one rule relative to National Emission Standards, (FRL-5682-3, 5584-5), received on January 29, 1997; to the Committee on Environment and Public Works.

EC-949. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to the weighted average interest rate, received on January 29, 1997; to the Committee on Finance.

EC-950. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to the alternative minimum tax, received on January 29, 1997; to the Committee on Finance.

EC-951. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 97-8, received on January 30, 1997; to the Committee on Finance.

EC-952. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC-953. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Governmentwide Policy, General Services Administration, transmitting, pursuant to law, the report of a rule relative to real property, (RIN3090-AF92) received on January 29, 1997; to the Committee on Governmental Affairs.

EC-954. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-955. A communication from the Director of the Office of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-956. A communication from the General Counsel and Corporate Secretary of the Legal Services Corporation, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-957. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule entitled "Exceptions to the Educational Requirements for Naturalization for Certain Applicants" (RIN1115-AE05) received on January 29, 1997; to the Committee on the Judiciary.

EC-958. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to the disaster reserve assistance program, received on January 30, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-959. A communication from the Secretary of Energy, transmitting, pursuant to law, the semi-annual report on programs for the protection, control and accountability of fissile materials in the countries of the former Soviet Union; to the Committee on Armed Services.

EC-960. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC-961. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC-962. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule relative to liquefied natural gas, (RIN2137-AC91) received on January 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC-963. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule relative to fishing quotas, (RIN0648-XX70) received on January 30, 1997; to the Committee on Commerce, Science, and Transportation.

EC-964. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 542, received on January 30, 1997; to the Committee on Commerce, Science, and Transportation.

EC-965. A communication from the Director of the Office of Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule relative to endangered and threatened wildlife and plants, (RIN1018-AB88) received on January 31, 1997; to the Committee on Environment and Public Works.

EC-966. A communication from the Director of the Office of Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule relative to endangered and threatened wildlife and plants, (RIN1018-AC83) received on January 31, 1997; to the Committee on Environment and Public Works.

EC-967. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, a rule regarding the release of individuals administered radioactive materials, (RIN3150-AE41) received on January 29, 1997; to the Committee on Environment and Public Works.

EC-968. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report of the Treasury Bulletin for December 1996; to the Committee on Finance.

EC-969. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on the Human Rights Pratices for 1996; to the Committee on Foreign Relations.

EC-970. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC-971. A communication from the Secretary of State, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC-972. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report relative to bid protest for fiscal year 1996; to the Committee on Governmental Affairs.

EC-973. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report under the Government in the Sunshine Act during calendar year 1996; to the Committee on Governmental Affairs.

EC-975. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-414 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-976. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-495 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-977. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-499 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-978. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-498 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-979. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-507 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-980. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-510 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-981. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-511 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-982. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-513 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-983. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-514 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-984. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-515 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-985. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-516 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-986. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-517 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-987. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-518 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-988. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-519 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-989. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-520 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-990. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-521 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-991. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-523 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-992. A communication from the President of the United States, transmitting, pursuant to law, the report on the impact to delaying USAID population funding; to the Committee on Appropriations.

EC-993. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the Office's Sequestration Preview Report for fiscal year 1998; pursuant to the order of August 4, 1977; referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC-994. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to parity price regulations, (RIN0560-AF08) received on February 3, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-995. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report on contributions from other nations for relocation costs; to the Committee on Armed Services.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 30, 1997, the following reports of committees were submitted on February 3, 1997, during the adjournment of the Senate:

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Res. 42: An original resolution authorizing expenditures by the Committee on Rules and Administration.

Under the authority of the order of the Senate of January 30, 1997, the following reports of committees were submitted on February 3, 1997:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S.J. Res. 1: A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget (Rept. No. 105-3).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. Res. 43: An original resolution authorizing expenditures by the Committee on the Judiciary.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 44: An original resolution authorizing expenditures by the Committee on the Budget.

By Mr. ROTH, from the Committee on Finance, without amendment and with a preamble:

S.J. Res. 5: A joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative.

REPORTS OF COMMITTEES

The following reports of committees were submitted on February 4, 1997:

By Mr. SPECTER, from the Committee on Veterans' Affairs, without amendment:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Veterans' Affairs.

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

S. Res. 46. An original resolution authorizing expenditures by the Committee on Indian Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN:

S. 255. A bill to amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself and Mr. Feingold):

S. 256. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to regulate certain cash markets, such as the National Cheese Exchange, until the Commission determines that the markets do not establish reference points for other transactions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LUGAR (for himself, Mr. Harkin, and Mr. Leahy):

S. 257. A bill to amend the Commodity Exchange Act to improve the Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. Kohl):

S. 258. A bill to improve price discovery in milk and dairy markets by reducing the effects of the National Cheese Exchange on the basic formula price established under milk marketing orders, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG:

S. 259. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM (for himself, Mr. Hatch, Mrs. Feinstein, Mr. Grassley, Mr. Kyl, Mr. Hutchinson, Mr. Roberts, and Mr. Robb):

S. 260. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. Ford, Ms. Snowe, Mr. Thompson, Mr. Thomas, Mr. Roth, Mr. Moynihan, Mr. Nickles, Mr. McCain, Mr. Conrad, Mr. Abraham, Mr. Frist, Mr. Grams, Mr. Lugar, Ms. Collins, Mr. Breaux, Mr. DeWine, Mr. Burns, Mr. Warner, Mr. Roberts, Mr. Coats, Mr. Mack, Mr. Kempthorne, Mr. D'Amato, and Mr. Enzi):

S. 261. A bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. WELLSTONE:

S. 262. A bill to amend title 18, United States Code, to provide for the prospective application of certain prohibitions relating to firearms; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. Daschle) (by request):

S.J. Res. 14. A joint resolution affirming certain findings of the President of the United States with regard to programs concerning international family planning; to the Committee on Appropriations, for not to exceed five calendar days pursuant to section 518A(d) of Public Law 104–208.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Veterans' Affairs; from the Committee on Veterans' Affairs; to the Committee on Rules and Administration.

By Mr. CAMPBELL:

S. Res. 46. An original resolution authorizing expenditures by the Committee on Indian Affairs; from the Committee on Indian Affairs; to the Committee on Rules and Administration.

By Ms. SNOWE (for herself, Ms. Mikulski, Mrs. Hutchison, Mrs. Feinstein, Mrs. Boxer, Mrs. Murray, Ms. Moseley-Braun, Ms. Landrieu, Ms. Collins, Mr. Levin, Mr. Akaka, Mr. Bryan, Mr. Cleland, Mr. Torricelli, Mr. Hollings, Mr. Ford, Mr. Bingaman, Mr. Breaux, Mr. Kerrey, Mr. Reed, Mr. Reid, Mr. Rockefeller, Mr. Wellstone, Mr. Graham, Mr. Dodd, Mr. Kerry, Mr. Kennedy, Mr. Glenn, Mr. Lieberman, Mr. Sarbanes, Mr. Lautenberg, Mr. Wyden, Mr. Baucus, Mr. Moynihan, Mr. Biden, Mr. Dorgan, Mr. Durbin, Mr. Conrad, Mr. Bumpers, Mr. Leahy, Mr. Faircloth, Mr. Robb, Mr. Specter, Mr. D'Amato, Mr. Abraham, Mr. Grassley, Mr. Coats, Mr. Coverdell, Mr. Kempthorne, Mr. Warner, Mr. Murkowski, Mr. Thomas, and Mr. Bond):

S. Res. 47. A resolution expressing the sense of the Senate concerning the need for accurate guidelines for breast cancer screening for women between the ages of 40 and 49; considered and agreed to.

By Mr. LOTT:

S. Res. 48. A resolution providing for service on a temporary and intermittent basis by the Director of the Office of Senate Fair Employment Practices, and for other purposes; considered and agreed to.

By Mrs. HUTCHISON (for herself and Mr. Gramm):

S. Res. 49. A resolution expressing the condolences of the Senate on the death of Representative Frank Tejeda; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN:

S. 255. A bill to amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE LAW ENFORCEMENT AND PUBLIC SAFETY TELECOMMUNICATIONS EMPOWERMENT ACT

Mr. McCAIN. Mr. President, I rise to introduce the Law Enforcement and Public Safety Telecommunications Empowerment Act. This legislation addresses a longstanding need by police, fire departments, and emergency medical services for more channels of radio communication and for more state-of-the-art technology to use in their efforts to safeguard life and property.

Mr. President, the telecommunications needs of the public safety community have been a subject of widespread concern for many years. In many instances, channel capacity for safety-of-life communications is dangerously low. In many others, budgetary constraints have kept law enforcement and other public safety officials from getting new communications equipment and services that would make their transmissions more efficient and reliable.

Most recently, a Federal advisory committee documented these needs for more spectrum. There are clearly ways this can be done. But spectrum is a limited, and therefore very valuable, resource, and big businesses that would compete for this same spectrum must not be allowed to divert it for commercial use. Further, this bill creates specific mechanisms that will continue over the years to assure that money and equipment are available for the continuing need of those whose job is to safeguard our lives, our health, and our property.

Let me outline the provisions of this bill. First, the bill orders the FCC to give public safety radio users four new radio channels. These new channels are currently allocated to television use and are located between TV channels 60 and 69. Ongoing plans to convert television broadcasting to more spectrum-efficient digital transmission technology is expected to make this channel reallocation possible without significant impact on the television service people receive.

Next, this legislation provides that the rest of the available spectrum between TV channels 60 and 69 will be auctioned to the highest bidder for commercial use. Of the money raised, 10 percent, or a sum of not less than $200,000,000 or more than $750,000,000, is earmarked for distribution to the Governors of each of the States for use in purchasing services and equipment that would increase the ability of public safety radio users to communicate quickly and easily in times of emergency.

Third, to make sure that the four new public safety radio channels are used in as efficient a manner as possible and to provide added public safety communications resources tailored to their specific needs, this legislation gives the Governors the authority to lease, sell, or otherwise dispose of any extra channel capacity they may have. This will enable them to procure new technology or services that will further improve the effectiveness of public safety communications. The remainder of the money raised at auction would be used for deficit reduction.

Mr. President, in closing, this is a fair bill. The spectrum is owned by the public and the public should benefit from its use. This plan benefits the public in two ways: It helps protect the public by augmenting police and fire services, and it helps pay down the deficit.

Mr. President, I hope my colleagues will support this measure. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement and Public Safety Telecommunications Empowerment Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Improvements in technology have made it possible for television broadcast stations to offer advanced television services.

(2) To facilitate the transition to advanced television services, the Federal Communications Commission is issuing additional licenses to existing broadcast licensees and permittees under section 336 of the Communications Act of 1934 (47 U.S.C. 336).

(3) As part of the transition to advanced television services, the Federal Communications Commission will develop and implement an allotment plan that will permit the repacking of television broadcast station licenses into a smaller segment of the Very High Frequency and Ultra High Frequency bands than presently used for broadcast television.

(4) Implementation of the advanced television service transition plan will enable the Federal Communications Commission to allocate spectrum to other purposes.

(5) Implementation of the advanced television service transition plan will permit recovery for the public of a portion of the value of the public spectrum resource made available for commercial use.

(6) Many of the State and local agencies responsible for law enforcement and public safety have inadequate spectrum and inadequate funding to maintain the existing level of, or to effect improvements in, the radio communications on which they depend to perform their missions.

(7) Implementation of the advanced television service transition plan will permit State and local law enforcement and public safety agencies to secure additional spectrum and additional funding for mission-related activities.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "Board" means the Board of Directors of the Institute;

(2) "Director" means the Executive Director of the Institute;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "Institute" means the Public Safety Telecommunications Institute;

(5) "Recipient" means any grantee, contractor, or recipient of financial assistance under this Act; and

(6) "State" means any State of the United States and includes the District of Columbia.

SEC. 4. RECLAMATION OF SPECTRUM.

(a) COMMISSION ACTION.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following:

"SEC. 337. RECLAMATION AND REALLOCATION OF SPECTRUM FOR LAW ENFORCEMENT, PUBLIC SAFETY, AND COMMERCIAL PURPOSES.

"(a) IN GENERAL.—The Commission may not issue new broadcast station licenses in the spectrum between 746 and 806 megahertz after the date of enactment of the Law Enforcement and Public Safety Telecommunications Empowerment Act, except as provided by this section and that Act.

"(b) INCUMBENT BROADCAST LICENSEES.—Any person who, on the date of enactment of that Act, holds a license to operate a television broadcasting station, or a permit to construct such a station, between 746 and 806 megahertz—

"(1) may not operate at that frequency after the date on which the advanced television services transition period terminates, as determined by the Commission; and

"(2) shall surrender any license to operate such a television broadcast station, or permit to construct such a television broadcasting station, to the Commission for reallocation under this Act within 30 days after that date.

"(c) SPECTRUM BETWEEN 746 AND 806 MEGAHERTZ.—

"(1) PUBLIC SAFETY.—Within 30 days after the date of enactment of that Act, the Commission shall allocate and assign 24 megahertz of electromagnetic spectrum to law enforcement and public safety use. The provisions of chapter 5 of title 5, United States Code, do not apply to the allocation and assignment of spectrum under this paragraph, and such allocation and assignment shall be carried out as expeditiously as possible without regard to any other provision of law or regulation thereunder relating to notice and opportunity for a hearing.

"(2) COMMERCIAL USE.—Within 1 year after the date of enactment of that Act, the Commission shall allocate 36 megahertz of electromagnetic spectrum between 746 and 806 megahertz for commercial uses.

"(d) TRANSFER OF ASSIGNMENT AUTHORITY.—The Commission shall transfer to the Public Safety Telecommunications Institute established under section 8 of that Act the right to assign spectrum allocated under subsection (c)(2) in accordance with this section and the provisions of that Act.

"(e) ASSIGNMENT BY PUBLIC SAFETY TELECOMMUNICATIONS INSTITUTE.—Within 5 years after the date of enactment of that Act, the Institute shall assign licenses for the commercial use of the spectrum for which assignment authority was transferred to it under subsection (d) by competitive bidding carried out in a manner consistent with section 309(j) of this Act. The Institute shall work closely with the Commission in assigning licenses for the commercial use of that spectrum, and shall make such assignments in accordance with rules established by the Commission.

"(f) SEQUENTIAL ASSIGNMENT OF SURPLUS PUBLIC SAFETY SPECTRUM.—If the Governor of any State to which spectrum is assigned for law enforcement and public safety purposes determines that a portion of that spectrum is excess to the needs of the State for such purposes, then the Governor may lease, sell, or otherwise assign any such excess portion to any person for any lawful purpose under this Act under such terms and conditions as the Governor may require. Any term used in this subsection that is defined in section 3 of the Law Enforcement and Public Safety Telecommunications Empowerment Act has the meaning given to it by that section.

"(g) EFFECTIVE DATE FOR AUCTIONED SPECTRUM.—Licenses assigned under subsection (e) shall become effective on the day after the date on which the advanced television services transition period terminates, as determined by the Commission. A license assigned under subsection (f) shall become effective on the next business day following the date on which it is assigned.".

(b) CLERICAL AMENDMENT.—The table of sections for the Communications Act of 1934 is amended by inserting after the item relating to section 336 the following:

"337. Reclamation and reallocation of spectrum for law enforcement, public safety, and commercial purposes

SEC. 5. USE OF PROCEEDS FROM AUCTION.

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established on the books of the Treasury an account for the proceeds of the auction conducted under section 8(b). Except as provided in subsections (b) and (c), all proceeds from that auction shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code, and credited to the account established by this subsection.

(b) LAW ENFORCEMENT AND PUBLIC SAFETY.—

(1) AMOUNT.—Out of the amounts received from the auction of spectrum under section 8(b), the Institute shall retain amounts equal to 10 percent of the sum of the amounts credited to that account, but not less than $200,000,000 nor more than $750,000,000, for use in funding State and local law enforcement and public safety agencies' mission-related radio communications capabilities.

(2) ALLOCATION AMONG STATES.—Amounts retained under paragraph (1) shall be distributed to each State in proportion to its share of the population of the United States according to the latest decennial census, subject to such procedures and conditions as the Commission may establish to ensure proper accounting for the use of distributed amounts.

(3) USE OF AMOUNTS RECEIVED.—The chief executive officer of each State shall use amounts received under this section exclusively for the purpose for which such amounts are authorized under this Act. In administering any amounts received under this section, that chief executive officer shall give due regard to opportunities that—

(A) commercially-provided services; and

(B) the sharing of resources and facilities by law enforcement and public safety agencies,

afford for improved and more efficient law enforcement and public safety radio communications.

(c) ADMINISTRATIVE EXPENSES.—

(1) INSTITUTE.—Out of amounts received from the auction under section 8(b) of this

Act remaining after provision is made for the distribution under subsection (b) of this section, the Institute shall—

(A) retain such amounts as may be necessary to fund its administrative expenses; and

(B) transfer to the Federal Communications Commission such sums as may be necessary to compensate it for its costs incurred in support of the Institute's operations.

(2) FEDERAL COMMUNICATIONS COMMISSION.—The salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be transferred to the Commission under paragraph (1) to cover the costs of developing and implementing the program required by this Act. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Any funds appropriated to the Commission for fiscal year during which the auction generates proceeds shall be used by the Commission to implement this Act. Such offsetting collections are authorized to remain available until expended.

SEC. 6. PERMANENT AUCTION AUTHORITY.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12).

SEC. 7. RELATIONSHIP TO OTHER LAW.

(a) IN GENERAL.—Nothing in this Act, or in section 309(j) or 337 of the Communications Act of 1934 (as added by this Act), may be construed as a violation of any provision of the Omnibus Budget Reconciliation Act of 1990, or any other provision of law prohibiting or limiting the earmarking of revenues.

(b) EFFECTIVE DATE.—The provisions of subsection (a) apply to any auction of spectrum under this Act, or under the Communications Act of 1934, that takes place after January 31, 1997.

SEC. 8. PUBLIC SAFETY TELECOMMUNICATIONS INSTITUTE.

(a) ESTABLISHMENT; PURPOSE; INCORPORATION; POWERS.—There is established a private nonprofit corporation which shall be known as the Public Safety Telecommunications Institute. The purposes of the Institute are—

(1) to auction and assign spectrum in accordance with section 337 of the Communications Act of 1934 and this Act;

(2) to award grants and contracts under this Act;

(3) to certify programs that are intended to use funds made available under this Act to aid and improve State law enforcement and public safety telecommunications systems; and

(4) to carry out its other duties under this Act. The Institute may be incorporated in any State under section 9(a) of this Act. To the extent consistent with the provisions of this Act, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) DUTIES.—

(1) IN GENERAL.—The Institute shall—

(A) auction spectrum transferred to it under section 337 of the Communications Act of 1934 in accordance with section 309(j) of the Communications Act of 1934;

(B) assign licenses for the commercial use of such spectrum in accordance with section 337; and

(C) administer the proceeds received from the auction in accordance with the provisions of this Act.

(2) APPLICATION OF SECTION 309(j).—For the purpose of applying section 309(j) of the Communications Act of 1934 to the Institute—

(A) the term "Institute", as defined in section 3 of this Act, shall be substituted for "Commission" each place it appears; and

(B) paragraph (8) of section 309(j) of such Act shall not apply.

(c) MAINTENANCE OF OFFICES IN STATE OF INCORPORATION; AGENT FOR RECEIPT OF SERVICE OF PROCESS.—The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(d) TAX STATUS OF INSTITUTE AND PROGRAMS ASSISTED THEREBY.—The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 170(c)(2)(B)) and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) which is exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)). If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) RULES, REGULATIONS, ETC.; NOTICE AND COMMENT.—The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this Act, and it shall publish in the Federal Register all rules, regulations, guidelines, and instructions. The publication of a substantive rule shall not be made less than 30 days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.

SEC. 9. BOARD OF DIRECTORS.

(a) APPOINTMENT AND MEMBERSHIP.—

(1) The Institute shall be supervised by a Board of Directors, consisting of—

(A) 6 members to be appointed by the President, by and with the advice and consent of the Senate; and

(B) the Chairman of the Federal Communications Commission, ex officio.

(2) The President shall make the initial appointments of members of the Board under this subsection 90 days after the effective date of this Act. In the case of any other appointment of a member, the President shall make the appointment not later than 90 days after the previous term expires or the vacancy occurs, as the case may be.

(3) The initial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b) TERM OF OFFICE.—

(1) Except as provided in paragraph (2), the term of each appointed member of the Board shall be 5 years. Each such member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Three of the members first appointed by the President shall serve for a term of 2 years. Any member appointed to serve an unexpired term which has arisen by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) REAPPOINTMENT.—No member shall be reappointed to more than 2 consecutive terms immediately following such member's initial term.

(d) COMPENSATION; REIMBURSEMENT FOR EXPENSES.—Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) STATUS OF MEMBERS OF BOARD AS OFFICERS AND EMPLOYEES OF UNITED STATES.—The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) VOTING RIGHTS OF BOARD MEMBERS; QUORUM; ACTION OF BOARD ON CONCURRENCE OF MAJORITY.—Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) CHAIRMAN; INITIAL SELECTION AND TERM OF OFFICE; SUBSEQUENT ANNUAL ELECTION.—The Board shall select from among the appointed members of the Board a chairman, the first of whom shall serve for a term of 3 years. Thereafter, the Board shall annually elect a chairman from among its appointed members.

(h) GROUNDS FOR REMOVAL OF MEMBERS.—An appointed member of the Board may be removed by a vote of 4 members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) QUARTERLY MEETINGS OF BOARD; SPECIAL MEETINGS.—Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any 3 members.

(j) OPEN MEETINGS.—All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) DUTIES AND FUNCTIONS OF BOARD.—In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish policies and develop such programs for the Institute that will further the achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the employment of telecommunications in connection with law enforcement and public safety, the recommendations of the Institute for the improvement of such programs or activities; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 11.

SEC. 10. OFFICERS AND EMPLOYEES.

(a) DUTIES OF DIRECTOR; APPOINTMENT AND REMOVAL OF EMPLOYEES; POLITICAL TESTS OR QUALIFICATIONS PROHIBITED.—

(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this Act.

(b) COMPENSATION.—Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c) STATUS OF INSTITUTE AS DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF FEDERAL GOVERNMENT; AUTHORITY OF OFFICE OF MANAGEMENT AND BUDGET.—

(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This Act does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d) STATUS OF OFFICERS AND EMPLOYEES OF INSTITUTE AS OFFICERS AND EMPLOYEES OF UNITED STATES.—

(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code; Subchapter I of chapter 81 (5 U.S.C. 8101 et seq.) (relating to compensation for work injuries); chapters 83 and 84 (5 U.S.C. 8301 et seq. and 8401 et seq.) (relating to civil service retirement); chapter 87 (5 U.S.C. 8701 et seq.) (relating to life insurance); and chapter 89 (5 U.S.C. 8901 et seq.) (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) FREEDOM OF INFORMATION REQUIREMENTS.—The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

SEC. 11. GRANTS AND CONTRACTS.

(a) AUTHORITY OF INSTITUTE; PURPOSE OF GRANTS.—The Institute is authorized—

(1) to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b);

(2) to evaluate, when appropriate, the programs and projects carried out under this Act to determine the extent to which they have met or failed to meet the purposes of this Act; and

(3) to encourage, assist, and serve in a consulting capacity to State and local law enforcement and public safety system agencies in the development, maintenance, and coordination of telecommunications programs and services.

(b) PRIORITY IN MAKING AWARDS; ALTERNATIVE RECIPIENTS; APPROVAL OF APPLICATIONS; RECEIPT AND ADMINISTRATION OF FUNDS; ACCOUNTABILITY.—The Institute may award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute may award grants to or enter into cooperative agreements or contracts with the chief executive officer of each State to carry out the purposes of this Act.

(2) The Institute may, if the objective can better be served thereby, award grants to or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in law enforcement and public safety telecommunication;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in law enforcement and public safety telecommunication administration.

(3) The Institute may enter into contracts with Federal agencies to carry out the purposes of this Act.

(c) PERMISSIBLE USES OF FUNDS.—Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local law enforcement and public safety administrations in establishing, improving, and integrating telecommunications;

(2) to support education and training programs for law enforcement and public safety officials and other state and local personnel in the effective use of telecommunications in carrying out their law enforcement and public safety functions;

(3) to support studies of the adequacy of law enforcement and public safety telecommunications systems for State and local governments and to implement and evaluate innovative responses to law enforcement and public safety telecommunications problems; and

(4) to carry out such other programs, consistent with the purposes of this Act, as may be deemed appropriate by the Institute.

SEC. 12. LIMITATIONS ON GRANTS AND CONTRACTS.

(a) DUTIES OF INSTITUTE.—With respect to grants made and contracts or cooperative agreements entered into under this Act, the Institute shall—

(1) ensure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any State or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, or of any referendum, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute; and

(2) ensure all personnel engaged in grant, cooperative agreement, or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity.

(b) PROHIBITED USES OF FUNDS.—To ensure that funds made available under this Act are used to supplement and improve the operation of State and local government law enforcement and public safety telecommunications systems, rather than to support basic existing systems, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct telecommunications facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

SEC. 13. RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE.

(a) ISSUANCE OF SHARES OF STOCK; DECLARATION OF DIVIDENDS; COMPENSATION FOR SERVICES; REIMBURSEMENT FOR EXPENSES; POLITICAL ACTIVITIES.—

(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall enure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum.

(c) IDENTIFICATION OF INSTITUTE WITH POLITICAL ACTIVITIES.—Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SEC. 14. PRESIDENTIAL COORDINATION.

The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

SEC. 15. RECORDS AND REPORTS.

(a) REPORTS.—The Institute is authorized to require such reports as it deems necessary from any recipient with respect to activities carried out pursuant to this Act.

(b) RECORDS.—The Institute is authorized to prescribe the keeping of records with respect to funds provided by any grant, cooperative agreement, or contract under this Act and shall have access to such records at all reasonable times for the purpose of ensuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which financial assistance was provided.

(c) SUBMISSION OF COPIES OF REPORTS TO RECIPIENTS; MAINTENANCE IN PRINCIPAL OFFICE OF INSTITUTE; AVAILABILITY FOR PUBLIC INSPECTION; FURNISHING OF COPIES TO INTERESTED PARTIES.—Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least 5 years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

SEC. 16. AUDITS.

(a) TIME AND PLACE OF AUDITS; STANDARDS; AVAILABILITY OF BOOKS, ACCOUNTS, FACILITIES, ETC., TO AUDITORS; FILING OF REPORT AND AVAILABILITY FOR PUBLIC INSPECTION.—

(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b) ADDITIONAL AUDITS; REQUIREMENTS; REPORTS AND RECOMMENDATIONS TO CONGRESS AND ATTORNEY GENERAL.—

(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31, United States Code.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c) ANNUAL AUDITS BY INSTITUTE OR RECIPIENTS; REPORTS; SUBMISSION OF COPIES TO COMPTROLLER GENERAL; INSPECTION OF BOOKS, ACCOUNTS, ETC.; AVAILABILITY OF AUDIT REPORTS FOR PUBLIC INSPECTION.—

(1) The Institute shall conduct, or require each recipient to provide for, an annual fiscal audit of the use of funds received under this Act. The report of each such audit shall be maintained for a period of at least 5 years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 256. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to regulate certain cash markets, such as the National Cheese Exchange, until the Commission determines that the markets do not establish reference points for other transactions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE NATIONAL CHEESE EXCHANGE OVERSIGHT AND IMPROVEMENT ACT

• Mr. KOHL. Mr. President, I am introducing legislation to address a matter of great concern to all dairy farmers in the Nation—the lack of a credible milk-pricing system. Though there are many aspects of the milk-pricing system in need of reform, the legislation that I am introducing today seeks to address concerns about the potential for manipulation on the National Cheese Exchange [NCE] in Green Bay, WI, and the influence of the NCE on farmers' milk prices.

Last year, a 3-year study funded by USDA, and conducted by economists at the University of Wisconsin-Madison, highlighted the flaws of the National Cheese Exchange. Specifically, the report showed that although less than 1 percent of the nation's cheese is traded on the exchange, the price resulting from the exchange's weekly trading sessions acts as a reference price for nearly 95 percent of the commercial bulk cheese sales in the country. Further, the NCE price is also used by the U.S. Department of Agriculture as a factor in calculating the monthly minimum price that farmers receive for their milk.

The report raised serious concerns about the appropriateness of allowing a market that is as thinly traded, highly concentrated, unregulated, and subject to manipulation as the NCE to have such extreme influence over farmers' milk checks and national cheese prices.

Since the report was released, a great deal of time has been devoted to a discussion of whether certain companies or cooperatives have intentionally manipulated the exchange. I personally asked the Department of Justice and the Federal Trade Commission to review the report, to determine if any antitrust laws had been violated. While I am not convinced that either agency gave much attention to the matter, both replied that they saw no sign of illegality in the activities by large traders on the NCE.

While these questions of legality and manipulation are valid, they are questions that may never be resolved to anyone's satisfaction. Ultimately what I believe to be the most important exercise is to find a market that will be more reflective of supply and demand, and to eliminate any potential for manipulation in price discovery. Farmers and consumers alike deserve to know that markets are fair and aboveboard.

With that goal in mind, my colleagues from Wisconsin, Senator FEINGOLD and Congressman OBEY, and I have worked continuously on several initiatives to create and promote alternative price discovery mechanisms, and to urge Federal and State regulatory agencies to exercise any authorities they might have to oversee the operations of the exchange.

NEED FOR AN ALTERNATIVE CASH MARKET FOR CHEESE

With regard to the possible establishment of alternative cash markets for cheese, several months ago, Senator FEINGOLD and I asked the Coffee, Sugar, and Cocoa Exchange [CSCE] to explore the possibility of establishing such an alternative. The CSCE, which already trades futures contracts for cheese, is regulated by the U.S. Commodity Futures Trading Commission, and imposes strict self-regulatory guidelines on its traders as well.

Further, there is some hope that the establishment of cash market for cheese on the CSCE, and the more direct connection to the existing cheese futures trading business, would lead to an increased volume of trading on both the cash and futures markets for cheese.

I have been very pleased to see that the CSCE is seriously considering our proposal, and is actively exploring the possibility of creating a cash market for cheese in the near term. While there is no guarantee that such a market will be successful, it is my hope that the CSCE leadership will opt to establish such a market, and will establish and enforce guidelines to assure that the new market does not merely mimic the flaws of the National Cheese Exchange.

However, even if the CSCE decides to establish an alternative market for cheese, it will be some time before the influence of the National Cheese Exchange over farmers' milk prices and national cheese prices is diminished. Therefore, I have tried to deal with that problem directly and immediately.

EFFORTS TO REDUCE THE INFLUENCE OF THE NCE ON FARMERS' MILK PRICES

First, since I believe that it is inappropriate for an unregulated and thinly traded market like the NCE to be used in setting farmers' milk prices, I and other members of the Wisconsin congressional delegation have asked Secretary Glickman to delink the NCE from the calculation of the basic formula price [BFP]. Therefore, I was very pleased last week when Secretary Glickman announced a 60-day comment period to solicit comments about whether to delink the NCE from the calculation of the BFP. I am hopeful that this process will free farmers' milk checks from the direct connection to NCE within a few short months.

But even if the Secretary decides to eliminate the direct link between the NCE price and the basic formula price, farmers' milk prices will still be indirectly linked to the NCE, as long as industry leaders continue to use the NCE as a reference price for forward contracts for bulk cheese. Since cheese is such a dominant end product for milk, especially in Wisconsin, as long as cheese prices are set off the NCE, the NCE will be remain a major factor in milk prices.

That is why, in the long term, I believe the creation of an alternative market for cheese, which could become the new reference price for bulk cheese contracts, will be in the best interest of farmers, consumers, and cheese manufacturers.

However, until that happens, we must continue in the efforts to fix some of the flaws of the National Cheese Exchange. And it is with that purpose that I am introducing the National Cheese Exchange Oversight and Improvement Act, to require the U.S. Commodity Futures Trading Commission to oversee the activities of the NCE.

LEGISLATION NEEDED TO REQUIRE FEDERAL REGULATORY OVERSIGHT OF THE NCE

In October of 1996, Senator FEINGOLD, Congressman OBEY, and I wrote to the CFTC to urge them to oversee the activities of the National Cheese Exchange. This month, we received a response letter explaining that the CFTC, as a futures market regulatory agency, has very limited authority over cash markets. In the letter, CFTC Acting Director Theodore C. Barreaux states,

> The Commodity Exchange Act does not provide the CFTC with regulatory jurisdiction over the day-to-day operations of cash commodity markets * * * The Commodity Exchange Act does confer on the CFTC the authority to investigate possible manipulation of cash markets and to impose sanctions based on its findings, if appropriate. Historically, given the Commission's principal regulatory responsibility over futures and options markets and its relatively limited resources, the CFTC has focused its investigative attention on cash market activity that involves possible adverse impact on one or more of the numerous futures and option markets which it regulates.

However, it seems very likely that the industrywide concern about the lack of viability of the cash market for cheese, is a direct factor in the reluctance of the industry to participate more fully in the trading of futures contracts for cheese on the CSCE. Therefore, I believe that the NCE does have a more direct nexus with the futures market than the CFTC is acknowledging.

However, accepting CFTC's claim that it lacks the necessary authority to oversee or regulate the NCE, this legislation is intended to give the Commission the explicit authority to do so, at least until the Commission determines that the NCE is no longer acting as a reference price for commercial sales of bulk cheese of the NCE.

While I understand the concern of the Commission that requiring CFTC regulation of cash markets would open a Pandora's box of new work for the Commission, the bill has been written in a very narrow manner, so as only to require regulation of the NCE, or other concentrated cash markets that share the specific flaws of the NCE.

I believe there are certain circumstances where a cash market has such great influence over national prices, and is so subject to manipulation, that it needs to be regulated. And the cheese exchange is perhaps the best example of that.

When you have a cash market that is very thinly traded, completely unregulated, and used as a reference price for both raw product prices paid to farmers and commercial end product sales, something must be done to bring some credibility to the market.

It is my hope that this legislation could be attached as an amendment to the Commodity Exchange Act reauthorization, which is on the Senate Agriculture Committee agenda for early action this year. I look forward to working with Chairman LUGAR, Senator HARKIN, and the other members of the committee to assure that the necessary Federal oversight of the NCE is put in place.

Further, I welcome my colleague Senator FEINGOLD as an original cosponsor of this legislation, and thank Congressman OBEY and other members of the Wisconsin House delegation for introducing companion legislation in the House today as well. It is very gratifying that the Wisconsin delegation is working cooperatively and constructively in advancing these necessary dairy pricing reforms.

In that regard, I am also pleased to be an original cosponsor of the Milk Price Discovery Improvement Act of 1997, as introduced today by Senator FEINGOLD. This legislation will make the U.S. Department of Agriculture an equal partner in the NCE reform efforts by: First, requiring USDA to delink the NCE opinion price from the USDA basic formula price [BFP], which establishes minimum milk prices paid to farmers; second, requires USDA to take steps to improve price discovery for cheese, in order to reduce the influence of the NCE on farmers' milk prices; and third, requires USDA to prohibit competitive practices on any cash market that may affect milk prices regulated under Federal milk marketing orders.

While my legislation requires CFTC oversight of the NCE and its day-today rules of operation, Senator FEINGOLD's legislation requires USDA authority to prohibit anticompetitive actions by traders on the NCE. These two roles are entirely compatible and complementary.

Mr. President, I ask unanimous consent that the bill summary, and the full text of the bill, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Cheese Exchange Oversight and Improvement Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that the operation of the National Cheese Exchange and other cash markets is of national concern and in need of Federal oversight because of the following:

(1) The National Cheese Exchange, located in Green Bay, Wisconsin, is the dominant cash market for bulk cheese in the United States.

(2) While less than 1 percent of the cheese produced in the United States is sold on the National Cheese Exchange, the price determined by the National Cheese Exchange acts as a reference price for as much as 95 percent of the commercial cheese transactions conducted in the United States.

(3) A three-year federally funded investigation into the activities of the National Cheese Exchange determined that the National Cheese Exchange is very thinly traded, highly concentrated, completely unregulated, and subject to manipulation.

(4) The Coffee, Sugar, and Cocoa Exchange in New York, an exchange regulated by the Commodity Futures Trading Commission, trades futures contracts for cheese.

(5) The low volume in trading of cheese futures contracts on the Coffee, Sugar, and Cocoa Exchange is partially related to concerns about the lack of viability, and potential for manipulation, in the dominant cash market for cheese, the National Cheese Exchange.

(6) The National Cheese Exchange is completely unregulated by any Federal or State agency.

(7) The Commodity Futures Trading Commission claims a lack of authority to regulate or oversee the National Cheese Exchange and similar cash markets.

SEC. 3. COMMODITY FUTURES TRADING COMMISSION REGULATION OF NATIONAL CHEESE EXCHANGE AND SIMILAR CASH MARKETS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 20 (7 U.S.C. 24) the following new section:

"SEC. 21. COMMISSION REGULATION OF NATIONAL CHEESE EXCHANGE AND SIMILAR CASH MARKETS.

"(a) DEFINITION OF CONCENTRATED CASH MARKET.—In this section, the term 'concentrated cash market' means—

"(1) the National Cheese Exchange located in Green Bay, Wisconsin; and

"(2) a cash market for a commodity if the Commission determines that—

"(A) the cash market is geographically centralized in the form of a market or exchange;

"(B) the cash market is very thinly traded or highly illiquid;

"(C) the price established by the cash market functions as a reference price for a majority of commercial transactions off the cash market for the commodity being traded;

"(D) trading in the cash market is concentrated among relatively few buyers and sellers;

"(E) the cash market is substantially unregulated by any other regulatory structure (including State regulation or self-regulation);

"(F) a futures market regulated under this Act also exists for the commodity that is being traded on the cash market; and

"(G) the instability, illiquidity, or potential for manipulation for on the cash market could be a deterrent to the use of the futures market for that commodity.

"(b) REGULATION OF CONCENTRATED CASH MARKETS.—In consultation with the Secretary of Agriculture, the Commission shall regulate a concentrated cash market under this Act until such time as the Commission determines that the concentrated cash market is not functioning as a reference price for a majority of commercial transactions off the cash market for the commodity being traded on the concentrated cash market.

"(c) SUBMISSION AND REVIEW OF OPERATING RULES.—The Commission shall require a cash market that is subject to this section to:

"(1) SUBMISSION REQUIRED.—The Commission shall require a concentrated cash market subject to regulation under subsection (b) to submit to the Commission for approval a set of rules governing the operation of the concentrated cash market; and

"(2) TIME FOR SUBMISSION.—In the case of the National Cheese Exchange, the operating rules required under this subsection shall be submitted not later than 90 days after the date of enactment of this section. In the case of other concentrated cash markets, the operating rules shall be submitted not later than 90 days after the date on which the Commission notifies the concentrated cash market that it is subject to regulation under this section.

"(3) NOTIFICATION OF COMMISSION ACTION.—The Commission shall promptly review operating rules submitted by a concentrated cash market under this subsection to determine whether the rules are sufficient to govern the operation of the concentrated cash market. Not later than 60 days after receiving the rules from a concentrated cash market, the Commission shall notify the concentrated cash market of the result of the review, including whether the rules are approved or disapproved. If disapproved, the Commission shall provide such recommendations regarding changes to the rules as the Commission considers necessary to secure approval and provide a schedule for resubmission of the rules.

"(4) SUBSEQUENT RULE CHANGES.—A concentrated cash market may not change approved operating rules unless the proposed change is also submitted to the Commission for review and the Commission approves the change in the manner provided in paragraph (3).

"(d) EFFECT OF FAILURE TO SUBMIT OR RECEIVE APPROVAL OF RULES.—Beginning one year after the date of the enactment of this section, the National Cheese Exchange may operate only in accordance with rules approved by the Commission under subsection (c). In the case of other concentrated cash markets, beginning one year after the date on which the concentrated cash market is notified that it is subject to regulation under this section, the concentrated cash market may operate only in accordance with rules approved by the Commission under subsection (c).".

SUMMARY OF THE BILL

Amends the Commodity Exchange Act, to require the Commodity Futures Trading Commission (CFTC) to regulate the National Cheese Exchange (NCE), in consultation with USDA, until such time as the NCE is no longer used as a reference price for the majority of commercial cheese sales off the exchange.

Require the NCE (or any other cash market regulated by the CFTC as a result of this bill) to submit to the CFTC for approval a set of rules of operation, and to enforce those rules.

Further, the bill would give the CFTC authority to regulate other cash markets, if the conditions similar to those on the NCE were to occur on another cash market. Specifically, CFTC would be required to regulate a cash market when the following conditions coincide:

Trading is geographically centralized.

The cash market is very thinly traded or highly illiquid.

The price established by the market or exchange acts as a reference price for a majority of commercial transactions off the market.

The market is concentrated among relatively few buyers and sellers.

The market is substantially unregulated by any other regulatory structure (included state regulation or regulation by the market itself).

Manipulation on the cash market is a deterrent to the use of the futures market for the same commodity.•

By Mr. LUGAR (for himself, Mr. HARKIN, and Mr. LEAHY):

S. 257. A bill to amend the Commodity Exchange Act to improve the act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE COMMODITY EXCHANGE ACT AMENDMENTS OF 1997

• Mr. LUGAR. Mr. President, today I am introducing, along with Senators HARKIN and LEAHY, legislation to amend the Commodity Exchange Act. This bill is very similar to S. 2077, which Senator LEAHY and I introduced last September after several months of hearings and informal consultations with industry, academics, and regulators. The legislation streamlines U.S. futures trading law, conforming it to changing competitive realities.

In many ways, regulation has benefited the U.S. futures industry. Prudent regulation enhances customer protection, prevents and punishes fraud and other abuses, and makes futures markets better able to provide risk management, price discovery, and investment opportunity.

Regulation, however, also has its costs. U.S. futures markets face competition that is, in some cases, less regulated or differently regulated. In the years ahead, our challenge is to balance the need for adequate regulation with the need to offer cost-competitive products.

This bill tries to strike such a balance. It requires the Commodity Futures Trading Commission to consider the costs for industry of the regulations it imposes. The bill streamlines the process of introducing new futures contracts, reducing the time that is required to begin trading these new products. It makes similar reforms to the process by which exchanges' rules are reviewed by the CFTC.

Where additional authority for the CFTC is needed, the bill provides it. The CFTC will have the authority to require U.S. delivery points for overseas futures markets to provide information that is also regularly demanded of American market participants. This is eminently reasonable, and may assist the CFTC and other regulators in the future if situations similar to the 1996 London copper market scandal recur.

The bill will also provide greater legal certainty for swaps, over-the-counter products that are of increasing importance to many businesses. It is important that these contracts' enforceability be made more certain, so that legal risk does not compound the other risks inherent in any financial transaction. In one important addition to last year's legislation, the new bill will also provide this legal certainty for swaps that are based on equities, as well as for hybrid instruments. In a more limited way, the bill will establish the terms of exemptions for on-exchange products traded solely among professional investors.

Another addition to last year's legislation is a major rewrite of the so-called Treasury amendment, a provision of the Commodity Exchange Act that excludes some financial products from its regulatory coverage. This controversial section is at best unclear, and needs a fresh look from Congress. I hope the proposals we have made in this bill—which are explained in a discussion document I will mention in a moment—will both stimulate dialog and find wide acceptance.

It is unfortunate that the CFTC and the Treasury Department, which discussed this subject at Senator LEAHY's and my request, were unable to agree on a common approach. However, the committee will work with both agencies as we move forward. Despite some differences in drafting, I believe the Treasury Department's ideas are basically consistent with what Senators HARKIN, LEAHY, and I have proposed. The Treasury did not propose, as we do, to allow futures exchanges to create professionals-only markets in Treasury amendment products. However, Senator HARKIN and I are informed that while the Treasury is still studying this proposal, in principle the Department does not object to treating exchange affiliates in a manner similar to other sophisticated market participants.

The bill contains a number of other provisions. Senator HARKIN and I have prepared a section-by-section discussion document, which may be helpful to our colleagues.

On February 11 and 13, the committee will hold hearings on this legislation. It is a priority for the committee during the coming weeks and months.

I would like to thank Senator HARKIN for his extraordinary cooperation in putting this bill together. As the new ranking member of the committee, he has been gracious and collegial. Likewise, Senator LEAHY's efforts both last year and this year deserve special praise. I salute them both for their leadership.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commodity Exchange Amendments Act of 1997".

SEC. 2. TREASURY AMENDMENT.

Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking clause (ii) and inserting the following:

"(ii) TREASURY AMENDMENT.—

"(I) IN GENERAL.—Nothing in this Act shall be deemed to govern or in any way be applicable to transactions in or involving foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof to the general public for future delivery conducted on a board of trade.

"(II) OTHER AGENCIES.—Nothing in subclause (I) shall affect the powers of the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Department of the Treasury, the Federal Deposit Insurance Corporation, any agency of State government with the authority to charter, regulate, or license banks, or any State insurance regulatory agency, under this Act or any other provision of law.

"(III) DEFINITIONS.—

"(aa) BOARD OF TRADE; FOREIGN EXCHANGE TRANSACTIONS.—The term 'board of trade', as applied to foreign exchange transactions described in subclause (I), shall include unsupervised entities that are engaged in the systematic marketing of standardized, non-negotiable foreign currency transactions to retail investors.

"(bb) BOARD OF TRADE; GOVERNMENT SECURITIES.—The term 'board of trade', as used in subclause (I), shall not include a government securities dealer or government securities broker, to the extent the dealer or broker engage in transactions in government securities, as the terms 'government securities', 'government securities dealer', and 'government securities broker' are defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

"(cc) GENERAL PUBLIC; RETAIL INVESTORS.—The Commission shall define the terms 'general public' as used in subclause (I) and 'retail investors' as used in item (aa), taking into account, to the extent practicable, section 4(c)(3) of this Act and section 35(b)(2) of title 17, Code of Federal Regulations. In carrying out the preceding sentence, the Commission shall not include in the definition of 'retail investors' a natural person with total assets that exceeds $10,000,000.

"(dd) OPTION.—For purposes of this clause, an 'option' shall be considered to be a transaction at the time it is purchased or sold and at the time, if any, that it is exercised.

"(IV) EMERGENCY AUTHORITY.—Nothing in this clause shall restrict the powers of the Commission under section 8a(9) as they apply to designated contract markets.".

SEC. 3. HEDGING.

Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended in the fourth sentence by striking "through fluctuations in price".

SEC. 4. DELIVERY POINTS FOR FOREIGN FUTURES CONTRACTS.

Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended—

(1) in the third sentence—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively; and

(B) by striking "No rule" and inserting "Except as provided in paragraph (2), no rule";

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(2)(A) The Commission shall consult with a foreign government, foreign futures authority, or department, agency, governmental body, or regulatory organization empowered by a foreign government to regulate a board of trade, exchange, or market located outside the United States, or a territory or possession of the United States, that has 1 or more established delivery points in the United States, or a territory or possession of the United States, for a contract of sale of a commodity for future delivery that is made or will be made on or subject to the rules of the board of trade, exchange, or market.

"(B) In the consultations, the Commission shall endeavor to secure adequate assurances, through memoranda of understanding or any other means the Commission considers appropriate, that the presence of the delivery points will not create the potential for manipulation of the price, or any other disruption in trading, of a contract of sale of a commodity for future delivery traded on or subject to the rules of a contract market, or a commodity, in interstate commerce.

"(C) Any warehouse or other facility housing an established delivery point in the United States, or a territory or possession of the United States, described in subparagraph (A) shall—

"(i) keep books, records, and other information specified by the Commission pertaining to all transactions and positions in all contracts made or carried on the foreign board of trade, exchange, or market in such form and manner and for such period as may be required by the Commission;

"(ii) file such reports regarding the transactions and positions with the Commission as the Commission may specify; and

"(iii) keep the books and records open to inspection by a representative of the Commission or the United States Department of Justice.".

SEC. 5. EXEMPTION AUTHORITIES.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6(c)) is amended by adding at the end the following:

"(e) PRIVATE TRANSACTION EXEMPTION.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(1), to the extent, if any, that an agreement, contract, or transaction (or class thereof) is otherwise subject to this Act, it shall be exempt from all provisions of this Act and any person or class of persons offering, entering into, rendering advice, or rendering other services with respect to the agreement, contract, or transaction (or class thereof), shall be exempt for the activity from all provisions of this Act (except in each case the provisions of sections 4b and 4o, any antifraud provision adopted by the Commission pursuant to section 4c(b), and the provisions of section 6(c) and 9(a)(2) to the extent the provisions prohibit manipulation of the market price of any commodity in interstate commerce for future delivery on or subject to the rules of any contract market) if—

"(A) the agreement, contract, or transaction (or class thereof) is entered into only between appropriate persons at the time the persons enter into the agreement, contract, or transaction (or class thereof);

"(B) the agreement, contract, or transaction (or class thereof) is not part of a fungible class of agreements, contracts, or transactions that are standardized as to their material economic terms;

"(C) the creditworthiness of any party having an actual or potential obligation under the agreement, contract, or transaction (or class thereof) would be a material consideration in entering into or determining the terms of the agreement, contract, or transaction (or class thereof), including pricing, cost, or credit enhancement terms of the agreement, contract, or transaction (or class thereof); and

"(D) the agreement, contract, or transaction (or class thereof) is not entered into and traded on or through a multilateral transaction execution facility.

"(2) EXCEPTIONS.—Paragraph (1) shall not preclude—

"(A) arrangements or facilities between parties to an agreement, contract, or transaction (or class thereof) that provide for netting of payment obligations resulting from the agreement, contract, or transaction (or class thereof);

"(B) arrangements or facilities among parties to an agreement, contract, or transaction (or class thereof) that provide for netting of payments resulting from the agreement, contract or transaction (or class thereof); or

"(C) the prohibition of transactions covered under section 32.2 of title 17, Code of Federal Regulations.

"(3) DEFINITION OF APPROPRIATE PERSON.—In paragraph (1), the term 'appropriate person' means—

"(A) a person (as defined in subsection (c)(3)); or

"(B) a natural person whose total assets exceed $10,000,000.

"(4) HYBRID INSTRUMENT EXEMPTION.—

"(A) DEFINITIONS.—In this paragraph:

"(i) COMMODITY-DEPENDENT COMPONENT.—The term 'commodity-dependent component' means a component of a hybrid instrument, the payment of which results from indexing to, or calculation by reference to, the price of a commodity.

"(ii) COMMODITY-DEPENDENT VALUE.—The term 'commodity-dependent value' means the value of a commodity-dependent component, which when decomposed into an option payout or payouts, is measured by the absolute net value of the put option premia with strike prices less than or equal to the reference price plus the absolute net value of the call option premia with strike prices greater than or equal to the reference price, calculated as of the time of issuance of the hybrid instrument.

"(iii) COMMODITY-INDEPENDENT COMPONENT.—The term 'commodity-independent component' means the component of a hybrid instrument, the payments of which do not result from indexing to, or calculation by reference to, the price of a commodity.

"(iv) COMMODITY-INDEPENDENT VALUE.—The term 'commodity-independent value' means the present value of the payments attributable to the commodity-independent component calculated as of the time of issuance of the hybrid instrument.

"(v) HYBRID INSTRUMENT.—The term 'hybrid instrument' means an equity or debt security or depository instrument with 1 or more commodity-dependent components that have payment features similar to commodity futures or commodity option contracts or combinations thereof.

"(vi) OPTION PREMIUM.—The term 'option premium' means the value of an option on the referenced commodity of the hybrid instrument, calculated by using—

"(I) the same method as that used to determine the issue price of the instrument; or

"(II) a commercially reasonable method appropriate to the instrument being priced where the premia are not explicitly calculated in determining the issue price of the instrument.

"(vii) REFERENCE PRICE.—The term 'reference price' means a price nearest the current spot or forward price, whichever is used to price the instrument, at which a commodity-dependent payment becomes nonzero, or, in the case in which 2 potential reference prices exist, the price that results in the greatest commodity-dependent value.

"(B) EXEMPTION.—Notwithstanding subsection (c)(1), a hybrid instrument is exempt from all provisions of this Act, and any person or class of persons offering, entering into, or rendering advice or other services with respect to the hybrid instrument is exempt for such activity from all provisions of this Act, if the following terms and conditions are satisfied:

"(i) The instrument is—

"(I) an equity or debt security (within the meaning of section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b); or

"(II) a demand deposit, time deposit or transaction account within the meaning of subsections (b)(1),(c)(1), and (e) of section 204.2 of title 12, Code of Federal Regulations, respectively, that are offered by—

"(aa) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

"(bb) an insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)); or

"(cc) a Federal or State branch or agency of a foreign bank (as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101)).

"(ii) The sum of the commodity-dependent values of the commodity-dependent components is less than the commodity-independent value of the commodity-independent component.

"(iii) Provided that—

"(I) an issuer must receive full payment of the purchase price of the hybrid instrument, and a purchaser or holder of a hybrid instrument may not be required to make additional out-of-pocket payments to the issuer during the life of the instrument or at maturity;

"(II) the instrument is not marketed as a futures contract or a commodity option or, except to the extent necessary to describe the functioning of the instrument or to comply with applicable disclosure requirements, as having the characteristics of a futures contract or a commodity option; and

"(III) the instrument does not provide for settlement in the form of a delivery instrument that is specified as such in the rules of a designated contract market.

"(iv) The instrument is initially issued or sold subject to applicable Federal or State securities or banking laws to persons who are permitted under the laws to purchase or enter into the hybrid instrument.

"(C) PROVISION NOT EXEMPTED.—The prohibition of transactions covered under section 32.2 of title 17, Code of Federal Regulations, shall apply to a hybrid instrument under this paragraph.

"(5) APPLICATION OF EXEMPTIONS.—Subsection (c) shall not restrict the authority of the Commission to grant an exemption under this subsection that is in addition to or independent of an exemption provided under paragraph (1) or (4). An exemption provided under subsection (c) may not be applied in a manner that restricts the exemption provided under either paragraph (1) or (4).

"(6) EXEMPTION BY COMMISSION.—

"(A) IN GENERAL.—The Commission may exempt an agreement, contract, or transaction (or class thereof), or a hybrid instrument under this subsection, to the extent that the agreement, contract, or transaction (or class thereof), or hybrid instrument, may be subject to this Act.

"(B) NO PRESUMPTION CREATED.—An exemption under this subsection shall not create a presumption that the exempted agreement, contract, or transaction (or class thereof), or hybrid instrument, is subject to this Act.".

SEC. 6. EXEMPTION FOR PROFESSIONAL MARKETS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 5) is amended by adding at the end the following:

"(f) EXEMPTION FOR PROFESSIONAL MARKETS.—

"(1) DEFINITIONS.—In this subsection:

"(A) APPROPRIATE PERSON.—The term 'appropriate person' means—

"(i) a person (as defined in subsection (c)(3)); or

"(ii) a natural person whose total assets exceed $10,000,000.

"(B) PROFESSIONAL MARKET.—The term 'professional market' means a market—

"(i) that is traded on a board of trade that is otherwise designated by the Commission as a contract market; and

"(ii) on which only an appropriate person (as defined in subparagraph (A)) may enter into an agreement, contract, or transaction (or class thereof) on the market.

"(2) EXEMPTION.—

"(A) IN GENERAL.—An agreement, contract, or transaction (or class thereof) that is traded on a professional market and is, or may be, subject to this Act shall be exempt from this Act.

"(B) CONTRACTS NOT EXEMPTED.—The exemption provided under subparagraph (A) shall not apply to—

"(i) any individual agreement, contract, or transaction that has been transacted for the product involved as of the effective date of this subsection; or

"(ii) an agreement, contract, or transaction (or class thereof) that involves an agricultural commodity referred to in section 1a.

"(3) APPLICABILITY OF CERTAIN PROVISIONS.—An agreement, contract, or transaction (or class thereof) for which an exemption is provided under paragraph (2)(A), shall, to the extent applicable, in each case be subject to—

"(A) sections 2(a)(1)(B), 4b, and 4o;

"(B) the provisions of sections 6(c) and 9(a)(2) to the extent the provisions prohibit manipulation of the market price of any commodity in interstate commerce for future delivery on or subject to the rules of a contract market;

"(C) prohibitions adopted by the Commission against fraud or manipulation under section 4c(b); and

"(D) the powers of the Commission to respond to emergencies as provided in section 8a(9).".

SEC. 7. CONTRACT DESIGNATION.

(a) IN GENERAL.—Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"SEC. 5. DESIGNATION OF A BOARD OF TRADE AS A CONTRACT MARKET.

"(a) IN GENERAL.—The Commission shall designate a board of trade as a contract market if the board of trade complies with and carries out the following conditions and requirements:";

(2) by striking paragraph (7);

(3) by redesignating paragraph (8) as paragraph (7); and

(4) by adding at the end the following:

"(b) EXISTING AND FUTURE DESIGNATIONS.—

"(1) IN GENERAL.—If a board of trade is designated as a contract market by the Commission under subsection (a) and section 6, the board of trade shall retain the designation for all existing or future contracts, unless the Commission suspends or revokes the designation or the board of trade relinquishes the designation.

"(2) EXISTING DESIGNATIONS.—A board of trade that has been designated as a contract market as of the date of enactment of this subsection shall retain the designation unless the Commission finds that a violation of this Act or a rule, regulation, or order of the Commission by the contract market justifies suspension or revocation of the designation under section 6(b), or the board of trade relinquishes the designation.

"(c) NEW CONTRACT SUBMISSIONS.—Except as provided in subsection (e), a board of trade that has been designated as a contract market under subsection (a) shall submit to the Commission all rules that establish the terms and conditions of a new contract of sale in accordance with subsection (d) (referred to in this section as a 'new contract'), other than a rule relating to the setting of levels of margin and other rules that the Commission may specify by regulation.

"(d) PROCEDURES FOR NEW CONTRACTS.—

"(1) REQUIRED SUBMISSION TO COMMISSION.—Except as provided in subsection (e), a contract market shall submit new contracts to the Commission in accordance with subsection (c).

"(2) EFFECTIVENESS OF NEW CONTRACTS.—A contract market may make effective a new contract and may implement trading in the new contract—

"(A) not earlier than 10 business days after the receipt of the new contract by the Commission; or

"(B) earlier if authorized by the Commission by rule, regulation, order, or written notice.

"(3) NOTICE TO CONTRACT MARKET.—The new contract shall become effective and may be traded on the contract market, unless, within the 10-business-day period beginning on the date of the receipt of the new contract by the Commission, the Commission notifies the contract market in writing—

"(A) of the determination of the Commission that the proposed new contract appears to—

"(i) violate a specific provision of this Act (including paragraphs (1) through (7) of section 5(a)) or a rule, regulation, or order of the Commission; or

"(ii) be contrary to the public interest; and

"(B) that the Commission intends to review the new contract.

"(4) NOTICE IN THE FEDERAL REGISTER.—Notwithstanding the determination of the Commission to review a new contract under paragraph (3) and except as provided in subsection (e), the contract market may make the new contract effective, and may implement trading in the new contract, on a date that is not earlier than 15 business days after the determination of the Commission to review the new contract unless within the period of 15 business days the Commission institutes proceedings to disapprove the new contract by providing notice in the Federal Register of the information required under paragraph (5)(A).

"(5) DISAPPROVAL PROCEEDINGS.—

"(A) NOTICE OF PROPOSED VIOLATIONS.—If the Commission institutes proceedings to determine whether to disapprove a new contract under this subsection, the Commission shall provide the contract market with written notice, including an explanation and analysis of the substantive basis for the proposed grounds for disapproval, of what the Commission has reason to believe are the grounds for disapproval, including, as applicable—

"(i) the 1 or more specific provisions of this Act or a rule, regulation, or order of the Commission that the Commission has reason to believe the new contract violates or, if the new contract became effective, would violate; or

"(ii) the 1 or more specific public interests to which the Commission has reason to believe the new contract is contrary, or if the new contract became effective would be contrary.

"(B) DISAPPROVAL PROCEEDINGS AND DETERMINATION.—

"(i) OPPORTUNITY TO PARTICIPATE; HEARING.—Before deciding to disapprove a new contract, the Commission shall give interested persons (including the board of trade) an opportunity to participate in the disapproval proceedings through the submission of written data, views, or arguments following appropriate notice and an opportunity for a hearing on the record before the Commission.

"(ii) DETERMINATION OF DISAPPROVAL.—At the conclusion of the disapproval proceeding, the Commission shall determine whether to disapprove the new contract.

"(iii) GROUNDS FOR DISAPPROVAL.—The Commission shall disapprove the new contract if the Commission determines that the new contract—

"(I) violates this Act or a rule, regulation, or order of the Commission; or

"(II) is contrary to public interest.

"(iv) SPECIFICATIONS FOR DISAPPROVAL.—Each disapproval determination shall specify, as applicable—

"(I) the 1 or more specific provisions of this Act or a rule, regulation, or order of the Commission, that the Commission determines the new contract violates or, if the new contract became effective, would violate; or

"(II) the 1 or more specific public interests to which the Commission determines the new contract is contrary, or if the new contract became effective would be contrary.

"(C) FAILURE TO TIMELY COMPLETE DISAPPROVAL DETERMINATION.—If the Commission does not conclude a disapproval proceeding as provided in subparagraph (B) for a new contract by the date that is 120 calendar days after the Commission institutes the proceeding, the new contract may be made effective, and trading in the new contract may be implemented, by the contract market until such time as the Commission disapproves the new contract in accordance with this paragraph.

"(D) APPEALS.—A board of trade that has been subject to disapproval of a new contract by the Commission under this subsection shall have the right to an appeal of the disapproval to the court of appeals as provided in section 6(b).

"(6) CONTRACT MARKET DEEMED DESIGNATED.—A board of trade shall be deemed to be designated a contract market for a new contract of sale for future delivery when the new contract becomes effective and trading in the new contract begins.

"(e) REQUIRED INTERAGENCY REVIEW.—Notwithstanding subsection (d), no board of trade may make effective a new contract (or option on the contract) that is subject to the requirements and procedures of clauses (ii) through (v) of paragraph (1)(B), and paragraph (8)(B)(ii), of section 2(a) until the requirements and procedures are satisfied and carried out.".

(b) CONFORMING AMENDMENT.—Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended in the first sentence by striking "Any board of trade desiring" and inserting "A board of trade that has not obtained any designation as a contract market for a contract of sale for a commodity under section 5 that desires".

SEC. 8. DELIVERY BY FEDERALLY LICENSED WAREHOUSES.

Section 5a(a) of the Commodity Exchange Act (7 U.S.C. 7a(a)) is amended by striking paragraph (7) and inserting the following:

"(7) Repealed;".

SEC. 9. SUBMISSION OF RULES TO COMMISSION.

Section 5a(a) of the Commodity Exchange Act (7 U.S.C. 7a(a)(12)) is amended by striking paragraph (12) and inserting the following:

"(12)(A)(i) except as otherwise provided in this paragraph, submit to the Commission all bylaws, rules, regulations, and resolutions (collectively referred to in this subparagraph as 'rules') made or issued by the contract market, or by the governing board or committee of the contract market (except those relating to the setting of levels of margin, those submitted pursuant to section 5 or 6(a), and those the Commission may specify by regulation) and may make a rule effective not earlier than 10 business days after the receipt of the submission by the Commission or earlier, if approved by the Commission by rule, regulation, order, or written notice, unless, within the 10-business-day period, the Commission notifies the contract market in writing of its determination to review such rules for disapproval and of the specific sections of this Act or the regulations of the Commission that the Commission determines the rule would violate. The determination to review such rules for disapproval shall not be delegable to any employee of the Commission. Not later than 45 calendar days before disapproving a rule of major economic significance (as determined by the Commission), the Commission shall publish a notice of the rule in the Federal Register. The Commission shall give interested persons an opportunity to participate in the disapproval process through the submission of written data, views, or arguments. The determination by the Commission whether a rule is of major economic significance shall be final and not subject to judicial review. The Commission shall disapprove, after appropriate notice and opportunity for hearing (including an opportunity for the contract market to have a hearing on the record before the Commission), a rule only if the Commission determines the rule at any time to be in violation of this Act or a regulation of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, the Commission shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this Act or the regulations of the Commission that would be violated. At the conclusion of the proceedings, the Commission shall determine whether to disapprove the rule. Any disapproval shall specify the sections of this Act or the regulations of the Commission that the Commission determines the rule has violated or, if effective, would violate. If the Commission does not institute disapproval proceedings with respect to a rule within 45 calendar days after receipt of the rule by the Commission, or if the Commission does not conclude a disapproval proceeding with respect to a rule within 120 calendar days after receipt of the rule by the Commission, the rule may be made effective by the contract market until such time as the Commission disapproves the rule in accordance with this paragraph.

"(B)(i) The Commission shall issue regulations to specify the terms and conditions under which, in an emergency as defined by the Commission, a contract market may, by a two-thirds vote of the governing board of the contract market, make a rule (referred to in this subparagraph as an 'emergency rule') immediately effective without compliance with the 10-day notice requirement under subparagraph (A), if the contract market makes every effort practicable to notify the Commission of the emergency rule, and provide a complete explanation of the emergency involved, prior to making the emergency rule effective.

"(ii) If the contract market does not provide the Commission with the requisite notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with the notification and explanation at the earliest practicable date.

"(iii) The Commission may delegate the power to receive the notification and explanation to such individuals as the Commission determines necessary and appropriate.

"(iv) Not later than 10 days after the receipt from a contract market of notification of such an emergency rule and an explanation of the emergency involved, or as soon as practicable, the Commission shall determine whether to suspend the effect of the rule pending review by the Commission under the procedures of subparagraph (A).

"(v)(I) The Commission shall submit a report on the determination of the Commission on the emergency rule under clause (iv), and the basis for the determination, to the affected contract market, the Committee on

Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(II) If the report is submitted more than 10 days after the Commission's receipt of notification of the emergency rule from a contract market, the report shall explain why submission within the 10-day period was not practicable.

"(III) A determination by the Commission to suspend the effect of a rule under this subparagraph shall be subject to judicial review on the same basis as an emergency determination under section 8a(9).

"(IV) Nothing in this paragraph limits the authority of the Commission under section 8a(9);".

SEC. 10. AUDIT TRAIL.

Section 5a(b) of the Commodity Exchange Act (7 U.S.C. 7a(b)) is amended—

(1) in paragraph (3), by inserting "selected by the contract market" after "means" each place it appears; and

(2) by adding at the end the following:

"(7) The requirements of this subsection establish performance standards and do not mandate the use of a specific technology to satisfy the requirements.".

SEC. 11. CONSIDERATION OF EFFICIENCY, COMPETITION, RISK MANAGEMENT, AND ANTITRUST LAWS.

Section 15 of the Commodity Exchange Act (7 U.S.C. 19) is amended—

(1) by striking "SEC. 15. The Commission" and inserting the following:

"SEC. 15. (a)(1) Prior to adopting a rule or regulation authorized by this Act or adopting an order (except as provided in subsection (b)), the Commission shall consider the costs and benefits of the action of the Commission.

"(2) The costs and benefits of the proposed Commission action shall be evaluated in light of considerations of protection of market participants, the efficiency, competitiveness, and financial integrity of futures markets, price discovery, sound risk management practices, and other appropriate factors, as determined by the Commission.

"(b) Subsection (a) shall not apply to the following actions of the Commission:

"(1) An order that initiates, is part of, or is the result of an adjudicatory or investigative process of the Commission.

"(2) An emergency action.

"(3) A finding of fact regarding compliance with a requirement of the Commission.

"(c) The Commission"; and

(2) by striking "requiring or approving" and inserting "requiring, reviewing, or disapproving".

SEC. 12. DISCIPLINARY AND ENFORCEMENT ACTIVITIES.

(a) IN GENERAL.—It is the sense of Congress that the Commodity Futures Trading Commission should—

(1) to the extent practicable, avoid unnecessary duplication of effort in pursuing disciplinary and enforcement actions if adequate self-regulatory actions have been taken by contract markets and registered futures associations; and

(2) retain an oversight and disciplinary role over the self-regulatory activities by contract markets and registered futures associations in a manner that is sufficient to safeguard financial and market integrity and the public interest.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that evaluates the effectiveness of the enforcement activities of the Commission, including an evaluation of the experience of the Commission in preventing, deterring, and disciplining violations of the Commodity Exchange Act (7 U.S.C. 1 et seq.) and Commission regulations involving fraud against the public through the bucketing of orders and similar abuses.

SEC. 13. DELEGATION OF FUNCTIONS BY THE COMMISSION.

(a) IN GENERAL.—It is the sense of Congress that the Commodity Futures Trading Commission should—

(1) review its rules and regulations that delegate any of its duties or authorities under the Commodity Exchange Act (7 U.S.C. 1 et seq.) to contract markets or registered futures associations;

(2) consistent with the public interest and law, determine which additional functions, if any, performed by the Commission should be delegated to contract markets or registered futures associations; and

(3) establish procedures (such as spot checks, random audits, reporting requirements, pilot projects, or other means) to ensure adequate performance of the additional functions that are delegated to contract markets or registered futures associations.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report the results of its review and actions under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 14. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 1a(13)(B) of the Commodity Exchange Act (7 U.S.C. 1a(13)(B)) is amended by striking "state" and inserting "State".

(b) Section 2(a)(1)(B)(iv)(I) of the Commodity Exchange Act (7 U.S.C. 2a(iv)(I)) is amended in the last sentence by striking "section 6 of this Act" and inserting "section 6(a)".

(c) Section 4(c)(3)(H) of the Commodity Exchange Act (7 U.S.C. 6(c)(3)(H)) is amended by striking "state" and inserting "State".

(d) Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended in the last sentence by striking "section 9(c) of this Act" and inserting "section 9(a)(5)".

(e) Section 4c(d)(2)(A)(iv) of the Commodity Exchange Act (7 U.S.C. 6c(d)(2)(A)(iv)) is amended by striking "78c(a)(12))," and inserting "78c(a)(12)),".

(f) Section 4f(c)(4)(B)(i) of the Commodity Exchange Act (7 U.S.C. 6f(c)(4)(B)(i)) is amended—

(1) by striking "compiled" and inserting "complied"; and

(2) by striking "1817(a)," and inserting "1817(a)),".

(g) Section 5a(a) of the Commodity Exchange Act (7 U.S.C. 7a(a)) is amended—

(1) in paragraph (11)(ii), by striking the second semicolon at the end;

(2) in paragraph (15)(C), by striking "categories as" and inserting "categories as—"; and

(3) in paragraph (17)—

(A) in subparagraph (A), by striking "minimum, that" and inserting "minimum, that—"; and

(B) in subparagraph (B)(ii), by striking "affect" and inserting "effect".

(h) Sections 5b, 6(b), 6(c), 6(d), and 13(c) of the Commodity Exchange Act (7 U.S.C. 7b, 8(b), 9, 13b, and 13c(c)) are amended by striking "or the Commission" after "the Commission" each place it appears.

(i) Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9) is amended in the tenth sentence by inserting a comma after "such violation".

(j) Section 6a(a) of the Commodity Exchange Act (7 U.S.C. 10a(a)) is amended in the second sentence by striking "Such Commission" and inserting "The Commission".

(k) Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended—

(1) in subsection (a)(1)(B), by striking "in any receivership proceeding commenced involving a receiver appointed in a judicial proceeding by the United States or the Commission" and inserting "in any receivership proceeding involving a receiver appointed in a judicial proceeding commenced by the United States or the Commission"; and

(2) in the last sentence of subsection (e), by striking "authority." and inserting "authority".

(l) Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "the provisions of paragraph (3) of this section" and inserting "the provisions of this paragraph or paragraph (3)";

(B) in subparagraph (C), by adding a semicolon at the end;

(C) in subparagraph (D), by inserting "pleaded guilty to or has" after "such person has"; and

(D) in subparagraph (E), by striking "Investors" and inserting "Investor";

(2) in paragraph (3)—

(A) in subparagraph (B), by striking "Investors" and inserting "Investor";

(B) by striking subparagraph (D) and inserting the following:

"(D) the person has pleaded guilty to or has been convicted of a felony other than a felony of the type specified in paragraph (2)(D), or has pleaded guilty to or has been convicted of a felony of the type specified in paragraph (2)(D) more than 10 years preceding the filing of the application;"; and

(C) in subparagraph (H), by striking "or has been convicted in a State court," and inserting "or has pleaded guilty to, or has been convicted, in a State court,"; and

(3) in paragraph (11)(F), by striking "section 6(b)" and inserting "section 6(c)".

(m) Section 8c(a)(2) of the Commodity Exchange Act (7 U.S.C. 12c(a)(2)) is amended in the second sentence by inserting after "denied access," the following: "to any other exchange, to any other registered futures association,".

(n) Section 8e(d)(1) of the Commodity Exchange Act (7 U.S.C. 12e(d)(1)) is amended by striking "section 6b" and inserting "section 6(c)".

(o) Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by redesignating subsection (f) as subsection (e); and

(2) in subsection (e)(1) (as so redesignated), by striking the period at the end and inserting "; or".

(p) Section 12(b) of the Commodity Exchange Act (7 U.S.C. 16(b)) is amended by aligning the margin of paragraph (4) so as to align with paragraph (3).

(q) Section 14(a) of the Commodity Exchange Act (7 U.S.C. 18(a)) is amended by aligning the margin of paragraph (2) so as to align with subsection (b).

(r) Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended—

(1) in subsection (b)—

(A) in paragraph (9)(D), by striking the semicolon at the end and inserting a period;

(B) in paragraph (10)(C)(ii), by striking "and" at the end;

(C) in paragraph (11), by striking the period at the end and inserting a semicolon;

(D) in paragraph (12)—

(i) by striking "(12)(A)" and inserting "(12)"; and

(ii) by striking the period at the end and inserting "; and"; and

(E) in paragraph (13), by striking "A major" and inserting "a major";

(2) in subsection (h)(1)—

(A) in the first sentence, by inserting after "person associated with a member," the following: "takes any membership action against any member or associate responsibility action against any person associated with a member,"; and

(B) by adding at the end the following: "The association shall make public its findings and the reasons for the association action (including the action and penalty imposed) in any action described in the first sentence, except that evidence obtained in the action shall not be disclosed other than to an exchange, the Commission, or the member or person who is being disciplined, who is subject to a member responsibility action, who is being denied admission to the futures association, or who is being barred from associating with members of the futures association.";

(3) in the last sentence of subsection (j)—

(A) by striking "one hundred and eighty days" and inserting "45 calendar days"; and

(B) by striking "one year" and inserting "120 calendar days"; and

(4) by redesignating subsection (q) (as added by section 206(b)(2) of the Futures Trading Practices Act of 1992 (Public Law 102-546)) as subsection (r) and moving such subsection to the end of the section.

Summary and Discussion—The Commodity Exchange Act Amendments of 1997

SECTION 1. SHORT TITLE

The bill is entitled the "Commodity Exchange Act Amendments of 1997."

SEC. 2. TREASURY AMENDMENT

The "Treasury amendment" to the Commodity Exchange Act (so called because it was added in 1974 at the request of the Treasury Department) excludes certain transactions from the Act altogether, so that the CFTC has no authority to regulate them. Foreign currency and government securities transactions are the most prominent categories of transactions excluded by the Treasury amendment, though there are several others. The history, purpose and scope of the Treasury amendment have been the subject of frequent disagreement even among federal agencies, and the provision has been frequently litigated.

The CFTC has historically asserted that the amendment permits it to enforce the Act against firms offering Treasury amendment products to the general public, arguing that the amendment's purpose was merely to exclude such institutional markets as the interbank currency market from regulation. Other agencies have dissented from this view. In addition, futures exchanges have argued that they should be able to offer contracts in Treasury amendment products that would not be subject to CFTC regulation, as long as they did not offer these contracts to the general public but only to a sophisticated, institutional or professional clientele.

The Committee, in mid-1996, asked the CFTC and the Treasury Department to arrive at a consensus on how the Treasury amendment should be interpreted and, if necessary, re-written. Unfortunately, the agencies were unable to agree and have formulated recommendations that are quite different in both intent and effect.

This legislation reflects a view that there should be a federal role in protecting retail investors from abusive, improper or fraudulent activity in connection with the sale of foreign currency futures or options by an otherwise unregulated entity. By the same token, the legislation provides no role for the CFTC where other regulators—including the banking and securities agencies—already provide federal regulatory oversight. Similarly, the bill views current regulation of other off-exchange Treasury amendment products as adequate and does not provide a role for the CFTC in this regard. For example, federal agencies and private firms alike have widely agreed that it would be unnecessary and inappropriate for the CFTC to regulate the "when-issued" market in Treasury securities.

The bill defines more clearly the CFTC's role in regulating retail transactions and affords equivalent opportunities for futures exchanges to develop markets in Treasury amendment products for professional investors. In particular, the bill states that an unsupervised entity systematically marketing standardized, non-negotiable foreign currency transactions to retail investors will be considered a "board of trade,"and hence subject to the CFTC's jurisdiction.

The bill instructs the CFTC to define the term "retail investors," and provides some guidance on how to do so. It further clarifies that an option involving a Treasury amendment product is a "transaction," meaning that it is excluded from the Act to the same extent as other transactions. Finally, the bill retains the current Treasury amendment provision which extends CFTC jurisdiction to products offered on a board of trade, but makes this provision apply only when these products are offered to the general public. The effect is that futures exchanges would be able to develop separate markets in Treasury amendment products. As is the case when such products are traded over the counter among institutions today, the Act and its regulations would not apply. The bill instructs the CFTC to define the term "the general public," in order to make clear the parameters under which exchanges may establish these markets. The bill also confirms the CFTC's ability, acting pursuant to its emergency powers under Sec. 8a(9) of the Act, to secure the integrity and viability of approved contract markets in the event that market factors, including the establishment by futures exchanges of markets in Treasury amendment products, adversely affect them.

SEC. 3. HEDGING

The CEA does not directly define the term "hedging." In Section 3 of the CEA, which contains various legislative findings that justify regulation of futures markets, the statute speaks of business operators "hedging themselves against possible loss through fluctuations in price." Questions have been raised whether hedging can occur against risks other than price risks—for instance, in new futures contracts that are based on yields of specified crops in particular States. The bill deletes the phrase "through fluctuations in price." It makes clear that risks to be hedged may be risks other than those directly resulting from price changes. This change will not affect the authority to establish speculative limits, require reporting of large trader positions and otherwise ensure market integrity.

In the course of hearings and discussions on the proposed legislation, the Committee may also consider whether to revise Section 3 of the Act more extensively in order to bring it up to date with market needs and conditions, preserving the Act's important functions of facilitating price discovery and customer protection while recognizing the changes that have occurred in the composition and sophistication of market participants as well as the more competitive environment in which the futures industry now operates.

SEC. 4. DELIVERY POINTS FOR FOREIGN FUTURES CONTRACTS

In recent years, some overseas futures exchanges have established delivery points in the United States. The implications of making and taking delivery of a physical commodity that is priced on a foreign exchange may differ, depending on the comparability of price discovery on that exchange and on U.S. exchanges, as well as other factors. Serious questions were raised last year, as various allegations about the copper markets were made and investigated, about what role, if any, delivery points for foreign futures contracts may have played in that affair. These questions are not yet answered. However, the legislation makes changes that will be appropriate regardless of the outcome of specific investigations.

The bill directs the CFTC to consult with overseas regulators and other appropriate parties in countries where futures exchanges have established U.S. delivery points. The aim of the consultations will be to secure adequate assurances against any adverse effect on U.S. markets because of these delivery points. Such assurances could take the form of changes to regulations or trading rules in the overseas market.

The bill also gives the CFTC authority to obtain information from warehouses that are delivery points for foreign exchanges. This information would be similar to that which the CFTC may already require of persons making trades on overseas futures markets, and will assist the CFTC in ensuring market integrity, preventing abuses, and otherwise discharging its responsibilities.

SEC. 5. EXEMPTION AUTHORITY AND SWAP EXEMPTION

The Act gives the CFTC authority to exempt transactions from its regulatory requirements, either completely or on stated terms. In 1993, the CFTC used this authority to exempt swap agreements from most, but not all, portions of the Act. This exemption generally has worked well, facilitating a climate in which swaps, which offer numerous benefits to their users if properly and prudently employed, could trade with secure legal status. (It was the lack of such legal certainty which, in part, prompted Congress to enact the exemptive authority.) Despite the CFTC's prompt action following the 1992 enactment of exemptive authority, the status of swaps remains subject to a change in regulations that could subject these instruments to renewed legal uncertainty.

The bill will provide additional legal certainty for swaps and similar transactions in three ways. First, the bill codifies the present exemption from regulation for transactions that meet its requirements, either now or in the future. For these qualifying instruments—which now rely on the exemptions for swaps in Part 35 of the Code of Federal Regulations and for hybrid instruments in Part 34—a statutory change would be required in order for the exemption to become more restrictive than it now is. The codification does not affect the CFTC's power to grant additional exemptions that would be less restrictive than, or independent of, the current exemption. Nor does it limit the CFTC's ability to enforce antimanipulation or anti-fraud provisions of the CEA as they may apply to these transactions or as the present exemptions may be conditioned on compliance with their provisions. The CFTC will have, under the codified exemption, the same authority to enforce these provisions of the Act as it has retained under its current policies. In addition, the CFTC would implement the conditions for an exemption, such as making creditworthiness a material consideration, in a manner consistent with its current interpretations. (It has been suggested that some additional conforming changes may also be appropriate to Section 12(e) of the Act.)

Second, the bill codifies two important elements of the present swaps exemptive authority, again to enhance legal certainty. The legislation clarifies that the CFTC may issue an exemption that is applicable to the extent the exempted transaction may have been subject to the Act—i.e., without requiring a prior decision on whether the transaction actually was, in fact, subject to the Act. Relatedly, the legislation states that the mere fact that a transaction was exempted from the Act does not, in itself, create a presumption that the transaction was one that would have fallen under the Act's regulatory requirements had it not been exempted. Thus, the bill makes the existence of an exemption a neutral event, for purposes of determining whether the exempted transaction was subject to the Act: No inference for or against such a determination is warranted by the mere fact of an exemption. Both these clarifications are consistent with present regulations for these exemptions.

Third, the bill for the first time extends the same legal certainty to swaps based on equities as is now available for other swaps. Although the great majority of swaps involve interest rates or currencies, there presently exist swaps based on equities or equity indices. The legal status of these instruments has been less certain than that of other swaps; they rely primarily on a 1989 policy statement by the CFTC which predates the present swaps exemption. The bill codifies, for these swaps, the same exempt status as for other similar instruments: To the extent they may be subject to the Act's provisions, they will be exempt from those provisions (other than anti-fraud and antimanipulation strictures) as long as they satisfy the terms and conditions of the present swaps exemption as to the way in which they are structured and traded, and as to the persons who may enter into them.

SEC. 6. EXEMPT TRANSACTIONS ON CONTRACT MARKETS

In contrast to the exemptions for swaps and hybrids, the Commission's exemptive terms for on-exchange professionally traded markets (codified in Part 36 of the Code of Federal Regulations) have not led to significant commercial activity. The legislation provides that such markets may be established by futures exchanges, subject to some limitations. In particular, the bill does not exempt such "professional markets" from the so-called "Shad-Johnson" accord, which governs on-exchange products involving equities. Moreover, the legislation excludes agricultural commodities from the list of products for which the professional markets must be recognized.

SEC. 7. CONTRACT DESIGNATION

The Act now requires futures exchanges to be "designated" as a "contract market" for each futures contract they trade. This process has been streamlined by the CFTC in recent years, but the statute continues to reflect a rather elaborate process in which, in many ways, the burden of proof is placed on exchanges to demonstrate why they should be able to offer new products for trading. Even for a sector like the the futures industry, where the public interest requires regulation, this implicit presumption against new product development is out of date.

The bill streamlines the process of introducing new futures contracts, both by compressing the time available for agency review and by creating a presumption that products developed by exchanges should be permitted to trade unless the CFTC finds compellingly why they should not. The legislation treats new contract applications as rules, albeit under somewhat different procedures from other exchange rules. Under the new procedure, an exchange submits a new contract to the CFTC. The new contract may trade after 10 business days, unless the CFTC states an intention to review it for possible disapproval. After a further 15 business days, the new contract can be traded unless the CFTC institutes proceedings to disapprove it. These proceedings are to be completed within 120 days; if not, the new contract can trade until and unless it is finally disapproved. In contrast to the present burden on an exchange to show that a contract is in "the public interest," the CFTC could only disapprove a contract by showing that it was "contrary to the public interest" (or by showing that it violated law or regulations). The philosophy is a fairly simple one: Subject to prudent regulatory limits, private futures exchanges can more appropriately and efficiently decide which new products are ripe for trading than can the government. The exchanges may sometimes err in these judgments, but that is the way markets work.

SEC. 8. DELIVERY BY FEDERALLY LICENSED WAREHOUSES

An obscure provision of the Act now allows any federally licensed grain warehouse to make delivery against a futures contract, on giving reasonable notice. Though seldom if ever used, this provision appears to conflict with the ability of exchanges to establish their own trading procedures, including delivery points. In an extremely tight market, the current provision could in some circumstances facilitate market manipulation. The bill repeals this provision.

SEC. 9. SUBMISSION OF RULES TO COMMISSION

The bill revises current requirements for submitting exchange rules to the CFTC. These rules affect the everyday procedures for doing business on the exchange, as well as the ground rules for trading. They run the gamut from major to minor. As with the procedures for approving new contracts, the legislation compresses the time available for federal review and generally streamlines procedures. Rules are to be submitted to the CFTC and can become effective in 10 business days unless the CFTC notifies the exchange that it will review them for possible disapproval. If the CFTC does not institute disapproval proceedings within 45 days of receiving the proposed rule, or conclude its proceedings within 120 days, the rule can become effective until and unless disapproved.

The authors of the bill intend that its legislative history will also discuss the implementation of statutory requirements for the composition of exchange boards of directors. The CFTC will be directed to report, on an ongoing basis, its evaluation of how fully these requirements are being met. The report language will provide further clarification of Congressional intent with regard to the qualification of individuals to satisfy particular requirements for board representation.

SEC. 10. AUDIT TRAIL

Futures exchanges are subject to audit trail requirements that are intended to ensure market integrity, and to deter and detect abuse. The bill clarifies these requirements in one respect. It states—consistent with testimony by the CFTC before Congress in 1995—that the audit trail requirements establish a performance standard, not a mandate for any particular technological means of achieving the standard. In further support of this clarification, the bill speaks of the "means selected by the contract market" for meeting audit trail standards. The authors of the bill intend that its legislative history will also note further CFTC testimony that, in assessing the "practicability" of various components of the audit trail standards, the cost to exchanges of meeting the standards is one factor to be taken into account.

SEC. 11. MISCELLANEOUS TECHNICAL AMENDMENTS

The bill makes several technical changes to correct omissions in the current statute. Moreover, it makes additional technical amendments, in many cases as a result of CFTC suggestions, that correct previous errors or inconsistencies as to typography, proper citation and the like.

SEC. 12. CONSIDERATION OF EFFICIENCY, COMPETITION, RISK MANAGEMENT, AND ANTITRUST LAWS

The bill requires the CFTC, in issuing rules, regulations and some types of orders, to take into account the costs and benefits of the action it contemplates. The requirement is not for a quantitative cost-benefit analysis, but a mandate to consider both costs and benefits, as well as other enumerated factors. The authors of the bill believe that in establishing its policies and giving direction to market participants, the CFTC should weigh how its actions may affect the participants' costs of doing business, as well as what benefits may accrue from the action.

Some activities of the CFTC, of course, do not call for this kind of approach, and indeed applying a cost-benefit requirement to them would be inappropriate. Thus, the bill exempts the CFTC's adjudicatory and investigative processes, emergency actions and certain findings of fact that are objective, quantitative or otherwise unsuitable for a cost-benefit approach. The bill's eventual legislative history will further discuss Congressional intent in enacting this requirement.

SEC. 13. DISCIPLINARY AND ENFORCEMENT ACTIVITIES

Enforcement is a priority for the CFTC. Like other financial regulators, the CFTC is assisted in its enforcement activities by the complementary rules, surveillance and disciplinary actions of self-regulatory organizations (SROs). These include both the futures exchanges themselves and the National Futures Association. The bill provides guidance to the CFTC on the deployment of enforcement resources, and requires a report in one year on the overall enforcement program. The legislation expresses the sense of Congress that the CFTC should avoid unnecessary duplication of effort where SROs have taken adequate action to deter abuse and ensure customer protection. It further states that the CFTC's oversight and disciplinary role should be sufficient to safeguard market integrity and protect public confidence in markets.

SEC. 14. DELEGATION OF FUNCTIONS BY THE COMMISSION

The CFTC, under current law, has delegated some limited duties to the National Futures Association. Today's austere budget climate makes it prudent for the commission to assess whether other functions could appropriately be delegated. The bill calls on the CFTC to determine which, if any, additional functions should be delegated to SROs, suggesting the use of procedures like spot checks and random audits to ensure that any delegated functions are adequately performed, and requires a report in one year with the results of the review. The authors intend that the bill's legislative history will cite several current CFTC activities that could be considered for delegation.•

• Mr. HARKIN. Mr. President, I am pleased to join Chairman LUGAR and Senator LEAHY in introducing legislation to amend the Commodity Exchange Act. This bill updates and streamlines U.S. futures trading law, and provides needed clarification to several critical issues facing today's vast derivative markets.

After reviewing the committee testimony taken last year, and meeting informally with industry, regulators, and academics, Chairman LUGAR, Senator LEAHY, and I are convinced that these changes are appropriate and necessary if the United States is to maintain its dynamic, world-class futures trading industry.

There is a strong public interest in maintaining a competitive and sound futures market in the United States. These markets are critical because they allow farmers, ranchers, and other businesses to manage risk and maximize their investment opportunities. At the same time, the committee has an obligation to protect the public trust through effective enforcement and regulatory measures that prevent and punish fraud and other abuses that may, and have, occurred in the international financial markets—including the futures market.

This bill is a bipartisan effort to find the balance between the need for prudent regulation with industry's need for changes so that the U.S. futures market continues to be the driving force in today's competitive global financial markets.

Introduction of this legislation is timely. President Clinton's 1998 budget, due for release later this week, challenges Federal agencies to do more with less. It will ask Federal agencies to improve programs and services and streamline procedures.

This legislation provides legislative backing to accomplish this crucial goal. The bill proposes specific changes that will further assist the Commodity Futures Trading Commission, the primary regulator of the futures industry, to continue its on-going effort to focus scarce resources where they are most effective—in enforcement—preventing consumer fraud and manipulation of market prices.

The legislation allows industry to focus on product innovation and marketing so that the end users—farmers, ranchers, and other businesses—have available to them, free of fraud and at a competitive price, the most state-of-the-art financial products.

The bill also provides the CFTC with additional authority to require U.S. delivery points for overseas futures markets to provide information similar to that currently demanded of American market participants. This provision may help prevent a repeat of last summer's 1996 London/Tokyo copper market crisis where billions of dollars were lost due, in part, to lack of sufficient information and Government oversight by the CFTC's foreign counterparts.

I am pleased that this legislation addresses the uncertainty that currently exists in the so-called "Treasury amendment", a 1974 provision of the Commodity Exchange Act that excludes certain financial products from its regulatory coverage. This provision has long been controversial and our proposal suggests one solution.

It is unfortunate that the Treasury Department and the CFTC were unable to negotiate a resolution of this issue in time for this bill's reintroduction. But I remain open to alternative proposals, and look forward to hearing the views of all interested regulators, industry participants, and users of these products at next week's hearings.

Two other important aspects of this legislation are a provision that provides greater legal certainty for the over-the-counter financial tools such as swaps and hybrids, and a provision that codifies a 1992 provision to allow on-exchange products to be traded solely among professional investors. Both of these provisions are important to the ability of private enterprises to manage business risk.

I am very pleased to join my colleagues in offering this bill. Chairman LUGAR, Senator LEAHY, and I have worked together on futures issues for many years. We did the same on this bill—working to ensure that these markets remain competitive while maintaining effective provisions on customer protection and market integrity.

Introducing this bill early in the 105th Congress offers ample time to continue last year's public discussion and debate over what changes are appropriate and necessary to maintaining a viable U.S. futures market.

It is my experience that such a dialogue helps develop solid bipartisan legislation. As with most issues, there are many interests that must be balanced, and this bill strives to find that balance. I am certainly open to further input as we hold hearings next week.

I look forward to continuing the process.•

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 258. A bill to improve price discovery in milk and dairy markets by reducing the effects of the National Cheese Exchange on the basic formula price established under milk marketing orders, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE MILK PRICE DISCOVERY IMPROVEMENT ACT OF 1997

• Mr. FEINGOLD. Mr. President, I introduce the Milk Price Discovery Improvement Act of 1997 with my senior Senator from Wisconsin [Mr. KOHL]. Mr. President, this bill addresses longstanding farmer concerns that milk prices can be manipulated by those with the incentive and ability to do so. Those concerns were validated by a March 1996 University of Wisconsin study funded by the Department of Agriculture which concluded that the National Cheese Exchange, a cash market for cheese located in Green Bay, WI, directly and indirectly influences farm milk prices and is highly vulnerable to price manipulation by its major traders.

Concern about trader concentration and price manipulation is not exclusive to the dairy industry, Mr. President. Two weeks ago, the minority leader, Senator DASCHLE, introduced the Cattle Industry Improvement Act which addressed concerns about growing concentration in the livestock industry and the lack of market information available to livestock producers. Less than 2 percent of the cattle in the U.S. are sold on markets with open and competitive bidding and the top four packing firms in this country slaughter 80 percent of all cattle.

The unfortunate trend of increasing concentration throughout agriculture and the growing scarcity of reliable market information has placed farmers at an extreme disadvantage compared to powerful corporate traders. Mr. President, I was pleased to cosponsor the Cattle Industry Improvement Act, which seeks to prevent noncompetitive practices in the livestock industry and improve market information because I believe this trend must be stopped.

The bill I am introducing today addresses these same alarming trends in the dairy industry and seeks to prevent manipulation of farm-level milk prices. Dairy farmers must not be held captive to a market that cannot be relied upon to provide accurate information about the value of the milk they produce. Unfortunately, farm milk prices are currently determined by such a market—the National Cheese Exchange.

The National Cheese Exchange is the only cash market in the United States for the sale of bulk cheese. Located in Green Bay, WI, the Exchange trades cheese each Friday for half an hour. Between 1988 and 1993, only 1 percent of all bulk cheese sold nationally was traded on the NCE. During this 5-year period, eight buyers and sellers dominated much of the exchange trading, despite exchange membership of 30 to 40 companies. The top seller on the exchange accounted for 75 percent of all sales during this period.

Thus, the exchange is not only thin with respect to the volume of cheese bought and sold, it is also thinly traded with the same small number of large firms dominating the trading activity. The opinion price on the National Cheese Exchange, and other markets with these characteristics, is easily influenced by one trade. In addition, unlike other cash markets which trade more frequently, when the price changes at the National Cheese Exchange it stays at that level until one week later at the next trading session. This infrequency of trading lends greater significance to any trading activity which alters the price of cheese.

The existence of such a market on its own would not be a problem if it did not affect dairy farmers and others off the exchange. Unfortunately, the opinion price of the National Cheese Exchange directly and decisively affects the price that farmers throughout the Nation receive for their milk. A 1-cent change in the opinion price at the exchange generally translates into a 10-cent change in the price of milk to farmers. When prices on the exchange drop suddenly and precipitously, dairy farmers nationally lose millions of dollars in producer receipts. In the last 3 months of 1996, cheese prices on the National Cheese Exchange fell by more than 50 cents per pound, with an unprecedented price plunge of 21 cents in one trading session. As a result, as many of my colleagues are aware, milk prices fell by more than $4 per hundredweight—a 26-percent decline in income. In Wisconsin alone, this price decline has cost dairy farmers more than $165 million in lost income.

The price decline has been extremely painful for dairy farmers still struggling with high feed bills but what has made the pain more difficult to bear is the general belief held by many dairy economists that the price fell too far too fast and could not be justified based on prevailing market conditions. Whether the price declined so drastically simply because the National Cheese Exchange is a poor indicator of market conditions or because traders intentionally drove the price down is irrelevant. The perception of farmers that the exchange price was manipulated warrants its retirement as the mover of milk prices in this country. The reality that the exchange clearly overreacted to market conditions with record-setting price declines necessitates it.

The National Cheese Exchange has such a dramatic effect on milk prices for two reasons. First, milk prices are tied directly to the exchange opinion price through the basic formula price [BFP], calculated by USDA. The BFP determines the class III price for milk regulated under the Federal milk marketing order system. Second, even if the formal linkage did not exist, milk prices would still be dramatically affected by the exchange opinion because it is used as the benchmark in virtually all forward contracts for bulk cheese; 90 to 95 percent of bulk cheese in the United States is sold through forward contracts. In other words, virtually all cheese sold in the country is priced based on the opinion price at the Cheese Exchange. That is, at least in part, due to the lack of any alternative market information on the value of cheese.

The combination of thin nature of the National Cheese Exchange and its influence on milk prices nationally, creates a situation in which there is both the opportunity and the incentive for price manipulation. Anyone buying or selling cheese on the National Cheese Exchange may be able to affect the price of milk throughout the country. The extensive report issued by the University of Wisconsin last year concluded that the trading patterns on the NCE suggest that lead traders use the NCE to influence exchange prices with the intent of affecting milk and cheese prices nationwide.

Unfortunately, no viable alternative to the National Cheese Exchange currently exists for cheese price discovery. While there is a futures market for cheese and other dairy products, trading of futures contracts have been weak making the futures prices unreliable benchmarks. Furthermore, there is little or no market information on prices for off-exchange spot transactions of cheese collected by the Department of Agriculture. Secretary of Agriculture Dan Glickman recently announced a new cheese price series that should improve market information for off-exchange transactions. However, such information may not be adequate to supplant the role of the National Cheese Exchange. Of even greater concern is that despite its influence over milk prices nationwide and its vulnerability to manipulation, the exchange is not regulated by any State or Federal entity.

Mr. President, farmers throughout the country are frustrated by a pricing system that can no longer guarantee that milk prices are determined competitively and without manipulation and that they believe led to the severe and unwarranted price decline last fall. They have rightfully demanded that we change the way milk prices are set by U.S. Department of Agriculture to reduce the influence of the exchange on farm-level prices. In addition, farmers have called for increased regulation of the exchange to prohibit manipulation of milk and cheese prices.

Mr. President, that is my goal in introducing this legislation today. Farmers must not be held hostage to this market any longer. First, my legislation directs USDA to break the direct link between the basic formula price and the National Cheese Exchange. Second, it requires USDA to develop alternative sources of cheese market information so that buyers and sellers of cheese need no longer rely on the exchange as a reference price for forward contracts. Finally, my legislation will provide USDA with clear authority to prohibit noncompetitive practices on any cash market that affects the price of milk regulated under Federal milk marketing orders, including the National Cheese Exchange. By law, USDA has been charged with ensuring orderly conditions for the marketing of milk. The agency cannot meet that charge without greater authority to oversee the National Cheese Exchange and prevent those who benefit from low milk prices from driving them down. Ultimately, the solution to these problems lies in the creation of a reliable price discovery system for milk and dairy products that the dairy industry can rely on. But it will take time to develop those alternatives, and it will take time for the dairy industry to come to rely on them. Until we reach that goal, it is absolutely critical that USDA prohibit noncompetitive activities on the National Cheese Exchange.

Mr. President, I am also pleased to be a cosponsor of the National Cheese Exchange Oversight and Improvement Act introduced by my senior Senator from Wisconsin, Senator KOHL. This bill provides the Commodity Futures Trading Commission [CFTC] with day-to-day regulatory jurisdiction over the activities of the National Cheese Exchange. While the CFTC has some limited jurisdiction over the exchange, they do not have the authority to impose trading rules on the exchange. The new authority provided in our respective bills for USDA and CFTC to oversee the exchange should ensure farmers that until the functions of the exchange can be replaced by alternative price discovery mechanisms, we will do all we can to prevent manipulation of farm milk prices.

Mr. President, I believe the combination of the provisions of the Milk Price Discovery Improvement Act and the National Cheese Exchange Oversight and Improvement Act will go far toward resolving some of the problems that have led to the recent milk price plunge that has cost this country's family farmers so dearly. This legislation, if passed, may also help restore the confidence of dairy farmers in our milk pricing system.

Mr. President, there are varied and complicated reasons that the trend in American agriculture is toward fewer and larger farms and toward greater concentration in processing and manufacturing. However, I believe that Federal policies that provide competitive advantages to larger farms and subtly discriminate against smaller farmers are among them. Sanctioning pricing mechanisms, like the National Cheese Exchange, that provide unequal market power and information, and relying on them to set prices, is one such policy. Small dairy farmers are less able to withstand the lost income resulting from volatile prices caused by the National Cheese Exchange. Small cheese processors and manufacturers that dot Wisconsin's countryside also suffer from price volatility and manipulation on the exchange yet lack the ability to counteract the power of other traders. We can restore a degree of market equality by improving price discovery and by preventing those with the power to manipulate prices from doing so. That is the goal of the Milk Price Discovery Act of 1997. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a summary of my legislation as well as the full text of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Milk Price Discovery Improvement Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) the National Cheese Exchange, located in Green Bay, Wisconsin, is the only cash market for bulk cheese in the United States, trades less than 1 percent of all bulk cheese sold nationally, and currently functions as the only price discovery mechanism for bulk cheese throughout the industry;

(2) the National Cheese Exchange opinion price directly influences milk prices paid to farmers because of its use in the Department of Agriculture's basic formula price under Federal milk marketing orders;

(3) opinion prices at the National Cheese Exchange influence the price for much of the bulk cheese bought and sold in the United States and directly or indirectly influences the price of milk paid to producers throughout the United States;

(4) the National Cheese Exchange is a thinly traded, illiquid, and highly concentrated market that is increasingly volatile;

(5) a report issued by the University of Wisconsin and funded by the United States Department of Agriculture concluded that the National Cheese Exchange is vulnerable to price manipulation;

(6) the thin nature of the National Cheese Exchange and the characteristics of that market that may facilitate price manipulation have led to widespread producer concern about the validity of prices at the National Cheese Exchange; and

(7) it is in the national interest to ensure that prices on cash markets that directly and indirectly affect milk prices are determined in the most competitive manner practicable and to improve price discovery for milk and other dairy products.

SEC. 3. BASIC FORMULA PRICE.

Section 143(a) of the Agricultural Market Transition Act (7 U.S.C. 7253(a)) is amended by adding at the end the following:

"(5) NATIONAL CHEESE EXCHANGE.—

"(A) IN GENERAL.—In carrying out this subsection and section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall not, directly or indirectly, use a price established on the National Cheese Exchange to determine the basic formula price for milk or any other milk price regulated by the Secretary.

"(B) REGULATIONS.—Not later than 60 days after the date of enactment of this paragraph, the Secretary shall review and amend the applicable regulations promulgated by the Secretary to ensure that the regulations comply with subparagraph (A).

"(C) EFFECT ON FURTHER REVISION.—Subparagraph (B) shall not preclude a further revision to, or replacement of, the basic formula price under this subsection or section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, except that the revision or replacement shall be consistent with subparagraph (A).".

SEC. 4. DAIRY PRICE DISCOVERY AND REPORTING SYSTEM.

Section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) is amended by adding at the end the following:

"(o) DAIRY PRICE DISCOVERY AND REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop a price discovery system for raw milk, bulk cheese, and other dairy products in order to facilitate orderly marketing conditions.

"(2) ADMINISTRATION.—In carrying out paragraph (1), the Secretary shall—

"(A) collect and disseminate, on a weekly basis, statistically reliable information, obtained from all cheese manufacturing areas in the United States on prices and terms of trade for spot and forward contracts, reported separately, transactions involving bulk cheese, including information on the national average price and regional average prices for bulk cheese sold through spot and contract transactions;

"(B) provide technical assistance to any person, group of persons, or organization seeking to organize a cash market alternative to the National Cheese Exchange that the Secretary believes will improve price discovery; and

"(C) not later than 180 days after the date of enactment of this subsection—

"(i) in cooperation with the Commodity Futures Trading Commission, conduct a study and report to Congress on means of encouraging improved volume in futures trading for milk, bulk cheese, and other dairy products; and

"(ii) conduct a study and report to Congress on the feasibility and desirability of the creation of an electronic exchange for cheese and other dairy products.

"(3) CONFIDENTIALITY.—All information provided to, or acquired by, the Secretary under paragraph (2)(A) shall be kept confidential by each officer and employee of the Department of Agriculture, except that general weekly statements may be issued that are based on the information and that do not identify the information provided by any person.".

SEC. 5. OVERSIGHT OF CASH MARKETS AFFECTING FEDERAL MILK MARKETING ORDERS.

Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(20) OVERSIGHT OF CASH MARKETS AFFECTING FEDERAL MILK MARKETING ORDERS.—

"(A) DEFINITION OF NONCOMPETITIVE PRACTICE.—In this paragraph, the term 'noncompetitive practice' means an action or measure that involves engaging in a course of business or act for the purpose or with the effect of—

"(i) manipulating or controlling a price on a cash market that affects the price of milk regulated under an order issued under this section;

"(ii) creating a monopoly in the acquiring, buying, selling, or dealing in a product; or

"(iii) restraining commerce.

"(B) GENERAL RULE.—In order to ensure fair trade practices and orderly marketing conditions for milk and milk products under this section, the Secretary shall prohibit noncompetitive practices on a cash exchange for milk, cheese, and other milk products that the Secretary finds affects or influences the price of milk regulated under an order issued under this section.

"(C) OTHER AGENCIES AND STATES.—This paragraph shall not affect the authority of the Federal Trade Commission, Commodity Futures Trading Commission, Department of Justice, any other Federal agency, or any State agency to regulate a noncompetitive practice described in subparagraph (B).

"(D) ENFORCEMENT.—The enforcement provisions of sections 203, 204, and 205 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193, 194, 195) shall apply, to the extent practicable (as determined by the Secretary), to this paragraph.".

THE MILK PRICE DISCOVERY IMPROVEMENT ACT OF 1997

Section 1. Short Title.

Section 2. Findings.

Section 3. Basic Formula Price.

Requires U.S. Secretary of Agriculture to delink the National Cheese Exchange (NCE) opinion price from the USDA Basic Formula Price used under Federal Milk Marketing Orders at a date no later than 60 days after enactment of this Act. This will eliminate the formulaic link between the NCE and milk prices that has been in place since Spring 1995.

Prohibits USDA's use of NCE prices in any future revision or replacement of the Basic Formula Price.

Section 4. Dairy Price Discovery and Reporting System.

Requires Secretary to take steps to improve price discovery in order to reduce the influence of the National Cheese Exchange on farmer milk prices. Alternative price discovery mechanisms will provide more information to buyers and sellers of cheese and may reduce trader reliance on the Exchange as the sole source of price information.

Requires Secretary to expand USDA's monthly cheese price reporting system to provide weekly information on actual prices paid for cheese throughout the country.

Requires Secretary to provide technical assistance to farmers and others seeking the creation of alternative cash markets.

Requires Secretary to work with the Commodity Futures Trading Commission to determine means of increasing trading volume on dairy futures markets.

Requires Secretary to conduct a study on the feasibility of creating an electronic market for cheese and other dairy products.

Section 5. Oversight of Cash Markets Affecting Federal Milk Marketing Orders.

Requires Secretary to prohibit noncompetitive practices on any cash market that may affect or influence the price of milk regulated under Federal Milk Marketing Orders. Noncompetitive practices include any activity conducted for the purpose or with the effect of manipulating prices on such a market.●

By Mr. CRAIG:

S. 259. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

THE FAIR LABOR STANDARDS ACT WATER DELIVERY ORGANIZATIONS FLEXIBILITY AMENDMENT ACT OF 1997

● Mr. CRAIG. Mr. President, I am introducing a bill today, which this body previously approved as an amendment to the first bill amending the Fair Labor Standards Act [FLSA] that the Senate passed in 1989. This bill would solve a problem with the interpretation of a provision of the FLSA, clarifying that the maximum hour exemption for agricultural employees applies to water delivery organizations that supply 75 percent or more of their water for agricultural purposes.

Representative MIKE CRAPO, of the Second District of Idaho, is today introducing an identical bill in the other body. Our bill would restore an exemption that was always intended by Congress.

Companies that delivery water for agricultural purposes are exempt from the maximum-hour requirements of the FLSA. The Department of Labor has interpreted this to mean that no amount of this water, however minimal, can be used for other purposes. Therefore, if even a small portion of the water delivered winds up being used for road watering, lawn and garden irrigation, livestock consumption, or construction, for example, delivery organizations are assessed severe penalties.

The exemption for overtime pay requirements was placed in the FLSA to protect the economies of rural areas. Irrigation has never been, and cannot be, a 40-hour-per-week undertaking. During the summer, water must be managed and delivered continually. Later in the year, following the harvest, the work load is light, consisting mainly of maintenance duties.

Our bill is better for employers, workers, and farmers. Winter compensation and time off traditionally have been the method of compensating for longer summer hours. Without this exemption, irrigators are forced to lay off their employees in the winter. Therefore, our bill would benefit employees, who would continue to earn a year-round income. It also would keep costs level, which would benefit suppliers and consumers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE FAIR LABOR STANDARDS ACT OF 1938.

Section 13(b)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12)) is amended by inserting after "water" the following: ", at least 75 percent of which is ultimately delivered".●

By Mr. ABRAHAM (for himself, Mr. HATCH, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. KYL, Mr. HUTCHINSON, Mr. ROBERTS, and Mr. ROBB):

S. 260. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

POWDER COCAINE PENALTIES LEGISLATION

● Mr. ABRAHAM. Mr. President, I introduce legislation that would increase penalties for distribution of powder cocaine. It would do this by applying existing mandatory minimum sentences of 5 and 10 years for this crime to a larger class of powder cocaine dealers.

Specifically, under current law, a dealer has to distribute 500 grams of powder to qualify for the 5-year minimum, and 5,000 grams to qualify for the 10-year minimum. My bill would lower the trigger quantities to 100 grams and 1,000 grams, respectively.

As many of you will recall, last Congress, the Sentencing Commission proposed a dramatic lowering of penalties for distribution of crack. That proposal would have taken effect automatically had Congress not stepped in to prevent it from doing so it by adopting legislation I introduced to block it.

The principal argument the Commission advanced for its proposal was that current law's sharp differentiation between sentences for crack cocaine and powder cocaine distribution is wrong. Therefore, the Commission argued, we should equalize these penalties by lowering penalties for crack cocaine.

As is clear from the fact that I sponsored legislation to prevent its recommendation from taking effect, I did not agree with the Commission's view that crack and powder penalties should be equalized. I also did not think that dramatically lowering crack penalties was a good idea for anyone—least of all for inner-city residents where crack is most freely available and where parents need the most help in protecting their kids from those peddling this poisonous drug.

At the same time, it also seemed to me that the Commission's report made some valid criticisms of the current disparity in the sentences. It just seemed to me that it drew the wrong conclusion from its criticisms, and that the answer to the problems it identified was not to lower crack sentences but to raise powder sentences.

That is why, at the same time I introduced my legislation to prevent the Commission's proposal from taking effect last Congress, I also introduced the same bill I am introducing today: to raise the sentences for those who deal powder cocaine, and thereby bring the quantity ratio down from 100–1 to 20–1.

I believe this proposal recognizes two realities: that crack is more dangerous and more addictive than powder, but that powder is very dangerous and a critical contributor to our very serious crack problem.

First, as both the Commission's own study of the matter and a recent medical study indicate, crack is a more dangerous and addictive form of cocaine than powder. Moreover because of its relative cheapness and ease of use, it is more attractive to first-time users, and especially children.

It is also common sense that with crack use finally stabilizing, we should not jeopardize what success we have had in combating it by dramatically lowering the penalties for selling it. That would surely invite new entrants into the crack market, and thereby lead to an increase in drug use and trigger a resurgence of violence among competing crack dealers.

On the other hand, as the Commission's report also pointed out, present law has resulted, at least occasionally, in insufficiently severe punishment of individuals at the top of crack distribution chains. These dealers distribute their product in powder rather than in crack form. And at least a few of them have received considerably less than the mandatory 5-year penalty. At the same time lower level dealers who worked for them and sold the final product, crack, were receiving at least 5-year sentences. This overly lenient treatment of the powder kingpins does not seem right.

Second and more generally, when the mandatory sentences for powder were originally set, they were set without knowledge of the extent of our crack problem and the contribution that powder cocaine makes to it. An increase therefore is warranted for that reason as well.

Finally, while I believe some differential in the quantities that trigger the same sentence for crack and powder is warranted, 100 to 1 seems too great. It is also unique in our drug laws' treatment of derivative versus source drugs, and that uniqueness is part of what has made it racially divisive.

My proposed legislation addresses all three of these points. Its lower threshold for powder mandatories would make it much less likely that a powder kingpin at the top of a crack-dealing chain would escape with a lower punishment than those further down in the chain.

By raising the sentences for powder significantly, the bill also takes into account the contribution that powder cocaine dealing generally makes to the crack market.

Finally, the change in the powder triggers makes the ratio of powder to crack necessary to trigger the same sentences 20 to 1 rather than 100 to 1. This would bring it in line with other similar differentials between source and derivative drugs, such as opium and heroin, which likewise have a 20 to 1 quantity ratio.

Mr. President, last Congress we withheld action on this question beyond blocking the Sentencing Commission's proposal because we were told that the Commission ought to be given another chance to devise a solution. I believe, however, that this Congress must act on this matter—whether with the help of the Commission or on its own. By introducing this legislation at this time, I want to make clear that I intend to see to it that we do so.●

By Mr. DOMENICI (for himself, Mr. FORD, Ms. SNOWE, Mr. THOMPSON, Mr. THOMAS, Mr. ROTH, Mr. MOYNIHAN, Mr. NICKLES, Mr. MCCAIN, Mr. CONRAD, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. LUGAR, Ms. COLLINS, Mr. BREAUX Mr. DEWINE, Mr. BURNS, Mr. WARNER, Mr. ROBERTS, Mr. COATS, Mr. MACK, Mr. KEMPTHORNE, Mr. D'AMATO and Mr. ENZI):

S. 261. A bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

THE BIENNIAL BUDGETING AND APPROPRIATIONS ACT

Mr. DOMENICI. Mr. President, on behalf of Senator FORD and 23 other Senators, I rise to introduce the Biennial Budgeting and Appropriations Act, a bill to convert the budget and appropriations process to a 2-year cycle and to enhance oversight of Federal programs.

One of the greatest challenges facing the 105th Congress and President Clinton is to balance the Federal budget by 2002 and maintain balance through the next century when we will need to confront the very serious fiscal problems associated with an aging America. Balancing the Federal budget will require long-term planning, tough choices, and steadfast effort. These decisions should not be made, indeed I contend cannot be made, using the current fractionated annual budget process.

Congress should now act to streamline the system by moving to a 2-year, or biennial, budget process. This is the most important reform we can enact to streamline the budget process, to make the Congress a more deliberative and effective institution, and to make us more accountable to the American people.

Mr. President, moving to a biennial budget and appropriations process enjoys very broad support. President Clinton has proposed this reform. Presidents Reagan and Bush also proposed a biennial appropriations and budget cycle. Leon Panetta, who has served as White House Chief of Staff, OMB Director, and House Budget Committee chairman, has advocated a biennial budget since the late 1970's. Former OMB and CBO Director Alice Rivlin has been arguing for a biennial budget for almost two decades. Other supporters include Senators LOTT, FORD, ROTH, THOMPSON, and GLENN. Last year, 42 Senators wrote our two Senate leaders calling for quick action to pass legislation to convert the budget and appropriations process to a 2-year cycle.

The most recent comprehensive studies of the Federal Government and the Congress have recommended this reform. The Vice President's National Performance Review and the Joint Committee on the Reorganization of Congress both recommended a biennial appropriations and budget cycle.

A biennial budget will dramatically improve the current budget process. The current annual budget process is redundant, inefficient, and destined for failure each year. The current process to develop, legislate, and implement the annual budget consumes 3 years: 1 year for the administration to prepare the President's budget, another year for the Congress to put the budget into law, and the final year to actually execute the budget.

Today, I want to focus just on the congressional budget process, the process of annually passing a budget resolution, authorization legislation, and 13 appropriation bills. The record clearly demonstrates the serious shortcomings of this process:

We have met the statutory deadline to complete a budget resolution only 3 times since 1974. In 1995, we broke the Senate record for the most rollcall votes cast in a day on a budget reconciliation bill.

The Congressional Budget Office just released its report on unauthorized appropriations. For fiscal year 1997, 121 laws authorizing appropriations have expired. These laws cover over one-third, or $89.6 billion, of appropriations for nondefense programs. Another 52 laws authorizing non-defense appropriations will expire at the end of fiscal year 1997, representing $31 billion more in unauthorized nondefense programs.

Since 1950 Congress has only twice met the fiscal year deadline for completion of all 13 individual appropriations bills to fully fund the Government.

While we have made a number of improvements in the budget process, the current annual process is redundant and inefficient. The Senate has the same debate, amendments, and votes on the same issue three or four times a year—once on the budget resolution, again on the authorization bill, and finally on the appropriations bill.

I recently asked the Congressional Research Service [CRS] to update and expand upon an analysis of the amount of time we spend on the budget. CRS looked at all votes on appropriations, revenue, reconciliation, and debt limit measures as well as budget resolutions. CRS then examined any other vote dealing with budgetary levels, Budget Act waivers, or votes pertaining to the budget process. For 1996, CRS found that the Senate devoted 73 percent of its time to the budget.

If we cannot adequately focus on our duties because we are constantly debating the budget in the authorization, budget, and appropriations process, just imagine how confused the American public is about what we are doing. The result is that the public does not understand what we are doing and it breeds cynicism about our Government.

Under the legislation I am introducing today, the President would submit a 2-year budget and Congress would consider a 2-year budget resolution and 13 2-year appropriation bills during the first session of a Congress. The second session of the Congress would be devoted to consideration of authorization bills and for oversight of Government agencies.

Most of the arguments against a biennial budget process will come from those who claim we cannot predict or plan on a 2 year basis. For two-thirds of the budget, we do not actually budget on an annual basis. Our entitlement and revenue laws are under permanent law and Congress does not change these laws on an annual basis. The only component of the budget that is set in law annually are the appropriated, or discretionary accounts.

Mr. President, the most predictable category of the budget are these appropriated, or discretionary, accounts of the Federal Government. I recently asked CBO to update an analysis of discretionary spending to determine those programs that had unpredictable or volatile funding needs. CBO found that only 4 percent of total discretionary funding fell into this category. Most of this spending is associated with international activities or emergencies. Because most of this funding cannot be predicted on an annual basis, a biennial budget is no more deficient than the current annual process. My bill will continue to allow supplemental appropriations necessary to meet these emergency and unanticipated requirements.

This legislation also will enhance oversight of Federal programs and activities. Frankly, the limited oversight we are now doing is not as good as it should be. We have a total of 34 House and Senate standing authorizing committees and these committees are increasingly crowded out of the legislative process. Under a biennial budget, the second year of the biennium will be devoted to examining Federal programs and developing authorization legislation. The calendar will be free of the budget and appropriations process, giving these committees the time and opportunity to fully review and legislate changes to Federal programs.

We also build on the oversight process by incorporating the new requirements of the Government Performance and Results Act of 1993 [GPRA] into the biennial budget process. The primary objective of this law is to force the Federal Government to produce budgets focused on outcomes, not just dollars spent. When the goal is to balance the budget, decisions must be made based on performance.

More specifically, GPRA requires agencies to develop strategic plans, performance plans, and performance goals. GPRA requires agencies to report on their actual performance in relation to these goals. Finally, GPRA requires the President to incorporate these performance plans into the President's budget submission to Congress.

At the beginning of each even-numbered year, this new biennial bill requires Federal agencies to submit their preliminary performance plans and any proposed legislation that will enhance the performance of Federal programs to authorizing committees. During these even-numbered years, the authorizing committees will review these performance plans and actual performance and develop authorization legislation geared to enhancing the performance of the Federal Government.

Mr. President, a biennial budget is not a panacea for all our budget woes. A biennial budget cannot make the difficult decisions that must be made in budgeting, but it can provide the tools necessary to make much better decisions. By moving to a biennial budget cycle, we can budget more effectively, strengthen oversight and watchdog functions, improve the efficiency of Government agencies, and work to balance the budget in an intelligent, fair, and deliberative manner.

Mr. President, I ask unanimous consent that a Washington Post article, a description of the bill, and a section-by-section analysis of the bill be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF THE BIENNIAL BUDGETING AND APPROPRIATIONS ACT

Cosponsors (24): Senators Ford, Snowe, Thompson, Thomas, Roth, Moynihan, Nickles, McCain, Conrad, Abraham, Frist, Grams, Lugar, Collins, Breaux, DeWine, Burns, Warner, Roberts, Coats, Mack, Kempthorne, D'Amato, and Enzi.

The Domenici bill would convert the annual budget, appropriations, and authorization process to a biennial, or two-year, cycle.

FIRST YEAR: BUDGET AND APPROPRIATIONS

Requires the President to submit a two-year budget at the beginning of the first session of a Congress. The President's budget would cover each year in the biennium and planning levels for the four out-years. Converts the "Mid-session Review" into a "Mid-biennium review". The President would submit his "mid-biennium review" at the beginning of the second year.

Requires Congress to adopt a two-year budget resolution and a reconciliation bill (if necessary). Instead of enforcing the first fiscal year and the sum of the five years set out in the budget resolution, the bill provides that the budget resolution establish binding levels for each year in the biennium and the sum of the six-year period. The bill modifies the time frames in the Senate ten-year pay-as-you-go point of order to provide that legislation could not increase the deficit for the biennium, the sum of the first six years, and the sum of the last 4 years.

Requires Congress to enact a two-year appropriations bill during the first session of Congress. The Domenici bill provides two fail-safe measures if there were an attempt to continue to appropriate funding on an annual basis. First, the Domenici bill provides a new majority point of order against appropriations bills that fail to cover two years. Second, if an appropriations bill were enacted that failed to appropriate money for the second year of the biennium, funding would be automatically appropriated at the first year's level. These fail-safe measures would not apply to supplemental appropriations bills to fund unanticipated needs such as emergencies.

Makes budgeting and appropriating the priority for the first session of a Congress. The bill provides a majority point of order against consideration of authorization and revenue legislation until the completion of the biennial budget resolution, reconciliation legislation (if necessary) and the thirteen biennial appropriations bills. An exception is made for certain "must-do" measures.

SECOND YEAR: AUTHORIZATION LEGISLATION AND ENHANCED OVERSIGHT

Devotes the second session of a Congress to consideration of biennial authorization bills and oversight of federal programs. The bill provides a majority point of order against authorization and revenue legislation that cover less than two years except those measures limited to temporary programs or activities lasting less than two years.

Requires the General Accounting Office (GAO) to give priority to requests for audits and evaluations of programs and activities during the second year of the biennium.

Modifies the Government Performance and Results Act of 1993 (GPRA) to incorporate the government performance planning and reporting process into the two-year budget cycle to enhance oversight of federal programs.

The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to develop strategic plans, performance plans, and performance reports. The law requires agencies to establish performance goals and to report on their actual performance in meeting these goals. GPRA requires federal agencies to consult with congressional committees as they develop their plans. Beginning this year, GPRA will require all federal agencies to submit their strategic plans to the Office of Management and Budget, along with their budget submissions, by September 30 of each year. Finally, GPRA requires the President to include a performance plan for the entire government, beginning with the FY 1999 budget.

The Domenici bill modifies GPRA to place it on a two-year cycle along with the budget process. The bill also requires the authorizing committees to review the strategic plans, performance plans, and performance reports of federal agencies and to submit their views, if any, on these GPRA plans and reports as part of their views and estimates submissions to the budget committees.

The Domenici bill requires agencies to submit a preliminary performance plan and proposed authorization legislation to the relevant authorizing committees by March 31 of even-numbered years. In developing proposed authorization legislation, the bill directs agencies to include in their proposed legislation, changes that will enhance agencies' ability to meet their strategic and performance goals.

BIENNIAL BUDGETING AND APPROPRIATIONS ACT—SECTION-BY-SECTION ANALYSIS

Section 1 states the title of the legislation—the "Biennial Budgeting and Appropriations Act".

Section 2 amends section 300 of the Congressional Budget and Impoundment Control Act to revise the timetable to reflect a biennial budget process. In general, the revised timetable is similar to the current timetable except that most of the milestones only apply to the first session of a Congress. The timetable is modified to extend the deadline for completion of the budget resolution to May 15th and to extend the deadline for completion of reconciliation legislation to August 1st. The revised timetable contains two milestones in the second session: a February 15th reporting requirement for the CBO annual report on the budget and an end of session deadline for completion of action on authorization legislation. This section also amends the timetable to provide a special schedule in years a new President is elected. Generally, deadlines are extended by 6 weeks to give a new President more time to prepare and submit his budget.

Section 3 includes most of the other amendments made to the Congressional Budget and Impoundment Control Act.

Section 3(a) amends section 2 of the Act to make a conforming change to the statement of the purposes of the Act. Section 3(b) adds a definition for "biennium" and makes a conforming change to the definition of a budget resolution.

Section 3(c) amends section 301 to require the Congress to complete action on a biennial budget resolution by May 15th of each odd-numbered year; to require the budget resolution to cover the biennium, and each of the ensuing four years; to make conforming changes regarding requirements for hearings and reports on budgets; to make other conforming changes to the section; and, to make conforming changes to the section heading and the table of contents of the Act.

Section 3(d) amends section 302 of the Budget Act, regarding committee allocations, to require the conference report on a budget resolution to include an allocation of budget authority and outlays to each committee for each year in the biennium and the total of the biennium and the four succeeding fiscal years. This subsection also makes conforming changes to section 302(f).

Section 3(e) amends section 303 of the Budget Act, regarding the point of order against spending and revenue legislation affecting future fiscal years, to make a conforming change to provide that such legislation cannot be considered until the budget resolution for a biennium is adopted. This subsection also drops an exception in the Senate that exempts appropriations measures providing an advance appropriation for the two fiscal years following the budget year from this point of order.

Section 3(f) makes conforming changes to section 304 of the Budget Act, regarding revisions of budget resolutions. Maintains current law that allows Congress to revise the budget resolution at any time.

Section 3(g) amends section 305 to make a conforming change regarding a reference to the budget resolution.

Section 3(h) and (i) amend sections 307 and 309 to make conforming changes regarding the deadlines for completion of appropriations bills.

Section 3(j) amends section 310 to make conforming changes regarding reconciliation.

Section 3(k) amends section 311 to provide that a point of order will lie against any legislation that would cause the total budget authority, outlay, Social Security outlay, or Social Security revenue levels to be breached in either fiscal year of the biennium or that would cause revenue, Social Security revenue, or Social Security outlays levels to breached for the sum of the biennium and the four outyears covered by the resolution. Currently, the budget resolution all budget authority and outlays are enforced for the first year covered by the budget resolution and Social Security outlay, Social Security revenue, and total revenues are enforced for the five years covered by the budget resolution.

Section 3(l) amends section 401(b)(2) to make a conforming change regarding the referral of certain entitlement legislation to the Appropriations Committee.

Section 3(m) amends section 603 to make a conforming change regarding automatic allocations to the House Appropriations Committee if the budget resolution is not adopted by May 15th.

Section 4 amends the Senate pay-as-you-go point of order that prohibits consideration of legislation that would increase the deficit over a ten year period. The current Senate pay-as-you-go point of order prohibits consideration of legislation that would increase the deficit in the first year, the sum of the first five years, or the sum of the last five years. Section 4 modifies this point of order to prohibit consideration of legislation that would increase the deficit for the sum of the first two years (the biennium), the sum of the first six years, or the sum of the last four years.

Section 5 amends the relevant sections of Title 31 of the U.S. Code regarding materials the President's budget submission and related documents.

Section 5(a) amends section 1101 to add a definition of "biennium".

Section 5(b) amends section 1105 to require the President to submit the budget the first Monday of February for every odd-numbered year (except the schedule in section 300(b) of the Budget Act applies for years in which a new President is elected). Section 5(b) also amends a number of requirements in section 1105 to conform the President's budget to a biennial budget. Among these changes, the President's budget would have to propose levels for each fiscal year in the biennium and projections for the four succeeding years.

Section 5(c) amends section 1105(b), regarding estimated expenditures and proposed appropriations for the legislative and judicial branches, to require the submittal of these proposals to the President by October 16th of even-numbered years.

Subsections (d) and (e) of section 5 make conforming changes to section 1105 regarding the President's recommendations if there is a proposed deficit or surplus and capital investment analyses.

Section 5(f) amends section 1106 to change the requirements regarding the President's "Mid-session Review". Current law requires the President to submit the Mid-session Review before July 16 of each year. Section 5(f) requires the President to submit a "Mid-biennium Review" before February 15 of each even-numbered year. With this modification, the President will submit his biennial budget at the beginning of each odd-numbered year and provide updated information on the budget at the beginning of each even-numbered year.

Section 5(g) amends section 1109 to make conforming changes to require the President to submit current services estimates for the upcoming biennium and to require the Joint Economic Committee to submit an economic evaluation to the Budget Committee as part of its views and estimates report. This subsection also makes two technical corrections to require the President to submit the current services information with his budget submission and to require the Joint Economic Committee to submit its economic evaluation within 6 weeks of the President's budget submission.

Section 5(h) makes amendments to provisions regarding year ahead requests on authorization legislation to require the President to submit requests for authorization legislation by March 31st of even-numbered years.

Section 5(i) amends section 1119 to conform a requirement regarding agency budget justifications and consulting services information to the biennial budget submission.

Section 6 amends section 105 of Title I of the U.S. Code regarding the form and style of appropriations Acts to require that they cover two years.

Section 7 adds a new section 314 to the Budget Act that establishes two new points of order in the Congress against authorization legislation. The first point of order prohibits consideration of authorization legislation that covers less than 2 years except for temporary activities. The second point order prohibits consideration of authorization or revenue legislation until the Congress has completed action on the biennial budget resolution, biennial appropriations bills, and all reconciliation bills. These two points of order do not apply to appropriations measures, reconciliation bills, privileged matters, treaties, or nominations. This point of order can be waived by a simple majority.

Section 8 amends section 717 of title 31 of the U.S. Code to require the General Accounting Office to give priority during the second session of a Congress to requests for Federal program audits and evaluations.

Section 9 establishes a stopgap funding mechanism to provide funding authority for the second year if Congress enacts an appropriations bill that only funds one year. This automatic funding authority does not apply to supplementals or continuing resolutions.

Section 9(a) amends chapter 13 of title 31 to add a new section 1311. Section 9(b) amends the table of contents of chapter 13 of title 31 to add the new section 1311.

Section 1311(a)(1) provides that if Congress enacts a regular appropriation bill in an odd-numbered year that fails to provide funding for the second year of the biennium, the second year is automatically funded at the first year's level. Section 1311(a)(2) provides that in determining the level of funding for the first year, the President must take into account sequester reductions made pursuant to the Balanced Budget and Emergency Deficit Control Act and cancellations made pursuant to the Line Item Veto Act. Section 1311(a)(3) provides that the automatic funding authority remains in effect only for the duration of the second fiscal year.

Section 1311(b) makes the automatic appropriation in the second year subject to the same terms and conditions Congress established for the first year's appropriation.

Section 1311(c) provides that the funding authority shall not apply to a project or activity if another law prohibits funding for that activity.

Section 1311(d) defines "regular appropriation bill" as any one of the thirteen regular appropriations bills.

Section 10 amends the Government and Performance and Results Act of 1993 (GPRA) to incorporate GPRA into the biennial budget cycle.

The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to develop strategic plans, performance plans, and performance reports. Strategic plans set out the agencies' missions and general goals. Performance plans lay out the specific quantifiable goals and measures. Performance reports compare actual performance with the goals of past performance plans.

GPRA currently requires federal agencies to consult with congressional committees as they develop their strategic plans. Beginning this year, GPRA will require all federal agencies to submit their strategic and performance plans to the Office of Management and Budget, along with their budget submissions, by September 30 of each year. Finally, GPRA requires the President to include a performance plan for the entire government, beginning with the FY 1999 budget.

Section 10(a) and (b) amend section 306 of title 5 and section 115 of title 31 to require agencies to prepare performance plans every two years, in conjunction with the President's development of a biennial budget, and strategic plans every four years (covering a six-year period). This subsection also requires federal agencies to submit a preliminary draft of the performance plans to the relevant authorizing committees by March 31 of even-numbered years. Subsection (b) also requires agencies to include an executive summary of their 10 most important performance goals and to consult with Congress in developing these priority goals. The purpose of this change is to require agencies to highlight the crucial goals for Congress.

Section 10(c) amends section 1105(a)(30) of title 31 to require the President's budget to include aggregate performance report for the executive branch starting with the FY 2002-03 budget. Currently, OMB must submit an aggregate performance plan (known as the Federal Government performance plan) with the President's budget, but GPRA does not require them to prepare a performance report, indicating how they measured up to their goals.

Section 10(d) amends section 1116 of title 31 to make two changes. First, this subsection requires agencies to report to Congress on statutory barriers that limit their ability to meet their mission statement and to propose legislative recommendations to modify or eliminate such barriers. Second, this subsection adds subsections (g) and (h) to section 1116. Subsection (g) would require agencies to include an executive summary in their performance report describing actual results in relation to their 10 most important performance goals. Subsection (h) requires OMB's overall performance report to compare actual results with the goals established in previous federal government performance plans.

Section 10(e) amends section 301(d) of the Budget Act to require Congressional committees to review the strategic plans, performance plans, and performance reports of agencies in their jurisdiction. Committees may then provide their views on the plans or reports to the Budget Committee, if they so choose, as part of their views and estimates report.

Section 10(f) provides that the amendments shall take effect on March 31, 1998.

Section 11 amends the Budget Act to add a new section 315 that provides a majority point of order against consideration in any odd-numbered year of a regular appropriations bill that fails to fund both years of the biennium. This point of order does not apply to supplementals or continuing resolutions.

Section 12 requires OMB to conduct a study within 6 months of enactment of the feasibility of converting the fiscal year to a two year period.

Section 13 provides an effective date for the Act and a transition period. Subsection (a) generally provides that the Act takes effect on January 1, 1998. Section 13(b) provides a transition year to the biennial cycle by requiring the authorizing committees to start consideration of two-year authorization legislation in 1997. The result is that the authorizing committees will act on legislation for the fiscal year 2000–2001 biennium in calendar year 1997. The budget and appropriations committees will then follow by developing a budget resolution and 13 appropriations bills for the fiscal year 2000–2001 biennium in calendar year 1998.

[From the Washington Post, Dec. 8, 1996]

MAKE IT A TWO-YEAR BUDGET

(By Pete V. Domenici)

Democrats and Republicans are pledging bipartisanship cooperation in fashioning this year's federal budget. We should begin by abandoning the outmoded and disorderly annual budget and appropriation process and move to biennial budgeting and appropriating to stabilize our budget decisions. This is the most important reform we can adopt to improve the process, provide for oversight and careful deliberation, and make us accountable to the American people.

This is not a partisan issue. President Clinton, Senate Republican Leader Trent Lott and Democratic Whip Wendell Ford support biennial budgeting and appropriating. It also was recommended in 1993 by the bipartisan Joint Committee on Reorganization of Congress.

Under a biennial budget, the president would submit a two-year budget and Congress would consider a two-year budget resolution and 13 two-year appropriation bills during the first session of a Congress. The second session would be devoted to consideration of authorization bills and for oversight of government agencies.

A biennial budget would dramatically improve the current budget process. It would allow legislators to legislate intelligently. It would provide for oversight of what has been legislated, and it would cut down on the tremendous annual effort that now is devoted to developing and implementing the annual budget.

Consider that each year program managers interrupt their work to develop detailed documents to propose and support their budget. That budget must be reviewed by agency budget officers and senior agency officials before it is presented to the Office of Management and Budget (OMB). After OMB's review and the president's approval, the entire budget is presented to Congress. The executive branch's preparation and review of the budget takes a year.

After the budget is submitted to Congress; the agencies have to track and respond to inquiries from Congress as it considers the budget through the budget resolution, authorizing legislation and, ultimately, through appropriations legislation. The congressional budget consumes another year.

To understand how much effort goes into preparation of the annual budget, one need only look at one agency's budget justification in the annual process. Let's take the civil works program of the Army Corps of Engineers. The corps' civil works budget amounts to roughly $3.7 billion, or 0.2 percent of the total federal budget. Each year the corps prepares and submits to the Appropriations Committee an eight-volume budget justification amounting to 2,005 pages!

Moreover, our current budget process—in which Congress tries to hold hearings, markups and floor action annually on authorization, budget and appropriations legislation—makes it extremely difficult for a member of Congress to fully meet all his or her obligations, much less take the necessary time to fully participate in each of these activities.

While an improvement over what went before, the current budget process is redundant and inefficient. Yogi Berra once observed that "it's never over until it's over," but it seems too often that the budget process is never over. The Senate has the same debate and votes on the same issue three or four times a year—once on the budget resolution, again on the authorization bill and few amendments on the floor, and again on the appropriations bill. In 1993 I found that the Senate devotes roughly 40 percent of its time debating budget resolutions, reconciliation and appropriations bills.

In addition to the time-consuming nature of the budget process, Congress regularly misses its own deadlines and guidelines, which generates cynicism about our work. In the 22-year history of the Budget Act, we have met the statutory deadline to complete a budget resolution only three times. Last year, we broke the Senate record for the most roll-call votes cast in a day on a budget reconciliation bill.

Since 1950, Congress only twice has met the fiscal year deadline for completion of all 13 individual appropriations bills to fully fund the government. Congress usually governs in the breach, rushing to complete action on omnibus continuing resolutions in the best years or government shutdowns in the worst.

A biennial budget, while not a panacea, could improve the budget process dramatically. In 1987 I asked 50 agencies about their views on the biennial budget. Thirty-seven agencies supported a biennial budget. None opposed it. The agencies generally responded that they could operate under a biennial budget, and that it would save money for their operations.

Based on a 1993 congressional study, only 4 percent of discretionary funding—or $18.5 billion of the $541 billion appropriated in FY 1993—required annual funding because of unpredictable funding patterns.

If we have a two-year process, we can deal with another concern—that Congress does not spend enough time reviewing the operations of the federal government. Frankly, the limited oversight we are doing now is not as good as it should be.

Authorizing committees must increase their focus on their oversight role. Implementing the Government Performance and Results Act will begin to force the federal government to produce budgets next year focused on outcomes, not just dollars spent. When the goal is to balance the budget, decisions must be made based on performance. With a biennial budget, we would create an atmosphere that encourages and rewards better oversight, because the entire second year of any Congress would be devoted to authorizations and reviewing program performance.

By moving to a two-year budget and appropriations cycle, Congress can inject stability into a sometimes chaotic system, strengthen congressional oversight and watchdog functions, improve the efficiency of government agencies and—finally, it is hoped—increase the public's confidence that the achievement of balanced budget has been done intelligently, deliberatively and fairly.

Mr. MCCAIN. Mr. President, I rise in strong support of the Biennial Appropriations and Budget Act—A bill introduced today by Senator DOMENICI, the chairman of the Budget Committee. I am pleased to be an original cosponsor of this important legislation. Under a biennial budget, the President would submit a 2-year budget in the first session of a Congress. The priority in the first session of the Congress would be completion of the biennial budget resolution and biennial appropriations bills. The second session would be reserved for authorization legislation and enhanced oversight. The planning and performance requirements of the Government Performance and Results Act of 1993 would be incorporated into the budgeting process as well.

I have long advocated changing our budget process in this manner. As a matter of fact in 1993, I introduced similar legislation. Changing our budget process would give Congress more time to develop and implement long-term budget plans. In addition, the 2-year cycle would allow more time for oversight and thorough evaluation of programs and spending.

Our current process is simply not working. Only three times in the past 20 years has Congress passed the budget resolution on time, and this is only the first step in congressional action on the budget. Only twice since 1950, has Congress met the fiscal year deadline for completion of all 13 individual appropriations bills. Most of the time Congress is rushing to pass appropriations bills, continuing resolutions, or omnibus spending bills at the last minute, trying to avoid a Government shutdown. This is not how we should be managing the power of the purse.

This idea is not new. President Clinton's former Chief of Staff and OMB Director, Leon Panetta, introduced the first biennial budget bill in 1977 when he was a Congressman. Vice President GORE strongly endorsed this idea in his National Performance Review. In his book, "Creating a Government that Works Better and Costs Less," GORE states, "Biennial budgeting will not make our budget decisions easier, for they are shaped by competing interests and priorities. But it will eliminate an enormous amount of busy work that keeps us from evaluating programs and meeting customer needs."

Congress' failure to meet our prescribed deadlines, in current budget process, contributes to the American people's cynicism about politics. The time has come to recognize that our current budget process is broken and we must find a way to fix it. Biennial budgeting is an important first step toward fixing our current system by making our budget process more efficient and streamlined. I hope that Congress will act on this important legislation expeditiously.

Mr. THOMAS. Mr. President, it is an honor to join the chairman of the Budget Committee, Senator DOMENICI, in introducing legislation to create a 2-year budget and appropriations process. Senator DOMENICI has worked long and hard on this issue and I am hopeful that we can finally enact this commonsense reform this year.

The current budget process is breaking down. Congress and the executive branch spend entirely too much time on budget issues. Since the most recent budget process reform in 1974, Congress has consistently failed to complete action on the Federal budget before the start of the fiscal year and, as a result, has increasingly relied on omnibus spending measures to fund the Federal Government. In fact, since 1977, Congress has passed over 60 continuing resolutions just to keep the Federal Government open.

The budget resolution, reconciliation bill, and appropriations bills continue to become more time consuming. In the process, authorizing committees are being squeezed out of the schedule. There are too many votes on the same issues and too much duplication. In the end, this time could be better spent conducting vigorous oversight of Federal programs which currently go unchecked, exacerbating the Federal budget deficit.

In response to these problems, last Congress I introduced legislation that would create a biennial budget process. I am pleased to continue this effort by joining Senator DOMENICI in offering this bill. It will rectify many of the problems regarding the current process by promoting timely action on budget legislation. In addition, it will eliminate much of the redundancy in the current budget process. This legislation does not eliminate any of the current budget processes—each step serves an important role in congressional deliberations. However, by making decisions once every 2 years instead of annually, the burden should be significantly reduced.

Perhaps most importantly, biennial budgeting will provide more time for effective congressional oversight, which will help reduce the size and scope of the Federal Government. Congress simply needs more time to review existing Federal programs in order to determine priorities in our drive to balance the budget.

Another benefit of a 2-year budget cycle is its effect on long-term planning. A biennial budget will allow the executive branch and State and local governments, all of which depend on congressional appropriations, to do a better job making plans for long-term projects.

Two-year budgets are not a novel idea. Nor will biennial budgeting cure all of the Federal Government's ills. However, separating the budget session from the oversight session works well across the country in our State legislatures. It is a solid first step toward restoring some fiscal accountability in our Nation's Capital. I am hopeful this bill will be a catalyst for action on this commonsense, good Government reform.

Mr. FORD. Mr. President, I am pleased to be an original cosponsor of the Biennial Budgeting and Appropriations Act. I am a full-fledged supporter of a 2-year budget cycle—an issue I have been championing since 1981. I believe in its potential as strongly now as I did then. It's an idea whose time has come.

There are several advantages to a 2-year budget cycle. Foremost, there will be a savings of time and money. Congress currently debates spending priorities and funding decisions not only every year, but several times within 1 year. By limiting budget action to only one session of each Congress, we eliminate repetitive votes on budget priorities and spending allocations. We also allow the executive branch and recipients of Federal aid, such as State and local governments, to better manage Federal dollars to get more cents out of the dollar.

Biennial budgeting allows for greater planning and more deliberate spending decisions. Too often, Congress has padded the budget resolution with spending for anticipated reforms and new initiatives only to find that action is not completed on the authorization before the new fiscal year begins. Unfortunately, those funds provided in the budget cannot be deleted or reserved for the next fiscal year, but must be spent on other programs.

A 2-year budget, with one session reserved specifically for oversight and authorizations, will give Congress the time to enact responsible spending proposals before the adoption of a budget resolution and appropriations bill. A 2-year budget cycle will give the executive branch and State and local governments, 2 years to plan for the most efficient use of Federal dollars.

This legislation will give Congress the opportunity to review spending decisions, and allow the executive branch to conduct compliance review. Too often we hear that once a Federal program is created, it will be funded into eternity. Congress simply needs more time to review existing spending programs to determine whether they should be modified, expanded, or replaced.

The Biennial Budgeting and Appropriations Act provides greater funding certainty for State and local governments. Our elected counterparts in the States must plan their budgets in large part around Federal spending decisions. As we know from last year's debate on the budget, Congress all too often misses deadlines and does not complete action before the beginning of the fiscal year. State and local governments simply cannot put their budget deliberations on automatic pilot while Congress completes its work and they cannot be expected to efficiently carry out Federal spending programs if they lack the certainty that funds will be provided on time.

While a 2-year budget won't replace the tough decisionmaking necessary for deficit reduction, it will make our work on the deficit and the Federal budget more efficient and more effective. When I was Governor of Kentucky, 2-year budgeting helped us to lay out a master plan for the entire State. And that master plan enabled agencies, local governments, and constituency groups to do long-term planning—planning that led to greater efficiency, overall cost savings, and equally important, peace of mind about future funding. We need this sort of planning on the Federal level. Ask any constituent what some of their top concerns are, and most, if not all, will talk about wasteful Government spending. If we truly want to address their concerns, I say the 2-year budget is the way to go and I am pleased to join Senator DOMENICI and others in pushing it forward with renewed vigor this year.

Mr. THOMPSON. Mr. President, I am pleased to join Senator DOMENICI as a cosponsor of this important legislation. I supported a similar measure in the 104th Congress and held a hearing last year in the Committee on Governmental Affairs. The issue has been debated over a number of years without success. However, the 105th Congress presents a new opportunity. As chairman of the Governmental Affairs Committee, I pledge my support in moving this measure to the full Senate.

The bill being introduced today has the fundamental goal of moving both the budget and appropriations process to a 2-year cycle—just once at the beginning of each Congress. In addition, it will link program results obtained under the Government Performance and Results Act [GPRA] to the budget process. Congressional committees will be required to review the GPRA reports and provide views and comments in conjunction with their comments on the budget.

Biennial budgeting would provide more time for Congress to conduct greater oversight and indepth evaluations of existing programs. We need to take more time to find out what is working and what is not. Congress should not just rely on good intentions when it passes new measures. We must ensure that the laws we write do provide the benefits and services as envisioned. The current budget process leaves us with far too little time to devote to thoughtful and systematic oversight of Federal programs, and far too little time to develop and consider long-term policy initiatives.

Another important reason I support 2-year budgeting, in addition to enhanced oversight, I believe the bill would provide Members of Congress with more time to spend with the people they represent, receiving their views and insights on Government programs, services, and pending legislation. Freedom from dealing with the budget on an annual basis has the ability to move us closer to a citizen legislature as envisioned by the Founding Fathers. We have no greater responsibility than representing the people of our State. To do so, we need to spend time at home.

On the issue biennial budgeting, once again the States are leading the way, with more than 20 States currently using some form of it. I firmly believe it is time for Washington to recognize the value in this and enact this bill promptly. I support the Biennial Appropriations and Budget Act of 1997, and encourage all my colleagues to do the same. It is an idea whose time has come.

By Mr. WELLSTONE:

S. 262. A bill to amend title 18, United States Code, to provide for the prospective application of certain prohibitions relating to firearms; to the Committee on the Judiciary.

FIREARMS LEGISLATION

• Mr. WELLSTONE. Mr. President, today I am introducing legislation that will make clear that from now on, if you are convicted of beating your wife, your husband, or your children, your actions will result in you forfeiting your firearm privileges, no matter who you are.

The bill amends the Federal law that prohibits someone with a misdemeanor conviction for domestic violence from possessing firearms or ammunition so that the law is applied prospectively only, from the date of enactment. I urge my colleagues to support this bill. We know that all too often the only difference between a battered woman and a dead woman is a batterer with a gun. Many of you are familiar with facts I have stood here and recited in the past: Four women a day are killed at the hands of their batterer;

The California Department of Justice Law Enforcement reported in 1994 that 68 percent of the murder victims known to have been killed by an intimate were killed by firearms, 68 percent;

The likelihood of a woman dying during a domestic assault is directly related to the type of weapon available. When a firearms is available, the assault is three times more likely to end in death than an assault with a knife. If no weapon is available the dispute is 23 times less likely to end in death;

Fifty-seven percent of children under 12 who are murdered are killed by a parent.

These are statistics based only on what is reported. We know that there are people watching who are victims of abuse in their own homes. It is happening to women that you know in your work place, in your church or synagogue and your neighborhood.

Domestic violence is the most underreported crime in the country.

We will not tolerate the violence.

We will not ignore the violence.

We will not say that it is someone else's responsibility.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROSPECTIVE APPLICATION OF THE DOMESTIC VIOLENCE MISDEMEANOR CONVICTION FIREARMS PROHIBITION.

(a) FINDINGS.—Congress makes the following findings:

(1) Spouses, ex-spouses, and current and former boyfriends commit over 1,000,000 violent crimes against women each year, including assault, rape, and murder.

(2) Approximately 28 percent of all women murdered in the United States each year are killed by current or former husbands or boyfriends.

(3) Weapons are used in 30 percent of domestic violence incidents.

(4) Domestic violence calls are one of the largest categories of calls to police each year, and, in some locations, up to one-third of all police time is spent responding to domestic calls.

(5) Studies show that police are more likely to respond to a reported incident within 5 minutes if the offender is a stranger to the victim and that, police are more likely to take a formal report with respect to an incident in which the offender is a stranger to the victim.

(6) Studies show that only approximately 10 percent of spouses who are abused ever call the police, in spite of the fact that conjugal assaults account for 12 percent of all assaults that result in serious injury, 16 percent of all assaults requiring medical care, and 18 percent of assaults that result in the loss of at least a full day of work.

(7) Data compilation suggests that injuries in all domestic assaults are at least as severe as those suffered in 90 percent of violent felonies, although the overwhelming number of domestic violence injuries are considered to be only misdemeanors in most States.

(8) In the 104th Congress, Congress amended the Federal law that regulates the lawful transfer and possession of firearms and ammunition to provide that an individual's conviction of a misdemeanor crime of domestic violence will prohibit the individual from possessing any firearm or ammunition and will prohibit others from licensing or transferring a firearm or ammunition to that person.

(9) The term "misdemeanor crime of domestic violence" is defined in Federal law as a Federal or State misdemeanor crime that "has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim".

(10) For purposes of Federal law, to be considered convicted to be of a misdemeanor crime of domestic violence, a person must—

(A) have been represented by counsel or knowingly waived representation; and

(B) have been tried by a jury or knowingly waived trial by a guilty plea or otherwise if entitled to a jury trial for the offense at issue.

(11) There are exceptions to the new Federal law that may apply to an individual determined to have been convicted of a misdemeanor crime of domestic violence, if "the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable provision provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms".

(12) Congress clearly intended for this Federal law to apply to peace officers. The general exception to the law for firearms and ammunition that are issued for the use of "the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof," does not apply to individuals convicted of a misdemeanor crime of domestic violence.

(b) UNLAWFUL ACTS.—Subsections (d)(9), (g)(9), and (s)(3)(B)(i) of section 922 of title 18, United States Code, are each amended by inserting", on or after September 30, 1996," before "of a misdemeanor".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by the first section designated as section 658 of Public Law 104–208.•

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Montana

[Mr. BURNS] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 5

At the request of Mr. ASHCROFT, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 5, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 10

At the request of Mr. HATCH, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 15

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 15, a bill to control youth violence, crime, and drug abuse, and for other purposes.

S. 25

At the request of Mr. FEINGOLD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 29

At the request of Mr. LUGAR, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Indiana [Mr. COATS], and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 29, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 30

At the request of Mr. LUGAR, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 30, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes.

S. 31

At the request of Mr. LUGAR, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Indiana [Mr. COATS], and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 31, a bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 61

At the request of Mr. LOTT, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from New York [Mr. D'AMATO], the Senator from Alabama [Mr. SHELBY], the Senator from Louisiana [Mr. BREAUX], the Senator from Maryland [Mr. SARBANES], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 72

At the request of Mr. KYL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 72, a bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers, and for other purposes.

S. 74

At the request of Mr. KYL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 74, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 76

At the request of Mr. KYL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 76, a bill to amend the Internal Revenue Code of 1986 to increase the expensing limitation to $250,000.

S. 140

At the request of Mr. FAIRCLOTH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 140, a bill to improve the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

S. 143

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Vermont [Mr. LEAHY], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 143, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 194

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes.

S. 202

At the request of Mr. LOTT, the names of the Senator from Florida [Mr. MACK], the Senator from North Carolina [Mr. HELMS], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 202, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 210

At the request of Mr. MURKOWSKI, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 210, a bill to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE RESOLUTION 16

At the request of Mr. LUGAR, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of Senate Resolution 16, a resolution expressing the sense of the Senate that the income tax should be eliminated and replaced with a national sales tax.

SENATE RESOLUTION 42—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER, from the Committee on Rules and Administration, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 42

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February

28, 1998, under this resolution shall not exceed $1,339,106, of which amount (1) not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,375,472, of which amount (1) not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 43—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 43

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 29, 1998, under this resolution shall not exceed $4,362,646.00 of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $4,480,028.00 of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, U.S. Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 44—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. DOMENICI, from the Committee on the Budget, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 44

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under the rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $3,105,190, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $3,188,897, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, (4) for payments to the Postmaster, United States Senate, (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 45—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

Mr. SPECTER, from the Committee on Veterans' Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 45

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,776,450, of which not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,153,263, of which not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendation for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for (1) the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 46—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL, from the Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 46

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Indian Affairs is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $1,143,036, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) no funds may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,171,994, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) no funds may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees fees paid at an annual rate, (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, (4) for payments to the Postmaster, United States Senate, (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 47—RELATIVE TO ACCURATE GUIDELINES FOR BREAST CANCER SCREENING

Ms. SNOWE (for herself, Ms. MIKULSKI, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Ms. COLLINS, Mr. LEVIN, Mr. AKAKA, Mr. BRYAN, Mr. CLELAND, Mr. TORRICELLI, Mr. HOLLINGS, Mr. FORD, Mr. BINGAMAN, Mr. BREAUX, Mr. KERREY, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. GRAHAM, Mr. DODD, Mr. KERRY, Mr. KENNEDY, Mr. GLENN, Mr. LIEBERMAN, Mr. SARBANES, Mr. LAUTENBERG, Mr. WYDEN, Mr. BAUCUS, Mr. MOYNIHAN, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. BUMPERS, Mr. LEAHY, Mr. FAIRCLOTH, Mr. ROBB, Mr. SPECTER, Mr. D'AMATO, Mr. ABRAHAM, Mr. GRASSLEY, Mr. COATS, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. WARNER, Mr. MURKOWSKI, Mr. THOMAS, and Mr. BOND) submitted the following resolution; which was considered and agreed to:

S. RES. 47

Whereas the National Cancer Institute is the lead Federal agency for research on the causes, prevention, diagnosis, and treatment of cancer;

Whereas health professionals and consumers throughout the United States regard the guidelines of the National Cancer Institute as reliable scientific and medical advice;

Whereas it has been proven that intervention through routine screening for breast cancer through mammography can save the lives of women at a time when medical science is unable to prevent this disease;

Whereas the National Cancer Institute issued a guideline in 1989 recommending that women in their forties seek mammograms, but rescinded this guideline in 1993;

Whereas in 1993, it was difficult to have the same degree of scientific confidence about the benefit of mammography for women between the ages of 40 and 49 as existed for women between the ages of 50 and 69 due to inherent limitations in the studies that were conducted as of that date;

Whereas at that time, the American Cancer Society and 21 other national medical organizations and health and consumer groups were at variance with the decision of the National Cancer Institute to rescind the guidelines of the Institute for mammography for women between the ages of 40 and 49;

Whereas the statement of scientific fact on breast cancer screening issued by the National Cancer Institute on December 3, 1993, caused widespread confusion and concern among women and physicians, eroded confidence in mammography, and reinforced barriers and negative attitudes that keep women of all ages from being screened;

Whereas in 1995, investigators found a 24 percent lower death rate among women who received mammograms in their forties when the world's population-based trials were combined;

Whereas in 1996, Swedish researchers in 2 studies found a 44 and 36 percent lower death rate among women who received mammograms in their forties;

Whereas a number of studies have shown that breast tumors in women under the age of 50 may grow far more rapidly than in older women, suggesting, that annual mammograms are of value to women in this age group;

Whereas on January 23, 1997, a panel convened by the National Institutes of Health reviewed these and other compelling studies but decided not to recommend that the National Cancer Institute reissue its earlier guidelines;

Whereas the Director of the National Cancer Institute and other major national organizations, including the American Cancer Society, expressed surprise and disappointment with this decision;

Whereas the majority (approximately 80 percent) of women who are diagnosed with breast cancer have no identifiable risk for this disease;

Whereas breast cancer is the single leading cause of death for women in their forties and fifties, and a leading cause of death for women between the ages of 30 and 60; and

Whereas more women will be diagnosed with breast cancer this year in their forties (over 33,000 women) than in their fifties: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) adequately designed and conducted studies are needed to further determine the benefits of screening women between the ages of 40 and 49 through mammography and other emerging technologies; and

(2)(A) the Senate strongly urges the Advisory Panel for the National Cancer Institute to consider reissuing the guideline rescinded in 1993 for mammography for women between the ages of 40 and 49 when it convenes in February; or

(B) until there is more definitive data, direct the public to consider guidelines issued by other organizations.

SENATE RESOLUTION 48—RELATIVE TO THE DIRECTOR OF THE OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 48

Resolved,

SECTION 1. TEMPORARY AND INTERMITTENT SERVICE.

(a) DEFINITIIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Senate Fair Employment Practices.

(2) HEARING OFFICER.—The term "hearing officer" means a hearing officer appointed in accordance with section 307(b) of the Government Employee Rights Act of 1991 (2 U.S.C. 1207(b)) (as in effect on January 22, 1995).

(3) OFFICE.—The term "Office" means the Office of Senate Fair Employment Practices.

(b) DIRECTOR.—

(1) SERVICE.—The acting Director may continue to serve as the Director only on a temporary and intermittent basis, in accordance with a contract entered into with the President pro tempore of the Senate, on the recommendation of the Majority Leader and the Minority Leader of the Senate.

(2) CONTRACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) of section 303 of the Government Employee Rights Act of 1991 (2 U.S.C. 1203) (as in effect on January 22, 1995) shall not apply to the serivce of the Director.

(B) EXCEPTION.—The contract shall include provisions concerning such service that are consistent with the last sentence of subsection (b)(1) of such section 303 of the Government Employee Rights Act of 1991.

(c) HEARING OFFICERS.—The President pro tempore of the Senate may extend pursuant to an agreement between the President pro tempore and a hearing officer, a contract that was entered into by the Director and the hearing officer prior to the date of adoption of this resolution. The President pro tempore shall extend any such contract on behalf of the Office in the same manner and under the same conditions as a standing committee of the Senate may procure services on behalf of the committee under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)). The Director shall have no authority under subsection (c) of such section 303 of the Government Employee Rights Act of 1991.

(d) EXPENSES OF THE OFFICE.—

(1) APPROVAL.—The Office shall have no authority to approve a voucher under subsection (d) of such section 303 of the Government Employee Rights Act of 1991, except for the compensation of a hearing officer. The Office shall also obtain the approval of the Committee on Rules and Administration of the Senate for voucher for the compensation of the hearing officer. The Officer shall obtain the approval of the President pro tempore of the Senate and the Committee for any voucher required under such subsection for the compensation of the Director or for reimbursement of expenses for a private document carrier. The Director shall retain authority to make payments described in paragraphs (2) through (5) of the third sentence of such subsection.

(2) LIMITATIONS.—Payments described in paragraph (1) shall be made from amounts made available under subsection (e). The Office shall use the amounts to carry out the responsibilities of the Office in accordance with section 506 of the Congressional Accountability Act of 1995 (2 U.S.C. 1435).

(e) FUNDING.—The Secretary of the Senate may make available amounts, not to exceed a total of $5,000, from the resolution and reorganization reserve of the miscellaneous items appropriations account, within the contingent fund of the Senate, for use by the Office through September 30, 1997.

(f) EFFECTIVE DATE.—This resolution takes effect on January 31, 1997.

(g) TERMINATION.—This authority under this resolution terminates at the end of September 30, 1997.

SENATE RESOLUTION 49—EXPRESSING THE CONDOLENCES OF THE SENATE

Mrs. HUTCHISON (for herself and Mr. GRAMM) submitted the following resolution; which was considered and agreed to:

S. RES. 49

Whereas the Senate has learned with profound sorrow and deep regret of the passing of our colleague, the Honorable Frank Tejeda;

Whereas Representative Tejeda has spent 4 years in the House of Representatives;

Whereas Representative Tejeda served his country honorably in the United States Marine Corps from 1963 to 1967; and

Whereas Representative Tejeda was awarded the Purple Heart, the Silver Star, the Commandant's Trophy, the Marine Corps Association Award, and the colonel Phil Yeckel Award for "the best combined record in leadership, academics, and physical fitness": Now, therefore, be it

Resolved, That—

(1) when the Senate adjourns today, it adjourn as a further mark of admiration and respect to the memory of our departed friend and colleague, who left his mark on Texas and our Nation; and

(2) the Senate extends to his family our thoughts and prayers during this difficult time.

SEC. 2. The Secretary of the Senate shall communicate this resolution to the House of Representatives, and shall transmit an enrolled copy to the family of Representative Frank Tejeda.

Mrs. HUTCHISON. Mr. President, I have a resolution that I am submitting on behalf of myself and Senator GRAMM. I have sent it to the desk and I ask that it be held and that it be cleared by the close of business today.

Mr. President, the resolution is commending and is in honor of a fallen comrade. He was a Member of the House, a member of the Texas delegation, FRANK TEJEDA.

FRANK TEJEDA was a hero, a patriot. He served his country in every possible way. FRANK TEJEDA dropped out of high school at the age of 17 to join the Marine Corps. He liked to tell the story that he thought he would have a couple of months to sit around and dream about being in the Marine Corps. And they said to this young 17-year-old, "We would love to have you. Here are your tickets to California, you leave this afternoon." So he was off on his life adventure in the Marine Corps.

FRANK TEJEDA went to Vietnam. He was a hero in Vietnam. FRANK TEJEDA won not only the Purple Heart but the Silver Star for his heroic performance in going onto a battlefield that was riddled with bullets flying all around him to save a comrade.

He was always there when his country called. After he came back, the high school dropout went to college and graduated. He graduated not only from St. Mary's University, but also went to law school at the University of California at Berkley and received his law degree. Then, he got graduate degrees from both Harvard and Yale. He served in the Texas Senate—I knew him there—and then he came to Congress, and we were able to serve together here.

FRANK was, in every sense, the truest Texan. I was privileged to be at his funeral yesterday in south San Antonio, at St. Leo's Catholic Church. You could see the essence of what FRANK was. You could see it in the people that he had gone to church with all his life. You could see it in the people who eulogized him, that had grown up with him, and who now are also leading citizens of San Antonio. You could see it in the people who were holding signs along the road between the church and Fort Sam Houston, where he was to be buried with full military honors.

No one will be able to fill the shoes of a great Texan like FRANK TEJEDA. He will have a successor. We will have someone that will represent San Antonio and Texas in the U.S. Congress. But you don't fill the shoes of a person who never forgot from where he came, who was always there for the people that he grew up with and that he represented in the U.S. Congress, to make sure that they were part of the great American dream.

He was there for our military, he was there for our veterans. I remember when I was working to make sure that the veterans' pay came when Government was shut down. FRANK TEJEDA was right there trying to help me make sure that that happened. When the people at Kelly Air Force Base learned that their base was going to be shut down, with privatization as an option that was given by BRAC, FRANK TEJEDA and I rolled up our sleeves to go to work for privatization, because we wanted the good people at Kelly Air Force Base to be able to keep those jobs, and because we knew it was in the best interest of our country that they keep those jobs because they are the trained work force.

I think the most important thing I could say about anyone with whom I served in Congress is, if we are in a fight, he was someone I would want in the trenches with me.

That describes FRANK TEJEDA. He proved himself on the real battlefield in Vietnam. He proved that he was someone you would want in the trenches with you when you are fighting for your life, for your country, and he proved it in so many ways in his service in the U.S. Congress.

I will miss FRANK TEJEDA as a friend. America will miss him as a patriot and a hero. I would like for this resolution to be passed today when we close the Senate, and I would like to close the Senate in honor of former Congressman FRANK TEJEDA, who was buried yesterday at Fort Sam Houston with full military honors.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "The President's Fiscal Year 1998 Budget Request for the United States Small Business Administration." The hearing will be held on Wednesday, February 12, 1997, beginning at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Louis Taylor at 224-5175.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Nomination of Aida Alvarez to be Administrator of the United States Small Business Administration." The hearing will be held on Thursday, February 13, 1997, beginning at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Louis Taylor at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, February 4, 1997, at 10 a.m. in open session, to receive testimony concerning the Army sexual harassment incidents at Aberdeen Proving Ground and sexual harassment policies within the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Ms. SNOWE. Mr. President, I ask unanimous consent that the full Committee on Finance be permitted to meet to conduct a hearing on Tuesday, February 4, 1997, beginning at 10 a.m. in room 215–Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an Employment and Training Subcommittee hearing on Fair Labor Standards Act reform, during the session of the Senate on Tuesday, February 4, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate to receive testimony from committee chairmen and ranking members on their committee funding resolutions for 1997 and 1998 on Tuesday, February 4, Wednesday, February 5, and Thursday, February 6, all at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COSPONSORSHIP OF THE SAFE AND AFFORDABLE SCHOOLS ACT

• Mr. ABRAHAM. Mr. President, I rise today to cosponsor Senate bill S. 1, the Safe and Affordable Schools Act. I do so because I am convinced that we owe our children the opportunity to learn in a safe environment and that our children should not find the door to higher education closed to them by high costs. This legislation will help children from low income families escape unsafe schools and at the same time help parents and their children better afford higher education.

We have a crisis in our schools, Mr. President. According to one recent study, 2,000 acts of violence are committed every hour in our classrooms. The study also found that high percentages of students have changed their daily routine because of personal safety concerns, and that most students say they could obtain marijuana within a day if they wished. Drugs and violence have no place in our schools alongside math and history.

To address this problem, the Safe and Affordable Schools Act authorizes $50 million for fiscal year 1998 school choice pilot programs. These moneys may be used to develop, establish, and operate programs to protect children who have been victims of, or witnesses to, violence in our elementary and secondary schools. To encourage local safety measures, the act gives priority to programs providing for suspension, delay, or restriction of driving privileges for minors found to be using drugs.

Mr. President, poor kids in this country should have the same right to attend a safe school as their more well-off counterparts. That is why school choice programs are essential. This bill provides funding for pilot programs and also for broader school choice vouchers to give parents in our less affluent areas a chance to send their children to good schools.

Unfortunately, Mr. President, too many kids who graduate from high school find the doors to higher education closed to them by sky-high costs. Public college and university tuition alone has risen 234 percent over the last 15 years. This has put too tight a squeeze on students and their parents as they seek the opportunities only higher education can provide in our country.

To make higher education more affordable for students in college and for parents saving for their children's education, this legislation provides a number of rational, cost-effective tax incentives. To begin with, Mr. President, this bill establishes the Bob Dole education investment account. Parents would be able to contribute $1,000 per year to this account, and would be eligible to establish an account for each child. The savings will be significant. If a parent puts aside $1,000 at the time a child is born, and contributes $1,000 every year until the child is 18, the investment account would contain $34,000 to pay college costs.

And this legislation offers further help to parents and students. It excludes from taxation educational assistance provided by employers. It also excludes any prepaid higher education disbursement from the State. In addition, the bill would make student loan interest deductible, up to a maximum of $2,500 per year. Finally, the bill would exclude from gross income any moneys received through Federal work study programs.

These provisions will make higher education more affordable. They will keep the doors of opportunity open for all Americans. Combined with school choice measures, they will go a long way toward establishing the equality of opportunity for which our country always has been known.

I urge my colleagues to support this worthwhile legislation.●

RETIREMENT OF PROCTOR JONES

● Mr. LEAHY. Mr. President, the Senate, with its long hours and demanding schedule is not generally known for the long tenure of its Members' staff. Proctor Jones is an exception to that rule. Proctor has served the Senate for more than 35 years. He has spent 27 of those years working for the Committee on Appropriations, outlasting seven committee chairmen. Nobody knows the ins and outs of the appropriations process, better than Proctor Jones.

The energy and water appropriations bill just won't be the same without Senator JOHNSTON leading the Democratic members of the subcommittee and Proctor behind the scenes crafting the bill. It is not a coincidence that the energy and water appropriations bill is usually one of the first to be passed by Congress. Proctor's experience on appropriations, combined with Senator JOHNSTON's bargaining skill made them a formidable pair. They will be sorely missed on the Appropriations Committee. I commend Proctor on his long and dedicated service to the Senate and wish him the best of luck.●

TRIBUTE TO STEVE AND LORRAINE GOREN ON BEING NAMED 1997 DOVER CITIZENS OF THE YEAR

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Steve and Lorraine Goren, co-owners of Farnham's clothing store in Dover, on being named the 1997 Citizens of the Year by the Greater Dover Chamber of Commerce. As a former small businessman myself, I commend their accomplishments.

Farnham's clothing store has been a Dover establishment since 1855. For years, Steve and Lorraine have been involved in Dover's growth in a number of ways.

Steve Goren is a member of the Dover Parking Commission and a trustee at the Dover Children's Home. He is a former member of the Dover Industrial Development Authority, a former director of Great Bay Bank Shares, and was on the board of Southeast Bank. In addition, both Gorens are active in the downtown merchants group.

Lorraine Goren has represented Temple Israel on the board of Dover Cooperative Ministries for years, served as treasurer of the Wentworth-Douglass Hospital Auxiliary and rallied Dover merchants for support during the American Cancer Society's annual daffodil sales. She has also served the Dover Chamber of Commerce as a member of the Cochecho Arts Festival committee and the Apple Harvest Day committee.

Both Steve and Lorraine have dedicated their time, talent and energy to serving the residents of Dover in an exemplary way. The Goren's outstanding community commitment is important to the future and prosperity of New Hampshire's communities. Congratulations to Steve and Lorraine for this distinguished recognition. I am honored to represent them in the U.S. Senate.●

TRIBUTE TO BEATRICE RUTH FAIRFAX

● Ms. MOSELEY-BRAUN. Mr. President, I want to take a moment to talk about Beatrice Ruth Fairfax, a constituent of mine who died on January 14, 1997, at the age of 84, after a lifetime of making a difference in the lives of those she touched. She will be sorely missed by her family, friends, and community.

Upon her graduation from Hyde Park High School, Beatrice Fairfax worked as a writer and became involved in many civil rights and labor union causes. She met her husband, Bob Fairfax, through their involvement in cultural arts activities with the Works Progress Administration [WPA]. They married in 1935 and eventually settled in the Altgeld-Murray public housing development as one of Altgeld's first interracial families. The Fairfaxes worked tirelessly to improve the quality of life for public housing residents. They founded and managed the community's first newspaper, the Altgeld Beacon, while working as beat reporters for the Chicago Defender Newspaper. They also established numerous Boy Scout troops throughout the Chicago Housing Authority [CHA], and founded the Jackson Raiders, an award winning drum and bugle corps. In keeping with Mrs. Fairfax's philosophy, "Before a community can make social sense, it has to make economic sense," the Fairfaxes also participated in the establishment of one of the country's first and largest black owned food coop stores, which was owned by 300 black families and patronized by thousands of public housing residents. In addition, the Fairfaxes were two of the original plaintiffs in Gautreaux versus Chicago Housing Authority, a landmark case which resulted in the end of racially discriminatory practices of the CHA.

After her retirement from the Illinois Department of Labor, Mrs. Fairfax continued to be active in community affairs and maintained affiliations with the American Association of Retired Persons, American Federation of State, County and Municipal Employees, Boy Scouts of America, Girl Scouts of Chicago, Chicago Parent Teacher Association, Citizen Utility Board, Chicago Urban League, Chicago Sinai Congregation, Jewish Council for the Elderly, Illinois Public Action Council, and the Friends of the Chicago Children's Choir, to name a few. In addition to her many substantial accomplishments, on a personal note, I must say that Bea Fairfax was one of the kindest and most generous people I have known. She didn't just talk the talk, but walked the walk. Her life was truly dedicated to improving the lives of others. No one knows that more than her family, including her daughters, Joyce Theresa Fairfax-Wells, and Ruth Mary Fairfax-Frazier, her son-in-law, Anthany Frazier, her former son-in-law, Cornell Wells, her grandchildren, Annika Frazier-Muhammad, Darius Frazier, Monnica Wells, and Jacqueline Wells, her great grandson, Hamza Ibn Omar Frazier-Muhammad, and many other relatives, friends, and members of the community she helped to create. Her death is a great loss, but the legacy of her good works will endure.●

TRIBUTE TO WILLIAM MARVIN ON BEING NAMED THE 1996 MANCHESTER CITIZEN OF THE YEAR

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Bill Marvin, president of Manpower Temporary Services, on being named the 1996 Manchester's Citizen of the Year. I commend his outstanding community commitment and congratulate him on this well-deserved honor.

As chairman of the 1996 Optima Board, Bill oversaw the capital campaigns for the Currier Gallery and the Palace Theatre, the downtown ice skating rink, and the merger of Catholic Medical Center and Elliot Hospital.

Bill is a member of the Manchester Rotary Club, the Manchester Chamber of Commerce and the Catholic Medical Center. He has also brought two area hospitals together and has helped to organize bingo games for the Boys and Girls Club.

He is known to many as always willing to take responsibility, whether to chair a committee, raise money, or oversee a board of directors. Whatever Bill dedicates his time to, he always gets the job done.

While giving his time to all these community projects, Bill and his wife, Ann, operate Manpower Temporary Services which was named the 1995 Service Business by Business New Hampshire magazine.

As a former small businessman myself, I am proud to honor Bill Marvin's outstanding community commitment that is important to the future and prosperity of Manchester. We are indeed indebted to him for his efforts. Congratulations to Bill on this award and his service to New Hampshire and the people of Manchester.•

TRIBUTE TO THE JOHN BAPST MEMORIAL HIGH SCHOOL BAND

• Ms. SNOWE. Mr. President, I rise today to honor the John Bapst Memorial High School Band which honored Maine and America with its outstanding performance during 1997's Presidential Inauguration.

Personally selected by President Clinton to attend the festivities, the John Bapst band had audiences on their feet with rousing renditions of "The Maine Stein Song," "Camino Real," and "Acclamations," to name a few. The band performed on the National Mall, along with bands such as the Count Basie Orchestra, and also at the prestigious Kennedy Center for the Performing Arts.

This is not the first time that Maine has been made proud by the John Bapst band. In 1991, the band was on hand to welcome troops returning home after the Gulf war. For many, their stop in Bangor was the first time on American soil since their deployment. I am certain they will never forget the warm greetings they received in Bangor—which garnered national attention—and John Bapst band played a special part in honoring our servicemen and women. The tradition continued when John Bapst played for President Clinton last November. The President was so impressed with the group that he pledged to invite them to inaugural festivities should he be reelected.

Mr. President, this band represents the very best characteristics of America's young people. Band members set a goal of excellence and worked hard to achieve it, and I believe their efforts should be highlighted. In an era of conflicting and often dubious influences for young men and women, and in a time when negative stories abound in the media, our children should have positive examples to follow. That is why we should shine a spotlight on groups like the John Bapst band, which represent the finest qualities and aspirations of America's youth. I applaud the band members and their director, Julie Ewing, for showing our youth what can be accomplished through commitment and hard work.

In closing, I would once again like to thank the John Bapst Memorial High School Band for their tremendous contribution to the 1997 inaugural festivities, and for making the State of Maine very proud.•

COSPONSORSHIP OF THE OLDER AMERICANS FREEDOM TO WORK ACT

• Mr. ABRAHAM. Mr. President, I rise today in cosponsorship of Senate bill S. 202, the Older Americans Freedom to Work Act. This important legislation would remove existing penalties on outside income earned by Social Security beneficiaries who have reached retirement age.

Currently, Mr. President, persons between the ages of 65 and 69 face a penalty of $1 in reduced benefits for every $3 in earnings above $13,500 per year. This penalty is unfair because it singles out older Americans for double taxation. That is, this income already is subject to normal taxation, and currently is reduced again through the earnings penalty.

The penalty also is unwise, Mr. President, because it discourages trained and experienced people from participating in the labor force. When the current earned income limit was devised back in the 1930's, it was thought that encouraging older Americans to leave the labor force was a good idea. But times have changed. Where during the Great Depression there were too many workers and too few jobs, we face, in the next several decades, a worsening labor shortage. As the baby boom generation reaches retirement age between 2000 and 2010, there will be fewer younger workers to take the place of those who retire. We should be encouraging older Americans to stay in the labor force as long as they can safely continue to make a contribution there. In this way older people can better see to their financial needs, senior citizens will remain more active and thus happier and healthier, and our Nation will continue to benefit from these people's skills and wisdom.

For the sake of our older Americans, and for the sake of continuing economic prosperity for all Americans, I urge my colleagues to support this legislation.•

TRIBUTE TO THE CONCORD HIGH SCHOOL CRIMSON TIDE MARCHING BAND ON REPRESENTING NEW HAMPSHIRE IN THE 1997 INAUGURAL PARADE

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate the students of the Concord High School Crimson Tide marching band for the distinguished honor of representing New Hampshire in the 1997 inaugural parade. All 116 band members and Bill Metevier, the band's director, deserve special commendation for their hard work and achievement. Being selected as 1 of only 20 bands to perform for the President and the First Lady is quite an honor for all the students.

At an inaugural reception on behalf of the Concord High School Crimson Tide marching band last week, I had the pleasure of meeting some of the band members, young men and women, who have demonstrated the hard work and dedication that is characteristic of Granite State students. These band members have proven that determination and teamwork are the hallmark of success both as musicians and students. The Crimson Tide marching band's decision to play the "National Emblem March," composed by E.E. Bagley while he was a resident of New Hampshire, was a very fitting tribute to the Granite State and our role in American history. We were indeed honored to have the Crimson Tide marching band representing New Hampshire with their outstanding musical performances.

The Concord School's Friends of Music also deserve special recognition for their help in raising $20,000 from residents and local companies during such a very short period of time. Without their hard work, the Crimson Tide's trip to Washington, DC, would not have been possible.

Marching in the parade was also a special highlight for these students since the Concord High School is celebrating its 150th anniversary this year.

The Crimson Tide band with their classic military cadet style uniforms have also performed for audiences in Ottawa, Canada, New York City, Williamsburg, VA; and are planning to return to Williamsburg in April.

I want to express my thanks to both the students and faculty at Concord High School for their commitment to excellence. Congratulations to all the students and Bill Metevier on such a magnificent accomplishment.

Mr. President, I ask that a list of the names of these outstanding students be printed in the Record.

The list follows:

Concord High School Crimson Tide Marching Band

Megan Albert, Dylan Allen, Holly Anderson, Matt Andrews, Alicia Andrus, Angela Averill, George Bacher, Jon Balinski, Sarah Ball, Paul Barnwell.

Matt Baron, Ed Barton, Jon Beckwith, Andy Bennert, Erin Benoit, Burt Betchart, Cheryl Blanchard, Melanie Blanchette, Stephen Bloomfield, Desirae Brooks.

Katie Cantwell, Jeff Carlquist, Jessica Carr, Carolyn Chaloux, Dan Connelly, Joan Conroy, Patty Cullen, Nathan Davis, Sara Dickson, Laura Dimick.

Susan Dimick, Kyle Donovan, Parker Donovan, Robin Duckworth, Eric Dyment, Steve Fisher, John Fitzgerald, Kerry Flannery, Nissa Gainty, Leona Geer, Mike Gogelen, Andy Hamilton, Katie Haubrich, Danielle Hebert.

Alex Heinecke, Mike Henninger, Jason Hines, Elizabeth Immen, Brad Jobel, Hillarie Johnson, Danielle Jones, Heidi Jones, Aureta Keane, Ryan Kelly, Phil Kugel.

Jeff Laliberte, Jesse Lamarre-Vincent, David Loo, Shana Lorber, Kevin Lucey, Theresa MacNeil, Ethan Mallove, Tegan Marquis, Courtney Masland, Greg May, Sarah May, Luke Maziarz.

Sarah Maziarz, Sarah Metting, Lolly Mielcarz, Carl Mintken, Karen Morin, Mary Moss, Miho Nakashima, Chris Newell, Christina Newton, Devin O'Connor.

Tim Osmer, Bill Osmer, Brent Paige, Eddie Parker, James Perencevich, Eric Pierce, Erika Poisson, Jill Ramsier, Kristen Randall, Kristen Reed, Tricia Reed.

Lynn Reingold, Andrew Ritchie, Becca Roy, Jen Russell, Dan Sarapin, Elaine Sarnosky, Tony Sartorelli, Gianna Scarano, Kevin Scribner, Sara Sheehy, Lucas Smith, Rosco Smith.

Calee Spinney, Geoffrey Stebbins, John Sullivan, Dan Turk, Rachel Turk, Stacey Ulmanis, Daniel Vyce, Jessy Wallner, Sara Walsh, Carlyn Wanta, Tiffany Watkins, John Webb, Jon Weiss, Amanda Welch, Cullin Wible, Carll Wilkinson.●

RULES OF THE COMMITTEE ON THE BUDGET, 105TH CONGRESS

● Mr. DOMENICI. Mr. President, in accordance with rule XXVI paragraph 2 of the Standing Rules of the Senate I hereby submit for printing in the CONGRESSIONAL RECORD, the rules governing the procedures for the Committee on the Budget for the 105th Congress which were adopted by the committee earlier this week. The only change from the rules of the committee for the 104th Congress is the addition of a new rule which adopts the Senate's rule regarding the use of charts in the Senate Chamber.

The rules follow:

RULES OF THE COMMITTEE ON THE BUDGET, 105TH CONGRESS

I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chair as the chair deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interest of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

II. QUORUMS AND VOTING

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: Provided, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: Provided, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of our Senator.

(4)(a) The Committee may poll—

(i) internal Committee matters including those concerning the Committee's staff, records, and budget;

(ii) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and

(iii) other Committee business that the Committee has designated for polling at a meeting, except that the Committee may not vote by poll or reporting to the Senate any measure, matter, or recommendation, and may not vote by poll on closing a meeting or hearing to the public.

(b) To conduct a poll, the Chair shall circulate polling sheets to each Member specifying the matter being polled and the time limit for completion of the poll. If any Member requests, the matter shall be held for a meeting rather than being polled. The chief clerk shall keep a record of polls; if the committee determines by record vote in open session of a majority of the members of the committee present that the polled matter is one of those enumerated in rule I(2)(a)–(e), then the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a Member who is unable to attend the meeting may vote by proxy if the absent Member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no Member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chair and ranking minority member determine that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of proposed testimony at least 1 day prior to appearance, unless the requirement is waived by the chair and the ranking minority member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.

VI. USE OF DISPLAY MATERIALS IN COMMITTEE

(1) Graphic displays used during any meeting or hearing of the committee are limited to the following:

Charts, photographs, or renderings:

Size: no larger than 36 inches by 48 inches.

Where: on an easel stand next to the Senator's seat or at the rear of the committee room.

When: only at the time the Senator is speaking.

Number: no more than two may be displayed at a time.●

JUVENILE JUSTICE PROVISIONS IN CRIME BILL

● Mr. ABRAHAM. Mr. President, I rise in support of S. 10, the Violent And Repeat Offender Act of 1997, introduced recently by my good friend, the Senator from Utah, who I know developed this legislation in close cooperation with the majority leader and my new colleagues on the Committee, the Senators from Missouri and Alabama. While I do not necessarily agree with every provision of this legislation, I believe overall it makes great improvements over our general framework for handling juvenile crime, and I am therefore pleased to be an original cosponsor of this bill.

This legislation is urgently needed. Over the past decade, the rate of homicide committed by teenagers, ages 14–17, has more than doubled. Crimes of violence committed by juveniles have increased by almost 100 percent. In 1994 alone, the number of violent crimes committed by juveniles increased by almost 10 percent. Drug use among teens—a significant factor in violent crime—is on the rise again, after nearly a decade of steady decreases.

We have reached the point that 35 percent of all violent crime is committed by offenders less than 20 years of age. Today's teenaged criminal is far more likely to be a murderer than was his counterpart 20 years ago.

These trends are expected to continue well into the 21th century. Meanwhile, our current approach to juvenile crime is anachronistic and based on faulty premises. It assumes that we should be following a treatment and rehabilitation model for all juvenile crimes—whether what is involved is petty larceny or murder—and it then tries to leverage Federal dollars that we make available to the States to impose this model on their juvenile justice systems. For instance, the existing Juvenile Justice Act requires that States that receive money under the act look to alternatives to incarceration for all juvenile offenses without regard to the offense committed by the juvenile.

This bill corrects that by substantially revising both the Federal Government's approach to juvenile crimes that fall under its jurisdiction and the terms on which we make Federal dollars available to the States. At the Federal level, S. 10 will permit juveniles 14 years olds or older who are charged with murder, crimes of violence, or serious drug offenses to be prosecuted and sentenced as adults. Federal courts will be required to consider prior offenses in sentencing juveniles, just as they would with adult offenders. Juveniles sentenced to Federal prisons will no longer be automatically released on their 21st birthdays, but will serve their full sentences.

The bill also attacks violent juvenile crime by enhancing penalties relating to the paraphernalia of violence. Federal penalties are increased for these offenses: illegally transferring a hand gun to a minor; possession of a firearm during the commission of a felony; and use of body armor during the commission of a felony.

Finally, this bill authorizes new Federal funding for various valuable State juvenile justice programs while relieving them from burdensome, outdated, unnecessary and in some instances harmful requirements for obtaining funds previously authorized for this purpose. The bill will fund fingerprinting and DNA testing for juvenile offenders, expanded record-keeping, and workable prevention programs. It will also release the States from harmful Federal mandates, permitting greater innovation and flexibility in State juvenile justice systems. While the bill continues to ensure that juvenile and adult offenders are not in actual contact in jail or prison together, it eliminates many other requirements that presently accompany acceptance of Federal juvenile grants such as the obligation to avoid if at all possible incarcerating any young offender including a murderer.

The new conditions on grants established in S. 10 are designed to assure that recipient States' juvenile systems are not based on the notion—unfortunately previously foisted on the States by the Federal courts and the Congress—that all young offenders are eager to be rehabilitated. Rather, they take the realistic view that recipients' juvenile systems should respect the rights of juvenile offenders and the special considerations that may be appropriate for dealing with them in some instances, but that they must principally be designed to protect the public safety and be adequate to do so. Thus, for example, the bill requires that recipient States permit prosecution of juveniles 14 and older as adults in cases of murder, rape, or other crimes of violence.

The juvenile justice reforms in this legislation are long overdue. I urge the Senate to act quickly in passing the Violent And Repeat Offender Act of 1997.●

LEGAL SERVICES CORPORATION

● Mr. SARBANES. Mr. President, for over two decades, the Legal Services Corporation, or LSC, has been the embodiment of the words emblazoned in stone above the Supreme Court: "Equal Justice Under Law." In its effort to fulfill this commitment, the Legal Services Corporation has provided critically needed services to millions of poor, elderly, and disabled citizens who otherwise would not have access to the American legal system and the protection it affords the many basic rights we have in this country—protection which so many of us take for granted. The Legal Services Corporation has also proven to be one of the most efficient Federal programs in existence, using only 3 percent of its total funding for administration and management.

Yet in recent years, the Corporation's ability to satisfy its mandate has been imperiled by congressional efforts to limit its activities, both by cutting the Corporation's funding and by restricting the kinds of activities in which its lawyers could engage. Some of these efforts have already succeeded, and I suspect that further initiatives in this vein will emerge in the 105th Congress.

But Mr. President, before we hasten down this path, let us look at what we have already wrought with respect to the ability of our Nation to provide legal services to the needy.

I use as an example the effect of cutbacks in the Legal Services Corporation in my own State of Maryland. Maryland's Legal Aid Bureau receives by far the largest portion of its funding from the Legal Services Corporation, and over the years has done an outstanding job of representing Maryland citizens living in poverty. With the funding received from LSC, the 13 legal aid offices located throughout Maryland provide general legal services to approximately 19,000 families and individuals annually.

In contrast to this tradition of effective service, a January 23 article in the Baltimore Sun entitled "Poor Have Trouble Getting Legal Help" demonstrates the current state of legal services in Maryland—a state in no small part due to Congress's recent scaling back of the LSC.

The article notes that over 1 million Marylanders qualify for legal services, but that volunteer lawyers—the source of the majority of legal assistance with the implementation of Government cutbacks—are barely making a dent in the caseload. In fact, Mr. President, Robert Rhudy, executive director of the Maryland Legal Services Corporation, a State-created organization that administers legal assistance programs in the State, estimates that the Maryland Legal Aid Bureau has the ability to address only 20 percent of the matters that come to its attention.

The article also notes that recent studies confirm these estimates, finding that about 80 percent of the State's poor lack access to volunteer lawyers. Mr. President, these developments are shameful, and cannot be tolerated by a society that prides itself on its commitment to constitutional principles of equal protection of the laws and equal access to justice.

Part of the solution certainly lies in encouraging and facilitating volunteerism in our legal communities. Pro bono service is part of a lawyer's ethical obligations. At the same time, we in Congress bear real responsibility for the shortage of legal assistance to the poor. Our efforts to cut back LSC funding in recent years have had a devastating impact on the poor, and have tilted the scales of justice in a way that the creators and founders of LSC would have found to be intolerable.

Mr. President, I ask that the January 23 Baltimore Sun article be printed in today's RECORD. I daresay that many other States have stories similar to those in my State, and I urge my colleagues to investigate their States' situation before once again lining up to do away with a program that should be one of the great prices of our Nation.

The article follows:

[From the Baltimore Sun, Jan. 23, 1997]

Poor Have Trouble Getting Legal Help—Few Lawyers Agree To Give Free Service

(By Elaine Tassy)

Poor Marylanders who need legal help are likely to have trouble finding it, and with federal funding cuts at agencies that handle such cases, the problem is worsening.

More than a million Marylanders have income low enough to be eligible for free civil legal services, said Robert J. Rhudy, executive director of Maryland Legal Services Corp. Low-income households often have several legal problems in a year.

But volunteer lawyers are barely making a dent in that need.

"Of those problems that could clearly benefit from legal attention, we believe that we currently have the ability to serve the need of less than 20 percent . . ." said Rhudy, whose organization was created by state legislators to help manage and fund free or reduced-fee services.

Only about 5,000 new cases were handled last year by volunteer lawyers serving in programs that keep statistics, according to Sharon E. Goldsmith, executive director of the People's Pro Bono Action Center Inc.

And, although the number of volunteers is actually greater because some lawyers provide services without being party of any program—by offering advice to community groups, for example—studies have shown that about 80 percent of the state's poor lack access to volunteer lawyers.

"We have clients on waiting lists all the time . . . We've probably got a couple hundred cases sitting here," said Winifred C. Borden, executive director of Maryland Volunteer Lawyers Service, the largest of several Baltimore-based agencies that match volunteer lawyers with cases presented by poor people. Those in need often wait months before a volunteer is found, she added.

The shortage of lawyers willing to do free, or pro bono, work in civil cases—unraveling family, employment, disability, education and housing disputes—has prompted agencies that recruit volunteers to step up their efforts.

"We all recognize there is this tremendous need," said Baltimore County Circuit Judge Dana M. Levitz, who also is seeking new ways to recruit lawyers for such cases.

No statistics.

No one knows how many lawyers do pro bono work. "We've never been able to come up with a tracking system," said Janet Stidman Eveleth of the Maryland State Bar Association.

Studies have found that in addition to those doing pro bono work independently, about a fourth of Maryland's 20,000 practicing lawyers volunteer through programs such as the Homeless Persons Representation Project, the House of Ruth Domestic Violence Legal Clinic and the Senior Citizen Law Project.

But many experts think the number of volunteer lawyers is still too small.

"I think lawyers like [doing pro-bono work] in principle, and a substantial number of lawyers do it. But at the moment, I think that it's getting harder and harder to find lawyers who are willing to take pro bono cases," said David Luban, professor of legal ethics at the University of Maryland School of Law.

Lawyers have vigorously resisted proposals to require each of them to do 50 hours of pro bono work a year, he said.

No enforceable requirement exists for volunteer legal work. But the rules that govern Maryland lawyers state: "A lawyer should render public interest legal service . . . by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations."

Demand for such services is rising. Congress has scaled back the services the Legal Aid Bureau—a nonprofit organization providing civil legal services to the poor—is permitted to provide and has trimmed its budget in recent years, creating more demand for volunteers to fill the gap.

NO FREE TIME

Some lawyers say they are held back by a lack of free time, conflicts of interest and difficulty in finding cases that match their expertise. Others say they will help but don't follow through.

For example, Borden said, from July 1995 to June 1996, 2,017 lawyers signed up to volunteer and 788 took cases.

The number of volunteers expressing interest also has decreased in recent years. A statewide survey found that in 1989, almost 1,700 cases new cases were handled by volunteers working with structured programs. The number jumped to almost 6,000 by 1993 but dropped to 5,253 in 1995, the most recent statistics available, said Goldsmith.

People with thorny, time-consuming domestic matters such as child-custody disputes are the most likely to request volunteers. But many lawyers shy away from such cases.

Criminal-defense lawyer Leonard H. Shapiro, who often handles drunken-driving cases, said volunteering appeals to him, but only in cases in which he has expertise.

"I don't want to engage in an area of the law where I don't think I'm qualified," he said. "I wouldn't want to put the client in jeopardy while I experimented."

SPECIALTIES LINKED

Volunteer agencies are working to link lawyers with programs or cases that reflect their specialties.

Goldsmith tries to match tax lawyers, for example, with economic development projects such as Habitat for Humanity's in Sandtown-Winchester, where residents need help in acquiring loans and property.

Levitz, after seeing dozens of poor defendants appear before him without lawyers, asked the Judicial Ethics Committee whether judges could recruit volunteers by writing letters of inquiry, placing ads in legal newspapers or talking to lawyers at bar association meetings.

Two years ago, the committee, most of whose nine members are judges, prohibited such actions. But it reversed its stance in October, saying judges could seek volunteer lawyers in those ways.

IDEA STUDIED

At a recent meeting of Baltimore County judges, Levitz presented the idea of seeking volunteers; a three-judge panel is studying the idea.

Some lawyers balk at volunteering, but others embrace it.

Daniel V. Schmitt is one of the latter. He handles general business and commercial litigation cases at a four-person firm in Towson, and provides 60 hours of free legal help annually to special education students in Baltimore and Harford counties.

Using referrals from the Maryland Disability Law Center, he helps students get into appropriate schools and classes, and helps find computers equipped for people who cannot type with their hands.

"I believe that pro bono is a professional and moral obligation," said Schmitt, 38. "As a professional, I feel you need to hold yourself to a higher standard, and a higher standard would include giving back to the community."•

VERMONT CHIEF JUSTICE JEFFREY L. AMESTOY

• Mr. LEAHY. Mr. President, Vermonters are rightfully proud of their new chief justice of the Vermont supreme court, Jeffrey L. Amestoy.

Chief Justice Amestoy—a Republican who left behind a distinguished tenure as Vermont's attorney general when he accepted the nomination to Vermont's highest judicial post by Gov. Howard Dean, a Democrat—was administered the oath of office by Governor Dean on January 31 in Montpelier.

I was one of many who were present as Chief Justice Amestoy delivered the traditional inaugural address in the chamber of the Vermont House of Representatives. It was more than a speech to be heard. It was also a speech to be felt. He offered an illuminating, uplifting, heartfelt, and deeply personal tapestry that deservedly will long be remembered.

Governor Dean has said, "The most important things in a judge are integrity, compassion, and hard work." All who know Jeffrey Amestoy and all who heard him speak on that wintry Vermont afternoon know how abundantly those qualities are present in our new chief justice.

I join all Vermonters in offering congratulations to Chief Justice Amestoy, to Jeff's wife, Susan Lonergan Amestoy, to their three daughters, Katie, Christina, and Nancy, and to Jeff's mother, Diana Wood Amestoy. All were on hand for the stirring ceremony in Montpelier.•

Mr. JEFFORDS. Mr. President, I join Senator LEAHY today in paying tribute to Vermont's new chief justice, Jeffrey L. Amestoy. Jeff is a good friend and a great Vermonter, and I know he will serve in his new post with distinction and honor.

Jeff Amestoy and I have shared many life experiences. We were both raised in Rutland, VT. He served as an assistant attorney general under my stewardship as Vermont's attorney general in the early 1970's. And now, over 20 years later, he is serving in the position that my father, Olin Jeffords, once held: chief justice of the Vermont supreme court.

As someone who has known Jeff for over 25 years, I can attest to his judicial knowledge, his keen sense of Vermont values, his modest demeanor and his dedication to the people of Vermont.

I was fortunate to be able to attend the swearing-in ceremony for Jeff last Friday in Montpelier. It was a wonderful event, one that I will never forget. Jeff's comments were from the heart and I am pleased to join Senator LEAHY in offering them today as part of the RECORD.

• Mr. LEAHY. Mr. President, on behalf of Senator JEFFORDS and myself, I commend to the attention of our colleagues Chief Justice Jeffrey Amestoy's inauguration address before the Vermont House of Representatives on January 31, 1997, and submit the text to the speech for the RECORD, as printed in the Times Argus of Barre, VT, on February 1, 1997.

The text of the speech follows:

INAUGURAL ADDRESS OF CHIEF JUSTICE JEFFREY L. AMESTOY

Three weeks ago, at the occasion of my nomination for the position of chief justice, I said I had so many people to thank I didn't know where to end.

Today the task is even more difficult.

But I still know where to start: Thank you, Governor Dean.

To my "particular friend," Susan Lonergan Amestoy: I could not have made this journey without you—and it wouldn't have been as much fun.

To Katherine, Christina, and Nancy Amestoy—for whom this is the third visit to the State House this month—thank you for your patience.

I thought the events of the past 30 days might have been bewildering to our daughters, but Katie Amestoy had it exactly right when she told a friend on the day of my second interview with the governor:

"I can't come over today. My Dad's trying out for Chief Justice."

I thank my mother, Dianna Wood Amestoy, for being here today and for always being there in times of need.

For those of you for whom a desire to impress your parents is a part of your motivation, I offer the following cautionary tale.

When I called my mother to tell her of my nomination, she replied:

"That's wonderful. I've just been hang gliding in Montana."

If I can bring one half of my mother's energy, and one quarter of her sense of humor to my new responsibilities, Vermont will be well served.

Thank you (Wisconsin) Attorney General (James) Doyle, and thank you Attorney General Malley for your generous words.

Present today are colleagues—current and former—from the National Association of Attorneys General. They, together with the staff of the Vermont Attorney General's Office, have not only supported me professionally during the last dozen years; they have been among my closest friends.

And if it is true, as I believe it to be, that one can be judged by the friends one treasures, then you will understand why their being here today means so much to me.

There are also here individuals to whom I cannot ever make an adequate expression of thanks.

When I became a candidate for public office, the best advice I ever received was: "Never pass an old friend to say hello to a new one."

Today is special for many reasons, but most of all because our old friends are here.

Twenty years ago, as a young assistant attorney general, I spent a Sunday in the law library preparing for an oral argument the next day before the Vermont Supreme Court.

Then, as now, the law library was next to the court. But in those days, the doors to the Supreme Court were unlocked during the weekend.

And so when I finished a long day's preparation, I went into the empty courtroom and sat in the seat of a Vermont Supreme Court Justice.

The next morning I appeared before the Court. As chance would have it, as I began my argument, I was interrupted by Justice Larrow.

Some here may remember Justice Larrow's reputation as an incisive interrogator. If you argued before him you will recall his habit of clearing his throat just before he reached the most penetrating portion of his inquiry.

"Mr. Amestoy," he began, "would you please tell this court what gives you the right * * *" and at this point, as Justice Larrow began clearing his throat, I was struck with the awful realization that it was Justice Larrow's seat I had sat in the previous afternoon.

For one terrible moment I thought I was going to be asked: "What gives you the right to sit in the seat of a justice of the Vermont Supreme Court?"

There may be some here who have a similar question. If so, I am grateful to you—as I was to Justice Larrow that day—for not asking.

I believe, if I meet the standards I have set for myself, the question will occur to you less often in the future.

I am privileged to join a court comprised of individuals with whom I have worked and for whom I have great respect.

Justice Johnson and I worked closely together at the Office of Attorney General, where she was an unexcelled chief of the Public Protection Division.

I have known Justice Morse since his service as defender general and his work as one of Vermont's finest trial judges.

Justice Dooley and I worked together when he served as Governor Kunin's legal counsel and secretary of administration. More recently, I participated with Justice Dooley in the court/prosecution program in Karelia. Joining us in Russia was, among others, Maryland Attorney General Joseph Curran.

Hence, Attorney General Curran is the only attorney general in the country that knows both John Dooley and me. It was that knowledge that led the Maryland attorney general to offer the observation, when he learned that John and I were being considered for chief justice, that I was a strong second choice.

That is an opinion, I know, that is not exclusive to the state of Maryland.

Justice Gibson, as all who know him would anticipate, has been extraordinarily generous and helpful to me.

All here know, I am sure, that Justice Gibson's career is consistent with the unparalleled contributions to public service by the Gibson family.

What may be less well known is that Justice Gibson plays first base for the combined court/attorney general softball team.

As a rookie second baseman, I was saved from several errors by the sure grasp and long range of first baseman Gibson.

I will rely on that same grasp and range to minimize the errors of a rookie chief justice.

I also take the liberty today of expressing my gratitude to former Chief Justice Allen—not just for his courtesies to me, but for his service to Vermont.

In the 1980s, history linked the chief justice of Vermont and the attorney general of Vermont more closely than either one of us would have chosen. Although I do not know all that occurred during the unhappy years enveloped by the "judicial misconduct" controversy, I know more than all but a few in this chamber.

It may be that another individual in the position of chief justice during those troubled years could have struck the critical balance necessary to keep the court functioning without sacrificing the integrity of the institution.

But I, for one, am glad that we do not have to test the hypothetical.

And surely it is difficult, even as a hypothesis, to imagine another chief justice who could have brought the court through those difficult days and led the court to a point where, by every objective measure, it is now more efficient than at any time in its history.

So today I deliver my first opinion as chief justice. It is one which I know to be unanimous. It is an opinion which will be corroborated by the judgment of history:

Frederic Allen was a great chief justice.

Fred Allen's shoes are being ones to fill.

But—I brought my own shoes.

If a span of years in which to serve as chief justice is granted to me by God and the Legislature (that's an alphabetical listing, Mr. Speaker!), I shall judge my success, or lack thereof, against three objectives.

First, and by far the most important: Did I contribute to the faith of Vermont's citizens in our judicial system, and to their trust in the character of those entrusted with its authority?

Second: Did I, as chief appellate judge of Vermont, contribute to a body of law that clearly and concisely communicates to litigants, lawyers, and trial judges the standards to be used to achieve the just and timely resolution of disputes?

Third: Did I, as chief justice, ensure that the judiciary, as a separate and co-equal branch of government, has the resources necessary to fulfill its responsibilities and the accountability for the use of those resources?

For that work, I will need the help of all, most especially the judges and staff of the trial courts who honor me with their presence today.

When it became apparent that I was to assume the duties of a new position, I received several calls from those most directly affected by my status.

The callers were cordial but all had the same message, which may be summarized as follows:

1. I should remember who had trial court experience and who didn't.

2. I should realize that there were many in their group that were equally or more qualified than I.

3. I should never forget that, while I might now have the impressive title, the real work was done in the trenches of the day-to-day business of the trial courts.

I am referring, of course, to the calls I received from state's attorneys when I was first elected attorney general!

I trust that my past work will offer some guide to what the future may hold. In any event, I shall do my best to avoid the example of the Vermonter who—when asked by his neighbor if he had an opinion about a controversial issue to be heard at Town Meeting—replied: "Not yet. But when I do take a position, I'm prepared to be bitter!"

I believe in "civility in public discourse and constancy in private affection."

And I believe, with Learned Hand, that "the spirit of liberty is the spirit that is not too sure it is right."

We will need that spirit more than ever to meet the changes that the new century will surely bring.

Two years ago, I spoke to new citizens at a naturalization ceremony in Newport, Vermont. The event coincided with the completion of the debate in the Vermont Legislature over the proposed resolution relating to the flag burning amendment.

That probably accounted for the fact that the hosts for the ceremony—the American Legion—were somewhat less enthusiastic about my presence than when the invitation to speak was extended.

But whatever one's view of that proposed amendment, it is remarkable, as I observed then, that upon taking the oath of citizenship, had one of the new citizens refused to recite the pledge of allegiance, neither the attorney general of Vermont, nor the attorney general of the United States, nor the entire United States government, could have compelled recitation of the pledge.

Indeed, the judicial system would have protected the new citizen and provided redress for any attempted compulsion.

But, of course, each of the new citizens recited the pledge of allegiance of their own free will and with more meaning than I am accustomed to hearing.

It is an inherent American trait to look at the courts to vindicate one's rights. With God's grace, it shall always be so. But it is neither law nor courts that shall secure our future.

"Liberty," said Learned Hand, "lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it."

So although I have much to learn about judging, it seems to me that Curtis Bok was right when he said of his own judicial experience ". . . there still remains a mystery . . . that defies analysis."

"Perhaps," wrote Judge Bok, "it would be better to say that a judge's cases take hold of him and pull things out of him, and that it is his business to be sure to keep the proper supplies on hand, so far as he can be the master of that."

If "the proper supplies," or at least a portion of them, are integrity and hard work, compassion and common sense, an abiding respect for the dignity of the individual and the value of community—then, to the extent I start today with those "supplies," it is because of the people in this room and the Vermont we love.

And it is because of one who is not here, nor ever could be the seven other times his son took the oath of office in this historic chamber.

More than four decades ago, a young father took his son to Hand's Cove on Lake Champlain for a day of duck hunting.

But the father soon understood that of his son a hunter he could not make.

So he turned the day into a history lesson, for Hand's Cove is where Ethan Allen and the Green Mountain Boys gathered before their raid on Fort Ticonderoga in the early morning of May 1775.

From the father's description of the events sprung a boy's interest in history and the individuals and ideas that shape it.

Many years later—when the boy was much older than the father had been on that day—his interest in law led him to Learned Hand.

And to the realization, which somehow seemed fitting, that Hand's Cove was the home of—indeed had been named for—the Vermont ancestors of the great judge.

Logic tells me that there is no connection in the coincidence of a place from which sprung the beginning of this state, and the family of a remarkable jurist, and a father's gift to his son.

But my heart tells me otherwise.

And I believe in the "restless wisdom of the heart."

And I believe, too, in the wisdom of the poet who says to each of us—a chief justice no less than the child who even now gazes out a window, perhaps on Leonard Street: "We see but what we have the gift of seeing"; to this life, "What we bring, we find."●

TRIBUTE TO THOMAS, SHEILA, AND STACEY THOMSON ON BEING NAMED NEW HAMPSHIRE'S OUTSTANDING TREE FARMERS OF 1997

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Tom Thomson, his wife Sheila, and their son Stacey, on being named New Hampshire's 1997 Outstanding Tree Farmers of the year. Tom first purchased his own wood lot at the age of 11 with his two older brothers. Today, Tom and his family manage about 2,500 acres of forest in New Hampshire and Vermont.

Stacey, Tom, and Tom's father, former Gov. Mel Thomson Jr., constitute three generations of New Hampshire tree farmers. Tom's tree farm is an example of a multipurpose forest with a diverse landscape. In addition to enhancing wildlife habitat, Tom has also increased recreational opportunities in the forest, opened vistas and taken care of the protection of water quality. He received a prestigious annual award by the New Hampshire Fish and Game Department and the University of New Hampshire Cooperative Extension in 1994, when his 1,060 acre tract in Orford, NH, became designated as a wildlife stewardship area.

Tom is known by many for his adoption of more sustainable forestry practices, and encouragement of his neighbors to do the same. He gives tree farm tours each year to school children, New Hampshire's Timberland Owners Association Board Members, conservation groups, Audubon groups and New England wildflower groups. Most recently, he had also had visitors from Eastern and Central Europe and South America. Tom also works with the New Hampshire Board of Licensure for Foresters, the New Hampshire Current Use Advisory Board, the New Hampshire Ecological Reserve System Steering Committee and the New Hampshire Forest Stewardship Committee. His enthusiasm and outstanding commitment to his work has a very important impact on the future of New Hampshire's beautiful woods.

I have known Tom and his family for many years. They are hard-working, dedicated farmers who embody the true spirit of New Hampshire. Tom's commitments to preservation and forest education are exemplary. I warmly congratulate Tom, Sheila, and Stacey for their outstanding accomplishment and well-deserved honor.●

TRIBUTE TO THE OLD TOWN MARCHING BAND

● Ms. SNOWE. Mr. President, I rise today to honor the Old Town Marching Band of Old Town, ME.

The band made the entire State of Maine proud with its extraordinary performance in the 1997 Inaugural Parade. Countless hours of practice and preparation go into such an effort, and the students' dedication to excellence was obvious and stood as a wonderful tribute to the late Old Town Superintendent of Schools, Dr. John Grady.

I was approached early last year by Dr. Grady, who shared with me his dream of having the Old Town Marching Band represent Maine at this year's inaugural parade. Sadly, Dr. Grady passed away, but his dream lived on in the hearts of bandmembers and the Old Town community. Old Town was one of more than 400 groups seeking to perform in the parade—only 23 were selected, and of those only 9 were high school bands.

Old Town's participation in the 1997 Inaugural Parade is the latest of a long list of accomplishments. The band is nationally recognized, having won numerous awards including first place at the 1994 Saint Anselm College New England Jazz Festival, the Jazz Ensemble Grand Champions at the 1996 Orlando Musicfest, and an award-winning appearance at the 1995 Cherry Blossom parade in Washington, DC.

Mr. President, this band represents the very best characteristics of America's young people. Band members set a goal of excellence and worked hard to achieve it, and I believe their efforts should be highlighted. In an era of conflicting and often dubious influences for young men and women, and in a time when negative stories abound in the media, our children should have positive examples to follow. That is why we should shine a spotlight on groups like the Old Town Marching Band, which represent the finest qualities and aspirations of America's youth. I salute the band as well as its director, Jeffrey Priest, for showing young people what can be accomplished through hard work and commitment.

In closing, I would once again like to thank the Old Town Marching Band for their tremendous contribution to the 1997 inaugural parade, and for making Old Town and the State of Maine very proud.●

TRIBUTE TO REYNALDO MARTINEZ

● Mr. REID. Mr. President, I rise today to pay tribute to my friend and chief of staff, Reynaldo Martinez. Rey has recently been chosen for the Community Hero Award by the National Conference of Christians and Jews, and I am proud of him for receiving this well-deserved honor.

I have known Rey since I was a boy. He and I have worked side by side since he ran my first campaign and got me as elected student body president of Basic High School in 1956. Since then, he has been my adviser, campaign manager, and chief of staff. In addition to helping take me from assemblyman, to lieutenant governor, to the U.S. Senate, he has had many other titles during his life, including teacher, lobbyist, coach, education advocate, and husband. To me, Rey is both a valued friend and a trusted adviser. To his country and the State of Nevada, he is a dedicated public servant and a tireless fighter.

In his boyhood days, Rey was a great baseball player who led his high school team to numerous victories. This left-handed pitcher played a leading role in Basic High's multiple State championships, as well as its championship of the California Interscholastic Federation. In short, our tiny school in Nevada was so good, we beat all of the usually dominant California schools.

Rey's baseball talents led him to Arizona State University, where, in addition to his efforts on the field, he earned a degree in teaching. After graduation, Rey returned to Nevada to teach government and coach the Western High School baseball team to victory in two State championships. While he was teaching, Rey worked on a local Nevada campaign with Monroe Sweetland, an executive with the National Education Association [NEA]. Mr. Sweetland recognized talent when he saw it, and lured Rey away from the Clark County School District to work for the NEA in Washington, DC, and across the Nation. After 13 years with the NEA, Rey directed his innumerable talents to my government career.

For more than 30 years, Rey has been a key player in the public arena, both in Nevada and across the Nation. He is an invaluable asset to all of the organizations and campaigns to which he has lent his energy and skill. He has a quick mind and a political acumen which he uses to great effect for the causes he believes in. He has been recognized for his efforts by groups across the Nation, including twice being named Outstanding Hispanic of the Year—in 1990 by the Latin Chamber of Commerce, and in 1988 by the New Mexico Club in Las Vegas. In 1980, the National Education Association recognized Rey as one of its outstanding political and legislative consultants. He has also been honored as an outstanding teacher in Clark County and an outstanding baseball coach in Nevada. The Community Hero award is just the most recent in his distinguished list of accolades.

The goal of the National Conference of Christians and Jews is to end bias, bigotry, and racism. Through advocacy and education, the National Conference seeks to promote understanding in all races and religions. For someone who has done so much toward these worthy goals, and who has served his community so well, Rey is truly deserving of the title "Community Hero."

It is my pleasure to speak today in tribute to my friend Reynaldo Martinez, and congratulate him on being selected for this honor.●

NOTE

On page 1221 of the January 30, 1997, RECORD, during consideration of the nomination of William M. Daley, the question by the Presiding Officer is in error. The permanent RECORD has been corrected to reflect the following:

"The PRESIDING OFFICER (Mr. SMITH). The question is, Will the Senate advise and consent to the nomination of William M. Daley, of Illinois, to be Secretary of Commerce? On this question, the yeas and nays have been ordered, and the clerk will call the roll."

PROVIDING FOR SERVICE BY THE DIRECTOR OF THE OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 48 submitted earlier today by myself and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 48) providing for service on a temporary and intermittent basis by the director of the Office of Senate Fair Employment Practices.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 48) was agreed to.

The resolution is as follows:

S. RES. 48

Resolved,

SECTION 1. TEMPORARY AND INTERMITTENT SERVICE.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Senate Fair Employment Practices.

(2) HEARING OFFICER.—The term "hearing officer" means a hearing officer appointed in accordance with section 307(b) of the Government Employee Rights Act of 1991 (2 U.S.C. 1207(b)) (as in effect on January 22, 1995).

(3) OFFICE.—The term "Office" means the Office of Senate Fair Employment Practices.

(b) DIRECTOR.—

(1) SERVICE.—The acting Director may continue to serve as the Director only on a temporary and intermittent basis, in accordance with a contract entered into with the President pro tempore of the Senate, on the recommendation of the Majority Leader and the Minority Leader of the Senate.

(2) CONTRACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) of section 303 of the Government Employee Rights Act of 1991 (2 U.S.C. 1203) (as in effect on January 22, 1995) shall not apply to the service of the Director.

(B) EXCEPTION.—The contract shall include provisions concerning such service that are consistent with the last sentence of subsection (b)(1) of such section 303 of the Government Employee Rights Act of 1991.

(c) HEARING OFFICERS.—The President pro tempore of the Senate may extend, pursuant to an agreement between the President pro tempore and a hearing officer, a contract that was entered into by the Director and the hearing officer prior to the date of adoption of this resolution. The President pro tempore shall extend any such contract on behalf of the Office in the same manner and under the same conditions as a standing committee of the Senate may procure services on behalf of the committee under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)). The Director shall have no authority under subsection (c) of such section 303 of the Government Employee Rights Act of 1991.

(d) EXPENSES OF THE OFFICE.—

(1) APPROVAL.—The Office shall have no authority to approve a voucher under subsection (d) of such section 303 of the Government Employee Rights Act of 1991, except for the compensation of a hearing officer. The Office shall also obtain the approval of the Committee on Rules and Administration of the Senate for the voucher for the compensation of the hearing officer. The Office shall obtain the approval of the President pro tempore of the Senate and the Committee for any voucher required under such subsection for the compensation of the Director or for reimbursement of expenses for a private document carrier. The Director shall retain authority to make payments described in paragraphs (2) through (5) of the third sentence of such subsection.

(2) LIMITATIONS.—Payments described in paragraph (1) shall be made from amounts made available under subsection (e). The Office shall use the amounts to carry out the responsibilities of the Office in accordance with section 506 of the Congressional Accountability Act of 1995 (2 U.S.C. 1435).

(e) FUNDING.—The Secretary of the Senate may make available amounts, not to exceed a total of $5,000, from the resolution and reorganization reserve of the miscellaneous items appropriations account, within the contingent fund of the Senate, for use by the Office through September 30, 1997.

(f) EFFECTIVE DATE.—This resolution takes effect on January 31, 1997.

(g) TERMINATION.—This authority under this resolution terminates at the end of September 30, 1997.

EXPRESSING CONDOLENCES OF THE SENATE ON THE DEATH OF REPRESENTATIVE FRANK TEJEDA

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 49 submitted earlier today by Senators HUTCHISON and GRAMM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 49) expressing condolences of the Senate on the death of Representative Frank Tejeda.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 49) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follow:

S. RES. 49

Whereas the Senate has learned with profound sorrow and deep regret of the passing of our colleague, the Honorable Frank Tejeda;

Whereas Representative Tejeda has spent 4 years in the House of Representatives;

Whereas Representative Tejeda served his country honorably in the United States Marine Corps from 1963 to 1967; and

Whereas Representative Tejeda was awarded the Purple Heart, the Silver Star, the Commandant's trophy, the Marine Corps Association Award, and the Colonel Phil Yeckel Award for "the best combined record in leadership, academics, and physical fitness": Now, therefore, be it

Resolved, That—

(1) when the Senate adjourns today, it adjourn as a further mark of admiration and respect to the memory of our departed friend and colleague, who left his mark on Texas and our Nation; and

(2) the Senate extends to his family our thoughts and prayers during this difficult time.

SEC. 2. The Secretary of the Senate shall communicate this resolution to the House of Representatives, and shall transmit an enrolled copy to the family of Representative Frank Tejeda.

ORDERS FOR WEDNESDAY, FEBRUARY 5, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the joint session is completed this evening, the Senate stand in adjournment until the hour of 11 a.m. on Wednesday, February 5.

I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted.

I further ask unanimous consent that there then be a period of morning business until 3 p.m. with Senators permitted to speak for up to 5 minutes each, except for the following: Senator COLLINS for 30 minutes; Senator THOMAS, or his designee, 60 minutes; Senator DASCHLE, or his designee, 60 minutes; and Senator ROTH, or his designee, 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will automatically adjourn following the conclusion of the joint session this evening. Tomorrow, following the morning business, at 3 p.m., the Senate will begin consideration of Senate Joint Resolution 1, the constitutional amendment for a balanced budget. By a previous agreement, only opening remarks will be in order to Senate Joint Resolution 1 on Wednesday, and I would not anticipate a late night session.

Also, I remind my colleagues that the Senate may consider any additional nominations that become available this week. I understand there is still a possibility that we would have one or two that could be available on Thursday. We are hoping that is true.

Finally, I ask that all Members be present in the Senate Chamber tonight promptly at 8:30 p.m. so that we can proceed over as a group at 8:40 to the House of Representatives for the President's State of the Union Address.

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, I ask unanimous consent, pursuant to Senate Resolution 49, as a further mark of respect to the memory of the deceased Honorable FRANK TEJEDA, late a Representative from the State of Texas, that the Senate stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in recess until the hour of 8:30 p.m.

There being no objection, the Senate, at 6:19 p.m. recessed until 8:29 p.m.; whereupon the Senate reconvened when called to order by the Presiding Officer (Mr. SANTORUM).

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–1)

The PRESIDING OFFICER. The Senate will proceed to the Hall of the House of Representatives to hear the address by the President of the United States.

Thereupon, the Senate, preceded by the Assistant Sergeant at Arms, Loretta Symms; the Secretary of the Senate, Gary Sisco; and the Vice President of the United States, ALBERT GORE, Jr., proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, William J. Clinton.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress appears in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT UNTIL 11 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 10:28 p.m., the Senate adjourned until Wednesday, February 5, 1997, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 4, 1997:

EXECUTIVE OFFICE OF THE PRESIDENT

JEFFREY A. FRANKEL, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS, VICE MARTIN NEIL BAILY, RESIGNED.

HOUSE OF REPRESENTATIVES—*Tuesday, February 4, 1997*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. GUTKNECHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 4, 1997.

I hereby designate the Honorable GIL GUTKNECHT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON] for 5 minutes.

TRIBUTE TO FRANK TEJEDA, BRYANT GUMBEL, AND J.C. WATTS

Mr. RICHARDSON. Mr. Speaker, today I want to speak about three individuals, one Hispanic-American and two African-Americans: First, our departed colleague, FRANK TEJEDA who passed away courageously and with great dignity last week in his hometown of San Antonio, TX.

Congressman TEJEDA was a man of great dignity and distinction, but what made FRANK special was his quiet and unpretentious manner despite his distinguished accomplishments. Not only will he be remembered for his admirable courage as a Vietnam veteran and a scholarly education at Harvard and Yale, but FRANK's true dedication and allegiance to the people of the 28th Congressional District of Texas will remain in the hearts and minds of his constituency.

In fact, whenever there was an issue affecting his district or whenever we needed a vote from FRANK TEJEDA, he would always say two words: Wilson County. Whenever he saw me on the House floor and we were trying to get a vote out of FRANK, this is what he wanted in return: his district, his people, the kind of allegiance and representation a good Member of Congress always shows. His relentless efforts to save Kelly Air Force Base will remain on the minds of every Member.

I will miss FRANK TEJEDA, as many of us will, especially when he stood or sat next to the gentleman from Texas, SOLOMON ORTIZ, as he always did on the House floor. These two were inseparable. FRANK's spirit will forever remain within the walls of this Chamber and within the hearts of all who knew him.

Mr. Speaker, I also want to rise in tribute to Bryant Gumbel. I wish to extend my enthusiastic congratulations to Bryant Gumbel, who has departed the "Today Show" after serving as its anchor for longer than anyone in the show's long, distinguished history.

The Emmy Award winner has excelled at bringing news and insight to millions of viewers here and around the world. His reporting has come not just from the studios in Rockefeller Center, but also from China, Australia, Moscow, Cairo, Tunisia, Buenos Aires, Havana, Saudi Arabia during the Persian Gulf war, a number of European cities, and the Olympic games.

I think one of Bryant Gumbel's most enduring contributions to his industry and, more importantly, to his country is a significant contribution to shattering the insidious barriers that once confronted African-Americans and other minorities in tuition broadcasting. He helped bring the change by being the best, both in sports and in news coverage. For that historic and proud achievement, we are all in his debt.

I am confident that his future plans, whatever they may be, will include a continuing contribution to his community and his country. Whether these plans include award-winning broadcasts like those he anchored from Africa, raising funds for the United Negro Fund, or quietly lifting the spirits of young people aspiring to be better, I know that Bryant Gumbel will be making this country a better place.

Finally, Mr. Speaker, I want to pay tribute to the gentleman from Oklahoma [Mr. WATTS], our colleague, who will deliver the answer to the President's State of the Union Address.

There will be two eloquent speakers tonight, the President of course and J.C. WATTS. They will differ in views, but one of the sad parts of my job is that I will miss individuals not just on my side, but on the Republican side, like J.C. WATTS, that show class, commitment, dignity, outstanding athletic ability, and many other admirable qualities.

So, today, I want to pay tribute to FRANK TEJEDA, Congressman TEJEDA, who departed us last week; to Bryant Gumbel, an African-American who pioneered broadcasting and journalism, and to say that I will be one of the millions watching tonight the eloquence of two men and the grace of two men, President Clinton and our friend J.C. WATTS.

REINTRODUCTION OF LEGISLATION TO END GOVERNMENT SHUTDOWNS FOREVER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Pennsylvania [Mr. GEKAS] is recognized during morning-hour debates for 5 minutes.

Mr. GEKAS. Mr. Speaker, today I will be reintroducing a measure, which I have in every one of the last five sessions introduced at the very early part of the session. It has a simple premise, yet it is in the best interests of the search for better government, and I hope that we can as a body, together with the other body, see fit to imbed it into our body politic and into our legal system right at the start.

It is simply this, Mr. Speaker. We now have a situation where the fiscal year of the Federal Government ends on September 30, and legally under Congress' own laws we are compelled to pass a new budget by the next day, October 1. We have never, or perhaps only one time, accomplished that during the time that I have been a Member of Congress, since 1983.

Not only have we failed to do that, but on 53 occasions during my incumbency these last 14 years, on 53 occasions we have had to resort to temporary funding until a full budget could be put in place. Those temporary funding measures, called continuing resolutions, have become a way of life for the Congress of the United States, flaunting the very same law that the Congress itself put in to govern itself on budgetary matters and to bring a timetable end to the budgetary process every year, 53 times.

Moreover, since I came to Congress not only do we have these 53 occasions where we had to do temporary funding, but we had 8 Government shutdowns. That is the Government of the United

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

States, the greatest power in the world that civilization has ever known, was shut down. We had no government in the United States during those periods of time.

Well, my measure, the one that I am reintroducing today, calls for an automatic resumption of the last year's budget or the House-passed version or the Senate-passed version, most recent of those, whichever is lowest in numbers, to take effect automatically on the day after the budget deadline comes into being. This would forever prevent the Government shutdown.

We added to it a feature this time around, in which you will see when you examine the bill and the CONGRESSIONAL RECORD reflecting it, that indeed the funding that will resume the next day after a budget deadline has been missed will be at 75 percent of the levels of the previous appropriation bill, previous budget, or the House or Senate passed version or even the President's proposal for the new budget.

Why do we have that in? At the suggestion of Senator STEVENS, of Alaska, the chief appropriator in the other body, we have adopted a 75-percent level which would give additional incentive to Members of Congress not to rest on the laurels of having passed an automatic budget reflecting last year's numbers, but rather to give them incentive to proceed to finalize a budget with the priorities that they will be setting unencumbered, shall we say, by a full funding that would make them lax in the proposition that a new budget has to be adopted. So the 75-percent level is now a part of it.

One example serves to show the absolute ludicrousness of continuing down the path of these continuing resolutions and the possibility and actualities of Government shutdowns. In 1990, in December 1990, while we had amassed our—half a million of our young fellow Americans in the deserts of the Middle East, poised to do battle with the Iraqi aggressors in Kuwait, while they were poised and armed to the teeth, their Government, the United States Government, shutdown. Now that is abhorrently embarrassing, embarrassing to say the least, but absolutely horrendous if we look at it in its historic perspective, to have our young people with their rifles in hand with no government for which to fight. That is abysmal and something that we must correct.

So what are we going to do? We are going to try to mesh with the Senate's, the other body's action in this regard. I have the support of a strong handful of Members of the Senate who have introduced a package of their own following this line, and we hope that the Congress of the United States will at last adopt a measure that will end Government shutdowns forever.

EDUCATION IN THE 105TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, tonight when President Clinton gives his State of the Union Address he is going to discuss his plan to prepare our country and our children for the 21st century, and the heart of this plan addresses an issue that I think is very much on the minds of most Americans and that is education.

The President's plan to strengthen our education system contains some of the very ideas that congressional Democrats developed last year as part of our families first agenda. As many Americans learned last year, the family first agenda is a comprehensive plan designed to improve the lives of the average American family, the mother and father who basically go out and work every day to provide for and improve the lives of their children.

At the center of the President's and also last year's congressional Democrats' education plan are two targeted tax breaks, a $1,500 HOPE scholarship and a $10,000 tax deduction for tuition and training. Now the HOPE scholarship program will provide all students with a $1,500 refundable tax credit in their first year of college and another $1,500 in the second year if they work hard, stay off drugs and maintain a B average. While the $1,500 was designed to meet the costs of the average community college, it can be put toward the costs of any tuition bill, not just the community college. And the goal we had in mind when we first developed this plan was not only to help pay for the costs of college, but to work toward making 2 years of postsecondary education as common as a high school education.

To complement the HOPE scholarship the President and congressional Democrats will be working to make a $10,000 deduction for tuition for college, graduate school, community college, and certified training and technical programs. The deduction would be available on a per family basis—this is a little different than the per student basis in the past—and will be accessible for any year any family has education or training expenses. These targeted tax breaks, in my opinion, will surely direct us toward our goal of making education less expensive and more affordable for all Americans.

There are, however, other elements of the President's education plan that I would like to mention briefly, Mr. Speaker. One concerns the Pell grants. This year the President will propose, and I can assure you that congressional Democrats will support, the largest increase in Pell grants in 20 years.

Now the Pell grants of course are the foundation for student aid for low and middle-income families. The grant would, as proposed, the changes proposed, actually increase by 25 percent, raising the maximum award by $300 to $3,000. The President's proposal would extend eligibility for 218,000 new students over age 24 and raise the total number of Pell grant recipients to over $4 million, and this is a significant achievement in my opinion.

With regard to the Stafford loan, which is the traditional national direct student loan program, the President will also propose cutting student loan fees from 4 to 2 percent on a need basis and some other changes in the Stafford grants that will basically make them more affordable.

There are other elements of the President's plan to make higher education more acceptable, more accessible I should say, and affordable for all Americans, including a tax free education savings program that would allow families earning less than $100,000 to set up IRAs, individual retirement accounts, from which they can make penalty-free withdrawals for education.

All these things are basically working together to try to make it possible for more and more students to go to college.

I personally should say that I took advantage of the work-study program when I was in college, and the current work-study program is also expanded under the President's proposal, boosting the number of students who earn education dollars from the program to 1 million by the year 2000.

□ 1245

As you can see, Mr. Speaker, the President and congressional Democrats have an ambitious agenda to make college accessible and affordable to everyone, not just the wealthy, and I hope that in a bipartisan spirit we will see the Republicans join us in our efforts to improve the Nation's higher education system.

I just want to talk about one more thing that I think is important that the President will be talking about tonight, and that is the need for funding for construction. Right now about 60 percent of the Nation's schools are in need of major repair or outright replacement. The President's school construction, paid for within the context of a balanced budget, would jump start the process of improving the physical structures in which our children are taught. Under this plan, school construction would increase by 25 percent over the next 4 years.

A number of these Federal initiatives are needed, I believe, very strongly, and again, we are not talking about huge new programs that are going to bust the budget, but we are talking about very small initiatives that can really make a difference in the average person's life, and that is what our Democratic family first agenda is all about. The President will be talking about the education components and other components of it tonight, and I hope that we can see swift action in the 105th Congress on these initiatives.

CONGRATULATIONS TO SUPER BOWL CHAMPION GREEN BAY PACKERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Wisconsin [Mr. KIND] is recognized during morning hour debates for 5 minutes.

Mr. KIND. Mr. Speaker, I rise today to formally congratulate the Super Bowl champion Green Bay Packers and to thank them for finally returning the Vince Lombardi trophy back home to the State of Wisconsin where it belongs.

This season, Packer fans old and new watched the progress of the NFL's only community-owned team from the NFL's smallest city. It is a remarkable story as old as history: When David first slew Goliath, when Moses led his people out of Egypt, when 13 little-known small colonies took on the great might, the world power of Great Britain and King George and won their independence.

The Packer's success has rekindled the spirit of Green Bay and the entire State of Wisconsin, as well as the spirit of small towns and small cities across America. In an era when some professional athletes are failing as role models, the Packers organization consistently produces outstanding members of the community.

Take a look at Brett Favre's story. It is a remarkable story. A superstar who realized that he was addicted to pain killers, fought through that, won a second MVP award for the NFL, and then led his team on to the Super Bowl victory; and Reggie White, the catalyst, the glue, that held the team together, gave great pride to the entire Green Bay area and State of Wisconsin; one defensive man who probably dominated the sport more than any other defensive player in the history of the NFL, but who always reminded us also always, always remember who the glory belongs to, and that is to God.

Last week, over 100,000 people braved subzero weather for many, many hours waiting to welcome the Green Bay Packers home to their city as Super Bowl champions, and I think that story tells it all. That is why it is my great honor today to congratulate the entire Packer organization and their many, many loyal and patient fans, not only in Green Bay, but in Wisconsin and throughout the country and to honor the Packers and the remarkable achievement on the floor of the House of Representatives and before this Nation today.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until 2 p.m.

Accordingly (at 12 o'clock and 49 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

From the early days of the life of our Nation, we have prayed for Your blessing, O God, and we have asked to be sustained by Your benediction. In days of war and times of peace, in all the moments of human frailty and special courage we have paused to give You thanks. From women and men, from young and old, from north or south, from city and village, we have joined in our words of gratitude for Your providence to us and in our petitions for the welfare of our country.

As we now prepare for this new day, gracious God, let this time be full of hope for the year ahead as we seek a firm reliance on Your good word. May our hearts be bound together in unity as we pray in the words of scripture that in all things we will do justly, love mercy, and ever walk humbly with You. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Washington [Mr. METCALF] come forward and lead the House in the Pledge of Allegiance.

Mr. METCALF led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT OF AMENDMENT PROCESS FOR TERM LIMITS CONSTITUTIONAL AMENDMENT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the Committee on the Judiciary has already reported House Joint Resolution 2, the term limits constitutional amendment. Copies of the joint resolution are available for review in the office of the Committee on the Judiciary.

The Committee on Rules is planning to meet early next week to grant a rule which may limit the amendments to be offered to the joint resolution. Any Member who wishes to offer a different version of the term limits constitutional amendment should submit 55 copies and a brief explanation by noontime on Monday, February 10, to the Committee on Rules in room H–312 in the Capitol. Members are strongly advised to submit only amendments in the nature of a substitute. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, January 22, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Wednesday, January 22, 1997 at 11:10 a.m.

The Senate passed without amendment, House Joint Resolution 25.

With warm regards,

ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on Wednesday, January 22, 1997:

House Joint Resolution 25, making technical corrections to the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208), and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, January 23, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Thursday, January 23, 1997 at 10:45 a.m.

That the Senate passed without amendment, H.Con.Res. 9;

That the Senate passed S.Con.Res. 4; and

That the Senate agreed to S.Res. 22.

With warm regards,

ROBIN H. CARLE,
Clerk.

REAPPOINTMENT OF MEMBER TO NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE

The SPEAKER. Pursuant to the provisions of section 637(b) of Public Law 104–52, as amended by section 2904 of Public Law 104–134, the Chair reappoints to the National Commission on Restructuring the Internal Revenue Service the following Member of the House: Mr. PORTMAN of Ohio.

COMMUNICATION FROM THE HONORABLE RICHARD A. GEPHARDT, DEMOCRATIC LEADER

The SPEAKER laid before the House the following communication from the Honorable RICHARD A. GEPHARDT, Democratic leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, January 30, 1997.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 637(b), Public Law 104–52, I hereby accept the resignation of Mr. Robert T. Matsui of California from the National Commission on Restructuring the Internal Revenue Service and hereby appoint Mr. William J. Coyne of Pennsylvania to the Commission for the remainder of its term.

Yours very truly,

RICHARD A. GEPHARDT.

APPOINTMENT AS MEMBER OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER. Pursuant to the provisions of clause 1 of rule XLVIII and clause 6(f) of rule X, and the order of the House of Tuesday, January 7, 1997, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on Monday, January 27, 1997, appointed to the Permanent Select Committee on Intelligence the following Member of the House: Mr. GOSS of Florida as chairman.

COMMUNICATION FROM THE HONORABLE S. HUGH DILLIN

The SPEAKER laid before the House the following communication from the Honorable S. Hugh Dillin:

U.S. DISTRICT COURT,
Indianapolis, IN, January 9, 1997.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 7, 1997 you designated me to administer the oath of office to Representative-elect Julia Carson of the Tenth District of the State of Indiana under House Resolution 11, One Hundred Fifth Congress.

Under such designation, I have the honor to report that on January 9, 1997 at Indianapolis, Indiana, I administered the oath of office to Mrs. Carson. Mrs. Carson took the oath prescribed by 5 U.S.C. 3331. I have sent two copies of the oath, signed by Mrs. Carson, to the Clerk of the House.

Yours very truly,

S. HUGH DILLIN.

COMMUNICATION FROM THE HONORABLE ORLANDO L. GARCIA

The SPEAKER laid before the House the following communication from the Honorable Orlando L. Garcia.

U.S. DISTRICT COURT,
San Antonio, TX, January 8, 1997.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 7, 1997 you designated me to administer the oath of office to Representative-elect Frank Tejeda of the 28th District of the State of Texas under House Resolution 10, One Hundred Fifth Congress.

Under such designation, I have the honor to report that on Tuesday, January 8, 1997 at San Antonio, Texas, I administered the oath of office to Mr. Tejeda. Mr. Tejeda took the oath prescribed by 5 U.S.C. 3331. I have sent two copies of the oath, signed by Mr. Tejeda, to the Clerk of the House.

Sincerely,

ORLANDO L. GARCIA,
U.S. District Judge.

REPUBLICAN HOUSING OPPORTUNITY CAUCUS

(Mr. METCALF asked and was given permission to address the House for 1 minute.)

Mr. METCALF. Mr. Speaker, with the help of Representatives JOHNSON, LAZIO, ENGLISH, and WELLER, I have formed the Republican Housing Opportunity Caucus to highlight the importance of affordable housing to all Americans.

The mission of this caucus is to give Members of Congress who are interested in housing policies an opportunity to explore every possible strategy to enhance home ownership and affordable housing, to discuss their concerns and coordinate a response. There is nothing glamorous about housing, but we all know how important it is. It is not just a roof over one's head but a place you can call home, a place of your own.

There are still problems. The first-time home buyer rate remains low and many families cannot find affordable housing. This caucus can help to establish a comprehensive approach to housing needs.

If my colleagues are interested in being part of this caucus, please call my office.

MITSUBISHI OF AMERICA?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, when Mitsubishi opened a TV factory in California, they made an announcement and they said Mitsubishi of Japan is now Mitsubishi of America. They even waved an American flag. Well so much for all the patriotism, my colleagues. Mitsubishi announced they are closing their California factory and moving to Mexico. They said they are going to cut costs, expand profits and after all, they said, Mexico is America.

Beam me up. I have seen the new world order. It is coming to pass. We can now buy American by buying Japanese from Mexico, and if that is not enough to wax your Toyota, the White House wants to expand NAFTA to all of Latin America. Beam me up, Mr. Speaker.

Beam me up. Our kids are going to have to move to Mexico to get a job.

TROUBLE IN EAST TIMOR

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, 2 weeks ago I returned from visiting Bishop Carlos Belo on the island of East Timor, which is under the military oppression of the governor of Indonesia. As our colleagues know, the gentleman from Ohio [Mr. HALL] nominated Bishop Belo, the first Catholic priest ever to receive the Nobel peace prize. I will be taking out a full special order on that issue and trip, but I want to tell my colleagues that on the island of East Timor today the military occupation there is fear and terror. They are going through the island at 1 and 2 o'clock in the morning pulling young people out and taking them away. Many are fleeing to the hills.

When this Congress has to deal with the issue of Indonesia and East Timor, we should do the right thing. Second, there is a concern among Indonesians that the Lippo Bank connection and the Riady family which dealt with Web Hubbell, may be tied into why this administration is not willing to take on the issue of East Timor.

I challenge the Clinton administration to deal with the issue of East Timor and stand up for independence and get involved in this process so the killing and the fear and the terror will end. This administration has an obligation to deal with the issue of East Timor.

CHAMPION OF A FORGOTTEN PEOPLE

(By Paul Raffaelle)

Bishop Carlos Belo knelt in his chapel in Dili, East Timor, for his early morning prayer. It was November 12, 1991, and as Belo prayed, 2000 people were gathering to march to the nearby Santa Cruz cemetery to protest the killing of a pro-independence activist by Indonesian intelligence agents. For 16 years the bishop's island home had been under the heel of the Indonesian military.

Later that morning Belo heard bursts of automatic gunfire, then screams. Within minutes dozens of young people were racing in panic toward his residence. "Hide us, or they will kill us!" shouted a teen-age girl in a blood-soaked dress.

"Come inside, all of you!" the bishop cried out, as more than 250 people crammed into his garden. He dispatched the wounded to Catholic clinics and then drove to the cemetery. Dozens of civilians, many ripped open by bullets, lay crumpled in the dust. Soldiers armed with assault rifles screamed obscenities at everyone in sight. Then the bishop saw a trail of gore leading to a chapel.

Despite his fear, he rushed inside, where he found several people—some beaten, others with gaping bullet wounds—lying in pools of their own blood. Taking in the carnage, Belo silently vowed the world would know of his people's suffering, and began to pray for the dead and dying who surrounded him.

In a remote land of the Malay Archipelago in southern Asia, a gentle people are stalked by terror. In the 21 years since Indonesia's invasion, it is estimated that almost one-third of East Timor's 700,000 native inhabitants have lost their lives. Countless thousands have been tortured or raped.

Embattled Timorese still cling to hope embodied in the man they revere as the champion of their rights. It is not a destiny many would have expected for Carlos Filipe Ximenes Belo.

He was born in 1948 on a rice farm in Wailacalma, 100 miles east of Dili, the capital of the impoverished Portuguese colony. His widowed mother, a pious and reflective woman, introduced Carlos early to the thrill of books. He excelled in his Catholic schooling, and at 20 left to begin his studies for the priesthood in Lisbon.

Turmoil came to East Timor in 1975, as Portugal prepared to cut its colony loose. West Timor, a former Dutch colony, had become part of Indonesian when the latter became independent in 1949. But Indonesia had no legitimate claim to the larger, eastern half rich in oil and natural gas.

Belo was in Macau for further religious training when Indonesian troops attacked East Timor. Jets and naval ships bombarded towns. Soldiers wiped out entire villages. The few thousand ill-equipped resistance fighters scurried to the mountains.

The government in Jakarta, Indonesia's capital, claimed that its soldiers had been "invited in" by the East Timorese to "restore order." The United States and many other Western nations remained largely silent. And on July 17, 1976, Indonesia formally annexed the tiny nation.

Convinced that he could best serve his people if he had the moral authority of a priest, Belo continued his religious studies. Meanwhile Indonesian troops burned crops, slaughtered livestock and herded almost half the population into camps, where thousands died.

Belo's exile ended when he was ordained in 1981. He assumed the post of rector of the Fatumaca seminary near Baucau, East Timor's second largest town and by now headquarters of at least 10,000 troops. Everywhere he looked, soldiers strutted. After dropping his things off in Baucau, he traveled to his home village.

His aged mother clasped his hands when he entered the family's modest home. "The Indonesians have done terrible things to our people," she said. Over the next few days Belo was horrified to find only women and children in some villages. Thousands of males had been forced into the Indonesian army to fight against the East Timorese resistance.

As aggrieved as he felt, he decided not to speak out. Better to accept Indonesian rule in the interests of peace.

This cannot be, a stunned Belo thought as he studied the telegram. Just two years after his arrival in Baucau, the Vatican had chosen him to be East Timor's new Apostolic Administrator—the leader of the Catholic Church in his homeland. Among his concerns was that he had been picked solely because he wasn't likely to promote dissent.

His fellow East Timorese clerics suspected worse. "He's nothing but a puppet," they muttered in private. All 37 priests boycotted the installation ceremony. They're convinced that I'm an Indonesian stooge, Belo thought glumly. But the people had faith in him.

Courageous East Timorese were regularly slipping into Belo's home to tell him about atrocities. One secret visitor was a middle-aged woman who had pulled a shawl over her face to hide her identity from army informers. "The soldiers shot my son dead as he was walking across the fields," she whispered through sobs.

Deeply moved, Belo placed a hand on her shoulder. "I'll seek justice for you," he promised.

At a reception the next morning, he approached Colonel Purwanto, the local commander of East Timor's occupation force, and told him the mother's story. Colonel Purwanto abruptly turned his back.

Before long Belo lost count of the people who sought him out to report the disappearance, jailing, rape or murder of friends and family members. Belo confronted the local military commanders again and again, but was always dismissed.

Meanwhile the Indonesian government tightened its grip on East Timor, luring more than 100,000 Indonesian migrants with free land and jobs. Soon most shops were owned by the newcomers. Their soldiers and bureaucrats thronged the streets. Military officers lived in the handsome waterfront villas.

Dili no longer belongs to us, Belo realized. East Timorese clerics shared his outrage but also saw cause for hope in Belo's willingness to expose atrocities. "Perhaps," they said, "he has the backbone for this task after all."

Belo was named bishop in 1988. This time, at his installation ceremony in Dili, he was flanked by smiling East Timorese clergy. Unfortunately, the task before Belo remained critical.

The military continued slaughtering innocent East Timorese, while a campaign of cultural obliteration was equally relentless. TV and radio broadcasts in East Timor's lingua franca, Tetum, were barred. East Timorese students had to sing the Indonesian anthem before lessons and perform Indonesian songs and dances at school concerts.

In November 1988 an enraged Belo ordered that a statement be read from all pulpits. "We condemn the lying propaganda according to which abuses of human rights do not exist in East Timor," the message said.

When a village leader passed on army boasts that they would soon crush the bishop and the Catholic Church, Belo responded with a resigned smile. "One day the soldiers will kill me," he said.

In February 1989 Bishop Belo wrote a letter to United Nations Secretary General Javier Pérez de Cuéllar. "We are dying as a people," Belo wrote. He pleaded to the U.N. to conduct a referendum on independence in East Timor. It was a desperate move, but Belo could see that much of the world had come to accept Indonesia's annexation. The United States, Britain, Germany, Australia and others were major arms suppliers to Jakarta.

Several weeks later Archbishop Francesco Canalini, the papal nuncio in Jakarta, summoned Belo. "Keep out of politics!" the portly archbishop thundered. Late-night callers threatened to kill Belo. But he remained defiant, and the people's admiration for him grew. Inspired, many East Timorese were converting to Catholicism. By 1990 the number of Catholics in East Timor had surged from 30 percent of the population to 85 percent.

The bishop became the hero of the young as well, yet Belo could not be sure they supported his message of nonviolence. He knew they were ripe for rebellion when the 2000 East Timorese gathered in the Santa Cruz cemetery on that November 1991 morning to mourn their compatriot's murder—only to flee or die in a hail of bullets.

Returning to his residence after viewing the carnage at the cemetery, Belo heard details of the onslaught: without warning the Indonesians had opened fire at point-blank range. An eyewitness account told of soldiers chasing young people down and shooting them in the back.

The next morning Belo confronted the military commander, demanding to see the wounded and dead. At the military hospital the bishop moved tearfully among more than 200 injured youths, most in their teens. Three days later he returned to the hospital. Only 90 youngsters remained.

Belo got a first inkling of the likely fate of the missing when a nurse paid him a visit. "I washed the bodies of 78 murdered East Timorese," the nurse whispered. Later a medical aide told of military doctors giving some of the wounded lethal injections.

A parishioner related that an Indonesian soldier confided he'd been forced to take part in the executions of dozens of the wounded. Trucks had taken them to an open mass grave in the hills, where they were sewn into rice sacks. "The soldiers shot them one by one and pushed the sacks into the grave," said the distraught man. In all, more than 250 dies in the cemetery massacre and its aftermath.

Belo helped smuggle two massacre eyewitnesses to Geneva, where they testified before the U.N. Human Rights Commission. Whatever it takes, Belo vowed, the world will learn about this evil.

By 1993 East Timorese resistance had weakened, but atrocities continued. The bishop shared the grim details with journalists and reiterated his call for a U.N.-sponsored referendum.

Finally foreign governments were moved to action. The U.S. Congress passed legislation requiring the White House to bar the sale and transfer of lethal crowd-control equipment and small arms to Indonesia until there was "significant progress" in human-rights conditions in East Timor. Australia's pro-Jakarta foreign minister, Sen. Gareth Evans, began criticizing Indonesia's human-rights record. Amnesty International issued a damning report of prisoner torture and ill treatment.

Reacting to international outrage, Jakarta set up a 25-member national commission on human rights to monitor abuses. When soldiers near Dili executed six unarmed civilians in 1995, the commission found the killings "unlawful," and a court-martial led to the jailing of two soldiers for up to 4½ years. "It's a beginning," Belo told a Western reporter. Still the bishop often received several death threats a week.

One Sunday in early 1995, several hundred East Timorese gathered in Belo's garden for Mass. "Christ suffered so much for us," he said. "But in his resurrection we see our own hope for the time when we are at last free."

His sermon was a direct glimpse into his soul. For the bishop still trusts that freedom will come, that Indonesia will one day grant East Timor self-rule. But like every East Timorese, he also lives with an abiding fear.

After the service Belo pulled aside a visiting journalist. "We beg the outside world not to forget us," he said softly. "If that happens, we are doomed."

The world did not forget Belo and his people. In October 1996 the Nobel Committee honored the bishop and another East Timorese activist, José Ramos-Horta, with the Nobel Peace Prize, citing "their work toward a just and peaceful solution to the conflict in East Timor."

DEALING WITH SEXUAL HARASSMENT BY THE ARMY

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, as I speak, Secretary of the Army, Togo West, is reporting in the Senate on his progress in eliminating sexual harassment following the revelations of last November. I can only hope that today's revelation is not emblematic of that progress. The headlines read "Top Enlisted Man Accused of Sexual Harassment." I hasten to add that the operative words are accused and that the officer denies the charges and is entitled to his presumption.

However, this case is especially troubling. First, because of the charge: Sexual assault and sexual harassment; second, because of the rank of the accused, top enlisted man, Legion of Merit holder, 29-year veteran; third, because of the record of the complainant, a 22-year veteran herself recently retired; and, fourth, because of the circumstances of the public charge she alleges that became public only after months of no action by the Pentagon and only after the accused was actually appointed to the panel reviewing the Army's handling of sexual harassment. Much better, much faster, Army of the United States.

WE MUST WORK TOGETHER TO END THE VICIOUS CYCLE OF CHILD ABUSE

(Mr. DEAL of Georgia asked and was given permission to address the House for 1 minute.)

Mr. DEAL of Georgia. Mr. Speaker, too often we ignore the caldron of neglect, violence, and moral decay that pervades our society until its poison boils over into our own lives.

On January 16, 1996, that occurred in my community of Gainesville, Hall County, GA, when a 19-month-old young boy, Austin Sparks, was brutally beaten to death by his baby-sitter. As we are now in this first anniversary period of Austin Sparks' death, the Hall County community has undertaken a campaign to fight child abuse by implementing the blue ribbon campaign in his memory. These small blue ribbons help remind us to be aware of child abuse every day of every year. Another positive that has come out of this tragedy is the purchase of a permanent home in Gainesville to assess the needs of abused children. The Children's Center will provide multiagency interviews for child abuse victims.

We must all work together to end this cycle of child abuse in our country.

GIVE FANS A CHANCE ACT

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, after the Green Bay Packers won the Superbowl, their fans stood in freezing temperatures for hours to catch a glimpse of their fans. The Packers are not an ordinary football team, their fans are not ordinary fans, and their community is not an ordinary community, in large part because 1,950 residents of Green Bay own their football team.

The Packers are a vital part of the glue that holds the Green Bay community together, but they are unique because the NFL rules now prohibit any more public ownership of teams. At a time when fan loyalty is being tested by franchise moves, it is time to give fans a chance to own their own teams by eliminating league rules prohibiting public ownership of teams, requiring teams to listen to their fans and the community before moving, tying the league's broadcast antitrust exemption requirements to this bill.

□ 1415

The NFL earned $12.2 billion on broadcast rights last year. If my colleagues agree with me that more sports teams should be owned by the public, like the Packers, and the fans should have a voice on where their team decides to relocate, I invite my colleagues to support my Give Fans a Chance Act.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. FRANK TEJEDA, REPRESENTATIVE FROM THE STATE OF TEXAS

Mr. GONZALEZ. Mr. Speaker, I offer a privileged resolution (H. Res. 35) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 35

Resolved, That the House has heard with profound sorrow of the death of the Honorable FRANK TEJEDA, a Representative from the State of Texas.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from Texas [Mr. GONZALEZ] is recognized for 1 hour.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my extremely sad duty, and may I say it is an honor and a privilege, to offer a few words of praise and of course tribute to a friend and a dear colleague, FRANK TEJEDA, who died too soon, far short of the full realization and the promise of his potential. But though his life was shortened by a terrible and a very tragic disease, he left behind a legacy of great achievement, he made his life a model, and I think others will do well to emulate him.

To all of those who knew and loved FRANK, I offer my heartfelt condolences today. Words, of course, are never adequate to express the feeling of loss that we share. All we can do is say what we can and draw strength from FRANK's memory and his achievements.

FRANK was only 51 years of age when he died, and this was some 17 months after having been diagnosed with a brain tumor. But he died as he lived, with grit and grace.

Grit: FRANK had it in great abundance. He dropped out of high school and became a first class marine.

Courage: As a combat marine, he never flinched or failed. He was born a brave leader. He was decorated for his courage under fire.

Determination: He worked hard enough and sacrificed enough to finish law school at both Harvard and Yale, two of the most distinguished law schools in the country, which I hardly think is bad for a high school dropout.

Grace: He would do anything for a friend and never count the cost.

Energy: He worked hard. He worked hard for his district, his constituents, his country. And he never once faltered, before or during his illness. He never complained about his situation. He remained determined from the beginning to the end that he would do his best, and he did.

One has to go a long way to find another human being who so thoroughly combined the virtues that FRANK TEJEDA embodied: His grit, his grace, his energy, his determination, his decency, and his honor. FRANK TEJEDA served with honor and distinction in the Texas legislature for 16 years and in 1992 was elected to the Congress with 87 percent of the vote cast.

FRANK and I served neighboring and adjacent districts, and though of course we did not always agree on issues, I had and still have the highest regard for his integrity and his honor. He served with distinction, and I doubt that any Member of this House ever knew him to be anything less than a decent, a compassionate, and a deeply caring human being.

I do not think anybody worked harder than FRANK TEJEDA nor worked with greater patience and determination. Nobody served his district more carefully. Nobody treated people with more respect and decency. He was a credit to his community and to this House. His loss is a tragedy for his family, for his community, and for this House.

Yet I hope that his family and all of us will be strengthened by the memory of his life of promise and that each of us will honor his memory, not just by our words but in the way we live and serve. If we can live with that same grit and grace, we will truly honor the man that we mourn today.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, I was profoundly sorry last Friday to say goodbye to my friend, FRANK TEJEDA.

I last saw FRANK about a month ago. We talked a little bit about politics and congressional business, but mostly we talked about our families and how much we love our families. FRANK loved his children so much. I told him stories and jokes, and I saw in his eyes the life and determination I have always seen in my friend FRANK, the fighter, the marine. I will miss him more than I can say.

He was an all-American patriot, serving his country from the jungles of Vietnam to the corridors of power in Austin and Washington. He had a similar rise in his education fortunes, dropping out of high school when he was young and later graduating from prestigious ivy league schools such as Yale and Harvard.

He was uncomplicated. He meant what he said, and he said what he meant. His word was his bond.

His story is very much the American story, about the ingenuity and creativity of one man's rise from obscurity to power. FRANK was an inspiration to me.

I, too, had to drop out of high school when I was young to fight my way through supporting my family, joining the service, and getting a GED. My service was in the Army military police in France before the United States became fully engaged in Vietnam.

FRANK's service was for the Marines in Vietnam, winning a Purple Heart, a Bronze Star, and a host of other decorations in a hostile theater, and he was recently awarded the Silver Star. In fact, I had been making arrangements for Vice President GORE to fly to San Antonio to present the Silver Star to him when he died.

FRANK exemplified the very best in public service, honesty, and integrity. He was a true leader who believed in the value and decency of the working class. He always said he was proud to be a marine, and he didn't want it any other way.

That same ideal moved him to work hard all of his life and stick up for the working people that he represented so well. He was a hero who believed strongly in the power of our democratic process, and our democratic process was made better by the virtue of his service. He is a marvelous role model for south Texas today.

FRANK had an enormous impact on the military community in San Antonio and Washington. He was an important part of the Committee on National Security. During the entire base closure process in 1993 and 1995, he was a vigilant defender of the San Antonio area bases. He made eloquent presentations before the BRAC Commission.

FRANK always approached problems with common sense, commonsense solutions, and an engaging sense of humor. He was deeply loved and will be missed by those who knew him within the defense establishment. I know I will miss him each time I walk into this Chamber.

Over the past 4 years, FRANK and I and other Members with me in that corner down there, we laughed at our jokes, exchanged what we call a south Texas chisme, and went over matters before our National Security Committee or other things that affected south Texas.

Right now this Chamber feels empty without FRANK. But there is one thing I know each and every Member of this House, envied FRANK, who was a Texas State senator, who basically drew his own congressional district during the 1990's redistricting process.

FRANK showed enormous grace and courage over the past year when dealing with the pressure of cancer and the challenge of chemotherapy. As always, the highly decorated and respected marine fought the valiant fight. He was a disciplinarian with his personal life, with his personal ethics, and with his physical health.

I greatly admired FRANK, as did many Texans. FRANK TEJEDA was one of the best friends I ever had. I urge my colleagues to remember his children, Marissa; Sonya; and Frankie III; and his mother, Lillie, during this difficult time for them. I also ask that we remember his sister, his only sister, Mary Alice Lara; and his brothers, Juan Tejeda, Ernest Tejeda, and Richard Tejeda, in our prayers.

FRANK TEJEDA was a giant among men and among leaders. Our country, our State, and this House lost a meaningful piece of our fabric.

Tonight is the State of the Union. For 4 years we sat together here with our colleagues and watched the President give the State of the Union. We will miss you tonight, my brother, but we will cherish your memory.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

☐ 1430

Mr. SMITH of Texas. Mr. Speaker, first let me thank my friend and colleague, the gentleman from Texas [Mr. GONZALEZ], the dean of the San Antonio delegation, for yielding this time to me.

Mr. Speaker, I would like to share two stories about Congressman FRANK TEJEDA for the RECORD, our friend who recently left us. One dates back 20 years, the other only a few days.

In 1976 I was a new attorney fresh out of law school. I had just joined a law firm in the Milam Building in downtown San Antonio. I began to hear and read about another young attorney who was planning to run for State representative against an entrenched incumbent. The young challenger's name was FRANK TEJEDA, and he had an impressive record, including having received many honors in the Marine Corps. He also had some interesting ideas about reforming government that appealed to me.

FRANK's law office was also in that same Milam Building. One day I walked up several flights of stairs to meet him and to give him a campaign contribution. It was only a check for $15, but it was the first political contribution I had ever made. FRANK said, in fact, it was only the second campaign contribution he had received after one from a relative.

We had some good laughs about it during the years that followed. Those years saw him hold three offices as a Democrat and saw me hold several offices as a Republican, including a stint as Bexar County Republican Party chairman just 2 years after I made that first contribution to FRANK TEJEDA.

I have always considered that contribution to have been a very good investment. The potential FRANK TEJEDA showed back then proved out during his years of public service, from the Texas legislature to his reelection to Congress last November. We still hear and read about his dedication to country, his steadfastness, his integrity. He kept his promises.

The second story goes back just a few days to the Thursday evening that

FRANK died. In our family we have a tradition of studying the Bible each morning, but that Thursday, for the first time in many, many weeks, I felt compelled to read from the Scriptures at night, and it was a little before 9:30 p.m. Washington time when I read what Jesus said in the book of John: "He that believeth on me shall never see death."

About 2 hours later I received a call in Washington informing me of FRANK's passing in San Antonio shortly before 8:30 p.m. It was comforting to know that I had read that uplifting passage at the same time FRANK had passed away.

The words were a reminder that there is no death, no end to the love we feel for FRANK and the love he feels for his family, his friends, and our Nation. The happy memories we hold, like the love expressed, will always be with us. They are, in fact, infinite.

My friendship with FRANK has spanned both decades and partisan lines. When we worked together on issues important to Texas, there was never any sense that one of us was a Democrat and one of us a Republican. We never exchanged a harsh word on any subject.

That is the way I remember FRANK TEJEDA, a man who believed in the highest ideals of public service, and fulfilled his lifelong promise to those same ideals.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I would like to thank the dean of the Texas delegation for allowing me to speak today.

Mr. Speaker, I join my colleagues across the aisle in expressing our sorrow for the death of our colleague, Mr. FRANK TEJEDA. The Nation has lost a leader, Texas has lost a son, and I lost a friend.

FRANK and I served together since 1977 as State representative, as State senator, and now as congressional colleagues. Never has anyone served in office with more honor and more distinction.

FRANK TEJEDA was a man of his word and we will miss him. He was a man of his word throughout his legislative career, from his first term, 2-year term as a State representative, to his terms as a State senator.

FRANK literally was a Texas hero and an American hero. He dropped out of school at 17, volunteered for the Marines and was sent to Vietnam. Two weeks before his tour was up in 1966 he was hit by shrapnel. He was awarded a Purple Heart and Bronze Star for his bravery under fire, and yesterday he was awarded a Silver Star for his bravery. He received the highest grades ever in the Officer Candidate School in the Marine Corps.

FRANK returned to San Antonio and graduated from St. Mary's with an undergraduate degree, and then earned his law degrees at Berkeley and Yale, and a graduate degree from Harvard. As my colleague and dean of the Texas delegation said, not bad for a high school dropout.

FRANK was elected to the Texas House of Representatives in 1976, and to the Texas Senate in 1986. In the legislature he championed bills to build housing for veterans, protect crime victims. He worked to assist minority and women-owned businesses, promoted measures to ensure voting rights for minorities, and attacked the practice of dismissing jurors based on their race or their ethnicity.

In 1993 as a Member of Congress, Mr. TEJEDA called for removal of a Federal judge accused of uttering racial slurs against Hispanics in open court. In 1992, FRANK was the only freshman elected to Congress from a new district who did not face major party opposition in either the primary or the general election. Having had four elections in 1992, when I came to Congress, I asked FRANK, I said I needed to learn how he did it, because I had four elections and he barely had two.

FRANK TEJEDA never forgot his military training and the importance of education. He was the most proud to be a marine. During his two terms in Congress, two-plus terms in Congress, FRANK TEJEDA worked tirelessly for veterans health and education benefits. FRANK TEJEDA will be missed by Americans, by Texans, by San Antonio residents. America has lost a fighter for freedom and we lost a friend.

Mr. GONZALEZ. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the dean very much for his kindness. Mr. Speaker, my relationship with Mr. FRANK TEJEDA is a new one. However, I hope that that does not diminish the sincerity of my words today.

Mr. Speaker, I rise today, along with my colleagues from Texas and throughout this Nation, to pay respects to a man, a man's man. I do not mind saying that in this era of political correctness. FRANK TEJEDA was a man to be looked up to. He stood for the values we need more of today: family, honor, education, and public service.

He was a man of the barrio, of the south side of San Antonio, who knew what it was like to shine another man's shoes; who understood, however, to keep his pride in the face of adversity, and how to face any challenge squarely and without hesitation.

He faced down enemy fire in Vietnam, where he was decorated after rising to the challenge of Marine Corps Officers Training School, by leaving his mark with records and academic leadership and physical fitness.

Mr. TEJEDA understood the value of education, earning degrees at our finest schools: the University of California at Berkeley, Harvard, and Yale. His education served him well as a devoted public servant.

Serving in the Texas House and Senate for a total of 16 years, and then coming to Congress in 1993, he dedicated his entire life to making the south side of San Antonio a better place to live and work, and, yes, this country a better place to be in.

He understood about the health and safety of his community. His work to help build health clinics for veterans and those in need of health care was superior. He helped to bring better sewers and cleaner water to his district. When the farmers and ranchers faced a drought, he broke through the redtape here in Washington and got them immediate relief.

But the job he liked best was being a father to his three children. His daughters and son always knew they could count on him. Certainly I think we can look to them for great things. Frankie, his son, will certainly be a reminder of his great works in his leadership.

FRANK TEJEDA, the Congressman, will be missed here. I knew him as a determined, forceful, committed, and gentle leader. Everyone admired his political intuition as he quietly got things done.

I think he leaves us with the impression that he was not just another politician or another elected official. He will be missed as a leader of his community. He will be missed as a father. He will be missed as a colleague, and yes, he will be missed as a man; but most importantly, he will be missed as an American, a lover and doer of the tenets and words of the flag.

Mr. Speaker, I would like to now acknowledge some beautiful words that many of us who joined his family were able to hear yesterday in the ceremony that celebrated the life of Congressman FRANK TEJEDA. It is from his daughter, Marissa, but I think it captures, if you will, the comments of all of his children, and certainly those who loved him and respected him:

> You are a celebrity to me. I've watched you grow all these years with me, almost as if you were a big star on the screen.
>
> I've watched you give to others. This taught me the gift of giving.
>
> I've watched you make your dreams come true. This taught me to believe in dreams.
>
> I've watched you play my fan at my softball and soccer games. This taught me to find courage and self-worth.
>
> I've watched you play my teacher. This taught me the meaning of moral gratification and education.
>
> I watched you play my dad when you loved me unconditionally and supported me with all of your faith. This taught me the magic in love and the ability to bring love to others.
>
> And I watched you as you played my friend every day, when you talked to me, cried with me, and laughed with me.
>
> You were a star to me. I was your biggest fan.

Love, Marissa.

Mr. GONZALEZ. Mr. Speaker, I yield such time as she may consume to my fellow Texan, Ms. EDDIE BERNICE JOHNSON.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to remember and pay tribute to my friend, colleague, and a great American, Congressman FRANK TEJEDA. His untimely death is a great loss for the constituents of District 28, all of Texas, and the citizens of the United States.

Congressman TEJEDA and I have worked together for many years in many capacities. He and I were colleagues in the Texas House and the Texas Senate. We were elected to this office in the same class in 1992. He was a patriot, a Vietnam veteran who risked his life many times to defend his fellow marines. He was honored with many medals. He was a true American hero.

My colleague, FRANK TEJEDA, has been an example and role model for many people in many ways. He proved that you can achieve success with determination and hard work. He ended his life with the same quiet dignity he always showed. My heart and prayers are with his family.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I want to thank the distinguished gentleman from Texas for yielding time to me.

Mr. Speaker, I rise to support the resolution, and to pay tribute to a great American, a dear colleague, and a good friend, Mr. FRANK TEJEDA. FRANK and I came to the Congress 4 years ago, he, from Texas, I, from New Jersey; he, an American of Mexican descent, I, an American of Cuban descent. Through our mutual friend, Mr. SOLOMON ORTIZ, we became very friendly.

FRANK TEJEDA was a quiet warrior. That description may seem inconsistent, but in fact it was the way that FRANK got things done here in the House. FRANK TEJEDA was tempered by war and disciplined by its effects to seek peace, he felt, through strength. FRANK had a deep and abiding faith in his God, his family, and his country. He exhibited extraordinary courage on the battlefield, where, as the leader of his platoon and wounded, he sought to save the lives of one of his men; in life, as he struggled against prejudice and for social justice; and in death, as he faced the ravages of cancer.

Yesterday, as I and other Members of the House attended his funeral, we saw the neighborhoods he fought for and the people who lined the streets with signs expressing their love and respect for their champion. FRANK TEJEDA was a loving father, a courageous soldier, a great public servant.

To ascribe so many positive qualities to one individual might be said to be the usual gilding of the lily. In the case of FRANK TEJEDA, it was simply the truth.

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My life, this House, our country are better off due to his life here on Earth with us. God bless you, FRANK.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, there are times when words seem so inadequate, and for me this is one of those moments. I will always consider one of the great privileges of my life to have been able to serve in the Texas Senate and the U.S. Congress with FRANK TEJEDA. For the last 4 years we worked together on the Committee on Veterans' Affairs and were seat mates at the Committee on National Security. My friend FRANK TEJEDA, the quiet marine, with a great heart. I wish all Americans could have known him. You did not see FRANK on the Sunday talk shows and not too often here in the well of this House making speeches. He was more interested in helping others than in talking about it. You see, FRANK TEJEDA was someone whose life of accomplishment, integrity and caring spoke for itself. And what an eloquent speech his life became for our Nation and for young people for generations to come.

FRANK TEJEDA fought for his country in time of war and served his country in time of peace. While not one who wasted words, he spoke out and fought effectively for those beliefs he held so dear, a strong defense, veterans care, education for our children and justice for all. In a time when many have grown cynical of all who serve in public office, FRANK TEJEDA's spirit is a living reminder that serving one's community and country can be and should be a noble calling.

Each week when Congress recessed, FRANK was on the airplane first to get back home. His heart and soul were always with his district in south Texas where he worshipped his God, loved his family, and was devoted to his constituents. That is why I believe that, more than the words spoken here in this House today, FRANK would be most proud of those signs that lined the streets in his beloved south San Antonio yesterday that said, we love you, FRANK. To my friend, we love you as well, and we will never forget the eloquence of your life's work. Mi amigo, yo te amo.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the dean of the Texas delegation for yielding time to me.

I also make mention that tomorrow the gentleman from Texas [Mr. ORTIZ] and I have also requested time through a special order to also commemorate the life of our good friend, FRANK TEJEDA.

It is truly with profound sadness that we extend our deepest condolences to the three children of FRANK TEJEDA, Marissa, Sonya and Frank III and to his mother, Lilly, on the untimely passing of FRANK TEJEDA. I do not think anyone would disagree if we were to say that this is a man who perhaps was not the best known Member in the House of Representatives, perhaps was not the Member who came and spoke down in this well most often, perhaps was not the gentleman who was out in committee making the most noise most often and perhaps was not the one socializing at night with all of his colleagues most often. But certainly I think no one would deny that this is a man who with total dignity every day that he was here showed that he earned the respect of the constituents of his district so that he could be the Representative from Texas.

I consider FRANK TEJEDA an American hero. It is not too often you do not know about the Superman's of the world and the Superman's of America, but a FRANK TEJEDA does not come very often. That is why at the age of 51, it is such a sadness to have seen him leave. It was FRANK's courage in the face of great obstacles that served him so well throughout his time here in Congress.

Two years ago I remember that, 1995, 2 years ago many believed upon learning of his illness, of his cancer of the brain that he would never serve another day in Congress. But in typical style, FRANK, remember FRANK is a guy who went to Harvard and went to Yale to graduate school and who also at the same time was a dropout from high school, remember FRANK is the Vietnam veteran who got not just the Bronze Star and the Purple Heart but also posthumously was awarded the Silver Star for having saved the lives of American soldiers, forsaking his own in the process.

This is a man who has always fought back. He returned to service in Congress even after all those folks said that there is no way in the world someone with that type of an illness could ever come back. And yet he continued to serve and finished off the days of the 104th Congress.

He was elected and even was sworn into the 105th Congress representing the 28th District of Texas. Had he had the chance, there is no doubt that with every fiber of his body and with every drop of blood he would have been here today. But I think as we heard at his funeral yesterday, the bishop, the archbishop say, it was destined that God wanted FRANK with him, that FRANK had served a greater purpose here and the Lord had seen fit to take him with him. I will argue with the Lord for having done that for probably the rest of my life, but FRANK knew his duty and he always served it.

I think it has always been said so well about FRANK, he gave when it was time, and he never, and he never, I am not sure if I have ever known anyone, but he never complained. This is a guy who not just in his physique but in the way he conducted himself told you that he could take punishment, but he would be there the next day. And that is perhaps the biggest tribute any one of us could pay to a man like FRANK TEJEDA. He never boasted about what he had done. He never said to any one of us here that, while I may not be the most famous Congressman, I saved the lives of some of the Americans who are watching today as I act as a Representative in Texas. He never once said to anyone, I graduated from some of the schools that most people in this Nation will never even get to step foot on. At the same time, he was someone who never had a chance to quite finish high school. He never bragged, but he was always there. I think that is the mark of someone who really is an American hero, and that is why I say, FRANK TEJEDA, you are an American hero.

FRANK was a quiet, dignified and disciplined man. But, oh, how proudly and eloquently his life spoke to the value of being an American. Look back at your life, FRANK, please look back at your life. We are many who will miss you. Today as we adjourn this, another august day of democracy in this Nation, we say goodbye to a very distinguished American. Thank you, FRANK, for your service to this country. FRANK, thank you very much for your service in life. And I think all of us understand that today we mourn the passing of a great American hero.

Mr. GONZALEZ. Mr. Speaker, I yield such time as she may consume to gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise to express my most profound sorrow at the passing of our colleague, FRANK TEJEDA, of San Antonio last week. I served with FRANK on the House Committee on National Security where his dedication to our national security and his commitment to his constituency in San Antonio was always in evidence.

FRANK brought to our committee a wealth of experience about military service and the dangers facing our Nation. Much of this experience he gained the hard way, particularly as a Marine Corps veteran of the Vietnam conflict where he served with distinction earning a Bronze Star and a Purple Heart. Following FRANK's return from Vietnam, he continued to serve in the Marine Corps Reserve, even during his service here in the House.

FRANK's voice of experience and his quiet determination will be sorely missed in our committee meetings. Our hearts go out to his family and friends who grieve at his passing. I hope they take consolation knowing how much he contributed to our Nation and how deeply his colleagues will miss him.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. DIAZ-BALART].

Mr. DIAZ-BALART. Mr. Speaker, it is a great honor to rise today in memory of FRANK TEJEDA, a very special man who became a special friend during the last 4 years. We were both elected in 1992. I was aware at the time of our election of his heroic record in combat in our Armed Forces. I was also aware at the time of our election of his extraordinarily impressive academic achievements, the fact that he had been at Yale and Harvard and succeeded there and in many other academic endeavors.

I did not know, however, at the time of our election, what I subsequently was able to learn by getting to know FRANK TEJEDA personally. He was a man of great faith, a man who revered family and who revered friendship.

I was most impressed every time, just about every time I had the opportunity to speak to FRANK, especially in the last years, when he was battling his illness, how he would say: I am fine, LINCOLN, I am fine. As a matter of fact, Diosito has protected me even from pain.

He would refer to God in that marvelous way which I would translate only as: My dearest God, my dearest God. He had great love for God as well as for family and for country and for freedom.

I wish to take this opportunity, Mr. Speaker, to make sure that his family knows not only how much FRANK will be missed here in the Halls of Congress but that his friends here will not only miss him but look forward to being in touch with his family and that his family know that we long to be their friends, as we were, of FRANK TEJEDA.

We will miss him, that very special man of patriotism, of grace and character and honor and integrity, of courage and optimism and strength and decency, that exemplary man who we had the honor and the privilege of getting to know personally during the last 4 years, FRANK TEJEDA. Hasta luego, caro amigo.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. HINOJOSA].

Mr. HINOJOSA. Mr. Speaker, it is an honor for me to be able to speak from the House, from the floor of the House of Representatives, my maiden speech, as a freshman Congressman, as one who knew FRANK TEJEDA. I feel honored that I will be allowed to come before you and to express my thoughts and my sentiments about this great individual whom we knew as FRANK.

The simplicity with which he spoke, the simplicity with which he treated the rest of the colleagues from Texas and from the rest of the country was something that was outstanding. It was spoken yesterday at the church as we, over 60 of us, Congressmen and Congresswomen, were seated and listened to the priests, to the bishops who were celebrating the mass. They said that he was the individual, he was the Congressman who had grown up right there in that neighborhood and had been an altar boy, had been attending school in that Catholic church and had played in the background and in the playgrounds adjacent to the church, and they spoke of how he had surfaced and become a leader amongst his little friends.

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But not only did he surface to become a leader amongst those little friends, he rose here in the Halls of Congress to become one of the national leaders whom we all respected, and so we are here to pay tribute to FRANK TEJEDA.

We are here to join the many who feel exactly as I do, and that is that he was an honorable man; that he was honest; that he was hard working; that he was one whom you could depend on. If he gave you his word, you could count on it.

When I heard his children express their thoughts at the service yesterday, when I heard Marissa, when I heard Sonya, when I heard Frankie, I knew that he had done a wonderful job as a father and as a friend to those children. And so my last words are that we not forget those three children that he leaves behind, because they gave up so much so that their father could go and serve his constituents, that he could go and serve his country. And for that, I hope that we will always remember them in our prayers and that we see that they lack nothing the rest of their lives.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to my fellow Texan, Mr. BONILLA.

Mr. BONILLA. Mr. Speaker, I thank my colleague from Texas, Mr. GONZALEZ, for yielding me this time. We are all mourning a great loss we have all suffered in south Texas with the passing of our friend, FRANK TEJEDA.

FRANK was my personal friend. He and I were both elected at the same time and came to Congress the same year. We would often fly back and forth on the airplane, back to visit our constituents on weekends, and talk about how we all were so fortunate to wind up here representing the people of south Texas and west Texas.

During those times we would reflect on the places where he and I came from. He went to Harlandale High School, which is a couple miles up the road from South San Antonio High School, where I attended on the south side of San Antonio. And as we spent those many hours talking about the things we wanted to accomplish and the things that we wanted to do, it is so difficult to believe that in such a short period of time he is no longer with us.

He was the kind of person that in the last few days in south Texas we have all been reflecting on his accomplishments and what he did as a great community activist and a great advocate for the poor and for those who had no place else to turn often.

FRANK TEJEDA was always there when they needed him. He sponsored Little League baseball teams. He would pay for funerals for people who could not afford them in the neighborhoods in San Antonio. Never asking for any publicity, never asking for any recognition but simply writing a check, often, many times, most of the times out of his personal account to help families who otherwise would have no place else to turn.

As we think back on the legacy he has left us, what greater legacy can a man leave behind than having led by example with great honesty, with great character, with great integrity, with great dignity; and not only preaching those values everywhere he went but by leading by example at every opportunity.

South Texas and San Antonio loved FRANK TEJEDA. They loved FRANK TEJEDA, and his memory will live on forever. I just hope that one day as I work in these Halls of Congress that I can accomplish half of whatever he accomplished as a legislator and in the many years he served in public office.

FRANK, we know you are up there looking down on us today hoping that we can carry on the work that you started here; and as your children reflect on you, as your mother and your family members reflect on you and as your friends reflect on you and what you have meant to them, we all appreciate the great legacy you have left us about the values and honesty and integrity and the things that were important to you. We will certainly try to aspire to meet the standards that you have set.

There is no greater legacy that an American will leave behind. We will miss you, FRANK. We will all remember your work and try to work and aspire to meet those standards you set for us.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I thank my friend for yielding me this time so that I can add my words to those of my colleagues in memory of my friend and classmate, FRANK TEJEDA, who recently fought his last battle. He fought so many in his life. He fought them all with honor and with grace, and that is the way he fought his last one as well.

I remember working with FRANK on the Armed Services Committee for the 4 years that he and I served in this institution, and working so well with him and in a spirit of bipartisanship. And for FRANK TEJEDA that was not something that he did when it was politic but not when it was not politic. It was something he did all the time. He did not even think about it. It was just a function of his character. FRANK loved people and he looked at individuals as individuals and he worked with them and for them his whole life.

FRANK was a man who went through a lot of adversity; had a lot of difficult times. Mr. Speaker, that makes some people bitter, but it empowers other people. It allows them to understand, truly, the sufferings that other people are going through and to be a method of comforting them, and that is what FRANK did.

Mr. Speaker, there is a verse from "America the Beautiful" that I really like. I think of it when I think of my colleagues and my friends who are veterans and have served their country so honorably, and I think it sums up at least a part of FRANK's life and his public service so well. I would like to recite it in closing my remarks.

> Oh, beautiful for heroes proved in liberating strife, who more than self their country loved and mercy more than life.

That was our friend FRANK TEJEDA. We will miss him. I would like to add my voice to my colleagues in extending my condolences to his family and friends.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank my colleague for yielding. I appreciated FRANK. I tell my colleagues, FRANK TEJEDA and I had a chance to serve in the Texas House together. He was in the House when I was first elected down there, and later elected to the Senate, and I was there with him for the whole 7 years I was in the House. I got to know him, because down there we are not partisan like we are up here. We were bipartisan. We ate and drank together and we made laws together and we got to know each other. And I got to know FRANK. I even served on committees with him.

When he was elected to the U.S. House of Representatives, he did not have any opposition. Since that time he has been having to fly through Dallas to get up here, which is where I am from, and I have flown back and forth with him many times. And I want to tell my colleagues that he read the Bible on the airplane, memorized verses, and said that he was going to do what was right for America and what was right in the eyes of the Lord.

FRANK TEJEDA was a marine, and because of that he gave great faith in the strength of our armed services, which I believe in as well, and he and I were on common ground there. The strength of this Nation lies in our strength, in our military strength to form our foreign policy around the world. FRANK did that with a vehemence no one else could do. He was a great marine.

To FRANK, I say, and I think the marines would say, semper fi. Adios amigo.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I thank the dean of the Texas delegation, Mr. GONZALEZ, for yielding me this time.

We all now know much more about FRANK TEJEDA, his records, his legacy, his biography, but what will last in those hidden hollows of the hearts that knew him as a son, as a brother, as a father, as a comrade, as a colleague, and as a friend will be FRANK's unwavering courageous dedication to his God, to his family, and to his country.

The mark of any mortal is not how much he exhibits to the world but the quality of what he leaves behind. FRANK's real legacy is the high esteem in whom all who knew him held him. His honesty, his impeccable integrity, his quiet unassuming professional manner, his almost single-minded devotion to making life better.

Whether you were his marine buddy in the swamps of Vietnam, his neighbor in the barrio of San Antonio's south side, the many kids, young ballplayers, who got that uniform that they treasured so much because of the generosity of FRANK, whether you were a confidante or a combatant in the corridor of Congress, you could always be sure that FRANK would give you every consideration, every remedy, every ounce of integrity, honesty, fair play and unwavering courage that inhabited his being.

Let it be said in the words of two quotations that I think best fit now the memory of FRANK TEJEDA. Sir Richard Francis Burton said, "He noblest lives and noblest dies who makes and keeps his self-made laws." And Daniel Webster once observed, "Although no sculptured marble should rise to their memory, nor engraved stone bear records of their deeds, yet will their remembrance be as lasting as the lands they honored."

FRANK TEJEDA loved this land and he honored it in so many ways while he was privileged to live on this Earth and we will forever remember him.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas, Congressman SESSIONS.

Mr. SESSIONS. Mr. Speaker, I thank the dean of the Texas delegation, Mr. GONZALEZ, very much.

I rise today also to say farewell to FRANK TEJEDA, a fellow Texan, a man who deeply believed not only in the faith and hope of Texans, but very much in our country and all that we stand for.

A lot has been said here today about the honesty, forthrightness, and the hard work that FRANK TEJEDA exemplified as a Texan, as a father, as a parent, and as a man who did the best for his country. But I would also like to rise today and say that as I attended the funeral yesterday that I saw a hope within the people of San Antonio, the people who lined the streets, who joined us in the cathedral, in the church there as we said goodbye to FRANK.

The people who were out on the street and the people who came to say goodbye recognized that FRANK TEJEDA had a hope from within him that represented a mission, a mission that we should all strive for. If there is one legacy that FRANK TEJEDA would leave, it was one that the people of the 28th Congressional District of Texas had, and that is one of hope, one of admiration to our country and for each one of us that we work together and the hope that we can come together as a country.

So while we say goodbye to FRANK TEJEDA, let us also recognize that what burned so deep in FRANK TEJEDA's heart also is shared by those people in San Antonio and it is that, Mr. Speaker, that I saw that burned so brightly and so deep that caught me and stunned me of the hope that we can all have, not just in San Antonio and not just in Texas but across this great land.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the dean of the Texas delegation for yielding me this time.

Mr. Speaker, many people have noticed and taken note of the incredible rise and the success story that was the life of Congressman FRANK TEJEDA. I will not recount that incredible story of triumph over adversity. My colleagues from Texas have done that most eloquently. I just want to take a moment to reflect and to share a story of a trip I took last year to San Antonio. It is a story which I believe lends insight into the kind of man that FRANK TEJEDA was.

I went to Texas on just a few days' notice. In spite of that, FRANK put together a luncheon at which more than 100 leaders of the San Antonio African-American community turned out. An impressive demonstration of organizational skill, I thought to myself.

In the hour or two that I spent with those people from San Antonio, I realized that these people had not turned out to hear from me but to hear and see their Congressman, their friend, their brother, FRANK TEJEDA.

FRANK was not just respected in his community. He was not just liked. What I discovered on my trip to San Antonio was that FRANK was loved by the people in his district. FRANK was what every Member of Congress wants to be: He was a true representative of the people. FRANK understood his community because he was a part of that community. They were always on his mind and in his soul.

Mr. Speaker, we will all miss FRANK TEJEDA. In a time when people toot their own horns, especially here in Washington, he was quiet. He was a quiet man, a sincere man, a reflective and thoughtful man.

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Mr. Speaker, I will miss FRANK, the House will miss FRANK, and the Nation will miss FRANK. There are not enough people like FRANK TEJEDA. God bless him and his family.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I am honored today to join with the Texas delegation and my other colleagues in honoring FRANK TEJEDA for his years of service and dedication to our Nation.

As we have heard, FRANK TEJEDA lived a life of hard work. He worked hard for his constituents of Texas. He worked hard as a member of the Marines. He worked hard in school. His accomplishments indeed include a law degree from UC-Berkeley and two more postgraduate degrees from Yale and Harvard.

Indeed this is commendable for a young man who early in life left school, disenchanted with some of the problems that had beset him as a young man. Some of his counselors, as I have read the record, called him just a trouble-making Mexican. Well, FRANK proved them wrong.

I had the privilege to serve with FRANK and understand him. He was not driven to prove to others that he could do something. He was driven by his own desire to do something. Whether it was bringing technology into the rural areas of his district or providing urban San Antonio with new community development opportunities, FRANK made it happen. I remember how he helped a small coalition of businesses in San Antonio. Its executive director, Sam Gorena, sought assistance in reviving the local economy and attracting new businesses. FRANK helped and we helped along with him in building that new economic blood for that community.

We, the colleagues of FRANK TEJEDA in the Congressional Hispanic Caucus, have lost one of our strongest representatives to our Nation's military and a leader to be sure, a leader in thoughtful debate, a leader here in the House. We, the colleagues of FRANK TEJEDA in Congress, were lucky to have served with him. He will live forever in our memories for his strength and his integrity. We as Americans owe FRANK a debt of eternal gratitude.

Ms. VELÁZQUEZ. Mr. Speaker, my colleagues, it is sad to admit it, but we live in a time of few heroes. Last week, we lost a modern-day hero who only months ago walked among us on this floor. Congressman FRANK TEJEDA has left us, but his spirit remains. What an honor and privilege it was to serve with this great Latino. Mr. Speaker, a hero sacrifices selflessly and gives his whole being to causes bigger than himself. FRANK TEJEDA demonstrated this not only as a United States marine in the jungles of Vietnam but also in public life back home.

As a State legislator and as a Congressman, he fought the hard fights. He relentlessly protected the poor Mexican-American people of his Texas district. Here in Washington, he spoke out against assaults on immigrants, women, and children.

He was also a true champion of all veterans and never forgot his fellow men and women in uniform. FRANK TEJEDA was truly a powerful ally for all of us in the Congressional Hispanic Caucus.

Out of the tough barrios of San Antonio, TX, FRANK TEJEDA was conditioned to survive—to beat the odds—to overcome any barriers. When I think about FRANK TEJEDA, what sticks out the most is what a fighter he was in all that he did.

He battled off his tragic illness for over a year. Even in his final days, he insisted on being sworn in on his sickbed to fulfill the wishes of the 73-percent strong who elected him to his third term.

The Congress and the Nation mourn FRANK TEJEDA because he left us way too soon. However, we also celebrate his inspiring memory and peaceful strength. You were an example and a hero to this country. Thank you, FRANK, and may your goodness and justice guide us all.

Mr. FROST. Mr. Speaker, the House has lost a courageous Member of this body, and I have lost a good friend.

FRANK TEJEDA only served in the House for 4 years, but he nevertheless had a profound impact on those of us who knew him and worked with him. He had a deep commitment to helping people who traditionally have been left out of the mainstream of society. He wanted to reach out and ensure that the disadvantaged had an opportunity to fully participate in American life, that no institution, whether it be government, education, or business, would be closed to them.

FRANK was also committed to ensuring that America had a strong national defense. As a former marine, FRANK understood the value of freedom, and knew well the terrible cost of maintaining our cherished liberties. He worked tirelessly within the National Security Committee to see that the men and women serving in our Armed Forces had the resources necessary in today's world to protect our freedoms.

FRANK had fought hard for his constituents, for the people of Texas, and for all Americans. More recently, he battled valiantly against a disease that ultimately took his life. He never gave up.

He will be missed.

Mr. OXLEY. Mr. Speaker, I rise to mark the passing of our colleague, the gentleman from Texas, FRANK TEJEDA.

Congressman TEJEDA's spirit, his patriotism, his sense of duty, and his service to the Nation and his fellow veterans set an example for all Americans, particularly the youth of San Antonio. The House of Representatives, certainly, is poorer for his loss.

I wish to extend my sympathies to his family and friends.

Que Dios lo tenga en su Gloria.

Mr. EVANS. Mr. Speaker, on June 7, 1945, Gen. George S. Patton, Jr., while eulogizing our American World War II dead, reminded our grieving Nation: "It is foolish and wrong to mourn the men who died. Rather we should thank God that such men lived." General Patton's words should support and sustain us today as we remember our colleague, FRANK TEJEDA. Rather than mourning FRANK's too-early death, let us thank God for his life—let us thank God we had the opportunity, and the privilege, to know and work with this extraordinary man.

FRANK was a favorite in this House. A genuinely friendly, decent, kind, and quiet man, his participation in a hearing or meeting guaranteed civility and tolerance. When he spoke, others leaned in so they could hear his words. I firmly believe that FRANK's notable courtesy and obvious concern and regard for the views of others were the results of a life challenge—as a young man growing up in southside San Antonio—as a highly decorated marine who fought and was wounded in the jungles of Vietnam—as a student at three of our country's most highly respected centers of learning and intellectual challenge—the University of California at Berkeley, Harvard, and Yale.

As a fellow member of the Committee on Veterans' Affairs, I know that FRANK's thoughtful, informed comments and constructive participation were highly regarded. He was among the first to sound the alarm regarding Persian Gulf war syndrome. He championed improvements in the Montgomery GI Bill. He fought to ensure that the many veterans in San Antonio were well cared for and that the Audie Murphy VA Hospital in San Antonio provided only the finest health care. I was also privileged to serve with FRANK on the Committee on National Security where his faithful and effective participation demonstrated his commitment to the members of our Armed Forces and a strong national defense.

All of us considered FRANK a good friend and colleague. Our admiration, however, grew into a real sense of awe as we watched him literally wage the battle of his lifetime—a fight he carried on with enormous courage and dignity. None of us will ever forget the Honorable FRANK TEJEDA—or the special grace with which he lived his life.

Our deepest sympathy goes to FRANK's beloved family, his loyal and devoted staff, and the residents of the 28th Congressional District of Texas, whom FRANK represented so ably and with great diligence. Please know that we in this House are anxious to help in any way possible during the coming difficult months. Let us all thank God for the life of FRANK TEJEDA.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

APPOINTMENT OF MEMBERS TO ATTEND THE FUNERAL OF THE LATE HONORABLE FRANK TEJEDA

The SPEAKER pro tempore Mr. GOODLATTE. Pursuant to the order of the House of Tuesday, January 7, 1997, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on Monday, February 3, 1997, appointed the following Members to attend the funeral of the late Honorable FRANK TEJEDA:

Mr. GONZALEZ of Texas; Mr. ARMEY of Texas; Mr. GEPHARDT of Missouri; Mr. DELAY of Texas; Mr. BONIOR of Michigan; Mr. FAZIO of California; Mrs. KENNELLY of Connecticut; Mr. ARCHER of Texas; Mr. FROST of Texas; Mr. STENHOLM of Texas; Mr. HALL of Texas; Mr. ORTIZ of Texas; Mr. BARTON of Texas; Mr. COMBEST of Texas; Mr. SMITH of Texas; Mr. EDWARDS of Texas; Mr. SAM JOHNSON of Texas; Mr. BONILLA of Texas; Mr. GREEN of Texas; Ms. EDDIE BERNICE JOHNSON of Texas; Mr. BENTSEN of Texas; Mr. DOGGETT of Texas; Ms. JACKSON-LEE of Texas; Mr. THORNBERRY of Texas; Mr. PAUL of Texas; Mr. BRADY of Texas; Ms. GRANGER of Texas; Mr. HINOJOSA of Texas; Mr. LAMPSON of Texas; Mr. REYES of Texas; Mr. SANDLIN of Texas; Mr. SESSIONS of Texas; Mr. TURNER of Texas; Mr. MARTINEZ of California; Mr. KLECZKA of Wisconsin; Mr. BECERRA of California; Mr. BISHOP of Georgia; Mr. DIAZ-BALART of Florida; Mr. MCHALE of Pennsylvania; Mr. MENENDEZ of New Jersey; Ms. VELÁZQUEZ of New York; Mr. JACKSON of Illinois; Mr. ROMERO-BARCELO of Puerto Rico; and Mr. UNDERWOOD of Guam.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 35.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 2

Mr. THUNE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Joint Resolution 2.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

PERMISSION FOR SPEAKER TO ENTERTAIN MOTION TO SUSPEND RULES ON WEDNESDAY, FEBRUARY 5, 1997

Mr. THUNE. Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, February 5, 1997, for the Speaker to entertain a motion to suspend the rules and pass a bill or resolution relating to the late Honorable FRANK TEJEDA of Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

EXTENSION OF AGREEMENT ON FISHERIES BETWEEN ESTONIA AND THE UNITED STATES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–39)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources and ordered to be printed:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Estonia Extending the Agreement of June 1, 1992, Concerning Fisheries Off the Coasts of the United States, with annex, as extended ("the 1992 Agreement"). The Agreement, which was effected by an exchange of notes at Tallinn on June 3 and 28, 1996, extends the 1992 Agreement to June 30, 1998.

In light of the importance of our fisheries relationship with the Republic of Estonia, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 4, 1997.*

EXTENSION OF AGREEMENT ON FISHERIES BETWEEN LITHUANIA AND THE UNITED STATES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–40)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources and ordered to be printed:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Lithuania Extending the Agreement of November 12, 1992, Concerning Fisheries Off the Coasts of the United States, with annex, as extended ("the 1992 Agreement"). The Agreement, which was effected by an exchange of notes at Vilnius on June 5 and October 15, 1996, extends the 1992 Agreement to December 31, 1998.

In light of the importance of our fisheries relationship with the Republic of Lithuania, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 4, 1997.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that tonight when the two Houses meet in joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now recognize Members for special orders until 6 p.m., at which time the Chair will declare the House in recess.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RULES OF PROCEDURE FOR THE COMMITTEE ON THE JUDICIARY, 105TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, pursuant to clause 2(a) of rule XI of the rules of the House, I submit for publication in the CONGRESSIONAL RECORD, the rules of procedure for the 105th Congress adopted by the House Committee on the Judiciary on January 21, 1997.

COMMITTEE ON THE JUDICIARY—RULES OF PROCEDURE

RULE I

The Rules of the House of Representatives are the rules of the Committee on the Judiciary and its subcommittees with the following specific additions thereto.

RULE II. COMMITTEE MEETINGS

(a) The regular meeting day of the Committee on the Judiciary for the conduct of its business shall be on Tuesday of each week while the House is in session.

(b) Additional meetings may be called by the Chairman and a regular meeting of the Committee may be dispensed with when, in the judgment of the Chairman, there is no need therefor.

(c) At least 24 hours (excluding Saturdays, Sundays and legal holidays when the House is not in session) before each scheduled Committee or subcommittee meeting, each Member of the Committee or subcommittee shall be furnished a list of the bill(s) and subject(s) to be considered and/or acted upon at the meeting. Bills or subjects not listed shall be subject to a point of order unless their consideration is agreed to by a two-thirds vote of the Committee or subcommittee.

(d) The Chairman, with such notice to the ranking Minority Member as is practicable, may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to that call of the Chairman.

(e) Committee and subcommittee meetings for the transaction of business, i.e. meetings other than those held for the purpose of taking testimony, shall be open to the public except when the Committee or subcommittee determines by majority vote to close the meeting because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House.

(f) Every motion made to the Committee and entertained by the Chairman shall be reduced to writing upon demand of any Member, and a copy made available to each Member present.

(g) For purposes of taking any action at a meeting of the full Committee or any subcommittee thereof, a quorum shall be constituted by the presence of not less than one-third of the members of the Committee or subcommittee, except that a full majority of the Members of the Committee or subcommittee shall constitute a quorum for purposes for reporting a measure or recommendation from the Committee or subcommittee, closing a meeting to the public, or authorizing the issuance of a subpoena.

RULE III. HEARINGS

(a) The Committee Chairman or any subcommittee chairman shall make public announcement of the date, place, and subject matter of any hearing to be conducted by it on any measure or matter at least one week before the commencement of that hearing. If the Chairman of the Committee, or subcommittee, with the concurrence of the ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the Committee or subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman or subcommittee chairman shall make the announcement at the earliest possible date.

(b) Committee and subcommittee hearings shall be open to the public except when the Committee or subcommittee determines by majority vote to close the meeting because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House.

(c) For purposes of taking testimony and receiving evidence before the Committee or any subcommittee, a quorum shall be constituted by the presence of two Members.

(d) In the course of any hearing each Member shall be allowed five minutes for the interrogation of a witness until such time as each Member who so desires has had an opportunity to question the witness.

RULE IV. BROADCASTING

Whenever a hearing or meeting conducted by the Committee or any subcommittee is open to the public, those proceedings shall be open to coverage by television, radio and still photography except when the hearing or meeting is closed pursuant to the Committee Rules of Procedure.

RULE V. STANDING SUBCOMMITTEES

(a) The full committee shall have jurisdiction over the following subject matters: antitrust law, tort liability, including medical malpractice and product liability, legal reform generally, and such other matters as determined by the Chairman.

(b) There shall be five standing subcommittees of the Committee on the Judiciary, with jurisdictions as follows:

(1) Subcommittee on Courts and Intellectual Property: copyright, patent and trademark law, administration of U.S. courts, Federal Rules of Evidence, Civil and Appellate Procedure, judicial ethics, other appropriate matters as referred by the Chairman, and relevant oversight.

(2) Subcommittee on the Constitution: constitutional amendments, constitutional rights, federal civil rights laws, ethics in government, other appropriate matters as referred by the Chairman, and relevant oversight.

(3) Subcommittee on Commercial and Administrative Law: bankruptcy and commercial law, bankruptcy judgeships, administrative law, independent counsel, state taxation affecting interstate commerce, interstate compacts, other appropriate matter as referred by the Chairman, and relevant oversight.

(4) Subcommittee on Crime: Federal Criminal Code, drug enforcement, sentencing, parole and pardons, Federal Rules of Criminal Procedure, prisons, other appropriate matters as referred by the Chairman, and relevant oversight.

(5) Subcommittee on Immigration and Claims: immigration and naturalization, admission of refugees, treaties, conventions and international agreements, claims against the United States, federal charters of incorporation, private immigration and claims bills, other appropriate matters as referred by the Chairman, and relevant oversight.

(c) The Chairman of the Committee and ranking Minority Member thereof shall be ex officio Members, but not voting Members, of each subcommittee to which such Chairman or ranking Minority Member has not been assigned by resolution of the Committee. Ex officio Members shall not be counted as present for purposes of constituting a quorum at any hearing or meeting of such subcommittee.

RULE VI. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

RULE VII. NON-LEGISLATIVE REPORTS

No report of the Committee or subcommittee which does not accompany a measure or matter for consideration by the House shall be published unless all Members of the Committee or subcommittee issuing the report shall have been apprised of such report and given the opportunity to give notice of intention to file supplemental, additional, or dissenting views as part of the report. In no case shall the time in which to file such views be less than three calendar days (excluding Saturdays, Sundays and legal holidays when the House is not in session).

RULE VIII. COMMITTEE RECORDS

The records of the Committee at the National Archives and Records Administration shall be made available for public use according to the Rules of the House. The Chairman shall notify the ranking Minority Member of any decision to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON EDUCATION AND THE WORKFORCE, 105TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GOODLING] is recognized for 5 minutes.

Mr. GOODLING. Mr. Speaker, Pursuant to rule XI, clause 2(a) of the Rules of the House of Representatives, I respectfully submit the rules for the 105th Congress for the Committee on Education and the Workforce for publication in the CONGRESSIONAL RECORD.

RULES OF THE COMMITTEE ON EDUCATION AND THE WORKFORCE, 105TH CONGRESS

RULE 1. REGULAR, ADDITIONAL, AND SPECIAL MEETINGS: VICE CHAIRMAN

(a) Regular meetings of the committee shall be held on the second Wednesday of each month at 9:30 a.m., while the House is in session. When the Chairman believes that the committee will not be considering any bill or resolution before the committee and that there is no other business to be transacted at a regular meeting, he will give each member of the committee, as far in advance of the day of the regular meeting as the circumstances make practicable, a written notice to that effect; and no committee meeting shall be held on that day.

(b) The Chairman may call and convene, as he considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purposes pursuant to the call of the Chairman.

(c) If at least three members of the committee desire that a special meeting of the committee be called by the Chairman, those members may file in the offices of the committee their written request to the Chairman for that special meeting. Immediately upon the filing of the request, the staff director of the committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour thereof, and the measure or matter to be considered at that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the staff director of the committee shall notify all members of the committee that such meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

(d) All legislative meetings of the committee and its subcommittees shall be open to the public, including radio, television, and still photography coverage. No business meeting of the committee, other than regularly scheduled meetings, may be held without each member being given reasonable notice. Such meeting shall be called to order and presided over by the Chairman, or in the absence of the Chairman, by the vice chairman, or the Chairman's designee.

(e)(1) The Chairman of the committee and of each of the subcommittees shall designate a vice chairman of the committee or subcommittee, as the case may be.

(2) The Chairman of the committee or of a subcommittee, as appropriate, shall preside at meetings or hearings, or, in the absence of the chairman, the vice chairman, or the Chairman's designee shall preside.

RULE 2. QUESTIONING OF WITNESSES

Committee members may question witnesses only when they have been recognized by the Chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The questioning of witnesses in both committee and subcommittee hearings shall be initiated by the Chairman, followed by the ranking minority party members and all other members alternating between the majority and minority party in order of the member's appearance at the hearing. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority party members present and shall establish the order of recognition for questioning in such a manner as not to place the members of the majority party in a disadvantageous position.

RULE 3. RECORDS AND ROLLCALLS

(a) Written records shall be kept of the proceedings of the committee and of each subcommittee, including a record of the votes on any question on which a rollcall is demanded. The result of each such rollcall vote shall be made available by the committee or subcommittee for inspection by the public at reasonable times in the offices of the committee or subcommittee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members present but not voting. A record vote may be demanded by one-fifth of the members present or, in the apparent absence of a quorum, by any one member.

(b) In accordance with Rule XXXVI of the Rules of the House of Representatives, any official permanent record of the committee (including any record of a legislative, oversight, or other activity of the committee or any subcommittee) shall be made available for public use if such record has been in existence for 30 years, except that—

(1) any record that the committee (or a subcommittee) makes available for public use before such record is delivered to the Archivist under clause 2 of Rule XXXVI of the Rules of the House of Representatives shall be made available immediately, including any record described in subsection (a) of this Rule

(s) any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion of personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of Rule XI of the Rules of the House of Representatives shall be available if such record has been in existence for 50 years; or

(3) except as otherwise provided by order of the House, any record of the committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(c) The official permanent records of the committee include noncurrent records of the committee (including subcommittees) delivered by the Clerk of the House of Representatives to the Archivist of the United States for preservation at the National Archives and Records Administration, which are the property of and remain subject to the rules and orders of the House of Representatives.

(d)(1) Any order of the committee will respect to any matter described in paragraph (2) of this subsection shall be adopted only if the notice requirements of committee Rule 18(d) have been met, a quorum consisting of a majority of the members of the committee is present at the time of the vote, and a majority of those present and voting approve the adoption of the order, which shall be submitted to the Clerk of the House of Representatives, together with any accompanying report.

(2) This subsection applies to any order of the committee which—

(A) provides for the nonavailability of any record subject to subsection (b) of this rule for a period longer than the period otherwise applicable; or

(B) is subsequent to, and constitutes a later order under clause 4(b) of Rule XXXVI of the Rules of the House of Representatives, regarding a determination of the Clerk of the House of Representatives with respect to authorizing the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of

Rule XXXVI of the Rules of the House of Representatives; or

(C) specifies a time, schedule, or condition for availability pursuant to subsection (b)(3) of this Rule.

RULE 4. STANDING SUBCOMMITTEES AND JURISDICTION

(a) There shall be five standing subcommittees with the following jurisdictions:

Subcommittee on Early Childhood, Youth, and Families.—Education from preschool through the high school level including, but not limited to, elementary and secondary education generally, school lunch and child nutrition, vocational education and overseas dependent schools; all matters dealing with programs and services for the care and treatment of children, including the Head Start Act, the Juvenile Justice and Delinquency Prevention Act, and the Runaway Youth Act; all matters dealing with programs and services for the elderly, including nutrition programs and the Older Americans Act; special education programs including, but not limited to, alcohol and drug abuse, education of the disabled, environmental education, Office of Educational Research and Improvement, migrant and agricultural labor education, daycare, child adoption, child abuse and domestic violence; poverty programs, including the Community Services Block Grant Act and the Low Income Home Energy Assistance Program (LIHEAP); and programs related to the arts and humanities, museum services, and arts and artifacts indemnity.

Subcommittee on Postsecondary Education, Training, and Life-Long Learning.—Education beyond the high school level including, but not limited to, higher education generally, training and apprenticeship (including the Job Training Partnership Act, the Full Employment and Balanced Growth Act, displaced homemakers, Work Incentive Program, welfare work requirements), adult basic education (family literacy), rehabilitation, professional development, and postsecondary student assistance; all domestic volunteer programs, library services and construction, the Robert A. Taft Institute, and the Institute for Peace.

Subcommittee on Workforce Protections.—Wages and hours of labor including, but not limited to, Davis-Bacon Act, Walsh-Healey Act, Fair Labor Standards Act (including child labor), workers' compensation generally, Longshore and Harbor Workers' Compensation Act, Federal Employees' Compensation Act, Migrant and Seasonal Agricultural Worker Protection Act, Service Contract Act, workers' health and safety including, but not limited to, occupational safety and health, mine health and safety, youth camp safety, and migrant and agricultural labor health and safety and the U.S. Employment Service.

Subcommittee on Employer-Employee Relations.—All matters dealing with relationships between employers and employees generally including, but not limited to, the National Labor Relations Act, Bureau of Labor Statistics, pension, health, and other employee benefits, including the Employee Retirement Income Security Act (ERISA); and all matters related to equal employment opportunity and civil rights in employment.

Subcommittee on Oversight and Investigations.—All matters related to oversight and investigations of activities of all Federal departments and agencies dealing with issues of education, human resources or workplace policy. This subcommittee will not have legislative jurisdiction and no bills or resolutions will be referred to it.

(b) The majority party members of the committee may provide for such temporary, ad hoc subcommittees as determined to be appropriate.

RULE 5. EX OFFICIO MEMBERSHIP

The Chairman of the committee and the ranking minority party member shall be ex officio members, but not voting members, of each subcommittee to which such Chairman or ranking minority party member has not been assigned.

RULE 6. SPECIAL ASSIGNMENT OF MEMBERS

To facilitate the oversight and other legislative and investigative activities of the committee, the Chairman of the committee may, at the request of a subcommittee chairman, make a temporary assignment of any member of the committee to such subcommittee for the purpose of enabling such member to participate in any public hearing, investigation, or study by such subcommittee to be held outside of Washington, DC. Any member of the committee may attend public hearings of any subcommittee and shall be afforded an opportunity by the subcommittee chairman to question witnesses.

RULE 7. SUBCOMMITTEE CHAIRMANSHIPS

The method for selection of chairmen of the subcommittees shall be at the discretion of the full committee Chairman, unless a majority of the majority party members of the full committee disapprove of the action of the Chairman.

RULE 8. SUBCOMMITTEE SCHEDULING

Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings, wherever possible. Available dates for subcommittee meetings during the session shall be assigned by the Chairman to the subcommittees as nearly as practicable in rotation and in accordance with their workloads. As far as practicable, the Chairman of the committee shall seek to assure that subcommittees are not scheduled to meet for markup or approval of any measure or matter when the committee is meeting to consider any measure or matter for markup or approval. No markups shall be scheduled simultaneously by the subcommittees.

RULE 9. SUBCOMMITTEE RULES

The rules of the committee shall be the rules of its subcommittees.

RULE 10. COMMITTEE STAFF

(a) The employees of the committee shall be appointed by the Chairman in consultation with subcommittee chairmen and other majority party members of the committee within the budget approved for such purposes by the committee.

(b) The staff appointed by the minority shall have their remuneration determined in such manner as the minority party members of the committee shall determine within the budget approved for such purposes by the committee.

RULE 11. SUPERVISION AND DUTIES OF COMMITTEE STAFF

The staff of the committee shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of such staff members and delegate authority as he determines appropriate. The staff appointed by the minority shall be under the general supervision and direction of the minority party members of the committee, who may delegate such authority as they determine appropriate. All committee staff shall be assigned to committee business and no other duties may be assigned to them.

RULE 12. HEARINGS PROCEDURE

(a) The Chairman, in the case of hearings to be conducted by the committee, and the appropriate subcommittee chairman, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the committee or subcommittee determines that there is good cause to begin such hearing at an earlier date. In the latter event, the Chairman or the subcommittee chairman, as the case may be, shall make such public announcement at the earliest possible date. To the extent practicable, the Chairman or the subcommittee chairman shall make public announcement of the final list of witnesses scheduled to testify at least 48 hours before the commencement of the hearing. The staff director of the committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) All hearings conducted by the committee or any subcommittee shall begin at 9:30 a.m. on the scheduled date and shall end at 12:15 p.m., unless there is good cause to schedule a hearing at a different time or to extend the length of the hearing. All opening statements at hearings conducted by the committee or any subcommittee will be made part of the permanent written record. Opening statements by members may not be presented orally, unless the Chairman of the committee or any subcommittee determines that one statement from the Chairman or a designee will be presented, in which case the ranking minority party member or a designee may also make a statement. If a witness scheduled to testify at any hearing of the Committee or any subcommittee is a constituent of a member of the committee or subcommittee, such member shall be entitled to introduce such witness at the hearing.

(c) To the extent practicable, witnesses who are to appear before the committee or a subcommittee shall file with the staff director of the committee, at least 48 hours in advance of their appearance, a written statement of their proposed testimony, together with a brief summary thereof, and shall limit their oral presentation to a summary thereof. The staff director of the committee shall promptly furnish to the staff director of the minority a copy of such testimony submitted to the committee pursuant to this rule.

(d) When any hearing is conducted by the committee or any subcommittee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the Chairman by a majority of those minority party members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon. The minority party may waive this right by calling at least one witness during a committee hearing or subcommittee hearing.

RULE 13. MEETINGS-HEARINGS-QUORUMS

(a) Subcommittees are authorized to hold hearings, receive exhibits, hear witnesses, and report to the committee for final action, together with such recommendations as may be agreed upon by the subcommittee. No such meetings or hearings, however, shall be held outside of Washington, DC, or during a recess or adjournment of the House without the prior authorization of the committee Chairman. Where feasible and practicable, 14 days' notice will be given of such meeting or hearing.

(b) One-third of the members of the committee or subcommittee shall constitute a quorum for taking any action other than amending committee rules, closing a meeting from the public, reporting a measure or recommendation, or in the case of the committee authorizing a subpoena. For the enumerated actions, a majority of the committee or subcommittee shall constitute a quorum. Any two members shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(c) When a bill or resolution is being considered by the committee or a subcommittee, members shall provide the clerk in a timely manner a sufficient number of written copies of any amendment offered, so as to enable each member present to receive a copy thereof prior to taking action. A point of order may be made against any amendment not reduced to writing. A copy of each such amendment shall be maintained in the public records of the committee or subcommittee, as the case may be.

(d) In the conduct of hearings of subcommittees sitting jointly, the rules otherwise applicable to all subcommittees shall likewise apply to joint subcommittee hearings for purposes of such shared consideration.

(e) No person other than a Member of Congress or Congressional staff may walk in, stand in, or be seated at the rostrum area during a meeting or hearing of the Committee or Subcommittee unless authorized by the Chairman.

RULE 14. SUBPOENAS

A subpoena may be authorized and issued by the committee or subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members of the full committee voting, a majority being present. Authorized subpoenas shall be signed by the Chairman of the committee or by any member designated by the committee.

RULE 15. REPORTS OF SUBCOMMITTEES

(a) Whenever a subcommittee has ordered a bill, resolution, or other matter to be reported to the committee, the chairman of the subcommittee reporting the bill, resolution, or matter to the committee, or any member authorized by the subcommittee to do so, may report such bill, resolution, or matter to the committee. It shall be the duty of the chairman of the subcommittee to report or cause to be reported promptly such bill, resolution, or matter, and to take or cause to be taken the necessary steps to bring such bill, resolution, or matter to a vote.

(b) In any event, the report, described in the proviso in subsection (d) of this rule, of any subcommittee on a measure which has been approved by the subcommittee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the staff director of the committee a written request, signed by a majority of the members of the subcommittee, for the reporting of that measure. Upon the filing of any such request, the staff director of the committee shall transmit immediately to the chairman of the subcommittee a notice of the filing of that request.

(c) All committee or subcommittee reports printed pursuant to legislative study or investigation and not approved by a majority vote of the committee or subcommittee, as appropriate, shall contain the following disclaimer on the cover of such report:

"This report has not been officially adopted by the Committee on Education and the Workforce (or pertinent subcommittee thereof) and may not therefore necessarily reflect the views of its members."

The minority party members of the committee or subcommittee shall have three calendar days, excluding weekends and holidays, to file, as part of the printed report, supplemental, minority, or additional views.

(d) Bills, resolutions, or other matters favorably reported by a subcommittee shall automatically be placed upon the agenda of the committee as of the time they are reported and shall be considered by the full committee in the order in which they were reported unless the committee shall by majority vote otherwise direct. No bill or resolution or other matter reported by a subcommittee shall be considered by the full committee unless it has been in the hands of all members at least 48 hours prior to such consideration. When a bill is reported from a subcommittee, such measure shall be accompanied by a section-by-section analysis; and, if the Chairman of the committee so requires (in response to a request from the ranking minority member of the committee or for other reasons), a comparison showing proposed changes in existing law.

(e) To the extent practicable, any report prepared pursuant to a committee or subcommittee study or investigation shall be available to members no later than 48 hours prior to consideration of any such report by the committee or subcommittee, as the case may be.

RULE 16. VOTES

(a) No vote by any member of the committee or any subcommittee with respect to any measure or matter may be cast by proxy.

(b) With respect to each rollcall vote on a motion to report any bill, resolution or matter of a public character, and on any amendment offered thereto, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter.

RULE 17. AUTHORIZATION FOR TRAVEL

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel to be paid from funds set aside for the full committee for any member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any member and any staff member in connection with the attendance of hearings conducted by the committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. The Chairman shall review travel requests to assure the validity to committee business. Before such authorization is given, there shall be submitted to the Chairman in writing the following:

(1) the purpose of the travel;

(2) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made;

(3) the location of the event for which the travel is to be made; and

(4) the names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee or pertinent subcommittees, prior authorization must be obtained from the Chairman, or, in the case of a subcommittee, from the subcommittee chairman and the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) Requests for travel outside the United States may be initiated by the Chairman or the chairman of a subcommittee (except that individuals may submit a request to the Chairman for the purpose of attending a conference or meeting) and shall be limited to members and permanent employees of the committee.

(3) The Chairman shall not approve a request involving travel outside the United States while the House is in session (except in the case of attendance at meetings and conferences or where circumstances warrant an exception).

(4) At the conclusion of any hearing, investigation, study, meeting, or conference for which travel outside the United States has been authorized pursuant to this rule, each subcommittee (or members and staff attending meetings or conferences) shall submit a written report to the Chairman covering the activities of the subcommittee and containing the results of these activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Oversight pertaining to such travel, including rules, procedures, and limitations prescribed by the Committee on House Oversight with respect to domestic and foreign expense allowances.

(d) Prior to the Chairman's authorization for any travel, the ranking minority party member shall be given a copy of the written request therefor.

RULE 18. REFERRAL OF BILLS, RESOLUTIONS, AND OTHER MATTERS

(a) The Chairman shall consult with subcommittee chairmen regarding referral, to the appropriate subcommittees, of such bills, resolutions, and other matters which have been referred to the committee. Once printed copies of a bill, resolution, or other matter are available to the Committee, the Chairman shall, within three weeks of such availability, provide notice of referral, if any, to the appropriate subcommittee.

(b) Referral to a subcommittee shall not be made until three days shall have elapsed after written notification of such proposed referral to all subcommittee chairmen, at which time such proposed referral shall be made unless one or more subcommittee chairmen shall have given written notice to the Chairman of the full committee and to the chairman of each subcommittee that he intends to question such proposed referral at the next regularly scheduled meeting of the committee, or at a special meeting of the committee called for that purpose, at which time referral shall be made by the majority members of the committee. All bills shall be referred under this rule to the subcommittee, or at a special meeting of the committee called for that purpose, at which time referral shall be made by the majority members of the committee. All bills shall be referred under this rule to the subcommittee of proper jurisdiction without regard to whether the author is or is not a member of the subcommittee. A bill, resolution, or other matter referred to a subcommittee in accordance with this rule may be recalled therefrom at any time by a vote of the majority members of the committee for the committee's direct consideration or for reference to another subcommittee.

(c) All members of the committee shall be given at least 24 hours' notice prior to the direct consideration of any bill, resolution, or other matter by the committee; but this requirement may be waived upon determination, by a majority of the members voting, that emergency or urgent circumstances require immediate consideration thereof.

RULE 19. COMMITTEE REPORTS

(a) All committee reports on bills or resolutions shall comply with the provisions of clause 2 of Rule Xi and clauses 3 and 7(a) of Rule XII of the Rules of the House of Representatives.

(b) No such report shall be filed until copies of the proposed report have been available to all members at least 36 hours prior to such filing in the House. No material change shall be made in the report, individual, minority, or dissenting views, without regard to the preceding provisions of this rule.

(c) Such 36-hour period shall not conclude earlier than the end of the period provided under clause 2, paragraph (1)(5) of Rule XI of the Rules of the House of Representatives after the committee approves a measure or matter if a member at the time of such approval, gives notice of intention to file supplemental, minority, or additional views for inclusion as part of the printed report.

(d) The report on activities of the committee required under clause 1 of Rule XI of the Rules of the House of Representatives, shall include the following disclaimer in the document transmitting the report to the Clerk of the House:

"This report has not been officially adopted by the Committee on Education and the Workforce or any subcommittee thereof and therefore may not necessarily reflect the views of its members."

Such disclaimer need not be included if the report was circulated to all members of the committee at least 10 days prior to its submission to the House and provision is made for the filing by any member, as part of the printed report, of individual, minority, or dissenting views.

RULE 20. MEASURES TO BE CONSIDERED UNDER SUSPENSION

A member of the committee may not seek to suspend the Rules of the House on any bill, resolution, or other matter which has been modified after such measure is ordered report, unless notice of such action has been given to the Chairman and ranking minority member of the full committee.

RULE 21. BUDGET AND EXPENSES

(a) The Chairman in consultation with the majority party members of the committee shall, for each session of the Congress, prepare a preliminary budget. Such budget shall include necessary amounts for staff personnel, for necessary travel, investigation, and other expenses of the committee; and, after consultation with the minority party membership, the Chairman shall include amounts budgeted to the minority party members for staff personnel to be under the direction and supervision of the minority party, travel expenses of minority party members and staff, and minority party office expenses. All travel expenses of minority party members and staff shall be paid for out of the amounts so set aside and budgeted. The Chairman shall take whatever action is necessary to have the budget as finally approved by the committee duly authorized by the House. After such budget shall have been adopted, no change shall be made in such budget unless approved by the committee. The Chairman or the chairman of any standing subcommittee may initiate necessary travel requests as provided in Rule 17 within the limits of their portion of the consolidated budget as approved by the House, and the Chairman may execute necessary vouchers therefor.

(b) Subject to the rules of the House of Representatives and procedures prescribed by the Committee on House Oversight, and with the prior authorization of the Chairman of the committee in each case, there may be expended in any one session of Congress for necessary travel expenses of witnesses attending hearings in Washington, DC:

(1) out of funds budgeted and set aside for each subcommittee, not to exceed $3,000 for expenses of witnesses attending hearings of each subcommittee;

(2) out of funds budgeted for the full committee majority, not to exceed $3,000 for expenses of witnesses attending full committee hearings; and

(3) out of funds set aside to the minority party members,

(A) not to exceed, for each of the subcommittees, $3,000 for expenses of witnesses attending subcommittee hearings, and

(B) not to exceed $3,000 for expenses of witnesses attending full committee hearings.

(c) A full and detailed monthly report accounting for all expenditures of committee funds shall be maintained in the committee office, where it shall be available to each member of the committee. Such report shall show the amount and purpose of each expenditure, and the budget to which such expenditure is attributed.

RULE 22. APPOINTMENT OF CONFEREES AND NOTICE OF CONFERENCE MEETINGS

(a) Whenever in the legislative process it becomes necessary to appoint conferees, the Chairman shall recommend to the Speaker as conferees the names of those members of the subcommittee which handled the legislation in the order of their seniority upon such subcommittee and such other committee members as the Chairman may designate with the approval of the majority party members. Recommendations of the Chairman to the Speaker shall provide a ratio of majority party members to minority party members no less favorable to the majority party than the ratio of majority members to minority party members on the full committee. In making assignments of minority party members as conferees, the Chairman shall consult with the ranking minority party member of the committee.

(b) After the appointment of conferee pursuant to clause 6(f) of Rule X of the Rules of the House of Representatives for matters within the jurisdiction of the committee, the Chairman shall notify all members appointed to the conference of meetings at least 48 hours before the commencement of the meeting. If such notice is not possible, then notice shall be given as soon as possible.

RULE 23. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

(a) The general conduct of each hearing or meeting covered under authority of this clause and the personal behavior of committee members, staff, other government officials and personnel, witnesses, television, radio and press media personnel, and the general public at the hearing or other meeting, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House.

(b) Persons undertaking to cover committee hearings or meetings under authority of this rule shall be governed by the following limitations:

(1) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) No witnesses served with a subpoena by the committee shall be required against their will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This paragraph is supplemental to clause 2(k)(5) of Rule XI of the Rules of the House of Representatives, relating to the protection of the rights of witnesses.

(3) The number of television and still cameras permitted in a hearing or meeting room shall be determined in the discretion of the Chairman of the committee or subcommittee holding such hearing or meeting subject to cause 3(e) of Rule XI of the Rules of the House of Representatives.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flash photography shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

(8) In the allocation of the number of still photographers permitted by the committee

or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by the committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

RULE 24. CHANGES IN COMMITTEE RULES

A proposed change in these rules shall not be considered by the committee unless the text of such change has been in the hands of all members at least 48 hours prior to the meeting in which the matter is considered.

RULES OF THE U.S. HOUSE OF REPRESENTATIVES, 104TH CONGRESS

RULE XI, CLAUSE 2(K)

Investigative hearing procedures

(k)(1) The chairman at an investigative hearing shall announce in the opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this Rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if a majority of the members of the committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON HOUSE OVERSIGHT, 105TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, pursuant to the requirements of clause 2 of rule XI of the Rules of the House of Representatives, I hereby submit for publication in the CONGRESSIONAL RECORD the rules of the Committee on House Oversight for the 105th Congress, as adopted by the committee in open session on January 8, 1997.

RULES OF PROCEDURE OF THE COMMITTEE ON HOUSE OVERSIGHT

RULE NO. 1

General provisions

(a) The Rules of the House are the rules of the committee so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees.

(b) The committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under House Rule X and (subject to the adoption of expense resolutions as required by House Rule XI, clause 5) to incur expenses (including travel expenses) in connection therewith.

(c) The committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee, and to distribute such information by electronic means. All costs of stenographic services and transcripts in connection with any meeting or hearing of the committee shall be paid from the appropriate House account.

(d) The committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the committee under House Rules X and XI during the Congress ending at noon on January 3 of such year.

(e) The committee's rules shall be published in the Congressional Record not later than 30 days after the Committee is elected in each odd-numbered year.

RULE NO. 2

Regular and special meetings

(a) The regular meeting date of the Committee on House Oversight shall be the second Wednesday of every month when the House is in session in accordance with Clause 2(b) of House Rule XI. Additional meetings may be called by the chairman as he may deem necessary or at the request of a majority of the members of the committee in accordance with Clause 2(c) of House Rule XI. The determination of the business to be considered at each meeting shall be made by the chairman subject to Clause 2(c) of House Rule XI. A regularly scheduled meeting need not be held if there is no business to be considered.

(b) If the chairman of the committee is not present at any meeting of the committee or at the discretion of the chairman, the vice chairman of the committee shall preside at the meeting. If the chairman and vice chairman of the committee are not present at any meeting of the committee, the ranking member of the majority party who is present shall preside at the meeting.

RULE NO. 3

Open meetings

As required by Clause 2(g), of House Rule XI, each meeting for the transaction of business, including the markup of legislation, of the committee, shall be open to the public except when the committee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: *Provided, however*, That no person other than members of the committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public.

RULE NO. 4

Records and rollcalls

(a) The result of each rollcall vote in any meeting of the committee shall be transmitted for publication in the Congressional Record as soon as possible, but in no case later than two legislative days following such rollcall vote, and shall be made available for inspection by the public at reasonable times at the committee offices, including a description of the amendment, motion, order or other proposition; the name of each member voting for and against; and the members present but not voting.

(b) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as chairman of the committee; and such records shall be the property of the House and all members of the House shall have access thereto.

(c) House records of the committee which are at the National Archives shall be made available pursuant to House Rule XXXVI. The chairman of the committee shall notify the ranking minority party member of any decision to withhold a record pursuant to the rule, and shall present the matter to the committee upon written request of any committee member.

(d) To the maximum extent feasible, the Committee shall make its publications available in electronic form.

RULE NO. 5

Proxies

No vote by any member in the committee may be cast by proxy.

RULE NO. 6

Power to sit and act; subpoena power

(a) For the purpose of carrying out any of its functions and duties under House Rules X and XI, the committee, is authorized (subject to subparagraph (b)(1) of this paragraph)—

(1) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents; as it deems necessary. The chairman of the committee, or any member designated by the chairman, may administer oaths of any witness.

(b)(1) A subpoena may be authorized and issued by the committee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (a)(2) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(2) Compliance with any subpoena issued by the committee may be enforced only as authorized or directed by the House.

RULE NO. 7

Quorums

No measure or recommendation shall be reported to the House unless a majority of the committee is actually present. For the purposes of taking any action other than reporting any measure, issuance of a subpoena, closing meetings, promulgating committee orders, or changing the rules of the committee, the quorum shall be one-third of the members of the committee. For purposes of taking testimony and receiving evidence, two members shall constitute a quorum.

RULE NO. 8

Amendments

Any amendment offered to any pending legislation before the committee must be made available in written form when requested by any member of the committee. If such amendment is not available in written form when requested, the chair will allow an appropriate period of time for the provision thereof.

RULE NO. 9

Hearing procedures

(a) The chairman, in the case of hearings to be conducted by the committee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one (1) week before the commencement of that hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date. The clerk of the committee shall promptly notify the Daily Digest Clerk of the CONGRESSIONAL RECORD as soon as possible after such public announcement is made.

(b) Unless excused by the chairman, each witness who is to appear before the committee shall file with the clerk of the committee, at least 48 hours in advance of his or her appearance, a written statement of his or her proposed testimony and shall limit his or her oral presentation to a summary of his or her statement.

(c) When any hearing is conducted by the committee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) Committee members may question a witness only when they have been recognized by the chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question the witness. The 5-minute period for questioning a witness by any one member can be extended as provided by House Rules. The questioning of a witness in committee hearings shall be initiated by the chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. In recognizing members to question witnesses in this fashion, the chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority. The chairman may accomplish this by recognizing two majority members for each minority member recognized.

(e) The following additional rules shall apply to hearings:

(1) The chairman at a hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) If the committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) afford such person an opportunity voluntarily to appear as a witness;

(B) receive such evidence or testimony in executive session; and

(C) receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (f)(5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

RULE NO. 10

Procedures for reporting measures or matters

(a)(1) It shall be the duty of the chairman of the committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of the committee on a measure which has been approved by the committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request.

(b)(1) No measure or recommendation shall be reported to the House unless a majority of the committee was actually present.

(2) With respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter.

(c) The report of the committee on a measure which has been approved by the committee shall include—

(1) the oversight findings and recommendations required pursuant to House Rule X, of clause 2(b)(1) separately set out and clearly identified;

(2) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority or new or increased tax expenditures;

(3) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and

(4) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under House Rule XI, clause 2(l)(3)(D) separately set out and clearly identified whenever such findings and recommendations have been submitted to the committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

(d) Each report of the committee on each bill or joint resolution of a public character reported by the committee shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(e) If, at the time of approval of any measure or matter by the committee, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than two additional calendar days after the day of such notice, commencing on the day on which the measure or matter(s) was approved, excluding Saturdays, Sundays, and legal holidays, in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental minority, or additional views (and any material submitted under subparagraphs (c)(3) and (c)(4) are included as part of the report. This subparagraph does not preclude—

(A) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c); or

(B) the filing of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by the committee upon that measure or matter.

(f) If hearings have been held on any such measure or matter so reported, the committee shall make every reasonable effort to have such hearings published and available to the members of the House prior to the consideration of such measure or matter in the House.

(g) the chairman of the committee may designate any member of the committee to act as "floor manager" of a bill or resolution during its consideration in the House.

RULE NO. 11

Committee oversight

The committee shall conduct oversight of matters within the jurisdiction of the committee in accordance with House Rule X, clause 2 and clause 4(d)(2). Not later than February 15 of the first session of a Congress, the Committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress in accordance with House Rule X, clause 2(d).

RULE NO. 12

Review of continuing programs; Budget Act provisions

(a) The committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriation for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in clause 7(c) of Rule XIII of House Rules.

(b) The committee shall review, from time to time, each continuing program within its jurisdictions for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

(c) The committee shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocation made to it, the joint explanatory statement accompany the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) Whenever the committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

RULE NO. 13

Broadcasting of committee hearings and meetings

Whenever any hearing or meeting conducted by the committee is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, as provided in Clause 3 of House Rule XI, subject to the limitations therein.

RULE NO. 14

Committee staff

The staff of the Committee on House Oversight shall be appointed as follows:

A. The committee staff shall be appointed, except as provided in paragraph (B), and may be removed by the chairman and shall work under the general supervision and direction of the chairman;

B. All staff provided to the minority party members of the committee shall be appointed, and may be removed, by the Ranking Minority Member of the committee, and shall work under the general supervision and direction of such Member;

C. The chairman shall fix the compensation of all staff of the committee, after consultation with the Ranking Minority Member regarding any minority party staff, within the budget approved for such purposes for the committee.

RULE NO. 15

Travel of members and staff

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. Before such authorization is given there shall be submitted to the chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel will occur;

(3) The locations to be visited and the length of time to be spend in each;

(4) The names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee, prior authorization must be obtained from the chairman. Before such authorization is given, there shall be submitted to the chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of the travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spend in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought. (2) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, members and staff attending meetings or conferences shall submit a written report to the chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Oversight pertaining to such travel.

RULE NO. 16

Powers and duties of subunits of the committee

The chairman of the committee is authorized to establish appropriately named subunits, such as task forces, composed of members of the committee, for any purpose, measure or matter; one member of each such subunit shall be designated chairman of the subunit by the chairman of the committee. All such subunits shall be considered ad hoc subcommittees of the committee. The rules of the committee shall be the rules of any subunit of the committee, so far as applicable, or as otherwise directed by the chairman of the committee. Each subunit of the committee is authorized to meet, hold hearings, receive evidence, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary, and to report to the full committee on all measures or matters for which it was created. Chairmen of subunits of the committee shall set meeting dates with the approval of the chairman of the full committee, with a view toward avoiding simultaneous scheduling of committee and subunit meetings or hearings wherever possible. It shall be the practice of the committee that meetings of subunits not be scheduled to occur simultaneously with meetings of the full committee. In order to ensure orderly and fair assignment of hearing and meeting rooms, hearings and meetings should be arranged in advance with the chairman through the clerk of the committee.

RULE NO. 17

Other procedures and regulations

The chairman of the full committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

RULE NO. 18

Designation of clerk of the committee

For the purposes of these rules and the Rules of the House of Representatives, the staff director of the committee shall act as the clerk of the committee.

TRIBUTE TO LOY SMITH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, Tennessee has lost one of its leading citizens and a truly great American, Loy Smith. Loy passed away on Sunday after suffering a heart attack while working with one of his great loves, his horses. He was 68.

Loy was a longtime close friend of both my late father and me and one of our strongest supporters. He served for 14 years as a State Representative from our home district in the Tennessee House of Representatives.

He rose to the rank of House Republican leader from 1978 to 1980. He then voluntarily left elective office to devote more time to his family and his many business interests. He remained active in politics, however, always interested in good government and in doing his part.

He served as Knox County Republican chairman from 1990 to 1992 and was one of the finest leaders our party ever had. Loy was active in many other aspects of community life, too. He was a deacon of the Thorngrove Christian Church and was a past president of the Carter Optimist Club.

He was a member of the Knoxville Elks Lodge, the Odd Fellows, the Thorngrove Community Club, the Volunteer Carriage Club, the Sons of the Revolution and the Pascal Carter Memorial Park Association.

His first love was his family, and he is survived by his wife Lonna Rhea, his children, daughter Scottie and sons, David, Jim, and Jeff, and several in-laws, grandchildren, nieces, and nephews.

After his family, his strongest feelings were bound up with the Republican Party. He was a very loyal Republican and very conservative in his philosophy. He believed very strongly in the things that made this Nation great, and he especially believed in our great free enterprise system.

He was a vice president of and worked for the John Bailey Insurance Co. for 40 years. He also founded with his sons the Southeast Equipment Co. and was the owner of other businesses such as the Kay's Ice Cream Shops chain.

The Tennessee State legislature adopted a resolution Monday praising Loy Smith as, quote, "a man of great wisdom and compassion, earning the universal respect and admiration of his peers."

State Senator Ben Atchley, a longtime friend and associate of Loy's, said this: "Loy had a strong sense of the situation. He had the wisdom of understanding and of understanding the end result. He could get to the bottom line in a hurry, and he was a strong force in Republican politics."

Loy was a graduate of Carter High School. He volunteered to serve as a paratrooper in the U.S. Army and then received a business degree from the University of Tennessee.

He was a patriotic man who loved this country. More importantly, Loy Smith was simply a good man who helped countless numbers of people. He was not famous nationally, I suppose, but he was the type of man who has made this Nation the great Nation that it is today.

He did not live his life on the sidelines. He was in the arena in every possible way, and he truly made his mark.

Loy Smith will be missed most especially by his family and also by me and many, many others, I would say perhaps thousands of others. If this Nation had more people like Loy Smith, it would be a much better and kinder and stronger place. He lived his life to the fullest, and he served his country well.

□ 1530

HEALTH INSURANCE FOR CHILDREN

The SPEAKER pro tempore. (Mr. GOODLATTE). Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, in December I and about 30 other Democrats sent a letter to President Clinton requesting that he include a program to provide assistance to the Nation's 10 million uninsured children in his budget that he would submit to Congress, and I am naturally very pleased that in his State of the Union Address tonight the President will announce a proposal to have Medicaid cover the 10 million children who currently lack health insurance.

In millions of American working families both spouses work and yet neither works at a job that offers health insurance benefits, and while Medicaid provides coverage for children and families near or below the poverty level, many working families make more than the Medicaid threshold but not enough to afford health care premiums, and as a result millions of working parents remain unable to provide any health insurance whatsoever for their children.

Hoping to expand upon the progress made by last year's passage of the Kennedy-Kassebaum bill, congressional Democrats have been working hard to develop ways to address this problem. Indeed, many Members here in the House, including myself, are working on legislative proposals to remedy the problem. But I believe that making health insurance available to uninsured children really should be a central part of what we do in this Congress.

It was part of the Families First agenda which was developed by Democrats last year to help the average American family meet the costs of everyday life, and the attention the President will give this issue tonight is sorely needed. It is my hope that Republicans will join the President and congressional Democrats in recognizing that making health insurance available to all children is perhaps the most important issue we will examine here in the next 2 years.

U.S. PATENT LAW

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. ROHRABACHER] is recognized for 60 minutes as the designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, today I would like to discuss with the Members here assembled and those listening on C-SPAN and those who will be reading the CONGRESSIONAL RECORD an issue that will be determined very early on in this session.

It is an issue that is somewhat obscure. It is an issue that is very difficult to understand in that it is complicated and deals with a complicated part of the law. It is an issue that will probably be ignored by much of the public and will probably not even be understood by most of the Members of the House of Representatives. Yet how Congress resolves this issue will determine the future well-being of our people and the security of our country.

This Congress will determine early on the fundamental patent law that will take precedence in this country probably for the next 50 years and perhaps longer. We will be making a determination of what the patent law of the United States of America will be for this generation and future generations of Americans.

Now some people say oh, my gosh, he was saying this is so important, and now all of a sudden he is talking about patent law. Well, that is exactly what I am talking about. Patent law is a part of the American legal system that has been taken for granted by the American people.

However, every time we turn around we can see that it is America's technological edge that has permitted the American people to have the highest standard of living in the world and permitted our country to sail safely through the troubled waters of world wars and international threats. It is American technology that has made all the difference, and it is American patent law that has determined what technology and what level of technological development that America has had.

This is not an obscure issue. This is an issue of vital importance to every

American, and it will determine in the future the standard of living of our people and the safety of our country.

We Americans came to this continent as poor immigrants, by and large, millions of us. We fared very well for a people and, comparing what we did as Americans to other countries, we faced the most undeveloped land imaginable. There was no land that was more undeveloped than the United States of America when our forefathers and mothers came here.

And, yes, we had space and we had resources. But more importantly than that, the secret of America's success is not found in our wide expanses and our deposits of minerals. Instead, the secret of our success can be found in the fact that our people had freedom and they had guaranteed rights, and also, of course, we had a dream. We had a dream of a country where average people, even people who are below average, people who came here from every part of the world, of every race, of every religion, of every creed, could come and they could live in dignity, they could live free from fear, they could live with the understanding that their children would have opportunity to improve themselves because there was a rising standard of living. We believed in rights, and we believe that these rights are God given rights and not just government rights.

Patent rights are one of those rights that are written into the U.S. Constitution, and there is another fact for those of you who may be listening to a discussion of patents for the first time. Do you know that the United States of America is one of the only countries of the world to have written into its founding document, the Constitution, a section dealing with patent rights? In fact, Benjamin Franklin, Thomas Jefferson, Washington, and others of our Founding Fathers were not only people who believed in freedom, but they believed in technology.

Visit Monticello and see what Thomas Jefferson did with his time after he penned the words to the Declaration of Independence, after he served as President of the United States. He went back to Monticello, and he spent his time inventing things that would lift the burden from the shoulders of labor.

Benjamin Franklin, the inventor of the bifocal and the stove; these were our Founding Fathers because they knew that with freedom and with technology we could increase the standard of living of our people. Our people were not just the Americans who were here, but the tens of millions of Americans who would come from other lands, who we would have to produce the wealth that was necessary to support them. We have the strongest patent protection in the world, and that is why in the history of mankind there has never been a more innovative and creative people.

Everyone has heard about Thomas Fulton and the steamboat. They assume that we invented, meaning Thomas Fulton invented, the steam engine. Thomas Fulton did not invent the steam engine. Mr. Fulton put the steam engine onto a boat and put it to work.

Cyrus McCormick invented the reaper; Samuel Morris, the telegraph; Thomas Edison, the light bulb and so many other inventions. We are proud of our history of technologies because we know as Americans, and we have always known through our country's history, that these inventions produced more wealth with less labor and increased the standard of living of all people and the opportunity of all people who were part of our American brotherhood and sisterhood.

And then of course the Wright brothers. We remember the Wright brothers: Men with little education who worked in a bicycle shop and ended up inventing something less than 100 years ago they were told was absolutely impossible by the experts. Yet they went ahead and moved ahead, received a patent, and they changed the future of mankind forever as they took mankind's feet off of the ground and put us on the road to the heavens.

Innovation and our great creative genius is the miracle that produced our wealth, not just our muscle. It was the genius and tenacity of the Wright brothers and of Cyrus McCormick and others that produced the wealth that has changed all of humankind and especially all the lives of all Americans. It was not raw muscle of every American, it was our ingenuity, our intelligence and, yes, the legal system that was established to protect that ingenuity and creativity. We treated intellectual property rights, the creation of new technologies, as we treated the property rights that someone had to a piece of land. It was his property or her property. And that is what America is all about, in that every person had a right to own a piece of property, and today as we enter the intellectual and innovative era of the electronic age and the age where ideas and creativity will mean even more, it is vital that we maintain this traditional support.

In World War II and then in the cold war, it was our genius and our commitment to freedom that carried the day. It was not our willingness to throw man for man against the Germans and the Japanese or face the Chinese Communists and the Russian Communists person for person in the cold war. If that was the case we would have been destroyed. We could never have matched them for pure muscle power. Instead, our aerospace workers, our scientists, our inventors, our computer specialists, our missile technicians, our rocket builders and, yes, those scientists who came up and started developing the SDI, the strategic defense system that would have created a missile defense system for the United States; these technological workers in our society made the difference in the cold war.

Yes, we won the cold war without having to fire a shot because we relied, yes, on courage, yes, on faith and freedom, but also in superior technology, and we had that superior technology because our lands protected American inventors and our creative citizens as no other in the world.

Today it is my sad duty to inform my fellow colleagues and the American people who are reading this RECORD and who are listening tonight that we face a great historic challenge, and this challenge comes at exactly the time when our country is moving into a global economy, which means that there is global competition, global warfare on an economic level that we must win or our country and our people will lose. If we lose this battle, our people will suffer. Future generations will see their economic situation, their standard of living decline, as well as the safety and strength of our country, if we do not remain technologically superior in this new challenge that we face as part of the global economy.

Our adversaries, by the way, have identified this as our strong point. They did this long ago. It did not take the Japanese too long before they realized what it is that always gives Americans the edge. How come that they always are able even though we are working so hard and we are able to maintain unity among our people like the Americans can never have, how come we are always falling one step behind as compared to the Americans as a new day approaches? They saw it right away. Americans are innovative, Americans have the ideas. We have to depend on them to get our ideas. Well, they identified that as our strong point, but it is also our weak point in that the American people have no idea what legal structure has been established to protect that technological lead.

What I am talking about is the fundamental patent law of this country. In short, let me explain that our economic adversaries and their allies, who are multinational corporations who are based here in the United States, whose allegiance, who knows where, in what country their allegiance is to are engaged in a systematic attack on the patent rights of the American people. Those people and those of our fellow citizens not engaged in the development of new technology, those people who are not inventors have no idea what fear is spreading throughout the community of innovative thinkers and creative technologists in our society. In an age of information technology innovation America's adversaries are hitting us hard and our people do not know it, and 20 years from now our citizens will wonder what hit them, whether it is—they might think it was another Pearl Harbor and happened in one moment. They know exactly what it was, but if it is happening slowly and their rights are being eroded and they do not know that laws are changing, they will have a decreasing standard of living and attack on their well-being and not know what hit them.

This attack is being conducted not by bombers in Pearl Harbor in Hawaii, but is being done by lobbyists in the Nation's capital who are out to destroy our patent system, lobbyists who have been hired by well-heeled multinational corporations and by companies who no longer have any desire to pay for the use of technology that has been developed by other American citizens. They are out, so-called, but when you ask them, they are not saying, well, we are out to destroy the patent system. No, instead what is being said is there is a measure out now to correct a so-called flaw in the system.

□ 1545

When you read the defense of the changes that are being proposed, you will hear about a minuscule flaw that has been used in less than 1 percent of all patents, actually probably one-tenth of 1 percent of all patents, that they are using as an excuse to fundamentally change the entire patent structure, the entire patent rights that have been guaranteed to Americans since the founding of our country.

In reality, if you look very closely, it is not this flaw that they will talk about, however. In reality, this flaw, which is called the submarine patent issue, is not what will be admitted to by those who are pushing the hardest on this particular issue, this reform of the patent system, so-called reform.

In fact, last year, Congresswoman Schroeder was in the well, and when I asked her about it, offhandedly she said, oh, well this is nothing more than an attempt to harmonize our patent law with the rest of the world.

Well, that is the real motivating force for many of those who are pushing so-called patent reform in the U.S. Congress, to harmonize, harmonize American patent law with the rest of the world. What does that mean?

Well, we have had the strongest patent protection of any country on this planet, just as we have had the strongest protection for our rights of speech and freedom of religion and the other rights that we hold sacred.

Now, tell me this: If Americans were out to harmonize patent law, that is one thing, certainly. But what would happen if they said, in order to harmonize freedom of religion and freedom of speech, we are going to reduce the amount of protection of these freedoms that are now enjoyed by the American people so that those freedoms will be exactly the same as, let us say, the people of Singapore have? What would be the reaction? There would be an immediate revolution throughout America, people saying, you are not going to diminish our rights in order to harmonize law internationally; forget it.

However, the move to harmonize patent law is going much more smoothly, because it is being done very low-key, not many people understand it, while the freedom and the well-being of future generations is being frittered away.

The fact is, we have had the strongest protection, patent right protection, and that is why we have had more innovation and a higher standard of living than any other people in the world. The common man here has opportunity that common people in other parts of the world do not have, because America has had technological superiority, and if our rights to patent protection are diminished in order to harmonize them with the rest of the world, is it not great that we will end up with the same type of opportunity and the same type of rights that they have in Third World countries? Is that what we want?

That is an abomination that is being carried out in an underhanded way here in Washington, DC, and the American people have got to know about it, and they have to unite, and they have to fight, or they will lose what our forefathers fought for and put into our Constitution.

But the argument you hear about submarine patents, every time we will hear from the other side, they will stress something called submarine patents. Submarine patents, by the way, are this: An inventor invents something and then intentionally tries to stall the Patent Office from its own internal procedures so that the patent, instead of being issued quickly, takes 5 years, maybe even longer, to issue, because the patent applicant is doing everything he can to manipulate the system.

Of course, what the people do not really explain is the fact that every decision as to whether or not that person will be granted a continuance or a continuation of his application is made by the Patent Office itself. Any type of manipulation of the patent system can be corrected by internal reforms within the Patent Office.

And I might add that the submarine patent problem is a problem for some people, but it is a minuscule problem. For people to suggest that a very small problem that can be corrected by administrative mandates within the system, that we must eliminate the guaranteed patent term, which is what they are doing, in order to correct this problem, this is a very similar type suggestion to that if you have a hangnail.

Think about it. You have a hangnail, and you are talking about how terrible that hangnail is; in fact, your toe has become infected. And you go to your doctor, and the doctor goes into great detail about the ugliness and how horrible hangnails are. And you will hear hours of talk about the horrors of hangnails, being submarine patents. Only what the doctor is leading up to is that he is going to amputate your leg.

If you go along with a doctor who wants to amputate your leg because you have a hangnail, you have got problems. And what is going to happen to the U.S. patent system unless the American people rise up and contact their elected representative and tell their representative not to permit this to happen is, in the name of correcting a hangnail called submarine patenting, they are going to amputate the leg and destroy the whole system.

Basically, most inventors, the vast majority of inventors, maybe 95 to 99 percent of all inventors, struggle as hard as they possibly can to have their patent granted as soon as possible. They are afraid, No. 1, if they wait, that innovation will overtake their invention and they will not be able to make any money on it because there will be something else that is out.

No. 2, every second that they do not have the patent issued to them, they are restricted in the amount of money that they can get, because people will not invest and will not give money for something that has not already been issued as a patent. So they are struggling, and they are struggling.

We are told by those people who want to totally change the patent system that these evil inventors, you know, evil people like Thomas Edison and Cyrus McCormick, evil inventors like people who invented the drugs that have cured polio, evil inventors, that these people are stringing out the process.

They are not stringing out the process, they are struggling to get their patents through, and the one or two exceptions are not reason to destroy the rights of these inventors who have changed the landscape of the United States of America and improved the lives of our people.

Patent rights, unfortunately, have already been diminished, and most Americans do not even know it. Three years ago, 3 years ago, there was a change that was snuck into the GATT implementation legislation that changed the fundamental basic law of the land dealing with patents, a law that had been in place, a system that had been in place, since the founding of our country. Let me explain it.

Since the founding of our country, if an inventor applied for a patent, that inventor would be granted a patent. Once his patent was granted, he would have 17 years of a guaranteed patent term to reap the benefits of his invention, his or her invention. That applicant would be able to know that, no matter how long it took, if the Patent Office and the bureaucracy and those other people who were trying to stop him from getting the patent issued, no matter what happens, if it took 10 years or 20 years, the inventor knew that after that patent was actually granted, he or she would have 17 years of a guaranteed patent term. That was the term. Americans had a right to a guaranteed patent term.

Well, they just changed that a little bit. They just changed the wording a little bit. They changed the wording in the GATT implementation legislation. It now says that the patent applicant has 20 years of patent protection from the date of filing.

Now, let me describe what that really means. That means there is no guaranteed patent term, because if a patent applicant now, an inventor, files for a patent, if the system—by the way, if we are talking about innovative, innovative and breakthrough technology, sometimes it takes years, even a decade, for the Patent Office to issue that patent and say, you are the inventor, this is what you say it is.

What happens with this new system that they snuck into the law is that the clock is ticking against the inventor. Instead of having a guaranteed patent term of 17 years, the inventor now has an uncertain term, and if it takes the bureaucracy 10 years or 15 years, the patent applicant may end up with 5 years in return.

Now, what does that mean? That means that venture capitalists who usually go into partnership with inventors, they provide the money that the inventor needs, they sustain them while they are exploring new ideas and trying to develop new models and working innovations, and the venture capitalists also have known, hey, I am going to have 17 years to earn my investment back.

That investor and that inventor now know that they may have no time to earn their investment back, because there is no longer a patent term certain. We eliminated the right of Americans to a guaranteed patent term. And it did not just happen. It was done, as I say, it was snuck into the GATT implementation legislation.

And let me mention this as well. We were told when we voted for fast track for GATT, and I voted for fast track for GATT, that the only thing in the implementing legislation would be those things required by GATT. That is this General Agreement on Trades and Tariffs.

This provision that I am talking about today was not required by GATT, yet it was put into the implementation legislation as an underhanded attempt to put us into a situation where we had to vote for that agreement, vote for that change, or vote against the entire world trading system.

Those of us who voted for fast track were totally betrayed. We were betrayed, because we had made an agreement that the only thing in there would be those that were required by GATT.

Well, the change was made, and 2 years ago I moved forward to try to reinstate the guaranteed patent term, because the more I studied it, the more I found out how this situation smelled to high heaven. It was just something that had been put over through the GATT implementation legislation.

Later on, I found that this was not required by GATT, but what it was required by was a personal agreement between the head of our Patent Office, Bruce Lehman, and his Japanese counterpart to harmonize American law with Japanese law.

You heard me. There was a personal agreement from someone who had absolutely no right to make that agreement and expect that it would be just put into law without debate, that he could just sneak it into another piece of legislation. That was an agreement between that Government official, Bruce Lehman, and his Japanese counterpart. This is incredible.

So, we have the agreement that we are going to harmonize our law. Now, what happens in Japan? Yes, we are trying to harmonize our law with the Japanese law.

What happens in Japan? We already discussed the fact that the Japanese never come up with any new innovations, they take them from the United States. One of the reasons is because their patent law has this system, and when an inventor applies for a patent in Japan, he knows, or she knows, that the clock is ticking against the inventor and that all of a sudden, when the word gets out in Japan that this new invention has been requested, a patent has been requested for this new invention, what happens? The new inventor is confronted by corporate special interests who beat down that inventor until the inventor concedes ownership rights to the special interests.

So when you have huge corporations running roughshod over the people of Japan, of course the people of Japan do not invent very many things, because the creative people feel, why should they? And they put their energies into other things, like families and other things that are important to all individuals.

□ 1600

Do we want to have a system, do we want our system to be like the Japanese system? Is that what we want? Do we want to eliminate the guaranteed patent term because the Japanese did not have a guaranteed patent term? That is what happened in the GATT implementation legislation.

Step two of the attack, by the way, happened 2 years ago as well. Actually, last year we saw this. It was a comprehensive bill, H.R. 3460, which was submitted, a comprehensive patent reform bill. It was submitted and it almost got to the floor. I was fighting it all year round. All year round. It almost got to the floor, but we managed to prevent it from getting to the floor.

What about H.R. 3460? That bill has now been reintroduced in Congress. Here we are in our first weeks of the session and H.R. 3460 has already been introduced. It is now called H.R. 400. This is the bill. I call it the Steal American Technology Act, H.R. 400.

What does H.R. 400 do? First of all it reconfirms the end, the demise of America's right to a guaranteed patent term. It basically reaffirms that. No longer will we ever have a dream, if this bill passes, of the right of a guaranteed patent term. Now it is an uncertain patent term, and I might add, it will put us in the same position as the Japanese, that the Japanese have with their major corporations.

This bill not only does that, but it drastically changes other patent rights. Up until now in the United States of America, throughout our 200-year history, a patent applicant would apply for a patent with the full understanding that everything that he was applying for with the Government would be confidential. In fact, people could be put in jail for disclosing the contents of a patent applicant. This is something we have held sacrosanct, that it is information that belongs to the patent applicant, the right of confidentiality, the right to be kept secret.

H.R. 400, that is the bill people are trying to push through this House, and they will be trying as the weeks go on, with ever-increasing intensity and every Japanese paid lobbyist that they can get down here.

This bill, what does it do also? This bill mandates that every patent application made in the United States of America will be published after 18 months. Published. We have gone from a right of a guaranteed patent term, that has been eliminated; then we have a right of confidentiality to our inventions, and now they are trying to eliminate that.

What does it mean? It means that every copycat in the world, every brigand, technological thief in the world will have every detail of every American patent application after 18 months. Many of our patent applicants will see their inventions manufactured overseas by copycat thieves before the U.S. Patent Office has had time to grant them a patent.

I sat in my office as the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary passed through that bill last year. There was a man who was a president of a small solar company and he was listening to it. He was enraged. His face reddened and his fists clenched. He said, Congressman, if this bill passes, my Japanese competitors will be taking my patent applications, they will be manufacturing my new ideas that I have spent millions of dollars developing. They will be taking the profit from the sale of my innovations to fight me in court to destroy my own patent rights.

Is this a formula for catastrophe? Is this a formula for disaster? It is an invitation to thieves around the world to steal American technology. H.R. 400, the Steal American Technologies Act, it will not protect American inventors.

You will hear hoopla, hoopla, hoopla. It is a 90-page bill filled with platitudes trying to get people away from the central point that they are giving away America's technological secrets to the Chinese, the Japanese, and everybody else who could get themselves someone in Washington, DC to fax those materials to them around the world.

In fact, there will be a whole new industry outside the Patent Office. There will be people going from the Patent Office to the fax machines as rapidly as possible to get the information about new American ideas out, and who can go into manufacturing them the quickest before the Americans are even able to issue the patent.

This is something that the American people should be able to understand. Patent law is confusing. It is difficult to understand. But every American should understand that if we give our secrets away, if we publish them for the world, people who do not like us, who are our economic adversaries, will use our ideas against us.

What a catastrophe if the Wright Brothers, in building their airplane, were faced with a Mitsubishi Corp. who came down upon them and had every secret of their devices and said, no, this is our plane, this is our plane. You Americans did not invent this, we invented this. You would have two Americans in a bicycle shop facing massive Japanese corporations. That is exactly what is going to happen if those people who are pushing H.R. 400 have their way.

America's standard of living, we do not need the aerospace workers out in California, we do not need the aerospace industry, do we? That is what the Wright Brothers gave to America. They gave hundreds of thousands of dollars, millions of Americans great jobs and standards of living because we protected their invention. We gave them property rights to what they invented. We kept it secret until they were issued the patent. We do not give away our secrets and expect our enemies not to use them.

H.R. 400 also by the way obliterates the Patent Office; just by the way, it also eliminates the Patent Office from the U.S. Government. Just thought I would throw that in as well. It is like saying, oh, yes, we have decided to make the court system a quasi-independent corporation. That is right. They are going to take the Patent Office in H.R. 400 and they are going to turn it into a quasi-independent corporation.

Our patent examiners, who have a history of integrity and honesty, they have been protected by their civil service protection, they have a quasi-judicial function. They are making legal determinations, legal judgments that will mean who owns billions of dollars of wealth in our society. Those people are now going to work for a quasi-independent corporation, and what influences will be on that corporation we do not know. We do not know.

It would be like saying, now we are going to rely on a private corporation to set up a judicial system before we know all the details on how it is going to function, as if patent rights—of course, they do not mean a thing. The American people would know what was going to happen if we were going to give corporations the right to run all the judges and all the courts in our country. They would know that. They would know we had better have every detail mapped out. We do not have every detail mapped out.

H.R. 400, the Steal American Technologies Act, would not only disclose all of our secrets, but our own people who are there to protect us, the patent examiners who are there to protect the rights of our citizens, will be put into an entirely different arrangement. They are no longer our representatives, no longer people who are working for the United States, working for the American people, they are working for some quasi-independent corporation.

I believe, I personally believe, in privatization. Any time we can have privatization, boy, DANA ROHRABACHER, is there. The National Taxpayers Union and all these other people know I am there when it comes to privatization. I think it is a good idea.

But I would not support privatizing all the courts. I would not support privatizing the Army. There are certain functions in Government. One of those functions happen to be the protection of our rights, and property rights, as I say, the intellectual property rights of our people, are going to be ever more important. So we are going to take that function away from employees at the Patent Office and turn it into a quasi-independent corporation?

Who is going to control it? Who is going to be on the board of directors? Are they going to be corporate representatives on the board of directors, maybe foreign corporations might be able to be on the board of directors? I do not know. We will have to find out those answers.

Basically, H.R. 400 will permit, the Steal American Technologies Act will permit foreign and multinational corporations to run roughshod over the American people in the same way they have been running roughshod over their own people. That is predictable. They are going to give them all the information. They are going to strip away the rights that have protected American inventors. You do not expect that these huge powerful corporate interests that have had such incredible impact on their people in their own countries are not going to come over here and try to do the same thing to our people.

In a few days I will be introducing a bill which will counteract H.R. 400. My bill, like a similar bill that I had last year, will be entitled "the Patent Term Restoration Act." This bill offers us a chance to restore to the American people the guaranteed patent term which has been our right since our country's founding. I am asking my colleagues to sign on as cosponsors.

The other side has already had their multinational corporate interests putting pressure on our colleagues here. This is a free society. They have a right to speak. They have a right to talk to their representatives. But it is important that the American people have their influence as well. Every American needs to talk to his or her Member of Congress, his or her Member of the House of Representatives, and ask that that representative cosponsor the Patent Term Restoration Act, and oppose, please, and oppose the Steal American Technologies Act, H.R. 400.

Last year my bill, which is basically similar to the bill that will be reintroduced in the next few days, last year we had the support of biotech companies, we had the support of those who are under attack from all over the world, we had the support of labor unions, we had the support of venture capitalists, the pharmaceutical companies, major universities like the Massachusetts Institute of Technology. But more importantly, we had support from every individual inventors' organization in the country. In short, we had the support of the little guys versus the big guys.

This is the ultimate fight of the little guys versus the big guys. In America's history, in America's history, the average person, the little guy, has always come through because our Government is designed not for the protection of people who can hire stables of lawyers to do their bidding, and that is what H.R. 400 would do, the Steal American Technologies Act will do. It will mean that the big corporations who can hire the lawyers will have Government protection of their rights, but the rest of us will be left out.

But we are not going to permit that to happen, because we can mobilize support in Congress if the American people will speak to their Congressmen, if they will call their Representative in the House of Representatives and say, "We want you to support H.R.," whatever the bill will be, which is basically the Patent Restoration

Act, the Patent Restoration Act, and to oppose H.R. 400, which is the Steal American Technologies Act.

Japanese corporations, as I say, and Chinese, and all these people, when you hear people talking about the global economy, by the way, I believe in a global economy. No matter what we do, we are going to have a global economy. We are going to have a more global system, because communications and transportation are better than ever, thanks to the Wright Brothers and thanks to Thomas Edison and a lot of other people. But the fact is that we cannot use that concept as an excuse to diminish the rights of our people.

If we are going to harmonize our law with Japan or anyone else, we must bring their standard of protection up to that of the American people. That is what this debate will be all about, of whether or not we can—the big shots, of course, they can just have their lawyers do the work for them, but the rest of us depend on these things being written into law, these protections to be written into law.

We need to restore the American guaranteed patent rights. We need to restore them, and when we face these issues of global economy in the future, we must face them with the understanding that we will not be entering the global economy by basically diminishing the rights of our people. The American people can understand that. The American people, if they speak to their elected Representatives, their will, their will will take precedence over the powerful special interests.

Today we join the battle. Today we will begin a fight that will be decided before August, and before August, through this body, will come through either a bill that is aimed at restoring the guaranteed patent term to the American people, or H.R. 400, the Steal American Technologies Act.

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This will determine the future of our country. People will not fight for the American people unless the American people fight for themselves. We must all participate. I am confident that just as in the past, the American people will be the winners and that in the future of our country, when we evermore in the years ahead look to technology, we will be the technological leaders. We will not, our people will not go out to do battle, to do battle with enemies and adversaries around the world in equipment and weapons that are inferior technologically.

Think about having to disclose every new patent idea after 18 months, whether or not the patent has been issued. That means our adversaries, who might want to destroy us, will have technology that can actually target America for destruction. Certainly they will have information that can target American jobs and the standard of living of our people for destruction.

But we will win this battle and we will win the battles in the future because we will be strong and the American people will speak loudly and rise up and prevent this abomination of H.R. 400, the Steal American Technologies Act, from passing and will demand their rights be restored, patent rights and their rights to decency and their rights to opportunity as American citizens.

PROBLEMS OF THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore (Mr. CALLAHAN). Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I appreciate the attention that the Speaker and, more recently, the President has given to the problems of the District of Columbia. The reason for that attention is that those problems are indeed desperate.

Let me concede that there are operational problems of the city that must be laid at the feet of the city and the city has accepted that challenge.

I come as an advocate for my city, not as an apologist. All the analysts also say that there are structural defects in the financial relationship between the city and the Federal Government. They can perhaps be summed up in the notion that this city pays for State, county, and municipal functions and, though the vast majority of those who work in the city come from the suburbs, it is the District that must pay for the services they use. And they make no contribution.

As a result, I have introduced a bipartisan bill, the District of Columbia Economic Recovery Act. It is a progressive tax cut. Essentially it would allow the residents of the District of Columbia to use their own money to save the Capital of the United States.

Why is this necessary? Perhaps that is best understood by looking at this chart, "Frightening Decline of D.C. Tax Base." Mr. Speaker, this is 1990. This is the year 2000.

When cities begin to lose their tax base at this rate, the State kicks in and keeps them from going belly up. There is no State to do that for the District of Columbia. Most cities, particularly the large cities of the United States, Detroit, New York, Chicago, Newark, LA, would not have been left standing if, given similar flight, they had not had a State as a safety net. If the District were not stateless, I would not have put in my tax-cut bill. The President will speak tonight, I believe, of a proposal he has to help the District by taking some of the cost of State functions from the District and taking back pension liability that the Congress built up.

The fact is that as grateful as we are for a proposal that is serious, it is marginal. It would take about 10 percent of what District taxpayers pay now and, remember, those taxpayers are rapidly disappearing. It would leave those same disappearing taxpayers with 90 percent of the costs they now pay.

My bill contains protections against gentrification. It is a progressive tax cut based on income. Mr. Speaker, no one even speaks today of the underlying democratic flaw that afflicts the Capital of the United States. It is the last great injustice on American soil, that the District is third per capita in Federal income taxes and yet has indeed taxation without representation. The four territories have a delegate just as the District does. They pay no Federal income taxes. I even won the right to vote on the House floor in the Committee of the Whole and in one of this body's most ungenerous acts, this vote was taken from me by rule by the majority, an act that violates the principles of the majority and the minority. It is a vote I hope to reclaim.

More important than my vote, Mr. Speaker, however, is the survival of my city and your Capital. As we begin the 105th Congress, I ask Members to keep an open mind as we try to find a way toward recovery for the Capital of the United States. We are not asking to tax others. We are asking that the money we spend in Federal taxes be cut somewhat so that we can help revive our city. You must not allow the Capital of the United States to become an absolute disgrace because its problems have been laid only at its feet and its own great country has not come forward to help it. The President wants to help. I now ask my own colleagues to help as well.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 8:40 p.m., for the purpose of receiving in joint session, the President of the United States.

Accordingly (at 4 o'clock and 22 minutes p.m.) the House stood in recess until approximately 8:40 p.m.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 9 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The Speaker of the House presided.

The Assistant to the Sergeant at Arms, Mr. William Sims, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber:

The gentleman from Texas [Mr. ARMEY];

The gentleman from Texas [Mr. DELAY];

The gentleman from Ohio [Mr. BOEHNER];

The gentleman from California [Mr. COX];

The gentleman from Arkansas [Mr. DICKEY];

The gentleman from Arkansas [Mr. HUTCHINSON];

The gentleman from Missouri [Mr. GEPHARDT];

The gentleman from Michigan [Mr. BONIOR];

The gentleman from California [Mr. FAZIO];

The gentlewoman from Connecticut [Mrs. KENNELLY];

The gentleman from Arkansas [Mr. BERRY]; and

The gentleman from Arkansas [Mr. SNYDER).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to escort the President of the United States into the House Chamber:

The Senator from Mississippi [Mr. LOTT];

The Senator from Oklahoma [Mr. NICKLES];

The Senator from Florida [Mr. MACK];

The Senator from Georgia [Mr. COVERDELL];

The Senator from Idaho [Mr. CRAIG];

The Senator from Kentucky [Mr. MCCONNELL];

The Senator from Arkansas [Mr. HUTCHINSON];

The Senator from South Dakota [Mr. DASCHLE];

The Senator from Kentucky [Mr. FORD];

The Senator from Maryland [Ms. MIKULSKI];

The Senator from Louisiana [Mr. BREAUX];

The Senator from Massachusetts [Mr. KERRY];

The Senator from Nevada [Mr. REID];

The Senator from West Virginia [Mr. ROCKEFELLER];

The Senator from North Dakota [Mr. DORGAN]; and

The Senator from New Jersey [Mr. TORRICELLI].

The Assistant to the Sergeant at Arms announced the acting dean of the diplomatic corps, His Excellency Mohsin A. Alaini, Ambassador of Yemen.

The acting dean of the diplomatic corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Assistant to the Sergeant at Arms announced the Associate Justices of the Supreme Court of the United States.

The Associate Justices of the Supreme Court of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

The Assistant to the Sergeant at Arms announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 11 minutes p.m., the Sergeant at Arms, Mr. Wilson Livingood, announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

(Applause, the Members rising.)

The SPEAKER. Members of the Congress, I have the high privilege and the distinct honor of presenting to you the President of the United States.

(Applause, the Members rising.)

THE STATE OF THE UNION ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The PRESIDENT. Mr. Speaker, Mr. Vice President, Members of the 105th Congress, distinguished guests, and my fellow Americans:

I think I should start by saying thanks for inviting me back.

I come before you tonight with a challenge as great as any in our peacetime history, and a plan of action to meet that challenge, to prepare our people for the bold new world of the 21st century.

We have much to be thankful for. With 4 years of growth, we have won back the basic strength of our economy. With crime and welfare rolls declining, we are winning back our optimism, the enduring faith that we can master any difficulty. With the Cold War receding and global commerce at record levels, we are helping to win an unrivaled peace and prosperity all across the world.

My fellow Americans, the state of our union is strong, but now we must rise to the decisive moment, to make a Nation and a world better than any we have ever known. The new promise of the global economy, the information age, unimagined new work, life-enhancing technology, all these are ours to seize. That is our honor and our challenge. We must be shapers of events, not observers. For if we do not act, the moment will pass, and we will lose the best possibilities of our future.

We face no imminent threat, but we do have an enemy: The enemy of our time is inaction.

So tonight I issue a call to action, action by this Congress, action by our States, by our people, to prepare America for the 21st century. Action to keep our economy and our democracy strong and working for all our people; action to strengthen education and harness the forces of technology and science; action to build stronger families and stronger communities and a safer environment; action to keep America the world's strongest force for peace, freedom, and prosperity. And above all, action to build a more perfect union here at home.

The spirit we bring to our work will make all the difference. We must be committed to the pursuit of opportunity for all Americans, responsibility from all Americans, in a community of all Americans. And we must be committed to a new kind of government, not to solve all our problems for us, but to give our people, all our people, the tools they need to make the most of their own lives.

And we must work together. The people of this Nation elected us all. They want us to be partners, not partisans. They put us all right here in the same boat. They gave us all oars, and they told us to row. Now, here is the direction I believe we should take. First we must move quickly to complete the unfinished business of our country, to balance the budget, renew our democracy, and finish the job of welfare reform.

Over the last 4 years, we have brought new economic growth by investing in our people, expanding our exports, cutting our deficits, creating over 11 million new jobs, a 4-year record. Now we must keep our economy the strongest in the world. We here tonight have an historic opportunity. Let this Congress be the Congress that finally balances the budget.

In two days, I will propose a detailed plan to balance the budget by 2002. This plan will balance the budget and invest in our people while protecting Medicare, Medicaid, education and the environment. It will balance the budget and build on the Vice President's efforts to make our government work better even as it costs less.

It will balance the budget and provide middle class tax relief to pay for education and health care, to help to raise a child, to buy and sell a home.

Balancing the budget requires only your vote and my signature. It does not require us to rewrite our Constitution.

I believe it is both unnecessary and unwise to adopt a balanced budget amendment that could cripple our country in time of economic crisis and force unwanted results, such as judges halting Social Security checks or increasing taxes. Let us at least agree we should not pass any measure, no measure should be passed that threatens Social Security. Whatever your view on that, we all must concede, we do not need a constitutional amendment; we need action.

Whatever our differences, we should balance the budget now. And then for the long-term health of our society, we must agree to a bipartisan process to preserve Social Security and reform Medicare for the long run so that these fundamental programs will be as strong for our children as they are for our parents.

And let me say something that is not in my script tonight: I know this is not going to be easy, but I really believe one of the reasons the American people gave me a second term was to take the tough decisions in the next four years that will carry our country through the next 50 years. I know it is easier for me than for you to say or do, but another reason I was elected is to support all of you without regard to party to give you what is necessary to join in these decisions. We owe it to our country and to our future.

Our second piece of unfinished business requires us to commit ourselves tonight before the eyes of America to finally enacting bipartisan campaign finance reform. Senators MCCAIN and FEINGOLD, Representatives SHAYS and MEEHAN have reached across party lines here to craft tough and fair reform. Their proposal would curb spending, reduce the role of special interests, create a level playing field between challengers and incumbents and ban contributions from noncitizens, all corporate sources and the other large soft money contributions that both parties receive.

You know and I know that this can be delayed, and you know and I know that delay will mean the death of reform. So let us set our own deadline. Let us work together to write bipartisan campaign finance reform into law and pass McCain-Feingold by the day we celebrate the birth of our democracy, July 4th.

There is a third piece of unfinished business. Over the last four years, we moved a record two and a quarter million people off the welfare rolls. Then last year, Congress enacted landmark welfare reform legislation demanding that all able-bodied recipients assume the responsibility of moving from welfare to work. Now each and every one of us has to fulfill our responsibility, indeed our moral obligation, to make sure that people who now must work can work.

Now we must act to meet a new goal, 2 million more people off the welfare rolls by the year 2000.

Here is my plan: Tax credits and other incentives for businesses that hire people off welfare; incentives for job placement firms and States to create more jobs for welfare recipients; training, transportation and child care to help people go to work.

Now I challenge every State: Turn those welfare checks into private sector paychecks. I challenge every religious congregation, every community nonprofit, every business to hire someone off welfare. And I would like to say especially to every employer in our country, whoever criticized the old welfare system, you cannot blame that old system anymore. We have torn it down. Now do your part. Give someone on welfare the chance to go to work.

Tonight I am pleased to announce that five major corporations, Sprint, Monsanto, UPS, Burger King and United Airlines, will be the first to join in a new national effort to marshal America's businesses, large and small, to create jobs so that people can move from welfare to work. We passed welfare reform. All of you know I believe we were right to do it. But no one can walk out of this Chamber with a clear conscience unless you are prepared to finish the job.

And we must join together to do something else, too, something both Republican and Democratic governors have asked us to do, to restore basic health and disability benefits when misfortune strikes immigrants who came to this country legally, who work hard, pay taxes and obey the law. To do otherwise is simply unworthy of a great Nation of immigrants.

Now, looking ahead, the greatest step of all, the high threshold of the future we must now cross and my number one priority for the next four years is to ensure that all Americans have the best education in the world.

Let us work together to meet these three goals: Every 8-year-old must be able to read; every 12-year-old must be able to log on to the Internet; every 18-year-old must be able to go to college; and every adult American must be able to keep on learning for a lifetime.

My balanced budget makes an unprecedented commitment to these goals, $51 billion next year. But far more than money is required.

I have a plan, a call to action for American education based on these 10 principles.

First, a national crusade for education standards, not Federal Government standards, but national standards representing what all of our students must know to succeed in the knowledge economy of the 21st century.

Every State and school must shape the curriculum to reflect these standards and train teachers to lift students up to them. To help schools meet the standards and measure their progress, we will lead an effort over the next 2 years to develop national tests of student achievement in reading and math.

Tonight I issue a challenge to the Nation: Every State should adopt high national standards, and by 1999 every State should test every fourth grader in reading and every eighth grader in math to make sure these standards are met.

Raising standards will not be easy, and some of our children will not be able to meet them at first. The point is not to put our children down, but to lift them up. Good tests will show us who needs help, what changes in teaching to make, and which schools need to improve. They can help us to end social promotion, for no child should move from grade school to junior high or junior high to high school until he or she is ready.

Last month, our Secretary of Education Dick Riley and I visited northern Illinois where eighth grade students from 20 school districts in a project aptly called "First in the World" took the Third International Math and Science Study. That is a test that reflects the world class standards our children must meet for the new era. And those students in Illinois tied for first in the world in science and came in second in math.

Two of them, Kristin Tanner and Chris Getsla, are here tonight, along with their teacher, Sue Winski. They are up there with the First Lady, and they prove that when we aim high and challenge our students, they will be the best in the world. Let us give them a hand. Stand up, please.

Second, to have the best schools, we must have the best teachers. Most of us in this Chamber would not be here tonight without the help of those teachers. I know that I would not be here.

For years, many of our educators, led by North Carolina's Governor Jim Hunt and the National Board for Professional Teaching Standards, have worked very hard to establish nationally accepted credentials for excellence in teaching. Just 500 of these teachers have been certified since 1995. My budget will enable 100,000 more to seek national certification as master teachers.

We should reward and recognize our best teachers. And as we reward them, we should quickly and fairly remove those few who do not measure up, and we should challenge more of our finest young people to consider teaching as a career.

Third, we must do more to help all our children read. Forty percent, 40 percent, of our 8-year-olds cannot read on their own. That is why we have just launched the America Reads Initiative, to build a citizen army of 1 million volunteer tutors to make sure every child can read independently by the end of the third grade. We will use thousands of AmeriCorps volunteers to mobilize this citizen army. We want at least 100,000 college students to help.

And tonight I am pleased that 60 college presidents have answered my call, pledging that thousands of their work/study students will serve for 1 year as reading tutors.

This is also a challenge to every teacher and every principal: You must use these tutors to help your students read. And it is especially a challenge to our parents: You must read with our children every night.

This leads to the fourth principle: Learning begins in the first days of life. Scientists are now discovering how young children develop emotionally and intellectually from their very first days and how important it is for parents to begin immediately talking, singing, even reading, to their infants.

The First Lady has spent years writing about this issue, studying it, and she and I are going to convene a White House Conference on Early Learning and the Brain this spring to explore how parents and educators can best use these startling new findings.

We already know we should start teaching children before they start school. That is why this balanced budget expands Head Start to 1 million children by 2002. That is why the Vice President and Mrs. Gore will host their annual family conference this June on what we can do to make sure that parents are an active part of their children's learning all the way through school.

They have done a great deal to highlight the importance of family in our life, and now they are turning their attention to getting more parents involved in their children's learning all the way through school. And I thank you, Mr. Vice President, and I thank you especially, Tipper, for what you are doing.

Fifth, every State should give parents the power to choose the right public school for their children. Their right to choose will foster a competition and innovation that can make public schools better. We should also make it possible for more parents and teachers to start charter schools, schools that set and meet the highest standards and exist only as long as they do. Our plan will help America to create 3,000 of these charter schools by the next century, nearly seven times as many as there are in the country today, so that parents will have even more choices in sending their children to the best schools.

Sixth, character education must be taught in our schools. We must teach our children to be good citizens, and we must continue to promote order and discipline, supporting communities that introduce school uniforms, impose curfews, enforce truancy laws, remove disruptive students from the classroom, and have zero tolerance for guns and drugs in schools.

Seventh, we cannot expect our children to raise themselves up in schools that are literally falling down. With the student population at an all-time high and record numbers of school buildings falling into disrepair, this has now become a serious national concern.

Therefore, my budget includes a new initiative: $5 billion to help communities finance $20 billion in school construction over the next 4 years.

Eighth, we must make the 13th and 14th years of education, at least 2 years of college, just as universal in America by the 21st century as a high school education is today, and we must open the doors of college to all Americans.

To do that, I propose America's HOPE scholarship, based on Georgia's pioneering program, 2 years of a $1,500 tax credit for college tuition, enough to pay for the typical community college.

I also propose a tax deduction of up to $10,000 a year for all tuition after high school, an expanded IRA you can withdraw from tax free for education, and the largest increase in Pell grant scholarships in 20 years.

This plan will give most families the ability to pay no taxes on money they saved for college tuition. I ask you to pass it, and give every American who works hard the chance to go to college.

Ninth, in the 21st century, we must expand the frontiers of learning across a lifetime. All our people, of whatever age, must have the chance to learn new skills. Most Americans live near a community college. The roads that take them there could be paths to a better future. My GI bill for America's workers will transform the confusing tangle of Federal training programs into a simple skill grant to go directly into eligible workers' hands. For too long, this bill has been sitting on that desk there without action. I ask you to pass it now. Let us give more of our workers the ability to learn and to earn for a lifetime.

Tenth, we must bring the power of the Information Age into all our schools. Last year, I challenged America to connect every classroom and library to the Internet by the year 2000, so that for the first time in our history, children in the most isolated rural towns, the most comfortable suburbs, the poorest inner city schools, will have the same access to the same universe of knowledge. That is my plan: a call to action for American education.

Some may say that it is unusual for a President to pay this kind of attention to education. Some may say it is simply because the President and his wonderful wife have been obsessed with this subject for more years than they can recall. That is not what is driving these proposals. We must understand the significance of this endeavor. One of the greatest sources of our strength throughout the Cold War was a bipartisan foreign policy. Because our future was at stake, politics stopped at the water's edge. Now I ask you, and I ask all our Nation's governors, I ask parents, teachers and citizens all across America, for a new nonpartisan commitment to education, because education is a critical national security issue for our future, and politics must stop at the schoolhouse door.

To prepare America for the 21st century, we must harness the powerful forces of science and technology to benefit all Americans.

This is the first State of the Union carried live in video over the Internet. But we have only begun to spread the benefits of a technology revolution that should become the modern birthright of every citizen.

Our effort to connect every classroom is just the beginning. Now we should connect every hospital to the Internet, so doctors can instantly share data about their patients with the best specialists in the field. And I challenge the private sector tonight to start by connecting every children's hospital as soon as possible, so that a child in bed can stay in touch with school, family and friends. A sick child need no longer be a child alone.

We must build the second generation of the Internet so our leading universities and national laboratories can communicate in speeds a thousand times faster than today, to develop new medical treatments, new sources of energy, new ways of working together.

But we cannot stop there. As the Internet becomes our new town square, a computer in every home, a teacher of all subjects, a connection to all cultures, this will no longer be a dream, but a necessity. And over the next decade, that must be our goal.

We must continue to explore the heavens, pressing on with the Mars probes and the international space station, both of which will have practical applications for our everyday living.

We must speed the remarkable advances in medical science. The human genome project is now decoding the genetic mysteries of life. American scientists have discovered genes linked to breast cancer and ovarian cancer, and medication that stops a stroke in progress and begins to reverse its effects, and treatments that dramatically lengthen the lives of people with HIV and AIDS.

Since I took office, funding for AIDS research at the National Institutes of Health has increased dramatically, to $1.5 billion. With new resources, NIH will now become the most powerful discovery engine for an AIDS vaccine, working with other scientists to finally end the threat of AIDS. Remember that every year we move up the discovery of an AIDS vaccine will save millions of lives around the world. We must reinforce our commitment to medical science.

To prepare America for the 21st century, we must build stronger families.

Over the past 4 years, the family and medical leave law has helped millions of Americans to take time off to be with their families. With new pressures on people in the way they work and live, I believe we must expand family leave so that workers can take time off for teacher conferences and a child's medical checkup. We should pass flextime so workers can choose to be paid for overtime in income, or trade it in for time off to be with their families.

We must continue, step by step, to give more families access to affordable, quality health care. Forty million Americans still lack health insurance. Ten million children still lack health insurance. Eighty percent of them have working parents who pay taxes. That is wrong. My balanced budget will extend health coverage to up to 5 million of those children. Since nearly half of all children who lose their insurance do so because their parents lose or change a job, my budget will also ensure that people who temporarily lose their jobs can still afford to keep their health insurance. No child should be without a doctor just because a parent is without a job.

My Medicare plan modernizes Medicare, increases the life of the trust fund to 10 years, provides support for respite care for the many families with loved ones afflicted with Alzheimer's, and for the first time it would fully pay for annual mammograms.

Just as we ended drive-through deliveries of babies last year, we must now end the dangerous and demeaning practice of forcing women home from the hospital only hours after a mastectomy. I ask your support for bipartisan legislation to guarantee that a woman can stay in the hospital for 48 hours after a mastectomy. With us tonight is Dr. Kristen Zarfos, a Connecticut surgeon whose outrage at this practice spurred a national movement and inspired this legislation. I would like her to stand so we can thank her for her efforts. Dr. Zarfos, thank you.

In the last 4 years, we have increased child support collections by 50 percent. Now we should go further and do better, by making it a felony for any parent to cross a State line in an attempt to flee from this, his or her most sacred obligation.

Finally, we must also protect our children by standing firm in our determination to ban the advertising and marketing of cigarettes that endanger their lives.

To prepare America for the 21st century we must build stronger communities. We should start with safe streets. Serious crime has dropped 5 years in a row. The key has been community policing. We must finish the job of putting 100,000 community police on the streets of the United States.

We should pass the victims rights amendment to the Constitution, and I ask you to mount a full-scale assault on juvenile crime with legislation that declares war on gangs, with new prosecutors and tougher penalties, extends the Brady bill so violent teen criminals will not be able to buy handguns, requires child safety locks on handguns to prevent unauthorized use and helps to keep our schools open after hours on weekends and in the summer so our young people will have some place to go and something to say yes to.

This balanced budget includes the largest antidrug effort ever to stop drugs at their source, punish those who push them and teach our young people that drugs are wrong, drugs are illegal and drugs will kill them. I hope you will support it.

Our growing economy has helped to revive poor urban and rural neighborhoods, but we must do more to empower them to create the conditions in which all families can flourish and to create jobs through investment by business and loans by banks.

We should double the number of empowerment zones. They have already brought so much hope to communities like Detroit, where the unemployment rate has been cut in half in 4 years.

We should restore contaminated urban land and buildings to productive use. We should expand the network of community development banks, and together we must pledge tonight that we will use this empowerment approach, including private sector tax incentives, to renew our capital city so that Washington is a great place to work and live and once again the proud face America shows the world.

We must protect our environment in every community. In the last 4 years we cleaned up 250 toxic waste sites, as many in the previous 12. Now we should clean up 500 more so that our children grow up next to parks, not poison. I urge you to pass my proposal to make big polluters live by a simple rule: If you pollute our environment, you should pay to clean it up.

In the last 4 years we strengthened our Nation's safe food and cleaning drinking water laws, we protected some of America's rarest and most beautiful land in Utah's Red Rocks region, created three new national parks in the California desert and began to restore the Florida Everglades. Now we must be as vigilant with our rivers as we are with our lands.

Tonight I announce that this year I will designate 10 American Heritage rivers to help communities alongside them revitalize their waterfronts and clean up pollution in the rivers, proving once again we can grow the economy as we protect the environment.

We must also protect our global environment, working to ban the worst toxic chemicals and to reduce the greenhouse gases that challenge our health even as they change our climate.

Now, we all know that in all of our communities some of our children simply do not have what they need to grow and learn in their own homes or schools or neighborhoods and that means the rest of us must do more, for they are our children too. That is why President Bush, General Colin Powell, former Housing Secretary Henry Cisneros will join the Vice President and me to lead the President's Summit of Service in Philadelphia in April.

Our national service program, AmeriCorps, has already helped 70,000 young people to work their way through college as they serve America. Now we intend to mobilize millions of Americans to serve in thousands of ways. Citizen service is an American responsibility which all Americans should embrace, and I ask your support for that endeavor.

I would like to make just one last point about our national community. Our economy is measured in numbers and statistics and is very important. But the enduring worth of our Nation lies in our shared values and our soaring spirit. So instead of cutting back on our modest efforts to support the arts and humanities I believe we should stand by them and challenge our artists, musicians and writers, challenge our museums, libraries and theaters.

We should challenge all Americans in the arts and humanities to join with their fellow citizens to make the year 2000 a national celebration of the American spirit in every community, a celebration of our common culture in the century that is passed and in the new one to come in a new millennium so that we can remain the world's beacon, not only of liberty but of creativity long after the fireworks have faded.

To prepare America for the 21st century we must master the forces of change in the world and keep American leadership strong and sure for a uncharted time.

Fifty years ago, a farsighted America led in creating the institutions that secured victory in the Cold War and built a growing world economy. As a result, today more people than ever embrace our ideals and share our interests. Already we have dismantled many of the blocs and barriers that divided our parents' world. For the first time more people live under democracy than dictatorship, including every Nation in our own hemisphere but one, and its day too will come.

Now we stand at another moment of change and choice and another time to be farsighted, to bring America 50 more years of security and prosperity. In this endeavor our first task is to help to build for the very first time an undivided democratic Europe. When Europe is stable, prosperous and at peace, America is more secure. To that end we must expand NATO by 1999 so that countries that were once our adversaries can become our allies. At the special NATO summit this summer that is what we will begin to do. We must strengthen NATO's partnership for peace with non-member allies and we must build a stable partnership between NATO and a democratic Russia.

An expanded NATO is good for America and a Europe in which all democracies define their future, not in terms of what they can do to each other but in terms of what they can do together for the good of all, that kind of Europe is good for America.

Second, America must look to the East no less than to the West. Our security demands it. Americans fought 3 wars in Asia in this century. Our prosperity requires it. More than 2 million American jobs depend upon trade with Asia. There, too, we are helping to shape an Asian Pacific community of cooperation, not conflict.

Let our progress there not mask the peril that remains. Together with South Korea, we must advance peace talks with North Korea and bridge the Cold War's last divide. I call on Congress to fund our share of the agreement under which North Korea must continue to freeze and then dismantle its nuclear weapons program.

We must pursue a deeper dialogue with China for the sake of our interests and our ideals. An isolated China is not good for America. A China playing its proper role in the world is. I will go to China, and I have invited China's President to come here, not because we agree on everything, but because engaging China is the best way to work on our common challenges like ending nuclear testing, and to deal frankly with our fundamental differences like human rights.

The American people must prosper in the global economy. We have worked hard to tear down trade barriers abroad so that we can create good jobs at home. I am proud to say that today America is once again the most competitive Nation and the number one exporter in the world. Now we must act to expand our exports, especially to Asia and Latin America, two of the fastest growing regions on earth, or be left behind as these emerging economies forge new ties with other nations.

That is why we need the authority now to conclude new trade agreements that open markets to our goods and services even as we preserve our values. We need not shrink from the challenge of the global economy. After all, we have the best workers and the best products. In a truly open market we can outcompete anyone, anywhere on earth.

But this is about more than economics. By expanding trade, we can advance the cause of freedom and democracy around the world. There is no better example of this truth than Latin America, where democracy and open markets are on the march together. That is why I will visit there in the spring, to reinforce our important ties.

We should all be proud that America led the effort to rescue our neighbor, Mexico, from its economic crisis. We should all be proud that last month Mexico repaid the United States, 3 full years ahead of schedule, with a half a billion dollar profit to us.

America must continue to be an unrelenting force for peace, from the Middle East to Haiti, from Northern Ireland to Africa. Taking reasonable risks for peace keeps us from being drawn into far more costly conflicts later.

With American leadership, the killing is stopped in Bosnia. Now the habits of peace must take hold. The new NATO force will allow reconstruction and reconciliation to accelerate. Tonight I ask Congress to continue its strong support of our troops. They are doing a remarkable job there for America, and America must do right by them.

Fifth, we must move strongly against new threats to our security. In the past 4 years we agreed to ban, we led the way to a worldwide agreement to ban nuclear testing. With Russia, we dramatically cut nuclear arsenals, and we stopped targeting each other's citizens. We are acting to prevent nuclear materials from falling into the wrong hands, and to rid the world of landmines.

We are working with other nations, with renewed intensity, to fight drug traffickers and to stop terrorists before they act, and hold them fully accountable if they do.

Now we must rise to a new test of leadership, ratifying the Chemical Weapons Convention. Make no mistake about it, it will make our troops safer from chemical attack. It will help us to fight terrorism.

We have no more important obligations, especially in the wake of what we now know about the Gulf War. This treaty has been bipartisan from the beginning, supported by Republican and Democratic administrations, and Republican and Democratic Members of Congress, and already approved by 68 nations. But if we do not act by April the 29th, when this convention goes into force with or without us, we will lose the chance to have Americans leading and enforcing this effort. Together, we must make the Chemical Weapons Convention law, so that at last we can begin to outlaw poison gas from the earth.

Finally, we must have the tools to meet all these challenges.

We must maintain a strong and ready military. We must increase funding for weapons modernization by the year 2000, and we must take good care of our men and women in uniform. They are the world's finest.

We must also renew our commitment to America's diplomacy, and pay our debts and dues to international financial institutions like the World Bank, and to a reforming United Nations. Every dollar, every dollar we devote to preventing conflicts, to promoting democracy, to stopping the spread of disease and starvation, brings a sure return in security and savings. Yet international affairs spending today is just 1 percent of the Federal budget, a small fraction of what America invested in diplomacy to choose leadership over escapism at the start of the Cold War. If America is to continue to lead the world, we here who lead America simply must find the will to pay our way.

A farsighted America moved the world to a better place over these last 50 years, and so it can be for another 50 years. But a shortsighted America will soon find its words falling on deaf ears all around the world.

Almost exactly 50 years ago, in the first winter of the Cold War, President Truman stood before a Republican Congress and called upon our country to meet its responsibilities of leadership. This was his warning. He said, "If we falter, we may endanger the peace of the world—and we shall surely endanger the welfare of this nation." That Congress, led by Republicans like Senator Arthur Vandenberg, answered President Truman's call. Together, they made the commitments that strengthened our country for 50 years. Now let us do the same. Let us do what it takes to remain the indispensable Nation, to keep America strong, secure, and prosperous for another 50 years.

In the end, more than anything else, our world leadership grows out of the power of our example here at home, out of our ability to remain strong as one America.

All over the world people are being torn asunder by racial, ethnic, and religious conflicts that fuel fanaticism and terror. We are the world's most diverse democracy, and the world looks to us to show that it is possible to live and advance together across those kinds of differences.

America has always been a Nation of immigrants. From the start, a steady stream of people, in search of freedom and opportunity, have left their own lands to make this land their home. We started as an experiment in democracy fueled by Europeans. We have grown into an experiment in democratic diversity fueled by openness and promise.

My fellow Americans, we must never, ever believe that our diversity is a weakness. It is our greatest strength.

Americans speak every language, know every country. People on every continent can look to us and see the reflection of their own great potential. And they always will, as long as we strive to give all of our citizens, whatever their background, an opportunity to achieve their own greatness.

We are not there yet. We still see evidence of abiding bigotry and intolerance and ugly words and awful violence in burned churches and bombed buildings. We must fight against this in our country and in our hearts.

Just a few days, before my second inauguration, one of our country's best known pastors, Reverend Robert Schuller, suggested that I read Isaiah 58:12. Here is what it says: "Thou shalt raise up the foundations of many generations, and thou shalt be called, the repairer of the breach, the restorer of paths to dwell in."

I placed my hand on that verse when I took the oath of office on behalf of all

Americans, for no matter what our differences in our faiths, our backgrounds, our politics, we must all be repairers of the breach.

I want to say a word about two other Americans who show us how. Congressman FRANK TEJEDA was buried yesterday, a proud American whose family came from Mexico. He was only 51 years old. He was awarded the Silver Star, the Bronze Star and the Purple Heart fighting for his country in Vietnam, and he went on to serve Texas and America fighting for our future here in this Chamber. We are grateful for his service and honored that his mother, Lillie Tejeda, and his sister Mary Alice, have come from Texas to be with us here tonight, and we welcome them.

Gary Locke, the newly elected Governor of Washington State, is the first Chinese American Governor in the history of our country. He is the proud son of two of the millions of Asian American immigrants who strengthened America with their hard work, family values and good citizenship. He represents the future we can all achieve. Thank you, Governor, for being here.

Reverend Schuller, Congressman TEJEDA, Governor Locke, along with Kristin Tanner and Chris Getsla, Sue Winski and Dr. Kristen Zarfos, they are all Americans from different roots whose lives reflect the best of what we can become when we are one America.

We may not share a common past, but we surely do share a common future. Building one America is our most important mission, the foundation of many generations, of every other strength we must build for this new century. Money cannot buy it. Power cannot compel it. Technology cannot create it. It can only come from the human spirit.

America is far more than a place. It is an idea, the most powerful idea in the history of nations. And all of us in this Chamber, we are now the bearers of that idea, leading a great people into a new world. A child born tonight will have almost no memory of the 20th century. Everything that child will know about America will be because of what we do now to build a new century.

We do not have a moment to waste. Tomorrow there will be just over 1,000 days until the year 2000; 1,000 days to prepare our people; 1,000 days to work together; 1,000 days to build a bridge to a land of new promise.

My fellow Americans, we have work to do. Let us seize those days and the century.

Thank you. God bless you, and God bless America.

(Applause, the Members rising.)

At 10 o'clock and 20 minutes p.m. the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Assistant to the Sergeant at Arms escorted the invited guests from the Chamber in the following order: The members of the President's Cabinet; the Associate Justices of the Supreme Court of the United States; the Acting Dean of the Diplomatic Corps.

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 10 o'clock and 29 minutes p.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

MESSAGE OF THE PRESIDENT REFERRED TO THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Mr. ROGAN. Mr. Speaker, I move that the message of the President be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. ROEMER, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. OWENS, for 60 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, on February 5.
Mr. HYDE, for 5 minutes, today.
Mr. GOODLING, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. OXLEY.
Mr. CASTLE.
Mr. LEWIS of California.
Mr. WOLF, in two instances.
Mr. DAVIS of Virginia.
Mr. MCKEON.
Mrs. MORELLA.
Mr. BURTON of Indiana.
Mr. QUINN.
Mr. GILMAN, in two instances.
Mr. HUNTER.
Mr. TALENT, in four instances.
Mrs. MYRICK.
Mr. DAN SCHAEFER of Colorado.
Mr. DIAZ-BALART.
Mr. RAMSTAD.
Mr. THOMAS.
Mr. GANSKE.
Mr. SAXTON.
Mr. HYDE.
Mr. EWING.
Mr. GILMAN.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mrs. MINK of Hawaii.
Mr. CUMMINGS.
Mr. SABO.
Mr. ACKERMAN.
Mr. PRICE of North Carolina.
Mr. TOWNS.
Mr. DINGELL.
Mr. CONYERS.
Mr. YATES.
Mr. TRAFICANT.
Mr. BROWN of California.
Mr. BARCIA.
Mr. CONDIT.
Mr. POSHARD.
Mrs. LOWEY.
Mr. CLAY.
Mrs. KENNELLY of Connecticut.
Mr. MENENDEZ.
Mr. OWENS.
Mr. RICHARDSON.
Mr. BONIOR.
Ms. HARMAN.
Mr. MCDERMOTT,
Ms. FURSE.
Mr. BLUMENAUER.
Mr. STARK.
Mr. BENTSEN.
Mr. DIXON.
Mr. FARR of California.
Mr. CARDIN.
Mr. KENNEDY of Massachusetts.
Mr. ORTIZ.
Mr. LIPINSKI.

(The following Members (at the request of Mr. ROGAN) and to include extraneous material:)

Mr. COYNE.
Mr. WYNN.
Mr. BARCIA.
Ms. NORTON.

(The following Members (at the request of Mr. ROGAN) and to include extraneous material:)

Mr. CRAPO.
Mr. CUNNINGHAM.
Mr. HERGER.
Mr. FRELINGHUYSEN.
Mr. WOLF.
Mr. MCHUGH.
Mr. COBLE.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which were thereupon signed by the Speaker:

H.J. Res. 25. Joint resolution making technical corrections to the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208), and for other purposes.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, a joint resolution of the House of the following title:

On January 23, 1997:

H.J. Res. 25. Joint resolution making technical corrections to the Omnibus Appropriations Act, 1997 (Public Law 104–208), and for other purposes.

ADJOURNMENT

Mr. ROGAN. Mr. Speaker, pursuant to House Resolution 35, I move that the House do now adjourn in memory of the late Honorable FRANK TEJEDA.

The motion was agreed to; accordingly (at 10 o'clock and 30 minutes p.m.), pursuant to House Resolution 35, the House adjourned until tomorrow, Wednesday, February 5, 1997, at 11 a.m., in memory of the late Honorable FRANK TEJEDA of Texas.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1299. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—1997 High-Theft Vehicle Lines—Correction (National Highway Traffic Safety Administration) [Docket No. 96–17; Notice 02] (RIN: 2127–AG34) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1300. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Technical Amendment (National Highway Traffic Safety Administration) [Docket No. 74–14; Notice 110] (RIN: 2127–AG14) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1301. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Occupant Crash Protection (National Highway Traffic Safety Administration) [Docket No. 74–14; Notice 111] (RIN: 2127–AG24) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1302. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Anthropomorphic Test Dummy; Occupant Crash Protection (National Highway Traffic Safety Administration) [Docket No. 74–14; Notice 104] (RIN: 2127–AF41) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1303. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plan Ohio; Revision to the Enhanced Motor Vehicle Inspection and Maintenance Program [OH69–2–6680a; FRL–5646–2] received January 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1304. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of California; Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements; Monterey Bay Area [CA–98–1–7196a; FRL–5661–6] received January 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1305. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Zinc Phosphide; Pesticide Tolerances for Emergency Exemptions [OPP–300448; FRL–5581–9] (RIN: 2070–AB78) received January 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1306. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Myclobutanil; Pesticide Tolerances for Emergency Exemption [OPP–300447; FRL–5579–7] (RIN: 2070–AB78) received January 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1307. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of Emission Reduction Credit Banking Provisions Implementation Plan for California State Mojave Desert Air Quality Management District [CA 157–0022a; FRL–5669–1] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1308. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District; San Diego County Air Pollution Control District; Ventura County Air Pollution Control District [CA 105–0012a; FRL–5673–6] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1309. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for Specific Sources in the State of New Jersey [Region 2 Docket No. NJ25–1a–159, FRL–5662–3] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1310. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection, Part I: Hayden Station Requirements [CO–001–0007; FRL–5669–5] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1311. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Colorado: Enhanced Vehicle Inspection and Maintenance Program [CO–001–0008a; FRL–5660–9] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1312. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Land Disposal Restrictions Phase III—Emergency Extension of the KO88 Capacity Variance [EPA #530–Z–96–PH3F–FFFFF; FRL–5676–4] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1313. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [IN64–1a; FRL–5662–7] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1314. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of Implementation Plans; Colorado; New Source Review [CO35–1–6190, CO41–1–6826, CO40–1–6701, CO42–1–6836; FRL–5664–5] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1315. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans State: Approval of Revisions to the State of Florida State Implementation Plan (SIP) [FL–68–2–9640a; FRL–5662–1] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1316. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [IN63–1a; FRL–5663–1] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1317. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Dried Fermentation Solids and Solubles of Myrothecium Verrucaria; Exemption from the Requirement of a Tolerance on All Food Crops and Ornamentals; Correction [PP 4F4398/R2209A; FRL–5570–1] (RIN: 2070–AB78) received January 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1318. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants Emissions: Group I Polymers and Resins and Group IV Polymers and Resins [AD–FRL–5676–6] received January 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1319. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Revisions to the Commonwealth of Kentucky's State Implementation Plan (SIP) [KY–092–9649a; FRL–5653–9] received January 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1320. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [IN70–1a; FRL–5675–2] received January 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1321. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Testing Consent Order for Phenol [OPPTS–42150B; FRL–5570–2] (RIN: 2070–AB94) received January 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1322. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Commonwealth of Puerto Rico [Region II Docket No. 150; FRL–5675–1] received January 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1323. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program [PA 091–4050; FRL–5679–9] received January 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1324. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Acid Rain Program; Nitrogen Oxides Emissions Reduction Program [FRL–5678–1] (RIN: 2060–AF48) received January 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1325. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Underground Storage Tank Program: Approved State Program for Alabama [FRL–5677–6] received January 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1326. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Alabama; Final Approval of State Underground Storage Tank Program [FRL–5677–5] received January 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1327. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; Washington [WA7–1–5542; WA38–1–6974; FRL–5675–7] received January 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1328. A letter from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for the State of New Jersey [Region 2 Docket No. NJ16–2–160; FRL–5671–6] received January 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1329. A communication from the President of the United States, transmitting notification that the Libyan emergency is to continue in effect beyond January 7, 1997—received in the United States House of Representatives January 2, 1997, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 105–32); to the Committee on International Relations and ordered to be printed.

1330. A communication from the President of the United States, transmitting a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council—received in the United States House of Representatives January 9, 1997, pursuant to Public Law 102–1, section 3 (105 Stat. 4) (H. Doc. No. 105–33); to the Committee on International Relations and ordered to be printed.

1331. A letter from the Secretary of Education, transmitting a report concerning surplus Federal real property disposed of to educational institutions in fiscal year 1996, pursuant to 40 U.S.C. 484(o)(1); to the Committee on Government Reform and Oversight.

1332. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–348, "Emergency Assistance Clarification Amendment Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1333. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–362, "Commercial Counterfeiting Criminalization Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1334. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–381, "District of Columbia Authority Police Temporary Amendment Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1335. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–438, "Lead-Based Paint Abatement and Control Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1336. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–443, "Tax Revision Commission Establishment Temporary Amendment Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1337. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–452, "Insurers' Records Access and Control Amendment Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1338. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–453, "Fiscal Year 1997 Budget Support Temporary Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1339. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–455, "Insurance Agents and Brokers Licensing Revision Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1340. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–460, "Eldebrooke United Methodist Church Equitable Real Property Tax Relief Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1341. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–461, "Chevy Chase Baptist Church Equitable Real Property Tax Relief Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1342. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–462, "Department of Corrections Criminal Background Investigation Authorization Temporary Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1343. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–463, "Cheek Identification Fraud Prevention Temporary Amendment Act of 1996" received January 23, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1344. A letter from the Acting Executive Director, Advisory Council on Historic Preservation, transmitting the consolidated annual report of the Advisory Council On Historic Preservation covering the Inspector General Act of 1978 and the Federal Financial Managers' Integrity Act of 1982, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

1345. A letter from the President, Barry M. Goldwater Scholarship And Excellence In Education Foundation, transmitting the 1996 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

1346. A letter from the Chairman, Consumer Product Safety Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1347. A letter from the Chairman, National Labor Relations Board, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1348. A letter from the Director, National Science Foundation, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1349. A letter from the Chairman, Postal Rate Commission, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1350. A letter from the Administrator, Small Business Administration, transmitting the semiannual report of the inspector general for the period April 1, 1996, through September 30, 1996, and the semiannual report of management on final actions, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1351. A letter from the Director, U.S. Trade and Development Agency, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1352. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft, Inc. (formerly Piper Aircraft Corporation) PA–31, PA–31P, and PA–31T Series Airplanes (Federal Aviation Administration) [Docket No. 95–CE–55–AD; Amdt. 39–9837; AD 96–24–13] (RIN: 2120–AA64) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1353. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Allied Signal Commercial Avionics Systems CAS–81 Traffic Alert and Collision Avoidance Systems (TCAS) as Installed in, but not Limited to, Various Transport Category Airplanes (Federal Aviation Administration) [Docket No. 96–NM–81–AD; Amdt. 39–9824; AD 95–26–15 R1] (RIN: 2120–AA64) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1354. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Removal of J–532 (Federal Aviation Administration) [Airspace Docket No. 96–AGL–2] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1355. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Flight Rules in the Vicinity of the Rocky Mountain National Park (Federal Aviation Administration) [Docket No. 28577; Amdt. Nos. 91–254, 119–3, 121–263, 135–67 Special Federal Aviation Regulation (SFAR) No. 78] (RIN: 2120–AG11) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1356. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Grafton, ND, Grafton Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96–AGL–8] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1357. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Removal of Class D and E Airspace; South Wymouth, MA (Federal Aviation Administration) [Airspace Docket No. 96–ANE–44] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1358. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Removal of Class E Airspace; Fall River, MA (Federal Aviation Administration) [Airspace Docket No. 96–ANE–45] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1359. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Buckland, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–32] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1360. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Dillingham, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–16] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1361. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; York, NE (Federal Aviation Administration) [Docket No. 96–ACE–23] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1362. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Lebanon, NH (Federal Aviation Administration) [Airspace Docket No. 96–ANE–28] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1363. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Old Town, ME (Federal Aviation Administration) [Airspace Docket No. 96–ANE–29] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1364. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Springfield/Chicopee, MA (Federal Aviation Administration) [Airspace Docket No. 96–ANE–46] (RIN: 2120–AA66) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1365. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Structural Measures to Reduce Oil Spills from Existing Tank Vessels without Double Hulls (U.S. Coast Guard) [CGD 91–045c] (RIN: 2115–AF27) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1366. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Improvements to Hazardous Materials Identification Systems (Research and Special Programs Administration) [Docket No. HM–206; Amdt Nos. 171–151, 172–151, 173–260, 174–84, 175–85, 176–42, 177–89] (RIN: 2137–AB75) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1367. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Hazardous Materials in Interstate Commerce (Research and Special Programs Administration) [Docket HM–200; Amdt. Nos. 171–150, 173–259, and 180–11] (RIN: 2137–AB37) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1368. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance; Nondiscrimination on the Basis of Handicap in Air Travel [Docket No. 46872 and 45657] (RIN: 2105–AB62) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1369. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives, Williams International, L.L.C. Model FJ44–1A Turbofan Engines (Federal Aviation Administration) [Docket No. 96–ANE–39] (RIN: 2120–AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1370. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Textron Lycoming Reciprocating Engines (Federal Aviation Administration) [Docket No. 96–ANE–37 Amdt. 39–9874; AD 97–01–03] (RIN: 2120–AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1371. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–266–AD; Amdt. 39–9871; AD 96–26–07] (RIN: 2120–AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1372. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft, Inc. PA24, PA28R, PA30, PA32R, PA34, and PA39 Series Airplanes (Federal Aviation Administration) [Docket No. 96–CE–09–AD; Amdt. 39–9872; AD 97–01–01] (RIN: 2120–AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1373. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0070 and 0100 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–273–AD; Amdt. 39–9866; AD 96–26–03] (RIN: 2120–AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1374. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Cessna Aircraft Company Model 525 Airplanes (Federal Aviation Administration) [Docket No. 96–CE–AD; Amdt. 39–9873; AD 97–01–02] (RIN: 2120–AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1375. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

(Federal Aviation Administration) [Docket No. 96-NM-88-AD; Amdt. 39-9869; AD 96-26-05] (RIN: 2120-AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1376. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Hamilton Standard 14RF and 14SF Series, and Hamilton Standard/British Aerospace Model 6/5500/F Propellers (Federal Aviation Administration) [Docket No. 95-ANE-66; Amdt. 39-9863; AD 96-25-20] (RIN: 2120-AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1377. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Aircraft Engines CT7 Series Turboprop Engines (Federal Aviation Administration) [Docket No. 96-ANE-06; Amdt. 39-9864; AD 96-26-01] (RIN: 2120-AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1378. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc.—Manufactured Restricted Category Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B, UH-1E, UH-1F, UH-1H, UH-1L, and UH-1P, Helicopters (Federal Aviation Administration) [Docket No. 96-SW-AD; Amdt. 39-9877; AD 97-01-06] (RIN: 2120-AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Transportation and Infrastructure.

1379. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes Powered by Rolls Royce Model RB211 Series Engines (Federal Aviation Administration) [Docket No. 96-NM-276-AD; Amdt. 39-9876; AD 96-26-51] (RIN: 2120-AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1380. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes (Federal Aviation Administration) [Docket No. 96-NM-28-AD; Amdt. 39-9879; AD 97-01-08] (RIN: 2120-AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1381. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146 and Avro 146-RJ Series Airplanes (Federal Aviation Administration) [Docket No. 96-NM-51-AD; Amdt. 39-9878; AD 97-01-07] (RIN: 2120-AA64) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1382. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Excess Flow Value—Performance Standards (Research and Special Programs Administration) [Docket No. PS-118; Amendment 192-80] (RIN: 2137-AB97) received January 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1383. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Hazardous Materials Regulations; Penalty Guidelines (Research and Special Programs Administration) [Docket No. HM-207F; Amdt. Nos. 107-40 and 171-152] (RIN: 2137-AC96) received January 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1384. A communication from the President of the United States, transmitting an updated report concerning the emigration laws and policies of the Russian Federation—received in the United States House of Representatives January 2, 1997, pursuant to 19 U.S.C. 2432(b) (H. Doc. No. 105-31); to the Committee on Ways and Means and ordered to be printed.

1385. A letter from the Director, the Office of Management and Budget, transmitting OMB's final sequestration report to the President and Congress for fiscal year 1997—received in the U.S. House of Representatives November 15, 1996, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-587) (H. Doc. No. 105-30); to the Committee on the Whole House on the State of the Union and ordered to be printed.

1386. A letter from the Secretary of Transportation, transmitting the Department's third biennial report entitled "Effectiveness of Occupant Protection Systems and Their Use," pursuant to Public Law 102-240, section 2508(e) (105 Stat. 2086); jointly, to the Committees on Commerce and Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DAVIS of Virginia (for himself, Ms. NORTON, Mrs. MORELLA, Mr. WOLF, Mr. HOYER, Mr. MORAN of Virginia, Mr. WYNN, Mr. EHRLICH, Mr. CUMMINGS, and Mr. CARDIN):

H.R. 497. A bill to repeal the Federal charter of Group Hospitalization and Medical Services, Inc., and for other purposes; to the Committee on Government Reform and Oversight.

By Mrs. MALONEY of New York (for herself, Mr. POMEROY, Mr. ENGLISH of Pennsylvania, Mr. LIPINSKI, Mr. OLVER, and Mr. WALSH):

H.R. 498. A bill to amend the Federal Election Campaign Act of 1971 to require certain disclosures with respect to phone bank communications; to the Committee on House Oversight.

By Mr. BONILLA (for himself and Mr. ORTIZ):

H.R. 499. A bill to designate the facility of the U.S. Postal Service under construction at 7411 Barlite Boulevard in San Antonio, TX, as the "Frank M. Tejeda Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. RADANOVICH:

H.R. 500. A bill to reprogram certain funds for fiscal year 1997 to provide additional agricultural assistance to Armenia; to the Committee on Appropriations, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACKERMAN:

H.R. 501. A bill to amend the Anti Car Theft Act of 1992 to provide for the establishment of a toll-free telephone number for the reporting of stolen and abandoned passenger motor vehicles, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 502. A bill to prevent the implementation of parity payments and certain marketing quotas under the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949, to reduce the amounts available for payments under production flexibility contracts entered into under the Agricultural Market Transition Act, and to shorten the period during which such payments will be made; to the Committee on Agriculture.

H.R. 503. A bill to amend the General Education Provisions Act to allow State and county prosecutors access to student records in certain cases; to the Committee on Education and the Workforce.

H.R. 504. A bill to amend the Fair Labor Standards Act of 1938 relating to the minimum wage and overtime exemption for employees subject to certain leave policies; to the Committee on Education and the Workforce.

By Mr. RANGEL (for himself, Mr. FATTAH, Mr. MATSUI, Mr. COYNE, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. JEFFERSON, Mr. CONYERS, Mr. DELLUMS, Mr. FOGLIETTA, Mr. TOWNS, Mr. SERRANO, Ms. WATERS, Mr. BISHOP, Mr. CLAYBURN, Mrs. MEEK of Florida, Mr. BLUMENAUER, and Mr. JACKSON):

H.R. 505. A bill to amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 506. A bill to amend the Federal Election Campaign Act of 1971 to provide for public funding for House of Representatives elections, and for other purposes; to the Committee on House Oversight.

H.R. 507. A bill to amend the Internal Revenue Code of 1986 to exempt from income tax the gain from the sale of a business closely held by an individual who has attained age 62, and for other purposes; to the Committee on Ways and Means.

H.R. 508. A bill to amend the Internal Revenue Code of 1986 to make the FICA tax inapplicable to overtime hours of small business employees; to the Committee on Ways and Means.

H.R. 509. A bill to protect the retirement security of Americans; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Government Reform and Oversight, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 510. A bill to establish a Federal cause of action for failure of State and local public employee pension plans to meet the terms of such plans, subject to differing burdens of proof depending on whether changes in the plan relating to employer contributions are subject, under the law of the principal State involved, to qualified review boards; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. DINGELL, Mr. SAXTON, Mr. TANNER, and Mr. CUNNINGHAM):

H.R. 511. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska (for himself and Mr. POMBO):

H.R. 512. A bill to prohibit the expenditure of funds from the Land and Water Conservation Fund for the creation of new National Wildlife Refuges without specific authorization from Congress pursuant to a recommendation from the U.S. Fish and Wildlife Service to create the refuge; to the Committee on Resources.

By Mr. DAVIS of Virginia (for himself and Ms. NORTON):

H.R. 513. A bill to exempt certain contracts entered into by the government of the District of Columbia from review by the Council of the District of Columbia; to the Committee on Government Reform and Oversight.

H.R. 514. A bill to permit the waiver of District of Columbia residency requirements for certain employees of the Office of the Inspector General of the District of Columbia, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. ANDREWS:

H.R. 515. A bill to eliminate corporate welfare; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Resources, Agriculture, Transportation and Infrastructure, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAESLER:

H.R. 516. A bill to establish the Federal authority to regulate tobacco and other tobacco products containing nicotine; to the Committee on Commerce.

By Mr. BRYANT:

H.R. 517. A bill to amend title 10, United States Code, to establish a sentence under the Uniform Code of Military Justice of confinement for life without eligibility for parole and to provide that a decision to deny parole for a military offender serving a sentence of confinement for life may be appealed only to the President; to the Committee on National Security.

By Mr. BURTON of Indiana:

H.R. 518. A bill to amend title 18, United States Code, to provide the death penalty for the intentional transmission of the human immunodeficiency virus to an innocent victim of a Federal offense; to the Committee on the Judiciary.

By Mr. CAMP (for himself and Mr. CARDIN):

H.R. 519. A bill to amend the Internal Revenue Code of 1986 to permanently extend the special rule for charitable contributions to private foundations of stock for which market quotations are readily available; to the Committee on Ways and Means.

By Mr. CANADY of Florida:

H.R. 520. A bill to amend title 28, United States Code, to provide for reassignment of certain Federal cases upon request of a party; to the Committee on the Judiciary.

By Mr. CARDIN (for himself, Mr. PORTMAN, Mrs. KENNELLY of Connecticut, Ms. FURSE, Mr. ACKERMAN, Mr. UNDERWOOD, Mr. STARK, Mr. SOLOMON, Mrs. CLAYTON, Mr. MILLER of Florida, Ms. SLAUGHTER, Mr. TOWNS, Mr. GUTIERREZ, Mr. LAFALCE, Mr. HALL of Ohio, Mr. EVANS, Mr. FROST, Mr. LEWIS of Georgia, Mr. ENGLISH of Pennsylvania, Mrs. THURMAN, Mr. POSHARD, Mr. QUINN, Mr. WYNN, Mr. GRAHAM, Ms. PRYCE of Ohio, Mr. MASCARA, Mr. MATSUI, Mr. NEY, Mr. LAZIO of New York, Mr. MCDERMOTT, Ms. WOOLSEY, Mr. MCNULTY, Mr. STENHOLM, Mr. GILLMOR, Mr. CONDIT, Mr. GEJDENSON, Mr. SKAGGS, Ms. CHRISTIAN-GREEN, Mr. WATT of North Carolina, Mr. BARRETT of Wisconsin, Mr. ABERCROMBIE, Mr. RUSH, Mr. GREENWOOD, Ms. DUNN, Mrs. MALONEY of New York, Mr. FAZIO of California, Mr. LEWIS of Kentucky, Mr. HOLDEN, Mr. FOLEY, Mr. FOGLIETTA, Mr. OLVER, Mr. DELAHUNT, Mr. BURR of North Carolina, Mr. BUNNING, Mr. YATES, Mr. RAHALL, Mr. WISE, Mr. TORRES, and Mr. SANDERS):

H.R. 521. A bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COYNE:

H.R. 522. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of tax-exempt bonds for the economic development of distressed communities; to the Committee on Ways and Means.

By Mr. COYNE (for himself and Mr. RANGEL):

H.R. 523. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the cleanup of certain contaminated industrial sites and to allow the use of tax-exempt redevelopment bonds for such cleanup; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 524. A bill to require the mandatory reporting of deaths resulting from the prescribing, dispensing, and administration of drugs, to allow the continuation of voluntary reporting programs, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRANE (for himself and Mr. HULSHOF):

H.R. 525. A bill to amend the Internal Revenue Code of 1986 to repeal the estate and gift taxes and the tax on generation skipping transfers; to the Committee on Ways and Means.

By Mr. CRAPO:

H.R. 526. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DICKEY:

H.R. 527. A bill to terminate the authorities of the Overseas Private Investment Corporation; to the Committee on International Relations.

By Mr. DOOLITTLE (for himself and Mr. RADANOVICH):

H.R. 528. A bill to authorize further appropriations for clean up and repair of damages to facilities of Yosemite National Park caused by heavy rains and flooding in December 1996 and January 1997; to the Committee on Resources.

By Mr. EWING (for himself and Mr. LEWIS of Kentucky):

H.R. 529. A bill to amend the Higher Education Act of 1965 to exempt certain small lenders from the audit requirements of the guaranteed student loan program; to the Committee on Education and the Workforce.

By Mr. HERGER (for himself, Mr. CLEMENT, Mr. SHAW, Mr. BUNNING, Ms. DUNN, Mr. ENSIGN, Mr. HAYWORTH, and Mr. BURTON of Indiana):

H.R. 530. A bill to provide for the implementation of prohibitions against payment of Social Security benefits to prisoners, and for other purposes; to the Committee on Ways and Means.

By Mr. HOUGHTON (for himself and Mr. MATSUI):

H.R. 531. A bill to amend the Internal Revenue Code of 1986 to limit the applicability of the generation-skipping transfer tax; to the Committee on Ways and Means.

By Mr. SAM JOHNSON (for himself, Mr. CARDIN, Mr. CRANE, Mr. LAHOOD, Mr. BENTSEN, Mr. MATSUI, Mr. MCCOLLUM, Mr. SHAW, Mr. ABERCROMBIE, and Mr. PICKETT):

H.R. 532. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for lobbying expenses in connection with State legislation; to the Committee on Ways and Means.

By Mrs. KENNELLY of Connecticut:

H.R. 533. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of frequent flyer mileage awards; to the Committee on Ways and Means.

H.R. 534. A bill to provide as a demonstration project a Transition to Work Program for individuals entitled to disability benefits under title II of the Social Security Act, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Mr. GILMAN, Mr. SHAYS, Mr. HINCHEY, Mr. BEREUTER, Mr. FROST, Ms. DELAURO, Mr. TOWNS, Ms. NORTON, Mr. DAVIS of Virginia, Mr. SKEEN, Mr. FILNER, Mr. GREEN, Mr. MCHUGH, Mr. WYNN, Mr. WALSH, Mr. ENGLISH of Pennsylvania, Mr. BARCIA, Mrs. KELLY, Mr. TAYLOR of North Carolina, Ms. CHRISTIAN-GREEN, and Mr. ROHRABACHER):

H.R. 535. A bill to amend the Internal Revenue Code of 1986 to allow a capital loss deduction with respect to the sale or exchange of a principal residence; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself, Mr. SHAYS, Mrs. MORELLA, Mr. SKAGGS, Mrs. KELLY, Mr. SCHUMER, Mr. FROST, Mr. YATES, Mr. SABO, Ms. RIVERS, Ms. JACKSON-LEE, Mrs. MINK of Hawaii, Mr. RUSH, Mr. ACKERMAN, Mr. NADLER, Mr. VENTO, Mr. MANTON, Mr. PALLONE, Mr. LEWIS of Georgia, Mr. BONIOR, Mrs. MALONEY of New York, Mr. BERMAN, and Mr. SERRANO):

H.R. 536. A bill to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York:

H.R. 537. A bill to amend the law popularly known as the Presidential Records Act of 1978 and the law popularly known as Privacy Act, to ensure that Federal Bureau of Investigation records containing sensitive background security information that are provided to the White House are properly protected for privacy and security; to the Committee on Government Reform and Oversight.

By Mr. MANTON:

H.R. 538. A bill to require explosive materials to contain taggants to enable law enforcement authorities to trace the source of the explosive material, whether before or after detonation; to the Committee on the Judiciary.

By Mr. MCDERMOTT (for himself, Mr. RANGEL, Mr. STARK, Mr. NEAL of Massachusetts, Mr. COYNE, Mr. POMEROY, Mr. DELLUMS, Mr. SERRANO, Mr. MCGOVERN, Ms. BROWN of Florida, Ms. CHRISTIAN-GREEN, and Ms. JACKSON-LEE):

H.R. 539. A bill to amend the Internal Revenue Code of 1986 to allow certain employees without employer-provided health coverage a refundable credit for their health insurance costs; to the Committee on Ways and Means.

By Mr. MCDERMOTT:

H.R. 540. A bill to suspend temporarily the duty on certain materials used in the manufacture of skis and snowboards; to the Committee on Ways and Means.

By Mr. MCNULTY:

H.R. 541. A bill to prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes; to the Committee on Commerce.

H.R. 542. A bill to amend title 10, United States Code, to provide that military reservists who are retained in active status after qualifying for reserve retired pay shall be given credit toward computation of such retired pay for service performed after so qualifying; to the Committee on National Security.

By Mr. MCNULTY (for himself, Mr. STUMP, Mr. BONO, Mr. UNDERWOOD, Mr. FRANKS of New Jersey, Mr. FOLEY, Mr. MANTON, Mr. SMITH of Washington, Mr. GILMAN, Mr. ACKERMAN, Ms. SLAUGHTER, Mrs. CLAYTON, Mr. SAXTON, Mr. FROST, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HINCHEY, Mr. SMITH of New Jersey, Mr. CLEMENT, Mr. LEACH, Mr. FRELINGHUYSEN, Mr. FLAKE, Mr. ENSIGN, Mr. KILDEE, and Mr. BENTSEN):

H.R. 543. A bill to provide for award of the Navy Combat Action Ribbon based upon participation in ground or surface combat as a member of the Navy or Marine Corps during the period between July 4, 1943, and March 1, 1961; to the Committee on National Security.

By Mr. MCNULTY:

H.R. 544. A bill for the relief of Henry Johnson; to the Committee on National Security.

H.R. 545. A bill to establish the Hudson and Mohawk Rivers National Historical Park in the State of New York, and for other purposes; to the Committee on Resources.

By Mr. NADLER (for himself and Mr. HALL of Ohio):

H.R. 546. A bill to redesignate General Grant National Memorial as Grant's Tomb National Monument, and for other purposes; to the Committee on Resources.

By Mr. NADLER:

H.R. 547. A bill to require the Secretary of the Interior and the Secretary of Agriculture to establish grazing fees at fair market value for use of public grazing lands; to the Committee on Resources.

By Mr. NADLER (for himself and Mr. RANGEL):

H.R. 548. A bill to designate the U.S. courthouse located at 500 Pearl Street in New York City, NY, as the "Ted Weiss United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Ms. NORTON:

H.R. 549. A bill to amend the Internal Revenue Code of 1986 to provide for individuals who are residents of the District of Columbia a maximum rate of tax of 15 percent on income from sources within the District of Columbia; to the Committee on Ways and Means, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR:

H.R. 550. A bill to amend the Federal Water Pollution Control Act to establish requirements and provide assistance to prevent nonpoint sources of water pollution, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 551. A bill to amend the Surface Transportation Assistance Act of 1982 and title 23, United States Code, concerning length and weight limitations for vehicles operating on Federal-aid highways; to the Committee on Transportation and Infrastructure.

H.R. 552. A bill to amend title 49, United States Code, to prohibit smoking on any scheduled airline flight segment in intrastate, interstate, or foreign air transportation; to the Committee on Transportation and Infrastructure.

By Mr. PRICE of North Carolina (for himself and Mr. ETHERIDGE):

H.R. 553. A bill to amend the Internal Revenue Code of 1986 to exclude scholarships and fellowships from income, to restore the deduction for interest on educational loans, and to permit penalty-free withdrawals from individual retirement plans to pay higher education expenses; to the Committee on Ways and Means.

By Mr. RAMSTAD (for himself, Mr. OBERSTAR, Mr. VENTO, Mr. BEREUTER, Mr. PETRI, Mr. STENHOLM, Mr. EVANS, Mr. HOUGHTON, Mr. UPTON, Mr. WALSH, Mr. CONDIT, Mr. KLUG, Mr. NUSSLE, Mr. SANDERS, Mr. CLYBURN, Mr. MCHUGH, Mr. MINGE, Mr. EHLERS, Mr. CAMPBELL, Mr. GRAHAM, Mr. GUTKNECHT, Mr. LUTHER, Mr. NETHERCUTT, and Mr. HILL):

H.R. 554. A bill to amend title XVIII of the Social Security Act to provide for equalization of Medicare reimbursement rates to managed care plans to improve the health of residents of rural areas; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RICHARDSON (for himself and Mr. MILLER of California):

H.R. 555. A bill to amend the Communications Act of 1934 to promote greater telecommunications and information services to native Americans, and for other purposes; to the Committee on Commerce.

By Ms. SLAUGHTER:

H.R. 556. A bill to amend the Public Health Service Act to establish a program of providing information and education to the public on the prevention and treatment of eating disorders; to the Committee on Commerce.

H.R. 557. A bill to amend the Public Health Service Act to establish a program for postreproductive health care; to the Committee on Commerce.

H.R. 558. A bill to amend the Civil Rights Act of 1964 to protect first amendment rights, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey:

H.R. 559. A bill to amend title 38, United States Code, to add bronchiolo-alveolar carcinoma to the list of diseases presumed to be service-connected for certain radiation-exposed veterans; to the Committee on Veterans' Affairs.

By Mr. STARK:

H.R. 560. A bill to amend the Social Security Act to provide for a program of health insurance for children under 18 years of age and for mothers-to-be; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration for such provisions as fall within the jurisdiction of the committee concerned.

H.R. 561. A bill to amend the Internal Revenue Code of 1986 to require that group health plans and insurers offer access to coverage for children and to assist families in the purchase of such coverage, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS (for himself, Mr. CUNNINGHAM, Mr. ROHRABACHER, and Mr. ROGAN):

H.R. 562. A bill to amend the Internal Revenue Code of 1986 to prevent, for unemployment compensation purposes, service performed by a person committed to a penal institution from being treated as employment; to the Committee on Ways and Means.

By Mr. TRAFICANT:

H.R. 563. A bill to establish a toll-free number in the Department of Commerce to assist consumers in determining if products are American-made; to the Committee on Commerce.

H.R. 564. A bill to provide for the phase-out of existing private sector development enterprise funds for foreign countries and to prohibit the establishment of, or the support for, new private sector development enterprise funds, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 565. A bill to amend the Internal Revenue Code of 1986 to reinstate a 10-percent domestic investment tax credit, to provide a credit for the purchase of domestic durable goods, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BENTSEN (for himself, Mr. CARDIN, Mr. EVANS, Mr. FROST, Mr. GREEN, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. STARK, and Mrs. THURMAN):

H.R. 566. A bill to amend title XVIII of the Social Security Act to provide annual and other opportunities for individuals enrolled under a Medicare-select policy to change to a medigap policy without prejudice; to the Committee on Commerce.

By Mr. COBLE:

H.R. 567. A bill to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS:

H.R. 568. A bill to secure the voting rights of former felons who have been released from incarceration; to the Committee on the Judiciary.

By Mrs. FOWLER:

H.R. 569. A bill to amend the Federal Election Campaign Act of 1971 to reduce the amount that a nonparty multicandidate political committee may contribute to a candidate in a congressional election, and for other purposes; to the Committee on House Oversight.

By Mrs. MINK of Hawaii:

H.R. 570. A bill to make appropriations for fiscal year 1998 for a plant genetic conservation program; to the Committee on Appropriations.

H.R. 571. A bill to amend the Act of March 3, 1931, known as the Davis-Bacon Act, to require that contract work covered by the act which requires licensing be performed by a person who is so licensed; to the Committee on Education and the Workforce.

H.R. 572. A bill to amend the National Labor Relations Act to require the National Labor Relations Board to assert jurisdiction in a labor dispute which occurs on Johnston Atoll, an unincorporated territory of the United States; to the Committee on Education and the Workforce.

H.R. 573. A bill to amend the Radiation Exposure Compensation Act to remove the requirement that exposure resulting in stomach cancer occur before age 30, and for other purposes; to the Committee on the Judiciary.

By Mrs. MINK of Hawaii (for herself, Mr. ABERCROMBIE, Mr. PASTOR, Mr. SERRANO, Mr. STARK, Mr. TOWNS, Mr. FALEOMAVAEGA, Mr. DELLUMS, Mr. FRANK of Massachusetts, Mrs. MEEK of Florida, Ms. VELAZQUEZ, Mr. GUTIERREZ, Ms. PELOSI, Mr. KENNEDY of Rhode Island, Mr. LEWIS of Georgia, Ms. JACKSON-LEE, Mr. TORRES, Ms. MCKINNEY, Mr. OLVER, and Mr. JEFFERSON):

H.R. 574. A bill to amend the Immigration and Nationality Act to provide for less restrictive standards for naturalization as a citizen of the United States for certain categories of persons; to the Committee on the Judiciary.

By Mrs. MINK of Hawaii:

H.R. 575. A bill to amend title 10, United States Code, to extend eligibility to use the military health care system and commissary stores to an unremarried former spouse of a member of the uniformed services if the member performed at least 20 years of service which is creditable in determining the member's eligibility for retired pay and the former spouse was married to the member for a period of at least 17 years during those years of service; to the Committee on National Security.

H.R. 576. A bill to direct the Secretary of the Interior to undertake the necessary feasibility studies regarding the establishment of certain new units of the National Park System in the State of Hawaii; to the Committee on Resources.

H.R. 577. A bill to amend title II of the Social Security Act to provide for treatment of severe spinal cord injury equivalent to the treatment of blindness in determining whether earnings derived from services demonstrate an ability to engage in substantial gainful activity; to the Committee on Ways and Means.

H.R. 578. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain personal care services under the unemployment tax; to the Committee on Ways and Means.

H.R. 579. A bill to provide for a Federal program of insurance against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 580. A bill to require the Federal Government to consider as having arrived on time any sealed bid submitted in response to a solicitation for a procurement of goods or services if the bid was sent by an overnight message delivery service at least 2 working days before the date specified for receipt of bids; to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. OBERSTAR, and Mr. HYDE):

H.R. 581. A bill to amend Public Law 104–208 to provide that the President may make funds appropriated for population planning and other population assistance available on March 1, 1997, subject to restrictions on assistance to foreign organizations that perform or actively promote abortions; to the Committee on International Relations, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself and Mr. COYNE):

H.R. 582. A bill to amend title XVIII of the Social Security Act to correct beneficiary overcharges for hospital outpatient department services and to provide for prospective payment for such services and to eliminate the formula-driven overpayments for certain hospital outpatient services; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARMEY (for himself and Mr. GEPHARDT) (both by request):

H.J. Res. 36. Joint resolution approving the Presidential finding that the limitation on obligations imposed by section 518A(a) of the Foreign Operations Export Financing, and Related Programs Appropriations Act of 1997, is having a negative impact on the proper functioning of the population planning program; to the Committee on Appropriations.

By Mr. DOOLITTLE:

H.J. Res. 37. Joint resolution proposing an amendment to the Constitution of the United States establishing English as the official language of the United States; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts:

H.J. Res. 38. Joint resolution proposing an amendment to the Constitution of the United States to repeal the 22d amendment relating to Presidential term limits; to the Committee on the Judiciary.

By Mr. MCNULTY:

H.J. Res. 39. Joint resolution proposing an amendment to the Constitution of the United States repealing the 22d article of amendment, thereby removing the restrictions on the number of terms an individual may serve as President; to the Committee on the Judiciary.

By Mr. OBERSTAR (for himself, Mr. LIPINSKI, Mr. DIAS-BALART, Mr. HUNTER, Mr. HULSHOF, Mr. SMITH of New Jersey, Mr. STEARNS, and Mr. WATTS of Oklahoma):

H.J. Res. 40. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. SMITH of Michigan:

H.J. Res. 41. Joint resolution proposing a spending limitation amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Mr. FRELINGHUYSEN, Mr. GILMAN, Mr. MANTON, Mr. BONIOR, Mr. FLAKE, Mr. ENGEL, Mr. PALLONE, Mr. FOGLIETTA, Mr. PAYNE, Mr. SCHUMER, Mr. ANDREWS, Mr. FRANKS of New Jersey, Ms. SLAUGHTER, Mrs. MALONEY of New York, Mr. HINCHEY, and Mr. DOYLE):

H. Con. Res. 12. Concurrent resolution expressing the sense of the Congress that a model curriculum designed to educate elementary and secondary school-aged children about the Irish famine should be developed; to the Committee on Education and the Workforce.

By Mrs. MORELLA (for herself, Mr. DAVIS of Virginia, Mr. MORAN of Virginia, Mr. WOLF, Mr. WYNN, Ms. NORTON, Mr. BORSKI, Mr. GORDON, Mr. CUMMINGS, Mr. BOUCHER, and Mr. GILMAN):

H. Con. Res. 13. Concurrent resolution expressing the sense of the Congress that Federal retirement cost-of-living adjustments should not be delayed; to the Committee on Government Reform and Oversight.

By Mr. GONZALEZ:

H. Res. 35. Resolution expressing the condolences of the House on the death of the Honorable FRANK TEJEDA; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MCNULTY:

H.R. 583. A bill for the relief of David R.W. Light; to the Committee on the Judiciary.

By Mr. WYNN:

H.R. 584. A bill for the relief of John Wesley Davis; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. CHRISTENSEN.

H.R. 4: Mr. HUNTER, Mr. BURTON of Indiana, Mr. ABERCROMBIE, Mr. MCHALE, Mr. POMEROY, Mrs. CUBIN, Mr. ORTIZ, Mr. WATKINS, and Mr. DEUTSCH.

H.R. 34: Mr. ENGLISH of Pennsylvania, Mr. LATHAM, and Mr. BAKER.

H.R. 38: Mr. SMITH of New Jersey, Mr. ENGLISH of Pennsylvania, Mr. FROST, Mr. HINCHEY, Mr. SAXTON, Mr. BOUCHER, Mr. UNDERWOOD, and Mr. WATTS of Oklahoma.

H.R. 39: Mr. GINGRICH.

H.R. 40: Mr. DELLUMS, Mr. STOKES, and Mr. JACKSON.

H.R. 41: Mrs. MYRICK, Mr. WELLER, Mr. GRAHAM, Mrs. EMERSON, Mr. SESSIONS, and Mr. OXLEY.

H.R. 58: Mr. ENSIGN, Mr. SESSIONS, Mr. LOBIONDO, Mr. SCARBOROUGH, Mr. MCHUGH, Mrs. MEEK of Florida, Mr. MATSUI, Ms. DUNN of Washington, Ms. CHRISTIAN-GREEN, Mr. BROWN of California, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. HOLDEN, Mr. EVANS, Mr. BOEHLERT, Ms. RIVERS, Mr. GILMAN, Mr. LATOURETTE, Mr. BORSKI, Mrs. THURMAN, Mr. WELDON of Pennsylvania, Mr. ENGLISH of Pennsylvania, Mr. CAMPBELL, Mr. UPTON, Mrs. KELLY, Mr. CALVERT, Mr. HAYWORTH, Mr. SENSENBRENNER, Mr. ROGAN, Ms. MOLINARI, Mr. PORTER, Mr. COBLE, Mrs. FOWLER, Ms. JACKSON-LEE, Mrs. CARSON, Mr. OLVER, Mr. DELAHUNT, Mr. PRICE of North Carolina, Mr. FRANK of Massachusetts, Ms. KILPATRICK, Mrs. CLAYTON, Mr. CONYERS, Mr. TRAFICANT, Mr. PASCRELL, Mr. FILNER, Ms. LOFGREN, Mr. FALEOMAVAEGA, Mr. LATHAM, Mrs. LOWEY, Mr. MEEHAN, Mr. ADAM SMITH of Washington, Mr. CAMP, Mr. OBERSTAR, Mr. PASTOR, and Mr. CLEMENT.

H.R. 65: Mr. ENSIGN, Mr. CRAMER, Mr. SMITH of New Jersey, Mr. MCCRERY, Mr. HOLDEN, Mr. HUNTER, Mr. MCCOLLUM, Mr. RAMSTAD, Mr. MANTON, Mr. FROST, Mr. SCHIFF, Mrs. THURMAN, Mr. MCHUGH, Mr. FALEOMAVAEGA, Mr. PICKETT, Mr. BARCIA of Michigan, Mr. METCALF, Mr. HALL of Ohio, Mr. UNDERWOOD, Mr. HINCHEY, Mr. HORN, and Mr. GEJDENSON.

H.R. 66: Ms. RIVERS, Mr. GRAHAM, Mr. WAMP, Mr. NEY, Mr. GREEN, Mr. MATSUI, Mr. LAHOOD, Mr. MORAN of Virginia, Mr. DOOLITTLE, Mrs. TAUSCHER, Mr. CANADY of Florida, Ms. LOFGREN, and Mr. NORWOOD.

H.R. 68: Mr. FOX of Pennsylvania, Mr. HINCHEY, and Mr. RUSH.

H.R. 69: Mr. BARRETT of Wisconsin, Mr. GRAHAM, Mr. GREEN, Mr. KLUG, and Mr. RUSH.

H.R. 78: Mr. LIPINSKI and Mr. DOYLE.

H.R. 80: Mr. MCNULTY, Mr. PASTOR, Mr. RILEY, Mr. CRAMER, Mr. POSHARD, Mr. KILDEE, Mr. BEREUTER, Mr. DICKEY, Mr. GREEN, Mr. GRAHAM, Mr. NEY, Mr. KLUG, Mr. DEAL of Georgia, and Mr. CLEMENT.

H.R. 81: Mr. HOSTETTLER, Mr. PEASE, Mr. MCINTOSH, Mrs. CARSON, and Mr. VISCLOSKY.

H.R. 84: Mr. DELLUMS.

H.R. 86: Mr. CRAMER, Mr. TALENT, Mr. GOODLING, and Mr. BISHOP.

H.R. 107: Mr. HALL of Ohio, Mr. SCHIFF, Mr. FILNER, Mr. MCHUGH, Mr. BALDACCI, Mr. WAMP, Mr. FOLEY, Mr. YOUNG of Alaska, Mr. HINCHEY, Mr. CANADY of Florida, and Mr. NORWOOD.

H.R. 113: Mrs. MYRICK, Mr. PARKER, Mr. GRAHAM, and Mr. TALENT.

H.R. 123: Mr. GUTKNECHT, Mr. REGULA, Mr. MCHUGH, Mr. WELLER, Mr. LIPINSKI, Mr. MASCARA, Mr. HANSEN, Mrs. KELLY, Mr. CRANE, Mr. ENGLISH of Pennsylvania, Mr. RILEY, Mr. LIVINGSTON, Mr. JONES, Mr. TAYLOR of North Carolina, Mr. FOLEY, Mr. HUTCHINSON, Mrs. MYRICK, Mrs. CHENOWETH, Mr. PAPPAS, Mr. CANNON, Mr. GOODE, Mr. BOEHNER, and Mr. HILL.

H.R. 126: Mr. SHADEGG, Mr. GRAHAM, Mr. STEARNS, Mr. WHITFIELD, Mr. UPTON, Mr. CAMPBELL, Mr. ROHRABACHER, Mr. CONDIT, Mr. HULSHOF, Mr. JONES, Ms. FURSE, Mr. LIPINSKI, Mr. CASTLE, Mrs. NORTHUP, Mr. CAMP, and Mr. COOK.

H.R. 127: Mr. MCCOLLUM, Mr. FAZIO of California, Mr. CRAMER, Mr. TIERNEY, Mr. TORRES, Mr. WYNN, Mr. BONIOR, Mr. SANDERS, Mrs. MORELLA, Mr. MANTON, Mr. SERRANO, Mr. CLEMENT, Mr. LEACH, Mr. KLECZKA, Ms. LOFGREN, Mr. ROHRABACHER, Mr. KENNEDY of Massachusetts Mr. MARKEY, Mr. CUMMINGS, Mr. KILDEE, Mr. BARCIA of Michigan, and Mr. LATOURETTE.

H.R. 131: Mr. SKEEN and Mr. WELDON of Florida.

H.R. 132: Mr. DUNCAN and Mr. PITTS.

H.R. 135: Mr. ABERCROMBIE, Mr. ANDREWS, Mr. BONIOR, Mr. COSTELLO, Mr. ENGEL, Mr. GANSKE, Mr. GEPHARDT, Mr. MENENDEZ, Mr. RUSH, Mr. SCHUMER, Mr. SKAGGS, Mr. SPRATT, Mr. TIERNEY, Mr. TORRES, Ms. WATERS, Mr. WEYGAND, Mr. CUMMINGS, and Ms. DANNER.

H.R. 139: Ms. MCKINNEY and Mr. STUMP.

H.R. 141: Ms. LOFGREN, Mr. POSHARD, Mr. KLINK, Ms. RIVERS, Mr. MEEHAN, Mr. BROWN of California, Mr. TORRES, and Mr. LIPINSKI.

H.R. 145: Mr. FILNER and Mr. SKAGGS.

H.R. 150: Mr. BORSKI, Mr. MEEHAN, Mr. MCHUGH, Mrs. MEEK of Florida, Mr. EVANS, Mr. FLAKE, Mr. MCDERMOTT, Mr. UNDERWOOD, Mr. TOWNS, Mrs. MALONEY of New York, Mr. COYNE, Mr. FORBES, Ms. MOLINARI, Mr. GILMAN, Mr. ABERCROMBIE, Mr. DELAHUNT, Ms. SLAUGHTER, Mr. TRAFICANT, Mr. HINCHEY, Mr. QUINN, Mr. LIPINSKI, and Mr. SCHUMER.

H.R. 165: Mr. FRANK of Massachusetts.

H.R. 166: Mr. UNDERWOOD, Ms. CHRISTIAN-GREEN, Mr. MANTON, Mr. WYNN, Mr. FROST, Mr. SAXTON, and Mr. FOGLIETTA.

H.R. 167: Ms. CHRISTIAN-GREEN, Mr. MANTON, Mr. WYNN, Mr. FROST, Mr. SAXTON, and Mr. FOGLIETTA.

H.R. 168: Mr. UNDERWOOD, Ms. CHRISTIAN-GREEN, Mr. MANTON, Mr. WYNN, Mr. FATTAH, Mr. FROST, Mr. SAXTON, and Mr. FOGLIETTA.

H.R. 179: Mr. POSHARD.

H.R. 182: Mr. HINCHEY, Mr. BONIOR, Mr. STARK, Mr. DAVIS of Illinois, Mr. MARTINEZ, and Mr. FILNER.

H.R. 192: Mr. DAN SCHAEFER of Colorado, Mr. STEARNS, Mr. HOYER, Mr. TALENT, Mrs. MORELLA, Mr. YOUNG of Alaska, Mr. DAVIS of Virginia, Mr. MORAN of Virginia, Mr. HEFNER, Mr. MCHUGH, Mr, REGULA, Mr. FORBES, Mr. JONES, Mr. SKEEN, Mr. HOLDEN, Mrs. MEEK of Florida, Mr. HALL of Ohio, Mr. SCARBOROUGH, Mr. RIGGS, Mr. OLVER, Mrs. MALONEY of New York, Mr. STUMP, Mr. MCCOLLUM, Mr. SPENCE, Mr. GEJDENSON, Mr. CHRISTENSEN, Mr. BROWN of California, Mr. RAHALL, Mr. FRELINGHUYSEN, Mr. MILLER of Florida, Ms. RIVERS, Mr. EDWARDS, Mr. WYNN, Mr. BENTSEN, Mr. HAYWORTH, Mr. UNDERWOOD, Mr. WOLF, Mr. FAZIO of California, Mr. MCKEON, Mr. HUNTER, Ms. SLAUGHTER, Mr. SAXTON, Mr. PETRI, Mr. FROST, Mr. SHAYS, Mr. BOUCHER, Mr. BAKER, Mr. HINCHEY, Mr. FARR of California, Mr. MANTON, Mr. FRANKS of New Jersey, Mr. SAM JOHNSON of Texas, Mr. LOBIONDO, Mr. DOYLE, Mr. SHAW, Mr. KIM, Mr. CALVERT, Mr. BATEMAN, and Mr. CUMMINGS.

H.R. 200: Mr. ROYCE, Mr. FOX of Pennsylvania, Mr. HASTERT, Mr. BARCIA, Mr. BACHUS, and Mr. MCHUGH.

H.R. 213: Mr. DINGELL, Mrs. CLAYTON, Ms. NORTON, Ms. CHRISTIAN-GREEN, Mr. LIPINSKI, Mr. WYNN, Mr. EVANS, and Ms. JACKSON-LEE of Texas.

H.R. 218: Mr. LIPINSKI, Mr. CRAMER, Mr. HASTINGS of Washington, Mr. DUNCAN, Mr. COOK, and Mr. BARCIA.

H.R. 227: Mr. JONES and Mr. CANADY of Florida.

H.R. 234: Ms. MCKINNEY, Ms. VELÁZQUEZ, Mr. MCDERMOTT, Mr. FORD, Ms. JACKSON-LEE of Texas, Mr. BARRETT of Wisconsin, Mr. DELLUMS, Mr. TORRES, Mr. EVANS, Mr. MORAN of Virginia, and Mr. HINCHEY.

H.R. 241: Mr. LEWIS of Georgia.

H.R. 242: Mr. FROST, Mr. MCGOVERN, Mr. FOX of Pennsylvania, Mrs. LOWEY, Mr. GRAHAM, Mr. CRANE, Mr. FOGLIETTA, Mr. PETRI, and Mr. GOODLING.

H.R. 250: Mr. FROST, Mr. GUTIERREZ, Mr. MANTON, Mr. ACKERMAN, Mr. ENGLISH of Pennsylvania, Mrs. MYRICK, Mr. BACHUS, Mr. BUYER, Ms. RIVERS, Ms. MCKINNEY, Mr. WALSH, Mr. MARTINEZ, Mr. BARCIA of Michigan, Mr. WYNN, Mr. KLUG, and Mr. CAPPS.

H.R. 251: Mr. SAXTON, Mr. GRAHAM, Mr. WATTS of Oklahoma, Mr. MCINTOSH, Mr. BEREUTER, Mrs. TAUSCHER, Mr. CONDIT, Mr. HILL, and Mr. MORAN of Virginia.

H.R. 290: Mrs. TAUSCHER, Mr. SCOTT, Mr. ACKERMAN, Ms. JACKSON-LEE, Mr. FOGLIETTA, Mr. MANTON, and Mrs. MINK of Hawaii.

H.R. 291: Mr. MARTINEZ, Mr. LEWIS of Georgia, Mr. BACHUS, Ms. JACKSON-LEE, and Ms. RIVERS.

H.R. 292: Mrs. MYRICK, Mr. MILLER of Florida, Mr. HANSEN, Mrs. KELLY, Mr. DUNCAN, Mr. SMITH of New Jersey, and Mr. CANNON.

H.R. 303: Mr. ENSIGN, Mr. CRAMER, Mr. SMITH of New Jersey, Mr. MCCRERY, Mr. HOLDEN, Mr. HUNTER, Mr. MCCOLLUM, Mr. RAMSTAD, Mr. FILNER, Mr. FROST, Mr. SCHIFF, Mrs. THURMAN, Mr. MCHUGH, Mr. SENSENBRENNER, Mr. PICKETT, Mr. BARCIA of Michigan, Mr. METCALF, Mr. HALL of Ohio, Mr. UNDERWOOD, Mr. HINCHEY, and Mr. HORN.

H.R. 306: Mrs. CARSON, Ms. CHRISTIAN-GREEN, Mr. CONYERS, Mr. DAVIS of Illinois, Mr. DELAHUNT, Mr. FATTAH, Mr. HOLDEN, Mr. MINGE, Mr. OLVER, Mr. RUSH, Mr. STOKES, Mr. TIERNEY, and Mr. TRAFICANT.

H.R. 328: Ms. MOLINARI, Mr. SHAW, Mr. GRAHAM, and Mr. NORWOOD.

H.R. 336: Mrs. MYRICK, Mr. GRAHAM, Mr. DEAL of Georgia, Ms. DANNER, Mr. MINGE, Mr. LAHOOD, and Mr. FRANKS of New Jersey.

H.R. 338: Mr. ENGLISH of Pennsylvania.

H.R. 339: Mr. HOLDEN, Mr. RAHALL, Mr. GOODE, Mr. NORWOOD, Mr. BRYANT, Mr. BARCIA of Michigan, and Mr. LEWIS of Kentucky.

H.R. 340: Mr. WELDON of Florida.

H.R. 342: Mrs. KELLY.

H.R. 343: Mr. GOODE.

H.R. 366: Mr. MORAN of Virginia and Mr. BENTSEN.

H.R. 367: Mr. CHABOT, Mr. SHAYS, Mr. LATHAM, and Mr. ROHRABACHER.

H.R. 382: Mr. CLYBURN, Mr. FALEOMAVAEGA, Mr. GREEN, Mr. WYNN, Mr. RANGEL, Mr. TOWNS, and Mr. HINCHEY.

H.R. 383: Mr. EVANS, Ms. RIVERS, Mrs. MALONEY of New York, Mr. RUSH, Ms. VELAZQUEZ, Mr. YATES, Mrs. CUBIN, Mr. BENTSEN, Mr. FALEOMAVAEGA, Mr. RANGEL, Mr. PICKETT, Mrs. CLAYTON, Mr. SCOTT, Mrs. MEEK of Florida, Mr. OLVER, Mr. HALL of Ohio, Mr. PALLONE, Ms. JACKSON-LEE, Mr. NEAL of Massachusetts, Mr. CALVERT, Mr. DAVIS of Virginia, Ms. LOFGREN, and Mr. EHLERS.

H.R. 393: Ms. JACKSON-LEE and Mr. ALLEN.

H.R. 399: Mr. GALLEGLY, Ms. PRYCE of Ohio, Mr. LIPINSKI, Ms. CHRISTIAN-GREEN, Mr. CRAMER, Mr. FALEOMAVAEGA, Mr. GRAHAM, Mr. KLUG, Ms. RIVERS, Mr. MANTON, Mr. TAYLOR of North Carolina, Mr. PORTER, Mr. FOLEY, Mr. FORBES, Mrs. MYRICK, Mr. ROGAN, Mr. HORN, Mrs. TAUSCHER, and Ms. MCCARTHY of Missouri.

H.R. 400: Mr. GEKAS, Mr. CANNON, Mr. CONDIT, Mrs. KELLY, Mr. BILBRAY, and Mr. BERMAN.

H.R. 407: Mr. BROWN of California and Mr. BARRETT of Wisconsin.

H.R. 410: Mr. GOODLATTE and Mr. ETHERIDGE.

H.R. 411: Mr. BROWN of California, Mr. GEJDENSON, Ms. JACKSON-LEE, Mr. BERMAN, Mr. SERRANO, Ms. BROWN of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SHERMAN, Mr. ABERCROMBIE, Mr. HINCHEY, and Mrs. MALONEY of New York.

H.R. 414: Mrs. MORELLA, Mr. YOUNG of Alaska, Mr. DAVIS of Virginia, Mr. MORAN of Virginia, Mr. HEFNER, Mr. MCHUGH, Mr. SENSENBRENNER, Mr. REGULA, Mr. FORBES, Mr. JONES, Mr. SKEEN, Mr. HOLDEN, Mr. HALL of Ohio, Mr. SCARBOROUGH, Mr. RIGGS, Mr. OLVER, Mrs. MALONEY of New York, Mr. STUMP, Mr. MCCOLLUM, Mr. SPENCE, Mr. CHRISTENSEN, Mr. BROWN of California, Mr. RAHALL, Ms. RIVERS, Mr. EDWARDS, Mr. WYNN, Mr. BENTSEN, Mr. HAYWORTH, Mr. UNDERWOOD, Mr. WOLF, Mr. FAZIO of California, Mr. MCKEON, Mr. HUNTER, Ms. SLAUGHTER, Mr. SAXTON, Mr. PETRI, Mr. FROST, Mr. BOUCHER, Mr. BAKER, Mr. HINCHEY, Mr. FARR of California, Mr. MANTON, Mr. SAM JOHNSON, Mr. DOYLE, Mr. SHAW, Mr. KIM, Mr. CALVERT, Mr. BATEMAN, and Mr. CUMMINGS.

H.R. 418: Mr. DELLUMS, Mr. KING of New York, Mr. MANTON, Mr. DEFAZIO, Mr. TRAFICANT, Mr. BURTON of Indiana, Mr. FORD, Mrs. MINK of Hawaii, Mr. FRANK of Massachusetts, Mr. MCGOVERN, Mrs. TAUSCHER, Mrs. CARSON, Mr. ENGEL, Mr. FROST, Mr. MCINTOSH, Mr. OWENS, Ms. JACKSON-LEE, Mr. COBURN, Mr. ENGLISH of Pennsylvania, Mr. FALEOMAVAEGA, Mr. LAFALCE, Mr. MILLER of California, Ms. WOOLSEY, Mr. NETHERCUTT, Mr. MCHUGH, Mr. WELLER, Ms. CHRISTIAN-GREEN, Mr. PETRI, Mr. HOLDEN, Mr. GREEN, Mr. GRAHAM, Mr. DAVIS of Illinois, Mr. RUSH, Ms. RIVERS, Mr. RANGEL, Mr. OLVER, Ms. MOLINARI, Ms. SLAUGHTER, Mrs. CLAYTON, Mr. TOWNS, Mr. HINCHEY, Mr. YATES, Mr. MARTINEZ, Ms. LOFGREN, and Mr. SANDERS.

H.R. 420: Ms. MCCARTHY of Missouri, Mrs. MYRICK, and Mr. MORAN of Virginia.

H.R. 426: Mr. KLUG, Mr. RAMSTAD, Mr. CONDIT, Mr. TALENT, Mr. TIAHRT, Mr. NEY, Mr. CHRISTENSEN, Mr. BOSWELL, Mr. JONES, Mr. SHIMKUS, Mr. BACHUS, Ms. FURSE, Mr. RIGGS, Mr. GEKAS, Mr. MILLER of Florida, Mr. SKEEN, Mr. HEFNER, Mr. GRAHAM, Mr. WATKINS, Mr. TAYLOR of North Carolina, Mr. JENKINS, Mr. PETERSON of Minnesota, Mr. BOB SCHAFFER, Mr. BURR of North Carolina, Mr. LARGENT, Mr. CAMP, Mr. NEUMANN, Mr. WHITE, Mr. PAXON, Mr. BISHOP, and Mr. DOOLITTLE.

H.R. 444: Mr. RANGEL, Ms. NORTON, Mr. FRANK of Massachusetts, Ms. JACKSON-LEE, Mr. RUSH, and Mr. FATTAH.

H.R. 446: Mr. BACHUS, Mr. RAHALL, Mr. STUMP, Mr. PARKER, Mr. CHRISTENSEN, Mr. KLUG, Mr. WELLER, Mr. DOOLITTLE, Mr. UPTON, Mr. BURTON of Indiana, Mr. CONDIT, Mr. RUSH, Mr. WATKINS, Mr. OXLEY, Mrs. KELLY, Mr. GOODLING, and Mr. TORRES.

H.R. 459: Mrs. CHENOWETH and Mr. TAYLOR of North Carolina.

H.R. 475: Mr. ENSIGN, Mr. BURR of North Carolina, Mr. HOUGHTON, and Mr. FROST.

H.R. 476: Mr. LEWIS of Georgia, Mr. BLAGOJEVICH, Mr. FOGLIETTA, Mrs. MORELLA, Mr. ACKERMAN, Mr. HASTINGS of Florida, Mr. DAVIS of Illinois, Mr. FALEOMAVAEGA, Ms. WATERS, Mr. BROWN of California, Mr. UNDERWOOD, Mr. ROMERO-BARCELO, Ms. VELAZQUEZ, Mrs. CARSON, Mr. LIPINSKI, Ms. LOFGREN, Mr. TIERNEY, Mr. JACKSON, Mr. MENENDEZ, Mr. CLAY, Ms. ROYBAL-ALLARD, Mr. TORRES, and Mr. CUMMINGS.

H.R. 491: Mr. CUNNINGHAM, Mr. FRANKS of New Jersey, Mrs. KELLY, Mr. CHABOT, Mr. FALEOMAVAEGA, Mr. LOBIONDO, Mr. SESSIONS, Mr. GOODLATTE, Mr. BURTON of Indiana, Mr. PAPPAS, and Mr. KIM.

H.R. 493: Mr. MCHALE, Mr. HORN, Mr. POSHARD, Mr. WAMP, Mr. CARDIN, Mrs. MORELLA, Mr. MINGE, Mr. CAMPBELL, Mr. HINCHEY, Mr. BLEMENAUER, Mrs. MALONEY of New York, Mr. SCHUMER, and Mr. KENNEDY of Massachusetts.

H.J. Res. 1: Mr. BOEHNER, Mr. CAMP, Mr. DELAY, Mr. EHRLICH, Mrs. FOWLER, Mr. FRANKS of New Jersey, Mr. GEKAS, Mr. GIBBONS, Mr. GILCHREST, Mr. GOODLING, Mr. GOSS, Ms. GRANGER, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. HOEKSTRA, Mr. HOUGHTON, Mr. HYDE, Mr. JENKINS, Mrs. KELLY, Mr. MCKEON, Ms. MOLINARI, Mr. NEY, Mrs. NORTHUP, Mr. NUSSLE, Mr. PAXON, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. PITTS, Mr. RILEY, Mr. ROGAN, Mr. ROGERS, Mr. RYUN, Mr. SESSIONS, Mr. SHIMKUS, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. THUNE, Mr. WATKINS, Mr. WELDON of Florida, Mr. PEASE, and Mr. BARRETT of Nebraska.

H.J. Res. 2: Mr. ADAM SMITH of Washington, Ms. GRANGER, and Mr. CANNON.

H.J. Res. 18: Mr. GOODLATTE.

H.J. Res. 33: Mr. MCINTOSH, Mr. SMITH of Michigan, and Mr. NETHERCUTT.

H. Con. Res. 4: Mr. ABERCROMBIE, Mr. PAYNE, Mr. SAWYER, Mr. TOWNS, and Mr. BONIOR.

H. Con. Res. 6: Mrs. MYRICK, Mr. MANTON, Mr. KLUG, Mr. BATEMAN, Mrs. MORELLA, Ms. MOLINARI, Mrs. LOWEY, Mrs. KELLY, Mr. LANTOS, Ms. LOFGREN, Mr. LEVIN, and Mr. SHAYS.

H. Res. 15: Mr. FROST, Mr. LANTOS, Mr. OLVER, Mrs. TAUSCHER, Mr. DEUTSCH, Ms. PELOSI, Mr. VENTO, Mr. LIPINSKI, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DELLUMS, Mr. PORTER, and Mr. LEVIN.

H. Res. 21: Mr. ROYCE, Mr. WATTS of Oklahoma, and Mr. BURTON of Indiana.

H. Res. 22: Mr. ROYCE, Mr. MCDERMOTT, Mr. FOLEY, Mr. OXLEY, Mr. BROWN of Ohio, Mr. FORD, Mr. DAVIS of Virginia, Mrs. MALONEY of New York, Mr. CRAMER, Mr. BERMAN, Mr. MANTON, Mr. MEEHAN, Ms. PRYCE of Ohio, Mr. FROST, Mr. LOBIONDO, Mr. FILNER, Mr. PICKETT, Mr. STARK, Mr. DOYLE, and Mr. BATEMAN.

H. Res. 23: Mr. TRAFICANT.

H. Res. 30: Mr. GIBBONS and Mr. NORWOOD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 2: Mr. THUNE.

EXTENSIONS OF REMARKS

SUPPORT THE POSTAL SERVICE CORE BUSINESS ACT OF 1997, H.R. 198

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. HUNTER. Mr. Speaker, today I rise to reintroduce the Postal Service Core Business Act of 1997. Last year, I introduced this same bill as H.R. 3690. This is an important bill framing a debate on an important subject: Where is the line between U.S. Government competition with the private sector, particularly small business?

My bill will establish a clear line of demarcation between the U.S. Postal Service, a Federal agency, and small private businesses across America. For the past 20 years, a vibrant private sector business has been evolving. In fact, the industry was born within a region I represent, San Diego, CA.

This business sector is known as the CMRA, or Commercial Mail Receiving Agents, industry. These businesses establish a special relationship with the Postal Service and become agents for receiving mail for individuals and small businesses. These small businessmen and women open a store, usually in a shopping mall, or a downtown business district, and rent private mailboxes to customers. Altogether, an industry of nearly 10,000 privately owned stores in all 50 States and virtually every congressional district has grown.

These CMRA stores are either franchise stores of nationally recognized groups like MailBoxes Etc, Postal Annex, PostalNet, Parcel Plus, or independently owned stores affiliated with the associated mail and parcel centers. Often, these small business owners use their life savings to establish their store. No matter what their origin, all of the stores are owner-operated by individual entrepreneurs who work long hours and thrive on fair and healthy competition. They do not look for government subsidies, nor do they shrink from competing with each other or any other private business which seeks to compete with them. What these small businesses did not count on was having to compete with the U.S. Government, in the form of the U.S. Postal Service, which has been known to describe itself as the 12th largest business in the Fortune 500.

The problem is that the Postal Service has decided to go into the business of packaging parcels, a service born and bred by these 10,000 small businesses, and there is clearly more on the horizon. In fact, the Postal Service announced its intention to spend billions to enter into retail competition with private business.

Stated simply, the Postal Service is not General Motors, AT&T, or Phillip Morris. It is an agency of the U.S. Federal Government. Its employees are Federal employees, its lawyers are from the Department of Justice, its benefits are Federal employee benefits. Further, it enjoys unique advantages as a Federal agency which none of its top 10 Fortune 500 compatriots have. For example:

1. USPS has a legal monopoly on first class mail—This generates the lion's share of its $50+ billion revenue. This gives it great opportunity to cross-subsidize from its stamp revenue to money losing operations such as their Pack & Send's.
2. USPS has no profit incentive—Since the Postal Service is a Government agency, it is not necessary for it to make a profit. That means it can run unprofitable business lines with impugnity.
3. USPS can cross-subsidize these unprofitable businesses—There is no guarantee that the Postal Service will not use its monopoly revenue to cross-subsidize unprofitable activities like Pack & Send. In fact, it can, and does, even discount coupons on these nonstamp products.
4. USPS does not charge sales tax—That is a 4- to 8-percent advantage in most States.
5. USPS pays no property tax on its own facilities—It is not fair that the USPS can enter into direct competition against private sector businesses while being exempt from property tax.
6. USPS is self-insured—As an agency of the U.S. Government, the Postal Service does not need to buy insurance. All these small businesses must, or risk losing their business in litigation.
7. USPS borrows money from the Federal Reserve—Federal law permits the Postal Service to borrow money directly from the Federal Reserve at preferred rates. CMRA's must borrow from banks at market rates and with secured collateral.
8. USPS is immune from antitrust laws—All private businesses in America, big and small, must comply with Federal and State antitrust regulations. The Postal Service, however, claims they are not subject to the same antitrust laws.

As a result, the Postal Service, a $50+ billion business, is preying on small business owners with impugnity, doing what it wants with little regulation from Federal, State, and local authorities. It is critical that Congress step in and set up some rules.

Mr. Speaker, the Postal Reorganization Act of 1970 was enacted before the CMRA industry had developed. A review of the act makes that clear. The act does not even include a definition of what services the Postal Service can and cannot offer. This 1970 law needs to be revised to set some groundrules—a line of demarcation setting out what activities the Congress intends the Postal Service to offer. Most agree that it should continue to deliver the mail, but I don't believe its job description should also include T-shirt sales or packaging services.

My bill sets out some rules as to what the Postal Service can and cannot do regarding competition with the private sector. It is simple and straightforward:

Like most of my colleagues, I am a strong supporter of the Postal Service and I rely on it everyday to receive and deliver my mail. The Postal Service Core Business Act protects and promotes a strong and vibrant Postal Service by allowing it to keep offering the same services it has been doing all these years. It can continue to concentrate on its core business: mail delivery. It can continue to offer those special and ancillary services as it has for decades, including selling packaging materials for use by its customers.

What it cannot do is compete with private businesses in areas that the Postal Service has not been traditionally engaged. For example, its new packaging service, called Pack & Send, would be prohibited under my bill. The private sector is already offering this service in over 10,000 locations throughout the country.

The Postal Service will also be prohibited from becoming a volume photocopy dealer; there are plenty of private businesses which provide this service. The same goes for gift wrapping, notary services, and other business-related services.

The aforementioned services are not functions of the Postal Service established by our Founding Fathers in the Constitution, and are therefore better left to the willing and able private sector.

This bill will not effect the Postal Service's ability to deliver overnight packages.

This bill will not prevent the Postal Service from accepting packages for mailing or shipment.

This bill will not interfere in any way with normal postal service operation.

My bill provides that line of demarcation which must be established now that the Postal Service is trying to branch out into other nontraditional areas of business.

The American entrepreneur is out there in all 50 States to provide these new services We do not need a Government created and protected entity like the Postal Service to provide these services.

Nearly 10,000 small business owners in virtually every congressional district support this bill. During the 104th Congress, many of these business owners contacted their Representatives with their support for a clear definition of Postal Service activities.

Mr. Speaker, I believe it is important to point out to my colleagues that the Postal Service is now offering this Pack & Send service in violation of the Postal Reorganization Act. The Postal Rate Commission [PRC] has recently found that this service cannot be offered unless and until the Postal Service has submitted it for a rate and classification hearing before the Commission.

There is one problem, however, only the Postal Service can submit the case to the Commission; the Commission cannot initiate it themselves. The PRC is now waiting for the

●This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Postal Service to submit the case or to cease the service. Until that time, the largest Federal agency, the Postal Service, is offering a service in direct competition with private sector businesses, and in violation of its own enabling legislation.

Clearly, we do not want Federal agencies acting independently of the mission they were assigned by Congress, which is the ultimate authority. The Constitution specifically directed the Congress to determine what kind of post office the Nation should have. That is what my bill is all about.

Interestingly, Mr. Speaker, the United States is not the only country experiencing this quandary of what business line its post office should and should not be permitted to enter. In Canada, the Canada Post Corporation is currently in the business of competing with the private sector. There is no constraint on Canada Post in this regard under Canadian law, and the Canada Post has jumped in with enthusiasm.

In 1993, Canada Post purchased the largest private, Canadian owned courier service, Purolator Courier, in order to compete with local and American delivery services. Further, it is in the mailing center business as well. Much as its American counterpart, it is competing head to head with local and franchised private centers such as MailBoxes, Etc.

Canada Post is aggressively promoting unaddressed admail in direct competition with private mailers and even going so far as to deny access to private apartment boxes to its private sector competition.

This is the future for the U.S. Postal Service if my bill is not passed and Congress does not act to set ground rules in this area of what the U.S. Postal Service can and cannot do.

The Situation in Canada has so deteriorated that the government appointed a one man commission to review these and other issues and to make recommendations to the Canadian Government.

That Commission held hearings and took testimony throughout Canada and thoroughly examined the issue of competition by Canada Post with private mailing centers. Its conclusion was straightforward:

"The Government should direct Canada Post Corporation to withdraw from all competition with the private sector in areas of activity outside its core public policy responsibilities for providing postal services." [Report of the Canada Post Mandate Review, p. 86]

"Specifically, that means exiting from the courier business, from unaddressed admail, from the operation of business support or mailing centers, from electronic products and services, and from retailing of non-postal merchandise," [Report of the Canada Post Mandate Review, p. 84]

Mr. Speaker, my bill does not take on all the issues that this comprehensive review did, but that review hit the issue on the head. The basic conclusion of the Commission was that no government agency, like Canada Post or the USPS, can serve and compete with its customers at the same time.

The Postal Service Core Business Act is sound and fair in identifying a workable solution for all parties. I urge my colleagues to join me in support, because it establishes the rules necessary for both the Postal Service and the private sector as to this area of postal related business. These small business owners are looking to us to ensure that they are afforded a fair chance to succeed, and as their Representatives we need to work to meet their needs.

LEGISLATION TO CORRECT MEDICARE BENEFICIARY OVERCHARGES IN HOSPITAL OUTPATIENT DEPARTMENTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. STARK. Mr. Speaker, today Representative WILLIAM COYNE and I introduced a bill to correct a glaring failure in the Medicare Program—the massive overcharging of beneficiaries in hospital outpatient departments [HOPDs]. This bill will save Medicare disabled and senior beneficiaries about $35.7 billion between 1999 and 2003. It will stop the steady, upward climb in the percentage of HOPD costs that beneficiaries have to pay.

The problem is difficult to describe and the legislative solution is also complicated. But what is not complicated is understanding the impact on Medicare beneficiaries. I would like to include in the RECORD at this point an article from the June 30 New York Times and the AARP Bulletin of August, 1996 that does an excellent job of explaining why our bill is needed—ASAP.

I also include some prospective payment assessment commission analysis of data from the Health Care Financing Administration on how beneficiary copayments in HOPDs can far exceed a patient's 20 percent share at an ambulatory surgical center. Clearly, these HOPD payments are grossly excessive, and patient advocacy groups should help spread the word about cheaper sources of safe and effective medical care.

[From the New York Times, June 30, 1996]

QUIRK IN MEDICARE LAW YIELDS BIGGER BILLS FOR OUTPATIENT CARE; OFFICIALS SAY BURDEN ON THE ELDERLY IS INCREASING

(By Robert Pear)

WASHINGTON, June 30—Because of a quirk in the Federal Medicare law, elderly people are being required to pay more than their normal share of the bill for hospital outpatient services. It is far more than Congress originally intended and the burden is rising rapidly as such services account for a larger portion of all health care in the United States.

Beneficiaries are ordinarily responsible for 20 percent of the cost of services under Part B of the Medicare program. But because of the law, they are now responsible, on average, for 37 percent of the total payments to hospitals for outpatient services, one of the most important benefits under Part B, according to a recent report to Congress by a Federal advisory panel.

For many such services, the patients' share is even larger. Donna E. Shalala, the Secretary of Health and Human Services, said beneficiaries were paying more than 49 percent of the total Medicare payment to hospitals for outpatient surgery, radiology and other diagnostic services.

And Dr. Shalala said, "We expect that the beneficiary share of total hospital payments for these services will continue to increase rapidly," to 68 percent in 2000.

Since 1983, the Government has paid a flat amount for each Medicare patient admitted to a hospital, depending on the diagnosis. But there are no such limits on outpatient services. A hospital can often increase its Medicare revenue "by simply increasing its charges" for outpatient services, the Department of Health and Human Services told Congress. When the hospital increases its charges, the beneficiary pays more.

The Clinton Administration acknowledges that the costs are already causing hardship for many Medicare beneficiaries. But Administration officials say they lack the authority to limit what hospitals charge for outpatient services under Medicare, and they are fighting a lawsuit by Medicare patients who insist that the Government is supposed to set such limits.

The new Medicare handbook, sent to all beneficiaries in May, explains the situation this way: "When you use your Part B benefits, you are responsible for paying the first $100 each year of the charges approved by Medicare. This is called the Part B annual deductible. After the deductible is met, Medicare pays 80 percent of the Medicare-approved amount for most services. You are responsible for the remaining 20 percent."

But, it states, there is one big exception: "If you receive outpatient services at a hospital, you are responsible for paying 20 percent of whatever the hospital charges, not 20 percent of a Medicare-approved amount."

In March, the Federal advisory panel, the Prospective Payment Assessment Commission, urged congress to correct this problem. "The growing financial burden for Medicare enrollees who receive services in hospital outpatient departments should be alleviated immediately," the panel said. "Beneficiary coinsurance for these services should be limited to 20 percent of the Medicare-allowed payment."

But neither Congress nor the Clinton Administration is pushing for a quick solution, partly because of the complexity of the problem and partly because of disagreement over who would foot the bill. If beneficiaries paid less, then the Federal Government would have to pay more or hospitals would have to accept less overall? Any solution would increase Federal Medicare costs, reduce hospital revenue or both.

For example, a 74-year-old woman named Marie Lohse had outpatient cataract surgery on one eye at a Los Angeles hospital. The hospital charged $6,277. She was responsible for 20 percent of that amount, or $1,255. But, she later learned, Medicare paid the hospital only $1,280. So the hospital received a total of $2,535, and Ms. Lohse paid 49.5 percent of the total reimbursement.

If she had paid 20 percent of the Medicare-approved amount, as required for many other Part B services, she would have paid only $507.

Robert J. Myers, who was chief actuary of the Social Security Administration for 23 years, said of the current formula, "It's a raw deal, a gross injustice to beneficiaries that ought to be remedied."

Mr. Myers said it had always been "the general philosophy, the general principle of the Medicare program, that the beneficiary should be responsible for 20 percent of what Medicare recognizes as the reasonable and appropriate amount for a service."

And in most cases that is true. But hospital outpatient services are different: the patient is responsible for 20 percent of whatever the hospital charges. Originally, what hospitals charged and what Medicare recognized as reasonable were about the same. But in recent years, hospitals have charged far more than Medicare pays for outpatient services. So in paying 20 percent of the hospital charges, beneficiaries end up paying much more than 20 percent of what the hospitals ultimately receive for such services.

Earlier versions of the Medicare handbook, in 1991 and 1992, said inaccurately that beneficiaries were responsible for only 20 percent of the approved amount." The handbook now says "20 percent of whatever the hospital charges."

The financial burden on patients has been increasing because outpatient care accounts for a rapidly growing share of all medical care.

New surgical technology and advances in anesthesia have reduced the need for overnight hospital stays. Common outpatient services include colonoscopy, breast biopsy and hernia repair. But complex procedures like hysterectomies and reconstructive knee surgery can also be done in hospital outpatient departments.

The demand for such services increases as the procedures become safer and easier to perform. In addition, said Dr. Richard B. Reiling, chairman of the ambulatory surgical committee of the American College of Surgeons, "Managed care and financial considerations have given us incentives to do more procedures on an outpatient basis."

Carol S. Jimenez, a lawyer at the Center for Health Care Rights in Los Angeles, said, "Medicare beneficiaries expecting to pay a 20 percent copayment should not be paying 49 percent or more of the amount paid to the hospital."

But in a legal brief recently filed with the United States Court of Appeals for the Ninth Circuit, in San Francisco, the Clinton Administration said such charges were "entirely permissible" under current law.

Congress has never instructed Medicare officials to "limit what hospitals could charge to beneficiaries for outpatient services," the Clinton Administration said.

And in a letter to a Medicare beneficiary in Florida, the Federal Government said that "there are no restrictions on the amount that a hospital charges" for outpatient services.

While expressing sympathy for Medicare beneficiaries "burdened by ever-rising medical costs," the appeals court has so far refused to step into the dispute.

Outpatient services can be a major source of revenue because hospital admissions have fallen over the last decade and Medicare has sharply restricted payments to hospitals for inpatient services.

Spending for outpatient hospital services, by Medicare and other insurers, has grown twice as fast as outlays for inpatient hospital care, rising 15.7 percent a year since 1980, to $86.7 billion in 1994, while inpatient spending rose 7.8 percent a year, to $212.4 billion.

Many elderly people have supplementary insurance, known as Medigap policies, to help pay costs not covered by Medicare, but as they pay more for outpatient services, their Medigap premiums tend to increase. In December, when the American Association of Retired Persons announced premium increases averaging more than 25 percent for 1996, it cited the increased use of outpatient services as a major reason.

Under instructions from Congress, the Department of Health and Human Services is developing a proposal to pay hospitals a fixed amount, set in advance, for each outpatient service. Medicare could then follow its general policy of requiring beneficiaries to pay 20 percent of the approved amounts. Such a system would be complex and would need approval from Congress.

[From the AARP Bulletin, August 1996]

MEDICARE OUTPATIENT DEBACLE—HOSPITALS ALLOWED TO CHARGE MORE FOR OUTPATIENT CARE

(By Don McLeod)

A federal court ruling has focused new attention on a growing problem for Medicare beneficiaries, first reported nearly four years ago in the Bulletin.

The problem is this: When beneficiaries receive medical treatment in hospital outpatient facilities, they often pay much more than their fair share of the bill.

Why? Because under federal law hospitals can charge Medicare beneficiaries whatever they wish for hospital outpatient care. (By contrast, federal law does limit how much hospitals can charge Medicare inpatients and how much doctors can charge Medicare beneficiaries.)

All of this is perfectly legal. And if the situation is to be fixed, the Ninth U.S. Circuit Court of Appeals said in essence this summer, it is up to Congress to fix it.

Congress has the authority to limit what hospitals charge Medicare outpatients, all experts agree, but thus far has declined to do so.

Since Congress hadn't exercised its authority in this area, some Medicare beneficiaries sued the Department of Health and Human Services (HHS), which runs Medicare, to force the agency to correct the situation.

But in its ruling the court agreed with HHS Secretary Donna Shalala that existing law does not require her to take action on the issue.

All of which means hospitals can continue to charge Medicare outpatients any amount they want.

The high charges beneficiaries pay for hospital outpatient service are "terribly unfair," says Brandeis University economist Stuart Altman. And, he adds, the problem "is getting worse and worse."

The situation comes about because of a longstanding loophole in the law. Under current law, Medicare pays for hospital outpatient treatment under Medicare's Part B, which also covers physician costs.

In the case of doctors, Medicare pays them 80 percent of what it considers a "reasonable and customary" amount, based largely on costs, and beneficiaries pay the remaining 20 percent of what Medicare considers reasonable.

When it comes to hospital outpatient services, Medicare pays 80 percent of what it considers reasonable, based on a complex formula that includes the hospital's costs.

But beneficiaries, by contrast, are required to pay 20 percent of the amount that hospitals decide to charge them, rather than 20 percent of what Medicare considers reasonable.

And that hospital charge can be sizable. As a result, beneficiaries often find themselves paying almost as much as the government does for hospital outpatient treatment.

In a report to Congress last year, HHS's Shalala estimated that Medicare outpatients on average pay 49 percent of the total payment made to hospitals for several common treatments.

In part, this is extra income for hospitals. If beneficiary copayments for these treatments were cut to the 20 percent Medicare believes reasonable, she said, the amount paid by enrollees "would be reduced by over $4 billion in 1997 and by $15.7 billion in 2001."

Nor is that all. Given the way hospital charges are rising, beneficiaries could be paying as much as 68 percent by the year 2000, Shalala warned.

"This is a windfall for hospitals," says AARP legislative representative Kirsten Sloan. "There's no question about it."

Not surprisingly, hospitals see the situation differently. Under Medicare, hospitals "are already being paid less than their costs," says Carmela Coyle, the American Hospital Association's vice president for policy.

Paradoxically, the anomaly in hospital outpatient payments stems from an attempt in 1986 to bring outpatient payments closer to the billing system for inpatients.

But what Congress actually did in 1986 was create a temporary payment structure for determining what Medicare can pay hospitals for outpatient fees. At the same time, it left unaddressed the question of whether there should be limits on what beneficiaries themselves must pay. This structure is still being used and has created the inequity that exists today.

Since then, reimbursement for outpatient care has been treated differently. Beneficiaries have been required to pay 20 percent of the charges that hospitals bill them. That didn't seem significant in 1986, says Brandeis' Altman, because relatively few treatments were done on an outpatient basis and hospital charges were close to their costs.

Times have changed. Between 1985 and 1989 the number of outpatient surgeries performed by hospitals on Medicare beneficiaries increased by 50 percent and has risen since.

Other forces are helping drive up the amounts hospitals charge, some associated with actual hospital costs, some not, critics say.

Whatever the reasons, "20 percent of charges has turned out to be a lot more than 20 percent of costs," says Altman, meaning that beneficiaries are paying a good deal more than what critics believe is "reasonable."

Beneficiaries are feeling the pinch. "With more people using hospital outpatient services," says AARP's Sloan, "the problem of the amount that beneficiaries pay out of pocket is becoming much more severe."

The recent court decision, all sides agree, tosses this growing problem into the lap of Congress. "So the question becomes," says Altman, "why don't they change the law?"

Thus far, Congress has shown little interest in revamping the law. The major reason: money. Either Medicare—its future spending already under attack in Congress—would have to make up the costs, or hospitals would lose their windfall and have to absorb the costs.

Or the two would have to share the fiscal pain. For instance, the American Hospital Association's Coyle, insisting that Medicare has underestimated hospitals' actual outpatient costs, suggests that hospitals and beneficiaries join forces to compel "Medicare to pay [its] fair share of costs." That idea hasn't caught on.

Until Congress decides what to do, beneficiaries should help themselves by being informed consumers, analysts say. "Before they go in for hospital outpatient surgery, they should ask about the likely cost to them," advises AARP legislative representative Patricia Smith.

But that's only a stopgap solution. With concern in Congress growing, a move to produce change could occur next year or shortly thereafter, analysts say. It won't be easy: Congress will have to change the law in a way that hospitals, as well as Medicare and the taxpayers who finance it, will support.

The ball is squarely in Congress' court now, says Altman. The Ninth Circuit Court of Appeals has essentially ruled, he adds, that "the law is the law, and it remains for Congress to change it. And that's what needs to be done."

BENEFICIARY COINSURANCE PAYMENTS ACROSS SETTINGS, 1995

Procedure	Median hospital OPD coinsurance	20 percent of the national ASC rate	20 percent of the national physician fee schedule
Cataract removal w/lens insertion	$558	$176	$195
Diagnostic colonoscopy	164	79	65
Upper GI endoscopy w/biopsy	172	79	51
Diagnostic upper GI endoscopy	150	59	45
Diagnostic sigmoidoscopy	75	....	18
Initial inguinal hernia repair	519	112	92

ANNUAL HOSPITAL OPD COINSURANCE PAYMENTS FOR BENEFICIARIES WHO RECEIVED HOSPITAL OPD SERVICES, 1995

Deciles (percent)	Annual beneficiary coinsurance
Top 10	$802
Top 20	505
Top 30	335
Top 40	227
Median	154
Bottom 40	103
Bottom 30	67
Bottom 10	20

MEDIAN BENEFICIARY COINSURANCE PAYMENTS FOR CATARACT SURGERY FOR HOSPITALS IN THE SAME MSA, 1995

Provider	Percent of total volume	Median charges	Median coinsurance payment
Hospital A	39	$2,751	$550
Hospital B	52	1,218	244
Others (2)	10	....	....
Total	100	2,002	400

HONORING EUGENE AND DORIS HERDMAN ON THEIR GOLDEN ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. GILLMOR. Mr. Speaker, I am pleased to extend best wishes to Eugene and Doris Herdman on the occasion of their golden wedding anniversary, February 9, 1997.

Eugene and Doris Herdman have shared a partnership of love and commitment which has been an inspiration to all who have known them. Enriched by all of life's experiences, their union has endured and grown stronger over time.

Marriage is the principal foundation on which civilization has been built. The loyalty and love that Eugene and Doris Herdman have demonstrated through the past 50 years strengthens the institution of marriage and increases our faith in the idea of trust between human beings.

As Eugene and Doris Herdman celebrate this special occasion, I wish them, their two children, Nancy and Jim, and their two grandchildren, Jon and Alison, many years of happiness and fulfillment.

TRIBUTE TO ELDER WILLIAM ALONZO GIVENS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. DIXON. Mr. Speaker, I rise to celebrate the life of Elder William Alonzo Givens, who passed away on Christmas Day, December 25, 1996.

Elder Givens was born in Austin, TX, on April 20, 1916, to Arthur Givens and Lizzy Burton. He received his ministry license at the age of 17. In 1929, the Givens family relocated to Midland, TX, where they continued to serve God faithfully, ministering to the needs of many others in the community.

On August 3, 1939, Elder Givens married the former Louise Estelle Thomas. Their blessed union produced seven children, two of whom preceded Elder Givens in death. In December 1942 Elder Givens moved his family to Los Angeles, CA. In 1943, he embarked on a career as a longshoreman, a career that would span nearly 30 years.

In 1976, Elder Givens was assigned by Bishop S. M. Crouch to serve as assistant pastor to the late Walter Sanders at All Nation Church of God in Christ, located in San Pedro, CA.

During his lifetime, Elder Givens traveled throughout California pastoring to the needs of the sick and the shut-in. He not only preached the Gospel, he worked to counsel troubled youths, and those who were in need of spiritual nourishment and fellowship. At his homegoing celebration, person after person rose to speak of their love and selfless devotion for this gentle, kind, and always God-fearing man, who loved unconditionally and cherished his family and his God.

Those who knew best of his love for humankind—his family—spoke lovingly of a man who was not only a husband and a father, but of a man who was their friend, counselor, spiritual guide, provider, and protector.

Mr. Speaker, Elder Givens was a man of tremendous character and integrity. His success was measured not in material terms, but in the honorable manner in which he lived his life. His devotion to God was unwavering, and his commitment to the sacrament of marriage and the responsibilities of parenthood, stand as the true measure of this humble servant of our God.

I, therefore, ask you to join me in celebrating the extraordinary contributions of this extraordinary man. In honoring his memory, we extend our condolences to his beloved wife, Louise; his children: Nettie, Linda, Gwendolyn, Jerry, and Robert; and his 19 grandchildren and 9 great-grandchildren, and numerous friends who mourn his loss.

SALUTE TO COYA KNUTSON

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. SABO. Mr. Speaker, today I would like to pay tribute to Coya Knutson, the only Minnesota woman ever elected to the U.S. House of Representatives, who died in October at the age of 84.

Congresswoman Coya Knutson received considerable attention in 1958 when her husband ignited a nationwide debate over the role of women in politics by sending his now-famous "Coya, Come Home" letters to Minnesota newspapers. The letters—which unfairly implied that her public career in Washington was forcing her to neglect her private duties as a wife and mother in Minnesota—are probably responsible for her close electoral defeat in 1958 after two terms.

Before the letters made national news. Knutson seemed a shoo-in for a third term. Her opponent that year—who ran on the slogan "A Big Man for a Man-Sized Job"—helped put her husband up to the letters. It also didn't help that she broke with leaders of the State Democratic Party—including Hubert Humphrey—by supporting Estes Kefauver over Adlai Stevenson in the 1956 Minnesota Presidential primary. Many of her Democratic friends did not forgive her for that break, and may even have supported the "Coya Come Home" campaign.

But the story of Coya Knutson is far deeper than the "Coya Come Home" letters that gained her national notoriety and ended her congressional career.

In an era when many women in Congress were widows serving out their late husbands' terms, Coya Knutson represented much more. Former Vice President, and Minnesota Senator, Walter Mondale likened her to Hubert Humphrey. "She was full of life," he said. "She was electric and people liked her. She was kind of like Humphrey. She could go into a room and get the dead to wake up."

When she arrived in Washington, Knutson's first choice for a committee assignment was the Agriculture Committee, where she could champion the cause of the family farmers who populated her district. But the committee's chairman "had no interest in women serving with him." Most women of the time would have backed off. Knutson, however, went to Speaker Sam Rayburn and convinced him that she should be on Agriculture. So it was there she served, and it was there that her grasp of issues—and her hard work—eventually earned her the respect of the chairman.

Many of Coya Knutson's legislative priorities still have resonance today. The Washington Post cataloged her congressional work in a story published a short time after her death.

In her four years in Washington, Coya Knutson pushed for the first Federal appropriations for cystic fibrosis research. She introduced the first bill to include an income tax checkoff for Presidential campaign financing. She created the legislation that would eventually establish a Federal student loan program. She supported the equal rights amendment when labor and many liberals still opposed it on the grounds that it could bring an end to legislation enacted to protect women in the workplace.

Unlike most of the women serving at the time, she felt no need to make the big men like her. It was that trait, combined with a real dedication to the job, that tells the real story of Coya Knutson.

During her 4 years in Washington, she did much to pave the way for women who would later serve in Congress. She overcame obstacles and pushed down barriers that women today no longer encounter. She served with grace and accepted defeats without bitterness. Coya Knutson showed the Nation that a woman's place is not only in the home, but also in the House. For that, Mr. Speaker, the Nation owes Minnesota Congresswoman Coya Knutson a tremendous debt of gratitude.

RELEASE MONEY TO SAVE WOMEN'S LIVES

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Ms. FURSE. Mr. Speaker, a very important vote on family planning will occur by the end of February.

The fiscal year 1997 Foreign Operations appropriations bill directs the President to submit a Presidential finding to Congress no later than February 1, detailing whether or not the spending restrictions imposed on family planning overseas are having a negative impact on the proper functioning of those programs.

The Presidential finding is to be included in a joint House-Senate resolution on which both bodies must vote by February 28. If both the House and Senate approve the finding, international family planning funds will be released on March 1 rather than the current July 1 release date of funds that have already been appropriated.

I commend to my colleagues' attention the following column written by First Lady Hillary Rodham Clinton in which she portrays the situation of real women's lives and the urgent need for family planning.

TALKING IT OVER

(By Hillary Rodham Clinton)

The pregnant woman wore an alpaca shawl over her blouse and full skirt, the traditional Indian dress in Bolivia. She looked about 36 and was attending a prenatal class at a health clinic I visited this week in the Bolivian capital, La Paz. She was nursing a 3-month-old baby and expecting her eighth child, who she hoped would be her last.

I was in Bolivia to attend the Sixth Conference of Wives of Heads of State and Government of the Americas. Women from countries throughout the Western Hemisphere got together to talk about strategies to eliminate measles, promote education reform and improve maternal health in our region.

Bolivia, a country of majestic beauty in the heart of South America, was an auspicious location for such a discussion. More women die in Bolivia during pregnancy and childbirth than in any other country in South America. But in the face of this human tragedy, Bolivia has become a model of how one nation can respond to the crisis of maternal mortality by galvanizing the government, non-governmental organizations and the medical establishment to launch a nationwide family-planning campaign.

In a country where half of all expecting mothers go through pregnancy and childbirth alone—without medical attention of any kind—Bolivia's aggressive effort to educate women about their own health and their options for childbearing is resulting in safer pregnancies, stronger families and fewer abortions. Without access to family planning, women in Bolivia—and in many developing nations—often turn in desperation to illegal, unsafe abortions that can end in death or serious injury. Deaths from abortion complications account for half of all maternal deaths in Bolivia.

As Bolivia has ably demonstrated, voluntary family planning teaches women about the benefits of spacing children several years apart, breast-feeding, good nutrition, prenatal and postpartum visits and safe deliveries. It also decreases the number of abortions.

Bolivia's success at preventing mothers from dying and lowering abortion rates has been possible, in part, because of help from the United States and other countries. The U.S. Agency for International Development has provided financial and technical assistance to help Bolivia establish a network of primary health care clinics.

The clinic I visited in La Paz is one that the United States helped start. Called PROSALUD (which, loosely translated, means "for the good of health" in Spanish), the clinic has doctors and nurses who offer round-the-clock prenatal, obstetric and pediatric services, as well as counseling about family planning in a poor neighborhood of 15,000 people. In the first six months of this year, the clinic staff provided 2,200 medical consultations, delivered 200 babies, registered 700 new family-planning users and immunized 2,500 children.

There are obvious benefits of such a program to Bolivian women, children and families, but health and family-planning services also help alleviate poverty and contribute to the economic stability of a democratic ally in our hemisphere. Yet opponents of foreign assistance and particularly of family planning in Congress are trying to eviscerate U.S. funding for programs like the one I saw at PROSALUD. Some argue that the United States has no national interest in the health and well-being of other countries' citizens. Others mistakenly suggest that family planning is being used to encourage—rather than decrease—abortions. In fact, our government has prohibited funding of any overseas project that promotes abortion since 1973.

Ignoring this, Congress last year approved draconian cuts in family-planning assistance amounting to a 35-percent reduction in funds. To add insult to injury, the cuts were accompanied by new restrictions that delayed delivery of aid for the first nine months of the fiscal year.

Similar harsh cuts and delays are included in the current budget, meaning that many organizations could again be denied assistance for months and then receive it only in monthly installments.

According to a recent analysis by five population organizations, the funding cuts alone will result in an increase of 1.6 million abortions, more than 8,000 maternal deaths, and 134,000 infant deaths in developing countries.

Family-planning campaigns at work in Bolivia and elsewhere represent sensible, cost-effective and long-term strategies for improving women's health, strengthening families and lowering the rate of abortion. My husband's administration remains committed to the continuation of these investments. And I will do everything I can to ensure that U.S. support for these initiatives continues. If you share my concern, I hope you will add your votes to mine and give all women everywhere the same opportunities for their lives we take for granted in ours.

TRIBUTE FOR JAMES M. MURPHY

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. TALENT. Mr. Speaker, today I rise to pay tribute to one of my constituents, Mr. James M. Murphy. Mr. Murphy has been recognized as the 1996 Outstanding Businessperson of the Year by the Creve Coeur-Olivette Chamber of Commerce. This award highlights his continuing efforts not only with the chamber, but with the entire St. Louis construction and business community. It is indeed an honor to recognize his hard work and efforts as an outstanding leader and citizen.

The following proclamation was presented to Mr. Murphy by the Creve Coeur-Olivette Chamber of Commerce, in recognition of his outstanding accomplishments.

Whereas Jim Murphy, president of Murphy Company Mechanical Contractors and Engineers, has served as the president of the Olivette Economic Development Commission, and

Whereas his leadership of the Commission has contributed to the economic stability of Olivette, and created economic growth for the City of Olivette, and

Whereas he has achieved unprecedented national success for his company in the construction and business communities, and

Whereas he has served the St. Louis business community through leadership and dedication, and

Whereas he has unselfishly devoted both time and effort to the health and welfare of the St. Louis community by supporting charitable, civic and business organizations, and

Whereas he has demonstrated the highest ethical values in the conduct of his business and personal life, and

Whereas his support of educational excellence has contributed to providing unlimited opportunity for future business and community leaders. Therefore be it

Resolved, That James J. Murphy, Jr., be honored by the memership of the Creve Coeur-Olivette Chamber of Commerce as the 1996 Outstanding Businessperson of the Year.

Mr. Speaker, I join the chamber and the St. Louis business community, in honoring Mr. Murphy for his continuing service to our community. His efforts are an inspiration to us all.

A TRIBUTE TO THE HONORABLE JUDGE MARY E. MC DEVITT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BONIOR. Mr. Speaker, I rise to pay tribute to the Honorable Judge Mary E. McDevitt on the occasion of her retirement from the 39th district court in Roseville, MI. It will be my pleasure to enter this statement into the official CONGRESSIONAL RECORD in February when the 105th Congress convenes.

Over the years, Judge McDevitt has enjoyed a fine reputation as a distinguished jurist in our community and throughout the State of Michigan. She has demonstrated her legal expertise both as a Justice of the Peace in Erin Township and in Roseville where she has served as district judge for 39 years.

Judge McDevitt also served as a probation officer and investigator for adoptive and boarding home parents as the Macomb County Probate Court, Juvenile Division. She has been affiliated with many professional organizations, such as the American Bar Association, and has generously volunteered her time for civic activities.

Mr. Speaker, on the special occasion of her retirement after 39 years on the bench, I ask my colleagues to join me in extending best wishes to Judge McDevitt and her entire family. Her dedication and commitment will be greatly missed.

TRIBUTE TO JIM KELLY

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. QUINN. Mr. Speaker, I rise today to honor Mr. Jim Kelly on the occasion of his retirement as quarterback for the Buffalo Bills.

Throughout its celebrated history, the Buffalo Bills have never enjoyed the tremendous success it did under the able leadership of Jim Kelly. During his 11-year career, Jim Kelly took the Bills from league obscurity to four consecutive Super Bowls. He amassed nearly 36,000 passing yards, completing over 60 percent of his attempts. But with Jim Kelly, statistics only tell half the story. His toughness, will to win, and dedication to his team are truly legendary.

In addition to his Hall of Fame caliber performance as a professional quarterback, Jim Kelly has proven himself a leader off the field in our western New York community. His charitable endeavors include an annual celebrity golf tournament to benefit disadvantaged children, involvement with area youth through an annual football camp, the Kelly for Kids Foundation, and his tireless effort on behalf of Camp Good Days and Special Times for families dealing with cancer.

Jim's own family played an important role in developing the values which made him such a leader in the community and with the Bills. His closeness to his father and brothers, well-known love and admiration for his late mother, Alice, and commitment to his new family embody the true blue-collar values which characterize our community.

Mr. Speaker, today I would like to join with Jim's wife, Jill; his daughter, Erin; his brothers, Pat, Ray, Ed, Dan, and Kevin; his father, Joe; the Buffalo Bills organization; the National Football League; and indeed, our entire western New York community to pay tribute to Mr. Jim Kelly. With retirement comes many new opportunities. May Jim meet every opportunity with the same enthusiasm and vigor in which he demonstrated throughout his brilliant career; and may those opportunities be as fruitful as those in his past.

On behalf of all of the Buffalo Bills fans in western New York and elsewhere, I would just like to express to Jim our sincere thanks and congratulations.

HONORING THE LIONS CLUB OF LAGRANGE ON THE OCCASION OF THEIR 50TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an outstanding service organization located in Ohio's Fifth Congressional District. On May 10, the Lions Club of LaGrange, OH, will celebrate their 50th anniversary.

The city of LaGrange is a community renowned for its civic pride and commitment to service. In 1947, it was home to active churches and school organizations dedicated to helping others. There was not, however, an agency which could coordinate these services to provide for the entire community. It was decided to form a Lions Club and after enlisting 28 good citizens of LaGrange, they became charter members and joined Lions International.

It was a good start and the club was active in the community from the very beginning. Throughout its history there has never been a lack of enthusiasm or volunteer labor for its many projects. In addition, the LaGrange Lions Club has been active throughout the years in zone, State and international Lions.

Anniversaries are a time to reflect upon a steadfast tradition of service. It is also a time to look toward new horizons. Lions have made it their responsibility to serve those in need by keeping pace with the ever increasing challenges facing mankind.

Mr. Speaker, it is obvious that the community and the members of the club have greatly benefited from the effort that was started in 1947. I ask my colleagues to join me today in recognizing the achievements of the LaGrange Lions and encourage them to continue to uphold what has become the standard for service in Ohio.

A TRIBUTE TO MR. THOMAS STRACK AND MS. CHRISTINE KELLY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to two outstanding athletes from my district. Mr. Thomas Strack and Ms. Christine Kelly, who are competing in pairs figure skating at the Special Olympics World Winter Games in Canada, February 1 to 8, 1997.

Mr. Strack of Palos Heights, IL, and Ms. Christine Kelly of Oak Lawn, IL, have skated together for 6 years and are both veterans of local, national, and international special olympics competitions. More important, they are good friends, and have forged friendships with many others through the special olympics.

Tom and Chris, as well as 131 other athletes and 29 coaches from Illinois, will join more than 2,000 competitors from 90 countries vying in five different events at the winter games.

Mr. Speaker, I extend my best wishes to these fine athletes, as well as all the other courageous participants in the 1997 Special Olympics World Winter Games.

TRIBUTE TO JOAN BERKMAN

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. TALENT. Mr. Speaker, today I rise to pay tribute to one of my constituents, Ms. Joan Berkman. Ms. Berkman is being recognized as the outgoing president of the Creve Coeur-Olivette Chamber of Commerce. Her dedication to community service, through her work with the chamber and numerous other organizations, highlights her as an outstanding leader and citizen.

The following proclamation was presented to Ms. Berkman by the Creve Coeur-Olivette Chamber of Commerce, in recognition of her many accomplishments.

> Whereas Joan Berkman, 1996 President of the Creve Coeur-Olivette Chamber of Commerce and Area Manager of External Affairs, Southwestern Bell, and
>
> Whereas as President of the Chamber she has provided outstanding leadership in her commitment to develop partnerships between the residential and business communities, and
>
> Whereas she has challenged, encouraged and motivated the Creve Coeur and Olivette business communities to enhance, promote and sustain the quality of life and economic climate of both communities, and
>
> Whereas under her leadership the Chamber has worked with the City of Creve Coeur and Missouri State Highway Department for improvements to the I–270/Olive Boulevard Interchange, and
>
> Whereas under her leadership the Chamber, in partnership with the City of Olivette, established that city's first Economic Development Council, jointly-funded by the Chamber and City, and
>
> Whereas under her leadership the Chamber established a partnership of governments and business organizations for expansion of MetroLink, and
>
> Whereas for her outstanding contribution to the Creve Coeur-Olivette Chamber of Commerce she was awarded the prestigious Outstanding Businessperson of the Year Award in 1991, and
>
> Whereas she has been recognized for her community service by the University of Missouri-St. Louis, as Volunteer of the Year, and
>
> Whereas she received the President "C" Flag Award for producing and coordinating the "Teen Talent Showcase", and
>
> Whereas she was recipient of the Arthur W. Page Award for Exceptional Performance in

Public Relations for her "Information for the Disabled" Program, a Bell System Award, and

Whereas she has demonstrated unselfish commitment of time and effort through volunteer leadership positions, active participation and support of many charitable, civic and business organizations, and

Whereas she has been an inspiration to us all, and

Therefore be it resolved that Joan Berkman, be honored by the membership of the Creve Coeur-Olivette Chamber of Commerce for her service as the 1996 President of the Creve Coeur-Olivette Chamber of Commerce.

Mr. Speaker, I join the Chamber and the St. Louis business community in honoring Ms. Berkman for her continuing service to our community. Her efforts are an inspiration to us all.

TRIBUTE TO THE WILFANDEL CLUB

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. DIXON. Mr. Speaker, I rise today to salute the Wilfandel Club of Los Angeles, CA, on the occasion of more than 50 years of service to the Los Angeles community. Nearly 3 months into its 52d year, the Wilfandel Club is as strong today as it was more than five decades ago when it organized with a credo of promoting civic betterment, philanthropic endeavors, and general culture.

Founded on November 4, 1945, the Wilfandel Club took its name by combining the names of its primary founders, Mrs. Della Williams, wife of the renowned Los Angeles architect Paul Williams, and Mrs. Fannie Williams, a noted community leader. Though recognized by many in the Los Angeles community for their activism and commitment to social progress, Della and Fannie could not penetrate the barrier of racism which existed through out America—a barrier which excluded them and their fellow African-American sisters and brothers from most of Los Angeles' large hotels and public facilities.

Undeterred, Della Williams and Fannie Williams, joined by a small cadre of like-minded African-American women determined that they would marshal forces to raise capital to purchase and renovate their very own clubhouse. With the help and support of 50 members, the women set course to do just that, purchasing property in the West Adams district of Los Angeles.

The Wilfandel Club rapidly garnered a reputation as the place to hold farewell parties for the young African-American men who went off to fight America's wars, or for the sons and daughters who were leaving to attend college. Over the years, the Wilfandel Club has been one of the primary venues for thousands of wedding ceremonies, numerous community meetings and forums, teas, showers, art exhibits, and dinners.

The club has established a rich legacy of giving back to the community. Honoring founding member's commitment to service, Wilfandel Club members have hosted and/or otherwise participated in numerous activities benefiting Community Health Week, Negro History Week, Los Angeles Beautiful, the Woman of the Year Program, Sojourner Truth, Negro Business and Professional Women, Women's Division—Los Angeles Chamber of Commerce, and the Watts Tower Art Center.

Wilfandel members also have raised thousands of dollars to support the American Cancer Society, the Exceptional Children's Foundation, the Foundation for the Junior Blind, as well as the National Association for the Advancement of Colored People [NAACP].

Today, Wilfandel Club members total more than 60 African-American women, all of whom share a vision and commitment to the goal of enhancing and strengthening the image of African-American women in our society, and in promoting peace, happiness, and personal growth for black women everywhere. For its contributions to the community, the club is the recipient of the Community Service Award, presented by the California State Attorney General.

Mr. Speaker, I am proud to have this occasion to salute the Wilfandel Club as it enters its 52d year of service as an outstanding African-American women's organization. From humble beginnings, its members have shepherded the club to an enviable place in the Los Angeles community, as an exemplary organization dedicated to service and empowerment. The Wilfandel Club continues to live up to the legacy envisioned by its founders. I am pleased to commend club members on their record of service to the community, and ask that you join me in extending our best wishes for at least 50 more years of outstanding service.

TRIBUTE TO MR. FRANKS OF NEW JERSEY

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I rise today to thank the gentleman from New Jersey [Mr. FRANKS] for all his hard work and effort to help us pass a balanced budget amendment to the U.S. Constitution. During the 104th Congress, the Schaefer-Stenholm balanced budget amendment passed the House by a vote of 300 to 132. This was due, in no small part, to the diligent efforts of Mr. FRANKS.

This year, as we prepared to introduce House Joint Resolution 1, Mr. FRANKS' name was inadvertently left off the list of original cosponsors. I regret this error.

Mr. FRANKS is a fiscal conservative and an important member of the House Budget Committee who has led the effort to balance the Federal budget. I look forward to working with him again as we prepare to vote on a balanced budget amendment to the Constitution.

TRIBUTE TO DANIEL C. LAFFERTY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Daniel C. Lafferty, who is being honored this evening for his 18 years of service as the director and health officer of the Macomb County Health Department. It will be my pleasure to enter this statement into the official CONGRESSIONAL RECORD in February when the 105th Congress convenes.

Mr. Lafferty has been a public health leader in the State of Michigan for many years. He has implemented several community-based health programs that have received local, State, and national recognition. As a dedicated and responsive public health advocate, Dan appreciates the need for cooperation and collaboration in order to address community health concerns and problems. Over the years he has worked closely with hospitals in his communities to improve the quality of health care for all county residents.

For the past 18 years, the citizens of Macomb County knew they could always count on Dan Lafferty to perform his responsibilities with professionalism and competence. To serve the public more ably, he has taken numerous important leadership positions. Dan has been active in the Michigan Association for Local Public Health, serving 2 terms as president and 12 years on the Executive Council. Additionally, he has served on Blue Ribbon health committees under 3 separate Governors and has chaired a variety of State and local health and community planning committees. I applaud his efforts to make Macomb County a better place to live.

I am pleased to pay tribute to Dan for all his fine work in making Macomb County a healthier community. As family and friends and associates gather tonight to honor him, I am proud to join in saluting Daniel Lafferty.

TRIBUTE TO WALTER FRANCHUK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Walt Franchuck, a former trustee in Lenox Township and friend. After 30 years of devoted service to the people of Macomb County, Mr. Franchuk has decided to retire. It will be my pleasure to enter this statement into the official CONGRESSIONAL RECORD in February when the 105th Congress convenes.

For three decades, the residents knew they could count on Walt Franchuk to perform his responsibilities with professionalism and competence. One of New Haven's elder statesmen, he served 10 years as the supervisor of Lenox Township. He was elected in 1962 to the County Board of Commissioners, and also served as chairman in 1985 and 1986. Mr. Franchuk sampled retirement after departing the board in 1988, but it was short-lived. He was elected as a trustee in Lenox Township in 1992.

On November 6, 1996, he announced his retirement from his long career in politics. He finished where he started—as a member of the Lenox Township Board. He and his wife, Freda, will no doubt enjoy this time as they spend their retirement visiting with family.

After 30 years of public service, I thank him for his efforts and commend him for his work. I am sure that many folks will miss Walt Franchuk and he deserves all the best in the future. I ask that my colleagues join me in offering sincere congratulations to him and his family on the event of his retirement.

A TRIBUTE TO CAPT. RICHARD "DICK" TRACY ON HIS RETIREMENT FROM LAW ENFORCEMENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to an outstanding police officer on his retirement after more than 40 years in law enforcement—Capt. Richard Tracy, the real Dick Tracy.

Captain Tracy, a Chicago native and resident of Garfield Ridge neighborhood in my district, has spent four decades at virtually every level of law enforcement, starting as a Parole Officer walking the beat with the Chicago Police Department in 1956. He worked his way up through the ranks and various assignments, including narcotics and burglary investigations, as well as a stint as an investigator with the Cook County State's attorney. Captain Tracy made sergeant in 1962, serving as a patrol supervisor and an instructor in the training division.

In 1967, he went from the big city to a small town, taking the position of Chief of Police in Pottstown, PA, where he supervised a force of 36 sworn officers. After 5 years in Pottstown, Captain Tracy became Director of Regional Police of Mid-Monongahela Council of Governments, an experiment in multicommunity law enforcement funded by the U.S. Law Enforcement Administration.

In 1975, he returned to Chicago as a patrol sergeant, who was soon promoted to lieutenant and, in 1987, made captain, serving as a Watch Commander and Commanding Officer of the Graphics Arts section.

Mr. Speaker, I would like to salute Captain Richard, "Dick," Tracy for his dedication and fine service to law enforcement and best wishes.

"POPULATION STILL MATTERS"

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mrs. MORELLA. Mr. Speaker, the first foreign policy vote of the 105th Congress may well take place in the first week of February. This vote will determine the rate of expenditure of appropriated funds for international population assistance. It will have a significant impact on the quality of life for men, women, and children all over the world. I place in the CONGRESSIONAL RECORD for the consideration of my colleagues an editorial from the Baltimore Sun that appeared Saturday, January 18, 1997.

POPULATION STILL MATTERS

Recent reports indicate that world population growth has slowed, and that is good news. But with the number of women of childbearing age increasing by 24 million each year, there needs to be a similar increase in the availability of voluntary family planning programs to maintain the slower rates of growth.

Unfortunately, Congress has put restrictions on U.S. aid to voluntary family planning programs, including unconscionable delays in releasing the funds. Next month, after President Clinton certifies that the funding delays are "having a negative impact on the proper functioning" of the programs, both Houses of Congress will have a chance to approve the finding. If they do, family planning aid can begin flowing again March 1, rather than waiting until July.

Congressional votes on family planning often get tangled up with abortion. But these votes, having to do only with the timing of the release of funds already appropriated, provide a clean vote on support for voluntary family planning. They have nothing to do with abortion.

Population growth in itself is not a bad thing. But without rises in incomes and purchasing power in the developing countries where most of this increase occurs, continued growth in the world economy could be threatened. And as population puts pressures on land, firewood and other rural resources, poor people flock to cities, creating even more stress on fragile water, sanitary and social service infrastructures. In developing countries, cities usually grow twice as fast as the population as a whole. Anyone familiar with Mexico City, Manila or any other megalopolis knows what that can do to the quality of life in urban areas.

But the strongest argument for family planning aid is the beneficial effect it has on the health of mothers and their children. Voluntary programs often provide the only reproductive health care available to women in developing countries.

By spacing their children two years apart, these women are able to increase the chances that their infants will survive, while helping them preserve their own health. About 600,000 women die in childbirth every year, leaving millions of orphans. And each year some 15 million pregnant women are left with debilitating injuries, infections or other complications. That is too heavy a toll to sacrifice to ideological posturing to please domestic constituencies.

PROFESSIONAL SERVICE TRADE CORPS ACT OF 1997

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Ms. KAPTUR. Mr. Speaker, one key reform essential to assure strong economic growth in our U.S. marketplace as well as to reduce the chronic U.S. trade deficit, is to upgrade the skill level of our U.S. trade negotiators. America must move our products into foreign markets, and assure that our trade negotiators are trustworthy.

The bill, the Professional Trade Service Corps, would achieve these goals by creating an accomplished professional body of American trade negotiators. Just like diplomats in our Foreign Service, our trade representatives are America's conveyors of our Nation's economic and political interests.

Specifically, the act authorizes the creation of the Professional Trade Service Corps to fill key trade positions in the six Federal agencies with major trade-related functions or offices. It will insure better coordination and continuity of service among the Office of the United States Trade Representative, the State Department, the Commerce Department, the Agriculture Department, the Labor Department, and the Treasury Department in their trade-related functions.

We would not allow graduates of West Point to lead foreign armies against our country. We should not allow trade negotiators trained at taxpayer expense to leave Government service and represent foreign interests against the best interests of our Government. We must treat this situation as seriously as any international proceeding.

There is a revolving door at the highest levels of government service that foreign interests use to manipulate our trade policies and destroy U.S. industries and jobs. This bill will go a long way to establishing standards to remedy this egregious problem.

The Professional Trade Service Corps Act will create a cadre of career trade professionals similar to the Foreign Service, identify key trade-related positions, and staff these positions with broadly trained experts in this highly specialized area. Just as importantly, it establishes a career path for continued government service and advancement, encourages continuity of staffing with the carrot of incentives, and the stick of postemployment restrictions.

This corps of trade professionals will be constituted of applicants chosen through a rigorous selection process. They will be carefully trained to establish a high level of excellence in these key trade positions.

To meet these objectives, this act establishes a Trade Service Corps Institute to provide specialized training which will include: the history of U.S. trade negotiations; trade negotiating strategies; the economics and politics of trade; the cultural and business practices of countries with which the United States has significant trade relations; foreign language instruction; and instruction in the operations within and the interrelationships among the various trade-related agencies.

This act will require the Professional Trade Service Corps members to remain in government service for a period of time at least three times the length of their training, and subject them, as well as the legislative branch, to postemployment restrictions in their representation of foreign interests in trade-related matters.

It is time to stop the revolving door which threatens our trade interests and jobs. This bill is an important step in that direction. The Professional Trade Service Corps Act presents a comprehensive strategy for improving the quality and integrity of our trade negotiators.

We must protect our economic and trade interests; to do otherwise is to compromise our national security.

Mr. Speaker, I urge the support of all of my distinguished colleagues and ask that they join me in cosponsoring the Professional Trade Services Corps Act of 1997.

INTRODUCTION OF HEALTHY START ACT OF 1997

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. STARK. Mr. Speaker, today, I am introducing a variation of a bill proposed in the last Congress by our colleague, Representative Sam Gibbons of Florida, to provide universal health insurance for all American children and their mothers during pregnancy. The bill, entitled the Healthy Start Act of 1997, will end the national disgrace of 10 million uninsured children under age 18 and American women going through pregnancy without health insurance and without adequate prenatal care.

The bill is an investment in the future: healthier mothers and their children will mean a better American work force and economy. This bill has a price tag—but it has a pay-out that is beyond calculation in dollars and in a better quality of life.

The bill would ensure that every child in America up to age 18 and every pregnant woman would have health insurance roughly equivalent to the Medicare package of benefits, enhanced with pregnancy, well-baby, well-child and EPSDT benefits.

The bill is very, very simple: If a family does not have this package of insurance through the private market or the workplace, they would be required to buy it. If they are below the poverty level, they would owe nothing. Above the poverty level, they would buy it on a sliding scale basis, with premiums paid through the tax system.

The bill is a form of individual mandate: each parent is responsible for doing the right thing by their kids—and the Government's role is to make it affordable.

We have business alone.

We allow people to buy private policies as an alternative.

We maintain freedom of choice.

We don't disrupt families who already have insurance and are happy with their policies.

The need for this type of legislation is eloquently described in Representative Gibbons introductory remarks, and I refer readers to page E1252 of the July 11, 1996, CONGRESSIONAL RECORD. The only difference between this bill and the original Gibbons bill is that my bill covers all children up to age 18, rather than age 13, and adds the EPSDT benefits as part of the required coverage for children.

I am also introducing today a bill for a refundable, phased-out tax credit to help parents buy a kids-only health insurance policy. Frankly, I think the universal insurance bill that I've described in this speech is the ideal approach. It is a model of what a civilized nation ought to provide for its people. It is the platonic ideal of a bill—and it is also unlikely to pass in this Congress. The perfect should not be the enemy of the good, and therefore I am also proposing the tax credit legislation as a way to help children which is passable in the 105th Congress.

I remain firm in the faith that when our Nation's social conscience reawakes, the type of social insurance universal coverage bill I've described in this speech will become the law of the land.

SOCIAL SECURITY PRIVATIZATION—A RED HERRING

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. DINGELL. Mr. Speaker, I rise today to share with you the following article from the January 14, 1997, business section of the Washington Post. Written by Allan Sloan, this article accurately highlights some of the pitfalls with Social Security privatization. The golden goose, which some regard the stock market to be, may, in fact, be a red herring. Mr. Speaker, I ask that the above-referenced newspaper article be printed in the RECORD at this point.

IN STOCKS AND SOCIAL SECURITY, A FREE LUNCH IS PURE FANTASY

If you're so worried about Social Security that you stay awake nights, cheer up. A solution is at hand. To ensure a good night's slumber, sit down at bedtime with the report issued last week by the Advisory Council on Social Security. This 752-page, two-volume opus is so complicated, technical and jargon-laden that it makes your average computer instruction manual look like a comic book.

By now, you're probably over-familiar with the details. The council, formed in 1994, was expected to propose rescuing Social Security by raising taxes and trimming benefits. Surprise! Instead of relying on this traditional but painful fix, the council proposed to "reform" the system's retirement and disability programs by betting trillions of dollars on stocks. That's trillions, with a "t."

Talk about the temptations of a bull market. Rather than bite the bullet on Social Security, we can all chow down on a free lunch. Stock market profits will keep baby boomers fat and happy in retirement; Generation X's taxes won't go through the roof to make the boomers' golden years glorious.

But you know what? It's all fantasy. Lots of Americans favor putting some of the funds into stocks. But if we're silly enough to try it, it won't work. Let's back up a bit before explaining why.

The free lunch proposed by the council comes in three varieties, because the members couldn't agree on the most appetizing dish. The first would make the federal government the world's biggest stockholder. The second would establish a new 1.6 percent tax on Social Security-covered wages and require people to invest the money in one of a half dozen or so government-sponsored funds. The third would require people to save 5 percent of Social Security wages in accounts holding any kind of publicly traded securities they wish, would have Uncle Sam borrow as much as $7 trillion to pay benefits to make up for the money that would be invested rather than redistributed to retirees, and would finance it all with a 1.52 percent tax on top of the existing 12.4 percent tax.

Let's concentrate on the idea of putting the Social Security fund in stocks, which seems more likely to be taken seriously in Washington than the forced-savings approaches.

What all three plans have in common is that they would throw us willy-nilly into a high-stakes game of retirement roulette, betting the nation's financial future (or the futures of millions of individual retirees) on the stock market. The council didn't start out to do this. Initially its members tried to agree on a cuts-and-taxes fix. But some members feared that sharp tax increases and benefit cutbacks would erode Social Security's political base by making people think the program is a lousy investment.

How did the council's biggest faction—6 of 13 members—decide to put 40 percent of the Social Security fund in stocks? "That's the amount that makes things come out," says panel member Robert Ball, the former Social Security commissioner who's pushing this plan hard.

Ball says it's perfectly safe for Social Security to have its money in the hundreds (or thousands) of stocks that make up an index such as the Standard & Poor's 500 or the Russell 3000. Why does Ball say that's safe? Because unlike individual investors, the government won't panic during downturns or be forced to liquidate its holdings at low prices to generate cash.

Unfortunately, he's wrong. The Treasury would in fact find itself a few trillion dollars in the hole if stocks merely rose at a rate lower than the council projects.

Here's the problem. In a triumph of statistic over common sense, the council's plans all assume that stock prices will rise more quickly than they have in the past. A dubious prospect, considering that stock prices already are at such nosebleed-high levels that even many bulls have gotten nervous stomachs.

Anyone who has studied financial history, even a little, gets very nervous when people confidently predict what stock prices will be in 75 years. Betting that stock prices will keep rising rapidly because they have been rising rapidly "is like the guys on Noah's ark projecting six more weeks of rain on the 39th day," says Joseph Rosenberg, chief investment strategist at Loews Corp. and one of Wall Street's most respected investors. "You can't believe how dumb a government can be."

Rosenberg points out that stocks don't necessarily spring back quickly from deep drops the way they did after the 1987 market crash. Stocks didn't regain their 1929 highs until 1954, Rosenberg notes, and it took almost 10 years for stocks to match the highs they reached in 1973.

But even absent a 1929 or 1973 disaster, stocks aren't likely to make the money the council projects.

Here's why. Combining several different assumptions, the council projects that inflation will be 4 percent a year, bonds will yield 2.3 percentage points more than inflation and stocks will produce 7 percent more. That works out to 6.39 percent for bonds and 11.28 percent for stocks, says Stephen Goss, deputy chief actuary of the Social Security Administration. The stock number includes capital gains and reinvested dividends.

Now, 11.28 percent a year may not strike you as a big hurdle, given that stocks earned three times 11.28 in 1995 and twice as much last year. But it's a huge number. Consider Corporate America's expectations of the market. Greenwich Associates, a consulting firm, says the corporate pension managers it surveyed expect stocks to average 9.6 percent annually for the next five years.

Maybe my harping on the 11.28 percent projected return for stocks is wasting your time. But look what happens when numbers differ by small amounts over decades. Let's compare the 11.28 percent a year the council projects with the 10.71 percent a year that Ibbotson Associates says stocks earned from 1926 through 1996, a 71-year period.

Do the math—don't try it without a compounding calculator—and you see that $1 invested in 1926 had become $1,372 by last Dec. 31. But if stocks had earned the council's projected 11.28 percent, our dollar would have grown to $1,975. A big difference, eh? It means that if stocks rise for the next 71 years at the Ibbotson rate instead of the council's rate, Social Security's stock portfolio would be worth 30 percent less than the council projects.

What terrifies me and many Wall Street types is the prospect of the government pounding into the stock market running prices to the moon with automatic buying, and then having the market crash on us for some reason that we can't yet foresee.

It's one thing for someone like me, who makes a very good living, to bet on the stock market. I can afford to lose. But betting the federal budget on stocks is madness. And forcing millions of people who don't know stocks from smocks to let the market determine whether their retirement dinners will consist of cat food or caviar doesn't seem like the way we should treat people. If we're going to fix Social Security, let's do the boring, painful things that we know will work. And let's try to remember the prime rule of economics. There ain't no such thing as a free lunch.

TRIBUTE TO ROBERTA STANLEY

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, one of the pleasures of serving this body, is the opportunity to recognize outstanding individuals from across the Nation. It is with great pride that I rise to congratulate Mrs. Roberta Stanley of Waltham, MA, who will be honored today by the Waltham and Greater Boston Business and Professional Women's Club.

I have had the privilege of knowing Roberta Stanley for many years and can attest to her outstanding community activism. She has distinguished herself through her exceptional commitment to helping those in need. In addition, her dynamic leadership and participation in public service, such as serving as a member of the Democratic city committees, has made the city of Waltham a better place to live.

Mr. Speaker, I am sure that I speak for everyone who has either worked with Roberta or benefited from her work when I offer my warmest congratulations and best wishes on this special day as she is honored for the many contributions she has made to the community.

INTRODUCTION OF LEGISLATION TO CLARIFY THAT FREQUENT FLIER MILEAGE IS NOT TAXABLE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mrs. KENNELLY. Mr. Speaker, I rise today to introduce legislation to clarify that frequent flier mileage is not taxable. I believe that frequent flier miles are not taxable under current law. However, in light of the Internal Revenue Service's position in technical advice memorandum 9547001 and despite the fact that technical advice memoranda only apply to a given taxpayer and set of circumstances, I feel a clarification is necessary.

The technical advice memorandum would require employers that permit employees to use frequent flyer miles for personal trips to report as income on workers' W–2 forms the full cost of plane tickets that led to the accumulation of the frequent flier miles. This simply makes no sense.

This is one of those areas where taxation would raise a myriad of questions for which there is no single correct answer, such as appropriate timing—would miles be taxed when earned or when used; valuation—is a mile earned from a credit card equal to a mile earned by flying a particular airline—what is the correct value of a ticket or a free upgrade in light of the fact that any given flight has a myriad of service classes; segregation—do employees have to try and keep track of which miles were earned for personal travel, which miles were earned for business travel, and which miles are earned from using a credit card, or using a particular long-distance carrier? Taxation of frequent flier miles would only result in mindless complication and paperwork of nightmarish proportions for millions of Americans, the airlines and the Internal Revenue Service. And the Service should realize this.

At a time when over 15 million Americans are enrolled in frequent flier programs and suspicion that the Internal Revenue Code is not fair and needlessly complex is at an all time high, it would be sheer folly for the Service to move in this area. They have opened, closed, and reopened several projects to address the tax treatment of frequent flier miles over the years, all to no avail.

I believe that frequent flier miles are not taxable under current law and should remain that way. My bill would simply explicitly say that frequent flier miles are not taxable. I urge my colleagues' support.

A POINT-OF-LIGHT FOR ALL AMERICANS: SHIRLEY URSULA GRABER

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. OWENS. Mr. Speaker, I rise to honor the memory of Shirley Ursula Graber, an individual who was a committed fighter for racial and gender equality, and social and economic justice. As a social architect, community leader, teacher, and trusted confidant, she harbored a great faith in people, believing that everyone was capable of growth. During her journey in this world, Ms. Graber's unwavering activism influenced many—young and old—to become catalysts of change. Ms. Shirley Ursula Graber is a great Point-of-Light whose citizenship, passion, and accomplishments should be saluted as a source of inspiration for all Americans.

From her college days to age 72 when she succumbed to a grave illness, Shirley Graber's principles were placed strategically into action. She was copresident of Brooklyn NOW—National Organization for Women—and executive board member of Brooklyn OWL—Older Women's League. At Brooklyn NOW, she led just a handful of dedicated women to prevent the dissolution of the chapter in the early 1990's. Consequently, the chapter was brought to new heights of activism and political awareness, and is now 350 members strong with a solid core of active advocates. At Brooklyn OWL, Ms. Graber influenced the focus and success of the 250-member chapter in its advocacy of issues especially significant to women in their golden years.

Shirley Graber always recognized and attacked any person, effort or idea that threatened the social condition of women. She spearheaded the formation and served as Chair of the Coalition to Save the Brooklyn College Women's Center. This union of women's organizations in Brooklyn fought to save the oldest women's center in New York State that had been threatened with extinction by budget cuts.

Ms, Graber thoroughly appreciated the historical transformation of women's rights in America. She was dedicated to completing this transformation and furthering such rights. For example, Ms. Graber possessed a fervent core belief in the need for an equal rights amendment to the U.S. Constitution. In honor of her ideas and endeavors, she received the New York State NOW Woman to Woman Award. A plaque in her honor is also scheduled for installation in the Women's Hall of Fame at Seneca Falls, NY—the birthplace of the U.S. women's suffrage movement.

Shirley Graber was the daughter of a steel mill union organizer and a strong-minded mother, who in her 90's is still an outspoken community and women's rights advocate. A resident of Brooklyn, NY, Ms. Graber was born in Cleveland, OH and moved to New York in 1948 to attend graduate school. She first attended Ursuline College in Ohio, the first member of her family to obtain a postsecondary education.

As evidenced in her life activities, it is difficult to determine where Ms. Graber's professional, civic, and personal life began and ended. The fervor and skill with which she carried out her work as teacher, organizer, and counselor were inextricably connected to her larger goals of equality and justice for all. Consistently, she not only uplifted her community and her gender, but she improved the quality of life for everyone. A consummate team player, pillar of support, and unifying force behind numerous noteworthy efforts, Shirley Ursula

Graber is a great Point-of-Light for all the children, women, and men of America.

REMEMBERING JIM RICE

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. SABO. Mr. Speaker, today, I rise to pay tribute to the life of Jim Rice, a friend and fellow Minnesotan who so skillfully served his State and his community as a member of the Minnesota State Legislature for 26 years. Jim died unexpectedly in October at age 71. But it is not his death that I, his family, and his north Minneapolis community will remember most—rather it is his life and the colorful force of his personality.

Jim Rice was often described as one of the last few characters to inhabit the Minnesota House. It's been said he could "strip the bark off a debating opponent with verbal broadsides that used everything from Shakespeare to quotations of bar-stool philosophers on Minneapolis' north side."

I served with Jim in the Minnesota Legislature before coming to Congress, and I got to see him in action. He was not only a forceful orator on the House floor, but also a skilled legislator with a deep concern for working families, the poor, the arts, and the preservation of the rich history of north Minneapolis neighborhoods.

Prior to serving in the legislature, Jim served as a Hennepin County Parks Commissioner, and before that as executive secretary to former Minnesota Gov. Karl Rolvaag. Earlier, he served in the infantry in World War II. Jim and his wife Jill made time to lovingly raise 8 children, and later to spend time with their 11 grandchildren.

I will close by including a letter Jim wrote to congratulate his grandson, John Conor Creber, for learning to read. It is a memento the family cherishes, and a vivid example of Jim's passion for learning. It shows the type of man Jim Rice was:

> DEAR JOHN CONOR:
>
> When your pretty mama told Grandma Jilly that you had learned to read the other night I wanted to get on the phone right then to tell you how wonderful that news was to me. It was so wonderful that I decided that writing to you would be much better.
>
> With your hard work you have developed a gift or talent that is greater than almost anything that will ever happen to you. Your ability to read is better than any toy in the world; it will never break. It is better than your sports equipment; it will never wear out. It will never get lost or go away from you; it will grow and grow all the days of your life.
>
> It will be your best friend. It will help you to love other people and they will love you. It will help you to help other people and they will help you.
>
> It works like this; when you don't know something, you get a book or a map or a pamphlet and you learn about it. You don't ever have to be afraid or ashamed to say, "I don't know," because you will be able to read about it the first chance you get.
>
> You will make more and better friends; everyone likes a person who has read many books and articles because that person is a delight with whom to be.
>
> Your reading will make you laugh and cry. It will make you happy and sad. It will teach you about the whole world and all the people in the world.
>
> You have always been one of the nicest boys I have ever known. Now, you have the ability to give brightness to everyone.
>
> We are all very proud of you and thank you for your hard work.
>
> With Love,
>
> GRANDPA.

Mr. Speaker, Jim Rice will be missed, but not forgotten.

INTRODUCTION OF THE COMMODITY EXCHANGE ACT AMENDMENTS OF 1997

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. EWING. Mr. Speaker, today I am reintroducing legislation to reform the Commodity Exchange Act [CEAct] which governs the regulation of futures and options on U.S. commodity exchanges and other risk management financial instruments that are traded in over-the-counter markets.

This legislation is identical to H.R. 4276 introduced in the 104th Congress. Briefly, the legislation provides a conditional exemption for certain transactions involving professional markets, clarifies the effect of the designation of a board of trade as a contract market, simplifies the process for submission and disapproval of contract market rules, regulates audit trail requirements, establishes cost-benefit analysis requirements, repeals the Commodity Futures Trading Commission's deficiency order authority, and clarifies the impact of the section 2(a)(1)(A)(ii) of the CEAct commonly known as the Treasury amendment.

The purpose of the legislation is to assure the competitiveness of the U.S. futures industry, to preserve the vitality of price discovery and hedging functions of the futures markets and to recognize the impact of technology on our markets. The legislation I am introducing today is designed to serve as a discussion document as the House Agriculture Committee prepares to debate the many issues involved in reform of the CEAct.

In an effort to further discussion, the committee has requested comment from industry representatives directly and indirectly impacted by the CEAct including producer groups, self-regulating organizations, exchanges, the Commodity Futures Trading Commission, and the U.S. Department of Agriculture. I look forward to working with interested entities in the industry and with my colleagues on both sides of the aisle as we proceed with this necessary reform.

TRIBUTE TO THE MINNESOTA VETERINARY MEDICAL ASSOCIATION ON ITS 100TH ANNIVERSARY

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to the members of the Minnesota Veterinary Medical Association and its members' 100 years of faithful service to Minnesotans.

Over the years, the members of the association have provided exceptional animal health care, food safety, and public health services through the adherence to the highest professional standards of veterinary medicine.

The association was founded in 1897 by 13 veterinarians to further cultivate the science and art of comparative medicine and to promote livestock production as a branch of the agricultural industry. They also worked to protect high educational and ethical standards within their profession and to promote educational opportunities for the veterinarians of Minnesota.

Mr. Speaker, the veterinarians of Minnesota have been a crucial health care provider for the animal population in my State for the last 100 years—making consumers, pets, their owners, and the rural economy of our State a healthier place. I wholeheartedly applaud the 1,400 current members of the association for their dedication and service to the people of Minnesota.

TRIBUTE TO LIA B. BOWLER

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. TALENT. Mr. Speaker, I rise today to honor the outstanding accomplishments of 2d Lt. Lia B. Bowler. In December, Ms. Bowler successfully completed Marine Corps Officer Candidate School. In the fine tradition of the corps, she persevered through the rigors of the training and was accepted into the elite group of Americans that serve our country as officers in the Marine Corps.

Yet, Mr. Speaker, I rise today not only to congratulate Ms. Bowler on her commission, but also to recognize her outstanding work for the Second Congressional District of Missouri. We had the honor of her service first as an intern and later as our system administrator. In the almost 2 years she worked in the Washington office, she exhibited a dedication, diligence, and professionalism which were highly valued by everyone who worked with her. Although her loss to the Marine Corps will be felt by our office, it will be a gain for the Marines. Therefore, it is with great confidence that I can say her service as an officer will be in the highest traditions of the corps.

INTRODUCTION OF LEGISLATION TO CORRECT MEDICARE BENEFICIARY OVERCHARGES IN HOSPITAL OUTPATIENT DEPARTMENTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. STARK. Mr. Speaker, I am today introducing with Representative WILLIAM COYNE a bill to correct a glaring failure in the Medicare program—the massive over-charging of beneficiaries in hospital outpatient departments [HOPD's].

This bill will save Medicare disabled and senior beneficiaries about $35.7 billion between 1999 and 2003. It will stop the steady, upward climb in the percentage of HOPD costs that beneficiaries have to pay. Usually beneficiaries pay 20 percent of a set fee schedule for part B services. The way the HOPD law was drafted, however, has caused the beneficiary share of HOPD costs to climb to about 45 percent of outpatient department revenues. If the law is not corrected, seniors will pay an ever-increasing percentage.

Our bill will stop the rise in the beneficiaries' effective percentage payment and return it to the 20 percent that Medicare beneficiaries were promised. There are reports that the President's Medicare budget proposal will include a correction of the HOPD problem, but over a 10-year period. The President is to be congratulated for finally addressing this issue. We believe it should be done more quickly, and would like to work with interested parties to find the best way to pay for this program improvement at the same time we are making other savings to extend the life of the Medicare part A trust fund.

The HOPD problem is a serious one, with no easy solutions. In 1995, the Secretary of HHS presented a lengthy report to Congress that discussed a number of possible solutions—see attachment No. 1. We have adopted the basic ideas from that report and establish an HOPD prospective payment system and a correction of what is known as the formula-driven overpayment [FDO].

How did this problem arise? Hospital outpatient departments do all kinds of things like tests, x rays, and surgeries that the Secretary of HHS has determined can be safely done in an outpatient setting. HOPD services are paid under Part B. The key to the problem lies in the fact that Medicare pays HOPD's on a reasonable cost basis and not based on a prospective payment system [PPS] or fee system. Since costs are determined retroactively, the hospitals get paid retroactively by Medicare, but bill the patient at the time of service. At the time the patient gets the service and leaves the HOPD, we are unable to say for sure what the patient's 20 percent copayment is, since there is no set schedule of fees. As a result, the system was established in such a way that coinsurance is calculated based on charges at time of service. The charges, of course, may have little or no relation to costs and have crept up over time relative to what Medicare ends up actually paying for the cost of the service. So instead of paying 20 percent of a set and known fee, the seniors and disabled are paying 20 percent of charges. In 1996, this has become the equivalent of about 45 percent of the total payment to the hospital, Medicare plus coinsurance.

There is often a complication in the payment system I've just described for certain types of services provided in HOPD's, which results in what is called a formula-driven overpayment. If the surgery done in the HOPD is one that could have been done in an ambulatory surgery center and ASC's do about 2,700 different kinds of procedures, so there is a lot of overlap, then the amount of the Medicare payment is calculated differently. The payment calculation is also determined differently for radiology and diagnostic services performed in hospital OPD's compared to other services. For these services, the payment is either the lower of: One, reasonable cost as I've described in the previous paragraph, or two; a blended amount that is based partially on the reasonable cost in No. 1 and partially on either the ASC payment rate, for surgical services, or the physician fee schedule, for diagnostic and radiology services.

Because of a drafting error in the payment formula, however, Medicare payments for the services paid on the basis of the blended amount are higher than they should be. This is because the computation of the Medicare payment is done in such a way that it is not reduced by the full amount of the actual coinsurance paid by the beneficiary. In contrast, for OPD services other than surgery, radiology, and diagnostic, every dollar a beneficiary pays in coinsurance results in a decrease of $1 in what Medicare pays. As a result of this erroneous payment formula, Medicare payments are higher than intended. Furthermore, hospitals have an incentive to increase their charges because they will receive more from Medicare. This bill would correct this formula-driven overpayment. Attachment No. 2 explains the math in a specific example that makes the problem clearer than my words can describe.

We will be submitting a detailed explanation of how this bill will work to restore the proper balance between hospital billings and the obligations of beneficiaries. We hope that this legislation can be enacted soon, before the burden on seniors and the disabled becomes even more unfair.

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, March 17, 1995.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington DC.

DEAR MR. PRESIDENT: I am respectfully submitting the report on Medicare hospital outpatient prospective payment as required by section 4151(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508). This section requires the Secretary of Health and Human Services to develop a proposal to replace the current Medicare payment system for hospital outpatient services with a prospective payment system.

The report presents a phased approach to the establishment of a hospital outpatient prospective payment system. For the first phase, a prospective payment system would be for hospital outpatient surgery, radiology, and other diagnostic procedures. As further research is completed, the payment system could be expanded to cover all hospital outpatient services.

The report discusses an issue with the amount of coinsurance that Medicare beneficiaries pay for outpatient surgery, radiology and other diagnostic procedures. Current law requires that beneficiaries pay 20 percent of *submitted charges*. However, in the recent past, hospitals' submitted charges have substantially exceeded Medicare's *payment* for these services, so that most of the time beneficiary coinsurance payments substantially exceed 20 percent of Medicare's payment. If Congress chose to set beneficiary coinsurance at 20 percent of Medicare allowed payments, this act would require a substantial increase in program expenditures and also could affect payments to providers. Even incremental modifications in the coinsurance percentage can have substantial impacts on Medicare program expenditures. Should Congress decide to modify current coinsurance arrangements, the report presents a number of alternatives and displays their costs to the Medicare program.

In addition, the report discusses a related problem with the current payment formula that results in an unintended increase in Medicare payments—the so-called "formula driven overpayment." We believe this result was not intended by Congress. If Congress chooses to address this issue, the correction can be made separately or as part of the implementation of a prospective payment system.

I am also sending a copy of this report to the Speaker of the House of Representatives.

Sincerely,

DONNA E. SHALALA.

Enclosure.

FORMULA-DRIVEN OVERPAYMENT TO HOSPITALS

As mentioned in previous sections, there is an anomaly that occurs with Medicare's payment when payment is made under the blended rate for hospital outpatient services. Beneficiaries pay 20 percent of hospital charges as coinsurance on most hospital outpatient services. Generally, every dollar a beneficiary pays in coinsurance results in a corresponding decrease of $1 in Medicare payment. To illustrate, assume a beneficiary receives a hospital outpatient service for which the Medicare payment is based on the lower of the hospital's reasonable costs or its customary charges. The hospital charges $1,000 and its costs are $750. Payment is determined as follows:

Total payment to the hospital	$750
Beneficiary payment ($1,000×20%)	−(200)
Medicare program payment	$550

If the hospital increases its charges, the beneficiary's coinsurance will increase, the Program payment will decrease, but the total amount realized by the hospital will not change.

This is not the case for coinsurance paid for procedures that are paid on the basis of a blended rate. For example, the blend for ASC approved surgical procedures consists of 42 percent of the hospital's costs or charges net of coinsurance, whichever is less, and 58 percent of 80 percent of the ASC payment rates. Because the blend is determined net of the coinsurance that would have been paid to an ASC (20 percent of payment rates), instead of the 20 percent of charges the beneficiary actually paid, Medicare does not get the full benefit of the actual coinsurance when the hospital's charges exceed the ASC payment rates. That is, to the extent that 20 percent of hospital charges exceed 20 percent of the ASC payment rates. Medicare's payment is higher than it should be since the formula assumes a lower copayment than is actually provided. Medicare does not receive the benefit of 58 percent of the difference between 20 percent of charges and 20 percent of the ASC rate, and the hospital retains the amount. For purposes of this report, this amount is called the formula-driven overpayment.

The following example illustrates how the blended payment method transfers a portion of the benefit of coinsurance away from the Medicare program to the benefit of hospitals. The result is that hospitals receive more payment than intended by statute, while the Medicare program pays more:

Assume a Medicare beneficiary receives an ASC procedure in a hospital outpatient department. The hospital charges $1,000, its costs for performing the surgery are $750, and the ASC payment rate for the procedure is $585. Assume the annual deductible has been met. The beneficiary's coinsurance payment is $200 (i.e., $1,000×20%). The Medicare program payment is calculated as the lower of:

1. The lower of the hospital's reasonable cost or its customary charges, net of deductible and coinsurance amounts:	
$750 − $200	$550
or	
2. A blended amount comprised of:	
42 percent of the lower of the hospital's costs or charges, net of deductible and coinsurance (see 1 above):.	
42%×$550	$231
and	
58 percent of 80 percent of the ASC payment rates, net of deductible:	
58% (80%×$585)	271
Total	$502
The blended amount is the lowest and, therefore, the amount the Medicare program pays. The hospital receives:	
From the Beneficiary	$200
From the Medicare program	+502
Total	$702

Medicare payment would be lower if the payment were calculated the way it is for other hospital outpatient services and, instead of removing coinsurance and deductibles at each step of the payment calculation, the total payment is calculated first and then is reduced by the amount the beneficiary actually paid. For example:

Determine the lower of:	
1. The lower of the hospital's reasonable cost ($750) or its customary charges ($1,000)	$750
or	
2. A blend of:	
42 percent of the lower of costs or charges:.	
(42%×$750)	$315
and	
58 percent of the ASC payment rate: (58%×585)	+339
Total	$654
Then reduce by beneficiary copayments to arrive at the Medicare program's payment:	
Total Payment	$654
Beneficiary Payment (20%×1,000)	−(200)
Medicare program Payment	$454

The difference between $502 and $454, or $48, represents the formula-driven overpayment which occurs under the current blended payment formulas.

Moreover, because of the way coinsurance is accounted for under the current blended payment methods, the hospital can further increase its total payment by simply increasing its charges. For example, if the hospital increased its charge to $1,300 for the procedure, the hospital would still be paid under the blended payment amount but it would receive:

From the Beneficiary (20%×$1,300)	$260
From the Medicare program	+477
Total	$737

Program payment would be computed as follows:	
42 percent of the lower of the hospital's cost or charges, net of deductibles and coinsurance:	
42%×($750 −$260)	$206
and	
58 percent of 80 percent of the ASC payment rate net of deductible: 58% (80%×$585)	$271
Total	$477

In the first illustration, the hospital charged $1,000 and received a total payment of $702. If the hospital merely increases its charges to $1,300, it will receive $737. As the example shows, for a hospital that is paid based on the blend, the more it charges, the more its total payment (beneficiary plus Medicare program payment) will be. As a result, the current payment system gives an incentive for hospitals to increase charges. (Note: In order to simplify the examples in this section, the blended payment method is shown as it would apply to an individual procedure. In determining actual payments to hospitals, however, the blended payment calculation is applied in the aggregate to all of the ASC approved procedures a hospital performed during a cost reporting period, not on a procedure-by-procedure basis.)

The same situation exists under the current blended payment methods for hospital outpatient radiology and other diagnostic services. We estimate that the magnitude of the formula-driven overpayment that occurs under the blended payment method to be over $950 million in Medicare program payments to hospitals in 1993—approximately 14.8 percent of total payments for these services. This total includes $350 million for ASC approved surgeries and $600 million for radiology and other diagnostic services, respectively. For surgical procedures, this represents 10.8 percent of total payments to hospitals and 20 percent of Program payments to hospitals for these outpatient services. For radiology, the formula-driven overpayment represents 19 percent of total payments to hospitals and 38.7 percent of Program payments. By FY 2001, we estimate the formula-driven overpayment for surgery, radiology and other diagnostic services to be $6.7 billion.

We believe that these formula-driven overpayments were not intended by the Congress. If Congress chooses to address this issue, it could be enacted either as a separate change or as part of a prospective payment system for outpatient services. It should be pointed out that, if a prospective payment method for outpatient surgery, radiology and other diagnostic procedures is adopted, this change would automatically occur for those services. Indeed, we recommend that the prospective rates be set so that aggregate payments to hospitals for these services are no higher than current law payments net of the total amount of the formula-driven overpayment.

TRIBUTE TO JOHN MOONEY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. LIPINSKI. Mr. Speaker, I pay tribute today to an outstanding individual who represents hundreds of thousands of Americans who participated in the battle that was the beginning of the end of Nazi Germany—the invasion of Normandy.

Mr. Mooney, who served in the 2d Armored Cavalry Division, was part of the wave of brave Allied soldiers that stormed the beaches and cliffs overlooking the English Channel on June 6, 1944. Even after the Allies established a beachhead, it took more than 2 months of fierce fighting before the risk of the Germans reversing the invasion had ended.

During the last 3 years, Mr. Mooney and thousands of his comrades have been honored by the Regional Council of Normandy with the Medaille de Jubile, a decoration commemorating the 50th anniversary of the Battle of Normandy and the beginning of the liberation of Europe.

Mr. Speaker, I would like to remind our fellow members and all freedom loving people in America and the world of the debt of gratitude we owe Mr. Mooney and the heroic soldiers, sailors and airmen whose efforts at Normandy marked the beginning of the end of Nazi tyranny.

HONORING DR. MENASCHE-LANIADO

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Ms. FURSE. Mr. Speaker, I rise today to recognize a very special woman who provides dental care for Soviet Union students who are participants in the programs created from the Freedom Support Act.

It is an unfortunate reality that these students arrive in our country with staggering dental problems. Dr. Sandra Menasche-Laniado of Portland, OR, has quietly taken it upon herself to provide the vital care that these students require, asking for no monetary compensation.

As an example of her incredible unselfishness, she currently is treating one young lady whose dental treatment will come to the staggering total of $3,780.

Dr. Menasche-Laniado is truly the essence of one person making a difference. She points the way in demonstrating the virtue of compassion and turning this compassion onto a path of positive, meaningful action. I applaud her work, and I am privileged to have this opportunity to recognize Dr. Menasche-Laniado before this body.

CELEBRATING A CENTURY OF INTEGRITY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mrs. LOWEY. Mr. Speaker, my distinguished colleagues, I rise today to call your attention to an important centennial anniversary that occurred in New York State last month.

On January 28, the New York State Society of Certified Public Accountants celebrated 100 years of distinguished service to the public.

In fact, the society is the oldest State professional accounting association in the Nation.

The founding members established the society to facilitate and support the establishment of the New York State CPA licensing law, the first such law in the United States.

The New York State Society of Certified Public Accountants represents the CPA profession, which was created to maintain the integrity of our Nation's capital markets.

The society has continuously served its members for 100 years by providing educational and professional information to enable them to better serve the public interest. Its code of conduct provides the framework for the highest ethical behavior and professionalism issues to protect the public interest.

The committees of the society have assisted state, local, and Federal regulators and other government groups in the discharge of their oversight of financial reporting, soundness, and integrity.

Please join me in wishing congratulations to the New York State Society of CPA's on its 100th anniversary.

INTRODUCTION OF THE MEDICARE HOSPICE BENEFIT AMENDMENTS OF 1997

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CARDIN. Mr. Speaker, I rise today with my colleague, ROB PORTMAN, and more than 50 additional colleagues to introduce the Medicare Hospice Benefit Amendments of 1997. This legislation will make technical changes and clarifications to improve the Medicare hospice benefit. This is a noncontroversial bill that has true bipartisan support and should be included as part of Medicare reform this year.

Hospice care is a vital Medicare benefit. It is a coordinated program of palliative medicine and supportive services provided mainly in the home but also in home-like settings that provides for physical, psychological, social, and spiritual care for dying persons and their families. Services are provided by a medically directed, interdisciplinary team of professionals and volunteers. Hospice recognizes dying as part of the normal process of living and focuses on maintaining the quality of remaining life. Hospice affirms life and neither hastens nor postpones death.

The concept of hospice care emerged in this country in response to the unmet needs of dying patients and their families for whom traditional medical care was no longer effective, appropriate, or desired. Hospice has become an effective alternative to there being "nothing else to do." The Nation's hospice programs currently provide compassionate care to more than 390,000 patients and families each year. In 1994, one out of every three people who died from cancer or AIDS were cared for by hospice. Terminally ill Medicare patients who elect hospice opt out of most other Medicare services related to their terminal illness and instead receive all of their care through the hospice program.

Hospice is not only a compassionate and appropriate form of care for terminally ill individuals, it is also cost effective. A 1994 Lewin study comparing the relative cost of hospice care to conventional care for Medicare beneficiaries with cancer, found that for every dollar Medicare spent on hospice patients, it saved $1.52 in Medicare part A and B expenditures. Based on these findings, the growth and greater utilization of hospice care should be viewed in a positive light and should be encouraged.

The Medicare hospice benefit was adopted by Congress 1982. Since then, more and more Americans have chosen to receive humane and cost-effective hospice care. In recent years, it has become clear that certain technical changes are necessary in the Medicare hospice benefit not only to protect beneficiaries but to ensure that high quality and cost-effective hospice services continue to be available.

The Medicare Hospice Benefit Amendments of 1997, will make six technical changes to the Medicare hospice benefit.

First, the bill restructures the hospice benefit periods. Under current law, the patient's attending physician and the hospice medical director must certify that the patient electing hospice care in lieu of other Medicare services is terminally ill—defined as having a prognosis of 6 months or less to live if the illness runs its normal course. There are four benefit periods, with recertifications of terminal illness by the hospice physician at the beginning of each. The first two periods last 90 days, the third is 30 days, and the fourth is of unlimited duration.

If a beneficiary revokes a hospice election during a benefit period, the remaining days in that period are forfeited. This existing structure is especially troubling for patients who withdraw from hospice during the fourth hospice period because they then forfeit their ability to elect hospice services in the future. Thus, a patient who goes into remission and is no longer eligible for hospice because his or her life expectancy exceeds 6 months, is not able to return to hospice when his or her condition worsens. Our bill would correct this problem by restructuring the benefit periods so that there would be two 90-day periods, followed by an unlimited number of 60-day periods. This would also result in more frequent reevaluation of patients who outlive their original prognosis.

Second, our bill clarifies that additional Medicare services are available—in addition to those specifically required by the hospice rules—when these services are a necessary component of the plan of care. This amendment is consistent with current HCFA policy. The existing statute is ambiguous because the beneficiary must waive coverage under part B for most services when they are related to the terminal illness, but some items are not clearly listed as part of the hospice benefit. For example, diagnostic tests and radiation therapy are not listed in the definition of hospice care, but occasionally the hospice team may agree with the attending physician that these services are necessary to manage the patient's terminal illness. Our bill would ensure that the hospice would be able to provide the appropriate care and that beneficiaries would not be liable for the costs of that care.

Third, our bill amends the core services requirement to allow hospices to contract for physician services with independent contractor physicians or physician groups. HCFA has interpreted the existing statute as requiring a W–2 employer/employee relationship between the hospice and its medical director and other staff physicians. This raises corporate practice of medicine problems in some States, and it is increasingly difficult for hospices to recruit part-time physician employees as the trend toward physician groups continues.

Fourth, the bill allows waivers of certain staffing requirements for rural hospices to be granted. Some hospices in rural areas have difficulty becoming Medicare-certified because of shortages of certain professionals. Currently, approximately 80 percent of hospices are Medicare-certified or pending certification.

Fifth, our bill amends the so-called waiver of liability provisions to protect the beneficiary if a hospice claim is denied by Medicare because the terminal illness eligibility requirement allegedly was not met. While this bill does not reinstate the waiver of liability presumption under which providers with low error rates were paid before 1996, waiver of liability for hospice reasonable and necessary denials is still available on a case-by-case basis. This means that the hospice may appeal the denials and the beneficiary is not liable for payment. The same process and protection are needed for denials based on 6-month prognosis issues.

Last, our legislation allows HCFA to set documentation requirements for physician certifications. Currently, the statute requires that paperwork documenting the physician certification of a patient's terminal illness be completed within a certain number of days of the patient's admission to hospice. This bill will eliminate the strict statutory requirements and give HCFA the discretion, as it currently has with home health certifications, to require hospice certifications to be on file before a Medicare claim is submitted.

In summary, the Medicare Hospice Benefit Amendments of 1997 is very similar to the bill we introduced last year. The major difference is that we dropped a provision in the 1996 legislation to extend the presumption of the waiver of liability that CBO scored with a budget impact. Therefore, our new bill should be revenue neutral. This Medicare Hospice Benefit Amendments of 1997 is noncontroversial and is needed to ensure that we have a smoothly operating Medicare hospice benefit for our Nation's seniors. I look forward to working with my colleagues to enact this legislation in this Congress.

HONORING THE DEDICATED SERVICE OF BOB FERGUSON

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. POSHARD. Mr. Speaker, I rise today to recognize the dedication and accomplishments of Mr. Bob Ferguson of Flora, IL. Born and raised in that community, Bob has devoted his entire life to helping his friends and neighbors in various capacities and has become the standard by which such service is measured. Last November Bob was named as the 1996 Citizen of the Year by the Flora Chamber of Commerce, and I would like to extend my congratulations in regard to this honor as well as my thanks for his years of selflessness.

Bob Ferguson understands the meaning of the word commitment. He exemplifies it, as his life has been a series of enduring relationships. After serving his country in the U.S. Navy, Bob married his wife Shirley in 1949 and has raised two daughters and been blessed with six grandchildren. He worked for the U.S. Postal Service for 32 years while also serving as Flora City Commissioner for over 12 years. His list of achievements in the community is too large to list in its entirety, but a sampling of its diversity is telling: Assistant Bible school superintendent with the First Christian Church, original organizer and board member of the Flora Bank & Trust, a charter member of the Clay County Historical Society, member of the Flora Elks Lodge, the American Legion, the VFW, Freemasonry, Clay County Shrine Club, and other like organizations, and cochairman of the Clay County Red Cross financial drive. His willingness to help when asked and his ability as a fundraiser and civic leader should inspire everyone who does not think they can make a difference through volunteering. Not only did he participate on the behalf of numerous worthy causes, but he directed his special talents to make these efforts especially fruitful. A person's time and energy are often the most valuable gifts they have to give, and in Bob's case it has resulted in a profound impact on an immeasurable number of lives.

Mr. Speaker, as a public servant, I am extremely moved by the unselfish acts of others. Bob Ferguson is not only a good friend of mine and the entire 19th Congressional District of Illinois, but also an exemplary role model. I hope all of our citizens can follow his lead and look around them to see where they can make a difference. It is an honor to represent Bob in the U.S. Congress.

1–800 "BUY AMERICAN" LEGISLATION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. TRAFICANT. Mr. Speaker, I rise today to reintroduce legislation to establish a toll-free 1–800 phone number consumers can call to get information on products made in America. Similar legislation I authored was approved unanimously by the House in both the 103d and 104th Congress. Unfortunately, the other body did not act on the bill in either Congress.

My bill directs the Commerce Department to contract out the program to a private company. The toll-free number will provide consumers with information on products made in this country. The bill uses the same definition for an American-made product that the Federal Trade Commission uses in determining uses of "Made in the USA" labels. Only those products with a sale price of $250 or more would be included in the program. The bill would subject any companies providing false information to Federal penalties. One of the key components of my bill is that the program would be self-financed through the imposition of a modest annual registration fee on participating companies.

I want to emphasize that my bill will not require the Commerce Department to hire more people or create a new unit. The only expense to the Department would be to prepare language for the Federal Register and to prepare bid documents. Let me reemphasize that the program will be contracted out and run by a private company. All the program would do is provide American consumers with information on what products are made in America.

When making a big purchase, most Americans want to buy American. This program will help them make an informed and patriotic decision. I urge my colleagues to cosponsor this bill. The text of the bill is as follows:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF TOLL FREE NUMBER PROGRAM.

(a) ESTABLISHMENT.— The Secretary of Commerce shall establish a toll free number program to help inform consumers whether a product is made in America or the equivalent thereof. The Secretary shall publish the toll-free number by notice in the Federal Register.

(b) CONTRACT.— The Secretary of Commerce shall enter into a contract for—

(1) the establishment and operation of the toll free number pilot program provided for in subsection (a), and

(2) the registration of products pursuant to regulations issued under section 2,

which shall be funded entirely from fees collected under section 2(b).

(c) USE.— The toll free number shall be used solely to inform consumers as to whether products are registered under section 2 as made in America or the equivalent thereof. Consumers shall also be informed that registration of a product does not mean—

(1) that the product is endorsed or approved by the Government,

(2) that the Secretary has conducted any investigation to confirm that the product is a product which meets the definition of made in America or the equivalent thereof, or

(3) that the product contains 100 percent United States content.

SEC. 2. REGISTRATION.

(a) PROPOSED REGULATION.— The Secretary of Commerce shall promulgate a regulation—

(1) to establish a procedure under which the manufacturer of a product may voluntarily register such product as complying with the definition of a product made in America or the equivalent thereof and have such product included in the information available through the toll free number established under section 1(a);

(2) to establish, assess, and collect a fee to cover all the costs (including start-up costs) of registering products and including registered products in information provided under the toll-free number; and

(3) for the establishment under section 1(a) of the toll-free number pilot program.

(b) REGISTRATION FEE.—

(1) IN GENERAL.— Manufacturers of products included in information provided under section 1 shall be subject to a fee imposed by the Secretary of Commerce to pay the cost of registering products and including them in information provided under subsection (a).

(2) AMOUNT.— The amount of fees imposed under paragraph (1) shall—

(A) in the case of a manufacturer, not be greater than the cost of registering the manufacturer's product and providing product information directly attributable to such manufacturer, and

(B) in the case of the total amount of fees, not be greater than the total amount appropriated to the Secretary of Commerce for salaries and expenses directly attributable to registration of manufacturers and having products included in the information provided under section 1(a).

(3) CREDITING AND AVAILABILITY OF FEES. —

(A) IN GENERAL.— Fees collected for a fiscal year pursuant to paragraph (1) shall be credited to the appropriation account for salaries and expenses of the Secretary of Commerce and shall be available in accordance with appropriation Acts until expended without fiscal year limitation.

(B) COLLECTIONS AND APPROPRIATION ACTS. —The fees imposed under paragraph (1)—

(i) shall be collected in each fiscal year in an amount equal to the amount specified in appropriation Acts for such fiscal year, and

(ii) shall only be collected and available for the costs described in paragraph (2).

SEC. 3. PENALTY.

Any manufacturer of a product who knowingly registers a product under section 2 which is not made in America or the equivalent thereof—

(1) shall be subject to a civil penalty of not more than $7500 which the Secretary of Commerce may assess and collect, and

(2) shall not offer such product for purchase by the Federal Government.

SEC. 4. DEFINITION.

For purposes of this Act:

(1) The term "made in America or the equivalent thereof" means—

(A) an unmanufactured end product mined or produced in the United States; or

(B) an end product manufactured in the United States if the value of its components mined, produced, or manufactured in the United States equals 90 percent or more of the total value of all of its components.

(2) The term "product" means a product with a retail value of at least $250.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act or in any regulation promulgated under section 2 shall be construed to alter, amend, modify, or otherwise affect in any way, the Federal Trade Commission Act or the opinions, decisions, and rules of the Federal Trade Commission under such Act regarding the use of the term "made in America or the equivalent thereof" in labels on products introduced, delivered for introduction, sold, advertised, or offered for sale in commerce.

A TRIBUTE TO THE RECIPIENTS OF THE WEST SUBURBAN CHAMBER OF COMMERCE'S ANNUAL AWARDS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. LIPINSKI. Mr. Speaker, I pay tribute today to five individuals and one organization for their outstanding contributions in making my district a better place to live and work. Their efforts are also being recognized by the West Suburban Chamber of Commerce, which will honor them at its 95th annual awards dinner February 8, 1997.

The Chamber's Citizen of the Year is Hon. Timothy Hansen, who serves as the village president of LaGrange, IL. I have had the pleasure to work with President Hansen on solving a number of challenges facing his community, and I can say that his recognition is well-deserved. Mr. Hansen has served the community since 1981, including 4 years as its president and 4 years as a member of the board of trustees. His even-handed management style and willingness to let all sides be heard on important issues has made President Hansen well-respected throughout his community.

The Chamber's Man of the Year is Mr. William F. Hendrickson, the retired president of Hendrickson Manufacturing. Throughout his life, Mr. Hendrickson has been dedicated to improving both the business and civic climate of his community, serving on the boards of important businesses and charitable organizations. Some of the groups he has devoted his time and energies including the Rich Port YMCA, the Plymouth Place retirement community and the Chicago Youth Center.

Ms. Cynthia Breunlin is being honored as the Chamber's Woman of the Year. Ms. Breunlin, the executive director of the West Cook Development Corp., has been involved with numerous community groups, including the NAACP and the Community Diversity organization in LaGrange. Ms. Breunlin, a former schoolteacher, has been honored for her community work by the Girl Scouts, Triton Junior College and School District 102. She is a recipient of the prestigious Medgar Evers Award from the NAACP.

Mr. David Bennett, executive director of the West Central Municipal Conference [WCMC], is the chamber's Public Servant of the Year. At the WCMC, Mr. Bennett has worked to bring often diverse suburban Chicago communities together to solve common problems. Mr. Bennett not only works for these communities, he makes his home in the area as well. He is active in his church, St. John of the Cross in Western Springs, IL, as well as the American Heart Association.

Mr. Robert Breen, is being recognized for Outstanding Community Service by an Individual. This award is especially appropriate as the name "Breen" is synonymous with public service in his community. He and his family have been the driving force behind the annual Pet Parade, a trademark event in LaGrange where the community comes together for a day of fun and creativity for all ages. Mr. Breen, who also helps manage his family's extensive dry-cleaning business, is also a recognized leader in the fabricare industry, as well as his local business community.

The Chamber's Outstanding Community Organization this year is the LaGrange Community Nurse and Service Association, which is celebrating 75 years of service. While LaGrange Community Nurse and Service Association provides a wide array of health care services, the main focus is supplying primary care for low-income families who do not have insurance. The association also provides food for families in emergency situations and clothing and toys for needy children at Christmas.

Mr. Speaker, I salute these five outstanding individuals and one great organization on their good work, and give them my best wishes for continued success in serving the people of their community in the future.

TRIBUTE TO WILLIAM H. "BILL" WEBER

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. TALENT. Mr. Speaker, I would like to pay tribute to Mr. William H. "Bill" Weber, a resident of my congressional district, who has been named the "citizen of the year" by the St. Charles Chamber of Commerce. It is my privilege to call this outstanding community leader my friend.

Mr. Weber, a lifelong resident of St. Charles, MO, has distinguished himself with a lifelong commitment to volunteerism. He has championed numerous causes with his vision and energy. Mr. Weber has been the driving force behind the funding of numerous projects, including the St. Peters Rec-Plex and the YMCA of St. Charles. He has served on the board of directors for Boys Town of Missouri, Missouri K.I.D.S., Lewis and Clark Performing Arts, and United Services for the Handicapped.

Mr. Weber knows that giving of yourself is simply more than donating a check. He understands that in St. Charles, as in the rest of the country, it is volunteerism which drives community spirit and cooperation. For all his life he has embodied those ideals.

A quote recently printed in the St. Charles Chamber newsletter by Mr. Ben Blanton, may best describe his character: ". . . this lion of a man has a teddy bear heart. A lion exterior to do battle for all the right things of our community, and a compassionate heart to weep over those who are in need."

Mr. Speaker, I ask you to join me in thanking Mr. Weber for his dedicated service and wishing him continued success. I am honored to join the St. Charles Chamber of Commerce in honoring this outstanding leader and citizen.

HAPPY 50TH ANNIVERSARY, AMVETS POST 22

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BARCIA. Mr. Speaker, patriotism is the noblest American virtue. I rise today to pay tribute to a group of individuals that exemplifies patriotism, the members of AMVETS Post 22. The AMVETS know service to their country doesn't end after their military career. They have been providing vital services to not only veterans but the community as a whole.

On Saturday, January 25, AMVETS Post 22 in Essexville, MI will celebrate their 50th anniversary. But more than celebrating their anniversary, AMVETS is celebrating 50 years of community service and involvement. AMVETS is involved in community projects providing services not only to veterans but to any member of the community in need. In such activities as the Caro State Hospital where they held local talent shows with music, singers, and dancers, for the patients. The civic minded members of AMVETS also pass on our country's patriotic rituals to the public in an annual flag disposal ceremony designed to teach the community how to respectfully dispose of worn out flags.

Yearly Thanksgiving dinner and Christmas baskets for the needy help assuage hunger around the holidays, but their concern is not seasonal. In September they hold the white clover sales where members go out all day collecting donations. This money is used for such vital community projects as Special Olympics and Toys for Tots.

In an effort to ensure that those who served their country are not forgotten, the AMVETS assist the veterans hospital by taking patients on outings and volunteer weekly at the hospital to make veterans more comfortable. They also hold Pearl Harbor Day services and Memorial Day services.

With an eye to the future, AMVETS provides scholarships for students aiding them in pursuit of higher education in many diverse fields of study. They also foster civic pride amongst grade school students with their essay and poster contest.

Mr. Speaker, AMVETS Post 22 has been working hard for 50 years to improve the quality of life for all Americans. Please join me in congratulating the AMVETS Post 22 on its 50th anniversary, with best wishes for many more.

TRIBUTE TO JIM ESHLEMAN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BROWN of California. Mr. Speaker, I would like to ask my colleagues to join me today in recognizing the achievements of Jim Eshleman, an aerospace engineer from California's Inland Empire. Jim was recently honored with 1 of 50 company-wide Nova awards by Lockheed Martin Corp. The award was presented during a ceremony at the Air and

Science Museum here in Washington last summer.

Jim was recognized as the flight sciences lead for a team that designed and built a large-scale model of an aircraft that may replace about 3,000 military jets of various designs by the year 2010. Called the "Joint Strike Fighter Demonstration Airplane," a one-design-fits-all aircraft that could replace diverse military aircraft. All would be variations of the same plane, with but few modifications for each aircraft.

Jim brings to his work at Lockheed the history and values of his home town Fontana in my congressional district. Along with his family, including his six brothers and sisters, Jim worked in the Eshleman Meat Co. in Fontana. Jim belonged to the local 4–H Club. In high school, he took an aviation sciences class and earned his pilot's license before high school graduation. He was educated at California State Polytechnic University, Pomona and Stanford University. He worked at NASA Ames Research Center before coming to Lockheed Martin in 1986 to join the famed Skunk Works.

At home in my district, we are proud of the contributions Jim is making in the aerospace field. I ask my colleagues to share this pride in an American whose work will make a difference in the way military avionics will develop in the next century.

HONORING THE AWARD WINNERS OF THE DALE CITY CIVIC ASSOCIATION

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. DAVIS. Mr. Speaker, it gives me great pleasure today to rise and bring to the attention of my colleagues some very special and important people in Dale City, located in Prince William County in the 11th District of Virginia. These are individuals who have put the welfare of the community, Dale City, VA, above their own needs and desires, not only performing their jobs, but going above and beyond the call of duty. These individuals have become role models to others in their professions and to other volunteers.

These citizens were honored on February 1, 1997 by the Dale City Civic Association, one of the largest, most active and accomplished citizens associations in the commonwealth of Virginia. The Dale City Civic Association was created 30 years ago and hosts an annual service awards banquet. In addition, the association offers a number of awards and scholarships for college bound students from Dale City, monitors development and serves as a sounding board for citizens and businesses.

I would like to offer my congratulations to the award recipients.

Catherine Spellane Citizen of the Year: Irene Dell. Ms. Dell is a member of the Dale City Civic Association and volunteers for the Dale City Volunteer Fire Department. She has made significant contributions in raising thousands of dollars for the fire department and has been instrumental in the success of kids programs run by the volunteer fire department. She has volunteered much of her time to organize and help the DCCA become the successful association that it is today.

Youth Citizen of the Year: Kiana Rene Trent. Ms. Trent is a sophomore at C.D. Hylton H.S. She is the Class President and has played a major role in drug awareness programs, Just Say No campaigns, and SADD. She is a member of the student council Model United Nations, the swim team, and the junior varsity cheerleading team, to name a few. In addition to these activities, she has also won the Martin Luther King oratory contest. She is a model student and an accomplished citizen.

Firefighters of the Year: Marc Sherman and Eric Wyatt. Capt. Sherman and Capt. Wyatt are both volunteer firefighters at the Dale City Volunteer Fire Department Station 13. They have progressed from recruits to their present positions as battalion captains. These two men are true heroes, role models for our youth to emulate. In a recent residence fire, the brave efforts of these men saved the life of a child. They truly perform above and beyond the call of duty and help make DCVFD second to none. They have both volunteered over 1000 hours each.

Emergency Medical Technician of the Year: Angela Goodwin. Lt. Goodwin has been a volunteer EMT with the Dale City Volunteer Fire and Rescue Department since 1992. She is a driving force in the fire department paramedic program, providing unsurpassed advanced life support to patients in life threatening situations. Lt. Goodwin is always available for public education, internal training for her crews, as well as maintaining EMS supplies for three stations. Additionally, she is responsible for the management of her battalion crew and must provide constant supervision to assure her personnel will be ready to meet any emergency situation.

Nurse of the Year: Nancy O'Shields. Ms. O'Shields is a nurse at Potomac Hospital. She has been a member of this nursing staff for 24 years and has served as a staff nurse with the medical—surgical unit until transferred to the emergency department where she worked for several years. Currently, she serves as the director of outpatient surgical services. In her spare time, Nancy is active in her church and sings in the choir. She is a member of the police wives association, and she was also very active in the Dale City Little League and the area schools when her children were young. She is a model citizen within the community.

Police Officer of the Year: First Sergeant Shari S. Williams. First Sergeant Williams developed the Police and Community Together Program which forms alliances with police officers and citizens in specific neighborhood watches to solve community problems. The object of this project is to keep an open dialog to address concerns or needs that may arise in the community. She has also worked closely with the crime prevention bureau to make this program the success it is today.

Community Service Award: Earl Barnes. Mr. Barnes is a member and 2d vice president of the DCCA. He is also a member of the P.W. County Board Audit Committee, a member of the P.W. County Arts Council and the American Legion Post, as well as the Treasurer of Westwind Forest HOA. He is one of the 24 students to graduate from the inaugural P.W. County Community Leadership Class and plays an important role as a member of the 11th District Congressional Federal Employee Working Group. He is always seen as a person that lends a helping hand, and always thinks of others before himself.

Elementary School Teacher of the Year: Mary Allen. Ms. Allen has been a teacher in Prince William County for the past 27 years, 10 years at Occoquan elementary and 17 years at Enterprise elementary. She is not just a classroom teacher, she has also been the grade level chairman, lead teacher, and has served as an enhanced instructional process coach. Additionally, she has recently worked on two school review committees. She is always helping other teachers both in and out of school.

Middle School Teacher of the Year: Alan Graham. Mr. Graham has been a teacher for 20 years. Currently, he teaches computer science at Beville middle school. Additionally, he coaches the baseball team, edits the newsletter, and inspires young thespians. He teaches the immigrant students in ESOL class and has a willingness to adapt his instruction so that these limited English students can grasp the course content as well as improve their language skills. He always strives to make the lab he works in a better place for kids to learn.

High School Teacher of the Year: Jan Polk. Ms. Polk has been a teacher in Prince William County for 32 years. Currently, she teaches social studies at C.D. Hylton high school. Each year, Jan plans and organizes a mock election. Nearly 1,000 people attend and participate in this most interesting exercise of civic responsibility. She is well respected by all of her students and colleagues at Hylton high school. Not only does she work with the most experienced educators, she also assists the newest first year teachers by sharing materials, strategies, and personal support.

Mr. Speaker, I am proud to represent these outstanding citizens and I know my colleagues join with me in congratulating these individuals for their tireless efforts to make Dale City, VA a better place to live.

MAKE A COMMITMENT TO CHILDREN NOW

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. STARK. Mr. Speaker, I am introducing today a bill to help low-income working families buy health insurance for their uninsured children. Families who buy an individual children's health insurance policy will be given a 95-percent refundable tax credit against the cost of the policy.

Health insurance equals access to health care. Access to health care equals better health and a better quality of life. It is that simple.

Health insurance can mean the difference between life and death—and between a good quality life and a stunted life. A recent GAO report provides a concise summary of why the lack of insurance is so important.

Studies have shown that uninsured children are less likely than insured children to get needed health and preventive care. The lack of such care can adversely affect children's health status throughout their lives. Without health insurance, many families face difficulties getting preventive and basic care for their children. Children without health insurance or with gaps in coverage are less likely to have routine doctor visits or have a regular source of medical care. * * * They are also less likely to get care for injuries, see a physician if chronically ill, or get dental care. They are less likely to be appropriately immunized to prevent childhood illness—which is considered by health experts to be one of the most basic elements of preventive care.

Numerous studies have underscored the importance of access to health insurance. Despite the widespread recognition of the problem, there are 10 million children in the United States without health insurance. Said differently, 14.2 percent of all children are uninsured, according to the latest analysis of the Bureau of Census' March 1995 current population survey by the General Accounting Office [GAO].

Many analysts predict that this figure will continue to grow, mainly because private health insurance continues to decrease. Private coverage—employer-based and individually-purchased insurance—for children declined steadily between 1987 and 1993, from 73.6 percent down to 67.4 percent of all children. Currently 40 percent of children are not covered under their parents' employment based health insurance. According to experts at the Center for Health Policy Research at George Washington University, one child loses private coverage approximately every minute.

Health insurance for children in America is getting worse—not better. With the recent attack on welfare, and therefore Medicaid, it may get disastrously worse—fast. We desperately need to reverse the trend of rising uninsured rates for children. The General Accounting Office recently issued a report to Senator CHRISTOPHER DODD, dated June 17, 1996, entitled "Health Insurance for Children: Private Insurance Coverage Continues to Deteriorate," the report states.

The number of children without health insurance coverage was greater in 1994 than at any time in the last 8 years. In 1994, the percentage of children under 18 years old without any health insurance coverage reached its highest level since 1987—14.2 percent or 10 million children who were uninsured. In addition, the percentage of children with private coverage has decreased every year since 1987, and in 1994 reached its lowest level in the past 8 years—65.6 percent * * *.

Several States have built on existing programs to expand health insurance coverage for uninsured children. At the State level, the current strategy to cover the uninsured is to fill in the gaps in insurance coverage. In July 1996, Massachusetts adopted coverage expansions for children in Medicaid in the State's Children's Medical Security Plan; in New York and Florida as well funds were appropriated to extend children's health insurance programs to additional children. Although a few States have moved forward to expand health insurance coverage for children, it is not enough. We need to do more.

The bill I am introducing today is not a mandate; it does not require any individual to buy health insurance. It does, however, provide incentives for the sale and purchase of individual children's health insurance policies, and it does help families, especially very low income families, buy a policy of their choice.

The bill would create a refundable tax credit of 95 percent of the cost of the premium to buy health insurance for a child. The credit is available to families based on a computation of adjusted gross income plus an additional $5,000 amount for each child covered.

This bill is a small, incremental step forward. It is by no means everything I would like. If I could waive a magic wand, I would make sure that everyone in America had high quality health insurance tomorrow morning. That isn't going to happen—but this small step, starting with children, could help millions of children grow up to be healthier, more productive citizens. Like my amendment which started the COBRA Health Continuation Program which has been used by 40 million Americans, this bill could make a world of difference to millions of Americans in the years ahead.

We spend long hours debating whether there should be prayer in school, but no time discussing how much parents pray that their children don't get sick because the parents can't pay the bills. We spend days debating obscenity on the Internet, but little time debating how obscene it is for a society as rich as ours to have so many children and parents unable to seek adequate medical care. It's time to debate a critical issue—the health of our children.

To repeat, the bill is not a mandate, but a chance for the 99.99 percent of parents who care to have affordable health insurance for their children. It uses the private market exclusively. It is a first step. I welcome cosponsors for the bill, and comments and suggestions from the public on ways to improve the bill.

The following is a summary of the bill:

CHILDREN'S HEALTH INSURANCE ACT OF 1997

SUMMARY

I. OFFERING OF POLICY

Group health plans must make available qualifying coverage for eligible children whose parent(s) has group health coverage under the plan. Group health plans must offer coverage at least annually. Each insurer that offers health insurance coverage must have available for purchase health insurance for eligible recipients under the age of 21. A health insurance policy must be reasonably priced (it is reasonably priced if the premium or other charge for the coverage does not exceed 150 percent of the average price for similar coverage offered in the same state).

II. BENEFIT PACKAGE

The benefit package must include benefits provided under Medicare (parts A and B) plus well child care benefits including newborn and well baby care, routine office visits, immunizations, routine lab tests, preventive dental care, and EPSDT services. A prescription drug benefit for catastrophic costs is also included. There is no cost sharing for preventive services.

III. QUALIFYING DEPENDENT

A qualifying young dependent is defined as an individual who is under 21 years of age, and is claimed as a dependent for tax purposes. It does not include an individual who has applied for and who has been determined eligible for Medicaid.

IV. TAX CREDIT

Each taxpayer who purchases a health insurance policy for their dependent receives a tax credit in an amount up to 95 percent of the cost of the premium to buy health insurance for a qualifying dependent. The credit is available to taxpayers based on a computation of adjusted gross income plus an additional $5,000 amount for each child covered. There is full tax credit provided at the adjusted gross income of up to $15,000 plus $5,000 per child covered by the health insurance policy. The "$15,000" figure represents approximately 200 percent of poverty for an individual under the age of 65. For example, a family with adjusted gross income of $25,000 and two qualifying children would receive a refundable tax credit of 95 percent of total premium paid for coverage of the two children. As a family's income rises and the need for a subsidy is less critical, the credit phases out. The credit is available only to subsidize traditional health insurance coverage for children. The bill provides for an advanced payment structure for 60 percent of the tax credit similar to the earned income tax credit advanced payment system. A return relating to premiums received for health insurance coverage for children would be required.

V. EXCISE TAX

The bill provides for an excise tax on any group health plan (25 percent of each premium received by the group health plan for the plan year in which the failure occurs) or insurer that offers individual health insurance policies (25 percent of the total amount of the premiums paid to the insurer for such coverage for the plan year in which the failure occurs) who fails to offer an individual children's health insurance policy for sale. The tax would not apply where the failure to offer a children's health insurance policy was due to reasonable cause and not willful neglect. The tax would also not occur if the failure to offer the plan was corrected within a 30 day period.

VI. OTHER PROVISIONS

Medicaid cost-sharing assistance for qualifying children with family income below 150 percent of the poverty line would be financed 100 percent by the Federal Government. There is coordination with other tax provisions subsidizing health costs to disallow the credit in instances where the taxpayer also claims a medical expense for the same premium cost or claims a deduction for health insurance costs of self-employed individuals. Grants to states for health insurance outreach and information programs would be established.

TRIBUTE TO BISHOP RENE GRACIDA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. ORTIZ. Mr. Speaker, I rise today to commend a dear friend and a man who commands great respect in the greater south Texas area, Bishop Rene Gracida on the occasion of his silver jubilee of his episcopacy.

Twenty-five years ago, on January 25, 1972, Bishop Gracida was consecrated a bishop by Cardinal John Dearden in St. Mary's Cathedral in Miami, FL. He came to the diocese of Corpus Christi in 1983, and since that time, he has ordained 65 men to the priesthood.

During the celebration of his 25th anniversary, Bishop Gracida will ordain three more men to the priesthood for the diocese of Corpus Christi and three to the diaconate for the Society of Our Lady of the Most Holy Trinity.

Bishop Gracida has been a powerful presence in Corpus Christi and the south Texas area. He is respected by many people in the community, including this Member.

I wish him the very best on his anniversary and look forward to his service in the community for many years to come.

SUBCOMMITTEE ON TRANSPORTATION AND RELATED AGENCIES HEARING SCHEDULE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. WOLF. Mr. Speaker, as chairman of the Appropriations Subcommittee on Transportation and Related Agencies, I am pleased to announce the subcommittee's hearing schedule for fiscal year 1998. A tentative schedule follows.

The subcommittee will conduct 10 hearings beginning in late February and concluding March 20, prior to the March district work period. The subcommittee will receive testimony from Members of Congress and other public witnesses on February 25 and 26. Those parties interested in testifying before the subcommittee are directed to submit a letter of request to the subcommittee no later than February 14. Every attempt will be made to accommodate all requests. Members of Congress and other public witnesses may, without prejudice, submit their testimony for the hearing record rather than testify in person. Oral and written testimony will receive the same consideration.

Oral testimony will be limited to 5 minutes. The subcommittee will receive testimony from only one designated spokesperson per organization, association, municipality, aviation or transit authority, or group. Witnesses testifying before the subcommittee are to provide 25 copies of their prepared testimony to the subcommittee no later than February 20, 1997.

This year, an additional requirement is imposed on nongovernmental witnesses presenting oral testimony. Pursuant to clause 2(g)(4) of rule XI of the Rules of the House of Representatives, the Committee on Appropriations requires, to the greatest extent practicable, each nongovernmental witness who plans to give oral testimony to submit a written statement including a curriculum vitae and a disclosure of the amount and source by agency and program, of any Federal grant or subgrant thereof, or contract or subcontract thereof, received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

Members and public witnesses who wish to submit their testimony for the hearing record are to provide three copies of their prepared testimony to the subcommittee by April 4, 1997. All Members' requests shall also be submitted by that time.

Any questions can be directed to Linda Muir of the subcommittee staff at 202-225-2141. Correspondence should be addressed to: Subcommittee on Transportation and Related Agencies Appropriations, Attention: Linda Muir, 2358 Rayburn House Office Building, Washington, DC 20515.

TRANSPORTATION APPROPRIATIONS SUBCOMMITTEE FISCAL YEAR 1998 HEARING SCHEDULE—FEBRUARY 23-APRIL 5, 1997

February 25—Members of Congress and public witnesses.

February 26—Members of Congress and public witnesses (9 am and 1 pm).

March 4—Secretary of Transportation.

March 6—U.S. General Accounting Office (GAO).

March 11—National Transportation Safety Board, Office of Inspector General (1 pm).

March 12—Coast Guard.

March 13—Federal Highway Administration, National Highway Traffic Safety Administration.

March 18—Federal Aviation Administration.

March 19—Federal Transit Administration, Washington Metropolitan Area Transit Authority (WMATA).

March 20—Federal Railroad Administration, National Railroad Passenger Corporation (Amtrak).

April 4—Prepared statements for hearing record and Members' requests due (3 copies).

CONDIT HONORS LOCAL GROUP

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CONDIT. Mr. Speaker, I rise today to honor the 100 year anniversary sorority from my district known as Omega Nu. In early 1897, five young women attending San Jose High School formed the Greek Organization Alpha Chapter of Omega Nu. They spent a great deal of time hosting luncheons, dances, and tea parties. Members of the Alpha Chapter aided in the establishment of chapters in Stockton, Santa Cruz, Oakland, San Francisco, Sacramento, Alameda, and as far north as Portland, OR, and Seattle, WA, before laws outlawed secret sororities on high school campuses. Not to be deterred the Alpha Chapter sought out young matrons as members and the society evolved from a strictly social group to a more charity minded organization.

At the conclave in 1914, Grand President Georgy Landsborough from Sacramento called upon all chapters to "maintain a special aim for the sorority namely charity * * * and that it is up to us to show our critical friends, through the excellent work that we can do along this line that we can be a blessing to the community in which we exist."

Distance, war and antifraternity laws impacted several out-of-State chapters. Thus, since the early 1920's, northern California has been home to 13 extremely active Omega Nu chapters; each distinct within their community but with charity remaining the first and foremost focus of the various chapters. One hundred years of charity includes food baskets at Thanksgiving and Christmas time, donating money and services to the Community Chest, now United Way, Red Cross, American Field Service, American Cancer Society, Alzheimer's, Salvation Army, Boy Scouts, Girl Scouts, Special Olympics, AIDS, Abused Women's Centers, Children's Crisis Centers, Meals on Wheels and many other organizations which have needed our help over the years. Omega Nu also provides clothes for destitute families, dental and eye care for young people and contributes money, services, and materials to all levels of the educational system. Many chapters also give scholarships to high school graduates, college students and reentry students to help finance their college education.

Each year, the 13 chapters of Omega Nu compile a journal of all the activities we have taken part in. The number of organizations which have benefited from their years of philanthropic commitment is unbelievable. In the last 50 years, we have given back to the community over $4,100,000. Besides dollars, the members have also contributed countless hours of their own time and a vast amount of energy, fulfilling the needs of those less fortunate.

It is my pleasure to recognize such a fine organization that has worked so very hard to make a difference in the community in which they serve.

A TRIBUTE TO PATRICIA O'BRIEN, THE ARGO-SUMMIT CHAMBER OF COMMERCE VOLUNTEER OF THE YEAR

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to an outstanding woman who has dedicated much time and effort in bettering the lives of her fellow citizens—Ms. Patricia O'Brien.

Ms. O'Brien's efforts will also be recognized February 21, 1997, by the Argo-Summit Chamber of Commerce as she is the organization's Volunteer of the Year.

A resident of Summit, IL, Ms. O'Brien has been active in collecting food, especially in her place of work, United Parcel Service, where she is a truck driver. Three years ago, she began a food drive at UPS, and in 1996, Ms. O'Brien and her co-workers collected more than 1 ton of food. Last summer, she helped collect and deliver more than 10,000 pounds of extra food from the Taste of Chicago festival, and regularly retrieves leftovers from the McCormick Place Convention Center for area food pantries and homeless shelters.

Ms. O'Brien has received the Casey Award from UPS and the Tom Shay Award from the International Brotherhood of Teamsters for her community service.

Mr. Speaker, I salute the selfless efforts of Patricia O'Brien and extend to her my best wishes for continued success in the future.

THANK YOU TERRY WATSON

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BARCIA. Mr. Speaker, in 1776, 13 colonies declared their independence to form a new nation. They put their convictions to pen and the Declaration of Independence was signed on July 4, 1776. Two hundred years later, we continue to celebrate the birth of our Nation. Parades, picnics, marching bands, and barbeques are arranged all over the country. However, the Fourth of July weekend would not be complete without fireworks.

Terry Watson, president of the Bay City Fireworks Festival, founded the festival in 1983 and has contributed to a Fourth of July fireworks display that astounds and astonishes. Terry took a well deserved 2-year break from his hard work and commitment to entertaining Bay City's families. The festival went on without him. However, they experienced financial trouble. The citizens requested that Terry return to revitalize the festival. Terry was elected president in the fall of 1995. Writing new bylaws and forming the board of directors, Terry returned full swing with his commitment to improving and refining the festival operations.

Through several fundraisers, the generous support of Tom LaPorte, president and CEO of Mortgage America, the overwhelming support of the community and the dedication of Terry Watson and the volunteer board of directors, the Bay City Fireworks Festival, retired the nearly $120,000 debt, and the festival continues to thrive and grow, showcasing Bay City and all of mid-Michigan. Plans are already under way and the work has begun for the 1997 Bay City Fireworks Festival. The citizens of Bay City can look forward to a spectacular display because Terry's motto is "Bigger is Better."

Terry is not only committed to entertaining the people of Bay City but, as a Bay City police officer, he has protected and served the citizens of Bay City for 25 years. He also served as the chairperson of the Fraternal Order of Police fireworks programs for 22 years.

I urge my colleagues to join me in sending congratulations and thanks to Terry for his commitment to help fellow Michiganites celebrate our Nation's birthday. He has provided people of all ages enjoyment and awe.

TRIBUTE TO HERB CAEN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. FARR of California. Mr. Speaker, the relationship between elected officials and the media has historically been one of love and hate. Those of us in the public eye realize that by entering into the arena we are subject to criticism and commentary from the media. After you have spent time in public life you learn to accept the fact that there are going to be those who disagree with you on a variety of issues. Some commentators can give fair, and well-reasoned arguments for why they have a difference of opinion, and some choose to just throw mud. Herb Caen never threw mud.

On Saturday, February 1, the people of northern California lost one of it's most beloved figures. Herb Caen was more than just a columnist, he was a towering figure in the city where he wrote for the San Francisco Chronicle for almost 60 years. Every morning thousands of people in the bay area and beyond awoke to read Herb's unique blend of local news, gossip, jokes, one-liners, and political commentary. In May 1996, Herb was awarded a special Pulitzer Prize for his "extraordinary and continuing contribution as a voice and a conscience of his city." In addition to his column for the Chronicle, he also wrote magazine articles, and 12 books including, "One Man's San Francisco" and "Don't Call it Frisco."

In fact, the people of San Francisco admired him so much that upon his public announcement last summer that he had inoperable lung cancer, the city of San Francisco dedicated a 3.2-mile promenade stretching from China Basin to Fisherman's Wharf as Herb Caen Way. Besides being an entertaining writer, and political watchdog, Herb was a crusader, who used the power of the pen to tackle injustice, and to fight for what he believed in. Many credit Herb with saving the cable cars, and preventing the Golden Gate Park from being paved over by a massive highway project. But more than anything, it was the way in which Herb lived his life that he will be most remembered for. Whether it was dancing the night away to a jazz band, or just strolling along his beloved waterfront, he always had a good time. I am sure that I am joined by all of northern California in saying that we will miss Herb Caen.

TRIBUTE TO THE LATE CHARLES P. HOWARD, JR.

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CUMMINGS. Mr. Speaker, I rise today to pay a special tribute to the late Charles P. Howard, Jr., a lawyer and a great civil rights activist in Baltimore, MD.

Charles Preston Howard, Jr., was born in Hampton, VA, the son of Charles Preston Howard, Sr., an attorney, and Louisa Maude Lewis. The family moved to Des Moines, IA, when he was a child, where he graduated from high school in 1939.

While in high school, Mr. Howard and his two brothers, Joe and Lonnie, founded the Iowa Observer, a neighborhood newspaper that grew into a network of four weekly papers that were also published in Indiana and Wisconsin. The three youths were greatly influenced by their great-uncle, Henry McNeal Turner, a turn-of-the-century African Methodist Episcopal bishop whose newspaper, the Voice of the People, crusaded against segregation.

Charles Howard, Jr. began studying journalism at Drake College in 1940 and transferred to Howard University, where he entered an Army training program for journalists. As a reporter for the Army Times during World War II, Mr. Howard displayed his disdain and outrage for segregation which would mark his entire career. He openly questioned the role of black troops fighting for a democracy that promoted segregation. He suggested in editorials that black troops should resist such discrimination, and in two instances there were demonstrations at Army camps where Mr. Howard was stationed in England and in the United States. Some changes were initiated by military authorities, but it wasn't until May 1948, when President Truman signed Executive Order No. 9981, that segregation in the military was ended.

As an aide to Gen. Benjamin O. Davis, the first African-American general in the U.S. Army, Howard served on the staff of the Supreme Headquarters Allied Expeditionary Force until being discharged at the war's end.

Upon returning to Howard University, Charles Howard worked with the lawyers and participated in the university's support of the Brown versus Board of Education case, the landmark case that desegregated the Nation's public schools.

Mr. Howard began practicing law in 1955, after earning his law degree in 1954 from Howard University Law School and an international law degree from New York University in 1955. Soon after his graduation from law school, Mr. Howard quickly developed a reputation as a fearless and colorful defense lawyer. Lawyers impressed by his brilliant defense techniques and verbal pyrotechnics often crammed courtrooms to watch him try a case.

"He was certainly tenacious and he wasn't opposed to taking the bench over difficult cases," said Gloria E.A. Toote, a Harlem lawyer who held positions in the Nixon, Ford, and Reagan administrations and got to know Mr. Howard when they were students at Howard University. "Once he was committed, it became a moral commitment, and he wouldn't let go. He'd work until he dropped from sheer exhaustion."

In the late 1960's, he established Howard and Hargrove, Maryland's first black corporate law firm, which was in the American Building on Charles Street. Later, Howard formed Howard, Brown, and Williams where he retired in 1985.

In 1966, Mr. Howard ran for the House of Delegates and lost, but his race signaled the developing black presence on the city's political landscape. He later helped elect his brother, Joseph C. Howard, to the supreme bench of Baltimore City in 1968. Judge Howard, who was later appointed to the U.S. district court, is now retired.

Charles Howard, Jr.'s professional memberships included the Professional Ethics Committee for Legal Aid to the Indigent, the National Bar Association, the American Society of International Law, and the Maryland State Bar Association. He was active in the NAACP, the YMCA, and the Boy Scouts of America. He was also a member of the board of Arena Players Theater Co. and in 1971 was named to the board of the Maryland Public Broadcast Commission by Gov. Marvin Mandel. He also was acting president of Bay College until the school closed in 1978. Mr. Howard was also a member of the St. James Episcopal Church where was an active member.

In recent years, Mr. Howard was most concerned about economic alternatives to welfare dependency and worked with and counseled black businessmen. A popular tenet of Howard's was that the successful had an obligation to help those in need.

On December 14, 1996, Charles Preston Howard, Jr. died of a heart attack at his home in the Ashburton section of Baltimore, MD at the age of 75. He is survived by his wife of 6 years, the former Jewel White, two sons, Charles P. Howard III of Los Angeles and Charles Lattimore Howard of Philadelphia, a daughter, Catherine Marie Howard of Baltimore, and another brother, Dr. Lawrence Howard of Baltimore.

Charles P. Howard and his dedication to the African-American community will certainly be missed in Baltimore and across the country. He was an outstanding American who labored tirelessly to ensure that every person enjoyed the benefits of true American values.

According to family members, "Charlie's life work seemed to always orbit around the critical importance of building and nurturing community institutions for the future of humanity everywhere."

MEDIGAP PROTECTION ACT OF 1997

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BENTSEN. Mr. Speaker, I rise today to introduce vital consumer protection legislation for Medicare beneficiaries. The Medigap Protection Act of 1997 will provide real freedom to senior citizens to choose between traditional fee-for-service Medicare and managed care Medicare programs without risk of penalty. It does so by guaranteeing access to Medigap supplemental insurance for seniors who choose to enroll in fee-for-service Medicare after participating in Medicare managed care plan.

Congress this year will again debate fundamental changes to the Medicare System. Previous reform proposals would strongly encourage Medicare beneficiaries to enroll in managed care plans. Nationwide, approximately 13 percent of the Medicare population already is enrolled in managed care options. I support providing freedom of choice for senior citizens, but this choice must be real and not coerced. As more senior citizens enroll in managed care plans, we need to ensure that they can reenroll in traditional Medicare without losing benefits or paying a financial penalty.

Under current law, Medicare beneficiaries can enroll in either a managed care product or traditional Medicare Program. Many enrollees in traditional Medicare choose to purchase supplemental insurance policies, often called Medigap, to cover the cost of copayments, deductibles, and other uncovered benefits such as prescription drugs. When Medicare beneficiaries make this initial choice, current law protects them by requiring all insurers to sell Medigap insurance. Regrettably, this consumer protection is not provided after the initial enrollment period.

This legislation would require guaranteed issue of Medigap policies for those senior citizens who choose to enroll in traditional Medicare after leaving a managed care Medicare Program. This bill would require any issuer of Medigap insurance to provide an annual enrollment period of 30 days for those Medicare beneficiaries who reenroll in the traditional Medicare Program. The Secretary of Health and Human Services would issue regulations to enforce this act. The bill would become effective 90 days after enactment.

Without this protection, senior citizens do not have a real choice. In addition, many senior citizens are not aware of this lack of protection and may enroll in managed care plans without knowledge of this problem. Consumers should be able to choose plans without financial coercion or penalties, such as the inability to purchase Medigap insurance. For many senior citizens, Medigap benefits are extremely important because traditional Medicare does not provide prescription drug coverage. I want to ensure that Medicare beneficiaries make a choice between equal options. This legislation also provides greater freedom and choice for seniors without forcing them to cover the costs of higher copayments, deductibles, and prescription drugs.

This is another common sense health care reform we can pass immediately that should be supported on a bipartisan basis. President Clinton endorsed this provision as part of his 1997 budget. We need to pass commonsense, reasonable legislation that will improve the Medicare Program so senior citizens are protected and have real choice. I urge my colleagues to join me in this effort to strengthen consumer protections for Medicare beneficiaries.

COURT RULING SHOWS WHY CONGRESS MUST CLOSE MEDICARE HOSPITAL OUTPATIENT DEPARTMENT LOOPHOLE THAT HURTS SENIORS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. STARK. Mr. Speaker, today, Representative BILL COYNE and I have introduced legislation to close the Medicare Hospital Outpatient Department [HOPD] loophole that is costing retirees and the disabled billions and billions of dollars a year in improper charges.

On June 25, the U.S. Ninth Circuit Court of Appeals denied a class action motion to require hospitals to charge no more than a reasonable amount for services rendered in HOPD's under Medicare part B.

To quote from the Bureau of National Affairs' description of the case:

> At the center of this case is a fight over cost sharing, and in particular, how much of the cost beneficiaries should be responsible for," the appeals court wrote. It explained that under the basic formula for Part B services, a beneficiary must pay 20 percent of the reasonable *charges* for the items and services rendered and the federal government pays a lesser of the reasonable *cost* of such services or the customary charges, but in no case may the payment exceed 80 percent of the reasonable *cost* . [emphasis added]
>
> The court explained that the cost-sharing arrangement is known as the "80–20 split," but the label is misleading because of the total amount paid to the provider, the beneficiary's share typically exceeds 20 percent.
>
> That share rises because the Health Care Financing Administration reimburses on the basis of the hospital's costs, while the beneficiary owes a percentage of hospital charges. Because providers normally charge above cost, the beneficiary's share represents something more than 20 percent of the total payment to the hospital.
>
> Carol Jimenez, an attorney for the Los Angeles-based Center for Health Care Rights and the appellants' lead attorney, said the ruling "will result in both beneficiaries and the Medicare program paying more for hospital outpatient services."
>
> In an announcement following the decision, Jimenez cited a General Accounting Office report finding that Medicare patients' cost sharing, as well as Medicare's costs, vary dramatically for the same service depending on where it is received. For example, cataract surgery that cost a patient $1,200 in a hospital [plus additional amounts paid by Medicare] would cost a patient only $250 and the Medicare program only $1,000 if performed in an independent surgical center.
>
> * * * the Ninth Circuit * * * concluded, "While we are sympathetic to the plight of Medicare beneficiaries who are burdened by ever rising medical costs, we conclude that "none of [the existing laws] compels HHS to limit the charges.
>
> The court wrote that Congress is aware of both the cost-shifting problems and HHS' failure to "correct" it. "* * * Congress is aware of the issue—indeed Congress may have caused the problem by introducing prospective payment for some services but not others—and that Congress has deliberatively declined to address it.
>
> The court also noted that Congress is studying the feasibility of a prospective payment system for hospital outpatient services which could address the beneficiaries concerns. "Thus, we decline the beneficiaries' invitation to preempt congressional action in this very delicate area of public policy," the court wrote.

Mr. Speaker, it is way past time that Congress acted to correct this multi-billion dollar cost shift onto retirees and the disabled and to fulfill Medicare's promise of an 80–20 copay system.

IN RECOGNITION OF GREGORY SZURNICKI

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today with great pride to share with my colleagues in the House of Representatives the story of a man whose entire life has been committed to making the lives of others better.

I speak of Gregory Szurnicki, who was honored on January 25, 1997 by the Kings Park Chamber of Commerce as the 1996 Man of the Year.

The youngest of nine children, Gregory entered the Armed Forces shortly before his 20th birthday to fight in World War II. He, like many other courageous young soldiers, landed on Omaha Beach in Normandy, France on D-day, June 6, 1944. Five campaigns later, the war ended for him just outside of Berlin, Germany and 1 year later was discharged from military service.

After the war, he settled in Suffolk County, and began working at the Kings Park State Hospital in charge of 85 patients during the evening shift. It was here that he began his efforts to improve the quality of life of the patients and the employees. He effected such changes as improved patient-staff ratio, upward mobility through career ladders, and a higher level of training opportunities. In 1975, Greg founded the Kings Park Employees Federal Credit Union and served as the union's president until 1996.

Throughout his career, he formed many civic groups and became extremely active in local civic affairs. His involvement with the union as an advocate and organizer led him to many positions on the local, regional, and statewide levels where he could continue to work for the good of all.

Since his retirement in 1988, Greg has continued to stay fully involved in civic affairs. He serves as the facilitator for the Northwest Civic Coalition and the Suffolk Community Alliance, whose membership includes all the major civic coalitions in Suffolk County.

Greg is truly one of Kings Park's treasures and has been a driving force in ensuring that Kings Park is a better place to live in.

I ask my colleagues to join with me in saluting Gregory Szurnicki who has provided a lifetime of service to his country and his community, and in congratulating him on being named the 1996 Man of the Year by the Kings Park Chamber of Commerce.

MICHIGAN STATE REPRESENTATIVE ROBERT A. DEMARS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. DINGELL. Mr. Speaker, I rise today to honor a great man and friend, former Michigan State Representative Bob DeMars Bob was devoted to his family and committed to his work and his cherished memory will not fade from the hearts and minds of those who knew and loved him.

Bob died as he lived: serving the people of his district in Lincoln Park, Melvindale, Ecorse, and Allen Park.

As a Michigan native, Bob spent his entire life in public service, first as a teacher, then as mayor, city councilman, city treasurer, and State representative.

Bob taught for 26 years in the Lincoln Park Public Schools. He served as a local president for the Michigan Education Association and as a local president, State vice president, and national vice president of the American Federation of Teachers.

Bob was a veteran of World War II where he served in the U.S. Navy's Submarine Service. He introduced many bills to assist veterans, introducing legislation that provided special license plates for veterans of World War I, World War II, and the Korean and Vietnam wars to honor those who served their country.

In community service, Bob served as president of the Lincoln Park Jaycees and the Lincoln Park Kiwanis Club. He was also a member of the American Legion, V.F.W., Chamber of Commerce, Eagles, Masons, Scottish Rite, Shriners, Moose, Optimists, Historical Society, and the P.T.A. He sponsored two Little League baseball teams. In the Democratic Party, Bob served as vice-chairman of the 26th District and was a precinct delegate. He was a member of the Michigan Democratic Party and the Lincoln Park, Allen Park and Melvindale Democratic Clubs.

Bob's 15-year-old daughter Maeann and wife of 32 years, Deanie were the light of his life.

Today we join his friends and family in remembering Bob DeMars and thank him for the growth and encouragement he gave to our community and its people.

He is greatly missed.

INTRODUCTION OF EWING-LEWIS LENDER AUDIT LEGISLATION

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. EWING. Mr. Speaker, in partnership with Mr. LEWIS of Kentucky, I have introduced a bill which will repeal an ineffective and burdensome regulation now mandated by the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992. This act blindly requires all lenders who participate in the Federal Family Education Loan Program to perform expensive, comprehensive annual audits on their student loan portfolios. Similar legislation was included in the continuing resolution adopted for fiscal year 1997, and thus expires on September 30 of this year. Passage of this bill will permanently extend the lender audit exemption.

In our respective districts, the gentleman from Kentucky and I represent small banks and credit unions which maintain and service small student loan portfolios in compliance with the Federal Family Education Loan Program. The profit on these portfolios is estimated to be around $3,000 to $5,000 annually, while the audit required by the Department of Education costs anywhere from $2,000 to $14,000 annually. As you can see, it does not make sense for small lenders to service these loans and participate in the FFEL program. In fact, many small lenders are selling their portfolios and leaving the student loan business altogether. This is not fair to student borrowers in rural areas who are increasingly unable to utilize lending institutions that they are familiar with. This is also not fair to smaller lenders who wish to service and maintain student loans. If this policy is enforced, small lenders will be effectively cut out of the student loan business and consumers will be denied the opportunity to do business at their local bank.

I contacted the Department of Education about the possibility of a waiver or alternative to this detrimental mandate. The Department stated, "* * * lender audits are required by statute * * *" and that the "* * * statute does not provide authority for the Department to waive the annual audit based on the size of the lender's FFEL portfolio or the cost of the audit." Furthermore, according to the Department of Education's Office of the Inspector General, lender portfolios totaling less than $10 million do not even have to send their audit to the Department for review. They are only required to "* * * hold the reports for a period of 3 years and shall submit them only if requested." That means lenders waste thousands of dollars on a compliance audit that is never sent anywhere or reviewed by anyone. I have no doubt that protecting the integrity of the Student Loan Program is important to all of us. However, this current situation does not protect any portfolios under $10 million because no one reviews the results of the audits.

The Office of the Inspector General at the Department of Education has also expressed concern regarding this burden in their semiannual report (October 1993–March 1994) stating, "* * * we are concerned that the cost may outweigh the benefits of legislatively required annual audits of all participants, regardless of the size of participation or the risk they represent to the program." In this report the Inspector General recommends that a threshold be established for requiring an institutional audit, "* * * and we continue to believe that a threshold is necessary for both the institutional and lender audits. Such a threshold would eliminate the audit burden for the smaller participants in the program while helping assure that scarce departmental resources are focused on the areas of greatest risk."

The Ewing-Lewis bill works in concert with the Department of Education and the authorizing committee which have expressed the need for an audit threshold. This legislation will help the little guy in the student loan business and ensure consumer choice and convenience. Please support this sorely needed legislation.

INVESTMENT IN AMERICA ACT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. TRAFICANT. Mr. Speaker, every session since coming to Congress in 1985, I have introduced a bill to reinstate a 10-percent domestic investment tax credit [ITC] for the purchase of domestic durable goods. I am reintroducing this bill today, and I invite all Members to become cosponsors.

Mr. Speaker, as you know, the Ways and Means Committee intends to overhaul tax policy during the 105th Congress. I believe my 10 percent investment tax credit bill should be considered as a part of that new tax plan.

The way this bill works, it couldn't be simpler. If an American businessman buys a domestic product like a new machine or computer to improve their business, the consumer can take a 10-percent tax credit if that product was made in America. If the consumer purchases a new American-made automobile or truck, they can take a 10-percent tax credit. The tax credit would be worth up to $1,000.

Investment tax credits are not new, but mine incorporates buy-American language to assist economic enhancement. I believe that repealing the investment tax credit in 1986 was one of the major reasons for the downfall in investment. As a result, American companies are competing with one hand tied behind their backs. Under my bill, at least 60 percent of the basis of the product must be attributable to value within the United States to take advantage of the credit. In other words, language the Commerce Department already uses to define an American-made product.

The purpose of the investment in America tax credit is to stimulate the economy by spurring consumers and businesses to purchase American-made goods to enhance our long-term competitiveness. I don't know of a simpler way to change our complex tax policy for the better. I have always argued that the social problems this country faces can be linked to the unfair and harmful trade and tax policies enacted by the Congress. The 105th Congress offers us a unique opportunity to make a difference in the direction this country is headed.

Mr. Speaker, I urge all Members to cosponsor my bill. As a Congress, we need to show the American people that we are sincere about making America a strong nation once again.

STATEMENT ON THE TRANSITION TO WORK ACT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mrs. KENNELLY. Mr. Speaker, I am introducing legislation today to help Americans with disabilities return to work. The Transition to Work Act would provide Social Security Disability Insurance [SSDI] recipients with three important bridges to employment. First, continued Medicare coverage for those leaving the rolls for work; second, a disabled worker tax credit to cushion the loss of disability benefits and to make work pay; and third, greater choice in vocational rehabilitation providers. The legislation is supported by the Arc, the American Rehabilitation Association, the American Association of University Affiliated Programs, American Network of Community Options and Resources, American Psychological Association, American Speech-Language-Hearing Association, Bazelon Center for Mental Health, International Association of Business, Industry and Rehabilitation, National Easter Seal Society, National Multiple Sclerosis Society, the United Cerebral Palsy Associations, and Jerry Mashaw, chairman of the Disability Policy Panel of the National Academy of Social Insurance [NACI]. The proposal is based on the work incentive recommendations of the NACI Disability Policy Panel.

The primary barrier confronting many Americans with disabilities attempting to leave the SSDI rolls for work is the fear of losing health coverage. The Transition to Work Act would alleviate this anxiety by guaranteeing continued Medicare coverage for at least 6 years after an individual first leaves SSDI for work, this is a 2-year extension over current law. Furthermore, after that time period, the legislation would allow an individual to buy-in to Medicare part A based on a capped, income-related premium. Beneficiaries would pay 10 percent of earnings in excess of $15,000 for the Medicare buy-in premium, those earning less than $15,000 would continue to get Medicare part A free. This new Medicare coverage extension and buy-in would assure disabled Americans that their health coverage would not be pulled out from under them if they return to work.

Second, we must recognize that there is little incentive to make the transition to employment if work pays little or no more than disability insurance. For this reason, the Transition to Work Act would establish a new refundable tax credit to supplement the Earned Income Tax Credit [EITC] for individuals leaving the disability rolls for work. The maximum annual credit for an individual without children would be $1,200 and would phase out at $18,000 in earned income. The new credit would be especially helpful to individuals without children since their current EITC is relatively small, only $306 a year.

And, finally, the legislation would provide SSDI recipients with a "Ticket for Work Opportunity" that could be used to purchase either private rehabilitation or State vocational rehabilitation [VR] services, replacing the current system which automatically refers individuals to the State VR agency. Under this new system, which would be implemented first as a demonstration project, providers of VR services would get paid for results, not services. Providers would receive one milestone payment upon an individual's initial placement into employment, and then for 5 years thereafter would receive 50 percent of the amount the DI trust fund is saving because an individual has left the rolls for work. Payments to providers would actually occur in the second through sixth years of employment since individuals still receive cash disability payments during their first year of employment. Not only would this proposal increase the overall availability and choice of vocational rehabilitation services for disabled Americans, but it would also guarantee that payment for those services reflect savings to the SSDI trust fund.

Let me say that it is no easy task for Americans to leave the disability rolls for work. After all, these same individuals were forced to leave employment because of the severity of their disability. However, we can and should do more to help disabled individuals make the transition back to employment. Every SSDI recipient we help return to work, means one more person attaining a higher standard of living. In addition, it also means fewer dollars leaving the Social Security trust fund. I hope my colleagues will join me in this effort to reduce the barriers facing those with disabilities who want to return to work. A more detailed description of the legislation follows this statement.

THE TRANSITION TO WORK ACT OF 1997

DETAILED DESCRIPTION OF PROVISIONS

The Transition to Work Act would: (1) extend Medicare coverage for an additional two years and provide for an income-related Medicare buy-in thereafter; (2) create a Disabled Worker Tax Credit; and (3) demonstrate the effectiveness of encouraging people to work through Tickets for Work Opportunity.

Continued Medicare coverage and improved Medicare buy-in

Under current law, a beneficiary who goes back to work is entitled to up to 39 months of continued Medicare coverage. That 39 months begins after the 9 months of trial work during which the individual also continues to receive both cash benefits and Medicare. After a 3-month grace period, cash DI benefits cease.

The proposal would extend the continuation of Medicare for an additional 2 years. As under current law, no cash benefits would be paid during this continuation period. As a result of the plan, Medicare would continue for a total of 6 years after the beneficiary first began to work. This would eliminate one of the largest disincentives to work.

After the individual had retained employment and his Medicare continuation coverage had ended, he would be permitted to purchase Medicare coverage based on an income-related premium. The premium would be 10% of the individual's earnings in excess of $15,000. The premium would be capped at the maximum premium under current law.

Current law allows disabled and other individuals to purchase Medicare coverage. DI beneficiaries may purchase Medicare Part A Hospital Insurance at the full actuarial cost of coverage. In 1997, that amount is $3,732 annually. Beneficiaries may purchase Medicare Part B at the same premium as other enrollees—about $526 a year in 1997. Under current law, the HI premium is reduced for former beneficiaries who have at least 30 quarters of Social Security coverage. Under current law, the reduction in the premium will be fully phased in by 1998. In 1998 and thereafter, the reduction will be 45% of the premium for HI.

Under current law, State Medicaid programs may purchase Medicare HI coverage for low-income former beneficiaries known as "Qualified Disabled and Working Individuals."

Disabled worker tax credit

The plan would offer a refundable Disabled Worker Tax Credit (DWTC) to encourage DI beneficiaries to leave the rolls and return to work. To encourage work and cushion the loss of benefits, the credit would be available to DI beneficiaries whose benefits had ceased due to work. The DWTC would provide a modest supplement to the Earned Income Tax Credit (EITC). Like the EITC, the credit would increase as earnings increased up to a maximum credit; would plateau at a level designed to make work more financially rewarding than collecting disability benefits; and would phase out thereafter.

The DWTC for a person with no children would increase until earnings reached $8,000 and would be phased out completely at $18,000. This would provide a maximum credit of $1,200 annually in addition to the current EITC OF $306. The credit for a worker with one child would peak at $7,000 of earnings and phase out at $25,800. The maximum credit would be $500 annually in addition to the EITC of about $2,100. Finally, the credit for a worker with two-children would peak at about $10,000 and would be phased out at about $29,000. The maximum credit would be $750 annually in addition to the current EITC of $3,560.

Tickets for work opportunity

The Commissioner of Social Security would be required to establish a Transition to Work demonstration program in as many localities as she deems appropriate. Under the Transition to Work program, Social Security Disability (DI) beneficiaries would be encouraged to return to work through Tickets for Work Opportunity (TWO). The TWO could be used by beneficiaries to seek out those providers of rehabilitation services who would most effectively help them to return to work. The individual could choose to receive services from a private provider or from the State vocational rehabilitation (VR) agency.

Under current law and policy, Social Security Disability Insurance (DI) beneficiaries are referred to State VR agencies for rehabilitation when the Disability Determination Service determines that the beneficiary would be eligible for VR services in that State. A DI beneficiary who refuses such services may lose his or her benefits. State VR agencies are reimbursed for the cost of rehabilitation after the individual has been gainfully employed for nine months. Under the current system, less than 1% of DI beneficiaries return to work.

The Ticket for Work Opportunity would offer beneficiaries additional options for rehabilitation services. Furthermore, both public and private providers would have an incentive to seek out beneficiaries to help them leave the disability rolls. Under the plan, the TWO would be provided automatically to those persons most likely to return to work—to new beneficiaries and to those who are notified of the commencement of a continuing disability review (CDR). All other DI beneficiaries would have the option to participate in the TWO plan.

Beneficiaries would present the TWO to a public or private provider of vocational rehabilitation services. Payment would be made by the Commissioner of the Social Security Administration to the provider for successfully returning the beneficiary to work A milestone payment would be paid to the provider when the beneficiary was placed in employment and began to work. When the individual had engaged in Substantial Gainful Activity (i.e., earnings exceeded $500 a month) throughout the 9-month trial work period and his or her benefits ceased, the provider would receive 50% of the savings which accrued to the Disability Insurance Trust Fund. Providers would receive payments on a quarterly basis. The Commissioner of Social Security would be permitted to alter the percentage or the period of the payments if she determined that the incentive was not adequate to return beneficiaries to work.

The Social Security Administration would certify providers. Providers would be defined to include a broad range of rehabilitation services include job training, liaison and placement. The Commissioner would be required to provide beneficiaries with a list of providers of vocational rehabilitation services available in each locality.

The vocational rehabilitation provider and the beneficiary would jointly develop an individual transition to work plan. The plan would take effect upon approval by the beneficiary.

THE AMERICAN ASSISTANCE ACT

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. RADANOVICH. Mr. Speaker, I rise to introduce the Armenian Assistance Act. This bill is designed to assist Armenia and her people with an ambitious and progressive plan, similar to the successful program Operation Flood of India, to reconstruct sagging agricultural markets.

Ultimately, if Armenia is able to feed itself, its people will directly benefit from improved public health and nutrition standards. Improvement to Armenian's agricultural sector, specifically in the area of wheat seed development, is in the direct strategic interest of the United States and our desire to secure the advantages of a stable Caucasus region. Further, this bill will help empower Armenians in their bid for reform, likely establish new markets for United States products, and it specifically will enhance the exporting of United States agricultural products.

However, in introducing this bill, I am not proposing additional burdens for America's hardworking taxpayers nor proposing that we neglect America's precious farmland. Our people and farmers deserve more responsible representation. I recognize the need to harness the waste and dated programs contained within past foreign aid budgets. Therefore, I have pursued creative measures for striking a balance between the issue of controlling foreign aid and the need to help Armenia.

Allow me to clearly outline what this bill will do:

First, empower the private sector transition in Armenia toward a market economy, and likely establish new markets for the United States by strengthening our consumer buying power in Armenia.

Second, enhance the exporting of U.S. agricultural products.

Third, assist to coordinate activities with the U.S. Department of State, and help to establish a monitoring system in the Caucasus region for zoonotic diseases, which are transmissible from animals to humans. These diseases have no boundaries and are apt to cause major public health problems throughout the region, and furthermore are easily spread to Europe.

If this bill is passed, it is my intention to request that the agricultural renewal program in Armenia be implemented by the Armenian Technology Group [ATG], a nonprofit organization based in Fresno, CA. Over the past several years, ATG has been involved in similar programs in the area. It should be noted that, 80 percent of the organization's operational funding has been generated from the private and public sectors, and only 20 percent from U.S. Government sources. ATG has been effective in implementing its programs by working directly with the people of Armenia, in assisting them in their transition toward market economy, and in helping build democracy from the bottom up. I have enclosed for the RECORD specific figures on ATG's contributions and investments in the agricultural sector of the Republic of Armenia.

You may recall in the 104th Congress that the Government of Turkey was appropriated $22 million in economic support aid. Initially, the aid was dependent on Turkey's long-awaited recognition of the Armenian Genocide. A belligerent Ankara reacted to the House genocide clause, a reasonable amendment which I was privileged to introduce and lead in eventual passage in the House, by telling the United States State Department and the United States Congress that Turkey would not accept United States aid with preconditions such as recognition of the Armenian Genocide. Amazingly, Turkey was given the support and was not asked to recognize the genocide. All this despite their declaration to decline United States economic aid, while countries such as Armenia were in desperate need of financial support.

The Armenian Assitance Act proposes to redirect the $22 million or any remaining amount not yet obligated from the fiscal year 1997 Foreign Appropriations Act in economic support aid for Turkey, and transfer those funds to Armenia for agricultural development. I'm certain Armenia has been, and will continue to be, grateful for the support of the United States Government and the American taxpayer.

ARMENIAN TECHNOLOGY GROUP, INC.

[ATG Sponsored Contributions and Investments in the Agricultural Sector of the Republic of Armenia 1989–1996]

Contributions/Donations Per Sector	Amount USD	Percentage
ATG Contributions:		
Private Sector Donations	$11,695,672	58.13
In-Kind Professional Services	3,751,456	18.65
Cash Contributions	586,458	2.92
U.S. Government Support:		
USAID Grants/Sub-Grants	2,948,226	14.66
Transportation Costs	1,025,000	5.10
UNHCR Grants	115,010	0.58
Total	20,121,832	

THE PRESIDENT'S CALL FOR INDISPENSABLE LEADERSHIP—JANUARY 21, 1997

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. OWENS. Mr. Speaker, President Clinton's inaugural address was not a State of the Union speech obligated to provide substance for general proposals. Appropriately, the President used his second inaugural statement to set a tone for the next 4 years, the prelude to the 21st century. America is a great country blessed by God with wealth far surpassing any Nation on the face of the Earth now, or in the past. The Roman Empire was a beggar entity compared to the rich and powerful Americans. God has granted us an opportunity unparalled in history. President Clinton called upon both leaders and ordinary citizens to measure up to this splendid moment. The President called upon all of us to abandon ancient hatreds and obsessions with trivial issues. For a brief moment in history we are the indispensable people. Other nations have occupied this position before and failed the world. The American colossus should break the historic pattern of empires devouring themselves. As we move into the 21st century we need indispensable leaders with global visions. We need profound decisions.

INDISPENSABLE NATION

Under God, The indispensable nation, Guardian of the pivotal generation, Most fortunate of all the lands, For a brief moment, The whole world we hold in our hands, Internet sorcery computer magic, Tiny spirits make opportunity tragic, We are the indispensable nation, Guardian of the pivotal generation, Millionaires must rise to see the need, Or smother beneath their splendid greed, Capitalism is King, With potential to be Pope, Banks hoard gold, That could fertilize universal hope, Jefferson Lincoln Roosevelt King, Make your star spangled legacy sting, Dispatch your ghosts, To bring us global visions, Indispensable leaders, Need profound decisions, Internet sorcery computer magic, Tiny spirits make opportunity tragic, We are the indispensable nation, Guardian of the pivotal generation, With liberty and justice for the world, Under God.

SUPPORT GREATER MEDICARE EQUITY AND FAIRNESS BY REFORMING THE AAPCC PAYMENT FORMULA

HON. JIM RAMSTAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. RAMSTAD. Mr. Speaker, I rise today to introduce legislation to respond to an issue of great importance to Medicare beneficiaries and health care providers in my district and throughout the country—reforming the payment for Medicare risk-based managed care plans.

Currently, Medicare payments to risk-based health care plans are calculated on the basis of Medicare spending in each county's fee-for-service section—medical care outside of managed care plans. The variation in the adjusted average per capita cost [AAPCC] formula reflects different utilization of health care services.

In 1996, Dr. John E. Wennberg, the director of the Center for the Evaluative Clinical Studies at Dartmouth Medical School, published "The Dartmouth Atlas of Health Care." The atlas shows that the rates of hospital beds and physicians per 1,000 residents determines how much care Medicare beneficiaries use. Revising the highly variable AAPCC payment formula will result in greater equity for Medicare beneficiaries regardless of where they live, allowing choices among plans and more equitable distribution of out-of-pocket costs and additional benefit packages.

Because of the need to correct the inequity in the AAPCC payment formula for millions of Medicare beneficiaries, I strongly supported changes to the formula during consideration last session of the Medicare Preservation Act. Regrettably, congressional efforts to reform the geographic disparity and inequities in the AAPCC formula were denied by the stroke of the President's veto pen.

The legislation I am introducing today narrows the AAPCC payment gap between rural and urban areas in a budget neutral fashion. At a minimum, a county would receive 80 percent of the national input-price-adjusted capitation rate. This change helps reflect the true cost of doing business, taking into consideration uncontrollable factors such as wage rates or supply costs. The language also implements a 3-year average for the baseline rather than 1 year. This change provides greater representation of historical health care costs for an area. This bill is based on the Physician Payment Review Commission's "1996 Annual Report to Congress."

When the Health Care Financing Administration [HCFA] released the 1997 payment rates for Medicare managed care plans, the agency told us that payments nationally to Medicare-managed care plans would increase an average of 5.9 percent as of January 1, 1997—significantly lower than the 1996 national average increase of 10.1 percent.

This is good news in terms of the solvency of the Medicare trust fund—we need to slow the rate of growth of Medicare spending to stave off its imminent bankruptcy. The bad news is that this average increase reflects wide variation in percentage increases from county to county. Four counties: Valencia, N.M.; and three New York State counties Bronx, Monroe and New York, actually will receive negative growth—real decreases. Because the actual dollar variations are also extreme, many low-payment areas get a double whammy—lower percentage increases off a lower base.

This situation continues a trend inherent in the flawed payment formula. The following table illustrates the vast variation between counties across the country. I believe it is important to point out that even though the 1996 AAPCC payment increased an average of 10.1 percent not all counties shared in the bounty of that increase. The same is also true for the 1997 AAPCC payments.

Counties that typically lost ground were those in efficient markets and rural counties with historically lower reimbursement rates. Because of these lower payment rates and lower annual increases, these regions will continue to lack the ability to attract managed case options to their area or offer enhanced health care benefits often found in higher payment communities.

MONTHLY PAYMENT RATES TO MEDICARE-MANAGED CARE PLANS

Area/county	1995 payment	1995 percent increase	1996 payment	1996 percent increase	1997 payment	1997 percent increase
National average	$400	5.9	$440	10.1	$466	5.9
Richmond, NY	668	6.2	758	13.4	767	1.1
Kern, CA	439	5.8	478	8.9	512	7
Hennepin, MN	359	2	386	7.6	405	4.8
Tulare, CA	333	2.9	360	7.9	390	8.4
Vernon, WI	209	6.6	237	13.2	250	5.5

The payment rates also illustrate the overall instability and unpredictability of AAPCC's—factors that discourage health plans from entering new markets and remaining in other markets.

If there is a silver lining to HCFA's release of the 1997 risk-based managed care payment rates, it was contained in Dr. Vladeck's remarks: "The formula used to set HMO payment rates is flawed. It shortchanges rural areas and markets where care is delivered more efficiently, and may limit beneficiary choice."

Dr. Vladeck's comments indicate HCFA's understanding of the inequity in the current AAPCC formula and the need for change if we are to offer all Medicare beneficiaries true choices in the type and form of health care they want to receive. I see this as a signal that in the months ahead we can work in a bipartisan, pragmatic way to improve the AAPCC payment formula.

Mr. Speaker, correcting the AAPCC payment formula is vital. The 105th Congress has the opportunity to make the formula more equitable. I look forward to working with you and my colleagues on the Committee on Ways and Means to make the needed changes to the AAPCC payment formula. The longer we continue to use the current formula, the longer efficient health care markets will be penalized and rural areas will lag behind, leaving many Medicare beneficiaries with fewer choices.

CURT FLOOD: AN UNCOMMON MAN

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CONYERS. Mr. Speaker, 1 month ago, I introduced legislation repealing baseball's antitrust exemption. The bill was designated H.R. 21, in honor of Curt Flood's number when he played for the St. Louis Cardinals.

In an era when the terms hero and courage are used all too frequently, Curt Flood stands out as the genuine article, a true inspiration to all Americans who care about economic and social equality. I am attaching a letter from President Clinton and several articles written which describe his career and reiterate these very points.

Most of us are well aware of the courage Curt Flood displayed when he refused to accept being traded to the Philadelphia Phillies. His letter to then Commissioner Kuhn cut directly to the core of the issue:

> After 12 years in the Major Leagues, I do not feel that I am a piece of property to be bought and sold irrespective of my wishes. I believe that any system which produces that result violates my basic rights as a citizen and is inconsistent with the laws of the United States and the several states.

Although Curt Flood lost his legal battle challenging baseball's antitrust exemption, the public recognized the moral validity of his arguments—he was not a piece of property. His case paved the way for free agency in all professional sports. A national poll taken in the wake of *Flood* v. *Kuhn* showed that fans opposed the reserve clause, which bound players to teams for life, by an 8 to 1 margin.

And while thousands of athletes have subsequently benefited from free agency, Curt Flood paid a heavy price for his decision to take on the baseball owners. The 3-time all-star and 7-time Gold Glove Award winner played only 13 more games before being forced out of baseball.

Less well known is the fortitude Curt Flood displayed in fighting racial intolerance. At the same time Jackie Robinson was breaking the color barrier with the Brooklyn Dodgers, Curt Flood was facing the Jim Crow laws as the sole black man playing for the High Point, NC Hi-Toms.

He alone was barred from gas station restrooms. Only Curt Flood was forced to eat at the kitchen door while his teammates were served in the dining room. And when he played a doubleheader, he experienced only greater humiliation. As he explained to Ken Burns:

After the end of the first game you take off your uniform and you throw it into a big pile. . . . [But the clubhouse manager] sent my uniform to the colored cleaners which was probably 20 minutes away and there I sat while all the other guys were on the field. [The crowd has] really been giving me hell all day long, and now I'm sitting there stark naked waiting for my uniform to come back from the cleaners and the other guys were out on the field. So finally they get my uniform back and I walk out on the field . . . boy you'd think that I had just burned the American Flag.

Curt Flood's talents and goodwill extended well beyond baseball. He ran a foundation to benefit inner-city youngsters. An accomplished painter, his portrait of Martin Luther King hangs today in Corretta King's living room.

In the end, we will remember Curt Flood for having the courage to tell America what should have been plain and obvious all along. Discrimination is wrong. People—even athletes—are not property. Baseball is a business and should be subject to the competition laws.

A few days before Curt Flood died, I wrote him, suggesting that if the legislation I introduced in his honor was to pass into law, he should come to the White House signing ceremony. That can't happen now, but I know his indomitable spirit will be with us as we continue his fight for equality and fairness. I know all Members—and indeed all professional athletes—join me in mourning this courageous man.

THE WHITE HOUSE,
Washington, DC, January 24, 1997.

MRS. CURT FLOOD,
4139 Cloverdale Ave.,
Los Angeles, CA.

DEAR MRS. FLOOD: Hillary and I were saddened to learn of your husband's death, and we extend our deepest sympathy.

Curt Flood was a man of extraordinary ability, courage, and conviction. His achievements on the field were matched only by the strength of his character. While there are no words to ease the pain of your loss, I hope you can take comfort in the knowledge that Curt will be remembered by so many Americans as one of baseball's finest players and a lasting influence on the sport he loved so much.

We hope that the loving concern and support of your family and friends will sustain you during this difficult time. You are in our thoughts and prayers.

Sincerely,

BILL CLINTON.

[From the Washington Post, Jan. 22, 1997]

QUITE SIMPLY, A HERO

(By Thomas Boswell)

Every few years, Curt Flood would reappear. Maybe that was so we could compare his fast-aging and haggard face with the laughing ballplayer's mug that he'd worn in the 1960s, before he took baseball to the Supreme Court.

We won't be able to read the cost of making history in that face any more. Flood died of throat cancer Monday at 59. It was Martin Luther King Jr. Day. Of all the figures in sports in the last generation, perhaps only Flood could die on the anniversary of a martyr's death and have it seem a fitting memorial.

For a few days perhaps we can remember the difference between a real rebel—one who takes risks for the sake of a genuine cause—and our phony, look-at-me rebels who only stand for the cover shoot of their next autobiography.

Rebellion that's worthy of the name isn't about attitude. The rebel to whom our respect and our heart goes out is the one, such as Flood, who never in this world wanted such a job. He just had the mixed fortune to see what was right and act on it, knowing the cost to himself.

"Baseball players have lost a true champion," said players union head Donald Fehr on Monday. "A man of quiet dignity, Curt Flood conducted his life in a way that set an example for all who had the privilege to know him. When it came time to take a stand at great personal risk and sacrifice, he stood firm for what he believed was right."

Flood had the brains and the sense of justice to understand that baseball's employment system was basically unfair. However, by temperament, he was completely unsuited to a public brawl that lasted for years. He was as distressed by conflict as Fehr is invigorated by it. And Flood's torment always showed.

When he arrived in Washington in 1971 after sitting out a season, he played only 13 games for the Senators. You couldn't tell if his Gold Glove, all-star skills were just fading fast or whether the Flood case was eating him inside. At RFK Stadium, some of us cheered. But enough booed to let Flood know that, for him, no place was home. On the road, he was vilified as a traitor who wanted to ruin the national pastime.

Back then, memories of Black Power salutes were in the air. So Flood, thoughtful but never extreme, was pigeon-holed as radical. All he said was that he was sick of being treated—and traded—"like a piece of meat." How could America sanction a system where a team owned a man for his whole career?

After batting .200 in 35 at-bats, Flood fled. Hard as it may be to believe these days, Flood didn't want fame. He flinched when talking about himself and even admitted that he loathed the thought that he might be hurting his sport.

For years, Flood disappeared from the public scene, often living in Europe. In 1972 Flood v. Kuhn, the Supreme Court upheld baseball's right to antitrust immunity. Flood had fought the law and, temporarily, the law won.

"You have to understand that if you do what I did to baseball, you are a hated, ugly, detestable person," he said, explaining his self-imposed exile. This week, Hank Aaron said simply, "Flood was crucified for taking his stand."

By 1976, free agency had arrived and the justice of Flood's stand against the reserve clause was vindicated. But Flood stayed on the island of Majorca. Finally, two years later, he put his toe back into baseball gingerly, as a radio announcer for the Oakland A's for one season. He looked like a shy, hyper-sensitive ghost of himself. Though only 41, he seemed far older. His wounds were deep. His sense of isolation was almost palpable.

Many in the game respected Flood's pain, regarding him like a soldier who'd suffered shell shock in a necessary battle. Nobody, however, had a name for his fragile condition. He hadn't exactly become an eccentric. But whenever you saw him at a ballpark, he seemed raw-nerved and weighted down, like a man who'd seen something—seen it clearly and undeniably—and couldn't begin to get over it.

Finally, in 1994 Flood stood before the cameras again briefly during the players strike. Ostensibly, he was part of a possible new league called the United Baseball League.

Really, he took the stage to give modern players some backbone. The message was subliminal: This guy bucked the system for all of you. Maybe baseball put him on the rack and cracked him to a degree. So when an owner sneers about breaking the union, have a little guts. The money in your bank account came out of this guy's peace of mind.

Flood's legacy remains a tangled one. You could say he did the groundwork so athletes could make more money than anybody deserves. Flood laid the cornerstone of the Shaq Fu mansion, so to speak. Flood helped make a world where Brett Favre knows nobody will mock the Superman tattoo on his biceps; self-infatuation is so routine, nobody even notices anymore. Could Dennis Rodman be as "Bad As I Wanna Be" without his $7 million salary? If you kick somebody, peel off a big stack of Grover Clevelands. No problem. Thanks, Curt.

Cynics will say that Flood stood for something so that those who followed him could afford to stand for nothing.

That, however, is not Flood's fault. By helping athletes make market salaries for their services, he allows them to live on a bigger scale. We hear about the jerks. But the fools are still in the minority. More athletes are like Darrell Green of the Redskins, who was chosen this week as the NFL's Man of the Year for his charity and community work.

For some of us, Flood should be a daily tonic. Maybe he'll shame us into using the language more precisely when we describe our famous athletes.

When we use "courage" to describe a quarterback who takes a pain-killing shot, maybe we'll blush. When we call someone who makes a jump shot at the buzzer a "hero," maybe we'll be just a bit abashed. If that is heroism, what word have we reserved for people such as Flood?

And when we say losing the World Series is "tragic," perhaps we'll think of the last 28 years of Flood's life—and the price he paid for following his conscience. Then, our perspective sharpened, maybe we'll choose a better word.

[From the New York Times, Jan. 21, 1997]

REMEMBERING FLOOD, A MAN FOR ALL SEASONS

(By Murray Chass)

In a recent letter to Frank Slocum, executive director of the Baseball Assistance Team (B.A.T.), Curt Flood wrote, "The 1996 holiday season brings mixed feelings of joy and sadness. Therefore, we'll take the advice that mother Laura gave to me when I was a kid. She'd say 'Start counting your blessings, Squirtis, by the time you've finished, you won't have time for anything else.'"

Flood, who was 59, died yesterday after a yearlong battle with throat cancer, and it is the players who came after him in the major leagues who should count their blessings for having had a man of his stature and dignity and courage precede them.

Professional athletes, for the most part, live for their time. They generally don't care what happened before them and, worse, they often don't know. Sadly, many baseball players wouldn't even be able to identify Flood, wouldn't even know that he was the forerunner of Andy Messersmith, another name they wouldn't recognize for the impact he had on their lives.

But that day in Atlanta in the last month of 1994, the players in the meeting room of the players association executive board knew about the man who was to speak to them. They saluted him with a standing ovation before he spoke.

"It almost made me forget what I was going to say," Flood said afterward. "It caught me a little short. I felt a lump in my throat."

Flood was in the room that day in his capacity as vice president of the United Baseball League, a venture that did not reach fruition. Twenty-five years earlier, in 1969, he appeared before another Players Association executive board seeking support for the task he was about to undertake. The St. Louis Cardinals, for whom he had played for 12 years, had traded him to the Philadelphia Phillies, and he didn't want to go.

Richard Moss, who was the union's general counsel at the time, recalled yesterday that Flood came to him and Marvin Miller, the head of the union, and told them he wanted to challenge the system that he said "treated people like they were pieces of property."

"Marvin and I weren't sure if he was serious, if he had some other agenda," Moss said. "We arranged for him to come to the board meeting in Puerto Rico. The idea was to let him talk to the board and convince them that he was for real, that he really believed this and he was sincere."

With the board's support, Flood took his challenge all the way to the United States Supreme Court. He lost, but his effort eventually emboldened other players, Messersmith in particular. Unfortunately, besides losing the case, Flood saw his career die. After sitting out the 1970 season, he played briefly for the Washington Senators in 1971.

He knew he wasn't the same player he had been, and he walked away from the only job he had known. A pariah in an owner-dominated business, Flood was not welcome to wear a baseball uniform. Instead, he drifted from country to country, first to Majorca, where he opened a bar and became an alcoholic, then back to the United States, then to Sweden, then back home again.

In recent years, Flood operated a youth center in Los Angeles. He enjoyed working with children. He would have enjoyed working with young professional baseball players, too, but he never had the opportunity. Nevertheless, he retained his dignity and, in the last year, his courage.

Yesterday, Joe Garagiola, president of B.A.T., recalled that he testified for baseball in Flood's lawsuit. "I thought if the reserve clause went, baseball was going," Garagiola said. "I was so wrong I can't begin to tell you. It took a lot of guts for him to do what he did."

Garagiola's organization had helped Flood in the last year, and Moss, whom Flood always identified as his lawyer, had planned to appear before the B.A.T. board tomorrow morning to express Flood's appreciation for the assistance. Instead, Moss made plans to return to Los Angeles.

In his letter to Slocum, Flood also wrote, "Say this: 'Curt accomplished every goal that he set for himself, and simply moved on.'"

He didn't gain a victory 25 years ago, and in his career he didn't achieve statistics that were good enough for the Hall of Fame. But when Flood's name first appeared on the Hall of Fame ballot, this voter marked an 'X' next to it in a symbolic gesture. No one was ever more worthy of such recognition.

[From the New York Times, Jan. 21, 1997]

CURT FLOOD IS DEAD AT 59; OUTFIELDER DEFIED BASEBALL

(By Joseph Durso)

Curt Flood, the All-Star center fielder for the St. Louis Cardinals in the 1960's who became a pioneering figure in the legal attack on baseball's reserve clause that foreshadowed the era of free agents, died yesterday in Los Angeles. He was 59.

Flood died at the U.C.L.A. Medical Center, where he had been a patient in recent months, after developing pneumonia. He had been suffering from throat cancer since last spring.

At bat and especially on the field, Flood was an outstanding player for a dozen years with the St. Louis Cardinals, a center fielder who won the Gold Glove for fielding excellence seven years in a row in the 1960's and batted over .300 six times.

But it was his stiff resolve regarding the unfairness of baseball's virtually enslavement of players and his courage in challenging a system that perpetuated this condition that carried Flood beyond baseball.

It all crystallized when the Cardinals traded Flood to the Philadelphia Phillies after the 1969 season and Flood refuse to go. Represented by Arthur J. Goldberg, former Associated Justice of the Supreme Court and United States Ambassador to the United Nations, Flood triggered a legal war that shook baseball.

Flood actually lost the battle in Federal District Court in New York when the judge suggested that the players and club owners negotiate the issue. But almost six years later, he won the war when other baseball players successfully sued and broke from the "reserve system," which for almost a century had bound a player to his team year after year.

As a result, before another generation had passed, salaries in all sports soared, teams sought salary caps to contain the damage to their payrolls and large cities were required to pay small cities millions in compensation.

The solitary figure who prompted this revolution, Curtis Charles Flood, was born in Houston on Jan 18, 1938, but was raised in Oakland. He was short and skinny, but he signed his first professional contract while still a senior at Oakland Technical High School.

After two years in the minor leagues and briefly with the Cincinnati Reds, he was traded in 1958 to St. Louis, where he played for the next 12 seasons and three times played in the World Series—against the New York Yankees in 1964, the Boston Red Sox in 1967 and the Detroit Tigers in 1968.

His talents were unquestioned. During a career that lasted from 1956 to 1971, he batted 293, stole 85 bases, appeared in three World Series and reigned in center field for 12 years for the Cardinals.

During one span, he played in 226 consecutive games without committing an error and in 1966 went the entire season without committing an error and in 1966 went the entire season without making a misplay. He even became a portrait artist of some talent who was commissioned to paint August A. Busch Jr., the owner of the Cardinals, and his children in oils.

At the peak of his career, though, the man with the flawless glove misjudged a line drive, cost the Cardinals the 1968 World Series and supplied a regrettable footnote to the 1968 World Series against Detroit.

The Tigers and Cardinals were tied at three games apiece with Bob Gibson facing Mickey Lolich for the championship in St. Louis in Game 7. They were scoreless for six innings. Then in the Tiger seventh, Gibson retired the first two batters. But after two singles, Jim Northrup followed with the hard drive to center.

Flood lost sight of the ball momentarily, took a couple of steps in toward home plate, reversed direction and slipped while the ball carried over his head for a triple and two runs. The Tigers won, 4-1, and captured the Series.

After the game, Tim McCarver stood in the rubble of the Cardinals' locker-room regret and called out, "Curt Flood, you're beautiful.

But a year later, the Cardinals slid into fourth place and Busch cleaned house. In one blockbuster trade, he sent Flood, McCarver and Joe Hoerner to Philadelphia for Richie Allen, Cookie Rojas and Jerry Johnson. But Flood sued for his freedom from a system that "reserved" players to their teams and that had won exemption from the antitrust laws as far back as 1922.

The trial opened May 19, 1970 before Judge Irving Ben Cooper in the United States Court House in lower Manhattan. The defendants included Commissioner of Baseball Bowie Kuhn, the presidents of the National and American Leagues and the Chief executive of all 24 teams then in the big leagues. They were being challenged by a 32-year-old outfielder who was making $90,000 a year but was determined not to be traded without his consent. When he was asked which team he wanted to play for, he testified, "The team that makes me the best offer."

The "reserve clause" in contracts was not toppled during the trial, but it came under sustained attack. Marvin Miller, executive director of the players association, described how baseball contracts tied the player to his club forever and said, "The player has no say whatsoever in terms of what conditions he plays under, always bearing in mind he has the one alternative: He may decide to find a different way to make a living."

The Trial consumed 10 weeks, 2,000 pages of transcript and 56 exhibits. Judge Cooper suggested that "reasonable men" could find a solution outside court and ruled: "We are convinced that the reserve clause can be fashioned so as to find acceptance by player and club."

Flood, who sat out the 1970 season, did not think so. He signed with the Washington Senators in 1971 for $110,000, but after two months suddenly quit and flew to Europe.

When the case was appealed to the Supreme Court, the justices—in a 5-3 ruling—supported the District Court and the Court of Appeals and left the "reserve clause" undisturbed. But Curt Flood had set the stage for the revolution that followed in 1976, and generations of free agents poured through.

"Baseball players have lost a true champion," the players' union head, Donald Fehr, said yesterday. "When it came time to take a stand, at great personal risk and sacrifice, he proudly stood firm for what he believed was right."

TRIBUTE TO BRIAN D. GALLAGHER

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. YATES. Mr. Speaker, I'm proud to report to the House that my constituent, Mr.

Brian D. Gallagher of Evanston, IL, was graduated from Loyola University (Chicago) Law School on January 11, 1997, with a degree of LL.M. in child law. Mr. Gallagher is the first recipient of this advanced degree in the country.

While attending Loyola Law School in the evenings, Mr. Gallagher served the people of Cook County and the State of Illinois as an assistant to the commissioner of the Metropolitan Water Reclamation District of Greater Chicago.

Mr. Gallagher looks forward to using his new degree to continue his career of public service and I wish him every success in his future endeavors.

VOCATIONAL INDUSTRIAL CLUBS OF AMERICA WEEK

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. TOWNS. Mr. Speaker, I rise today to salute the New York City Chapter of the Vocational Industrial Clubs of America [VICA] which will celebrate Vocational Industrial Clubs of America Week in New York City, February 11–17, 1997. As a nationally recognized organization comprised of students, professional members, and dedicated teachers, the purpose of VICA is to provide educational and leadership opportunities for young people as they prepare for the 21st century.

Through the efforts of more than 12,000 student members in its New York City Chapters, VICA encourages improvement of vocational and leadership skills, scholarship, citizenship and community service. Moreover, through professional development activities, members learn how to work with others, hold office and direct the affairs of the group and how to compete honorably with colleagues on the local, state, and international levels.

During my tenure in the House of Representatives, I have also personally witnesses the hard work and dedication of members, such as Ms. Janice Jones and Mr. Jerome Jeffrey, who have graciously represented the East New York High School of Transit Technology Chapter of VICA at numerous community events within the 10th Congressional District.

Mr. Speaker, it is with great pleasure that I rise today to recognize the many years of invaluable assistance this organization has provided youth and the community-at-large. I ask my colleagues to join me in celebrating Vocational Industrial Clubs of America Week.

TRIBUTE TO THE HONORABLE FRANKIE M. FREEMAN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CLAY. Mr. Speaker, I rise to pay tribute to my friend and mentor, the Honorable Frankie Muse Freeman. On November 24, 1996, attorney Freeman celebrate her 80th birthday. As a tribute to this noted legal champion and legendary figure, I declared November 24, 1996 as "Mrs. Frankie Muse Freeman Day" in the First Congressional District of Missouri. In further celebration of Mrs. Freeman's wonderful life, I commend her story to our colleagues.

Frankie Muse Freeman has been a practicing attorney for over 45 years and has held several trailblazing positions. These include Missouri attorney general, a commissioner of the U.S. Civil Rights Commission—to which she was nominated by President Lyndon B. Johnson—and inspector general of the Community Services Administration by President Jimmy Carter.

Over the years, Frankie Freeman has given exemplary leadership and dedicated services to numerous civic, cultural, and educational organizations and was one of the two United States representatives to the UN–ECA West African Housing Conference in Lome, Togo.

A graduate of Hampton University and Howard University School of Law, Mrs. Freeman is a member of the Mound City Bar Association, the National Bar Association, and the Bar Association of Metropolitan St. Louis.

Frankie Muse Freeman served as the fourteenth national president of Delta Sigma Theta Sorority, Inc., a public service sorority with over 190,000 members in over 870 chapters internationally.

In 1992 she was elected trustee emeritus of the Howard University Board of Trustees following 16 years as a member of the board.

Mrs. Freeman has also been an active and devoted member of the Washington Tabernacle Baptist Church and serves as treasurer of the church's scholarship fund.

For 52 years, Mrs. Freeman was the devoted wife of Shelby Freeman who died in 1991. She is dedicated to her daughter, Shelby Patricia, son-in-law, Ellis Bullock, three grandsons, and three great grandsons. Her family is bonded together with strength and love.

Again, I congratulate Mrs. Frankie Muse Freeman. I commend her for a long and illustrious career as an outstanding jurist of great character, leadership, and compassion. I further applaud her lifelong exemplary stand on justice and civil rights issues.

TRIBUTE TO LT. COL. JON T. ANDRE

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. SAXTON. Mr. Speaker, it is a great honor for me to pay tribute to Lt. Col. Jon T. Andre who, on January 31, 1997, retired from the U.S. Air Force after more than 24 years of dedicated service. During his distinguished career, Colonel Andre has served his country, the U.S. Air Force, and the community of McGuire Air Force Base with distinction and honor.

Over the past 6½ years, Colonel Andre served at McGuire AFB in New Jersey. It has been during this period that I have gotten to personally know and appreciate Jon's professional integrity and always positive outlook. In 1993, Jon was assigned as McGuire's principal liaison officer during the emotional and often contentious base closure and realignment process. Jon excelled under an extremely delicate and difficult situation, deftly handling the demands placed on him by both Air Force Headquarters and the local community which sought to retain McGuire AFB. His earnest, forthright approach earned him praise by all who came in contact with Jon during this period.

A native of Ludlow, MA, Colonel Andre entered the Air Force following his graduation from Holy Cross College in 1972. Although initially trained as an air weapons controller, Jon sought early in his career to work with people and improve the personal and professional relationships within the Air Force. Throughout his career, Colonel Andre has been involved with human relations and equal opportunity programs, gaining ever more responsibility and recognition with each promotion.

By all accounts, Colonel Andre's involvement with personal development-personal relations programs was a perfect match. He repeatedly distinguished himself in this field, earning both individual as well as group honors. Specifically, Jon's accomplishments include having his office selected as the Tactical Air Command's Best Social Actions Programs for 2 consecutive years while assigned at Luke Air Force Base; selected as Instructor of the Year while serving as a weapons control instructor; and having his office recognized as the Best Major Command Social Actions Programs in the Air Force while assigned to Langley Air Force Base as the Chief of the Equal Opportunity and Treatment-Human Relations Education Branch.

Colonel Andre and his lovely wife, Patty, will begin a new career in Virginia where Jon will again use his communication and interpersonal skill as a human resources director for the historic Colonial Williamsburg Foundation. I know I speak for the entire McGuire community in wishing Jon and his family the very best as they leave the U.S. Air Force. I offer my personal thanks and the thanks of an appreciative nation as he begins a new chapter in his life.

HONORING SUPINDA BUNYAVANICH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today to honor and congratulate Supinda Bunyavanich, of Port Washington, NY, for being selected as a member of USA Today's All-USA College Academic First Team.

Supinda, a senior at Harvard University, truly embodies the ideals of leadership, perseverance, and initiative. Last summer, Supinda organized a conference in Korea to discuss the challenges of globalization in the 21st century. She brought 268 students together from 67 universities around the world. Professors, policy experts, corporate leaders, and the media also attended the conference to give their own unique perspective on the challenges that lie ahead. As a leader of Harvard University's Project for Asian and International Relations, Supinda invited speakers and corporate sponsors, recruited delegates and managed the logistics of the event. Additionally, she raised $200,000 in donations to help financially challenged students attend the conference.

Such initiative and intellectual endeavor can be seen throughout Supinda's experience at Harvard. She helped establish a forum on children's health at the Harvard School of Government and created the curriculum for an after-school project for underprivileged youth. Supinda has also traveled to Chile to conduct biological research.

Supinda is one of 20 college students from around the country to be selected as a member of the All-USA College Academic First Team. Twelve hundred fifty-three students from all 50 states and the District of Columbia were nominated for this honor.

Supinda will graduate with a degree in environmental science and public policy and would eventually like to become a college professor. Supinda's experience demonstrates how one individual can achieve so many extraordinary accomplishments through innovation, creativity, and leadership. I ask all of my colleagues to join me in honoring and congratulating Supinda Bunyavanich, on her many accomplishments, and extending to her our best wishes for continued success.

A SALUTE TO CENTRAL HIGH SCHOOL VICTORS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. WOLF. Mr. Speaker, I would like to recognize some high school students from Central High School in Woodstock, VA, in my congressional district for their outstanding sports achievement as State champions in cross country and basketball. Both the Central High School boys' cross country team and Central High School girls' basketball team won State championship victories in 1996. To have two teams from the same school obtain the title of State champions during the same year is certainly a true accomplishment. I would like to acknowledge the following team members and coaches for the dedication and hard work that brought them to victory.

Members of the Central High School girls' basketball team are: Christy Burgess, Jessica Wellard, Kathy Gochenour, Stephanie Lane, Sarah Dinardo, Meghan Peer, Brandi Fleet, Sarah French, Lindsey Rutz, Jewelee Magdic, Tata Dooley, and their coach Roger Wilkins. Members of the boys' cross country team are: Tim Cline, Matt Dinardo, Tim Clugasch, Damon Harper, Kirk Kirkland, Bryce Long, Jason Long, Tony Scott, and their Coach Joseph Huddle.

On behalf of the citizens of the 10th District, I salute these teams and Central High School.

H.R. 505, THE COMMUNITY EMPOWERMENT ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. RANGEL. Mr. Speaker, today, we have the opportunity to take another step closer to a goal we all share with President Clinton: renewing investment in our cities and communities. I am joined by 18 other Members today in introducing H.R. 505, the Community Empowerment Act.

The Community Empowerment Act expands on the successful empowerment zone initiative we began in 1993 which created 9 empowerment zone demonstration projects and 95 enterprise communities. The bill I am introducing today provides tax incentives for an additional 22 new empowerment zones and 80 enterprise communities. The bill also provides tax incentives for cleanup of up to 30,000 brownfield sites across the country.

Everyone has an interest in seeing these communities thrive economically and environmentally. These tax incentives will mean our investments can finally pay off for both the investor and the community.

The bill would establish a new category of tax-exempt financing for 20 additional empowerment zones in 15 urban and 5 rural areas. The other newly designated areas, the 80 enterprise communities, 50 urban and 30 rural, and the 2 additional empowerment zones, would enjoy essentially the same incentives as provided under current law. Located mainly in low-income areas, the zones, and smaller enterprise communities, would be designated for tax and other incentives to enhance economic development, job growth, improved education, housing, and other benefits. As in the nine existing empowerment zones, communities would have the power to design their own specific programs.

The bill would also provide $2 billion in tax incentives specifically to address the important problem of brownfields, which are abandoned, polluted industrial sites. The tax incentives will spur the private sector to clean up these sites and put them back into productive use. The incentives would apply to all distressed communities, including current and future empowerment zones and enterprise communities, and are expected to result in $10 billion in private cleanup investment over the next 7 years. Under current law, the costs of new buildings or permanent improvements that increase the value of any property are not deductible. The community Empowerment Act would make certain remediation costs deductible if they were incurred while restoring a qualified site.

Mr. Speaker, leveraging public sector resources to encourage private-sector community investment is a fiscally responsible and wise means of promoting community development and prosperity. I invite my colleagues to sign onto this bill and vote for it.

THE NATIVE AMERICAN TELECOMMUNICATIONS ACT OF 1997

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. RICHARDSON. Mr. Speaker, today, I am introducing a bill designed to promote greater telecommunications service to native Americans, including Alaskan Natives.

There is great optimism in this Chamber about last year's Telecommunications Act, particularly the provisions on universal service. While I join my colleagues in that optimism, I am concerned that these policies will prove insufficient for native Americans.

For too long, native Americans have fallen through the cracks of our national telecommunications policy. My bill will ensure that the universal service mechanisms designed by the Telecommunications Act of 1996 will benefit carriers designated to serve Indian lands.

Among the recommendations in the 1995 Office of Technology Assessment report, "Telecommunications Technology and Native Americans" is a strengthened Federal/tribal government partnership in the telecommunications field to provide better services to persons in Indian country and to enable tribes to be direct providers of telecommunications services.

In conjunction with this report and President Clinton's Executive order to require all Federal agencies to adopt specific policies to ensure responsible representation of the interests of native Americans my bill will direct the FCC to:

Establish an Indian telecommunications policy that takes into account the unique government-to-government relationship between the tribes and the Federal Government, the trust obligations of the United States.

Promote opportunities for meaningful participation and comment in FCC proceedings.

Obtain and maintain a database of reliable statistics concerning the extent of subscribership to, and the affordability of, telecommunications and information services on Indian lands.

The legislation will promote the exercise of sovereign authority of tribal governments over the establishment of communications policies and regulations within their jurisdictions. Furthermore, the bill will promote native-American participation in the consumption and provision of telecommunications services.

To focus Federal infrastructure development policy, the legislation that I have introduced today requires the National Telecommunications and Information Administration [NTIA] to encourage investment in, and the deployment of, telecommunications systems on Indian lands.

We currently operate without any policy towards these sovereign entities, many of which retain great physical and geographical barriers to proper infrastructure. This lack of direction creates greater polarization between the technological haves and have-nots.

Many rural tribes are caught in a jurisdictional "catch 22" due to the existing lack of policy at both the Federal and State level. While many States require telecommunications carriers to serve rural areas in America as part of a larger overall regulatory agreement, the States are not compelled to extend these services onto Indian lands. Consequently, many rural Indian reservations fail to receive adequate service.

My bill does not seek to mandate States or telecommunications carriers to provide services. Instead, it asks the Federal Government to live up to the obligations it has as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes. Where States and market forces fall short in providing adequate services at reasonable and affordable rates, it is a Federal responsibility that should be provided by means of the Federal support mechanisms established under the universal service provisions of the Telecommunications Act of 1996.

The most important issue at stake here is economic development and prosperity on Indian lands. As the fiscal constraints of balancing the Federal budget here in Washington continues, we must counter spending cuts on programs that benefit native Americans with greater economic opportunity.

The future of American economic prosperity in rural America lies squarely on the back of the telecommunications infrastructure throughout the land. Already we are seeing industry sprout up in rural America where fiber optic cables have been installed; the second coming of the railroad to many of these communities. It is imperative that we include native Americans in the prosperity of the technological revolution.

As the FCC prepares to adopt a policy on universal service, the implementation process of the Telecommunications Act reaches a critical stage. I believe it is important to make it perfectly clear that the intent of Congress can only be fulfilled if the universal service policies or procedures established to implement the act address the telecommunications needs of low-income native Americans.

IN HONOR OF TWO DISTINGUISHED INDIVIDUALS MAKING A DIFFERENCE IN THEIR COMMUNITIES: MARTIN R. VITALE AND HARVEY WHILLE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to two outstanding individuals, Martin R. Vitale and Harvey Whille, in recognition for their contributions to fostering a sense of understanding within the labor and business communities. Mr. Vitale and Mr. Whille will be honored during the fourth annual Archbishop's Labor and Business Recognition Dinner at the Marriott at Glenpointe in Teaneck, NJ.

The Archbishop's Annual Labor and Business Recognition Dinner began with the purpose of recognizing those in both the labor and management fields who were making a difference to promote cooperation between these two unique entities. Over the past 4 years, this observance has become a vital component in the ongoing attempt by the Catholic Church of Newark to encourage and to enhance the dialog between labor and management. Additionally, this dinner has become a vital source of funding for the CYO/Youth Ministries of the Archdiocese of Newark which operates an Outreach Program in Jersey City.

Martin R. Vitale's road to his chairmanship of the Board of Directors of Twin County Grocers has been enhanced by numerous family members and business associates. Mr. Vitale is married to an exceptional woman named Barbara whose community service has benefited the residents of Alpine, NJ for the past 13 years. Mr. and Mrs. Vitale have four accomplished children: Andrea, Martin, Jr., Stephanie, and Barbara. Mr. Vitale's own business, Vitale Enterprises, operates 10 Foodtown supermarkets, some of which serve residents of my district.

Harvey Whille, president of New Jersey's largest labor union, United Food and Commercial Workers [U.F.C.W.], Local 1262, is a man of extraordinary commitment to the union members he represents as well as to his community. Mr. Whille's unwavering sense of responsibility to the labor movement began in 1962 as a rank and file member at Foodarama supermarkets. Subsequently, he has served as a shop steward, union organizer, representative, field director, secretary-treasurer, and local president to members who work in New Jersey and New York businesses, many of which are located in my district. Mr. Whille's dedication to community service has seen him function as the chairman of numerous charitable endeavors, including fundraising for handicapped children. Mr. Whille has received honors from both the New Jersey Industrial Union Council and the Civil Rights Committee of U.F.C.W., region 1. Mr. Whille resides in Wall Township with his wife Donna with whom he has four children, Timothy, Tammy, Thomas, and Tara, and three grandchildren.

It is an honor to have two such distinguished individuals working on behalf of the residents of my district. I ask that my colleagues join me in honoring Martin R. Vitale and Harvey Whille who epitomize the good that can be accomplished when people work together toward a common goal.

RELEASE MONEY TO SAVE WOMEN'S LIVES

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Ms. FURSE. Mr. Speaker, a very important vote on family planning will occur this month.

The fiscal year 1997 Foreign Operations appropriations bill directs the President to submit a Presidential Finding to Congress no later than February 1, detailing whether or not the spending restrictions imposed on family planning overseas are having a negative impact on the proper functioning of those programs.

The Presidential Finding is to be included in a joint House-Senate resolution on which both bodies must vote by February 28. If both the House and Senate approve the finding, international family planning funds will be released on March 1 rather than the current July 1 release date of funds that have already been appropriated.

The President has submitted that finding and now we will have the opportunity to deliver the international family planning funding, which has been delayed already since October 1 of last year.

I commend to my colleagues' attention the following column written by First Lady Hillary Rodham Clinton in which she portrays the situation of real women's lives and the urgent need for family planning. It appeared in the current issue of Popline, a publication of the Population Institute on whose board of directors I serve.

FAMILY PLANNING IS REDUCING ABORTIONS

(By Hillary Rodham Clinton)

The pregnant woman wore an alpaca shawl over her blouse and full skirt, the traditional Indian dress in Bolivia. She looked about 36 and was attending a prenatal class at a health clinic I visited this week in the Bolivian capital, La Paz. She was nursing a 3-month-old baby and expecting her eighth child, who she hoped would be her last.

I was in Bolivia to attend the Sixth Conference of Wives of Heads of State and Government of the Americas. Women from countries throughout the Western Hemisphere got together to talk about strategies to eliminate measles, promote education reform and improve maternal health in our region.

Bolivia, a country of majestic beauty in the heart of South America, was an auspicious location for such a discussion. More women die in Bolivia during pregnancy and childbirth than in any other country in South America. But in the face of this human tragedy, Bolivia has become a model of how one nation can respond to the crisis of maternal mortality by galvanizing the government, non-governmental organizations and the medical establishment to launch a nationwide family planning campaign.

In a country where half of all expecting mothers go through pregnancy and childbirth alone—without medical attention of any kind—Bolivia's aggressive effort to educate women about their own health and their options for childbearing is resulting in safer pregnancies, stronger families and fewer abortions. Without access to family planning, women in Bolivia—and in many developing nations—often turn in desperation to illegal, unsafe abortions that can end in death or serious injury. Deaths from abortion complications account for half of all maternal deaths in Bolivia.

As Bolivia has ably demonstrated, voluntary family planning teaches women about the benefits of spacing children several years apart, breast-feeding, good nutrition, prenatal and postpartum visits and safe deliveries. It also decreases the number of abortions.

Bolivia's success at preventing mothers from dying and lowering abortion rates has been possible, in part, because of help from the United States and other countries. The U.S. Agency for International Development has provided financial and technical assistance to help Bolivia establish a network of primary health care clinics.

The clinic I visited in La Paz is one that the United States helped start. Called PROSALUD (which loosely translated, means "for the good of health" in Spanish), the clinic has doctors and nurses who offer round-the-clock prenatal, obstetric and pediatric services, as well as counseling about family planning in a poor neighborhood of 15,000 people. In the first six months of 1996, the clinic staff provided 2,200 medical consultations, delivered 200 babies, registered 700 new family planning users and immunized 2,500 children.

There are obvious benefits of such a program to Bolivian women, children, and families, but health and family planning services also help alleviate poverty and contribute to the economic stability of a democratic ally in our hemisphere. Yet opponents of foreign assistance and particularly of family planning in Congress are trying to eviscerate U.S. funding for programs like the one I saw at PROSALUD. Some argue that the United States has no national interest in the health and well-being of other countries' citizens. Others mistakenly suggest that family planning is being used to encourage—rather than decrease—abortions. In fact, our government has prohibited funding of any overseas project that promotes abortion since 1973.

Ignoring this, Congress last year approved draconian cuts in family planning assistance amounting to a 35 percent reduction in funds. To add insult to injury, the cuts were accompanied by new restrictions that delayed delivery of aid for the first nine months of the fiscal year.

Similar harsh cuts and delays are included in the current budget, meaning that many organizations could again be denied assistance for months and then receive it only in monthly installments.

According to a recent analysis by five population organizations, the funding cuts alone will result in an increase of 1.6 million abortions, more than 8,000 maternal deaths, and 134,000 infant deaths in developing countries.

Family planning campaigns at work in Bolivia and elsewhere represent sensible, cost-effective and long-term strategies for improving women's health, strengthening families and lowering the rate of abortion. My husband's administration remains committed to the continuation of these investments. And I will do everything I can to ensure that U.S. support for these initiatives continues. If you share my concern, I hope you will add your voice to mine and give all women everywhere the same opportunities for their lives we take for granted in ours. (Permission by Hillary Rodham Clinton and Creators Syndicate.)

TRIBUTE TO OFFICER WENTLANDT

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. DIAZ-BALART. Mr. Speaker, it is with great admiration that I rise today to pay tribute to Officer Rick Wentlandt, a retired police officer who is a real-life hero. I was honored to have the opportunity to meet Officer Wentlandt's family at the dedication ceremony for the Officer Rick Wentlandt Survival City, which will continue the efforts that Officer Wentlandt began after surviving his own personal tragedy.

In 1981, Officer Rick Wentlandt of the Metro-Dade Police Department was severely wounded while on duty and forced to retire. After miraculously surviving this tragic incident, in which he interrupted an armed rape and managed to save a woman's life while he was shot six times in the process, Officer Wentlandt took what he learned from this experience and began teaching a class on officer survival mindset training. His teachings have been used to train law enforcement officers, police trainers, and mental health professionals from around the country about mastering the mental aspects of survival. Even after his injuries forced him to retire from the police department, Officer Wentlandt continued to volunteer his time, logging hundreds of hours teaching survival skills to veteran officers and new recruits.

I feel extremely fortunate to have met Officer Rick Wentlandt's family and sincerely appreciate the contributions he had made to south Florida. It is important that we learn from his experiences and take his teachings to heart.

TRIBUTE TO DOROTHY SMITH

HON. GREG GANSKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. GANSKE. Mr. Speaker, it is my pleasure today to be able to commend a fine individual, and a real friend to many people in southwest Iowa—Dorothy Smith.

For more than 10 years Dorothy worked for both myself and Congressman Jim Lightfoot in serving the people of Pottawattamie and surrounding counties. Dorothy was diligent, fair, and thorough in helping people deal with the Federal Government. She was also an excellent representative of my office, ably taking my place when congressional business kept me in Washington.

Southwest Iowa will miss Dorothy's energy, but I am sure she will remain active in the community. I would like to thank Dorothy for her service, and wish her and her husband Gordon the best as they begin the next chapter in their lives.

INTRODUCTION OF THE EDUCATION AFFORDABILITY ACT OF 1997

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. PRICE of North Carolina. Mr. Speaker, today, I am introducing the Education Affordability Act, together with my North Carolina colleague and fellow educator BOB ETHERIDGE. This legislation is designed to make education more accessible and affordable for working Americans and to give our young people the training that most new, good jobs require. Our bill would restore the tax deduction for student loan interest and the full tax exemption for scholarships and fellowships. In addition, it would permit penalty free, withdrawals from individual retirement accounts to pay for higher education expenses.

In the last decade, the number of American students borrowing money for higher education has doubled. The average cost of attendance at a public college has increased 27 percent over the past decade while the cost of private college has increased over 40 percent. It is not unusual today for a working family to spend over 25 percent of their income helping their child through college. Many of this Nation's talented young people—young people who are the future of this country—are unable to attend college because of the financial hardship.

Our legislation would take significant steps toward removing some of these barriers to higher education. First, it would restore the pre-1986 tax laws governing student loans. Instead of penalizing young people who are gifted and fortunate enough to earn scholarships and fellowships by taxing this money, our bill would make these resources tax exempt. Students and their families who need to borrow to pay the costs of education would be able to deduct the interest on their loans. Finally, this bill would eliminate the 10-percent penalty on withdrawals from IRA's for higher education expenses, allowing students additional access to resources for their education.

Accessible and affordable higher education is essential to this Nation's ability to compete in the global market. In order to remain at the forefront of this growing worldwide economy, we need to ensure that our children have access to affordable education beyond high school. Passage of this bill would help to bring higher education opportunities to every interested individual. It is an investment in the future of our young people and our country. I urge my colleagues to join us by cosponsoring the Education Affordability Act.

EZUNIAL "EZE" BURTS—A DISTINGUISHED RECORD OF SERVICE TO THE PORT AND PEOPLE OF LOS ANGELES

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Ms. HARMAN. Mr. Speaker, my colleague, Representative MILLENDER-MCDONALD and I are proud to join in congratulating and thanking Ezunial Burts for a distinguished 12 year record of service to the Port of Los Angeles and to the citizens of Los Angeles County.

As he departs from his position as executive director at the port to take the reins as president of the Los Angeles Area Chamber of Commerce, Eze can look around to see the remarkable achievements of his tenure. Whether measured by soaring increases in cargo tonnage and container volume or by its tremendous impact on the economy of southern California, Eze led the port to unprecedented growth. Major capital improvements completed in the last 12 years include the intermodal container transfer facility, new container terminals for Trans Pacific Container Service [TraPac] and Nippon Yusen Kaisha [NYK], and the new World Cruise Center, currently the busiest west coast passenger facility.

And the future is equally promising. The ongoing construction of new, state-of-the-art facilities, including the $2 billion Alameda corridor and $600 million pier 300/400 projects, will help ensure that the port is prepared for trade in the 21st century. As a testament to the port's financial strength, all three major bond rating agencies gave the port AA ratings, the highest of any U.S. port without taxing authority.

Eze has demonstrated many strengths that will suit him well in his new career. He has been tremendously skillful working with diverse groups of maritime partners and the international trade community and his genuine warmth and concern for port employees have won him the friendship, admiration, and respect of the 670-member port management team and staff. He has served on many advisory committees and boards affiliated with port authorities and trade policy, including the Intergovernmental Policy Committee of the Office of the U.S. Trade Representative under the Clinton administration. Eze also has a laudable record of service to the community at large, serving on the board of directors of such organizations as the National Forum for Black Public Administrators, the Metropolitan YMCA, Hancock Savings and Loan and the California Chamber of Commerce.

Eze will be sorely missed, but his legacy remains. We join the port community and our constituents in extending to him sincere appreciation and wishing him and his family every success as he assumes the critical job of president of the Los Angeles Area Chamber of Commerce.

INTRODUCTION OF THE CRIMINAL WELFARE PREVENTION ACT, PART II

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. HERGER. Mr. Speaker, today Mr. CLEMENT, Mr. SHAW, Mr. BUNNING, Ms. DUNN, Mr. ENSIGN, Mr. HAYWORTH, and Mr. BURTON join me in introducing legislation—the Criminal Welfare Prevention Act, Part II—which will prevent the needless waste of taxpayer dollars.

Last year, the 104th Congress took an important step forward in this regard by enacting legislation that denies Federal SSI benefits to inmates of State and local correctional facilities. Although prisoners were not entitled to these benefits under existing Federal law, there was no way to match prisoners in local institutions with benefit checks mailed by the Federal Government. The Criminal Welfare Prevention Act—signed into law as part of last year's welfare reform package—creates a voluntary bridge between local sheriffs and the Federal Government, helping sheriffs identify ineligible individuals. This commonsense reform will save taxpayers millions of dollars—without imposing unfunded mandates or establishing new government bureaucracies.

However, there is still more work to do. Originally, the Criminal Welfare Prevention Act had aimed to deny local prisoners Social Security [OASDI] benefits as well, but these provisions were dropped from the final conference report to comply with Senate rules against making changes to OASDI in a reconciliation bill. Consequently, many local prisoners are still receiving OASDI benefits for which they are currently ineligible under Federal law.

To address this problem, we are introducing the Criminal Welfare Prevention Act, Part II. This bill will create monetary incentives for State and local law enforcement authorities to enter into voluntary data-sharing contracts with the Social Security Administration. This exchange of information will help get prisoners off our benefit rolls and will save taxpayers an estimated $35 million by the year 2002. Under our proposal, if a participating local authority reports to the SSA that an incarcerated convict has received an OASDI check within the previous 30 days, that local authority will receive a cash payment of $400. If the discovery is made within 90 days, the local authority will receive $200. Again, participation in these contracts is purely voluntary—our bill will create an incentive structure, not an unfunded Federal mandate.

In this time of severe budgetary constraints, we strongly believe that Congress needs to cut off this tremendously wasteful flow of scarce resources. Last Congress, the original Criminal Welfare Prevention Act attracted nearly 200 cosponsors, and its SSI-related portions are now law. The remaining OASDI provisions passed the House late last year as part of a Social Security Technical Corrections bill, but Congress adjourned before Senate action could be taken. Now is the time to finish the job. I urge my colleagues to cosponsor this much-needed bipartisan reform.

INTRODUCTION OF LEGISLATION TO PROTECT MEDICARE BENEFICIARIES

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. COYNE. Mr. Speaker, today Representative STARK and I are introducing legislation to correct what has become a significant problem for many Medicare beneficiaries. Under current law, when Medicare beneficiaries receive health care in a hospital outpatient department [HOPD], they are responsible for an average of 45 percent of the total payment to the hospital. Obviously, this is far more than the 20 percent copayment that was intended when the law was first enacted.

This problem arose because the Medicare law specifies that beneficiaries are responsible for 20 percent of what the hospital charges for services rendered in their outpatient departments, while Medicare only pays 80 percent of what it deems to be the reasonable cost for such services. Until the past few decades, costs and charges remained relatively the same. However, over the past few years, charges have risen much more rapidly than reasonable costs, causing a rapid rise in beneficiary coinsurance liability.

Our legislation will correct the problem by establishing a new payment system for HOPD's which will allow the beneficiary copayment to be fixed at 20 percent of a set amount and will also ensure that Medicare will be paying its fair share.

We recognize that reducing the HOPD beneficiary copayment liability will cause a loss in revenue for hospitals and will also cost the Medicare Program money as it begins to pay its fair share of HOPD services. We do not believe, however, that these are reasons to continue to force senior citizens to pay increasingly more than they should for HOPD services. We want to work with hospitals and with the Health Care Financing Administration to find a solution to this difficult and growing problem that faces millions of Medicare beneficiaries.

Our legislation will help to soften the blow to the Medicare Program by simultaneously correcting a problem in how Medicare pays for some HOPD services. Because of a flaw in the payment formula, called the "formula-driven overpayment," Medicare has been systematically overpaying hospitals for many services provided in HOPD's. While correcting the beneficiary coinsurance problem will cost Medicare money, correcting the formula-driven overpayment will help to mitigate the loss to the program.

I have introduced legislation in the past that would have corrected the beneficiary coinsurance problem. I am hopeful that this Congress will recognize the importance of relieving Medicare beneficiaries of the unfair burden they are currently shouldering when they receive health care in hospital outpatient departments.

HONORING PAUL CLARKE

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. McKEON . Mr. Speaker, the residents of California's 25th Congressional District recently recognized the passing of one of their dedicated and loyal citizens, Mr. Paul Clarke. Consultant, radio newsman, media expert, husband, son, father, and grandfather, Mr. Clarke embodied the voice and vision of the residents of the San Fernando Valley. Remembered in Washington as the chief of staff of Congresswoman Bobbi Fielder, whom he later married, southern Californians came to know him as a man with a firm grasp on the pulse of the valley.

Instrumental in Washington to furthering a variety of issues important to the San Fernando Valley, Mr. Clarke became known as a talented political campaign consultant with an innate understanding of his community. Honest and forthright, Paul Clarke was an invaluable source of information for reporters and the news industry throughout southern California.

We will miss Paul Clarke's sense of humor, wit, intelligence, and friendship. Our prayers go out to our former colleague, Bobbi Fielder, as well as to all of Mr. Clarke's family. May the Lord bless and keep him well. In our hearts and thoughts, he remains.

THE LEGACY OF THE LATE HONORABLE PAUL TSONGAS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. WOLF. Mr. Speaker, while the House was in recess in January, a former congressional colleague, retired Massachusetts Senator Paul Tsongas died after complications from cancer. I was a long-time admirer of Paul Tsongas, especially for the wisdom with which he approached life and the value he placed on his family.

For many in public service, it often comes down to choices between the job and family. Do I attend the social event or go home for my son's birthday party? Do I go to the reception sponsored by a special interest group or attend my daughter's soccer tournament? With Paul Tsongas, there was no choice. Family came first and foremost.

For several years I have used the way Paul Tsongas lived his life as an example in my speeches about family values. One of my favorite quotes from him is that he "never heard anyone on their deathbed say, 'I wish had spent more time with my business.'"

What are our personal priorities? People generally serve in the Congress because they want to help other people. But we need to remember that while we serve in Congress trying to help others, we do not forget those who matter most to us—our families.

In some of my speeches I also use a quote by Dr. James Dobson from a book on the family. It says:

> I have concluded that the accumulation of wealth, even if I could achieve it, is an insufficient reason for living. When I reach the end of my days, a moment or two from now, I must look backward on something more meaningful than the pursuit of houses and land and machines and stocks and bonds. Nor is fame of any lasting benefit. I will consider my earthly existence to have been wasted unless I can recall a loving family, a consistent investment in the lives of people, and an earnest attempt to serve the God who made me. Nothing else makes much sense.

That quote could very well describe the life of Paul Tsongas. Syndicated columnist Cal Thomas also recently highlighted Paul Tsongas' "Strong and Positive Legacy" and I would like to share that article with our colleagues. It certainly provides some food for thought for setting priorities in our lives.

A STRONG AND POSITIVE LEGACY

(By Cal Thomas)

When a person dies prematurely, it prompts us to stop and contemplate our own lives and whether we are spending our time, like cash, to indulge our wants, or investing in relationships that will pay lasting dividends.

Paul Tsongas, the former senator from Massachusetts, died last weekend of complications from cancer at age 55. Although we never met, and I was introduced to his wife Niki just once, Mr. Tsongas made a strong and positive impression on me.

In a town where power is king, Mr. Tsongas never paid homage to the sovereign. He was such an infrequent guest on the Washington party circuit that socialites knew better than to invite him for cocktails or dinner after work. Instead, he would depart his Senate duties as early as possible in order to be with Niki and his three daughters.

In a 1984 book called "Heading Home," Mr. Tsongas wrote, "Niki and I did not frequent the social circuit, and we knew it cost us. But the kids were more important to us than being regulars on Embassy Row or in hotel ballrooms." That's family values in practice.

He was equally open about his fears following the cancer diagnosis: "I felt totally alien. I was one of the select few in the United States Senate—the most exclusive club in the world. I did not want membership in a club of the afflicted."

Mr. Tsongas learned quickly that Washington is a town that loves you only when you're "up"; when you're down, you're out. He wrote, "most of Washington views people through the prism of title. Did my friends like me for my office? One could never know. And this doubt always had a corrosive effect upon our feelings."

Despite his upbeat demeanor following the cancer diagnosis (he demonstrated to the press how healthy he was by allowing cameras to show him swimming), Mr. Tsongas had been told by doctors 13 years ago that his form of cancer had never been cured and that the statistical average for life expectancy of people in similar cases was eight years. He beat the odds by five years.

Sometimes we get so caught up in political and philosophical divisions that we forget not only the humanity of those with whom we disagree, but that we might actually learn something from them if we take the time to listen.

"Heading Home" has had such a profound impact on this economic and social conservative that I have often quoted from it (most recently in an address to new members of the Congress from both parties), and my copy of the 166-page book is well-marked and dog-eared.

How's this for baring your soul: "I was no longer the senator from Massachusetts. I was a frightened human being who loved his wife and children and desperately wanted to live." Or this: "In my desolation I had to reach deep into my beliefs. Those beliefs had never been sorely needed before—not like this. Now it would be different. God would be more a part of my life, no matter what happened. This was not a revelation or born-again experience. Not at all. Just a realization that while I had taken myself this far in life and done quite well, from here on I needed to recognize who was guiding me. I had to be more aware that one does not go through life without God's presence."

To me, the most moving part of Mr. Tsongas' book appears near the end after he's given an interview to a newspaper in which he speaks often of his love for Niki and his daughters. He turns to her and says, "You know, after 10 years in this town, all that I will be remembered for is the fact that I loved my wife."

"And what's wrong with that?" Niki replied.

In a time when reports of infidelity, allegations of ethical shortcomings and various scandals sweep Washington and the nation, what's wrong with that, indeed? Can anyone think of a greater legacy for his family or a better example for the rest of us? Or a better epitaph for Paul Tsongas?

ST. CLARE'S HOME: SERVING HOMELESS WOMEN AND CHILDREN IN NORTH SAN DIEGO COUNTY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise to pay tribute to Sister Clare Frawley and her St. Clare's Home, located in Escondido, CA, in my congressional district.

During the recent district work period, I had the privilege of visiting St. Clare's Home for myself. What I found was a true refuge where women and children in tremendous need could find real hope. In those tragic instances where people are victims of domestic violence, child abuse, or worse, in North San Diego County they have the loving arms of St. Clare's Home to find hope and rest. Furthermore, the St. Clare's Home staff work to prevent child abuse, domestic violence, substance abuse and sexual abuse in the community through educational and other programs. All together, St. Clare's Home provides emergency shelter, a maternity home complete with prenatal care and child-rearing education, a transitional program, a child care and learning center, substance abuse treatment programs, a counseling center, and much more.

I came away impressed and humbled by the love and care that Sister Clare Frawley and her staff put into the work of St. Clare's Home. They are truly doing the Lord's work in our community.

I ask that the following statement, a history of St. Clare's Home, be entered into the permanent Record of the Congress of the United States, as a thankful tribute to their staff's work in the community I represent.

THE HISTORY OF ST. CLARE'S HOME

In 1983, Sister Claire Frawley founded St. Clare's Home. Before that time there was no shelter facility for homeless women and children in North County. Sister Claire recognized the urgent need when a young pregnant woman with two small children arrived at the door of her Youth Ministry. They had not eaten in two days and were in despair. There was no shelter facility to help them. Armed with a firm resolution and a prayer, Sister Claire took them home with her for the weekend. Shortly thereafter, she rented a house for this little family and another young mother in need. As they came to her door, the poor, the tired, the hungry and the hurt, Sister Claire found more beds and more food . . . and so Saint Clare's Home began.

From the very beginning, St. Clare's Home has been a community leader in the prevention of child abuse and domestic violence. 90% of St. Clare's residents come from domestic violence and sexual abuse with substance abuse addictions as a result of the street life they've endured.

It became the mission of Sister Claire Frawley to provide food, shelter, clothing, medical care, transportation, psychological counseling, continuing education, job skills training, encouragement and unconditional love. Most of St. Clare's young residents have never known unconditional caring or lived in an environment of emotional support. Their emotional response to these acts of kindness is simply overwhelming. Their letters and poems of gratitude, pictures and art decorate Sister Claire's office and the hallways of St. Clare's administrative office. Even St. Clare's Home logo is a loving reminder of a small child who simply drew a picture with the caption, "I love my home." This small picture appears on each piece of letterhead and business card at St. Clare's Home.

Over the years, St. Clare's Home has evolved into a public nonprofit nondenominational agency serving over 3,250 homeless women and children throughout the County. Today, St. Clare's operates eight residential shelter homes supervised by trained Case Managers and the Little Angels Learning Center for children's day care, play therapy and counseling services. The recent addition of a Counseling and Resource Center provided the opportunity to expand educational and program services. This new facility has served to enhance the women's perspective with broader exposure, motivated their desire for personal growth, assisted them in goal setting and achievement, and boosted their self confidence . . . all steps toward their ultimate goals: self worth and independence.

Homeless women and children may stay at St. Clare's Home for 2 years. Although predicting the time it takes to repair a broken spirit is nearly impossible, St. Clare's Home sets precedent for program longevity in San Diego County, providing aftercare services to assure a successful transition to independence. St. Clare's Home is funded by generous corporations like UPS, foundations, individuals and government grants. St. Clare's Thrift Shoppe receives inkind gifts and has the loyal support of longtime volunteers and service clubs.

INTRODUCTION OF THE DISTRICT OF COLUMBIA ECONOMIC RECOVERY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Ms. NORTON. Mr. Speaker, today, I am introducing the District of Columbia Economic Recovery Act [DCERA] as my first bill of the 105th Congress. It would be irresponsible not to do so. I introduced virtually the same bill on April 15, income tax day, last year. I reintroduce the bill today for two reasons: First, lethal taxpayer flight continues unabated; second, the District has no State safety-net backup to recycle income back from wealthier areas. With only the residents who remain available to keep the city alive, a tax cut incentive to keep taxpayers here has become an imperative. In short, taxpayers are in full flight, and only a dramatic and focussed incentive can keep them here.

The DCERA will reduce Federal income taxes in three ways. First, to effect the tax cut the DCERA raises the traditional standard deduction and personal exemptions: $15,000 instead of $6,550 for single filers; $25,000 instead of $8,450 for single heads of household; and $30,000 instead of $11,800 for married joint filers. Thus, residents who can least afford to pay the city's high taxes and the high cost of living—with incomes below $15,000, $25,000, and $30,000—will pay no Federal income taxes. Second, a uniform rate of 15 percent will be applied progressively up the income scale to reduce present tax liability—from a 79-percent reduction to a 34-percent reduction, depending on income. The lower the income, the greater the tax reduction. The uniform rate rescues residents from bracket creep, the mechanism that taxes away a portion of an individual's income as it increases from one bracket to the next. The uniform rate assures that residents whose income increases because of the tax cut will not have any significant portion immediately taxed away. Third, the mortgage interest and charitable deductions remain. The home mortgage interest deduction is especially vital because homeowners make a sizeable investment in the city and are most likely to remain here. Home ownership in the District of Columbia is the lowest among the 50 States and the District of Columbia.

The bill also seeks to spur business and economic development in the city in two ways. First, the DCERA exempts capital gains so long as they derive from District investments by District residents. Second, investment income will qualify for the low 15-percent rate, so long as these are investments in activity within the District by District residents. Social Security income and income from traditional IRS-qualified pension plans also qualify for the low DCERA rate.

In the absence of a State, a unique tax incentive is fully justified, is profoundly fair, and absolutely essential. The tax cut is justified and fair because District residents pay the full load of Federal taxes while lacking full representation and full home rule, and they have no State to recycle income from wealthier areas. Instead, the city is burdened with just the opposite. The Congress has imposed on District residents the cost of providing services for commuters while protecting them from paying any part of the rising cost of those services. The tax cut is essential because every plan and proposal, including the recent, welcome proposal by President Clinton, will pick up only a small fraction of the costs the District taxpayer bears. As important and gratifying as the President's plan is, its basic assumption is that there will be a large enough tax base here to pay for most of the costs of the city. That assumption defies the latest census data. This city is on track to lose nearly three times as many residents in the 1990's as in the 1980's. Today, the city's population has dropped to where it was in 1933. Yet, the President's proposal will leave 90 percent of District Government costs that are currently funded from locally raised revenues to be picked up by a tax base that is being miniaturized.

The analysts agree on the two basic necessary for the city to recover: An adequate tax base and relief from State functions and pension liability. We are gratified that the President's proposal strides in the direction we must go to fund at least some of the functions no city could bear today. My bill assures that his plan will not be stillborn. Stated painfully, but plainly, the President's plan will fail if taxpayers continue to leave at the present rate.

The DCERA has been carefully crafted as a bipartisan bill consistent with the principles of both parties. It is sizable enough to attract Republicans and to act as a realistic incentive for District residents to remain. It is steeply progressive in the tradition of Democrats in general and the 1963 JFK tax cut in particular. Once the bill is passed, half of District residents will be off the Federal income tax rolls. Tax cuts for working people will progressively depend on income.

To encourage investment in a city desperate for business, the DCERA taxes small District-based business at the 15-percent rate and eliminates capital gains, but only for District residents, thus accomplishing two goals at once. It helps reverse the huge business exodus from a city that is dangerously over-dependent on the rapidly downsizing Federal sector, while encouraging business people to reside here—the only way to take advantage of the DCERA. Already impoverished, the District's business sector lost 1,800 businesses between 1990 and 1995.

Equally important, the bill contains protections against gentrification and unnatural increases in the cost of living. For example, the DCERA applies only to bona fide District residents who spend 183 days of each taxable year physically in the city, to wages earned in the District or the metropolitan region, and to investment income earned on District investments only. The bill exempts capital gains taxes only on investments in the District by District residents. Stand-by legislation further guards against unnatural increases in the cost of living. Examples include: a city council bill passed last year, at my request, that freezes property, sales, and income taxes effective when the DCERA is enacted; a measure similar to TRIM in Prince George's County that limits property tax rates and the growth of assessments; a surtax on capital gains if derived from excess profits; and a revolving fund for zero-percent interest loans—or tax credits—for home buyers to cover unusual increases in home prices, with the money to be paid back upon the sale of the home; and the maintenance of rent control. The bill also requires the Secretary of the Treasury to prepare an annual study to determine the effects of the bill, thus allowing each year for the correction of unintended consequences, if any. However, the analysts and experts who have studied the DCERA closely to not predict unusual effects, but rather, they indicate that the market will discount for urban conditions in general and conditions and services in the District of Columbia in particular in the prices of property and other investments.

Our greatest risk at this late hour is that even a tax cut may be too little to check the flight. At the very least, however, the overwhelming support for the bill among residents of every ward, every income group, and every racial and ethnic background is some evidence that the bill will help keep taxpayers here who might otherwise leave. The DCERA will give us time to improve services and to more fully regenerate our tax base. The introduction of the DCERA and the strong support it has won in the Congress has already raised resident morale and contrasts sharply with the long-running dearth of support for other approaches to help the District in the House and Senate.

Time is running out to stop the taxpayer drain. We must hope that we have not already passed the point of no return. Once a city loses a critical mass of taxpayers, it loses the capacity to turn taxpayer losses around. No city has ever reversed a taxpayer hemorrhage. With the city on life support and no state safety net to rescue the District, the greater risk lies in doing nothing.

Only blinders to the last great injustice on American soil could lead any American to question a bill reducing Federal taxes on the residents of the Nation's Capital. Third per capita in Federal income taxes, District residents stand alone in shameful defiance of the American principle of no taxation without representation. The four territories pay no Federal income taxes yet have the same representation in Congress as the District. The four territories have full self-government; the District's limited home rule is self-government only when the Congress says so. The Congress will compound the harsh civic injustice it imposes if it also insists on taxing the District's tax base into extinction. With the DCERA, District citizens ask only to rebuild their own city with their own money. Their country owes them that, and more.

DCERA PROVIDES SIZABLE PROGRESSIVE TAX REDUCTIONS

	IRS deduction	DCERA deduction
Single Filer	$6,550	$15,000
Head of Household Filer	8,450	25,000
Married-Joint Filer	11,800	30,000

Income range	No. of filers	Percent reduction in tax liability[1]
Under $15,000	50,390	100
$15,000–$29,999	87,117	79
$30,000–$49,999	52,060	51.2
$50,000–$74,999	23,568	44.2
$75,000–$99,999	9,822	36.8
$100,000–$199,999	10,259	35.7
$200,000+	4,286	34.2
Total filers	237,502	44.3

[1] Includes a tax rate of 15 percent and charitable and mortgage deductions, which are retained.

FRANK "MAC" McCARTY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BARCIA. Mr. Speaker, the people of Flushing, MI, have endured a great loss with the recent death of Frank McCarty, a man who for over 30 years served the people of his community in the best way he knew how—as an advocate for them as a member of the city council.

Even though he had reached 75 years of age, Frank McCarty believed that there was always something more to do, something new to experience. He refused to let the knowledge that he was ill discourage him from further activity. He viewed what time he had remaining not as a time to dwell upon his own situation, but rather as a time to show that no matter what our own difficulty might be, there is always something more that can be done for others, whose situation may be worse than our own.

The people of Flushing knew Frank McCarty as both a public servant and as a businessman. His service station was a key point of activity in town, and provided many jobs for young people looking to enter the work force for the first time.

Last year, a baseball stadium in Eastview Park was named after Frank, and his wife Maxine, in recognition of his years of service. This was a most fitting tribute to a family that has been as important to the community as the community has been to the family. His devotion is what earned him the Citizen of the Year Award in 1989, and the Award for Outstanding Contribution to the Community in 1996.

His wife Maxine, and his daughters Sharon, Ann, Mary Beth, Amy, and Nancy, had the privilege to share in his entire life, so I am sure their loss is even greater. They should know, Mr. Speaker, that the city of Flushing reveres what Frank McCarty has done. The work of this gentleman shows in every neighborhood and in thousands of faces. The many associations who were privileged with his membership, including the Genesee County Small Cities and Villages Association, and Central Communications Consortium, the Main Street Reconstruction Group, the Fire Services Committee, the Flushing Area Senior Citizens Advisory Committee, and the Library/Senior Annex Board.

Occasionally life presents us with an outstanding and dedicated individual. We want that person to be with us forever, but must satisfy ourselves with the memory of the individual, the record of achievement, and the example of devotion. Frank "Mac" McCarty was such a man. He will be missed.

LIGHT INFANTRY DIVISIONS: ONE OF OUR BEST NATIONAL SECURITY INVESTMENTS

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. McHUGH. Mr. Speaker, I call your attention to an issue of great importance to the defense posture of the United States which takes on an even greater significance as the Department of Defense undertakes a study of the military of the future.

An August 1996 Congressional Budget Office report, "Reducing the Deficit: Spending and Revenue Options," and specifically section [DEF–17] entitled "Reduce the Number of Light Infantry Divisions," is seriously flawed in both its analysis and conclusions.

I believe it is imperative that the facts be known as to why we cannot afford to eliminate one light infantry division. I am also compelled to set the record straight regarding CBO's assertions about the 10th Mountain Division's role in Somalia. To let CBO's assumptions go unchallenged would be a disservice to our Nation and those men and women in uniform who risk their lives to defend it.

Mr. Speaker, I believe the facts presented in the following January 16 letter to the Director of the CBO will provide a solid basis for future consideration of such important issues. I am especially pleased that in her response, which also follows, the Director has pledged to "be more explicit about the advantages and merits attributable to light infantry divisions" in future editions of the report.

Mr. Speaker, I submit the exchange of correspondence for your interest and commend it to our colleagues for their thoughtful review.

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 16, 1997.

Ms. JUNE E. O'NEILL, *Director,*
Congressional Budget Office,
Washington, DC.

DEAR MS. O'NEILL: I call to your attention the August 1996 CBO report, Reducing the Deficit: Spending and Revenue Options and specifically the section (DEF–17) entitled "Reduce the Number of Army Light Divisions." At the onset, I want to thank you for your response to my August letter in which I asked for the data supporting the conclusion that the number of divisions be reduced.

DEF–17 asserted that the Department of Defense could save over $16 billion in six years by eliminating one light infantry division (LID) and an airborne division by consolidating the airborne and air assault divisions into one division. The remaining light infantry divisions would consist of one light infantry division and one airborne division of two air assault brigades and one airborne brigade.

Having reviewed the matter carefully, I must emphatically disagree with CBO's conclusions. I have found many of the assertions contained in DEF–17 to be faulty and without merit. As a Member of the National Security Committee, I well understand the need to spend every defense dollar wisely. It is in that context that I believe our light infantry divisions are one of our best national security investments. They have enabled us to meet the ever-increasing demands on the United States in this post-Cold War era. That having been said, I feel compelled to provide you with facts as to why we cannot afford to eliminate one light infantry division. I also believe it imperative that I set the record straight regarding the 10th Mountain Division's role in Somalia. To let DEF–17 go unchallenged would be a disservice to our men and women in uniform.

One of the primary lessons of military history is that to accurately predict the timing and location of future conflicts is nearly impossible. It is, therefore, essential to have military forces capable of being tailored for a variety of scenarios. Even in the mid-1980s military planners visualized a need for forces to protect our national interest in other than the European theater, forces that must be prepared to conduct low- to mid-intensity conflicts. Heavy units need lighter forces to operate between and among them on terrain not suitable for heavy vehicles: forests, mountains, urban and other areas. The Army needs traditional general-purpose light infantry utilizing light infantry tactics: forces that could be used in a wide variety of environments and provide the National Military Strategy with its rapid and mobile strategic punch or show of force to deter or compel potential adversaries. Light infantry divisions can be lifted into any region in the world with just 500 sorties of C–141s vs. over 2,300 for the Army's mechanized divisions (first units are loaded in 18 hours).

In the paragraphs which follow, I challenge the CBO assertions with the facts.

CBO Assertion: Recent history indicates that the United States may not need those divisions. Between 1945 and 1991, about 120 incidents—excluding major conflicts such as those in Korea, Vietnam, and Iraq—required commitment of U.S. ground forces. Of those, the Army was involved in about a third and, even then, generally not in large numbers.

Fact: I have found your assertion that light infantry forces were used very little from 1945 to 1991 to be a misleading statement. The infantry units in question were created in the mid-1980s, covering only six years of the CBO study. According to an October 1996 study by Science Applications International Corporation (SAIC), light infantry units have been deployed in battalion or larger force a total of 13 times in the last 15 years. During five of these deployments, a division or larger light infantry force was used (URGENT FURY—Grenada 83; JUST CAUSE—Panama 89; DESERT SHIELD/STORN—SWA 90; RESTORE/CONTINUE HOPE—Somalia 92; RESTORE/UPHOLD DEMOCRACY—Haiti 94)

CBO Assertion: The light infantry divisions have limited firepower and tactical mobility once deployed.

Fact: Light infantry divisions, by their very nature do not have the firepower or mobility existing in the U.S. mechanized divisions because they are, in fact, tailored for other missions. Light infantry divisions must be offensive, capable of using stealth and attacking by infiltration, air assault, ambush and raids. These forces, by virtue of the terrain in which they are required to operate, do not have the capability to carry high caliber weapons. To offset a lack of firepower the LID dismounted company size is near double the size of a mechanized dismounted company force; around 120 in light company and about 68 in a mechanized company. A recent study by SAIC for the 21st Century concludes that, in the future, more conflicts will be fought in densely populated, urban environments. Heavy forces are not as well designed to combat infantry in urban environments where it takes time and manpower to clear buildings and blocks. These capabilities together with its strategic projection capability offer excellent balance to the full spectrum Army.

CBO Assertion: The Defense Department made a strong statement about the utility of the LIDs in combat when it failed to use any light infantry forces during Operation Desert Storm.

Fact: Your report states that the Department of Defense failed to use any light infantry forces during Operation Desert Storm (ODS). This is totally an inaccurate statement. Both the 82nd Airborne and the 101st Airborne (AASLT) were deployed in ODS. Although the 82nd Airborne Division did not parachute into the area of operations, it was the first U.S. ground force rapidly projected to Saudi Arabia to show U.S. military commitment and resolve to the region. The highest demonstration of U.S. resolve to defend Saudi Arabia from Saddam Hussein was to put soldiers on the ground as quickly as possible. The 82nd Airborne was on the ground within 24 hours. This action drew the line in the sand and allowed time for the heavier units to arrive in the Area of Responsibility (AOR). The 101st was utilized not only in Desert Storm by air assaulting 153 miles into the enemy rear and securing key tactical objectives along the Euphrates River, but also early in Desert Shield as a covering force in defense of Saudi Arabia. It should also be noted that the light infantry divisions remained in the continental U.S. to provide the U.S. with a strategic reserve to react to any threats seeking to capitalize on the U.S. deployment.

CBO Assertion: The 10th Mountain Division's firepower and protection proved to be inadequate against even the unsophisticated and poorly equipped troops in Somalia.

Fact: The 10th Mountain Division deployed to Somalia in 1992 with the mission of providing protection to the relief workers as they distributed food to the hungry. During the entire time the 10th Mountain Division was deployed to Somalia it accomplished its mission of protection and food distribution without any soldiers losing their lives. Mission creep (an evolving escalating requirement) redefined the U.S. role in Somalia and the forces were not re-tailored. As a result of this mission creep, Special Operating Forces (SOF) were deployed to key objectives to disrupt enemy command and control nodes. During one of the operations, the SOF operating in a different AOR required immediate support and regrettably none was available. After this operation it became apparent that the mobility and protection that armor forces have were necessary in the region if the U.S. was to pursue its redefined mission.

CBO Assertion: There have been no division size parachute assaults involving an entire division since World War II. Additionally, paratroop-qualified units exist in the special forces branch of the Army, and it is not obvious that the Army needs an entire division designed to be dropped by parachute.

Fact: While CBO correctly stated that there has been no division level airborne insertions since 1944, the capability for an airborne division insertion still exists. Special Operating Forces, in this case the Rangers, are required to have the capability for initial forced entry. The only reinforcement we have to expand lodgment is to assault airland; to insert vertically; of if tactically feasible to air assault. Assault airlanding places vulnerable Air Force Strategic lift assets on the ground and can be accomplished only if the insertion unit can secure an airfield and if the airfield is not damaged. In fact, many plans require airborne engineer units to build an airstrip to establish an aerial port of debarkation. Airborne insertion is by far the fastest way to mass combat power for initial entry. The standard airborne force package requires a brigade task force. In order to maintain a brigade on two hour notice and capable of deploying in 18 hours to any AOR, the division must rotate the duty among two other brigades. The necessitates three airborne brigade task forces.

The balance of the current Army force structure is based upon the commitment of the U.S. around the world and the requirement to execute the National Military Strategy. The Army has four divisions which are strategically fixed; two in Germany for our NATO commitments, one in Korea for deterrence by treaty arrangement, and one in the Pacific to support USCINCPAC requirements. The Army must also be prepared to commit two corps of at least three divisions to Major Regional Conflicts (MRCs) in the East and West. Accepting that, at least one division will be forward deployed in the region and the Army must deploy five additional divisions for a total of ten divisions. The light infantry divisions offer the capability of rapid strategic mobility and a balance to the Army's total force. They are designed to be utilized in low- to mid-intensity conflicts with limited support; to integrate with armor forces in high-intensity conflicts, and to fight where armor cannot.

I believe the above analysis clearly indicates that DEF–17 is faulty in its assertions. Surely this is not characteristic of the type of thoughtful work we have come to expect from the Congressional Budget Office. In the future, I hope that your military analysts will be more careful in their study of such important issues.

Sincerely yours.

JOHN M. MCHUGH,
Member of Congress.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 29, 1997.

Hon. JOHN M. MCHUGH,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: Thank you for your letter of January 16, 1997 outlining your objections to CBO's option concerning the Army's light divisions in our August 1996 edition of Reducing the Deficit. We appreciate your taking the time to inform us of your concerns. In future editions of Reducing the Deficit, we plan to be more explicit about the advantages and merits attributable to light infantry divisions, and also to clarify some statements that may have been misinterpreted.

I would ask you to please keep in mind, however, the fact that each of the entries included in Reducing the Deficit: Spending and Revenue Options is just that, an option to be considered as a means to reduce the deficit. CBO does not endorse any of those options and draws no conclusions regarding their merit.

Sincerely,

JUNE E. O'NEILL, *Director.*

THE IMPACT OF THE IRISH POTATO FAMINE ON AMERICAN HISTORY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. FRELINGHUYSEN. Mr. Speaker, today I introduced legislation along with Representative MENENDEZ to encourage America's schools to teach our young students about a tragic period in history that nearly destroyed the people and country of Ireland and forever changed the face of America.

The mass starvation in Ireland from 1845 to 1850 initiated by the dramatic failure of the Irish potato crop is most commonly referred to as the Irish potato famine. Although Europe's poorest country in the middle 19th century, Ireland's 8 million inhabitants were curiously well nourished. The Irish people relied on the potato for the bulk of their diet since it was inexpensive and high in nutrients. However, in 1845, the Irish potato crop was ruined across the entire countryside by phytophthora infestans, an airborne pestilence. At the time, no one knew what caused the potato blight and so little could be done to save the crops. Across the whole of Ireland, potatoes simply rotted on the ground.

The failure of the potato crop led to the inability of most Irish families to pay the rent on their cottages which, after Britain's annexation of the island in the late 18th century, were often owned by British landholders. The vicious cycle of poverty was held intact by both the continuation of the potato blight and the active exportation of the Irish grain crop by the British Crown. Those who traveled across the island during the famine noted the horrifying situation in which they encountered the Irish people. Men, women and children literally starved to death on the roadside and families huddled together in the cold waiting to die. In fact, while visiting Ireland in 1845, the African-American abolitionist Frederick Douglas wrote that the people of Ireland "are in the same degradation as the American slaves."

A number of British groups threw aside the prevailing prejudices against the Irish to provide relief from what had become a starvation of epidemic proportions in the colony. The Quakers, or the Society of Friends, even set up a vast array of soup kitchens throughout the countryside. However, it was not enough to stop the hunger and loss of farming wages. By the end of the epidemic in 1850, more than one million Irish had perished from the hunger, cold and disease brought about by the potato blight. It seemed the only way to elude the horrors of the famine was to leave Ireland—and so many did just that.

Although the voyage was treacherous and relatively expensive, more than one million Irish emigrated to the United States during the famine. Initially, they settled in the cities of the northeastern seaboard such as Boston and New York. Later they pushed westward to Chicago, the Great Plains and the uncharted western territories. With them they brought their Celtic culture and determination. Aside from impacting the basic makeup of the American people, Irish-Americans have made significant contributions in American business, law, music, athletics, literature, religion and politics. In fact, U.S. Presidents John F. Kennedy and Ronald Reagan, considered by many to be the greatest Presidential orators of their respective political parties this century, are both from Irish-American families.

Perhaps, though, the legacy of the Irish famine's immigration wave to America is most evident in our everyday lives. Today, more than 1.5 million of New Jersey's 8 million inhabitants claim some Irish descent, as do millions of other Americans. The resolution put forth today by myself and Representative MENENDEZ recognizes the contributions made by Irish-Americans to our greater American heritage. Irish-Americans have left an indelible mark on our American culture and history, and for that reason our children should learn more about the tragic famine which brought so many of them to our shores in search of freedom from hunger, freedom from want and freedom from colonial rule.

THANKING KENNETH SAMUEL McCALL

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. WYNN. Mr. Speaker, I ask my colleagues from the great State of Maryland, and of this House, to join me in saluting a constituent of the fourth Congressional District of Maryland and a great American. Mr. Kenneth Samuel McCall has made outstanding contributions to the Edison Electric Institute during his 41 years of dedicated service. I congratulate him on the occasion of his retirement, and offer my best wishes to him and his family as he enters a new chapter in his life.

INTRODUCTION OF LEGISLATION TO SUSPEND DUTIES ON CERTAIN IMPORTED RAW MATERIALS

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. McDERMOTT. Mr. Speaker, today I am introducing legislation which supports important regional and national interests.

My home, the Seventh Congressional District of Washington, is also the home of K2 Corp., the last remaining major U.S. manufacturer of skis and one of three major makers of snowboards in the United States. K2 conducts all significant manufacturing operations for skis and snowboards at its Vashon Island, Washington facility. In fact, all K2 snowboards and virtually all K2 and Olin-brand skis sold throughout the world are individually crafted by technicians on Vashon Island. Moreover, K2 sources almost all of the components for its skis and snowboards in the United States stimulating the U.S. economy through its purchases of raw materials from U.S. suppliers, especially in the Pacific Northwest region of the country. However, for two key ski and snowboard components, i.e., spring steel edges and polyethylene base materials, K2 has been unable to find a supplier of these products in the United States that can meet its needs. Therefore, K2 has been forced to import these products, which are subject to U.S. customs duties upon importation. This legislation provides for a temporary suspension of customs duty on the two raw materials which are vital to the U.S. production of skis and snowboards and which are unavailable from domestic producers.

K2 is working hard to remain viable in the highly competitive international market for skis and snowboards. In fact, K2 has endured as a U.S. ski manufacturer in the face of fierce price competition, while several other major ski companies no longer manufacture skis in the United States. This temporary duty suspension legislation would support jobs in the region, as well as K2's ability to continue developing innovative, fine quality products. Equally important, a temporary duty suspension would help K2 preserve and increase its competitiveness in the global marketplace.

K2 is the only major exporter of skis made in the United States. In addition, K2 is one of three principal exporters of U.S. made snowboards. Thus, K2's exports of U.S. manufactured skis and snowboards represent a substantial percentage of U.S. skis and snowboards sold worldwide. If K2 is unable to remain competitive in global and domestic markets, skis manufactured in the United States may disappear from the global marketplace. The temporary duty suspension proposed by this legislation would help prevent the shutdown of the only remaining U.S. producer of skis.

INTRODUCTION OF LEGISLATION

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mrs. MINK of Hawaii. Mr. Speaker, today, I am introducing legislation to provide Social Security disability beneficiaries with severe spinal cord injuries the same protections as are afforded the blind.

Spinal cord injury can result in paralyzing injuries that severely affect their lives, and their ability to provide for themselves and to work.

My legislation seeks to help those who have somehow overcome their debilitating injury and are able to earn some money, but who still need to retain basic support as is provided under Social Security Law.

Under the current law governing the Social Security Disability Program, applicants are eligible for benefits if they are determined to have the ability to earn no more than the substantial gainful activity [SGA] amount, which is $500 a month.

The SGA is used in determining whether beneficiaries can continue to receive assistance. If they earn income over $500 a month, they will lose these benefits.

The Senior Citizens' Right to Work Act of 1995 increased the SGA amount for blind individuals to countable earnings of $1,000 per month, which took effect on January 1, 1997. This provision allows disabled individuals who are blind to qualify for Social Security disability, even if they can earn up to $1,000 per month. It would also allow blind individuals to continue receiving benefits if they return to work and earn a monthly amount not in excess of $1,000.

My legislation seeks to allow persons with severe spinal cord injury to have the same SGA as beneficiaries who are blind. These severely disabled beneficiaries should not be discouraged from working to help offset their needs which are at least equivalent to the blind, or even greater.

Social Security disability benefits should not be withdrawn from severely disabled spinal cord injured persons because they have the initiative and courage to earn up to $12,000 a year. If they can help themselves notwithstanding their disabilities, they should be encouraged to do so. I urge my colleagues' support for this legislation.

THE FOUR CHAPLAINS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. GILMAN. Mr. Speaker, I wish to recognize the legacy of the four chaplains who gave their lives for others in the icy waters of the North Atlantic over 50 years ago. On the night of February 2, 1943 aboard the U.S.A.T. *Dorchester*, four chaplains—George L. Fox and Clark V. Poling, Protestant ministers; Alexander D. Goode, a Jewish rabbi; and John P. Washington, a Catholic priest—gave their life vests to four other men after their ship was torpedoed off the coast of Greenland.

The *Dorchester*, carrying 902 servicemen, merchant seamen and civilian workers, was one of three ships in the SG–19 convoy moving across the icy waters from Newfoundland toward an Army base in Greenland. The ship's captain, Hans J. Danielsen, recognized the danger of the trip, as the stretch of water in the North Atlantic was constantly patroled by German U–boats and one of the ships in the convoy, the Coast Guard Cutter *Tampa*, had detected a submarine with its sonar earlier in the day. At 12:55 a.m. on the morning of February 3, a German U–boat spotted the *Dorchester* only 15 miles away from its final destination and fired a deadly barrage of torpedoes. The hit was decisive, striking the starboard side, far below the water line.

Aboard the *Dorchester*, chaos set in. The direct hit had killed several men instantly, while others were seriously wounded. Throughout all of the pandemonium, according to those present, the four Army chaplains brought hope in despair and light in darkness. When the chaplains opened a storage locker and began distributing life jackets, they realized that there would not be enough for all the men aboard the ship. When there were no more life jackets in the storage room, the chaplains removed theirs and gave them to four frightened young men.

As the ship went down, survivors in the nearby rafts could see the four chaplains—arms linked and braced against the slanting deck. According to eyewitnesses, the chaplains were heard offering prayers for the soldiers who had died in the wreckage. Of the 902 men aboard the ship, 672 died, leaving 230 survivors. When the news reached American shores, the nation was stunned by the magnitude of the tragedy and heroic conduct of the four chaplains. As Francis B. Thorton notes in his book, Sea of Glory: The Magnificent Story of the Four Chaplains, "Catholic, Jew and Protestant; each proved that night that courage knows no distinction of creed, bravery no division of caste."

The four Army chaplains were posthumously awarded the Distinguished Service Cross and Purple Heart at a ceremony at Fort Myer, VA in 1944. Since these events, a chapel in Philadelphia honoring their heroic act of selflessness was dedicated by President Truman in February of 1951 and the chaplains were posthumously awarded a Special Medal for Heroism in January of 1961 by President Kennedy. Additionally, a memorial fountain at the National Memorial Park outside of Washington, DC was constructed in 1955 to attest to their extraordinary act of courage.

On February 2nd, the members of the Rockland County American Legion and the Orange County American Legion held their annual service to honor these heroic four chaplains.

The services had been organized in Rockland County by Joseph Vitulli, commander of the Rockland County American Legion, and Peter Medina, who serves as the chaplain and chairman. These services were conducted at St. Joseph's Church in Spring Valley, NY.

In Orange County, they were organized by former American Legion County Commander Roy Cowen, who read the saga of the Four Chaplains at the services conducted at St. Patrick's Church in Highland Falls.

The chaplains remain an enduring example of extraordinary faith, courage and selflessness.

On the night of February 2, 1943, Rev. Fox, Rabbi Goode, Rev. Poling, and Father Washington passed life's ultimate test. Mr. Speaker, I invite my colleagues to join in the commemoration of their heroic act of courage which we remember this month.

ANOTHER STEP TO RESTORE POWER TO STATES

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. THOMAS. Mr. Speaker, we need to take another step to restore power to States. The Department of Labor is saying California has to pay unemployment benefits to certain criminals being released from prison. That should be a matter States decide for themselves in choosing methods for reforming prisoners.

The Department wants States like California to pay unemployment benefits to some prisoners because Federal law requires employers to pay Federal employment [FUTA] taxes on work performed by their employees. This includes prison inmates who work for private companies through innovative work programs established in several States, including California. Several hundred prisoners in California are employed in jobs provided under agreements between the State and private businesses. However, FUTA taxes do not have to be paid for work by prisoners employed in prison operations such as the laundry or cabinet shop.

Since FUTA taxes are paid on behalf of some prisoners, the U.S. Department of Labor has ruled that these prisoners must be paid unemployment benefits upon their release from their job—essentially, when they are released from prison. Failure to comply is serious: California employers, for example would lose tax credits worth $1.7 billion for FUTA taxes they pay on other workers if the California program is disqualified.

Why does Labor take this position? The Federal Unemployment Insurance Program only permits denial of employment benefits in three cases: If the worker's income exceeds certain limits; the claim is fraudulent; or the employee was fired for misconduct. Since prisoners lose their jobs when paroled or released from prison, they do not fit the exceptions.

Californian voters established the joint venture program in 1990, creating a private work program for prison inmates. Criminals' wages are used to compensate victims, offset incarceration costs, and set aside funds—20 percent—for the inmate's support upon his or her release from prison. Last year, 1996, California voters overwhelmingly passed an initiative, proposition 194, that denies unemployment benefits to criminals participating in the joint venture program.

The Department of Labor decision would force Californians either to pay out unemployment benefits to released prisoners or to eliminate a program that has been successful in helping criminals change their lives. Allowing employees to lose $1.7 billion in credits for taxes they pay on the services of ordinary working people is not an option, needless to say.

Legislation I am introducing today would change the law to treat all prison inmates who participate in work programs the same: their services would be exempt from the FUTA tax. This would effectively deny unemployment benefits to released prisoners and prohibit the Department of Labor from placing such a ridiculous requirement on the States. The bill's enactment would give States an additional tool to use in trying to reform criminal behavior and I hope my colleagues will agree to its adoption in the near future.

TRIBUTE TO LOUIS J. AMABILI, DIRECTOR OF THE DELAWARE STATE FIRE SCHOOL

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CASTLE. Mr. Speaker, I rise to commend and pay tribute to the fine work of an outstanding, dedicated, and caring Delawarean, Louis J. Amabili, director of the Delaware State Fire School. For myself, and on behalf of the citizens of the First State, I would like to thank him for his many years of tireless and dedicated service.

On this occasion in Delaware, firefighters will gather and recognize his more than 50 years of outstanding leadership and guidance to his community, State, and Nation. This type of dedication to public service is rare among individuals. During his tenure, many dedicated and caring men and women have been trained to help prevent or battle fires and perform emergency medical service for our citizens. Because of the stewardship and teamwork of Louis Amabili, Delaware fire and emergency medical services have become a vital and integral part of our community.

Louis J. Amabili has been a loyal and devoted guardian to the hundreds of fire services personnel throughout Delaware. He is the founding Director of the Delaware State Fire School, a facility that originated from his design and now bears the honor of his name. The school is currently viewed as one of the leading fire training facilities in the Nation. Under Louis Amabili's direction the Sussex County and New Castle County training centers were established to provide live fire training within 30 minutes of every fire company in Delaware. He has served as president of the New Castle Volunteer Fireman's Association, he is a member of the Hockessin Fire Co., and the International Association of Fire Service Instructors. President Richard Nixon appointed him to the Fire Prevention and Control Commission, where he coauthored the commission's report "America Burning". And, for his numerous achievements in fire services, Governor Pete DuPont recognized him with an "Order of the First State".

In addition to his many accomplishments, Louis Amabili is one of the most respected leaders in fire services today. He has served on the board of directors of the National Fire

Protection Association, and chaired the Fire Officers Professional Qualifications Standards Committee. During his tenure as a member of the International Fire Services Training Association he received their highest recognition for his role in fire service training. He has chaired the Joint Council of National Fire Service Organization and helped to establish the National Fire Professional Qualification System. He serves as a member of the board of directors of the Congressional Fire Services Institute, which I have the privilege and honor of serving as cochairman, and he received the Institute's highest honor, the Congressional Fire Service Person of the Year Award.

Mr. Speaker, I salute Louis J. Amabili for an outstanding record of public and community service, a record that has touched so many lives throughout the State of Delaware and our Nation. He is truly an inspiration for all of us. His tireless commitment and dedication to the cause of volunteer firefighters will find a permanent place in the Delaware volunteer fire service history.

The example Louis J. Amabili has set in the fire service is one which we hope all future fire and emergency medical services personnel will emulate. His dedication to fire and emergency medical services is admirable and his tradition of service is truly commendable. I want to thank him for his 50 years of exemplary service.

WATER LEGISLATION

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CRAPO. Mr. Speaker, I rise today to introduce legislation to help remedy a problem that is particularly burdensome to the water delivery companies in the West. Like many seasonal businesses, complying with the Fair Labor Standards Act has become a huge burden to both water delivery companies and their employees.

Irrigation has never, nor will it ever be, a 40-hour-a-week job. During peak agricultural months, water must be managed and delivered continually. Later in the year, the work load is light, consisting mainly of maintenance duties. Time off and winter compensation have been the methods of compensating for overtime during these peak agricultural months. Instead of being allowed to offer their employees winter compensation or time off, water delivery companies must now lay off water delivery personnel after the peak agricultural months.

Under current law, contained at 29 U.S.C. sec. 213(b)(12), an exemption from the maximum hour requirement exists for employees hired to work in conjunction with water delivery companies that deliver water exclusively for agricultural use. This exemption was designed specifically to address the unique problems faced by water delivery companies when complying with the Fair Labor Standards Act.

Under the current interpretation of the law, water delivery organizations must deliver their water exclusively for agricultural purposes to qualify. For many water delivery organizations who deliver a small portion of their water for nonagricultural purposes, this interpretation has been disastrous. They are unable to benefit from the exemption even though it was designed with water delivery companies in mind.

I am introducing legislation that would expressly set the requirement of water to be ultimately delivered for agriculture purposes at 75 percent. This adjustment more accurately reflects the realities of agricultural water delivery. It would also benefit agricultural employees by making it possible for employers to provide them with year-round compensation rather than seasonal wages.

TRIBUTE TO THE ARROWHEAD CHRISTIAN ACADEMY EAGLES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. LEWIS of California. Mr. Speaker, I rise today to honor the accomplishments of the Arrowhead Christian Academy [ACA] 1996 varsity football team of Redlands, CA. On December 14, 1996, the ACA Eagles won the 1996 CIF—Southern Section—Division XII Championship, its first CIF championship ever. The Eagles' outstanding season was further highlighted by earning the 1996 Cal-Hi Sports Division V State Championship as well.

Averaging 45 points a game, this incredibly talented team went undefeated this season, 14–0. The Eagles' unstoppable offense scored a total of 638 points over the course of the season, thus becoming the fourth highest scoring football team in CIF Southern Section history. The outstanding Eagle defense held its opponents to just 116 points. Also, this remarkable season for the Eagle defense included six shut-out games.

Special recognition is in order for Head Coach Dan Finfrock, Assistant Coaches Drew Rickert, Dave Wiseman, Dave Marshall, Jon Burgess, Nate Finfrock, and Trainer Ben Mulder for their leadership and service.

Many of the Eagles were honored with All Southern-Section CIF Division 12 awards including, Coach of the Year: Dan Finfrock, Offensive Player of the Year: Trevor Wilson (Wingback), and Defensive Player of the Year: Brandon Camacho (Nose Guard). Other All CIF selections included: Steve Wharry (Linebacker), Dan Jeffers (Offensive Tackle), and Ben Burgess (Offensive Tackle).

First Team All Christian League selections were: Trevor Wilson (Most Valuable Player), Brandon Camacho (Nose Guard), Steve Wharry (Linebacker), Ben Burgess (Offensive Tackle), Mark Johnson (Defensive End), Dan Jeffers (Offensive Tackle), and Pete Coberly (Linebacker).

Second Team All Christian League selections were: Allan Kavalich (Center), Ben Ballard (Quarterback), Jonathon Reed (Fullback), and Robbie Ramos (Cornerback).

Other members of the 1996 Eagle championship team include: Charlee Brown, Jelani Andrews, Dan Schaper, Joe Ramos, Danny Lee, Steve Hale, Ben Gradias, DJ Gallagher, Andy Alexander, Jason "Bubba" Robertson, Carl Overholt, Bo Ashton, Nick Selle, and Robbie Whittenburg.

Mr. Speaker, I ask that you join me, our colleagues, the team's families and many friends in honoring the 1996 Arrowhead Christian Academy football team. It truly has been an unforgettable season for the Eagles and it is only fitting that the House recognize them today.

MADRID PROTOCOL IMPLEMENTATION ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. COBLE. Today, I am introducing the Madrid Protocol Implementation Act. This implementing legislation for the protocol related to the Madrid Agreement on the International Registration of Marks was introduced in both the last Congress and in the 103d Congress. While the administration has still not forwarded the treaty to the Senate for ratification, the introduction of this legislation is important to send a signal to the international community and to U.S. businesses and trademark owners that the U.S. Congress is serious about our Nation becoming part of a low-cost, efficient system for the international registration of trademarks.

The international system for the registration of trademarks established and operating under the Madrid Protocol, which is administered by the World Intellectual Property Organization, would assist our businesses in protecting their proprietary names and brand-name goods while saving cost, time and effort. This is especially important to our small businesses who may only be able to afford world-wide protection for their trademarks through a low-cost international registration system.

The Madrid Protocol went into effect in April, 1996 and currently binds 12 countries. Without the participation of the United States, the Protocol may never achieve its purpose of providing a one-stop, low-cost shop for trademark applicants who can, by filing one application in their country and in their language, receive protection by each member country of the Protocol.

There is no opposition to this legislation, nor to the substantive portions of the treaty. The State Department is attempting to work out differences between the administration and the European Union regarding the voting rights of intergovernmental members of the Protocol in the Assembly established by the Protocol. Under the Protocol, the European Union receives a separate vote in addition to the votes of its member states. While it may be argued that the existence of a supra-national European trademark issued by the European Trademark Office justifies this vote, the State Department finds the provisions of the Protocol allowing intergovernmental organizations to have a vote in addition to the votes of its constituent member States to be in opposition to the fundamental democratic concept of one vote for each State. They also fear that this voting structure may constitute a precedent for deviation from the one state-one vote principle in future international agreements in other areas. Those differences need to be settled before the Secretary of State will recommend to the President that a ratification package be presented to the Senate. The State Department is working closely with the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary, which I chair, to formulate a proposal to the European Union, and subsequently to the members of the Protocol, to amend the Madrid Protocol Assembly voting procedures in a way which would provide for input by the European Union without circumventing the one member-one vote principle.

It is important to move this legislation forward at this time, however, to encourage negotiation, and to assure that the U.S. stands ready to benefit from the Madrid Protocol as soon as it is ratified.